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HOUSE OF REPRESENTATIVES—*Tuesday, November 8, 2005*

The House met at 9 a.m. and was called to order by the Speaker pro tempore (Mr. SODREL).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 8, 2005.

I hereby appoint the Honorable MICHAEL E. SODREL to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 25 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes, but in no event shall debate extend beyond 9:50 a.m.

The Chair recognizes the gentleman from Oregon (Mr. DEFAZIO) for 5 minutes.

CITIZEN PRIVACY

Mr. DEFAZIO. Mr. Speaker, the Sunday Washington Post had an extraordinary story as a result of investigative journalism. The FBI has issued 30,000 national security letters. Now, we will have to back up for a moment to understand what that means. Four years ago, this Congress was stampeded under the anthrax attack and 9/11 into passing a bill it had not read, the U.S.A. PATRIOT Act, which contained many unconstitutional and dubious provisions, many bad ideas from past attorneys general, rejected by previous Congresses, passed in a hysterical time for the Congress.

Now it is about to be reauthorized, and, in fact, strengthened in many ways. This is one of the most disturbing aspects of that legislation. These national security letters used to be fairly rare. They used to issue about 300 a year. They are now issuing 30,000 a year, a 100-fold increase. This is an extraordinary intrusion into the personal lives of many Americans who are not accused of or even suspected of crimes.

As the Post reports, they are issued by FBI field supervisors, local law enforcement FBI agents, not from the national office, no judicial review, no review by the Justice Department, no review by the United States Congress, totally at the discretion of local field supervisors. In fact, the Bush Administration has defeated legislation and a lawsuit to require a public accounting, and they have offered no example, not one, 30,000 a year, and they do not have one example of a national security letter impeding a terrorist attack or actually apprehending a terrorist.

Well, they did apprehend a guy in Portland, Oregon and they did use national security letters. Unfortunately, he was innocent. They were wrong.

As far as we know, it has been used once to apprehend someone and now the government is at risk of paying substantial damages for that false arrest. We do not know of any successful uses. The Bush Administration is defending this. Now they are going to deposit all the information acquired in these massive sweeps of all citizens' credit card records, phone calls, e-mails, everything that relates to who they talk to, who they see, where they go, what they buy, and they are going to put it into government data banks.

But don't worry. Don't worry. They are going to share those private records only with, they say, other Federal agencies, State, local, tribal governments, and appropriate private sector entities. Americans who have had their most intimate lives swept up because of a letter written by a local field supervisor, by the FBI, are now going to have all of that data placed into a data bank, which will be restricted to Federal, State, local, tribal governments and appropriate private sector entities. Maybe your next-door neighbor, too, if they are really nosey.

This is an extraordinary, unwarranted intrusion into the lives of Americans. They cannot even properly analyze and use the data they have. They had the threads of the terrorist attack between the CIA, the FBI and others, they knew a number of these people were in the country illegally, but they could not be bothered to go out and apprehend them or monitor them.

Now they are just gathering up data wholesale on the American people. They are going to share it with other Federal agencies, put it in a private data bank, share it with other forms of government, share it with Native American tribes, for some reason, and appropriate private sector entities. Who are the appropriate private sector entities? Those who could make money off it? I don't know. This is an unbelievable intrusion into personal lives.

If you get one of these letters, and you are in a position to give away someone else's data, if you administer a database for your company or for a credit card company or for a library or a bookstore and you get one of these letters, the new PATRIOT Act is going to say if you tell anybody that you got one of these letters, and you provided indiscriminately massive amounts of data on innocent Americans, you would be a felon if you had told anybody that you had gotten such a letter and you had violated their privacy in that way.

Then, of course, again, the data will be then taken, put into a database, and shared widely with other governments and appropriate private sector entities. It is unbelievable what this administration is doing to shred our privacy and constitutional rights.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until 10:00 a.m. today.

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Accordingly (at 9 o'clock and 7 minutes a.m.), the House stood in recess until 10 a.m.

☐ 1000

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. CULBERSON) at 10 a.m.

PRAYER

The Reverend Griffin Lotson, Sams Memorial Church of God in Christ, Darien, GA, offered the following prayer:

Our Father and Lord, we thank You for all Your blessings as we pray today for our Nation and our leaders in America. Today we pray for Your protection for every man and woman serving in our Armed Forces. We pray for strength for their families. May they know the peace of God that passes all understanding.

God, You guide all creation with loving care and establish an order that governs all of us. God help us to trust in Your faithful love and deepen our love for one another, especially for those most in need. We pray for our schools, teachers and students, for their spiritual and educational success.

Give us knowledge to know that it is You who are the source of our unity and peace. It is You who unites us all. This we ask in the Lord's name. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from New York (Mr. MCNULTY) come forward and lead the House in the Pledge of Allegiance.

Mr. MCNULTY led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING REVEREND GRIFFIN LOTSON

The SPEAKER pro tempore. Without objection, the gentleman from Georgia (Mr. KINGSTON) is recognized for 1 minute.

There was no objection.

Mr. KINGSTON. Mr. Speaker, I rise to recognize a friend of mine and a fellow Georgian who had the great honor of giving our opening prayer today. The Reverend Griffin Lotson is a man of great character and has served as our Guest Chaplain.

Reverend Lotson has been a pastor of Sams Memorial Church of God in Christ in Crescent, Georgia, for 18 years. During that time he has also served as executive director of Sams Memorial Community Economic Development, a nonprofit organization dedicated to affording low-income citizens the opportunity to realize the American dream of purchasing a home.

Reverend Lotson and Sams Memorial have been able to partner with the Federal, State and local governments to develop a multimillion-dollar housing development in Georgia. Through his hard work, families who never imagined they would be able to afford a home for their children are now achieving that dream.

His success has earned him many awards. Reverend Lotson was voted 2005 Citizen of the Year by the Rotary Club of McIntosh County and was a national award winner of the 2005 Rural Leader of America, just to name a few.

Reverend Lotson has been blessed in his personal life as well as in his ministry. He and his beautiful wife of 28 years, Carolyn, have three children, all of whom have bravely served this country as members of the Navy and the United States Air Force.

Mr. Speaker, through his hard work and dedication, and through the gospel of Jesus Christ, Griffin Lotson has earned the respect and admiration of the members of his church, his community and his State. It is an honor to have him with us today.

SAM BUNDY SCHOOL—THANK GOD FOR KIDS

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, when the howling winds and incessant rains of Hurricane Katrina came barreling ashore on the southeast Texas coast, the small coastal town of Sabine Pass was almost completely destroyed by destruction and devastation. School Superintendent Walt Fenn immediately worried about the 300 students who attended K–12 school, Sabine Pass School.

Thousands of miles away, however, elementary school kids at Sam Bundy School in Farmville, North Carolina, heard about the devastation in Texas. They too experienced a similar destruction in Hurricane Floyd in 1999. These kids wanted the students in Sabine Pass to know everything will be okay.

The children at Sam Bundy School raised over $2,500 for the school kids in Texas, school kids they had never met in a place they had never seen. There was no red tape, no Federal bureaucracy, just a bunch of kids in a small town in North Carolina that wanted to help some other kids in Texas.

The students at Sam Bundy School are wonderful examples of Americanism and volunteerism. Now they have a whole crew of new pen-pals in southeast Texas that will forever be grateful. These Sam Bundy students remind me of the song "Thank God for Kids," another example of children being our greatest natural resource. That's just the way it is.

BUDGET RECONCILIATION

(Mr. ETHERIDGE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ETHERIDGE. Mr. Speaker, this week this House will consider a budget bill that contains changes in the farm bill that will adversely affect and impact the environment, the poor and the hungry, and the pocketbooks of farm families. While farmers are struggling with high prices for gas, propane, natural gas and fertilizer, the Republican budget breaks the promise of the farm bill.

While working families are confronting higher fuel prices, the Republican bill severely cuts food stamps, forcing families to choose between food and heat for their homes. I strongly support tough budget discipline to rein in the budget deficit, but this bill does the very opposite.

Regardless of whether they cut $39 billion or $50 billion, it is not enough to offset the $70 billion in lost revenue from their tax bill. At the end of the day, the Republican reconciliation bill will only worsen the deficit and leave our children with a higher debt. I urge my colleagues to vote "no" on this bad bill.

SMITHS AEROSPACE

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, I rise today to welcome Smiths Aerospace to the Fifth Congressional District of North Carolina. After looking at more than 50 potential sites, the company recently announced it will open a $44 million facility in Ashe County.

The new facility is expected to hire 100 employees immediately and employ 305 workers within 5 years. As a major supplier to Boeing and Airbus, Smiths Aerospace will provide equipment for civilian and military aircraft and build many engine components as turbines for jets. The company expects to have the plant running by mid-November and has its first shipments planned for February of next year.

I would like to commend Smiths Aerospace for choosing to do business in the Fifth District. Northwest North Carolina has a great deal to offer including friendly people, a hardworking and highly skilled workforce, excellent institutions of higher education, and a beautiful landscape.

I wish Smiths Aerospace great success in all its future endeavors.

IN OPPOSITION TO THE REPUBLICAN BUDGET RECONCILIATION

(Mr. GRIJALVA asked and was given permission to address the House for 1 minute.)

Mr. GRIJALVA. Mr. Speaker, I rise today in opposition to the Republican budget reconciliation. I believe this process has nothing to do with reconciliation. Instead, we have an ideological devastation of the future of families, children, students, the poor, and the elderly in this country.

It would look at these cuts: education, $14 billion; nutrition, $844 million in food stamp cuts; Medicaid, $10 billion; veterans, not addressing the real needs of veterans in this country; foster care, $577 million; SSI and TANF, $8 billion; child support, $5 billion.

These cuts that are being asked for by the Republicans in the reconciliation are a direct result of their policies, policies that are giving tax breaks to corporations, tax cuts to the very wealthy, a $1-billion-a-day war, and a borrow-and-spend fiscal policy that the Republican Party has instituted.

The backbone of this Nation is its families. The door of opportunity has to remain open for all families. There is always room at the inn.

I urge a "no" vote on the reconciliation.

THE NINTH CIRCUIT COURT RULING ON PARENTING

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, like millions of parents across the country, we were shocked last week by the ruling of the Ninth Circuit Court of Appeals. This ruling denies parents their right to have a say in the content their children are taught in school. In its decision, the Ninth Circuit said, "We hold that parents have no due process or privacy right to override the determinations of public schools as to the information to which their children will be exposed while enrolled as students."

Mr. Speaker, parents, not schools and certainly not the courts, hold the primary responsibility for educating their children, especially when it comes to more sensitive subject matters like sexual, moral, or religious instruction. But the Ninth Circuit, the same court that ruled the phrase "under God" in the Pledge of Allegiance to be unconstitutional, would strip parents of this fundamental role in their own children's lives.

Last week we addressed an errant court ruling on eminent domain and private property rights. Should this ruling stand, we will need to correct this wayward court yet again.

REPUBLICAN BUDGET RECONCILIATION WILL NEGLECT THE POOR TO HELP THE PRIVILEGED FEW

(Mr. MENENDEZ asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MENENDEZ. Mr. Speaker, this week House Republicans will once again demonstrate why the American people no longer have confidence in them to lead this Nation.

At a time when college tuition is skyrocketing, House Republicans propose to cut over $14 billion in student loan funding, increasing the cost for college for American families by $5,800.

At a time that the number of families with no health insurance is growing, House Republicans propose slashing Medicaid by $12 billion, forcing our Nation's most vulnerable to either pay more themselves or lose the health services they need.

At a time that the majority talks about values, House Republicans propose decimating Federal funding for child support enforcement, allowing deadbeat parents to avoid their responsibility.

And at a time when our national debt sets daily records, House Republicans propose to actually increase the deficit by more than $100 billion, using these cuts to ensure tax cuts for the wealthiest.

That is what a Republican majority means for our country. Together, America can indeed do better.

THREATS POSED BY IRAN

(Mr. McHENRY asked and was given permission to address the House for 1 minute.)

Mr. McHENRY. Mr. Speaker, I rise today to address Iran's growing threat to our allies in the Middle East and to America's national interests.

The Iranian president recently said Israel should be "wiped off the map." This malicious language must not be ignored, especially considering Iran's long-standing support for terrorist groups like Hezbollah, and its unlawful nuclear ambitions.

Terrorist groups supported by Iran are operating today in Gaza, the West Bank, and Iraq, undermining the region's quest for democracy and threatening the lives of innocent civilians.

Iran's radical government seeks to develop nuclear weapons. If Iran gains nuclear capabilities, millions of innocent Israelis, as well as our allies in the Middle East, will be jeopardized and our hopes for Middle East peace will be lost.

Mr. Speaker, we must not abandon Israel, leaving them to stand alone against this imminent threat. The United States must lead, with our allies, in eliminating Iran's support for terrorist groups and requiring Iran to fulfill nuclear nonproliferation agreements.

THE REPUBLICANS' PROPOSED BUDGET CUTS

(Ms. SCHAKOWSKY asked and was given permission to address the House for 1 minute.)

Ms. SCHAKOWSKY. Mr. Speaker, I want to quote an article that appeared last Friday in the Chicago Sun-Times by religion writer Kathleen Falsani under the headline "Bush Administration's Moral Compass Is Lost."

She wrote, ". . . this week, as Republican leaders try to force a monstrous $50 billion budget cut designed allegedly to offset the mounting costs . . . of hurricane-related aid through Congress, it is clear that the Bush administration's moral compass . . . has been lost. The proposed budget cuts, part of the so-called 'budget reconciliation,' would have devastating effects on the poorest, most vulnerable Americans, while allowing tax relief for the rich."

She goes on to say, "Maybe Republican leaders should consider proposing an open season on the homeless or the resurrection of debtors' prisons while they're at it. Is this the kind of leadership the majority of voters that, according to the pollsters at the time, cast their ballots in 2004 based on 'moral values' had in mind? Is this what faith-based 'compassionate conservatism' looks like? Is our Nation more moral, more secure, or spiritually healthier than it was a year ago? And to address my fellow Christian voters," she said, "has the Good News been advanced in any way? No, absolutely not."

America can do better.

□ 1015

AMERICA'S ECONOMY GROWING

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, last Friday, it was reported that U.S. productivity grew at the fastest clip in more than a year, signaling a steady growth of the economy. Nonfarm business productivity surged at a 4.1 percent annual rate. The increase exceeded economists' expectations and was almost twice that of the prior quarter.

This has caused a gauge of inflationary pressure to drop. When productivity rises smartly, employers can raise and boost wages without fueling inflation. Increasing productivity helps us compete with China so that we can export more to China.

I believe this success is due to the tax cuts enacted by President Bush. The Bush policies have caused the gross domestic product to surge by 3.8 percent. It has created over 4 million jobs. The stock market has appreciated over $6 trillion. There is a record percentage of homeownership; and, for the first time ever, over 50 percent of minorities own their own homes.

I appreciate President Bush's leadership. I look forward to more successes.

In conclusion, God bless our troops, and we will never forget September 11.

MEDICARE PART D

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, next week, on November 15, senior citizens across America will have the opportunity to sign up for a benefit that is long overdue, and that is prescription drug coverage.

The initial sign-up date for Medicare part D runs from November 15, 2005, through May 15, 2006. Coverage starts January 1, 2006, so the sooner seniors sign up, the sooner they can start saving.

Here is what seniors should know about Medicare part D. It is available to all Medicare beneficiaries. The benefit is voluntary, so seniors will need to choose to sign up. They will have a choice of plans with a low monthly premium, and all Medicare-approved plans will cover both generic and brand-name prescription drugs and will be accepted at pharmacies close to home.

There are several ways seniors can sign up for Medicare part D. Watch the mail for information from Social Security and Medicare; call 1–800–Medicare, where trained staff can answer questions and help you sign up 7 days a week, 24 hours a day; or visit the Web site www.medicare.gov.

If our seniors have access to affordable prescription drugs, they will reap the benefits of modern medicine and live healthier lives.

GOP DOUBLETALK ON ENERGY

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, tomorrow some of the biggest names in the oil industry are coming to Capitol Hill to testify on why their companies are making record profits at the same time American families are struggling to heat their homes.

We are hearing some really big talk from Republicans. Why, if you were Rip Van Winkle, you might actually believe the Republicans were trying to do something about gas prices. Yet the tune they are singing now is really different from the tune they were singing back in the summer when they passed the energy bill. Back then, they were singing from the energy industry's hymn book.

The fact is, thanks to a Republican-backed energy bill loaded with taxpayer subsidies to big oil to the tune of $14 billion, American families are struggling with sky-high energy bills and oil companies are struggling for ways to count their cash.

Just an example: ExxonMobil recently reported that their profits increased by 75 percent in the third quarter, and so what do we do? We give them $14 billion as taxpayer subsidies to help them run their business plan.

Americans are seeing a Congress that has done nothing to help them and do everything to help the oil companies.

Mr. Speaker, it is wrong to hand out money to energy companies who are making record massive profits and then cut funding for home heating assistance to our elderly. We need a change. We need new priorities. America can do better.

SOMETHING IS NOT RIGHT

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, something is not right. When you look at the budget reconciliation act and you look at the terrible devastation of Hurricanes Katrina and Wilma and the impact in the Gulf region, and you see the impact on schools like Xavier and Dillard and Tulane and Loyola, and then Texas Southern University in Texas that has taken over 600 hurricane Katrina students, along with the University of Houston, and we are attempting to cause our students billions of dollars in aid in the Budget Reconciliation Act, something is not right. Something is not right when small and disadvantaged businesses cannot even participate in the rebuild after Hurricane Katrina. Something is not right when large corporations are blocking the opportunities for small businesses to be engaged.

The Budget Reconciliation Act is not a problem solver. It creates problems. How can you put the burden of the deficits created by House Republicans and others on the backs of students who are attempting to achieve an education? Something is not right when we are cutting billions of dollars of student aid.

REDUCING DEFICIT SPENDING FOR THE GOOD OF AMERICA

(Mr. DREIER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. DREIER. Mr. Speaker, once again, we continue to hear gross mischaracterizations of what it is that we are trying to do. Democrats and Republicans alike decry deficit spending. They say we have to balance the budget, both sides of the aisle.

We have come together with what I hope will be a bipartisan package at the end of the day that is designed to bring about 50-plus billion dollars in spending reductions. We all decry the fact that mandatory spending is out of control.

What is it we are doing with this package? Well, for the first time in a long time, we are trying to rein in so-called mandatory spending. The reason is that we believe in growing our economy, not Federal spending; we believe in reducing the reach of government, not limiting the reach of individuals; and we believe in government's helping hand, not government's heavy hand.

Mr. Speaker, it is very important that the day after tomorrow, when we look at this important legislation, that we do all that we can to come together and try to do what the American people want us to do, and that is reduce the size and scope and reach of the Federal Government.

REPUBLICAN RAID ON STUDENT AID SHOWS MISGUIDED PRIORITIES

(Mr. CARNAHAN asked and was given permission to address the House for 1 minute.)

Mr. CARNAHAN. Mr. Speaker, parents and students should take note: College may soon get a lot more expensive if House Republicans get their way.

This week, they plan to bring a budget reconciliation bill to the floor that cuts $14 billion in Federal student aid, the largest cuts in the program's history. Included are nearly $8 billion in new charges that will raise the cost of college loans through new fees and higher interest for millions of American students and families.

For the typical student borrower already saddled with over $17,000 in debt, these new fees and higher interest charges will cost up to $5,800 more.

Financial barriers should never prevent a qualified student from going to college, and that is why America has long since made the commitment to help all Americans afford a higher education. Studies show that financial barriers alone will prevent over 4 million high school graduates from attending a 4-year public university over the next decade and prevent another 2 million from attending college at all.

Mr. Speaker, the wrong priorities in this Republican budget reconciliation will put college out of reach for millions of American students. It should be rejected.

$10 BILLION FIX FOR MEDICARE REIMBURSEMENT NOT INCLUDED IN HOUSE BUDGET RECONCILIATION

(Ms. BERKLEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. BERKLEY. Mr. Speaker, my community has the fastest growing senior population in the United States. I also have numbers of doctors that are telling me they can no longer afford to care for their Medicare patients because of the Medicare reimbursement being so bad. We know that we have to fix this Medicare reimbursement for our doctors so they will continue to be able to afford to treat our senior citizens.

In the Senate reconciliation that they are introducing, they have a $10 billion fix so we could help the doctors, so they can continue to take care of our senior citizens. In the House version, they are saying they are not going to include the $10 billion, and the doctors are going to have to take care of themselves.

But the misery about this and the hypocrisy is the Republican leadership is telling the doctors, Don't worry about it. We're not going to put it in the budget reconciliation so that you can continue taking care of senior patients. We're going to put it in Labor-HHS.

Well, we have already passed Labor-HHS, and there is no $10 billion for the doctors.

So that means that we are perpetrating a fraud on the doctors, the patients, and the seniors in this country, and we need not to do that.

THE RIGHT RECONCILIATION FOR AMERICA

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Republicans hope to jam through a reconciliation the day before Veterans' Day, including $54 billion in cuts. He talked about a helping hand? Doubling the origination fee for student loans, cutting $14 billion in student loans is a helping hand for the next generation of Americans? Cutting foster care, school lunches, Medicaid, not to reduce the budget deficit but to make room for $70 billion of tax cuts for people who earn over $300,000 a year. That is what they are doing.

We should reconcile a few things around here. Let us reconcile their hypocrisy. Let us reconcile their purported support for the troops and our vets with the fact that the budget is inadequate to provide promised benefits, and they are doing nothing about that in the budget reconciliation.

Let's have some reconciliation and do things that are right for America.

IN SUPPORT OF HOUSE RESOLUTION 505

(Mr. KUCINICH asked and was given permission to address the House for 1 minute.)

Mr. KUCINICH. Mr. Speaker, tomorrow, the House International Relations Committee will hear a resolution of inquiry into the White House Iraq Group.

A White House task force was organized in August of 2002, 7 months before the invasion of Iraq, with the objective of marketing a war in Iraq to the Congress and the American people. The group consisted of advisers to the President and Vice President, including Rove, Libby, and Rice.

According to the Washington Post, the White House Iraq Group produced white papers that provided "gripping images and stories," and used "literary license" with intelligence; I might add, intelligence that was later proved false. These memos served as the basis for talking points for the President and his advisers.

The intelligence used in the White House Iraq Group's white papers included the false claim that Iraq had sought uranium from Niger, as well as the claim that the high-strength aluminum tubes Iraq purchased from China were to be used for the sole purpose of building centrifuges to enrich uranium.

This White House Iraq Group was putting out lies to the American people. The Congress needs to find out what happened. Tomorrow, we can find out in International Relations.

Support House Resolution 505.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. CULBERSON). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

SUPPORTING THE ACCESSION OF ISRAEL TO THE ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 38) expressing support for the accession of Israel to the Organization for Economic Co-operation and Development (OECD), as amended.

The Clerk read as follows:

H. RES. 38

Whereas Israel has been trying to join the Organization for Economic Co-operation and Development (OECD) since 2000, when it met the OECD's membership requirements relating to industrial and per-capita product criteria;

Whereas in March 2005, OECD Secretary-General Donald Johnston stated that expanding the OECD's membership to include more countries is vital if the group is to remain a forum for discussing global economic policies;

Whereas in 2004, Israeli Foreign Minister Silvan Shalom and then Finance Minister Binyamin Netanyahu sent a joint letter to the foreign and finance ministers of the 30 member countries of the OECD, stating that Israel's involvement as a non-member country in the OECD's various committees is increasing, and that Israel meets the economic and institutional criteria required to join the OECD;

Whereas in October 2004, then Israeli Finance Minister Binyamin Netanyahu stated that joining the OECD was of strategic importance for repositioning Israel's economy from an emerging market to a developed one, adding that membership in the OECD would attract foreign investment;

Whereas in August 2004, the Israel Laboratory Accreditation Authority was invited to become a full member of the OECD Environment Policy Committee, the first committee that Israel has been invited to join as a full member;

Whereas Israel was asked to take part in the OECD's Insurance and Commerce Committees;

Whereas in March 2005, Israel was formally accepted as an observer on the OECD's Financial Statistics Committee, allowing experts from the Bank of Israel and Central Bureau of Statistics to participate in the committee's meetings;

Whereas the World Bank ranks Israel among the 25 countries in which it is easiest to do business;

Whereas Israel's tax burden, encompassing income and property taxes, customs duties, value-added taxes (VAT) and national insurance, is much lower than in most OECD member countries;

Whereas membership in the OECD could enhance Israel's status on the global market and within international financial institutions, lowering the risk factor on foreign loans to Israel;

Whereas Israel's economic and technological standing could potentially benefit OECD member countries in the science and technology, including high-technology, sectors;

Whereas in 2003, the World Economic Forum ranked Israel 20th out of 102 countries in its Growth Competitiveness Index, and the World Economic Forum's Technology Index ranked Israel 9th, before Canada (11th), Norway (13th), Germany (14th), the United Kingdom (16th), and the Netherlands (18th); and

Whereas Israel is carrying out far reaching economic reforms based on the OECD's recommendations with respect to taxes, labor, competition, capital markets, pension funds, energy, infrastructures, communications, and transport: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) Israel shares the commitment to democratic government and the market economy that is the foundation of the Organization for Economic Co-operation and Development (OECD);

(2) Israel meets the OECD's membership requirements and has been an active participant as a non-member country in various OECD activities, such as adherence to the OECD Declaration on International Investment and Multinational Enterprises; and

(3) the United States Government should support and advocate the accession of Israel to the OECD, including through coordination of efforts with Mexico, Great Britain, and other countries supportive of Israel's membership in the OECD.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from California (Mr. LANTOS) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H. Res. 38.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I first want to thank the leadership for bringing House Resolution 38 before the House today. This resolution was unanimously adopted by the House International Relations Committee on September 15, and it expresses support for the accession of Israel to the Organization for Economic Co-operation and Development, the OECD.

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More than 50 years have elapsed since George Marshall's speech at Harvard, which led to the Marshall Plan and the creation of the Organization for European Economic Co-operation, which is the forerunner for the OECD.

His vision of economic cooperation based on common values and policies is now shared by even more countries, which are enjoying mutually beneficial relationships for their membership in the OECD.

Israel has been attempting to join the OECD since the year 2000 when it met the organization's industrial and per-capita product criteria. Not only could OECD membership enhance Israel's status in the global market and within international financial institutions, but also other OECD countries could potentially benefit in the science and high tech sectors due to Israel's economic and advanced technological standing.

Israel also shares in the commitment to democratic governance and free market principles, and those are the foundations of the OECD. As a result, in December of 2004, Israel was invited on an ad hoc basis to participate as an observer in discussions of the trade committee of the OECD.

Since then Israel has been asked to take part in the OECD's Insurance and Commerce Committees, and in March of this year Israel was formally accepted as an observer of the OECD's Financial Statistics Committee.

As articulated in the resolution before us, Mr. Speaker, Israel meets the OECD's membership requirements and has been an active participant as a nonmember country in various OECD activities, such as adherence to the OECD Declaration on International Investment and Multinational Enterprises.

Mr. Speaker, in the aftermath of Israel's unilateral disengagement from the Gaza Strip, Israel needs the support of its staunchest ally, the United States, to help expedite the process of achieving full membership in all international forums. The United States must make it clear to the international community that Israel must be afforded full representation in all appropriate agencies and bodies.

Inclusion of Israel as a full member of the OECD is a positive and important first step.

I strongly urge my colleagues to support this important measure.

Mr. Speaker, I reserve the balance of my time.

Mr. LANTOS. Mr. Speaker, I yield myself such time as I may consume.

I rise in strong support of this resolution. First, I want to commend my dear friend and distinguished colleague from Florida (Ms. ROS-LEHTINEN) for introducing this very important resolution.

As a matter of fact, Mr. Speaker, this resolution, in a sense, is a response to the outrageous statement of the President of Iran calling for the extermination of the State of Israel. Israel has more than earned the right to full membership in the Organization For Economic Co-operation and Development.

Some foreign policy judgments are difficult to make, but this one could not be any easier. Like other OECD states, the State of Israel is a democratic, prosperous, free market economy. And by all measures, Israel's economy outstrips that of several current members of OECD. For example, Israel's per capita income is greater than that of nine of the OECD's 30 members. The World Economic Forum's technology index ranks Israel in the top 10 nations on the face of this planet, ahead of Canada, Germany and the United Kingdom. Recently, Israel was the world's third largest software producer, exceeded only by the United States and Canada.

Israel, Mr. Speaker, is already an important institutional contributor to the OECD as a nonmember participant. Israel has long outgrown its nonmember status.

In fact, Mr. Speaker, Israel meets every economic, political and institutional prerequisite for OECD membership. Its continued omission from that body would inevitably call into question the motives of some of the OECD members. And I hope we will not face that ugly prospect.

I urge the administration to support Israeli membership in the OECD and to lobby our fellow members to achieve that goal.

In connection with this resolution, Mr. Speaker, I am compelled to return to the outrageous statement of the Iranian President calling for wiping Israel off the face of the global map. The President of Iran, in making this outrageous statement, has evoked tremendous global outrage at his views, and I am very pleased to publicly recognize the decision of Secretary General Kofi Annan to cancel his trip to Tehran.

As you know, Mr. Speaker, I wrote Kofi Annan a strong letter to which he responded affirmatively canceling his visit to Iran. I publicly want to acknowledge the Secretary General's fine decision and commend him for his action.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from California (Mr. LANTOS) for his continued steadfast leadership on the issues of democracy and empowerment, and the gentlewoman from Florida (Ms. ROS-LEHTINEN) for her insightfulness and the interest of this particular legislation.

I rise as well to give my support to this legislation which provides for the encouragement and the support of Israel acceding to the Organization For Economic Co-operation and Development. And as I do so, might I associate myself with the words of my colleague from California and denounce, as well, the words of tyranny and disgrace offered by the Iranian President on extinguishing or exterminating both the people and the nation of Israel.

I would think that this particular legislation speaks to rewarding those who are advocating for democracy and independence, and that is what Israel stands for.

I would hope in Iran that the good people of Iran, the people who believe in freedom, the freedom fighters, those who are supporting the enhancement of the working and middle class, who believe in the expansion of the intelligentsia, will again speak inside of Iran against such devastating language.

In this instance, the OECD recommends economic democracy, if you will, and Israel is already a high-powered and technologically advanced society with a thriving economy that will add to the mission of OECD. The World Bank ranks Israel among the 25 countries in which it is easiest to do business. In 2003 the World Economic Forum ranked Israel 20th out of 102 countries in its growth competitive index, and the World Economic Forum's technology index ranked Israel 9 before Canada, which is 11; Norway, 13; Germany, 14; the United Kingdom, 16; and the Netherlands, 18.

Israel is carrying out far-reaching economic reforms on the OECD's recommendation with respect to taxes, labor, competition, capital markets, pension funds, energy, infrastructures, communications and transport. And I believe the important aspect of what Israel is doing is, in the region, it provides for a stabilizing force of democracy and an economic arm of democracy helping its Mid East neighbors to join as well along the pathway of democracy and economic improvement. And so I believe this is a very important legislative statement for us to move forward in encouraging the admission of Israel into the OECD. And as well, I think it says again that we are standing alongside of Israel in its attempt to embrace all who want to follow the pathway of democracy.

Might I say that I hope that we will also have this impact on the Palestinians as they work toward democracy, and this shared influence will impact the region positively.

Likewise, as I close, let me say that we hope that the President of Iran will find his moral compass to cease such horrible and atrocious language that would suggest the elimination of a country that promotes democracy and cares for its people, like Israel. Israel shares a commitment to democratic government and the market economy, and that is the foundation of the Organization for Economic Co-operation and Development, and this legislation should be passed.

Mr. Speaker, I rise in support of H. Res. 38, "Expressing support for the accession of Israel to the Organization for Economic Co-operation and Development (OECD)."

Since the establishment of the State of Israel in 1948, the Israeli economy has been steadily transformed from an economy supported by farmers on hillsides to a technologically advanced and services-based economy. Trade liberalization, abolition of exchange controls, adoption of modern corporate governance rules and intellectual property protection enhancement have led to the establishment of a healthy economic environment ripe for domestic and foreign investment. Encouragement to high-tech industries and a wide network of international commitments have reinforced the beneficial effects.

Israel has been trying to join the Organization for Economic Co-operation and Development (OECD) since 2000, when it met the OECD's membership requirements relating to industrial and per-capita product criteria. Membership in the OECD would strengthen Israel's status on the global market and within international financial institutions, lowering the risk factor on foreign loans to Israel. Israel's economic and technological standing could potentially benefit OECD member countries in the science and technology, including high-technology, sectors.

Israel is already a high powered, technologically advanced society with a thriving economy that will add to the mission of the OECD. The World Bank ranks Israel among the 25 countries in which it is easiest to do business. In 2003, the World Economic Forum ranked Israel 20th out of 102 countries in its Growth Competitiveness Index, and the World Economic Forum's Technology Index ranked Israel 9th, before Canada (11th), Norway (13th), Germany (14th), the United Kingdom (16th), and the Netherlands (18th). Israel is carrying out far reaching economic reforms based on the OECD's recommendations with respect to taxes, labor, competition, capital markets, pension funds, energy, infrastructures, communications, and transport.

I support H. Res. 38 for the foregoing reasons, and I appeal to my colleagues to follow suit.

Mr. LANTOS. Mr. Speaker, I have no additional requests for time. Before yielding back the balance of my time, I would like to make a general statement on this very important piece of legislation. Unfortunately, the world is filled with rogue states, failed states, basket-case states, states that neither politically nor economically function in a viable fashion. And to have the President of Iran call for the physical extermination of one of the relatively small number of democratic, viable, prosperous, civilized societies is the ultimate outrage of recent pronouncements by political leaders on the face of this planet.

I commend my colleague from Florida for introducing this important resolution, recognizing that Israel is one of the minority of states which are democratic, prosperous and civilized.

I strongly urge all of my colleagues to vote for this resolution.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today to offer my support for House Resolution 38 and to strongly urge my colleagues to support this resolution as well.

The Organization for Economic Co-operation and Development (OECD) is a group of 30 member countries—including the United States—sharing a commitment to democratic government and the market economy.

Its work covers economic and social issues from macroeconomics, to trade, education, development and science and innovation.

Israel has been attempting to join the OECD since 2000, when it met the organization's industrial and per-capita product criteria.

Not only could OECD membership enhance Israel's status in the global market and within international financial institutions but also other OECD countries could potentially benefit in the science and high-tech sectors due to Israel's economic and advanced technological standing.

Israel also shares the commitment to democratic governance and free market principles that are the foundation of the OECD.

As a result, in December 2004, Israel was invited, on an ad hoc basis, to participate as an observer in discussions of the trade committee of the OECD and has participated in numerous other OECD activities, however it has not been granted full membership.

House Resolution 38 expresses that the United States supports full membership for Israel in the OECD based on its commitment to democracy, the market economy, and OECD's principles and mission.

Mr. Speaker, I fully support Israel's membership in the OECD, and urge my colleagues to join me in supporting this resolution.

Mr. LANTOS. Mr. Speaker, I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I thank the gentleman from California (Mr. LANTOS) for his help on this resolution as well as the gentleman from Illinois (Mr. HYDE).

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 38, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. ROS-LEHTINEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

SAN FRANCISCO OLD MINT COMMEMORATIVE COIN ACT

Mrs. KELLY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1953) to require the Secretary of the Treasury to mint coins in commemoration of the Old Mint at San Francisco, otherwise known as the "Granite Lady", and for other purposes, as amended.

The Clerk read as follows:

H.R. 1953

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "San Francisco Old Mint Commemorative Coin Act".

SEC. 2. FINDINGS.

The Congress hereby finds as follows:

(1) The Granite Lady played an important role in the history of the Nation.

(2) The San Francisco Mint was established pursuant to an Act of Congress of July 3, 1852, to convert miners' gold from the California gold rush into coins.

(3) The San Francisco Old Mint Building was designed by architect A.B. Mullett, who also designed the United States Treasury Building and the Old Executive Office Building.

(4) The solid construction of the Granite Lady enabled it to survive the 1906 San Francisco earthquake and fire, making it the only financial institution that was able to operate immediately after the earthquake as the treasury for disaster relief funds for the city of San Francisco.

(5) Coins struck at the San Francisco Old Mint are distinguished by the "S" mint mark.

(6) The San Francisco Old Mint is famous for having struck many rare, legendary issues, such as the 1870–S $3 coin, which is valued today at well over $1,000,000, and the 1894–S dime which is comparatively rare.

(7) The San Francisco Old Mint Commemorative Coin will be the first commemorative coin to honor a United States mint.

SEC. 3. COIN SPECIFICATIONS.

(a) DENOMINATIONS.—Notwithstanding any other provision of law, and in commemoration of the San Francisco Old Mint, the Secretary of the Treasury (hereafter in this Act referred to as the "Secretary") shall mint and issue the following coins:

(1) $5 GOLD COINS.—Not more than 100,000 $5 coins, which shall—

(A) weigh 8.359 grams;

(B) have a diameter of 0.850 inches; and

(C) contain 90 percent gold and 10 percent alloy.

(2) $1 SILVER COINS.—Not more than 500,000 $1 coins, which shall—

(A) weigh 26.73 grams;

(B) have a diameter of 1.500 inches; and

(C) contain 90 percent silver and 10 percent copper.

(b) LEGAL TENDER.—The coins minted under this Act shall be legal tender, as provided in section 5103 of title 31, United States Code.

(c) NUMISMATIC ITEMS.—For purposes of sections 5134 and 5136 of title 31, United States Code, all coins minted under this Act shall be considered to be numismatic items.

SEC. 4. DESIGN OF COINS.

(a) DESIGN REQUIREMENTS.—

(1) IN GENERAL.—The design of the coins minted under this Act shall be emblematic of the San Francisco Old Mint Building, its importance to California and the history of the United States, and its role in rebuilding San Francisco after the 1906 earthquake and fire.

(2) DESIGNATION AND INSCRIPTIONS.—On each coin minted under this Act there shall be—

(A) a designation of the value of the coin;

(B) an inscription of the year "2006"; and

(C) inscriptions of the words "Liberty", "In God We Trust", "United States of America", and "E Pluribus Unum".

(b) SELECTION.—The design for the coins minted under this Act shall be—

(1) selected by the Secretary, after consultation with the Commission of Fine Arts, and the Board of the San Francisco Museum and Historical Society; and

(2) reviewed by the Citizens Coinage Advisory Committee.

SEC. 5. ISSUANCE OF COINS.

(a) QUALITY OF COINS.—Coins minted under this Act shall be issued in uncirculated and proof qualities.

(b) MINT FACILITY.—The coins authorized under this Act shall be struck at the San Francisco Mint to the greatest extent possible.

(c) PERIOD FOR ISSUANCE.—The Secretary may issue coins minted under this Act only during the 1-year period beginning on January 1, 2006.

SEC. 6. SALE OF COINS.

(a) SALE PRICE.—The coins issued under this Act shall be sold by the Secretary at a price equal to the sum of—

(1) the face value of the coins;

(2) the surcharge provided in section 7(a) with respect to such coins; and

(3) the cost of designing and issuing the coins (including labor, materials, dies, use of machinery, overhead expenses, marketing, and shipping).

(b) BULK SALES.—The Secretary shall make bulk sales of the coins issued under this Act at a reasonable discount.

(c) PREPAID ORDERS.—

(1) IN GENERAL.—The Secretary shall accept prepaid orders for the coins minted under this Act before the issuance of such coins.

(2) DISCOUNT.—Sale prices with respect to prepaid orders under paragraph (1) shall be at a reasonable discount.

SEC. 7. SURCHARGES.

(a) IN GENERAL.—All sales of coins minted under this Act shall include a surcharge as follows:

(1) A surcharge of $35 per coin for the $5 coin.

(2) A surcharge of $10 per coin for the $1 coin.

(b) DISTRIBUTION.—Subject to section 5134(f) of title 31, United States Code, all surcharges received by the Secretary from the sale of coins issued under this Act shall be promptly paid by the Secretary to the San Francisco Museum and Historical Society for use for the purposes of rehabilitating the Historic Old Mint in San Francisco as a city museum and an American Coin and Gold Rush Museum.

(c) AUDITS.—The San Francisco Museum and Historical Society shall be subject to the audit requirements of section 5134(f)(2) of title 31, United States Code, with regard to the amounts received by the Fund under subsection (b).

(d) LIMITATION.—Notwithstanding subsection (a), no surcharge may be included with respect to the issuance under this Act of any coin during a calendar year if, as of the time of such issuance, the issuance of such coin would result in the number of commemorative coin programs issued during such year to exceed the annual 2 commemorative coin program issuance limitation under section 5112(m)(1) of title 31, United States Code (as in effect on the date of the enactment of this Act). The Secretary of the Treasury may issue guidance to carry out this subsection.

SEC. 8. TECHNICAL CORRECTION.

Notwithstanding the fifth sentence of section 5112(d)(1) of title 31, United States Code, the Secretary of the Treasury may continue to issue, after December 31, 2005, numismatic items that contain 5-cent coins minted in the years 2004 and 2005.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from New York (Mrs. KELLY) and the gentlewoman from New York (Mrs. MALONEY) each will control 20 minutes.

The Chair recognizes the gentlewoman from New York (Mrs. KELLY).

Mrs. KELLY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 1953, the San Francisco Old Mint Commemorative Coin Act. This legislation, which I and two-thirds of this House have cosponsored, will recognize the unique contribution to American history of the Old San Francisco Mint by authorizing 100,000 gold half eagles and 500,000 silver dollars to be struck to raise funds to preserve this facility.

The San Francisco Mint was authorized by Congress in 1852 to convert Gold Rush bullion into coins for our growing economy. This landmark facility was one of the only public buildings to survive the 1906 San Francisco earthquake and become a rebuilding center and symbol of the city's recovery. Just 9 years after the earthquake in San Francisco, the San Francisco Mint struck the coins for the 1915 Panama Pacific Exposition celebrating the rebirth of San Francisco and the opening of the Panama Canal.

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These coins include the celebrated 50-dollar commemorative gold pieces, the largest denomination commemorative coins ever struck in this country, as well as the only hexagonal coin ever struck in this country.

The design of the coins authorized under this act will join the Panama Pacific Coins and other famous coins struck at the Old San Francisco Mint as monuments to coin design and the history of our Nation.

I urge the Members of the House to join me in supporting this legislation.

Mr. Speaker, I reserve the balance of my time.

Mrs. MALONEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am delighted to manage debate on Leader PELOSI's bill for the Democratic side. Since the bill has over 291 bipartisan co-sponsors, my task is a pleasure.

This bill commemorates the historic San Francisco Old Mint Building which housed the San Francisco Mint from 1874 to 1937 and is a national historic landmark.

The San Francisco Mint was established in the 1850s because it did not make sense to transport the gold being produced by the California Gold Rush all the way to Philadelphia for coinage. Called the "Granite Lady," the building was designed by A.B. Mullet, the architect of the two buildings that flank the White House, the U.S. Treasury Building and the Old Executive Office Building. In fact, the Old Mint looks quite a bit like our Treasury Building.

The Granite Lady survived both the earthquake and fire of 1906 and served as the treasury for the disaster relief funds afterwards since no other financial institution was operational. The Mint outgrew the building by 1937 and moved to a new facility.

Today, the San Francisco Mint only produces commemorative coins, so if you find a circulating coin with the S for San Francisco on it, it is a curiosity and a collector's item.

The Granite Lady is now owned by the City of San Francisco which is converting it to a museum. I find it particularly appropriate that we are honoring this landmark with a commemorative coin 100 years after the great fire. The bill requires the Treasury Department to mint and issue gold and silver coins in 2006 only. To the extent possible, they are to be minted at the San Francisco Mint. The profit from the sales of the coins is to be given to the San Francisco Museum and Historical Society to convert the old building into a museum which will house exhibits on the Gold Rush and coinage, among other important city themes.

I note that in a bipartisan spirit, at the request of the administration, the bill corrects a technical problem so as to ensure that collectable coin sets including nickel coins can be available to collectors beyond the original period which was mistakenly limited. The Senate has informed us they have no objection to this addition.

Mr. Speaker, I yield such time as she may consume to the gentlewoman from California (Ms. PELOSI), the sponsor of this bill and the House Democratic leader.

Ms. PELOSI. Mr. Speaker, I thank the gentlewoman for yielding and for her leadership on this bill which is so important to the City of San Francisco but, more importantly, to our country because it is part of our country's history.

I want to extend my gratitude as well to my colleagues on the Republican side of the aisle who have made this a very bipartisan effort. As was indicated by the gentlewoman from New York, we have 291 co-sponsors. That is why we were able to come to the floor. I thank Members so much for their help.

I am proud to rise in support of the San Francisco Old Mint Commemorative Coin Act, my bill to authorize the issuance of commemorative coins in 2006 honoring San Francisco's Old Mint. As you know, Mr. Speaker, that was the year of the great earthquake in California, so the history is very meaningful to our area. H.R. 1953 will help ensure that this building exists for many generations to come.

Congress established the San Francisco Old Mint, as others have referenced, in 1852. This was immediately following the Gold Rush in 1849, and it was affectionately known as the Granite Lady.

The Mint is the oldest stone structure in San Francisco. Its architect, A.B. Mullet, also designed the United States Treasury Building, and we all know how beautiful that is, and the Old Executive Office Building here in Washington, D.C.

In 1906, disaster struck the City of San Francisco in the great earthquake of that year; and next year will be the 100th anniversary of the earthquake that leveled much of San Francisco. With infrastructure destroyed and lines of communication severed, the city was unable to respond when a subsequent fire spread to anything that would burn. The blaze raged for more than 3 days and destroyed more than 28,000 buildings. More than 3,000 people died and more than 225,000 lost their homes. This was a huge number considering the population of San Francisco at the time.

Yet, as much of the city crumbled in one of the worst natural disasters in our Nation's history, the Granite Lady stood strong. Mullet's architecture let the Mint float on its foundation, allowing it to survive the earthquake and the fire. Treasury Department employees worked with the United States Army with only one hose connected to two wells on the property to save this building and the $200 million in gold that was stored in its vaults. It was the only functional financial institution after the quake in San Francisco and was used as a relief fund treasury. The coin's 2006 issuance, 100 years later, will honor the Mint and its role in San Francisco's recovery.

The Old Mint operated until 1937. It played a pivotal role in the completion of the Transcontinental Railroad and the economic development of the western United States. At one time, the Granite Lady produced more than half of the United States coinage; and by 1934 it held a third of the Nation's gold supply. The Mint produced many rare coins, some worth more than $1 million, Mr. Speaker. Coins minted in San Francisco bear the S mint mark, which is very significant.

In 1961, the Mint was designated a National Historic Landmark but slowly fell into disrepair, to be closed in 1994 due to structural concerns. Since that time, I have worked with our two senators, Senator FEINSTEIN and Senator BOXER, to give the recognition to the Old Mint, the Granite Lady, that she deserved.

The National Trust For Historic Preservation lists the Mint as one of the most endangered American structures. Today, with this bill, we can help declare the Old Mint endangered no longer.

The American Numismatic Association has partnered with the City of San Francisco and the City of San Francisco Museum and Historical Society to establish a special coin museum. When completed, the Mint will be one of the Nation's largest museums devoted to telling the story of our country's coinage from colonial times up to the present. Along with our rich history comes a responsibility to preserve and protect it for future generations.

I am very, very proud of the history that the Old Mint, the Old Granite Lady, represents. It is about the founding of our city in San Francisco in Gold Rush times. The Mint almost corresponds to that date, and it has been part of our history and that of our country ever since. I urge my colleagues to join us in commemorating the 100th anniversary of the 1906 earthquake and fire and to honor the landmark of national significance with a vote for H.R. 1953.

Again, I thank our colleagues, both Democrats and Republicans, for their cooperation on this bill which is very important to our country's history.

Mrs. MALONEY. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. LANTOS).

Mr. LANTOS. Mr. Speaker, I want to thank my good friend and colleague from New York for yielding me time. I would like to pay special tribute to the Democratic leader, Ms. PELOSI, for offering this bill. I have the great privilege of representing the City of San Francisco along with Ms. PELOSI.

Mr. Speaker, during the Gold Rush of 1848, so much precious metal was found in Northern California that the United States was compelled to build a mint in order to melt the gold into coins for ease of transportation across the United States. The construction of our Mint in San Francisco was authorized in 1852, and it was completed just 2 years later. But soon the Mint outgrew its humble beginnings, and in 1874 a new building was erected in the style of an ancient Greek temple.

The walls of stone would allow the Mint to withstand one of the most devastating earthquakes the United States has ever experienced. On April 18, 1906, at 5:12 in the morning, San Francisco woke to the earth shaking like never before. The Old Mint was one of the only buildings left standing and the only financial institution that could still operate. The Old Mint became a refugee village and distributed aid to those who had lost everything.

As fire devastated the city, the Old Mint was saved by the quick and courageous work of the San Francisco Fire Department, a tradition the San Francisco Fire Department has maintained throughout its long and distinguished history. Like San Francisco, the Old Mint quickly rebuilt itself from the devastation of the 1906 earthquake; and, by 1934, the Old Mint had housed one-third of all gold and coin money for many nations, ranging from Japan and China to the Philippines and most nations of Latin America.

In 1937, the San Francisco Mint moved to its current facility, but the Old Mint remained under the Department of the Treasury until 1957, and the magnificent structure lay in proverbial mothballs until 1973 when the San Francisco Historic Society started renovations on the Old Mint to restore it to its previous grandeur.

Mr. Speaker, I am proud to be a cosponsor and strong supporter of this important legislation that would allow the Old Mint to become a museum, showcasing the importance of the Mint in the history of the City of San Francisco. I encourage all of my colleagues to vote in favor of this legislation.

Mr. OXLEY. Mr. Speaker, I rise today in support of H.R. 1953, the "San Francisco Old Mint Commemorative Coin Act," introduced by the gentlelady from California, and urge its immediate passage.

It is often said that coins tell the history of a country, and of the world. If this is so, Mr.

Speaker, mint facilities tell the history of coins, from the most modern mass-production mints such as the United States Mint plants in Denver and Philadelphia, back to the earliest mint, thought to be in the Kingdom of Lydia, which is modern-day Turkey. Greeks living there began using a system of weights for trade in 2,500 B.C. But in 700 B.C. merchants started making punch marks on lumps of metal so they could trade without weighing the metal for each transaction.

Mr. Speaker, if you were to pick one mint to focus on to understand the history of coins in this country, it would probably be the San Francisco Old Mint.

The Old Mint at San Francisco, known as the Granite Lady, has seen 130 years of this country's history, from the day it opened in 1874 until its official closing as a production mint in 1937, and subsequently as offices for the United States Mint. More recently during a roughly 20-year span it was a Treasury-operated coinage museum—starting with a Nixon-era renovation and ending in the mid-'90s because of cost concerns mostly related to upgrades that would be needed to withstand earthquakes.

Mr. Speaker, this is the second U.S. Mint production facility built in San Francisco, the first having been built in 1852, right after the great California gold rush of '49, and the third being the one that operates there today. The Old Mint, known as the Granite Lady, was designed by the architect A.B. Mullett, who also designed the Treasury Department's headquarters and the Old Executive Office Building here in Washington. At one point, the building made half of the circulating coins produced in the U.S., and held a third of the Treasury's gold reserves.

But perhaps the most notable point in its history and one to which many of us can relate today, came after the Great San Francisco Earthquake of April 18, 1906, and the fires that followed. The Granite Lady was saved from the raging fire by Treasury Department employees and the U.S. Army with a single, one-inch hose, saving the equipment and $200 million worth of gold inside. With all of the city's banks destroyed, the Mint building became the city's financial center. The building became the holder and disburser of the relief fund formed for the city, was the only point of payment to and from the city, and made all of the payments into the city. With memories of the recent hurricanes on our mind, I'm sure we can all imagine how important the Granite Lady was to the rebuilding of San Francisco.

The commemorative coins that would be issued under this legislation would be available next year, in suitable recognition of the 100th anniversary of that event.

The history of the building since it ceased being a Mint facility is less glorious. While operating as a museum, it was damaged by at least one earthquake, in 1989, and was said to be too expensive an operation for Treasury to keep open. It finally closed in 1995, with its exhibits sent off to other museums or back to those who had lent them.

Now, a new project to earthquake-proof the building, renovate it and open museums—on San Francisco and on the Gold Rush, as well as a numismatic museum—has gained momentum, and the surcharges on the sales of gold and silver commemorative coins authorized in this legislation will add millions to that important project. I will note that while Greeks were the first producers of coins, Romans were the first to collect them. Romans initially prized Greek coins, especially the older issues, but they later collected their own coins. Now, many Americans, while collecting foreign coins, are proud to collect U.S. coinage, from the early days down through the 50-State quarters and, I hope soon, the Presidential dollars. A coinage museum in this grand old building would be a boon to collectors, teachers, and students.

Mr. Speaker, this proposal is an excellent idea for a commemorative coin. It has received the required two-thirds co-sponsorship of House members, and if enacted will proceed at no cost to the taxpayer. I urge its immediate passage.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, October 25, 2005.

Hon. WILLIAM M. THOMAS,
Chairman, Committee on Ways and Means, U.S. House of Representatives, Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN THOMAS: I am writing concerning H.R. 1953, the "San Francisco Old Mint Commemorative Coin Act," which was introduced in the House and referred to the Committee on Financial Services on April 28, 2005. It is my expectation that this bill will be scheduled for floor consideration in the near future.

As you know, Section 7 of the bill establishes a surcharge for the sale of commemorative coins that are minted under the bill. I acknowledge your committee's jurisdictional interest in such surcharges as revenue matters. However, I request that your committee forego action on H.R. 1953 in order to allow the bill to come to the floor expeditiously. I appreciate your cooperation in so doing, and agree that your decision to forego further action on this bill will not prejudice the Committee on Ways and Means with respect to its jurisdictional prerogatives on this or similar legislation. I would support your request for conferees on those provisions within your jurisdiction should this bill be the subject of a House-Senate conference.

I will include a copy of this letter and your response in the Congressional Record when this bill is considered by the House. Thank you again for your assistance.

Yours truly,

MICHAEL G. OXLEY,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, November 4, 2005.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN OXLEY: Thank you for your letter regarding H.R. 1953, the "San Francisco Old Mint Commemorative Coin Act," which was introduced in the House and referred to the Committee on Financial Services on April 28, 2005.

As you noted, the Committee on Ways and Means maintains jurisdiction over matters that concern raising revenue. Section 7 of H.R. 1953 establishes a surcharge for the sale of commemorative coins that are minted under the bill, and thus falls within the jurisdiction of the Committee on Ways and Means. However, in order to expedite this bill for floor consideration, the Committee will forgo action. This is being done with the understanding that it does not in any way prejudice the Committee with respect to the appointment of conferees or its jurisdictional prerogatives on this bill or similar legislation.

I appreciate and agree to your offer to include this exchange of letters on this matter in the Congressional Record during floor consideration.

Best regards,

BILL THOMAS,
Chairman.

Mrs. MALONEY. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. KELLY. Mr. Speaker, one can see that this is a strong bipartisan bill that deserves the support of every one of our colleagues.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FEENEY). The question is on the motion offered by the gentlewoman from New York (Mrs. KELLY) that the House suspend the rules and pass the bill, H.R. 1953, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. LANTOS. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

□ 1100

RECOGNIZING AND COMMENDING CONTINUING DEDICATION AND COMMITMENT OF EMPLOYERS OF MEMBERS OF THE NATIONAL GUARD AND THE OTHER RESERVE COMPONENTS

Mr. SAM JOHNSON of Texas. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 302) recognizing and commending the continuing dedication and commitment of employers of the members of the National Guard and the other reserve components who have been mobilized during the Global War on Terrorism and in defense of the United States, as amended.

The Clerk read as follows:

H. RES. 302

Whereas as of early November 2005, more than 460,000 members of the National Guard and the other reserve components have been mobilized for active duty since September 11, 2001, leaving their families to protect the United States in the Global War on Terrorism or to support hurricane disaster relief operations;

Whereas during this period of increased mobilization and deployment, employers in the spirit of patriotism have maintained job security for those mobilized reserve-component members and their families;

Whereas the Civilian Employment Information Program of the Department of Defense, a database program implemented by the Department of Defense as of March 31, 2004, to identify employers of the 1,100,000 members of the National Guard and the other reserve components, will enable the Department of Defense to improve communication with the employer community and target support and render assistance to employers of reserve component personnel who are identified for mobilization;

Whereas employers of all sizes understand that the predictable mobilization and deployment of members of the National Guard and the other reserve components are the keys to building and maintaining employer support;

Whereas the employer community continues to work with the Department of Defense to show its support for the National Guard and the other reserve components and to better understand and adhere to the obligations spelled out in the Uniformed Services Employment and Reemployment Rights Act; and

Whereas the employer community recognizes that the missions and duties of members of the Armed Forces both abroad and in securing the homeland will be necessary: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the employers of members of the National Guard and the other reserve components deserve the Nation's sincere recognition and gratitude for their sacrifice and strong support of the goals and struggles of the United States during the Global War on Terrorism and in support of hurricane disaster relief operations;

(2) those distinguished employers of the members of the National Guard and the other reserve components who have gone above and beyond the obligations and requirements of the Uniformed Services Employment and Reemployment Rights Act deserve the Nation's commendation; and

(3) the Secretary of Defense should continue to develop long-term strategies to maintain a high level of support between the Department of Defense and employers of members of the National Guard and the other reserve components by—

(A) continuing to build and maintain the Civilian Employment Information Program database of the Department of Defense implemented by the Department of Defense as of March 31, 2004;

(B) continuing to work with employers to build a more predictable system for the mobilization and demobilization of members of the reserve components; and

(C) encouraging officials of the Department to actively seek opportunities to address employer groups on future mobilization plans and future roles of the reserve components.

The SPEAKER pro tempore (Mr. FEENEY). Pursuant to the rule, the gentleman from Texas (Mr. SAM JOHNSON) and the gentleman from Wisconsin (Mr. KIND) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. SAM JOHNSON).

GENERAL LEAVE

Mr. SAM JOHNSON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Res. 302.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield myself such time as I may consume, and I rise in strong support of H. Res. 302.

Mr. Speaker, since September 11, 2001, we have been a changed nation. The horrific events of that day in New York, in our Nation's capital and over the skies of Pennsylvania changed us as a people that day. We became a nation at war, and the defense of our homeland became of top priority.

Our uniformed young men and women answered the call, but in addition to these soldiers, sailors, Marines, airmen and corpsmen, more than 460,000 members of the National Guard and other Reservists have been mobilized for active duty over the last 2 years. Their sacrifice and assistance has been essential in our fight for freedom.

Now it is important to remember that it is not only on foreign soil or in defense of our Nation against terrorism that we have all benefited from the sacrifice of these men and women. Just weeks ago, as we all saw when natural disasters devastated our gulf coast region, Reserve personnel and National Guard components were at the forefront of relief and rescue efforts.

While each of us benefits from the sacrifice of these men and women called to service, it is sometimes too easy to forget the contribution made by behind-the-scenes heroes, that is, the employers and business owners, many of whom are small businesses who employ these Guardsmen and Reservists.

I am sure that each of us has heard in our towns and communities, the businesses who employ Guard and Reserve have gone above and beyond what is required to support our troops and ensure that their jobs are waiting for them when they return. As we honor the service of our men and women, also we should commend the patriotism and effort of all those who provide them their living.

I would also take this opportunity to commend the Department of Defense for bringing its Reserve civilian employer information database online this year. This system represents the culmination of a year-long effort to establish a Department of Defense-wide system to capture and understand who employs the 1.2 million members of the seven Reserve components. I would urge the Department of Defense to continue to develop this system and other long-term strategies so that we can maintain the historic level of support between the department and the employers of our Reservists.

Mr. Speaker, at the end of this week we will honor our Nation's veterans. As we do so, it is equally fitting to honor our Nation's Armed Forces and Reserves as we do today. I commend those on the homefront who have given so much in their support.

I thank my colleague for sponsoring this resolution and ask my colleagues that it be adopted.

Mr. Speaker, I reserve the balance of my time.

Mr. KIND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of this resolution and commend my colleagues from Texas and California for offering the resolution today.

Mr. Speaker, I am sure there is not one of us in the House of Representatives that has not been impacted by one of our Guard and Reserve units being called up and mobilized in regards to the operations ongoing in Iraq and Afghanistan. All of us are terribly proud of the tremendous sacrifice and courage and service that has been exhibited by our Guard and Reserve units throughout the country.

Recently, I had a chance to return to Iraq for my third trip in country. It is invaluable experience in getting a firsthand account in regards to the ongoing operations, the progress that is being made, what is working and perhaps, more importantly, what is not working. The time that we were able to spend with our troops on the ground is time well spent because they do tend to tell us like it is, what is working, what is not, what we need to improve upon in regards to the policy of what is taking place.

But having gone to Iraq now on three separate occasions, I can honestly state that nothing has made me prouder to be an American than seeing our troops in uniform there performing their duties. They are so well-trained, so well-motivated. They are, in short, the best our Nation has to offer.

Yet, their service to our country would be made much more difficult if they did not receive the support from back home, first and foremost from their families and loved ones, who also have to endure extreme sacrifice and hardship by allowing them to serve for extended periods of time overseas, typically 1 year boots-on-the-ground in theater like Iraq today. But there is another component to this, another entity that oftentimes gets overlooked, and that is what this resolution today speaks to.

It is the countless employers out there that have to, by law, a law that Congress has passed, allow them to serve our country while keeping their jobs open and safe back home. It is one of those items that people tend not to think too much about, but it does go to alleviate a lot of the concerns that our serving Guard and Reserve units have, and that is maintaining financial security for the families back home and knowing that when they do return from serving our country there will be a position for them at their place of employment.

In Wisconsin, we have had two companies last year that were recognized for their outstanding service to the Guard and Reserve employees that they have. One is Harley Davidson. The other was Schneider Trucking, located up in Green Bay, Wisconsin. Every year there is a process to try to recognize some of these companies throughout the country that are going above and beyond in regards to their support for Guard and Reserve units, and we commend them here today with this resolution.

In the congressional district that I represent in western Wisconsin, Mr. Speaker, we have had numerous National Guard units who have been called up. This past week we have the 700-member 128th Infantry Guard, who are returning home from their 1 year tour in Iraq, and there is no more happy occasion to attend than the reunion ceremony of those troops when they step off the plane, being reunited with their families for the very first time in a long time.

Beyond the 128th, we are hoping to be able to welcome home soon the 1158th Transportation Guard unit in western Wisconsin, hopefully within the next few weeks. We have also had the 32nd, the 229th, the 652nd, the 829th Engineering Guard units who were called up, gone through their training, deployed and served admirably over in Iraq.

Again, when they come home they face periods of transition, some difficult, some not so difficult, but the one thing that they should not have to worry about is knowing that there is a job for them remaining, that they gave up in order to serve our country. That is why I think this resolution commending their employers is very important today.

Mr. Speaker, I reserve the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield such time as he may consume to my great friend from California (Mr. POMBO), the chairman of the Resources Committee.

Mr. POMBO. Mr. Speaker, I thank the gentleman for yielding time to me.

Mr. Speaker, I am proud to show my appreciation for the National Guard, the Reserves and their employers. This resolution, H. Res. 302, recognizes those employers who accommodate the 1.1 million members of National Guard and other Reserve components. They make it possible for our country to be protected and defended by our patriot volunteers.

This resolution acknowledges all employers from the small-town family business to the public sector that have provided a stable job to more than 460,000 members of the National Guard and Reserves who have been called to duty since September 11, 2001. These employers have provided our Reservists security in payment, health care and benefits.

Reservists have been called up to serve in great numbers in order to assist with natural disaster relief on the homeland or in support for the global war on terror in Afghanistan and Iraq.

I am proud to say that my district is home to recipients of the Secretary of Defense Employer Support Freedom Award. This award was created to recognize employers who have provided exceptional support to Reservists.

One recipient of the Employer Support Freedom Award, Enterprise Rent-A-Car, has locations throughout my district from Pleasanton to Stockton and my hometown of Tracy. Enterprise received recognition for extending full salary and benefits for the entire length of mobilization, regardless of how much they receive in military pay.

I would also like to mention the sacrifice of Give Every Child a Chance, a nonprofit located in Manteca, California. One of their employees, Oscar, is a military policeman in the Army Reserves. Oscar has served his country in Iraq and in Egypt for a total of 16 months. While Oscar was serving in Egypt, they temporarily replaced him with existing staff. They wrote to me that "While it was a very chaotic month, we knew that when we hired Oscar he had a commitment to serve our country, and we accepted that commitment as part of our dedication to the United States of America."

National Guard members and members of Reserve Forces comprise about 46 percent of our total available military manpower. With such a significant proportion of our Nation's defense dependent upon those who maintain careers in addition to their military service, a cooperative relationship between servicemen and -women and their employers is indispensable.

The support for a healthy relationship has been prevalent from the United States Chamber of Commerce and the local chambers throughout my district. I would like to commend the Department of Defense, specifically the employers' support of the Guard and Reserve, for their cooperation with civilian employees.

Other strong supporters include SBC Communications, Incorporated, and veterans groups like the American Legion.

Our Guard, Reserves and their families sacrifice a great deal in the defense of our country. Please join me in recognizing their employers by supporting the passage of H. Res. 302.

Mr. KIND. Mr. Speaker, I yield 2 minutes to my good friend from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I want to thank the gentleman from Wisconsin for yielding me time.

Mr. Speaker, I rise today in strong support of H. Res. 302. This resolution recognizes and commends the continued dedication and commitment of employers of the members of the National Guard and the other Reserve components who have been mobilized during the global war on terrorism.

I agree wholeheartedly with the sentiments of this legislation and firmly believe that it is the duty of us at home to support the brave men and women who are serving their country overseas.

Many of the 433,000 Reservists and members of the National Guard that have been mobilized left behind not only their family and friends, but also their careers. Therefore, it is important that we do all that we can to ensure that those jobs are there for them when they return.

I also would like to give special thanks to the employers located in my district and my State that the Illinois National Guard has commended for rising above and beyond the call of duty. Some of the companies in the Chicago area singled out by the Illinois National Guard include Hershey Foods, United Airlines, Motorola, Abbott Laboratories, Boeing, Frito Lay, the Chicago Police Department, the Arlington Heights Fire Department, the Buffalo Grove Police Department, ABN AMRO, Cardinal Health, Mackie Consultants, Mitchell Aircraft, Grainger, the Oak Park Police Department, United Parcel Service, the DuPage County Sheriff and the State of Illinois, to just name a few.

So, again, I strongly support this legislation and urge its passage.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield 2 minutes to the gentleman from Delaware (Mr. CASTLE), my good friend from the Education Committee.

Mr. CASTLE. Mr. Speaker, I thank the distinguished gentleman from Texas for the time.

I rise in support of H. Res. 302 and commend the thousands of American businesses for their exceptional support of the employees who voluntarily serve in the National Guard and Reserve. These brave men and women risk their lives to protect our way of life, and the fact that their communities are standing by them and their family is a tremendous statement of gratitude for their service.

In my home State of Delaware, members of the Army and Air National Guard have set an extraordinary example for the rest of the country, with one of the highest national percentages of personnel volunteering for deployment in the global war on terror. These men and women have flown missions and provide support in places all over the globe, spending months away from their loved ones in places like Iraq and Afghanistan.

When Hurricane Katrina hit the gulf region, I am proud to say that the Delaware National Guard was among the first units on the ground, responding with airlift, security personnel and medical supplies.

On October 15, the State of Delaware was among several employers recognized by the Secretary of Defense for their outstanding support of Guardsmen and their families.

As a former Governor in Delaware, I can tell my colleagues that the vocal and active support from our community for the National Guard and Reserve is a long-standing tradition.

□ 1115

Our loyal Chamber of Commerce has a strong relationship with the Guard, and together they have worked diligently over the years to educate businesses and build employer support for our citizen soldiers.

As Veterans' Day approaches and we honor those who served and are currently serving in missions around the globe, it is essential that we recognize the millions of employers, large and small, who continue to ensure that mobilized employees and their families are taken care of.

Mr. Speaker, American businesses have always stepped up when our Nation needs them the most. Today, I commend them for their commitment to our military families and encourage all employers to support the brave men and women who defend our freedom day in and day out.

Mr. KIND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am sure my colleagues are aware that back in 1994 we did pass the Uniformed Services Employment and Reemployment Rights Act, which is to protect the National Guard and Reservists and others called up to serve their country. It requires that employers hold jobs for employees when serving abroad, as well as retain some basic benefits for them.

I am also sure my colleagues are aware that many companies have stepped up and gone above and beyond the call of duty. In fact, a recently released GAO report acknowledged that many of the employers exceed the minimum requirements set forth in law. For example, more than 26 percent of the selected Reservists are receiving their salaries or differential pay, 32 percent get medical benefits not required by the law, and 30 percent get some other benefit above and beyond the legal requirements. I commend those companies that see the necessity to step up and make that extra effort to alleviate a lot of the concern that our Guard and Reserve units have.

I have two companies in my congressional district in western Wisconsin in particular that I would like to recognize: Ashley Furniture, which is a large furniture manufacturing company that has many Guard and Reservists employed. They have stepped up by offering the differential pay to those Guard and Reservists, as well as Mathy Construction, who is doing the same exact thing.

Our good friend and colleague, the gentleman from California (Mr. LANTOS), has offered H.R. 838 that I would like to recognize on the floor today. This is a differential pay legislation that would require the Federal Government to pick up the pay difference that the Guard and Reservists are receiving as active military compared to what they would have normally received, and it offers tax incentives to reimburse the companies who are doing this on their own. I think it is worthy legislation, worthy of our support.

Finally, I would like to point out there is one segment of employment that has been particularly hard hit by the call-up of our Guard and Reserves, and that is the first responder units in our congressional districts. Many of the Guard and Reserve units are coming from first responders, whether it is the police or sheriff departments, fire departments, in short, our civilian warriors. They seem to be particularly hard-pressed during these trying times by allowing their workers to go and serve our country.

That has had an impact on the services they are able to provide, because they are giving up some of the most qualified and hard-working employees to do these services for us back in our congressional districts. So I just want to point that out during the resolution discussion today.

Mr. Speaker, I reserve the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I thank the gentleman for his comments. He is right on target. Our guys are doing a great job out there, and most of them are civilian warriors.

Mr. Speaker, I yield 3 minutes to the gentlewoman from Michigan (Mrs. MILLER), whose husband was Air Force active and later in the Guard, so she has some knowledge of this subject.

Mrs. MILLER of Michigan. Mr. Speaker, I thank the gentleman sincerely for yielding.

Mr. Speaker, nearly half a million Americans have served in our National Guard since the beginning of the war on terror. A half million fathers and mothers and brothers and sisters, a half million people so dedicated to protecting our Nation, protecting our families that they have sacrificed time with their own families. This is a half million people willing to confront America's enemies face to face.

Mr. Speaker, none of those great patriots would be able to serve our Nation without the incredible support and the sacrifice of those back home. For each man and woman deployed by the Guard, there is an employer who must operate without an employee. There is a company that must do business and meet its challenges without a member of its team. There is a boss who must get by without his full staff, even though he or she is faced with intense competition and unyielding deadlines.

Mr. Speaker, I am proud to see our American businesses answering the call and serving their country by supporting our Guard. They are selflessly going about their business with a half million fewer workers, and they are doing so without complaint. They are setting an example for future generations by loyally holding those positions open at the same level of pay and with the same level of benefits for when our proud men and women, our Guardsmen return home. American employers are proving that their relationship with the National Guard is as strong and as important as ever. They are proving that the men and women who serve the United States proudly should be well served by our country.

My hometown of Harrison Township, Michigan, is also very proud to be the hometown of Selfridge Air National Guard Base. I have watched as literally thousands and thousands of National Guard members have deployed from Selfridge in defense of America, and I am proud to say that I have also seen countless Michigan employers ensure that Guard members are taken care of when they return home.

I strongly support House Resolution 302, because it is time we in the Congress, here in the House of Representatives, formally recognize the great work and the great sacrifice of American businesses, those who employ our Guard and Reserve members. Though they serve our Nation quietly and nobly, these companies deserve a profound and enthusiastic thank you from their government.

The men and women who have served and now serve our Nation in the Armed Forces make an incredible sacrifice, and this Veterans' Day week this resolution is especially appropriate in an important recognition that their friends and loved ones and their employers back home are sacrificing, too.

Mr. KIND. Mr. Speaker, I reserve the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I yield 3 minutes to my good friend from Connecticut (Mr. SHAYS).

Mr. SHAYS. Mr. Speaker, I thank the gentleman for yielding me this time.

Mr. Speaker, I rise in support of House Resolution 302 and appreciate the efforts of the gentleman from California and our distinguished war hero who just has given me this time.

Many employers have gone above and beyond what the law requires of them, either by making up the loss in income that may occur when their employee is called to active duty or through a variety of other initiatives that recognize this special burden our National Guard and Reservists take upon themselves. Quite simply, those employers who are already recognizing the sacrifices of the Reserve components deserve our sincere praise.

But this body can go further, as Representative KIND points out. We should enact incentives through tax credits for private employers to make up the pay gap; and the Federal Government, the largest single employer of the citizens who make up the Guard and Reserve, should match the examples set by employers throughout this country and pay the difference when a citizen soldier experiences a loss of salary when he or she is activated.

Congressmen LANTOS, GRAVES, MCGOVERN, and my legislation would do exactly just that, and I hope this body would consider it soon. Again, I support this resolution, I thank the gentleman from California, and I urge its adoption.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I reserve the balance of my time.

Mr. KIND. Mr. Speaker, I yield myself such time as I may consume. In closing, I want to again thank my colleagues from California and the gentleman on our committee from Texas for offering this resolution. I encourage our colleagues to adopt it.

Mr. Speaker, I yield back the balance of my time.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I just want to say that we need to really recognize our guys that are fighting for this country. The Reserve and the Guard are a major part of the effort today.

Mr. GRAVES. Mr. Speaker, I rise today to speak in support of House Resolution 302. This resolution recognizes and commends employers of members of the National Guard and other reserve components who have been mobilized during the global war on terrorism.

This resolution, if passed, would urge the Department of Defense to continue to develop long-term strategies to maintain a high level of support between these conscientious employers and to thank these employers for going above and beyond what is required by law.

I would like to commend the Chairman for bringing this outstanding resolution to the floor today. I am a co-sponsor of this resolution and H.R. 838, The Hope at Home Act. I strongly believe that men and women who choose to serve their country should not be punished for their service by having to leave their current job without financial support. That is why I have co-sponsored legislation that would give tax credits of 50 percent of an employee's compensation to businesses that continue to pay a guardsman or reservist who gets called up to active duty.

In particular, I would like to extend a special thanks to those patriotic employers in America that eliminate this pay gap for their workers by continuing to pay them the difference between their civilian salary and their military pay when mobilized. Nearly ⅓ of reservists have this benefit from their employer.

We should only ask so much sacrifice from those who are so willing to give up their lives to serve the cause of American freedom. Financial ruin should not be one of those sacrifices. I will continue to work on behalf of the National Guard and Reserves for better and more equitable treatment.

Mr. POMBO. Mr. Speaker, I am proud to show my appreciation for the National Guard, the Reserves, and their employers, This resolution, H. Res. 302, recognizes those employers who accommodate the 1.1 million members of the National Guard and other reserve components. They make it possible for our country to be protected and defended by our patriot volunteers.

This resolution acknowledges all employers—from the small-town family business to the public sector—that have provided a stable job to more than 460,000 members of the National Guard and Reserves who have been called to duty since September 11, 2001. These employers have provided our reservists security in payment, healthcare and benefits.

Reservists have been called up to serve in great numbers in order to assist with natural disaster relief on the homeland or in support for the global war on terror in Afghanistan and Iraq.

I am proud to say my district is home to recipients of the Secretary of Defense Employer Support Freedom Award. This award was created to recognize employers who provide exceptional support to reservists.

One recipient of the Employer Support Freedom Award, Enterprise Rent-a-Car has locations throughout my district from Pleasanton to Stockton and my hometown of Tracy. Enterprise received recognition for extending full salary and benefits for the entire length of mobilization—regardless of how much they receive in military pay.

I would also like to mention the sacrifice of Give Every Child a Chance, a non-profit located in Manteca, California. One of their employees, Oscar, is a military policeman in the Army Reserves. Oscar has served his country in Iraq and then in Egypt for a total of 16 months. While Oscar was serving in Egypt, they temporarily replaced him with existing staff. They wrote to me that, "[while] it was a very chaotic month, we knew when we hired Oscar he had a commitment to serve our country, and we accepted that commitment as part of our dedication to the United States of America."

National Guard members and members of Reserve forces comprise about 46 percent of our total available military manpower. With such a significant proportion of our Nation's defense dependent upon those who maintain careers in addition to their military service, a cooperative relationship between service men and women and employers is indispensable.

This support for a healthy relationship has been prevalent from the United States Chamber of Commerce, and local Chambers throughout my district. I would like to commend the Department of Defense, specifically the Employer Support of the Guard and Reserve for their cooperation with civilian employers.

Other strong supporters include SBC Communications, Inc. and veterans groups like the American Legion.

Some employers in California's Eleventh Congressional District giving benefits to reservists are: A.G. Edwards & Sons, Inc, Albertson's, Allstate, Bank of America, Best Buy, Cingular Wireless, Citigroup, Contra Costa County, County of Santa Clara, Dow Chemical Company, Enterprise Rent-A-Car, Exxon Mobil, Federal Express, Harley Davidson, Home Depot, Lockheed Martin, McDonald's Corp., National Park Service, (Contra Costa County) Office of the Sheriff, Oracle, PG&E Corp., Safeway, SBC Communications Inc., Sears & Roebuck, UPS, State of California, Staples, Sybase, Inc., Target, TGI Friday's, TJ Maxx, U.S. Postal Service, and Verizon.

Additionally, the resolution has received strong support from: U.S. Chamber of Commerce, American Legion of California, Brentwood Chamber of Commerce, Brentwood VFW Post 10789, Dublin Chamber of Commerce, Pleasanton Chamber of Commerce, Lodi Chamber of Commerce, Manteca Chamber of Commerce, Morgan Hill Chamber of Commerce, San Ramon Chamber of Commerce, Stockton Chamber of Commerce, Air Force Sergeants Association, Association of the United States Army, Tino Adame Commander Karl Ross Post, 16, Give Every Child A Chance, American Legion, John Butler CTCS USN (retired), Commissioned Officers Association of the U.S. Public Health Service, Fleet Reserve Association, The Enlisted Association of the National Guard of the United States, PG&E, General Mills, and SBC Communications, Inc.

I would request that a list of more businesses and public entities recognized by the U.S. Chamber and ESGR be included in the CONGRESSIONAL RECORD.

Our Guard, Reserves and their families sacrifice a great deal in the defense of our country. Please join me in recognizing their employers by supporting passage of H. Res. 302.

The Secretary of Defense Employer Support Freedom Award was instituted in 1996 by Secretary of Defense William Perry under the auspices of the National Committee for Employer Support of the Guard and Reserve (ESGR). The award was created to publicly recognize American employers who provide exceptional support to their employees who voluntarily serve the nation in the National Guard and Reserve.

The 2005 Recipients are:

Alticor, Inc., formerly Amway, provides exceptional support that includes pay differential and continuation of benefits for up to one year when an employee is mobilized.

Citizens Financial Group is a catalyst for employer support within its many Rhode Island communities. With an expanded military leave and benefit program, which includes pay differential and extension of benefits for up to one year, Citizens grants up to five consecutive days of paid leave when a spouse, domestic partner of child is activated for military service.

Eaton is a diversified industrial manufacturer that continues to provide full pay and benefits to their employees who are mobilized for the duration of their service. This is in addition to their compensation that is received from the military.

Enterprise Rent-A-Car's connection to the U.S. military goes all the way back to Jack Taylor, who in 1957 founded the company and named it after one of the U.S. Navy aircraft carriers he served aboard as a naval aviator—the U.S.S. *Enterprise*. Enterprise shows its true loyalty to its employees who serve in the Guard and Reserve by extending full salary, regardless of military compensation, and benefits for the entire length of mobilization.

IDACORP is a leading northwest employer that provides full benefits and pay differential for the entire duration of military service. IDACORP has also funded extensive family outreach programs in communities of Idaho, Washington, and Oregon when massive mobilizations have occurred. This funding provides for a $250.00 travel voucher for over 3,000 activated National Guard members.

The Los Angeles Police Department (LAPD) has a long a proud history of supporting its employees who serve in the National Guard and Reserve. The LAPD provides pay differential and continuation of benefits for the length of mobilization. Mobilized employees also continue to receive service credit, accumulated annual vacation and tenure for the duration of their military service.

The Louisiana Department of Safety and Corrections (LDSC) is the first Louisiana state agency to achieve ESGR five star status as a supportive employer of its employees who serve in the National Guard and Reserve.

Pioneer Financial Services, Inc. is a very strong supporter of its employees who serve in the National Guard and Reserve. Pioneer's proactive support includes providing salary differential and benefits for up to two years, paying bonuses in advance of mobilization to assist with financial needs, and assigning a family support coordinator for the employees' families to assist with any issues that may arise during mobilization.

Ryland Homes is an advocate for service in the National Guard and Reserve and demonstrates this patriotic corporate culture by providing full benefits, to include life, health and dental insurance, and pay differential for one year.

Sears Roebuck, and Co. has a long legacy of providing support to its employees who serve in the military dating from 1916. Sears is a long-time advocate of military service, and provides pay differential and continued human resource benefits for its mobilized employees. Sears has led numerous initiatives that demonstrate its commitment to military personnel and family members, including a partnership with the National Military Family Association (NMFA).

South Dakota State University's enthusiasm, patriotism, and support for its National Guard and Reserve employees and students is outstanding. By providing differential pay for its employees and student academic progression support, SDSU leads the way in maintaining its 140-year-old legacy of providing support to members of the armed forces. SDSU provides pay differential for the length of deployment, and also provides employees 40 hours of paid personal leave for preparation of a deployment.

The State of Delaware has enacted legislation that provides deployed servicemembers with differential pay, including continued health, dental and insurance benefits for its mobilized or recalled military employees.

Toyota employees who serve in the National Guard and Reserve are provided pay differential, continuation of benefits, and the use or replacement of an employee special-lease vehicle for activated Guardsmen and Reservists and their families while deployed. In 2004, Toyota Motor Sales launched its Hire*A*Hero program, an initiative to foster career opportunities for military personnel transitioning back to civilian life. In addition, Toyota received agreement from 1,422 Toyota and Lexus dealers from across America to provide support above and beyond the requirements of the ESGR 5 Star Statement of Support program to their employees who serve in the National Guard and Reserve.

USAA continues to show great care and concern for their National Guard and Reserve employees and their families. Employees who are mobilized receive pay differential and continuation of benefits for up to 2 years. USAA has initiated a variety of military support programs, including Operation Keep in Touch, which was designed to keep deployed employees connected to their coworkers. USAA also provides its activated Guard and Reserve employees with a Deployment Preparedness Kit, which contains a comprehensive guide to assist military members with their leave of absence.

COMPANY INFORMATION FROM U.S. CHAMBER OF COMMERCE MEMBERS

Con-Way Transportation Services, Inc. provides healthcare benefits for their employee/dependents for one year for regular employees serving active military service.

United Technologies Corp. fully supports its employees who are called to duty in the U.S. military. We provide the salary differential for our U.S.-based employees for as long as they are deployed, as well as medical, dental and employee life insurance. Medical and dental benefits include coverage for dependents.

Dow Chemical Company supports U.S. military efforts with leave assistance provided to employees who are called to service. Dow pays employees' full salaries for the first eight weeks of leave. After that, Dow supplements military pay for the employees for up to five years so that they continue to receive an equivalent amount of pay. Also, medical, dental and life insurance benefits continue for employees and dependents for up to six months. Upon discharge, employees return to work a Dow in positions similar to the ones they had when they left.

On June 18, 2004, 662 Boeing employees who were called to active military duty under U.S. Sept. 11-related orders each received $3,000 from the company in recognition of their service. Boeing extended the company's normal military leave policy (that normally allows for up to 90 calendar days of pay differential and benefits) to up to five years of pay differential and benefits for individuals called to active military duty under U.S. Sept. 11, 2001-related orders. Boeing's military leave package includes both pay and benefits components to help employees and their dependents.

Wal-Mart Stores, Inc. has partnered with organizations such as the VFW to make certain that our fellow Americans serving our country know that America supports them.

Lockheed Martin, adopted special provisions to lessen hardships and disruption for employees called to active duty in support of the war on terrorism. Since 9/11, approximately 1,000 employees have been called up to serve in the war on terrorism and, most recently, the war in Iraq. The corporation made sure they didn't lose any pay or benefits while protecting our freedom. Additionally, they have ensured that when reservists have fulfilled their active duty obligations, they are able to return to the same or like job position they held prior to their departure.

BellSouth fully supports its employees who are members of the armed forces, and pays the difference between an employee's regular salary and what he or she is paid by the military for the duration of the employee's military leave. The company also continues health care coverage for an employee's dependents during this period.

3M salutes the men and women of our Armed Forces for their courage and service to the country. A Reserve or National Guard member who is ordered to active duty in 2003, 2004, 2005 to support the national emergency receives a pay differential (pay equal to the difference between 3M pay at base rate and military pay) and benefits (with some exclusions) for the first 18 months from the initial activation date; this policy continues to be evaluated and may be adjusted based on the current state of emergency.

Intel has longstanding commitment to military reservists. Intel provides a continuous 24 months of salary coordination. In addition to the salary coordination benefit, Intel's reservists and their families retain full health and other benefits for the duration of the leave, and enjoy a variety of support programs.

As it did in the Gulf War, Honda North America, Inc. has paid its associates serving in Iraq the difference between the associate's Honda pay and military pay for the entire time the associate is on active duty, without time limit.

Since October 2001, New York Life Insurance Company has had a military leave policy for employees who are members of the Reserves or National Guard called to military active duty.

Southern Company is proud to support its employees who volunteer for active duty in Iraq by providing those employees with full payment of the difference between their military salary and their Southern Company base salary.

Sears has supported the men and women serving in the U.S. Armed Forces since 1916. Currently, for its employees serving in the Reserves or National Guard, Sears pays the difference between the employees' Sears salary and military pay for up to 60 months. Qualified Sears employees also receive merit pay increases, incentive pay, stock options and the opportunity to participate in life, medical and dental insurance programs. In addition, Sears recently provide a $2 million grant to the National Military Family Association for unique, innovative programs that benefit military families.

Accenture was named an Outstanding Employer by the National Committee for Employer Support of the Guard and Reserve. Accenture offers benefits beyond the requirements of the law in support of our National Guard and Reserve employees, expanding their pay differential and benefits coverage policies.

UPS has had over 1,400 employees called to active duty and we currently have 1,050 still active.

Landstar System, Inc. supports the men and women in our employ who step up to serve in America's military effort by continuing all benefits in place, including health benefits for them and their families and providing a pay differential for one year of active military duty.

Mr. TIAHRT. Mr. Speaker, the summer invasion of Kuwait by Saddam Hussein in 1990 initiated one of the longest continual military mobilizations in our nation's history. Since then, our military has been continually engaged in the Middle East and other theaters. The attacks in New York, Virginia and Pennsylvania on September 11th, 2001 have only served to expand the scope and increase the operational tempo and intensity of our armed forces.

For the past 15 years, our citizen-soldiers, found in the Reserves and Army and Air National Guard, have been increasingly mobilized and deployed. Since the Global War on Terrorism began in 2001, 433,000 members of the reserve component have been mobilized for active duty. These troops, like our active-duty force, risk their lives on the front-lines for our nation's security and freedom while being separated from friends and family. But unique to our National Guardsmen and Reservists, these deployments often involve year-long absences from civilian employment and a corresponding financial hardship.

National Guard and Reserve mobilization also has a dramatic effect on civilian employers. Across the nation businesses are losing their top employees to the call of national service. Despite the strain on their businesses, the vast majority of employers embrace this challenge with pride. Not only do they adhere to the Uniformed Services Employment and Reemployment Rights Act, many businesses go above and beyond in support of their deployed employees and the families left behind. They deserve our nation's respect and thanks.

Therefore, Mr. Speaker, I am honored to support House Resolution 302, sponsored by Mr. POMBO of California. This important resolution recognizes and commends the dedication and commitment of employers of the members of the National Guard and the other reserve components. I encourage this entire body to strongly support this resolution, along with the businesses and reservists it commends.

Mr. POMBO. Mr. Speaker, I am pleased to relate the experience of Major Jeff Williamson, an employee of General Mills who serves in the Marine Forces Reserve. He was called to duty in February 2002 and sent to Camp Pendleton for anti-terrorism operations training. In March 2003, Major Williamson was sent to Iraq for initial operations, and remained until June 2003. During his service abroad, General Mills made up the difference to match what his regular salary had been while employed with the company back home. He and his family's medical and dental benefits remained unchanged during this time as well. When asked if he had any comments on how he felt about General Mills treatment of him during that time, he said he had not given that question much thought, adding that, that in itself, says a lot. Major Williamson commented that he did not have to worry about a thing as he and his family were well taken care of. In January, he will be considered for the position of Lt. Colonel. He is married to Tanja and they have two lovely little girls.

Mr. SAM JOHNSON of Texas. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FEENEY). The question is on the motion offered by the gentleman from Texas (Mr. SAM JOHNSON) that the House suspend the rules and agree to the resolution, H. Res. 302, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SAM JOHNSON of Texas. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. SAM JOHNSON of Texas. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include extraneous material on H.R. 1953.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

GRANT W. GREEN POST OFFICE BUILDING

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3770) to designate the facility of the United States Postal Service located at 205 West Washington Street in Knox, Indiana, as the "Grant W. Green Post Office Building".

The Clerk read as follows:

H.R. 3770

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. GRANT W. GREEN POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 205 West Washington Street in Knox, Indiana, shall be known and designated as the "Grant W. Green Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Grant W. Green Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. WESTMORELAND).

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I rise in support of H.R. 3770 authored by the distinguished gentleman from Indiana (Mr. CHOCOLA).

Mr. Speaker, this bill would designate this post office in Knox, Indiana, as the Grant W. Green Post Office Building.

As the longest serving postman in Knox history, Grant Green served the people of Knox from 1920 to 1970. For more than half a century, he refused to let anything, "neither rain nor sleet nor snow nor dark of night," keep him from his appointed routes. For 23 years, he delivered mail to all houses located north of the Nickel Plate Railroad tracks, which ran through the center of town. He spent the remaining 27 years of his career delivering mail on rural routes at a time when most homes were located on dirt or gravel roads.

Grant Green moved to Knox as a young man to raise a family, but he quickly became the quintessential public servant: hardworking, passionate about his job, and dedicated to the people in the country in which he served. He was also extremely active in the community as a 70-year member of the local Masonic Lodge. Mr. Green passed away on December 29, 1990, but will be forever remembered as one of the most dedicated citizens of the community of Knox, Indiana.

Mr. Speaker, I urge all Members to come together to recognize the vast dedication of Grant W. Green to public service in Knox, Indiana.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the House Government Reform Committee, I am pleased to join my colleague in consideration of H.R. 3770, legislation designating a postal facility in Knox, Indiana, after the late Grant W. Green.

This legislation, which was introduced by Representative CHRIS CHOCOLA of Indiana on September 14, 2005, was unanimously reported by the Government Reform Committee on October 20, 2005. H.R. 3770 enjoys the support and co-sponsorship of the entire Indiana delegation.

A rural letter carrier, Mr. Green had the distinction of being the longest serving postal carrier in Knox history. He worked for the Post Office Department from 1920 until 1970. His route ran through the center of Knox and in rural areas, working for 50 years.

Mr. Green's neighbors and friends remember him as dedicated, hard-working, and passionate about his job.

Nothing kept Mr. Green from delivering the mail. He was a dependable and friendly letter carrier.

Mr. Speaker, it always gives me great pleasure when we recognize the contributions of postal workers by dedicating a facility in their honor. Designating the newly opened post office in Knox after Mr. Green is a wonderful way to honor the memory of Grant W. Green, and I urge swift passage of this bill.

Mr. Speaker, I yield back the balance of my time.

Mr. BUYER. Mr. Speaker, I had the privilege of representing the city of Knox in Starke County for ten years in Congress, and though it is no longer in my congressional district, it is a town that remains special to me. It is a community filled with tight-knit families who support one another through good times and bad.

What is so fitting about naming Knox's post office for Grant Green is that it is not only a tribute to the people of Knox, but to the men and women of the U.S. Postal Service.

Grant Green lived nearly his entire life in Knox where he raised his family, was a model citizen, and dedicated himself to public service.

It is that public service for which he is best known. For 50 years, he served the people of Knox as a postman.

Now, in these days of instant communication and relatively inexpensive travel, it is sometimes easy to overlook the vital role that the men and women of the U.S. Postal Service have played for our communities, especially our rural communities.

Communities such as Knox may have small populations, but they are typically surrounded by family farms. In decades past, postmen may have been the only outside contact that those families had for weeks. Their arrival and what they brought, not only in the mailbag but also in news from town to town, was vital and eagerly awaited.

For 50 years, Grant Green was the link to the outside world for many families and we honor his service today with the naming of the new Knox Post Office.

Mr. CHOCOLA. Mr. Speaker, today, the House will consider H.R. 3770, legislation to designate the newly opened post office in Knox, Indiana, as the "Grant W. Green Post Office Building."

Grant Green worked as a postal carrier in Knox, Indiana from 1920 to 1970, making him the longest-serving postal employee in the community's history. For 23 years, he delivered mail to all houses located North of the Nickel Plate Railroad tracks, which ran through the center of Knox. He spent the remaining 27 years of his career delivering mail on rural routes at a time most rural homes were located on dirt or gravel roads.

A native of North Judson, Indiana, Grant moved to Knox as a young boy and attended Knox High School. Grant was hired by the local post office in 1920 and he quickly became the quintessential public servant: hardworking, passionate about his job, and dedicated to the people and country he served. Twenty years later, he married Margie Gaede. Together, they raised five children, all graduates of Knox High School. Grant was active throughout the community, including his nearly 70-year membership in the local Masonic Lodge. He died on December 29, 1990 and was buried on his 50th wedding anniversary, December 31, 1990.

For more than half a century, Grant refused to let anything, "neither rain nor sleet nor snow nor dark of night," keep him from his appointed routes. Naming the new post office in Knox after a local courier and pillar of the community will honor not only Grant Green, but also the hard working postal employees with whom he served. It will recognize an era unique in the American experience, and it will make a statement to future generations about the importance Knox places on a strong work ethic and public service. I urge my colleagues to join me in supporting this legislation.

Mr. WESTMORELAND. Mr. Speaker, I urge all Members to support the passage of H.R. 3770, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. FEENEY). The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and pass the bill, H.R. 3770.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. WESTMORELAND. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

□ 1130

CLAYTON J. SMITH MEMORIAL POST OFFICE BUILDING

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3825) to designate the facility of the United States Postal Service located at 770 Trumbull Drive in Pittsburgh, Pennsylvania, as the "Clayton J. Smith Memorial Post Office Building".

The Clerk read as follows:

H.R. 3825

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. CLAYTON J. SMITH MEMORIAL POST OFFICE BUILDING.

(a) DESIGNATION.—The facility of the United States Postal Service located at 770 Trumbull Drive in Pittsburgh, Pennsylvania, shall be known and designated as the "Clayton J. Smith Memorial Post Office Building".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Clayton J. Smith Memorial Post Office Building".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. WESTMORELAND).

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3825 authored by the gentleman from Pennsylvania (Mr. MURPHY). This bill would designate this post office in Pittsburgh, Pennsylvania as the Clayton J. Smith Memorial Post Office Building.

Mr. Speaker, I yield such time as he may consume to the gentleman from Pennsylvania (Mr. MURPHY).

Mr. MURPHY. Mr. Speaker, I thank the gentleman for yielding me this time.

The inscription on the front of the James Farley Post Office in New York City states the unofficial motto of the United States Postal Service: "neither snow nor rain nor heat nor gloom of night stays these couriers from the swift completion of their appointed rounds."

Clayton J. Smith, otherwise known as "C.J." to his friends and family, was one of these dependable couriers for the Postal Service. For 9 years, Clayton was a diligent letter carrier who worked out of the Post Office at Crafton, Pennsylvania. That was until June 23, 2003, when he was completing his route near the Crafton-Ingram Shopping Center.

He never finished his route that day. He was shockingly killed in a tragic accident. He was only 45 years old.

Among the family members by whom he was survived include his mother Jean Smith and his two sons. We wish his entire family the very best in the future and can only empathize how difficult the rebuilding of their lives has been over the last 2½ years.

It is with great somberness that I urge my colleagues to support this legislation. I sincerely hope naming the Post Office at 770 Trumbull Drive in Greentree in Clayton Smith's honor will be a meaningful tribute to his life, his family, his friends, and his colleagues in the Pittsburgh area. In so doing, we not only honor his memory but the service of all letter carriers and dedicated employers of the Postal Service.

I appreciate my Pennsylvania colleagues for joining me as cosponsors of this legislation to facilitate its advancement and thank the distinguished chairman TOM DAVIS of the Government Reform Committee for bringing this bill to the floor today.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the House Government Reform Committee, I am pleased to join my colleague in the consideration of H.R. 3825, legislation designating the postal facility in Pittsburgh, Pennsylvania, after the late Clayton Smith.

This bill was introduced by the gentleman from Pennsylvania (Mr. MURPHY) on September 19, 2005, and was unanimously reported by the Government Reform Committee on October 20, 2005. H.R. 3825 enjoys the support and co-sponsorship of the entire Pennsylvania delegation.

Clayton Smith was a postal letter carrier who worked at the Greentree-Crafton Postal facility for 9 years before he was killed on June 23, 2003. Mr. Smith was killed by a stray bullet while taking a midday break in the parking lot outside his postal vehicle. For 2 years family and friends have marked the anniversary of his death.

Mr. Speaker, I can think of no better way to acknowledge the dedication and work of this postal worker than naming a facility in his honor. I urge swift passage.

Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I urge all Members to support the passage of H.R. 3825, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and pass the bill, H.R. 3825.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

LILLIAN KINKELLA KEIL POST OFFICE

Mr. WESTMORELAND. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4053) to designate the facility of the United States Postal Service located at 545 North Rimsdale Avenue in Covina, California, as the "Lillian Kinkella Keil Post Office".

The Clerk read as follows:

H.R. 4053

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LILLIAN KINKELLA KEIL POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 545 North Rimsdale Avenue in Covina, California, shall be known and designated as the "Lillian Kinkella Keil Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Lillian Kinkella Keil Post Office".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Georgia (Mr. WESTMORELAND) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Georgia (Mr. WESTMORELAND).

GENERAL LEAVE

Mr. WESTMORELAND. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

Mr. WESTMORELAND. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 4053 offered by the gentlewoman from California (Ms. SOLIS). This bill would designate this post office in Covina, California, as the Lillian Kinkella Keil Post Office.

Lillian Kinkella Keil, a registered nurse, was one of the first airplane stewardesses hired by United Airways. Keil was happily attending to her passengers when the United States entered World War II. She decided to send a letter to the School of Evacuation in Bowman Fields, California, and within 2 weeks she was accepted. By the summer of 1943, she was in England pulling wounded and frost-bitten soldiers out of B17s returning from bombing raids over Europe.

Keil made 250 evacuation flights, including one to collect the wounded after the invasion of Normandy. Twenty-three of these missions were transatlantic, moving from one man to another, stopping blood flow, bandaging wounds, and giving medicine and comfort.

After World War II ended, Keil returned to the United Airways as an assistant chief stewardess, but her career was interrupted again by the dawn of the Korean War. In 1950, she returned to her duties as an Air Force flight nurse. During the next 16 months, Keil flew 175 air evacuations out of Korea, logging 1,400 hours of flight time.

Her experiences as a flight nurse were used as the basis for the 1953 Hollywood movie "Flight Nurse" starring Joan Leslie and Forrest Tucker. Her experiences in World War II and Korea ultimately resulted in her being one of the most decorated women in American military history. She was awarded 19 medals, including a European Theater medal with four battle stars, a Korean service medal with seven battle stars, four air medals and a Presidential Citation from the Republic of Korea. Lillian Kinkella Keil was a true American hero.

I urge all members to come together to honor this brave and patriotic humanitarian by passing H.R. 4053.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, as a member of the House Government Reform Committee, I am pleased to join my colleague in consideration of H.R. 4053, legislation designating a Postal Service facility in Covina, California, after the late Lillian Kinkella Keil.

This measure, which was introduced by the gentlewoman from California (Ms. SOLIS) on October 7, 2005, was unanimously passed by the Government Reform Committee on October 20, 2005. H.R. 4053 enjoys the support and co-sponsorship of the entire California delegation.

Captain Lillian Kinkella Keil, a longtime resident of Covina, California, was a flight nurse for the United States Army Air Corps during World War II and the Korean War. Captain Keil flew over 400 combat evacuation missions and was one of the most highly decorated women in military history.

Lillian Kinkella Keil began her career as a stewardess with United Airlines. In 1943, she attended the Army Air Forces' Air Evacuation School near Louisville, Kentucky. She received training as a flight nurse and was involved with evacuating wounded in many missions, including operations in Normandy during D-Day invasions. She was also part of the team that followed General Patton's Army across France.

One year after the war ended in 1946, Lillian returned to United Airlines as a stewardess. She left her job 4 years later, signing up for military flight duty in the Korean War. After Korea, she returned to California, got married, had two children and became a homemaker. In 1954, the year she married Walter Keil, a Navy intelligence officer, Hollywood made a movie based on her life entitled "Flight Nurse"; and in 1961 her story was featured on "This is Your Life."

Sadly, Lillian Kinkella Keil passed away of cancer at the age of 88 on June 30, 2005. I commend the gentlewoman from California (Ms. SOLIS) for seeking to honor the tremendous legacy of the late Captain Lillian Kinkella Keil. She will forever be remembered as the "Airborne Florence Nightingale" and the most decorated female veteran. The Keil story is an inspiration to all, and I am proud and pleased that the postal facility in Covina, California, will be dedicated in her honor. I also note that the mayor and the City Council of Covina join in support of this measure and urge its swift passage.

Ms. SOLIS. Mr. Speaker, I rise today in support of H.R. 4053, a bill designating a post office located at 545 North Rimsdale, Covina, California, in honor of Lillian Kinkella Keil, the most decorated female veteran in U.S. military history.

The story of Lillian Keil is one of remarkable courage. Born in Arcata in Northern California, she studied to be a nurse before becoming an airline stewardess for United Airlines. In 1943, she joined the U.S. Army Air Corps (now the U.S. Air Force) as a flight nurse, where she rose to the rank of Captain. Captain Keil flew on 425 combat air evacuation missions in World War II and the Korean War. She helped load wounded soldiers onto airplanes and took part in 11 major campaigns, including the Battle of the Bulge in Normandy during World War II and the Inchon Invasion in Korea. She tended to about 10,000 soldiers while they were being flown to military hospitals. She endured hazardous conditions, sometimes sleeping on a keg of gunpowder or among medical supplies the planes were delivering to battlefields.

To a wounded soldier, Captain Keil represented hope and home. She won the hearts and touched the lives of countless service members and their families. Her life and service to our country serves as an inspiration to all Americans, particularly women serving in the U.S. military. Captain Keil was awarded 19 medals and ribbons, including: 4 Air Medals, 2 Presidential Unit Citations, 1 World War II Victory Medal, 4 battle stars in World War II, and 1 Korean Service Medal with seven battle stars. In 1954, the Hollywood movie "Flight Nurse," starring Joan Leslie and Forrest Tucker, was based, in part, on her experiences. She was the honorary grand marshal of the National World War II Memorial Dedication parade in Washington, DC.

Keil was honorably discharged from the military in 1955. Her family moved to Covina in 1958, and she continued working as a nurse in emergency rooms and hospitals. After serving her country, she became an active member of the Veterans of War 8620, the American Legion Post 790, and the Chosin Few Veterans Military Organization. Captain Keil died of cancer at the age of 88 in June of this year. As a longtime resident of Covina, Captain Keil was not just a brave and self-sacrificing veteran, but she was a loving wife, a mother and a friend to many who live in the 32nd Congressional District.

I urge all my colleagues to join me in recognizing this beloved military hero. This bill is a tribute to all those who have died for our country and their families. The bill symbolizes the gratitude and admiration we have for our Nation's soldiers, who risk their lives to uphold our way of life and the American ideals of liberty, justice, and equality.

Mr. DAVIS of Illinois. Mr. Speaker, I yield back the balance of my time.

Mr. WESTMORELAND. Mr. Speaker, I urge all Members to support the passage of H.R. 4053, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and pass the bill, H.R. 4053.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

FAIR ACCESS FOSTER CARE ACT OF 2005

Mr. HERGER. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 1894) to amend part E of title IV of the Social Security Act to provide for the making of foster care maintenance payments to private for-profit agencies.

The Clerk read as follows:

S. 1894

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fair Access Foster Care Act of 2005".

SEC. 2. FOSTER CARE MAINTENANCE PAYMENTS TO PRIVATE FOR-PROFIT AGENCIES.

Section 472(b) of the Social Security Act (42 U.S.C. 672(b)) is amended by striking "nonprofit" each place it appears.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from California (Mr. HERGER) and the gentleman from Washington (Mr. MCDERMOTT) each will control 20 minutes.

The Chair recognizes the gentleman from California (Mr. HERGER).

Mr. HERGER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of S. 1894, the Fair Access Foster Care Act of 2005. This legislation has recently passed the Senate by unanimous consent.

S. 1894 makes a technical change that will ease the administration of payments to families who assist foster children. It does so by permitting the transmission of foster care maintenance payments through any agency that assists families caring for foster children in licensed settings. Current law prevents the transmission of these payments through private for-profit agencies.

As we have come to learn, public and private agencies that assist families who serve foster children play a pivotal role in promoting child safety and well-being.

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While we allow States the flexibility to determine what agencies can best serve children, current law creates administrative burdens that deter the transmission of Federal funds through private for-profit agencies. This legislation would rectify that inequity, ensuring that all public and private agencies that assist families caring for foster children are treated in the same way.

Mr. Speaker, S. 1894 is identical to bipartisan legislation introduced by the gentleman from Oklahoma (Mr. COLE), and I thank him for his work on this legislation. The legislation is supported by the American Public Human Services Association and the Child Welfare League of America. The Congressional Budget Office has informally estimated that the cost of this legislation would be insignificant.

Mr. Speaker, everyone agrees our Nation's children's welfare system is in need of improvement. Unfortunately, this change will only relieve one small facet of a much larger set of administrative burdens that today too often get in the way of ensuring child safety. This legislation is an important step in the right direction, and we must continue to pursue broader reforms in our Nation's child protection programs.

I thank all my colleagues on both sides of the aisle for their support of today's legislation. I urge all Members to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. MCDERMOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, this bill, the Fair Access Foster Care Act, makes a minor technical change designed to broaden the agencies that can recruit and reimburse foster families to include private welfare agencies. The CBO, Congressional Budget Office, concludes that this modification would impact only "isolated cases" within the child welfare system. So it is not any big step forward.

In short, we should not give the American people the false impression that we are actually facing the urgent and unattended needs for countless vulnerable children in this country, because we simply are not. "Fair Access" in the title still will not bring any access for over half of the abused and neglected children in America today. Over half of America's most vulnerable children are not merely left behind, they are left out of access, and that simply is not fair.

Make no mistake, we know how to fix it. We could start by investing in prevention, providing sufficient resources for States to work with families to prevent child abuse and neglect. We could start by investing in the people on the front lines; we would do something about the fact that the average tenure of a caseworker in the foster care system is less than 2 years.

We could start by investing in families. We could remove the obstacles in current law that prevent foster children from receiving Federal help if they are in the care of a relative because their parents' home is not safe.

We could start by investing in compassion. Thousands of children are among the victims of Hurricane Katrina, but we ignore pleas for help in spite of what we know to be true. Study after study shows that child abuse and neglect rises in the months immediately after natural disasters, particularly hurricanes; that is happening today in Louisiana. But Republicans and the administration pretend to be deaf and blind to the truth.

Mr. Speaker, I have a letter dated September 22, 2005, from the State of Louisiana. In it the State's Child Welfare Director asks the Bush administration for the same assistance that New York City received after 9/11, to meet the needs of abused and neglected children. And that is not all. The Governor of Louisiana has asked us to help them keep foster children in safe and stable settings and provide services like mental health treatment to counteract the trauma these children endured. Louisiana's leaders asked the administration to partner with them to prevent child abuse and to keep children and their families safely together.

Who can forget the President going down to Louisiana and saying, We will do everything we can to help the people affected by this disaster? Louisiana has asked us to be an extended family in a time of need, Americans helping Americans. But 6 weeks later, the Governor is still waiting for an answer to that letter.

Children remain vulnerable, without fair access, in fact, without any access. As bad as this is, the Republican leaders want their Members to make things even worse. Sometime soon, in fact, the notice on my BlackBerry says on Thursday, the House will consider what is known as the Budget Reconciliation Act. As it stands now, Republican leaders intend to cut resources dedicated to children in foster care.

Cut, let me say it again so the Members can remember it: Cut the resources for children. They intend to reduce the number of children in low-income families eligible for Federal foster care. They intend to reduce the reimbursement for the oversight of foster care for children who live with relatives. And the Republican leaders intend to cut case management and rehabilitative services provided to foster children through the Medicaid program. If they get their way, Republican leaders will take away hundreds of millions of dollars in services for abused and neglected kids and give it away in tax cuts for the rich.

Fair access is a false hope under this Republican leadership. They would like to zero out the problem as if all these kids who need us will simply vanish.

I am not going to let that happen. Not today, not tomorrow, not the day when the so-called budget reconciliation bill comes to the floor. It is a kid-buster bill, and America is better than that. Ask anyone in Louisiana. Ask anyone in America. It is time to fund some compassion. It is time to care for Americans. Americans, not Iraqis, not Afghanis, not anybody else, Americans who need us to help them.

We are making a technical correction today that will benefit a few kids, but Republican leaders need to make a titanic correction in reconciliation or we will all go down with the ship of state. A majority party that is deaf and blind to meeting the needs of our most vulnerable children is a party that has been in power too long.

Mr. Speaker, not even the very rich would fault you and us for putting the children first. Do it while they still have a future we can save.

Mr. Speaker, I reserve the balance of my time.

The material previously referred to is as follows:

DEPARTMENT OF SOCIAL SERVICES,
OFFICE OF COMMUNITY SERVICES,
Baton Rouge, LA, September 22, 2005.

Re addressing Hurricane Katrina's impact on Louisiana Child Welfare Services.

AMY GRISSOM, LMSW,
Program Specialist, Admin. for Children and Families, Dallas, Texas.

DEAR MS. GRISSOM: the purpose of this letter is to outline requests for waivers of certain activities and for budgetary assistance in the wake of Hurricane Katrina. As you are aware, the catastrophic effect of Hurricane Katrina has dramatically impacted the activities the Louisiana Department of Social Services, and diminished the extent to which the Office of Community Services can implement pre-Katrina initiatives. Coupled with these effects, the state is experiencing significant changes in the public role expected of the Office for the foreseeable future as Louisiana continues its recovery and support of impacted families, children, and communities.

We note that ACF Information Memorandum ACYF–CB–IM–05–06 provides for notice to states of flexibility in regards to title IV–E funds that can assist and protect/support hurricane victims. We seek meaningful ways now to operationalize that offer of provision of flexibility through these requests. The following requests are proposed after considerable thought and assessment of the changing impact of Hurricane Katrina on Louisiana statewide, for Louisiana clients and providers, and on the Office of Community Services. The requests are grouped under two broad categories: Procedural Waivers and Requests and Budgetary Requests.

The requests are as follows:

PROCEDURAL WAIVERS AND REQUESTS

TITLE IV E CLAIMS FOR FOSTER HOME CARE LICENSING STATUS, LICENSED CHILD CARE INSTITUTIONS (RESIDENTIAL FACILITIES AND DAY CARE PROGRAMS)

1. As foster homes, residential care institutions, and child-care institutions are due for relicensing, we propose to grant provisional status for up to one year provided there is documentation that the licensure record contains no concerns about the home in the previous year period. We also ask to provisionally license these providers in foster families/child care institutions who may have been temporarily displaced to another state.

Rationale: This will ease the requirements for families being re-licensed. Louisiana Office of Community Services is asking to make claims through Title IV E for such cases, for a one-year period. We want the ability to make claims for full federal participation for such activities for one year with provisionally licensed homes and facilities.

2. For new applicant homes, we propose to grant provisional licenses to new homes for the next four months that are in the process of being studied. This would preclude the need to have the health department and fire inspections since those are currently backlogged in many parts of the state.

Rationale: We propose this in order to expedite an increase of available new foster home providers to assist with the care of children coming into state custody as a result of the Hurricane.

3. We propose to grant provisional licenses to displaced foster families and provide maintenance payments, medical cards, etc., for foster children in those households as needed.

Rationale: We want to be able to quickly provisionally license displaced families so that they can provide foster care services.

Child and Family Services Plan and Program Improvement Plan

We request that the Program Improvement Plan be suspended for a period of 12 months from September 1, 2005 until August 31, 2006, without potential financial penalties. We seek relief for a one-year period from PIP reporting and related activities except those that interface with the PIP and that the Office undertakes relative to Hurricane Katrina relief efforts. If granted, we propose to renew PIP implementation on June 1, 2006 with the report interval to resume 45 days after August 31, 2006 (approximately on October 15, 2006). Restarting the PIP after the year period may require a renegotiation of the PIP (or at least a realignment or revision of much of the PIP content) before beginning and we propose that approach as well.

Rationale: There has been a dramatic data base shift that has and is occurring for Louisiana families, reporting regions, and children in care. For instance, the largest metropolitan area has been severely impacted and is now and for the next year period (at least) likely to be the smallest region of the state. Further, our Office is now impacted by the new demands for different services for the population and provider base to help implement services. The service capacity in the Orleans Region, which previously was the largest metropolitan area, is changed dramatically.

2. We propose that the 5-Year Child and Family Services Plan be suspended for one year through September 2006, without potential financial penalties. We seek relief from reporting on objectives for a one-year period.

Rationale: If granted, we propose to resume implementation on October 1, 2006 for year two initiatives, goals, objectives, and due dates. Essentially, year two of the 2005–2009 CFSP will functionally become year three of the CFSP.

Title IV E Program Improvement Plan

3. We propose that the previously negotiated time frames for the title IV–E Program Improvement Plan be extended for six additional months, that the objectives presently due on November 8, 2005 would then be due on May 8, 2006. We further request that those time frame objectives due on February 8, 2006 would be due on August 8, 2006. This request would make the title IV–E PIP extended to an 18-month PIP rather than a 12 month PIP.

Rationale: The Office of Community Services task force work efforts to revise the residential licensing regulations have been suspended as state Licensing, the Office of

Youth Development, and this Office now have staff attending to Hurricane Katrina issues, and much of the subsequent IV–E PIP outcomes are predicated on the completion of tasks due on November 8, 2005. The title IV–E PIP involved large participation and input from the Orleans area, this area is now uninhabited.

Judicial Review

4. We request presumptive title IV–E eligibility during the period of 72 hours prior to the evacuation through the time when evacuated courts in the impacted disaster areas resume normal functioning.

Rationale: The Department is seeking relief from these reviews for two reasons: the change in governmental role and expectation and the eliminated capacity to conduct reviews in the disaster impacted areas of Orleans and Jefferson Region. ACYF–CB–IM05–06 clearly acknowledges that areas "may not have court systems that are fully functioning." Courts such as those formerly functioning in Orleans and Jefferson Parishes have now been closed for five weeks, and cannot have retroactive "alternative procedures" for judicial determinations regarding contrary to the welfare and reasonable efforts. In the absence of either our staff or courts having access to case documentation, we may not even know for whom we need to obtain these judicial determinations, much less what the removal circumstances were, e.g., we have no way of knowing how many children were in care pending continued custody hearings.

5. We request a waiver of administrative review/case review requirements pursuant to ACYF-CB-IM-05-06

Rationale: This is provided for in the referenced memorandum.

BUDGETARY REQUESTS

The following listing contains issues related to recovery from Hurricane Katrina's impact on the State of Louisiana Department of Social Services, Office of Community Services to adequately operate as the public child welfare agency statewide.

1. Social Service Block Grant (SSBG) Funding—We are requesting a 35% increase in the present funding. This is requested in order to keep foster care placements stable.

Rationale: Needed to support foster and adoptive placements and residential treatment within as well as outside of the state. Entire communities in the severely affected areas of Louisiana (and neighboring states as well) will need extensive supports and services to stabilize and sustain adequate placement resources and to meet on a service continuum the needs of vulnerable children and families in the rebuilding period. Residential placements in Louisiana are currently funded by state and the SSBG, and not by title IX as is common in other states. Many of these supports will be directed at recruitment of additional foster home providers.

2. An additional federal funding allocation for clothing, personal items in the form of an special appropriated allocation for all foster children from Hurricane Katrina affected areas.

Rationale: Rationale is the same as above. Children and families in the displaced areas will need this as well.

3. Chafee Independent Family Living Program—we are requesting 35–40% increase in the allocation for the Chafee Program.

Rationale: A large number of the Independent Living programs were in the disaster impact areas and were pre-Katrina providing a large variety of independent living and young adult services as well as a large number of the provider base were located in New Orleans. Supervised apartments were destroyed or severely damaged as well as furnishings, clothing, and other critical items were lost. New supervised apartment housing will have to be developed and will cost more to the state.

4. Additional funding for foster care reunification services and supports through title IV–B, parts 1 and 2 is requested. This is requested for a two-year period. Further, the state is asking assistance in regards to the required match for these funds. There is no state funding appropriation for the additional matching funding. The state is asking for a federal waiver for the requirement for state matching participation for any increase in these funding sources for services.

Rationale: Children and their biological parents may be separated by significant distances for an extended or indefinite period of time. Pursuant to federal and state child welfare law, states will remain responsible for making reasonable efforts to reunify those children with their families so long as that is the case plan goal. It is noteworthy that approximately one third of the total foster homes in the state were in the Katrina impacted areas. Louisiana does not have a sufficient number of alternative placement resources to replace these children. Children taken into custody in other states will need to be returned to Louisiana and this will result in increased strain on the limited number of available foster homes. Special provisions for recruitment and licensure are sought. It is anticipated also that as the weeks ensue that there will be increases in the number of child abuse reports resulting in a further increase in the need for foster care placement resources. Due to the devastation in three major regions of state foster care population; there will be few families in those areas who will be able to consider fostering or adopting children. This will impact the requirements the state will labor under for requirements for proximity of placement to parents. Additionally, part 2 of title IV–B provides for promoting safe and stable families. This too requires expansion to expand access to mental health assessment and placement assessment services for children and families and to increase support to foster parents through service providers such as family resource centers. Title IV–B, part 2, which has been so instrumental over the past decade of providing for services to prevent removal and provide assistance with reunification, must now be allowed to address for the next 12 months (at minimum) issues of posttraumatic stress in foster children, adjustment counseling for families, grief and loss counseling, social, mental health, and placement assessments, and to put in place services to address other Katrina mental health and crisis recovery impacts of the disaster effects on families and children involved in child welfare in the state.

5. Request for approval of random moment sampling procedures for cost allocation of administrative and other costs associated with service delivery. The state is requesting that we continue to use the June 30, 2005 random moment samples for the quarter ending September 30, 2005 and for the foreseeable future (at least one year) until statistics can be reasonably obtained from and for disaster areas.

Rationale: The state has no statistical capacity for random moment sampling for the three storm impacted disaster regions. Random moment sampling cannot be conducted in these areas. Using the June 30, 2005 sample is our last pre-Katrina milepost for these statistics.

6. Request for special assistance from the Federal Emergency Management Agency (FEMA) to provide for FEMA related replacement costs for replacement of items of foster children that were lost in the storm. The state is asking for ACF assistance with FEMA to organize a quick and easy method for foster parents to submit and receive reimbursements or payments for the items of foster children that were lost during the storm and subsequent evacuation.

Rationale: These are costs that FEMA may be able to reimburse by special arrangement. An innovative foster parent special reimbursement "track" is envisioned to assist these families in any state they have relocated to due to evacuation from the disaster areas. Expedited reimbursement to lessen the recovery burden on foster children is the aim of this request.

We appreciate the opportunity to submit these requests to your office. We would welcome any questions or comments. A prompt reply would be appreciated.

Sincerely

MARKETA GARNER GAUTREAU,
Assistant Secretary.

Mr. HERGER. Mr. Speaker, I yield myself such time as I may consume.

I thank the gentleman from Washington for his support for this legislation. I appreciate the concern expressed across the aisle, but the concern is not valid. It is important that we accurately explain the policy included in the spending reform bill, what it will do.

This legislative fix would not alter Federal eligibility for foster care and adoptive assistance. Instead, it would ensure that every State uses the same eligibility criteria for receipt of Federal payments. Promoting child safety and well-being must remain the goal of these programs. And Federal law must be applied evenly in all States. We are doing just that with this policy fix.

Mr. Speaker, I yield 3 minutes to the gentleman from Oklahoma (Mr. COLE), who is the author of this legislation.

Mr. COLE of Oklahoma. Mr. Speaker, I rise today in support of S. 1894, the Fair Access Foster Care Act of 2005.

This legislation makes a technical change to current law, which will allow foster care maintenance payments to any public or private agency that assists families who care for foster children. This will allow for-profit agencies to operate on the same footing as all other such agencies, but States will continue to decide which agencies to use based on their best judgment about what is in the interest of the children and the families they serve.

The Fair Access Foster Care Act will ease the administrative costs to States that already elect to work with nonprofit agencies, allowing the focus and the money to be concentrated on what really matters.

Speaking for my own State, in Oklahoma there are 15 agencies that provide therapeutic foster care. Five of these agencies operate under a for-profit business model.

Mr. Speaker, I will again note that this legislation does not require any

State to contract with for-profit agencies. Individual State agencies charged with the oversight of custody children will continue to create their own rules for licensing child-placing agencies within the State. This legislation is identical to legislation I authored, H.R. 3008, so I am very grateful that this legislation was scheduled for consideration.

Mr. Speaker, I want to extend my gratitude to the gentleman from California (Chairman HERGER), the gentleman from Washington (Ranking Member McDERMOTT), and also to the staff of the Ways and Means Committee for guiding this bill through the legislative process.

And finally, Mr. Speaker, I want to extend my thanks to my friend, Dr. Laura Boyd of Norman, Oklahoma. Dr. Boyd and I belong to different parties and have even been on the opposite sides of each other in various campaigns over the years, but we have always had the ability to work together across the aisle when it counted.

Mr. Speaker, Dr. Boyd did a commendable job in raising awareness of this issue, and she was an effective proponent for this needed change in the law. She is a very big reason why we are at this point today.

I urge the Members to support the passage of this bill, S. 1894.

Mr. McDERMOTT. Mr. Speaker, I yield 3½ minutes to the gentlewoman from Houston, Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the distinguished gentleman for yielding me this time, and I remain very appreciative of his long-standing interest and support on these important issues dealing with children.

Let me thank the distinguished gentleman from Oklahoma (Mr. COLE) for his work on this issue and working, of course, as he has indicated, in a bipartisan way with his constituents back home.

I think it is important to note that those of us who are on this floor and our colleagues obviously have a great concern for our children. So this reporting of the truth about the calamity and the concern about the foster care system in America should not be taken personally. We should all be moving toward trying to improve the system. And I rise in support of the Fair Access Foster Care Act of 2005 simply because it is a procedural change that allows a broader response to the needs of our foster care children.

I happened to have worked in Houston with an outreach committee co-chaired by myself and former Congressman Mike Andrews, who used to be a member of the Ways and Means Committee; and we worked on recruitment of foster parents, providing foster parents with more resources. And this was a decade or so ago. Unfortunately, in 2005 we have the same concerns dealing with our foster care system. It is, in fact, broken to a certain extent, and the Fair Access Foster Care Act of 2005 will at least provide the access to not-for-profits to be able to channel the care of foster children, therapeutic care, how important that is, counseling and psychologists and psychiatrists, to build these lives.

But we cannot, Mr. Speaker, deny the fact that more resources are not needed in recruitment, more resources are not needed to give foster parents relaxation, R&R, so that they can come back home to take care of these children. More resources are needed in keeping siblings together, and, of course, as my colleague from the great State of Washington said, more resources are needed to stand in the way of child abuse and neglect.

Might I cite for the Members an article that says "Record High Numbers of Children Reported in Foster Care." This article reports the fact that these numbers are growing and growing and growing. Let me also say that we have seen over the course of 2 months one natural disaster after another: Hurricane Rita, Hurricane Katrina, Hurricane Wilma, and the terrible tornado in Kentucky and Indiana. In Hurricane Katrina alone, the statistics show that 35 percent of those impacted by Hurricane Katrina will be children.

One of the things that we fail to recite and repeat on the floor of the House, Mr. Speaker, 1,000-plus individuals died in Hurricane Katrina. Many of them are the parents of children now still living with relatives or children that are missing. And the very fact that we have ignored that dilemma shows that downstream we are going to be facing huge numbers of children needing foster care.

□ 1200

In my own congressional district, we have thousands of Hurricane Katrina survivors. Many of the family members are there taking care of other people's children or their relative's children.

So the foster care concept or the structure of foster care unfortunately is a safety net for children who are without any supervision or not having their needs being taken care of because of the family dissolution and other problems. This is an important step to fix the problem to add more people into the system, but this does not, Mr. Speaker, answer the total question of building a foster care system to aid those who suffer from neglect and helping out children in these terrible times.

Mr. Speaker, I speak today in support of S. 1894, the Fair Access Foster Care Act of 2005. Therapeutic foster care is foster care for children with special medical, psychological, emotional, and social needs. These children need comprehensive support and attention, requiring a great deal of commitment and sacrifice from foster care parents. Prior to the placement of a child, a potential therapeutic foster care parent must complete a certification process that involves a background check, a training program, and at least two homestudies.

Generally therapeutic foster care children are not permitted to attend daycare and require "line of sight" supervision. That is, therapeutic foster care children must be in view of the foster parents at all times, except when attending school and other approved activities.

Recruiting parents to provide therapeutic foster care is a never-ending job. There are always children waiting for a match to be found. Therapeutic foster care children stay in crisis shelters for the transition period, adding a great deal of stress to their lives.

Since 1992, IV–E funds from Department of Health and Human Services (HHS) have gone to partially fund both for-profit and nonprofit therapeutic foster care providers.

The problem we are facing is that recently, the Oklahoma Department of Human Services (DHS) realized that due to a technicality, for-profit agencies are not eligible to receive IV–E funds from HHS. In addition, other states have come to similar realizations and made arrangements to avoid noncompliance. Unfortunately, some states are not even aware of this discrimination. S. 1894 amends the United States code to allow all therapeutic foster care agencies to receive maintenance payments from the United States Department of Health and Human Services.

The Congressional Budget Office has indicated that any costs associated with this legislation would be insignificant. S. 1894 would amend the United States code to allow all therapeutic foster care agencies to receive maintenance payments from the United States Department of Health and Human Services. The Congressional Budget Office has indicated that any costs associated with this legislation would be insignificant.

In closing, there are over 500,000 children in foster care today. A large number of these children require therapeutic care. The business model of for-profit agencies should not prohibit Title IV–E maintenance cost reimbursement. Now is not the time to prevent highly qualified agencies from placing these children in safe homes.

Mr. McDERMOTT. Mr. Speaker, I yield 6 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, this bill provides very limited administrative flexibility, essentially just legalizing what a handful of States are already doing with foster care. But this tiny finger of flexibility given with one hand is taken away with both hands from the same abused and neglected children in the companion legislation that this same group of Republican leaders has so enthusiastically endorsed in our committee and which it plans to foist off on the American people this week.

So extreme is the Republican demand for tax breaks and more tax breaks and more tax breaks for those at the top of the economic ladder and the multinational corporations that will not pay their fair share of the tax burden that Republicans have demanded that the same abused and neglected children that they say they would help today, would be the ones to pay the tab for these tax cuts.

Those across America who realize that we need to be doing more for children who are physically or sexually abused by a parent, or merely abandoned without food or support by a parent who is caught up in a drug habit, need to know that those kids need more help. They need to know that the companion legislation the Ways and Means Committee has approved for consideration in the full House this week would deny those children almost $600 million of federal support.

Most of this is taken from battered, abused, and neglected children who found a new home with a loving family member. Think about it: a grandparent who realizes their child has gone astray and they take their abused, neglected grandchild back into their family to try to give them a chance.

The only federal court, an appellate court, that has interpreted our existing federal foster care law in the case, Rosales v. Thompson, issued a decision that is so clear that the Bush administration chose not to appeal it to the United States Supreme Court. However, the Bush administration has said it will not apply the court's decision to the law in this country outside a number of Western States. Under the court's ruling, abused, neglected, and battered children who seek the safety and stability of a home with grandparents, or other relatives who are not formally licensed as foster caregivers are eligible to receive, quite wisely, federal foster care assistance.

The Republicans are now saying we should deny funding to these grandparents and other relatives that care. The would tear apart tens of thousands of families and disregard the very purpose of the Adoption and Safe Families Act, a Federal law that directs a preference be given to placements with relatives.

For some reason, after endless speeches proclaiming a concern for "family values," the only families that count are those that are sitting up at the top of the economic ladder, while the families that have taken in an abused and neglected child are left behind. This companion bill is the so-called "reconciliation" which really ought to be spelled W-R-E-C-K, "wreck," because it is a wreck for these tens of thousands of loving and caring families. It is speeding through this Congress and speaking volumes about how much "family values" really count up here.

To say that the Republicans would literally take food from the mouths of babes to fund tax breaks for the rich might sound like partisan rhetoric, but if you watch this Congress this week, that is exactly what you will see.

This very year, President Bush's Office of Management and Budget rated the federal child support program among the highest and most efficient programs in the Federal Government; and yet, in the same bill in which they plan to take away about $600 million from families caring for abused and neglected children, they plan to deny federal support for child support enforcement, as amazing as that might seem.

There has been a 75 percent increase in child support collections from deadbeat dads since fiscal year 1996, adding up to $21.2 billion, a big figure, but it translates, just like these monies for the foster families, into hundreds of thousands of small amounts that put food on the table and allow kids to have the clothes to go to school.

Apparently, the folks that are running this place, the Administration and the House of Representatives do not know what it is like to be a single mom out there trying to get kids through school or to be a single grandmother having to start a second family to care for a grandchild while trying to keep them out of trouble and struggling to put food on the table. A few hundred dollars a month—whether it is from a deadbeat dad or through this foster care program for abused and neglected families—can make a big difference. That little bit of money makes the difference between a child who has a future and a child who ends up just like the abused and neglected parent that placed them in this horrible situation.

And, in the same bill that is a companion to this, House Republicans go even farther than cutting off support for programs that address deadbeat dads and abused and neglected children, they also cut child care funding to the tune of about $500 billion. Those funds are cut from those who are struggling to get off welfare and will result in 270,000 fewer children of poor working families being able to get access to child care in the next 5 years.

This Republican reduction in our federal investment in children will cost us millions and billions of dollars in the long run, but, most importantly, it will deny too many children in this country the opportunity to achieve their full, God-given potential. It is wrong. And while this minor piece of uncontested legislation ought to be approved today, we need to reject this attempt by extremists in this Congress to place all the burden of their fiscal mismanagement on the most vulnerable people in our society.

Mr. McDERMOTT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the gentleman from California (Mr. HERGER) brought out a harmless little bill here today, and some may wonder why we have taken so much time to whale away on the Budget Reconciliation Act which is coming down the road.

The fact is that this issue of child welfare is an issue that we have absolutely neglected in this House, and we are talking about the whole issue of child care.

This one little bill here has the title, which is the part that offends me: "Fair Access to Foster Care Act." Well, advertising like that would be out of order, because that is misrepresenting what this is about. This is a technical corrections bill. But the Republicans want to come out here, and everything is a PR piece: "Fair Access to Foster Care." You do not intend to give to anyone. You are not giving it in this bill. You are not going to give it on Thursday in the reconciliation bill. There is simply no concern about foster children in this Republican leadership.

When they send people like the gentleman from California (Mr. HERGER), a good, solid citizen, out here to defend this as "fair access to foster care," people will say, well, I voted for the Fair Access to Foster Care bill, as though voting for a title meant something.

Mr. Speaker, this administration is 6 weeks without picking up a pen and signing a letter to help the kids in Louisiana. That is a President who is leaving people behind. That is a Congress who is leaving children behind. You are not going to get away from it with the Fair Access to Foster Care Act.

I urge all of my colleagues to vote for this bill. We will continue this discussion on Thursday when we have the Budget Reconciliation Act.

Mr. Speaker, I yield back the balance of my time.

Mr. HERGER. Mr. Speaker, I appreciate the comments on the other side of the aisle. However, almost none of what was just discussed has anything to do with what is on the floor today. The bill before us is a good one and one every Member should support. Members will soon have a chance to support needed spending reforms to reduce deficits and help balance the budget. That should be a goal for all of us.

But what we hear today from the other side of the aisle is what we always hear: one, "no" on any savings in Federal programs; and, two, "no" on commonsense reforms; but, three, "yes" on raising taxes on the American people. Unfortunately, it is just the same old liberal wine in the same old bottles.

Mr. Speaker, the legislation before us today is an important step towards improving our Nation's child protection programs. It would ensure that all public and private agencies that assist families who care for foster children are treated in the same manner. It is good legislation and would help States focus their efforts on promoting child safety and well-being.

I would like to again thank my colleagues for their work in this area, and I urge all Members to support this legislation.

GENERAL LEAVE

Mr. HERGER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on subject of the bill now under consideration.

The SPEAKER pro tempore (Mr. SIMMONS). Is there objection to the request of the gentleman from California?

There was no objection.

Mr. TIAHRT. Mr. Speaker, I rise in support of the Fair Access Foster Care Act of 2005. This bill will provide for fair access to foster care maintenance payments by adding private for-profit agencies to the list of eligible recipients. Currently, State and non-profit agencies are the only therapeutic foster care providers eligible for this funding. Children with special medical, psychological, emotional, and social needs are the most vulnerable in the foster care system. Congress should provide strong support for all agencies willing to be involved in these fragile lives.

For children who enter foster care, separation from birth parents is traumatic, and separation from siblings who share a common history is a devastating, ultimately isolating loss. Since the 1980s, researchers have focused increasing attention on the importance of sibling ties. Siblings who are placed together have been known to transition more smoothly into new homes, and most researchers agree that attachments between siblings are critically important. In recent years, many states have taken action to help siblings stay together.

I am pleased to share with you an encouraging story of hope from my district. The Salvation Army chapter in Wichita, Kansas, conducts an annual birth family Christmas party and a summer picnic at Camp Hiawatha that provides an opportunity to reunite foster care children and their birth families. In addition to these annual events, the staff works with United Methodist Youthville to provide sibling visits a couple times a month. The foster care parents are required to make the connection for these visits with the foster child's siblings and/or parents.

In May of this year, there were 4,789 foster care children in the State of Kansas, and 542,000 in the country. According to the U.S. Department of Health and Human Services, the average stay for a child in the foster care system is 33 months. About 44 percent of these children reunite with their birth parents. Over 50 percent of foster children become juvenile delinquents, and the same percentage does not complete high school. These statistics speak of the desperate need for a good and solid foster care system, and of the commendable work so many agencies and families are willing to do for these children. Children in the foster care system become the responsibility of us all and their lives are changed forever when Americans begin to take that responsibility personally. My colleague Congressman TOM DELAY has both fostered children and been involved with foster care programs for years and I commend his work on this issue.

I am proud to support this legislation that will increase the access and opportunity for therapeutic foster care for our Nation's children.

Mr. HERGER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HERGER) that the House suspend the rules and pass the Senate bill, S. 1894.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. HERGER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. KNOLLENBERG. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the motion to instruct on H.R. 3058.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

MOTION TO GO TO CONFERENCE ON H.R. 3058, TRANSPORTATION, TREASURY, HOUSING AND URBAN DEVELOPMENT, THE JUDICIARY, THE DISTRICT OF COLUMBIA, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2006

Mr. KNOLLENBERG. Mr. Speaker, pursuant to clause 1 of rule XXII and by direction of the Committee on Appropriations, I move to take from the Speaker's table the bill (H.R. 3058) making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. KNOLLENBERG).

The motion was agreed to.

MOTION TO INSTRUCT OFFERED BY MR. OLVER

Mr. OLVER. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

> Mr. Olver moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill, H.R. 3058, be instructed to recede to the Senate levels for the National Railroad Passenger Corporation and the revitalization of severely distressed public housing (HOPE VI) and recede to the Senate on Section 722 of the Senate amendment.

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Massachusetts (Mr. OLVER) and the gentleman from Michigan (Mr. KNOLLENBERG) each will control 30 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. OLVER).

Mr. OLVER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are approaching the end of what has been a long and complicated process.

□ 1215

As we all know, the Treasury, Transportation, HUD and other agencies, commonly known as the THUD bill, has many moving parts; and while there are many issues to be addressed in the conference, I want to highlight a few today to refresh our memory.

The motion to instruct is fairly straightforward and simple. It addresses three items that deserve the body's attention. The first is funding to ensure that the National Railroad Passenger Corporation, commonly known as Amtrak, maintains its current level of service. It is funded in both bills; however, the House bill provides $1.18 billion and the Senate bill provides $1.4 billion. As you can see, it is intent of both houses of this Congress to fund Amtrak, and my motion to instruct conferees insists on sufficient funding to ensure that Amtrak can continue to provide service, make capital improvements and pay its debt.

The second item deals with the micropurchase cap. The second Katrina supplemental budget included an administration proposal to increase the micropurchase threshold from $15,000 to $250,000. This means that authorized holders of government credit cards can now charge items that cost up to a quarter of a million dollars. This is far beyond the purpose of the government card program and invites the possibility for fraud and abuse. The Senate's version of H.R. 3058, the Senate's amendment to H.R. 3058, included a provision that repeals the increase to the micropurchase threshold. My motion to instruct insists on the Senate provision that repeals the unnecessary and excessive increase to the micropurchase threshold.

And the final issue, Mr. Speaker, deals with HOPE VI. The House bill funded the program at $60 million as a result of an amendment passed on the floor. The Senate funded this important program at $150 million. The fiscal year 2005 level for this program was $142 million.

The HOPE VI program is vital to the rehabilitation of urban areas. And once again, Congress has shown its intent to support this important program, and my motion insists on its being funded at the higher level.

Again, Mr. Speaker, this is a simple motion that instructs the conferees to support the highest possible funding level to ensure Amtrak can maintain the current level of service; to recede to the Senate level for HOPE VI; and to recede to the Senate language in order to repeal the micropurchase cap increase that had been adopted in the second Hurricane Katrina supplemental budget earlier this fall.

Mr. Speaker, I reserve the balance of my time.

Mr. KNOLLENBERG. Mr. Speaker, I yield myself such time as I might consume.

I thank my colleague from Massachusetts for his commitment to the programs in this bill and for his partnership in what has been a most interesting journey to bring this bill to a conference.

This bill is a huge compilation of government operations, public service programs and critical national infrastructure. Like other appropriations bills, our allocation and commitment to fiscal responsibility makes funding these programs a challenge. Our task was to fund well-run, effective programs to the greatest extent that we could and encourage reform in others. Two of the motions, Amtrak and HOPE VI, fall into the latter category.

Starting first with Amtrak, this is a railroad in desperate need of reform. This year alone Amtrak will carry over $120 million in funds that were provided to them by the Congress in fiscal year 2005 but not used. The DOT Inspector General, an official respected on both sides of the aisle, has informed us that $1.275 billion is sufficient for Amtrak to continue operating its existing route structure without reductions in frequency, and to dedicate sufficient resources to continue the effort to bring Amtrak-owned infrastructure to a state of good repair. Also included in this figure is $278 million to meet Amtrak's debt service obligations on its nearly $4 billion in outstanding loans.

HOPE VI is a program that is just that for many people, hope that the grant to create new public housing will actually be spent in their neighborhoods. Currently, over $2.8 billion in HOPE VI grants has not been spent. Only 37 of the 224 communities have actually seen the finished product.

For those 37 communities, HOPE VI is a terrific program, and I was a supporter of HOPE VI for that reason, because there are some good examples. However, HOPE VI is not working for the other 187.

Here is another program in desperate need of reform, and I am hopeful for that in the coming year, with whatever level of funding is provided for the program. The authorizing committees of jurisdiction will look for ways to make this program more effective.

Section 722 of the Senate bill deals with micropurchases. I believe the administration has already acted on this issue, and we are supportive of the Senate's provisions.

In the end, we recognize the challenges of reform and have not abandoned our commitment to fund good programs. We will do our best under this allocation that we have to meet to fund the priority programs, including HOPE VI and Amtrak. Again, I thank the gentleman from Massachusetts and all the members of the subcommittee for their hard work this year.

With that, I would merely announce that I would accept the motion to instruct.

Mr. OBERSTAR. Mr. Speaker, I rise in strong support of the Motion to Instruct Conferees to H.R. 3058, the Fiscal Year 2006 Transportation-Treasury Appropriations Act, offered by the Gentleman from Massachusetts (Mr. OLVER), Ranking Democratic Member of the Appropriations Subcommittee.

In part, this motion instructs conferees to recede to the Senate levels for the National Railroad Passenger Corporation, or Amtrak.

This past summer, the House approved by voice vote a bipartisan Amtrak funding amendment that the Gentleman from Ohio (Mr. LATOURETTE), the Chairman of the Subcommittee on Railroads, and I offered to H.R. 3058, the Fiscal Year 2006 Transportation-Treasury Appropriations bill.

The amendment increased funding for Amtrak to $1.176 billion: $1.176 billion more than the Administration proposed in its Fiscal Year 2006 budget request and $626 million more than the House Appropriations Committee approved. It passed overwhelmingly.

The Senate followed the House's lead, but raised the bar, providing Amtrak with $1.45 billion, a difference of about $275 million.

During Floor consideration, the Senate also stripped the Senate bill of several controversial provisions regarding Amtrak, opting instead to pass a reasonable, sensible, bipartisan Amtrak reauthorization amendment, offered by Senators LOTT and LAUTENBERG, to the Budget Reconciliation bill by a vote of 93–6.

I urge that the conferees recede to the Senate level of $1.45 billion.

The fact is that this Congress time and again promotes transportation, particularly rural access to transportation. We should do no less for Amtrak.

Amtrak's opponents, however, are quick to point fingers at Amtrak's management, and claim that Amtrak doesn't deserve our support: That private corporations could run a better passenger railroad.

The truth is that a succession of hardworking and dedicated management teams at Amtrak cannot do the impossible—that is, operate our Nation's passenger rail system without a substantial level of investment from the Federal Government.

From its creation in the 1970's, the Corporation has been on a starvation diet. Lack of adequate funding and the annual threat of elimination have conditioned Amtrak to focus on survival.

Yet despite chronic underfunding, Amtrak has had its successes. According to the Amtrak Reform Board, since 2002, Amtrak has: implemented new accounting and financial reporting systems; reduced personnel by almost 5,000; developed a detailed and prioritized five-year capital plan focused on restoring the Northeast Corridor to necessary levels of reliability and safety, and on restoration of an aging fleet of rolling stock used throughout the system; terminated the mail and express operation; eliminated or truncated three long-distance routes; increased ridership from 22.5 million in 2000 to 25.1 million in 2004; and contained Amtrak's cash-operating requirement at or below $570 million.

Capital investment is up substantially: 256,000 concrete ties were installed; 104,000 wood ties were replaced; 266 miles of rail infrastructure restored; 50 undergrade bridges improved; 43 miles of signal and communications cable replaced; 116 miles of catenary hardware installed; and 19 stations and 37 substations improved.

Since 2002, Amtrak's mechanical department completed 180 remanufactures/heavy overhauls, 111 diesel locomotive overhauls, 14 electric locomotive overhauls, 31 equipment overhauls, 51 wreck repairs, and 32 baggage car modifications.

Excess equipment was sold, unprofitable services were eliminated, fares were lowered on long-distance routes to increase ridership, and a $71 million maintenance facility was opened in a joint partnership between Amtrak and the State of California.

In short, Amtrak is making great progress, even on a limited budget. Let's invest $1.45 billion in our rail passenger future and help Amtrak succeed.

I urge my colleagues to join me in supporting the Motion to Instruct Conferees.

Mr. Speaker, I yield back the balance of my time.

Mr. OLVER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. SIMMONS). Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Massachusetts (Mr. OLVER).

The motion was agreed to.

A motion to reconsider was laid on the table.

APPOINTMENT OF CONFEREES

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

Messrs. KNOLLENBERG, WOLF, ROGERS of Kentucky, TIAHRT, Mrs. NORTHUP, Messrs. ADERHOLT, SWEENEY, CULBERSON, REGULA, LEWIS of California, OLVER, HOYER, PASTOR, Ms. KILPATRICK of Michigan, Messrs. CLYBURN, ROTHMAN, and OBEY.

There was no objection.

MOTION TO GO TO CONFERENCE ON H.R. 3010, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. REGULA. Mr. Speaker, pursuant to clause 1 of rule XXII and by direction of the Committee on Appropriations, I move to take from the Speaker's table the bill (H.R. 3010) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, with the Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Ohio (Mr. REGULA).

The motion was agreed to.

MOTION TO INSTRUCT OFFERED BY MR. OBEY

Mr. OBEY. Mr. Speaker, I offer a motion to instruct conferees.

The Clerk read as follows:

Mr. Obey moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the bill, H.R. 3010, be instructed to insist that the conference agreement include:

(a) Not less than $8.095 billion to adequately prepare the nation for a flu pandemic;

(b) $5.1 billion for the Low Income Home Energy Assistance Program, an increase of $3.1 billion over the House bill, to help the elderly and the poor cope with rising energy prices;

(c) An additional $1.583 billion over the House bill to promote life through doing real things to reduce the pressure for abortions by making it economically easier for low-income and vulnerable women to choose to carry pregnancies to term, including increases above the House bill of $175 million for the Maternal and Child Health Block Grant, $98 million for Healthy Start, $200 million for childcare, $500 million for after-school centers, $155 million for Head Start, $330 million for the Community Services Block Grant, and $125 million for Domestic Violence Prevention;

(d) An additional $476 million over the House bill to help maintain the basic health care safety net, including providing the full increase requested by the President for Community Health Centers, and keeping funding at no less than last year's level for the Healthy Communities Access Program and key health professions programs;

(e) An additional $5.5 billion over the House bill to provide meaningful educational opportunities for America's children, including a $3 billion increase over the House bill for Title 1 grants to make progress on No Child Left Behind funding promises so that low-income children can learn, a $1.6 billion increase over the House bill to meet our commitments to children with disabilities, a $100 million increase over the House bill to alleviate the impact of military dependents on local schools; and an $840 million increase over the House bill to boost the maximum Pell Grant by $200 in order to partially offset a 34% increase in college costs since 2001;

(f) An additional $439 million over the House bill to protect American workers, wages and jobs by investing in job training and worker protection programs at home and abroad, including restoring an 87% cut in funding for the International Labor Affairs Bureau at the Department of Labor; and

(g) Offsetting the cost of the above, and producing additional deficit reduction, through reductions in tax cuts for households with incomes above $1,000,000.

Mr. OBEY (during the reading). Mr. Speaker, I ask unanimous consent that the motion to instruct be considered as read and printed in the RECORD.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. REGULA. Mr. Speaker, I reserve a point of order on the gentleman's motion.

The SPEAKER pro tempore. The point of order is reserved.

Pursuant to clause 7 of rule XXII, the gentleman from Wisconsin (Mr. OBEY) and the gentleman from Ohio (Mr. REGULA) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. OBEY).

Mr. OBEY. Mr. Speaker, I will not take more than 3. I simply would like to, as a courtesy to the House, explain the motion.

For the last 2 weeks, the attention of the House has been focused on the efforts of the majority party to pass its reconciliation bill, which includes significant cuts in food stamps, in child support enforcement, in disability payments in order to pay for the tax cuts which this Congress has already largely passed. The problem that we have with that is that this bill, in effect, hits those same poor people a second time with cuts in education, health, worker protection programs that are in the bill.

The Senate appeared to give the persons interested in this bill some hope that those cuts could be avoided by adding a $3 billion financing gimmick to their proposal. But it is clear now that that provision is being discarded, and that means that the new caps that the Appropriations Committee adopted last week will eliminate the ability of the Senate to provide that extra $3 billion. That means that the only way that we can avoid that hit is to reduce the size of the tax cuts being provided to make room in the budget for some of these crucial items.

So this motion simply attempts to instruct the conferees to accept the Harkin amendment which would add $8 billion in order to pay fully for the flu pandemic work that needs to be done. It would instruct the conferees to add $3 billion to the low-income heating assistance program to take into account the huge increase in home energy prices that consumers will face this year, especially low-income consumers.

It would provide an additional $1.5 billion in programs that are meant to discourage abortion, programs such as a maternal and child health block grant, Head Start, domestic violence and numerous others, one-half billion dollars to restore health professions training, and $3 billion to put title I on a 5-year track to full funding under No Child Left Behind; $1.6 billion in additional funding for disabled and handicapped children trying to put that program on the same 5-year glide path; and one-half billion dollars in restoration for worker training and job training programs.

It would ask the conferees to support a provision which would reduce the size of the tax cuts for millionaires from an average of $140,000 to $36,000. That is still a pretty hefty cut.

Mr. Speaker, in essence, that is what the motion to instruct would provide. We are offering it because this is the last chance that this body has to reach a different set of judgments concerning budget priorities that affect the poorest and most defenseless people in this society.

POINT OF ORDER

The SPEAKER pro tempore. Does the gentleman from Ohio continue to reserve his point of order?

Mr. REGULA. Mr. Speaker, I make a point of order against the motion because it violates clause 9 of rule XXII by proposing to direct the conferees to exceed the scope of matters committed to the conference. And I ask for a ruling from the Chair.

The SPEAKER pro tempore. Does any Member wish to speak on the point of order?

☐ 1230

Mr. OBEY. Mr. Speaker, if one looks at the Budget Act, the purpose of the Budget Act was to force a Congress to get away from runaway spending and runaway deficits by forcing the Congress to confront trade-offs between spending and revenues. In fact, the Congress is being prevented from doing that and the Congress is being shielded from facing those explicit trade-offs unless amendments such as this are offered and debated fully in the House.

We recognize that funding for these programs under the budget resolution is being cut back in order to make room in that same budget resolution for the tax cuts that have been provided and to make room for further tax cuts which the majority party is talking about offering this week. If we cannot offer this kind of an amendment, then it would seem to me that the entire budget process has been intellectually corrupted and turned into a mere enforcement mechanism for majority party will rather than being used as a device to work out an explicit and forthright set of trade-offs.

I would urge the Chair to reject the point of order.

The SPEAKER pro tempore (Mr. SIMMONS). The Chair is prepared to rule on the point of order.

The Chair finds that the proposed instructions dwell their operative focus on matters not within the scope of the differences committed to conference by the two Houses.

On these premises, the Chair holds that the instructions do exceed the scope of conference.

The point of order is sustained.

Mr. OBEY. Mr. Speaker, most reluctantly, I do appeal the ruling of the Chair, not because I have any fault with the Chair, but because this is the only opportunity this institution will have to make a different set of priority choices.

The SPEAKER pro tempore. The question is, shall the decision of the Chair stand as the judgment of the House.

MOTION TO TABLE OFFERED BY MR. REGULA

Mr. REGULA. Mr. Speaker, I move to lay the appeal on the table.

The SPEAKER pro tempore. The question is on the motion to table.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. OBEY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on the motion to table will be followed by 5-minute votes on motions to suspend the rules on H. Res. 38, H. Res. 302, and H.R. 3770.

The vote was taken by electronic device, and there were—yeas 218, nays 173, not voting 42, as follows:

[Roll No. 573]

YEAS—218

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Conaway
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Hall
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Pence
Peterson (PA)
Petri
Pickering
Pitts
Platts
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Stearns
Sullivan
Sweeney
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NAYS—173

Abercrombie
Allen
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boucher
Boyd
Brown (OH)
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Cooper
Costa
Costello
Cramer
Cuellar
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Doggett
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Herseth
Higgins
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson, E. B.
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Michaud
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Pastor
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Skelton
Slaughter
Smith (WA)
Snyder
Spratt
Stark
Strickland
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Udall (CO)
Udall (NM)
Van Hollen
Visclosky
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOT VOTING—42

Ackerman
Andrews
Berman
Boswell
Brady (PA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Conyers
Crowley
Cummings
Davis (TN)
Dingell
Doyle
Gutknecht
Harris
Hastings (FL)
Hinchey
Jones (NC)
Jones (OH)
Kilpatrick (MI)
Lee
Marchant
Meeks (NY)
Millender-McDonald
Moran (VA)
Norwood
Owens
Pallone
Pascrell
Payne
Poe
Serrano
Sherman
Solis
Souder
Towns
Velázquez
Waters
Westmoreland
Whitfield
Young (FL)

☐ 1259

Messrs. HIGGINS, MELANCON, LARSON of Connecticut, HONDA, DOGGETT, KENNEDY of Rhode Island and Ms. McKINNEY changed their vote from "yea" to "nay."

Messrs. HOEKSTRA, PETERSON of Pennsylvania, SMITH of Texas and OTTER changed their vote from "nay" to "yea."

So the motion to table was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. POE. Mr. Speaker, on rollcall No. 573, I was unavoidably detained. Had I been present, I would have voted "yea."

Stated against:

Mr. MORAN of Virginia. Mr. Speaker, on rollcall No. 573, I was caught in traffic, returning from the Virginia polls. Had I been present, I would have voted "no."

Ms. SOLIS. Mr. Speaker, on rollcall No. 573 on H.R. 3010, I was unavoidably detained. Had I been present, I would have voted "no."

☐ 1300

SUPPORTING THE ACCESSION OF ISRAEL TO THE ORGANIZATION FOR ECONOMIC CO-OPERATION AND DEVELOPMENT

The SPEAKER pro tempore (Mr. SIMMONS). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 38, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 38, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 391, nays 0, not voting 42, as follows:

[Roll No. 574]

YEAS—391

Abercrombie
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner

Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall
Harman
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Oxley
Pastor
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—42

Ackerman
Andrews
Berman
Boswell
Brady (PA)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Conyers
Crowley
Cummings
Davis (TN)
DeGette
Dingell
Doyle
Gutknecht
Harris
Hastings (FL)
Hinchey
Johnson (CT)
Jones (OH)
Kilpatrick (MI)
Lee
Marchant
Meeks (NY)
Millender-McDonald
Norwood
Owens
Pallone
Pascrell
Paul
Payne
Serrano
Sherman
Skelton
Solis
Towns
Velázquez
Waters
Westmoreland
Whitfield
Young (FL)

□ 1307

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

The title of the resolution was amended so as to read: "Resolution expressing support for the accession of Israel to the Organization for Economic Co-operation and Development (OECD)".

A motion to reconsider was laid on the table.

Stated for:

Mr. SKELTON. Mr. Speaker, on rollcall No. 574, had I been present, I would have voted "yea."

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 574 on H. Res. 38, I was unavoidably detained. Had I been present, I would have voted "yea."

RECOGNIZING AND COMMENDING CONTINUING DEDICATION AND COMMITMENT OF EMPLOYERS OF MEMBERS OF THE NATIONAL GUARD AND THE OTHER RESERVE COMPONENTS

The SPEAKER pro tempore (Mr. BASS). The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 302, as amended.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Texas (Mr. SAM JOHNSON) that the House suspend the rules and agree to the resolution, H. Res. 302, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 395, nays 0, not voting 38, as follows:

[Roll No. 575]

YEAS—395

Abercrombie
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall
Harman
Hart
Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan

Meek (FL)
lancon
nendez
a
haud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Oxley
Pastor
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)

Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)

Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—38

Ackerman
Andrews
Berman
Boswell
Brady (PA)
Brown, Corrine
Brown-Waite, Ginny
Conyers
Crowley
Cummings
Davis (TN)
Dingell
Farr

Gutknecht
Harris
Hastings (FL)
Hayes
Hinchey
Jones (OH)
Kilpatrick (MI)
Lee
Marchant
Meeks (NY)
Millender-McDonald
Norwood
Owens

Pallone
Pascrell
Payne
Serrano
Sherman
Solis
Towns
Velázquez
Waters
Westmoreland
Whitfield
Young (FL)

□ 1317

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution, as amended, was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 575 on H. Res. 302, I was unavoidably detained. Had I been present, I would have voted "yea."

GRANT W. GREEN POST OFFICE BUILDING

The SPEAKER pro tempore (Mr. BASS). The pending business is the question of suspending the rules and passing the bill, H.R. 3770.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Georgia (Mr. WESTMORELAND) that the House suspend the rules and pass the bill, H.R. 3770, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 393, nays 1, not voting 39, as follows:

[Roll No. 576]

YEAS—393

Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Cubin

Cuellar
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Hall
Harman
Hart

Hastings (WA)
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack

Maloney
Manzullo
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Oxley
Pastor
Paul
Pearce
Pelosi
Pence

Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus

Shuster
Simmons
Simpson
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stark
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Wexler
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—1

Abercrombie

NOT VOTING—39

Ackerman
Andrews
Berman
Boswell
Brady (PA)
Brown, Corrine
Brown-Waite, Ginny
Conyers
Crowley
Cummings
Davis (TN)
Dingell
Gutknecht

Harris
Hastings (FL)
Hayes
Hinchey
Jones (OH)
Kilpatrick (MI)
Lee
Marchant
Meeks (NY)
Millender-McDonald
Napolitano
Norwood
Owens

Pallone
Pascrell
Payne
Serrano
Sherman
Skelton
Solis
Towns
Velázquez
Waters
Westmoreland
Whitfield
Young (FL)

□ 1327

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. SKELTON. Mr. Speaker, during rollcall vote No. 576 on H.R. 3770, I was unavoidably detained. Had I been present, I would have voted "yea."

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 576 on H.R. 3770, I was unavoidably detained. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. ANDREWS. Mr. Speaker, I regret that I missed four votes on November 8th, 2005. Had I been present I would have voted "no" on tabling the Obey motion to instruct the conferees of H.R. 3010; "yea" on H. Res. 38 (Expressing support for the accession of Israel to the Organization for Economic Co-operation and Development); "yea" on H. Res. 302 (Recognizing and commending the continuing dedication and commitment of employers of the members of the National Guard and the other reserve components who have been mobilized during the Global War on Terrorism and in defense of the United States); and "yea" on H.R. 3770 (Grant W. Green Post Office Building Designation Act).

PERSONAL EXPLANATION

Ms. KILPATRICK of Michigan. Mr. Speaker, personal reasons require my absence from legislative business scheduled for today, Tuesday, November 8, 2005. Had I been present, I would have voted "no" on tabling the motion to instruct offered by Representative DAVID OBEY on H.R. 3010, (Roll Call No. 573); "yea" on H. Res. 38, a resolution expressing support on Israel's accession to the Organization for Economic Co-operation and Development (Roll Call No. 574); "yea" on H. Res. 302, recognizing and commending employers of the members of the National Guard and other reserve components (Roll Call No. 575); and "yea" on H.R. 3770, the Grant W. Green Post Office Building Designation Act (Roll Call No. 576).

PERSONAL EXPLANATION

Mr. NORWOOD. Mr. Speaker, though I was absent on Tuesday, November 8, 2005 for medical reasons, I wish to have my intended votes recorded in the CONGRESSIONAL RECORD for the following votes:

Rollcall vote 573 on the Motion to Table the Appeal of the Ruling of the Chair on Motion to Instruct Conferees on H.R. 3010—"yea"; rollcall vote 574 on H. Res. 38—"yea," Rollcall vote 575 on H. Res. 302—"yea," Rollcall vote 576 on H.R. 3770—"yea."

PERSONAL EXPLANATION

Mr. GUTKNECHT. Mr. Speaker, I was unavoidably absent from early afternoon votes in the U.S. House of Representatives on Nov. 8, 2005 due to an important meeting I had with the New Zealand Ambassador in St. Paul, Minnesota. During this meeting, the Ambassador and I discussed agricultural trade issues.

Had I been present in the U.S. House of Representatives, I would have voted "aye" on the following bills:

Motion to Table the Appeal of the Ruling of the Chair on Motion to Instruct Conferees; H. Res. 38; H. Res. 302; H.R. 3770.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, postponed votes on motions to suspend the rules and pass H.R. 1953 and S. 1894 will be taken at a later time.

APPOINTMENT OF CONFEREES ON H.R. 3010, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees: Messrs. REGULA, ISTOOK, WICKER, Mrs. NORTHUP, Mr. CUNNINGHAM, Ms. GRANGER, Messrs. PETERSON of Pennsylvania, SHERWOOD, WELDON of Florida, WALSH, LEWIS of California, OBEY, HOYER, Mrs. LOWEY, Ms. DELAURO, Mr. JACKSON of Illinois, Mr. KENNEDY of Rhode Island, and Ms. ROYBAL-ALLARD.

There was no objection.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2048

Mr. BARTLETT of Maryland. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2048.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Maryland?

There was no objection.

SEVERE RESTRICTIONS TO AFFORDABLE HOUSING FUND ILL-ADVISED

(Mr. FRANK of Massachusetts asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. FRANK of Massachusetts. Mr. Speaker, a couple weeks ago the majority in the House narrowly imposed on the bill creating an affordable housing fund with funds from Fannie Mae and Freddie Mac severe restrictions to keep insidious left-wing organizations from undermining the stability of this country. I have a letter here from one of the organizations that was so targeted. It is that radical group known as the Society of St. Vincent de Paul, a set of groups in local communities that, to quote them, "pray at each meeting that families and those who have no home quickly may find a place in which they can live a decent and happy life."

Here is what this subversive organization of deeply religious people dedicated to trying to help the poor have to say:

"Our members live in communities across the country. They serve individuals and families with no homes, families on the verge of homelessness. We see what they are going through. Many Councils of the Society provide shelter and housing for the poor. The poor need a voice just as much as Americans who have the financial ability to own their own homes. They, too, should be allowed the privilege to register to vote, regardless of where they live; and nonprofits should not be penalized for providing them an opportunity to do so."

COUNCIL OF THE UNITED STATES,
SOCIETY OF ST. VINCENT DE PAUL.
St. Louis, MO, November 2, 2005.

Hon. BARNEY FRANK,
Rayburn HOB,
Washington, DC.

DEAR REP. FRANK: As National President of the Society of St. Vincent de Paul representing 116,000 members across the United States in 4,000 parishes, I urge you to:

1. Support the Affordable Housing Fund in the GSE legislation (H.R. 1461), but without restricting an organization's right to engage in voter registration.

2. Oppose any language that restricts voter registration and freedom of affiliation by non-profit and public organizations when using their own funds.

3. Tell House Speaker Dennis Hastert (R-IL) and Financial Service Chairman Mike Oxley (R-OH) to reject these restrictions and bring the bill to the floor for a vote without this language.

Members of the Society of St. Vincent de Paul pray at each meeting "that families and those who have no home may quickly find a place in which they can live a decent and happy life." I ask that you help us to continue to make this a reality.

It is our belief that it is the right of every American to vote. Access to the privilege to register to vote should not be conditioned upon where people live or what their financial condition is. Nonprofit organizations such as the Society of St. Vincent de Paul, work tirelessly to serve the poor. It is irresponsible to hold organizations hostage by this restrictive measure that impinges on the rights of poor Americans and upon those who seek to help give a face and a voice to the many that are voiceless. We see from the recent tragedies in the south that there are many poor and today many more homeless who need shelter. Adding such limitations on those who are trying so hard to help is wrong.

The Society has been serving the poor in America for over 150 years. Our members live in communities across the country. They regularly visit and serve individuals and families with no homes, families on the verge of homelessness, and families who live in hazardous and substandard conditions. We see what they are going through. Many Councils of the Society provide shelter and housing for the poor. The poor need a voice just as much as Americans who have the financial ability to afford their own homes. They, too, should be allowed the privilege to register to vote regardless of where they live, and nonprofits should not be penalized for providing them an opportunity to do so.

Sincerely,

JOSEPH FLANNIGAN,
National President,
Society of St. Vincent de Paul.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

□ 1330

ASSURED FUNDING FOR VETERANS HEALTH CARE ACT OF 2005

The SPEAKER pro tempore (Mr. BASS). Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, this is the week upon which the Nation will solemnly recognize the holiday known as Veterans Day, a day out of the year when we should pause to recognize the sacrifice of those 25 million who have served our Nation and the 2.2 million people serving today in uniform, many on the front lines in Iraq, Afghanistan, or in other hot spots around the world.

This is not the only day in which we should recognize the sacrifice that those who have served in the past have given or the current sacrifice of the veterans and the active-duty military and their families, but we should do that every day. And the way Congress could do that best would be to assure veterans that the United States Government will keep its promises, promises that were made to them and their families at the time of enlistment.

Unfortunately, we have fallen short. Until this year the administration had consistently underfunded veterans' benefits, and in fact, even earlier this year the President's proposed budget would have claimed a substantial increase in health care funding for veterans, but actually would have done that by taxing veterans with a $250 enrollment fee for 2.2 million veterans and doubling the prescription drug copayment. It was not too many years ago that we had no required copayment for veterans. We should return to that time for vets in need.

These are quotes from the Veterans of Foreign Wars; since we do not want this to be a partisan issue, let us quote from a nonpartisan group about the President's budget:

"This budget will cause veterans health care to be delayed and may result in the return of 6-month-long waiting periods. That is especially shameful during a time of war." This is from the VFW, February 7, 2005.

"The message that this budget communicates is that part of the Federal Government deficit will be balanced on the back of military veterans," he said, "because it's clear that the proper funding of veterans health care and other programs is not an administration policy." Again, a quote from the VFW.

The American Legion, same day: "'This is not acceptable,' said Thomas P. Cadmus, national commander. "It's nothing more than a health care tax designed to increase revenue at the expense of veterans who served their country." He went on to say that during his visits to VA hospitals, he had not run into Bill Gates, Donald Trump, or Ross Perot seeking care. He sees mostly veterans, many on small fixed incomes, trying to make ends meet and exercising their very best health care option, Cadmus observed.

"No active-duty servicemember in harm's way should ever have to question the Nation's commitment to veterans. This is the wrong message at the wrong time to the wrong constituent." Again, the commander of the American Legion.

Why is the Republican-led Congress not listening to that? This week they are going to struggle mightily to cut programs important to middle-income families, student loans and other programs. Then, in the near future, they are going to struggle mightily to pass $70 billion of new tax cuts for people who earn over $300,000 a year. But are they going to struggle or are they even going to allow a vote here on the floor of the House of Representatives on H.R. 515, the Assured Funding for Veterans Health Care Act?

There is no better way that the elected Representatives could celebrate Veterans Day here in the United States than by bringing up and passing this legislation that would, for all future budgets, assure that there would be adequate funding for veterans. They are already threatening a 2 percent across-the-board cut on that side of the aisle after they do the tax cuts for the rich people, because then we will be having to increase the size of the deficit despite the cuts to middle- and low-income programs, and that, of course, would hit hard again on veterans' programs.

We need assurances that that is not going to happen again. We need to properly recognize their service. The pay raises for Members of Congress, those are going forward in the House, although I oppose them. But somehow we cannot get the additional funding and the assured funding we need for our Nation's veterans.

Please, to the leadership, my Republican colleagues, and those on my side of the aisle, let us not just go home and march in the parades and tell people we are with the veterans. Let us demonstrate that with a vote of support on assured funding, mandatory funding, for every future budget year so that we will not go through these future struggles.

I have had too many calls from too many veterans to my district office where we have tried to help them get in for critically needed care because of the extraordinary waiting lists in my part of the country, and I know that is not unique. We have got to do away with those waiting lists and deliver on the promises we have made.

Happy Veterans Day.

NICS AND HEALTH CARE

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from New York (Mrs. MCCARTHY) is recognized for 5 minutes.

Mrs. MCCARTHY. Mr. Speaker, every week I stand here and I talk about common-sense approaches to reducing gun violence in this country, and yet this body sees fit to chip away at existing laws. So tonight I want to talk about the effects of gun violence in terms that everybody in this body understands, dollars and cents.

Throughout America our States are experiencing extraordinary budget problems, forcing them to cut spending on many important initiatives. A great deal of these budget woes are caused by skyrocketing health care costs, and the proposed cuts for Medicaid are not going to help the situation.

Among the initiatives being neglected because of State budget crunches is the National Instant Criminal Background Check. NICS is the database used to determine whether an individual is legally allowed to purchase a gun or not. Since its inception in 1994, NICS has been a great success. More than 700,000 individuals have been denied a gun for failing a background check.

However, the NICS system is only as good as the information that is in it, and because of tight budgets, updating the NICS database has fallen off the radar for many States. But as Congress continues to weaken our gun laws, we increasingly rely on the National Instant Background Check System to assure our constituents that guns do not fall into the wrong hands. But, unfortunately, the NICS database has become dangerously incomplete.

For example, half of all States have entered less than 60 percent of their convicted felons into the NICS system. Thirteen States have failed to enter the subjects of restraining orders stemming from domestic violence into the NICS system. And, of course, in all 50 States, people who are listed on the terrorist watch list cannot get on a plane, but they can buy a gun. This defies common sense.

I have introduced H.R. 1415, legislation that will require States to enter in all NICS information as quickly as possible. My bill would also provide grants to States that do not have the resources needed to update their databases. These grants will not only keep guns out of the hands of felons, but will reduce the States' out-of-control health care costs as well.

Of course, Congress will not allow funding for the Centers for Disease Control to study the economic impact of gun violence, so we have to use data from independent sources. Independent sources have shown gun violence costs our economy over $100 billion a year, $100 billion a year. In fact, each gun death costs our economy $2.8 million.

And much of the cost is picked up by the State and local governments.

Gun violence increases law enforcement spending. Gun violence costs the economy lost productivity. And while Congress will not let us learn the exact amount, gun violence costs our health care system billions each and every year. And since gun violence plagues so many low-income communities, victims are often uninsured. And who picks up the tab for uninsured victims of gun violence? American taxpayers. That is who.

Passage of H.R. 1415 would serve as preventive medicine for the public health care system in many States. This legislation would prevent gun violence without infringing on anyone's second amendment rights. Nobody in this body believes convicted felons should be able to own guns. In fact, H.R. 1415 passed the House by a voice vote in the 107th Congress. Unfortunately, the other body did not have time to pick the bill up. But the bill had the support of several Senators who are known for their strong support of gun rights.

We have an opportunity to reduce health care costs and save lives by improving the NICS system. Mr. Speaker, let us pass H.R. 1415, the NICS Enforcement and Improvement Act, before the end of the year. Let us give the States the help that they need.

THE REPUBLICANS' BUDGET CHOICES

Ms. CARSON. Mr. Speaker, I ask unanimous consent to speak out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Indiana?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Indiana (Ms. CARSON) is recognized for 5 minutes.

Ms. CARSON. Mr. Speaker, more than 10 years have passed since the Republican Party issued its "Contract With America."

This week Congress will vote on budget cuts and sacrifices that only middle-class America is asked to bear. These budget cuts have less to do with deficit reduction than they have to do with making the richest among us more comfortable in the face of bad economic times, massive health care costs and unfunded mandates passed on to State and local governments.

Sadly, Mr. Speaker, middle America is waking up to the bad news that Democrats have long known, and that is that the budget choices put forth by Republicans show that Republicans have a "Contract on America."

In the release of The Status of Working Families in Indiana, Indiana has had a dramatic increase in the number of persons in poverty during the past few years and has seen household incomes decline for the sixth year in a row. Job growth has been slow and wages have continued to be stagnant. The poverty rate for children in Indiana has jumped sharply in the past 3 years from 10.5 percent in 2002 to 18.5 percent in 2004. Indiana's childhood poverty rate is now greater than the Nation's, which is 17.8 percent.

Employment: From May, 2000, to January, 2002, Indiana lost 122,000 jobs due to the national economic slowdown and recession. Since September, 2003, Indiana has been on the road to recovery, but as of July, 2005, it was still 46,000 jobs below the level reached 5 years ago.

Wages: Indiana's wages have been stagnant for the past several years and have not kept pace with the average wages in the United States. By 2004, the average annual wage in Indiana had fallen to just over 88 percent of the U.S.

Incomes: Based on 2-year averages, Indiana's median household income has declined steadily since 1998 and 1999, when it was $46,136. By 2003 to 2004, it had fallen to $42,946.

In our rush to cut the budget on the backs of the poorest of Americans, we need, Mr. Speaker, to counteract that abusive act against middle-class and poor people and restore some economic sanity to the Nation's budget, to the United States of America.

IRAQ AND TORTURE

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to speak out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, Yogi Berra once told us that "When you arrive at a fork in the road, you should take it." Well, the United States has reached a fork in the road when it comes to torturing other human beings, and it is time we took it, once and for all.

□ 1345

Senator JOHN MCCAIN has offered an amendment to the Defense appropriations bill clarifying that the United States Government, including the military and the CIA, does not condone the use of torture, putting the United States in a position to set an example for the rest of the world by clearly affirming our opposition to the use of torture as a military tactic.

Yet if the Bush administration has its way, Congress will reject this amendment, reserving its right to employ the use of torture in certain situations. That is right: The Bush administration has come out against an amendment that states for the record that the United States opposes the use of torture. Do they really want people to think we support torture?

For one thing, America's use of torture certainly has not helped us win any friends so far. It did not win us friends when it was revealed that the American military had abused prisoners at Guantanamo Bay. It did not win us any friends when thousands of photographs were released showing U.S. servicemembers torturing, beating, humiliating, and generally violating Iraqi prisoners of war. And it certainly did not win us any friends last week when it was revealed that the United States might possess dozens of top-secret military prisons in Eastern Europe for the sole purpose of viciously interrogating enemy prisoners. Never mind the fact that torture as a tactic does not provide accurate results. Individuals who are placed in unbearable situations will say just about anything to end the pain that they are suffering. Yet, even if torture produced positive results, it violates every single principle that our country stands for.

I am not the only one that understands this. Most Members of Congress on both sides of the aisle are opposed to torture. This weekend, Senator CHUCK HAGEL, who is no stranger to conservative politics, did not pull any punches when he said, "I think the administration is making a terrible mistake in opposing JOHN MCCAIN's amendment on detainees and torture." He said, "making a terrible mistake."

Yet, the President responds with the same tired talking points. Yesterday, he tried to justify his opposition to the McCain amendment by saying, our President, "We will aggressively pursue the enemy, but we will do so under the law." Then he went on to say, "We do not torture."

Mr. Speaker, does the President think he can paper over this problem and expect it to go away? If the President is so adamant that the United States does not torture, why does he continue to oppose the McCain amendment banning the use of torture? Unfortunately, this is just business as usual for an administration that has time and again taken the wrong path when arriving at a fork in the road.

Let us not forget that there were plenty of other options for the United States before the President made the decision to go to war in Iraq, a war that has subsequently cost the lives of nearly 2,100 American soldiers, uncounted tens of thousands of innocent Iraqi civilians, and caused grave injuries to another 15,000 American soldiers.

Now, the President and his administration have yet another choice. They ought to take the high road when it comes to permanently ending the use of torture, and they ought to take the high road in bringing our troops home from Iraq and returning Iraq to the Iraqi people.

The Bush administration can never take back the many mistakes that have been made over the past several years: A failed war in Iraq, heinous acts of torture around the world, and a shamefully cynical foreign policy that has put Americans at greater risk than ever before.

But we are at another crossroads, and it is not too late to take the right path. If we do not, we risk suffering another Yogi Berra prophecy: "Déjà vu all over again."

REPUBLICANS HAVE A PLAN

Mr. MICA. Mr. Speaker, I ask unanimous consent to have 5 minutes in place of the gentleman from North Carolina.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Florida (Mr. MICA) is recognized for 5 minutes.

Mr. MICA. Mr. Speaker, I did not plan to use these 5 minutes; but as we hear Bush-bashing and bashing of the Republicans as you walk through the Halls of our Chambers here, I think it is appropriate that we do take a minute to respond.

We just heard more Bush-bashing about accusations of torture in Iraq. I wonder where some of these same people were when Abu Ghraib prison had the torture of thousands of innocent Iraqi civilians and other people in that society who had their limbs lopped off, who were taken to the precipice outside of the prison and lined up, to deal with prison-crowding. A former Iraqi prisoner told some of us Members of Congress they would line up the prisoners and then shoot them in front of a ditch and then bury them. One escaped who had been shot several times and he told us that story.

The Bush administration has wanted to stop the torture of people in that prison and the loss of life in that country. They do not want to talk about the 300,000 mass graves that we have uncovered in that country, the slaughter of his own people that Saddam Hussein conducted.

Then we heard the previous speaker talk about how bad things are in America under the Bush administration and Bush policy. They did not tell us that under the policy of President Bush we have actually, in just this last fiscal year that ended the end of September, we have $100 billion in additional revenue into the United States Treasury. That is a plan of failure? In one year we have reduced the deficit, the projected deficit a year ago by some 25 percent, a sizable feat; we had unemployment before Katrina go to 4.9 percent, one of the lowest percentages on record, and even in the last quarter, with the incredible natural disaster that we faced in the gulf coast and in Florida, we had a remarkable 3.8 percent economic growth. They do not want to talk about the jobs that have been created under this policy.

So we do have a plan. We have a plan this week or soon to reduce some spending. We have balanced the budget before; we can do it again. We can bring about the reforms, and some of those are tough reforms, but we have a plan. It involves reform, and it will result in savings and we will see continued growth, economic growth in this country, and fulfill the dreams of Americans who want better jobs, who want lower taxes, less government regulation, and less litigation. All of those things, higher taxes, more government regulation, and litigation, we know drive jobs and opportunity out of this great Nation.

So Republicans have a plan. We will make reforms. They will result in savings and better opportunities for all Americans as opposed to the rhetoric that we have had here on the floor this afternoon. So I am pleased to present those items to the House in response to the rhetoric we have heard.

ONE NATION—TWO PRESIDENTS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. MCDERMOTT) is recognized for 5 minutes.

Mr. MCDERMOTT. Mr. Speaker, across the country today, Americans are going to the polls to vote for candidates and issues. A year ago, the Americans went to the polls and voted for a President, but they got two instead. We have George W. Bush, the President of domestic policy, like appointing a self-described fashion God who left the gulf coast unprotected; and we have DICK CHENEY, the President of foreign policy, including secret CIA presence around the world.

Now, today the President of foreign policy is trying to round up votes in the Senate to exempt the CIA from an amendment that would ban the torture and inhumane treatment of prisoners. It is a sure sign that America has lost its way when we even have to talk about banning torture and inhumane treatment of prisoners.

America has never had two Presidents until now, and America has never had a question about its moral integrity, until now. The President of foreign policy would have us believe that we must become the enemy to defeat the enemy. Like so much from this administration, this is not true. America's moral imperative is true enough, strong enough, and safe enough to keep this Nation a shining light of freedom without secret, black ops demanded by someone who was never elected President.

Throughout our history, Presidents have led this Nation through wars at home and abroad by remaining true to America's principles and values. In the mid-19th century, America had never before faced a more ferocious enemy than the one from within that reduced us to the Civil War. President Lincoln never lost sight of what we were fighting for. He said: "Our defense is in the preservation of the spirit which prizes liberty as a heritage of all men in all lands everywhere. Destroy this spirit, and you have planted the seeds of despotism around your own doors."

In the early 20th century, America had never before faced a ferocious foe like the one that plunged the whole world into war, but President Woodrow Wilson did not forget what America stood for. He said: "The present and all that it holds belongs to the nations and the peoples who preserve their self-control and the orderly processes of governments; the future to those who prove themselves the true friends of mankind."

In the mid-20th century, America had never before faced an enemy more like one that had plunged us again into a world war, but Franklin Delano Roosevelt never wavered in his defense of his country: "The only thing we have to fear is fear itself."

And with the world on the brink of nuclear terror during the Cuban Missile Crisis, John Kennedy kept America free and safe without subverting American values. JFK knew a lot about winning a war without losing the peace. He said: "When at least at some future date the high court of history sits in judgment on each one of us, our success or failure in whatever office we may hold will be measured by the answers to four questions: Were we truly men," and I would add women, "of courage, men and women of judgment, men and women of integrity? Were we truly men and women of dedication?"

Presidents Lincoln, Wilson, Roosevelt, and Kennedy knew a thing about freedom and liberty; and they knew a lot about America. We are the land of the free and not the home of the afraid. But the President of foreign policy would have it otherwise. His demands for black ops is a black eye on this Nation. American history, not the unelected President of foreign policy, should be our guide.

Great American Presidents have led this Nation in times no less frightening than today. Ask any veteran of the Second World War what was at stake. They called it a world war for a reason. They did not shrink from their duty, and we must not forget that we did our best and we are the best hope of this world. We keep America free without losing America's moral integrity.

The unelected President of foreign policy wants an exemption on an amendment that would ban torture and inhumane treatment of prisoners. He wants the CIA to be free to do whatever they want.

We have come a long way from the days of great Presidents to arrive at the day of an unelected President. He acts not in the shadow of the White House, but standing in front of the person elected President. We used to shine light into the darkness of regimes where people disappeared into secret prisons, gulags. Now, the unelected President of foreign policy would have us become the custodians of gulags.

For a long time, people have wondered just how President Bush could get it so wrong so often. Now we know: he has help. America has a second President we never elected.

Mr. Speaker, I will include for the RECORD an article from the Village Voice.

PRESIDENT SHOULD DUMP CHENEY

(By James Ridgeway)

WASHINGTON, D.C.—Politicians across the political spectrum are hoping against hope that President Bush can take control of the nation and jumpstart a second term, kicking out chief adviser Karl Rove—who remains at risk in the Plame Affair—and changing policy in Iraq, where U.S. soldiers continue to die. But as everyone in Washington knows, Rove isn't the real problem here. The real problem for Bush is Vice President Dick Cheney—it's Cheney's now former chief of staff, Scooter Libby, who has been indicted in the Plame Affair, and it's his pushing that has the administration taking a hard line on the handling of detainees. And the best way, perhaps the only way, for Bush to take charge of the country is to dump the vice president, forcing him into retirement before he can be charged by Plame Affair prosecutor Patrick Fitzgerald with violating the espionage laws.

These last few days, while Bush wandered around South America from one fruitless meeting to another and fended off charges of prisoner abuse in Iraq with bland statements such as "We do not torture," Cheney was busily working away behind the scenes seeking to persuade Congress not to impose restrictions on the CIA torture interrogators. The Washington Post revealed last week the CIA was running interrogations in secret jails for suspected terrorists in eastern Europe.

Cheney, even more than Defense Secretary Donald Rumsfeld, is the man behind the Iraq war. Fitzgerald's indictment of Libby bluntly states that Cheney's top aide learned Valerie Plame, the covert CIA agent, was administration critic Joe Wilson's wife from Cheney. Given that, how can Cheney avoid testifying in a Libby trial? He does not have the immunity of a president.

"Libby is the firewall protecting Vice President Cheney," writes John Dean in his FindLaw column:

The Libby indictment asserts that "[o]n or about June 12, 2003 Libby was advised by the Vice President of the United States that Wilson's wife worked at the Central Intelligence Agency in the Counterproliferation Division. Libby understood that the Vice President had learned this information from the CIA."

In short, Cheney provided the classified information to Libby—who then told the press. Anyone who works in national security matters knows that the Counterproliferation Division is part of the Directorate of Operations—the covert side of the CIA, where most everything and everyone are classified.

If Fitzgerald were successful in flipping Libby—and that seems pretty clearly to be his intention—then Cheney himself would face charges of violating the espionage act.

The outcome? Libby will probably hold fast through the 2006 election, his lawyers dragging out the case by interviewing reporters, etc, and then Libby, if convicted, can expect a pardon. As for Cheney, he could save face, resigning for health reasons—that suspect ticker of his coming to the rescue.

At that point, Bush could appoint a new vice president to serve out the remainder of his term. This appointment would require majority approval of both houses of Congress under the 25th Amendment.

Meanwhile, its business as usual, Bush drifting from day to day with the currents. Yesterday just as Bush uttered his denial of torture, the army charged five Rangers with abusing prisoners in Iraq. This morning, Italian state TV aired a documentary describing how the U.S. used white phosphorous bombs against civilians in Falluja. The U.S. admits using the weapons to illuminate battlefields. We are not signatories to a treaty banning the use of white phosphorous weapons. The film is being broadcast on the first anniversary of the U.S. attack on Falluja, which destroyed much of the city and displaced its population of 300,000.

Tomorrow, Ahmed Chalabi, a deputy prime minister of Iraq, the man who fed the gullible American press wrong information on Saddam's possession of weapons of mass destruction, is visiting Washington to address neocon headquarters at the American Enterprise Institute. Chalabi also is to meet with Secretary of State Condoleezza Rice. A thoroughly disgraced liar, the conduit of so much of the phony information that led us to war, a man with no political base outside the conniving neocon circles, Chalabi is now seriously discussed in Washington as a possible American-backed compromise candidate for Iraqi prime minister because he might appeal of the Shiite southern part of the country. As it stands, he is now in control of the oil industry, and in the minds of U.S. policymakers, that counts for a lot.

☐ 1400

HURRICANE WILMA AND RECONCILIATION

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I ask unanimous consent to claim the time of the gentlewoman from the Virgin Islands.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) is recognized for 5 minutes.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I rise today to talk about a crisis in South Florida.

The third most destructive hurricane ever to hit this country struck my congressional district just over 2 weeks ago. Thousands of people are still without power, thousands still have holes in their roofs that threaten to condemn their houses with every new rain.

Thousands have mobility issues and are without housing because they cannot get up and down the stairs to their apartment. The list goes on and on, and it is truly heart wrenching.

Just last week I was delivering meals to seniors in my district who could not get out of their third floor condominiums. Even though it was 5 days after the hurricane struck South Florida, the residents there said that no one had heard from FEMA, no one had seen FEMA and, worse yet, no one knew how to get in touch with FEMA to make sure things did not get any worse.

And why do I fear that things could get worse? Because of problems like this. This is a third floor apartment, that is the ceiling of the apartment, and as we can see, you can look right through the ceiling at the sky.

This is the woman's master bedroom and literally during the storm, 1 minute after she walked out of that master bedroom the ceiling came down on her bed. The roof caved in. A minute earlier and it would have caved in on her.

Obviously, this apartment is uninhabitable. However, this is a three-story building. If we delay the disaster response, if we do not get FEMA tarp distribution centers set up right away, if we wait weeks before we deliver individual assistance, then not only are we saying to the woman that lived in this unit, tough it out, you are on our your own for now, but we are also making the problem worse because there are two floors below this apartment unit.

If it rains through this massive hole in the ceiling in this woman's apartment, then it will leak down onto the apartments on the second floor and possibly weaken the structure, leading to the evacuation of everyone in that part of building. And that is beginning to happen; this is what is happening. Our ineffective response is not only irresponsible, but it also costs the taxpayers more money than necessary.

Now, I have been talking about a natural disaster, which is Hurricane Wilma. But I also want to talk a minute about a man-made disaster that is coming, something that will victimize once again the victims of Hurricane Wilma, Katrina and Rita. I am talking about the Draconian budget cuts proposed by the Republican leadership in their so-called budget reconciliation package.

Last week, the papers in South Florida blared the news that over 5,000 people's homes had been condemned, much of it affordable housing. In Broward County the median price of a home is $348,000, making many homes and even rental apartments out of reach for thousands of south Floridians.

While the loss of 5,000 homes damaged by Hurricane Wilma is terrible, I would like to point out that the budget reconciliation package endorsed by the

Republican leadership eliminates affordable housing vouchers for 3,500 people in Florida alone.

In other words, Mr. Speaker, while Hurricane Wilma made 5,000 Florida families homeless last week, the Republican leadership is proposing cuts that would make 3,500 more Florida families homeless. So first we get hit by Katrina, then we get hit by Wilma and either this week or next the American people will get hit by Hurricane Republican.

Hurricanes are natural disasters, Mr. Speaker. What we will be debating in the House this week or next is a man-made disaster, a man-made disaster that not only would leave 3,500 Florida families homeless through cuts to Section 8 housing vouchers, but also, incredibly, would cut $58.9 million in elementary and secondary education funds for Florida students, $4.9 million in cuts for supplemental nutrition programs for women infants and children, $25.1 million in cuts for children and families.

These are funds that provide for the Head Start program and help abused and neglected children. Cutting funds for abused and neglected children, what are we coming to here?

I urge my colleagues to vote against a man-made disaster that will originate from this body this week and sweep across the country, displacing thousands of people nationwide. I urge them to vote against the Republican budget reconciliation package.

DEFICIT REDUCTION ACT OF 2005

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from South Carolina (Mr. SPRATT) is recognized for 60 minutes as the designee of the minority leader.

GENERAL LEAVE

Mr. SPRATT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the upcoming special order.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from South Carolina?

There was no objection.

Mr. SPRATT. Mr. Speaker, as we speak, there is a bill in the wings called the Deficit Reduction Act of 2005, its fate yet to be determined because it is not at all clear that there are enough votes in this body to pass it.

Basically, this bill is part of the budget resolution for 2006, and what it anticipates is a three-step process except that those steps are treated very separately and in isolation. The first step is what the bill I am talking about proposes, that is, reductions in mandatory spending, so-called "entitlement spending," of about $54 billion.

The second step to follow is a reduction in taxes in the amount of $106 billion. That is what the budget resolution calls for. As a consequence, this bill does not achieve its stated name, which is the Deficit Reduction Act of 2005. Instead, by cutting taxes by more than they cut spending, it leads to a deficit that is $52 billion bigger than would otherwise be the case. That is the second step.

And then there is a third step in this bill that is not much talked about, but it is written into the bill, written into the budget resolution for 2006, and that is an increase in the debt ceiling of the United States by $781 billion. That is what happens when you have tax cuts that are not adequately matched by spending cuts. The deficit gets worse, and the bottom line is, $781 billion will have to be added to the debt ceiling of the United States, the legal limit to which we bill because of the fiscal policies we have followed for the last 5 years.

Now, some supporters claim that this bill, the so-called Deficit Reduction Act of 2005, will go to help pay for Hurricanes Katrina and Rita. In truth, this bill has nothing to do with paying for Katrina. It has everything to do, as I said, with facilitating further tax cuts.

This bill is part of a larger budget resolution that calls, as I have said, for a total of $106 billion in additional tax cuts yet to come, but nevertheless called for in the budget resolution. $70 billion will come in reconciled tax cuts, which means they will be on a fast track. They will go through the Senate without threat of filibuster. $36 billion are in unreconciled tax cuts. The total is $106 billion.

As I have said, this is a three-step process. The original purpose of reconciliation was to rein in the deficit. But the reconciliation bill this year, the one that is waiting in the wings, the one we are addressing today, only raises the deficits for the reasons I have just mentioned.

Now, if we do not acknowledge this, but if you take the position that these cuts are somehow going to facilitate the appropriations we have passed and will pass to pay for Hurricane Katrina and Rita, one would have to say that if we are going to do that—and I think we should somehow, over time, have a plan for paying the enormous sums we are borrowing to reconstruct the gulf coast—if we are going to do that, we should spread the cost equitably over our whole population. And that is what we want to address today, more than anything, and that is how the costs are being spread, how the costs are being allocated. Whether you take the attitude that this goes to pay for Katrina or goes to offset tax cuts, who bears the brunt? Will it be those who are able to bear the brunt or those who are vulnerable and least able to bear the brunt?

Unfortunately, and this is a point we will make again and again and demonstrate the facts to prove our case, unfortunately, the brunt of this bill will come to rest on the shoulders of those who are least able to bear it.

In that respect, I now recognize the gentleman from Hawaii (Mr. CASE) to discuss the implications of this bill.

Mr. CASE. I thank my colleague.

Watch out, watch out, America, because the majority's and the President's spin machine is in overdrive on this bill. Yes, the majority's budget reconciliation bill brazenly and erroneously entitled the Deficit Reduction Act of 2005, what a laugh, is hitting the floor, or we think it is going to hit the floor.

We will hear in coming days what a brave and revolutionary bill this is. Wrong. This is a cowardly bill, a hurtful bill, and it continues the majority's policies which, in the course of 4 short years have wrecked a once strong budget.

We will hear that this bill is the only way to go. Wrong. This is the way to go if your goal is to help the few at the expense of the rest of us and without regard to basic fiscal responsibility.

We have heard that this bill will decrease the budget. Watch the numbers on this bill. This bill does not decrease the budget deficit. This bill worsens the deficit, worsens it substantially.

This bill is really about credibility. It is a matter of credibility, of who has the best overall plan to balance our Nation's books and restore fiscal stability. Is it the same people who over the last couple of years told us that "deficits do not matter"? I do not think so. Is it the same people who are presiding over the most rapid increase in Federal spending in 40 years? I do not think so. Is it the same people who keep raiding the Social Security trust fund for non-Social Security purposes, and then turning around and saying it is okay, saying do not worry about it, but also introducing a bill to radically reduce benefits in order to make up for the stolen amounts? I do not think so.

Is it the same people who pretend that a 1-year deficit of over $300 billion, almost $500 billion if you are counting the Social Security trust fund monies that were raided to boost up the revenues, is it those people? I do not think so. Is it the same people that increased your debt, your total debt, from $6 trillion when I joined Congress just 3 years ago to $8 trillion today and now another almost $1 trillion in this bill itself? I do not think so.

We want to balance the budget. We know that this will take careful and painful balancing of revenues and expenses. But we do not trust the majority and the administration with this bill because we do not believe that you have shown you can be trusted with America's books, that you will not put all of your sacred cows on the table just as we are willing to put our sacred cows on the table.

When you are truly ready to put everything on the table with us, then I believe that we can have a constructive discussion. Until then, your bill is junk in, junk out. When you are ready to get real about what it is going to take to truly balance our books, let us know.

Mr. SPRATT. Mr. Speaker, I yield to the gentleman from Texas (Mr. EDWARDS).

Mr. EDWARDS. Mr. Speaker, more than slogans, sound bites and speeches, far more important for Members of Congress is what we do when it comes to expressing our values. What we do in this budget will say more about the values of Members of Congress than any speech given on the floor of the House this year.

It is interesting and it is sad that while last week we honored Rosa Parks as the first woman in American history to lie in state in the Rotunda of our Nation's Capitol, just a few days later, this House leadership will dishonor all that she stood for. How? By cutting child support, by cutting foster family programs, by cutting 40,000 students off of school lunch programs, by robbing $14.3 billion from student financial aid to give our hard-working, high-achieving youth a chance for better life through a college education, and by cutting health care programs for low-income families.

Rosa Parks did not just fight for a seat on the bus. She fought for fairness for every American, and to see that every child has a chance, a fair chance, to reach his or her highest God-given potential.

This legislation is an attack upon those high principles. The mean-spirited cuts in this bill will hurt decent, hard-working American families who are doing their best to help their children have a better life.

☐ 1415

Why? Not to pay for Hurricane Katrina costs. The House leadership is doing this so that people making $1 million a year this year in dividend income can continue to receive every dime of their $220,000-a-year tax cut.

Mr. Speaker, if this is compassionate conservatism, where is the compassion? If this is a faith-based program, I would ask what major religion in the world preaches the values of taking the most from those who have the least and taking nothing from those who have the most?

This budget makes a mockery of the American values of fairness and shared sacrifice during time of war. Rosa Parks understood that actions speak far louder than words. The American people understand this. And I believe when the American people find that Republican leadership of this House wants to make college education less affordable for hard-working middle-income and lower-income children in this country; when Americans find out that they want to cut Medicaid health care services for pregnant women and take away school lunches from children who need a decent nutritional lunch in order to reach their highest God-given potential in school, I think they are going to be outraged.

This budget bill aptly, or should I say amazingly, named the Deficit Reduction Act, is actually going to raise the deficit as the gentleman from South Carolina (Mr. SPRATT) said by $52 billion.

Mr. Speaker, if there were a law against dishonesty in naming legislation before this House, anyone who votes for this bill would deserve a felony conviction. This bill is wrong for America. It does not reflect the values of the vast majority of good, decent, hard-working American citizens, Republicans, Democrats, and Independents alike. More than anything I have seen in my 14 years in Congress, I believe this budget bill shows that the House Republican leadership is truly out of touch with the American people.

Let us say "yes" to the future of this country. Let us say "yes" to lower deficit. Let us say "yes" to hard-working college students and to families who want to have a dream for a better life for their children by saying "no" to this unfair, unwise, ill-thought-out budget bill.

Mr. SPRATT. Mr. Speaker, I yield to the gentlewoman from Nevada (Ms. BERKLEY).

Ms. BERKLEY. Mr. Speaker, I thank the gentleman from South Carolina (Mr. SPRATT) for his leadership on this very important matter. When we talk about the cuts contained in this reconciliation bill, they sound like such large numbers. It is very hard to relate to. When we talk about cutting student loans $14 billion and Medicaid $11 billion, child support enforcement $4.9 billion, food stamps $844 million, it is very difficult to get your arms wrapped around those numbers because they seem so extraordinary that they become almost distant and nonnumbers.

But I can tell you for the people that I represent, and the gentleman from South Carolina (Mr. SPRATT) has been to Nevada, he has been to my congressional district, he knows what I am dealing with there. In real human terms, when you cut that much out of Medicaid over 200,000 Nevadans, poor Nevadans that depend on Medicaid so that they can have their basic health care needs met, they are going to be plum out of luck. And there are 18,000 students that are going to be affected by cuts in the student loan program. What does that mean?

I went through school on student loans. I am the first person in my family to go to college. My dad was a waiter when I was growing up and money was pretty scarce in our home. There is no way my parents could have afforded to put me through college and law school. So what did I do? I depended on those student loans. So as a Member of Congress I am going to cut the opportunity for middle-class Americans to send their kids to school? That would be the worst possible thing to do. And over the next 5 years funding in Nevada that we receive for child support collection is going to be cut by $60 million. What does that mean? That means that we will have a whole lot of deadbeat dads in Nevada that are not going to have to live up to their responsibilities to pay child support because there will be no way to force them to do that. And that would be horrible for the families that these people, that these men are leaving.

When we talk about the school lunch program, there are going to be 40,000 children who are going to be impacted if we cut that school lunch program. Now, I am sorry to say, but there are a lot of people in my congressional district that the only meal that these kids get, the only decent, warm meal they get is the one that they get when they go to school with the school lunch program. These cuts would have devastating consequences on ordinary Americans, people that elect us to come here to protect and defend them and to give them a helping hand.

This is not a helping hand. This is a slap in the face to all Americans. And I know from my own constituents, it is going to have devastating consequences.

But there is something that I really want to talk to the gentleman from South Carolina (Mr. SPRATT) about because I am not sure that I understand, so maybe I am wrong. As you know I have got the fastest-growing senior population in the United States. We have been told, not threatened by the doctors, but we have been told by doctors because of the decline in Medicare payments for treating older Americans, senior citizens, that many of the doctors are not going to be able to treat Medicare patients. So that means that I have a whole lot of senior citizens, 65 years and above, that depend on Medicare so that they can go see their doctor.

Now, if I have got doctors and we have got doctors across this country telling us, telling us they can no longer afford to treat Medicare patients. So the other body acted responsibly and they put the requisite amount of money that they needed in order to help the doctors so that the doctors can continue treating older Americans, treating our senior citizens and helping with their health care needs. This body, the Republican leadership here does not include this in our budget reconciliation because they want to get to that $50 billion magic number for whatever reason and they are going to do that on the backs of the doctors and the senior citizens in this country.

But here is the rub: my husband is a doctor. He is a nephrologist. He treats a lot of older Americans. He just received an alert from the American Medical Association saying that we need this desperately. We need the Medicare reimbursement fund so we can continue treating our senior patients, but the Republican leadership in the House says that they are not going to put this in the reconciliation bill. But do not worry, doctors, we are going to go ahead and we will put it in Labor HHS.

If I am not mistaken, we already passed Labor HHS and there is no reimbursement for our doctors for care for senior citizens. So I do not understand where they think this money is going to be magically coming from.

The reality is it is going to cost $10.8 billion in order to get the doctors to where they need to be to treat senior citizens. We are doing the smoke-and-mirror thing. If we are doing a budget reconciliation thing here but we are still winking at the doctors and saying, oh, do not worry, docs, we will take care of you down the road, how are we going to do that? Where are we going to find the money? Does it not come from the same pot? $10 billion is $10 billion, whether it is in budget reconciliation, which would be the more honest place to put it, or whether it is down the road in a piece of legislation that we have already passed.

This is not at all fiscal responsibility. I have heard Republican after Republican come down here and talk about how they will put money in Americans' pockets and they need to cut the Federal Government's budget. That is nonsense. They are not doing that at all. What they are doing is deferring it. They would like to have this $50 billion pot of money so they can go back during the election and brag that they are actually saving taxpayers money.

They are not saving taxpayers. They are hurting taxpayers. They are hurting the people that we represent, and this is not fiscal responsibility. This is fantasy.

Am I wrong in this? Do I have my facts wrong?

Mr. SPRATT. The gentlewoman is not only right. She is forcefully correct. She is absolutely right, no question about it.

Ms. BERKLEY. So what should we do about this? Is this not a bit dishonest for the Republican leadership?

Mr. SPRATT. That is what we are doing now is alerting everyone to the contents of this reconciliation bill which is hanging in the wings, pretending under the name of "deficit reduction" to be about fiscal responsibility when it is anything but that.

Ms. BERKLEY. Well, I find it absolutely fascinating, and I know being married to a doctor that doctors are about the worst politicians in the world. They do not understand this political process. But they have gravitated over to the Republican side of the aisle when they were talking about tort reform, although it is my opinion as a doctor's wife, the other side never had any intentions of passing meaningful tort reform for the doctors. They just kept them hanging on a string.

This, which is the AMA's number one priority, to make sure that the doctors are getting appropriately reimbursed for treating Medicare patients, senior patients, this is so much worse for the doctors. And they are still playing games with the doctors, playing games with the seniors, playing games with the American public by saying wink, wink, we will take care of you later.

Let us take care of the docs and the senior citizens now when we should, in front of full view, in the daytime, in the light of day; and let us stop this nonsense of trying to sneak money in through the back door. It is disgusting and shameful.

Mr. SPRATT. I thank the gentlewoman for her comments. Mr. Speaker, I now yield to the gentleman from Maine (Mr. ALLEN).

Mr. ALLEN. Mr. Speaker, I thank the gentleman for yielding to me. I appreciate the opportunity to speak out on this poorly named reconciliation bill which will expand the Federal deficit and does enormous damage to people in this country. When 8.2 million children in America do not have health insurance, cutting Medicaid is wrong. When millions of children in America are abused and neglected, cutting child protection is wrong. When millions of children do not have access to early childhood programs, cutting child care is wrong.

Let us go back over these areas. Medicaid, the House bill would allow States to charge low-income working families substantial new premiums and co-payments in order for their children to participate in the Medicaid program, access health care services, or obtain prescription drugs. While the House bill would permit States to impose costly new fees on nearly all Medicaid beneficiaries, those most likely to face significantly higher premiums and co-payments are the 6 million children who receive their health care through the Medicaid program and whose families have income just above the poverty line or above 133 percent of the poverty line for children under six. Most families with incomes just above the poverty line are working families struggling to get by.

Let us turn to child support and faster care. CBO projects that the cuts in Federal Child Support Enforcement funding will mean that an additional $24 billion in child support will go uncollected. In this Congress we have been so proud in the past that we have finally been able to create a system in this country so that deadbeat dads will be forced to pay the child support that the courts have ordered them to pay. Now, in this Republican budget, they have decided that they are going to reduce dramatically the support for child support funding.

In addition, the House budget reconciliation bill would reduce Federal supports for children in foster care and for grandparents and other relatives who are taking care of these children. This cut comes at a time when the overall child welfare system is struggling to address the needs of over 800,000 children in need.

When you look at this package, it is beyond belief. Their food stamp cuts, reductions in food stamps, that will mean 225,000 individuals, according to the Congressional Budget Office, most of whom live in low-income working families, will be cut off the food stamp program. Basically, when you take this whole package together, you have a reconciliation bill described as a deficit reduction bill which increases the deficit. But what we are really talking about here is sacrifice.

We have been saying for years that if you do trillions of dollars of tax cuts mostly for the wealthiest people in this country, when you spend a billion and a half dollars a week in Iraq, the wars in Iraq and Afghanistan are simply borrowed money, finally, the Republicans say we have to sacrifice. And the people at the head of the line to sacrifice are our children, the disabled, people from low-income families, that is who the Republicans want to sacrifice to pay for the tax cuts to pay for Iraq and to pay for Katrina.

□ 1430

There is no more immoral set of priorities in this country than what we see in this bill today and what we see in the Republican agenda in the House.

Mr. SPRATT. Mr. Speaker, I thank the gentleman, and I now yield to the gentlewoman from California (Mrs. CAPPS).

Mrs. CAPPS. Mr. Speaker, I appreciate the gentleman from South Carolina (Mr. SPRATT) leading this discussion of what is wrong with the Republican reconciliation bill, and I agree there is devastating harm from the cuts to Medicaid, student loans, and food stamps. Cutting these programs that assist low-income and middle-income families to help pay for the tax cuts for the very wealthiest is simply unconscionable. These are all good reasons to vote "no" for this bill.

I want to talk about something else that is contained in this bill that has not gotten as much attention. That is the Republican proposal to allow new offshore oil drilling around large parts of the country, the so-called OCS provisions that have come out of the Resources Committee.

I want to direct my remarks to my Republican colleagues from coastal

States. I do so because coastal-State Republicans will either stop this provision or allow it to become law.

Let us be frank. Democrats are not going to vote for this bill, and that means that coastal Republicans will decide whether or not we have new drilling off our coasts. These are Republicans in Florida, Georgia, South and North Carolina, Virginia, Maryland, Delaware, New Jersey, New York, Connecticut and New Hampshire on the East Coast. On the West Coast, Republicans from California, Oregon and Washington all need to stand up for their coastal communities.

All we need are 15 or 20 of them to tell their leadership that they are going to vote "no" on the bill unless the oil drilling provisions are removed. These provisions are not included in this Senate bill, and if they are taken out of the House bill, then we will not see them in the final conference report. It is really that simple.

I know that some Members are tempted to buy the argument made by proponents of lifting this ban. Governor Jeb Bush and others are saying that this gives States control over their coasts and that new drilling everywhere is inevitable, but those arguments just do not hold water. Here is the straight story.

Among its many provisions, the bill ends the annual congressional moratorium immediately, including the one we just passed and was so recently signed into law.

Section 6515 of the bill states: "All provisions of existing Federal law prohibiting the spending of appropriated funds to conduct oil and natural gas leasing and preleasing activity for any area of the OCS shall have no force or effect."

This provision permanently removes Congress from any future decisions about offshore oil drilling. Theoretically, the bill leaves the Presidential moratorium in place until 2012, but this President or whoever follows him could end that whenever he or she wants.

Section 6509 of the bill specifically gives the President the authority to partially or completely revoke the existing Presidential moratorium before 2012. I am not a betting person, but I would wager that if Congress ends this moratorium, President Bush would quickly follow suit. That would mean the immediate end to the ban now in place on new offshore drilling off Florida, New Jersey, and all the other coastal States.

In addition, after expiration or revocation of the Presidential moratorium, States lose all control over drilling conducted beyond 125 miles offshore. That is 75 miles closer than current law. To be fair, it does allow the States that support drilling to have some control, but this at the expense of their neighbor. For example, the bill completely rewrites the Coastal Zone Management Act's Federal consistency review authority.

Section 6503 of the bill replaces the definition of "affected State" under the OCS Lands Act with a new, weaker definition for adjacent States. That means if Virginia wants new oil drilling off its coast, North Carolina, Maryland or Delaware would have no say in the matter, even though drilling off Virginia would clearly affect those States. The same holds true if Alabama or Georgia wants to drill and Florida does not.

Supporters of the bill say that the bill helps States that oppose new drilling as well, but that is just wrong. If President Bush repeals the moratorium, a State can supposedly petition to extend the moratorium off its shores for 5 years, but that requires repeated action and complex steps. Even if a State makes the request, the Federal Government could simply say "no" and drilling would begin off Florida or New Jersey or any other of these States.

Under the current administration, I do not think it is hard to imagine that that would happen.

Even if the Feds grant the extension, the protection would only be temporary for 5 years, with one-time renewal. After that, no more moratorium on new drilling anywhere.

Under this bill, we would literally see the push for new drilling on the entire United States coastline almost immediately upon enactment.

So this is what we are left with if Republicans allow this bill to become law: No congressional moratorium on new drilling; a Presidential moratorium that can and would likely be withdrawn immediately; no limits on drilling in neighboring States that might want to drill; and a cumbersome process for States that do not want new drilling and one that could simply be ignored by the Federal Government. It does not sound like protection for coastal States to me.

Coastal State Republicans can stop this. I urge them to stand up for their communities and tell their leadership to take these OCS provisions out; and if the new drilling provisions are included in the bill, I urge them, along with us, to vote "no."

Mr. SPRATT. Mr. Speaker, I thank the gentlewoman for her statement, and I now yield to the gentleman from Missouri (Mr. CLAY).

Mr. CLAY. Mr. Speaker, I thank the gentleman for yielding.

Mr. Speaker, I rise today to condemn this fiscally irresponsible and morally offensive budget proposal which violates every principle of responsible government.

This budget reconciliation bill, as presented by the majority leadership, is a pathetic attempt to disguise their real intentions to pass another bloated windfall for the wealthiest Americans at the expense of millions who are already suffering great hardships.

It is shameful that the same leaders who spend much of their time talking about morality and family values would attempt to finance another tax cut for millionaires by cutting food stamps for the hungry and slashing $12 billion from Medicaid.

At the State level, hundreds of thousands of hard-working Americans are already losing their Medicaid benefits. In Missouri alone, in my State, the Republican legislature and governor have managed to knock 90,000 Medicaid recipients off of the rolls and another 30,000-something children off of CHIPs. We are pushing these people into the army of the uninsured, which now numbers more than 45 million in this country.

On top of this travesty, the majority leadership is trying to reward big oil and big gas companies with a get-into-ANWR-free card as part of the budget reconciliation. These same companies made $27 billion in profits during the last 90 days, and they still want more?

I appeal to my Republican colleagues to rediscover their humanity and to return to fiscal sanity. The courageous communities along the gulf coast who survived the hurricanes and people of goodwill across this country are counting on Congress to do the right thing. The very last thing we should do is to punch more holes in a safety net that is already badly damaged.

Mr. Speaker, poverty and food insecurity in the United States are on the rise and Hurricane Katrina just made things worse. The number of Americans in poverty is rising steadily, from 32 million in 2000 to 37 million in 2004. More than one in six U.S. children lives in poverty. Food insecurity in the United States increased in 2004 for the fifth straight year, affecting 38.2 million people or 11.9 percent of our households. Children fared even worse: 19 percent of them were food insecure in 2004, meaning their families did not have enough money to provide sufficient food.

The combination of stagnant wages and sharply rising costs for essentials such as health care and energy has forced more struggling families to skimp on food in order to pay their bills. This year, Hurricane Katrina left hundreds of thousands of families with no homes and no jobs. This reconciliation bill cuts $7 billion from programs serving working families and vulnerable individuals. Over 5 years, the House bill cuts child support by $4.9 billion; cuts food stamps by $844 million; cuts foster care assistance by $577 million; and cuts Supplemental Security Income to the elderly and disabled by $732 million.

These cuts are likely to generate more poverty and economic insecurity among families and individuals struggling to get by. We must defeat this resolution and then renew our bipartisan commitment to restoring balance, fairness and common sense to the budget process.

Mr. Speaker, I thank you.

Mr. SPRATT. Mr. Speaker, I thank the gentleman for his statement, and I now yield to the gentlewoman from Wisconsin (Ms. MOORE).

Ms. MOORE of Wisconsin. Mr. Speaker, I thank the ranking member for yielding.

Mr. Speaker, I rise to strenuously object to tucking the Temporary Assistance to Needy Families Act reauthorization into this budget reconciliation bill.

What this does is masquerade the Draconian policy changes of TANF that impinge on what we claim to be our priority, to help working families, particularly women, get back into the workforce. How can we do that, create productive workers in view of slashing the work supports so desperately needed by these marginal families?

How can we cut $11 billion from the Medicaid program and say we want these women to go to work? How can we cut $4.9 billion from child support enforcement and say that we want you to go to work? How can we not even provide an inflationary increase in child care funding, while we increase those work requirements and say with a straight face that we are trying to help people reach self-sufficiency? How can we claim to try to raise women up and families up from their conditions, when we slash educational opportunity, reduce educational opportunity into oblivion?

Well, Mr. Speaker, there are people who are prepared to tell me that we are increasing TANF benefits by almost $1 billion, but when you look at what we are doing, the $926 million over 5 years, scored by CBO, because they must include extensions of supplemental grants, which they are excluded by law from not projecting, if you look at that, and adjusting for this scoring factor, what we are actually seeing is a TANF spending reduction of $239 million. Yes, I said it, $239 million reduction in TANF services.

This basic block grant is frozen. It increases work requirements, but it does do one thing that I approve of. It eliminates two performance bonus programs, saving us $1.1 billion, but it plows that money, $349 million, back into marriage promotion programs.

Do we have any concern about the kind of domestic violence that this may spawn, or another $409 million for, quote, unquote, "new research projects," researching and studying the poor, rather than providing the poor with the needed services like Medicaid, like child care, like educational opportunity? Instead, we are continuing to make this a windfall for what we call poverty entrepreneurs.

Mr. SPRATT. Mr. Speaker, I thank the gentlewoman for her statement, and I yield to the gentlewoman from Connecticut (Ms. DELAURO).

□ 1445

Ms. DELAURO. Mr. Speaker, I thank the gentleman for yielding to me and for his hard work and energy, his effort and commitment to the people of this Nation.

I consider it a privilege to serve on the House Budget Committee, helping to lay out a fiscal blueprint for the Nation to work toward crafting a document that reflects the values and the priorities of the American people.

Budgets are just not numbers on a page, Mr. Speaker. They live and they breathe. They are about human beings and what is happening in their lives. As this House prepares to consider $54.2 billion in a budget package, I find it hard to believe that the American people's priorities would include denying food stamps to 300,000 Americans and 40,000 children. I find it hard to believe their values tell them that we should respond to the skyrocketing health care costs by charging children from poor families for doctors' visits; that their answer to unaffordable child care costs would be denying child care assistance to another 270,000 children of working parents, cutting food stamps, charging poor families for visits to the pediatrician, denying child care to a quarter million working parents.

Those are not the values or the priorities of the American people; but it is becoming increasingly clear that they are the priorities of the Republican Party, the Republican House leadership, the Republican administration, and the party that controls all three branches of government right now.

Let us take a look. What other priorities do the Republicans bring to bear with this reconciliation package?

One, let us make it harder for people to attend college. If you attended college in the last 50 years, you received financial aid from the Federal Government. Following World War II, you had the benefit of the GI Bill. Eight million veterans were given education vouchers at the same time it doubled the number of homeowners.

Thirty-five years ago, Congress passed the Higher Education Act and said that the Federal Government was going to open the doors of colleges, regardless of family wealth; that, in fact, education was the great equalizer in this country, that because of your God-given talent you could succeed. Federal student aid has helped millions of people go to college who otherwise might never have had that opportunity.

This bill turns its back on that commitment. It leaves the typical student borrower, and I say to young people and their families today, understand this, you are already saddled with $17,500 in debt and you are going to pay an additional $5,800 in interest and taxes over the life of your loan if this bill is passed.

At a time when our Nation faces unprecedented competition from the likes of China and India, this majority puts up financial barriers that prevent 4.4 million high school graduates from attending a 4-year public college over the next decade; 123,000 students in my State of Connecticut alone will not be able to attend college. This when the United States is projected to face a shortage of up to 12 million college-educated workers by the year 2020.

Mr. Speaker, this piece of legislation impacts children and families. It also strips protections which would guarantee more than 5 million children who receive the medical services they need no longer receive them: medical health services, optical care, hearing aids, cuts to child support enforcement by 40 percent, eliminating the federally funded foster care benefits for grandparents and relatives of abused and neglected children. This bill goes out of its way to make the lives of Americans already living on the margins even more difficult.

A final point. Food stamps, a program which goes straight to the heart of the government's responsibility, a moral responsibility to people, 25 million people in this Nation rely on food stamps. It is a program of efficiency and competence. The cuts result in 300,000 food stamp recipients losing eligibility. That includes 40,000 children. When you cut food stamps, which is the direct measure for eligibility for the school lunch program, that means 40,000 kids will no longer be eligible for a school breakfast program or a school lunch program.

Why? Why are we doing this? Let us lay it on the table. It is about tax cuts, tax cuts for those who need them least. Fifty-three percent of the tax cuts go to the upper 1 or 2 percent of the public making over $1 million a year. $70 billion of tax cuts, capital gains, and dividend tax cuts go to Americans who are living lives of comfort and lives of leisure. And paying for these tax cuts will be 40,000 kids going hungry.

The majority is effectively saying, so much for morality, so much for values, so much for the common good. These are Republican priorities. They are not mine. They are not my constituents. I think we will all learn over the course of the next year they are not the American people's. This Nation must understand what is potentially going to befall them if this bill is passed. I urge you to stand tall and say "no" to these cuts which will do nothing but ravage the good people of this Nation.

Mr. SPRATT. Mr. Speaker, I yield to the gentlewoman from Illinois (Ms. SCHAKOWSKY).

Ms. SCHAKOWSKY. Mr. Speaker, I want to thank the gentleman for yielding to me and allowing all of us to come to the floor today to talk about what is really meaningful in the budget. There is no one in this House that knows every paragraph and every decimal point in this budget reconciliation bill better than the gentleman from South Carolina, and no one who knows better, too, the pain and the suffering that you can read between the lines.

Besides the U.S. Constitution, there is no document more defining of our priorities and our values and our morality than budgets. Yes, budgets. Even though we have pages of numbers, it is a moral document. I want to read from an article written by the religion writer for the Chicago Sun-Times paper last Friday. This is what Cathleen Falsani had to say.

She wrote: "This week, as Republican leaders try to force a monstrous $50 billion budget cut designed allegedly to offset the mounting costs of hurricane-related aid through Congress, it is clear that the Bush administration's moral compass has been lost.

"The proposed budget cuts, part of the so-called budget reconciliation, would have devastating effects on the poorest, most vulnerable Americans, while allowing tax relief for the rich.

"The massive budget reductions would include billions of dollars from pension protection and student loan programs." She goes on to list them.

Then she says: "Maybe Republican leaders should consider proposing an open season on the homeless, or the resurrection of debtors' prisons while they're at it. Is this the kind of leadership the majority of voters who, according to pollsters at the time, cast their ballots in the 2004 based on moral values? Is this what they had in mind?", she asks.

"Is this what faith-based compassionate conservatism looks like? Is our Nation more moral, more secure, or spiritually healthy than it was a year ago? And, to address my fellow Christian voters specifically," she asks, "has the Good News been advanced in any way? No, absolutely not," she says.

She goes on to describe "all 65 bishops at the Evangelical Lutheran Church in America have signed a letter to Members of Congress vehemently opposing the proposed budget cuts, saying in part 'The biblical record is clear. The scriptural witness on which our faith tradition stands speaks dramatically to God's concern for and solidarity with the poor and oppressed communities while speaking firmly in opposition to governments whose policies place narrow economic interests driven by greed above the common good.'"

That is what the Evangelical Lutheran Church in America said. She goes on to say: "The Evangelical Christian theologian and leader, Jim Wallis, founder of Sojourners, a national network of progressive Christian peace and justice activists, led an ecumenical gathering of religious leaders in a protest at the Capitol building last Thursday, calling the proposed cuts 'a moral travesty.'" This is quoting Jim Wallis: "Instead of wearing bracelets that ask, 'what would Jesus do,' perhaps some Republican should ponder, 'what would Jesus cut?'"

The author writes: "The immorality, by any religious tradition's measure, of the proposed $50 billion budget reconciliation package, is brazen. If enacted, it would prove only to increase the suffering of the already struggling poor, including tens of thousands who lost everything along the gulf coast. Maybe immoral isn't the appropriate word," Kathleen Falsani says. "Maybe immoral isn't the appropriate word. Downright evil is a better description."

I thank my colleague for allowing me to read this article. I think it is instructive to all Members of Congress and all people of faith as well.

Mr. SPRATT. Mr. Speaker, I thank the gentlewoman for her presentation, and I yield now to the gentlewoman from Pennsylvania.

Ms. SCHWARTZ of Pennsylvania. Mr. Speaker, the budget reconciliation process has been used since 1974 as a vehicle to set priorities, enact fiscal discipline, and reduce deficits. The last three budget reconciliation packages, which were passed in 1990, 1993, and 1997, each attempted to reduce the deficit by an average of $367 billion over 5 years.

However, this year, the Republican majority has decided to split the budget reconciliation package into two parts. The first, which will come before this Chamber this week, likely on Thursday, will make deep cuts to vital government initiatives that directly improve the lives of millions of average Americans. The second, which may not come to the floor until after Thanksgiving, would further extend tax cuts to corporations and to individuals in the very highest income brackets.

When taken together, the Republican reconciliation package will add $35 billion to the Federal deficit over the next 5 years, a fact that should disprove the other side's claim that this is an attempt to enact fiscal discipline or restore our budget to balance. It does not.

The fact that we are handling this process in piecemeal does not hide the majority party's preference for providing tax cuts that benefit only a limited number of people and corporations rather than making the investments in our future that will enable hard-working families and our communities to meet their obligations.

For example: instead of repairing tomorrow's workforce by helping more Americans, including tens of thousands of young people striving to be prepared for jobs of the future to obtain college degrees, the Republicans are slashing $9 billion from government-sponsored student loans.

Instead of working to expand access to health care, even in the face of a major flu epidemic, the Republicans are working to restrict access and to limit eligibility for Medicaid, the very program that ensures that mothers and children and working people with special health needs get the care that they require.

And the third example: instead of fully equipping our public safety officers, our police officers, firefighters, and transit personnel with the needed communication equipment, the Republicans would continue to underfund important homeland security initiatives.

The Republicans, through the reconciliation process, have made clear that they prioritize tax cuts to the wealthiest Americans and to very few large corporations at the expense of creating opportunities for hard-working Americans and helping Americans meet their responsibilities. Moreover, they have chosen political rhetoric over honest budgeting by failing to consider both aspects of their proposals, the spending cuts and the tax breaks, at the same time in the same bill.

Mr. Speaker, I want to urge Members on both sides of the aisle who believe in fiscal responsibility, who believe in sound budgetary principles to oppose this reconciliation measure that we will be considering in the coming days and weeks.

Mr. SPRATT. Mr. Speaker, I thank the gentlewoman for her statement, and I yield now to the gentleman from Massachusetts (Mr. NEAL), and I would remind the gentleman that we have about 6 minutes left. Is that correct, Mr. Speaker?

The SPEAKER pro tempore (Mr. FITZPATRICK of Pennsylvania). The gentleman is correct.

Mr. NEAL of Massachusetts. Mr. Speaker, I want to thank the gentleman from South Carolina (Mr. SPRATT) for allocating this time to me.

We began this session with an idea and a plan that would privatize Social Security. I thought that was the worst idea that we would encounter. But now that that argument is at last behind us, now we can see the reality of the President's budget process. This proposal that we are about to entertain on Thursday is a fiscal disaster. It not only forces painful cuts to programs that serve regular people; it awards large new tax cuts to people who already are the most privileged in our society.

When President Clinton left office, the country was running a $236 billion surplus. We were on track to have a $5.6 trillion surplus over the next 10 years. Now, let me tell you what that would have done. That would have allowed us to fix Social Security, to fix Medicare, to pay down the debt, and to provide modest tax cuts for middle-income Americans. Instead, we have cut taxes five times while we are fighting two wars.

And what is the result? Well, a month and a half ago to 2 months ago, the Humvees just arrived in Iraq. The body armor has just begun to arrive in Iraq. For those men and women who serve us honorably every single day in the American military, the equipment is just starting to arrive.

□ 1500

But what do we have time to do here? Let us cut Medicare. Let us chop Medicaid. Let us go after student loans. Let us cut back on home heating oil for the most vulnerable among us in the Northeast; and, with a straight face, let us cut taxes by $70 billion over the next couple of weeks.

Think of this Congress, what it did with the Clinton surplus: $5.6 trillion of surplus projected over 10 years, and this Congress cuts taxes and yanks $1.3 trillion out of the budget and then declares Social Security has a problem after they have taken that money away.

You hear from the Members of this body on the other side of the aisle about supply-side economics. I do not know any primary supply-side economists left who are accepted in the academy. Nobody buys that argument any more based upon the budget deficits the Nation is running.

We were on a sterling course of fiscal responsibility in this body. Just when people said it could not be done, we got it done. We balanced the budget, projected large-term surpluses, and we had this grand opportunity to take on some of the issues we would all like to address. But what has happened now? Is there anybody here who believes that we are not going to need a lot more money for Iraq? A lot more money for Afghanistan? Those dollars are going to be necessary. The same institution that voted to send us there, this Congress, I hope will not dare to cut back on what these men and women need. But I can tell you this: the budget they have put in front of us takes us precisely there. You cannot have it both ways, and we have learned that the hard way. But I will say this about the majority in this body, they will keep going.

Most conventional political figures see a stop sign and they stop. Not here, they will keep going. Cut programs for the neediest and cut taxes for the strongest. I am reminded of Matthew when he said it is our goal and our job to clothe the naked and to feed the poor; and the Republicans here would add, and to take care of the wealthy and to take care of the strong.

Mr. SPRATT. Mr. Speaker, I yield to the gentleman from Rhode Island (Mr. KENNEDY).

Mr. KENNEDY of Rhode Island. Mr. Speaker, I thank the gentleman from South Carolina.

In our pledge every day, we pledge one Nation under God with liberty and justice for all.

Mr. Speaker, with this reconciliation package, this is not one Nation, one liberty and justice for all. If you look at those students, this is not liberty and justice for all. For students today, only 10 percent of children from working-class families graduate from college by the age of 24 as compared to 58 percent of upper-middle-class and wealthy families. This is not liberty and justice for all.

If you are disabled, mentally retarded, poor, hungry or a foster family, this is not liberty and justice for all. This reconciliation package slams the door on those with disabilities trying to gain a foothold in society. It cuts the Medicaid program, taking away opportunity from those with intellectual difficulties. It takes food out of the mouths of the poorest children in our society. And it goes after those that are trying to make an opportunity for themselves in this society by getting an education when an education is more important than at any other time in American history.

Today, our economy is about an economy of ideas. If we do not provide education for every single American, we are consigning those without an education to second-class status. This reconciliation bill consigns millions of Americans to second-class status by cutting aid to education that opens up the doors of opportunity for millions of Americans.

Franklin Roosevelt said the test of our progress is not whether we add more to the abundance to those who have much; it is whether we provide enough to those who have too little. This reconciliation package fails that test as well.

Mr. SPRATT. Mr. Speaker, I yield to the gentlewoman from New York (Mrs. MALONEY).

Mrs. MALONEY. Mr. Speaker, I thank the gentleman from South Carolina for his leadership on this issue.

After 5 years of record debts and deficits, the other side of the aisle is demanding cuts to the programs that help Americans most in need. We showed in the 1990s that this government can be fiscally disciplined and compassionate to our neighbors most in need at the same time. The cuts before us now will not restore fiscal sanity; and they certainly are not compassionate, not even to the people who are suffering now from the recent hurricanes.

After five years of record debt and deficits, the other side of the aisle is demanding cuts to the programs that help Americans most in need.

We showed in the 1990s that this government can be fiscally disciplined and compassionate to our neighbors most in need at the same time.

The cuts before us now will not magically restore fiscal sanity, and they certainly are not compassionate, not even to the people devastated by recent hurricanes.

Our friends on the other side of the aisle may be selling these cuts as a matter of budget principle, but the fact remains that their budget will still increase the deficit by more than 100 billion.

Even more outrageous is that these cuts would make our government—which is meant to be of the people and for the people—less responsive to the people who need its help most.

Fewer food stamps. Reduced student loans. Less aid for foster care. Reduced Medicaid access.

And we all saw how Katrina disproportionately devastated low-income Americans.

Those Americans already lost their homes and their livelihoods, now they are in line to lose the federal aid that could help them the most.

It isn't surprising—this same Congress that gives no-strings aid to Iraq also demands that residents of the Gulf Coast repay emergency disaster assistance.

I urge my colleagues to vote "no" on the budget reconciliation—it's an uncompassionate and misguided bill.

Mr. BISHOP of New York. Mr. Speaker, I thank the gentleman from South Carolina, Mr. SPRATT, for yielding and for his superb leadership in presenting the case against the spending cuts contained in the first half of this misguided budget reconciliation package.

When the final budget resolution passed by a margin of only three votes back in April, who would have guessed that the Republican leadership would want to re-visit this legislation by actually making deeper cuts to health care, student loans, and food stamps—particularly in a time of national crisis?

And given that Congress has not enacted budget reconciliation since 1997, you would have thought that the Republican leadership could have put forward a more fair and balanced set of spending adjustments after preparing for eight years between reconciliations.

When you think about it, budget reconciliation is not much different than balancing a checkbook, unless, of course, you are referring to the way Congress balances its books.

On one side of the ledger, we have spending cuts—ostensibly to pay for rebuilding the Gulf Coast, but in reality to pay for the tax cuts that this leadership insists on passing despite three consecutive years of record-breaking deficits and $3 trillion in new debt.

Still, this reconciliation package doesn't even pay for the tax cuts. The net result is actually an increase in the deficit of at least $50 billion.

And in the other column, even after the tax cuts are in place, there won't be a dime left over to pay for reconstruction in the wake of Hurricanes Katrina, Rita or Wilma.

Like the 2001 and 2003 tax cuts—and like the class action, bankruptcy and needless tort reform on the Republican agenda—this Administration's failed economic policies and misplaced priorities are on display again this week in the form of the "Reconciliation Spending Cuts Act of 2005."

Championing the values and priorities of the wealthiest at the expense of the middle class—and by punching holes in the safety net—are hallmarks of this Administration but not the solution we need today to alleviate the misery in the Gulf Coast or ease the squeeze on the middle class.

As we build new universities in Baghdad, schools across the United States are falling apart. How can we in good conscious cut student loans after the College Board recently reported tuition continues to rise faster than the rate of inflation?

To illustrate this point, consider that under this legislation, someone earning over $1 million stands to gain a tax break of $19,000—on top of the average $103,000 tax cut they already receive—whereas the typical student borrower, already saddled with $17,500 in debt, would face new fees and higher interest charges that could cost up to an additional $5,800.

And yet, no one in this Administration has suggested putting Iraqi reconstruction money on the table. We simply cannot afford the continuing sacrifices and investments there at the expense of our priorities here at home. Nor has there been any hint that the tax cuts should be suspended for those earning more than $400,000 or that we should scale back the estate tax cut, which has no impact on nearly 98 percent of American families.

None of this is on the table, even though federal spending has grown by a third and record surpluses became record deficits since President Bush took office. With the most expensive tax cuts not yet fully phased-in, these policies threaten to expand the deficit beyond what we and future generations of Americans can afford.

Common sense tells us that when you're in a hole, stop digging. But not only are we still digging, we are falling deeper into new fiscal depths with this budget.

Mr. Speaker, Hurricane Katrina was a tragic reminder that too many American families are struggling in today's economy. Squeezing them harder, as this reconciliation legislation would do, is not the answer. It takes our nation in the wrong direction, and I urge my colleagues to defeat it.

Ms. JACKSON-LEE of Texas. Mr. Speaker, Key Points About Reconciliation:

1. All of these spending cuts will be used to offset tax cuts, not the costs of hurricane response or deficit reduction.

2. Spending cuts threaten vital services, including services for hurricane victims.

3. Even with these spending cuts, the Republican budget resolution still increases the deficit by more than $100 billion over five years.

4. Republicans reveal a double standard in proposing to offset hurricane costs but not war costs or tax cuts.

Summary of Cuts: The $53.9 billion in cuts is $14.8 billion higher than the reconciliation cuts that the Senate is considering.

The $53.9 billion in cuts marks a 56 percent increase from the $34.7 billion in reconciled spending cuts included in this year's budget resolution.

The budget cuts do not offset spending for hurricane reconstruction—they go towards offsetting $106 billion in tax cuts.

Why does republican leadership insist on offsetting the cost of rebuilding damage from Katrina, but not the cost rebuilding Iraq?

The objectionable cuts threaten vital services that people depend on:

1. Medicaid—The bill cuts Medicaid spending by $11.9 billion.

a. $8.8 billion will fall upon beneficiaries in the form of increases in cost-sharing and premiums.

b. "Flexibility" that will allow states to cut benefit packages for certain individuals.

c. Provisions that will make it harder for some seniors to access needed long-term care.

2. Student Loans—The bill cuts spending on student loan programs by $14.3 billion over five years.

a. Primarily through increases in the interest rates and fees that students pay as well as some reductions in subsidies to lenders.

b. At a time when college costs are rising faster than inflation, the Committee is making the largest cut in the history of the student loan programs.

3. Food Stamps—The legislation imposes cuts to food stamps of $844 million over five years (2006–2010).

a. Savings are achieved by adopting the President's proposal to limit categorical eligibility for food stamps to TANF recipients and increasing the in-country waiting period for legal immigrants to seven years. Under current law, 44 percent of those eligible for food stamps do not participate in the program. Changes such as these may mean even fewer vulnerable children and working families who qualify for nutrition benefits will actually receive them.

4. Children—

a. The legislation cuts $4.9 billion from child support programs over five years.

i. This cut will reduce states' capacity to establish and enforce child support orders. Custodial parents will receive $7.1 billion less child support over five years and $21.3 billion less over ten years.

b. The Committee cut $397 million from foster care over five years by limiting children's eligibility for federally funded foster care payments.

i. The committee saved another $180 million by limiting circumstances under which states can receive federal funding for services provided to children.

CORRECTING AMERICA'S IMBALANCED TRADING RELATIONSHIPS

The SPEAKER pro tempore (Mr. FITZPATRICK of Pennsylvania). Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, I rise today on the heels of President Bush's failed trade trip to Latin America to discuss our Nation's trade policy, a policy that continues to ship out American jobs, a policy that opens our doors to imports while other markets remain closed to us. Markets like Japan, markets like China, they keep their doors shut tight.

This is a policy that is hurting our country, not just today, but for tomorrow. It hurts our workers. It hurts our farmers; and, indeed, it truly hurts our future.

Our latest trade deficit numbers released last month for the month of August show yet another increase in America's trade deficit. The trade deficit for the month of August alone was $59 billion. For every billion dollars of deficit, we incur another 20,000 lost jobs. In a year, the loss to us is over three-quarters of a trillion dollars of more imports coming in than exports going out.

Last year our trade deficit was $668 billion; and in the first half of this year, this number clearly was increasing. This chart summarizes what has been happening with the rise in imports over exports over the last 20 years. Every single year, after every single one of these trade agreements gets signed, the red ink gets deeper and deeper. It will not take long to reach a trillion dollars, which lops real economic growth off our gross domestic product.

According to one report, the higher price of oil this year alone could add an estimated 60 to $90 billion more to the trade deficit of 2006. The deficit represents jobs lost in our communities, lives changed forever, as well as a very real threat to the economic security of our country.

Trade agreements like, and Members know the names, NAFTA, CAFTA, PNTR, normal trade relations with China. I do not know what is normal about having hundreds of billions of dollars of deficit with any country where our jobs have been shipped elsewhere. We can see the cashing out of America.

The latest company that tells us they are ready to leave is Delphi, based in Flint, Michigan, a corporation that employs over 50,000 people nationwide, telling workers they have to take a two-thirds cut in wages, pensions gone, health benefit gone. And what they are basically doing, they are following their major customer, which is General Motors, which has cashed out to Mexico, and now the suppliers are following suit.

Here is how the trade model works: half of Delphi's sales go to General Motors. Therefore, if General Motors outsources, so will Delphi. If General Motors goes to Mexico, which is has, it is the largest employer in Mexico after the government of Mexico and the oil industry, so will Delphi go. How destructive this trend is to our future as we see our workers work for lower wages and our families shopping now at Wal-Mart to get bargain prices. Imagine, Wal-Mart, the largest employer in the United States of America. We are becoming a distributor not a manufacturer, and our people are not earning enough to shop at the department stores that they used to. Many of those have closed in the major metropolitan areas of our country.

What we find are the Wall Street investors, who have a global reach and love to get richer than any of us could ever imagine, are taking production around the world. Franklin Roosevelt had it right: he called them the malefactors of great wealth. They do great damage in their path.

Today I do not want to just draw attention to what has been happening to our economy and working people, but I want to draw attention to what we can do. Sadly, President Bush appears to be trying to expand NAFTA with his recent trip down to Latin America, and the people down there have awakened to what these trade agreements really mean to them. The Free Trade Agreement of the Americas appears to be dying a slow death.

But I have a different idea, and so do some of my colleagues. This week we are introducing a bill, the Balancing Trade Act of 2005, which will require action on the part of the President when America faces deficits like we see today. It would require the President to take action to correct these imbalanced trading relationships with any nation where our deficit with them would equal $10 billion in any 3-year period, in other words, where that $10 billion would exist for 3 consecutive years.

Our trade balance, for example, with both of our NAFTA trading partners has been more than $10 billion in deficit for the last 3 years. NAFTA has basically been a great sucking sound of jobs out of this country.

Our trade deficit with China has been greater than $100 billion this year and over the last 3 years, and rising every single year. It is more lost jobs, and this bill says it is time to stop the music; it is time to start doing something about this.

In order to correct accounts that are seriously in the red, someone has to go back and look at the books. It is a responsible approach, one that the executive branch should be taking and one that is long overdue. I ask my colleagues to look at the Balancing Trade Act of 2005 and join us as cosponsors to right America's very imbalanced trading relations with the world.

THIS IS NOT THE TIME TO UNDERCUT AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Texas (Ms. JACKSON-LEE) is recognized for 5 minutes.

Ms. JACKSON-LEE of Texas. Mr. Speaker, just a few minutes ago, many heard my colleagues join in a full discussion on the very important debate that we will engage in this coming week regarding the Budget Reconciliation Act. Frankly, I wish we could go back to the days of old of this institution when you could have a thorough debate. The Founding Fathers established this august body, some 13 colonies; and when they engaged in a debate, it was just that: it was a thorough analysis. It was a long, extended analysis of the issue at hand. I imagine that might have been the setting in the Constitutional Convention when we established this Nation and we premised it on democracy.

One day of debate certainly does not equal the moment of importance to be voting on what we call a budget reconciliation bill when so many lives will be impacted.

Just a few minutes ago, I hung up from a call with my local authorities who were speaking to me about the enormous mounting need for resources in the gulf region. We know how generous Americans have been, but it is important to note that States like Texas, Alabama, and Louisiana are still trying to work with the many Hurricane Katrina survivors, our neighbors on the east coast and Florida, impacted by Wilma, and now our neighbors to the north impacted by this terrible tornado in Indiana and Kentucky. It says that we must be empathetic and sympathetic and our budget reconciliation has to address the idea of being willing to give people, not a hand out, but a hand up.

□ 1515

Well, Mr. Speaker I do not see how we can possibly do that under the heavy burden of between $70 billion and $200 billion in tax cuts. It just does not work, the sacrifice that our soldiers are making in the week of the veterans celebration, commemoration, so many veterans who have come home from Iraq who are now in need of hospital care and counseling and jobs. As we honor them this Friday, what sense does it make to be able to say to these veterans who may ultimately either want to be able to send their young people, their children, to school because so many of them are Reservists, that we would in this day, one day, raid student aid?

The single largest cut to student aid will occur if this budget passes on Thursday, $14 billion, $14.33 billion cut from student aid, $7.8 billion in new charges on student aid for parent-borrowers. Those are the same parents who are seeing their salaries go down, who are seeing a consolidation of their companies and, therefore, layoffs, who are seeing a lack of increase in their salaries, who have not seen an increase in the minimum wage for years.

We cannot afford this kind of raid on the Treasury so that students who are only seeking an opportunity for a hand up and not a handout are going to be the victims of this budget reconciliation.

Might I also suggest that we have better priorities than to give tax cuts to the 1 percent richest in America. We have better priorities than to provide for a $200 billion tax cut that takes place in 2006. We can document that tax cuts do not energize the economy. We can document that it is jobs, that it is the investment in the building of jobs.

It will be the building of homes in the gulf region, creating opportunities for American workers. It will be, in fact, the investment in students that will be the creation of jobs, not an average tax cut through 2010 without sunsets, this multibillion dollar tax cut that we can see and the income groups that will get it, the top 1% income earners in America. The amount of the tax cut here shows more than $87,000, going to the richest Americans. This is the kind of difficulty that we will face in this debate, and frankly, I believe that we can wait on those tax cuts.

What else we can wait on, Mr. Speaker, is the raid on Medicaid, because Medicaid will experience $12 billion in cuts over 5 years, $47.7 billion in cuts in Medicaid over 10 years. We believe, as Democrats, that there should be no cuts.

So the message today is, let us do this in a bipartisan manner. This is no time to undercut America with cuts that will not save America. It will only hurt America. And, frankly, in the many constituencies that I have engaged in across America, not just Texas, we have nursing homes that are going to suffer, senior citizens that are going to suffer.

What about the 5-year look-back on a senior citizen to be able to be eligible for Medicaid and that particular senior citizen is destitute right now? We are going to force them to look back 5 years where there may have been a death, that their partner, their husband or their wife, may have died, and their income may have dropped drastically and it does not show that.

Frankly, Mr. Speaker, I think we can do better. Something is not right and we can do better. Let us defeat the budget reconciliation. Let us work on behalf of the American people and the American young people.

THE DEFICIT REDUCTION ACT OF 2005

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Texas (Mr. HENSARLING) is recognized for 60 minutes as the designee of the majority leader.

Mr. HENSARLING. Mr. Speaker, as the Members can tell, we are having a rather spirited debate in this body over something called the Deficit Reduction Act of 2005. It is a little surprising that we would come here and not work in a bipartisan manner to try to actually reduce the deficit.

So we need to explore, Mr. Speaker, exactly why is it that we need to do this, why is it important that we on the Republican side of the aisle have put forth a plan to help reform the government, to help achieve savings for the beleaguered American family? I believe it is very important, Mr. Speaker, because I still believe that although we face a number of challenges, we still have enemies, terrible enemies, who want to seek to do our country woe; that we have challenges in filling up our cars and pickup trucks; that the cost of health care needs to come down. We have a number of challenges, Mr. Speaker, but ultimately we can address them.

America has faced even greater challenges than that before. If we will just preserve freedom, if we will preserve opportunity, if we will protect the family budget from the explosive growth of the Federal budget, I still believe there is no limit to what we, the people in America, can achieve.

But this is a very important debate. And the vote on this act, the Deficit Reduction Act of 2005, Mr. Speaker, is going to be one of the most important votes that we cast this year because as our Nation faces a number of fiscal challenges in trying to pay for a number of our programs like Medicare and Medicaid and Social Security and, on top of that, the devastating hurricanes that have hit our great Nation, as we seek ways to pay for those, Mr. Speaker, at the end of the day there are only three different ways we can do it.

Either, number one, we are going to raise taxes again on the American people, as the Democrats want to do, and they do not claim they want to do it, but I assure the Members, Mr. Speaker, they do. So number one, we are either going to raise taxes on the American people; or number two, we are going to pass debt on to our children yet again, as unconscionable as that is; or number three, Mr. Speaker, again we can go to our plan, our plan to reform government programs so that we can achieve savings for the American people. And that is what this debate is going to be about.

We can have a bright future. But if we do not do it, Mr. Speaker, if we do not start today on this plan to reform government programs to achieve savings for the American people, I fear that our future could be dark.

For example, Mr. Speaker, I have a chart here. It is a multicolored chart, and it talks about what we call in Washington "entitlement spending," kind of mandatory spending that is on automatic pilot. Much of it is good, but it is growing beyond our ability to pay for it.

This is 2003, and on this side of our chart we have a percentage, and this talks about the percent of our economy that we are spending right now on government.

Right now, Mr. Speaker, all of this spending here, and this year is 2003, just a couple years ago, we were spending roughly 20 percent of our economy on the Federal Government. This line here is our tax revenues, which stays fairly consistent, just a little bit below 20 percent of our economy.

But, Mr. Speaker, as the years go by, if we do not reform these programs, we can look at the year 2015, the year 2030, and the year 2040. Mr. Speaker, if we do not start to reform today, we are on the verge of doubling the size of government in one generation.

What is that going to mean to our children? What is that going to mean to their standard of living? We are on the verge of being the first generation perhaps in the entirety of American history to leave our children a lower standard of living than we enjoyed. And, Mr. Speaker, I just believe that is absolutely unconscionable. We must begin this process of reforms.

Again, we are on the verge of doubling the size of government, and that is just leaving the programs alone. Doing what the Democrats want us to do, turning our back on future generations, is going to double the size of government, taking away that hope, taking away those jobs, taking away those opportunities. How are we going to afford then to put gas in our pickup trucks? How are we going to afford to send our children to college? How are we going to afford paying our heating bills when Uncle Sam says, No, we are going to have to take twice as much of the economy just to pay for the Federal Government. What does this translate into for families all across America?

Again, if anybody was listening to the earlier debate, we did not hear the Democrats say this, but this is their plan. We have a plan to reform government programs, to achieve savings for the American people. They have a program to double taxes on the American people in one generation. Look at what is going to happen to the average family as the years go by, and this is 2005.

If the Democrats have their way, they will increase taxes on American families almost immediately by $4,000 a family. Well, there just went a down payment, a huge down payment on a car to get, perhaps, a parent to work. There just went, in some places, a semester or two of college. There just went no telling how many months of child care with the Democrat plan to immediately increase taxes on the American people. And as time goes by to 2009 and 2017 and 2027, increasingly, taxes go up and up and up.

So, again, Mr. Speaker, it really comes down to the question: Do we have a spending problem in Washington or do we have a taxing problem in Washington? And I think as we carry on with this debate, the American people will agree that what we really have here is a spending problem, that spending is out of control in Washington, DC. But I believe, Mr. Speaker, as do so many of my colleagues, that with a good plan of reform to achieve these savings, that we can actually deliver better health care, better retirement security for our seniors at, frankly, a lower cost.

And it is just so sad, Mr. Speaker, that we cannot seemingly get any Democrat from this side of the aisle to come join with us. And it is my fear, Mr. Speaker, that they are more concerned about the next election than they are the next generation.

Mr. KINGSTON. Mr. Speaker, will the gentleman yield?

Mr. HENSARLING. I yield to the gentleman from Georgia.

Mr. KINGSTON. Mr. Speaker, I think it is really important that if Members look at the deficit reduction package that we are looking at, it is a reform package that creates savings as opposed to the typical tax-and-spend tactics of the other party, and reform is what most of us, Democrat or Republican, have come to Washington to do.

How many times do people running for Congress go to the local Rotary Club and say we have got to run government more like a business, we have got to end the duplications and the bureaucracy, we have to cut the red tape? And yet here is an opportunity to have some great bipartisan reforms, and all we are doing is getting criticism. And it is the same old broken record we hear from the Democrats that this is all about cuts.

I was here when we did welfare reform, and the same people were saying that we are pushing people out in the streets, even though welfare reform has been a success, and incidentally, was signed into law by President Clinton. But when a person in today's world thinks about what companies are doing great, they think about Verizon or UPS or Starbucks or Coca-Cola or McDonald's, and they think there are a lot of things going on in the private sector. And they turn around and think what do we have in the Federal Government? FEMA, the IRS, the Immigration and Naturalization Service, the United States Postal Service, and then the local motor vehicle department.

One can go into McDonald's and order food for a busload of teenagers coming back from a homecoming football game and get the food faster than they can going into the post office and getting a book of stamps. And I think it is relevant for people to realize we should not accept second best, third best, and fourth best from the United States Government. This package takes a step in that reform, and it does so by creating a lot of savings for us.

I am an agriculture guy, and I think it is really important to talk about the food stamp portion. We hear time and time again, oh, the agriculture budget is too much and you guys should do something about it. Well, 60 percent of the budget is actually for food stamps. Food stamps have increased from $17.7 billion in 2001 to $35 billion today, $35 billion.

Mr. HENSARLING. Mr. Speaker, reclaiming my time, since the gentleman serves on the Agriculture Committee, which has jurisdiction over the food stamp program, we just heard folks on the other side of the aisle, the Democrats, talk about massive cuts in the food stamp budget. But is it not true that even after we reform these programs, we will spend more on food stamps next year than we did last year?

Mr. KINGSTON. $250 million more next year than we are spending this year on food stamps, Mr. Speaker. And yet only in Washington, DC, only in that fantasy world that competes with Disneyland when it comes to creating make-believe, would people call it a cut. Because what we want to do is look at the increase, and we have determined that we can reduce one-half of 1 percent of the total food stamp budget, about one-half of 1 percent. Food stamps will still increase $250 million, and yet people can go down to the floor of the House with a straight face and say that is a cut. I do not know how they do it.

If I am giving my child an allowance of $10 and I am going to increase it to $15, but he wants $16, I still have not cut his allowance. I cannot get away with that back in Savannah, Georgia, but somehow the Democrat Party can do that with a straight face in Washington.

□ 1530

If nothing else, you have to admire their nerve.

Mr. HENSARLING. Mr. Speaker, if the gentleman will yield again, it reminds me that in this great body everybody is entitled to their own opinion, but they are not entitled to their own facts. The fact is that these budgets are still increasing, even after our reforms.

But another question for the gentleman: is not one of the suggested reforms that we are offering here simply to extend for noncitizens, people who are not citizens of the United States of America, supposedly people who came here who wanted to roll up their sleeves and seek freedom and opportunity, a waiting period of 7 years instead of 5 before they receive food stamps, for noncitizens? Is that correct?

Mr. KINGSTON. Yes. The irony is that under President Clinton's signed welfare reform plan, originally you had to be in the United States of America 10 years before you were eligible to receive food stamps. That was later reduced to 5 years. And what we are saying is, you know what? That got real expensive. Let us just change it to 7 years. Yet, people are screaming bloody murder, and it is the same folks who say we have to do something about our illegal immigration and our immigration laws in general.

But remember, when you come to the United States of America and you become a citizen, noncitizens, you actually have to sign a waiver saying that you would not get public assistance benefits, you would not become a ward of the State. We are saying okay, listen, at least keep your word for 7 years. Yet, there again, we hear all the hysteria and rhetoric, which makes people just feel less belief in the government. As the gentleman said, people just pick and choose their own facts here. That is not allowed in the real world.

Mr. HENSARLING. Mr. Speaker, I appreciate the gentleman's comments to help illustrate the point again that almost every single budget for these programs will increase next year over last year. That is just a simple fact.

It is hard for me to believe that there are people in America who are going to find it highly controversial that those who supposedly signed a contract not to be wards of the State, those who came here for jobs and for freedom and for opportunity, that somehow it is a draconian cut to ask them to wait for 7 years instead of 5 years to be on food stamps.

Dollars have alternative uses. So the millions you save by this simple reform are millions of dollars that instead now can go to help relieve human suffering along the gulf coast. It could go to increase the number of mammograms for indigent women in the Medicaid program. It is dollars that could be used to help fund more college scholarships. But instead, our friends on the other side of the aisle said, no, we cannot have any reforms, we cannot have any reforms. It is all about massive cuts.

Mr. KINGSTON. In the nanny state, the liberal Democrats envision that the United States has to have Big Government sitting by your cradle when you are born and taking you to your grave when you die 75 years later or whatever. In their nanny-state vision, they are convinced that we have to pay for every step of your progress along the way.

One of the things they are screaming about now is nobody will be able to go to college because the Federal Government will not be able to step in and pay for your tuition. Well, the Federal Government does have assistance for people who deserve a college education and who have worked hard for it. But in the food chain, lenders make a minimum of 9.5 percent loaning you the money. Now, most people right now are not getting 9.5 percent on their investments.

What we are saying is, we are going to cut out that minimum of 9.5 percent that the lenders are getting on college education loans. Yet, again, we hear from the other side that that is a cut. I have trouble following them. I like fiction. I like crazy movies of fantasy, but they go beyond the page of what is real.

Mr. HENSARLING. Mr. Speaker, the gentleman makes another great point, and that is that only the government, only the government would be so foolish as to pay two and three times the market rate for a loan to send somebody to college. Yet, in the twisted logic of our friends on that side of the aisle, they say, well, you are cutting student loans by not giving all of these great surpluses to the lenders. I mean, it is complete nonsense. Again, there are so many other reforms we can make that I believe will help improve retirement security and health care at a lower cost.

I am very happy that another gentleman from Georgia has joined us this afternoon who is a doctor, and this body could use more doctors; somebody who has extensive experience in dealing with Medicare and Medicaid. We are hearing all the scare tactics on the other side of the aisle. Frankly, we have heard them for 50 years, but we continue to hear it.

What we do know is this: Medicare is growing at 9 percent a year. Medicaid is growing at 7.8 percent a year. Now, these are important programs but; Mr. Speaker, they were designed back about the time I was born. They have not kept pace with the pace of medicine. They are not helping the people today as they once were, and there are so many reforms we can make to save them, because if we do not save them today, if we do not take the steps to reform, Medicare and Medicaid will simply not be around for my children.

With that, I yield to the gentleman from Georgia (Mr. GINGREY) to tell us a little bit about his insights into those programs.

Mr. GINGREY. Mr. Speaker, I thank the gentleman from Texas for controlling the hour, for bringing this important information to us, and for allowing me to weigh in on it.

Mr. Speaker, it is kind of interesting that the other side of the aisle, when we had a plan to reform another mandatory, big, mandatory spending part of our budget, and that is Social Security, they wanted to say that, no, we do not need to be addressing that right now, because we have other more serious problems, we have the serious problem with the mandatory spending in Medicare and Medicaid. So while they did not want to address the needed reform, good reform to save money and sustain that program for our seniors, for their retirement, now we want to try to come forward, this Republican leadership, with a plan, a good plan of government reform, so that we can effect meaningful savings, and that is exactly what we are here to talk about this afternoon. I thank my colleague for giving me an opportunity to weigh in on one of those items in particular, and that is the Medicaid program.

The Medicaid program is so out of control that it is rapidly approaching 50 percent of our State budgets. Within another 5 years, if we do not do something to control and to reform Medicaid spending, Mr. Speaker, then we will be up to 80 percent, and it will not be in the too distant future that it will absorb the total amount of our State budgets. We cannot let that happen.

In fact, the Governors Conference did great work on this. I want to commend the Democratic Governor of Virginia, Governor Warner, and the Republican Governor of Arkansas, Governor Huckabee, who together took this as an ad hoc committee that took on this responsibility and made some very, very significant, needed suggestions to reform Medicaid.

A perfect example would be in those States who are under a waiver program, Mr. Speaker, that allow Medicaid coverage for people up to 150, 185 percent of the poverty level, at those higher levels to start having a little bit of a copay, just a little bit of a copay, maybe $3 on a generic drug or $5 on a brand-name prescription that their physicians feel that they need, and possibly even, yes, for the higher-income people under the waiver program to have a little bit of a deductible, to ask them, to ask these beneficiaries to show a little bit of responsibility for their own health, for their own health care, and how the spending is utilized.

The gentleman from Texas is absolutely right: We desperately need Medicaid reform. Just listen to this: We want to put Medicaid on a more sustainable path; grow it, yes, absolutely. We are not here today to talk about cutting. Our colleagues on the other side of the aisle, they are always wanting to scare people, the poor, the elderly, the infirm: These greedy Republicans are on the verge of cutting your benefits. Not at all. It is just reducing the growth rate by one-tenth of 1 percent. We need to do that. Who would argue that we need to root out waste, fraud, and abuse from the Medicaid program or, in fact, the Medicare program? We want to make sure that we give flexibility to the States to enact, if need be, some copays and some deductibles.

But pharmaceutical spending is out of control, as it certainly is. Listen to this: Medicaid once paid $5,336 for a prescription that only cost the pharmacist $88 to obtain. The Department of Health and Human Services Inspector General found, this was back in 2002, that Medicaid reimbursements exceeded pharmacists' true costs during that year, 2002, exceeded the actual cost by $1.5 billion.

Every dollar wasted on overpayment is a dollar that does not go to the patients who truly need that benefit.

Mr. HENSARLING. Mr. Speaker, if the gentleman will yield for just one point, and I think I heard the gentleman correctly that the government paid over $1,000 for a prescription that should have cost approximately how much?

Mr. GINGREY. Well, let me repeat that, because I know it sounds unbelievable. It is even more unbelievable than the gentleman from Texas just stated. Medicaid once paid $5,000, not $1,000, but $5,336 for a prescription that only cost the pharmacist $88 to obtain. Now, was that a mistake on the part of the pharmacist? Possibly. We are not trying to single out any individual.

But the point is that there is so much waste, fraud, and abuse; and this oversight is needed. We absolutely need it.

Mr. HENSARLING. Mr. Speaker, if the gentleman will yield again, does that not mean, though, as we listen to the rhetoric by our Democratic friends on this side of the aisle, though, that by rooting out just this one waste, we would say somehow that we have cut health care for the poor by $5,000 because we found this waste, we found this fraud? It is again just one story out of countless stories about how you can reform government and still save money for American families.

Mr. GINGREY. Mr. Speaker, there is no question. Another thing that is astounding, and I think that we cannot state this often enough, is the fact that the nursing home reimbursements in this country, probably close to 80 percent of nursing home reimbursement is through the Medicaid program, and most of those dollars are Federal tax dollars. There is a State match, of course. For example, in my State, it is 60/40. The States with lower average incomes appropriately pay less. But when we are in a situation where people game the system to get their loved ones into a nursing home and hide their wealth, I mean, it is understandable why they might be inclined to want to do that, but that is taking money directly away from these children, many of whom are disabled. We have something called the waiting list for care, home-bound care for disabled people and pregnant women who are not getting prenatal care, and all of this money needs to be spent wisely and spent appropriately.

So I thank my colleague for letting me as a physician Member to weight in on some of these things. I have seen certainly not just since I have been a Member in the 3 years that I have been here in this body, but also over 28 years of practicing and seeing the need for this kind of reform by the Republican Party, reform to government, this good plan of reform that will save money and effect better care in the long run.

Mr. HENSARLING. Mr. Speaker, I certainly thank the gentleman for his leadership on health care issues in this body and his leadership in trying to protect the family budget for the Federal budget. The gentleman did such a great job tonight in helping illustrate, Mr. Speaker, that again, there are so many ways that we can help reform these programs to achieve savings for the American people. If we do not do it, again, we are looking at a future of having to double taxes on the American people just to balance the budget, an unconscionable future.

Now, Mr. Speaker, again, this whole Deficit Reduction Act of 2005 is designed to help reform government programs to bring about savings. More so than any other event that precipitated this was the terrible hurricanes that ravaged our Nation recently; and Congress, rightfully so, joined together, Republicans and Democrats, came together to help relieve this human suffering, and it was important that we do that. A great tragedy had occurred in our Nation. But many of us were convinced that we could not let a great natural tragedy of this generation turn into a great fiscal tragedy for the next.

So I think one Member, above all other Members, came to the floor of this House of Representatives and said, we need to offset this spending. He launched something called Operation Offset, as chairman of the Republican Study Committee, Congress's largest caucus, made up of those who care about faith and family and free enterprise and freedom and, due to his actions, we were able to come to this point today. Because we know there are only three ways, Mr. Speaker, that we can offset this spending.

□ 1545

More taxes on our children, more debt on our children, or finding a plan to reform government to achieve these savings. And with that, I would love to yield to the chairman of the Republican Study Committee, my dear friend, the gentleman from Indiana (Mr. PENCE).

Mr. PENCE. Let me say I am deeply humbled by the gentleman's characterization of our efforts. There is not a day goes by in this Congress that I am not grateful to the people of Texas for sending Congressman JEB HENSARLING to Washington, DC. His work, Mr. Speaker, on the Budget Committee, his work as the leading voice of fiscal restraint in the largest caucus in the House of Representatives has been seminal to the debate that we are engaged in, both in the House and, as we have motivated it, in the Senate; and I congratulate my colleague from the heart.

Mr. Speaker, I rise, along with my other colleagues today, in strong support of the Deficit Reduction Act. The numbers speak for themselves. And as I have listened to the opposition to this legislation speak, as I have listened to even the advocates of this legislation speak, we are spending a great deal of time in, specifically, distinguishing the trees from the forest. I would like to talk about the forest from the trees for a moment.

The forest is $8 trillion in national debt, a national debt that has swelled by 25 percent, $2 trillion in the last few years alone, a post-World War II high of per-family share of the national debt, I believe the number, the gentleman will correct me, in excess of $24,000 in obligations for every American family. It is a second mortgage on every American family, that $8 trillion in national debt.

We come into this well, this week, as our colleagues in the Senate did last week, and in the face of a hurricane of national debt, we are going to throw a pebble of $50 billion in savings. And in the context, Mr. Speaker, of a $2.5 trillion Federal budget, this is a modest effort, but a meaningful effort. And I rise to applaud it.

$8 trillion in national debt. And then as the gentleman from Texas observed, in 6 days, in the wake of the worst natural catastrophe in our country's history, the worst hurricane to strike the coast of this country in some three centuries, this Congress spent over $60 billion in 6 days. And the American people, and many Members of Congress simply stood astride that freight train of spending and yelled "Stop." And it is in a very real sense, that, in part, which brings us to this impasse today, whether or not we, as a Republican majority, as a governing majority in America, are going to be able to make tough choices during tough times.

I believe that we will. I believe, as our colleagues in the Senate bravely did last week, I believe this Congress this week, will rise to this challenge because I believe it is precisely what the American people meant this majority to do, to be able to practice both generosity and fiscal discipline at the same time.

In a very real sense, I must say that as we saw $60 billion flow out of this institution in less than a week, in the aftermath of Katrina, I bristled at the posturing of some in the House and the Senate who went before the American people who were still grieving in our hearts at the extraordinary cost to families and communities along the gulf coast. And some in Congress stood up and said that we have done the hard work.

Well, getting out my grandchildren's credit card and borrowing $60 billion for the families and communities along the gulf coast is not hard. What we are doing this week with the leadership of Speaker DENNIS HASTERT and the leadership of this Republican majority, what the Senate did last week, is the hard work that the American people expect us to do. That being said, we will take a modest but meaningful step in the direction of ensuring that a catastrophe of nature does not become a catastrophe of death. But let us not overstate it.

And with this, I close. As we look at some $50 billion in savings over the next 5 years, we are hearing the remonstrations of the opposition that we are cutting Medicaid, we are cutting student loans, we are even cutting Low-Income Home Energy Assistance Programs. And it is simply not true. As much as it might warm the heart of this conservative for Congress to get out the sharp scalpel and truly go after that $8 trillion in national death, as the gentleman graciously assists me with the chart, that the baseline of changes in mandatory spending between this bill and the last mandatory spending was projected to grow, without my glasses on, at 6.4.

Mr. HENSARLING. If the gentleman will yield, I will be glad to read this.

Mr. PENCE. I will be glad to yield.

Mr. HENSARLING. It is such an instructive chart, Mr. Speaker, to show the American people that, contrary to the rhetoric of the Democrats who speak of their massive cuts, look how much money we have spent on what we call mandatory spending in 2005, roughly $1.5 trillion; and in our 5-year budget, if we are successful and achieve these savings, these mandatory programs will grow at 6.3 percent a year instead of 6.4, a most modest, modest step of reforms, yet necessary and important.

And I will yield back to the gentleman from Indiana.

Mr. PENCE. I thank the gentleman, having not brought my reading glasses.

What we are doing here is adjusting the arc from 6.4 growth to 6.3 percent. And as the gentleman from Georgia just said moments ago, in Washington that is what passes for a cut. And that is just false advertising in America today, and the American people are on to it. They know under this bill Medicaid will grow by 7 percent. They know that student financial aid will continue to increase. And they also know that there is a billion, a 50 percent increase, in low-income home energy assistance, over $1 billion in additional resources available.

This is modest, but meaningful pruning of the Federal budget. It is not, even though it may warm this conservative's heart, it does not represent the hard choices and deep cuts that, candidly, future Congresses and future generations will have to make to meet the unfunded obligations that this government faces in the next 50 years.

So I rise today to say, this is a good start. It is time to put our fiscal house in order. It is time to take that first step toward fiscal restraint.

I urge my colleagues to see this in context. For conservatives for whom it is not enough, accept it as an important first step. And for those less conservative in the Congress than me, which is most, see this as a modest first step in the direction of fiscal restraint that is so much needed in the wake of catastrophes of nature.

Mr. KINGSTON. The gentleman from Indiana has talked about this being a first step. I think controlling spending, fiscal responsibility is almost like daily exercise and daily diet. It cannot just be a vote once a year. It needs to be a daily exercise.

There are all kinds of things that we can talk about in our multitrillion-dollar budget. Zero-based budgeting. As an appropriator I can tell you when agencies come in to us, all they talk about is the new spending. They do not ever go back to why did we originally need the money. And I will give you an example.

We had a series of forest fires out West. When I was on the Interior Appropriations bill, we spent money to help react to fight the forest fires. And the next year, no fires, so we tried to take the money out of the budget. No fires, no fire money. But guess what? That was called a cut because people decided, oh, no. You are not going to go back to zero base on us.

I think we should look at a Grace-type commission, an outside, a BRAC-type commission that could look at the Federal agencies and figure out which ones of them can be eliminated, where are the duplications and so forth. I think we should talk seriously about ending earmarks or at least reducing earmarks for the coming year to offset the cost of Katrina and Iraq. And then after we pass this, I believe we should go back and look at a half percent or a 1 percent or a 2 percent across-the-board decrease, because all of this has to be done year after year. Because that Federal budget, when all the good taxpayers are home sleeping at night, it continues to grow and it gets out of hand.

And I just wanted to say we are hearing lots and lots of crying. And I am going to close with this because I know you have the gentleman from New Jersey and the gentlewoman from Tennessee here, but if you just think about it this way, that Medicaid, through all this screaming and yelling that we are hearing from the other side, will still grow next year by $66 billion; that is, if we get to reduce it by 0.03 percent, it will still grow by $66 billion. It is not a cut.

It is not going to do all the things that most conservatives would like done, but as Mr. PENCE said, this is a step in the right direction. And I thank the gentleman from Texas for your time and your leadership on these issues.

Mr. HENSARLING. Well, I thank the gentleman from Georgia for his clarity in debate, for his leadership on this floor, for helping be one of the very clear voices in trying to protect the family budget from the Federal budget and bring about reforms.

Mr. Speaker, I am now very happy to be joined by one of my dear friends in this body, someone who I believe exhibits more principle and more courage than just about anybody else in this body, one of the strongest leaders we have for limited government in the United States House. And with that, I would be happy to yield to my friend from New Jersey (Mr. GARRETT).

Mr. GARRETT of New Jersey. Well, I thank my friend from Texas for those words. And I thank you also for your leadership and the opportunity to join you this evening as you continue the battle for reform.

As we take up this critical matter of budget reform this week, I would ask my colleagues from both sides of the aisle to view this as a process not in terms of dollars and cents of savings and cuts, but more in the terms of what really is the proper role of the Federal Government.

The Republican Party, I think, is the party that gives more credit to the American people than the other side of the aisle ever will. It is the philosophy of keeping government close to the citizens and Federal Government in its proper place that put the Republican Party in the majority several years ago and has kept it there now for the last 10 years. Yet, I feel at times that political control can cause us to lose hold of what our Founding Fathers initially thought that our role should be.

But in forming any policy, as we discuss these issues, I think casting votes on the floor, the Constitution should be our guide, not simply the whims of the day. And so in any discussions on this, let me just bring us back to what one of our Founding Fathers of the Constitution told us back in Federalist 45 when he said, James Madison said:

"The powers delegated . . . to the Federal Government are few and Defined . . . The powers reserved to the several States will extend to all the objects which, in the ordinary course of affairs; concern the lives, liberties and properties of the people, and the internal order, improvement and prosperity of the State."

If Mr. Madison was to join us here today, I would imagine that he would see very little difference between King George and London and today's bureaucrats here in Washington, D.C. when it comes to big government and meddling in local issues. Unfortunately, just as the Founders of the Constitution have long since passed, so have many of their principles which this system of government was set upon. And were they to return today to the halls of D.C. and Congress, they would see the government has grown out of all bounds.

They would see a Federal judiciary that has traded judicial self-restraint for judicial activism, and they would find a wildly inefficient Federal bureaucracy.

The framers saw the excesses of London and Versailles, the gross central powers, at the disposal of so few and at the expense of so many.

□ 1600

The government conceived by Madison and others was designed specifically to resist such a fate. Now, Alexis de Tocqueville famously observed the greatest genius of libertarians, egalitarian of early America, was that it bore absolutely no resemblance whatsoever to his native France. Indeed, men like Madison and de Tocqueville might wander the Halls today and find striking similarities between the opulent and power-laden prerevolutionary Versailles.

But short of storming the Bastille, I came to Congress in the 108th Congress convinced that something could be done, and we are working towards that endeavor today. We are working towards that endeavor in other fields as well, such as Congressional States and Community Rights Caucus to turn Congress back to the Constitution and the 10th amendment.

Many of my colleagues and others inside the Beltway forget that State taxpayers and Federal taxpayers are not simply separate groups of people. Americans from all over the country send their money to Washington, only for Washington to lose some of it, waste some of it and spend some of it in ways that may not be best for all of us. Take my State of New Jersey; for every dollar in taxes my State of New Jersey sends down to Washington, we only get 54 cents back. That does not make much sense to me, nor to the citizens of my State. New Jerseyans would be better if they kept most of that money back home for their own self-control and projects.

Mr. Speaker, to conclude, this week provides the House with an opportunity to help restore the vision of our Founders, the vision of Ronald Reagan. Yes, we must look out for the least among us. Yes, we must protect the key interests that cannot be dealt with at any other level, but just as the 10th amendment states clearly, and I quote, "The powers not delegated to the United States by the Constitution, nor prohibited by and to the States, are reserved to the States respectively or to the people," all of us as elected representatives of the people.

Mr. Speaker, I ask that Members of this House keep those words in mind as we go through this week, as we consider this legislation, and truly need it here in Washington D.C. and remember to return the power back to the people.

Again, I commend the Member from Texas for his leadership in this endeavor.

Mr. HENSARLING. Mr. Speaker, I thank the gentleman for joining us this evening. I thank him for his leadership. I thank him for reminding us that ultimately this is a debate about the role of government in a free society, because too often it seems that our friends on the other side of the aisle believe nothing good has ever happened in America that was not the result of a Federal program: Without the Federal Government there would be no motherhood. Without the Federal Government, there would never be a meal placed on the table, there would be no Boy Scouts, there would be no baseball.

The truth is that it is freedom, it is individual freedom that counts in the lives of individuals and helps lift people out of poverty.

Mr. Speaker, I am now very happy that we have been joined by one of the true leaders and one of the more articulate and dynamic voices in this body on government reform, the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, I thank the gentleman from Texas for his leadership on this issue and for constantly reminding those of us in this body that our work is to protect the family budget and be certain that we rein in that Federal budget.

To a comment, Mr. Speaker, that the gentleman from Texas just made, talking about government, and so many people feeling that many times there is nothing good that happens unless it comes from the Federal Government. I have constituents who remind me repeatedly that every time we have a new Federal Government program that is to cure some ill in our country, that there is a cost that comes with that. Yes, there is the cost that comes with putting that program in place, the operational cost, the funding cost. But there is also a second cost. That is, if the Federal Government steps in to fill a void, then neither the private nor not-for-profit sector is going to step in and fill that void.

Mr. Speaker, to be quite honest with you, over the past few days, as we have talked about the Deficit Reduction Act, and beginning to put this body on the right track to reducing, spending, restraining the growth of government and then beginning to right-size government, right-size and reform government. I said there is another one, and it is with every program, there is a difficulty with getting that program back under control, because every program has a bureaucracy and every bureaucracy has a constituency. That is another cost for each and every program. Of course, they are all good ideas, but is it the proper role of government.

To the gentleman from Texas, I appreciate the chart that he has about mandatory spending and talking about baseline spending in the chairman's mark. I would like to make a couple of comments on this. We have talked about the baseline calling for 6.4 percent growth over the next 5 years; and with the work that this body has already done and is continuing to do, we will see that growth move from 6.4 percent to 6.3 percent growth.

One of the things in our district we have talked about is that baseline. Now, as the gentleman from Texas says, the family budget, that is something where we sit down every year with a clean sheet of paper, a No. 2 pencil, and we start at zero and we work out and say what can we afford to put on particular categories this year. Unfortunately, taxes and fees seem to be the biggest of those categories. But we start with a clean sheet of paper and a No. 2 pencil.

Unfortunately, government does not do that. They start from what they spent this past year regardless of the effectiveness of the program, regardless of whether the program is still needed, regardless of whether it should be wound down, regardless of whether it has outlived its usefulness. That is where they start, with what they got last year.

Based on what they got last year, then they ask for an increase in that funding. Now, let us say they got $100 last year, and this year they are going to ask for $125. We come back and say, well, you can't have $125, but we'll give you $110. Then they are saying, oh, no, you've cut us $15. You can't do that. You can't do that. That's a cut.

As the gentleman from Texas said and the gentleman from Indiana, just a few moments ago, in Washington-speak, when you restrain the growth, that is a cut. That is the way many of those from the left who support constantly growing the bureaucracy, constantly giving the power and the money to bureaucrats in buildings, that is how they refer to this process.

For our constituents, I think it is so important that we work together on this, addressing that baseline, being certain we are restraining the growth and that we work to pull it down past 6.4 and 6.3 and reduce it even further and then get into that baseline and actually begin to make some reductions in that baseline in programs that may have outlived their usefulness.

I commend the gentleman from Texas for the work that he has done on the budget. I commend him for continuing to bring this issue and reminding us that it is important that the Federal budget continue to protect and work to protect the family budget.

Mr. HENSARLING. Mr. Speaker, I thank the gentlewoman for her comments tonight, and especially reminding us that once again in this great body people are entitled to their own opinions. They are just simply not entitled to their own facts. The facts are that even after our exceedingly modest reform proposals are enacted, all this spending, all this Federal spending on automatic pilot will grow at 3.6 per year instead of 6.4, notwithstanding the threat to future generations, the incredible burdens on their futures and their hope and their opportunity.

Under this reform plan, Medicare will grow, Medicaid will grow, food stamps will grow; but we make commonsense reforms so that we manage to hopefully save the next generation from a fiscal tragedy.

Mr. Speaker, I am very happy to see that we have been joined by the gentleman from Indiana (Mr. CHOCOLA), another member of the Republican Study Committee, one who cosponsored the Family Budget Protection Act to try to reform this process and again save the family budget from the Federal budget.

Mr. CHOCOLA. Mr. Speaker, frankly, I had not planned on coming to join you tonight, but I was inspired by the comments from our colleagues. I heard an example of kind of the issues that we are talking about today from one of our other colleagues, because I think it is so important to point out that we really are not talking about cutting anything.

We simply are talking about slowing the growth of government in the future. One of our colleagues that shared an example, I think, resonates and is identifiable to all the people in this country. The example goes something like this:

Mr. Speaker, imagine that you have a child, let us say your daughter, who mows the lawn and does a great job. Let us say for the last year, you have paid your daughter a $10-a-week allowance for mowing the lawn, and she has done a good job. After that year she comes to you and says, Dad, you know, I think I need a raise. She has been doing a good job. So you say, honey, I probably might consider that raise. How much do you think you deserve? Your daughter looks at you and says, you know, well, I have been doing a good job. I think maybe I deserve $20 a week. You say, well, that is kind of generous. How about if we compromise at $15 a week?

Now, you will probably be able to determine your daughter's political future by her response. If your daughter says, well, jeez, you know, $15, that is a 50 percent raise, that is pretty generous, I think I can live with that, probably has not a great future in politics, probably should consider going into the business world. But if your daughter says, well, jeez, Dad, I was expecting $20, $15 would be a 25 percent cut, she would certainly understand the rhetoric that we hear so many times and too often here in Washington.

When we talk about reforming government, when we talk about fiscal responsibility, when we talk about a plan to reform government and attain savings, we are not talking about cuts at all. We simply are talking about doing the responsible thing, slowing the growth of government by tenths of a percent.

As an example, HUD in 2001 had 10 percent of their budget, $3.3 billion, was paid in overpayments. Now, we are talking about tenths of a percent that we might be able to find savings by rooting out fraud, waste and abuse when many Federal programs already waste a significant percentage of their budgets in overpayments, erroneous payments, and simply wasted money.

I commend the gentleman from Texas for continually reminding us that this is a responsible thing to do to find the savings, to make sure that we do not pass along huge deficits to our children that they will not be able to pay and they will look back at us and recognize that we did not do the fiscally responsible thing by simply managing the taxpayer monies better and being better stewards of the taxpayer dollar.

I thank the gentleman for letting me join him for a few seconds. Again, I commend him for his leadership.

Mr. HENSARLING. I thank the gentleman from Indiana for joining us this evening in this very, very important debate.

Mr. Speaker, I think when you hear about all the different commonsense reforms we can make and how modest they are and how this juggernaut of government spending is going to continue on, unfortunately, for years and years and years to come, again it cries out for us to take a stand and be courageous and begin the program of reform. We need to remind ourselves why we need to do this.

Well, Mr. Speaker, let me give you a couple of quotes, one from Chairman Alan Greenspan, Chairman of the Federal Reserve. He says, Mr. Speaker, "As a Nation, we may have already made promises to coming generations of retirees that we will be unable to fulfill." He said that about Social Security, he said that about Medicare, important programs, important programs for seniors; but they are on automatic pilot, automatic pilot to eventually go bankrupt if we do not start the process of reforms.

Mr. Speaker, the Brookings Institute, not exactly a bastion of conservative thought in this Nation, said in a recent report, "Expected growth in these programs, Social Security, Medicare, and Medicaid, along with projected increases and interest on the debt and defense, will absorb all of the government's currently projected revenue within 8 years, leaving nothing for any other program."

The General Accountability Office has said that right now we are on automatic pilot: "We are heading to a future where we will have to double Federal taxes or cut the Federal spending by 50 percent."

That is the future this Nation is facing, Mr. Speaker, unless we begin and enact this plan, to begin these modest reforms, so that we can begin to achieve savings for the American people.

Again, if we do not do it, this is what the Democrats have planned for us. These are the tax increases, a sea of red ink, a tsunami of red ink, a hurricane of red ink. It is all tax increases, or it is all going to be debt, passed on to our children, because our friends on the other side of the aisle will not join us in these modest reforms.

In fact, they tell us every single day that somehow tax relief to the American people is part of the problem.

□ 1615

What they do not tell you is the massive tax increases that are going to be necessary just to pay for the government we have, not even the government that they are trying to add on top of the government programs that we already have.

Under their program, they will be bringing back the marriage penalty. They will be bringing back the death tax. The new child tax credit, say goodbye to it, accelerated depreciation and the list goes on and on.

Mr. Speaker, that is not a future that the American people want, and so we are going to debate this spending.

To me, Mr. Speaker, when we see that this spending is out of control, there was a time very recently until this last Congress when Medicare paid five times as much for a wheelchair as the Veterans Administration did, five times as much, because one would competitively bid and the other would not. Well, according to our friends on that side of the aisle, somehow we cut health care for the elderly when we began to pay market prices for wheelchairs. It is absurd, Mr. Speaker.

Now we are offering reforms saying that, you know what, if you are not a citizen of the United States of America and you signed a contract not to become a ward of the State, maybe you ought to wait 7 years instead of 5 before you qualify for food stamps so that maybe we can send that money to help relieve human suffering along the gulf coast. But somehow, again in this body, notwithstanding the fact that food stamps will grow next year over this year, it is somehow called some kind of massive cut.

It is just not true, Mr. Speaker. You are entitled to your own opinion, but you are not entitled to your own facts.

Mr. Speaker, what is important is that we do not let the Democrats put double taxes on our children. It is important we not allow them to increase taxes today, because the tax relief we have passed has been great for this economy. It is what is helping people. Right now, we have passed tax relief, and guess what, Mr. Speaker, we have more tax revenue.

Mr. Speaker, right now, on this chart you can see that after we passed tax relief for the American people, allowing small businesses and families to keep more of what they earn, in 2003 we have almost $1.8 trillion in revenue, in 2004 almost $1.9 trillion in revenue, and now in 2005, $2.1 trillion in revenue. Tax relief has proven to be part of the deficit solution, not part of the deficit problem.

Mr. Speaker, that may be counterintuitive to some people, but let me tell you just one story about one small business in my district back in Texas.

It is an outfit called Jacksonville Industries, employs 20 people, an aluminum and zinc die cast business. Before we passed our economic growth program that had tax relief, they were getting ready to have to lay off two of the individuals due to competitive pressures, but because of tax relief, Mr. Speaker, they were able to go out and invest in new machinery that made them more efficient. Instead of having to lay off two people, Mr. Speaker, they hired three new people.

That is five people that could have been on welfare, five people that could have been on food stamps. That is five people who could have been on unemployment, but instead, Mr. Speaker, it was five people who had good jobs with a future, who had their own housing program, their own nutritional program, their own education program called a job.

So, to listen to our friends on the other side of the aisle, they would say somehow that is a cut. It is not, Mr. Speaker. It is about freedom and opportunity, and that is what helps the poor.

STONEWALLING CONGRESS

The SPEAKER pro tempore (Mr. FORTENBERRY). Under a previous order of the House, the gentleman from Pennsylvania (Mr. WELDON) is recognized for 5 minutes.

Mr. WELDON of Pennsylvania. Mr. Speaker, first of all, let me thank my friend and colleague for allowing me to take this 5-minute special order before his 1 hour. I will be brief, but I rise for an issue of severe concern to me, Mr. Speaker.

As someone who has spent 19 years working on defense and security issues in this Congress and currently serves as the vice chairman of the Armed Services and Homeland Security Committees, I have to report to my colleagues continuing efforts to try to find out what happened before 9/11 and, unfortunately, have to report that we are being stonewalled. In fact, Mr. Speaker, I cannot use any other term but the appearance of a cover-up.

Just a few moments ago, I questioned one of the cochairs of the 9/11 Commission, Lee Hamilton, why the Commission has not yet responded to a letter that I sent to them on August 10 of this year, which I will enter into the RECORD at this point.

AUGUST 10, 2005.

Hon. THOMAS H. KEAN, Chairman,
Hon. LEE H. HAMILTON, Vice Chairman,
9/11 Public Discourse Project,
Washington, DC.

DEAR CHAIRMAN KEAN AND VICE CHAIRMAN HAMILTON: I am contacting you to discuss an important issue that concerns the terrible events of September 11, 2001, and our country's efforts to ensure that such a calamity is never again allowed to occur. Your bipartisan work on The National Commission on Terrorist Attacks Upon the United States shed light on much that was unclear in the minds of the American people regarding what happened that fateful day, however there appears to be more to the story than the public has been told. I bring this before you because of my respect for you both, and for the 9–11 Commission's service to America.

Almost seven years ago, the National Defense Authorization Act for Fiscal Year 1999 established the Advisory Panel to Assess Domestic Response Capabilities for Terrorism Involving Weapons of Mass Destruction, otherwise known as the Gilmore Commission. The Gilmore Commission reached many of the same conclusions as your panel, and in December of 2000 called for the creation of a "National Office for Combating Terrorism." I mention this because prior to 9/11, Congress was aware of many of the institutional obstacles to preventing a terrorist attack, and was actively attempting to address them. I know this because I authored the language establishing the Gilmore Commission.

In the 1990's, as chairman of the congressional subcommittee that oversaw research and development for the Department of Defense, I paid special attention to the activities of the Army's Land Information Warfare Activity (LIWA) at Ft. Belvoir. During that time, I led a bipartisan delegation of Members of Congress to Vienna, Austria to meet with members of the Russian parliament, or Duma. Before leaving, I received a brief from the CIA on a Serbian individual that would be attending the meeting. The CIA provided me with a single paragraph of information. On the other hand, representatives of LIWA gave me five pages of far more in-depth analysis. This was cause for concern, but my debriefing with the CIA and FBI following the trip was cause for outright alarm: neither had ever heard of LIWA or the data mining capability it possessed.

As a result of experiences such as these, I introduced language into three successive Defense Authorization bills calling for the creation of an intelligence fusion center which I called NOAH, or National Operations and Analysis Hub. The NOAH concept is certainly familiar now, and is one of several recommendations made by your commission that has a basis in earlier acts of Congress. Despite my repeated efforts to establish NOAH, the CIA insisted that it would not be practical. Fortunately, this bureaucratic intransigence was overcome when Congress and President Bush acted in 2003 to create the Terrorism Threat Integration Center (now the National Counterterrorism Center). Unfortunately, it took the deaths of 3,000 people to bring us to the point where we could make this happen. Now, I am confident that under the able leadership of John Negroponte, the days of toleration for intelligence agencies that refuse to share information with each other are behind us.

The 9–11 Commission produced a book-length account of its findings, that the American people might educate themselves on the challenges facing our national effort to resist and defeat terrorism. Though under different circumstances, I eventually decided to do the same. I recently published a book critical of our intelligence agencies because even after 9/11, they were not getting the message. After failing to win the bureaucratic battle inside the Beltway, I decided to take my case to the American people.

In recent years, a reliable source that I refer to as "Ali" began providing me with detailed inside information on Iran's role in supporting terror and undermining the United States' global effort to eradicate it. I have forwarded literally hundreds of pages of information from Ali to the CIA, FBI, and DIA, as well as the appropriate congressional oversight committees. The response from our intelligence agencies has been underwhelming, to put it mildly. Worse, I have documented occasions where the CIA has outright lied to me. While the mid-level bureaucrats at Langley may not be interested in what I have to say, their new boss is. Porter Goss has all of the information I have gathered, and I know he is ready to do what it takes to challenge the circle-the-wagons culture of the CIA. And Pete Hoekstra, the chairman of the House Intelligence Committee, is energized as well. Director Goss and Chairman Hoekstra are both outstanding leaders that know each other well from their work together in the House of Representatives, and I will continue to strongly support their efforts at reform.

All of this background leads to the reason I am writing to you today. Yesterday the national news media began in-depth coverage of a story that is not new. In fact, I have been talking about it for some time. From 1998 to 2001, Army Intelligence and Special Operations Command spearheaded an effort called Able Danger that was intended to map out al Qaeda. According to individuals that were part of the project, Able Danger identified Mohammed Atta as a terrorist threat before 9/11. Team members believed that the Atta cell in Brooklyn should be subject to closer scrutiny, but somewhere along the food chain of Administration bureaucrats and lawyers, a decision was made in late 2000 against passing the information to the FBI. These details are understandably of great interest to the American people, thus the recent media frenzy. However I have spoken on this topic for some time, in the House Armed Services and Homeland Security Committees, on the floor of the House on June 27, 2005, and at various speaking engagements.

The impetus for this letter is my extreme disappointment in the recent, and false, claim of the 9-11 Commission staff that the Commission was never given access to any information on Able Danger. The 9-11 Commission staff received not one but two briefings on Able Danger from former team members, yet did not pursue the matter. Furthermore, commissioners never returned calls from a defense intelligence official that had made contact with them to discuss this issue as a follow on to a previous meeting.

In retrospect, it appears that my own suggestions to the Commission might have directed investigators in the direction of Able Danger, had they been heeded. I personally reached out to members of the Commission several times with information on the need for a national collaborative capability, of which Able Danger was a prototype. In the context of those discussions, I referenced LIWA and the work it had been doing prior to 9/11. My chief of staff physically handed a package containing this information to one of the commissioners at your Commission's appearance on April 13, 2004 in the Hart Senate Office Building. I have spoken with Governor Kean by phone on this subject, and my office delivered a package with this information to the 9-11 Commission staff via courier. When the Commission briefed Congress with their findings on July 22, 2004, I asked the very first question in exasperation: "Why didn't you let Members of Congress who were involved in these issues testify before, or meet with, the Commission?"

The 9-11 Commission took a very high-profile role in critiquing intelligence agencies that refused to listen to outside information. The commissioners very publicly expressed their disapproval of agencies and departments that would not entertain ideas that did not originate in-house. Therefore it is no small irony that the Commission would in the end prove to be guilty of the very same offense when information of potentially critical importance was brought to its attention. The Commission's refusal to investigate Able Danger after being notified of its existence, and its recent efforts to feign ignorance of the project while blaming others for supposedly withholding information on it, brings shame on the commissioners, and is evocative of the worst tendencies in the federal government that the Commission worked to expose.

Questions remain to be answered. The first: What lawyers in the Department of Defense made the decision in late 2000 not to pass the information from Able Danger to the FBI? And second: Why did the 9-11 Commission staff not find it necessary to pass this information to the Commissioners, and why did the 9-11 Commission staff not request full documentation of Able Danger from the team member that volunteered the information?

Answering these questions is the work of the commissioners now, and fear of tarnishing the Commission's legacy cannot be allowed to override the truth. The American people are counting on you not to "go native" by succumbing to the very temptations your Commission was assembled to indict. In the meantime, I have shared all that I know on this topic with the congressional committee chairmen that have oversight over the Department of Defense, the CIA, the FBI, and the rest of our intelligence gathering and analyzing agencies. You can rest assured that Congress will share your interest in how it is that this critical information is only now seeing the light of day.

Sincerely,

CURT WELDON,
Member of Congress.

This letter asks significant questions about a Top Secret intelligence unit in the military that identified Mohammed Atta and three associates in a Brooklyn cell 1 year before 9/11.

Mr. Speaker, these individuals are still in the military, and they have offered to testify publicly, but this administration is gagging them. This administration is not allowing these military officers to speak, and in fact, the Defense Intelligence Agency is in the midst of destroying the career of a 23-year Bronze Star recipient, a lieutenant colonel in the Army, for doing one thing, for telling the truth.

Mr. Speaker, there are bureaucrats in this administration, in the previous administration who do not want the story of Able Danger to come forward. Even though this secret intelligence unit was ordered by the Chairman of the Joint Chiefs of Staff, carried out by Special Forces Command, and we now know had information 2 days before the attack on the *Cole* that could have prevented 17 sailors from losing their lives; and in January of 2000, identified Mohammed Atta and, in September of 2000, tried to transfer that information to the FBI on three occasions.

In fact, Mr. Speaker, the 9/11 Commission did not mention Able Danger at all. When they were asked about it by the New York Times in August of this year, they said, Well, it was historically insignificant.

Mr. Speaker, Louis Freeh, the FBI Director during the time of 9/11, was interviewed on national news by Tim Russert on "Meet the Press" 2 weeks ago, and when he was asked about his role in the information on 9/11, he said, Well, you know, if we would have had the information from the Able Danger team, and I quote, "that is the kind of tactical intelligence that would have made a difference in stopping the hijacking." Louis Freeh says it could have stopped the hijacking, and the 9/11 Commission now says it is historically insignificant.

Mr. Speaker, there is something wrong in the Beltway. Tomorrow, at 12:30 in the House gallery, I will unveil additional new information on Able Danger. I will unveil an enhanced set of investigations because, Mr. Speaker, in the end, the families of the 3,000 victims, the families of the 17 sailors, the people in this country deserve to know the truth.

What happened before 9/11? Why is information being held in secret? Why are military officers being gagged? Why can the truth not be told?

Mr. Speaker, we must in this body demand the truth publicly.

AMERICAN WORKERS PENSION SYSTEM

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from California (Mr. GEORGE MILLER) is recognized for 60 minutes.

Mr. GEORGE MILLER of California. Mr. Speaker, millions of Americans are worried sick about their retirement nest eggs, and they are demanding decisive action by Congress. In just the last 2 weeks, two national publications have featured cover stories on the peril America's workers and retirees are facing.

On October 31 of this year, the issue of Time magazine has a stinging anthology of missteps and foibles of the Congress in the regulation of private pension plans. The cover story that is pictured here on this cover of Time magazine, called, "The Great Retirement Rip-off—Millions of Americans who think they will retire with benefits are in for a nasty surprise—how corporations are picking people's pockets—with the help of Congress."

That is the status of the American workers' pension system today. It is a system that is in peril, and it continues to be in peril because of the lack of action by this Congress.

For 3 years, we have been warning the President and this Congress that we must take decisive action to strengthen unfunded pension plans. Back in July of 2002, I wrote Secretary

O'Neill and Secretary Chao, urging them to take action after private pension underfunding quadrupled $25 billion to $111 billion.

I wrote to them that "The implications of such massive shortfall in pension funds are staggering, for pensioners, taxpayers and for private companies themselves. As part of your agency's statutory duties, as overseers of the Pension Benefit Guaranty Corporation, it is incumbent upon you," Mr. and Mrs. Secretary, "to ensure that private pension plans continue to be properly and adequately funded, and that the economic security of employees and taxpayers is no further endangered."

What do you think happened since I wrote that letter back in July of 2002? Private pension plans' underfunding has quadrupled again to nearly $450 billion. The pension plans of hard-working men and women in this country, the pension plans that they are basing their retirement plans on, the pension plans that they are relying on for the future care of their spouses and other members of their family are underfunded by $450 billion.

The deficit at the PBGC, the agency that is supposed to guarantee these pensions should these companies go out of business, should these pensions be put into default, they are, in fact, now at greater risk of having to pay out billions of dollars to make up the shortfall. In fact, they are at risk of whether or not the PBGC can continue, given the amount of shortfall that exists in America's pension plans.

Since we wrote the Secretaries back then and since the quadrupling of the underfunding, hundreds of thousands of employees at U.S. Airways and United have lost billions of dollars in promised benefits. What has this Congress done about this? Absolutely nothing.

It took years for the Bush administration to get a reform plan up to the Congress, and it has not lifted a finger to push for the passage of that plan. Where is the leadership on behalf of America's working families? Where is the sense of urgency to protect billions of dollars in promised retirement benefits that are now threatened?

After years of costly delay, finally the House and Senate committees have passed legislation out of committee, but there is an ugly truth about the bills that many of you do not know about. When the Members of Congress voted on these bills, they were not given the facts about what these bills really do: What is the impact of these bills on the Pension Benefit Guaranty Corporation; what is the impact on the companies who we were raising the premiums for; what is the impact on the taxpayers; and what is the impact on America's workers and their retirement plans.

When we voted on one of these so-called pension bills last spring, the committee Democrats voted "present" because we had no information on the legislation's impact. A few weeks ago, several weeks after the committee voted, we asked the PBGC and CBO what, in fact, are the real impacts? What they have told us is that it has made the situation worse, that the bill that was passed in the committee actually hastens the pension crisis.

Here is what the Congressional Budget Office wrote us in October of this year: "H.R. 2830," the pension bill, "would increase PBGC's 10-year net costs by $9 billion, or about 14 percent, compared with what it would be under current policy." So we made the problem for the guaranty corporation worse with this bill.

The PBGC, that guaranty corporation, also analyzed itself, and it said that using a model that contains the hundreds of plans found in the guaranty corporation, the committee-passed bill would add billions more to the PBGC's deficit than under current law.

Not only does this bill make the problems worse with respect to underfunding, it also fails in many other respects. Most significantly, the bill does not stop companies like United Airlines from dumping billions of unwanted pension debt onto the guaranty corporation.

Delta and Northwest now have watched this Congress, they have watched United; and I believe that we can expect that they will follow suit, and we will end up with those pensions. They watched United dump $10 billion onto the public taxpayers, and the Congress did not lift a finger. Now Delta and Northwest are in bankruptcy and very well could dump their pensions into the guaranty corporation and onto the backs of the taxpayers.

According to the guaranty corporation, Delta Airlines is underfunded by $10.6 billion. The PBGC loss would be about $8.4 billion and the employees and retirees would lose $2.2 billion in promised benefits.

□ 1630

Northwest Airlines is $5.7 billion underfunded, and the employee loss would even be greater there. Those employees would lose about $2.9 billion in pension benefits that they have planned on, that they are expecting, and that they have built their retirement on. And now, more dominoes may be falling. Delphi Auto Parts has filed for bankruptcy, the largest such filing in the history of the automobile industry. According to the PBGC, the Delphi claim on the taxpayer-funded corporation would be about $4.1 billion. The hit on employees, over $10 billion in uninsured losses would be the largest ever. That tops the $6 billion in worker losses that the PBGC estimated occurred over its four previous largest pension plan terminations.

What does this all add up to? This all adds up to the fact that there is bad news for American workers who are relying on their employer to help them provide for their pension plans, for their retirements. We see this story in Time magazine, the cover story telling us how Americans are in for a very nasty surprise when it comes time to retire in the next few years for many of the baby boomers. Then we see a week later in The New York Times magazine: "We Regret to Inform You That You No Longer Have a Pension."

That is the message that is being sent to millions of Americans, millions of Americans who in many instances have no way to recover those resources for their retirement because of their age. They are 50, they are 55, they are 60 years old. They have no way to recover this. They could not work enough overtime. They could not work enough Saturdays and Sundays. They could not work enough holidays to get that pension back.

What is the Congress doing? The Congress is doing nothing. In fact, the tragedy of the Time magazine story is that it shows that Congress has been a handmaiden in allowing corporations to game the system, allowing corporations to use the pension plan for the convenience, the profit, and the personal rewards of board members, shareholders, and the CEOs of the company. They all use the pension plan and manipulate the pension plan for their benefit. But the workers are left out of that equation.

Even this morning, in The New York Times, we are told that the Accounting Standards Board is now looking at taking action because of this manipulation of workers' pensions. They talk about how, I believe it was the Lucent Corporation, where the CEO was given a $4 million bonus for doing such a great job, on top of a $1.5 million salary, and then was given another bonus because the profits of the corporation were up and the revenues were up. The only problem was that the CEO had been in the process of manipulating the pension plan to make it look like the profits of Lucent were up.

Of course, the story of Lucent is well-known. The profits were phantom. They were not there, and they have tumbled. That same CEO has now been fired, probably given a severance package, but nobody said a word while they were manipulating the pension plan.

So this goes on every day and the Congress stands by and does nothing. They do nothing to ensure that Americans will have a say in their pension plans. Imagine this, this company had $10 billion, $12 billion of workers' money, their retirement; yet those workers had no say in how that company would use that pension plan. That is not just Lucent; that is true of almost every other pension plan in this country. That is what we saw with

Enron. That is what we see with Lucent. That is what we see with company after company that uses the plan for the convenience of the company to mislead shareholders, to mislead investors, and to mislead Wall Street.

Hopefully, hopefully in the next few weeks, the Accounting Standards Board will step up to the plate here and hit one out for the American public and give the American public some say in the money that they have earned, people who have earned these pensions over 15 years, over 20 years; these people who gave up salary so they would have a better retirement plan. They gave up health care so they would have a better retirement plan. They produced this pension plan, and now it is treated as if it is only the personal property of the executive board of the company, the corporation, and the personal property of the CEO. And if things go bad, they run to the taxpayers to bail them out, but the workers lose over half of all of their pensions. That is what happened to the people at United Airlines. That is what is going to happen to the people at Delphi, and that is what is going to happen to so many pensioners.

Now, we could not get the Republican Congress to hold a hearing on this problem to take a look at United Airlines, so we had to resort to an e-hearing. We had to go out on the Internet and ask the employees of United to tell us what this meant to them, and we got thousands of responses from people, thousands of responses from people about what this pension meant to their life.

Among those thousands of responses, and among millions of so many people in this country, were people telling us about their pensions and the importance of their pensions to take care of a spouse who had serious illnesses, who had disabilities; to take care of a child who was disabled; to take care of a child who had a serious illness, and now they were going to lose that ability because United was cutting their pensions in half, and the PBGC Board would not be able to take care of them. So very often these people talked about their plans for their retirement that simply evaporated the day United callously threw their plans into bankruptcy.

One of the letters we see was from a spouse of a captain at United. She wrote: "Dear Congressman Miller, my name is Ellen Saracini. My husband, Captain Victor J. Saracini, was the captain of United Flight 175 that struck the south tower of the World Trade Center on September 11, 2001, at 9:03 a.m. While no one could have imagined the events of that infamous day, neither could Victor have imagined what would be happening to his wife and two daughters.

"I am writing this letter to voice to you what has been taken away from Victor and his family. If you only knew my husband, you would know he was a true family man, who made sure his family's future was provided for. I am currently receiving the spousal portion of Victor's pension, which is 50 percent of what he thought would be there for his family. After United took away our employee stock ownership plan, this pension is how I am supporting my two daughters and myself.

"I was given a choice to sue the airlines, the port authority, and others, or join in with the victims compensation fund set up by the government. I pledged I would not sue and proceeded with the fund. After all, this is the company Victor was so proud to work for and the same company of his United brothers and sisters. Every bit of preparation that Victor and I worked for was used against the claim. Life insurance was deducted. My full pension was deducted from the award. Now I will have a double jeopardy, as I will again lose my pension with no recourse on either side.

"I can't help but ask myself, at what point are companies allowed to take away so much from the lives of dedicated employees and their families? At what point does our government step in and stop the atrocities such as this before they are allowed to irrevocably change the lives of so many? I refuse to believe that this is the only solution that can be reached.

"The Pension Benefit Guaranty Corporation's decision to allow United Airlines to end their pension is just wrong. If this monumental verdict moves forward, I will be faced with many hardships. Victor was a proud United pilot, husband, father, and friend, who fought a war with terrorists. Never would he have imagined that he would have to fight for his family's well-being with the very company he so proudly spread his wings for. Sincerely, Ellen Saracini."

That letter echoes what we heard from so many across the country about their plans being shattered, about their ability to care for members of their family being shattered. And, of course, we understand that so many others would like to tell their stories, but there is no vehicle in the Congress of the United States for doing that.

One of my colleagues on the Education and Workforce Committee, Congressman TIERNEY, I see has joined us from Boston; and I would like at this point to yield to him. He has been a stalwart in this effort to try to hold the Congress accountable, to try to hold the Pension Benefit Guaranty Corporation accountable, and most importantly to try and hold corporations to be accountable and stop this criminal activity of the manipulation of the pension plans of their employees, the same manipulation, the same activities that are outlined in the cover story of Time magazine of October 31 of this year and then again in The New York Times magazine of October 30 of this year. And today, if you want to be current on it, you can read The New York Times business page about the continued manipulation of the pension plans for the benefit of everybody except the retirees.

Mr. Speaker, I yield to the gentleman from Massachusetts.

Mr. TIERNEY. Mr. Speaker, I thank my friend and colleague from California (Mr. GEORGE MILLER) for yielding to me. As you say, reading those articles is just shocking, but it is nothing new to us.

For a couple of years now, we have been following my colleague's lead as Democrats on the Education and Workforce Committee trying to get the Republicans in this body to understand the need to confront what is nothing short of a crisis. Millions of Americans are in retirement, or they are nearing retirement; and all they are experiencing now is either decreasing health benefits or decreasing pension benefits, and the total loss of one or the other in many instances. It is not fair, it is not right, and in fact it is not sound policy for this country.

For the past century, we have really had a history of gradually improving people's quality of life. Go back to 1938, when Franklin Delano Roosevelt said: "There is still today a frontier that remains unconquered, an America unclaimed. That is the great nationwide frontier of insecurity, of human want and fear. This is the frontier, the America we have set ourselves to reclaim."

At the time that he said that, a majority of aging citizens were faced with either working until they dropped or living in poverty as they got older or as ill health set in. But Franklin Delano Roosevelt and his thirst set about doing something about it: Social Security. Eisenhower later on added disability to that, and the Johnson years saw Medicare and Medicaid. All along the way, corporate America actually helped, with Jacob Hacker constructing what they called "structures of security." They guaranteed pensions, generous health care benefits, and generous life insurance.

So we had all of America working together. This was an effort where together America did better. We were protected from what FDR called "the hazards and vicissitudes of modern industrial life." Together, we shielded families and we covered them from uncertainty and fear.

Now that is all settling back in. If you look around and talk to any family, as my colleague has done, talk to families and again that uncertainty and that fear of the future is there for them. Corporate America no longer seems to want to participate. They are taking away health benefits; they are taking away pensions. They do not want to honor the pensions. And my colleague and I both know that people worked for those pensions. It was not something that was just given to them. They gave up extra salary on the promise that the company would set aside that money to build a pension fund or a health care fund for their retirement, for the future. They earned those benefits. They struck a bargain, and now that bargain is being broken.

We are watching as company after company cut back on health benefits, jettison pension obligations, and usually through the side door of bankruptcy. The gentleman mentioned what happened with United. They are not just going to toss them out. They go into a bankruptcy court, and they convince the court that they have to cut loose on those pension funds in order to regroup and come back out of bankruptcy at some point as a healthy company.

But the CEOs do not get hurt. The CEOs and other management people walk out with golden parachutes worth millions of dollars, leaving very little for the people that put their blood and sweat into building that company in the first place and building the value of that stock. We hear the obligatory regrets, we see the handwringing, and we are told there was nothing else to be done.

But we know that is not the case. Most did not exhaust all the avenues to finance a continuation of those pension funds, and my colleague pointed out a number of occasions like that. Most of these companies did not even work with the Pension Benefit Guaranty Corporation to look at the numerous number of financial vehicles that are out there that could have been used or at least considered to try to keep these plans healthy so that all these employees could have gotten more than they got when they were brought up at the bankruptcy and ignominiously dropped off and dumped.

Shareholders, new shareholders and new owners come out of bankruptcy and find a profitable company and make millions. But people who lost their pensions end up on the short end of it and their livelihoods are getting killed in this process. Companies did not honor their promises. They did not set enough funds aside. They used tricky accounting, unscrupulously applied by management, management obviously more involved with the bottom line and sometimes their own benefits and their own retirement programs than they were with the human needs of all those people that worked so hard to make that company successful.

Whole industries are now parroting what United did. We are watching the airline industry one after the other marching into the bankruptcy courts and saying, hey, this is not so bad. We can dump off our obligation and hurt all these employees, but we might save the company against other creditors. Under this Republican leadership in Congress, we have done nothing about that. We really have not looked at it and have not tried to deal with this problem. We have done way too little.

We have done a little. After 2 years of badgering from the Democratic side of the aisle, we are looking to try to shore up that Pension Benefit Guaranty Corporation, increasing the fees somewhat, making it more expensive to withdraw. But it is late, and it may or may not be all we need to do to make sure that that works. We have to tighten the rules to make sure we have the proper valuing system going on and to discourage people from dumping the funds.

We also have to set some parity. Maybe the surest way to make sure people get treated fairly is a bill my colleague has proposed to make sure that CEOs and other executives do not get treated much, much better than the employees; that they do not get to dump the employees off while saving themselves. If we had parity, where what is good for the goose is good for the gander, we would not be watching that happen.

We have to create more transparency. This is anther issue we have brought up time and time again. We ought to know ahead of time what the true status of these funds is. It is not enough to, well, say we cannot tell the public because sometimes on paper it looks worse than it is and they will panic. We are talking about adults here. We are talking about people trying to plan their future. And if we let them know what state that pension is in early enough in time, we can get the company and apply enough pressure to maybe correct that situation. That is good for all stakeholders, employees, shareholders, customers, and everybody right down the line.

We should require that the Pension Benefit Guaranty Corporation and companies try to work these things out before they go to bankruptcy. It ought to be a requirement that they use every single measure available and consider all alternatives and only go in as a last resort.

□ 1645

And we had better find a way to protect workers' pensions if they do go into bankruptcy. What is the explanation why people who have invested over the course of 15, 20, 30 years of work do not have their rights protected as a creditor, yet someone who might have given a loan to the company in the last 6 months gets credited as a preferred creditor and gets supported.

Whose rights are more important and who has a better claim to the assets of that company than the employees who made it what it is?

Finally, the Pension Benefit Guaranty Corporation was not designed to have whole industries fall apart. It was designed that if an occasional company went under, it would be able to shore up and at least give those employees some portion of their retirement benefits so they would not lose everything. But now what we are seeing is other people following the lead of United, whether it is Delphi, United, other airlines, we stand the prospect of having whole industries jumping on the Pension Benefit Guaranty Corporation as an insurer and they are totally underfunded for that kind of a situation.

We need to look at that and say, is there something that we should set up, another source of funds, whether it is a ticket fee or something else, something that we can set aside so that industry going down does not take on the whole Pension Benefit Guaranty Corporation and all corporations and put all those employees at risk.

More broadly, I think we need some leadership here in Congress on this issue. If corporations are not going to do anything about it, what are we going to do? What are we going to put in place for structures of security for the American people? What is our plan to make sure that something is there for people?

People do not save enough. History shows us that. If corporations are going to take their money over a number of years and not hold their promise, what are we going to do as a society to make sure there is some security for people when they retire and can no longer work because of their age or because of their health?

We need 21st century structures of security here. Democrats have been talking about this. We want to do something about it. We have ideas and we are open to a lot of other ideas. We cannot get the conversation started. We are going to keep at it.

Mr. GEORGE MILLER of California. Mr. Speaker, the gentleman points out that this raid is taking place on pensions. The President, in the middle of the Enron debacle said what is good from the captain is good for the crew, and then we have heard nothing from the President again. The President has done nothing to shore up the existing system that is under threat. And in the middle of that, what does the President do? He attacks the Social Security plan, which is the single largest source of pension benefits for these very same people.

So while he lets the corporations dump pension benefits into bankruptcy, lets corporations dump them into the Pension Benefit Guaranty Corporation, which costs the pensioners billions and billions in dollars of pension benefits, then at the same time he conducts a raid on Social Security by trying to create some private accounts that adds trillions of dollars in new debt to Social Security.

So now what you have is the poor American worker, whether it is their private savings, whether it is their employer pension plan or Social Security, it is all under threat. It is all under threat. The tragedy is that, given what is going on in the private sector with the manipulation of pension plans, with the uncertainty about the future of pension plans, with corporations fully prepared to just throw them into bankruptcy, Social Security is emerging as the most secure retirement system in the Nation. There is not a single corporation, not Delphi, not General Motors, not AT&T, not Lucent, not Kodak, not Microsoft, that can look you in the eye and tell you, 75 years from now 85 percent of your benefits will be there and they will be there like clockwork. Social Security can, and that is the one they have targeted for extinction.

Their proposal is to leave the worker in this country, the employee who has struggled for the success of the companies that they work for, to leave them with nowhere to turn. All you have to do is just go out into any public gathering and you will start to get feedback from people who are telling you about how nervous they are about their retirement benefits and how much they have counted on them, and now they do not know if they are going to be there or not. They are uncertain and they have no ability to plan.

We have a plan, and that plan is, just as we did with employer and employee contributions to pension plans, just as we did to employer and employee contributions to Social Security, the idea is if we work together as a society, we can bond together and provide these resources so people will have decent retirements.

Because we went through many generations in this country where people's retirement was only about poverty. But because of Social Security, because of Medicare, we have lifted millions and millions of Americans out of poverty to have a decent retirement plan. They have contributed with their personal savings and their employers have contributed with their employee pension plans. Now all of that appears to be at risk.

This Congress must step in and start to deal with this problem because the economic livelihood of millions of American families and individuals is at stake here and the system we have now was designed when few companies went out of business.

Today, these companies understand that you simply take all of your liabilities, you dump them on the taxpayer, and this is what Bethlehem Steel did, you get rid of those liabilities, and then the company continues on. We absorbed billions of dollars in liability from the steelworkers. Mr. Ross got all of the steel companies together, and then he sold them to Mitel, the Indian steel company, and they are off and running as part of one of the largest steel companies in the world. Thank you, American taxpayer, and thank you the steelworkers who lost a big chunk of their pension plans. They subsidized that activity.

Mr. Speaker, that cannot be allowed to continue. I thank the gentleman for joining me here today.

Mr. TIERNEY. Mr. Speaker, there are simple things that we should do just to get started. If we change the default on 401(k) plans so they default into them as opposed to they have to take an affirmative action in order to sign up for them, all of the reports show that would increase savings in this country or at least put a hedge on that.

If we allowed people to bifurcate their tax returns, so instead of one check sent back or put towards next year's taxes, workers could actually have some set aside for a 401(k), reports show it would increase savings.

We cannot get our colleagues on the other side of the aisle to join us in doing a simple first step. This is a serious matter. They talk about the ownership policy of the President. But basically it is every man, woman and child for themselves. They are not going to tax the estates of dead people, not going to tax dividends, but are going to tax every ounce of work that causes sweat on your brow, not have companies live up to their promises with respect to your pensions, let companies take away the health care that they promised when you retire.

Mr. Speaker, as a government, we are about much, much more. This is a country that has always had a mixed economy. This is a country that has always relied on having a free market and that was always invigorated by a rigorous public square, public policy that worked for everybody; and corporations and individuals and government leaders worked together to find solutions.

We are ready to do that. If the other side does not want to do that, then step aside and let us go because this is a serious matter for families across the country. They are rightfully worried about this.

Mr. GEORGE MILLER of California. The fact of the matter is, as pointed out in these articles, people no longer having pensions or people being in for a nasty surprise, the fact of the matter is, for 5 years the Bush administration, the Republican Congress, have simply stood back as the American middle class standard of living for retirees is dismantled, it is threatened, is devastated, however Members want to describe it. That is what they have done.

They have suggested this is okay because you can ask Secretary Chao until the cows come home anything about it, she cannot answer a single question, expresses no concern, could provide no information about the pension bill. The Pension Benefit Guaranty Corporation refused to provide us the information before we voted. After we voted, they said, You made the problem worse. And from the Congressional Budget Office, You made the problem worse.

So I guess that the policy of the Republican Congress and the Bush administration is that millions of Americans will lose their hold on the middle class the moment they retire. The moment they retire, they will lose their hold.

We have tried to encourage a younger generation to save, to provide for their retirement. We cannot get a hearing on things that would dramatically change, if not these retirees' livelihoods, it would certainly change the livelihood for younger workers in this country. It is a sad day that we do not do this.

Tragically, there are going to be millions more cover stories like this as millions of Americans lose access to the retirement they were planning for for the care of themselves, their families, and their children.

NATURAL GAS

The SPEAKER pro tempore (Mr. FORTENBERRY). Under the Speaker's announced policy of January 4, 2005, the gentleman from Pennsylvania (Mr. PETERSON) is recognized for 60 minutes.

Mr. PETERSON of Pennsylvania. Mr. Speaker, I rise today to talk about what I think is really the issue of the day, and that is energy. Energy runs this country. Energy is what we use to get to work. Energy is what we use to run our homes. Energy is what we use to manufacture and process things.

Yes, it all started 5 miles from where I live many years ago when Drake Well discovered oil. That is about 150 years ago. Energy then became the major component of the industrial revolution in this country and the world, and oil was king. Oil still plays a major role. I am not so sure it is king, but Drake Well was the beginning.

Then we got into the World War I and World War II era, and coal was king. America is probably the Saudi Arabia of coal. We have coal in the West and coal in the East. The eastern part of the country furnished both soft and hard coal that fueled the Industrial Revolution.

In recent years, we have had a shift from coal to natural gas. Now natural gas has always played a role. The major share of American homes are heated with natural gas. The majority of small businesses are heated with natural gas. Natural gas plays a huge role in manufacturing. I think that is the one that is least understood.

This morning we had a hearing held by a group of American employers who employ millions of Americans. It was the American Chemical Association, American Forest and Paper Products Association, the National Association of Manufacturers, and 13 other agencies, Agriculture Energy Alliance, American Plastics Council. It goes on and on, rubber manufacturers, Fertilizer Institute. All of these people today had one message for Congress: Solve the natural gas problem that is forcing us out of business.

The use of natural gas has been skyrocketing. I can show Members a chart that shows it. The red is the growing use of natural gas. We are right about at this point here, and it is only going to get worse because we have expanded the use of natural gas in this country, particularly for the generation of electricity. One-fourth of our natural gas now generates electricity, and that figure continues to grow.

We now have an inadequate supply because as we have simultaneously increased the use of natural gas, we simultaneously locked up the major areas of this country that are rich in natural gas.

We only have about 3 percent of the world's oil at our access, and we import about 60 percent of our oil. That is a path we cannot follow. We need to be veering from the use of oil everywhere we can because it is not that we are buying it from friends at a fair price.

Just a few years ago, natural gas was less than $2 a thousand and oil was $10 a barrel. That went on for decades and that prevented other types of energy from competing because those prices were so cheap that we just became complacent as a country, not realizing that somewhere down the road, the price of these energy fuels could really be harmful to this country. Well, we are there today.

We recently passed an energy bill that does a lot of things for the future. It does a lot of things for wind and solar and biomass and ethanol and the list goes on and on, hydrogen fuel cells, but they are all long term. There are incentives in that bill for promoting it.

□ 1700

But it did little to promote natural gas. There were a couple of incentives for deep drilling, but in my view, natural gas is the crisis of the day.

We have heard an awful lot on television about gasoline prices. Every newscast for weeks talked about the highest gasoline prices in history, and at one point after Katrina we were over $3, $3.25, unheard-of prices, and they have settled down now about a buck now. They are $2-something or $2.30 or $2.25, depending on where one lives, but they had come back down.

At one point gasoline prices had doubled over a 5-year period, and that was all the news. But at the same time natural gas prices had increased 700 percent. That is seven times, and there was just little discussion of that.

There has been little warning for the American public that heating their homes was going to be so expensive this year. There was little warning to our businesses who use natural gas as heat, who use it to melt, smelt, bend products, use it as an ingredient to making products.

I think one of the things that was pointed out today was that 96 percent of things produced in some way use natural gas as an ingredient or as a heat to make them. So it is entwined in our whole manufacturing and production base that it really is the fuel that depends on where America goes. And the tragedy of natural gas prices when they have increased 700 percent is, we are the only country where that has happened.

We are in a competitive world. We compete with the whole world in this global economy. And when we paid $65 and almost $70 for oil, all our competitors, all of the rest of the world, paid that high price. So it was painful, but it was equally painful to our competitors.

Now, in natural gas, that is not the case. In natural gas, while we were paying $14.50, now about $11.50 or $12, but when we were paying $14.50, we were the only country in the world paying that. Canada was less. In Europe it is about half of what we pay for natural gas. And our big competitors like China, Japan, Taiwan, who manufacture a lot of products we buy in our stores, they are buying natural gas for a third of what we do. The rest of the world it is less than $2, and countries like North Africa and Russia are less than $1.

So there is a huge cost differential for manufacturers and processors and people heating their homes in this country than the rest of the world, and that puts us at a huge disadvantage. And currently our schools and our hospitals and our YMCAs and YWCAs and our churches and colleges and universities and small businesses are buying gas at twice the price they paid last year, and most of them are purchasing on contract because they saved money on a contract basis in years in the past, but now it is costing them.

And big producers, industries that are threatened, are the ones that met here today and talked to Congress saying, please do something to open up the supply of natural gas because the only thing that will make a difference on price is supply. So the steel companies and the aluminum countries and the brass makers and the petrochemical and the polymers and the plastics and the fertilizers, they all were pleading with Congress today in their hearing to open up supply, give us the chance to get fair prices for natural gas so we can compete.

Mr. Speaker, this is an issue that we must deal with. If Congress does not step up to the plate and open up supply of natural gas, we will say good-bye to a million or more of the best manufacturing and processing jobs left in America.

We have lost a lot of jobs in America to cheap labor and for lack of modern technology. But this is a crisis caused by government, caused by Congress, caused by the last three administrations who had Presidential moratoriums on natural gas production on the Outer Continental Shelf, and locked up millions of acres in the West also that are rich areas for natural gas and, at the same time, urged those who were producing electricity from coal to switch to natural gas.

Florida is one of the States that have switched, and now 75 to 80 percent of their electricity is produced by natural gas. California is another big coastal State that is a huge consumer of natural gas. And yet both of those States have been fighting tooth and nail that we must not open up the Outer Continental Shelf for production. They claim that it will destroy their beaches, it will destroy their tourism.

Mr. Speaker, there is no evidence to prove that. There just absolutely is no evidence. I have asked at every forum for months, Show me a natural gas production well that has polluted a beach.

Now, I believe that we should do it offshore far enough that it is not visible, so it is not something that people have to look at. And I love to go to the beaches. I love the beaches as much as anybody, and I want them to be clean and pristine and nice and full of fish. And the proof is that in the parts of the ocean where we produce both gas and oil, fishing is very good. It has not been a detriment to aquatic life. In fact, the least imprint by those who know this issue best, and I am not speaking about big companies, I am speaking about scientists who know this issue best, the least imprint for energy production is when they get 20 miles offshore. Nobody sees it. Nobody knows it is there. The distribution lines are all underground.

One might say, how can I prove that? Well, it is interesting. Canada is known as a very green, sensitive country. They produce offshore on both coasts. Great Britain, Denmark, New Zealand, Australia, Norway, Sweden, all environmentally sensitive countries who produce huge amounts of natural gas and oil on their Outer Continental Shelves.

What is the Outer Continental Shelf? The Outer Continental Shelf is the first 200 miles offshore. The first 3 miles are controlled by the States under current law, and the next 197 miles are controlled by the Federal Government.

Some years ago, the Congress, about 25 years ago, started passing language in every Interior bill that said the Department of Interior could not spend dollars to lease land for oil and gas on the Outer Continental Shelf. So that has effectively locked it up. And then we have had three Presidents in a row who have a Presidential moratorium that we could not lease out land for production on the Outer Continental Shelf.

So here where, in the land of plenty with natural gas to spare, we currently produce 84 percent of our natural gas, we import 14 percent from Canada, and we import 2 percent in liquefied natural gas, which can come from anywhere in the world. It is a very difficult process. We have to have the largest ships known to man. We have to have very controversial ports where we bring it and turn it back into gas after we have liquefied it.

And I am not saying that is inappropriate, but it is not the answer to the looming shortage of natural gas that is going to be around for the next 15 to 20 years because every projection I have looked at shows the need for natural gas growing much faster than the ability to produce it.

We are actually drilling twice as many oil wells today as we historically did, and yet we are not producing a lot more natural gas. And the reason for that is, for the bulk of it, we are producing most of those wells in old, tired fields that we have been producing out of for decades and the bloom is off. The flush wells are gone, and the wells we drill do not last as long and have not held up. So as we continue to add and add wells to production, we are just not gaining. We are just not closing the gap. We are increasing the shortfall. And we realize that just in the short span of time we went from gas that was less than $2 to just a couple of weeks ago we had gas at $14.50, prices the industry never dreamed possible.

We had had the highest gas prices this summer. They were running $6.50 and $7 and then $7 and $8 and were edging up towards $9, and everybody was just stunned because last year the average price in the summer was $5.30. The year before that was about $4.50. The year before that they were about 3-something.

This was summer prices when gas was the cheapest, and that is when we normally put about 20 percent of our gas underground in storage caverns so that we have enough supply in the winter when it gets very cold and we use huge amounts of natural gas, one, to run our industries, and, two, to heat our homes and our churches and our businesses.

Well, the summer prices have shown us a tremendous increase, from less than $2 to 3-something, to 4-something to 5-something, and then this year we were running at $7, $8, and sometimes more than $8 when Katrina hit. And then we went up to $14; we doubled. It shows us the sensitivity.

A lot of people ask, how do we bring prices down? We increase supply. When we increase supply, the market comes down. But we cannot increase supply if we do not open up drilling. And it is interesting that some people just have a real problem with the "drill" word, but a gas well is not something to fear. It is a 6-inch hole in the ground with a steel pipe. They cement the bottom. They cement the top, and they let gas out. Gas comes out under its own pressure into a collection system where it is cleaned and impurities are taken out; and then it comes to our homes, and we just turn on our gas burner and cook our meals. We turn on the gas burner and heat our homes. Industry uses it in so many ways.

I vividly remember in the late 1970s and early 1980s, I was a retail supermarket operator, and we had high gas prices then, high oil prices then, and we had three extremely cold winters, the coldest we had had on record for a long time. And during that period of time, in the retail supermarket, it was always difficult to make a profit in January and February and sometimes March. Then when warm weather came and winter costs left, we then came back to where we made a profit.

Well, I remember those years because people spent so much money to travel because of oil prices being high and spent so much to heat their homes because of gas prices that by spring they had backed up and owed their gas company and owed energy bills, and they were clear into April, May, and almost June before they had those paid off to where they were shopping normally.

And 60-some percent of the economy in this country is people shopping. About 60 percent of Americans spend every dollar they make from payday to payday, and when they spend a huge amount more for travel, like they have this year, and this winter they will spend a lot more than usual, in some places double, for heating their homes, there is going to be a lot less spendable income.

The poorest among us, the young couples and the seniors among us who are trying to stay in their homes are going to be the ones who pay the severe price. The upper middle class will feel pain, but they will not be endangered.

I believe, with the energy prices this year, we are going to see seniors who cannot adequately heat their homes. I already hear of churches who are talking of not using the sanctuary, only meeting in the basement. That is not the kind of society I think we want, and it is not one we should have.

The current prices of natural gas are only abnormally high because Congress has failed to act. The Presidents have failed to lift the moratoriums on the Outer Continental Shelf. Eighty-five percent of our coastline, we get 40 percent of our energy in this country from just a small portion of the gulf under the States of Texas, Louisiana, Mississippi, and a little bit of Alabama. That is the only place we produce on the OCS in great quantities. There are a few places on the West Coast, but not many, that we produce a little bit of energy, that were there existing.

But the moratoriums have locked up everything. And like I said earlier, we are the only country who has done that, and it makes no sense.

Natural gas production is not a threat to our coastlines. It is not a threat to tourism. In fact, I think States like Florida and California who receive most of their electricity that has been produced by natural gas, when those long-term contracts end, they are going to have huge increases in electric costs because they make their electricity from natural gas.

And many of those big companies have long-term contracts. The long-term contracts in my district that have been coming due, people are switching from $6 gas to $14 gas. I have had companies that even had to purchase $16 gas. Those are unheard-of prices, unthought-of prices.

Monday I was at a celebration of a new lime kiln plant that is in my district, for a company, Graymont, a good company that spent $60 million to bring in a new kiln to make lime. I said to them right away, "What energy do you use to make the lime?" Because they have to heat it to 2,400 degrees. That is hot.

They said, "We use coal here. We are fortunate." But they said, "We have lime kiln plants that use natural gas."

I said, "What are you are doing there?"

They said, "They are shut down."

We are going to find that people who make bricks, people who dry products, people who cook products, there are going to be companies that curtail production. Some are going to stop production.

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Why? Because they cannot pay the current natural gas prices and sell those products in a marketplace where they are competing with people in other countries where natural gas prices are a fraction of what they are here.

We have to realize we are not an island to ourselves. Unfortunately, there have been a lot of reasons besides cheap labor that companies have chosen to produce overseas in other countries. Some are the legal issues because of the multitude of lawsuits in this country that we have inadequately curtailed, and we are the most lawsuit-happy country in the world, and multimillion-dollar lawsuits that cause companies to lose their profitability and go out of business and leave this country have been one of the reasons we have lost a lot of jobs overseas.

Cheap labor. I have always said companies who use the newest, most modern technology can compete; but, unfortunately, we have a lot of companies who did not modernize their technology and are still very labor intensive, and they got to where they could not compete, and so they went overseas. But there is no reason that this country should lose one job, let alone a million jobs, and we could lose a million jobs, because of energy prices, because we have huge reserves on our Outer Continental Shelf. We have huge reserves in the Midwest; not as easily accessible to our coastlines where our populations are, but the Outer Continental Shelf is very accessible.

I guess the tragedy is there is a piece in the gulf called Tract 181. It was not under moratorium, as the rest of our Outer Continental Shelf was; it just was not leased. It was there, ready to be leased. The Clinton administration had it listed to be leased. It was delisted for some reason. It is not in the current 5-year plan. There is movement to move it into the 5-year plan. I support that, but that is not enough. But that tract alone is the most quickly available to American consumers, because it is right next to where we produce gas and oil today; and the wells, as they would be produced, would be immediately hooked into the system that is there. The timely thing would be the process of leasing, and then all the paperwork and red tape companies have to go through to get those leases enacted and get the permits to drill the wells and located; and that would take maybe a year or a year and a half. But within 18 months, we could be producing out of that portion of the gulf that is called Tract 181, and I have yet to hear that anybody has a good reason why we have not opened up that tract.

We know we have had protests from Florida. It is not their land. They should not have anything to say about it, in my view, except right at the top where it is close to the panhandle. They are currently talking about slicing that corner off and leasing about 70 percent of it, but we have to pass legislation to do that. Congress has to act. We have not acted. But, in my view, that is not enough. We have to open up the Outer Continental Shelf.

Now, I have a bill that is cosponsored with Mr. ABERCROMBIE from Hawaii, and he has helped me champion this bill. It would open up the Outer Continental Shelf all around this country, the 85 percent that is locked up. It would increase the States rights area from 3 miles to 20 miles. Now, that guarantees that no one would ever see a rig, no one would ever see the production platforms because, after 12 miles, even on a clear day, you cannot see them. They are out of sight. They are just not visible.

Also, I am still waiting for someone to show me a natural gas-producing well that has caused pollution. Natural gas is a gas. In fact, the famous triangle down in the gulf had eruptions of natural gas that actually took planes out of the air. It was actually a crack that opened up a fissure in the ocean floor that allowed huge amounts of natural gas to escape into the atmosphere in a way that anybody who was in that area was endangered, and the ocean would just bubble because natural gas was coming up.

Natural gas is everywhere underground. It is in lakes, in ponds, in our ocean floor. Natural gas normally seeps up and comes up as bubbles in the water, not harmful to our atmosphere, not harmful to our environment. Natural gas is the clean fuel. It is the one with no No_X, no So_X. If you are worried about CO_2, only one-fourth of the CO_2 comes from natural gas of all the other fossil fuels. It is almost the perfect fuel.

I think the thing that many of us do not realize that was stated today in the news conference by all the production companies, and I have a picture here of everything from tires to cars to plastic objects, to paint, to makeup, face creams, skin softeners, shampoos, all are made from products developed out of natural gas. It is just a wonderful product that God has given us to use, and it is readily available.

This country has no shortage of natural gas. We have a shortage because government has chosen not to allow us to harvest the rich bounty that is out there. We should be using natural gas as the bridge to the future. My vision is that if natural gas were more affordable, we could do like a college in my district that is now paying a premium that is using natural gas to power their bus fleet. All the buses there, many buses in cities in California use natural gas. Here in Washington, D.C. some of the buses use natural gas.

Now, today, that is costing them more than if they were burning diesel; but we all know that diesel does not burn clean like natural gas; and for our cities, it would be environmentally advantageous to have all of our buses, all of our school buses, our transit systems, all of our taxi cabs, all of our short-haul vehicles, short delivery trucks, our air-conditioning and all the repair people that are out on the road and go home every night, they could all be powered with natural gas with a very inexpensive changeover.

A gasoline engine can be altered to burn natural gas. The only problem with natural gas is storing enough of it so that you can do long-distance hauls. So all of our short-haul vehicles, all of our construction vehicles, all of our little engines that are running around in our airports, they could all be on natural gas; and we would benefit by clean air, we would save money if the prices were right. We could lessen our need for oil, foreign oil, from unstable parts of the world at prices set by cartels, groups who want to control us.

There is no reason, there is no good argument why natural gas today, the price of it has become a barrier, but it should be the bridge. The first hydrogen vehicles have been run with natural gas as the fuel to make the hydrogen. Later that will change, but that is currently the easiest way to make hydrogen. So natural gas just feeds into our lives in so many ways, and it is so readily available in this country.

The tragedy is that this country could lose a million or two jobs, because if we do not do something soon to open up supply, one fact that I can give you today is that there are 120 chemical plants, and these chemical plants are very capital intensive. That is one of the reasons they have not moved as quickly as they might have, because there are 120 plants at a cost of $1 billion each that are under construction in the world today. Mr. Speaker, 119 of them are in other countries.

That shows us that the chemical plants of the future, and we are the leader today in making chemicals. We will not be the leader down the road. With these natural gas prices, we are forcing chemical plants to leave. We have already lost over 40 percent of our fertilizer industry because nitrogen fertilizer, between 70 and 80 percent of the cost of making it is natural gas, polymers and plastics; and we use plastics and polymers in every part of our lives. We cannot buy anything that does not have plastic on it, in it, or a part of it. Again, they use an ingredient of natural gas and they use natural gas to melt it and bend it and shape it.

The problem is, as I said earlier, the parts of the world that we compete with, such as Europe, half our price. Dow Chemical a few years ago moved 200 jobs to Germany, not a cheap labor market, a very sophisticated workforce there, a very capable country with technology; Japan, Taiwan and China, a third of our price. And then the rest of the world, under $2 in countries like Africa, and Russia, less than $1.

Mr. Speaker, it is imperative that this country step up to the plate. If we do not wait any longer, if we do not wait months and years, if we let the employers of this country, we let the producers of this country, the manufacturers of this country know that this Congress is serious about increasing the supply of natural gas, the price will come down. The capital investment is huge. They do not want to build new plants if they do not have to; they do not want to move if they do not have to.

But if we continue to not open up the Outer Continental Shelf, it is my prediction that we will lose a million or more jobs in just a few years ahead. To prevent that, we have to open up some in the Midwest. We have to open up the Outer Continental Shelf, and we have to follow the lead of environmentally sensitive countries like Canada, the United Kingdom, Belgium, Norway, Sweden, Denmark, New Zealand, Australia who produce out there every, every day.

Now, why have we not done this? Well, there is really a couple of States and a couple of Governors who have been steadfast opponents, California and Florida. They have argued vociferously that we must not do this. For some reason, they have been convinced that their beautiful coastlines will be ruined and that their tourism business, which is huge, will be ruined. Folks, there are no facts to prove that. There is no evidence to prove that. Those are just outrageous, outlandish statements that continue to be made and believed by many, but not true.

I have asked repeatedly, come and debate me on how we will destroy our shorelines, how we will destroy our beaches by the production of natural gas offshore in the Outer Continental Shelf. That first 200 miles, from 20 miles to 200, that is 180 miles of the Outer Continental Shelf that we would open up. The Peterson-Abercrombie plan, as I mentioned earlier, we will remove the moratorium on all of our shorelines for natural gas only, giving the States 20 miles to protect, and then from 20 to 200, we will produce. Then we will allow States to opt out for oil if they choose to, and they would also be rewarded for a portion of the royalty.

This is on behalf of homeowners, businesses, employers, churches, schools that we need to do this. Florida, for one State, utilizes 233 percent more natural gas than they produce, and they are surrounded by the richest natural gas reserves anywhere in America. I think that is unfair. I think as a State, they need to step up on the plate. They need to produce their fair share. Or they need to curtail their use.

I remember just a few years ago when they were producing most of their electricity from coal. They have recently shifted, at the suggestion of the Federal Government, to natural gas production. Now their electricity is produced by natural gas, and I think, if you are going to be the biggest utilizers per capita of natural gas, and you sit in one of the richest areas of the world, you have to come in and help solve this problem.

Because, Mr. Speaker, Florida and California are rich in tourism. Many of us love to go there and enjoy their beautiful beaches and enjoy their warm weather in the wintertime. But most of the people that I meet there are pretty successful. And as we lose the success in the northern parts of this country, as we lose the ability to manufacture and make products, as we lose those wonderful jobs that people can afford, nice homes, educate their children, have a nice vehicle, have a pension, those are the jobs that are produced by all of these industries that are being challenged by natural gas prices.

And as we lose those, the number of customers, the number of people, I was a retailer for 26 years and I always speak of customers, those who will come to warm places like Florida and California to spend their vacation dollars will not have the money to do that. So they will lose in the end, and the cost of electricity there will skyrocket when new contracts come in if these gas prices persist. They will pay horrendous prices.

In fact, it is interesting, I have a letter here from the association, though the governments of Florida and California protest vociferously, the Associated Industries of Florida, and some said to minimize that that this was just a small organization. Well, it has 10,000 members of all kinds of businesses and industry, from mom and pops to large companies in Florida.

□ 1730

And it says we appreciate the reviewing of all the current OCS areas, including the areas that have, until now, been off limits due to the moratorium, which included the Atlantic, Pacific and eastern Gulf of Mexico region. Research documents that these areas hold substantial undiscovered, but technically recoverable energy resources that will be absolutely critical to America's national security and to the continued growth of our economy and to securing jobs for virtually every sector of our economy.

If America does not look to expanding exploration, this is Florida businesses speaking, drilling in those OCS areas, then America will unnecessarily pay a high price and incur a heavy burden.

The U.S. Energy Information Administration forecasts that by 2025 petroleum demand will increase by 39 percent and natural gas demand, by 34 percent. Higher energy prices have exacted a toll on our economy by slowing our growth already. Natural gas costs for the chemical industry in America have increased by $10 billion since 2003.

Of 120 chemical plants being built around the world with price tags of $1 billion or more each, only one is being built in the United States. As a result, Associated Industries of Florida recommends to the MNS, Mineral Management Agency, that expanded leases and sales are important to our country, to our citizens and to our way of life.

To not utilize our available energy resources when it can be accomplished in an environmentally sensitive way would be a disservice to our country. We need to ensure that we have a brighter future by adopting the OCS leasing program.

Now tomorrow I will be a part of a natural gas hearing that will be held by the Interior Committee and the Energy and Water Committee of Appropriations, and in those hearings we will bring in the users of natural gas and we will hear from them; and here is some testimony that I think will probably be there from the Illinois Farm Bureau.

"Whether it is gasoline, diesel, electricity or natural gas, farmers and ranchers must have access to reliable and affordable energy inputs. Unfortunately, our country's existing energy policies make it increasingly difficult for all of us to produce food and fiber for the United States and the world while providing for our own families. Based on USDA data, the American Farm Bureau estimates that increased energy input prices during the 2003 and 2004 growing season cost U.S. agriculture $6 billion in added expenses."

That comes right out of the farmers' profits. And we know farmers do not get rich. Farmers work hard to produce the milk and the grain and the food that we feed our families. Based on USDA data, "the 2005 growing season has been especially dismal from a business cost perspective for agriculture. Higher energy costs, and specifically natural gas costs, have come at a time when commodity prices are extremely depressed."

So on top of high energy prices they have had low commodity prices, so they have not gotten a good price for their products.

Natural gas is critically important to agriculture, because it is used both directly and indirectly in nearly every aspect of farm operations."

Here we go, natural gas used again and again.

"Natural gas is used to produce nitrogen fertilizers and farm chemicals as well as electricity for lighting and irrigation. Natural gas and LP gas are also used in agriculture to dry grain as well as heat barns and confined facilities of livestock and poultry operations. Needless to say, it is vitally important that U.S. agriculture and associated industries have access to affordable supplies of natural gas."

Then they go on to say, "There are several reasons why the price of natural gas has skyrocketed. First, our national energy policy has discouraged domestic exploration." It is actually prohibited, not just discouraged; it is prohibited, recovery of oil and natural gas, which has made us more dependent on foreign energy sources. "Second, many power plants have been forced to use natural gas for generating electricity in order to comply with environmental regulation, even though we have huge reserves of coal and the technology for its safe, clean use. The Energy Information Administration estimates demand for natural gas will increase 54 percent by 2025, with electric power generation accounting for 33 percent of that consumption."

In closing, this is what the farm community said:

"The 'perfect storm,' the combination of significantly higher energy and fertilizer cost, coupled with falling grain prices, spells serious trouble for rural America. For this reason, it is our hope Congress will act soon to further address the energy needs of our Nation and find solutions for this natural gas problem we face."

It was interesting, my staff was contacted by a Florida paper recently that said, Why is your boss so persistent on this issue? Why does he not just say his piece and go away? They said, We checked it out, and he is not highly financially supported by the oil industry or the natural gas industry, and so why is he doing this? And I guess I was a little disappointed in that, that we would only do something because somebody supported us.

And my answer to that newspaper is, I am speaking on behalf of the citizens in my district and all of rural America and all of America for affordable energy prices to heat our homes, for affordable energy prices to conduct our businesses and our churches and our Ys and our hospitals because that is what makes it tick.

And these energy prices are going to put a kink in every budget in America, from homeowners to hospitals to retailers to education; they are all going to pay a significantly higher price. And our service agencies that are out there helping people, volunteering for people, their heating bills are going to be doubling this year, and that is going to take money away from the ability to help people.

An interesting thing, going back to chemicals, which people just do not realize. Chemicals and plastics are used in 96 percent of all U.S. manufactured goods including computers, cars, clothing and more. Since 1998, the chemical industry has warned repeatedly that the U.S. is facing a natural gas crisis. And what have we done about it?

I have been talking to the chemical companies for 5 years. They came to my office. They do not reside near me; they are not in my district. And I said to them, Why did you come to me? This was 3, 4 years ago. And they said, Well, someone said you were interested in the natural gas issue and you were stating that you saw natural gas as a problem.

And I did many years ago. I attended breakfasts put on by the Edison Institute for Electricity. They kept showing this huge amount of natural gas that was going to be consumed for a 12-to-15-year period to make electricity until something else could take its place.

And then I went to a breakfast briefing in the Senate and the speaker was Daniel Yergin, who wrote the book "The Prize" on oil, and he stated that this huge use and commitment of natural gas for electric generation, if it was not coupled with the opening up of reserves in this country in places we have not been allowed to drill, it would cause an escalation of prices. It would take a few years. And folks were here.

I did not expect gas to be $14.50 this year. Many of us on the committee were talking that, you know, as it was $7, $8 and bumping around $9, approaching the fall that we would probably see $10 or $11 gas this winter. Well, when Katrina came and shut off some supply, we were clear up to $14.50, an unheard-of price, from $2 to $14.50.

If milk was that kind of an increase, we would have $28-a-gallon milk. Would we not be dealing with that? I think we would.

As I said earlier here, since 1998, the chemical industry has warned repeatedly that the U.S. is facing a natural gas crisis. Now the impact is being felt by all Americans. With winter fast approaching, the government warns that home owners who rely on natural gas for heat, about 52 percent of the Nation's households can expect at a minimum a 48 percent increase, and in some parts of the country, a 70 to 80 percent increase.

We, in industry, have been feeling the pressure of high-priced natural gas for years and have done everything we could to remain globally competitive. For example, Dow has improved its own energy efficiency by 42 percent in the last 15 years. Since 2002, we have raised product prices more than 50 percent, shut down 23 inefficient plants in North America and shifted some production overseas to regions of the world where energy prices are lower. So there is no doubt that our company and our industry will continue to grow and thrive. It is simply a question of where.

Now, I do not know how clear they have to say it before this Congress decides to do something about it. We have been warned by industry after industry after industry that these current natural gas prices will prohibit them from being profitable and competitive in this country; and if that is not a clear message, I do not know what it is.

I urge my colleagues, I urge this administration, I urge the States of Florida and California to become a part of the solution to get away from the old rhetoric that natural gas is a dirty commodity. Natural gas is the clean fuel. Natural gas is the fuel that can bring us clean air attainment in our cities if we use it in transportation. It is the bridge that will get us to where $60 oil is going to change a lot.

A lot of things are going to be competitive. A lot of things are going to work. You are going to see increases in all kinds of alternatives, but it is going to be slow and gradual. There is no quick fix. There is no silver bullet.

So I am urging the Members of this Congress, I am urging this administration, I am urging the governments of California and Florida prospectively, because they have been the opponents; they are the ones who speak out and say, We must stop this.

A natural gas producing well on our outer continental coast is not an environmental hazard. It is the future of America. It is what will make us competitive. It will make our farmers profitable again. It will make our chemical companies want to stay here and grow here.

They are going to grow. They just stated that. They are going to grow. They are going to prosper somewhere. But will our chemicals in our hardware stores and our supermarkets be American-made? They are today. But will they be in the future?

Will our farmers be using fertilizer from foreign countries? Some of them are today. In a very short period of time, they will all be using fertilizer from foreign countries because the gas prices of today just do not make it affordable to produce fertilizer, chemicals, polymers, plastic, steel, aluminum in this country.

I have been joined by the gentleman from Iowa (Mr. KING) who requested this hour, who had other duties take him away, and I would like to welcome him to join me.

Mr. KING of Iowa. I appreciate the gentleman picking up this responsibility that actually was mine. And as you know, even though the scheduling around this city does not reflect that you cannot be in two places at one time, in fact, we can only be in one place at a time.

One would think that with all the work that you have done on the natural gas situation here, the need all across this country, that sometimes you are in two places at one time with the media that we have today. And it takes that kind of a voice.

I want to lend my voice in support of the work that you have done, and I am glad that you stepped up to take the lead. I know it takes a lot of commitment and it takes a lot of research. It takes a lot of background and it costs a little sleep from time to time and a lot of energy.

So that is what we are after here is energy in this country, and I want to see if I can add a little bit different perspective to this energy issue.

Of course, we talked about fertilizer costs and we talked about the cost for manufacturing, the cost of heating homes and the list goes on and on. But I want to emphasize that Pennsylvania and Iowa run across about the same latitude. You can draw a line of latitude that will intersect both States, and we are tied together for a lot of other reasons. You are kind of the eastern end of the corn belt and we are kind of the heart of the corn belt where I am.

But anybody that raises a crop uses nitrogen fertilizer. And if you are raising corn you are probably going to use more nitrogen fertilizer than any other crop. And 90 percent of the cost of that nitrogen fertilizer is the cost of natural gas. And we have seen in the last few years the price of natural gas go up 400 percent here in the United States. That means the cost of your nitrogen fertilizer goes up 90 percent of 400 percent. And that would be 360 percent increase in nitrogen fertilizer cost, just to do the quick math.

Now it is not just the cost of that. And of course we are seeing our grain prices are not showing an increase. And so the overhead goes up and up, and the margin gets narrower and narrower, and the producers, I will say our corn producers, have to figure out a way to increase their yields to compensate for this.

They do that. Of course, the landlord then sees that and raises the rent. It is a vicious circle that we are all involved in. It is free enterprise, I know. But a nation has to have a solid and sound natural gas and energy policy, and you cannot just wake up some morning and say, Gee, I wish I would have done this different 30 years ago, throw a switch and fix it. This is a long-term, downrange plan that we have to have; and we are paying a price for not acting for years and years. In fact, for a generation we have not been nearly aggressive enough in opening up the energy supplies here in the United States.

And we can go down on this argument, this argument that says, Well, gee, if we would just conserve more energy, if we would drive cars that get 30 miles to the gallon instead of 26 miles to the gallon or even 40 miles to the gallon, if we would use alternative energy sources and renewable energy sources, we can do that and we should do many of those things. I will not subscribe to all of those things. In fact, I will tell you that I support the expanded use of nuclear for electrical power. It is the safest and cleanest and the cheapest that we can produce. And the record in this country establishes that.

But that is one part of it, and we are not likely to be able to build more hydroelectric so that we can generate more electricity with just the gravity of water flowing through there. Because of environmental barriers people want to take out dams rather than let us build them.

And so coal is another difficulty. We had a little problem with air quality. We have done pretty well with that. But you cannot do everything with coal. And by the way, it takes, you have got to haul coal sometimes a long way. And I know that there is coal that is trained from Wyoming on down to my area in western Iowa. That is a long way to haul the coal.

Now, but we need gas for a lot of reasons. We need to heat our houses, we need it for our businesses and we need it for our fertilizer. And by the way, you take a fall. Now this is a good fall, and there was not a lot of grain dried. If you have a wet fall, you will dry a lot of grain. And we will use not really exactly natural gas, but we will use LP. And the difference is this, that the LP comes out sometimes from often the same hole as the natural gas and you use a gas separator in there. The natural gas is the methane, and the LP is mostly propane, but it also can have butane in it, so you use the gas separator.

Seventy-eight percent of the LP that we use to dry our grain comes right out of the natural gas well; 22 percent then is stripped out in the crude oil processing and the refinement process when you are making gas and diesel fuel and oil you get the balance of that LP out of there, merge that together, pipeline that up on LP to the Midwest and we put that in to dry our grain in the fall and to heat our houses outside and out in the countryside where we are we do not have natural gas connected to us.

All those things are tied together. It comes out of the same hole. The cost of LP is linked to the cost of natural gas. Energy is all part of the whole equation, but there is a difference in natural gas energy because it is not a portable energy that is easy to put on a ship and bring it here, because by the time you compress it and liquify it, bring it here and convert it back to gas it costs money and costs time to do that, and we have got limited capacity.

We are looking to build a couple more liquefied natural gas plants refining plants to convert from liquid into gas again. It takes time to do that. But we have a tremendous supply of natural gas on the Outer Continental Shelf in the United States. And God bless Ronald Reagan for drawing that dotted line out there at 200 miles offshore in the United States. I believe that was in about 1983. When he did that he opened up a tremendous amount for energy resources for the United States, not just natural gas, other minerals out there too that we have not even found yet, plus a lot of crude oil in the same areas where you will find natural gas in many cases. But that 200-mile limit that Reagan defined for us is a limit that lets us have an almost unlimited supply of natural gas.

Now, I will give you some examples here on how that works. The North Slope of Alaska, where we went up there in 1972 to open that area up and drill for oil on the North Slope of Alaska, where we had to build the pipeline from up there down to Valdez in order to put that oil on tankers to get it down here to the lower 48 States so we could market it.

But the provision was not in place at that time to build a natural gas pipeline because why would you pipe natural gas down to Valdez to compress it into liquid, put it on a ship, send it down to California, turn it back into a gas when you had a countryside that had all this natural gas in it, natural gas that was probably less than 2 bucks back there in 1972.

So we did not develop the natural gas, but it is there. The wells are drilled. It is available. There is 38 trillion cubic feet of natural gas on the North Slope of Alaska sitting up there right now. It needs a pipeline down to the Lower 48. It is over 4,700 miles from Prudhoe Bay, mile post zero on the Alaska pipeline on down to Kansas City if you want to pick a place in the middle of the country, over 4,700 miles.

If you go the other way and go south, where is there a lot of gas south? Well, we know offshore in Louisiana, offshore on the entire gulf coast.

Go a little farther, Venezuela, there is gas that we are paying $14.50 for is $1.60 there. You know that is only 2,700 miles from the coast of Venezuela up to Kansas City and it is 4,700 miles from Kansas City to Prudhoe Bay and the North Slope of Alaska.

But it is not just a measure of a pipeline from Alaska to Kansas City which, I do support that because I want more energy into the Lower 48 States for a lot of different ways. But it is not the measure then of 4,700 miles from Alaska to Kansas City versus Kansas City to Venezuela.

It is because there is another measure, and that is the measure of 406 cubic feet of natural gas that is on the Outer Continental Shelf that is right there next to already processing plants, pipelines, drill rigs. We have the network all there. All we need to do is expand that drilling.

This country needs it. And these Americans deserve it. We need to drive this $14.50 price down. We have got to cut it by half at least. We can do it if we can open 406 trillion cubic feet of natural gas.

Mr. PETERSON of Pennsylvania. Mr. Speaker, I guess I want to conclude with the following, that there is no one who has a good argument that we do not need to open a supply of natural gas. There are those who think there are other ways to do it, that LNG is the big answer. I do not think that is the big answer. It can be a help. But we what we really need to do, the natural gas supply that is the most readily available to population centers of this country is the Outer Continental Shelf.

All leading nations produce there, and they have clean beaches. They have great tourism. It does not have to be a detriment. And I urge those from Florida and California who keep decrying that this is going to be the demise of their beaches and their tourism to show me the facts. Do not give me rhetoric. Do not make brash statements. Give me the facts of where a natural gas producing well has polluted a beach.

I am asking Florida and California, who are huge consumers of natural gas, to join with us and be a part of the solution. This is a problem facing America. We cannot afford to have two States holding up the energy policy of this country who are the largest consumers of natural gas in enormous amounts per capita compared to other States, who use most of their electricity that is made with natural gas.

And I urge them to come to the table as part of the solution. Show me where natural gas wells have polluted the beach, and I will be there.

I have had no one take me up on that offer. Natural gas wells or natural gas flowing out of steel pipe into a collection system into our homes, into our factories. Natural gas will depend on whether America remains a competitive nation. It is so entwined in our economy and our lives that we cannot continue to have government curtail the production and expand the use.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3146

Mr. PRICE of Georgia. Mr. Speaker, I ask unanimous consent that my name be removed as a cosponsor of H.R. 3146.

The SPEAKER pro tempore (Mr. WESTMORELAND). Is there objection to the request of the gentleman from Georgia?

There was no objection.

□ 1745

NEWS YOU WILL NOT HEAR ABOUT

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PRICE of Georgia. Mr. Speaker, while watching the nightly news last night, I was shocked by the stories being reported or, more accurately, by those stories that were not being reported.

What, you say. Well, during the month of October we added over 50,000 jobs to our economy. Hurricanes Katrina, Rita, and Wilma wreaked havoc in cities across our gulf coast, displacing hundreds of thousands of people from their homes and jobs.

During this time, our economy was still able to continue to grow in the face of these tragic events. Our Republican policies worked to stimulate the economy. Job creation averaged 194,000 per month for the year prior to Hurricane Katrina. Third quarter GDP increased by 3.8 percent, capping 10 quarters of growth in a row. Yet you would not know it unless you searched deep past the front pages of your local papers. There have been increases in new and existing home sales, declines in unemployment, and increases in business investment. All good news.

Mr. Speaker, an examination of the facts makes it quite clear. Republicans have a plan to reform the Federal Government and increase savings for all the American people.

30-SOMETHING WORKING GROUP

The SPEAKER pro tempore (Mr. WESTMORELAND). Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes.

Mr. MEEK of Florida. Mr. Speaker, it is an honor to address the House once again, and we would like to thank the Democratic leadership for allowing us to have one more hour on the 30-something Working Group tonight. We have been coming to the floor daily and mainly speaking recently about the budget and what effects it is going to have on the American people throughout this country.

We have asked our colleagues within the working group to come to the floor, share some of their concerns, talk about our Democratic alternative, which failed in committee, not because it was not an alternative of merit and of commitment and making sure that we place ourselves in heading in the direction towards the balanced budget by 2012, but it failed because we were in the minority. One Republican on the opposite side of the aisle did vote against the proposal that will be coming to the floor in the coming days, seeing it in a way that fiscal responsibility is important but making sure that we do not leave Americans behind who sent us up here to represent them.

I am honored tonight to be joined by the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) and also my good friend, the gentleman from Alabama (Mr. DAVIS), who has been a part of this in making sure that we put American priorities forward. But I must say that there is a lot of work that needs to be done.

Tonight we are going to make sure that the Members know and also the American people know exactly what they are going to be voting on coming the next couple of days. There will be a bill in the Committee on Rules, and we will have debate here on the floor; but Members need to know exactly what they are voting for because as we, Mr. Speaker, look at this bill as written, veterans are going to have longer lines, they are going to pay higher co-payments, they are going to pay higher premiums. And those individuals that are coming out of theater, some 130,000, now we have 150-something thousand in theater of war, when they come back and they find themselves waiting in longer lines for what we promised them as it relates to health care, as it relates to benefits and not leaving out their families and children, I think it is something we need to pay very close attention to.

Mr. Speaker, I yield to the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ).

Ms. WASSERMAN SCHULTZ. Mr. Speaker, it is again a pleasure to be here with you to talk about the issues that are important to the American people. I think the gentleman from Alabama (Mr. DAVIS) and the gentleman from Florida (Mr. MEEK) would both agree that this week really everything is going to come to a head. The choices that Members in this Chamber are going to be asked to make, more than any other week that I have been here, I think, are going to be emblematic of where our priorities are.

The choices that we are going to have to make on this budget reconciliation bill, which is Washington-speak for budget cuts, is going to show who is for the American people in making sure that they can sustain a decent quality of life and who is against that concept and is more supportive of making sure that the wealthy can stay wealthy. That is really what it boils down to.

Just to give you, Mr. Speaker, an idea, as well as anyone who can hear our conversation, of exactly what we are going to be asked to choose between this week, the Republican leadership and the Republican Members have been making a lot of hay about the spending cuts that they are going to ask us to vote for, that they are needed reductions because we have to do something about this deficit. And we agree. We agree that there needs to be something done about the deficit.

But the difference between our approach and the Republican approach is that our approach would actually reduce the deficit, and their approach actually adds to it. If you have a little less than $55 billion in budget cuts, yet still have 70-some-odd-billion dollars in tax cuts, the difference between that is $20 billion more added on to the deficit.

Now, I can tell you honestly that I was not very good at math when I was younger and struggled with it a little bit, but that is pretty simple math. That is not complex. It is not calculus. It does not require an advanced degree. Seventy minus 50 is 20. And it is not a negative number. It is a positive number added on to the deficit.

Let us demonstrate that while we are still providing $70 billion to tax cuts for the wealthy we are cutting the following things: for the sake of more tax cuts in this budget reconciliation bill, students can expect to pay as much as $5,800 more for college. For the sake of more tax cuts, 300,000 of America's neediest will be left without food stamps. For the sake of more tax cuts, we will fail in our obligation to bring hurricane victims lasting relief. For the sake of more tax cuts, $10 billion, $10 billion with a B, will be slashed from Medicaid. One in four children in America get their health care from Medicaid.

For the sake of more tax cuts, we will ensure that the deficit remains high and the burden of creating more debt and paying that debt by our selfishness in choosing to help the wealthy at the expense of the people who are the most in need and the people who are just working every day to make ends meet, that is the debt we are passing on to our children and our children's children. And it is just mind-boggling to me. I know I am a freshman. The two gentlemen have been here longer than me. Maybe I am naive. Maybe the gentleman can provide some clarity because to me it is simple math.

Mr. Speaker, I yield to the gentleman from Alabama (Mr. DAVIS).

Mr. DAVIS of Alabama. Mr. Speaker, I thank the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) for yielding.

I am honored as always to be here with my colleague from Florida and my colleague from Ohio to talk about what is an enormously important vote on the floor of the House this week. I thank the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) at the outset for exposing one of the great myths behind this vote. As you know, there is a requirement that when we introduce bills in the House that we label the legislation, that we give it a title that is supposed to be roughly descriptive of the purpose of the bill. So we are told, well, this is a deficit reduction act, and I thank the gentlewoman for laying bare that myth.

☐ 1800

When we finish with the tax cuts that are still being contemplated, dividend tax cuts, for example, in the next several weeks, and we do the simple math, our deficit will be worse than it is today.

This is not a Deficit Reduction Act. Something very different is at stake. This is not about cutting spending, it is not about saving the government money; it is about a different set of values being in the saddle.

All of us who are here have been in the Congress fairly recently. Mr. RYAN, Mr. MEEK and I came here in 2003, and you joined us this year. We all came with this notion that we stood for a particular set of values about government. One of the values that we most deeply believe in is the idea of obligation, of strong people to weak people, of people who are in one place in society, being related and connected to people in a very different place in society.

A lot of us ran on that, a lot of us talked about that. As strongly as we believe in our party, we hope that those just aren't partisan values. We hope that those are values that are shared all across this aisle, in the center, left and the right, the Democratic and the Republican side.

But what is sad about this week is that a very different set of values are now in the saddle. You touched on some of them, but they are very much worth underscoring: 300,000 families in this country who are getting food stamps. If the majority has its way, those 300,000 people will lose their food stamps, not because they have committed fraud, not because their income status has changed in the last several years, not because they have been shown to not need food stamps but simply because a different set of values are in the saddle.

You talked about, or you touched upon the question of child support. If the majority has its way, the Federal Government will walk away from a bipartisan commitment to help States go out and find deadbeat dads and enforce the laws that require people who have children to be responsible for them. We will see a party that styles itself as the party of family values walk away from that commitment. Again, it is not because of saving money, it is because a different set of values are in the saddle.

You talked about Medicaid. For the first time, if the majority has its way, working-class and poor families will have to pay a premium and a copay for their children, who are very poor, to go to the doctor. When we came here, both parties believed that if you are very poor in this society, then your kids are entitled to health care, and, yes, that is a social obligation that we owe to people who are struggling. Now a different set of values are in the saddle, and we are told they have to make a copay.

You touched on another basic matter. People who are legal immigrants, not illegal, not people who violate some immigration law to come here, but all those people who come here, played by the rules and have been naturalized as U.S. citizens, but have not yet shared in the bounty and prosperity of this country. Right now, most of them are allowed to receive food stamps.

If the majority has its way, 20- to 30,000 of those people who are eligible will lose that eligibility, again, not to save money, but because a different set of values are in the saddle.

To make a basic point about the food stamps provision in this reconciliation bill, $800,000, the 300,000 families will be shaved off the food stamp rolls, that adds up to about $844 million. $840 million in a $3.7 trillion discretionary budget is about one-sixteenth of 1 percent. That is worth almost nothing to the U.S. Treasury, but it is the margin of survival that means almost everything to these families.

We could go on, issue after issue. The value of the money that will be saved will be offset by tax cuts or is altogether insignificant. But the impact of those cuts is devastating to people who are watching us right now.

Mr. RYAN of Ohio. Mr. Speaker, this is the moral argument of our generation. I agree with you 100 percent, but I think there is an economic component of this, too. If we are going to be a great nation economically, we need to have healthy children, who are going to be able to go to school and learn so that they can become scientists and engineers, so that we can drive this economy through the 21st century.

As much as it is a moral imperative, it is an economic imperative that will continue to make the United States of America a strong country economically and militarily.

Mr. DAVIS of Alabama. Mr. Speaker, I absolutely concur with that point. There are two points that we will have to make constantly over the next 48 hours. This is not just about altruism. I wish that we could convince our friends and colleagues on the other side of the aisle just by saying it is wrong to single out the children of poor people for sacrifice. I wish we could convince them that this budget just has the wrong set of priorities on moral grounds.

The reality is there is another equally compelling set of arguments we will have to appeal to, and it is the notion of our own economic self-interest. We already are a country where the gap between skilled and unskilled workers is a high one. We are already a country where the gap between children who are successful and children who are underperforming is a high one.

We are already a country that builds all kinds of walls between our own people, and that is not good for our economy. It makes us less productive than we ought to be. It makes us less prosperous than we ought to be as a nation. But we can only close these gaps if we empower more of our people.

That is very much what is at stake as we contemplate this vote in the next several days, two different visions.

Mr. RYAN of Ohio. Mr. Speaker, I wonder, and we have asked this question before here, I wonder where the religious right organizations are that during the election were so engaged and involved in the Christian Coalition and promoting Christian values on a couple of issues. I cannot think of any more pronounced Christian values than taking care of those among you who cannot take care of themselves, for whatever reason.

It is stunning to me, growing up Catholic and spending 12 years in Catholic schools with nuns and priests and brothers, that the issue of poverty that you see more in the Bible than probably any other social issue, that somehow the silence is deafening here on these issues of us trying to help poor people and the majority actually causing harm to them. All these organizations that help put these folks in office are lost and cannot find their way.

I do not want to say that their membership is lost, because the people I go to church with, the people who represent Christian social organizations in my community, are very, very, very concerned about this.

I would hope that in the course of the next 48 hours we are able to bring this to their attention so that maybe we can put a stop to this before it actually harms young children.

Ms. WASSERMAN SCHULTZ. The gentleman's bringing up faith as it relates to this budget document is incredibly important, because our friends on the other side of the aisle throw around family values as a term and as part of their make-up and try to contrast us, as if that is not part of ours.

Let us just look at what the faith community is saying about this budget, and what they have been saying about this budget. This week, this past week, we had a number of members of the organized religious community come to Washington and urge the Republican leadership not to pursue this budget reconciliation document.

You had Reverend Jim Wallis, the founder of Sojourners and Convener of Call to Renewal. You had Rabbi David Saperstein, who is the director of the Religious Action Center for Reform Judaism. You had Reverend Elenora Giddings Ivory, who is the Director of the Washington Office of the Presbyterian Church.

What Reverend Ivory said when she was here, she said, "I am here today to express concern for the Federal budget reconciliation packages under consideration in the House and the Senate. Our Nation is about to balance its budget on the backs of the poor. Is that a moral thing to do? The Federal budget is a reflection of what we see as important and primary. Does the spending package under consideration reflect a caring and a compassionate society? Does it reflect you as a citizen of faith?"

I think that each of us, if we ask and look inside our own hearts, Republicans and Democrats alike, would have to answer each of those questions, absolutely not.

Mr. DAVIS of Alabama. Mr. Speaker, let me touch on the point the gentlewoman just made about faith. All of us were told different things and were given dictates by our faith. But one very universal view across all denominations that we know is this idea that you do not start sacrifices with the most vulnerable of our people. You do not ask the weakest of our people to be the first to give. You try to bring some moral foundation of equity to all that you do.

Those are notions that ring across every denomination, and indeed nondenominations that still have ethical values in this world. What is striking about this budget reconciliation is that it is the first major government document that I have seen that says, let us ask the first people to sacrifice to be what Matthew would call "the least of these." Let us ask the first people to sacrifice to be the weakest of our people.

This is something that is fundamentally wrong and, again, it is at the heart of this debate. A lot of us in this Chamber would be open to a discussion about fiscal discipline. We would be open to a discussion about budget cuts. We would be open to a discussion about shared responsibility, but only if it ran across all lines. This is as powerful a point as I think we can make in the next several days.

We are not asking our children to sacrifice. We are not asking the children of the people who go to our fund-raisers to sacrifice. We are asking the children of the people who cannot get in our fund-raisers because they cannot give $250 or $1,000 a head. We are asking the children of people who will never walk inside this Chamber or be able to spend a million dollars every 2 years to find a way to get here.

We are asking the people who are doing the work in our country, the people who are waiting on the tables, the people who are driving the trucks, the people who are bearing a lot of the labor. We are saying to them, yes, your children may be on Medicaid, but we can save some money if we pare back our responsibility to them. Yes, your kid may need a student loan, but we can pare back some money. We can save some money if we cut and limit our responsibility to them.

I think that this is wrong.

The final point that I will make before I yield is this one. We have an obligation to talk about this debate in terms of right and wrong this week. This is not simply a matter of different political theories. It is not a matter of different economic theories. It is about a different value set. Some of us who have heard the word "value" used so freely in this Chamber, some of us who have heard the word "value" used so freely to label and to exclude and to stigmatize, well, this is about values. Even Abraham sacrificed his own children, not the children of others. So that is front and center for this vote.

Mr. Speaker, I will certainly yield to the gentleman from Ohio to discuss something that is on our minds this week. How can we make this case to our colleagues, because I believe, as all of you believe that our colleagues that are in this Chamber are not hard-hearted, mean or evil people who just want to hurt folks? How do we find some way to make the case to them that what we are on the verge of doing violates every value that we have as Americans and violates every sense of connection that we have?

□ 1815

Mr. RYAN of Ohio. I think we are not alone here, and I think there are some conservatives who are out there who agree with what we are saying here. We say it all the time during our Special Orders. This is not a Democrat or Republican thing. This is about putting the interests of the country before your own particular party. That is what we are trying to do here.

This is a quote from Cal Thomas, who is one of the most conservative columnists in the country, who says, "Here is a suggestion to the Republican majority. Don't start with the poor, start with the rich." That is Cal Thomas talking.

And let me just put this up here. This is the tax cut, my friends. This is the tax cut. This is what people who make over $440,000 a year get, and this is what our brothers and sisters get who make $20,000, $35,000, and $40,000. Why can we not ask these people? Why do our leaders not have the courage to ask these people? We know they contribute to their campaigns. We know they get corporate welfare. I bet many of these people are executives in the oil companies who got $16 billion in corporate subsidies. We know that. We are sure that some of these people who make all this money and are getting the big tax cut represent the pharmaceutical industry that are getting $100 million in corporate subsidies. We are confident that the executives of the big agribusinesses are receiving some of this tax cut, and they are also getting corporate subsidies for that.

Why can the Republican leadership in this Chamber, in the Senate, and in the White House not ask these folks to give up just a small little wee bit of this, just a little bit of this so that we can make sure that Medicaid, Medicare, which is on the table in the Senate version, $80 billion over the next 10 years is proposed to be cut out of that. The Republican Study Committee wants to cut even more and push the prescription drug benefit back, not do anything to reduce the cost.

We are making decisions that are hurting these people because we do not have the courage to ask those people who have benefited most from society to give just a little bit back.

Ms. WASSERMAN SCHULTZ. If the gentleman will yield, there is a way we can make changes which take us in a new direction: it is election day. We do not have to continue down this road. We do not have to continue to prop up and add to the bottom line of the wealthy. We can send the Republican leadership home, and we can start today.

What I think we would all like to see happen in the next couple of hours in Virginia, in Ohio, in New Jersey, in New York, in California, and anywhere else there is an election of significance, of course, all elections are significant, but where the more significant offices and contests are being held, we would like to urge all voters to go out to the polls tonight in those communities.

And just to help people know, there is still time left in Virginia. The polls close at 7 p.m. So there is about 45 minutes left. In Ohio, and these are all local times, in Ohio, the polls close at 7:30. In New Jersey, the polls close at 8:00 p.m. In New York, the polls close at 9 p.m. And in California, the polls close at 8 p.m. So we would urge all people who have an opportunity to make change in their State to cast their ballots today on election day. Make sure you get to your polling place and cast your vote to move this country in a new direction so we can continue to fight to make these changes.

Now, Mr. Speaker, just to transition our conversation from the tax cuts to the whole issue of where we are going in terms of the budget cuts, in addition to cuts that affect children, in addition to child support payments, in addition to Medicaid cuts, this budget will do more damage than we have ever done to people who are trying to expand their horizons and get access to higher education. What is unbelievable about these budget cuts is that in terms of higher education, this is the most significant cut in history being made in this budget document to financial aid than we have ever seen before.

Mr. Speaker, we are joined tonight by my good friend and colleague, the gentleman from the great State of Missouri (Mr. CARNAHAN), and he has been a champion on this issue in trying to raise people's awareness of just exactly what this Republican budget document would do to people who are struggling to get access to higher education. I yield to the gentleman from Missouri.

Mr. CARNAHAN. I thank my colleague, Mr. Speaker, for yielding to me. It is great to join the gentlewoman from Florida and the gentleman from Florida and the gentleman from Ohio and this 30-Something Group that has really done a fantastic job to help educate Americans about the many challenges that are being faced here and the things we can do about it, the things my colleagues are taking the lead on in this Congress.

I wish I could join you in age, I am a 40-something, but I am not far away; and like many people, I had an opportunity to really benefit from the student loan program, as did my wife. Even though I worked my way through college and my family was able to help me some, I still could not have done it without the student loan program.

What I am sad to see and really concerned about is these Republican proposals in this budget reconciliation, which is, for those listening, the equivalent of us balancing our checkbook at home to figure out what we can afford and what we cannot. They have proposed the largest cuts to the student loan program in history, in history, of $14 billion. It is a big number. So to really bring it down to the individual student and family, already, even before those cuts, the average student typically has about $17,500 in debt. That is already. Now, on top of that, these proposals would add an additional almost $6,000.

Mr. Speaker, this comes at a time when we really need to be expanding opportunity and at a time when we really need to be opening up access to higher education. We all know in our country that is the road to opportunity.

Mr. RYAN of Ohio. Absolutely. And if we look at the number of engineers and scientists that a lot of these other countries are graduating, last year alone China graduated 600,000 engineers. We graduated 70,000, with most of them foreign born. So to put additional barriers up, an additional burden or two on someone who is trying to construct financially a way to go to school, it makes absolutely zero sense economically for our country.

Look at what the GI Bill did for this country, because we had educated people going out into the work force as doctors and lawyers and scientists and engineers. Look what the space program did. The goal of sending people to the Moon was to motivate and organize a country in math and science and physics and a variety of other areas that led to tremendous developments and discoveries that otherwise would not have been, and that led to great economic growth.

So the gentleman is exactly right.

Mr. CARNAHAN. We even heard in the Committee on Science, on which I serve, many leading CEOs from around the country came to testify before our committee talking about the need for innovation if we are going to be able to compete in this new global economy.

Mr. RYAN of Ohio. There it is. That is not KENDRICK MEEK saying that or Ms. WASSERMAN SCHULTZ. These are CEOs.

Mr. CARNAHAN. Exactly. They are saying we have to really start to win the battle of young minds to get them into science and math education so that we can compete and innovate in this new global economy. This just takes us backwards.

The statistics are alarming. Studies have shown that financial barriers alone prevent 4½ million high school students from attending a 4-year public university.

Ms. WASSERMAN SCHULTZ. We actually have a chart that outlines some of the things my colleague is about to go over so we can make sure that people have it very clearly in front of them

Mr. CARNAHAN. I would really appreciate my colleagues trying to get that information out. Again, I think it is important as this debate proceeds over the next few days and weeks ahead, some believe a vote could come as early as Thursday, that people back home, families, students, leaders in education, contact their Members to let them know this is not the way to address the financial needs in our country.

Ms. WASSERMAN SCHULTZ. If my colleague wishes to go over the details he was beginning to talk about on the bottom of the chart.

Mr. CARNAHAN. Certainly.

Ms. WASSERMAN SCHULTZ. What we try to do in this 30-something time, we do a lot of talking, but we also want to show people with third-party validators and with the specifics blown up in poster-size form so that they have it both in graphical depiction as well as in description from us individually. So that was just showing my colleague that while he goes through just exactly what these cuts in student aid do, we have that up for the folks at home.

Mr. RYAN of Ohio. We will also post this on our Web site and make it available.

Mr. CARNAHAN. And I have just been handed a copy so I can read along as well.

But as we mentioned, already, even before these cuts, the average student has $17,500 in debt. Over the last 5 years, as if the debt were not bad enough, tuition is up 57 percent at public colleges, up 32 percent at private colleges and universities, and 41 percent of college grads average over $3,000 in credit card debt. So, again, the statistics paint a very clear picture that this is not the way to go.

Mr. RYAN of Ohio. The gentleman is exactly correct. This is great to have the gentleman here because, obviously, he brings in a new perspective from the Science Committee, which reinforces a lot of the things we have been saying. So we appreciate the gentleman being here.

One of the things we have to add onto this, as if this is not enough for a 22-year-old to have to overcome, $17,500 of debt, $3,000 in credit card debt, so you are already over $20,000 in debt before you even get out of school, let alone if you want to get a law degree, a master's or a Ph.D., or whatever it may be, would be an additional burden. In a weak economy that is not growing the kinds of jobs necessary to move our country forward and to maintain our economic superiority, add to that the $27,000 that every single citizen owes to pay the $8 trillion in debt that we have in the United States of America.

Our friends on the other side, the Republican majority, had to raise the debt ceiling to over $8 trillion, and each citizen owes $27,000. So we try to put this in perspective for people who are having babies today, and our generation who have young kids, 2 or 3 years old. Run this number out 20 years. If you have a 2-year-old, run that number out 20 years at a 57 percent increase every 5 years.

What does that number look like 22 years from now and what does the debt look like 22 years from now if we keep running these huge structural deficits, paying interest on the loan?

Pull it out. Get it. Get it right now. Let us get this thing up here.

Mr. MEEK of Florida. Please.

Mr. RYAN of Ohio. Please. Show them. Go ahead. I yield to my friend.

Mr. MEEK of Florida. Well, I want to thank my colleague from Ohio for yielding. The gentleman must have read it on my forehead when he started talking about how this Republican majority has led us into an area we have never been before as a country. And I am not talking about leading in a way that Americans will be proud of the situation we are in now or how other countries are now looking at the opportunity of owning a piece of the United States, which is basically what is happening financially.

Mr. RYAN of Ohio. Let us lay this out real quick before my colleague puts the cherry on top.

So we have $17,500 in student loan debt and $3,000 in credit card debt. Run that out 20-some years. A child born today owes $27,000 to the debt that we have in the United States of America, the $8 trillion. Every citizen owes $27,000.

Mr. MEEK of Florida. And change.

Mr. RYAN of Ohio. And some change. And we are continually running these structural deficits at over $400 billion to $500 billion, with a war and natural disasters. So we are borrowing money to pay for this.

Mr. MEEK of Florida. If the gentleman will yield, this feeds into the incompetence that we talk about. We talk about it, and we do not use the term loosely. We use it because it is well founded.

❑ 1830

We take this chart out every night, and every time we get an opportunity to share with not only the Members on what they are doing. Members need to realize what they are voting on. I am not saying that some do not, but they have to realize what they are voting on.

Here is basically what President Bush has done in 4 years that other Presidents have managed not to do in 224 years, as it relates to foreign holdings of U.S. Treasury debt. This statistic is from the United States Department of Treasury, a third-party validator. This is not from me or Mr. RYAN or Ms. WASSERMAN SCHULTZ.

Let me say this, $1 trillion in debt that was accumulated over 224 years, from 1776, borrowing money from foreign governments, President Bush, who did not do it by himself, and I have said this before, and I can guarantee he could not do it by himself, $1.05 trillion in a period of 4 years. In a period of 4 years, he has accomplished something with the Republican majority that has not been accomplished by 42 other Presidents, 224 years in this country of having the Democrats, Republicans, Whig Party; and this President and this administration and this majority have done the job that 42 other Presidents did not do as relates to putting this country in the posture it is in right now.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, all of what we are saying here tonight has caused me to look at the view of our generation and how we feel about the future and the direction that this leadership, this Republican leadership, is taking this country.

We did a little research in my office. President John F. Kennedy once implored Americans to ask not what their country could do for them, but what they could do for their country. Another important question that all of these issues raises is how all of this budget cutting and pulling the rug out from under college students' future leaves them feeling in terms of public service and what their government can do for people and whether they would want to be a part of that.

So we found some research that showed just exactly how our generation feels about this. A 2004 Hart Research Study for the Council of Excellence in Government found that 34 percent of young Americans said the idea of a government service career did not appeal to them.

What does that say about the confidence that this leadership is inspiring in our generation? Mr. Speaker, that is 34 percent. That is a huge number. It means they have no confidence in government's ability to improve people's lives.

After 9/11, we were starting to change those statistics. You saw after 9/11 the incredible response of first responders and of volunteers. All of our hearts in America swelled after the response from 9/11. The polling that was done then showed that young people felt that the response to 9/11 made them more likely to pursue careers in government and the public sector. But recent events, the culture of corruption, cronyism, the lack of competence that has been evident since the inception of this administration has absolutely, in 3 years from 9/11, 2001, to 2004, totally turned that belief in government's ability to improve our lives on its head.

Just by way of example, some things that most likely did cause that, let us go under the category of corruption. When young people see politicians, leaders of our Nation, deliberately deceiving the American people, an example would be the recent indictment of Mr. Libby and the deceptive actions of Mr. Rove. You have people who spend their lives serving their country; and what happens, people in the administration, a person for the first time indicted in 130 years that served in the White House, people in the administration repay them that service by revealing a CIA's agent covert status, jeopardizing the lives of countless numbers of government employees who are trying to do good work on behalf of the United States of America.

Example number two of corruption: We went to Iraq under questionable circumstances, under false pretenses, no question about it. We send American men and women into the battlefield, and more than 2,000 have given their lives. If you ask the average person, particularly in our generation, if they know for what those lives were given, I do not think that they feel confident that they would give an answer that anyone would be happy about.

Let us look at the cronyism that might have caused this shift in confidence in our generation. This generation of young people is extremely independent. They have a spirit of self-determination. They are less likely to identify with a political party. Most young people today are identifying themselves as Independents. They see political appointments based on friendships. The appointment of Michael Brown, "Brownie," because he was a college roommate with someone in the administration, with a friend of the President, being put in charge of one of the most important agencies in the country in terms of making sure that people's lives are protected as a disaster approaches and we can help them afterwards, we put someone in charge of that agency whose sum total of his experience was he was president of the Arabian Horse Association.

Mr. RYAN of Ohio. Mr. Speaker, that is what our generation is going to change when we take the country in another direction. It is time for us to start saying that we want the best and the brightest to come and work for our government. There used to be a day and age when government service, assisting your country, coming from the private sector for a few years and helping out and giving your time and talents to the government was a respected endeavor.

Ms. WASSERMAN SCHULTZ. The bottom line is we can do better. Together we can lock arms. Our generation can say to the generation in front of us that has been leading this country, give us the baton. It is our turn. We are not going there any more. We want to turn this country around. We want to make sure our children have health care, that mothers and fathers when their kids get sick do not have to wait until their kid is so sick they have to take them to the emergency room for their health care.

We do not want to cut the budget for abused and neglected children. We are going to continue to pursue deadbeat dads. State legislators have fought tooth and nail to ensure that we can continue to go after deadbeat dads; yet in this budget we will consider this week, that opportunity would be lost. We would be preventing that opportunity. The list goes on and on. It adds insult to injury. It cuts the school lunch program, which is a program that makes it so that some kids, the only place they can get a meal, a decent meal, is from that free and reduced lunch, and the Republican leadership would cut that program.

Our generation can take the country in a new direction, and we are ready to.

Mr. RYAN of Ohio. Mr. Speaker, we are ready, and we have a game plan to find the money.

Why can we not go to the oil companies that we just gave $16 billion in corporate welfare to. why can we not have the courage, why can the Republican leadership here not have the courage to ask the oil companies to give back their $16 billion in corporate subsidies to help pay for some of these priorities?

Why can the President of the United States and the Republican leadership in the Senate and the Republican leadership in the House, why can they not go to the pharmaceutical companies and ask for reimportation for the Medicare program to help save our country billions of dollars?

Why can they not allow the Secretary of Health and Human Services to negotiate down drug prices with Merck and Pfizer on behalf of the Medicare recipients who are going to now be eligible for Medicare part B?

The Democratic Party has a plan to get that money back from the corporations instead of giving it to corporate welfare and investing it in the United States of America so we can have more scientists, more engineers, more investment in research and development.

Mr. Speaker, the average taxpayer gives us money and they trust us with it. They work hard. We see the top number at the top of the check and you see the number that you actually get to take home. There is a big difference whether you are on the bottom or top scale. You give us your money; and we need to honor that by making sure that when we spend it, we give that taxpayer the best value they could ever get. We need to assure them we are running an efficient, effective government here, not just wasting money and giving to our political friends, like the oil companies. Can you imagine with gas prices what they are now, we are giving oil companies $16 billion in subsidies.

Mr. CARNAHAN. Mr. Speaker, I have to jump in on that point and talk about the tale of two different numbers here. We mentioned earlier the number of $14 billion that was being cut, proposed to be cut out of the student loan program where over $14 billion has been given away in subsidies in these recent energy bills to the oil companies who have not just made record profits; they have made the largest profits in the history of the world.

To me, that is such a glaring and sad example of the priorities here in Washington. We can do better.

I think the American people are hungry for leaders that can inspire us and not divide us and talk about a future that lifts us all up. The gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) talked about the attitudes of young people and how they did not have a good attitude about public service. I hate to see that.

There are also studies out there that for the first time in the history of these studies being done people believe that the generation after them will be worse off than they are now. To me that is just contrary to everything in our American values. We always want our kids and the next generation to be better off. So I think it is a matter of priorities. It is a matter of attitude, inspiration; and I think people are hungry for that. I think what you all are doing here in getting the word out is really important to give people hope that they can make a difference and that there are leaders here in Washington fighting for them.

Mr. MEEK of Florida. Mr. Speaker, it is what we are all doing, making sure that not only the Members know exactly what they are doing when we come in and push the red and green button, and endorsing or not endorsing an idea or a plan. I think it is important for us to not only highlight the $14 billion in cuts which mean higher fees for students because the States have to balance. When we make those cuts, they have to make cuts. This is not the end of the cuts to the average student.

When you look at higher education, college education, preparing the next generation, that is not just on that 20-something or 18-year-old. That is on the parents of that 18- or 19- or 20-year-old. That is another burden on their backs.

I just wanted to mention quickly, I was reading this letter as both of you were sharing good information with the Members and the American people.

Mr. Speaker, I am holding a letter dated November 8. It is from the president of AARP. AARP is the largest retirement organization here in the United States and also on the face of the Earth. This is from the CEO. What he is saying here, basically, is that they oppose the Medicaid cuts that are in the House bill. They are for reform, but they oppose the cuts.

I just want to make sure that the Members, and one Member came from the opposite side, the Republican side, and said I wish my friends on the Democratic side would join me in voting for this budget that we have put forth.

I said first you have to work on some of your own Members who have not come to grips on how they can vote for something that AARP is against.

Basically, this letter says that AARP opposes the 2006 reconciliation bill now awaiting consideration before the House.

□ 1845

"We strongly oppose the changes." Not that they oppose the changes. They strongly oppose it because they know what it will do. Basically, it goes on further. For example, they say: "The House package, in effect, would prevent a stroke victim from entering a nursing home, even if there were no other alternatives, simply because she has helped a grandson with college tuition costs." This is basically where a bean counter would go in and evaluate the financial situation of the person that wants to go into a nursing home under Medicaid. They would go in and say, You wrote a $500 check for your grandson to go to college. You can afford to pay for this nursing home. We will not.

This is not what I am saying. This is what the AARP is saying, which has thousands of members and is the largest retirement organization on the face of the Earth. It goes on to say that a private nursing home could evict a person, force a person out of a nursing home for a period of time, even after the assets were all exhausted, if they contributed to a hurricane recovery victim. Once again, the bean counters would go in under this budget. This is not fiction. This is fact. Under this budget, and then say they are denying them assistance in a nursing home. This is the reality of what is in the House budget right now.

We talk about Veterans Day, and I am going to mention this as many times as I can because I think it is important, many of us, Mr. Speaker, are going to leave here on Thursday and go do the things that we need to do. Some Members have already entered into the CONGRESSIONAL RECORD recognizing Veterans Day observances throughout the country, the past contributions of our veterans. But at the same time, on the Democratic side what we have called for is we provided $1.6 billion more than the Republican budget for veterans programs for 2006 and $17 billion over the next 5 years.

The Democratic budget reverses what the Republican budget has put forth on the $798 million over the next 5 years in Republican cuts that they have asked the Veterans' Affairs Committee to do, not even talking about what they have done as it relates to cutting $14 billion over the next 5 years.

So, Mr. Speaker, what this really means is that when the veterans go to the VA in some rural areas that some of us in this room represent, there are some VA clinics that are only open once a week, not because that is all they can do, but because they have been cut so much, they cannot provide the health care for the veterans, that when they signed up, they held up their end of the deal. We are not holding up our end of the deal.

But meanwhile back at the ranch, we are giving breaks and tax cuts and some may call them incentives for companies that are making record profits in the history of the world. So when we start talking about these cuts, it is a reality. They are a true reality. And I just took the veterans out for a minute because I knew what we were talking about. But it is an irony that Veterans Day is Friday and Members are going to come here and they are going to take their voting card out, and they are going to put it in the machine, and they are going to look up to see how the leadership is voting. nine times out of 10, and they are going to vote the way the Republican leadership has asked them to vote, and that is very unfortunate.

But I want to warn the Members to take this card, and let me tell them, there are some people who woke up one Tuesday morning at 7 a.m. to vote for some representation. The people that gave Members of Congress this card to vote and put into these machines, I mean, it is not like I have a Miss Mobil in my district or I have a Mister Special Interest in my district. They do not cast a vote. The people that I represent cast a vote. So it is important that we keep that in mind, and I want to make sure that the Members understand, because veterans will be prepared and the American people will be prepared. Why do I have to pay more for health care because they want to make room for the billionaires to receive tax cuts?

Mr. RYAN has that chart there that shows individuals that are making over $500,000. Let us talk about these individuals just for a minute. They are Americans. I do not blame them for the tax cut that they are getting. I blame the individuals that are continuing to build on a tax cut that is already there for that group of people and there is very little that is for the individual that is even making $91,000, a household that is making $91,000 to $179,000 a year. It is not fair.

So when we have people fighting in Iraq, we have three natural disasters here that we are trying to manage and trying to help Americans bounce back from, and then at the same time we want to build on even more incompetence and cronyism as it relates to giving to the special interests, it is just unconscionable; and I hope that Members really weigh heavy.

And I am just going to say this: I am from Florida, and what the Republican majority is asking the Florida delegation to do is to vote for oil drilling miles off the coast of Florida. Oil drilling miles off the coast of Florida. Everyone comes to Florida for what? Tourism. What else? They come to the beaches, from all over the world. It helps our Florida economy, and it helps our national economy. But yet Members of the Florida delegation are being asked to vote against one of the very principles where the Florida Everglades is located, where we have hundreds and thousands of miles of coastline so that when people come to Florida now they can step into a patch of oil and they can see a rig off the coast of Florida.

That is a high order to call a Floridian to do. Both of our Senators are against this, I must add. We have some Members in the House that are going to have to go see the wizard, get a little courage and go to the leadership and say it is not going to happen, bottom line.

I will tell my colleagues what I am prepared to do. As long as that language is in there and we are talking about drilling in the ANWR, let us just take our national parks, and let us just start drilling there. Forget about what we already know, that there is very little oil in many of these areas, that the oil companies just want to go out, not at their expense but at taxpayers' expense, and start to drill in those areas.

So, Mr. Speaker, I think it is important that we continue to come to the floor to not only share with the Members but with the American people by letting them know what is going on in this House and what is not going on in this House and that there are alternatives and we are putting forth those alternatives in a fiscally sound way that will place us on the road to balancing the budget but at the same time not hurting the very people that some folks come to the floor saying they want to help.

Mr. CARNAHAN. Mr. Speaker, if the gentleman will continue to yield, the Florida delegation, and the gentleman makes a great point, has an obvious perspective on tourism; and they have got such natural beauty on their coastline that people from around the world come to visit. My family has been down to visit their great State. But the point beyond even that we believe it is the wrong thing to do in these pristine areas, the amount of oil that could potentially be produced is so small, they have to weigh what is the real cost; what are we really losing for generations to come in terms of our environment, and look at what we can do in our immediate future in terms of alternative energy.

Again, I have to mention some of the things we hear before our Science Committee about the innovation and the science that has brought this technology. It is not something that is decades away. It is years away. We have already seen that with the growth of the hybrid vehicles, hydrogen cars, you name it. That technology is here today. Consumers want it, and within the decade we could have the goal to become energy independent, rather than investing in this older technology in pristine areas.

Mr. MEEK of Florida. Mr. Speaker, reclaiming my time, we have a little administrative transfer to make here.

I yield to Mr. RYAN so he can give the Web site.

Mr. RYAN. Mr. Speaker, it is 30somethingdems@mail.house.gov. People can send us an e-mail.

Mr. MEEK of Florida. Mr. Speaker, I thank the gentleman for giving out that Web site. That has been very useful; and we want to thank Democrats, Republicans, Independents, and even some Members for letting us know some of their thoughts.

With that, Mr. Speaker, we would like the Democratic leadership for allowing us to have this honor.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2862, SCIENCE, STATE, JUSTICE, COMMERCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. GINGREY (during Special Order of Mr. MEEK of Florida), from the Committee on Rules, submitted a privileged report (Rept. No. 109–277) on the resolution (H. Res. 538) waiving points of order against the conference report to accompany the bill (H.R. 2862) making appropriations for Science, the Departments of State, Justice, and Commerce, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2419, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2006

Mr. GINGREY (during Special Order of Mr. MEEK of Florida), from the Committee on Rules, submitted a privileged report (Rept. No. 109–278) on the resolution (H. Res. 539) waiving points of order against the conference report to accompany the bill (H.R. 2419) making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1751, SECURE ACCESS TO JUSTICE AND COURT PROTECTION ACT OF 2005

Mr. GINGREY (during Special Order of Mr. MEEK of Florida), from the Committee on Rules, submitted a privileged report (Rept. No. 109–279) on the resolution (H. Res. 540) providing for consideration of the bill (H.R. 1751) to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes, which was referred to the House Calendar and ordered to be printed.

THE 30-SOMETHING WORKING GROUP: DEMOCRATIC PROPOSALS

The SPEAKER pro tempore (Mr. GOHMERT). Under the Speaker's announced policy of January 4, 2005, the gentleman from Ohio (Mr. RYAN) is recognized for 60 minutes.

Mr. RYAN of Ohio. Mr. Speaker, I yield to the gentleman from Missouri (Mr. CARNAHAN) to continue his coherent and intelligent argument on behalf of research and development for alternative energy sources and alternative technologies to reduce our dependence on oil.

Mr. CARNAHAN. Mr. Speaker, I thank the gentleman for yielding to me.

We have that technology right here in our country. It is here today. So with the effort and the funding that we have put into some of these technologies that are hurting our environment; that have made us dependent and weaker as a country; that we are depending on resources for the Middle East instead of from the Midwest, that is the future. That is the direction. People are hungry to be led, to be able to get into that technology for their families. It is the right thing to do for the environment. It is the right thing to do not just for our economic security but for our national security interests. So that is the direction we have got to get to in this country.

Mr. RYAN of Ohio. Mr. Speaker, reclaiming my time, I think the gentleman makes a tremendous point that we try to present here. The way our friends on the other side run the government is not with an understanding of, really, what day and age it is. It is 2005. We are an information technology age. Government needs to be integrated, and our policy on alternative energy sources will strengthen our position in foreign policy. They are not two separate smokestacks. They are one coherent policy that we are trying to integrate here and say they are all connected.

And I think this brings up a tremendous point about leadership, about the corruption and the cronyism, but directly to the incompetence. Here we have, directly after 9/11, a terrorist attack on the United States of America; and everyone in the country was looking to the President for leadership, and no one really knew what to do. It was this great moment in history, but every American citizen wanted to give something. They wanted to be a part of the solution.

And many people will remember, Mr. Speaker, that the American people were going to blood banks. They wanted to give blood. They wanted to do whatever they needed to do. They were donating money to organizations. And the Red Cross had to say, We have enough blood. Thank you, but we have enough blood for now. But the American people still wanted to give. And there were nonprofits and foundations and all kinds of organizations opening up so that the American people could donate money to help the families and the victims of 9/11 and the policemen and the firemen and the emergency responders.

The American people wanted to give. And the best challenge this administration can come up with, not walk to work or get a bike so we can reduce our dependence on foreign oil so we can reduce the chances of this happening again. Do my colleagues know what this administration asked the American people to do? The great challenge after September 11 from this administration was go shopping. If that is not incompetent executive leadership at its best, I do not know what is.

And I get upset because I think that tragic situations like that, as painful as they are, there is a glimmer of possibility within that. And we could have made it a national commitment to search for and get to a point where we are no longer dependent on foreign oil. The American people could have been rallied to that cause, to conserve. And to have the Vice President say that conservation is just a personal virtue, but has no place in the public discourse is an outrage.

So why not, with all the political capital that this President had, why not say this country is going to have an Apollo project for alternative energy sources, for hybrid engines, for biodiesel, for wind and solar and everything else? We know we cannot do it today, but America is not about what we can do today. America is about what we can do tomorrow and next year and 10 years from now. And we could have laid out a long-term strategy of all the great possibilities that this country is so good at throwing out as a goal and then going after it. And it is a shame. It really is incompetent leadership.

And that is one of the reasons that we come here every night. We could be sitting in our offices. We could be going out to dinner. But we choose to come here because we want to ask, Mr. Speaker, the American people to give us an opportunity to take this country in a new direction, to change what we are doing, to get this Congress and make it independent of all the special interests, and to end this incompetence, this inability to govern.

Mr. MEEK of Florida. Mr. Speaker, if the gentleman will yield, my good friend from Ohio and my good friend from Missouri, the "Show Me" State, they say, we are in a situation right now where we should not be acting like what we call here in Congress under regular order as though it is just another day in Congress, another day at the office, no big deal, everything is fine.

Mr. Speaker, I can tell my colleagues that we should be very alarmed. We should be very alarmed at the fiscal situation we are in. The highest deficit of the history of the Republic. We are borrowing more from foreign countries, breaking records. One administration breaks the record of 42 administrations before it. We have CIA agents being outed.

Mr. RYAN of Ohio. We are not setting good records.

Mr. MEEK of Florida. We have CIA agents being pointed out by people in the White House who have the highest national security clearance to know what is going on throughout the world, getting daily briefings. We have a situation where we had Hurricane Katrina, which we have asked for an independent commission, not just for the affected area where Hurricane Katrina and Rita hit, and if we want to add Wilma, it is not just to deal with that. It is to make sure that we have a 9/11-like commission outside of the partisan commission that we have here in this House to look at the way FEMA and the State and local governments respond to natural disasters, or disasters, period.

Now, we do not even have the ice and water situation down yet when we start talking about FEMA and the response to Americans in need, and I am going to take from Mr. RYAN, taxpayers when they are in need. We do not have that down. Not if, but when a terrorist attack happens in another city here in the United States, what will be the response from the Federal, State, and local governments? I am on the Homeland Security Committee, and I have come to the conclusion that we are not ready, regardless of what the Secretary says, regardless of whatever podium the President wants to get on in the situation room and say that we are ready. We are not ready.

Even if someone had an alcohol problem, the first sign of recovery is saying first we have a problem so that we can work on the problem and start cutting through the egos, cutting through the bureaucracy, because people need help, and we need to be there for them. So we should be alarmed. We should be alarmed about what is going on and what is not going on in this country, and it should be something that Americans should be very concerned about.

The majority side beats their chests. They give floor speeches, tearing up and voice cracking, talking about how they love the troops; but meanwhile here in Congress less than 48 hours from now, many of them are going to put their voting card in the machine that I took out earlier in the last hour and they are going to vote against making sure that veterans are able to get health care in a timely manner, making sure that individuals that are financially challenged in our country have some level of health care, making sure that students pay more and their parents pay more and their grandparents pay more.

So we have a scenario where we have a family that is financially challenged trying to make sure the first person, whether it be black, white, Hispanic, or Asian, is trying to better their bloodline by saying we make sure we send the first member of our family to college.

□ 1900

We want to make sure that my daughter can become an engineer, as we have very few female engineers in this country. I want to help. We are going to ask our family to pool in. If grandma is on Medicaid and she wants to go into a nursing home, the bean counter is going to come and say, well, you wrote a check to Warren County Community College for your grandson, so that means you do have some disposable income. And this is from the AARP letter, this is not the Kendrick Meek report. Then she will be denied the opportunity to go into a nursing home. This is callous, and it is un-American.

So I want to make sure that the Members know exactly on the other side what they are doing, when they are doing it, because I am going to tell you something. It is not going to be a well-kept secret here in Washington, D.C., and it will not go away. We will continue to remind not only them, but the American people, Mr. Speaker, of the fact that they took their card and they voted against those very things, and other things.

They are asking Floridians to vote for drilling off the coast of Florida, I mean, the place where the Everglades is located. People travel across the world to come to Florida, across the world to come to the beaches and to the Everglades. We want to drill there; that is what this budget is saying. So many of the members of the Florida delegation, when I say the majority are Republican, they are going to have to make a real hard decision, and it is something that we must encourage those Members to vote for our alternatives.

So should we be alarmed? We should be alarmed. There should be a line of Democrats and Republicans outside the door of this Chamber. I will tell my colleagues this: there still has not been a mumbling word from the said committees that have oversight and something to say about who has a national security clearance and who does not. I think it is pretty evident from reading the indictment that there are some questionable issues there as it relates to folks in the White House maintaining their national security clearance.

The President's response to it? Do not take it from me; take it from his own lips of what he said in The Washington Post and other publications that are out there. The President has ordered the White House staff to attend a mandatory briefing beginning next week on ethical behavior and the handling of classified material.

Mr. DELAHUNT. I would suggest, I say to the gentleman, that it is a little late.

Mr. MEEK of Florida. Mr. Speaker, the gentleman from Missouri, I yield to him.

Mr. CARNAHAN. In Missouri they have a saying that the cow is already out of the barn. I say to my colleagues, and that certainly applies to this situation here.

Mr. DELAHUNT. Mr. Speaker, again, I am pleased to join the younger Members, both in age, I want to be very clear about that, as well as time and service, if you will, in this House. I was back in my office, and I apologize for being somewhat late, but I had business to attend to.

I heard my colleagues talking and having this conversation relative to Medicaid. But being, if you will, the senior Member, and I would acknowledge honorary member of the 30-something Group, I really felt compelled to leave my office and come here and address the issue of Medicare, since shortly I will be receiving my Medicare card. It is a year or so away, but I am really getting close. I think it is important to remind senior citizens that they are at risk in this budget process. Now, we do not know what is going to happen, but we know that there have been a variety of proposals out there.

Now, it is my understanding that the other branch of Congress has concluded the budget process and has made cuts in regards to Medicare. Can any of my colleagues help me in terms of what the order of magnitude of those cuts are to Medicare and what does it portend, what does it mean in terms of services and health care for senior citizens in this country, if the Senate cuts should prevail?

Mr. MEEK of Florida. Mr. Speaker, I can say that it is within the billions, and some may say it deals with HMO administrative costs, but they will affect the delivery of services, managed care services to many of the people that are in the managed care area.

Mr. DELAHUNT. Maybe the gentleman can help confirm what I just heard when I was in the cloakroom, and that is over 10 years, it is $40 billion that is reduced from Medicare. Obviously, we are not consulted, and it is not something that we would support. But what does it mean in terms of actual delivery of health care services to seniors? What does it mean? Has anyone explained this to older Americans who need Medicare?

Mr. MEEK of Florida. Mr. Speaker, I will tell my colleague right now, higher copayments, higher premiums, and benefits are going to be reduced. That is the bottom line. It does not get better for the seniors; it gets worse. It gets better for those who are on the side of the Republican majority, because I am going to tell you right now, if you are a special interest group, you do not even have to grab the mike and come to committee. Do not worry. The leadership on the opposite side of the aisle, they have your back. Do not worry, do not say anything, oil industry. Billionaires, do not say anything; we have you. We are going to make sure you are okay. Do not worry about it; you do not have to fight.

They were talking about a group within the Republican Conference, or I should say it is the entire Republican Conference, that has come up with a budget that is making cuts across the board for everyday Americans. Not a mumbling word, not a mumbling word about billionaires. The gentleman from Ohio just had a chart up of Americans making over half a million dollars. Not a mumbling word to just say, you know, we need 3 percent of what we have given you to not only balance the budget, but soften the cuts on everyday Americans.

Mr. RYAN of Ohio. The gentleman is talking about the Medicare cuts to our seniors.

Mr. DELAHUNT. Not Medicaid, but Medicare.

Mr. RYAN of Ohio. Medicare, the health care program for our senior citizens, our grandparents, our parents. And the gentleman is talking about the Senate making $40 billion in cuts.

Mr. DELAHUNT. Over 10 years.

Mr. RYAN of Ohio. Over 10 years. This is the same time that the Republican Conference wants to pass $70 billion in tax cuts; and we know when they give tax cuts, who they give them to. But I think it is important, because I forget the number of what the Republican Conference here in the House wants to cut Medicare to, and what that number may be.

Mr. DELAHUNT. I am confused. Again, maybe one of my colleagues or somebody could contact my office or contact the Web site and explain to us what it will mean in terms of the delivery of health care to older Americans if that $40 billion cut is accepted.

Let us remember, by the way, and I think we really should acknowledge our respect for a group of Republicans that comprise the Republican Study Committee, there are in excess, I understand, of 100 Republican Members who belong to this particular group who have the political courage, and I think we should acknowledge that, to stand up and say, if they had their way, they would really cut Medicare.

This is their proposal: they would increase Medicare part B premiums from 25 to 30 percent. What that translates into, my friends, is a cut over 10 years of $85 billion to Medicare, imposing a huge burden on seniors.

But that is not the end of what the Republican Study Committee budget would do. They would restructure Medicare's cost-sharing requirement over a 10-year period; that would be an $87 billion cut. They would go further by imposing a home health care copayment of 10 percent, and that translates into almost a $32 billion cut.

Now, if my math is correct, that amounts to, or that is a cut over 10 years, that this particular group would embrace, in excess of $200 billion to Medicare.

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Now, maybe you can help me. I keep hearing how health care costs are continuing to rise and are escalating. And yet, this particular group, the Republican Study Committee budget, if their plan was adopted while health care costs are increasing, they would reduce Medicare funding by $200 billion according to the budget that they announced several months ago in terms of what they were calling Operation Offset.

Now, obviously, we would never, I cannot imagine a single Democrat supporting that particular approach, but I think, Mr. Speaker, we should acknowledge the courage that they have, or not courage, but at least their willingness to be open and transparent and provide us with their blueprint for America, despite the fact that I do not think there is a Democrat. I know there is not a Democrat that would support it. But what do all these cuts mean?

Mr. RYAN of Ohio. I wonder, I wonder why they would cut Medicare to the tune of $200 billion.

Mr. DELAHUNT. Over 10 years

Mr. RYAN of Ohio. Over 10 years. I wonder why they would not go to the oil companies and ask them to give back their billions and billions and billions in subsidies. I wonder why they would not go and ask the pharmaceutical companies.

But what really strikes me as odd as you talked about the premium going up and the copay going up. I wonder if the health care we have given to Iraqis, I wonder if they are asking them for a copay. I wonder if they are asking the Iraqi citizens who are getting free universal health care in Iraq for a copay. Does anyone know? Because I do not know.

Mr. MEEK of Florida. I believe the Iraqis have universal health care. They have universal health care.

Mr. RYAN of Ohio. I do not think there is a copay or anything

Mr. MEEK of Florida. No, it is universal health care. It is something that we talked about here, and it just did not happen

Mr. RYAN of Ohio. So we are cutting health care, we are increasing the copays, increasing the premiums, but yet giving, we have created a welfare state in Iraq, in which we are not even asking the Iraqis to pay a copay or pay their premium.

Mr. DELAHUNT. Well, if I can ask a question, who is paying for the creation or the establishment of all of those primary health care centers in Iraq? Who is paying for that?

Mr. MEEK of Florida. The American taxpayer, Mr. DELAHUNT. The American taxpayer is paying for it.

Mr. DELAHUNT. Well, if I can, when will that money be paid back to the American taxpayer?

Mr. RYAN of Ohio. Yeah, because I thought they said that we could, did they not say something about loaning them? Well, we wanted to loan them the money, right?

Mr. MEEK of Florida. The American people have been told a lot of things as it relates to what is going to happen and what is not going to happen in Iraq. They have been told a lot of things. We have been told that the oil will pay for reconstruction, the oil will pay for military costs; and I can tell you right now what is very unfortunate. We have men and women, I have 21 military installations in my State alone, three combined, three unified commands in my State. We have a number of Guard and Reserve troops. We have 80,000 active duty individuals in my State, servicemen and women, including their families, and a number of them are deployed at this time.

Some of them are engineers that are working in Sadr City and, you know, doing infrastructure work and fresh drinking water and building schools and doing all of that. We had them before the Armed Services Committee the other day. But as it relates to the incompetence and the cronyism of contracting, and the abuse and the awarding of incompetence and cronyism, that is overshadowing the work that these men and women are doing on the ground.

They are saying, No one is paying attention to what we are doing. And I said, Yes, there are some people that are paying attention to what you are doing, and you are doing a fine job.

One thing I can say about the military, they do what they are told. If their country tells them to do something, they do it. It is not, well, you know, I do not know. Maybe I will do it. No, that is not the case. No, they do it. And that is the reason why, regardless of how you may feel, you know, about the reasoning behind why we are in Iraq or not, we have got to respect those individuals. I do not see anyone that does not.

But when you have the incompetence and the cronyism from the top, from the folks that are wearing the suits and ties and being driven around here in motorcades making the decisions, it squashes the goodwill that those men and women are doing. And so it is important for us to really pay attention to these secret areas of torture that our taxpayer dollars are involved in.

Someone may say, well, those are potential terrorists or they are identified terrorists. Why would we care about how they are treated or if they are tortured? This is the reason why you care. And I want to make sure the Members understand this. You care when a U.S. soldier is caught or detained by an insurgent, that they will not be treated in a way that is inhumane, that they will not be tortured and that we do not have to see on the 6 o'clock news a family crying because they fear that they will go through some of the acts that have taken place in secrecy under this administration.

It goes to the incompetence. It goes towards making sure that you carry out your leadership acts. And there have been cries, fortunately, out of this Congress denouncing that kind of activity.

When we talk about what the American people have been told, that is a big part of the problem. The American people are not being leveled with. What we are saying on this end, on this side of the aisle, is that we can do better together and we are stronger together when we work together; and we are willing, and the record has shown, in a bipartisan way.

And we talked about Social Security. We talked about how Tip O'Neill and Ronald Reagan came together to save Social Security in a bipartisan way, not, you know, Tip O'Neill going off in his corner and saying, We will let you in on it when we feel like it, after we have it written, okay? Or President Reagan at the same time saying, Well, I do not have the authority of the legislative branch but through an executive way I am going to make you do it the way I want you to do it. Conversations went on not just over coffee, but over U.S. policy, and that is not what is happening right now, gentlemen.

When this budget, if it passes this House and they go into what we call a conference committee with the Senate budget and the House budget, I guarantee you. I guarantee you $20, and I am not too much of a betting man, but I am going to tell you this. I guarantee you that the Democratic conferees that are supposed to be at the table will not be invited. It will not be a conference.

You can talk to Mr. RANGEL, the ranking member of Ways and Means. He is walking around here, they are saying they are meeting in conference. What? No one told me about the meeting; I did not get a notice.

We talk about the spirit of the House. We have to make sure that we move in a way that the American people want us to move. This is truth, not fiction.

When the gentleman from Massachusetts talks about what we are being told, there are a lot of things we are being told. It is just not true. We were told that the White House had nothing to do with the outing of the CIA agent. Then later we find out that they had everything to do with outing a CIA agent.

Not one member of the administration subpoenaed, not one person called from The White House to this House of Representatives and the said committees to answer the question, how could this happen? Why has it happened? Not one individual, outside of Mr. Libby, who I would assume that his national security clearance has been taken by now, has been called on the carpet on other information that has leaked out of the White House that has jeopardized national security.

This is serious stuff.

So when we talk about what people are saying, or what we are being told, the real issue and the reason why the American people sees the President at a 37 percent approval rating and this Republican-controlled House is between 35 and 31, that is the reason why, because they don't believe what we tell them, especially on the majority side, because it ends up not being the truth once it is all ironed out.

Mr. DELAHUNT. Well, there are some things that we do know. We know this, that there was a debate on this floor several years ago where billions of dollars were appropriated to rebuild Iraq. And those of us on the Democratic side supported that funding, if, if it were going to be provided in the form of a loan because we were concerned about American taxpayers being repaid their money. But the Republican leadership, at the insistence of the White House, said, No way; we are going to give this money to Iraq.

So what we have done, and I think there is an irony here, we have provided free of charge, no interest, no money to be returned, we have provided good health care for Iraqis. We have built 110 primary health care centers. We have educated 2,000 health care professionals. We have vaccinated 3.2 million children. And I think we all applaud that and support that.

We have rehabilitated 2,700 schools. We have paid the salaries and trained 36,000 teachers in Iraq. We have provided $1 billion for safe drinking water and we have marshland restoration initiatives going on in Iraq.

We have built, or we have completed some 3,100 community action programs. We have provided millions for the construction of housing and public buildings for Iraqi citizens. We have rebuilt railways for Iraqis.

And you know what else we did? We rehabilitated a canal system. We built a dam, a beautiful dam, a dam that will hopefully serve well the Iraqi people. We built this dam in Mosul. At the same time, we are cutting millions from the Army Corps of Engineers, including funding for levee construction in Louisiana, Mr. Speaker, in Louisiana. We did that free of charge.

Now, we support it. But you know what? We would hope, given the abundance of energy reserves that the Iraqis have that they would pay us back once they get on their feet. But, no, you know, here is the President that said he didn't believe in nation building. I did not know he was talking about America. But he must believe it when it comes to Iraq. How about doing it for our fellow citizens in Louisiana and Mississippi and Texas that have been devastated by natural disaster?

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Mr. MEEK of Florida. Mr. Speaker, I am just so sorry. I know we have two other colleagues here who are very respectful Members of this body, but I just cannot let this moment pass. The fact that we are forgiving from the beginning, we forgave the money that we gave to Iraq and the money that we continue to spend in Iraq, which we have appropriated the largest U.S. embassy in the world in Iraq; but let me just make this point here.

Katrina, Rita, Wilma. Those Americans that were identified to receive individual assistance when they called that 1-800 number, FEMA, something FEMA, you know what they get back when they say when they filed for FEMA assistance? They do not get a check back immediately. They get an application from the Small Business Administration to fill out for a loan when they are on their knees. You fill out that loan application first. And if, and this is a big if, if you do not qualify for that Small Business Administration loan, then FEMA comes and they actually try to figure out how much money they can grant—you what they call "mitigation"—to put your house back together.

So for billions of dollars, 87 billion-plus continuing to give and there will be another supplemental soon for not only the troops but also to pay for other operations in Iraq with companies like Halliburton and other companies that are under investigation that are enjoying Katrina contracts right now, we are asking Americans when they are on their knees to fill out a loan application.

Mr. DELAHUNT. It is worse than that. You know what is happening in Louisiana, Mr. Speaker? You know what is happening? They have got a bill for $4 billion. That is the estimate. If they want help from the Federal Government they have got to come up with some $4 billion. I think it was the State treasurer there that requested the estimate, and he said we asked for a grant. We asked for a grant, and they gave us a loan. And yet we are doing the opposite in Iraq.

As a Nation, a government, your primary obligation or responsibility goes to your own people. That is what we should be doing. And the gentleman from Florida (Mr. MEEK) is so right.

Mr. RYAN of Ohio. Mr. Speaker, we do not swear to the Iraqi Constitution. We do not come here to represent the Iraqi people. First and foremost it is the United States. So you are telling me that we are giving money to the Iraqis, grant money; but if we have a natural disaster in the United States, we ask the American citizens to fill out a form so they can maybe get a loan. And if an American citizen wants to go to college, they got to take out a loan.

So we are loaning money to the American people so our kids end up with $17,500 in college debts because we loan them the money; but when it comes to Iraq, we have created a welfare state.

Mr. DELAHUNT. But they want $4 billion from the State of Louisiana, and the State of Louisiana's annual budget is $8 billion. So half of it would go to the Federal Government so that Louisiana can get relief from their Federal Government. That just does not make sense.

Mr. RYAN of Ohio. And at the same time we are giving money away, and I know my good friend from Missouri (Mr. CARNAHAN) wants to make a point. At the same time we are giving this money away to Iraq, it is not like we have it. We are borrowing money from other countries. This President has borrowed more money from other countries in the last 4 years than this country has borrowed from other countries in the last 224 years.

So let us get this straight, the Republican majority in the House, the Republican majority in the Senate, and the Republican President, who have all been in charge the last 4 years, have borrowed more money from foreign countries and then they give it to foreign countries. They give it to Iraq. That is unbelievable to me when at the same time we have American citizens who need a little bit of assistance on college tuition, but they got to go borrow the money.

Mr. CARNAHAN. Mr. Speaker, I have got to jump in here. The point that I think we all saw in the aftermath of the hurricanes was the incredible spirit of the American people rising to the occasion when their government, the people in charge of our government now, frankly, did not live up to the expectation and that spirit of the rest of the country.

And the gentleman from Massachusetts (Mr. DELAHUNT) was talking about rebuilding. What about rebuilding the damaged relations all around the globe that have occurred because of the way we got into Iraq? We are going to be dealing with that for years and years to come. Not only is it hurting us economically but hurting us in terms of our relationships around the world, and that affects us here at home in what we can do.

But it gets back to the issues we have talked about tonight about priorities in leadership, and there is such a disconnect with this leadership. They are so out of touch.

Mr. RYAN of Ohio. This Republican leadership.

Mr. CARNAHAN. Right. This Republican leadership is so out of touch with the American people. When we all go home and talk to our constituents, we get an earful. They want to see people connected with the people back home, and that is our job, especially in this body that is the closest representative body in the Federal Government.

That is our job. We work for the people back home. And if we are not speaking out and speaking up to implement that here in these programs, whether it is Iraq, whether it is rebuilding the gulf, whether it is this budget reconciliation, it is about priorities and expressing those people's beliefs here; but that is not getting through with this leadership.

Mr. RYAN of Ohio. Mr. Speaker, I am almost afraid to have this outfit that we have in charge here, Republican majority and the Republican running the executive branch. I am almost afraid to have them go out into the international community to try to rehab our relationship because their solution is to just throw money at the country and just give them grant money, taxpayer money. That is their only solution. A stronger America begins right here at home. We need to do this together because it is only together that America can do better.

Mr. MEEK of Florida. And that is the reason why we are here on this floor. Many Members have gone home and they are having dinner or watching some sort of program in prime time, but we opt to be here letting not only the Members know, Mr. Speaker, but also the American people know what is happening in this House. We want to bring true meaning to the fact that this is the people's House. We want the American electorate and Members to know that the people of the United States of America elected us to be here to represent them.

We may be from different districts, but we have been federalized by the fact of our elections to represent all Americans. And the question that is before us now is what kind of government do you want? Do you want a government that is going to set the stage, a stage for a grandmother to make the decision if she is going to contribute to her grandson's or granddaughter's college education in jeopardy of losing her Medicaid benefits for nursing home care if she needs it? Are we going to set the stage for a veteran who wants to see an ophthalmologist who has to wait 3 months now, maybe 6 months?

Are we going to ask legislators from environmentally sensitive States to jeopardize the very trademark of their State on behalf of special interests to drill oil just miles off the coast? Is that the kind of leadership that we want? Do we want the kind of leadership that is willing to protect those industries, the industries that make record profits, not we are just making it or we are just barely holding on and we need some assistance or an airline bail-out? It is not that. It is individuals eating lobster and steak and telling the shareholders it has never been better ever in the history of the world.

But better yet, you are going to come to the people's House, or what is supposed to be the people's House, take the taxpayers' dollars, put it in your pocket while you hold on to your profits in this pocket and for you to expand and continue to prosper, that you are going to do it on the backs of everyday Americans that are paying taxes, need it be Democrats or Republicans.

We should be very alarmed. Americans should be very concerned, and we should every day in this 109th Congress rise up every time we have the opportunity to give voice to those individuals that have sent us here or those individuals that wish that their Congressman or Congressperson would stand up on their behalf.

We challenge those individuals in the majority to make the right decision. Make the right decision, because history will reflect on what each and every one of us did in this moment, in this time when you are cutting school free and reduced lunch for poor children. I mean, I am not a preacher or anything, but I am here to tell you for poor children and then walk around chestbeating that we are balancing the budget and just a couple of weeks from now going to try to pass a tax cut on behalf of who? Not the people that you have just taken from, but the people who are receiving benefits on the backs of the people that you just took from.

So it really does not make sense. The only thing that really makes sense here is the fact that those with financial power not only in this country but in this city and the special interests that they are going to get what they want, bottom line. And if you question it, you are in the line of fire. So when you start looking at this very real standpoint of what we may call the "political two step," I may say the political look left, we are going right or look right we are going left. The bumper sticker theme politics that are there, we have to make sure that we break this thing down for people who are not voting politics over principle, but they are voting principle over politics. And that is Democrat, Republican and Independent. These are the things we have to focus on.

Mr. RYAN of Ohio. So let us see if we can tie this all up. Our country gives billions of dollars in corporate welfare to the most profitable industries in the world that are having the most profitable quarters in the history of mankind. They are then giving tax cuts that go primarily to the top 1 percent, who are probably executives of the oil companies and the pharmaceutical companies.

Mr. MEEK of Florida. Half a million dollars.

Mr. RYAN of Ohio. Half a million dollars and up. So you get corporate welfare from the public taxpayer. Then you get tax cuts for people making more than half a million dollars. And then the money that does get sent here, we give it to Iraq and create a welfare state. And then we do not even have the money to give away; we go and borrow it from a foreign country. We have borrowed more money in the last 4 years from a foreign country than we have in the last 224 years.

Mr. MEEK of Florida. China.

Mr. RYAN of Ohio. From China, from Saudi Arabia.

Mr. DELAHUNT. What the gentleman is saying in effect is that we are borrowing money from China so that we can create a welfare state in Iraq. We have become a conduit. That in very simple terms is what is happening because we are borrowing our way into bankruptcy to cut taxes and to support programs, not for American citizens, but for Iraqis who deserve this help but at least should be required to pay it back. That is what it comes down to. Meanwhile, our own citizens in the States, particularly the gulf States, they have to ask the Federal Government for help; and what they hear is, we will give you help, but it will come in the form of a loan. You have got to do matching funds.

I think we have got to be friends to our Republican colleagues too, because there are many Republicans that have spoken out about the incompetence of what has transpired in Iraq, have spoken out about the folly of the approach to the war.

Senator PAT ROBERTS from a neighboring State to Missouri and Kansas, back in May of 2004, that is a year and a half ago, he made this observation, now he is a Republican, a respected Republican: "We need to restrain our growing U.S. messianic instincts, a sort of global engineering where the United States feels it is both entitled and obligated to promote democracy by force if necessary."

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That comes from a highly respected Republican, and yet what do we hear from the White House? We have to stay the course, but please, please temper can the White House not just stand up and say that we were wrong? We have heard other individuals say that. They would gain respect.

Senator LUGAR, the chairman of the Foreign Relations Committee, a highly well-respected Midwestern Republican senator, this is what he had to say back in September of last year: "Our committee heard blindly optimistic people from the administration prior to the war and people outside the administration, what I call" and these are his words, "the 'dancing in the street crowd' that we just simply will be treated with open arms. The nonsense of all that is apparent. The lack of planning is apparent."

You know what? Now, we face another scandal. We have heard about scandals in the past 6 months to a year. We talk about special interests on this hill, but there is a scandal brewing out there, and the American people are going to discover it.

It was reported by two very conservative journalists in the conservative paper, the Washington Times. Let me quote for just a minute: "The Bush administration is facing another scandal that is quietly bubbling away in the background as most press attention is focused on the" Plame affair.

"Defense officials tell us the scandal involves massive corruption in Iraq related to U.S. and international funds meant for reconstruction efforts and the failure of the administration to control" and monitor "those funds.

"The officials say conservative estimates put the amount of stolen money at about $9 billion, and that it could be as high as $15 billion."

So you know what, many of those projects that we had hoped to do to build a Nation, to build a Nation in Iraq, that money went into somebody's pockets. It was the wild West, and you know what, I, as ranking member, the senior Democrat on the subcommittee in the Committee on International Relations dealing with oversight and investigations, have asked repeatedly, let us investigate, let us conduct oversight hearings into what has happened to that money. And you know what I hear?

Mr. MEEK of Florida. That is what you get. You are hitting it right on the head.

Here is the real issue here. In the Armed Services Committee, you start talking about strategy for success or you start talking about an exit strategy or what is the strategy, what is the coalition strategy, it is why are you asking questions? What you are talking about? Cutting and run? No. We are talking about running responsible government. That is what we are talking about.

Mr. DELAHUNT. Are you a patriot? Are you hearing that?

Mr. MEEK of Florida. Are you a patriot. Are you with them or are you with us. It is to assault individuals from asking the questions constitutionally we are supposed to ask. To say that on the expiration date we have is a carton of milk is really it is not a question of the expiration date. It is a question of since we have a coalition of other countries and single digits, as they may be, of those individuals that have pulled out, since we have those individuals there, what is our strategy of being able to exit? Is it to train Iraqi troops? Okay. We have been doing that now for just under 2 years now. We are still under the numbers and they are not ready yet, and we still have a lot of work to do.

Mr. DELAHUNT. How long does it take to train a Marine?

Mr. MEEK of Florida. It does not take 2 years.

Mr. DELAHUNT. That is right.

Mr. MEEK of Florida. Mr. Speaker, I am going to tell you that it is important that we do start asking some of the tough questions, that we do start pressing the card.

Mr. DELAHUNT. The entire country wants to have those questions posed, and let us be fair. There are Republicans, there are noted conservatives. We all know William F. Buckley, the founder of the Nation, a respected conservative journalist. When he heard what he has heard, he made this statement: If I knew then, meaning around the time of the debate on the war resolution, what I know now about what kind of situation we would be in, I, William F. Buckley, would have opposed the war.

That should resonate among the Republican leadership and particularly the White House, but they do not want to acknowledge that they have made mistake after mistake after mistake and are compounding it, are driving our economy into a structural deficit in an order of magnitude that we have never seen, that we will never get out of, and most importantly, the lives that have been lost and the men and women that are permanently damaged by this war of choice.

Mr. CARNAHAN. Mr. Speaker, if the gentleman would yield, that just reminds me of something that I think really fits right in with this.

One of my favorite figures in history is President Harry Truman who was from the great State of Missouri. I know that does not surprise you that he would be my favorite President, but he is a great figure to learn about responsibility. He had that famous plaque on his desk that said, "The buck stops here." He was not about blaming somebody else or hiding things from the American people. He stood up and told it like it was.

The other thing we learned from Harry Truman was about accountability. He was kind of an obscure Member of Congress that started something called the Truman Commission that began to review how we spent massive amounts of money through the war effort, but to do it in such a way that was pro-military, to be sure our troops got what they needed, to be sure that the taxpayers were getting a fair deal with how we were spending that money and that these moneys were being accounted for.

This administration does not want that kind of scrutiny but we need that. Eventually, we are going to get that, but it has been delayed and put off, but the American people demand that. They deserve that, and I think leaders in the Democratic party are going to be sure we get to that point.

Mr. RYAN of Ohio. Especially when Halliburton stock has doubled. I mean, all this is going on and Halliburton's stock's doubled.

Mr. MEEK of Florida. No-bid contract.

Mr. RYAN of Ohio. No-bid contracts. They just get money thrown at them.

Mr. MEEK of Florida. Taxpayers' money.

Mr. RYAN of Ohio. Mr. Speaker, the end result is not a good one. It is not an effective use of the taxpayers money.

Mr. DELAHUNT. They were going to try to pull the same thing in the gulf States. They were doing the same thing. They were importing the same practices from Iraq that have resulted in this incredible brewing scandal. They were going to do the same thing right here in the gulf States, but you know what, the American people have caught on and they are backing off.

Mr. RYAN of Ohio. That is why we want the independent Katrina commission, so we could make sure we figure out what we are doing, but we fear that when we start pulling off the onion piece by piece, that we are going to end up finding out what is going on in Iraq, and it will be a tremendous waste of the taxpayers' money.

Mr. DELAHUNT. Mr. Speaker, what we need is the Congress to reassert itself, coming together on a bipartisan basis and demanding oversight because, you know what, this administration is the most secretive administration in all of American history.

Let me make one final quote, to take one final quote from another Republican, from the Midwest, from the farm belt, Senator HAGEL from Nebraska. He had this to say back in 2004. This is not a Democrat. This is his language. This administration has seen Congress as an enemy and a constitutional nuisance. The world right now is in trouble, and we need to have a Congress and a President and an executive branch that is working together. Amen.

Mr. RYAN of Ohio. Amen.

Mr. MEEK of Florida. Mr. Speaker, let me just on another note that I know we all share. Our hearts and prayers go out to those tornado victims in the Knight Township in Indiana and other victims of that tornado. Mr. Speaker I know that the whole House, we are in solidarity with hopefully their fast recovery from this natural disaster, and with that, I know that the gentleman from Ohio (Mr. RYAN) has the honors of the Web site and closing us out.

Mr. RYAN of Ohio. Yes, sir. 30somethingdems@mail.house.gov. Send us your ideas, your comments, your thoughts. We appreciate them. We do read what you send in. We are going to be introducing some new methodology in the next week or so. 30somethingdems@mail.house.gov. We thank our good friend from Missouri for joining us tonight.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. MILLENDER-MCDONALD (at the request of Ms. PELOSI) for today.

Ms. WATERS (at the request of Ms. PELOSI) for today.

Mr. SHERMAN (at the request of Ms. PELOSI) for today.

Mr. YOUNG of Florida (at the request of Mr. BLUNT) from November 7 through November 9 on account of family medical reasons.

Mr. NORWOOD (at the request of Mr. BLUNT) for the weeks of November 1 and November 7 on account of minor surgery.

Mr. RYAN of Wisconsin (at the request of Mr. BLUNT) for today on account of a family medical emergency.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. DEFAZIO) to revise and extend their remarks and include extraneous material:)

Mr. DEFAZIO, for 5 minutes, today.

Mrs. MCCARTHY, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. KENNEDY of Rhode Island, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

Mrs. CHRISTENSEN, for 5 minutes, today.

Ms. WASSERMAN SCHULTZ, for 5 minutes, today.

Ms. JACKSON-LEE of Texas, for 5 minutes, today.

(The following Members (at the request of Mr. NUNES) to revise and extend their remarks and include extraneous material:)

Ms. ROS-LEHTINEN, for 5 minutes, November 14.

Mr. BISHOP of Utah, for 5 minutes, November 9.

Mr. POE, for 5 minutes, November 9.

Mr. GINGREY, for 5 minutes, today.

Mr. KIRK, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Ms. CARSON, for 5 minutes, today.

Mr. MICA, for 5 minutes, today.

Mr. WELDON of Pennsylvania, for 5 minutes, today.

SENATE ENROLLED BILL SIGNED

The SPEAKER announced his signature to an enrolled bill of the Senate of the following title:

S. 1285. An act to designate the Federal building located at 333 Mt. Elliott Street in Detroit, Michigan, as the "Rosa Parks Federal Building".

ADJOURNMENT

Mr. DELAHUNT. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 7 o'clock and 53 minutes p.m.), the House adjourned until tomorrow, Wednesday, November 9, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5033. A letter from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule—Provision of Information to Cooperative Agreement Holders [DFARS Case 2004-D025] received October 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

5034. A letter from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Payment and Billing Instructions [DFARS Case 2003-D009] received October 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

5035. A letter from the Acting Director, Defense Procurement and Acquisition Policy, Department of Defense, transmitting the Department's final rule—Defense Federal Acquisition Regulation Supplement; Multiyear Contracting [DFARS Case 2004-D024] received October 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Armed Services.

5036. A letter from the Director, Financial Crimes Enforcement Network, Department of Treasury, transmitting the Department's final rule—Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Anti-Money Laundering Programs for Insurance Companies (RIN: 1056-AA70) received November 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5037. A letter from the Director, Financial Crimes Enforcement Network, Department of Treasury, transmitting the Department's final rule—Financial Crimes Enforcement Network; Amendment to the Bank Secrecy Act Regulations—Requirement that Insurance Companies Report Suspicious Transactions (RIN: 1506-AA36) received November 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5038. A letter from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation, transmitting the Corporation's final rule—Extension of Corporate Powers (RIN: 3064-AC94) received October 31, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5039. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5040. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5041. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

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5059. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5060. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5061. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5062. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5063. A letter from the White House Liaison, Department of Education, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5064. A letter from the Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Listing Gila Chub as Endangered with Critical Habitat (RIN: 1018-AG16) received November 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5065. A letter from the Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Allium munzii (Munz's onion) (RIN: 1018-AJ10) received November 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5066. A letter from the Assistant Secretary for Fish, Wildlife and Parks, Department of the Interior, transmitting the Department's final rule—Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the Southwest Alaska Distinct Population Segment of the Northern Sea Otter (Enhydra lutris kenyoni) (RIN: 1018-AI44) received November 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5067. A letter from the Acting Chief, Publications and Regulations Branch, Department of Treasury, transmitting the Service's final rule—Settlement Initiative [Announcement 2005-80] received October 31, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5068. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Taxation of DISC Income to Shareholders (Rev. Rul. 2005-70) received October 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5069. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Low-Income Housing Credit (Rev. Rul. 2005-67) received October 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5070. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Determination of Issue Price in the Case of Certain Debt Instruments Issued for Property (Rev. Rul. 2005-71) received October 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5071. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Balanced System for Measuring Organizational and Employee Performance within the Internal Revenue Service [TD 9227] (RIN: 1545-BE46) received October 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5072. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Excise Tax Changes Under SAFETEA and the Energy Act; Dye Injection [Notice 2005-80] received October 31, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5073. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—South Asia Earthquake Occuring on October 8, 2005, Designated as a Qualified Disaster Under Section 139 of the Internal Revenue Code [Notice 2005-78] received October 31, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5074. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Additional Relief for Certain Employee Benefit Plans as a Result of Hurricane Katrina [Notice 2005-84] received October 31, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5075. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Treatment of Income in Excess of Daily Accruals on Residual Interests (Rev. Rul. 2005-68) received November 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5076. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Administrative, Procedural, and Miscellaneous (Rev. Proc. 2005-70) received November 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5077. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Elimination of Filing Requirement for Nonresident Alien Individuals with United States Source Effectively Connected Wages below the Personal Exemption Amount [Notice 2005-77] received November 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5078. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Withholding on Wages of Nonresident Alien Employees Performing Services within the United States [Notice 2005-76] received November 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5079. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Amendment to Sunset Date of Section 1441 Voluntary Compliance Program under Rev. Proc. 2004-59 (Rev. Proc. 2005-71) received November 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5080. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule—Appeals Settlement Guidelines IRC Section 461(f) Contested Liabilities [UIL No. 9300.30-00] received November 4, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5081. A letter from the Regulations Coordinator, CMM, Department of Health and Human Services, transmitting the Department's final rule—Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2006 and Certain Provisions Related to the Competitive Acquisition Program of Outpatient Drugs and Biologicals Under Part B [CMS-1502-FC and CMS-325-F] (RIN: 0938-AN84) (RIN: 0938-AN58) received November 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

5082. A letter from the Regulations Coordinator, CMM, Department of Health and Human Services, transmitting the Department's final rule—Medicare Program; Changes to the Hospital Outpatient Prospective Payment System and Calendar Year 2006 Payment Rates [CMS-1501-FC] (RIN: 0938-AN46) received November 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. GINGREY: Committee on Rules. House Resolution 538. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2862) making appropriations for Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–277). Referred to the House Calendar.

Mr. HASTINGS of Washington: Committee on Rules. House Resolution 539. Resolution waiving points of order against the conference report to accompany the bill (H.R. 2419) making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–278). Referred to the House Calendar.

Mr. GINGREY: Committee on Rules. House Resolution 540. Resolution providing for consideration of the bill (H.R. 1751) to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes (Rept. 109–279). Referred to the House Calendar.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 1630. A bill to authorize appropriations for the benefit of Amtrak for fiscal years 2006 through 2008, and for other purposes (Rept. 109–280). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. RUSH:

H.R. 4248. A bill to amend the Internal Revenue Code of 1986 to impose a temporary windfall profit tax on crude oil and to use the proceeds to carry out the Low-Income Home Energy Assistance Act of 1981; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OBERSTAR (for himself and Mr. Ramstad):

H.R. 4249. A bill to provide for programs within the Department of Health and Human Services and Department of Veterans Affairs for patients with fatal chronic illness, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MICA (for himself and Mr. Manzullo):

H.R. 4250. A bill to eliminate fees for assistance provided by the Department of Commerce and agencies thereof under export promotion programs, to authorize appropriations for such purpose, to direct the Secretary of Commerce to take certain steps to expand export promotion activities, and for other purposes; to the Committee on International Relations.

By Mr. POMBO (for himself, Mr. Ford, Mr. Kind, Mr. Peterson of Pennsylvania, Mr. Duncan, Mr. Case, and Mr. Bass):

H.R. 4251. A bill to help relieve the shortage in the supply of firewood for home heating use by making additional quantities of free firewood available to individuals from National Forest System lands; to the Committee on Agriculture, and in addition to the Committee on Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GENE GREEN of Texas (for himself, Mr. Barton of Texas, Mr. Poe, Mr. Culberson, Mr. McCaul of Texas, Mr. Marchant, Mr. Edwards, Mr. Doggett, Mr. Cuellar, Mr. Hinojosa, Ms. Jackson-Lee of Texas, Mr. Conaway, Ms. Granger, Mr. Reyes, Mr. Gonzalez, Ms. Eddie Bernice Johnson of Texas, Mr. Al Green of Texas, Mr. Brady of Texas, Mr. Hall, and Mr. Ortiz):

H.R. 4252. A bill to designate the headquarters building of the Department of Education in Washington, DC, as the Lyndon Baines Johnson Federal Building; to the Committee on Transportation and Infrastructure.

By Ms. GINNY BROWN-WAITE of Florida (for herself and Mr. Jones of North Carolina):

H.R. 4253. A bill to expand the authority of the Secretary of Homeland Security to transport and remove aliens unlawfully present in the United States; to the Committee on Homeland Security, and in addition to the Committee on the Judiciary, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. COOPER (for himself, Mr. Costa, Mr. Emanuel, Mr. Ford, Mr. Scott of Georgia, Mr. Ryan of Ohio, Mr. Davis of Tennessee, and Ms. Wasserman Schultz):

H.R. 4254. A bill to establish a commission on corporate entitlement reform; to the Committee on Government Reform, and in addition to the Committees on Ways and Means, and Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. FLAKE (for himself, Ms. Bordallo, Mr. Fortuño, Mrs. Christensen, Mr. Doolittle, Mr. Abercrombie, Mr. Burton of Indiana, and Mr. Faleomavaega):

H.R. 4255. A bill to convey certain submerged lands to the Commonwealth of the Northern Mariana Islands in order to give that territory the same benefits in its submerged lands as Guam, the Virgin Islands, and American Samoa have in their submerged lands; to the Committee on Resources.

By Mr. LANGEVIN:

H.R. 4256. A bill to amend the Social Security Act and the Internal Revenue Code of 1986 to assure comprehensive, affordable health insurance coverage for all Americans through an American Health Benefits Program; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. POMEROY (for himself, Mrs. Cubin, and Ms. Herseth):

H.R. 4257. A bill to amend the Packers and Stockyards Act, 1921, to prohibit the use of certain anti-competitive forward contracts; to the Committee on Agriculture.

By Mr. SHAYS (for himself and Mr. Lantos):

H.R. 4258. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to ensure that evacuation procedures are included as a part of State and local emergency preparedness operational plans; to the Committee on Transportation and Infrastructure.

By Mr. THOMPSON of California (for himself, Mr. Rehberg, Mr. Filner, Mr. Peterson of Minnesota, Mr. Matheson, Mr. Van Hollen, Mr. McDermott, Mr. Holt, and Mr. Strickland):

H.R. 4259. A bill to establish the Veterans' Right to Know Commission; to the Committee on Armed Services, and in addition to the Committee on Rules, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. CHRISTENSEN (for herself, Mr. Honda, and Ms. Bordallo):

H. Con. Res. 293. Concurrent resolution supporting the observance of a Campaign to End AIDS Advocacy Day, and for other purposes; to the Committee on Energy and Commerce.

By Mr. BAIRD (for himself, Mr. Udall of Colorado, Mr. Gordon, Mr. Boehlert, Mr. Ehlers, Mr. Wu, and Mr. Holt):

H. Res. 541. A resolution honoring Drs. Roy J. Glauber, John L. Hall, and Theodor W. Hansch for being awarded the Nobel Prize in Physics for 2005, and Drs. Yves Chauvin, Robert H. Grubbs, and Richard R. Schrock for being awarded the Nobel Prize in Chemistry for 2005, and for other purposes; to the Committee on Science.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. DAVIS of Illinois introduced a bill (H.R. 4260) for the relief of Muhammad Amjad Khan, Samina Khan, Madiha Khan, Zainab Khan, and Tayyab Khan; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 282: Mr. Sweeney.

H.R. 303: Mr. Kuhl of New York and Ms. Harman.

H.R. 389: Mr. Filner.

H.R. 414: Mr. English of Pennsylvania and Mr. Butterfield.

H.R. 503: Mrs. Jo Ann Davis of Virginia.

H.R. 521: Mr. Olver.

H.R. 558: Ms. Granger.

H.R. 583: Mrs. Davis of California.

H.R. 586: Mr. Hastings of Washington, Mr. Aderholt, and Mrs. Jo Ann Davis of Virginia.

H.R. 597: Mr. Istook.

H.R. 670: Mr. Ruppersberger.

H.R. 690: Mr. Moran of Virginia.

H.R. 913: Mr. Calvert.

H.R. 927: Mrs. Jones of Ohio.

H.R. 972: Mr. Cannon, Mr. Gordon, and Mr. Honda.

H.R. 995: Mr. Brady of Pennsylvania, Mr. Filner, and Ms. Millender-McDonald.

H.R. 999: Mr. LaHood.

H.R. 1000: Mr. Doyle.

H.R. 1120: Mr. Frank of Massachusetts and Mr. Fattah.

H.R. 1144: Mr. Waxman, Mr. Doggett, Mr. McNulty, Mr. McDermott, Mr. Brady of Pennsylvania, and Mr. Emanuel.

H.R. 1176: Mr. Kennedy of Minnesota.

H.R. 1227: Mr. Davis of Illinois.

H.R. 1298: Mr. Andrews.

H.R. 1348: Mr. Lewis of Georgia.

H.R. 1357: Mrs. Schmidt.

H.R. 1416: Mr. Capuano, Mr. Langevin, Ms. Wasserman Schultz, Ms. Schakowsky, Ms. Woolsey, Mr. Wu, Ms. Hooley, Mr. Larson of Connecticut, Mr. Bishop of New York, Mr. Delahunt, and Mr. Tierney.

H.R. 1449: Mr. Istook.

H.R. 1849: Mr. Brady of Pennsylvania, Mrs. Davis of California, and Mr. Foley.

H.R. 2012: Mr. Gordon, Mr. Calvert, and Mr. Cannon.

H.R. 2047: Mr. Stupak.

H.R. 2052: Mr. Cummings.

H.R. 2053: Mr. Cummings.

H.R. 2177: Mr. McCotter.

H.R. 2357: Mr. Fortuño.

H.R. 2525: Mr. Shimkus.

H.R. 2533: Mr. Graves, Mr. Fitzpatrick of Pennsylvania, and Mr. LoBiondo.

H.R. 2658: Mr. Rehberg.

H.R. 2669: Mr. Frelinghuysen and Mr. Kirk.

H.R. 2892: Mr. Markey and Mr. Grijalva.

H.R. 2989: Mrs. Biggert and Mr. LoBiondo.

H.R. 3049: Ms. Schakowsky.

H.R. 3082: Mr. MARSHALL.

H.R. 3189: Mr. WEXLER.

H.R. 3284: Mr. FATTAH.

H.R. 3502: Mr. NADLER.

H.R. 3582: Ms. ROS-LEHTINEN.

H.R. 3616: Mr. SIMMONS.

H.R. 3705: Mr. LEACH.

H.R. 3715: Mr. GERLACH.

H.R. 3776: Mr. GOODLATTE.

H.R. 3782: Mr. LEACH.

H.R. 3795: Mr. KIND and Mr. MCNULTY.

H.R. 3868: Mr. CARTER and Mr. CALVERT.

H.R. 3889: Mr. ISTOOK, Mr. FILNER, Mr. SALAZAR, and Mr. SESSIONS.

H.R. 3944: Mr. HIGGINS, Mr. SALAZAR, and Mr. MCINTYRE.

H.R. 3973: Mrs. NAPOLITANO.

H.R. 3986: Mr. MENENDEZ.

H.R. 4029: Mr. CLAY, Mr. BRADY of Pennsylvania, and Ms. LEE.

H.R. 4032: Mr. MARCHANT, Mr. FOLEY, Mr. WELDON of Florida, and Mr. PRICE of Georgia.

H.R. 4050: Mr. SALAZAR.

H.R. 4079: Mr. ISTOOK.

H.R. 4089: Mr. KUHL of New York.

H.R. 4093: Ms. GINNY BROWN-WAITE of Florida and Mr. HASTINGS of Washington.

H.R. 4098: Mr. MARSHALL, Ms. ROS-LEHTINEN, Mr. COLE of Oklahoma, Mr. WYNN, Mr. WAMP, Mr. STRICKLAND, Mr. BROWN of South Carolina, and Mr. CLAY.

H.R. 4126: Mr. CASE.

H.R. 4134: Mr. BRADLEY of New Hampshire.

H.R. 4145: Mr. HOLT, Mr. BONNER, Mr. EVERETT, Mr. ADERHOLT, Mr. CRAMER, Mr. BACHUS, Mr. SCHIFF, and Mr. KNOLLENBERG.

H.R. 4168: Mr. MURPHY, Mr. ALEXANDER, and Mrs. JO ANN DAVIS of Virginia.

H.R. 4194: Mr. LANGEVIN, Ms. WATSON, Mr. INSLEE, Mr. TIERNEY, Ms. DEGETTE, and Mr. UDALL of New Mexico.

H.R. 4200: Mr. GALLEGLY, Mr. MCHUGH, Mr. LUCAS, Mr. MORAN of Kansas, and Mr. MANZULLO.

H.R. 4232: Mr. MCDERMOTT.

H.R. 4238: Mr. SAM JOHNSON of Texas and Ms. HARRIS.

H.R. 4239: Mrs. EMERSON and Mr. EDWARDS.

H. Con. Res. 42: Mr. MATHESON.

H. Con. Res. 52: Mr. ISTOOK.

H. Con. Res. 230: Mr. CAPUANO, Mr. STEARNS, Mr. BASS, Mr. MARKEY, Mr. SHIMKUS, Mr. KELLER, Mr. WESTMORELAND, Mr. INGLIS of South Carolina, Mr. MEEK of Florida, Mr. LEWIS of Kentucky, and Mr. GONZALEZ.

H. Con. Res. 268: Mrs. MUSGRAVE, Mr. BARRETT of South Carolina, Mr. REHBERG, Mr. UPTON, Mr. BEAUPREZ, Mr. PENCE, Mrs. JO ANN DAVIS of Virginia, and Mr. FLAKE.

H. Con. Res. 280: Mr. MCNULTY and Mr. MEEKS of New York.

H. Con. Res. 284: Mr. BLUMENAUER and Mr. MEEKS of New York.

H. Con. Res. 285: Mr. WELDON of Florida and Mr. UPTON.

H. Res. 302: Mr. COSTA and Ms. NORTON.

H. Res. 335: Mr. BAIRD, Mr. EHLERS, and Mr. SHAYS.

H. Res. 458: Mr. CUMMINGS.

H. Res. 466: Mr. FITZPATRICK of Pennsylvania.

H. Res. 479: Mr. FRANK of Massachusetts and Mr. MCDERMOTT.

H. Res. 505: Mr. HOLT, Mr. UDALL of Colorado, Ms. ZOE LOFGREN of California, Mr. CLYBURN, Mr. WAXMAN, Ms. CARSON, Mr. MICHAUD, Mr. WU, Mr. MENENDEZ, Mr. SHERMAN, Ms. DEGETTE, Mr. DOYLE, Ms. BALDWIN, Mr. CLEAVER, Mr. FATTAH, Mr. MEEHAN, Mr. NEAL of Massachusetts, Mr. COSTELLO, Mr. DICKS, Ms. HOOLEY, Mr. OBERSTAR, Mr. OLVER, Mr. PASTOR, Mr. RUSH, Mr. VISCLOSKY, Ms. LINDA T. SÁNCHEZ of California, Mr. ENGEL, Mrs. MCCARTHY, Mr. EVANS, Mr. WEINER, Mr. LARSON of Connecticut, Mr. RYAN of Ohio, Mr. UDALL of New Mexico, Mr. BAIRD, Ms. BERKLEY, Mr. AL GREEN of Texas, and Ms. WATERS.

H. Res. 507: Mr. MORAN of Virginia.

H. Res. 535: Mr. CONYERS, Mr. MCNULTY, Ms. SCHAKOWSKY, Mr. CROWLEY, Mr. ETHERIDGE, Mrs. MCCARTHY, Mr. NADLER, Mr. GRIJALVA, Mr. HIGGINS, Mr. WEINER, Mrs. MALONEY, Mr. WEXLER, Mr. DOGGETT, Mr. MCDERMOTT, Ms. ZOE LOFGREN of California, Mr. EMANUEL, Mr. MENENDEZ, Mr. BERMAN, Mr. FALEOMAVAEGA, Mr. MCCOTTER, Mrs. CAPPS, Mr. KIRK, and Mr. LEACH.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2048: Mr. BARTLETT of Maryland.

H.R. 3146: Mr. PRICE of Georgia.

AMENDMENTS

Under clause 8 of rule XVIII, proposed amendments were submitted as follows:

H.R. 1751

OFFERED BY: MR. FLAKE

AMENDMENT NO. 1: Add at the end the following:

SEC. . COLLATERAL REVIEW IN CAPITAL CASES.

(a) REVIEW BY ATTORNEY GENERAL.—

(1) APPLICABILITY.—Section 2261 of title 28, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) COUNSEL.—This chapter is applicable if—

"(1) the Attorney General of the United States certifies that a State has established a mechanism for providing counsel in postconviction proceedings as provided in section 2265; and

"(2) counsel was appointed pursuant to that mechanism, petitioner validly waived counsel, petitioner retained counsel, or petitioner was found not to be indigent.".

(2) SCOPE OF PRIOR REPRESENTATION.—Section 2261(d) of title 28, United States Code is amended by striking "or on direct appeal".

(3) CERTIFICATION AND JUDICIAL REVIEW.—

(A) IN GENERAL.—Chapter 154 of title 28, United States Code, is amended by striking section 2265 and inserting the following:

"§ 2265. Certification and judicial review

"(a) CERTIFICATION.—

"(1) IN GENERAL.—If requested by an appropriate State official, the Attorney General of the United States shall determine—

"(A) whether the State has established a mechanism for the appointment, compensation, and payment of reasonable litigation expenses of competent counsel in State postconviction proceedings brought by indigent prisoners who have been sentenced to death;

"(B) the date on which the mechanism described in subparagraph (A) was established; and

"(C) whether the State provides standards of competency for the appointment of counsel in proceedings described in subparagraph (A).

"(2) EFFECTIVE DATE.—The date the mechanism described in paragraph (1)(A) was established shall be the effective date of the certification under this subsection.

"(3) REQUIREMENTS.—

"(A) IN GENERAL.—To qualify for certification under paragraph (1)—

"(i) any mechanism described in subsection (1)(A) that was created on or after the effective date of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132) shall be created by statute, rule of the court of last resort, or rule of an agency authorized by State law to promulgate statewide rules of court and must meet the requirements of section 2261(c); and

"(ii) for any mechanism described in subsection (1)(A) that was created prior to the effective date of the Antiterrorism and Effective Death Penalty Act of 1996 (Public Law 104-132), all or part of the qualifying mechanism and standards may have been created by published policies, practices, and standards of the court of last resort or of a statewide judicial administrative agency, and the State must have substantially complied with the requirements of this section and section 2261 in providing qualified counsel to indigent prisoners sentenced to death who did not validly waive counsel.

"(B) ONLY EXPRESS REQUIREMENTS.—There are no requirements for certification or for application of this chapter other than those expressly stated in this chapter.

"(b) REGULATIONS.—The Attorney General shall promulgate regulations to implement the certification procedure under subsection (a).

"(c) REVIEW OF CERTIFICATION.—

"(1) IN GENERAL.—The determination by the Attorney General regarding whether to certify a State under this section is subject to review exclusively as provided under chapter 158 of this title.

"(2) VENUE.—The Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction over matters under paragraph (1), subject to review by the Supreme Court under section 2350 of this title.

"(3) STANDARD OF REVIEW.—The determination by the Attorney General regarding whether to certify a State under this section shall be conclusive, unless manifestly contrary to the law and an abuse of discretion.".

(B) CLERICAL AMENDMENT.—The table of sections for chapter 154 of title 28, United States Code, is amended by striking the item related to section 2265 and inserting the following:

"2265. Certification and judicial review.".

(b) TIME LIMITS.—Section 2266(b)(1)(A) of title 28, United States Code, is amended by striking "180 days after the date on which the application is filed." and inserting "450 days after the date on which the application is filed, or 60 days after the date on which the case is submitted for decision, whichever is earlier.".

(c) TOLLING.—Section 2263(b) of title 28, United States Code, is amended—

(1) by redesignating paragraphs (1) through (3) as paragraphs (2) through (4), respectively; and

(2) by inserting before paragraph (2) the following:

"(1) if counsel is offered to a State prisoner under section 2261(c)(1), during the period prior to such offer;".

(d) SCOPE OF REVIEW.—Section 2264 of title 28, United States Code, is amended by redesignating subsection (b) as subsection (d) and inserting after subsection (a) the following:

"(b) VALIDITY OF CONVICTION.—A court, justice, or judge shall not have jurisdiction to consider a claim in an application under this chapter unless the claim concerns the validity of the conviction of the applicant for the underlying offense for which the applicant was sentenced to death. For a claim involving the offense of murder, conviction for the underlying offense means conviction for murder in any degree.

"(c) Relief.—For any claim brought under this section, relief shall not be granted, unless the denial of relief—

"(1) is contrary to, or would entail an unreasonable application of, clearly established Federal law, as determined by the Supreme Court of the United States; or

"(2) would entail an unreasonable determination of a factual matter.".

(e) Priority to Capital Cases.—Section 2251 of title 28, United States Code, is amended—

(1) in the first undesignated paragraph by striking "A justice" and inserting the following:

"(a) In General.—

"(1) Pending matters.—A justice";

(2) in the second undesignated paragraph, by striking "After the" and inserting the following:

"(b) No Further Proceedings.—After the";

(3) in subsection (a), as so designated by paragraph (1), by adding at the end the following:

"(2) Matter not pending.—

"(A) In general.—A habeas corpus proceeding is not pending, for this purpose, until the application is filed.

"(B) Application for counsel.—If a State prisoner sentenced to death applies for appointment of counsel pursuant to section 408(q)(4)(B) of the Controlled Substances Act (21 U.S.C. 848(q)(4)(B)) in a court that would have jurisdiction to entertain a habeas application regarding that sentence, that court may stay execution of the sentence of death, but such a prefiling stay shall terminate not later than 60 days after counsel is appointed or the application for appointment of counsel is withdrawn or denied."; and

(4) by adding at the end the following:

"(c) Stay of Matters.—

"(1) Scope of authority to stay.—This section, section 2262, and section 2101 are the exclusive sources of authority for Federal courts to stay sentences of death entered by State courts.

"(2) Priority of cases.—Any case in which a stay of a sentence of death has been entered pursuant to this section shall have priority over all noncapital cases.

"(3) Plan for cases.—Every Federal court that hears capital habeas corpus cases shall adopt a plan to ensure that such cases are completed in the minimum amount of time that is consistent with due process.

"(4) Mental condition.—A Federal court shall not stay a capital habeas proceeding on the basis of the mental condition of the petitioner unless the petitioner is incompetent to be executed.".

(f) Additional Provisions.—

(1) Uniform review standard.—Section 107(c) of the Antiterrorism and Effective Death Penalty Act of 1996 (28 U.S.C. 2261 note) is amended by striking "Chapter 154 of title 28, United States Code (as amended by subsection (a))" and inserting "This title and the amendments made by this title".

(2) Finality of review.—Section 2244(b)(3)(E) of title 28, United States Code, is amended by striking "the subject of a petition" and all that follows through the end of the subparagraph and inserting the following: "reheard in the court of appeals or reviewed by writ of certiorari.".

(3) Clemency and pardon decisions.—

(A) In general.—Chapter 85 of title 28, United States Code, is amended by adding at the end the following:

"§ 1370. State clemency and pardon decisions

"(a) In General.—Except as provided under subsection (b), and notwithstanding any other provision of law, no Federal court shall have jurisdiction to hear any cause or claim arising from the exercise of a State's executive clemency or pardon power, or the process or procedures used under such power.

"(b) Exception.—This section does not affect the jurisdiction of the Supreme Court to review any decision of the highest court of a State that involves a cause or claim arising from the exercise of a State's executive clemency or pardon power, or the process or procedures used under such power.".

(B) Clerical amendment.—The table of sections for chapter 85 of title 28, United States Code, is amended by adding at the end the following:

"1370. State clemency and pardon decisions.".

(g) Application to Pending Cases.—

(1) In general.—Except as otherwise provided in this section, this section and the amendments made by this section shall apply to cases pending on and after the date of enactment of this Act.

(2) Time limits.—In a case pending on the date of enactment of this Act, if the amendments made by this section establish a time limit for taking certain action, the period of which began on the date of an event that occurred prior to the date of enactment of this Act, the period of such time limit shall instead begin on the date of enactment of this Act.

H.R. 4241

Offered By: Mr. Flake

Amendment No. 1: At the end of title III, add the following new subtitle:

Subtitle E—Medicare

SEC. 3501. DELAY IN IMPLEMENTATION OF MEDICARE PRESCRIPTION DRUG PROGRAM FOR ALL BUT LOWEST-INCOME SUBSIDY ELIGIBLE INDIVIDUALS.

(a) In General.—Section 1860D-1(a) of the Social Security Act (42 U.S.C. 1395w-101(a)) is amended by adding at the end the following new paragraph:

"(4) Limitation during 2006 and 2007.—

"(A) In general.—With respect to benefits during 2006 and 2007, no individual shall be treated as a part D eligible individual unless the individual is described in section 1860D–14(a)(1).

"(B) Transition.—For individuals who would be part D eligible individuals but for subparagraph (A), the enrollment-related provisions of this part (and related provisions of part C) shall be applied as if any dates otherwise specified had been delayed for 2 years.".

(b) Continuation of Drug Discount Card Program for Nonqualifying Individuals.—Section 1860D–31(a)(2) of such Act (42 U.S.C. 1395w-141(a)(2)) is amended by adding at the end the following new subparagraph:

"(D) Continuation for certain individuals.—Notwithstanding any other provision of this section, this section shall continue to operate during 2006 and 2007 in the same manner it operated during 2005 in the case of discount card eligible individuals who would be part D eligible individuals during such period but for the application of section 1860D-1(a)(4)(A).".

(c) Effective Date.—The amendments made by this section shall be effective as if included in the enactment of Medicare Prescription Drug, Improvement, and Modernization Act of 2003 (Public Law 108-173).

H.R. 4241

Offered By: Mr. Flake

Amendment No. 2: At the end of title III, add the following new subtitle:

Subtitle E—Medicare

SEC. 3501. ONE-YEAR DELAY IN THE IMPLEMENTATION OF THE VOLUNTARY PRESCRIPTION DRUG BENEFIT PROGRAM.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall provide for a one-year delay in the enrollment of individuals in prescription drug plans and MA-PD plans under title XVIII of the Social Security Act. In effecting such delay, the Secretary shall provide for an appropriate delay in contracts with such plans and in open enrollment periods.

SEC. 3502. ONE-YEAR EXTENSION OF THE MEDICARE PRESCRIPTION DRUG DISCOUNT CARD AND TRANSITIONAL ASSISTANCE PROGRAM; CONTINUATION OF MEDICAID PRESCRIPTION DRUG BENEFITS.

(a) Continuation of Drug Discount Card Program.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall continue to provide for the medicare prescription drug discount card and transitional assistance program under subpart 4 of part D of title XVIII of the Social Security Act during 2006 under the same terms and conditions that apply during 2005.

(b) Continuation of Medicaid Coverage of Prescription Drugs.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall continue to provide for coverage of prescription drugs under the medicaid program during 2006 under section 1927 of the Social Security Act (42 U.S.C. 1396r-8) under the same terms and conditions that apply during 2005.

H.R. 4241

Offered By: Mr. Flake

Amendment No. 3: At the end of title III, add the following new subtitle:

Subtitle E—Medicare

SEC. 3501. TWO-YEAR DELAY IN THE IMPLEMENTATION OF THE VOLUNTARY PRESCRIPTION DRUG BENEFIT PROGRAM.

Notwithstanding any other provision of law, the Secretary of Health and Human Services shall provide for a two-year delay in the enrollment of individuals in prescription drug plans and MA-PD plans under title XVIII of the Social Security Act. In effecting such delay, the Secretary shall provide for an appropriate delay in contracts with such plans and in open enrollment periods.

SEC. 3502. TWO-YEAR EXTENSION OF THE MEDICARE PRESCRIPTION DRUG DISCOUNT CARD AND TRANSITIONAL ASSISTANCE PROGRAM; CONTINUATION OF MEDICAID PRESCRIPTION DRUG BENEFITS.

(a) Continuation of Drug Discount Card Program.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall continue to provide for the medicare prescription drug discount card and transitional assistance program under subpart 4 of part D of title XVIII of the Social Security Act during 2006 and 2007 under the same terms and conditions that apply during 2005.

(b) Continuation of Medicaid Coverage of Prescription Drugs.—Notwithstanding any other provision of law, the Secretary of Health and Human Services shall continue to provide for coverage of prescription drugs under the medicaid program during 2006 and 2007 under section 1927 of the Social Security

Act (42 U.S.C. 1396r-8) under the same terms and conditions that apply during 2005.

H.R. 4241

OFFERED BY: MR. FLAKE

AMENDMENT NO. 4: At the end of title VII of the bill, insert the following:

SEC. 7002. TRANSPORTATION FUNDING FLEXIBILITY.

(a) HIGHWAY BRIDGE PROGRAM.—Section 144(g)(1) of title 23, United States Code, is amended by adding at the end the following:

"(D) FUNDING FLEXIBILITY.—If a State is provided funds under subparagraph (A) for a project described in subparagraph (A), the State may use all or any portion of such funds to carry out such project or any other project eligible for assistance under this section that the State designates.".

(b) PROJECTS OF NATIONAL AND REGIONAL SIGNIFICANCE.—Section 1301 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59) is amended by adding at the end the following:

"(n) FUNDING FLEXIBILITY.—If a State is provided funds under this section for a project described in the table contained in subsection (m), the State may use all or any portion of such funds to carry out such project or any other project eligible for assistance under this section that the State designates.".

(c) NATIONAL CORRIDOR INFRASTRUCTURE IMPROVEMENT PROGRAM.—Section 1302 such Act is amended by adding at the end the following:

"(f) FUNDING FLEXIBILITY.—If a State is provided funds under this section for a project described in the table contained in subsection (e), the State may use all or any portion of such funds to carry out such project or any other project eligible for assistance under this section that the State designates.".

(d) HIGH PRIORITY PROJECTS PROGRAM.—Section 117 of title 23, United States Code, is amended by adding at the end the following:

"(i) FUNDING FLEXIBILITY.—If a State is provided funds under this section for a project described in the table contained in section 1702 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59), the State may use all or any portion of such funds to carry out such project or any other project eligible for assistance under the surface transportation program in section 133 that the State designates.".

(e) TRANSPORTATION IMPROVEMENTS.—Section 1934 of such Act is amended by adding at the end the following:

"(d) FUNDING FLEXIBILITY.—If a State is provided funds under this section for a project described in the table contained in subsection (c), the State may use all or any portion of such funds to carry out such project or any other project eligible for assistance under the surface transportation program in section 133 of title 23, United States Code, that the State designates.".

(f) PROJECTS FOR BUS AND BUS-RELATED FACILITIES AND CLEAN FUNDS GRANT PROGRAM.—Section 3044 of such Act is amended by adding at the end the following:

"(d) FUNDING FLEXIBILITY.—If a recipient is provided funds under this section or section 5308 of title 49, United States Code, or both, for a project described in the table contained in subsection (a), the recipient may use all or any portion of such funds to carry out such project or any other project eligible for assistance under this section or section 5308 of such title, other than a project to fund any operations of buses or bus-related facilities.".

SEC. 7003. SENSE OF CONGRESS.

It is the sense of Congress that State departments of transportation should take project descriptions in section 144(g)(1)(A) of title 23, United States Code, and in the tables contained in sections 1301, 1302, 1702, 1934, and 3044 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59) into consideration if such projects involve improving transportation safety.

SEC. 7004. ACROSS-THE-BOARD RESCISSIONS.

(a) FISCAL YEAR 2006.—

(1) IN GENERAL.—On September 30, 2006, there is rescinded $4,718,047,269 of the unobligated balances of funds apportioned before such date to the States for the Interstate maintenance, national highway system, bridge, congestion mitigation and air quality improvement, surface transportation (other than the STP set-aside programs), metropolitan planning, minimum guarantee, Appalachian development highway system, recreational trails, safe routes to school, freight intermodal connectors, coordinated border infrastructure, high risk rural road, high priority projects, and transportation improvements programs and each of the STP set-aside programs.

(2) ALLOCATION AMONG STATES.—The Secretary shall determine each State's share of the amount to be rescinded by paragraph (1) by multiplying $4,718,047,269 by the ratio of the aggregate amount apportioned to such State for fiscal year 2006 for all the programs referred to in paragraph (1) to the aggregate amount apportioned to all States for such fiscal year for those programs.

(3) CALCULATIONS.—To determine the allocation of the amount to be rescinded for a State under paragraph (2) among the programs referred to in paragraph (1), the Secretary of Transportation shall make the following calculations:

(A) The Secretary shall multiply such amount to be rescinded by the ratio that the aggregate amount of unobligated funds available to the State on September 30, 2006, for each such program bears to the aggregate amount of unobligated funds available to the State on September 30, 2006, for all such programs.

(B) The Secretary shall multiply such amount to be rescinded by the ratio that the aggregate of the amount apportioned to the State for each such program for fiscal year 2006 bears to the aggregate amount apportioned to the State for all such programs for fiscal year 2006.

(4) ALLOCATION AMONG PROGRAMS.—

(A) IN GENERAL.—The Secretary, in consultation with the State, shall rescind for the State from each program referred to in paragraph (1) the amount determined for the program under paragraph (3)(A).

(B) SPECIAL RULE.—

(i) RESTORATION OF FUNDS FOR COVERED PROGRAMS.—If the rescission calculated under paragraph (3)(A) for a covered program exceeds the amount calculated for the covered program under paragraph (3)(B), the State shall immediately restore to the apportionment account for the covered program from the unobligated balances of programs referred to in paragraph (1) (other than covered programs) the amount of funds required so that the net rescission from the covered program does not exceed the amount calculated for the covered program under paragraph (3)(B).

(ii) TREATMENT OF RESTORED FUNDS.—Any funds restored under clause (i) shall be deemed to be the funds that were rescinded for the purposes of obligation.

(C) COVERED PROGRAM DEFINED.—In subparagraph (B), the term "covered program" means a program authorized under sections 130 and 152 of title 23, United States Code, paragraph (2) or (3) of section 133(d) of that title, section 144 of that title, section 149 of that title, or section 1404 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59).

(5) LIMITATION ON RECALCULATION OF EQUITY BONUS PROGRAM.—Notwithstanding any other provision of law, the amounts determined, and the amounts allocated, under section 105 of title 23, United States Code, for fiscal year 2006 shall not be recalculated to take into account a rescission made pursuant to this subsection.

(6) STP SET-ASIDE PROGRAM DEFINED.—In this subsection, the term "STP set-aside program" means the amount set aside under section 133(d) of title 23, United States Code, for each of transportation enhancement activities and the division between urbanized areas of over 200,000 population and other areas.

(b) FISCAL YEAR 2007, 2008, AND 2009.—

(1) IN GENERAL.—Subject to paragraph (2), there is rescinded 10 percent of each amount authorized to be appropriated for each of fiscal years 2007, 2008, and 2009 by the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59), including any amendment made by such Act, and including any amount authorized to be appropriated for the equity bonus program under section 105 of title 23, United States Code, but excluding any amount authorized to be appropriated for the highway safety improvement program.

(2) TIMING.—A rescission made by paragraph (1) of an amount authorized to be appropriated for a fiscal year shall take affect on October 1 of such fiscal year before any apportionment or allocation of such amount and before such amount is subject to any set aside or subtraction.

(3) LIMITATION ON RECALCULATION OF EQUITY BONUS PROGRAM.—Notwithstanding any other provision of law, the amounts determined, and the amounts allocated, under section 105 of title 23, United States Code, for a fiscal year shall not be recalculated to take into account a rescission made by this subsection.

(c) SEPTEMBER 30, 2009.—Section 10212 of the Safe, Accountable, Flexible, Efficient Transportation Equity Act: A Legacy for Users (Public Law 109–59) is amended in subsection (a) by inserting after "high risk rural road," the following: "high priority projects, transportation improvements,".

(d) REPORTS.—Not later than the 60th day following the date of each rescission made by subsection (a) or (b), the Secretary of Transportation, in consultation with the Director of the Office of Management and Budget shall submit to the appropriate committees of Congress a report containing the amount rescinded for each program referred to in subsection (a) and the amount rescinded for each program or activity for which there is a rescission made by subsection (b).

SENATE—*Tuesday, November 8, 2005*

The Senate met at 9:45 a.m. and was called to order by the President pro tempore (Mr. STEVENS.)

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O Lord our Lord, the majesty of Your Name fills the Earth. You know every heart and mind, and You always do what is right. You give us peace even when the storms come. You save us from ourselves. You bring strength to our Nation and help keep it strong. Great and marvelous are Your words.

Today, give the Members of this body the wisdom to trust You. May they seek Your guidance for their decisions and lean upon Your loving favor. As they depend upon Your spirit, help them to possess Your truth in their minds, Your love in their hearts, and Your kindness on their lips. Make certain that each step they take is sure.

We pray in Your sovereign Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

RECOGNITION OF THE ACTING MAJORITY LEADER

The PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. McCONNELL. Mr. President, today, we will begin a period for the transaction of morning business for up to 1 hour. At approximately 10:45 a.m., we will resume consideration of the Department of Defense authorization bill. There are a number of pending amendments that were offered either on Friday or yesterday, and we expect to begin to schedule votes in relation to those amendments and any additional amendments that will be offered during today's session. Therefore, we expect rollcall votes throughout the day. We will complete work on the Defense bill either today or tomorrow.

This week, we will also consider any available appropriations conference reports that arrive from the House.

Mr. President, I yield the floor.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 1 hour, with the first half of the time under the control of the majority leader or his designee, and the second half of the time under the control of the Democratic leader or his designee.

Mr. McCONNELL. Mr. President, I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

ORDER OF PROCEDURE

Mr. DURBIN. Mr. President, is the Senator from Missouri seeking time in morning business?

Mr. BOND. Yes. If my colleague wants to make a brief statement, I will be happy to yield to him.

Mr. DURBIN. I have about a 10-minute statement. I will yield to the Senator from Missouri, if he wishes, and then I will ask to go out of order and have it taken out of the Democratic time.

The PRESIDENT pro tempore. Is the Senator making a request?

Mr. DURBIN. Mr. President, I ask unanimous consent that after Senator BOND has spoken in Republican morning business, that I be recognized for up to 10 minutes and that the time be taken from the Democratic morning business period.

The PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Missouri is recognized.

IRAQ

Mr. BOND. Mr. President, I rise today to address the valiant efforts of our men and women serving overseas in Iraq. Their service for our country is very close to my heart because I, like thousands of other American parents across the United States, have a son who is fighting for the cause of freedom in Iraq.

Like every American, and especially for those of us with loved ones who are fighting overseas, I have carefully considered our actions in Iraq, and I am as committed to staying the course today as I was when I voted to authorize hostile action less than 3 years ago.

Today, we see the wreckage of roadside bombs plastered across our media screens. We are constantly bombarded by a daily media barrage of every hint of bad news in Iraq. The old adage, "If it bleeds, it leads," seems to be in full effect.

What about the good that is happening as a result of our efforts? I can tell you this is the greatest concern our men and women in Iraq have. They are doing good work, they are making progress, but they don't hear any of the good things that are going on. This is disheartening, as are some of the comments made by a few in the United States who say they are not doing a good job, who denigrate their efforts. We owe them better than that. I could cite for you letters I have seen written to newspapers in my State by men who have served in Iraq saying precisely this.

Has there been any progress made toward democracy this year? The Iraqis themselves answered yes, resoundingly, when last month, on October 15, an overwhelming majority of Iraqis voted peacefully to lay the foundation for their country with a national constitution. Ten days later, on October 25, the Independent Electoral Commission of Iraq announced the approval of a constitution and stated that it had found no evidence of significant voter fraud, as some had alleged.

The United Nations also participated in the referendum process and concurred with the Commission's conclusions. On the day of the vote, Sunni protests were minimal, with no violence reported. Not only did the referendum pass with 15 of 18 provinces providing a majority "yes" vote, but all governorates recorded a high voter turnout, the likes of which would put many of our voter districts in America to shame. I can tell you from personal reports that in Sunni areas, Sunnis were going out in record numbers to register. They were registering at registration places protected solely by Iraqi security forces without any violence against them.

When we look at the election results, the Kurds in Dahuk posted an 86-percent turnout, while the Shi'a in Karbala and Najaf posted a 57-percent turnout. But let's consider the Sunni areas where critics say we are making so little progress toward democracy.

Let's compare the percentage of voter turnout from last January's elections to the October referendum last

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

month. In Anbar, voter turnout rose from 2 percent to 40 percent; in Diyala, from 33 percent to 67 percent; in Nayniwah, from 17 percent to 54 percent; and in Salahaldin, from 29 percent to 91 percent.

Only two of those governorates voted overwhelmingly against the referendum, and all of them saw record numbers of citizens exercising their voices at the polls.

This, Mr. President, is progress toward democracy. Have we forgotten that under Saddam, the Iraqi people had no vote, no opportunity to express themselves?

I am not discouraged, as the critics say we should be, that there was not near universal agreement on the referendum in Iraq. We have had a hard enough time in our own country, the world's model for democracy, in achieving overwhelming agreement on anything. And certainly this body with its recent record of activity shows that democracies often generate strong disagreements. The only time a national vote purports to show universal agreement is when the election is held under the tight control and dictation of a dictator such as Saddam Hussein.

So how do the critics explain this massive increase in voter turnout and still maintain that democracy is dead in the water in Iraq, when the people of Iraq for the first time in centuries now have a voice and a common marketplace of ideas in which to express themselves? And why isn't more attention given to the progress in Iraq for which our sons and daughters overseas are fighting?

As for the media, it is my belief that the greatest threat to our efforts in Iraq today is the enemy's ability to manipulate press coverage of the conflict in order to influence U.S. public opinion to force a premature withdrawal of our forces.

Last month, I spoke on the floor of the Senate about the acquisition of a letter written by Osama bin Laden's principal deputy, Ayman al-Zawahiri, to al-Qaida's foremost lieutenant on the ground in Iraq, Abu Mus'ab al-Zarqawi. The letter underscored that al-Qaida will not relent in pursuing its Sunni Islamo-fascist, extremist agenda, and it revealed al-Qaida views its jihad in Iraq as the focal point in its effort to establish a worldwide neofascist global caliphate. Zawahiri's recipe for creating this Sunni extremist state is in this order: evict the Americans from Iraq, create an Islamic extremist state in Iraq, swallow up Iraq's neighbors and then destroy Israel, and from there go on to bigger and better things. And how did Zawahiri advise Zarqawi to achieve these goals? By augmenting his terror campaign with political warfare and by manipulating the media. Zawahiri urged Zarqawi to tone down egregious actions, such as beheadings, because they do not play well on television screens. He approved of the violence but cautioned him to execute Americans with a bullet to the head instead. Isn't that nice of him?

The Zawahiri letter so clearly unveils the insidious nature of this clever enemy we are up against. Therefore, I urge every American with access to the Internet to read the letter. Go to the Web site www.dni.gov, and look under "News Releases." But Americans shouldn't have to go to a Web site to discover its content. It should have been dissected in painstaking detail on the nightly news or at least given a fraction of the time allotted to the critical coverage of the war.

It amazes me how there is such a blinding skepticism about anything that supports our effort in Iraq today. Last week, my staff spoke to a respected scholar in London about what he thought about the Zawahiri letter. He said it must have been a fabrication. When asked what evidence he had for that assertion, he responded: None, but it just makes Bush's case, so the letter can't be genuine.

As a member of the Senate Select Committee on Intelligence, I can tell you that we have absolutely no indication at all this letter was a fabrication. So I ask again, why isn't the media delving into this?

We ought to take a brief look at the nature of the enemy we are fighting in Iraq. I believe President Bush said it well last week during his speech in Norfolk when he called their evil form of Islamic radicalism Islamo-fascism.

We are fighting a radical ideology that has crept up over the past few decades that is taking hold in countries around the world. We see it in Palestine, in Indonesia, the Philippines and, yes, now even in Europe. For the past week, we have seen the signs of it with riots outside Paris. Rioters burned areas of the country for over a week, lashing out against the Western society in which they live. Arab experts explain the violence as an identity problem among young Arabs who see themselves first as Muslims looking for a country of their own, rather than French, English, or American citizens.

Al-Qaida preys on such youth, encourages their unjustified acts of violence, and is now telling them that their new home will be in Iraq. This is why in Iraq today we see so many foreign fighters flocking to a radical cause. An insurgent fights within his country's borders to defend it from occupation or to oust a government with which he does not agree. This is the definition of an insurgent. A terrorist is one who travels outside his country to wage politically motivated violence elsewhere.

While there remain many Sunni Baathist insurgents who would like to bring back Saddam, there is an ever growing and a proportionally lethal number of terrorists flooding into Iraq to fight what they see as the ultimate jihad, identified as their extremist neofascist interpretation of Islam.

These are the terrorists who are fueling simmering insurgencies. These are truly the Islamofascists. Iraq has become the epic battle with the West that al-Qaida has been looking for and we must win it. We cannot afford to lose. This enemy cannot be negotiated with and will never reform its ways or be deterred from its path of violence. The only option we have with such an enemy who wants to slaughter American men, women, and children is to eliminate them.

Last week former President Jimmy Carter appeared on "Larry King Live" and criticized President Bush for his policy of preemption in the war on terror. He claimed this policy was a break in U.S. national policy from all previous Presidents and administrations. Therefore, he declared our actions in Iraq radical.

It is radical precisely because we find ourselves in dire circumstances. It is a break from the past because in the past we were not facing organized, ruthless bands of terrorists with declared intentions to annihilate Americans, whose acquisition of weapons of mass destruction was a distinct possibility.

Every student of national security understands that threat equals capability plus intent. The intent of the terrorists to annihilate us is indisputable, as is their stated intention to acquire weapons of mass destruction to do so. Their power is only limited by their current capability.

As David Kay said, in the Iraqi Survey Report which we discussed in the Intelligence Committee and has now been released, Iraq, despite our inadequate intelligence, was a far more dangerous place even than we knew because radical terrorists were running loose in an unorganized country that had the potential to produce weapons of mass destruction for them.

We must erode the capability of those terrorists for if we sit back and allow it to grow, we will face threats to the future such as we have never seen before. Long-distance runners say there comes a time in the race when their bodies yearn to succumb to the temptation to give up the fight but they must press on. That is when they remind themselves of the reasons for their struggle and when they remind themselves why they run; they find strength to press on. Only those who are resolute and full of conviction win the race. Let us hold to our conviction that democracy is better than tyranny, achieving peace is worth our struggle, and those who are counting on us in Iraq have a reason to hope.

We must maintain the course and be ready to fight neofascists and Islamofascism, wherever it exists. Right now it is Iraq, but there are other theaters as well. Southeast Asia could become one added to the list. Let us press on, for only if we do so will we one day win this long distance race. It is not a short one, but it is one we cannot afford to lose if we want to ensure that we have no more 9/11s or we at least reduce the likelihood we will have such tragedy on our shore.

I yield the floor.

The PRESIDENT pro tempore. Under the previous order, the Senator from Illinois is recognized.

Mr. DURBIN. I ask for the indulgence of the Chair to notify me when I have 3 minutes remaining on my statement.

The PRESIDENT pro tempore. Very well.

MOTION TO CLOSE SENATE SESSION

Mr. DURBIN. Mr. President, it was a week ago today when the Democratic leader in the Senate, HARRY REID, made a motion that the Senate move into closed session under rule XXI. It is a rule that is rarely used, but I was glad it was used that day because the purpose was absolutely essential for America to learn the truth about what happened before the invasion of Iraq.

Senator REID made that motion in order to make certain that the Senate Intelligence Committee keeps its word to the American people. Some 20 months ago, the Senate Intelligence Committee promised they would have a thorough professional investigation of several major elements relative to intelligence. One of the most important is whether any elected official or member of this administration in any way used intelligence or made statements that were not substantiated. In other words, were we misled, purposely or deliberately, by any elected official or member of the administration before the invasion of Iraq. It is an absolutely critical question.

I am glad the Senate Intelligence Committee made a commitment to initiate this investigation. We found, after waiting 20 months, little or nothing was happening. Fifteen months ago, the chairman of the Senate Intelligence Committee, Senator PAT ROBERTS of Kansas, called this phase II investigation a top priority. Yet, on March 11 of this year, speaking to the Woodrow Wilson Center, Senator ROBERTS said this investigation was "on the back burner."

Then a few days later on March 31, Senator ROBERTS issued a press release, after we had the report of a commission relative to this intelligence, in which he said all prewar intelligence—it would be a monumental waste of time to replow the ground.

It was very unclear whether the commitment was still there from Senator ROBERTS and the Intelligence Committee to keep their word to the American people to investigate this critical question.

Yesterday, the junior Senator from Texas came to the floor arguing, I believe, that it was unnecessary to go forward with this investigation. I think he is wrong. He argued that if we find any member of the administration misled the American people into believing a war in Iraq and an invasion were necessary, somehow this would discredit the bravery and heroism of America's troops. I cannot follow his logic.

The men and women in uniform are doing their country proud every day. They are risking their lives for America. They stand up for values that are essential, such as family, faith, and truth. Why would this Senate be reluctant to tell the American people the truth?

This is not just a test of the Intelligence Committee; this is a test of the Senate. It is a test of our constitutional responsibility, the responsibility of Congress, to protect the American people from an abuse of power by the executive or any elected official. It is a matter of the gravest importance. If an elected official deliberately or recklessly misled the American people into believing there was cause for the invasion of Iraq, that is a serious abuse of power.

We know Senator ROBERTS promised this investigation almost 2 years ago. Because of our motion to go into closed session, a bipartisan agreement was reached, and under that agreement, in 6 days, Senator ROBERTS and two of his designees will announce with three Democratic designees the schedule for completing this important investigation.

When we closed the Senate, we accomplished more in 2 hours than we had accomplished in 2 years in moving this investigation forward. When the junior Senator from Texas came to the floor and said this investigation was unnecessary because an earlier group had investigated it, he referred specifically to the Silberman-Robb Commission. What he did not put into the record should be included, and I quote from the commission:

> [W]e were not authorized to investigate how policymakers used the intelligence assessments they received from the Intelligence Community. Accordingly, while we interviewed a host of current and former policymakers during the course of our investigation, the purpose of those interviews was to learn about how the Intelligence Community reached and communicated its judgments about Iraq's weapons programs—not to review how policymakers subsequently used that information.

That is the question. That is the issue. For the Senator from Texas to say the Silberman-Robb Commission has dealt with that issue is not factual and it is not accurate, based on the words of that commission.

He went further to say that the phase I investigation of the Intelligence Committee about the failings of the intelligence agencies to understand the threat in Iraq also took care of the question before us. It did not. I served on the Intelligence Committee. We purposely divided this into two investigations: First, any failings or shortcomings of intelligence agencies; second, any misuse of this intelligence information by policymakers and elected officials. That is the responsibility we have to go forward.

It is not clear when the Senate Intelligence Committee would have finished its work had we not filed this motion to have a closed session in the Senate. Now the promise has been made not just to fellow colleagues, not just to the Congress, but to the American people. I think we need to know the truth. If a policymaker in this administration deliberately misled the American people, we should know that. If we find from the evidence it did not occur, we should also know that.

Let us pursue the truth. Let us make sure the Senate Intelligence Committee keeps its promise to the American people.

We know there are many areas of statements made by the President, by the Vice President, the Secretary of State, and the Secretary of Defense that were just plain wrong. There were no weapons of mass destruction. When it came to the aluminum tubes, there was a serious disagreement within the administration, between the CIA and the Department of Energy, as to whether those aluminum tubes were evidence of a buildup of nuclear weapons. We also know that statements by the administration about a connection between Saddam Hussein and 9/11 were false. There was no evidence to back it up. We know now about the notorious statements in the President's State of the Union Address about whether Iraq obtained yellowcake from Niger to develop nuclear weapons turned out to be totally false and bogus.

The obvious question that has to be asked is whether this administration and its spokespersons knew ahead of time the information they were giving to the American people was not accurate. That is the essential inquiry that must take place.

The PRESIDENT pro tempore. The Senator has 3 minutes remaining.

STATUS OF AHMAD CHALABI INVESTIGATION

Mr. DURBIN. Mr. President, I note that something curious is happening in Washington today. There is a man by the name of Ahmad Chalabi, an Iraqi Deputy Prime Minister, who is visiting Washington. Yesterday in the Wall Street Journal, FBI spokesman John Miller noted that Mr. Chalabi is "under active investigation." For what? He is under investigation for the charge that he leaked intelligence, including the fact that the United States had broken a crucial Iranian code and that Mr.

Chalabi turned that information over to the Baghdad station chief of Iran's Ministry of Intelligence and Security.

Of course, if that happened. Mr. Chalabi endangered American troops and American security. As a result of this charge against Mr. Chalabi on May 20 of last year, his residence was searched by the Iraqis, with the cooperation of American forces in Iraq, to see if evidence could be found.

That is a serious charge that we would somehow jeopardize the security of America's troops and our national security and whether this man leaked sensitive information. The fact that he is under active investigation by the FBI is proof positive that we are taking this seriously.

So where can we find Deputy Prime Minister Ahmad Chalabi this week? Well, we will find him in Washington. He has an appointment to sit down and break bread with Treasury Secretary Snow and Secretary of State Condoleezza Rice. Then a little later this week he is going to give a speech to the American Enterprise Institute.

Does this sound like a man under active investigation or a man who is being actively lauded by this administration? I do not understand this.

While the Department of Justice is actively investigating this man for wrongdoing that could have endangered American troops and American lives, the Department of State and the Department of the Treasury are hosting him as though he were some dignitary. So do not be surprised if the Chalabi motorcade speeds up when they pass the Department of Justice. I guess they are concerned whether an FBI agent will come out and pursue this so-called active investigation.

It is very difficult to track how this man, who gave us such misleading information before the invasion of Iraq, now under active investigation for endangering American troops, is now the toast of the town at the Department of Treasury and the Department of State. I do not follow their logic, and I certainly do not follow the pursuit of justice if they do not have an active investigation concluded so that we know whether Mr. Chalabi has endangered American lives.

I yield the floor.

The PRESIDING OFFICER (Mr. SUNUNU). The Senator's time has expired. Who yields time?

The Senator from Colorado.

A NEW DAY AND TIME IN IRAQ

Mr. ALLARD. Mr. President, we are now less than a month removed from the successful Iraqi referendum that was approved by more than 75 percent of Iraqis. This vote marked a new dawn in the Arab world, a democratically created constitution written by Iraqis and approved by the general electorate made up of Sunnis, Shiites, and Kurds. This is quite a change from the decades in which a militant dictator ruled over Iraq, with the threat of death hanging over the people for any harsh word directed toward their central government. It is truly a new day in Iraq and a new time.

Of course, some would rather ignore the strides that the Iraqi people have taken. They would rather focus on grim milestones that neither reflect the true sacrifice that has been made nor give a clear indication of how far the Iraqis have come to independence. The men and women of our Armed Forces have created an environment in Iraq that has given Iraqis a chance for democracy.

This chance is born from the blood, sweat, and tears of our servicemen and women. They deserve our gratitude and honor.

Friday marks Veterans Day and it is fitting that every year we take time to pause and reflect on those who have served in the military to protect our way of life and advance freedom around the globe. While we celebrate this year, we do so with heavy hearts knowing that there are many future war veterans who are currently serving in the theater abroad. As they have done in the past, our armed forces have taken up the challenge yet again to defend our freedoms from violent extremists to ensure that future generations of Americans can continue to prosper. Many of these war veterans have already served previous tours in Iraq, and my thoughts and prayers go out for another safe return home.

Many thousands of troops who are engaged in Iraq are Coloradoans. For example, the 10th Combat Support Hospital that left Fort Carson for Iraq in October. This medical unit is being deployed not only to treat our injured servicemen and women, but also any civilian that is brought in to their trauma unit regardless of affiliation. I want to take a minute to pause and reflect on that. Our trained medical doctors and technicians will be using their skills to save the lives of not only Coalition Forces, but anyone who is brought in—including insurgents. They might be saving the very lives of those that would do great harm to our soldiers. These are the types of actions that show what kind of men and women serve in the armed forces. These are the types of actions that show what freedom and democracy can bring to a region long devoid of it.

The individuals in our armed forces continue to shine throughout the country with remarkable levels of service. Individuals like Col. James West of Palisade, CO. Colonel West recently received a Bronze Star after distinguishing himself during two consecutive tours of duty in Iraq. He served as a Senior Program Manager in the Project and Contracting Office in Baghdad, Iraq from December 2004 to September of this year. Because of the critical nature of his position and the need to maintain the lines of communication and trust he developed with the Iraqi Oil Ministry and the primary Iraqi owned operating companies, Colonel West volunteered himself for two consecutive tours of duty.

During this time, his leadership in the field provided the foundation necessary to achieve the goal of rebuilding the Iraqi Oil production capacity to pre-war levels. The Department of Defense and the Air Force believe that his professionalism and devotion to duty merit special recognition. I honor him for his service to our country and congratulate him on his well-deserved Bronze Star.

More than just being engaged in fighting the radical insurgents who have polluted the country, our men and women like Colonel West are risking their lives to reach out to the Iraqi people to show them the heart that is behind the uniform. From the Army engineers throughout the country helping to rebuild the infrastructure, to ordinance disposal units helping to cleanse farmland from explosives left from decades of neglect, our troops continue to make a positive difference in the lives of Iraqis.

It is important to put our military's efforts into the proper perspective. The enormous progress that has been made in Iraq is the real story.

It was only 2½ years ago that the Hussein regime was in power terrorizing large portions of the Iraqi population. And now just 9 months after they elected their own leaders for the first time, the Iraqi people have approved a historical referendum by an overwhelming majority. These are the milestones we should be celebrating—the ones that could only be achieved through the sacrifices of our soldiers, sailors, airmen, and marines.

This Friday marks Veterans Day. Let us not forget our future war veterans who are gallantly serving the cause of freedom abroad. And let us remember those who have made the ultimate sacrifice to help bring democracy to Iraq.

I yield the floor.

Mr. ENSIGN. Mr. President, I rise to speak on the progress America is making in the global war on terrorism and in particular on the progress being made in Iraq.

Recently we passed a solemn benchmark. Two thousand of our servicemen and women have paid the ultimate price in defense of freedom. A vocal minority contend that these casualties were in vain. They claim we are in Iraq for all the wrong reasons. Further, they say that since there have been no weapons of mass destruction uncovered in Iraq that the administration obviously lied to get Americans behind the initial war effort. I think it is important that we take a few minutes to recall the world in which we lived prior to taking military action against Saddam Hussein in 2003.

The previous administration was quite clear in their belief that Iraq possessed weapons of mass destruction. Then-President Clinton said:

> Saddam rejects peace and we have to use force, our purpose is clear. We want to seriously diminish the threat posed by Iraq's weapons of mass destruction program.

Clinton's National Security Advisor, Sandy Berger, said of Hussein:

> He will use those weapons of mass destruction again, as he has ten times since 1993.

Even after he left office, Al Gore stated:

> We know that [Hussein] has stored secret supplies of biological and chemical weapons throughout the country.

Madeline Albright said:

> The risks that the leaders of a rogue state will use nuclear, chemical or biological weapons against us or our allies is the greatest security threat we face.

Let us all remember, Iraq had been in blatant violation of 17 separate United Nations resolutions dating back to the first Persian Gulf War—resolutions which required Iraq to reveal prohibited WMD and missile programs to U.N. inspectors. American and British warplanes were continually fired upon while enforcing U.N.-mandated "no fly zones" in Iraq.

In 1993, terrorists detonated a bomb in the garage of the World Trade Center in an attempt to topple this symbol of capitalism.

In 1996, the Khobar Towers in Saudi Arabia, housing an Air Force Fighter Wing, were attacked by terrorists. Nineteen U.S. servicemembers lost their lives. Hundreds were wounded.

In 1998, the U.S. Embassies in Tanzania and Kenya were bombed by terrorists. Hundreds lost their lives.

In October of 2000, the USS *Cole* was attacked by terrorists while refueling in Yemen. Seventeen sailors lost their lives. Many more were injured. And, of course, we all remember the day the Pentagon was attacked and the World Trade Center was leveled by terrorists crashing commercial airliners into both structures on 9/11, resulting in more than 3,000 of our fellow citizens being killed and America finally waking up to the reality that is terrorism.

The terrorists had no reason to believe that we would respond to 9/11 because we had not responded in the past. At that time, every country in the free world believed that Iraq possessed weapons of mass destruction. Saddam Hussein did nothing to dispel those beliefs. He had actually used chemical weapons on Iranians and on his own citizens.

President Bush could not risk America's future on the hope that a dictator like Hussein, with a track record that included grotesque human rights abuses, aggression against his neighbors, and the harboring and funding of terrorists, could be reformed or indefinitely contained.

In fact, the Senate chose not to risk America's future either. This body voted 77–23 in favor of the resolution allowing President Bush to use force in Iraq. Those voting in the affirmative included the then-Democratic Leader of the Senate, the ranking member of the Foreign Relations Committee, the ranking member of the Intelligence Committee and the Democratic nominee for President in the 2004 election.

I have a few quotes I would like to read.

Senator JAY ROCKEFELLER, CONGRESSIONAL RECORD, October 2002:

> There is unmistakable evidence that Saddam Hussein is working aggressively to develop nuclear weapons and will likely have nuclear weapons within the next five years . . . We also should remember we have always underestimated the progress Saddam has made in development of weapons of mass destruction.

He obviously had access to the intelligence that the President had.

Senator JOHN KERRY, CONGRESSIONAL RECORD, October 2002:

> When I vote to give the President of the United States the authority to use force, if necessary, to disarm Saddam Hussein [it is] because I believe that a deadly arsenal of weapons of mass destruction in his hands is a real and grave threat to our security. . . .

Senator HILLARY CLINTON, CONGRESSIONAL RECORD, October 2002:

> In the four years since the inspectors left, intelligence reports show that Saddam Hussein has worked to rebuild his chemical and biological weapons stock, his missile delivery capability, and his nuclear program. He has also given aid, comfort, and sanctuary to terrorists, including al-Qaeda members . . . It is clear, however, that if left unchecked, Saddam Hussein will continue to increase his capacity to wage biological and chemical warfare, and will keep trying to develop nuclear weapons.

Senator CARL LEVIN, Senate Armed Services Committee Hearing, September 2002:

> We begin with the common belief that Saddam Hussein is a tyrant and a threat to the peace and stability of the region. He has ignored the mandate of the United Nations and is building weapons of mass destruction and the means of delivering them.

I could go on. We have lots of quotes, but let's stop for now.

On March 19, 2003, 2 days after our President's televised ultimatum, a 35-nation coalition launched operations to disarm Iraq.

In a matter of weeks, Hussein's decades-old regime had been removed, liberating 25 million Iraqis from one of the world's most brutal tyrannies.

That was 2½ years ago. Now, because things aren't quite as antiseptic as some would like, there are calls for American troop withdrawal. Again, I think it is important for us to review just how far we've come over the last 2½ years.

As far as security is concerned, the initial 35-nation coalition that liberated Iraq has increased to include 72 countries.

Iraqi Security Forces are continuing to take a more prominent role in defending their country. One hundred sixteen Iraqi battalions are currently conducting military operations. That's 22 more battalions on line than there were just 3 months ago.

As President Bush has stated numerous times:

> Our task is to make the Iraqi units fully capable and independent. We're building up Iraqi security forces as quickly as possible, so they can assume the lead in defeating the terrorists and insurgents. Our strategy can be summed up this way: As the Iraqis stand up, we will stand down.

Our assistance to the people of Iraq is not limited to the military. There have been infrastructure improvements as well, including almost 3,500 schools.

Also, there were no commercial TV stations in Iraq before the war; today there are 44.

There were no independent newspapers or magazines in Iraq before the war. Today there are more than 100.

In January of this year, 8 million Iraqi citizens, in the face of violent threats, voted to establish a parliament. Last month, the Iraqis again returned to the polls in large numbers, and almost 10 million this time—more than 60 percent of the registered voters—voted to approve their constitution. This coming December, they will return to the polls to elect a fully constitutional government.

Because of America's leadership, compassion, and sacrifice, the world has witnessed the end of Saddam Hussein's regime and the beginnings of an energetic democracy in Iraq. This fledgling democracy has the ability to transform a region that has been a breeding ground for terrorists.

The world is a safer place because Qadhafi saw the fate of Saddam Hussein and decided Libya was better off with its weapons of mass destruction program under lock and key.

We are safer because the AQ Kahn network has been shut down and is no longer supplying materiel support to Iran and North Korea's nuclear efforts.

We are safer because terrorists and the countries that harbor them know if they threaten the United States, they could be the next ones to feel the force of the U.S. military.

Our word means something now because the President laid a marker down in the sand and stood behind that marker when it was time—when Saddam Hussein did not come forward and agree to the resolutions that the United Nations had passed.

I believe the more than 2,000 members of our military who have died in service for our Nation in Iraq—and others will surely follow them—have made our country safer.

I believe history will show in the fullness of time that America was involved in a noble effort that transformed a region and indeed the world.

I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. First of all, I want to associate myself entirely with the remarks of the Senator from Nevada. I wanted to rise for the same purpose—to talk for a minute about our men and women in Iraq, the successes that have taken place there, and how proud I am of it.

But I can't help but, at the outset of my remarks, for a second, respond to the remarks of the Senator from Illinois a few minutes ago. I had a flashback as I listened to that speech—a flashback to my generation's war in the 1960s in Vietnam, a flashback that reminded me of what happened when American politicians began to slowly but surely question America's intentions in a war while our people were deployed, which slowly resulted in the end of withdrawal of a military that never quite had the support anymore that it deserved while in harm's way.

I would like for a moment to talk about what we do know. We have had lots of questions raised about what we don't know, what we should have done, what somebody may or may not have done. Let us talk for a second about what we do know.

Senator ENSIGN has done a great job talking about what we knew leading up to going into Iraq. I would like to remind us of a few other things.

We know that war was declared on America in the 1990s by Osama bin Laden, and we were attacked seven times without responding. It was finally with the attack on the World Trade Center and the Pentagon that this President changed America's policy to one of preemption, committed himself to going after terrorism wherever it existed, and doing everything we could to liberate the world from the tyranny of terrorism.

We must remember that today we are not in a war like past wars. We are in the ultimate war between good and evil. The terrorists don't want to beat us, they want us to lose our resolve so they can rule the world through intimidation. Terrorists don't want what America has. They do not want America to have what it has: the first amendment, freedom of speech, the right to worship as we see fit, the right to bear arms—all the things that stand in the way of the tyranny they would like to employ around the world, and have employed in a couple of places very successfully, in Afghanistan that we liberated and now in the nation of Iraq.

There are those who would have you believe, by their speeches, that we are fighting the Iraqi people. We are fighting terrorism in Iraq. This war is about Iraq, the United States of America, our soldiers, the future of our generation, and our way of life as we have known it.

I commend and respect anyone who would raise a question or a doubt and seek an answer. But we must not forget that the truths that we know are compelling, that we are fighting the right war in the right place at the right time for the right reason.

For those who say we never found a weapon of mass destruction, I would submit to you that Saddam Hussein himself was a weapon of mass destruction. In 1990, when he went into Kuwait and we went in and liberated, it was Saddam Hussein who rained missiles upon Israel that wasn't even in the fight. It is Saddam Hussein who gassed his own Kurds. It is Saddam Hussein who systematically ordered the deaths of tens of thousands of Iraqi people and buried them in mass graves.

It is no coincidence that al-Qaida operates today as the head of the insurgency that fights our troops in Iraq because this is their war—their war against what America stands for, and what the future of the world can be if we are successful. We have some tough days ahead, but we must stay the course.

In one year, we have caused the Iraqi people to have an interim resolution, to draft a constitution, ratified, and to seek a permanent election to elect permanent representatives, something that would have been unthinkable just 2 or 3 years ago.

But we did it because of the resolve of these men—the American soldiers and the Iraqi soldiers fighting shoulder to shoulder with them today in the final stages in Iraq.

Yes, we have battles to fight. Yes, there will be more terrorist attacks. And, yes, there will be tragic losses that all of us grieve. But we cannot, as a nation, lose our resolve, or have politicians quibble on the edges while our men and women are standing in harm's way.

I commend our troops and our soldiers. I commend our country. I commend our citizens to look to the future and appreciate that everything we enjoy and have today is because of those who have sacrificed in the field of battle, those who have led in this Congress and in this Nation's Government in the past to defeat dictators and tyranny wherever it existed.

We are in the ultimate battle between good and evil. Compromise and quitting is unacceptable. Seeing it through to its course is essential for our men and women in harm's way and for the children of the United States of America and the children of the world because, you see, unlike history under Saddam Hussein in Iraq, the children of Iraq now understand that there is a future, that there is the potential for a bright future, and success and good times with no fear. They do so because this brave Nation, when attacked by the tyranny and the evil of terrorism, decided it would follow it wherever it took us and we would preempt it so it could not stand and it could not exist.

On behalf of our men and women in harm's way, the children they protect, the dreams and aspirations of Americans for a bright future, as bright as our past, I commend our men and women in harm's way. I stay the course as a Member of this Senate to support them in the war on terrorism, and I ask all of us to be careful when we raise questions that must be raised to never raise them in such a way that would compromise this effort or compromise the commitment and dedication of these brave men and women.

I yield the floor. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, what is the pending order?

The PRESIDING OFFICER. The Senate is in a period of morning business. All time held by the majority has expired. The time remaining on the minority side is approximately 9 minutes.

Mr. INHOFE. Mr. President, I ask unanimous consent I be allowed to present a second-degree amendment to the Harkin amendment number 2438 for the purpose of debate only.

The PRESIDING OFFICER (Mr. ENSIGN). Is there objection?

The Senator from Virginia.

Mr. WARNER. Mr. President, this is a little bit of a complex situation. We are anxious to get started on the bill. We want to honor the 9 minutes on the other side of the aisle. I am wondering if the Senator from Oklahoma could proceed as in morning business until such time as there is recognition sought on the other side to utilize the remaining 9 minutes.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I would be happy to accommodate that. However, our time has expired so it would take unanimous consent. I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Oklahoma is recognized as in morning business.

Mr. INHOFE. Thank you, Mr. President.

ARMED FORCES RADIO

Mr. INHOFE. Mr. President, we have heard some discussions, some debate by the Senator from Iowa, Mr. HARKIN, on his amendment No. 2438. I oppose this amendment, and I have prepared and have filed a second-degree amendment that I will offer after all time by Senator HARKIN has expired.

I guess I would ask the question as to why should the Senate mandate what programming our troops can listen to or deny their opportunity to choose. Currently, under this system, our troops communicate with their local radio stations by offering feedback that shapes the local programming.

Simply put, if the troops do not like what they are hearing, they call the radio station and ask that the programing be changed. It seems to be fair to me. It is called the market. If there is no market for it, why should we be doing it?

Now, as Senator HARKIN himself has stated, fair and balanced programming options are offered to all 33 radio stations worldwide. It is the individual radio stations that establish the programming based on its audience's preferences. The stations decide what programming is in the greatest demand.

Worldwide, the second-largest audience request is to play all 3 hours of Rush Limbaugh. Only 1 hour is currently made available through the AFRTS. However, some stations choose not to carry his program at all, even for the 1 hour of availability. That is their choice to make based on the troop feedback.

You might say at this point, if the troop feedback is that they want all 3 hours, and some stations do not play any, and the most that any stations play is 1 hour, then if any change should be made in terms of complying with the market, it should be that.

Now, Senator HARKIN and his charts would have you believe the only program on the radio is Rush Limbaugh. But what about the 24 hours of National Public Radio or DOD's commitment to begin airing liberal talk shows by Al Franken and Ed Schultz? Furthermore, Rush Limbaugh currently represents only 3 percent of the weekly scheduled programming. That is 3 percent. I don't know why they are so worried about 3 percent.

Now, the liberal talk radio—this is important as to having a benchmark of 1 million listeners. It is important to know there is a reason why they choose programming. One is, they do not choose any at all unless it has 1 million listeners.

Let's put that chart up. It is kind of hard to read, but I will explain it in a minute. Prior to this fall, no liberal talk shows had over 1 million listeners. Rush Limbaugh has approximately 15 million listeners weekly. AFRTS's policy is to "provide a cross-section of popular programming." To this point, there have been no significant audience demands to rationalize adding progressive programming or liberal programming.

For the record, Limbaugh was added to the programming menu after troop listener demand had been heavy and sustained for many years. At the time, Limbaugh's audience had grown so large that failure to include his show would have violated AFRTS's policy of providing a slice of domestic talk radio.

There is no truth to the minority's assertion that liberal talk radio has been kept off of AFRTS for political purposes. That is a pure fabrication. The truth is, as this chart shows, the minimal market demand that exists for liberal talk shows did not meet the listenership requirement for programs to be played on AFRTS.

The AFRTS standard is a "national syndication and one million listeners per week." It has to be a nationally syndicated program, and it has to have a million listeners per week. That goes for all programming, as this chart clearly shows.

Now, two liberal talk shows have achieved 1 million listeners in 2005. If we look at this carefully, we will see that in 2004 there were no liberal talk shows on AFRTS because none of them had an audience of 1 million listeners. There is a change between 2004 and 2005 and that is Ed Schultz and Al Franken both were able to get a million listeners. Therefore, we changed the programming. We are responding to the demand out there. If there are a million people who want to listen to them, we will give our troops a chance to do the same thing.

As it turns out, right now, the AFRTS stations will have access to the two top conservative and the two top liberal shows. The conservative ones are Rush Limbaugh and Sean Hannity. And the liberal ones are Al Franken and Ed Schultz.

Still, Senator HARKIN is not satisfied. Senator HARKIN claims conservatives are propagandizing AFRTS's programming. Well, I only ask, which sounds more like propaganda, programming which is freely chosen by listening troops or programming mandated by the Government? Furthermore, if there are significant numbers of letters from troops decrying the current AFRTS programs, I know my office has not received one.

In my travels visiting troops, I have not heard of one. In fact, I know I have been, by count, to Iraq, into those areas where we have our troops stationed, more times than any other member of the Senate Armed Services Committee. When I am over there, I have yet to have one person come up to me or have one letter in our office saying they are dissatisfied with the programming and that they demand more liberal programs.

All I see here are Senators trying to subsidize liberal talk radio because they do not have anyone to compete with popular conservative radio talk shows.

Now, the amendment also calls for an ombudsman, as if the amendment is not bad enough in trying to dictate what our troops should listen to against their will. The Harkin amendment would establish an ombudsman of the American Forces Network who would be appointed by the Secretary of Defense.

The amendment is based on the premise that the programming decisions of the American Forces Radio and Television Service have improperly excluded liberal political radio programming and would give the ombudsman the duty of identifying circumstances under which the AFN "has not adhered to the standards and practices of the Network in its programming, including circumstances in which the programming of the Network lacked integrity, fairness, or balance." I am quoting now from his legislation. The ombudsman would be required to submit an annual report.

Now, what this ombudsman provision does is it allows Members of Congress the opportunity to obstruct an already fair and functioning process by getting in between the troops and what they choose to listen to. Listed as one of the ombudsman's duties in this amendment is to initiate and conduct, upon the request of Congress, reviews of the programming of the network, AFRTS.

The creation of an ombudsman is another example of wasteful Government redundancy. But, moreover, the creation of this post would empower Members of the Senate to choose what entertainment our troops listen to. This is an attempt by the minority to impose unpopular message-driven content on AFRTS to a captive audience. The requirement for a report, et cetera, is to intimidate the 33 stations that are trying to serve our service men and women into serving special interests in Congress.

We do not need a political officer to make sure our troops get the daily dose of a certain media personality. Today, these decisions are based on the input from the servicemember and their ratings by the American people. Our troops deserve the right to choose what they listen to on the radio. What they do not deserve is their Senators taking away the right. Who are we to do this? How arrogant it is we are putting ourselves in a position where we claim to know more than the troops as to what is in their best interests. I do not believe that should be the case.

Finally, preserving the programming integrity of AFRTS must be paramount. There is another reason totally unrelated to what we talked about so far. AFRTS is a vital link between military command and troops and their families throughout the world. What we are saying is, if we have commanders in the field who are trying to communicate messages to our troops—they currently can do this. And they can do this under the Harkin amendment. However, there would be much fewer people listening in the market by adjusting the market, and these messages would not get out.

Important messages are broadcast on this network, and if the programming becomes a political football and is no longer based on what the troops want but what Congress wants, then listenership would certainly dwindle. Maintaining popular programming ensures that AFRTS remains a reliable communications link to our troops in the field. We cannot afford to play politics with such an important asset.

Now, I have a second-degree amendment, and I will be offering this at the expiration of the time of the Senator from Iowa. The second-degree amendment to the Harkin amendment describes how programs are selected for the American Forces Network, including reliance on ratings and popularity, as demonstrated by the numbers of listeners, and notes that reliance is placed on 33 local programming managers at military communities around the globe.

It would express the sense of the Senate that:

> (1) the men and women of the American Forces Radio and Television Service and the Armed Forces Network should be commended for providing a vital service to the military community worldwide; and
>
> (2) the programming mission, themes, and practices of the Department of Defense with respect to its television and radio programming have fairly and responsively fulfilled their mission of providing "a touch of home" to members of the Armed Services and their families around the world and have contributed immeasurably to high morale and quality of life in the Armed Forces.

Finally, the language in my second-degree amendment provides that the Secretary of Defense may—may; it does not say he has to, that he must have an ombudsman but he may appoint an ombudsman at AFRTS to serve as—this is the way we have it in the second-degree amendment—"an intermediary between the staff of the American Forces Network and the Department of Defense, military commanders, and listeners to the programming of the American Forces Network." You will find that this conforms to the description used to define the ombudsman at Stars and Stripes, our military print media. It is very similar to Stars and Stripes.

I find, when I am making my trips over there, they will tell me they have two ways of communicating with the outside world other than their communications with their family; one is through Stars and Stripes, and one is through the radio programming on these 33 stations.

Now, I would want to, at the appropriate time, go ahead and offer this amendment. It is my understanding the Senator from Iowa will be returning momentarily. But for a minute, I might say to the distinguished chairman, let me give an observation.

The other day I was in the elevator coming up to the floor to cast a vote. I was with two of our Democratic colleagues whom I respect very much, two very liberal Democratic Senators. They were complaining about the fact that all the talk shows are conservative and they don't have successful liberal talk shows. And they said—these were their words in the elevator—there ought to be a legislative fix to this. I said: What you guys don't understand is, this is market driven, and there is no market for your liberal trite. And for that reason, it is much more of the conservative talk shows. It is called the market, and that is what makes America work.

I yield the floor at this time.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I wish to be supportive of this amendment of my colleague from Oklahoma. But at the same time, I do believe the amendment by Senator HARKIN is deserving of consideration. I say to my colleague, my concern, is—and I wish to have the record reflect this—is it your understanding, having carefully examined how this is done by the Armed Forces Network, that in no way are they directly or indirectly trying to impose any censorship?

Mr. INHOFE. No.

Mr. WARNER. That we simply cannot have.

Mr. INHOFE. No, we cannot have—well, actually, the Harkin amendment would impose a censorship to a degree; that is, it would change the criteria that, No. 1, it has to be a syndicated network, and, No. 2, it has to have 1 million listeners.

We have shown clearly that they have lived up to that. When the two liberal talk shows, Ed Schultz and Al Franken, reached a million, they started including them. They are including them just as they are the conservative talk shows. If you impose upon them that you are going to have somebody out there watching and making sure that Congress tells them what is best for them, yes, that does impose a restriction on what our troops in the field are able to hear.

Mr. WARNER. I say to the distinguished Senator, let me read section 2 of his proposed amendment: The American Forces Radio and Television American Forces Network provide a "touch of home" to members of the armed forces, civilian employees of the Department of Defense and their families stationed in bases, embassies, and consulates in more than 179 countries, as well as the Navy, Coast Guard, and Military Sealift Command ships at sea.

So it reaches an entire family, and it is a very important function. This Senator wants to make sure that audience, irrespective of whether they are conservatives or liberals, whatever the case may be—I am not sure that is the right criteria we should be using—does get a touch of home, which is a very wonderful expression that you have included here, by providing the same type—reading on—and quality of radio and television programming, including news, information, sports, and entertainment, that would be available in the continental United States.

To me, if you impose a certain market criteria, even though they may not hit a certain number of listeners, you are not getting the full spectrum that this amendment calls for. In other words, I would prefer to have just this amendment that you have here be the decision by the Senate and then leave it up to the 33 stations to ensure that is done. Maybe we shouldn't condone a marketing policy that just cuts off a whole lot of programs at the bottom because they don't have enough listeners.

Mr. INHOFE. I respond to the distinguished chairman of the committee that I am prepared to have it market driven.

Mr. WARNER. You would prefer what.

Mr. INHOFE. To have it purely market driven so that these kids who are out there, our troops risking their lives, would be able to determine what they wanted to listen to rather than having something imposed upon them. Ideally that is what I would prefer in a second-degree amendment. But in trying to accommodate a system that has worked pretty well, that criteria is acceptable to me. Let's don't talk about liberal and conservative. Let's talk about just programming. Forget about what is liberal and what is conservative. If a concept is popular enough that it has 1 million listeners, then that should qualify for consideration for our troops to listen to. That is my point.

Mr. WARNER. Well, I don't see anything in the language you use here because you are very explicit. By providing the same type and quality of radio and television programming, including news, information, sports, and entertainment, that would be available in the continental United States—that is what we should follow.

Mr. INHOFE. I agree.

Mr. WARNER. I don't know that we condone a marketing tool by which a certain category—and it so happens that category perhaps has the preponderance of things which people would consider liberal. I am not sure we can escape totally the use of that word. It is better that we let the 33 stations themselves decide what it is.

If a program hasn't hit a million, well, there may be some audience within the family of people you discuss here, all of the various listeners and families and embassies and consulates, maybe they would like to hear something even though it hasn't hit the 1 million mark.

Mr. INHOFE. I would respond to the Senator from Virginia that the only reason I used these two charts, the accusation was made that there somehow is a mechanism here that would exclude that more liberal philosophy in terms of programming. This demonstrates clearly that it doesn't because once they have reached that criteria, they are able to be heard.

Mr. WARNER. It is that operative phrase of "reach that criteria." It seems that reaching that criteria has the effect of excluding a lot of programming, albeit they don't have quite the audience that others do, but nevertheless, there may be some individuals within this family that is set forth in the amendment that would like to hear it.

Mr. INHOFE. I think that is right. I believe that is the case. The 33 stations have program directors. Their goal is to maximize their audience. If they hear that something is in demand that might not be consistent with what is in demand throughout the United States, I can assure you, under the current system, they will have that program.

Mr. WARNER. That assurance to me is important. So what you are saying is it would not be any indirect censorship of any particular philosophical category of programming under your proposal?

Mr. INHOFE. That is exactly right.

Mr. WARNER. So your proposal does not bind them to this market criteria.

Mr. INHOFE. That is correct.

Mr. WARNER. I find that helpful. I think you have dispelled any thought that this amendment would impose any censorship.

Mr. INHOFE. Yes.

Mr. WARNER. And the variety of news services—again, there are obviously certain news services that have a proclivity to go to a more conservative side and some to the liberal side, but again, are news services given an equal opportunity to be heard?

Mr. INHOFE. Yes, they are.

Mr. WARNER. For example, I happen to like NPR, and I like to hear FOX News. I like to have the juxtaposition of the different viewpoints.

Mr. INHOFE. In my statement, I commented that it is a very disordinate amount that has been historically given to NPR in terms of listening audience because they have that on for 24 hours. So certainly that is already there, and that is more than the market would justify if we were going by the justification that the market dictates.

Mr. WARNER. Mr. President, if I might ask the Senator one last question. He makes reference to the ombudsman. How does your coverage of the subject of an ombudsman differ from the amendment offered by the Senator from Iowa?

Mr. INHOFE. It merely makes it optional. If the Secretary of Defense wants to pursue the ombudsman as a practice, then he may do it. It doesn't say he shall. It says he may. It is not mandated. It is just optional at the discretion of the Secretary of Defense.

Mr. WARNER. Fine. So that clarifies the sole technical distinction, which is an important one, between your second degree and the underlying first degree. Therefore, it is up to the Secretary, but once an ombudsman is selected, assuming the Secretary opts to do so, in no way is that individual chartered or directed to do his work or her work different than what the Senator from Iowa desires?

Mr. INHOFE. That is correct. The only difference is, it is optional.

Mr. WARNER. I think that is important. So could that ombudsman be among the existing people in the Department of Defense, have it as an additional duty, or should that person be brought in from the outside and have the sole responsibility of ombudsman work?

Mr. INHOFE. It is my understanding that under the underlying amendment by the Senator from Iowa, it is very prescribed as to how this person is going to be chosen. In my amendment, it leaves it up to the discretion of the Secretary of Defense. It could be someone who is already existing within that Department or another department.

Mr. WARNER. Mr. President, I think that is an important flexibility. I am certain that within the Department, there is an individual or an individual with objectivity and a background that could perform this work.

Mr. INHOFE. That is correct.

Mr. WARNER. I thank the Senator. I yield the floor.

The PRESIDING OFFICER. The minority has 9 minutes remaining in morning business.

The Senator from Rhode Island.

Mr. REED. Mr. President, I would like to be recognized as in morning business.

The PRESIDING OFFICER. The Senate is in morning business, and the minority has 8½ minutes remaining.

OIL COMPANY WINDFALL PROFIT TAX OFFSET

Mr. REED. Mr. President, recently Senator COLLINS and I introduced an amendment to the proposed budget reconciliation bill to fund a $2.9 billion increase in the Low-Income Home Energy Assistance Program by placing a temporary 1-year windfall profit tax on big oil companies. I filed this amendment to the budget reconciliation bill to begin the dialog, and I intend to call for a vote on my amendment when the Senate debates the tax reconciliation bill in the next few days.

Last week, oil companies reported record profits for the third quarter on surging oil prices. Chevron posted profits of $3.6 billion. BP's profits rose to $6.5 billion. Royal Dutch/Shell profits grew to $9 billion. And ExxonMobil profits gushed up 75 percent to nearly $10 billion. According to BusinessWeek, that equals $150 million in profit for every working day in the past 3 months.

This year has been an exceptionally lucrative one for the oil industry and an exceptionally impoverishing one for American families and seniors. Profits going to big oil are money coming out of wallets of working families and seniors and wealth draining out of our communities.

Fully funding LIHEAP is a vital imperative. I believe the big oil companies should help shoulder the cost. Rising energy prices could financially wipe out working-class families and seniors this winter. Americans are experiencing extraordinarily high runups in energy prices that jeopardize the ability of many families to keep their homes warm during this coming winter season. Energy costs to the average family using heating oil are estimated to hit $1,500 this winter, an increase of almost $325 over last winter's heating season. For families using natural gas, prices could hit $1,000, an increase of $300.

For a family using propane, prices are projected to hit $1,300, an increase of $230. For families living in poverty, energy bills are now over 20 percent of their income, compared to 5 percent for other households. People who are living in poverty, many of whom are working, are paying 20 percent of their income for heating bills. That is compared to 5 percent for the rest of America's families.

Let me tell you what this amendment means. If we are successful, it would add $2.9 billion to the LIHEAP program to bring total funding to $5.1 billion this winter. With $5.1 billion, the National Energy Assistance Directors Association estimates that LIHEAP could serve 12 million families this year. This is double the number of families served last year but still only one-third of those eligible. Even with this increased funding, we would not reach all the families who qualify, but we would reach those families who are most in need, particularly in this very difficult winter heating season.

States could also increase the level of benefits to help these rising costs, in addition to enrolling more personnel in the program.

This amendment means that seniors will not have to choose between buying lifesaving medication and paying their natural gas bills. Working families will not have to decide between putting food on the table or putting heating oil in their tanks. And what is the cost of this amendment to big oil? It is about 10 percent of their profits from one quarter of 1 year, or in the case of ExxonMobil my amendment would represent just one-third of their profits for one quarter. This is a small price to pay to keep American families safe and warm this winter.

Two weeks ago, I wrote an open letter to the oil industry asking that they act as good corporate citizens and take this step voluntarily. I was pleased to hear that Senator GRASSLEY, the distinguished chairman of the Finance Committee, reiterated my plea recently, and I hope that we will be able to work together on this effort. I also hope that Senator GREGG, the distinguished chairman of the Budget Committee, will join Senator COLLINS and me in our efforts to increase LIHEAP funding through this temporary windfall profits tax. I also hope the administration will join our bipartisan effort to help American families. Unfortunately, to date, the administration only appears able to say no to American families and seniors and yes to the oil industry.

Last month, Secretary Bodman said no, the administration would not seek additional funding for LIHEAP this winter. The supplemental appropriations request the administration sent to Congress last week did not include funding.

Recently, Secretary Bodman, answering questions on whether the administration would support oil companies voluntarily donating profits to LIHEAP, said, "No, sir. I wouldn't support it. It is similar to a tax."

In 1980, Congress enacted the Crude Oil Windfall Profits Tax Act. This legislation established LIHEAP. Twenty-five years later, with energy prices overwhelming workers' salaries and seniors' Social Security checks, it is time for Congress again to take action and tax windfall profits to aid in energy assistance.

I also want to mention it is my intention that when we consider the tax reconciliation bill this month, I will offer an amendment to provide a tax credit to working American families to help them pay for their energy bills this winter. Our Nation's priorities must be to help these families, and I hope working together with my colleagues we can provide that help and assistance.

Mr. President, I inquire how much time is remaining in morning business on the Democratic side?

The PRESIDING OFFICER. Two minutes.

Mr. REED. I yield the remainder of the time to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, is that the extent of the time?

The PRESIDING OFFICER. That is correct.

Mr. REED. In morning business.

Mr. WARNER. Mr. President, if I may clarify what the situation is, 2 minutes in morning business is left, and that is being allocated to the Senator from Massachusetts, fine, no problem there. But as I understand, the Senator from Massachusetts also wishes to address the Levin amendment; am I correct?

Mr. KENNEDY. That is correct.

Mr. WARNER. At which time is the expiration of the 2 minutes. Then the time is charged to the Levin amendment; is that correct?

The PRESIDING OFFICER. At the conclusion of morning business, the Senate will proceed to consideration of S. 1042, and the Senator then may seek recognition.

Mr. WARNER. I hate to interrupt the Senator from Massachusetts, but if you have to do it, you have to do it.

Mr. KENNEDY. Mr. President, I intend to speak probably 7 minutes. I will use the 2 minutes now and request time on the Levin amendment.

AMENDMENT NO. 2430

Mr. KENNEDY. Mr. President, a year and a half ago, Americans were stunned by the revolting images of men and women wearing the uniform of our Nation torturing and abusing prisoners at Abu Ghraib.

At the time, we had hoped those photos pictured an isolated instance, but we have learned since that our own leaders at the highest levels of our Government, in the White House, in the Pentagon, and in the Central Intelligence Agency, have allowed a wide pattern of abuse to occur. Abu Ghraib, it seems, was only the tip of the iceberg.

American officials abused prisoners in Iraq, Afghanistan, and Guantanamo, and now we learn the CIA maintains secret prisoners in Eastern Europe where Vice President CHENEY arrogantly and unapologetically hopes to permit torture as a permanent part of American policy.

These actions deeply offend American honor and ideals. They invite retribution on our own troops by those who treat them as we treat their prisoners, and they harm America's image around the world and make the war on terror that much harder to win.

These abuses should not be swept under the rug and forgotten. The American people deserve to know what their government is doing. Those who have violated our norms and values under the color of the American flag should be held accountable.

That is why I strongly support the Levin amendment to create a commission with responsibility for learning the truth. Its findings not only would bring much needed accountability of those responsible for these abuses but also would guide our handling of the detention and interrogation of detainees in the future.

From what we have learned to date, it is clear that our political leaders made deliberate decisions to throw out the well-established legal framework that has long made America the gold standard for human rights throughout the world. The Administration left our soldiers, case officers, and intelligence agents in a fog of ambiguity. They were told to "take the gloves off" without knowing what the limits were. Top officials in the Administration endorsed and defended practices that we've condemned in other countries. And the consequences were foreseeable.

In rewriting our human rights laws, the Administration consistently overruled the objections of experienced military personnel and those who represent American interests abroad. As Secretary of State Colin Powell warned the White House, "it will reverse over a century of U.S. policy and practice in supporting the Geneva Conventions and undermine the protections of the law of war for our troops." Senior Defense officials were warned that changing the rules would lead to so-called "force drift," and without clearer guidance, the level of force applied to an uncooperative detainee might well result in torture.

But these wise words fell on deaf ears. Officials at the highest levels of the administration somehow viewed the rule as inconvenient and quaint. As Lawrence Wilkerson, former Chief of Staff to Secretary Powell, said:

> I don't think in our history we've ever had a presidential involvement, a secretarial involvement, a vice-presidential involvement, an Attorney General involvement in telling our troops essentially carte blanche is the way you should feel.

The PRESIDING OFFICER. The Senator has used 2 minutes.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1042, which the clerk will report.

The legislative clerk read as follows:

> A bill (S. 1042) to authorize appropriations for calendar year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

> Nelson (FL) amendment No. 2424, to repeal the requirement for the reduction of certain Survivor Benefit Plan annuities by the amount of dependency and indemnity compensation and to modify the effective date for paid-up coverage under the Survivor Benefit Plan.
>
> Reed (for Levin/Reed) amendment No. 2427, to make available, with an offset, an additional $50,000,000 for Operation and Maintenance for Cooperative Threat Reduction.
>
> Levin amendment No. 2430, to establish a national commission on policies and practices on the treatment of detainees since September 11, 2001.

Inhofe amendment No. 2432, relating to the partnership security capacity of foreign military and security forces and security and stabilization assistance.

Chambliss amendment No. 2433, to reduce the eligibility age for receipt of non-regular military service retired pay for members of the Ready Reserve in active federal status or on active duty for significant periods.

Snowe amendment No. 2436, to require the Secretary of Defense, subject to a national security exception, to offer to transfer to local redevelopment authorities for no consideration real property and personal property located at military installations that are closed or realigned as part of the 2005 round of defense base closure and realignment.

Harkin/Dorgan amendment No. 2438, relating to the American Forces Network.

Mr. WARNER. Mr. President, I thank the Presiding Officer for advising that the bill is now up and the distinguished Senator from Massachusetts will continue his framework remarks on behalf of Senator LEVIN, whatever time the Senator desires.

Mr. KENNEDY. I thank the chairman of the Armed Services Committee for his typical courtesies and consideration.

AMENDMENT NO. 2430

Mr. President, we have created legal and literal black holes where individuals have been placed without hope of receiving due process or fair and humane treatment, and that is nothing short of a travesty.

The warnings are all there.

The military's judge advocate generals—people who have dedicated their lives to the defense of the country—warned that undoing the rules against abuse would undermine protections for our troops.

The FBI warned the abuses at Guantanamo may violate longstanding American practices and policies.

The International Red Cross warned that our actions violate and undermine international agreements that serve to protect our own troops when they are captured.

But the Bush White House still is doing everything it can to avoid accountability. Only yesterday, President Bush said that the United States does not torture. Yet his own Vice President is lobbying Congress to allow the CIA to use these abusive techniques.

There is little doubt that many of those detained are cold-blooded killers intent on harming Americans. They should be charged for their crimes and locked away. But we do not win the war on terror by stooping to their level. We do not win by desecrating the very ideals that our soldiers are fighting for. We win by setting an example, by doing unto others as we would have them do unto us.

We know now that the prisoner abuse scandal is not merely the responsibility of a few bad apples as the administration initially claimed. We cannot simply blame a few low-ranking soldiers without looking at the role of William Haynes, David Addington, Jay Bybee, John Yoo, Timothy Flanigan, Alberto Gonzalez, and the Vice President in crafting these policies that led to these abuses.

Mr. President, there have been 11 investigations into the treatment of detainees, 11, but not one has fully examined the extent to which officials at the top levels of the administration are responsible for these abuses, and not one has looked beyond the Pentagon to the CIA, the Justice Department, and the White House itself—not the Schlesinger report, not the 10 military investigations that have taken place. We can no longer let the White House off the hook.

By refusing to act like the truth is important, the administration is only making the crisis worse, further embarrassing the Nation in the eyes of the world, and casting greater doubt on its commitment to the rule of law. We will not be able to move past the scandal as a nation until there is a full independent investigation of all that has gone wrong in our detention and interrogation policy and all the persons found responsible for these policies are held accountable. I urge my colleagues to support this amendment.

I thank again the chairman of the committee for his indulgence.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I would like to reply to my distinguished colleague from Massachusetts. It is a very strong belief within the Senate that simply this is not the time nor is there the need to establish another 9/11 type commission. First, it would duplicate the thorough investigation into the matter that has already taken place by a number of committees of the Senate. And as stated by my distinguished ranking member yesterday, he acknowledged that our committee has had a very major role in the matters and has conducted a number of hearings.

The Department of Defense on its own initiative has conducted 12 probes of detainee operations in the last 18 months. I wish to draw the attention of the Senate to one of those probes because it was conducted by individuals who in my judgment—and I say this with no restriction whatsoever—have just about as high a credibility that I know of any public or former public servant: that is, James Schlesinger, former Secretary of Defense; Harold Brown, former Secretary of Defense; General Hoerner, four star general of the U.S. Air Force who conducted the air operations during the first gulf war, a man whom I have known very well; and our distinguished and much beloved late Member of the Congress of the United States, Tillie Fowler. I would like to, for the benefit of my colleagues, quote directly from their report. On page 5, they find as follows:

> There is no evidence of a policy of abuse promulgated by senior officials or military authorities.

On page 66:

> Despite the number of visits and intensity of interest in actionable intelligence, however, the panel found no undue pressure exerted by senior officials.

Mr. President, the McCain amendment, which has been adopted now twice by this body, is the subject of a conference now with the appropriations conferees. It is also on our bill, the first amendment accepted. This was a bipartisan call to the best instincts of our American character. I call on the Senate to use that powerful statement of American values, not another commission, as our instrument of change.

Mr. President, I would like to ask at this time the time remaining on the Levin amendment——

Mr. KENNEDY. Will the Senator respond to a question?

Mr. WARNER. Yes, I would be happy to do so.

Mr. KENNEDY. First of all, I thank the chairman of the Armed Services Committee for pursuing this issue, and I am grateful for his initiatives and those of Senator LEVIN.

We had the opportunity in the Judiciary Committee to also pursue this issue during the nomination hearings of the Attorney General, Mr. Gonzalez, who had been the White House Counsel when the initial torture memorandum was prepared. There was no question that someone in the Central Intelligence Agency spoke to Mr. Gonzalez and he asked the Office of Legal Counsel in the Justice Department for advice about how to define the parameters of torture—of torture. And they received back a very detailed note from the Office of Legal Counsel. In that particular memorandum, known as the Bybee memorandum, was the legal guidance for the DOD. It effectively indicated that using any kinds of techniques on any individuals were permitted, as long as the intention was to get information and not to torture.

Mr. Gonzalez was asked extensively about that memo. We asked about the author of that memo. And we then received—during the hearing—a revision of that torture memo by the Defense Department. For 2 years, the Bybee memo had been out there. That memorandum effectively absolved any members of the armed services that were involved in torture because they were doing the work of the Commander in Chief. Under that particular memorandum, if you were working under the Commander in Chief, you were effectively protected against any kind of prosecution in the future.

That memorandum was withdrawn by the Justice Department and the Department of Defense. But it was in effect for 2 years. We don't know what the background was. We never found out in the Judiciary Committee who in the Central Intelligence Agency asked for that memorandum. We never found out what the contacts were between the agency and the Office of Legal Counsel. We never found that out. We never have found out whether it was repudiated by the Central Intelligence Agency.

Those questions are still unanswered. I say to the Senator from Virginia. This enormous collection of studies that was done primarily for the Armed Services Committee is virtually free of any discussion, knowledge, or accountability of the Bybee memorandum, which is the basis for the policy of torture within the Defense Department. That is just one illustration of what took place. The American people are permitted, I think, to understand who was making judgments and decisions so that this memorandum was put in place, which basically permitted torture to take place. We are talking about waterboarding, and we are talking about being the target of military dogs. That was all out there.

If the Senator can give me the authority for that kind of activity, for that kind of guidance, we would be much more interested in listening to the argument that we have had all of these studies, we know everything that needs to be known, when I don't believe that is the case.

Mr. WARNER. Mr. President, I will answer and charge my time to my side. The time of the Senator from Massachusetts will be charged to the Levin amendment on his side. That is my understanding; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. WARNER. Mr. President, I should like to reply. If I can get clarification. I am not sure I understood one word that I think is important. Did the Senator mean "absolved" or "absorbed"?

Mr. KENNEDY. Absolved. This is the Bybee memorandum that was the basis for much of the torture activity that took place. A substantial part of it was included in the military working document which was released to the members of the military in all parts of the world.

I haven't had a chance to mention this particular item, and there are many different items in the whole torture issue, but if the Senator wanted to respond later on, I would certainly welcome it. One of the most troublesome aspects of the whole issue on torture is that we still have no way of knowing who put this in, who guided this, who got in touch with the Office of Legal Counsel, what were those phone calls, who was asking for this, and why it was put into effect for 2 years.

Mr. WARNER. Mr. President, do I understand this document is in the archives of the Judiciary Committee: is that correct?

Mr. KENNEDY. Yes, it is called the Bybee memorandum.

Mr. WARNER. Is it a matter that is subject to classification?

Mr. KENNEDY. No, it is in the record of the consideration of Mr. Gonzales for Attorney General.

Mr. WARNER. So, Mr. President, the document speaks for itself?

Mr. KENNEDY. Yes.

Mr. WARNER. I simply say, I don't have firsthand knowledge of all of the important oversight that was conducted by the Judiciary Committee. The Senator does raise fundamental questions about this policy, but I will only say, as recently as in the past few days, our President has reassured our Nation that we do not tolerate or permit torture. I would have to believe that is a consistency of the policy of the administration. Not having examined this document, I would hope there would be a continuity of that throughout the administration.

Mr. KENNEDY. Mr. President, I know time is running short, but the point is, during this period of time, those same assurances were given. And what was being done at that particular time was also described as not meeting the criteria of torture. That was the troublesome aspect. Although when asked during the course of the hearing about the waterboarding and assault by dogs and other activities, I think the response of the military officials who were asked about it was that could fall within the definition of torture.

Given the history of how the word "torture" has been used and looking at the Bybee memorandum which was the guidance for DOD, I think there are some very legitimate questions which we are very hopeful that an independent commission can resolve.

Mr. WARNER. Mr. President, I hope my colleague will concur that the McCain amendment, which has been adopted by this Chamber on two occasions, would be dispositive of any confliction as to the definitions as to the future; would I not be correct on that assumption?

Mr. KENNEDY. Certainly it would, as far as I am concerned. I think with this commission we are trying to avoid these circumstances in the future, given the facts we have seen in the past.

I thank the Chair.

Mr. WARNER. Mr. President, I say to my colleague and distinguished member of the Armed Services Committee, to avoid it in the future, that is precisely the objective of the McCain amendment, to prevent any recurrence. I am not suggesting I corroborate that there have been deviations; I simply say that is a landmark piece of legislation with regard to the future. And it would be, as I said in my remarks a few minutes ago, the guidepost for the future to resolve this issue.

Our military has had a great history of correcting through its lessons learned the procedures for the future. The Department of Defense has already implemented substantial reforms in response to its interactions with Congress on these investigations. The areas of concern involving the intelligence community, ghost detainees, and renditions are more appropriately addressed, of course, in the Select Committee on Intelligence.

Mr. President, I simply ask that all Senators be informed as to the time remaining on the Levin amendment on both sides.

The PRESIDING OFFICER. There is 10 minutes in opposition and 3 minutes under Senator LEVIN's control.

Mr. WARNER. Mr. President, I indicate to my colleagues that I would be prepared to, at a future time, to yield back our time so we can move to a vote on the Levin amendment as early as possible. So there is 3 minutes remaining, as I understand, under the control of the Senator from Michigan?

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Mr. President, I ask unanimous consent on behalf of Senator INHOFE to modify his proposed second-degree amendment. It is at the desk and being filed in relation to Senator HARKIN's amendment. This is a technical change.

The PRESIDING OFFICER. Consent is not required. The Senator's amendment is not pending.

Mr. WARNER. I realize that, but can we at this time substitute a revised document for the one that is being held at the desk? The Parliamentarian brought it to the attention of Senator INHOFE, and it is my understanding he followed the guidance of the Parliamentarian on this technical modification.

The PRESIDING OFFICER. The changes will be made.

Mr. WARNER. I thank the Presiding Officer and the Parliamentarian and other staff who facilitated this.

Mr. President, we are anxious to continue to work on this bill. I wonder if the distinguished Senator from Rhode Island can indicate what hopefully will occur this afternoon from his side of the aisle? One of his distinguished staff members handed us a sheet.

Mr. REED. Mr. President, the intention this afternoon, awaiting Senator LEVIN's return, is we will discuss further the Dorgan amendment on a Truman Commission approach and then a Byrd amendment with respect to a second Deputy Secretary of Defense for Management, I believe, and then Senator NELSON and others in regard to the SPD offset amendment. So we are prepared to return at 2:15 p.m. and continue to work on the bill.

Mr. WARNER. Mr. President, also, the distinguished Senator from Rhode Island has an amendment with regard to missile defense. Might I inquire as to the remainder of time on each side on that issue?

The PRESIDING OFFICER. The Senator from Rhode Island has 19 minutes. The Senator from Virginia has 13 minutes.

Mr. WARNER. I thank the Presiding Officer. It is our intention that the distinguished Senator from Alaska, Mr. STEVENS, will utilize largely the remainder of the time on this side, and then I hope we can bring that important amendment to a vote.

Mr. REED. Mr. President, I look forward to Senator STEVENS' comments and reserve time for myself and others to make additional comments and then move to a vote.

Mr. WARNER. Mr. President, I hope to be joined by my colleague from Michigan this afternoon. We will do our very best to keep the Senate moving without quorum calls to conclude the amendments, each side having 12, and also the managers approving a number of reconciled amendments on both sides. I anticipate a vigorous procedure this afternoon on behalf of this bill, moving toward third reading at the earliest possible date, which is the decision that the majority and Democratic leaders will eventually make.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. BURR). Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent to use 6 minutes of the time that is allocated to Senator HARKIN on the amendment that is pending, if in fact the Harkin amendment is now pending. I believe it is.

The PRESIDING OFFICER. The Senator is correct. It is the pending amendment. The Senator is recognized.

AMENDMENT NO. 2138

Mr. DORGAN. Mr. President, the Harkin amendment is a very simple amendment. Let me describe it. We have something called Armed Forces Radio and Television Service, AFRTS, a worldwide radio and television broadcast. It serves a million American service men and women and their families stationed at bases and American diplomatic posts in 179 countries around the world.

Armed Forces Radio and Television is paid for with taxpayers' dollars. It is a wonderful service to our troops and the families who are stationed overseas and at diplomatic posts. One of the questions that we raised recently was the question of programming on Armed Forces Radio and Television, not that anyone would want to censor any programming, far from it, but the question of whether there is balance and diversity on the programming that is on these stations.

I visited with a woman named Allison Barber, who is apparently in charge of some of this. She actually came to my office and we visited. And we spoke on the phone earlier this year. I have since tried to reach her again, unsuccessfully, with I think three or four telephone calls. First, she was traveling in Europe. She is back but not returning her telephone calls at this point.

I talked to Allison Barber because I felt they were doing the troops a service by providing a certain kind of programming. They have conservative talk shows on Armed Forces Radio and Television, Armed Forces Radio specifically, which is fine. Some of them are enormously successful, entertaining, have a wide listener audience, and that makes a great deal of sense that they would offer that to the troops abroad. The question I asked Allison Barber is, If you are going to offer conservative talk shows, do you not think that you would want to offer a counterbalance so that the troops abroad would have both sides of issues?

The reason I asked that is when I began to look at what the 33 local stations in Armed Forces Radio broadcast, it was this: Of the programming that is essentially political programming or defined as conservative programming, there was 100 percent on the conservative side and nothing on the progressive side.

I said: Well, I would never suggest that conservative programming be taken off. I think it is probably there because it is entertaining, interesting, well done, and the troops want to hear it. Do you not think, since our country is split very close to 50–50 in terms of political preference, the other side might well be represented? In fact, are not your rules such that they say—I am talking about the directives now that the Department of Defense refers to—the political programming shall be characterized by its fairness and balance? How would one characterize this as fairness and balance? One cannot.

The amendment offered by Senator HARKIN does not suggest anybody ever be taken off the air. Continue to air all of these things but provide both sides of political dialogue, which is not the case today. That is what my colleague says should be done. I agree with him.

Our colleague from Oklahoma comes to the Senate floor and talks about a second-degree amendment. He says, I kind of like what is going on now. Boy, I would guess he would. He belongs to a political party that is heavily supported by the programming on Armed Forces Radio. I can well understand why he would enjoy that sort of decision.

I believe Allison Barber, the Department of Defense, and all of those involved in selecting programming should do both things. They ought to provide this kind of programming, conservative talk shows and the rest, to the troops in the field and their families, and they ought to provide what their directive requires, fairness and balance, so that the other side has the same opportunity to be heard by those troops and their families. That is not now the case. That case does not now exist. My colleague from Iowa has offered an amendment that would begin to remedy this.

I know this debate will be characterized by the talk shows on the far right as trying to take them off the air. Nothing could be further from the truth. I do not recommend that for a moment. I simply believe that Allison Barber and the others involved in these decisions have a responsibility. The responsibility is to provide balance in the political programming on the Armed Forces Radio system that is paid for by the American taxpayer, so that all of those who have access to that radio signal have access to balanced programming, both sides being heard.

The other thing is—I assume it is a joke. I assume it is a joke, but I cannot be sure because I have heard it more than once. My colleague from Oklahoma says: Well, Rush Limbaugh is balanced by National Public Radio. How one could actually make that assertion without openly laughing is hard for me to understand. That surely must be a joke. National Public Radio does not counterbalance rightwing talk. National Public Radio, if there is something in this country that is fair and balanced—National Public Radio is not about political programming on the right or the left.

We hear a lot of excuses. The question is, Will the Armed Forces Radio system do what is required of them in their directive? The answer apparently is no. So what my colleague from Iowa would do would be to codify in law what the directive now requires them to do, but what they now fail to do.

So that is the amendment. It is simple and fair. I do not see how anyone could possibly oppose that amendment. I would hope that we will have a successful vote on it.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Virginia.

Mr. WARNER. Will the Senator yield for a question? Could he put the chart back up?

Mr. DORGAN. Yes.

The PRESIDING OFFICER. The Senator from Virginia will suspend. The Senator from North Dakota is out of time. Would the Senator from Virginia like to be recognized on his time?

Mr. WARNER. I will be recognized and would hope that the reply of the Senator could be brief.

How much time do I have remaining?

The PRESIDING OFFICER. The Senator from Virginia has 23 minutes.

Mr. WARNER. The zero on the chart, I want to make very clear my position.

I do not want any censorship imposed by the Department of Defense in utilizing taxpayer dollars to promulgate this programming, which is so important. The Inhofe second-degree amendment sets forth the wide range of recipients. It is uniformed people. It is their families. It is embassy people. It is their families. It is consulates. Quite a spectrum is served by this important outlet.

If the Senator can point to where there is any censorship, I would like to address it. I have engaged my distinguished colleague in this colloquy as well. Does anyone make an assertion that there is censorship taking place?

Mr. DORGAN. Well, if the Senator would allow me to respond, let me propose an idea which I have proposed to Armed Forces Radio. I said, What about putting someone on from this side with a progressive talk show that would counterbalance this? The answer apparently is, no. So would that not suggest that they are censoring this side of the aisle, censoring this side of the political debate? Is that not censorship?

Mr. WARNER. Mr. President, I think the Senator is endeavoring to answer while it may not be direct and overt, indirectly there could be factual situations that would constitute some sort of censorship. For example, I happen to listen to a wide spectrum—I am sure each of us in this body does. I enjoy programs from Rush Limbaugh to NPR, but NPR has always been associated with, should we say, a bit of the left side.

I understand NPR is broadcast on AFR, and yet the zero percent would indicate that program is not considered to be somewhat counterbalancing of the others.

Mr. DORGAN. Mr. President, if I might respond.

Mr. WARNER. Yes.

Mr. DORGAN. That is an unbelievable assertion. I have great respect for the Senator from Virginia, but it is unbelievable. I, too, drive down the road, and on my radio, for example, would listen to Rush Limbaugh, very entertaining, very smart. It is a program a lot of people listen to. What he does is, he relentlessly kicks the living daylights out of the opposite party. Is that found on NPR?

The implication and the suggestion on the Senate floor and elsewhere that NPR is some sort of leftwing political show is absolute rubbish. I am sorry. It is absolute nonsense. I am so tired of hearing it.

Mr. WARNER. Mr. President, I did not mean to engender the ire of my good friend. I am simply stating factually, to me, NPR is a very balanced—I have often been on it myself and they have this sort of a format, the modulation of the voices is always quite subdued on NPR. Now, Rush Limbaugh, indeed—occasionally, I listen to him and it is certainly not a modulated voice. He is very forceful in getting his points across, but it is not for the Senate to arbitrate the voice intonation between the different programs. I am simply talking about content, putting aside the means by which it is delivered.

It seems to me it is a question of content, and it seems to me NPR is a very—I would use the words "reasonably balanced" but a little bit on the left side of the equation more than on the right side of the equation. I find it somewhat misleading that the Senator puts a zero up there, which applies to the NPR.

Mr. DORGAN. Mr. President, I do not know if the Senator is willing to lend me more time. I would just say this to the Senator: There is one person in public service who tried to demonstrate what the Senator just said, and that is that National Public Radio is inherently biased. He just resigned last week. His name is Kenneth Tomlinson. Why did he resign? Because the Inspector General took a look at what he did. He hired some nut case from Indiana to do an evaluation of programming on NPR. The guy was so unprofessional—by the way, he was sending his reports from the fax of a Hallmark shop in Indiana, paid Federal money for it, Federal funds for it, inappropriately, a guy who had no experience and a guy who was a rightwinger who came up with the concoction that somehow NPR was not balanced. It is unbelievable that we keep hearing this nonsense.

Look, Rush Limbaugh has a fine radio program. A lot of people listen to it. I admire his capabilities. I just believe that our troops ought to be able to hear both sides of this debate on radio, and that is not now the case. That is the only point I make. The Senator should not suggest that National Public Radio somehow leans to the left or jumps to the left, or because it has a modulated voice is leftwing. It is not. It is the only fair and balanced radio program out there, in my judgment.

Mr. WARNER. Mr. President, it seems to me that I have engendered a spirited debate that I had no intention of doing. So I would drop the issue. I do not intend to be an expert on the political content. Clearly, Rush Limbaugh does have a strong preference for the more conservative issues, but I cannot believe that there are not some programs that have a strong bent for issues which are other than conservative, call them what one wishes. It seems to me that zero percent is something that is indefensible, and we will leave it at that.

I see the distinguished Senator from Iowa on the floor.

It is his amendment. I yield the floor at this time.

Mr. HARKIN. Mr. President, how much time is remaining?

The PRESIDING OFFICER. The Senator from Iowa has 7 minutes 46 seconds remaining.

Mr. HARKIN. I will yield 1 minute 46 seconds more to the Senator from North Dakota.

Mr. DORGAN. Mr. President, let me say to my colleague from Virginia, I do not mean to be irritated about this at all. My only point is this. I believe there are wonderful, talented people on the political right who are on the radio. They are very successful. Good for them. I believe there are talented people on the other side of the political spectrum who are on the radio dial. Good for them. Both ought to have an equal opportunity to be heard with respect to Armed Forces Radio programming. That is the point of it.

They are not now. Those on the progressive side are prevented from getting on that dial. We believe that is wrong with respect to a taxpayer-funded radio network. We believe it is inappropriate for the troops not to have access to both sides. The amendment of Senator HARKIN, the one I cosponsored, is very simple. It says keep all these folks on, the conservative side, good for them; but put on the other side as well, be fair to them, so the troops have a chance to hear both sides. My friend from Virginia is a good friend, and I didn't mean at all to be irritated, but the NPR allegation does sort of spark my interest from time to time. We will talk about that at some point later.

My hope is we can fill in this gap and have our soldiers have a generous discussion on both sides of the political system with radio programming from the right and the left. That does not now happen, and I believe it should on a radio program that is funded by the American taxpayer.

Mr. HARKIN. Mr. President, how much time is remaining on my side?

The PRESIDING OFFICER. The Senator from Iowa has 6 minutes 18 seconds remaining.

Mr. HARKIN. I yield myself a couple of minutes because I want to save some time.

A little history is in order here. In 1993, then-Representative Robert Dornan of California, along with 69 other Republican House Members, sent a letter to Secretary of Defense Les Aspin demanding that Limbaugh's radio show and his television show be broadcast to the military.

The Pentagon at that time pointed to an internal survey they had done of 50,000 military listeners. They found that only 4 percent requested more talk shows. The overwhelming number of respondents requested continuous music, as you might expect from our people in uniform. However, the issue kept getting pressed.

On November 29, 1993, the American Armed Forces Radio issued this statement. This is their statement.

The Rush Limbaugh show makes no pretense that his show is balanced. If AFRTS scheduled a program of personal commentary without balancing it with another viewpoint, we would be open to broad criticism that we are supporting a particular point of view.

They went ahead and put Rush Limbaugh on the air. But the point is, that is all right, but they have done nothing to balance it in the intervening time.

There is an amendment that I believe is going to be offered by Senator INHOFE—at least he was talking about it earlier. We will talk about more later if, indeed, he does offer it. But getting back to this point on the National Public Radio, I don't think you will ever hear NPR in its commentary say that the Abu Ghraib prison abuse was a fraternity prank or the humiliation of the inmates there " . . . was a brilliant maneuver, no different than what happens at the Skull and Bones initiation at Yale." I don't think you will ever hear NPR in its commentary describe images of torture as "pictures of homo-eroticism that looks like standard, good old American pornography." This is all that Rush Limbaugh said. You won't hear that on NPR.

Last, a group called Fairness and Accuracy In Reporting analyzed the political affiliation of guests appearing last summer on NPR's most popular news shows. Republicans outnumbered Democrats on NPR by 61 percent to 38 percent. So I rest my case that NPR is nothing like the Rush Limbaugh show.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the parliamentary situation is—how much time remains in opposition?

The PRESIDING OFFICER. There is 17 minutes that remain in opposition.

Mr. WARNER. And the Senator from Iowa?

The PRESIDING OFFICER. The Senator from Iowa has 3 minutes 30 seconds.

Mr. WARNER. Senator INHOFE was on the floor earlier today. It was his intention to offer a second-degree amendment. I wonder if I can make a unanimous consent request that I now raise that second-degree amendment, put it on your underlying amendment, and then 30 minutes is now allocated, 15 to the distinguished Senator and 15 more to this side. That would enable you to have more time within which to debate. So you would not lose the minutes that you have.

I now make a unanimous consent request. I offer the Inhofe amendment in the second degree at this time with the understanding the time remaining on both sides would be added to the 30 minutes additional time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Iowa.

Mr. HARKIN. Reserving the right to object, if I could say to my friend from Virginia, for a point of clarification, there was some discussion about this amendment and the fact that, since there are two approaches here, one is a sense of the Senate and one is my approach, perhaps it would be better if we could have side-by-side votes; that Mr. INHOFE would go first and I would go second. Does the chairman envision that?

Mr. WARNER. Mr. President, I want to follow the regular parliamentary procedure. The unanimous consent—we have a perfect right to put the second-degree on, but I am trying to keep the continuity of the debate going rather than you extinguishing your 3 minutes. I prefer we continue with the amendment at this time, being the pending amendment, with the understanding that the 3 minutes remaining on Senator HARKIN's time be added to his 15, giving him 18; our 17 be added to the 15 that we have.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WARNER. I thank the Chair.

AMENDMENT NO. 2439 TO AMENDMENT NO. 2438

The PRESIDING OFFICER. The clerk will report the second-degree amendment.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for Mr. INHOFE, proposes an amendment numbered 2439.

The amendment is as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . AMERICAN FORCES NETWORK.

(a) FINDINGS.—The Senate makes the following findings:

(1) The mission of the American Forces Radio and Television Service (AFRTS) and its American Forces Network (AFN), a worldwide radio and television broadcast network, is to deliver command information by providing United States military commanders overseas and at sea with a broadcast media that effectively communicates information to personnel under their commands, including information from the Department of Defense, information from the Armed Forces, and information unique to the theater and localities in which such personnel are stationed or deployed.

(2) The American Forces Radio and Television Service and the American Forces Network provide a "touch of home" to members of the Armed Forces, civilian employees of the Department of Defense, and their families stationed at bases and at embassies and consulates in more than 179 countries, as well as Navy, Coast Guard, and Military Sealift Command ships at sea, by providing the same type and quality of radio and television programming (including news, information, sports, and entertainment) that would be available in the continental United States. Additionally, the American Forces Network plays an important role in enabling military commanders to disseminate official information to members of the Armed Forces and their families, thus making popularity and acceptance key factors in ensuring effective communication.

(3) It is American Forces Radio and Television Service and American Forces Network policy that, except for the Pentagon Channel service, programming is acquired from distributors of the most popular television program airing in the continental United States. Much of the programming is provided at no cost to the United States Government. The remainder of the programming is provided at less-than-market rates to cover distributors' costs and obligations. Depending on the audience segment or demographic targeted, programs that perform well are acquired and scheduled to maximize audiences for internal and command information exposure.

(4) American Forces Radio and Television Service and American Forces Network select programming that represents a cross-section of popular American radio and television, tailored toward the worldwide audience of the American Forces Radio and Television Service and the American Forces Network. Schedules emulate programming practices in the United States, and programs are aired in accordance with network broadcast standards. Specifically, policy on programming seeks—

(A) to provide balance and diversity;

(B) to deliver a cross-section of popular programming;

(C) to target appropriate demographics; and

(D) to maintain network broadcast standards.

(5) The "Voice Channel", or radio programming, of the American Forces Radio and Television Service and American Forces Network is chosen to address requirements specified by the military broadcasting services and the detachment commanders of their affiliate radio stations. American Forces Network Radio makes a best faith effort to obtain the top-rated program of its sort at the time of selection, at no cost to the United States Government. American Forces Network Radio usually retains a scheduled program until it is no longer produced, too few American Forces Network affiliates choose to schedule the program locally, or a similar program so thoroughly dominates its audience in the United States that the American Forces Radio and Television Service switches to this program to offer the higher rated show to the overseas audience.

(6) American Forces Network Radio personnel review the major trade publications to monitor announcements of new programs, follow the ratings of established programs, and keep aware of programming trends. When a program addressing a need identified by a Military Broadcasting Service or an American Forces Network affiliate becomes available to the American Forces Network, or a program seems especially worthy of consideration, American Forces Network Radio informs the affiliates and supplies samples to gauge affiliate interest. If affiliates commit to broadcasting the new show, American Forces Network Radio seeks to schedule it.

(7) The managers of the American Forces Radio and Television Service continually update their programming options and, in November 2005, decided to include additional programs that meet the criteria that American Forces Radio and Television Service managers apply to such decisions, and that, consistent with American Forces Radio and Television Service and American Forces Network procedures, local programmers at 33 locations around the globe decide which programs actually are broadcast. American Forces Radio and Television Service have consistently sought to provide a broad, high quality range of choices for local station managers.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

> (1) the men and women of the American Forces Radio and Television Service and the Armed Forces Network should be commended for providing a vital service to the military community worldwide; and
>
> (2) the programming mission, themes, and practices of the Department of Defense with respect to its television and radio programming have fairly and responsively fulfilled their mission of providing a "touch of home" to members of the Armed Forces and their families around the world and have contributed immeasurably to high morale and quality of life in the Armed Forces.
>
> (c) AUTHORITY TO APPOINT OMBUDSMAN AS INTERMEDIARY.—The Secretary of Defense may appoint an individual to serve as ombudsman of the American Forces Network. Any ombudsman so appointed shall act as an intermediary between the staff of the American Forces Network and the Department of Defense, military commanders, and listeners to the programming of the American Forces Network.

Mr. WARNER. Mr. President, if I might ask my distinguished colleague, we debated the Inhofe amendment at some length this morning. Could the Senator, for purposes of helping Senators who are following this debate, describe exactly what the difference is? There is one rather significant and technical difference, and that is the sense-of-the-Senate amendment by the Senator from Oklahoma would allow the ombudsman to be at the discretion of the Secretary of Defense, as opposed to your amendment, which would make it mandatory. Am I correct in that?

Mr. HARKIN. That is correct.

Mr. WARNER. Putting aside the procedure on which the ombudsman is put in place, is there any distinction between what the duties of the ombudsman would be under the Inhofe second-degree and the underlying first-degree?

Mr. HARKIN. I think I have a copy of the Inhofe amendment in front of me.

Mr. WARNER. Let's make certain the Senator does have a copy.

Mr. HARKIN. If I have the correct one?

Mr. WARNER. It was simply a technical correction to an earlier amendment, I say to the Senator.

Mr. HARKIN. I would say to my friend—if the chairman will yield so I can respond?

Mr. WARNER. Yes.

Mr. HARKIN. As I read the Inhofe amendment, all it says is that:

> The Secretary of Defense may appoint an individual to serve as ombudsman . . . to act as an intermediary between the staff of the American Forces Network and the Department of Defense, military commanders, and listeners to the programming of the American Forces Network.

That is all it says. It doesn't say what his duties are.

My amendment specifically says that the ombudsman will do these things:

> Appointed by the Secretary of Defense for a term of 5 years; not engage in any prebroadcast censorship; conduct regular reviews of the integrity, balance and fairness; respond to program issues raised by the audience regarding the network's programming; refer complaints to AFR management; make suggestions regarding ways to correct imbalances; and prepare an annual report both to the SECDEF and Congress.

So my amendment spells out what the ombudsman should do. The Inhofe amendment does not.

Mr. WARNER. Does your amendment permit the Secretary to select the ombudsman within the current personnel structure of the Department of Defense or must he go outside the Department to get that individual?

Mr. HARKIN. The way the amendment is written, the Secretary has full discretion. He can go outside or stay inside.

Mr. WARNER. I thank the Senator. One last question. I am still troubled by the chart you put up showing zero. My understanding is that the Department of Defense has added the following three programs to the body of programs that each of the 33 individual stations can select from. I am not that familiar with the details of each. Perhaps the Senator from Iowa can help me. The "Ed Shultz Show," that is new this month; the "Al Franken Show," which is new this month; and the "Sean Hannity Show," which is new this month, where would they fall in the context of the zero which is on this chart which you have shown to the Senate?

Mr. HARKIN. If the Senator would yield, I will respond. I am familiar with the first two. Who is the third one?

Mr. WARNER. Sean Hannity.

Mr. HARKIN. I am told he's the second most popular conservative talk show. I don't know where that falls in. The first two are Shultz and Franken. They are more on the progressive side, no doubt about that. The third one you mention is on the conservative side, I guess. I don't know that so I cannot speak authoritatively on that. I don't know how that balance works out after that. I don't know.

I know my information—and it is really secondhand; I can't say this firsthand—is that the "Ed Shultz Show" was contacted to be on. Then he was recontacted saying that he was not to be on. And it is sort of in kind of a state of limbo now. I don't understand what that is all about.

Mr. WARNER. In the interests of moving forward on the floor, Senator INHOFE will be available following the recess we are going to take for purposes of the respective caucuses. I wonder if we, given that there is significant time remaining now on the Inhofe amendment, might go to another matter in such a way that we could engage Senator INHOFE more directly, on behalf of his amendment, with the distinguished Senator from Iowa?

Mr. HARKIN. I thank the chairman. The chairman is a leader and is very fair himself. I have no objection to moving to something else.

Mr. WARNER. I thank the Senator. I see the distinguished Senator from Alaska at this time.

I yield the floor.

AMENDMENT NO. 2427

Mr. STEVENS. Mr. President, I strongly oppose the Levin amendment, which would eliminate all funding for long-lead items for the ground-based interceptors Nos. 31 through 40, and funding for the silos for those missiles.

Realigning funding from this program would have significant impact, significant consequences for our national missile defense system.

In addition to breaking the production line for these interceptors, it would add an additional $270 million to the cost of the program. Further, it would delay emplacement of the additional interceptors by at least 1 year. I do not believe we can afford that delay in our national missile defense system.

Reducing interceptor quantities places second and third tier industrial-based suppliers at a substantial risk of exiting the manufacturing of components for the interceptors. They are currently manufacturing these. If there is a delay, those small businesses would have to leave that system. It will increase the probability of component quality problems because new suppliers would have to be found. We should not interrupt this system. This amendment would break this production line and affect the subcontractors all along the line. My great concern is that quality and process improvement efforts that were initiated by the Missile Defense Agency would be significantly impacted if this amendment were agreed to.

Replacing and recertifying component suppliers would further increase interceptor costs by millions of dollars and take a minimum of 1 year to accomplish. That would delay the fielding of the additional capabilities for these warfighters.

This amendment realigns funding from missile defense to the Cooperative Threat Reduction Program, which is called CTR. That has been fully funded at the administration's request and at the administration's amount. There remains a large unobligated balance within the CTR account and a very large undisbursed balance. It is almost $1 billion. I cannot justify adding additional funding to the program at the expense of the Missile Defense Program which has essential requirements when there is already a surplus in that account. The threat is real and imminent, as General Cartwright has testified. General Cartwright is the commander of the U.S. Strategic Command. The CIA and the DIA assess that North Korea is ready to flight test an ICBM that could reach the United States. That is of critical importance to those who live in Alaska. We are closer than any other State to that threat. Iran may have such capability by the middle of the next decade, according to DIA.

Despite recent test failures, the technology is mature enough to proceed with fielding even while we continue to test and improve reliability. That is the genius of this system. We have fielded it and, if necessary, we can use it. We are perfecting it as we go. The failures were the result of quality control issues and they do not undermine our confidence that the hit-to-kill technology works. It should be in place.

An independent review team has recently concluded that the ground-based midcourse system's design is sound and is capable of providing a defense against long-range ballistic missiles such as the one I described we think is being tested in North Korea.

In a hearing before our Senate Committee on Appropriations, General Cartwright described the missile defense system as a "thin line system." Additional interceptors will help the warfighters better defend against ballistic missile attack. According to the warfighters, a primary system limitation is there are too few interceptors. This amendment will delay the ones that should be in place during this fiscal year.

I urge the Senate to defeat this amendment. We should not reduce funding for the Missile Defense Program at this critical juncture. We need to test the program, improve it, and continue testing. We should not stop production by realigning funding from the missile defense system, particularly putting it into account when there is almost $1 billion surplus already.

The Missile Defense Program, in my judgment, is vital to the security of this country. We should not cause further delay. I strongly urge the Senate to vote against this amendment and reject this reduction in transfer to an account that does not need the money.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I rise today in strong support of the 2006 National Defense Authorization Act. Let me begin my comments by paying tribute to the distinguished chairman of the Committee on Armed Services and the able ranking minority Member. They have worked very hard with all who are privileged to serve under their leadership to craft this important bill.

In the interests of time, I will focus my remarks today on three particular provisions. First, those providing $9.1 billion for an essential shipbuilding priorities; second, the provisions offered by Senator MCCAIN, which I am proud to cosponsor, to provide standards for the treatment of detainees; and third, the amendment I am pleased to join my colleague, the senior Senator from Maine, in offering having to deal with conveyances of closed bases.

This bill authorized $9.1 billion for shipbuilding. It also includes a provision to prohibit the use of funds by the Navy to conduct a one-shipyard acquisition strategy to procure the next generation DD(X) destroyers. Not only does this bill fully fund the President's budget request for the DD(X) program, but it also provides, at my request, an additional $50 million for advance procurement of the second ship in the DD(X) class at Bath Iron Works in my home State of Maine. I am understandably very proud of the skilled workers at Bath Iron Works and their contribution to our Nation's defense.

This authorization for DD(X) funding aligns the Senate-passed appropriations bill, and our bill parallels the appropriations bill with this funding.

The high priority placed on shipbuilding in the Senate's version of the Defense authorization legislation stands in stark contrast to the House Defense authorization bill which actually rescinds $84 billion in funds designated for Bath Iron Works, the detailed design work on the DD(X) I secured as part of the Defense legislation signed into law last year. The House version also slashes funding for the DD(X) program contrary to what was proposed in the President's budget.

These misplaced priorities remain even when the former Chief of Naval Operations, Admiral Clark, has testified repeatedly that the Navy's requirements for the next generation destroyer are clear. I look forward to working with the other Members of the Senate Committee on Armed Services to resolve this important issue in our conference.

I now turn to the issue of the treatment of detainees. The vast majority of our troops carry out their dangerous and difficult missions with fairness, compassion, and courage. To them, the actions of those who have been accused of torture against detainees are demoralizing and make the difficult task they have been assigned immeasurably more difficult. Critics of abuse at detention facilities operated by the U.S. military have attributed this abuse not only to the criminal actions of individual military personnel—and, again, that is not the vast majority of our troops—but also to the lack of clear guidance across the U.S. Government for the treatment of detainees. Senator MCCAIN's amendment provides that clear guidance. I am proud to be a cosponsor.

Finally, let me comment very briefly on the amendment offered by my colleague from Maine. It only adds insult to injury to require a community to have to pay for the property involved in a base closure. Surely we can work with our communities in a more cooperative way to enable them to pursue the economic development that is necessary to make a closed military installation a productive part of the community once again. It is the least we owe these communities struggling with base closures throughout the United States. I hope we can work out something on that amendment.

The bill before the Senate is a good one. I salute the chairman and the ranking member for their hard work.

Mr. WARNER. Mr. President, I thank our distinguished colleague and member of the committee, the Senator from Maine. The Senator has fought hard on behalf of her interests in that State. Indeed, the BRAC process, in some respects due to your efforts, was modified in the end to the interests of the State.

While I am not going to be able to support the Snowe-Collins amendment, nevertheless, in other areas the Senator made some progress. I thank the Senator for her work on the committee given her work on the Government Operations Committee. Nevertheless, the Senator finds time to attend our meetings and be an active participant. I thank my colleague.

I ask unanimous consent at the hour of 2:45 the Senate proceed to a vote in relation to the Inhofe amendment No. 2439, followed by a vote in relation to the Harkin amendment numbered 2438. I further ask that the Inhofe amendment be modified so it is a first-degree amendment, and that no second-degree amendments to the amendments be in order prior to the votes; provided further that the time from 2:15 to 2:45 be equally divided between Senators INHOFE and HARKIN. I further ask on an unrelated matter that Senator STEVENS be recognized for up to 10 minutes of morning business following the two votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

The PRESIDING OFFICER. Under the previous order, the Senate will now stand in recess until the hour of 2:15 p.m.

Thereupon, the Senate, at 12:41 p.m., recessed until 2:17 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006—Continued

AMENDMENTS NOS. 2438 AND 2439

The PRESIDING OFFICER. There is now 30 minutes of debate equally divided between Senator INHOFE and Senator HARKIN.

The Senator from Virginia.

Mr. WARNER. Mr. President, under the previous order, the time between 2:15 and 2:45 is equally divided between the Senator from Oklahoma and the Senator from Iowa for the purposes of discussing the underlying amendment by the Senator from Iowa and a second degree that I put on on behalf of Senator INHOFE. My understanding is that Senator INHOFE will be here momentarily. But under the order, the Senate is now in session and open to hear comments on this legislation.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, what we have coming up here are two votes, one at 2:45 on the Inhofe sense-of-the-Senate amendment, to be followed by a vote on my amendment.

Now, you might say: What harm is it in voting for the Inhofe sense-of-the-Senate amendment? Well, I thought I might even vote for it myself, until I read it. Because if you look at the sense-of-the-Senate amendment by the Senator from Oklahoma, in its findings—in its findings—it says:

> The American Forces Radio and Television Service and the American Forces Network provide a "touch of home" to members of the Armed Forces [et cetera] by providing the same type and quality of radio and television programming . . . that would be available in the continental United States.

Well, when AFRTS provides for 100 percent, under 33 local stations around the world, of Rush Limbaugh and Dr. Laura and James Dobson and zero percent on the progressive side, that is hardly "the same type and quality" "available in the continental United States." So right away, that is a wrong finding.

Another finding is that the:

> American Forces Radio and Television Service . . . select programming that represents a cross-section of popular American radio and television.

Well, again, if 100 percent is on one side and zero is on the other, that also cannot be so.

And then in their sense-of-the-Senate amendment it says, it is the sense of the Senate—according to the Senator from Oklahoma—that:

> [T]he programming mission, themes, and practices of the Department of Defense with respect to its television and radio programming have fairly and responsively fulfilled their mission of providing a "touch of home" to members of the Armed Forces. . . .

Well, they have fairly and responsively fulfilled their mission when it is 100 percent to nothing? I do not think so.

Lastly, the Inhofe amendment says the Secretary of Defense may appoint an ombudsman—"may"—but it does not say what the ombudsman is supposed to do.

Now, to be clear, again, what our amendment does is it simply takes the DOD directive—which says they shall provide a free flow of political programming, that there should be the same equal opportunity for balance, and that they should provide them with fairness—and codifies it. We take that directive and codify it. That is all. We do not change it, we codify it. Then we set up an ombudsman and spell out what that ombudsman should do. And we spell that out in my amendment. So there is quite a bit of difference.

Again, I remind my fellow Senators that a year and a half ago, I offered a sense-of-the-Senate resolution because I thought if we gently prodded them and showed them what they were doing, they would follow their directive. That was 16 months ago. Now, 16 months later, it is 100 percent to nothing. There is zero programing on the progressive side.

Again, I want to make it clear we are not trying to restrict or in any way say what they have to carry, but as long as they are carrying this talk radio, it ought to at least be balanced. Some people say: Well, Rush Limbaugh has a big audience. He does. I don't deny that. But they are carrying Dr. Laura, they are carrying a Mark Merrill, whom I have never heard of. Why don't they carry Howard Stern? Howard Stern has 8 million listeners. Well, in that case, they said they do not like the content.

So it is not just ratings, it is also content. They are keeping the Armed Forces personnel from listening to Howard Stern. So it is not just ratings. Don't fall for that line. It is not because Limbaugh and these people have high ratings. Howard Stern has high ratings, but they won't let him on.

So I hope Senators will oppose the Inhofe amendment and support our amendment to codify it and to set up an ombudsman who would report to the Secretary of Defense and report to us every year on how they are meeting their requirements of fair and balanced programming.

With that, Mr. President, I yield the floor, suggest the absence of a quorum, and I ask unanimous consent that the time be run on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia.

Mr. WARNER. Mr. President, in consultation with the ranking member, I say that there are three amendments in which, speaking for the majority, I would yield back time in our possession in the hopes we could move to the amendments for voting purposes.

The first one, of course, would be the amendment, as I just discussed with the distinguished Senator from Michigan, regarding the desire to have a Presidential commission regarding the detainee issues. I ask the Chair to inform the Senate as to the amount of time that is under the control of the majority and minority on that amendment.

The PRESIDING OFFICER. Amendment No. 2427?

Mr. WARNER. A little louder, Mr. President.

The PRESIDING OFFICER. Amendment No. 2427?

Mr. WARNER. Amendment No. 2430.

Mr. LEVIN. Mr. President, how much time is there on each side, if we could inquire of the Chair.

Mr. WARNER. That is the question before the Chair on amendment No. 2430.

The PRESIDING OFFICER. The opposition has 10 minutes. Senator LEVIN has 3 minutes.

Mr. WARNER. Fine. Then we would like to move to the amendment by the Senator from Rhode Island, Mr. REED, regarding missile defense. Again, I would inquire as to how much time is remaining on the amendment, which is amendment No. 2427.

The PRESIDING OFFICER. The opposition has 8 minutes. Senator REED has 19 minutes.

Mr. WARNER. Well, I am prepared to yield back time on that if we can get some indication from Senator REED as to his desire. I am hopeful we will have that vote up.

Then there is an amendment by the distinguished Senator from Maine, Ms. SNOWE, amendment No. 2436. Will the Chair advise the Senate as to the time remaining on that amendment?

The PRESIDING OFFICER. Senator SNOWE has 3 minutes, and the opposition has 13 minutes.

Mr. WARNER. Well, with regard to the time in opposition, I am opposed to the amendment, but I am prepared to yield back the time on that amendment. This, hopefully, alerts Senators that any one and hopefully all three of those amendments could be up for votes very shortly.

Mr. LEVIN. Mr. President, will the Senator yield for a question?

Mr. WARNER. Yes.

Mr. LEVIN. I am wondering if we have the time on the Nelson of Florida amendment. I do not have the number.

Mr. WARNER. Mr. President, 2424 is the number on that amendment.

If the Senator will withhold for a minute.

The inquiry is in to the desk as to the time left on the Nelson amendment.

The PRESIDING OFFICER. Senator NELSON has 16 minutes, and the opposition has 30 minutes.

Mr. WARNER. I thank the Presiding Officer.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I inquire as to the regular order and the time remaining on both sides.

The PRESIDING OFFICER. The Senator from Oklahoma has 10½ minutes.

Mr. INHOFE. On both sides.

The PRESIDING OFFICER. The Senator from Iowa has 9 minutes.

Mr. INHOFE. All right, then. And the second-degree amendment No. 2439 to amendment No. 2438 is the order?

The PRESIDING OFFICER. It is now a first-degree amendment, and it is the pending amendment.

Mr. INHOFE. Amendment No. 2439?

The PRESIDING OFFICER. Yes. That is correct.

Mr. INHOFE. Mr. President, I had an opportunity prior to the break to talk a little bit about my amendment to the Harkin amendment. There is criteria that has been used, and used successfully, for a long period of time. There are two criteria. One is, it must be a syndicated type of a program. The program has to be syndicated. No. 2, it has to have at least a million listeners by the ratings.

Now, there are some other exceptions, when they are extreme things. Obviously, there are some things that anyone making any evaluation would not want to have our people subjected to. But by and large that is the way it has worked.

Now, for a long period of time it just happens that the conservative programs have been asked for by our troops over there, so they have received them. However, if I were to stand here and say I am happy with the programming as it has been, I would not be.

Right now I guess the name you hear more often than anybody else is Rush Limbaugh. His is the second most highly requested program. They want all 3 hours, although only some of the 33 stations give him 1 hour. No one gives him more than 1 hour. So that is not as much as I would like to have them go and as much as I think the market demands.

I think it has worked well. I would think it would be very bad policy for us to believe we should sit here in this august body of the Senate and make the determination as to what we think—what we think—our troops should be watching and listening to.

I believe this is true: I have been to Iraq more than any other Member. I have gone just about every month. I have yet to hear the first complaint over the programming as it has been, nor have I ever received a communication in any of our offices either in Washington or in the State.

I retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, I wonder if the Senator from Oklahoma could advise this Senator as to where in the directive—perhaps there is someplace I haven't found—it says that radio programs that are carried by American Forces Radio around the world have to be syndicated and have a million listeners.

Mr. INHOFE. That is the policy they have been using. It is not mandated. It is a policy they have stated has been their policy, and the programming has reflected that that is the case.

Mr. HARKIN. With all due respect, I asked the Senator, can he show me anywhere where that is written down?

Mr. INHOFE. No. This has been the policy. By the way, I remind the Presiding Officer, this is on the time of Senator HARKIN.

Mr. HARKIN. Mr. President, what we have is a policy that is not written down—we can find it nowhere, and today is the first time I ever heard of it—that somehow before American Forces Radio airs a program, No. 1, it has to be syndicated and, No. 2, it has to have a million listeners. I never heard of this before. All of a sudden, it has come up.

Mr. INHOFE. Will the Senator yield?

Mr. HARKIN. Since I am on my time, the Senator can get his own time to respond.

That is why we need to codify it. I think the Senator has put his finger on it. That is why our amendment is necessary. It takes the DOD directive, what is in writing, and codifies it and makes it law. That way there won't be any confusion. That way we will know whether they are living up to their own words. Secondly, putting in an ombudsman—not "may," what the Senator says in his amendment—will do the following: That person will be appointed by the Secretary of Defense: not engage in any censorship; conduct reviews of integrity, balance, and fairness; respond to program issues raised by the audience; make suggestions regarding ways to correct imbalances; and, most importantly, prepare and present an annual report to the Secretary of Defense and Congress on whether American Forces Radio is satisfying its mandate to provide fair and balanced political programming.

The Senator, by his own words, shows why this is necessary. All of a sudden we hear there is a policy. It is not written down. We have never heard of it before. Yet we know what is happening.

I repeat for emphasis: On the 33 stations around the world, we have 100 percent Rush Limbaugh and Dr. Laura and James Dobson, and zero percent of any kind of progressive radio. I don't care how you cut it, slice it, dice it, or excuse it, this is unfair. This is censorship. This is propagandizing our troops. They deserve better than that.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I believe this policy has been adhered to—on his own time, if the Senator from Iowa knows of any time it has not been adhered to, I would be glad to listen—the criteria of having to be syndicated and, No. 2, at least 1 million listeners, which has been the policy all along. If he questions that this should be the policy or believes it should be in the future, I would be glad to change my amendment just to say that it should be based on those two criteria. That is not a problem at all. It is not necessary because it has used that criteria in the past.

To clearly demonstrate that 1 million listeners is one of the criteria, when the time came that Franken and Ed Schultz reached 1 million, all of a sudden they were programmed. It further demonstrates it is something that has worked in the past for liberal or conservative messages.

I yield the floor.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. HARKIN. Mr. President, this is very interesting, I say to my friend from Oklahoma. The Senator from Virginia got up earlier before our lunch break and said something about Ed Schultz and Al Franken being on American Forces Radio. I just checked with them. I had my office call both of their programmers. Neither Mr. Franken nor Mr. Schultz has been notified, as of 2 hours ago, that they are ever going to be on American Forces Radio. They have never been notified. So now we hear today that somehow all of a sudden they are going to be on. Maybe the Senator has some inside knowledge of how they operate. As of 2 hours ago, neither Mr. Schultz nor Mr. Franken has been notified when they are going to be on, how often, or how long.

The second thing I say to my friend from Oklahoma, he says they have this policy of syndication and 1 million listeners and even though it is not written down anywhere they have followed it. I say to my friend from Oklahoma, if that is the case, then why don't they carry Howard Stern? Howard Stern has over 8 million listeners. He is syndicated. Yet American Forces Radio will not carry Howard Stern. So I say to my friend from Oklahoma, there must be some other criteria other than syndication and a million listeners or else they certainly would have Howard Stern.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, we are trying to find out something specific that Howard Stern has said or promoted on his programs. The problem is, there is nothing I can say on the Senate floor because it is so basically lewd. It is the type of thing that if the Muslim world were to listen to, it would be something very bad. There is not a Senator on this floor who would want that type of language used, profanity. I said this in my opening remarks. There are some cases where programming could be so extreme, whether it is liberal or conservative, it would not be acceptable.

As far as Al Franken and Ed Schultz, the liberal programming, it was published on the Web site of American Forces that states which ones meet the two criteria. It was not on their Web site in 2004. It is on their Web site currently.

I can't spoon-feed them and go up and say: Are you aware? You need to read the Web site. They should have been aware of that.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Iowa.

Mr. HARKIN. Mr. President, I have no case to make for Howard Stern. The Senator said it is syndication and numbers in the millions. I pointed out that Howard Stern has 8 million. The Senator responds that Howard Stern is lewd and too much—I didn't hear all the words he used. But there are other criteria that have to do with content.

Whether one agrees with whatever Howard Stern says, I might object strenuously—and I think a lot of Americans would object—to someone who said that what is good for al-Qaida is good for the Democratic Party in this country today. Rush Limbaugh said that. That went to all of our troops in Iraq. I think that is lewd. I think that is obscene. I will bet you there are a lot of people who think that is obscene. I don't mean just Democrats, anybody would think that is obscene. Or saying that what happened at Abu Ghraib was like a fraternity prank, or saying that the pictures of homoeroticism look like standard, good-old American pornography. Rush Limbaugh said that. It was broadcast to our troops in Iraq.

We voted last week 90 to 9 on the McCain amendment to say: No. What happened at Abu Ghraib does not represent good-old American pornography, as Rush Limbaugh says.

If the Senator objects to Howard Stern, fine. I think a lot of people object to the obscenities of Rush Limbaugh, also.

What we are talking about is not taking somebody off the air. We are talking about ideas and discussion and debate. It seems to me that what we want are more ideas and more discussion and more debate. I think our debate is pretty darn good, as a matter of fact. Why don't they have that on American Forces Radio rather than this one-sided type of thing? They need this kind of debate, this kind of discussion. More ideas, more discussion, more debate is much better than less. That is what I believe our amendment would provide.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I would like to inquire as to the time remaining.

The PRESIDING OFFICER. The Senator from Oklahoma has 3½ minutes. The Senator from Iowa has 20 seconds.

Mr. INHOFE. Let me say that I think with any program, in the case you mentioned of Rush Limbaugh, you mentioned two things you found to be offensive and you questioned whether they were appropriate. The service people requested all 3 hours every day. They ended up with some stations giving them 1 hour, nobody giving them more than 1 hour. So if you take 1 hour for some of these stations every day and you can find two instances of something that in, your interpretation, is lewd, and you compare that to Howard Stern whose programming is based on this type of thing—the profanity and the things that we find offensive and would not want to be throughout the world, the Arab world, or the rest of the world—then I think that is a real stretch.

The bottom line is, we have an opportunity. Right now it is working well. As I say, I don't know how many times the Senator from Iowa has been to Iraq. In his last 20 seconds, he might mention how many times he has been there. I have been there almost every month. I carry on a dialog with these people. I know they tell me the type of programming they want, the complaints they have. We have yet to receive any complaints saying they think the current system of programming is wrong in any way.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the time remaining on behalf of the distinguished Senator from Oklahoma is?

The PRESIDING OFFICER. It is 1 minute 20 seconds, and the time remaining for the Senator from Iowa is 20 seconds.

Mr. WARNER. Mr. President, the Senator from Iowa talked about the two programs which I discussed earlier, Ed Schultz and Al Franken. He mentioned that his check indicated they haven't been contacted. I immediately went back and checked with the Department of Defense. The Department of Defense, I assure the Senator from Iowa, is taking steps to implement the inclusion of those programs. The Department is dealing with the agents who presumably control the time. Therefore, the proffer that I made earlier about these two programs being included, it may be just a question of the tense of the verb, but I am assured by the Department that they are now taking steps to implement the inclusion or option to include these two programs throughout the American Forces Network.

Mr. HARKIN. Will the Senator yield?

Mr. WARNER. Yes.

Mr. HARKIN. I just respond by saying they said that 16 months ago. They said it 16 months ago, and nothing has happened.

Mr. WARNER. Well, I am not in a position to rebut that.

All I can say is——

The PRESIDING OFFICER. The majority's time has expired.

Mr. WARNER. Within the past 15 minutes, I received the assurance.

Has all time expired, Mr. President?

The PRESIDING OFFICER. The Senator from Iowa has 20 seconds.

Mr. HARKIN. I think again what this boils down to is do you want to have our troops have more debate, more discussion, more ideas, or do you want them to be limited? I say to my friends on the Republican side, maybe you will be inclined to just vote for Limbaugh and Dr. Laura and stuff, but I ask for your thoughts on fairness and equity. Someday the shoe may be on the other foot. I don't want them to hear one side of the story. I want them to hear both sides of the story.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. HARKIN. I beg you, let's have some fairness. That is what this amendment will do, not the sense-of-the-Senate resolution.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Mr. WARNER. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. WARNER. I so make that request for both amendments, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered. The yeas and nays may be requested on both amendments.

Mr. WARNER. And I so make that request, the underlying amendment and the Inhofe amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Arizona (Mr. McCAIN).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER (Mr. COLEMAN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 55, nays 43, as follows:

[Rollcall Vote No. 305 Leg.]

YEAS—55

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NAYS—43

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Dayton

Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NOT VOTING—2

Corzine
McCain

The amendment (No. 2439) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. INHOFE. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

VOTE ON AMENDMENT NO. 2438

The PRESIDING OFFICER. The question is on agreeing to the Harkin amendment No. 2438. The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senator is necessarily absent: the Senator from Arizona (Mr. MCCAIN).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 44, nays 54, as follows:

[Rollcall Vote No. 306 Leg.]

YEAS—44

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—54

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McConnell
Murkowski
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—2

Corzine
McCain

The amendment (No. 2438) was rejected.

Mr. WARNER. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I ask unanimous consent that following the use or the yielding back of the debate time on the Byrd amendment, the Senate proceed to a series of stacked votes in relation to the following amendments: The first is the Byrd amendment; the second is the Nelson amendment, No. 2424; the third is the Snowe amendment, No. 2436; provided that no second degrees be in order to the amendments prior to the votes; finally, that there be 2 minutes equally divided between the votes and that the second and third votes be limited to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, further I hope, working in consultation with the distinguished ranking member, to have more votes. There is an outstanding Reed amendment and there is an outstanding amendment by the Senator from Michigan, Mr. LEVIN. I hope those votes will be addressed by the Senate not too long after the conclusion of this series of votes.

Mr. President, under the order of the Senate that I asked for earlier, the Senator from Alaska is to be recognized.

The PRESIDING OFFICER. The Senator from Alaska.

(The remarks of Mr. STEVENS and Ms. MURKOWSKI are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. What is the business before the Senate?

The PRESIDING OFFICER. The Snowe amendment is pending.

Mr. BYRD. The Snowe amendment to what?

The PRESIDING OFFICER. To the Department of Defense authorization.

Mr. WARNER. Mr. President, if the Senator would yield, we have already scheduled Senator BYRD's amendment at this point in time, so it is quite in order and timely.

AMENDMENT NO. 2442

(Purpose: To establish the position of Deputy Secretary of Defense for Management.)

Mr. BYRD. Mr. President, I thank the distinguished Senator from Virginia, a man for whom I have great respect.

In 1787, during the drafting of the Constitution, the Founding Fathers struggled with the question of how to create a government that would simultaneously govern and yet remain accountable to the people. The Framers developed a number of principles with which every schoolchild should be familiar: Direct and indirect representation, checks and balances, separation of powers.

In addition to these great principles, the Framers were also insightfully pragmatic. For example, in article I, section 9, the Constitution gives the Congress—us, the Senate and the House, the Congress—the power of the purse. As Cicero said, there is no fortress so strong that money cannot buy it. Money cannot take it.

That section also requires accountability for how the people's tax money is to be used. Here is what it says:

> . . . a regular statement and account of the receipts and expenditures of all public money shall be published from time to time.

The Founding Fathers, among whom were the Framers, the Framers understood the importance of informing the American people about how their taxes are spent. However, this constitutional requirement has frequently clashed with the realities of the modern day bureaucracy. In no other Government agency, is this clash more evident than in the largest department, the Department of Defense, with its budget that is approaching half a trillion every year. How long would it take to count $1 trillion at the rate of one dollar per second? That is pretty fast counting, one dollar per second. How long would it take to count $1 trillion at the rate of one dollar per second? Guess. What is the guess? Thirty-two thousand years. That would be quite a while. I wouldn't be around to hear the counting of $1 trillion at the rate of one dollar per second.

The Department of Defense, with a budget that is approaching half a trillion dollars per year—that takes 16,000 years to count—is unable to adequately account for the funds that are appropriated to it.

What a shame. Are you astounded? It is amazing, isn't it? That is astonishing.

Despite decades of congressional scrutiny, multibillion dollar reform efforts and promises for progress, the Pentagon is unable to pass an audit of its books. How about that? The Pentagon is unable to pass an audit of its books. I have been saying this now for how many years, pretty close to 5 years that I have been saying this. Secretary Rumsfeld admitted it. He said he was going to do something about it.

Dr. David Walker, the Comptroller of the United States and the head of the Government Accountability Office, has stated:

> Numerous management problems, inefficiencies, and wasted resources continue to trouble DOD's business operations, resulting in billions of wasted resources annually at a time when our nation is facing an increasing fiscal imbalance.

We ought to listen to that. That ought to get everyone on their feet. Stand up and take notice. He is talking about billions of dollars of the people's money. That is your money; your money; yes, your money; and your money. Turn to the four corners of the Earth, the proverbial four winds. It is your money that goes down the tubes each year, down the tubes.

These billions are not being spent on training our troops. These billions are not being spent on providing health care for the families of our troops. We are talking about billions of dollars in spending that neither improves our national security nor returns value to the taxpayers. It is as if this huge amount of money vanishes into thin air.

In this time of tight budgets, in this time of huge deficits, this is exactly the sort of Government waste the Congress needs to eliminate. The taxpayers cry out, even the rocks cry out.

When Secretary Rumsfeld came before the Committee on Armed Services in January of 2001, I asked Secretary Rumsfeld what he was going to do about this. That was in 2001. What are you going to do about it? So I asked him what he was going to do about this. This what? This $2.3 trillion in unsupported accounting entries that appeared in the Pentagon's ledgers in fiscal year 1999.

Mr. President, $2.3 trillion is a lot of money, isn't it? I believe our national budget exceeded $1 trillion—when was it, may I say to the distinguished Senator from Virginia, when did our Government budget first exceed $1 trillion? I believe that was 1987; am I correct? Now, here we were in 1999, when I noted that there was in the Pentagon's ledgers, this number $2.3 trillion in unsupported accounting. Secretary Rumsfeld said that the accounting mess was, to use his words, "monumental." He used the word "terrifying." And he said it would take "a period of years," it would take "a period of years to sort it out." So I said: Well, let's get started. It is past time.

Since January 2001, the Department of Defense has made progress in some areas. For example, the Pentagon has been successful in reducing the abuse of Government-issued credit cards. But the toughest work remains ahead, and there are serious doubts that the Pentagon is up to the task of tackling these difficult problems.

The previous Defense Department Comptroller, Dov Zakheim, set a goal to have the Pentagon pass its first audit by fiscal year 2007. However, this deadline is increasingly looking like a pipedream. Dr. Walker of the General Accounting Office said, earlier this year, in a hearing before the Armed Services Committee's Readiness Subcommittee:

> The goal for 2007 is totally unrealistic. It's not credible on its face.

How about that? That is quite astonishing. In fact, for the first time, the GAO listed the Defense Department's business transformation project on its annual list of "high risk" Government programs.

Now, this should lead the Congress to question whether the Defense Department is moving forward in its efforts to straighten out its books or if it is heading into even greater financial chaos.

Mr. President, I cry out for the American people. Oh, how they cry out because of the burden, the never-ending, the increasingly heavy, the increasingly unbearable burden. They simply can no longer afford the billions of wasted dollars through the Pentagon's broken accounting systems. That is why I offer an amendment on behalf of myself and Senator AKAKA and Senator LAUTENBERG, to put the Defense Department on the right track to fix its broken accounting and financial management system. It is broken, so it needs fixing. Yes, it needs fixing. Why? Because it is broken.

This amendment, which is similar to bipartisan legislation introduced earlier this year, would create a Deputy Secretary of Defense for Management to bring order to the Pentagon's bloated bureaucracy—the Pentagon's bloated bureaucracy. The Deputy Secretary for Management would be directly responsible—directly responsible—for overseeing reform in the areas of accounting, human resources, information technology, acquisition, and logistics, among others. These are the key areas identified by the Government Accountability Office as being most in need of stronger oversight. Getting these programs on the right track could save taxpayers billions of dollars per year by eliminating waste, inefficiency, and duplication—duplication, redundancy.

Based upon the recommendations of the GAO, the Byrd-Akaka amendment would create a 7-year term for the Deputy Secretary of Defense for Management. This fixed term of service is required to ensure that the Pentagon lays out a single plan for reform and sticks to it—lays out a single program for reform and sticks to that single program for reform. Above all else, the Defense Department needs this sustained, high-level leadership if it is ever going to fix its accounting problems.

Well, there are some critics who might argue that the Department of Defense already has high-level leadership concerned about financial management and accounting practices. Well, that is probably true. So what. It is, indeed, true that Secretary Rumsfeld and his Acting Deputy Secretary, Gordon England, both have spoken often about the importance of straightening out the Pentagon's books.

But this amendment is not about the Secretary, not about the Deputy Secretary of Defense. If experience shows us anything, it is that Secretaries and Deputy Secretaries come and go, but the Pentagon's accounting problems remain. The Secretaries and Deputy Secretaries come and go, but the Pentagon's accounting problems do not go away. They do not go away. They remain.

In the 15 years since the Congress passed the Chief Financial Officers Act of 1990, which requires every Government agency to pass a financial audit, the Pentagon has seen five—F-I-V-E—Secretaries of Defense, eight—E-I-G-H-T—Deputy Secretaries of Defense, and five—F-I-V-E—Comptrollers. How about that. How can any major reform plan hope to succeed if the Department's leadership is in such a constant turnover, such a constant state of change?

Plans for accounting reform have been written, written, written, and rewritten more times than anyone can count. Billions of taxpayer dollars have been spent in the vain attempt to implement a never-ending series of reform proposals, each one of which claims to be the plan that will finally straighten out the Pentagon's books. But do you know what. These proposals, plans, and programs just are not getting the job done. They do not amount to a hill of beans. They are not doing the work.

In fact, just a few short weeks ago, the Department of Defense finished creating another revised plan to fix its accounting systems and inaugurated another new agency to implement the new plan. Well, while some may argue that this means the Pentagon is finally getting serious about its efforts to balance its books, I see history repeating itself—yes, more new plans, more new plans, more new plans, but little hope for success.

Mr. President, the time has come and passed for a real shakeup of the Department of Defense. That giant bureaucracy needs to be tamed—needs to be tamed. While the Secretary and Deputy Secretary of Defense have a multitude of competing priorities, including their responsibility to oversee the military operations in Iraq and Afghanistan, the Pentagon needs a single official to focus on the day-to-day management of the Department of Defense. The Byrd-Akaka amendment creates a Deputy Secretary of Defense for Management to do that.

Too much of the American people's hard-earned tax dollars are lost through the waste and inefficiency of the Defense Department's bureaucratic morass. It is time for reform. I urge my colleagues to support the Byrd-Akaka amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, one of the great pleasures of those of us who serve on the Armed Services Committee is to have the opportunity to work with Senator BYRD, an individual for whom I have the greatest respect and whose corporate knowledge of the institutions of Government, most particularly the institution of the U.S. Senate, is second to none.

I have listened carefully to this presentation by our distinguished colleague from West Virginia, and I think he cites, with relative accuracy, points that should be taken into consideration. But I would like to say to my friend, I wonder if you might consider an alternative approach.

We stop to think that the Department of Defense was envisioned by the Key West Conference in 1947, when Harry Truman—I might say one of my favorite Presidents—saw the need to bring together the Departments of the Navy and the Army and the emerging Air Force from the glorious days of the Army Air Corps and put them all together, unify them, and eliminate, thereby, certain frictions, and so forth, that normally exist between the military Departments. The Department of Defense as we know it today was born, and James Forrestal was our first Secretary.

This Department has served this Nation very well in the ensuing years since 1947. And yet, as Mr. BYRD has said very eloquently, he has pointed out problems associated with the enormity of the growth of responsibilities, the enormity of the growth of appearances required by the senior members of the Department before the Congress and the like.

I think he also has in mind the British system, for which all of us who have dealt with that system through the years have a certain degree of admiration. They have a civil service sort of permanent under secretary structure, so as there is turnover in the top positions through the years, there is someone to come in and say: Well, I was here under the previous two secretaries and, indeed, the facts are such and so. It has its virtue. But I think the complexity of the problems you raise requires some careful study.

Now, a subcommittee of the Armed Services Committee, under the distinguished chairmanship of Senator ENSIGN, has looked at this question. He will succeed me here momentarily to give his thoughts.

I come down to this point, I say to my good friend from West Virginia. You start with the proposition there is no other Government agency or Department of our Federal system, other than the FAA—and I did not know that until I was prompted by your amendment to do the research—which has the two Deputy Secretaries or Under Secretaries, as the case may be. That, to me, indicates that throughout the formation of our Government, whether it has been under Democrat control or Republican control, it is a concept that has not been tried. But it merits careful study.

I am wondering if the Senator from West Virginia would think of converting his amendment to provide for a study. Now, I do not mean to kick the can down the road for a year and let it disappear as a concept. Let's have a tight study of 90 or 120 days. Let's have it done by one of the Federal research centers, not the GAO because the GAO, frankly, has an opinion, maybe have it done by two of them, require two of them to do it, and report back to the Congress early next year, say in the February-March timeframe, such that we could hold a hearing in the Armed Services Committee and perhaps the Government Operations Committee, which has sort of plenary jurisdiction over Government agencies and Departments, and take a look at it. It might take root, and as such we would put it in as a part of next year's authorization bill. We could then go to our colleagues in the Senate and our colleagues in the other body and say: Look, we have carefully analyzed and studied, and this is our conclusion. I say to my good friend—not that I could teach him anything—knowing where the votes are, I am inclined to think there is probably a sufficient structure of votes here not to carry your amendment, and I would hate to see it lost, to be honest. And should it pass here, there is nothing in the House. And as you well know from more experience than I, that conference produces unpredictable results.

This is a good idea. This idea merits very careful attention and study. I would be the first to cosponsor with you if you were so desiring of amending your pending amendment to provide for a framework by which this concept is studied step by step before the Congress is called upon to render its judgment.

I say that with the greatest respect.

At this point, I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, the proposal coming, as it does, from the distinguished chairman of the Armed Services Committee, gives me pause.

First, I send the amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from West Virginia [Mr. BYRD], for himself, Mr. AKAKA, and Mr. LAUTENBERG, proposes an amendment numbered 2442.

Mr. BYRD. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. BYRD. Continuing, the Department of Defense has served our country well. But from time to time Congress has needed to make changes, such as the Goldwater-Nichols Act, to fix problems that have arisen. We know what the problem is. The Department needs someone to dive in and fix these accounting problems. The GAO has told the Congress what is needed to fix these problems. My amendment does just that. One more year means more money spent. One might ask the rhetorical question, how many more years does Congress need to wait before it acts? I don't slough off the proposal nonchalantly or "chalantly." I would like to think about that. Let me do just that. While the Senator from Nevada, Mr. ENSIGN, speaks, let me converse with the Senator from Virginia.

Mr. WARNER. Mr. President, I thank my dear colleague. I suggest, indeed, as Senator ENSIGN has looked into this, the Senate would benefit from his perspective. I suggest we make this the pending amendment, lay it aside such that the Senate can proceed to the votes on the other two amendments. I don't know that there is any urgency. As long as it is the pending amendment, it can be brought up at any time the Senator from West Virginia so desires, either to be amended or voted in its present framework. I would be happy to yield the floor for the purposes of the distinguished Senator from Nevada addressing the Senate on this important subject and confer with the Senator from West Virginia briefly. I have an appointment with the British Minister of Defense. He is in my office. I would like to keep that for a brief period and then return to the floor.

Mr. BYRD. Fine, if we could set this amendment aside until after the two votes. In the meantime, let the Senator from Nevada, Mr. ENSIGN, speak, and then have the amendment set aside until after the two votes. Meanwhile we can confer.

Mr. WARNER. Mr. President, I ask unanimous consent then that the Senator from Nevada be recognized for such time as he wishes to take on the Byrd amendment in its present configuration at the desk and then, at the conclusion of the remarks of the Senator from Nevada, we proceed to the scheduled votes under a previous order. Then immediately following the last vote, this becomes the pending amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Nevada.

Mr. ENSIGN. Mr. President, Senator BYRD has offered an amendment virtually identical to a piece of legislation that I brought forward because he has the same concerns I have. When I took over the chairmanship of the Readiness Subcommittee, the staff briefed me on various hearings that they do traditionally during the year. One of the hearings, the information that we got at the hearing, this piece of legislation was trying to address. It was the reason I drafted it, because I had literally the identical concerns Senator BYRD has raised today. Nothing he has said have I disagreed with. This happened last year. We used to have one of these hearings a year. I have actually stepped them up to every 6 months. We have a hearing tomorrow in the Readiness Subcommittee on this very issue, as well as others on the business transformation for the military.

The military is a huge bureaucracy that none of us have our arms around. The military doesn't have its arms around its own bureaucracy. There are incredible inefficiencies. The problem is, you get one person in; they are there for a year, maybe two. They say they are going to be making changes. They have been promising to make changes for years. And then nothing happens.

Last year, I was ready to proceed with my legislation. I met with Secretary England, and he asked me for 1 year. He said: Give me a year. I am new in this position. Give me a year. If you are not satisfied at the end of that year, if we haven't made significant progress, then go forward with your legislation.

I reluctantly said: OK. You are new. I liked some of the ideas he was laying out. He was going in the right direction. I said, reluctantly: I will give you the year.

Tomorrow we are having a hearing to see at least what progress they have made in the last 6 to 8 months. Depending on what happens at that hearing—from some of the preliminary results we have received, there is some progress being made—we are going to delve into it much more deeply tomorrow, plus what we see over the next several months. If we are not satisfied, I will be the first person to join the Senator from West Virginia on this legislation next year to create this position.

The reason I thought this was good, that it was a good idea to make this change, was because to have somebody focused on the business goings on at the Department of Defense made good common sense to me. I didn't want to see another layer of bureaucracy created. But with the Deputy Secretary of Defense, I didn't see them focused on the business activities. I saw them focused on warfighting activities—all well and good. We want them focused on that. But these other duties seem to be neglected at the same time.

I commit to the Senator from West Virginia that I am absolutely willing to work with him on this, with the same goals in mind; that is, to reform our Defense Department to make it more efficient, more accountable, more transparent in the way that it actually performs business. It is never going to operate like a business, but we have to get it to operate more like a business than it does today.

I think the spirit of this amendment is absolutely right. I would ask that we would either go the direction of what Senator WARNER has suggested or at least wait until next spring, when we go for reauthorizing the Defense Department again next year, to address this issue, simply because I made that personal commitment to Acting Deputy Secretary Gordon England.

I would be more than happy to yield back or engage in a colloquy or whatever the Senator from West Virginia would like at this point.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. BYRD. Mr. President, if the Senator will yield, I have great respect for the Senator. I am interested in what he said. Let us confer a little bit and think a little bit about this during the two votes that are about to take place. Perhaps we can find out what the Senator from Nevada and the Senator from Virginia have in mind. Perhaps we can work out something that will be in the best interest of the country. I would like to think about that. I thank the Senator. Let's just hold it in abeyance for a little while until after the votes, and then we will come back to it.

Mr. ENSIGN. I thank the Senator from West Virginia.

Mr. President, parliamentary inquiry: If I yield the floor, we go directly to the votes?

The PRESIDING OFFICER. There is 2 minutes evenly divided preceding the votes.

Mr. ENSIGN. I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. NELSON of Florida. Mr. President, I defer to my distinguished chairman.

AMENDMENT NO. 2424

Mr. WARNER. Mr. President, may I suggest the Senator go first, and then I would seek the opportunity for recognition to indicate that it is acceptable on this side. But if the Senator from Florida desires, I think there is good reason to have a rollcall vote as opposed to a voice vote.

Mr. NELSON of Florida. Mr. President, this amendment is all about the painful offsets of the Department of Defense survivor benefit plan against the Veterans' Affairs Department's dependency and indemnity compensation. This offset that we have in current law mistreats the survivors of our military who die on active duty and also mistreats our 100-percent disabled military retirees who purchase this benefit at the end of their career. It is wrong, we know it, and we are going to fix it. Taking care of widows and orphans is a cost of war. It is our solemn duty to take care of the widows and orphans.

I thank the Chair.

The PRESIDING OFFICER. Who yields time?

Mr. NELSON of Florida. Mr. President, I ask unanimous consent that there be printed in the RECORD a number of letters from military and veterans groups around the country.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

MILITARY OFFICERS
ASSOCIATION OF AMERICA,
Alexandria, VA, November 7, 2005.

Hon. BILL NELSON,
U.S. Senate,
Washington, DC.

DEAR SENATOR NELSON: I am writing on behalf of the 368,000 members of the Military Officers Association of America (MOAA) to pledge our support for your amendment, SA 2424, to the FY2006 Defense Authorization Bill. Your amendment would correct two major military Survivor Benefit Plan (SBP) inequities by (1) ending the unfair deduction of VA survivor benefits from military SBP annuities when military service causes an active duty or retired member's death and (2) moving up the effective date of 30-year, paid-up SBP coverage from October 1, 2008 to October 1, 2005.

MOM opposes Sen. John Warner's 2d degree amendment that would simply require a study of the SBP annuity deduction and drops the paid-up SBP initiative entirely.

MOM believes another study is not required to do what's right. We feel strongly that, when military service causes the member's death, the VA's payment of Dependency and Indemnity Compensation (DIC) should be considered just that—an additional indemnity for the service's role in the member's untimely death. It should be added to SBP, not substituted for it. Fewer than 3,500 of the 55,000 widows affected by the DIC offset are eligible for the new lump sum death benefit improvements leaving large numbers of survivors with an annuity of only $993 per month. Only survivors widowed after November 24, 2003 can transfer SBP eligibility to their children—this does nothing to help older survivors or those without children. Further, survivors who are financially compelled to take advantage of this temporary relief will be left at an even greater long-term disadvantage because they must forfeit all SBP eligibility when their children reach age 18. We should not be treating our survivors in this manner.

Similarly, older retirees need and deserve relief from the current 2008 effective date of paid-up SBP. The delayed effective date means that thousands of "Greatest Generation" retirees who have been paying into SBP since 1972 will have to pay up to 36 years of premiums, and will end up paying one-third more premiums than members who retired after 1978.

The time for action on your amendment is now. Failure to do so would do a disservice to the thousands of survivors and retirees who have waited years for relief from these two SBP inequities.

MOM is urging your colleagues, via a separate letters, to vote for your SBP amendment and oppose any effort to dilute or defer action on these long-overdue fixes for military widows and "Greatest Generation" retirees.

Sincerely,

NORBERT R. RYAN, Jr.

THE RETIRED ENLISTED ASSOCIATION,
Alexandria, VA, November 7, 2005.

Re: SA 2424 ending the SBP/DIC offset.

Hon. BILL NELSON,
U.S. Senate,
Washington DC.

DEAR SENATOR NELSON: The Retired Enlisted Association (TREA) is writing to strongly support your efforts to include amendment SA 2424 in the NDAA. Your amendment would finally correct the SBP's programs remaining deficiencies. It would end the unfair dollar-for-dollar DBP/DIC Offset and it would move up the paid up provisions of SBP to October 1, 2005. These are improvements that have been long in coming.

TREA is a nationwide VSO whose members served a career in the enlisted ranks and their spouses and survivors. Both provisions of your Amendment would greatly improve the situation of numerous of our members.

TREA knows how hard you and your staff have worked on this issue. And now that success seems close at hand the "DOD's opposition paper" is presented to the Senate. It is incorrect. TREA is, of course, well aware of both the mentioned substantial improvements in death benefits and the improvements in the basic SBP plan that were adopted last year. And we were very grateful for both actions. However these improvements do not help the vast majority of military widows who suffer under this offset.

Most of these widows' military spouses were seriously disabled in the service of their country. When they retired they enrolled in SBP (commercial plans not being an option for them due to their disabilities.) They now pay 6½ percent of their retired pay to protect their loved ones from being left penniless if they died of a non service connected disability.

But when they died of their service connected disability their survivors suffer a dollar for dollar offset on their SBP for their DIC. All their planning and financial sacrifice is ineffective due to the offset. The improvements in the SBP payments made last year do not help them. The active duty death improvements do not help them. These ladies are not helped by any of the changes Congress has made in the last few years. They should not be forgotten.

Many of TREA's members' survivors are harmed by this offset. They, like their Service member spouse dedicated their lives to the service of their country. They then dedicated their lives to caring for their disabled spouses. Their service should be acknowledged.

Your Amendment would also move up the paid up provisions to the beginning of this fiscal year. This would help elderly military retirees who have been paying into SBP for at least 30 years and who are at least 70 years old. In 2008 the paid up provisions will kick in but many will be paying 6 more years than intended. They have surely paid in a great deal more into SBP than their spouses will ever receive and your change can allow these dedicated men and women to live with a bit more comfort the next few years.

Again, TREA wishes to thank you and your staff for your dedicated work to support the men and women who dedicated their lives to the service of America's Military. We strongly support your efforts to have SA 2424 included in this year's NDAA.

Sincerely,

DEIRDRE PARKE HOLLEMAN,
National Legislative Director.

NATIONAL MILITARY
FAMILY ASSOCIATION,
Alexandria, VA, November 7, 2005.
Hon. BILL NELSON,
U.S. Senate,
Washington, DC.

DEAR SENATOR NELSON: On behalf of the National Military Family Association (NMFA) and the military families it serves, I thank you for introducing Senate Amendment 2424 to S. 1042, the FY 2006 National Defense Authorization Act. This amendment provides for certain fixes to the Survivor Benefit Plan (SBP). The survivors of servicemembers killed on active duty and those of military retirees, who died of service-connected injuries or illnesses, deserve the financial stability that would be provided through the provision to end the Dependency and Indemnity Compensation (DIC) offset to SBP. In addition elderly retirees, who have paid into SBP for more than thirty years, deserve relief now instead of paying additional premiums until 2008.

As we have stated in Congressional testimony this year, NMFA believes that ending the DIC offset to SBP is essential in protecting both the long and short-term financial security of military survivors, especially those of career servicemembers. Many of these survivors find their monthly family income decreases substantially following the servicemember's death, due in large part to the DIC offset to SBP. Widows of retirees, who die of service-connected illnesses or injuries, also experience a decrease in their benefit income following the retiree's death. In recent years, Congress has ended the VA disability pay offset of military retired pay for retirees with a VA disability rating of 50 percent and higher and provided for the phase-out of the age-62 offset to SBP. Full receipt of both SBP and DIC is just as important to survivors as full concurrent receipt of VA disability pay and military retired pay has been to retired servicemembers. The DIC offset to SBP affects the most vulnerable members of our military community: the surviving spouses of those who have given their lives for our country. While surviving spouses of active duty deaths, who are affected by the offset, have the option of choosing child-only SBP, they do so knowing their DoD SBP benefits will end as soon as their child reaches adulthood. Child-only SBP payments do not compensate for the lost income caused by the DIC offset.

We thank you for your efforts to protect the financial security of military families by sponsoring this legislation to eliminate the DIC offset of SBP. Military families today are called upon to make extraordinary sacrifices. Survivors have made the ultimate sacrifices. Thank you for your work to ensure our Nation provides the full benefits due them in recognition of that sacrifice.

Sincerely,

CANDACE A. WHEELER,
Chairman/Chief Executive Officer.

NATIONAL ASSOCIATION
FOR UNIFORMED SERVICES,
Springfield, VA, November 7, 2005.
Hon. BILL NELSON,
U.S. Senate,
Washington, DC.

DEAR SENATOR NELSON: On behalf of the nearly 200,000 members and supporters of the National Association for Unifonned Service (NAUS), I would like to offer our full support for your amendment to S. 1042, the fiscal year 2006 National Defense Authorization Act, that would correct two important inequities faced by our military widows and our military retirees.

Your amendment would 1.) end the unfair dollar-for-dollar deduction of the Defense Department's Survivor Benefit Plan against the Veterans Department's Dependency and Indemnity Compensation; and 2.) accelerate the effective date of paid-up SBP coverage to October 1, 2005 from October 1, 2008.

Many military members and retirees have paid for SBP and have the most obvious of expectations to receive what was paid for. Surprisingly, that's not what happens. Under current law, SBP is reduced one dollar for each dollar received under DIC. In some cases survivors of retirees, upon eligibility for DIC, lose a majority—or all too often—the entire amount of their monthly SBP annuity.

NAUS also strongly opposes any effort to postpone an up-or-down vote on your amendment. In this regard, we oppose Sen. John Warner's 2nd degree amendment that would send the SBP issue to the Veterans Disability Benefits Commission for further study. Frankly, we are deeply disappointed in efforts to postpone doing what is right for military widows and orphans and older veterans who have paid SBP premiums in some cases for well over 30 years.

NAUS believes this matter already has been studied, restudied, examined and re-examined. No further study is required. Now is the time to act. And we urge you and your colleagues to do the right thing.

Sincerely,

RICK JONES,
NAUS Legislative Director.

ASSOCIATION OF THE
UNITED STATES ARMY,
Arlington, VA, November 7, 2005.
Hon. BILL NELSON,
U.S. Senate,
Washington, DC.

DEAR SENATOR NELSON: On behalf of the more than 100,000 members of the Association of the United States Army (AUSA), I am writing to reinforce our support for your Survivor Benefit Plan (SSP) amendment (SA#762) to the Defense Authorization Bill. AUSA strongly opposes any effort to dilute or delay action on the fixes it proposes to the military SBP.

We understand that Senator Warner plans to introduce a "second-degree" amendment on Monday, 7 November, that would nullify your initiative to (1) end the unfair deduction of VA benefits for service-connected deaths from military survivors' SBP annuities and (2) accelerate the 2008 effective date for 30-year paid-up SBP coverage that now makes "Greatest Generation" retirees pay one-third more SBP premiums than similar servicemembers who retired since 1978.

The Warner amendment would drop any reference to the paid-up SBP fix and merely call for a study of the survivors' issue. Action on the two inequities in SA#762 is already long overdue, and military retirees and survivors need action to fix them now, rather than more delays, studies, and deferrals.

AUSA stands firm in support of your SBP amendment and opposes any and all efforts to dilute, defer, or nullify it.

Sincerely,

GORDON R. SULLIVAN,
General, USA Retired.

AIR FORCE SERGEANTS ASSOCIATION,
Temple Hills, MD, November 7, 2005.
Hon. BILL NELSON,
U.S. Senate,
Washington, DC.

DEAR SENATOR NELSON: On behalf of the 130,000 members of the Air Force Sergeants Association, I thank you for introducing Senate Amendment 2424 to S. 1042, the FY 2006 National Defense Authorization Act.

This amendment would end the Dependency and Indemnity Compensation (DIC) offset to SBP. These spouses of military members also served their nation, facing the rigors of that lifestyle, constantly being aware that their military spouse has agreed to the ultimate sacrifice. It is important to keep our Nation's promises to those who have served and sacrificed for our freedoms. That includes taking care of their survivors.

We are especially pleased that your amendment would accelerate the implementation date of the "age 70, 30 years paid up" provision from October 1, 2008, to October 1, 2005. This group of elderly retirees has been paying into SBP for more than thirty years. Without question, they deserve the immediate relief your amendment would provide.

During times of war it is importaut that a nation communicate its sincerity to take care of its service members. AFSA appreciates your leadership on this issue. Please let us know what we can do to help you advance this important legislation.

Sincerely,

JAMES E. LOKOVIC,
Deputy Executive Director and Director of Military & Government Relations.

EANGUS,
Alexandria, VA, November 7, 2005.

Hon. BILL NELSON,
U.S. Senate,
Washington, DC.

DEAR SENATOR NELSON: On behalf of the enlisted men and women of the Army and Air National Guard, we thank you for offering an amendment to the FY 2006 National Defense Authorization Act (NDAA) to address current inequities in the military Survivor Benefit Plan (SBP) program.

Your amendment will address the current dollar for dollar deduction of VA benefits for service-connected deaths from the survivors' SBP annuities. In the case of service members killed on active duty, a surviving spouse with children can avoid the dollar-for-dollar offset only by assigning SBP to her children. For retired members, we support your view that if military service causes a retired member's death, the Dependency Indemnity Compensation (DIC) the VA pays the survivor should be added to the SBP benefits the retiree bought and paid for, not substituted for them.

The Enlisted Association of the National Guard of the United States strongly supports your amendment to address these concerns. If I can be of further assistance, please don't hesitate to contact us.

Working for America's Best!

MICHAEL P. CLINE,
Executive Director.

UNIFORMED SERVICES
DISABLED RETIREES,
Las Cruces, NM, November 4, 2005.

DEAR SENATORS: No bombastic prose, so let's cut to the chase. Please pardon the lack of formal addressing as this is being faxed to all 100 of you United States Senators.

Today, I learned that Sen. John Warner, Chairman of the Senate Armed Services Committee, will offer an amendment to the FY2006 Defense Authorization Sill that would defer action on two top USDR legislative goals for 2005—fixing two significant inequities concerning the military Survivor Benefit Plan (SBP).

Current law reduces SBP for survivors of members whose death was caused by military service. In those cases, the survivor is entitled to an annuity from the VA (currently $993 a month for a spouse), and the SBP payment is reduced by that amount. In other words, this is a "widow's tax" because it wipes out the SBP annuity. USDR believes that, if military service causes the member's death, the VA indemnity payment should be added to SBP, not substituted for it.

The other SBP inequity affects older retirees already enrolled in SBP. Congress passed a law in 1998 authorizing paid-up SBP coverage for retirees who have attained age 70 and paid SBP premiums for 30 years (360 payments). This would allow such retirees to stop paying premiums while retaining coverage for their spouses. But Congress delayed the effective date of that law until October 1, 2008, which thousands of retirees who enrolled in SBP in 1972 will have to pay premiums for 36 years—and end up paying about one-third more SSP premiums than similar members who retired after 1978.

Sen. Warner's amendment would negate an amendment proposed by Sen. Bill Nelson (D–FL) to end these two major SSP inequities as of October 1, 2005. The Warner amendment would cancel Sen. Nelson's proposals entirely and substitute language calling for a study of the VA/SBP issue. Dare say I that this is so much Equine Scatology?

These issues have been studied ad nauseum. There is no further need for more impotent studies. There is need for affirmative action.

Please vote NO on any amendments to study, delay, or cancel Sen. Nelson's proposed amendments to correct this gross inequity heaped upon our widows.

CHARLES D. REVIE,
Legislative Director.

COMMISSIONED OFFICERS ASSOCIATION,
Landover, MD, November 7, 2005.

Hon. BILL NELSON,
U.S. Senate,
Washington, DC.

DEAR SENATOR NELSON: I am writing to support your SBP amendment (SA #762) to the 2006 Defense Authorization Bill. The Commissioned Officers Association of the U.S. Public Health Service most strongly opposes any effort to dilute or delay action on the fixes it proposes to the military Survivor Benefit Plan.

This Association is firmly opposed to Senator Warner's plans to introduce a "second-degree" amendment on Monday, 7 November, that would nullify your initiative to (1) end the unfair deduction of VA benefits for service-connected deaths from military survivors' SBP annuities and (2) accelerate the 2008 effective date for 30-year paid-up SBP coverage that now makes "Greatest Generation" retirees pay one-third more SBP premiums than similar servicemembers who retired since 1978.

Action on these two inequities is already long overdue and uniformed service retirees and survivors need action to fix them now, rather than more delays, studies, and deferrals.

COA and the entire Military Coalition urge you to stand firm with your SBP amendment and oppose any and all efforts to dilute, defer, or nullify it

Sincerely,

GERARD M. FARRELL,
Executive Director.

Mr. JEFFORDS. Mr. President, I wish to express my support of Senator BILL NELSON's amendment to improve benefits for the survivors of America's servicemembers. This is a very important amendment that deserves the Senate's support.

Under current law, annuity payments received under the survivor benefit plan are reduced, dollar for dollar, by benefits received from the VA's dependency and indemnity compensation program.

This is not fair. Servicemembers pay into the survivor benefit plan and they expect that their surviving spouse and children will receive these benefits upon their death. But if the servicemember's surviving spouse is also entitled to dependency and indemnity compensation, then the benefits of the survivor benefit plan are significantly reduced.

Families who have lost a servicemember often face a very difficult future. Military death benefits are a significant help but often fall far short of providing for a secure future for a family. To further reduce a family's income by offsetting survivor benefit plan benefits seems cruel. This amendment would end this offset. It is imperative that we do so now.

Enactment of this amendment would also correct another injustice. Congress has authorized military retirees who reach 70 years of age and who have paid survivor benefit plan premiums for at least 30 years to retain coverage while ceasing any further premium payments. Unfortunately, the effective date of this provision has been pushed out to October 1, 2008. This forces retirees to continue paying these premiums, even though, in some instances, they have been paying premiums for 36 years. This amendment would remove this unfair requirement and allow military retirees who have paid great amounts into their annuity plan to cease their payments after 30 years, just as Congress intended.

Passage of this amendment is urgent. The families of deceased servicemembers are dealing with a great deal of stress. They need the financial benefit provided by this amendment. Military retirees, likewise, deserve the relief now that Congress intended to give them.

It has been suggested that we postpone action on this matter until after the Commission on Veterans' Disability Compensation can study the larger issue of disability compensation. While the work of the Commission is very important, it is clear to me that the benefits provided by this amendment are of paramount importance and should not wait for the conclusion of a more exhaustive study of the disability compensation system. We must stand four-square behind those who have given their life for their country and behind those who have served their country for their entire career.

I urge my colleagues' support for the Nelson amendment.

Mr. LEVIN. Mr. President, I ask unanimous consent that I may proceed for 2 minutes in support of the amendment.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered. The Senator from Michigan is recognized.

Mr. LEVIN. I thank the Chair.

I commend the Senator from Florida. He has been a passionate supporter of this cause for so long. He has had some success but not the full success which he deserves and which the widows and orphans in this country deserve and which the survivors and our disabled people in this country deserve, people who have given so much. So I want to add my voice in support. I think a strong vote will make the Senate more able to maintain this position in conference with the House.

I congratulate and thank the Senator from Florida, Mr. NELSON, for his tenacity on this issue.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I again join my colleague from Michigan and our distinguished colleague, a member of the committee. As the Senator says, it is all about veterans, and this is a most deserving class. This is the group that has done a minimum of 20 years, and a loyal spouse that has gone through all of the challenges that face families in career military service.

This is something that has been studied in the Congress for a very long time. It is the subject of a study now. As a matter of fact, it is going to be the centerpiece of a study. As you know, Mr. President, we have the commission on the future of the Guard and Reserve and retirees, and so forth, constituted by the Congress, which has now had its first meeting.

So I urge colleagues on this side of the aisle to follow my lead and support the amendment of the Senator from Florida.

There was a time in which I thought I would try to work on a second-degree amendment. In consultation with a wide range of my colleagues who have expressed strong support, as I have, we decided not to do that. And then there was the thought about, you know, it is a technical thing under the Budget Act. But I don't think it is appropriate to go through that exercise.

So I suggest to all Members of the Senate to give a ringing endorsement to this amendment, and I will be among those to cast the first "yea" vote.

Again, I congratulate my colleague.

Mr. NELSON of Florida. I thank the Senator.

Mr. WARNER. Mr. President, under regular order, if the yeas and nays have not been ordered, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. LEVIN. Mr. President, do we have two votes now scheduled?

Mr. WARNER. We do.

I think perhaps we should ask for the yeas and nays on the Snowe amendment at this time.

Mr. LEVIN. Will that be a 10-minute vote?

Mr. WARNER. That will be a 10-minute vote on that amendment.

The PRESIDING OFFICER. Without objection, it is in order to request the yeas and nays on the amendment at this time.

Is there a sufficient second? There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. Under the original order, we were to have the Byrd amendment which would experience the full length of time for an amendment. This was subject to 10 minutes. I think we had better reconstitute that UC to say that this amendment will be given the full 15 minutes, the Snowe amendment to have the 10 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object, and I will not, of course, has the Byrd amendment either been adopted—

Mr. WARNER. It is laid aside temporarily to come up at the conclusion of the Snowe amendment. And then, of course, prior to the Senate addressing a vote on the Snowe amendment, there will be 2 minutes for each side to address that amendment. I thank the Chair.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The bill clerk called the roll.

Mr. McCONNELL. The following Senator is necessarily absent: the Senator from Arizona (Mr. McCAIN).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 93, nays 5, as follows:

[Rollcall Vote No. 307 Leg.]

YEAS—93

Akaka
Alexander
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Warner
Wyden

NAYS—5

Allard
Coburn
DeMint
Sessions
Voinovich

NOT VOTING—2

Corzine
McCain

The amendment (No. 2424) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. SCHUMER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2441

Mr. REID. Mr. President, I have an amendment that I send to the desk.

The PRESIDING OFFICER. Is there objection to the consideration of the amendment?

Mr. WARNER. Mr. President, there is no objection. We have examined the amendment. It is a technical amendment that is needed by the Department of Defense to administer this program and the Department of Veterans Affairs.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. REID] proposes an amendment numbered 2441.

Mr. REID. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide that veterans with service-connected disabilities rated as total by virtue of unemployability shall be covered by the termination of the phase-in of concurrent receipt of retired pay and veterans disability compensation for military retirees)

At the appropriate place in title VI, add the following:

SEC. ___. INCLUSION OF VETERANS WITH SERVICE-CONNECTED DISABILITIES RATED AS TOTAL BY REASON OF UNEMPLOYABILITY UNDER TERMINATION OF PHASE-IN OF CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS' DISABILITY COMPENSATION.

(a) INCLUSION OF VETERANS.—Section 1414(a)(1) of title 10, United States Code, is amended by inserting "or a qualified retiree receiving veterans' disability compensation for a disability rated as total (within the meaning of subsection (e)(3)(B))" after "rated as 100 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 31, 2004.

Mr. REID. Mr. President, I rise today on behalf of our Nation's veterans to once again discuss the unfair, outdated policy of "concurrent receipt." It is an issue I have talked about on this floor many times.

Concurrent receipt is a policy which prevents veterans from receiving the full pay and benefits they have earned. Many Senators have joined me in fighting this policy over the years, and we have made some progress on behalf of our veterans.

In 2003, the Congress passed legislation which allowed disabled retired veterans with at least a 50 percent disability rating to become eligible for full concurrent receipt benefits over a 10-year period. This was a significant victory that put hundreds of thousands of veterans on the road to receiving both their retirement and disability benefits.

Last year, we made a little more progress. I joined with Senator LEVIN and others, and we were able to eliminate the 10-year phase in period for the most severely disabled veterans, those with a 100 percent disability rating.

As we noted at that time, the 10-year waiting period is particularly harsh for these veterans, some of whom would not live to see their full benefits restored over the 10-year period, and others who could not work a second job and were in fact considered "unemployable." So we passed legislation to end the waiting period and provide some relief to these deserving, totally disabled veterans.

Unfortunately, as I noted on this floor a few months ago, the administration has failed to implement our legislation. Instead of eliminating the waiting period for veterans who are 100 percent disabled, they have eliminated it only for some.

They have created two categories of disabled veterans. If you are rated as "totally disabled," you do not have to wait. You get 100 percent of your benefits today. But if you are rated as "unemployable," you still have to wait.

This is not what we intended when we passed legislation last year. And earlier in this session, a number of Senators and I sought to correct this disparity.

We passed a sense of the Senate resolution that clearly expressed our intentions: all completely disabled veterans should have their benefits restored immediately. This was not an attempt to make law, but merely to express what my colleagues on both sides of the isle intended when we passed legislation last year.

Unfortunately, the majority-controlled conference committee removed this resolution. So today, veterans rated as "unemployable" continue to face this delay.

This is not a partisan issue. These veterans do not have 10 years to wait for the full phase in of their benefits. It is time for the administration to stop playing games and start honoring these veterans service.

For all other purposes, both the VA and the Defense Department treat "unemployables" exactly the same as those with a "totally disabled" ratings.

In fact, these unemployables must meet a criterion that not even the 100 percent-rated disability retirees have to meet. They are certified as unable to work because of their service-connected disability. The administration pays equal combat-related special compensation to both categories.

Yet, the administration is discriminating unemployables and 100 percent disabled retirees with non-combat disabilities in flagrant disregard for the letter of the law as interpreted its own legal counsel.

So once again, I rise on these veterans' behalf. Today I introduce amendment No. 2441, legislation which explicitly ends the 10-year waiting period for the most disabled veterans.

The time to act is now.

I hope my Republican colleagues will join me in supporting this bill. These veterans have faced arbitrary discrimination long enough. We must pass this legislation, so that these veterans can get the benefits they deserve.

THE PRESIDING OFFICER. If all time is yielded back, the question is on agreeing to the amendment.

The amendment (No. 2441) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. REID. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2436

Mr. WARNER. Mr President, we will now return to the vote on the Snowe amendment, am I correct?

The PRESIDING OFFICER. The Senator is correct. There are 2 minutes evenly divided.

Mr. WARNER. Have the yeas and nays been ordered?

The PRESIDING OFFICER. Yes, they have.

The Senator from Maine.

AMENDMENT NO. 2436, AS MODIFIED

Ms. SNOWE. Mr. President, I ask unanimous consent to modify my amendment with the changes at the desk.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment will be so modified.

The amendment (No. 2436), as modified, is as follows:

On page 5, after line 16, insert the following:

(e) NO EFFECT ON CERTAIN PROPERTY INTERESTS.—Nothing in this section or the amendments made by this section shall be construed to affect any reversionary interest, remainder interest, executory interest, right of entry, or possibility of reverter held in real or personal property at a military installation closed or realigned under the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note).

Mr. SNOWE. Mr. President, the amendment that I and Senator COLLINS have offered, which is cosponsored by Senators WYDEN, CORZINE, and LANDRIEU, would require that, when making determinations concerning the transfer of property at installations to be closed or realigned under the current BRAC round, the Secretary of Defense must first offer that property to the affected communities—and if they accept the offer—transfer it to those communities free of cost.

It is a perverse situation when communities that have already contributed toward the more than $200 billion spent on the war in Iraq—$28.5 billion of which was spent on redevelopment efforts in that country—and now face base realignments or closures—are being told that, if they want property for economic recovery, they will have to buy it at fair market value.

Our communities should be in the driver seat concerning their economic development, but that is not what current statute allows—instead, putting these irrevocable decisions in the hands of the Department of Defense. Our amendment puts the priority where it belongs—with our towns and cities, not a Federal bureaucracy.

Now, some have argued the amendment would change a time-tested framework of laws that dictate how properties should be transferred following a base closure or realignment and that ensure that all base rounds are treated consistently. I say Defense Base Closure and Realignment Act is not sacrosanct—it has changed many times in the past—and will again. In fact, for the first time ever, the Secretary of Defense is mandated to seek fair market value, in the case of an economic development conveyance to a community for redevelopment purpose. Now that's a change that should engender concern!

Opponents also expressed concerns that the amendment would in some way affect existing reversionary interests in deeds, which provide that upon a closure or realignment, installation property would revert back to a community interest. We have modified it today, clarifying that nothing in the amendment shall be construed to affect any reversionary interest in property at the installation.

As for protecting the pre-existing rights of Native Americans my friend and colleague, Senator WARNER, was correct in noting that my amendment contains a provision explicitly retaining those rights.

Additionally, the amendment would not inhibit various military or Federal agency uses of this property—or impede public benefit transfers for schools or parks. Communities would retain the ability to proceed with such opportunities, if they deem them beneficial. Conversely, if there is a use that a community drastically opposes, like an oil refinery prison—it should have the ability to oppose it . . . which the amendment allows. Still, the amendment does contain an exception providing the Secretary of Defense the authority to make transfers in the national security interest of the United States.

Finally, to suggestions that base property is owned by the entire nation, and that it is not necessarily fair to provide it to affected communities, I could not disagree more.

According to the Government Accountability Office, the DoD has saved as a result of BRAC closures—about $28.9 billion in net savings through fiscal year 2003 from the prior four closure rounds, and is projected to save $7 billion annually thereafter. While the entire Nation can financially benefit from these savings associated with BRAC closures, it is crucial to note that the negative impacts of base closures are disproportionately and unfairly borne by the communities where bases have closed. That is why it is a responsible course of action for the government to provide these communities with the tools and resources, such as required no-cost economic development conveyances, needed to recover from a closure.

The modification to the amendment that I offered yesterday would address the concerns raised about whether my amendment would have changed reversionary interests in deeds, which would provide that upon closure and realignment, installation property would revert back to a community interest. We have modified it today, clarifying that nothing in the amendment shall be construed to affect any reversionary interest in property at the installation, and that was to address some of the concerns raised with respect to my amendment.

To remind Members, the amendment I am offering today, on behalf of myself, Senator COLLINS, Senator LOTT, Senator LANDRIEU, Senator WYDEN, and Senator CORZINE, would allow for the free transfer of closed military bases to communities directly affected rather than allowing the Secretary of Defense to demand fair market value.

The PRESIDING OFFICER (Mr. ALEXANDER). The Senator's time has expired.

Who yields time in opposition?

Mr. WARNER. Mr. President, I speak in strong opposition to this amendment. I thank the Senator from Maine for accepting a number of the problems that I described yesterday, but there still exists an enormous number of problems associated with this amendment.

For 16 years and five BRAC rounds, we have tried, in an equitable way, to work with the communities and return these properties. On occasion, they have been sold and funds given to the Department of Defense, put in an escrow account in the Treasury for expenditure of cleanup of other sites and associated costs connected with the transfer of properties and the conclusion and implementation of the BRAC decisions. This would wipe out that whole framework of legislation that has been passed by this body and has effectively worked for the communities for all of these years. We simply cannot, at this point in time, accept this type of change in our statutory framework as a matter of equity.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I too object to the amendment. It is inflexible. It provides no possibility that no matter how valuable——

The PRESIDING OFFICER. The Senator's time has expired.

The question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Arizona (Mr. MCCAIN).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 36, nays 62, as follows:

[Rollcall Vote No. 308 Leg.]

YEAS—36

Bayh
Bond
Cantwell
Clinton
Coleman
Collins
Conrad
Dodd
Dorgan
Durbin
Gregg
Hagel
Harkin
Hutchison
Inouye
Jeffords
Kerry
Kohl
Landrieu
Lautenberg
Lincoln
Lott
Mikulski
Murray
Obama
Pryor
Roberts
Schumer
Smith
Snowe
Stabenow
Sununu
Talent
Thune
Vitter
Wyden

NAYS—62

Akaka
Alexander
Allard
Allen
Baucus
Bennett
Biden
Bingaman
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Carper
Chafee
Chambliss
Coburn
Cochran
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Hatch
Inhofe
Isakson
Johnson
Kennedy
Kyl
Leahy
Levin
Lieberman
Lugar
Martinez
McConnell
Murkowski
Nelson (FL)
Nelson (NE)
Reed
Reid
Rockefeller
Salazar
Santorum
Sarbanes
Sessions
Shelby
Specter
Stevens
Thomas
Voinovich
Warner

NOT VOTING—2

Corzine
McCain

The amendment (No. 2436), as modified, was rejected.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I understand we will now proceed to a brief colloquy between colleagues on both sides of the aisle with regard to the Levin amendment. That colloquy should, in total, not exceed about 10 or 11 minutes, and then we will proceed to a rollcall vote. At this time, shall we ask for the yeas and nays on the Levin amendment?

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I talked to the manager, the chairman of the committee, about this. I ask unanimous consent there be 6 minutes allotted on our side in support of the amendment and that 3 minutes be allotted to the Senator from Virginia and that we then vote by no later than 25 to 6.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, may I remind colleagues we will try to maintain this as a 15-minute vote because thereafter we have a vote on the amendment of the Senator from Rhode Island and we want not to inconvenience several Members who have very legitimate reasons to not be present after these two votes.

Mr. BYRD. Mr. President, I was hoping we would have a vote on the amendment which I had offered earlier, or in relation thereto, a rollcall vote.

Mr. WARNER. On our side, we would be happy to accommodate that vote following the vote on the amendment of the Senator from Rhode Island.

Mr. LEVIN. Is it my understanding the Senator from West Virginia would accept a voice vote?

Mr. BYRD. No.

Mr. WARNER. I want to make it known now that the Senator from West Virginia has substantially revised his amendment in accordance with recommendations, if I may say with a sense of humility, that I made. He fully adopted those. I am going to support the amendment strongly, so it should be a very swift vote. No further debate would be required except for maybe a minute for you and a minute for me.

Mr. BYRD. Will that occur this day?

Mr. WARNER. Mr. President, I ask unanimous consent that following the 10-minute vote on the matter raised by the Senator from Rhode Island that we proceed to a third vote of 10 minutes on the amendment of the distinguished Senator from West Virginia.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object, I wonder if the Senator from West Virginia would modify that so that the vote on the Byrd amendment would come immediately after the vote on my amendment and then we would proceed to the vote on the Reed-Levin amendment?

Mr. WARNER. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Michigan.

AMENDMENT NO. 2430

Mr. LEVIN. I ask unanimous consent that Senators LAUTENBERG, FEINSTEIN.

BIDEN, and AKAKA be added as cosponsors of amendment No. 2430.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, this is an amendment that would create an independent commission that would look into allegations of detainee abuses. I yield myself 2 minutes and then I will yield 2 minutes to the Senator from Delaware and then 2 minutes to the Senator from Illinois, if he is here.

There are major gaps in the investigation which has taken place so far. We have heard a lot about the number of hearings that have been held. We have heard that 12 major investigations have taken place, 30 open hearings, 40 closed hearings, and so forth. None of the hearings, none of the investigations, have gotten to five areas. These are huge gaps, and we cannot sweep these gaps under the rug.

No. 1, none has looked at the role of the intelligence community, the CIA role, secret prisons, ghost detainees. It is a huge area which needs to be focused on.

No. 2, the Government policy on renditions, there has been no review of this.

No. 3, the role of contractors, there has been no investigation of the role of contractors.

No. 4, the legality of interrogation techniques, there has been no assessment of the legality of interrogation techniques.

There are two memos we have not been able to obtain that an independent commission with subpoena power could obtain, the second so-called Bybee memo and the March 3 memo from Mr. Yoo to the Department of Defense. They set forth what is allowed in terms of interrogation techniques. We cannot get those memos. An independent commission, a bipartisan commission based on the 9/11 model, could get those memos. They are critically important. And there are additional outstanding document requests which have been ignored.

This matter cannot be swept under the rug. No matter how many hearings have been held, there are major gaps that exist in reviewing this matter. We owe it to our troops, the men and women who wear the uniform for the United States, that we get the full picture and get it behind us. That is what is essential to restore the credibility of this Nation as well as to support the men and women who someday may be captured by our enemy, and we sure don't want any enemy of ours to ever cite that we ignored the violations that apparently have existed.

I now yield 2 minutes to the Senator from Illinois and then 2 minutes to the Senator from Delaware.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. I rise in strong support of this amendment, and I am honored to be an original cosponsor.

We owe this to our troops. Anyone who came to the Chamber and heard the speech given by Senator JOHN McCAIN about an amendment which he offered to the Defense appropriations bill will understand it was a historic statement. Senator McCAIN, a prisoner of war in Vietnam and a person who was the victim of torture, said it was imperative that we make it clear to our troops what the standard of conduct would be.

What Senator LEVIN has done is to call together an inquiry as to whether we have violated this standard in the past and what the standard will be for the future. When we receive correspondence from our troops, who are risking their lives for America today, begging us to not only stand up for American values but to do it with clarity, we owe them that responsibility.

When the President announces in South America that we are opposed to torture while the Vice President is carving out exceptions for torture in legislation before Congress, there is no clarity.

Senator LEVIN and his leadership will bring us to clarity and to honesty, consistent with the American values which our troops are fighting to defend.

I yield the floor.

Mr. BIDEN. Mr. President, back in January I used a similar amendment for the first bill I introduced this year. There is a simple reason for it: It is more clear it is needed now. We have to take this out of politics. As long as we are involved, we will argue this about Democrat-Republican. It is not about Democrat-Republican. The world has changed. It has changed utterly.

The fact is we need a clear-eyed assessment of where we are in this changed world. This is a lot less about them—that is, the prisoners and the terrorists. It is much more about us and our troops. I wonder what happens the first time an American troop is captured anywhere in this or a future war and turned over to the secret police of that country, taken to a spot that no one knows, one that is clandestine. I wonder what happens then.

It is all about where we stand as a nation, about our values. We are in, as everyone says in this Senate, a battle for the hearts and minds of 1.2 billion people who share a different religion and maybe a different point of view. We are hurting, not helping, our troops. We are hurting, not helping, our cause. We have to have a clear-eyed resolution of it. The clearest way to do this is through a commission.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I stand in opposition to the amendment for many reasons which I have stated on three previous occasions, including early this morning addressing this amendment.

The distinguished Senator from Delaware talked about looking forward to our troops. I draw the attention of colleagues to Defense Department directive No. 3115.09 issued on the 3rd of November of this year in which they set forth the new regulations and rules with regard to treatment of prisoners. The directive provides overarching policy to the Department. It codifies existing departmental studies, including the requirement for humane treatment of captured or detained persons during intelligence interrogation and questioning, assigns responsibilities for interrogation planning and training, and establishes requirements for reporting violations of the policy regarding humane treatment.

Section 3443 is a directive addressing some specific abuse detailed in past investigations. The directive specifically requires the Central Intelligence Agency interrogation must follow Pentagon guidelines when questioning military prisoners and that a DOD representative be present. Further, this release should be followed by the revision of the Department of the Army Field Manual which is the subject of the McCain amendment, which I strongly support, on interrogations which this Senate overwhelmingly directed become the U.S. standard as part of the amendment proposed by Senator McCAIN.

Our Government collectively is moving in the right direction to correct the problems of the past, clearly, such that the whole world knows how our Nation stands against this type of abuse that occurred in the past. I strongly urge our colleagues not to start up another commission in the middle of our war in Iraq and Afghanistan, and for the next year or 18 months begin to go over the material which this Senate time and time again has addressed in debates, on which our Committees on Foreign Affairs, Intelligence, and Armed Services have reviewed this question with some dozen investigations conducted by our Government, largely the Department of Defense.

I yield the floor.

ORDER OF PROCEDURE

I have an agreement regarding future votes so Senators can make their plans. I ask consent following debate on the Levin amendment, which is now concluded, Senator REED be recognized to speak for not more than 5 minutes in relation to his amendment; further, that following the statement, the Senate proceed to a series of stacked votes in relation to the following amendments: Levin amendment 2430; Byrd amendment 2442, as modified; and the Reed amendment 2427.

There is no time here for Senator BYRD. I amend this to allow 2 minutes by Senator BYRD and a minute by the Senator from Virginia who intends to support Senator BYRD.

Further, provided that no second degrees be in order to the amendments prior to the votes. Finally, there be 2 minutes equally divided between the votes.

Mr. LEVIN. There is an objection.

We reversed the order, No. 1, and there needs to be time for debate before one of those amendments. I urge there be a unanimous consent agreement entered into now that after this vote we proceed immediately to a vote on the Byrd amendment, and between this vote and the vote on the Byrd amendment, we work out an agreeable unanimous consent.

Mr. WARNER. We will now proceed to the debate on your amendment.

Mr. LEVIN. The vote on my amendment immediately as we agreed upon, and then we go immediately to the Byrd amendment. Between the vote here on my amendment and the Byrd amendment, we work on a unanimous consent relative to the other amendment.

Mr. WARNER. In no event would we lose the opportunity to have the votes.

Mr. LEVIN. I hope not, but we have not agreed with that yet. We have to clear that with our leader.

Mr. REED. There was initially a 5-minute opportunity for me to speak on my amendment. Will that take place immediately or be postponed until after the vote on the Levin amendment?

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. I will restate the unanimous consent request in the hopes it can be agreed to.

I ask consent that following debate on the Levin amendment—that debate has taken place—we go to the Byrd amendment. That would require 2 minutes by the Senator from West Virginia, 1 minute by the Senator from Virginia, following the vote on the Levin amendment, and then we proceed to the Reed amendment with 5 minutes on both sides with regard to debate prior to the vote on the Reed of Rhode Island amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the Levin amendment.

The yeas and nays have been ordered.

The clerk will call the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Arizona (Mr. MCCAIN).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER (Mr. CHAMBLISS). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 43, nays 55, as follows:

[Rollcall Vote No. 309 Leg.]

YEAS—43

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Clinton
Conrad
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—55

Alexander
Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—2

Corzine
McCain

The amendment (2430) was rejected.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. BAUCUS. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Under the previous order, the Senate turns its attention to the amendment by the Senator from West Virginia, with 2 minutes of debate on either side, a 10-minute vote, to be followed by the Reed amendment, 5 minutes by the Senator from Rhode Island, and 2 or 3 minutes to the Senator from Virginia. Then that is a 10-minute vote.

AMENDMENT NO. 2442, AS MODIFIED

The PRESIDING OFFICER. Under the previous order, the Senator from West Virginia has 2 minutes, and the Senator from Virginia has 1 minute.

The Senator from West Virginia.

Mr. BYRD. Mr. President, the Pentagon continues to have massive management problems. The GAO believes that billions of taxpayer dollars could be saved each year, if these problems can be straightened out. This modification to my amendment would require an expedited study on whether there should be a Deputy Secretary of Defense for Management to take charge of fixing the Pentagon's accounting problems. I thank the cosponsors of my modified amendment: Chairman WARNER, Senator ENSIGN, Senator AKAKA, and Senator LAUTENBERG. I am encouraged by Chairman WARNER's intention to hold further hearings in the Armed Services Committee once these reports are submitted to Congress.

Fixing the pervasive—I mean pervasive—accounting problems at the Department of Defense will require more hearings, more oversight, and more accountability. I took note of this some years ago when Secretary Rumsfeld first appeared before the Armed Services Committee. He admitted there was a problem, a very difficult problem. He indicated he was going to do something about it. I think he needs help.

I look forward to working with my colleagues in the coming months to set the Pentagon on an accelerated track for reform.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I strongly urge colleagues to support the Byrd-Warner amendment. I am the principal cosponsor. I commend my distinguished colleague from West Virginia. The Department of Defense was established in 1947, over a half century ago. It has served the Nation well, but there have been many changes. This will give the Armed Services Committee, the Government Operations Committee, perhaps other committees of Congress, a chance to take a good look at that Department and how best, if necessary, to restructure it to meet the future challenges before us.

I thank the Senator from West Virginia. I urge all Senators to vote in favor of the amendment.

Mr. BYRD. I thank the Senator from Virginia.

Mr. LEVIN. I ask unanimous consent that I be added as a cosponsor to the Byrd amendment, and I congratulate him on trying to address a problem which is endemic. It seems perpetual. I believe it is going to take all the energy of this body and the other body to force them to make the kind of changes this could lead to. I congratulate the Senator.

Mr. BYRD. I thank the distinguished senior Senator from Michigan.

The PRESIDING OFFICER. Does the Senator seek to modify the pending amendment?

Mr. BYRD. Yes, the modification is at the desk.

The PRESIDING OFFICER. Is there objection to the modification? Without objection, the amendment is so modified.

The amendment, as modified, is as follows:

At the end of subtitle A of title IX, add the following:

SEC. . REPORT ON ESTABLISHMENT OF A DEPUTY SECRETARY OF DEFENSE FOR MANAGEMENT.

(a) Not later than 15 days after the enactment of this Act, the Secretary of Defense shall select two Federally Funded Research and Development Centers to conduct independent studies of the feasibility and advisability of establishing a Deputy Secretary of Defense for Management. Each study under this section shall be delivered to the Secretary and the congressional defense committees not later than March 15, 2006.

(b) CONTENT OF STUDIES.—Each study required by this section shall address—

(1) the extent to which the establishment of a Deputy Secretary of Defense for Management would:

(A) improve the management of the Department of Defense;

(B) expedite the process of management reform in the Department; and

(C) enhance the implementation of business systems modernization in the Department;

(2) the appropriate relationship of the Deputy Secretary of Defense for Management to other Department of Defense officials;

(3) the appropriate term of service for a Deputy Secretary of Defense for Management; and

(4) the experience of any other federal agencies that have instituted similar management positions.

(c) For the purposes of this section, a Deputy Secretary of Defense for Management is an official who—

(1) serves as the Chief Management Officer of the Department of Defense;

(2) is the principal advisor to the Secretary of Defense on matters relating to the management of the Department of Defense, including defense business activities, to ensure department-wide capability to carry out the strategic plan of the Department of Defense in support of national security objectives; and

(3) takes precedence in the Department of Defense immediately after the Deputy Secretary of Defense.

Mr. WARNER. My understanding is the yeas and nays have been ordered on the amendment, as modified.

The PRESIDING OFFICER. They have not been ordered.

Mr. WARNER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senator is necessarily absent: the Senator from Arizona (Mr. McCAIN).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) and the Senator from New Jersey (Mr. LAUTENBERG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 97, nays 0, as follows:

[Rollcall Vote No. 310 Leg.]

YEAS—97

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—3

Corzine
Lautenberg
McCain

The amendment (No. 2442), as modified, was agreed to.

AMENDMENT NO. 2427

Mr. WARNER. Mr. President, under the regular order, the Senate will now proceed with the Reed of Rhode Island vote, with 5 minutes for the Senator from Rhode Island and 3 to 4 minutes for the Senator from Virginia.

The PRESIDING OFFICER. The Senator is correct. There is 10 minutes equally divided on amendment No. 2427. The Senator from Rhode Island is recognized.

Mr. REED. Mr. President, this amendment would transfer $50 million from the Missile Defense Program to the Cooperative Threat Reduction Program which is designed to secure nuclear materials and nuclear weapons in countries around the globe, principally the former Soviet Union.

A few facts I think are in order.

First, with respect to missile defense funding, in the emergency supplemental appropriations bill for the global war on terror, there was an additional $50 million appropriated that was not required or asked for by the Agency. With this money, even with this amendment, the Agency still would have sufficient money to carry out its programmed operations for this year. Again, we are just transferring $50 million from this rather expensive program overall.

Let me briefly recap where we are with respect to the program.

The administration has already requested and Congress has provided funds for 30 interceptors. There are nine already in the ground. There are others being constructed. There are 21 that are in some aspect of construction. Yet in the fiscal year 2006 budget, there is a request for 10 additional operational interceptors, plus 8 test interceptors, for 18 in all. Again, these are in addition to the 30 interceptors that are already planned for.

In addition to that, I must point out that the production rate capacity for these interceptors is 12 per year. So we are asking for more missiles than can be produced in 1 year. So there are ample funds with respect to missile defense. We are asking for more missiles than can be produced in 1 year—many more missiles than can be produced. This is a situation that I believe calls for readjustment of funds, moving it to another compelling need.

One of the compelling needs I urge on my colleagues is to fund the Cooperative Threat Reduction Program. President Bush and President Putin met in Bratislava months ago and created a unique opportunity for additional funding of the Cooperative Threat Reduction Program. This meeting took place after preparation of the budget. So moving $50 million from missile defense to the Cooperative Threat Reduction Program will allow this country to carry out the pledge President Bush made to President Putin to more aggressively secure 15 additional sites.

There is one final point I would like to make. There is often the argument, well, we shouldn't fund the Cooperative Threat Reduction Program because there are so many unobligated funds; they can't use the money. In August of this year, the Missile Defense Program had $844 million in unobligated funds. If the Missile Defense Agency has $844 million in unobligated funds, I don't think anyone would stand up immediately and say they can't use it, don't need it, et cetera. The same goes for the Cooperative Threat Reduction Program. We have needs out there. The greatest threat to face this country, in my view, is the combination of terrorists and nuclear materials. We are going after the terrorists. We have to also aggressively go after nuclear materials. We can do this.

This is a very modest transfer of funds for a program that is vitally important to fulfill the pledge that the President made with President Putin, and it will not in any way impair the funding available for missile defense.

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, in opposition to the amendment, I bring to the attention of our colleagues that the CTR Program, of which our distinguished colleague from Indiana, Mr. LUGAR, was the principal author and sponsor, is fully funded at the budget request of $415.5 million. There still remains an unobligated balance of $107 million from the 2005 funds. So this category of our important work is fully funded and moving ahead on its schedule of expenditures.

In contrast, the Missile Defense Program this year took a $1 billion cut as part of the internal DOD budget deliberations, and missile defense is also reduced by $5 billion over the period 2006 to 2011. By adopting the Reed amendment, we would have a fracture in the long-lead funding, resulting in a production break which, on the assumption it would be restarted, would cost the taxpayers another $270 billion.

Mr. President, I say to my colleagues, I have a sheet here that shows how three consecutive times this Chamber has voted basically on this amendment and defeated it. A $500 million cut by Senator LEVIN was defeated in June of 2004 by 56 votes, followed by a Boxer amendment limiting deployment of ground-based interceptors, defeated by 57 votes, and a Reed amendment again defeated by 53 votes—incidentally, all of those having some measure of bipartisan support. So we are revisiting the same issue.

I strongly recommend to my colleagues that this amendment not be adopted.

Have the yeas and nays been ordered, Mr. President?

The PRESIDING OFFICER. They have not been ordered.

Mr. WARNER. I so request the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. MCCONNELL. The following Senator was necessarily absent: the Senator from Arizona (Mr. MCCAIN).

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) and the Senator from New Jersey (Mr. LAUTENBERG) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 37, nays 60, as follows:

[Rollcall Vote No. 311 Leg.]

YEAS—37

Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Leahy
Levin
Lincoln
Lugar
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Sarbanes
Schumer
Stabenow
Wyden

NAYS—60

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Inouye
Isakson
Kyl
Lieberman
Lott
Martinez
McConnell
Murkowski
Nelson (NE)
Roberts
Salazar
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—3

Corzine
Lautenberg
McCain

The amendment (No. 2427) was rejected.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, in concurrence with the ranking member, the Senator from Oklahoma wishes to lay down an amendment which I am going to recommend be accepted by a voice vote. I believe that is with the concurrence of my ranking member.

The PRESIDING OFFICER. The Senator from Oklahoma.

AMENDMENT NO. 2432, AS MODIFIED

Mr. INHOFE. Mr. President, I ask unanimous consent to modify my amendment 2432. I send to the desk the modification and ask for its immediate consideration.

The PRESIDING OFFICER. Is there objection to the modification?

Without objection, it is so ordered.

The amendment is so modified.

The amendment (No. 2432), as modified, is as follows:

At the end of title XII, add the following:

SEC. . BUILDING THE PARTNERSHIP SECURITY CAPACITY OF FOREIGN MILITARY AND SECURITY FORCES.

(a) AUTHORITY.—The President may authorize building the capacity of partner nations' military or security forces to disrupt or destroy terrorist networks, close safe havens, or participate in or support United States, coalition, or international military or stability operations.

(b) TYPES OF PARTNERSHIP SECURITY CAPACITY BUILDING.—The partnership security capacity building authorized under subsection (a) may include the provision of equipment, supplies, services, training, and funding.

(c) AVAILABILITY OF FUNDS.—The Secretary of Defense may, at the request of the Secretary of State, support partnership security capacity building as authorized under subsection (a) by transferring funds available to the Department of Defense to the Department of State. Any funds so transferred shall remain available until expended. The amount of such partnership security capacity building support provided by the Department of Defense under this section may not exceed $750,000,000 in any fiscal year.

(d) CONGRESSIONAL NOTIFICATION.—Before building partnership security capacity under this section, the Secretaries of State and Defense shall submit to their congressional oversight committees a notification of the nations designated by the President with which partnership security capacity will be built under this section and the nature and amounts of security capacity building to occur. Any such notification shall be submitted not less than 15 days before the provision of such partnership security capacity building.

(e) COMPLEMENTARY AUTHORITY.—The authority to support partnership security capacity building under this section is in addition to any other authority of the Department of Defense to provide assistance to a foreign country.

(f) APPLICABLE LAW.—The authorities and limitations in the Foreign Assistance Act of 1961 and the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 shall be applicable to assistance provided and funds transferred under the authority of this section.

(g) MILITARY AND SECURITY FORCES DEFINED.—In this section, the term "military and security forces" includes armies, guard, border security, civil defense, infrastructure protection, and police forces.

(h) EXPIRATION.—The authority in this section shall expire on September 30, 2007.

SEC. ___. SECURITY AND STABILIZATION ASSISTANCE.

(a) IN GENERAL.—Notwithstanding any other provision of law, upon a request from the Secretary of State, with the agreement of the Secretary of Defense and upon a determination by the President that an unforeseen emergency exists that requires immediate reconstruction, security, or stabilization assistance to a foreign country for the purpose of restoring or maintaining peace and security in that country, and that the provision of such assistance is in the national security interests of the United States, the Secretary of Defense may authorize the use or transfer of defense articles, services, training or other support, including support acquired by contract or otherwise, to provide such assistance.

(b) AVAILABILITY OF FUNDS.—Subject to subsection (a), the Secretary of Defense may transfer funds available to the Department of Defense to the Department of State or to any other Federal agency to carry out the purposes of this section, and funds so transferred shall remain available until expended.

(c) LIMITATION.—The aggregate value of assistance provided or funds transferred under the authority of this section may not exceed $200,000,000.

(d) COMPLEMENTARY AUTHORITY.—The authority to provide assistance under this section is in addition to any other authority of the Department of Defense to provide assistance to a foreign country.

(e) NOTIFICATION REQUIREMENTS.—Before the exercise of the authority in this section, the President shall notify Congress of the exercise of such authority in accordance with the procedures set forth in section 652 of the Foreign Assistance Act of 1961 (22 U.S.C. 2411).

(f) APPLICABLE LAW.—(1) The authorities and limitations in the Foreign Assistance Act of 1961 and the Foreign Operations, Export Financing, and Related Programs Appropriations Act, 2006 shall be applicable to assistance provided and funds transferred under the authority of this section.

(2) Any authority available to the President to waive a provision of law referred to in paragraph (1) may be exercised by the President in a written document executed pursuant to subsection (a).

(g) EXPIRATION.—The authority in this section shall expire on September 30, 2007.

Mr. INHOFE. Mr. President, we have spent quite a bit of time talking about this amendment. This does amend sections 1201 and 1204 of title XII, to provide our Government with new authorities to fight the global war on terror. We have initially had some concerns, both from the other side and from a couple of the other committees. We have worked out the compromise, and that is what this modification is.

In an effort to accommodate my colleagues on the Foreign Relations Committee and my colleagues across the aisle, we have made some modifications to our original amendment. These modifications provide a sunset for this authority on September 30, 2007. They provide for some limitation of DOD authority in section 1201, subject to existing law in the foreign relations and foreign appropriations act.

With these modifications, I think that it is going to be a great help to the administration.

I ask unanimous consent that Senator LUGAR be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The PRESIDING OFFICER. The Senator from Indiana.

Mr. LUGAR. Mr. President, I rise to thank Senator INHOFE for the excellent work he has done on this amendment and his generous efforts to accommodate my previous concerns. In my view, his original amendment may have had some unintended foreign policy consequences. In particular, it might have produced some far-reaching changes to the way that our country makes foreign assistance decisions.

The amendment as now written leaves the authority for deciding which countries, and when, how, and why foreign assistance should be provided, in the hands of the Secretary of State. The amendment does not provide statutory authority to the Secretary of Defense to establish a new foreign aid program outside the purview of the Secretary of State. It does authorize the Secretary of Defense to provide funding to the State Department for a new train and equip foreign assistance program, as well as to address overseas emergencies where the two Departments need to join forces to meet the crisis successfully.

I support the $750 million train and equip program and the $200 million emergency funding. Both programs can be successfully carried out under the Secretary of State's existing authorities. The Secretary of State should retain full authority over decisions as to which countries should receive assistance, the timing of its provision, and the way in which it should be provided. The Department of Defense should continue implementing train and equip programs under the purview of the Secretary of State.

I understand that there have been frustrations with the current situation. The Defense Department has apparently found State Department oversight of these kinds of programs cumbersome and slow. These obstacles need to be overcome. State Department procedures should be streamlined and the two Departments should develop plans to push these important programs forward efficiently and quickly.

But all foreign assistance programs need to take place within a foreign policy context, with consideration of the traditional concerns—the recipient country's treatment of its own people, potential reactions from neighboring states in the region, and the overall bilateral relationship with the recipient country, including its assistance in the war against terrorism.

It is the Secretary of State's job to weigh such foreign policy issues and make recommendations to the President that strike the right balance for American interests. The amendment as now written meets the concerns I had and I would request that I be listed as a co-sponsor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I strongly recommend to colleagues the acceptance of this amendment. It has been carefully thought through. It is a policy that has been joined in jointly by the Secretaries of State and Defense. It is the expectation that to the extent we are successful with these programs, it likely will go to the deployment of our troops abroad in various situations we deem necessary to protect our own national interests.

The PRESIDING OFFICER. Is there further debate on the amendment?

The Senator from Michigan.

Mr. LEVIN. First, I thank the Senator from Oklahoma for his amendment, for working to modify that amendment. We think it is a prudent and useful amendment and that it addresses a very significant issue which is how do we obtain more support from other countries to be effective in our effort against terrorism. So we want to thank the Senator from Oklahoma.

Mr. INHOFE. I thank the ranking member and the chairman for those comments.

Mr. WARNER. I urge the adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

The amendment (No. 2432), as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Subject to the concurrence of the ranking member, I ask the Senate to turn its attention to the Senator from Nevada, who has an amendment which I personally strongly endorse and so recommend to other colleagues. It could well be the subject of a rollcall vote sometime tomorrow. I thank him for his consideration of laying down the amendment tonight such that colleagues have the time within which to study it.

The PRESIDING OFFICER. The Senator from Nevada.

AMENDMENT NO. 2443

Mr. ENSIGN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Nevada [Mr. ENSIGN] proposes an amendment numbered 2443.

Mr. ENSIGN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To restate United States policy on the use of riot control agents by members of the Armed Forces, and for other purposes)

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. RIOT CONTROL AGENTS.

(a) RESTATEMENT OF POLICY.—It is the policy of the United States that riot control agents are not chemical weapons and that the president may authorize their use as legitimate, legal, and non-lethal alternatives to the use of force that, as provided in Executive Order 11850 (40 Fed. Reg. 16187) and consistent with the resolution of ratification of the Chemical Weapons convention, may be employed by members of the Armed Forces in war in defensive military modes to save lives, including the illustrative purposes cited in Executive Order 11850.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the use of riot control agents by members of the Armed Forces.

(2) CONTENT.—The report required by paragraph (1) shall include—

(A) a description of all regulations, doctrines, training materials, and any other information related to the use of riot control agents by members of the Armed Forces;

(B) a description of the doctrinal publications, training, and other resources provided or available to members of the Armed Forces on an annual basis with regard to the tactical employment of riot control agents;

(C) a description of how the material described in subparagraphs (A) and (B) is consistent with United States policy on the use of riot control agents;

(D) a description of the availability of riot control agents, and the means to employ them, to members of the Armed Forces deployed in Iraq and Afghanistan;

(E) a description of the frequency of use of riot control agents since January 1, 1992, and a summary of views held by military commanders about the utility of the employing riot control agents by members of the Armed Forces;

(F) a general description of steps taken or to be taken by the Department of Defense to clarify the circumstances under which riot control agents may be used by members of the Armed Forces; and

(G) an assessment of the legality of Executive Order 11850, including an explanation why Executive Order 11850 remains valid under United States law.

(3) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) DEFINITIONS.—In this section:

(1) CHEMICAL WEAPONS CONVENTION.—The term "Chemical Weapons Convention" means the Convention on the Prohibitions of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, with annexes, done at Paris, January 13, 1993, and entered into force April 29, 1997 (T. Doc. 103–21).

(2) RESOLUTION OF RATIFICATION OF THE CHEMICAL WEAPONS CONVENTION.—The term "resolution of ratification of the Chemical Weapons Convention" means S. Res. 75, 105th Congress, agreed to April 24, 1997, advising and consenting to the ratification of the Chemical Weapons Convention.

Mr. ENSIGN. Mr. President, before I make my full statement, I want my colleagues to know that the amendment that I have sent to the desk is something that we have been working with the administration on for almost 8 months now. I believe we have come up with a compromise that most people in the administration support. It is a very important amendment as far as the foreign policy and the military policy of our country is concerned.

This amendment will allow our soldiers and marines to more effectively carry out their mission on the ground in Iraq and Afghanistan, while saving both military and civilian lives.

Riot control agents, more commonly referred to as tear gas, can be a more effective alternative to the use of lethal weapons in combat. It is shocking and unacceptable that under current policy our military is banned from using tear gas on the battlefield. Let me restate that. Under current policy, our military is banned from using tear gas on the battlefield.

Police officers in any city in America can use tear gas to avoid the loss of life, but our men and women carrying out the global war on terror cannot. This is not right and it must change.

This restriction on the use of tear gas is the direct result of the bureaucracy's faulty interpretation of the 1997 Chemical Weapons Convention, an interpretation made by arms control advocates in Brussels and The Hague and regrettably at our own State Department. Under this faulty interpretation, tear gas is considered a chemical weapon. In those isolated cases where it can be used, it requires Presidential authorization. This is wrong. The use of riot control agents in combat for defensive purposes to save lives is wholly consistent with the U.S. obligations under the laws of land warfare and of our treaty obligations.

Retaining this capability was so important to our military leaders that the Senate included a condition in the 1997 Chemical Weapons Convention that preserved our right to use tear gas in conflict. Many Members today were in the Senate when this matter was debated. All concurred with the arguments put forward by then-chairman of the Joint Chiefs of Staff, Colin Powell, that giving up this capability is not even worth getting the treaty. Here is what he said:

> Nonlethal riot control agents provide a morally correct option to achieve defensive military objectives without having to resort to the unnecessary loss of innocent lives. Sacrificing such an option would be an unacceptable price to pay for a CW [chemical weapons] treaty.

Senators LUGAR, BIDEN, and others spoke eloquently on this point in a bipartisan manner. Senators knew then, and many do know now, that the use of nonlethal weapons, such as tear gas, is demonstrated routinely to be effective by law enforcement agencies all over the world. It is a moral alternative to the use of lethal force.

In towns and streets throughout Iraq and Afghanistan, marines and soldiers are going house to house in an attempt to flush out hiding terrorists. In carrying out this vital mission, structures are damaged and innocent people are killed. Some of that death and destruction could be avoided if we allowed our military to use tear gas instead of bullets. In other cases, we know of situations where the insurgents have mixed in with innocent civilians, using them as human shields, forcing our fighting men and women to either retreat or fire into a crowd, which is a choice they should not have to make.

I am reminded of a New York Times article, dated June 28 of this year. It chronicled marines clearing a town in Iraq. The article referenced one particular incident where three civilians, a mother and two children, were killed as marines battled an insurgent who had taken the family hostage. Perhaps the use of tear gas would have saved their lives; perhaps not. We will never know that. What we do know is that those marines were not provided every tool with which to carry out this global war on terrorism.

Certainly our image has been tarnished as a nation, and our public diplomacy has suffered every time we use lethal force to clear a room, empty a building or take other actions that wound or kill innocent people. This is unconscionable when nonlethal alternatives are available. Secretary Donald Rumsfeld, in testimony before the House Armed Services Committee, described the restriction on the use of riot control agents as a straitjacket. Here is what he said:

> We are doing our best to live within the straitjacket that has been imposed on us on this subject. We are trying to find ways that non-lethal agents could be used within the law.

He went on to point out that our soldiers and marines are authorized to shoot and to kill people in situations where tear gas is prohibited. This is a lethal lapse in legal judgment. It seems as if some would put the concerns of the global arms control theocracy above the lives of our military personnel. If anybody is watching or listening and they are scratching their head wondering where is the common sense, that is exactly what I thought and what led me to offer this amendment.

In fact, our military has been so spooked about this issue they don't know how to train themselves on Riot Control Agent use on the battlefield. The Tactical Employment of Nonlethal Weapons training manual, dated January 2003, is applicable to all military branches. It specifically reminds all that ". . . using Riot Control Agents in an armed conflict requires Presidential approval."

Additionally, the Department of Defense's Joint Doctrine Encyclopedia, dated July 1997, advises that "Commanders must consider the international ramifications . . . before recommending the use of herbicides or Riot Control Agents."

Now, there are those who erroneously claim my amendment seeks to change long standing policy on the use of riot control agents in combat and runs counter to U.S. treaty commitments.

In fact, my amendment seeks merely to reaffirm the policy of the United States since 1975, and the Senate's view on this issue from 1997, by stating that it is the policy of the United States that Riot Control Agents are not chemical weapons but are legitimate, legal, and non-lethal alternatives to the use of lethal force. It adds that these tools may be employed by members of the Armed Forces in defensive military modes to save lives.

My amendment further requires the President to submit a one-time report to Congress on the availability and use of Riot Control Agents by our fighting men and women. It includes reporting language that prods the State Department to speak about and advocate the U.S. view on this important life-saving tool in multilateral forums. Finally, my amendment presses the Pentagon to develop this capability, which has languished in our training regimens, our doctrine, and our tactics through lack of use.

I urge all of my colleagues to reaffirm this policy, to reaffirm what the Senate said in 1997, and to send a strong message to our men and women in uniform that the Senate puts their welfare above misguided interpretations of arcane international agreements, that the Senate wants to give them a full range of tools to help them accomplish their mission in Iraq and Afghanistan, and that we want to do so in a manner that doesn't jeopardize their lives or those of innocent civilians.

I reserve the remainder of my time.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I want very much to support my colleague from Nevada, but I would like to have some clarification. I tried to listen very carefully to what the Senator said. I want to see if my interpretation of the amendment is correct.

I begin by saying the question of whether and how the use of riot control agents would be limited by the Chemical Weapons Convention became a major issue when the treaty was considered by the Senate for ratification in 1997. The resolution of ratification for the CWC contains a condition requiring the President to certify that the United States is not restricted by the CWC in its use of riot control agents in certain specified circumstances. The condition also required the President not to eliminate or alter Executive Order 11850—which I have before me; it was signed by President Ford on April 8, 1975—which prohibits the use of riot control agents in war except in defensive military modes to save lives.

Now, I turn to the Executive Order 11850 and specifically ask the Senator, is his interpretation of his amendment consistent with the objectives as stated in Executive Order 11850, signed by President Ford April 8, 1975?

Mr. ENSIGN. Mr. President, I say to the Senator from Virginia that he has stated it exactly right. We are trying to restate the position that the Senate took in 1997, in the Executive Order 11850. It has been the policy of the United States, based on this Executive order, based on what the Senate did with the Chemical Weapons Treaty in 1997. But the problem is there have been lawyers down at the State Department who have interpreted it differently and therefore have put the military in a very difficult position, that if they used it consistent with former U.S. policy, they could be accused of violating the Chemical Weapons Treaty and be subject to prosecution as individual soldiers.

Mr. WARNER. I thank my colleague. If I could further propound a clarification, reading from the preamble to 11850, the Executive order, it says:

> The United States renounces, as a matter of national policy, first use of herbicides in war except use, under regulations applicable to their domestic use, for control of vegetation within U.S. bases and installations or around their immediate defensive perimeters, and first use of riot control agents in war except in defensive military modes to save lives such as—

and these are the examples—

> (a) Use of riot control agents in riot control situations in areas under direct and distinct U.S. military control, to include controlling rioting prisoners of war.
>
> (b) Use of riot control agents in situations in which civilians are used to mask or screen attacks and civilian casualties can be reduced or avoided.
>
> (c) Use of riot control agents in rescue missions in remotely isolated areas, of downed aircrews and passengers, and escaping prisoners.
>
> (d) Use of riot control agents in rear echelon areas outside the zone of immediate combat to protect convoys from civil disturbances, terrorists and paramilitary organizations.

Regarding the ground operations as we are reading about daily in the Anbar Province, in Fallujah—I visited up in Fallujah several weeks ago. How would they, under your amendment, be deployed, assuming this amendment is adopted, in a manner differently than what they are doing today?

Mr. ENSIGN. Mr. President, I would say to the chairman of the Senate Armed Services Committee, frankly, they are not being used today by our military and that is the problem. Therein lies the problem.

We just saw President Bush down in the Summit of the Americas, and they had riots down there and they used these very agents to control the crowds. Even when they had problems at Abu Ghraib prison, these riot control agents were not allowed to be used because people were afraid to use them.

Can you imagine, if you are a first lieutenant or you are a sergeant and you are out there and you know that these things have been allowed in the past, but now the State Department and the military are putting stuff out and there are questions, you are not going to use the thing that may be the most effective at saving lives of the personnel around you, as well as the civilians, because you could be accused potentially of violating the Chemical Weapons Treaty. We are handcuffing the very personnel that this Senate is supposed to be trying to protect.

That is why I believe, as the Senator has correctly pointed out, that this amendment is consistent with the very examples that you pointed out that are in the Executive Order No. 11850 that was signed back in 1975.

Mr. WARNER. I want to make clear I presume the amendment of the Senator clarifies some ambiguity, which ambiguity acts as a deterrent on our forces today from using it. Once the ambiguities are set aside, then we can proceed to utilize these agents, provided it is consistent with the Executive Order 11850? Have I correctly stated that?

Mr. ENSIGN. Mr. President, I think what the Senator has stated is very concise. That is exactly the intent of the amendment.

Mr. WARNER. I thank my distinguished colleague. We will have, perhaps, opportunity in the morning to further debate this amendment. I do want to posture myself so I can support your amendment.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I wish to clarify a question the chairman of the committee asked. I think I heard the answer, but I was not 100 percent sure.

Is the amendment intended to state the current policy of the United States? When it says on line 1 of page 1, "It is the policy of the United States," is that intended to reflect the current policy of the United States?

Mr. ENSIGN. Mr. President, I would say to the Senator from Michigan that the current policy is exactly what our amendment is trying to reinforce. It is the interpretation of that current policy that is happening down at the State Department that we are trying to clarify. We think they are misinterpreting the current policy which has existed for some time now in the United States. We now need to clarify it so that our warriors know exactly that they can use riot control agents under specific uses, as the examples that the chairman of the Committee on Armed Services has pointed out.

Mr. LEVIN. Is it the intention of the amendment, then, to state the policy of the United States as reflected in Executive Order 11850?

Mr. ENSIGN. That is correct, Mr. President.

Mr. LEVIN. So there is no effort, no intent in the statement of policy on line 4 on page 1 through line 6 on page 2, to in any way modify the policy set forth in that Executive Order 11850?

Mr. ENSIGN. The Senator is correct.

Mr. LEVIN. So this restatement of policy is not intended to modify this in any way. But as I understand it, what the good Senator from Nevada is saying is that some people in the Government have interpreted Executive Order 11850 differently from the way the policy is stated in section 1073?

Mr. ENSIGN. I think the policy is very clear in this Executive order, as well as what the Senate stated. But it appears that certain people down at the State Department have interpreted it a different way and believe there is a higher threshold that our warriors must come under before they can use these riot control agents out on the battlefield; that they must seek Presidential authority. That is what we are trying to clarify here, is to get back to what this Executive order said, as well as what the Senate stated in 1997.

Mr. LEVIN. I thank my friend from Nevada.

Mr. President, we will reserve the time. We are not necessarily at all in opposition, but we would like to review this overnight. We thank the Senator from Nevada.

Mr. WARNER. Mr. President, subject to the order by the majority and Democratic leader as to the sequence of events tomorrow, the Ensign amendment would remain the pending business at such time as the leadership directs the Senate return to this bill; am I correct in that?

The PRESIDING OFFICER. That is correct, the Ensign amendment is pending.

Mr. WARNER. At this time, I ask unanimous consent the Ensign amendment be laid aside for the purpose of the distinguished Senator from Michigan and I clearing some amendments.

Mr. LEVIN. I have no objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 1334, AS MODIFIED; 1341, AS MODIFIED; 1355, 1356, 1358, AS MODIFIED; 1362, AS MODIFIED; 1367, 1387, 1388, AS MODIFIED; 1404, AS MODIFIED; 1407, 1424, 1428, AS MODIFIED; 1434, 1445, 1448, AS MODIFIED; 1451, AS MODIFIED; 1453, AS MODIFIED; 1463, AS MODIFIED; 1473, 1478, 1481, 1495, 1502, 1514, AS MODIFIED; 1515, AS MODIFIED; 1519, AS MODIFIED; 1526, AS MODIFIED; 1548, AS MODIFIED; 1555, AS MODIFIED; 1563, AS MODIFIED; 1568, 1574, AS MODIFIED; 1578, AS MODIFIED; 2446, 2447, 2448, 2449, 2450, 2451, 2452, 2453, 2454, 2455, 2456, 2457, 2458, 2459, 2460, 2461, 2462, 2463, 2464, 2465, 2466, 2467, 2468, 2469, 2470, 2471, EN BLOC.

Mr. WARNER. Mr. President, there are four packages of amendments at the desk being held subject to action by the Senate. I ask the Senate consider those amendments en bloc, the amendments be agreed to, the motions to reconsider be laid upon the table, and I ask any statements relating to these individual amendments be printed in the RECORD.

Mr. LEVIN. Is it the intention that the packages be adopted one package at time?

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. All four. And the Chair has acted.

Mr. LEVIN. I am sure we can work it out whether the action has been taken. Have not the four packages been acted upon and approved en bloc?

The PRESIDING OFFICER. If the Senator from Michigan is reserving the right to object, he has that ability.

Mr. LEVIN. I am trying to understand what the unanimous consent request was. Was it the amendments be considered en bloc and agreed to en bloc?

The PRESIDING OFFICER. That is the understanding.

Mr. LEVIN. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to en bloc, as follows:

AMENDMENT NO. 1334, AS MODIFIED

(Purpose: To provide for outreach to members of the Armed Forces and their dependents on the Servicemembers Civil Relief Act)

At the end of subtitle E of title VI, add the following:

SEC. 653. OUTREACH TO MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS ON THE SERVICEMEMBERS CIVIL RELIEF ACT.

(a) OUTREACH TO MEMBERS OF THE ARMED FORCES.—

(1) IN GENERAL.—The Secretary concerned shall provide to each member of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers and their dependents under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.).

(2) TIME OF PROVISION.—Information shall be provided to a member of the Armed Forces under paragraph (1) at times as follows:

(A) During initial orientation training.

(B) In the case of a member of a reserve component of the Armed Forces, during initial orientation training and when the member is mobilized or otherwise individually called or ordered to active duty for a period of more than one year.

(C) At such other times as the Secretary concerned considers appropriate.

(b) OUTREACH TO DEPENDENTS.—The Secretary concerned may provide to the adult dependents of members of the Armed Forces under the jurisdiction of the Secretary pertinent information on the rights and protections available to servicemembers and their dependents under the Servicemembers Civil Relief Act.

(c) DEFINITIONS.—In this section, the terms "dependent" and "Secretary concerned" have the meanings given such terms in section 101 of the Servicemembers Civil Relief Act (50 U.S.C. App. 511).

AMENDMENT NO. 1341, AS MODIFIED

(Purpose: To require a report on the use of ground source heat pumps at Department of Defense facilities)

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. REPORT ON USE OF GROUND SOURCE HEAT PUMPS AT DEPARTMENT OF DEFENSE FACILITIES.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the use of ground source heat pumps at Department of Defense facilities.

(b) CONTENT.—The report required under subsection (a) shall include—

(1) a description of the types of Department of Defense facilities that use ground source heat pumps;

(2) an assessment of the applicability and cost-effectiveness of the use of ground source heat pumps at Department of Defense facilities in different geographic regions of the United States;

(3) a description of the relative applicability of ground source heat pumps for purposes of new construction at, and retrofitting of, Department of Defense facilities; and

(4) recommendations for facilitating and encouraging the increased use of ground source heat pumps at Department of Defense facilities.

AMENDMENT NO. 1335

(Purpose: To authorize a land conveyance of Air Force property, La Junta, Colorado)

On page 359, between lines 3 and 4, insert the following:

SEC. 2862. LAND CONVEYANCE, AIR FORCE PROPERTY, LA JUNTA, COLORADO.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Air Force may convey, without consideration, to the City of La Junta, Colorado (in this section referred to as the "City"), all right, title, and interest of the United States in and to a parcel of real property, including improvements thereon, consisting of approximately 8 acres located at the USA Bomb Plot in the La Junta Industrial Park for the purpose of training local law enforcement officers.

(b) PAYMENT OF COSTS OF CONVEYANCE.—

(1) IN GENERAL.—The Secretary shall require the City to cover costs to be incurred by the Secretary after the date of enactment of the Act, or to reimburse the Secretary for costs incurred by the Secretary after that date, to carry out the conveyance under subsection (a), including any survey costs, costs related to environmental assessments, studies, analyses, or other documentation, and other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) TREATMENT OF AMOUNTS RECEIVED.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(c) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

AMENDMENT NO. 1356

(Purpose: To authorize the United States Air Force Institute of Technology to receive faculty research grants for scientific, literary, and educational purposes)

At the end of subtitle C of title IX, add the following:

SEC. 924. AUTHORITY FOR UNITED STATES AIR FORCE INSTITUTE OF TECHNOLOGY TO RECEIVE FACULTY RESEARCH GRANTS FOR CERTAIN PURPOSES.

Section 9314 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(d) ACCEPTANCE OF RESEARCH GRANTS.—(1) The Secretary of the Air Force may authorize the Commandant of the United States Air Force Institute of Technology to accept qualifying research grants. Any such grant may only be accepted if the work under the grant is to be carried out by a professor or instructor of the Institute for a scientific, literary, or educational purpose.

"(2) For purposes of this subsection, a qualifying research grant is a grant that is awarded on a competitive basis by an entity referred to in paragraph (3) for a research project with a scientific, literary, or educational purpose.

"(3) An entity referred to in this paragraph is a corporation, fund, foundation, educational institution, or similar entity that is organized and operated primarily for scientific, literary, or educational purposes.

"(4) The Secretary shall establish an account for the administration of funds received as qualifying research grants under this subsection. Funds in the account with respect to a grant shall be used in accordance with the terms and condition of the grant and subject to applicable provisions of the regulations prescribed under paragraph (6).

"(5) Subject to such limitations as may be provided in appropriations Acts, appropriations available for the United States Air Force Institute of Technology may be used to pay expenses incurred by the Institute in applying for, and otherwise pursuing, the award of qualifying research grants.

"(6) The Secretary of the Air Force shall prescribe regulations for purposes of the administration of this subsection.".

AMENDMENT NO. 1358, AS MODIFIED

(Purpose: To require additional recommendations in the report on the delivery of health care benefits through the military health care system)

On page 178, strike lines 20 through 24 and insert the following:

(4) Department of Defense participation in the Medicare Advantage Program, formerly Medicareplus Choice;

(5) the use of flexible spending accounts and health savings accounts for military retirees under the age of 65;

(6) incentives for eligible beneficiaries of the military health care system to retain private employer-provided health care insurance;

(7) means of improving integrated systems of disease management, including chronic illness management;

(8) means of improving the safety and efficiency of pharmacy benefits management;

(9) the management of enrollment options for categories of eligible beneficiaries in the military health care system;

(10) reform of the provider payment system, including the potential for use of a pay-for-performance system in order to reward quality and efficiency in the TRICARE system;

(11) means of improving efficiency in the administration of the TRICARE program, to include the reduction of headquarters and redundant management layers, and maximizing efficiency in the claims processing system;

(12) other improvements in the efficiency of the military health care system; and

(13) any other matters the Secretary considers appropriate to improve the efficiency and quality of military health care benefits.

AMENDMENT NO. 1362, AS MODIFIED

(Purpose: To require a report on the Department of Defense Composite Health Care System II)

At the end of subtitle B of title VII, add the following:

SEC. 718. REPORT ON THE DEPARTMENT OF DEFENSE COMPOSITE HEALTH CARE SYSTEM II.

(a) Report Required.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the appropriate committees of Congress a report on the Department of Defense Composite Health Care System II (CHCS II).

(b) Report Elements.—The report under subsection (a) shall include the following:

(1) A chronology and description of previous efforts undertaken to develop an electronic medical records system capable of maintaining a two-way exchange of data between the Department of Defense and the Department of Veterans Affairs.

(2) The plans as of the date of the report, including any projected commencement dates, for the implementation of the Composite Health Care System II.

(3) A statement of the amounts obligated and expended as of the date of the report on the development of a system for the two-way exchange of data between the Department of Defense and the Department of Veterans Affairs, including the Composite Health Care System II.

(4) An estimate of the amounts that will be required for the completion of the Composite Health Care System II.

(5) A description of the software and hardware being considered as of the date of the report for use in the Composite Health Care System II.

(6) A description of the management structure used in the development of the Composite Health Care System II.

(7) A description of the accountability measures utilized during the development of the Composite Health Care System II in order to evaluate progress made in the development of that System.

(8) The schedule for the remaining development of the Composite Health Care System II.

(c) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services, Appropriations, Veterans' Affairs, and Health, Education, Labor, and Pensions of the Senate; and

(2) the Committees on Armed Services, Appropriations, Veterans' Affairs, and Energy and Commerce of the House of Representatives.

AMENDMENT NO. 1367

(Purpose: To make permanent the authority to provide travel and transportation allowances for dependents to visit hospitalized members injured in combat operation or combat zone with funding provided out of existing funds through a reduction in nonessential civilian travel)

(a) Authority To Continue Allowance.—Effective as of September 30, 2005, section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is amended by striking subsections (d) and (e).

(b) Codification of Reporting Requirement.—Section 411h of title 37, United States Code, is amended by adding at the end the following new subsection:

"(e) If the amount of travel and transportation allowances provided in a fiscal year under clause (ii) of subsection (a)(2)(B) exceeds $20,000,000, the Secretary of Defense shall submit to Congress a report specifying the total amount of travel and transportation allowances provided under such clause in such fiscal year.".

(c) Conforming Amendment.—Subsection (a)(2)(B)(ii) of such section, as added by section 1026 of division A of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109–13), is amended by striking "under section 1967(c)(1)(A) of title 38".

(d) Funding.—Funding shall be provided out of existing funds.

AMENDMENT NO. 1387

(Purpose: To make the Savannah River National Laboratory eligible for laboratory directed research and development funding)

On page 378, between lines 10 and 11, insert the following:

SEC. 31____. SAVANNAH RIVER NATIONAL LABORATORY.

The Savannah River National Laboratory shall be a participating laboratory in the Department of Energy laboratory directed research and development program.

AMENDMENT NO. 1388, AS MODIFIED

(Purpose: To provide for the establishment of the USS Oklahoma Memorial)

On page 286, between lines 7 and 8, insert the following:

SEC. 10____. ESTABLISHMENT OF THE USS OKLAHOMA MEMORIAL.

(a) Site and Funding for Memorial.—Not later than 6 months after the date of enactment of this section, the Secretary of the Navy, in consultation with the Secretary of the Interior shall identify an appropriate site on Ford Island for a memorial for the USS Oklahoma consistent with the "Pearl Harbor Naval Complex Design Guidelines and Evaluation Criteria for Memorials, April 2005". The USS Oklahoma Foundation shall be solely responsible for raising the funds necessary to design and erect a dignified and suitable memorial to the naval personnel serving aborad the USS Oklahoma when it was attacked on December 7, 1941.

(b) Administration and Maintenance of Memorial.—After the site has been selected, the Secretary of the Interior shall administer and maintain the site as part of the USS Arizona Memorial, a unit of the National Park System, in accordance with the laws and regulations applicable to land administered by the National Park Service and any Memorandum of Understanding between the Secretary of the Navy and the Secretary of the Interior. The Secretary of the Navy shall continue to have jurisdiction over the land selected as the site.

(c) Future Memorials.—Any future memorials for U.S. Naval Vessels that were attacked at Pearl Harbor on December 7, 1941, shall be consistent with the "Pearl Harbor Naval Complex Design Guidelines and Evaluation Criteria for Memorials, April 2005".

(d) Master Plan.—Not later than one year after the date of the enactment of this Act, the Secretary of the Navy, in consultation with the Secretary of the Interior, shall submit to the Committee on Armed Services and Committee on Resources of the House of Representatives and the Committee on Armed Services and the Committee on Energy and Natural Resources of the Senate a master plan for operation and management of the site presently encompassing the visitors center for the USS Arizona Memorial, the area commonly known as the "Halawa Landing", and any adjacent properties.

AMENDMENT NO. 1404, AS MODIFIED

(Purpose: To require a pilot program on enhanced quality of life for members of the Army Reserve and their families)

At the end of subtitle C of title V, add the following:

SEC. 538. PILOT PROGRAM ON ENHANCED QUALITY OF LIFE FOR MEMBERS OF THE ARMY RESERVE AND THEIR FAMILIES.

(a) Pilot Program Required.—

(1) In general.—The Secretary of the Army shall carry out a pilot program to assess the feasability and advisability of utilizing a coalition of military and civilian community personnel at military installations in order to enhance the quality of life for members of the Army Reserve who serve at such installations and their families.

(2) Locations.—The Secretary shall carry out the pilot program at a military installation selected by the Secretary for purposes of the pilot program in two States.

(b) Participating Personnel.—A coalition of personnel under the pilot program shall consist of—

(1) such command personnel at the installation concerned as the commander of such installation considers appropriate;

(2) such other military personnel at such installation as the commander of such installation considers appropriate; and

(3) appropriate members of the civilian community of installation, such as clinicians and teachers, who volunteer for participation in the coalition.

(c) Objectives.—

(1) Principle objective.—The principle objective of the pilot program shall be to enhance the quality of life for members of the Army Reserve and their families in order to enhance the mission readiness of such members, to facilitate the transition of such members to and from deployment, and to enhance the retention of such members.

(2) Objectives relating to deployment.—In seeking to achieve the principle objective under paragraph (1) with respect to the deployment of members of the Army Reserve, each coalition under the pilot program shall seek to assist members of the Army Reserve and their families in—

(A) successfully coping with the absence of such members from their families during deployment; and

(B) successfully addressing other difficulties associated with extended deployments, including difficulties of members on deployment and difficulties of family members at home.

(3) Methods to achieve objectives.—The methods selected by each coalition under the

pilot program to achieve the objectives specified in this subsection shall include methods as follows:

(A) Methods that promote a balance of work and family responsibilities through a principle-centered approach to such matters.

(B) Methods that promote the establishment of appropriate priorities for family matters, such as the allocation of time and attention to finances, within the context of meeting military responsibilities.

(C) Methods that promote the development of meaningful family relationships.

(D) Methods that promote the development of parenting skills intended to raise emotionally healthy and empowered children.

(d) REPORT.—Not later than April 1, 2007, the Secretary shall submit to the congressional defense committees a report on the pilot program carried out under this section. The report shall include—

(1) a description of the pilot program;

(2) an assessment of the benefits of utilizing a coalition of military and civilian community personnel on military installations in order to enhance the quality of life for members of the Army Reserve and their families; and

(3) such recommendations for legislative or administrative action as the Secretary considers appropriate in light of the pilot program.

(e) FUNDING.—

(1) IN GENERAL.—The amount authorized to be appropriated by section 301(6) for operation and maintenance for the Army Reserve is hereby increased by $160,000, with the amount of the increase to be available to carry out the pilot program required by this section.

(2) OFFSET.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy and available for Ship Self Defense (Detect and Control) (PE #0604755N) is hereby reduced by $160,000, with the amount of the reduction to be allocated to amounts for Autonomous Unmanned Surface Vessel.

AMENDMENT NO. 1407

(Purpose: To strike the limitation on payment of facilities charges assessed by the Department of State)

Strike section 1008.

AMENDMENT NO. 1424

(Purpose: Relating to the basic allowance for housing for members of the reserves)

At the end of subtitle A of title VI, add the following:

SEC. 605. BASIC ALLOWANCE FOR HOUSING FOR RESERVE MEMBERS.

(a) EQUAL TREATMENT OF RESERVE MEMBERS.—Subsection (g) of section 403 of title 37, United States Code, is amended—

(1) by redesignating paragraph (3) as paragraph (4);

(2) by inserting after paragraph (2) the following new paragraph (3):

"(3) The rate of basic allowance for housing to be paid to the following members of a reserve component shall be equal to the rate in effect for similarly situated members of a regular component of the uniformed services:

"(A) A member who is called or ordered to active duty for a period of more than 30 days.

"(B) A member who is called or ordered to active duty for a period of 30 days or less in support of a contingency operation."; and

(3) in paragraph (4), as so redesignated, by striking "less than 140 days" and inserting "30 days or less".

(b) CONFORMING AMENDMENT REGARDING MEMBERS WITHOUT DEPENDENTS.—Paragraph (1) of such subsection is amended by inserting "or for a period of more than 30 days" after "in support of a contingency operation" both places it appears.

AMENDMENT NO. 1428, AS MODIFIED

(Purpose: To strengthen civil-military relationships by permitting State and local governments to enter into lease purchase agreements with the United States Armed Forces)

At the end of subtitle B of title XXVIII of division B, add the following:

SEC. 2823. EXPANDED AUTHORITY TO ENTER INTO LEASE-PURCHASE AGREEMENTS.

Section 2812 of title 10, United States Code, is amended—

(1) in subsection (a)(1)—

(A) by striking "a private contractor" and inserting "an eligible entity"; and

(B) by striking "the contractor" and inserting "the eligible entity";

(2) in subsection (c)—

(A) by striking "(c)(1)" and inserting "(c)";

(B) by striking paragraph (2); and

(C) by redesignating subparagraphs (A) and (B) as paragraphs (1) and (2); and

(3) by adding at the end the following new subsection:

"(e) In this section, the term 'eligible entity' means any private person, corporation, firm, partnership, company, or State or local government.".

AMENDMENT NO. 1434, AS MODIFIED

(Purpose: To make available, with an offset, an additional $20,300,000 for aircraft procurement for the Army to increase the number of UH–60 Black Hawk helicopters to be procured in response to attrition from 2 helicopters to 4 helicopters)

At the end of subtitle A of title I, add the following:

SEC. 114. UH–60 BLACK HAWK HELICOPTER PROCUREMENT IN RESPONSE TO ATTRITION.

(a) INCREASE IN AMOUNT.—Of the amount authorized to be appropriated by section 101(1) for aircraft for the Army, the amount available for the procurement UH–60 Black Hawk helicopters in response to attrition is hereby increased to $40,600,000, with the amount to be used to increase the number of UH–60 Black Hawk helicopters to be procured in response to attrition from 2 helicopters to 4 helicopters.

(b) OFFSET.—Of the amount authorized to be appropriated by section 101(1) for aircraft for the Army, the amount available for UH–60 Black Hawk helicopter medevac kits is hereby reduced to $29,700,000, with the amount to be derived in a reduction in the number of such kits from 10 kits to 6 kits.

AMENDMENT NO. 1445

(Purpose: To grant a Federal charter to Korean War Veterans Association, Incorporated)

At the end of subtitle G of title X, add the following:

SEC. 1073. GRANT OF FEDERAL CHARTER TO KOREAN WAR VETERANS ASSOCIATION, INCORPORATED.

(a) GRANT OF CHARTER.—Part B of subtitle II of title 36, United States Code, is amended—

(1) by striking the following:

"CHAPTER 1201—[RESERVED]";

and

(2) by inserting after chapter 1103 the following new chapter:

"CHAPTER 1201—KOREAN WAR VETERANS ASSOCIATION, INCORPORATED

"Sec.
"120101. Organization.
"120102. Purposes.
"120103. Membership.
"120104. Governing body.
"120105. Powers.
"120106. Restrictions.
"120107. Tax-exempt status required as condition of charter.
"120108. Records and inspection.
"120109. Service of process.
"120110. Liability for acts of officers and agents.
"120111. Annual report.
"120112. Definition.

"§ 120101. Organization

"(a) FEDERAL CHARTER.—Korean War Veterans Association, Incorporated (in this chapter, the 'corporation'), a nonprofit organization that meets the requirements for a veterans service organization under section 501(c)(19) of the Internal Revenue Code of 1986 and that is organized under the laws of the State of New York, is a federally chartered corporation.

"(b) EXPIRATION OF CHARTER.—If the corporation does not comply with the provisions of this chapter, the charter granted by subsection (a) expires.

"§ 120102. Purposes

"The purposes of the corporation are those provided in its articles of incorporation and shall include the following:

"(1) Organize as a veterans service organization in order to maintain a continuing interest in the welfare of veterans of the Korean War, and rehabilitation of the disabled veterans of the Korean War to include all that served during active hostilities and subsequently in defense of the Republic of Korea, and their families.

"(2) To establish facilities for the assistance of all veterans and to represent them in their claims before the Department of Veterans Affairs and other organizations without charge.

"(3) To perpetuate and preserve the comradeship and friendships born on the field of battle and nurtured by the common experience of service to our nation during the time of war and peace.

"(4) To honor the memory of those men and women who gave their lives that a free America and a free world might live by the creation of living memorial, monuments, and other forms of additional educational, cultural, and recreational facilities.

"(5) To preserve for ourselves and our posterity the great and basic truths and enduring principles upon which this nation was founded.

"§ 120103. Membership

"Eligibility for membership in the corporation, and the rights and privileges of members of the corporation, are as provided in the bylaws of the corporation.

"§ 120104. Governing body

"(a) BOARD OF DIRECTORS.—The composition of the board of directors of the corporation, and the responsibilities of the board, are as provided in the articles of incorporation of the corporation.

"(b) OFFICERS.—The positions of officers of the corporation, and the election of the officers, are as provided in the articles of incorporation.

"§ 120105. Powers

"The corporation has only those powers provided in its bylaws and articles of incorporation filed in each State in which it is incorporated.

"§ 120106. Restrictions

"(a) STOCK AND DIVIDENDS.—The corporation may not issue stock or declare or pay a dividend.

"(b) POLITICAL ACTIVITIES.—The corporation, or a director or officer of the corporation as such, may not contribute to, support, or participate in any political activity or in any manner attempt to influence legislation.

"(c) LOAN.—The corporation may not make a loan to a director, officer, or employee of the corporation.

"(d) CLAIM OF GOVERNMENTAL APPROVAL OR AUTHORITY.—The corporation may not claim congressional approval, or the authority of the United States, for any of its activities.

"(e) CORPORATE STATUS.—The corporation shall maintain its status as a corporation incorporated under the laws of the State of New York.

"§ 120107. Tax-exempt status required as condition of charter

"If the corporation fails to maintain its status as an organization exempt from taxation under the Internal Revenue Code of 1986, the charter granted under this chapter shall terminate.

"§ 120108. Records and inspection

"(a) RECORDS.—The corporation shall keep—

"(1) correct and complete records of account;

"(2) minutes of the proceedings of its members, board of directors, and committees having any of the authority of its board of directors; and

"(3) at its principal office, a record of the names and addresses of its members entitled to vote on matters relating to the corporation.

"(b) INSPECTION.—A member entitled to vote on matters relating to the corporation, or an agent or attorney of the member, may inspect the records of the corporation for any proper purpose, at any reasonable time.

"§ 120109. Service of process

"The corporation shall have a designated agent in the District of Columbia to receive service of process for the corporation. Notice to or service on the agent is notice to or service on the Corporation.

"§ 120110. Liability for acts of officers and agents

"The corporation is liable for the acts of its officers and agents acting within the scope of their authority.

"§ 120111. Annual report

"The corporation shall submit to Congress an annual report on the activities of the corporation during the preceding fiscal year. The report shall be submitted at the same time as the report of the audit required by section 10101(b) of this title. The report may not be printed as a public document.

"§ 120112. Definition

"For purposes of this chapter, the term 'State' includes the District of Columbia and the territories and possessions of the United States.".

(b) CLERICAL AMENDMENT.—The item relating to chapter 1201 in the table of chapters at the beginning of subtitle II of title 36, United States Code, is amended to read as follows:

"**1201. Korean War Veterans Association, Incorporated ....120101**".

AMENDMENT NO. 1448, AS MODIFIED

(Purpose: To ensure a response to medical needs arising from mandatory military vaccinations)

At the end of subtitle B of title VII, add the following:

SEC. 718. RESPONSE TO MEDICAL NEEDS ARISING FROM MANDATORY MILITARY VACCINATIONS.

(a) IN GENERAL.—The Secretary of Defense shall maintain a joint military medical center of excellence focusing on the medical needs arising from mandatory military vaccinations.

(b) ELEMENTS.—The joint military medical center of excellence under subsection (a) shall consist of the following:

(1) The Vaccine Health Care Centers of the Department of Defense, which shall be the principle elements of the center.

(2) Any other elements that the Secretary considers appropriate.

(c) AUTHORIZED ACTIVITIES.—In acting as the principle elements of the joint military medical center under subsection (a), the Vaccine Health Care Centers referred to in subsection (b)(1) may carry out the following:

(1) Medical assistance and care to individuals receiving mandatory military vaccines and their dependents, including long-term case management for adverse events where necessary.

(2) Evaluations to identify and treat potential and actual health effects from vaccines before and after their use in the field.

(3) The development and sustainment of a long-term vaccine safety and efficacy registry.

(4) Support for an expert clinical advisory board for case reviews related to disability assessment questions.

(5) Long-term and short-term studies to identify unanticipated benefits and adverse events from vaccines.

(6) Educational outreach for immunization providers and those requiring immunizations.

(7) The development, dissemination, and validation of educational materials for Department of Defense healthcare workers relating to vaccine safety, efficacy, and acceptability.

AMENDMENT NO. 1451, AS MODIFIED

(Purpose: To require screenings of members of the Armed Forces for Post Traumatic Stress Disorder and other mental health conditions)

At the end of subtitle F of title V, add the following:

SEC. 573. MENTAL HEALTH SCREENINGS OF MEMBERS OF THE ARMED FORCES FOR POST TRAUMATIC STRESS DISORDER AND OTHER MENTAL HEALTH CONDITIONS.

(a) MENTAL HEALTH SCREENINGS.—

(1) IN GENERAL.—Under regulations prescribed by the Secretary of Defense, the Secretary concerned shall perform mental health screenings of each member of the Armed Forces who is deployed in a combat operation or to a combat zone.

(b) NATURE OF SCREENINGS.—The first mental health screening of a member under this section shall be designed to determine the mental state of such member before deployment. Each other mental health screening of a member under this section shall be designated to detect symptoms or other evidence in such member of Post Traumatic Stress Disorder (PTSD) or other mental health condition relating to combat.

(c) TIME OF SCREENINGS.—A member shall receive a mental health screening under this section at times as follows:

(1) Prior to deployment in a combat operation or to a combat zone.

(2) Not later than 30 days after the date of the member's return from such deployment.

(3) Not later than 120 days after the date of the members return from such deployment.

AMENDMENT NO. 1453, AS MODIFIED

(Purpose: To ensure the protection of military and civilian personnel in the Department of Defense from an influenza pandemic, including an avian influenza pandemic)

In subtitle B of title VII of the bill, add the following at the end:

SEC. 718. PANDEMIC AVIAN FLU PREPAREDNESS.

(a) REPORT.—The Secretary of Defense shall report to the Committees on Armed Services of the Senate and the House of Representatives efforts within the Department of Defense to prepare for pandemic influenza, including pandemic avian influenza. The Secretary shall address the following, with respect to military and civilian personnel—

(1) the procurement of vaccines, antivirals and other medicines, and medical supplies, including personal protective equipment, particularly those that must be imported;

(2) protocols for the allocation and distribution of vaccines and medicines among high priority populations;

(3) public health containment measures that may be implemented on military bases and other facilities, including quarantine, travel restrictions and other isolation precautions;

(4) communication with Department of Defense affiliated health providers about pandemic preparedness and response;

(5) surge capacity for the provision of medical care during pandemics;

(6) the availability and delivery of food and basic supplies and services;

(7) surveillance efforts domestically and internationally, including those utilizing the Global Emerging Infections Systems (GEIS), and how such efforts are integrated with other ongoing surveillance systems;

(8) the integration of pandemic and response planning with those of other Federal departments, including the Department of Health and Human Services, Department of the Veterans Affairs, Department of State, and USAID; and

(9) collaboration (as appropriate) with international entities engaged in pandemic preparedness and response.

(b) SUBMISSION OF REPORT.—Not later than 120 days after the date of enactment of this Act, the Secretary of Defense shall submit the report to the Committees on Armed Services of the Senate and the House of Representatives.

AMENDMENT NO. 1463, AS MODIFIED

(Purpose: To authorize a land conveyance at Iowa Army Ammunition Plant, Middletown, Iowa)

On page 357, between lines 19 and 20, insert the following:

SEC. 2843. LAND CONVEYANCE, IOWA ARMY AMMUNITION PLANT, MIDDLETOWN, IOWA.

(a) CONVEYANCE AUTHORIZED.—The Secretary of the Army may convey to the City of Middletown (in this section referred to as the "City") all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon, consisting of approximately 1.0 acres located at the Iowa Army Ammunition Plant, Middletown, Iowa, for the purpose of economic development.

(b) CONSIDERATION.—As consideration for the conveyance of property under subsection (a), the City shall provide the United States, whether by cash payment, in-kind consideration, or a combination thereof, an amount that is not less than the fair market value of the conveyed property, as determined by the Secretary.

(c) PAYMENT OF COSTS OF CONVEYANCE.—

(1) IN GENERAL.—The Secretary may require the City to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a), including survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance. If amounts are collected from the City in advance of the Secretary incurring the actual costs, and the amount collected exceeds the costs actually incurred by the Secretary to carry out the conveyance, the Secretary shall refund the excess amount to the City.

(2) REIMBURSEMENT.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account, and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(d) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by surveys satisfactory to the Secretary. The cost of each survey shall be borne by the City.

(e) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

AMENDMENT NO. 1473

(Purpose: To improve the availability to survivors of military decedents of information on the benefits and assistance available through the Federal Government)

On page 117, line 11, insert "through a computer accessible Internet website and other means and" before "at no cost".

AMENDMENT NO. 1478

(Purpose: To make oral and maxillofacial surgeons eligible for incentive special pay payable to medical officers of the Armed Forces)

At the end of subtitle B of title VI, add the following:

SEC. 624. ELIGIBILITY OF ORAL AND MAXILLOFACIAL SURGEONS FOR INCENTIVE SPECIAL PAY FOR MEDICAL OFFICERS OF THE ARMED FORCES.

(a) IN GENERAL.—For purposes of eligibility for incentive special pay payable under section 302(b) of title 37, United States Code, oral and maxillofacial surgeons shall be treated as medical officers of the Armed Forces who may be paid variable special pay under section 302(a)(2) of such title.

(b) EFFECTIVE DATE.—Subsection (a) shall take effect on October 1, 2005, and shall apply with respect to incentive special pay payable under section 302(b) of title 37, United States Code, on or after that date.

AMENDMENT NO. 1481

(Purpose: To modify the authority of Army working-capital funded facilities to engage in cooperative activities with non-Army entities)

At the end of subtitle C of title III, add the following:

SEC. 330. MODIFICATION OF AUTHORITY OF ARMY WORKING-CAPITAL FUNDED FACILITIES TO ENGAGE IN COOPERATIVE ACTIVITIES WITH NON-ARMY ENTITIES.

(a) APPLICABILITY OF SUNSET.—Subsection (j) of section 4544 of title 10, United States Code, is amended by striking "September 30, 2009," and all that follows through the end and inserting September 30, 2009.".

(b) CREDITING OF PROCEEDS OF SALE OF ARTICLES AND SERVICES.—Such section is further amended—

(1) in subsection (d), by striking "subsection (e)" and inserting "subsection (f)";

(2) by redesignating subsections (e), (f), (g), (h), and (i) as subsections (f), (g), (h), (i), and (j), respectively;

(3) by inserting after subsection (d) the following new subsection (e):

"(e) PROCEEDS CREDITED TO WORKING CAPITAL FUND.—The proceeds of sale of an article or service pursuant to a contract or other cooperative arrangement under this section shall be credited to the working capital fund that incurs the cost of manufacturing the article or performing the service."; and

(4) in subsection (g), as redesignated by paragraph (2) of this subsection, by striking "subsection (e)" and inserting "subsection (f)".

AMENDMENT NO. 1495

(Purpose: To provide that the governments of Indian tribes be treated as State and local governments for purposes of the disposition of real property recommended for closure in the report to the President from the Defense Base Closure and Realignment Commission, July 1993)

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. TREATMENT OF INDIAN TRIBE GOVERNMENTS AS PUBLIC ENTITIES FOR PURPOSES OF DISPOSAL OF REAL PROPERTY RECOMMENDED FOR CLOSURE IN JULY 2003 BRAC COMMISSION REPORT.

Section 8013 of the Department of Defense Appropriations Act, 1994 (Public Law 103-139; 107 Stat. 1440) is amended by striking "the report to the President from the Defense Base Closure and Realignment Commission, July 1991" and inserting "the reports to the President from the Defense Base Closure and Realignment Commission, July 1991 and July 1993".

AMENDMENT NO. 1502

(Purpose: To make permanent the extension of the period of temporary continuation of basic allowance for housing for dependents of members of the Armed Forces who die on active duty)

At the end of subtitle A of title VI, add the following:

SEC. 605. PERMANENT EXTENSION OF PERIOD OF TEMPORARY CONTINUATION OF BASIC ALLOWANCE FOR HOUSING FOR DEPENDENTS OF MEMBERS OF THE ARMED FORCES WHO DIE ON ACTIVE DUTY.

Effective immediately after the termination, pursuant to subsection (b) of section 1022 of the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief, 2005 (Public Law 109-13; 119 Stat. 251), of the amendments made by subsection (a) of such section, section 403(l) of title 37, United States Code, is amended by striking "180 days" each place it appears and inserting "365 days".

AMENDMENT NO. 1514, AS MODIFIED

(Purpose: To authorize a land conveyance at Marine Corps Air Station, Miramar, San Diego, California)

On page 357, strike line 20, and insert the following:

PART II—NAVY CONVEYANCES

SEC. 2851. LAND CONVEYANCE, MARINE CORPS AIR STATION, MIRAMAR, SAN DIEGO, CALIFORNIA.

(a) CONVEYANCE AUTHORIZED.—Subject to subsection (c), the Secretary of the Navy may convey to the County of San Diego, California (in this section referred to as the "County"), all right, title, and interest of the United States in and to a parcel of real property, including any improvements thereon and appurtenant easements thereto, consisting of approximately 230 acres located on the eastern boundary of Marine Corps Air Station, Miramar, California, for the purpose of removing the property from the boundaries of the installation and permitting the County to preserve the entire property known as the Stowe Trail as a public passive park/recreational area.

(b) CONSIDERATION.—

(1) IN GENERAL.—As consideration for the conveyance under subsection (a), the County shall provide the United States an amount with a total value that is not less than the fair market value of the conveyed real property, as determined by the Secretary.

(c) REVERSIONARY INTEREST.—

(1) IN GENERAL.—If the Secretary determines at any time that the real property conveyed under subsection (a) is not being used in accordance with the purpose of the conveyance specified in such subsection, all right, title, and interest in and to the property, including any improvements thereon, shall revert, at the option of the Secretary, to the United States, and the United States shall have the right of immediate entry onto the property. Any determination of the Secretary under this subsection shall be made on the record after an opportunity for a hearing.

(2) RELEASE OF REVERSIONARY INTEREST.—The Secretary shall release, without consideration, the reversionary interest retained by the United States under paragraph (1) if—

(A) Marine Corps Air Station, Miramar, is no longer being used for Department of Defense activities;

(d) PAYMENT OF COSTS OF CONVEYANCE.—

(1) PAYMENT REQUIRED.—The Secretary shall require the County to cover costs to be incurred by the Secretary, or to reimburse the Secretary for costs incurred by the Secretary, to carry out the conveyance under subsection (a) and implement the receipt of consideration under subsection (b), including appraisal costs, survey costs, costs related to environmental documentation, and other administrative costs related to the conveyance and receipt of consideration. If amounts are collected from the County in advance of the Secretary incurring the actual costs, and the amount received exceeds the costs actually incurred by the Secretary under this section, the Secretary shall refund the excess amount to the County.

(2) REIMBURSEMENT.—Amounts received as reimbursement under paragraph (1) shall be credited to the fund or account that was used to cover the costs incurred by the Secretary in carrying out the conveyance. Amounts so credited shall be merged with amounts in such fund or account and shall be available for the same purposes, and subject to the same conditions and limitations, as amounts in such fund or account.

(e) DESCRIPTION OF PROPERTY.—The exact acreage and legal description of the real property to be conveyed under subsection (a) shall be determined by a survey satisfactory to the Secretary.

(f) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the conveyance under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART III—AIR FORCE CONVEYANCES

AMENDMENT NO. 1515, AS MODIFIED

(Purpose: To make available an additional $60,000,000 for operation and maintenance, Defense-wide, for certain child and family assistance benefits for members of the Armed Forces)

At the end of subtitle C of title III, add the following:

SEC. 330. CHILD AND FAMILY ASSISTANCE BENEFITS FOR MEMBERS OF THE ARMED FORCES.

(a) Additional Amount for Operation and Maintenance, Defense-Wide.—The amount authorized to be appropriated by section 301(5) for operation and maintenance, Defense-wide activities, is hereby increased by $60,000,000.

(b) Availability of Amount.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance, Defense-wide activities, as increased by subsection (a), $60,000,000 may be available as follows:

(1) $50,000,000 for childcare services for families of members of the Armed Forces.

(2) $10,000,000 for family assistance centers that primarily serve members of the Armed Forces and their families.

(b) Offset.—Of the amounts authorized to be appropriated by section 301(i) for operation and maintenance, Army are hereby reduced by $60,000,000.

AMENDMENT NO. 1519, AS MODIFIED

(Purpose: To provide for a Department of Defense task force on mental health)

At the appropriate place, insert the following:

SEC. ___. DEPARTMENT OF DEFENSE TASK FORCE ON MENTAL HEALTH.

(a) Requirement To Establish.—The Secretary of Defense shall establish within the Department of Defense a task force to examine matters relating to mental health and the Armed Forces.

(b) Composition.—

(1) Members.—The task force shall consist of not more than 14 members appointed by the Secretary of Defense from among individuals described in paragraph (2) who have demonstrated expertise in the area of mental health.

(2) Range of members.—The individuals appointed to the task force shall include—

(A) at least one member of each of the Army, Navy, Air Force, and Marine Corps; and

(B) a number of persons from outside the Department of Defense equal to the total number of personnel from within the Department of Defense (whether members of the Armed Forces or civilian personnel) who are appointed to the task force.

(3) Individuals appointed within department of defense.—At least one of the individuals appointed to the task force from within the Department of Defense shall be the surgeon general of an Armed Force or a designee of such surgeon general.

(4) Individuals appointed outside department of defense.—(A) Individuals appointed to the task force from outside the Department of Defense may include officers or employees of other departments or agencies of the Federal Government, officers or employees of State and governments, or individuals from the private sector.

(B) The individuals appointed to the task force from outside the Department of Defense shall include—

(i) an officer or employee of the Department of Veterans Affairs appointed by the Secretary of Defense in consultation with the Secretary of Veterans Affairs;

(ii) an officer or employee of the Substance Abuse and Mental Health Services Administration of the Department of Health and Human Services appointed by the Secretary of Defense in consultation with the Secretary of Health and Human Services; and

(iii) at least two individuals who are representatives of—

(I) a mental health policy and advocacy organization; and

(II) a national veterans service organization.

(5) Deadline for appointment.—All appointments of individuals to the task force shall be made not later than 120 days after the date of the enactment of this Act.

(6) Co-chairs of Task Force.—There shall be two co-chairs of the task force. One of the co-chairs shall be designated by the Secretary of the Defense at the time of appointment from among the Department of Defense personnel appointed to the task force. The other co-chair shall be selected from among the members appointed from outside the Department of Defense by members so appointed.

(c) Long-Term Plan on Mental Health Services.—

(1) In general.—Not later than 12 months after the date on which all members of the task force have been appointed, the task force shall submit to the Secretary a long-term plan (referred to as a strategic plan) on means by which the Department of Defense shall improve the efficacy of mental health services provided to members of the Armed Forces by the Department of Defense.

(2) Utilization of other efforts.—In preparing the report, the task force shall take into consideration completed and ongoing efforts by the Department of Defense to improve the efficacy of mental health care provided to members of the Armed Forces by the Department.

(3) Elements.—The long-term plan shall include an assessment of and recommendations (including recommendations for legislative or administrative action) for measures to improve the following:

(A) The awareness of the prevalence of mental health conditions among members of the Armed Forces.

(B) The efficacy of existing programs to prevent, identify, and treat mental health conditions among members of the Armed Forces, including programs for and with respect to forward-deployed troops.

(C) The reduction or elimination of barriers to care, including the stigma associated with seeking help for mental health related conditions, and the enhancement of confidentiality for members of the Armed Forces seeking care for such conditions.

(D) The adequacy of outreach, education, and support programs on mental health matters for families of members of the Armed Forces.

(E) The efficacy of programs and mechanisms for ensuring a seamless transition from care of members of the Armed Forces on active duty for mental health conditions through the Department of Defense to care for such conditions through the Department of Veterans Affairs after such members are discharged or released from military, naval, or air service.

(F) The availability of long-term follow-up and access to care for mental health conditions for members of the Individual Ready Reserve, and the Selective Reserve and for discharged, separated, or retired members of the Armed Forces.

(G) Collaboration among organizations in the Department of Defense with responsibility for or jurisdiction over the provision of mental health services.

(H) Coordination between the Department of Defense and civilian communities, including local support organizations, with respect to mental health services.

(I) The scope and efficacy of curricula and training on mental health matters for commanders in the Armed Forces.

(J) Such other matters as the task force considers appropriate.

(d) Administrative Matters.—

(1) Compensation.—Each member of the task force who is a member of the Armed Forces or a civilian officer or employee of the United States shall serve without compensation (other than compensation to which entitled as a member of the Armed Forces or an officer or employee of the United States, as the case may be). Other members of the task force shall be treated for purposes of section 3161 of title 5, United States Code, as having been appointed under subsection (b) of such section.

(2) Oversight.—The Under Secretary of Defense for Personnel and Readiness shall oversee the activities of the task force.

(3) Administrative support.—The Washington Headquarters Services of the Department of Defense shall provide the task force with personnel, facilities, and other administrative support as necessary for the performance of the duties of the task force.

(4) Access to facilities.—The Under Secretary of Defense for Personnel and Readiness shall, in coordination with the Secretaries of the military departments, ensure appropriate access by the task force to military installations and facilities for purposes of the discharge of the duties of the task force.

(e) Report.—

(1) In general.—The task force shall submit to the Secretary of Defense a report on its activities under this section. The report shall include—

(A) a description of the activities of the task force;

(B) the plan required by subsection (c); and

(C) such other mattes relating to the activities of the task force that the task force considers appropriate.

(2) Transmittal to congress.—Not later than 90 days after receipt of the report under paragraph (1), the Secretary shall transmit the report to the Committees on Armed Services and Veterans' Affairs of the Senate and the House of Representatives. The Secretary may include in the transmittal such comments on the report as the Secretary considers appropriate.

(f) Termination.—The task force shall terminate 90 days after the date on which the report of the task force is submitted to Congress under subsection (e)(2).

AMENDMENT NO. 1526, AS MODIFIED

(Purpose: To express the sense of the Senate on the need for community impact assistance related to the construction by the Navy of an outlying land field in North Carolina)

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. SENSE OF THE SENATE REGARDING COMMUNITY IMPACT ASSISTANCE RELATED TO CONSTRUCTION OF NAVY LANDING FIELD, NORTH CAROLINA.

It is the sense of the Senate that—

(1) the planned construction of an outlying landing field in North Carolina is vital to the national security interests of the United States; and

(2) the Department of Defense should work with other Federal agencies to provide community impact assistance to those communities directly impacted by the location of the outlying landing field, including—

(A) economic development assistance;

(B) impact aid program assistance if required;

(C) the provision by cooperative agreement with the Navy of fire, rescue, water, and sewer services;

(D) access by leasing arrangement to appropriate land for farming for farmers impacted by the location of the landing field;

(E) direct relocation assistance; and

(F) fair compensation to landowners for property purchased by the Navy.

AMENDMENT NO. 1548, AS MODIFIED

(Purpose: To increase, with an offset, amounts available for the procurement of Predator unmanned aerial vehicles)

On page 305, strike line 2 and all that follows through line 6, and insert the following:

(a) IN GENERAL.—Funds are hereby authorized to be appropriated for fiscal year 2006 for the procurement accounts for the Air Force in the amounts as follows:

(1) For aircraft, $323,200,000.

(2) For other procurement, $51,900,000.

(b) AVAILABILITY OF CERTAIN AMOUNTS.—Of the amounts authorized to be appropriated by subsection (a)(1), $218,500,000 may be available for purposes as follows:

(1) Procurement of Predator MQ-1 air vehicles, initial spares, and RSP kits.

(2) Procurement of Containerized Dual Control Station Launch and Recovery Elements.

(3) Procurement of a Fixed Ground Control Station.

(4) Procurement of other upgrades to Predator MQ-1 Ground Control Stations, spares, and signals intelligence packages.

SEC. 1405A. REDUCTION IN AUTHORIZATION OF APPROPRIATIONS FOR IRAQ FREEDOM FUND.

The amount authorized to be appropriated for fiscal year 2006 for the Iraq Freedom Fund is the amount specified by section 1409(a) of this Act, reduced by $218,500,000.

AMENDMENT NO. 1555, AS MODIFIED

(Purpose: To regulate management contracts, require an Analysis of Alternatives for major acquisitions of the Department of Defense and impose additional limitations on certain leases and charters)

At the end of subtitle A of title VIII, add the following:

SEC. 807. MODIFICATION OF REQUIREMENTS APPLICABLE TO CONTRACTS AUTHORIZED BY LAW FOR CERTAIN MILITARY MATERIEL.

(a) INCLUSION OF COMBAT VEHICLES UNDER REQUIREMENTS.—Section 2401 of title 10, United States Code, is amended—

(1) by striking "vessel or aircraft" each place it appears and inserting "vessel, aircraft, or combat vehicle";

(2) in subsection (c), by striking "aircraft or naval vessel" each place it appears and inserting "aircraft, naval vessel, or combat vehicle";

(3) in subsection (e), by striking "aircraft or naval vessels" each place it appears and inserting "aircraft, naval vessels, or combat vehicle"; and

(4) in subsection (f)—

(A) by striking "aircraft and naval vessels" and inserting "aircraft, naval vessels, and combat vehicle"; and

(B) by striking "such aircraft and vessels" and inserting "such aircraft, vessels, and combat vehicle".

(b) ADDITIONAL INFORMATION FOR CONGRESS.—Subsection (b) of such section is amended—

(1) in paragraph (1)—

(A) in subparagraph (B), by striking "and" at the end;

(B) in subparagraph (C), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following new subparagraph:

"(D) the Secretary has certified to those committees—

"(i) that entering into the proposed contract as a means of obtaining the vessel, aircraft, or combat vehicle is the most cost-effective means of obtaining such vessel, aircraft, or combat vehicle; and

"(ii) that the Secretary has determined that the lease complies with all applicable laws, Office of Management and Budget circulars, and Department of Defense regulations."; and

(2) by adding at the end the following new paragraphs:

"(3) Upon receipt of a notice under paragraph (1)(C), a committee identified in paragraph (1)(B) may request the Inspector General of the Department of Defense or the Comptroller General of the United States to conduct a review of the proposed contract to determine whether or not such contract meets the requirements of this section.

"(4) If a review is requested under paragraph (3), the Inspector General of the Department of Defense or the Comptroller General of the United States, as the case may be, shall submit to the Secretary and the congressional defense committees a report on such review before the expiration of the period specified in paragraph (1)(C).".

(c) APPLICABILITY OF ACQUISITION REGULATIONS.—Such section is further amended—

(1) by redesignating subsection (f) as subsection (g); and

(2) by inserting after subsection (e) the following new subsection (f):

"(f)(1) If a lease or charter covered by this section is a capital lease or a lease-purchase—

"(A) the lease or charter shall be treated as an acquisition and shall be subject to all applicable statutory and regulatory requirements for the acquisition of aircraft, naval vessels, or combat vehicles; and

"(B) funds appropriated to the Department of Defense for operation and maintenance may not be obligated or expended for the lease or charter.

"(2) In this subsection, the terms 'capital lease' and 'lease-purchase' have the meanings given those terms in Appendix B to Office of Management and Budget Circular A-11, as in effect on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006.".

(d) CONFORMING AND CLERICAL AMENDMENTS.—

(1) The heading of such section is amended to read as follows:

"§ 2401. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles".

(2) The table of sections at the beginning of chapter 141 of such title is amended by striking the item relating to section 2401 and inserting the following new item:

"Sec. 2401. Requirement for authorization by law of certain contracts relating to vessels, aircraft, and combat vehicles.".

SEC. 808. REQUIREMENT FOR ANALYSIS OF ALTERNATIVES FOR MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) REQUIREMENT.—

(1) IN GENERAL.—Chapter 144 of title 10, United States Code, is amended by inserting after section 2431 the following new section:

"§ 2431a. Major defense acquisition programs: requirement for analysis of alternatives

"(a) No major defense acquisition program may be commenced before the completion of an analysis of alternatives with respect to such program.

"(b) For the purposes of this section, a major defense acquisition program is commenced when the milestone decision authority approves entry of the program into the first phase of the acquisition process applicable to the program.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 144 of such title is amended by inserting after the item relating to section 2431 the following new item:

"2431a. Major defense acquisition programs: requirement for analysis of alternatives.".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to major defense acquisition programs commenced on or after that date.

SEC. 809. REPORT ON USE OF LEAD SYSTEM INTEGRATORS IN THE ACQUISITION OF MAJOR SYSTEMS.

(a) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the use of lead system integrators for the acquisition by the Department of Defense of major systems.

(b) CONTENTS.—The report required by subsection (a) shall include a detailed description of the actions taken, or to be taken (including a specific timetable), and the current regulations and guidelines regarding—

(1) the definition of the respective rights of the Department of Defense, lead system integrators, and other contractors that participate in the development or production of any individual element of the major weapon system (including subcontractors under lead system integrators) in intellectual property that is developed by the other participating contractors in a manner that ensures that—

(A) the Department of Defense obtains appropriate rights in technical data developed by the other participating contractors in accordance with the requirements of section 2320 of title 10, United States Code; and

(B) lead system integrators obtain access to technical data developed by the other participating contractors only to the extent necessary to execute their contractual obligations as lead systems integrators;

(2) the prevention or mitigation of organizational conflicts of interest on the part of lead system integrators;

(3) the prevention of the performance by lead system integrators of functions closely associated with inherently governmental functions;

(4) the appropriate use of competitive procedures in the award of subcontracts by lead system integrators with system responsibility;

(5) the prevention of organizational conflicts of interest arising out of any financial interest of lead system integrators without system responsibility in the development or production of individual elements of a major weapon system; and

(6) the prevention of pass-through charges by lead system integrators with system responsibility on systems or subsystems developed or produced under subcontracts where

such lead system integrators do not provide significant value added with regard to such systems or subsystems.

(c) Definitions.—In this section:

(1) The term "lead system integrator" includes lead system integrators with system responsibility and lead system integrators without system responsibility.

(2) The term "lead system integrator with system responsibility" means a prime contractor for the development or production of a major system if the prime contractor is not expected at the time of award, as determined by the Secretary of Defense for purposes of this section, to perform a substantial portion of the work on the system and the major subsystems.

(3) The term "lead system integrator without system responsibility" means a contractor under a contract for the procurement of services whose primary purpose is to perform acquisition functions closely associated with inherently governmental functions with regard to the development or production of a major system.

(4) The term "major system" has the meaning given such term in section 2302d of title 10, United States Code.

(5) The term "pass-through charge" means a charge for overhead or profit on work performed by a lower-tier contractor (other than charges for the direct costs of managing lower-tier contracts and overhead and profit based on such direct costs) that does not, as determined by the Secretary for purposes of this section, promote significant value added with regard to such work.

(6) The term "functions closely associated with inherently governmental functions" has the meaning given such term in section 2383(b)(3) of title 10, United States Code.

AMENDMENT NO. 1563, AS MODIFIED

(Purpose: To authorize the Secretary of the Navy to lease United States Navy Museum facilities at Washington Naval Yard, District of Columbia, to the Naval Historical Foundation)

On page 357, strike line 20 and insert the following:

PART II—NAVY CONVEYANCES

SEC. 2851. LEASE OF UNITED STATES NAVY MUSEUM FACILITIES AT WASHINGTON NAVY YARD, DISTRICT OF COLUMBIA.

(a) Lease or License Authorized.—

(1) In General.—The Secretary of the Navy may lease or license to the Naval Historical Foundation (in this section referred to as the "Foundation") facilities located at Washington Navy Yard, Washington, District of Columbia, that house the United States Navy Museum (in this section referred to as the "Museum") for the purpose of carrying out the following activities:

(A) Generation of revenue for the Museum through the rental of facilities to the public, commercial and non-profit entities, State and local governments, and other Federal agencies.

(B) Administrative activities in support of the Museum.

(2) Limitation.—Any activities carried out at the facilities leased or licensed under paragraph (1) must be consistent with the operations of the Museum.

(b) Consideration.—The amount of consideration paid in a year by the Foundation to the United States for the lease or license of facilities under subsection (a) may not exceed the actual cost, as determined by the Secretary, of the annual operation and maintenance of the facilities.

(c) Use of Proceeds.—

(1) Deposit of Proceeds.—The Secretary shall deposit any amounts received under subsection (b) for the lease or license of facilities under subsection (a) into the account for appropriations available for the operation and maintenance of the Museum.

(2) Availability of Amounts.—The Secretary may use any amounts deposited under paragraph (1) to cover the costs associated with the operation and maintenance of the Museum and its exhibits.

(d) Additional Terms and Conditions.—The Secretary may require such additional terms and conditions in connection with the lease or lease of facilities under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART III—AIR FORCE CONVEYANCES

AMENDMENT NO. 1568, AS MODIFIED

(Purpose: To require quarterly reports on audits of task or delivery order contracts and other contracts related to security and reconstruction activities in Iraq and Afghanistan and to address irregularities identified in such reports)

At the end of subtitle C of title VIII, add the following:

SEC. 824. REPORTS ON CERTAIN DEFENSE CONTRACTS IN IRAQ AND AFGHANISTAN.

(a) Quarterly Reports.—

(1) In General.—Not later than 90 days after the date of the enactment of this Act, and every 90 days thereafter, the Secretary of Defense shall submit to the appropriate committees of Congress a report that lists and describes each task or delivery order contract or other contract related to security and reconstruction activities in Iraq and Afghanistan in which an audit conducted by an investigative or audit component of the Department of Defense during the 90-day period ending on the date of such report resulted in a finding described in subsection (b).

(2) Coverage of Subcontracts.—For purposes of this section, any reference to a contract shall be treated as a reference to such contract and to any subcontracts under such contract.

(b) Covered Finding.—A finding described in this subsection with respect to a task or delivery order contract or other contract described in subsection (a) is a finding by an investigative or audit component of the Department of Defense that the contract includes costs that are unsupported, questioned, or both.

(c) Report Information.—Each report under subsection (a) shall include, with respect to each task or delivery order contract or other contract covered by such report—

(1) a description of the costs determined to be unsupported, questioned, or both; and

(2) a statement of the amount of such unsupported or questioned costs and the percentage of the total value of such task or delivery order that such costs represent.

(d) Withholding of Payments.—In the event that any costs under a task or delivery order contract or other contract described in subsection (a) are determined by an investigative or audit component of the Department of Defense to be unsupported, questioned, or both, the appropriate Federal procurement personnel may withhold from amounts otherwise payable to the contractor under such contract a sum of up to 100 percent of the total amount of such costs.

(e) Release of Withheld Payments.—Upon a subsequent determination by the appropriate Federal procurement personnel, or investigative or audit component of the Department of Defense, that any unsupported or questioned costs for which an amount payable was withheld under subsection (d) has been determined to be allowable, or upon a settlement negotiated by the appropriate Federal procurement personnel, the appropriate Federal procurement personnel may release such amount for payment to the contractor concerned.

(f) Inclusion of Information on Withholding and Release in Quarterly Reports.—Each report under subsection (a) after the initial report under that subsection shall include the following:

(1) A description of each action taken under subsection (d) or (e) during the period covered by such report.

(2) A justification of each determination or negotiated settlement under subsection (d) or (e) that appropriately explains the determination of the applicable Federal procurement personnel in terms of reasonableness, allocability, or other factors affecting the acceptability of the costs concerned.

(g) Definitions.—In this section:

(1) The term "appropriate committees of Congress" means—

(A) the Committees on Appropriations, Armed Services, and Homeland Security and Governmental Affairs of the Senate; and

(B) the Committees on Appropriations, Armed Services, and Government Reform of the House of Representatives.

(2) The term "investigative or audit component of the Department of Defense" means any of the following:

(A) The Office of the Inspector General of the Department of Defense.

(B) The Defense Contract Audit Agency.

(C) The Defense Contract Management Agency.

(D) The Army Audit Agency.

(E) The Naval Audit Service.

(F) The Air Force Audit Agency.

(3) The term "questioned", with respect to a cost, means an unreasonable, unallocable, or unallowable cost.

AMENDMENT NO. 1574, AS MODIFIED

(Purpose: To require a report on the development of a second domestic source for tire production and supply for the Stryker combat vehicle)

At the end of subtitle B of title I, add the following:

SEC. 114. SECOND SOURCE FOR PRODUCTION AND SUPPLY OF TIRES FOR THE STRYKER COMBAT VEHICLE.

(a) Requirement.—The Secretary of the Army shall conduct a study of the feasibility and costs and benefits for the participation of a second source for the production and supply of tires for the Stryker combat vehicle, to be procured by the Army with funds authorized to be appropriated in this act.

(c) Report.—Not later than 90 days after the date of the enactment of the Act. The Secretary shall submit to the congressional defense committees a report on the results of the study under subsection (a). The report shall include—

(1) an analysis of the capacity of the industrial base in the United States to meet requirements for a second source for the production and supply of tires for the Stryker combat vehicle; and

(2) to the extent that the capacity of the industrial base in the United States is not adequate to meet such requirements, recommendations on means, over the short-term and the long-term, to address that inadequacy.

AMENDMENT NO. 1578, AS MODIFIED

(Purpose: To require reports on significant increases in program acquisition unit costs or procurement unit costs of major defense acquisition programs)

At the end of subtitle A of title VIII, add the following:

SEC. 807. REPORTS ON SIGNIFICANT INCREASES IN PROGRAM ACQUISITION UNIT COSTS OR PROCUREMENT UNIT COSTS OF MAJOR DEFENSE ACQUISITION PROGRAMS.

(a) INITIAL REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the acquisition status of each major defense acquisition program whose program acquisition unit cost or procurement unit cost, as of the date of the enactment of this Act, has exceeded by more than 50 percent the original baseline projection for such unit cost. The report shall include the information specified in subsection (c).

(c) INFORMATION.—The information specified in this subsection with respect to a major defense acquisition program is the following:

(1) An assessment of the costs to be incurred to complete the program if the program is not modified.

(2) An explanation of why the costs of the program have increased.

(3) A justification for the continuation of the program notwithstanding the increase in costs.

(d) MAJOR DEFENSE ACQUISITION PROGRAM DEFINED.—In this section, the term "major defense acquisition program" has the meaning given that term in section 2430 of title 10, United States Code.

AMENDMENT NO. 2446

(Purpose: To require a report on the Department of Defense response to the findings and recommendations of the Defense Science Board Task Force on High Performance Microchip Supply)

At the end of subtitle D of title X, add the following:

SEC. 1044. REPORT ON DEPARTMENT OF DEFENSE RESPONSE TO FINDINGS AND RECOMMENDATIONS OF DEFENSE SCIENCE BOARD TASK FORCE ON HIGH PERFORMANCE MICROCHIP SUPPLY.

(a) REPORT REQUIRED.—Not later than March 15, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of the recommendations of the Defense Science Board Task Force on High Performance Microchip Supply.

(b) CONTENTS.—The report required by subsection (a) shall include the following:

(1) An analysis of each finding of the Task Force.

(2) A detailed description of the response of the Department of Defense to each recommendation of the Task Force, including—

(A) for each recommendation that is being implemented or that the Secretary plans to implement—

(i) a summary of actions that have been taken to implement the recommendation; and

(ii) a schedule, with specific milestones, for completing the implementation of the recommendation; and

(B) For each recommendation that the Secretary does not plan to implement—

(i) the reasons for the decision not to implement the recommendation; and

(ii) a summary of alternative actions the Secretary plans to take to address the purposes underlying the recommendation.

(3) A summary of any additional actions the Secretary plan to take to address concerns raised by the Task Force.

(c) CONSULTATION.—To the extent practicable, the Secretary may consult with other departments and agencies of the Federal Government, institutions of higher education and other academic organizations, and industry in the development of the report required by subsection (a).

AMENDMENT NO. 2447

(Purpose: To express the sense of the Senate regarding the investment of funds as called for in the Depot Maintenance Strategy and Master Plan of the Air Force)

On page 66, after line 22, insert the following:

SEC. 330. SENSE OF THE SENATE REGARDING DEPOT MAINTENANCE.

(a) FINDINGS.—The Senate finds that—

(1) the Depot Maintenance Strategy and Master Plan of the Air Force reflects the essential requirements for the Air Force to maintain a ready and controlled source of organic technical competence, thereby ensuring an effective and timely response to national defense contingencies and emergency requirements;

(2) since the publication of the Depot Maintenance Strategy and Master Plan of the Air Force in 2002, the service has made great progress toward modernizing all 3 of its Depots, in order to maintain their status as "world class" maintenance repair and overhaul operations;

(3) one of the indispensable components of the Depot Maintenance Strategy and Master Plan of the Air Force is the commitment of the Air Force to allocate $150,000,000 a year over 6 years, beginning in fiscal year 2004, for recapitalization and investment, including the procurement of technologically advanced facilities and equipment, of our Nation's 3 Air Force depots; and

(4) the funds expended to date have ensured that transformation projects, such as the initial implementation of "Lean" and "Six Sigma" production techniques, have achieved great success in reducing the time necessary to perform depot maintenance on aircraft.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Air Force should be commended for the implementation of its Depot Maintenance Strategy and Master Plan and, in particular, meeting its commitment to invest $150,000,000 a year over 6 years, since fiscal year 2004, in the Nation's 3 Air Force Depots; and

(2) the Air Force should continue to fully fund its commitment of $150,000,000 a year through fiscal year 2009 in investments and recapitalization projects pursuant to the Depot Maintenance Strategy and Master Plan.

AMENDMENT NO. 2448

(Purpose: To state the policy of the United States on the intercontinental ballistic missile force)

At the end of subtitle G of title X, add the following:

SEC. 1073. POLICY OF THE UNITED STATES ON THE INTERCONTINENTAL BALLISTIC MISSILE FORCE.

(a) FINDINGS.—Congress makes the following findings:

(1) Consistent with warhead levels agreed to in the Moscow Treaty, the United States is modifying the capacity of the Minuteman III intercontinental ballistic missile (ICBM) from its prior capability to carry up to 3 independent reentry vehicles (RVs) to carry as few as a single reentry vehicle, a process known as downloading.

(2) A series of Department of Defense studies of United States strategic forces, including the 2001 Nuclear Posture Review, has confirmed the continued need for 500 intercontinental ballistic missiles.

(3) In a potential nuclear crisis it is important that the nuclear weapons systems of the United States be configured so as to discourage other nations from making a first strike.

(4) The intercontinental ballistic missile force is currently being considered as part of the deliberations of the Department of Defense for the Quadrennial Defense Review.

(b) STATEMENT OF UNITED STATES POLICY.—It is the policy of the United States to continue to deploy a force of 500 intercontinental ballistic missiles, provided that unanticipated strategic developments may compel the United States to make changes to this force structure in the future.

(c) MOSCOW TREATY DEFINED.—In this section, the term "Moscow Treaty" means the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, done at Moscow on May 24, 2002.

AMENDMENT NO. 2449

(Purpose: To require a study on the use of the Space Radar for topographic mapping for scientific and civil purposes)

At the end of subtitle D of title X, add the following:

SEC. 1044. REPORT ON USE OF SPACE RADAR FOR TOPOGRAPHICAL MAPPING FOR SCIENTIFIC AND CIVIL PURPOSES.

(a) IN GENERAL.—Not later than January 15, 2006, the Secretary of Defense shall submit to the congressional defense committees on report on the feasability and advisability of utilizing the Space Radar for purposes of providing coastal zone and other topographical mapping information, and related information, to the scientific community and other elements of the private sector for scientific and civil purposes.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description and evaluation of any uses of the Space Radar for scientific or civil purposes that are identified by the Secretary for purposes of the report.

(2) A description and evaluation of any additions or modifications to the Space Radar identified by the Secretary for purposes of the report that would increase the utility of the Space Radar to the scientific community or other elements of the private sector for scientific or civil purposes, including the utilization of additional frequencies, the development or enhancement of ground systems, and the enhancement of operations.

(3) A description of the costs of any additions or modifications identified pursuant to paragraph (2).

(4) A description and evaluation of processes to be utilized to determine the means of modifying the Space Radar in order to meet the needs of the scientific community or other elements of the private sector with respect to the use of the Space Radar for scientific or civil purposes, and a proposal for meeting the costs of such modifications.

(5) A description and evaluation of the impacts, if any, on the primary missions of the Space Radar, and on the development of the Space Radar, of the use of the Space Radar for scientific or civil purposes.

(6) A description of the process for developing requirements for the Space Radar, including the involvement of the Civil Applications Committee.

AMENDMENT NO. 2150

(Purpose: To amend the assistance to local educational agencies with significant enrollment changes in military dependent students due to force structure changes, troop relocations, creation of new units, and realignment under BRAC)

In the section heading of section 582, insert "**OR DECREASES**" after "**INCREASES**".

In section 582(a), insert "or decrease" after "overall increase".

In the matter preceding subparagraph (A) of section 582(b)(2), insert "or decrease" after "overall increase".

In section 582(b)(2)(B), strike "; or" and insert a semicolon.

In section 582(b)(2)(C), strike the period at the end and insert "; or".

In section 528(b)(2), add at the end the following:

(D) a change in the number of housing units on a military installation.

In section 582(d)(1), insert "or decrease" after "overall increase".

AMENDMENT NO. 2151

(Purpose: To authorize pilot projects to encourage pediatric early literacy among children of members of the Armed Forces)

At the end of subtitle G of title V, add the following:

SEC. 585. PILOT PROJECTS ON PEDIATRIC EARLY LITERACY AMONG CHILDREN OF MEMBERS OF THE ARMED FORCES.

(a) PILOT PROJECTS AUTHORIZED.—The Secretary of Defense may conduct pilot projects to assess the feasibility, advisability, and utility of encouraging pediatric literacy among the children of members of the Armed Forces utilizing the Reach Out and Read model of pediatric early literacy.

(b) LOCATIONS.—

(1) IN GENERAL.—The pilot projects conducted under subsection (a) shall be conducted at not more than 20 military medical treatment facilities designated by the Secretary for purposes of this section.

(2) CO-LOCATION WITH CERTAIN INSTALLATIONS.—In designating military medical treatment facilities under paragraph (1), the Secretary shall, to the extent practicable, designate facilities that are located on, or co-located with, military installations at which the mobilization or demobilization of members of the Armed Forces occurs.

(c) ACTIVITIES.—Activities under the pilot projects conducted under subsection (a) shall include activities in accordance with the Reach Out and Read model of pediatric early literacy as follows:

(1) The provision of training to health care providers and other appropriate personnel on early literacy promotion.

(2) The purchase and distribution of children's books to members of the Armed Forces, their spouses, and their children.

(3) The modification of treatment facility and clinic waiting rooms to include a full selection of literature for children.

(4) The dissemination to members of the Armed Forces and their spouses of parent education materials on pediatric early literacy.

(5) Such other activities as the Secretary considers appropriate.

(d) CONSULTATION.—The Secretary shall consult with the Reach Out and Read National Center in the development and implementation of the pilot projects conducted under this section, including in the designation of locations of the pilot projects under subsection (b).

(e) REPORT.—

(1) IN GENERAL.—Not later than March 1, 2007, the Secretary shall submit to the congressional defense committees a report on the pilot projects conducted under this section.

(2) ELEMENTS.—The report under paragraph (1) shall include—

(A) a description of the pilot projects conducted under this section, including the location of each pilot project and the activities conducted under each pilot project; and

(B) an assessment of the feasibility, advisability, and utility of encouraging pediatric early literacy among the children of members of the Armed Forces utilizing the Reach Out and Read model of pediatric early literacy.

(f) FUNDING.—

(1) IN GENERAL.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance for Defense-wide activities, up to $2,000,000 may be available for the pilot projects authorized by this section.

(2) AVAILABILITY.—The amount available under paragraph (1) shall remain available until expended.

AMENDMENT NO. 2152

(Purpose: To require the Secretary of Defense to establish a uniform policy for the Armed Forces on parental leave and similar leave)

At the end of subtitle F of title V, add the following:

SEC. 573. UNIFORM POLICY ON PARENTAL LEAVE AND SIMILAR LEAVE.

(a) POLICY REQUIRED.—The Secretary of Defense shall prescribe in regulations a uniform policy for the taking by members of the Armed Forces of parental leave to cover leave to be used in connection with births or adoptions, as the Secretary shall designate under the policy.

(b) UNIFORMITY ACROSS ARMED FORCES.—The policy prescribed under subsection (a) shall apply uniformly across the Armed Forces.

AMENDMENT NO. 2153

(Purpose: To make available $80,000,000 for coproduction of the Arrow ballistic missile defense system)

At the end of subtitle C of title II, add the following:

SEC. 224. ARROW BALLISTIC MISSILE DEFENSE SYSTEM.

Of the amount authorized to be appropriated by section 201(5) for research, development, test, and evaluation for Defense-wide activities and available for ballistic missile defense, $80,000,000 may be available for coproduction of the Arrow ballistic missile defense system.

AMENDMENT NO. 2154

(Purpose: Relating to the acquisition strategy of the Department of Defense for commercial satellite communication services)

At the end of subtitle A of title VIII, add the following:

SEC. 807. ACQUISITION STRATEGY FOR COMMERCIAL SATELLITE COMMUNICATION SERVICES.

(a) REQUIREMENT FOR SPEND ANALYSIS.—The Secretary of Defense shall, as a part of the effort of the Department of Defense to develop a revised strategy for acquiring commercial satellite communication services, perform a complete spend analysis of the past and current acquisitions by the Department of commercial satellite communication services

(b) REPORT ON ACQUISITION STRATEGY.—

(1) IN GENERAL.—Not later than six months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the acquisition strategy of the Department of Defense for commercial satellite communications services.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) A description of the spend analysis required by subsection (a), including the results of the analysis.

(B) The proposed strategy of the Department for acquiring commercial satellite communication services, which strategy shall—

(i) be based in appropriate part on the results of the analysis required by subsection (a); and

(ii) take into account various methods of aggregating purchases and leveraging the purchasing power of the Department, including through the use of multiyear contracting for commercial satellite communication services.

(C) A proposal for such legislative action as the Secretary considers necessary to acquire appropriate types and amounts of commercial satellite communications services using methods of aggregating purchases and leveraging the purchasing power of the Department (including the use of multiyear contracting), or if the use of such methods is determined inadvisable, a statement of the rationale for such determination.

(D) A proposal for such other legislative action that the Secretary considers necessary to implement the strategy of the Department for acquiring commercial satellite communication services.

AMENDMENT NO. 2155

(Purpose: To require a report on nonstrategic nuclear weapons)

On page 296, after line 19, add the following:

SEC. 1205. REPORT ON NONSTRATEGIC NUCLEAR WEAPONS.

(a) REVIEW.—No later than six months after date of enactment, the Secretary of Defense shall, in consultation with the Secretary of State, conduct a review of United States and Russian nonstrategic nuclear weapons and determine whether it is in the national security interest of the United States—

(1) to reduce the number of United States and Russian nonstrategic nuclear weapons;

(2) to improve the security of United States and Russian nonstrategic nuclear weapons in storage storage and during transport;

(3) to identify and develop mechanisms and procedures to implement transparent reductions in nonstrategic nuclear weapons; and

(4) to identify and develop mechanisms and procedures to implement the transparent dismantlement of excess nonstrategic nuclear weapons.

(b) REPORT.—

(1) IN GENERAL.—The Secretary of Defense shall, in consultation with the Secretary of State and the Secretary of Energy, submit a joint report ton the results of the review required under subsection (a). The report shall include a plan to implement, not later than October 1, 2006, actions determined to be in the United States national security interest.

(2) FORM.—The report require under paragraph (1) shall be submitted in unclassified form, but may include an unclassified annex.

AMENDMENT NO. 2156

At the end of subtitle B of title VII, add the following:

SEC. 718. MENTAL HEALTH COUNSELORS UNDER TRICARE.

(a) IN GENERAL.—Section 1079(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(17) Services of mental health counselors, except that—

"(A) such services are limited to services provided by counselors who are licensed under applicable State law to provide mental health services;

"(B) such services may be provided independently of medical oversight and supervision only in areas identified by the Secretary as 'medically underserved areas' where the Secretary determines that 25 percent or more of the residents are located in primary shortage areas designated pursuant to section 332 of the Public Health Services Act (42 U.S.C. 254e); and

"(C) the provision of such services shall be consistent with such rules as may be prescribed by the Secretary of Defense, including criteria applicable to credentialing or certification of mental health counselors and a requirement that mental health counselors accept payment under this section as full payment for all services provided pursuant to this paragraph.".

(b) AUTHORITY TO ENTER INTO PERSONAL SERVICES CONTRACTS.—Section 704(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2799; 10 U.S.C. 1091 note) is amended by inserting "mental health counselors," after "psychologists,".

AMENDMENT NO. 2457

(Purpose: To clarify certain authorities relating the Commission on the National Guard and Reserves)

At the end of subtitle H of title V, add the following:

SEC. ___. CLARIFICATION OF CERTAIN AUTHORITIES RELATING TO THE COMMISSION ON THE NATIONAL GUARD AND RESERVES.

(a) NATURE OF COMMISSION.—Subsection (a) of section 513 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1880) is amended by inserting "in the legislative branch" after "There is established".

(b) PAY OF MEMBERS.—Subsection (e)(1) of such section is amended striking "except that" and all that follows through the end and inserting "except that—

"(A) in applying the first sentence of subsection (a) of section 957 of such Act to the Commission, 'may' shall be substituted for 'shall'; and

"(B) in applying subsections (a), (c)(2), and (e) of section 957 of such Act to the Commission, 'level IV of the Executive Schedule' shall be substituted for 'level V of the Executive Schedule'.".

(c) TECHNICAL AMENDMENT.—Subsection (c)(2)(C) of such section is amended by striking "section 404(a)(4)" and inserting "section 416(a)(4)".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on October 28, 2004, as if included in the enactment of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005.

AMENDMENT NO. 2458

(Purpose: To enhance various authorities to assist the recruitment efforts of the Armed Forces)

On page 144, strike lines 1 through 3 and insert the following:

SEC. 619. RETENTION INCENTIVE AND ASSIGNMENT BONUS FOR MEMBERS OF THE SELECTED RESERVE QUALIFIED IN A CRITICAL MILITARY SKILL OR WHO VOLUNTEER FOR ASSIGNMENT TO A HIGH PRIORITY UNIT.

On page 144, in the amendment made by section 619, strike line 8 and all that follows through page 145, line 12, and insert the following:

"§ 308k. Special pay: retention incentive bonus for members of the Selected Reserve qualified in a critical military skill; assignment bonus for members of the Selected Reserve who volunteer for assignment to a high priority unit

"(a) BONUSES AUTHORIZED.—(1) An eligible officer or enlisted member of the armed forces may be paid a retention bonus as provided in this section if—

"(A) in the case of an officer or warrant officer, the member executes a written agreement to remain in the Selected Reserve for at least 2 years;

"(B) in the case of an enlisted member, the member reenlists or voluntarily extends the member's enlistment in the Selected Reserve for a period of at least 2 years; or

"(C) in the case of an enlisted member serving on an indefinite reenlistment, the member executes a written agreement to remain in the Selected Reserve for at least 2 years.

"(2) An officer or enlisted member of the armed forces may be paid an assignment bonus as provided in this section if the member voluntarily agrees to an assignment to a high priority unit of the Selected Reserve of the Ready Reserve of an armed force for at least 2 years.

"(b) MEMBERS ELIGIBLE FOR RETENTION BONUS.—Subject to subsection (d), an officer or enlisted member is eligible under subsection (a)(1) for a retention bonus under this section if the member—

"(1) is qualified in a military skill or specialty designated as critical for purposes of this section under subsection (c); or

"(2) agrees to train or retrain in a military skill or specialty so designated as critical.

"(c) DESIGNATION OF CRITICAL SKILLS OR SPECIALTIES AND HIGH PRIORITY UNITS.—The Secretary concerned shall—

"(1) designate the military skills and specialties that shall be treated as critical military skills and specialties for purposes of this section; and

"(2) designate the units that shall be treated as high priority units for purposes of this section.

On page 148, strike the matter between lines 6 and 7 and insert the following:

"308k. Special pay: retention incentive bonus for members of the Selected Reserve qualified in a critical military skill: assignment bonus for members of the Selected Reserve who volunteer for assignment to a high priority unit.".

At the end of division A, add the following:

TITLE XV—RECRUITMENT AND RETENTION

SEC. 1501. SHORT TITLE.

This title may be cited as the "Military Recruiting Initiatives Act of 2005".

SEC. 1502. INCREASE IN MAXIMUM ENLISTMENT BONUS.

(a) ENLISTMENT BONUS FOR SELECTED RESERVE MEMBERS.—Section 308c(b) of title 37, United States Code, is amended by striking "$10,000" and inserting "$20,000".

(b) ENLISTMENT BONUS FOR ACTIVE MEMBERS.—Section 309(a) of title 37, United States Code, is amended by striking "$20,000" and inserting "$40,000".

SEC. 1503. TEMPORARY AUTHORITY TO PAY BONUS TO ENCOURAGE MEMBERS OF THE ARMY TO REFER OTHER PERSONS FOR ENLISTMENT IN THE ARMY.

(a) AUTHORITY TO PAY BONUS.—The Secretary of the Army may pay a bonus under this section to a member of the Army, whether in the regular component of the Army or in the Army National Guard or Army Reserve, who refers to an Army recruiter a person who has not previously served in an Armed Force and who, after such referral, enlists in the regular component of the Army or in the Army National Guard or Army Reserve.

(b) REFERRAL.—For purposes of this section, a referral for which a bonus may be paid under subsection (a) occurs—

(1) when a member of the Army contacts an Army recruiter on behalf of a person interested in enlisting in the Army; or

(2) when a person interested in enlisting in the Army contacts the Army recruiter and informs the recruiter of the role of the member in initially recruiting the person.

(c) CERTAIN REFERRALS INELIGIBLE.—

(1) REFERRAL OF IMMEDIATE FAMILY.—A member of the Army may not be paid a bonus under subsection (a) for the referral of an immediate family member.

(2) MEMBERS IN RECRUITING ROLES.—A member of the Army serving in a recruiting or retention assignment, or assigned to other duties regarding which eligibility for a bonus under subsection (a) could (as determined by the Secretary) be perceived as creating a conflict of interest, may not be paid a bonus under subsection (a).

(d) AMOUNT OF BONUS.—The amount of the bonus paid for a referral under subsection (a) may not exceed $1,000. The bonus shall be paid in a lump sum.

(e) TIME OF PAYMENT.—A bonus may not be paid under subsection (a) with respect to a person who enlists in the Army until the person completes basic training and individual advanced training.

(f) RELATION TO PROHIBITION ON BOUNTIES.—The referral bonus authorized by this section is not a bounty for purposes of section 514(a) of title 10, United States Code.

(g) LIMITATION ON INITIAL USE OF AUTHORITY.—During the first year in which bonuses are offered under this section, the Secretary of the Army may not pay more than 1,000 referral bonuses per component of the Army.

(h) DURATION OF AUTHORITY.—A bonus may not be paid under subsection (a) with respect to any referral that occurs after December 31, 2007.

SEC. 1504. INCREASE IN MAXIMUM AGE FOR ENLISTMENT.

Section 505(a) of title 10, United States Code, is amended by striking "thirty-five years of age" and inserting "forty-two years of age".

SEC. 1505. REPEAL OF PROHIBITION ON PRIOR SERVICE ENLISTMENT BONUS FOR RECEIPT OF OTHER ENLISTMENT OR REENLISTMENT BONUS FOR SERVICE IN THE SELECTED RESERVE.

Section 308i(a)(2) of title 37, United States Code, is amended by striking subparagraph (D).

SEC. 1506. INCREASE AND ENHANCEMENT OF AFFILIATION BONUS FOR OFFICERS OF THE SELECTED RESERVE.

(a) REPEAL OF PROHIBITION ON ELIGIBILITY FOR PRIOR RESERVE SERVICE.—Subsection (a)(2) of section 308j of title 37, United States Code, is amended—

(1) in subparagraph (A), by adding "and" at the end;

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) INCREASE IN MAXIMUM AMOUNT.—Subsection (d) of such section is amended by striking "$6,000" and inserting "$10,000".

SEC. 1507. ENHANCEMENT OF EDUCATIONAL LOAN REPAYMENT AUTHORITIES.

(a) ADDITIONAL LOANS ELIGIBLE FOR REPAYMENT.—Paragraph (1) of section 2171(a) of title 10, United States Code, is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) any loan incurred for educational purposes made by a lender that is—

"(i) an agency or instrumentality of a State;

"(ii) a financial or credit institution (including an insurance company) that is subject to examination and supervision by an agency of the United States or any State;

"(iii) a pension fund approved by the Secretary for purposes of this section; or

"(iv) a non-profit private entity designated by a State, regulated by such State, and approved by the Secretary for purposes of this section.".

(b) ELIGIBILITY OF OFFICERS.—Paragraph (2) of such section is amended by striking "an enlisted member in a military specialty" and inserting "a member in an officer program or military specialty".

SEC. 1508. REPORT ON RESERVE DENTAL INSURANCE PROGRAM.

(a) STUDY.—The Secretary of Defense shall conduct a study of the Reserve Dental Insurance program.

(b) ELEMENTS.—The study required by subsection (a) shall—

(1) identify the most effective mechanism or mechanisms for the payment of premiums under the Reserve Dental Insurance program for members of the reserve components of the Armed Forces and their dependents, including by deduction from reserve pay, by direct collection, or by other means (including appropriate mechanisms from other military benefits programs), to ensure uninterrupted availability of premium payments regardless of whether members are performing active duty with pay or inactive-duty training with pay;

(2) include such matters relating to the Reserve Dental Insurance program as the Secretary considers appropriate; and

(3) assess the effectiveness of mechanisms for informing the members of the reserve components of the Armed Forces of the availability of, and benefits under, the Reserve Dental Insurance program.

(c) REPORT.—Not later than February 1, 2007, the Secretary shall submit to the congressional defense committees a report on the study required by subsection (a). The report shall include the findings of the study and such recommendations for legislative or administrative action regarding the Reserve Dental Insurance program as the Secretary considers appropriate in light of the study.

(d) RESERVE DENTAL INSURANCE PROGRAM DEFINED.—In this section, the term "Reserve Dental Insurance program" includes—

(1) the dental insurance plan required under paragraph (1) of section 1076a(a) of title 10, United States Code; and

(2) any dental insurance plan established under paragraph (2) or (4) of section 1076a(a) of title 10, United States Code.

AMENDMENT NO. 2459

(Purpose: To require guidelines on the use of tiered evaluations for offers for contracts and task orders under contracts)

At the end of subtitle A of title VIII, add the following:

SEC. 807. GUIDANCE ON USE OF TIERED EVALUATION OF OFFERS FOR CONTRACTS AND TASK ORDERS UNDER CONTRACTS.

(a) GUIDANCE REQUIRED.—The Secretary of Defense shall prescribe guidance for the military departments and the Defense Agencies on the use of tiered evaluations of offers or proposals of offerors for contracts and for task orders under contracts.

(b) ELEMENTS.—The guidance prescribed under subsection (a) shall include a prohibition on the initiation by a contracting officer of a tiered evaluation of an offer or proposal of an offeror for a contract or for a task or delivery order under a contract unless the contracting officer—

(1) has conducted market research in accordance with part 10 of the Federal Acquisition Regulation in order to determine whether or not a sufficient number of qualified small businesses are available to justify limiting competition for the award of such contract or task or delivery order under applicable law and regulations;

(2) is unable, after conducting market research under paragraph (1), to make the determination described in that paragraph; and

(3) includes in the contract file a written explanation why such contracting officer was unable to make such determination.

AMENDMENT NO. 2460

(Purpose: To provide for consumer education on insurance and other financial services for members of the Armed Forces and their spouses)

At the end of subtitle H of title V, add the following:

SEC. 596. CONSUMER EDUCATION FOR MEMBERS OF THE ARMED FORCES AND THEIR SPOUSES ON INSURANCE AND OTHER FINANCIAL SERVICES.

(a) EDUCATION AND COUNSELING REQUIREMENTS.—

(1) IN GENERAL.—Chapter 50 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 992. Consumer education: financial services

"(a) REQUIREMENT FOR CONSUMER EDUCATION PROGRAM FOR MEMBERS.—(1) The Secretary concerned shall carry out a program to provide comprehensive education to members of the armed forces under the jurisdiction of the Secretary on—

"(A) financial services that are available under law to members;

"(B) financial services that are routinely offered by private sector sources to members;

"(C) practices relating to the marketing of private sector financial services to members;

"(D) such other matters relating to financial services available to members, and the marketing of financial services to members, as the Secretary considers appropriate; and

"(E) such other financial practices as the Secretary considers appropriate.

"(2) Training under this subsection shall be provided to members as—

"(A) a component of members initial entry orientation training; and

"(B) a component of periodically recurring required training that is provided for the members at military installations.

"(3) The training provided at a military installation under paragraph (2)(B) shall include information on any financial services marketing practices that are particularly prevalent at that military installation and in the vicinity.

"(b) COUNSELING FOR MEMBERS AND SPOUSES.—(1) The Secretary concerned shall, upon request, provide counseling on financial services to each member of the armed forces, and such member's spouse, under the jurisdiction of the Secretary.

"(2)(A) In the case of a military installation at which at least 2,000 members of the armed forces on active duty are assigned, the Secretary concerned—

"(i) shall provide counseling on financial services under this subsection through a full-time financial services counselor at such installation; and

"(ii) may provide such counseling at such installation by any means elected by the Secretary from among the following:

"(I) Through members of the armed forces in grade E–7 or above, or civilians, who provide such counseling as part of their other duties for the armed forces or the Department of Defense.

"(II) By contract, including contract for services by telephone and by the Internet.

"(III) Through qualified representatives of nonprofit organizations and agencies under formal agreements with the Department of Defense to provide such counseling.

"(B) In the case of any military installation not described in subparagraph (A), the Secretary concerned shall provide counseling on financial services under this subsection at such installation by any of the means set forth in subparagraph (A)(ii), as elected by the Secretary concerned.

"(3) Each financial services counselor under paragraph (2)(A)(i), and any other individual providing counseling on financial services under paragraph (2), shall be an individual who, by reason of education, training, or experience, is qualified to provide helpful counseling to members of the armed forces and their spouses on financial services and marketing practices described in subsection (a)(1). Such individual may be a member of the armed forces or an employee of the Federal Government.

"(4) The Secretary concerned shall take such action as is necessary to ensure that each financial services counselor under paragraph (2)(A)(i), and any other individual providing counseling on financial services under paragraphs (2), is free from conflicts of interest relevant to the performance of duty under this section, and, in the performance of that duty, is dedicated to furnishing members of the armed forces and their spouses with helpful information and counseling on financial services and related marketing practices.

"(c) LIFE INSURANCE.—(1) In counseling a member of the armed forces, or spouse of a member of the armed forces, under this section regarding life insurance offered by a private sector source, a financial services counselor under subsection (b)(2)(A)(i), or another individual providing counseling on financial services under subsection (b)(2), shall furnish the member or spouse, as the case may be, with information on the availability of Servicemembers' Group Life Insurance under subchapter III of chapter 19 of title 38, including information on the amounts of coverage available and the procedures for electing coverage and the amount of coverage.

"(2)(A) A covered member of the armed forces may not authorize payment to be made for private sector life insurance by means of an allotment of pay to which the member is entitled under chapter 3 of title 37 unless the authorization of allotment is accompanied by a written certification by a commander of the member, a financial services counselor referred to in subsection (b)(2)(A)(i), or another individual providing counseling on financial services under subsection (b)(2), as applicable, that the member has received counseling under paragraph (1) regarding the purchase of coverage under that private sector life insurance.

"(B) Subject to subparagraph (C), a written certification described in subparagraph (A) may not be made with respect to a member's authorization of allotment as described in subparagraph (A) until seven days after the date of the member's authorization of allotment in order to facilitate the provision of counseling to the member under paragraph (1).

"(C) The commander of a member may waive the applicability of subparagraph (B) to a member for good cause, including the member's imminent change of station.

"(D) In this paragraph, the term 'covered member of the armed forces' means an active duty member of the armed forces in grades E–1 through E–4.

"(d) FINANCIAL SERVICES DEFINED.—In this section, the term 'financial services' includes the following:

"(1) Life insurance, casualty insurance, and other insurance.

"(2) Investments in securities or financial instruments.

"(3) Banking, credit, loans, deferred payment plans, and mortgages.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"992. Consumer education: financial services.".

(b) CONTINUING EFFECT OF EXISTING ALLOTMENTS FOR LIFE INSURANCE.—Paragraph (c)(2) of section 992 of title 10, United States Code (as added by subsection (a)), shall not affect any allotment of pay authorized by a member of the Armed Forces before the effective date of such section.

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act.

AMENDMENT NO. 2461

(Purpose: To authorize funding for a human resources benefit call center for the Navy)

On page 52, between lines 5 and 6, insert the following:

SEC. 304. NAVY HUMAN RESOURCES BENEFIT CALL CENTER.

Of the amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy, $1,500,000 may be available for civilian manpower and personnel for a human resources benefit call center.

AMENDMENT NO. 2462

(Purpose: To require a report on any proposed change to the acquisition strategy for a defense or joint business information system)

On page 213, between lines 2 and 3, insert the following:

SEC. 807. CONGRESSIONAL NOTIFICATION OF CANCELLATION OF MAJOR AUTOMATED INFORMATION SYSTEMS.

(a) REPORT REQUIRED.—The Secretary of Defense shall notify the congressional defense committees not less than 60 days before cancelling a major automated information system program that has been fielded or approved to be fielded, or making a change that will significantly reduce the scope of such a program, of the proposed cancellation or change.

(c) CONTENT.—Each notification submitted under subsection (a) with respect to the proposed cancellation or change shall include—

(1) the specific justification for the proposed change;

(2) a description of the impact of the proposed change on the Departments ability to achieve the objectives of the program that has been cancelled or changed;

(3) a description of the steps that the Department plans to take to achieve such objectives; and

(4) other information relevant to the change in acquisition strategy.

(e) DEFINITIONS.—In this section:

(1) The term "major automated information system" has the meaning given that term in Department of Defense Directive 5000.

(2) The term "approved to be fielded" means having received Milestone C approval.

AMENDMENT NO. 2463

(Purpose: To provide that, of the amount authorized to be appropriated to the Department of Army for military construction projects at Fort Gillem, Georgia, $4,550,000 is available for the construction of a military police complex at Fort Gordon, Georgia)

On page 310, in the table following line 16, strike "$8,450,000" in the amount column of the item relating to Fort Gillem, Georgia, and insert "$3,900,000".

On page 310, in the table following line 16, insert after the item relating to Fort Gillem, Georgia, the following:

	Fort Gordon	$4,550,000

AMENDMENT NO. 2464

(Purpose: To increase by $360,800,000 the amount of supplemental appropriations for Other Procurement, Army, for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan or for other Army priorities, and to provide an offset)

At the end of title XIV of division A, add the following:

SEC. 1411. TACTICAL WHEELED VEHICLES.

(a) ADDITIONAL AMOUNT FOR OTHER PROCUREMENT, ARMY.—The amount authorized to be appropriated by section 1403(a)(3) for other procurement for the Army is hereby increased by $360,800,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 1403(a)(3) for other procurement for the Army, as increased by subsection (a), $360,800,000 may be made available—

(1) for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan, including the procurement of armored Light Tactical Vehicles (LTVs), armored Medium Tactical Vehicles (MTVs), including Low Signature Armored Cabs for the family of MTVs, and armored Heavy Tactical Vehicles (HTVs); and

(2) to the extent the Secretary of the Army determines that such amount is not needed for the procurement of such armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan, for the procurement of such armored vehicles in accordance with other priorities of the Army.

(c) OFFSET.—The amount authorized to be appropriated by section 1409(a) for the Iraq Freedom Fund is hereby reduced by $360,800,000.

AMENDMENT NO. 2465

(Purpose: To make available, with an offset, $10,000,000 for the pilot projects on early diagnosis and treatment of Post Traumatic Stress Disorder and other mental health conditions)

At the end of section 732, add the following:

(d) FUNDING.—

(1) IN GENERAL.—(A) The amount authorized to be appropriated by section 303(a) for the Defense Health Program is hereby increased by $10,000,000.

(B) Of the amount authorized to be appropriated by section 303(a) for the Defense Health Program, as increased by subparagraph (A), $10,000,000 shall be available for pilot projects under this section.

(C) The amount available under subparagraph (B) shall remain available until expended.

(2) OFFSET.—The amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy is hereby decreased by $10,000,000.

AMENDMENT NO. 2466

(Purpose: To improve recruitment and retention in the Armed Forces)

On page 104, in the amendment made by section 571, strike line 24 and all that follows through page 105, line 3, and insert the following:

310(a) of title 37;

"(ii) is assigned to a deployable ship or mobile unit or to other duty designated for the purpose of this section; or

"(iii) on or after August 29, 2005, performs duty designated by the Secretary of Defense as qualifying duty for purposes of this subsection.".

At the end of title VI, add the following:

Subtitle F—Enhancement of Authorities for Recruitment and Retention

SEC. 671. INCREASE IN MAXIMUM RATE OF ASSIGNMENT INCENTIVE PAY.

(a) INCREASE IN MAXIMUM RATE.—Section 307a(c) of title 37, United States Code, is amended by striking "$1,500" and inserting "$3,000".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months beginning on or after that date.

SEC. 672. TEMPORARY INCREASE IN BASIC ALLOWANCE FOR HOUSING IN AREAS SUBJECT TO DECLARATION OF A MAJOR DISASTER.

(a) TEMPORARY INCREASE AUTHORIZED.—Section 403(b) of title 37, United States Code, is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5)(A) The Secretary of Defense may prescribe a temporary increase in rates of basic allowance for housing in a military housing area located in an area for which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

"(B) The amount of the increase under this paragraph in rates of basic allowance for housing in an area by reason of a disaster shall be based on a determination by the Secretary of the amount by which the costs of adequate housing for civilians have increased in the area by reason of the disaster.

"(C) The amount of any increase under this paragraph in a rate of basic allowance for housing may not exceed the amount equal to

20 percent of such rate of basic allowance for housing.

"(D) A member may be paid a basic allowance for housing at a rate increased under this paragraph by reason of a disaster only if the member certifies to the Secretary concerned that the member has incurred increased housing costs in the area concerned by reason of the disaster.

"(E) An increase in rates of basic allowance for housing in an area under this paragraph shall remain in effect until the effective date of the first adjustment in rates of basic allowance for housing made for the area pursuant to a redetermination of housing costs in the area under paragraph (4) that occurs after the date of the increase under this paragraph.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on September 1, 2005, and shall apply with respect to months beginning on or after that date.

SEC. 673. TEMPORARY AUTHORITY FOR INCENTIVES FOR RECRUITMENT OF MILITARY PERSONNEL.

(a) Authority To Provide Incentives.—The Secretary of Defense may, in consultation with the Director of the Office of Management and Budget, develop and provide incentives (in addition to any other incentives authorized by law) for the recruitment of individuals as officers and enlisted members of the Armed Forces.

(b) Construction With Other Personnel Authorities.—

(1) In general.—Incentives may be provided under subsection (a)—

(A) without regard to the lack of specific authority for such incentives under title 10, United States Code, or title 37, United States Code; and

(B) notwithstanding any provision of title 10, United States Code, or title 37, United States Code, or any rule or regulation prescribed under such provision, relating to methods of—

(i) determining requirements for, and the compensation of, members of the Armed Forces who are assigned duty as military recruiters; or

(ii) providing incentives to individuals to accept commissions or enlist in the Armed Forces, including the provision of group or individual bonuses, pay, or other incentives.

(2) Waiver of otherwise applicable laws.—No provision of title 10, United States Code, or title 37, United States Code, may be waived with respect to, or otherwise determined to be inapplicable to, the provision of incentives under subsection (a) except with the approval of the Secretary.

(c) Plans.—

(1) Development of plans.—Before providing an incentive under subsection (a), or entering into any agreement or contract with respect to the provision of such incentive, the Secretary shall develop a plan that includes—

(A) a description of such incentive, including the purpose of such project and the members (or potential recruits) of the Armed Forces to be addressed by such incentive;

(B) a statement of the anticipated outcomes of such incentive; and

(C) the method of evaluating the effectiveness of such incentive.

(2) Submittal of plans.—Not later than 30 days before the provision of an incentive under subsection (a), the Secretary shall submit a copy of the plan developed under paragraph (1) on such incentive—

(A) to the elements of the Department of Defense to be affected by the provision of such incentive; and

(B) to Congress.

(d) Limitations.—

(1) Number of individuals.—The number of individuals provided incentives under subsection (a) may not exceed the number of individuals equal to 20 percent of the accession mission of the Armed Force concerned for the fiscal year in which such incentives are first provided.

(2) Duration of provision.—The provision of incentives under subsection (a) shall terminate not later than the end of the three-year period beginning on the date on which the provision of such incentives commences (except that such incentives may continue to be provided beyond the date otherwise provided in this paragraph to the extent necessary to evaluate the effectiveness of such incentives).

(e) Reports.—

(1) In general.—The Secretary shall submit to Congress on an annual basis a report on the incentives provided under subsection (a) during the preceding year.

(2) Elements.—Each report under this subsection shall include—

(A) a description of the incentives provided under subsection (a) during the fiscal year covered by such report; and

(B) an assessment of the impact of such incentives on the recruitment of individuals as officers or enlisted members of the Armed Forces.

SEC. 674. PAY AND BENEFITS TO FACILITATE VOLUNTARY SEPARATION OF TARGETED MEMBERS OF THE ARMED FORCES.

(a) Pay and Benefits Authorized.—

(1) In general.—Chapter 59 of title 10, United States Code, is amended by inserting after section 1175 the following new section:

"§ 1175a. Voluntary separation pay and benefits

"(a) In General.—Under regulations approved by the Secretary of Defense, the Secretary concerned may provide voluntary separation pay and benefits in accordance with this section to eligible members of the armed forces who are voluntarily separated from active duty in the armed forces.

"(b) Eligible Members.—(1) Except as provided in paragraph (2), a member of the armed forces is eligible for voluntary separation pay and benefits under this section if the member—

"(A) has served on active duty for more than 6 years but not more than 20 years;

"(B) has served at least 5 years of continuous active duty immediately preceding the date of the member's separation from active duty;

"(C) has not been approved for payment of a voluntary separation incentive under section 1175 of this title;

"(D) meets such other requirements as the Secretary concerned may prescribe, which may include requirements relating to—

"(i) years of service, skill, rating, military specialty, or competitive category;

"(ii) grade or rank;

"(iii) remaining period of obligated service; or

"(iv) any combination of these factors; and

"(E) requests separation from active duty.

"(2) The following members are not eligible for voluntary separation pay and benefits under this section:

"(A) Members discharged with disability severance pay under section 1212 of this title.

"(B) Members transferred to the temporary disability retired list under section 1202 or 1205 of this title.

"(C) Members being evaluated for disability retirement under chapter 61 of this title.

"(D) Members who have been previously discharged with voluntary separation pay.

"(E) Members who are subject to pending disciplinary action or who are subject to administrative separation or mandatory discharge under any other provision of law or regulations.

"(3) The Secretary concerned shall determine each year the number of members to be separated, and provided separation pay and benefits, under this section during the fiscal year beginning in such year.

"(c) Separation.—Each eligible member of the armed forces whose request for separation from active duty under subsection (b)(1)(E) is approved shall be separated from active duty.

"(d) Additional Service in Ready Reserve.—Of the number of members of the armed forces to be separated from active duty in a fiscal year, as determined under subsection (b)(3), the Secretary concerned shall determine a number of such members, in such skill and grade combinations as the Secretary concerned shall designate, who shall serve in the Ready Reserve, after separation from active duty, for a period of not less than three years, as a condition of the receipt of voluntary separation pay and benefits under this section.

"(e) Separation Pay and Benefits.—(1) A member of the armed forces who is separated from active duty under subsection (c) shall be paid voluntary separation pay in accordance with subsection (g) in an amount determined by the Secretary concerned pursuant to subsection (f).

"(2) A member who is not entitled to retired or retainer pay upon separation shall be entitled to the benefits and services provided under—

"(A) chapter 58 of this title during the 180-day period beginning on the date the member is separated (notwithstanding any termination date for such benefits and services otherwise applicable under the provisions of such chapter); and

"(B) sections 404 and 406 of title 37.

"(f) Computation of Voluntary Separation Pay.—The Secretary concerned shall specify the amount of voluntary separation pay that an individual or defined group of members of the armed forces may be paid under subsection (e)(1). No member may receive as voluntary separation pay an amount greater than three times the full amount of separation pay for a member of the same pay grade and years of service who is involuntarily separated under section 1174 of this title.

"(g) Payment of Voluntary Separation Pay.—(1) Voluntary separation pay under this section may be paid in a single lump sum.

"(2) In the case of a member of the armed forces who, at the time of separation under subsection (c), has completed at least 15 years, but less than 20 years, of active service, voluntary separation pay may be paid, at the election of the Secretary concerned, in—

"(A) a single lump sum;

"(B) installments over a period not to exceed 10 years; or

"(C) a combination of lump sum and such installments.

"(h) Coordination With Retired or Retainer Pay and Disability Compensation.—(1) A member who is paid voluntary separation pay under this section and who later qualifies for retired or retainer pay under this title or title 14 shall have deducted from each payment of such retired or retainer pay an amount, in such schedule of monthly installments as the Secretary concerned shall specify, until the total amount deducted from such retired or retainer pay is equal to the total amount of voluntary separation pay so paid.

"(2)(A) Except as provided in subparagraphs (B) and (C), a member who is paid voluntary separation pay under this section shall not be deprived, by reason of the member's receipt of such pay, of any disability compensation to which the member is entitled under the laws administered by the Secretary of Veterans Affairs, but there shall be deducted from such disability compensation an amount, in such schedule of monthly installments as the Secretary concerned shall specify, until the total amount deducted from such disability compensation is equal to the total amount of voluntary separation pay so paid.

"(B) No deduction shall be made from the disability compensation paid to an eligible disabled uniformed services retiree under section 1413, or to an eligible combat-related disabled uniformed services retiree under section 1413a of this title, who is paid voluntary separation pay under this section.

"(C) No deduction may be made from the disability compensation paid to a member for the amount of voluntary separation pay received by the member because of an earlier discharge or release from a period of active duty if the disability which is the basis for that disability compensation was incurred or aggravated during a later period of active duty.

"(3) The requirement under this subsection to repay voluntary separation pay following retirement from the armed forces does not apply to a member who was eligible to retire at the time the member applied and was accepted for voluntary separation pay and benefits under this section.

"(4) The Secretary concerned may waive the requirement to repay voluntary separation pay under paragraphs (1) and (2) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

"(i) RETIREMENT DEFINED.—In this section, the term 'retirement' includes a transfer to the Fleet Reserve or Fleet Marine Corps Reserve.

"(j) REPAYMENT FOR MEMBERS WHO RETURN TO ACTIVE DUTY.—(1) Except as provided in paragraphs (2) and (3), a member of the armed forces who, after having received all or part of voluntary separation pay under this section, returns to active duty shall have deducted from each payment of basic pay, in such schedule of monthly installments as the Secretary concerned shall specify, until the total amount deducted from such basic pay equals the total amount of voluntary separation pay received.

"(2) Members who are involuntarily recalled to active duty or full-time National Guard duty in accordance with section 12301(a), 12301(b), 12301(g), 12302, 12303, or 12304 of this title or section 502(f)(1) of title 32 shall not be subject to this subsection.

"(3) Members who are recalled or perform active duty or full-time National Guard duty in accordance with section 101(d)(1), 101(d)(2), 101(d)(5), 12301(d) (insofar as the period served is less than 180 consecutive days with the consent of the member), 12319, or 12503 of title 10, or section 114, 115, or 502(f)(2) of title 32 (insofar as the period served is less than 180 consecutive days with consent of the member), shall not be subject to this subsection.

"(4) The Secretary of Defense may waive, in whole or in part, repayment required under paragraph (1) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States. The authority in this paragraph may be delegated only to the Undersecretary of Defense for Personnel and Readiness and the Principal Deputy Undersecretary of Defense for Personnel and Readiness.

"(k) TERMINATION OF AUTHORITY.—(1) The authority to separate a member of the armed forces from active duty under subsection (c) shall terminate on December 31, 2008.

"(2) A member who separates by the date specified in paragraph (1) may continue to be provided voluntary separation pay and benefits under this section until the member has received the entire amount of pay and benefits to which the member is entitled under this section.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 59 of such title is amended by inserting after the item relating to section 1175 the following new item:

"1175a. Voluntary separation pay and benefits.".

(b) LIMITATION ON APPLICABILITY.—During the period beginning on the date of the enactment of this Act and ending on December 31, 2008, the members of the Armed Forces who are eligible for separation, and for the provision of voluntary separation pay and benefits, under section 1175a of title 10, United States Code (as added by subsection (a)), shall be limited to officers of the Armed Forces who meet the eligibility requirements of section 1175a(b) of title 10, United States Code (as so added), but have not completed more than 12 years of active service as of the date of separation from active duty.

(c) OFFICER SELECTIVE EARLY RETIREMENT.—Section 638a(a) of title 10, United States Code, is amended by adding at the end the following new sentence: "During the period beginning on October 1, 2005, and ending on December 31, 2011, the Secretary of Defense may also authorize the Secretary of the Navy and the Secretary of the Air Force to take any of the actions set forth in such subsection with respect to officers of the armed forces under the jurisdiction of such Secretary.".

AMENDMENT NO. 2467

(Purpose: To improve the authority for reimbursement for protective, safety, and health equipment purchased for members of the Armed Forces deployed in Iraq and Central Asia)

At the end of subtitle C of title III, add the following:

SEC. ___. REIMBURSEMENT FOR CERTAIN PROTECTIVE, SAFETY, OR HEALTH EQUIPMENT PURCHASED BY OR FOR MEMBERS OF THE ARMED FORCES FOR DEPLOYMENT IN OPERATIONS IN IRAQ AND CENTRAL ASIA.

(a) REIMBURSEMENT REQUIRED.—

(1) IN GENERAL.—Subject to subsections (d) and (e), the Secretary of Defense shall reimburse a member of the Armed Forces, or a person or entity referred to in paragraph (2), for the cost (including shipping cost) of any protective, safety, or health equipment that was purchased by such member, or such person or entity on behalf of such member, before or during the deployment of such member in Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom for the use of such member in connection with such operation if the unit commander of such member certifies that such equipment was critical to the protection, safety, or health of such member.

(2) COVERED PERSONS AND ENTITIES.—A person or entity referred to in this paragraph is a family member or relative of a member of the Armed Forces, a non-profit organization, or a community group.

(3) REGULATIONS NOT REQUIRED FOR REIMBURSEMENT.—Reimbursements may be made under this subsection in advance of the promulgation by the Secretary of Defense of regulations, if any, relating to the administration of this section.

(b) PROTECTIVE EQUIPMENT REIMBURSEMENT FUND.—

(1) ESTABLISHMENT.—There is hereby established an account to be known as the "Protective Equipment Reimbursement Fund" (in this subsection referred to as the "Fund").

(2) ELEMENTS.—The Fund shall consist of amounts deposited in the Fund from amounts available for the Fund under subsection (g).

(3) AVAILABILITY.—Amounts in the Fund shall be available directly to the unit commanders of members of the Armed Forces for the making of reimbursements for protective, safety, and health equipment under subsection (a).

(4) DOCUMENTATION.—Each person seeking reimbursement under subsection (a) for protective, safety, or health equipment purchased by or on behalf of a member of the Armed Forces shall submit to the unit commander of such member such documentation as is necessary to establish each of the following:

(A) The nature of such equipment, including whether or not such equipment qualifies as protective, safety, or health equipment under subsection (c).

(B) The cost of such equipment.

(c) COVERED PROTECTIVE, SAFETY, AND HEALTH EQUIPMENT.—Protective, safety, and health equipment for which reimbursement shall be made under subsection (a) shall include personal body armor, collective armor or protective equipment (including armor or protective equipment for high mobility multi-purpose wheeled vehicles), and items provided through the Rapid Fielding Initiative of the Army, or equivalent programs of the other Armed Forces, such as the advanced (on-the-move) hydration system, the advanced combat helmet, the close combat optics system, a Global Positioning System (GPS) receiver, a gun scope, and a soldier intercommunication device.

(d) LIMITATION REGARDING AMOUNT OF REIMBURSEMENT.—The amount of reimbursement provided under subsection (a) per item of protective, safety, and health equipment purchased by or on behalf of any given member of the Armed Forces may not exceed the lesser of—

(1) the cost of such equipment (including shipping cost); or

(2) $1,100.

(e) LIMITATION ON DATE OF PURCHASE.—Reimbursement may be made under subsection (a) only for protective, safety, and health equipment purchased before October 1, 2006.

(f) OWNERSHIP OF EQUIPMENT.—The Secretary shall identify the circumstances, if any, under which the United States shall assume title or ownership of protective, safety, or health equipment for which reimbursement is provided under subsection (a).

(g) FUNDING.—

(1) IN GENERAL.—Except as provided in paragraph (2), amounts for reimbursements under subsection (a) shall be derived from any amounts authorized to be appropriated by this Act.

(2) EXCEPTION.—Amounts authorized to be appropriated by this Act and available for

the procurement of equipment for members of the Armed Forces deployed, or to be deployed, to Iraq or Afghanistan may not be utilized for reimbursements under subsection (a).

(h) REPEAL OF SUPERSEDED AUTHORITY.—Section 351 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118. Stat. 1857) is repealed.

AMENDMENT NO. 2468

(Purpose: To require a report on predatory lending directed at members of the Armed Forces and their dependents)

At the end of subtitle H of title V, add the following:

SEC. 596. REPORT ON PREDATORY LENDING PRACTICES DIRECTED AT MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS.

(a) FINDINGS.—The Senate makes the following findings:

(1) Predatory lending practices harm members of the Armed Forces and are an increasing problem for the Armed Forces.

(2) Predatory lending practices not only hurt the financial security of the members of the Armed Forces but, according to the Under Secretary of Defense for Personnel and Readiness, also threaten the operational readiness of the Armed Forces.

(3) The General Accountability Office found in an April 2005 report that the Department of Defense was not fully utilizing tools available to the Department to curb the predatory lending practices directed at members of the Armed Forces.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) the Department of Defense should work with financial service regulators to protect the members of the Armed Forces from predatory lending practices; and

(2) the Senate should consider and adopt legislation—

(A) to strengthen disclosure, education, and other protections for members of the Armed Forces regarding predatory lending practices; and

(B) to ensure greater cooperation between financial services regulators and the Department of Defense on the protection of members of the Armed Forces from predatory lending practices.

(c) REPORT.—

(1) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of the Treasury, the Chairman of the Federal Reserve, the Chairman of the Federal Deposit Insurance Corporation, and representatives of military charity organizations and consumer organizations, submit to the appropriate committees of Congress a report on predatory lending practices directed at members of the Armed Forces and their families.

(2) ELEMENTS.—The report under paragraph (1) shall include—

(A) a description of the prevalence of predatory lending practices directed at members of the Armed Forces and their families;

(B) an assessment of the effects of predatory lending practices on members of the Armed Forces and their families;

(C) a description of the strategy of the Department of Defense, and of any current or planned programs of the Department, to educate members of the Armed Forces and their families regarding predatory lending practices;

(D) a description of the strategy of the Department of Defense, and of any current or planned programs of the Department, to reduce or eliminate—

(i) the prevalence of predatory lending practices directed at members of the Armed Forces and their families; and

(ii) the negative effect of such practices on members of the Armed Forces and their families; and

(E) recommendations for additional legislative and administrative action to reduce or eliminate predatory lending practices directed at members of the Armed Forces and their families.

(3) DEFINITIONS.—In this subsection:

(A) The term "appropriate committees of Congress" means—

(i) the Committees on Armed Services and Banking, Housing, and Urban Affairs of the Senate; and

(ii) the Committees on Armed Services and Financial Services of the House of Representatives.

(B) The term "predatory lending practice" means an unfair or abusive loan or credit sale transition or collection practice.

AMENDMENT NO. 2469

(Purpose: To authorize $1,440,000 in planning and design funds for a replacement C-130 aircraft maintenance hangar at Air National Guard New Castle County Airport, and to provide an offset)

On page 337, between lines 4 and 5, insert the following:

SEC. 2602. CONSTRUCTION OF MAINTENANCE HANGAR, NEW CASTLE COUNTY AIRPORT AIR GUARD BASE, DELAWARE.

(a) AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 2601(3)(A) for the Department of the Air Force for the Air National Guard of the United States is hereby increased by $1,440,000.

(b) USE OF FUNDS.—Of the amount authorized to be appropriated by section 2601(3)(A) for the Department of the Air Force for the Air National Guard of the United States, as increased by subsection (a), $1,440,000 is available for planning and design for a replacement C-130 aircraft maintenance hangar at Air National Guard New Castle County Airport, Delaware.

(c) OFFSET.—The amount authorized to be appropriated by section 2204(a) for military construction, land acquisition, and military family housing functions of the Department of the Navy and the amount of such funds authorized by paragraph (11) of such subsection for the construction of increment 3 of the general purpose berthing pier at Naval Weapons Station, Earle, New Jersey, are each hereby decreased by $1,440,000.

AMENDMENT NO. 2470

(Purpose: Expressing the sense of the Senate on notice to Congress of the recognition of members of the Armed Forces for extraordinary acts of heroism, bravery, and achievement)

At the end of subtitle F of title V, add the following:

SEC. ___. SENSE OF SENATE ON NOTICE TO CONGRESS OF RECOGNITION OF MEMBERS OF THE ARMED FORCES FOR EXTRAORDINARY ACTS OF BRAVERY, HEROISM, AND ACHIEVEMENT.

It is the sense of the Senate that the Secretary of Defense or the Secretary of the military department concerned should, upon awarding a medal to a member of the Armed Forces or otherwise commending or recognizing a member of the Armed Forces for an act of extraordinary heroism, bravery, achievement, or other distinction, notify the Committees on Armed Services of the Senate and the House of Representatives, the Senators from the State in which such member resides, and the Member of the House of Representatives from the district in which such member resides of such extraordinary award, commendation, or recognition.

AMENDMENT NO. 2471

(Purpose: To improve transitional assistance provided for members of the Armed Forces being discharged, released from active duty, or retired)

At the end of division A, add the following:

TITLE XV—TRANSITION SERVICES

SEC. 1501. SHORT TITLE.

This title may be cited as the "Veterans' Enhanced Transition Services Act of 2005".

SEC. 1502. IMPROVED ADMINISTRATION OF TRANSITIONAL ASSISTANCE PROGRAMS.

(a) PRESEPARATION COUNSELING.—Section 1142 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph (4):

"(4) For members of the reserve components of the armed forces (including members of the National Guard on active duty under title 32) who have been serving on active duty continuously for at least 180 days, the Secretary concerned shall provide preseparation counseling under this section on an individual basis to all such members before such members are separated."; and

(2) in subsection (b)—

(A) in paragraph (4), by striking "(4) Information concerning" and inserting the following:

"(4) Provision of information on civilian occupations and related assistance programs, including information concerning—

"(A) certification and licensure requirements that are applicable to civilian occupations;

"(B) civilian occupations that correspond to military occupational specialties; and

"(C)"; and

(B) by adding at the end the following:

"(11) Information concerning the priority of service for veterans in the receipt of employment, training, and placement services provided under qualified job training programs of the Department of Labor.

"(12) Information concerning veterans small business ownership and entrepreneurship programs of the Small Business Administration and the National Veterans Business Development Corporation.

"(13) Information concerning employment and reemployment rights and obligations under chapter 43 of title 38.

"(14) Information concerning veterans preference in federal employment and federal procurement opportunities.

"(15) Contact information for housing counseling assistance.

"(16) A description, developed in consultation with the Secretary of Veterans Affairs, of health care and other benefits to which the member may be entitled under the laws administered by the Secretary of Veterans Affairs.".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CONFORMING AMENDMENT.—The heading of such section is amended to read as follows:

"§ 1142. Members separating from active duty: preseparation counseling".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 58 of title 10, United States Code, is amended by striking the item relating to section 1142 and inserting the following:

"1142. Members separating from active duty: preseparation counseling.".

(c) Department of Labor Transitional Services Program.—Section 1144 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking "paragraph (4)(A)" in the second sentence and inserting "paragraph (5)(A)"; and

(2) by adding at the end the following new subsection:

"(e) Training Support Materials.—The Secretary concerned shall, on a continuing basis and in cooperation with the Secretary of Labor, update the content of all materials used by the Department of Labor that provide direct training support to personnel who provide transitional services counseling under this section.".

SEC. 1503. FOLLOW UP ASSISTANCE FOR MEMBERS OF THE ARMED FORCES AFTER PRESEPARATION PHYSICAL EXAMINATIONS.

Section 1145(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, ensure that appropriate actions are taken to assist a member of the armed forces who, as a result of a medical examination under paragraph (4), receives an indication for a referral for follow up treatment from the health care provider who performs the examination.

"(B) Assistance provided to a member under paragraph (1) shall include the following:

"(i) Information regarding, and any appropriate referral for, the care, treatment, and other services that the Secretary of Defense or the Secretary of Veterans Affairs may provide to such member under any other provision of law, including—

"(I) clinical services, including counseling and treatment for post-traumatic stress disorder and other mental health conditions; and

"(II) any other care, treatment, and services.

"(ii) Information on the private sector sources of treatment that are available to the member in the member's community.

"(iii) Assistance to enroll in the health care system of the Department of Veterans Affairs for health care benefits for which the member is eligible under laws administered by the Secretary of Veterans Affairs.".

SEC. 1504. REPORT ON TRANSITION ASSISTANCE PROGRAMS.

(a) Report Required.—Not later than May 1, 2006, the Secretary of Defense shall, in consultation with the Secretary of Labor and the Secretary of Veterans Affairs, submit to Congress a report on the actions taken to ensure that the Transition Assistance Programs for members of the Armed Forces separating from the Armed Forces (including members of the regular components of the Armed Forces and members of the reserve components of the Armed Forces) function effectively to provide such members with timely and comprehensive transition assistance when separating from the Armed Forces.

(b) Focus on Particular Members.—The report required by subsection (a) shall include particular attention to the actions taken with respect to the Transition Assistance Programs to assist the following members of the Armed Forces:

(1) Members deployed to Operation Iraqi Freedom.

(2) Members deployed to Operation Enduring Freedom.

(3) Members deployed to or in support of other contingency operations.

(4) Members of the National Guard activated under the provisions of title 32, United States Code, in support of relief efforts for Hurricane Katrina and Hurricane Rita.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. I thank my colleague from Michigan for working together with colleagues on both sides of the aisle. We achieved a substantial amount of work. Tomorrow we will return, and my rough calculation with regard to the amendments is of the 12 on the majority side, we have the Chambliss amendment, which might be subject to a second degree; we have the Ensign amendment, which is now the pending amendment; there is an amendment by Senator TALENT, Senator GRAHAM, Senator INHOFE that involves prayer at the service academies; Senator FRIST in recognition of our troops and others participating in the war against terrorism; and consent to Brownback which is an amendment regarding personal notification relating to the men and women of the Armed Forces in cases where he deems parental consent is appropriate. And the Senator from Virginia, Senator WARNER, has an amendment.

I have the list of the Senator from Michigan. Six of the 12 amendments have been acted upon by the Senate. To the extent the Senator can advise the Senate of the remaining amendments, it would be helpful.

Mr. LEVIN. Mr. President, I thank my good friend from Virginia. We have on our side disposed of six amendments. We are trying to boil down the balance of the amendments. We have to boil down to six. We have not yet done that. I don't want to identify which ones other than to say we know there will be a Dorgan amendment on the Truman Commission which we hope will come immediately after lunch tomorrow. There is still a surplus of amendments we have to work out.

Mr. WARNER. I bring to the attention of my good friend and colleague, we have provided the Senator with copies of the amendments by Senator CHAMBLISS, Senator ENSIGN, Senator TALENT. The amendment by Senator GRAHAM is still under work. Senator INHOFE, you have that amendment. Senator FRIST's amendment we have not as yet distributed. The Brownback amendment will be provided to you tonight. And we have not as yet provided you with the one of the Senator from Virginia.

Mr. LEVIN. To be more helpful, the Dorgan amendment has been filed. There is a likelihood there will be a Durbin amendment on Guard and Reserve which also has been filed. I don't want to lock that in as one because we are still juggling. That has been filed. It is likely that will be one of the six.

Mr. WARNER. That would not be the proposed second degree to the Chambliss amendment? The Chambliss amendment is Guard and Reserve, too.

Mr. LEVIN. I don't think it is, but I am not certain.

Mr. WARNER. This is helpful to colleagues as they are doing their work tonight in support of what we are trying to achieve with final passage tomorrow.

AMENDMENT NO. 2423

Mr. DODD. Mr. President, I would like to briefly discuss an amendment that was offered to the Defense Authorization bill yesterday by the Senators from Colorado. I voted against this measure, and I did so with some reservation.

If approved by this body, this amendment would have provided retirement benefits to government contract workers, who, by no fault of their own, now find themselves denied of pension and lifetime medical benefits that they were expecting to receive. In fact, the tragedy of their situation is that because of these workers' efficiency, they are actually being denied pensions and health insurance—in this case, they are clearly victims of their own success.

As the Senators from Colorado explained, the Federal Government had given employees of Kaiser Hill Company until December 15, 2006 to complete their work decontaminating and demolishing the former nuclear weapons facility at Rocky Flats. However, because Kaiser Hill's workers finished their work a year ahead of schedule, they are being penalized under the terms of their contract.

Like countless other Federal contracts, the arrangement for Rocky Flats workers used a numerical formula for determining who would receive lifetime benefits after the work's completion—if the sum of an employee's age and years of employment at the nuclear weapons plant added up to 70, the worker would be fully eligible for these benefits. But with Kaiser Hill declaring the job complete 14 months before their deadline, over 70 workers who would have qualified for these benefits could not.

I commend the Senators from Colorado for offering their amendment. They have every right to be troubled by the way workers in their State have been affected by this contract. And I share their deep concern that rather than be rewarded for their good work, the workers of Rocky Flats are actually unable to obtain the benefits that they had expected. Under terms of such a contract there is absolutely no incentive for workers to perform as effectively as these fine Kaiser-Hill employees did. I cannot disagree with that notion at all.

Nonetheless, yesterday, I felt compelled to vote against the amendment—not because it was offered without the best of intentions. I believe that the workers of Kaiser-Hill deserve to be commended for their quick and thorough work. However, I am afraid that if we are to single out these workers' contract, Congress would be creating an unfair standard that would help one segment of the Nation's Federal contracting workforce while leaving the rest without any similar support.

If this amendment had been approved, I would be concerned about benefiting some to the exclusion of others who might be deserving of similar consideration. I believe that we ought to revisit the issues facing these workers in the context of other Federal contract employees who might be in a similar situation. I stand ready to work with my colleagues from Colorado as well as others from other States who share my concern about these workers, who have been penalized due to no fault of their own. I believe that the Senators from Colorado have identified a critically important problem with formulas being used to regulate benefit disbursements in Federal contracts. And I hope these issues will be revisited to ensure that we are rewarding good and efficient performance and providing American workers the benefits that they deserve.

VOTE EXPLANATION

Mr. HATCH. Mr. President, I was necessarily absent from the vote on amendment No. 2423, Senator ALLARD's amendment, during consideration of the Fiscal Year 2006 Defense Authorization bill. As my constituents know, with my wife Elaine, I was hosting the 21st Annual Utah Women's Conference. Mr. President, this is an important event, in which the women of the State of Utah can directly inform our State's leaders about the issues that affect them and their families.

Had I been present to vote on Senator ALLARD's amendment, I would have voted against the proposal.

AMENDMENT NO. 1514

Mrs. FEINSTEIN. Mr. President, I rise today in support of the amendment to the FY06 National Defense Authorization Act that authorizes the Navy to convey approximately 230 acres of open space land along the eastern boundary of Marine Corps Air Station Miramar to the County of San Diego in order to provide access to the historic Stowe Trail.

The Stowe Trail at one time functioned as the primary road leading to the historic town of Stowe, and now links the Goodan Ranch and Sycamore Canyon Preserves in the north with the Mission Trails Regional Park and Santee Lakes Regional Recreation Area further south.

According to county records, up until the 1930s when access to this portion became restricted for military use, the Stowe Trail had served for some 80 years as the principle thoroughfare between the towns of Santee and Poway.

The 230 acres of land that would be conveyed by the Navy under this provision include diverse plant and animal life and environmentally-sensitive habitats and would provide a natural wildlife corridor between the two preserves, as well as with the Santee Lakes Recreation Area.

Under the control of the County of San Diego, this land will become part of an extensive open space trail system that will not only increase recreational opportunities in the region, but will also provide buffer zone that will mitigate against potential encroachment that could impact the essential military missions at Marine Corps Air Station Miramar.

It is important to point out that this proposed land conveyance is the fruition of a process set in motion jointly by the San Diego County Board of Supervisors and Marine Corps Air Station Miramar in 2002.

Both sides have worked together closely since that time to ensure that the result will be a win-win situation for both the County and the Marines.

For example, as part of the land conveyance process, the County of San Diego has fully committed to compensate the Navy by paying the full fair market value for this property.

AMENDMENT NO. 2424

Mr. NELSON of Florida. Mr. President, for the last 4 years I have been talking about the unfair and painful offset of the Defense Department's Survivors Benefits Plan against Veteran's Affairs Dependency and Indemnity Compensation, or DIC.

This offset mistreats the survivors of our service members who die on active duty now and our 100 percent disabled military retirees who purchased this benefit at the end of their careers. It is wrong, we know it, and we have got to fix it.

Taking care of widows and orphans is a cost of war.

I have reminded the Senate of the Good Book's words, that in God's eyes the true measure of our faith is how we look after orphans and widows in their distress. And they are in distress. We are in a violent struggle around the world with brutal and vicious enemies. Sadly, American troops are lost every day.

We must never forget that the loved ones left behind by our courageous men and women in uniform bear the greatest pain. Their lives are forever altered; their futures left unclear. They suffer the enduring cost of the ultimate sacrifice, and the Nation that asked for that sacrifice must honor it.

The Department of Defense has provided the Senate several objections to our amendment. For the benefit of my colleagues, I would like to answer each objection.

First, just because the Pentagon objects to the amendment does not mean we should not act. The Pentagon's objections have not stopped Congress from correcting military benefit inequities before. They should not stop us now.

The Pentagon objected to TRICARE For Life. And the Congress supported it anyway.

The Pentagon objected to concurrent receipt for disabled military retirees. And the Congress supported it anyway.

Last year, the Pentagon objected to eliminating the age-62 SBP benefit reduction. And Congress fixed that inequity anyway.

I remind my colleagues that it is Congress' responsibility to ensure our widows and retirees are treated fairly. We are the ones who must recognize that the Nation has an obligation to those who give their lives for our country.

The Defense Department argues that a VA Disability Benefits Commission is studying this, so we should not take any action. There is no indication whatsoever that the commission is actively looking at either of the issues addressed in my amendment. We understand that they are about to ask for a 1 year extension. The fact is that nothing will come out of that commission until at least fiscal year 2009. That is too late to help the World War II and Korean era retirees who should already be "paid up" in their SBP. We don't need to study these issues for several more years. The inequities are clear.

The Defense Department argues that SBP and DIC are fully funded and that the offset is consistent with other Government programs. They are not fully funded from the beneficiaries' perspective, because one offsets the other. The fact that other Government programs have offsets is irrelevant when you consider the sacrifices of military members and widows for the rest of the country.

This same argument was used to argue against concurrent receipt of retired pay and disability compensation, but the Congress rejected it 2 years ago. When military duty causes the disability or death of a servicemember, all comparisons with other Government programs seem hollow.

The Defense Department argues that they refund the premiums for the SBP that is not paid to the widows of our 100 percent disable retirees. I know a thing or two about insurance. When someone buys an insurance policy and then dies, no insurance company in America could get away with saying, "sorry, we're not going to pay; here's a refund of your premiums."

Not only that, but the Government does not even pay interest on the refunded premiums. However, let a widow get an overpayment from the Government, and the Government insists on collecting interest from her. These widows are rightly saying "keep your premium refund; give me the benefit we purchased."

The Department of Defense argues that the law lets widows assign the SBP benefit to their children and, in fact, draw both their VA and SBP benefits. This is not true for the vast majority. It applies only to widows who have children and only to those whose husbands were killed since November 24, 2003. It does absolutely nothing for more than 90 percent of widows affected by this inequity.

Even for those widows with kids, who do have the option, it poses a terrible choice. If they assign the benefit to their children, they lose it completely after their children reach age 18, or 22 if they go to college. One Army Sergeant Major's widow in this situation had two children in college. She made the choice to assign the SBP to them to help them stay in school. But the price of that decision is she will lose her annuity as soon as they graduate, and will have to live on $993 a month. We shouldn't put widows in a position of sacrificing their long-term financial health for the immediate needs of their families.

As usual, the Defense Department says fixing this inequity would cost money. We all acknowledge that this will cost money. Everything we do costs money. But when something is the right thing to do, then we do it. Sometimes we compromise to pay the cost over time. But we find a way to do it. And that is what we should do now.

The Defense Department argues that we shouldn't fix the SBP/DIC offset or the "Greatest Generation" SBP tax because we raised the age-62 SBP benefit last year. Not true. For the vast majority of the people affected by my amendment, last year's SBP fix did nothing. Many widows affected by the SBP/DIC offset still have their entire SBP annuity eliminated by the DIC offset. They get zero benefit from last year's change to SBP.

One big reason for that is most servicemembers being killed on active duty today are junior—not 62 years old—and they don't have a very large SBP benefit. Their benefit would be much less than the $993 a month in VA DIC their survivors will receive. But that doesn't mean their loved ones aren't entitled to that small benefit.

Also, last year's law did nothing for the World War II and Korean-era retirees who already have paid almost 20 percent more SBP premiums than later retirees, and who will end up paying one-third more if we don't change the law this year. These benefit changes affect different populations. Just because we brought fairness to one part of the retiree population last year doesn't mean that the others don't deserve fairness too.

The Department of Defense argues that this change isn't needed because we raised the death gratuity to $100,000 and raised Servicemembers' Group Life Insurance, SGLI, to $400,000 earlier this year. It is correct that Congress made those changes, but the idea that fixing the SBP-DIC offset is now unnecessary couldn't be further from the truth.

I am proud to have supported those changes to the death gratuity and SGLI, but they did nothing to help the vast majority of DIC widows and they certainly didn't help our "Greatest Generation" retirees. They only help the survivors of those killed in combat since 2001. Thousands of servicemembers gave their lives and their health for their country in hot and cold wars before that date. Their survivors have had no relief and most are living on $993 a month. That is just wrong.

We have gone around and around on this issue over the years. We are in a dangerous and long term war with an evil and intractable enemy. We owe those who go in harm's way the assurance that the loved ones they leave behind will get all the care a grateful Nation can provide. It is the right thing to do, and now is the time to do it.

Mrs. DOLE. Mr. President, these are certainly challenging times for our Nation—particularly as we confront an ever-emboldened terrorist network that seeks to threaten civilized societies and destroy our way of life. The threats are very real and the stakes are very high. Thank God we have men and women who are answering the call of duty by proudly wearing the uniform of the United States and defending our homeland here and abroad. It is imperative that we continually show them and their families just how much we appreciate and honor their service and their sacrifice.

This Defense authorization bill certainly provides for much needed programs that will increase readiness and quality of life for our military personnel, and I applaud our distinguished Armed Services chairman, JOHN WARNER, and Majority Leader FRIST for moving this bill forward. I represent a strong military constituency in North Carolina, and I am delighted that this bill includes several of my proposals addressing critical areas of need. I will briefly highlight a few of them.

One of my amendments makes mental health counseling more accessible for service members and their families. It allows certified and licensed mental health counselors to directly bill TRICARE without a physician's referral, in Under Served Areas—those areas where there is an insufficient availability of mental health care providers.

It is estimated that over half of U.S. counties have no practicing psychiatrists, psychologists, or social workers. Mental health counselors can certainly help fill the void. The Department of Health and Human Services already has in place a loan repayment program to encourage mental health counselors to work in underserved areas. My amendment removes barriers for those counselors to serve our military members—especially the reservists and guardsmen who often live in rural areas.

There is no question that when our military men and women are deployed and separated from their families, the emotional stress and trauma can be unimaginable. It is absolutely imperative that they have access to mental health services not only to mitigate potential long term affects like depression, violence or divorce—but also to ease the reintegration into their family, and society, following long deployments. Caring for our servicemembers' mental as well as physical health is critical in retaining quality forces for our nation's defense.

In last year's Defense authorization bill, my effort to have marriage and family therapists added to the list of mental health care providers available under TRICARE was successful. But with the ongoing war on terror, the reality is that more needs to be done.

Another area we must all be concerned about is the blatant targeting of servicemembers by predatory lenders. It is an egregious practice that must be stopped. Not only can these practices lead to a cycle of financial and professional suffering for individual servicemembers and their families, but they can also have serious ramifications for our military's operational readiness. Military conduct codes stress financial solvency, and a member with bad credit and mounting debt can face potentially career-ending disciplinary measures.

Many young troops—like many young people across the country—do not have a cushion of savings to use in an emergency, and most are not educated in financial management. In this time of more frequent and extended deployments, servicemembers are faced with extra expenses due to preparing for deployments and family emergencies that can force them or their spouses to look to predatory lenders for short-term relief.

My amendment on predatory lending practices has two components. First, it places the Senate on record acknowledging predatory lending practices. Second, it requires the Defense Department, in consultation with Treasury, the Federal Reserve, the FDIC, and representatives of military charity and consumer organizations, to report to Congress within 90 days on several matters: their current and planned programs to assess the prevalence of predatory lending and to educate servicemembers and their families; and second, their recommendations for specific legislative and administrative actions to prevent or eliminate predatory lending.

The Army has identified personal financial issues as one of the most difficult problems facing military families. I couldn't agree more. This Defense authorization bill will get the ball rolling on some much-needed action, and I am very pleased to have the support of groups such as the Consumer Federation of America, the Center for Responsible Lending, the Military Coalition, and the Fleet Reserve Association.

Finally, another of my amendments directs that acquisition personnel receive training on the requirements and application of the Berry amendment. Implemented in 1941, the Berry amendment requires the Defense Department to give preference in procurement to domestically produced, manufactured, or home grown products. In my view, this is essential to supporting the businesses that supply our troops with the equipment they need to carry out their duties.

I am pleased that each of these amendments has been included in this authorization bill. I believe they reaffirm the commitment of this Congress to our military personnel, to their families, and to our entire Nation.

MORNING BUSINESS

Mr. WARNER. I ask unanimous consent that there be a period of morning business not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECONCILIATION TAX CUT BILL

Mr. VOINOVICH. Mr. President, I rise to comment on the reconciliation tax relief bill that will most likely come before the Senate next week. I felt it necessary to come and speak on this topic because I am thinking of not only our generation but of the generations of our children and grandchildren and the legacy we leave them.

How do the decisions we make in the Senate today affect their lives after we have long left this body? That is a question I will be asking should the Senate, as I expect it will, begin debate on reconciliation for tax cuts.

Last week, Alan Greenspan testified before the Joint Economic Committee and told Congress:

> We should not be cutting taxes by borrowing. We do not have the capability of having both productive tax cuts and large expenditure increases, and presume that the deficit doesn't matter.

I do not know how anyone can say with a straight face that when we voted to cut spending last week to help achieve deficit reductions we can now then turn around 2 weeks later to provide tax cuts that exceed the reductions that we made in spending. It just does not make any sense, and I think it does not make any sense to the American people.

Well, I for one am taking Chairman Greenspan's warning seriously. Last week, I voted to cut spending. And should tax cuts come to the floor next week, I will vote against them. I believe it is the only responsible course of action.

There are three reasons we should oppose tax cuts at this time: No. 1, we cannot afford these tax cuts; No. 2, we do not need these tax cuts; and, No. 3, we should be working on tax reform rather than tax cuts.

In case anyone has forgotten, the deficit for fiscal year 2005 was $317 billion. That was the third largest deficit in our Nation's history. The first and second largest deficits occurred in 2004 and in 2003.

On October 20, the gross Federal debt climbed past $8 trillion. Looking at this chart, you can see what is happening. This is the combined debt, the public and the Government debt. It climbed to over $8 trillion. And according to the Congressional Budget Office, in fiscal year 2005, interest on the public debt grew more rapidly than any other major spending category, rising 14 percent above the fiscal year 2004 level.

So we can see that this debt is escalating rapidly, and it is something about which we should all be very concerned.

Let me put this in perspective. Just the interest payments on the public debt are more than $1,600 for each taxpaying American—more than $1,600 for each tax-paying American. If we could wave a magic wand and stop adding to the deficit today—which we won't—the Federal debt would still be about $28,000 for every person in the United States, and close to $1 million each if it is left to those who are under 20 years of age.

And even if we were to start running surpluses as large as last year's deficit, it would still take us 14 years to pay off just the debt held by the public.

It is time to recognize a simple fact of life. Contrary to what some of my colleagues seem to believe, tax cuts do not pay for themselves.

We have heard about the impact of the previous tax cuts, how in the past few months revenues have exceeded expectations, and how economic growth would pay for all the tax cuts Congress enacted in 2003. But as this chart shows, exceeding expectations does not mean there was no revenue lost as a result of the tax cuts.

As shown on this chart, the red bar indicates what our revenues would have been had we not had the tax cuts. The blue bar shows what the projected revenue was as a result of the tax cuts. The green bar shows what we actually received as a result of the tax cuts. Now, we can see there is a difference between if we had not had the tax cuts and having the tax cuts.

Now, let's go to 2004. Shown in red is what we would have expected in revenues in 2004 had we not had the tax cuts. We had the tax cuts, and shown in blue is what was expected as a result of them. The good news is, we did receive more money than we anticipated from the tax cuts, as shown in the green.

Now, let's go to 2005. Again, the red bar shows what the projection was of what we would have had without the tax cuts. The blue bar shows what the projection was of the revenues we would have because we had the tax cuts. And the green bar shows actually what the revenues were that came in.

The fact is, tax cuts are never free. All during this time, we were adding to the national debt.

Now, I voted for tax cuts in 2001, 2002, and 2003 because the country needed stimulative medicine, and it worked. But like any other medicine, an overdose of tax cuts can, and in my opinion will, do more harm than the original disease.

In 2003, I said that $350 billion in tax cuts would be enough to get the economy moving, and now I am saying that any more would be an overdose. It is time to put the tax cut medicine back on the shelf, particularly in light of the war in Iraq, our spending on homeland security, and Hurricanes Katrina and Rita.

Just today, the Senate increased mandatory spending over the next 10 years by $9.5 billion.

The second reason to put the tax cut medicine back on the shelf is that most of the provisions included in the reconciliation package do not have to be extended now. In fact, most of the tax cut provisions included in the reconciliation package, including the reduced rates on dividends and capital gains, do not expire until 2008—over 2 years from now.

So here are the provisions of the economic growth plan that we worked on during the last several years. You can see that one of the provisions of the proposal for next week is "reduced rate on dividends and capital gains." This is not going to expire until 2008. Another one is "section 179 expensing," which many of us supported in the bill we passed last year, the JOBS bill. That is not going to expire until 2007.

So the point I am making is, there really is not any need for us to pass these tax cuts next week because most of them are not going to expire until years in the future.

As my colleagues can see, most of the core provisions of the President's tax reform plan, as I mentioned, do not expire until 2010. A handful expire in 2007 or 2008, and only one expires next year.

When Alan Greenspan testified before the Joint Economic Committee last week—I think this is really telling testimony on the part of Chairman Greenspan—a member of the committee asked if he supported extending the 15-percent tax rate for capital gains and dividends. Chairman Greenspan replied that he could only support extending these tax cuts if they were paid for.

According to Chairman Greenspan, large budget deficits will drive up interest rates over time, raising the Government's debt service costs.

I think, as we watch what is happening to interest rates, they are starting to creep up. What we forget is, as they creep up, interest costs are going to take a larger and larger percent of our Federal budget.

I quote Alan Greenspan again:

> Unless the situation is reversed, at some point these budget trends will cause serious economic disruptions.

I will repeat it again. Alan Greenspan:

> Unless the situation is reversed, at some point these budget trends will cause serious economic disruptions.

The fact is, if these tax cuts are so important, we should pay for them, which is why I supported the pay-go amendment to the budget resolution in March, and supported it again last week.

My third reason for opposing piecemeal tax cuts at this time is that the President's Advisory Panel on Tax Reform just released its final report. All of us have heard from families and businesses in our respective States lamenting the complexity and frustration with the current Tax Code.

Well, thanks to our former colleagues, Connie Mack and John Breaux, it seems to me we have a chance to finally do something about it.

Why extend tax deductions piecemeal when we should be considering fundamental tax reform? Our tax structure should be simple, fair, and honest. Our current Tax Code achieves none of these objectives.

I used to prepare my own tax returns and made out tax returns for my clients. I would not touch my tax return today with a 10-foot pole because of the complexities.

I am with the 55 percent of other Americans who have to hire professional help to make out our tax returns. Last year, it is estimated that Americans spent more than 3.5 billion hours doing their taxes, the equivalent of hiring almost 2 million new IRS employees, more than 20 times the agency's current workforce. If the money spent every year on tax preparation and compliance was collected, about $140 billion each year or over $1,000 per family, it could fund a substantial part of the Federal Government, including the Department of Homeland Security, the Department of State, NASA, the Department of Housing and Urban Development, the Environmental Protection Agency, the Department of Transportation, the U.S. Congress, our Federal courts, and all the Federal Government's foreign aid.

Individuals, businesses, and nonprofits must pay these compliance costs, but the Federal Government cannot use them for any useful purpose. Individuals and businesses lose money that they could otherwise save, invest, and spend on their children's education, buy a home, or simply enjoy an extra evening out with the family. But the Federal Government gets nothing. That is the equivalent of stacking money in a pile and lighting a match to it.

We all recognize the need for a simple, fair, and honest Tax Code. This is a win-win goal for everyone. Simply cutting tax compliance costs in half from 20 percent to 10 percent would have the same impact as a major tax cut. Just cutting the compliance costs would be the equivalent of a major tax cut for most Americans, but it would be a tax cut that does not reduce Federal revenues but would guarantee that people are paying their fair share and bring more money into the Federal Treasury.

We all know that fundamental tax reform is critical and that President Bush will be sending us his recommendations in February. I simply cannot understand why some of my colleagues want to make so many provisions of the current Tax Code permanent or add new tax cuts, when next year we very well may be eliminating the same provisions as part of fundamental tax reform. Why do it now when we are expecting the President to come back with a fair and simple, honest tax reform package? Again, this is not the time for piecemeal tinkering. No homeowner would remodel their kitchen and bathroom the year before tearing down the house to build a newer and better one. That is, in effect, what we would be doing next week if we vote for these cuts.

In closing, I reiterate the three reasons we should oppose tax cuts at this time. No. 1, we cannot afford them because of our soaring deficit and national debt. Putting our spending on the credit card of our kids is unconscionable, particularly because they will have to work harder and smarter to compete in the global marketplace to maintain our current standard of living and quality of life.

Two, we do not need these tax cuts at this time. If this body believes we must have them, we should follow Alan Greenspan's advice and pay for them. If these tax cuts are so important to the economy, then let's pay for them.

And third, from a public policy point of view, these tax cuts are premature because in the very near future, we may well change them as part of fundamental tax reform and simplification.

I thank my colleagues for their attention and urge them to vote against the tax cuts proposed next week. I reaffirm a Republican principle we have held dear over the years and one that I adhered to as mayor of the city of Cleveland and Governor of Ohio; that is, balance budgets and reduce deficits.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

50TH ANNIVERSARY OF THE ALASKA CONSTITUTIONAL CONVENTION

Mr. STEVENS. Mr. President, today marks the 50th anniversary of the Alaska Constitutional Convention. I speak to pay tribute to those who contributed to this milestone in our State's history.

When the Constitutional Convention began on November 8, 1955, Alaska was a territory foundering under the weight of discriminatory Federal legislation.

Alaskans were denied control and management of our fisheries. We were denied our share of Federal highway funds. We were denied the ability to expand our economy because of unfair land laws. We were denied the right to vote for our President and Vice President. And we were denied full representation in Congress.

Our economy had been damaged by article 27 of the Jones Act, which Congress passed in 1920. This act specifically excluded Alaska from the United States' ship and rail system. It required all goods and services be diverted through Seattle, which drove up prices and pushed many Alaskans out of business.

As former territorial governor Ernest Gruening told the convention delegates in 1955, Alaska was "no less a colony than were those thirteen colonies along the Atlantic seaboard in 1775." Governor Gruening then quoted the United States Declaration of Independence and told the delegates it was time for Alaska to "let facts be submitted to a candid world."

Fifty-five men and women were chosen to serve as convention delegates. The number 55 was selected to reflect the Philadelphia Convention of 1787, which produced the Constitution of the United States.

On November 8, 1955, the delegates met at the University of Alaska in Fairbanks. They worked for 75 days, and their efforts produced a precedent-setting constitution, which formed the basis for Congressional approval of statehood.

Thanks to the dedication of George Lehleitner of Louisiana and C.W. Bill Snedden, publisher of the Fairbanks Daily News-Miner, our constitution included Alaska's version of the "Tennessee plan," which had been used successfully by Tennessee, Michigan, California, Oregon, Kansas, and Iowa to gain admission to this Union. Under this plan, our territory elected a Congressional delegation without waiting for Congressional approval.

When they began their deliberations 50 years ago today, no one could have predicted how successful our convention delegates would be. They considered the needs of Alaskans who lived in the territory and the needs of those who would later live in our State. Their foresight gave us the document that has stood the test of time and been hailed as a model of state constitutions. And their efforts set in motion the series of events that led to statehood.

Before the Constitutional Convention, there were many who questioned whether Alaskans could be entrusted with statehood. They thought we were too far-removed from the lower 48, too different. Those who participated in the drafting of our constitution changed this. Our constitution affirmed our commitment to the democratic ideals upon which this Union was founded.

The 55 convention delegates were devoted public servants who became Alaska's founding mothers and fathers. Today, five of those delegates are meeting in Anchorage. They are:

George Sundborg, Sr., a newspaperman who served as chair of the convention's committee on style and drafting. George later served as Senator Ernest Gruening's top aide in Washington, DC.

Dr. Victor Fischer, who served as chair of the convention's committee on the Executive Branch. Vic was later elected to the territorial House of Representatives and served the State he helped create in the Alaska State Senate.

John "Jack" Coghill, who was chair of the convention's committee on administration. Jack was a member of the territorial House of Representatives and later served as mayor of Nenana, State Senator, and Alaska's Lieutenant Governor.

Seaborn Buckalew, a member of the territorial House of Representatives who later served as a State Senator, Assistant Adjutant General of the Alaska National Guard, and U.S. District Attorney and Superior Court Judge for the 3rd Judicial District.

Burke Riley, who served as chair of the convention's committee on rules. Burke was a special assistant to Governor Gruening and the Secretary of Alaska from 1952 through 1953, a position similar to today's lieutenant governor. He also served in the territorial House of Representatives.

Today, these delegates are joined by:

Thomas Stewart, who served in the territorial legislature and chaired its Joint Committee on Statehood and Federal Legislation, which drafted the Convention Enabling Act. Tom served as secretary of the convention and later became an Alaska Superior Court Judge. He played a key role in establishing our State's court system.

Katherine Hurley, who was the longtime executive secretary to territorial Governor Ernest Gruening and secretary of the territorial senate. Ms. Hurley served as chief clerk of the convention.

Doris Ann Bartlett, the daughter of my predecessor, Senator Bob Bartlett. Doris served as librarian of the convention.

Also in Anchorage today are three consultants who advised the convention delegates:

Dr. George Rogers, who served as temporary secretary and economics consultant,

Dr. Vincent Ostrum of the University of Indiana, and

Dr. Earnest Bartley of the University of Florida.

On behalf of all Alaskans, Senator LISA MURKOWSKI and I have come to the floor today to thank these men and women whose hard work laid the foundation for the 49th State.

In his speech closing the proceedings, Bill Egan, the president of the Constitutional Convention who later served three terms as Alaska's Governor, said:

> I say to each and every Alaskan: If it had been your good fortune, as it has been mine, to have witnessed the abilities, the diligence, the devotion to duty, of these delegates . . . you would say of their labors, "well done!"

Bill Egan's words endure today. Well done, thank you, and God bless each of you!

I yield the remainder of my time to Senator MURKOWSKI.

The PRESIDING OFFICER. The junior Senator from Alaska.

Ms. MURKOWSKI. Mr. President, I thank my colleague and I, too, thank the Senator from Virginia for allowing us to speak today on the 50th anniversary of the convening of the Alaska Constitutional Convention.

Although it has not quite been 50 years since Alaska's statehood, it was half a century ago today that 55 delegates from around the State met to debate what would become the Alaska Constitution.

Prior to the Constitutional Convention, the Convention's secretary, Thomas Stewart, traveled around the country for 6 months looking at other States' constitutions and how their provisions may work in Alaska. Later, 55 delegates were elected from every region in Alaska, and on November 8, 1955, the delegates met in Fairbanks at the University of Alaska. As the country was shrouded in the Cold War, Alaska's Territorial Governor Ernest Gruening stood to address the Constitutional Convention, and said:

> Alaska has a great, great destiny. We are here situated by geography and by history in the farthest north and our farthest west in a unique position to achieve that destiny. We were formerly part of a country which today, under changed government, represents the antithesis of everything that we believe in and of everything we hold dear. We have a geographic juxtaposition to that area. We can see it from our mainland with the naked eye. What a challenge then to create in these far northern latitudes a shining and eternal example of what we want to call the American way of life, to make Alaska not merely a bulwark defense for the whole hemisphere, for the free world, but a spiritual citadel of the American idea. It can only be done by the application to Alaska of basic American principles, the most basic of which is government by consent of the governed. So you have here a thrilling opportunity, and I know you will live up to it.

Those were the words of Governor Gruening.

Alaska did. The Alaska Constitution was the result of the hard work of the pioneers of the last frontier. Five of those delegates to the constitutional convention are still alive today, as Senator STEVENS mentioned. I take a brief moment to recognize the accomplishments of these outstanding Alaskans.

First, Victor Fisher was a member of the Alaska Territorial House of Representatives and the Alaska State Senate. Mr. Fisher was born in Germany, with an American father and Russian mother. Mr. Fisher has also worked at the University of Alaska, primarily as the director of the Institute of Social and Economic Research.

George Sundborg, Sr., began his life as a newspaper journalist, an editor, a publisher, and owner. After the constitutional convention, Mr. Sundborg continued his service to Alaska as a staff member to the territorial Governor.

John B. "Jack" Coghill was a representative in the Alaska Territorial House of Representatives. After the convention, Mr. Coghill continued to serve the State as president of the Alaska School Board Association and then as our State's Lieutenant Governor.

Mr. Burke Riley served as the Territorial Secretary of Alaska and served two terms in the Alaska Territorial Legislature. As a delegate to the Alaska constitutional convention, Mr. Riley served as the Rules Committee chairman. Mr. Riley also served as a chief of staff to Governor Egan and assisted in setting up the government of the State of Alaska during Governor Egan's extended illness.

And Seaborn Buckalew served in the Territorial House. After the convention, Mr. Buckalew was appointed to the superior court where he served many years. He was also an Active National Guard member.

The result of the hard work of these delegates was a constitution that the National Municipal League said was "one of the best if not the best State constitution ever written." The Alaska constitutional convention would not have been a success without the assistance of staff and consultants. I mentioned the contribution of Thomas

Stewart. There was also that from Katherine Hurley, Dr. George Rogers, and Doris Ann Bartlett. I also thank the two surviving consultants, Dr. Vincent Ostrum and Dr. Earnest Bartley, for their service to Alaska.

I was not yet born at the time that Alaska's Constitution was created, but that document continues to serve Alaska's leaders as a roadmap to our State's future. Alaska's constitutional convention didn't just set the wheels in motion toward statehood, it has guided my generation and my children's generation and will be a guide to future generations of Alaskans forward.

As Governor Gruening put it, "a shining and eternal example of what we want to call the American way of life."

HONORING OUR ARMED FORCES

DEATH OF ARMY SPECIALIST DARREN HOWE

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of Darren Howe of Beatrice, NE, a specialist in the U.S. Army. Specialist Howe died of wounds suffered after his Bradley fighting vehicle was struck by a roadside bomb on October 17, near Samarra, Iraq.

Though severely burned, Specialist Howe regained control of the Bradley, and helped evacuate soldiers in the rear of the vehicle. His efforts helped save the lives of his fellow soldiers. He was 21 years old.

Specialist Howe grew up in Beatrice, NE, and graduated from Beatrice high school in 2003. He joined the Army Reserve in High School, and upon graduation enlisted in the Army full time. Specialist Howe was a member of Company A, 1st Battalion, 15th Infantry Regiment, 3rd Infantry Division, Fort Benning, GA. Specialist Howe will be remembered as a loyal soldier who had a strong sense of duty, honor, and love of country. Thousands of brave Americans like Specialist Darren Howe are currently serving in Iraq.

Specialist Howe is survived by his wife Nakia and their two children, Shaye-Maleigh, 3, and Gary-Dean, 1. He is also survived by his mother and stepfather, JoDee and Greg Klaus of Beatrice; father and stepmother, Steve and Beau Howe of Emporia, KS, brother Brandon Howe and step-brother Alex Klaus. Our thoughts and prayers are with them at this difficult time. America is proud of Specialist Howe's heroic service and mourns his loss.

I ask my colleagues to join me and all Americans in honoring Specialist Darren Howe.

TRIBUTE TO PRIVATE FIRST CLASS TYLER MACKENZIE

Mr. ALLARD. Mr. President, today I honor the life of PFC Tyler Ryan MacKenzie who was assigned to the 502nd Infantry Regiment, 2nd Brigade Combat Team, 101st Airborne Division. His service to the U.S. Army led Private MacKenzie of Evans, CO, to Fort Campbell, KY, and eventually Iraq. Last Wednesday his life, along with three of his fellow soldiers, came to an end when his vehicle was struck by a roadside bomb.

Today we have many remarkable men and women serving in our military with a strong sense of dedication to the United States. Tyler himself came from a line of military servicemen in his family and he too felt an obligation to serve in the Armed Forces. Private MacKenzie's family is proud of his service to our country.

The democratic milestones reached in Iraq in the last 2 years would not have been possible without dedication of our brave men and women in uniform and support provided by their loved ones. At this difficult time my heart goes out to Tyler's family and all those who take part in the noble cause of protecting freedoms that we all enjoy. I am thankful for Tyler MacKenzie and those that preceded him in making the ultimate sacrifice. Their lives should be honored by firmly resisting the enemy and completing the mission.

IN HONOR OF ARMY SPECIALIST DARREN HOWE

Mr. NELSON of Nebraska. Mr. President, I rise today to honor Army SPC Darren Howe of Beatrice, NE.

Specialist Howe, 21, began his service in the Army Reserve. He graduated in 2003 from Beatrice High School and decided to join the Army full-time. Specialist Howe was assigned to A Company, 1st Battalion, 15th Infantry Regiment, 3rd Infantry Division, Fort Benning, GA.

On October 17, 2005, SPC Darren Howe was mortally wounded when an improvised explosive detonated close to the Bradley fighting vehicle he was driving near Samarra, Iraq. He was treated in Germany before being taken to Brooke Army Medical Center in Texas, where he died on November 3, 2005.

Specialist Howe is survived by his wife, Nakia, who lives in Plymouth, NE. Darren and Nakia are the parents of a 3-year-old daughter, Shaye-Maleigh, and a 1-year-old son, Gary-Dean. I would like to offer my sincere condolences and prayers to the family and friends of Specialist Howe. His noble service to the United States of America is to be respected and remembered by all. Every American and all Nebraskans should be proud of the service of brave military personnel such as SPC Darren Howe.

IN HONOR OF ARMY CAPTAIN JOEL CAHILL

Mr. President, I rise today to honor Army CPT Joel Cahill of Papillion, NE.

CPT Joel Cahill, 33, was a selfless and honorable man whose commitment and service to his country earned him the Soldier's Medal, which is awarded for selfless action in noncombat situations. He graduated from Papillion-La Vista High School before graduating magna cum laude in 1999 from the University of Nebraska at Omaha. He was serving his fourth tour of combat duty and in the 1st Battalion, 15th Infantry from Fort Benning, GA.

On November 6, 2005, Captain Cahill was patrolling an area in Anbar Province in western Iraq when a roadside bomb detonated, mortally wounding him.

Captain Cahill is survived by his wife, Mary; his parents, Larry and Barbara Cahill; and numerous other family members, friends and fellow soldiers. Joel and Mary are the parents of two children, Faith, 4, and Brenna, 3. I would like to offer my sincere condolences and prayers to the family and friends of Captain Cahill. His noble service to the United States of America is to be respected and remembered by all. Every American and all Nebraskans should be proud of the service of brave military personnel such as CPT Joel Cahill.

IN HONOR OF ARMY STAFF SERGEANT JASON FEGLER

Mr. President, I rise today to honor Army SSG Jason Fegler of Harrisburg, NE.

Staff Sergeant Fegler, 24, graduated from Banner County High School before serving for more than 4 years in the Marine Corps. He then joined the Army where he served in the 101st Airborne. He died November 4, 2005, following a month of service in Iraq.

Staff Sergeant Fegler is survived by his wife, Shianne, who is in the Navy and lives in Virginia Beach, VA. Jason and Shianne are the parents of a 2-year-old son, Aiden. He is also survived by his father, Jim Fegler, and numerous other family members, friends, and fellow soldiers.

I would like to offer my sincere condolences and prayers to the family and friends of Staff Sergeant Fegler. His noble service to the United States of America is to be respected and remembered by all. Every American and all Nebraskans should be proud of the service of brave military personnel such as SSG Jason Fegler.

THE COMBAT METH ACT

Mr. LEAHY. Mr. President, methamphetamine abuse has increased exponentially in recent years, expanding geographically to reach all corners of the United States. In recent years, the problem has made its way to Vermont. I am concerned about escalating methamphetamine abuse and have worked with other interested Senators to find ways to combat this growing problem.

With Senator FEINSTEIN taking the lead, on July 28, 2005, the Senate Judiciary Committee unanimously reported out the Combat Meth Act, S. 103, with a committee amendment. I worked with Senator FEINSTEIN and the other members of the committee to reach this result.

In September, I worked with Chairman SHELBY and Senator MIKULSKI to take the unusual action of including the Combat Meth Act as an amendment to the Commerce Justice Science appropriations bill. I did this to accommodate Senator FEINSTEIN's request and to try to make progress on this measure. By that action the Senate approved the Combat Meth Act, S. 103, as reported by the Judiciary Committee, as an amendment and then in passage of the bill. House conferees would not agree to the Senate bill. Without agreement on such an authorization, it was not retained in the appropriations conference report.

Last Thursday, I honored the request of Senator FEINSTEIN and worked to clear the Combat Meth Act, S. 103, as reported by the Judiciary Committee, for passage by the Senate as a freestanding bill. It is clear on the Democratic side. It has been clear for days. All Senate Democrats are ready to pass that measure. It is being prevented from passage by an anonymous objection from the Republican side of the aisle.

The Senate's bipartisan bill focuses directly on providing law enforcement and prosecutors the tools they told us they needed. These include putting precursor chemicals behind the pharmacy counters, monitoring and regulating the quantities that can be bought in a 30-day period, and making it harder to smuggle such ingredients into the United States. The Senate bill focuses on prevention, regulation, monitoring, and treatment. Our bill would make it harder for people to enter the nightmarish world of methamphetamine use and abuse, harder for other countries and companies to profit from methamphetamine misery, and easier for law enforcement to combat this problem on the ground.

I know that Senator FEINSTEIN has been working tirelessly for years to do something about this important issue. She has been tenacious and dedicated, and I respect her leadership in this area. She and Senator TALENT know that I have tried to accommodate them and to facilitate passage of this legislation.

ABUSE OF FOREIGN DETAINEES

Mr. LEAHY. Mr. President, The Bush administration has steadfastly refused to address the black mark on our Nation caused by its interrogation policies and practices and the resulting abuse of detainees. Some of us in Congress strongly believe that oversight and accountability are paramount to restoring America's reputation as a human rights leader. We have been stymied in our efforts to learn the truth about how this administration's policies trickled down from offices in Washington to cellblocks in Abu Ghraib, Guantanamo, and Afghanistan.

The administration's effort, led by Vice President CHENEY, to block any legislation that would regulate the treatment of detainees is wrong. Also wrong is the Bush administration's refusal to consider an independent commission to investigate the abuses. It would rather rely on internal, piecemeal investigations conducted within the Defense Department, none of which address the significant role of the Central Intelligence Agency in interrogations.

Given the failure of the Republican-controlled Congress to conduct effective oversight, I support the Levin amendment to the Defense authorization bill to establish an independent commission on the treatment of detainees in U.S. custody. I have spoken many times about the need for a comprehensive, independent investigation into the abuse of detainees. Such an investigation may not be without painful, but accountability is a necessary step if we are to recover from all that has transpired during this administration's watch.

I am not alone in calling for an independent commission. Several organizations, including the American Bar Association, Human Rights First, Amnesty International, and Human Rights Watch, have urged the creation of an independent, bipartisan commission to investigate the prisoner abuses. A letter from eight retired generals and admirals to President Bush asked him to appoint a prisoner abuse commission modeled on the 9/11 Commission. In that letter, the flag officers stated, "internal investigations by their nature suffer from a critical lack of independence. Americans have never thought it wise or fair for one branch of government to police itself."

The 9/11 Commission provides more than a structural model for a new commission; it also provides a lesson in how perseverance can overcome the Bush administration's inclination to secrecy and to refuse to acknowledge the facts. The Bush administration initially opposed the formation of the 9/11 Commission, just as it now opposes a prisoner abuse commission. The administration used the same argument against both commissions. It asserts that its own internal investigations are sufficient.

Ironically, Dr. James Schlesinger, the head of a panel established by Secretary Rumsfeld to investigate the prisoner abuses, addressed this issue in his testimony to the Senate Government Affairs Committee in February 2002, as it debated the need for the 9/11 Commission. He argued for the creation of the 9/11 Commission because "to this point many questions have been addressed piecemeal or not at all. The purpose of the National Commission would be systematically and comprehensively to address such questions and to give a complete accounting of the events leading up to 9/11. In my judgment, such a Commission would serve a high, indeed indispensable, national purpose." This is exactly the same reason we need an independent commission to investigate the prisoner abuse scandals.

Ignoring the problem will not make it go away. Delaying the accounting will not solve the problems. Each week brings new allegations that reveal how much we still do not know. Human rights groups and journalists are doing what they can to bring the truth to light. It is past time for Congress to hold a thorough, oversight investigation. The least Congress should finally do is establish an independent commission to investigate these matters. Rather than wait to read about the latest discovery of abuse in tomorrow's paper, let us at least do that.

After months of delay from the Republican Senate leadership, the Senate finally had an opportunity last month to vote on clear guidance for treatment of detainees in U.S. custody. When we did, the Senate voted overwhelmingly, 90 to 9, in favor of Senator MCCAIN's amendment to the Defense appropriations bill, which I was glad to cosponsor along with Senator DURBIN and others.

That same amendment was adopted a second time to the Defense Authorization bill and I, again, cosponsored it.

Our credibility and reputation as a world leader in human rights has suffered greatly during the last few years. The scandals have put our own troops at risk and undermined their efforts in Afghanistan and Iraq.

Many of us have been working on these issues for years. I first wrote to Condoleezza Rice in 2003, after reports of deaths of detainees were reported from the Bagram base in Afghanistan in late 2002. Like so much we have learned, those first reports came from the press and human rights groups, not the Bush administration.

The Bush administration has threatened to veto any legislation that would regulate the treatment of detainees. Vice President CHENEY is reported to be personally lobbying on this matter.

A group of 28 senior military officers, including GEN John Shalikashvili, recently wrote to Senator MCCAIN in support of his amendments addressing detainee treatment. That letter states:

> The abuse of prisoners hurts America's cause in the war on terror, endangers U.S. service members who might be captured by the enemy, and is anathema to the values Americans have held dear for generations. . . . Our service members were denied clear guidance, and left to take the blame when things went wrong. They deserve better than that.

I hope the President will consider these words before he vetoes a bill that contains our amendment.

Prisoner abuse by U.S. personnel is deeply troubling. It is one aspect of a broader problem. While we must ensure that prisoners are treated humanely by our own personnel, we must also prohibit the use of so-called extraordinary renditions to send people to other countries where they will be subject to torture.

The Bush administration says that it does not condone torture, but transferring detainees to other countries where they will be tortured does not absolve our Government of responsibility. By outsourcing torture to these countries, we diminish our own values as a nation and lose our credibility as an advocate of human rights around the world.

We have addressed this issue before. Congress implemented article 3 of the Convention Against Torture in the Foreign Affairs Reform and Restructuring Act of 1998, but this administration has exploited loopholes in that law to transfer detainees to countries where they are subjected to torture. Attorney General Gonzales recently said that U.S. policy is not to send detainees "to countries where we believe or we know that they're going to be tortured," but he acknowledged that we "can't fully control" what other nations do, and added that he does not know whether countries have always complied with their promises. In fact, they have not.

I introduced legislation in March to close the loophole and to prevent extraordinary renditions. Now that Congress is finally willing to regulate the treatment of detainees—a power that is expressly granted in the Constitution—I hope that the Senate will support my legislation to prohibit renditions.

THE SECOND CHANCE ACT

Mr. OBAMA. Mr. President, I rise today to speak in favor of the Second Chance Act, a bill to strengthen community safety by improving the reintegration of people returning from prison. I am pleased to work with Senators SPECTER, BIDEN, and BROWNBACK and to be an original cosponsor of this bill.

This year, approximately 650,000 prisoners will be released into communities across America communities in which all of us live. They will have paid their debt to society and will now return to their homes and neighborhoods, to their families, and back to their lives. Their communities are our communities; their success is an important part of our success as a larger community and a nation.

The problem is that for most of these men—and more than 9 out of 10 of them are men—their families, neighborhoods, and prior lives often lack what it takes to ensure successful reintegration. If we punish crime, as we should, then we must also recognize that when punishment is concluded, there are lives that must be resumed constructively. We only hurt ourselves and our own communities if we fail.

That is why the Second Chance Act is so important. It is the leading edge of a smart community response to the challenges we all face from this inevitable feature of our justice system.

In the best of cases, incarcerated individuals maintain contact with their families and receive rehabilitation services while in prison; they are released to a network of law-abiding peers and quickly find a rewarding job that provides the skills and career development for long-term opportunity. Released prisoners can help support their families, become active in their churches and other community organizations, stay off drugs, away from trouble, on track, and out of jail.

Unfortunately, that rarely happens. Up to two-thirds of all released prisoners nationwide end up back in prison within just 3 years. That means that of the 1,800 people released from prisons every single day in this country, almost 1,200 fail to make a successful transition into the world of work and responsibility. They do not manage to find and keep effective jobs and to care for themselves and their families. Many become a drain on their families and a drain on the system. They are more likely to resort to criminal activity and to perpetuate poverty and family dysfunction.

And their failure is our failure since we all share the high cost and other burdens of unemployment, crime, community failure, and cycles of recidivism.

The Illinois Department of Corrections released almost 40,000 people in 2004. A recent Chicago study found that only 30 percent of former prisoners were employed when interviewed 4 to 8 months after release, and of those who succeeded in finding at least some form of legal employment, the average cumulative length of employment was 13 weeks. The same study found that 81 percent of former prisoners were uninsured, and only 29 percent of those working full time had health insurance. Of the people released by the Illinois Department of Corrections three years ago, almost 55 percent of adults and 47 percent of juveniles have already returned to custody. This is a revolving door of failure that must stop.

Fortunately, smart people in hundreds of communities and community organizations all across the country have figured out ways to improve this performance and create constructive places for former prisoners in society. It is in the best interest of all of us and the communities we live in to provide the resources to take these effective strategies to scale. That is what the Second Chance Act does.

In Illinois, dozens of organizations are involved in safely reintegrating former prisoners into their communities, and many have been funded by the Illinois Department of Corrections through grants from the U.S. Department of Justice. As one example, the Safer Foundation has managed to cut the State's recidivism rate by almost 50 percent for the people who receive Safer's supportive employment services. And Safer has further demonstrated that ex-prisoners who are still employed after 12 months of supportive services have a recidivism rate of lower than 10 percent. One of Safer's program models, funded by the U.S. Department of Labor, provides participants with job placement and support services, and matches them with mentors from the neighborhoods where the participants reside. Only 2 percent of the participants in this community and faith-based program have recidivated over a 2-year period.

One of the most effective strategies that Safer, the Heartland Alliance for Human Needs and Human Rights, and other nonprofit organizations have devised is transitional jobs, a strategy that worked for welfare to work, and is now working for prison returnees. In a transitional jobs program, former prisoners with employment challenges are hired and paid a wage for legitimate employment in a time-limited, subsidized job. The program not only offers real work, income, skill development, and a letter of reference and experience to add to their resume, it also offers coaching and support services to help participants overcome substantial barriers to employment, such as substance abuse or mental health issues. The program focuses heavily on placement into unsubsidized work at the earliest possible time and job retention services after placement. Studies of successful transitional jobs programs have found that transitional jobs result in a 33 percent increase in employment when compared to other types of employment preparation programs, and that 81 percent to 94 percent of transitional job graduates go on to unsubsidized employment at wages between $7 and $10 per hour.

The participants gain an immediate source of legitimate income upon release. They also gain paid work experience, access to professional counseling and training services, and a clear path to unsubsidized employment in the community. Employers gain access to a pipeline of supported workers who have demonstrated an ability to do the job and remain employable. Most of all, our communities gain by creating a productive place for ex-prisoners, where they contribute positively to family, neighborhood, and the larger environment rather than the opposite.

The ex-prisoner population is a challenging one to serve. It is estimated that 95 percent of unskilled jobs in this country require a high school diploma or some work experience. But 40 percent of released prisoners lack a high school diploma or GED—more than twice the rate for the general population over 18. And 38 percent of prisoners without high school degrees were unemployed just prior to being incarcerated, compared to 25 percent for those with high school diplomas.

In prison, only about one-third of inmates receive vocational training or work experience designed to improve their ability to obtain legitimate employment once released. And very few former incarcerated individuals receive job counseling and placement services after their release.

Because of the low pay, lack of benefits, and lack of advancement potential of many formal work activities, informal and illegal activities may be tempting. Especially considering that an estimated 70 percent of State prison inmates have a history of regular drug use, and very few receive formal treatment in prison.

Most communities where prisoners go upon release already struggle with high poverty, unemployment, fragile families, and a dearth of jobs. In Illinois, for example, 54 percent of those released from prison return to just seven communities around Chicago. These communities are among the poorest in Chicago and are ill prepared for the additional burden of reintegrating young men with criminal records, spotty employment histories, low skills and education.

Former prisoners also face employer resistance to hiring people with criminal backgrounds. One study found that applicants with criminal records experienced a 50 percent reduction in job offers for entry level jobs, compared to those without records. This was compounded by racial bias as black former inmates experienced at 64 percent reduction in offers.

Other barriers include one documented by a recent study in Illinois in which only 22 percent percent of the prisoners had a photo identification card at the time of release. And most prisoners have financial and other obligations, including child support and the conditions of their release, that require immediate attention.

Notwithstanding the barriers to successful reentry, however, faith based and community based organizations have been achieving positive results with the released prisoner population for years. The Second Chance Act celebrates the potential of nonprofit community organizations working with State and local authorities and corrections departments to promote responsible parenting and sustainable employment, and to reduce recidivism.

This bill will make funding available to the Attorney General to support and evaluate the efforts of innovative communities and local service providers. Grants can be used to expand access to transitional jobs programs and to transitional and permanent housing, to support health services, to support the children of incarcerated parents and the maintenance of healthy parent-child relationships, to address literacy and educational needs, and to ensure that appropriate job training, placement, and retention services are available.

Priority under the Second Chance Act will be given to projects that serve geographic areas with large ex-prisoner populations, to projects that include partnerships with nonprofit organizations, and to projects that provide consultations between victims and ex-prisoners. Priority will also be given to projects that consider appropriate reforms of sanctions for technical post-release violations, and to projects that establish pre-release procedures to connect participants to the State and Federal benefits and referrals to social and health services for which they are eligible.

And by maintaining a strict focus on measurable results and data collection, the Second Chance Act will help us learn what works and what does not work.

Too many people are caught up in the criminal justice system. Especially within the African American community where 32 percent of black males will enter State or Federal prison sometime during their lifetime. Communities are protected and strengthened when people who break the law are punished appropriately. But communities—all communities, including yours and mine are weakened if we neglect the challenges of rehabilitation and reentry.

To improve the integration of former prisoners and to reduce recidivism is in all of our best interests. A well-designed reentry system can enhance public safety, reduce recidivism, reduce costs, and help prisoners achieve long-term integration. Former prisoners who are engaged in lawful work after they have returned to the community are less likely to commit new crimes and are more likely to be involved in their children's lives.

The Second Chance Act is an important effort to strengthen America's communities. The bill is supported by a wide range of organizations, and I urge my colleagues to join us in passing this important legislation.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On August 08, 2005, in New York, NY, an unidentified gay man was beaten by two men in what police are calling a hate crime. The man was walking with a companion when two others approached screaming anti-gay slurs before attacking the victim; the attacker hit the victim repeatedly. Following the attack, the victim was taken to a near by Manhattan Hospital for head injuries.

I believe that the Government's first duty is to defend its citizens, to defend them against the harms that come out of hate. The Local Law Enforcement Enhancement Act is a symbol that can become substance. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

CONGRESSIONAL BUDGET ACT COMPLIANCE

Mr. GREGG. Mr. President, pursuant to section 313(c) of the Congressional Budget Act of 1974, on November 3, 2005, I submitted for the RECORD a list of material in S. 1932 considered to be extraneous under subsections (b)(1)(A), (b)(1)(B), and (b)(1)(E) of section 313. The last page of the list that was printed in the CONGRESSIONAL RECORD of November 3, 2005, was inadvertantly dropped. Today I resubmit the complete list and asked that it be printed in the CONGRESSIONAL RECORD.

EXTRANEOUS PROVISIONS—SENATE BILL

[Prepared by Senate Budget Committee Majority Staff]

SENATE	
Provision	Violation/Comments
TITLE I—AGRICULTURE, NUTRITION AND FORESTRY	
N/A	N/A
TITLE II—BANKING, HOUSING, AND URBAN AFFAIRS	
Sec. 2014(b)(3)(F)	313(b)(1)(A)—Report to Congress.
Sec. 2018(a)	313(b)(1)(A)—Studies of potential changes to the federal deposit insurance system—just a study.
Sec. 2018(b)	313(b)(1)(A)—Studies of potential changes to the federal deposit insurance system—just a study.
Sec. 2025	313(b)(1)(A)—Authorization of Appropriations—no money involved.
TITLE III—COMMERCE, SCIENCE, AND TRANSPORTATION	
3005(c)(2)	313(b)(1)(E)—low-power TV and translator outlays occur after 2010, increasing the deficit.
3005(c)(3)	313(b)(1)(E)—interoperability grant outlays occur after 2010, increasing the deficit.
3005(c)(4)	313(b)(1)(E)—E911 outlays occur after 2010, increasing the deficit.
3005(c)(5)	313(b)(1)(E)—coastal assistance outlays occur after 2010, increasing the deficit.
3005(d)	313(b)(1)(A)—transferring offsetting receipts that federal government has already received does not produce a change in outlays.
3005(f)	313(b)(1)(A)—does not produce a change in outlays as additional receipts could not be spent and would be deposited in Treasury anyway.
TITLE IV—ENERGY AND NATURAL RESOURCES	
N/A	N/A
TITLE V—ENVIRONMENT AND PUBLIC WORKS	
N/A	N/A
TITLE VI—FINANCE	
6012(a)(5)(F)	313(b)(1)(A)—Requirements on insurance sellers produce no change in outlays or revenues.
6012(b)(4)	313(b)(1)(A)—State reporting requirement produces no change in outlays or revenues.
6012(c)	313(b)(1)(A)—Annual report to Congress produces no change in outlays or revenues.
6022	313(b)(1)(A)—CBO score of zero.
6026(a) Sec. 1937(a).	313(b)(1)(A)—Medicaid CFO produces no change in outlays or revenues.
6026(a) Sec. 1937(b).	313(b)(1)(A)—Oversight Board produces no change in outlays or revenues.
6026(a) Sec. 1937(e).	313(b)(1)(A)—Annual report produces no change in outlays or revenues.
6036(e)	313(b)(1)(A)—Reports produce no change in outlays or revenues.
6043(c)(2)	313(b)(1)(A)—Budget neutrality language produces no change in outlays or revenues.
6103(c)	313(b)(1)(A)—Study and Report by HHS Inspector General produces no change in outlays or revenues.
6103(d)	313(b)(1)(A)—Rehabilitation Advisory Council produces no change in outlays or revenues.
6110(a) 1860E-1(e).	313(b)(1)(A)—Arrangement with an Entity to Provide Advice and Recommendations produces no change in outlays or revenues.

EXTRANEOUS PROVISIONS—SENATE BILL—Continued

[Prepared by Senate Budget Committee Majority Staff]

SENATE	
Provision	Violation/Comments
6110(b)(3)(E)	313(b)(1)(A)—Report produces no change in outlays or revenues.
6110(c)(1)(C)	313(b)(1)(A)—Sense of the Senate produces no change in outlays or revenues.
6110(g)(1)	313(b)(1)(A)—Requirement for skilled nursing facilities to report functional capacity of Medicare residents upon admission and discharge produces no change in outlays or revenues.
6113(d)	313(b)(1)(A)—Evaluation of PACE providers serving rural service areas produces no change in outlays or revenues.
6026(a) Sec. 1936(d).	313(b)(1)(A)—5-year plan produces no additional change in outlays or revenues.
6026(a) Sec. 1936(3)(3).	313(b)(1)(A)—Annual report requirement produces no change in outlays or revenues.
TITLE VII—HEALTH, EDUCATION, LABOR & PENSIONS	
Sec. 7101(f)	313(b)(1)(A)—Pro-GAP Sunset language/does not produce a change in outlays.
Sec. 7101(b)	313(b)(1)(A)—Pro-GAP Sense of the Senate/does not produce a change in outlays.
Sec. 7102(a), (b) and (d).	313(b)(1)(A)—SMART Grant findings/purpose/name, do not produce a change in outlays.
Sec. 7102(i)	313(b)(1)(A)—SMART Grant matching assistance/does not produce a change in outlays.
Sec. 7109	313(b)(1)(A)—Single Holder Rule/does not produce a change in outlays.
Sec. 7122 (b)	313(b)(1)(A)—Evaluation of Simplified Needs Test/does not produce a change in outlays.
Sec. 7153 (h), (i), (j), and Sec. 7155	313(b)(1)(A)—Authorizes waivers of provisions of discretionary programs, and addresses certain reporting requirements/do not produce a change in outlays.
Sec. 7201(d)(3)	313(b)(1)(A)—Pensions: (d)(3) special rule regarding future legislation/does not produce a change in outlays.
Sec. 7301, Sec. 7302 and Sec. 7311.	313(b)(1)(A)—HEA general provisions and definitions/do not produce a change in outlays.
Sec. 7314	313(b)(1)(A)—Protection of Student Speech and Assoc Rights/does not produce a change in outlays.
Sec. 7315	313(b)(1)(A)—Nat'l Advisory Comm. on Inst Quality/does not produce a change in outlays.
Sec. 7316	313(b)(1)(A)—Drug and Alcohol Abuse Prevention/does not produce a change in outlays.
Sec. 7317	313(b)(1)(A)—Prior Rights and Obligations—updates discretionary authorizations/does not produce a change in outlays.
Sec. 7318	313(b)(1)(A)—Cost of Higher ED Consumer Info/does not produce a change in outlays.
Sec. 7319	313(b)(1)(A)—Performance Based Org for Delivery of Fed Student Assist/does not produce a change in outlays.
Sec. 7320	313(b)(1)(A)—Procurement Flexibility/does not produce a change in outlays.
Sec. 7331	313(b)(1)(A)—Teacher Quality Enhancement/does not produce a change in outlays.
Sec. 7341—Sec. 7350.	313(b)(1)(A)—Institutional Aid/does not produce a change in outlays.
Sec. 7351	313(b)(1)(A)—Technical Corrections/does not produce a change in outlays.
Sec. 7361 2(A)	313(b)(1)(A)—Pell—max authorized grant. Nothing in Pro-GAP is driven off of "max" Pell Grant/does not produce a change in outlays.
Sec. 7362	313(b)(1)(A)—TRIO Programs/does not produce a change in outlays.
Sec. 7363	313(b)(1)(A)—GEAR-UP/does not produce a change in outlays.
Sec. 7364	313(b)(1)(A)—Repeal of Academic Achievement Scholarships/does not produce a change in outlays.
Sec. 7365	313(b)(1)(A)—SEOG/does not produce a change in outlays.
Sec. 7366	313(b)(1)(A)—LEAP/does not produce a change in outlays.
Sec. 7367	313(b)(1)(A)—Migrant ED/does not produce a change in outlays.
Sec. 7368	313(b)(1)(A)—Robert C. Byrd Honors/does not produce a change in outlays.
Sec. 7369	313(b)(1)(A)—Child Care Access Means Parents in School/does not produce a change in outlays.
Sec. 7370	313(b)(1)(A)—Repeal of Learning Anytime Anywhere Partnerships/does not produce a change in outlays.
Sec. 7386	313(b)(1)(A)—Reports to Credit Bureaus & Institutions/does not produce a change in outlays.
Sec. 7387	313(b)(1)(A)—Common Forms and Formats/does not produce a change in outlays.
Sec. 7388	313(b)(1)(A)—Information to Borrower and Privacy/does not produce a change in outlays.
Sec. 7389	313(b)(1)(A)—Consumer Education Information/does not produce a change in outlays.
Sec. 7391	313(b)(1)(A)—Federal Work Study/does not produce a change in outlays.
Sec. 7393	313(b)(1)(A)—Grants for Work Study Programs/does not produce a change in outlays.
Sec. 7394	313(b)(1)(A)—Job Location and Development Programs/does not produce a change in outlays.
Sec. 7395	313(b)(1)(A)—Work Colleges—discretionary program/does not produce a change in outlays.
Sec. 7412	313(b)(1)(A)—Terms of Loans—technical change/does not produce a change in outlays.
Sec. 7422	313(b)(1)(A)—Discretion of Financial Aid Administrators/does not produce a change in outlays.
Sec. 7432	313(b)(1)(A)—Compliance Calendar/does not produce a change in outlays.
Sec. 7437	313(b)(1)(A)—Institutional and Financial Info/Assist to Students/does not produce a change in outlays.
Sec. 7438	313(b)(1)(A)—Nat'l Student Loan Data System/does not produce a change in outlays.
Sec. 7439	313(b)(1)(A)—Early Awareness of Financial Aid Eligibility/does not produce a change in outlays.
Sec. 7442	313(b)(1)(A)—Reg. Relief and Improvement/does not produce a change in outlays.
Sec. 7443	313(b)(1)(A)—Transfer of Allotments/does not produce a change in outlays.
Sec. 7445	313(b)(1)(A)—Purpose of Admin Payments/does not produce a change in outlays.
Sec. 7446	313(b)(1)(A)—Advisory Committee on Student Financial Assist/does not produce a change in outlays.
Sec. 7447	313(b)(1)(A)—Regional meetings/does not produce a change in outlays.
Sec. 7448	313(b)(1)(A)—Year 2000/does not produce a change in outlays.
Sec. 7451	313(b)(1)(A)—Recognition of Accrediting Agency or Assoc/does not produce a change in outlays.
Sec. 7452	313(b)(1)(A)—Administrative Capacity Standard/does not produce a change in outlays.
Sec. 7453	313(b)(1)(A)—Program Review and Data/does not produce a change in outlays.
Sec. 7501	313(b)(1)(A)—Developing Institutions Definitions/does not produce a change in outlays.
Sec. 7502	313(b)(1)(A)—Auth Activities/does not produce a change in outlays.
Sec. 7503	313(b)(1)(A)—Duration of Grant/does not produce a change in outlays.
Sec. 7504	313(b)(1)(A)—Hispanic American Post baccalaureate/does not produce a change in outlays.
Sec. 7505	313(b)(1)(A)—Applications/does not produce a change in outlays.
Sec. 7506	313(b)(1)(A)—Cooperative Arrangements/does not produce a change in outlays.
Sec. 7507	313(b)(1)(A)—Authorization of Appropriations/does not produce a change in outlays.
Sec. 7601	313(b)(1)(A)—International Education Programs/does not produce a change in outlays.
Sec. 7602	313(b)(1)(A)—Graduate and Undergraduate Language and Area Centers and Programs/does not produce a change in outlays.
Sec. 7603	313(b)(1)(A)—Undergrad International Studies and Foreign Languages/does not produce a change in outlays.
Sec. 7604	313(b)(1)(A)—Research Studies/does not produce a change in outlays.
Sec. 7605	313(b)(1)(A)—Tech Innovation and Cooperation for Foreign Info Access/does not produce a change in outlays.
Sec. 7606	313(b)(1)(A)—Selection of Certain Grant Recipients/does not produce a change in outlays.
Sec. 7607	313(b)(1)(A)—American Overseas Research Centers/does not produce a change in outlays.
Sec. 7608	313(b)(1)(A)—Auth of Appropriations/does not produce a change in outlays.
Sec. 7609	313(b)(1)(A)—Centers for Intl Business Education/does not produce a change in outlays.
Sec. 7610	313(b)(1)(A)—Education and Training Programs/does not produce a change in outlays.
Sec. 7611	313(b)(1)(A)—Auth of Appropriations/does not produce a change in outlays.
Sec. 7612	313(b)(1)(A)—Minority Foreign Service Prof Dev Program/does not produce a change in outlays.
Sec. 7613	313(b)(1)(A)—Institutional Development/does not produce a change in outlays.
Sec. 7614	313(b)(1)(A)—Study Abroad Program/does not produce a change in outlays.
Sec. 7615	313(b)(1)(A)—Advanced Degree in Intl Relations/does not produce a change in outlays.
Sec. 7616	313(b)(1)(A)—Internships/does not produce a change in outlays.
Sec. 7617	313(b)(1)(A)—Financial Assistance/does not produce a change in outlays.
Sec. 7618	313(b)(1)(A)—Report/does not produce a change in outlays.
Sec. 7619	313(b)(1)(A)—Gifts and Donations/does not produce a change in outlays.
Sec. 7620	313(b)(1)(A)—Auth. of Appropriations for Inst of Intl Public Policy/does not produce a change in outlays.
Sec. 7621	313(b)(1)(A)—Definitions/does not produce a change in outlays.
Sec. 7622	313(b)(1)(A)—Assessment and Enforcement/does not produce a change in outlays.
Sec. 7701—Sec. 7716	313(b)(1)(A)—Graduate and Postsecondary Improvement Programs/does not produce a change in outlays.
Sec. 7801	313(b)(1)(A)—Misc. Discretionary Programs/does not produce a change in outlays.
Sec. 7901	313(b)(1)(A)—Amendments to Other Laws/does not produce a change in outlays.
Sec. 7902	313(b)(1)(A)—Agreement with Gallaudet University/does not produce a change in outlays.
Sec. 7903	313(b)(1)(A)—Agreement with Nat'l Tech Inst for the Deaf/does not produce a change in outlays.
Sec. 7904	313(b)(1)(A)—Cultural Experiences Grants/does not produce a change in outlays.
Sec. 7905	313(b)(1)(A)—Audit/does not produce a change in outlays.
Sec. 7906	313(b)(1)(A)—Reports/does not produce a change in outlays.
Sec. 7907	313(b)(1)(A)—Monitoring Evaluation and Reporting/does not produce a change in outlays.
Sec. 7908	313(b)(1)(A)—Liaison for Educational Programs/does not produce a change in outlays.
Sec. 7909	313(b)(1)(A)—Fed Endowment for Gallaudet/does not produce a change in outlays.
Sec. 7910	313(b)(1)(A)—Oversight and Effect of Agreements/does not produce a change in outlays.
Sec. 7911	313(b)(1)(A)—International Students/does not produce a change in outlays.
Sec. 7912	313(b)(1)(A)—Research Priorities/does not produce a change in outlays.
Sec. 7913	313(b)(1)(A)—Authorization of Appropriations/does not produce a change in outlays.
Sec. 7921	313(b)(1)(A)—US Inst of Peace Act/does not produce a change in outlays.
Sec. 7931	313(b)(1)(A)—Repeals various provisions of PL 105–244/does not produce a change in outlays.
Sec. 7932	313(b)(1)(A)—Grants to States for Incarcerated Youth Offenders/does not produce a change in outlays.
Sec. 7941	313(b)(1)(A)—Reauth. Tribal Colleges/does not produce a change in outlays.
Sec. 7945—Sec. 7946.	313(b)(1)(A)—Reauth. Navajo Nation Community College Act/does not produce a change in outlays.
TITLE VIII—JUDICIARY	
Sec. 8001(c)(1)(a) Adjustment of Status.	313(b)(1)(A)—This section allows an immigrant who has paid the supplemental petition fee to file for adjustment of status whether or not a visa is immediately available. Because the fee will have already been collected, this application adjustment does not affect the score.

ADDITIONAL STATEMENTS

IN MEMORIAM OF CLIFFORD BROWN

• Mr. CARPER. Mr. President, I would like to set aside a moment to reflect on the life of Clifford Brown. He would have celebrated his 75th birthday this past October 30. Clifford was a man who made a remarkable contribution toward the world of music by his soulful playing of the trumpet. He was a truly talented man who dedicated his life to music and his family.

Clifford was born on October 30, 1930, in Wilmington, DE. His father was a self-taught musician who kept several instruments around the house, including a bugle which young Clifford began playing at only 5 years old. He soon discovered the trumpet, which would change his life and the texture of jazz for all of eternity.

At the age of 12, Clifford's father arranged for him to study with esteemed local music teacher Robert Lowery, also from Wilmington. Under Robert's tutelage, Clifford began to display the promise of his ability and develop his own style of playing.

After studying with Mr. Lowery for 3 years, during which Clifford played in his teacher's dance band, Clifford moved his music education to Howard High School where he met Harry Andrews, the school's band and choral director. Mr. Andrews taught Clifford how to blend the free-flowing harmonies of jazz with the classical lines of more traditional music. This experience allowed Clifford to develop his own sound, which would be the starting point for his journey to greatness within the jazz community. His tutelage at Howard High School culminated with Clifford playing "The Carnival of Venice" as his graduation solo, which would be remembered by all who attended the ceremony.

After graduation, Clifford obtained a music scholarship to study mathematics at the University of Delaware, which, at the time, did not have a music department. He later attended Maryland State College, where Clifford played and composed music for the college band. It was during this time that Clifford was to meet the other love of his life, LaRue Anderson.

At the time, Ms. Anderson was doing a study on the psychology of music and had caught the eye of two future jazz greats, Charlie Parker and Max Roach, who were also acquaintances of Clifford Brown. Mr. Parker and Mr. Roach decided that Ms. Anderson and Clifford would make excellent companions, so they arranged for the two of them to meet. They met, fell in love, and later married.

After recovering from severe injuries due to a traffic accident, Clifford traveled to Europe in 1953 with Lionel Hampton and his big band. Despite contractual obligations, Clifford used his free time to record various solo and group projects, which would propel him to the next level of musical recognition. In 1954, Clifford teamed up with fellow jazz great Max Roach to form the Clifford Brown—Max Roach Quintet which was quickly recognized as one of the most formidable collections of contemporary jazz talent.

While touring the Nation with his quintet, Clifford Brown, who was only 25 years old at the time, died in a traffic accident on June 26, 1956. While the tragedy of his passing weighs heavy in our hearts, we are truly blessed that Clifford's musical genius survives in the sounds of modern jazz trumpeters everywhere. His widow LaRue Brown Watson passed away October 2, 2005.

It is difficult to refute that Clifford's rare combination of musical intelligence and immense emotional range changed the landscape of modern jazz forever. Fortunately for music lovers everywhere, Clifford's work has been immortalized on numerous recordings, almost any of which can be safely recommended as superior examples of what the jazz trumpet was meant to sound like. I rise today to commemorate Clifford Brown, his life, and his outstanding musical legacy.●

TRIBUTE TO DR. JACK GEIGER

● Mrs. CLINTON. Mr. President, I would like to take this opportunity to recognize an outstanding leader from New York who has spent his entire career championing improved health for minorities. Dr. Jack Geiger has been a pioneer in medical care for underserved populations through his dedicated work as a human rights advocate, scholar, educator, and physician. In commemoration of his 80th birthday this month, I would like to congratulate him on the extraordinary accomplishments he has achieved during his career that have impacted so many people in our Nation and in other countries.

For more than 60 years, Dr. Geiger has promoted human rights in the health field. In fact, he was one of the earliest leaders to advance the idea of health care as a civil right. He helped pioneer the American health centers movement by creating the first health centers in rural Mississippi and inner-city Boston, which then burgeoned into a network of more than 900 urban, rural, and migrant centers serving millions of low-income patients today.

It is difficult to cover all of Dr. Geiger's work in addressing human rights violations in the health sector because his contributions are so numerous. In the 1940s and 1950s, he led campaigns to end racial discrimination in hospitals and medical schools. In the 1960s, he helped provide medical care to civil rights workers. Later, he helped found and head the Physicians for Human Rights, a national organization of health professionals that investigates human rights abuses and war crimes and provides medical aid to victims of oppression. This organization shared in the Nobel Prize for Peace in 1998. In more recent years, he has served as the president of the Committee for Health in Southern Africa and as an NGO delegate to the United Nations Conference on Racism and Discrimination, in addition to leading several human rights missions abroad.

Dr. Geiger also has been a prolific researcher and author of numerous articles, book chapters, reports, and monographs on such topics as community-oriented primary care and community health centers, poverty and health care, the role of physicians in the protection of human rights, and health effects of nuclear war. Most recently, he has contributed to seminal reports on racial and ethnic disparities in clinical diagnosis and treatment.

As an educator and a physician, Dr. Geiger has produced generations of committed health professionals throughout the world and has provided medical care to countless patients and communities of all backgrounds. Before assuming his current position as Arthur C. Logan Professor Emeritus of Community Medicine at City University of New York Medical School and Visiting Professor of Epidemiology at Mailman-Columbia School of Public Health, he served as Chairman of the Department of Community Medicine at Tufts University Medical School, Visiting Professor of Medicine at Harvard Medical School and Chairman of the Department of Community Medicine at State University of New York at Stony Brook School of Medicine. There is no doubt that this extraordinary man embodies the true meaning of "doctor" and has positively changed the lives of tens of thousands of people.

For his work on health care, human rights, and poverty, Dr. Geiger has been recognized with scores of illustrious awards; most recently, he was the recipient of the Award for Academic Leadership in Primary Care from Morehouse School of Medicine in 2003 and the Paul Cornely Award from the Physicians Forum in 2004. It is only fitting that we acknowledge this health champion today. I congratulate Dr. Geiger on a lifetime full of remarkable accomplishments and am proud to honor his 80th birthday.●

HELEN BOOSALIS

● Mr. NELSON of Nebraska. Mr. President, I rise today to pay tribute to a person who has been instrumental in making Lincoln, NE, one of the great capital cities in America.

Helen Boosalis served on the city council before unseating an incumbent to be elected mayor of Lincoln, NE, earning her the distinction of being the first woman in America elected to the position of mayor in a city with a population of more than 100,000 residents.

As mayor of Lincoln from 1975 to 1983, Helen Boosalis was a member of the U.S. Conference of Mayors where she became one of the first women to become president of that organization.

Three years after leaving the mayor's office, Helen Boosalis won the Democratic nomination to run for Governor of Nebraska in a race where I had the honor of being her campaign chairman. She faced Kay Orr, who was Nebraska State treasurer at the time in what was the first woman-versus-woman gubernatorial campaign in American history.

She didn't win but she didn't give up her desire for public service and helping people who are in need.

Helen Boosalis went on to serve as president and chairman of the board of directors of the American Association of Retired Persons and, as such, had the opportunity to testify before Congress as she championed the causes of the Nation's senior citizens.

Since leaving that position, Helen Boosalis has tirelessly devoted herself to volunteering her services to help one worthwhile cause after another.

Her generosity even earned her a quote in the 2004 "Giving is Caring" inspirational calendar which included quotes from such notables as Albert Einstein, Martin Luther King, Jr., Thomas Jefferson, Ronald Reagan, Eleanor Roosevelt, Confucius, and Aristotle. Her quote goes to the spirit of voluntarism. It read, "America has had a long and rich tradition of generosity that began with simple acts of neighbor helping neighbor."

As an octogenarian, Helen Boosalis continues to serve her fellow Nebraskans with so much abundant energy that once caused one of her colleagues to describe her as a "Whirlwind."

Her honors are far too numerous to mention from the prestigious Midlander of the Year to Nebraska Woman of Distinction, but the honor she will receive this Sunday in the city she loves may be the best yet even though on the surface it appears to be quite humble.

Lincoln, NE, is a pedestrian friendly city with a beautiful and extensive network of hiking and biking trails that can trace their roots to Helen Boosalis' leadership as mayor.

On Sunday, November 13, 2005, the section of trail along Nebraska Highway Two where the entire system began in the mid 1970s thanks to Helen Boosalis' vision as mayor will be named in her honor.

A tree will also be planted as living testimony for decades of Nebraskans to come that they owe the tremendous system of trails that those in Lincoln continue to enjoy to the leadership of Mayor Helen Boosalis.

In closing, I would like to quote from the invitation for this Sunday's event:

> It was once said that Helen Boosalis has governed this city with graciousness, with tenacity, with determination, with understanding, with ability, with hope, with vision, with fairness, and with many other valued attributes. Now it's time to honor her with the naming of Helen Boosalis Trail.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the Committee on Armed Services.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGE FROM THE HOUSE

At 2:16 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House disagree to the amendment of the Senate to the bill H.R. 3058 making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon: and appoints the following members as the managers of the conference on the part of the House: Mr. KNOLLENBERG, Mr. WOLF, Mr. ROGERS of Kentucky, Mr. TIAHRT, Mrs. NORTHUP, Mr. ADERHOLT, Mr. SWEENEY, Mr. CULBERSON, Mr. REGULA, Mr. LEWIS of California, Mr. OLVER, Mr. HOYER, Mr. PASTOR, Ms. KILPATRICK, Mr. CLYBURN, Mr. ROTHMAN, and Mr. OBEY.

The message also announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1973. An act to make access to safe water and sanitation for developing countries a specific policy objective of the United States foreign assistance programs, and for other purposes.

The message further announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 260. Concurrent resolution recognizing the 40th anniversary of the Second Vatican Council's promulgation of Nostra Aetate, the declaration on the Relation of the Roman Catholic Church to non-Christian religions, and the historic role of Nostra Aetate in fostering mutual interreligious respect and dialogue.

At 4:21 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House disagree to the amendment of the Senate to the bill H.R. 3010 making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House: Mr. REGULA, Mr. ISTOOK, Mr. WICKER, Mrs. NORTHUP, Mr. CUNNINGHAM, Ms. GRANGER, Mr. PETERSON of Pennsylvania, Mr. SHERWOOD, Mr. WELDON of Florida, Mr. WALSH, Mr. LEWIS of California, Mr. OBEY, Mr. HOYER, Mrs. LOWEY, Ms. DELAURO, Mr. JACKSON of Illinois, Mr. KENNEDY of Rhode Island, and Ms. ROYBAL-ALLARD.

ENROLLED BILL SIGNED

At 4:36 p.m., a message from the House of Representatives delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

S. 1285. An act to designate the Federal building located at 333 Mt. Elliott Street in Detroit, Michigan, as the "Rosa Parks Federal Building".

The bill was signed subsequently by the President pro tempore (Mr. STEVENS).

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 1969. A bill to express the sense of the Senate regarding Medicaid reconciliation legislation to be reported by a conference committee during the 109th Congress.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4582. A communication from the Acting Director, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Determination of Threatened Status for the Southwest Alaska Distinct Population Segment of the Northern Sea Otter (Enhydra lutris kenyoni)" (RIN1018–AI44) received on November 2, 2005; to the Committee on Environment and Public Works.

EC–4583. A communication from the Assistant Secretary, Fish, Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Designation of Critical Habitat for Allium munzii (Munz's Onion)" (RIN1018–AJ10) received on November 2, 2005; to the Committee on Environment and Public Works.

EC–4584. A communication from the Assistant Secretary, Fish, Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants; Final Listing with Designation of Critical Habitat for Gila Chub" (RIN1018–AG16) received on November 1, 2005; to the Committee on Environment and Public Works.

EC–4585. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Delaware; Ambient Air Quality Standard for Ozone and Fine Particulate Matter" (FRL7992–3) received on November 1, 2005; to the Committee on Environment and Public Works.

EC–4586. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Repeal of NOx Budget Program COMAR 26.11.27 and 26.11.28" (FRL7992–5) received on November 1, 2005; to the Committee on Environment and Public Works.

EC–4587. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Provo Attainment Demonstration of the Carbon Monoxide Standard, Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes, and Approval of Related Revisions" (FRL7992–6) received on November 1, 2005; to the Committee on Environment and Public Works.

EC–4588. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Virginia; Update to Materials Incorporated by Reference" (FRL7985–6) received on November 1, 2005; to the Committee on Environment and Public Works.

EC-4589. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants" (FRL7992-8) received on November 1, 2005; to the Committee on Environment and Public Works.

EC-4590. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revision to the Guideline on Air Quality Models (appendix W to 40 CFR Part 51): Adoption of a Preferred General Purpose (Flat and Complex Terrain) Dispersion Model and Other Revisions" (FRL7990-9) received on November 1, 2005; to the Committee on Environment and Public Works.

EC-4591. A communication from the Assistant Secretary of Defense, Reserve Affairs, transmitting, pursuant to law, a report on the differing Army and Air Force policies for taking adverse administrative actions against National Guard officers in a state status and a determination by the Secretary of Defense as to whether changes are needed in those policies; to the Committee on Armed Services.

EC-4592. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a list of 24 officers authorized to wear the insignia of the grade of brigadier general; to the Committee on Armed Services.

EC-4593. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, authorization of Lieutenant General William T. Hobbins, United States Air Force, to wear the insignia of the grade of general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC-4594. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, authorization of Major General Michael W. Peterson, United States Air Force, to wear the insignia of the grade of lieutenant general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC-4595. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, authorization of Major General Michael D. Maples, United States Army, to wear the insignia of the grade of lieutenant general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

EC-4596. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, authorization of Rear Admiral Patrick M. Walsh, United States Navy, to wear the insignia of the grade of vice admiral in accordance with title 10 United States Code, section 777; to the Committee on Armed Services.

EC-4597. A communication from the Under Secretary of Defense (Comptroller), transmitting, pursuant to law, a report relative to advance billing in the month of September, 2005; to the Committee on Armed Services.

EC-4598. A communication from the Administrator, Food Safety and Inspection Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Addition of San Marino to the List of Countries Eligible to Export Meat Products to the United States" (RIN0583-AC91) received on November 4, 2005 to the Committee on Agriculture, Nutrition, and Forestry.

EC-4599. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Congressionally Mandated Evaluation of the State Children's Health Insurance Program: Final Report to Congress"; to the Committee on Health, Education, Labor, and Pensions.

EC-4600. A communication from the Regulations Coordinator, Centers for Disease Control, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Possession, Use, and Transfer of Select Agents and Toxins—Reconstructed Replication Competent Forms of the 1918 Pandemic Influenza Virus Containing Any Portion of the Coding Regions of All Eight Gene Segments" received on November 4, 2005; to the Committee on Health, Education, Labor, and Pensions.

EC-4601. A communication from the Director, Office of Management and Budget, Executive Office of the President, transmitting, pursuant to law, a report entitled "Statistical Programs of the United States Government: Fiscal Year 2006"; to the Committee on Homeland Security and Governmental Affairs.

EC-4602. A communication from the Director, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Prevailing Rate Systems; Redefinition of the Central North Carolina Appropriated Fund Wage Area" (RIN3206-AK83) received on November 4, 2005; to the Committee on Homeland Security and Governmental Affairs.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. LUGAR, from the Committee on Foreign Relations: Agreement with Canada on Pacific Hake/Whiting (Treaty Doc. 108-24) (Ex. Rept. 109-5). Text of the resolution of ratification as reported by the Committee on Foreign Relations:

Resolved (two-thirds of the Senators present concurring therein),

That the Senate advises and consents to the ratification of the Agreement between the Government of the United States of America and the Government of Canada on Pacific Hake/Whiting, done at Seattle, November 21, 2003.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Ms. STABENOW:

S. 1973. A bill to provide an immediate Federal income tax rebate to help taxpayers with higher fuel costs, to express the sense of the Senate regarding full funding of LIHEAP, and to provide consumer protections against fuel price gouging, and for other purposes; to the Committee on Finance.

By Mr. NELSON of Florida:

S. 1974. A bill to provide States with the resources needed to rid our schools of performance-enhancing drug use; to the Committee on Health, Education, Labor, and Pensions.

By Mr. OBAMA:

S. 1975. A bill to prohibit deceptive practices in Federal elections; to the Committee on Rules and Administration.

By Mr. FEINGOLD (for himself and Mr. KYL):

S. 1976. A bill to make amendments to the Iran Nonproliferation Act of 2000; to the Committee on Foreign Relations.

By Mr. STEVENS:

S. 1977. A bill to repeal section 5 of the Marine Mammal Protection Act of 1972; to the Committee on Commerce, Science, and Transportation.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. CHAFEE (for himself, Ms. STABENOW, Ms. SNOWE, Mrs. BOXER, Mr. CARPER, Mr. NELSON of Florida, Mr. MARTINEZ, Mr. JEFFORDS, Mr. KERRY, Mr. FEINGOLD, Mr. DURBIN, Mrs. FEINSTEIN, Mr. SCHUMER, Mrs. CLINTON, Ms. COLLINS, Ms. CANTWELL, Mr. LIEBERMAN, Mr. DEWINE, Mr. CRAPO, Mr. BOND, Ms. LANDRIEU, and Mr. VITTER):

S. Res. 301. A resolution commemorating the 100th anniversary of the National Audubon Society; to the Committee on Environment and Public Works.

By Mr. MCCONNELL (for himself and Mr. DODD):

S. Con. Res. 62. A concurrent resolution directing the Joint Committee on the Library to procure a statue of Rosa Parks for placement in the Capitol; to the Committee on Rules and Administration.

ADDITIONAL COSPONSORS

S. 103

At the request of Mrs. FEINSTEIN, the name of the Senator from Delaware (Mr. BIDEN) was added as a cosponsor of S. 103, a bill to respond to the illegal production, distribution, and use of methamphetamine in the United States, and for other purposes.

S. 368

At the request of Mr. LAUTENBERG, the name of the Senator from Vermont (Mr. JEFFORDS) was added as a cosponsor of S. 368, a bill to provide assistance to reduce teen pregnancy, HIV/AIDS, and other sexually transmitted diseases and to support healthy adolescent development.

S. 431

At the request of Mr. DEWINE, the names of the Senator from Oregon (Mr. SMITH), the Senator from Tennessee (Mr. ALEXANDER) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 431, a bill to establish a program to award grants to improve and maintain sites honoring Presidents of the United States.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 709

At the request of Mr. DEWINE, the name of the Senator from North Carolina (Mrs. DOLE) was added as a cosponsor of S. 709, a bill to amend the Public Health Service Act to establish a grant program to provide supportive services in permanent supportive housing for chronically homeless individuals, and for other purposes.

S. 1014

At the request of Ms. SNOWE, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. 1014, a bill to provide additional relief for small business owners ordered to active duty as members of reserve components of the Armed Forces, and for other purposes.

S. 1082

At the request of Mrs. HUTCHISON, the names of the Senator from Kansas (Mr. BROWNBACK) and the Senator from West Virginia (Mr. BYRD) were added as cosponsors of S. 1082, a bill to restore Second Amendment rights in the District of Columbia.

S. 1110

At the request of Mr. ALLEN, the name of the Senator from Montana (Mr. BAUCUS) was added as a cosponsor of S. 1110, a bill to amend the Federal Hazardous Substances Act to require engine coolant and antifreeze to contain a bittering agent in order to render the coolant or antifreeze unpalatable.

S. 1120

At the request of Mr. DURBIN, the name of the Senator from Michigan (Mr. LEVIN) was added as a cosponsor of S. 1120, a bill to reduce hunger in the United States by half by 2010, and for other purposes.

S. 1351

At the request of Mrs. CLINTON, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1351, a bill to amend title 10, United States Code, to provide for the award of a military service medal to members of the Armed Forces who served honorably during the Cold War era.

S. 1394

At the request of Mr. SMITH, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. 1394, a bill to reform the United Nations, and for other purposes.

S. 1399

At the request of Mr. THOMAS, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1399, a bill to improve the results the executive branch achieves on behalf of the American people.

S. 1418

At the request of Mr. ENZI, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1418, a bill to enhance the adoption of a nationwide interoperable health information technology system and to improve the quality and reduce the costs of health care in the United States.

S. 1424

At the request of Mr. ENSIGN, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of S. 1424, a bill to remove the restrictions on commercial air service at Love Field, Texas.

S. 1449

At the request of Mr. DURBIN, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1449, a bill to amend the Internal Revenue Code of 1986 with respect to the eligibility of veterans for mortgage bond financing, and for other purposes.

S. 1512

At the request of Mr. SARBANES, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1512, a bill to grant a Federal charter to Korean War Veterans Association, Incorporated.

S. 1631

At the request of Mr. DORGAN, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1631, a bill to amend the Internal Revenue Code of 1986 to impose a temporary windfall profit tax on crude oil and to rebate the tax collected back to the American consumer, and for other purposes.

S. 1687

At the request of Ms. MIKULSKI, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1687, a bill to amend the Public Health Service Act to provide waivers relating to grants for preventive health measures with respect to breast and cervical cancers.

S. 1780

At the request of Mr. SANTORUM, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1780, a bill to amend the Internal Revenue Code of 1986 to provide incentives for charitable contributions by individuals and businesses, to improve the public disclosure of activities of exempt organizations, and to enhance the ability of low-income Americans to gain financial security by building assets, and for other purposes.

S. 1791

At the request of Mr. SMITH, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1791, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for qualified timber gains.

S. 1800

At the request of Ms. SNOWE, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1800, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit.

S. 1807

At the request of Ms. SNOWE, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1807, a bill to provide assistance for small businesses damaged by Hurricane Katrina or Hurricane Rita, and for other purposes.

S. 1959

At the request of Mr. REID, his name was added as a cosponsor of S. 1959, a bill to direct the Architect of the Capitol to obtain a statue of Rosa Parks and to place the statue in the United States Capitol in National Statuary Hall.

At the request of Mr. KERRY, the names of the Senator from Maryland (Ms. MIKULSKI), the Senator from Florida (Mr. NELSON) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 1959, supra.

S. 1960

At the request of Mr. BUNNING, the name of the Senator from Nevada (Mr. REID) was added as a cosponsor of S. 1960, a bill to protect the health and safety of all athletes, to promote the integrity of professional sports by establishing minimum standards for the testing of steroids and other performance-enhancing substances and methods by professional sports leagues, and for other purposes.

S. 1961

At the request of Mr. BIDEN, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 1961, a bill to extend and expand the Child Safety Pilot Program.

S. CON. RES. 48

At the request of Mr. DURBIN, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. Con. Res. 48, a concurrent resolution expressing the sense of Congress that a commemorative postage stamp should be issued to promote public awareness of Down syndrome.

S. RES. 155

At the request of Mr. BIDEN, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. Res. 155, a resolution designating the week of November 6 through November 12, 2005, as "National Veterans Awareness Week" to emphasize the need to develop educational programs regarding the contributions of veterans to the country.

S. RES. 219

At the request of Mrs. FEINSTEIN, the name of the Senator from New Jersey (Mr. LAUTENBERG) was added as a cosponsor of S. Res. 219, a resolution designating March 8, 2006, as "Endangered Species Day", and encouraging the people of the United States to become educated about, and aware of, threats to species, success stories in species recovery, and the opportunity to promote species conservation worldwide.

S. RES. 261

At the request of Mr. KERRY, the name of the Senator from Vermont

(Mr. LEAHY) was added as a cosponsor of S. Res. 261, a resolution expressing the sense of the Senate that the crisis of Hurricane Katrina should not be used to weaken, waive, or roll back Federal public health, environmental, and environmental justice laws and regulations, and for other purposes.

S. RES. 273

At the request of Mr. COLEMAN, the name of the Senator from Kentucky (Mr. BUNNING) was added as a cosponsor of S. Res. 273, a resolution expressing the sense of the Senate that the United Nations and other international organizations shall not be allowed to exercise control over the Internet.

AMENDMENT NO. 2424

At the request of Mr. NELSON of Florida, the names of the Senator from Ohio (Mr. DEWINE) and the Senator from New Jersey (Mr. LAUTENBERG) were added as cosponsors of amendment No. 2424 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, "" for such fiscal year for the Armed Forces, and for other purposes.

At the request of Mr. BAUCUS, his name was added as a cosponsor of amendment No. 2424 proposed to S. 1042, supra.

AMENDMENT NO. 2430

At the request of Mr. LEVIN, the names of the Senator from New Jersey (Mr. LAUTENBERG), the Senator from California (Mrs. FEINSTEIN), the Senator from Delaware (Mr. BIDEN) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of amendment No. 2430 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2431

At the request of Mr. MARTINEZ, the names of the Senator from Florida (Mr. NELSON), the Senator from Arizona (Mr. KYL), the Senator from Missouri (Mr. TALENT) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of amendment No. 2431 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2432

At the request of Mr. INHOFE, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of amendment No. 2432 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2433

At the request of Mr. CHAMBLISS, the names of the Senator from South Carolina (Mr. GRAHAM), the Senator from Vermont (Mr. LEAHY) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of amendment No. 2433 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2436

At the request of Mr. LAUTENBERG, his name was added as a cosponsor of amendment No. 2436 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2438

At the request of Mr. HARKIN, the names of the Senator from Illinois (Mr. DURBIN), the Senator from Colorado (Mr. SALAZAR) and the Senator from Hawaii (Mr. AKAKA) were added as cosponsors of amendment No. 2438 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Ms. STABENOW:

S. 1973. A bill to provide an immediate Federal income tax rebate to help taxpayers with higher fuel costs, to express the sense of the Senate regarding full funding of LIHEAP, and to provide consumer protections against fuel price gouging, and for other purposes; to the Committee on Finance.

Ms. STABENOW. Mr. President, I rise today to introduce the Energy Tax Rebate Act of 2005 and I ask unanimous consent that the text of the bill be printed in the RECORD.

Michigan families and families across America are being delivered a one-two punch when it comes to energy prices. First, they continue to be hit hard by high gasoline prices. Now they are facing home heating costs this winter that are expected to rise dramatically compared to last year.

We can do better than this for our families. So today I am introducing a bill that will provide families with an immediate $500 tax rebate to help them pay for rising energy costs. My legislation also includes important consumer protections to make sure Americans are not the victims of unfair market practices and consumer price gouging. Finally, my bill includes a Sense of the Senate that the Low-Income Home Energy Assistance Program, known as LIHEAP, should be fully funded to its authorized level of $5.1 billion. LIHEAP is a successful program that makes sure our most vulnerable families, those living on low incomes or fixed-incomes, are able to heat their homes during the cold winter months.

Filling our cars with gasoline to take our children to school and heating our homes in the winter are not luxuries. They are necessities. Energy is a necessity. Together we can do better and together we will do better.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1973

Be it enacted by the Senate and House of Representative of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Energy Tax Rebate Act of 2005".

TITLE I—ENERGY TAX REBATE

SEC. 101. ENERGY TAX REBATE.

(a) IN GENERAL.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 (relating to rules of special application in the case of abatements, credits, and refunds) is amended by adding at the end the following new section:

"SEC. 6430. ENERGY TAX REBATE.

"(a) GENERAL RULE.—Except as otherwise provided in this section, each individual shall be treated as having made a payment against the tax imposed by chapter 1 for the taxable year beginning in 2005 in an amount equal to the lesser of—

"(1) the amount of the taxpayer's liability for tax for such taxpayer's preceding taxable year, or

"(2) $500.

"(b) LIABILITY FOR TAX.—For purposes of this section, the liability for tax for any taxable year shall be the excess (if any) of—

"(1) the sum of—

"(A) the taxpayer's regular tax liability (within the meaning of section 26(b)) for the taxable year,

"(B) the tax imposed by section 55(a) with respect to such taxpayer for the taxable year, and

"(C) the taxpayer's social security taxes (within the meaning of section 24(d)(2)) for the taxable year, over

"(2) the sum of the credits allowable under part IV of subchapter A of chapter 1 (other than the credits allowable under subpart C thereof, relating to refundable credits) for the taxable year.

"(c) TAXABLE INCOME LIMITATION.—

"(1) IN GENERAL.—If the taxable income of the taxpayer for the preceding taxable year exceeds the maximum taxable income in the table under subsection (a), (b), (c), or (d) of section 1, whichever is applicable, to which the 25 percent rate applies, the dollar amount otherwise determined under subsection (a) for such taxpayer shall be reduced (but not below zero) by the amount of the excess.

"(2) CHANGE IN RETURN STATUS.—In the case of married individuals filing a joint return for the taxable year who did not file such a joint return for the preceding taxable year, paragraph (1) shall be applied by reference to the taxable income of both such individuals for the preceding taxable year.

"(d) DATE PAYMENT DEEMED MADE.—

"(1) IN GENERAL.—The payment provided by this section shall be deemed made on the date of the enactment of the Energy Tax Rebate Act of 2005.

"(2) REMITTANCE OF PAYMENT.—The Secretary shall remit to each taxpayer the payment described in paragraph (1) not later than the date which is 30 days after the date specified in paragraph (1).

"(e) CERTAIN PERSONS NOT ELIGIBLE.—This section shall not apply to—

"(1) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins,

"(2) any estate or trust, or

"(3) any nonresident alien individual.".

(b) CONFORMING AMENDMENT.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting before the period ", or enacted by the Energy Tax Rebate Act of 2005".

(c) CLERICAL AMENDMENT.—The table of sections for subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 6430. Energy tax rebate.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

TITLE II—LOW-INCOME HOME ENERGY ASSISTANCE

SEC. 201. SENSE OF THE SENATE REGARDING FULL FUNDING FOR THE LOW-INCOME HOME ENERGY ASSISTANCE PROGRAM.

It is the sense of the Senate that Congress should appropriate $5,100,000,000 for fiscal year 2006 and each subsequent fiscal year for the Low-Income Home Energy Assistance Program, under section 2602(b) of the Low-Income Home Energy Assistance Act of 1981.

TITLE III—CONSUMER PROTECTIONS

SEC. 301. UNFAIR OR DECEPTIVE ACTS OR PRACTICE IN COMMERCE RELATED TO PRICING OF PETROLEUM PRODUCTS.

(a) SALES TO CONSUMERS AT UNCONSCIONABLE PRICE.—

(1) IN GENERAL.—It is unlawful for any person to sell crude oil, gasoline, or petroleum distillates at a price that—

(A) is unconscionably excessive; or

(B) indicates the seller is taking unfair advantage of circumstances to increase prices unreasonably.

(2) FACTORS CONSIDERED.—In determining whether a violation of paragraph (1) has occurred, there shall be taken into account, among other factors, whether—

(A) the amount charge represents a gross disparity between the price of the crude oil, gasoline, or petroleum distillate sold and the price at which it was offered for sale in the usual course of the seller's business immediately prior to the energy emergency; or

(B) the amount charged grossly exceeds the price at which the same or similar crude oil, gasoline, or petroleum distillate was readily obtainable by other purchasers in the area to which the declaration applies.

(3) MITIGATING FACTORS.—In determining whether a violation of paragraph (1) has occurred, there also shall be taken into account, among other factors, the price that would reasonably equate supply and demand in a competitive and freely functioning market and whether the price at which the crude oil, gasoline, or petroleum distillate was sold reasonably reflects additional costs, not within the control fo the seller, that were paid or incurred by the seller.

(b) PROHIBITION AGAINST GEOGRAPHIC PRICE-SETTING AND TERRITORIAL RESTRICTIONS.—

(1) IN GENERAL.—Except as provided in paragraph (2), it is unlawful for any person to—

(A) set different prices for gasoline or petroleum distillates for different geographic locations; or

(B) implement a territorial restriction with respect to gasoline or petroleum distillates.

(2) EXCEPTIONS.—A person may set different prices for gasoline or petroleum distillates for different geographic locations or implement territorial restrictions with respect to gasoline or petroleum distillates only if the price differences or restrictions are sufficiently justified by—

(A) differences in the cost of retail space where the gasoline or petroleum distillate is sold;

(B) differences in the cost of transportation of gasoline or petroleum distillates from the refinery to the retail location;

(C) differences in the cost of storage of gasoline or petroleum distillates at the retail location; or

(D) differences in the formulation of the gasoline or petroleum distillates sold.

(c) FALSE PRICING INFORMATION.—It is unlawful for any person to report information related to the wholesale price of crude oil, gasoline, or petroleum distillates to the Federal Trade Commission if—

(1) that person knew, or reasonably should have known, the information to be false or misleading;

(2) the information was required by law to be reported; and

(3) the person intended the false or misleading data to affect data compiled by that department or agency for statistical or analytical purpose with respect to the market for crude oil, gasoline, or petroleum distillates.

SEC. 302. ENFORCEMENT UNDER FEDERAL TRADE COMMISSION ACT.

(a) ENFORCEMENT BY COMMISSION.—This title shall be enforced by the Federal Trade Commission. In enforcing section 301(a) of this title, the Commission shall give priority to enforcement actions concerning companies with total United States wholesale or retail sales of crude oil, gasoline, and petroleum distillates in excess of $500,000,000 per year but shall not exclude enforcement actions against companies with total United States wholesale sales of $500,000,000 or less per year.

(b) VIOLATION IS UNFAIR OR DECEPTIVE ACT OR PRACTICE.—The violation of any provision of this title shall be treated as an unfair or deceptive act or practice proscribed under a rule issued under section 18(a)(1)(B) of the Federal Trade Commission Act (15 U.S.C. 57a(a)(1)(B)).

SEC. 303. ENFORCEMENT BY STATE ATTORNEYS GENERAL.

(a) IN GENERAL.—A State, as parens patriae, may bring a civil action on behalf of its residents in an appropriate district court of the United States to enforce the provisions of section 301(a), or to impose the civil penalties authorized by section 304 for violations of section 301(a), whenever the attorney general of the State has reason to believe that the interests of the residents of the State have been or are being threatened by such violation.

(b) NOTICE.—The State shall serve written notice to the Commission of any civil action under subsection (a) prior to initiating such civil action. The notice shall include a copy of the complaint to be filed to initiate such civil action, except that if it is not feasible for the State to provide such prior notice, the State shall provide such notice immediately upon instituting such civil action.

(c) AUTHORITY TO INTERVENE.—Upon receiving the notice required by subsection (b), the Commission may intervene in such civil action and upon intervening—

(1) be heard on all matters arising in such civil action; and

(2) file petitions for appeal of a decision in such civil action.

(d) CONSTRUCTION.—For purposes of bringing any civil action under subsection (a), nothing in this section shall prevent the attorney general of a State from exercising the powers conferred on the attorney general by the laws of such State to conduct investigations or to administer oaths or affirmations or to compel the attendance of witnesses or the production of documentary and other evidence.

(e) VENUE; SERVICE OF PROCESS.—In a civil action brought under subsection (a)—

(1) the venue shall be a judicial district in which—

(A) the defendant operates;

(B) the defendant was authorized to do business; or

(C) where the defendant in the civil action is found;

(2) process may be served without regard to the territorial limits of the district or of the State in which the civil action is instituted; and

(3) a person who participated with the defendant in an alleged violation that is being litigated in the civil action may be joined in the civil action without regard to the residence of the person.

(f) LIMITATION ON STATE ACTION WHILE FEDERAL ACTION IS PENDING.—If the Commission has instituted a civil action or an administrative action for violation of this title, no State attorney general, or official or agency of a State, may bring an action under this subsection during the pendency of that action against any defendant named in the complain of the Commission or the other agency for any violation of this title alleged in the complaint.

(g) ENFORCEMENT OF STATE LAW.—Nothing contained in this section shall prohibit an authorized State official from proceeding in state court to enforce a civil or criminal statute of such State.

SEC. 304. PENALTIES.

(a) CIVIL PENALTY.—

(1) IN GENERAL.—In addition to any penalty applicable under the Federal Trade Commission Act—

(A) any person who violates section 301(c) of this title is punishable by a civil penalty of not more than $1,000,000; and

(B) any person who violates section 301(a) or 301(b) of this title is punishable by a civil penalty of not more than $3,000,000.

(2) METHOD OF ASSESSMENT.—The penalties provided by paragraph (1) shall be assessed in the same manner as civil penalties imposed under section 5 of the Federal Trade Commission Act (15 U.S.C. 45).

(3) MULTIPLE OFFENSES; MITIGATING FACTORS.—In assessing the penalty provided by subsection (a)—

(A) each day of a continuing violation shall be considered a separate violation; and

(B) the Commission shall take into consideration the seriousness of the violation and the efforts of the person committing the violation to remedy the harm caused by the violation in a timely manner.

(b) CRIMINAL PENALTY.—Violation of section 301(a) of this title is punishable by a fine of not more than $1,000,000, imprisonment for not more than 5 years, or both.

SEC. 305. EFFECT ON OTHER LAWS.

(a) OTHER AUTHORITY OF COMMISSION.—Nothing in this title shall be construed to limit or affect in any way the Commission's authority to bring enforcement actions or take any other measure under the Federal Trade Commission Act (15 U.S.C. 41 et seq.) or any other provision of law.

(b) STATE LAW.—Nothing in this title preempts any State law.

SEC. 306. MARKET TRANSPARENCY FOR CRUDE OIL, GASOLINE, AND PETROLEUM DISTILLATES.

(a) IN GENERAL.—The Federal Trade Commission shall facilitate price transparency in markets for the sale of crude oil and essential petroleum products at wholesale, having due regard for the public interest, the integrity of those markets, fair competition, and the protection of consumers.

(b) MARKETPLACE TRANSPARENCY.—

(1) DISSEMINATION OF INFORMATION.—In carrying out this section, the Commission shall provide by rule for the dissemination, on a timely basis, of information about the availability and prices of wholesale crude oil, gasoline, and petroleum distillates to the Commission, States, wholesale buyers and sellers, and the public.

(2) PROTECTION OF PUBLIC FROM ANTICOMPETITIVE ACTIVITY.—In determining the information to be made available under this section and time to make the information available, the Commission shall seek to ensure that consumers and competitive markets are protected from the adverse effects of potential collusion or other anticompetitive behaviors that can be facilitated by untimely public disclosure of transaction-specific information.

(3) PROTECTION OF MARKET MECHANISMS.—The Commission shall withhold from public disclosure under this section any information the Commission determines would, if disclosed, be detrimental to the operation of an effective market or jeopardize security.

(c) INFORMATION SOURCES.—

(1) IN GENERAL.—In carrying out subsection (b), the Commission may—

(A) obtain information from any market participant; and

(B) rely on entities other than the Commission to receive and make public the information, subject to the disclosure rules in subsection (b)(3).

(2) PUBLISHED DATA.—In carrying out this section, the Commission shall—

(A) consider the degree of price transparency provided by existing price publishers and providers of trade processing services; and

(B) rely on such publishers and services to the maximum extent practicable.

(3) ELECTRONIC INFORMATION SYSTEMS.—

(A) IN GENERAL.—The Commission may establish an electronic information system if the Commission determines that existing price publications are not adequately providing price discovery or market transparency.

(B) ELECTRONIC INFORMATION FILING REQUIREMENTS.—Nothing in this section affects any electronic information filing requirements in effect under this title as of the date of enactment of this Act.

(4) DE MINIMUS EXCEPTION.—The Commission may not require entities who have a de minimus market presence to comply with the reporting requirements of this section.

(d) COOPERATION WITH OTHER FEDERAL AGENCIES.—

(1) MEMORANDUM OF UNDERSTANDING.—Not later 180 days after the date of enactment of this Act, the Commission shall conclude a memorandum of understanding with the Commodity Futures Trading Commission and other appropriate agencies (if applicable) relating to information sharing, which shall include provisions—

(A) ensuring that information requests to markets within the respective jurisdiction of each agency are properly coordinated to minimize duplicative information requests; and

(B) regarding the treatment of proprietary trading information.

(2) CFTC JURISDICTION.—Nothing in this section limits or affects the exclusive jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.).

(e) RULEMAKING.—Not later than 180 days after the date of enactment of this Act, the Commission shall initiate a rulemaking proceeding to establish such rules as the Commission determines to be necessary and appropriate to carry out this section.

By Mr. NELSON of Florida:

S. 1974. A bill to provide States with the resources needed to rid our schools of performance-enhancing drug use; to the Committee on Health, Education, Labor, and Pensions.

Mr. NELSON of Florida. Mr. President, I rise to introduce the Drug Free Varsity Sports Act of 2005. This bill would provide States with the resources they need to rid our schools of steroids and other performance-enhancing drugs.

I believe steroid use doesn't begin at the professional level. I am very concerned about performance-enhancing drug use among young athletes—specifically, high school athletes. Steroid use among high school students is on the rise. It more than doubled among high school students from 1991 to 2003, according to the Centers for Disease Control and Prevention. Furthermore, a study by the University of Michigan shows that the percentage of 12th graders who said they had used steroids some time in their lives rose from 1.9 percent in 1996 to 3.4 percent in 2004. This is unacceptable and a health risk to our children.

Last year, the Polk County School District became the first in Florida to establish random testing for high school athletes, and the Florida House passed a bill that would have made Florida the first State to require steroid testing for high school athletes. That bill stalled in the Senate, but now Florida and other States are considering a similar law. Currently, less than 4 percent of U.S. high schools test athletes for steroids, and no state requires high schools to test athletes. Schools and States say that cost is usually the reason they don't test.

In response, I am introducing this legislation to help States with the resources they need to curb the use of steroids and other performance-enhancing drugs. My legislation would provide Federal grants directly to States so that they can develop and implement performance-enhancing drug testing programs.

The Drug Free Varsity Sports Act of 2005 would authorize $20 million in grants to States to create statewide pilot drug testing programs for performance-enhancing drugs. States that receive the grants would be required to incorporate recovery, counseling, and treatment programs for those students who test positive for performance-enhancing drugs.

Stopping the use of performance-enhancing drugs goes beyond testing. That is why my legislation also would require States that receive grants to allocate no less than 10 percent of the funding to establish statewide policies to discourage steroid use, through educational or other related means.

In addition, at a recent Senate Commerce Committee hearing on this issue, I called on all of the heads of the major professional sports leagues and their unions to begin a major, multi-sport, national advertising campaign. This campaign should be paid for by the leagues and their players, and directed at young people. It should focus on discouraging the use of performance-enhancing drugs. We must get the message out about the dangers of these drugs, and who better to send that message to young people than the leagues they watch and the players they idolize?

There is no simple solution to the issue of steroids in sports. Congress can do its part by enacting the Drug Free Varsity Sports Act of 2005. But the sports leagues, their players, coaches, and parents all must play an active role.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1974

Be it enacted by the Senate and House of Representative of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Drug Free Varsity Sports Act of 2005".

SEC. 2. PILOT DRUG-TESTING PROGRAMS FOR PERFORMANCE-ENHANCING DRUGS.

(a) Purpose.—The purpose of this section is to supplement the other student drug-testing programs assisted by the Office of Safe and Drug-Free Schools of the Department of Education by establishing, through the Office, a grant program that will allow State educational agencies to test secondary school students for performance-enhancing drug use.

(b) Program Authorized.—The Secretary of Education, acting through the Assistant Deputy Secretary of the Office of Safe and Drug-Free Schools, shall award, on a competitive basis, grants to State educational agencies to enable the State educational agencies to develop and carry out statewide pilot programs that test secondary school students for performance-enhancing drug use.

(c) Application.—A State educational agency that desires to receive a grant under this section shall submit an application to the Secretary of Education at such time, in such manner, and containing such information as the Secretary may require.

(d) Priority.—In awarding grants under this section, the Secretary of Education shall give priority to State educational agencies that incorporate community organizations in carrying out the recovery, counseling, and treatment programs described in subsection (e)(1)(B).

(e) Use of Funds.—

(1) Drug-testing program for performance-enhancing drugs.—A State educational agency that receives a grant under this section shall use not more than 90 percent of the grant funds to carry out the following:

(A) Implement a drug-testing program for performance-enhancing drugs that is limited to testing secondary school students who meet 1 or more of the following criteria:

(i) The student participates in the school's athletic program.

(ii) The student is engaged in a competitive, extracurricular, school-sponsored activity.

(iii) The student and the student's parent or guardian provides written consent for the student to participate in a voluntary random drug-testing program for performance-enhancing drugs.

(B) Provide recovery, counseling, and treatment programs for secondary school students tested in the program who test positive for performance-enhancing drugs.

(2) Prevention.—A State educational agency that receives a grant under this section shall use not less than 10 percent of the grant funds to establish statewide policies that discourage the use of performance-enhancing drugs, through educational or other related means.

(f) Report.—For each year of the grant period, a State educational agency that receives a grant under this section shall prepare and submit an annual report to the Assistant Deputy Secretary of the Office of Safe and Drug-Free Schools on the impact of the pilot program, which report shall include—

(1) the number and percentage of students who test positive for performance-enhancing drugs;

(2) the cost of the pilot program; and

(3) a description of any barriers to the pilot program, as well as aspects of the pilot program that were successful.

(g) Definitions.—In this section, the terms "State educational agency" and "secondary school" have the meanings given the terms in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(h) Authorization of Appropriations.—

(1) In general.—There is authorized to be appropriated to carry out this section $20,000,000 for fiscal year 2006.

(2) Separation of funds.—The Secretary of Education shall keep any funds authorized for this section under paragraph (1) separate from any funds available to the Secretary for other student drug-testing programs.

By Mr. OBAMA:

S. 1975. A bill to prohibit deceptive practices in Federal elections; to the Committee on Rules and Administration.

Mr. OBAMA. Mr. President, today millions of Americans will exercise their most fundamental right under the Constitution the right to vote. As in every election, I hope all eligible Americans go to the polls to exercise this right. Voter participation is fundamental to our democracy, and we must do all we can to encourage those who can to vote.

After seeing what happened over the last two presidential elections, I have some other hopes for this Election Day. I hope all voters who go to the polls find voting machines that work, nonpartisan poll workers who understand the law and enforce it without bias, lines that move smoothly, and ballots that make sense and are easy to understand. I also hope voters go to the polls today with accurate information about what is on the ballot, where they are supposed to vote, and what our Nation's voting laws are.

It might surprise some of you to know, but even in this awesome age of technological advancement and easy access to information, there are folks who will stop at nothing to try to deceive people and keep them away from the polls. These deceptive practices all too often target and exploit vulnerable populations, like minorities, the disabled, or the poor.

Think about the story of the 2004 presidential election when voters in Milwaukee received fliers from the non-existent "Milwaukee Black Voters League," warning that voters risk imprisonment for voting if they were ever found guilty of any offense—even a traffic violation. In that same election, in a county in Ohio, some voters received mailings misinforming voters that anyone registered to vote by the Kerry Campaign or the NAACP would be barred from voting.

Deceptive practices often rely on a few tried and true tricks. Voters are often warned that an unpaid parking ticket will lead to their arrest or that folks with family members who have been convicted of a crime are ineligible to vote. Of course, these warnings have no basis in fact, and they are made with one goal and one goal only to keep Americans away from the polls.

I hope voters who go to the polls today are not victims of such malicious campaigns, but I know hoping is not enough. That is why I am introducing the Deceptive Election Practices and Voter Intimidation Prevention Act of 2005 to provide voters with real protection from deceptive practices that aim to keep them away from the polls on Election Day.

The bill I am introducing today provides the clear statutory language and authority needed to get allegations of deceptive practices investigated. It establishes harsh penalties for those found to have perpetrated them. And the bill seeks to address the real harm of these crimes—voters who are discouraged from voting by misinformation—by establishing a process for reaching out to these misinformed and intimidated voters with accurate and full information so they can cast their votes in time. Perhaps just as important, this bill creates strong penalties for deceptive election acts, so people who commit these crimes suffer more than just a slap on the hand.

This legislation has the support of groups like the NAACP, the Lawyers Committee for Civil Rights Under Law, Common Cause, the Arc of the United States, United Cerebral Palsy, People for the American Way and the National Disability Rights Network.

Deceptive practices and voter intimidation are real problems and demand real solutions like those offered in my bill.

I hope my colleagues will join me and support this bill and work to ensure that all eligible voters have the opportunity to have their votes count.

Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1975

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deceptive Practices and Voter Intimidation Prevention Act of 2005".

SEC. 2. DECEPTIVE PRACTICES IN ELECTIONS.

(a) Civil Action.—

(1) In general.—Subsection (b) of section 2004 of the Revised Statutes (42 U.S.C. 1971(b)) is amended—

(A) by striking "No person" and inserting the following:

"(1) No person"; and

(B) by inserting at the end the following new paragraph:

"(2) No person, whether acting under color of law or otherwise, shall knowingly deceive any other person regarding—

"(A) the time, place, or manner of conducting a general, primary, run-off, or special election for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Delegate or Commissioner from a territory or possession; or

"(B) the qualifications for or restrictions on voter eligibility for any election described in subparagraph (A).".

(2) Private right of action.—

(A) IN GENERAL.—Subsection (c) of section 2004 of the Revised Statutes (42 U.S.C. 1971(c)) is amended—

(i) by striking "Whenever any person" and inserting the following:

"(1) Whenever any person"; and

(ii) by adding at the end the following new paragraph:

"(2) Any person aggrieved by a violation of subsection (b)(2) may institute a civil action or other proper proceeding for preventive relief, including an application in a United States district court for a permanent or temporary injunction, restraining order, or other order.".

(B) CONFORMING AMENDMENTS.—

(i) Subsection (e) of section 2004 of the Revised Statutes (42 U.S.C. 1971(e)) is amended by striking "subsection (c)" and inserting "subsection (c)(1)".

(ii) Subsection (g) of section 2004 of the Revised Statutes (42 U.S.C. 1971(g)) is amended by striking "subsection (c)" and inserting "subsection (c)(1)".

(b) CRIMINAL PENALTY.—Section 594 of title 18, United States Code, is amended—

(1) by striking "Whoever" and inserting the following:

"(a) INTIMIDATION.—Whoever"; and

(2) by adding at the end the following:

"(b) DECEPTIVE ACTS.—

"(1) PROHIBITION.—

"(A) IN GENERAL.—It shall be unlawful for any person to knowingly deceive another person regarding the time, place, or manner of an election described in subparagraph (B), or the qualifications for or restrictions on voter eligibility for any such election, with the intent to prevent such person from exercising the right to vote in such election.

"(B) ELECTION.—An election described in this subparagraph is any general, primary, run-off, or special election for the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, Delegate of the District of Columbia, or Resident Commissioner.

"(2) PENALTY.—Any person who violates paragraph (1) shall be fined not more than $100,000, imprisoned not more than 1 year, or both.".

(c) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of the enactment of this Act.

SEC. 3. REPORTING FALSE ELECTION INFORMATION.

(a) IN GENERAL.—Any person may report to the Assistant Attorney General of the Civil Rights Division of the Department of Justice, or the designee of such Assistant Attorney General, any act of deception regarding—

(1) the time, place, or manner of conducting a general, primary, run-off, or special election for Federal office; or

(2) the qualifications for or restrictions on voter eligibility for any general, primary, run-off, or special election for Federal office.

(b) CORRECTIVE ACTION.—

(1) IN GENERAL.—Except as provided in paragraph (2), not later than 48 hours after receiving a report under subsection (a), the Assistant Attorney General shall investigate such report and, if the Assistant Attorney General determines that an act of deception described in subsection (a) occurred, shall—

(A) undertake all effective measures necessary to provide correct information to voters affected by the deception, and

(B) refer the matter to the appropriate Federal and State authorities for criminal prosecution.

(2) REPORTS WITHIN 72 HOURS OF AN ELECTION.—If a report under subsection (a) is received within 72 hours before the election described in such subsection, the Assistant Attorney General shall immediately investigate such report and, if the Assistant Attorney General determines that an act of deception described in subsection (a) occurred, shall immediately undertake all effective measures necessary to provide correct information to voters affected by the deception.

(3) REGULATIONS.—

(A) IN GENERAL.—The Attorney General shall promulgate regulations regarding the methods and means of corrective actions to be taken under paragraphs (1) and (2). Such regulations shall be developed in consultation with the Election Assistance Commission, civil rights organizations, voting rights groups, State election officials, voter protection groups, and other interested community organizations.

(B) STUDY.—

(i) IN GENERAL.—The Attorney General, in consultation with the Federal Communications Commission and the Election Assistance Commission, shall conduct a study on the feasibility of providing the corrective information under paragraphs (1) and (2) through public service announcements, the emergency alert system, or other forms of public broadcast.

(ii) REPORT.—Not later than 180 days after the date of the enactment of this Act, the Attorney General shall submit to Congress a report detailing the results of the study conducted under clause (i).

(c) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Not later than 90 days after any primary, general, or run-off election for Federal office, the Attorney General shall submit to the appropriate committees of Congress a report compiling and detailing any allegations of deceptive practices submitted pursuant to subsection (a) and relating to such election.

(2) CONTENTS.—

(A) IN GENERAL.—Each report submitted under paragraph (1) shall include—

(i) detailed information on specific allegations of deceptive tactics;

(ii) any corrective actions taken in response to such allegations;

(iii) the effectiveness of any such corrective actions;

(iv) any suit instituted under section 2004(b)(2) of the Revised Statutes (42 U.S.C. 1971(b)(2)) in connection with such allegations;

(v) statistical compilations of how many allegations were made and of what type;

(vi) the geographic locations of and the populations affected by the alleged deceptive information; and

(vii) the status of the investigations of such allegations.

(B) EXCEPTION.—The Attorney General may withhold any information that the Attorney General determines would unduly interfere with an on-going investigation.

(3) REPORT MADE PUBLIC.—The Attorney General shall make the report required under paragraph (1) publicly available through the Internet and other appropriate means.

(d) FEDERAL OFFICE.—For purposes of this section, the term "Federal office" means the office of President, Vice President, presidential elector, Member of the Senate, Member of the House of Representatives, or Delegate or Commissioner from a territory or possession of the United States.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to the Attorney General such sums as may be necessary to carry out this section.

By Mr. FEINGOLD (for himself and Mr. KYL):

S. 1976. A bill to make amendments to the Iran Nonproliferation Act of 2000; to the Committee on Foreign Relations.

Mr. FEINGOLD. Mr. President, I rise today to express my deep concern about the almost daily series of alarming developments in Iran and Syria. Both are state sponsors of terrorism. Both have worked to undermine our rebuilding efforts in Iraq. Tehran and Damascus both have a history of refusing to comply with global nonproliferation standards, and experts routinely cite disturbing trends that suggest these governments are aggressively pursuing programs to develop weapons of mass destruction. Iran clearly has the intention to develop nuclear weapons and is well on its way to doing so. It has been belligerent and dishonest in its dealings with the International Atomic Energy Agency and our European partners who are negotiating with Tehran. This led to the historic vote on September 24 of this year, when the IAEA Board of Governors found that Iran had breached its obligations under the Nuclear Non-Proliferation Treaty and noted Iran's policy of concealing its nuclear work and facilities. What was Tehran's response to the international community? More defiance and the outrageous comments by Iranian President Mahmoud Ahmadinejad calling for Israel to be "wiped off the map."

Since coming into office, this administration has mostly allowed these problems with Iran and Syria to fester while its focus was elsewhere. It has paid only intermittent attention when crises flare up and has not formulated a long-term and comprehensive strategy for dealing with the proliferation threat presented by these regimes. The situation has deteriorated to such an extent—with the rapid nuclear developments in Iran, the increasing proliferation risk that it and Syria pose, the undermining of our work in Iraq, and the extreme statements and actions recently taken by both Tehran and Damascus—that we must take immediate action.

Congress took action to augment the U.S. nonproliferation regime in 2000 when it overwhelmingly passed the Iran Nonproliferation Act, INA, in response to repeated transfers of ballistic missile technology and know-how from Russia and other countries to Iran. Known and suspected assistance from Russia, China, and Pakistan has also helped Iran make progress in its nuclear program. I believe that the 2000 legislation has winnowed the pool of transgressors by highlighting the most egregious among them; however, determined governments, industries, and individuals continue to find it a worthwhile risk to trade in goods and technology that can contribute to an Iranian WMD program. Clearly, it is time to strengthen the INA to prevent these transactions. A more robust INA can also serve as a model for curbing proliferation involving other countries—starting with Syria, whose policies may still be influenced by such determined and effective measures.

Congress is on the cusp of adopting some important changes to the INA with S. 1713. If enacted, the reporting and sanctions provisions of the statute would also apply to transactions involving Syria. In addition, the law would also target exports of WMD and missile technology from these two countries. The revamped Iran and Syria Nonproliferation Act, ISNA, would be a positive step. However, we must do more.

Today, I along with my colleague from Arizona, Mr. KYL, introduce the Iran Nonproliferation Enhancement Act of 2005. This bill would intensify and broaden the sanctions provisions in the INA. First, it requires mandatory sanctions for violators, an approach that Congress favored overwhelmingly when it passed the Iran Missile Proliferation Sanctions Act of 1997. Second, it requires a more detailed justification from the President if he chooses to exercise a national security waiver. Third, it introduces requirements that make parent companies subject to INA sanctions, in addition to their proliferator subsidiaries. And fourth, it expands the list of sanctions to include prohibitions on U.S. investment, financing, and financial assistance for proliferators, in addition to the current arms and dual use export prohibitions.

The current sanctions mechanism is too weak. Under the INA, sanctions are authorized rather than required. Since 2000, the administration has chosen to impose INA sanctions on foreign companies or individuals on 65 occasions, with some entities having been sanctioned several times. The State Department has not revealed in unclassified form how many entities were reported but not sanctioned and why they were not sanctioned.

If we accept that a successful Iranian or Syrian WMD program poses a major threat, then we must get serious about our sanctions and make them mandatory. Our bill does just that. Making sanctions mandatory has precedents. As I previously noted, Congress overwhelmingly approved mandatory sanctions against foreign persons and entities engaged in missile proliferation to Iran as part of the Iran Missile Proliferation Sanctions Act of 1997. President Clinton vetoed the bill, however, largely because at that time his administration was engaged in negotiations with Russia over export controls. The sense was that the newly formed government needed time to develop its controls over Russian business. In the end, the administration exercised its Executive order authority to impose broad sanctions on several Russian companies. However, we must let the international community know that the threat from proliferation is great and that export controls must be in place and enforced. Making sanctions mandatory sends that message.

Furthermore, nonproliferation legislation should ensure that national security waivers are issued only under the most compelling of circumstances. The current national security waiver is too broad, and the administration can simply classify the reason for the waiver in order to remove almost all scrutiny. The message sent to those assisting Iran and Syria with WMD development is that, even if the United States catches them, there is only a small chance that we will actually do anything about it. There are legitimate reasons for classifying parts of these responses and that is why our bill allows the administration to submit part of the waiver explanation in a classified annex. However, our bill requires the Administration to provide more detailed explanations for such waivers and an explanation of why a justification is classified.

Currently, the INA sanctions restrict only U.S. arms and dual-use exports to violators, and an Executive order authorizes some additional restrictions. Our bill will ensure that all the significant tools in our sanctions arsenal are brought to bear on proliferators. It broadens INA sanctions to also include prohibitions on U.S. investment, financing, and financial assistance for violators, and if S. 1713 is enacted, also ban their imports into the United States. In an example identified by the Wisconsin Project on Nuclear Arms Control, China National Aero-Technology Import Export Corporation, CATIC, which was sanctioned under the INA in 2002 and 2004, has subsidiaries that export to the U.S. Under our bill, the investment sanction would prevent U.S. companies from making new capital investments in CATIC factories. It would also forbid the purchase by U.S. persons of shares of CATIC Shenzhen Holdings and CATIC International Holdings, two CATIC-controlled companies that are listed on the Hong Kong Stock Exchange. The new import ban would block the sale of CATIC products in the United States, cutting off an important source of revenue. Put simply, this bill would make it clear for companies like CATIC that they must make a choice—profit from their dealings with the vast U.S. market or continue to assist Iran or Syria with their WMD and missile programs. It is long past due that companies make such a choice.

Under the INA, parent companies can continue to do business with the U.S. and profit from our economy, even if their subsidiaries openly assist Iran with missile and WMD-related activities. Our bill attempts to end this aberration by expanding the scope of the sanctions to include the parent companies. The Wisconsin Project has identified serial proliferators who have flouted U.S. law because they know they cannot be touched by the current INA. China Aerospace Science and Technology Corporation, CASC, for example, has had three subsidiaries sanctioned—two of them repeatedly—for missile technology transfers to Iran. Meanwhile, CASC is marketing its commercial satellite launch program in our country. This amendment would force CASC to choose between selling missile technology to Iran and the business potential in future U.S. satellite launches. The bill's ban on investment would also affect the subsidiaries CASC has listed on the Hong Kong Stock Exchange. Similarly, the Chinese oil giant Sinopec has been selling glass-lined vessels useful for making poison gas to Iran through its subsidiaries. While INA sanctions were imposed on one of its subsidiaries, however, Sinopec remained free to raise billions of dollars on the New York Stock Exchange and even receive U.S. technology and U.S. foreign aid. This is absurd, and will no longer be possible if our bill becomes law.

In conclusion, I want to emphasize the urgency of this matter. The intelligence community expects that Iran will be able to produce a nuclear weapon within a decade, and the CIA has highlighted concern about Iran's robust missile program. Iran has pursued various methods for enriching uranium and experimented with separating plutonium. Iran's WMD program is making news headlines again, and the IAEA Board of Governors found Iran in noncompliance with the NPT. The Congressional Research Service reported in its review of the INA that Iran's efforts to acquire foreign WMD technology seem to have continued unabated. Similarly, Syria continues to rely on technology and assistance from abroad to develop its ballistic missile program. According to recent unclassified CIA reports, Syria's chemical weapon program also depends on equipment and precursor chemicals it receives from foreign sources.

We need to make a serious effort to inhibit WMD development by Iran and Syria. Strengthening the INA is one concrete way to do that for Iran, and when S. 1713 is enacted, also for Syria. We must make clear to the world that assisting Tehran and Damascus in developing the most dangerous weapons cannot and will not be tolerated. For example, China is a country with which we continue to build closer ties. However, a recent Rand study concluded that although China has improved its export control system on paper, it does not consistently and effectively implement these controls. Russia is also an important partner, but it has continued to provide Iran with nuclear technology. India is another nation with which the United States continues to grow closer, and the President has even committed to helping it with nuclear energy technology. Yet India also has very close ties to Iran. We must make clear to these nations and to the entire world that it is in the best interest of the international community that Iran and Syria do not expand their WMD capabilities. We must also make it crystal clear that if you assist these nations with their quest for weapons, there will be serious consequences for you in your relationship and dealings with the United States. Strengthening the INA as we suggest will make that message clear and further our national security goals.

I ask unanimous consent that the text of the legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1976

Be it enacted by the Senate and House of Representative of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Iran Nonproliferation Enforcement Act of 2005".

SEC. 2. SANCTIONS APPLICABLE UNDER THE IRAN NONPROLIFERATION ACT OF 2000.

(a) APPLICATION OF CERTAIN MEASURES.—Section 3 of the Iran Nonproliferation Act of 2000 (50 U.S.C. 1701 note) is amended—

(1) by amending subsection (a) to read as follows:

"(a) APPLICATION OF MEASURES.—Subject to sections 4 and 5, the President shall apply, for a period of not less than 2 years, the measures described in subsection (b) with respect to—

"(1) each foreign person identified in a report submitted pursuant to section 2(a);

"(2) all successors, subunits, and subsidiaries of each such foreign person; and

"(3) any entity (if operating as a business enterprise) that owns more than 50 percent of, or controls in fact, any such foreign person and any successors, subunits, and subsidiaries of such entity.";

(2) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) EXECUTIVE ORDER NO. 12938 PROHIBITIONS.—The measures set forth in subsections (b), (c), and (d) of section 4 of Executive Order 12938.";

(B) in paragraph (2)—

(i) by striking "to that foreign person"; and

(ii) by striking "to that person";

(C) in paragraph (3), by striking "to that person"; and

(D) by adding at the end the following new paragraphs:

"(4) INVESTMENT PROHIBITION.—Prohibition of any new investment by a United States person in property, including entities, owned or controlled by—

"(A) that foreign person;

"(B) any entity (if operating as a business enterprise) that owns more than 50 percent of, or controls in fact, such foreign person; or

"(C) any successor, subunit, or subsidiary of such entity.

"(5) FINANCING PROHIBITION.—Prohibition of any approval, financing, or guarantee by a United States person, wherever located, of a transaction by—

"(A) that foreign person;

"(B) any entity (if operating as a business enterprise) that owns more than 50 percent of, or controls in fact, such foreign person; or

"(C) any successor, subunit, or subsidiary of such entity.

"(6) FINANCIAL ASSISTANCE PROHIBITION.—Denial by the United States Government of any credit, credit guarantees, grants, or other financial assistance by any department, agency, or instrumentality of the United States Government to—

"(A) that foreign person;

"(B) any entity (if operating as a business enterprise) that owns more than 50 percent of, or controls in fact, such foreign person; and

"(C) any successor, subunit, or subsidiary of such entity."; and

(3) by amending subsection (d) to read as follows:

"(d) PUBLICATION IN FEDERAL REGISTER.—

"(1) IN GENERAL.—The application of measures pursuant to subsection (a) shall be announced by notice published in the Federal Register.

"(2) CONTENT.—Each notice published pursuant to paragraph (1) shall include the name and address (where known) of each person or entity to whom measures have been applied pursuant to subsection (a).".

(b) NATIONAL SECURITY WAIVER.—Section 4 of such Act is amended to read as follows:

"SEC. 4. WAIVER ON BASIS OF NATIONAL SECURITY.

"(a) IN GENERAL.—The President may waive the imposition of any sanction that would otherwise be required under section 3 on any person or entity 15 days after the President determines and reports to the Committee on International Relations of the House of Representatives and the Committee on Foreign Relations of the Senate that such waiver is essential to the national security of the United States.

"(b) WRITTEN JUSTIFICATION.—The determination and report of the President under subsection (a) shall include a written justification—

"(1) describing in detail the circumstances and rationale supporting the President's conclusion that the waiver is essential to the national security of the United States; and

"(2) identifying—

"(A) the name and address (where known) of the person or entity to whom the waiver is applied pursuant to subsection (a);

"(B) the specific goods, services, or technologies, the transfer of which would have required the imposition of measures pursuant to section 3 if the President had not invoked the waiver authority under subsection (a); and

"(C) the name and address (where known) of the recipient of such transfer.

"(c) FORM.—The written justification shall be submitted in unclassified form, but may contain a classified annex.".

By Mr. STEVENS:

S. 1977. A bill to repeal section 5 of the Marine Mammal Protection Act of 1972; to the Committee on Commerce, Science, and Transportation.

Mr. STEVENS. Mr. President, I come to the floor to introduce this bill, which repeals a provision in the 1977 reauthorization of the Marine Mammal Protection Act of 1972—a provision which unduly restricts our ability to get States on the west coast the petroleum supplies they need.

In the last several weeks, some of our colleagues have participated in press conferences, sent out news releases, and come to the floor to talk about the impact of high energy prices. They have expressed concern about the effect these prices are having on our economy, our consumers, our businesses, and our national security.

I share their concerns. In fact, for over 3 years, I have been urging the Senate to deal with this situation.

It took one of the worst natural disasters in the history of our Nation for many to evaluate our energy policy. While the circumstances are tragic, I am glad our colleagues are taking a closer look at this.

The plan our colleagues now support aims to achieve the right goal, but it offers the wrong solution. Their plan calls for energy independence—a goal which I support. But they tout conservation as the only way to reach this goal. This approach would put us on the wrong course and fail to solve the larger problem.

Our country is in the midst of an energy crisis, and we cannot conserve our way out. To suggest otherwise does a great disservice to all Americans. We don't need a hollow plan, we need results.

We cannot get out of this crisis by blaming Americans—who are just trying to live their lives, run their businesses, and get to and from work—for the situation we are in. This is not solely a consumption problem; much of this crisis stems from misguided policies which have locked up our lands and prevented us from building new refineries.

The only way to become energy independent is through a combination of initiatives. Conservation is one part of the broader solution.

But we also need to develop renewable and alternative sources of energy and invest in nuclear power and we must develop our domestic oil and gas resources which exist on Federal lands.

The end to this crisis lies in the balance between conservation and development. Yes, I believe that Americans need to conserve our energy resources, but this alone won't solve our energy crisis. To suggest it will is to greatly mislead the American public.

We need to get serious about our energy policy.

My good friend and colleague, Senator DOMENICI, has told us we must expand on the Energy bill.

I agree with Senator DOMENICI, and I look forward to working with him on an energy policy for this country that makes sense.

Hurricanes Katrina and Rita exposed a weakness in our domestic production and refining capability, weakness some of us have been warning about for years. All Americans have been hit with higher energy prices in the aftermath of Hurricanes Katrina and Rita.

Some colleagues have expressed concern that this situation was compounded by price gouging. Senator

INOUYE and I, along with our colleagues on the Commerce Committee, are evaluating several bills pertaining to that issue. In the coming days, we will be moving forward to address some of those concerns.

In the process of reviewing these concerns, the claims by those on the west coast were of particular interest to me. Due to current restrictions in the MMPA, it is almost impossible for companies to expand their refineries to increase supply. The provision repealed by my bill is currently impacting the largest refinery on the west coast, affecting more than 300,000 gallons of fuel per day.

I introduce this bill to enable us to get petroleum resources to west coast States quickly and urge my colleagues to support this initiative.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 301—COMMEMORATING THE 100TH ANNIVERSARY OF THE NATIONAL AUDUBON SOCIETY

Mr. CHAFEE (for himself, Ms. STABENOW, Ms. SNOWE, Mrs. BOXER, Mr. CARPER, Mr. NELSON of Florida, Mr. MARTINEZ, Mr. JEFFORDS, Mr. KERRY, Mr. FEINGOLD, Mr. DURBIN, Mrs. FEINSTEIN, Mr. SCHUMER, Mrs. CLINTON, Ms. COLLINS, Ms. CANTWELL, Mr. LIEBERMAN, Mr. DEWINE, Mr. CRAPO, Mr. BOND, Ms. LANDRIEU, and Mr. VITTER) submitted the following resolution; which was referred to the Committee on Environment and Public Works:

S. RES. 301

Whereas the welfare of the citizens of the United States is greatly enriched by the purposeful endeavors of individuals and organizations committed to the preservation and protection of our environment, and the enhancement of, and appreciation for, our natural surroundings;

Whereas the National Audubon Society, the Nation's largest bird conservation organization, is celebrating its Centennial year in 2005, having been incorporated on January 5, 1905, by dedicated women and men eager to save from extinction the Great Egret and other bird species killed for their feathers to support the fashion industry;

Whereas it is the intent of the Senate to recognize and pay tribute to the National Audubon Society upon the occasion of its 100th anniversary;

Whereas the founders of the National Audubon Society withstood violence and opposition to organize one of the longest-lived and most successful conservation groups in the United States, dedicated to the protection of birds, other wildlife, and their habitats through advocacy of environmental policy and education based on sound science;

Whereas the dedicated efforts of Audubon volunteers, members, and staff in support of landmark bird protection legislation have aided in the rescue efforts of the following species from the threat of extinction: Bald Eagles, Egrets, Ibis, Herons, Flamingos, Whooping Cranes, Peregrine Falcons, Brown Pelicans, Roseate Spoonbills, Atlantic Puffins, and Condors;

Whereas the National Audubon Society lent critical support to the protection of wildlife habitats through the passage of legislation, such as the Alaska National Interest Lands Conservation Act and the Act popularly known as the Everglades Restoration Act, the identification of 1,800 habitats critical to the survival of bird species through Audubon's Important Bird Areas Program, and the establishment of private bird sanctuaries;

Whereas the National Audubon Society played a critical role in the establishment of the Nation's first wildlife refuge, Florida's Pelican Island, in 1903, and the subsequent protection of Pelican Island and other refuge areas in the National Wildlife Refuge system;

Whereas birds are excellent indicators of environmental health, as impacted by such factors as pollution, climate change, toxins, and habitat loss, as well as our own long-term well being, and it is in our best interest to heed such indicators, which may ultimately affect human populations; and

Whereas recognizing that the national network of community-based nature centers and chapters, scientific and educational programs, and advocacy of the National Audubon Society, engages millions of people of all ages and backgrounds in positive conservation experiences, and are integral to maintaining the health and beauty of the United States: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the 100th anniversary of the National Audubon Society;

(2) congratulates the National Audubon Society on this milestone; and

(3) encourages the National Audubon Society to continue its important work to ensure that the next 100 years of conservation are a success.

Mr. CHAFEE. Mr. President, I am pleased to submit a resolution with Senator STABENOW to commemorate the National Audubon Society's Centennial Anniversary. Senators SNOWE, BOXER, CARPER, NELSON (FL), MARTINEZ, JEFFORDS, KERRY, FEINGOLD, DURBIN, FEINSTEIN, SCHUMER, CLINTON, COLLINS, CANTWELL, LIEBERMAN, DEWINE, CRAPO, BOND, LANDRIEU and VITTER have joined us as original cosponsors.

The National Audubon Society was first incorporated in 1905 by a dedicated group of conservationists with the goal of protecting birds such as the Great Egret from the plumage trade. Feathered hats were at the height of fashion in those days, and plume-traders would hunt egrets and other birds as part of a highly profitable business. By raising the awareness of the problem, the men and women who founded the National Audubon Society saved egrets and many other bird species from extinction.

Since that time, Audubon has worked to preserve and protect species and the habitat upon which they depend throughout the United States. The organization has been instrumental in setting aside natural areas as wildlife sanctuaries, and supporting major habitat restoration efforts including ongoing conservation work in the Florida Everglades, San Francisco Bay, and along the Mississippi River. As the U.S. partner in BirdLife International's Important Bird Areas (IBA) Program, Audubon has fostered the stewardship and protection of essential wildlife habitat from coast to coast. Through a science-based process of site identification, monitoring, education and outreach, Audubon's IBA program has laid the groundwork for community-based conservation with over 1,600 sites recognized as ecologically important for bird species. In recent months, Audubon has worked with partners to raise awareness of the plight of the Red Knot, a long-distance migratory bird species in steep decline as the result of the over-harvesting of its food source, habitat destruction and invasive species concerns.

The Senate Resolution we are submitting today recognizes the National Audubon Society's dedication and commitment to protecting wildlife and the Nation's ecological heritage. We commemorate the National Audubon Society on it's 100th anniversary, and wish the organization many more years of success.

SENATE CONCURRENT RESOLUTION 62—DIRECTING THE JOINT COMMITTEE ON THE LIBRARY TO PROCURE A STATUE OF ROSA PARKS FOR PLACEMENT IN THE CAPITOL

Mr. MCCONNELL (for himself and Mr. DODD) submitted the following concurrent resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 62

Resolved by the Senate (the House of Representatives concurring),

SECTION 1. PROCUREMENT OF A STATUE OF ROSA PARKS.

The Joint Committee on the Library shall procure a statue of Rosa Parks and cause such statue to be placed in a suitable location in the Capitol, as determined by the Joint Committee on the Library.

SEC. 2. PAYMENT OF EXPENSES.

The expenses incurred by the Joint Committee on the Library in carrying out this concurrent resolution shall be paid out of the miscellaneous items account within the contingency fund of the Senate on vouchers approved by the Joint Committee on the Library and signed by the chairman and vice-chairman of the Joint Committee.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2439. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

SA 2440. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 2441. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, supra.

SA 2442. Mr. BYRD (for himself, Mr. WARNER, Mr. ENSIGN, Mr. AKAKA, Mr. LAUTENBERG, and Mr. LEVIN) proposed an amendment to the bill S. 1042, supra.

SA 2443. Mr. ENSIGN proposed an amendment to the bill S. 1042, supra.

SA 2444. Mr. MARTINEZ (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 2445. Mr. BROWNBACK (for himself, Mr. INHOFE, and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 2446. Mr. WARNER (for Mr. LIEBERMAN (for himself and Mr. CORNYN)) proposed an amendment to the bill S. 1042 supra.

SA 2447. Mr. WARNER (for Mr. HATCH (for himself, Mr. INHOFE, Mr. BENNETT, and Mr. CHAMBLISS)) proposed an amendment to the bill S. 1042, supra.

SA 2448. Mr. WARNER (for Mr. CONRAD (for himself, Mr. BAUCUS, and Mr. SALAZAR)) proposed an amendment to the bill S. 1042, supra.

SA 2449. Mr. WARNER (for Mr. THUNE) proposed an amendment to the bill S. 1042, supra.

SA 2450. Mr. WARNER (for Mrs. MURRAY) proposed an amendment to the bill S. 1042, supra.

SA 2451. Mr. WARNER (for Mr. CHAMBLISS) proposed an amendment to the bill S. 1042, supra.

SA 2452. Mr. WARNER (for Mr. NELSON of Nebraska) proposed an amendment to the bill S. 1042, supra.

SA 2453. Mr. WARNER (for Mr. LOTT (for himself, Mr. COCHRAN, and Mr. NELSON of Florida)) proposed an amendment to the bill S. 1042, supra.

SA 2454. Mr. WARNER (for Mr. MCCAIN) proposed an amendment to the bill S. 1042, supra.

SA 2455. Mr. WARNER (for Mr. REED (for himself and Mr. ROCKEFELLER)) proposed an amendment to the bill S. 1042, supra.

SA 2456. Mr. WARNER (for Mrs. DOLE) proposed an amendment to the bill S. 1042, supra.

SA 2457. Mr. WARNER proposed an amendment to the bill S. 1042, supra.

SA 2458. Mr. WARNER (for Mr. MCCAIN) proposed an amendment to the bill S. 1042, supra.

SA 2459. Mr. WARNER proposed an amendment to the bill S. 1042, supra.

SA 2460. Mr. WARNER (for Mrs. CLINTON (for herself and Ms. COLLINS)) proposed an amendment to the bill S. 1042, supra.

SA 2461. Mr. WARNER (for Ms. SNOWE) proposed an amendment to the bill S. 1042, supra.

SA 2462. Mr. WARNER (for Mr. VITTER) proposed an amendment to the bill S. 1042, supra.

SA 2463. Mr. WARNER (for Mr. CHAMBLISS) proposed an amendment to the bill S. 1042, supra.

SA 2464. Mr. WARNER (for Mr. BAYH) proposed an amendment to the bill S. 1042, supra.

SA 2465. Mr. WARNER proposed an amendment to the bill S. 1042, supra.

SA 2466. Mr. WARNER (for Mr. GRAHAM (for himself and Mr. NELSON of Nebraska)) proposed an amendment to the bill S. 1042, supra.

SA 2467. Mr. WARNER (for Mr. DODD) proposed an amendment to the bill S. 1042, supra.

SA 2468. Mr. WARNER (for Mrs. DOLE) proposed an amendment to the bill S. 1042, supra.

SA 2469. Mr. WARNER (for Mr. CARPER) proposed an amendment to the bill S. 1042, supra.

SA 2470. Mr. WARNER (for Mr. SANTORUM) proposed an amendment to the bill S. 1042, supra.

SA 2471. Mr. WARNER (for Mr. FEINGOLD) proposed an amendment to the bill S. 1042, supra.

SA 2472. Mr. VOINOVICH (for Mr. ENZI) proposed an amendment to the bill H.R. 797, to amend the Native American Housing Assistance and Self-Determination Act of 1996 and other Acts to improve housing programs for Indians.

SA 2473. Mr. DURBIN (for himself, Mr. CORZINE, and Ms LANDRIEU) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2439. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. AMERICAN FORCES NETWORK.

(a) FINDINGS.—The Senate makes the following findings:

(1) The mission of the American Forces Radio and Television Service (AFRTS) and its American Forces Network (AFN), a worldwide radio and television broadcast network, is to deliver command information by providing United States military commanders overseas and at sea with a broadcast media that effectively communicates information to personnel under their commands, including information from the Department of Defense, information from the Armed Forces, and information unique to the theater and localities in which such personnel are stationed or deployed.

(2) The American Forces Radio and Television Service and the American Forces Network provide a "touch of home" to members of the Armed Forces, civilian employees of the Department of Defense, and their families stationed at bases and at embassies and consulates in more than 179 countries, as well as Navy, Coast Guard, and Military Sealift Command ships at sea, by providing the same type and quality of radio and television programming (including news, information, sports, and entertainment) that would be available in the continental United States. Additionally, the American Forces Network plays an important role in enabling military commanders to disseminate official information to members of the Armed Forces and their families, thus making popularity and acceptance key factors in ensuring effective communication.

(3) It is American Forces Radio and Television Service and American Forces Network policy that, except for the Pentagon Channel service, programming is acquired from distributors of the most popular television program airing in the continental United States. Much of the programming is provided at no cost to the United States Government. The remainder of the programming is provided at less-than-market rates to cover distributors' costs and obligations. Depending on the audience segment or demographic targeted, programs that perform well are acquired and scheduled to maximize audiences for internal and command information exposure.

(4) American Forces Radio and Television Service and American Forces Network select programming that represents a cross-section of popular American radio and television, tailored toward the worldwide audience of the American Forces Radio and Television Service and the American Forces Network. Schedules emulate programming practices in the United States, and programs are aired in accordance with network broadcast standards. Specifically, policy on programming seeks—

(A) to provide balance and diversity;

(B) to deliver a cross-section of popular programming;

(C) to target appropriate demographics; and

(D) to maintain network broadcast standards.

(5) The "Voice Channel", or radio programming, of the American Forces Radio and Television Service and American Forces Network is chosen to address requirements specified by the military broadcasting services and the detachment commanders of their affiliate radio stations. American Forces Network Radio makes a best faith effort to obtain the top-rated program of its sort at the time of selection, at no cost to the United States Government. American Forces Network Radio usually retains a scheduled program until it is no longer produced, too few American Forces Network affiliates choose to schedule the program locally, or a similar program so thoroughly dominates its audience in the United States that the American Forces Radio and Television Service switches to this program to offer the higher rated show to the overseas audience.

(6) American Forces Network Radio personnel review the major trade publications to monitor announcements of new programs, follow the ratings of established programs, and keep aware of programming trends. When a program addressing a need identified by a Military Broadcasting Service or an American Forces Network affiliate becomes available to the American Forces Network, or a program seems especially worthy of consideration, American Forces Network Radio informs the affiliates and supplies samples to gauge affiliate interest. If affiliates commit to broadcasting the new show, American Forces Network Radio seeks to schedule it.

(7) The managers of the American Forces Radio and Television Service continually update their programming options and, in November 2005, decided to include additional programs that meet the criteria that American Forces Radio and Television Service managers apply to such decisions, and that, consistent with American Forces Radio and Television Service and American Forces Network procedures, local programmers at 33 locations around the globe decide which programs actually are broadcast. American Forces Radio and Television Service have consistently sought to provide a broad, high

quality range of choices for local station managers.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) the men and women of the American Forces Radio and Television Service and the Armed Forces Network should be commended for providing a vital service to the military community worldwide; and

(2) the programming mission, themes, and practices of the Department of Defense with respect to its television and radio programming have fairly and responsively fulfilled their mission of providing a "touch of home" to members of the Armed Forces and their families around the world and have contributed immeasurably to high morale and quality of life in the Armed Forces.

(c) AUTHORITY TO APPOINT OMBUDSMAN AS INTERMEDIARY.—The Secretary of Defense may appoint an individual to serve as ombudsman of the American Forces Network. Any ombudsman so appointed shall act as an intermediary between the staff of the American Forces Network and the Department of Defense, military commanders, and listeners to the programming of the American Forces Network.

SA 2440. Mr. INHOFE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X of division A, add the following:

SEC. 1073. PRAYER AT MILITARY SERVICE ACADEMY ACTIVITIES.

(a) IN GENERAL.—The superintendent of a service academy may have in effect such policy as the superintendent considers appropriate with respect to the offering of a voluntary, nondenominational prayer at an otherwise authorized activity of the academy, subject to such limitations as the Secretary of Defense may prescribe.

(b) SERVICE ACADEMIES.—For purposes of this section, the term "service academy" means any of the following:

(1) The United States Military Academy.

(2) The United States Naval Academy.

(3) The United States Air Force Academy.

SA 2441. Mr. REID submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place in title VI, add the following:

SEC. ___. INCLUSION OF VETERANS WITH SERVICE-CONNECTED DISABILITIES RATED AS TOTAL BY REASON OF UNEMPLOYABILITY UNDER TERMINATION OF PHASE-IN OF CONCURRENT RECEIPT OF RETIRED PAY AND VETERANS' DISABILITY COMPENSATION.

(a) INCLUSION OF VETERANS.—Section 1414(a)(1) of title 10, United States Code, is amended by inserting "or a qualified retiree receiving veterans' disability compensation for a disability rated as total (within the meaning of subsection (e)(3)(B))" after "rated as 100 percent".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect on December 31, 2004.

SA 2442. Mr. BYRD (for himself, Mr. WARNER, Mr. ENSIGN, Mr. AKAKA, Mr. LAUTENBERG, and Mr. LEVIN) proposed an amendment intended to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle A of title IX, add the following:

SEC. . DEPUTY SECRETARY OF DEFENSE FOR MANAGEMENT.

(a) ESTABLISHMENT.—

(1) POSITION AND DUTIES.—

(A) Chapter 4 of title 10, United States Code, is amended—

(i) in section 131(b), by striking paragraph (1) and inserting the following new paragraph:

"(1) Two Deputy Secretaries of Defense, as follows:

"(A) The Deputy Secretary of Defense.

"(B) The Deputy Secretary of Defense for Management."; and

(ii) by inserting after section 132 the following new section 132a:

"§ 132a. Deputy Secretary of Defense for Management

"(a) ESTABLISHMENT.—(1) There is a Deputy Secretary of Defense for Management, appointed from civilian life by the President, by and with the advice and consent of the Senate, from among persons who have—

"(A) extensive executive level experience in leadership and management in the public or private sector;

"(B) substantial experience in the reform of accounting or financial management systems in large organizations;

"(C) a demonstrated ability to manage large and complex organizations; and

"(D) a record of achieving positive operational results.

"(2) A person may not be appointed as Deputy Secretary of Defense for Management within 10 years after relief from active duty as a commissioned officer of a regular component of an armed force.

"(3) The Deputy Secretary of Defense for Management shall serve for a term of seven years.

"(b) GENERAL AUTHORITY.—(1) The Deputy Secretary of Defense for Management—

"(A) serves as the Chief Management Officer of the Department of Defense;

"(B) is the principal adviser to the Secretary of Defense on matters relating to the management of the Department of Defense, including defense business activities, to ensure departmentwide capability to carry out the strategic plan of the Department of Defense in support of national security objectives; and

"(C) performs such additional duties and exercises such other powers as the Secretary may prescribe.

"(2) The Deputy Secretary of Defense for Management takes precedence in the Department of Defense immediately after the Deputy Secretary of Defense.

"(3)(A) The Deputy Secretary of Defense for Management shall act for, and exercise the powers of, the Secretary of Defense when—

"(i) the Secretary is disabled or there is no Secretary of Defense; and

"(ii) the Deputy Secretary of Defense is disabled or there is no Deputy Secretary of Defense.

"(B) The Deputy Secretary of Defense for Management shall act for, and exercise the powers of, the Deputy Secretary of Defense when the Deputy Secretary is disabled or there is no Deputy Secretary of Defense.

"(c) MANAGEMENT DUTIES.—To support the economical, efficient, and effective execution of the national defense objectives, policies, and plans of the Department of Defense, the Deputy Secretary of Defense for Management shall be responsible to the Secretary of Defense for the development, approval, implementation, integration, and oversight of policies, procedures, processes, and systems for the management of the Department of Defense that relate to performance of the following functions:

"(1) Planning and budgeting, including performance measurement.

"(2) Acquisition.

"(3) Logistics.

"(4) Facilities, installations, and environment.

"(5) Financial management.

"(6) Human resources and personnel.

"(7) Management of information resources, including information technology, networks, and telecommunications functions.

"(d) DEFENSE BUSINESS REFORM.—For the functions specified in subsection (c), the Deputy Secretary of Defense for Management shall—

"(1) develop and maintain a departmentwide management strategic plan for business reform, and identify key initiatives to be undertaken by the Department and its components, together with related resource needs;

"(2) establish performance goals and measures for improving and evaluating overall economy, efficiency, and effectiveness;

"(3) monitor and measure the progress of the Department of Defense and its components in meeting established performance goals for improving economy, efficiency, and effectiveness; and

"(4) review and approve plans and budgets for business reform, including any proposed changes to policies, procedures, processes, and systems, to ensure the compatibility of those plans and budgets with—

"(A) the overall strategic plan and budget of the Department of Defense;

"(B) the strategic plan for business reform of the Department of Defense; and

"(C) achievement of the integration of business activities throughout the Department of Defense.

"(e) DEFENSE BUSINESS SYSTEMS.—(1) In carrying out the duties of the position under this section, the Deputy Secretary of Defense for Management shall oversee the implementation of a defense business systems modernization program including the execution of any funds appropriated for maintaining legacy systems and for modernizing defense business systems.

"(2) The Deputy Secretary of Defense for Management shall—

"(A) oversee the development of, and shall review and approve, all budget requests for defense business systems, including the information to be submitted to Congress under section 2222(h) of this title; and

"(B) subject to the authority, direction, and control of the Secretary of Defense, perform the responsibilities of the Secretary under section 2222 of this title.

"(3) In this subsection, the terms 'defense business system' and 'defense business system modernization' have the meanings given to those terms in section 2222(j) of this title.

"(f) RELATIONSHIP TO OTHER DEFENSE OFFICIALS.—(1) The Deputy Secretary of Defense for Management exercises the authority of the Secretary of Defense in the performance of the duties of the Deputy Secretary under this section, subject to the authority, direction, and control of the Secretary.

"(2) The Secretaries of the military departments and the heads of the other elements of the Department of Defense are subject to the authority, direction, and control of the Deputy Secretary in the performance of their duties with respect to matters within the authority of the Deputy Secretary, and the exercise of that authority by the Deputy Secretary is binding on the military departments and such other elements.

"(g) CONSULTATION WITH OTHER OFFICIALS.—In carrying out the duties of the position under this section, the Deputy Secretary of Defense for Management shall consult on a continuing basis with the Deputy Secretary of Defense, the Secretaries of the military departments, and the Chairman of the Joint Chiefs of Staff—

"(1) to support economical, efficient, and effective performance of the missions of the Department of Defense; and

"(2) to support each of those officials—

"(A) in the implementation of the national defense strategy and the strategic plan of the Department of Defense; and

"(B) in the administration of related programs, plans, operations, and activities.

"(h) PERFORMANCE AND EVALUATION.—(1) The Deputy Secretary of Defense for Management shall enter into an annual performance agreement with the Secretary of Defense each year. The agreement shall set forth measurable individual and organizational goals that are consistent with the goals and measures established under subsection (d) of this section. The agreement shall be available for public disclosure.

"(2) The Secretary of Defense shall evaluate the performance of the Deputy Secretary of Defense for Management each year and shall determine as part of each such evaluation whether the Deputy Secretary has made satisfactory progress toward achieving the goals set out in the performance agreement for that year under paragraph (1).".

(B) The table of sections at the beginning of such chapter is amended by inserting after the item relating to section 132 the following new item:

"132a. Deputy Secretary of Defense for Management.".

(2) EXECUTIVE LEVEL II.—Section 5313 of title 5, United States Code, is amended by inserting after "Deputy Secretary of Defense" the following:

"Deputy Secretary of Defense for Management.".

(b) MEMBERSHIP OF CERTAIN DEPARTMENT OF DEFENSE MANAGEMENT COMMITTEES.—

(1) FINANCIAL MANAGEMENT MODERNIZATION EXECUTIVE COMMITTEE.—Section 185(a) of title 10, United States Code, is amended—

(A) in paragraph (2)—

(i) by redesignating subparagraphs (A), (B), (C), (D), and (E) as subparagraphs (B), (C), (D), (E), and (F), respectively;

(ii) by inserting after "composed of the following:" the following new subparagraph (A):

"(A) The Deputy Secretary of Defense for Management, who shall be the chairman of the committee."; and

(iii) in subparagraph (B), as redesignated by clause (i), by striking ", who shall be the chairman of the committee"; and

(B) in paragraph (3), by inserting "the Deputy Secretary of Defense for Management," after "the Deputy Secretary of Defense,".

(2) DEFENSE BUSINESS SYSTEM MANAGEMENT COMMITTEE.—Section 186 of such title is amended by striking "Deputy Secretary of Defense" each place it appears in subsections (a)(1) and (b) and inserting "Deputy Secretary of Defense for Management".

(c) ADJUSTMENTS TO DUTIES AND PRECEDENCE OF OTHER OFFICIALS.—

(1) UNDER SECRETARY OF DEFENSE FOR POLICY.—Section 134 of title 10, United States Code, is amended—

(A) in subsection (b)(2), by striking "Secretary of Defense—" and inserting "Secretary of Defense and the Deputy Secretary of Defense—"; and

(B) in subsection (c), by inserting "the Deputy Secretary of Defense for Management," after "the Deputy Secretary of Defense,".

(2) UNDER SECRETARY OF DEFENSE FOR ACQUISITION, TECHNOLOGY, AND LOGISTICS.—Section 133(e) of such title is amended—

(A) in paragraph (1), by striking "and the Deputy Secretary of Defense" and inserting ", the Deputy Secretary of Defense, and the Deputy Secretary of Defense for Management"; and

(B) in paragraph (2), by inserting "the Deputy Secretary of Defense for Management," after "the Deputy Secretary of Defense,".

(3) DEPUTY UNDER SECRETARY OF DEFENSE FOR LOGISTICS AND MATERIEL READINESS.—Section 133b(c)(2) of such title is amended by inserting "the Deputy Secretary of Defense for Management," after "the Deputy Secretary of Defense,".

(4) DIRECTOR OF OPERATIONAL TEST AND EVALUATION.—Section 139 of such title is amended—

(A) in subsection (b)—

(i) in paragraph (2), by striking "and the Under Secretary of Defense for Acquisition, Technology, and Logistics" and inserting ", the Deputy Secretary of Defense, the Deputy Secretary of Defense for Management, the Under Secretary of Defense for Acquisition, Technology, and Logistics,"; and

(ii) in paragraph (5), by inserting ", the Deputy Secretary of Defense, and the Deputy Secretary of Defense for Management" after "the Secretary of Defense"; and

(B) in subsection (c), by striking "and the Deputy Secretary of Defense" in the first sentence and inserting ", the Deputy Secretary of Defense, and the Deputy Secretary of Defense for Management".

SA 2443. Mr. ENSIGN proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. RIOT CONTROL AGENTS.

(a) RESTATEMENT OF POLICY.—It is the policy of the United States that riot control agents are not chemical weapons and that the president may authorize their use as legitimate, legal, and non-lethal alternatives to the use of force that, as provided in Executive Order 11850 (40 Fed. Reg. 16187) and consistent with the resolution of ratification of the Chemical Weapons convention, may be employed by members of the Armed Forces in war in defensive military modes to save lives, including the illustrative purposes cited in Executive Order 11850.

(b) REPORT REQUIRED.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the President shall submit to Congress a report on the use of riot control agents by members of the Armed Forces.

(2) CONTENT.—The report required by paragraph (1) shall include—

(A) a description of all regulations, doctrines, training materials, and any other information related to the use of riot control agents by members of the Armed Forces;

(B) a description of the doctrinal publications, training, and other resources provided or available to members of the Armed Forces on an annual basis with regard to the tactical employment of riot control agents;

(C) a description of how the material described in subparagraphs (A) and (B) is consistent with United States policy on the use of riot control agents;

(D) a description of the availability of riot control agents, and the means to employ them, to members of the Armed Forces deployed in Iraq and Afghanistan;

(E) a description of the frequency of use of riot control agents since January 1, 1992, and a summary of views held by military commanders about the utility of the employing riot control agents by members of the Armed Forces;

(F) a general description of steps taken or to be taken by the Department of Defense to clarify the circumstances under which riot control agents may be used by members of the Armed Forces; and

(G) an assessment of the legality of Executive Order 11850, including an explanation why Executive Order 11850 remains valid under United States law.

(3) FORM.—The report required by paragraph (1) shall be submitted in unclassified form, but may include a classified annex.

(c) DEFINITIONS.—In this section:

(1) CHEMICAL WEAPONS CONVENTION.—The term "Chemical Weapons Convention" means the Convention on the Prohibitions of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction, with annexes, done at Paris, January 13, 1993, and entered into force April 29, 1997 (T. Doc. 103–21).

(2) RESOLUTION OF RATIFICATION OF THE CHEMICAL WEAPONS CONVENTION.—The term "resolution of ratification of the Chemical Weapons Convention" means S. Res. 75, 105th Congress, agreed to April 24, 1997, advising and consenting to the ratification of the Chemical Weapons Convention.

SA 2444. Mr. MARTINEZ (for himself and Mr. NELSON of Florida) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle G of title X of division A, add the following:

SEC. 1073. SENSE OF THE SENATE ON THE EFFECT OF OIL AND GAS EXPLORATION ON MILITARY OPERATIONS.

(a) FINDINGS.—The Senate makes the following findings:

(1) Continued encroachment, land use restrictions, and environmental protections have significantly limited military access to and use of Department of Defense training ranges, operating ranges, and controlled areas and hampered land, air, and sea testing.

(2) While simulators and non-live fire exercises are an important part of military training, there is no adequate substitute for live-fire training using the full range of ordnance available to the Armed Forces.

(3) Approved and controlled areas for realistic and safe live-fire testing and training operations are increasingly limited.

(4) The Department of Defense terminated Navy and Marine Corps live-fire training operations at Vieques Island, Puerto Rico.

(5) The air and sea space within and around the Eastern Gulf of Mexico is a unique and irreplaceable national security asset that provides critical live-fire testing and training opportunities.

(6) Increased oil and gas exploration operations in the waters or beneath the airspace controlled by the Department of Defense could restrict critical live-fire testing and training.

(7) Future weapons systems and advanced technologies with longer ranges at supersonic speeds will require more restricted air, land, and water range space.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) oil and gas exploration operations should not interfere with the testing and training missions of the Department of Defense; and

(2) any determination of range requirements and safety buffers should realistically account for future weapons systems and technologies, including longer range standoff drone technologies.

SA 2445. Mr. BROWNBACK (for himself, Mr. INHOFE, and Mr. DEMINT) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROTECTION OF CHILDREN AND PARENTAL INVOLVEMENT IN THE PERFORMANCE OF ABORTIONS FOR DEPENDENT CHILDREN OF MEMBERS OF THE ARMED FORCES.

Section 1093 of title 10, United States Code, is amended by adding at the end the following new subsections:

"(c) PARENTAL NOTICE.—(1) A physician may not use facilities of the Department of Defense to perform an abortion on a pregnant unemancipated minor who is a child of a member of the armed forces unless—

"(A) the physician gives at least 48 hours actual notice, in person or by telephone, of the physician's intent to perform the abortion to—

"(i) the member of the armed forces, or another parent of the minor, if the minor has no managing conservator or guardian; or

"(ii) a court-appointed managing conservator or guardian;

"(B) the judge of an appropriate district court of the United States issues an order authorizing the minor to consent to the abortion as provided by subsection (d) or (e);

"(C) the appropriate district court of the United States by its inaction constructively authorizes the minor to consent to the abortion as provided by subsection (d) or (e); or

"(D) the physician performing the abortion—

"(i) concludes that on the basis of the physician's good faith clinical judgment, a condition exists that complicates the medical condition of the minor and necessitates the immediate abortion of her pregnancy to avert her death or to avoid a serious risk of substantial and irreversible impairment of a major bodily function; and

"(ii) certifies in writing to the appropriate medical official of the Department of Defense, and in the patient's medical record, the medical indications supporting the physician's judgment that the circumstances described by clause (i) exist.

"(2) If a person to whom notice may be given under paragraph (1)(A) cannot be notified after a reasonable effort, a physician may perform an abortion if the physician gives 48 hours constructive notice, by certified mail, restricted delivery, sent to the last known address, to the person to whom notice may be given under that paragraph. The period under this paragraph begins when the notice is mailed. If the person required to be notified is not notified within the 48-hour period, the abortion may proceed even if the notice by mail is not received.

"(3) The requirement that 48 hours actual notice be provided under this subsection may be waived by an affidavit of—

"(A) the member of the armed forces concerned, or another parent of the minor, if the minor has no managing conservator or guardian; or

"(B) a court-appointed managing conservator or guardian.

"(4) A physician may execute for inclusion in the minor's medical record an affidavit stating that, according to the best information and belief of the physician, notice or constructive notice has been provided as required by this subsection. Execution of an affidavit under this paragraph creates a presumption that the requirements of this subsection have been satisfied.

"(5) A certification required by paragraph (1)(D) is confidential and privileged and is not subject to disclosure, discovery, subpoena, or other legal process. Personal or identifying information about the minor, including her name, address, or social security number, may not be included in a certification under paragraph (1)(D). The physician must keep the medical records on the minor in compliance with regulations prescribed by the Secretary of Defense.

"(6) A physician who intentionally performs an abortion on a pregnant unemancipated minor in violation of this subsection commits an offense punishable by a fine not to exceed **$10,000**.

"(7) It is a defense to prosecution under this subsection that the minor falsely represented her age or identity to the physician to be at least 18 years of age by displaying an apparently valid governmental record of identification such that a reasonable person under similar circumstances would have relied on the representation. The defense does not apply if the physician is shown to have had independent knowledge of the minor's actual age or identity or failed to use due diligence in determining the minor's age or identity.

"(d) JUDICIAL APPROVAL.—(1) A pregnant unemancipated minor who is a child of a member of the armed forces and who wishes to have an abortion using facilities of the Department of Defense without notification to the member of the armed forces, another parent, her managing conservator, or her guardian may file an application for a court order authorizing the minor to consent to the performance of an abortion without notification to either of her parents or a managing conservator or guardian.

"(2) Any application under this subsection may be filed in any appropriate district court of the United States. In the case of a minor who elects not to travel to the United States in pursuit of an order authorizing the abortion, the court may conduct the proceedings in the case of such application by telephone.

"(3) An application under this subsection shall be made under oath and include—

"(A) a statement that the minor is pregnant;

"(B) a statement that the minor is unmarried, is under 18 years of age, and has not had her disabilities removed;

"(C) a statement that the minor wishes to have an abortion without the notification of either of her parents or a managing conservator or guardian; and

"(D) a statement as to whether the minor has retained an attorney and, if she has retained an attorney, the name, address, and telephone number of her attorney.

"(4) The court shall appoint a guardian ad litem for the minor. If the minor has not retained an attorney, the court shall appoint an attorney to represent the minor. If the guardian ad litem is an attorney, the court may appoint the guardian ad litem to serve as the minor's attorney.

"(5) The court may appoint to serve as guardian ad litem for a minor—

"(A) a psychiatrist or an individual licensed or certified as a psychologist;

"(B) a member of the clergy;

"(C) a grandparent or an adult brother, sister, aunt, or uncle of the minor; or

"(D) another appropriate person selected by the court.

"(6) The court shall determine within 48 hours after the application is filed whether the minor is mature and sufficiently well-informed to make the decision to have an abortion performed without notification to either of her parents or a managing conservator or guardian, whether notification would not be in the best interest of the minor, or whether notification may lead to physical, sexual, or emotional abuse of the minor. If the court finds that the minor is mature and sufficiently well informed, that notification would not be in the minor's best interest, or that notification may lead to physical, sexual, or emotional abuse of the minor, the court shall enter an order authorizing the minor to consent to the performance of the abortion without notification to either of her parents or a managing conservator or guardian and shall execute the required forms.

"(7) If the court fails to rule on the application within the period specified in paragraph (6), the application shall be deemed to be granted and the physician may perform the abortion as if the court had issued an order authorizing the minor to consent to the performance of the abortion without notification under subsection (c).

“(8) If the court finds that the minor does not meet the requirements of paragraph (6), the court may not authorize the minor to consent to an abortion without the notification authorized under subsection (c)(1).

“(9) The court may not notify a parent, managing conservator, or guardian that the minor is pregnant or that the minor wants to have an abortion. The court proceedings shall be conducted in a manner that protects the anonymity of the minor. The application and all other court documents pertaining to the proceedings are confidential and privileged and are not subject to disclosure, discovery, subpoena, or other legal process. The minor may file the application using a pseudonym or using only her initials.

“(10) An order of the court issued under this subsection is confidential and privileged and is not subject to disclosure, discovery, subpoena, or other legal process. The order may not be released to any person but the pregnant minor, the pregnant minor's guardian ad litem, the pregnant minor's attorney, another person designated to receive the order by the minor, or a governmental agency or attorney in a criminal or administrative action seeking to assert or protect the interest of the minor.

“(11) A filing fee is not required of and court costs may not be assessed against a minor filing an application under this subsection.

“(e) APPEAL.—(1) A minor whose application under subsection (d) is denied may appeal to the court of appeals of the United States having jurisdiction of the district court of the United States that denied the application. If the court of appeals fails to rule on the appeal within 48 hours after the appeal is filed, the appeal shall be deemed to be granted and the physician may perform the abortion using facilities of the Department of Defense as if the court had issued an order authorizing the minor to consent to the performance of the abortion using facilities of the Department of Defense without notification under subsection (c). Proceedings under this subsection shall be given precedence over other pending matters to the extent necessary to assure that the court reaches a decision promptly.

“(2) A ruling of the court of appeals under this subsection is confidential and privileged and is not subject to disclosure, discovery, subpoena, or other legal process. The ruling may not be released to any person but the pregnant minor, the pregnant minor's guardian ad litem, the pregnant minor's attorney, another person designated to receive the ruling by the minor, or a governmental agency or attorney in a criminal or administrative action seeking to assert or protect the interest of the minor.

“(3) A filing fee is not required of and court costs may not be assessed against a minor filing an appeal under this subsection.

“(f) DEFINITIONS.—In this section:

“(1) The term ‘abortion’ means the use of any means at a medical facility of the Department of Defense to terminate the pregnancy of a female known by an attending physician to be pregnant, with the intention that the termination of the pregnancy by those means will with reasonable likelihood cause the death of the fetus. The term applies only to an unemancipated minor known by an attending physician to be pregnant and may not be construed to limit a minor's access to contraceptives.

“(2) The term ‘appropriate district court of the United States’ means—

“(A) with respect to a proposed abortion at a particular Department of Defense medical facility in the United States or its territories, the district court of the United States having proper venue in relation to that facility; or

“(B) if the minor is seeking an abortion at a particular Department of Defense facility outside the United States or its territories—

“(i) if the minor elects to travel to the United States in pursuit of an order authorizing the abortion, the district court of the United States having proper venue in the district in which the minor first arrives from outside the United States; or

“(ii) if the minor elects not to travel to the United States in pursuit of an order authorizing the abortion, the district court of the United States for the district in which the minor last resided.

“(3) The term ‘fetus’ means an individual human organism from fertilization until birth.

“(4) The term ‘guardian’ means a court-appointed guardian of the person of the minor.

“(5) The term ‘physician’ means an individual licensed to practice medicine.

“(6) The term ‘unemancipated minor’ includes a minor who is not a member of the armed forces and who—

“(A) is unmarried; and

“(B) has not had any disabilities of minority removed.”.

SA 2446. Mr. WARNER (for Mr. LIEBERMAN (for himself and Mr. CORNYN)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1044. REPORT ON DEPARTMENT OF DEFENSE RESPONSE TO FINDINGS AND RECOMMENDATIONS OF DEFENSE SCIENCE BOARD TASK FORCE ON HIGH PERFORMANCE MICROCHIP SUPPLY.

(a) REPORT REQUIRED.—Not later than March 15, 2006, the Secretary of Defense shall submit to the congressional defense committees a report on the implementation of the recommendations of the Defense Science Board Task Force on High Performance Microchip Supply.

(b) CONTENTS.—The report required by subsection (a) shall include the following:

(1) An analysis of each finding of the Task Force.

(2) A detailed description of the response of the Department of Defense to each recommendation of the Task Force, including—

(A) for each recommendation that is being implemented or that the Secretary plans to implement—

(i) a summary of actions that have been taken to implement the recommendation; and

(ii) a schedule, with specific milestones, for completing the implementation of the recommendation; and

(B) For each recommendation that the Secretary does not plan to implement—

(i) the reasons for the decision not to implement the recommendation; and

(ii) a summary of alternative actions the Secretary plans to take to address the purposes underlying the recommendation.

(3) A summary of any additional actions the Secretary plan to take to address concerns raised by the Task Force.

(c) CONSULTATION.—To the extent practicable, the Secretary may consult with other departments and agencies of the Federal Government, institutions of higher education and other academic organizations, and industry in the development of the report required by subsection (a).

SA 2447. Mr. WARNER (for Mr. HATCH (for himself, Mr. INHOFE, Mr. BENNETT, and Mr. CHAMBLISS)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 66, after line 22, insert the following:

SEC. 330. SENSE OF THE SENATE REGARDING DEPOT MAINTENANCE.

(a) FINDINGS.—The Senate finds that—

(1) the Depot Maintenance Strategy and Master Plan of the Air Force reflects the essential requirements for the Air Force to maintain a ready and controlled source of organic technical competence, thereby ensuring an effective and timely response to national defense contingencies and emergency requirements;

(2) since the publication of the Depot Maintenance Strategy and Master Plan of the Air Force in 2002, the service has made great progress toward modernizing all 3 of its Depots, in order to maintain their status as “world class” maintenance repair and overhaul operations;

(3) One of the indispensable components of the Depot Maintenance Strategy and Master Plan of the Air Force is the commitment of the Air Force to allocate $150,000,000 a year over 6 years, beginning in fiscal year 2004, for recapitalization and investment, including the procurement of technologically advanced facilities and equipment, of our Nation's 3 Air Force depots; and

(4) the funds expended to date have ensured that transformation projects, such as the initial implementation of “Lean” and “Six Sigma” production techniques, have achieved great success in reducing the time necessary to perform depot maintenance on aircraft.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Air Force should be commended for the implementation of its Depot Maintenance Strategy and Master Plan and, in particular, meeting its commitment to invest $150,000,000 a year over 6 years, since fiscal year 2004, in the Nation's 3 Air Force Depots; and

(2) the Air Force should continue to fully fund its commitment of $150,000,000 a year through fiscal year 2009 in investments and recapitalization projects pursuant to the Depot Maintenance Strategy and Master Plan.

SA 2448. Mr. WARNER (for Mr. CONRAD (for himself, Mr. BAUCUS, and Mr. SALAZAR)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. POLICY OF THE UNITED STATES ON THE INTERCONTINENTAL BALLISTIC MISSILE FORCE.

(a) FINDINGS.—Congress makes the following findings:

(1) Consistent with warhead levels agreed to in the Moscow Treaty, the United States is modifying the capacity of the Minuteman III intercontinental ballistic missile (ICBM) from its prior capability to carry up to 3 independent reentry vehicles (RVs) to carry as few as a single reentry vehicle, a process known as downloading.

(2) A series of Department of Defense studies of United States strategic forces, including the 2001 Nuclear Posture Review, has confirmed the continued need for 500 intercontinental ballistic missiles.

(3) In a potential nuclear crisis it is important that the nuclear weapons systems of the United States be configured so as to discourage other nations from making a first strike.

(4) The intercontinental ballistic missile force is currently being considered as part of the deliberations of the Department of Defense for the Quadrennial Defense Review.

(b) STATEMENT OF UNITED STATES POLICY.—It is the policy of the United States to continue to deploy a force of 500 intercontinental ballistic missiles, provided that unanticipated strategic developments may compel the United States to make changes to this force structure in the future.

(c) MOSCOW TREATY DEFINED.—In this section, the term "Moscow Treaty" means the Treaty Between the United States of America and the Russian Federation on Strategic Offensive Reductions, done at Moscow on May 24, 2002.

SA 2449. Mr. WARNER (for Mr. THUNE) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle D of title X, add the following:

SEC. 1044. REPORT ON USE OF SPACE RADAR FOR TOPOGRAPHICAL MAPPING FOR SCIENTIFIC AND CIVIL PURPOSES.

(a) IN GENERAL.—Not later than January 15, 2006, the Secretary of Defense shall submit to the congressional defense committees on report on the feasability and advisability of utilizing the Space Radar for purposes of providing coastal zone and other topographical mapping information, and related information, to the scientific community and other elements of the private sector for scientific and civil purposes.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description and evaluation of any uses of the Space Radar for scientific or civil purposes that are identified by the Secretary for purposes of the report.

(2) A description and evaluation of any additions or modifications to the Space Radar identified by the Secretary for purposes of the report that would increase the utility of the Space Radar to the scientific community or other elements of the private sector for scientific or civil purposes, including the utilization of additional frequencies, the development or enhancement of ground systems, and the enhancement of operations.

(3) A description of the costs of any additions or modifications identified pursuant to paragraph (2).

(4) A description and evaluation of processes to be utilized to determine the means of modifying the Space Radar in order to meet the needs of the scientific community or other elements of the private sector with respect to the use of the Space Radar for scientific or civil purposes, and a proposal for meeting the costs of such modifications.

(5) A description and evaluation of the impacts, if any, on the primary missions of the Space Radar, and on the development of the Space Radar, of the use of the Space Radar for scientific or civil purposes.

(6) A description of the process for developing requirements for the Space Radar, including the involvement of the Civil Applications Committee.

SA 2450. Mr. WARNER (for Mrs. MURRAY) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

In the section heading of section 582, insert "**OR DECREASES**" after "**INCREASES**".

In section 582(a), insert "or decrease" after "overall increase".

In the matter preceding subparagraph (A) of section 582(b)(2), insert "or decrease" after "overall increase".

In section 582(b)(2)(B), strike "; or" and insert a semicolon.

In section 582(b)(2)(C), strike the period at the end and insert "; or".

In section 528(b)(2), add at the end the following:

(D) a change in the number of housing units on a military installation.

In section 582(d)(1), insert "or decrease" after "overall increase".

SA 2451. Mr. WARNER (for Mr. CHAMBLISS) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title V, add the following:

SEC. 585. PILOT PROJECTS ON PEDIATRIC EARLY LITERACY AMONG CHILDREN OF MEMBERS OF THE ARMED FORCES.

(a) PILOT PROJECTS AUTHORIZED.—The Secretary of Defense may conduct pilot projects to assess the feasibility, advisability, and utility of encouraging pediatric literacy among the children of members of the Armed Forces utilizing the Reach Out and Read model of pediatric early literacy.

(b) LOCATIONS.—

(1) IN GENERAL.—The pilot projects conducted under subsection (a) shall be conducted at not more than 20 military medical treatment facilities designated by the Secretary for purposes of this section.

(2) CO-LOCATION WITH CERTAIN INSTALLATIONS.—In designating military medical treatment facilities under paragraph (1), the Secretary shall, to the extent practicable, designate facilities that are located on, or co-located with, military installations at which the mobilization or demobilization of members of the Armed Forces occurs.

(c) ACTIVITIES.—Activities under the pilot projects conducted under subsection (a) shall include activities in accordance with the Reach Out and Read model of pediatric early literacy as follows:

(1) The provision of training to health care providers and other appropriate personnel on early literacy promotion.

(2) The purchase and distribution of children's books to members of the Armed Forces, their spouses, and their children.

(3) The modification of treatment facility and clinic waiting rooms to include a full selection of literature for children.

(4) The dissemination to members of the Armed Forces and their spouses of parent education materials on pediatric early literacy.

(5) Such other activities as the Secretary considers appropriate.

(d) CONSULTATION.—The Secretary shall consult with the Reach Out and Read National Center in the development and implementation of the pilot projects conducted under this section, including in the designation of locations of the pilot projects under subsection (b).

(e) REPORT.—

(1) IN GENERAL.—Not later than March 1, 2007, the Secretary shall submit to the congressional defense committees a report on the pilot projects conducted under this section.

(2) ELEMENTS.—The report under paragraph (1) shall include—

(A) a description of the pilot projects conducted under this section, including the location of each pilot project and the activities conducted under each pilot project; and

(B) an assessment of the feasibility, advisability, and utility of encouraging pediatric early literacy among the children of members of the Armed Forces utilizing the Reach Out and Read model of pediatric early literacy.

(f) FUNDING.—

(1) IN GENERAL.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance for Defense-wide activities, up to $2,000,000 may be available for the pilot projects authorized by this section.

(2) AVAILABILITY.—The amount available under paragraph (1) shall remain available until expended.

SA 2452. Mr. WARNER (for Mr. NELSON of Nebraska) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle F of title V, add the following:

SEC. 573. UNIFORM POLICY ON PARENTAL LEAVE AND SIMILAR LEAVE.

(a) POLICY REQUIRED.—The Secretary of Defense shall prescribe in regulations a uniform policy for the taking by members of the

Armed Forces of parental leave to cover leave to be used in connection with births or adoptions, as the Secretary shall designate under the policy.

(b) Uniformity Across Armed Forces.—The policy prescribed under subsection (a) shall apply uniformly across the Armed Forces.

SA 2453. Mr. WARNER (for Mr. LOTT (for himself, Mr. COCHRAN, and Mr. NELSON of Florida)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title II, add the following:

SEC. 224. ARROW BALLISTIC MISSILE DEFENSE SYSTEM.

Of the amount authorized to be appropriated by section 201(5) for research, development, test, and evaluation for Defense-wide activities and available for ballistic missile defense, $80,000,000 may be available for coproduction of the Arrow ballistic missile defense system.

SA 2454. Mr. WARNER (for Mr. MCCAIN) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle A of title VIII, add the following:

SEC. 807. ACQUISITION STRATEGY FOR COMMERCIAL SATELLITE COMMUNICATION SERVICES.

(a) Requirement for Spend Analysis.—The Secretary of Defense shall, as a part of the effort of the Department of Defense to develop a revised strategy for acquiring commercial satellite communication services, perform a complete spend analysis of the past and current acquisitions by the Department of commercial satellite communication services.

(b) Report on Acquisition Strategy.—

(1) In general.—Not later than six months after the date of the enactment of this Act, the Secretary shall submit to Congress a report on the acquisition strategy of the Department of Defense for commercial satellite communications services.

(2) Elements.—The report required by paragraph (1) shall include the following:

(A) A description of the spend analysis required by subsection (a), including the results of the analysis.

(B) The proposed strategy of the Department for acquiring commercial satellite communication services, which strategy shall—

(i) be based in appropriate part on the results of the analysis required by subsection (a); and

(ii) take into account various methods of aggregating purchases and leveraging the purchasing power of the Department, including through the use of multiyear contracting for commercial satellite communication services.

(C) A proposal for such legislative action as the Secretary considers necessary to acquire appropriate types and amounts of commercial satellite communications services using methods of aggregating purchases and leveraging the purchasing power of the Department (including the use of multiyear contracting), or if the use of such methods is determined inadvisable, a statement of the rationale for such determination.

(D) A proposal for such other legislative action that the Secretary considers necessary to implement the strategy of the Department for acquiring commercial satellite communication services.

SA 2455. Mr. WARNER (for Mr. REED (for himself and Mr. ROCKEFELLER)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 296, after line 19, add the following:

SEC. 1205. REPORT ON NONSTRATEGIC NUCLEAR WEAPONS.

(a) Review.—Not later than six months after date of enactment, the Secretary of Defense shall, in consultation with the Secretary of State, conduct a review of United States and Russian nonstrategic nuclear weapons and determine whether it is in the national security interest of the United States—

(1) to reduce the number of United States and Russian nonstrategic nuclear weapons;

(2) to improve the security of United States and Russian nonstrategic nuclear weapons in storage and during transport;

(3) to identify and develop mechanisms and procedures to implement transparent reductions in nonstrategic nuclear weapons; and

(4) to identify and develop mechanisms and procedures to implement the transparent dismantlement of excess nonstrategic nuclear weapons.

(b) Report.—

(1) In general.—The Secretary of Defense shall, in consultation with the Secretary of State and the Secretary of Energy, submit a joint report on the results of the review required under subsection (a). The report shall include a plan to implement, not later than October 1, 2006, actions determined to be in the United States national security interest.

(2) Form.—The report required under paragraph (1) shall be submitted in unclassified form, but may include an unclassified annex.

SA 2456. Mr. WARNER (for Mrs. DOLE) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

SEC. 718. MENTAL HEALTH COUNSELORS UNDER TRICARE.

(a) In General.—Section 1079(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(17) Services of mental health counselors, except that—

"(A) such services are limited to services provided by counselors who are licensed under applicable State law to provide mental health services;

"(B) such services may be provided independently of medical oversight and supervision only in areas identified by the Secretary as 'medically underserved areas' where the Secretary determines that 25 percent or more of the residents are located in primary shortage areas designated pursuant to section 332 of the Public Health Services Act (42 U.S.C. 254e); and

"(C) the provision of such services shall be consistent with such rules as may be prescribed by the Secretary of Defense, including criteria applicable to credentialing or certification of mental health counselors and a requirement that mental health counselors accept payment under this section as full payment for all services provided pursuant to this paragraph.".

(b) Authority to Enter Into Personal Services Contracts.—Section 704(c)(2) of the National Defense Authorization Act for Fiscal Year 1995 (Public Law 103-337; 108 Stat. 2799; 10 U.S.C. 1091 note) is amended by inserting "mental health counselors," after "psychologists,".

SA 2457. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle H of title V, add the following:

SEC. ___. CLARIFICATION OF CERTAIN AUTHORITIES RELATING TO THE COMMISSION ON THE NATIONAL GUARD AND RESERVES.

(a) Nature of Commission.—Subsection (a) of section 513 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 1880) is amended by inserting "in the legislative branch" after "There is established".

(b) Pay of Members.—Subsection (e)(1) of such section is amended striking "except that" and all that follows through the end and inserting "except that—

"(A) in applying the first sentence of subsection (a) of section 957 of such Act to the Commission, 'may' shall be substituted for 'shall'; and

"(B) in applying subsections (a), (c)(2), and (e) of section 957 of such Act to the Commission, 'level IV of the Executive Schedule' shall be substituted for 'level V of the Executive Schedule'.".

(c) Technical Amendment.—Subsection (c)(2)(C) of such section is amended by striking "section 404(a)(4)" and inserting "section 416(a)(4)".

(d) Effective Date.—The amendments made by this section shall take effect on October 28, 2004, as if included in the enactment of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005.

SA 2458. Mr. WARNER (for Mr. MCCAIN) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 144, strike lines 1 through 3 and insert the following:

SEC. 619. RETENTION INCENTIVE AND ASSIGNMENT BONUS FOR MEMBERS OF THE SELECTED RESERVE QUALIFIED IN A CRITICAL MILITARY SKILL OR WHO VOLUNTEER FOR ASSIGNMENT TO A HIGH PRIORITY UNIT.

On page 144, in the amendment made by section 619, strike line 8 and all that follows through page 145, line 12, and insert the following:

"§ 308k. Special pay: retention incentive bonus for members of the Selected Reserve qualified in a critical military skill; assignment bonus for members of the Selected Reserve who volunteer for assignment to a high priority unit

"(a) Bonuses Authorized.—(1) An eligible officer or enlisted member of the armed forces may be paid a retention bonus as provided in this section if—

"(A) in the case of an officer or warrant officer, the member executes a written agreement to remain in the Selected Reserve for at least 2 years;

"(B) in the case of an enlisted member, the member reenlists or voluntarily extends the member's enlistment in the Selected Reserve for a period of at least 2 years; or

"(C) in the case of an enlisted member serving on an indefinite reenlistment, the member executes a written agreement to remain in the Selected Reserve for at least 2 years.

"(2) An officer or enlisted member of the armed forces may be paid an assignment bonus as provided in this section if the member voluntarily agrees to an assignment to a high priority unit of the Selected Reserve of the Ready Reserve of an armed force for at least 2 years.

"(b) Members Eligible for Retention Bonus.—Subject to subsection (d), an officer or enlisted member is eligible under subsection (a)(1) for a retention bonus under this section if the member—

"(1) is qualified in a military skill or specialty designated as critical for purposes of this section under subsection (c); or

"(2) agrees to train or retrain in a military skill or specialty so designated as critical.

"(c) Designation of Critical Skills or Specialties and High Priority Units.—The Secretary concerned shall—

"(1) designate the military skills and specialties that shall be treated as critical military skills and specialties for purposes of this section; and

"(2) designate the units that shall be treated as high priority units for purposes of this section.

On page 148, strike the matter between lines 6 and 7 and insert the following:

"308k. Special pay: retention incentive bonus for members of the Selected Reserve qualified in a critical military skill: assignment bonus for members of the Selected Reserve who volunteer for assignment to a high priority unit.".

At the end of division A, add the following:

TITLE XV—RECRUITMENT AND RETENTION

SEC. 1501. SHORT TITLE.

This title may be cited as the "Military Recruiting Initiatives Act of 2005".

SEC. 1502. INCREASE IN MAXIMUM ENLISTMENT BONUS.

(a) Enlistment Bonus for Selected Reserve Members.—Section 308c(b) of title 37, United States Code, is amended by striking "$10,000" and inserting "$20,000".

(b) Enlistment Bonus for Active Members.—Section 309(a) of title 37, United States Code, is amended by striking "$20,000" and inserting "$40,000".

SEC. 1503. TEMPORARY AUTHORITY TO PAY BONUS TO ENCOURAGE MEMBERS OF THE ARMY TO REFER OTHER PERSONS FOR ENLISTMENT IN THE ARMY.

(a) Authority To Pay Bonus.—The Secretary of the Army may pay a bonus under this section to a member of the Army, whether in the regular component of the Army or in the Army National Guard or Army Reserve, who refers to an Army recruiter a person who has not previously served in an Armed Force and who, after such referral, enlists in the regular component of the Army or in the Army National Guard or Army Reserve.

(b) Referral.—For purposes of this section, a referral for which a bonus may be paid under subsection (a) occurs—

(1) when a member of the Army contacts an Army recruiter on behalf of a person interested in enlisting in the Army; or

(2) when a person interested in enlisting in the Army contacts the Army recruiter and informs the recruiter of the role of the member in initially recruiting the person.

(c) Certain Referrals Ineligible.—

(1) Referral of Immediate Family.—A member of the Army may not be paid a bonus under subsection (a) for the referral of an immediate family member.

(2) Members in Recruiting Roles.—A member of the Army serving in a recruiting or retention assignment, or assigned to other duties regarding which eligibility for a bonus under subsection (a) could (as determined by the Secretary) be perceived as creating a conflict of interest, may not be paid a bonus under subsection (a).

(d) Amount of Bonus.—The amount of the bonus paid for a referral under subsection (a) may not exceed $1,000. The bonus shall be paid in a lump sum.

(e) Time of Payment.—A bonus may not be paid under subsection (a) with respect to a person who enlists in the Army until the person completes basic training and individual advanced training.

(f) Relation To Prohibition on Bounties.—The referral bonus authorized by this section is not a bounty for purposes of section 514(a) of title 10, United States Code.

(g) Limitation on Initial Use of Authority.—During the first year in which bonuses are offered under this section, the Secretary of the Army may not pay more than 1,000 referral bonuses per component of the Army.

(h) Duration of Authority.—A bonus may not be paid under subsection (a) with respect to any referral that occurs after December 31, 2007.

SEC. 1504. INCREASE IN MAXIMUM AGE FOR ENLISTMENT.

Section 505(a) of title 10, United States Code, is amended by striking "thirty-five years of age" and inserting "forty-two years of age".

SEC. 1505. REPEAL OF PROHIBITION ON PRIOR SERVICE ENLISTMENT BONUS FOR RECEIPT OF OTHER ENLISTMENT OR REENLISTMENT BONUS FOR SERVICE IN THE SELECTED RESERVE.

Section 308i(a)(2) of title 37, United States Code, is amended by striking subparagraph (D).

SEC. 1506. INCREASE AND ENHANCEMENT OF AFFILIATION BONUS FOR OFFICERS OF THE SELECTED RESERVE.

(a) Repeal of Prohibition on Eligibility for Prior Reserve Service.—Subsection (a)(2) of section 308j of title 37, United States Code, is amended—

(1) in subparagraph (A), by adding "and" at the end;

(2) by striking subparagraph (B); and

(3) by redesignating subparagraph (C) as subparagraph (B).

(b) Increase in Maximum Amount.—Subsection (d) of such section is amended by striking "$6,000" and inserting "$10,000".

SEC. 1507. ENHANCEMENT OF EDUCATIONAL LOAN REPAYMENT AUTHORITIES.

(a) Additional Loans Eligible for Repayment.—Paragraph (1) of section 2171(a) of title 10, United States Code, is amended—

(1) in subparagraph (B), by striking "or" at the end;

(2) in subparagraph (C), by striking the period at the end and inserting "; or"; and

(3) by inserting after subparagraph (C) the following new subparagraph:

"(D) any loan incurred for educational purposes made by a lender that is—

"(i) an agency or instrumentality of a State;

"(ii) a financial or credit institution (including an insurance company) that is subject to examination and supervision by an agency of the United States or any State;

"(iii) a pension fund approved by the Secretary for purposes of this section; or

"(iv) a non-profit private entity designated by a State, regulated by such State, and approved by the Secretary for purposes of this section.".

(b) Eligibility of Officers.—Paragraph (2) of such section is amended by striking "an enlisted member in a military specialty" and inserting "a member in an officer program or military specialty".

SEC. 1508. REPORT ON RESERVE DENTAL INSURANCE PROGRAM.

(a) Study.—The Secretary of Defense shall conduct a study of the Reserve Dental Insurance program.

(b) Elements.—The study required by subsection (a) shall—

(1) identify the most effective mechanism or mechanisms for the payment of premiums under the Reserve Dental Insurance program for members of the reserve components of the Armed Forces and their dependents, including by deduction from reserve pay, by direct collection, or by other means (including appropriate mechanisms from other military benefits programs), to ensure uninterrupted availability of premium payments regardless of whether members are performing active duty with pay or inactive-duty training with pay;

(2) include such matters relating to the Reserve Dental Insurance program as the Secretary considers appropriate; and

(3) assess the effectiveness of mechanisms for informing the members of the reserve components of the Armed Forces of the availability of, and benefits under, the Reserve Dental Insurance program.

(c) Report.—Not later than February 1, 2007, the Secretary shall submit to the congressional defense committees a report on the study required by subsection (a). The report shall include the findings of the study and such recommendations for legislative or administrative action regarding the Reserve Dental Insurance program as the Secretary considers appropriate in light of the study.

(d) Reserve Dental Insurance Program Defined.—In this section, the term "Reserve Dental Insurance program" includes—

(1) the dental insurance plan required under paragraph (1) of section 1076a(a) of title 10, United States Code; and

(2) any dental insurance plan established under paragraph (2) or (4) of section 1076a(a) of title 10, United States Code.

SA 2459. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle A of title VIII, add the following:

SEC. 807. GUIDANCE ON USE OF TIERED EVALUATION OF OFFERS FOR CONTRACTS AND TASK ORDERS UNDER CONTRACTS.

(a) Guidance Required.—The Secretary of Defense shall prescribe guidance for the military departments and the Defense Agencies on the use of tiered evaluations of offers or proposals of offerors for contracts and for task orders under contracts.

(b) Elements.—The guidance prescribed under subsection (a) shall include a prohibition on the initiation by a contracting officer of a tiered evaluation of an offer or proposal of an offeror for a contract or for a task or delivery order under a contract unless the contracting officer—

(1) has conducted market research in accordance with part 10 of the Federal Acquisition Regulation in order to determine whether or not a sufficient number of qualified small businesses are available to justify limiting competition for the award of such contract or task or delivery order under applicable law and regulations;

(2) is unable, after conducting market research under paragraph (1), to make the determination described in that paragraph; and

(3) includes in the contract file a written explanation why such contracting officer was unable to make such determination.

SA 2460. Mr. WARNER (for Mrs. Clinton (for herself and Ms. Collins)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle H of title V, add the following:

SEC. 596. CONSUMER EDUCATION FOR MEMBERS OF THE ARMED FORCES AND THEIR SPOUSES ON INSURANCE AND OTHER FINANCIAL SERVICES.

(a) Education and Counseling Requirements.—

(1) In general.—Chapter 50 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 992. Consumer education: financial services

“(a) Requirement for Consumer Education Program for Members.—(1) The Secretary concerned shall carry out a program to provide comprehensive education to members of the armed forces under the jurisdiction of the Secretary on—

“(A) financial services that are available under law to members;

“(B) financial services that are routinely offered by private sector sources to members;

“(C) practices relating to the marketing of private sector financial services to members;

“(D) such other matters relating to financial services available to members, and the marketing of financial services to members, as the Secretary considers appropriate; and

“(E) such other financial practices as the Secretary considers appropriate.

“(2) Training under this subsection shall be provided to members as—

“(A) a component of members initial entry orientation training; and

“(B) a component of periodically recurring required training that is provided for the members at military installations.

“(3) The training provided at a military installation under paragraph (2)(B) shall include information on any financial services marketing practices that are particularly prevalent at that military installation and in the vicinity.

“(b) Counseling for Members and Spouses.—(1) The Secretary concerned shall, upon request, provide counseling on financial services to each member of the armed forces, and such member's spouse, under the jurisdiction of the Secretary.

“(2)(A) In the case of a military installation at which at least 2,000 members of the armed forces on active duty are assigned, the Secretary concerned—

“(i) shall provide counseling on financial services under this subsection through a full-time financial services counselor at such installation; and

“(ii) may provide such counseling at such installation by any means elected by the Secretary from among the following:

“(I) Through members of the armed forces in grade E–7 or above, or civilians, who provide such counseling as part of their other duties for the armed forces or the Department of Defense.

“(II) By contract, including contract for services by telephone and by the Internet.

“(III) Through qualified representatives of nonprofit organizations and agencies under formal agreements with the Department of Defense to provide such counseling.

“(B) In the case of any military installation not described in subparagraph (A), the Secretary concerned shall provide counseling on financial services under this subsection at such installation by any of the means set forth in subparagraph (A)(ii), as elected by the Secretary concerned.

“(3) Each financial services counselor under paragraph (2)(A)(i), and any other individual providing counseling on financial services under paragraph (2), shall be an individual who, by reason of education, training, or experience, is qualified to provide helpful counseling to members of the armed forces and their spouses on financial services and marketing practices described in subsection (a)(1). Such individual may be a member of the armed forces or an employee of the Federal Government.

“(4) The Secretary concerned shall take such action as is necessary to ensure that each financial services counselor under paragraph (2)(A)(i), and any other individual providing counseling on financial services under paragraphs (2), is free from conflicts of interest relevant to the performance of duty under this section, and, in the performance of that duty, is dedicated to furnishing members of the armed forces and their spouses with helpful information and counseling on financial services and related marketing practices.

“(c) Life Insurance.—(1) In counseling a member of the armed forces, or spouse of a member of the armed forces, under this section regarding life insurance offered by a private sector source, a financial services counselor under subsection (b)(2)(A)(i), or another individual providing counseling on financial services under subsection (b)(2), shall furnish the member or spouse, as the case may be, with information on the availability of Servicemembers' Group Life Insurance under subchapter III of chapter 19 of title 38, including information on the amounts of coverage available and the procedures for electing coverage and the amount of coverage.

“(2)(A) A covered member of the armed forces may not authorize payment to be made for private sector life insurance by means of an allotment of pay to which the member is entitled under chapter 3 of title 37 unless the authorization of allotment is accompanied by a written certification by a commander of the member, a financial services counselor referred to in subsection (b)(2)(A)(i), or another individual providing counseling on financial services under subsection (b)(2), as applicable, that the member has received counseling under paragraph (1) regarding the purchase of coverage under that private sector life insurance.

“(B) Subject to subparagraph (C), a written certification described in subparagraph (A) may not be made with respect to a member's authorization of allotment as described in subparagraph (A) until seven days after the date of the member's authorization of allotment in order to facilitate the provision of counseling to the member under paragraph (1).

“(C) The commander of a member may waive the applicability of subparagraph (B) to a member for good cause, including the member's imminent change of station.

“(D) In this paragraph, the term ‘covered member of the armed forces’ means an active duty member of the armed forces in grades E–1 through E–4.

“(d) Financial Services Defined.—In this section, the term ‘financial services’ includes the following:

“(1) Life insurance, casualty insurance, and other insurance.

“(2) Investments in securities or financial instruments.

“(3) Banking, credit, loans, deferred payment plans, and mortgages.”.

(2) Clerical amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

“992. Consumer education: financial services.”.

(b) Continuing Effect of Existing Allotments for Life Insurance.—Paragraph (c)(2) of section 992 of title 10, United States Code (as added by subsection (a)), shall not affect any allotment of pay authorized by a member of the Armed Forces before the effective date of such section.

(c) Effective Date.—The amendments made by this section shall take effect on the first day of the first month that begins more than 120 days after the date of the enactment of this Act.

SA 2461. Mr. WARNER (for Ms. Snowe) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 52, between lines 5 and 6, insert the following:

SEC. 304. NAVY HUMAN RESOURCES BENEFIT CALL CENTER.

Of the amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy, $1,500,000 may be available for civilian manpower and personnel for a human resources benefit call center.

SA 2462. Mr. WARNER (for Mr. Vitter) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 213, between lines 2 and 3, insert the following:

SEC. 807. CONGRESSIONAL NOTIFICATION OF CANCELLATION OF MAJOR AUTOMATED INFORMATION SYSTEMS.

(a) Report Required.—The Secretary of Defense shall notify the congressional defense committees not less than 60 days before cancelling a major automated information system program that has been fielded or approved to be fielded, or making a change that will significantly reduce the scope of such a program, of the proposed cancellation or change.

(b) Content.—Each notification submitted under subsection (a) with respect to the proposed cancellation or change shall include—

(1) the specific justification for the proposed change;

(2) a description of the impact of the proposed change on the Department's ability to achieve the objectives of the program that has been cancelled or changed;

(3) a description of the steps that the Department plans to take to achieve such objectives; and

(4) other information relevant to the change in acquisition strategy.

(c) Definitions.—In this section:

(1) The term "major automated information system" has the meaning given that term in Department of Defense Directive 5000.

(2) The term "approved to be fielded" means having received Milestone C approval.

SA 2463. Mr. WARNER (for Mr. Chambliss) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 310, in the table following line 16, strike "$8,450,000" in the amount column of the item relating to Fort Gillem, Georgia, and insert "$3,900,000".

On page 310, in the table following line 16, insert after the item relating to Fort Gillem, Georgia, the following:

	Fort Gordon	$4,550,000

SA 2464. Mr. WARNER (for Mr. Bayh) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of title XIV of division A, add the following:

SEC. 1411. TACTICAL WHEELED VEHICLES.

(a) Additional Amount for Other Procurement, Army.—The amount authorized to be appropriated by section 1403(a)(3) for other procurement for the Army is hereby increased by $360,800,000.

(b) Availability of Amount.—Of the amount authorized to be appropriated by section 1403(a)(3) for other procurement for the Army, as increased by subsection (a), $360,800,000 may be made available—

(1) for the procurement of armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan, including the procurement of armored Light Tactical Vehicles (LTVs), armored Medium Tactical Vehicles (MTVs), including Low Signature Armored Cabs for the family of MTVs, and armored Heavy Tactical Vehicles (HTVs); and

(2) to the extent the Secretary of the Army determines that such amount is not needed for the procurement of such armored Tactical Wheeled Vehicles for units deployed in Iraq and Afghanistan, for the procurement of such armored vehicles in accordance with other priorities of the Army.

(c) Offset.—The amount authorized to be appropriated by section 1409(a) for the Iraq Freedom Fund is hereby reduced by $360,800,000.

SA 2465. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of section 732, add the following:

(d) Funding.—

(1) In general.—(A) The amount authorized to be appropriated by section 303(a) for the Defense Health Program is hereby increased by $10,000,000.

(B) Of the amount authorized to be appropriated by section 303(a) for the Defense Health Program, as increased by subparagraph (A), $10,000,000 shall be available for pilot projects under this section.

(C) The amount available under subparagraph (B) shall remain available until expended.

(2) Offset.—The amount authorized to be appropriated by section 301(2) for operation and maintenance for the Navy is hereby decreased by $10,000,000.

SA 2466. Mr. WARNER (for Mr. Graham (for himself and Mr. Nelson of Nebraska)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 104, in the amendment made by section 571, strike line 24 and all that follows through page 105, line 3, and insert the following:

310(a) of title 37;

"(ii) is assigned to a deployable ship or mobile unit or to other duty designated for the purpose of this section; or

"(iii) on or after August 29, 2005, performs duty designated by the Secretary of Defense as qualifying duty for purposes of this subsection.".

At the end of title VI, add the following:

Subtitle F—Enhancement of Authorities for Recruitment and Retention

SEC. 671. INCREASE IN MAXIMUM RATE OF ASSIGNMENT INCENTIVE PAY.

(a) Increase in Maximum Rate.—Section 307a(c) of title 37, United States Code, is amended by striking "$1,500" and inserting "$3,000".

(b) Effective Date.—The amendment made by subsection (a) shall take effect on the date of the enactment of this Act, and shall apply with respect to months beginning on or after that date.

SEC. 672. TEMPORARY INCREASE IN BASIC ALLOWANCE FOR HOUSING IN AREAS SUBJECT TO DECLARATION OF A MAJOR DISASTER.

(a) Temporary Increase Authorized.—Section 403(b) of title 37, United States Code, is amended—

(1) by redesignating paragraphs (6) and (7) as paragraphs (7) and (8), respectively; and

(2) by inserting after paragraph (4) the following new paragraph (5):

"(5)(A) The Secretary of Defense may prescribe a temporary increase in rates of basic allowance for housing in a military housing area located in an area for which a major disaster has been declared in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5170).

"(B) The amount of the increase under this paragraph in rates of basic allowance for housing in an area by reason of a disaster shall be based on a determination by the Secretary of the amount by which the costs of adequate housing for civilians have increased in the area by reason of the disaster.

"(C) The amount of any increase under this paragraph in a rate of basic allowance for housing may not exceed the amount equal to 20 percent of such rate of basic allowance for housing.

"(D) A member may be paid a basic allowance for housing at a rate increased under this paragraph by reason of a disaster only if the member certifies to the Secretary concerned that the member has incurred increased housing costs in the area concerned by reason of the disaster.

"(E) An increase in rates of basic allowance for housing in an area under this paragraph shall remain in effect until the effective date of the first adjustment in rates of basic allowance for housing made for the area pursuant to a redetermination of housing costs in the area under paragraph (4) that occurs after the date of the increase under this paragraph.".

(b) Effective Date.—The amendments made by subsection (a) shall take effect on

September 1, 2005, and shall apply with respect to months beginning on or after that date.

SEC. 673. TEMPORARY AUTHORITY FOR INCENTIVES FOR RECRUITMENT OF MILITARY PERSONNEL.

(a) AUTHORITY TO PROVIDE INCENTIVES.—The Secretary of Defense may, in consultation with the Director of the Office of Management and Budget, develop and provide incentives (in addition to any other incentives authorized by law) for the recruitment of individuals as officers and enlisted members of the Armed Forces.

(b) CONSTRUCTION WITH OTHER PERSONNEL AUTHORITIES.—

(1) IN GENERAL.—Incentives may be provided under subsection (a)—

(A) without regard to the lack of specific authority for such incentives under title 10, United States Code, or title 37, United States Code; and

(B) notwithstanding any provision of title 10, United States Code, or title 37, United States Code, or any rule or regulation prescribed under such provision, relating to methods of—

(i) determining requirements for, and the compensation of, members of the Armed Forces who are assigned duty as military recruiters; or

(ii) providing incentives to individuals to accept commissions or enlist in the Armed Forces, including the provision of group or individual bonuses, pay, or other incentives.

(2) WAIVER OF OTHERWISE APPLICABLE LAWS.—No provision of title 10, United States Code, or title 37, United States Code, may be waived with respect to, or otherwise determined to be inapplicable to, the provision of incentives under subsection (a) except with the approval of the Secretary.

(c) PLANS.—

(1) DEVELOPMENT OF PLANS.—Before providing an incentive under subsection (a), or entering into any agreement or contract with respect to the provision of such incentive, the Secretary shall develop a plan that includes—

(A) a description of such incentive, including the purpose of such project and the members (or potential recruits) of the Armed Forces to be addressed by such incentive;

(B) a statement of the anticipated outcomes of such incentive; and

(C) the method of evaluating the effectiveness of such incentive.

(2) SUBMITTAL OF PLANS.—Not later than 30 days before the provision of an incentive under subsection (a), the Secretary shall submit a copy of the plan developed under paragraph (1) on such incentive—

(A) to the elements of the Department of Defense to be affected by the provision of such incentive; and

(B) to Congress.

(d) LIMITATIONS.—

(1) NUMBER OF INDIVIDUALS.—The number of individuals provided incentives under subsection (a) may not exceed the number of individuals equal to 20 percent of the accession mission of the Armed Force concerned for the fiscal year in which such incentives are first provided.

(2) DURATION OF PROVISION.—The provision of incentives under subsection (a) shall terminate not later than the end of the three-year period beginning on the date on which the provision of such incentives commences (except that such incentives may continue to be provided beyond the date otherwise provided in this paragraph to the extent necessary to evaluate the effectiveness of such incentives).

(e) REPORTS.—

(1) IN GENERAL.—The Secretary shall submit to Congress on an annual basis a report on the incentives provided under subsection (a) during the preceding year.

(2) ELEMENTS.—Each report under this subsection shall include—

(A) a description of the incentives provided under subsection (a) during the fiscal year covered by such report; and

(B) an assessment of the impact of such incentives on the recruitment of individuals as officers or enlisted members of the Armed Forces.

SEC. 674. PAY AND BENEFITS TO FACILITATE VOLUNTARY SEPARATION OF TARGETED MEMBERS OF THE ARMED FORCES.

(a) PAY AND BENEFITS AUTHORIZED.—

(1) IN GENERAL.—Chapter 59 of title 10, United States Code, is amended by inserting after section 1175 the following new section:

“§ 1175a. Voluntary separation pay and benefits

“(a) IN GENERAL.—Under regulations approved by the Secretary of Defense, the Secretary concerned may provide voluntary separation pay and benefits in accordance with this section to eligible members of the armed forces who are voluntarily separated from active duty in the armed forces.

“(b) ELIGIBLE MEMBERS.—(1) Except as provided in paragraph (2), a member of the armed forces is eligible for voluntary separation pay and benefits under this section if the member—

“(A) has served on active duty for more than 6 years but not more than 20 years;

“(B) has served at least 5 years of continuous active duty immediately preceding the date of the member's separation from active duty;

“(C) has not been approved for payment of a voluntary separation incentive under section 1175 of this title;

“(D) meets such other requirements as the Secretary concerned may prescribe, which may include requirements relating to—

“(i) years of service, skill, rating, military specialty, or competitive category;

“(ii) grade or rank;

“(iii) remaining period of obligated service; or

“(iv) any combination of these factors; and

“(E) requests separation from active duty.

“(2) The following members are not eligible for voluntary separation pay and benefits under this section:

“(A) Members discharged with disability severance pay under section 1212 of this title.

“(B) Members transferred to the temporary disability retired list under section 1202 or 1205 of this title.

“(C) Members being evaluated for disability retirement under chapter 61 of this title.

“(D) Members who have been previously discharged with voluntary separation pay.

“(E) Members who are subject to pending disciplinary action or who are subject to administrative separation or mandatory discharge under any other provision of law or regulations.

“(3) The Secretary concerned shall determine each year the number of members to be separated, and provided separation pay and benefits, under this section during the fiscal year beginning in such year.

“(c) SEPARATION.—Each eligible member of the armed forces whose request for separation from active duty under subsection (b)(1)(E) is approved shall be separated from active duty.

“(d) ADDITIONAL SERVICE IN READY RESERVE.—Of the number of members of the armed forces to be separated from active duty in a fiscal year, as determined under subsection (b)(3), the Secretary concerned shall determine a number of such members, in such skill and grade combinations as the Secretary concerned shall designate, who shall serve in the Ready Reserve, after separation from active duty, for a period of not less than three years, as a condition of the receipt of voluntary separation pay and benefits under this section.

“(e) SEPARATION PAY AND BENEFITS.—(1) A member of the armed forces who is separated from active duty under subsection (c) shall be paid voluntary separation pay in accordance with subsection (g) in an amount determined by the Secretary concerned pursuant to subsection (f).

“(2) A member who is not entitled to retired or retainer pay upon separation shall be entitled to the benefits and services provided under—

“(A) chapter 58 of this title during the 180-day period beginning on the date the member is separated (notwithstanding any termination date for such benefits and services otherwise applicable under the provisions of such chapter); and

“(B) sections 404 and 406 of title 37.

“(f) COMPUTATION OF VOLUNTARY SEPARATION PAY.—The Secretary concerned shall specify the amount of voluntary separation pay that an individual or defined group of members of the armed forces may be paid under subsection (e)(1). No member may receive as voluntary separation pay an amount greater than three times the full amount of separation pay for a member of the same pay grade and years of service who is involuntarily separated under section 1174 of this title.

“(g) PAYMENT OF VOLUNTARY SEPARATION PAY.—(1) Voluntary separation pay under this section may be paid in a single lump sum.

“(2) In the case of a member of the armed forces who, at the time of separation under subsection (c), has completed at least 15 years, but less than 20 years, of active service, voluntary separation pay may be paid, at the election of the Secretary concerned, in—

“(A) a single lump sum;

“(B) installments over a period not to exceed 10 years; or

“(C) a combination of lump sum and such installments.

“(h) COORDINATION WITH RETIRED OR RETAINER PAY AND DISABILITY COMPENSATION.—(1) A member who is paid voluntary separation pay under this section and who later qualities for retired or retainer pay under this title or title 14 shall have deducted from each payment of such retired or retainer pay an amount, in such schedule of monthly installments as the Secretary concerned shall specify, until the total amount deducted from such retired or retainer pay is equal to the total amount of voluntary separation pay so paid.

“(2)(A) Except as provided in subparagraphs (B) and (C), a member who is paid voluntary separation pay under this section shall not be deprived, by reason of the member's receipt of such pay, of any disability compensation to which the member is entitled under the laws administered by the Secretary of Veterans Affairs, but there shall be deducted from such disability compensation an amount, in such schedule of monthly installments as the Secretary concerned shall specify, until the total amount deducted from such disability compensation is equal to the total amount of voluntary separation pay so paid.

"(B) No deduction shall be made from the disability compensation paid to an eligible disabled uniformed services retiree under section 1413, or to an eligible combat-related disabled uniformed services retiree under section 1413a of this title, who is paid voluntary separation pay under this section.

"(C) No deduction may be made from the disability compensation paid to a member for the amount of voluntary separation pay received by the member because of an earlier discharge or release from a period of active duty if the disability which is the basis for that disability compensation was incurred or aggravated during a later period of active duty.

"(3) The requirement under this subsection to repay voluntary separation pay following retirement from the armed forces does not apply to a member who was eligible to retire at the time the member applied and was accepted for voluntary separation pay and benefits under this section.

"(4) The Secretary concerned may waive the requirement to repay voluntary separation pay under paragraphs (1) and (2) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States.

"(i) RETIREMENT DEFINED.—In this section, the term 'retirement' includes a transfer to the Fleet Reserve or Fleet Marine Corps Reserve.

"(j) REPAYMENT FOR MEMBERS WHO RETURN TO ACTIVE DUTY.—(1) Except as provided in paragraphs (2) and (3), a member of the armed forces who, after having received all or part of voluntary separation pay under this section, returns to active duty shall have deducted from each payment of basic pay, in such schedule of monthly installments as the Secretary concerned shall specify, until the total amount deducted from such basic pay equals the total amount of voluntary separation pay received.

"(2) Members who are involuntarily recalled to active duty or full-time National Guard duty in accordance with section 12301(a), 12301(b), 12301(g), 12302, 12303, or 12304 of this title or section 502(f)(1) of title 32 shall not be subject to this subsection.

"(3) Members who are recalled or perform active duty or full-time National Guard duty in accordance with section 101(d)(1), 101(d)(2), 101(d)(5), 12301(d) (insofar as the period served is less than 180 consecutive days with the consent of the member), 12319, or 12503 of title 10, or section 114, 115, or 502(f)(2) of title 32 (insofar as the period served is less than 180 consecutive days with consent of the member), shall not be subject to this subsection.

"(4) The Secretary of Defense may waive, in whole or in part, repayment required under paragraph (1) if the Secretary determines that recovery would be against equity and good conscience or would be contrary to the best interests of the United States. The authority in this paragraph may be delegated only to the Undersecretary of Defense for Personnel and Readiness and the Principal Deputy Undersecretary of Defense for Personnel and Readiness.

"(k) TERMINATION OF AUTHORITY.—(1) The authority to separate a member of the armed forces from active duty under subsection (c) shall terminate on December 31, 2008.

"(2) A member who separates by the date specified in paragraph (1) may continue to be provided voluntary separation pay and benefits under this section until the member has received the entire amount of pay and benefits to which the member is entitled under this section.".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 59 of such title is amended by inserting after the item relating to section 1175 the following new item:

"1175a. Voluntary separation pay and benefits.".

(b) LIMITATION ON APPLICABILITY.—During the period beginning on the date of the enactment of this Act and ending on December 31, 2008, the members of the Armed Forces who are eligible for separation, and for the provision of voluntary separation pay and benefits, under section 1175a of title 10, United States Code (as added by subsection (a)), shall be limited to officers of the Armed Forces who meet the eligibility requirements of section 1175a(b) of title 10, United States Code (as so added), but have not completed more than 12 years of active service as of the date of separation from active duty.

(c) OFFICER SELECTIVE EARLY RETIREMENT.—Section 638a(a) of title 10, United States Code, is amended by adding at the end the following new sentence: "During the period beginning on October 1, 2005, and ending on December 31, 2011, the Secretary of Defense may also authorize the Secretary of the Navy and the Secretary of the Air Force to take any of the actions set forth in such subsection with respect to officers of the armed forces under the jurisdiction of such Secretary.".

SA 2467. Mr. WARNER (for Mr. DODD) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title III, add the following:

SEC. . REIMBURSEMENT FOR CERTAIN PROTECTIVE, SAFETY, OR HEALTH EQUIPMENT PURCHASED BY OR FOR MEMBERS OF THE ARMED FORCES FOR DEPLOYMENT IN OPERATIONS IN IRAQ AND CENTRAL ASIA.

(a) REIMBURSEMENT REQUIRED.—

(1) IN GENERAL.—Subject to subsections (d) and (e), the Secretary of Defense shall reimburse a member of the Armed Forces, or a person or entity referred to in paragraph (2), for the cost (including shipping cost) of any protective, safety, or health equipment that was purchased by such member, or such person or entity on behalf of such member, before or during the deployment of such member in Operation Noble Eagle, Operation Enduring Freedom, or Operation Iraqi Freedom for the use of such member in connection with such operation if the unit commander of such member certifies that such equipment was critical to the protection, safety, or health of such member.

(2) COVERED PERSONS AND ENTITIES.—A person or entity referred to in this paragraph is a family member or relative of a member of the Armed Forces, a non-profit organization, or a community group.

(3) REGULATIONS NOT REQUIRED FOR REIMBURSEMENT.—Reimbursements may be made under this subsection in advance of the promulgation by the Secretary of Defense of regulations, if any, relating to the administration of this section.

(b) PROTECTIVE EQUIPMENT REIMBURSEMENT FUND.—

(1) ESTABLISHMENT.—There is hereby established an account to be known as the "Protective Equipment Reimbursement Fund" (in this subsection referred to as the "Fund").

(2) ELEMENTS.—The Fund shall consist of amounts deposited in the Fund from amounts available for the Fund under subsection (g).

(3) AVAILABILITY.—Amounts in the Fund shall be available directly to the unit commanders of members of the Armed Forces for the making of reimbursements for protective, safety, and health equipment under subsection (a).

(4) DOCUMENTATION.—Each person seeking reimbursement under subsection (a) for protective, safety, or health equipment purchased by or on behalf of a member of the Armed Forces shall submit to the unit commander of such member such documentation as is necessary to establish each of the following:

(A) The nature of such equipment, including whether or not such equipment qualifies as protective, safety, or health equipment under subsection (c).

(B) The cost of such equipment.

(c) COVERED PROTECTIVE, SAFETY, AND HEALTH EQUIPMENT.—Protective, safety, and health equipment for which reimbursement shall be made under subsection (a) shall include personal body armor, collective armor or protective equipment (including armor or protective equipment for high mobility multi-purpose wheeled vehicles), and items provided through the Rapid Fielding Initiative of the Army, or equivalent programs of the other Armed Forces, such as the advanced (on-the-move) hydration system, the advanced combat helmet, the close combat optics system, a Global Positioning System (GPS) receiver, a gun scope, and a soldier intercommunication device.

(d) LIMITATION REGARDING AMOUNT OF REIMBURSEMENT.—The amount of reimbursement provided under subsection (a) per item of protective, safety, and health equipment purchased by or on behalf of any given member of the Armed Forces may not exceed the lesser of—

(1) the cost of such equipment (including shipping cost); or

(2) $1,100.

(e) LIMITATION ON DATE OF PURCHASE.—Reimbursement may be made under subsection (a) only for protective, safety, and health equipment purchased before October 1, 2006.

(f) OWNERSHIP OF EQUIPMENT.—The Secretary shall identify the circumstances, if any, under which the United States shall assume title or ownership of protective, safety, or health equipment for which reimbursement is provided under subsection (a).

(g) FUNDING.—

(1) IN GENERAL.—Except as provided in paragraph (2), amounts for reimbursements under subsection (a) shall be derived from any amounts authorized to be appropriated by this Act.

(2) EXCEPTION.—Amounts authorized to be appropriated by this Act and available for the procurement of equipment for members of the Armed Forces deployed, or to be deployed, to Iraq or Afghanistan may not be utilized for reimbursements under subsection (a).

(h) REPEAL OF SUPERSEDED AUTHORITY.—Section 351 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108-375; 118. Stat. 1857) is repealed.

SA 2468. Mr. WARNER (for Mrs. DOLE) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle H of title V, add the following:

SEC. 596. REPORT ON PREDATORY LENDING PRACTICES DIRECTED AT MEMBERS OF THE ARMED FORCES AND THEIR DEPENDENTS.

(a) FINDINGS.—The Senate makes the following findings:

(1) Predatory lending practices harm members of the Armed Forces and are an increasing problem for the Armed Forces.

(2) Predatory lending practices not only hurt the financial security of the members of the Armed Forces but, according to the Under Secretary of Defense for Personnel and Readiness, also threaten the operational readiness of the Armed Forces.

(3) The General Accountability Office found in an April 2005 report that the Department of Defense was not fully utilizing tools available to the Department to curb the predatory lending practices directed at members of the Armed Forces.

(b) SENSE OF SENATE.—It is the sense of the Senate that—

(1) the Department of Defense should work with financial service regulators to protect the members of the Armed Forces from predatory lending practices; and

(2) the Senate should consider and adopt legislation—

(A) to strengthen disclosure, education, and other protections for members of the Armed Forces regarding predatory lending practices; and

(B) to ensure greater cooperation between financial services regulators and the Department of Defense on the protection of members of the Armed Forces from predatory lending practices.

(c) REPORT.—

(1) REPORT REQUIRED.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall, in consultation with the Secretary of the Treasury, the Chairman of the Federal Reserve, the Chairman of the Federal Deposit Insurance Corporation, and representatives of military charity organizations and consumer organizations, submit to the appropriate committees of Congress a report on predatory lending practices directed at members of the Armed Forces and their families.

(2) ELEMENTS.—The report under paragraph (1) shall include—

(A) a description of the prevalence of predatory lending practices directed at members of the Armed Forces and their families;

(B) an assessment of the effects of predatory lending practices on members of the Armed Forces and their families;

(C) a description of the strategy of the Department of Defense, and of any current or planned programs of the Department, to educate members of the Armed Forces and their families regarding predatory lending practices;

(D) a description of the strategy of the Department of Defense, and of any current or planned programs of the Department, to reduce or eliminate—

(i) the prevalence of predatory lending practices directed at members of the Armed Forces and their families; and

(ii) the negative effect of such practices on members of the Armed Forces and their families; and

(E) recommendations for additional legislative and administrative action to reduce or eliminate predatory lending practices directed at members of the Armed Forces and their families.

(3) DEFINITIONS.—In this subsection:

(A) The term "appropriate committees of Congress" means—

(i) the Committees on Armed Services and Banking, Housing, and Urban Affairs of the Senate; and

(ii) the Committees on Armed Services and Financial Services of the House of Representatives.

(B) The term "predatory lending practice" means an unfair or abusive loan or credit sale transition or collection practice.

SA 2469. Mr. WARNER (for Mr. CARPER) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 337, between lines 4 and 5, insert the following:

SEC. 2602. CONSTRUCTION OF MAINTENANCE HANGAR, NEW CASTLE COUNTY AIRPORT AIR GUARD BASE, DELAWARE.

(a) AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 2601(3)(A) for the Department of the Air Force for the Air National Guard of the United States is hereby increased by $1,440,000.

(b) USE OF FUNDS.—Of the amount authorized to be appropriated by section 2601(3)(A) for the Department of the Air Force for the Air National Guard of the United States, as increased by subsection (a), $1,440,000 is available for planning and design for a replacement C-130 aircraft maintenance hangar at Air National Guard New Castle County Airport, Delaware.

(c) OFFSET.—The amount authorized to be appropriated by section 2204(a) for military construction, land acquisition, and military family housing functions of the Department of the Navy and the amount of such funds authorized by paragraph (11) of such subsection for the construction of increment 3 of the general purpose berthing pier at Naval Weapons Station, Earle, New Jersey, are each hereby decreased by $1,440,000.

SA 2470. Mr. WARNER (for Mr. SANTORUM) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle F of title V, add the following:

SEC. ___. SENSE OF SENATE ON NOTICE TO CONGRESS OF RECOGNITION OF MEMBERS OF THE ARMED FORCES FOR EXTRAORDINARY ACTS OF BRAVERY, HEROISM, AND ACHIEVEMENT.

It is the sense of the Senate that the Secretary of Defense or the Secretary of the military department concerned should, upon awarding a medal to a member of the Armed Forces or otherwise commending or recognizing a member of the Armed Forces for an act of extraordinary heroism, bravery, achievement, or other distinction, notify the Committees on Armed Services of the Senate and the House of Representatives, the Senators from the State in which such member resides, and the Member of the House of Representatives from the district in which such member resides of such extraordinary award, commendation, or recognition.

SA 2471. Mr. WARNER (for Mr. FEINGOLD) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of division A, add the following:

TITLE XV—TRANSITION SERVICES

SEC. 1501. SHORT TITLE.

This title may be cited as the "Veterans' Enhanced Transition Services Act of 2005".

SEC. 1502. IMPROVED ADMINISTRATION OF TRANSITIONAL ASSISTANCE PROGRAMS.

(a) PRESEPARATION COUNSELING.—Section 1142 of title 10, United States Code, is amended—

(1) in subsection (a)—

(A) by redesignating paragraph (4) as paragraph (5); and

(B) by inserting after paragraph (3) the following new paragraph (4):

"(4) For members of the reserve components of the armed forces (including members of the National Guard on active duty under title 32) who have been serving on active duty continuously for at least 180 days, the Secretary concerned shall provide preseparation counseling under this section on an individual basis to all such members before such members are separated."; and

(2) in subsection (b)—

(A) in paragraph (4), by striking "(4) Information concerning" and inserting the following:

"(4) Provision of information on civilian occupations and related assistance programs, including information concerning—

"(A) certification and licensure requirements that are applicable to civilian occupations;

"(B) civilian occupations that correspond to military occupational specialties; and

"(C)"; and

(B) by adding at the end the following:

"(11) Information concerning the priority of service for veterans in the receipt of employment, training, and placement services provided under qualified job training programs of the Department of Labor.

"(12) Information concerning veterans small business ownership and entrepreneurship programs of the Small Business Administration and the National Veterans Business Development Corporation.

"(13) Information concerning employment and reemployment rights and obligations under chapter 43 of title 38.

"(14) Information concerning veterans preference in federal employment and federal procurement opportunities.

"(15) Contact information for housing counseling assistance.

"(16) A description, developed in consultation with the Secretary of Veterans Affairs, of health care and other benefits to which the member may be entitled under the laws administered by the Secretary of Veterans Affairs.".

(b) CONFORMING AND CLERICAL AMENDMENTS.—

(1) CONFORMING AMENDMENT.—The heading of such section is amended to read as follows:

"§ 1142. Members separating from active duty: preseparation counseling".

(2) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 58 of title 10, United States Code, is amended by striking the item relating to section 1142 and inserting the following:

"1142. Members separating from active duty: preseparation counseling.".

(c) DEPARTMENT OF LABOR TRANSITIONAL SERVICES PROGRAM.—Section 1144 of title 10, United States Code, is amended—

(1) in subsection (a)(1), by striking "paragraph (4)(A)" in the second sentence and inserting "paragraph (5)(A)"; and

(2) by adding at the end the following new subsection:

"(e) TRAINING SUPPORT MATERIALS.—The Secretary concerned shall, on a continuing basis and in cooperation with the Secretary of Labor, update the content of all materials used by the Department of Labor that provide direct training support to personnel who provide transitional services counseling under this section.".

SEC. 1503. FOLLOW UP ASSISTANCE FOR MEMBERS OF THE ARMED FORCES AFTER PRESEPARATION PHYSICAL EXAMINATIONS.

Section 1145(a) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) The Secretary of Defense shall, in consultation with the Secretary of Veterans Affairs, ensure that appropriate actions are taken to assist a member of the armed forces who, as a result of a medical examination under paragraph (4), receives an indication for a referral for follow up treatment from the health care provider who performs the examination.

"(B) Assistance provided to a member under paragraph (1) shall include the following:

"(i) Information regarding, and any appropriate referral for, the care, treatment, and other services that the Secretary of Defense or the Secretary of Veterans Affairs may provide to such member under any other provision of law, including—

"(I) clinical services, including counseling and treatment for post-traumatic stress disorder and other mental health conditions; and

"(II) any other care, treatment, and services.

"(ii) Information on the private sector sources of treatment that are available to the member in the member's community.

"(iii) Assistance to enroll in the health care system of the Department of Veterans Affairs for health care benefits for which the member is eligible under laws administered by the Secretary of Veterans Affairs.".

SEC. 1504. REPORT ON TRANSITION ASSISTANCE PROGRAMS.

(a) REPORT REQUIRED.—Not later than May 1, 2006, the Secretary of Defense shall, in consultation with the Secretary of Labor and the Secretary of Veterans Affairs, submit to Congress a report on the actions taken to ensure that the Transition Assistance Programs for members of the Armed Forces separating from the Armed Forces (including members of the regular components of the Armed Forces and members of the reserve components of the Armed Forces) function effectively to provide such members with timely and comprehensive transition assistance when separating from the Armed Forces.

(b) FOCUS ON PARTICULAR MEMBERS.—The report required by subsection (a) shall include particular attention to the actions taken with respect to the Transition Assistance Programs to assist the following members of the Armed Forces:

(1) Members deployed to Operation Iraqi Freedom.

(2) Members deployed to Operation Enduring Freedom.

(3) Members deployed to or in support of other contingency operations.

(4) Members of the National Guard activated under the provisions of title 32, United States Code, in support of relief efforts for Hurricane Katrina and Hurricane Rita.

SA 2472. Mr. VOINOVICH (for Mr. ENZI) proposed an amendment to the bill H.R. 797, to amend the Native American Housing Assistance and Self-Determination Act of 1996 and other Acts to improve housing programs for Indians; as follows:

On page 3, line 9, strike "and".

Beginning on page 3, strike lines 19 through 24 and insert the following: of 1968 (42 U.S.C. 3601 et seq.); and

(E) federally recognized Indian tribes exercising powers of self-government are governed by the Indian Civil Rights Act (25 U.S.C. 1301 et seq.); and

Beginning on page 4, strike line 15 and all that follows through page 5, line 6, and insert the following:

"SEC. 544. INDIAN TRIBES.

"Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) shall not apply to actions by federally recognized Indian tribes (including instrumentalities of such Indian tribes) under this Act.".

On page 5, after line 23, add the following:

SEC. 6. YOUTHBUILD ELIGIBILITY.

Section 460 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899h-1) is amended by striking "for fiscal year 1998 and fiscal years thereafter" and inserting "for fiscal years 1998 through 2005".

SA 2473. Mr. DURBIN (for himself, Mr. CORZINE, and Ms. LANDRIEU) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. ELIGIBILITY FOR RETIRED PAY FOR NON-REGULAR SERVICE.

(a) AGE AND SERVICE REQUIREMENTS.—Subsection (a) of section 12731 of title 10, United States Code, is amended to read as follows:

"(a)(1) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person—

"(A) satisfies one of the combinations of requirements for minimum age and minimum number of years of service (computed under section 12732 of this title) that are specified in the table in paragraph (2);

"(B) performed the last six years of qualifying service while a member of any category named in section 12732(a)(1) of this title, but not while a member of a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve, except that in the case of a person who completed 20 years of service computed under section 12732 of this title before October 5, 1994, the number of years of qualifying service under this subparagraph shall be eight; and

"(C) is not entitled, under any other provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

"(2) The combinations of minimum age and minimum years of service required of a person under subparagraph (A) of paragraph (1) for entitlement to retired pay as provided in such paragraph are as follows:

"Age, in years, is at least:	The minimum years of service required for that age is:
55	25
56	24
57	23
58	22
59	21
60	20.".

(b) 20-YEAR LETTER.—Subsection (d) of such section is amended by striking "the years of service required for eligibility for retired pay under this chapter" in the first sentence and inserting "20 years of service computed under section 12732 of this title.".

(c) EFFECTIVE DATE.—This section and the amendments made by this subsection (a) shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act and shall apply with respect to retired pay payable for that month and subsequent months.

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON FOREIGN RELATIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, November 8, 2005, at 9:30 a.m. to hold a hearing on "Kosovo—A Way Forward."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, November 8, 2005, at 2:30 p.m. to hold a hearing on Nominations.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Saudia Arabia: Friend or Foe in the War on Terror?" on Tuesday, November 8, 2005 at 9:30 a.m. in the Dirksen Senate Office Building, Room 226.

Witness List

Panel I: Daniel Glaser, Deputy Assistant Secretary for Terrorist Financing and Financial Crimes, U.S. Department of the Treasury, Washington, DC.

Alan Misenheimer, Director of Arabian Peninsula and Iran Affairs, U.S. Department of State, Washington, DC.

Panel II: Anthony Cordesman, Co-Director, Middle East Program, Center for Strategic and International Studies, Washington, DC.

Nina Shea, Director, Center for Religious Freedom, Washington, DC.

Steve Emerson, Terrorism Expert and Executive Director, Investigative Project on Terrorism, Washington, DC.

Gulam Bakali, Islamic Association of North Texas, Board of Trustees, Richardson, TX.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Executive Nominations" on Tuesday, November 8, 2005 at 2:30 p.m. in the Dirksen Senate Office Building Room 226.

Witness List

Panel I: The Honorable Kay Bailey Hutchison, U.S. Senator, R-TX; The Honorable John Cornyn, U.S. Senator, R-TX.

Panel II: Carol E. Dinkins to be Chairman of the Privacy and Civil Liberties Oversight Board; Alan Charles Raul to be Vice Chairman of the Privacy and Civil Liberties Oversight Board.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON RESEARCH, NUTRITION, AND GENERAL LEGISLATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Research, Nutrition and General Legislation be authorized to conduct a hearing during the session of the Senate on Tuesday, November 8, 2005 at 2:30 p.m. in SDG-50, Senate Dirksen Office Building. The purpose of this Subcommittee Hearing will be to discuss the Pet Animal Welfare, PAWS, statute.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON SMALL BUSINESS AND ENTREPRENEURSHIP

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Small Business and Entrepreneurship be authorized to meet during the session of the Senate for a hearing entitled, "Strengthening Hurricane Recovery Efforts for Small Businesses" on Tuesday, November 8, 2005, beginning at 10 a.m. in room 428A of the Russell Senate Office Building.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. WARNER. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on November 8, 2005 at 10 a.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON SUPERFUND AND WASTE MANAGEMENT

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Superfund and Waste Management be authorized to hold an oversight hearing at 2:30 p.m., on Tuesday, November 8, on the impact of certain government contractor liability proposals on environmental laws.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. LEVIN. Mr. President, I ask unanimous consent that Richard Ferguson be allowed floor privileges during the consideration of the National Defense Authorization Act. He is a Defense fellow for Senator HARRY REID.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. I ask unanimous consent that Erica Santo Pietro of my staff be granted the privileges of the floor for the rest of today.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Mr. President, on behalf of Senator DAYTON, I ask unanimous consent that the privilege of the floor be granted to Mike Powers, a fellow in his office, for the duration of the floor debate on the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

NATIVE AMERICAN HOUSING ENHANCEMENT ACT OF 2005

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 261, H.R. 797.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 797) to amend the Native American Housing Assistance and Self-Determination Act of 1996 and other Acts to improve housing programs for Indians.

There being no objection, the Senate proceeded to consider the bill.

Mr. ENZI. Mr. President, today, I rise in support of H.R. 797, the Native American Housing Enhancement Act of 2005. This bill is identical to a bill Senator JOHNSON and I introduced in February, S. 475, that will encourage home ownership and enhance housing opportunities for Native Americans across the country. H.R. 797 is an important piece of legislation and I commend my Senate colleague, Senator TIM JOHNSON from South Dakota, and my colleague on the House side, Congressman RICK RENZI from Arizona, for their continued leadership on Indian housing issues.

Home ownership is a fundamental building block of a successful community. Simply put, ownership promotes pride and pride promotes improvement. And, when it comes to Native American housing, we have a lot of improving to do. Currently, Native Americans experience some of the worst housing conditions in the country. About 90,000 Indian families are homeless or underhoused. Nearly 33 percent of Indian homes are overcrowded, while 33 percent lack adequate solid waste management systems and 8 percent lack a safe indoor water supply.

Poor housing conditions on our reservations are a symptom of laws and regulations that fail to promote a sense of ownership and personal responsibility within our tribes. Although the Native American Housing Assistance and Self-Determination Act of 1996 made great strides in developing an ownership society in Indian country, we still have a lot of work to do. This legislation is a step in the right direction. Our bill would give tribes more flexibility when developing housing improvement projects, and will also give tribal housing entities the opportunity to once again take advantage of a program designed to teach kids the value of hardwork and community involvement.

The Youthbuild program is a vocational program designed to give low-income kids and highschool drop-outs between the ages of 16 and 24 the skills they need to survive in today's world. Youthbuild participants gain critical job skills and leadership training by constructing and rehabilitating affordable housing units in their communities. The new housing units are owned and managed by community housing authorities and then permanently designated for low-income families who need the most help finding a place to live. The program is an excellent tool for achieving two goals. The first goal is to provide vocational education and life-long learning skills for kids who live in some of the most economically-depressed areas of the country. These kids need skills in order to build a workforce that can support economic development on our reservations. The second goal is to build affordable housing units so tribal families can find homes with running water, adequate sewage systems, and heat and electricity.

However, as I mentioned before, tribal housing entities and tribal youth programs were barred from the Youthbuild program when the Native American Housing Assistance and Self-Determination Act of 1996, NAHASDA, was enacted. Accessibility was eliminated because NAHASDA gave the tribes the authority to encompass this type of activity under their respective Indian Housing Plans. Unfortunately, when tribes are prioritizing their housing projects, many choose to fix crumbling foundations, dry-rot and sanitation systems before they invest in Youthbuild-type programs. H.R. 797 will provide an alternative resource for this type of activity. Further, it will help children in tribal communities feel a sense of accomplishment when they see their friends and neighbors move into new homes they help built. And, that builds pride.

The bill will also clarify that tribes and tribal entities can access certain grant income and retain program money for successive grant years if used for affordable housing activities. This provision will ultimately provide tribes and tribal entities with more flexibility in planning and improve their ability to use their funds efficiently.

H.R. 797 also amends the Housing Act of 1949 to provide consistency across tribal housing programs by treating tribes applying for housing programs within the Department of Agriculture, USDA, the same as tribes applying for housing programs within the Department of Housing and Urban Development, HUD. The bill will allow tribes to comply with Title II of the Indian Civil Rights Act of 1968 rather than Title VI of the Civil Rights Act of 1964 when securing federal funds for USDA housing programs.

Under Title VI of the Civil Rights Act of 1964, tribes are unable to access certain federal funds if Indian preference is a factor in using those funds. Tribes must comply with the Civil Rights Act unless Congress explicitly exempts them under an authorizing statute. Unfortunately, most Native American housing programs are tailored to benefit tribal members, which puts these programs at odds with the 1964 Act.

When Congress passed the Native American Housing Assistance and Self Determination Act in 1996, we exempted tribes from the 1964 Civil Rights Act for housing programs administered by the Department of Housing and Urban Development, provided they comply with the Indian Civil Rights Act of 1968. H.R. 797 would provide a similar exemption for tribes with respect to housing projects under the Department of Agriculture. In short, it brings USDA housing programs in line with HUD housing programs.

This is a good bill that will provide real and tangible benefits in Indian country. Building a community is about building pride in our kids, our neighbors and ourselves. H.R. 797 and S. 475 recognize that pride comes from working together, learning new and improved skills, earning livable wages, and owning a home, among other things.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2472) was agreed to, as follows:

AMENDMENT NO. 2472

(Purpose: To modify a provision relating to the application of certain Acts to Indian tribes)

On page 3, line 9, strike "and".

Beginning on page 3, strike lines 19 through 24 and insert the following: of 1968 (42 U.S.C. 3601 et seq.); and

(E) federally recognized Indian tribes exercising powers of self-government are governed by the Indian Civil Rights Act (25 U.S.C. 1301 et seq.); and

Beginning on page 4, strike line 15 and all that follows through page 5, line 6, and insert the following:

"SEC. 544. INDIAN TRIBES.

"Title VI of the Civil Rights Act of 1964 (42 U.S.C. 2000d et seq.) and title VIII of the Civil Rights Act of 1968 (42 U.S.C. 3601 et seq.) shall not apply to actions by federally recognized Indian tribes (including instrumentalities of such Indian tribes) under this Act.".

On page 5, after line 23, add the following:

SEC. 6. YOUTHBUILD ELIGIBILITY.

Section 460 of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12899h-1) is amended by striking "for fiscal year 1998 and fiscal years thereafter" and inserting "for fiscal years 1998 through 2005".

The bill (H.R. 797), as amended, was read the third time and passed.

IRAN NONPROLIFERATION AMENDMENTS ACT OF 2005

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Chair now lay before the Senate the House message to accompany the bill (S. 1713) to make amendments to the Iran Nonproliferation Act of 2000 related to International Space Station payments.

The PRESIDING OFFICER laid before the Senate the following message from the House of Representatives:

S. 1713

Resolved, That the bill from the Senate (S. 1713) entitled "An Act to make amendments to the Iran Nonproliferation Act of 2000 related to International Space Station payments", do pass with the following amendments:

Strike out all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Iran Nonproliferation Amendments Act of 2005".

SEC. 2. FINDINGS.

Congress makes the following findings:

(1) The Director of Central Intelligence's most recent Unclassified Report to Congress on the Acquisition of Technology Relating to Weapons of Mass Destruction and Advanced Conventional Munitions, 1 July Through 31 December 2003, states "Russian entities during the reporting period continued to supply a variety of ballistic missile-related goods and technical know-how to countries such as Iran, India, and China. Iran's earlier success in gaining technology and materials from Russian entities helped accelerate Iranian development of the Shahab-3 MRBM, and continuing Russian entity assistance has supported Iranian efforts to develop new missiles and increase Tehran's self-sufficiency in missile production."

(2) Vice Admiral Lowell E. Jacoby, the Director of the Defense Intelligence Agency, stated in testimony before the Select Committee on Intelligence of the Senate on February 16, 2005, that "Tehran probably will have the ability to produce nuclear weapons early in the next decade".

(3) Iran has—

(A) failed to act in accordance with the Agreement Between Iran and the International Atomic Energy Agency for the Application of Safeguards in Connection with the Treaty on the Non-Proliferation of Nuclear Weapons, done at Vienna June 19, 1973 (commonly referred to as the "Safeguards Agreement");

(B) acted in a manner inconsistent with the Protocol Additional to the Agreement Between Iran and the International Atomic Energy Agency for the Application of Safeguards, signed at Vienna December 18, 2003 (commonly referred to as the "Additional Protocol");

(C) acted in a manner inconsistent with its obligations under the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (commonly referred to as the "Nuclear Non-Proliferation Treaty"); and

(D) resumed uranium conversion activities, thus ending the confidence building measures it adopted in its November 2003 agreement with the foreign ministers of the United Kingdom, France, and Germany.

(4) On September 24, 2005, the Board of Governors of the International Atomic Energy Agency (IAEA) formally declared that Iranian actions constituted noncompliance with its nuclear safeguards obligations, and that Iran's history of concealment of its nuclear activities has given rise to questions that are within the purview of the United Nations Security Council.

(5) The executive branch has on multiple occasions used the authority provided under section 3 of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) to impose sanctions on entities that have engaged in activities in violation of restrictions in the Act relating to—

(A) the export of equipment and technology controlled under multilateral export control lists, including under the Australia Group, Chemical Weapons Convention, Missile Technology Control Regime, Nuclear Suppliers Group, and the Wassenaar Arrangement or otherwise having the potential to make a material contribution to the development of weapons of mass destruction or cruise or ballistic missile systems to Iran; and

(B) the export of other items to Iran with the potential of making a material contribution to Iran's weapons of mass destruction programs or on United States national control lists for reasons related to the proliferation of weapons of mass destruction or missiles.

(6) The executive branch has never made a determination pursuant to section 6(b) of the Iran Nonproliferation Act of 2000 that—

(A) it is the policy of the Government of the Russian Federation to oppose the proliferation to Iran of weapons of mass destruction and missile systems capable of delivering such weapons;

(B) the Government of the Russian Federation (including the law enforcement, export promotion, export control, and intelligence agencies of such government) has demonstrated and continues to demonstrate a sustained commitment to seek out and prevent the transfer to Iran of goods, services, and technology that could make

a material contribution to the development of nuclear, biological, or chemical weapons, or of ballistic or cruise missile systems; and

(C) no entity under the jurisdiction or control of the Government of the Russian Federation, has, during the 1-year period prior to the date of the determination pursuant to section 6(b) of such Act, made transfers to Iran reportable under section 2(a) of the Act.

(7) On June 29, 2005, President George W. Bush issued Executive Order 13382 blocking property of weapons of mass destruction proliferators and their supporters, and used the authority of such order against 4 Iranian entities, Aerospace Industries Organization, Shahid Hemmat Industrial Group, Shahid Bakeri Industrial Group, and the Atomic Energy Organization of Iran, that have engaged, or attempted to engage, in activities or transactions that have materially contributed to, or pose a risk of materially contributing to, the proliferation of weapons of mass destruction or their means of delivery (including missiles capable of delivering such weapons), including efforts to manufacture, acquire, possess, develop, transport, transfer, or use such items.

SEC. 3. AMENDMENTS TO IRAN NONPROLIFERATION ACT OF 2000 RELATED TO INTERNATIONAL SPACE STATION PAYMENTS.

(a) Treatment of Certain Payments.—Section 7(1)(B) of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is amended—

(1) by striking the period at the end and inserting a comma; and

(2) by adding at the end the following:

"except that such term does not mean payments in cash or in kind made or to be made by the United States Government prior to January 1, 2012, for work to be performed or services to be rendered prior to that date necessary to meet United States obligations under the Agreement Concerning Cooperation on the Civil International Space Station, with annex, signed at Washington January 29, 1998, and entered into force March 27, 2001, or any protocol, agreement, memorandum of understanding, or contract related thereto.".

(b) Exception.—Section 6(h) of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is amended by inserting after "extraordinary payments in connection with the International Space Station" the following: ", or any other payments in connection with the International Space Station,".

(c) Reporting Requirements.—Section 6 of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is amended by adding at the end the following new subsection:

"(i) Report on Certain Payments Related to International Space Station.—

"(1) In General.—The President shall, together with each report submitted under section 2(a), submit to the Committee on Foreign Relations of the Senate and the Committee on International Relations of the House of Representatives a report that identifies each Russian entity or person to whom the United States Government has, since the date of the enactment of the Iran Nonproliferation Amendments Act of 2005, made a payment in cash or in kind for work to be performed or services to be rendered under the Agreement Concerning Cooperation on the Civil International Space Station, with annex, signed at Washington January 29, 1998, and entered into force March 27, 2001, or any protocol, agreement, memorandum of understanding, or contract related thereto.

"(2) Content.—Each report submitted under paragraph (1) shall include—

"(A) the specific purpose of each payment made to each entity or person identified in the report; and

"(B) with respect to each such payment, the assessment of the President that the payment was not prejudicial to the achievement of the objectives of the United States Government to prevent the proliferation of ballistic or cruise missile systems in Iran and other countries that have repeatedly provided support for acts of international terrorism, as determined by the Secretary of State under section 620A(a) of the Foreign Assistance Act of 1961 (22 U.S.C. 2371(a)), section 6(j) of the Export Administration Act of 1979 (50 U.S.C. App. 2405(j)), or section 40(d) of the Arms Export Control Act (22 U.S.C. 2780(d)).".

SEC. 4. AMENDMENTS TO THE IRAN NONPROLIFERATION ACT OF 2000 TO MAKE SUCH ACT APPLICABLE TO IRAN AND SYRIA.

(a) Reports on Proliferation Relating to Iran or Syria.—Section 2 of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is amended—

*(1) in the heading, by striking "**TO IRAN**" and inserting "**RELATING TO IRAN AND SYRIA**"; and*

(2) in subsection (a)—

(A) in the matter preceding paragraph (1)—

(i) by inserting "or acquired from" after "transferred to"; and

(ii) by inserting after "Iran" the following: ", or on or after January 1, 2005, transferred to or acquired from Syria"; and

(B) in paragraph (2), by inserting after "Iran" the following: "or Syria, as the case may be,".

(b) Determination Exempting Foreign Persons From Certain Measures.—Section 5(a) of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is amended—

(1) in paragraph (1), by striking "transfer to Iran" and inserting "transfer to or acquire from Iran or Syria, as the case may be,"; and

(2) in paragraph (2), by striking "Iran's efforts" and inserting "the efforts of Iran or Syria, as the case may be,".

(c) Restriction on Extraordinary Payments in Connection With the International Space Station.—Section 6(b) of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is amended—

(1) in the heading, by striking "TO IRAN" and inserting "RELATING TO IRAN AND SYRIA";

(2) in paragraphs (1) and (2), by striking "to Iran" each place it appears and inserting "to or from Iran and Syria"; and

(3) in paragraph (3), by striking "to Iran" and inserting "to or from Iran or Syria".

(d) Definitions.—Section 7(2) of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is amended—

(1) in subparagraph (C) to read as follows:

"(C) any foreign government, including any foreign governmental entity; and"; and

(2) in subparagraph (D), by striking "subparagraph (B) or (C)" and inserting "subparagraph (A), (B), or (C), including any entity in which any entity described in any such subparagraph owns a controlling interest".

(e) Short Title.—

(1) Amendment.—Section 1 of the Iran Nonproliferation Act of 2000 (Public Law 106–178; 50 U.S.C. 1701 note) is amended by striking "Iran Nonproliferation Act of 2000" and inserting "Iran and Syria Nonproliferation Act".

(2) References.—Any reference in a law, regulation, document, or other record of the United States to the Iran Nonproliferation Act of 2000 shall be deemed to be a reference to the Iran and Syria Nonproliferation Act.

Amend the title so as to read "An Act to make amendments to the Iran Nonproliferation Act of 2000 related to International Space Station payments, and for other purposes.".

Mr. VOINOVICH. I ask unanimous consent that the Senate concur in the House amendments, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

JAMES T. MOLLOY POST OFFICE BUILDING

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be discharged from further consideration of H.R. 3339 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the title of the bill.

The legislative clerk read as follows:

A bill (H.R. 3339) to designate the facility of the United States Postal Service located at 2061 South Park Avenue in Buffalo, New York, as the "James T. Molloy Post Office Building."

There being no objection, the Senate proceeded to consider the bill.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 3339) was read the third time and passed.

MAYOR JOSEPH S. DADDONA MEMORIAL POST OFFICE

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be discharged from further consideration of H.R. 2490, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 2490) to designate the facility of the United States Postal Service located at 442 West Hamilton Street, Allentown, Pennsylvania, as the "Mayor Joseph S. Daddona Memorial Post Office."

There being no objection, the Senate proceeded to consider the bill.

Mr. VOINOVICH. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements relating to the measure be printed in the Record.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 2490) was read the third time and passed.

MEASURE PLACED ON THE CALENDAR—S. 1969

Mr. VOINOVICH. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for the second time.

The legislative clerk read as follows:

> A bill (S. 1969) to express the sense of the Senate regarding Medicaid reconciliation legislation to be reported by a conference committee during the 109th Congress.

Mr. VOINOVICH. Mr. President, in order to place the bill on the calendar under the provisions of rule XIV, I object to further proceedings.

The PRESIDING OFFICER. Objection having been heard, the bill will be placed on the calendar.

ORDERS FOR WEDNESDAY, NOVEMBER 9, 2005

Mr. VOINOVICH. I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to a period of morning business for up to an hour with the first 30 minutes under the control of the Democratic leader or his designee and the final 30 minutes under the control of the majority leader or his designee; further, that the Senate resume consideration of S. 1042, the Defense authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. VOINOVICH. Today, we have made great progress on the Defense authorization bill, and we are now on track to complete action on it tomorrow. Tomorrow will be a very busy day with votes on the remaining amendments. Senators can expect a late night, if necessary, to finish the Defense bill. Before we leave for the week, we will also be scheduling votes on several appropriations conference reports.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. VOINOVICH. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:43 p.m., adjourned until Wednesday, November 9, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 8, 2005:

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. KEITH W. DAYTON, 7231

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. JOHN R. WOOD, 0518

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

MAJ. GEN. GARY D. SPEER, 7286

EXTENSIONS OF REMARKS

A PROCLAMATION CONGRATULATING MR. JOHN BENSON UPON HIS RECOGNITION AS A GREAT PHILANTHROPIST

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. NEY. Mr. Speaker:

Whereas, John Benson was nominated by Dr. David Mitzel; and

Whereas, John Benson had an experience on Christmas morning in 1989 that touched him so deeply he helped establish the ABC Wilson Fund in memory of 3 children whose lives were senselessly lost; and

Whereas, John Benson has worked diligently with the help of others to make the ABC Wilson Fund an endowment that is saving lives across Muskingum County by providing smoke detectors to all in need.

Therefore, I join with family, friends and the entire 18th Congressional District of Ohio in congratulating John Benson and thanking him for his generosity to the people of Muskingum County.

IN HONOR AND MEMORY OF LANCE CORPORAL NORMAN WALLACE ANDERSON, III

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. RUPPERSBERGER. Mr. Speaker, I humbly rise before you today to mourn the loss and to honor the life of a devoted United States Marine from Parkton, Maryland.

Lance Corporal Norman Wallace Anderson, III, died during active duty on the nineteenth day of October in the year 2005 while conducting combat operations against enemy forces in Karabilah, Iraq. Anderson was killed by a suicide vehicle-borne improvised explosive device.

Anderson, assigned to the 3rd Battalion, 6th Marine Regiment, 2d Marine Division, 2 Marine Expeditionary Force, Camp Lejeune, North Carolina, joined his division in June 2003 as a rifleman.

He returned to the States November of last year, and wed high school sweetheart, Victoria Worthing Anderson in August before continuing to active duty.

The Lance Corporal had aspirations of military life since he was a young boy. He dreamt of following in the footsteps of his father, Norman Wallace Anderson, Junior, a retired Army Ranger.

Anderson is remembered as a soldier who wished to serve his country so that his parents, his friends, and all of their families could keep their freedom.

A ceremony was held at Anderson's alma mater, Hereford High School, during a football game on Friday, the twenty-first of October 2005 to honor the fallen soldier. Players wore Anderson's initials on their helmets and the school retired his number thirty-three jersey.

Mr. Speaker, I ask that you join with me today to honor a man who proudly devoted his life to serving his country for the safety of his fellow citizens.

PERSONAL EXPLANATION

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 570 on H. Con. Res. 260 I was unavoidably detained. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. SCHIFF. Mr. Speaker, on Friday, November 4, 2005 I was unavoidably detained and thus missed rollcall vote No. 569.

Had I been present, I would have voted "yea" on rollcall vote No. 569, in support of the conference report to accompany H.R. 3057, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2006, and for other purposes.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. BECERRA. Mr. Speaker, on Friday, November 4, 2005, I was unable to cast my floor vote on rollcall No. 569. The vote I missed was on agreeing to the conference report for making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2006, and for other purposes.

Had I been present for the vote, I would have voted "yea" on rollcall 569.

TRIBUTE TO BOBBY GERALD

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to a dedicated public servant who has served the residents of Marion, South Carolina ably for more than 30 years. Mayor Bobby Gerald is a product of Marion County, and is a lifelong resident of the community he serves. His tremendous impact on his hometown reflects his enduring commitment to the city and its people.

Bobby Gerald has served a remarkable 20 years as Mayor of the City of Marion. His success in the political arena is no surprise given his talent as a businessman. At the tender age of 16, Bobby began selling cars for Neil Padgett Motors. After graduating from Marion High School, he joined the sales staff full time and went on to win every salesmanship award given by Ford Motor Company. His natural abilities and good business sense led him to become the General Manager and Executive Vice President of Earl Collins Ford Motor Company in 1967, just seven years after his high school graduation. In 1980, Bobby purchased the business, which he still runs successfully today.

Yet being a successful businessman was not enough for Bobby Gerald. He also felt a duty to serve his community, and in April 1975 he was appointed to the Marion County Board of Commissioners. He first won elective office in January 1977 as a member of the Marion County Council, where he served as Vice Chairman. Two years later, Bobby became Chairman of Marion County Council, a capacity in which he served until June 1982. At that time he was appointed by the Marion County Delegation to serve on the South Carolina State Highway Commission. In June 1985, he resigned that appointment after being elected the Mayor of the City of Marion, a position he has held ever since.

As Mayor of Marion, Bobby Gerald has led his city through difficult plant closures and the decline in tobacco farming. Yet his community has embraced its rich history and small town charm and become a tourist destination. Main Street has been revitalized with many family-owned antique shops and quaint boutiques, and a National Register Historic District has preserved and protected many of the homes, churches and other structures. I am proud to have worked with Bobby on the preservation of the old Marion High School, which is a crown jewel of this community.

In addition to his elected and appointed positions, Bobby Gerald has also been very active in community organizations. He is a member of the Jaycees, Mullins Rotary Club, Civitans, the Pee Dee Regional Council of

Governments, and the S.C. Automobile Dealers Association. He has held several leadership positions within these organizations at the local and state levels. He has won numerous awards and citations including the American Hometown Leadership Award in 1999, the Public Service Award in 1996, the Marion Chamber of Commerce Community Service Award in 1995, and the Historic Marion Revitalization Association Board of Directors Award in 1995.

Bobby is in partnership with a lovely wife, Frances, and the couple has three children and three grandchildren. They are members of the Marion Baptist Church.

Mr. Speaker, on November 21, 2005 I will sponsor a luncheon in Mayor Bobby Gerald's honor to say thanks for his many years of public service and personal friendship, and I ask you and my colleagues to join me in commending this longtime friend for his business acumen and dedicated commitment to public service. He is a natural leader, who has made extraordinary contributions to the City of Marion and the State of South Carolina.

A PROCLAMATION CONGRATULATING DR. WILLIAM C. LOFTY UPON HIS POSTHUMOUS RECOGNITION AS A GREAT PHILANTHROPIST

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. NEY. Mr. Speaker:

Whereas, Dr. William Lofty was nominated by Donnie Loubiere of the Belpre Area Community Development Foundation; and

Whereas, Dr. William Lofty was a man dedicated to his community, his church and his God; and

Whereas, Dr. William Lofty selflessly gave of himself to provide scholarship aid to local students and gave them an inspiring figure to look up to.

Therefore, I join with family, friends and the entire 18th Congressional District of Ohio in congratulating Dr. William Lofty and thanking him for his generosity to the community.

A TRIBUTE TO MS. NANCY DORAN

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. RUPPERSBERGER. Mr. Speaker, I rise before you today to pay tribute to Ms. Nancy Doran who was awarded the 2005 Congressional Volunteer Recognition Award by the Second Congressional District of Maryland's Veterans Advisory Group.

It is with great pleasure that I bring before you a woman who has selflessly committed herself to helping lift the spirits of United States Veterans.

On Tuesday evenings for the past 3½ years, Ms. Doran and her dog Duffy perform voluntary pet therapy services at the Baltimore Veterans Affairs Rehabilitation and Extended Care Center.

Ms. Doran and her dog have made approximately one hundred eighty-eight visits so far, and stay for about 90 minutes each time; which is a tremendous act of kindness.

As a result of Duffy's presence, typically non-verbal veterans speak to Duffy while petting him and giving him treats. Duffy allows them to reminisce about their own dogs and gives them an opportunity to experience a pleasant evening of memories, friendship, and fellowship.

I believe this country should honor the service and sacrifices of those who place themselves in harms-way to protect the freedoms of the American citizens. The Veterans Advisory Group provides an excellent opportunity for me to share pending legislation with people who have done just that, as well as, gain their perspective on specialized issues.

Mr. Speaker, I ask that you join with me, and the Veterans Advisory Group to commend Ms. Nancy Doran for her efforts to visit with and care for the United States Veterans. She has gone above and beyond to aid those who have dedicated their lives to service our great country.

PERSONAL EXPLANATION

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 571 on H.R. 1973, I was unavoidably detained.

Had I been present, I would have voted "yea".

PERSONAL EXPLANATION

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. SCHIFF. Mr. Speaker, on Thursday, November 3, 2005 I was unavoidably detained thus missed rollcall vote No. 568.

Had I been present, I would have voted "yea" on rollcall vote No. 568, in support of H.R. 4128, the "Private Property Rights Protection Act"—legislation that I voted in support of in the House Judiciary Committee.

A PROCLAMATION CONGRATULATING MRS. VERDA C. JONES UPON HER RECOGNITION AS A GREAT PHILANTHROPIST

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. NEY. Mr. Speaker:

Whereas, Verda Jones was nominated by Ms. Susan Urano of the Athens Foundation; and

Whereas, Verda Jones saw what the potential of the goodwill from a few dedicated citizens could lead to; and

Whereas, Verda Jones inspired many to contribute to what would eventually become the Athens Foundation, an endowment for the benefit of Athens.

Therefore, I join with family, friends and the entire 18th Congressional District of Ohio in congratulating Mrs. Verda C. Jones and thanking her for her generosity to the Athens community.

PERSONAL EXPLANATION

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. BECERRA. Mr. Speaker, on Monday, November 7, 2005, I was unable to cast my floor vote on rollcall Nos. 570, 571, and 572. The votes I missed included a motion to suspend the rules and agree to Recognizing the 40th anniversary of the Second Vatican Council's Declaration on the Relation of the Church to Non-Christian Religious, Nostra Aetate, and the continuing need for mutual interreligious respect and dialogue; a motion to suspend the rules and agree to the Senator Paul Simon Water for the Poor Act; and a motion to suspend the rules and agree to Supporting the goals and ideals of National Ovarian Cancer Awareness Month.

Had I been present for the votes, I would have voted "aye" on rollcall votes Nos. 570, 571, and 572.

TRIBUTE TO LT. COLONEL ALBERT B. GUESS

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to a decorated war veteran and committed community activist. Lt. Colonel Albert B. Guess says his greatest ambition is "the utilization of his resources, knowledge and experiences to promote the well being and welfare of others." I believe he has achieved this goal in every facet of his life.

Albert B. Guess was born in Santee, South Carolina to farming parents. As a young man, he enlisted in the U.S. Army in 1943, serving for 3 years until his discharge as a Corporal. Colonel Guess used the G.I. Bill to attend South Carolina State University, and joined the college's ROTC program. His early life on the farm led him to earn a Bachelor of Science degree in Agriculture, and upon graduation he was commissioned as a Second Lieutenant.

After college, Colonel Guess taught agriculture, mathematics and science at Barr Street High School in Lancaster, South Carolina. At the same time, he served as the Director of the area veterans and adult farm program that taught hands-on farming practices and management.

Colonel Guess was recalled to the Army in May 1951, where he served another 20 years. His military career took him to New Guinea, the Phillipine Islands, Japan, Korea, Alaska, and he served 2 tours in Vietnam. He earned many awards and decorations for meritorious actions and service including the Combat Infantryman's Badge. Colonel officially retired from active duty in June 1971 as a Lt. Colonel.

After leaving the military, Colonel Guess returned to South Carolina and his wife's hometown of Marion. There he became very active in the community, and that is how I first met him. He served as President of the Marion County Branch of the NAACP, and was instrumental in negotiating the majority-minority single member districts for the Marion City Council and the Marion County Council. He also led numerous voter registration and voter participation drives.

Colonel Guess has also been very active in Marion School District One. He has served as a hearing officer helping to represent the interest of parents and children in the district. He has been deeply involved in ensuring that the schools in the district are top quality, and was instrumental in the building of the new Marion High School. Colonel Guess served on the steering committee for a bond referendum to pay for the construction of a new intermediate school and additions to Easterling Primary and Johnakin Middle School.

He has still found time to serve on the Marion County Economic Development Board, the Marion County United Way, and to direct the Marion-Dillon County Mental Retardation Program. Colonel Guess is currently the Chairman of the Marion County Red Cross.

He and his wife, the former Reba General are members of St. Phillips United Methodist Church The couple has 2 children, Ronald Richardson of Marion and Rita James of Charlotte, North Carolina, and four grandchildren.

Mr. Speaker, on November 21, 2005 I will sponsor a Luncheon in honor of Lt. Colonel Albert Guess and I ask you and my colleagues to join me in commending this longtime friend and mentor for exceeding his life's ambition to serve others. He has served his family, his community, and his country with extraordinary dedication, and has been a positive impact on countless lives along the way.

A PROCLAMATION CONGRATULATING MR. STEVE VINCENT UPON HIS RECOGNITION AS A GREAT PHILANTHROPIST

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. NEY. Mr. Speaker:

Whereas, Steve Vincent was nominated by Dr. David Mitzel; and

Whereas, Steve Vincent had an experience on Christmas morning in 1989 that touched him so deeply he helped establish the ABC Wilson Fund in memory of 3 children whose lives were senselessly lost; and

Whereas, Steve Vincent has worked diligently with the help of others to make the ABC Wilson Fund an endowment that is saving lives across Muskingum County by providing smoke detectors to all in need.

Therefore, I join with family, friends and the entire 18th Congressional District of Ohio in congratulating Steve Vincent and thanking him for his generosity to the people of Muskingum County.

RELIGIOUS SPEECH LIMITATIONS IN SWEDEN

HON. CHRISTOPHER H. SMITH

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. SMITH of New Jersey. Mr. Speaker, freedom of thought, conscience, religion or belief is a fundamental element of international human rights norms. It is inextricably intertwined with other fundamental rights, including the rights to freedom of speech, freedom of association and freedom of assembly. Considering this, I am increasingly concerned by European trends to place limitations on religious speech under the guise of preventing offense or limiting hate speech. One such case concerns Ake Green, the pastor of a Pentecostal church in Kalmar, Sweden, who was sentenced to 1 month in prison for "inciting hatred" against homosexuals.

Pastor Green's troubles began on July 20, 2003, when he expressed his disapproval of homosexuality in a sermon, founded upon his understanding of the Bible. He did not incite nor encourage his congregation on the small southeastern island of Oland to violence. He did, however, express his personal opinion of homosexuality and made a personal moral judgment that the lifestyle was sinful. He later circulated the sermon text to media outlets in an attempt to insert an alternative view into Sweden's "marketplace of ideas."

When prosecutors saw the sermon printed, they brought charges against Pastor Green for "inciting hate" toward homosexuals. A district court agreed in June 2004, finding his sermon to be criminal. One particularly alarming quote from the district court's decision stated, "It is forbidden to use the Bible or similar material to threaten or express disrespect for homosexuals as a group." Mr. Speaker, should pastors really be sent to jail for sermons that a court deems "disrespectful" or "offensive"? Should the state really dictate how a religious leader interprets the Bible, the Torah, or other religious texts? The district court's ruling raises the question of whether ministers and priests in Sweden are really free to preach their beliefs.

I recognize that the right to freedom of expression is not absolute and not all speech is protected. After 9/11 and the Madrid and London bombings, we have all seen how criminals abuse religion to preach violence and lead others in criminal deeds. Authorities are within their rights to take legal action to curtail the speech when it rises to the level of posing an imminent threat of actual criminal action. The international community and the European Court of Human Rights have recognized this high threshold for limiting speech activity. Yet we must be careful to not limit religious liberties and speech rights.

Thankfully, Pastor Green has not spent a night in jail while his case is on appeal. Also encouraging was the February decision by an appellate court to overturn the conviction, saying it is not illegal to preach a personal interpretation of the Bible. However, Sweden's chief prosecutor, Fredrik Wersaell, appealed to the Supreme Court, contending that Green violated Sweden's 2003 hate crimes law. The Supreme Court will hear the appeal on November 9th.

Undoubtedly, Swedes enjoy tremendous religious freedoms and generally Sweden is a staunch defender of human rights. However, in this case, the government has sought to limit basic religious teachings. I believe the criminalization of the use of the Bible to express beliefs, if not overturned, will have frighteningly broad ramifications for the free practice of religion in Sweden and beyond.

ACWA BLUEPRINT

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. RADANOVICH. Mr. Speaker, this year the water districts of my State worked together to create a water planning document to address my State's core water infrastructure needs for decades into the future.

This document, released by the Association of California Water Agencies (ACWA), is called, "No Time to Waste: A Blueprint for California's Water." It lays out a diverse mix of actions and investments designed to help California meet its water supply needs in the coming decades.

The ACWA Blueprint is intended to serve as a roadmap for State and Federal leaders to follow to ensure that California has the water supply system it will need to support people, Jobs and ecosystems in the future.

It breaks down into 12 recommendations for each region of the State. These include investments to improve water supplies, water use efficiency, water quality and environmental health. The recommended actions are designed to address short and long-term statewide water needs, complement and build on local efforts, and promote integrated regional water management plans that will play a critical role in California's future.

KEY RECOMMENDATIONS IN ACWA'S BLUEPRINT

Improve the existing Sacramento-San Joaquin River Delta water conveyance system to increase flexibility and enhance water supply, water quality, levee stability and environmental protection in the near term.

Evaluate long-term threats to the Delta levee and conveyance system and pursue actions to reduce risks to the state's water supply and the environment.

Ensure delivery of adequate Colorado River supplies for Southern California and defend California's rights on the Colorado River.

Implement and fund the Sacramento Valley Water Management Program.

Develop additional groundwater and surface water storage, including proposed surface storage projects now under study if they are determined to be feasible.

Support and fund local efforts to expand recycled water use and implement best management practices for urban and agricultural water use efficiency.

Improve the quality of California's drinking water supplies to safeguard public health and enhance water quality for agriculture and the environment.

Work with local agencies to overcome constraints to developing seawater and brackish groundwater desalination.

Modernize the Federal Endangered Species Act and other laws and regulations to allow water infrastructure projects, water supply and water quality activities to proceed while protecting species and habitats.

Expedite the approval process for voluntary water transfers.

Clarify and expand the State's role in flood control and promote multi-benefit flood control projects.

Support integrated regional water management plans.

Mr. Speaker, this document represents the first time California water users have produced something this comprehensive, based around a consensus approach and done under their own initiative. Water will be a central resource challenge confronting economic growth and environmental sustainability in California and the West. As the House Water and Power Subcommittee completes its agenda for 2005 and sets new objectives for 2006, I commend to interested observers ACWA's "No Time to Waste: A Blueprint for California's Water".

A TRIBUTE TO MR. CLIFFORD L. STOFFEL

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. RUPPERSBERGER. Mr. Speaker, I rise before you today to pay tribute to Mr. Clifford L. Stoffel who was awarded the 2005 Congressional Volunteer Recognition Award by the Second Congressional District of Maryland's Veterans Advisory Group.

It is with great pleasure that I bring before you a man who has selflessly committed himself as a volunteer driver and as the Coordinator for the Transportation Section at the Glen Burnie Clinic for Veterans.

In the past six years, Mr. Stoffel has driven 41,986 miles to take patients to and from scheduled and emergency doctor appointments. The veterans have come to rely on him when other drivers cancel or when they forget to request a driver. He is always willing to assist them, ensuring that those in need of a ride to the nearest veteran facility, will have transportation.

Because of Mr. Stoffel's generosity, approximately 2,258 patients have had reliable transportation when necessary. His generosity is recognized as an example of dedication amongst veteran volunteers.

I believe this country should honor the service and sacrifices of those who place themselves in harm's way to protect the freedoms of the American citizens. The Veterans Advisory Group provides an excellent opportunity for me to share pending legislation with people who have done just that, as well as, gain their perspective on specialized issues.

Mr. Speaker, I ask that you join with me, and the Veterans Advisory Group to commend the efforts of Mr. Clifford L. Stoffel in his kindheartedness and willingness to help others. He has gone above and beyond to aid those who have dedicated their lives to serve our great country.

PERSONAL EXPLANATION

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 572 on H. Res. 444, I was unavoidably detained. Had I been present, I would have voted "yea."

A PROCLAMATION THANKING LANCE CORPORAL HICKORY OGLE OF THE UNITED STATES MARINE CORPS FOR HIS SERVICE TO THE UNITED STATES

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. NEY. Mr. Speaker:

Whereas, Lance Cpl. Hickory Ogle served with the 1st Platoon, Lima Company, 3rd Battalion, 25th Marines, 4th Marine Division with honor, courage and commitment; and

Whereas, Lance Cpl. Hickory Ogle has continued in his family's proud footsteps of service and dedication to America; and

Whereas, Lance Cpl. Hickory Ogle has taken part in numerous offensive operations in Iraq, including Matador and Sword for the preservation of American liberty and freedom for the Iraqi people.

Therefore, I join with family, friends and the entire 18th Congressional District of Ohio in thanking Lance Corporal Hickory Ogle for his service to the United States and welcoming him home to an appreciative nation.

PERSONAL EXPLANATION

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. KIRK. Mr. Speaker, on Monday November 7, 2005 I missed the following votes: rollcall No. 570: H. Con Res. 260, "Recognizing the 40th anniversary of the Second Vatican Council's Declaration on the Relation of the Church to Non-Christian Religions"; rollcall No. 571: H.R. 1973, "Water for the Poor Act of 2005"; and rollcall No. 572: H. Res. 444, "Gynecological Resolution for Advancement of Ovarian Cancer Education." Had I been present, I would have voted "yea" on rollcall No. 570, rollcall No. 571, and rollcall No. 572.

RECOGNITION OF THE PMI GROUP

HON. ELLEN O. TAUSCHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mrs. TAUSCHER. Mr. Speaker, I rise today to commemorate The PMI Group's tenth anniversary as a publicly traded company. The PMI Group's company headquarters is located in Walnut Creek, California, which is in my district. Ten years ago when the company first went public it was the sixth-largest IPO in the New York Stock Exchange's history. In the past decade it has grown from one of the nation's leading providers of private mortgage insurance to a global provider of credit enhancement. PMI has helped to push homeownership rates to a historic high, while consistently providing a strong average return on shareholders' equity.

Founded over 30 years ago, The PMI Group, Inc., offers residential mortgage insurance and credit enhancement products that promote homeownership and facilitate mortgage transactions in domestic and international capital markets. Currently the company has over $5.2 billion in total assets, serves two million families worldwide and has been recognized as one of the best places to work in the Bay Area of California.

Under the leadership of Chairman and CEO Roger Haughton, The PMI Group's mission is to put people in homes—and keep them there. They have been integral in helping low and moderate income families become homeowners by developing affordable mortgage programs that help them to realize their dreams of homeownership. Now with operations in Australia, New Zealand, Hong Kong and Europe they have taken that commitment globally. The company's management is committed to the belief that homeownership helps build strong families, which in turn builds strong communities.

The company's commitment to facilitating homeownership goes beyond its fundamental business model to its relations with the communities in which it operates, exemplified in the generous spirit of their foundation. The PMI Foundation supports national and local organizations that create housing opportunities and revitalize neighborhoods. Most notably the company has been a part of building over 125 Habitat for Humanity homes worldwide. They have also led the business community in initiatives to reinvest in inner-city and rural communities. Most recently, PMI stepped up to the plate and contributed a $2 million relief package for the victims of the Gulf Coast hurricanes.

I greatly appreciate everything The PMI Group, Inc. has done for the citizens of my district, as well as our citizens nationwide. Facilitating homeownership is an admirable business, so I ask my fellow Members of Congress to join me in congratulating The PMI Group on a very successful 10 years as a publicly traded company and I wish them many successful years to come.

PERSONAL EXPLANATION

HON. JIM GIBBONS

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. GIBBONS. Mr. Speaker, I rise today to explain how I would have voted on November 7, 2005 during rollcall votes Nos. 570, 571 and 572 during the first session of the 109th Congress. The first vote was on H. Con. Res. 260—Recognizing the 40th anniversary of the Second Vatican Council's Declaration of the Relation of the Church to Non-Christian Religions, the second vote was H.R. 1973—Water for the Poor Act of 2005, and the third vote, H. Res. 444—Gynecological Resolution for Advancement of Ovarian Cancer Education.

If present, I would have voted "yea" on these rollcall votes.

A PROCLAMATION CONGRATULATING MRS. BONNY HUFFMAN UPON HER RECOGNITION AS A GREAT PHILANTHROPIST

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. NEY. Mr. Speaker:

Whereas, Bonny Huffman was nominated by Marianne Campbell, Board Chair of the Foundation for Appalachian Ohio; and

Whereas, Bonny Huffman has displayed a commitment to education, the Wellston City Schools, Junior Achievement, the United Fund, the Hope United Methodist Church and the Foundation for Appalachian Ohio; and

Whereas, Bonny Huffman is a blessing upon her community and has been a bottomless well of generosity for all those she meets.

Therefore, I join with family, friends and the entire 18th Congressional District of Ohio in congratulating Mrs. Bonny Huffman and thanking her for many years of generosity to the community.

A TRIBUTE TO MR. JOHN FLUTKA

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. RUPPERSBERGER. Mr. Speaker, I rise before you today to pay tribute to Mr. John Flutka who was awarded the 2005 Congressional Volunteer Recognition Award by the Second Congressional District of Maryland's Veterans Advisory Group.

I am pleased to bring before you a man who has generously taken time to assist the Occupational Therapy Department of the Baltimore Veterans Rehabilitation and Extended Care Center.

Mr. Flutka, a veteran himself, updates forms used to evaluate and treat patients, resulting in better quality of care. He also organizes supply closets, making for quick and easy access to indispensable materials. By utilizing his diligence, staff members can swiftly remedy the veteran's vulnerabilities.

I believe this country should honor the service and sacrifices of those who place themselves in harm's way to protect the freedoms of the American citizens. The Veterans Advisory Group provides an excellent opportunity for me to share pending legislation with people who have done just that, as well as gain their perspective on specialized issues.

Mr. Speaker, I ask that you join with me and the Veterans Advisory Group to commend Mr. John Flutka for his efforts in assisting the Occupational Therapy Department. He has gone above and beyond to aid those who have dedicated their lives to service our great country.

PERSONAL EXPLANATION

HON. LUIS V. GUTIERREZ

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent from this Chamber November 7. I would like the record to show that, had I been present, I would have voted "yea" on rollcall votes Nos. 557 and 558.

PERSONAL EXPLANATION

HON. LINDA T. SÁNCHEZ

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, today I was unavoidably detained in District-related events and missed rollcall votes Nos. 570, 571 and 573. Had I been present, I would have voted:

"Yea" on rollcall No. 570, H. Con. Res. 260—A bill to recognize the 40th anniversary of the Second Vatican Council's Declaration on the Relation of the Church to Non-Christian Religions, Nostra Aetate, and the continuing need for mutual interreligious respect and dialogue,

"Yea" on rollcall No. 571, H.R. 1973—The "Water for the Poor Act of 2005," and

"Yea" on rollcall No. 572, H.R. 444—The "Gynecological Resolution for Advancement of Ovarian Cancer Education."

A PROCLAMATION IN MEMORY OF SPECIALIST RICHARD A. HARDY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. NEY. Mr. Speaker:

Whereas, Specialist Richard A. Hardy of A Company, 2nd Battalion, 69th Armor Regiment, 3rd Infantry Division, United States Army honorably and with courage fulfilled his duty to the United States of America; and

Whereas, Specialist Richard A. Hardy volunteered to serve his country and fought to secure freedom for an oppressed people and for the continued liberty we enjoy at home; and

Whereas, Specialist Richard A. Hardy gave the last full measure of devotion to his country amid the sands of Ar Ramadi, Iraq during Operation Iraqi Freedom.

While words cannot express our grief during the loss of such a courageous soldier, I offer this token of profound sympathy to the family, friends, and colleagues of Specialist Richard A. Hardy.

PERSONAL EXPLANATION

HON. RON LEWIS

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. LEWIS of Kentucky. Mr. Speaker, due to a personal family matter I was not available for votes on November 7, 2005. Had I been present I would have voted:

Roll Call:

No. 572 Supporting the goals and ideals of National Ovarian Cancer Awareness Month. "Yea." No. 571 Senator Paul Simon Water for the Poor Act "Yea." No. 570 Recognizing the 40th anniversary of the Second Vatican Council's Declaration on the Relation of the Church to Non-Christian Religious, Nostra Aetate, and the continuing need for mutual interreligious respect and dialogue. "Yea."

HONORING THE PAMELA B. KATTEN LEUKEMIA RESEARCH MEMORIAL FOUNDATION

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. EMANUEL. Mr. Speaker, I rise today to acknowledge and honor the important work being conducted by the Pamela B. Katten Memorial Leukemia Research Foundation. The foundation was formed shortly after the tragic loss of Pamela Katten in 2002 as a result of Acute Myelogenous Leukemia. Its mission is to promote research into the diagnosis and treatment of leukemia.

Pam was born in 1961 and grew up on the North Side of Chicago and the northern suburbs. She attended Northwestern University before heading to the East Coast to begin a successful career in the New Jersey Attorney General's office.

In addition to all her success in the courtroom, Pam was a loving mother to her son Max, and a caring sister, daughter and friend to many who knew her. They will tell you about her infectious laughter, off-beat sense of humor and love for story-telling. Most of all, they remember Pam for her zest for life and unyielding desire to live each day fully.

On November 19, the third annual "Pam Jam" will take place in Northbrook, Illinois to honor her memory and announce the establishment of a "Pamela B. Katten Fellow" at the Fred Hutchinson Cancer Research Center to study stem cell proliferation.

Unfortunately, Pam and her family are not the only Americans that have had to wrestle with this devastating disease. There are over 640,000 people in this country alone who are fighting various blood cancers, including leukemia. Through the work of the foundation that Pam inspired and others like it, these families find hope.

Mr. Speaker, Pam's friends and family will never forget her glowing personality and daily joy for life. Her memory and her legacy are truly inspiring. I am proud of the work the Pamela B. Katten Memorial Leukemia Research Foundation has done, and I wish them the best in all of their endeavors.

A PROCLAMATION CONGRATULATING NICOLE DONANT FOR HAVING HER WISH GRANTED FOR ALL OF MINERAL CITY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. NEY. Mr. Speaker:

Whereas, Nicole Donant started with a small project to help start a library in Mineral City to earn a merit badge; and

Whereas, Nicole Donant, through hard work and determination, turned her small project into a dream for the community of having a library in Mineral City and collected over 5000 books; and

Whereas, Nicole Donant is an inspiration to us all and is an embodiment of the compassionate, moral and socially responsible spirit of the youth in Ohio.

Therefore, I join with family, friends, the people of Mineral City and the entire 18th Congressional district of Ohio in congratulating Nicole Donant for her wish coming true.

IN HONOR OF RICK MARTINEZ

HON. DORIS O. MATSUI

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Ms. MATSUI. Mr. Speaker, I rise today to honor Rick Martinez, former chief of the Sacramento Metropolitan Fire District. Last month, Chief Martinez retired from a truly distinguished career of public service that spanned over thirty years. As his friends, family and colleagues all gather to celebrate his career, I ask all my colleagues to join me in honoring the dedicated service of one of Sacramento's finest citizens.

Chief Martinez began his career as a firefighter with the Sacramento City Fire Department in the early 1970s. He quickly rose through the ranks as a Captain, EMS Coordinator, Battalion Chief and later, Division Chief, each time taking on positions of increasing responsibility and leadership. In 1995 he was appointed Fire Chief of the American River Fire Protection District, which was the precursor to today's Sacramento Metropolitan Fire District (SMFD). He also served as chief of the Florin Road Fire Protection District and the Sacramento County Fire Protection District.

When the SMFD was formed in 2000, Rick was named the district's first chief. His management experience and expertise helped the district grow to serve over 600,000 citizens, spread over 417 square miles. He successfully managed 700 employees, over 40 fire stations and numerous other facilities, while also expanding specialized programs, such as the Urban Search and Rescue Task Force and the fire paramedic intern program.

One of Chief Martinez's many accomplishments with the SMFD has been the development of Sacramento's highly regarded Urban Search and Rescue Team. The team responded with great distinction to the 1995 Oklahoma City bombing. In 2001, as our nation came under attack, Chief Martinez was responsible for managing all search and rescue teams at the site of the World Trade Center in New York City. Most recently, he helped direct the response to Hurricane Katrina's devastation along the Gulf Coast.

The constant display of leadership and integrity has led Rick to be honored by many of his peers. In 2003, he was named Fire Chief of the Year by the California Fire Chief Association. Due to his crisis management experience he was tapped to serve as Chief Deputy Director of the California Office of Homeland Security by former Governor Gray Davis. In 2002, he was appointed to the State Board of Fire Services. Rick has also been active in numerous local boards and commissions.

The people of Sacramento, California and our nation have been lucky to have Rick Martinez on their side in emergencies ranging from traffic accidents to natural disasters, structure fires to terrorist attacks. He has always risen to the occasion and led with knowledge, experience and reliability. His leadership will surely be missed by many.

Mr. Speaker, I am honored to pay tribute to one of Sacramento's most distinguished citizens, Rick Martinez. His successes have been great, and it is a wonderful opportunity for me to recognize his contributions to the people of Sacramento. I ask all my colleagues to join me in wishing my friend, Rick Martinez, continued success in his future endeavors.

PERSONAL EXPLANATION

HON. LUCILLE ROYBAL-ALLARD

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Ms. ROYBAL-ALLARD. Mr. Speaker, due to the illness and passing of my father and his subsequent funeral, I was not present for rollcall votes 521 to 569 from October 17 to November 4, 2005.

Had I been present and voting I would have voted in the following manner:

"Yea" on rollcall 521, "yea" on rollcall 522, "yea" on rollcall 523, "no" on rollcall 524, "yea" on rollcall 525, "yea" on rollcall 526, "yea" on rollcall 527, "yea" on rollcall 528, "no" on rollcall 529, "yea" on rollcall 530, "yea" on rollcall 531, "yea" on rollcall 532, "no" on rollcall 533, "no" on rollcall 534, "yea" on rollcall 535, "yea" on rollcall 536, "yea" on rollcall 537, "yea" on rollcall 538, "no" on rollcall 539, "yea" on rollcall 540, "no" on rollcall 541, "no" on rollcall 542, "no" on rollcall 543, "no" on rollcall 544, "no" on rollcall 545, "yea" on rollcall 546, "no" on rollcall 547, "no" on rollcall 548, "yea" on rollcall 549, "yea" on rollcall 550, "yea" on rollcall 551, "yea" on rollcall 552, "no" on rollcall 553, and "yea" on rollcall 554, "yea" on rollcall 555, "yea" on rollcall 556, "yea" on rollcall 557, "yea" on rollcall 558, "no" on rollcall 559, "yea" on rollcall 560, "yea" on rollcall 561, "no" on rollcall 562, "yea" on rollcall 563, "no" on rollcall 564, "no" on rollcall 565, "no" on rollcall 566, "no" on rollcall 567, "yea" on rollcall 568, "yea" on rollcall 569.

A PROCLAMATION HONORING MARY AND JOSEPH L. DEGENOVA ON THEIR 25TH WEDDING ANNIVERSARY

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. NEY. Mr. Speaker:

Whereas, Mary and Joseph L. DeGenova are celebrating their 25th wedding anniversary; and

Whereas, Mary and Joseph L. DeGenova were united in marriage on October 18, 1980 in Bellaire, Ohio; and

Whereas, Mary and Joseph L. DeGenova are the loving parents of two children, Annemarie and Anthony.

Therefore, I join with the residents of the entire 18th Congressional District of Ohio in congratulating Mary and Joseph L. DeGenova as they celebrate their 25th Wedding Anniversary.

HONORING THE JACKSONVILLE ROTARY CLUB

HON. JEB HENSARLING

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. HENSARLING. Mr. Speaker, today, I would like to commemorate two significant anniversaries of Rotary International. This year, Rotary International celebrated its 100th anniversary. From its humble roots in Chicago, Illinois, Rotary has grown into a worldwide organization of business and professional leaders who provide humanitarian service, encourage high ethical standards in all vocations, and help build goodwill and peace in the world. Since 1943, Rotary International has distributed more than $1.1 billion to combat Polio, promote cultural exchanges and encourage community service.

I also want to recognize the Jacksonville Rotary Club for their 85 years of service to Cherokee County. Throughout its history, the Jacksonville Rotary Club has achieved great success in carrying out the mission of Rotary International.

The Jacksonville Rotary Club has benefited numerous organizations and programs that serve the local community including the Anderson/Cherokee Crisis Center and the Jacksonville Literacy Council. The Ambassadorial

Scholarship program has enabled local students to enrich their lives and further their education by helping them study abroad. Their valuable community service has also been seen through annual events such as the Pancake Supper, United Fund activities, support of Boy Scout Troop 407, and benefit golf tournaments.

Through these initiatives, the Jacksonville Rotary Club exemplifies the values of service and charity that lie at the heart of American society. As the Congressional representative of the members of this outstanding organization, it is my distinct pleasure to honor them today on the floor of the United States House of Representatives.

HONORING THE EMPLOYERS OF OUR GUARD AND RESERVE BUT MORE NEEDS TO BE DONE

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. LANTOS. Mr. Speaker, I am pleased to support this important resolution. When it comes to taking care of our citizen-soldiers, many employers have gone well beyond what the law requires. They make up any loss of income that an employee encounters when going on active duty, or they keep the soldier's family on the company health insurance, or they find other ways to ease an employee's separation from loved ones during activation. This bill is an excellent opportunity for Congress to thank these conscientious employers.

In particular, I would like to extend special gratitude to those employers who have taken it upon themselves to eliminate any pay gap that their employees encounter because their military salary is less than their civilian salary.

Thanks to the diligent efforts of the Employees Support for Guard and Reserve, nearly ⅓ of our activated citizen-soldiers have employers who eliminate that pay gap. Companies making such payments include IBM, Sears, General Motors, Home Depot, United Parcel Service and Ford Motor Company.

In addition, the governments of at least 30 states, including my home state of California, offer this differential pay for state employees who go on active duty.

Unfortunately, the Pentagon has prevented the Federal Government from following these conscientious employers and making up any pay gap encountered by Federal employees who have been activated in the Guard and Reserve.

Mr. Speaker, I would like to submit for the RECORD a wonderful article by Bob Barr that ran in the Washington Post highlighting the efforts of Senator DURBIN and other Members of Congress on this issue.

While I strongly support this resolution I also believe that what is good for the goose should be good for the gander, and that the time has come for the Federal Government, the largest single employer of the citizens who make up the Guard and Reserve—must match the example set by employers throughout this country and support our own citizen-soldier employees.

PRIVATE SECTOR SURPASSES AGENCIES ON PAY TO DEPLOYED

(By Stephen Barr)

Wachovia Corp., the banking giant, Eaton Corp., an industrial manufacturer, and Enterprise Rent-a-Car keep their employees on full salary and benefits, regardless of military compensation, when they are called to active duty in the reserves and National Guard.

Other organizations also help out their reserve and Guard employees beyond the letter of the law. Citizens Financial Group Inc., the Los Angeles Police Department, Sears, Roebuck and Co., the state of Delaware and Toyota Motor Sales USA Inc. provide financial support to their employees, including a pay differential, for periods ranging from a year to the duration of the deployment.

The companies were among 15 recently honored by the Pentagon with the 2005 Secretary of Defense Employer Support Freedom Award, in recognition of their exceptional support of their Guard and reserve employees. The 15 companies went beyond the requirements of the 1994 Uniformed Services Employment and Reemployment Rights Act, which seeks to guarantee that workers have a comparable job waiting for them when they return from their military service.

The federal government, however, falls short of being a model employer in its treatment of civil service employees called to active duty. Although federal agencies comply with the law, the government does not make up the difference in pay when an employee is called to active military duty and receives a smaller salary.

David M. Walker, the head of the Government Accountability Office, attended the Freedom Award banquet Oct. 15 and later told a House committee that "the U.S. government is not leading by example or practicing what it preaches in connection with employer support for the Guard and reserves."

Walker, in his prepared statement, said the GAO and federal agencies are constrained by law and ought to have some leeway to ease salary shortfalls for Guard and reserve families.

"Federal agencies should be able to make up any salary differential that activated Guard and reserve members might otherwise lose out of our annual appropriation," Walker said. "We would also like to be able to be sure that applicable employees and their family members continue to receive their employer-provided benefits."

There are about 1.13 million people in the Guard and reserves, and Rep. Tom Lantos (D–CA) and other members of Congress have estimated that about 40 percent of those called to active duty suffer a loss of income, putting mortgages and other obligations in jeopardy, because their military pay is less than they would have earned in their civilian jobs.

About 126,850 reservists are employed by federal agencies, and about 96,600 of them work for the Defense Department. Sen. Richard J Durbin (D–IL) estimates that 17,000 federal employees have been mobilized to serve in Iraq, Afghanistan and other places.

The Senate has approved an amendment sponsored by Durbin that would require a federal employee's agency to pay the difference between a worker's reservist pay and federal civilian pay. More than 100 House members, organized by Lantos, have written to the House Appropriations Committee backing the Durbin amendment.

The amendment has been stripped out of bills during past House-Senate negotiations—what the senator calls "the darkness of a conference committee."

In general, Defense officials have opposed bills that would close the "pay gap" for some mobilized reservists because they believe it could cause morale problems. Officials have contended that all parts of the armed forces—active, Guard and reserves—should be compensated according to their performance of military duties under the existing military pay system.

The officials point out that federal employees who are mobilized may take a month of military leave each calendar year with differential pay and that a special category of federal employees, military technicians, can receive two months at full civilian salary. Federal agencies also may pick up health insurance costs for up to 24 months for their mobilized reservists.

Still, the House members said in their letter, "what is good for the goose should be good for the gander," suggesting that the government, as the largest employer of reservists, should be able to match the support offered by companies to ease financial burdens on employees called to serve.

A PROCLAMATION THANKING SPECIALIST RODNEY HENDERSHOT FOR HIS SERVICE TO THE UNITED STATES OF AMERICA

HON. ROBERT W. NEY

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. NEY. Mr. Speaker:

Whereas, Spc. Rodney Hendershot has served in the U.S. Army's Alpha company, 1st Battalion, 115th Infantry with loyalty, duty, respect, selflessness, honor, integrity and courage; and

Whereas, Spc. Rodney Hendershot volunteered to serve at a time of great unrest when America's values of freedom and liberty for all were challenged most; and

Whereas, Spc. Rodney Hendershot has fought for the freedom of the Iraqi people and the security of this great Nation.

Therefore, I join with family, friends and the entire 18th Congressional District of Ohio in thanking Specialist Rodney Hendershot for his exemplary service.

IN HONOR OF THE UKRAINIAN AMERICAN YOUTH ASSOCIATION

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in tribute and recognition of the Ukrainian American Youth Association (UAYA), as they celebrate their 80th Anniversary as a world wide youth organization. In northeast Ohio, the UAYA is celebrating the 40th Anniversary of the establishment of the UAYA Campgrounds in Huntington, Ohio.

For more than a century, Americans of Ukrainian heritage have infused the richness of Ukrainian heritage throughout our Greater Cleveland community. Their significant contributions within all facets of our society, along with their collective focus on preserving and promoting the history of the Ukraine, is enhanced with every new generation of Americans of Ukrainian heritage.

The leaders and members of the UAYA provide vital opportunities for American youth of Ukrainian descent to attain a true understanding of the history, faith, culture of the Ukraine. The UAYA also provides vital cultural opportunities for young people to become active and lasting members of their local Ukrainian community—a community centered around family, faith and tradition.

Mr. Speaker and colleagues, please join me in honor of the Ukrainian American Youth Association, as leaders and members celebrate the vital and ongoing legacy of teaching, preserving and sharing memories, customs and culture of their beloved Ukraine. Through the efforts of the UAYA, the heart of the Ukraine transcends borders, oceans and time, and lives on within each new generation of children of Ukrainian heritage—in Cleveland, Ohio, and around the world.

MANKATO, MINNESOTA RECOGNIZED AS ONE OF THE "100 BEST COMMUNITIES FOR YOUNG PEOPLE"

HON. GIL GUTKNECHT

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. GUTKNECHT. Mr. Speaker, I rise today to honor the city of Mankato, Minnesota, for being a great place to live and grow up.

On Nov. 1, the city of Mankato was recognized as one of the "100 Best Communities" for Young People by America's Promise, an organization founded by former Secretary of State Colin Powell. At the awards ceremony in Washington, DC, Mankato also received a special award for its outreach efforts to Gulf Coast residents.

Located on the beautiful Minnesota River in the heart of Blue Earth County, Mankato is a great place to live. But as America's Promise has recognized, Mankato is also a great place for young people. Boasting one of the lowest high school dropout rates among the Nation's small cities, Mankato remains committed to education and family values.

In particular, I would like to recognize the parents and teachers of the city who devote their time to Mankato's youth. I would also like to commend Kathy Brynaert, Independent School District #77 School Board Chair and Anna Thill of the Mankato Area United Way who attended the awards ceremony and accepted the honor on behalf of the city.

In addition to the award for being one of the "100 Best Communities for Young People," Mankato was also recognized for its work in aiding communities devastated by recent hurricanes. Red Cross volunteers and professionals from Mankato immediately responded to the tragedy of Hurricane Katrina by traveling to the Gulf Coast to lend a helping hand. Meanwhile, back in Mankato, community residents and local organizations rallied to collect money and supplies for hurricane victims. Local students designed cards offering their love and support that were delivered to children there.

I hope my colleagues will join me in honoring and congratulating these outstanding Americans.

TRIBUTE TO ROBERT SARGENT SHRIVER

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. VAN HOLLEN. Mr. Speaker, it is with great pleasure that I rise to honor Sargent Shriver on his 90th birthday today. It is fitting that we take this wonderful occasion to reflect on his life of service to our country.

Martin Luther King once said, "Everyone can be great because everyone can serve." Sargent Shriver embodies this ideal. A man of stellar character and tireless energy, Ambassador Shriver has been long recognized as a true humanitarian and a dedicated public servant.

Ambassador Shriver received his bachelor's degree from Yale University in 1938. He also attended Yale Law School where he earned an L.L.B. in 1941. Shriver began his lifelong commitment to public service in the United States Navy during World War II.

In 1961, Mr. Shriver answered the call of duty again when, at the request of President John F. Kennedy, he established and became Director of the Peace Corps. He helped organize operations around the world, from Africa and Asia to Latin America. Under his steadfast leadership, the Peace Corps provided medical, educational and technical assistance to foreign communities, while giving millions of Americans the opportunity to share our culture and values and democratic way of life with those less fortunate. Shriver's service to our country took a diplomatic turn when he served as our Ambassador to France from 1968 to 1970.

Through his commitment to turning his ideals into reality, Sargent Shriver has inspired generations of young people to work to improve the lives of others through public service. As Director of the Peace Corps, Ambassador Shriver once stated, "I say what our nation needs now is a call to peace and service—peace and service on a scale we have scarcely begun to imagine." These words still ring as true today as they did when they were first spoken.

While Ambassador Shriver is best known as the Founding Father of the Peace Corps, he has also been instrumental in the creation of many other programs which have the goal of helping Americans to better their lives. Among those programs are Head Start, Job Corps, Legal Services, Upward Bound, Community Action, Foster Grandparents, and the Special Olympics.

In 1994, President Clinton recognized Ambassador Shriver's extraordinary commitment to public service by awarding him the nation's highest civilian honor, the Presidential Medal of Freedom.

Mr. Speaker, I applaud Sargent Shriver's accomplishments and his undying commitment to humanitarian efforts and I wish him well on his birthday and in the years to come. Happy Birthday, Sargent Shriver. We salute you!

PERSONAL EXPLANATION

HON. CHARLIE NORWOOD

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. NORWOOD. Mr. Speaker, though I was absent during the legislative week of Tuesday, November 1 through Friday, November 4, 2005 and Monday, November 7, 2005 for medical reasons, I wish to have my intended votes recorded in the CONGRESSIONAL RECORD for the following votes:

November 1, 2005:

Rollcall vote 557 on H.R. 3548—"aye"; and Rollcall vote 558 on H.R. 3989—"aye."

November 2, 2005:

Rollcall vote 559 on H.R. 1606—"aye"; Rollcall vote 560 on H.R. 4061—"aye"; and Rollcall vote 561 on H.R. 1691—"aye."

November 3, 2005:

Rollcall vote 562 Appealing the Ruling of the Chair concerning the Iraq War Investigation—"aye"; Rollcall vote 563 on H. Res. 527—"aye"; Rollcall vote 564 on Amendment numbered 2 in House Report 109–266—"nay"; Rollcall vote 565 on Amendment numbered 5 in House Report 109–266—"nay"; Rollcall vote 566 on Amendment numbered 6 in House Report 109–266—"nay"; Rollcall vote 567 on Amendment numbered 11 in House Report 109–266—"nay"; and Rollcall vote 568 on H.R. 4128—"aye."

November 4, 2005:

Rollcall vote 569 on H.R. 3057—"nay."

November 7, 2005:

Rollcall vote 570 on H. Con. Res. 260—"aye"; Rollcall vote 571 on H.R. 1973—"nay"; and Rollcall vote 572 on H. Res. 444—"aye."

IN RECOGNITION OF MS. KATHLEEN TURNER

HON. RICK RENZI

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. RENZI. Mr. Speaker, I rise today to offer congratulations and recognition to Ms. Kathleen Turner as she completes her tour of duty as the Chief, Office for Congressional Affairs at the Defense Intelligence Agency. In her current duties, she is responsible for all DIA interaction with the U.S. Congress and serves as the senior advisor on legislative matters to the Director and General Defense Intelligence Program Manager.

Ms. Turner is an alumnus of the Armed Forces Staff College, the Council for Excellence in Government Fellow Program and the DCI's Intelligence Fellows Program. Ms. Turner has held intelligence and management positions of increasing responsibility and importance within DIA. She began her professional career in DIA in 1981 as an analyst of Soviet Strategic Forces in the Research Directorate, joined the Senior Executive Service in 1990, culminating in her current position as the Director for Congressional Affairs, where she serves as the senior advisor on legislative matters to the Director of DIA and General Defense Intelligence Program Manager. During her 24 year career at DIA, Ms. Turner has been awarded the DIA Director's Award for Exceptional Civilian Service and the Presidential Rank of Meritorious Executive.

Fortunately for the Congress, Ms. Turner is not going far. She has accepted the position of Deputy Director, Legislative Affairs to the Office of the Director of National Intelligence where she will serve as a trusted and valuable congressional advisor to Ambassador Negroponte.

Mr. Speaker, Ms. Turner has already enjoyed a long and luminous career in intelligence, and as she moves on to the DNI staff, I hope all my colleagues will recognize the extraordinary contributions Ms. Kathleen Turner has made to our National Security as a lifelong professional intelligence officer. Finally, Mr. Speaker, I ask my colleagues to join me in expressing our confidence in her continued ability and willingness to serve the Nation . . . Ms. Turner is a true national asset in the intelligence business.

HONORING THE FELICIAN SISTERS ON THEIR 150TH ANNIVERSARY

HON. THADDEUS G. McCOTTER

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. McCOTTER. Mr. Speaker, I rise today to acknowledge and honor the Felician Sisters of the Presentation of the Blessed Virgin Mary Province, as they celebrate the 150th Anniversary of the Foundation of the Congregation of the Sisters of St. Felix of Cantalice.

On November 21, 1855, in Warsaw, Poland, Blessed Mary Angela, who was formerly Sophia Truszkowska, and her cousin Clothilde Ciechanoqska, solemnly dedicated themselves to do the will of Jesus Christ in all things. Hereafter, the Felician Sisters were dedicated to a ministry of healing and service, based on Mary Angela's mission of "responding to the needs of the times."

Currently, the Felician Sisters number 1,966 members who share the charism of their foundress, Blessed Mary Angela, in 11 countries on the continents of Africa, Europe, North and South America. In my hometown of Livonia, alone, the Felician Sisters have founded St. Mary-Mercy Hospital, Madonna University, Ladywood High School, and Angela Hospice.

St. Mary-Mercy Hospital was founded by the Felician Sisters in 1959. The Hospital has grown in its commitment to the community and in excellence in clinical care and services. This year St. Mary-Mercy Hospital placed in the top five percent nationally for clinical excellence, and in the top two percent nationally for patient safety. These awards are well deserved recognition for the Felician Sisters, physicians, nurses and support staff of the hospital.

Madonna University was founded by the Felician Sisters in 1937 and is one of the largest Catholic Franciscan independent universities in the country. Through undergraduate, graduate, and continuing professional study, Madonna University provides men and women with the opportunities for intellectual, spiritual and personal growth.

Ladywood High School is sponsored by the Felician Sisters and also follows the Franciscan tradition. The school aims to educate young women in the attainment of Catholic values, human potential, and the ability to put faith and knowledge into fruitful action.

Angela Hospice, founded in 1985, has been providing care for those of every age and stage of life that may need it. Angela provides care to individuals at home or in a care facility in Livonia, as well as support and counseling for family members. Recently, Angela Hospice launched the "Angela House Call" program to provide home physician visits for the elderly—another example of the commitment by the Felician Sisters to our community.

Mr. Speaker, in the spirit of Mary Angela I ask my colleagues to join me in commending and applauding the 150th Anniversary of the founding of the Felician Sisters and praise their ministry of healing and service, and their efforts to maintain the utmost respect for every human life.

IN HONOR OF ALL UNITED STATES VETERANS AND HOLLY LANE ELEMENTARY SCHOOL OF WESTLAKE, OHIO

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of all veterans of the 10th Congressional District of Ohio—for their service, bravery and dedication on behalf of our country. Most significantly, we stand in tribute and remembrance of those veterans who have made the ultimate sacrifice when they answered the call to duty.

I also stand in honor and recognition of the children and educators of Holly Lane Elementary School. By allowing our students the opportunity to meet and know our veterans, we are presenting them living examples of real heroes. We are giving them a true understanding of the meaning of the words conviction, courage and selflessness. We are offering them the understanding of a living lesson that speaks to our American history and to the preservation of our liberty—the brave men and women who have endured great hardship and sacrifice in order to secure freedom for us all.

Every veteran that stands before us today at Holly Lane Elementary School represents the heart and soul of America and reminds us of our quest for justice and peace here at home, and the struggle of those who seek justice and peace around the world. The staff and students of Holly Lane Elementary School reflect the gratitude and respect for our men and women in the armed forces, sentiments that are shared by all Americans. The students of Holly Lane Elementary School also reflect a vision of hope for our future.

Mr. Speaker and colleagues, please join me in honor, tribute and gratitude to the men and women of our armed forces, past and present. They reflect the quest and struggle for human rights and freedom from oppression, basic human elements that unify us all. Let us forever remember and honor their honorable service, great sacrifice and unwavering sense of commitment to the preservation of our American democracy.

HONORING EMPLOYERS OF NATIONAL GUARDSMEN AND RESERVISTS

HON. GIL GUTKNECHT

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. GUTKNECHT. Mr. Speaker, I share my strong support for H. Res. 302, honoring the employers of National Guardsmen and Reservists who have been called to active duty.

Today, 1.3 million Americans serve in the Guard and Reserve, representing nearly half of our total military force.

Since Sept. 11, 2001, Minnesota National Guard members have served on active duty supporting operations in more than 30 countries around the world. This fall, 2,600 Guard members from the 34th Infantry Division's 1st Brigade Combat Team were activated for service in Iraq.

Their 18-month mission will take them away from family and friends, their careers and their everyday lives. They will miss birthdays and anniversaries, holidays and school plays, a baby's first steps and home-cooked meals. However, these soldiers could not perform their mission without the support of their civilian employers.

In 1972, President Nixon established the National Committee for Employer Support of the Guard and Reserve (ESGR). In Minnesota, there are 140 ESGR volunteers who promote the value of Guard and Reserve employees.

Last year, the State of Minnesota received the Defense Secretary's Employer Support Freedom Award for its programs supporting activated service members. The State, for example, makes up the difference between a reservist's active-duty pay and his or her State salary.

The Minnesota Timberwolves organization are another outstanding example of a business that supports the Guard and Reserve. In 2004, the Timberwolves received the ESGR's "Outstanding Corporate Citizen Award." This year, the Timberwolves are hosting a "Salute to the Armed Forces" event at the Target Center on Nov. 9. The team donated more than 1,200 tickets for the month of November so military personnel can attend a game.

Support of the Guard and Reserve also takes place at the local level. This year, the New Ulm Police Department and Immanuel St. Joseph Hospital in Mankato, received "Above and Beyond" awards for their ongoing support of reserve employees. More than 475 Minnesota employers were nominated for this national award. Only 23 received this prestigious award.

Mr. Speaker, one of America's great strengths is the unselfish courage of the citizen who steps forward, puts on the uniform and stands ready to face danger. It is that quality, more than any other, which has kept us free for more than 200 years.

We must commend the tens of thousands of American businesses who willingly employ members of the National Guard and Reserve. It is this essential alliance and shared sacrifice that keeps America and much of the world free.

TRIBUTE TO CHARLIE MAE CROMARTIE

HON. JAMES E. CLYBURN

OF SOUTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. CLYBURN. Mr. Speaker, I rise today to pay tribute to a guiding light in Columbia, South Carolina that will be deeply missed. Charlie Mae Mays Harrison Cromartie passed away on Sunday, November 6, 2005, but her legacy will remain with us forever.

Charlie Mae Cromartie was born in Greenwood County, South Carolina to John Henry and Myrtle Harrison Mays. She was the niece of renowned educator, Dr. Benjamin E. Mays. She was educated at Bettis Academy and earned her RN degree with a concentration in psychiatric nursing from South Carolina State Hospital and the Columbia Hospital School of Nursing. She served as Head Evening Nurse at the Columbia Hospital School from 1961 to 1970, and was the owner and manager of Cromartie Enterprises from 1977 to 1996.

In addition to her very successful career, Mrs. Cromartie was also active in her community and church. She was the Mother of the Church at Bishops' Memorial A.M.E. Church, where she had been a member for more than 50 years. Mrs. Cromartie had served as the church Treasurer for more than 40 years and was a member of the Trustee Board, Missionary Society, and the Building Fund.

In the community, Mrs. Cromartie served as a poll manager in Ward 9 at Allen-Benedict Court for many years. She had served as PTA President at Waverly Elementary, Carver Elementary, W.A. Perry Middle and C.A. Johnson High schools. She was also a school advocate for the Richland County Board of Education. Her other memberships included the March of Dimes, the League of Women Voters, and she was Past Illustrious Commandress of Daughters of Isis, Cairo Temple #125.

Mrs. Cromartie had been recognized for her community work with a key to the City of Columbia and induction into the South Carolina Black Hall of Fame in 2003. In 1987, Columbia Mayor Patton Adams chose Mrs. Cromartie as one of several Columbians to be sketched for a picture presented to Pope John Paul II during his visit to Columbia that now hangs in the Vatican.

Mrs. Cromartie was married to E. W. Cromartie, Sr. for 43 years. The couple has two children, E. W. Cromartie, III and Ernestine Cromartie Moody, and four grandchildren.

Mr. Speaker, I ask you and my colleagues to join me in celebrating the life of a devoted wife, mother, Christian and community activist. Charlie Mae Cromartie made a lasting impression on the City of Columbia and all those who had the pleasure of knowing her.

SPECIAL TRIBUTE TO FRED V. MUNOZ AND HIS LIFETIME ACHIEVEMENTS

HON. JOHN T. SALAZAR

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. SALAZAR. Mr. Speaker, I rise today to express my condolences to the Munoz family of Delta, Colorado, who recently experienced a tragic loss with the death of Fred V. Munoz. He passed away on October 7th at the age of 63.

Though Fred spent his childhood and was educated in California, he was not only a valued citizen of my district, but a dear friend as well. He served in the Army during the Vietnam War, and I honor him for his service. Furthermore, he was an exceptional leader in the Hispanic community, and served as president of the Orange County Trial Lawyers Association. His extraordinary achievements as a lawyer also included sitting as a member of the California Bar Association and serving on the board of the Hispanic Bar Association.

I grew to know Fred over the last year and he never hesitated to offer his support and assistance to myself and others. He had said he would always be ready to step up and do what he could in the years ahead, and though he may no longer be with us in physical presence, I have no doubt he will keep his word and join us in spirit.

Fred was certainly an inspiration to me and to everyone who had the opportunity to meet him, and I am grateful for the short amount of time I was able to spend with him. I know my life and the lives of those he knew and loved were enriched by his presence, and he will surely be missed.

PAYING TRIBUTE TO HARRY HANCOCK

HON. SPENCER BACHUS

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. BACHUS. Mr. Speaker, I rise today to pay tribute to a very special member of the Birmingham community, Harry Hancock.

Harry Hancock has provided compassionate and caring service as the District Manager of the Birmingham Downtown Social Security office for many years. For over a quarter century, Harry has given of his time to ensure that his fellow Americans are treated fairly in their attempts to access Social Security benefits. However, Harry's time with the Social Security Administration is but one aspect of a lifetime devoted to public service, which began with Harry's courageous service as a member of the United States Army during the Vietnam War.

Mr. Speaker, I am honored to bring Harry Hancock's career of service to the attention of my colleagues here today. I join with the residents of the entire 6th Congressional District of Alabama in congratulating Harry Hancock as he retires from federal service. I wish Harry and his wife Rene nothing but happiness in the days ahead.

PERSONAL EXPLANATION

HON. PAUL RYAN

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. RYAN of Wisconsin. Mr. Speaker, I was absent for legislative business on Friday, November 4, 2005 and Monday, November 7, 2005 due to a family medical emergency. As a result, I missed rollcall votes 569 through 572. Had I been present, I would have voted "yea" on the following rollcall votes:

569, Adoption of Conference Report H.R. 3057; 570, H. Con. Res. 260, Recognizing the 40th anniversary of the Second Vatican Council's Declaration on the Relation of the Church to Non-Christian Religions; 571, H.R. 1973, the Water for the Poor Act of 2005; 572, H. Res. 444, the Gynecological Resolution for Advancement of Ovarian Cancer Education.

TRIBUTE TO ROSA PARKS

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Ms. KAPTUR. Mr. Speaker, this past week, America laid to rest Ms. Rosa Parks, preeminent civil rights leader of the 20th century. Ms. Parks embodied the clarion call of Sojourner Truth to champion the rights of those dispossessed and marginalized. Through her acts of courage and inspiration, she, as woman, awakened the conscience of a nation and moved us to be better than we had been, indeed to form a more perfect union. In her memory, a homegoing memorial service was held in Detroit, Michigan, her adopted hometown, on Nov. 2, during which the Reverend Jesse Jackson, Sr. of the Rainbow/PUSH Coalition, rendered these words of comfort. It is my privilege to enter them in the CONGRESSIONAL RECORD as a living testimony to her life and the world and nation she helped transform.

ROSA PARKS: WORDS OF COMFORT

We are here this morning for serious business. On so many occasions, negros have been intimidated and humiliated and oppressed because of the sheer fact that they were negros. Just the other day, just last Thursday to be exact, one of the finest citizens in Montgomery—not one of the finest negro citizens, but one of the finest citizens in Montgomery—was taken from a bus and carried to jail and arrested because she refused to get up to give her seat to a white person.

When the history books are written in the future, somebody will have to say, "There lived a race of people—, a black people, a people who had the moral courage to stand up for their rights!."—Dr. Martin Luther King Jr. Montgomery, Alabama, December 1955

ROSA PARKS: FREEDOM FIGHTER—LIBERATOR

The Book of Esther, Chapter IV, Verses 12–16:

12: And they told to Mordecai Esther's words.

13: Then Mordecai commanded to answer Esther, Think not with thyself that thou shalt escape in the king's house, more than all the Jews.

14: For if thou altogether holdest thy peace at this time, then shall their enlargement and deliverance arise to the Jews from another place; but thou in thy father's house shall be destroyed: and who knoweth whether thou art come to the kingdom for such a time as this?

15: Then Esther bade them return Mordecai this answer.

16: Go, gather together all the Jews that are present in Shushan, and fast ye for me, and neither eat nor drink for three days, night or day: I and also my maidens will fast likewise; and so will I go in unto the king, which is not according to the law: and if I perish, I perish.

Isaiah, 40 chapter, 31st verse, "but they shall wait upon the Lord shall renew their strength; they will mount up with wings like eagles; they shall run, and not be weary; and they shall walk and not faint."

The 2005 freedom bound train is full of giants. John Johnson, Johnson Publishing, who illuminated our way. Vivian Malone Jones who opened up closed doors at the University of Alabama; C. Delores Tucker, first African American Secretary of State of Pennsylvania, a pacesetter. Judge Constance Baker Motley along with justice Thurgood helped to brake backbone of legal segregation. And now Rosa Parks, our morning star, the star that led us by night; when it's real dark, one light will challenge all of the darkness, and give us hope and direction.

For such an awesome force in history, we wrestle with the countless ways, "how do we express ourselves, our thanks, her meaning, her impact.

The question was once raised in Micah, how do you worship? Do you give the Lord fatted calves and rams and rivers of oil? Meaningless sacrifices. The answer was, "O man, you know what is good; you know what matters. Do justice, and to love mercy, and to walk humbly with your God?

Perhaps for Sister Parks, a statue in the great Hall of Congress as projected in a legislative bill by Congressman Jackson, as a founding mother of the new America. Surely if Jefferson Davis and Robert E. Lee, leaders of the Confederacy who led the drive for secession, sedition, segregation and slavery and treason, could be there, why not have the guardian angel there to keep an eye on them, and to protect the true character of the American Dream.

Perhaps the extension of the voting rights with enforcement powers, 50 years later.

Perhaps a White House conference on civil rights, 50 years later—post Rosa Parks and hurricane Katrina, a White House conference on civil rights is needed. We must say to Mrs. Parks, your legacy is secure, your sacrifice is not in vain, but your work is unfinished and under attack. You lifted us up; we will not let you down.

We often reference her qualifications for this huge role in history—her vocation as a seamstress, her civil rights membership, her humility and temperament. But her biggest quality is she was available.

One of the outstanding attributes of Mrs. Parks is that she was available. Her humility, her steeled courage, her non-negotiable dignity, speaks to us in the fullness of time, after 336 years of struggle—from the hull of ships to the back of the bus—in the fullness of time, she said, here am I, send me. I am available.

God uses the strength of the available. He is not bound by the credentialed and the unavailable. Each time I go back across the bloodstained Edmund Pettus bridge in Selma, Alabama—the battlefield of our modern day voting rights act—I recall the struggle led by Hosea Williams, a shot up war veteran, and Congressman John Lewis, a student, on that Sunday. There were no pastors of major churches, no convention presidents, no bishops, no doctors or lawyers, no political party leaders, no scholars, no elected officials, judges or business leaders. Just ordinary people.

Mrs. Boynton, Mrs. Foster, Sunshine, Lester Hankerson, Cottonreader from Mississippi. Ordinary people, available to do God's will. Ordinary people.

They upended the Congress, the White House, and the world. They captured the imagination of the world by absorbing the blows and suffering us into a new day. Your success and reputation and status are not bargaining chips with God.

Calvary teaches, suffering breeds character, character breeds faith, and in the end, faith will prevail.

Who are the available?

(a) It may be some teenage boy, a great underdog with a slingshot, taking on some giant Goliath. He emerges the winner, an unlikely hero. He was available.

(b) It may be some rescued baby, Moses, avoiding a death warrant by the King, an edict of genocide, aided by some ingenuous prayer warrior mother, who grew up in the King's household but comes unto his highest self and says, "Let My People Go."

(c) It may be some Esther, some orphan, after prodding by her uncle, moving beyond the political law and risking personal comfort for the common good, who rises up realizing her people are in jeopardy, declaring if I perish, let me perish. I am going to meet the King. God uses the available.

(d) It may be some freedom fighting seamstress, unarmed without guns or bullets, but with a breastplate of righteousness in the heart of the confederacy which says "Like a Tree Planted by the Rivers of Water, I Will Not be Moved."

I will defy the unjust state law that defies federal law. You may fire me, you may jail me, and you may kill me. But like Esther, if I perish, let me perish. Enough is enough!

If you need somebody, I am available. Here am I, send me.

Rosa Parks: It is not her passing, but in her living, the timeliness of her actions, that bring us here today. It has captured the attention of the world.

I was in South Africa meeting with President Mandela last week when the news broke. He acknowledged her impact and sends his condolences. Apartheid ended in 1954 in North America. And in South Africa in 1994. He understands the connections.

An NAACP freedom fighter, she offered her body as a living sacrifice. She embodied the hope, the longing and the anguish of three centuries of prayers. Her light in darkness illuminated the path of the majestic leadership of Dr. Martin Luther King, Jr. Together they were part of a team. A season. That changed the course of America and world history for the better. Ms. Parks was in the historical rocking chair between the legal triumphs of Thurgood Marshall and the prophetic utterance of Dr. King.

It is our burden to put her in context of our struggle. And not allow wolves in sheep's clothing to mis-interpret her legacy, or our struggle.

So when children ask of us, who was Rosa Parks? We shall tell them how she helped get us across the rough waters.

Why was she arrested? Is it relevant today? Or is this some sentimental journey that we are on, with all of these services and celebrations.

She was arrested for defying State's rights laws—segregation—a hangover from the Confederacy. The South would not honor the dream of a more perfect union. And the red states still resist.

The relevance of her living legacy is no sentimental journey.

So today, as the courts are stacked with States' rights judges, and New Orleans' people float face down in the waters, and civil rights are suspended, prevailing wages suspended, affirmative action suspended, environmental laws suspended, veterans preferences suspended . . .

As FEMA will not give the addresses of the people exiled in 41 states. The addresses that will allow the State Board of Elections to communicate with them so they might vote in February. New Orleans is being de-populated with its people stranded in exile. While Louisiana is being demographically re-configured.

Is this struggle relevant today or is this service a sentimental journey?

For our sister beloved Rosa, we must adore, admire and love her. But we must not romanticize her mission. Hers is an act of defiance, challenging the prevailing right wing political, legal and religious order. She challenged state's rights in the heart of the Confederacy.

Her mission was to even the playing field, to afford all Americans equal protection under the law, to gain and defend civil rights—she sought a more perfect union.

Many of her former adversaries have changed stripes or parties, but not their anti-civil rights, anti-labor, anti-gender equality, and anti-poor agenda.

To be on her freedom train requires the courage and the vision to defy unjust law, take the risk and live with the consequences.

After 58 years of legal racist segregationist apartheid law, upon continuous charges by the NAACP, led by Thurgood Marshall, Constance Baker Motley, Charles Hamilton Houston, Dr. John Hope Franklin, Dr. Kenneth Clark, the court reversed itself from the 1896 apartheid decision which succeeded slavery.

May 17, 1954 was the biggest legal victory we had known since the abolishment of slavery in 1865 and the broken promises of 1877 and the end of reconstruction. But it had no immediate impact on the ground. States continued to defy the law and vilify the court as legislating and engineering change and of not being "strict conservative constructionists."

Racial segregation remained in our schools, transportation, trains, public housing, work place, voting. We lived without the umbrella of protection of the law.

Emmett Till was lynched, August 28, 1955, (eight years to the day before the March on Washington, 1963). The lynch mob was not prosecuted and the FBI did not investigate.

His mother brought his bloodied, watermarked body back to Chicago. 100,000 people demonstrated passed his body . . . afterwards they were never the same.

Jet and the Black Press told his story. There was an emotional uprising.

I once asked Ms. Rosa Parks, why did she not go to the back of the bus, given the risks?

She said I thought about Emmett Till and I could not go back. She said, "My legs and feet were not tired, that is a stereotype, and I felt violated. I paid the same fare as others, I was not going back." She stood with Emmett Till's mother until the very end, reaffirming that kindship.

Her dominant feature was not that she was a seamstress; she was not arrested for sewing. She was a dignified, resisting freedom fighter. An NAACP officer at a time when the NAACP was banished from most parts of the south. Most teachers could not join and keep their jobs.

The states defied federal law, and she defied the state law. She took the test, paid the price and the law failed. She was arrested for defiant behavior. She went counter-culture. She resented the sign above the drivers head that read, "colored seat from the rear, whites from the front. Violators will be prosecuted."

She chose with resolve and courage to fearlessly face the option of being fired, jailed or killed to test the law, December 1, 1955.

An immediate after effect was the emergence of Rev. Dr. Martin Luther King, Jr. A one year boycott, his house bombed—they were threatened. She won the legal case after 13 months. It took 10 years of testing to get from the back of the bus to the right to vote.

Sitting down, we hear over and over again was a simple act by a dignified woman. The act was simple, but the reaction was violent, relentless, led by the State. Arrests, loss of jobs, death threats. Governors blocking school doors, state terror. And the resistance of her challenge for a more perfect union is still under attack by the devotees of State's rights, undermining a more perfect union for all Americans.

It was the first of many courageous tests: 1957, Daisy Bates and the Little Rock Nine; the sit-in's of the 1960's; the assassination of Medgar Evars and others: the killing of Jimmie Lee Jackson that triggererd the Selma March; the killings of Schwerner, Goodman and Chaney; The Birmingham bombings; the march from Selma to Montgomery to end the reign of legal state sponsored terror.

There was a long bloody road ahead after December 1, 1955. Of course, by extension today, abandoned cities, flourishing suburbs, second class schools and first class jails. Three strikes and you're out . . . even if you don't have a bat, rather than four balls and you're on, because we really intend to leave no child behind.

We, with a narrow view, say Rosa Parks would not get up and let the white man have her seat. It was not about "A" black woman, and "A" white man. It was a dilemma of all blacks and all whites. Victims of a system with all losers.

The white bus driver would not drive off, the white police arrested her, but they were all victims of racist, state's rights law as well. They were following the legal, political, religious edict of their day.

She was following the moral law. She chose Calvary over convenience.

The white rider, out of cultural expectation and the law, had a right to ask her to get up. The bus driver had a legal obligation to demand that she move, or the bus would go no further. The police had a legal obligation to arrest her.

Those men must now feel awful, and their children ashamed. History has condemned them. But their political leaders placed them there.

If they had not done their jobs, they would have lost their jobs, and if she had gotten up, she would have lost her dignity.

The legal changes of 64' and 65' allowed both to have dignity and decency.

Now Alabama and Auburn can play black and white together. We can choose uniform color over skin color in that game, because the new law protects our shared dignity.

Unfortunately 50 years later many still are trapped in the system that chooses racial insecurity and cultural identity over their economic interests and life options.

If Rosa Parks were not successful, blacks would have remained at the back of the bus and in a ditch. Southern whites would have remained in the ditch with us. No southerner could have gone to the White House from the south, because of the stigma, just as no white South African could leave South Africa without stigma.

Presidents Jimmy Carter, Bill Clinton and Vice President Gore, President Bush, all owe their presidencies to a new freed South, not hampered by racial stigma.

Her act helped to free the whole south.

Changing the laws and the culture did not take place automatically or inevitably. It took demonstrations, sacrifice and martyrs. But now with affirmative action and Pell Grant and no more political mileage for governors blocking school doors, we can sit in the front of buses, class rooms, live in a neighborhood of our choice.

Auburn could be number 1 last year. Alabama could be undefeated this year and not face the predicament that Bear Bryant faced playing USC and Nebraska without the best talent in the State, and being humiliated by Sam Cunningham of USC and Johnny Rogers of Nebraska.

Oh what a morning Rosa Parks ushered in. There are those who will honor her during this season, but who will seek to reverse the course she took and not enforce the laws for which she was arrested and struggled. She is their trophy but she is our morning star. Our 1955 liberation Christmas present. Oh what a morning this noble woman has helped to usher in.

This is a time to mourn and celebrate, where we must watch as well as pray. For those on the Rosa Parks, Medgar Evers, Schwerner, Goodman Chaney, A. Phillip Randolph, Constance Baker Motley, Cesar Chavez, Martin Luther King side of history, we must be a ware of wolves in sheep's clothing who try unrelentingly to defeat her purpose.

While we have gone from the back of the bus in Montgomery, burnished in our memory is the back of the rescue in New Orleans.

Like Esther, you counted the costs, took the risks and paid the price. But our God offered you a comfort level ultimately that defied your enemies and surpasses our understanding.

Sister Rosa, you are our eagle bird of hope, a gift sent from up above. Like the eagle—a bird of strength, and power and resolve—you looked in the noon day sun and didn't flinch. You looked at the little ones whose wings were less strong and not as long. You inspired us out of our fears, and allowed a rebirth of hope. You stirred your nest, and gave us comfort and protection. You showed us how to fly.

Fly fearlessly, no matter the weather. When we failed in our efforts, God allowed you to be close enough and live long enough to pick us up again.

We know we fall down sometimes. We got back up again. Again and again. Because you reminded us nothing is too hard for God. You showed us the power of right over might, the power of moral authority, the power stronger than guns and wealth, just by being available to do God's will.

You have been the wind beneath our wings. The Lord promised that they who wait upon the Lord shall renew their strength; they shall mount up with wings like eagles, they shall run and not be weary; they shall walk and not feint.

The writer promised this morning this great morning, one glad morning, we can fly away. You are faithful over a few things. Now He has called you up higher. Keep looking up to those stars, in their silver sockets of glory, to that place in the sky.

Now, Mother Eagle, God today has called you back to the big nest in the sky. This morning, Sweet Angel, take your rest, take your rest. Take your heavenly flight. You made your reservations. You prepaid your ticket. Now you can sit where you choose to sit. You have a reserved seat at the welcome table. When you get tired of sitting, you can just walk around heaven all day.

By the way, stop by and give Dr. King our highest regards. Tell Fannie Lou Hamer, howdy. Pluck those bullets out of Medgar Evars' back. Tell Emmett Till what he meant to you. Sit down with Daisy Bates.

Stop by and see Schwerner, Goodman and Chaney.

By the way, thank John Johnson for telling our story. Tell Mahalia. We are all moving up a little higher. And don't forget to tell Rev. C.L. Franklin thanks for teaching us how eagles stir their nests.

Make room for us. It won't be long now. We are too close to turn around now. We've wept bitter tears, but joy keeps coming. Sit where you want to now. There will be no arresting officers. No signs of disrespect. No more handcuffs. We thank you for your hope. We thank you for your healing. We thank you for being available. Good night, Sweet Angel. We will see you in the morning. You served us well. You've done God's will.

HEARING: THE NATIONAL PANDEMIC INFLUENZA PREPAREDNESS AND RESPONSE PLAN: IS THE U.S. READY FOR AVIAN FLU?

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 8, 2005

Mr. KUCINICH. Mr. Speaker, is the U.S. ready for avian flu? I don't think there is any question that answer is a clear "no." The question is, what are we doing about it? The administration finally released its plan this week under tremendous public pressure. It got underwhelming reviews from experts because it is deficient on several fronts that will be collectively necessary for us to fight this disease. It is especially weak on efforts to stockpile anti-virals.

Our best anti-viral bet will be Roche's Tamiflu. It is well established that it will take Roche years to produce enough to satisfy American stockpile needs. We have enough for less than 1% of the U.S. population. We need at least enough for 25% of the U.S. Even after promised increases in production capacity, Roche's supply is far less than our stockpile needs. The same goes for countries around the world, including those where the outbreak is likely to originate if the virus mutates to pass easily from human to human. And yet there are plenty of production facilities to solve the problem. In fact, over 100 companies have expressed interest in "helping (Roche) meet production challenges," according to one of Roche's own advertisements. So what is the problem?

The problem is that Roche has a monopoly on Tamiflu. We are very familiar with what happens when a company has a monopoly on a product the world needs. They control supply. And that is exactly what Roche is doing.

But choking world supply is not the only consequence of Roche's monopoly. If we need a reminder about the perils of concentrating production in the hands of a few, we only need to look to last year. Chiron was forced to scrap half of the U.S. flu vaccine supply when their manufacturing facility failed to meet safety standards. That was for the conventional flu. Imagine what would happen if we lost half of our Tamiflu supply in the middle of an avian flu outbreak. And yet, at the cusp of a potentially far more devastating avian flu epidemic, we are about to repeat our mistake. But there is a solution. Compulsory licensing.

HHS has the authority to issue a compulsory license to get rid of this dangerous shortage by allowing other companies to make Tamiflu. Roche would get compensation. That authority exists specifically to prevent the most predictable scenario—a pharmaceutical company holding a drug hostage when it is needed to protect public health, in order to increase profits. That is exactly what we're seeing here.

Roche revenues increased 17% last quarter. Tamiflu sales more than doubled to $215 million in three months. They expect to make almost $1 billion from Tamiflu sales this year. Of course they would want to hang on to this monopoly. Their ultimate responsibility is to their shareholders, not to the public.

We have heard a lot of promises from Roche that they are willing to negotiate with other companies to sublicense production, but I have not heard anything about a firm agreement to do so. Roche can keep fees too high in order to make it unprofitable for an outside company to manufacture Tamiflu. They can stipulate, and have indicated their willingness to do so, that any Tamiflu made by a company other than Roche would not be available for sale in the U.S. In other words, they can continue to restrict world supply.

And to top it off, the administration boasts that it wants to throw a billion dollars into buying anti-virals. But the drugs aren't there. There's nothing to buy and, as it stands, there won't be anything to buy in the near future. We may not have that kind of time. But the administration is still sitting on its hands while Roche's profits skyrocket and Tamiflu production does not. This is a clear choice of profits over public health.

As you know, Secretary Leavitt, last month nine of my colleagues and I sent you a letter requesting compulsory licensing. We have given Roche plenty of time to act appropriately and they have failed to do so. In order to protect public health, we must issue a compulsory license for Tamiflu immediately.

SENATE—*Wednesday, November 9, 2005*

The Senate met at 9:30 a.m. and was called to order by the Honorable SAM BROWNBACK, a Senator from the State of Kansas.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God, who reigns forever, You are a shelter for the oppressed and a refuge in times of trouble. Give our Nation the shield of Your favor that it may bless our world. Guide our Nation's legislative branch with wisdom, integrity, and unity. Strengthen the executive and judicial branches that they will serve Your purposes. Infuse each citizen with a desire to walk on the right road in order to honor You and serve this land we love.

Bless us all with strength of will, steadiness of purpose, and power to persevere. Remind us that it is better to attempt and fail in some great thing, rather than not to try at all. Lord, teach us to number our days that we may have hearts of wisdom. We pray in Your Holy Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable SAM BROWNBACK led the Pledge of Allegiance, as follows:

> I Pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 9, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable SAM BROWNBACK, a Senator from the State of Kansas, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. BROWNBACK thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE ACTING MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The acting majority leader is recognized.

SCHEDULE

Mr. MCCONNELL. Mr. President, today we are going to begin with a 1-hour period for morning business, and then we will resume consideration of the Department of Defense authorization bill. We made good progress on that measure yesterday by disposing of a very large number of amendments. Today, we hope to work through the remaining amendments, and it is possible that we could finish the bill this evening. The chairman and ranking member are expected to line up additional rollcall votes throughout today, and we will alert Senators as those votes are scheduled.

The majority leader has mentioned several appropriations conference reports that are available or soon will be available. We expect to consider the foreign operations conference report today or tomorrow and will vote on the remaining bills as we can clear them for action in the Senate.

Having said that, Mr. President, we look forward to further progress on the Defense authorization bill during the day.

I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for up to 1 hour, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the majority leader or his designee.

Mr. MCCONNELL. Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. LANDRIEU. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

MINIMIZING DAMAGE FROM STORMS

Ms. LANDRIEU. Mr. President, I would like to spend a few minutes this morning speaking about a subject that is extremely important to the State I represent, the State of Louisiana, and to the gulf coast and also to call attention to a small but important victory we achieved this week that I hope will signal a turning or a course correction that Congress should take to help prevent the destruction we have seen on the gulf coast in the last several weeks.

Mr. President, you are from Kansas, and you know the power of tornadoes and Mother Nature. There is not anything we can do to prevent the fury of nature, but we can minimize the damage. We most certainly can use our intelligence that God has given us and our talent that God has given us and the wisdom that He gives us to make wise investments and smart choices and try to set priorities that help us make good choices for the people we represent so that we can minimize their pain and their suffering and we can maximize their hopes and their dreams for the future. I believe that is why we are here. I know I have talked with you personally, Mr. President, about the reasons you came to the Senate and I came to the Senate, and I think most of our colleagues share that view.

I wish to speak for a few minutes this morning to remind the Nation and my colleagues about the devastation and the destruction that occurred only 10 weeks ago in one of the greatest cities in the United States of America, and that is the city of New Orleans and the surrounding parishes.

New Orleans is our largest city in Louisiana, with 450,000 people, but it sits right next to Jefferson Parish of 450,000, right next to St. Bernard parish of about 60,000, and right next to Plaquemine, which is about 30,000. So it is a metropolitan area of close to 1.5 million to 2 million people.

We have never in the history of the Nation seen destruction such as this. It is unprecedented. It was not, we now know and as I said 2 days after the hurricanes, the hurricanes that got us, Katrina and Rita—a double hit, one to the southeastern part of our State, a category 4 and 5, and one to the southwestern part—but it was our own failings, if you will, that got us stuck. It was the breaching of a levee system that has successfully protected this city for over 300 years. But because of a lack of investment, because we have not set the right priorities in the last several years and over some time, and because we have our focus abroad and not at home, this is the destruction that has occurred, not just in New Orleans but in the region, in the southwestern part of our State as well, and

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

throughout the gulf coast of Mississippi.

Let me show another chart that does not have the same kind of picture, but in a more graphic form it shows the number of people who have been affected by this storm and the breaching of the levee systems which occurred throughout south Louisiana primarily.

Not many levees were breached to the north, but there were levee systems that were breached. In Louisiana, 3 million people were affected; in Texas, 802,000; in Mississippi, 1.7 million; and in Alabama, 829,000 people. Six million people were hit directly by a storm. Again, Katrina and Rita could not have been avoided, but I promise you, Mr. President, we could have minimized the damage and maximized hope if we had set better priorities and invested our money better right in this Congress with a different choice, a different course than the one set by this administration. What do I mean by that? I will get to that in a minute.

I also want to show the significance of this region. There were 6 million people affected in this region, but it is not just any region in the country. Forgive me, I represent this area, so I am quite partial to it. I do know every other area of this country is spectacular and wonderful, and I have visited many places, but I think anybody looking at this chart can understand there is something special about Louisiana, Texas, Mississippi, and Alabama.

What is special about it is we are the Nation's only energy coast. Most of the domestic production comes off the shores, basically, of Texas, Louisiana, Mississippi, and Alabama. Yes, we have some important production in the West in shallow plays of oil and gas, but we have virtually shut down drilling in other parts of the country—in my opinion, not on very good data, but nonetheless that is a choice that has been made.

The point is that we have continued to supply this Nation at a time when it needs oil and gas and needs energy production. Louisiana has not sat down on the job, Texas has not sat down, Mississippi has not sat down, and Alabama has not sat down. But what has happened is this administration and some parts of this Congress have sat down on the job of helping Louisiana and this energy coast protect itself from the kinds of storms that we have seen.

How? By not investing in the wetlands restoration, which serves as a natural barrier to the great city of New Orleans and its surrounding areas and by not investing in the critical infrastructure of levees and navigation channels and appropriate dredging that would help manage water.

Water can be a very powerful force for good. You can see here the mighty Mississippi River. Our country, in large measure, became a nation because of the securing of the mouth of the Mississippi River, the Louisiana Purchase by President Jefferson—when he made a very smart strategic investment. He did not waste his money on things that would not return a benefit to our country, but made the Louisiana Purchase for 3 cents an acre, the best real estate deal ever done. But we purchased the mouth of this river, secured it for national security but also secured it for commerce.

Mr. President, it is impossible to get grain out of Kansas, your State, or Nebraska, or throughout the great Farm Belt in the Midwest of the United States, without using the Mississippi River and its tributaries. Yes, we can manage to get some of it over here to the east coast and out to our trading partners to the east, but moving it out here, down south to our trading partners in the south and also trade routes to the east and the west would be impossible without the Mississippi River.

You would think this Congress would pay attention, particularly this administration that talks about energy independence would pay attention to this energy coast.

In addition to an energy coast, you can see here the red dots are our ports. These are parts of the largest port system in the country—two of the largest. All of the south Louisiana ports and Houston. If you combined all of the ports in Louisiana from New Orleans to the Baton Rouge port, to south Louisiana, that port and the other ports, our port system is larger than any port system in the North American Continent and one of the largest port systems in the world. You would think that we would pay attention to infrastructure such as this and invest wisely and take some of the money out of this Treasury and invest in protection of the wetlands and in a strong and robust levee system.

But we have not done that. In fact, we have done the opposite. This chart is a startling summary. It is startling to me. It is hard to grasp. This is "Civil Works Capital Investment as a Percentage of Gross Domestic Product," since 1929 to the year 2001. When we in America, the America I grew up in, talk about the great investments after the war, you can see what we are talking about. You can see a Nation that was focused on its future. Why? Because it was investing in roads and bridges and levees and dams and infrastructure necessary to lay down the framework for the greatest explosion of entrepreneurship and scientific discovery that before had not been seen in the world; almost unequaled in its breadth and its scope. But what happened? Look here. Starting in the 1980s, there were new priorities set in Washington. They have been very damaging priorities, indeed—slashing critical investments in infrastructure, cutting back on "nonessentials," trying to "conserve." This is not conservation. This is akin to taking a gun and shooting yourself in the head, when you take money out of civil works projects, away from cities, away from suburbs, away from communities, and spend it on either tax cuts for people who do not need them or on other priorities that are not as important or on wars that we cannot win. It is this low line here, right down here to the lowest percentage, under one-half of 1 percent of the GDP, that results in devastation such as this.

You do not have to have a Ph.D. in economics to understand this. This is not complicated. I am going to show it to you again. This is 20 years of disinvestment, disengagement, pretending that these problems do not exist, pretending we have surpluses when we do not, and underfunding critical infrastructure. When that happens, this is the result.

The 450,000 people who lived in the city of New Orleans at one time and the 450,000 people who lived in Jefferson Parish and the 200,000 people who lived in St. Tammany Parish and the 60,000 people who lived in St. Bernard and the 30,000 people who lived in Plaquemines Parish—and that is not mentioning the other parishes along the western part of our coast, Cameron, that is completely destroyed, and Calcasieu Parish, that suffered, and Washington Parish, that had not every tree fall but every house collapsed or destroyed in some way or affected in some way by the falling of the trees—ask these people whom I represent, was it smart to cut off investments? I don't think so.

The sad thing is, we have had an answer. I am not coming to complain. I am coming to offer a solution which our delegation has offered, now, decade after decade. We have pleaded, we have held hearings, we have had field trips to Louisiana, we have done fly-overs, we have formed a national alliance, we built a coalition of 4,500, an alliance of industry and environmentalists. We have done it all. But what we cannot seem to do is get the attention of this administration and enough members of the Republican leadership to understand that smart investments make a difference: They save lives, they build hope, they build communities, and they make a nation stronger. What I have asked for and my delegation has asked for—and I know my time is running out, and I will take 2 more minutes—what we have asked for is to redirect a portion of offshore oil and gas revenues that have been generated off of our coast, off of this coast where all these people have been injured.

There it is. With the oil and gas being drilled—and has been drilled since 1955—off of this coast, we are generating about $6 billion a year that comes into the general fund. It would be a smart thing and a wise thing right now, a wise action and a smart action, to redirect a portion of those revenues to invest in a levee system, in the restoration of this Gulf Coast area and the wetlands that protect the Nation's great energy port and trade port.

That is my message. We can do better. We must do better. We must make smarter investments with the money that is in the National Treasury. We do not have to raise additional taxes to do this. We have to redirect some of the taxes already flowing into the Treasury to invest to protect the people along the gulf coast. If we needed to share those revenues with other coastal communities—since by the year 2020, two-thirds of the continental United States will live within 50 miles of the coast—we most certainly are able to do that. But for Heaven's sake, let's get our priorities straight.

We can do better. We can make better decisions. That is what this effort is about. We are going to continue on, not complaining but offering solutions. We are not offering to raise taxes but to redirect some of the taxes that we have to make better choices to build a stronger Nation and stronger communities. I ask my colleagues to join us in this effort because I know we can get this job done. I thank the Senator from Illinois for yielding some time this morning for me to discuss this important issue.

The ACTING PRESIDENT pro tempore. The Senator from the great State of Illinois.

Mr. DURBIN. Mr. President, let me thank the Senator from Louisiana. She has been through an ordeal, as well as her colleague, Senator VITTER, with the Katrina damage and what followed. She has been on this floor every day and in private meetings every single day, exhorting this Senate, both Democrats and Republicans, not to forget what happened to her home State. It is a tragedy that none of us would like to see befall our own States, and we owe it to her to work with the President, on a bipartisan basis, first, to help the evacuees and victims; second, to make sure the great city of New Orleans is back and running as quickly as possible; third, to make the changes that are necessary to give them peace of mind and security for generations to come.

I have listened to her time and again come to the floor and talk about health care and education, the basics that people need to survive. I worry, as I am sure she does, that we are going through Katrina fatigue, that we have heard it for so long we want to turn the page and talk about other things. Thank you for reminding us every single day we cannot turn that page. I have met with those victims. Some have come to Illinois. I tell you but for the generosity and compassion of churches, charities, and local community groups. I do not know how some of these families would have survived.

What has happened in farflung communities in Illinois is that these evacuees have been embraced—and thank goodness that happened because otherwise they tell me they wouldn't have known where to turn. When the Government should have been there, it was not there. Sadly, we have to step back now and take an honest evaluation of why that happened.

I know the Senator from Louisiana shares my belief that if we had an independent, nonpartisan commission—which we have been begging for for weeks now—to take a look at what happened, not so much that we can figure out who to blame but so that we make sure we never do it again. We hear complaints about FEMA—a few weeks ago in Florida and complaints in Texas. We can do better. When it comes to disasters facing America, natural and otherwise, we can do better. I think we need to come together in an independent, nonpartisan way to make that happen.

AHMED CHALABI

It is almost hard to believe, and impossible to explain, what is going on in Washington today as we honor and fete Ahmed Chalabi. Who is Ahmed Chalabi? He enjoys the rank of Deputy Prime Minister in the nation of Iraq. But he enjoys a very questionable reputation otherwise.

Ahmed Chalabi, it turns out, was one of the key advisers to the Bush administration before the invasion of Iraq. He was so important to the Bush administration that they paid his organization, through the Defense Intelligence Agency, $335,000 a month to sustain his life and his office. Overall, the Bush White House gave his Iraqi National Congress $39 million over the last 5 years, $39 million to this Ahmed Chalabi. Ahmed Chalabi is an expatriate from Iraq, now returned with Saddam Hussein being removed from power, and he has been bankrolled by our Government as long as President Bush has been in office. His Iraqi National Congress was a major source of misinformation and disinformation about the situation in Iraq before our invasion. He was the one who was producing the evidence that led the administration to tell the American people there were weapons of mass destruction.

There were people who were skeptical of Ahmed Chalabi from the start. Former Secretary of State Colin Powell said, on June 12, 2003, "I can't substantiate Chalabi's claims. He makes new ones every year."

This skepticism was shared by other agencies of our Government, but it did not stop the leaders of our Government, under President Bush, from bringing Ahmed Chalabi into the highest level meetings concerning America's national security and our policies in Iraq.

On September 18, 2001, Richard Perle convened a 2-day meeting of the Defense Policy Board, a group that advises the Pentagon. Chalabi, who was a guest speaker at this meeting, made a presentation on the threat from Iraq.

It turns out that Chalabi was producing information from so-called defectors on a regular basis to the highest levels of the Bush administration—most of which turned out to be false.

> Chalabi's defector reports were . . . flowing from the Pentagon directly to the Vice-President's office [Mr. CHENEY] and then on to the President, with little prior evaluation by intelligence professionals.

That statement was made by State Department intelligence expert Greg Thielmann in the New Yorker. He went on to say:

> There was considerable skepticism throughout the intelligence community about the reliability of Chalabi's sources, but the defector reports were coming all the time. Knock one down and another comes along. Meanwhile, the garbage was being shoved straight to the President.

Ahmed Chalabi was the source of this so-called intelligence garbage about the situation in Iraq.

And then there was the notorious source named "Curve Ball."

He should have been given that name because his information turned out to be so wrong, so bad, and so misleading. He was another one of the so-called defectors who provided this information. He was a discredited INC defector to Germany, code named "Curve Ball," and the chief source of information on Iraq's supposed fleet of mobile germ weapons factories which turned out to be a hoax. "Curve Ball" was the brother of a top lieutenant to Ahmad Chalabi.

Chalabi did not stop with reaching the highest levels of our Government and misleading them about the situation in Iraq. He had his friends in the media. Chalabi was the source of discredited news stories about Iraq, penned by New York Times reporter Judith Miller. In 2001, Miller wrote a front-page story about claims that Saddam had 20 secret WMD sites hidden in Iraq. It is amazing, the exclusive story came "just three days after the source had shown deception in a polygraph test administered by the CIA at the request of the Defense Intelligence Agency."

So when they confronted Ahmad Chalabi and asked, how could you mislead the United States with all of this bad information, leading to our invasion of Iraq, 160,000 American soldiers risking their lives, over 2,000 killed, he said "we are heroes in error." He boasted to the international media that even if he had misled the United States, he had achieved his goal. He got the United States to invade Iraq and depose Saddam Hussein.

And then what happened? The tables turned on Mr. Ahmad Chalabi last year. In May of last year, the Iraqi officials, with the cooperation of the United States, raided Ahmad Chalabi's offices in Iraq. Why? I will tell you. In June 2004 Chalabi came under investigation for allegations that he passed secret intelligence data to Iran. Remember Iran, one of the axes of evil? Chalabi is accused of telling the Iranian Government that the United States had broken the code it used for secret communications. National Security Adviser Condoleezza Rice promised Congress a full investigation into these allegations.

The Wall Street Journal reports:

> There is little sign of progress in a Federal investigation of allegations that Chalabi once leaked United States intelligence secrets to Iran.

If he did this, it is clear he endangered the lives of our troops, he endangered America's national security.

Just this week, the Wall Street Journal came out with a story about Ahmad Chalabi. They went to the FBI and said some 18 months later, what is the status of Ahmad Chalabi? Let me quote FBI spokesman John Miller, who strongly denied that the Chalabi investigation is languished. He said:

> This is currently an open investigation and an active investigation.

He added:

> Numerous current and former government employees have been interviewed.

Here we have a man who misled the leaders of our Government. Here we have a man who conceded and boasted that although he misled them, he achieved his purpose of getting the United States to invade Iraq. Here we have a man accused of selling secrets to the enemy, to Iran, and endangering American troops. And where do we find Ahmad Chalabi today? He is being hosted and feted by this administration. This man is in Washington with his motorcade moving around town, having appointments with Treasury Secretary Snow and the Secretary of State, Condoleezza Rice. Today, he is going to share his wise view of the world with the conservative think tank, the American Enterprise Institute.

This is a hard story to explain. Hard to explain to the American people; harder still to explain to American troops. How can a man who has been accused and is under investigation for passing secrets from the United States to the Iranians and endangering the lives of our troops and national security now be the toast of the town in Washington, DC? How can a man under active investigation by the Federal Bureau of Investigation, a man who has not been called for any statement or any testimony, be this guest at the highest levels of our Government?

Congressman GEORGE MILLER has been involved in this inquiry, as I have. He has made it clear, and I agree with him, when it comes to Ahmad Chalabi we shouldn't be serving him lunch, we ought to be serving him with a subpoena. We shouldn't treat him like a hero, we should treat him like a suspect in a case that may have endangered the lives of our troops.

I don't understand it. We need to call on the Intelligence Committee as well as the Department of Justice to use the tools they have to subpoena Ahmad Chalabi to make certain he answers the hard questions about how he misled our Government into invading Iraq and what he did to endanger the lives of our troops and our national security. Nothing less should be allowed when it comes to protecting our troops.

How much time remains?

The PRESIDING OFFICER (Mr. ISAKSON). There is 2 minutes 10 seconds.

OIL PROFITS

Mr. DURBIN. Mr. President, I close by saying we also have coming to Capitol Hill today a group of oil company executives. They couldn't have come at a better time.

Someone said this is simply theater. I hope it isn't. It is time to ask hard questions of these oil companies which have over the past 6 months dramatically increased the price of energy for people across America. People living in Illinois and across our Nation—families, small businesses, farmers—have been dealing with this oppressive increase in prices.

A lot of blame was pointed, when it came to OPEC, that it is the Saudis; they are running up the price of oil. Well, they did, but that was not the reason the price at the gasoline pump went to $3. It went to $3 because of this: Oil companies are making record profits, record profits over the increased prices they are charging to consumers across America. This chart is an indication of the billions of dollars they are making.

ExxonMobil reported record quarterly profits of $9.9 billion, up 75 percent from last year. Put the nozzle in the tank and watch the numbers spin on the gas pump; the money from your credit card is going directly to the boardrooms of these oil company executives.

Senator MARIA CANTWELL of Washington has the right idea: We need to put the oil company executives under oath today, ask them the hard questions as to whether they have been profiteering at the expense of the most vulnerable people in America, people who get up and go to work every day and cannot afford to fill their gas tanks; businesses that are languishing, that cannot hire the people they need, cannot reach profitability, because of the profiteering of oil companies. And farmers, already hard pressed in many parts of our country by bad weather and bad prices, find their input costs going through the roof because of the high cost of energy.

The oil company and lobbyists are all over Capitol Hill. They are swarming because several Senators, including some Republicans, have called for a windfall profits tax. I support that. Take the money back from these oil companies, give it to consumers across America, fully fund LIHEAP, our program to provide heating sources for the poor in America. Make certain we tell these oil companies no, and stand up for the consumers who paid these outrageous prices.

I yield the floor.

The PRESIDING OFFICER. The balance of morning business is controlled by the majority.

The Chair recognizes the Senator from Kentucky.

RATIFICATION OF IRAQ CONSTITUTION

Mr. MCCONNELL. Mr. President, normally I don't get an opportunity to hear my good friend from Illinois, but I am glad I was here as he gave one of his appraisals of the situation in Iraq. As Paul Harvey often says, I would like to provide the rest of the story; arguably, a more balanced view of what is going on in that very important country.

In fact, freedom has taken another giant step forward in Iraq. On October 15 the Iraqi people voted overwhelmingly to ratify their Constitution. Iraqis turned out in stunning numbers to embrace democracy, tolerance, and a just rule under law. In fact, they turned out in greater numbers than we turned out here last November, which was a very high turnout by U.S. standards—and, of course, most Americans were not afraid they would get shot when they went to the polls.

Iraqis created a constitutional republic in the heart of the Middle East. This is an unequivocal victory in the war on terror. It is the only way we can assess it. With their votes, millions of brave Iraqis rejected dictatorship and created a republic. They rejected rule by fear and terror and embraced rule by the consent of the governed. They stood together as a country under one motto: "we the people."

Nearly 10 million Iraqis turned out to vote, a turnout rate of 63 percent. That was up from 60 percent last January when they elected their interim government. That was 3 percent higher than our own turnout here last November, 60 percent, which was 10 percent higher than our turnout here in 2000, which was 50 percent. Again, I say, those Iraqis, many of them, might have been concerned about their safety when they went to vote. That was the first free election in Iraq in over 50 years last January.

Furthermore, and very significantly, turnout among Sunni Arabs increased dramatically. This is a testament that the policy of continued political outreach to influential Sunni leaders during the constitutional drafting process was a success.

For instance, in the heavily Sunni province of Salahaddeen in the city of Ishaqi, only 300 people voted last January in the interim election vote. This time around, on the Constitution, on October 15, 10,000 Iraqis voted. Three hundred in January, 10,000 in October, largely Sunnis. This is only one city, but the turnout was up dramatically. Many in the Sunni population obviously decided their interests are best served not by fighting an armed insurgency but by joining the political process.

Not only did Iraqis turn out in record numbers, they also voted to ratify their new organizing document in overwhelming numbers. The final results show over 78 percent of Iraqi voters said yes to the Constitution. Of Iraq's 18 provinces, 12 voted yes with majorities exceeding 94 percent. Three more provinces voted yes with solid majorities, including the province of Baghdad. In the Baghdad province, 77 percent ratified the Constitution.

The Iraqi Government decided that for the Constitution to fail, at least three provinces had to vote "no" with at least two-thirds of the vote. Only two provinces did that, the Anbar province and the province I mentioned earlier, Salahaddeen.

The democratic process in Iraq will continue to move forward. Iraqis are now preparing for another nationwide election pursuant to the Constitution they ratified. That election on December 15 will be for the first permanent democratic government in Iraq's history. They will choose 275 members of a council of representatives to serve all the people of Iraq.

It is odd to me that at such a moment of triumph in that country, there are still those who call for America to get out while we can in the midst of this triumph that is occurring there. They believe our troop withdrawal should be arbitrarily based on the calendar rather than on achieving results. In short, they want to cut and run. And until we do, they will endlessly criticize our troops' efforts but offer no alternatives of their own.

It is important to remember to withdraw prematurely from Iraq, as the cut-and-run crowd suggests, would play right into the hands of the terrorists. The terrorists themselves have already told us that. They have told us what they have in mind. In a letter our intelligence forces intercepted, written by Ayman al-Zawahiri, the No. 2 terrorist in the al-Qaida hierarchy, and sent to lead Iraqi terrorist Abu Musab al-Zarqawi, we learn that the terrorists' foremost goal is to drive America out of Iraq. No great surprise.

Here is how al-Zawahiri instructs his partner in villainy:

> [T]he Jihad in Iraq requires several incremental goals.
>
> The first stage: Expel the Americans from Iraq.

No surprise.

> The second stage: Establish an Islamic authority . . . in order to fill the void stemming from the departure of the Americans, immediately upon their exit and before un-Islamic forces attempt to fill this void.
>
> The third stage: Extend the Jihad wave to the secular countries neighboring Iraq.

So they clearly not only want Iraq, they want to spread this plague into the countries surrounding Iraq.

Al-Zawahiri goes on to say:

> The mujahedeen must not have their mission end with the expulsion of the Americans from Iraq . . . their ongoing mission is to establish an Islamic state, and defend it, and for every generation to hand over the banner to the one after it until the Hour of Resurrection . . . Americans will exit soon, God willing.

Those are chilling words from our enemies.

Their plans are laid bare for all of us to see. They want us to cut and run. Worse still, they expect it. And then they will turn Iraq into a terrorist haven.

Al-Zawahiri realizes that the terrorists can never hope to defeat America on the battlefield. The only way they can defeat us is by undermining our resolve with continued suicide bombings, gruesome beheadings performed for the camera, and guerilla sneak attacks, all brought to American living rooms through the media.

The terrorists believe they can shape American policy—policy determined, in part, by this chamber—by killing Americans, because they have successfully done so before. In 1983, terrorists killed 241 Americans in Beirut, and American forces were withdrawn from Beirut as a result.

And America did not take the threat of terrorism seriously after the first bombing of the World Trade Center in 1993, nor did we take it seriously after the destruction of our embassies in Tanzania and Kenya in 1998, nor did we take it seriously after the attack on the USS *Cole* in 2000.

The terrorists believe that our determination to fight them now, after 9/11, is the exception rather than the rule. They believe that eventually we will tire, falter, and fail in this fight.

We must make plain for them—in a language they can understand—that they are gravely mistaken.

America is not going to cut and run before the job is done. For our own security, for the security of the Iraqi people, and for the security of the world, we must defeat the terrorists and leave behind a strong, stable, and secure democratic Iraq.

The terrorists are rightfully scared because America is fighting and winning the war on terror. We have made incredible progress in Iraq in 2½ short years.

I think we ought to take a look at the progress that has been made.

Taking note of this chart, Saddam Hussein came to power in 1979 and was in power from 1979 to 2003. What were the hallmarks of those 24 years for the people of Iraq? Over 4,000 political prisoners were summarily executed—one of his great accomplishments; 50,000 Kurds killed, many of them with chemical weapons; 395,000 people were forced to leave Iraq during that 24-year period.

They had to get out or be killed.

Iraq had no free elections and no free newspapers, and Saddam Hussein stood above the law.

What has happened in the 2½ years since Saddam Hussein's fall from power? Iraqis are now innocent until proven guilty. They have a legal system. Seventy-five Kurds have been elected to the legislature, as compared to 50,000 Kurds getting killed during Saddam's regime. Over 270,000 of those Iraqis who had to leave the country—of the 395,000 who were forced to flee Iraq—have come back home to build a new free Iraq, and 9.8 million people voted on the constitution on October 15. They weren't any free elections for 24 years under Saddam. They have over 100 free newspapers—100 free newspapers in Iraq now. They have more competition probably than we do, with freedom of speech breaking out all over Iraq.

Hussein, who stood above the law, now is on trial, subject to the law in Iraq.

That sums up the progress that has been made. The 24-year period of terror is over and a new democratic, free Iraq is emerging.

Before I leave the floor, I want to offer my colleagues some words of bravery from ordinary Iraqis, as an antidote to the al-Zawahiri letter I read earlier. These are the people who defied al-Zawahiri and al-Zarqawi to vote for the free future of their country. What these courageous people have to say should convince anybody that the Iraqis understand and are willing to pay the price of freedom.

Here is what one fellow had to say:

> 'I have not forgotten the mass graves and the torture and the killings,' said Abdul Hussein Ahmed of Najaf. 'Five members of my family were killed by Saddam and his people. But now, with this constitution, everyone is equal under the law.'

Munthir Abbas Elaiwi of Baghdad agrees.

> '[The constitution] will bring all that is good for the people, such as stability, democracy and peace. With such a charter, we will show the world that we are a civilized nation, not a bunch of ignorant and bloodthirsty extremists.'

That is from one of the Iraqis participating in the progress. And if any terrorists think the people of Iraq do not hold their new republic dear, let them heed the words of Munthir's older brother, Naseer Abbas, also of Baghdad. He states quite simply: "We are ready to defend this constitution with our blood."

Iraqis are our partners in the war on terror, and they understand the magnitude of our shared cause. They realize the power a thriving democracy in the heart of the Middle East can have as a counter-example to tyrannical regimes like Iran, whose President recently called for Israel to be "wiped off the face of the Earth." The Iraqis have embraced liberty, and rejected the homicidal urgings of terrorists. I hope my colleagues will join me in saluting them and their commitment to freedom.

Tyrannical leaders who repress their people much as Saddam Hussein once did the Iraqis should make no mistake: The people in your country are looking at Iraq and wondering, "Why not here? Why not now?"

The terrorists do not have the right answers to those questions. Americans, and Iraqis, do.

I yield the floor.

The PRESIDING OFFICER (Mr. CORNYN). The Senator from Pennsylvania.

REVOLUTIONARY WAR TOMB OF THE UNKNOWN SOLDIER

Mr. SANTORUM. Mr. President, before I talk about the situation in Iraq, I want to mention something that has gone on in my City of Philadelphia which I think deserves recognition during Veterans Day: that is, a situation with the Tomb of the Unknown Soldier from the Revolutionary War. That is a memorial which was erected in Philadelphia in 1954. There was an eternal flame added to that memorial back in 1976 during our bicentennial year. About 10 years ago that flame went out, and for 10 years the City of Philadelphia and the government of the City of Philadelphia refused to relight it—to fix the flame.

It wasn't until the efforts of Larry Mendte, a journalist for the CBS station WKYW television in Philadelphia, and the work he did in bringing this issue to light—other journalists have brought this to light in the past—but to Larry's credit, he did not give up. And they continued to run story after story and hound the city of Philadelphia to try to finally fix this monument and fix this eternal flame.

I wish to give thanks to the veterans community in Philadelphia, to WKYW, to Larry, and ultimately I have to congratulate Mayor Street. After an enormous amount of pressure put on his administration, Mayor Street finally decided to fix the flame.

Once the flame was fixed, the National Park Service took that flame over and will make sure that the flame at the Tomb of the Unknown Soldier in the Revolutionary War, where so many died in the city of Philadelphia, will burn as an eternal flame.

As we all know, this Friday is Veterans Day, a day when Americans pay tribute to the brave men and women who have served in our armed forces. There is no group of Americans to which we owe more than those who have fought to protect the freedoms that are the very heart of our Nation.

The truth is that our veterans, both past and present, should be honored every day of the year. We would not be here today, enjoying all the blessings we have if it were not for the sacrifices of those who took up arms to defend America. And so, I rise today to recognize the efforts of the residents of my home state who have fought to ensure that those who passed away in service to our country are remembered, day in and day out, with the reverence they deserve.

The city of Philadelphia, so central to the American Revolution, became the final resting place for thousands of Revolutionary soldiers. Many of these brave men, America's first patriots, were laid to rest in mass, unmarked graves throughout the Philadelphia region. To honor these soldiers, and the millions more who have fought for our Nation since its inception, a war memorial was erected in Philadelphia in 1954. Ever since, this monument, known as the Tomb of the Unknown Soldier, has stood as a tribute to those who first made the ultimate sacrifice in the name of America.

During the bicentennial celebration in 1976, an eternal flame was added to the monument. This flame, a symbol of the enduring spirit of the soldiers that passed, was to burn continuously in their honor. Yet over time, the flame was neglected and allowed to die out. For the last few years, this monument has stood incomplete, and as a tribute to our soldiers, insufficient.

Thankfully, Philadelphia is a city filled with conscientious, concerned citizens. On June 6 of this year, Mr. Larry Mendte, a journalist for the CBS station WKYW, reported that the flame had gone out. The response from viewers was immediate. The next night, a veteran of the gulf war traveled to the monument and lit her own flame, a flame that would certainly not wane due to neglect, thus beginning a candlelight vigil that would be joined by many others.

Mr. Mendte, along with his colleagues at CBS, would not let this story disappear. He tracked down city officials, demanded an explanation, and refused to accept their attempts to brush him off. On June 13, merely seven days after the initial story was broadcast, the city began the repair process. Thanks to the efforts of Mr. Mendte, WKYW, and the many concerned Philadelphia residents who responded to this story, over 100 individuals were able to witness the reigniting of the eternal flame on June 29.

An inscription on the Tomb of the Unknown Soldier reads, "Freedom is a light for which many men have died in darkness." Freedom is a light, a light that still shines bright throughout the world thanks to the effort and sacrifice of American soldiers. Today in Philadelphia, a different light is shining, once again, in recognition of these soldiers and what they have given for us.

I commend Mr. Mendte and his colleagues at WKYW for bringing attention to this issue and pushing for its resolution, as well as the residents of Philadelphia who responded, in force, with their support. Most of all, I thank America's veterans, who have given more than we can ever repay, and deserve to be honored and recognized at every opportunity. The eternal flame at the Tomb of the Unknown Soldier is a fitting tribute, and I am proud to represent such dedicated, patriotic citizens who worked so hard for its restoration.

Congratulations to all involved in the city of Philadelphia.

U.S. SERVICE MEMBERS' SUCCESS IN IRAQ

Mr. SANTORUM. Mr. President, I congratulate the Senator from Texas, Senator HUTCHISON, for her tremendous effort in organizing Members to come to the floor to tell the other side of story in Iraq.

It started with a series of e-mails that I received from different people, from constituents to folks who weren't constituents, who complained to me—these are soldiers in-country—that they were becoming frustrated because every day they would be out there on the frontlines in-country, serving, sacrificing for our country and accomplishing great deeds and then would have to turn on CNN and other news shows and read the clips from the American newspapers and see a war being described which they were not seeing. They were not seeing the war as being an IED every day but seeing, every day, hundreds of thousands of Iraqis working with our American military forces to make Iraq a more stable and safe place.

I, along with Senator HUTCHISON and my colleagues, have decided it is time to start going around the mainstream media and telling the other side of the story.

I came from a press conference downstairs where I had four civilian independent military bloggers. These are people who have been in-country—one is going to be in-country in the next couple of weeks, one who is the wife of someone who is heading to Iraq—talking about the military blog, talking about all of the information that is now populating the Internet, of people who are actually there in-country, telling their stories, people who are making a difference every single day in the lives of Iraqis.

One such person is Captain Jim Bentzley, who is from suburban Philadelphia, who wrote to me a month and a half ago. He said:

> The reason I'm writing to you about this mission is because I do not believe that the American public realizes how well we are working with the new Iraqi military. In my own shop, the mission could not be accomplished without the help and, cooperation of my Iraqi troop-employees. Likewise, I help them by guiding them through the U.S. military's logistics system. I'm also trying to educate them past the military logistics by introducing them to some of my civilian-experience and U.S. business logistics practices: lean logistics and six sigma. Efficiency is a new concept for them . . . but I believe I can get through to them so that when we, Americans, leave this place, the Iraqis will pick up the mission seamlessly.
>
> I would like you to visit my operation so that you can see the way we work with the Iraqis and so that the American people can also see. There are a lot of good things going on over here and most of them deal with people and the close relationships that are being formed—this is definitely not seen by America; America only seems to see the darker side of Iraq. Friendships that will last a lifetime are starting here, and they are friendships between former enemies. I realize I've only been here, in Iraq, for a couple of weeks, but already I consider my Iraqi counterparts close friends.

Corporal Mindo Estrella, from Erie, PA said:

> I like working with the [Iraqi Army] and teaching them our tactics. I think that they've learned what we are teaching them and one day will be able to take over operations.

Corporal Estrella reenlisted, in the Marine Corps this past October, shortly after his battalion arrived: in Iraq. He said:

> I like what I do. It gets rough at times, but nobody made me come out here. I signed the contract knowing what I was getting myself into.

He reenlisted last month. He said he likes what he does. He feels he is making a difference in transforming the country of Iraq.

LCpl Dan Williams said the same thing. He arrived in mid-March and has worked in-country, in Fallujah, to identify lots of insurgents and is working with the people now. He says he is getting the intelligence from the people in the community, where originally they were hesitant to work with them. Now most of the intelligence they are gathering is from Iraqi civilians who realize that it is now in their best interests for their country that they want to fight for to cooperate not with the American military but also with the Iraqi military in rooting out insurgents in their country.

We are making tremendous, positive steps.

I am going to be working, over the next several months, to make sure that the stories of the people who are on the frontline, who are fighting the war in the trenches, have their stories told to the American public and not people sitting in editorial rooms in New York City trying to spin what is going on in the mainstream of Iraq.

For example, news comes that America has suffered the loss of 2,048 brave servicemen and women in Operation Iraqi Freedom. The loss of any soldier in the cause of freedom grieves us all; especially the parents, wives, husbands and children of each deceased loved one. As elected officials, we don't know these soldiers as numbers, but as people, with hopes and dreams, family and friends. Knowing them as we do, it is hard to imagine the loss of any of them.

As great as the loss is, it can only compound a family's sadness to hear some say that the loss of their loved one was neither for the protection of America or the freedom of man. Yet we hear it regularly. Critics say Iraq posed no threat, as there was no link in Iraq to the war on terror. Or that securing freedom in the Middle East is impossible or isn't worth one American life.

To those who have lost their loved ones, don't believe these critics. Don't let those poisoned words take root in your heart.

As you hear of the 2,048th soldier lost, there is another number that demonstrates the protection of Americans here, and the preservation of freedom around the world. And that number, as best we can ascertain, stood at 450 last month.

Over 450 suicide bombers have attacked in Iraq. That is over 450 suicide bombers who did not strike at America's homeland, did not strike at our embassies, our ships, our civilians around the globe. It is your sons and daughters who have protected America from these 450 plus suicide bombers.

The suicide bomber represents that greatest threat to America, to democracies, to civilized society, and to peace. Stopping suicide bombers from attacking America and our allies is the foremost goal of the War on Terror. Without terrorists, planes, trains, boats, cars, and buses are moving gifts to society. Add a single terrorist, and they are transformed into weapons of mass death and destruction.

With one suicide bomber, a stolen van filled with explosives cost the U.S. Embassy in Beirut 63 lives, including 17 Americans. With one suicide bomber, a delivery truck took out the Marine Barracks in Beirut, costing the lives of 241 U.S. Marines. With just two suicide bombers, a small boat hit the U.S.S. *Cole*, killing 17 sailors. With just four suicide bombers, the London subway and buses became the final destination for 52 civilians. With just 19 suicide bombers, four airliners made for one of America's darkest days by killing nearly 3,000 innocent people.

The suicide bomber is the foremost weapon of terrorism today. So how can anyone say that 450 ex-suicide bombers in Iraq has not protected American lives?

Critics of this war insist that it is America's presence in Iraq that has created the 450 plus suicide bombers in Iraq. Did America's presence in Iraq cause the attack on the World Trade Center in 1993? Did our presence in Iraq compel terrorist to attack us on 9/11? The answer is no. It was our existence in the world that compelled the terrorists to attack us, time and again. These suicide bombers existed and attacked America before, on, and after 9/11, and well before Operation Iraqi Freedom.

Frankly, I am stunned that after 9/11 that anyone in a position of power would assume the peaceful intentions of one suicide bomber, much less each and every one of the 450 ex-suicide bombers in Iraq.

So I believe that 450 fewer suicide bombers does make America safer, and our brave men and women in uniform serving in Iraq have protected America from these cowards.

On the Marine Corps website is a story about Lance Corporal Dan Williams, a 22-year-old intelligence analyst from Murrysville, PA with the 1st Battalion, 6th Marine Regiment currently conducting security and stability operations in and around Fallujah. Part of Lance Corporal Williams' mission is to piece together fragments of data on terrorist identities, connections, and locations. This information is used to determine where and when to apprehend these individuals, and what type of threat they may face upon arrival. Since his unit arrived in Iraq in mid-March 2005, Lance Corporal Williams and his fellow Marines have helped to apprehend dozens of insurgent supporters and to unearth several weapons caches in the area.

As for this fight for freedom, we now have a democratically-elected constitution in place in Iraq. Will freedom and democracy take root and flourish in Iraq?

We cannot say right now. But, when we laid to rest the 1,500 American soldiers that perished on D-Day in the grave at Normandy, no one could say whether freedom would take in post-Nazi Germany. When we laid to rest those 6,891 fallen soldiers at Iwo Jima, no one could say that militaristic Japan would become a democratic nation. None of those tens of thousands who fought and died in the hot chapter of the Cold War knew that freedom would ever arise behind the Iron Curtain, much less survive. And even here in America, as we buried the 4,435 lost in total at Concord, Lexington, Bunker Hill, Trenton, Princeton, Bennington, Cowpens, and Yorktown, no one could say for certain that a government of, for, and by the people would take. But it did.

Each of those who died in all these battles never knew if freedom and liberty would result from their sacrifice. Rather, they died for the hope and dream that it might exist and flourish. both here and elsewhere for our fellow man.

It is so unfortunate that so often critics of this war fail to tell the stories of success coming out of Iraq; the stories which prove that our U.S. servicemembers are working with the Iraqis to help them to sustain this newfound freedom by helping the strengthen their armies.

The stories of success from our soldiers and sailors in Iraq need to be told. Our soldiers need to know that their bravery and hard work in Iraq is not in vain.

This new chance for freedom in this part of the world is due entirely to the sacrifice of our soldiers and sailors, and their families.

I say to our servicemen and women and your families—Our nation owes you our gratitude, and we honor you for bestowing the immeasurable gift of freedom. We thank each and every one of you.

The PRESIDING OFFICER. The Senator from Texas.

Mrs. HUTCHISON. Mr. President, I thank the Senator from Pennsylvania for talking about what our people with boots on, on the ground in Iraq, are saying and what they are seeing.

I think it is important that we talk to them about the feelings in America because some people might get a misimpression if they listened to people who actually put forward the idea that we would cut and run from something that was started for all the right reasons—to protect Americans.

The President, knowing what happened on 9/11, was determined that he was not going to have another terrorist attack on America with weapons of mass destruction. That is why we went into the Middle East. We took on Saddam Hussein, who was known to have, from many different sources, weapons of mass destruction.

So we are there, and our troops are doing a great job. We are building the confidence in Iraq. You can see it from the people who are voting with their feet. They are walking to the polls and voting. Even under threat of death, they are working to establish a democracy. They are defying the terrorists. They know what the terrorists are doing to their country, and they are fighting back. And we are going to stand and fight with them, as we promised we would do.

I want to talk about this picture. It says more than any words ever could. Michael Yon is a former Green Beret who has been out of the service for years. He is also a gifted photographer and writer. He was embedded in Iraq for 9 months earlier this year. He learned about the area, the people, the unit in which he was embedded, and the situation in Iraq. His photographs capture an honest and inspiring message about our soldiers' service in Iraq, the mindset of the terrorists we are fighting, and what this war is all about.

I would like to read Michael's own words describing what happened on Saturday, May 14, 2005, in Mosul, just before he took this heartbreaking picture:

> Major Mark Bieger found this little girl after the car bomb that attacked our guys while kids were crowding around. The soldiers have been angry and sad for two days. They are angry because the terrorists could just as easily have waited a block or two and attacked the patrol away from the kids. Instead, the suicide bomber drove his car and hit the Stryker when about twenty children were jumping up and down and waving at the soldiers.
>
> Major Bieger, I had seen him help rescue some of our guys a week earlier during another big attack, took some of our soldiers and rushed this little girl to our hospital. He wanted her to have American surgeons and not go to the Iraqi hospital. She didn't make it. I snapped this picture when Major Bieger ran to take her away.
>
> The soldiers went back to the neighborhood the next day to ask what they could do. The people were very warming and welcomed us into their homes, and kids were actually running up to say hello and to ask soldiers to shake hands.
>
> Eventually, some insurgents must have realized we were back and started shooting at us. The American soldiers and Iraqi police started engaging the enemy and there was a running gun battle. I saw at least one Iraqi police who was shot, but he looked okay and actually smiled at me despite the bullet hole in his leg. I smiled back.
>
> One thing seems certain: The people in that neighborhood share our feelings about the terrorists. We are going to go back there, and if any terrorists come out, the soldiers hope to find them. Everybody is still very angry that the insurgents attacked us when the kids were around. Their day will come.

Mr. President, it is stories like this one that reaffirm why Americans are so proud of our troops and proud of the Iraqi people for embracing democracy and supporting our efforts to defeat terrorism. U.S. troops are not seen as occupiers, as some in our country would have you believe. Our soldiers are standing beside Iraqi forces, and their sacrifice to win the war on terror will never be diminished.

We are fighting an enemy who is willing to make a point of killing innocent children. There will be no freedom if we cut and run. We know why we are there, and we will complete the mission.

This story shows so much about how our troops feel. And if any person in this country talks to troops who have returned from Iraq, they will tell you similar stories about the feelings of the Iraqi people. Iraqis often are under threat of death if they are talking to American soldiers or trying to do something productive that would move their country forward, such as voting on a constitution, which they did in droves. They are standing firm despite the threats.

Our troops are going through the process of teaching the Iraqi police and the Iraqi soldiers how to help themselves, how to work the equipment, and how to counter insurgents who would wait until children are in the picture before choosing to blow themselves up.

This is an enemy that we must not let stay on this Earth. We must eradicate it wherever it is. And we must make sure that it does not come to America because if this enemy would wait until children are surrounding our soldiers to do their heinous crimes, what would they do if they came back to America to attack our people? How heinous would their crimes be here?

Our President is trying to make sure they do not have that opportunity, that they will not be able to perpetrate their horrible and indecent acts against the people of America on our soil. Our President is taking every step to assure that Americans are secure.

So I think it is time for us to stop the partisan bickering. No one in their right mind would suggest that this is a time for America to turn and run. So let's try to work together to make sure we are doing everything possible to help the Iraqi people get on their feet, hold their elections, and begin the process of self-government.

> Nothing will eradicate terrorism more quickly than showing that democracy and self-governance can work. That is what our President is leading our country and our troops in the field to provide: Safety and security for the Iraqi people so they can govern themselves. The Iraqi people are moving forward with a constitution they have written and they have voted for, which will be followed by more elections of a parliament and leaders who will take this constitution and make the laws that will give freedom to every Iraqi. Freedom is something which they have not known—many of them—in their lifetimes. It is a worthy cause because it will also assure the security of the American people in future generations.

Mr. President, I yield the floor.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1042, which the clerk will report.

The journal clerk read as follows:

> A bill (S. 1042) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

> Chambliss amendment No. 2433, to reduce the eligibility age for receipt of non-regular military service retired pay for members of the Ready Reserve in active federal status or on active duty for significant periods.

Ensign amendment No. 2443, to restate United States policy on the use of riot control agents by members of the Armed Forces.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The journal clerk proceeded to call the roll.

Mr. INHOFE. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, may I ask what the regular order is right now, what the pending amendment is?

The PRESIDING OFFICER. The pending amendment is the Ensign amendment No. 2443.

AMENDMENT NO. 2440

Mr. INHOFE. Mr. President, I ask unanimous consent to set aside the Ensign amendment, and I send to the desk my amendment No. 2440 and ask for its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report.

The journal clerk read as follows:

> The Senator from Oklahoma [Mr. INHOFE], for himself and Mr. FRIST, proposes an amendment numbered 2440.

Mr. INHOFE. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

> (Purpose: To ensure by law the ability of the military service academies to include the offering of a voluntary, nondenominational prayer as an element of their activities)
>
> At the end of subtitle G of title X of division A, add the following:
>
> **SEC. 1073. PRAYER AT MILITARY SERVICE ACADEMY ACTIVITIES.**
>
> (a) IN GENERAL.—The superintendent of a service academy may have in effect such policy as the superintendent considers appropriate with respect to the offering of a voluntary, nondenominational prayer at an otherwise authorized activity of the academy, subject to such limitations as the Secretary of Defense may prescribe.
>
> (b) SERVICE ACADEMIES.—For purposes of this section, the term "service academy" means any of the following:
>
> (1) The United States Military Academy.
>
> (2) The United States Naval Academy.
>
> (3) The United States Air Force Academy.

Mr. INHOFE. Mr. President, even though the Founding Fathers were very clear and spoke of "Nature's God" and of the "Creator" in the Declaration of Independence, the Federal courts are increasingly trying to drive every vestige of faith from public life.

On April 30, 2003, came an example from the Fourth Circuit Court of Appeals.

As the Boston Globe reported it:

> Judges bar prayer at public colleges. In a precedent-setting ruling against prayer at a State college, a Federal appeals court has barred the Virginia Military Institute from writing and reciting a prayer before cadets eat their evening meals.

VMI and then the Citadel down in South Carolina have scrapped their prayers since that Federal court ruling, though Justice Stevens declared:

> There is no injunction presently barring VMI from reinstituting the supper prayer.

The Naval Academy in Annapolis has also been reviewing its policy. The ACLU, the American Civil Liberties Union of Maryland, is calling on the academy to review its practices of leading the students in prayer.

Jeff Jacoby is a columnist for the Boston Globe who wrote in 1996:

> Have you heard about the Virginia politician who wanted references to God injected into the Declaration of Independence? Or about the activist from Massachusetts who urged making the Fourth of July a quasi-religious holiday? These proposals were made 220 years ago. Today they would be swiftly denounced by the ACLU, the Democratic Congressional Campaign Committee, and a slew of editorial pages.

It was just last year that the Ninth Circuit Court of Appeals ruled to have "under God" taken from our Pledge of Allegiance.

We go around, as I do in my State of Oklahoma, spending a lot of time talking to people. I know what we do up here is significant. We pass laws. We have a lot of rules and regulations coming out of the White House, out of the various committees, including the one I chair, the Environment and Public Works Committee, but when you are on the street, it is the legislating from the bench that bothers people more than anything else. And certainly taking "under God" out of our Pledge of Allegiance is right at the top of that list.

Now, I agree with my friend in the other body, Congressman WALTER JONES, who has led this fight in the House of Representatives, when he asks the question:

> How much longer will we stand by and allow others to ignore the very God upon whom our Nation was founded?

I also agree with the position of the Concerned Women for America that:

> Prayer is essential to the protection of our families, our communities and our nation. We believe that the men and women who put themselves in harm's way have the right to give public thanks to God and ask for His blessings. But some are trying to take this right away.

Ronald Ray and Linda Jeffrey of Concerned Women for America recap:

> On July 11, 2005 the Marine Corps Times announced the Anti-Defamation League's reissued call to cease the traditional noonmeal prayer at the Naval Academy, and the Academy's refusal to surrender. The ADL's demands echo the April of 2003 complaint by the ACLU, which could not find a plaintiff to pursue a lawsuit.

This is kind of interesting. The ACLU was trying to find one cadet at the Naval Academy to act as a plaintiff. They couldn't find one.

Take a good look at this painting by Arnold Frieberg of "The Prayer at Valley Forge." Since the time of George Washington and the founding of our country, there is unbroken historic precedent of leader-led prayer sustaining American fighting men on the battlefield through every American war. In his Farewell Address, George Washington said:

> I consider it an indispensable duty to close this last solemn act of my official life by commending the interests of our dearest country to the protection of Almighty God and those who have the superintendence of them into his holy keeping.

On the 4th of July, John Adams of Massachusetts said:

> It ought to be commemorated as the day of deliverance, by solemn acts of devotion to God Almighty.

The centrality of prayer for the protection of those in peril upon the sea and acknowledgment of divine providence is an official tenet of preparation of the American military. America's dependence upon prayer exhibits itself before, and in the Declaration of Independence, and in the Inaugural Address of every President. Congress opens each day with a prayer. The tradition of prayer continued on June 6, 1944, when President Roosevelt led the entire Nation in prayer during his radio address, lifting up our assault forces and the families of those who would give the supreme sacrifice in the D-Day invasion. The President did that before the invasion.

During World War II, GEN George Patton led the famous prayer for favorable weather during the crucial 1944 Battle of the Bulge, and the weather dramatically improved. Patton issued 3,200 training letters to officers and chaplains in the Third Army to "urge, instruct, and indoctrinate every fighting man to pray as well as to fight." That is George Patton.

In one of the largest social science research projects in history, the Social Science Research Council reported after World War II that soldiers selected prayer most frequently as their source of combat motivation. From 1774 until today, more than 67 Armed Forces prayer books have been widely and efficiently distributed to our fighting forces during war, from the American war for independence to the war on terror we are fighting today.

A sampling of just two prayer books distributed during World War II and the Korean war contain recommended prayers from 34 senior uniformed military authorities, including Bradley, Eisenhower, MacArthur, Marshall, and Patton.

Former Chairman of the Joint Chiefs, Admiral Thomas Moorer, concludes:

> Prayer for the common good and acknowledgment of Divine Providence is a central, official and historic tenet of the combat leadership preparation for the American Military, particularly officer training and particularly in times of national peril or war.

Our Constitution demands the freedom to worship freely, and our future leaders, our men and women in military academies across the country, may soon be denied that freedom for which many have died to ensure that freedom for all of us.

Last year, 2004, the Supreme Court decided not to hear the ACLU challenge to cadet-led prayers at Virginia Military Institute. VMI, that is where it all started. That decision allowed the Fourth Circuit Court of Appeals decision to stand which prohibited VMI from sponsoring a daily supper prayer. Right after that, the Citadel followed their lead.

Supreme Court Justice Stevens pointed out in his decision for the majority not to hear the case that, in contrast, the Sixth and Seventh Circuit Courts have rejected challenges to nondenominational prayer at the college level, reasoning that "college-age students are not particularly susceptible to pressure from peers towards conformity."

It is important to acknowledge here that the Sixth and Seventh Circuits, as well as the Fourth Circuit, all agree that there is not a problem in our colleges and universities. The VMI prayer was voluntary. Stevens states that there is no "direct conflict among Circuits," relying on the factual differences between the cases in the different circuit courts.

Justice Scalia writes, however, that "the basis for the distinguishing—that this was a separate prayer at a state military college, whereas other cases involved graduation prayers at state nonmilitary colleges—is, to put it mildly, a frail one."

Scalia continues:

> In fact, it might be said that the former is more, rather than less, likely to be constitutional since group prayer before military mess is more traditional than group prayer at ordinary state colleges.

That is the state of the law today. Currently, they are not praying at VMI and at the Citadel. There is some problem at the Naval Academy.

Frustrated by the failure to find anyone in the Naval Academy to serve as a plaintiff, the ACLU now asks the Armed Services Committee of the Congress to take action. My amendment is designed to send an unsubtle signal to any court that entertains an ACLU suit against the military academies. It will stand as an indication of congressional intent on the matter. That is important. A lot of times congressional intent is not. However, when it is stated, when a decision is being made on a matter like this, it is significant. It is that intent that we want to have as an amendment to the bill today.

Judges inclined to back mealtime prayer will be able to point to this legislation as an argument for judicial deference to the will of Congress and the executive branch.

My amendment's language was in the House-passed version of last year's National Defense Authorization Act for fiscal year 2005. This year I want to see a recorded vote in the Senate to make clear exactly who agrees with this provision and who does not and to show the strength of support for this provision. While debating this National Defense Authorization Act, and hereafter, let us honor our heroes and those who have returned home and those who sacrificed their lives by standing against those liberals who would seek to challenge their God-given right to pray to a living Lord.

What I would like to do is yield the floor. First, I ask unanimous consent that Senator ALLARD be added as a cosponsor of the amendment.

The PRESIDING OFFICER (Mr. GRAHAM). Without objection, it is so ordered.

Mr. INHOFE. I understand Senator WARNER, our distinguished chairman, wants to speak, as well as Senator BROWNBACK.

I yield the floor and retain the remainder of my time.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I commend our colleague. This is a very significant and important step that he has taken. I ask unanimous consent to be added as a cosponsor on the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. The Senator from Kansas asked for a moment or two to speak. I shall yield the floor at this point and then follow with my remarks. I first ask the Presiding Officer with regard to the time remaining for the proponents of the amendment.

The PRESIDING OFFICER. The proponents have 17 minutes 15 seconds remaining.

Mr. WARNER. I thank the Chair.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. BROWNBACK. Mr. President, I thank my colleagues from Oklahoma and from Virginia for allowing me to speak on this important amendment. This morning, I started my day in the Senate as the Presiding Officer. I started it standing next to Chaplain Black, who is a Navy chaplain. He gave the opening prayer for the Senate. We have had an opening prayer for many years. I found it inspiring, encouraging. I found it uplifting and important that we open this body with a prayer. We do so on a daily basis. As I sat as Presiding Officer, I looked at the door opposite me. Right above it, on our mantlepiece, we have "In God We Trust," as we have on our coinage and in our beliefs and hearts. To many Americans, we are one Nation under God, indivisible, with liberty and justice for all.

It is with this in mind that I rise in support of the amendment of the Senator from Oklahoma, No. 2440, that protects the ability of superintendents of military service academies to set appropriate policies for the offering of voluntary nondenominational prayers at authorized events. This is basic. It is important. It is the protection of the practice of religious liberties at our military institutions.

Prayer in military environments, as well as in public settings generally, has come into question in recent years. This amendment has specific relation to the 2004 Supreme Court decision not to hear a case regarding the challenge by the American Civil Liberties Union to mealtime prayers at Virginia Military Institute.

This follows on a series of cases for 40 years now of an attempt by the hard left in America to have a naked public square, to have no recognition of a divine authority, to have no recognition of seeking a divine authority or guidance, but a naked, sterile public square. That was not contemplated in our Constitution. It called for a separation of church and state, but not the removal of church from state which is what this seeks to perpetuate.

The mealtime prayer at Virginia Military Institute was a respected and time-honored practice, a military institution that has played a critical role in training U.S. military leaders for over 160 years. Sadly, the majority decision of the Supreme Court not to hear the case allowed a decision by the Fourth Circuit Court of Appeals to stand which prohibited VMI from sponsoring a daily supper prayer.

However, other circuit courts have rejected challenges to nondenominational prayer at the college level. And we should, too; we should allow this prayer to take place. We shouldn't have a naked public square. We should have a robust one that lifts up faith and lifts up the seeking of those to a higher moral authority.

Freedom of religion as protected in the U.S. Constitution does not require the removal of all religion from public settings. Such secularity is not what our Founding Fathers envisioned when they established religious liberty as one of the basic tenets of the Republic. I support the Senator from Oklahoma in his effort to clarify to the judicial branch and the military Congress's understanding of this fundamental constitutional right with regard to military academies. This is important. It is one of those things, as we try to stop this onslaught of the removal of religious liberty, which is what the move is about and what the Senator from Oklahoma is trying to prevent, the removal of religious liberties, to allow the robust practice of religion, nondenominational, nonsectarian, yet seeking that God in whom we trust.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, before the distinguished Senator from Kansas leaves the floor, I want to speak to him about another matter. I ask unanimous consent to go off this amendment for a brief period and charge the time to me from the bill time so I may have a colloquy with my good friend and colleague from Kansas.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. The Senator has submitted to me an amendment which is in our allocation of 12 amendments regarding the notification that you deem important with military families, should they seek to access a military hospital for the performance of an abortion by a young person in that family. Am I generally correct about that?

Mr. BROWNBACK. That is correct.

Mr. WARNER. In studying the amendment over the night—now it is not the pending amendment, but I want to bring these issues to the attention of the Senator, in fairness. The Senator, though, appreciates that so many of these families, particularly those abroad, are often separated because a spouse, male or female, as the case may be, the serving member in uniform, could be detached from the family homesite and sent into other areas of the globe for periods of time to perform missions. For example, there is a number of families resident in Europe whose spouses are then part of cadres of individuals going into the Iraq situation, some into the Afghan situation. That poses some difficulty, as I see it, in trying to work out a communication between family members, which communication is relative to life and death, and very important.

I am concerned that we are reaching down to a very small number of individuals, i.e., the military families, and could be imposing upon them, should this amendment be adopted and become law, a difficult situation. I am of an open mind, but I am concerned about having that type of legislation on this bill.

Mr. BROWNBACK. If I could respond to my colleague——

Mr. WARNER. And then if the Senator would address also the issue of the U.S. Federal district court being a participant in this situation.

Mr. BROWNBACK. This is a simple parental notification bill which we brought up last time on the Department of Defense authorization bill and agreed to take it on last year because of desires to move the bill forward. We have worked on it a great deal. What it is about is if a child, a dependent of military personnel, seeks an abortion, they have to get parental notification, which most Americans support. Most Americans believe if their child is seeking a medical procedure of any type, they should have parental notification take place.

Mr. WARNER. Mr. President, if I could interject at this time, personally, my own philosophy is in agreement with the objective. My only concern as manager of the authorization bill of the Department of Defense is that I cannot let my personal beliefs override my judgment as to how best to treat these families of our military.

Mr. BROWNBACK. I understand that my colleague from Virginia and I, too, have major military bases in our States. Fort Riley is growing in size as an army unit. It is a place that has troops all the time in Iraq and Afghanistan, so I see this on a personal basis in my State. But I also see on a personal basis, if you are deployed there and you have a minor child who is seeking an abortion, that you as the father or mother want to be notified about that, and we provide this to be done telephonically so a person does not have to be present. The court itself would have to establish witness or evidentiary standards if they want somebody to be present to be able to determine that this person is there, is the actual one who is seeking this.

We also provide a system in here that a guardian is appointed if needed, and that can be done by the district court without the approval of the parents, but they have to go through that procedure to be able to get this done.

We have worked to try to make this work with personnel. I think it is going to happen in a limited number of settings, but it will happen. It is a Federal issue because it is Federal property, Federal employees, and it is something I think we should do for military personnel so they are in charge of their child's upbringing, and particularly on something such as this of a significant medical procedure of an abortion. So we try to take into consideration the very legitimate concerns of the Senator in putting this forward.

Mr. WARNER. Mr. President, again, I strongly support the principle and the goals the Senator is seeking, but I have to be mindful of the practicalities of military life. It is so different than the families who are in our several States, wherever they may be, and that, of course, brings up another question. Suppose this particular military family's members are residents of a State, which State thus far has not addressed this issue. This State has no requirement for the parental consent in that State, yet they are now being subjected to a Federal law which, of course, would have supremacy over the State law. But is that not an invasive practice in the States rights?

Mr. BROWNBACK. Again, it is a legitimate question the chairman asks in these troubling areas. We don't seem to have difficulty with this in any other medical procedure a minor child would ask for, that they have to get their parents' notification. If a child literally in many places has even very minor surgery, they have to get parental notification. And yet because of the social difficulty and how much we wrestle with the issue of abortion, they don't there, and they are using Federal facilities to do this. I think this is wholly appropriate given the use of Federal facilities.

Remember, too, what we are protecting here is the right of the parent toward their minor child. If the minor child has a very difficult relationship with their parents, they can actually take it separately to the court and not have the parent get approval to do this. If I were a military person, I would want something such as this, that I am in charge of my minor child's upbringing, and particularly when it comes to surgery and something that is so important and difficult as an abortion. This is for the personnel.

Mr. WARNER. Mr. President, I engaged my colleague to set forth my concerns to other Members who are trying to evaluate their positions on this amendment, should it come forward, and I anticipate at the appropriate time the Senator will be introducing it. I question is there any precedent in Federal law for requiring parental notification, for example, in Medicare, Medicaid, or Federal employee health programs?

I have to move on to this amendment, but it is a series of very important fundamental questions that has to be addressed in the context of the Senator's amendment, despite my own personal view that I associate myself with the Senator about the parental consent. Consistently I have voted for that here, but I have an overriding responsibility for the men and women in the military, and this is very unique.

So I put this aside at this time, Mr. President, and return to the Inhofe amendment. I thank my colleague.

Mr. BROWNBACK. If I could respond to the last question. No, not Federal employees involved in Medicare and Medicaid, the other situation. We are talking about Federal employees on Federal military facilities. We are trying to protect the parents' rights in this, which the chairman did not dispute, but others may dispute, and we still need to provide another procedure for the child to go outside the parents' rights. I think this is important, and we have tried to make it workable within the military system.

I thank the Senator.

Mr. WARNER. I thank my colleague. We are going to move swiftly today, and issues could be brought up with very short time limitations on debate. That has allowed me the opportunity to express my serious concerns that I will have to address in the context of this amendment as the day progresses.

I ask unanimous consent we go back to the amendment by the Senator from Oklahoma, Mr. INHOFE.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2440

Mr. WARNER. Mr. President, I want to again thank my colleague from Oklahoma. I think it is a very important amendment.

Mr. President, this is an issue that must be carefully balanced, the constitutional guarantee of free exercise of religion and the constitutional prohibition against the establishment of religion. But it is a longstanding tradition at these academies, and I think the amendment is carefully drafted to strike a balance in those two important considerations.

Moreover, this amendment deals with the particular circumstances and environment that exist at our service academies, those honored institutions with long and storied traditions that have the mission of training our next generation of military leaders. A part of that mission is now and always has been the development of moral character and the appropriate respect for religious beliefs and needs of others who are entrusted with their leadership.

I must draw a little bit on my modest experience in service on active duty in periods of two wars. I can tell you my own observation of the importance of religion to individuals, particularly those serving overseas, and the hardships they endured either from family separation or combat situations or other difficult problems. It is a very deep feeling these many individuals have about their respective religious traditions and family traditions in religion, and it has often been a matter of life and death to some individuals. Clinging to those strong beliefs has pulled them through difficult situations.

I also stop to think about our academies. I have had the privilege over the years to visit all of them. I think particularly of the Naval Academy and its magnificent chapel. People come from all over the world to see the chapel at the U.S. Naval Academy. Just this year I was privileged to be the keynote speaker at the dedication of a new small entrance at the Naval Academy where those of the Jewish faith can go and quietly exercise their religion and share their prayers. I encourage anyone in that area to go and look at these two edifices. To me they symbolize the importance of religion in our military life.

I commend the Senator from Oklahoma.

I have been informed by the distinguished ranking member that there could be an amendment in the second degree and that individual who would bring it forth is due here in about 20 or 30 minute is my understanding, at which time I hope we could finish addressing this amendment such that the Senate could vote presumably on the second-degree amendment and then the underlying amendment prior to the noon period, although we will not stop consideration of the bill at the time but would continue. But I hope that amendment could be agreed to.

I see the distinguished ranking member.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I appreciate the chairman's comment. I do hope and believe that Senator REED will in about half an hour be able to address the issue. I can't commit to a vote, however, as indicated by the chairman. I believe there is some scheduling issue on this side which may preclude a vote at the time hoped for by the chairman. But let me work that issue the best I can as to when the vote would come on this amendment.

I believe Senator CRAIG may have an amendment——

Mr. WARNER. Mr. President, before we depart, I hope the Senator could share with me and the Republican leadership, with the understandable impediments our two leaders have, with regard to votes and scheduling them. We want to try to——

Mr. LEVIN. I hope we could stack votes at some point, including a vote on the Inhofe amendment with a second-degree possibility and also——

Mr. WARNER. And the Ensign amendment.

Mr. LEVIN. And the Ensign amendment as well. I have talked to Senator CRAIG and you have apparently.

Mr. WARNER. I have. It is such that you and Senator CRAIG can discuss that amendment.

Mr. CRAIG. Mr. President, may I inquire as to the order appropriate that we would discuss and bring up this amendment?

Mr. President, I ask unanimous consent that the pending amendment be laid aside to consider amendment No. 2437.

Mr. INHOFE. Reserving the right to object, let me ask the author of the request what the intention is because I want to continue with my discussion. About how much time does the Senator want to take for consideration of the amendment?

Mr. CRAIG. I think less than 2 minutes could solve this issue and we could return to the Senator's amendment.

Mr. INHOFE. I have no objection.

I ask unanimous consent that Senator CORNYN be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, we have a technical problem we have to address with regard to the UC request; that is, we are operating this bill under a UC, 12 amendments each side. This is not 1 of the 12.

Mr. CRAIG. That is correct.

Mr. WARNER. Therefore, I think we could go on the bill time for the purpose of discussing the Senator's amendment in the hopes what differences remain could be reconciled so this amendment could be included as part of the managers' agreed-upon package.

Mr. President, let the record reflect we are not calling this amendment up within the context of the UC which controls the overall procedure of this bill but that the two Senators are simply having a colloquy, which is fine.

Mr. CRAIG. Mr. President, that is, of course, the order. I thank the chairman for correcting us in that because we are operating on the broader bill, the underlying bill, under a UC.

This amendment was brought forth with the hope that both sides could accept it. Our side has accepted it. I worked with the ranking member, Senator LEVIN, to resolve a couple of issues in it that I think can be accepted. In that case, I hope it will appear in the managers' amendment.

We would include in the amendment—and we are discussing those who are eligible to be buried in military cemeteries. We have a prohibition now against those with a Federal capital offense lying at rest in our military cemeteries. We found this summer that an individual who had been convicted of murder in two instances in Maryland, serving his life sentence in a Maryland prison, died and was buried in Arlington. We want to correct that by saying that Federal or State law, where the final decision—he is found guilty even under appeal—it has to be a final decision in that instance, and that under extraordinary circumstances, even though he might be convicted, a Governor or a President would commute the sentence. That would be the exception.

I would be willing to agree to those two items to be included in the amendment if that is acceptable to all parties, and we would so craft it that way.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank the Senator from Idaho. The two changes we have proposed to the amendment make it clear that the conviction of a capital offense, as referred to, could either be State or Federal, would have to be a final conviction so there is no appeal pending or a pending court challenge. And it provides for the possibility of a commutation of that sentence by a Governor or the President.

With those two changes, it will be acceptable to us, and we can agree it will be part of a managers' package. There was no intent that this be 1 of the 12.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, may I inquire of the proponent of the amendment. I heard him use the term "military cemeteries." There are State and Federal cemeteries. This amendment is directed at Federal cemeteries?

Mr. CRAIG. It is the only one over which we have jurisdiction; that is correct.

Mr. LEVIN. As I understand it, national cemeteries, Federal cemeteries are governed by the amendment. With those changes, we will not object to the amendment. In fact, I think there will be good support for it. Senator MIKULSKI, as I understand, is a supporter of it.

One other comment, Mr. President. It is my understanding that both the veterans organizations and the Veterans' Affairs Committee support this amendment; is that accurate?

Mr. CRAIG. Mr. President, that is correct. Full disclosure here: There is always concern when you restrict access for purposes of burial, but because we have already established that in Federal law and this appeared to be a loophole, which it was, and an individual, as I so stated, who was convicted of murder in two instances in Maryland was buried this summer in Arlington Cemetery, they understand that clearly, they appreciate that correction. And I am very specific in my discussions with the Senator from Michigan that we are talking about capital offenses—not all felonies, capital offenses of this kind.

I thank both of my colleagues for helping us work out this issue. I hope this could be included in the managers' amendment.

Mr. LEVIN. Mr. President, if the Senator will yield further, we have had a discussion, and I received the assurance from Senator CRAIG, which I very much welcome, that it is not his intent that this lead to a broadening of this prohibition to include all felonies, but it is his intent, both in the amendment and his personal view, that this should be limited to the capital offense as identified in the amendment.

Mr. CRAIG. That is correct.

Mr. LEVIN. I thank the Senator.

Mr. WARNER. Mr. President, I would like to join Senator CRAIG as a cosponsor on this amendment.

This is an example which other Senators may wish to access as to how the two managers are willing to work in open colloquy on areas where there are amendments outside the framework of the 12 on each side which could possibly be reconciled, and a part of that reconciliation process would be the need for an open colloquy. This is a format the Senator from Michigan and I are pleased to entertain where there are other amendments that a colloquy in open session would be helpful in trying to reach a reconciliation.

Mr. CRAIG. Mr. President, I thank the chairman of the full committee and the ranking member for their accommodations.

Mr. LEVIN. Mr. President, we thank the Senator from Idaho for bringing this to the attention of the Senate and for making this correction.

Mr. WARNER. Mr. President, it is also important, with my colleague on the floor, that we are bound by this UC, 12 amendments on each side, and as we bring up amendments, I carefully designate, as the Senator from Michigan does, that they are within the 12 each side has.

Mr. LEVIN. If the chairman will yield on that point because I wish to affirm and confirm what he has just said, that these colloquies, which are necessary for clearance of amendments, are very useful. We are used to this, all of us in the Senate, engaging in these kinds of colloquies, and there is no intent, for instance, in this last colloquy, that amendment be listed as 1 of the 12 amendments on the Republican side.

Mr. WARNER. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, how much time remains on our side?

The PRESIDING OFFICER. There is 8 minutes 55 seconds remaining.

Mr. INHOFE. Mr. President, I don't know of anyone who is going to be wanting time to speak against this amendment. I inquire of the ranking member if he knows of anyone who is going to be speaking in opposition to this amendment?

Mr. LEVIN. Mr. President, I do believe there is at least one Member on this side who will be offering or considering a second-degree amendment.

Mr. INHOFE. Or another first-degree amendment. That is fine. In opposition to this amendment, though.

Mr. LEVIN. The second-degree amendment—however one wants to characterize it—I do understand there is a second-degree amendment possible.

Mr. INHOFE. I understand there is 8 minutes remaining; is that correct?

The PRESIDING OFFICER. That is correct.

Mr. LEVIN. So we do not mislead our friend from Oklahoma, there may very well be Senators of whom I am not aware who would want to speak in opposition.

Mr. INHOFE. In that there is no one on the floor right now, if it is all right with the chairman and ranking member, I will conclude my remarks.

Mr. President, I have always enjoyed one-sentence amendments because one can't misinterpret one sentence. I had one the other day that had to do with the appropriations process. I did one in 1994 that ended up being a major, significant reform in the other body.

I will read this so people don't misunderstand it:

> The superintendent of a service academy may have in effect such policy as the superintendent considers appropriate with respect to the offering of a voluntary, nondenominational prayer at an otherwise authorized activity of the academy. . . .

Some people asked a question about denominational prayer. Let me share with you—and I think I can read it in this period of time—an entire piece by John Adams. John Adams was the first Vice President of the United States and the second President of the United States. This is what he said on this subject:

> When the Congress met, Mr. Cushing made a motion that it should be opened with prayer. It was opposed by Mr. Jay of New York and Mr. Rutledge of South Carolina, because we were divided in religious sentiments, some Episcopalians, some Quakers, some Anabaptists, some Congregationalists, so that we could not join in same set of worship. Mr. Samuel Adams rose and said, that he was no bigot, and could hear a prayer of any gentleman of piety and virtue, and at the same time a friend to his country. He was a stranger in Philadelphia, but had heard that Mr. Duche deserved that character and therefore he moved that Mr. Duche, an Episcopalian clergyman, might be desired to read prayer to Congress to-morrow morning. The motion was carried in the affirmative.
>
> Accordingly he . . . read several prayers in the established form, and then read . . . the 35th Psalm. You must remember this was the next morning after we had heard the rumor of the horrible cannonade of Boston. It seemed as if Heaven had ordained that Psalm to be read that morning.
>
> After this, Mr. Duche, unexpectedly to everybody, struck out into extemporary prayer, which filled the bosom of every man present.
>
> Here was a scene worthy of a painter's art. It was in Carpenter's Hall, in Philadelphia. . . . Washington was kneeling there, and Henry, and Randolph, and Rutledge, and Lee, and Jay; and by them stood, bowed in reverence, the Puritan patriots of New England, who, at that moment had reason to believe that armed soldiery was wasting their humbled households. It was believed that Boston had been bombarded and destroyed. They prayed fervently for America, for Congress. . . .

I think that is very significant.

I read an article the other day that was very interesting. It was an article by a military historian who said that the Revolutionary War could not have been won. He goes back and talks about the same thing that John Adams was talking about, about this tremendous army, the greatest military force on the face of this Earth marching up to Lexington and Concord. Our soldiers at that time were not really soldiers; they were hunters and trappers, and they were armed with just basic and crude equipment. We remember the story that most of them couldn't read or write.

So in training, I say to my friend from Texas, they put a tuft of hay in one boot and a tuft of straw in another boot, and they marched to a cadence of "hay foot straw foot." As they stood there and heard the ground shaking as the greatest army on the face of this Earth approached Lexington and Concord, they knew by resisting they were signing their own death warrant. They knew when they heard the shot heard round the world they were going to win in spite of these odds, not even knowing that a tall redhead stood in the House of Burgesses and made a speech for them and for us today, when he asked: How could this frail group of patriots defeat the largest army on the face of this Earth? He made a very famous speech, but there are three sentences people have forgotten. They are:

> Sir, we are not weak if we make a proper use of those means which the God of nature has placed in our power. Three millions of people armed in the holy cause of liberty, and in such a country as that which we possess, are invincible by any force which our enemy can send against us. Besides, sir, we shall not fight our battles alone. There is a just God who presides over the destinies of nations, and who will raise up friends to fight our battles for us.

And they fired the shot heard round the world, and we won.

We were a nation under God, and we depended upon God to win that fight and every fight since then. That is why I think it is so important today, as a part of this reauthorization bill, that we reaffirm our ability to train our people at our academies to look to Almighty God in the way they deem appropriate, in a way to use that power to defend America in their careers.

I retain the remainder of my time, Mr. President. I understand there is 3 minutes remaining.

The PRESIDING OFFICER. There is 2 minutes remaining.

Mr. WARNER. Mr. President, the distinguished Senator from Texas inquired of the managers if he could address an issue that is tangential to our national security. I ask unanimous consent that he be allowed to speak as in morning business, thereby not taking time off the bill, and that would be for not to exceed 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas is recognized for 10 minutes.

UNITED STATES-INDIA RELATIONS

Mr. CORNYN. Mr. President, I thank the distinguished chairman of the Senate Armed Services Committee and the distinguished ranking member for this accommodation. This is an important matter that does relate directly to our national security and that has to do with the remarkable progress that United States-India relations have made over the last several years and the path that lies ahead.

As my colleagues know, Prime Minister Singh visited Washington in July for a historic state visit. This event marked a critical milestone in our improving relationship, but the Congress needs to help ensure that this relationship reaches its full potential. President Bush has made it a fundamental foreign policy objective to move United States-India relations to a new level and plans to visit India in the near future.

India is the world's largest democracy, and our two great nations share many common values and common beliefs. It is only appropriate, then, that the United States and India become true strategic partners as we move into the 21st century. Fortunately, the days of the Cold War when the United States and India were at odds are long past. Today, the United States and India share a common vision for the future as we battle terrorism together and the proliferation of weapons of mass destruction, HIV/AIDS, and a host of other challenges that face our world.

The United States is fortunate to have many Indian Americans who have helped bring our two nations closer together. There are 2 million people of Indian origin in the United States, approximately, many of whom are now U.S. citizens. There are about 200,000 Indian Americans in my State of Texas alone. Nearly 80,000 Indian students are studying in our Nation's colleges and universities. Their contributions to our Nation and our relationship have been remarkably positive.

I will spend just a moment talking about an important agreement that was reached last July between President Bush and Prime Minister Singh that will require congressional approval to implement. This agreement, known as the Civil Nuclear Cooperation Initiative, will help India with its energy needs and help bring India into the mainstream of international nuclear nonproliferation efforts, both of which are worthwhile goals.

While it is true that the agreement on civil nuclear cooperation is a significant departure from previous U.S. policy, still it represents a positive step as we grow in our strategic relationship with the nation of India. For more than 30 years, the United States and India have disagreed over India's decision not to sign the Nuclear Non-Proliferation Treaty. As such, the United States has not cooperated with India on the issue of civilian nuclear power.

In short, we have been at a stalemate, which has neither served our nonproliferation goals nor helped India's need for energy resources. Fortunately, a civil nuclear cooperation agreement will allow us to move forward in a way that serves both the interests of the United States and the interests of India.

In order to implement this agreement, Congress will need to approve. The fundamental question before Congress will be why should we allow civilian nuclear cooperation with India when they refuse to sign the Nuclear Non-Proliferation Treaty? And will we not be somehow undermining our own nonproliferation efforts?

The fact is, this agreement will enhance our nonproliferation efforts. It is correct that India is not a signatory to the NPT. They have decided, for their own national security reasons, that they will not become a party to the treaty, and no amount of international pressure, persuasion, or cajoling will convince them to do otherwise. This is a reality which we face, but the status quo for another 30 years is not acceptable either.

Recognizing this reality, we must ask ourselves what we can do to promote nonproliferation efforts with India and bring them within the international nonproliferation regime. The civil nuclear cooperation agreement provides the answer. Despite not signing the NPT, the Nuclear Non-Proliferation Treaty, India has an excellent nonproliferation record. They understand the danger of the proliferation of weapons of mass destruction, and that is why India has agreed to adhere to key international nonproliferation efforts on top of their own stringent export control regime.

This is a significant step forward, which has been welcomed by the International Atomic Energy Agency Director, Mohamed El-Baradei, who understands that India will not come into the NPT through the normal route. This agreement brings India's growing civilian nuclear capabilities within international export control regimes. India will now assume the same nonproliferation responsibilities that other nations have with civil nuclear energy. Specifically, India has agreed to identify and separate civilian and military nuclear facilities and programs and file with the IAEA a declaration with regard to its civilian facilities. It has agreed to place voluntarily its civilian nuclear facilities under IAEA safeguards. It has agreed to sign and adhere to an additional protocol with respect to civilian nuclear facilities. And it has agreed to continue its unilateral moratorium on nuclear testing.

Furthermore, it has agreed to work with the United States for the conclusion of a multilateral fissile material cutoff treaty. It has agreed to refrain from the transfer of enrichment and reprocessing technologies to states that do not have them and support efforts to limit their spread.

Finally, India has agreed to secure nuclear materials and technology through comprehensive export control legislation and adherence to the Missile Technology Control and Nuclear Suppliers Group.

Each of these commitments represents a positive step forward. India, which is no stranger to international terrorism itself, is motivated by its own security needs to fight proliferation of nuclear weapons. The same is true of the United States. Both nations, as well, are dependent on oil imports to satisfy the needs of their economies and to create jobs for their people. Both nations, therefore, see in civilian nuclear energy cooperation an opportunity to satisfy these growing energy needs without environmental hazards of relying solely on fossil fuels. In short, this agreement is important to our growing international strategic partnership and for India's domestic energy needs.

Although the administration's negotiations with the Indians are ongoing regarding the implementation of these commitments, I am confident that we are on the right track. I look forward to the role that Congress will play in this important process.

I yield the floor and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REED. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Mr. President, I believe we are on the Inhofe amendment pending before the Senate?

The PRESIDING OFFICER. That is correct.

AMENDMENT NO. 2440

Mr. REED. Mr. President, I rise to address some of the issues that have been presented by the amendment of Senator INHOFE. I do so with some perspective on issues of prayer at service academies. I spent 4 years as a cadet at West Point, 2 years as a faculty member at West Point, and today I am the chairman of the board of visitors at West Point. I am the first to recognize the importance of prayer, not only in the life of the service academies but in the life of people everywhere.

Over the course of 200-plus years of history, prayer has become an important aspect of life, not only at West Point but at Annapolis and other institutions.

Interestingly enough, when I was a cadet, there was a much more significant structure of religious participation. We were actually ordered to go to chapel, ordered to participate in activities. That was struck down in 1972 as an unconstitutional infringement.

This is a very difficult issue because it does implicate serious constitutional concerns, as well as the desire to maintain the traditions and the customs of the military and the service academies. Interestingly enough, my perspective now, after about 30 years, is that the faith communities at West Point are even more vital and vibrant today than years ago when cadets literally were ordered to participate in religious activities. In fact, last summer, as part of the operations of the board of visitors, I asked that the chaplains come together on an informal basis, and we talked about religious participation at West Point. What I heard from the chaplains is that it is alive and well, that it is something important to the individual lives of cadets and to the community at West Point. That is why I think, as we try to legislate these activities from the perspective of the U.S. Congress, we might be inviting more problems than we are solving.

As I look at the amendment of Senator INHOFE, it speaks of voluntary, nondenominational prayer at otherwise authorized activities of the academy, subject to the limitations of the Secretary of Defense, more or less. The real problem in the context of military activities is, what is voluntary? There is a strong sense that there is not much that is voluntary in the military. Anyone who has served on active duty understands that even in some cases volunteering isn't voluntary. I know I had a first sergeant in the 82nd Airborne Division who would walk in and pick three people and inform them they had just volunteered. That is a cultural aspect and a legal aspect of military service. So even though this speaks to voluntary, nondenominational prayer, the real issue in the context of the military is, Is it voluntary?

That issue is now being debated. One of the reasons prompting this particular legislative amendment is the fact that the Naval Academy has been questioned about a prayer at their luncheon meal. Whether it is nondenominational is not the point. The question is whether it is voluntary. I do not think we are going to escape that analysis and that issue by passing this legislation. In fact, my fear is by passing this legislation we are going to essentially invite litigation about a whole series of religious expressions at service academies, not just prayer in the mess hall at lunch but prayer at graduation ceremonies, at promotion ceremonies—all of that.

Frankly, on a practical basis, this legislation is not necessary. First, the superintendents already have the authority to prescribe what is happening at the academies—either explicitly or implicitly the current religious expression at the academies is being authorized by the superintendents.

Also, I think, given the fact that they are doing this and it seems to be working fairly well, this legislation does not give them any more authority than they have already. As I suggested previously, it raises, certainly, the profile, so it might engender the kind of controversies that will lead to seriously questioning and perhaps cutting back existing religious expression at these service academies. So I do not think, as a matter of either policy or of good sense, this legislation is in order or necessary.

In addition, what is happening at the academies now is not so much the sole issue of the propriety of prayer or religious expression at different authorized activities. There is another big issue out there that we have to recognize. It comes from the recent activities at the Air Force Academy, where there have been serious reports about proselytization, of superior officers using their rank and position to try to proselytize cadets, to try to insert in the activities of the academy a pronounced and sectarian religious approach. I think we are all familiar with many of the stories from the Air Force Academy.

As a result, the Secretary of Defense has issued interim guidance with respect to proselytization and other religious activities. I would note that the language of Senator INHOFE recognizes the right of the Secretary of Defense to do that. In fact, I would assume it lends further support and credence to the guidance that he is developing and will issue because, as the language says, "subject to such limitations as the Secretary of Defense may prescribe."

I think what we are seeing, in terms of this legislation, is several results which might be unintended by those who are supporting it. First, I think rather than clarifying and settling the issue of religious expression at the service academies, it will prompt further discussion, debate, and perhaps even litigation. Second, it does specifically recognize that there is an ongoing process by the Secretary of Defense to redefine appropriate modes of religious expression at the academies. And, as I read it, it does give sanction to those activities—in fact, legal sanction to those activities.

So for many reasons I think the legislation is not the most appropriate way to deal with this issue. Ultimately, my sense is that these issues, because they are dominated by constitutional concerns, will be settled in court, not by legislative enactment. There is nothing we could do legislatively to correct such constitutional faults. I think to try to do that misconstrues what we are about and what we could practically do.

As a result, I hope this legislation could be withdrawn, but I suspect that is not the case. So I think we should make some changes in the legislation in that at least reflects the fact that all of us are bound by the Constitution of the United States.

Again, I have been involved with these academies since I was 17 years old. I have seen personally the important role that prayer and religion play in the lives of cadets, soldiers, and officers. I recognize and cherish the customs of these academies, and these traditions. I think it is unfortunate that we may unwittingly be starting a dynamic that will seriously erode these customs and traditions, and I think perhaps to the detriment of the academies and to the military service and to the young men and women who proudly wear the uniform of our Armed Forces. So I hope we can avoid that.

But I think, also, we have to recognize that we are all governed, particularly when it comes to issues of prayer in the public space, by the Constitution of the United States, and that there is nothing, as I said before, that we can do that can insulate activities within the military from the Constitution.

There is nothing we should do. I think whatever language we adopt today has to more explicitly reflect that clear, and I think obvious, fact.

As I mentioned before, the Secretary of Defense is dealing today with the issue of religious activities at the Air Force Academy. He has also indicated that, if his interim guidelines are practical, workable, and appropriate in his view, that he intends to extend those to the other service academies, effectively doing what this legislation is proposing to do. I think we should give the Secretary of Defense a chance to do that. I think he is working in a way that is evenhanded, appropriate, recognizing that soldiers are bound by the Constitution. That is their duty. That is their obligation.

I say if we march down this road, I think we are raising serious issues that are going to complicate the facts even more than they are today. So I hope we could wait. I hope we could wait until these guidelines have been fully vetted by the Secretary and he has made a decision with respect to their propriety, their appropriateness. Indeed, once again, as the amendment suggests, ultimately whatever the superintendents of the academies do will be subject to the guidance of the Secretary of Defense. Frankly, that guidance today, if you look at it, is drawing mixed reviews from both the proponents of the separation of church and state and those who want a much more aggressive posture when it comes to religious expression in public places. Maybe that is a good sign. Maybe the Secretary has struck that balance between the constitutional demands of separation of church and state and the individual's desires and needs to express themselves to the Divine.

I hope we could forbear on this one. If not, then I think we have to make some changes in the text to reflect the overarching constitutional imperatives that are at the heart of this debate.

I retain the remainder of my time and yield the floor.

Mr. INHOFE. If the Senator will yield, I inquire of the Senator, he has used some of the time in opposition speaking to this amendment. Is the Senator's desire to have another amendment on the same subject to be introduced separately from this?

Mr. REED. My preference would be to try to amend the Senator's amendment.

Mr. INHOFE. Mr. President, we have a problem.

Mr. REED. Mr. President, I yielded to the Senator. Would he like to use his time? I retain the remainder of my time.

Mr. INHOFE. Mr. President, I understand I only have a couple of minutes left, so let me very quickly say right now: There is a problem. In the Air Force all they have is a 20-second period of silence. I don't call that a prayer. At West Point they do not even have a period of silence. They say you can pray, but everyone else is talking. This is not a prayer. I think a problem is there.

I think the argument that this might raise the profile is not a valid argument. I have heard it before. In 2003 the ACLU requested specifically that the prayers stop. In 2005 the Anti-Defamation League did the same thing. The attack is there.

This is a very simple, one-sentence solution to the problem. At the appropriate time, in fact, right now, I urge the adoption of this amendment and ask for the yeas and nays.

The PRESIDING OFFICER (Ms. MURKOWSKI). Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. INHOFE. It is not my intent to proceed until we start several votes at a later time, I say to my good friend from Rhode Island.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Madam President, we need to inquire as to the issues of the proponent of the amendment, as to the allocation of time. What is his desire on that?

Mr. INHOFE. I would say to the chairman, I think the allocation of time has already taken place. I have used my time. I have not yielded back the remainder of my time. I probably only have 30 or 40 seconds left. It is my desire to get a vote on this amendment, if the distinguished Senator from Rhode Island has an amendment that we get a vote on his amendment, and whatever the allocation of time is at that point, we will exercise that.

Mr. WARNER. Madam President, that sounds like a reasonable request. Can the Senator from Rhode Island advise the Senate?

Mr. REED. Let me understand. Is it in order now for me to propose a second-degree amendment which would then require just a short explanation and debate, and then we can move to a vote on the second-degree amendment, and then on the underlying amendment?

Mr. WARNER. That would be the desire of the manager.

I wish to inquire of the proponent. Does he agree to the course of action?

Mr. INHOFE. Would the Senator please repeat that course of action?

Mr. REED. We are agreeing, as I understand it, that as soon as the Senator yields his remaining time, it would be in order for me to offer a second-degree amendment. I will do so. I will speak briefly on the second-degree amendment, and I think it would be in order to either entertain additional debate by the Senator from Oklahoma and others or to set a time for a vote.

Mr. INHOFE. My preference would be to go ahead and have this as a first-degree amendment, offering the amendment of the Senator from Rhode Island as a first-degree amendment, and if he desires to have a vote on his first, I would have no objection.

Would that satisfy the Senator from Rhode Island?

Mr. REED. I think the most efficient course is simply to allow my second-degree amendment, allowing Members to vote essentially on my amendment first, then voice vote the amendment of the Senator from Oklahoma—if it succeeds, then the underlying amendment. That was my preference.

Mr. INHOFE. There would be side-by-side amendments.

Mr. REED. No. My preference is that we entertain a second-degree amendment and vote, and if the second-degree amendment is agreed to, then the underlying amendment would be voted on. There would be a series of votes. Mine would be voted on first.

Mr. INHOFE. I object to that course. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. INHOFE. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Madam President, I have read the suggested change that the distinguished Senator from Rhode Island has to my amendment. If it is his intention not to offer another amendment on this subject matter but merely to amend mine, I will accept that. I would yield the remainder of my time, and we would have one vote to take care of it.

Mr. REED. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REED. Madam President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REED. Madam President, the Senator from Oklahoma has offered to modify his amendment the way I suggested and then, having modified the amendment, schedule votes. I have no objection to that.

Mr. INHOFE. Madam President, that seems very acceptable to me.

I will read the modification on page 2 of the amendment. On line 2, insert the following: "the United States Constitution and . . . " I have no objection to that.

AMENDMENT NO. 2440, AS MODIFIED

I send this amendment to the desk and ask unanimous consent that it be so modified.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2440), as modified, is as follows:

(Purpose: To ensure by law the ability of the military service academies to include the offering of a voluntary, nondenominational prayer as an element of their activities)

At the end of subtitle G of title X of division A, add the following:

SEC. 1073. PRAYER AT MILITARY SERVICE ACADEMY ACTIVITIES.

(a) IN GENERAL.—The superintendent of a service academy may have in effect such policy as the superintendent considers appropriate with respect to the offering of a voluntary, nondenominational prayer at an otherwise authorized activity of the academy, subject to the United States Constitution and such limitations as the Secretary of Defense may prescribe.

(b) SERVICE ACADEMIES.—For purposes of this section, the term "service academy" means any of the following:

(1) The United States Military Academy.

(2) The United States Naval Academy.

(3) The United States Air Force Academy.

Mr. WARNER. Madam President, I thank my two colleagues.

Have the yeas and nays been ordered?

The PRESIDING OFFICER. The yeas and nays have been ordered.

Mr. WARNER. I thank the Presiding Officer.

I am about to propound a unanimous consent request which I understand is cleared on both sides.

I ask unanimous consent that at 2:45 today, the Senate proceed to a vote in relation to the Inhofe amendment No. 2440, as modified, to be followed by a vote in relation to the Ensign Amendment, No. 2443; provided that there be 6 minutes for debate equally divided in the usual form prior to the first vote and 6 minutes equally divided for debate prior to the second vote, with no second degrees in order to either amendment prior to the vote.

Mr. DAYTON. Madam President, reserving the right to object.

Mr. WARNER. I think we are cleared.

Mr. DAYTON. We need to discuss the amount of time on the Ensign amendment.

Mr. WARNER. I think everything has been cleared.

Mr. DAYTON. No objection.

Mr. ENSIGN. Madam President, prior to having the 6 minutes prior to the vote but between now and the time that votes will occur, will there also be time to debate my amendment?

Mr. WARNER. Madam President, I presume there will be an opportunity. We are making progress. But there are junctures at which time Senators can address various aspects of the bill, including the distinguished Senator from Nevada.

Mr. ENSIGN. Madam President, may I ask unanimous consent it be modified so that at least 15 minutes between now and the vote would be reserved for debate on the Ensign amendment?

Mr. WARNER. Madam President, I am willing to accede to that. Would that time be equally divided?

Mr. ENSIGN. Yes.

Mr. WARNER. Fifteen minutes between now and 2:45 be reserved for a debate on the Ensign amendment, 15 minutes equally divided.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. WARNER. I ask the Presiding Officer if that is in place, as modified with the 15 minutes?

The PRESIDING OFFICER. That is correct.

Mr. WARNER. I thank the Chair.

AMENDMENT NO. 1563, AS FURTHER MODIFIED

I ask unanimous consent that the previously agreed to amendment No. 1563 be further modified. I send that modification to the desk. There was a technical error in the preamble. There is no change in the substance of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1563), as further modified, is as follows:

On page 357, after line 20, insert:

PART II—NAVY CONVEYANCES

SEC. 2851. LEASE OR LICENSE OF UNITED STATES NAVY MUSEUM FACILITIES AT WASHINGTON NAVY YARD, DISTRICT OF COLUMBIA.

(a) LEASE OR LICENSE AUTHORIZED.—

(1) IN GENERAL.—The Secretary of the Navy may lease or license to the Naval Historical Foundation (in this section referred to as the "Foundation") facilities located at Washington Navy Yard, Washington, District of Columbia, that house the United States Navy Museum (in this section referred to as the "Museum") for the purpose of carrying out the following activities:

(A) Generation of revenue for the Museum through the rental of facilities to the public, commercial and non-profit entities, State and local governments, and other Federal agencies.

(B) Administrative activities in support of the Museum.

(2) LIMITATION.—Any activities carried out at the facilities leased or licensed under paragraph (1) must be consistent with the operations of the Museum.

(b) CONSIDERATION.—The amount of consideration paid in a year by the Foundation to the United States for the lease or license of facilities under subsection (a) may not exceed the actual cost, as determined by the Secretary, of the annual operation and maintenance of the facilities.

(c) USE OF PROCEEDS.—

(1) DEPOSIT OF PROCEEDS.—The Secretary shall deposit any amounts received under subsection (b) for the lease or license of facilities under subsection (a) into the account for appropriations available for the operation and maintenance of the Museum.

(2) AVAILABILITY OF AMOUNTS.—The Secretary may use any amounts deposited under paragraph (1) to cover the costs associated with the operation and maintenance of the Museum and its exhibits.

(d) ADDITIONAL TERMS AND CONDITIONS.—The Secretary may require such additional terms and conditions in connection with the lease or lease of facilities under subsection (a) as the Secretary considers appropriate to protect the interests of the United States.

PART III—AIR FORCE CONVEYANCES

Mr. WARNER. Madam President, we are making progress on this bill. I thank all Senators for their cooperation. It is my hope that in the intervening period between now and the hour of 2:45, subject to the unanimous consent of 15 minutes, that other Senators can come to the Chamber and address the managers regarding the timing of the remaining amendments under the unanimous consent providing 12 amendments on each side.

I yield the floor.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. Madam President, I ask unanimous consent that Senators BURNS, THOMAS, ENZI, DORGAN, and HATCH be listed as original cosponsors of amendment No. 2448, which was agreed to yesterday by unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DAYTON. I thank the Chair.

I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2443

Mr. LEVIN. Mr. President, relative to the amendment of the Senator from Nevada, I had one question. Section 1 of Executive Order 11850 states the following:

> The Secretary of Defense shall take all necessary measures to ensure that the use by the Armed Forces of the United States of any riot control agents and chemical herbicides in war is prohibited unless such use has Presidential approval in advance.

Is there anything in the Senator's amendment which purports or is intended to modify or change in any way that executive order?

Mr. ENSIGN. Madam President, I say to my friend from Michigan, our amendment seeks to clarify and to reinforce the Executive Order No. 11850, including section 1, as well as the examples in (a), (b), (c), and (d), used as examples where the riot control agents are able to be used.

It is very clear that our military is allowed to use riot control agents based on this Executive order in these particular examples as a defensive mode to save civilian lives, for example.

We are trying to clarify for our military and ask the Defense Department to lay out clear guidelines and clear training so the average person on the ground knows exactly when they can and when they cannot use these riot control agents.

Mr. LEVIN. I agree with that purpose. I want to be absolutely certain that all parts of the Executive order, including the specific requirement of section 1, continue and are not purported in any way to be changed by the Senator's amendment.

Mr. ENSIGN. The Senator is correct: we are not trying to change any part of the Executive order. All we are trying to do is to clarify it so the average soldier, marine on the ground knows exactly when they can and when they cannot use it.

We are calling on the Defense Department to clarify for them so this very valuable tool to save lives, both civilian and military, can be employed for a defensive purpose.

Mr. LEVIN. I believe that is a very useful purpose. I support that purpose. I support the Senator's amendment with that assurance. I don't know whether the Senator requested a rollcall, but if so we will support that rollcall.

Mr. ENSIGN. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. ENSIGN. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. ENSIGN. I yield the floor.

AMENDMENT NO. 2473 TO AMENDMENT NO. 2433

Mr. DURBIN. Madam President, there is a pending amendment offered by Senator CHAMBLISS numbered 2433 which I am going to seek to amend.

With the permission of the Presiding Officer, I would speak to that issue at this moment. We are working with the Parliamentarian on the exact number of this amendment we will be offering. There is no agreement at this time. If I might, I want a few minutes to speak to the amendment I am offering, if that would meet with the approval of the Senator from Nevada.

Mr. ENSIGN. I have spoken to the manager of the bill, and he would like to accommodate the ability of the Senator to have the secondary amendment offered before all time is yielded back. When the Senator is ready—I have spoken to the chairman and he is willing to work on that.

Mr. DURBIN. For the information of my colleagues, the amendment we are going to offer to the Chambliss amendment is designated as 2473.

Madam President, most Senators are probably unaware of the real differences between the military retirement system for Reserve components compared to Active components of our military forces. A person who joins the active-duty military and has 20 years has the option to retire at that point and draw half their pay. A young person at age 18, with 20 years in service—age 38, still relatively young, moves on to a new career, new source of income—still receives half of their military pay.

For a member of the Guard and Reserve, it is different. As you might expect, retirement pay from a part-time career is lower than at the end of a full-time active-duty career. It makes sense.

The major difference, however, lies in the length of time the reservist retiree must wait to start to receive retirement pay. Under the current system, a person who completes 20 years in the Reserve component becomes eligible to receive retired pay but cannot begin to draw the pay until they reach the age of 60. In the Reserves, a young person age 18 can enlist, complete 20 years of dedicated service to our country, and at the end of 20 years reach the age of 38 and retire. But that person has to wait 22 years before receiving the first penny of retirement pay.

That is entirely too long. Many have recognized the system needs to be changed. The Military Officers Association, Reserve Officers Association, National Guard Association, Enlisted Association, the National Guard, all have called for Reserve retirement age to be reduced from age 60 to 55. There have been several Senate proposals to accomplish it.

I offered this bill in the last Congress. Senators Corzine and Graham introduced bills in the current Congress. I am a cosponsor of both bills. All are worthy approaches to accomplish our goal.

Unfortunately, the plan that has been offered in the form of the amendment by the Senator from Georgia, Senator CHAMBLISS, falls short of being a good age 55 Reserve retirement proposal. In fact, I have some concerns and I offer an alternative approach. The Chambliss amendment offered a modest reduction in the retirement age and then only offers it to about half the members of the Guard and Reserve. Under the Chambliss amendment, half of all reservists still draw no retirement pay until the age of 60. It rewards only those who are called up. There is little or no incentive to stay. This amendment lowers the retirement age for those called up for an extended period in support of major military operations and then only reduces the retirement age by 3 months for every 3 months the member spends on duty.

At this point, more than 450,000 reservists have been mobilized since September 11, 2001. Over 330,000 have been deployed overseas. But we must remember, there are roughly 860,000 members in the select Reserve. That is, members of the National Guard and Reserve who dedicate a minimum in service in the Reserve of 1 weekend each month plus 2 weeks each year to maintain military readiness. So while roughly half of our reservists have been called up for duty, about half of them have not. They have continued to perform every weekend, gone to their annual training periods.

For this segment of our dedicated force, I am afraid the Chambliss amendment does nothing at all. A retirement system should create an incentive to serve. The Chambliss amendment rewards mobilization but does nothing to create the incentive for further service. It simply provides a future benefit to those who get called up. We want to honor the members of the Guard and Reserve who are selected in order to go overseas. Yes, we want to reward service that takes members of the Guard and Reserve away from their families and careers for a year and puts them in harm's way. But we must ask ourselves if such a modest adjustment in the retirement pay eligibility age is the best way to do it.

With recruiting targets being missed by our Reserve components and retention holding steady, but under severe pressures, what we need to do is to revise the retirement system so that it is both fairer to members of the Guard and Reserve and a more powerful incentive to continued service. We should make changes to the system which reward long and continued service, not just volunteering—or being involuntarily selected—for a mobilization.

We can do better for our men and women in uniform.

The amendment I offer is a substitute approach. Under my amendment, members of the National Guard and Reserve are encouraged to stay in the force by offering them a 1-year reduction in the retirement age for every year of service beyond 20 years. That is an incentive to stay in the force. A reservist can begin to draw retirement pay as early as age 55, but in order to do so, they would need to serve an additional 5 years.

By providing a way for reservists to draw retirement pay at age 55 rather than being forced to wait until age 60, this amendment brings the retirement age for reservists down to the Federal civil service retirement age, as was intended when the reservist retirement age was set 50 years ago. Our reservists make tremendous sacrifices. They risk their lives in combat zones. And, in far too many instances, they give their lives for our country. At the very least, they should have the same retirement age as Federal civil servants.

By replacing the current, inflexible approach with a sliding scale that provides earlier receipt of retirement pay in exchange for more years of service, we can create a powerful system of incentives to retain our personnel and maintain a strong Reserve.

This is the approach my amendment takes.

Many of my Republican and Democratic colleagues who, like me, are cosponsors of S. 337, the Guard and Reserve Retention Act, introduced earlier this year by my friend and distinguished colleague, the Senator from South Carolina, will no doubt recognize this concept. The mechanisms are very similar.

I invite my colleagues from both sides of the aisle to join me in making a meaningful reform of the Reserve retirement age—one that encourages long and continued services, not simply rewarding after mobilization; one which will incentivize all of the force to stay in service longer, not just the half—roughly, 50 percent—who are tapped for a callup.

The amendment is endorsed by some significant groups: the National Guard Association of the United States, the Military Officers Association of the United States, the Reserve Officers Association, the Enlisted Association of the National Guard of the United States.

I ask my colleagues, as you consider the Chambliss amendment and my modification to that amendment, keep in mind the organizations that represent the men and women in uniform in the Reserve, who are literally serving our country and risking their lives, believe the approach I am suggesting is preferable. I hope my colleagues will feel the same.

Madam President, I ask unanimous consent that the letter from Stephen Koper, retired brigadier general from the U.S. Air Force, who serves as president of the National Guard Association of the United States, be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL GUARD ASSOCIATION OF
THE UNITED STATES, INC.,
Washington, DC, November 8, 2005.

Senator RICHARD DURBIN
Dirksen Senate Office Building, Washington, DC.

DEAR SENATOR DURBIN: I am writing on behalf of the members of the National Guard Association of the United States (NGAUS) in support of your amendment to reduce the age at which reserve component members receive their retirement pension.

An active component member retiring at 20 years of service may receive a pension immediately upon retirement. A reserve component member serving the same amount of years cannot. Reducing the age from 60 to 55 will be a big step in mitigating this disparity. A more equitable retirement program will aid greatly in recruiting and retaining members in the National Guard. When the age limit for receipt of retired pay by National Guard members was set decades ago, the National Guard was not relied upon the way it is today.

The objective of NGAUS is to support the reduction of the age for retirement eligibility from its current level.

I look forward to working together in support of a strong and viable National Guard. Again, on behalf of the members of NGAUS, thank you for all your hard work on our behalf.

Sincerely,

STEPHEN M. KOPER,
Brigadier General, USAF, (Ret.), President.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Madam President, if there is no one prepared at this time to speak on the Durbin amendment, I ask unanimous consent that the Senator from Wisconsin be permitted to speak as in morning business for 5 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Wisconsin.

(The remarks of Mr. KOHL pertaining to the introduction of S. 1979 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. KOHL. Madam President, I yield the floor.

Mr. LEVIN. Madam President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. LEVIN. Madam President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Madam President, I ask unanimous consent that Senator DORGAN be allowed to proceed as in morning business for 5 minutes, and that then Senator DORGAN be recognized to offer an amendment relative to—I think he is calling it a Truman-like commission. I have talked to Senator ENSIGN, and that is agreeable with the majority.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from North Dakota.

(The remarks of Mr. DORGAN are printed in today's RECORD under "Morning Business.")

AMENDMENT NO. 2476

(Purpose: To establish a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism)

(Mr. THUNE assumed the chair.)

Mr. DORGAN. Mr. President, I have an amendment to offer, an amendment I have shared with both sides. It is, in fact, an amendment that we have previously debated. It deals with the subject of contracting abuses, especially contracting abuses in the reconstruction in Iraq—the money that is paid by American taxpayers, through our Government, to major contractors that are given no-bid contracts, spending billions of dollars, and the stories about contracting abuse are horrifying. Yet nothing seems to happen.

I have described previously something that happened in the 1940s. Harry Truman was in the Senate. Harry Truman was a Democrat. A member of his party was in the White House, Franklin Delano Roosevelt. He couldn't have been very happy about Harry Truman because Truman came to the floor of Senate and said: I have substantial evidence of wrongdoing, of contracting, of military waste with respect to defense contracts and defense spending. I think it needs to be investigated.

They began holding a series of hearings. He finally was able to get a committee together called the Truman Committee. They began a series of hearings. It lasted a number of years. At a time when a member of his own political party was President, it was probably embarrassing for everybody that Harry Truman was leading the charge while FDR was in the White House. But they uncovered a substantial amount of abuse and waste and fraud. Good for them. The memory of the Truman Committee lives on today as an example of what should be done with respect to oversight by the Congress.

We spend a dramatic amount of taxpayer money. The question is, Is it spent wisely? If it is not, when it is wasted or stolen or subject to cheating of the taxpayers, shouldn't somebody know it? Shouldn't somebody see it and do something about it? That is the issue.

I have held a number of hearings as chairman of the Policy Committee on this subject, only because no one else is holding any substantial hearings on it. We will have a couple people come to the floor and say: We have held a good number of hearings. That is not true. Very few if any hearings have been held on this issue.

I wish to go through a few examples of the hearings that we have held, along with some of the headlines. I wish to say this before I get into this too far: Some of this deals with a company called Halliburton. The minute you mention the company Halliburton on the floor of the Senate, they say: Aha, this is a criticism of Vice President CHENEY because he used to be president of Halliburton. It is not about Vice President CHENEY. Vice President CHENEY is not now president of Halliburton. He left that job when he became Vice President. This is not about him.

All of these actions have occurred after Vice President CHENEY left the Halliburton Corporation. But this is about Halliburton and some other companies—Halliburton being the largest—that have gotten big, fat, multibillion-dollar contracts, no-bid, sole-source contracts, and, with all of the evidence in front of us, have been charging American taxpayers for services they have not delivered or overcharging the taxpayers for other services.

We need to aggressively root out that waste, fraud, and abuse. Let me give some examples. The committee that I chair, the Policy Committee, had a hearing. We heard from a man named Rory Mayberry. Rory Mayberry is the former food production manager for KBR, which is a Halliburton subsidiary. Halliburton has gotten billions of dollars to deliver all sorts of things to our troops in Iraq, including feeding the troops.

Here is what Mr. Mayberry, who was the food service supervisor, told us:

> Food items were being brought in to our military base that were outdated or expired by as much as a year and we were told by the

> food service managers, feed them anyway, use them anyway. So the food was fed to the troops, expired food with expired date stamps. For trucks that were hit by convoy fire and bombings we were told to go into the trucks, remove the food items and use them after removing the bullets and any shrapnel from the bad food that was hit. And we were told then to remove the bullets and turn them over to the managers of the food service operation as souvenirs.

We had hearings at which Bunnatine Greenhouse testified. Bunny Greenhouse was the top civilian official at the Corps of Engineers. She rose to the very top, the highest civilian official in the Corps of Engineers. That is the area of the Pentagon where they actually do the contracts for these firms. In that position, she was responsible for reviewing all contracts worth more than $10 million. After she objected to special treatment given Halliburton on a number of occasions, including an occasion where the company was brought into the meeting at which the contract was being discussed, the specs developed, and who it was going to be awarded to, after objecting to all that, she was forced to either resign or face demotion.

This is a woman who was the highest civilian official in the Corps of Engineers, given stellar performance reviews always, an outstanding employee. But then she started raising questions with the good old boy network about giving billions of dollars of sole-source contracts under the buddy system. She said:

> I can unequivocally state that the abuse related to contracts awarded to KBR [Halliburton] represents the most blatant and improper contract abuse I have witnessed during the course of my professional career.

That is pretty strong.

Now let me go through a couple of headlines. Boston Globe, June of this year: Internal Pentagon audits have flagged about $1.4 billion in expenses submitted by Halliburton for services the firm is providing in Iraq. Charges include $45 for a case of soda, $100 per bag for laundry service, and several months preparing at least 10,000 daily meals that the troops didn't need and ultimately went to—by the way, in this meal issue, there is another complaint. The other complaint is they were charging for 42,000 meals a day and preparing 14,000 meals a day. That meant they were charging the taxpayers for 28,000 meals they were not serving the troops.

"Ex-Halliburton Workers Allege Rampant Waste: They say the firm makes no efforts to control costs, overspending taxpayers' money in Iraq and Kuwait." One former employee: "They didn't want to control costs at all. Their motto was don't worry about cost. It's a cost plus contract."

The supervisor described an arrangement in which Halliburton provided 10 percent of additional payment on its phone calls to a Kuwaiti company for providing cellular phones although nothing in the contract between Halliburton and the company called for the payments.

They just added 10 percent.

Well, I won't go through it at great length, but $7,500 a month to rent ordinary cars and trucks: $85,000 new trucks left on the side of the road because they had a flat tire, to be trashed and torched. Yes, the taxpayer paid for them. How about a fuel pump that was plugged. Leave the truck on the side of the road. It gets torched. It is all over. The taxpayer pays for it. It is all cost plus.

"Millions in U.S. Property Lost in Iraq, Report Says; Halliburton Claims Figures Only 'projections'."

"Halliburton Unable to Prove $1.8 Billion in Work, Pentagon Says."

"Halliburton Faces Criminal Investigation," Houston Chronicle. "Pentagon Proving Alleged Overcharges for Iraq Fuel."

"Uncle Sam Looks Into Meal Bills; Halliburton Refunds $27 million as a Result."

You would think with all of this you would have committees in the Congress saying: Wait a second, we are going to pull back the curtain. We are going to have tough investigations to evaluate what is happening, what is happening to the American taxpayer, what is happening with contracts that are given without any competition, soul-source, no-bid contracts.

Mr. ENSIGN. Mr. President, will the Senator yield for a comment?

Mr. DORGAN. Of course.

Mr. ENSIGN. I want to inform the Senator from North Dakota that, hopefully, when we come back for a couple days in December, as the chairman of the Readiness Subcommittee, I plan on holding hearings on exactly this. I plan on pulling that curtain back. I plan on getting into the investigation in the same way as Harry Truman. If it happens to be it is embarrassing to the administration, we are going to find out the truth on this—just like Harry Truman went after those cost-plus contracts in those days. It is not only the soul-source aspect, it is also the fact they are cost-plus contracts.

We are going to do a thorough investigation through the subcommittee, and I am committing to the Senator that the things he is talking about right now will be fully investigated by our committee, and we are going to uphold our oversight responsibility of this administration.

Mr. DORGAN. Mr. President, that gives me some hope, and I hope as a result of that the Senator would support my amendment as well. The fact is, we have not had many oversight hearings. We have now been in this conflict for several years, and a substantial amount of money has been spent. A very substantial amount of it has been wasted, regrettably.

But I think anything that any committee or subcommittee does to shine a spotlight on this makes some sense. I must say, however, as my colleague knows, there is substantial brushback from the administration. They do not want anything to do with this. And I understand why. But the fact is, what happened here was wrong. A top contracting official gets demoted because she blows the whistle on bad practices, and the taxpayer takes a bath to the tune, I think, of billions of dollars.

So whatever subcommittee or committee wants to dig into this, I think that would be great, and I certainly will commend my colleague if he convenes these hearings. But I would say this: I think there are substantial pressures on many of our committees and subcommittees by the administration not to move too far. We had an example of that on the issue of intelligence recently, and I won't explore that more, but there has been a lot of foot dragging in a lot of areas.

The point of this on behalf of myself, Senator DURBIN, Senator LAUTENBERG, Senator BOXER, and others, the point of it is to establish what we know works, and what we know works is the Truman committee. Yes, it is an old model, but it is a model that really did work—nonpartisan, bipartisan. Take a hard look at what is going on. Don't care where the chips fall, investigate it all. If somebody is cheating the American taxpayer, hold them accountable for it. I mean how do you miss 28,000 meals, overbilling somebody by 28,000 meals a day? I come from a town of 300 people, so we had a small restaurant. You can understand somebody missing a cheeseburger or two but 28,000 meals a day? That is cheating. And it ought not take twice to learn the lesson. Do business with companies that cheat. Cut them off. Shut it down.

I am not going into this at great length, but I can give the example of companies that in the same week that they were paying multimillion dollar penalties for cheating and defrauding the Government, in that same week they were signing new contracts for new business with this Government. Are we that lamebrained that we can't understand when somebody cheats you once you don't need a second chance?

In my hometown, again, a town of 300 people, you wouldn't need to learn that lesson twice. You do business with somebody who cheats you, you don't do business with them again. Not in this town. It is a slap on the wrist, a pat on the back. Atta boy. That is not the way it ought to work.

I could spend a lot of time on this. I will not do it now, but I could spend a lot of time talking about the abuses—the taxpayer pays to air-condition a building under reconstruction in Iraq. Well, that contract that goes to a subcontract, that goes to a local subcontract and pretty soon it is all done.

We pay it. It is like an ice cube; it melts in your hand like money does as it goes through to—guess what—pay for air-conditioning, and it is a ceiling fan in a room in Iraq some place. Cheating? You bet it is.

I want to show you a picture of two million dollars. Incidentally, this guy wearing the striped shirt, he worked in this area. These are hundred-dollar bills wrapped in Saran Wrap. What would they be doing with a pile of bills wrapped in Saran Wrap? He testified: I was over there with the Coalition Provisional Authority, which is really us, as you know.

He says: We were telling people that when you come to pick up the cash for your contracts and so on, understand it is going to be in cash, so bring a bag. We deal in cash. He said we actually threw these around as footballs from time to time in the office, hundred-dollar bills wrapped in Saran Wrap.

I don't know how that would feel. But you can look at what it looked like, how they appeared. He said: Bring a bag. We deal in cash. He said: It was like the Old West.

I have spoken at some length about this with a company called Custer Battle. A couple guys show up in Iraq, and they decide: We are going to be contractors. Pretty soon they are contractors. Pretty soon they have millions of dollars, millions of dollars in contracting, and then they start setting up offshore subsidiaries and selling to them, cheating the Federal Government. A couple of their employees decide that is not right and they are going to disclose it. Then their lives are threatened.

There is so much going on that it is just almost unbelievable to me.

The inspector general for the Coalition Provisional Authority issued a report about the use of funds that actually belong to the Iraqis. It came from the oil revenues which was under our control then. There were 8,206 guards at one Iraqi ministry, 8,206 guards at one of the ministries. And that is what we were paying for through this $9 billion. It turns out, in paying 8,206 security people, there were only 602 of them. But 8,206 were paid. Where did the money go? If we could have dyed all that money purple and walked around to see who had purple pants pockets, we could have figured it out. This is a massive cheating and abuse scandal.

This is like a Rip Van Winkle operation. We sort of doze through it all, don't offend anybody, upset anybody.

I am delighted to hear my colleague is going to hold some hearings in December, but I am telling you this is a cesspool of trouble, digging into this.

The guy who used to buy towels for our troops, from K.B.R. Halliburton, bought hand towels—you know, the little hand towels. He told us how he ordered the hand towels. Need some thousands and thousands and thousands of hand towels for the troops? Well, you just order them, don't you? Oh, no, no. His supervisor said you don't just order hand towels, you order hand towels embroidered with the company's logo on it so it can double the price. You think when the troops are washing their hands and face they are going to want just a plain towel? No, they are going to want one with our company logo on it, so order the more expensive one.

The sky is the limit. It is all cost plus. Don't worry. Be happy. We are all making money—except the taxpayer is taking a bath.

I have raised this issue now for about 2 years on the floor of the Senate, to dead silence.

There was a silence back in the forties when Harry Truman raised it. They empowered a committee to take a look and they discovered billions of dollars of waste, fraud, and abuse. The taxpayer was taking a bath and the Congress did something about it. The question is, Will it now?

We haven't received one answer from the Pentagon about all these issues. We haven't received one single answer. This has all been transmitted to the Pentagon, all of the testimony from five or six hearings. It is just unbelievable.

By the way, do you want 50,000 pounds of nails? I know where 25 tons of nails are. They are laying in the sand in Iraq, 25 tons of nails, 50,000 pounds ordered for reconstruction of Iraq. But they are the wrong size, and it does not matter, I guess, so they throw them on the ground and they reorder. It is just the taxpayers' money. It is all cost plus. Order 50,000 pounds of nails the wrong size. Don't sweat it. We are all going to get paid.

What a mess. So the point is, Congress has the responsibility. Congress has a responsibility to legislate, and Congress has a responsibility for something called oversight—oversight with respect to the funds that the Congress appropriates. These funds, after all, come in from the American taxpayers and then are used to be expended on various operations, various projects, in this case reconstruction in Iraq or contractors that are contracting to provide assistance to the troops in Iraq. Some of that assistance to the troops manifests itself in food that is expired, manifests itself in charging for food that wasn't delivered.

Now, Mr. President, I was tempted to go through the whole list of those who have testified. I shall not do that in deference to my colleague who is on the floor ready to speak. But I think the point is made. The Congress can continue to decide, No, we don't want to do anything about this, and vote against this amendment. They have done it previously. But it is pretty hard, it seems to me, to look in the mirror and think you have done a good job for the people in this country, the taxpayers who pay the taxes, if you don't believe this deserves your special attention and you don't believe that Congress has failed in its responsibility of oversight. If you don't believe that, then you should vote against my amendment. But if you understand the responsibility for oversight and understand there has been virtually nothing done except for the hearings I chair in the Policy Committee and with those hearings have uncovered dramatic examples of massive waste, fraud, and abuse, if you believe that is a real serious problem, then you ought to support this amendment.

I hope every Senator will ask questions of the Pentagon about Bunnatine Greenhouse, the highest ranking civilian in the Pentagon with outstanding performance reviews, outstanding reviews all along the way until she began to say: You can't do this. You are violating the regulations of the Pentagon in the way you are proceeding with respect to no-bid contracts, no-bid, sole-source, cost-plus contracts, the minute she started telling those at the top of the Corps of Engineers who wanted to award these kinds of contracts to say: Look, you are violating the very rules that exist. The minute she started doing that, her career took a dramatic turn for the worse. At that point, she was told you are either going to be fired or demoted.

If the Congress does not care about that, then it does not care about anything. If those who have the courage to speak up and tell the truth, as they see it, are told the consequences for that will be their career, then this Congress doesn't care much about those who have the courage to stand up and speak out when it is necessary. There has been a deafening silence, with the exception of a few Members of Congress, on that point as well.

This woman fights on alone. Why? Because not enough people here seem to care, not even to care to ask the basic question of those who run the Pentagon. Mr. President, I send the amendment to the desk on behalf of myself, Senator DURBIN, Senator LAUTENBERG, and Senator BOXER, and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from North Dakota [Mr. DORGAN], for himself, Mr. DURBIN, Ms. BOXER, and Mr. LAUTENBERG, proposes an amendment numbered 2476.

Mr. DORGAN. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DORGAN. Mr. President, I inquire, how much of the 30 minutes allowed to the proponent of the amendment has been used?

The PRESIDING OFFICER. Twenty-two minutes.

Mr. DORGAN. Mr. President, I reserve the remainder of my time. Senator DURBIN, I know, wishes to speak on this amendment. I reserve the remainder of the time on this amendment.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2433

Mr. CHAMBLISS. Mr. President, I rise in support of the Chambliss amendment and in opposition to the amendment filed by my friend from Illinois, Senator DURBIN. I am pleased that the Durbin amendment has been filed because it is good to see others share my idea that the retirement system for our Guard and Reserve soldiers needs to be updated to meet the new role these soldiers are playing as part of our Nation's military.

By way of introduction, let me say I think it is a very good thing we are debating this issue at this time in the Senate today because not only is this an important issue we need to talk about as policymakers in the Congress, but today we have a majority of the men and women serving in the theater in Iraq who are members of the Guard and Reserve. It is critically important that as we utilize these soldiers, we provide them with benefits that compare to the active-duty soldiers.

I would like to compare the military personnel system to a finely tuned machine because that is what it is. The Department of Defense and the individual military services have staffs that devote significant time and energy to determining how to recruit, retain, promote, separate, and retire people in their respective services. The Department recommends incentives, which we in Congress consider and authorize, which shape this process of recruiting and retention according to the needs of the services. It is a fact that any change in the military personnel system will change the process and the incentives in question and could change them in ways that are detrimental to the military services.

I have crafted my amendment, the underlying amendment, with these factors in mind. However, in my assessment, the Durbin amendment has not received the same scrutiny along these lines and will, indeed, shape the personnel system in unintended ways that are detrimental to the military which we simply cannot afford from a cost perspective.

The effect of this amendment will be to create an imbalance in the personnel system which will likely result in an increase in end strength and result in people in the higher ranks of the enlisted and officer corps clogging the system and not allowing the people beneath them the opportunity for promotion. This amendment also rewards and retains people who, generally speaking, are already being retained at the required rate. In my assessment, this amendment solves a problem that does not exist.

The Durbin amendment simply rewards longevity of service. It does not reward those members of the Reserve components who disrupt their lives in support of a contingency operation, and does not provide an incentive or reward for soldiers deployed in harm's way in defense of their country.

Both amendments target soldiers who have sacrificed, but my amendment targets the ones who have put their lives in harm's way, and we should be giving them a real incentive to stay in the military.

From a cost perspective, the Durbin amendment has a 1-year reward for as few as 22 days of Reserve duty. That is a 17-day reduction in the age a reservist could collect retirement for every 1 day of service, whereas my amendment is far more equitable. It is a one-for-one reduction.

The Durbin amendment scores at $4.8 billion over 5 years. My amendment scores at $320 million over 5 years. I agree that cost should not be the sole determining factor, but we are in a real budget world today where we are struggling to find dollars to buy weapons systems and to provide for these quality-of-life issues for our men and women. I had an amendment last year that was too expensive. We have come back this year with a much more realistic amendment that is affordable and, in my opinion, is more rewarding to those who deserve it at this point in the life of our military. The scoring of Senator DURBIN's amendment is roughly 8 times, almost 10 times as expensive as my amendment.

In summary, while length of service is one area which I do believe we should incentivize for our Guard and Reserve soldiers, it is not the only behavior or even the primary behavior we need to reward. Rather, it is our reservists who have truly sacrificed, who have left their homes, their jobs, and their families and put themselves in harm's way who need to be rewarded and incentivized to stay in the Reserve. That is exactly what my amendment does and does it in a fair and cost-effective way. We incentivize voluntarism, not just incentivize longevity of service.

I urge my colleagues to reject the Durbin amendment and to support the underlying amendment.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. LEVIN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. SUNUNU). Without objection, it is so ordered.

AMENDMENT NO. 2473, AS MODIFIED

Mr. LEVIN. Mr. President, this has been cleared with the majority.

I call up the Durbin amendment No. 2473.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for Mr. DURBIN, for himself, Mr. CORZINE, and Ms. LANDRIEU, proposes an amendment numbered 2473, as modified.

Mr. LEVIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

At the end of subtitle C of title V, add the following:

SEC. . ELIGIBILITY FOR RETIRED PAY FOR NON-REGULAR SERVICE.

(a) AGE AND SERVICE REQUIREMENTS.—Subsection (a) of section 12731 of title 10, United States Code, is amended to read as follows:

“(a)(1) Except as provided in subsection (c), a person is entitled, upon application, to retired pay computed under section 12739 of this title, if the person—

“(A) satisfies one of the combinations of requirements for minimum age and minimum number of years of service (computed under section 12732 of this title) that are specified in the table in paragraph (2);

“(B) performed the last six years of qualifying service while a member of any category named in section 12732(a)(1) of this title, but not while a member of a regular component, the Fleet Reserve, or the Fleet Marine Corps Reserve, except that in the case of a person who completed 20 years of service computed under section 12732 of this title before October 5, 1994, the number of years of qualifying service under this subparagraph shall be eight; and

“(C) is not entitled, under any other provision of law, to retired pay from an armed force or retainer pay as a member of the Fleet Reserve or the Fleet Marine Corps Reserve.

“(2) The combinations of minimum age and minimum years of service required of a person under subparagraph (A) of paragraph (1) for entitlement to retired pay as provided in such paragraph are as follows:

“Age, in years, is at least:	The minimum years of service required for that age is:
55	25
56	24
57	23
58	22
59	21
60	20.”.

(b) 20-YEAR LETTER.—Subsection (d) of such section is amended by striking “the years of service required for eligibility for retired pay under this chapter” in the first sentence and inserting “20 years of service computed under section 12732 of this title.”.

(c) EFFECTIVE DATE.—This section and the amendments made by this subsection (a) shall take effect on the first day of the first month beginning on or after the date of the enactment of this Act and shall apply with respect to retired pay payable for that month and subsequent months.

Mr. LEVIN. I thank the Presiding Officer. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, in consultation with the distinguished Senator from Michigan and leadership, I propound this unanimous consent request, which I understand has been cleared on both sides. I ask unanimous consent that the 2:45 votes be delayed to begin at 3:20, and further that at 5:30 the Senate proceed to a vote in relation to the Chambliss amendment No. 2433, to be followed by a vote in relation to the Durbin amendment No. 2473, with the instructions modified to change it to a first degree, with no second degrees in order to either amendment prior to the vote; further, that there be 2 minutes equally divided between each of the stacked votes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2476

Mr. DURBIN. Mr. President, I joined with Senator DORGAN of North Dakota in offering amendment numbered 2476. It is an amendment on which we both worked. Over the years we have shared billing on it because we both believe it is essential. It is an amendment which calls for the creation of a Truman-like commission to make certain we are spending our defense dollars effectively, we are not wasting money, and that the money spent is for the security of America and the protection of our troops.

In a report on defense logistics issued in March of this year, the Government Accountability Office found that U.S. troops experienced shortages in seven of the nine items that the GAO reviewed. The report reads:

> These shortages led in some cases to a decline in the operational capability of equipment and increased risk for troops.

The items included generators for assault vehicles, armored vehicle parts, lithium batteries, meals ready to eat, truck tires, body armor, armored vehicles, and add-on armor kits. The GAO Comptroller, David Walker, testified in a Senate subcommittee hearing that the Department of Defense doesn't have a system to be able to determine with any degree of reliability and specificity how we spend tens of millions of dollars.

Mr. Walker then went on to say:

> Trying to figure out what appropriated funds were being spent on is like pulling teeth.

Shortchanging the taxpayers is not acceptable. Shortchanging our troops, especially when they are risking their lives for America, is absolutely inexcusable. We have been talking about personal and vehicle armor shortages for months.

I will never forget my first visit to Walter Reed to see the first injured veteran from Iraq, a member of the Ohio National Guard, who had lost his left leg below the knee. I asked him what happened. He said: It is those humvees. They don't have any armor plating on them.

This soldier told me he couldn't wait to get his new leg so he could get back in combat. That is the kind of fighting spirit which we love to see in the men and women who are serving this country. Shouldn't we have the same fighting spirit when it comes to providing them with the equipment they need so they can come home safely with their mission accomplished, truly accomplished? If we waste money with profiteers and those who try to gouge the Federal Government at the expense of our troops, we are not doing our soldiers any favor.

These shortages, especially of armor, have sent young men to Walter Reed for a long time, with missing arms and legs, and other serious injuries. I have met them. I don't know how we can face them and honestly say we have not tried to do everything within our power to make certain their fellow soldiers are protected. Our current system does not work.

In 1941, Senator Harry Truman, a Democrat from Missouri, introduced a resolution creating a special committee to investigate the national defense program. Who was the President at the time? Franklin Roosevelt, a Democrat from New York. We had a Democratic Senator calling for an investigation of the War Department of a Democratic President. Those were the days—and you have to search the history days to remember them—when there was real oversight in Congress, regardless of the party affiliation.

We find exactly the opposite today. The Republican majority in Congress refuses to accept the responsibility of oversight because they might embarrass the Republican administration in the White House. This is not about protecting the President from embarrassment. This is about protecting our troops.

This Truman Commission cost very little money in those days, but it saved us billions of dollars. It is a valuable lesson for today. Then, as now, skyrocketing contract costs, rapid allocation of funds meant we were wasting money. Harry Truman stated when he came to this Senate, the same Chamber, almost 64 years ago:

> I'm calling the attention of the Senate to these things because I believe most sincerely they need looking into. I consider public funds to be sacred funds and I think they ought to have every safeguard possible to prevent their misuse or being mishandled.

Senator Truman went on to say:

> I think the Senate ought to create a special committee with authority to examine every contract.

The National Archives describes the Truman Committee:

> The committee earned a high reputation for thoroughness and efficiency. After the end of the war the committee turned its analysis to wartime experiences in order to make recommendations that improved postwar and future national defense programs.

It was a real national service. We continue to offer this amendment on the Democratic side of the aisle and we cannot find a single Senator, or very few, I should say, on the Republican side even interested in talking about it. Why? Why wouldn't they be interested in making certain the taxpayers' dollars are well spent in the Department of Defense? Why wouldn't they want accountability when it comes to the equipment to protect our troops?

I joined with Senator DORGAN with this amendment to create a new Truman committee to oversee contracting awards in Iraq, Afghanistan, and the war on terrorism. We need this committee. As Goldman Sachs International Vice President Robert Hormats stated:

> There is nothing more corrosive of support for a war anywhere in the world, the war against terrorism or dealing with the problems in Iraq, than the concern that taxpayer money is not being used well.

The simple fact is we need better oversight. We need this committee. We need to identify the weaknesses in our current system. We need the best practices to be followed by our Department of Defense.

We learned earlier this year that $8.8 billion that was managed by the Coalition Provisional Authority in Iraq simply disappeared. We brought back Mr. Bremmer, the head of that Coalition Provisional Authority for the United States, and gave him a gold medal. I wish we had found the $8.8 billion before we gave him a gold medal. Reports indicate that payrolls in Iraqi ministries under the control of that authority were inflated with thousands of ghost employees. The United States Inspector General for Iraqi reconstruction has said:

> We believe the CPA management of Iraq's national budget process and oversight of funds was burdened by severe inefficiencies and poor management.

The list goes on and on.

We owe our troops and our taxpayers better oversight of their money. This bipartisan special committee called for in the Dorgan-Durbin amendment will accomplish that.

So many Members come to the Senate today and say not one penny is going to be spent for Hurricane Katrina or to safeguard America against avian influenza unless we offset it. We are watchdogs when it comes to new programs. Why not be watchdogs for existing programs? If Congress is not exercising its power of oversight, for goodness sake, let us create a Truman-like commission that will. Let's ask the hard question and get the right answers. Let's protect our troops and protect the taxpayers.

I reserve the remainder of my time and urge my colleagues on both sides of the aisle to support the Dorgan-Durbin amendment numbered 2476.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that the pending amendments be set aside.

The PRESIDING OFFICER. Without objection, it is so ordered. The pending amendments are set aside.

AMENDMENT NO. 2478

Mr. LAUTENBERG. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The bill clerk read as follows:

The Senator from New Jersey [Mr. LAUTENBERG] proposes an amendment numbered 2478.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To prohibit individuals who knowingly engage in certain violations relating to the handling of classified information from holding a security clearance)

On page 286, strike lines 1 through 3, and insert the following:

SEC. 1072. IMPROVEMENTS OF INTERNAL SECURITY ACT OF 1950.

(a) PROHIBITION ON HOLDING OF SECURITY CLEARANCE AFTER CERTAIN VIOLATIONS ON HANDLING OF CLASSIFIED INFORMATION.—

(1) PROHIBITION.—Section 4 of the Internal Security Act of 1950 (50 U.S.C. 783) is amended by adding at the end the following new subsection:

"(f) No person who knowingly violates a law or regulation regarding the handling of classified information in a manner that could have a significant adverse impact on the national security of the United States, including the knowing disclosure of the identity of a covert agent of the Central Intelligence Agency to a person not authorized to receive such information, shall be permitted to hold a security clearance for access to classified information.".

(2) APPLICABILITY.—Subsection (f) of section 4 of the Internal Security Act of 1950, as added by paragraph (1), shall apply to any individual holding a security clearance on or after the date of the enactment of this Act with respect to any knowing violation of law or regulation described in such subsection, regardless of whether such violation occurs before, on, or after that date.

(b) CLARIFICATION OF AUTHORITY TO ISSUE SECURITY REGULATIONS AND ORDERS.—

Mr. LAUTENBERG. Mr. President, the amendment I offer today is something I believe is urgently needed because of security concerns raised constantly these days, particularly as a result of a recent indictment we are all aware of. The amendment is relatively simple, straightforward. It clarifies part of the intelligence law to be clear that those who compromise classified information cannot hold a clearance. The indictment describes conduct by a White House official that must not be tolerated. Certainly, an irresponsible and reckless official should not be allowed to continue to hold a clearance to see top-secret information.

The person at issue is identified in the recent indictment I spoke of earlier as "Official A." According to the Washington Post, White House staff have confirmed that Official A is Mr. Karl Rove. He is the deputy chief of staff to the President. The indictment says this official gave classified information to a journalist. Any official who does such a thing should certainly not continue to hold a clearance.

It is quite clear what President Bush's intent was when he said he wanted to clear the air about any leakage of classified information. I think we should follow his pledge or remind him of his pledge to remove anyone involved with leaking information. We know the information given to the journalist Robert Novak was, indeed, published, and a CIA operative was exposed.

The actions taken by the White House staff have damaged our national security. Thusly, an indictment has come about. It has destroyed an operative's covert cover, compromised intelligence-gathering operations, and endangered the safety of other CIA employees and their contacts.

The amendment I offer today is similar to one that was offered earlier in the year by Senator REID in July. My amendment has one significant difference. It includes the words a "knowing" standard so that someone who unknowingly does it doesn't get included in our amendment. We wanted to narrow the field and say, if you talk about these things and know it, you ought to pay for it. The payment is fairly simple. My Republican colleagues reacted to the Reid amendment by talking about it as an open-ended standard. In deference to the concerns of our colleagues on the other side, I have added a "knowing" standard—in other words, if you don't know it, then that is one thing; if you do know it, it is quite something else—which is more than fair to someone who reveals our national security secrets.

I see my colleague and friend from Virginia on the other side. I am reminded when both of us wore a uniform some years ago, it was "loose lips sink ships." The lights were darkened all along the coast. You couldn't even tell your family where you were at the time. As a matter of fact, I was in an area in Belgium that was quite dangerous. I did find a place that sold a postcard that was written in the language of the area. It was Flemish. I sent it to my mother to give her an indication where I was. I kind of had to sneak by the censors.

We are at war. People are at war with us. Terrorists are liable to attack us at any time. They are certainly doing what they can to even injure or kill our service people who are abroad. We ought to make sure we are as diligent about covering our security as we can be. We should ask nothing less than total obedience to the rules. I am here with the consent and support of Senator REID of Nevada, Senator LEVIN, and others who believe we should do this. I hope my colleagues across the aisle can agree that if somebody gives information they shouldn't, by golly, what we are saying is the penalty is that you should lose that security clearance and that person should be treated as the President suggests, removed from the security scene.

It is plain common sense. I urge my colleagues to support the amendment.

I yield the floor.

The PRESIDING OFFICER (Mr. MARTINEZ). The Senator from Virginia.

Mr. WARNER. Mr. President, I say to my colleague, I recall that period very well. There were times when the Nation's capital had blackouts. At that time my father was a doctor actively practicing medicine in this city, and he had to take the headlights on his car and put a black screen over the headlight with about a 1-inch slit so he could respond to emergency measures during the blackout. Where our home was at that time we had blackout curtains. We regularly went out to make sure there was no leakage of the light because at that time the city lights, if they had been on, silhouetted U.S. and other allied shipping such that they were the target of then German submarines off the coast. Indeed, it is hard to believe this, but the coastline from Florida all the way up to New England was strewn with the damage of ships that were torpedoed.

I remember well that period of time, and I remember the phrase. I am surprised you, as an Army man, used a

Navy phrase that loose lips sank ships. But we have a very serious amendment here, deserving of equally serious attention. It has just been handed to us. I am sure the Senator would appreciate that we would need some time to study this to determine exactly how we should respond.

I am reading the first paragraph: "No person who knowingly violates," that would mean he would have to know that, A, his material is classified, and, B, that he has to have a knowledge of the law and regulation? Are those the two elements of that?

Mr. LAUTENBERG. Yes, the Senator is correct. And what we say is, if you do it, the least that ought to happen is you ought to learn enough of a lesson that we are going to remove any access to classified information if you do it knowingly.

Mr. WARNER. I understand what the consequences are. But I want to make certain the Senator was trying to draw this up in such a way that, no matter how misfortunate, if it is unintentioned, then that would not be a violation.

Mr. LAUTENBERG. Right.

Mr. WARNER. I find it difficult to believe anyone who has a security clearance would not understand the basic law and regulation prohibiting or controlling its use. You can almost impute to the person knowledge of the statute and law.

Mr. LAUTENBERG. We tried our best to clarify it and remove the concern that was exhibited when Senator REID offered it last July. This was added because colleagues on the other side made an observation that was sensible; that is, if someone does something unknowingly, you can't punish them. But on the other hand, if someone has a job that includes security, I would have to say they would know this is a violation to betray any of the rules they are subjected to. But this clarifies it. There is no intention here to pull the wool over anybody's eyes or anything such as that. It is to make sure we prevent any leakage as much as we can of security information. We are so sensitized to it that the country is at times locked up in concerns with these warnings being given out, and we ought to try to restrict that from happening as much as possible.

It can be careless. The Senator can well remember the time, a very unfortunate time, when an informant, someone working with the CIA in Latin America—Guatemala. I believe it was—was assassinated after their identity was revealed. We don't want that to happen. We have our friends and relatives overseas now.

Mr. WARNER. Let me interrupt. I want to make certain that time used during the colloquy is divided equally, that when I speak, it is charged to my time, and the Senator from New Jersey, as he speaks, the time will be charged to him; is that agreeable?

Mr. LAUTENBERG. Certainly.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. The standard you have is "could have a significant adverse impact." Do you have any criteria for "significant"? As you and I both know, having dealt in these areas for many years, we often look at things that are classified and we say to ourselves: Why in the world would they be classifying this document? Unfortunately, the broad brush of classification sometimes is utilized on things that I don't think need to be classified.

Mr. LAUTENBERG. I think current law describes that. We will use that as the standard. Again, there is no intention here to bypass the rules. It is to confirm clearly that if you talk about this, we are not saying you go to jail. We are not saying anything else. But you certainly should no longer have access to classified information.

Mr. WARNER. Would the Senator be able to supply for the record the references that he says would define further the word "significant"? You said it is defined in law. Could you cite those laws upon which you rely?

Mr. LAUTENBERG. Yes. We will certainly try to do that.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. I think I still have the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, again, this amendment has just been given to the majority side. We will, in due course, have further response to the Senator. At this time it becomes the pending amendment.

The PRESIDING OFFICER. It is the pending amendment.

Mr. WARNER. Fine. I thank my colleague.

I yield the floor.

Mr. LAUTENBERG. I thank the Senator. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, are we not at this point in time guided by the standing order we just entered?

The PRESIDING OFFICER. The Senator is correct. The question is on agreeing to the Inhofe amendment, as modified.

Mr. WARNER. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have been ordered.

Mr. WARNER. May we now proceed with the vote.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 312 Leg.]

YEAS—99

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—1

Corzine

The amendment (No. 2440), as modified, was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. DODD. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, it is my understanding that we have a second vote as ordered.

AMENDMENT NO. 2443

The PRESIDING OFFICER. The next question is on the Ensign amendment.

There are 2 minutes equally divided. Who yields time?

Mr. ENSIGN. Mr. President, I ask that Senator ALLARD be added as cosponsor to my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ENSIGN. Mr. President, very simply, this amendment seeks to clarify what the policy of the United States has been since 1975, that our military would be able to use riot control agents—in this case tear gas—for defensive purposes. That has been the policy of the United States. But because of some interpretations, our military is not able to use tear gas. They do not take it with them, they do not train with it, and in many cases tear gas—just as police forces use it all over the world—would save civilian lives as well as lives of the members of our military.

This is absolutely a critical amendment to save lives of Americans and for those civilians who, when our military kills them—and unfortunately these things happen—it makes us look bad as a country.

This is a critical amendment that we need to adopt.

Mr. WARNER. Mr. President, I wish to indicate to my colleagues that I have carefully studied this. I support the Ensign amendment. I defer to my colleague, Senator LEVIN.

Mr. LEVIN. Mr. President, the Senator from Nevada has assured the Senate that this amendment does not seek, in any way, to change current policy, including Executive Order 11850, relative to the use of riot control agents. I note that the President has provided the Presidential approval required by that Executive order for use of riot control agents in Iraq. We look forward to consulting with the administration. The amendment of the Senator from Nevada is an appropriate amendment. It could be very helpful, and we support the amendment.

Mr. WARNER. Mr. President, as I stated on the floor yesterday, I am able to support Senator ENSIGN's amendment because it now includes several important modifications that were requested by the administration. As a result of those modifications, the amendment more accurately reflects current U.S. policy and law regarding the use of riot control agents by members of the Armed Forces. I thank Senator ENSIGN for agreeing to those modifications. I will take into account the views and recommendations of the administration as we continue our work on this issue and the bill in conference.

The resolution of ratification for the Chemical Weapons Convention, CWC, passed by this body contained a condition requiring the President to certify that the United States is not restricted by the CWC in its use of riot control agents in certain specified circumstances. In addition, the condition required the President not to eliminate or alter Executive Order 11850, which prohibits the use of riot control agents in war "except in defensive military modes to save lives."

In response to questions from myself and Senator LEVIN on the floor yesterday and today, Senator ENSIGN confirmed that he does not seek through this amendment to amend, expand or reinterpret Executive Order 11850 in any way. It is on that understanding that I can support his amendment.

The Senator from Nevada has raised the question of whether the U.S. Armed Forces currently have sufficiently clear authority with respect to riot control agents. I have looked into this matter and consulted with representatives of the Department of Defense, including representatives of our commanders in the field.

They have informed me and my staff that, in their view, the use of riot control agents is a very complex matter. It is not clear that commanders in the field want to use "RCAs" widely. However, there are a number of cases where RCAs could be very useful to avoid unnecessary loss of life. I have been assured that, consistent with the Executive Order, U.S. Armed Forces have authority to use riot control agents. Furthermore, I am informed that DoD will examine whether any confusion exists about RCA use, and will take all steps necessary to ensure that U.S. Armed Forces have the clear guidance that they need and deserve.

I am confident that the DoD and the administration will ensure that our men and women in uniform have every tool available to them consistent with U.S. and international law.

Mr. LUGAR. Mr. President, I rise today to share my views on the amendment offered by Senator ENSIGN regarding the use of riot control agents, RCAs, by members of our Armed Forces in war. As one of the principal proponents of Senate ratification of the CWC, along with my ranking member, Senator BIDEN, I feel it important to provide my views in relation to this amendment.

I will vote in favor this amendment, and I do so because I believe that it in no way modifies, changes, reinterprets, or otherwise revises the laws of the United States regarding the use of RCAs in war to save lives, nor in any way affects U.S. compliance with our international obligations. This amendment creates no new law, and changes no U.S. policy.

When the Senate approved a resolution of advice and consent to ratification of the Convention on the Prohibition of Development, Production, Stockpiling and Use of Chemical Weapons and on Their Destruction—The Chemical Weapons Convention or CWC in 1997, it made the conditional on maintaining U.S. law in effect at that time. Condition 26(B) of that resolution of ratification stated:

> The President shall take no measure, and prescribe no rule or regulation, which would alter or eliminate Executive Order 11850 of April 8, 1975.

Senator ENSIGN's amendment mentions both this Executive order and the Senate-approved condition.

Senator ENSIGN's amendment cannot modify that condition, and because it merely restates authority the President already has regarding the use of RCAs in war, I believe that voting for the amendment will not harm U.S. leadership in preventing the proliferation of chemical weapons nor will it reverse the will of the Senate at the time it approved the CWC. I look forward to working with Chairman WARNER, Senator LEVIN, and the administration as this provision is considered in conference with the House, and in efforts to improve it in that conference.

Mr. BIDEN. Mr. President, I will vote in favor of the Ensign amendment to this bill, relating to the use of riot control agents, and I want to make clear to my colleagues why a steadfast supporter of the Chemical Weapons Convention can do so in good conscience. Senator ENSIGN is concerned that current interpretation of U.S. policy and of U.S. obligations under international law might be hampering U.S. forces in Iraq. I gather that not everybody shares that belief, but I do not doubt that some people have this concern, and I appreciate Senator ENSIGN's desire to make sure that people in the military fully understand what they can and cannot do when it comes to using riot control agents in Iraq.

What is important about the Ensign amendment, in my view, is that it will in no way modify either U.S. policy or U.S. international obligations regarding the use of riot control agents. The statement, in subsection (a) of the amendment that "riot control agents are not chemical weapons" is fully consistent with the Chemical Weapons Convention, in which "riot control agent" is defined as a chemical, not listed in any of the Convention's three lists of chemical weapons or their precursors, "which can produce rapidly in humans sensory irritation or disabling physical effects which disappear within a short time following termination of exposure." That definition is quite different from the definition of a "toxic chemical" in a chemical weapon, "which through its chemical action on life processes can cause death, temporary incapacitation or permanent harm to humans or animals." So the Ensign amendment is correct in that a riot control agent, as defined in the Chemical Weapons Convention, would not be a chemical weapon as defined in that convention.

Similarly, the Ensign amendment now before this body accurately reflects U.S. policy as established by President Gerald Ford in Executive Order 11850 of April 8, 1975. That Executive order, signed by a Republican President and implemented by six subsequent Presidents of both parties over the last 30 years, states: "The United States renounces, as a matter of national policy . . . first use of riot control agents in war except in defensive military modes to save lives. . . ." It goes on to give four examples of such defensive military modes, only two of which relate to combat zones:

"(b) . . . in situations in which civilians are used to mask or screen attacks and civilian casualties can be reduced or avoided"; and

"(c) . . . in rescue missions in remotely isolated areas, of downed aircrews and passengers, and escaping prisoners."

Executive Order 11850 then orders implementation, as follows:

"Sec. 1. The Secretary of Defense shall take all necessary measures to ensure that the use by the Armed Forces of the United States of any riot control agents and chemical herbicides in war is prohibited unless such use has Presidential approval, in advance.

"Sec. 2. The Secretary of Defense shall prescribe the rules and regulations he deems necessary to ensure that the national policy herein announced shall be observed by the Armed Forces of the United States."

As far as I can tell, Senator ENSIGN does not intend that anything in Executive Order 11850 be changed, nor that there be any change in the U.S. policy and obligation to fully obey the Chemical Weapons Convention, which binds each state party "not to use riot control agents as a method of warfare." It is standing U.S. policy that if somebody is using human shields, as occurred in Somalia in the early 1990s, our Armed Forces may use riot control agents "in defensive military modes to save lives" without violating our obligations as state party to the Chemical Weapons Convention.

In light of my view that the Ensign amendment will not change U.S. policy and will not call into question the requirement to comply with our international obligations under the Chemical Weapons Convention, I see no reason to oppose this amendment. I do urge, however, that the limited nature of this amendment be made more explicit in conference.

The PRESIDING OFFICER. All time has been yielded. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 313 Leg.]

YEAS—98

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—1

Harkin

NOT VOTING—1

Corzine

The amendment (No. 2443) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. SHELBY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, we remain on the bill, but a colleague has a unanimous consent.

Mr. SHELBY. Mr. President, I ask unanimous consent I be able to proceed as in morning business for 5 minutes.

The PRESIDING OFFICER (Mr. COBURN). Without objection, it is so ordered.

Mr. WARNER. Is there not a pending amendment that must be laid aside first?

The PRESIDING OFFICER. The Senator is proceeding in morning business, and that will take care of it.

Mr. WARNER. I thank the Presiding Officer.

The Lautenberg amendment is the pending amendment on the Defense authorization bill.

The PRESIDING OFFICER. The Senator is correct.

The Senator from Alabama is recognized for 5 minutes.

(The remarks of Mr. SHELBY are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, the need for a quorum call at this time is because there are a number of Senators who had to depart Capitol Hill for a meeting. Therefore, it is beyond the control of either manager. We need to keep in reserve our time on the bill. So I ask unanimous consent that the time expended in the quorum call up to just a minute ago, when I withdrew it, as well as the time that will ensue in the following quorum call not be charged to either side.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I thank the Presiding Officer and I thank the Parliamentarian.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 1526, AS FURTHER MODIFIED

Mr. WARNER. Mr. President, I ask unanimous consent that the previously agreed to amendment No. 1526 be modified. I send that modification to the desk. The amendment has been cleared by the other side and is merely a technical correction.

The PRESIDING OFFICER. Without objection, the amendment is so modified.

The amendment, as further modified, is as follows:

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. SENSE OF THE SENATE REGARDING COMMUNITY IMPACT ASSISTANCE RELATED TO CONSTRUCTION OF NAVY LANDING FIELD, NORTH CAROLINA.

It is the sense of the Senate that—

(1) the planned construction of an outlying landing field in North Carolina is vital to the national security interests of the United States; and

(2) the Department of Defense should work with other Federal agencies to provide community impact assistance to those communities directly impacted by the location of the outlying landing field, including, where appropriate—

(A) economic development assistance;

(B) impact aid program assistance;

(C) the provision by cooperative agreement with the Navy of fire, rescue, water, and sewer services;

(D) access by leasing arrangement to appropriate land for farming for farmers impacted by the location of the landing field;

(E) direct relocation assistance; and

(F) fair compensation to landowners for property purchased by the Navy.

AMENDMENT NO. 2483

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I send an amendment to the desk on behalf of Senator BAYH and myself.

The PRESIDING OFFICER. Without objection, the pending amendments are set aside.

The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Illinois [Mr. DURBIN], for himself and Mr. BAYH, proposes an amendment numbered 2483.

Mr. DURBIN. I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To provide income replacement payments for certain Reserves experiencing extended and frequent mobilization for active duty service)

At the end of subtitle A of title VI, add the following:

SEC. . INCOME REPLACEMENT PAYMENTS FOR RESERVES EXPERIENCING EXTENDED AND FREQUENT MOBILIZATION FOR ACTIVE DUTY SERVICE.

(a) IN GENERAL.—Chapter 19 of title 37, United States Code, is amended by adding at the end the following new section:

"§910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service

"(a) PAYMENT REQUIRED.—The Secretary concerned shall pay to an eligible member of a reserve component of the armed forces an amount equal to the monthly active-duty income differential of the member, as determined by the Secretary. The payments shall be made on a monthly basis.

"(b) ELIGIBILITY.—Subject to subsection (c), a reserve component member is entitled to a payment under this section for any full month of active duty of the member, while on active duty under an involuntary mobilization order, following the date on which the member—

"(1) completes 180 continuous days of service on active duty under such an order;

"(2) completes 24 months on active duty during the previous 60 months under such an order; or

"(3) is involuntarily mobilized for service on active duty six months or less following the member's separation from the member's previous period of active duty.

"(c) MINIMUM AND MAXIMUM PAYMENT AMOUNTS.—(1) A payment under this section shall be made to a member for a month only if the amount of the monthly active-duty income differential for the month is greater than $50.

"(2) Notwithstanding the amount determined under subsection (d) for a member for a month, the monthly payment to a member under this section may not exceed $3,000.

"(d) MONTHLY ACTIVE-DUTY INCOME DIFFERENTIAL.—For purposes of this section, the monthly active-duty income differential of a member is the difference between—

"(1) the average monthly civilian income of the member; and

"(2) the member's total monthly military compensation.

"(e) DEFINITIONS.—In this section:

"(1) The term 'average monthly civilian income', with respect to a member of a reserve component, means the amount, determined by the Secretary concerned, of the earned income of the member for either the 12 months preceding the member's mobilization or the 12 months covered by the member's most recent Federal income tax filing, divided by 12.

"(2) The term 'total monthly military compensation' means the amount, computed on a monthly basis, of the sum of—

"(A) the amount of the regular military compensation (RMC) of the member; and

"(B) any amount of special pay or incentive pay and any allowance (other than an allowance included in regular military compensation) that is paid to the member on a monthly basis.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service.".

(c) EFFECTIVE DATE.—Section 910 of title 37, United States Code, as added by subsection (a), shall apply for months after December 2005.

(d) LIMITATION ON FISCAL YEAR 2006 OBLIGATIONS.—During fiscal year 2006, obligations incurred under section 910 of title 37, United States Code, to provide income replacement payments to involuntarily mobilized members of a reserve component who are subject to extended and frequent active duty service may not exceed $60,000,000.

Mr. DURBIN. Mr. President, let me say at the outset that Senator BAYH and I are offering this amendment. It turns out that we have had the same basic concept and idea. We kind of came at it a little differently. I spoke to him on the telephone a few moments ago. I am going to defer to him in allowing him to be the lead sponsor on this amendment because together we might have a better chance of success, and that, of course, is the ultimate test of the wisdom of this concept.

I especially salute Robert Preiss of my staff, who is a fellow serving in my office who has come to us from the military and has worked night and day in trying to make certain that we help those who are in the Guard and Reserve and Active military. He has put an awful lot of time into this amendment. When some procedural questions came up that were important to be resolved, we turned it over to Robert Preiss, and he did an excellent job. That is the reason we can come before you today with confidence that this amendment can be considered under this important Defense authorization bill. It is critically important. I would like to explain it for my colleagues to understand why Senator BAYH and I decided to offer it and now offer it together.

The Department of Defense status of forces survey of Reserve component members, released in September 2004, revealed that 51 percent of our National Guard and Reserve said they suffer a loss in income when mobilized for long periods of active duty because their military pay is less than what they were receiving in their civilian job. The average reservist says that he or she loses $368 a month, but 11 percent report losing more than $2,500 a month. Imagine that you joined the Guard and Reserve, volunteered to serve the country, and then you are activated. You leave your job and family, go overseas and risk your life and worry about coming home safe. Many of our Guard and Reserve members are also worried about what is happening to the family back home. There is less money for the monthly budget, less money for the mortgage, less money to pay gasoline bills. It all adds up.

If you take a look, this is kind of an illustration that 51 percent of the reservists lose income when mobilized, and 11 percent lose more than $2,500 per month. This income loss represents a disparity in the ranks and poses on reservists a burden not experienced by many Active-Duty troops. Many Active-Duty troops experience increases in income during deployments due to tax advantages, hazardous duty pay, family separation allowances, and other special pay enhancements. Those reservists with incomes higher than the deployed military suffer a loss. Their ongoing financial commitments continue for their children, for their families, for their homes, their automobiles. You know the list as well as I do. Their basic expenses are based on civilian income, but when they are activated, they are receiving military income. The resulting financial problems on the homefront can distract a man or woman who has said: I am ready to serve my country and even risk my life.

The amendment I offer with Senator BAYH allows reservists mobilized for extended periods to receive up to $3,000 per month in extra pay to make up for differences between their military and civilian salaries. To qualify, a reservist must have a pay gap of at least $50 a month.

The language I offer today is identical to that in the House bill, with one exception. This amendment provides these income replacement payments for Reserve component members mobilized for 6 months or more. The House bill says that you have to be called up for 18 months or more to qualify for this income supplement. That is entirely too long. It is rare that a reservist is going to be called up for 18 months. So the bill as it comes from the House really doesn't do much. This is entirely too long, to expect a reservist to wait 18 months before we give them some income supplement. Indeed, with most callups currently lasting around 18 months, the practical effect of a qualification period that long would be that few reservists would ever get a dime of help. We can do a lot better than that. America can do better for its men and women in uniform. I urge my Senate colleagues to pull together. The House plan is good, but the qualification period is unrealistically long. We can make it better.

This language was proposed by Congressman MCHUGH. He is the Republican chairman of the House Armed Services Committee Subcommittee on Personnel. He originally proposed a 12-month qualification period. It was extended to 18 months through hasty action in the committee that may not have been carefully considered. As I have said, the language I offer today with Senator BAYH is the same with the exception that this version we offer calls for a 6-month qualification period.

According to an Army Times article about this provision, Chairman

McHugh said something needs to be done. I agree with him. He said: "We have a crisis." I agree with that. He repeated that the extended deployments are raising this issue time and time again for many of the very best who serve our country. I have to agree with Chairman McHugh 100 percent. We have made a sound proposal because we do, indeed, have a crisis. Recruiting numbers are down for our military. That is a fact of life. With the Reserve components missing their recruitment targets, we must look to the retention of existing members to keep up force strength.

So far, retention has been pretty good. I salute the men and women for staying on in the military even though we ask more and more of them each day. But the existence of this income loss is going to hurt us with retention. Let's be honest about it. Of the top 10 reasons cited in the status of forces survey for leaving the National Guard and Reserve, income loss was No. 4. The others are obvious: family burden, too many activations and deployments, activations are too long, and loss of income. We ask a lot of sacrifice from the men and women in uniform. They march off and do their duty, whether it is responding to Hurricane Katrina at home or going over to risk their lives in Iraq or Afghanistan. We understand that we can do something about the income loss. That is what this amendment seeks to do.

I urge my colleagues on both sides to support this measure. Pass this amendment and include it in our Senate bill language so that when we get together with the House of Representatives, we can ensure that something does get done this year to eliminate or at least reduce the income loss suffered by families of some of our guardsmen and reservists. By standing behind a qualification period of 6 months, we lay down a clear marker that we in the Senate stand for more than just symbolism. We really want to help. We stand for real help in addressing the pay gap for the good of the members of our Reserve components, for the good of their families, for the long-term good of the force, and for the good of our Nation.

I urge my colleagues, if they think this is a worthy amendment and will join us in it. Senator Bayh and I would welcome their support. This should be a bipartisan amendment. I don't know how we can argue over whether we should protect the income of the men and women who fight for us. If they are going to be away from their families and separated, not there for the important decisions that are being made by their families, the least we can do is make sure they don't face some unreasonable hardship because of income loss.

I see Senator Landrieu is here. I salute her. She has done so many things recently on Hurricane Katrina and other issues. But she has been one of the strongest voices in the Senate for the Guard and Reserve and our military. She and I spoke the other day about this issue. She said: We have to have an amendment to help Guard and Reserve. I am glad she has come to the Chamber at this moment because it is timely. We are trying to make sure this bill doesn't leave the Senate without a provision in it that is going to help these men and women in uniform.

Ms. LANDRIEU. Will the Senator yield?

Mr. DURBIN. I am happy to yield.

Ms. LANDRIEU. I know the Senator is wrapping up his remarks, but I would like to ask the Senator, is he aware that a complementary amendment we have worked on for a couple of years, giving a tax credit to employers who are filling that pay gap, is the Senator aware that has still not passed this Congress?

Mr. DURBIN. I was aware of it. I say to the Senator from Louisiana, a lot of people are not aware of it. They think we have already done these things. We make these proposals on the floor of the Senate. Some of them pass the Senate, then they disappear in conference committees. We all pat ourselves on the back and say we are standing up for the men and women in uniform. At the end of the day, there is no law for the President to sign.

A lot of our colleagues, myself included, will be at Veterans Day events this week. I will be traveling all over Illinois. We are going to stand there. We may be holding the flag. We will say we are for our soldiers and our veterans. But the real proof is in our votes. That is a good one to say to employers: If you are willing to stand behind that man or woman in uniform who is leaving your employment for a short period to do their duty for our country, why shouldn't we stand behind you with the Tax Code?

Ms. LANDRIEU. I thank the Senator from Illinois. I ask him, is there any reason he could believe or think the American people wouldn't put the Guard and Reserve at the top of the list for a tax cut or a tax credit? Is there any other group you can think of that is more deserving than the men and women who leave their homes, put on the uniform, leave their jobs, leave their businesses, and go to the frontline to take the bullets? Would the Senator be able to identify any other group that would be more worthy of a tax credit or a tax cut if we had extra money to give?

Mr. DURBIN. From my point of view, absolutely none. But it is interesting, what a timely question. We are about to consider a tax bill. This tax bill will give a break to millionaires. If you happen to be a millionaire in America, we think you need a tax break of $35,000 a year. Poor souls. If you happen to be making between $50 and $200,000, the tax break turns into $112 dollars; under $50,000, $6. The point is, we are going to spend billions of dollars giving tax breaks to the wealthiest people and not giving a helping hand to the men and women in uniform and the employers who patriotically stand behind them.

I say to the Senator from Louisiana, she couldn't have a more timely observation.

Ms. LANDRIEU. I thank the Senator from Illinois. I would just like to add my few remarks to support his amendment.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. Mr. President, the Senator from Illinois has come to the floor again this afternoon and has spent literally hours over the last 2 years, in particular, speaking about the importance of supporting our Guard and Reserve.

Mr. WARNER. Mr. President, will the distinguished Senator from Louisiana allow me to propound a question to the distinguished Senator from Illinois before he departs the floor?

Ms. LANDRIEU. Mr. President, I will be happy to yield to the chairman.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. I thank the Presiding Officer.

Mr. President, I have just gotten this amendment and I am looking it over. It is not unlike similar provisions that have been before the Senate. As a matter of fact, it has been passed by the Senate but dropped in conference.

Here is the problem based on, again, very modest military experience of my own, but a lifetime of association with the men and women in the military. I have come to learn the importance of pay. Pay to an individual is a tremendous symbolism. I remember when we advanced from private to private first class or, in my case, from seaman to seaman second class, seaman first class, and so on. I got $4 a month in one pay increase. I remember, in World War II. And then the wife at home often is struggling to make ends meet. Boy, that pay is important.

Picture that today we have a total force concept. It is not Reserves serving over here and regulars serving over here. Fortunately, we mix. The units are merged together. When we go to Iraq, as all of us go now, we will find Reserves and regulars performing the same duties commensurate with their rank and their technical experience. Reserves and regulars are subject to the same threat to life and limb from an IED, from the missiles coming in, subject to the same arduous hardships and living conditions both in Iraq and Afghanistan.

Then along comes this amendment, no matter how well-intentioned, and suddenly the Reservist gets a significant amount of money in addition to his monthly pay to the regular who is serving right with him, living in the same tent, eating the same food, and taking the same risks.

For those of us who have had the opportunity to serve in the ranks, that begins to breed tension and inequities. You don't want those types of tensions as these young men and women are courageously performing their military duties. This is my concern.

Mr. DURBIN. Mr. President, may I respond to the Senator?

Mr. WARNER. Yes, of course.

Mr. DURBIN. First, I have the greatest respect for the Senator from Virginia, who served his country not only in the Navy but as Secretary of the Navy, and also as the longest serving Senator in Virginia. Didn't the Senator from Virginia break the record recently?

Mr. WARNER. I am No. 2 for life.

Mr. DURBIN. And very popular in the State of Virginia.

I say to him, consider two things. Let's assume the Senator is in a unit that is in combat and he learns the fellow next to him who has been activated as a Guardsman used to work for Sears Roebuck, a Chicago-based company. And because Sears Roebuck is such a good and patriotic corporation, they have decided they are going to protect his income. They are going to give him more than his military pay. They are going to keep him at the same level of pay he received before he was activated.

Will I think less of that fellow soldier because he is receiving some money from Sears and think maybe we shouldn't eat at the same mess table, or stand together and fight together? I don't think so. I think people will say that is good fortune for you.

The second point I would like to raise is this: A person who is active military—I have a nephew who just enlisted in the Marine Corps—a person who is in the active military knows what his or her life is going to be and builds his or her life accordingly in terms of expenses incurred. A person in the Guard and Reserve has a civilian life and civilian financial obligations that he or she knows may come when they are activated and a hardship may come from separation. But they are in different circumstances as they go into this field of combat. One comes from an active military life with a family budget accordingly, and the other comes from the private sector with another family budget.

It seems to me what I am asking is, since we now rely more than ever on the Guard and Reserve, shouldn't we be more sensitive to that? Shouldn't we say that if you are willing to sacrifice your time and your life for your country, we are willing to sacrifice, too, to make sure there is no unnecessary economic hardship?

I don't think the two observations I made are unreasonable. The Senator from Virginia knows better than I because he has been in the military and I have not served. But I would think in a unit, people would be more sensitive to that. To think that soldier who left that job in the private sector or the Federal Government is next to me worried because they missed the second mortgage payment back home wouldn't make me feel any better about my unit and wouldn't make me feel any better to know that is going on.

Mr. WARNER. Mr. President, I think we have different perspectives. But pay is a very significant thing in every military person's life. We have to adjust. We certainly have to recognize.

What you are in a sense doing, Sears has opted as an employer to do as you state, not let their employee accept the consequences, and there is a category of persons coming in from the Reserve and Guard who simply do not have employers such as Sears Roebuck; for whatever reason their employer won't do it.

I don't know. I am concerned about building tensions into these young people in these units.

Mr. DURBIN. May I ask the Senator, in this colloquy through the Chair, consider this whole question about retention. That is a big issue now. We need these men and women in the Guard and Reserve, even active duty, who have developed the skills, understand the mission, can be combat ready in an instant. We need them to stick around. We need them to reup. If they have been through a bitter experience—personal experience, financial experience, separated from their family—we know it lessens that likelihood. If we want the very best to continue serving, I think this is an incentive for that to happen.

Mr. WARNER. Mr. President, the Senator is absolutely correct. I could even take it a step further. If we didn't have the Guard and Reserve, we would have to carry in peacetime, as well as wartime, a much larger active force. We are fortunate that in wartime conditions, we have these men and women who will respond, and do so willingly and subject their families. The Senator from Illinois is correct on that point.

I have to dwell on this amendment. I just read it. I wanted to have this colloquy, and I appreciate the courtesies the Senator always extends.

Mr. DURBIN. I thank the Senator.

Mr. WARNER. The Senator from Louisiana has the floor.

Mr. LEVIN. Will the Senator from Louisiana yield for a question to Senator DURBIN?

Ms. LANDRIEU. I would like to ask the Senator from Virginia a question before he leaves the floor.

Mr. WARNER. I will be here when the Sun comes up tomorrow.

Mr. LEVIN. Mr. President, it is my recollection that the Senate already passed an amendment in one of the previous bills where we made up the difference for Federal employees; is that not correct?

Mr. DURBIN. That is correct. We passed it for the third or fourth time. It goes into this strange world of conference committees and disappears.

Mr. LEVIN. In which all of us have participated. We have seen the parts that emerge and the parts that do not, and it is always a little mystery as to what emerges and what does not emerge.

My understanding is that clearly is a precedent for treating all employees. Everybody is activated the same way as Federal employees. That is No. 1. So I think that is a good argument for the amendment. But also the cost of this amendment, it seems to me, given the qualification period of 6 months, as I understand it, the cost over 5 years would be $295 million which would be a little under $60 million a year; is that correct?

Mr. DURBIN. That is correct.

Mr. LEVIN. I thank the Senator.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I point out, yes, the Senate has passed it, but for various reasons, conferences have not accepted it, so it is not in law today.

Mr. LEVIN. That is correct.

Mr. DURBIN. That is true.

Mr. WARNER. We do not have any of these.

Mr. DURBIN. The Senator might say it is pending in the Defense appropriations conference.

Ms. LANDRIEU. Will the Senator from Virginia yield?

Mr. WARNER. Mr. President, the distinguished Senator from Louisiana had the floor. She very graciously allowed me to intervene. I am happy to take a question.

Ms. LANDRIEU. I do so through the Chair. I first say how much I appreciate the exchange between the Senator from Virginia and the Senator from Illinois. I hope we can find a way to move forward on this very important issue because it is so crucial to the security of our Nation, to the security of these Guard and Reserve families. It seems the right thing for us to do.

My question to the Senator from Virginia, because he has so much experience in warfighting as the Secretary of the Department of Navy and as the chairman of the Committee on Armed Services, is: When we created the Guard and Reserve Force, did we anticipate that so many would be called up for such a long period of time? That is an important answer to have because my sense of it is that we didn't completely anticipate these numbers and these lengths of deployment.

I ask the Senator, several decades ago, did we foresee this dependency?

Mr. WARNER. Mr. President, the Senator raises a very interesting historical perspective. During World War

II, the National Guard was mobilized early on and amalgamated with the regular forces. The Reserves likewise were brought in. So everybody was in World War II for the duration.

The next major conflict was Korea, in which I had minor participation, modest though it may be. The units I served in were quickly made an amalgamation of Reserves and regulars. I remember vividly the squadron I served in as a ground officer. The Reserve pilots, even though they had been called, some of them had only been on active duty 60 days, barely getting retraining and were flying missions with the regulars who had been on active duty for a number of years. There was no distinction between any of us. We were all treated the same. I was a Reservist called up at that time.

Then along came Vietnam, and for whatever reasons, when I was Secretary of the Navy, we didn't employ the Guard and Reserve. We relied on the draft. I would have to research some of the reasons why we didn't do it.

This country has fluctuated back and forth. But in direct answer to the Senator's important question, in this conflict, more than ever before, we have relied on the Guard and Reserve. I believe about 60 percent of the uniformed personnel in Iraq tonight, some 150,000 plus, 60 percent of them are Guard and Reserve.

So the Senator from Louisiana is very correct in her observation.

Ms. LANDRIEU. I thank the Senator from Virginia. I would like to add to that comment.

The PRESIDING OFFICER. The Senator from Louisiana is now recognized.

Ms. LANDRIEU. Mr. President, I would add to this discussion that it is important for us as leaders to be open to change and to adopt new strategies. The one thing that is certain about life is change. Those who adapt survive, and those who do not, do not survive. I believe when it comes to creating policies that secure our Nation and support our armed services, we always need to be open to those things that we need to do differently because circumstances are different, because the challenges are different.

I would argue this is one of the issues that is at the heart of how we sustain a skilled, able, versatile, agile, and quick-to-deploy force without implementing a draft and having the ability to muster a large and effective force when necessary. This is at the heart of it. That is why Senator DURBIN continues to come to this floor and why I come to this floor, why the Senator from Indiana, Mr. BAYH, and others on the Republican side have come to the floor. Because we need to make some changes. We need to adapt to the reality.

Let me submit for the RECORD the reality of this situation. Since the Berlin crisis of 1961 through the Vietnam war, we only called from the Reserve and Guard about 200,000. From 1961 through the Vietnam war, basically to the early 1990s—I know Vietnam was over before then—but basically to the 1990s, we called up 200,000. But as the chairman knows, because he is the great distinguished chairman of our committee, he is correct, since 1990, the Persian Gulf war to the present, we are 150,000 troops strong in Iraq and we have called up 744,000 Guard and Reserve members.

As the Senator from Illinois so beautifully pointed out, these are citizen soldiers. They live in the community. Their budgets are based on their civilian jobs. Their children, their spouses, and their families have dreams and aspirations based on their civilian payrolls. They do not enter the military and decide: We are only going to make $40,000, $50,000, $60,000 the rest of our life, but the benefit is we get a discount on food. We get our health insurance. We will move around every 2 years. We get a housing allowance. It is the life we have chosen. We understand the sacrifices we are making, and we budget accordingly.

These are business owners, policemen, nurses, doctors, engineers, scientists who answer the call, put the uniform on, and sometimes answer that call in 24 hours, literally, or in just a few weeks. They kiss their children goodbye—maybe the wife is the spouse who is leaving. Maybe it is the husband. They tell everyone goodbye. They leave and they are gone for 18 months.

Under our current rules, which are not working, not only does that soldier make the sacrifice but our Government is asking that family in some cases to take a 30- to 40-percent decrease in pay. I just cannot understand it. Nothing about it makes sense. It defies common sense. How can we recruit Guard and Reserve, then send them to long deployments, sometimes without even the equipment they need—which is a whole other issue—but ask their families to take a 30- and 40-percent decrease? I do not understand it.

I know we have not done this in the past, but this Senator from Louisiana thinks it is time to do it for the future. I hope we can again take bipartisan action on this Senate floor, as we have done so many times before, to support the amendment offered by the Senator from Illinois, at least in the Federal employ, our own engineers, our own scientists, our own nurses, our own doctors, our own office administrators, when we ask them to put the uniform on and go to the frontline to take the bullets, that as an employer we do not say: And also, by the way, we would like your spouse and your children to live on 30 percent less income while you are away.

If the country was in crisis in terms of no money for anyone and we were all on rations and we were all sacrificing financially and we did not have the money, I think these families would say: Look, we are all in the same boat. We are serving the country. We will take the 30-percent cut in pay. But what gets me, what galls me, what makes me so angry is, this Congress is giving other families who do not put the uniform on, other families who are making upwards of $350,000, $400,000, $500,000, tax cuts, and we cannot seem to find the will, the energy, or the focus to help the small group of families that one could argue are bearing the entire burden in some cases—let me repeat, the entire burden of the war on terror. I do not understand it. Senator DURBIN does not understand it. Senator BAYH does not understand it. The Senators have voted now unanimously.

What happens to this amendment when it goes to the House of Representatives? What should I tell the Guard and Reserve families who went to Iraq, over 6,000 of them—3,000 of them just came home and a third of the ones who just came home came home to no house, no school, and no church. Now I have to go home and say that Congress is going to get ready to pass another spending bill, another tax bill, and I am sorry, yes, you have, once again, been left out. I do not even know how to explain it because it cannot be explained.

Senator DURBIN's amendment simply says, let the Federal Government be the leader. Let the Federal Government set the pace as an employer. Let us at least do what other States and other employers are doing, fill the gap, stand in the gap for them. They are taking the bullets. They are taking the risk with their lives. Why would we ask our Federal employees to take a serious pay cut? I do not think we should. Again, if we did not have any money at all, if we were just flat broke, then maybe we would have to. We give money away to everybody, but we cannot give it to our Federal employees who are serving this country twice: as public servants so they do not get a very high salary normally, and then they go to the frontlines and take the bullets and get a salary cut even lower, and we think that is perfectly fine.

Well, this Senator does not think it is fine. This Senator thinks we can do better. This Senator thinks we need to have better priorities. This Senator believes we need to have different priorities that support our Nation, support our services, support our Guard and Reserve, and it would ultimately support the country. And, frankly, it is the right thing to do.

I see the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, this is an important amendment. It has been offered on behalf of Senator BAYH, by

Senator DURBIN. Senator LANDRIEU is a very passionate and persuasive supporter of this amendment. I think Senators BAYH, DURBIN, and LANDRIEU are right; that we basically designed the Guard and Reserve force to be a strategic reserve. As a practical matter, now they are effectively part of our operational forces. We have to change this arrangement so they do not take such a severe hit as they are being called up, and they are now in for longer and longer periods. I do not have the statistics on how long the average period of callup is now, but I am quite confident that if we could compare the length of the callup, say, during the last few years to the periods between 1973, when we ended the draft, that we would see there has been a dramatic increase in the length of the callup.

I support the amendment. I think we can make some real progress—I hope we can—this year in conference on this matter. It is a reasonable cost, a fair cost. It is something on which we can do better, and the troops deserve that we do better.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, first I commend all Senators who have participated in this debate. Each time I listen to the distinguished Senator from Louisiana, I say to my ranking member, she was a very valued member of our committee before she went AWOL.

Mr. LEVIN. She is still part of the Guard and Reserve, though.

Mr. WARNER. Yes, proceeding to the Appropriations Committee, where some think all power resides in the Senate.

Nevertheless, to think that the Senator found time to work on this amendment, as she has on a number of personnel issues through the years—I remember the last authorization bill. Does the Senator from Michigan remember that?

Mr. LEVIN. I do, indeed.

Mr. WARNER. One of the last amendments we were dealing with was on personnel issues. Anyway, the Senator from Louisiana found time to be here, given the tremendous burdens that she has in connection with the tragic suffering in her State, past, present, and possibly the future. I point out to my colleagues a provision comparable to this is in the House bill now in conference, therefore, that we go to.

Mr. BAYH. Mr. President, I rise today for a cause that is essential to preserving our Nation's security by ensuring the Guard and Reserve remain a vital component of our national security structure. I also rise to defend our moral obligation to do right by our fellow citizens who bear the burden of battle and by their loved ones who make it possible for them to do that by supporting them here at home.

No one should be forced to choose between doing right by their family and their loved ones and doing right by their country, but too often today we have placed thousands of our fellow citizens in exactly that position. That is what this amendment is designed to correct.

We now have 145,000 guardsmen and reservists serving who have been called to active duty. Fully 35 percent of our troops in Iraq are guardsmen and reservists, many of them putting their lives in harm's way. Just this last week, I took the liberty of spending a couple of hours out at Walter Reed Army Hospital. Many of the most grievously injured there have served in the Guard and Reserve. We owe it to do right by them.

Their deployments are lasting longer than before. Since the Korean War, it is our practice to only have them called to active duty for no more than 6 months. But today, it is routine, not at all uncommon, for them to be called to active duty for more than a year and sometimes multiple calls.

Mr. President, 51 percent of these individuals whose lives we are disrupting, 51 percent who are serving, many of them in harm's way, suffer a substantial loss of income, what I have referred to as the "patriot penalty." The average loss of income is about $4,400 per soldier—a material amount of money for many Americans. Our amendment, with the support of Senator DURBIN, Senator LANDRIEU, the active support of Senators WARNER and LEVIN, would help to correct this situation by providing up to $3,000 per month in making up lost income for our Reserve and Guard men and women.

This is important to maintaining the Guard as a critical component of our national security structure. We are currently running, in the Army Guard, about 24 percent below our recruiting goals. The commander of the Reserve not too long ago described his force as "a broken force." At a time when we are relying upon the Guard and the Reserve more than ever before, we must ensure that we act to maintain our recruiting goals and to ensure the morale of the force.

Many laudable private firms have risen to the challenge by providing for their employees but, regrettably, not all do so. About 29 percent of employers are currently doing that, but that still leaves the bulk of our Guard men and women and our reservists without, so we have acted to make up that gap. It is not a burden they could have reasonably anticipated, given the difference in callups today versus before.

I again thank my distinguished colleagues, the Senator from Virginia and the Senator from Michigan. Once again, I thank my colleague DICK DURBIN, who has been extremely gracious and who has been a strong leader in this capacity.

I will conclude by saying the true test of a strong society is not only the armaments we purchase but how we support those who bear the burden of battle and their loved ones here at home. If we can help them pay the mortgage or keep food on the table while they are serving us in Iraq and Afghanistan and elsewhere, it is not only the intelligent thing to do, it is the morally responsible thing to do. That is what this amendment would accomplish.

I thank my colleagues for their graciousness and their support.

Mr. WARNER. I urge adoption of this amendment.

The PRESIDING OFFICER. Is all time yielded back?

Mr. LEVIN. I yield back the remainder of my time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The question is on agreeing to the amendment.

The amendment (No. 2483) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. I say to my colleagues, this is a matter that we will carefully review in conference. It has failed to survive in previous conferences, but I think this time it may, particularly because of the question of recruiting and the difficulty of the Reserves and Guard and the adjustment to family life. As the Senator pointed out, hundreds upon hundreds of thousands—700,000 I believe—have been involved in this conflict.

Mr. LEVIN. If the Senator would yield on that?

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. It seems to me, the fact that there is a provision in both bills does increase the opportunity and the likelihood this time around that we will come out of conference with something. All we can do is continue to try, but I am a little more optimistic now that this amendment passed. Again, we thank the Senators from Indiana, Illinois, and Louisiana for their leadership.

The PRESIDING OFFICER. The Senator from Louisiana is recognized.

Ms. LANDRIEU. I see the lead sponsor of the amendment on the floor, so let me be brief so he can close out. I thank the leadership for accepting this amendment. I know they will fight hard to keep this in conference as we move forward because it really is an important part of our strategic alignment for the future. I thank the chairman and the ranking member for their leadership not just today but over time, for doing the right thing by our troops and always being willing to think about new ways of making our military stronger and better.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. WARNER. If I can make one comment before our distinguished colleague from Louisiana leaves the floor.

The PRESIDING OFFICER. The Senator from Virginia is recognized.

Mr. WARNER. There comes a time every now and then to reflect on the past with a sense of humor. When I was a young Senator many years ago, one of the Senator's predecessors was Russell Long. His expertise was in the area of taxes. How many times, I ask my good friend from Michigan, would I hear him in these vigorous floor debates come over and say: We will drop it in conference; accept it?

Mr. LEVIN. Usually with his arm around you.

Mr. WARNER. With his arm around you shaking you like a tree. But we are not saying that.

I just thought maybe that little bit of color might remind Louisianans of his proud record in the Senate.

Mr. President, this is another example of how the managers, in the course of colloquies, can work out amendments. I strongly urge colleagues to come forward because we are getting down to the few amendments that are remaining in the hopes that this bill can be acted on for final passage tomorrow, as early as possible in the day.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, my understanding is that at 5:30 there will be two votes. I am wondering if Senator LAUTENBERG's amendment has been—I know it has been offered. I am wondering whether there is further debate on the Lautenberg amendment.

Mr. WARNER. Mr. President, I wish to say to my colleague at the present time I am drafting an amendment in the second degree. As soon as I have it, I will be prepared to debate it on the floor and let the matter go to a vote.

Mr. LEVIN. I think it is very helpful that Senator LAUTENBERG be informed that there is a plan to offer a second-degree amendment so perhaps he can then be prepared to come to the floor and debate whatever that second-degree amendment is.

Mr. WARNER. I would propose to do it. I would have to check. There are three amendments, and actually the fourth is the pending amendment. I will see if he cannot possibly bring up his amendment right after the two votes.

Mr. LEVIN. Perhaps during those two votes, if the chairman so desires, we could try to line up the rest of the business for tonight.

Mr. WARNER. I thank my partner, who has been most helpful in getting this bill passed. We are going to try and facilitate that.

Mr. LEVIN. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BAYH. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAYH. Mr. President, I have many of my colleagues to thank for their graciousness and for their attention to an issue of significant importance to our country. I would like to start with my friend and colleague, DICK DURBIN from Illinois, who has cared about this issue for many years, particularly with regard to our Federal employees who are bearing the burden of battle today on our behalf just as they work for us in their civilian capacities here at home.

Senator DURBIN has been a model of comity and accommodation and in a body that is too often driven by other interests. I thank him profusely for his consideration here today.

I also thank Senator LANDRIEU for her longstanding interest in this issue. She has had a somewhat different approach, but it would achieve the same objective—helping our Guard men and women and their families while they are serving our country.

I also express my appreciation to the two leaders on the Armed Services Committee, Senators WARNER and LEVIN, for their courtesy. I thank you for accepting our amendment. I know you share our conviction about doing right by our brave men and women in the Guard and Reserve, and I wish to express my personal appreciation for your accommodation in this regard. I know there are occasionally differences of opinion about some aspects of this, and the fact that we could work through them at this moment means a great deal to me, as I know it does to the families of the Guard men and women we are attempting to help.

Mr. WARNER. Mr. President, the distinguished Senator from Indiana has had a lot on his mind here recently with the tragic natural disaster in his State, and I thank him for finding the time to come to the Chamber and offer this amendment. I recall, during the markup of the Armed Services bill, he, being a very valued member of the committee, had this general concept in mind. The Senator advised the committee as a whole in the markup session that at the time this bill reached the floor, he would have formulated his thoughts and done his research and gathered his colleagues and would present this bill. That he has done, and in that he has succeeded. This is a matter we will take up in conference with careful consideration.

I thank our colleague.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, let me add my thanks to the Senator from Indiana for his eloquent, passionate portrayal of the needs and responsibilities we have to carry out toward our guardsmen and reservists.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, it is just a matter of minutes before we start the votes. Perhaps the distinguished Senator from Georgia would like to make some explanation about the vote coming up?

AMENDMENT NO. 2433

Mr. CHAMBLISS. Mr. President, these next couple of votes involve an amendment I filed and an amendment the Senator from Illinois, Mr. DURBIN, has filed. I think the significant thing about both amendments is that we are finally starting to recognize that, because we are calling up our Guard and Reserve folks on an all too regular basis these days, and because today, as we enjoy the freedoms that we sometimes take for granted in this country, we have troops serving in Iraq, 60 percent of whom are Guard and Reserve troops, it is necessary that we continue down the path we have been down for the last several years under the leadership of Senator WARNER and Senator LEVIN, trying to increase the benefits to our Guard and Reserve and the families of those brave men and women. Both these amendments seek to do that.

There is a fundamental difference in the two amendments, though. My amendment, the underlying amendment, provides for a reduction in retirement age from 60 to 55 for reservists, based upon the activation of those reservists and Guard men and women into contingency areas. For every 3 months they have been activated and sent into a conflict, they receive a 1-for-1 or 3-month reduction in the retirement age, from 60 down to the minimum or lower level of 55. The Durbin amendment simply would not make that kind of 1-to-1 offset but would treat the Guard and Reserve the same as the Active-Duty folks. Unfortunately, the difference between the two is we cannot afford the Durbin amendment.

What my amendment does is to ultimately allow the reduction down to age 55 for those Reserve and Guard people who are activated. It has a cost, over 5 years, of about $320 million. The Durbin amendment has a cost of about $4.8 billion over that same 5-year period. That is such a significant difference that, in my opinion, we will never get that done.

My amendment can be done. It is a movement in the right direction, to recognize that we are calling up these folks on a more regular basis and that we should continue to provide them and their families with some security measures from the standpoint of incentivizing them to go into the Guard and Reserve and stay in the Guard and Reserve.

The PRESIDING OFFICER. All time has expired.

Mr. CHAMBLISS. The Durbin amendment would not do that. Mine would.

Mr. WARNER. Mr. President, I ask unanimous consent that the vote be delayed by 5 minutes so the Senators may have a minute or 2. I can have a minute or 2, and the Senator from Michigan can have a minute or 2.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CHAMBLISS. Mr. President, if we are going to call on these brave volunteers, we need to incentivize them, and my amendment does that. It seeks to call on the individual from a volunteer standpoint. It doesn't seek to protect the top level, the officers and the uppercrust, the enlisted personnel. It seeks to protect all members of the Guard and Reserve from the enlisted standpoint and give them an opportunity to reduce their retirement age from 60 down to 55.

I think it is fair. I think it is reasonable. And I think it is supportable.

I ask my colleagues to support my amendment and to vote against the Durbin amendment.

I ask unanimous consent that Senator HAGEL be added as a cosponsor of my amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I likewise ask to be added as a cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I strongly support the Chambliss amendment.

I want to bring to the attention of colleagues that a minute ago we accepted another amendment which will go to conference, and I am quite confident that out of that conference will come a package of further compensation to the men and women for the Guard and Reserve for other reasons. But in this bill we are adding enormous benefits for the men and women in the Armed Forces, all of which are justified in many areas. The Senator has picked out an area which has been under consideration for some period of time. But I point out that the cost of the Durbin second degree, which vote will follow this one, must be considered in the area of $1 billion for their 2006 and $10 billion over the next 10 years. That is 10 times, according to my calculation, the cost to the Federal taxpayer of the amendment of the Senator from Georgia.

Am I correct?

Mr. CHAMBLISS. That is correct.

Mr. WARNER. So I urge my colleagues we must show some restraint as we are going through a number of valid and important increments in pay and benefits for the men and women in the Armed Forces. In essence, the Chambliss amendment is an adaptation of the Durbin amendment but at one-tenth the cost because I think you are more equitably treating those who have served in periods of active service.

I thank the Senator.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, I support very much the Chambliss amendment. I think it makes an important statement, as well as taking an important step toward greater equity relative to retirement. The Senator from Georgia has described his amendment, and I will not describe it again because he has accurately described it.

I commend him for this amendment. It is an important amendment.

I ask the Presiding Officer whether there is time between the vote on the Chambliss amendment and the Durbin amendment for an explanation of the Durbin amendment.

The PRESIDING OFFICER. There are 2 minutes equally divided.

Mr. LEVIN. I will be in a position of supporting the Chambliss and Durbin amendments. While the Chambliss amendment takes an important step, the Durbin amendment takes three or four important steps in the right direction allowing earlier retirement. Where there has been 25 years of service, for instance, retirement would be allowed at age 55. Where there has been 24 years of service under the Durbin amendment, retirement would be allowed at age 56. There is a greater cost. I think it is justified. We will talk more about that in the minute which has been allowed on the Durbin amendment.

Mr. CHAMBLISS. Mr. President, I ask unanimous consent that a letter from the Naval Reserve Association in support of my amendment be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NAVAL RESERVE ASSOCIATION,
Alexandria, VA, November 8, 2005.

Sen. SAXBY CHAMBLISS,
Russell Senate Office Building, Washington, DC.

DEAR SENATOR CHAMBLISS: I am writing on behalf of the members of the Naval Reserve Association in support of your amendment to reduce the age at which reserve component members receive their retirement pension.

An active component member retiring at 20 years of service receives a pension immediately upon retirement. A reserve component member serving the same number of qualifying years cannot. Reducing the age from 60, will be a positive step in mitigating this disparity. A more equitable retirement program will aid greatly in recruiting and retaining members in the Navy Reserve, and all reserve components. When the age limit for receipt of retired pay by reserve component members was set decades ago, the Navy Reserve, and other reserve components, was not relied upon the way it is today.

The objective is to support the reduction of the age for retirement eligibility from its current level to one that is consistent with today's utilization of the reserve component. Your new legislation which links that reduction to duty in a recalled to active duty status accomplishes that goal.

I look forward to working together in support of a strong and viable Navy Reserve, and all reserve components. Again, on behalf of the members of the Naval Reserve Association and members of the Navy Reserve, thank you for all your hard work on our behalf.

Sincerely,

CASEY W. COANE,
RADM, USN (Ret) Executive Director.

The PRESIDING OFFICER. All time has expired.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

Mr. WARNER. Mr. President. I also ask for the yeas and nays on the Durbin amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment of the Senator from Georgia. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER (Mr. VITTER). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 99, nays 0, as follows:

[Rollcall Vote No. 314 Leg.]

YEAS—99

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—1

Corzine

The amendment (No. 2433) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. There are now 2 minutes of debate equally divided on the upcoming amendment.

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, we have this vote. We are making great progress on this bill. I will be consulting with the leadership. There is a possibility we would like to continue tonight, but with regard to further rollcall votes, we will have to consult our respective leaders to determine that. We will do that as quickly as possible so as to convenience Senators. But this bill will go on tonight. It may well be we debate amendments and stack them for the morning.

Mr. LEVIN. Is there any way of determining that now?

Mr. WARNER. Well, I have to get my leader, I have to tell you. I know he came on and off the floor.

Mr. President, the managers wish to advise the Senate that this will probably be the last rollcall vote tonight. But we will continue to debate amendments and stack them for a time agreed upon by the two leaders for tomorrow morning.

AMENDMENT NO. 2473, AS MODIFIED

The PRESIDING OFFICER. Who yields time on the amendment?

Mr. DURBIN. Mr. President, if I could have the attention of the Chamber for 60 seconds.

The last amendment by Senator CHAMBLISS received 99 votes. We all joined in supporting it. It was a good amendment. This amendment, which I am offering, I think is better. Here is why.

Under the amendment offered by Senator CHAMBLISS, you could reduce the age at which you are eligible as a reservist to start receiving your retirement based on the time you spent mobilized, activated. This amendment says you could reduce it by the time served in the Reserve.

Right now, no matter when you start, how long you serve, you cannot draw the first dollar in retirement until you are 60 years old. Under my amendment, if you have served 25 years in the Reserve, you could start drawing it at age 55, which is the common retirement age for civil servants, for Federal employees.

My amendment is endorsed by the National Guard Association, the Military Officers Association, and the Reserve Officers Association.

Mr. President, I ask unanimous consent to add Senators CORZINE and LANDRIEU as cosponsors.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who seeks time in opposition?

The Senator from Georgia is recognized.

Mr. CHAMBLISS. Mr. President, as I said earlier, while I sympathize with the Senator from Illinois, because this is a critical issue, it is simply a matter of not being able to provide the funding for this particular retirement bill.

We had this issue up last year, and we did not get the funding for it. My bill takes a more reasonable approach. It rewards those men and women who are serving in Iraq today.

I ask that we render a "no" vote against this amendment so we can make a strong move to include my amendment in the conference report that will be forthcoming.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 59, as follows:

[Rollcall Vote No. 315 Leg.]

YEAS—40

Akaka
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Clinton
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—59

Alexander
Allard
Allen
Baucus
Bennett
Bond
Brownback
Bunning
Burns
Burr
Carper
Chafee
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—1

Corzine

The amendment (No. 2473), as modified, was rejected.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I see the distinguished Senator from Missouri and the Senator from Connecticut. This is one of the amendments in the 12 on this side of the aisle. I would like to have this amendment move forward.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

AMENDMENT NO. 2477

Mr. TALENT. Mr. President, I have an amendment at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Missouri [Mr. TALENT], for himself, Mr. WARNER, Mr. STEVENS, Mr. CHAMBLISS, Mr. CORNYN, Mr. LIEBERMAN, Mrs. BOXER, Mrs. FEINSTEIN, and Ms. COLLINS, proposes an amendment numbered 2477.

Mr. TALENT. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To modify the multiyear procurement authority for C–17 aircraft)

Strike section 131 and insert the following:

SEC. 131. C–17 AIRCRAFT PROGRAM AND INTER-THEATER AIRLIFT REQUIREMENTS.

(a) MULTIYEAR PROCUREMENT AUTHORIZED.—The Secretary of the Air Force may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2006 program year, for the procurement of up to 42 additional C–17 aircraft.

(b) CERTIFICATION REQUIRED.—Before the exercise of the authority in subsection (a), the Secretary of Defense shall submit to the congressional defense committees a certification that the additional airlift capacity to be provided by the C–17 aircraft to be procured under the authority is consistent with the quadrennial defense review under section 118 of title 10, United States Code, to be submitted to Congress with the budget of the President for fiscal year 2007 (as submitted under section 1105(a) of title 31, United States Code), as qualified by subsection (c).

(c) ADDITIONAL EXPLANATION OF INTER-THEATER AIRLIFT REQUIREMENTS.—

(1) INCLUSION IN QUADRENNIAL DEFENSE REVIEW.—The Secretary of Defense shall, as part of the quadrennial defense review in 2005 and in accordance with the provisions of section 118(d)(9) of title 10, United States Code, carry out an assessment of the inter-theater airlift capabilities required to support the national defense strategy.

(2) ADDITIONAL INFORMATION.—In including the assessment required by paragraph (1) in the quadrennial defense review as required by that paragraph, the Secretary shall explain how the recommendations for future airlift force structure requirements in that quadrennial defense review take into account the following:

(A) The increased airlift demands associated with the Army modular brigade combat teams.

(B) The objective to deliver a brigade combat team anywhere in the world within four to seven days, a division within 10 days, and multiple divisions within 20 days.

(C) The increased airlift demands associated with the expanded scope of operational activities of the Special Operations forces.

(D) The realignment of the overseas basing structure in accordance with the Integrated Presence and Basing Strategy.

(E) Adjustments in the force structure to meet homeland defense requirements.

(F) The potential for simultaneous homeland defense activities and major combat operations.

(G) Potential changes in requirements for intra-theater airlift or sealift capabilities.

(d) MAINTENANCE OF C–17 AIRCRAFT PRODUCTION LINE.—In the event the Secretary of Defense is unable to make the certification specified in subsection (b), the Secretary of the Air Force should procure sufficient C–17 aircraft to maintain the C–17 aircraft production line at not less than the minimum sustaining rate until sufficient flight test data regarding improved C–5 aircraft mission capability rates as a result of the Reliability Enhancement and Re-engining Program and Avionics Modernization Program have been obtained to determine the validity of assumptions concerning the C–5 aircraft used in the Mobility Capabilities Study.

Mr. TALENT. Mr. President, Senator LIEBERMAN and I are offering an amendment that we believe is crucial to providing our Armed Forces with the air transport capabilities they need. The amendment has been cosponsored by Chairman WARNER and Senators STEVENS, BOXER, FEINSTEIN, CORNYN, CHAMBLISS, and others. In addition, we have worked closely with the chairman and Senator LEVIN and committee staff, and the amendment has been cleared on both sides. I am grateful to the managers of the bill for their work on this important legislation.

The Defense Department's current intertheater airlift requirement was established by the Mobility Requirement Study, called MRS–05, which was released in December 2000. That study identified the airlift necessary to conduct high-priority missions in support of two major theater wars. That was the national military strategy at the time, to be able to conduct two major theater wars at the same time.

Even back in 2001, recently retired TRANSCOM Commander, GEN John Handy, identified the Department's pre-September 11 intertheater airlift requirements as inadequate. He characterized that study, which was a pre-9/11 study, shortly after its release as a historical document, not of great value, because in his judgment it significantly underestimated the true airlift requirements of the Department even at that time. I will expand on this point in a few minutes.

We are now learning that the Department's most recent study has completely failed to readjust the airlift requirement in light of all the different missions in which the United States is now and will be engaged for years to come—the global war on terror, international humanitarian relief missions, expanded special operations and training, to say nothing of our need to support the underlying national military strategy needs.

The C–17 is the primary intertheater air transport used by the United States to deploy and sustain forces overseas. It has delivered 70 percent of the cargo airlifted into Iraq. It has turned in stellar performances in theaters from Kosovo to Afghanistan to the global war on terror in all its various locations. In addition, the C–17 played a key role in several recent humanitarian relief missions, including the response to the gulf coast hurricanes and the earthquake in Pakistan.

The Chief of Staff for the Air Force, GEN Michael Moseley, recently said that the C–17 has "proven its worth in gold."

The real question before the Senate is not whether we need additional intertheater airlift but how much more airlift is required. The Air Force's longstanding position, reiterated time and again over the last few years, has been at least 222 C–17s—42 more than the planned procurement of 180 aircraft—are needed to meet growing airlift requirements. General Handy repeatedly testified that 222 C–17s would be the minimum necessary to meet our airlift requirements and that even more may be needed, and this is in addition to other programs for increasing the lift capabilities of the Department.

The Department's decision regarding future C–17 production is, we believe, imminent. Senator LIEBERMAN and I believe if we do not procure additional transports, our intertheater airlift capabilities will be inadequate to meet our military's needs. We will lack the lift capability needed to deploy and adequately sustain forces overseas.

While our primary responsibilities must be to our military personnel and national security, there is also a significant economic stake for many States. C–17 production generates approximately $8.4 billion in economic activity and is supported by 702 suppliers in 42 States. This is a major industrial base issue. St. Louis is one of the essential suppliers of components for the C–17. I have had the privilege of visiting workers who build parts for the plane.

There are over 1,800 people throughout Missouri who help build the C–17, which generates more than $776 million in economic impact. States such as California, New York, Illinois, Iowa, Connecticut, Florida, and Washington have over 491 C–17 suppliers that generate over $5.5 billion of economic activity in these States alone.

Despite the facts I recited before about airlift, it has been reported that the draft version of the new Mobility Capabilities Study recommends no further C–17 production beyond 180 aircraft, at least 42 transports short of the minimum number required. Incredibly, the new Mobility Capabilities Study calls for the same transport force structure planned before 9/11, and it sets forth the same airlift requirement in the pre-9/11 days. Again, even before 9/11, the head of TRANSCOM, General Handy, said the Department's estimate of its airlift requirement was out of date. Yet the draft study doesn't increase that requirement, even given the undeniable additional needs since the global war on terror began.

The Talent-Lieberman amendment would accomplish three objectives to protect the lift capability needed to deploy and sustain forces overseas.

First, it would authorize a multiyear contract for the purchase of up to 42 additional C–17 aircraft.

Second, the amendment urges the Secretary of the Air Force to sustain the production line by procuring a minimum sustaining production rate of C–17s per year at least until further assessment of airlift needs are completed.

Third, it requires the Secretary of Defense to certify whether there is a need for additional C–17s by assessing the additional intertheater airlift requirements generated by seven factors which have to be considered but which were not considered, we believe, in the flawed mobility study, including the Army's shift to brigade combat teams, its goal of deploying a brigade anywhere in the world in 4 to 7 days, and a division anywhere in the world in 10 days, our increased involvement in international humanitarian relief missions and deployment back to the United States of forces as part of the Global Posture Review.

We cannot pull back from forward bases around the world. We cannot adapt increased requirements for being able to move substantial forces of the Army around the world. We cannot fight a global war on terror everywhere and perform humanitarian relief functions around the world. We cannot do these things without adequate lift.

What is at stake is the ability of the United States to project its military power on the world and to project aid where necessary on a humanitarian basis around the world. It is this airlift which enables us to do the other transformational things in the military which are the way we hope to sustain an adequate military force while also having some economies.

Senator LIEBERMAN and I offer this amendment because intertheater airlift is the means by which our forces deploy on short notice anywhere in the world and a primary means by which we sustain deployed forces. When the Chief of Staff of the Air Force, the recently retired head of TRANSCOM, and others who understand the central importance of airlift for our services tell us about how vital this aircraft is to the military's air transport needs, we believe it is prudent to take their word for it and plan accordingly.

It is my understanding this amendment has been agreed to on both sides. We are certainly grateful for that. I appreciate the leadership of the floor managers in being able to reach that agreement.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who seeks time? The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I rise to speak in favor of the amendment that I am privileged to cosponsor with my friend from Missouri. He spoke very comprehensively and eloquently about it. I will say a few words and associate myself with everything he has said.

This is all about strategic airlift. It is all about the ability to deploy our forces and the equipment and materials to sustain them to battlefields around the world. The C–17, a remarkable aircraft, has done that with enormous efficiency, reliability, and skill.

I have been around here long enough now that I remember when the military was pleading with us in Congress to authorize and appropriate for the development of a new strategic airlift capacity. It became the C–17. I remember the arguments. The strategic airlift is like the long pole in a tent. If the pole is gone, the tent collapses. If you cannot get your forces, material, and equipment to support them to the field of battle around the world—the fields of battle are not only dispersed around the world but in very different circumstances often without typical or conventional airfields on which to land—then you can't fight the battle.

From that plea over a period of years came the design and construction of the C–17. I remember the first day I saw the first C–17 fly into an airfield in East Hartford, associated with Pratt & Whitney who, I am proud to say, builds the engines for these planes. It is remarkable. It is an enormous plane. The pilots flew it with an ease and mobility that made it seem like a much smaller plane.

It has performed admirably over the years. Time after time, members of the Armed Services Committee, on which the Senator from Missouri and I are privileged to serve, have heard our warfighting commanders tell us that they don't have enough strategic airlift.

I am privileged to serve as the ranking Democrat on the Airland Subcommittee of the Armed Services Committee. We authorize strategic airlift, and here, too, we have heard over and over, one, about the need and, two, about the enormously impressive performance of the C–17.

It is the heart of our strategic airlift. The Air Force, as my friend from Missouri, Senator TALENT, has said, has contended over and over—and this reaches a level of a plea also—that we need 222 C–17s. That is a position held by the U.S. Transportation Command, which is responsible for the planning and providing of strategic transportation for our military.

Here is the problem and what brings Senator TALENT and I and a very broad group of Senators of both parties to offer this amendment.

A study has recently been completed by the Department of Defense called the Mobility Capabilities Study. It concludes, uniquely—no one else has—that the need now is only for 180 C–17s; again, at odds with the Transportation Command. Here is the problem. If that position holds and we stop production of the C–17 at 180, that would mean production would end in 2008 and the production line would close. It is hard to start it up again—impossible to start it up again. A lot of people around the country, including in Connecticut, will lose their jobs.

There is a fundamental flaw to the Mobility Capabilities Study. It is simply that the case has not been made that we are going to adequately support our military with 180 of these planes. We need 222.

The Mobility Capabilities Study has serious limits and flaws. The first point is that it started several years ago, and its conclusions are based on assumptions that I contend are no longer valid.

Among these that concern me most are the assumptions that the planning scenarios in place during the study, the war situation scenarios, need situation scenarios, are still valid. Also, that there will be no increase in demand from revisions in those planning scenarios, that there will be no increase in what we call intertheater demand—within the theater—demand for strategic airlift, and there will be no significant increase in concurrent demand associated with homeland defense at the same time there are major combat operations overseas underway.

Senator TALENT pointed out that recently the C–17s were used to bring critically important materials into the gulf coast area after Hurricane Katrina struck.

I say that all of these assumptions of the Mobility Capabilities Study, which reached this unique conclusion that we will be safe with 180 C–17s, are suspect. The fact is, the Department of Defense is now looking at some very different military planning scenarios which would occasion very significant demand for the C–17 strategic airlift capacity.

We know that in-theater demand for this capacity has obviously increased in Iraq because of the danger of ground movement, and the C–17s have met that need brilliantly and reliably.

Subsequent insurgencies, the kinds of unconventional conflicts and threats we are likely to face in the years ahead, will also require the kind of unique capacity that this aircraft has to carry an enormous amount of material or personnel and land in very unconventional and different topographies.

There is now, as we know, a Quadrennial Defense Review underway. That is done every 4 years within the Pentagon to sketch out—more than sketch out—to define and delineate the strategic and specific materiel needs of our military to execute the national military strategy. That QDR is underway and probably will address these issues. I personally believe that the QDR will increase the requirement for strategic airlift, not decrease it, as the Mobility Capabilities Study suggests.

This amendment is protection against the implementation of the Mobility Capabilities Study numbers prematurely, of the shutting down of these production lines, of the loss of jobs, and of the inability to meet the strategic airlift needs of our military.

The amendment says the Secretary of the Air Force may execute a multiyear contract for the 42 more airplanes that would bring us to the 222 standing requirement, that the Department of Defense must reconsider the validity of those Mobility Capabilities Study assumptions during the QDR, and that the production line for the C–17s and all component parts must be kept operating at least at a minimum sustaining rate until we are confident of what we need.

This is a hedge against a precipitous and, I would say, dangerous decision made based on a single study done within the Pentagon.

I am grateful for the encouragement and, I hope and believe, support of the chairman of the Armed Services Committee and the ranking Democrat. I thank Senator TALENT for all the work he has done to bring this forward. It has been a pleasure working with him.

I ask my colleagues to support the amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I strongly endorse the amendment by our colleagues, both the Senator from Missouri and the Senator from Connecticut. They have carefully discussed with us the process by which they arrived at this conclusion. I must say, putting aside a little modesty, years and years ago, I was the one who on several occasions worked with others in this Senate to save the C–17 from even coming into being. We could see the needs into the future.

This plane has been an absolute, rock-solid performer in our inventory of airlift. I think this amendment comes at a critical time, expressing the desires of the Congress. It gives flexibility to the Secretary of the Air Force and the Secretary of Defense to proceed. I strongly support it.

At this time, it may be necessary to put in a quorum call so the matter can be discussed. Is that correct?

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, I ask unanimous consent that my friend and colleague from Connecticut, Senator DODD, be added as an original cosponsor of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LIEBERMAN. He has been a steadfast and I would go so far as to say a fervent supporter of the C–17 over the years of the existence of this program, and on behalf of Senator TALENT, I ask that when a vote is taken on this amendment, it be taken by rollcall.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we support this amendment. The Secretary's certification that is involved should not be related to the mobility capability study because that will not make any recommendations for changing airlift requirements. The certification should be related to the Quadrennial Defense Review because if there are changes in the national military strategy that affect airlift requirements, those should be reflected in the QDR.

If the Air Force does not buy any more C-17 aircraft after 2007, Boeing may have to close down its production line after delivering the last of 180 C-17s. That would be before we have the testing data on the C-5 upgrades because that data will not be available until 2008.

Given the fact there are some risks those upgrades will not achieve the mission-capable rates the DOD expects and then make it possible for us to meet our lift requirements, this is a positive amendment. It gives some real flexibility and discretion to the Secretary of Defense.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, do I understand the Senators desire a rollcall vote?

Mr. TALENT. That is correct.

Mr. WARNER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

Mr. WARNER. We will schedule this vote at a time in consultation with our respective leaders. There may be some other matters that we have.

The PRESIDING OFFICER. The Senator from Missouri is recognized.

Mr. TALENT. Mr. President, I again thank the chairman and ranking member for their hard work. The Senator from Connecticut and I talked about it. We thought this measure, going to the heart of such an important requirement, was worthy of a rollcall vote. I do appreciate the chairman's patience on that.

Mr. WARNER. I suggest the absence of a quorum.

The PRESIDING OFFICER (Mr. DEMINT). The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. The Senate is now in session on the bill; is that correct?

The PRESIDING OFFICER. The Senator is correct.

AMENDMENT NO. 2478

Mr. LAUTENBERG. Mr. President, I want to amend my amendment, No. 2478, which I introduced earlier, to include another paragraph to clarify exactly what we mean. I listened to recommendations that we use other language that again further clarifies the intent here.

The intent, very simply, is to say if someone violates the rules for transferring classified information knowingly, then we think they should lose that opportunity for access to that.

That was the sole purpose. I offer it.

Mr. WARNER. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. LAUTENBERG. Mr. President, I ask unanimous consent to second-degree my amendment. I send it to the desk for consideration.

Mr. LEVIN. Parliamentary inquiry.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Parliamentary inquiry: It is my understanding the Senator has a right to send a second-degree amendment to the desk without consent.

The PRESIDING OFFICER. The Senator may second-degree his own amendment without consent.

Mr. WARNER. Mr. President, my understanding of the parliamentary situation is that the ruling of the Chair is correct, that a Senator may send an amendment in the second degree. But under the underlying unanimous consent agreement on which we are operating on this bill, all time has to be yielded back before the second-degree amendment may be offered.

The PRESIDING OFFICER. The Senator from New Jersey asked consent to second-degree his amendment. The amendment is not currently the pending question, nor has all time expired on the first-degree amendment, so it is appropriate to ask consent at this time.

Is there objection?

Mr. WARNER. Objection.

The PRESIDING OFFICER. Objection is heard.

Mr. LAUTENBERG. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENTS NOS. 1316, AS MODIFIED; 1329, AS MODIFIED; 1382, AS MODIFIED; 1410, 1438, 1444, 1469, AS MODIFIED; 1471, 1534, 1543, 1544, AS MODIFIED; 1550, AS MODIFIED; 1559, AS MODIFIED; 1560, AS MODIFIED; 1562, 1567, AS MODIFIED; 1885, 2484, 2485, 2486, 2487, 2488, 2489, 2490, 2491, 2492, 2493, 2494, 2495, 2496, 2497, 2498, 2499 TO 1396; 2500, 2501, 2502, 2503, 2504, 2505, AND 2506, EN BLOC

Mr. WARNER. Mr. President, in consultation with the distinguished Senator from Michigan, I send a managers' package of some 40 amendments to the desk which have been cleared by myself and the ranking member.

Mr. LEVIN. Mr. President, the amendments have been cleared on our side.

Mr. WARNER. Mr. President, I ask unanimous consent the Senate consider those amendments en bloc, the amendments be agreed to, and the motions to reconsider be laid upon the table. Finally, I ask unanimous consent that any statements relating to any of these individual amendments be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendments were agreed to en bloc, as follows:

AMENDMENT NO. 1316, AS MODIFIED

(Purpose: To authorize, with an offset, an additional $5,000,000 for research, development, test, and evaluation for the Army for the Joint Service Small Arms Program)

At the end of subtitle B of title II, add the following:

SEC. 213. JOINT SERVICE SMALL ARMS PROGRAM.

(a) INCREASED AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $5,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by subsection (a), $5,000,000 may be available for the Joint Service Small Arms Program.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $5,000,000.

AMENDMENT NO. 1329, AS MODIFIED

(Purpose: To authorize, with an offset, an additional $1,000,000 for procurement for the Marine Corps for General Property for Field Medical Equipment for the Rapid Intravenous (IV) Infusion Pump)

At the end of subtitle C of title I, add the following:

SEC. 124. RAPID INTRAVENOUS INFUSION PUMP.

(a) ADDITIONAL AMOUNT FOR PROCUREMENT FOR THE MARINE CORPS.—The amount authorized to be appropriated by section 102(b) for procurement for the Marine Corps is hereby increased by $1,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 102(b) for procurement for the Marine Corps, as increased by subsection (a), $1,000,000 may be available for General Property for Field Medical Equipment for the Rapid Intravenous (IV) Infusion Pump.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $1,000,000.

AMENDMENT NO. 1382, AS MODIFIED

(Purpose: To require a report on the aircraft of the Army to perform the High-altitude Aviation Training Site of the Army National Guard)

At the end of subtitle C of title III, add the following:

SEC. 330. REPORT ON AIRCRAFT TO PERFORM HIGH-ALTITUDE AVIATION TRAINING SITE

Not later than December 15, 2005, the Secretary of the Army shall submit to the congressional defense committee a report containing the following:

(1) An evaluation of the type of aircraft available in the inventory of the Army that is most suitable to perform the High-altitude Aviation Training Site (HAATS) mission.

(2) A determination of when such aircraft may be available for assignment to the HAATS.

AMENDMENT NO. 1110

(Purpose: To express the sense of Congress concerning actions to support the Nuclear Non-Proliferation Treaty)

On page 296, after line 19, add the following:

SEC. 1205. SENSE OF CONGRESS ON SUPPORT FOR NUCLEAR NON-PROLIFERATION TREATY.

Congress—

(1) reaffirms its support for the objectives of the Treaty on the Non-Proliferation of Nuclear Weapons, done at Washington, London, and Moscow July 1, 1968, and entered into force March 5, 1970 (the "Nuclear Non-Proliferation Treaty");

(2) expresses its support for all appropriate measures to strengthen the Nuclear Non-Proliferation Treaty and to attain its objectives; and

(3) calls on all parties to the Nuclear Non-Proliferation Treaty—

(A) to insist on strict compliance with the non-proliferation obligations of the Nuclear Non-Proliferation Treaty and to undertake effective enforcement measures against states that are in violation of their obligations under the Treaty;

(B) to agree to establish more effective controls on enrichment and reprocessing technologies that can be used to produce materials for nuclear weapons;

(C) to expand the ability of the International Atomic Energy Agency to inspect and monitor compliance with safeguard agreements and standards to which all states should adhere through existing authority and the additional protocols signed by the states party to the Nuclear Non-Proliferation Treaty;

(D) to demonstrate the international community's unified opposition to a nuclear weapons program in Iran by—

(i) supporting the efforts of the United States and the European Union to prevent the Government of Iran from acquiring a nuclear weapons capability; and

(ii) using all appropriate diplomatic means at their disposal to convince the Government of Iran to abandon its uranium enrichment program;

(E) to strongly support the ongoing United States diplomatic efforts in the context of the six-party talks that seek the verifiable and irreversible disarmament of North Korea's nuclear weapons programs and to use all appropriate diplomatic means to achieve this result;

(F) to pursue diplomacy designed to address the underlying regional security problems in Northeast Asia, South Asia, and the Middle East, which would facilitate non-proliferation and disarmament efforts in those regions;

(G) to accelerate programs to safeguard and eliminate nuclear weapons-usable material to the highest standards to prevent access by terrorists and governments;

(H) to halt the use of highly enriched uranium in civilian reactors;

(I) to strengthen national and international export controls and relevant security measures as required by United Nations Security Council Resolution 1540;

(J) to agree that no state may withdraw from the Nuclear Non-Proliferation Treaty and escape responsibility for prior violations of the Treaty or retain access to controlled materials and equipment acquired for "peaceful" purposes;

(K) to accelerate implementation of disarmament obligations and commitments under the Nuclear Non-Proliferation Treaty for the purpose of reducing the world's stockpiles of nuclear weapons and weapons-grade fissile material; and

(L) to strengthen and expand support for the Proliferation Security Initiative.

AMENDMENT NO. 1438

(Purpose: To redesignate the Naval Reserve as the Navy Reserve)

(The amendment is printed in the Record of July 22, 2005, under "Text of Amendments."

AMENDMENT NO. 1444

(Purpose: To ensure that any reimbursement for services is retained for fire protection activity)

At the end of subtitle G of title X, add the following:

SEC. 1073. RETENTION OF REIMBURSEMENT FOR PROVISION OF RECIPROCAL FIRE PROTECTION SERVICES.

Section 5 of the Act of May 27, 1955 (chapter 105; 69 Stat. 67; 42 U.S.C. 1856d) is amended—

(1) by striking "Funds" and inserting "(a) Funds"; and

(2) by adding at the end the following new subsection:

"(b) Notwithstanding the provisions of subsection (a), all sums received for any Department of Defense activity for fire protection rendered pursuant to this Act shall be credited to the appropriation fund or account from which the expenses were paid. Amounts so credited shall be merged with funds in such appropriation fund or account and shall be available for the same purposes and subject to the same limitations as the funds with which the funds are merged.".

AMENDMENT NO. 1469, AS MODIFIED

(Purpose: To renew the moratorium on the return of veterans memorial objects to foreign nations without specific authorization in law)

At the end of subtitle G of title X, add the following:

SEC. 1073. RENEWAL OF MORATORIUM ON RETURN OF VETERANS MEMORIAL OBJECTS TO FOREIGN NATIONS WITHOUT SPECIFIC AUTHORIZATION IN LAW.

Section 1051(c) of the National Defense Authorization Act for Fiscal Year 2000 (Public Law 106-65; 113 Stat. 763; 10 U.S.C. 2572 note) is amended by inserting ", and during the period beginning on the date of the enactment of the National Defense Authorization Act for Fiscal Year 2006 and ending on September 30, 2010.

AMENDMENT NO. 1471

(Purpose: To require a study on the deployment times of members of the National Guard and Reserves in the global war on terrorism)

At the end of subtitle C of title V, add the following:

SEC. 538. DEFENSE SCIENCE BOARD STUDY ON DEPLOYMENT OF MEMBERS OF THE NATIONAL GUARD AND RESERVES IN THE GLOBAL WAR ON TERRORISM.

(a) Study Required.—The Defense Science Board shall conduct a study on the length and frequency of the deployment of members of the National Guard and the Reserves as a result of the global war on terrorism.

(b) Elements.—The study required by subsection (a) shall include the following:

(1) An identification of the current range of lengths and frequencies of deployments of members of the National Guard and the Reserves.

(2) An assessment of the consequences for force structure, morale, and mission capability of deployments of members of the National Guard and the Reserves in the course of the global war on terrorism that are lengthy, frequent, or both.

(3) An identification of the optimal length and frequency of deployments of members of the National Guard and the Reserves during the global war on terrorism.

(4) An identification of mechanisms to reduce the length, frequency, or both of deployments of members of the National Guard and the Reserves during the global war on terrorism.

(c) Report.—Not later than May 1, 2006, the Defense Science Board shall submit to the congressional defense committees a report on the study required by subsection (a). The report shall include the results of the study and such recommendations as the Defense Science Board considers appropriate in light of the study.

AMENDMENT NO. 1534

(Purpose: To permit the Department of Defense and other Federal agencies to enter into reciprocal agreements with fire organizations for emergency medical services, hazardous material containment, and other emergency services)

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. EXPANSION OF EMERGENCY SERVICES UNDER RECIPROCAL AGREEMENTS.

Subsection (b) of the first section of the Act of May 27, 1955 (69 Stat. 66, chapter 105; 42 U.S.C. 1856(b)) is amended by striking "and fire fighting" and inserting ", fire fighting, and emergency services, including basic and advanced life support, hazardous material containment and confinement, and special rescue events involving vehicular and water mishaps, and trench, building, and confined space extractions".

AMENDMENT NO. 1543

(Purpose: To authorize the Secretary of Energy to carry out certain new plant projects for defense nuclear non-proliferation activities)

On page 372, line 3, insert after "$1,637,239,000" the following: ", of which amount $338,565,000 shall be available for project 99-D-143, the Mixed Oxide Fuel Fabrication Facility, Savannah River Site, Aiken, South Carolina, and $24,000,000 shall be available fro project 99–D–141, the Pit Disassembly and Conversion Facility, Savannah River Site, Aiken, South Carolina".

AMENDMENT NO. 1544, AS MODIFIED

(Purpose: To authorize, with an offset, an additional $6,000,000 for Research, Development, Test, and Evaluation, Navy, for research and development on Long Wavelength Array low frequency radio astronomy instruments)

At the end of subtitle B of title II, add the following:

SEC. 213. LONG WAVELENGTH ARRAY LOW FREQUENCY RADIO ASTRONOMY INSTRUMENTS.

(a) Additional Amount for Research, Development, Test, and Evaluation, Navy.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by $6,000,000.

(b) Availability of Amount.—

(1) In General.—Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for

the Navy, as increased by subsection (a), $6,000,000 may be available for research and development on Long Wavelength Array low frequency radio astronomy instruments.

(2) CONSTRUCTION WITH OTHER AMOUNTS.—The amount available under paragraph (1) for the purpose set forth in that paragraph is in addition to any other amounts available under this Act for that purpose.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for the Air Force is hereby reduced by $6,000,000.

AMENDMENT NO. 1550, AS MODIFIED

(Purpose: To improve national security through the establishment of a Civilian Linguist Reserve Corps Pilot Project within the Department of Defense comprised of citizens fluent in foreign languages who would be available to provide translation services and related duties, as needed)

On page 48, line 21, strike "$18,584,469,000" and insert "$18,581,369,000".

At the appropriate place, insert the following:

SEC. . PILOT PROJECT FOR CIVILIAN LINGUIST RESERVE CORPS.

(a) ESTABLISHMENT.—The Secretary of Defense (referred to in this section as the "Secretary"), through the National Security Education Program, shall conduct a 3-year pilot project to establish the Civilian Linguist Reserve Corps, which shall be composed of United States citizens with advanced levels of proficiency in foreign languages who would be available, upon request from the President, to perform any services or duties with respect to such foreign languages in the Federal Government as the President may require.

(b) IMPLEMENTATION.—In establishing the Civilian Linguist Reserve Corps, the Secretary, after reviewing the findings and recommendations contained in the report required under section 325 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107–306; 116 Stat. 2393), shall—

(1) identify several foreign languages that are critical for the national security of the United States and the relative priority of each such language;

(2) identify United States citizens with advanced levels of proficiency in those foreign languages who would be available to perform the services and duties referred to in subsection (a);

(3) cooperate with other Federal agencies with national security responsibilities to implement a procedure for calling for the performance of the services and duties referred to in subsection (a); and

(4) implement a call for the performance of such services and duties.

(c) CONTRACT AUTHORITY.—In establishing the Civilian Linguist Reserve Corps, the Secretary may enter into contracts with appropriate agencies or entities.

(d) FEASIBILITY STUDY.—During the course of the pilot project, the Secretary shall conduct a study of the best practices in implementing the Civilian Linguist Reserve Corps, including—

(1) administrative structure;

(2) languages to be offered;

(3) number of language specialists needed for each language;

(4) Federal agencies who may need language services;

(5) compensation and other operating costs;

(6) certification standards and procedures;

(7) security clearances;

(8) skill maintenance and training; and

(9) the use of private contractors to supply language specialists.

(e) REPORTS.—

(1) EVALUATION REPORTS.—

(A) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, and annually thereafter until the expiration of the 3-year period beginning on such date of enactment, the Secretary shall submit to Congress an evaluation report on the pilot project conducted under this section.

(B) CONTENTS.—Each report required under subparagraph (A) shall contain information on the operation of the pilot project, the success of the pilot project in carrying out the objectives of the establishment of a Civilian Linguist Reserve Corps, and recommendations for the continuation or expansion of the pilot project.

(2) FINAL REPORT.—Not later than 6 months after the completion of the pilot project, the Secretary shall submit to Congress a final report summarizing the lessons learned, best practices, and recommendations for full implementation of the Civilian Linguist Reserve Corps.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated $3,100,000 for fiscal year 2006 to carry out the pilot project under this section.

(g) OFFSET.—The amounts authorized to be appropriated by section 301(4) are hereby reduced by $3,100,000 from operation and maintenance, Air Force.

AMENDMENT NO. 1559, AS MODIFIED

(Purpose: To increase by $1,000,000 the amount authorized to be appropriated to the Army for research, development, test, and evaluation, to be available for research on and facilitation of technology for converting obsolete chemical munitions to fertilizer, and to provide an offset)

On page 28, between lines 10 and 11, insert the following:

SEC. 203. FUNDING FOR DEVELOPMENT OF DISTRIBUTED GENERATION TECHNOLOGIES.

(a) INCREASE IN FUNDS AVAILABLE TO ARMY FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army maybe increased by $1,000,000, with the amount of such increase to be available for research on and facilitation of technology for converting obsolete chemical munitions to fertilizer.

(b) REDUCTION IN FUNDS AVAILABLE TO AIR FORCE.—The amount authorized to be appropriated by section 301(4) for the Air Force is hereby reduced by $1,000,000.

AMENDMENT NO. 1560, AS MODIFIED

(Purpose: To increase by $1,500,000 the amount authorized to be appropriated to the Navy for research within the High-Brightness Electron Source program, and to provide an offset)

On page 28, between lines 10 and 11, insert the following:

SEC. 203. FUNDING FOR RESEARCH AND TECHNOLOGY TRANSITION FOR HIGH-BRIGHTNESS ELECTRON SOURCE PROGRAM.

(a) INCREASE IN FUNDS AVAILABLE TO NAVY FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION.—The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy maybe increased by $1,500,000.

(b) REDUCTION IN FUNDS AVAILABLE TO ARMY FOR PROCUREMENT, AMMUNITION.—The amount authorized to be appropriated by section 301(4) for the Air Force is hereby reduced by $1,500,000.

AMENDMENT NO. 1562

(Purpose: To designate the annex to the E. Barrett Prettyman Federal Building and United States Courthouse located at 333 Constitution Avenue Northwest in the District of Columbia as the "William B. Bryant Annex")

On page 371, between lines 8 and 9, insert the following:

SEC. 2887. DESIGNATION OF WILLIAM B. BRYANT ANNEX.

(a) DESIGNATION.—The annex to the E. Barrett Prettyman Federal Building and United States Courthouse located at 333 Constitution Avenue Northwest in the District of Columbia shall be known and designated as the "William B. Bryant Annex".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the annex referred to in subsection (a) shall be deemed to be a reference to the "William B. Bryant Annex".

AMENDMENT NO. 1567, AS MODIFIED

(Purpose: To modify the exclusion from officer distribution and strength limitations of officers serving in intelligence community positions)

At the end of subtitle A of title V, add the following:

SEC. 509. APPLICABILITY OF OFFICER DISTRIBUTION AND STRENGTH LIMITATIONS TO OFFICERS SERVING IN INTELLIGENCE COMMUNITY POSITIONS.

(a) IN GENERAL.—Section 528 of title 10, United States Code, is amended to read as follows:

"§ 528. Exclusion: officers serving in certain intelligence positions

"(a) EXCLUSION OF OFFICER SERVING IN CERTAIN CIA POSITIONS.—When either of the individuals serving in a position specified in subsection (b) is an officer of the armed forces, one of those officers, while serving in such position, shall be excluded from the limitations in sections 525 and 526 of this title while serving in such position.

"(b) COVERED POSITIONS.—The positions referred to in this subsection are the following:

"(1) Director of the Central Intelligence Agency.

"(2) Deputy Director of the Central Intelligence Agency.

"(c) ASSOCIATE DIRECTOR OF CIA FOR MILITARY SUPPORT.—An officer of the armed forces serving in the position of Associate Director of the Central Intelligence Agency for Military Support, while serving in that position, shall be excluded from the limitations in sections 525 and 526 of this title while serving in such position.

"(d) OFFICERS SERVING IN OFFICE OF DNI.—Up to 5 general and flag officers of the armed forces assigned to positions in the Office of the Director of National Intelligence designated by agreement between the Secretary of Defense and the Director of National Intelligence shall be excluded from the limitations in sections 525 and 526 of this title while serving in such positions.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 32 of such title is amended by striking the item relating to section 528 and inserting the following new item:

"528. Exclusion: officers serving in certain intelligence positions.".

AMENDMENT NO. 1885

(Purpose: To authorize the Secretary of the Navy to provide for the welfare of Special Category Residents at Naval Station Guantanamo Bay, Cuba)

At the end of subtitle C of title III, add following:

SEC. 330. WELFARE OF SPECIAL CATEGORY RESIDENTS AT NAVAL STATION GUANTANAMO BAY, CUBA.

(a) IN GENERAL.—The Secretary of the Navy may provide for the general welfare, including subsistence, housing, and health care, of any person at Naval Station Guantanamo Bay, Cuba, who is designated by the Secretary, not later than 90 days after the date of the enactment of this Act, as a so-called "special category resident".

(b) PROHIBITION ON CONSTRUCTION OF FACILITIES.—The authorization in subsection (a) shall not be construed as an authorization for the construction of new housing facilities or medical treatment facilities.

(c) CONSTRUCTION OF PRIOR USE OF FUNDS.—The provisions of chapter 13 of title 31, United States Code, are hereby deemed not to have applied to the obligation or expenditure of funds before the date of the enactment of this Act for the general welfare of persons described in subsection (a).

AMENDMENT NO. 2484

(Purpose: To authorize, with an offset, an additional $1,000,000 for research, development, test, and evaluation for the Army for Warhead/Grenade Scientific Based Manufacturing Technology)

At the end of subtitle B of title II, add the following:

SEC. 213. WARHEAD/GRENADE SCIENTIFIC BASED MANUFACTURING TECHNOLOGY.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FOR THE ARMY.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $1,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by subsection (a), $1,000,000 may be available for Weapons and Ammunition Technology (PE#602624A) for Warhead/Grenade Scientific Based Manufacturing Technology.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for operation and maintenance, Air Force activities is hereby reduced by $1,000,000.

AMENDMENT NO. 2485

(Purpose: To establish the National Foreign Language Coordination Council to develop and implement a foreign language strategy)

(The amendment is printed in today's RECORD under "Text of Amendments.")

AMENDMENT NO. 2486

(Purpose: To provide, with an offset, an additional $16,000,000 for Operation and Maintenance, Army, for the Point of Maintenance/Arsenal/Depot AIT Initiative)

At the end of subtitle C of title III, add the following:

SEC. 330. POINT OF MAINTENANCE/ARSENAL/DEPOT AIT INITIATIVE.

(a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, ARMY.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby increased by $10,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army, as increased by subsection (a), $16,000,000 may be available for the Point of Maintenance/Arsenal/Depot AIT (AD-AIT) Initiative.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $10,000,000, with the amount of the reduction to be derived from amounts authorized to be appropriated by that section for the Air Force.

AMENDMENT NO. 2487

(Purpose: To provide, with an offset, an additional $4,500,000 for Operation and Maintenance, Army, for procurement of the RI-2200 and RI-2400 Long Arm High-Intensity Arc Metal Halide Handheld Searchlight)

At the end of subtitle C of title III, add the following:

SEC. 330. LONG ARM HIGH-INTENSITY ARC METAL HALIDE HANDHELD SEARCHLIGHT.

(a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, ARMY.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby increased by $4,500,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army, as increased by subsection (a), $4,500,000 may be available for the Long Arm High-Intensity Arc Metal Halide Handheld Searchlight.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $4,500,000, with the amount of the reduction to be derived from amounts authorized to be appropriated by that section for the Air Force.

AMENDMENT NO. 2488

(Purpose: To support the acquisition of foreign language skills among participants in the Reserve Officers' Training Corps)

On page 92, after line 25, add the following:

SEC. 538. PROMOTION OF FOREIGN LANGUAGE SKILLS AMONG MEMBERS OF THE RESERVE OFFICERS' TRAINING CORPS.

(a) IN GENERAL.—The Secretary of Defense shall support the acquisition of foreign language skills among cadets and midshipmen in the Reserve Officers' Training Corps, including through the development and implementation of—

(1) incentives for cadets and midshipmen to participate in study of a foreign language, including special emphasis for Arabic, Chinese, and other "strategic languages", as defined by the Secretary of Defense in consultation with other relevant agencies; and

(2) a recruiting strategy to target foreign language speakers, including members of heritage communities, to participate in the Reserve Officers' Training Corps.

(b) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the actions taken to carry out this section.

AMENDMENT NO. 2489

(Purpose: To make available, with an offset, $3,000,000 for Research, Development, Test, and Evaluation, Air Force, for assurance for the Field Programmable Gate Array)

At the end of subtitle B of title II, add the following:

SEC. 213. FIELD PROGRAMMABLE GATE ARRAY.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $3,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by subsection (a), $3,000,000 may be available for Space Technology (PE # 0602601F) for research and development on the reliability of field programmable gate arrays for space applications, including design of an assurance strategy, reference architectures, research and development on reliability and radiation hardening, and outreach to industry and localities to develop core competencies.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $3,000,000.

AMENDMENT NO. 2490

(Purpose: To provide for Department of Defense support of certain Paralympic sporting events)

At the end of subtitle C of title III, add the following:

SEC. ___. DEPARTMENT OF DEFENSE SUPPORT FOR CERTAIN PARALYMPIC SPORTING EVENTS.

(a) PROVISION OF SUPPORT.—Subsection (c) of section 2564 of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(4) A sporting event sanctioned by the United States Olympic Committee through the Paralympic Military Program.

"(5) A national or international Paralympic sporting event (other than one covered by paragraph (3) or (4))—

"(A) which is—

"(i) held in the United States or any of its territories or commonwealths;

"(ii) governed by the International Paralympic Committee; and

"(iii) sanctioned by the United States Olympic Committee; and

"(B) for which participation exceeds 100 amateur athletes.".

(b) FUNDING AND LIMITATIONS.—Such section is further amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) FUNDING FOR SUPPORT OF CERTAIN EVENTS.—(1) Funds to provide support for a sporting event described in paragraph (4) or (5) of subsection (c) shall be derived from the Support for International Sporting Competitions, Defense account established by section 5802 of Public Law 104–208 (110 Stat. 3009–522), notwithstanding any limitation in such section relating to the availability of funds in such account for support of international sporting competitions.

"(2) The total amount that may be expended in any fiscal year to provide support for a sporting event described in paragraph (5) of subsection (c) may not exceed $1,000,000.".

AMENDMENT NO. 2491

(Purpose: To delay until September 30, 2007, the limitation on the procurement by the Department of Defense of systems that are not equipped with the Global Positioning System)

At the end of subtitle E of title II, add the following:

SEC. 244. DELAYED EFFECTIVE DATE FOR LIMITATION ON PROCUREMENT OF SYSTEMS NOT GPS-EQUIPPED.

(a) DELAYED EFFECTIVE DATE.—Section 152(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1578), as amended by section 218(e) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1952; 10 U.S.C. 2281 note), is further amended by striking "2005" and inserting "2007".

(b) RATIFICATION OF ACTIONS.—Any obligation or expenditure of funds by the Department of Defense during the period beginning on October 1, 2005, and ending on the date of the enactment of this Act to modify or procure a Department of Defense aircraft, ship, armored vehicle, or indirect-fire weapon system that is not equipped with a Global Positioning System receiver is hereby ratified.

AMENDMENT NO. 2492

(Purpose: To make available, with an offset, additional amounts for defense basic research programs)

At the end of subtitle B of title II, add the following:

SEC. 213. DEFENSE BASIC RESEARCH PROGRAMS.

(a) Army Programs.—(1) The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by paragraph (1), $10,000,000 may be available for Program Element 0601103A for University Research Initiatives.

(b) Navy Programs.—(1) The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by $5,000,000.

(2) Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, as increased by paragraph (1), $5,000,000 may be available for Program Element 0601103N for University Research Initiatives.

(c) Air Force Programs.—(1) The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by paragraph (1), $10,000,000 may be available for Program Element 0601103F for University Research Initiatives.

(d) Defense-Wide Activities.—(1) The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities is hereby increased by $15,000,000.

(2) Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities, as increased by paragraph (1)—

(A) $10,000,000 may be available for Program Element 0601120D8Z for the SMART National Defense Education Program; and

(B) $5,000,000 may be available for Program Element 0601101E for the Defense Advanced Research Projects Agency University Research Program in Computer Science and Cybersecurity.

(e) Offsets.—(1) The amount authorized to be appropriated by section 301(c), Operation and Maintenance, Navy, is hereby reduced by $40,000,000.

AMENDMENT NO. 2493

(Purpose: To improve the provision relating to clarification of authority of military legal assistance counsel)

On page 96, strike lines 19 and 20 and insert the following:

"(2) Military legal assistance may be provided only by a judge advocate or a civilian attorney who is a member of the bar of a Federal court or of the highest court of a State.

"(3) In this subsection, the term 'military legal assistance' includes—

AMENDMENT NO. 2494

(Purpose: To provide an education loan repayment program for chaplains in the Selected Reserve)

At the end of subtitle E of title VI, add the following:

SEC. 653. EDUCATION LOAN REPAYMENT PROGRAM FOR CHAPLAINS IN THE SELECTED RESERVE.

(a) In General.—Chapter 1609 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 16303. Education loan repayment program: chaplains serving in the Selected Reserve

"(a) Authority To Repay Education Loans.—Under regulations prescribed by the Secretary of Defense and subject to the provisions of this section, the Secretary concerned may, for purposes of maintaining adequate numbers of chaplains in the Selected Reserve, repay a loan that—

"(1) was used by a person described in subsection (b) to finance education resulting in a Masters of Divinity degree; and

"(2) was obtained from an accredited theological seminary as listed in the Association of Theological Schools (ATS) handbook.

"(b) Eligible Persons.—(1) Except as provided in paragraph (2), a person described in this subsection is a person who—

"(A) satisfies the requirements specified in subsection (c);

"(B) holds, or is fully qualified for, an appointment as a chaplain in a reserve component of an armed force; and

"(C) signs a written agreement to serve not less than three years in the Selected Reserve.

"(2) A person accessioned into the Chaplain Candidate Program is not eligible for the repayment of loans under subsection (a).

"(c) Academic and Professional Requirements.—The requirements specified in this subsection are such requirements for accessioning and commissioning of chaplains as are prescribed by the Secretary concerned in regulations.

"(d) Loan Repayment.—(1) Subject to paragraph (2), the repayment of a loan under this section may consist of payment of the principal, interest, and related expenses of such loan.

"(2) The amount of any repayment of a loan made under this section on behalf of a person may not exceed $20,000 for each three year period of obligated service that the person agrees to serve in an agreement described in subsection (b)(3). Of such amount, not more than an amount equal to 50 percent of such amount may be paid before the completion by the person of the first year of obligated service pursuant to such agreement. The balance of such amount shall be payable at such time or times as are prescribed by the Secretary concerned in regulations.

"(e) Effect of Failure To Complete Obligation.—A person on behalf of whom repayment of a loan is made under this section who fails, during the period of obligated service the person agrees to serve in an agreement described in subsection (b)(3), to serve satisfactorily in the Selected Reserve may, at the election of the Secretary concerned, be required to pay the United States an amount equal to any amount of repayments made on behalf of the person in connection with the agreement.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 1609 of such title is amended by adding at the end the following new item:

"16303. Education loan repayment program: chaplains serving in the Selected Reserve.".

AMENDMENT NO. 2495

(Purpose: To modify and improve the National Call to Service program)

At the end of subtitle F of title V, add the following:

SEC. 573. NATIONAL CALL TO SERVICE PROGRAM.

(a) Limitation to Domestic National Service Programs.—Subsection (c)(3)(D) of section 510 of title 10, United States Code, is amended by striking "in the Peace Corps, Americorps, or another national service program" and inserting "in Americorps or another domestic national service program".

(b) Administration of Education Incentives by Secretary of Veterans Affairs.—Paragraph (2) of subsection (h) of such section is amended to read as follows:

"(2)(A) Educational assistance under paragraphs (3) or (4) of subsection (e) shall be provided through the Department of Veterans Affairs under an agreement to be entered into by the Secretary of Defense and the Secretary of Veterans Affairs. The agreements shall include administrative procedures to ensure the prompt and timely transfer of funds from the Secretary concerned to the Secretary of Veterans Affairs for the making of payments under this section.

"(B) Except as otherwise provided in this section, the provisions of sections 503, 511, 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692) shall be applicable to the provision of educational assistance under this chapter. The term 'eligible veteran' and the term 'person', as used in those provisions, shall be deemed for the purpose of the application of those provisions to this section to refer to a person eligible for educational assistance under paragraph (3) or (4) of subsection (e).".

AMENDMENT NO. 2496

(Purpose: To provide for the policy of the Department of Defense on the recruitment and enlistment of home schooled individuals in the Armed Forces)

At the end of subtitle B of title V, add the following:

SEC. 522. RECRUITMENT AND ENLISTMENT OF HOME SCHOOLED STUDENTS IN THE ARMED FORCES.

(a) Policy on Recruitment and Enlistment.—

(1) Policy required.—The Secretary of Defense shall prescribe a policy on the recruitment and enlistment of home schooled students in the Armed Forces.

(2) Uniformity across the armed forces.—The Secretary shall ensure that the policy prescribed under paragraph (1) applies, to the extent practicable, uniformly across the Armed Forces.

(b) Elements.—The policy under subsection (a) shall include the following:

(1) An identification of a graduate of home schooling for purposes of recruitment and enlistment in the Armed Forces that is in accordance with the requirements described in subsection (c).

(2) Provision for the treatment of graduates of home schooling with no practical limit with regard to enlistment eligibility.

(3) An exemption of graduates of home schooling from the requirement for a secondary school diploma or an equivalent (GED) as a precondition for enlistment in the Armed Forces.

(c) Home School Graduates.—In prescribing the policy, the Secretary of Defense shall prescribe a single set of criteria to be utilized by the Armed Forces in determining whether an individual is a graduate of home schooling. The Secretary concerned shall ensure compliance with education credential coding requirements.

(d) SECRETARY CONCERNED DEFINED.—In this section, the term "Secretary concerned" has the meaning given such term in section 101(a)(9) of title 10, United States Code.

AMENDMENT NO. 2197

(Purpose: To make available, with an offset, $10,000,000 for Project Sheriff)

At the end of subtitle B of title II, add the following:

SEC. 213. PROJECT SHERIFF.

(a) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities, the amount available for the Force Transformation Directorate may be increased by $10,000,000, with the amount of the increase to be available for Project Sheriff.

(b) OFFSET.—Of the amount authorized to be appropriated by section 301(4) is hereby reduced by $10,000,000.

AMENDMENT NO. 2198

(Purpose: To make available, with an offset, an additional $5,000,000 for Research, Development, Test, and Evaluation, Army, for Medium Tactical Vehicle Modifications)

At the end of subtitle B of title II, add the following:

SEC. 213. MEDIUM TACTICAL VEHICLE MODIFICATIONS.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY.—The amount authorized to be appropriated by section 201(1) for Research, Development, Test, and Evaluation for the Army, is hereby increased by $5,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(1) for Research, Development, Test, and Evaluation for the Army, as increased by subsection (a), $5,000,000 may be available for Medium Tactical Vehicle Modifications.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for Operation and Maintenance for the Air Force is hereby reduced by $5,000,000.

AMENDMENT NO. 2499 TO AMENDMENT NO. 1396

(Purpose: To make a technical correction)

On page 2, line 16, strike "$3,008,982,000" and insert "$3,108,982,000".

AMENDMENT NO. 2500

(Purpose: To extend by one year the date of the final report of the advisory panel on laws and regulations on acquisition practices and to require an interim report)

At the end of subtitle E of title VIII, add the following:

SEC. 846. REPORTS OF ADVISORY PANEL ON LAWS AND REGULATIONS ON ACQUISITION PRACTICES.

(a) EXTENSION OF FINAL REPORT.—Section 1423(d) of the Services Acquisition Reform Act of 2003 (title XIV of Public Law 108–136; 117 Stat. 1669; 41 U.S.C. 405 note) is amended by striking "one year" and inserting "two years".

(b) REQUIREMENT FOR INTERIM REPORT.—That section is further amended—

(1) by inserting "(1)" before "Not later than"; and

(2) by adding at the end the following new paragraph:

"(2) Not later than one year after the date of the establishment of the panel, the panel shall submit to the official and committees referred to in paragraph (1) an interim report on the matters set forth in that paragraph.".

AMENDMENT NO. 2501

At the appropriate place, insert the following:

(a) FINDINGS.—

(1) According to the Department of State, drug trafficking organizations shipped approximately nine tons of cocaine to the United States through the Dominican Republic in 2004, and are increasingly using small, high-speed watercraft.

(2) Drug traffickers use the Caribbean corridor to smuggle narcotics to the United States via Puerto Rico and the Dominican Republic. This route is ideal for drug trafficking because of its geographic expanse, numerous law enforcement jurisdictions and fragmented investigative efforts.

(3) The tethered aerostat system in Lajas, Puerto Rico contributes to deterring and detecting smugglers moving illicit drugs into Puerto Rico. The aerostat's range and operational capabilities allow it to provide surveillance coverage of the eastern Caribbean corridor and the strategic waterway between Puerto Rico and the Dominican Republic, known as the Mona Passage.

(4) Including maritime radar on the Lajas aerostat will expand its ability to detect suspicious vessels in the eastern Caribbean corridor.

(b) SENSE OF THE SENATE.—Given the above findings, it is the Sense of the Senate that—

(1) Congress and the Department of Defense fully fund the Counter-Drug Tethered Aerostat program.

(2) Department of Defense install maritime radar on the Lajas, Puerto Rico aerostat.

AMENDMENT NO. 2502

(Purpose: To modify the designation of facilities and resources constituting the Major Range and Test Facility Base)

At the end of subtitle E of title II, add the following:

SEC. 244. DESIGNATION OF FACILITIES AND RESOURCES CONSTITUTING THE MAJOR RANGE AND TEST FACILITY BASE.

(a) DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.—Section 196(h) of title 10, United States Code, is amended by striking "Director of Operational Test and Evaluation" and inserting "Secretary of Defense".

(b) INSTITUTIONAL FUNDING OF TEST AND EVALUATION ACTIVITIES.—Section 232(b)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2490) is amended by striking "Director of Operational Test and Evaluation" and inserting "Secretary of Defense".

AMENDMENT NO. 2503

(Purpose: To authorize the Secretary of Energy to purchase certain essential mineral rights and resolve natural resource damage liability claims)

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. ROCKY FLATS ENVIRONMENTAL TECHNOLOGY SITE.

(a) DEFINITIONS.—In this section:

(1) ESSENTIAL MINERAL RIGHT.—The term "essential mineral right" means a right to mine sand and gravel at Rocky Flats, as depicted on the map.

(2) FAIR MARKET VALUE.—The term "fair market value" means the value of an essential mineral right, as determined by an appraisal performed by an independent, certified mineral appraiser under the Uniform Standards of Professional Appraisal Practice.

(3) MAP.—The term "map" means the map entitled "Rocky Flats National Wildlife Refuge", dated July 25, 2005, and available for inspection in appropriate offices of the United States Fish and Wildlife Service and the Department of Energy.

(4) NATURAL RESOURCE DAMAGE LIABILITY CLAIM.—The term "natural resource damage liability claim" means a natural resource damage liability claim under subsections (a)(4)(C) and (f) of section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) arising from hazardous substances releases at or from Rocky Flats that, as of the date of enactment of this Act, are identified in the administrative record for Rocky Flats required by the National Oil and Hazardous Substances Pollution Contingency Plan prepared under section 105 of that Act (42 U.S.C. 9605).

(5) ROCKY FLATS.—The term "Rocky Flats" means the Department of Energy facility in the State of Colorado known as the "Rocky Flats Environmental Technology Site".

(6) SECRETARY.—The term "Secretary" means the Secretary of Energy.

(7) TRUSTEES.—The term "Trustees" means the Federal and State officials designated as trustees under section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)).

(b) PURCHASE OF ESSENTIAL MINERAL RIGHTS.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, such amounts authorized to be appropriated under subsection (c) shall be available to the Secretary to purchase essential mineral rights at Rocky Flats.

(2) CONDITIONS.—The Secretary shall not purchase an essential mineral right under paragraph (1) unless—

(A) the owner of the essential mineral right is a willing seller; and

(B) the Secretary purchases the essential mineral right for an amount that does not exceed fair market value.

(3) LIMITATION.—Only those funds authorized to be appropriated under subsection (c) shall be available for the Secretary to purchase essential mineral rights under paragraph (1).

(4) RELEASE FROM LIABILITY.—Notwithstanding any other law, any natural resource damage liability claim shall be considered to be satisfied by—

(A) the purchase by the Secretary of essential mineral rights under paragraph (1) for consideration in an amount equal to $10,000,000;

(B) the payment by the Secretary to the Trustees of $10,000,000; or

(C) the purchase by the Secretary of any portion of the mineral rights under paragraph (1) for—

(i) consideration in an amount less than $10,000,000; and

(ii) a payment by the Secretary to the Trustees of an amount equal to the difference between—

(I) $10,000,000; and

(II) the amount paid under clause (i).

(5) USE OF FUNDS.—

(A) IN GENERAL.—Any amounts received under paragraph (4) shall be used by the Trustees for the purposes described in section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(1)), including—

(i) the purchase of additional mineral rights at Rocky Flats; and

(ii) the development of habitat restoration projects at Rocky Flats.

(B) CONDITION.—Any expenditure of funds under this paragraph shall be made jointly by the Trustees.

(C) ADDITIONAL FUNDS.—The Trustees may use the funds received under paragraph (4) in conjunction with other private and public funds.

(6) EXEMPTION FROM NATIONAL ENVIRONMENTAL POLICY ACT.—Any purchases of mineral rights under this subsection shall be exempt from the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(7) ROCKY FLATS NATIONAL WILDLIFE REFUGE.—

(A) TRANSFER OF MANAGEMENT RESPONSIBILITIES.—The Rocky Flats National Wildlife Refuge Act of 2001 (16 U.S.C. 668dd note; Public Law 107–107) is amended—

(i) in section 3175—

(I) by striking subsections (b) and (f); and

(II) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(ii) in section 3176(a)(1), by striking "section 3175(d)" and inserting "section 3175(c)".

(B) BOUNDARIES.—Section 3177 of the Rocky Flats National Wildlife Refuge Act of 2001 (16 U.S.C. 668dd note; Public Law 107–107) is amended by striking subsection (c) and inserting the following:

"(c) COMPOSITION.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the refuge shall consist of land within the boundaries of Rocky Flats, as depicted on the map—

"(A) entitled 'Rocky Flats National Wildlife Refuge';

"(B) dated July 25, 2005; and

"(C) available for inspection in the appropriate offices of the United States Fish and Wildlife Service and the Department of Energy.

"(2) EXCLUSIONS.—The refuge does not include—

"(A) any land retained by the Department of Energy for response actions under section 3175(c);

"(B) any land depicted on the map described in paragraph (1) that is subject to 1 or more essential mineral rights described in section 3114(a) of the National Defense Authorization Act for Fiscal Year 2006 over which the Secretary shall retain jurisdiction of the surface estate until the essential mineral rights—

"(i) are purchased under subsection (b) of that Act; or

"(ii) are mined and reclaimed by the mineral rights holders in accordance with requirements established by the State of Colorado; and

"(C) the land depicted on the map described in paragraph (1) on which essential mineral rights are being actively mined as of the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 until—

"(i) the essential mineral rights are purchased; or

"(ii) the surface estate is reclaimed by the mineral rights holder in accordance with requirements established by the State of Colorado.

"(3) ACQUISITION OF ADDITIONAL LAND.—Notwithstanding paragraph (2), upon the purchase of the mineral rights or reclamation of the land depicted on the map described in paragraph (1), the Secretary shall—

"(A) transfer the land to the Secretary of the Interior for inclusion in the refuge; and

"(B) the Secretary of the Interior shall—

"(i) accept the transfer of the land; and

"(ii) manage the land as part of the refuge.".

(c) FUNDING.—Of the amounts authorized to be appropriated to the Secretary for the Rocky Flats Environmental Technology Site for fiscal year 2006, $10,000,000 may be made available to the Secretary for the purposes described in subsection (b).

AMENDMENT NO. 2504

(Purpose: To authorize, with an offset, an additional $4,000,000 for research, development, test, and evaluation for the Air Force for Aging Military Aircraft Fleet Support)

At the end of subtitle B of title II, add the following:

SEC. 213. AGING MILITARY AIRCRAFT FLEET SUPPORT.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION FOR THE AIR FORCE.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $4,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by subsection (a), $4,000,000 may be available for Program Element #63112F for Aging Military Aircraft Fleet Support.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for Air Force activities is hereby reduced by $4,000,000.

AMENDMENT NO. 2505

(Purpose: To make United States nationals eligible for appointment to the Senior Reserve Officers' Training Corps)

At the end of subtitle C of title V, add the following:

SEC. 537. ELIGIBILITY OF UNITED STATES NATIONALS FOR APPOINTMENT TO THE SENIOR RESERVE OFFICERS' TRAINING CORPS.

(a) IN GENERAL.—Section 2107(b)(1) of title 10, United States Code, is amended by inserting "or national" after "citizen".

(b) ARMY RESERVE OFFICERS TRAINING PROGRAMS.—Section 2107a(b)(1) of such title is amended by inserting "or national" after "citizen".

(c) ELIGIBILITY FOR APPOINTMENT AS COMMISSIONED OFFICERS.—Section 532(f) of such title is amended by inserting ", or for a United States national otherwise eligible for appointment as a cadet or midshipman under section 2107(a) of this title or as a cadet under section 2107a of this title," after "for permanent residence".

AMENDMENT NO. 2506

(Purpose: To require a report on cooperation between the Department of Defense and the National Aeronautics and Space Administration on research, development, test, and evaluation activities)

At the end of subtitle E of title II, add the following:

SEC. 244. REPORT ON COOPERATION BETWEEN THE DEPARTMENT OF DEFENSE AND THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ON RESEARCH, DEVELOPMENT, TEST, AND EVALUATION ACTIVITIES.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall jointly submit to Congress a report setting forth the recommendations of the Secretary and the Administrator regarding cooperative activities between the Department of Defense and the National Aeronautics and Space Administration related to research, development, test, and evaluation on areas of mutual interest to the Department and the Administration.

(b) AREAS COVERED.—The areas of mutual interest to the Department of Defense and the National Aeronautics and Space Administration referred to in subsection (a) may include, but not be limited to, areas relating to the following:

(1) Aeronautics research.

(2) Facilities, personnel, and support infrastructure.

(3) Propulsion and power technologies.

(4) Space access and operations.

Mr. WARNER. Mr. President, I ask unanimous consent that time until 11:30 a.m. tomorrow be equally divided in the usual form, and that at 11:30 the Senate proceed to a vote in relation to the Dorgan amendment No. 2476, to be followed by a vote in relation to the Talent amendment No. 2477, with no second degrees in order to those amendments prior to the votes; further, that there be 3 minutes equally divided between the votes.

Mr. LEVIN. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BYRD. Mr. President, the Senate will soon vote to approve the fiscal year 2006 Defense authorization bill. The passage of this legislation is important to all Americans who are now serving in the U.S. Armed Forces, but especially to those who are serving in harm's way.

Our troops in Iraq and Afghanistan require all the support that our Nation can give them until the day that they can return to their homes. Our military prides itself in being the most capable and the best trained fighting force in the entire world. The Constitution places in Congress the responsibility to "raise and support armies" and to "provide and maintain a navy." It is therefore of the greatest importance that Congress provide our troops with the equipment that they need for their dangerous missions.

The wars that continue in Iraq and Afghanistan are unlike the conflicts that the United States has fought in the past two decades. In the first Persian Gulf War or Kosovo, our military depended on high-tech aircraft and smart bombs to quickly overwhelm our enemies. Today, in Iraq, our awesome airpower is of limited use. The wars in Iraq and Afghanistan are, by and large, the wars of the soldier and the marine. These are the wars of the foot soldier, carried out in the hostile streets of foreign cities. These troops do not enjoy the near-invulnerability of stealth aircraft or cruise missiles. Our troops do not see the enemy as a blip on a radar screen, because often the enemy is seen eye to eye.

With this being the reality of urban warfare, there must be a new focus on providing our ground troops with the equipment that they need to fight and survive in the urban combat environment. The Defense authorization bill reported by the Armed Services Committee makes steps in this direction. It authorizes $1.4 billion in spending to protect our troops serving overseas. This figure includes $500 million to detect and destroy roadside bombs, $344 million for up-armored HMMWVs, and $118 million for body armor.

But more must be done to provide our troops with the next generation of weapons that will help our troops prevail in ground combat. More needs to be done to apply the technology that allows our military to dominate the air and the seas to build a new generation of weapons that will allow our troops to dominate the ground. One such technology that deserves investigation is the SPIKE missile system currently being developed by the Navy. The SPIKE missile is designed to be a low-cost, lightweight, precision-guided rocket that would allow our troops to accurately engage enemies at great range. If this technology is successful, it could provide our ground troops with the same sort of revolutionary advantage that precision-guided munitions provided to our advanced aircraft a decade ago.

There are also emerging opportunities for the use of unmanned aerial vehicles to support the warfighter on the ground. While important UAVs like Global Hawk provide intelligence about what is going on in large sections of a country, our ground troops often need to know what is happening on the other side of a hill. Smaller UAVs can provide our troops with a decisive advantage in urban environments. Important projects like SWARM, being developed by Augusta Systems in Morgantown, are exploring ways to allow small UAVs to work together to seek out our enemies on the battlefield, eliminating the chance that our troops could be taken by surprise. The next step is to use small UAVs as ways to strike first, before our ground troops come into the range of our enemy's weapons. Our military is only beginning to tap the growing potential of UAV technology to support our troops on the ground.

The Department of Defense is currently engaged in the Quadrennial Defense Review, a top-to-bottom study of our military strategy, posture, and equipment that will guide this Nation's defense research and development and procurement policies for the next 4 years. With this review underway, it is an ideal opportunity to place a new emphasis on bringing cutting-edge technology to our troops on the ground in Iraq and Afghanistan. I urge the Secretary of Defense, the Chairman of the Joint Chiefs of Staff, and the other Pentagon officials who are carrying out this study to broaden their view of what our troops require.

The QDR should propose new technologies to protect our troops from the threats that they face in combat, and it should also accelerate the development of new weapons systems that allow our soldiers to dominate the battlefield in urban environments. The Department of Defense should place these efforts on the top of its priorities: we should not wait for the next war to give our troops the advantage of new, high-tech weapons. Instead, the Pentagon and Congress should make every effort to arm our troops with the next generation of technology, today. For so long as our troops are serving in harm's way, we must give them not only the armor and protection, but also the weapons, that they need to ensure that they will come home safely.

Mr. FEINGOLD. Mr. President, last night the Senate passed an amendment that I offered to this bill that represents another step toward enhancing and strengthening transition services that are provided to our military personnel and builds upon an amendment that I offered to this bill last year. I want to thank the chairman and the ranking member of the Armed Services Committee for working with me to accept this amendment.

As the Senate conducts its business today, thousands of our brave men and women in uniform are in harm's way in Iraq, Afghanistan, and elsewhere around the globe. These men and women serve with distinction and honor, and we owe them our heartfelt gratitude.

We also owe them our best effort to ensure that they receive the benefits to which their service in our Armed Forces has entitled them. I have heard time and again from military personnel and veterans who are frustrated with the system by which they apply for benefits or appeal claims for benefits. I have long been concerned that tens of thousands of our veterans are unaware of Federal health care and other benefits for which they may be eligible, and I have undertaken numerous legislative and oversight efforts to ensure that the Department of Veterans Affairs makes outreach to our veterans and their families a priority.

While we should do more to support our veterans, we must also ensure that the men and women who are currently serving in our Armed Forces receive adequate pay and benefits, as well as services that help them to make the transition from active duty to civilian life. I am concerned that we are not doing enough to support our men and women in uniform as they prepare to retire or otherwise separate from the service or, in the case of members of our National Guard and Reserve, to demobilize from active-duty assignments and return to their civilian lives while staying in the military or preparing to separate from the military. We must ensure that their service and sacrifice, which is much lauded during times of conflict, is not forgotten once the battles have ended and our troops have come home.

Earlier this year I introduced legislation, the Veterans Enhanced Transition Services Act, VETS Act, which would help to ensure that all military personnel have access to the same transition services as they prepare to leave the military to reenter civilian life, or, in the case of members of the National Guard and Reserve, as they prepare to demobilize from active-duty assignments and return to their civilian lives and jobs or education while remaining in the military.

I have heard from a number of Wisconsinites and members of military and veterans service organizations that our men and women in uniform do not all have access to the same transition counseling and medical services as they are demobilizing from service in Iraq, Afghanistan, and elsewhere. I have long been concerned about reports of uneven provision of services from base to base and from service to service. All of our men and women in uniform have pledged to serve our country, and all of them, at the very least, deserve to have access to the same services in return.

I am pleased that the VETS Act is supported by a wide range of groups that are dedicated to serving our men and women in uniform and veterans and their families. These groups include: the American Legion; the Enlisted Association of the National Guard of the United States; the National Coalition for Homeless Veterans; the Paralyzed Veterans of America; the Reserve Officers Association; the Veterans of Foreign Wars; the Wisconsin Department of Veterans Affairs; the Wisconsin National Guard; the American Legion, Department of Wisconsin; Disabled American Veterans, Department of Wisconsin; the Wisconsin Paralyzed Veterans of America; the Veterans of Foreign Wars, Department of Wisconsin; and the Wisconsin State Council, Vietnam Veterans of America.

I introduced similar legislation during the 108th Congress, and I am pleased that a provision that I authored which was based on that bill was enacted as part of the fiscal year 2005 Defense authorization bill.

In response to concerns I have heard from a number of my constituents, my amendment, in part, directed the Secretaries of Defense and Labor to jointly explore ways in which DoD training and certification standards could be coordinated with Government and private sector training and certification standards for corresponding civilian occupations. The Secretaries of Defense and Labor submitted their report, "Study on Coordination of Job Training Standards with Certification Standards for Military Occupational Specialties," in September of this year. It is my hope that this report will serve as a useful tool as the Departments seek to help military personnel who wish to pursue civilian employment related to their military specialties to make the transition from the military to comparable civilian jobs.

In addition, this amendment required the Government Accountability Office, GAO, to undertake a comprehensive analysis of existing transition services for our military personnel that are administered by the Departments of Defense, Veterans Affairs, and Labor, and to make recommendations to Congress on how these programs can be improved. My amendment required GAO to focus on two issues: how to achieve the uniform provision of appropriate transition services to all military personnel, and the role of post-deployment and predischarge health assessments as part of the larger transition program. GAO released its study "Military and Veterans' Benefits: Enhanced Services Could Improve Transition Assistance for Reserves and National Guard" in May 2005, and it plans to release its study on health assessments in the near future.

In July of this year, GAO provided testimony on its transition services report to the House Committee on Veterans Affairs Subcommittee on Economic Opportunity. That hearing could not have been more timely. We owe it to our men and women in uniform to improve transition programs now as we continue to welcome home thousands of military personnel who are serving our country in Iraq, Afghanistan, and elsewhere. I commend the Departments of Defense, Veterans Affairs, and Labor for the steps they have taken thus far to improve these important programs. We should not miss an opportunity to help the men and women who are currently serving our country, and I am pleased that the chairman and the ranking member agreed to accept a number of provisions from my legislation as an amendment to the fiscal year 2006 Defense authorization bill.

Under current law, the Department of Defense, together with the Departments of Veterans Affairs, VA, and Labor, provide preseparation counseling for military personnel who are preparing to leave the Armed Forces through the Transition Assistance Program/Disabled Transition Assistance Program, TAP/DTAP. This counseling provides servicemembers with valuable information about benefits that they have earned through their service to our country such as education benefits through the GI Bill and health care and other benefits through the VA. Personnel also learn about programs such as Troops to Teachers and have access to employment assistance for themselves and, where appropriate, their spouses.

My amendment would ensure that National Guard and Reserve personnel who are on active duty for at least 180 days are able to participate in this important counseling prior to being demobilized. In its recent report on transition services, GAO found that "[d]uring their rapid demobilization, the Reserve and National Guard members may not receive all the information on possible benefits to which they are entitled. Notably, certain education benefits and medical coverage require servicemembers to apply while they are still on active duty. However, even after being briefed, some Reserve and National Guard members were not aware of the timeframes within which the needed to act to secure certain benefits before returning home. In addition, most members of the Reserves and National Guard did not have the opportunity to attend an employment workshop during demobilization."

In response to these findings, GAO recommended that "DoD, in conjunction with DoL and the VA, determine what demobilizing Reserve and National Guard members need to make a smooth transition and explore options to enhance their participation in TAP." GAO also recommended that "VA take steps to determine the level of participation in DTAP to ensure those who may have especially complex needs are being served."

In addition to ensuring that all discharging and demobilizing military personnel are able to participate in TAP/DTAP, we should take steps to improve the uniformity of services provided to personnel by ensuring that consistent transition briefings occur across the services and at all demobilization/discharge locations. In its report, GAO noted that "[t]he delivery of TAP may vary in terms of the amount of personal attention participants receive, the length of the components, and the instructional methods used." We should make every effort to ensure that those who have put themselves in harm's way on our behalf have access to the same transition services no matter their discharge/demobilization location or the branch of the Armed Forces in which they serve. I look forward to reviewing the Department's progress on GAO's recommendations in this area.

In order to improve the breadth of information provided to Members during TAP/DTAP, my amendment would require preseparation counseling programs to include the provision of information regarding certification and licensing requirements in civilian occupations and information on identifying military occupations that have civilian counterparts, information concerning veterans small business ownership and entrepreneurship programs offered by the Federal Government, information concerning employment and reemployment rights and veterans preference in Federal employment and Federal procurement opportunities, information concerning housing counseling assistance, and a description of the health care and other benefits to which the member may be entitled through the Department of Veterans Affairs.

In addition to the uneven provision of transition services, I have long been concerned about the immediate and long-term health effects that military deployments have on our men and women in uniform. I regret that, too often, the burden of responsibility for proving that a condition is related to military service falls on the personnel themselves. Our men and women in uniform deserve the benefit of the doubt, and should not have to fight the Department of Defense or the VA for benefits that they have earned through their service to our Nation.

Since coming to the Senate in 1993, I have worked to focus attention on the health effects that are being experienced by military personnel who served in the Persian Gulf war. More than 10 years after the end of the gulf war, we still don't know why so many veterans of that conflict are experiencing medical problems that have become known as gulf war illness. Military personnel who are currently deployed to the Persian Gulf region face many of the same conditions that existed in the early 1990s. I have repeatedly pressed the Departments of Defense and Veterans Affairs to work to unlock the mystery of this illness and to study the role that exposure to depleted uranium may play in this condition. We owe it to these personnel to find these answers, and to ensure that those who are currently serving in the Persian Gulf region are adequately protected from the many possible causes of gulf war illness.

Part of the process of protecting the health of our men and women in uniform is to ensure that the Department of Defense carries out its responsibility to provide post-deployment physicals for military personnel. I am deeply concerned about stories of personnel who are experiencing long delays as they wait for their post-deployment physicals and who end up choosing not to have these important physicals in order to get home to their families that much sooner. I am equally concerned about reports that some personnel who did not receive such a physical—either by their own choice or because such a physical was not available—are now having trouble as they apply for benefits for a service-connected condition.

I firmly believe, as do the military and veterans groups that support my bill, that our men and women in uniform are entitled to a prompt, high quality physical examination as part of the demobilization process. These individuals have voluntarily put themselves into harm's way for our benefit. We should ensure that the Department of Defense makes every effort to determine whether they have experienced, or could experience, any health effects as a result of their service. Thus I am pleased that the fiscal year 2005 defense authorization bill included a provision to tighten the requirement for a predischarge/post-demobilization health assessment.

It is vitally important that these assessments include a mental health component. Our men and women in uniform serve in difficult circumstances far from home, and too many of them witness or experience violence and horrific situations that most of us cannot even begin to imagine. I have heard concerns that these brave men and women, many of whom are just out of high school or college when they sign up, may suffer long-term physical and mental fallout from their experiences and may feel reluctant to seek counseling or other assistance to deal with their experiences.

Some Wisconsinites have told me that they are concerned that the multiple deployments of our National Guard and Reserve could lead to chronic post-traumatic stress disorder, PTSD, which could have its roots in an experience from a previous deployment and which could come to the surface by a triggering event that is experienced on a current deployment. The same is true for full-time military personnel who have served in a variety of places over their careers. I am pleased that the Senate has already accepted an amendment offered by the Senator from Louisiana, Ms. LANDRIEU, that will require that personnel receive mental health screenings prior to deployment into a combat zone, not later than 30 days after return from such a deployment, and not later than 120 days after return from such a deployment.

We can and should do more to ensure that the mental health of our men and women in uniform is a top priority, and that the stigma that is too often attached to seeking assistance is ended. One step in this process is to ensure that personnel who have symptoms of PTSD and related illnesses have access to appropriate clinical services, through DoD, the VA, or a private sector health care provider. To that end, my amendment would require that the health care professionals who are assessing demobilizing military personnel provide all personnel who may need followup care for a physical or psychological condition with information on appropriate resources through DoD or the VA and in the private sector that these personnel may use to access additional followup care if they so choose.

I commend the Assistant Secretary of Defense for Health Affairs for issuing in March 2005 a memorandum to the Assistant Secretaries for the Army, Navy, and Air Force directing them to extend the Pentagon's current post-deployment health assessment process to include a reassessment of "global health with a specific emphasis on mental health" to occur 3 to 6 months post-deployment. At a hearing of the Senate Armed Services Committee's Personnel Subcommittee earlier this year, the Assistant Secretary stated that the services were in the process of implementing a program that would include a "screening procedure with a questionnaire and a face-to-face interaction at about three months" post-deployment. He also noted that the idea for this program came from "front line people" and that he "asked them . . . 'do you think we should make it mandatory?' and the answer was: yes." This sentiment makes it even more important that the initial post-deployment mental health assessment be strengthened and that it be mandatory as well so that health care professionals have a benchmark against which to measure the results of the followup screening process. I am pleased that the Pentagon has undertaken this effort, and I believe that the provisions in Senator LANDRIEU's amendment and in my amendment will further enhance this process and help to ensure that we are properly caring for the mental health of our men and women in uniform.

In addition, in order to ensure that all military personnel who are eligible for medical benefits from the VA learn about and receive these benefits, my amendment would require that, as part of the demobilization process, assistance be provided to eligible members to enroll in the VA health care system.

Finally, my amendment will require the Secretary of Defense, in consultation with the Secretaries of Labor and Veterans Affairs, to report to Congress on the actions taken by those Departments to ensure that the Transition Assistance Program is functioning effectively to provide members with timely and comprehensive transition assistance. As part of the report, the Secretary will be required to include a review of transition assistance that has been is being provided to members deployed as part of Operation Iraqi Freedom, Operation Enduring Freedom, in support of other contingency operations, and members of the National Guard who were activated in support of relief efforts following Hurricanes Katrina and Rita. I look forward to reviewing this report.

Again, I thank the chairman and the ranking member for their assistance on this important issue.

Mr. LIEBERMAN. Mr. President, I rise to bring my colleagues' attention to a provision in sections 231–235 in the Defense authorization bill titled "High Performance Defense Manufacturing Technology Research and Development."

I introduced this legislation with my colleague Senator COLLINS to address erosion in our defense manufacturing base that threatens our national security and ultimately our economy overall. We are running major deficits with China in defense critical manufacturing areas, such as computer hardware—$25 billion—and electronics machinery and parts—$23 billion—as U.S. production drifts offshore. We are transferring major portions of our circuit board, semiconductor, machine tool, and weapon system metal casting manufacturing to China and other nations because of lower wage and lower production costs. Without productivity breakthroughs, the U.S. defense manufacturing base will continue to erode.

In the high-tech sector, manufacturing needs and research and development needs are highly correlated. As a result, research and development, R&D, centers are often located near manufacturing facilities. If we continue to lose the manufacturing base, we may well lose over time critical research and development capabilities and damage our ability to innovate. And if we hurt both of those we may also lose our military technical leadership. This ultimately puts our warfighters in harms way. Clearly, the Department of Defense (DOD) has a huge stake in rebuilding the defense manufacturing base.

The DOD needs advanced manufacturing technologies and processes to achieve productivity breakthroughs to drive down costs in mature defense supply sectors. But it also needs advanced manufacturing techniques to spark the next generation of advances in defense related technologies: technologies that our warfighters deserve. This legislation proposes four basic things.

One, it calls, in section 231, for a R&D effort focused on developing new advanced manufacturing technology and information technology, IT, operating models. The Under Secretary of Defense for Acquisition, Technology, and Logistics, acting through the Director of Defense Research and Engineering and with other appropriate defense programs and agencies such as the Manufacturing Technology Program, the Defense Advanced Research Projects Agency, DARPA, and other defense research activities, is to undertake research and development to develop critical manufacturing productivity breakthrough approaches and the technologies and systems to support them—section 231(b)(1). These could include such breakthrough opportunity areas as distributed and desktop manufacturing, quality inspection that is built into the production process, small lot manufacturing that is as cost-efficient as mass production, use of revolutionary materials and methods of fabrication, and the ability to manufacture devices and machines at the nanoscale. Productivity breakthroughs will ultimately help reduce weapon systems costs and support surge capacity.

The legislation also directs the Under Secretary of the Defense for Acquisition, Technology, and Logistics to undertake R&D to develop a new model, an extended production enterprise—section 231(b)(2)—using IT and new business models, that integrates services, design, and manufacturing stages.

to achieve major new efficiencies and cost savings. Included as part of this research effort, the development of the interoperable software for the extended production enterprise, and the corresponding interoperability standards behind it should also be a focus working with the defense industries to develop the organizational model required.

Two, the legislation directs DOD's Manufacturing Technology Program, ManTech, to undertake technology transition including prototyping and test beds—section 232(a) and (b)—for new manufacturing processes and technologies that emerge from this R&D effort. Collaboration established through a memorandum of agreement—section 232(a)(2)—between DDRE, ManTech, and other appropriate DOD organizations is needed to ensure an efficient transition of manufacturing technologies from the research stage described above to ManTech, which will undertake the development of prototypes and testbeds—section 232(b). ManTech currently is funded at $237 million for fiscal year 2005, all of which is directly tied to the near term needs of the Services. The Joint Defense Manufacturing Technology Panel, which has coordination responsibility for manufacturing research in DOD, does not have funding independent of the Services to initiate new efforts focusing on longer term, higher risk, higher payoff technologies and processes. Thus, the programs currently underway at ManTech are short-term focused projects addressing immediate needs. ManTech needs to balance the current shorter term portfolio by including a focus on longer term, higher risk manufacturing processes and technology development that are industry game changers and yield big efficiencies and cost savings to DOD.

Additionally, the Under Secretary of Defense for Acquisition, Technology, and Logistics should coordinate activities within ManTech—section 232(b)(2)—with activities under the Small Business Innovation Research Program, SBIR, and the Small Business Technology Transfer Program, STTR. Executive Order 13329, entitled "Encouraging Innovation in Manufacturing," requires all SBIR/STTR Programs to give priority to research programs that help to advance innovation in manufacturing. ManTech could benefit significantly from this work currently underway.

Working with industry, ManTech should develop a new program to utilize these new manufacturing improvements and processes in the defense manufacturing base—section 232(c). A key way for ManTech to achieve this would be by collaboratively developing and issuing a new performance threshold—a new benchmark system—to ensure ongoing quality and continuous focus on improved and innovative manufacturing procedures developed through the R&D and prototyping described above. Results from the R&D on manufacturing technologies and processes and on the extended production enterprise would be incorporated into the new performance threshold which could become a new DOD acquisition standard—section 232(c)—for procurement. Similar to the quality focused initiative, 6 Sigma, a program aimed to improve process reproducibility and reliability by eliminating defects and process output variation, this new standard would be disseminated into industry where similar efficiencies and productivity gains could be realized. In order to encourage full adoption of the new manufacturing improvements and processes, including a new performance standard, incentives for contractors in the defense manufacturing base to incorporate and utilize the manufacturing enhancements should subsequently be developed by ManTech—section 232(d)(4).

Third, it establishes mechanisms to efficiently disseminate technological developments to the broader defense manufacturing base—section 232(d)—including outreach through the Department of Commerce's Manufacturing Partnership program, section 232(d)(2), an established program proven to be effective in assisting small and mid-sized American manufacturers, including numerous defense manufacturers and suppliers. It has traditionally focused on providing technical assistance in manufacturing operational efficiency and quality and is now evaluating additional roles in providing tools and assistance to promote innovation. DOD could use this existing mechanism to help it reach its defense manufacturing base with these advances.

The Under Secretary of Defense for Acquisition, Technology, and Logistics should also consider outreach through public-private partnerships—section 232(d)(1). Because the prototyping and engineering development stages are extremely expensive, collaborative facilities and testbeds—section 232(b)(1)—should be established to severely reduce the risk, cost, and time of development for new technologies important for national defense. These centers should also educate and train researchers and employees to help assure smooth production process implementation. Such shared facilities, cost shared with both large and small participating firms that are world-class centers for production development, could potentially solve a key DOD problem in technology transition.

Specifically, in implementing the prototype and testbed provisions, section 232(b), the Under Secretary of Defense for Acquisition, Technology, and Logistics can consider establishing one or more pilot manufacturing centers in manufacturing fields important to the production of advanced defense technologies. These centers can be shared production facilities of the Federal Government and the private sector that focus on production development including the invention prototyping and engineering development stages. For example, the Under Secretary of Defense for Acquisition, Technology, and Logistics could permit the participation of State and local governments and could carry out a competition to determine the optimal private sector participants in any manufacturing center.

Fourth, the legislation—section 233—directs the Under Secretary of Defense for Acquisition, Technology, and Logistics to identify and develop a strategy working with industry in a technology area beneficial to the military where a technology development roadmap and strategy is needed to ensure the manufacturing technologies and processes are available to support this breakthrough technology. Consideration should be given to next generation technologies such as advanced micromanufacturing and nanomanufacturing, other emerging process technologies, model based enterprise, intelligent systems, enterprise integration and knowledge applications. A task force should be established, in cooperation with the private sector, to map a cross-service strategy for fabrication processes and technologies needed to support the roadmaps identified.

Importantly, this legislation not only would fund the needed research in manufacturing technologies and processes but provides the structure to bring the technology to utilization, to avoid the problem of leaving valuable technology "on the shelf." Additionally, it initiates the development of a long-term vision for the Department around manufacturing technologies and processes needed for our military.

I would like to point out that this legislation is based on the manufacturing recommendations from the National Innovation Initiative report released by the Council on Competitiveness in December, a report supported by prominent business, academic, and government leaders.

Additionally, I received letters from two key manufacturing organizations supporting this proposal, the Association for Manufacturing Technology, AMT, and National Coalition for Advanced Manufacturing, NACFAM, which stress the critical importance of passing this legislation.

And lastly, I would like to reiterate that this legislation is in line with the Executive order issued by President Bush to encourage innovation in manufacturing in Federal agencies, including through SBIR and STTR to assist the private sector, especially small businesses in manufacturing innovation efforts.

This legislation will help move the U.S. defense manufacturing base ahead of global competition as well as provide support for new technologies that we are at risk of losing. The aim of this legislation is a first step in an overall effort needed to preserve our military excellence and national security.

Mr. McCAIN. Mr. President, I want to speak briefly in favor of a provision in the Department of Defense authorization bill that would require the Department to study the feasibility of procuring satellite capacity through multiyear contracts. I worked with Chairman WARNER and Ranking Member LEVIN to address this issue in the underlying bill, and while I am pleased that the committee's leadership has accepted the provision, I am disappointed that Congress must once again request the Department to study this issue.

Last year, Congress included a provision in the Department of Defense authorization bill to require the Department to scrutinize its commercial satellite capacity procurement practices and report to Congress its findings and recommendations. That study was completed, albeit after the statutory deadline and too late for many of the recommendations to be implemented in this year's authorization bill. The study also failed to specifically review the issue of multiyear contracting. Therefore, Congress will be more explicit this year in its request and will once again await the Department's findings.

The study on multiyear contracting is necessary because many in the satellite industry and the Government question whether the Department of Defense's general policy of procuring leased satellite capacity on a year-to-year basis is resulting in the best price for the Government and the taxpayers. In contrast to the Government, other entities purchasing leased satellite capacity for communications services, such as CNN and FOX, negotiate multiyear contracts and are receiving lower prices for the same services. The Federal Government, with the Department of Defense as the main buyer, is the world's largest consumer of leased satellite capacity and, as such, the Government should be able to negotiate the lowest price and the most flexible terms for leased satellite capacity.

Last year, the Government Accountability Office studied the Department's procurement process for leased satellite capacity and found that the Department's procedures were uncoordinated, frustrating for military commanders, and overly expensive to U.S. taxpayers. Using the results of the GAO study, along with the Department's study completed this year and the findings on the multiyear contract issue, I hope Congress will finally have the necessary information to consider wholesale satellite procurement reforms during next year's authorization process.

Mr. SESSIONS. Mr. President, when the Senate was considering S. 1042, the National Defense Authorization Act for fiscal year 2006, earlier this year, there was rather extensive debate over a $4 million funding item called the Robust Nuclear Earth Penetrator, RNEP. This item was a feasibility study to be conducted by the Department of Energy to determine whether an existing nuclear weapon could be modified so that it could destroy hardened and deeply buried targets.

Since the time of our earlier debate on this matter, our colleagues on the Appropriations Committee have completed work on the conference report for Energy and Water appropriations. The conferees have reached agreement on appropriations for the Department of Energy and have agreed to eliminate funding for continued research on the Robust Nuclear Earth Penetrator at the request of the National Nuclear Security Administration.

In light of this outcome and the elimination of funding, an amendment to S. 1042 has been cleared on both sides which will remove the authorization for the Department of Energy to continue the feasibility study.

I note for my colleagues, however, that the Senate Armed Services Committee received a letter from Gen. James Cartwright, the Commander of U.S. Strategic Command, dated November 1,2005, which emphasizes the need for continued work on earth penetrating weapons which can be either nuclear or conventional. General Cartwright states his support for research to validate computer models of the impact physics of penetrating warheads into hard surface geologies. What the general is essentially saying is: Just because the funds have gone away doesn't mean that the problem has gone away.

I think the general's statement is very reasonable. I would hope that with the tremendous investment that this Congress directs into defense research and development, at some point and in some fashion, we could work together to address the military need the general has identified.

Mr. KOHL. Mr. President, the decisions made by the Base Realignment and Closure Commission are final. All around the country communities are now forced to deal with the difficult reality of how to approach the redevelopment and transfer of a local military facility that is being closed. In my State of Wisconsin, the city of Milwaukee is faced with the difficult prospect of what to do after the 440th Airlift Wing leaves Mitchell Field. The community, the State, and our congressional delegation fought long and hard to protect the proud men and women of the 440th, but we were not able to convince the Commission that closing the 440th would be a mistake.

Senator SNOWE offered an amendment that I believe will make the process of transferring and redeveloping base properties easier and faster. Senator SNOWE proposed to allow the property to go directly to a local redevelopment agent and avoid the current complicated and time consuming process. A faster process means a quicker return to economic vitality, and I support that.

Senator SNOWE also proposed that the local community not have to pay for the land the Federal Government is giving up. It is only fitting that in these communities that have given so much to our military men and women that we give something back. Pulling up stakes and removing an important economic engine is bad enough, but to then expect the redevelopers to pay for the land as well just adds insult to injury. It is unfortunate that this amendment that will make the transition process easier for Milwaukee and communities around the country was not accepted.

Mr. LIEBERMAN. Mr. President, U.S. competitiveness in the high-tech sector of semiconductors, an important enabler in today's world providing the basis for nearly all electronic products and systems used in both consumer and military applications, is at risk. As we all are aware, global competition is on the rise, U.S. basic research investment is on the decline, and there is serious concern regarding the U.S. science and technology talent base. These issues have long been a concern of mine not only for the health of our economy but also for maintaining and preserving our national security. I released a whitepaper back in June of 2003 titled "National Security Aspects of the Global Migration of the U.S. Semiconductor Industry" that discusses and highlights the importance of addressing the accelerating shift in manufacturing overseas. Historically, shifts in manufacturing result over time in migration of research and development which, unfortunately, means we will be essentially offshoring our innovation capacity itself. In the March 21, 2005, edition of Business Week, the cover story article titled "Outsourcing Innovation" exactly addresses this issue. The article discusses how Western corporations began offshoring manufacturing in the 1980s and 1990s to increase efficiency and to focus on research and development and proceeds to say how "that pledge has now passed." Companies such as Dell, Motorola, and Phillips are buying designs of digital devices from abroad, slightly altering the device, and then branding the product with their name.

In addition, there is another aspect of the semiconductor industry that cannot be overlooked, the limitation of Moore's Law. There will soon be physical barriers blocking the continued diminution of transistor size, and the financial barriers will become even more extraordinary. This situation would inevitably lead to the slowing or stopping of chip manufacturer's progress unless we bring nanotechnology to fruition in the semiconductor world.

I think it is pretty clear that it is more important than ever to create an environment in the United States which promotes research and development and fosters innovation. The Defense Science Board Task Force released to the Congress in April 2005 the final report titled "High Performance Microchip Supply" which was in part a response to the issues I raised in my 2003 report. The report outlines a series of recommendations to help ensure the long-term health of the U.S. microchip design, development, and manufacturing industries. The report emphasizes the importance of maintaining technical superiority in the semiconductor industry in order to lead in the application of electronics to support the warfighter. This lead is critical to the foundation of the next generation of U.S. security strategy network centric warfare superiority. The report specifically stresses the need for trusted and assured suppliers of integrated circuit components and emphasizes that "trust cannot be added to integrated circuits after fabrication; electrical testing and reverse engineering cannot be relied upon to detect undesired alterations in military integrated circuits." Beyond highlighting the threat of IC device compromise, the report also highlights the risk associated with reliance on foreign suppliers to access high-performance microelectronics in time of war when quick response or surge capacity is needed and additionally, the report stresses the longer term risk of losing leading edge R&D in a technology area central to our economy. This latter point was a particular emphasis of my 2003 report referenced previously and this new report agrees.

The DSB report calls for the Department of Defense's senior officials to advocate that a strongly competitive U.S. semiconductor base is not only a Department of Defense goal but should also be a national priority. Because DSB finds that research and development is closely coupled with a solid manufacturing base, and the U.S. semiconductor manufacturing base is going abroad, the United States will soon start to lose its R&D skill base which is essential for not only U.S. defense systems but general economic competitiveness.

Given the low production volume of Department of Defense microelectronics parts, the report also recommends that the Department of Defense, working with the semiconductor industry and fabrication equipment suppliers, develops a cost-effective technology for the design and fabrication of low production volume, leading edge technology given the low volume demands of the Department of Defense.

It states that an overall vision is needed that develops an approach to meet Department of Defense needs before a supply source becomes an emergency. This requires funding research that will sustain our technical superiority; the trusted foundry agreements assist in solving the immediate problems, not the longer term. Included in the overall vision, a plan is needed specifically for a Department of Defense acquisition strategy that encompasses both short- and long-term technology, acquisition and manufacturing capabilities to assure an ongoing supply of trusted microelectronic components.

Although U.S. leadership in chip design does not in and of itself assure the trustworthiness of the microelectronic parts, it does put the Department of Defense in a superior position to potential adversaries whose systems rely on U.S. based suppliers. The Department of Defense needs to sustain this U.S. leadership by investing in research programs and ensuring a domestic supply of scientists and engineers who are skilled in this area. New programmable chip technology, which has intricate designs and therefore is more difficult to validate, is needed and efforts to develop next generation technologies in this area should be pursued.

This DSB report clearly stresses the need for immediate action and lists key recommendations to help the Department of Defense develop not only a short-term plan to address the immediate needs but, importantly, a longer term vision as well. By the end of 2005, there will be 59 300 mm fabrication plants worldwide with only 16 of these located in the United States. The United States cannot wait much longer; we need to address the global competitiveness issue today.

The Department of Defense has been telling us for a year or more to wait for the Defense Science Board report. It has now finally arrived and an actual Department of Defense "action plan" to implement these recommendations is needed. This is why I along with Senator CORNYN proposed an amendment, No. 2446, to the Defense Authorization Act, S. 1042, asking the Department of Defense to develop this action plan. I am pleased to see this amendment has been adopted unanimously by the Senate.

The United States historically has lost manufacturing sectors as product cycles matured but our innovation system always filled that void by creating new sectors, opportunities, jobs and higher standards of living. I want to see that trend continue, and this amendment asks the Department of Defense to form a sound plan in this technology area.

MORNING BUSINESS

Mr. WARNER. Mr. President, I ask unanimous consent that there now be a period of morning business with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

ENERGY PRICES

Mr. DORGAN. Madam President, we have come from a Commerce-Energy Committee joint hearing with the CEOs of the major energy companies. They came to talk to us about the price of energy.

I made the point this morning—I know the Presiding Officer was also there and made the points she wished to make—as we go into the winter season, those who are trying to figure out how they afford home heating fuel, natural gas, propane, and so on, take a look at the newspapers and see the highest profits in history for the oil companies. They are the ones, the consumers, who will have to bear the pain. Heat your home in the winter or try to figure out how you are going to pay the fuel bill in the spring if you are a farmer or a rancher. These prices are going to eat away all the profit that existed, and then some, with respect to family farmers in my State. That is according to estimates that come from the farm organization and from economists who have looked at it.

The question for family farmers who are being ripped by these energy prices or people who drive to the gas pumps or people who are figuring out how to heat their homes is, Is anybody going to do anything about it? You have all the gain on this side and all the pain on this side. All the gain with the big energy companies, the big oil companies, the major integrated oil companies, bigger, stronger, with more raw muscle power in the marketplace because of block buster mergers, and all the pain on the other side, the consumers.

Especially in a State that is an agricultural State where we rely on family farmers as a significant part of our economic base, knowing that those family farmers operate on a thin margin, knowing that they are trying to figure out how to pay energy costs going into spring planting and fertilizer costs and so on, knowing that it is going to wipe away any net profit they would have, any opportunity for a net profit next year, they are saying to this Congress: Talk is cheap. What are you going to do? Will Congress take some action? Will Congress take action to ease the pain and provide some fairness and restore fairness? I hope so.

I won't go into great detail about the action I think we should take. I have done that many times on the floor with respect to a Windfall Profits Rebate Act, to rebate to consumers a portion of these profits.

My hope is that in the shadow of the hearings we held today, Congress will be ready to take some action with respect to energy price issues.

FIRING OF DAVID GUNN

Mr. DORGAN. Madam President, I have received a press statement, issued moments ago, from the Amtrak National Rail Passenger Corporation board of directors. Four members on the board of directors represent membership appointed by the President. Two of them are recess appointments not given the stamp of approval by the Senate. The four members of the board of directors at Amtrak this morning decided to fire David Gunn, president of Amtrak.

David Gunn is not anybody's crony. He happens to be an appointment that is smart, tough, with experience in the area. He has run Amtrak like a true champion. He ran afoul of the White House when the White House decided they wanted to shut down Amtrak, shut down long-distance trains and effectively get rid of Amtrak.

David Gunn was the president of Amtrak. He and others fought to maintain rail passenger service and fought to persuade this Congress to fund Amtrak. The administration recommended zero funding for Amtrak. The Congress didn't agree. So the Congress funded Amtrak in a manner that would allow it to continue to be a national rail passenger system. Apparently, David Gunn doesn't measure up to the White House, and so they got the board of directors this morning to fire him. Incidentally, two of the recess appointments on the board of directors, one from New Jersey, one from Florida, will have some kind of rail passenger service no matter what happens to Amtrak. All those folks who live on the east coast, from Boston to Florida, they probably are always going to have a train running down that little strip on the eastern seaboard. I can understand these two members of the board, neither of whom were confirmed by the Senate, both of whom were given recess appointments by the President and cannot continue beyond this Congress. I can understand if the President or somebody in the White House said: Let's get rid of this David Gunn. They say: That's all right because even if we get rid of Amtrak, we will have rail passenger service on the east coast.

I wish to say what a horrible mistake it was for the board of directors of Amtrak to do this. I understand where it came from. It came from the White House. It came from the Secretary of Transportation. I understand meetings were held in recent days, and the decision was made. That decision was carried out by the President's board of directors.

I am saying this: A national rail passenger system, Amtrak, is beneficial to this country. In my State, 100,000 people used Amtrak last year. Many of those people don't have alternative transportation opportunities. Yet when Amtrak, the Empire Builder, in this case, runs from Chicago to Seattle, 100,000 North Dakotans have used it. It is an important part of our Nation's transportation system. But there is a disagreement about Amtrak. The President wants to shut it down. He doesn't want it. That is why he proposed no funding for it. The Congress, the majority from his own party, said: No, we want to fund it. We believe Amtrak advances this country's transportation system. We believe it is worthy, something we should do.

The president of Amtrak, David Gunn, is a first-rate executive. He has experience. He has done a great job. I say that as a member of the committee that authorizes Amtrak, so I have watched this enterprise. I have spent time with Mr. Gunn. I have spent time with Amtrak officials. I know what is happening there. This guy is nobody's crony. As a result, he gets fired.

The "you are doing a great job, Brownie stuff," I am sick of that. I would like to see people who are qualified to run things running things in this Government. They had one running Amtrak. Today he gets fired because somebody got their nose out of joint and decided, apparently, the Congress won't allow us to shut down Amtrak so we will fire the president of Amtrak.

It is a big mistake for the country. I don't know how others in Congress will react, but for me, this is a setback and a setback for those who care about rail passenger service. It was a travesty to treat David Gunn, an executive who came out of retirement to run Amtrak and who did a first-rate job, this way. Shame on those who made that decision. This is all about politics. It has nothing to do with performance. I thought, especially in the wake of what happened with Hurricane Katrina, maybe we would get back to performance and decide that when people know how to do things and organize well, they are appreciated. That is not the case with respect to the decision by the board of directors at Amtrak this morning.

Those of us who feel that way probably won't have a chance to overturn this because the board of directors made the decision coming from the Secretary of Transportation, coming from the White House, I guess. But I still think it is a setback for the country. I hope others know it as well.

NATALEE HOLLOWAY

Mr. SHELBY. Mr. President, I rise today to discuss an issue that has troubled me for many months, and that is the disappearance of an Alabama teenager, Natalee Holloway, from the island of Aruba. Most people have heard about this. It has been in the news for months.

More than 5 months ago, on the early morning of May 30, Natalee Holloway disappeared from the island of Aruba. Since the start of the investigation into Natalee's disappearance, I, along with others, have been deeply troubled by the process that has taken place in Aruba. From the outset, there has been miscommunication and misinformation from the Aruban Government. The investigation has been plagued by inconsistencies and conflicting information, calling the integrity of the investigation itself into question. Since Natalee's disappearance, a number of suspects have been arrested, detained, and released without the benefit of any substantive information regarding her disappearance.

I have made no secret of my concern regarding the handling of this case and the careless and inappropriate manner in which it appears the evidence has been handled. Nevertheless, I continue to believe that without the will of Natalee Holloway's mother, Beth Twitty, Natalee's disappearance would not have received the level of scrutiny in Aruba and around the world we have witnessed.

It is disturbing that so many months have passed with no clear answers regarding the circumstances surrounding Natalee's disappearance. To that end, I joined Alabama GOV Bob Riley and others yesterday to call for a boycott of Aruba. Today, I call upon my colleagues to join me in that call.

I understand this is a drastic measure, but I believe that we as Americans, along with others around the world, should carefully weigh our travel options until the Government of Aruba exhibits a good-faith effort to solve this case.

For the safety, security, and well-being of our citizens, I do not believe we can trust that we will be protected while in Aruba. Quite frankly, if this can happen to Natalee Holloway, a teenager from my home State of Alabama, it could happen to any of us. That is why I believe a boycott is the answer. I hope the American people, when they think of traveling to the Caribbean this winter, will look at other options.

HONORING OUR ARMED FORCES

STAFF SERGEANT JASON A. FEGLER

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of U.S. Army SSG Jason A. Fegler. Staff Sergeant Fegler died November 4 in Baghdad, Iraq. He was 24 years old.

Staff Sergeant Fegler grew up in rural Banner County, NE, and graduated from Banner County High School in 1999. He served more than 4 years in the U.S. Marine Corps before recently transferring to the U.S. Army. He had hopes of joining the Army's Special Forces. Staff Sergeant Fegler was a member of Company C, 1st Battalion, 502nd Infantry Regiment, 101st Airborne Division, Fort Campbell, KY. Staff Sergeant Fegler will be remembered as a loyal soldier who had a strong sense of duty, honor, and love of country. Thousands of brave Americans like Staff Sergeant Jason Fegler are currently serving in Iraq.

Staff Sergeant Fegler is survived by his wife, Shianne, who is in the U.S. Navy, and their son, Aiden, 2, of Virginia Beach, VA. He is also survived by his mother and stepfather, Rita and Eugene Snyder of Harrisburg, NE; and father, Jim Fegler of Sierra Vista, AZ. Our thoughts and prayers are with them at this difficult time. America is proud of Staff Sergeant Fegler's heroic service and mourns his loss.

I ask my colleagues to join me and all Americans in honoring SSG Jason A. Fegler.

CAPTAIN JOEL CAHILL

Mr. HAGEL. Mr. President, I rise to express my sympathy over the loss of U.S. Army CPT Joel Cahill. Captain Cahill died of wounds suffered on November 6, while on patrol in Ad Dawr, Iraq. He was 34 years old.

Captain Cahill graduated in 1989 from Papillion-La Vista High School in Nebraska. Captain Cahill graduated magna cum laude in 1999 from the University of Nebraska-Omaha, where he was a member of the ROTC program. He was a 15-year military veteran and in the midst of his fourth tour of combat duty, having served one tour in Iraq and two tours in Afghanistan. In 1998, he was awarded the Soldier's Medal for selfless action in a noncombat situation. A live grenade accidentally landed next to Captain Cahill's men during training at Fort A.P. Hill, VA. Captain Cahill grabbed the grenade and hurled it out of harm's way, saving the lives of his fellow soldiers. Captain Cahill was a member of Company B, 1st Battalion, 15th Infantry Regiment, 3rd Infantry Division, Fort Benning, GA. Captain Cahill will be remembered as a loyal soldier who had a strong sense of duty, honor, and love of country. Thousands of brave Americans like CPT Joel Cahill are currently serving in Iraq.

Captain Cahill is survived by his wife, Mary, a U.S. Army nurse, and their two children, Faith, 4, and Brenna, 3, of Columbus, GA. He is also survived by his mother and father, Barbara and Larry Cahill of Gretna, NE; sister, Erin Christensen; and brothers Larry Jr., Randy and Jason. Our thoughts and prayers are with them at this difficult time. America is proud of Captain Cahill's heroic service and mourns his loss.

I ask my colleagues to join me and all Americans in honoring CPT Joel Cahill.

FOREIGN RELATIONS COMMITTEE BUSINESS MEETING

Mr. BIDEN. Mr. President, on November 1, the Committee on Foreign Relations conducted a business meeting to consider several matters.

The motion to report the nomination of Roland Arnall to be U.S. Ambassador to the Netherlands failed on a 9-to-9 tie. The chairman then ruled that the nomination was ordered reported by an 8-to-2 vote, which reflected the vote of those physically present.

With all respect to my friend and chairman, Senator LUGAR, I disagree with his ruling, which negated the proxy votes cast by me and several of my colleagues; I believe it to be inconsistent with the rules of the Committee on Foreign Relations. So that the record of the proceedings at the meeting will be available to all members, I ask unanimous consent that the relevant portion of the transcript of that meeting be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BUSINESS MEETING OF THE COMMITTEE ON FOREIGN RELATIONS, U.S. SENATE NOVEMBER 1, 2005

The committee met, pursuant to notice, at 2:32 p.m. in Room S-116, The Capitol, Hon. RICHARD G. LUGAR [chairman] presiding.

Present: Senators LUGAR [presiding], HAGEL, CHAFEE, ALLEN, COLEMAN, VOINOVICH, ALEXANDER, SUNUNU, MURKOWSKI, and SARBANES.

Senator SARBANES. First of all, on the point about filing lawsuits to delay the nomination, there are a number of individual suits that have been brought regarding some of these matters. I don't premise the position I'm taking on that.

I think in effect a screening process has been done by the State attorneys general, and therefore I think it raises the issue to a much higher level, that these State attorney generals are considering bringing charges in this instance.

Mr. Arnall asserts that his motto is to do the right thing. That's what we're trying to get him to do in this instance. He owns this company. It's privately held. We had testimony from people that were at the company telling about how intimately he was in its activities, how much he's essential to the sort of direction and the drive, the vitality of the company.

He does have an impressive life story and I alluded to that in the course of the hearing and said as much.

But you've got a real problem here in terms of these practices, and Mr. Arnall ought to resolve this matter in my opinion before he goes off to the Netherlands in order to assume this ambassadorship.

The CHAIRMAN. Well, the committee will now vote on the nomination. I will ask the Clerk to call the roll

Ms. OURSLER. Mr. Hagel.

Senator HAGEL. No.

Ms. OURSLER. Mr. Chafee.

Senator CHAFEE. Aye.

Ms. OURSLER. Mr. Allen.

Senator CHAFEE. Aye.

Ms. OURSLER. Mr. Coleman.

Senator COLEMAN. Aye.

Ms. OURSLER. Mr. Voinovich.

Senator VOINOVICH. Aye.

Ms. OURSLER. Mr. Alexander.

Senator ALEXANDER. Aye.

Ms. OURSLER. Mr. Sununu.

Senator SUNUNU. Aye.

Ms. OURSLER. Ms. Murkowski.

Senator MURKOWSKI. Aye.

Ms. OURSLER. Mr. Martinez.

The CHAIRMAN. Votes aye by proxy.

Ms. OURSLER. Mr. Biden.

Senator SARBANES. No by proxy.

Ms. OURSLER. Mr. Sarbanes.

Senator SARBANES. No.

Ms. OURSLER. Mr. Dodd.

Senator SARBANES. No by proxy.

Ms. OURSLER. Mr. Kerry.

Senator SARBANES. No by proxy.

Ms. OURSLER. Mr. Feingold.

Senator SARBANES. No by proxy.

Ms. OURSLER. Mrs. Boxer.

Senator SARBANES. No by—I'll pass for the moment.

Ms. OURSLER. Mr. Nelson.

Senator SARBANES. No by proxy.

Ms. OURSLER. Mr. Obama.

Senator SARBANES. No by proxy.

Ms. OURSLER. Mr. Chairman.

The CHAIRMAN. Aye.

Senator SARBANES. Boxer, no by proxy.

The CHAIRMAN. The Clerk will please report the vote.

Ms. OURSLER. The vote is nine to nine.

The CHAIRMAN. Now let me make certain that the committee knows what the reporting requirement is, because I'll ask the Clerk then to give the report on members physically present. Our rule says "No nomination can be reported unless a majority of the committee members are physically present. The vote of the committee to report a measure or matter shall require the concurrence of a majority of those members who are physically present at the time the vote is taken."

Now, what is the vote among those who are physically present?

Ms. OURSLER. Of those physically present, eight voted in favor of the nomination and two voted against.

The CHAIRMAN. Now, the chair believes that Rule 4[c] on reporting would indicate that in this particular instance the nomination be forwarded to the full Senate. But that is—I ask those who may have question about that to refer to Rule 4 on quorums and [c] on reporting.

Senator SARBANES. Mr. Chairman, as I read this rule, in order to report it out you will need a majority physically present, but that doesn't vitiate the proxies voted against. The rule makes no reference to that and those proxies are valid, and therefore we wouldn't—the vote is not carried. This applies of you to try to use proxies to constitute the majority for reporting it out, but it doesn't apply to the use of proxies to negate reporting it out. I respectfully submit to you, and I think that's a fair reading of the rule. And that's the way we've done it here in the past.

The CHAIRMAN. Well, that is an important reading, but the chair believes that the reading at least gives credence at least to my interpretation, which is that a majority of those voting and physically present, given the fact a majority was here to create the quorum, would lead to a favorable decision.

Senator SARBANES. Well, I think we need to sort this out. I make the point of order a quorum is not present.

The CHAIRMAN. Well, a quorum is not present, but the quorum was present at the time of the vote and that is what is required, and the chair declared that the vote was in favor of reporting this nomination to the Senate floor.

Senator SARBANES. On what basis is the chairman reaching that conclusion?

The CHAIRMAN. On the basis that we had a quorum and that a majority of those physically present voted in favor of the nominee.

Senator SARBANES. But the majority of the committee didn't do that. In fact the vote here was a tie vote.

The CHAIRMAN. Counting in the proxies.

Senator SARBANES. It was a tie vote. Yes, it was a tie vote.

You can't bring it out with proxies. The chairman—what this rule is designed to do is the chairman can't come in with a bunch of proxies in his hands and then on the basis of that bring a measure out of the committee. You can be called on that in terms of having a majority.

The CHAIRMAN. I appreciate the point the chair is making—rather, the Senator is making. I believe that my interpretation is correct and I would just indicate that that at least is what is going to occur. Now, the member may think of a means for appealing that in some fashion.

Senator SARBANES. Think what?

The CHAIRMAN. Of a means of appealing my decision. But for the time being, my decision is that we had a vote and we have reported the nominee.

Senator SARBANES. Well, I think it's an abuse of the rules and I want to state that to the chairman.

The CHAIRMAN. I understand.

Senator SARBANES. Absolutely.

The CHAIRMAN. I thank the members of the committee

[Whereupon, at 3.07 p.m., the committee was adjourned.]

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On January, 2, 2004, in Madison, WI, Matt Collins and Shawn Wiese went to the Dry Bean Restaurant to meet a friend. After the restaurant closed, an altercation between two men and Collins and Wiese occurred. A woman later testified that one of the men told her that night that he should beat up Collins and Wiese for being gay.

Mr. Collins, who had no health insurance, was hospitalized for 2 days with multiple broken bones in his right wrist that required a plate and seven screws.

I believe that our Government's first duty is to defend its citizens, in all circumstances, from threats to them at home. The Local Law Enforcement Enhancement Act is a major step forward in achieving that goal. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

THE INTELLIGENCE AUTHORIZATION BILL

Mr. WYDEN. Mr. President, This year's intelligence authorization bill is a key piece of legislation for all Americans and one that I hope to be able to support. But, as written, the bill is marred by the presence of provisions that pose serious concerns for Americans' privacy rights. Among them is one provision that would permit military intelligence officials to conduct covert interviews of U.S. persons on U.S. soil to assess them as potential intelligence sources without disclosing their government affiliation. With this provision in the legislation, I am compelled to announce my intention to object to any unanimous consent request to bring S. 1803, the intelligence reauthorization bill, to the Senate floor for approval without the opportunity for debate and consideration of amendments.

This legislation has been considered by three different Committees: The Senate Intelligence committee, the Senate Committee on Armed Services, and the Senate Committee on Homeland Security and Governmental Affairs. Three different committees have reviewed the legislation, but there has not been a single hearing on the expanded power the administration is seeking to enable DOD personnel to demand information of law-abiding U.S. citizens without having to disclose to them who they are, on whose behalf they are seeking personal and other information or what they intend to do with this information.

The CIA already possesses the statutory authority to engage in such surreptitious interrogations of U.S. citizens, and the Department of Defense has not in my mind made the case for gaining this new authority as well. In fact, the DOD has not provided any evidence that the failure to have this authority has resulted in damage to U.S. national security.

According to recent press reports, the FBI has gained access to tens of thousands of pieces of information about U.S. citizens through national security letters. This information reportedly ranges from where a person makes and spends money and who they live with to where they travel and who they email. All of this information has been deposited in government data banks, and according to press reports, this personal information is shared widely, without restriction. The same press reports say that tomorrow not only will such information be shared within the Federal bureaucracy but it will be made available to State, local and tribal entities, and "appropriate private sector entities."

I remain steadfast in my belief that you can protect national security without gutting civil liberties; and this legislation, as it currently is written, is out of balance. A debate on something as important as protecting the rights of our constituents to their privacy and shielding against the surreptitious shakedown of law-abiding citizens is one instance when Americans can and must be invited into the process.

Shining sunlight on intelligence information for the benefit of Americans and policymakers alike is critical to our security. Congress must work to improve information sharing, and we owe it to the American people to make sure that safeguards remain in place to ensure that sensitive personal information is not tossed around inappropriately.

MAYORS SUPPORT THE TERRORIST APPREHENSION AND RECORD RETENTION ACT

Mr. LEVIN. Mr. President, our Nation's gun safety laws do not go far enough to protect our families and communities and may leave us vulnerable to an attack by terrorists using military style firearms legally purchased within our own borders. Current law not only allows a known or suspected terrorist to buy firearms in the U.S., it also requires that records pertaining to the sale be destroyed within a day of the purchase. Congress should take proactive steps to address these shortfalls in our gun safety laws.

Federal law requires that anyone seeking to purchase or obtain a permit to possess, acquire, or carry firearms undergo a background check through the National Instant Criminal Background Check System, or NICS. This process requires the applicant to provide a variety of personal information including name, date of birth, current residence, and country of citizenship which is then compared with data in the NICS system to determine whether or not the person is prohibited by law from receiving or possessing firearms. Disqualifying criteria includes such things as felony convictions and fugitive or illegal alien status.

As part of the background check, applicants are also checked against known terrorist watch lists. However, under current law, membership in a known terrorist organization does not automatically disqualify an applicant from receiving or possessing a firearm. In cases where a positive match is made, federal authorities search for other disqualifying information. If no disqualifying information can be found within three business days, the transaction is permitted to continue. In addition, all records pertaining to a positive match of an applicant to a terrorist watch list must, under current law, be destroyed within 24 hours if no disqualifying information is found.

I have cosponsored the Terrorist Apprehension Record Retention Act introduced by Senator LAUTENBERG. This bill would require that in cases where an NICS background check turns up a valid match to a terrorist watch list. all records pertaining to the transaction be retained for ten years. In addition, the bill requires that all NICS information be shared with appropriate federal and state counterterrorism officials anytime an individual on a terrorist watch list attempts to buy a firearm. This is only common sense.

The U.S. Conference of Mayors, which represents some 1,183 cities around the country, adopted a resolution strongly supporting the Terrorist Apprehension and Record Retention Act at their 2005 annual meeting. The resolution cites a report by the General Accountability Office which found that from February 3, 2004 through June 30, 2004, a total of 44 firearm purchase attempts were made by individuals designated as known or suspected terrorists by the federal government. This is an alarming statistic. I ask unanimous consent that a copy of the resolution adopted by the U.S. Conference of Mayors be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

THE TERRORIST APPREHENSION AND RECORD RETENTION (TARR) ACT

Whereas, neither suspected nor actual membership in a terrorist organization by itself prohibits a person from owning a gun under current law; and

Whereas, beginning in November of 2003, the U.S. Department of Justice directed the FBI to revise its procedures to better ensure that suspected members of terrorist organizations who have disqualifying factors do not receive firearms in violation of the law by automatically delaying responses to provide more time to check data; and

Whereas, in January of 2005, the U.S. Government Accounting Office (GAO) released a report entitled, "Gun Control and Terrorism: FBI Could Better Manage Firearm-Related Background Checks Involving Terrorist Watch List Records"; and

Whereas, that report found that from February 3 through June 30, 2004, a total of 44 firearm related background checks handled by the FBI and state agencies resulted in valid matches with terrorist watch records, and of this total 35 transactions were allowed to proceed because the checks found no prohibiting information, such as felony convictions, illegal immigrant status, or other disqualifying factors; and

Whereas, the report states, "GAO recommends that the Attorney General (1) clarify procedures to ensure that the maximum amount of allowable information from these background checks is consistently shared with counterterrorism officials and (2) either strengthen the FBI's oversight of state agencies or have the FBI centrally manage all valid match background checks. The Department of Justice agreed."; and

Whereas, legislation has been introduced in the U.S. Senate and House of Representatives entitled the "Terrorist Apprehension and Record Retention (TARR) Act"; and

Whereas, the TARR Act amends the Federal criminal code to provide that if the national criminal background check system indicates that a person attempting to purchase a firearm or applying for a State permit to possess, acquire, or carry a firearm is identified as a known or suspected member of a terrorist organization in records maintained by the Department of Justice or the Department of Homeland Security, including the violent Gang and Terrorist Organization File or records maintained by the Intelligence Community: (1) all information related to the prospective transaction shall be automatically and immediately transmitted to the appropriate Federal and State counterterrorism officials, including the Federal Bureau of Investigation (FBI); (2) the FBI shall coordinate the response; and (3) all records generated in the course of the check that are obtained by Federal and State officials shall be retained for at least ten years. Now, therefore, be it

Resolved, That the U.S. Conference of Mayors strongly supports the Terrorist Apprehension and Record Retention Act (TARR), and urges that it be passed by Congress and signed into law by the President.

Mr. LEVIN. Mr. President, the U.S. Conference of Mayors recognizes the importance of preserving records of gun purchases by known terrorists and the important role they could potentially play in uncovering a terrorist attack before it is carried out. We owe it to all Americans in this era of heightened risk of terrorist attack to do all we can to protect their safety.

INTEGRITY IN PROFESSIONAL SPORTS ACT

Mr. DOMENICI. Mr. President, I rise to express my support for the Integrity in Professional Sports Act, S. 1960. I am deeply troubled by the accounts of children and professional athletes who use anabolic steroids and other performance-enhancement drugs. The effects of taking steroids are not only physiological, but psychological. Experts have testified before Congress that steroid use creates an increased propensity for aggressive and sometimes criminal behavior. It is clear to me that the use of performance enhancing drugs reveals a number of problems, one of which is a problem of character.

As many of my colleagues may know, for the past 12 years, I have been involved in a grassroots program to promote character education for our country's children. The Character Counts program is an important grassroots effort that I am proud to have supported. Most recently, on October 7, 2005, 28 Senators joined Senator Christopher Dodd and I in sponsoring a resolution to designate "National Character Counts Week." The program promotes six fundamental and universal pillars of good character. Those are trustworthiness, respect, responsibility, fairness, caring, and citizenship. A central premise of the Character Counts program has held that children across the country depend on social institutions and leaders for the development of good character. For children, these leaders and role models are often found on the rosters of professional sports teams. When our children see professional athletes engaging in the use of steroids, they begin to question the importance of pillars such as trustworthiness, responsibility, and fairness.

Speaking as a former baseball pitcher for the University of New Mexico and the Albuquerque Dukes, I cannot emphasize enough the importance of trustworthiness and fairness in sportsmanship. As athletes, my teammates and I understood that the integrity of the game depended on knowledge that your competitors brought no advantage other than talent and hard work to the playing field. To think that your competitors used steroids to enhance their athletic performance would mean that the game itself was compromised.

S. 1960 is important legislation because it makes clear that all athletes participating in professional sports will be held to the same standards of fair play. By instituting minimum standards for the testing of steroids, professional sports teams and professional athletes can regain the respect and trust of the American people. It is important that we hold adults to the same standards of character as we do our children. Young people look up to professional athletes as role models. We owe it to them to make sure that adults behave according to the same standards of trustworthiness, fairness, and respect.

VETERANS DAY 2005

Mr. DOMENICI. Mr. President, today, we as Americans gather to honor all those who served, fought and sacrificed to defend our Nation throughout its history.

During the 229 year history of our Nation, brave Americans have answered the call to defend their country's freedom and the freedom of people around the globe. Today, as in the past, our servicemen and women continue to embrace these twin goals.

I encourage my fellow New Mexicans and all Americans to take a few moments to remember and honor the gallant men and women of our Armed Forces past and present.

New Mexicans have a long distinguished history of military service. During the Spanish American War New Mexico guardsmen formed the bulk of the 2nd Squadron of the 1st Calvary Regiment which served with Teddy Roosevelt and his Rough Riders at the battle of San Juan Hill. When the United States entered the First World War, New Mexicans of the 1st Infantry Regiment served with the 40th Infantry Division in France. While participating in the Italian campaign of the Second World War, New Mexicans of the 104th Tank Destroyer battalion were awarded 8 Silver Stars, 60 Bronze Stars, and 135 Purple Hearts. Of course no one will forget the contribution to final victory the Navajos from our State made as "code talkers" or the bravery of the

"New Mexico Brigade" in the Philippines. In the history of our Nation New Mexicans have served with great distinction from the swamps of Cuba, to the jungles of Vietnam and the deserts of Iraq.

It is important that we never forget the sacrifice and dedication of these Americans. They left behind the comfort of home, family and friends to defend our country and its countless blessings. For this, many have paid an immense price, emotionally and physically, some enduring years of captivity and suffering, some never to return home. We Americans owe all that we have to these men and women. No praise or honor will ever be too great for these individuals.

The service of veterans to our country has never ended with their departure from the Armed Forces. They have enriched every community in which they reside with their strength of character, hard work and devotion to family. For this we must also be grateful.

Since 9/11, the men and women of our Armed Forces have been called away from home, and are today furthering the cause of freedom in Iraq, Afghanistan and all over the globe. Many of these individuals are National Guardsmen like the members of the 515th Corps Support Battalion that recently returned from Iraq and the servicemen and women from Holloman, Kirtland, and Cannon Air Force bases. They serve with the same courage and commitment shown by Americans of generations past and they, too, deserve our thoughts and prayers. May our United States continue to be blessed and may America forever remain the land of the free and the home of the brave.

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

REPORT RELATIVE TO THE CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO IRAN WHICH WAS DECLARED IN EXECUTIVE ORDER NO. 12170 ON NOVEMBER 14, 1979—PM 30

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Banking, Housing, and Urban Affairs.

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. Consistent with this provision, I have sent the enclosed notice to the *Federal Register* for publication, stating that the Iran emergency declared by Executive Order 12170 on November 14, 1979, is to continue in effect beyond November 14, 2005. The most recent notice continuing this emergency was published in the *Federal Register* on November 12, 2004 (69 FR 65513).

Our relations with Iran have not yet returned to normal, and the process of implementing the January 19, 1981, agreements with Iran is still underway. For these reasons, I have determined that it is necessary to continue the national emergency declared on November 14, 1979, with respect to Iran, beyond November 14, 2005.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 9, 2005.*

MESSAGE FROM THE HOUSE

At 12:28 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 3770. An act to designate the facility of the United States Postal Service located at 205 West Washington Street in Knox, Indiana, as the "Grant W. Green Post Office Building".

H.R. 3825. An act to designate the facility of the United States Postal Service located at 770 Trumbull Drive in Pittsburgh, Pennsylvania, as the "Clayton J. Smith Memorial Post Office Building".

H.R. 4053. An act to designate the facility of the United States Postal Service located at 545 North Rimsdale Avenue in Covina, California, as the "Lillian Kinkella Keil Post Office".

At 3:10 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill H.R. 2419 making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes.

The message also announced that the House agree to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill H.R. 2862 making appropriations for Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

At 5:29 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House disagree to the amendment of the Senate to the bill H.R. 3199 to extend and modify authorities needed to combat terrorism, and for other purposes, and agree to the conference asked by the Senate on the disagreeing votes of the two Houses thereon; and appoints the following members as the managers of the conference on the part of the House:

From the Committee on the Judiciary, for consideration of the House bill (except section 132) and the Senate amendment, and modifications committed to conference: Mr. SENSENBRENNER, Mr. COBLE, Mr. SMITH of Texas, Mr. GALLEGLY, Mr. CHABOT, Mr. JENKINS, Mr. CONYERS, Mr. BERMAN, Mr. BOUCHER, and Mr. NADLER: Provided, That Mr. SCOTT of Virginia is appointed in lieu of Mr. NADLER for consideration of sections 105, 109, 111–114, 120, 121, 124, 131, and title II of the House bill, and modifications committed to conference.

From the Permanent Select Committee on Intelligence, for consideration of sections 102, 103, 106, 107, 109, and 132 of the House bill, and sections 2, 3, 6, 7, 9, and 10 of the Senate amendment, and modifications committed to conference: Mr. HOEKSTRA, Mrs. WILSON of New Mexico, and Ms. HARMAN.

From the Committee on Energy and Commerce, for consideration of sections 124 and 231 of the House bill, and modifications committed to conference: Mr. NORWOOD, Mr. SHADEGG, and Mr. DINGELL.

From the Committee on Financial Services, for consideration of section 117 of the House bill, and modifications committed to conference: Mr. OXLEY, Mr. BACHUS, and Mr. FRANK of Massachusetts.

From the Committee on Homeland Security, for consideration of sections 127–129 of the House bill, and modifications committed to conference: Mr. KING of New York, Mr. WELDON of Pennsylvania, and Ms. ZOE LOFGREN of California.

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 3770. An act to designate the facility of the United States Postal Service located at 205 West Washington Street in Knox, Indiana, as the "Grant W. Green Post Office Building"; to the Committee on Homeland Security and Governmental Affairs.

H.R. 3825. An act to designate the facility of the United States Postal Service located at 770 Trumbull Drive in Pittsburgh, Pennsylvania, as the "Clayton J. Smith Memorial

Post Office Building''; to the Committee on Homeland Security and Governmental Affairs.

H.R. 4053. An act to designate the facility of the United States Postal Service located at 545 North Rimsdale Avenue in Covina, California, as the "Lillian Kinkella Keil Post Office"; to the Committee on Homeland Security and Governmental Affairs.

ENROLLED BILL PRESENTED

The Secretary of the Senate reported that on today, November 9, 2005, she had presented to the President of the United States the following enrolled bill:

S. 1285. An act to designate the Federal building located at 333 Mt. Elliott Street in Detroit, Michigan, as the "Rosa Parks Federal Building".

EXECUTIVE AND OTHER COMMUNICATIONS

The following communication was laid before the Senate, together with accompanying papers, reports, and documents, and was referred as indicated:

EC-4603. A communication from the Secretary of the Senate, transmitting, pursuant to law, the report of the receipts and expenditures of the Senate for the period from April 1, 2005 through September 30, 2005; ordered to lie on the table.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

[Council of Europe Convention on Cybercrime (Treaty Doc. 108-11) with 6 reservations and 5 declarations (Ex. Rept. 109-6).]

TEXT OF THE RESOLUTION OF RATIFICATION AS REPORTED BY THE COMMITTEE ON FOREIGN RELATIONS:

Resolved (two-thirds of the Senators present concurring therein),

Section 1. Senate Advice and Consent Subject to Reservations and Declarations

The Senate advises and consents to the ratification of the Council of Europe Convention on Cybercrime ("the Convention"), signed by the United States on November 23, 2001 (T. Doc. 108-11), subject to the reservations of section 2, and the declarations of section 3.

Section 2. Reservations

The advice and consent of the Senate under section 1 is subject to the following reservations, which shall be included in the United States instrument of ratification:

(1) The United States of America, pursuant to Articles 4 and 42, reserves the right to require that the conduct result in serious harm, which shall be determined in accordance with applicable United States federal law.

(2) The United States of America, pursuant to Articles 6 and 42, reserves the right not to apply paragraphs (1)(a)(i) and (1)(b) of Article 6 ("Misuse of devices") with respect to devices designed or adapted primarily for the purpose of committing the offenses established in Article 4 ("Data interference") and Article 5 ("System interference").

(3) The United States of America, pursuant to Articles 9 and 42, reserves the right to apply paragraphs (2)(b) and (c) of Article 9 only to the extent consistent with the Constitution of the United States as interpreted by the United States and as provided for under its federal law, which includes, for example, crimes of distribution of material considered to be obscene under applicable United States standards.

(4) The United States of America, pursuant to Articles 10 and 42, reserves the right to impose other effective remedies in lieu of criminal liability under paragraphs 1 and 2 of Article 10 ("Offenses related to infringement of copyright and related rights") with respect to infringements of certain rental rights to the extent the criminalization of such infringements is not required pursuant to the obligations the United States has undertaken under the agreements referenced in paragraphs 1 and 2.

(5) The United States of America, pursuant to Articles 22 and 42, reserves the right not to apply in part paragraphs (1)(b), (c) and (d) of Article 22 ("Jurisdiction"). The United States does not provide for plenary jurisdiction over offenses that are committed outside its territory by its citizens or on board ships flying its flag or aircraft registered under its laws. However, United States law does provide for jurisdiction over a number of offenses to be established under the Convention that are committed abroad by United States nationals in circumstances implicating particular federal interests, as well as over a number of such offenses committed on board United States-flagged ships or aircraft registered under United States law. Accordingly, the United States will implement paragraphs (1)(b), (c) and (d) to the extent provided for under its federal law.

(6) The United States of America, pursuant to Articles 41 and 42,reserves the right to assume obligations under Chapter II of the Convention in a manner consistent with its fundamental principles of federalism.

Section 3. Declarations

(1) The advice and consent of the Senate under section 1 is subject to the following declarations, which shall be included in the United States instrument of ratification:

(a) The United States of America declares, pursuant to Articles 2 and 40, that under United States law, the offense set forth in Article 2 ("Illegal access") includes an additional requirement of intent to obtain computer data.

(b) The United States of America declares, pursuant to Articles 6 and 40, that under United States law, the offense set forth in paragraph (1)(b) of Article 6 ("Misuse of devices") includes a requirement that a minimum number of items be possessed. The minimum number shall be the same as that provided for by applicable United States federal law.

(c) The United States of America declares, pursuant to Articles 7 and 40, that under United States law, the offense set forth in Article 7 ("Computer-related forgery") includes a requirement of intent to defraud.

(d) The United States of America declares, pursuant to Articles 27 and 40, that requests made to the United States of America under paragraph 9(e) of Article 27 ("Procedures pertaining to mutual assistance requests in the absence of applicable international agreements") are to be addressed to its central authority for mutual assistance.

(2) The advice and consent of the Senate under section 1 is also subject to the following declaration: The United States of America declares that, in view of its reservation pursuant to Article 41 of the Convention, current United States federal law fulfills the obligations of Chapter II of the Convention for the United States. Accordingly, the United States does not intend to enact new legislation to fulfill its obligations under Chapter II.

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. SCHUMER:

S. 1978. A bill to amend the Federal Food, Drug, and Cosmetic Act to increase criminal penalties for the sale or trade of prescription drugs knowingly caused to be adulterated or misbranded, to modify requirements for maintaining records of the chain-of-custody of prescription drugs, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

By Mr. KOHL:

S. 1979. A bill to provide for the establishment of a strategic refinery reserve, and for other purposes; to the Committee on Energy and Natural Resources.

By Ms. MURKOWSKI:

S. 1980. A bill to provide habitable living quarters for teachers, administrators, and other school staff, and their households, in rural areas of Alaska located in or near Alaska Native villages; to the Committee on Indian Affairs.

By Mr. DURBIN:

S. 1981. A bill to amend the Internal Revenue Code of 1986 to impose a temporary windfall profit tax on crude oil, to rebate a portion of the tax collected back to American consumers, to fund programs under the Low-Income Home Energy Assistance Act of 1981 and tax incentives for the manufacture of energy efficient motor vehicles by using a portion of the proceeds of such tax, and to deposit the balance of the tax collected into the Highway Trust Fund to support the funding of highway projects and to aid highway users, and for other purposes; to the Committee on Finance.

By Ms. SNOWE:

S. 1982. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit against residential heating costs; to the Committee on Finance.

By Mr. SANTORUM (for himself, Mr. NELSON of Nebraska, Mr. INHOFE, Mr. DEMINT, Mr. DEWINE, Mr. HAGEL, Mr. COBURN, Mr. GREGG, Mr. BROWNBACK, Mr. ENSIGN, Mr. MARTINEZ, Mr. KYL, Mr. VITTER, and Mr. BURR):

S. 1983. A bill to prohibit certain abortion-related discrimination in governmental activities; to the Committee on Health, Education, Labor, and Pensions.

By Mr. BAYH (for himself and Mr. VOINOVICH):

S. 1984. A bill to safeguard the national security and economic health of the United States by improving the management, coordination, and effectiveness of domestic and international intellectual property rights enforcement, and for other purposes; to the Committee on the Judiciary.

By Ms. COLLINS (for herself and Mr. LIEBERMAN):

S. 1985. A bill to extend the predisaster hazard mitigation program under the Stafford Act; to the Committee on Homeland Security and Governmental Affairs.

By Mr. ALLARD:

S. 1986. A bill to provide for the coordination and use of the National Domestic Preparedness Consortium by the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

By Mr. REED:

S. 1987. A bill to amend the Internal Revenue Code of 1986 to provide a refundable tax credit for residential energy cost assistance and for other purposes; to the Committee on Finance.

By Mr. LUGAR:

S. 1988. A bill to authorize the transfer of items in the War Reserves Stockpile for Allies, Korea; considered and passed.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. VITTER:

S. Con. Res. 63. A concurrent resolution supporting the goals and ideals of National High School Seniors Voter Registration Day; to the Committee on Rules and Administration.

By Mr. BURNS (for himself, Mr. LEAHY, Mr. INOUYE, Mr. SMITH, Mr. STEVENS, Mr. SUNUNU, Mr. NELSON of Florida, and Mrs. HUTCHISON):

S. Con. Res. 64. A concurrent resolution expressing the sense of the Congress regarding oversight of the Internet Corporation for Assigned Names and Numbers; to the Committee on Commerce, Science, and Transportation.

ADDITIONAL COSPONSORS

S. 558

At the request of Mr. REID, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 558, a bill to amend title 10, United States Code, to permit certain additional retired members of the Armed Forces who have a service-connected disability to receive both disability compensation from the Department of Veterans Affairs for their disability and either retired pay by reason of their years of military service or Combat-Related Special compensation and to eliminate the phase-in period under current law with respect to such concurrent receipt.

S. 632

At the request of Mr. LUGAR, the name of the Senator from South Carolina (Mr. GRAHAM) was added as a cosponsor of S. 632, a bill to authorize the extension of unconditional and permanent nondiscriminatory treatment (permanent normal trade relations treatment) to the products of Ukraine, and for other purposes.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 1112

At the request of Mr. GRASSLEY, the name of the Senator from Kansas (Mr. ROBERTS) was added as a cosponsor of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

S. 1191

At the request of Mr. SALAZAR, the name of the Senator from Pennsylvania (Mr. SANTORUM) was added as a cosponsor of S. 1191, a bill to establish a grant program to provide innovative transportation options to veterans in remote rural areas.

S. 1462

At the request of Mr. BROWNBACK, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1462, a bill to promote peace and accountability in Sudan, and for other purposes.

S. 1488

At the request of Mr. VITTER, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1488, a bill to withhold funding from the United Nations if the United Nations abridges the rights provided by the Second Amendment to the Constitution, and for other purposes.

S. 1508

At the request of Mr. FEINGOLD, the name of the Senator from Indiana (Mr. LUGAR) was added as a cosponsor of S. 1508, a bill to require Senate candidates to file designations, statements, and reports in electronic form.

S. 1520

At the request of Mrs. FEINSTEIN, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. 1520, a bill to prohibit human cloning.

S. 1740

At the request of Mr. CRAPO, the name of the Senator from South Carolina (Mr. DEMINT) was added as a cosponsor of S. 1740, a bill to amend the Internal Revenue Code of 1986 to allow individuals to defer recognition of reinvested capital gains distributions from regulated investment companies.

S. 1800

At the request of Ms. SNOWE, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1800, a bill to amend the Internal Revenue Code of 1986 to extend the new markets tax credit.

S. 1865

At the request of Mrs. DOLE, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1865, a bill to establish the SouthEast Crescent Authority, and for other purposes.

S. 1926

At the request of Mr. INHOFE, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 1926, a bill to provide the Department of Justice the necessary authority to apprehend, prosecute, and convict individuals committing animal enterprise terror.

S. 1930

At the request of Mr. REID, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1930, a bill to expand the research, prevention, and awareness activities of the National Institute of Diabetes and Digestive and Kidney Diseases and the Centers for Disease Control and Prevention with respect to inflammatory bowel disease.

S. 1947

At the request of Mr. SUNUNU, the name of the Senator from South Dakota (Mr. JOHNSON) was added as a cosponsor of S. 1947, a bill to amend chapter 21 of title 38, United States Code, to enhance adaptive housing assistance for disabled veterans.

S. 1959

At the request of Mr. KERRY, the name of the Senator from Minnesota (Mr. COLEMAN) was added as a cosponsor of S. 1959, a bill to direct the Architect of the Capitol to obtain a statue of Rosa Parks and to place the statue in the United States Capitol in National Statuary Hall.

S. RES. 232

At the request of Mr. KENNEDY, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. Res. 232, a resolution celebrating the 40th anniversary of the enactment of the Voting Rights Act of 1965 and reaffirming the commitment of the Senate to ensuring the continued effectiveness of the Act in protecting the voting rights of all citizens of the United States.

S. RES. 273

At the request of Mr. COLEMAN, the name of the Senator from Utah (Mr. BENNETT) was added as a cosponsor of S. Res. 273, a resolution expressing the sense of the Senate that the United Nations and other international organizations shall not be allowed to exercise control over the Internet.

AMENDMENT NO. 2433

At the request of Mr. CHAMBLISS, the name of the Senator from Nebraska (Mr. HAGEL) was added as a cosponsor of amendment No. 2433 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

At the request of Mr. WARNER, his name was added as a cosponsor of amendment No. 2433 proposed to S. 1042, supra.

At the request of Mr. NELSON of Nebraska, his name was added as a cosponsor of amendment No. 2433 proposed to S. 1042, supra.

AMENDMENT NO. 2437

At the request of Mr. WARNER, his name was added as a cosponsor of amendment No. 2437 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

At the request of Mr. TALENT, his name was added as a cosponsor of amendment No. 2437 intended to be proposed to S. 1042, supra.

AMENDMENT NO. 2440

At the request of Mr. INHOFE, the names of the Senator from Tennessee (Mr. FRIST), the Senator from Colorado (Mr. ALLARD), the Senator from Texas (Mr. CORNYN), the Senator from Georgia (Mr. ISAKSON), the Senator from Wyoming (Mr. ENZI), the Senator from North Carolina (Mrs. DOLE) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of amendment No. 2440 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

At the request of Mr. WARNER, his name was added as a cosponsor of amendment No. 2440 proposed to S. 1042, supra.

AMENDMENT NO. 2443

At the request of Mr. ENSIGN, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of amendment No. 2443 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2445

At the request of Mr. MARTINEZ, his name was added as a cosponsor of amendment No. 2445 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2448

At the request of Mr. CONRAD, the names of the Senator from Montana (Mr. BURNS), the Senator from Wyoming (Mr. THOMAS), the Senator from Wyoming (Mr. ENZI), the Senator from North Dakota (Mr. DORGAN) and the Senator from Utah (Mr. HATCH) were added as cosponsors of amendment No. 2448 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. KOHL:

S. 1979. A bill to provide for the establishment of a strategic refinery reserve, and for other purposes; to the Committee on Energy and Natural Resources.

Mr. KOHL. Madam President, I rise today to speak briefly about an amendment Senator JEFFORDS and I had hoped to offer to the Defense authorization bill. I understand it is not considered relevant, so we won't get a vote. That is unfortunate. I cannot imagine what is more relevant to the defense of our Nation than an amendment that would do something concrete about high energy prices, about national security, and about economic security—all with one vote.

Our amendment, which we are introducing today as a freestanding bill along with Senator FEINSTEIN, would authorize the Department of Energy to build enough refining capacity to meet the energy needs of the Federal Government—primarily the Department of Defense—and also to supply the private market in times of shortages and price spikes.

There is bipartisan agreement that increasing refining capacity in the United States would help avoid the kinds of energy price spikes we have seen in the last few months. There also seems to be clear evidence that, despite generous incentives from the Government and soaring profits, the oil companies are not interested in building the new refineries we need. And in a free market, of course, that is their choice.

But in a democracy, we in Congress are charged with making a different choice. We need to do what is best for our national and economic security. And, in this case, that would be to stop begging and bribing the oil companies. By building our own refining capacity, we would be able to supply the fuel needs of the Federal Government at what it actually costs to make that fuel. And we would also be able to hold in reserve refining capacity that we could access to bring down the cost of gas in times when shortages raise prices.

Today, the Senate is holding important hearings on energy. I am concerned, however, that instead of offering answers and solutions, the oil companies will blame OPEC for the high price of gasoline, diesel fuel, and home heating oil. We should not let them get away with that because OPEC is only part of the story.

While the price of gasoline rose to record levels in recent months, the oil companies were earning increasingly high profits on each gallon of gasoline. One measure is the "domestic spread," the retail gasoline pump price minus the cost of crude oil and taxes. During the 1900s, the domestic spread was about 40 cents per gallon for regular gas. This number has grown sharply since 2000. The domestic spread averaged above 50 cents per gallon between 2000 and 2004, and has reached as high as over 70 cents per gallon in recent months. In other words, the oil companies are earning much more today for a gallon of gas, even factoring in the higher price of crude oil.

Growing oil company profits also demonstrate this point: Oil industry profits, after tax, increased by $100 billion in the 5 years from 2000 to 2004, as compared to the previous 5-year period. ExxonMobil's earnings for the first 9 months of 2005—over $25 billion—already exceeded its full-year earnings for all of 2004. So obviously, these companies are doing much more than just passing along higher crude oil prices to customers.

One major reason for these soaring prices and profits is the oil industry's failure to increase refining capacity in the face of rising demand for refined petroleum products. A new refinery has not been built in the United States since the 1970s, and many oil refineries have been closed. In 1985, refining capacity equaled daily consumption of petroleum products. By 2002, daily consumption exceeded refining capacity by almost 20 percent.

As domestic supply falls short of domestic demand, three very dangerous things happen: 1. we are forced to rely on more imports. 2. we pay higher and higher prices for our fuel. And. 3. our economy is increasingly vulnerable to disasters and disruptions—like those we saw in the wake of Hurricanes Katrina and Rita.

The bill we are introducing would authorize the Department of Energy to create a refining capacity equal to 5 percent of current domestic consumption. These refineries would supply the Federal Government's need for petroleum products, estimated to be roughly 2 percent of U.S. consumption. The extra 3 percent of capacity would be available for emergencies and market disruptions.

This "Strategic Refining Reserve" would have a direct effect on energy prices to the consumer. It would get the Federal Government out of the private market where its huge demand for energy drives up prices. And it would increase the amount of oil that can be refined in this country in times when the oil companies' refining capacity is tapped out.

We have a duty to protect consumers, our economy, and our national security from an industry that often seems focused only on the short-term bottom line. We have a duty to respond with concrete help for the families and businesses that tell us daily of the enormous financial threat posed by soaring energy prices. And we have a duty to make sure our military has access to a steady, affordable supply of domestically refined fuel.

Though we will not be able to offer this proposal as an amendment to the DOD authorization bill, we have introduced it as a bill, and we plan to continue to look for opportunities for a vote. We need to take sole control of fuel prices away from the oil companies. We need to take charge and bring the price of fuel down by building this "Strategic Refinery Reserve."

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1979

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. STRATEGIC REFINERY RESERVE.

(a) ESTABLISHMENT.—

(1) IN GENERAL.—The Secretary of Energy shall establish and operate a Strategic Refinery Reserve (referred to in this section as the "Reserve") in the United States.

(2) AUTHORITIES.—To carry out this subsection, the Secretary of Energy may contract for—

(A) the construction or operation of new refineries; or

(B) the acquisition or reopening of closed refineries.

(b) OPERATION.—The Secretary of Energy shall operate the Reserve—

(1) to provide petroleum products to—

(A) the Federal Government (including the Department of Defense); and

(B) any State governments and political subdivisions of States that opt to purchase refined petroleum products from the Reserve; and

(2) to provide petroleum products to the general public during any period described in subsection (c).

(c) EMERGENCY PERIODS.—The Secretary of Energy shall make petroleum products from the Reserve available under subsection (b)(2) only if the President determines that—

(1) there is a severe energy supply interruption within the meaning of the term under section 3 of the Energy Policy and Conservation Act (42 U.S.C. 6202); or

(2)(A) there is a regional petroleum product supply shortage of significant scope and duration; and

(B) action taken under subsection (b)(2) would directly and significantly assist in reducing the adverse impact of the shortage.

(d) LOCATIONS.—In determining the location of a refinery for inclusion in the Reserve, the Secretary of Energy shall take into account—

(1) the impact of the refinery on the local community, as determined after requesting and reviewing any comments from State and local governments and the public;

(2) regional vulnerability to—

(A) natural disasters; and

(B) terrorist attacks;

(3) the proximity of the refinery to the Strategic Petroleum Reserve;

(4) the accessibility of the refinery to energy infrastructure and Federal facilities (including facilities under the jurisdiction of the Department of Defense);

(5) the need to minimize adverse public health and environmental impacts; and

(6) the energy needs of the Federal Government (including the Department of Defense).

(e) INCREASED CAPACITY.—The Secretary of Energy shall ensure that refineries in the Reserve are designed to provide a rapid increase in production capacity during periods described in subsection (c).

(f) IMPLEMENTATION PLAN.—

(1) IN GENERAL.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Energy shall submit to Congress a plan for the establishment and operation of the Reserve under this section.

(2) REQUIREMENTS.—The plan required under paragraph (1) shall—

(A)(i)(I) provide for, within 2 years after the date of enactment of this Act, a capacity within the Reserve equal to 5 percent of the total United States daily demand for gasoline, diesel, and aviation fuel; and

(II) provide for a capacity within the Reserve such that not less than 75 percent of the gasoline and diesel fuel produced by the Reserve contain an average of 10 percent renewable fuel (as that term is defined in 211(o)(1)(C) of the Clean Air Act (42 U.S.C. 7545(o)(1)(C)); or

(ii) if the Secretary of Energy finds that achieving the capacity described in either subclause (I) or (II) of clause (i) is not feasible within 2 years, include—

(I) an explanation from the Secretary of Energy of the reasons why achieving the capacity within the timeframe is not feasible; and

(II) provisions for achieving the required capacity as soon as practicable; and

(B) provide for adequate delivery systems capable of providing Reserve product to the entities described in subsection (b)(1).

(g) COORDINATION.—The Secretary of Energy shall carry out this section in coordination with the Secretary of Defense.

(h) COMPLIANCE WITH FEDERAL ENVIRONMENTAL REQUIREMENTS.—Nothing in this section affects any requirement to comply with Federal or State environmental or other laws.

SEC. 2. REPORTS ON REFINERY CLOSURES.

(a) REPORTS TO SECRETARY OF ENERGY.—

(1) IN GENERAL.—Not later than 180 days before permanently closing a refinery in the United States, the owner or operator of the refinery shall provide to the Secretary of Energy notice of the closing.

(2) REQUIREMENTS.—The notice required under paragraph (1) with respect to a refinery to be closed shall include an explanation of the reasons for the closing of the refinery.

(b) REPORTS TO CONGRESS.—The Secretary of Energy shall, in consultation with the Secretary of Defense, the Administrator of the Environmental Protection Agency, and the Federal Trade Commission and as soon as practicable after receipt of a report under subsection (a), submit to Congress—

(1) the report; and

(2) an analysis of the effects of the proposed closing covered by the report on—

(A) in accordance with the Clean Air Act (42 U.S.C. 7401 et seq.), supplies of clean fuel;

(B) petroleum product prices;

(C) competition in the refining industry;

(D) the national economy;

(E) regional economies;

(F) regional supplies of refined petroleum products;

(G) the supply of fuel to the Department of Defense; and

(H) energy security.

By Ms. MURKOWSKI:

S. 1980. A bill to provide habitable living quarters for teachers, administrators, and other school staff, and their households, in rural areas of Alaska located in or near Alaska Native villages; to the Committee on Indian Affairs.

Ms. MURKOWSKI. Mr. President, I rise to introduce a bill that will have a profound effect on the retention of teachers, administrators, and other school staff in remote and rural areas of Alaska.

In rural areas of Alaska, school districts face the challenge of recruiting and retaining teachers, administrators and other school staff due to the lack of housing. In one particular year in the Lower Kuskokwim School District in western Alaska, they hired one teacher for every six who decided not to accept job offers. Half of the applicants who did not accept a teaching position in that district indicated that their decision was related to the lack of housing.

In 2003, I traveled through rural Alaska with then-Education Secretary Rod Paige. I wanted him to see the challenges of educating children in such a remote and rural environment. At the village school in Savoonga, the principal slept in a broom closet in the school due to the lack of housing in that village. The special education teacher slept in her classroom, bringing a mattress out each evening to sleep on the floor. The other teachers shared housing in a single home. Needless to say, there is not enough room for the teachers' spouses. Unfortunately, Savoonga is not an isolated example of the teacher housing situation in rural Alaska.

Rural Alaskan school districts experience a high rate of teacher turnover due to the lack of housing. Turnover is as high as 30 percent each year in some rural areas with housing issues being a major factor. How can we expect our children to receive a quality education when the good teachers don't stay? How can we meet the mandates of No Child Left Behind in such an educational environment? Clearly, the lack of teacher housing in rural Alaska is an issue that must be addressed in order to ensure that children in rural Alaska receive the same level of education as their peers in more urban settings.

My bill authorizes the Department of Housing and Urban Development to provide teacher housing funds to the

Alaska Housing Finance Corporation, which is a State agency. In turn, the corporation is authorized to provide grant and loan funds to rural school districts in Alaska for teacher housing projects.

This legislation will allow school districts in rural Alaska to address the housing shortage in the following ways: construct housing units; purchase housing units; lease housing units; rehabilitate housing units; purchase or lease property on which housing units will be constructed, purchased or rehabilitated; repay loans secured for teacher housing projects; and conduct any other activities normally related to the construction, purchase, or rehabilitation of teacher housing projects.

Eligible school districts that accept funds under this legislation will be required to provide the housing to teachers, administrators, other school staff, and members of their households.

It is imperative that we address this important issue and allow the disbursement of funds to be handled at the State level. The quality of education of our rural students is at stake.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1980

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rural Teacher Housing Act of 2005".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) housing for teachers, administrators, other school staff, and the households of such staff in remote and rural areas of the State of Alaska is often substandard, if available at all;

(2) teachers, administrators, other school staff, and the households of such staff are often forced to find alternate shelter, sometimes even in school buildings; and

(3) rural school districts in the State of Alaska face increased challenges, including meeting the requirements of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et seq.), in recruiting employees due to the lack of affordable, quality housing.

(b) PURPOSE.—The purpose of this Act is to provide habitable living quarters for teachers, administrators, other school staff, and the households of such staff in rural areas of the State of Alaska located in or near Alaska Native villages.

SEC. 3. DEFINITIONS.

In this Act:

(1) ALASKA HOUSING FINANCE CORPORATION.—The term "Alaska Housing Finance Corporation" means the State housing authority for the State of Alaska created under the laws of the State of Alaska (or a successor authority).

(2) ELEMENTARY SCHOOL.—The term "elementary school" has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(3) ELIGIBLE SCHOOL DISTRICT.—The term "eligible school district" means a public school district (as defined under the laws of the State of Alaska) located in the State of Alaska that operates 1 or more schools in a qualified community.

(4) NATIVE VILLAGE.—

(A) IN GENERAL.—The term "Native village" has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(B) INCLUSION.—The term "Native village" includes the Metlakatla Indian Community of the Annette Islands Reserve.

(5) OTHER SCHOOL STAFF.—The term "other school staff" means—

(A) pupil services personnel;

(B) librarians;

(C) career guidance and counseling personnel;

(D) education aides; and

(E) other instructional and administrative school personnel.

(6) QUALIFIED COMMUNITY.—The term "qualified community" means a home rule city or a general law city incorporated under the laws of the State of Alaska, or an unincorporated community (as defined under the laws of the State of Alaska) in the State of Alaska located outside the boundaries of such a city, that, as determined by the Alaska Housing Finance Corporation—

(A) has a population of not greater than 6,500 individuals;

(B) is located in or near a Native village; and

(C) is not connected by road or railroad to the municipality of Anchorage, Alaska, excluding any connection—

(i) by the Alaska Marine Highway System created under the laws of the State of Alaska; or

(ii) that requires travel by road through Canada.

(7) SECONDARY SCHOOL.—The term "secondary school" has the meaning given the term in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801).

(8) SECRETARY.—The term "Secretary" means the Secretary of Housing and Urban Development.

(9) TEACHER.—The term "teacher" means an individual who—

(A) is employed as a teacher in a public elementary school or secondary school; and

(B) meets the teaching certification or licensure requirements of the State of Alaska.

(10) TRIBALLY DESIGNATED HOUSING ENTITY.—The term "tribally designated housing entity" has the meaning given the term in section 4 of the Native American Housing Assistance and Self-Determination Act of 1996 (25 U.S.C. 4103).

(11) VILLAGE CORPORATION.—

(A) IN GENERAL.—The term "Village Corporation" has the meaning given the term in section 3 of the Alaska Native Claims Settlement Act (43 U.S.C. 1602).

(B) INCLUSIONS.—The term "Village Corporation" includes, as defined in section 3 of that Act (43 U.S.C. 1602)—

(i) Urban Corporations; and

(ii) Group Corporations.

SEC. 4. RURAL TEACHER HOUSING PROGRAM.

(a) IN GENERAL.—The Secretary shall provide funds to the Alaska Housing Finance Corporation in accordance with regulations promulgated under section 5 for use in accordance with subsection (b).

(b) USE OF FUNDS.—

(1) IN GENERAL.—The Alaska Housing Finance Corporation shall use funds provided under subsection (a) to provide grants and loans to eligible school districts for use in accordance with paragraph (2).

(2) USE OF FUNDS BY ELIGIBLE SCHOOL DISTRICTS.—An eligible school district shall use a grant or loan under paragraph (1) for—

(A) the construction of new housing units in a qualified community;

(B) the purchase and rehabilitation of existing structures to be used as housing units in a qualified community;

(C) the rehabilitation of housing units in a qualified community;

(D) the leasing of housing units in a qualified community;

(E) purchasing or leasing real property on which housing units will be constructed, purchased, or rehabilitated in a qualified community;

(F) the repayment of a loan to—

(i) construct, purchase, or rehabilitate housing units;

(ii) purchase real property on which housing units will be constructed, purchased, or rehabilitated in a qualified community; or

(iii) carry out an activity described in subparagraph (G); and

(G) any other activity normally associated with the construction, purchase, or rehabilitation of housing units, or the purchase or lease of real property on which housing units will be constructed, purchased, or rehabilitated, in a qualified community, including—

(i) connecting housing units to a utility;

(ii) preparing construction sites;

(iii) transporting any equipment or material necessary for the construction or rehabilitation of housing units to and from the site on which the housing units are or will be constructed; and

(iv) carrying out an environmental assessment and remediation of a construction site or a site on which housing units are located.

(c) OWNERSHIP OF HOUSING AND LAND.—

(1) IN GENERAL.—Any housing unit constructed, purchased, or rehabilitated, and any real property purchased, using a grant or loan provided under this section shall be considered to be owned, as the Secretary determines to be appropriate, by—

(A) the affected eligible school district;

(B) the affected municipality, as defined under the laws of the State of Alaska;

(C) the affected Village Corporation;

(D) the Metlakatla Indian Community of the Annette Islands Reserve; or

(E) a tribally designated housing entity.

(2) TRANSFER OF OWNERSHIP.—Ownership of a housing unit or real property under paragraph (1) may be transferred between the entities described in that paragraph.

(d) OCCUPANCY OF HOUSING UNITS.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), each housing unit constructed, purchased, rehabilitated, or leased using a grant or loan under this section shall be occupied by—

(A)(i) a teacher;

(ii) an administrator; or

(iii) other school staff; and

(B) the household of an individual described in subparagraph (A), if any.

(2) NONSESSION MONTHS.—A housing unit constructed, purchased, rehabilitated, or leased using a grant or loan under this section may be occupied by an individual other an individual described in paragraph (1) only during a period in which school is not in session.

(3) TEMPORARY OCCUPANTS.—A vacant housing unit constructed, purchased, rehabilitated, or leased using a grant or loan under this section may be occupied by a contractor or guest of an eligible school district for a

period to be determined by the Alaska Housing Finance Corporation, by regulation.

(e) Compliance With Law.—An eligible school district that receives a grant or loan under this section shall ensure that each housing unit constructed, purchased, rehabilitated, or leased using the grant or loan complies with applicable laws (including regulations and ordinances).

(f) Program Policies.—

(1) In general.—The Alaska Housing Finance Corporation, in consultation with any appropriate eligible school district, shall establish policies governing the administration of grants and loans under this section, including a method of ensuring that funds are made available on an equitable basis to eligible school districts.

(2) Revisions.—Not less frequently than once every 3 years, the Alaska Housing Finance Corporation, in consultation with any appropriate eligible school district, shall take into consideration revisions to the policies established under paragraph (1).

SEC. 5. REGULATIONS.

Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate such regulations as are necessary to carry out this Act.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this Act for each of fiscal years 2007 through 2016.

(b) Administrative Expenses.—Each of the Secretary and the Alaska Housing Finance Corporation shall use not more than 5 percent of funds appropriated during a fiscal year to pay administrative expenses incurred in carrying out this Act.

By Mr. DURBIN:

S. 1981. A bill to amend the Internal Revenue Code of 1986 to impose a temporary windfall profit tax on crude oil, to rebate a portion of the tax collected back to American consumers, to fund programs under the Low-Income Home Energy Assistance Act of 1981 and tax incentives for the manufacture of energy efficient motor vehicles by using a portion of the proceeds of such tax, and to deposit the balance of the tax collected into the Highway Trust Fund to support the funding of highway projects and to aid highway users, and for other purposes; to the Committee on Finance.

Mr. DURBIN. Mr. President, I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Windfall Profits Tax Act of 2005".

SEC. 2. WINDFALL PROFITS TAX.

(a) In General.—Subtitle E of the Internal Revenue Code of 1986 (relating to alcohol, tobacco, and certain other excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 56—WINDFALL PROFITS ON CRUDE OIL

"Sec. 5896. Imposition of tax.

"Sec. 5897. Windfall profit; removal price; adjusted base price; qualified investment.

"Sec. 5898. Special rules and definitions.

"SEC. 5896. IMPOSITION OF TAX.

"(a) In General.—In addition to any other tax imposed under this title, there is hereby imposed on any integrated oil company (as defined in section 291(b)(4)) an excise tax equal to the amount equal to 50 percent of the windfall profit from all barrels of taxable crude oil removed from the property during each taxable year.

"(b) Fractional Part of Barrel.—In the case of a fraction of a barrel, the tax imposed by subsection (a) shall be the same fraction of the amount of such tax imposed on the whole barrel.

"(c) Tax Paid by Producer.—The tax imposed by this section shall be paid by the producer of the taxable crude oil.

"SEC. 5897. WINDFALL PROFIT; REMOVAL PRICE; ADJUSTED BASE PRICE.

"(a) General Rule.—For purposes of this chapter, the term 'windfall profit' means the excess of the removal price of the barrel of taxable crude oil over the adjusted base price of such barrel.

"(b) Removal Price.—For purposes of this chapter—

"(1) In general.—Except as otherwise provided in this subsection, the term 'removal price' means the amount for which the barrel of taxable crude oil is sold.

"(2) Sales between related persons.—In the case of a sale between related persons, the removal price shall not be less than the constructive sales price for purposes of determining gross income from the property under section 613.

"(3) Oil removed from property before sale.—If crude oil is removed from the property before it is sold, the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

"(4) Refining begun on property.—If the manufacture or conversion of crude oil into refined products begins before such oil is removed from the property—

"(A) such oil shall be treated as removed on the day such manufacture or conversion begins, and

"(B) the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

"(5) Property.—The term 'property' has the meaning given such term by section 614.

"(c) Adjusted Base Price Defined.—

"(1) In general.—For purposes of this chapter, the term 'adjusted base price' means $40 for each barrel of taxable crude oil plus an amount equal to—

"(A) such base price, multiplied by

"(B) the inflation adjustment for the calendar year in which the taxable crude oil is removed from the property.

The amount determined under the preceding sentence shall be rounded to the nearest cent.

"(2) Inflation adjustment.—

"(A) In general.—For purposes of paragraph (1), the inflation adjustment for any calendar year after 2006 is the percentage by which—

"(i) the implicit price deflator for the gross national product for the preceding calendar year, exceeds

"(ii) such deflator for the calendar year ending December 31, 2005.

"(B) First revision of price deflator used.—For purposes of subparagraph (A), the first revision of the price deflator shall be used.

"SEC. 5898. SPECIAL RULES AND DEFINITIONS .

"(a) Withholding and Deposit of Tax.—The Secretary shall provide such rules as are necessary for the withholding and deposit of the tax imposed under section 5896 on any taxable crude oil.

"(b) Records and Information.—Each taxpayer liable for tax under section 5896 shall keep such records, make such returns, and furnish such information (to the Secretary and to other persons having an interest in the taxable crude oil) with respect to such oil as the Secretary may by regulations prescribe.

"(c) Return of Windfall Profit Tax.—The Secretary shall provide for the filing and the time of such filing of the return of the tax imposed under section 5896.

"(d) Definitions.—For purposes of this chapter—

"(1) Producer.—The term 'producer' means the holder of the economic interest with respect to the crude oil.

"(2) Crude oil.—

"(A) In general.—The term 'crude oil' includes crude oil condensates and natural gasoline.

"(B) Exclusion of newly discovered oil.—Such term shall not include any oil produced from a well drilled after the date of the enactment of the Windfall Profits Tax Act of 2005, except with respect to any oil produced from a well drilled after such date on any proven oil or gas property (within the meaning of section 613A(c)(9)(A)).

"(3) Barrel.—The term 'barrel' means 42 United States gallons.

"(e) Adjustment of Removal Price.—In determining the removal price of oil from a property in the case of any transaction, the Secretary may adjust the removal price to reflect clearly the fair market value of oil removed.

"(f) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter.

"(g) Termination.—This section shall not apply to taxable crude oil removed after the date which is 10 years after the date of the enactment of this section.".

(b) Clerical Amendment.—The table of chapters for subtitle E of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Chapter 56. Windfall Profit on Crude Oil.".

(c) Deductibility of Windfall Profit Tax.—The first sentence of section 164(a) of the Internal Revenue Code of 1986 (relating to deduction for taxes) is amended by inserting after paragraph (5) the following new paragraph:

"(6) The windfall profit tax imposed by section 5896.".

(d) American Consumer Rebate.—

(1) In general.—Subchapter B of chapter 65 of the Internal Revenue Code of 1986 (relating to rules of special application in the case of abatements, credits, and refunds) is amended by adding at the end the following new section:

"SEC. 6430. AMERICAN CONSUMER REBATE.

"(a) General Rule.—Except as otherwise provided in this section, each individual shall be treated as having made a payment against the tax imposed by chapter 1 in an amount equal to—

"(1) in the case of any taxable year beginning in 2006, $150, and

"(2) in the case of any taxable year beginning after 2006, the applicable amount.

"(b) Applicable Amount.—For purposes of this section, the applicable amount for any taxpayer for any taxable year shall be determined by the Secretary not later than December 31 (beginning in 2007) taking into account the number of such taxpayers and 75 percent of the amount of revenues in the Treasury resulting from the tax imposed by section 5896 for such taxable year.

"(c) Credits and Refunds.—Under regulations prescribed by the Secretary, any amount treated as a payment under subsection (a) for the taxable year shall be credited against the tax liability of the taxpayer under section 1 for such taxable year or, in the absence of such tax liability of the taxpayer for such taxable year, refunded to the taxpayer.

"(d) Certain Persons Not Eligible.—This section shall not apply to—

"(1) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins,

"(2) any estate or trust, or

"(3) any nonresident alien individual.".

(2) Conforming amendment.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting before the period ", or enacted by the Windfall Profits Tax Act of 2005".

(3) Clerical amendment.—The table of sections for subchapter B of chapter 65 of the Internal Revenue Code of 1986 is amended by adding at the end the following new item:

"Sec. 6430. American consumer rebate.".

(4) Effective date.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

(e) Low Income Home Energy Assistance Trust Fund.—

(1) In general.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following new section:

"SEC. 9511. LOW-INCOME HOME ENERGY ASSISTANCE TRUST FUND.

"(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the 'Low-Income Home Energy Assistance Trust Fund', consisting of any amount appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) Transfers to Trust Fund.—There are hereby appropriated to the Low-Income Home Energy Assistance Trust Fund for each fiscal year beginning after September 30, 2005, amounts equivalent to 7.5 percent of the taxes received in the Treasury under section 5896 (relating to windfall profit tax on crude oil) for such fiscal year.

"(c) Expenditures From Trust Fund.—Amounts in the Low Income Home Energy Assistance Trust Fund shall be available, without further appropriation, for each fiscal year to carry out the program under the Low-Income Home Energy Assistance Act of 1981 for which funds are authorized under section 2602(b) of such Act for such fiscal year, but only if not less than $1,800,000,000 has been appropriated for such program for such fiscal year (determined without regard to any amount appropriated to the Low Income Home Energy Assistance Trust Fund).".

(2) Clerical amendment.—The table of sections for such subchapter is amended by adding at the end the following new item:

"Sec. 9511. Low-Income Home Energy Assistance Trust Fund.".

(f) Energy Efficient Motor Vehicles Manufacturing Credit.—

(1) In general.—Subpart B of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to foreign tax credit, etc.) is amended by adding at the end the following new section:

"SEC. 30D. ENERGY EFFICIENT MOTOR VEHICLES MANUFACTURING CREDIT.

"(a) Credit Allowed.—In the case of an eligible taxpayer, subject to a credit allocation under subsection (e) to such eligible taxpayer, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year to an amount equal to the sum of—

"(1) the initial investment credit determined under subsection (b) for the taxable year,

"(2) the fuel economy achievement credit determined under subsection (c) for such taxable year, and

"(3) the eligible components R&D credit determined under subsection (d) for such taxable year.

"(b) Initial Investment Credit.—For purposes of this section, the initial investment credit is equal to 20 percent of the qualified investment of an eligible taxpayer with respect to energy efficient motor vehicles during the taxable year beginning in 2006.

"(c) Fuel Economy Achievement Credit.—For purposes of this section—

"(1) In general.—In the case of an eligible taxpayer who meets the requirements of paragraph (2) for a model year ending in a taxable year specified in the table contained in paragraph (3), the fuel economy achievement credit for such taxable year is equal to 30 percent of the sum of—

"(A) at the election of the eligible taxpayer, such qualified investment for any preceding taxable year beginning after 2005 if such taxable year has not previously been taken into account under this subsection by such taxpayer, plus

"(B) at the election of the eligible taxpayer, the qualified investment with respect to energy efficient motor vehicles of the eligible taxpayer for the taxable year beginning in 2015.

"(2) Demonstrated combined fleet economy improvements.—The requirements of this paragraph are met for any model year ending in a taxable year if the eligible taxpayer can demonstrate to the satisfaction of the Secretary that the percentage by which the taxpayer's overall combined fuel economy standard for the taxpayer's vehicle fleet for such model year exceeds such standard for such taxpayer's 2005 model year as reported to the National Highway Traffic Safety Administration under section 32907 of title 49, United States Code, is not less than the percentage determined for such model year under paragraph (3).

"(3) Percentage increase.—The percentage determined under this paragraph for any taxable year is equal to—

"Model year ending in taxable year	Percentage increase
2008	5
2009	10
2010	15
2011	20
2012	27.5
2013	35
2014	42.5
2015	50

"(d) Eligible Components R&D Credit.—For purposes of this section, the eligible R&D credit for any taxable year is equal to 30 percent of the research and development costs paid or incurred by an eligible taxpayer for such taxable year with respect to eligible components used or to be used in the manufacture of energy efficient motor vehicles.

"(e) Limitation.—

"(1) Initial investment credit and fuel economy achievement credit.—Subject to paragraph (2), the aggregate amount of initial investment credits and fuel economy achievement credits allowed under subsection (a) for any taxable year beginning in a calendar year after 2005 shall be allocated by the Secretary among all eligible taxpayers—

"(A) based on each eligible taxpayer's percentage of the total qualified investment of all such taxpayers, and

"(B) such that such aggregate amount does not exceed—

"(i) $1,000,000,000, plus

"(ii) any amount of credit unallocated during any preceding calendar year.

"(2) Eligible components R&D credit.—Of the dollar amount available for allocation under paragraph (1) for any taxable year, 10 percent of such amount shall be allocated in the same manner by the Secretary among all eligible taxpayers with respect to the eligible components R&D credit.

"(f) Qualified Investment.—For purposes of this section—

"(1) In general.—The qualified investment for any taxable year is equal to the incremental costs incurred during such taxable year—

"(A) to re-equip or expand any manufacturing facility of the eligible taxpayer to produce energy efficient motor vehicles or to produce eligible components, and

"(B) for engineering integration of such vehicles and components as described in subsection (h).

"(2) Attribution rules.—In the event a facility of the eligible taxpayer produces both energy efficient motor vehicles and conventional motor vehicles, or eligible and non-eligible components, only the qualified investment attributable to production of energy efficient motor vehicles and the research and development costs attributable to eligible components shall be taken into account.

"(g) Energy Efficient Motor Vehicles and Eligible Components.—For purposes of this section—

"(1) Energy efficient motor vehicle.—The term 'energy efficient motor vehicle' means—

"(A) any new advanced lean burn technology motor vehicle (as defined in section 30B(c)(3) determined without regard to subparagraph (A)(iv)(II) thereof or the weight limitation under subparagraph (A)(iv)(I) thereof),

"(B) any new qualified hybrid motor vehicle (as defined in section 30B(d)(3)(A) determined without regard to subparagraph (A)(ii)(II) thereof, the weight limitation under subparagraph (A)(ii)(I) thereof, and subparagraph (A)(iv) thereof), or

"(C) any other new technology motor vehicle identified by the Secretary as offering a substantial increase in fuel economy.

"(2) Eligible components.—The term 'eligible component' means any component inherent to any energy efficient motor vehicle, including—

"(A) with respect to any gasoline-electric new qualified hybrid motor vehicle—

"(i) electric motor or generator,

"(ii) power split device,

"(iii) power control unit,

"(iv) power controls,

"(v) integrated starter generator, or

"(vi) battery,

"(B) with respect to any new advanced lean burn technology motor vehicle—

"(i) diesel engine,

"(ii) turbocharger,

"(iii) fuel injection system, or

"(iv) after-treatment system, such as a particle filter or NOx absorber, and

"(C) with respect to any energy efficient motor vehicle, any other component approved by the Secretary.

"(h) Engineering Integration Costs.—For purposes of subsection (f)(1)(B), costs for engineering integration are costs incurred prior to the market introduction of energy efficient vehicles for engineering tasks related to—

"(1) incorporating eligible components into the design of energy efficient motor vehicles, and

"(2) designing new tooling and equipment for production facilities which produce eligible components or energy efficient motor vehicles.

"(i) Eligible Taxpayer.—For purposes of this section, the term 'eligible taxpayer' means, with respect to any taxable year, any taxpayer if more than 25 percent of the taxpayer's gross receipts for the taxable year is derived from the manufacture of motor vehicles or any component parts of such vehicles.

"(j) Limitation Based on Amount of Tax.—The credit allowed under subsection (a) for the taxable year shall not exceed the excess of—

"(1) the sum of—

"(A) the regular tax liability (as defined in section 26(b)) for such taxable year, plus

"(B) the tax imposed by section 55 for such taxable year, over

"(2) the sum of the credits allowable under subpart A and sections 27, 30, 30B, and 30C for the taxable year.

"(k) Reduction in Basis.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this paragraph) result from such expenditure shall be reduced by the amount of the credit so allowed.

"(l) No Double Benefit.—

"(1) Coordination with other deductions and credits.—The amount of any deduction or other credit allowable under this chapter for any cost taken into account in determining the amount of the credit under subsection (a) shall be reduced by the amount of such credit attributable to such cost.

"(2) Research and development costs.—

"(A) In general.—Except as provided in subparagraph (B), any amount described in subsection (d) taken into account in determining the amount of the credit under subsection (a) for any taxable year shall not be taken into account for purposes of determining the credit under section 41 for such taxable year.

"(B) Costs taken into account in determining base period research expenses.—Any amounts described in subsection (d) taken into account in determining the amount of the credit under subsection (a) for any taxable year which are qualified research expenses (within the meaning of section 41(b)) shall be taken into account in determining base period research expenses for purposes of applying section 41 to subsequent taxable years.

"(m) Business Carryovers Allowed.—If the credit allowable under subsection (a) for a taxable year exceeds the limitation under subsection (j) for such taxable year, such excess (to the extent of the credit allowable with respect to property subject to the allowance for depreciation) shall be allowed as a credit carryback and carryforward under rules similar to the rules of section 39.

"(n) Definitions and Special Rules.—For purposes of this section—

"(1) Definitions.—Any term which is used in this section and in chapter 329 of title 49, United States Code, shall have the meaning given such term by such chapter.

"(2) Special rules.—Rules similar to the rules of paragraphs (4) and (5) of section 179A(e) and paragraphs (1) and (2) of section 41(f) shall apply.

"(o) Election Not to Take Credit.—No credit shall be allowed under subsection (a) for any property if the taxpayer elects not to have this section apply to such property.

"(p) Regulations.—The Secretary shall prescribe such regulations as necessary to carry out the provisions of this section.

"(q) Termination.—This section shall not apply to any qualified investment made after December 31, 2015.".

(2) Conforming amendments.—

(A) Section 1016(a) of such Code is amended by striking "and" at the end of paragraph (36), by striking the period at the end of paragraph (37) and inserting ", and", and by adding at the end the following new paragraph:

"(38) to the extent provided in section 30D(k).".

(B) Section 6501(m) of such Code is amended by inserting "30D(o)," after "30C(e)(5),".

(C) The table of sections for subpart B of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 30C the following new item:

"Sec. 30D. Energy efficient motor vehicles manufacturing credit.".

(3) Effective date.—The amendments made by this subsection shall apply to amounts incurred in taxable years beginning after December 31, 2005.

(g) Transfer to Highway Trust Fund to Fund Highway Projects and Aid Highway Users.—

(1) In general.—Section 9503(b)(1) of the Internal Revenue Code of 1986 (relating to certain taxes) is amended—

(A) by inserting "(before January 1, 2016, in the case of taxes under section 5896)" after "2011"

(B) by striking "and" at the end of subparagraph (D),

(C) by striking the period at the end of subparagraph (E) and inserting ", and",

(D) by inserting after subparagraph (E) the following new subparagraph:

"(F) section 5896 (relating to windfall profit tax).", and

(E) by adding at the end the following new sentence: "For purposes of this paragraph, the aggregate amount which is appropriated to the Highway Trust Fund as determined by reference to taxes received under section 5896 shall be reduced by the aggregate amount of the American consumer rebate determined under section 6430, the amount appropriated for each fiscal year to the Low-Income Home Energy Assistance Trust Fund under section 9511(b), and an amount of $1,000,000,000 for each of fiscal years 2006 through 2015."

(2) Portion to mass transit account.—Section 9503(e)(2) of such Code (relating to transfers to Mass Transit Account) is amended by inserting "and 18.5 percent of the amounts appropriated to the Highway Trust Fund under subsection (b) which are attributable to the tax under section 5896" after "1983".

(3) Special rule regarding highway projects funded by windfall profit tax revenues.—Notwithstanding section 120 of title 23, United States Code, the Federal share of the cost of any project or activity carried out using funds deposited in the Highway Trust Fund under section 9503(b)(1)(F) of the Internal Revenue Code of 1986 shall be 100 percent to the extent such funds are available under such section.

(h) Effective Date.—Except as otherwise provided, the amendments made by this section shall apply to crude oil removed after the date of the enactment of this Act, in taxable years ending after such date.

By Ms. SNOWE:

S. 1982. A bill to amend the Internal Revenue Code of 1986 to provide a tax credit against residential heating costs; to the Committee on Finance.

Ms. SNOWE. Mr. President, today I rise to introduce legislation that would provide a tax credit for home energy costs to low- and middle-income taxpayers. This legislation will help those who are struggling to simply heat their homes as winter approaches and while fuel prices remain so high.

Home heating oil in Maine is $2.52 per gallon, up 59 cents from a year ago. Kerosene prices average $2.95 a gallon, 75 cents higher than this time last year. Some projections have a gallon of heating oil reaching $3.00! And I am told that rolling blackouts on cold days this winter may be a possibility because of a high demand for electricity.

According to the National Energy Assistance Directors Association, heating costs for the average family using heating oil are projected to hit $1,666 for the upcoming winter. This represents an increase of $403 over last winter's prices and $714 over the winter heating season of 2003–2004. Should colder weather prevail, these costs will surely increase, especially for States like Maine.

So understandably, my constituents are asking how they will be able to afford to pay home heating oil bills that are 30 percent more expensive than last year. This is a crisis that has arrived.

Heating one's home is a necessity of life—so much so that 73 percent of households in a recent survey reported they would cut back on, and even go without, other necessities such as food, prescription drugs, and mortgage and rent payments. Churches, food pantries, local service organizations—they are all deeply concerned, and the leaves have barely fallen from the trees.

In order to help low- and middle-income families heat their homes this winter, I am proposing a tax credit for home energy costs up to $500. The credit would be available to married couples earning less than $100,000 and single taxpayers making less than $50,000.

My legislation also directs the Treasury Department to assist individuals to adjust their withholding amounts for 2006, which will immediately increase take home pay. Without adjusting their withholding, taxpayers would not benefit from the credit until they file their taxes sometime in 2007, possibly long after energy prices have returned to a normal level. As a result, this is a crucial provision to ensure that these individuals and families get a helping hand exactly when they need it most. Finally, any unused credit amount could be carried back to the prior two taxable years or carried forward to future taxable years.

It is critical that those who would benefit from the home energy credit are not at the same time required to shoulder the burden of the cost of the credit through an increase in the national debt. This credit should be paid for, and it makes sense to me that costs of the credit should be financed by those who profit the most by high energy prices, namely large oil companies. I am concerned that while many individuals are forced to make the choice of heating one's home or meeting the other basic necessities of life, large oil companies are showing record profits. Therefore, the Home Energy Cost Tax Assistance Act includes an offset provision to disallow the tax benefit that large oil companies with revenues in excess of $1 billion in 2005 receive by use of the Last-In, First-Out (LIFO) tax accounting method. Instead, these companies would be required to use the First-In, First-Out (FIFO) method of accounting for 2005. Put another way, the proposal would scale back a tax provision that allows oil companies to take an enormous tax deduction when prices are sky high and allows them to boost after-tax profits even further. As big oil companies show record profits on the backs of ordinary Americans, they have less of a need for such a tax break, and I believe it is fair to scale back this tax break in order to lend a helping hand to low- and middle-income workers.

It is critical that Congress act to help low and middle income Americans absorb the increased home energy costs associated with the drastic increase in price of fuel. Temperatures are falling, prices are rising and we must move swiftly.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1982

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Home Energy Assistance Act of 2005".

SEC. 2. TAX CREDIT AGAINST RESIDENTIAL HEATING COSTS.

(a) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 (relating to nonrefundable personal credits) is amended by inserting after section 25D the following new section:

"SEC. 25E. CREDIT AGAINST RESIDENTIAL HEATING COSTS.

"(a) GENERAL RULE.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount paid or incurred during such taxable year for residential heating costs.

"(b) LIMITATIONS.—

"(1) DOLLAR LIMITATION.—The amount of the credit allowed to under subsection (a) to any taxpayer shall not exceed $500 for any taxable year.

"(2) LIMITATION BASED ON ADJUSTED GROSS INCOME.—

"(A) IN GENERAL.—The amount of the credit which would (but for this paragraph) be taken into account under subsection (a) for the taxable year shall be reduced (but not below zero) by the amount determined under subparagraph (B).

"(B) AMOUNT OF REDUCTION.—The amount determined under this subparagraph is the amount which bears the same ratio to the amount which would be so taken into account as—

"(i) the excess of—

"(I) the taxpayers adjusted gross income for such taxable year, over

"(II) the threshold amount, bears to

"(ii) the phaseout amount.

"(C) THRESHOLD AMOUNT.—For purposes of this paragraph, the term 'threshold amount' means—

"(i) $80,000 in the case of a joint return,

"(ii) $65,000 in the case of a head of a household, and

"(iii) $40,000 in any other case.

"(D) PHASEOUT AMOUNT.—For purposes of this paragraph, the term 'phaseout amount' means—

"(i) $20,000 in the case of a joint return or a head of a household, and

"(ii) $10,000 in any other case.

"(3) MAXIMUM CREDIT PER HOUSEHOLD.—

"(A) IN GENERAL.—In the case of any household, the credit under subsection (a) shall be allowed only to the individual residing in such household who furnishes the largest portion (whether or not more than one-half) of the cost of maintaining such household.

"(B) DETERMINATION OF AMOUNT.—In the case of an individual described in subparagraph (A), such individual shall, for purposes of determining the amount of the credit allowed under subsection (a), be treated as having paid or incurred during such taxable year for increased residential heating costs an amount equal to the sum of the amounts paid or incurred for such heating costs by all individuals residing in such household (including any amount allocable to any such individual under subsection (d) or (e)).

"(c) CARRYBACK OF CREDIT.—

"(1) IN GENERAL.—If the credit allowable under subsection (a) for a taxable year exceeds the limitation under subsection (b)(1) for such taxable year, such excess shall be allowed—

"(A) as a credit carryback to each of the 2 taxable years preceding such taxable year, and

"(B) as a credit carryforward to each of the 20 taxable years following such taxable year.

"(2) AMOUNT CARRIED TO EACH YEAR.—Rules similar to the rules of section 39(b)(2) shall apply for purposes of this section.

"(3) LIMITATION.—The amount of unused credit which may be taken into account under paragraph (1) for any taxable year shall not exceed the limitation under subsection (b)(1).

"(d) DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) RESIDENTIAL HEATING COSTS.—The term 'residential heating costs' means costs incurred in connection with an energy source used to heat a principal residence of the taxpayer located in the United States.

"(2) PRINCIPAL RESIDENCE.—The term 'principal residence' has the same meaning as in section 121, except that—

"(A) no ownership requirement shall be imposed, and

"(B) the principal residence must be used by the taxpayer as the taxpayer's residence during the taxable year.

"(3) NO CREDIT FOR MARRIED INDIVIDUALS FILING SEPARATE RETURNS.—If the taxpayer is a married individual (within the meaning of section 7703), this section shall apply only if the taxpayer and the taxpayer's spouse file a joint return for the taxable year.

"(4) TREATMENT OF EXPENSES PAID BY DEPENDENT.—If a deduction under section 151 with respect to an individual is allowed to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins—

"(A) no credit shall be allowed under subsection (a) to such individual for such individual's taxable year, and

"(B) residential heating costs paid by such individual during such individual's taxable year shall be treated for purposes of this section as paid by such other taxpayer.

"(e) HOMEOWNERS ASSOCIATIONS.—The application of this section to homeowners associations (as defined in section 528(c)(1)) or members of such associations, and tenant-stockholders in cooperative housing corporations (as defined in section 216), shall be allowed by allocation, apportionment, or otherwise, to the individuals paying, directly or indirectly, for the increased residential heating cost so incurred.

"(f) APPLICABILITY OF SECTION.—This section shall apply to taxable years beginning after December 31, 2005, and before January 1, 2007.".

(b) REDUCTION IN WITHHOLDING.—The Secretary of the Treasury—

(1) shall educate taxpayers on adjusting withholding of taxes to reflect any anticipated tax credit under section 25E of the Internal Revenue Code of 1986, and

(2) may adjust the wage withholding tables prescribed under section 3402(a)(1) of such Code to take into account the credit allowed under section 25E of such Code.

(c) CLERICAL AMENDMENT.—The table of sections for subpart A of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by striking the item relating to section 35 and by adding at the end the following new items:

"Sec. 25E. Credit against residential heating costs.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 3. DISALLOWANCE OF USE OF LIFO METHOD OF ACCOUNTING BY LARGE INTEGRATED OIL COMPANIES FOR LAST TAXABLE YEAR ENDING BEFORE OCTOBER 1, 2005.

(a) GENERAL RULE.—Notwithstanding any other provision of law, an applicable integrated oil company shall, in determining the amount of Federal income tax imposed on such company for its most recent taxable year ending on or before September 30, 2005, use the first-in, first-out (FIFO) method of accounting rather than the last-in, last-out (LIFO) method of accounting with respect to its crude oil inventories.

(b) APPLICATION OF REQUIREMENT.—The requirement to use the first-in, first-out (FIFO) method of accounting under subsection (a)—

(1) shall not be treated as a change in method of accounting, and

(2) shall be disregarded in determining the method of accounting required to be used in any succeeding taxable year.

(c) APPLICABLE INTEGRATED OIL COMPANY.—For purposes of this section, the term "applicable integrated oil company" means an integrated oil company (as defined in section 291(b)(4) of the Internal Revenue Code of 1986) which—

(1) had gross receipts in excess of $1,000,000,000 for its most recent taxable year ending on or before September 30, 2005, and

(2) would, without regard to this section, use the last-in, first-out (LIFO) method of accounting with respect to its crude oil inventories for such taxable year.

For purposes of paragraph (1), all persons treated as a single employer under subsections (a) and (b) of section 52 of the Internal Revenue Code of 1986 shall be treated as 1 person.

By Mr. SANTORUM (for himself, Mr. NELSON of Nebraska, Mr. INHOFE, Mr. DEMINT, Mr. DEWINE, Mr. HAGEL, Mr. COBURN, Mr. GREGG, Mr. BROWNBACK, Mr. ENSIGN, Mr. MARTINEZ, Mr. KYL, Mr. VITTER, and Mr. BURR):

S. 1983. A bill to prohibit certain abortion-related discrimination in governmental activities; to the Committee on Health, Education, Labor, and Pensions.

Mr. SANTORUM. Mr. President, I rise today to introduce the Abortion Non-Discrimination Act of 2005. I am pleased to be joined in this effort by Senators BEN NELSON, INHOFE, DEMINT, DEWINE, HAGEL, COBURN, GREGG, BROWNBACK, ENSIGN, MARTINEZ, KYL, VITTER, and BURR.

Abortion has been, and continues to be, one of the most divisive social issues in our Nation. I realize that there are people of good will on both sides of this issue, people who working for the best interests of women, children and families. Despite the great disagreements, there are points of this debate where the vast majority of Americans agree, for example the Partial-Birth Abortion Ban Act, the Unborn Victims of Violence Act, and the Born-Alive Infants Protection Act. The bill I introduce today is one of these areas of common ground. However one may feel about abortion, surely we can agree on the principle that no one should be forced to participate in an abortion in violation of one's conscience.

We should all agree that no person or entity should be forced, against their will or conscience, to provide, refer for, or pay for an abortion. No entity should be forced to choose between being involved in an abortion or losing its funding, its certification, or its ability to exist as a hospital. Healthcare entities including physicians, other health professionals, hospitals, provider-sponsored organizations, health maintenance organizations, and health insurance plans should not be coerced into providing abortion services, and they certainly should not be discriminated against because of their objections to providing or paying for abortions.

Current law, as has been interpreted by some courts, only provides protection for individual physicians, postgraduate physician training programs, and participants in health professions training. This narrow interpretation excludes from protection those who deserve it. The Abortion Non-Discrimination Act of 2005 directly addresses these concerns by clarifying and strengthening existing law. This legislation makes clear that other health professionals, hospitals, health insurance plans, and any other kind of health care facility, organization, or plan cannot be forced to perform, provide coverage of, or pay for an abortion when it conflicts with their conscience. These individuals and organizations deserve the freedom to follow their conscience in protecting innocent life. They should not be forced to suffer financial consequences for their choice not to participate in an abortion.

I am thankful for the Hyde-Weldon conscience protection language that was included in the Consolidated Appropriations Act of 2005, but I believe it is appropriate to codify such conscience protection in Federal law. I am hopeful the Senate will act to pass the Abortion Non-Discrimination Act during this Congress.

I ask unanimous consent that the text of this legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1983

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Abortion Non-Discrimination Act of 2005".

SEC. 2. ABORTION NON-DISCRIMINATION.

Section 245 of the Public Health Service Act (42 U.S.C. 238n) is amended—

(1) in the section heading by striking "**AND LICENSING OF PHYSICIANS**" and inserting "**, LICENSING, AND PRACTICE OF PHYSICIANS AND OTHER HEALTH CARE ENTITIES**";

(2) in subsection (a)(1), by striking "to perform such abortions" and inserting "to perform, provide coverage of, or pay for induced abortions"; and

(3) in subsection (c)—

(A) in paragraph (1), by striking "includes" and inserting "means"; and

(B) in paragraph (2)—

(i) by inserting "or other health professional," after "an individual physician";

(ii) by striking "and a participant" and inserting "a participant"; and

(iii) by inserting before the period the following: ", a hospital, a provider sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization or plan".

By Mr. ALLARD:

S. 1986. A bill to provide for the coordination and use of the National Domestic Preparedness Consortium by the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security and Governmental Affairs.

Mr. ALLARD. Mr. President, the events of the past few months remind us of the vital role of first responders in responding to natural disasters and terrorists attacks. First responders are just that: the first to respond. When they arrive on the scene, they often face fluid and volatile situations whereupon they are required to make split-second decisions, each of which has the potential to affect thousands of lives. For this reason, it is important that our first responders receive the training and experience needed to make critical life saving decisions under emergency circumstances. I believe that an essential element of preparing our first responders is to provide them with hands-on experience in simulated, real-world training environments.

The importance of real world training was called to my attention by a visit to the Technology Training Center (TTC) in Pueblo, CO. There, I witnessed first hand the tools at our disposal to equip our first responders with the training they need, specifically in the context of rail and mass transit. Already aware of the training facilities at the disposal of our first responders through the Department of Homeland Security's National Domestic Preparedness Consortium (NDPC), TTC's potential to fill a gap in the rail and mass transit environment became apparent.

Congress recognized the need to train first responders in the 1998 Appropriations Act, Public Law 105–119, and accompanying report. There, Congress stated that, while the Federal Government plays an important role in preventing and responding to these types of threats, state and local public safety personnel are typically first to respond to the scene when such incidents occur. As a result, Congress authorized the Attorney General to assist state and local public safety personnel in acquiring the specialized training and equipment necessary to safely respond to and manage terrorist incidents involving weapons of mass destruction.

On April 30, 1998, the Attorney General delegated authority to the Justice Department's Office of Justice Programs (OJP) to develop and administer training and equipment assistance programs for state and local emergency response agencies to better prepare them against this threat. To execute this mission, the Office of Justice Programs established the Office for Domestic Preparedness (ODP) to develop and administer a national Domestic Preparedness Program.

Upon passage of the Homeland Security Act of 2002, Pub. L. 107–296, the

ODP was transferred to the Department of Homeland Security from OJP. In 2003, a number of grant programs and functions from other DHS components were consolidated with ODP, including the NDPC, under a new DHS agency, the Office of State and Local Government Coordination and Preparedness (SLGCP).

Today, SLGCP is the Federal Government's lead agency responsible for preparing the nation against terrorism by assisting states, local and tribal jurisdictions, and regional authorities as they prevent, deter, and respond to terrorist acts. SLGCP's ODP provides tailored training to enhance the capacity of States and local jurisdictions to prevent, deter, and respond safely and effectively to emergency situations.

ODP draws upon a coalition of "training partners" in the development and delivery of state-of-the-art training programs. This coalition is composed of government facilities, academic institutions, and private organizations, all of which are committed to providing a variety of specialized training for emergency responders across the country.

ODP's major training partner is the NDPC, through which ODP identifies, develops, tests, and delivers training to state and local emergency responders. The NDPC includes: ODP's Center for Domestic Preparedness (CDP): CDP provides advanced, hands-on training to members of the emergency response community in the areas of command, advanced hazmat, and tactical operations. CDP is the only WMD training facility that provides hands-on training to civilian emergency responders in a toxic chemical agent environment. New Mexico Institute of Mining and Technology (NMIMT): NMIMT, a world leader in explosives research, serves as the lead NDPC partner for explosives, firearms, and incendiary devices training. New Mexico Tech also delivers a program on suicide bombing prevention. Louisiana State University (LSU): LSU provides training and expertise in the areas of law enforcement, bioterrorism, agricultural terrorism, weapons of mass destruction, and mass casualty incidents. Texas A&M University System, Texas Engineering Extension Service (TEEX): TEEX develops and conducts national WMD preparedness training for all emergency response disciplines, as well as courses in incident management/unified command, threat and risk assessments, operations for public works, and WMD operations for emergency medical services. TEEX also conducts a structural collapse technician course to build state capabilities for urban search and rescue operations. Department of Energy's Nevada Test Site (NTS): NTS conducts radiological and nuclear training at NTS and via mobile training teams. It also develops and delivers radiological/nuclear mobile training at the awareness and operations levels and conducts train-the-trainer courses for first responders across the country.

Although it consists of an impressive array of training facilities, the National Domestic Preparedness Consortium is not statutorily authorized and does not include a facility that is uniquely focused on emergency preparedness within the railroad and mass transit environment. Therefore, in addition to specifically authorizing the NDPC, this bill incorporates the Transportation Technology Center into the Department of Homeland Security's National Domestic Preparedness Consortium, filling a critical gap in its current training agenda.

TTC is a federally-owned, 52 square mile multi-modal testing and training facility in Pueblo, Colorado, operated by the Association of American Railroads (AAR). In 1985, TTC established an on site Emergency Response Training Center (ERTC) to train railroad officials to safely handle accidents involving tank cars carrying hazardous materials. The training proved to be so successful that attendance was opened up to other emergency responders. TTC now serves not only the transportation service industry, but also the public sector emergency response community, the chemical industry, government agencies, and emergency response contractors from all over the world.

Each year, an average of 1,700 first responders—from Portland, ME to Portland, OR—travel to Pueblo, CO, to participate in TTC's training program. Former participants include over 600 fire departments and entities from 45 states; 16 state police agencies from Arkansas, Colorado, Idaho, Illinois, Indiana, Kentucky, Louisiana, Massachusetts, Michigan, Missouri, New Jersey, Nebraska, New Mexico, Oregon, Texas, and Washington; and numerous government agencies, including the U.S. Air Force, Army, Coast Guard, Customs Service, Federal Bureau of Investigations, Environmental Protection Agency, Drug Enforcement Agency, National Oceanic and Atmospheric Administration, and the National Transportation Safety Board. In its 20 year history, the facility has trained more than 20,000 students worldwide.

The ERTC is regarded as the "graduate school" of hazmat training because of its focus on hands-on, true to life, training exercises on actual rail vehicles, including tank cars and passenger rail cars. The ERTC is uniquely positioned to teach emergency response for railway-related emergencies with 69 railway freight cars, 15 railroad passenger cars, 25 highway cargo tanks, van trailers, and intermodal containers, and computer work stations equipped with the latest emergency response software. The Passenger Railcar Security and Integrity Training Facility is currently being developed to test various inspection, response, and remediation techniques' effectiveness for mitigation to incidents involving passenger railcars. This facility focuses on chemical, biological, radiological, nuclear, or explosive incidents and other activities associated with potential terrorist events.

The distinctive environment of TTC allows testing and training activities to be carried out at a remote Colorado location without disruption to the flow of passenger and rail traffic in and around urban areas. Its inclusion in the NDPC presents a unique opportunity to enhance technology and training that will improve our Nation's ability to prevent, minimize, and respond to potential terrorist attacks similar to those recently seen in London and Madrid.

It is for these reasons, among others, that I rise today to introduce a bill statutorily authorizing the National Domestic Preparedness Consortium, as expanded to include the Transportation Technology Center in Pueblo, CO, and providing for its coordination and use by the Department of Homeland Security in training the Nation's first responders.

SUBMITTED RESOLUTIONS

SENATE CONCURRENT RESOLUTION 63—SUPPORTING THE GOALS AND IDEALS OF NATIONAL HIGH SCHOOL SENIORS VOTER REGISTRATION DAY

Mr. VITTER submitted the following resolution; which was referred to the Committee on Rules and Administration:

S. CON. RES. 63

Whereas in order for the Government of the United States to remain of the people, by the people, and for the people, individuals must take advantage of their right to vote;

Whereas the right to vote is one of the most important rights of a citizen, and every effort should be made to promote voter registration at school so that students may begin participating in the foundation of the Nation's representative democracy;

Whereas the Legislature of Louisiana voted in 2002 to recognize annually the first Tuesday in May as National High School Seniors Voter Registration Day; and

Whereas the purpose of National High School Seniors Voter Registration Day is to allow students to register to vote at school to encourage their participation in making democracy work: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That Congress supports the goals and ideals of National High School Seniors Voter Registration Day, and encourages all eligible students to register to vote.

SENATE CURRENT RESOLUTION 64—EXPRESSING THE SENSE OF THE CONGRESS REGARDING OVERSIGHT OF THE INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

Mr. BURNS (for himself, Mr. Leahy, Mr. Inouye, Mr. Smith, Mr. Stevens, Mr. Sununu, Mr. Nelson of Florida, and Mrs. Hutchison) submitted the following concurrent resolution; which was referred to the Committee on Commerce, Science, and Transportation:

S. Con. Res. 64

Whereas the origins of the Internet can be found in United States Government funding of research to develop packet-switching technology and communications networks, starting with the "ARPANET" network established by the Department of Defense's Advanced Research Projects Agency in the 1960s and carried forward by the National Science Foundation's "NSFNET".

Whereas in subsequent years the Internet evolved from a United States Government research initiative to a global tool for information exchange as in the 1990s it was commercialized by private sector investment, technical management and coordination;

Whereas since its inception the authoritative root zone server-the file server system that contains the master list of all top level domain names made available for routers serving the Internet-has been physically located in the United States;

Whereas today the Internet is a global communications network of inestimable value;

Whereas the continued success and dynamism of the Internet is dependent upon continued private sector leadership and the ability for all users to participate in its continued evolution;

Whereas in allowing people all around the world freely to exchange information, communicate with one another, and facilitate economic growth and democracy, the Internet has enormous potential to enrich and transform human society;

Whereas existing structures have worked effectively to make the Internet the highly robust medium that it is today;

Whereas the security and stability of the Internet's underlying infrastructure, the domain name and addressing system, must be maintained;

Whereas the United States has been committed to the principles of freedom of expression and the free flow of information, as expressed in Article 19 of the Universal Declaration of Human Rights, and reaffirmed in the Geneva Declaration of Principles adopted at the first phase of the World Summit on the Information Society;

Whereas the U.S. Principles on the Internet's Domain Name and Addressing System, issued on June 30, 2005, represent an appropriate framework for the coordination of the system at the present time;

Whereas the Internet Corporation for Assigned Names and Numbers popularly known as ICANN, is the proper organization to coordinate the technical day-to-day operation of the Internet's domain name and addressing system;

Whereas all stakeholders from around the world, including governments, are encouraged to advise ICANN in its decision-making;

Whereas ICANN makes significant efforts to ensure that the views of governments and all Internet stakeholders are reflected in its activities;

Whereas governments have legitimate concerns with respect to the management of their country code top level domains;

Whereas the United States Government is committed to working successfully with the international community to address those concerns, bearing in mind the need for stability and security of the Internet's domain name and addressing system;

Whereas the topic of Internet governance, a as currently being discussed in the United Nations World Summit on the Information Society is a broad and complex topic;

Whereas it is appropriate for governments and other stakeholders to discuss Internet governance, given that the Internet will likely be an increasingly important part of the world economy and society in the 21st Century;

Whereas Internet governance discussions in the World Summit should focus on the real threats to the Internet's growth and stability, and not recommend changes to the current regime of domain name and addressing system management and coordination on political grounds unrelated to any technical need; and

Whereas market-based policies and private sector leadership have allowed this medium the flexibility to innovate and evolve: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That it is the sense of Congress that—

(1) it is incumbent upon the United States and other responsible governments to send clear signals to the marketplace that the current structure of oversight and management of the Internet's domain name and addressing service works, and will continue to deliver tangible benefits to Internet users worldwide in the future; and

(2) therefore the authoritative root zone server should remain physically located in the United States and the Secretary of Commerce should maintain oversight of ICANN so that ICANN can continue to manage the day-to-day operation of the Internet's domain name and addressing system well, remain responsive to all Internet stakeholders world-wide, and otherwise fulfill its core technical mission.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2474. Mr. MARTINEZ (for himself and Mr. Warner) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table.

SA 2475. Mr. BROWNBACK (for himself, Mr. Coburn, Mr. DeMint, Mr. Inhofe, Mr. Sessions, and Mr. Talent) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 2476. Mr. DORGAN (for himself, Mr. Durbin, Mrs. Boxer, and Mr. Lautenberg) proposed an amendment to the bill S. 1042, supra.

SA 2477. Mr. TALENT (for himself, Mr. Warner, Mr. Stevens, Mr. Chambliss, Mr. Cornyn, Mr. Lieberman, Mrs. Boxer, Mrs. Feinstein, Ms. Collins, Mr. DeWine, Mr. Dodd, and Mr. Inhofe) submitted an amendment intended to be proposed by him to the bill S. 1042, supra.

SA 2478. Mr. LAUTENBERG proposed an amendment to the bill S. 1042, supra.

SA 2479. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2445 submitted by Mr. Brownback (for himself, Mr. Inhofe, and Mr. DeMint) and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 2480. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2475 submitted by Mr. Brownback (for himself, Mr. Coburn, Mr. DeMint, Mr. Inhofe, Mr. Sessions, and Mr. Talent) and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 2481. Mr. SALAZAR (for himself, Mr. Lautenberg, Mr Reed, Mr. Durbin, and Mr. Kyl) submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 2482. Mr. DEWINE submitted an amendment intended to be proposed by him to the bill S. 1042, supra; which was ordered to lie on the table.

SA 2483. Mr. DURBIN (for Mr. Bayh (for himself, Mr. Durbin, and Ms. Landrieu)) proposed an amendment to the bill S. 1042, supra.

SA 2484. Mr. WARNER (for Mr. Santorum) proposed an amendment to the bill S. 1042, supra.

SA 2485. Mr. WARNER (for Mr. Akaka) proposed an amendment to the bill S. 1042, supra.

SA 2486. Mr. WARNER (for Mr. Ensign) proposed an amendment to the bill S. 1042, supra.

SA 2487. Mr. WARNER (for Mr. Ensign) proposed an amendment to the bill S. 1042, supra.

SA 2488. Mr. WARNER (for Mr. Coleman) proposed an amendment to the bill S. 1042, supra.

SA 2489. Mr. WARNER (for Mr. Bingaman (for himself and Mr. Domenici)) proposed an amendment to the bill S. 1042, supra.

SA 2490. Mr. WARNER (for Mr. Salazar) proposed an amendment to the bill S. 1042, supra.

SA 2491. Mr. WARNER proposed an amendment to the bill S. 1042, supra.

SA 2492. Mr. WARNER (for Mr. Kennedy (for himself, Ms. Collins, Mr. Roberts, Mr. Santorum, Ms. Mikulski, Mr. Lieberman, Mr. Alexander, Mrs. Clinton, Mrs. Dole, Ms. Snowe, Mr. Bingaman, Mr. Reed, and Mr. Sessions)) proposed an amendment to the bill S. 1042, supra.

SA 2493. Mr. WARNER proposed an amendment to the bill S. 1042, supra.

SA 2494. Mr. WARNER (for Mr. Byrd) proposed an amendment to the bill S. 1042, supra.

SA 2495. Mr. WARNER (for Mr. Dodd (for himself and Mr. Kennedy)) submitted an amendment intended to be proposed by Mr. Warner to the bill S. 1042, supra.

SA 2496. Mr. WARNER (for Mr. Santorum) proposed an amendment to the bill S. 1042, supra.

SA 2497. Mr. WARNER (for Mr. Kerry) proposed an amendment to the bill S. 1042, supra.

SA 2498. Mr. WARNER (for Mr. Levin) proposed an amendment to the bill S. 1042, supra.

SA 2499. Mr. WARNER proposed an amendment to amendment SA 1396 proposed by Mr. Warner (for Mr. Stevens) to the bill S. 1042 supra.

SA 2500. Mr. WARNER proposed an amendment to the bill S. 1042, supra.

SA 2501. Mr. WARNER (for Mr. Nelson, of Florida) proposed an amendment to the bill S. 1042, supra.

SA 2502. Mr. WARNER (for himself and Mr. Levin) proposed an amendment to the bill S. 1042, supra.

SA 2503. Mr. WARNER (for Mr. Allard (for himself and Mr. Salazar)) proposed an amendment to the bill S. 1042, supra.

SA 2504. Mr. WARNER (for Mr. Roberts) proposed an amendment to the bill S. 1042, supra.

SA 2505. Mr. WARNER (for Mr. Inouye) proposed an amendment to the bill S. 1042, supra.

SA 2506. Mr. WARNER (for Mrs. Hutchison (for herself, Mr. Voinovich, and Mr. Nelson, of Florida)) proposed an amendment to the bill S. 1042, supra.

TEXT OF AMENDMENTS

SA 2474. Mr. MARTINEZ (for himself and Mr. Warner) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle C of title III, add the following:

SEC. ___. IMPROVEMENT OF AUTHORITIES ON GENERAL GIFT FUNDS OF THE DEPARTMENT OF DEFENSE.

(a) Restatement and Expansion of Current Authority.—Subsection (a) of section 2601 of title 10, United States Code, is amended to read as follows:

"(a)(1) Subject to subsection (b), the Secretary concerned may accept, hold, administer, and spend any gift, devise, or bequest of real or personal property made on the condition that it be used for the benefit, or in connection with, the establishment, operation, or maintenance of a school, hospital, library, museum, cemetery, or other institution or organization under the jurisdiction of such Secretary.

"(2)(A) Subject to subsection (b), the Secretary concerned may accept, hold, administer, and spend any gift, devise, or bequest of real or personal property made on the condition that it be used for the benefit of members of the armed forces or civilian employees of United States Government, or the dependents or survivors of such members or employees, who are wounded or killed while serving in Operation Iraqi Freedom, Operation Enduring Freedom, or any other military operation or activity, or geographic area, designated by the Secretary of Defense for purposes of this section.

"(B) The Secretary of Defense shall prescribe regulations specifying the conditions that may be attached to a gift, devise, or bequest accepted under this paragraph.

"(C) The authority to accept gifts, devises, or bequests under this paragraph shall expire on December 31, 2007.

"(3) The Secretary concerned may pay all necessary expenses in connection with the conveyance or transfer of a gift, devise, or bequest made under this subsection.".

(b) Scope of Authority To Use Accepted Property.—Such section is further amended—

(1) by redesignating subsections (b), (c) and (d) as subsections (c), (d), and (e), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b)(1) Except as provided in paragraph (2), property accepted under subsection (a) may be used by the Secretary concerned without further specific authorization in law.

"(2) Property accepted under subsection (a) may not be used—

"(A) if the use of such property in connection with any program, project, or activity would result in the violation of any prohibition or limitation otherwise applicable to such program, project, or activity;

"(B) if the conditions attached to such property are inconsistent with applicable law or regulations;

"(C) if the use of such property would reflect unfavorably on ability of the Department of Defense, any employee of the Department, or any member of the armed forces to carry out any responsibility or duty of the Department in a fair and objective manner; or

"(D) if the use of such property would compromise the integrity or appearance of integrity of any program of the Department of Defense, or any individual involved in such a program.".

(c) Conforming Amendment.—Subsection (c) of such section, as redesignated by subsection (b)(1) of this section, is further amended in the flush matter following paragraph (4) by striking "benefit or use of the designated institution or organization" and inserting "purposes specified in subsection (a)".

(d) GAO Audits.—Such section is further amended by adding at the end the following new subsection:

"(f) The Comptroller General of the United States shall make periodic audits of real or personal property accepted under subsection (a) at such intervals as the Comptroller General determines to be warranted. The Comptroller General shall submit to Congress a report on the results of each such audit.".

SA 2475. Mr. BROWNBACK (for himself, Mr. Coburn, Mr. DeMint, Mr. Inhofe, Mr. Sessions, and Mr. Talent) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. PROTECTION OF CHILDREN AND PARENTAL INVOLVEMENT IN THE PERFORMANCE OF ABORTIONS FOR DEPENDENT CHILDREN OF MEMBERS OF THE ARMED FORCES.

Section 1093 of title 10, United States Code, is amended by adding at the end the following new subsections:

"(c) Parental Notice.—(1) A physician may not use facilities of the Department of Defense to perform an abortion on a pregnant unemancipated minor who is a child of a member of the armed forces unless—

"(A) the physician gives at least 48 hours actual notice, in person or by telephone, of the physician's intent to perform the abortion to—

"(i) the member of the armed forces, or another parent of the minor, if the minor has no managing conservator or guardian; or

"(ii) a court-appointed managing conservator or guardian;

"(B) the judge of an appropriate district court of the United States issues an order authorizing the minor to consent to the abortion as provided by subsection (d) or (e);

"(C) the appropriate district court of the United States by its inaction constructively authorizes the minor to consent to the abortion as provided by subsection (d) or (e); or

"(D) the physician performing the abortion—

"(i) concludes that on the basis of the physician's good faith clinical judgment, a condition exists that complicates the medical condition of the minor and necessitates the immediate abortion of her pregnancy to avert her death or to avoid a serious risk of substantial and irreversible impairment of a major bodily function; and

"(ii) certifies in writing to the appropriate medical official of the Department of Defense, and in the patient's medical record, the medical indications supporting the physician's judgment that the circumstances described by clause (i) exist.

"(2) If a person to whom notice may be given under paragraph (1)(A) cannot be notified after a reasonable effort, a physician may perform an abortion if the physician gives 48 hours constructive notice, by certified mail, restricted delivery, sent to the last known address, to the person to whom notice may be given under that paragraph. The period under this paragraph begins when the notice is mailed. If the person required to be notified is not notified within the 48-hour period, the abortion may proceed even if the notice by mail is not received.

"(3) The requirement that 48 hours actual notice be provided under this subsection may be waived by an affidavit of—

"(A) the member of the armed forces concerned, or another parent of the minor, if the minor has no managing conservator or guardian; or

"(B) a court-appointed managing conservator or guardian.

"(4) A physician may execute for inclusion in the minor's medical record an affidavit stating that, according to the best information and belief of the physician, notice or constructive notice has been provided as required by this subsection. Execution of an affidavit under this paragraph creates a presumption that the requirements of this subsection have been satisfied.

"(5) A certification required by paragraph (1)(D) is confidential and privileged and is not subject to disclosure, discovery, subpoena, or other legal process. Personal or identifying information about the minor, including her name, address, or social security number, may not be included in a certification under paragraph (1)(D). The physician must keep the medical records on the minor in compliance with regulations prescribed by the Secretary of Defense.

"(6) A physician who intentionally performs an abortion on a pregnant unemancipated minor in violation of this subsection commits an offense punishable by a fine not to exceed $10,000.

"(7) It is a defense to prosecution under this subsection that the minor falsely represented her age or identity to the physician to be at least 18 years of age by displaying an apparently valid governmental record of identification such that a reasonable person under similar circumstances would have relied on the representation. The defense does not apply if the physician is shown to have had independent knowledge of the minor's actual age or identity or failed to use due diligence in determining the minor's age or identity.

“(d) JUDICIAL APPROVAL.—(1) A pregnant unemancipated minor who is a child of a member of the armed forces and who wishes to have an abortion using facilities of the Department of Defense without notification to the member of the armed forces, another parent, her managing conservator, or her guardian may file an application for a court order authorizing the minor to consent to the performance of an abortion without notification to either of her parents or a managing conservator or guardian.

“(2) Any application under this subsection may be filed in any appropriate district court of the United States. In the case of a minor who elects not to travel to the United States in pursuit of an order authorizing the abortion, the court may conduct the proceedings in the case of such application by telephone.

“(3) An application under this subsection shall be made under oath and include—

“(A) a statement that the minor is pregnant;

“(B) a statement that the minor is unmarried, is under 18 years of age, and has not had her disabilities removed;

“(C) a statement that the minor wishes to have an abortion without the notification of either of her parents or a managing conservator or guardian; and

“(D) a statement as to whether the minor has retained an attorney and, if she has retained an attorney, the name, address, and telephone number of her attorney.

“(4) The court shall appoint a guardian ad litem for the minor. If the minor has not retained an attorney, the court shall appoint an attorney to represent the minor. If the guardian ad litem is an attorney, the court may appoint the guardian ad litem to serve as the minor's attorney.

“(5) The court may appoint to serve as guardian ad litem for a minor—

“(A) a psychiatrist or an individual licensed or certified as a psychologist;

“(B) a member of the clergy;

“(C) a grandparent or an adult brother, sister, aunt, or uncle of the minor; or

“(D) another appropriate person selected by the court.

“(6) The court shall determine within 48 hours after the application is filed whether the minor is mature and sufficiently well-informed to make the decision to have an abortion performed without notification to either of her parents or a managing conservator or guardian, whether notification would not be in the best interest of the minor, or whether notification may lead to physical, sexual, or emotional abuse of the minor. If the court finds that the minor is mature and sufficiently well informed, that notification would not be in the minor's best interest, or that notification may lead to physical, sexual, or emotional abuse of the minor, the court shall enter an order authorizing the minor to consent to the performance of the abortion without notification to either of her parents or a managing conservator or guardian and shall execute the required forms.

“(7) If the court fails to rule on the application within the period specified in paragraph (6), the application shall be deemed to be granted and the physician may perform the abortion as if the court had issued an order authorizing the minor to consent to the performance of the abortion without notification under subsection (c).

“(8) If the court finds that the minor does not meet the requirements of paragraph (6), the court may not authorize the minor to consent to an abortion without the notification authorized under subsection (c)(1).

“(9) The court may not notify a parent, managing conservator, or guardian that the minor is pregnant or that the minor wants to have an abortion. The court proceedings shall be conducted in a manner that protects the anonymity of the minor. The application and all other court documents pertaining to the proceedings are confidential and privileged and are not subject to disclosure, discovery, subpoena, or other legal process. The minor may file the application using a pseudonym or using only her initials.

“(10) An order of the court issued under this subsection is confidential and privileged and is not subject to disclosure, discovery, subpoena, or other legal process. The order may not be released to any person but the pregnant minor, the pregnant minor's guardian ad litem, the pregnant minor's attorney, another person designated to receive the order by the minor, or a governmental agency or attorney in a criminal or administrative action seeking to assert or protect the interest of the minor.

“(11) A filing fee is not required of and court costs may not be assessed against a minor filing an application under this subsection.

“(e) APPEAL.—(1) A minor whose application under subsection (d) is denied may appeal to the court of appeals of the United States having jurisdiction of the district court of the United States that denied the application. If the court of appeals fails to rule on the appeal within 48 hours after the appeal is filed, the appeal shall be deemed to be granted and the physician may perform the abortion using facilities of the Department of Defense as if the court had issued an order authorizing the minor to consent to the performance of the abortion using facilities of the Department of Defense without notification under subsection (c). Proceedings under this subsection shall be given precedence over other pending matters to the extent necessary to assure that the court reaches a decision promptly.

“(2) A ruling of the court of appeals under this subsection is confidential and privileged and is not subject to disclosure, discovery, subpoena, or other legal process. The ruling may not be released to any person but the pregnant minor, the pregnant minor's guardian ad litem, the pregnant minor's attorney, another person designated to receive the ruling by the minor, or a governmental agency or attorney in a criminal or administrative action seeking to assert or protect the interest of the minor.

“(3) A filing fee is not required of and court costs may not be assessed against a minor filing an appeal under this subsection.

“(f) RULE OF CONSTRUCTION.—Nothing in subsections (c), (d), or (e) shall be construed to create any exemption to the restrictions contained in subsections (a) and (b).

“(g) DEFINITIONS.—In this section:

“(1) The term ‘abortion’ means the use of any means at a medical facility of the Department of Defense to terminate the pregnancy of a female known by an attending physician to be pregnant, with the intention that the termination of the pregnancy by those means will with reasonable likelihood cause the death of the fetus. The term applies only to an unemancipated minor known by an attending physician to be pregnant and may not be construed to limit a minor's access to contraceptives.

“(2) The term ‘appropriate district court of the United States’ means—

“(A) with respect to a proposed abortion at a particular Department of Defense medical facility in the United States or its territories, the district court of the United States having proper venue in relation to that facility; or

“(B) if the minor is seeking an abortion at a particular Department of Defense facility outside the United States or its territories—

“(i) if the minor elects to travel to the United States in pursuit of an order authorizing the abortion, the district court of the United States having proper venue in the district in which the minor first arrives from outside the United States; or

“(ii) if the minor elects not to travel to the United States in pursuit of an order authorizing the abortion, the district court of the United States for the district in which the minor last resided.

“(3) The term ‘fetus’ means an individual human organism from fertilization until birth.

“(4) The term ‘guardian’ means a court-appointed guardian of the person of the minor.

“(5) The term ‘physician’ means an individual licensed to practice medicine.

“(6) The term ‘unemancipated minor’ includes a minor who is not a member of the armed forces and who—

“(A) is unmarried; and

“(B) has not had any disabilities of minority removed.”.

SA 2476. Mr. DORGAN (for himself, Mr. DURBIN, Mrs. BOXER, and Mr. LAUTENBERG) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place, insert the following:

TITLE—SPECIAL COMMITTEE OF SENATE ON WAR AND RECONSTRUCTION CONTRACTING

SEC. ___01. FINDINGS.

Congress makes the following findings:

(1) The wars in Iraq and Afghanistan have exerted very Large demands on the Treasury of the United States and required tremendous sacrifice by the members of the Armed Forces of the United States.

(2) Congress has a constitutional responsibility to ensure comprehensive oversight of the expenditure of United States Government funds.

(3) Waste and corporate abuse of United States Government resources are particularly unacceptable and reprehensible during times of war.

(4) The magnitude of the funds involved in the reconstruction of Afghanistan and Iraq and the war on terrorism, together with the speed with which these funds have been committed, presents a challenge to the effective performance of the traditional oversight function of Congress and the auditing functions of the executive branch.

(5) The Senate Special Committee to Investigate the National Defense Program, popularly know as the Truman Committee, which was established during World War II, offers a constructive precedent for bipartisan oversight of wartime contracting that can also

be extended to wartime and postwar reconstruction activities.

(6) The Truman Committee is credited with an extremely successful investigative effort, performance of a significant public education role, and achievement of fiscal savings measured in the billions of dollar.

(7) The public has a right to expect that taxpayer resources will be carefully disbursed and honestly spent.

SEC. 02. SPECIAL COMMITTEE ON WAR AND RECONSTRUCTION CONTRACTING.

There is established a special committee of the Senate to be known as the Special Committee on War and Reconstruction Contracting hereafter in this title referred to as the "Special Committee").

SEC. ___03. PURPOSE AND DUTIES.

(a) PURPOSE.—The purpose of the Special Committee is to investigate the awarding and performance of contracts military, security, and reconstruction activities in Afghanistan and Iraq and to support the prosecution of the war on terrorism.

(B) DUTIES.—The Special Committee shall examine the contracting actions described in subsection (a) and report on such actions, in accordance with this section, regarding—

(1) bidding, contracting, accounting, and auditing standards for Federal Government contracts;

(2) methods of contracting, including sole-source contracts and limited competition or non-competitive contracts;

(3) subcontracting under large, comprehensive contracts;

(4) oversight procedures;

(5) consequences of cost-plus and fixed price contracting;

(6) allegations of wasteful and fraudulent practices;

(7) accountability of contractors and Government officials involved in procurement and contracting;

(8) penalties for violations of law and abuses in the awarding and performance of Government contracts; and

(9) lessons learned from the contracting process used in Iraq and Afghanistan and in connection with the war on terrorism with respect to the structure, coordination, management policies, and procedures of the Federal Government.

(c) INVESTIGATION OF WASTEFUL AND FRAUDULENT PRACTICES.—The investigation by the Special Committee of allegations of wasteful and fraudulent practices under subsection (b)(6) shall include investigation of allegations regarding any contract or spending entered into, supervised by, or otherwise involving the Coalition Provisional Authority, regardless of whether or not such contract or spending involved appropriated funds of the United States.

(d) EVIDENCE CONSIDERED.—In carrying out its duties, the Special Committee shall ascertain and evaluate the evidence developed by all relevant governmental agencies regarding the facts and circumstances relevant to contracts described in subsection (a) and any contract or spending covered by subsection (c).

SEC. 04. COMPOSITION OF SPECIAL COMMITTEE.

(a) MEMBERSHIP.—

(1) IN GENERAL.—The Special Committee shall consist of 7 members of the Senate of whom—

(A) 4 members shall be appointed by the President pro tempore of the Senate, in consultation with the majority leader of the Senate; and

(B) 3 members shall be appointed by the minority leader of the Senate.

(2) DATE.—The appointments of the members of the Special Committee shall be made not later than 90 days after the date of the enactment of this Act.

(b) VACANCIES.—Any vacancy in the Special Committee shall not affect its powers, but shall be filled in the same manner as the original appointment.

(c) SERVICE.—Service of a Senator as a member, chairman, or ranking member of the Special Committee shall not be taken into account for the purposes of paragraph (4) of rule XXV of the Standing Rules of the Senate.

(d) CHAIRMAN AND RANKING MEMBER.—The chairman of the Special Committee shall be designated by the majority leader of the Senate, and the ranking member of the Special Committee shall be designated by the minority leader of the Senate.

(e) QUORUM.—

(1) REPORTS AND RECOMMENDATIONS.—A majority of the members of the Special Committee shall constitute a quorum for the purpose of reporting a matter or recommendation to the Senate.

(2) TESTIMONY.—One member of the Special Committee shall constitute a quorum for the purpose of taking testimony.

(3) OTHER BUSINESS.—A majority of the members of the Special Committee, or ⅓ of the members of the Special Committee if at least one member of the minority party is present, shall constitute a quorum for the purpose of conducting any other business of the Special Committee.

SEC. 05. RULES AND PROCEDURES.

(a) GOVERNANCE UNDER STANDING RULES OF SENATE.—Except as otherwise specifically provided in this resolution, the investigation, study, and hearings conducted by the Special Committee shall be governed by the Standing Rules of the Senate.

(b) ADDITIONAL RULES AND PROCEDURES.—The Special Committee may adopt additional rules or procedures of the chairman and ranking member agree that such additional rules or procedures are necessary to enable the Special Committee to conduct the investigation, study, and hearings authorized by this resolution. Any such additional rules and procedures—

(1) shall not be inconsistent with this resolution or the Standing Rules of the Senate; and

(2) shall become effective upon publication in the Congressional Record.

SEC. 06. AUTHORITY OF SPECIAL COMMITTEE.

(a) IN GENERAL.—The Special Committee may exercise all of the powers and responsibilities of a committee under rule XXVI of the Standing Rules of the Senate.

(b) HEARINGS.—The Special Committee or, at its direction, any subcommittee or member of the Special Committee, may, for the purpose of carrying out this resolution—

(1) hold such hearings, sit and act at such times and places, take such testimony, receive such evidence, and administer such oaths as the Special Committee or such subcommittee or member considers advisable; and

(2) require, by subpoena or otherwise, the attendance and testimony of such witnesses and the production of such books, records, correspondence, memoranda, papers, documents, tapes, and materials as the Special Committee considers advisable.

(c) ISSUANCE AND ENFORCEMENT OF SUBPOENAS.—

(1) ISSUANCE.—Subpoenas issued under subsection (b) shall bear the signature of the Chairman of the Special Committee and shall be served by any person or class of persons designated by the Chairman for that purpose.

(2) ENFORCEMENT.—In the case of contumacy or failure to obey a subpoena issued under subsection (a), the United States district court for the judicial district in which the subpoenaed person resides, is served, or may be found may issue an order requiring such person to appear at any designated place to testify or to produce documentary or other evidence. Any failure to obey the order of the court may be punished by the court as a contempt of that court.

(d) MEETINGS.—The Special Committee may sit and act at any time or place during sessions, recesses, and adjournment periods of the Senate.

SEC. 07. REPORTS.

(a) INITIAL REPORT.—The Special Committee shall submit to the Senate a report on the investigation conducted pursuant to section ___03 not later than 270 days after the appointment of the Special Committee members.

(b) UPDATED REPORT.—The Special Committee shall submit an updated report on such investigation not later than 180 days after the submission of the report under subsection (a).

(c) ADDITIONAL REPORTS.—The Special Committee may submit any additional report or reports that the Special Committee considers appropriate.

(d) FINDINGS AND RECOMMENDATIONS.—The reports under this section shall include findings and recommendations of the Special Committee regarding the matters considered under section 03.

(e) DISPOSITION OF REPORTS.—Any report made by the Special Committee when the Senate is not in session shall be submitted to the Clerk of the Senate. Any report made by the Special Committee shall be referred to the committee or committees that have jurisdiction over the subject matter of the report.

SEC. ___08. ADMINISTRATIVE PROVISIONS.

(A) STAFF.—

(1)(1) IN GENERAL.—The Special Committee may employ in accordance with paragraph (2) a staff composed of such clerical, investigatory, legal, technical, and other personnel as the Special Committee, or the chairman or the ranking member, considers necessary or appropriate.

(2) APPOINTMENT OF STAFF.—

(A) IN GENERAL.—The Special Committee shall appoint a staff for the majority, a staff for the minority, and a nondesignated staff.

(B) MAJORITY STAFF.—The minority staff shall be appointed, and may be removed, by the chairman and shall work under the general supervision and direction of the chairman.

(C) MINORITY STAFF.—The minority staff shall be appointed, and may be removed, by the ranking member of the Special Committee, and shall work under the general supervision and direction of such member.

(D) NONDESIGNATED STAFF.—Nondesignated staff shall be appointed, and may be removed, jointly by the chairman and the ranking member, and shall work under the joint general supervision and direction of the chairman and ranking member.

(b) COMPENSATION.

(1) MAJORITY STAFF.—The chairman shall fix the compensation of all personnel of the majority staff of the Special Committee.

(2) MINORITY STAFF.—The ranking member shall fix the compensation of all personnel of the minority staff of the Special Committee.

(3) NONDESIGNATED STAFF.—The chairman and ranking member shall jointly fix the

compensation of all nondesignated staff of the Special Committee, within the budget approved for such purposes for the Special Committee.

(c) REIMBURSEMENT OF EXPENSES.—The Special Committee may reimburse the members of its staff for travel, subsistence, and other necessary expenses incurred by such staff members in the performance of their functions for the Special Committee.

(d) PAYMENT OF EXPENSES.—There shall be paid out of the applicable accounts of the Senate such sums as may be necessary for the expenses of the Special Committee. Such payments shall be made on vouchers signed by the chairman of the Special Committee and approved in the manner directed by the Committee on Rules and Administration of the Senate. Amounts made available under this subsection shall be expended in accordance with regulations prescribed by the Committee on Rules and Administration of the Senate.

SEC. 09. TERMINATION.

The Special Committee shall terminate on February 28, 2007.

SEC. ___10. SENSE OF SENATE ON CERTAIN CLAIMS REGARDING THE COALITION PROVISIONAL AUTHORITY.

It is the sense of the Senate that any claim of fraud, waste, or abuse under the False Claims Act that involves any contract or spending by the Coalition Provisional Authority should be considered a claim against the United States Government.

SA 2477. Mr. TALENT (for himself, Mr. WARNER, Mr. STEVENS, Mr. CHAMBLISS, Mr. CORNYN, Mr. LIEBERMAN, Mrs. BOXER, Mrs. FEINSTEIN, Ms. COLLINS, Mr. DEWINE, Mr. DODD, and Mr. INHOFE) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

Strike section 131 and insert the following:

SEC. 131. C–17 AIRCRAFT PROGRAM AND INTER-THEATER AIRLIFT REQUIREMENTS.

(a) MULTIYEAR PROCUREMENT AUTHORIZED.—The Secretary of the Air Force may, in accordance with section 2306b of title 10, United States Code, enter into a multiyear contract, beginning with the fiscal year 2006 program year, for the procurement of up to 42 additional C–17 aircraft.

(b) CERTIFICATION REQUIRED.—Before the exercise of the authority in subsection (a), the Secretary of Defense shall submit to the congressional defense committees a certification that the additional airlift capacity to be provided by the C–17 aircraft to be procured under the authority is consistent with the quadrennial defense review under section 118 of title 10, United States Code, to be submitted to Congress with the budget of the President for fiscal year 2007 (as submitted under section 1105(a) of title 31, United States Code), as qualified by subsection (c).

(c) ADDITIONAL EXPLANATION OF INTER-THEATER AIRLIFT REQUIREMENTS.—

(1) INCLUSION IN QUADRENNIAL DEFENSE REVIEW.—The Secretary of Defense shall, as part of the quadrennial defense review in 2005 and in accordance with the provisions of section 118(d)(9) of title 10, United States Code, carry out an assessment of the inter-theater airlift capabilities required to support the national defense strategy.

(2) ADDITIONAL INFORMATION.—In including the assessment required by paragraph (1) in the quadrennial defense review as required by that paragraph, the Secretary shall explain how the recommendations for future airlift force structure requirements in that quadrennial defense review take into account the following:

(A) The increased airlift demands associated with the Army modular brigade combat teams.

(B) The objective to deliver a brigade combat team anywhere in the world within four to seven days, a division within 10 days, and multiple divisions within 20 days.

(C) The increased airlift demands associated with the expanded scope of operational activities of the Special Operations forces.

(D) The realignment of the overseas basing structure in accordance with the Integrated Presence and Basing Strategy.

(E) Adjustments in the force structure to meet homeland defense requirements.

(F) The potential for simultaneous homeland defense activities and major combat operations.

(G) Potential changes in requirements for intra-theater airlift or sealift capabilities.

(d) MAINTENANCE OF C-17 AIRCRAFT PRODUCTION LINE.—In the event the Secretary of Defense is unable to make the certification specified in subsection (b), the Secretary of the Air Force should procure sufficient C-17 aircraft to maintain the C-17 aircraft production line at not less than the minimum sustaining rate until sufficient flight test data regarding improved C–5 aircraft mission capability rates as a result of the Reliability Enhancement and Re-engining Program and Avionics Modernization Program have been obtained to determine the validity of assumptions concerning the C–5 aircraft used in the Mobility Capabilities Study.

SA 2478. Mr. LAUTENBERG proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 286, strike lines 1 through 3, and insert the following:

SEC. 1072. IMPROVEMENTS OF INTERNAL SECURITY ACT OF 1950.

(a) PROHIBITION ON HOLDING OF SECURITY CLEARANCE AFTER CERTAIN VIOLATIONS ON HANDLING OF CLASSIFIED INFORMATION.—

(1) PROHIBITION.—Section 4 of the Internal Security Act of 1950 (50 U.S.C. 783) is amended by adding at the end the following new subsection:

"(f) No person who knowingly violates a law or regulation regarding the handling of classified information in a manner that could have a significant adverse impact on the national security of the United States, including the knowing disclosure of the identity of a covert agent of the Central Intelligence Agency to a person not authorized to receive such information, shall be permitted to hold a security clearance for access to classified information.".

(2) APPLICABILITY.—Subsection (f) of section 4 of the Internal Security Act of 1950, as added by paragraph (1), shall apply to any individual holding a security clearance on or after the date of the enactment of this Act with respect to any knowing violation of law or regulation described in such subsection, regardless of whether such violation occurs before, on, or after that date.

(b) CLARIFICATION OF AUTHORITY TO ISSUE SECURITY REGULATIONS AND ORDERS.—

SA 2479. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2445 submitted by Mr. BROWNBACK (for himself, Mr. INHOFE, and Mr. DEMINT) and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 3 of the amendment, strike lines 3 through 17, and insert the following:

"(D) it is necessary to preserve the life or health of the minor.".

SA 2480. Mrs. FEINSTEIN submitted an amendment intended to be proposed to amendment SA 2475 submitted by Mr. BROWNBACK (for himself, Mr. COBURN, Mr. DEMINT, Mr. INHOFE, Mr. SESSIONS, and Mr. TALENT) and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 3 of the amendment, strike lines 3 through 17, and insert the following:

"(D) it is necessary to preserve the life or health of the minor.".

SA 2481. Mr. SALAZAR (for himself, Mr. LAUTENBERG, Mr. REED, Mr. DURBIN, and Mr. KYL) submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construciton, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. SENSE OF SENATE ON COMMON REMOTELY OPERATED WEAPONS STATION (CROWS) PLATFORM.

(a) FINDINGS.—The Senate makes the following findings:

(1) With only a few systems deployed, the Common Remotely Operated Weapons Station (CROWS) platform is already saving the lives of soldiers today in Iraq by moving soldiers out of the exposed gunner's seat and into the protective shell of an up-armored Humvee.

(2) The Common Remotely Operated Weapons Station platform dramatically improves

battlefield awareness by providing a laser rangefinder, night vision, telescopic vision, a fire control computer that allows on-the-move target acquisition, and one-shot one-kill accuracy at the maximum range of a weapon.

(3) As they become available, new technologies can be incorporated into the Common Remotely Operated Weapons Station platform, thus making the platform scalable.

(4) The Army has indicated that an additional $206,000,000 will be required in fiscal year 2006 to procure 750 Common Remotely Operated Weapons Station units for the Armed Forces, and to prepare for future production of such weapons stations.

(b) Sense of Senate.—It is the sense of the Senate that the President should include in the next request submitted to Congress for supplemental funding for military operations in Iraq and Afghanistan sufficient funds for the production in fiscal year 2006 of a number of Common Remotely Operated Weapons Station units that is adequate to meet the requirements of the Armed Forces.

SA 2482. Mr. DeWINE submitted an amendment intended to be proposed by him to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Deparment of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

At the end of subtitle B of title VII, add the following:

SEC. 718. STUDY AND REPORTS ON CIVILIAN AND MILITARY PARTNERSHIP PROJECT.

(a) Study.—The Secretary of the Air Force shall conduct a study on the progress and success of the implementation of the military and civilian partnership project.

(b) Reports.—

(1) Interim report.—Not later than March 1, 2006, the Secretary of the Air Force shall submit to the appropriate congressional committees an interim report on the implementation of the military and civilian partnership project. The interim report shall specifically describe any issues that require action by Congress in order to fully implement such project.

(2) Final report.—Not later than December 31, 2006, the Secretary of the Air Force shall submit to the appropriate congressional committees a final report on the study required by subsection (a), including an assessment of the progress and success of the implementation of the military and civilian partnership project.

(c) Definitions.—In this section:

(1) Appropriate congressional committees.—The term "appropriate congressional committees" means the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives.

(2) Military and civilian partnership project.—The term "military and civilian partnership project" means the military and civilian partnership project described in the Centennial Memorandum of Agreement of December 17, 2003, and carried out at the Wright-Patterson Air Force Base.

SA 2483. Mr. DURBIN (for Mr. Bayh (for himself, Mr. Durbin, and Ms. Landrieu)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle A of title VI, add the following:

SEC. ___. INCOME REPLACEMENT PAYMENTS FOR RESERVES EXPERIENCING EXTENDED AND FREQUENT MOBILIZATION FOR ACTIVE DUTY SERVICE.

(a) In General.—Chapter 19 of title 37, United States Code, is amended by adding at the end the following new section:

"§ 910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service

"(a) Payment Required.—The Secretary concerned shall pay to an eligible member of a reserve component of the armed forces an amount equal to the monthly active-duty income differential of the member, as determined by the Secretary. The payments shall be made on a monthly basis.

"(b) Eligibility.—Subject to subsection (c), a reserve component member is entitled to a payment under this section for any full month of active duty of the member, while on active duty under an involuntary mobilization order, following the date on which the member—

"(1) completes 180 continuous days of service on active duty under such an order;

"(2) completes 24 months on active duty during the previous 60 months under such an order; or

"(3) is involuntarily mobilized for service on active duty six months or less following the member's separation from the member's previous period of active duty.

"(c) Minimum and Maximum Payment Amounts.—(1) A payment under this section shall be made to a member for a month only if the amount of the monthly active-duty income differential for the month is greater than $50.

"(2) Notwithstanding the amount determined under subsection (d) for a member for a month, the monthly payment to a member under this section may not exceed $3,000.

"(d) Monthly Active-Duty Income Differential.—For purposes of this section, the monthly active-duty income differential of a member is the difference between—

"(1) the average monthly civilian income of the member; and

"(2) the member's total monthly military compensation.

"(e) Definitions.—In this section:

"(1) The term 'average monthly civilian income', with respect to a member of a reserve component, means the amount, determined by the Secretary concerned, of the earned income of the member for either the 12 months preceding the member's mobilization or the 12 months covered by the member's most recent Federal income tax filing, divided by 12.

"(2) The term 'total monthly military compensation' means the amount, computed on a monthly basis, of the sum of—

"(A) the amount of the regular military compensation (RMC) of the member; and

"(B) any amount of special pay or incentive pay and any allowance (other than an allowance included in regular military compensation) that is paid to the member on a monthly basis.".

(b) Clerical Amendment.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"910. Replacement of lost income: involuntarily mobilized reserve component members subject to extended and frequent active duty service.".

(c) Effective Date.—Section 910 of title 37, United States Code, as added by subsection (a), shall apply for months after December 2005.

(d) Limitation on Fiscal Year 2006 Obligations.—During fiscal year 2006, obligations incurred under section 910 of title 37, United States Code, to provide income replacement payments to involuntarily mobilized members of a reserve component who are subject to extended and frequent active duty service may not exceed $60,000,000.

SA 2484. Mr. WARNER (for Mr. Santorum) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. WARHEAD/GRENADE SCIENTIFIC BASED MANUFACTURING TECHNOLOGY.

(a) Additional Amount for Research, Development, Test, and Evaluation for the Army.—The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $1,000,000.

(b) Availability of Amount.—Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by subsection (a), $1,000,000 may be available for Weapons and Ammunition Technology (PE#602624A) for Warhead/Grenade Scientific Based Manufacturing Technology.

(c) Offset.—The amount authorized to be appropriated by section 301(4) for operation and maintenance, Air Force activities is hereby reduced by $1,000,000.

SA 2485. Mr. WARNER (for Mr. Akaka) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. ESTABLISHMENT OF NATIONAL FOREIGN LANGUAGE COORDINATION COUNCIL.

(a) Establishment.—There is established the National Foreign Language Coordination Council (in this section referred to as the "Council"), which shall be an independent establishment as defined under section 104 of title 5, United States Code.

(b) Membership.—The Council shall consist of the following members or their designees:

(1) The National Language Director, who shall serve as the chairperson of the Council.

(2) The Secretary of Education.

(3) The Secretary of Defense.

(4) The Secretary of State.

(5) The Secretary of Homeland Security.

(6) The Attorney General.

(7) The Director of National Intelligence.

(8) The Secretary of Labor.

(9) The Director of the Office of Personnel Management.

(10) The Director of the Office of Management and Budget.

(11) The Secretary of Commerce.

(12) The Secretary of Health and Human Services.

(13) The Secretary of the Treasury.

(14) The Secretary of Housing and Urban Development.

(15) The Secretary of Agriculture.

(16) The heads of such other Federal agencies as the Council considers appropriate.

(c) Responsibilities.—

(1) In general.—The Council shall be charged with—

(A) developing a national foreign language strategy, within 18 months of the date of enactment of this section, in consultation with—

(i) State and local government agencies;

(ii) academic sector institutions;

(iii) foreign language related interest groups;

(iv) business associations;

(v) industry; and

(vi) heritage associations;

(B) conducting a survey of Federal agency needs for foreign language area expertise; and

(C) overseeing the implementation of such strategy through—

(i) execution of subsequent law; and

(ii) the promulgation and enforcement of rules and regulations.

(2) Strategy content.—The strategy developed under paragraph (1) shall include—

(A) identification of crucial priorities across all sectors;

(B) identification and evaluation of Federal foreign language programs and activities, including—

(i) recommendations on coordination;

(ii) program enhancements; and

(iii) allocation of resources so as to maximize use of resources;

(C) needed national policies and corresponding legislative and regulatory actions in support of, and allocation of designated resources to, promising programs and initiatives at all levels (Federal, State, and local), especially in the less commonly taught languages that are seen as critical for national security and global competitiveness in the next 20 to 50 years;

(D) effective ways to increase public awareness of the need for foreign language skills and career paths in all sectors that can employ those skills, with the objective of increasing support for foreign language study among—

(i) Federal, State, and local leaders;

(ii) students;

(iii) parents;

(iv) elementary, secondary, and postsecondary educational institutions; and

(v) potential employers;

(E) incentives for related educational programs, including foreign language teacher training;

(F) coordination of cross-sector efforts, including public-private partnerships;

(G) coordination initiatives to develop a strategic posture for language research and recommendations for funding for applied foreign language research into issues of national concern;

(H) assistance for—

(i) the development of foreign language achievement standards; and

(ii) corresponding assessments for the elementary, secondary, and postsecondary education levels, including the National Assessment of Educational Progress in foreign languages;

(I) development of—

(i) language skill-level certification standards;

(ii) an ideal course of pre-service and professional development study for those who teach foreign language;

(iii) suggested graduation criteria for foreign language studies and appropriate non-language studies, such as—

(I) international business;

(II) national security;

(III) public administration;

(IV) health care;

(V) engineering;

(VI) law;

(VII) journalism; and

(VIII) sciences; and

(J) identification of and means for replicating best practices at all levels and in all sectors, including best practices from the international community.

(d) Meetings.—The Council may hold such meetings, and sit and act at such times and places, as the Council considers appropriate, but shall meet in formal session at least 2 times a year. State and local government agencies and other organizations (such as academic sector institutions, foreign language-related interest groups, business associations, industry, and heritage community organizations) shall be invited, as appropriate, to public meetings of the Council at least once a year.

(e) Staff.—

(1) In general.—The Director may appoint and fix the compensation of such additional personnel as the Director considers necessary to carry out the duties of the Council.

(2) Details from other agencies.—Upon request of the Council, the head of any Federal agency may detail, on a reimbursable basis, any of the personnel of such agency to the Council.

(3) Experts and consultants.—With the approval of the Council, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(f) Powers.—

(1) Delegation.—Any member or employee of the Council may, if authorized by the Council, take any action that the Council is authorized to take in this section.

(2) Information.—The Council may secure directly from any Federal agency such information, consistent with Federal privacy laws, the Council considers necessary to carry out its responsibilities. Upon request of the Director, the head of such agency shall furnish such information to the Council.

(3) Donations.—The Council may accept, use, and dispose of gifts or donations of services or property.

(4) Mail.—The Council may use the United States mail in the same manner and under the same conditions as other Federal agencies.

(g) Conferences, Newsletter, and Website.—In carrying out this section, the Council—

(1) may arrange Federal, regional, State, and local conferences for the purpose of developing and coordinating effective programs and activities to improve foreign language education;

(2) may publish a newsletter concerning Federal, State, and local programs that are effectively meeting the foreign language needs of the nation; and

(3) shall create and maintain a website containing information on the Council and its activities, best practices on language education, and other relevant information.

(h) Reports.—Not later than 90 days after the date of enactment of this section, and annually thereafter, the Council shall prepare and transmit to the President and Congress a report that describes the activities of the Council and the efforts of the Council to improve foreign language education and training and impediments, including any statutory and regulatory restrictions, to the use of each such program.

(i) Establishment of a National Language Director.—

(1) In general.—There is established a National Language Director who shall be appointed by the President. The National Language Director shall be a nationally recognized individual with credentials and abilities across all of the sectors to be involved with creating and implementing long-term solutions to achieving national foreign language and cultural competency.

(2) Responsibilities.—The National Language Director shall—

(A) develop and oversee the implementation of a national foreign language strategy across all sectors;

(B) establish formal relationships among the major stakeholders in meeting the needs of the Nation for improved capabilities in foreign languages and cultural understanding, including Federal, State, and local government agencies, academia, industry, labor, and heritage communities; and

(C) coordinate and lead a public information campaign that raises awareness of public and private sector careers requiring foreign language skills and cultural understanding, with the objective of increasing interest in and support for the study of foreign languages among national leaders, the business community, local officials, parents, and individuals.

(3) Compensation.—The National Language Director shall be paid at a rate of pay payable for a position at level V of the Executive Schedule under section 5316 of title 5, United States Code.

(j) Encouragement of State Involvement.—

(1) State contact persons.—The Council shall consult with each State to provide for the designation by each State of an individual to serve as a State contact person for the purpose of receiving and disseminating information and communications received from the Council.

(2) State interagency councils and lead agencies.—Each State is encouraged to establish a State interagency council on foreign language coordination or designate a lead agency for the State for the purpose of assuming primary responsibility for coordinating and interacting with the Council and State and local government agencies as necessary.

(k) Authorization of Appropriations.—There are authorized to be appropriated such sums as necessary to carry out this section.

SA 2486. Mr. WARNER (for Mr. ENSIGN) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title III, add the following:

SEC. 330. POINT OF MAINTENANCE/ARSENAL/DEPOT AIT INITIATIVE.

(a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, ARMY.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby increased by $10,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army, as increased by subsection (a), $16,000,000 may be available for the Point of Maintenance/Arsenal/Depot AIT (AD-AIT) Initiative.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $10,000,000 to be derived from amounts authorized to be appropriated by that section for the Air Force.

SA 2487. Mr. WARNER (for Mr. ENSIGN) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title III, add the following:

SEC. 330. LONG ARM HIGH-INTENSITY ARC METAL HALIDE HANDHELD SEARCHLIGHT.

(a) ADDITIONAL AMOUNT FOR OPERATION AND MAINTENANCE, ARMY.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby increased by $4,500,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army, as increased by subsection (a), $4,500,000 may be available for the Long Arm High-Intensity Arc Metal Halide Handheld Searchlight.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $4,500,000, with the amount of the reduction to be derived from amounts authorized to be appropriated by that section for the Air Force.

SA 2488. Mr. WARNER (for Mr. COLEMAN) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 92, after line 25, add the following:

SEC. 538. PROMOTION OF FOREIGN LANGUAGE SKILLS AMONG MEMBERS OF THE RESERVE OFFICERS' TRAINING CORPS.

(a) IN GENERAL.—The Secretary of Defense shall support the acquisition of foreign language skills among cadets and midshipmen in the Reserve Officers' Training Corps, including through the development and implementation of—

(1) incentives for cadets and midshipmen to participate in study of a foreign language, including special emphasis for Arabic, Chinese, and other "strategic languages", as defined by the Secretary of Defense in consultation with other relevant agencies; and

(2) a recruiting strategy to target foreign language speakers, including members of heritage communities, to participate in the Reserve Officers' Training Corps.

(b) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary shall submit to the congressional defense committees a report on the actions taken to carry out this section.

SA 2489. Mr. WARNER (for Mr. BINGAMAN (for himself and Mr. DOMENICI) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. FIELD PROGRAMMABLE GATE ARRAY.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, AIR FORCE.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $3,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by subsection (a), $3,000,000 may be available for Space Technology (PE # 0602601F) for research and development on the reliability of field programmable gate arrays for space applications, including design of an assurance strategy, reference architectures, research and development on reliability and radiation hardening, and outreach to industry and localities to develop core competencies.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) is hereby reduced by $3,000,000.

SA 2490. Mr. WARNER (for Mr. SALAZAR) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title III, add the following:

SEC. ___. DEPARTMENT OF DEFENSE SUPPORT FOR CERTAIN PARALYMPIC SPORTING EVENTS.

(a) PROVISION OF SUPPORT.—Subsection (c) of section 2564 of title 10, United States Code, is amended by adding at the end the following new paragraphs:

"(4) A sporting event sanctioned by the United States Olympic Committee through the Paralympic Military Program.

"(5) A national or international Paralympic sporting event (other than one covered by paragraph (3) or (4))—

"(A) which is—

"(i) held in the United States or any of its territories or commonwealths;

"(ii) governed by the International Paralympic Committee; and

"(iii) sanctioned by the United States Olympic Committee; and

"(B) for which participation exceeds 100 amateur athletes.".

(b) FUNDING AND LIMITATIONS.—Such section is further amended—

(1) by redesignating subsections (d), (e), and (f) as subsections (e), (f), and (g), respectively; and

(2) by inserting after subsection (c) the following new subsection:

"(d) FUNDING FOR SUPPORT OF CERTAIN EVENTS.—(1) Funds to provide support for a sporting event described in paragraph (4) or (5) of subsection (c) shall be derived from the Support for International Sporting Competitions, Defense account established by section 5802 of Public Law 104–208 (110 Stat. 3009–522), notwithstanding any limitation in such section relating to the availability of funds in such account for support of international sporting competitions.

"(2) The total amount that may be expended in any fiscal year to provide support for a sporting event described in paragraph (5) of subsection (c) may not exceed $1,000,000.".

SA 2491. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle E of title II, add the following:

SEC. 244. DELAYED EFFECTIVE DATE FOR LIMITATION ON PROCUREMENT OF SYSTEMS NOT GPS-EQUIPPED.

(a) DELAYED EFFECTIVE DATE.—Section 152(b) of the National Defense Authorization Act for Fiscal Year 1994 (Public Law 103–160; 107 Stat. 1578), as amended by section 218(e) of the Strom Thurmond National Defense Authorization Act for Fiscal Year 1999 (Public Law 105–261; 112 Stat. 1952; 10 U.S.C. 2281 note), is further amended by striking "2005" and inserting "2007".

(b) RATIFICATION OF ACTIONS.—Any obligation or expenditure of funds by the Department of Defense during the period beginning on October 1, 2005, and ending on the date of the enactment of this Act to modify or procure a Department of Defense aircraft, ship, armored vehicle, or indirect-fire weapon system that is not equipped with a Global Positioning System receiver is hereby ratified.

SA 2492. Mr. WARNER (for Mr. KENNEDY (for himself, Ms. COLLINS, Mr. ROBERTS, Mr. SANTORUM, Ms. MIKULSKI, Mr. LIEBERMAN, Mr. ALEXANDER, Mrs. CLINTON, Mrs. DOLE, Ms. SNOWE, Mr. BINGAMAN, Mr. REED, and Mr. SESSIONS)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. DEFENSE BASIC RESEARCH PROGRAMS.

(a) ARMY PROGRAMS.—(1) The amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army is hereby increased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(1) for research, development, test, and evaluation for the Army, as increased by paragraph (1), $10,000,000 may be available for Program Element 0601103A for University Research Initiatives.

(b) NAVY PROGRAMS.—(1) The amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy is hereby increased by $5,000,000.

(2) Of the amount authorized to be appropriated by section 201(2) for research, development, test, and evaluation for the Navy, as increased by paragraph (1), $5,000,000 may be available for Program Element 0601103N for University Research Initiatives.

(c) AIR FORCE PROGRAMS.—(1) The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $10,000,000.

(2) Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by paragraph (1), $10,000,000 may be available for Program Element 0601103F for University Research Initiatives.

(d) DEFENSE-WIDE ACTIVITIES.—(1) The amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities is hereby increased by $15,000,000.

(2) Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities, as increased by paragraph (1)—

(A) $10,000,000 may be available for Program Element 0601120D8Z for the SMART National Defense Education Program; and

(B) $5,000,000 may be available for Program Element 0601101E for the Defense Advanced Research Projects Agency University Research Program in Computer Science and Cybersecurity.

(e) OFFSETS.—(1) The amount authorized to be appropriated by section 301(4), operation and maintenance, Navy, is hereby reduced by $40,000,000.

SA 2493. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 96, strike lines 19 and 20 and insert the following:

“(2) Military legal assistance may be provided only by a judge advocate or a civilian attorney who is a member of the bar of a Federal court or of the highest court of a State.

“(3) In this subsection, the term ‘military legal assistance’ includes—

SA 2494. Mr. WARNER (for Mr. BYRD) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle E of title VI, add the following:

SEC. 653. EDUCATION LOAN REPAYMENT PROGRAM FOR CHAPLAINS IN THE SELECTED RESERVE.

(a) IN GENERAL.—Chapter 1609 of title 10, United States Code, is amended by adding at the end the following new section:

“§ 16303. Education loan repayment program: chaplains serving in the Selected Reserve

“(a) AUTHORITY TO REPAY EDUCATION LOANS.—Under regulations prescribed by the Secretary of Defense and subject to the provisions of this section, the Secretary concerned may, for purposes of maintaining adequate numbers of chaplains in the Selected Reserve, repay a loan that—

“(1) was used by a person described in subsection (b) to finance education resulting in a Masters of Divinity degree; and

“(2) was obtained from an accredited theological seminary as listed in the Association of Theological Schools (ATS) handbook.

“(b) ELIGIBLE PERSONS.—(1) Except as provided in paragraph (2), a person described in this subsection is a person who—

“(A) satisfies the requirements specified in subsection (c);

“(B) holds, or is fully qualified for, an appointment as a chaplain in a reserve component of an armed force; and

“(C) signs a written agreement to serve not less than three years in the Selected Reserve.

“(2) A person accessioned into the Chaplain Candidate Program is not eligible for the repayment of loans under subsection (a).

“(c) ACADEMIC AND PROFESSIONAL REQUIREMENTS.—The requirements specified in this subsection are such requirements for accessioning and commissioning of chaplains as are prescribed by the Secretary concerned in regulations.

“(d) LOAN REPAYMENT.—(1) Subject to paragraph (2), the repayment of a loan under this section may consist of payment of the principal, interest, and related expenses of such loan.

“(2) The amount of any repayment of a loan made under this section on behalf of a person may not exceed $20,000 for each three year period of obligated service that the person agrees to serve in an agreement described in subsection (b)(3). Of such amount, not more than an amount equal to 50 percent of such amount may be paid before the completion by the person of the first year of obligated service pursuant to such agreement. The balance of such amount shall be payable at such time or times as are prescribed by the Secretary concerned in regulations.

“(e) EFFECT OF FAILURE TO COMPLETE OBLIGATION.—A person on behalf of whom repayment of a loan is made under this section who fails, during the period of obligated service the person agrees to serve in an agreement described in subsection (b)(3), to serve satisfactorily in the Selected Reserve may, at the election of the Secretary concerned, be required to pay the United States an amount equal to any amount of repayments made on behalf of the person in connection with the agreement.”.

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 1609 of such title is amended by adding at the end the following new item:

“16303. Education loan repayment program: chaplains serving in the Selected Reserve.”.

SA 2495. Mr. WARNER (for Mr. DODD (for himself and Mr. KENNEDY)) submitted an amendment intended to be proposed by Mr. WARNER to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle F of title V, add the following:

SEC. 573. NATIONAL CALL TO SERVICE PROGRAM.

(a) LIMITATION TO DOMESTIC NATIONAL SERVICE PROGRAMS.—Subsection (c)(3)(D) of section 510 of title 10, United States Code, is amended by striking “in the Peace Corps, Americorps, or another national service program” and inserting “in Americorps or another domestic national service program”.

(b) ADMINISTRATION OF EDUCATION INCENTIVES BY SECRETARY OF VETERANS AFFAIRS.—Paragraph (2) of subsection (h) of such section is amended to read as follows:

“(2)(A) Educational assistance under paragraphs (3) or (4) of subsection (e) shall be provided through the Department of Veterans Affairs under an agreement to be entered into by the Secretary of Defense and the Secretary of Veterans Affairs. The agreements shall include administrative procedures to ensure the prompt and timely transfer of funds from the Secretary concerned to the Secretary of Veterans Affairs for the making of payments under this section.

“(B) Except as otherwise provided in this section, the provisions of sections 503, 511, 3470, 3471, 3474, 3476, 3482(g), 3483, and 3485 of title 38 and the provisions of subchapters I and II of chapter 36 of such title (with the exception of sections 3686(a), 3687, and 3692) shall be applicable to the provision of educational assistance under this chapter. The term ‘eligible veteran’ and the term ‘person’, as used in those provisions, shall be deemed for the purpose of the application of those provisions to this section to refer to a person eligible for educational assistance under paragraph (3) or (4) of subsection (e).”.

SA 2496. Mr. WARNER (for Mr. SANTORUM) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title V, add the following:

SEC. 522. RECRUITMENT AND ENLISTMENT OF HOME SCHOOLED STUDENTS IN THE ARMED FORCES.

(a) POLICY ON RECRUITMENT AND ENLISTMENT.—

(1) POLICY REQUIRED.—The Secretary of Defense shall prescribe a policy on the recruitment and enlistment of home schooled students in the Armed Forces.

(2) UNIFORMITY ACROSS THE ARMED FORCES.—The Secretary shall ensure that the policy prescribed under paragraph (1) applies, to the extent practicable, uniformly across the Armed Forces.

(b) ELEMENTS.—The policy under subsection (a) shall include the following:

(1) An identification of a graduate of home schooling for purposes of recruitment and enlistment in the Armed Forces that is in

accordance with the requirements described in subsection (c).

(2) Provision for the treatment of graduates of home schooling with no practical limit with regard to enlistment eligibility.

(3) An exemption of graduates of home schooling from the requirement for a secondary school diploma or an equivalent (GED) as a precondition for enlistment in the Armed Forces.

(c) HOME SCHOOL GRADUATES.—In prescribing the policy, the Secretary of Defense shall prescribe a single set of criteria to be utilized by the Armed Forces in determining whether an individual is a graduate of home schooling. The Secretary concerned shall ensure compliance with education credential coding requirements.

(d) SECRETARY CONCERNED DEFINED.—In this section, the term "Secretary concerned" has the meaning given such term in section 101(a)(9) of title 10, United States Code.

SA 2497. Mr. WARNER (for Mr. KERRY) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. PROJECT SHERIFF.

(a) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(4) for research, development, test, and evaluation for Defense-wide activities, the amount available for the Force Transformation Directorate may be increased by $10,000,000, with the amount of the increase to be available for Project Sheriff.

(b) OFFSET.—Of the amount authorized to be appropriated by section 301(4) is hereby reduced by $10,000,000.

SA 2498. Mr. WARNER (for Mr. LEVIN) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. MEDIUM TACTICAL VEHICLE MODIFICATIONS.

(a) ADDITIONAL AMOUNT FOR RESEARCH, DEVELOPMENT, TEST, AND EVALUATION, ARMY.—The amount authorized to be appropriated by section 201(1) for Research, Development, Test, and Evaluation for the Army, is hereby increased by $5,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 201(1) for Research, Development, Test, and Evaluation for the Army, as increased by subsection (a), $5,000,000 may be available for Medium Tactical Vehicle Modifications.

(c) OFFSET.—The amount authorized to be appropriated by section 301(4) for Operation and Maintenance for the Air Force is hereby reduced by $5,000,000.

SA 2499. Mr. WARNER proposed an amendment to amendment SA 1396 proposed by Mr. WARNER (for Mr. STEVENS) to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 2, line 16, strike "$3,008,982,000" and insert "$3,108,982,000".

SA 2500. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle E of title VIII, add the following:

SEC. 846. REPORTS OF ADVISORY PANEL ON LAWS AND REGULATIONS ON ACQUISITION PRACTICES.

(a) EXTENSION OF FINAL REPORT.—Section 1423(d) of the Services Acquisition Reform Act of 2003 (title XIV of Public Law 108 136; 117 Stat. 1669; 41 U.S.C. 405 note) is amended by striking "one year" and inserting "two years".

(b) REQUIREMENT FOR INTERIM REPORT.—That section is further amended—

(1) by inserting "(1)" before "Not later than"; and

(2) by adding at the end the following new paragraph:

"(2) Not later than one year after the date of the establishment of the panel, the panel shall submit to the official and committees referred to in paragraph (1) an interim report on the matters set forth in that paragraph.".

SA 2501. Mr. WARNER (for Mr. NELSON of Florida) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place, insert the following:

(a) FINDINGS.—

(1) According to the Department of State, drug trafficking organizations shipped approximately nine tons of cocaine to the United States through the Dominican Republic in 2004, and are increasingly using small, high-speed watercraft.

(2) Drug traffickers use the Caribbean corridor to smuggle narcotics to the United States via Puerto Rico and the Dominican Republic. This route is ideal for drug trafficking because of its geographic expanse, numerous law enforcement jurisdictions and fragmented investigative efforts.

(3) The tethered aerostat system in Lajas, Puerto Rico contributes to deterring and detecting smugglers moving illicit drugs into Puerto Rico. The aerostat's range and operational capabilities allow it to provide surveillance coverage of the eastern Caribbean corridor and the strategic waterway between Puerto Rico and the Dominican Republic, known as the Mona Passage.

(4) Including maritime radar on the Lajas aerostat will expand its ability to detect suspicious vessels in the eastern Caribbean corridor.

(b) SENSE OF THE SENATE.—Given the above findings, it is the Sense of the Senate that—

(1) Congress and the Department of Defense fully fund the Counter-Drug Tethered Aerostat program.

(2) Department of Defense install maritime radar on the Lajas, Puerto Rico aerostat.

SA 2502. Mr. WARNER (for himself and Mr. LEVIN) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle E of title II, add the following:

SEC. 244. DESIGNATION OF FACILITIES AND RESOURCES CONSTITUTING THE MAJOR RANGE AND TEST FACILITY BASE.

(a) DEPARTMENT OF DEFENSE TEST RESOURCE MANAGEMENT CENTER.—Section 196(h) of title 10, United States Code, is amended by striking "Director of Operational Test and Evaluation" and inserting "Secretary of Defense".

(b) INSTITUTIONAL FUNDING OF TEST AND EVALUATION ACTIVITIES.—Section 232(b)(1) of the Bob Stump National Defense Authorization Act for Fiscal Year 2003 (Public Law 107–314; 116 Stat. 2490) is amended by striking "Director of Operational Test and Evaluation" and inserting "Secretary of Defense".

SA 2503. Mr. WARNER (for Mr. ALLARD (for himself and Mr. SALAZAR)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. ROCKY FLATS ENVIRONMENTAL TECHNOLOGY SITE.

(a) DEFINITIONS.—In this section:

(1) ESSENTIAL MINERAL RIGHT.—The term "essential mineral right" means a right to mine sand and gravel at Rocky Flats, as depicted on the map.

(2) FAIR MARKET VALUE.—The term "fair market value" means the value of an essential mineral right, as determined by an appraisal performed by an independent, certified mineral appraiser under the Uniform Standards of Professional Appraisal Practice.

(3) MAP.—The term "map" means the map entitled "Rocky Flats National Wildlife Refuge", dated July 25, 2005, and available for inspection in appropriate offices of the United States Fish and Wildlife Service and the Department of Energy.

(4) NATURAL RESOURCE DAMAGE LIABILITY CLAIM.—The term "natural resource damage liability claim" means a natural resource

damage liability claim under subsections (a)(4)(C) and (f) of section 107 of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607) arising from hazardous substances releases at or from Rocky Flats that, as of the date of enactment of this Act, are identified in the administrative record for Rocky Flats required by the National Oil and Hazardous Substances Pollution Contingency Plan prepared under section 105 of that Act (42 U.S.C. 9605).

(5) Rocky Flats.—The term "Rocky Flats" means the Department of Energy facility in the State of Colorado known as the "Rocky Flats Environmental Technology Site".

(6) Secretary.—The term "Secretary" means the Secretary of Energy.

(7) Trustees.—The term "Trustees" means the Federal and State officials designated as trustees under section 107(f)(2) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(2)).

(b) Purchase of Essential Mineral Rights.—

(1) In general.—Not later than 1 year after the date of enactment of this Act, such amounts authorized to be appropriated under subsection (c) shall be available to the Secretary to purchase essential mineral rights at Rocky Flats.

(2) Conditions.—The Secretary shall not purchase an essential mineral right under paragraph (1) unless—

(A) the owner of the essential mineral right is a willing seller; and

(B) the Secretary purchases the essential mineral right for an amount that does not exceed fair market value.

(3) Limitation.—Only those funds authorized to be appropriated under subsection (c) shall be available for the Secretary to purchase essential mineral rights under paragraph (1).

(4) Release from liability.—Notwithstanding any other law, any natural resource damage liability claim shall be considered to be satisfied by—

(A) the purchase by the Secretary of essential mineral rights under paragraph (1) for consideration in an amount equal to $10,000,000;

(B) the payment by the Secretary to the Trustees of $10,000,000; or

(C) the purchase by the Secretary of any portion of the mineral rights under paragraph (1) for—

(i) consideration in an amount less than $10,000,000; and

(ii) a payment by the Secretary to the Trustees of an amount equal to the difference between—

(I) $10,000,000; and

(II) the amount paid under clause (i).

(5) Use of funds.—

(A) In general.—Any amounts received under paragraph (4) shall be used by the Trustees for the purposes described in section 107(f)(1) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9607(f)(1)), including—

(i) the purchase of additional mineral rights at Rocky Flats; and

(ii) the development of habitat restoration projects at Rocky Flats.

(B) Condition.—Any expenditure of funds under this paragraph shall be made jointly by the Trustees.

(C) Additional funds.—The Trustees may use the funds received under paragraph (4) in conjunction with other private and public funds.

(6) Exemption from National Environmental Policy Act.—Any purchases of mineral rights under this subsection shall be exempt from the National Environmental Policy Act of 1969 (42 U.S.C. 4321 et seq.).

(7) Rocky Flats National Wildlife Refuge.—

(A) Transfer of management responsibilities.—The Rocky Flats National Wildlife Refuge Act of 2001 (16 U.S.C. 668dd note; Public Law 107-107) is amended—

(i) in section 3175—

(I) by striking subsections (b) and (f); and

(II) by redesignating subsections (c), (d), and (e) as subsections (b), (c), and (d), respectively; and

(ii) in section 3176(a)(1), by striking "section 3175(d)" and inserting "section 3175(c)".

(B) Boundaries.—Section 3177 of the Rocky Flats National Wildlife Refuge Act of 2001 (16 U.S.C. 668dd note; Public Law 107–107) is amended by striking subsection (c) and inserting the following:

"(c) Composition.—

"(1) In general.—Except as provided in paragraph (2), the refuge shall consist of land within the boundaries of Rocky Flats, as depicted on the map—

"(A) entitled 'Rocky Flats National Wildlife Refuge';

"(B) dated July 25, 2005; and

"(C) available for inspection in the appropriate offices of the United States Fish and Wildlife Service and the Department of Energy.

"(2) Exclusions.—The refuge does not include—

"(A) any land retained by the Department of Energy for response actions under section 3175(c);

"(B) any land depicted on the map described in paragraph (1) that is subject to 1 or more essential mineral rights described in section 3114(a) of the National Defense Authorization Act for Fiscal Year 2006 over which the Secretary shall retain jurisdiction of the surface estate until the essential mineral rights—

"(i) are purchased under subsection (b) of that Act; or

"(ii) are mined and reclaimed by the mineral rights holders in accordance with requirements established by the State of Colorado; and

"(C) the land depicted on the map described in paragraph (1) on which essential mineral rights are being actively mined as of the date of enactment of the National Defense Authorization Act for Fiscal Year 2006 until—

"(i) the essential mineral rights are purchased; or

"(ii) the surface estate is reclaimed by the mineral rights holder in accordance with requirements established by the State of Colorado.

"(3) Acquisition of additional land.—Notwithstanding paragraph (2), upon the purchase of the mineral rights or reclamation of the land depicted on the map described in paragraph (1), the Secretary shall—

"(A) transfer the land to the Secretary of the Interior for inclusion in the refuge; and

"(B) the Secretary of the Interior shall—

"(i) accept the transfer of the land; and

"(ii) manage the land as part of the refuge.".

(c) Funding.—Of the amounts authorized to be appropriated to the Secretary for the Rocky Flats Environmental Technology Site for fiscal year 2006, $10,000,000 may be made available to the Secretary for the purposes described in subsection (b).

SA 2504. Mr. WARNER (for Mr. Roberts) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title II, add the following:

SEC. 213. AGING MILITARY AIRCRAFT FLEET SUPPORT.

(a) Additional Amount for Research, Development, Test, and Evaluation for the Air Force.—The amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force is hereby increased by $4,000,000.

(b) Availability of Amount.—Of the amount authorized to be appropriated by section 201(3) for research, development, test, and evaluation for the Air Force, as increased by subsection (a), $4,000,000 may be available for Program Element #63112F for Aging Military Aircraft Fleet Support.

(c) Offset.—The amount authorized to be appropriated by section 301(4) for operation and maintenance for Air Force activities is hereby reduced by $4,000,000.

SA 2505. Mr. WARNER (for Mr. Inouye) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title V, add the following:

SEC. 537. ELIGIBILITY OF UNITED STATES NATIONALS FOR APPOINTMENT TO THE SENIOR RESERVE OFFICERS' TRAINING CORPS.

(a) In General.—Section 2107(b)(1) of title 10, United States Code, is amended by inserting "or national" after "citizen".

(b) Army Reserve Officers Training Programs.—Section 2107a(b)(1)(A) of such title is amended by inserting "or national" after "citizen".

(c) Eligibility for Appointment as Commissioned Officers.—Section 532(f) of such title is amended by inserting ", or for a United States national otherwise eligible for appointment as a cadet or midshipman under section 2107(a) of this title or as a cadet under section 2107a of this title," after "for permanent residence".

SA 2506. Mr. WARNER (for Mrs. Hutchison (for herself, Mr. Voinovich, and Mr. Nelson of Florida)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle E of title II, add the following:

SEC. 244. REPORT ON COOPERATION BETWEEN THE DEPARTMENT OF DEFENSE AND THE NATIONAL AERONAUTICS AND SPACE ADMINISTRATION ON RESEARCH, DEVELOPMENT, TEST, AND EVALUATION ACTIVITIES.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense and the Administrator of the National Aeronautics and Space Administration shall jointly submit to Congress a report setting forth the recommendations of the Secretary and the Administrator regarding cooperative activities between the Department of Defense and the National Aeronautics and Space Administration related to research, development, test, and evaluation on areas of mutual interest to the Department and the Administration.

(b) AREAS COVERED.—The areas of mutual interest to the Department of Defense and the National Aeronautics and Space Administration referred to in subsection (a) may include, but not be limited to, areas relating to the following:

(1) Aeronautics research.

(2) Facilities, personnel, and support infrastructure.

(3) Propulsion and power technologies.

(4) Space access and operations.

NOTICES OF HEARINGS/MEETINGS

SUBCOMMITTEE ON PUBLIC LANDS AND FORESTS

Mr. CRAIG. Mr. President, I would like to announce for the information of the Senate and the public that a hearing has been scheduled before the Subcommittee on Public Lands and Forests of the Committee on Energy and Natural Resources.

The hearing will be held on Wednesday, November 16, 2005, at 2 p.m. in Room SD-366 of the Dirksen Senate Office Building.

The purpose of the hearing is to receive testimony on Earth Island Institute vs. Ruthenbeck.

Because of the limited time available for the hearing, witnesses may testify by invitation only. However, those wishing to submit written testimony for the hearing record should send two copies of their testimony to the Committee on Energy and Natural Resources, United States Senate, Washington, DC. 20510-6150.

For further information, please contact Frank Gladics at 202-224-2878 or Kristina Rolph at 202-224-8276.

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a hearing during the session of the Senate on Wednesday November 9, 2005, at 10:30 a.m. in SH-216, Senate Hart Office Building. The purpose of this committee hearing will be to discuss agricultural transportation and energy issues.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES AND COMMITTEE ON COMMERCE SCIENCE AND TRANSPORTATION

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources and the Committee on Commerce, Science and Transportation be authorized to meet during the session of the Senate on Wednesday, November 9 at 9:30 a.m. The purpose of this joint hearing is to receive testimony regarding energy pricing and profits.

The PRESIDING OFFICER. Without objection, it it so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to hold a hearing on Wednesday, November 9, 2005 to receive testimony and identify issues regarding a comprehensive and integrated approach to meet the water resources needs of coastal Louisiana in the wake of Hurricanes Katrina and Rita, including storm and flood damage reduction, ecosystem restoration and navigation.

The PRESIDING OFFICER. Without objection, it it so ordered.

COMMITTEE ON FINANCE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Wednesday, November 9, 2005, at 10 a.m., to review and make recommendations on proposed legislation implementing the U.S.-Bahrain Free Trade Agreement.

The PRESIDING OFFICER. Without objection, it it so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, November 9, 2005, at 9:30 a.m. to hold a hearing on Avian Influenza.

The PRESIDING OFFICER. Without objection, it it so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, November 9, 2005, at 2:30 p.m. to hold a hearing on nominations.

The PRESIDING OFFICER. Without objection, it it so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, November 9, 2005, at 9:30 a.m. for a hearing titled, "'Always Ready': The Coast Guard's Response to Hurricane Katrina."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. INHOFE. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Cameras in the Courtroom" on Wednesday, November 9, 2005 at 9:30 a.m. in the Dirksen Senate Office Building Room 226.

Witness List

Panel I: The Honorable Chuck Grassley, United States Senator, [R-IA].

Panel II: The Honorable Diarmuid O'Scannlain, Judge, United States Court of Appeals for the Ninth Circuit, Portland, OR; The Honorable Jan E. DuBois, Judge, District Court for the Eastern District of Pennsylvania, Philadelphia, PA.

Panel III: Barbara Bergman, President, National Association of Criminal Defense Lawyers, Washington, DC; Peter Irons, Professor of Political Science, Emeritus, University of California at San Diego, San Diego, CA; Seth Berlin, Partner, Levine Sullivan Koch & Schulz, L.L.P., Washington, DC; Brian Lamb, Founder & Chairman, C-SPAN Washington, DC; Henry Schleiff, Chairman and CEO, Court TV Networks, New York, NY; Barbara Cochran, President, Radio-Television News Directors Association & Foundation, Washington, DC.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on November 9, 2005 at 10 a.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. INHOFE. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on November 9, 2005 at 2 p.m. to hold a closed business meeting.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS AND PROPERTY RIGHTS

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on the Constitution, Civil Rights and Property Rights be authorized to meet to conduct a markup on Wednesday, November 9, 2005, at 2 p.m. in Dirksen 226.

Agenda

I. Bill: S.J. Res. 1, the Marriage Protection Amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON OVERSIGHT OF GOVERNMENT MANAGEMENT, THE FEDERAL WORKFORCE, AND THE DISTRICT OF COLUMBIA

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Oversight of Government Management, the Federal Workforce, and the District of Columbia be authorized to meet on Wednesday, November 9, 2005 at 3 p.m. for a hearing entitled, "Access Delayed: Fixing the Security Clearance Process, Part II."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON READINESS AND MANAGEMENT SUPPORT

Mr. INHOFE. Mr. President, I ask unanimous consent that the Subcommittee on Readiness and Management Support be authorized to meet during the session of the Senate on November 9, 2005, at 2 p.m., in open session to receive testimony on Department of Defense business transformation and financial management accountability.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXPRESSING APPRECIATION

Mr. WARNER. Mr. President, I thank the Presiding Officer and all members of our Senate staff who are assisting managers and other Senators in the completion of a good deal of work on the bill today. I look forward to tomorrow and completion of this bill. I express my profound gratitude to our leadership and all those who made it possible.

WAR RESERVES STOCKPILE

Mr. WARNER. I ask unanimous consent the Senate proceed to the immediate consideration of S. 1988 introduced earlier today.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1988) to authorize the transfer of items in the War Reserves Stockpile for Allies, Korea.

There being no objection, the Senate proceeded to consider the bill.

Mr. WARNER. Mr. President, I ask unanimous consent the bill be read the third time and passed, the motion to reconsider be laid upon the table, and any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (S. 1988) was read the third time and passed, as follows:

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION. 1. WAR RESERVES STOCKPILE FOR ALLIES, KOREA.

(a) AUTHORITY TO TRANSFER ITEMS IN STOCKPILE.—

(1) IN GENERAL.—Notwithstanding section 514 of the Foreign Assistance Act of 1961 (22 U.S.C. 2321h), the President is authorized to transfer to the Republic of Korea, on such conditions as the President may determine, any or all of the items described in paragraph (2).

(2) COVERED ITEMS.—The items referred to in paragraph (1) are munitions, equipment, and materiel such as tanks, trucks, artillery, mortars, general purpose bombs, repair parts, barrier material, and ancillary equipment if such items are—

(A) obsolete or surplus items;

(B) in the inventory of the Department of Defense;

(C) intended for use as reserve stocks for the Republic of Korea; and

(D) as of the date of the enactment of this Act, located in a stockpile in the Republic of Korea or Japan.

(3) VALUATION OF CONCESSIONS.—The value of concessions negotiated pursuant to paragraph (1) shall be at least equal to the fair market value of the items transferred, less any savings (which may not exceed the fair market value of the items transferred) accruing to the Department of Defense from an avoidance of the cost of removal of such items from the Republic of Korea or of the disposal of such items. The concessions may include cash compensation, services, waiver of charges otherwise payable by the United States (such as charges for demolition of United States-owned or United States-intended munitions), and other items of value.

(4) TERMINATION.—No transfer may be made under the authority of this subsection after the date that is three years after the date of the enactment of this Act.

(b) CERTIFICATION REGARDING MATERIEL IN STOCKPILE.—Not later than 60 days after the date of the enactment of this Act, the Secretary of Defense shall certify to the appropriate committees of Congress whether or not the ammunition, equipment, and materiel in the War Reserves Stockpile for Allies, Korea that are available for transfer to the Republic of Korea is of any utility to the United States for any of the following:

(1) Counterterrorism operations.

(2) Contingency operations.

(3) Training.

(4) Stockpile, pre-positioning, or war reserve requirements.

(c) TERMINATION OF STOCKPILE.—

(1) IN GENERAL.—At the conclusion of the transfer to the Republic of Korea under subsection (a) of items in the War Reserves Stockpile for Allies, Korea pursuant to that subsection, the War Reserves Stockpile for Allies, Korea program shall be terminated.

(2) DISPOSITION OF REMAINING ITEMS.—Any items remaining in the War Reserves Stockpile for Allies, Korea as of the termination of the War Reserves Stockpile for Allies, Korea program under paragraph (1) shall be removed, disposed of, or both by the Department of Defense.

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services, Appropriations, and Foreign Relations of the Senate; and

(2) the Committees on Armed Services, Appropriations, and International Relations of the House of Representatives.

Mr. WARNER. I must say to the distinguished Presiding Officer, the war reserves stockpile for Korea, I don't know if that includes me with it or not. I did spend a period of time over there in 1951 and 1952 in the winter with the Marines. Likely I will be here again tomorrow morning to pursue the authorization bill.

ORDERS FOR THURSDAY, NOVEMBER 10, 2005

Mr. WARNER. I now ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, November 10; I further ask, following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate then proceed to a period for morning business for up to an hour, with the first 30 minutes under the control of the majority leader or his designee and the final 30 minutes under the control of the Democrat leader or his designee; further, that the Senate resume consideration of S. 1042, the Defense authorization bill as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. WARNER. Tomorrow, we will complete action on the Defense authorization bill. I firmly hope that, as does Senator LEVIN, and our respective leaders, Senators can expect votes throughout the day and tomorrow and should plan accordingly. We will finish this tomorrow.

I remind my colleagues we will also consider three appropriation conference reports ready for action before we leave this week.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. WARNER. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:33 p.m., adjourned until Thursday, November 10, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 9, 2005:

FEDERAL COMMUNICATIONS COMMISSION

MICHAEL JOSEPH COPPS, OF VIRGINIA, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR A TERM OF FIVE YEARS FROM JULY 1, 2005. (REAPPOINTMENT)

DEBORAH TAYLOR TATE, OF TENNESSEE, TO BE A MEMBER OF THE FEDERAL COMMUNICATIONS COMMISSION FOR THE REMAINDER OF THE TERM EXPIRING JUNE 30, 2007, VICE MICHAEL K. POWELL, RESIGNED.

DEPARTMENT OF STATE

JANET ANN SANDERSON, OF ARIZONA, A CAREER MEMBER OF THE SENIOR FOREIGN SERVICE, CLASS OF MINISTER-COUNSELOR, TO BE AMBASSADOR EXTRAORDINARY AND PLENIPOTENTIARY OF THE UNITED STATES OF AMERICA TO THE REPUBLIC OF HAITI.

THE JUDICIARY

CAROL A. DALTON, OF THE DISTRICT OF COLUMBIA, TO BE AN ASSOCIATE JUDGE OF THE SUPERIOR COURT OF THE DISTRICT OF COLUMBIA FOR THE TERM OF FIFTEEN YEARS, VICE A. NOEL ANKETELL KRAMER, ELEVATED.

DEPARTMENT OF JUSTICE

PAUL J. MCNULTY, OF VIRGINIA, TO BE DEPUTY ATTORNEY GENERAL, VICE JAMES B. COMEY, RESIGNED.

HOUSE OF REPRESENTATIVES—*Wednesday, November 9, 2005*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mrs. MILLER of Michigan).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 9, 2005.

I hereby appoint the Honorable CANDICE S. MILLER to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend Mac Hammond, Living Word Christian Center, Brooklyn Park, MN, offered the following prayer:

Heavenly Father, as we gather together in this historic place, we ask Your continued blessing on our country. Thank You for our divine heritage of being one Nation under God and for the liberty we enjoy as a result. We look to Your word for guidance and grace as we pray for each Member of this House. I ask You to give them wisdom and understanding in every decision they face, so that Your truth will continue to be reflected in our laws. During this session, may they be responsive to Your direction, aware of Your grace, and guided by Your precepts.

We also ask You to protect, strengthen and encourage our troops in Iraq, Afghanistan, and the myriad of other places around the world where they are courageously protecting and promoting our liberty. Lead each Member in Your ways, and bless their families as You do.

May Your grace abound to all and continually remind each citizen of this great country that we are loved by You. This we pray in the name which is above all names. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House her approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentlewoman from Tennessee (Mrs. BLACKBURN) come forward and lead the House in the Pledge of Allegiance.

Mrs. BLACKBURN led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

WELCOMING PASTOR MAC HAMMOND

The SPEAKER pro tempore. Without objection, the gentleman from Minnesota (Mr. RAMSTAD) is recognized for 1 minute.

There was no objection.

Mr. RAMSTAD. Madam Speaker, it is my great honor to welcome this morning's guest chaplain, Pastor Mac Hammond. Pastor Hammond and his wife, Pastor Lynne, who is with us in the gallery, are pastors of the Living Word Christian Center, a vibrant church in the Third Congressional District located in Brooklyn Park, MN.

This is an incredible story. On November 12, 1980, Mac and Lynne Hammond stood before a gathering of 12 people in a small meeting room at a hotel in Plymouth, Minnesota. On that day, Living Word Christian Center was born. Today, 25 years later, Living Word has grown to an active congregation of more than 10,000 members.

Pastor Mac Hammond's inspiring life has spanned several careers, from Air Force captain, where he served as a pilot, to owner of an air cargo business, to gifted minister of the gospel. The people of our area, of our State are so grateful for Pastor Mac Hammond and his ministry to the community.

The Living Word Christian Center is home to a number of important ministries that are truly doing the Lord's work here on Earth. Close to my heart, the Living Free Recovery Services program provides treatment to families struggling with the ravages of drug and alcohol addiction. Living Word also operates Maranatha Christian Academy and Maranatha College, two highly respected, God-centered academic institutions in our area.

The church's Compassion Center ministers to inner-city residents, and CFAITH provides online missionary outreach.

We are all very grateful, Madam Speaker, for these wonderful ministries and for the faith, hope, and love brought to so many by Pastors Mac and Lynne Hammond. As you heard in his moving prayer, Pastor Hammond is a tremendously gifted speaker and a true man of God.

I knew Mac would offer a truly inspirational prayer this morning, and God knows we needed it. Many thanks, Pastor Hammond, for your moving and thoughtful prayer and for serving the House of Representatives as our guest chaplain.

FISCAL MISMANAGEMENT

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Madam Speaker, the Republican fiscal mismanagement is so bad, and their budget proposals so dreadful, that even the Republican Caucus is having difficulty swallowing it. Mainstream Republicans do not agree with K Street Republicans, who do not agree with Wall Street Republicans; but they are hopelessly out of touch with the street where most Americans live.

The Republican Congress seeks to mask their fiscal irresponsibility with cuts for millions of poor, the sick, for students and their families, literally taking food from the mouths of poor children to pay for more tax cuts for people who need them the least.

There is much talk of scandal here in Washington D.C., but to have a proposal offered up that would actually increase the deficit more than if they just gave up and went home is a scandal. It is a scandal how tragically out of touch my Republican colleagues are from the needs and desires of the average American.

HONORING VETERANS

(Mrs. KELLY asked and was given permission to address the House for 1 minute.)

Mrs. KELLY. Madam Speaker, I urge my colleagues to honor the sacrifices of their local veterans by cosponsoring H.R. 1951, which would mint a coin for America's disabled veterans. The proceeds would be used for a Disabled Veterans Memorial on the National Mall. The Paralyzed Veterans of America, the Disabled American Veterans, and the Military Order of the Purple Heart all support our bill for a first-of-its-kind tribute to America's disabled veterans.

This Congress needs to remember the sacrifices of veterans not only on Veterans Day, but throughout the year. For that purpose, we also must pass the SAVE U.S. VETS Act to restore the equitable VA funding to veterans health care facilities in the Northeast.

The VERA formula is unfair and ineffective. A GAO study found that through 2002, VERA misallocated nearly $1 billion in funds that should have gone to the Northeast veterans hospitals like Montrose and Castle Point in New York's Hudson Valley.

New York veterans served our country in areas throughout the world. They should not be punished now for living in the northeast area of our country that is being neglected by bad funding through the VERA formula. VA funds must reach these areas where veterans' needs are the greatest. The health care needs of all northeast veterans must be met, as they count on us to protect them with the same loyalty with which they protected our country.

REPUBLICAN BUDGET DOES NOT REFLECT AMERICA'S PRIORITIES

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Madam Speaker, tomorrow the House is planning to vote on America's future. The budget vote will decide who wins, who loses. The Republican budget does not reflect America's priorities. Where else would you protect corporate welfare like $16.5 billion in handouts, taxpayer handouts to oil and gas companies, and all the while throwing America's children over the side. A Republican Congress, of course.

Where else would you cut $9.5 billion from children's health care affecting 6 million children, while helping protect big oil and gas companies. Where else would you cut 330,000 children from child care assistance while protecting big HMOs. Where else would you cut 40,000 children from nutrition programs while protecting America's polluters. Where else would you cut $14.3 billion in student college aid, the single largest cut in the history of the student aid program. A Republican Congress, but of course.

These are not the right priorities for America. They are not America's priorities for its future. Madam Speaker, we should cut spending, but we should not jeopardize our future by cutting programs for our children. It is time we made a change. It is time that we choose our priorities. We can do better, not protecting Big Oil at the expense of taking America's children and throwing them over the side.

RESTRICTIONS ON PARENTING

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Madam Speaker, the out-of-touch notorious Ninth Circuit Court of Appeals has struck again. They have created their own version of restrictions on parenting. These wayward judges rule that parents do not have a constitutional right to prevent a public school from teaching students whatever it wishes, including sexual information.

Instead, they say that the State has ultimate power over the education of our children. This ruling stems from a case filed by parents whose children, ages 7 through 10, were given a survey that asks questions pertaining to sex that are even too expressive to repeat on this House floor.

According to the education police judges, when parents decide to send their child to a public school, the parents lose authority and control over what the child is taught. The State decides.

This ruling violates the Constitution. The Supreme Court long ago ruled that parents do have the fundamental right to make decisions about the care, custody, education, and control of their children. This is just another example of elite judges trying to replace parents with bureaucrats. Out-of-control judges are taking away property rights, our pledge rights, and now they are after our parenting rights. This ought not to be.

STATE OF THE UNION

(Mr. ROSS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. ROSS. Madam Speaker, for the first time in about 50 years, the Republicans control the White House, the House, and the Senate. So let us look at the real state of the union and what they have given us:

$8 trillion in debt. In fact, this Nation is borrowing $907 million a day, $188 million a day going to Iraq, $33 million a day going to Afghanistan. In fact, this President and this Republican Congress have borrowed more money from foreigners in the past 5 years than the previous 42 Presidents combined. And all this before the hurricane season. Now they are proposing in tomorrow's budget reconciliation cutting Medicaid $12 billion, cutting food stamps and farm programs $3.7 billion, cutting student loans $14.3 billion. And for what? To pay for another $70 billion in tax cuts for those earning over $400,000 a year.

Madam Speaker, these are not my priorities. These are not America's priorities. These are not the kinds of conservative, small-town values that I was raised on and still believe in.

RENEWABLE DOMESTIC FUELS

(Mr. SHIMKUS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SHIMKUS. Madam Speaker, in July of this year, the President signed into law the Energy Policy Act of 2005, which enacted the first-ever renewable fuel standard in order for a portion of our Nation's fuel supply to be provided by renewable domestic fuels like ethanol from corn and biodiesel made from soybeans. This provision is an example of public policy that is moving in the right direction. For example, E-85, a blend of 85 percent ethanol fuel, is becoming more and more available in the Midwest and it costs less at the pump. Just this week in my southern Illinois district, E-85 was on average 22 cents cheaper than regular gasoline at the pump. In some cases, E-85 stayed below $2 per gallon.

The expanded use of renewable fuels like E-85 helps stretch domestic oil supply and decrease our reliance on foreign imports of oil. As we all know, no crude oil refineries have been built in the United States since 1976. During that time, close to 100 ethanol refineries have been built. It is my hope that this growth continues to happen. Renewable fuels are an environmentally friendly, domestic alternative fuel source that we can utilize to increase U.S. supply and decrease our reliance on foreign imports of oil.

CUTS TO STUDENT AID

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LINDA T. SÁNCHEZ of California. Madam Speaker, when I was elected to Congress, I never thought I would be asked to participate in crushing the dreams of American children. But that is exactly what the House majority is asking me to do. The House budget reconciliation bill includes $14.3 billion in overall cuts to Federal student aid programs over the next 5 years. This cut will be the single largest cut in the entire history of the student aid program. I thought the majority did not want to leave any child behind. But obviously what this cut means is they do not want to leave you behind, until you want to go to college.

I know firsthand the importance of student aid. I would not be standing on the floor of this House if it were not for student aid programs. These loans made my education dreams a reality. I am the only member of the California congressional delegation still paying off her student loans. Each month I proudly write that check because I know the best investment I and my seven brothers and sisters could have made was our investment in our own education.

Can you imagine where we will be in 20 years when we lack the professionals that we need in this country? Make no mistake, these proposed cuts to student aid programs will negatively impact the future of our workforce and our economy.

THE MAINSTREAM

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Madam Speaker, some liberals opposed to the nomination of Judge Samuel Alito to the Supreme Court claim that Judge Alito is "outside the mainstream" because he supported the spousal notice provision of the Pennsylvania Abortion Control Act. Mind you, this was not paternal notice; it was spousal notice. This was not spousal consent. It was spousal notice. Polling showed nearly 75 percent of the Americans support this provision.

So what is the mainstream in America today? In 2004, 13 States included on their ballot a constitutional amendment defining marriage as the union between a man and a woman. All 13 States passed the measure by wide margins. Today, it is up to 19 States. The polls overwhelmingly support this definition.

A Zogby poll showed 77 percent of Americans support a law requiring a pregnant woman be given information about fetal pain prior to an abortion. Other polls show nearly 90 percent support including the phrase "under God" in the Pledge of Allegiance. A 2005 Gallup poll shows 75 percent of Americans think that State government entities should be allowed to display the 10 Commandments.

Let us not allow liberal interest groups to arbitrarily define the mainstream for us.

☐ 1015

BUDGET RECONCILIATION

(Mr. HINOJOSA asked and was given permission to address the House for 1 minute.)

Mr. HINOJOSA. Madam Speaker, tomorrow the leadership of this House will bring up a budget reconciliation bill which makes cuts to Medicaid, food stamp programs for children, student loan aid programs that will force thousands of college students to leave school and prevent thousands more from even beginning higher education at the community college or university of their choice.

At a time when we are importing scientists, engineers, doctors, nurses and other highly trained workers to keep our economy running, this House is going to siphon off student aid dollars to provide $70 billion of tax cuts for the rich. According to the Congressional Budget Office, there will be nearly $8 billion in new charges to students and families that will raise the cost of their college loans at a time when the cost of higher education is rising much faster than the rate of inflation.

This reconciliation bill is not about controlling runaway Federal spending. It is about destroying our future for the short-term benefit of a privileged few. I urge my colleagues to oppose this shortsighted budget reconciliation bill.

MEDICAID

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Madam Speaker, in the midst of our effort to rein in Federal spending, you have Members of this body and special interest groups telling the American people that we are slashing Medicaid. They are saying that our Deficit Reduction Act will actually cut Medicaid.

Madam Speaker, our plan does not cut. Since when does slowing the growth, and tremendous growth at that, from 7.3 percent to 7 percent a year constitute a cut? The left needs to stop playing games. If they want us to keep spending and spending until there is nothing left, until we cannot spend any more, then they need to be honest about it and they need to say that. But don't call a 0.3 percent reduction in growth a cut. It is dishonest and our constituents deserve better.

BUDGET RECONCILIATION

(Mr. SALAZAR asked and was given permission to address the House for 1 minute.)

Mr. SALAZAR. Madam Speaker, I stand united with my fellow Blue Dogs in protest of this reckless budget vote that we will be taking this week. I have said time and time again that our budget is a moral document and it is about our priorities and values as a nation.

Let us be clear about this budget reconciliation and what it will do for America.

It will pay for tax cuts for the rich on the backs of our Nation's poorest, including low-income seniors who receive help from Medicaid.

It abandons rural America by proposing $1 billion in cuts to ag commodity programs.

It takes aim at valuable research and conservation programs that will help farmers to stay on the land.

And in a time when everyone is concerned about rising energy prices, this bill cuts funds for renewable energy programs. Yet none of these savings will go towards balancing the budget.

Together we can do better. We need to return to responsible budget principles that include pay-as-you-go spending. We need a balanced budget amendment. And we need a Federal budget that is honest with the American people.

I urge my colleagues to vote "no" on this budget reconciliation.

PRESERVING OUR SYSTEM OF JUSTICE

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Madam Speaker, last March Atlanta experienced one of the worst instances of courthouse violence on record. A defendant overpowered a courthouse security guard, grabbed her weapon and shot a judge dead in his own courtroom. The defendant then escaped, setting off a massive manhunt until he was captured a short while later.

Incidents of courthouse violence are spreading. Chicago, Illinois, and Tyler, Texas, have also experienced vicious crimes against our judicial system. Many States are working to prevent this from happening again by improving courthouse security. This is a step in the right direction. But we must do more to protect judges, attorneys, jurors, and other courthouse employees from ever having to confront this kind of danger. We must not allow criminals to compromise our judicial system.

Today we have an opportunity to act to strengthen penalties against those who commit courthouse violence and protect Federal judiciary employees from falling prey to criminals attacking their personal finances.

Madam Speaker, the Secure Access to Justice and Court Protection Act is before us today, and I urge my colleagues to support this important initiative to preserve and protect our system of justice.

CRUEL REPUBLICAN MEDICAID CUTS AND MISGUIDED PRIORITIES—AMERICA CAN DO BETTER

(Mr. STUPAK asked and was given permission to address the House for 1 minute.)

Mr. STUPAK. Madam Speaker, tomorrow House Republicans will show America their misguided priorities. In order to once again provide the wealthiest few in our Nation with tax breaks adding up to $70 billion, House Republicans will cut $54 billion from needed programs, including $12 billion to Medicaid.

America can do better than slashing health care for low-income children, seniors, and people with disabilities to pay for additional tax breaks for millionaires.

America can do better than slashing a program that provides insurance to one of every seven Americans, at a time when the number of the uninsured has risen by 6 million under this President.

America can do better than increasing costs for essential health care services for the poorest Americans, including for the first time ever even the poorest children, which will reduce their access to needed health care.

America can do better than a budget package where $3 out every $4 in Medicaid cuts are borne directly by individuals who are poor or disabled.

When are the House Republicans going to realize a stronger America is one where we all work together?

Together, America can do better.

IRAQI SPECIAL TRIBUNAL HOUSE RESOLUTION

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Madam Speaker, the path to a free and democratic Iraq has been dangerous and protracted. Yet, after years of oppression, the Iraqis are closer than ever to having a nation ruled by their people instead of a tyrant.

For the safety of our Nation, I believe we must continue to support the sovereign actions of this developing nation.

Current news headlines are showcasing the trial of Saddam Hussein and what danger accompanies that activity. His trial is important, but a strong, independent Iraqi judicial system is of greater importance.

As Members of Congress, we have an obligation to uphold and support this principle, especially in a land that has been so tormented. The Iraqi Special Tribunal has been impaneled to bring swift and impartial justice to both the victims and the nation of Iraq. I urge Members to support H.R. 534, recognizing the importance and credibility of an independent Iraqi judiciary.

NATIONAL DEBT SURPASSES $8 TRILLION

(Mr. CARDOZA asked and was given permission to address the House for 1 minute.)

Mr. CARDOZA. Madam Speaker, just 2 weeks ago, the national debt passed the $8 trillion mark.

This unfortunate milestone was the direct result of policies put in place by the leadership of this Congress and the Bush White House. Now our friends on the other side of the aisle want the Members of the Blue Dog Coalition to endorse their latest push to run the debt even higher.

This budget package should be called the "Deficit Expansion Act." It would continue drowning America in red ink in order to finance new tax cuts for the wealthy and privileged. It is time for a real strategy for fiscal responsibility, not more of the same.

The Blue Dog Coalition has put forward a comprehensive, 12-step plan that would dig America out of this fiscal mess. Our proposal includes commonsense reforms such as reinstating PAYGO rules and discretionary spending caps.

I strongly urge my colleagues in Congress to take immediate action on the debt by embracing real bipartisan reform.

A SALUTE TO VETERANS

(Mr. STEARNS asked and was given permission to address the House for 1 minute.)

Mr. STEARNS. Madam Speaker, this Friday, Americans will observe Veterans Day, a special day of national observance that we have set aside to remember our veterans and their sacrifices.

The 50 million Americans who have served our country since the American Revolution have done more than just protect our national security. They fought for our freedom, and in so doing, our veterans have provided a shining example for the millions of Americans who followed in their footsteps.

In my own family, my father served in the Navy during World War II in the Pacific theater. He was in the Iwo Jima campaign and was awarded the Bronze Star.

Nearly 2 million veterans live in my home State of Florida. Thousands of my fellow Floridians have served or are on active duty in Afghanistan and Iraq. Some of these soldiers have made the ultimate sacrifice and many have suffered grievous wounds. I salute these brave men and women.

Madam Speaker, may God bless our veterans, their families, and this great Nation.

REPUBLICAN CUTS TO FOOD STAMP AND OTHER AGRICULTURAL PROGRAMS

(Ms. WATSON asked and was given permission to address the House for 1 minute.)

Ms. WATSON. Madam Speaker, this week, Republicans will bring a budget reconciliation bill up that cuts critical Federal programs that directly affect the lives of everyday Americans, all so they can turn around and cut taxes that primarily benefit America's millionaires.

Among the proposals they will bring and will try to force through are dramatic cuts in food assistance programs to our most vulnerable. According to the CBO, the Republican food stamp cuts would knock nearly 300,000 Americans off nutritional assistance programs. Included in that number are 40,000 children who would no longer receive either free or reduced-price school lunches.

No other group has benefited more from 5 years of Republican domination in Washington than those who are the wealthiest in our Nation, and now Republicans want to take school lunches away from 40,000 children so they can provide America's millionaires another tax break.

These children desperately need the nutrition provided in school lunches. It is cruel, and this bill must be defeated.

HONORING OUR VETERANS

(Mr. GINGREY asked and was given permission to address the House for 1 minute.)

Mr. GINGREY. Madam Speaker, I also rise today to pay tribute to America's veterans, whose brave efforts have safeguarded those values we hold dear: freedom, liberty, democracy, and the American way of life.

This week, as we celebrate Veterans Day, I hope all Americans will take the time to thank a veteran for his or her service to our country.

From our Nation's founding days, we have appreciated and recognized the sacrifices and valor of our veterans. General George Washington noted in 1776 that American soldiers "have done all I have asked you to do, and more than can be reasonably expected." Our veterans today rise to this same challenge.

America's veterans fought to preserve our great Nation, to liberate the oppressed, and to hold fast to the idea that freedom and liberty are universal rights worth fighting and, yes, sometimes dying for.

I want to thank all of our veterans for their selfless service. From Omaha Beach and the Pacific seas, to the jungles of Vietnam and the sands of the Middle East, we live every day with the gift of liberty because you secured our freedom and the freedom of generations to come.

BLUE DOGS STAND FIRM AGAINST REPUBLICAN BUDGET CUTS

(Ms. HERSETH asked and was given permission to address the House for 1 minute.)

Ms. HERSETH. Madam Speaker, I too stand united today with my fellow Blue Dog Democrats in opposition to the majority's budget reconciliation decisions. Blue Dogs have consistently stood for fiscal responsibility, balanced budgets, and an honest, open, and accountable budget process.

So why would Blue Dogs support a proposal that is part of a budget reconciliation package that will increase the deficit, not lower it? Why would we be in support of a budget reconciliation package that is part of a broken budget process in need of serious reform? And why would we support a budget reconciliation process that is part of an overtly partisan failed strategy, a strategy that will fail the House majority leadership and would fail the American people if Blue Dogs did not stand firmly against it.

I encourage my colleagues on both sides of the aisle to stand firmly against it as well and vote "no" on the budget reconciliation bill.

DEFICIT REDUCTION ACT A GOOD FIRST STEP FOR AMERICA

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Madam Speaker, earlier today, my good friend RAHM EMANUEL, a Democrat from Illinois, said, "Tomorrow the House will vote on America's future, with an $8 trillion national debt and with a Congress that spent $60 billion in 6 days without a thought as to how we were going to pay for it." I could not agree more.

The gentleman from Illinois went on to say, "Where else could we cut food stamps and Medicaid?" and he answered, "With a Republican Congress" and a lament.

And I would ask, where else but in Washington, DC could a deficit reduction act that actually increases entitlements by 6.3 percent, instead of the planned 6.4 percent, be called a cut? The budget cuts we will pass tomorrow, let me say again, will still increase spending in Medicaid student loans and aid to dependent families. As a conservative, as some of my Blue Dog colleagues have said, I do not think this deficit reduction act goes nearly far enough to do right by those children and grandchildren that we raise. But it is a good first step. It is a modest start in the direction of putting our fiscal house in order. I urge my Republican and Democrat colleagues of goodwill to support it.

☐ 1030

BUDGET RECONCILIATION

(Ms. WOOLSEY asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. WOOLSEY. Madam Speaker, the Federal budget is about priorities. And with this budget, Republicans have their priorities all wrong. As an example, The Washington Post reports that young people from rural America are shouldering a disproportionate burden of the war in Iraq. Why? Rural Americans are increasingly willing to risk dying in this Iraqi quagmire to improve their chances of paying for college and getting a decent paying job.

More than 44 percent of military recruits now come from rural areas. Only 14 percent come from American cities. Also, many military recruits are financially strapped. Nearly 50 percent of them come from lower-middle-class to poor households. In 2004, nearly two-thirds of Army recruits came from counties in which median household income is below the U.S. median.

Why do I tell you this? Because the response of this Republican-led Congress is to impose $14.5 billion in deeper budget cuts in student aid. How does that add up?

REPUBLICAN PRIORITIES DEMAND SACRIFICE OF THE MANY, PROVIDE ENRICHMENT OF THE FEW

(Mr. PALLONE asked and was given permission to address the House for 1 minute.)

Mr. PALLONE. Madam Speaker, the Republican budget bill is not a document of our Nation's priorities. The Republicans are not listening to the needs of average Americans who want a fair budget and lower deficits.

Here are 10 quick reasons why this mean-spirited bill should be defeated this week. First, it takes from the poor and middle class to make the rich richer. Second, it includes the largest cuts in student loans in history. Third, it provides a $24 billion windfall to delinquent dads. Fourth, it destroys the pristine Arctic refuge and endangers our coastline.

Fifth, it worsens America's health status by cutting Medicaid by $12 billion. Sixth, it cuts safety-net funding for our most vulnerable children. Seventh, it takes school lunches away from 40,000 kids who desperately need the nutritional content that those lunches provide. Eighth, it fails to adequately fund vital support services for workers. Ninth, it adds insult to injury for farmers in the form of commodity cuts. And tenth, despite all these cuts, it still swells the deficit. And I stress, it still swells the deficit.

FISCAL FANTASY

(Mr. KINGSTON asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KINGSTON. Madam Speaker, I was listening to some of this hysteria and rhetoric from the Democrat Party, and I wonder sometimes if they actually believe what their speech writers apparently give them. Obviously, they do not read it before they start giving the speech because they know food stamps are going up $250 million. It is not a cut. Medicaid is going up $66 billion. That is not a cut. Medicaid goes up 7 percent instead of 7.3 percent. That is what you need to be saying; we think it should be going up more than you guys, but admit, as we all know, Medicaid is going up 7 percent, $66 billion.

Yet in Washington, D.C., just like Disney World, there is a lot of fantasy around us. And the fantasy is that if you do not get the increase that you want, you can go out and have the New York Times and Washington Post say, yes, he is right, that is a cut because they are not going up 7.3 percent, they are going up 7 percent. We have a plan to reform government and create savings. Yesterday, the Democrat Party announced they would have no agenda for 2005. Well, surprise, surprise. It is only November. But when is the Democrat Party going to announce its alternative? I will ask that question. I hope somebody will answer.

A ROSE BY ANY OTHER NAME

(Mr. BISHOP of Georgia asked and was given permission to address the House for 1 minute.)

Mr. BISHOP of Georgia. Madam Speaker, a rose by any other name smells just as sweet. And dung by any other name stinks just as much. A stinking bill that cuts spending for Medicaid, food stamps, student loans, foster care, child support, school lunches, and senior care by $54 billion and then cuts revenue taxes for folks earning $300,000 or more by $70 billion still leaves a stinking deficit of $16 billion. Add $7.1 billion for the cost of the President's flu initiative and $200 billion for gulf coast reconstruction and that grows to $223 billion.

This Republican reconciliation package is misnamed. It is actually a sham. Republicans have rejected the Blue Dog 12-point plan to cut deficit spending and now want to fool the American people. Madam Speaker, you can dress up a pig and call it a lady, but it is still a stinking pig. You can dress up a sham and call it deficit reduction; but it still says oink, oink, still stinks and is still a lie.

REPUBLICAN CUTS TO FOOD STAMPS

(Mr. CROWLEY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CROWLEY. Madam Speaker, I rise in opposition to the Republican cuts to food stamps under this reconciliation budget, an incredible total loss of $844 million, $844 million that comes directly from people in this country who are struggling to feed themselves and their families; $844 million from people who can least afford such a drastic cut. And once again, immigrant families are being treated particularly inhumanely by this Republican plan.

And let me be clear. We are talking about denying assistance to legal permanent residents, immigrants who play by the rules, support our communities, and serve in our military; immigrants who sacrifice so much to come here; immigrants who are frequently among the most vocal supporters of America and the American Dream. Under the Republican plan, 70,000 legal immigrant households will be denied food stamps for an extra 5 years.

But if the argument for supporting humane treatment of our immigrant population does not sway you, consider that many of these legal immigrant families include children, kids who are American citizens, kids who will be denied food stamps for an extra 5 years. If you do not see this as unconscionable, I do not know what you see as unconscionable. If you do not think this is un-American, I do not believe there is anything that is un-American more than this.

WHAT RECONCILIATION MEANS

(Mr. BOYD asked and was given permission to address the House for 1 minute.)

Mr. BOYD. Madam Speaker, the Republican leadership has announced earlier that tomorrow we will vote on budget reconciliation. I wanted to understand better what reconciliation meant, so I went to Webster. And let me read to you what it means to reconcile: to restore to friendship or harmony; secondly, to make consistent or congruous; thirdly, to check a financial account against another for accuracy. That is Webster. The Republican budget reconciliation certainly does not restore friendship and harmony since they have been unwilling to include any Democrats, including our Blue Dog Coalition, in the discussion of this huge deficit problem. And it certainly does not make our financial accounts balance since it will increase our annual deficit by more than $16 billion. Under this administration and Republican leadership in Congress, our national debt has shot through the $8 trillion mark and continues to rise.

PAYGO PROPOSAL

(Mr. COOPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOPER. Madam Speaker, I think most folks back home want us to get along with each other in order to strengthen our Nation. Well, how can we best do that, especially at a time of contentious budget reconciliation? There is a simple proposal called PAYGO that is not theory; it has worked incredibly well. It worked from the year 1990 to the year 2002 when our friends on the other side of the aisle allowed it to expire.

How well did it work? Well, Alan Greenspan, the Chairman of the Federal Reserve, said it is the single most important thing we can do to right our fiscal ship. Pay-as-you-go means that if you want to spend more money, you have to find offsetting cuts somewhere before you can think about spending the new money. And it also means if you want to offer someone a tax cut, that is fine. Just figure out a way to pay for it. It is a simple and clear rule, and it guided our Nation into prosperity from 1990 to 2002.

Why can we not readopt that? It has proven to work and work well for all Americans and to strengthen our Nation. The Blue Dog Coalition has been more consistent in its support for the PAYGO provisions than any other group in Congress. Support PAYGO.

FISCAL RESPONSIBILITY

(Mr. BERRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BERRY. Madam Speaker, I love coming down here and listening to these whiz bangs on the other side talk about their fiscal responsibility and all of this foolishness that they have put forth to the American people. It makes me want a dip of snuff. It is almost like they cannot add and subtract. I know they cannot multiply and divide. But the great mystery to me will always remain why in 5 years' time when they have increased the national debt by $3 trillion and demonstrated beyond a shadow of a doubt that they have absolutely no interest in being responsible, they would come here, present a budget that increases the debt by tens of billions of dollars more and try to tell the American people this is what you need; this is what we are going to do for you. You are going to have to answer to your children and grandchildren. And I would love to be there when they walk up to you and say, Grandmother, Grandfather, why did you do this to us?

RECONCILIATION PLAN

(Mr. MELANCON asked and was given permission to address the House for 1 minute.)

Mr. MELANCON. Madam Speaker, I cannot vote for this reconciliation plan for one very simple reason: Now is not the time to be cutting taxes for the wealthy in our country when the people of the ravaged gulf coast region receive silence and burdensome loans. I join my fellow Blue Dogs in opposition to this plan. Do the math: $54 billion in spending cuts minus $70 billion in tax cuts equals a $16 billion increase in the deficit. We give tax cuts to the rich and continue to run up the deficit, but continue to send loans to the people who need their government the most in the gulf coast region.

Our government must do just as President Bush said in Jackson Square, whatever it takes to rebuild. I agree with the President on rebuilding. But let me be clear. Cutting taxes for the wealthy while loaning money to the devastated communities along the gulf coast is the wrong course of action. Let us start sending real help to the people in need and stop sending millionaires refund checks.

STUDENT AID IN RECONCILIATION BILL

(Mr. OLVER asked and was given permission to address the House for 1 minute.)

Mr. OLVER. Madam Speaker, tomorrow's reconciliation bill is a reckless attack on students attending college. Basically, the bill burdens students from low- and middle-income families with 33 percent higher debt to pay for tax cuts that benefit almost exclusively those whose income is over $200,000 a year. This bill cuts $14 billion from student aid by increasing interest rates and taxes on loans and charging students new fees.

The cost of college is skyrocketing, and it already leaves the average student $17,000 in debt. This bill would increase that debt by 33 percent. Many low- and middle-income students will no longer be able to afford college and their lifetime earning power will be reduced. Under the reconciliation bill, at least four students are going to start their careers burdened with added debt to pay for each millionaire's tax cut. And all this is being done so that the wealthiest 3 percent of Americans can have another huge tax cut.

REPUBLICAN RECONCILIATION BILL

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. The Republican reconciliation bill, pretending to finally bring a sense of fiscal responsibility to that side of the aisle, having increased our debt by 62 percent in 5 years, actually is bleeding middle-income families, kids who want to get a higher education, $14 billion out of student loans.

Those youngsters in the elementary schools are eating too much. Cut student lunches for those kids. Foster care, the family values side, long-term care for seniors. Why are they cutting all that? So they can bleed the poor and the middle class in this country. And then as they create this giant sea of red ink, they will float the yachts of the wealthy on it by giving them $70 billion in tax breaks, actually increasing the deficit, having already stuck it to the middle class and struggling families.

They are going to increase the deficit in order to finance tax cuts for people who earn over $300,000 a year so their yachts can be a little bigger and float a little higher. They should be ashamed of what they are doing to America and what they are doing to middle-income and struggling families.

☐ 1045

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2419, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2006

Mr. HASTINGS of Washington. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 539 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 539

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2419) making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore (Mrs. MILLER of Michigan). The gentleman from Washington (Mr. HASTINGS) is recognized for 1 hour.

Mr. HASTINGS of Washington. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentlewoman from California (Ms. MATSUI), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Madam Speaker, House Resolution 539 waives all points of order against the conference report and against its consideration.

The resolution also provides that the conference report shall be considered as read. The energy and water development appropriations conference report provides a total of $30.5 billion to fund the Army Corps of Engineers, Department of Energy, Department of Interior, the Bureau of Reclamation and several independent agencies for the current fiscal year.

The Bureau of Reclamation receives $1.1 billion to maintain and operate water infrastructure projects throughout the West.

The Department of Energy constitutes the bulk of the bill with funding of $24.3 billion. This represents a decrease of $129 million from fiscal year 2005.

Overall, the conference report represents a compromise between the House- and Senate-passed bills and deserves the support of my colleagues.

Madam Speaker, included in this bill are a number of projects and provisions of importance to my central Washington congressional district. The Bureau of Reclamation's budget provides $1.5 million to keep pace with a Federal study looking to add more water storage in the Yakima River basin and the potential of the Black Rock reservoir. Water storage is critical to the farmers and communities in this arid part of our Nation, and this year's drought made clear the importance of finding solutions for creating additional storage.

Funds were also provided for the Bureau of Reclamation to continue work to address the depletion of the Odessa Subaquifer on the Columbia Basin project, as well as needed improvements to the West Canal. Finding answers for farmers whose water supply is disappearing requires the active participation of the Bureau of Reclamation, and this bill continues the involvement that I was able to launch last year.

The final conference report also provides $18 million for the Department of Energy's budget for the transition of Pacific Northwest National Lab scientists and capabilities into new lab space. The buildings in which the scientists currently work are located in the Hanford site's 300 Area and will be torn down in the next few years to clean up this contaminated area.

The $18 million represents an increase of $10 million above DOE's budget request that I worked to add to make certain this effort remains on track and that construction activity can begin this year.

Ensuring the new lab space is ready and available before cleanup of Hanford requires the destruction of the scientists' current lab space is a top priority of mine, and I will continue to work hand-in-hand with the leaders of Pacific Northwest National Lab to make this happen.

This bill also funds the cleanup of the Hanford site. In February, I was disappointed with the Department of Energy's proposed funding for Hanford, and I have worked for months to restore some of that funding.

I am pleased that this bill provides increases above DOE's requested budget for several important cleanup projects in Hanford, including the River Corridor initiative, tank waste retrieval, groundwater protection, preserving the historic B Reactor, and continuing the important safety and training work of the Volpentest HAMMER facility.

There are very real cleanup successes being achieved at Hanford, and it is important to keep progress moving forward. This bill does, however, reduce funding for construction of the Waste Treatment Plant by $100 million, which is a reduction that DOE proposed. I have made my dissatisfaction with the situation created by the Department very clear, and I intend to keep pressing DOE to be open in providing answers on its plan for the Waste Treatment Plant.

DOE has repeatedly stated their commitment to building and completing the vitrification plant, and we simply cannot afford to have a lack of information from the Department create further challenges for this project.

Madam Speaker, this conference report comes to us with bipartisan support from the House-Senate conference committee, and I urge my colleagues to give bipartisan support for this rule and passage of the conference agreement.

Madam Speaker, I reserve the balance of my time.

Ms. MATSUI. Madam Speaker, I thank the gentleman from Washington for yielding me this time, and I yield myself such time as I may consume.

Madam Speaker, I look forward to today's consideration of H.R. 2419, which reflects much thought and long-term planning on behalf of the Committee on Appropriations. This year's energy and water bill means a great deal to my constituents in my hometown of Sacramento.

This year, we pointedly witnessed just how important the water funding included in the energy and water appropriations funding legislation is. And we must now embrace the lessons this year's unprecedented hurricane season have taught us about the essential need to invest in our Nation's flood control infrastructure, dollars that are necessary to examine, maintain and strengthen our levee and dam systems.

Federal officials must look expeditiously at the significant role infrastructure plays to reduce catastrophic loss in a flood event. I commend the committee for calling on the Corps of Engineers to identify and create a list of the Nation's 10 most critical water resource needs in the country.

While hurricane season has ended, the flooding season in Sacramento and all of California will begin shortly. And as I have consistently spoken about the unacceptable risk of flooding my constituents face, I am certain you understand the concern I have about this upcoming season. Despite years of dedicated efforts, Sacramento still remains one of the most flood-prone and threatened cities in the country, paling in comparison to the level of protection enjoyed by other river cities.

According to the U.S. Army Corps of Engineers, Sacramento's flood risk is among the highest of urban areas in the country. This bill makes a significant investment in Sacramento's flood reduction efforts. It keeps the region on track to achieve our short-term goal, through levee work, of reaching 100-year protection. Moreover, this legislation ensures our other projects move forward, through which Sacramento will more than double the current level of flood protection. This increased protection is essential.

With thousands of lives and the capital of the Nation's largest State at risk, the need for this critically important investment is clear. We cannot afford to delay this work. This legislation recognizes the immediate need for progress on our flood control by directing our Corps of Engineers and the Bureau of Reclamation to continue the collaborative work addressing improvements to Folsom Dam. On behalf of Sacramento, I appreciate their dedication to this goal.

Each of our flood control partners, the Sacramento Area Flood Control Agency, the Corps of Engineers, the Bureau of Reclamation, and the State of California, recognize the dire need for improved flood control and have personally invested in finding a solution; and I thank them for this. They, as I, who live in Sacramento, understand that lives are at risk and delays only add to our vulnerability.

I cannot proceed without also expressing my gratitude to the gentleman from Ohio (Mr. HOBSON), the gentleman from California (Mr. DOOLITTLE), and the gentleman from Indiana (Mr. VISCLOSKY). Their commitment to improving our Nation's water infrastructure is evident in this legislation. I thank both of California's Senators for their efforts on Sacramento and California's flood control needs. I appreciate Senator FEINSTEIN's leadership in the conference committee. To the energy and water appropriations staff, particularly Peder Maarbjerg and John Blazey, your long hours and hard work are much appreciated.

Their efforts reflect not only the incredible investments that must be made to improve our infrastructure across the Nation, but also an acknowledgment that we must wisely spend each dollar. This legislation adds new measures to ensure that the Corps manages each dollar efficiently.

To improve the execution of projects, the Corps is directed to develop a 5-year comprehensive budget plan and vision for water infrastructure in the country to comprehensively integrate financial planning and project management. Further, while the Corps will still have the flexibility to occasionally shift project funding as needed, the Corps will no longer be able to consistently use this practice.

By working together, the Congress, the administration, and the Corps of Engineers will be better prepared to ensured that limited Federal resources are spent efficiently, commitments to local sponsors are honored, and projects remain on schedule.

This bill moves our country forward on many levels, from improving local water infrastructure to bigger-picture Corps of Engineer financial management and efficiency issues.

In light of the realities our Nation faced this year, I hope Congress will continue this commitment to public safety and significantly invest in water infrastructure. I strongly support the underlying conference report and look forward to voting in support of the measure.

Madam Speaker, I yield back the balance of my time.

Mr. HASTINGS of Washington. Madam Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore. The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. HASTINGS of Washington. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2862, SCIENCE, STATE, JUSTICE, COMMERCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. GINGREY. Madam Speaker, by direction of the Committee on Rules, I call up House Resolution 538 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 538

Resolved, That upon adoption of this resolution it shall be in order to consider the conference report to accompany the bill (H.R. 2862) making appropriations for Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes. All points of order against the conference report and against its consideration are waived. The conference report shall be considered as read.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. GINGREY) is recognized for 1 hour.

Mr. GINGREY. Madam Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Massachusetts (Mr. MCGOVERN), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

House Resolution 538 waives all points of order against the conference report and against its consideration and provides that the conference report shall be considered as read.

Madam Speaker, I rise today in support of House Resolution 538 and the underlying conference report for H.R. 2862, the Science, State, Justice, Commerce and Related Agencies Appropriations Act of 2005. This conference report provides $57.85 billion, $2.5 billion less than the President requested, to fund the Departments of Justice, Commerce and State along with NASA, the National Science Foundation, the Federal Communication Commission, FCC, the Securities and Exchange Commission, SEC, the Legal Services Corporation, and the Small Business Administration, SBA.

☐ 1100

In recognition of the continual requirement to reassess our security and law enforcement needs, this conference report establishes responsible priorities to enable law enforcement to meet threats abroad and at home in order to secure our communities.

Madam Speaker, this conference report provides $5.8 billion for the FBI, an increase of $547 million above fiscal year 2005 and $15 million above the President's request. It provides $1.7 billion for the Drug Enforcement Agency, the DEA, and this is a $48 million increase above fiscal 2005, and it is $8 million below the President's request.

It provides $802 million for the United States Marshals Service, and this is an increase of $42 million from fiscal year 2005 and actually $12 million above the President's request.

Additionally, included in the conference report is $924 million for the Bureau of Alcohol, Tobacco, Firearms and Explosives, an increase of $41 million above fiscal year 2005, and it is the same as the President's request.

Further, this conference report contains $2.7 billion for assistance to State and local law enforcement for crime-fighting initiatives, $1.1 billion above the President's request and actually $287 million below fiscal year 2005.

This amount includes $405 million to reimburse States for criminal alien detention costs, $387 million for violence against women prevention and prosecution programs, $416 million for the Edward Byrne Discretionary Grants program, $340 million for juvenile delinquency prevention and accountability programs. It includes $109 million to eliminate DNA analysis backlogs, $140 million for law enforcement technologies and interoperability, $64 million for methamphetamine hotspots, and $40 million to reduce gang violence.

Madam Speaker, this conference report appropriates $6.6 billion for the Department of Commerce, marking a decrease of $37 million from fiscal year 2005 and a $2.9 billion increase from the President's request.

Recognizing the importance of space exploration that has fascinated minds for generations and provided many breakthrough technologies, this conference report matches the President's request of $16.5 billion to NASA, the National Aeronautics and Space Agency, and this is $260 million above fiscal year 2005. The bill provides funding for space exploration and the space shuttle program, restoring the aeronautics research program. Additionally, the National Science Foundation would receive $5.65 million of much-needed funding to drive American research and education, thereby keeping this country on the cutting edge of advanced technology and research.

This conference report also provides $9.6 billion for the State Department and the Broadcasting Board of Governors, including $1.6 billion to continue worldwide security improvements and replacement of vulnerable embassies; $4.4 billion for diplomatic and consular programs; and $652 million for international broadcasting, including expanding broadcasting to the broader Middle East.

Finally, Mr. Speaker, this conference report includes $456 billion for the Small Business Administration, $290 million for the Federal Communications Commission, $888 million for the

Securities and Exchange Commission, and $331 million for the Legal Services Corporation.

While this conference report is not perfect, all in all it adds up to better protection for our communities, stronger law enforcement at home, more vigorous diplomacy abroad, and improved scientific research and technology. This is the kind of fundamental support that Americans expect from this Congress. These are true national priorities, balanced with our budgetary restrictions and with fiscal responsibility in mind.

Therefore, Mr. Speaker, I would like to ask my colleagues' support of the rule and the underlying conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, I want to thank the gentleman from Georgia (Mr. GINGREY) for yielding me the customary 30 minutes, and I yield myself such time as I may consume.

Mr. Speaker, with the passage of this rule, this House will consider the Science, State, Justice, Commerce and related agencies appropriations conference report for fiscal year 2006. I want to begin by congratulating the gentleman from Virginia (Mr. WOLF), the chairman of the subcommittee, and the gentleman from West Virginia (Mr. MOLLOHAN), the ranking member, for working together to create a bill that seems to be a fair and responsible piece of legislation.

Mr. Speaker, I believe that budgets are moral documents, and where and how we decide to spend the taxpayers' money says more about our values as a society than any speech or political rhetoric possibly could.

This conference report, among other things, rightfully retains language included in the House-passed bill that prohibits funds being used to support or justify the use of torture by the United States Government. Despite the rhetoric coming from the White House, this language is both necessary and appropriate.

As the most powerful democracy in the history of the world, we have a moral responsibility not only to promote the expansion of our democratic values around the world, but perhaps most importantly, to demonstrate our commitment to them through our own practices and in the legislation we pass here in the Congress.

One of the most dramatic and significant tests of that commitment is before us today in the debate over our own use of the abhorrent practice of torture. The United States of America, as the leader of the free world, cannot and must not engage in a behavior which has been condemned around the world by the international community. To engage in such a heinous practice is a betrayal of our own values as defenders of freedom and liberty.

The fact that those who would seek to take away our freedom and the freedom of others utilize such techniques is in no way a justification here.

As a matter of the highest national security, we must openly and outright reject the use of torture as a means of achieving military victory in this or any other war. Our ideals as a Nation demand nothing less. Indeed, the fact that we must even engage in this debate on the House floor is indicative of the deep crisis of conscience which has embroiled the White House.

Senator JOHN McCAIN is working hard to build on the language in this conference report with regard to torture and include language in the DOD authorization bill prohibiting the use of torture and to make real and meaningful policy changes. His amendment is important. It is broadly supported and should be signed into law as soon as possible.

It is disconcerting that, as we speak here today, the White House is fighting Senator McCAIN and others who support his initiative every step of the way. Senator McCAIN certainly knows a lot more about the reality of detention and torture and the ineffectiveness of torture than the President, the Vice President, or the Secretary of Defense.

The recent revelation that the United States has secret prisons around the world and that there is no accountability or there is no oversight of what goes on in those prisons, quite frankly, is a national scandal.

This is not what America is about. This is not what America stands for, and the sad reality is that the reckless behavior of this administration when it comes to torture has put our own soldiers in more jeopardy.

Mr. Speaker, America can do better; and once we pass this conference report, I hope we will all join in a bipartisan way to support Senator McCAIN's effort to ban torture as a policy for this country once and for all.

Mr. Speaker, I am disappointed that the conferees once again stripped the Sanders provision from this bill that would have prevented funds in the bill from being used to implement provisions in section 215 of the PATRIOT Act. These provisions permit searches of library circulation records, library patron lists, book sales records, or book customer lists.

This amendment passed by a vote of 238–187, yet the Republican leadership has decided to strip it out of the bill. This is wrong and these provisions, like so many others in the PATRIOT Act, quite frankly should be stripped out of the bill as well.

Mr. Speaker, the American people do not want this provision. A majority in this Congress do not want this provision, and yet somehow it managed to basically be null and voided in the conference committee.

Finally, Mr. Speaker, this conference report includes language prohibiting the White House from blocking the importation of discount prescription drugs through trade agreements. That means that the White House cannot subvert the House's authority by preventing the American people from having access to life-saving, affordable prescription drugs. I strongly believe that access to affordable medication and health care should be a right in this country and not the fodder of a political power struggle. Health care should be a right in the United States of America and not a privilege.

I applaud my colleagues in both Houses for demonstrating the rare political will to constrain the power of this White House in the interest of protecting the American people.

Mr. Speaker, as I said before, budgets are moral documents, and this budget is a statement of America's principles. The level of funding the committee had to work with is woefully small because of the fiscal ineptitude of the Republican leadership in Congress and the Bush administration. Their policy of tax cuts for the rich and a continual growing of the Federal deficit has forced important programs like legal services for the poor and COPS funding to be cut. This is irresponsible, and this does not reflect the wishes and values of the American people.

With that, Mr. Speaker, let me once again commend Chairman WOLF and Ranking Member MOLLOHAN for making the best out of a bad situation. I appreciate their help and their hard work.

Mr. Speaker, I yield 6 minutes to the gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Mr. Speaker, I thank the gentleman for yielding me time.

Mr. Speaker, this bill fails the tens of thousands of Texans living along the Lower Rio Grande River Valley. It is difficult to fault the conferees for this failure since they approved every dollar requested by President Bush and his Administration for flood prevention, but this Administration appears to have learned absolutely nothing from the Hurricane Katrina disaster when it comes to protecting poor people from being inundated by the failure of defective levees.

Along the Rio Grande River in the Valley, we have some 270 miles of levees and numerous drainage structures and floodways that are meant to protect our citizens from flooding. All of this levee infrastructure, every bit of the levees, is not city, it is not county, it is Federal infrastructure.

The United States Section of the International Boundary and Water Commission (IBWC) is a tiny Federal agency based in El Paso, Texas, and it reports through the Department of State, through Secretary Condoleezza Rice here in Washington, to the President. Its director is appointed by the

President. It was originally set up to define and protect the boundary between the United States and Mexico. Now it has responsibility for seeing that the levees under its jurisdiction protect the Valley's growing population, which includes one of the poorest populations in the United States.

Only the Federal Government can change, alter, or improve these levees. The dozens of local governments, the businesses, the homes of tens of thousands of American citizens are all at risk when the Federal administration shirks its responsibility to protect them as this one has done.

In New Orleans, we saw levees breached at a terrible cost, suffered by many, but a cost particularly borne by the poorest citizens of that city.

In the Valley, as in New Orleans, the Federal Government cannot justifiably claim that "nobody anticipated a breach of the levees," as President Bush mistakenly declared on September 1 of this year, in offering his first of many excuses about the Katrina disaster.

In June of 2003, the IBWC itself, the Federal agency in the Bush Administration with the expertise and the sole responsibility for these levees along the Rio Grande, issued its report entitled "Hydraulic Model of the Rio Grande and Floodways."

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It concluded that a 100-year flood, the type that could be produced by a hurricane with far less punch than Katrina, will result in the levee system being overwhelmed along many river miles at a variety of locations. This is the type of flooding that will shut down the McAllen-Miller International Airport, affect the international trade zone and bridges, and will inundate thousands of homes and businesses, endangering people across the Rio Grande Valley.

Nor do the similarities between the Rio Grande Valley and New Orleans end with the deficient preparation of the infrastructure that this bill fails to address. After Katrina, we learned that positions at the Federal Emergency Management Agency, FEMA, were filled with political cronies. Less well-known, but equally important, indeed more important to my constituents in Texas, are the findings that were made this year concerning President Bush's appointment of the Commissioner of the U.S. International Boundary and Water Commission, who recently departed. His appointee, who had responsibility for these levees and the protection of thousands of Texans, was criticized earlier this year by the General Accountability Office as "rewarding long-time friends with ranking positions" and "provoking a hemorrhage of qualified personnel, personnel who protect against floods, monitor the safety of water, and assure back-up electrical power for Texas."

Sounds a lot like the great job that Ol' Brownie did. And as the painful footage of Katrina shows, the price to be paid by Americans is grave indeed.

We know that sea levels are rising around the world, and the Gulf of Mexico has entered a cycle of intensified hurricane activity: Katrina, Wilma, Alpha, Beta, so many hurricanes we ran out of names for them. But for the grace of God, had they headed toward the mouth of the Rio Grande River, we would be seeing on the evening news flood victims in Hidalgo, in McAllen and in Mission being rescued. Yet, despite repeated calls for action, the Bush Administration did not add one thin dime to its construction budget in this bill to protect our Valley residents.

This is a chart right out of the IBWC's own report showing by color, 6 feet in purple, 6 feet over the top of the existing levees with a major flood. Five to 6 feet, all this red, 2 to 3 feet over the top of the levees. What is going to happen to the City of Hidalgo? What is going to happen to all the businesses and homes and tens of thousands of people who live in this area if we do not provide an adequate amount of funding to repair the levees?

This bill approves every dime the President asked for, but he is failing the Texas Valley. He is failing to learn the lessons of Katrina and protect the people of the Rio Grande Valley, who live in the poorest statistical metropolitan area, McAllen-Mission, in the entire United States. The Federal Government is failing to meet its responsibility to provide them the security that the people of New Orleans did not have.

Mr. GINGREY. Mr. Speaker, I reserve the balance of my time.

Mr. McGOVERN. Mr. Speaker, let me close as I began today by pointing out to my colleagues that this conference report prohibits funding from being used by the United States Government for torture. We need to make this the absolute policy of our country.

Friday is Veterans Day, and we need to do everything we can to honor our veterans, but we can honor our veterans in part by doing everything we can to protect the soldiers who are now on the field, and that must mean making torture something that this country will never be part of.

I am horrified, quite frankly, by the behavior of the White House on this issue. They attempted to try to undermine what Senator McCAIN has tried to do in the Senate and what some of us have tried to do here in the House. Those who believe that torture should have no place in America or American society are frustrated by what the White House is trying to do. We are a much better country.

The U.S. Army Manual bans torture, prohibits it. And one of the reasons why is because those who are in the military understand that it jeopardizes the lives of Americans, of American soldiers. How do we demand that the international laws be respected and that if one of our citizens was taken as a prisoner that they not be abused or tortured if it is not the policy of this country to prohibit torture in any shape or form? We need to do better, Mr. Speaker.

I will just conclude by saying that I urge my colleagues to support this bill. We do not have any problem with the rule. But I would also urge my colleagues, once this bill is passed, to join with those in the Senate in a bipartisan way to prohibit torture once and for all. This should not be part of America. We are much better than this. We do not stand for that. And if the White House does not get the massage, we need to force the issue and to send them a bill that in fact has this prohibition in it.

Mr. Speaker, I yield back the balance of my time.

Mr. GINGREY. Mr. Speaker, I agree with my colleague, the gentleman from Massachusetts, regarding some of the statements he made about torture. Certainly the provision in this bill concerning that prohibits funds, as he pointed out, from being used in any way whatsoever to support or justify the use of torture by any official or contract employee of the United States Government. I know the gentleman was not suggesting that this President or any Member of this Congress condones torture.

Mr. Speaker, I had the opportunity, not once but twice, to visit the detention facility at Guantanamo Bay, and on each occasion I was accompanied by a Member from the other side of the aisle, a respected Democratic member on the Armed Services Committee. This was long before, Mr. Speaker, the occurrence at Abu Ghraib in Baghdad. Again, I say I went on two different occasions and at no time did I see any evidence whatsoever of torture.

What I did see was the International Committee of the Red Cross there interviewing the detainees in privacy, without any detention officers or any member of our military present. So these detainees had every opportunity to complain, and certainly complain they did.

I know as a matter of fact, Mr. Speaker, that a number of our troops were reprimanded because they overreacted on occasion when they were cursed and spat upon and had human excrement, feces, and urine tossed in their face. But this is not cruel and inhumane punishment.

I know the gentleman from Massachusetts is a great advocate of human rights, and I think he is right on what he is standing up for. And, again, the unfortunate occurrence at Abu Ghraib at Cellblock 1 on the night shift by a few miscreant Reservists is deplorable and intolerable, and it will not be tolerated. I know that our military responded and responded in the correct way. So, certainly, I just want to say I agree with the gentleman on his comment that we cannot tolerate that.

Mr. McGOVERN. Mr. Speaker, will the gentleman yield?

Mr. GINGREY. I yield to the gentleman from Massachusetts.

Mr. McGOVERN. Mr. Speaker, I thank the gentleman for yielding. Again, my point is that if in fact we can all agree that torture is abhorrent and something that should not be part of this society, then I hope we can all in a bipartisan way support the effort of Senator McCAIN, who wants to make it the policy of this land.

My problem with the White House, quite frankly, is that I am puzzled why they are trying to lobby to undermine what Senator McCAIN is doing. I am also quite frankly shocked by the recent revelations in the Washington Post about these secret prisons that we have all over the world where really, basically, there is no accountability.

So my point is, if we can all agree that this is wrong, let us make it the absolute law of this land and comply with what the U.S. Army Manual says and support Senator McCAIN in his efforts. And I hope we can do that in a bipartisan way, and I thank the gentleman.

Mr. GINGREY. Reclaiming my time, Mr. Speaker, I will simply close by recognizing the hard work and the incredible effort of Subcommittee Chairman WOLF and all of the House and Senate conferees. Reconciling differences between the two Chambers is rarely a simple task, but I believe they have once again risen to the occasion and they have produced a conference report that may not please everybody with everything, but it gets the job done by appropriately balancing our spending needs with our budget.

Mr. Speaker, the American people demand and they expect responsible spending to support law enforcement, strengthened diplomacy which builds upon our competitive edge. Today, it is my hope that we have delivered. So I ask my colleagues for their full support of the rule and this underlying bill.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. PETRI). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GINGREY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Ms. Wanda Evans, one of his secretaries.

PROVIDING FOR CONSIDERATION OF H.R. 1751, SECURE ACCESS TO JUSTICE AND COURT PROTECTION ACT of 2005

Mr. GINGREY. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 540 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 540

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1751) to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. It shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute recommended by the Committee on the Judiciary now printed in the bill. The committee amendment in the nature of a substitute shall be considered as read. All points of order against the committee amendment in the nature of a substitute are waived. Notwithstanding clause 11 of rule XVIII, no amendment to the committee amendment in the nature of a substitute shall be in order except those printed in the report of the Committee on Rules accompanying this resolution. Each such amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the committee amendment in the nature of a substitute. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore. The gentleman from Georgia (Mr. GINGREY) is recognized for 1 hour.

Mr. GINGREY. Mr. Speaker, for purposes of debate only, I yield 30 minutes to the gentlewoman from California (Ms. MATSUI), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for purposes of debate only.

Mr. Speaker, House Resolution 540 is a structured rule which provides 1 hour of general debate equally divided and controlled by the chairman and the ranking minority member of the Committee on the Judiciary. It waives all points of order against consideration of the bill. It provides that the amendment in the nature of a substitute recommended by the Committee on the Judiciary and now printed in the bill shall be considered as an original bill for the purpose of amendment and shall be considered as read. It waives all points of order against the committee amendment in the nature of a substitute.

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It makes in order only those amendments printed in the Rules Committee report accompanying this resolution. It provides that the amendments made in order may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent. It shall not be subject to amendment or a demand for division of the question in the House or in the Committee of the Whole. It waives all points of order against the amendments printed in the report and provides one motion to recommit with or without instructions.

Mr. Speaker, I rise today to speak on behalf of House Resolution 540 and the underlying bill, H.R. 1751, the Secure Access to Justice and Court Protection Act of 2005.

First, I want to extend my gratitude to the gentleman from Wisconsin (Chairman SENSENBRENNER) of the Committee on the Judiciary. I also would like to thank the ranking member, the gentleman from Michigan (Mr. CONYERS) as well as the gentleman from Texas (Mr. GOHMERT), the author of this important piece of legislation.

As I previously noted in my opening statement for the rule on H.R. 420, the Lawsuit Abuse Reduction Act of 2005, this past month has ushered in the passage of very meaningful and very significant legislation to reform and strengthen our courts both procedurally and substantively. Today we have an opportunity to strengthen our courts in a more literal sense by protecting them against a rising tide of violence that has harmed and claimed the lives of innocent individuals charged with enforcing and upholding our laws.

It was only a number of months ago that tragedy struck the Fulton County courthouse in Atlanta, my home State of Georgia. There, as most of America watched and sorrowfully remember, on March 13 a cold-blooded killer took the lives of four innocent people, forever robbing their families and depriving our legal system of the distinguished service of Fulton County Superior Court Judge Rowland Barnes, age 64; his court reporter, Julie Anne Brandau, age 46; Fulton County Sheriff Deputy Hoyt Teasley, age 43; and Federal agent David Wilhelm, age 40.

Mr. Speaker, law and order, not violence, should permeate our courts. Accordingly, H.R. 1751 would take important steps to deter and punish those who would exact revenge because they were caught in a criminal activity.

First, this bill will further punish any individual who would seek to influence, impede, or retaliate against a judge, a prosecutor, a law enforcement officer, or their families by increasing the penalties and providing new mandatory minimums such as 30-years-to-life mandatory minimum for kidnapping.

Additionally, each and every day men and women in law enforcement and public safety across this country proudly don their uniforms, fully recognizing that they represent their cities, States and their country; and they proudly assume a substantial amount of personal risk to do so.

Therefore, H.R. 1751 would establish as a new category of criminal offense the killing, the attempted killing, or conspiracy to kill any public safety officer for a federally funded public agency. This legislation defines "public safety officer" as an employee or officer of the judiciary, a firefighter, a law enforcement officer, or any other State or local employee.

This bill would also crack down on the disclosure on the Internet of personal information of judges, court personnel, law enforcement and safety officers, jurors, and witnesses.

Mr. Speaker, I would also like to emphasize H.R. 1751's protections for jurors, witnesses, victims, and informants. The reality is that criminals or their associates can have the means to intimidate victims, and especially witnesses, essentially muscling them out of the courtroom. Accordingly, this bill goes a long way to ensuring the safety of witnesses and victims in order to keep their testimony in the court and keep the criminals behind bars.

This legislation expands the current framework between the United States Marshals Service and the Administrative Office of the United States Courts to facilitate consultation and cooperation in the development of security standards and requirements for our courthouses. It prohibits the possession of a dangerous weapon, including a firearm, in a Federal court facility; and it creates opportunities for State courts to improve security through discretionary Byrne grants.

Mr. Speaker, in recent debates, some of my colleagues have unfortunately called into question the importance of legal reform in this country to the point of insinuating that such reforms are not worth this House's time for consideration.

Well, Mr. Speaker, the judicial branch affects the lives of every single American and almost every aspect of American life from conception to natural death, and sometimes even after death. Therefore, I think legal reform has and will continue to be a very appropriate matter for consideration and a good use of this Congress' time, especially when we are dealing with the safety of those men and women involved with our all-important third branch of government.

Again, Mr. Speaker, I look forward to the consideration of this rule. I ask my colleagues to support it and the underlying bill.

Mr. Speaker, I reserve the balance of my time.

Ms. MATSUI. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank the gentleman from Georgia (Mr. GINGREY) for yielding me this time.

Mr. Speaker, the rule, H. Res. 540, will allow the House to take up legislation to protect Federal judges, court employees, safety officers, jurors, and witnesses.

Unfortunately, we are all aware of the tragic violence committed against judges and their families this year. In one case this past February, Judge Joan Lefkow, a Federal judge from Chicago, returned home to find her husband and her mother murdered. We later learned it had been a retaliation for a earlier court ruling. It is hard to comprehend such a senseless loss.

Clearly, the additional steps we are taking today are important to protect judges and their family members. H.R. 1751, the Secure Access to Justice and Court Protection Act of 2005, increases the penalty for assaulting, kidnapping or murdering a Federal judge, other public officials, and their immediate family members. Further, the bill extends these protections to jurors and witnesses.

For our judicial system to function, the authority and safety of our Federal judges must be ensured. Judges, as well as jurors, should know they are free to make unbiased and sound decisions based on the facts and the rule of law and not on the fear that they may face retaliation for a decision they hand down.

It is equally important witnesses know they will also be secure when testifying. They must know that it is safe to do the right thing and testify before a court of law. For this reason, I appreciate that the Committee on the Judiciary included grants to assist States in operating the witness protection programs.

However, I do have some significant reservations about this legislation. Included in H.R. 1751 are over a dozen new mandatory minimum penalties.

Mr. Speaker, we must protect our judges from harm without impeding their judicial independence. It is the judges and juries who have the facts of each case before them, not Congress. And it is judges and juries who should be determining the proper and appropriate punishment.

Therefore, it should not surprise Members that the Judicial Conference of the United States, the body Congress turns to for nonpartisan recommendations on our Federal judiciary, has expressed a deep opposition to mandatory minimums on more than a dozen occasions in its communications to Congress.

Mr. Speaker, mandatory minimums simply do not work. Rather, they tie the hands of our judges, not allowing them to fit the best punishment to the crime.

I look forward to the debate on these amendments and the underlying legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. GINGREY. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. DREIER), the chairman of the Rules Committee.

Mr. DREIER. Mr. Speaker, I rise in strong support of this rule and the underlying legislation. I want to congratulate my friend from Georgia and my friend from California for their management of this issue.

I would like to say that the rule itself provides by a 2-1 ratio more amendments offered by Democrats than Republicans. Not every single amendment was made in order, as I see my friend, Mrs. MCCARTHY, here. I will say, as we regularly hear people say that the amendments the Democrats proposed are not given an opportunity to be heard on the floor, by a 2-1 margin, Mr. Speaker, we are seeing amendments made in order by Democrats over Republicans.

Specifically to the concern I know will be raised by the gentlewoman from New York (Mrs. MCCARTHY), we frankly upstairs had been under the impression that the language that she and the gentleman from Michigan (Mr. DINGELL) had proceeded through consideration, and I was wrong on that. I had gotten some incorrect information.

But I have talked with staff members of the Judiciary Committee; and I have an assurance, and while I know this amendment will not be made in order today, when it comes to looking at background checks and the history of individuals, this is a priority that the committee will put forward. They have assured me that they will proceed with hearings on this issue. I would like to say to my friend from New York who will raise concerns about this that is a priority that we have and we hope very much to address it.

Mr. Speaker, I would like to take a few minutes to talk about the legislation itself. I would like to begin by congratulating Chairman SENSENBRENNER and the gentleman from Texas (Mr. GOHMERT), who as a former judge is obviously concerned about the threats that have been out there for his former colleagues. I believe it is very important, when we think about the importance of the rule of law, which is absolutely essential, absolutely essential for the success of liberty, ensuring the safety of these judges who have continued to face threats, is very, very important for us to do.

Last night in the Rules Committee, our colleague from Texas (Mr. SESSIONS) referred to his father who was a judge, and as we all know, former director of the Federal Bureau of Investigation. He talked about those threats. He told me repeatedly about the threats that existed. This legislation, I believe, that Mr. GOHMERT has put together will go a long way towards addressing that concern.

I would like to talk about a very important provision that is included in this bill that enjoys strong bipartisan support. One of the serious problems with which we are all dealing is the issue of illegal immigration and the problem we have of people who are in this country. We know 98 percent of them are here to simply feed their families, but we know there are people here in this country who perpetrate crime against our fellow citizens. We know there continues to be the existence of a threat that a terrorist could come here. We know that Mohammed Atta, one of those who flew a plane into the World Trade Center Tower on September 11, 2001, was, in fact, here illegally. So as we look at the issue of illegal immigration, focusing on criminals and potential terrorists is a very high priority.

One of the worst days for law enforcement in the Los Angeles County Sheriff's Department was April 29, 2002. That is 3½ years ago. On that day, Deputy Sheriff David March was on patrol. He pulled over for a traffic violation an individual who ended up putting a gun to Deputy March's head and brutally killing him.

□ 1145

The alleged killer, Armando Garcia, fled to Mexico, and it has been 3½ years, and we have not resolved that case.

Within just a few weeks of that April 29 killing in 2002, upstairs in the Rules Committee I convened a meeting of my colleagues, BUCK MCKEON, who represented the March family; KEN CALVERT, who was very involved in this issue and concerned about it. On the other side of the aisle, HOWARD BERMAN and ADAM SCHIFF, and we also had at that meeting, Mr. Speaker, representatives from the Mexican Embassy's judicial department within the embassy here; and we also had representatives from our Department of Justice.

Now, our concern has been a terrible provision that exists in Mexican law. It is actually constitutional, saying that the Mexican Government refuses to extradite a criminal who potentially could face the death penalty, and this is something that has existed for a long period of time. Something that was very unfortunate was that in September of 2001, the Mexican Supreme Court took steps to say that they refused to extradite an alleged criminal to a country or a state or a jurisdiction that had life imprisonment as the punishment because they considered that to be cruel and unusual punishment.

Mr. Speaker, it is horrible that they have that policy, and we need to do everything we can to change that policy. We need to encourage the Mexican Government to change that policy. Why? This does not have to do with something that took place in their country. It has to do with a crime perpetrated on U.S. soil. So I believe the Mexican Government should, in fact, extradite an alleged criminal who has perpetrated a crime here in the United States to face the punishment in the jurisdiction where the crime was perpetrated.

So what has happened here, Mr. Speaker, is that we want to ensure that we never see happen again what happened on April 29, 2002. And I should add that is not the only instance. We all know of many other instances where law enforcement officers have been killed and people have fled the country. But this case has become a very prominent one.

So I was approached by Los Angeles County Sheriff Lee Baca, and I was joined by my colleague Mr. SCHIFF, who serves on the Judiciary Committee; and we were asked to introduce legislation that would make it a Federal crime to kill a law enforcement officer and flee the country. We spent a great deal of time working with a wide range of organizations, and we have put together a package which I believe can allow us to do that without impinging on the local jurisdiction that we believe district attorneys should have in dealing with this issue. It does not in any way diminish the level of punishment. But what it does do, Mr. Speaker, is it puts the full force of the Federal Government behind an effort to ensure that we do not have happen again what happened on April 29 of 2002.

One of the things that I believe is important is to recognize that there are families that have suffered, and I have had the opportunity, through Sheriff Baca and through others, to get to know the family members of Deputy Sheriff David March. So, Mr. Speaker, H.R. 3900 is the legislation that ADAM SCHIFF and I introduced, and it is included as part of this very important court security measure that Mr. GOHMERT has offered, and I would like to name the provisions that are included calling for making it a Federal crime to kill a law enforcement officer in the name of Deputy Sheriff David March. And I spoke with Sheriff Lee Baca this morning about that, and I really feel that we are doing this in the name of David March to keep the memory of his life alive, the memory alive so that we can send a signal that we are not going to tolerate this kind of act in the future.

So, Mr. Speaker, we have here, again, a very important measure included in critical must-pass legislation, and I hope that my colleagues will join in providing bipartisan support for this measure.

Ms. MATSUI. Mr. Speaker, I yield 3 minutes to the gentlewoman from New York (Mrs. MCCARTHY).

Mrs. MCCARTHY. Mr. Speaker, I thank the gentlewoman for yielding me this time.

I am very happy to hear from my colleague from California explaining the move last night on not allowing my amendment to be put forth; and I hope that, working with him and certainly Mr. SENSENBRENNER on the Judiciary Committee, we can move this bill forward.

H.R. 1751 goes to great lengths to punish those who commit violence in our courthouses, and rightly so. However, this bill falls short when it comes to preventative measures that would stop these senseless attacks from happening in the first place.

As was mentioned, last night I offered such an amendment in the Rules Committee. It would automate the court records into the National Institute Background Check System so recently convicted individuals could not buy a gun. The reason we want to do that, basically, is if a person is convicted and still not going straight to jail to prevent them from going out and buying a gun and coming back and doing harm, whether it is to a judge, a family, or a court officer.

Many State courts fail to enter this data into the NICS System in a timely manner, if at all. For example, the subject of a restraining order stemming from spousal abuse can leave the courthouse, go to a gun store, make a purchase, and seek revenge on the court officers.

My amendment would require that court rulings be immediately entered into the NICS System. It would provide grants to State courts that do not have the resources to comply. But my amendment was the only amendment not to be accepted by the Rules Committee, and we heard that wrong information had been given to Mr. DREIER, and I accept that. Those things happen.

All of us here want to save lives. I mean, that is what we want to do. We want to protect our men and women in uniform. We want to protect our court officers, our judges. This amendment certainly could have helped that. It would have made a good bill, in my opinion, a better bill.

So with that I hope that we will be here down the road soon, be able to offer my full bill because, again, this does not infringe on second amendment rights. It is there to protect people. It is there to save lives, and that is my goal.

Ms. MATSUI. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GINGREY. Mr. Speaker, I would like to close in celebration of the men and women who put their lives on the line every day, whether by working the beat, extinguishing a four-alarm fire, or ensuring equal justice under the law by means of the gavel.

As I mentioned earlier, when these individuals put on their uniforms, they become representatives of the community in service of the community. They are not enforcing their own will; but they are, rather, seeking guidance from and working to uphold the laws of the land.

Mr. Speaker, while there are some individuals who are occasionally accused of abusing their power, the vast majority, the vast majority, of these civil servants are only doing their job admirably; and, therefore, there is absolutely no justification for an accused or guilty individual to ever attach their anger to or seek revenge against these individuals who are only doing their duty.

Unfortunately, the increase of violent activities against judges, and we talked about that here during this hour, court officers, witnesses, victims, and law enforcement has made this bill not only necessary but also a top priority in the preservation of our system of law and justice.

Mr. Speaker, I look forward to the discussion of H.R. 1751 and the numerous amendments this rule has made in order. As always, I urge my colleagues to support the rule and the underlying bill.

Mr. Speaker, I have no further requests for time. I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. PETRI). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. GINGREY. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

House Resolution 539, by the yeas and nays;

House Resolution 538, by the yeas and nays;

House Resolution 540, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

* * *

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2419, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore. The pending business is the vote on adoption of House Resolution 539 on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

The vote was taken by electronic device, and there were—yeas 412, nays 2, not voting 19, as follows:

[Roll No. 577]

YEAS—412

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stark
Stearns
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—2

Berkley
Porter

NOT VOTING—19

Berman
Blumenauer
Boswell
Brown-Waite, Ginny
Conaway
Davis (FL)
Diaz-Balart, L.
Fossella
Hastings (FL)
Jones (OH)
Kilpatrick (MI)
Millender-McDonald
Norwood
Solis
Strickland
Sweeney
Turner
Walsh
Young (FL)

☐ 1220

Ms. VELÁZQUEZ changed her vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 577 on H. Res. 539 I was unavoidably detained. Had I been present, I would have voted "yea."

WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 2862, SCIENCE, STATE, JUSTICE, COMMERCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore (Mr. ISSA). The pending business is the vote on adoption of House Resolution 538 on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 410, nays 0, not voting 23, as follows:

[Roll No. 578]

YEAS—410

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stearns
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—23

Berman
Boswell
Brown-Waite, Ginny
Conaway
Davis (FL)
Diaz-Balart, L.
Emanuel
Fossella
Gonzalez
Hastings (FL)
Jefferson
Jenkins
Jones (OH)
Kilpatrick (MI)
Millender-McDonald
Norwood
Solis
Stark
Strickland
Sweeney
Turner
Walsh
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that there are 2 minutes remaining in this vote.

☐ 1229

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was on the table.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 578 on H. Res. 538, I was unavoidably detained. Had I been present, I would have voted "yea."

PROVIDING FOR CONSIDERATION OF H.R. 1751, SECURE ACCESS TO JUSTICE AND COURT PROTECTION ACT OF 2005

The SPEAKER pro tempore (Mr. ISSA). The pending business is the vote on the adoption of House Resolution 540 on which the yeas and nays are ordered.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the resolution.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 412, nays 0, not voting 21, as follows:

[Roll No. 579]

YEAS—412

Abercrombie
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)

Davis (TN)
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
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Sullivan
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Tanner
Tauscher
Taylor (MS)
Taylor (NC)
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Thomas
Thompson (CA)
Thompson (MS)
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Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Wamp
Wasserman Schultz
Waters
Watson
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Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NOT VOTING—21

Ackerman
Berman
Boswell
Brown-Waite, Ginny
Conaway
Davis (FL)
Davis, Jo Ann
Emanuel
Fossella
Gonzalez
Hastings (FL)
Jones (OH)
Kilpatrick (MI)
Millender-McDonald
Norwood
Solis
Strickland
Sweeney
Turner
Walsh
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (during the vote). Members are advised that 2 minutes remain in this vote.

☐ 1238

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 579 on H. Res. 540 I was unavoidably detained. Had I been present, I would have voted "yea."

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 2490. An act to designate the facility of the United States Postal Service located at 442 West Hamilton Street, Allentown, Pennsylvania, as the "Mayor Joseph S. Daddona Memorial Post Office".

H.R. 3339. An act to designate the facility of the United States Postal Service located at 2061 South Park Avenue in Buffalo, New York, as the "James T. Molloy Post Office Building".

The message also announced that the Senate has passed with amendments in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 797. An act to amend the Native American Housing Assistance and Self-Determination Act of 1996 and other Acts to improve housing programs for Indians.

The message also announced that the Senate concurs in the amendments of the House to the text and title of the bill (S. 1713) "An Act to make amendments to the Iran Nonproliferation Act of 2000 related to International Space Station payments.".

GENERAL LEAVE

Mr. HOBSON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include tabular and extraneous material on the conference report to accompany H.R. 2419.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

CONFERENCE REPORT ON H.R. 2419, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2006

Mr. HOBSON. Mr. Speaker, pursuant to House Resolution 539, I call up the conference report on the bill (H.R. 2419) making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 539, the conference report is considered read.

(For conference report and statement, see proceedings of the House of November 7, 2005, at page H9813.)

The SPEAKER pro tempore. The gentleman from Ohio (Mr. HOBSON) and the gentleman from Indiana (Mr. VISCLOSKY) each will control 30 minutes.

The Chair recognizes the gentleman from Ohio (Mr. HOBSON).

Mr. HOBSON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased to present to the House today the conference report on H.R. 2419, the Energy and Water Development Appropriations Act for Fiscal Year 2006.

The amount of funding included in the Energy and Water conference agreement is $30.5 billion. This represents an increase of $663 million over the enacted level for fiscal year 2005, including supplementals and approximately $748 million over the budget requests. Much of this increase is dedicated to the Civil Works program of the Corps of Engineers with the Corps receiving approximately $1 billion over the budget request.

The recent hurricanes have taught us a hard lesson about the dangers of neglecting the water resources infrastructure in this country. We have to make sure we provide sufficient funds to address the most pressing water resource needs in this country, and we have to make sure that the Corps follows the spending guides provided by Congress in executing those projects.

We have focused on funding on the most important flood control, navigation and dam safety projects and on completing projects that are already under way. That means that our conference report includes only a limited number of new starts and project authorizations.

Our conference agreement imposes stricter controls on the Corps over reprogrammings and continuing contracts. Within the Department of Energy, our conference agreement provides health funding levels for the major DOE programs. We advance initiatives on the recycling of spent nuclear fuel and on the Reliable Replacement Warhead, and we keep critical projects such as the Yucca Mountain Repository and the National Ignition Facility and the Mixed Oxide Fuel Fabrication Facility moving forward.

I really want to thank all my colleagues on the Energy and Water Subcommittee and in the Senate. I especially want to extend my appreciation to my ranking member and partner in this venture, the gentleman from Indiana (Mr. VISCLOSKY). He has been an exceptional partner in this effort, and I believe we are both proud of this very bipartisan bill. I also want to thank the staff on both sides of the aisle for their outstanding work this past year.

I urge the unanimous support of the House for the adoption of the conference report.

Mr. Speaker, I am pleased to present to the House today the conference report on H.R. 2419, the Energy and Water Development Appropriations Act for fiscal year 2006.

The total amount of funding included in the Energy and Water conference agreement is $30.5 billion. This represents an increase of $663 million over the enacted level for fiscal year 2005, including supplementals, and approximately $748 million over the budget request.

Title I of this conference report provides funding for the Civil Works program of the U.S. Army Corps of Engineers and for the Corps' Formerly Utilized Sites Remedial Action Program. The conference agreement provides the Corps with $5.4 billion in fiscal year 2006, slightly below the current year when last year's emergency supplemental appropriations are considered, but approximately $1 billion over the budget request.

The recent hurricanes in September and October should serve as a long-overdue wakeup call to both Congress and the Corps of Engineers about the importance of water resources infrastructure in this country. We have to make sure that we provide sufficient funds to address the most pressing water resource needs in this country, and we have to make sure that the Corps follows the spending guidance provided by Congress. We have to fund the right projects, we have to make sure the Corps completes those projects in a timely manner, and we have to make sure those projects perform as intended.

To that end, our top priority in this conference was to provide additional funding for essential water projects around the country. Of the additional $749 million that was available to our conference over the amount requested by the Administration, we dedicated $634 million of that increase to the Corps of Engineers.

As we have done in the last several fiscal years, we have attempted to focus those resources on the Nation's top water resources priorities. That means that we apply funds to projects that can be completed in fiscal year 2006. We asked the Corps to use its professional engineering judgment to provide us with a list of the top ten priority flood control needs around the country, and a list of the top ten navigation infrastructure needs as well. Unfortunately, the Corps was unable to provide us with anything other than the list of projects contained in the budget request, so we generally funded those critical flood control and navigation projects at the full amount of the request.

As in previous years, we also limit the number of new starts and the number of project authorizations contained in this conference agreement. However, the most significant change is not in the funding levels or the individual projects, but rather in the way the Corps manages those funds and executes those projects. The Corps has operated its Civil Works program with a large amount of flexibility in the past, with the freedom to move funding around from project to project. Unfortunately, that practice got out of hand, to where the Corps was executing 20,000 reprogrammings a year for a workload of only 2,000 projects. That is not sound financial management.

The problem was compounded by the Corps' excessive reliance on continuing contracts, whereby the Corps can commit the Federal government to multi-year contracts in advance of having sufficient appropriations in hand. These two practices, reprogrammings and continuing contracts, meant that the Corps was playing a shell game with the funding we appropriated, moving money around from project to project to cover obligations they had made in excess of available appropriations.

Our conference agreement brings that practice to an end, by imposing stricter controls over reprogrammings and continuing contracts. We put a lot of effort into negotiating sound allocations for water projects, and we expect the Corps to abide by those allocations in the future.

Funding for Title II of the bill, which includes the Central Utah Project Completion Account and the programs of the Bureau of Reclamation, is $1.065 billion, $47 million above the amount appropriated last year and $114 million above the budget request.

Total funding for Title III, the Department of Energy is $24.29 billion, $129 million above fiscal year 2005 and $77 million below the budget request.

Our conference agreement provides healthy funding levels for the major Department of Energy programs. Energy Supply and Conservation is funded at $1.83 billion, an increase of $24 million over the current year and $81 million over the request. This amount includes significant increases in weatherization assistance and research on nuclear energy and electricity transmission and distribution. Fossil Energy research and development programs are funded at $598 million, an increase of $107 million over the request. This amount includes $18 million for FutureGen and $50 million for the Clean Coal Power Initiative.

Non-defense environmental cleanup activities are funded at $353 million, an increase of $3.3 million over the request. The Uranium Enrichment Decontamination and Decommissioning Fund receives $562.3 million, an increase of $67 million over the current year and a decrease of $29 million below the request. Defense Environmental Cleanup programs are funded at $6.19 billion, an increase of $177 million over the request. Of this amount, $157.4 million represents the cleanup of facilities of the National Nuclear Security Administration (NNSA), initially proposed in the budget request for transfer from Environmental Management to the NNSA. The conference report provides $526 million for the Hanford Waste Treatment and Immobilization Plant, a decrease of $100 million from the request.

The conference agreement provides $3.633 billion for the DOE Office of Science, an increase of $33 million over the current year and $170 million over the request. This amount includes an additional $30 million for advanced scientific computing, to accelerate the development of a leadership-class supercomputer for scientific applications.

For nuclear waste disposal activities, the conference agreement provides a total of $500 million, including $450 million for work on the Yucca Mountain repository and $50 million to initiate planning and a competitive site selection process for one or more integrated spent fuel recycling facilities. It is essential to continue development of the Yucca Mountain repository, but it is also essential to pursue alternative approaches to spent nuclear fuel so that we do not have to develop eight more repositories by the end of this century.

The conference agreement provides a total of $9.2 billion for the National Nuclear Security Administration (NNSA), an increase of $217 million over the current year but a decrease of $201 million from the request. This decrease compared to the request results largely from the cleanup responsibilities for NNSA sites and facilities, which were proposed in the budget request for transfer to the NSSA but were retained in Environmental Management in the conference agreement.

The conference agreement does not include funding for the Robust Nuclear Earth Penetrator but provides significant increases for the development of the Reliable Replacement Warhead. Additional resources are provided to accelerate the consolidation of special nuclear materials into a smaller number of secure sites, and to accelerate dismantlement of obsolete nuclear weapons. The conference agreement includes the requested amount of funding for construction of the National Ignition Facility.

Defense Nuclear Nonproliferation activities are funded at $1.6 billion, an increase of $138 million over the current year and $6 million below the request. This amount includes sufficient funds for the Mixed Oxide Fuel Fabrication Facility at Savannah River to proceed into construction in fiscal year 2006.

Funding for Title IV, Independent Agencies, is $271.1 million, a decrease of $18.2 million from last year and an increase of $36.9 million above the budget request. We have funded the Appalachian Regional Commission at $65.5 million, the same as the request. The Delta Regional Authority is funded at $12 million, an increase of $6 million over the request and over the current year. The conference agreement provides $50 million for the Denali Commission, a decrease of $16 million below the current year and $47 million over the budget request. The conference agreement provides $734 million for salaries and expenses of the Nuclear Regulatory Commission (NRC), an increase of $77 million over the current year and $41 million over the request. This additional budget authority is provided for NRC work on licensing new reactors and for increased security assessments.

I want to thank my Senate counterpart, Chairman PETE DOMENICI, and his ranking minority Member, Senator HARRY REID, for their hard work during this conference. I especially want to extend my appreciation to my ranking member, the Honorable PETE VISCLOSKY of Indiana, who was at my side during this entire process. I truly value his support and advice, and that of all the Members of our Energy and Water Subcommittee. I believe we are all proud of this bipartisan product.

Mr. Speaker, before I conclude I would also like to thank the staff for their help in shepherding this bill through the House and through conference with the Senate. The Subcommittee staff includes Kevin Cook, John Blazey, Scott Burnison, Terry Tyborowski, Tracy LaTurner, and our detailee from the Corps of Engineers, Taunja Berquam. I also want to thank Kenny Kraft of my staff, and Dixon Butler of the minority staff, and Peder Maarbjerg and Felicia Kirksey of Mr. VISCLOSKY's staff.

I urge the unanimous support of the House for adoption of this conference report.

Mr. Speaker, I reserve the balance of my time.

Mr. VISCLOSKY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I recommend that all Members join me in supporting this conference agreement. Its presentation has been bipartisan, and the chairman has been fair throughout his preparation. I would also join the chairman in adding my appreciation to the staff led on the majority side by Kevin Cook. He is joined by Terry Tyborowski, John Blazey, Scott Burnison and Tracy LaTurner. They are a very strong team.

On the minority staff, I would like to thank Dixon Butler. This year we have two of the finest detailees ever from the Army Corps, Taunja Berquam helping with the majority and Felicia Kirksey helping with the minority. I would also thank Kenny Kraft on Chairman HOBSON's staff as well as Peder Maarbjerg on mine.

Conference negotiations this year were protracted and their favorable resolution required both patience and firmness in pushing for positive reforms of the Corps of Engineers management practices.

I want to thank Chairman LEWIS as well as Ranking Member OBEY for their steadfast support in getting this done.

As I said in my remarks earlier this year, Chairman HOBSON has led our subcommittee to take a long-term perspective on a number of important issues, and this is resulting in some profound and positive changes, including saner and safer policies on nuclear weapons, insistence on 5-year planning from the Corps of Engineers, Bureau of Reclamation, and the Department of Energy; a focus on completing projects in management reforms, particularly at the Corps. On this side of the aisle I am pleased to have had the opportunity to support my chairman on these issues.

□ 1245

The conferees were given an allocation of $749 million larger than was available when the House developed its bill back in the spring. The tragic events that resulted from the hurricanes demonstrated that our Nation has crying needs in the areas served by the program of the corps, and we have devoted the increased funds to meet these needs along the Gulf of Mexico and across the Nation.

Mr. Speaker, I ask for my colleagues' support of this conference agreement.

Mr. Speaker, I recommend that all members join me in supporting this conference agreement. Its preparation has been bipartisan and the Chairman has been fair throughout its reparation. I would add my appreciation to the staff led on the majority side by Kevin Cook. He is joined by Terry Tyborowski, John Blazey, Scott Burnison, and Tracy LaTurner. They are a strong team. On the minority staff, I would thank Dixon Butler. This year we have two of the finest detailees ever from the Army Corps: Taunja Berquam helping the majority and Felicia Kirksey helping the minority. I would also thank Kenny Kraft on Chairman HOBSON'S staff and Peder Maarbjerg on my staff.

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The conferees were given an allocation $749 million larger than was available when the House developed its bill back in the Spring. The tragic events that resulted from hurricanes Katrina and Rita demonstrated that our Nation has crying needs in the areas served by the programs of the Corps of Engineers, and we have devoted the increased funds to meeting these needs both along the Gulf of Mexico and across the Nation.

The Energy and Water Development conference agreement had to work within the constraints that started with the President's budget request and its inadequate commitment of resources to the programs of the U.S. Army Corps of Engineers. The events of this year amply demonstrated the latent threats to our Nation from natural disasters and the failure of inadequate manmade structures. The Congress is doing the right thing in increasing spending on the Corps in FY 2006 by more than $1 billion over the request. Hopefully the Administration will now understand the level of investment needed and submit a budget for FY 2007 that sustains and extends this investment level for the water infrastructure of our Nation.

An additional top priority within the Energy and Water appropriations is nuclear nonproliferation. While the overall level included in the conference agreement is slightly below the request, considerable funds have been shifted from a construction project with major unspent balances to support of high priority programs to help Russia protect and control its nuclear weapons material. The Russian side has signaled strong willingness in this area, and bureaucratic obstacles in the U.S. have been removed. We must seize this opportunity for the increased safety of us all.

Alas, this conference agreement is limited by an overall constraint forced by allocation.

Four fifths of the Energy and Water funding goes to the Department of Energy, but energy research, development and demonstration is only 10% of the Department. The cost of gasoline, natural gas, and home heating oil have exploded over the past 18 months. Only the Federal Government can invest in the long-term R&D needed and stimulate demonstration and deployment of new technologies through partnerships with the private sector.

When our Nation faced high costs and uncertain supplies for energy in the mid-1970s, President Carter and Congress, made major investments in energy conservation and renewable energy along with unconventional sources of fossil fuels were funded. A comparable response today would require quadrupling our support for renewable energy and doubling our support for conservation R&D at DOE. As a start, Democrats advocated for creation of an energy independence fund of one-quarter billion dollars of new money at DOE at the time the House considered the Energy and Water appropriations bill.

The prosperity of our Nation is built in part on preeminence in almost all areas of fundamental science research. The Department of Energy is the primary supporter of physical science research and provides state-of-the-art user facilities available to investigators from government, academia, and industry.

The constraints on this conference agreement have allowed only one area of research and user support to be increased above the request—high performance computing. This is an area where the United States invented the field and long held undisputed leadership in the world. Several years ago, that leadership was challenged by Japan with their development of the Earth Simulator. For three years in a row, the Congress has had to increase support substantially in this area to sustain momentum in reachieving U.S. leadership.

The conference agreement provides no increased support for the operations of DOE user facilities. Construction of these facilities represents a major investment. Before the recent run-up in energy prices, it was estimated that an additional $95 million was required to operate these facilities at full capacity. Operation of these facilities is energy intensive, and the FY 2006 operating levels are likely to be smaller than planned.

Within the constraints of the conference allocation, the Energy and Water conferees have made good choices for our Nation. I ask for support for this measure.

Mr. Speaker, I reserve the balance of my time.

Mr. HOBSON. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. I rise in support of this bill, and I want to thank Chairman HOBSON for working on behalf of the civilian research and development programs of the Department of Energy. Needless to say, I wish the bill could have been even kinder to those programs, but I know that Chairman HOBSON pressed on their behalf.

I want, though, to bring attention to one concern I have about the conference report. The conferees dropped House language preventing an agreement on ITER, the international fusion project, from being finalized before March 1. This language, which I offered and the House approved by voice vote, was designed to prevent the U.S. from moving ahead with ITER until we had a consensus on how to finance the billion-dollar U.S. contribution.

You'd think that would just be common sense in this period of fiscal austerity when we are talking about cutting programs that Americans rely on. But the House language has been replaced by weak report language calling for a study by the Government Accountability Office.

I understand why, in the give and take of conference negotiations, my provision may have had to go away. But the issue is not going to go away.

I want to make clear to everyone concerned that I will do everything in my power to kill the ITER project if there is not an agreement by March that the domestic fusion program has to be scaled back to pay for ITER.

I am not going to allow the U.S. to enter into an international commitment that it cannot afford. I would rather kill the ITER project.

The fusion community will have to be realistic. It cannot have all its current projects and ITER. And it will not.

This year's appropriation already makes clear why this is so. Just about every area of activity under the DOE Office of Science sees a cut, especially if earmarks are excluded, except Fusion Energy Sciences. Fusion science is important and may be a key to our energy future, but it cannot consume the entire budget of the Office of Science. And that is what will happen if the domestic program is held harmless while ITER is constructed.

So I look forward to working with my colleagues on Appropriations and all my colleagues to make sure that the U.S. handles its international commitments responsibly. No one should misread what happened in this conference. The ITER program is in grave danger, and I guarantee you that it will not be completed with U.S. participation unless there is a more realistic plan to fund it.

Mr. HOBSON. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from New Jersey (Mr. FRELINGHUYSEN).

Mr. FRELINGHUYSEN. Mr. Speaker, I rise in strong support of the conference report.

First, let me commend Chairman DAVE HOBSON and Ranking Member PETE VISCLOSKY for their hard work on this Conference report.

In a year of fiscal constraint, extraordinary costs due to natural disasters, they have produced an excellent bill that addresses our national priorities and a wide range of Federal programs, including such diverse matters as flood control, navigation improvements, environmental restoration, nuclear waste disposal, advanced scientific research, maintenance of our nuclear stockpile, and nuclear nonproliferation.

KATRINA

No policy discussion about the Corps of Engineers can take place in this body without the looming shadow of Hurricane Katrina and its huge devastation.

This historic storm—encompassing 90,000 square miles in Louisiana, Mississippi and Alabama—raised issues that the Corps and the Congress must consider in the months ahead as we look to rebuild the Gulf Region and protect others susceptible to same kind of natural disaster.

Let's be blunt. A Katrina could—and will—happen again and we must heed its "lessons learned."

In the near term, we must be a careful steward of the taxpayers' dollars.

In the long—term, Congress needs to revisit how we prioritize ongoing Corps water infrastructure projects in a way that allows flood control, navigation, beach erosion to be completed once they are begun.

THE COAST

The Army Corps of Engineers keeps our waterways open for business, prevents our communities from flooding and our beaches from eroding.

In New Jersey alone, the Army Corps budget helps keep the 127 miles of New Jersey coastline open to visitors from across the country. Serving as one of New Jersey's greatest attractions, our beaches generate over 30 billion dollars for our State's economy each year, while providing over 800,000 people with jobs. This bill provides $71 million dollars for beach preservation and restoration.

PORT

One of the most important Army Corps projects is the Port of New York and New Jersey Harbor Deepening. For the third year in a row, President Bush's budget message recognized the dredging of this port as a national priority and it called for it to be one of five national navigational projects.

It goes without saying that projects like the Port drive our national economy. The Port is a national asset. As the largest port in the northeast and a leading job center for the New Jersey/New York Metropolitan Region, we must continue to focus our efforts on deepening its major navigation channels so that the port is able to meet the 21st Century needs of our economy.

FLOODS

Of course, the importance of the Army Corps budget is not limited to just navigational projects. In an effort to protect New Jerseyans, their homes, and their businesses from the destruction and devastation of flooding, this bill also provides the framework and the funding to purchase wetlands for natural storage areas, and to work with the local governments across northern New Jersey to develop long-term solutions to re-occurring floods. In New Jersey this means that important corps initiatives like the Jackson Brook Flood Control project in my own district and the ongoing acquisition of wetlands critical for the preservation of flood storage areas, among several other critical local projects have the funding to remain on track.

ENERGY

Mr. Speaker, our country continues to benefit from advances in science, technology and engineering. We've discovered the potential for fusion energy, advanced renewable energy, and improved energy efficiency. Through cutting edge research and the development of these programs at the U.S. Department of Energy, we are rapidly advancing our scientific knowledge.

Mr. Speaker, I have long supported funding for renewable energy sources. The Committee's investment of $1.2 billion in renewable energy resources will be integral to creating alternative energy solutions for our nation. The Department of Energy is pursuing other new technologies to meet future energy and environmental needs. These technologies will change how we use and produce energy.

I am pleased that year after year this Committee continues to recognize the incredible potential of fusion energy by providing a $30 million increase in funding for a total of $296 million in funding for the program—which will advance the vital work of the domestic fusion community to prosper at sites such as New Jersey's Princeton Plasma Physics Laboratory.

The money in this bill for energy efficiency and renewable energy will fund continuing improvements in technology for programs I strongly support like hydro-electricity, wind and solar power. Since FY2000, the U.S. Congress, through this committee has invested over $3 billion in renewable energy.

The Chairman and his staff have worked extremely hard to craft a good bill. Kevin Cook and his team deserve a lot of credit. For all of these reasons, I urge my colleagues to support this important legislation.

Mr. HOBSON. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Ohio (Mr. GILLMOR).

Mr. GILLMOR. Mr. Speaker, I rise in support of the bill.

Mr. Speaker, I rise today to thank Chairman HOBSON and Ranking Member VISCLOSKY for their diligent efforts in bringing the Energy and Water Appropriations bill to the floor.

This legislation contains many important provisions for our Nation, including significant funding for dealing with spent nuclear fuel, including funding for the Yucca Mountain repository. I want to thank the chairman for being a leader in nuclear issues, and for moving forward aggressively to deal with the spent fuel issue. Regarding Yucca Mountain specifically, the funding level is lower than the $651 million requested by the House Energy and Water Appropriations Subcommittee, but I understand this lower funding is a result of some challenges facing the project. With nuclear waste being stored at approximately 100 sites around the Nation, it is important to move to a central repository as soon as feasible.

I want to continue to see that this project moves forward and I look forward to when the Energy and Commerce Committee holds oversight hearings to ascertain the project's recent progress as well as DOE's plan for moving ahead at Yucca Mountain. I urge all of my colleagues to vote for this very important legislation.

Mr. HOBSON. Mr. Speaker, I yield such time as he may consume to the gentleman from Montana (Mr. REHBERG), a committee member.

Mr. REHBERG. Mr. Speaker, I want to thank the gentleman from Ohio (Mr. HOBSON) for his hard work and the gentleman from Indiana (Mr. VISCLOSKY) as well.

The current energy crisis has caused us to refocus on future energy needs, how we can become more efficient and produce more energy from the same resources with less pollution.

Funds have been correctly appropriated in this bill to research initiatives that will speed up the deployment of hydrogen fuel cells, coal gasification technologies, advanced turbine research, next generation fuels, and environmental controls.

In this bill, you will see Future Gen. Future Gen is a Department of Energy collaboration with private industry to develop a near-zero emissions power plant. Unlike traditional coal-fueled generation facilities, sulfur and mercury will be removed before combustion, and the carbon dioxide will be safely sequestered underground, making Future Gen the most environmentally friendly coal-fired generation facility in the world.

The success of this venture requires government support to cost-share substantial private investments. This conference report sends a powerful message that the United States is prepared to move forward and construct such a facility.

I support these efforts and would like to again thank Chairman HOBSON and Ranking Member VISCLOSKY, and I look forward to seeing these research initiatives becoming a reality.

Mr. HOBSON. Mr. Speaker, I reserve the balance of my time.

Mr. VISCLOSKY. Mr. Speaker, I yield 3 minutes to the gentleman from New York (Mr. BISHOP).

Mr. BISHOP of New York. Mr. Speaker, I was one of 416 Members of this body who voted back in May for a different and better energy and water appropriations bill.

But then a funny thing happened on the way to the conference committee. Although the House- and Senate-passed bills both funded one of this Nation's most important analytical research projects, the Relativistic Heavy Ion Collider, which is operated by the Department of Energy's world-class Brookhaven National Laboratory, which I am very proud to represent, somehow this breakthrough research was cut dramatically in conference.

As a result, the RHIC, as it is known, could lay dormant, unused, for 47 weeks out of the year. Why is this project so important? It is designed to recreate conditions of the Big Bang from which the universe was born and life created.

The Federal Government has already invested more than $1 billion, that is $1 billion, in the construction of this facility; and it simply makes no sense to let such an investment go unused. I do not know about my colleagues, but this is like buying a Porsche and letting it sit in your driveway because you will not buy the gas.

I ask, is there a more important basic research project in progress anywhere else in the country? How did we justify disinvesting in this project, as well as BNL's research into translational neuroimaging and functional nanomaterials?

Could this be an example of the kind of cuts we are beginning to witness as a result of the misguided priority of the budget reconciliation legislation?

That said, I am deeply grateful for the support of the gentleman from Ohio (Mr. HOBSON), the chairman of the subcommittee, who visited the lab earlier this year, and the gentleman from Indiana (Mr. VISCLOSKY), the ranking member, who has consistently advocated this research.

I look forward to their continued support and working with them to restore this funding and protect the jobs at BNL, some 200 of which might be lost, ideally within these first few months of fiscal year 2006, and upon their approval of reprogramming existing funds within the Department of Energy.

Until that happens, Mr. Speaker, I, therefore, must reluctantly oppose this conference report.

Mr. HOBSON. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Idaho (Mr. SIMPSON).

Mr. SIMPSON. Mr. Speaker, I rise in strong support of this conference report.

Once again this year, the bill before us is the result of a bi-partisan atmosphere in the Energy and Water Subcommittee that is fostered by Chairman HOBSON and his ranking member—Mr. VISCLOSKY. I want to thank both of them for the manner in which they approach the many issues before the committee and for producing a bill that will pass today with little or no opposition.

First, the Energy and Water bill begins a new chapter in the history of the Army Corps of Engineers which will lead to better budgeting, more accountability, and the completion of high-priority projects in a quicker timeframe.

I want to commend Chairman HOBSON for his insistence on reforms to the Corps budgeting process and for demanding greater accountability from the Corps to Congress and the American people.

Second, the bill makes tremendous investments in our nation's science and energy-related programs. Our National Laboratories, under this bill, will continue and expand their cutting edge work on the many pressing scientific challenges facing our Nation. Perhaps even more important in a time of high energy prices, this bill will expand our Nation's efforts to become less dependent on foreign sources of energy.

For my home state of Idaho, this bill will provide a boost to the Idaho National Laboratory's ongoing work to design and build a new generation of nuclear reactors, close the nuclear fuel cycle, protect our Nation's critical infrastructure from cyber-based attacks, and secure radioactive nuclear materials from those who would do us harm.

Finally, this bill continues our Nation's efforts to establish a long-term repository for spent nuclear fuel and high-level nuclear waste at Yucca Mountain. While the Yucca Mountain funding in the bill represents an overall decrease from last year, it still provides $500 million to move the project forward toward a license application and construction.

I'm committed to seeing Yucca Mountain finalized and I know Chairman HOBSON is as well. I remain hopeful that the current challenges facing the program will soon be overcome and that an aggressive schedule for completion of the project can be adopted in the very near future.

In closing, I want to again recognize the bipartisan manner in which this bill was written and acknowledge the tremendous work of all of the staff on the Subcommittee.

I urge my colleagues to support the bill.

Mr. HOBSON. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Iowa (Mr. LATHAM).

Mr. LATHAM. Mr. Speaker, I thank the chairman and I rise in support of the conference report.

Mr. HOBSON. Mr. Speaker, I yield 2 minutes to the gentleman from Washington (Mr. HASTINGS).

Mr. HASTINGS of Washington. Mr. Speaker, I thank the chairman for yielding.

Mr. Speaker, the Department of Energy has been working for the past year on answering questions about challenges on construction of the waste treatment plant at the Hanford cleanup site, with only limited information being shared with Congress, the State of Washington, or the local community.

Just yesterday, the Department officially notified Congress that the costs of constructing the waste treatment plant have increased by more than 25 percent.

We were not told what caused the increase, what the Department's planned path forward is for the waste treatment plant, or what the ultimate cost and completion date will be. We know only that costs have increased by over 25 percent, and more information is promised in the summer of next year.

Waiting until next summer for answers is simply not acceptable to me. Is that also the view of the chairman?

Mr. HOBSON. Mr. Speaker, will the gentleman yield?

Mr. HASTINGS of Washington. I yield to the gentleman from Ohio.

Mr. HOBSON. Mr. Speaker, it is my view. My visit to Hanford last year gave me a real appreciation for the need to treat the tank wastes at Hanford and protect the Columbia River from the groundwater contamination.

The Department must be more forthcoming with information on its plans for the waste treatment plant, and this conference agreement requires a report on their actions to date by December 1 and quarterly reports beginning on January 1.

So the gentleman has my assurance that we are on this; and, frankly, had I not visited and seen the problem firsthand, I might not have been as active and as strong on this; but I want to assure the gentleman and his State that we are going to be on top of this.

Mr. HASTINGS of Washington. Mr. Speaker, reclaiming my time, this reporting requirement, in my mind, is fully justified and delivers a strong message that the Department must be more direct, open, and prompt in sharing details on its path forward for the waste treatment plant. I want to thank the gentleman for his continued commitment to the environmental management program within the Department of Energy.

Mr. HOBSON. Mr. Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from California (Mr. DOOLITTLE).

Mr. DOOLITTLE. Mr. Speaker, I rise to express my strong support for this bill.

Mr. Speaker, I rise in strong support of the Energy and Water Development rule/conference report on the floor today and urge my colleagues support it.

The Energy and Water Development Appropriations bill for fiscal year 2006 total $30.5 billion.

Title I of the bill provides $5.4 billion for the programs of the U.S. Army Corps of Engineers, an increase of $57 million above the fiscal year 2005 enacted level and $1.2 billion over the budget request.

Title II provides $1.07 billion for the Department of the Interior and the Bureau of Reclamation, an increase of $113.9 million above the budget request. The committee recommended $1.03 billion for the Bureau of Reclamation.

Title III provides $24.2 billion for the Department of Energy, DOE, a decrease of $129 million from fiscal year 2005 and $76 million less than the budget request. All Department of Energy programs are funded within this bill. The committee funds new initiatives on the consolidation of special nuclear materials, the interim storage and integrated recycling of spent nuclear fuel, and on creating a sustainable nuclear stockpile and the DOE complex necessary to support that stockpile.

CALIFORNIA SPECIFIC FUNDING

Over $300 million for Corps projects in California. These include flood control, water supply and navigation.

Over $200 million for Bureau of Reclamation projects in California. These include water supply, water reuse, and desalination.

$37 million for CALFED projects. The committee has redirected the funding for higher priority projects that will support the implementation of the CALFED program. The funded projects will produce increased sources of water for the State of California, otherwise known as "firm yield" projects, improve drinking water quality, and improve water delivery flexibility.

$6 million for Sacramento Area water conservation projects.

$1 million for an economic analysis update for Auburn Dam.

$2 million for the American River Pump Station.

$1 million for the El Dorado Irrigation District Temperature Control Device.

$1 million for the Sacramento River diversion Study.

$40 million for the American River flood control projects, including $10 million for a permanent bridge below Folsom Dam.

The bill fully funded the President's request for the National Ignition Facility, the premier U.S. facility for inertial confinement fusion, and the Stanford Linear Accelerator Center, a high energy physics lab. High energy physics is the cornerstone of our understanding of the physical universe. These two outstanding California facilities are on the cutting edge of research.

The bill also provides continued funding for Lawrence Berkeley Laboratory to continue basic science research and advanced scientific computing, which allows the U.S. to compete with the rest of the world in important scientific fields.

Mr. BLUMENAUER. Mr. Speaker, the tragedy of Hurricane Katrina taught us again the importance of investing in our Nation's water infrastructure. While I believe that significant changes need to be made in the operations and management of the Army Corps of Engineers, I support this legislation which acknowledges the lack of prioritization process for Corps projects. I support language in the bill that directs the National Academy of Public Administration to study and recommend factors to be used in determining the allocation of the Corps' limited resources.

I also strongly support funding contained in the bill that will benefit my constituents and the Pacific Northwest environment. I appreciate the funding included for floodplain restoration on Johnson Creek, which will enable the Corps to undertake a cost-effective environmental improvement within an area slated for industrial development and will help leverage private development by proactively addressing important stream corridor needs. I am also pleased that the conferees chose to fund an energy conservation program at the Armory Theater in Portland and a Solar Photovoltaic Test Facility System at Portland State University. The conference report also contains important funding, although not nearly the amount necessary, for the St. Johns Landfill Dike Stabilization, which will help prevent municipal and industrial waste from contaminating sensitive wetlands. Finally, I appreciate the funding in the bill directed towards dredging, maintenance, and environmental restoration on the Williamette and Columbia Rivers.

However, I am strongly opposed to language in the conference report directing the Bonneville Power Administration, BPA, to cease funding of an important independent scientific research center based in Portland, OR, known as the Fish Passage Center, FPC. For over 20 years, the FPC has been vital in ensuring that State and tribal fishery managers are armed with the best available scientific information about the status of salmon populations. In this role, the FPC fulfills a legal obligation under the Federal Northwest Power Act and under tribal treaties.

Without the Fish Passage Center, the myriad of Federal, State, and tribal agencies responsible for Pacific salmon recovery could lack valuable data and information on what works and what doesn't to recover salmon. Federal efforts to recover Columbia and Snake River salmon are currently in flux after a recent Federal district judge overturned the most recent Salmon plan. With so much uncertainty surrounding future recovery efforts, now is not the time to reduce access to the best available scientific information.

Although the language in the conference report directs PBA and the Northwest Power and Conservation Council to transfer the functions of the FPC to "existing and capable entities," I am concerned that it does not provide enough direction about how this should take place and does not ensure that State and tribal fish and wildlife agencies will have a say in how and where these functions will be transferred. I hope that BPA and the Council set up a process that actively engages and is fully responsive to the needs of the State fish and wildlife agencies and tribes for whom the FPC was originally created.

The Pacific Northwest is about to embark on a 1-year-long court-ordered process to correct the flaws in the Federal Columbia Basin Salmon Plan. It is my hope that the transfer of the FPC functions does occur seamlessly and in full collaboration with our State and tribal managers so they may fully participate in discussions and negotiations concerning the operations of the Federal Columbia River Power System.

Mr. MARKEY. Mr. Speaker, I am pleased to see that the conference report has deleted all funding for the nuclear bunker buster program. This action reflects the second time that the Congress has decided to reject the Bush administration's request for this dangerous and unnecessary weapon, and I am hopeful that this action will end the debate on this issue once and for all.

The United States faces a serious national security threat from the proliferation of nuclear weapons materials and technologies, most notably in North Korea, Pakistan and Iran. The pursuit of new nuclear weapons such as the Bush administration's proposed nuclear bunker buster sends a dangerously mixed signal to the rest of the world and erodes our nonproliferation credibility. Nations that see the U.S. expanding and diversifying our nuclear arsenal are encouraged to seek or maintain nuclear deterrents of their own and ignore nonproliferation obligations. Additionally, a U.S. move toward expanding and diversifying our nuclear stockpile is contrary to our legal obligations under Article VI of the Treaty on the Non-Proliferation of Nuclear Weapons, NPT, which clearly requires the United States to work toward reducing our nuclear arsenal.

In light of the adverse impact of the pursuit of the nuclear bunker buster and any other new nuclear weapon on international nonproliferation efforts, the fact that the bunker buster would inevitably spread high levels of radiation above ground, and existing U.S. earth-penetrating and other conventional weapons capabilities, the Bush administration's proposed nuclear bunker buster study and the development of any new nuclear weapons are a dangerous and wasteful use of taxpayer money.

While I am pleased at the outcome on the bunker buster, I am very concerned that this appropriations bill provides $80 million for the Advanced Fuel Cycle Initiative—an increase of $10 million over the amount requested for this program. In addition, the bill provides an additional $50 million in nuclear waste disposal funding to support development of a spent nuclear fuel recycling plan. These proposals are aimed at reviving nuclear reprocessing—an idea that Congress has considered and rejected in the past.

The conference report contains language that directs the Department of Energy to use this money to

> accelerate the development of a separations technology that can address the current inventories of commercial spent nuclear fuel and select the preferred technology no later than the end of fiscal year 2007.

Essentially, the Appropriations Committee is telling DOE that it doesn't believe Yucca Mountain will ever be opened, so it now wants the Department to instead embark on a crash program to start reprocessing nuclear waste.

I warned back in 1987 that the decision to limit the search for a deep underground repository to the Yucca Mountain site and to bar examination of other alternative sites was a risky one. If Yucca Mountain proved unsuitable, or if it could not meet the NRC's licensing requirements, then our country efforts to find a solution to the nuclear waste problem would be forced back to square one.

Now, it appears that my warnings are being borne out. The Yucca Mountain repository is falling apart in the face of serious scientific and technical problems. But rather than come back to Congress and ask for legislation that would reopen the search for a permanent repository, which the nuclear industry and its supporters in Congress know would be politically hazardous, the appropriators now appear to be effectively abandoning the notion of deep underground burial. Instead, they want to reprocess the waste and store it in above ground "interim" storage facilities.

Now, you would think that such a fundamental rewrite of the Nuclear Waste Policy Act would actually require action by the committee that actually has jurisdiction over the act in the first place. In the House, that would be the Energy and Commerce Committee. However, in this bill the directive to prioritize reprocessing is being made without any participation by the Energy and Commerce Committee. The committee doesn't even get a copy of the report mandated by the Appropriations conferees.

Yes, there was language in the Energy Policy Act which authorized R&D on reprocessing. I opposed that language, and sought unsuccessfully to remove it from the bill. But R&D is far different from moving to full-scale engineering of reprocessing technologies with a short-term deployment objective. That is what is being proposed in the bill before us today. This conference report is actually talking about setting a target for site selection in fiscal year 2007, and a target for initiation of construction of one or more integrated spent fuel recycling facilities in fiscal year 2010.

This has enormous implications for the future of efforts to permanently dispose of the Nation's nuclear waste in a deep underground repository. It effectively means that there will be no deep underground repository. It effectively means that there will be no deep underground burial of waste in our lifetimes. So, all of the billions paid into the Nuclear Waste Fund over the years will soon see those funds be diverted over to supporting this new unproven and risky scheme of reprocessing.

This is a huge policy shift. Since the 1970's we have had a policy in this country against reprocessing spent fuel, both because of the risk of nonproliferation and because reprocessing is not economical. In recent years, Republican leaders in Washington have decided they want to undo that policy, however.

I am fundamentally opposed to reprocessing, because I believe that a revival of domestic reprocessing would undermine America's nuclear nonproliferation efforts, cost us enormous amounts of money, will not solve the nuclear waste problem, and won't increase nuclear safety.

With respect to the proliferation risks—just look at North Korea. It has been reprocessing spent fuel from its reactors to use in nuclear bombs. In response, President Bush has asked the Nuclear Suppliers Group to limit access to reprocessing technology, arguing that:

> This step will prevent new states from developing the means to produce fissile material for nuclear bombs.

At the same time, the U.S. is confronting Iran over its plan to develop a full uranium enrichment program. How are we going to credibly ask the rest of the world to support us when we tell Iran or any other nation that they cannot have the full fuel cycle or reprocessing when we have one here at home? It just won't fly.

America cannot preach nuclear temperance from a barstool. We cannot credibly tell other nations that they should refrain from reprocessing or other nuclear fuel cycle activities abroad when we are engaging in these same exact activities here at home. That is why President Gerald Ford called for an end to commercial reprocessing back in 1976, and why no President since then has successfully revived reprocessing.

In addition to the serious adverse nonproliferation consequences, reprocessing also is not economical. A MIT study put the cost of reprocessing at four times that of as once-through nuclear power. The current price of concentrated uranium "yellowcake" in the spot market is about $53.00/kg. For reprocessing to be economical, there must be a sustained 8-fold increase in the long-term price of uranium. That is not likely to occur anytime soon.

On top of that is the cost of building a plant. As a benchmark, Japan's nearly completed Rokkasho reprocessing plant—20 years in the making—costs on the order of $20 billion. I have seen some cost estimates for a U.S. reprocessing program that run as high as $65 billion. That is not something that is economically viable at a time of huge Federal budget deficites.

Moreover, reprocessing will not really alleviate the nuclear waste problem. Talk to the folks at Savannah River where over 30 million gallons of high-level were left behind from reprocessing. Under this bill, Savannah River may be targeted again for interim storage for spent fuel, awaiting reprocessing. So might Hanford and Idaho or other Federal sites.

The conference report states that funding in the Nuclear Waste Disposal Account will be used:

> to prepare the overall program plan and to initiate a competition to select one or more sites suitable for development of integrated recycling facilities (i.e., separation of spent fuel, fabrication of mixed oxide fuel, vitrification of waste products, and process storage) and initiate work on an Environmental Impact Statement. The site competition should not be limited to DOE sites, but should be open to a wide range of other possible federal and non-federal sites on a strictly voluntary basis.

These reprocessing sites will become de facto nuclear waste dumps. Which State is going to "volunteer" to become a nuclear waste dump? Under the Nuclear Waste Policy Act, such a site cannot legally be located at the Yucca Mountain site. So, where is it going to go?

How long will the waste be stored there? The spent nuclear fuel cannot even be handled to be reprocessed for 5 to 15 years—it is so radioactive. So we know already that "interim storage" could last for a very long time.

And if we construct these "interim" waste dumps, what happens next? What will happen to all this waste when the hard reality of the disastrous economics combined with the fact that our government is already too deep in deficit that it will be unable to subsidize such a program forever? There are simply too many unanswered questions.

It is also not accurate to suggest, as some do, that reprocessing is safe. Twenty tons of highly radioactive material leaked from a broken pipe at the Sellafield nuclear reprocessing plant in the United Kingdom in April of this year. Senior officials at the UK's Nuclear Decommissioning Authority, which owns the Sellafield reprocessing have pushed to close THORP altogether, arguing that it is more cost-effective to close the plant now rather than repair the problems only to decommission the plant as planned in 2012. Is that the kind of mess we want happening over here?

When the House version of this bill was being debated on the House floor last summer, I offered an amendment which would have transferred the $15.5 million appropriated for reprocessing and interim storage to several energy efficiency priority programs that were underfunded in the bill. Unfortunately, my amendment was defeated.

I continue to be opposed to the reprocessing language in the bill. I intend to continue raising questions about this proposal, both in the Energy and Commerce Committee and on this floor.

Finally, on another matter, I am very concerned about the cuts that have been made in energy efficiency programs in this bill. We are in the middle of an energy emergency. We had a hearing before the Energy and Commerce Committee last week that showed the impact that these high prices are having across the board, in every sector of the economy. The Senate will be holding a hearing today on price gouging by big oil companies and the $100 billion in oil company profits projected for 2005. There are things that we can do in this area. What we are seeing is missed opportunities.

The House Bill for the fiscal year 2006 Energy and Water Appropriations provided $41 million for the State Energy Program. The Senate bill provided $41 million for the State Energy Program. Now we go to conference and the conference report provides $36 million, which is $8 million below fiscal year 2005 levels—almost a 20 percent cut. We are in the midst of an energy crisis. This program implements energy efficiency programs and energy emergency preparedness activities in every State in our country. A recent National Laboratory study concluded that for every $1 invested, we get $7.22 in return in energy savings. This makes no sense. We should be increasing these programs, not cutting them.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise in strong support of the House Energy and Water Appropriations Act for Fiscal Year 2006.

This legislation provides essential funding for the Houston Ship Channel, $26 million to finish the deepening and widening project and conduct environmental restoration work.

Also, I want to particularly express my appreciation for the Subcommittee's increase for Operations and Maintenance funding to $11 million for Houston-Galveston.

It is penny-wise and pound foolish to underfund maintenance, because that reduces the benefits that we get from all of our construction dollars.

If we are going to dredge a channel to 45 feet to allow for modem ships to reach a port, we obviously have to keep that channel at 45 feet and remove silting and other blockages.

This bill also provides important funding for flood control projects in the Houston area—$375,000 for construction of the Hunting Bayou Federal flood control project and $75,000 to finish up the General Reevaluation Review study for Greens Bayou.

Hurricane Katrina showed the Nation the value of flood control projects. Both the Hunting Bayou and the Greens Bayou projects will save Federal money. By protecting homes from flooding, we reduce the amount of future disaster assistance and flood insurance claims.

My constituents who would benefit from these projects do not own expensive beach houses close to the shoreline, they own homes in a densely populated urban area over 50 miles from Galveston Bay.

However, Houston does not have a lot of elevated areas and we are at risk from hurricanes and tropical storms, and as a result flood control projects make good economic sense.

Unfortunately the Bush Administration repeatedly zeroes out funding in their budgets for flood control projects in Houston, for reasons I still cannot understand.

Our projects are authorized by Congress, have strong cost-benefit rations, are supported by the community, and are managed by the professional experts at the Harris County Flood Control District. Hunting Bayou had over 8,000 residences flood in 2001 from Tropical Storm Allison and Greens Bayou had over 28,000 homes flood in the same storm.

As a result, I want to thank the Subcommittee Chairman, DAVID HOBSON, the Ranking Member, PETE VISCLOSKY, and especially my Texas colleague CHET EDWARDS for salvaging funding for all our projects—the Houston Ship Channel, Hunting Bayou, and Greens Bayou.

As final note, I want to add that the Houston Ship Channel has received serious damage from Hurricane Rita, roughly $30 million. Parts of the channel have silted up with material to 35 feet, which is a serious safety and economic problem.

If the large oil tankers cannot get to the refineries on the Houston Ship Channel, that will not help gasoline prices to go down in this country.

Our refinery capacity has got a lot of notice lately in Congress, and this is something we can do in the short term to help that—repair hurricane damage at oil importing ports like the Port of Houston.

The Houston delegation—myself, JOHN CULBERSON, TOM DELAY, AL GREEN, SHEILA JACKSON-LEE, KEVIN BRADY, MICHAEL MCCAUL, TED POE, and our Texas colleague on the Appropriations Committee CHET EDWARDS all recently sent a letter to the Committee and Subcommittee requesting this $30 million in emergency damage repair funding for the next Supplemental.

Mr. Speaker, I encourage my colleagues to support this legislation.

Mr. BERRY. Mr. Speaker, I rise today to support the FY06 Energy and Water Appropriations Bill.

Chairman HOBSON, Ranking Member VISCLOSKY, and their staffs have worked tirelessly to produce a good bill and they deserve much praise for their efforts.

This bill goes a long way in strengthening our Nation's water infrastructure. If this past hurricane season has taught us anything, it is that we must ensure an adequate level of protection for our coastal cities and those areas prone to flooding.

The modest investments included in this bill can save billions in disaster recovery needs.

Our Nation's water infrastructure is also critical to building the economy. Our waterways provide a low cost way to move agriculture commodities and manufactured goods to the world market. This bill will help maintain and strengthen these arteries, ensuring access for American producers.

This legislation also includes critical funding for Nuclear power and our ability to store nuclear waste, namely the Yucca Mountain repository. The funding level is lower than what the House agreed to earlier this year, but the lower funding is justified by the Energy Department's recent changes to the project. What is important is that the Yucca Mountain project and Federal spent fuel management moves forward.

The legislation's funding for the Corps of Engineers, nuclear energy R&D and the Yucca Mountain program helps ensure a vibrant future for American water ways, flood control and nuclear energy.

I ask my colleagues to join me in congratulating Chairman HOBSON and Ranking Member VISCLOSKY for their hard work and encourage all of them to support this bill.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I want to express my sincere concern with the funding level for nuclear physics programs in the Energy and Water Appropriations Act Conference Report for FY2006.

While the Office of Science does receive an increase of $32.8 million over the fiscal year 2005 level, the nuclear physics programs are actually cut 8.4 percent below fiscal year 2005 levels. The Jefferson Lab in my district in Newport News, VA, is one of the basic research labs that would be negatively impacted by this funding level.

Just last month the National Academy of Sciences issued a report titled "Rising Above the Gathering Storm." That report underscored that the nation's economic health is seriously at risk without a sustained investment in science. The report noted that in Germany, 36 percent of undergraduates receive their degrees in science and engineering. In China the figure is 59 percent, and in Japan 66 percent. In the United States the corresponding figure is 32 percent. It seems to me that this is a time the nation needs to invest in science, not cut science programs.

Mr. Speaker, no Member is more concerned about trimming our budget than I am, but we cannot afford to cut programs like nuclear physics, that are the key to our country's success, both now and in the future. I wish to state for the record that I am extremely disappointed with the cuts to nuclear physics programs, and I will continue to work vigilantly in the future for this critical funding.

Mr. UDALL of Colorado. Mr. Speaker, the House-passed version of the legislation, this conference report is not perfect. But it is not so bad as to require opposition, and does provide funding for many important purposes. Therefore, I will vote for it.

The conference report includes a number of items of particular importance to Colorado.

In particular, I am very pleased that it includes funding for the final stages of work connected with the cleanup of Rocky Flats.

Once home to a nuclear weapons factory, Rocky Flats is located just 15 miles from downtown Denver. At one time it was the location of large quantities of nuclear materials and other hazardous substances—and because of its proximity to our state's major metropolitan area, timely and effective cleanup and closure of the site has been a matter of top priority for all Coloradans.

Just last month, the overall contractor for the cleanup, Kaiser-Hill, announced that their work was done. The Department of Energy must still confirm that, and there still must be a formal decision by state and federal regulators. But those who knew Rocky Flats as it was can hardly recognize the site as it is today.

The cleanup of Rocky Flats is a major achievement for which we can all be proud. I want to especially note the efforts of the workers and their dedication not only the security of this country, but their dedication to performing a safe and extensive demolition and decommissioning.

This was very complicated and difficult work involving dangerous and toxic materials. The fact that it was done decades ahead of predictions and at a cost vastly less than expected is a testament to all those involved, and I think we have an obligation to make sure that workers' benefits are carried forward and that they are properly compensated for work-related health problems.

Getting to this day has been long and difficult. But the Colorado congressional delegation worked hand-in-glove with the local communities, DOE, and the contractors to work through the obstacles and I think lessons learned at Rocky Flats can be applied to the cleanup challenges at other nuclear-weapons sites.

I look forward to the next major chapter—transfer of most of the Rocky Flats site to the Interior Department for management as a National Wildlife Refuge. But getting that chapter properly written will require some additional steps, notably including the acquisition of mineral rights at Rocky Flats that are now in non-Federal ownership.

To facilitate that acquisition, I have introduced legislation (H.R. 4181) to authorize DOE to expend funds to acquire some or all of the minerals, including $10 million from its appropriation for fiscal year 2006. The bill also provides that DOE's expenditure of $10 million for that purpose (or, under certain circumstances, an appropriate payment to specified Federal and State officials for acquisition of Rocky Flats minerals or for habitat restoration at Rocky Flats) will satisfy certain claims the State of Colorado might bring for natural resources damages resulting from past discharges of hazardous substances at or from Rocky Flats).

The bill also would give the Interior Department two additional methods (either instead of or in addition to purchase for cash) for completing such acquisitions—namely: by giving "credits" that could be used instead of cash to pay for oil and gas leases on the Outer Continental Shelf; and/or by allowing federal lands or minerals anywhere in the country to be exchanged for the Rocky Flats minerals (under current law, such exchanges can only occur within the same state—Colorado lands/minerals for other Colorado lands/minerals).

Other parts of the conference report are also important for Colorado, including the funding for several Bureau of Reclamation projects in our State, including the Colorado-Big Thompson and the Fryingpan-Arkansas projects as well as the ongoing construction of the Animas-La Plata project.

Similarly, the conference report provides needed funds for operation and maintenance of a number of reservoirs operated by the Army's Corps of Engineers as well as for other Corps activities in Colorado, including aquatic restoration work involving Goose Creek and Lower Boulder Creek.

I am very glad to note that the bill will provide funds for completing construction of the new science and technology facility at the National Renewable Energy Laboratory.

I find it highly ironic, however, that the new NREL facility comes at the expense of the very renewable energy research and development programs that would be conducted within it. It's conceivable that we'll have new buildings but nothing to fill them with—no scientists or other NREL personnel, since many of them will lose their jobs due to deep cuts in program funding.

As co-chair of the Renewable Energy and Energy Efficiency Caucus in the House, I have worked for years to increase—or at a minimum, hold steady—funding for DOE's renewable energy and energy efficiency research and development programs.

Given the finite supply and high prices of fossil fuels and increasing global demand, investing in clean energy is more important than ever. DOE's renewable energy programs are vital to our Nation's interests, helping provide strategies and tools to address the environmental challenges we will face in the coming decades. These programs are also helping to reduce our reliance on oil imports, thereby strengthening our national security, and also creating hundreds of new domestic businesses, supporting thousands of American jobs, and opening new international markets for American goods and services.

But for our investment in these technologies to payoff, our efforts must be sustained over the long term. This conference report does not do that.

Though some of the renewable energy accounts are increased from FY05 levels, it is an illusion. The EERE accounts are earmarked so heavily that there is little left of the core programs.

While the biomass line is up slightly from FY05, fully 53 percent of the FY06 funds are earmarked. Wind is slightly reduced from FY05 levels, but this is after repeated cuts—11 percent in just three years. Factoring in earmarks makes the situation even worse. The bill earmarks fully a third of the funds appropriated for wind energy for Member projects. Solar energy funding is down from FY05 levels, and also earmarked—17 percent of the total goes to Member projects.

I am concerned that year by year, DOE's renewable energy and energy efficiency programs seem to be losing—through gradual cuts, shifts of more EERE dollars to hydrogen and fuel cells and out of core renewables technologies, and earmarks.

These cuts will only increase U.S. vulnerability to energy supply disruptions, worsen fuel price volatility, and cause higher energy prices overall unnecessarily, and are especially ill-advised at a time when the need for a secure, domestic energy supply is so crucial.

So, Mr. Speaker, while I regret that they could not adequately address all our needs, in Colorado or elsewhere, I appreciate what the conferees have done and urge the House to pass this important conference report.

Mr. COLE of Oklahoma. Mr. Speaker, as you know, the Senate version of the Fiscal Year 2006 Energy and Water Appropriations Act included a provision authorizing the Bureau of Reclamation to work in cooperation with the Oklahoma Water Resources Board (OWRB), the Central Oklahoma Master Conservancy District (COMCD), and local entities to initiate a Water Supply Augmentation Feasibility Study at Lake Thunderbird near Norman, Oklahoma, and appropriating $300,000 to the Bureau to initiate this study. Unfortunately, due to current fiscal constraints and the difficult decisions that had to be made in light of these constraints, the conferees were forced to remove this provision in the final conference report.

Mr. Speaker, since its construction in 1965, Lake Thunderbird has served as a reliable source of municipal and industrial water for three communities in my district, including Norman. Preliminary findings by the OWRB and the City of Norman indicate that the City's water demands will exceed its current combined supply from groundwater and Lake Thunderbird within 5 years. In fact, since 1988, Norman has exceeded its proportional allocation 12 separate years. Today, all projections show that the annual allocation afforded Norman will always be exceeded without additional supplies being made available. It is anticipated that the two other communities served by Lake Thunderbird may also need additional water in the future.

Appraisal level studies initiated by the Bureau of Reclamation in Fiscal Year 2003 support the need for additional water supplies to meet the region's future needs. This provision was included in the Senate bill to enable the Bureau of Reclamation, in partnership with the OWRB, the COMCD and its member cities, to initiate a more in-depth feasibility-level study of alternatives to augment the water supplies of the COMCD and its member cities. I look forward to working with the Chairman and the Bureau of Reclamation to identify any unobligated balances within the Bureau's budget that may be released to initiate this study.

Ms. LEE. Mr. Speaker, I rise in support of this conference report.

I would first like to thank the Chairman of the Subcommittee, Mr. HOBSON, and the Ranking Member, Mr. VISCLOSKY, for their work in putting together the Energy and Water Appropriations Bill, and in negotiating with the Senate on this conference report.

I also want to thank both of them for including $48 million in the conference report to continue funding the Port of Oakland's 50-foot dredging project in my district in California, and for including $5,585,000 for Operations and Maintenance.

As the fourth largest container port in the country, the Port of Oakland serves as one of our premier international trade gateways to Asia and the Pacific.

The 50-foot dredging project will underpin an $800 million expansion project funded by the Port that will improve infrastructure, expand capacity and increase efficiencies throughout the distribution chain.

Once this project is finished, the Port projects that an additional 8,800 jobs will be added, business revenue will increase by $1.9 billion, and local tax revenues will go up by $55.5 million. Best of all, 100 percent of the dredged materials will be reused for wetlands restoration, habitat enhancement, and upland use within the San Francisco Bay Area.

I appreciate the Subcommittee's support for this project and I look forward to continuing to work with the chairman and ranking member to complete it.

Mr. VISCLOSKY. Mr. Speaker, I yield back the balance of my time.

Mr. HOBSON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ISSA). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

CONTINUATION OF THE NATIONAL EMERGENCY WITH RESPECT TO IRAN—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 109-68)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on International Relations and ordered to be printed:

To the Congress of the United States:

Section 202(d) of the National Emergencies Act (50 U.S.C. 1622(d)) provides for the automatic termination of a national emergency unless, prior to the anniversary date of its declaration, the President publishes in the *Federal Register* and transmits to the Congress a notice stating that the emergency is to continue in effect beyond the anniversary date. Consistent with this provision, I have sent the enclosed notice to the *Federal Register* for publication, stating that the Iran emergency declared by Executive Order 12170 on November 14, 1979, is to continue in effect beyond November 14, 2005. The most recent notice continuing this emergency was published in the *Federal Register* on November 12, 2004 (69 FR 65513) .

Our relations with Iran have not yet returned to normal, and the process of implementing the January 19, 1981, agreements with Iran is still underway. For these reasons, I have determined that it is necessary to continue the national emergency declared on November 14, 1979, with respect to Iran, beyond November 14, 2005.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 9, 2005.*

□ 1300

GENERAL LEAVE

Mr. WOLF. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days in which to revise and extend their remarks and include tabular and extraneous material on the conference report to accompany H.R. 2862.

The SPEAKER pro tempore (Mrs. BIGGERT). Is there objection to the request of the gentleman from Virginia?

There was no objection.

CONFERENCE REPORT ON H.R. 2862, SCIENCE, STATE, JUSTICE, COMMERCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. WOLF. Madam Speaker, pursuant to House Resolution 538, I call up the conference report on the bill (H.R. 2862) making appropriations for Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Pursuant to House Resolution 538, the conference report is considered read.

(For conference report and statement, see proceedings of the House of November 7, 2005, at page 25034.)

The SPEAKER pro tempore. The gentleman from Virginia (Mr. WOLF) and the gentleman from West Virginia (Mr. MOLLOHAN) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. WOLF. Madam Speaker, I yield myself such time as I may consume, and I am pleased to bring to the floor today the conference report on H.R. 2862, the fiscal year 2006 Science, State, Justice, Commerce, and Related Agencies Appropriations Act.

Madam Speaker, I want to thank my colleague, the gentleman from West Virginia (Mr. MOLLOHAN), for his support throughout the process. Together, we were able to get a strong bill passed by the House with a vote of 418 to 7. Also, I want to thank our Senate counterparts, Chairman SHELBY and Senator MIKULSKI, as well as Chairman MCCONNELL and Senator LEAHY.

I also want to thank the chairman of the full committee, the gentleman from California (Mr. LEWIS) for his help and cooperation with this, and also the ranking member, the gentleman from Wisconsin (Mr. OBEY).

Within a very tight allocation, we were able to provide funding for a variety of critical national priorities. The conference report provides $21.4 billion for the Department of Justice, $784 million above fiscal year 2005 and $1.1 billion over the budget request.

The conference agreement includes $5.8 billion for the FBI, which is $15 million above the budget request. The bill will provide for additional agents, analysts, and support staff to address terrorism and espionage threats. And keep in mind that last week the stories broke about how the Chinese, that, unfortunately, this body gave the Most Favored Nation trading status to, has been spying aggressively against our country, and the latest spying episode dealt with the B-1 bomber.

In addition, the bill provides funding to address deficiencies identified through external reviews, including a $20 million increase for the FBI Academy, a $20 million increase for additional secure space, and a $14 million increase to improve information technology program management, $5 million for retention and recruitment, a $26 million increase for translators, and a $70 million increase for the Terrorist Screening Center.

The conference agreement includes $12 million above the request for the Marshals Service to enhance the protection of the Judiciary and fugitive apprehension programs.

For DEA, Madam Speaker, the bill restores proposed cuts for Mobile Enforcement Teams and the Demand Reduction program, and directs these efforts to focus on meth enforcement. The conference report does not include the Combat Meth Act that was attached to the Senate bill. While I strongly support the bill's intent to address this destructive drug, there were some concerns raised about the Senate language.

The Judiciary Committee and the Energy and Commerce Committee, who are the committees of jurisdiction on this subject, are addressing these concerns. In fact, today I understand the House Judiciary Committee is marking up a meth bill. I look forward to voting for Chairmen SENSENBRENNER and BARTON's bill when it comes to the House floor.

The conference report fully funds the ATF's request and includes a $20 million increase for Violent Crime Impact Teams to help those communities most impacted by gangs and violent criminals. There is a growing problem of gang and gang violence throughout the country.

The conference agreement provides $2.7 billion for State and local law enforcement, $1.1 billion above the administration's request, including $416.5 million for Byrne Justice Assistance grants and $405 million for State Criminal Alien Assistance. And that funding really was due to Chairman LEWIS, and also Mr. DREIER and Mr. KOLBE, when we dealt with that issue on the floor. That was a big issue.

The bill also includes $109 million to address critical DNA backlogs, $387 for violence against women prevention and $343 million for juvenile justice.

There is $16.5 billion included for NASA, including funding for the President's vision for space exploration. We have also restored funding for aeronautics research, which the administration had proposed to reduce.

For the National Science Foundation, Madam Speaker, the bill includes $5.65 billion, which is $48 million above the request. This increase for basic scientific research and science education is critical to ensuring that we continue to lead in innovation and competitiveness, which is necessary if we are to retain our position in the world economy.

Many people are concerned that with the test scores in math, science, physics, chemistry and biology, and the number of engineers we have, we are falling behind. So even in this tight period of the budget, we were able to dramatically increase that, and there will be a conference that was directed by the supplemental appropriations in December, chaired by Congressman VERN

EHLERS and also Chairman BOEHLERT and others, with some of the best minds to come together to attempt to deal with this issue. Rather than just talking about it, they will constructively deal with it and get the administration on board. So I would hope and I pray that the President will address this issue in his State of the Union message next year.

The conference report includes $888 million for the Securities and Exchange Commission to provide the necessary resources to protect investors from corporate fraud.

For the State Department, we have provided $9.6 billion, including $1.6 billion, the full requested level for embassy security upgrades. It also includes $1.53 billion for public diplomacy programs including international broadcasting, focusing on expanded programs for the Arab and Muslim world.

At the Department of Commerce, the conference report provides $6.6 billion for the Department of Commerce and other trade-related agencies. Increases will result in more accurate economic statistics, improved weather forecasting, and more accurate and timely census data.

The bill also includes an increase for the Nation's trade agencies. This will help former Member Mr. Portman to negotiate, enforce and verify free and fair trade agreements. It also has an amendment offered by Congresswoman NORTHUP, which is very, very important with regard to this whole issue of negotiating treaties.

Overall, Mr. Speaker, the conference report agreement represents a sound and fair resolution to the many issues we faced in conference, and it does so in a fiscally responsible manner. I would urge my colleagues to support this conference.

Before I reference some people, I want to say there is another issue we attempted to deal with and were not able to get agreement on, and that is to direct the Department of State in a period of 60 days to come up with a policy to deal with how we take care of the families of those who were lost in the bombing of the American Embassy in Beirut in 1983; the October bombing of the U.S. Marine barracks, where 241 Marines were killed; the Tanzania Embassy bombings; the Kenya Embassy bombings, and the USAID employees that were killed.

It was a strange experience because we were operating in good faith, trying to get this, and some lawyers who got involved in this process really created a roadblock and a problem for this. Now, because of those lawyers, this is not being carried. So we are going to be doing a letter to Secretary Rice asking that the State Department come up with a program and a policy and deal with this.

We have a moral obligation to the families, the families of those killed and those still alive with regard to the hostages in the Iranian Embassy. We have to deal with those issues and, hopefully, deal with them without the lawyers being involved. I think we have to help and work with the families.

I also want to thank, Madam Speaker, at the end here, to thank the members of my subcommittee staff who have put in very long hours to produce the FY 2006 Science, State, Justice, and Commerce Appropriation bill. With the addition of Science to the subcommittee, the staff has had to work even harder this year to produce a bill that I believe will help the country.

I want to particularly thank Mike Ringler, clerk of the subcommittee, who has led the subcommittee through the House appropriations process. I would also like to thank Christine Kojac, John Martens, Anne Marie Goldsmith, Joel Kaplan, and Clelia Alvarado for their tireless, and if I could underline in the CONGRESSIONAL RECORD the word "tireless," if I could put a black line under it so people would see it, their tireless efforts. Their work is much appreciated.

In my personal office I want to thank Dan Scandling, my Chief of Staff, and Jan Shaffron, who has been with me for 25 years, and J.T. Griffin, Samantha Stockman, and Courtney Schlieter for their efforts and working with the subcommittee.

Also, there were many other subcommittee members' staffs who were very much involved in all of this. From the minority, I want to thank David Pomerantz, Michelle Burkett, and Rob Nabors for their insight and input on the bill. And also from Congressman MOLLOHAN's personal office, I want to thank Sally Moorehead and Julie Aaronson. As in the past, we have worked in a bipartisan manner to draft this legislation.

Madam Speaker, I ask for a "yea" vote on this bill.

Madam Speaker, I reserve the balance of my time.

Mr. MOLLOHAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of the fiscal year 2006 appropriations conference report for Science, the Departments of State, Justice, Commerce and related agencies.

Madam Speaker, right at the beginning, I would especially like to thank Chairman WOLF and his staff: Celia Alvarado, Anne Marie Goldsmith, Joel Kaplan, Christine Kojac, John Martens, and Mike Ringler for their help, their outstanding work on this bill, their professionalism, and for their help in shepherding this bill with all its jurisdictions through the appropriations process.

I would also like to thank the minority appropriations staff, Michelle Burkett and David Pomerantz, and my personal staff, Julie Aaronson and Sally Moorehead, for their hard work throughout this long process.

Madam Speaker, let me especially express my appreciation to Chairman WOLF for his capability, for his adroit management of a complicated bill with a lot of jurisdictions; and I cannot stress enough the kindness and fairness that he has shown to me, to our committee staff, and to the House minority throughout this process. While Chairman WOLF and I may have had disagreements, we may not have agreed on every provision in this bill, Chairman WOLF has listened to our arguments and, where appropriate, he has looked for ways to accommodate our requests, and we thank him for that.

Madam Speaker, this is a good bill. It provides $57.85 billion. That is an increase of $1.6 billion above last year's level for very diverse programs; programs that fund our Federal and local law enforcement activities; programs that invest in our government's major science activities; programs that construct and defend our embassies abroad; programs that provide support to our small businesses, and those which help promote our economic development.

There are many high points in this bill. The Department of Justice and all the law enforcement programs that it manages are at $1.1 billion above the President's request and $784 million above fiscal year 2005, while we are disappointed in the funding available for local and State law enforcement.

Science activity is up, with the National Aeronautics and Space Administration funded at the requested level of $16.5 billion. That is $260 million above fiscal year 2005.

The National Science Foundation receives $5.65 billion in this bill, an increase of $181 million above last year and $49 million above the President's budget request.

The State Department and Broadcasting Board of Governors, while funded below the President's request, receives $9.6 billion for worldwide security upgrades, diplomatic and consular programs, and international broadcasting.

□ 1315

For our local communities, we restored the Economic Development Administration's funding to last year's level, rejecting in the process the President's proposal to eliminate the Economic Development Administration.

In addition, we rejected his proposal to consolidate and shrink proposals that provide Federal investment to strengthen our local communities.

In this bill we also included language supporting the role of the economic development districts and reaffirming our commitment to the minimum 50 percent Federal match for local dollars. My constituents and those in rural areas were very vocal on these two points, and I am pleased that the chairman was supportive and that we could be responsive to those requests.

Madam Speaker, I am concerned that this year, like last year, we were not able to provide the $80 million needed to subsidize the 7(a) loan program in the Small Business Administration. I have seen firsthand the chilling effect that increased fees have had on small businesses in my State, and I hope we will monitor the 7(a) program during the next year and evaluate to what extent this lack of funding creates a problem for our small businesses accessing needed capital.

Finally, Madam Speaker, I would like to draw special attention to section 624 of the conference report. It reads as follows, "None of the funds made available in this act shall be used in any way whatsoever to support or justify the use of torture of any official or contract employee of the United States Government."

Madam Speaker, this provision reflects Chairman WOLF's values and his unwavering commitment to human rights. It is the chairman's initiative, and it is to his credit that it is included in our bill.

Madam Speaker, again, I want to thank Chairman WOLF, and I urge Members to support this conference report.

Madam Speaker, I reserve the balance of my time.

Mr. WOLF. Madam Speaker, I yield 4 minutes to the gentleman from Michigan (Mr. EHLERS), a member of the Science Committee, who is also a physicist.

Mr. EHLERS. Madam Speaker, I thank the gentleman for yielding me this time, and I commend him for his work on this report as well as on the original House bill.

Madam Speaker, I rise today in support of the conference report of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act for Fiscal Year 2006. I want to recognize and pay tribute to the tremendous effort of Chairman WOLF and his staff, as well as the ranking member on the minority side and his staff, that they have exerted to meet the challenge of fairly balancing this bill.

Madam Speaker, their hard work is commendable, and I want to thank them for their tireless work.

I would like to speak in particular about one part of the bill, the National Science Foundation, better known as NSF. New to the subcommittee this year, NSF is the only Federal agency dedicated solely to supporting fundamental scientific research. While it represents a relatively small part of the overall budget, it is an extremely important part. NSF funding accounts for one-fifth of all Federal support for basic research and 40 percent of physical science research at academic institutions.

I am delighted that Chairman WOLF shares an appreciation for the critical role innovation has played in our economy and national security, as well as its unique tie to education and the work supported by the NSF.

In May of this year, 167 Members of Congress joined with me in signing a letter to support an increase for the budget of the National Science Foundation. Since the NSF was funded below the President's request last year, I am very grateful that the conferees saw fit to reverse this declining trend and return to sustaining the level of funding for NSF. The negotiated funding level for NSF in fiscal year 2006 of $5.65 billion reflects a strong commitment to NSF's job of developing our future skilled workforce and laying the foundation for innovative technologies in the fields of telecommunications, medicine and defense.

Furthermore, I want to acknowledge the committee's work to restore cuts endured by several programs within the Education Directorate at NSF. The Math and Science Partnership Program budget has been greatly diminished since 2002, when it was funded at $160 million. I am grateful that the conferees have signaled their recognition of the importance of this program by funding this program at $64 million, $4 million above the requested level.

We know that other countries are investing and outperforming the United States in the area of math and science education. We will not be able to compete successfully with the rest of the world if our workforce is not on the cutting edge of these fields, and we need to maintain these important programs that support math and science education.

Also within this bill, I want to briefly mention my appreciation that the Manufacturing Extension Partnership Program, MEP, at the National Institute for Standards and Technology has been funded at $106 million. These funds will allow MEP centers across the country to continue their vital services for small- and medium-sized manufacturers that are not replicated by any other private or public organization.

Balancing many pressing national priorities within this tight budget climate is certainly a challenge. We must increase our funding of research and development because it is the foundation for increased innovation, economic vitality and national security. I look forward to continuing to work with Chairman WOLF and my colleagues to improve our support for NSF fundamental research and education programs in future years. I certainly encourage the administration and the President to increase their funding request for the National Science Foundation in the next budget that we will process next year.

Mr. MOLLOHAN. Madam Speaker, I yield such time as he may consume to the gentleman from Wisconsin (Mr. OBEY), the ranking member of the Committee on Appropriations.

Mr. OBEY. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, I want to say at the outset I have a great deal of admiration for the gentleman from Virginia. I think he is one of the best committee chairmen in this House, and I think he has treated the substance of this bill absolutely down the center, and I think he has dealt with the majority and the minority in a very even-handed fashion. I respect that and appreciate that.

Frankly, I had thought I would be voting for this bill as I have for the Foreign Operations Appropriations bill, and as I intend to work for the Energy and Water conference report. But I find myself unable to support this bill in the final instance for a number of reasons which have very little to do with the gentleman from Virginia or the gentleman from West Virginia. I have three basic problems with this bill.

First of all, the conferees stripped the Sanders amendment out of the bill. I think this Congress has done a miserable job of oversight with respect to Iraq, a miserable job with respect to oversight of the PATRIOT Act and a number of other security-related issues.

I might not be so concerned about the fact that the conferees stripped out the amendment which precluded the administration from snooping into people's use of libraries, I might not feel so strongly about it if I felt that the Congress had a better record of conducting oversight hearings on this, but I do not. So under those circumstances, I think what the committee has done in stripping out that language is quite dangerous.

Secondly, I would say there is a kabuki dance going on in this town with respect to local and State law enforcement funding. This bill now effectively funds State and local law enforcement at a level which is $1 billion less than it was in fiscal year 2001.

What happens each year is that the President makes very large cuts in that program. This committee then restores a significant portion of those funds, but still leaving us below the funding level for last year. As a result, this bill is $300 million below last year in terms of its aid for State and local law enforcement assistance; and last year was $226 million below the year before. I think that is headed in the wrong direction.

Lastly, I think there is one provision in this bill which is especially mean and that is the funding level for legal services. Legal services is the program that we provide in order to enable indigent people to have some access to civil courts, and yet this bill reduces funding for legal services below last year's level.

As I said in the conference, every day we come onto this floor and we pledge allegiance to the flag, and at the end of that pledge, we talk about our dedication to providing "liberty and justice for all". I do not think anybody can stand on this floor with a straight face and say that anymore. I think, if you vote to cut legal services, what you are really saying is that we stand for liberty and justice "for those who can pay for it".

I do not think that is what this country is supposed to be all about. By the time you take into account not just the nominal number in this bill for legal service, but when you take into account the across-the-board cut that has already been applied, and when you add to that the additional across-the-board cut which is expected to be applied at some point in the process before we are finished, you have substantially weakened funding for legal services. I think that is an indefensible thing to do.

I would point out that these reductions are being made at the same time that NASA is being given upwards of $2 billion to deal with a manned mission to Mars. I have nothing against going to Mars. I think in the long term it is a wonderful expansion of the human endeavor. But I do believe that to add that kind of funding to NASA for a Mars mission and to make the kind of tax cuts for the most wealthy people in this society that the Congress is going to be supporting in the coming days, while at the same time we are cutting legal service funds for the indigent, cutting aid for local and State law enforcement grants, I think that represents a wrong set of priorities. I think it is taking us in the wrong direction.

I note that this subcommittee has been reorganized at the demand of the ex-majority leader on the other side of the aisle, Mr. DELAY, who last year, representing Houston, wanted to see to it that NASA had a clear track to funding increases. So he did a very effective job of representing his district by moving NASA into this subcommittee where it has to compete against programs such as I have just mentioned. And as a result, NASA is at the front of the train and some of these other priorities are at the back of the train. I regret that.

I do appreciate very much the dedication that the gentleman has shown to the science budget. I think the National Science Foundation is one of the keys to our future economic growth. I congratulate him for that. But in the end, for the reasons I have cited, I am going to feel constrained to cast a "no" vote on the passage of the conference report.

Mr. WOLF. Madam Speaker, I yield myself such time as I may consume.

I appreciate the comments of the gentleman from Wisconsin (Mr. OBEY). On the issue of legal services, we are above the administration's request, but I understand what the gentleman is saying. I am somewhat sympathetic to it, too. But for the record, we are $12.5 million above the administration's request. But the gentleman's comments are telling.

On the issue of oversight on the war, I agree with the gentleman. I have been to Iraq three times, and I have come up with a proposal asking the administration to have fresh eyes on the target, 10 people who are men and women of integrity and honesty and character to go and come back and report.

□ 1330

So I think the gentleman is right. I feel very strongly we should have major oversight on the operation of the war. Also, I think the administration has to do a better job, and I think oversight would tell this if it were to come back and tell the ramifications of failure. I think should we fail in Iraq, the ramifications to this country are very serious with regard to terrorism. So by having oversight, I think those ramifications would come out. But I agree with Mr. OBEY. I think there should be much more aggressive oversight.

Madam Speaker, I yield 2 minutes to the gentleman from Tennessee (Mr. WAMP).

Mr. WAMP. Madam Speaker, I rise in support of this conference report with deep gratitude to the ranking member and the chairman and excellent staff work. I believe that Chairman WOLF, while he does not like for people to talk about him, is a man of conscience, and I believe that the God who created us speaks to us and through us through our conscience, and I am grateful that he is so sensitive to the needs of humanity.

We talk a lot about terror. There is terror in a lot of homes in this country because methamphetamine production has crept into our communities, particularly in rural America. It hit Tennessee really hard. And in this bill, the staff and the chairman and the ranking member have responded very well, and I am grateful for that because we have got to attack this problem. At a time of need to tighten our belts and get back towards a balanced budget, we have to do some things, or it is going to cost us a whole lot more later.

In Tennessee we started with a U.S. Attorney-led partnership of local, State, and Federal governments and a task force that has now grown to the whole State, and it is a model for the Nation on cooperation between local, State, and Federal governments so that they can interdict, they can actually get a conviction, not just an indictment but a conviction: and we now are second in the Nation in attacking this problem and busting these labs and running these people back into the woods.

We have got to change State laws and Federal laws, but it takes support; and this committee has been very responsive, and I am grateful for that; and I think the House should support this continued effort to fight methamphetamine production in this country.

Mr. MOLLOHAN. Madam Speaker, I yield such time as he may consume to the gentleman from New York (Mr. SERRANO). There is no member of the minority of our subcommittee who has made a greater contribution to the jurisdictions, to the funding in our bill than he.

Mr. SERRANO. Madam Speaker, I thank the gentleman for yielding me this time and for the very kind words.

I rise in support of the conference report, and I congratulate the gentleman from Virginia and the gentleman from West Virginia for not only the way in which they continue to work together but the way in which they work with all members of the subcommittee and, indeed, all Members of the House.

I am especially pleased that we were able to fund the Census Bureau at the higher House level. This will allow for the continuation of the important American Community Survey which provides accurate and up-to-date information on housing, demographic and socioeconomic conditions in our country. As we know, there was a period of time there during conference negotiations where this program was in danger.

I am also glad that NOAA was funded at a higher level than that included in the House bill. In the aftermath of the recent hurricanes, we all recognize the important role of our National Weather Service.

This is the first year, Madam Speaker, that the Science portfolio was added to this subcommittee's jurisdiction, and I am satisfied that both NASA and the National Science Foundation received more funding than was appropriated in 2005. NASA has a vital role in maintaining our Nation's leadership in science and technology through its educational programs, in particular, and in its broad portfolio of university-based research. I am happy that the National Science Foundation's funding will allow for the continuation of their education programs, which benefit so many of our students.

I am also pleased that the State Department funding was provided so that there would be worldwide security improvements. We must always be vigilant in guarding the safety of those who so ably represent us both here and abroad.

The FBI is the biggest winner in this bill, receiving an increase of $547 million: and as the chairman knows and the ranking member knows, I have always felt that the FBI should get whatever resources it needs. But I would be remiss, Madam Speaker, if I did not briefly mention that I have been troubled by many of the bureau's practices of late, including its handling of the Filiberto Ojeda-Rios incident in Puerto Rico, which should not have resulted in his killing. I am also concerned about the FBI's ever-increasing use of national security letters. As the FBI continues to adjust to its new powers and responsibilities, I hope that we in this country will continue to scrutinize the FBI's activities to ensure that we do not witness repeats of the abuses that have tainted the organization in the past.

Before closing, let me just say that I have often said in subcommittee, Madam Speaker, that if in the process of getting the bad guys, we throw away the Constitution and take away the civil liberties of the good guys, then the terrorists would have won and we as a Nation would have lost. With that in mind, I support the conference report, and I ask for its passage.

Mr. WOLF. Madam Speaker, I thank the gentleman from New York for his comments and for his friendship and for working together as we have over the years.

Madam Speaker, I yield 3 minutes to Coach OSBORNE, a Member of Congress from Nebraska. As I was looking over, I thought of another great coach. This is a great coach. Another great coach is Joe Paterno, who, when I watched the game on Saturday, and I do not know if the gentleman from Nebraska watched the game, the announcers kept saying that he was 79 years old and wears white socks, but what they did not keep talking about is he is a man of such honesty and integrity and character. I think the two of them must have been carved out of the same thing. I am sorry the gentleman is going to be leaving here.

Mr. OBEY. Madam Speaker, I object to the gentleman's words. He is reminding me of a painful loss to Penn State.

Mr. WOLF. Madam Speaker, I forgot my colleague is from Wisconsin. We are going to miss having Mr. OSBORNE here, but we look forward to working with him as Governor of Nebraska.

Mr. OSBORNE. Madam Speaker, I thank the chairman for those kind words. I guess I would like to reciprocate by saying that I have worked with a great many people in the House and no one has been more responsive and more interested in matters dealing with law enforcement and children than the chairman. So we really appreciate it.

I am sorry that Wisconsin got beat, but everybody has got to lose sometime. Of course, Barry Alvarez is a good friend of mine, too.

I rise in support of the conference report, and I would like to particularly thank Chairman WOLF for restoring some of the Byrne grant funds. As many people know, Byrne grant funds were zeroed out in the President's budget. It was a tremendous effort to get any money back in there for Byrne grants. And for those who do not know, Byrne grants basically support local law enforcement as we attack the methamphetamine problem.

The gentleman from Tennessee (Mr. WAMP) talked about meth a little bit earlier, and I would like to just take a second to show people graphically what has happened in regard to this problem.

In 1990 there were two States, California and Texas, that each had more than 20 methamphetamine labs. The rest of the country was relatively free of this problem. Then we look at what is present in 2004, and we see the spread of methamphetamine from west to east, just a few States in the northeast that are preserved to some degree from meth, and that will soon change, I am certain.

In most of these counties in most of these States in the western and the central part of the United States, more than half of the jail cells are now occupied by meth addicts or people who have had meth-related crimes. I would say more than half of the child deaths, child assaults, foster care cases in these regions are due to methamphetamine abuse.

So we really appreciate the restoration of these funds. It is not what everybody would like, but it is certainly going to keep these law enforcement people going for a period of time.

Also, this conference report provides funds to clean up toxic material from meth labs, which is much needed. Above all, it encourages the Drug Enforcement Agency to establish a methamphetamine task force. Currently, we do not feel that the DEA has a comprehensive plan to attack the problem of methamphetamine, which is really covering the whole country and is certainly becoming more and more of a problem on the east coast. So this part of the bill is excellent. I appreciate the chairman's work. I would like to thank him one more time for his efforts.

Mr. MOLLOHAN. Madam Speaker, I yield 3 minutes to the distinguished gentleman from Ohio (Mr. KUCINICH).

Mr. KUCINICH. Madam Speaker, I thank the gentleman for yielding me this time.

I want to begin by saying that I think that our ranking member, DAVID OBEY, has stated well the concerns that many of us have with respect to some provisions of the bill that would, in this case, cut legal services to the poor; and the stripping of the Sanders amendment was certainly a problem because that amendment would have prevented the search of library reading records by PATRIOT Act law enforcement. So I understand the concerns that have been expressed.

On balance, though, I rise in support of the bill, and I am going to tell the Members why: because I think that there is an element in this bill that is so important for this country because it affirms the notion that the first "A" in NASA, National Aeronautics and Space Administration, "aeronautics," is critical to the agency's success. And in that connection I want to thank Chairman WOLF and I want to thank Ranking Member MOLLOHAN for their hard work and their support to that end.

We have been working for the better part of this year to make certain that aeronautics was recognized as being critical; and without the help of the entire Ohio delegation on both sides of the aisle, without the help of Chairman WOLF, without the help of Ranking Member MOLLOHAN, we would not be here at this exact moment pointing out that this bill represents a victory for aeronautics.

Aeronautics research and development has drastically improved our national security, our air safety, our economy, and our environment. NASA's field centers, such as the Glenn Research Center in Cleveland, are where the actual basic research is done. There we will find unique research facilities, some of the best scientists and engineers of our time, and a track record of discovery for the public good that is the envy of the world.

One of the secrets to NASA's success has been its dual emphasis on both space and aeronautics. A successful space program is heavily dependent on a strong aeronautics program. Indeed, we cannot get to space without first navigating the atmosphere, and yet the budget for fiscal year 2006 attempted to drastically cut funding for aeronautics research. Recovery from that devastating loss would have taken decades and billions of dollars.

That is why I am so grateful to the chairman and to the ranking member and all of my colleagues for the work that they have put into the bill and showing that the members of the subcommittee share the deep affinity that I have and that others have in appreciation for a healthy, balanced National Aeronautics and Space Administration. This recognizes that a healthy NASA requires strong field research centers like NASA Glenn. Strong field centers, in turn, are dependent on their physical facilities and, more importantly, their talented workforce.

The bill protects the jobs and facilities from cuts that are driven by what accountants want instead of scientific need and instead of engineering know-how. This bill stands in defense of aeronautics, and it is a nod to the crucial role that aeronautics plays in so many facets of our daily life.

Mr. WOLF. Madam Speaker, I yield 3 minutes to the gentleman from New York (Mr. BOEHLERT).

Mr. BOEHLERT. Madam Speaker, I thank the chairman and the ranking member of the subcommittee for their outstanding work in very difficult, challenging times. But this measure deserves our support, and I say that as chairman of the Science Committee. So I have a special interest, because it will bolster America's science and technology enterprise, it will foster innovation, and boost U.S. competitiveness.

Why do I support this bill? Let me count the ways, and this is by no means inclusive, but let me focus on the matters that I am most familiar with. It increases funding for the National Science Foundation to support more fundamental science and engineering research. That is the fuel that drives the knowledge economy, and that is what drives the American economy. It preserves the science and math partnership program at NSF, designed to improve the performance of local school systems in math and science education at a time we have been challenged as never before in our history.

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It increases funding for the laboratory programs for the National Institute of Standards and Technology.

And what does NIST do in addition to performing advanced science and engineering research? It develops the technical standards that advance measurement tools to help to keep American industry competitive. It preserves the very important Manufacturing Extension Partnership, which helps keep America's small manufacturers globally competitive, improving U.S. manufacturing productivity and saving American jobs. It supports a balanced program at NASA, including increased funding for aeronautics, as the previous speaker mentioned; and it increases funding for the National Weather Service, which provides lifesaving forecasting of hurricanes and other extreme events. I need provide no further example than Katrina.

At a time when government agencies at all levels were less than adequate with their response, the shining star in our crown was the National Hurricane Center and the National Weather Service. The Hurricane Center is under the Weather Service. They provided us with timely information well in advance of the hurricane hitting the coast of the gulf. It is what was done with that information that created the problems, not the information itself. That was provided completely and in a timely manner.

My congratulations go to the gentleman from Virginia and the gentleman from West Virginia. Under very difficult circumstances, they have recognized that we have to establish some priorities, and one of the high priorities that they have both given and this House should be giving is to invest in the science enterprise.

What is that all about? It is about our future. It is about opportunity. It is about jobs.

Mr. MOLLOHAN. Madam Speaker, I thank the gentleman for his kind comments.

Madam Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from California (Mr. FARR), a member of the full committee.

Mr. FARR. Madam Speaker, I thank the gentleman for yielding me this time.

Madam Speaker, I rise today in support of the conference report on H.R. 2862, the Science, State, Justice, Commerce and Related Agencies Appropriations Act. I think the conferees did an incredibly good job, considering the tight allocations they had. And I want to thank the subcommittee chairman, the gentleman from Virginia (Mr. WOLF), and the gentleman from West Virginia (Ranking Member MOLLOHAN) and their highly competent staff.

Despite the good job, I would be remiss if I did not stand here and remind Congress of our need to deal with the recommendations that have been made to us by very important organizations, our U.S. Commission on Ocean Policy that studies the oceans, and the Pew Oceans Commission, a charitable trust which also studies the oceans, and ask our administration to propose an adequate budget for our ocean programs in the future.

It is so critical, as Americans depend on the oceans, when we think of all of the tourism from the beaches and the watchable wildlife. We make livings on sometimes turbulent surfaces, we put food on America's tables, we play on its beaches and so on. These are often critical and overlooked in our economic engine, yet the U.S. economy in 2000 was almost 2½ times larger, the ocean economy, than the agriculture economy in terms of the output, and employed 1.5 times the number of people. It encompasses huge activities. NOAA activities touch almost a third of our Nation's gross domestic product, and our oceans and coasts contribute more than $117 billion to American prosperity each year.

So the issue here is really that we have to put more effort into this, because if we do not, we are just stabbing ourselves in the foot. The oxygen that we breathe comes from the oceans, the future, the unexplored. It is frankly more important that we explore the oceans on this planet than we explore Mars, yet we are putting more and more money into that effort than we do into our own planet.

So I am thanking the committee for job well done and hoping that next year we can get a better mark on this.

Madam Speaker, I rise today in support of the conference report on H.R. 2862, the Science, State, Justice, Commerce, and Related Agencies Appropriations Act 2006, but I also strongly encourage both the administration and the House to invest more in the programs that protect, maintain, and restore the health of our oceans in subsequent years. The conferees did a good job with this bill given the allocation, and I especially appreciate the hard work of Subcommittee Chairman WOLF, Ranking Member MOLLOHAN, and their highly competent and helpful staff.

The Pew Oceans Commission and the U.S. Commission on Ocean Policy both released landmark reports within the past 2½ years reviewing the state of our oceans and the policies we use to govern them. This was the first comprehensive review in over 30 years. Both reports came to the same conclusion: Our oceans and coasts are in a state of crises and we are loosing important goods and services that they provide. At the top of the list of problems causing this crisis is an under investment in the programs we use to manage the oceans and coasts.

From our oceans, Americans draw inspiration from the animals in its waters, make a living on its sometimes turbulent surface, put food on their tables, play on its beaches, and benefit from the microscopic plants that provide the majority of oxygen we breathe. For many of these reasons and others, our oceans are a critical, albeit often overlooked, economic engine. The U.S. ocean economy in 2000 was almost 2½ times larger than the agricultural economy in terms of output and employed 1½ times as many people. Ocean sector employment is larger than every manufacturing industry. NOAA activities touch almost a third of the Nation's gross domestic product, and oceans and coasts contribute more than $117 billion to American prosperity each year.

If we are going to continue to obtain these important benefits from our coasts and oceans, we will need to implement the recommendations of the U.S. Commission on Ocean Policy to invest more in our oceans. I call on the administration to propose a more robust budget next year so that Americans will continue to benefit from the goods and services our oceans provide. I also ask my colleagues here in the House to push for a budget resolution next year that authorizes adequate money to the Science, State, Justice, and Commerce accounts so that Chairman WOLF and Ranking Member MOLLOHAN will be able to put together a bill that adequately supports programs that protect, maintain and restore the health of our oceans.

Unfortunately because of the tight allocation, conferees were forced to cut many important ocean programs, such as the National Marine Sanctuary Program, which is receiving a 30-percent cut from fiscal year 2005 funding levels. In 1972, exactly 100 years after the first national park was created, the Nation made a similar commitment to preserving its marine treasures by establishing the National Marine Sanctuary Program. The Monterey Bay National Marine Sanctuary plays a critical role protecting the ecologically and culturally important areas off my district in California while promoting sustainable use and educating the public about the marine environment.

The National Sea Grant College Program is being cut by 10 percent from fiscal year 2005 funding levels to $55.5 million, a cut of $5 million from the House bill and $11.2 million from the Senate bill. From this cut, the U.S. will loose major projects that assist coastal communities, including promoting coastal economic growth, improving the quality of marine environments, educating students in marine sciences, and solving critical marine and Great Lakes resource programs. The U.S. Commission on Ocean Policy called for increasing the National Sea Grant College Program by $20 million, and the President's Ocean Action Plan called for expanding the program.

The National Marine Protected Areas Center is being cut by 50 percent from fiscal year 2005 funding levels after the House bill called for nearly level funding and the Senate bill called for a slight increase. This center helps protect the significant natural and cultural resources within the marine environment for the benefit of present and future generations by strengthening and expanding the Nation's system of marine protected areas. An expanded and strengthened comprehensive system of marine protected areas throughout the marine environment would enhance the conservation of our Nation's natural and cultural marine heritage and the ecologically and economically sustainable use of the marine environment for future generations.

The programs I highlighted today as well as several other ocean programs are being cut when they need to be expanded. This is putting the well-being of many Americans at risk by jeopardizing the goods and services provided by healthy oceans that drive our vast ocean economic engine.

Mr. WOLF. Madam Speaker, I reserve the balance of my time.

Mr. MOLLOHAN. Madam Speaker, I yield 5 minutes to the distinguished gentleman from Texas (Mr. DOGGETT).

Mr. DOGGETT. Madam Speaker, I thank the Gentleman for yielding me this time, and I thank him and the Chairman of the Committee for their long labors on what is a $57.8 billion bill.

My concern is with what many might view as a mere footnote to this bill, the budget of a tiny federal agency that gets not billions, but only $5.3 million, with an "m," out of this huge budget. But the budget of that tiny federal agency and a whim of nature are all that stand between tens of thousands of Texans along the southern tip of our country and disaster.

These are hard-working people along the Lower Rio Grande River Valley in one of the economically poorest parts of this country. But the threat of disaster to them is every bit as real as what we saw played out on our screens in the aftermath of Hurricane Katrina in New Orleans.

This bill fails to deal adequately with that problem. I believe that the Committee recognized the Valley's need in the language that it added to the report that accompanies this bill. I cannot fault the Committee, though I do not agree with the result. This report includes the same dollar amount that the House had already approved and the Senate had already approved, which is 100 cents on the dollar of what President Bush requested. But the amount of money requested is not an adequate amount to protect people from a very real danger.

As the conferees noted in the report, and I quote: "The conferees recommend that the Commission increase funding for the Lower Rio Grande Valley Flood Control Project above the $2,200,000 contained in the President's budget request. Studies by the U.S. Section of the IBWC conclude that the Rio Grande Valley levees are deficient in height, geologically flawed, and structurally unsound. The conferees expect the administration in the upcoming budget cycle to request sufficient funds to address these needs."

And while that language is important, it does not provide the dollars necessary to fix this problem. It is language similar to that adopted by the Lower Rio Grande Valley Development Council, composed of all the governments in the three counties at the very tip of the United States where it borders Mexico.

In asking for $10 million in construction moneys every year, they said, "Without necessary improvements, the levee system could be overtopped or fail structurally at various locations, leaving thousands homeless and creating extensive property and environmental damage to the region."

After a period of cronyism at the IBWC, well-documented by the General Accountability Office, President Bush replaced his first failed appointee with an acting appointee. We had the USIBWC's Acting Commissioner down in the Rio Grande Valley last month. He said in a meeting there that he needed $10 million a year, not for the agency, but for construction, and a total of $125 million over 10 or 11 years in order to solve this problem. Madam Speaker, $2.2 million is about a fifth of what is needed in construction every year for the next 10 years if we are going to resolve this problem.

Earlier this year, we had Hurricane Emily. It hit about 35, 50 miles south of the area that I am talking about. It was a mere Category 1, yet it caused extensive flooding along some of these levees. As all of America knows, we have had so many hurricanes this year, we have run out of names, and it is forecast to only get worse this year and the year after that as we go through this cycle in the Gulf of one hurricane after another.

If we have even a category 3 hurricane, we will overtop these levees along 38 miles. If we have a Hurricane 5 like Katrina, it will be 102 miles that are overwhelmed. This is just one small section along the Rio Grande.

But I just want it clear that this administration and this Congress has in living color the recommendations of their own agency showing where the levees will be topped up to 9 feet over the existing levees: 6, 5, 4, 3 feet, whatever it is, it is an amount of water pouring over these levees. While we can talk about categories of hurricanes and whether it is a 5 or a 4 or a 3 and follow the tracking on television, what we have had from this Administration since Katrina for the poor people of the Rio Grande Valley is a "Category 0" effort, and it is that effort that has to be changed either in the supplemental appropriation they currently have under consideration, or in next year's appropriations bill, because every day we wait, exposes tens of thousands of people to considerable danger.

Mr. MOLLOHAN. Madam Speaker, I am pleased to yield 2 minutes to the distinguished gentleman from New York (Mr. WEINER).

Mr. WEINER. Madam Speaker, I thank the ranking member and the chairman. I offer my gratitude to both of them for the hard work they have done in, once again, trying to fit many programs into a very small package.

There is a mystery buried deep in this bill. This bill marks the end, the official end, of the COPS program. We know that the chairman and ranking member were not the ones that led to its demise. In fact, over the last several years, there has been an effort to, despite the fact that it has not been reauthorized, keep it going.

Now, we know that the COPS program ends in this bill, but the question is why. Let us try to figure out what the motive is.

Well, could it be that it is not distributed evenly, the police officers, the over 120,000 police officers hired in the bill? This is an example of just some of the cities that have had officers hired under the COPS program. This is perhaps the most democratic, with a small "d", bill you can imagine, COPS in small police departments in rural areas and large big cities.

Perhaps it was that the COPS program was eliminated because it was not working. Well, that certainly was not the case. Crime has been reduced every year since the COPS program was put into place. The GAO did a study looking at the correlation between COPS hiring and the reduction in crimes and concluded that over a quarter of a million indexed crimes were not committed because of the COPS program.

Maybe it is because the program is no longer needed. Well, the former head of the Department of Homeland Security, Tom Ridge, once famously said that homeland security starts in our hometown. Everyone is saying we need more and more first responders, not fewer.

So the COPS program in this bill meets its demise, a successful program. We do not quite know why it is ending. We are grateful to the chairman and ranking member for having it go on this long.

But we do have a chance to resuscitate it. The House has passed the reauthorization of the Justice Department bill. We are awaiting action in the Senate. In that bill we authorized the

COPS program to live to see another day. We have bipartisan support from Chairman SENSENBRENNER. Democrats and Republicans joining together to try to make the COPS program come back to life.

I would urge my colleagues to think about whether or not at this time of heightened national security concern, we want the COPS program to end.

Mr. WOLF. Madam Speaker, I see the gentleman from Texas (Mr. DOGGETT), and if he would not leave the floor, I just wanted to comment on what he was commenting on, so I yield myself such time as I may consume.

In the report on that Commission, and Mr. DOGGETT spoke to me about it, what you said did not kind of jibe completely with regard to our conversation. But the statement accompanying the conference report says, "Within the amount for the water quality program, the conferees recommend that the Commission increase funding for the Lower Rio Grande Flood Control Project above the $2.2 million contained in the budget request." So we did ask for them to go above the request.

Secondly, we say "Studies by the U.S. section of the IBWC conclude that Rio Grande Valley levees are deficient in height, geologically flawed, and structurally unsound. The conferees expect the administration in the upcoming budget cycle to request sufficient funds to address these needs. Also, the conference directs that $250,000 be made available for the Rio Grande Canal Project." This is an increase over the construction amount.

Secondly, we plan on doing a letter, because the country of Mexico is involved. Texas ought to be involved, but by torching something, it does not always get it done. I think it has to kind of come together.

Mr. DOGGETT. Madam Speaker, will the gentleman yield?

Mr. WOLF. I yield to the gentleman from Texas.

Mr. DOGGETT. Madam Speaker, the language the gentleman quotes is the same language that I quote. I applaud the committee for adding that in there.

The problem is that the total amount of money for the agency was not changed, and to get any more than $2.2 million, they will be taking it out of existing projects that they have on the Colorado River. And the head of the agency is saying they need five times as much as the President asked for.

Mr. WOLF. Who did they say that to? Is that in writing somewhere?

Mr. DOGGETT. Yes, I think it is in writing. It is in the cost estimates or in the reports that have already been forwarded up to the State Department. But I do not think they were ever forwarded to the committee.

I applaud the committee concerns about this and the language that they added, and I am glad the gentleman will be submitting further letters and the like, because this is a small part of this budget, but a big problem for our folks. And they get out of this, even if they go from $2.2 to $3 million, only about a third of what the agency itself says is needed, not just this year, but each year for the next 10 years.

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Mr. WOLF. Well, we are going to do a letter. I would urge the gentleman to get a meeting to get the commission to come up to your office. We will have a staff person come by. Also get the State of Texas, also do not forget about Mexico, to get them to come by and try to bring it to a head. I think that is a more constructive way than just saying this bill is not very good. I thought we had with this language forced them to address the issue. We will send a letter.

But if this were my congressional district, I would have them up here. I would ask the State Department to come down and walk with you. I would go to Mexico and be on the other side. I would have a letter to President Vicente Fox. I would have a letter to Secretary Rice. So there is a lot that you have to do.

Mr. DOGGETT. If the gentleman will yield, let me just assure him I have done all those things short of walking in Mexico because this only covers the cost of repairing the U.S. side of the levees. It does not concern any repairs to the Mexican side.

Mr. WOLF. What do they do? What does Mexico do?

Mr. DOGGETT. Well, Mexico, I think if they see that we are moving to raise the levees on the American side, they will be caused to take action on the Mexican side. This is simply, the cost that I have talked about is only the U.S. side of the levees. It is not the Mexican side of the levees. That is their responsibility to act on that.

Mr. WOLF. But if it goes on one side does that not impact on the other side?

Mr. DOGGETT. That is why I say, naturally, the kind of budget challenges they face in Mexico, if they say we are raising our side to meet this flood problem, we believe that they will act to raise it on their side also.

Mr. WOLF. Well, I would like to challenge the gentleman to really pull together. I will try to come to the meeting or get some staff people to come. Bring in the Mexican ambassador. Do something rather than just coming down and doing that. But do something. Get the Mexican ambassador to come on in. Have somebody from the State Department. Bring them on up. Go down there. Walk it. Do everything you possibly can, because you certainly do not want something to happen whereby people die in a flood.

Mr. DOGGETT. I accept that challenge already having done most of that. It has not just been my request, but the request of three of us, four of us, actually, from the Rio Grande Valley to the President and to the State Department, and we have been unable to get any movement from them. And I understand we need their cooperation in order for your committee to move forward. Thank you for your interest.

Mr. WOLF. Well, we will try to help you. We will send a letter, and in the letter that we will send maybe Mr. MOLLOHAN will sign it with me. We will send you a copy of it.

Madam Speaker, I reserve the balance of my time.

Mr. MOLLOHAN. Madam Speaker, I yield 2 minutes to the distinguished gentlewoman from Texas (Ms. JACKSON-LEE).

Ms. JACKSON-LEE of Texas. Madam Speaker, I thank the ranking member, and I do thank the chairman. This is an interesting mix of a committee, the State, Justice, Commerce and related agencies; and I acknowledge that the amount is up to $4.9 billion from the request of $4.7 billion. Let me quickly point out some areas that I wish we had more money, but I am grateful and want to emphasize the value and this is, of course, NOAA that played a pivotal role and could play an even greater role as we begin to see climatic changes and see storm surges create the devastation of the gulf coast.

This is an important agency and the monies included certainly are welcome and arguably, I hope, we will see additional dollars. The $1.3 billion for international peacekeeping certainly is valuable, and I hope that the emphasis is on peacekeeping. I would hope that some of those dollars could be used in transitioning our military out of Iraq and putting in peacekeeping forces that would combine with our allies over this crisis that we have.

I am grateful that NASA is funded. In times of trouble, I know that we look to agencies like this, but I am grateful for that funding and also for the National Science Foundation and, in particular, the small business.

What I do want to bring to my colleagues' attention are two points. One, I am sorry that we did not include the language that would prohibit the FBI under the PATRIOT Act from accessing library circulation records. And I hope we can fix that. I really do. After the backdrop of the national security letters, we know that the FBI, we have a great deal of respect for them and their homeland security role; but we need the protection of civil liberties as well.

I would also say to my good friend, one of the issues that I have been studying for a number of years is, if you will, the population of elderly prisoners who are in the Federal prisons. They are nonviolent. They are in there for nonviolent offenses. And we have been working on what we call the Good Time Early Release program that would release individuals over the age of 40 to 45 on good behavior. And I believe that this is an issue that is long overdue. I hope that we can work on authorization, but also appropriations to look at this issue. I ask my colleagues to support the conference.

Mr. GORDON. Madam Speaker, I am very pleased that the joint explanatory statement of the Committee of Conference designated $360,000 under the COPS Methamphetamine Enforcement and Clean-up for the Tennessee Methamphetamine Detection and Remediation Research.

Tennessee Technological University will use this funding to develop mobile equipment that can help law enforcement detect and analyze environmental hazards associated with clandestine meth labs.

Since 1999, the number of meth labs in Tennessee has increased by more than 500 percent. And, more than 1,300 labs were seized last year in Tennessee alone, the most of any state in the Southeast.

We have all read the news stories about illegal homemade labs being set up inside houses, apartments, and even in the trunks of cars. Too often you hear about one of these labs exploding, injuring the meth cooks, as well as children inside the home, or even innocent bystanders. These volatile labs pose a threat to the entire community. Tennessee Tech University will collaborate with the law enforcement community to address this critical problem.

Once again, I am very grateful to the conferees for providing this important funding for Tennessee Tech University.

Mr. GENE GREEN of Texas. Mr. Speaker, I rise today in support of this bill to fund the Departments of Commerce, Justice, and State, as well as NASA and the National Science Foundation.

In crafting this legislation, our appropriators faced the difficult task of adequately funding many national priorities. On balance, they did a remarkable job and have produced a bill worthy of our support.

This bill increases funding for many important Justice Department programs and included a 9 percent increase for the Federal Bureau of Investigation and a 6 percent increase for both the U.S. Marshals Service and the Drug Enforcement Agency.

For sure, there are programs that we would all like to see funded at higher levels. I am particularly disappointed to see reduced funding for local law enforcement, Community Oriented Policing Services and juvenile justice programs; however, I am pleased that appropriators did not accept the Administration's request to lump all of these programs into one broad Justice Assistance line. I also applaud the conference committee for increasing funds for Byrne grants and the State Criminal Alien Assistance Program, both of which I have long supported.

This is the first year that NASA has been funded in this legislation, which provided $16.5 billion—or a 2 percent increase—for NASA. I appreciate the committee's support of NASA's efforts to develop a crew exploration vehicle that will eventually replace the Space Shuttle. With Johnson Space Center in our community, we are certainly grateful that the committee rejected the Administration's efforts to cut funding for NASA's Aeronautics Research program.

While the bill provides a slight decrease in funding for the Commerce Department, I am pleased to see significant funding increases for the Economic Development Administration and NOAA, as compared to House-passed funding levels.

One program of particular interest to me and our community in Houston is NOAA's Coastal and Estuarine Land Protection Program. This program exists to protect important coastal and estuarine areas that have significant conservation, recreation, ecological, or historical values and are threatened by development or conversion.

In Houston, we are involved in an effort to preserve the Buffalo Bayou, which is the historic waterway on which the Allen Brothers founded Houston in 1836. NOAA's Coastal and Estuarine Land Protection Program has allowed us to partner with the Trust for Public Land to conserve critical tracts of land along the Buffalo Bayou in order to further our conservation efforts.

For the past two years, Congress has supported our land acquisition funding requests to help revitalize the Buffalo Bayou in a manner that balances the need to conserve the Bayou's wetlands and waterways with the recreational and business development needed to transform the Buffalo Bayou into an active and vibrant urban waterfront center.

To date, congressionally-appropriated funds have played a significant role in the development of Buffalo Bend Nature Park, which was recently dedicated and has provided residents of my district with increased greenspace and recreational opportunities.

In this bill, Congress appropriated $750,000 for the acquisition of two tracts of land, funding that will further the goals of the Buffalo Bayou master plan. Land along the Buffalo Bayou will be purchased to expand Hidalgo Park, which sits in a historically Hispanic community that has traditionally lacked park land. Through this acquisition, Hidalgo Park will be linked to Buffalo Bend Nature Park, enhancing residents' recreational and environmental experience along the bayou.

The funding will also allow the City of Houston to purchase land along Brays Bayou, beginning at the confluence of Brays Bayou and Buffalo Bayou and stretching to Mason Park, less than a mile away. This area is a prime location for a greenbelt park, the development of which would further the City's plan for parks connected by and along the city's bayous.

I would like to thank appropriators in both the House and the Senate for recognizing the value of these projects and positive impact they will make on the quality of life for my constituents. With that, Madam Speaker, I encourage my colleagues to support this legislation.

Mr. DELAY. Madam Speaker, the Science-State-Justice-Commerce conference report is a fiscally responsible, disciplined package that meets our Nation's needs while staying within our Nation's means.

And we should be particularly happy that conference negotiators have once again wisely chosen to fully fund NASA's efforts to implement President Bush's vision for space exploration.

The history of our space program has shown that money spent by our taxpayers on NASA is an investment in the technologies that drive not only our exploration of the unknown, but our economy here on Earth.

Since its earliest days, NASA has blazed the trails of rocketry, satellite technology, aerospace engineering, telecommunications, and even produced health care miracles from the MRI to the portable x-ray machine.

The earthbound application of these spacebased innovations has transformed the way we live our lives, do our jobs, and communicate with each other and the rest of the world.

President Bush's vision, already being implemented by new NASA Administrator Mike Griffin and his excellent staff, will rededicate our space program to its original, exploratory mission.

Today's bill provides more than $16 billion for our space program.

It fully funds the ongoing work of the still vital and necessary space shuttle program and the other first-stage components of the president's vision for space at more than $3.1 billion.

And with this funding—a mere 1.5 percent increase from last year—we have also provided the NASA Administrator the flexibility he needs to manage his agency's ever-shifting needs and challenges.

Fully funding NASA means fully trusting the courage and brilliance of NASA's people, from astronauts to engineers to support staff, all who are focused on completing the first stage of work in the president's vision: returning the shuttle to flight, completing the International Space Station, developing the next generation space vehicle, and advancing the other aspects of NASA's critical mission.

I have that trust, and this conference report shows that the American people do, too.

I urge all my colleagues to support this legislation.

Mr. ALLEN. Madam Speaker, although I support the Science-State-Commerce-Justice Appropriations conference report, I rise today to call attention to the need for more funding for our coasts and oceans.

When, together with Representatives WELDON and FARR and former Congressman Jim Greenwood, I co-founded the Bipartisan House Oceans Caucus in 1999 in order to inform my colleagues about the oceans, we faced major policy challenges. Americans were faced with declining fish stocks, beach closures due to poor water quality, and laws that were inadequate to protect America's oceans. My constituents were asking why.

In 2000, Congress finally asked why also. The Oceans Act of 2000 called for a National Commission on Ocean Policy and charged the Commissioners with conducting a nationwide fact-finding mission on the state of our oceans.

The goal was to develop policy recommendations that would lead to a coordinated and comprehensive national ocean policy. The independent Pew Oceans Commission underwent a similar process, touring the country to listen to testimony from scientists, stakeholders, and others to identify the root problems threatening our nations' oceans.

The products of these two commissions are nothing short of remarkable. Two comprehensive guides, based on the knowledge of our nation's experts, came to many comparable conclusions.

Specifically, the two reports call on Congress to increase our investment in the study, management, and protection of our oceans. Relative to their size and economic' value, funding for ocean research and management pales in comparison for other natural resource programs. The federal government spends over $10 billion to manage public lands and more than $16 billion on space exploration.

In 2001, the Pew Commission recommended a doubling of the NOAA budget to $6 billion over 5 years. Similarly, the U.S. Commission on Ocean Policy recommended an additional $3.9 billion in new spending on top of what we already allocate to NOAA. Yet, the legislation we are debating today sets NOAA's budget for Fiscal Year 2006 at only $3.95 billion. This level is only a modest increase of $28 million over funding levels enacted in FY '05 ($3.92 billion total).

Now I have a great deal of respect for the Chairman, Mr. WOLF, and the Ranking Member, Mr. MOLLOHAN, and I know that they did the best they could with this bill under the tight budget allocations that they were forced to deal with. In this conference report there are modest increases to fishery and coastal management programs but these are unfortunately accompanied by cuts to other vital programs such as marine sanctuaries, the Coastal and Estuarine Land Conservation Program, and the National Sea Grant Program.

Our economy, security, and health all hinge on healthy ocean ecosystems. I look forward to working with the Chairman and the Ranking Member on implementing the recommendations of the Ocean Commissions and investing appropriately in our coasts and oceans in the FY 2007 budget.

Mr. VAN HOLLEN. Madam Speaker, I rise to applaud the passage of the FY 2006 Science-State-Justice-Commerce Appropriations Bill, which includes funding for Montgomery and Prince George's Counties Joint Gang Suppression and Prevention Initiative in my district. I salute my colleague Mr. WOLF and thank him for his leadership on confronting the issue of gang violence in the Washington metropolitan area.

The federal funding approved today builds on the ongoing work of the Joint County Gang Prevention Task Force, which was established by the county executives of Montgomery and Prince George's Counties in February 2004. This funding will allow for the establishment of centralized anti-gang units within each county's police force, enabling them to pursue a zero-tolerance policy for gang violence. A cross jurisdictional community-based program, serving youth and families, would be created to provide gang prevention education, mentoring, and outreach services. Critical afterschool programs would be funded for areas where there is a high incidence of gang activity.

Law enforcement research shows that there are approximately 3,600 gang members in Maryland, the District of Columbia and Virginia and that there are nine major active gangs and more than 100 additional crews region wide. Montgomery County Police estimate that there are 20 to 22 active gangs with approximately 540 to 560 active members and associates. Prince George's County Police estimate that there are 50 crews or gangs in that county with a total of over 400 members. Officials in Prince George's County note a recent increase in the number of Latino gangs and report that the criminal activity of these gangs has expanded to sophisticated car theft rings and prostitution.

This funding will help the people of Montgomery and Prince George's Counties fight the growing problem of gang violence and teach young people that gang life is not the road to success, but rather the path to prison. It is important that we provide our law enforcement officials, our teachers, and our community leaders with the support they need as they work to keep our youth safe from gangs and teach them the long term consequences of joining a gang.

Mr. SCHIFF. Madam Speaker, from the dawn of civilization, man has peered out into the heavens and dreamt of exploring the vast expanses of our universe. During the past half century, from America's first satellite, the grapefruit-sized Explorer I, to the International Space Station now being built 200 miles above us, human beings have begun to learn how to operate in the harsh environs of space.

Our unmanned space probes—from the Ranger and Surveyor craft that paved the way for Apollo to the Voyager spacecraft that explored the outer planets—continue to increase our understanding of the universe. Everyone of the ambitious American space probes that has visited another planet has been managed by NASA's Jet Propulsion Laboratory (JPL) in Pasadena, California.

It is for this reason, I am proud that the conference report covering NASA operations includes full support of the work of JPL on the Mars exploration program and the Space Interferometry Mission.

NASA's Mars exploration program embodies the President's vision for space exploration. It will expand our knowledge of one of our neighbors in the solar system and pave the way for a manned mission to Mars. NASA's search for planets and life beyond our solar system is also having increasing and dramatic success with more than 150 planets now discovered. With full funding, the Space Interferometry Mission will examine over two thousand stars for planetary systems, fulfilling a critical step in the search for Earth-like planets.

For their strong support of this vision, I would like to thank Chairman LEWIS and Ranking Member OBEY. I would also like to thank Chairman WOLF and Ranking Member MOLLOHAN for meeting on several occasions to discuss the important work of JPL.

In addition to expanding our reach into the depths of the universe, the space research program at JPL will have additional benefits here on Earth. According to economists, investment in research and development has one of the highest rates of return in the long-run. While public investment in research and development in other nations has increased in recent years, it has stagnated in the United States. Full funding for the work at JPL demonstrates our continuing commitment to research in the sciences.

The space exploration program also has an impact on young people. Generations of students have been inspired to enter scientific fields by stunning images from the heavens. The funding for cooperative education programs between NASA's Jet Propulsion Laboratory and Griffith Observatory recognizes the importance of encouraging more students to enter scientific fields.

With our commitment to the programs at NASA's Jet Propulsion laboratory, we are pursuing both the human quest to understand our universe and the American quest for continuing leadership in space exploration.

Mr. STUPAK. Madam Speaker, this week, the House of Representatives passed the conference report to H.R. 2862, the FY 2006 Science, State, Justice, and Commerce Appropriations bill on a vote of 397–19.

I voted for this conference report because it provides funding for important law enforcement agencies, including the Federal Bureau of Investigation, the Department of Justice, and the Drug Enforcement Agency. However, I was reluctant to support this conference report during final passage because I was extremely disappointed and concerned that this legislation drastically cuts funds for the Community Oriented Policing Services program, or COPS program, and subsequently eliminates all federal funding for the hiring of police officers. The passage of this conference report has placed an undue burden on local law enforcement's ability to ensure the safety and security of our communities and our families.

H.R. 2862 contains only $478 million in funding for COPS, which is $120 million less than last year's funding level. When the House first considered H.R. 2862 on June 14, 2005, I supported an amendment offered by Congressman OBEY to increase the COPS funding level to $666 million. Unfortunately, the House chose to put our law enforcement and the safety of our street and communities at risk by rejecting the amendment.

This conference report contains only $416 million for the Byrne Discretionary and Justice Assistance Grant Programs, also known as Byrne-JAG grants. This is $386 million less than the FY '05 amount of $792 million. Byrne-JAG grants provide vital funding for multi-jurisdictional drug task forces, anti-drug education programs, treatment programs, long-range corrections and sentencing strategy programs, anti-terrorism training programs, and for the enforcement of child abuse and neglect laws, and the improvement the criminal justice systems' response to domestic and family abuse. When the House first considered H.R. 2862, I offered a bipartisan amendment to increase Byrne-JAG grants funding, but unfortunately, my amendment failed to garner enough votes.

As a former Escanaba city police officer and Michigan State Trooper as well as co-chair of the Congressional Law Enforcement Caucus, I understand how much our local communities need and rely on COPS and Byrne-JAG grant program monies. Post-9/11, our Nation's public safety officers are faced with more challenges than ever before in performing their duties, and we must do everything in our power to support their effort. We should be providing public safety officers with the resources necessary to keep our communities safe from both terrorist threats and daily crime, and unfortunately this conference report shortchanges these men and women who protect and serve our Nation.

Mr. ETHERIDGE. Madam Speaker, I rise in support of the Fiscal Year 2006 Science, State, Justice, Commerce Appropriations act because it includes several meritorious provisions, including a directive to the Federal Trade Commission to investigate price gouging by oil companies as well as continued funding for Economic Development Assistance grants.

Unfortunately, once again the House Republican leadership has slashed State and local law enforcement assistance grants despite the growing responsibilities of our First Responders in the ongoing efforts on homeland security.

I am also concerned that this bill cuts the Small Business Administration's 7(a) loan program. Small businesses are the backbone of our nation's economy, and now, when they are struggling with a weak economy and the high cost of fuel and transportation, is not the time to reduce our support.

And finally, I am sorely disappointed that the Republican leadership has stripped out the Freedom to Read provision that passed this House with strong bipartisan support on June 15th of this year, as it has in previous years. Despite the support of an overwhelming majority of Members, the Administration threatens to veto the bill because it protects people's right to privacy. This is the wrong message to be sending to the citizens of the United States.

Despite the bill's serious shortcomings, it contains important investments in federal research and development as well as law enforcement and crime prevention initiatives. On balance, this bill merits passage, and I urge my colleagues to join me in voting Yes.

Mr. WOLF. Madam Speaker, I would like to submit for printing in the CONGRESSIONAL RECORD the following table, which displays the amounts provided in the conference report to accompany H.R. 2862, the Science, State, Justice, Commerce, and Related Agencies Appropriations Act, 2006.

SCIENCE, STATE, JUSTICE, COMMERCE, AND RELATED AGENCIES APPROPRIATIONS BILL - FY 2006 (H.R. 2862)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	House	Senate	Conference	Conference vs. Enacted
TITLE I - DEPARTMENT OF JUSTICE						
General Administration						
Salaries and expenses	122,443	161,407	87,406	116,936	87,406	-35,037
Office of Intelligence and Policy Review	---	---	37,050	---	37,050	+37,050
Subtotal	122,443	161,407	124,456	116,936	124,456	+2,013
Joint automated booking system	19,915	---	---	---	---	-19,915
Automated Biometric Identification System-Integrated Identification system integration	4,987	---	---	---	---	-4,987
Justice information sharing technology	---	181,490	135,000	135,000	125,000	+125,000
Legal activities office automation	39,969	---	---	---	---	-39,969
Narrowband communications	98,664	128,701	70,874	90,000	90,000	-8,664
Administrative review and appeals	201,241	216,286	215,685	216,286	215,685	+14,444
Detention trustee	874,160	1,222,000	1,222,000	1,222,000	1,222,000	+347,840
Prior year unobligated balances	---	---	---	---	-45,000	-45,000
Direct appropriation	874,160	1,222,000	1,222,000	1,222,000	1,177,000	+302,840
Emergency appropriations (P.L. 109-13)	184,000	---	---	---	---	-184,000
Office of Inspector General	62,960	67,431	66,801	70,431	68,801	+5,841
Total, General administration	1,608,339	1,977,315	1,834,816	1,850,653	1,800,942	+192,603
United States Parole Commission						
Salaries and expenses	10,496	11,300	11,200	11,000	11,000	+504
Legal Activities						
General legal activities						
Direct appropriation	625,722	679,661	665,821	648,245	661,959	+36,237
Vaccine injury compensation trust fund (permanent)	6,249	6,333	6,333	6,333	6,333	+84
Antitrust Division	138,259	144,451	144,451	144,451	144,451	+6,192
Offsetting fee collections - current year	-101,000	-116,000	-116,000	-116,000	-116,000	-15,000
Direct appropriation	37,259	28,451	28,451	28,451	28,451	-8,808
United States Attorneys						
Salaries and expenses	1,526,849	1,626,146	1,626,146	1,572,654	1,600,000	+73,151
United States Trustee System Fund	173,602	222,577	214,402	214,402	214,402	+40,800
Offsetting fee collections	-168,602	-217,577	-209,402	-209,402	-209,402	-40,800
Interest on U.S. securities	-5,000	-5,000	-5,000	-5,000	-5,000	---
Direct appropriation	---	---	---	---	---	---
Foreign Claims Settlement Commission	1,203	1,270	1,220	1,270	1,320	+117
United States Marshals Service						
Salaries and expenses (non-CSE)	741,941	790,255	800,255	764,199	793,031	+51,090
Emergency appropriations (P.L. 109-13)	11,935	---	---	---	---	-11,935
Construction	5,657	---	---	12,000	8,883	+3,226
Total, United States Marshals Service	759,533	790,255	800,255	776,199	801,914	+42,381
Fees and expenses of witnesses	177,565	168,000	168,000	168,000	168,000	-9,565
Community Relations Service	9,535	9,759	9,659	9,659	9,659	+124
Assets forfeiture fund	21,469	21,468	21,468	21,468	21,468	-1
Payment to radiation exposure compensation trust fund	27,429	---	---	---	---	-27,429
Total, Legal activities	3,192,833	3,331,343	3,327,353	3,232,279	3,299,104	+106,271
Interagency Law Enforcement						
Interagency crime and drug enforcement	553,539	661,940	508,940	440,197	489,440	-64,099
Federal Bureau of Investigation						
Salaries and expenses	4,132,090	4,091,132	3,452,235	3,695,513	3,439,840	-692,250
Emergency appropriations (P.L. 109-13)	73,991	---	---	---	---	-73,991
Counterintelligence and national security	1,003,416	1,600,000	2,288,897	1,600,000	2,288,897	+1,285,481
Direct appropriation	5,209,497	5,691,132	5,741,132	5,295,513	5,728,737	+519,240

SCIENCE, STATE, JUSTICE, COMMERCE, AND RELATED AGENCIES APPROPRIATIONS BILL - FY 2006 (H.R. 2862)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	House	Senate	Conference	Conference vs Enacted
Construction	10,106	10,105	20,105	25,213	37,608	+27,502
Total, Federal Bureau of Investigation	5,219,603	5,701,237	5,761,237	5,320,728	5,766,345	+546,742
Drug Enforcement Administration						
Salaries and expenses	1,785,398	1,892,722	1,917,846	1,848,815	1,888,130	+102,732
Emergency appropriations (P.L. 109-13)	7,648	---	---	---	---	-7,648
Diversion control fund	-154,216	-198,566	-201,673	-201,673	-201,673	-47,457
Total, Drug Enforcement Administration	1,638,830	1,694,156	1,716,173	1,647,142	1,686,457	+47,627
Bureau of Alcohol, Tobacco and Firearms						
Salaries and expenses	878,465	803,613	923,613	923,700	923,613	+45,148
Emergency appropriations (P.L. 109-13)	4,000	---	---	---	---	-4,000
Legislative proposal	---	120,000	---	---	---	---
Total, Bureau of Alcohol, Tobacco and Firearms	882,465	923,613	923,613	923,700	923,613	+41,148
Federal Prison System						
Salaries and expenses	4,565,884	4,895,649	4,895,649	4,889,649	4,892,649	+326,765
Emergency appropriations (P.L. 108-324)	5,500	---	---	---	---	-5,500
Buildings and facilities	186,475	170,112	70,112	222,112	90,112	-96,363
Rescission	---	-314,000	---	---	---	---
Emergency appropriations (P.L. 108-324)	18,600	---	---	---	---	-18,600
Federal Prison Industries, Incorporated (limitation on administrative expenses)	3,366	3,365	3,365	3,365	3,365	-1
Total, Federal Prison System	4,779,825	4,755,126	4,969,126	5,115,126	4,986,126	+206,301
Violence against women office	382,103	362,997	389,497	371,997	386,502	+4,399
Office of Justice Programs						
Justice assistance	224,856	1,234,977	227,466	221,000	233,233	+8,377
Rescission	---	-95,500	---	---	---	---
Public safety officers benefits, death benefits	---	64,000	---	---	---	---
Total, Justice assistance	224,856	1,203,477	227,466	221,000	233,233	+8,377
State and local law enforcement assistance:						
Justice assistance grants	625,531	---	366,414	900,000	416,478	-209,053
Boys and Girls clubs (earmark)	(83,865)	---	(85,000)	(85,000)	(85,000)	(+1,135)
National Institute of Justice (earmark)	(9,866)	---	(10,000)	(10,000)	(10,000)	(+134)
USA FREEDOM corps (earmark)	(2,467)	---	---	---	---	(-2,467)
Indian assistance	17,760	---	---	15,000	22,000	+4,240
Tribal prison construction	(4,933)	---	---	---	(9,000)	(+4,067)
Indian tribal courts program	(7,893)	---	---	---	(8,000)	(+107)
Indian grants	(4,933)	---	---	---	(5,000)	(+67)
State criminal alien assistance program	300,926	---	405,000	170,000	405,000	+104,074
Southwest border prosecutors	29,599	---	30,000	30,000	30,000	+401
Byrne grants (discretionary)	167,756	---	110,000	177,000	191,704	+23,948
Drug courts	39,466	---	40,000	25,000	10,000	-29,466
Other crime control programs	5,903	---	871	1,850	850	-5,053
Assistance for victims of trafficking	9,866	---	10,000	2,000	10,000	+134
Prescription drug monitoring	9,866	---	10,000	---	7,500	-2,366
Prison rape prevention	36,506	---	40,000	1,500	18,175	-18,331
State prison drug treatment	24,666	---	25,000	15,000	10,000	-14,666
Intelligence sharing	10,359	---	10,359	6,000	10,000	-359
Cannabis eradication	---	---	11,800	---	5,000	+5,000
Capital litigation	---	---	10,000	1,000	1,000	+1,000
Crime victims rights	---	---	---	4,000	---	---
Terrorism/intelligence training	---	---	---	5,000	---	---
Mentally ill offender act	---	---	---	---	5,000	+5,000
Total, State and local law enforcement	1,278,204	---	1,069,244	1,353,350	1,142,707	-135,497
Weed and seed program fund	61,172	---	50,000	50,280	50,000	-11,172
Community oriented policing services						
Hiring	9,866	---	---	2,000	---	-9,866
Training and technical assistance	14,800	7,000	---	14,000	4,000	-10,800
Bullet proof vests	24,666	---	30,000	27,000	30,000	+5,334
Tribal law enforcement	19,733	51,600	38,000	20,000	15,000	-4,733
Meth hot spots	51,854	20,000	94,000	80,000	63,590	+11,736
Police corps	14,800	---	---	10,000	---	-14,800
COPS technology	136,763	---	120,000	137,000	139,904	+3,141
Interoperable communications	---	---	---	---	(10,000)	(+10,000)
Interoperable communications	98,664	---	---	37,500	---	-98,664

SCIENCE STATE, JUSTICE, COMMERCE, AND RELATED AGENCIES APPROPRIATIONS BILL - FY 2006 (H.R. 2862)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	House	Senate	Conference	Conference vs Enacted
Criminal records upgrade	24,666	---	27,500	20,000	10,000	-14,666
DNA backlog/crime lab	108,531	---	177,057	89,500	108,531	---
Paul Coverdell forensics science	14,800	---	---	22,000	18,500	+3,700
Crime identification technology	28,070	---	---	30,000	28,775	+705
Project safe neighborhoods	---	---	---	---	15,000	+15,000
Offender reentry	9,866	---	10,000	3,000	5,000	-4,866
Safe schools initiative	4,268	---	---	5,000	---	-4,268
Police integrity grants	7,400	10,000	---	7,500	---	-7,400
Reduce gang violence	---	---	60,000	---	40,000	+40,000
Management and administration	29,599	29,181	---	30,487	---	-29,599
Undesignated	---	---	10,000	---	---	---
Rescission	---	-115,500	---	---	---	---
Total, Community oriented policing services	598,346	2,281	566,557	534,987	478,300	-120,046
Juvenile justice programs	379,045	---	333,712	352,000	342,739	-36,306
Public safety officers benefits:						
Death benefits	63,054	---	64,000	64,000	64,000	+946
Disability and education benefits	6,324	---	8,948	8,948	8,948	+2,624
Total, Public safety officers benefits program	69,378	---	72,948	72,948	72,948	+3,570
Total, Office of Justice Programs	2,611,001	1,205,758	2,319,927	2,584,565	2,319,927	-291,074
United States Attorneys (Sec. 107)	14,800	---	---	---	---	-14,800
Assets forfeiture fund (sec. 109) (rescission)	---	-62,000	---	---	---	---
Total, title I, Department of Justice	20,893,834	20,562,785	21,759,882	21,497,385	21,669,456	+775,622
Appropriations	(20,588,160)	(21,149,785)	(21,759,882)	(21,497,385)	(21,714,456)	(+1,126,296)
Rescissions	---	(-587,000)	---	---	(-45,000)	(-45,000)
Emergency appropriations	(305,674)	---	---	---	---	(-305,674)
TITLE II - DEPARTMENT OF COMMERCE AND RELATED AGENCIES						
TRADE AND INFRASTRUCTURE DEVELOPMENT						
RELATED AGENCIES						
Office of the United States Trade Representative						
Salaries and expenses	40,997	38,779	44,779	40,997	44,779	+3,782
National Intellectual Property Law Enforcement Coordinating Council						
Salaries and expenses	1,973	---	---	---	---	-1,973
International Trade Commission						
Salaries and expenses	60,876	65,278	62,752	62,752	62,752	+1,876
Total, Related agencies	103,846	104,057	107,531	103,749	107,531	+3,685
DEPARTMENT OF COMMERCE						
International Trade Administration						
Operations and administration	396,257	408,925	406,925	404,625	406,925	+10,668
Offsetting fee collections	-8,000	-13,000	-13,000	-8,000	-8,000	---
Direct appropriation	388,257	395,925	393,925	396,625	398,925	+10,668
Bureau of Industry and Security						
Operations and administration	60,376	77,000	62,233	77,000	61,233	+857
CWC enforcement	7,104	---	14,767	---	14,767	+7,663
Total, Bureau of Industry and Security	67,480	77,000	77,000	77,000	76,000	+8,520
Economic Development Administration						
Economic development assistance programs	253,985	---	200,985	283,985	253,985	---
Emergency appropriations	---	---	---	200,000	---	---
Salaries and expenses	30,075	26,584	26,584	30,939	30,075	---
Emergency appropriations	---	---	---	10,000	---	---
Total, Economic Development Administration	284,060	26,584	227,569	524,924	284,060	---

SCIENCE, STATE, JUSTICE, COMMERCE, AND RELATED AGENCIES APPROPRIATIONS BILL - FY 2006 (H.R. 2862)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	House	Senate	Conference	Conference vs. Enacted
Economic Development Challenge						
Strengthening America's Communities grant program (legislative proposal)	---	3,710,000	---	---	---	---
Minority Business Development Agency						
Minority business development	29,500	30,727	30,024	30,727	30,024	+524
Total, Trade and Infrastructure Development	873,143	4,344,293	836,049	1,133,025	896,540	+23,397
ECONOMIC AND INFORMATION INFRASTRUCTURE						
Economic and Statistical Analysis						
Salaries and expenses	78,931	85,277	80,304	81,283	80,304	+1,373
Bureau of the Census						
Salaries and expenses	196,110	220,029	198,029	183,029	198,029	+1,919
Periodic censuses and programs	548,688	657,356	614,208	544,356	614,208	+65,520
Total, Bureau of the Census	744,798	877,385	812,237	727,385	812,237	+67,439
National Telecommunications and Information Administration						
Salaries and expenses	17,200	21,450	17,716	20,255	18,068	+868
Public telecommunications facilities, planning and construction	21,478	2,000	2,000	22,000	22,000	+522
Information Infrastructure grants	---	---	---	20,000	---	---
Total, National Telecommunications and Information Administration	38,678	23,450	19,716	62,255	40,068	+1,390
United States Patent and Trademark Office						
Current year fee funding	1,336,000	1,703,300	1,703,300	1,703,300	1,683,086	+347,086
Spending from new fees (proposed legislation)	208,754	---	---	---	---	-208,754
Total, Patent and Trademark Office	1,544,754	1,703,300	1,703,300	1,703,300	1,683,086	+138,332
Offsetting fee collections	-1,336,000	-1,703,300	-1,703,300	-1,703,300	-1,683,086	-347,086
Total, Economic and Information Infrastructure	1,071,161	986,112	912,257	870,923	932,609	-138,552
SCIENCE AND TECHNOLOGY						
Technology Administration						
Salaries and expenses	6,460	4,200	6,460	---	6,000	-460
National Institute of Standards and Technology						
Scientific and technical research and services	378,764	426,267	397,744	399,869	399,869	+21,105
(Transfer out)	---	(-9,000)	(-1,000)	(-3,000)	(-1,000)	(-1,000)
Manufacturing extension partnerships/ Industrial technology services	247,943	46,800	106,000	246,000	186,000	-61,943
Construction of research facilities	72,518	58,898	45,000	198,631	175,898	+103,380
Working capital fund (by transfer)	---	(9,000)	(1,000)	(3,000)	(1,000)	(+1,000)
Total, National Institute of Standards and Technology	699,225	531,965	548,744	844,500	761,767	+62,542
National Oceanic and Atmospheric Administration						
Operations, research, and facilities	2,766,612	2,528,168	2,394,000	3,199,983	2,763,222	-3,390
(By transfer from Promote and Develop Fund)	(65,000)	(77,000)	(77,000)	(62,000)	(67,000)	(+2,000)
By transfer from Coastal zone management	2,960	3,000	3,000	3,000	3,000	+40
Emergency appropriations (P.L. 108-324)	16,900	---	---	---	---	-16,900
Emergency appropriations (P.L. 109-13)	7,070	---	---	---	---	-7,070
Total, Operations, research, and facilities	2,793,542	2,531,168	2,397,000	3,202,983	2,766,222	-27,320
Procurement, acquisition and construction	1,039,365	965,051	936,000	1,195,017	1,124,278	+84,913
Emergency appropriations (P.L. 108-324)	3,800	---	---	---	---	-3,800
Emergency appropriations (P.L. 109-13)	10,170	---	---	---	---	-10,170
Total, Procurement, acquisition and construction	1,053,335	965,051	936,000	1,195,017	1,124,278	+70,943

SCIENCE, STATE, JUSTICE, COMMERCE, AND RELATED AGENCIES APPROPRIATIONS BILL - FY 2006 (H.R. 2862)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	House	Senate	Conference	Conference vs. Enacted
Pacific coastal salmon recovery	88,798	90,000	50,000	90,000	67,500	-21,298
Coastal zone management fund	-3,000	-3,000	-3,000	-3,000	-3,000	---
Fishermen's contingency fund	492	---	---	---	---	-492
Fisheries finance program account	-8,000	-2,000	-1,000	-9,000	-9,000	-1,000
Total, National Oceanic and Atmospheric Administration	3,925,167	3,561,219	3,379,000	4,476,000	3,946,000	+20,833
Total, Science and Technology	4,630,852	4,117,384	3,934,204	5,320,500	4,713,767	+82,915
OTHER						
Departmental Management						
Salaries and expenses	47,466	53,532	47,466	44,605	47,466	---
Travel and tourism	9,866	---	---	5,000	4,000	-5,866
HCHB renovation and modernization	---	30,000	---	---	---	---
Office of Inspector General	21,371	22,758	22,758	22,758	22,758	+1,387
Total, Departmental management	78,703	106,290	70,224	72,363	74,224	-4,479
Florida grouper (sec. 218)	345	---	---	---	---	-345
Total, Department of Commerce	6,550,358	9,450,022	5,645,203	7,293,062	6,509,609	-40,749
Total, title II, Department of Commerce and related agencies	6,654,204	9,554,079	5,752,734	7,396,811	6,617,140	-37,064
Appropriations	(6,616,264)	(9,554,079)	(5,752,734)	(7,186,811)	(6,617,140)	(+876)
Emergency appropriations	(37,940)	---	---	(210,000)	---	(-37,940)
(By transfer)	(65,000)	(86,000)	(78,000)	(65,000)	(68,000)	(+3,000)
(Transfer out)	---	(-9,000)	(-1,000)	(-3,000)	(-1,000)	(-1,000)
TITLE III - SCIENCE						
Executive Office of the President						
Office of Science and Technology Policy	6,328	5,564	5,564	5,564	5,564	-764
National Aeronautics and Space Administration						
Science, aeronautics and exploration	9,334,700	9,829,400	9,725,750	9,761,000	9,761,400	+426,700
Emergency appropriations (P.L. 108-324)	126,000	---	---	---	---	-126,000
Exploration capabilities	6,704,400	6,594,600	6,712,900	6,603,000	6,663,000	-41,400
Office of Inspector General	31,300	32,400	32,400	32,400	32,400	+1,100
Total, NASA	16,196,400	16,456,400	16,471,050	16,396,400	16,456,800	+260,400
National Science Foundation						
Research and related activities (non-defense)	4,153,100	4,265,970	4,310,000	4,277,693	4,320,000	+166,900
Defense function	67,456	67,520	67,520	67,520	67,520	+64
Major research equipment and facilities construction	173,650	250,010	193,350	193,350	193,350	+19,700
Education and human resources	841,421	737,000	807,000	747,000	807,000	-34,421
Salaries and expenses	223,200	269,000	250,000	229,896	250,000	+26,800
National Science Board	3,968	4,000	4,000	4,000	4,000	+32
Office of Inspector General	10,029	11,500	11,500	11,500	11,500	+1,471
Total, National Science Foundation	5,472,824	5,605,000	5,643,370	5,530,959	5,653,370	+180,546
Total, title III, Science	21,675,552	22,066,964	22,119,984	21,932,923	22,115,734	+440,182
Appropriations	(21,549,552)	(22,066,964)	(22,119,984)	(21,932,923)	(22,115,734)	(+566,182)
Emergency appropriations	(126,000)	---	---	---	---	(-126,000)
TITLE IV - DEPARTMENT OF STATE AND RELATED AGENCY						
DEPARTMENT OF STATE						
Administration of Foreign Affairs						
Diplomatic and consular programs	3,522,316	3,783,118	3,747,118	3,755,118	3,680,019	+157,703
(Transfer out)	(-4,000)	(-4,000)	(-4,000)	(-4,000)	(-4,000)	---
Worldwide security upgrades	649,904	689,523	689,523	689,523	689,523	+39,619
Emergency appropriations (P.L. 109-13)	734,000	---	---	---	---	-734,000
Total, Diplomatic and consular programs	4,906,220	4,472,641	4,436,641	4,444,641	4,369,542	-536,678

SCIENCE, STATE, JUSTICE, COMMERCE, AND RELATED AGENCIES APPROPRIATIONS BILL - FY 2006 (H.R. 2862)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	House	Senate	Conference	Conference vs Enacted
Capital investment fund	51,452	133,000	69,121	56,895	58,895	+7,443
Centralized IT modernization program	76,812	---	---	74,105	69,368	-7,444
Office of Inspector General	30,029	29,983	29,983	33,000	30,029	---
Educational and cultural exchange programs	355,932	430,400	410,400	440,200	431,790	+75,858
Representation allowances	8,524	8,281	8,281	8,281	8,281	-243
Protection of foreign missions and officials	9,762	9,390	9,390	9,390	9,390	-372
Embassy security, construction, and maintenance	603,510	615,800	603,510	598,800	598,800	-4,710
Worldwide security upgrades	900,134	910,200	910,200	900,200	910,200	+10,066
Emergency appropriations (P.L. 109-13)	592,000	---	---	---	---	-592,000
Emergencies in the diplomatic and consular service	987	13,643	10,000	13,643	10,000	+9,013
(By transfer)	(4,000)	(4,000)	(4,000)	(4,000)	(4,000)	---
(Transfer out)	---	(-1,000)	(-1,000)	(-1,000)	(-1,000)	(-1,000)
Repatriation Loans Program Account:						
Direct loans subsidy	604	712	712	712	712	+108
Administrative expenses	599	607	607	607	607	+8
(By transfer)	---	(1,000)	(1,000)	(1,000)	(1,000)	(+1,000)
Total, Repatriation loans program account	1,203	1,319	1,319	1,319	1,319	+116
Payment to the American Institute in Taiwan	19,222	19,751	19,751	19,751	19,751	+529
Payment to the Foreign Service Retirement and Disability Fund	132,600	131,700	131,700	131,700	131,700	-900
Total, Administration of Foreign Affairs	7,688,387	6,776,108	6,640,296	6,733,925	6,649,065	-1,039,322
International Organizations						
Contributions to international organizations, current year assessment	1,166,212	1,296,500	1,144,265	1,166,212	1,166,212	---
Contributions for international peacekeeping activities, current year	483,455	1,035,500	1,035,500	1,035,500	1,035,500	+552,045
Emergency appropriations (P.L. 109-13)	680,000	---	---	---	---	-680,000
Total, International Organizations and Conferences	2,329,667	2,332,000	2,179,765	2,201,712	2,201,712	-127,955
International Commissions						
International Boundary and Water Commission, United States and Mexico:						
Salaries and expenses	26,880	28,700	27,000	28,700	28,000	+1,120
Construction	5,239	6,600	5,300	5,300	5,300	+61
American sections, international commissions	9,466	9,879	9,500	10,400	10,039	+573
International fisheries commissions	21,688	25,123	22,000	25,623	24,000	+2,312
Total, International commissions	63,273	70,302	63,800	70,023	67,339	+4,066
Other						
Payment to the Asia Foundation	12,827	10,000	10,000	15,000	14,000	+1,173
Center for Middle Eastern-Western dialogue	6,906	1,000	---	8,000	6,000	-906
Eisenhower Exchange Fellowship program	493	500	500	500	500	+7
Additional funding (Sec. 122 Div. J)	992	---	---	---	---	-992
Israeli Arab scholarship program	370	375	375	375	375	+5
East-West Center	19,240	13,024	6,000	20,000	19,240	---
National Endowment for Democracy	59,199	80,000	50,000	88,600	75,000	+15,801
Democracy Fund (by transfer)	---	---	---	(80,000)	---	---
Total, Department of State	10,181,354	9,283,309	8,950,736	9,138,335	9,033,231	-1,148,123
RELATED AGENCY						
Broadcasting Board of Governors						
International Broadcasting Operations	583,107	603,394	620,000	603,394	641,450	+58,343
Emergency appropriations (P.L. 109-13)	4,800	---	---	---	---	-4,800
Broadcasting to Cuba	---	37,656	---	37,656	---	---
Broadcasting capital improvements	8,446	10,893	10,893	10,893	10,893	+2,447
Emergency appropriations (P.L. 109-13)	2,500	---	---	---	---	-2,500
Total, Broadcasting Board of Governors	598,853	651,943	630,893	651,943	652,343	+53,490
Total, title IV, Department of State and Related Agency	10,780,207	9,935,252	9,581,629	9,790,278	9,685,574	-1,094,633
Appropriations	(8,766,907)	(9,935,252)	(9,581,629)	(9,790,278)	(9,685,574)	(+918,667)
Emergency appropriations	(2,013,300)	---	---	---	---	(-2,013,300)
(Transfer out)	(-4,000)	(-5,000)	(-5,000)	(-5,000)	(-5,000)	(-1,000)
(By transfer)	(4,000)	(5,000)	(5,000)	(85,000)	(5,000)	(+1,000)

SCIENCE, STATE, JUSTICE, COMMERCE, AND RELATED AGENCIES APPROPRIATIONS BILL - FY 2006 (H.R. 2862)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	House	Senate	Conference	Conference vs. Enacted
TITLE V - RELATED AGENCIES						
Antitrust Modernization Commission						
Salaries and expenses	1,172	1,820	1,172	---	1,172	---
Commission for the Preservation of America's Heritage Abroad						
Salaries and expenses	492	499	499	499	499	+7
Commission on Civil Rights						
Salaries and expenses	8,975	9,096	9,096	9,000	9,048	+73
Commission on International Religious Freedom						
Salaries and expenses	2,960	3,000	3,200	1,000	3,300	+340
Commission on Security and Cooperation in Europe						
Salaries and expenses	1,806	2,030	2,030	2,030	2,030	+224
Congressional-Executive Commission on the People's Republic of China						
Salaries and expenses	1,875	1,900	1,900	1,900	1,900	+25
Equal Employment Opportunity Commission						
Salaries and expenses	326,803	331,228	331,228	331,228	331,228	+4,425
Federal Communications Commission						
Salaries and expenses	281,085	304,057	289,771	297,370	289,771	+8,686
Offsetting fee collections - current year	-280,098	-299,234	-288,771	-296,370	-288,771	-8,673
Direct appropriation	987	4,823	1,000	1,000	1,000	+13
Federal Trade Commission						
Salaries and expenses	204,327	211,000	211,000	211,000	211,000	+6,673
Offsetting fee collections - current year	-101,000	-116,000	-116,000	-116,000	-116,000	-15,000
Offsetting fee collections, telephone database	-21,901	-23,000	-23,000	-23,000	-23,000	-1,099
Direct appropriation	81,426	72,000	72,000	72,000	72,000	-9,426
HELP Commission						
Salaries and expenses	987	1,000	1,000	---	---	-987
Legal Services Corporation						
Payment to the Legal Services Corporation	330,803	318,250	330,803	358,527	330,803	---
Marine Mammal Commission						
Salaries and expenses	1,865	1,925	1,865	2,000	2,920	+1,055
National Veterans Business Development Corporation						
National Veterans Business Development Corporation	1,973	---	---	2,000	1,500	-473
Securities and Exchange Commission						
Salaries and expenses	913,000	888,117	888,117	888,117	888,117	-24,883
Prior year unobligated balances	-57,000	-25,000	-25,000	-25,000	-25,000	+32,000
Direct appropriation	856,000	863,117	863,117	863,117	863,117	+7,117

SCIENCE, STATE, JUSTICE, COMMERCE, AND RELATED AGENCIES APPROPRIATIONS BILL - FY 2006 (H.R. 2862)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	House	Senate	Conference	Conference vs Enacted
Small Business Administration						
Salaries and expenses	318,029	307,159	304,588	336,084	313,029	-5,000
Office of Inspector General	12,840	14,500	13,500	14,500	13,900	+1,060
Surety bond guarantees revolving fund	2,861	3,000	2,861	3,000	2,861	---
Business Loans Program Account:						
Direct loans subsidy	1,435	---	1,000	2,000	1,300	-135
Administrative expenses	124,961	129,000	204,093	126,653	125,307	+346
Emergency appropriations	---	---	---	509,000	---	---
Total, Business loans program account	126,396	129,000	205,093	637,653	126,607	+211
Disaster Loans Program Account:						
Direct loans subsidy	---	---	79,538	83,335	---	---
Emergency appropriations	---	---	---	86,000	---	---
Emergency appropriations (P.L. 108-324)	501,000	---	---	---	---	-501,000
Administrative expenses	111,648	---	49,716	56,000	---	-111,648
Emergency appropriations (P.L. 108-324)	428,000	---	---	---	---	-428,000
Total, Disaster loans program account	1,040,648	---	129,254	225,335	---	-1,040,648
Total, Small Business Administration	1,500,774	453,659	655,296	1,216,572	456,397	-1,044,377
State Justice Institute						
Salaries and expenses	2,578	---	2,000	5,000	3,500	+922
United States - China Economic and Security Review Commission						
Salaries and expenses	2,960	4,000	4,000	2,800	3,000	+40
United States Senate-China Interparliamentary Group						
Salaries and expenses	98	---	---	150	150	+52
United States Institute of Peace						
Operating expenses	22,693	21,850	22,850	21,850	22,350	-343
Additional funding (Sec. 122 Div. J)	99,200	---	---	---	---	-99,200
Total, United States Institute of Peace	121,893	21,850	22,850	21,850	22,350	-99,543
Total, title V, Related agencies	3,246,427	2,089,997	2,303,056	2,890,673	2,105,914	-1,140,513
Appropriations	(2,317,427)	(2,089,997)	(2,303,056)	(2,295,673)	(2,105,914)	(-211,513)
Emergency appropriations	(929,000)	---	---	(595,000)	---	(-929,000)
TITLE VII - RESCISSIONS						
DEPARTMENT OF JUSTICE						
General Administration						
Working capital fund (rescission)	-60,000	---	---	---	-2,500	+57,500
Counterterrorism fund (rescission)	---	---	---	-11,000	---	---
Legal Activities						
Assets forfeiture fund (rescission)	-61,800	---	-62,000	-82,000	-102,000	-40,200
Rescission (P.L. 109-13)	-40,000	---	---	---	---	+40,000
Federal Bureau of Investigation						
Salaries and expenses (rescission)	---	---	---	---	-25,000	-25,000
Tour (rescission)	---	---	---	-30,000	---	---
Trilogy (rescission)	---	---	---	-73,502	---	---
Office of Justice Programs						
Justice assistance (rescission)	-1,619	---	---	---	---	+1,619
State & local law enforcement assistance (rescission)	-29,380	---	-38,500	---	---	+29,380
Office of Justice programs (rescission)	---	---	---	---	-110,500	-110,500
Community oriented policing services (rescission)	-99,000	---	-86,500	---	-86,500	+12,500
Juvenile justice programs (rescission)	-3,500	---	---	---	---	+3,500

SCIENCE, STATE, JUSTICE, COMMERCE, AND RELATED AGENCIES APPROPRIATIONS BILL - FY 2006 (H.R. 2862)
(Amounts in thousands)

	FY 2005 Enacted	FY 2006 Request	House	Senate	Conference	Conference vs. Enacted
DEPARTMENT OF COMMERCE						
National Institute of Standards and Technology						
Industrial technology services (rescission)	-3,900	---	---	---	---	+3,900
National Oceanic and Atmospheric Administration						
Rescission	---	---	---	---	-25,000	-25,000
Departmental Management						
Emergency steel guaranteed loan program account (rescission)	---	-50,168	-35,000	---	---	---
DEPARTMENT OF STATE						
Administration of Foreign Affairs						
Diplomatic and consular programs unobligated balances	---	---	---	-100,296	---	---
RELATED AGENCIES						
Federal Communications Commission						
Salaries and expenses (rescission)	-12,000	---	---	---	-25,300	-13,300
Federal Trade Commission						
Salaries and expenses (rescission)	---	---	---	---	-12,000	-12,000
Marine Mammal Commission						
Salaries and expenses (rescission)	---	---	---	---	-920	-920
Small Business Administration						
Salaries and expenses (rescission)	---	---	---	---	-3,000	-3,000
Business Loans Program Account (rescission)	---	---	---	---	-4,000	-4,000
U.S. - Canada Alaska Railroad Commission						
Salaries and expenses (rescission)	---	-2,000	-2,000	-2,000	---	---
Budget amendment reversing rescission	---	2,000	---	---	---	---
Total, title VII, Rescissions	-311,199	-50,168	-224,000	-298,798	-396,720	-85,521
Grand total:						
New budget (obligational) authority	62,939,025	64,158,909	61,293,285	63,209,272	61,797,098	-1,141,927
Appropriations	(59,838,310)	(64,798,077)	(61,517,285)	(62,703,070)	(62,124,318)	(+2,286,008)
Emergency appropriations	(3,411,914)	---	---	(805,000)	---	(-3,411,914)
Rescissions	(-311,199)	(-639,168)	(-224,000)	(-298,798)	(-327,220)	(-16,021)
(Transfer out)	(-4,000)	(-14,000)	(-6,000)	(-8,000)	(-6,000)	(-2,000)
(By transfer)	(69,000)	(91,000)	(83,000)	(150,000)	(73,000)	(+4,000)

Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. BIGGERT). Without objection, the previous question is ordered on the conference report.

There was no objection.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

Pursuant to clause 8 of rule XX, further proceedings on this question will be postponed.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record vote on the postponed question will be taken tomorrow.

VETERANS HOUSING AND EMPLOYMENT IMPROVEMENT ACT OF 2005

Mr. BOOZMAN. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 3665) to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to provide adaptive housing assistance to disabled veterans residing temporarily in housing owned by a family member and to make direct housing loans to Native American veterans, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3665

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Veterans Housing and Employment Improvement Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—HOUSING ASSISTANCE

Sec. 101. Adaptive housing assistance for disabled veterans residing temporarily in housing owned by family member.
Sec. 102. Permanent authority to make direct housing loans to Native American veterans.
Sec. 103. Extension of eligibility for direct loans for Native American veterans to a veteran who is the spouse of a Native American.
Sec. 104. Terminology amendments to revise references to certain veterans in provisions relating to eligibility for compensation or dependency and indemnity compensation.

TITLE II—EMPLOYMENT ASSISTANCE PROGRAMS

Sec. 201. Extension of operation of the President's National Hire Veterans Committee.
Sec. 202. Additional duty for the Assistant Secretary of Labor for Veterans' Employment and Training to raise awareness of skills of veterans and of the benefits of hiring veterans.
Sec. 203. Modifications to the Advisory Committee on Veterans Employment and Training.

TITLE III—HOMELESS VETERANS REINTEGRATION PROGRAM

Sec. 301. Reauthorization of appropriations for Homeless Veterans Reintegration Program.

TITLE IV—TECHNICAL, CLARIFYING, AND CLERICAL AMENDMENTS

Sec. 401. Technical and clarifying amendments to new traumatic injury protection coverage under Servicemembers' Group Life Insurance.
Sec. 402. Technical and clerical amendments.

TITLE I—HOUSING ASSISTANCE

SEC. 101. ADAPTIVE HOUSING ASSISTANCE FOR DISABLED VETERANS RESIDING TEMPORARILY IN HOUSING OWNED BY FAMILY MEMBER.

(a) ASSISTANCE AUTHORIZED.—Chapter 21 of title 38, United States Code, is amended by inserting after section 2102 the following new section:

"§ 2102A. Assistance for veterans residing temporarily in housing owned by family member

"(a) In the case of a disabled veteran who is described in subsection (a)(2) or (b)(2) of section 2101 of this title and who is residing, but does not intend to permanently reside, in a residence owned by a member of such veteran's family, the Secretary may assist the veteran in acquiring such adaptations to such residence as are determined by the Secretary to be reasonably necessary because of the veteran's disability.

"(b) The assistance authorized under subsection (a) may not exceed—

"(1) $10,000, in the case of a veteran described in section 2101(a)(2) of this title; or

"(2) $2,000, in the case of a veteran described in section 2101(b)(2) of this title.

"(c) The assistance authorized by subsection (a) shall be limited in the case of any veteran to one residence.

"(d) Assistance under this section shall be provided in accordance with such regulations as the Secretary may prescribe.

"(e) No assistance may be provided under this section after the end of the five-year period that begins on the date of the enactment of the Veterans Housing and Employment Improvement Act of 2005.".

(b) LIMITATIONS ON ADAPTIVE HOUSING ASSISTANCE.—Section 2102 of such title is amended—

(1) in the matter in subsection (a) preceding paragraph (1)—

(A) by striking "shall be limited in the case of any veteran to one housing unit, and necessary land therefor, and"; and

(B) by striking "veteran but shall not exceed $50,000 in any one case—" and inserting "veteran—"; and

(2) by adding at the end the following new subsection:

"(d)(1) The aggregate amount of assistance available to a veteran under sections 2101(a) and 2102A of this title shall be limited to $50,000.

"(2) The aggregate amount of assistance available to a veteran under sections 2101(b) and 2102A of this title shall be limited to $10,000.

"(3) No veteran may receive more than three grants of assistance under this chapter.".

(c) COORDINATION OF ADMINISTRATION OF BENEFITS.—Chapter 21 of such title is further amended by adding at the end the following new section:

"§ 2107. Coordination of administration of benefits

"The Secretary shall provide for the coordination of the administration of programs to provide specially adapted housing that are administered by the Under Secretary for Health and such programs that are administered by the Under Secretary for Benefits under this chapter, chapter 17, and chapter 31 of this title.".

(d) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter of such title is amended—

(1) by inserting after the item relating to section 2102 the following new item:

"2102A. Assistance for veterans residing temporarily in housing owned by family member.";

and

(2) by adding at the end the following new item:

"2107. Coordination of administration of benefits.".

(e) GAO REPORTS.—(1) Not later than three years after the date of the enactment of this Act, the Comptroller General shall submit to Congress an interim report on the implementation by the Secretary of Veterans Affairs of section 2102A of title 38, United States Code, as added by subsection (a).

(2) Not later than five years after the date of the enactment of this Act, the Comptroller General shall submit to Congress a final report on the implementation of such section.

SEC. 102. PERMANENT AUTHORITY TO MAKE DIRECT HOUSING LOANS TO NATIVE AMERICAN VETERANS.

(a) PERMANENT AUTHORITY.—Section 3761 of title 38, United States Code, is amended—

(1) in subsection (a)—

(A) by striking "establish and implement a pilot program under which the Secretary may" in the first sentence; and

(B) by striking "shall establish and implement the pilot program" in the third sentence and inserting "shall make such loans";

(2) in subsection (b), by striking "In carrying out the pilot program under this subchapter, the" and inserting "The"; and

(3) by striking subsection (c).

(b) REPORTS.—Section 3762(j) of such title is amended to read as follows:

"(j) The Secretary shall include as part of the annual report required by section 529 of this title and as part of any annual benefits report of the Veterans Benefits Administration information concerning the cost and number of loans provided under this subchapter for each fiscal year.".

(c) CONFORMING AMENDMENTS.—

(1) Section 3762 of such title is amended—

(A) in subsection (a), by inserting "under this subchapter" after "to a Native American veteran";

(B) in subsection (b)(1)(E), by striking "the pilot program established under this subchapter is implemented" and inserting "loans under this subchapter are made";

(C) in subsection (c)(1)(B), by striking "carry out the pilot program under this subchapter in a manner that demonstrates the advisability of making direct housing loans" in the second sentence and inserting "make direct housing loans under this subchapter";

(D) in subsection (i)—

(i) by striking "the pilot program provided for under this subchapter and" in paragraph (1);

(ii) by striking "under the pilot program and in assisting such organizations and veterans in participating in the pilot program" in paragraph (2)(A) and inserting "under this subchapter and in assisting such organizations and

veterans with respect to such housing benefits''; and

(iii) by striking ''in participating in the pilot program'' in paragraph (2)(E) and inserting ''with respect to such benefits''.

(2) Section 8(b) of the Veterans Home Loan Program Amendments of 1992 (Public Law 102–547; 38 U.S.C. 3761 note) is repealed.

(d) ESTABLISHMENT OF MAXIMUM AMOUNT OF LOANS.—Section 3762(c)(1)(B) of title 38, United States Code, is amended—

(1) by striking ''(B) The'' and inserting ''(B)(i) Subject to clause (ii), the''; and

(2) by adding at the end the following new clause:

''(ii) The amount of a loan made by the Secretary under this subchapter may not exceed the maximum loan amount authorized for loans guaranteed under section 3703(a)(1)(C) of this title.''.

(e) TECHNICAL AMENDMENT.—Subsection (c)(1)(A) of section 3762 of such title is amended by inserting ''veteran'' after ''Native American''.

(f) CLERICAL AMENDMENTS.—

(1) SUBCHAPTER HEADING.—The heading for subchapter V of chapter 37 of such title is amended to read as follows:

''SUBCHAPTER V—DIRECT HOUSING LOANS FOR NATIVE AMERICAN VETERANS''.

(2) SECTION HEADING.—The heading for section 3761 of such title is amended to read as follows:

''§3761. Direct housing loans to Native American veterans; program authority''.

(3) SECTION HEADING.—The heading for section 3762 of such title is amended to read as follows:

''§3762. Direct housing loans to Native American veterans; program administration''.

(4) TABLE OF SECTIONS.—The table of sections at the beginning of chapter 37 of such title is amended by striking the items relating to subchapter V and sections 3761 and 3762 and inserting the following new items:

''SUBCHAPTER V—DIRECT HOUSING LOANS FOR NATIVE AMERICAN VETERANS

''3761. Direct housing loans to Native American veterans; program authority.

''3762. Direct housing loans to Native American veterans; program administration.''.

SEC. 103. EXTENSION OF ELIGIBILITY FOR DIRECT LOANS FOR NATIVE AMERICAN VETERANS TO A VETERAN WHO IS THE SPOUSE OF A NATIVE AMERICAN.

(a) EXTENSION.—Subchapter V of chapter 37 of title 38, United States Code, is amended—

(1) by redesignating section 3764 as section 3765; and

(2) by inserting after section 3763 the following new section:

''§3764. Qualified non-Native American veterans

''(a) Subject to the succeeding provisions of this section, for purposes of this subchapter—

''(1) a qualified non-Native American veteran is deemed to be a Native American veteran; and

''(2) for purposes of applicability to a non-Native American veteran, any reference in this subchapter to the jurisdiction of a tribal organization over a Native American veteran is deemed to be a reference to jurisdiction of a tribal organization over the Native American spouse of the qualified non-Native American veteran.

''(b) In making direct loans under this subchapter to a qualified non-Native American veteran by reason of eligibility under subsection (a), the Secretary shall ensure that the tribal organization permits, and the qualified non-Native American veteran actually holds, possesses, or purchases, using the proceeds of the loan, jointly with the Native American spouse of the qualified non-Native American veteran, a meaningful interest in the lot, dwelling, or both, that is located on trust land.

''(c) Nothing in subsection (b) shall be construed as precluding a tribal organization from imposing reasonable restrictions on the right of the qualified non-Native American veteran to convey, assign, or otherwise dispose of such interest in the lot or dwelling, or both, if such restrictions are designed to ensure the continuation in trust status of the lot or dwelling, or both. Such requirements may include the termination of the interest of the qualified non-Native American veteran in the lot or dwelling, or both, upon the dissolution of the marriage of the qualified non-Native American veteran to the Native American spouse.''.

(b) CONFORMING AMENDMENTS.—Section 3765 of such title, as redesignated by subsection (a), is amended by adding at the end the following new paragraph:

''(5) The term 'qualified non-Native American veteran' means a veteran who—

''(A) is the spouse of a Native American, but

''(B) is not a Native American.''.

(c) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 37 of such title is amended by striking the item relating to section 3764 and inserting the following new items:

''3764. Qualified non-Native American veterans.

''3765. Definitions.''.

SEC. 104. TERMINOLOGY AMENDMENTS TO REVISE REFERENCES TO CERTAIN VETERANS IN PROVISIONS RELATING TO ELIGIBILITY FOR COMPENSATION OR DEPENDENCY AND INDEMNITY COMPENSATION.

Title 38, United States Code, is amended as follows:

(1) Section 1114(l) is amended by striking ''so helpless'' and inserting ''with such significant disabilities''.

(2) Section 1114(m) is amended by striking ''so helpless'' and inserting ''so significantly disabled''.

(3) Sections 1115(1)(E)(ii), 1122(b)(2), 1311(c)(2), 1315(g)(2), and 1502(b)(2) are amended by striking ''helpless or blind, or so nearly helpless or blind as to'' and inserting ''blind, or so nearly blind or significantly disabled as to''.

TITLE II—EMPLOYMENT ASSISTANCE PROGRAMS

SEC. 201. EXTENSION OF OPERATION OF THE PRESIDENT'S NATIONAL HIRE VETERANS COMMITTEE.

(a) ONE-YEAR EXTENSION.—Subsection (f) of section 6 of the Jobs for Veterans Act (Public Law 107–288; 116 Stat. 2048) is amended—

(1) by striking ''60 days'' and inserting ''not later than 60 days''; and

(2) by striking ''on December 31, 2005'' and inserting ''not later than December 31, 2006''.

(b) ADDITIONAL AUTHORIZATION OF APPROPRIATIONS.—Subsection (g) of such section is amended by striking ''2005'' and inserting ''2006''.

(c) ADDITIONAL REPORT.—Subsection (e) of such section is amended by striking ''and 2005,'' and inserting ''2005, and 2006,''.

SEC. 202. ADDITIONAL DUTY FOR THE ASSISTANT SECRETARY OF LABOR FOR VETERANS' EMPLOYMENT AND TRAINING TO RAISE AWARENESS OF SKILLS OF VETERANS AND OF THE BENEFITS OF HIRING VETERANS.

(a) IN GENERAL.—Subsection (b) of section 4102A of title 38, United States Code, is amended by adding at the end the following new paragraph:

''(8) With advice and assistance from the Advisory Committee on Veterans Employment, Training, and Employer Outreach established under section 4110 of this title, furnish information to employers (through meetings in person with hiring executives of corporations and otherwise) with respect to the training and skills of veterans and disabled veterans, and the advantages afforded employers by hiring veterans with such training and skills, and to facilitate employment of veterans and disabled veterans through participation in labor exchanges (Internet-based and otherwise), and other means.''.

(b) TRANSITION PLAN.—(1) The Secretary of Labor, acting through the Assistant Secretary of Labor for Veterans' Employment and Training, shall develop a plan for the transition of the assumption of certain duties and functions of the President's National Hire Veterans Committee by the Assistant Secretary in carrying out section 4102A(b)(8) of title 38, United States Code, as added by subsection (a). Such plan shall include the identification of the activities and operations of the Committee that the Assistant Secretary determines should be continued or expanded.

(2) Not later than July 1, 2006, the Secretary shall transmit to the Committees on Veterans' Affairs of the Senate and House of Representatives the transition plan developed under paragraph (1).

SEC. 203. MODIFICATIONS TO THE ADVISORY COMMITTEE ON VETERANS EMPLOYMENT AND TRAINING.

(a) COMMITTEE NAME.—(1) Subsection (a)(1) of section 4110 of title 38, United States Code, is amended by striking ''Advisory Committee on Veterans Employment and Training'' and inserting ''Advisory Committee on Veterans Employment, Training, and Employer Outreach''.

(2) The heading of such section is amended to read as follows:

''§4110. Advisory Committee on Veterans Employment, Training, and Employer Outreach''.

(3) The item relating to section 4110 in the table of sections at the beginning of chapter 41 of such title is amended to read as follows:

''4110. Advisory Committee on Veterans Employment, Training, and Employer Outreach.''.

(4) Any reference to the Advisory Committee established under section 4110 of such title in any law, regulation, map, document, record, or other paper of the United States shall be considered to be a reference to the Advisory Committee on Veterans Employment, Training, and Employer Outreach.

(b) EXPANSION OF DUTIES OF THE COMMITTEE.—Subsection (a)(2) of such section is amended—

(1) in subparagraph (A), by inserting ''and their integration into the workforce'' after ''veterans'';

(2) by striking ''and'' at the end of subparagraph (B);

(3) by redesignating subparagraph (C) as subparagraph (E); and

(4) by inserting after subparagraph (B) the following new subparagraphs:

''(C) assist the Assistant Secretary of Labor for Veterans Employment and Training in carrying out outreach activities to employers with respect to the training and skills of veterans and the advantages afforded employers by hiring veterans;

''(D) make recommendations to the Secretary, through the Assistant Secretary of Labor for Veterans Employment and Training, with respect to outreach activities and the employment and training of veterans; and''.

(c) MODIFICATION OF COMMITTEE MEMBERSHIP.—(1) Subsection (c)(1) of such section is amended to read as follows:

''(c)(1) The Secretary of Labor shall appoint at least 12, but no more than 15, individuals to

serve as members of the advisory committee as follows:

"(A) Six individuals, one each from among representatives nominated by each of the following organizations:

"(i) The National Society of Human Resource Managers.

"(ii) The Business Roundtable.

"(iii) The National Association of State Workforce Agencies.

"(iv) The U.S. Chamber of Commerce.

"(v) The National Federation of Independent Business.

"(vi) A nationally recognized labor union or organization.

"(B) Not more than five individuals from among representatives nominated by veterans service organizations that have a national employment program.

"(C) Not more than five individuals who are recognized authorities in the fields of business, employment, training, rehabilitation, or labor and who are not employees of the Department of Labor.".

(2) Subsection (d) of such section is amended—

(A) by striking paragraphs (3), (4), (8), (10), (11), and (12); and

(B) by redesignating paragraphs (5), (6), (7), and (9) as paragraphs (3), (4), (5), and (6), respectively.

(d) REINSTATEMENT AND MODIFICATION OF REPORTING REQUIREMENT.—Subsection (f)(1) of such section is amended—

(1) by striking the first sentence and inserting the following: "Notwithstanding section 3003 of Public Law 104–66, not later than December 31 of each year, the advisory committee shall submit to the Secretary and to the Committees on Veterans' Affairs of the Senate and House of Representatives a report on the employment and training needs of veterans, with special emphasis on disabled veterans, for the previous fiscal year.";

(2) in subparagraph (A), by inserting "and their integration into the workforce" after "veterans";

(3) by striking "and" at the end of subparagraph (B);

(4) by redesignating subparagraphs (B) and (C) as subparagraphs (C) and (F), respectively;

(5) by inserting after subparagraph (A) the following new subparagraph:

"(B) an assessment of the outreach activities carried out by the Secretary of Labor to employers with respect to the training and skills of veterans and the advantages afforded employers by hiring veterans; "; and

(6) by inserting after subparagraph (C), as so redesignated, the following new subparagraphs:

"(D) a description of the activities of the advisory committee during that fiscal year;

"(E) a description of activities that the advisory committee proposes to undertake in the succeeding fiscal year; and".

TITLE III—HOMELESS VETERANS REINTEGRATION PROGRAM

SEC. 301. REAUTHORIZATION OF APPROPRIATIONS FOR HOMELESS VETERANS REINTEGRATION PROGRAM.

Subsection (e)(1) of section 2021 of title 38, United States Code, is amended by adding at the end the following new subparagraph:

"(F) $50,000,000 for each of fiscal years 2007 through 2009.".

TITLE IV—TECHNICAL, CLARIFYING, AND CLERICAL AMENDMENTS

SEC. 401. TECHNICAL AND CLARIFYING AMENDMENTS TO NEW TRAUMATIC INJURY PROTECTION COVERAGE UNDER SERVICEMEMBERS' GROUP LIFE INSURANCE.

(a) SECTION 1980A.—Section 1980A of title 38, United States Code, as enacted by section 1032(a)(2) of Public Law 109–13 (119 Stat. 257), is amended as follows:

(1) Subsection (a) is amended to read as follows:

"(a)(1) A member of the uniformed services who is insured under Servicemembers' Group Life Insurance shall automatically be insured for traumatic injury in accordance with this section. Insurance benefits under this section shall be payable if the member, while so insured, sustains a traumatic injury that results in a qualifying loss specified pursuant to subsection (b)(1).

"(2) If a member suffers more than one such qualifying loss as a result of traumatic injury from the same traumatic event, payment shall be made under this section in accordance with the schedule prescribed pursuant to subsection (d) for the single loss providing the highest payment.".

(2) Subsection (b) is amended—

(A) in paragraph (1)—

(i) by striking "issued a" and all that follows through "limited to—" and inserting "insured against traumatic injury under this section is insured against such losses due to traumatic injury (in this section referred to as 'qualifying losses') as are prescribed by the Secretary by regulation. Qualifying losses so prescribed shall include the following:";

(ii) by capitalizing the first letter of the first word of each of subparagraphs (A) through (H);

(iii) by striking the semicolon at the end of each of subparagraphs (A) through (F) and inserting a period; and

(iv) by striking "; and" at the end of subparagraph (G) and inserting a period;

(B) in paragraph (2)—

(i) by striking "subsection—" and inserting "subsection:";

(ii) by striking "the" at the beginning of subparagraphs (A), (B), and (C) and inserting "The";

(iii) in subparagraph (A), by striking "4 limbs;" and inserting "four limbs.";

(iv) in subparagraph (B), by striking "; and" at the end and inserting a period;

(v) in subparagraph (C), by striking "1 side" and inserting "one side"; and

(vi) by adding at the end the following new subparagraph:

"(D) The term 'inability to carry out the activities of daily living' means the inability to independently perform two or more of the following six functions:

"(i) Bathing.

"(ii) Continence.

"(iii) Dressing.

"(iv) Eating.

"(v) Toileting.

"(vi) Transferring.";

(C) in paragraph (3)—

(i) by striking ", in collaboration with the Secretary of Defense,";

(ii) by striking "shall prescribe" and inserting "may prescribe"; and

(iii) by striking "the conditions under which coverage against loss will not be provided"; and inserting "conditions under which coverage otherwise provided under this section is excluded"; and

(D) by adding at the end the following new paragraph:

"(4) A member shall not be considered for the purposes of this section to be a member insured under Servicemembers' Group Life Insurance if the member is insured under Servicemembers' Group Life Insurance only as an insurable dependent of another member pursuant to subparagraph (A)(ii) or (C)(ii) of section 1967(a)(1) of this title.".

(3) Subsection (c) is amended to read as follows:

"(c)(1) A payment may be made to a member under this section only for a qualifying loss that results directly from a traumatic injury sustained while the member is covered against loss under this section and from no other cause.

"(2)(A) A payment may be made to a member under this section for a qualifying loss resulting from a traumatic injury only for a loss that is incurred during the applicable period of time specified pursuant to subparagraph (B).

"(B) For each qualifying loss, the Secretary shall prescribe, by regulation, a period of time to be the period of time within which a loss of that type must be incurred, determined from the date on which the member sustains the traumatic injury resulting in that loss, in order for that loss to be covered under this section. For quadriplegia, paraplegia, and hemiplegia, the period of time so prescribed shall be 365 days.".

(4) Subsection (d) is amended by striking "losses described in subsection (b)(1) shall be—" and all that follows and inserting "qualifying losses shall be made in accordance with a schedule prescribed by the Secretary, by regulation, specifying the amount of payment to be made for each type of qualifying loss, to be based on the severity of the qualifying loss. The minimum payment that may be prescribed for a qualifying loss is $25,000, and the maximum payment that may be prescribed for a qualifying loss is $100,000.".

(5) Subsection (e) is amended—

(A) by striking "of Veterans Affairs" each place it appears;

(B) in paragraph (1), by striking 'as the premium allocable" and all that follows through "protection under this section";

(C) in paragraph (2), by striking "Secretary of the concerned service" and inserting "Secretary concerned"; and

(D) by striking paragraphs (6), (7), and (8) and inserting the following:

"(6) The cost attributable to insuring members under this section for any month or other period specified by the Secretary, less the premiums paid by the members, shall be paid by the Secretary concerned to the Secretary. The Secretary shall allocate the amount payable among the uniformed services using such methods and data as the Secretary determines to be reasonable and practicable. Payments under this paragraph shall be made on a monthly basis or at such other intervals as may be specified by the Secretary and shall be made within 10 days of the date on which the Secretary provides notice to the Secretary concerned of the amount required.

"(7) For each period for which a payment by a Secretary concerned is required under paragraph (6), the Secretary concerned shall contribute such amount from appropriations available for active duty pay of the uniformed service concerned.

"(8) The sums withheld from the basic or other pay of members, or collected from them by the Secretary concerned, under this subsection, and the sums contributed from appropriations under this subsection, together with the income derived from any dividends or premium rate adjustments received from insurers shall be deposited to the credit of the revolving fund established in the Treasury of the United States under section 1869(d)(1) of this title.".

(6) Subsection (f) is amended to read as follows:

"(f) When a claim for benefits is submitted under this section, the Secretary of Defense or, in the case of a member not under the jurisdiction of the Secretary of Defense, the Secretary concerned shall certify to the Secretary whether the member with respect to whom the claim is submitted—

"(1) was at the time of the injury giving rise to the claim insured under Servicemembers' Group Life Insurance for the purposes of this section; and

"(2) has sustained a qualifying loss.".

(7) Subsection (g) of such section is amended—

(A) by inserting "(1)" after "(g)";

(B) by striking "will not be made" and inserting "may not be made under the insurance coverage under this section";

(C) by striking "the period" and all that follows through "the date" and inserting "a period prescribed by the Secretary, by regulation, for such purpose that begins on the date";

(D) by designating the second sentence as paragraph (2);

(E) by striking "If the member" and inserting "If a member eligible for a payment under this section" ;

(F) by striking "will be" and inserting "shall be"; and

(G) by striking "according to" and all that follows and inserting "to the beneficiary or beneficiaries to whom the payment would be made if the payment were life insurance under section 1967(a) of this title.".

(8) Subsection (h) of such section is amended—

(A) in the first sentence, by striking "member's separation from the uniformed services" and inserting "termination of the member's duty status in the uniformed services that established eligibility for Servicemembers' Group Life Insurance";

(B) by striking the second sentence; and

(C) by adding at the end the following new sentence: "The termination of coverage under this section is effective in accordance with the preceding sentence, notwithstanding any continuation after the date specified in that sentence of Servicemembers' Group Life Insurance coverage pursuant to 1968(a) of this title for a period specified in that section.".

(9) Such section is further amended by adding at the end the following new subsection:

"(j) Regulations under this section shall be prescribed in consultation with the Secretary of Defense.".

(b) Effective Date.—Section 1980A of title 38, United States Code, as amended by subsection (a), shall take effect on December 1, 2005, and (except as provided in subsection (d)) shall apply with respect to losses resulting from traumatic injuries incurred on or after that date.

(c) Deadline for Implementing Regulations.—Regulations to carry out section 1980A of title 38, United States Code, as amended by subsection (a), shall be prescribed not later than December 1, 2005.

(d) Applicability to Prior Qualifying Losses Incurred in Operation Enduring Freedom and Operation Iraqi Freedom.—

(1) Eligibility.—A member of the uniformed services who during the period beginning on October 7, 2001, and ending at the close of November 30, 2005, sustains a traumatic injury resulting in a qualifying loss is eligible for coverage for that loss under section 1980A of title 38, United States Code, as amended by subsection (a), if, as determined by the Secretary concerned, that loss was a direct result of a traumatic injury incurred in the theater of operations for Operation Enduring Freedom or Operation Iraqi Freedom.

(2) Certification of persons entitled to payment.—The Secretary concerned shall certify to the life insurance company issuing the policy of life insurance for Servicemembers' Group Life Insurance under chapter 19 of title 38, United States Code, the name and address of each person who the Secretary concerned determines to be entitled by reason of paragraph (1) to a payment under section 1980A of title 38, United States Code, as amended by subsection (a), plus such additional information as the Secretary of Veterans Affairs may require.

(3) Funding.—At the time a certification is made under paragraph (2), the Secretary concerned, from funds then available to that Secretary for the pay of members of the uniformed services under the jurisdiction of that Secretary, shall pay to the Secretary of Veterans Affairs the amount of funds the Secretary of Veterans Affairs determines to be necessary to pay all costs related to payments to be made under that certification. Amounts received by the Secretary of Veterans Affairs under this paragraph shall be deposited to the credit of the revolving fund in the Treasury of the United States established under section 1969(d) of title 38, United States Code.

(4) Qualifying loss.—For purposes of this subsection, the term "qualifying loss" means—

(A) a loss specified in the second sentence of subsection (b)(1) of section 1980A of title 38, United States Code, as amended by subsection (a); and

(B) any other loss specified by the Secretary of Veterans Affairs pursuant to the first sentence of that subsection.

(e) Funding for First Year of Benefits.—Upon the date specified in subsection (b), the Secretary concerned shall pay to the Secretary of Veterans Affairs an amount that is equivalent to one-half the amount anticipated to be necessary to pay all costs related to payments to be made under section 1980A of title 38, United States Code, for fiscal year 2006, effective December 1, 2005. The amount received by the Secretary of Veterans Affairs under this subsection shall be deposited to the credit of the revolving fund in the Treasury of the United States established under section 1969(d) of title 38, United States Code.

(f) Definitions.—For purposes of this section, the term "Secretary concerned" has the meaning given that term in paragraph (25) of section 101 of title 38, United States Code.

(g) Conforming Amendments.—Section 1032 of Public Law 109–13 (119 Stat. 257) is amended—

(1) in subsection (a), by striking paragraph (1), including the amendment that would be made by that paragraph effective December 1, 2005; and

(2) by striking subsections (c) and (d).

SEC. 402. TECHNICAL AND CLERICAL AMENDMENTS.

Title 38, United States Code, is amended as follows:

(1) Typographical error.—Section 1117(h)(1) is amended by striking "nothwithstanding" and inserting "notwithstanding".

(2) Insertion of missing word.—Section 1513(a) is amended by inserting "section" after "prescribed by".

(3) Deletion of extra words.—Section 3012(a)(1)(C)(ii) is amended by striking "on or".

(4) Cross reference correction.—Section 3017(b)(1)(D) is amended by striking "3011(c)" and inserting "3011(e)".

(5) Stylistic amendments.—Section 3018A is amended—

(A) by striking "of this section" in subsections (b) and (c);

(B) by striking "of this subsection" in subsections (a)(4), (a)(5), (d)(1) (both places it appears), and (d)(3); and

(C) by striking "of this chapter" in subsection (d)(3) and inserting "of this title".

(6) Cross reference correction.—Section 3117(b)(1) is amended—

(A) by striking "section 8" and inserting "section 4(b)(1)"; and

(B) by striking "633(b)" and inserting "633(b)(1)".

(7) Insertion of missing word.—Section 3511(a)(1) is amended by inserting "sections" after "under both".

(8) Subsection headings.—

(A) Sections 3461, 3462, 3481, 3565, 3680, and 3690 are each amended by revising each subsection heading for a subsection therein (appearing as a centered heading immediately before the text of the subsection) so that such heading appears immediately after the subsection designation and is set forth in capitals-and-small-capitals typeface, followed by a period and a one-em dash.

(B) Section 3461(c) is amended by inserting after the subsection designation the following: "Duration of Entitlement.—".

(C) Section 3462 is amended—

(i) in subsection (d), by inserting after the subsection designation the following: "Prisoners of War.—"; and

(ii) in subsection (e), by inserting after the subsection designation the following: "Termination of Assistance.—".

(9) Cross reference correction.—Section 3732(c)(10)(D) is amended by striking "clause (B) of paragraphs (5), (6), (7), and (8) of this subsection" and inserting "paragraphs (5)(B), (6), (7)(B), and (8)(B)".

(10) Date of enactment reference.—Section 3733(a)(7) is amended by striking "the date of the enactment of the Veterans' Benefits Act of 2003" and inserting "December 16, 2003".

(11) Repeal of obsolete provisions.—Section 4102A is amended

(A) in subsection (c)(7)—

(i) by striking "With respect to program years beginning during or after fiscal year 2004, one percent of" and inserting "Of"; and

(ii) by striking "for the program year" and inserting "for any program year, one percent"; and

(B) in subsection (f)(1), by striking "By not later than May 7, 2003, the" and inserting "The".

(12) Repeal of obsolete provisions.—Section 4105(b) is amended—

(A) by striking "shall provide," and all that follows through "Affairs with" and inserting "shall, on the 15th day of each month, provide the Secretary and the Secretary of Veterans Affairs with updated information regarding"; and

(B) by striking "and shall" and all that follows through "regarding the list".

(13) Citation correction.—Section 4110B is amended—

(A) by striking "this Act" and inserting "the Workforce Investment Act of 1998"; and

(B) by inserting "(29 U.S.C. 2822(b))" before the period at the end.

(14) Cross-reference correction.—Section 4331(b)(2)(C) is amended by striking "section 2303(a)(2)(C)(ii)" and inserting "section 2302(a)(2)(C)(ii)".

(15) Capitalization correction.—Section 7253(d)(5) is amended by striking "court" and inserting "Court".

Amend the title so as to read: "A bill to provide adaptive housing assistance to disabled veterans residing temporarily in housing owned by a family member, to make certain improvements in veterans employment assistance programs, and for other purposes.".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arkansas (Mr. Boozman) and the gentlewoman from Nevada (Ms. Berkley) each will control 20 minutes.

The Chair recognizes the gentleman from Arkansas (Mr. Boozman).

Mr. BOOZMAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am pleased to commend H.R. 3665, as amended, to the House for passage. This bill has several goals. First, we want to provide some flexibility in several VA programs, including the Adapted Housing Grant program and the Native American Loan program. Second, we want to protect and institutionalize the taxpayers' investment in the President's National Hiring Veterans Committee. Third, we want to reauthorize the Homeless Veterans Reintegration program for 3 years.

Madam Speaker, it is no secret that many of those wounded in Iraq and Afghanistan return home with significant disabilities. Many of those severely disabled servicemembers spend their convalescence at a family home before moving to their own home when they are well enough to do so. Under the current rules, VA cannot help adapt those family homes for their specific disabilities unless the veteran has an ownership interest in the property. This bill would eliminate the ownership requirement for a partial grant. Therefore, title I would provide a partial adaptive housing assistance grant up to $10,000 or $2,000, depending on the level of disability to veterans residing temporarily in housing owned by a family member. It would also authorize up to three specially adaptive housing grants within the allotted maximum amount.

Madam Speaker, this measure contains several provisions from H.R. 1773, originally introduced by the Economic Opportunity Subcommittee ranking member, Ms. HERSETH. I want to compliment her and her staff for their hard work on this issue. These provisions would make permanent the pilot program for housing loans to Native American veterans; extend the eligibility for Native American loans to certain non-Native American veterans who have a meaningful interest in the property under tribal law and are the spouses of a Native American. And finally, this would adjust the maximum loan to conform with the Freddie Mac limits similar to other VA loans, currently $59,650.

Madam Speaker, the taxpayers have made a significant investment in the work of the President's National Hire Veterans Committee, and we feel strongly that a 1-year extension will allow a proper transition of the duties and products of the committee to the Veterans Employment and Training Service of the Department of Labor. Therefore, title II would extend the committee's work until not later than December 31, 2006. Transition of its duties to the Assistant Secretary of Labor for Veterans Employment and Training require the Assistant Secretary of Labor for Veterans Employment and Training to develop a transition plan for those duties and modify the membership and duties of the advisory committee on veterans employment and training to include outreach activities.

Madam Speaker, we all know that homelessness among the veterans continues to be a problem. While there is some disagreement about the total number of homeless veterans needing a job to break the cycle of homelessness, there is no disagreement that the Homeless Veterans Reintegration program remains a valuable tool to put homeless veterans back to work. I want to emphasize that this is an employment program managed by the Veterans Employment and Training Service of the Department of Labor, not a housing program. Therefore, title III would reauthorize the Homeless Veterans Reintegration program for fiscal years 2007 through 2009 and retain the maximum authorization of $50 million per year.

Finally, title IV makes technical amendments to the servicemembers group life insurance legislation as well as clerical and technical amendments to a number of other sections of title 38.

Madam Speaker, I reserve the balance of my time.

Ms. BERKLEY. Madam Speaker, I yield myself such time as I may consume.

I want to thank Chairman BUYER, Ranking Member EVANS, Subcommittee Chairman BOOZMAN, and Ranking Member HERSETH for bringing this bill to the floor. Ms. HERSETH has been detained at a legislative hearing before the Resources Committee concerning the bill she has introduced. I hope that she will be able to join us before the debate on the bill is completed, but I want to particularly thank her for her input into this important piece of legislation.

Madam Speaker, I am pleased to be an original cosponsor of H.R. 3665. As amended, the bill before us would provide greater flexibility to the VA's Adaptive Housing Grant program. It also includes measures to extend the Department of Labor's Veterans Employment and Training Service. The bill also includes language from H.R. 1773, which Ms. HERSETH introduced to make the Native American Veteran Home Loan program permanent.

Section 102 of the bill would make permanent the Native American Housing Loan program, currently a pilot program administered by the Veterans Administration since 1993. The Native American Housing Loan program has provided more than 443 direct loans nationwide since its inception. By all accounts, the pilot program has been a great success and, in fact, currently does not require any government subsidy.

The Congressional Budget Office estimates that enactment of the provision would generate savings of $1 million over the next 5 years. Section 103 of the bill would authorize non-Native American veterans married to a Native American spouse and living on trust or tribal land to fully participate in this direct loan program. Because certain tribal sovereignty rules prohibit ownership interest by nonnative persons, they have been unable to qualify for this home loan program. The language in section 103 would make it possible for a nonnative military member or for a nonnative military member or veteran to qualify for a VA loan if he or she shares a meaningful interest rather than an ownership interest with their respective spouse in their home.

Madam Speaker, on this Friday we will celebrate and honor the service of our Nation's veterans. Hopefully, we will all be in our home districts attending Veterans Day parades and other activities that we share with our veterans. As I do so, I am mindful that over 3,000 veterans in Nevada are homeless. Most of them are living on the streets in Las Vegas. The number of homeless veterans in America is, I am sorry to say, a national disgrace and simply must be addressed. According to the National Coalition for Homeless Veterans, there are already 400 veterans who have served in Iraq and Afghanistan who have sought shelter through homeless programs.

□ 1415

I strongly support the provision in H.R. 3665 which would reauthorize appropriations for the Homeless Veterans Reintegration Program to help veterans get off the street and working again.

With increased efforts to deny VA benefits and, thereby, health care to veterans with post-traumatic stress disorder, I fear that our efforts to reduce the number of homeless veterans, many who are suffering from PTSD, may be at risk.

One homeless veteran who recently contacted the VA Committee had a VA claim pending for PTSD. We learned that because of a perceived pressure to deny claims, regional office adjudicators were afraid to accept the veteran's testimony of his Iraq combat experience, an article naming him and describing the attack, and a statement of his soldier passenger, who was wounded in the attack, as sufficient credible evidence of a stressor.

VA officials later acknowledged that the evidence provided by the veteran met the legal requirements and the claim was approved, finally.

This veteran's story is an example of how severely mentally disabled veterans are at risk of becoming homeless due to VA policies.

Congress must stop the administration's assault on veterans with severe PTSD. We must also provide opportunities to those veterans who are homeless due to their disabilities. H.R. 3665 will do just this.

I appreciate the cooperation of the gentleman from Arkansas (Mr. BOOZMAN) in including language I had suggested to eliminate the obsolete term "helpless" from title 38. Although severely disabled veterans may require significant help with activities of daily life, characterizing them as helpless is demeaning and, quite frankly, inaccurate.

The bill under consideration today will benefit our Nation's veterans and deserves the support of all Members of the House.

Mr. Speaker, I reserve the balance of my time.

Mr. BOOZMAN. Madam Speaker, I yield 2 minutes to the gentleman from South Carolina (Mr. BROWN), chairman of the Health Subcommittee.

Mr. BROWN of South Carolina. Madam Speaker, I thank the chairman for yielding me time and for his leadership in bringing these bills to the floor.

Madam Speaker, H.R. 3665, the Veterans Housing and Employment Improvement Act of 2005, provides needed enhancements to veterans' benefit programs. Specifically, I would like to discuss the provisions which were contained in H.R. 3279, the Homeless Veterans Reintegration Program Reauthorization Act of 2005, of which I was an original cosponsor.

H.R. 3279 was rolled into H.R. 3665 in the full committee markup held on October 7. This legislation would reauthorize HVRP through fiscal year 2009. Currently, the authority for this program expires at the end of fiscal year 2006. This legislation continues the current authorization for $50 million per year. I am eager for this legislation to be sent to the President as soon as possible.

The Homeless Veterans Reintegration Program, or HVRP, is designed to take the men and women who are probably the most difficult population of veterans to serve off the streets and return them as productive contributors to society. It is a tall order and one that presents unique challenges to both the government and to those who deliver services to homeless veterans.

HVRP program providers have taken on this difficult task and have turned HVRP into one of the most successful programs in the Federal Government. HVRP grantees are taking on the difficult task of breaking the cycle of homelessness. I urge my colleagues to support this program and this important legislation.

Ms. BERKLEY. Madam Speaker, I yield 3 minutes to the gentlewoman from Guam (Ms. BORDALLO).

Ms. BORDALLO. Madam Speaker, I rise today in strong support of H.R. 3665, the Veterans Housing and Employment Improvement Act. This legislation would permanently authorize a successful and worthy pilot program, commonly referred to as the Native American Home Loan Program.

Established in 1992 as a 5-year pilot program, Congress has extended the authority for this loan program on three separate occasions. Clearly, the program has proven very effective and deserves a permanent authorization.

Administered by the Department of Veterans Affairs, this program makes direct loans to Native American veterans who reside on tribal lands and veterans who reside on land trust properties in the United States territories, Hawaii and Alaska. We have thousands of veterans on Guam, many suffering from military-related illnesses. Currently, Madam Speaker, five veterans from my district of Guam have loan applications under this program, pending review by the Department.

These loans are for the purchase, renovation, or construction of new homes. And, as you know, home ownership is also a primary driver for economic growth of local communities. Affordable housing is important, very important, for our veterans. Furthermore, home ownership is part of the American dream.

Permanent authorization will ensure this important lending program remains an option for veterans who seek to purchase homes. Permanent authorization of this program will contribute to the growth of our local community. Permanent authorization will allow veterans to live the American dream which they have served to defend.

I want to take this opportunity, Madam Speaker, to thank my colleague from Arkansas, JOHN BOOZMAN; the chairman, STEVE BUYER; the ranking member, LANE EVANS; and the hardworking committee for their diligent work on this legislation. I strongly urge its passage.

Mr. BOOZMAN. Madam Speaker, I yield 2 minutes to the gentleman from Idaho (Mr. SIMPSON), the sponsor of the original bill to extend the operation of the President's National Hire Veterans Committee, and former chairman of the Veterans' Benefits Subcommittee.

Mr. SIMPSON. Madam Speaker, I want to thank Chairman BOOZMAN and Ranking Member HERSETH for their work on this piece of legislation.

Earlier this year, I introduced H.R. 419, which would authorize the President's National Hire Veterans Committee through 2008. The bill before us today, H.R. 3665, not only extends the life of this important committee, but also provides for its continued operation long into the future under a new Advisory Committee on Veterans Employment Training and Employer Outreach.

It is important that we continue to support and fund the work of this committee which strives to make employers and businesses more aware of the valuable role that veterans play in the public workforce.

Today's employers do not often realize the wealth of skills possessed by the men and woman returning from duty in the Armed Forces. Through the creation of the One Stop Career Centers for veterans and the development of hirevetsfirst.gov Web site for potential employers, the President's National Hire Veterans Committee has fostered a vital link between military and civilian employment.

As Veterans Day approaches many of us take for granted the sacrifices made by those who defend our Nation. Voting for this bill is a way to truly show our veterans that we appreciate them and are willing to support them not only when they are serving our country abroad, but when they return home as well.

I urge my colleagues to support H.R. 3665 and thank them for their work on this bill.

Ms. BERKLEY. Madam Speaker, I yield 4 minutes to the gentleman from the great State of Hawaii (Mr. CASE).

Mr. CASE. Madam Speaker, I also rise in full support of H.R. 3665, the Veterans Housing and Improvement Act of 2005, which addresses the critical housing needs of our Nation's disabled and Native American veterans.

I also would like to thank Representatives BOOZMAN and HERSETH for their leadership on this legislation and, of course, Veterans Committee Chair BUYER and Ranking Member EVANS for expeditiously bringing this bill to the House floor.

H.R. 3665, in part, provides permanent authority for the Native American Direct Home Loan Program and extends eligibility for such loan to non-Native American spouses of Native Americans living on Native American trust and tribal lands.

The Native American Direct Home Loan Program has been a highly successful veterans effort, particularly in my Hawaii, where it applies to veterans living on lands held in trust under this Congress' own Hawaiian Homes Commission Act of 1920. The majority of these Hawaiian homelands in my Second Congressional District on the islands of Oahu, Kauai, Molokai, Maui, Hawaii, and Lanai.

Since the inception of this program, which was spearheaded by the great Hawaii Senator Spark Matsunaga, and continued by Senator DANIEL AKAKA, native Hawaiian veterans have successfully used this direct home loan program for their acute housing needs, and I am proud to say with nominal deficiencies and delinquencies.

Over $20 million has now been approved for over 200 loans in Hawaii, with 106 loans totaling $7.5 million pending. This is an incredible help not only with the needs of many veterans who would likely otherwise be precluded from quality housing, but about Hawaii's overall housing crisis.

Due to its success over the last 13 years, the Native American Direct Home Loan Program, which initially started out as a pilot program, was twice extended by Congress but is currently set to expire on December 31 of this year. It is vital to understand why this program is so important to our Native American veterans and why we should make the program permanent, as this bill proposes.

Of course, the most basic reason is the success of the overall program in honoring our commitment to our Nation's veterans. Beyond that, Congress found some years ago that during the entire history to that date of the program, not a single Native American veteran living on Indian trust lands or Hawaii homelands had in fact received the VA home loan under the VA's traditional home loan program. The reason for that was quite simple.

The unique trust status of native lands did not lend itself to conventional lending practices because banks and other financial institutions did not recognize those lands as valid collateral.

As part of our obligation to all of our Nation's veterans, that obligation being to ensure that they are all able to tap fully into VA programs, the Native American Direct Home Loan Program addressed this unique and discrete challenge facing many Native American veterans and afforded them the same opportunity of home ownership availed their comrades-in-arms.

This bill recognizes and improves upon the clear success of this effort, and I ask my colleagues to vote in favor of H.R. 3665.

Mahalo.

Mr. BOOZMAN. Madam Speaker, I yield 1 minute to the gentleman from New Hampshire (Mr. BRADLEY), the vice chairman of the Veterans Disability and Memorial Affairs Subcommittee, a gentleman who, since coming to Congress, has been a tireless advocate for veterans.

Mr. BRADLEY of New Hampshire. Madam Speaker, I thank the chairman and the ranking minority member for their hard work to a make this bill a reality.

Madam Speaker, I rise in support of the Veterans Housing Improvement Act, H.R. 3665. All of us, as Members of Congress, have had the opportunity to meet our brave soldiers who are serving in Iraq and Afghanistan, fighting in the war on terror. One of the components of the war on terror is that many of them are coming home with disabling injuries.

This bill in a very significant way will help families to be able to allow the reintegration of these disabled heroes back into not only working life, but at-home life. The $10,000 grant will help home owners to be able to renovate their houses to make them suitable for disabled veterans, and that is why it is so important that we authorize and fund this pilot program to do what needs to be done to help these heroes integrate back into life.

I thank the chairman and the ranking member for their hard work and urge my colleagues to support this bill.

Ms. BERKLEY. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BOOZMAN. Madam Speaker, first, I would like to thank the chairman of the Committee on Veterans' Affairs, the gentleman from Indiana (Mr. BUYER), and the committee's ranking member, the gentleman from Illinois (Mr. EVANS), for their leadership and support in bringing this bill to the floor. I would also like to thank the ranking member of the Economic Opportunity Subcommittee, the gentlewoman from South Dakota (Ms. HERSETH), as well as her staff and my staff for their hard work and cooperation on this bipartisan legislation.

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Special thanks to the gentlewoman from Nevada (Ms. BERKLEY), who is the ranking member for Disability Assistance and Memorial Affairs.

This bill is an example of how we can work together to achieve good things for veterans, and I urge my colleagues to support H.R. 3665, the Veterans Housing and Employment Improvement Act of 2005.

I do not think we can close today before noting that this coming Friday is Veterans Day, a day that originally marked the 11th hour of the 11th day of the 11th month in the war to end all wars. Unfortunately, that idealistic prediction failed, and several generations of Americans have since served in wartime. So today, instead of honoring the end of World War I, Veterans Day now honors all of those who have worn the uniform in defense of the Nation. Whether a veteran served in war or peacetime, we owe them our gratitude, and this bill is just one small token of our appreciation.

Madam Speaker, on behalf of the House, I want to say thank you to all who have served.

Ms. HERSETH. Madam Speaker, I rise today in strong support of H.R. 3665, as amended, the Veterans Housing and Employment Improvement Act of 2005. This bill incorporates a number of important measures aimed at improving the quality of life of our servicemembers, veterans and military families.

I would like to thank Chairman BUYER and Ranking Member EVANS for their leadership on the full committee and for their assistance in moving this bill to the floor today.

I also want to express my appreciation to the Chairman of the Economic Opportunity Subcommittee—Mr. BOOZMAN, for all his hard work and bipartisan leadership on the subcommittee this legislative session. I look forward to continue working with my friend from Arkansas as we begin discussions with the Senate to ensure passage of a bipartisan, bicameral veterans' benefits package for this year. I know that the veterans of my home state of South Dakota and all veterans of this nation will appreciate the important benefits and program improvements we have included in this legislative measure.

Madam Speaker, H.R. 3665, as amended, incorporates important provisions that would provide greater flexibility to the VA's adaptive housing grant program. It also includes important measures to extend the Homeless Veterans Reintegration Program and improve the Department of Labor's Veterans Employment and Training Service. In addition, the bill also includes language from H.R. 1773, the Native American Veteran Home Loan Act—a measure I introduced along with a number of colleagues earlier this year.

Section 102 of the bill would make permanent the Native American Housing Loan Program, currently a pilot program administered by VA since 1993. The Native American Housing Loan program has provided 443 direct loans nationwide since its inception—20 to veterans in South Dakota. By all accounts the pilot program has been a great success and in fact currently has a negative subsidy—that is, it actually pays for itself. The Congressional Budget Office estimates that enactment of the provision would generate savings of $1 million over five years.

Section 103 of the bill would authorize non-native American veterans married to a Native American spouse and living on trust or tribal land to fully participate in this direct loan program. Because certain tribal sovereignty rules prohibit ownership interests by non-native persons they have been unable to qualify for this home loan program. The language in section 103 now makes it possible for a non-native military member or veteran to qualify for a VA loan if he or she shares a "meaningful interest" rather than "ownership interest" with their respective spouse in their home.

I want to thank Mr. FALEOMAVAEGA the Delegate of American Samoa for bringing this issue to my attention, and I want to also thank the VA for its assistance in drafting this particular provision.

Madam Speaker, the service members, veterans and military families of this nation have earned and deserve our best efforts here in Congress. Indeed, they deserve so much more.

As we approach Veterans Day, I am very proud to support this legislation and confident it will benefit the veterans of my home state of South Dakota, as well as the other veterans around the country.

I fully support H.R. 3665, as amended, and urge my colleagues to do the same.

Mr. BUYER. Madam Speaker, as Chairman of the House Committee on Veterans' Affairs, I rise in strong support of H.R. 3665, the Veterans Housing and Employment Improvement Act of 2005, as amended. This is a bipartisan bill that as amended also includes provisions from Chairman BOOZMAN's H.R. 3279, the Homeless Veteran Reintegration Program Reauthorization Act of 2005, Ranking Member HERSETH's H.R. 1773, the Native American Veteran Home Loan Act, and Mr. SIMPSON's H.R. 419, the Hire Veterans Act of 2005.

Title I of this bill, as amended, would improve the flexibility of the VA's Adapted Housing Grant Program, and make the Native American Veterans Home Loan Program permanent.

Title II of the bill would extend the life of the President's National Hire Veterans Committee (PNHVC), which was created by Public Law 107-288 to improve industry's awareness of the value inherent in increasing the number of veterans hired by the private sector. The Committee determined that a one-year extension of the PNHVC's three-year authority for purposes of winding down its operations, in addition to providing opportunity for added oversight, would be an appropriate way to ensure that the Department of Labor integrates the positive aspects of the PNHVC into its future activities.

Title III of the bill would reauthorize the Homeless Veterans' Reintegration Program (HVRP), which is administered by VETS. Based on testimony and meetings with HVRP providers, the program appears to be one of the more successful homeless programs in government by rehabilitating and finding jobs for the most difficult to place population of veterans.

Title IV of the bill would also make technical, clarifying, and conforming changes to new section 1980A of title 38, the Traumatic Injury Protection program, which was established in the supplemental.

Madam Speaker, as Chairman of the Committee on Veterans' Affairs, I would like to thank the Ranking Member of the Committee, Mr. LANE EVANS (IL) for his cooperation in moving this legislation to the floor. I would also like to acknowledge the hard work of Mr. BOOZMAN (AR), and Ms. HERSETH (SD), the Chairman and Ranking Member of the Subcommittee on Economic Opportunity, through whose leadership and hard work, this legislation has come before the House. Its timing is especially propitious, the day after tomorrow being Veterans' Day.

Madam Speaker, I strongly urge all my colleagues to support this important legislation.

Mr. EVANS. Madam Speaker, I rise in strong support of H.R. 3665, as amended.

It is only fitting that as November 11th approaches and we prepare to commemorate another Veterans Day, we are meeting here today on the House floor to discuss and pass this legislation, which is intended to honor the courage and sacrifice of the nation's veterans.

I would like to thank Chairman BUYER for his support of this bill.

I also want to thank the Chairman and Ranking Member of the Economic Opportunity Subcommittee, JOHN BOOZMAN and STEPHANIE HERSETH, for their work in developing and moving this important legislation to the floor.

The housing, employment and homeless provisions contained in the bill are very important and should be enacted into law.

Madam Speaker, I am proud to be an original cosponsor of this bill.

Our servicemembers, veterans and military families sacrifice greatly.

It is our responsibility to care and provide for them upon their return from service as we do when we send them off to war.

I strongly support this measure, Madam Speaker, and I urge all my colleagues to vote for its passage.

Mr. FALEOMAVAEGA. Madam Speaker, I rise in support of H.R. 3665, the Veterans Housing and Employment Improvement Act of 2005. I especially want to thank Chairman STEVE BUYER and Ranking Member LANE EVANS of the Committee on Veterans' Affairs and also Chairman JOHN BOOZMAN and Ranking Member STEPHANIE HERSETH of the Subcommittee on Economic Opportunity for their leadership in making it possible for Native Americans to participate in the veterans' housing loan program.

I am especially thankful that American Samoa's veterans have also been able to participate in this very successful program. Today, I am here to thank my colleagues for working with me to address the concerns of American Samoans without adversely affecting the rights of other tribes.

Many Samoans have served in the military and they are allowed to obtain home loans under current law. Other Samoans are married to non-Samoan veterans. Nonnative military spouses married to native Samoans have not been able to qualify for the VA home loan program. In part, this is because the Native American Home Loan program excludes the spouses of non-native Americans from qualifying for a VA home loan.

For my constituents, this is problematic. In brief, most land in American Samoa is communal, meaning that only Samoans of Tutuila, Manu'a, Aunu'u, or Swain Islands may qualify for home loans offered by traditional lending institutions because only they can make claim to native land.

As a result of these land laws, non-native spouses of veterans or persons serving in the U.S. Armed Forces who are married to a Samoan may not qualify for a VA home loan. The VA has been helpful in assisting the Veterans' Affairs Committee and my office in drafting language to rectify this problem and I am pleased that this language has now been included in H.R. 3665.

As we have agreed, it is our understanding that this language now makes it possible for a non-Samoan military member or veteran to qualify for a VA loan if the non-Samoan military member has a "meaningful interest" in the housing a Samoan spouse has been granted permission to build on communal land. It is also our understanding that "meaningful interest" means that the veteran has the right to reside in the home under tribal laws.

Madam Speaker, I urge support of H.R. 3665 and I again thank my colleagues for including my provision in this important legislation. I also thank the VA for its assistance, and Ms. Mary Ellen McCarthy, Democratic Staff Director for Disability Assistance and Memorial Affairs, for her tireless efforts. I urge support of this legislation.

Mr. BOOZMAN. Madam Speaker, having no further requests for time, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. CAPITO). The question is on the motion offered by the gentleman from Arkansas (Mr. BOOZMAN) that the House suspend the rules and pass the bill, H.R. 3665, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BOOZMAN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. BOOZMAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3665.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

Conference report on H.R. 2419, by the yeas and nays;

Conference report on H.R. 2862, by the yeas and nays;

Motion to suspend the rules on S. 1894, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

CONFERENCE REPORT ON H.R. 2419, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore. The pending business is the question on adoption of the conference report on the bill, H.R. 2419, on which the yeas and nays are ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 399, nays 17, not voting 17, as follows:

[Roll No. 580]

YEAS—399

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings

should make the program permanent, as this bill proposes.

Of course, the most basic reason is the success of the overall program in honoring our commitment to our Nation's veterans. Beyond that, Congress found some years ago that during the entire history to that date of the program, not a single Native American veteran living on Indian trust lands or Hawaii homelands had in fact received the VA home loan under the VA's traditional home loan program. The reason for that was quite simple.

The unique trust status of native lands did not lend itself to conventional lending practices because banks and other financial institutions did not recognize those lands as valid collateral.

As part of our obligation to all of our Nation's veterans, that obligation being to ensure that they are all able to tap fully into VA programs, the Native American Direct Home Loan Program addressed this unique and discrete challenge facing many Native American veterans and afforded them the same opportunity of home ownership availed their comrades-in-arms.

This bill recognizes and improves upon the clear success of this effort, and I ask my colleagues to vote in favor of H.R. 3665.

Mahalo.

Mr. BOOZMAN. Madam Speaker, I yield 1 minute to the gentleman from New Hampshire (Mr. BRADLEY), the vice chairman of the Veterans Disability and Memorial Affairs Subcommittee, a gentleman who, since coming to Congress, has been a tireless advocate for veterans.

Mr. BRADLEY of New Hampshire. Madam Speaker, I thank the chairman and the ranking minority member for their hard work to a make this bill a reality.

Madam Speaker, I rise in support of the Veterans Housing Improvement Act, H.R. 3665. All of us, as Members of Congress, have had the opportunity to meet our brave soldiers who are serving in Iraq and Afghanistan, fighting in the war on terror. One of the components of the war on terror is that many of them are coming home with disabling injuries.

This bill in a very significant way will help families to be able to allow the reintegration of these disabled heroes back into not only working life, but at-home life. The $10,000 grant will help home owners to be able to renovate their houses to make them suitable for disabled veterans, and that is why it is so important that we authorize and fund this pilot program to do what needs to be done to help these heroes integrate back into life.

I thank the chairman and the ranking member for their hard work and urge my colleagues to support this bill.

Ms. BERKLEY. Madam Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. BOOZMAN. Madam Speaker, first, I would like to thank the chairman of the Committee on Veterans' Affairs, the gentleman from Indiana (Mr. BUYER), and the committee's ranking member, the gentleman from Illinois (Mr. EVANS), for their leadership and support in bringing this bill to the floor. I would also like to thank the ranking member of the Economic Opportunity Subcommittee, the gentlewoman from South Dakota (Ms. HERSETH), as well as her staff and my staff for their hard work and cooperation on this bipartisan legislation.

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Special thanks to the gentlewoman from Nevada (Ms. BERKLEY), who is the ranking member for Disability Assistance and Memorial Affairs.

This bill is an example of how we can work together to achieve good things for veterans, and I urge my colleagues to support H.R. 3665, the Veterans Housing and Employment Improvement Act of 2005.

I do not think we can close today before noting that this coming Friday is Veterans Day, a day that originally marked the 11th hour of the 11th day of the 11th month in the war to end all wars. Unfortunately, that idealistic prediction failed, and several generations of Americans have since served in wartime. So today, instead of honoring the end of World War I, Veterans Day now honors all of those who have worn the uniform in defense of the Nation. Whether a veteran served in war or peacetime, we owe them our gratitude, and this bill is just one small token of our appreciation.

Madam Speaker, on behalf of the House, I want to say thank you to all who have served.

Ms. HERSETH. Madam Speaker, I rise today in strong support of H.R. 3665, as amended, the Veterans Housing and Employment Improvement Act of 2005. This bill incorporates a number of important measures aimed at improving the quality of life of our servicemembers, veterans and military families.

I would like to thank Chairman BUYER and Ranking Member EVANS for their leadership on the full committee and for their assistance in moving this bill to the floor today.

I also want to express my appreciation to the Chairman of the Economic Opportunity Subcommittee—Mr. BOOZMAN, for all his hard work and bipartisan leadership on the subcommittee this legislative session. I look forward to continue working with my friend from Arkansas as we begin discussions with the Senate to ensure passage of a bipartisan, bicameral veterans' benefits package for this year. I know that the veterans of my home state of South Dakota and all veterans of this nation will appreciate the important benefits and program improvements we have included in this legislative measure.

Madam Speaker, H.R. 3665, as amended, incorporates important provisions that would provide greater flexibility to the VA's adaptive housing grant program. It also includes important measures to extend the Homeless Veterans Reintegration Program and improve the Department of Labor's Veterans Employment and Training Service. In addition, the bill also includes language from H.R. 1773, the Native American Veteran Home Loan Act—a measure I introduced along with a number of colleagues earlier this year.

Section 102 of the bill would make permanent the Native American Housing Loan Program, currently a pilot program administered by VA since 1993. The Native American Housing Loan program has provided 443 direct loans nationwide since its inception—20 to veterans in South Dakota. By all accounts the pilot program has been a great success and in fact currently has a negative subsidy—that is, it actually pays for itself. The Congressional Budget Office estimates that enactment of the provision would generate savings of $1 million over five years.

Section 103 of the bill would authorize non-native American veterans married to a Native American spouse and living on trust or tribal land to fully participate in this direct loan program. Because certain tribal sovereignty rules prohibit ownership interests by non-native persons they have been unable to qualify for this home loan program. The language in section 103 now makes it possible for a non-native military member or veteran to qualify for a VA loan if he or she shares a "meaningful interest" rather than "ownership interest" with their respective spouse in their home.

I want to thank Mr. FALEOMAVAEGA the Delegate of American Samoa for bringing this issue to my attention, and I want to also thank the VA for its assistance in drafting this particular provision.

Madam Speaker, the service members, veterans and military families of this nation have earned and deserve our best efforts here in Congress. Indeed, they deserve so much more.

As we approach Veterans Day, I am very proud to support this legislation and confident it will benefit the veterans of my home state of South Dakota, as well as the other veterans around the country.

I fully support H.R. 3665, as amended, and urge my colleagues to do the same.

Mr. BUYER. Madam Speaker, as Chairman of the House Committee on Veterans' Affairs, I rise in strong support of H.R. 3665, the Veterans Housing and Employment Improvement Act of 2005, as amended. This is a bipartisan bill that as amended also includes provisions from Chairman BOOZMAN's H.R. 3279, the Homeless Veteran Reintegration Program Reauthorization Act of 2005, Ranking Member HERSETH's H.R. 1773, the Native American Veteran Home Loan Act, and Mr. SIMPSON's H.R. 419, the Hire Veterans Act of 2005.

Title I of this bill, as amended, would improve the flexibility of the VA's Adapted Housing Grant Program, and make the Native American Veterans Home Loan Program permanent.

Title II of the bill would extend the life of the President's National Hire Veterans Committee (PNHVC), which was created by Public Law 107–288 to improve industry's awareness of the value inherent in increasing the number of veterans hired by the private sector. The Committee determined that a one-year extension of the PNHVC's three-year authority for purposes of winding down its operations, in addition to providing opportunity for added oversight, would be an appropriate way to ensure that the Department of Labor integrates the positive aspects of the PNHVC into its future activities.

Title III of the bill would reauthorize the Homeless Veterans' Reintegration Program (HVRP), which is administered by VETS. Based on testimony and meetings with HVRP providers, the program appears to be one of the more successful homeless programs in government by rehabilitating and finding jobs for the most difficult to place population of veterans.

Title IV of the bill would also make technical, clarifying, and conforming changes to new section 1980A of title 38, the Traumatic Injury Protection program, which was established in the supplemental.

Madam Speaker, as Chairman of the Committee on Veterans' Affairs, I would like to thank the Ranking Member of the Committee, Mr. LANE EVANS (IL) for his cooperation in moving this legislation to the floor. I would also like to acknowledge the hard work of Mr. BOOZMAN (AR), and Ms. HERSETH (SD), the Chairman and Ranking Member of the Subcommittee on Economic Opportunity, through whose leadership and hard work, this legislation has come before the House. Its timing is especially propitious, the day after tomorrow being Veterans' Day.

Madam Speaker, I strongly urge all my colleagues to support this important legislation.

Mr. EVANS. Madam Speaker, I rise in strong support of H.R. 3665, as amended.

It is only fitting that as November 11th approaches and we prepare to commemorate another Veterans Day, we are meeting here today on the House floor to discuss and pass this legislation, which is intended to honor the courage and sacrifice of the nation's veterans.

I would like to thank Chairman BUYER for his support of this bill.

I also want to thank the Chairman and Ranking Member of the Economic Opportunity Subcommittee, JOHN BOOZMAN and STEPHANIE HERSETH, for their work in developing and moving this important legislation to the floor.

The housing, employment and homeless provisions contained in the bill are very important and should be enacted into law.

Madam Speaker, I am proud to be an original cosponsor of this bill.

Our servicemembers, veterans and military families sacrifice greatly.

It is our responsibility to care and provide for them upon their return from service as we do when we send them off to war.

I strongly support this measure, Madam Speaker, and I urge all my colleagues to vote for its passage.

Mr. FALEOMAVAEGA. Madam Speaker, I rise in support of H.R. 3665, the Veterans Housing and Employment Improvement Act of 2005. I especially want to thank Chairman STEVE BUYER and Ranking Member LANE EVANS of the Committee on Veterans' Affairs and also Chairman JOHN BOOZMAN and Ranking Member STEPHANIE HERSETH of the Subcommittee on Economic Opportunity for their leadership in making it possible for Native Americans to participate in the veterans' housing loan program.

I am especially thankful that American Samoa's veterans have also been able to participate in this very successful program. Today, I am here to thank my colleagues for working with me to address the concerns of American Samoans without adversely affecting the rights of other tribes.

Many Samoans have served in the military and they are allowed to obtain home loans under current law. Other Samoans are married to non-Samoan veterans. Nonnative military spouses married to native Samoans have not been able to qualify for the VA home loan program. In part, this is because the Native American Home Loan program excludes the spouses of non-native Americans from qualifying for a VA home loan.

For my constituents, this is problematic. In brief, most land in American Samoa is communal, meaning that only Samoans of Tutuila, Manu's, Aunu'u, or Swain Islands may qualify for home loans offered by traditional lending institutions because only they can make claim to native land.

As a result of these land laws, non-native spouses of veterans or persons serving in the U.S. Armed Forces who are married to a Samoan may not qualify for a VA home loan. The VA has been helpful in assisting the Veterans' Affairs Committee and my office in drafting language to rectify this problem and I am pleased that this language has now been included in H.R. 3665.

As we have agreed, it is our understanding that this language now makes it possible for a non-Samoan military member or veteran to qualify for a VA loan if the non-Samoan military member has a "meaningful interest" in the housing a Samoan spouse has been granted permission to build on communal land. It is also our understanding that "meaningful interest" means that the veteran has the right to reside in the home under tribal laws.

Madam Speaker, I urge support of H.R. 3665 and I again thank my colleagues for including my provision in this important legislation. I also thank the VA for its assistance, and Ms. Mary Ellen McCarthy, Democratic Staff Director for Disability Assistance and Memorial Affairs, for her tireless efforts. I urge support of this legislation.

Mr. BOOZMAN. Madam Speaker, having no further requests for time, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. CAPITO). The question is on the motion offered by the gentleman from Arkansas (Mr. BOOZMAN) that the House suspend the rules and pass the bill, H.R. 3665, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. BOOZMAN. Madam Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. BOOZMAN. Madam Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3665.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arkansas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on questions previously postponed.

Votes will be taken in the following order:

Conference report on H.R. 2419, by the yeas and nays;

Conference report on H.R. 2862, by the yeas and nays;

Motion to suspend the rules on S. 1894, by the yeas and nays.

The first electronic vote will be conducted as a 15-minute vote. Remaining electronic votes will be conducted as 5-minute votes.

CONFERENCE REPORT ON H.R. 2419, ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore. The pending business is the question on adoption of the conference report on the bill, H.R. 2419, on which the yeas and nays are ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 399, nays 17, not voting 17, as follows:

[Roll No. 580]

YEAS—399

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings

Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stark
Stupak
Sullivan
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—17

Andrews
Berkley
Bishop (NY)
Deal (GA)
Duncan
Flake
Gibbons
Green (WI)
Hefley
Hostettler
Kucinich
Matheson
Miller (FL)
Porter
Sensenbrenner
Stearns
Tancredo

NOT VOTING—17

Boswell
Brown-Waite, Ginny
Conaway
Davis (FL)
Hastings (FL)
Meeks (NY)
Millender-McDonald
Norwood
Oxley
Paul
Sessions
Slaughter
Solis
Strickland
Sweeney
Turner
Young (FL)

□ 1455

Mr. GREEN of Wisconsin and Mr. KUCINICH changed their vote from "yea" to "nay."

Mr. EDWARDS changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 580 on H.R. 2419, I was unavoidably detained. Had I been present, I would have voted "yea."

CONFERENCE REPORT ON H.R. 2862, SCIENCE, STATE, JUSTICE, COMMERCE, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

The SPEAKER pro tempore (Mrs. CAPITO). The pending business is the question on adoption of the conference report on the bill, H.R. 2862, on which the yeas and nays are ordered.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the conference report.

Pursuant to clause 10 of rule XX, the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 397, nays 19, not voting 17, as follows:

[Roll No. 581]

YEAS—397

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doolittle
Doyle
Drake
Dreier
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Olver
Ortiz
Osborne
Owens
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt

Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stark
Stearns
Stupak
Sullivan
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—19

Baldwin
Capuano
Conyers
Doggett
Duncan
Flake
Green (WI)
Hefley
Hostettler
Jones (NC)
Matheson
McDermott
Obey
Otter
Paul
Tancredo
Taylor (MS)
Tierney
Velázquez

NOT VOTING—17

Boswell
Brown-Waite, Ginny
Castle
Conaway
Davis (FL)
Hastings (FL)
Meeks (NY)
Millender-McDonald
Norwood
Oxley
Pence
Sessions
Solis
Strickland
Sweeney
Turner
Young (FL)

☐ 1504

Mr. MILLER of Florida changed his vote from "nay" to "yea."

So the conference report was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 581 on H.R. 2862, I was unavoidably detained. Had I been present, I would have voted "yea."

FAIR ACCESS FOSTER CARE ACT OF 2005

The SPEAKER pro tempore (Mrs. CAPITO). The unfinished business is the question of suspending the rules and passing the Senate bill, S. 1894.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from California (Mr. HERGER) that the House suspend the rules and pass the Senate bill, S. 1894, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 408, nays 1, not voting 24, as follows:

[Roll No. 582]

YEAS—408

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Cunningham
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
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Holden
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Hostettler
Hoyer
Hulshof
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Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Oberstar
Obey
Olver
Osborne
Otter
Owens
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sanchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stark
Stearns
Stupak
Sullivan
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)

NAYS—1

Moore (WI)

NOT VOTING—24

Boswell
Brown-Waite, Ginny
Conaway
Davis (FL)
Emerson
Gohmert
Hastings (FL)
Higgins
Honda
Meeks (NY)
Melancon
Millender-McDonald
Norwood
Ortiz
Oxley
Pence
Sessions
Solis
Strickland
Sweeney
Tancredo
Turner
Waters
Young (FL)

☐ 1514

So (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Ms. SOLIS. Mr. Speaker, during rollcall vote No. 582 on S. 1894, I was unavoidably detained. Had I been present, I would have voted "yea."

PERSONAL EXPLANATION

Mr. OXLEY. Mr. Speaker, I was absent from the House floor during today's rollcall votes on H.R. 2419, the Fiscal Year 2006 Energy and Water Development appropriations conference report; H.R. 2862, the Fiscal Year 2006 Science, State, Justice, and Commerce appropriations conference report; and S. 1894, the Fair Access Foster Care Act.

Had I been present, I would have voted in favor of each of those measures.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 4200

Mr. LEWIS of California. Madam Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 4200.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

APPOINTMENT OF CONFEREES ON H.R. 3199, USA PATRIOT AND TERRORISM PREVENTION REAUTHORIZATION ACT OF 2005

Mr. SENSENBRENNER. Madam Speaker, I ask unanimous consent to take from the Speaker's table the bill (H.R. 3199) to extend and modify authorities needed to combat terrorism, and for other purposes, with a Senate amendment thereto, disagree to the Senate amendment, and agree to the conference asked by the Senate.

The Clerk read the title of the bill.

□ 1515

The SPEAKER pro tempore (Mrs. CAPITO). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

MOTION TO INSTRUCT OFFERED BY MR. BOUCHER

Mr. BOUCHER. Madam Speaker, I have a motion to instruct at the desk which I offer on behalf of myself, the gentleman from California (Mr. ROHRABACHER), and the gentleman from Florida (Mr. MACK).

The Clerk read as follows:

> Mr. Boucher moves that the managers on the part of the House at the conference on the disagreeing votes of the two Houses on the Senate amendment to the bill H.R. 3199 be instructed to recede from disagreement with the provisions contained in subsections (a) and (b) of section 9 of the Senate amendment (relating to the modification of the PATRIOT Act sunset provision and the extension of the sunset of the "Lone Wolf" provision).

The SPEAKER pro tempore. Pursuant to clause 7 of rule XXII, the gentleman from Virginia (Mr. BOUCHER) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 30 minutes.

The Chair recognizes the gentleman from Virginia (Mr. BOUCHER).

Mr. BOUCHER. Madam Speaker, I yield 10 minutes to the gentleman from California (Mr. ROHRABACHER), and I ask unanimous consent that he be allowed to control that time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. BOUCHER. Madam Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Madam Speaker, I rise in support of the motion to instruct.

The current House bill provisions for 10 year sunsets on the 215 and 206 roving wiretap powers is not much better than no sunset at all. What we are talking about under the 215 provision is power to get access to your personal records from a business, including a public library, without you ever knowing about it, or what is done with the information. And the librarian or other business operator cannot tell you or anyone else other than the business's attorney or appropriate superiors, about the FBI's taking your records.

Under the roving wiretaps provision, after obtaining a roving wiretap from the secret FISA court, the FBI can follow the target around and tap any phone the target has access to, including yours if he or she happens to be a neighbor and comes to your house, without having to first determine that the phone is actually being used by the target before they start listening in.

The 4-year sunsets worked to make the Justice Department responsive to Congress in providing the information needed to properly perform its oversight responsibility for the extraordinary powers extended under the PATRIOT Act, but only in the last year of the sunset. For most of the 4-year period leading up to the sunsets, the Justice Department refused any meaningful oversight of their PATRIOT Act powers and other war on terror authorities. Even with Chairman SENSENBRENNER threatening a subpoena because he was not getting answers to his PATRIOT Act questions, it wasn't until the powers were set to expire that we got real answers—hard numbers and at least anecdotal evidence of their use.

Take, for example, the effort to try to get information about library record requests under the secretive Section 215 powers where the recipient of the order is gagged from disclosing any information about it: first we were told that information about even the number of these orders was secret, so it couldn't be disclosed. It was only in the last year of the sunset that we were finally told that there had been no 215 orders issued to libraries, then we learned that this was misleading because most libraries cooperated with FBI requests for information without requiring a 215 order, and with all the secrecy and gag orders in effect, we still don't know what the full story is. Perhaps some of the pending lawsuits will finally reveal what has been going on in this area.

The problem with a 10-year sunset is that it will have no impact on the current Administration, or the next one and only have an impact in the last year of the 3rd Administration from now. Moreover, with a 20-year retirement period for most career officials, in 10 years most of today's officials will have retired. So, that's really of little oversight value if we have to wait that long to get the kind of responsive information for oversight we were finally able to get in the last year of the current sunsets.

Accordingly, we should accede to the Senate sunset provisions which call for 4-year sunsets on the three most controversial and worrisome PATRIOT powers—secret acquisition of library and other business records, roving wiretaps, and the "lone wolf" provision for terrorism investigations, which allows a single individual to fall under the extraordinary, secretly administered foreign surveillance powers otherwise reserved for use against agents of foreign governments or organizations.

Mr. SENSENBRENNER. Madam Speaker, I do not intend to oppose the motion to instruct, and I ask unanimous consent that I may control the 30 minutes that I have been allotted.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. BOUCHER. Madam Speaker, I yield myself 4 minutes.

Madam Speaker, I rise today in support of the Boucher-Rohrabacher-Mack motion to instruct the conferees to recede to the Senate with respect to sunsetting in 4 years the libraries and book stores, roving wire taps and loan wolf provisions of the USA PATRIOT Act.

The most effective way for Congress to maintain oversight of the most controversial powers that the PATRIOT Act conveys is to sunset those provisions within a reasonable period of time. In past years, well before the December 2005 sunsets contained in the original PATRIOT Act, we asked the Department of Justice how it was using the authorities that had been granted to the Department by the original act. Some questions simply went unanswered. Other questions were rebuffed, and we were told that the information was classified. And still others were avoided by telling us that the information simply was not available.

All of that changed in April of this year when the Department of Justice realized that straight reauthorization of the PATRIOT Act would not happen without serious answers to our reasonable questions. Suddenly, numbers and examples were no longer unavailable. Suddenly, the information we had long been seeking was provided. I have no doubt that if 16 provisions of the original act were not scheduled to sunset at the end of this year, we would still have little information on how these new authorities were being used.

If we have learned one thing over the last 4 years, it is that we will not get answers to our questions unless the Justice Department is compelled to come before us and justify its use of the more dangerous and intrusive powers that the law confers. Remember, sunsets do not in any way hinder law enforcement's use of the powers the PATRIOT Act confers. They merely ensure accountability and oversight, which are particularly important with respect to the three controversial provisions that are at issue today.

Section 215 of the law puts personal records, including library, bookstore and medical records, up for grabs by law enforcement with no requirement that the person whose records are sought be suspected of involvement in a crime. All law enforcement has to say is that the information is relevant to an investigation. It could be an investigation of someone the person has never met and about whom the person has no knowledge.

Moreover, an organization may not tell someone they have turned over his private information. So people have no way of knowing when their privacy has been intruded upon. Earlier this year, the House, by a wide margin, voted to bar enforcement of this overly broad provision. But the House bill reauthorizing the act with some changes perpetuates it for 10 years, and I think that that is inappropriate. The Senate bill sunsets this provision in 4 years. Our motion to instruct directs conferees to adopt the 4-year sunset provision.

Section 206, John Doe roving wiretaps, allows law enforcement to obtain a single court order to tap any phone it believes a foreign agent would use, instead of getting separate orders for each phone. Moreover, the government is not required to name the target which allows wiretaps on phones of virtually anyone meeting the description of a John Doe. The combination of allowing blanket tapping of, for example, all of the pay phones in a target's neighborhood or the phones of all of his friends and relatives, combined with the ability to wiretap a vaguely described John Doe, means that roving John Doe wiretaps require so little specificity that they can easily be abused.

Sunsetting this provision in 4 years will allow Congress to revisit how this authority is being used and whether it continues to be necessary.

Reinstating is about accountability. This motion to instruct would simply assure that we have the authority to carry it out.

Madam Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I think it is important for the Members to note that the motion to instruct deals specifically with the "lone wolf" provision and sunsets that. The lone wolf provision was not passed as a part of the PATRIOT Act in October 2001, but was included as a part of the intelligence bill which was enacted into law a little bit less than a year ago. So as a result, the committees and the public have not been able to have as extensive oversight and for as long a period of time as the other 16 provisions that were sunsetted in the act which the President signed in October 2001.

So I think it is appropriate to have a sunset on the lone wolf provision simply because we do not have the experience of being able to examine what the Justice Department has done with this new and expanded authority.

On the other hand, let me say that we are negotiating with the Senate at the present time on what the length of the sunset is, and I think that the sunset on this provision will be longer than 4 years, and the sunset on the other two provisions that were contained in the House-passed bill will be shorter than the 10 years that the House of Representatives placed in the bill, which was passed and sent over to the other body.

Having said all of this, I would like to make a couple of points. First of all, finding out what a Department or an agency of the executive branch is doing is entirely the prerogative of the committee that has the responsibility for the oversight and of its Chair. I have been extremely vigorous, since the enactment of the PATRIOT Act, in doing oversight over what the Department of Justice has done relative to that law, and I am happy to say that most of the oversight letters that have been sent to the Attorney General have been cosigned by the gentleman from Michigan (Mr. CONYERS), ranking member of the Judiciary Committee.

We have been kind of like tough school marms with the Department of Justice because when they were late and when they were nonresponsive to the questions, we required the Department of Justice to come up with responsive answers, and those responsive answers we placed on the committee's Web site so that anybody with Internet access could be able to find out what the questions were and what the answers were, with the exception of responses that were classified and which were sent to the Intelligence Committee rather than to the Judiciary Committee.

In addition to the oversight which was done, the original PATRIOT Act requires the Inspector General of the Department of Justice to report twice a year to the relevant committees of Congress the number of civil liberties violations that have been found against the Department of Justice as a result of its exercising the increased and new requirements and powers in the PATRIOT Act. We have received those reports by the Inspector General of the Department of Justice on a regular and on a timely basis, and the answer to how many civil liberties violations have been proven is none. Repeatedly they have said there are no civil liberties violations that the Inspector General has been able to uncover.

Further, I resisted a premature repeal or extension of the sunset prior to this Congress because I felt it was important that the oversight be done for as long a time as possible so that the Congress will be able to look over the shoulder of the Department of Justice and find out whether or not they were doing it the right way or whether or not they needed a tap on the shoulder from Capitol Hill for improvements in their methods of operation.

When we did get to this Congress with the oversight being completed and the sunset approaching, I fulfilled the promise that I made to the public and anybody who asked that we would be doing a section-by-section review of the expiring sections of the PATRIOT Act. The House Committee on the Judiciary had 12 separate hearings on the PATRIOT Act's sunset provisions. There were minority witnesses at all of the hearings except the one where the Attorney General and the one where the Deputy Attorney General appeared to testify. There was plenty of time for questions by every member of the committee.

As a result of all of those hearings, we found that all but two or three sections of the PATRIOT Act were essentially noncontroversial. Nobody was complaining about an abuse of power. Nobody had proved abuse of power. Nobody had alleged an abuse of power. And as a result, the House-passed bill eliminated the sunsets for those sections of the PATRIOT Act for which there was no complaint at these extensive series of hearings, and that is good policy. And if it is not good policy, then the message that is given downtown as well as to the public is that our oversight really does not make any difference. If the oversight shows they have been doing a good job, they ought to be rewarded.

Getting rid of the 14 of the 16 sunset provisions that were contained in the original PATRIOT Act does not mean that the Justice Department is not going to have the committee looking over its shoulder. We will do that; but, again, that depends upon the priorities of the committee and the priorities of its Chair. And as long as I am the chairman of the committee, there will be vigorous oversight of the Department of Justice, not only on how they are handling the PATRIOT Act but how they are handling all of the other laws that the committee has oversight jurisdiction over.

Because the motion to instruct only relates to the lone wolf provision and I believe that because we have had a much shorter period of time in viewing how they have dealt with the lone wolf provision because it was passed 3 years after the original PATRIOT Act was enacted into law, I think this motion to instruct is a proper one, although I do think that the difference between 4 years and 7 years still should be negotiated with the Senate. But because the gentleman from Virginia is 95 percent to where we ought to be, I am going to vote for it, and maybe he will be a little bit more flexible with the other 5 percent.

Madam Speaker, I reserve the balance of my time.

Mr. BOUCHER. Madam Speaker, I yield myself 30 seconds.

For basis of clarification, the motion to instruct that we have put forward applies to lone wolf, as the gentleman from Wisconsin indicates.

□ 1530

But it also applies to sections 206 and 215. The House sunsets those in 10 years, and we would instruct conferees to adopt the Senate 4-year sunset. I wanted to be sure that was well understood.

Madam Speaker, I reserve the balance of my time.

Mr. ROHRABACHER. Madam Speaker, first and foremost, I yield myself a moment here to thank the gentleman from Virginia (Mr. BOUCHER) for the time that he has yielded us and shown good faith with us in having an honest discussion of this very significant issue.

Madam Speaker, I yield for the purpose of making a unanimous consent request to the gentleman from Idaho (Mr. OTTER).

Mr. OTTER. Madam Speaker, I rise in support of the motion to instruct.

We have heard much from many sides about the USA PATRIOT Act—concerns about what the bill does, statements about what it does not do, and fears about what it could do in the future. We have shared these discussions with constituents, state and local officials, businesses, librarians, and other government agencies.

But earlier this year we had an important opportunity to move those conversations back to Congress to examine—in a light much more clear and objective than that in which we passed the original bill—how the PATRIOT Act has protected us from further terrorist attack, and also how balance between national security and personal security needs to be restored.

As a result of the opportunity to debate, deliberate, and discuss, we made important changes to the original USA PATRIOT Act in H.R. 3199, changes that enable law enforcement to continue to investigate and prosecute crime while protecting civil liberties. Congress was able to go back and make those changes because the original bill included a sunset and made many questionable provisions subject to it.

This sunset served us well, and so I am perplexed that in the same bill where we made vital revisions to the USA PATRIOT Act we also eliminated many of the sunsets and extended others for a decade or more. In doing so, H.R. 3199 takes away from Congress the opportunity to periodically review these provisions and ensure that the tools they provide law enforcement are necessary and that they are not being abused.

I am glad that, in respect to Sections 206 and 215 of the USA PATRIOT Act, the Senate did not act as rashly as we did. I strongly urge conferees to see the wisdom of four-year sunsets for these sections, as passed by the Senate, and I ask my colleagues to join me in supporting this motion to instruct.

Mr. ROHRABACHER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of this motion to instruct conferees on the PATRIOT Act. Let me note that I am one of several, if not many, Members of Congress who feel that it was an act of bad faith on the part of those in this body who turned the temporary sunsetted provisions of the PATRIOT Act into permanent law for the United States of America.

I supported the PATRIOT Act and would have again voted for the PATRIOT Act as it was when we first voted for it, except now we end up with a PATRIOT Act that permanently changes the balance of power in the United States between the police power and the limitations of power of the policing authorities of the Federal Government. That, I do not believe, should be tolerated by those of us who love liberty and justice and feel that limited government is vital to the protection of freedom.

Second of all, let me note that any, any investigation or hearings that we have had so far into the PATRIOT Act are irrelevant to the issue at hand, the issue at hand as to whether or not we have permanently changed this law and whether in the future there could be abuse. I would say, along with many others, that by permanently granting these excessive powers, or extended powers, to the Federal Government in a time of war and then permanently extending it so that now it is the norm for a time of peace is asking for abuse. So whatever hearings have been held so far in this conflict are irrelevant.

On September 11, our country was attacked and we saw 3,000 Americans slaughtered before our eyes, and it totally justified the major expansion of the police and investigative powers of our government. I voted for the PATRIOT Act, as I just said, and I continue to support its provisions as a necessary expansion of police powers in order to prosecute this war on Islamofacism. They declared war on us every bit as much as the Japanese declared war on us on December 7, 1941.

However, as I said in the original bill, sunset provisions were placed in all of these expanded police powers that were going to enable us to protect our people in this time of war. It was a consensus that when the war was won, it was a consensus when this war was won, those powers would be rescinded and their purposes would have then been served.

The expanded authority we are talking about in terms of eliminating these sunsets in the current bill, this has nothing to do with fighting the war or winning the War on Terror. It has everything to do with using that war as an excuse to permanently change the way we do business in the United States. The standard we set for a war when we are at war with radical Islam should not be the new standard set for America once that war is over. It is as simple as that.

I support the expansion of those powers until we win that war. But we cannot, and this is what we have been handed, a bill that permanently does it so our way of life is changed after the war is over.

The special grants of police power that we have approved we believe should only last for the duration of the war, and we must demand at least a forced reexamination of these provisions to ensure that winning the War on Terror does not result in a permanent change of our way of life.

Of course, we are not here to debate the PATRIOT Act again. Today, we are limited to instructing conferees to adopt the Senate's version of the bill, which would sunset in 4 years the same two provisions that the House bill would sunset in 10 years. The rest of the expansion of the police powers, such as the sneak-and-peak searches, Internet and credit card seizures, the lowering of standards for logging all calls dialed from one particular phone, and the rules against discussing property seizure, all without the traditional warrants that would be required for those activities, have been made permanent in U.S. law. The two provisions being allowed to sunset, as one might expect, are the most questionable of the lot.

Specifically, section 206 of the House version of the PATRIOT Act extends to Federal authorities for 10 years until 2015 the right to employ roving wiretaps, whether they have the name of a specific suspect or location notwithstanding. This should be reexamined before 10 years has lapsed if for no other reason than to just understand whether or not this tool is working for us in the War on Terror. Is it achieving the goals that it set out to achieve in this war?

The Senate version sunsets the clause in 4 years; that is much more responsible. Let us come back and reassess it. That is reasonable.

Section 215 will also be sunsetted in 2015 in the House version rather than in the 5 years in the Senate bill. This section allows for law enforcement to examine library and financial records of any person in connection with a Federal investigation. This provision is possibly the most controversial in the entire bill. My colleagues on one side of the aisle say that this is an unconscionable invasion of privacy, never justified, even in wartime. Others, however, argue that this particular provision is rarely, if ever, used, so why worry about it?

Well, let us be frank and admit that searching library and financial records of our citizens is hugely intrusive, even if it is rarely used. Nonetheless, this section 215 may be needed in a time of war to secure our country and to make sure our people are safe.

While granting the expansion of this police power with a reasonable time limit, such as the expansion of a shorter term of years to ensure section 215 is not abused, that seems reasonable. But it may, again, 215 may be justified now. We may have a justification to find out if someone who checked out a book on radical Islam has also checked out books on how to make bombs. That is why sunsetting this provision 4 years from now, rather than 10 years, is the right thing to do. We do not want to have that kind of power in the hands of the Federal police authorities after this war is over.

Finally, we need to ask, why do the radical Islamists hate us? They hate the openness of our society. They hate our tolerances, our belief in the equality before the law, the right of those of other faiths to worship, and the right of us to express our beliefs. In short, radical Islam is the enemy of freedom; thus, they are our enemy.

If we permanently alter the traditional limitations of our government here in America, the terrorists have won. They have changed our way of life. During no war in the past, whether World War II or the Cold War, were the police powers of the Federal Government permanently changed so that after the war a new standard of government would exist.

Well, Ronald Reagan would never have supported such an expansion of Federal power and neither should we.

I ask my colleagues to vote on this motion to instruct conferees, and I would ask them to search their consciences about voting for a new PATRIOT Act at all that threatens to permanently change the American way of life.

Madam Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Madam Speaker, I am really disappointed that the gentleman from California (Mr. ROHRABACHER), whom I consider to be my friend, has said that the extensive oversight and the 12 hearings that the Judiciary Committee has done on a bipartisan basis is irrelevant. Because what he is saying is that the results of that oversight and the results of those hearings really do not make any difference when we are dealing with the extension of the PATRIOT Act.

I think they do. Because if you accept the argument that he has made, then the Congress should never do oversight because the results of the oversight are not going to make any difference in the policy.

To repeat myself, first, the Inspector General has not found a civil liberties violation. Secondly, of the 16 provisions where law enforcement powers were expanded, there were no allegations of misuse by the Justice Department in 14 of those 16 provisions. And when we had the hearings before the Judiciary Committee Subcommittee on Crime, the minority had at least one and, in some cases, two witnesses that could come in and present any information that they wanted to present.

Now, the way we make sure that there is not government overreaching in our system of government is to give the courts the power to declare unconstitutional overreaching by government agencies. The fourth amendment is alive and well, and the Supreme Court of the United States will never allow the Congress or State legislatures to ignore the provisions of the fourth amendment.

There has been not one of the 16 expanded powers in the PATRIOT Act, signed by President Bush in October of 2001, that has been declared unconstitutional. There has been no declaration of unconstitutionality of any of those powers. But what has been declared unconstitutional was a provision on national security letters that was put in the PATRIOT Act as a renumbering, but which was enacted as a result of a bill that originated in the other body in 1986. That bill was signed by President Ronald Reagan.

To the gentleman from California, you are wrong.

Madam Speaker, I reserve the balance of my time.

Mr. BOUCHER. Madam Speaker, I am pleased to yield 4 minutes to the distinguished ranking member of the House Committee on Intelligence, the gentlewoman from California (Ms. HARMAN).

Ms. HARMAN. Madam Speaker, I thank the gentleman for yielding me this time and I commend him for his leadership. And I am pleased to see that, so far, this debate has all been in favor of support of this motion to instruct, which I think is a very important statement for this House to make.

Madam Speaker, I take my responsibilities as ranking member of the Intelligence Committee very seriously. I spend a lot of my day and a lot of my weekend, and most of my nights thinking and dreaming about how I can add value to protecting Americans and American interests.

Earlier today, hotels in Amman, Jordan, were bombed. Over 50 people are dead, scores are wounded. The terrorists are there, and let us not make any mistake about it, they are trying to be here again. So it is absolutely correct that we need modern and appropriate legal authorities to find them, and prevent and disrupt their plans before they are able to execute them. Prevention and disruption is much better than response, and I think everyone in this Chamber is dedicated to making sure we have the right tools. That is why the PATRIOT Act passed 45 days after 9/11, overwhelmingly, and that is why the House bill passed again recently by a large margin.

However, consistent with statements that Mr. ROHRABACHER has just made, as we give these expanded authorities, we also need to assure the law-abiding public of America that we will be vigilant in supervising these authorities. Not just today, not just in the oversight hearings we held during this last year and, yes, we held a lot of them, but tomorrow and next year and the year after.

Having sunsets for these controversial provisions matters. That is why in the Intelligence Committee Mr. RUPPERSBERGER and Mr. HASTINGS offered amendments to impose sunsets. Some amendments passed, but they did not survive in the final House bill.

Sunsets are a good idea, and I think with very strong bipartisan support in this Chamber, that these new authorities need to carry with them the promise that Congress will be vigilant and, that 4 years from now, we will reconsider whether they are necessary.

Let me also add a word about national security letters, which were a remedy designed in the 1970s.

I think national security letters, a tool not in the PATRIOT Act, need to be reviewed as well by this House, and I think we need to consider whether the authority is too broad or whether, using a magistrate system or some other system, they should be reviewed before they are issued. They should not become the backdoor route to using PATRIOT Act authorities without going through this careful system we have set up.

So, in conclusion, Madam Speaker, it is a dangerous world. We need the tools necessary to find the so-called "bad guys" before they attack us, but we also need the tools necessary to assure law-abiding Americans that we are paying careful attention, and that the Congress, an independent branch, will not now, not ever, let down our responsibility to safeguard civil liberty for American citizens.

☐ 1545

Mr. ROHRABACHER. Madam Speaker, I yield 1½ minutes to my colleague from Florida (Mr. MACK).

Mr. MACK. Madam Speaker, first of all I want to associate myself with the comments made by my colleague from California and also to state for the record that I support the motion to instruct. I also would like to thank the chairman for his comments today regarding the motion to instruct.

I ran on a platform of freedom like most people did in this Congress. And I believe it was Ronald Reagan, and I am paraphrasing, who said freedom is a fragile thing that must be defended by each generation. And that is what I am here to do. That is what I am here to do today. I believe that we ought to look for other or additional sections of this bill to sunset, but I am happy to see that this Congress is taking a hard look at the provisions and the sections that have already been mentioned to ensure that the freedoms that our families enjoy and the people in this country enjoy so much will be protected.

I also understand the arguments that have been made about the oversight of the committee; and, Mr. Chairman, I know that as the chair of that committee that will be done. My concern is for future generations and to make sure that none of the freedoms that Americans enjoy today will ever be taken away from them in the future.

Mr. BOUCHER. Madam Speaker, I yield 3 minutes to the gentleman from New York (Mr. NADLER), a distinguished member of the House Judiciary Committee.

Mr. NADLER. Madam Speaker, I rise in support of the motion to instruct.

This bill makes permanent the most dangerous and intrusive provisions of the PATRIOT Act, 14 of the 16 previously sunsetted provisions. The remaining two sunsetting provisions are renewed for 10 years. Ten years is not a sunset. Ten years is quasi-permanent.

These provisions are particularly worrisome because they expand the powers of the police to pry into the privacy of ordinary Americans, to go into their homes, into their papers, into their Internet records, their telephone records, their medical records, their bank records.

Reinstating the sunset is about accountability. The breadth of these provisions providing for roving wiretaps, for sneak-and-peek searches, for invading library privacy and section 505, expanding the use of national security letters invites abuse.

The administration assures us, the chairman assures us that these provisions have not been abused. But how do we know? It is all secret. We were told repeatedly that section 215 we should not worry about; it is rarely if ever used to demand library records. Now we know why.

The Washington Post revealed last Sunday that the FBI issues more than 30,000 section 505 national security letters a year, many to libraries for "preliminary investigations and threat assessments" before deciding whether or not to launch an investigation. These tens of thousands of invasive government demands for sensitive and private information which never even go before a judge have resulted in the collection of probably hundreds of millions of personal facts regarding innocent Americans, innocent American residents, citizens, and businesses. And the Bush administration has decided to file all this personal information in government databases even if no basis is found for a real investigation and they will not even rule out selling this information to private conditions.

Sunsets have been the major check, albeit probably inadequate checks, on abuse of the PATRIOT Act. They mean that at least every 4 years Congress is required to look at the law again, to revisit it, and has the opportunity to ask tough questions on the use or abuse of these powers, and most important, the administration cannot stonewall these questions except for every 4 years.

We should have to look into these burdens on our civil liberties at least one in four years and ask are these powers being abused, should they be fine tuned? Should they be narrowed? Have we made the right balance between security and liberty? What can we do to ensure that our constitutional rights are not violated?

I wish, Madam Speaker, that this motion to instruct were broader than it is, that it kept all the sunsetting provisions from being made permanent. The FBI will still have all the powers it needs. It will simply have to hold itself accountable to Congress and the American people every 4 years about how these powers are used. Why is that so terrible?

I call on all my colleagues, Democrats and Republicans, liberals and conservatives, to begin to safeguard the national security, not adequately, but to begin to safeguard the civil liberties of all Americans by voting for this very, very skimpy motion to instruct.

Mr. ROHRABACHER. Madam Speaker, I yield myself the balance of my time.

The discussion today is not whether or not the Federal Government after 9/11 should have had expanded police powers and investigative authority. That is not the issue. And I voted for that expansion of the police power, just as most of my colleagues on the other side of the aisle and all of my colleagues on this side of the aisle did, almost all of my colleagues on this side of the aisle voted. That is not the question, because when we voted for those expansions, we put in a sunset clause that after a certain number of years, 4 years, that the issues of those expanded authorities would be re-examined.

The only question at hand in the debate today is whether or not those expanded powers for wartime expansion in the war against radical Islam should be made permanent even now in this time of crisis. This is not a good strategy for free government to change permanently its law during a moment of crisis. I would vote for the PATRIOT Act again because I think that these powers that were just described are needed at this moment, even the ones that were just described by my friends on the other side of the aisle.

But that still does in no way justify permanently expanding those powers so that once the gentleman from Wisconsin is no longer here to conduct hearings that the Federal Government still has those powers perhaps for people who are less, let us say less responsible than Mr. SENSENBRENNER in overseeing those expanded powers. Our Founding Fathers understood limitations on government is a guarantee of freedom. Now is not the time for us to permanently change law and permanently put freedom at risk.

Mr. BOUCHER. Madam Speaker, I yield 3 minutes to the gentleman from Maryland (Mr. HOYER), the distinguished minority whip of the House.

Mr. HOYER. Madam Speaker, I thank my friend for yielding, and I urge my colleagues to vote for this important motion to instruct on the PATRIOT Act. Like so many, I voted for the PATRIOT Act the first time and the second time. But I agree with the gentleman from California and the gentleman from Virginia, and as I understand it, perhaps the chairman as well. I simply do not understand the reticence to include sunset provisions on a law that affects the civil liberties of every American citizen.

In fact, when we reauthorized the PATRIOT Act in July, the Republican bill permanently authorized 14 of the 16 provisions. The other two provisions, one for roving wiretaps and the other dealing with the FBI's power to demand business records, were extended for 10 years. Democrats fought to sunset these provisions last summer; and we do so again today, apparently successfully, because, I think, people have, upon reflection, thought that this is a better policy. Because when it comes to the government's power to intrude on the private lives of citizens, the United States Congress should not give the government unchecked power to do so.

Just last Sunday the Washington Post documented, and it has been referenced here, the hundredfold increase in the issuance of national security letters seeking information about U.S. citizens and visitors who are not even alleged to be terrorist or spies. There are terrorists. Terrorism is a serious threat, and we need to be serious in our response. But privacy concerns must not be casually dismissed. In fact, it was not until several sections of the PATRIOT Act were set to expire that the Justice Department began to respond to congressional inquiries and we had the opportunity to assess, examine, and recalibrate our policies.

I submit to my colleagues they have given the Justice Department carte blanche. No matter how good the leadership is in the Justice Department, it is not a policy that we ought to pursue and would be an abdication of our congressional oversight responsibility and contrary to the interests of the American people.

Madam Speaker, this motion would recede to the Senate and create a 4-year sunset on the most controversial provisions in the PATRIOT Act, orders by the secret Foreign Intelligence Court, blank wiretap orders and the surveillance of agents of a foreign power who act alone. This motion, in my opinion, is a step in the right direction, and I hope the Members support it.

As I said, and I will echo the comments of so many here, terrorism is an immediate and proximate threat, as we lawyers say; and we need to respond effectively to keep America safe. But in the process, we must also protect the basic rights that our Founding Fathers knew were the bedrock of the United States democracy.

Mr. SENSENBRENNER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am the author of the sunsets that were put in the PATRIOT Act that was signed by the

President in October of 2001 because I agreed with what I heard from the gentleman from Maryland (Mr. HOYER), that we ought to look at what the Justice Department had done with these expanded powers. We have looked at those actions. We have looked at how those expanded powers have been utilized: and in 14 of the 16 cases, nobody had any complaint about how those expanded powers have been utilized.

Now, sunsets are very rare in congressional action. I am proud of the fact that I put the sunsets in almost 4 years ago. But what I will say is that we do not sunset a whole host of other programs. Social Security is not sunsetted, nor should it be. Amtrak is not sunsetted, maybe it should be, but it is not. And I have, I am looking at the Federal criminal code and the national security letters that have been complained of by people on the other side of the aisle; they are not sunsetted. The authority for the national security letters was passed in 1986 when, I recall, the current minority party had a significant majority in the House of Representatives.

Now, if sunsets were so important when we are dealing with the civil liberties of the people of the United States of America, why did you forget about them 19 years ago?

Madam Speaker, I reserve the balance of my time.

Mr. BOUCHER. Madam Speaker, I yield 2 minutes to the gentleman from Maryland (Mr. RUPPERSBERGER).

Mr. RUPPERSBERGER. Madam Speaker, I rise in support of the motion to instruct. Let me say up front that I think the PATRIOT Act provided essential tools that were not available before the 9/11 terrorist attacks. These tools are essential to identifying and tracking terrorists inside the United States, and that is the way it should be. It has to be national security first. But the PATRIOT Act was passed just 7 weeks after 9/11. When it was passed, there were concerns that some of the authorities were too broad or too susceptible to abuse. The proposal emerged to sunset 16 of the most controversial provisions. That was a sensible idea. The sunsets would allow the Justice Department and the public to evaluate the effectiveness of these provisions and decide whether there was a continuing need for them or a need to modify them.

The House bill includes important refinements to the PATRIOT Act passed 4 years ago. Honest people can disagree about whether these provisions were too broad or just right; but the point is, the sunset provisions worked. They compelled Congress to take a second look at key provisions in the PATRIOT Act and improve them. The sunsets forced us to have accountability as we expanded law enforcement authorities. That is a game plan that we should stick with. We should continue to scrutinize these authorities from time to time. That is why I offered an amendment to extend the PATRIOT Act sunsets during the Intelligence Committee markup of H.R. 3199.

□ 1600

Like my amendment, this instruction to conferees to accept the Senate sunsets would not alter the original PATRIOT Act authorities. After all, national security has to be our number one priority, but accepting the Senate sunsets would also force us to reevaluate again 4 years from now whether they are truly effective in fighting terrorism. Oversight and accountability is an essential element of the PATRIOT Act.

I would also like to respond to the chairman's point that there were not any abuses. The issue is not whether there were abuses. The issue is setting a system that we need to have in effect.

Mr. BOUCHER. Mr. Speaker, I yield 2 minutes to the gentlewoman from Texas (Ms. JACKSON-LEE), another distinguished member of the House Judiciary Committee.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I thank the gentleman from the Judiciary Committee for the wisdom of this motion, and I applaud the joining by the chairman of the full committee and offer an explanation for the reason our colleagues should join us in supporting this motion to instruct, and frame it in the context of the crisis of the recent weeks, asking Congress to accept its responsibility to investigate the CIA leaks and now to investigate further the leaking of the CIA sites, some call it sites of torture, incarceration, of individuals around the world who have been charged or are alleged to have committed acts of terrorism.

It is important now to speak to the American people and argue that this motion to instruct does simply one thing. It now brings the American people into the focus of being the priority of the actions of this Congress.

Yes, the PATRIOT Act in some minds has offered to provide us more protection. There were aspects of the PATRIOT Act that I did support. The original writing was a bipartisan product. Unfortunately, the ultimate product was not as bipartisan.

But what is bipartisan is our responsibility to protect the American people. The 4-year sunset gives us that opportunity so that we can begin in 4 years to assess whether authorizing secret intelligence, going into libraries and getting a list of your library books helps or hurts the American people; whether the authorizing of a blank wiretap helps or hurts the American people; whether or not the lone wolf, where you can be one individual, not part of a terrorist organization or an association or to be part of a large massive group, but one individual who may be part of, words may have suggested that they are giving some comfort to those whose views we disagree with can be hauled in as a terrorist. This sunset allows us to protect the American people.

Many of us are familiar with the recent film that said "Good Night and Good Luck." It reminded us of the days of the McCarthy era when no one seemed to want to rise to support the rights of the American people. I ask my colleagues to support this motion to instruct and sunset in 4 years so Congress can have the ability to protect the rights of the American people.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the motion to instruct currently pending.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

Mr. SENSENBRENNER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, we have had a pretty extensive debate on this motion to instruct. I think the motion to instruct is constructive and would urge the Members to support it.

On the other hand, after listening to the debate that has been going on here for the last 40 or 45 minutes or so, what we have heard from the people who have complained about the PATRIOT Act is the potential for abuse rather than abuse itself. I would point out that there is a potential for abuse of practically everything law enforcement does.

There is a tremendous amount of discretion that the law and the Constitution have given to our law enforcement personnel, to our prosecutors, to those who apply for search warrants as well as other tools that law enforcement utilizes to keep us safe and to try to track down those who commit crimes or who conspire to commit crimes or acts of terrorism.

I do not know why there seems to be a greater suspicion that law enforcement already abuses provisions under the PATRIOT Act rather than other provisions of law which are not sunset, including the national security letters, because the facts simply are not there that there has been abuse.

What I would like to ask the Members as we are debating the PATRIOT Act as it goes forward through conference and to the floor is to look at what the Justice Department has done; and where the Justice Department has done it right, the Justice Department should be told they have done it right.

And that means eliminating the sunsets from those areas where it has done it right.

And where there has to be a greater scrutiny on it, such as the two provisions in the House-passed bill and the lone wolf provision that are being talked about, we can talk about future sunsets; and I support the concept of doing that.

But simply going around and painting with a broad brush the Justice Department for the potential of abuse which has not happened, I think, is unfair and does not go to the debate of whether the PATRIOT Act has actually served to protect the people of the United States without trampling on their civil liberties. It has done that.

That is why it is a good law and that is why some provisions should be made permanent and some provisions should be sunsetted to be looked at in the future.

Mr. Speaker, again I urge the Members to support the motion to instruct. When we come back with a conference report, I will urge the Members to support that as well.

Mr. Speaker, I yield back the balance of my time.

Mr. BOUCHER. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, first of all, I want to commend the gentleman from California (Mr. ROHRABACHER) and the gentleman from Florida (Mr. MACK) for partnering with us and structuring this motion to instruct conferees. I want to express appreciation to the gentleman from Wisconsin (Mr. SENSENBRENNER) for his constructive comments and for his support of the motion to instruct.

The motion to instruct promotes accountability. It assures that we remain in a strong position in our oversight function. Recent history clearly shows that in the absence of a near-term sunset we will not get answers to our questions about how controversial law enforcement powers are being used. In the absence of a near-term sunset, we cannot ensure that civil liberties are being protected.

This is not a matter about what the Department of Justice has done in the past, and I differ with the gentleman from Wisconsin on this matter. This is all about what the Department of Justice may do in the future. And having near-term sunsets will ensure that we can perform oversight over that performance.

Sunsets do not prevent law enforcement from using the broad powers the PATRIOT Act confers, but sunsets promote accountability. They ensure we get the information necessary to conduct oversight and to make decisions about whether powers that are subject to abuse should be contended.

Adopt this motion, let us adopt the Senate's 4-year sunsets and, in doing so, further the cause of protecting Americans' civil liberties. Mr. Speaker, I urge approval of the motion to instruct.

Mr. JONES of North Carolina. Mr. Speaker, I rise in support of this motion to instruct.

The American people want us to protect them from the terrorists—but the American people also want us to protect their liberties and constitutional rights from an overreaching government.

Our system of government is made up of checks and balances and this motion to instruct only expands these checks and balances.

A review every 4 years is the right action to assure American citizens that their civil liberties are protected.

Let me close with a quote attributed to Patrick Henry:

> The Constitution is not an instrument for the government to restrain the people, it is an instrument for the people to restrain the government—lest it come to dominate our lives and interests.

I ask that we restore the Senate's Sunsets in the Conference Report.

Mr. UDALL of Colorado. Mr. Speaker, I am voting for this motion to instruct because I think it is absolutely necessary, although I do not think it is sufficient. The motion will instruct the House's conferees to accept the provisions in the Senate version of the legislation that will establish four-year sunsets on three things.

These sunsets would apply to:

(1) Section 215 of the PATRIOT Act, which allows the secret Foreign Intelligence Surveillance Court to issue orders for any tangible thing—including business, library, and medical records—to anyone, as long as it is relevant to a terrorist investigation;

(2) Section 206 of the PATRIOT Act, which allows law enforcement officials to track a particular suspect by tapping multiple communication devices, as opposed to a single mode of communication; and

(3) The so-called "Lone Wolf" Provision of the Intelligence reform legislation, which allows the government to conduct surveillance on "lone wolf" terrorist suspects, who are not connected with a foreign power or recognized organization.

One of the reasons I voted against the PATRIOT Act when it was first considered by the House was my concern that the "sunset" clauses were too generous, meaning that the provisions covered by those clauses would remain in effect too long without the need for Congressional reconsideration. That was also a major reason I voted against H.R. 3199 earlier this year.

So, I definitely agree that the conferees should accept the Senate bill's shorter sunset periods for these three provisions. However, I think it would be even better for the conferees to go further.

In particular, I think the conference report should include provisions along the lines of the bipartisan reform measure, known as the Security and Freedom Ensured (SAFE) Act of 2005 (H.R. 1526), of which I am a cosponsor. That bill would amend the PATRIOT Act to modify provisions regarding roving wiretaps under the Foreign Intelligence Surveillance Act of 1978 (FISA) to require that:

(1) an order approving an electronic surveillance specify either the identity of the target, or the place to be wiretapped; and

(2) surveillance be conducted only when the suspect is present at the place to be wiretapped.

It also would revise the PATRIOT Act's provisions governing search warrants to—

(1) Limit the authority to delay notice of the issuance of such a search warrant to circumstances where providing immediate notice of the warrant will endanger the life or physical safety of an individual, result in flight from prosecution or the intimidation of a potential witness, or result in the destruction of or tampering with the evidence sought under the warrant; and

(2) Require such delayed notification to be issued within seven days (instead of a "reasonable period"), with extensions by the court for additional periods of up to 21 calendar days each time that the court finds reasonable cause to believe that notice of the execution of the warrant would have such consequences. It also would require the Attorney General, on a semiannual basis, to transmit to Congress and make public a report concerning all requests for delays of notice and for extensions of such delays.

The SAFE bill also would amend FISA to require, with respect to access by the Federal Bureau of Investigation to business records for foreign intelligence and international terrorism investigations, that there be specific and articulable facts giving reason to believe that the person to whom the records pertain is a foreign power or agent.

It would specify that libraries will not be treated as wire or electronic communication service providers under provisions granting counterintelligence access to provider subscriber information, toll billing records information, or electronic communication transactional records.

And it would redefine "domestic terrorism" to mean only activities that involve acts dangerous to human life and that constitute a Federal crime of terrorism.

The broad support for such changes in the Patriot Act is shown by the fact that the SAFE bill is cosponsored by many Members from both sides of the aisle. It is also shown by the fact that over the last four years more than 300 communities and seven States, including Colorado—governments representing over 62 million people—have passed resolutions opposing parts of the PATRIOT Act.

Much of that public concern—a concern I share—has focused on the possible effects on the privacy of patrons and customers from the application of section 215 of the "PATRIOT Act" to libraries and bookstores. I think the conference report should include restrictions on the application of section 215 similar to those that would have been imposed by the Sanders amendment to the Justice Department's fiscal year 2006 appropriations bill—an amendment that the House approved earlier this year by a vote of 238 to 187.

Mr. Speaker, when the House debated this bill earlier this year, I said that my reaction to it was similar to the one I had to the original "PATRIOT Act" legislation 4 years ago. As I did then, I strongly support combating terrorism, here at home as well as abroad. But I continue to think that it is essential that we remember and respect the constitutional rights of law-abiding Americans as we wage war against those who would destroy both our Constitution and our country. In fact, I think that if we don't do that we will lose much of what we are seeking to defend.

I voted against the bill as it came to the House floor because I concluded that it did not strike the right balance, and should not become law in its present form. But I am hopeful that the bill will be further improved and the conferees will produce a revised version that deserves the support of all Members of Congress.

Mr. BOUCHER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. Without objection, the previous question is ordered on the motion to instruct.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to instruct offered by the gentleman from Virginia (Mr. BOUCHER).

The motion was agreed to.

A motion to reconsider was laid on the table.

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees:

From the Committee on the Judiciary, for consideration of the House bill (except section 132) and the Senate amendment, and modifications committed to conference: Messrs. SENSENBRENNER, COBLE, SMITH of Texas, GALLEGLY, CHABOT, JENKINS, CONYERS, BERMAN, BOUCHER, and NADLER.

Provided that Mr. SCOTT of Virginia is appointed in lieu of Mr. NADLER for consideration of sections 105, 109, 111–114, 120, 121, 124, 131, and title II of the House bill, and modifications committed to conference.

From the Permanent Select Committee on Intelligence, for consideration of sections 102, 103, 106, 107, 109, and 132 of the House bill, and sections 2, 3, 6, 7, 9, and 10 of the Senate amendment, and modifications committed to conference: Mr. HOEKSTRA, Mrs. WILSON of New Mexico, and Ms. HARMAN.

From the Committee on Energy and Commerce, for consideration of sections 124 and 231 of the House bill, and modifications committed to conference: Messrs. NORWOOD, SHADEGG, and DINGELL.

From the Committee on Financial Services, for consideration of section 117 of the House bill, and modifications committed to conference: Messrs. OXLEY, BACHUS, and FRANK of Massachusetts.

From the Committee on Homeland Security, for consideration of sections 127–129 of the House bill, and modifications committed to conference: Messrs. KING of New York, WELDON of Pennsylvania, and Ms. ZOE LOFGREN of California.

There was no objection.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1751.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

SECURE ACCESS TO JUSTICE AND COURT PROTECTION ACT OF 2005

The SPEAKER pro tempore (Mrs. CAPITO). Pursuant to House Resolution 540 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1751.

□ 1610

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1751) to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

The gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentlewoman from Texas (Ms. JACKSON-LEE) each will control 30 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in support of H.R. 1751, the Secure Access to Justice and Court Protection Act of 2005.

Violent attacks and intimidation against courthouse personnel and law enforcement officers present a threat to the integrity of the justice system that Congress has a duty to confront. The murder of family members of United States District Judge Joan Lefkow, the brutal slayings of Judge Rowland Barnes, his court reporter, his deputy sheriff, and a Federal officer in Atlanta, and the cold-blooded shootings outside the Tyler, Texas, courthouse all underscore the need to provide better protection for judges, courthouse personnel, witnesses, law enforcement and their family members.

This bill is an important bipartisan measure introduced by the gentleman from Texas (Mr. GOHMERT) and the gentleman from New York (Mr. WEINER). It will help address the problem of violence in and around our Nation's courthouses.

Statistics show that aggravated assaults against police officers are a serious national problem. According to the Bureau of Justice Statistics, 52 law enforcement officers were killed in the United States in 2002 and 56 were killed in 2001. From 1994 through 2003 a total of 616 law enforcement officers were feloniously killed in the line of duty. Approximately 100 of these officers were murdered after being entrapped or ambushed by their killers. These attacks are simply unacceptable.

The lives of judicial personnel are also at great risk. According to the Administrative Office of the United States Courts, Federal judges receive nearly 700 threats a year and several Federal judges require security personnel to protect them and their families from terrorist associates, violent gangs, drug organizations and disgruntled litigants. The intimidation of judges directly assaults the impartial administration of justice our Constitution demands.

Court witnesses are also at risk. Threats and intimidation toward witnesses continue to grow, particularly at the State and local level. In 1996, a witness intimidation study by the Justice Department included that witness intimidation is a pervasive and insidious problem. No part of the country is spared and no witness can feel entirely free or safe.

Prosecutors interviewed in this study estimated that witness intimidation occurs in 75 to 100 percent of the violent crimes committed in some gang-dominated neighborhoods.

This bill passed the Committee on the Judiciary by an overwhelming vote of 26-5. The legislation enhances criminal penalties for assaults and the killing of Federal, State and local judges, witnesses, law enforcement officers, courthouse personnel and their family members.

□ 1615

It provides grants to State and local courts to improve security services and improves the ability of the United States Marshals to protect the Federal judiciary.

The bill also prohibits public disclosure, on the Internet and other public sources, of personal information about judges, law enforcement, victims and witnesses to protect Federal judges and prosecutors from organized efforts to harass and intimidate them through false filings of liens and other encumbrances against their property and improves coordination between the marshals and the Federal judges.

The bill also contains vital security measures for Federal prosecutors handling dangerous trials against terrorists, drug organizations, and other organized crime figures.

Finally, the bill incorporates key provisions of the Peace Officer Justice Act, legislation introduced by the gentleman from California (Mr. DREIER), to bring justice to those who murder law enforcement personnel and flee to foreign nations to escape prosecution and justice in this country.

The bill is supported by those on the front lines of our criminal justice system and is backed by the Conference of Chief Justices and the Conference of State Court Administrators; the Federal Bar Association; the Federal Criminal Investigators Association; and the Fraternal Order of Police; the National Association of Assistant U.S. Attorneys; the International Union of Police Associations AFL–CIO; the Major County Sheriffs' Association; the National Law Enforcement Council; the National Sheriffs' Association; the National Troopers Coalition; the International Association of Campus Law Enforcement Administrators; and the American Federation of State, County and Municipal Employees.

When judges, prosecutors, law enforcement and courthouse personnel speak in a clear and unanimous voice, we have a duty to listen and to act to give their members the tools and resources necessary for their protection.

Mr. Chairman, Congress has an obligation to ensure that America's courts and the brave men and women of law enforcement render justice without fear of assault or retaliation. Judges, witnesses, courthouse personnel, and law enforcement officers must operate without fear in order to administer the law without bias.

I urge my colleagues to strengthen the integrity of America's justice system and the security of court and law enforcement personnel by supporting this vital and bipartisan legislation.

Mr. Chairman, I reserve the balance of my time.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I might consume.

It is, I think, a very clear statement to make that we have faced extensive violence in our courts in recent times. The problem of violence and threats against judges, court officials, employees, witnesses, and victims is not a new one, but one that is growing rapidly.

Recent events, including the killing of a Fulton County judge and other court personnel in Atlanta, the murders of United States district judge Joan Lefkow's family members outside Chicago, Illinois, and the murders immediately outside the Tyler, Texas, courthouse have underscored the increasing significance of the problem.

According to the Administrative Office of United States Courts, there are almost 700 threats a year made against Federal judges; and in numerous cases, Federal judges have had security details assigned to them for fear of attack by members of violent gangs, drug organizations and disgruntled litigants.

With such tragic incidents, Mr. Chairman, we are in collaboration, if you will, on H.R. 1751, at least the premise, the Secure Access to Justice and Court Protection Act of 2005.

I commend the gentleman from Michigan (Mr. CONYERS), the ranking member, and the gentleman from Wisconsin (Mr. SENSENBRENNER), the chairman, for their collaborative efforts, and the gentleman from Texas (Mr. GOHMERT), my colleague, a former judge, and I guess one would say once a judge always a judge, who has taken the leadership on this issue.

None of us would step away from the purpose and the necessity of this legislation. In fact, I am very gratified to have secured an amendment that will allow State courts to establish a threat assessment database similar to that of the U.S. Marshals where they will be able to determine the threat status or situation against a respective court, and then, of course, to hopefully have an amendment that would pass that would provide grants to the highest State courts to be able to disseminate those moneys to create that database and that threat assessment database.

In addition, I would say that this hard work and commitment of Democratic members on the committee have also now provided for offers of grants to State courts so they can make meaningful enhancements to courtroom safety and security.

It provides the U.S. Marshal Service with an additional $100 million over the course of the next 5 years to increase ongoing investigations and expand the protective services it currently offers to members of the Federal judiciary.

It authorizes the Attorney General to establish a grant program for States to establish threat assessment databases.

Even with these valuable improvements, however, the bill still suffers from a number of fatal flaws, specifically its inclusion of 16 mandatory minimum sentences and its establishment of one new death-penalty-eligible offense.

Let me comment briefly on those mandatory sentences. Mandatory minimum penalties have been studied extensively; and the vast majority of available research clearly indicates that they do not, in many instances, work. Among many other things, they have been shown to distort the sentencing process to discriminate against minorities in their application and to waste valuable taxpayer money.

But the real emphasis is, although we are here today to protect our court systems and our court officials and our law enforcement officials, we are also here to recognize the discretion necessary for our courts; and in many instances, the judicial conference itself has indicated its desire to have more discretion in sentencing.

The Judicial Conference of the United States would see the impact of mandatory minimum sentences on individual cases, as well as on the criminal justice system as a whole, and has expressed its deep opposition to mandatory minimum sentencing over a dozen times to Congress, noting that these sentences severely distort and damage the Federal sentencing system. Yes, we must have deterrence, and I have supported enhancements of penalties, adding more time for individuals to serve; but at the same time, we must allow the courts to make that determination.

If heinous acts against our Federal courts have been perpetrated, then that judge hearing that particular case would then have the discretion to yield or to render, along with a jury and a jury trial, the highest sentence; but the mandatory minimum would not be there in place of a judge's discretion.

As I was saying, the Federal sentencing system, the Judicial Conference has said, and the mandatory sentencing undermine the sentencing guideline regimen established by Congress to promote fairness and proportionality and destroy honesty in sentencing by encouraging charge and fact plea bargains.

In fact, in a recent letter to members of the Crime Subcommittee regarding H.R. 1279, the Gang Deterrence and Community Protection Act of 2005, the conference noted that mandatory minimum sentences create the opposite of their intended effect. Far from fostering certainty in punishment, mandatory minimums result in unwarranted sentencing disparity, and mandatory minimums treat dissimilar offenders in a similar manner, although those offenders can be quite different with respect to the seriousness of their conduct or their danger to society.

So I would suggest that we are united around the necessity of this legislation. We must protect our courts and those officials. I might add that I hope that we will have further discussion about lawyers who are engaged in the practice of law in cases where they come under particular threats, whether it is in particular the prosecutor who is covered by this or defense lawyers and other lawyers who engage in cases which generate threats against their lives. We might consider hearings that would discuss that propensity.

I might also say that the inconsistent and arbitrary nature of mandatory minimum sentences is made readily apparent by a quick analysis of section 2 of the bill. Section 2 establishes a 1-year mandatory minimum with 10-year maximum criminal penalty for assaulting the immediate family member of a law enforcement officer or judge, if the assault results in bodily injury. However, just a few lines later in the same section, an identical criminal penalty is established for a simple threat.

So, Mr. Chairman, I think it is important that as we support this legislation that we also take note of some of the inconsistencies that might warrant consideration as this bill makes its way through the House, through the Senate and, of course, conference.

On the issue of the death penalty, let me suggest these few thoughts. In creating a new death-penalty-eligible offense for anyone convicted of killing a federally funded public safety officer, there is no disagreement in the value of our public safety officer. It is just whether or not in addition to such an offense of death penalty, whether or not a substitute of life imprisonment without parole could have equally been used. Expansion of the use of the Federal death penalty in the current environment seems to warrant consideration.

The public is clearly rethinking the appropriateness of the death penalty in general due to the evidence that it is ineffective in deterring crime and is racially discriminatory and is more often than not found to be erroneously applied.

I know that for a fact in a recent case we had in Texas, Frances Newton, a young woman accused of killing her children and her husband, a horrific and heinous crime, certainly one would suggest that she warrants the ultimate penalty. However, unfortunately, in petitioning to get a new trial on the basis of real definitive new evidence, the courts would not consider such; and, of course, Frances Newton has gone to her death. I believe that she has gone to her death with raising the question of whether or not she was, in fact, innocent or guilty.

In a 23-year comprehensive study of death penalties, 68 percent were found to be erroneously applied. So it is not surprising that 119 people sentenced to death for murder over the past 12 years been completely exonerated of those crimes.

This is a good bill. It would have been even better if we had considered life without parole and considered the viability or the necessity of creating a new eligibility for the death penalty.

I would ask my colleagues to consider this legislation.

Let me begin by saying that I strongly support the need to protect judges and court officials from threats and violence. Despite this fact, I do have major concerns with this bill. For example, H.R. 1751 proposes to add 16 new mandatory minimum sentences to the current criminal code. Mandatory minimum penalties have been studied extensively and the vast majority of available research clearly indicates that they do not work. Among other things, they have been shown to distort the sentencing process, to discriminate against minorities in their application, and to waste valuable taxpayer money.

The Judicial Conference of the United States, which sees the impact of mandatory minimum sentences on individual cases as well as on the criminal justice system as a whole, has expressed its deep opposition to mandatory minimum sentencing over a dozen times to Congress, noting that these sentences "severely distort and damage the Federal sentencing system . . . undermine the Sentencing Guideline regimen" established by Congress to promote fairness and proportionality, and "destroy honesty in sentencing by encouraging charge and fact plea bargains."

In fact, in a recent letter to Members of the Crime Subcommittee regarding H.R. 1279, the "Gang Deterrence and Community Protection Act of 2005," the Conference noted that mandatory minimum sentences create "the opposite of their intended effect."

Far from fostering certainty in punishment, mandatory minimums result in unwarranted sentencing disparity. Mandatory minimums treat dissimilar offenders in a similar manner, although those offenders can be quite different with respect to the seriousness of their conduct or their danger to society.

The inconsistent and arbitrary nature of mandatory minimum sentences is made readily apparent by a quick analysis of section 2 of the bill. Section 2 establishes a one year mandatory minimum (with a 10 year maximum criminal penalty) for assaulting the immediate family member of a law enforcement officer or judge—if the assault results in bodily injury. However, just a few lines later in the same section, an identical criminal penalty is established for a simple threat. Thus, the same section of the bill makes two completely different actions, with considerably varying outcomes, subject to the same term of imprisonment.

Furthermore, H.R. 1751 unwisely creates a new death penalty eligible offense for anyone convicted of killing a federally funded public safety officer. Expansion of the use of the federal death penalty in the current environment is patently unwarranted. The public is clearly rethinking the appropriateness of the death penalty, in general, due to the evidence that it is ineffective in deterring crime, is racially discriminatory, and is more often than not found to be erroneously applied. In a 23-year comprehensive study of death penalties, 68 percent were found to be erroneously applied. So, it is not surprising that 119 people sentenced to death for murder over the past 12 years have been completely exonerated of those crimes. Nor is it surprising with that such a lackluster record of death penalty administrations that several states have abolished the death penalty. For example, Connecticut has not executed anyone in 45 years.

Without a doubt, the increasing numbers of innocent people released from death row illustrates the fallibility of the current system. Last year, a University of Michigan study identified 199 murder exonerations since 1989, 73 of them in capital cases. Moreover, the same study found that death row inmates represent a quarter of 1 percent of the prison population but 22 percent of the exonerated.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield 6 minutes to the gentleman from Texas (Mr. GOHMERT), the author of the bill.

Mr. GOHMERT. Mr. Chairman, I thank the gentleman very much. I do appreciate the time. I appreciate all the assistance in this bill. The chairman has been wonderful in helping with this and making this a reality.

Mr. Chairman, I rise today in strong support of H.R. 1751, the Secure Access to Justice and Court Protection Act of 2005. This bill prevents, protects, and punishes. It prevents future attacks, it protects the entire courthouse family, and it punishes those who threaten the safety and security of our Nation's courthouses. The time has come to restore some sanity and security, and it is the responsibility of the government to assure our citizens have a safe courtroom.

The legislation will work to prevent future attacks in our Nation's courthouses such as what happened at my former courthouse in east Texas. That tragic day in February, we lost a brave man, Mark Wilson, who stepped up to attempt to save the lives of innocent citizens at the courthouse and was killed the same day. Also, Deputy Sherman Dollison was badly injured while he attempted to protect those at the courthouse. With passage of the Secure Access to Justice and Court Protection Act, we are taking an important step toward prevention of similar events happening again.

This bill has garnered a lot of support across the country since its introduction in April, and I want to take a moment to thank some of those who have supported H.R. 1751.

First of all, I thank Judge Cynthia Kent, who hails from the Rose City of Tyler, Texas. Judge Kent is a talented judge and a good friend. She testified before the Crime, Terrorism and Homeland Security Subcommittee about the tragic events that took place right outside the courtroom she presides over. She, too, knows personally about threats against her and her family. Her input and support have been extremely helpful in developing this legislation.

Judge Jane Roth, former chairwoman of the Judicial Conference Committee on Security and Facilities, also testified and was very helpful; Honorable Paul McNulty, who was then the U.S. Attorney for the Eastern District of Virginia; and also Honorable John Clark, who at that time was a U.S. Marshal for the Eastern District of Virginia.

I would also like to thank Judge Joan Lefkow for her testimony before the Senate supporting the court security legislation. I have spoken with her personally and again just in the last hour, and she is most gracious and also grateful for the overall bill. She had also mentioned previously when I talked with her a concern about provisions regarding writs of habeas corpus procedure. That has been pulled from the bill itself. It is not part of the overall bill today. We also know that her elderly mother and husband were tragically murdered by a disgruntled gentleman who was upset by a ruling she had made in a case.

This bill requires consultation and coordination of U.S. courts between U.S. Marshals and the courts themselves. It will open the lines of communication between the marshals and the courts and, therefore, help with the prevention, protection, and penalties in this bill.

Those of us who have had threats against us as judges, but particularly against our families, understand all too well the importance of this bill.

I would also like to thank Chairman SENSENBRENNER for shepherding this legislation as he has through his committee, through the rules and here to the floor. It is an honor to serve with him on the Judiciary Committee that he chairs, and I thank the chairman for that continued support.

☐ 1630

This legislation will protect immediate family members of federally funded public safety officers and judges at all levels. It also provides enhanced penalties where the victims are U.S. judges, Federal law enforcement officers, federally funded public safety officers, and includes now a provision to protect National Guard troops when they are acting as public safety officers.

It increases the maximum punishment for crimes against victims, witnesses, jurors and informants.

This bill adds a new Federal crime prohibiting recording a fictitious lien by covering officers and employees of the United States, including the Federal judiciary and its employees. It provides a 30-year mandatory minimum to life in prison, or the death penalty for killing a federally funded public safety officer. Of course, for the defendant to get the death penalty, a death must have resulted from their actions. The bill includes killing members of the National Guard, as I mentioned, and gives them added protection.

There has been some mention by the gentlewoman from Texas regarding mandatory minimums, and it should be noted that we removed a number of mandatory minimums in this bill for things like simple assault and threats. So the court has that consideration. But when it comes to seriously threatening, killing, kidnapping, conspiring to do these things, there should be a mandatory minimum and there is. The folks that we attempt to protect are on the front lines. They need protection.

Mr. Chairman, I want to thank the Rules Committee chairman, the gentleman from California (Mr. DREIER). His bill was added to this, the David March provision, making a new Federal criminal offense for flight to avoid prosecution for killing a peace officer. It imposes 10 years in prison in addition to whatever the defendant receives. So it stacks it.

This is not intended to usurp State authority but to assist the States where they need it and where they are unable. This valuable piece of legislation is seeking to ensure the safety and security of America's last bastion of civility, our Nation's courthouses. I urge all Members to vote yes.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself 1 minute.

Let me simply say that I think we will continue to have discussions as relates to mandatory minimums. I think this bill has great purpose; I think it is important, however, for us to raise those issues.

I will conclude by saying that we have a long way to go in the criminal justice system, and I hope that we will also bring to the floor of the House this whole issue of early release for those who are languishing in prisons. I hope the Good Time Early Release bill for nonviolent prisoners in our Federal prisons who are over 40 years old will have an opportunity for full debate, because they all go hand-in-hand.

Mr. SCOTT of Virginia. Mr. Chairman, can you advise how much time remains?

The CHAIRMAN. The gentleman from Virginia has 20½ minutes remaining and the gentleman from Wisconsin has 18½ minutes remaining.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to H.R. 1751. With several sensational incidents in recent years involving the murders of judges, family members of judges, court personnel, witnesses and other victims, we have seen the consequences of insufficient security for our court operations and personnel associated with the courts.

All are agreed that enhancement of security for our courts and all persons associated with them is imperative. However, the main focus of this bill is not the things that the courts have asked for to enhance their security, but on extraneous death penalties and mandatory minimum sentences which will do nothing to improve the security of our courts or personnel associated with them.

Mr. Chairman, I want to acknowledge and thank Chairman SENSENBRENNER for making significant improvements in this bill since our initial consideration of the bill in subcommittee, by removing a number of the superfluous mandatory minimum sentences and death penalties from the bill. However, all such provisions were not removed.

The notion that Congress has to direct judges on how to sentence those who harm or threaten judges and their families and others associated with court activities, or that Congress has to replace the States in prosecution of murders of State judges and other State officials is absurd. The kinds of people we are talking about clearly have not been deterred by death penalties and mandatory minimum sentences already on the books and applicable to them for those kinds of crimes, so they certainly will not be deterred by adding more such mandatory minimums. And judges facing such defendants clearly do not need congressional guidance on what the appropriate sentences may be.

Accordingly, I have prepared an amendment which would remove the provisions allowing the Federal Government, simply on the basis of someone's salary being paid in part by Federal funds, to take over traditional State prosecutions of State murder cases. I have also prepared an amendment which would remove the mandatory minimum sentencing in Federal cases involving judges, their family members or other court personnel, and replaced them with higher maximums that would allow even greater sentences than the bill allows in cases which warrant it, but would not require sentences which violate common sense.

The courts have not requested mandatory minimums or death penalties because they do nothing to protect the court. Nevertheless, here we go again with more mandatory minimums and more death penalties. In fact, Mr. Chairman, the Federal courts have consistently and loudly expressed their strong opposition to mandatory minimum sentences.

Through rigorous study and analysis, as well as through their everyday experiences in sentencing major players and bit players in crime, the courts have determined mandatory minimums to be less effective than regular sentencing. They have found them to be racially discriminatory in their application. They have found mandatory minimums to waste money compared to traditional sentences, and they have found mandatory minimums to be a violation of common sense.

The Judicial Conference has written us often to express their opposition to mandatory minimum sentencing and has just written us again with this bill to state their opposition to mandatory minimum sentences as a violation of the systemic sentencing scheme designed to "reduce unwarranted disparity and to provide proportionality and fairness in punishment." That idea is violated with mandatory minimums.

The Judicial Conference and everyone concerned supports the grant programs in the bill aimed at strengthening court security and personnel and providing security for persons associated with the courts. Absent mandatory minimums and the extension of the death penalties, this bill would be one that we could all support.

Unfortunately, Mr. Chairman, because of the mandatory minimums and death penalty it is not one we can all support.

JUDICIAL CONFERENCE OF THE
UNITED STATES,
Washington, DC, November 8, 2005.

Hon. JOHN CONYERS, Jr.,
Ranking Democrat, Committee on the Judiciary,
House of Representatives, Washington, DC.

DEAR REPRESENTATIVE CONYERS: On behalf of the Judicial Conference of the United

States, the policy-making body of the federal judiciary. I am writing to convey its views regarding several of the provisions contained in H.R. 1751, the "Secure Access to Justice and Court Protection Act of 2005."

Much of the impetus for portions of this bill arose from the tragic circumstances surrounding the attempted murder of Judge Joan Lefkow of the United States District Court for the Northern District of Illinois. Although Judge Lefkow survived the attack, her mother and husband were shot and killed by the assailant, a disgruntled litigant.

The current bill contains several provisions that are of particular interest to the federal courts. Section 13 of the bill requires the U.S. Marshals Service to consult with the Administrative Office of the U.S. Courts regarding the security requirements of the Judicial Branch. While the provision does not extend to a requirement that the Marshals Service "coordinate" with the judiciary, we believe the proposed change is positive and will enhance judicial security. Section 14 of the bill is positive in that it will help protect judges from the malicious recording of fictitious liens and is supported by the Judicial Conference. Section 16 of the bill is of particular interest to federal judges and their security because it will allow them to continue to redact sensitive information from their financial disclosure forms. Not a day goes by without some unauthorized incursion into an information database containing personal information and this provision is an important tool in protecting such personal information.

Unfortunately, the bill also contains various provisions that expand the application of mandatory minimum sentences. The Judicial Conference opposes mandatory minimum sentencing provisions because they undermine the sentencing guideline regime Congress established under the Sentencing Reform Act of 1984 by preventing the systematic development of guidelines that reduce unwarranted disparity and provide proportionality and fairness in punishment.

The bill also contains a provision that would allow the presiding judge, at all levels of the judicial process, to permit the photographing, electronic recording, broadcasting, or televising to the public of the court proceedings over which that judge presides. The Judicial Conference believes that the circuit councils of each circuit should retain the authority to establish rules for the photographing, recording, or broadcasting of appellate arguments in their courts. The Judicial Conference does not support legislation that would allow trial court judges the discretion to broadcast their courts' proceedings.

I appreciate having the opportunity to express the views of the Judicial Conference in relation to H.R., 1751, the "Secure Access to Justice and Court Protection Act of 2005." If you have any questions regarding this legislation please contact Arthur White at (202) 502–1700.

Sincerely,

LEONIDAS RALPH MECHAM,
Secretary.

AMERICAN BAR ASSOCIATION,
GOVERNMENTAL AFFAIRS OFFICE,
Washington, DC, November 8, 2005.

HON. BOBBY SCOTT,
House of Representatives,
Washington, DC.

DEAR REPRESENTATIVE SCOTT: We understand that during consideration by the House of Representatives of H.R. 1751, the Safe Access to Justice and Court Protection Act of 2005, an amendment will be offered by Representative Jeff Flake (R-AZ) to propose a range of changes in the law governing federal habeas corpus review of capital cases. The ABA strongly opposes this amendment and urges House members to reject it.

This amendment proposes a number of technical changes in a complicated area of law without the benefit of hearings or any previous consideration by the House Judiciary Committee. It is inconsistent with other pending House and Senate legislation and its enactment would create more confusion and chaos in a complex area of law.

We are particularly concerned about a provision in the amendment that would completely remove federal court jurisdiction for all sentencing phase claims, not just those found harmless by the state courts. Under this proposal, unless the claim goes to the validity of the conviction itself, it is not cognizable in the federal courts.

If such a profound change in law were enacted, there would no longer be a federal forum for claims of ineffective assistance of counsel at the sentencing phase. As a result, no matter how inadequate the representation (e.g., the sleeping lawyer case), the court would be without jurisdiction. Claims of prosecutorial misconduct relating to the penalty phase would not be cognizable. For example, if the prosecution suppressed evidence about the identity of the trigger-man, that would also not be cognizable. At a resentencing proceeding ordered by a state court on direct appeal, a prosecutor could commit a flagrant violation of Batson v. Kentucky by striking all African-Americans from the jury, and a federal court would be powerless to do anything about it. In short, no matter how unreasonable the state court decision was, there would be no federal jurisdiction for sentencing phase issues. The House should not act on such far-reaching changes in the law of federal habeas corpus jurisdiction without more careful consideration and should reject the Flake amendment when it considers H.R. 1751. Fairness and justice demand no less.

Sincerely,

ROBERT D. EVANS.

AMERICAN CIVIL LIBERTIES UNION,
Washington, DC, November 9, 2005.

Re House Floor Vote on November 9, 2005, regarding H.R. 1751, Secure Access to Justice and Court Protection Act of 2005.

DEAR REPRESENTATIVE: On behalf of the American Civil Liberties Union, we write to express our opposition to H.R. 1751, the Secure Access to Justice and Court Protection Act of 2005. This legislation would create a 30-year mandatory minimum sentence for second-degree murder in federal criminal cases, add numerous other discriminatory mandatory minimum sentences as well as expand the number of crimes eligible for the federal death penalty. H.R. 1751 is scheduled for a floor vote on Wednesday, November 9; we urge you to oppose this legislation.

The House Rules Committee has made a number of amendments in order for the floor debate on H.R. 1751; we urge your support for the following amendments:

(1) Scott (VA) #8: This amendment replaces all mandatory minimum sentences with higher maximum sentences. This bill creates many new mandatory minimums and changes the criminal penalties for several existing federal crimes to mandatory minimum sentences. For instance, H.R. 1751 would make the punishment for second-degree murder a 30-year mandatory sentence. Mandatory minimum sentences deprive judges of the ability to impose sentences that fit the particular offense and offender. Although mandatory minimums were designed to reduce the racial inequalities that too often resulting from judicial sentencing discretion, in practice they shift discretion from the judge to the prosecutor. Prosecutors retain the power to plea bargain and choose which defendants they will offer plea agreements to in order for those defendants to avoid the mandatory penalty. It is not clear what standards (if any) prosecutors use to offer plea bargains, therefore only a few defendants get the benefit of avoiding the mandatory sentence. This creates unfair and inequitable sentences for people who commit similar crimes, thus contributing to the very problem mandatory minimums were created to address.

(2) Scott (VA) #9: This amendment strikes the death penalty for the killing of federally funded public safety officers. According to the Death Penalty Information Center, 121 prisoners on death row have now been exonerated since 1973. Chronic problems, including inadequate defense counsel and racial disparities, plague the death penalty system in the United States. As a matter of principle, Congress should not be expanding the federal death penalty while these problems remain unresolved.

We urge you to oppose the following amendment:

(1) Flake #2: This amendment would eliminate federal jurisdiction for all sentencing phase claims in habeas corpus proceedings, unless the claim went to the validity of the state conviction in a capital cases. For example, this would result in federal courts not having jurisdiction to review habeas petitions involving claims in state capital cases that were based on ineffective assistance of counsel or prosecutorial misconduct during the sentencing phase of the case—errors that could mean the difference between life and death for the petitioner. In addition, this amendment would authorize the U.S. Attorney General to determine whether in a capital case a state's indigent defense counsel system passes constitutional muster. The Attorney General, our nation's top federal prosecutor, is not an objective party and therefore should not decide whether states have provided competent defense counsel in death penalty cases.

For the above-mentioned reasons, we urge members to oppose H.R. 1751 when the House votes on the bill on November 9, 2005.

Sincerely,

CAROLINE FREDRICKSON,
Director.
JESSELYN MCCURDY,
Legislative Counsel.

Mr. CONYERS. Mr. Chairman, the legislation under consideration today represents a vast improvement over the version of the bill as originally introduced.

Thanks to the hard work and commitment of Democratic members on the committee, it now offers grants to state courts so that they can make meaningful enhancements to courtroom safety and security. It provides the US Marshals Service with an additional $100 million, over the course of the next five years, to increase ongoing investigations and expand the protective services it currently offers to members of the federal judiciary. And it authorizes the Attorney General to establish a grant program for states to establish threat assessment databases.

Even with these valuable improvements, however, the bill still suffers from two fatal flaws. Specifically, its inclusion of 16 new mandatory minimum sentences and its establishment of one new death penalty eligible offense.

Mandatory minimums have been studied extensively and have been proven to be ineffective in preventing crime. They also have been proven to distort the sentencing process, and waste valuable taxpayer money.

With more than 2.1 million Americans currently in jail or prison—roughly quadruple the number individuals incarcerated in 1985—it's hard to see how anyone can continue with such a deeply flawed strategy.

Today, this country incarcerates its citizens at a rate 14 times that of Japan, 8 times the rate of France and 6 times the rate of Canada.

We spend an estimated $40 billion a year to imprison criminal offenders, we choose to build prisons over schools and we fail to provide inmates released from prison with the necessary tools and assistance for a successful re-entry into society.

Thanks to mandatory minimum sentences, almost 10 percent of all inmates in state and federal prisons are serving life sentences, an increase of 83 percent from 1992. In two states alone, New York and California, almost 20 percent of inmates are serving life sentences.

We've also noted the numerous problems that exist with regard to the death penalty. Namely, that all of the available evidence clearly demonstrates that the current system is flawed, defendants rarely receive adequate legal representation and that its application is racially discriminatory .

There are now over 100 Americans that have been sentenced to death, only later to be exonerated. Proving that many of the people convicted and sentenced to death are actually innocent.

In the end, the few grants that this bill purports to offer in the area of witness protection and court security can't make up for its two fatal flaws.

I urge my colleagues to oppose this measure.

Mr. SCOTT of Georgia. Mr. Chairman, the entire country witnessed what happened in my district, in the Fulton County Courthouse, on the morning of March 11, 2005.

On that day, Brian Nichols, was to appear in a retrial for charges of rape and false imprisonment. As he was escorted from his holding cell to change into civilian clothes for the proceeding, he over-powered the female sheriff's deputy overseeing his transfer, stole her gun, and shot her in the face. Mr. Nichols then proceeded to run through the courthouse complex, unimpeded, steal another firearm and shoot 3 more people, including long-time superior court judge Rowland Barnes, a revered judicial figure in the Atlanta area.

Mr. Nichols managed to escape the courthouse and evade police for more than two days during which time he used the fire arms that he stole in the courthouse, injuring several more people, stole multiple vehicles and held one woman hostage before he was finally apprehended.

Mr. Speaker, this episode highlights the merits of this bill not just because of the security failures that allowed it to happen. This much is self-evident.

In the aftermath of the security failures at the Fulton County Courthouse, the entire Atlanta metropolitan area, an area of more than 4 million people, was on edge. Schools were put on lock down in several counties. If we had proper security measures in place on that fateful Friday morning, we could have avoided the hysteria and disruptions of normal life that followed.

My constituents, the residents of the Atlanta area, and the law-abiding citizens of this great nation deserve the right to go about their daily lives knowing that our court rooms are secure. Therefore, I urge the passing of this bill.

Mr. KIRK. Mr. Chairman, I rise in support of H.R. 1751 and in support of the dedicated public servants working in our criminal justice system. The very nature of their work brings them in contact with dangerous criminals on a daily basis. After conviction, some of these criminals seek revenge against the prosecutors and judges who put them in prison. As unfortunate as it is, we must do more to protect those in the justice system who work to protect all of us.

We all remember the brutal murders of Michael Lefkow and Donna Humphrey, the husband and mother of U.S. District Judge Joan Lefkow. The initial investigation focused on a likely suspect, white supremacist Matthew Hale, who had been convicted of soliciting Judge Lefkow's murder only a year before. As it turns out, Hale was not behind the murders, but another disgruntled individual with a history in front of Judge Lefkow was. Bart Ross, a plaintiff in a medical malpractice case Judge Lefkow dismissed, wrote a letter to a Chicago television station admitting he killed Michael Lefkow and Donna Humphrey and that his target had been the Judge. Included in the note was a "hit list" of others he felt had wronged him, many of whom were involved in his medical malpractice case. One of the individuals on the "hit list" is a constituent of mine and while we are thankful he and his family are safe, it is a chilling reminder that the security of judicial officials cannot be taken for granted.

This tragic case is just one example of the danger prosecutors and judges can face simply for doing their jobs. Even though Matthew Hale and his white supremacist group were not responsible for the Lefkow murders, they were vocal in their praise for the killings on the Internet. The fact remains that judges, prosecutors, and their families are often targeted and they can be in danger wherever they go, even in their own homes. Mr. Chairman, I support this legislation and I believe the Congress should do all it can to protect judges and their families and enhance courthouse security.

Mr. MICA. Mr. Chairman, I am pleased to speak in support of the Secure Access to Justice and Court Protection Act, legislation which strengthens criminal penalties for crimes against United States judges, federal law enforcement officers and federally funded public safety officers.

Also included in this bill is an important provision from legislation I authored, H.R. 3833—the National Guard Emergency Protection Act, which increases federal protection to our National Guardsmen.

This measure was offered as a result of assaults against members of the National Guard while they were engaged in rescue and law enforcement operations in New Orleans following Hurricane Katrina. Unfortunately, I found that our National Guardsmen are not protected by federal law if they are assaulted or killed in the line of duty while serving States during Presidentially declared disasters and emergencies. My bill, now included in the Secure Access to Justice and Court Protection Act, extends the same penalties to those who attack both federal and non-federalized members of the Armed Services.

I would like to thank Chairman SENSENBRENNER and his staff for working with me to ensure that our National Guardsmen have the further support of the Federal Government.

Ms. MCCOLLUM of Minnesota. Mr. Chairman, I rise today to make known my position on H.R. 1751. Although I was on the floor yesterday during the debate on this important legislation and intended to cast an affirmative vote, my vote was not recorded. The record will reflect that I was present for the preceding votes.

I strongly support the Secure Access to Justice and Court Protection Act of 2005. This legislation was written in response to recent violence against judges and employees of the courts. It increases penalties against those who threaten, assault, or murder judges, as well as court and law enforcement personnel. Members of the judiciary and their staff are critical to ensuring that all Americans have access to our courts and to guaranteeing that justice and fairness remain essential values of our society.

Many Democratic amendments were accepted during debate in the Judiciary Committee that make this a stronger bill. The changes focused on providing increased grants to state and local governments to prevent violence. This bill includes grant programs for states to assess court safety, to improve witness protection programs, to create databases to track domestic crime and terrorism and to develop programs to help juvenile witnesses.

Court officials in Minnesota have stated that these dollars will be extremely useful in protecting witnesses who are often reluctant to testify for fear of their safety. The courts can use this funding for temporary or permanent relocation to help keep witnesses, who are vital to successfully prosecuting criminal cases, remain safe. In addition, special training for court staff, judges, and attorneys will help make juvenile witnesses more comfortable and able to deal with their important role in trial.

Mr. Chairman, this is an important step in preventing and prosecuting violence against the judiciary and I am pleased that H.R. 1751 passed the House overwhelmingly.

Mr. SCOTT of Virginia. Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I have no further requests for time, and I yield back the balance of my time.

The CHAIRMAN. All time for general debate has expired.

Pursuant to the rule, the amendment in the nature of a substitute printed in the bill shall be considered as an original bill for the purpose of amendment under the 5-minute rule and shall be considered read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 1751

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Secure Access to Justice and Court Protection Act of 2005".

SEC. 2. PENALTIES FOR INFLUENCING, IMPEDING, OR RETALIATING AGAINST JUDGES AND OTHER OFFICIALS BY THREATENING OR INJURING A FAMILY MEMBER.

Section 115 of title 18, United States Code, is amended—

(1) in each of subparagraphs (A) and (B) of subsection (a)(1), by inserting "federally funded public safety officer (as defined for the purposes of section 1123)" after "Federal law enforcement officer,";

(2) so that subsection (b) reads as follows:

"(b)(1) Except as provided in paragraph (2), the punishment for an offense under this section is as follows:

"(A) The punishment for an assault in violation of this section is the same as that provided for a like offense under section 111.

"(B) The punishment for a kidnapping, attempted kidnapping, or conspiracy to kidnap in violation of this section is the same as provided for a like violation in section 1201.

"(C) The punishment for a murder, attempted murder, or conspiracy to murder in violation of this section is the same as provided for a like offense under section 1111, 1113, and 1117.

"(D) A threat made in violation of this section shall be punished by a fine under this title or imprisonment for not more than 10 years, or both.

"(2) If the victim of the offense under this section is an immediate family member of a United States judge, a Federal law enforcement officer (as defined for the purposes of section 1114) or of a federally funded public safety officer (as defined for the purposes of section 1123), in lieu of the punishments otherwise provided by paragraph (1), the punishments shall be as follows:

"(A) The punishment for an assault in violation of this section is as follows:

"(i) If the assault is a simple assault, a fine under this title or a term of imprisonment for not more than one year, or both.

"(ii) If the assault resulted in bodily injury (as defined in section 1365), a fine under this title and a term of imprisonment for not less than one year nor more than 10 years.

"(iii) If the assault resulted in substantial bodily injury (as defined in section 113), a fine under this title and a term of imprisonment for not less than 3 years nor more than 12 years.

"(iv) If the assault resulted in serious bodily injury (as defined in section 2119), a fine under this title and a term of imprisonment for not less than 10 years nor more than 30 years.

"(B) The punishment for a kidnapping, attempted kidnapping, or conspiracy to kidnap in violation of this section is a fine under this title and imprisonment for any term of years not less than 30, or for life.

"(C) The punishment for a murder, attempted murder, or conspiracy to murder in violation of this section is a fine under this title and imprisonment for any term of years not less than 30, or for life, or, if death results, the offender may be sentenced to death.

"(D) A threat made in violation of this section shall be punished by a fine under this title and imprisonment for not less than one year nor more than 10 years.

"(E) If a dangerous weapon was used during and in relation to the offense, the punishment shall include a term of imprisonment of 5 years in addition to that otherwise imposed under this paragraph.".

SEC. 3. PENALTIES FOR CERTAIN ASSAULTS.

(a) Inclusion of Federally Funded Public Safety Officers.—Section 111(a) of title 18, United States Code, is amended—

(1) in paragraph (1), by inserting "or a federally funded public safety officer (as defined in section 1123)" after "1114 of this title"; and

(2) in paragraph (2), by inserting "or a federally funded public safety officer (as defined in section 1123)" after "1114".

(b) Alternate Penalty Where Victim Is a United States Judge, a Federal Law Enforcement Officer, or Federally Funded Public Safety Officer.—Section 111 of title 18, United States Code, is amended by adding at the end the following:

"(c) Alternate Penalty Where Victim Is a United States Judge, a Federal Law Enforcement Officer, or Federally Funded Public Safety Officer.—(1) Except as provided in paragraph (2), if the offense is an assault and the victim of the offense under this section is a United States judge, a Federal law enforcement officer (as defined for the purposes of section 1114) or of a federally funded public safety officer (as defined for the purposes of section 1123), in lieu of the penalties otherwise set forth in this section, the offender shall be subject to a fine under this title and—

"(A) If the assault is a simple assault, a fine under this title or a term of imprisonment for not more than one year, or both.

"(B) if the assault resulted in bodily injury (as defined in section 1365), shall be inprisoned not less than one nor more than 10 years;

"(C) if the assault resulted in substantial bodily injury (as defined in section 113), shall be imprisoned not less than 3 nor more than 12 years; and

"(D) if the assault resulted in serious bodily injury (as defined in section 2119), shall be imprisoned not less than 10 nor more than 30 years.

"(2) If a dangerous weapon was used during and in relation to the offense, the punishment shall include a term of imprisonment of 5 years in addition to that otherwise imposed under this subsection.".

SEC. 4. PROTECTION OF FEDERALLY FUNDED PUBLIC SAFETY OFFICERS.

(a) Offense.—Chapter 51 of title 18, United States Code, is amended by adding at the end the following:

"§1123. Killing of federally funded public safety officers

"(a) Whoever kills, or attempts or conspires to kill, a federally funded public safety officer while that officer is engaged in official duties, or arising out of the performance of official duties, or kills a former federally funded public safety officer arising out of the performance of official duties, shall be punished by a fine under this title and imprisonment for any term of years not less than 30, or for life, or, if death results, may be sentenced to death.

"(b) As used in this section—

"(1) the term 'federally funded public safety officer' means a public safety officer for a public agency (including a court system, the National Guard of a State to the extent the personnel of that National Guard are not in Federal service, and the defense forces of a State authorized by section 109 of title 32) that receives Federal financial assistance, of an entity that is a State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands of the United States, Guam, American Samoa, the Trust Territory of the Pacific Islands, the Commonwealth of the Northern Mariana Islands, or any territory or possession of the United States, an Indian tribe, or a unit of local government of that entity;

"(2) the term 'public safety officer' means an individual serving a public agency in an official capacity, as a judicial officer, as a law enforcement officer, as a firefighter, as a chaplain, or as a member of a rescue squad or ambulance crew;

"(3) the term 'judicial officer' means a judge or other officer or employee of a court, including prosecutors, court security, pretrial services officers, court reporters, and corrections, probation, and parole officers; and

"(4) the term 'firefighter' includes an individual serving as an official recognized or designated member of a legally organized volunteer fire department and an officially recognized or designated public employee member of a rescue squad or ambulance crew; and

"(5) the term 'law enforcement officer' means an individual involved in crime and juvenile delinquency control or reduction, or enforcement of the laws.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 51 of title 18, United States Code, is amended by adding at the end the following new item:

"1123. Killing of federally funded public safety officers.".

SEC. 5. GENERAL MODIFICATIONS OF FEDERAL MURDER CRIME AND RELATED CRIMES.

(a) Murder Amendments.—Section 1111 of title 18, United States Code, is amended in subsection (b), by inserting "not less than 30" after "any term of years".

(b) Manslaughter Amendments.—Section 1112(b) of title 18, United States Code, is amended—

(1) by striking "ten years" and inserting "20 years"; and

(2) by striking "six years" and inserting "10 years".

SEC. 6. MODIFICATION OF DEFINITION OF OFFENSE AND OF THE PENALTIES FOR, INFLUENCING OR INJURING OFFICER OR JUROR GENERALLY.

Section 1503 of title 18, United States Code, is amended—

(1) so that subsection (a) reads as follows:

"(a)(1) Whoever—

"(A) corruptly, or by threats of force or force, endeavors to influence, intimidate, or impede a juror or officer in a judicial proceeding in the discharge of that juror or officer's duty;

"(B) injures a juror or an officer in a judicial proceeding arising out of the performance of official duties as such juror or officer; or

"(C) corruptly, or by threats of force or force, obstructs, or impedes, or endeavors to influence, obstruct, or impede, the due administration of justice;

or attempts or conspires to do so, shall be punished as provided in subsection (b).

"(2) As used in this section, the term 'juror or officer in a judicial proceeding' means a grand or petit juror, or other officer in or of any court of the United States, or an officer who may be serving at any examination or other proceeding before any United States magistrate judge or other committing magistrate."; and

(2) in subsection (b), by striking paragraphs (1) through (3) and inserting the following:

"(1) in the case of a killing, or an attempt or a conspiracy to kill, the punishment provided in section 1111, 1112, 1113, and 1117; and

"(2) in any other case, a fine under this title and imprisonment for not more than 30 years.".

SEC. 7. MODIFICATION OF TAMPERING WITH A WITNESS, VICTIM, OR AN INFORMANT OFFENSE.

(a) Changes in Penalties.—Section 1512 of title 18, United States Code, is amended—

(1) in each of paragraphs (1) and (2) of subsection (a), insert "or conspires" after "attempts";

(2) so that subparagraph (A) of subsection (a)(3) reads as follows:

"(A) in the case of a killing, the punishment provided in sections 1111 and 1112;";

(3) in subsection (a)(3)—

(A) in the matter following clause (ii) of subparagraph (B) by striking "20 years" and inserting "30 years" ; and

(B) in subparagraph (C), by striking "10 years" and inserting "20 years";

(4) in subsection (b), by striking "ten years" and inserting "30 years"; and

(5) in subsection (d), by striking "one year" and inserting "20 years".

SEC. 8. MODIFICATION OF RETALIATION OFFENSE.

Section 1513 of title 18, United States Code, is amended—

(1) in subsection (a)(1), by inserting "or conspires" after "attempts";

(2) in subsection (a)(1)(B)—

(A) by inserting a comma after "probation"; and

(B) by striking the comma which immediately follows another comma;

(3) in subsection (a)(2)(B), by striking "20 years" and inserting "30 years";

(4) in subsection (b), by striking "ten years" and inserting "30 years";

(5) in the first subsection (e), by striking "10 years" and inserting "30 years"; and

(6) by redesignating the second subsection (e) as subsection (f).

SEC. 9. INCLUSION OF INTIMIDATION AND RETALIATION AGAINST WITNESSES IN STATE PROSECUTIONS AS BASIS FOR FEDERAL PROSECUTION.

Section 1952 of title 18, United States Code, is amended in subsection (b)(2), by inserting "intimidation of, or retaliation against, a witness, victim, juror, or informant," after "extortion, bribery,".

SEC. 10. CLARIFICATION OF VENUE FOR RETALIATION AGAINST A WITNESS.

Section 1513 of title 18, United States Code, is amended by adding at the end the following:

"(g) A prosecution under this section may be brought in the district in which the official proceeding (whether or not pending, about to be instituted or completed) was intended to be affected or was completed, or in which the conduct constituting the alleged offense occurred.".

SEC. 11. WITNESS PROTECTION GRANT PROGRAM.

Title I of the Omnibus Crime Control and Safe Streets Act of 1968 is amended by inserting after part BB (42 U.S.C. 3797j et seq.) the following new part:

"PART CC—WITNESS PROTECTION GRANTS

"SEC. 2811. PROGRAM AUTHORIZED.

"(a) In General.—From amounts made available to carry out this part, the Attorney General may make grants to States, units of local government, and Indian tribes to create and expand witness protection programs in order to prevent threats, intimidation, and retaliation against victims of, and witnesses to, crimes.

"(b) Uses of Funds.—Grants awarded under this part shall be—

"(1) distributed directly to the State, unit of local government, or Indian tribe; and

"(2) used for the creation and expansion of witness protection programs in the jurisdiction of the grantee.

"(c) Preferential Consideration.—In awarding grants under this part, the Attorney General may give preferential consideration, if feasible, to an application from a jurisdiction that—

"(1) has the greatest need for witness and victim protection programs;

"(2) has a serious violent crime problem in the jurisdiction; and

"(3) has had, or is likely to have, instances of threats, intimidation, and retaliation against victims of, and witnesses to, crimes.

"(d) Authorization of Appropriations.—There are authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2006 through 2010.".

SEC. 12. GRANTS TO STATES TO PROTECT WITNESSES AND VICTIMS OF CRIMES.

(a) In General.—Section 31702 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13862) is amended—

(1) in paragraph (3), by striking "and" at the end;

(2) in paragraph (4), by striking the period at the end and inserting "; and" ; and

(3) by adding at the end the following:

"(5) to create and expand witness and victim protection programs to prevent threats, intimidation, and retaliation against victims of, and witnesses to, violent crimes.".

(b) Authorization of Appropriations.—Section 31707 of the Violent Crime Control and Law Enforcement Act of 1994 (42 U.S.C. 13867) is amended to read as follows:

"SEC. 31707. AUTHORIZATION OF APPROPRIATIONS.

"There are authorized to be appropriated $20,000,000 for each of the fiscal years 2006 through 2010 to carry out this subtitle.".

SEC. 13. JUDICIAL BRANCH SECURITY REQUIREMENTS.

(a) Ensuring Consultation and Coordination With the Administrative Office of the United States Courts.—Section 566 of title 28, United States Code, is amended by adding at the end the following:

"(i) The United States Marshals Service shall consult with the Administrative Office of the United States Courts on a continuing basis regarding the security requirements for the Judicial Branch, and inform the Administrative Office of the measures the Marshals Service intends to take to meet those requirements.".

(b) Conforming Amendment.—Section 604(a) of title 28, United States Code, is amended—

(1) by redesignating existing paragraph (24) as paragraph (25);

(2) by striking "and" at the end of paragraph (23); and

(3) by inserting after paragraph (23) the following:

"(24) Consult with the United States Marshals Service on a continuing basis regarding the security requirements for the Judicial Branch, and inform the Administrative Office of the measures the Marshals Service intends to take to meet those requirements; and".

SEC. 14. PROTECTIONS AGAINST MALICIOUS RECORDING OF FICTITIOUS LIENS AGAINST A FEDERAL EMPLOYEE.

(a) Offense.—Chapter 73 of title 18, United States Code, is amended by adding at the end the following:

"§ 1521. Retaliating against a Federal employee by false claim or slander of title

"Whoever, with the intent to harass a person designated in section 1114 on account of the performance of official duties, files, in any public record or in any private record which is generally available to the public, any false lien or encumbrance against the real or personal property of that person, or attempts or conspires to do so, shall be fined under this title or imprisoned not more than 10 years, or both.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 73 of title 18, United States Code, is amended by adding at the end the following new item:

"1521. Retaliating against a Federal employee by false claim or slander of title.".

SEC. 15. PROHIBITION OF POSSESSION OF DANGEROUS WEAPONS IN FEDERAL COURT FACILITIES.

Section 930(e) of title 18, United States Code, is amended by inserting "or other dangerous weapon" after "firearm".

SEC. 16. REPEAL OF SUNSET PROVISION.

Section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App) is amended by striking subparagraph (E).

SEC. 17. PROTECTION OF INDIVIDUALS PERFORMING CERTAIN FEDERAL AND OTHER FUNCTIONS.

(a) Offense.—Chapter 7 of title 18, United States Code, is amended by adding at the end the following:

"§ 117. Protection of individuals performing certain Federal and federally assisted functions

"(a) Whoever knowingly, and with intent to harm, intimidate, or retaliate against a covered official makes restricted personal information about that covered official publicly available through the Internet shall be fined under this title and imprisoned not more than 5 years, or both.

"(b) It is a defense to a prosecution under this section that the defendant is a provider of Internet services and did not knowingly participate in the offense.

"(c) As used in this section—

"(1) the term 'restricted personal information' means, with respect to an individual, the Social Security number, the home address, home phone number, mobile phone number, personal email, or home fax number of, and identifiable to, that individual; and

"(2) the term 'covered official' means—

"(A) an individual designated in section 1114;

"(B) a public safety officer (as that term is defined in section 1204 of the Omnibus Crime Control and Safe Streets Act of 1968); or

"(C) a grand or petit juror, witness, or other officer in or of, any court of the United States, or an officer who may be serving at any examination or other proceeding before any United States magistrate judge or other committing magistrate.".

(b) Clerical Amendment.—The table of sections at the beginning of chapter 7 of title 18, United States Code, is amended by adding at the end the following new item:

"117. Protection of individuals performing certain Federal and federally assisted functions.".

SEC. 18. ELIGIBILITY OF COURTS TO APPLY DIRECTLY FOR LAW ENFORCEMENT DISCRETIONARY GRANTS AND REQUIREMENT THAT STATE AND LOCAL GOVERNMENTS CONSIDER COURTS WHEN APPLYING FOR GRANT FUNDS.

(a) Courts Treated as Units of Local Governments for Purposes of Discretionary Grants.—Section 901 of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3791) is amended in subsection (a)(3)—

(1) by redesignating subparagraphs (C) and (D) as subparagraphs (D) and (E), respectively; and

(2) by inserting after subparagraph (B) the following new subparagraph:

"(C) the judicial branch of a State or of a unit of local government within the State for purposes of discretionary grants;".

(b) State and Local Governments to Consider Courts.—The Attorney General shall ensure that whenever a State or unit of local government applies for a grant from the Department of Justice, the State or unit demonstrate that, in developing the application and distributing funds, the State or unit—

(1) considered the needs of the judicial branch of the State or unit, as the case may be; and

(2) consulted with the chief judicial officer of the highest court of the State or unit, as the case may be.

SEC. 19. REPORT ON SECURITY OF FEDERAL PROSECUTORS.

Not later than 90 days after the date of the enactment of this Act, the Attorney General shall submit to the Committee on the Judiciary of the House of Representatives and the Committee on the Judiciary of the Senate a report on the security of assistant United States attorneys and other Federal attorneys arising from the prosecution of terrorists, violent criminal gangs, drug traffickers, gun traffickers, white supremacists, and those who commit fraud and other white-collar offenses. The report shall describe each of the following:

(1) The number and nature of threats and assaults against attorneys handling those prosecutions and the reporting requirements and methods.

(2) The security measures that are in place to protect the attorneys who are handling those prosecutions, including measures such as threat assessments, response procedures, availability of security systems and other devices, firearms licensing (deputations), and other measures designed to protect the attorneys and their families.

(3) The Department of Justice's firearms deputation policies, including the number of attorneys deputized and the time between receipt of threat and completion of the deputation and training process.

(4) For each measure covered by paragraphs (1) through (3), when the report or measure was developed and who was responsible for developing and implementing the report or measure.

(5) The programs that are made available to the attorneys for personal security training, including training relating to limitations on public information disclosure, basic home security, firearms handling and safety, family safety, mail handling, counter- surveillance, and self-defense tactics.

(6) The measures that are taken to provide the attorneys with secure parking facilities, and how priorities for such facilities are established—

(A) among Federal employees within the facility;

(B) among Department of Justice employees within the facility; and

(C) among attorneys within the facility.

(7) The frequency such attorneys are called upon to work beyond standard work hours and the security measures provided to protect attorneys at such times during travel between office and available parking facilities.

(8) With respect to attorneys who are licensed under State laws to carry firearms, the Department of Justice's policy as to—

(A) carrying the firearm between available parking and office buildings;

(B) securing the weapon at the office buildings; and

(C) equipment and training provided to facilitate safe storage at Department of Justice facilities.

(9) The offices in the Department of Justice that are responsible for ensuring the security of the attorneys, the organization and staffing of the offices, and the manner in which the offices coordinate with offices in specific districts.

(10) The role, if any, that the United States Marshals Service or any other Department of Justice component plays in protecting, or providing security services or training for, the attorneys.

SEC. 20. FLIGHT TO AVOID PROSECUTION FOR KILLING PEACE OFFICERS.

(a) FLIGHT.—Chapter 49 of title 18, United States Code, is amended by adding at the end the following:

"§1075. Flight to avoid prosecution for killing peace officers

"Whoever moves or travels in interstate or foreign commerce with intent to avoid prosecution, or custody or confinement after conviction, under the laws of the place from which he flees or under section 1114 or 1123, for a crime consisting of the killing, an attempted killing, or a conspiracy to kill, an individual involved in crime and juvenile delinquency control or reduction, or enforcement of the laws or for a crime punishable by section 1114 or 1123, shall be fined under this title and imprisoned, in addition to any other imprisonment for the underlying offense, for any term of years not less than 10.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 49 of title 18, United States Code, is amended by adding at the end the following new item:

"1075. Flight to avoid prosecution for killing peace officers.".

SEC. 21. SPECIAL PENALTIES FOR MURDER, KIDNAPPING, AND RELATED CRIMES AGAINST FEDERAL JUDGES AND FEDERAL LAW ENFORCEMENT OFFICERS.

(a) MURDER.—Section 1114 of title 18, United States Code, is amended—

(1) by inserting "(a)" before "Whoever"; and

(2) by adding at the end the following:

"(b) If the victim of a murder punishable under this section is a United States judge (as defined in section 115) or a Federal law enforcement officer (as defined in 115) the offender shall be punished by a fine under this title and imprisonment for any term of years not less than 30, or for life, or, if death results, may be sentenced to death.".

(b) KIDNAPPING.—Section 1201(a) of title 18, United States Code, is amended by adding at the end the following: "If the victim of the offense punishable under this subsection is a United States judge (as defined in section 115) or a Federal law enforcement officer (as defined in 115) the offender shall be punished by a fine under this title and imprisonment for any term of years not less than 30, or for life, or, if death results, may be sentenced to death.".

SEC. 22. MEDIA COVERAGE OF COURT PROCEEDINGS.

(a) FINDINGS.—The Congress makes the following findings:

(1) The right of the people of the United States to freedom of speech, particularly as it relates to comment on governmental activities, as protected by the first amendment to the Constitution, cannot be meaningfully exercised without the ability of the public to obtain facts and information about the Government upon which to base their judgments regarding important issues and events. As the United States Supreme Court articulated in Craig v. Harney, 331 U.S. 367 (1947), "A trial is a public event. What transpires in the court room is public property.".

(2) The right of the people of the United States to a free press, with the ability to report on all aspects of the conduct of the business of government, as protected by the first amendment to the Constitution, cannot be meaningfully exercised without the ability of the news media to gather facts and information freely for dissemination to the public.

(3) The right of the people of the United States to petition the Government to redress grievances, particularly as it relates to the manner in which the Government exercises its legislative, executive, and judicial powers, as protected by the first amendment to the Constitution, cannot be meaningfully exercised without the availability to the public of information about how the affairs of government are being conducted. As the Supreme Court noted in Richmond Newspapers, Inc. v. Commonwealth of Virginia (1980), "People in an open society do not demand infallibility from their institutions, but it is difficult for them to accept what they are prohibited from observing.".

(4) In the twenty-first century, the people of the United States obtain information regarding judicial matters involving the Constitution, civil rights, and other important legal subjects principally through the print and electronic media. Television, in particular, provides a degree of public access to courtroom proceedings that more closely approximates the ideal of actual physical presence than newspaper coverage or still photography.

(5) Providing statutory authority for the courts of the United States to exercise their discretion in permitting televised coverage of courtroom proceedings would enhance significantly the access of the people to the Federal judiciary.

(6) Inasmuch as the first amendment to the Constitution prevents Congress from abridging the ability of the people to exercise their inherent rights to freedom of speech, to freedom of the press, and to petition the Government for a redress of grievances, it is good public policy for the Congress affirmatively to facilitate the ability of the people to exercise those rights.

(7) The granting of such authority would assist in the implementation of the constitutional guarantee of public trials in criminal cases, as provided by the sixth amendment to the Constitution. As the Supreme Court stated in In re Oliver (1948), "Whatever other benefits the guarantee to an accused that his trial be conducted in public may confer upon our society, the guarantee has always been recognized as a safeguard against any attempt to employ our courts as instruments of persecution. The knowledge that every criminal trial is subject to contemporaneous review in the forum of public opinion is an effective restraint on possible abuse of judicial power.".

(b) AUTHORITY OF PRESIDING JUDGE TO ALLOW MEDIA COVERAGE OF COURT PROCEEDINGS.—

(1) AUTHORITY OF APPELLATE COURTS.—Notwithstanding any other provision of law, the presiding judge of an appellate court of the United States may, in his or her discretion, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides.

(2) AUTHORITY OF DISTRICT COURTS.—

(A) IN GENERAL.—Notwithstanding any other provision of law, any presiding judge of a district court of the United States may, in his or her discretion, permit the photographing, electronic recording, broadcasting, or televising to the public of court proceedings over which that judge presides.

(B) OBSCURING OF WITNESSES AND JURORS.—(i) Upon the request of any witness (other than a party) or a juror in a trial proceeding, the court shall order the face and voice of the witness or juror (as the case may be) to be disguised or otherwise obscured in such manner as to render the witness or juror unrecognizable to the broadcast audience of the trial proceeding.

(ii) The presiding judge in a trial proceeding shall inform—

(I) each witness who is not a party that the witness has the right to request that his or her image and voice be obscured during the witness' testimony; and

(II) each juror that the juror has the right to request that his or her image be obscured during the trial proceeding.

(3) ADVISORY GUIDELINES.—The Judicial Conference of the United States is authorized to promulgate advisory guidelines to which a presiding judge, in his or her discretion, may refer in making decisions with respect to the management and administration of photographing, recording, broadcasting, or televising described in paragraphs (1) and (2).

(c) DEFINITIONS.—In this section:

(1) PRESIDING JUDGE.—The term "presiding judge" means the judge presiding over the court proceeding concerned. In proceedings in which more than one judge participates, the presiding judge shall be the senior active judge so participating or, in the case of a circuit court of appeals, the senior active circuit judge so participating, except that—

(A) in en banc sittings of any United States circuit court of appeals, the presiding judge shall be the chief judge of the circuit whenever the chief judge participates; and

(B) in en banc sittings of the Supreme Court of the United States, the presiding judge shall be the Chief Justice whenever the Chief Justice participates.

(2) APPELLATE COURT OF THE UNITED STATES.—The term "appellate court of the United States" means any United States circuit court of appeals and the Supreme Court of the United States.

(d) SUNSET.—The authority under subsection (b)(2) shall terminate on the date that is 3 years after the date of the enactment of this Act.

SEC. 23. FUNDING FOR STATE COURTS TO ASSESS AND ENHANCE COURT SECURITY AND EMERGENCY PREPAREDNESS.

(a) IN GENERAL.—The Attorney General, through the Office of Justice Programs, shall make grants under this section to the highest State courts in States participating in the program, for the purpose of enabling such courts—

(1) to conduct assessments focused on the essential elements for effective courtroom safety and security planning; and

(2) to implement changes deemed necessary as a result of the assessments.

(b) ESSENTIAL ELEMENTS.—As used in subsection (a)(1), the essential elements include, but are not limited to—

(1) operational security and standard operating procedures;

(2) facility security planning and self-audit surveys of court facilities;

(3) emergency preparedness and response and continuity of operations;

(4) disaster recovery and the essential elements of a plan;

(5) threat assessment;

(6) incident reporting;

(7) security equipment;

(8) developing resources and building partnerships; and

(9) new courthouse design.

(c) APPLICATIONS.—To be eligible for a grant under this section, a highest State court shall submit to the Attorney General an application at such time, in such form, and including such information and assurances as the Attorney General shall require.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $20,000,000 for each of fiscal years 2006 through 2010.

SEC. 24. ADDITIONAL AMOUNTS FOR UNITED STATES MARSHALS SERVICE TO PROTECT THE JUDICIARY.

In addition to any other amounts authorized to be appropriated for the United States Marshals Service, there are authorized to be appropriated for the United States Marshals Service to protect the judiciary, $20,000,000 for each of fiscal years 2006 through 2010 for—

(1) hiring entry-level deputy marshals for providing judicial security;

(2) hiring senior-level deputy marshals for investigating threats to the judiciary and providing protective details to members of the judiciary and Assistant United States Attorneys; and

(3) for the Office of Protective Intelligence, for hiring senior-level deputy marshals, hiring program analysts, and providing secure computer systems.

SEC. 25. GRANTS TO STATES FOR THREAT ASSESSMENT DATABASES.

(a) IN GENERAL.—From amounts made available to carry out this section, the Attorney General shall carry out a program under which the Attorney General makes grants to States for use by the State to establish and maintain a threat assessment database described in subsection (b).

(b) DATABASE.—For purposes of subsection (a), a threat assessment database is a database through which a State can—

(1) analyze trends and patterns in domestic terrorism and crime;

(2) project the probabilities that specific acts of domestic terrorism or crime will occur; and

(3) develop measures and procedures that can effectively reduce the probabilities that those acts will occur.

(c) CORE ELEMENTS.—The Attorney General shall define a core set of data elements to be used by each database funded by this section so that the information in the database can be effectively shared with other States and with the Department of Justice.

(d) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section such sums as may be necessary for each of fiscal years 2006 through 2009.

SEC. 26. GRANTS FOR YOUNG WITNESS ASSISTANCE.

(a) DEFINITIONS.—For purposes of this section:

(1) DIRECTOR.—The term "Director" means the Director of the Bureau of Justice Assistance.

(2) JUVENILE.—The term "juvenile" means an individual who is 17 years of age or younger.

(3) YOUNG ADULT.—The term "young adult" means an individual who is between the ages of 18 and 21.

(4) STATE.—The term "State" means any State of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the Virgin Islands, American Samoa, Guam, and the Northern Mariana Islands.

(b) PROGRAM AUTHORIZATION.—The Director may make grants to State and local prosecutors and law enforcement agencies in support of juvenile and young adult witness assistance programs, including State and local prosecutors and law enforcement agencies that have existing juvenile and adult witness assistance programs.

(c) ELIGIBILITY.—To be eligible to receive a grant under this section, State and local prosecutors and law enforcement officials shall—

(1) submit an application to the Director in such form and containing such information as the Director may reasonably require; and

(2) give assurances that each applicant has developed, or is in the process of developing, a witness assistance program that specifically targets the unique needs of juvenile and young adult witnesses and their families.

(d) USE OF FUNDS.—Grants made available under this section may be used—

(1) to assess the needs of juvenile and young adult witnesses;

(2) to develop appropriate program goals and objectives; and

(3) to develop and administer a variety of witness assistance services, which includes—

(A) counseling services to young witnesses dealing with trauma associated in witnessing a violent crime;

(B) pre- and post-trial assistance for the youth and their family;

(C) providing education services if the child is removed from or changes their school for safety concerns;

(D) protective services for young witnesses and their families when a serious threat of harm from the perpetrators or their associates is made; and

(E) community outreach and school-based initiatives that stimulate and maintain public awareness and support.

(e) REPORTS.—

(1) REPORT.—State and local prosecutors and law enforcement agencies that receive funds under this section shall submit to the Director a report not later than May 1st of each year in which grants are made available under this section. Reports shall describe progress achieved in carrying out the purpose of this section.

(2) REPORT TO CONGRESS.—The Director shall submit to Congress a report by July 1st of each year which contains a detailed statement regarding grant awards, activities of grant recipients, a compilation of statistical information submitted by applicants, and an evaluation of programs established under this section.

(f) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated to carry out this section $3,000,000 for each of fiscal years 2006, 2007, and 2008.

The CHAIRMAN. No amendment to the committee amendment is in order except those printed in House Report 109–279. Each amendment may be offered only in the order printed in the report, by a Member designated in the report, shall be considered read, shall be debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. SENSENBRENNER

Mr. SENSENBRENNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 1 printed in House Report 109–279 offered by Mr. SENSENBRENNER:

In the matter proposed to be inserted by section 2 as subsection (b)(2)(C) of section 115 of title 18, United States Code, after "if death results" insert "and the offender is prosecuted as a principal".

In the matter proposed to be inserted by section 4(a) as section 1123(a) of title 18, United States Code, after "if death results" insert "and the offender is prosecuted as a principal".

In the matter proposed to be inserted by section 18(a) as subparagraph (C) of section 901(a)(3) of the Omnibus Crime Control and Safe Streets Act of 1968 insert after "within the State" the following: "or of an Indian tribe,".

In section 18(b), strike "local unit of government" and insert "unit of local government or Indian tribe" and strike "State or unit" each place it appears and insert "State, unit, or tribe".

In the matter proposed to be inserted by section 13(b)(3) as paragraph (24) of section 604(a) of title 28, United States Code, strike ", and inform" and all that follows through "requirements".

The CHAIRMAN. Pursuant to House Resolution 540, the gentleman from Wisconsin (Mr. SENSENBRENNER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I offer this manager's amendment to clarify that offenders who attempt to murder or conspire to murder a Federal judge, Federal law enforcement officer, or a federally funded public safety officer are subject to a penalty of life imprisonment. If death results, the death penalty can be applied to offenders who are principals.

In addition, the amendment adds Indian tribes as eligible entities for court security grants in section 18 of the bill.

Finally, the amendment clarifies the language as to the coordination between the Marshals Service and the Administrative Office on security issues. I urge my colleagues to support the amendment to this important bill.

Mr. Chairman, I reserve the balance of my time.

The CHAIRMAN. Who seeks time in opposition?

Mr. SCOTT of Virginia. Mr. Chairman, I think the amendment is clarifying in nature, and I have no objection. I am not aware of any objection.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Wisconsin (Mr. SENSENBRENNER).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 2 printed in House Report 109-279 offered by Mr. SCOTT of Virginia:

In the matter proposed to be inserted by section 2 as a subsection (b)(2)(A)(ii) of section 115 of title 18, United States Code, strike "and a term of imprisonment" and all that follows through "10 years" and insert "or a term of imprisonment for not more than 20 years, or both".

In the matter proposed to be inserted by section 2 as a subsection (b)(2)(A)(iii) of section 115 of title 18, United States Code, strike "and a term of imprisonment" and all that follows through "12 years" and insert "or a term of imprisonment for not more than 30 years, or both".

In the matter proposed to be inserted by section 2 as a subsection (b)(2)(A)(iv) of section 115 of title 18, United States Code, strike "and a term of imprisonment" and all that follows through "30 years" and insert "or a term of imprisonment for not more than 40 years, or both".

In the matter proposed to be inserted by section 2 as a subsection (b)(2)(B), strike "not less than 30".

In the matter proposed to be inserted by section 2 as a subsection (b)(2)(C), strike "not less than 30".

In the matter proposed to be inserted by section 2 as a subsection (b)(2)(D) of section 115 of title 18, United States Code, strike "and imprisonment" and all that follows through "10 years" and insert "or imprisonment for not more than 20 years, or both".

In the matter proposed to be inserted by section 2 as a subsection (b)(2)(E) of section 115 of title 18, United States Code, strike "5 years" and insert "not more than 10 years".

In the matter proposed to be inserted by section 3(b) as a subsection (c)(1)(B) of section 111 of title 18, United States Code, strike "not less" and all that follows through "10 years" and insert "not more than 20 years".

In the matter proposed to be inserted by section 3(b) as a subsection (c)(1)(C) of section 111 of title 18, United States Code, strike "not less" and all that follows through "12 years" and insert "not more than 30 years".

In the matter proposed to be inserted by section 3(b) as a subsection (c)(1)(D) of section 111 of title 18, United States Code, strike "not less" and all that follows through "30 years" and insert "not more than 40 years".

In the matter proposed to be inserted by section 3(b) as a subsection (c)(2) of section 111 of title 18, United States Code, strike "5 years" and insert "not more than 10 years".

In the matter proposed to be inserted by section 20(a) as a section 1075 of title 18, United States Code, strike "not less than 10" and insert "not more than 20".

In the matter proposed to be inserted by section 21(a) as a subsection (b) of section 1114 of title 18, United States Code, strike "and imprisonment" and all that follows through "or for life" and insert "or imprisonment for any term of years, or for life, or both".

In the matter proposed to be inserted by section 21(b) in section 1201(a) of title 18, United States Code, strike "and imprisonment" and all that follows through "or for life" and insert "or imprisonment for any term of years, or for life, or both".

The CHAIRMAN. Pursuant to House Resolution 540, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment eliminates the mandatory minimum sentences in the bill and replaces them with increases in maximum sentences for which a defendant can be sentenced. This is not a soft-on-crime amendment but a sensible-on-crime amendment. In each instance in which it eliminates a mandatory minimum sentence, it raises the maximum term to which an offender can be sentenced, except in situations where they can already get life.

With the higher maximums, offenders who deserve it can be sentenced to even greater sentences than the bill allows. But those who are bit players in an offense or those who do not deserve as much time as ringleaders, do not have to be sentenced to that time anyway. What sense does it make to sentence an offender to more time than anyone believes they deserve? That is an inevitable result of mandatory minimum sentencing.

The notion that we have to have mandatory minimum sentences to force judges to sentence those who kill, injure or threaten judges or their families or others associated with the courts is obviously absurd. Judges have not asked for mandatory minimum sentences as a protection for themselves and their families. Indeed, they have asked for just the opposite.

Having the experience of sentencing people on an ongoing basis, judges see the differences in activities, roles, backgrounds of the offenders of crime. They know it makes no sense to sentence just on the basis of the name of the crime rather than on the basis of the facts and circumstances of the crime and the level of involvement and background of the offenders. Having heard all the facts and circumstances in the case, they are in a much better position to sentence offenders than Congress is in sentencing offenders with no knowledge of the individual case.

To ensure a systemic approach in sentencing like offenders in a similar manner, we have created the Sentencing Commission and the sentencing guideline system. By increasing the maximums, we signal to the Sentencing Commission to consider increasing the guideline minimums, which they characteristically do when we make such suggestions. The sentencing statistics do not establish that the courts have not followed the guidelines, especially when you take into account that most of the deviations result from government motions, or acquiescences in sentences, and guideline-sanctioned departures. Sentencing is not an exact science and should not be held to rigid statistical measurements.

Some have suggested that mandatory minimum sentencing is necessary because of recent Supreme Court decisions that prevent sentencing increases based on factors not established at the trial. Yet, their positions on mandatory minimum sentences appear to be no different before those cases were decided.

Mandatory minimums have been studied and have been found to disrupt an orderly sentencing scheme, to be discriminatory against minorities, to waste the taxpayers' money when compared to traditional sentencing where individual roles and culpability can be taken into account. If we do not trust judges to sentence offenders sufficient in other cases, the one instance where we should be able to trust judges is in the case where the charge is murder, injury, or threats to judges.

Certainly, Mr. Chairman, mandatory minimums are not indicated in this bill, so I urge my colleagues to support this amendment and remove the mandatory minimums from the bill.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise in opposition to the Scott amendment. It strips all of the mandatory minimum penalties out of the bill.

The amendment seeks to strip the core provisions of the bill. Let me remind everyone of the nature of the problem we face today. More than 57,000 law enforcement officers were assaulted in 2003, or one in every 10 officers serving in the United States. The numbers have been increasing since 1999, even as every other crime has decreased or held steady.

The Executive Director of the Fraternal Order of Police noted recently "There is less respect for authority in general and police officers specifically. The predisposition of criminals to use firearms is probably at the highest point of our history."

The secure access proposal addresses this problem by sending a message of deterrence. The existing penalty for assaulting a law enforcement officer is 8 years, 15 if with a weapon. Under current criminal law, a false statement made to an FBI agent in a terrorism investigation carries the same penalty as a violent assault of a police officer.

Federal, State, and local judges have suffered from rising threats, and deadly attacks have been directed against judges as well as courthouse participants.

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According to the Administrative Office of United States Courts, there are almost 700 threats made a year against Federal judges, and in numerous cases Federal judges have had security details assigned to them for fear of attack by members of terrorist organizations, violent gangs, and disgruntled litigants.

H.R. 1751 provides a reasonable penalty structure for assaults against judges, prosecutors and public safety officers, as well as members of their families. The bill adopts a penalty structure requiring 1 to 10 years for an assault that results in bodily injury, such as a cut, abrasion, bruise, burn, disfigurement, pain or illness; 3 to 12 years for substantial bodily injury, temporary but substantial disfigurement, temporary but substantial loss or impairment; and 10 to 30 years for serious bodily injury, substantial risk of death, extreme physical pain, protracted and obvious disfigurement, or protracted loss or impairment of the function of a bodily member, organ or mental faculty.

These penalties roughly correspond to existing guideline ranges and simply ensure that Federal judges impose the required penalty, but can exercise discretion to a higher penalty if warranted.

Law enforcement officers deserve our fullest protection, brazen criminals show less and less regard for the police and the hard work that they do. Our message is simple: If you attack a police officer or kill a police officer, you will be going to jail for a long time.

As revised, the mandatory minimums are commensurate with existing Federal sentencing guidelines, but in the absence of a mandatory minimum guideline system, there is too much at risk to leave the sentencing to judges who have already demonstrated their willingness to depart from the guidelines when presented with a case.

Mandatory minimum penalties are effective for ensuring consistency in sentencing. Since the Supreme Court's decision in United States v. Booker, judges now have virtually unlimited discretion to ignore the Federal sentencing guidelines and impose whatever sentence they like, all to the detriment of public safety and fairness and sentencing through consistent and clear punishment schemes. Judges are now completely unaccountable.

Congress has a duty to set sentencing policies for Federal crimes and to make sure that judges impose such sentences. Unfortunately, that has not been the experience since the Booker decision. Once freed from mandatory sentencing schemes, Federal judges are now starting to ignore the guidelines: In one of every 10 criminal cases, they are imposing sentences below the previously mandated guideline range.

In a recently released report, the Sentencing Commission data confirmed that this trend is continuing, and specifically broke out such data by circuits, which showed that judges in the Second and Ninth Circuits followed the guideline ranges in imposing sentences in a substantially lower percentage than the other circuits. Sentences now for similar crimes are being handed in disparate fashion, depending on the region where the offense occurs. This is not equal justice under the law in the Federal system.

Those judges, when they go to the Supreme Court, ought to look at the motto that is underneath the roof of the Court at the main entrance when they walk in. For these reasons, I urge my colleagues to oppose the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The amendment was rejected.

AMENDMENT NO. 3 OFFERED BY MR. SCOTT OF VIRGINIA

Mr. SCOTT of Virginia. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 3 printed in House Report 109–279 offered by Mr. SCOTT of Virginia:

In the matter proposed to be inserted by section 4 as section 1123(a) of title 18, United States Code, strike "shall be punished" and all that follows through "death" and insert "shall be fined under this title or imprisoned for any term or years or for life, or both".

The CHAIRMAN. Pursuant to House Resolution 540, the gentleman from Virginia (Mr. SCOTT) and the gentleman from Wisconsin (Mr. SENSENBRENNER) each will control 5 minutes.

The Chair recognizes the gentleman from Virginia.

Mr. SCOTT of Virginia. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, this amendment would eliminate the expansion of the Federal death penalty jurisdiction on the basis of any portion of the salary of a State or local official being covered with Federal funds. That means they could be eligible for a Federal death penalty. The notion that the Federal Government has to replace the States and localities in murder prosecutions against those who would murder a State judge or others associated with a judge or courts is absurd.

States have shown themselves quite capable of prosecuting murder cases and in obtaining death penalties where applicable. They have done far more of it, frankly, than the Federal Government, so there is no indication that this raw extension of Federal power is necessary or even desired. If a State has chosen to represent the will of its citizens by not authorizing a death penalty, why should Congress step in and impose it in spite of the State's public policy choice?

The States certainly have not asked that we add a Federal death penalty to apply to the murder of federally funded State or local officials. And there is no evidence that the kind of people who would kill or plot to kill a State court judge or other officials may be deterred by a Federal death penalty.

The public is clearly rethinking the appropriateness of the death penalty, in general, due to the evidence that it is ineffective in deterring crime, that it is racially discriminatory, and found more often than not to be erroneously applied.

A 23-year comprehensive study of the death penalty found that the death penalty had been erroneously applied 68 percent of the time. So it is not surprising that over 120 people sentenced to death over the last 10 years have been released from death row, having been completely exonerated of the crimes for which they are convicted or otherwise found to be not guilty.

Nor is it surprising that with such a sorry record of death penalty administration, that several States have abolished the death penalty or placed moratoriums on the applications of their death penalty while studies are being conducted, and why some, while they have it on the books, have not applied it in many years.

In recognition of the problems States and localities were having with administering the death penalty, Congress adopted the Innocence Protection Act just a few years ago. It provides funding to State and local entities to help ensure that there is competent counsel at all parts of the trial.

Mr. Chairman, during committee deliberations of the death penalty, we heard references to econometric research of economist Joanna M. Shepherd. I want to point out, more recently, she has done further analysis in elaboration of her research and found, in terms of deterring murders, executions deter murders in six States, have no effect on murders in eight States, and increased murders in 13 States.

Mr. Chairman, despite the fact that the death penalty is arbitrarily applied, it is discriminatory and we make mistakes. I would hope that we would delete the death penalty from this bill by adopting the amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself such time as I may consume.

I rise in opposition to the Scott amendment which eliminates the death penalty for the killing of a federally funded public safety officer, such as a judge, police officer, firefighter, prosecutor, or a family member of a public safety officer.

According to the Bureau of Justice Statistics, 52 law enforcement officers were feloniously killed in the United States in 2003 and 56 officers were killed in the previous year.

In the 10-year period from 1994 through 2003, a total of 616 law enforcement officers were feloniously killed in the line of duty in the United States, 100 of whom were killed in ambush situations, entrapment or premeditated situations. If not for the advent of bulletproof vests, an additional 400 officers would have been killed over the last decade, except for the fact that they were wearing protective armor.

Of those responsible for killing police officers between 1994 and 2003, 521 had a prior criminal arrest, including 153 who had a prior arrest for assaulting a police officer or resisting arrest, 264 for a crime of violence, 230 for a weapons violation, and 23 for murder.

Recent events include the killing of an individual with a grenade in the Seattle Federal courthouse; the killing of Judge Roland Barnes, his deputy sheriff and a Federal agent in Atlanta; the murders of Federal Judge Lefkow's husband and mother; and the murders immediately outside the Tyler, Texas, courthouse.

These recent attacks follow on the heels of the 1998 bombing of Circuit Judge Robert Vance in the 11th Circuit; the 1998 shooting of Judge Daronoco; and the 1979 shooting of Judge Wood outside his San Antonio home.

According to the Administrative Office, there are almost 700 threats a year made against Federal judges, and security detail have had to be assigned to those Federal judges because of the threats of attacks.

The Secure Access bill authorizes, but does not require prosecution of federally funded State and local judges and first responders if there is a threat or an assault against them.

First, jurisdiction only exists when it involves Federal funding and protection of Federal investment.

Second, under current Federal law, the Department of Justice pays survivor benefits to families of first responders who are killed in the line of duty. The Federal interest in minimizing these assaults and murders is obvious and cost-saving.

The intent underlying this provision is to authorize Federal prosecution after State and local prosecutors and Federal prosecutors determine where such prosecution would best be brought. Some States do not have a death penalty and Federal prosecution of a cop killer may be warranted. Federal prosecution may be advantageous over State or local prosecutions for a variety of reasons, such as laws relating to evidence, statute of limitations, or other reasons.

The provisions do not require Federal prosecution, but only add another tool in the arsenal to protect law enforcement officers, judges, and other courthouse personnel.

The need for a swift and effective death penalty is significant in the case of violent offenders who assault and kill law enforcement officers, judges and witnesses. Several scientifically valid statistical studies that examine a period of years and control for national trends consistently show that capital punishment is a substantial deterrent and saves lives. Recent estimates show that each execution deters 18 murders.

I urge a "no" vote on the amendment.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Virginia (Mr. SCOTT).

The question was taken; and the Chairman announced that the noes appeared to have it.

Mr. SENSENBRENNER. Mr. Chairman, I demand a recorded vote.

The CHAIRMAN. Pursuant to clause 6 of rule XVIII, further proceedings on the amendment offered by the gentleman from Virginia (Mr. SCOTT) will be postponed.

AMENDMENT NO. 4 OFFERED BY MR. CUELLAR

Mr. CUELLAR. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 4 printed in House Report 109-279 offered by Mr. CUELLAR:

Section 11(c) is amended

(1) by striking "and" at the end of paragraph (2);

(2) by striking the period at the end of paragraph (3) and inserting "; and"; and

(3) by inserting after paragragraph (3) the following:

(4) shares an international border and faces a demonstrable threat from cross border crime and violence.

The CHAIRMAN. Pursuant to House Resolution 540, the gentleman from Texas (Mr. CUELLAR) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Texas.

Mr. CUELLAR. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, my amendment is an amendment that adds a category of preferential consideration for witness protection grants for jurisdictions that share an international border and face a threat from cross-border crime.

Basically, this would allow the border prosecutors an opportunity to protect the witness that sometimes fears that they might get a threat from international cross-border threats. I believe this amendment is acceptable to Chairman SENSENBRENNER.

Mr. Chairman, Chairman SENSENBRENNER and Ranking Member CONYERS, Congressman SCOTT, thank you for this opportunity to offer my amendment to H.R. 1751, the Secure Access to Justice and Court Protection Act of 2005.

Crime and violence along the US-Mexico border presents unique challenges to the law enforcement community. Border crimes can be especially difficult to prosecute: a witness to a crime along the border may be hesitant to testify if he or she fears it is related to criminal activity across the border in another country.

The Cuellar amendment is simple; it adds a category of preferential consideration for witness protection grants for jurisdictions that share an international border and face a demonstrable threat from cross-border crime. This category will benefit such jurisdictions that choose to apply for witness protection grants.

We must provide prosecutors every means possible to adjudicate crimes along the border, and giving them preferential consideration for witness protection grants will help that goal.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. CUELLAR. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, the amendment is a very good amendment. It is not acceptable, but it is something that I enthusiastically support.

Mr. CUELLAR. Mr. Chairman, I thank the gentleman.

Ms. JACKSON-LEE of Texas. Mr. Chairman, will the gentleman yield?

Mr. CUELLAR. I yield to the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I thank the gentleman for his very wise amendment. He comes from a region that has suffered an enormous amount of border violence. But his local officials, in working with the gentleman, has brought this to the Nation's attention.

This amendment will protect witnesses who I think are the crux of solving some of these heinous crimes. I have supported amendments such as this, which include language in legislation that I have which deals with rewarding informants in order to get them to tell the facts that would allow for busting drug cartels and others who are perpetrating violence. This is a wise amendment, and I am happy to support it.

Mr. CUELLAR. Mr. Chairman, I thank the gentlewoman for the work she has done.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Texas (Mr. CUELLAR).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MS. JACKSON-LEE OF TEXAS

Ms. JACKSON-LEE of Texas. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 5 printed in House Report 109–279 offered by Ms. JACKSON-LEE of Texas:

In section 25, strike subsection (a) and insert the following:

"(a) IN GENERAL.—The Attorney General, through the Office of Justice Programs, shall make grants under this section to the highest State courts in States participating in the program, for the purpose of enabling such courts to establish and maintain a threat assessment database described in subsection (b).".

The CHAIRMAN. Pursuant to House Resolution 540, the gentlewoman from Texas (Ms. JACKSON-LEE) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Texas.

Ms. JACKSON-LEE of Texas. Mr. Chairman, I yield myself such time as I may consume.

I want to thank the ranking member and the chairman of the full committee and the chairman and the ranking member of the subcommittee to allow the amendment that I secured that has to do with providing courts the opportunity to establish a threat assessment database similar to that of U.S. Marshals.

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This provides our courts hands-on immediate information in order to determine the threats that are waged against these particular courts. This simple amendment, rather than include the attorney, in essence, the change of this amendment would require the Attorney General to work through the Office of Justice Programs to make grants to the highest State courts in States participating in the Threat Assessment Database program.

Mr. SENSENBRENNER. Mr. Chairman, will the gentlewoman yield?

Ms. JACKSON-LEE of Texas. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I support this amendment. It makes a technical change to section 25 of the bill, and it broadens the eligibility for grants. I think it is a good amendment and urge the committee to adopt it.

Ms. JACKSON-LEE of Texas. Mr. Chairman, reclaiming my time, I thank the distinguished chairman for his support.

Let me conclude by simply saying again I remind colleagues I hope that some day we will be able to discuss the Good Time Early Relief bill that speaks to the question of individuals languishing in Federal prisons who have been nonviolent and would welcome this discussion and this legislation.

I am grateful for this amendment, and I ask my colleagues to support the amendment.

Mr. Chairman, I rise to offer an amendment to H.R. 1751, the Secure Access to Justice and Court Protection Act of 2005. Before doing so, I want to thank the Chairman and the Ranking Minority Member of the House Judiciary Committee for their efforts on this bill. Let me briefly explain the thrust of my amendment. This amendment is only a small technical change to my original amendment that was adopted during the Full Committee Markup last week. In essence, the change would require the Attorney General to work, through the Office of Justice Programs, to make grants to the highest State courts in States participating in the threat assessment database program.

The rationale for changing the language to make State Supreme Courts eligible for receiving grants for the creation of a threat assessment database is that the State courts are on the ground and have the best understanding of what type of threats are out there and where they are coming from. In addition:

The Department of Justice has interpreted language giving "grants to States" as going directly to State executives (Governors) and they have sometimes bypassed the State courts.

The State court administrating agencies (led by the State supreme courts) are in a better position to know about the kind of threats and attacks they experience in a given year.

The State court administrating agencies are in a better position to know how to respond to attacks and develop procedures to counter threats to the State courts.

If the grants go to the State executive, there is a chance that money expended under this program will go to another part of the State budget such as roads or education, not court security.

I respectfully request that my amendment be made in order.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Texas (Ms. JACKSON-LEE).

The amendment was agreed to.

AMENDMENT NO. 6 OFFERED BY MR. FILNER

Mr. FILNER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 6 printed in House Report 109–279 offered by Mr. FILNER:

Section 26(d)(3) is amended

(1) by redesignating subparagraphs "(D)" and "(E)"as subparagraphs "(E)" and "(F)", respectively; and

(2) by inserting after subparagraph (C) the following:

"(D) support for young witnesses who are trying to leave a criminal gang and information to prevent initial gang recruitment.".

The CHAIRMAN. Pursuant to House Resolution 540, the gentleman from California (Mr. FILNER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from California.

Mr. FILNER. Mr. Chairman, I yield myself such time as I may consume.

I thank Chairman SENSENBRENNER and the Rules Committee for allowing this amendment to proceed. There is a very good section of the bill talking about grants for young witness assistance, and I think when we talk about that, as the bill does, very importantly, we also must explicitly talk about gangs because we know that youth witness intimidation generally comes at the hands of criminal gangs. So my amendment adds language to this section that provides for this bill to allow the use of witness protection grants by youths who are trying to leave a criminal gang or to prevent initial gang recruitment.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. FILNER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I am happy to support this amendment. I think it plugs a hole in the original bill, and we certainly want to do whatever we can to prevent people from going into gangs and from being threatened if they are witnesses and are sworn to tell the truth, the whole truth, and nothing but the truth in criminal trials involving gang members.

Mr. FILNER. Mr. Chairman, I thank the chairman for his support.

Mr. Chairman, I yield 2 minutes to the gentlewoman from California (Ms. WATSON).

Ms. WATSON. Mr. Chairman, I am here to support the gentleman from California (Mr. FILNER) and his amendment to H.R. 1751. I would like to thank the chair for accepting that amendment.

What he is trying to do is to help that young person extricate him or herself and let the courts and law enforcement know aspects of gang crime that are key in convicting our most dangerous criminals on the streets.

In my district I think we have exported gang activities around the country and maybe even around the world, South Central Los Angeles. So as a result, I started a series of youth violence summits with intervention specialists, educators, counselors, and the youth themselves. And one clear message that has resonated amongst all of them is the dire need to promise our youth that if they are involved in gang activity and remove themselves, they will not be harmed or killed by the very gang that they wisely ostracize themselves from.

So this amendment clearly provides much-needed witness protection for our youth who are fearful of leaving a gang and who will come forward to testify about the inner workings of these gangs.

So I thank the gentleman very much for recognizing that we need to have options for the young people that are trying to be responsible in the process. And we are going to come back next year with a comprehensive bill because we have been studying this issue, working with it for the last 20 years; and I thank Mr. FILNER and Mr. SENSENBRENNER so much for recognizing the need to have these programs.

Mr. FILNER. If I may conclude, Mr. Chairman, according to the past president of the National District Attorneys Association, Mr. Robert P. McCullough, he said that "prosecutors across the country believe that the issue of witness intimidation is the single biggest hurdle facing any successful gang prosecution."

So I appreciate the chairman's acceptance of this amendment. I look forward to these grants helping our young people avoid gangs or at least avoid intimidation.

I believe when you talk about witness assistance programs for children, which this bill does, you have to talk about gangs because as many know youth witness intimidation generally comes at the hand of criminal gangs.

My amendment adds language to the witness protection grants provided in this bill to allow their use by youths who are trying to leave a criminal gang or to prevent initial gang recruitment.

Unfortunately, my district like many others across the country has a problem with gangs, which is why I introduced this amendment.

In San Diego, police department records count no fewer than 3,750 gang members on the street. Most are young—pre-teens to mid-20s. During the first six months of this year, gang violence resulted in eight homicides in San Diego, nearly a third of the total of 23.

However, don't let these statistics mislead you, gang violence is not limited to California and or big urban areas—that might have been true a while ago but it is no longer the case today. While big cities still have the majority of gangs their tentacles reach out from the cities into every aspect of our society. For example, Mara Salvatrucha, also known as MS–13, has grown from a gang that once numbered a few thousand and was involved in street violence and turf battles in Southern California into a gang that operates in at least 33 states, with an international membership in the hundreds of thousands.

Three thousand jurisdictions across the U.S. are estimated to have had gang activity in 2001. In 2002, 32% of cities with a population of 25 to 50 thousand reported a gang-related homicide. Furthermore, it is estimated that there are 840,000 active gang members in the U.S. operating in every state of the Union.

These gangs are effective because they bind their members to loyalty and create fear throughout the community in which they operate. This fear, most noticeable in children, prevents residents from cooperating with law enforcement officials and testifying against gang members. My amendment, while not a panacea for the gang problem, is a step in the right direction. It provides support to prevent initial gang recruitment and helps those young witnesses who are trying to leave criminal gangs. Passage of my amendment will decrease youth witness intimidation by gangs and as a result lead to improved prosecution of gang members.

According to the past president of the National District Attorneys Association, Robert P. McCullough, "prosecutors across the country believe that the issue of witness intimidation is the single biggest hurdle facing any successful gang prosecution." I could not agree with him more, which is why I am urging you to support my amendment.

Finally, as a matter of clarification, my amendment does not "require" states to provide such criminal gang witness assistance to be eligible for young adult witness assistance grants.

Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from California (Mr. FILNER).

The amendment was agreed to.

AMENDMENT NO. 7 OFFERED BY MR. WEINER

Mr. WEINER. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 7 printed in House Report 109-279 offered by Mr. WEINER:

At the end of the bill add the following:

SEC. . STATE AND LOCAL COURT ELIGIBILITY.

(a) BUREAU GRANTS.—Section 302(c)(1) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3732(c)(1)) is amended by inserting "State and local courts," after "contracts with".

(b) EDWARD BRYNE GRANTS.—

(1) FORMULA GRANTS.—Section 501 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3751) is amended—

(A) in subsection (a), by striking "and units of local government" and inserting ", units of local government, and State and local courts"; and

(B) in subsection (b), by inserting ", State and local courts," after "use by States".

(2) DISCRETIONARY GRANTS.—Section 510(a) of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (42 U.S.C. 3760(a)) is amended by inserting ", State and local courts," after "private agencies,".

(c) ARMOR VESTS.—Section 2501 of title I of the Omnibus Crime Control and Safe Streets Act of 1968 (3796ii) is amended—

(1) in subsection (a), by inserting "State and local court," after "local,"; and

(2) in subsection (b), by inserting "State and local court" after "government,".

(d) CHILD ABUSE PREVENTION.—Section 105 of the Child Abuse Prevention and Treatment Act (42 U.S.C. 5106) is amended—

(1) in the section heading, by inserting "**STATE AND LOCAL COURTS,**" after "**AGENCIES**";

(2) in subsection (a), by inserting "and State and local courts" after "such agencies or organizations)"; and

(3) in subsection (a)(1), by inserting "and State and local courts" after "organizations".

The CHAIRMAN. Pursuant to House Resolution 540, the gentleman from New York (Mr. WEINER) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from New York.

Mr. WEINER. Mr. Chairman, I yield myself such time as I may consume.

This is a technical amendment that fixes an oversight in the bill that left out four programs that would be helpful for courts, court officers, and court security personnel to take advantage of: the Bulletproof Vest Partnership Grant program; the Byrne Memorial State and Local Law Enforcement Assistance Discretionary Grant program; the Assistance for Children's Justice Act, CJA, grants; and State Justice Statistics program for Statistical Analysis Centers.

These four grant programs, I think, the authors of the bill, Mr. GOHMERT, myself and members of the committee, had intended to be available to courts as a result of this bill, and this amendment would include those.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. WEINER. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I thank the gentleman for yielding to me.

The gentleman from New York is absolutely correct in that there was an oversight in that State and local courts would not be eligible for the four grant programs that the gentleman outlined in his remarks. This amendment corrects the oversight, and I am happy to support it and hope that the committee adopts it.

Mr. WEINER. Mr. Chairman, reclaiming my time, I thank the chairman for his support.

For the balance my time here, I do want to point out one other provision that has gone largely unnoticed, but is a very important part of this bill.

I have beside me, and it is difficult to read from afar and, frankly, it is difficult to even read from up close, a Web site that distributes the personal information about judges, police officers, elected officials, and the like. This Web site, and we have obviously obscured the URL, goes so far as to talk about the comings and goings of undercover officers in New York City. It provides sensitive details of about 79 different officers, things such as what type of car they drive, things about what the comings and goings of their families are, personal habits. This is an example where we find the matrix, or perhaps I would call it the conflict, of the virtues of the Internet, how it is a place to bring information far and wide and the ability to use the Internet for what is in this case a very pernicious, mean-spirited, and perhaps deadly cause.

We know from the examples we have had judges' families stalked based on information the criminals were able to find on the Internet. In this bill we essentially incorporate H.R. 1710, the Internet Police Protection Act, that I offered. It becomes section 18 of this bill. What it says is there is a lot of publicly accessible information about judges; there is a lot of publicly accessible information about police officers. If someone wants to, if they really want to harass or harm a police officer or a judge, we should not allow the Internet to be used as a repository for information like that.

I am someone who spends a great deal of time as a member of the Judiciary Committee and a Member of this House fighting for the rights of people to free speech. I know there are going to be things on the Internet that are troubling to us, and we are always going to be in a tug and a push to try to figure out where we draw the line.

In this case, the line clearly gets drawn in the following place: if people are going to use the Internet to harass, intimidate, or harm law enforcement personnel, to harm court officers, to harm judges, then they should be illegal. This makes the test very simple. If they simply compile the database and a police officer's name happens to be on it with no intention of ill will, then obviously this would not make that illegal. But if it is clear that they are compiling a Web site like this one, which starts out, I should point out, the very first line says: "Welcome to this legal, noncriminal Web site which provides publicly available information about NYPD, New York City Police Department, officers. This page is this Web site's most visited page," and it goes on to talk about how the information that was gathered was gathered in a lawful way. That is probably right. But it should be illegal. This is just the type of harassment tool, and perhaps even worse, that we need to keep off of the Internet.

I also draw another distinction, Mr. Chairman. When one is an elected official, a public official, their comings and goings are going to be more public than others. That is part of the cost of doing business. Any information about where a Congressman shows up obviously is not going to be covered by this legislation. But if one is a police officer, if one is an undercover police officer, imagine what it feels like to go home after a hard day at work dealing with some very bad people and find information about their comings and goings posted on a Web page.

This bill, the Court Protection Act, is going to make that illegal, as it should. And there may be tests that we have to figure out where the line gets drawn. Courts have come down in different places, but one thing we know: threatening speech is not protected speech. Speech that endangers someone's livelihood, endangers someone's life is not protected speech, and this provision in the Court Security Act will make that abundantly clear.

I ask for a "yes" vote on the Weiner amendment.

The CHAIRMAN. The question is on the amendment offered by the gentleman from New York (Mr. WEINER).

The amendment was agreed to.

AMENDMENT NO. 8 OFFERED BY MR. KING OF IOWA

Mr. KING of Iowa. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Amendment No. 8 printed in House Report 109–279 offered by Mr. KING of Iowa:

At the end of the bill, add the following:

SEC. ____. AUTHORITY OF FEDERAL JUDGES AND PROSECUTORS TO CARRY FIREARMS.

(a) IN GENERAL.—Chapter 203 of title 18, United States Code, is amended by inserting after section 3053 the following:

"§ 3054. Authority of Federal judges and prosecutors to carry firearms

"Any justice of the United States or judge of the United States (as defined in section 451 of title 28), any judge of a court created under article I of the United States Constitution, any bankruptcy judge, any magistrate judge, any United States attorney, and any other officer or employee of the Department of Justice whose duties include representing the United States in a court of law, may carry firearms, subject to such regulations as the Attorney General shall prescribe. Such regulations shall provide for training and regular certification in the use of firearms and shall, with respect to justices, judges, bankruptcy judges, and magistrate judges, be prescribed after consultation with the Judicial Conference of the United States.".

(b) CLERICAL AMENDMENT.—The table of sections for such chapter is amended by inserting after the item relating to section 3053 the following:

"3054. Authority of Federal judges and prosecutors to carry firearms.".

The CHAIRMAN. Pursuant to House Resolution 540, the gentleman from Iowa (Mr. KING) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Iowa.

Mr. KING of Iowa. Mr. Chairman, I yield myself such time as I may consume.

First, Mr. Chairman, I want to thank Chairman SENSENBRENNER and Mr. GOHMERT for bringing this underlying bill to the floor, H.R. 1751.

My amendment specifically addresses the problem of violence in and around Federal courthouses. The amendment authorizes any Federal judge, magistrate, United States Attorney, or any other officer of the Department of Justice who represents the U.S. in a court of law to carry firearms. They would be subject to training and regulation as prescribed by the Attorney General.

Currently, a number of States permit State prosecutors to carry firearms. However, this right is not extended to all Federal prosecutors and Federal judges. My amendment would allow both Federal judges and Federal prosecutors to carry firearms for their and their families' protection and provide for training and regular certification.

The need for my amendment was made clear by the recent tragedies involving, and we have heard the chairman speak to these issues, the brutal murder of family members of U.S. District Judge Joan Lefkow; the slaying of Judge Rowland Barnes, his court reporter, deputy sheriff, and a Federal officer in Atlanta; the cold-blooded shootings outside the Tyler, Texas courthouse, among others. These situations underscore the importance of security for judges and prosecutors.

There is a significant need to allow judges and U.S. Attorneys to carry firearms because threats and dangerous assaults upon them are steadily increasing. By virtue of their positions, United States judges and prosecutors are high-profile targets. They and their families have often been victims of violent crimes, murder, and threats to their personal safety.

United States judges, justices, and U.S. Attorneys bravely serve the people of the United States of America. They prosecute our most serious, sophisticated, and violent offenders. These offenders range from international terrorists to armed career criminals.

Protecting the courthouse is important, Mr. Chairman, but the courthouse is just a building. This amendment is designed to provide meaningful protection to the actual person and his or her family. My amendment extends protection from the courthouse to the homes in the areas where the judges and prosecutors live.

Our Nation relies and depends upon the sound and unintimidated judgment of these dedicated public servants. We owe them every reasonable tool to protect themselves and their families. This includes the right to carry an effective personal security tool.

Mr. Chairman, I urge a "yes" vote on this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. SCOTT of Virginia. Mr. Chairman, I ask unanimous consent to claim the time in opposition, although I am not opposed.

The CHAIRMAN. Is there objection to the request of the gentleman from Virginia?

There was no objection.

Mr. SCOTT of Virginia. Mr. Chairman, I wonder if the gentleman from Iowa would respond to a couple of questions. I would ask the gentleman whether or not this applies to Federal officials only; we are not imposing this on State officials.

Mr. KING of Iowa. Mr. Chairman, will the gentleman yield?

Mr. SCOTT of Virginia. I yield to the gentleman from Iowa.

Mr. KING of Iowa. Yes. Mr. Chairman, it applies only to Federal officials who will represent the United States of America in a court of law, the voice of the Federal Government in a court of law.

Mr. SCOTT of Virginia. Mr. Chairman, reclaiming my time, also, did the Federal officials ask for this new power?

I yield to the gentleman.

□ 1715

Mr. KING of Iowa. Mr. Chairman, on that specific question, I cannot answer "yes" to or "no" to. I am working with a piece of language I believe in, and I have not looked a Federal official in the eye that specifically asked me.

Mr. SCOTT of Virginia. Mr. Chairman, reclaiming my time, it is my understanding that this was in fact their request, in fact, their number one request. Does the gentleman have any evidence or know anything contrary to that?

Mr. KING of Iowa. I have been informed that, yes, we have Federal officials that have asked for this legislation. I would point out that it is not mandatory that they accept carrying a firearm; it is their option that they exercise under the regulation provided by the Attorney General.

Mr. SCOTT of Virginia. Reclaiming my time, I would finally ask, is this the right to carry, subject to training and regulation prescribed by the Attorney General? I yield to the gentleman.

Mr. KING of Iowa. It is subject to training and regulation as prescribed by the Attorney General.

Mr. SENSENBRENNER. Mr. Chairman, will the gentleman yield?

Mr. SCOTT of Virginia. I yield to the gentleman from Wisconsin.

Mr. SENSENBRENNER. Mr. Chairman, I appreciate the gentleman yielding. I support the amendment as well, and I understand why Federal officials who are designating the amendment would feel a need for this. As long as it is optional and as long as it requires training and certification, I think that this is an appropriate thing, to empower those Federal officials designated who feel the need to carry a firearm to be able to do so.

Mr. SCOTT of Virginia. Mr. Speaker, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Iowa (Mr. KING).

The amendment was agreed to.

AMENDMENT NO. 3 OFFERED BY SCOTT OF VIRGINIA

The CHAIRMAN. The pending business is the demand for a recorded vote on the amendment offered by the gentleman from Virginia (Mr. SCOTT) on which further proceedings were postponed and on which the noes prevailed by voice vote.

The Clerk will redesignate the amendment.

The Clerk redesignated the amendment.

RECORDED VOTE

The CHAIRMAN. A recorded vote has been demanded.

A recorded vote was ordered.

The vote was taken by electronic device, and there were—ayes 97, noes 325, not voting 11, as follows:

[Roll No. 583]

AYES—97

Abercrombie
Ackerman
Allen
Baldwin
Bartlett (MD)
Berman
Blumenauer
Brown (OH)
Capuano
Carson
Clay
Cleaver
Clyburn
Conyers
Cummings
Davis (IL)
DeGette
Delahunt
Dingell
Ehlers
Engel
Eshoo
Evans
Farr
Fattah
Filner
Frank (MA)
Green, Al
Gutierrez
Hinchey
Hoekstra
Holt
Honda
Jackson (IL)
Jackson-Lee (TX)
Johnson, E. B.
Kildee
Kilpatrick (MI)
Kucinich
Lee
Levin
Lewis (GA)
Lowey
Lynch
Maloney
Markey
McCarthy
McCollum (MN)
McDermott
McGovern
McKinney
McNulty
Meehan
Meeks (NY)
Michaud
Millender-McDonald
Miller, George
Mollohan
Moore (WI)
Nadler
Neal (MA)
Oberstar
Obey
Olver
Owens
Pastor
Paul
Payne
Pelosi
Rahall
Rangel
Roybal-Allard
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Scott (VA)
Serrano
Slaughter
Smith (NJ)
Smith (WA)
Solis
Stark
Tierney
Towns
Udall (CO)
Van Hollen
Velázquez
Wasserman Schultz
Waters
Watson
Watt
Waxman
Woolsey

NOES—325

Aderholt
Akin
Alexander
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Coble
Cole (OK)
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Emanuel
Emerson
English (PA)
Etheridge
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Holden
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
Marshall
Matheson
Matsui
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Meek (FL)
Melancon
Menendez
Mica
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neugebauer
Ney
Northup
Nunes
Nussle
Ortiz
Osborne
Otter
Oxley
Pallone
Pascrell
Pearce
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (TX)
Snyder
Sodrel
Souder
Spratt
Stearns
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Turner
Udall (NM)
Upton
Visclosky
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)

NOT VOTING—11

Boswell
Brown-Waite, Ginny
Conaway
Davis (FL)
Hastings (FL)
Norwood
Pence
Sessions
Strickland
Sweeney
Young (FL)

□ 1745

Messrs. BRADY of Pennsylvania, GARRETT of New Jersey, GARY G. MILLER of California, RYAN of Wisconsin, MCCAUL of Texas, MORAN of Virginia, BUTTERFIELD, UDALL of New Mexico, Ms. HARRIS, Ms. CORRINE BROWN of Florida, Ms. DELAURO and Ms. MATSUI changed their vote from "aye" to "no."

Mr. UDALL of Colorado and Ms. SOLIS changed their vote from "no" to "aye."

So the amendment was rejected.

The result of the vote was announced as above recorded.

The CHAIRMAN. The question is on the committee amendment in the nature of a substitute, as amended.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. TERRY) having assumed the chair, Mr. SIMPSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1751) to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes, pursuant to House Resolution 540, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the committee amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

MOTION TO RECOMMIT OFFERED BY MR. HIGGINS

Mr. HIGGINS. Mr. Speaker, I offer a motion to recommit.

The SPEAKER pro tempore. Is the gentleman opposed to the bill?

Mr. HIGGINS. Yes, in its current form, Mr. Speaker.

The SPEAKER pro tempore. The Clerk will report the motion to recommit.

The Clerk read as follows:

Mr. Higgins moves to recommit the bill H.R. 1751 to the Committee on the Judiciary with instructions to report the same back to the House forthwith with the following amendment:

Insert at the appropriate place the following:

SEC. ___. PROHIBITION OF PROFITEERING AND FRAUD IN CONNECTION WITH MILITARY ACTIONS AND DISASTER RELIEF.

(a) IN GENERAL.—Chapter 63 of title 18, United States Code, is amended by adding at the end the following:

"§ 1351. Profiteering and fraud in connection with military actions and disaster relief

"(a) PROHIBITION.—Whoever, directly or indirectly, in any matter involving a contract with the Federal Government or the provision of goods or services to or on behalf of the Federal Government, in connection with military action, or relief or reconstruction activities in Iraq or Afghanistan or any other foreign country, or relief or reconstruction efforts provided in response to a major disaster declaration under section 401 of the Disaster Relief Act of 1974, or an emergency declaration under section 501 of the Disaster Relief Act of 1974, knowingly and willfully—

"(1) executes or attempts to execute a scheme or artifice to defraud the United States;

"(2) falsifies, conceals, or covers up by any trick, scheme, or device a material fact;

"(3) makes any materially false, fictitious, or fraudulent statements or representations, or makes or uses any materially false writing or document knowing the same to contain any materially false, fictitious, or fraudulent statement or entry; or

"(4) materially overvalues any good or service with the specific intent to excessively profit from the federal disaster or emergency;

shall be fined under subsection (b), imprisoned not more than 30 years, or both.

"(b) FINE.—A person convicted of an offense under subsection (a) may be fined the greater of—

"(1) $1,000,000; or

"(2) if such person derives profits or other proceeds from the offense, not more than 3 times the gross profits or other proceeds.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of chapter 63 of title 18, United States Code, is amended by adding at the end the following new item:

"1351. Profiteering and fraud in connection with military actions and disaster relief.".

Mr. HIGGINS (during the reading). Mr. Speaker, I ask unanimous consent to dispense with the reading.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from New York?

Mr. SENSENBRENNER. Mr. Speaker, reserving the right to object, the majority was recently, within the last 2 or 3 minutes, given a copy of this motion to recommit. This comes as a complete surprise. This is not the way to legislate, Mr. Speaker. I object.

The SPEAKER pro tempore. Objection is heard.

The Clerk will continue the reading.

The Clerk continued to read the motion to recommit.

PARLIAMENTARY INQUIRY

Mr. RANGEL (during the reading). Parliamentary inquiry.

The SPEAKER pro tempore. The gentleman will state it.

Mr. RANGEL. Mr. Speaker, I have no idea as to what the objection was raised to. The House was not in order when the gentleman was speaking. The House has no way to know as to what objection he raised.

Is it possible for the Chair to edify the House as to why the objection was made to dispensing with the reading?

The SPEAKER pro tempore. The gentleman from Wisconsin objected to the dispensing of the reading.

The Clerk will continue to read.

Mr. RANGEL. Mr. Speaker, my parliamentary inquiry was, could the Chair share with us the reason given by the distinguished objector?

The SPEAKER pro tempore. An objection has already been heard.

Mr. RANGEL. I cannot hear the Chair.

The SPEAKER pro tempore. An objection has been heard.

The Clerk will continue reading the motion.

The Clerk continued reading the motion to recommit.

Mr. SENSENBRENNER (during the reading). Mr. Speaker, I ask unanimous consent that the further reading of the motion to recommit be dispensed with.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from New York is recognized for 5 minutes in support of his motion to recommit.

Mr. HIGGINS. Mr. Speaker, when this Nation has been hit with terrorist attacks or national disasters, America has always responded with a strong, decisive, generous spirit. Four years ago on September 11, 2001, without warning, like missiles from hell, two planes filled with the most innocent of victims slammed into the World Trade Center's twin towers, 3,000 dead seemingly in an instant. America's response was quick, decisive and powerful.

On that day, we as Americans took a hit, but we stood united and we responded with confidence, blue States and red States, suburban and urban, black and white, rich and poor, together, united. Everyone suffered equally and resolved collectively to rebuild, to sacrifice, to reaffirm boldly what the scum terrorists had tried to destroy. People reached deep within themselves and from the collective heart a supremely compassionate response for and from the ages, a source of national pride forever. Confidence in public officials and institutions soared.

Today, Mr. Speaker, we are a nation that is stumbling. We have lost our confident and compassionate way. In the wake of Hurricane Katrina, the Federal Government's response was slow and sluggish, sloppy and uneven. No one took responsibility and there was no leadership. None. Our collective and national compassion was reduced to internal retreat and rapacious impulses. While so-called leaders spun blame, the poor, the sick and the stranded continued to suffer. We, as a nation, collectively fell down and hard, and against and away from the greater good that is in all of us.

Mr. Speaker, government-sponsored no-bid contractors at politically motivated firms like Halliburton are exploiting our Nation's generosity here in America and abroad. In the gulf coast region of this Nation and in the Middle East region of this world, contractors are pillaging the very people whose economic interests we have been sent here to protect. In the midst of war and in the aftermath of natural disaster, hundreds of millions in taxpayer-funded relief and recovery are being wasted, squandered, lost forever.

Mr. Speaker, the motion I offer today will impose stiff fines and criminal penalties on contractors who knowingly falsify information in order to win approval of government contracts during Presidentially declared emergencies. While in this Chamber the proper role of government is often debated, the one undisputed and unifying principle is that above all else, our responsibility to each other and to the American people is to protect the Nation from entities who seek to injure and destroy us and from natural disasters that devastate our community.

Mr. Speaker, the motion I offer today at this defining moment in our Nation's history will either reaffirm the promise of our Nation's greatness or condemn us from this moment on for failing to live up to our obligations as a nation that deserves and demands only from us fairness and goodness.

Mr. Speaker, I urge all the Members to support this motion to end this culture of corruption.

Mr. Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Mr. Speaker, I rise in opposition to the motion to recommit.

The SPEAKER pro tempore. The gentleman from Wisconsin is recognized for 5 minutes.

Mr. SENSENBRENNER. Mr. Speaker, this motion is offered by a Member who stated to the Speaker that he is opposed to this bill. He is opposed to providing additional security to judges, to prosecutors, to witnesses, to victims and their family members. He is opposed to a bill that has been worked on significantly on a bipartisan basis. And he has stated that he is opposed to doing something where there is a crying need, given the threats and the murders in courthouses all around the country, and not just Federal courthouses but State and local courthouses as well.

Now, what does he propose to do in the motion to recommit? He proposes to add additional criminal penalties for things that are already criminal. And all that does is to confuse juries, to confuse prosecutors, to confuse people who are attempting to do business with the government.

Profiteering in an illegal manner is already criminal under the United States Code. We do not need to confuse the issue with an additional statutes. And we do not need to defeat this bill by this motion that has been offered by several proclaimed opponents of this bill.

☐ 1800

The bill is a good one. In order to get it passed and signed into law to protect the judicial branch and those who do business and work for it, vote this silly motion down and pass the bill as has been worked out on a bipartisan basis.

Mr. FARR. Mr. Speaker, I rise in support of the motion to instruct conferees on the PATRIOT and Terrorism Prevention Reauthorization bill.

This Motion to Instruct would take the most contentious provisions of this bill and sunset them in 4 years. These provisions include section 215, which allows officials to order the surrender of anything when relevant to a terror investigation, section 206 which allows secret wiretap orders without definition of who and where the tap will go, and the "Lone Wolf" provision which allows the government to surveil so called "agents of a foreign power" who act alone.

Egregious law that robs the civil liberties of law abiding Americans should be reviewed sooner than later, therefore I strongly support these sunset provisions proposed in this motion to instruct.

My constituents agree that the American people should not have to compromise their civil liberties in order to combat extremism. The local governments of Pacific Grove, Salinas, Santa Cruz, and Watsonville, CA have all passed resolutions expressing their concerns with the anti-privacy and anti-liberty nature of the PATRIOT Act.

I also would like to note my disappointment that the fiscal year 2006 State-Science-Justice-Commerce Appropriations bill included one of the most invasive provisions of the PATRIOT Act that permits sweeping searches and seizures of library and bookstore patron records, despite this body's condemnation of the provision earlier this year.

Voices in the Congress echo voices of people across America.

I urge a "yea" vote on the motion to instruct.

The SPEAKER pro tempore (Mr. TERRY). Without objection, the previous question is ordered on the motion to recommit.

There was no objection.

The SPEAKER pro tempore. The question is on the motion to recommit.

The question was taken; and the Speaker pro tempore announced that the noes appeared to have it.

RECORDED VOTE

Mr. HIGGINS. Mr. Speaker, I demand a recorded vote.

A recorded vote was ordered.

The SPEAKER pro tempore. Pursuant to clause 9 of rule XX, the Chair will reduce to 5 minutes the minimum time for any electronic vote on the question of passage.

The vote was taken by electronic device, and there were—ayes 201, noes 221, not voting 11, as follows:

[Roll No. 584]

AYES—201

Abercrombie
Ackerman
Allen
Andrews
Baca
Baird
Baldwin
Barrow
Bean
Becerra
Berkley
Berman
Berry
Bishop (GA)
Bishop (NY)
Blumenauer
Boren
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Butterfield
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Chandler
Clay
Cleaver
Clyburn
Conyers
Cooper
Costa
Costello
Cramer
Crowley
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (TN)
DeFazio
DeGette
Delahunt
DeLauro
Dicks
Dingell
Doggett
Doyle
Edwards
Emanuel
Engel
Eshoo
Etheridge
Evans
Farr
Fattah
Filner
Ford
Frank (MA)
Gonzalez
Gordon
Green, Al
Green, Gene
Grijalva
Gutierrez
Harman
Herseth
Higgins
Hinchey
Hinojosa
Holden
Holt
Honda
Hooley
Hoyer
Inslee
Israel
Jackson (IL)
Jackson-Lee
(TX)
Jefferson
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
Kucinich
Langevin
Lantos
Larsen (WA)
Larson (CT)
Leach
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCollum (MN)
McDermott
McGovern
McIntyre
McKinney
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Michaud
Millender-
McDonald
Miller (NC)
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Owens
Pallone
Pascrell
Pastor
Payne
Pelosi
Peterson (MN)
Pomeroy
Price (NC)
Rahall
Rangel
Reyes
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda
T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Skelton
Slaughter
Smith (WA)
Snyder
Solis
Spratt
Stark
Stupak
Tanner
Tauscher
Taylor (MS)
Thompson (CA)
Thompson (MS)
Tierney
Towns
Udall (CO)
Udall (NM)
Van Hollen
Velázquez
Visclosky
Wasserman
Schultz
Waters
Watson
Watt
Waxman
Weiner
Wexler
Woolsey
Wu
Wynn

NOES—221

Aderholt
Akin
Alexander
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Barton (TX)
Bass
Beauprez
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Burgess
Burton (IN)
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Carter
Castle
Chabot
Chocola
Coble
Cole (OK)
Crenshaw
Cubin
Culberson
Cunningham
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan
Ehlers
Emerson
English (PA)
Everett
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Granger
Graves
Green (WI)
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Keller
Kelly
Kennedy (MN)
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg

Kolbe
Kuhl (NY)
LaHood
Latham
LaTourette
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Lungren, Daniel E.
Mack
Manzullo
Marchant
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McKeon
McMorris
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Moran (KS)
Murphy
Musgrave
Myrick
Neugebauer
Ney
Northup
Nunes
Nussle
Osborne
Otter
Oxley
Paul
Pearce
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Ramstad
Regula
Rehberg
Reichert
Renzi
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Royce
Ryan (WI)
Ryun (KS)
Saxton
Schmidt
Schwarz (MI)
Sensenbrenner
Shadegg
Shaw
Sherwood
Shimkus
Shuster
Simmons
Simpson
Smith (NJ)
Smith (TX)
Sodrel
Souder
Stearns
Sullivan
Tancredo
Taylor (NC)
Terry
Thomas
Thornberry
Tiahrt
Tiberi
Turner
Upton
Walden (OR)
Walsh
Wamp
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Young (AK)

NOT VOTING—11

Boswell
Brown-Waite, Ginny
Conaway
Davis (FL)
Hastings (FL)
Norwood
Pence
Sessions
Strickland
Sweeney
Young (FL)

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. TERRY) (during the vote). Members are advised there are 2 minutes remaining in this vote.

□ 1818

Mr. CLEAVER changed his vote from “no” to “aye.”

So the motion to recommit was rejected.

The result of the vote was announced as above recorded.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 375, nays 45, not voting 13, as follows:

[Roll No. 585]

YEAS—375

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Cleaver
Clyburn
Coble
Cole (OK)
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cunningham
Davis (AL)
Davis (CA)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jenkins
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Moore (KS)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Nunes
Nussle
Obey
Ortiz
Osborne
Otter
Oxley
Pallone
Pascrell
Pastor
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (NC)
Pryce (OH)
Putnam
Radanovich
Ramstad
Rangel
Regula
Rehberg
Reichert
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Serrano
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Souder
Spratt
Stearns
Stupak
Sullivan
Tancredo
Tanner
Tauscher
Taylor (MS)
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Watson
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)

NAYS—45

Baldwin
Carson
Clay
Conyers
Cummings
Davis (IL)
Delahunt
Filner
Grijalva
Hinchey
Holt
Jackson (IL)
Kildee
Kilpatrick (MI)
Kucinich
Lee
Lewis (GA)
Markey
McDermott
McGovern
McKinney
Michaud
Miller, George
Mollohan
Moore (WI)
Nadler
Oberstar
Olver
Owens
Paul
Payne
Rahall
Roybal-Allard
Rush
Sabo
Schakowsky
Scott (VA)
Solis
Stark
Tierney
Velázquez
Waters
Watt
Waxman
Woolsey

NOT VOTING—13

Boswell
Brown-Waite, Ginny
Conaway
Davis (FL)
Hastings (FL)
McCollum (MN)
Norwood
Pence
Price (GA)
Sessions
Strickland
Sweeney
Young (FL)

□ 1831

Ms. KILPATRICK of Michigan and Mr. OWENS changed their vote from “yea” to “nay.”

So the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

Stated for:

Mr. PRICE of Georgia. Mr. Speaker, on rollcall No. 585 I was inadverently detained. Had I been present, I would have voted “yea.”

PERSONAL EXPLANATION

Mr. PENCE. Mr. Speaker, I was detained this afternoon. Had I been present, I would have voted in the following manner: Rollcall 581 (On passage—H.R. 2862)—“aye”; rollcall 582 (On passage—S. 1894)—“aye”; rollcall 583 (On Agreeing to the Scott #9 Amendment)—“nay”; rollcall 584 (On Motion to Recommit with Instructions—H.R. 1751)—“nay”; and rollcall 585 (On Passage—H.R. 1751)—“aye.”

PERSONAL EXPLANATION

Mr. NORWOOD. Mr. Speaker, though I was absent on Wednesday, November 9, 2005, for medical reasons, I wish to have my intended votes recorded in the CONGRESSIONAL RECORD for the following votes: Rollcall vote 577 on H. Res. 539—“aye”; rollcall vote 578 on H. Res. 538—“aye”; rollcall vote 579 on H. Res. 540—“aye”; rollcall vote 580 on the Adoption of Conference Report on H.R. 2419—“nay”; rollcall vote 581 on the Adoption of Conference Report on H.R. 2862—“aye”; rollcall vote 582 on S. 1894—“aye”; rollcall vote 583 on Amendment numbered 3 in House Report 109–279—“nay”; rollcall vote 585 on H.R. 1751—“aye.”

PARLIAMENTARY INQUIRY

Mr. SENSENBRENNER. Mr. Speaker, do the House rules not require that the proponent of an unsuccessful motion to recommit, who has stated that he or she is opposed to the bill in its present form, vote against the bill on final passage?

The SPEAKER pro tempore (Mr. TERRY). A Member must state his opposition to the bill in order to qualify to offer a motion to recommit.

Mr. SENSENBRENNER. Mr. Speaker, further parliamentary inquiry. I noticed that the proponent of the motion to recommit, who stated his opposition, voted in favor of the bill after the motion to recommit was rejected by the House.

Is that not in violation of the rules?

The SPEAKER pro tempore. The positive rule is satisfied when the gentleman states his opposition to the bill in qualifying to be recognized to offer the motion.

Mr. SENSENBRENNER. Mr. Speaker, further parliamentary inquiry. If the gentleman states his opposition to the bill and then does not follow up his statement, are not the rules violated or the House misled?

The SPEAKER pro tempore. The Chair accepts the gentleman's statement as final, but it does not bind his vote on passage as a matter of positive rule.

AUTHORIZING THE CLERK TO MAKE CORRECTIONS IN ENGROSSMENT OF H.R. 1751, SECURE ACCESS TO JUSTICE AND COURT PROTECTION ACT OF 2005

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that in the engrossment of the bill, H.R. 1751, the Clerk be authorized to make technical corrections and conforming changes to the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

SAYING FAREWELL TO HOUSE PARLIAMENTARIAN MUFTIAH McCARTIN

(Mr. DREIER asked and was given permission to address the House for 1 minute.)

Mr. DREIER. Mr. Speaker, I would like to say that all of us as Members of this great institution owe a tremendous debt of gratitude to our Parliamentarian and his staff of Parliamentarians who do a phenomenal job for us.

One of the very best examples of success from those Parliamentarians who work daily to ensure the orderly operation of this great institution is our friend, Muftiah McCartin.

After nearly three decades in the Office of the Parliamentarian, Muftiah is retiring to spend more time with her family. As anyone who has worked with Muftiah can attest, speaking with her is like having a double espresso. Her enthusiasm for her job is infectious, and there is no doubt that we will sorely miss her, for after working here 30 years, she is retiring.

Muftiah has worked in the House longer than most Members. This year I marked my 25th year of service in this institution, and she was working here 5 years before I arrived. Over the course of those three decades, she has served under six Speakers and during the tenure of six Presidents. Most importantly, she has worked for three Parliamentarians of the House.

Mr. Speaker, throughout her career in this institution, Muftiah has strived for personal and professional excellence; and she, without a doubt, achieved both. After earning her bachelor's degree and law degree while working in the office as a clerk, Muftiah became the first woman to be appointed a Parliamentarian in January, 1991.

In my position chairing the House Rules Committee, we have a special bond with Muftiah. She has worked very closely with the staff members of the Rules Committee in drafting many of the rules for considering legislation on the floor. As Members know, at this moment, we are in the process of dealing with something of a challenge as we put together the manager's amendment for the measure that we will be passing out of this House tomorrow.

She also served as the long-time editor of the House Rules and Manual. I have my appropriate prop right here for those who have not seen that. And she edited two editions of House Practice. I know she takes great pride in both the contents and the craftsmanship of these beautiful, leather-bound volumes that each of us has in our office.

Muftiah has always had a passion for service and an endearment for this institution and a commitment to our great democracy. Over many years and many late nights, she has been essential to the work of the House. Her unvarnished advice has helped countless bills receive a proper hearing on the floor. We were very lucky to have her. Though they may not have known her name, the American people have been very, very fortunate to have had Muftiah McCartin working on their behalf.

Mr. Speaker, on behalf of all of the Members and the staff Muftiah so ably served over these past 30 years, I would like to offer my sincere thanks and very best wishes for a happy and fulfilling retirement to Muftiah.

Congratulations, Muftiah.

Mr. LAHOOD. Mr. Speaker, will the gentleman yield?

Mr. DREIER. I yield to my very good friend from Peoria, Illinois.

Mr. LAHOOD. Mr. Speaker, I thank the chairman of the Rules Committee for taking time this evening to honor Muftiah, because as some Members know, when we came here in 1994, which is the class I was elected to, not one of us had ever really served as Speaker pro tem because we had been out of the majority for 40 years. For those of us who have had the privilege of acting as Speaker pro tem, we have relied almost exclusively on the Parliamentarians to give us good advice, to share with us the importance of chairing the House in a way that dignifies this body, by following the rules, doing it in a fair and bipartisan way; and for the kind of opportunity that I think Muftiah has provided to those of us who have had this privilege, we are very, very grateful to her.

As one who was a former staffer of 17 years for two previous Members, one who served as the longest-serving Republican leader, Bob Michel, in the minority we relied a great deal on the Parliamentarians to help guide us through meeting the challenges of trying to get things done as a minority party. Muftiah was certainly a part of that team that really helped us do that.

Then coming into the majority party and serving with great privilege and honor as Speaker pro tem, I can tell you that Muftiah was extraordinary in her ability to help us get through some very, very important legislation not only for those of us in the majority party, but for the country. We could not have done it without her great assistance and great knowledge.

She is an extraordinary person, outside of the work she does here in the House and aiding all of us who sit in the Chair, but in her own personal life, as the mother of four children, having a spouse, and having to work long hours. As one who has served here as a staffer, I can tell you that the staff does not get enough credit for the good work that goes on around here in helping us do the work that we do.

In particular, the Parliamentarians do an extraordinary job in making sure that things are done correctly, by the book, and Muftiah has certainly been a part of a great team and will be greatly missed.

Muftiah, thank you for the wonderful, wonderful, good, solid advice and the professional manner with which you have distinguished yourself in this House of Representatives. I know it is very difficult to walk away.

Mr. Speaker, we owe her a great deal for what she has done for those of us who have had the privilege of presiding and for her great advice.

Good luck and Godspeed. We are very grateful to you.

Mr. DREIER. Mr. Speaker, reclaiming my time, I would say to my friend that so many of us have seen the gentleman from Illinois, in an extraordinarily able manner, preside over this institution. The word is now out that it is not RAY LAHOOD who is presiding so ably over this great institution, it is Muftiah McCartin who is, in fact, making that happen.

When it comes to appreciation, the gentleman is absolutely right. Mr. Speaker, we do not express enough appreciation to our staff.

Muftiah, I will say to you, you saw what RAY LAHOOD did to ensure that he was adequately appreciated. He went from serving as a staff member to becoming a Member of Congress. I don't want to necessarily recommend that to you as you head into retirement, but if you do want to follow the LaHood model, it is certainly something you might consider.

Let me say again, congratulations to Muftiah for her phenomenal service. I know on behalf of Speaker HASTERT, the House leadership, and all the Members of this institution on both sides of the aisle, we are very, very honored to have had you serve here so ably.

Ms. PELOSI. Mr. Speaker, I rise today to honor the many years of service of House parliamentarian, Muftiah McCartin, who completes her excellent work in this body later this week.

Ms. McCartin joined the Parliamentarian's office in 1976, and has served during the tenure of six Speakers of the House, and six Presidents.

In 1991, she became the first woman to be appointed a Parliamentarian. As someone who understands the importance of breaking glass ceilings, I am particularly honored to acknowledge her outstanding work.

Muftiah has always had a wonderful smile and a warm demeanor on the House floor. As we know, it can get pretty heated in debate and very partisan.

But Muftiah has always been a calm and rationale presence to Members of both sides of the aisle and their staff who seek parliamentary advice. She has brought a keen mind, and a clear understanding of House rules that has served this institution very well.

In addition to the long, grueling hours that she has spent on the House floor, Muftiah McCartin has managed to raise four wonderful children: Marissa, Elaine, Sandra, and Luke. I'm sure she will welcome spending the extra time with her family and her husband, Terry.

Muftiah, today we thank you for your service to this great institution and wish you the very best. You have been a tremendous asset to the work that we do every day. And we will miss you.

Thank you again for your many years of commitment toward making this House of Representatives a better place.

Mr. HASTERT. Mr. Speaker, I rise today to honor House Associate Parliamentarian Muftiah McCartin. Today marks the final day in the long and distinguished career of Muftiah, who has served this House with great distinction for nearly 30 years in the Office of the Parliamentarian.

During her nearly three decades of service, Muftiah served under six Speakers and three different Parliamentarians of the House. Charlie Johnson, the former Parliamentarian, would often describe Muftiah as a "Renaissance woman." She came to work for the Parliamentarian's Office as a clerk in 1976 and continued her education at night. On top of her day job and night school, Muftiah was a dedicated mother. She accomplished all her tasks with great determination, strength, and grace. After completing her juris doctorate, Muftiah was the first woman appointed an Assistant Parliamentarian in January of 1991 by Speaker Tom Foley.

Aside from her dedication to the office's daily procedural mission, she has provided special expertise to the House in the areas of budget process and rule making. Muftiah has also assisted the office as the long-time editor of the House Rules and Manual, published every Congress, as well as two editions of House Practice.

Over the years I have served in this House as both a Member and now Speaker, I have come to have a greater appreciation for the role of the office of the Parliamentarian and those giving me advice. On behalf of all those who have looked to you for help while presiding in the Speaker's chair, thank you for being such a trusted and educated colleague.

I wish you the best of luck in your future endeavors and hope that with the long hours of this job behind you, you will be afforded more time to spend with your husband and four children.

Mr. LEWIS of California. Mr. Speaker, I rise in tribute to an outstanding member of the House Parliamentarian's office who is retiring today after nearly 30 years of service. Muftiah McCartin will be retiring from her position as Associate Parliamentarian. She will truly be missed.

Muftiah has been a part of this institution longer than most Members. She began her career with the Parliamentarian's office in 1976, 3 years before I came to the House. She started as a Clerk and worked her way up to one of the senior positions in the office. As a Clerk, she continued her education and eventually earned her law degree. She became the first woman to be appointed a Parliamentarian in 1991. Her story is truly one of personal and professional excellence, initiative, and dedication to her responsibilities.

Mr. Speaker, the Committee on Appropriations is particularly sad to see Muftiah leave. Her knowledge of parliamentary rules and precedents as they pertain to appropriations bills is unsurpassed, as is her knowledge of the budget process. The Committee has always had tremendous confidence in her skills and ability to proffer accurate advice. With numerous regular and supplemental appropriations bills coming to the House floor each year, the Committee relied on her expertise extensively. The words "check with Muftiah" were heard over and over again in the Committee's offices.

The Committee's high admiration of Muftiah's professional skills is matched by the Committee's appreciation of the calm and composed manner in which she performed her duties. She is always approachable and willing to take time to work on any matter, even when the other demands on her time are huge. She always approaches her work with a smile and keeps her sense of humor. In addition to the professional relationships she developed with the staff of the Committee, many highly valued personal friendships arose during her time with us.

Muftiah will now be able to spend more time with her family—her husband Terry, and her children Marissa, Elaine, Sandra, and Luke. She and her family have made a lot of sacrifices over the years. I hope that now she will have more time to attend her children's basketball, soccer, and baseball games as well as other family activities that are so important.

Mr. Speaker, on behalf of the Members and staff of the Committee on Appropriations, I want to wish Muftiah well as she embarks on this next phase of her life's journey. I also genuinely thank her for all that she has done for the House and for the Committee, and I want her to know that she will be missed.

GENERAL LEAVE

Mr. DREIER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the 1-minute speech I just offered.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from California?

There was no objection.

SAYING FAREWELL TO MUFTIAH McCARTIN

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Mr. Speaker, I rise today to honor the many years of service of House Parliamentarian Muftiah McCartin, who completes her excellent work in this body later this week. Ms. McCartin joined the Parliamentarian's Office in 1976, and has served during the tenure of six Speakers and six Presidents. In 1991, she became the first woman to be appointed a Parliamentarian.

The minority leader, Ms. PELOSI, is someone who understands the importance of breaking glass ceilings. She had hoped to be here personally to congratulate Muftiah on her outstanding work and her dedication over the many years.

She goes on to say Muftiah always had such a wonderful smile and warm demeanor on the House floor, which I might comment often lacks smiles and warm demeanors. Well, it is warm; sometimes heated. As we know, it can get heated in debate and very partisan, but she has always been a calm and rational presence to Members on both sides of the aisle and their staff who seek parliamentary advice. She brought a keen mind and a clear understanding of House rules that have served this institution very well.

In addition to the long, grueling hours she has spent on the House floor, she has managed to raise four wonderful children: Marissa, Elaine, Sandra, and Luke, one of whom has the great, good sense to have moved to my congressional district. That is my district.

not Ms. PELOSI's. I am sure she will welcome spending the extra time with her family and her husband, Terry.

Muftiah, today we thank you for your service to this great institution and wish you the very best. You have been a tremendous asset to the work we do every day, and we will miss you. Thank you again for your many years of commitment toward making the House of Representatives a better place.

Mr. KINGSTON. Mr. Speaker, will the gentleman yield?

Mr. DEFAZIO. I yield to the gentleman from Georgia.

Mr. KINGSTON. Mr. Speaker, I find it a great irony and some goodness that I can get some time from my friend.

I was sitting in my office and I did not know, frankly, that Muftiah was old enough to retire, take on another job, or leave the nest here, or whatever she is doing, but as somebody who has personally benefited from her expertise and wisdom, as I have had the honor to sit in the Chair, I can say we could not have laymen go up there and hold the gavel without somebody like Muftiah at our right arm telling us sometimes what to say and what not to say. I am sure she never would sit down when I had the gavel because she was nervous something would go awry.

The other thing that is important, when school kids and visitors come to the House Chamber, I often point to the picture of George Washington and the fact that you can still see the sword painted out of his hand. I explain to school kids the reason the sword was painted out of his hand in his portrait in the House Chamber is that we philosophically believe that our debate here, our spirited debate, sometimes our acrimonious debate, sometimes our bitter debate, is still better than the alternative, and that alternative is civil war or civil disruption, as we see around the world.

□ 1845

I believe that all of our Parliamentarians aid that in that sometimes we get out of line, Democrats or Republicans, in the spirit of the moment, in the emotion of the moment, and we say something that we regret saying; and it is at that time when all eyes turn to a nonpartisan, objective third party who can say everybody sit down, a little calmness here, let us get through this maze of parliamentary mystery and then get back on the course of civil discussion.

I want to say, Muftiah, thank you for being part of that team and thank you for everything that you are doing. Your job is a profound one, and it is one that should be studied in every civics class in every school at every level of education in America.

And I want to say to my friend from the west coast who does not always vote green when I vote red and vice versa, we always agree that this is the place where we can come and have good, open debate thanks to people like Muftiah and the Parliamentarians.

Mr. DEFAZIO. Mr. Speaker, reclaiming my time, that is correct. I only regret that she trained him too well.

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. FORTENBERRY). Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

HONORING THE 100TH TEXAN: MARINE STAFF SERGEANT RUSSELL SLAY

Mr. POE. Mr. Speaker, I ask unanimous consent to claim the time of the gentleman from Indiana.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE. Mr. Speaker, it has been said that "never in the history of the world has any soldier sacrificed more for the freedom and liberty of total strangers than the American soldier," said by Zell Miller about the American fighting men.

I rise today to honor a young American marine from my southeast Texas district, Marine Staff Sergeant Russell Slay, who valiantly served the Nation in Iraq and who died doing so. He was a member of the 2nd Assault Amphibian Battalion of the 2nd Marine Division at Camp Lejeune, North Carolina.

Russell Slay grew up in my hometown of Humble, Texas. As a student at Humble High School, he played football and was in the band. After he graduated from Humble High School, he started working, but quickly realized that he needed something more in his life. His high school friend Jason Tucker had joined the Marine Corps, and he had made the decision to join him and fight for his country. His father, Roy, a retired Houston police officer and a long-time friend of mine, said of his son, "Russell wanted to be somewhere that would teach and inspire him."

During his 10-year military career, he was trained to drive armored vehicles that carried combat troops from ships to beachheads during amphibious attacks. During his first tour of Iraq in 2002, Slay took part in overtaking Baghdad. He had been in charge of a section of four armored all-terrain vehicles. He left for his second mission on September 11, 2004.

Upon receiving his orders to report for a second tour in Iraq, Staff Sergeant Slay told his family and friends that he did not think he would make it back. A year ago today, Russell Slay's perceptive premonition became a reality. He was the 100th Texas member of the Armed Forces to be killed in Iraq. And, by the way, Mr. Speaker, one out of every 10 Americans wearing the uniform today is from the State Texas. Russell Slay was 28 years old. He died in combat with seven others in Fallujah when his armored vehicle was attacked by terrorists.

His funeral was a moving memorial to him as a devoted father, son, and friend. More than 450 people paid their respects to a man that was remembered for his engaging spirit and his love of life. Family and friends expressed that Slay was nothing short of spectacular. His sense of humor was contagious. He was a loving, loyal, and dedicated father.

He left behind a 9-year-old daughter, Kinlee, and a 5-year-old son, Walker. At the funeral, Marine Captain Mike Evans read letters that Slay had prepared for his children in anticipation of his death. He told his daughter, Kinlee: "I love you and never knew what life was before you were born. You will always be Daddy's little girl." He encouraged her to have the best life possible and to be sure that she went to college. He said: "Daddy will always be with you and watching out for you. Hugs and kisses. I'll miss you."

He also wrote to his son, Walker, and told him that watching him grow up was "like reliving his own youth. He said: "You're the best little man there ever was. Be a studious son and stay in school. Always be a man. If you make mistakes, stand up and say so." Russell Slay encouraged his son to have children of his own so he too could feel the joy and happiness that had been brought to him.

He insisted in his letter that his family know how much he loved them, and he wrote: "I promise you my family was my last thought. Don't mourn for me, but celebrate my life."

Nine-year-old daughter Kinlee spoke at her father's funeral, and through tears she talked about playing cars with her dad and brother and shopping at Wal-Mart. She spoke fondly about the weekend family ritual of washing the car.

Charlie Flannigan, who officiated the funeral service, told of Slay's skills in the band that he and his buddies had created in Iraq. They called it the Texas Trio. He said Russell was not the best athlete, but he sure knew how to play a guitar.

Staff Sergeant Russell Slay in 28 short years had already exhibited a lifetime of bravery and boldness. Mr. Speaker, Thomas Jefferson once said: "From time to time the tree of liberty must be watered with the blood of tyrants and patriots." Russell Slay was a true American patriot. Russell Slay died for Americans. He died for Iraqis. He died for freedom.

Staff Sergeant Russell Slay, we will never forget the price you paid for America, and we thank you for devoting your life to your country. You are a true American hero. You make us proud.

So Semper Fi, Staff Sergeant Slay, Semper Fi.

HONORING THE AMERICAN FALLEN IN IRAQ AND AFGHANISTAN

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, Veterans Day marks the 87th anniversary of the armistice ending World War I. On this date we honor the soldiers, sailors, marines, and aviators who have protected the United States in times of war.

Today, we are again a Nation at war: 2,058 American military personnel have now given their lives fighting in Iraq; 247 Americans have fallen in Afghanistan.

This Veterans Day we must honor those who have served, those who have been wounded, and those who have fallen.

For this reason, I have introduced a resolution, with 73 cosponsors, honoring each of the fallen from Iraq and Afghanistan by name.

I have also led a bipartisan group of 21 Members of Congress in reading the names of the fallen into the CONGRESSIONAL RECORD. Tonight, we continue this tribute with the names of the most recently fallen, completing all 2,300.

God bless each of the brave Americans, men and women, whose memory we honor tonight; and their families are in our prayers.

Sergeant Eric A. Fifer, Private 1st Class Nicholas J. Greer, Lance Corporal Sergio H. Escobar, Staff Sergeant Gary R. Harper Jr., Staff Sergeant Jerry L. Bonifacio Jr., Specialist Jeremy M. Hodge, Lieutenant Colonel Leon G. James II, Sergeant Leon M. Johnson, Sergeant 1st Class Brandon K. Sneed, Staff Sergeant Matthew A. Kimmell, Sergeant Donald D. Furman, Specialist James T. Grijalva, Master Sergeant Kenneth E. Hunt, Jr., Sergeant Lorenzo Ponce Ruiz, Petty Officer 1st Class Howard E. Babcock IV, Specialist Robert W. Tucker, Specialist Samuel M. Boswell, Specialist Bernard L. Ceo, Sergeant Brian R. Conner, Sergeant Mark P. Adams, Specialist Thomas H. Byrd, Specialist Jeffrey W. Corban, Specialist Richard Allen Hardy, Staff Sergeant Vincent E. Summers, Specialist Timothy D. Watkins, Lance Corporal Daniel Scott R. Bubb, Lance Corporal Chad R. Hildebrandt, Chief Warrant Officer Paul J. Pillen, Lance Corporal Christopher M. Poston, Specialist Lucas A. Frantz, Lance Corporal Norman W. Anderson III, Specialist Daniel D. Bartels, Staff Sergeant Tommy Ike Folks, Jr., Specialist Kendall K. Frederick, Sergeant Arthur A. Mora, Jr., Specialist Russell H. Nahvi, Specialist Jose E. Rosario, Sergeant Jacob D. Dones, Staff Sergeant Dennis P. Merck, Staff Sergeant Richard T. Pummill, Lance Corporal Andrew D. Russoli, Lance Corporal Steven W. Szwydek, Lance Corporal Kenneth J. Butler, Corporal Benny Gray Cockerham III, Corporal Seamus M. Davey, Captain Tyler B. Swisher, Petty Officer 3rd Class Christopher W. Thompson, Staff Sergeant George T. Alexander, Jr., Lance Corporal Jonathan R. Spears, Corporal Benjamin D. Hoeffner, Specialist Christopher T. Monroe, Sergeant Michael T. Robertson, Sergeant 1st Class Ramon A. Acevedoaponte, Staff Sergeant Lewis J. Gentry, Sergeant Evan S. Parker, Master Sergeant Thomas A. Wallsmith, Sergeant James Witkowski, Lance Corporal Robert F. Eckfield, Jr., Lance Corporal Jared J. Kremm, Staff Sergeant Daniel R. Lightner, Jr., Captain Michael J. Mackinnon, Colonel William W. Wood, 1st Lieutenant Debra A. Banaszak, Private 1st Class Dillon M. Jutras, Sergeant Shaker T. Guy, Captain Raymond D. Hill II, Staff Sergeant Travis W. Nixon, Private 1st Class Kenny D. Rojas, Staff Sergeant Joel P. Dameron, Sergeant Michael Paul Hodshire, Specialist William J. Byler, Specialist Derence W. Jack, Private Adam R. "A.J." Johnson, Sergeant 1st Class Matthew R. Kading, Staff Sergeant Wilgene T. Lieto.

Mr. Speaker, Veterans Day is Friday. Let us remember each of these fallen heroes and all who came before them. In the words of President Franklin Delano Roosevelt: "Each of these heroes stands in the unbroken line of patriots who have dared to die that freedom might live and grow and increase in its blessings."

Let us also remember the brave men and women who continue to serve our Nation with distinction in Iraq, Afghanistan, and throughout the world. Our thoughts and prayers and gratitude are with you and your families at this time until you return home safely to your fellow man and woman, citizens of this country.

This Friday we will remember the 2,058 military personnel who have fallen in Iraq and the 247 Americans who have fallen in Afghanistan.

☐ 1900

HEARINGS TO ADDRESS WASTE, FRAUD, AND ABUSE

Mr. JONES of North Carolina. Mr. Speaker, I ask unanimous consent that I might speak at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from North Carolina?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from North Carolina (Mr. JONES) is recognized for 5 minutes.

Mr. JONES of North Carolina. Mr. Speaker, I came to the floor last week and read part of an article that appeared on October 23 in the article by Knight Ridder reporters about the Pentagon program costing taxpayers millions in inflated prices. I came to the floor and I reported that there was some reports that we were paying anywhere from $20 for a plastic ice tray that should cost about 89 cents. In addition to that, we were paying $81 for coffee makers that you can buy at a retail store for $29. In addition, I said that we were paying for a 5-cubic-foot refrigerator $27,000 that should cost about $3,000 or $4,000, and these are the kinds of refrigerators that are put on aircraft.

I wanted to report to the House tonight that I am extremely pleased. I wrote a letter to the chairman and ranking member, Chairman DUNCAN HUNTER and Ranking Member IKE SKELTON, and today we held hearings on this issue of inflated prices. I want to say that the hearing was attended by a fair number of those on the Armed Services Committee.

The witnesses, the Admiral and the Under Secretary that were there present, we were able to ask about these inflated prices. They explained this program that is called the Prime Vendor program. We talked about how it used to be when there were competitive prices, and now we have gone to where there is a middleman that works with the prime vendors.

From that, Mr. Speaker, the reason I wanted to come to the floor tonight is because I was so encouraged by the response of the chairman and the ranking member that next week we are going to bring the prime vendors to the committee to talk about these inflated prices.

Mr. Speaker, as I said today on the Armed Services Committee, there is one thing that the American people, maybe they do not follow us when we talk about deficits and debt and some of these other issues that are very important to the future of this Nation; but there is one thing they know, that if you are paying $20 for a plastic ice cube tray that you can buy for 89 cents, they know that is not right. I also said to those on the panel today that when you are paying $24,000 or $25,000 for a 5-cubic-foot refrigerator, the taxpayers know that is not a wise investment as well.

So tonight I want to give credit to the chairman and the ranking member of the Armed Services Committee. It was a very informative hearing today that will lead to additional hearings next week. And what I am hoping will come from this is that the taxpayers will know that we do care about abuses and we do care about inflated prices.

We are going to get to the bottom of this, thanks to the leadership of Chairman HUNTER and Ranking Member SKELTON and the committee members, both Republican and Democrat. We are going to get to the bottom of this and we are going to be able to say to the taxpayers and to the reporters for Knight Ridder that wrote this article that we are going to see that wrongs are made right and we are going to do exactly what is in the best interests of the taxpayers.

Mr. Speaker, before I close, I know that my friend from Texas and my friend from Illinois talked about those who serve in this Nation and who have given their lives. As I close this way all over my district, I will close this way tonight.

I ask God to please bless our men and women in uniform, to please bless their families. I ask God to please hold in his loving arms the families who have given a child, dying for freedom.

IRAQ AND THE 250TH MILITARY INTELLIGENCE BATTALION

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, usually, when I speak on the House floor each evening, I voice my concern about some of the Bush administration's woeful policies in Iraq. Trust me, there is no shortage of material to speak about.

But tonight I want to boast a little bit. I want to share how very proud I am to represent the 250th Military Intelligence Battalion, an Army unit that returned home from Iraq today. They returned home to Marin County, just north of the Golden Gate Bridge in California's Sixth Congressional District.

I had the great pleasure to meet and enjoy dinner with the members of the 250th battalion this past September during my visit to Iraq. Their vigilance and dedication to the welfare of the United States is admirable. Everything they do, they do to serve their country. And I could not be more proud to represent them as their voice in Congress. They are truly American heroes.

Unfortunately, the members of the 250th Military Intelligence Battalion and other military units that have served or are currently serving in Iraq have not always gotten the treatment they deserve from their government. Far too often, the Bush administration has failed to live up to its promise to the troops, whether it is denying them full veterans' benefits, sending them on second, third, and now fourth deployments to Iraq and/or to Afghanistan, or failing to provide them with the lifesaving body armor or equipment that they need. One thing is clear: This administration has failed our troops time and again.

Sadly, the hundreds of thousands of soldiers who have been deployed to Iraq, and their families, were not the only ones affected by the war in Iraq. That is because just about every single American will suffer from the billions of dollars in budget cuts to important domestic programs since the U.S. invaded Iraq. These budget cuts are directly related to not only the tax cuts for the wealthiest among us, but also to the ludicrous spending for the military misadventures around the world of the civilian leadership, with the White House, the Pentagon, and this Congress making decisions that cost our country billions, in fact, $1 billion a week, actually. Anyone who thinks that the more than $200 billion that Congress has allocated for the Iraq war so far has not affected important domestic programs is just kidding himself or herself.

In the last example and the very latest example, tomorrow, the House will vote on a reconciliation bill that would give tax breaks to the wealthy of $70 billion to $100 billion in tax breaks, while slashing safety net programs for the poor, programs like Medicaid, student loans, child support enforcement, and veterans' health care. This is just wrong.

If he wants to get things right, President Bush and his administration would actually send a clear message that it has let the American people down, and now it is time to start anew. First and foremost, that means leaving Iraq.

After all, the President's notion that we are fighting the terrorists in Iraq so we will not have to fight them here at home is pure nonsense. If that were true, how could the President explain the London subway bombings earlier this year? How could he explain the terrible bombs that went off at three hotels in Jordan earlier today, already killing over 50 people and wounding more than 100?

Mr. Speaker, our troops and the American people have endured enough sacrifice. We need to end this war and bring our fine soldiers home. We need to give Iraq back to the Iraqi people through a range of economic, political, and humanitarian partnerships.

The American people deserve better than a war that has destroyed the social safety net here at home, and the extraordinary men and women whom I met in Iraq certainly deserve better. In return for their unfailing loyalty, they deserve basic competence and integrity from their Federal Government. They deserve leaders as courageous as they are.

NOVEMBER IS NATIONAL HOSPICE AND PALLIATIVE CARE MONTH

Mr. GINGREY. Mr. Speaker, I ask unanimous consent to speak out of turn.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Georgia?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Georgia (Mr. GINGREY) is recognized for 5 minutes.

Mr. GINGREY. Mr. Speaker, I rise today to encourage all Americans to take the time to prepare an advance directive. November is National Hospice and Palliative Care Month, and this month should serve as a reminder for individuals to take the time to discuss with their loved ones important end-of-life and medical decisions.

As people discuss their end-of-life health care wishes, there are two legal documents that can help. The first is a living will. Living wills are probably the most recognizable and familiar document to aid individuals in communicating their wishes.

However, Mr. Speaker, today I would like to draw the attention of the American public to a different type of advance directive, a medical power of attorney. A medical power of attorney, or health care proxy, allows you to appoint a person whom you trust to serve as your health care agent.

Each State government has a medical power of attorney form that a citizen can fill out and have witnessed. This then authorizes the appointed agent to make health care decisions on an individual's behalf. Mr. Speaker, people should not be scared away by these forms; they are written in plain English, and they are very easy to fill out.

I have brought with me an example from my home State of Georgia in order to illustrate how easy this process can be for the American public. The form is simple and straightforward, and is only 6 pages long. I have highlighted two sections for us to look at today.

First is the portion where you identify yourself and then name your power of attorney, and I call my colleagues' attention to the first poster. It may be a little bit difficult to read from the back of the Chamber but basically, Georgia's statuary short form durable power of attorney for health care. And the instructions, again, pretty simple. Print the date, print your name and address, print the name and address of your agent. It is that simple. This authorizes the individual to act for you and, as my colleagues can see, in Georgia, you have the opportunity to initial the statement also. This is the second poster, Mr. Speaker, to check the box really that best reflects your wishes, and there are three. It is just a simple, initial process.

The first one is, I do not want my life to be prolonged, nor do I want life-sustaining or death-delaying treatment, et cetera.

The second check box: I want my life to be prolonged, and I want life-sustaining or death-delaying treatment to be provided, under certain circumstances.

And then the last box, and again, a simple check: I want my life to be prolonged to the greatest extent possible without regard to my condition, the chances I have for recovery, or the cost of the procedure. It is as simple as that.

In addition to State government and public health departments, many organizations and hospitals around the country have advance directives available for patients and loved ones who may find themselves facing these tough decisions.

Mr. Speaker, executing living wills and powers of attorney are so important, I plan to introduce legislation next week that encourages all Americans at all stages of life to prepare these advance directives. My legislation will offer a one-time, refundable tax credit to those individuals who prepare an advance directive.

The refundability of this tax credit is essential in incentivizing lower-income Americans, who often are unaware or unable to adequately prepare for end-of-life medical decisions, to prepare advance directives to ensure that their wishes are honored and valuable health care resources are used where they are needed and wanted.

Mr. Speaker, it has been shown that medical care at the end of life consumes almost 15 percent of our country's health care budget and nearly 30 percent of the Medicare budget. In addition, according to an article in the Journal of the American Medical Association, it has been estimated that hospice care and advance directives can save between 25 and 40 percent of health care costs just during the last month of life.

Mr. Speaker, the Federal Government needs to provide an incentive to the American people to have these conversations and to take these important actions. It is not only in the best interests of patients and families, but also our country's health care system and the American taxpayer.

Mr. Speaker, I would like to encourage my colleagues on both sides of the aisle to join me in cosponsoring this important piece of legislation.

FISCAL RESPONSIBILITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

Mr. DEFAZIO. Mr. Speaker, there seems to be a new-found sense of fiscal responsibility on the Republican majority side of the aisle. There should be.

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Mr. Speaker, $180 billion extracted only from people who earn salary and wages and earn less than $90,000 a year was borrowed and spent. Some of it was spent to give tax refunds to profitable corporations, some of it was spent to give huge new tax breaks to people who earn over $300,000, and some of it was spent on other Federal Government purposes.

Now, they are projecting that the first quarter next year, we will borrow more money in one quarter than any quarter in the history of the United States of America. So they maybe should get some new-found fiscal responsibility on that side of the aisle. They have raised the Federal debt by 62 percent in 5 short years. George Bush has more than doubled the Federal debt in 5 short years.

Now, DICK CHENEY, the Vice President, of course says deficits do not matter, but I think they do, and I think the American people know they do. They know they cannot spend more money than they know they have in income every month forever. They know they cannot continuously borrow money on their credit cards or from the bank.

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Likewise, the United States of America. Now, what are they doing about it. Well, they are bringing up with great fanfare a bill tomorrow called the reconciliation bill, $53.9 billion of supposed new income or cuts and programs. There are some real cuts. There are real cuts that will hit hard at middle-income and struggling families. The biggest cuts are to the student loan programs, $14.3 billion, adding about 6,000 bucks to the average kid's public school 4-year cost with new interest charges and up-front charges. Cuts in foster care, cuts in long-term care. This is the family values side of the aisle over here, they like to claim, remember. And many other vital Federal programs.

And then they are assuming some phony revenues, 50 times as much per acre to lease out the Alaska National Wildlife Refuge with unknown reserves, as we just got a few months ago for the naval petroleum reserve with known reserve closer to the pipeline. So phony baloney and mean cuts.

But that is not even the end of the story. They are going to follow these mean cuts and the phony baloney with $70 billion in real cuts to the richest among us, predominantly weighted toward those who earn over $300,000 a year, particularly toward those who earn over a $1.2 million a year. They are averaging $120,000 a year in tax cuts now. Under their proposal, it will be even more generous, and that is because those wealthy people, also their contributors, are going to trickle down on the rest of us and bring new prosperity to America and wipe out the deficits with that new prosperity.

After all, when we wax their yachts, when we cut their lawns, when we do other things that they will employ us to do when they are not spending the money overseas or on luxury items produced overseas that will bring jobs to America. As they say famously on that side, they never saw a poor person give anybody a job. No, those poor people are doing the work and paying taxes, unlike the rich people who they are favoring and showering money upon, and they are borrowing money and taking money from programs that are important to middle-income and poor people to give to the rich people.

Trickle down economics. And in the end, guess what? They are actually going to increase the debt of the United States and the deficit because they are going to cut taxes for rich people by $70 billion. They are going to assume some phony baloney and make mean cuts against middle-income and working families for $54 billion. They are going to increase the deficit by $16 billion although they claim that is not true because the rich people are going to trickle on us and that will create more revenue than the $16 billion of new deficit that is created.

You might think it is April Fools, but it is not. It is just another move by the arrogant majority, thinking that America is not watching. Well, I think America is beginning to pay attention; and I urge my colleagues to oppose this mean-spirited, short-sighted legislation. Assume real fiscal responsibility, reimpose tax fairness for this country, and let us give a fair deal to the American people.

ACCOUNTABILITY OF CONGRESS

Mr. BURGESS. Mr. Speaker, I ask unanimous consent to go out of order and address the House for 5 minutes.

The SPEAKER pro tempore (Mr. FITZPATRICK of Pennsylvania). Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 mintes.

Mr. BURGESS. Mr. Speaker, indeed, tomorrow this House will hear the debate on the budget resolution, and I think the country needs to hear the debate. I think the country needs to see that all of us in Congress, on both sides of aisle, are accountable. They need to see that we are results driven. We are results oriented, and they need to see some success from this body.

Now, our commitment, my commitment is to the hard-working Americans who pay taxes in this country. I think we have an obligation to the taxpayers of this country to redesign government when necessary, to reform programs if they are not working well, and always ensure that those Federal programs, those Federal agencies are working at peak performance.

Mr. Speaker, it would not be saying too much to say we need to rebuild some confidence in America. If we can cut some red tape then I think we should. Where local solutions will work, we need to empower local authorities to envision and utilize those solutions. The Secretary of Health and Human Services was addressing our committee yesterday and talked about preparation for pandemic flu and he was challenged and someone said, Mr. Secretary, you need to have a plan. Do not let the local people have to come up with a plan. And the Secretary does have a plan. But he said, local activities are going to be important as well. You do not need the Secretary of HHS telling every school district across the country when they can and cannot open their doors.

I could not agree with him more. Mr. Speaker, we need to modernize some of our Federal programs, where we are using tin-can telephones when the rest of the world is using satellite communications, and it is not right. We need to reform government. We need to set priorities. And sometimes that means making some tough choices. Certainly, Mr. Speaker, we need to learn from the past, learn from the past, whether it be the Spanish flu outbreak of 1918, learn from the past of previous wars this country has fought; but along those same lines, we need to utilize that information from the past to plan for our future.

Now, Mr. Speaker, a few weeks ago, 2 weeks ago, my committee, the Committee on Energy and Commerce, spent 3 days, 3 days on a markup to produce a plan, a plan that reforms government and leads to greater value for dollars spent, particularly in the Medicaid program. We held hearings through the spring and the summer leading up to this legislation. We heard testimony from Members; leaders of the National Governors Association, a body of 35 bipartisan Governors in this country, who came to us with a set of principles and said we had a lot of ideas that we put out on the table, but here are seven things that everyone of us, 35 out of 35 agreed upon.

And, Mr. Speaker, we crafted legislation that incorporated at least six of those seven principles. We left out some judicial reforms that I would have liked to have seen in the bill, but maybe that is for another day. But those other reforms were crafted in legislation and then we spent 3 days, 3 days on the Committee of Energy and Commerce talking about that.

Mr. Speaker, at the end of the day, I think we have crafted a legislation that is going to save Medicaid for the poor, the truly infirm, the people that really need it in this country. The default position was to see more and more people turned off the Medicaid roles by the States as they could know longer afford to keep up with the expenditures in Medicaid. So we are going to provide more services. And maybe we are going to deliver a little greater value. And, Mr. Speaker, if that means that a few dollars are saved in the process, well, I am all for that.

But consider the numbers involved here. Medicaid, with no reform, is going to grow at a rate of 7.3 percent over the next 5 years. With the reforms we put in place, Medicaid is going to grow at a rate of 7 percent over the next 5 years. We are talking about a miniscule amount of savings by adding some value to the program as it exists today. As a consequence, more patients will be served by this program.

Now, Mr. Speaker, I know, because I sat in that markup for 3 days. I know right now it is popular to vilify the productive segment of American society. I have heard it done from every angle. There is angst, genuine angst over reinvesting in the productive segment of American society. We hear it all the time, why $55 billion was given to people who really do not need it.

But, Mr. Speaker, those are the taxpayers. Those are the people who create the jobs. I know, because I was one three short years ago. That 38 percent tax rate I paid on my business allowed me to employ 50 people in my town of Lewisville, Texas. It allowed me to purchase equipment for my practice. But what do we hear out of the other side? They want that $55 billion back, but that $55 billion that we reinvested produced $262 billion for the American Treasury this year in additional tax revenue. So they would have to double the tax and double it again to even approach the amount of money.

Well, this is the default position on the other side. This fall is not the time for Democrats to roll out positive agenda, said a House Democrat aide. That is a shame. We need their ideas. We need their enthusiasm. We need their energy. I look forward to this debate tomorrow. I think at the end of the day we are going to have a good product for the American people.

WHO NEEDS THE FIRST AMENDMENT?

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Mr. McDERMOTT. Mr. Speaker, who needs the first amendment when we have the Republican Party? Their view is that the American people just do not need to know what their government is doing in their name. We just do not need to know that this country now has secret CIA-un prisons around the world where prisoners are sent or sentenced because they get no representation. After all, DICK CHENEY, our President of foreign policy, supports us looking and acting like Cold War countries we used to fear. We do not have any skills in building facilities to be ashamed of, so we rent those old Cold War prison camps in places where people went in and were never heard from again.

Republican leaders just do not think this is the kind of information the American people need to know. After all, we might talk about it. Someone might write about it. Someone might question why we want to behave like the Cold War all over again. But this time, we are on the other side. The American people would not know any of this except for The Washington Post reporting about prisoners and policies that sound more like the enemy than the good guys.

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This did not sit well with DICK CHENEY and he let Republican leaders on Capitol Hill know it, behind closed doors of course, his favorite location. Almost immediately Republican leaders fell in behind the President of Foreign Policy and carried out their orders. Find the person who dared let America know what is really going on behind those closed doors.

Republican leaders intend to find out who let the American people know about the dirty little secret that the administration did not want us to know. It is detention at a whole new level where suspects simply vanish, and they did not want us to know. And we would not have known except for journalism's ability to report all the news thanks to the first amendment.

Why do they want to keep us in the dark? Because Americans would be appalled, because American know that we can fight and win a war without sacrificing the principles that made us America in the first place. America does not need a mask over its face to

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Mr. McDERMOTT. Mr. Speaker, who needs the first amendment when we have the Republican Party? Their view is that the American people just do not need to know what their government is doing in their name. We just do not need to know that this country now has secret CIA-un prisons around the world where prisoners are sent or sentenced because they get no representation. After all, DICK CHENEY, our President of foreign policy, supports us looking and acting like Cold War countries we used to fear. We do not have any skills in building facilities to be ashamed of, so we rent those old Cold War prison camps in places where people went in and were never heard from again.

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Why do they want to keep us in the dark? Because Americans would be appalled, because American know that we can fight and win a war without sacrificing the principles that made us America in the first place. America does not need a mask over its face to beat the people wearing masks over theirs. And America does not need secret prisons hidden in other countries as if that somehow that absolves us from responsibility. This kind of perverse policy says a lot about how out of touch this administration is, especially its President of Foreign Policy, with the values and strengths of America.

Do you think Americans will not be ashamed or that the world will not be appalled again by our actions? Did we not learn anything from Abu Ghraib? What will it take for this administration to stop acting in ways that cause the average American to shake his head and avert his eyes? What will it take for this administration to realize that every time it deploys another deplorable policy, it puts our soldiers in Iraq and everywhere else at greater risk. What kind of arrogance and abuse?

This happened before in another Republican administration that became so flushed with power they forgot who they worked for. They too tried to hide black ops aimed at subverting political opponents and anyone who dared challenge their power. Nixon and his cronies almost got away with it except for the reporting of the same paper.

In the end, the corruption ate away at the pillars of the Republican power until it all came crashing down around them. A Vice President and a President resigned from office. The country was appalled by their conduct.

The first amendment of the Constitution was America's last defense against the Nixon administration and it is true again today. It is no wonder Republicans want to replace the first amendment with amendment 1-R. That is where one Republican will tell the American people what you are supposed to know and attack anyone who dares challenge them. Everything you need to know will come out only from the Republicans in power. That is what they want, government behind closed doors.

We used to recognize the rule of law and the Geneva Convention. Now we are at the point that we do not recognize America's strengths and values. Dare to challenge these Republicans and they will out you one way or another.

Prisoners are not the only ones vanishing under the policies and direction of the Bush administration, so is the truth. And the first amendment is America's last line of defense.

Mr. Speaker, we cannot let the Republicans do away with the first amendment. It is our only hope in a democracy.

DEMOCRATS CONTINUE TO SING THE SAME OLD SONG

(Ms. FOXX asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FOXX. Mr. Speaker, I rise today on behalf of the majority that is committed to fiscal responsibility. The Democrats' needle is stuck in a groove and it is playing the same song over and over: Tax and spend.

Republicans have already passed a budget that cut $100 million from the deficit. Democrats refuse to vote for this budget. In fact, over the last 3 years Democrats have tried to bust the discretionary budget in the appropriations process by over $60 billion in additional spending. Along with the billions more in spending, Democrats also offered amendments totaling almost $400 billion in additional taxes.

I guess it is hard to learn a new tune when the old one is playing over and over again in your head.

Republicans have recommended the termination of 98 inefficient and duplicative programs which would bring American taxpayers a savings of more than $4.3 billion. Yet the Democrats continue to obstruct while singing the tax-and-spend tune. It is time to change the record.

The American people have repeatedly rallied against more taxes and more spending. It is time we listen to their song.

FIFTH ANNIVERSARY OF THE VETERANS HISTORY PROJECT

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Wisconsin (Mr. KIND) is recognized for 5 minutes.

Mr. KIND. Mr. Speaker, this year marks the 30th anniversary of the end of Vietnam War and the 60th anniversary of the end of Second World War. It also marks the fifth anniversary of the Veterans History Project.

Five years ago Congress unanimously passed legislation that I authored creating the Veterans History Project. It was ushered through Congress with the help of Representative Amo Houghton, the gentleman from Maryland (Mr. HOYER), and Senators CLELAND and HAGEL.

The idea behind the project is simple, to collect, preserve and share with current and future generations alike the stories and history of American veterans and those who supported them on the home front. The project spans from World War I to the present, covering both World Wars, the Korean War, the Vietnam War, the Gulf War and the current conflicts in Afghanistan and Iraq.

It acts as both a learning tool and a living memorial to our Nation's veterans. Since its inception in 2000, the Veterans History Project's success has far exceeded our expectations. Despite modest funding, the Veterans History Project has an ever-increasing collection with more than 40,000 histories contributed by America's veterans, making it the largest oral history collection in the world today. Each story is unique, but taken together as a whole, the compilation puts a familiar face on the universal realities of war, courage and fear, horror and exhilaration, sorrow and triumph.

These collections include oral interviews, written, audio and video recordings, and authentic diaries, maps, letters and photographs. Thanks to the dedicated staff at the Library of Congress, where it is being housed, and the thousands of contributions from our many veterans across the country, the Veterans History Project has captured the American spirit better than any history book ever could.

The project also provides a way for local veterans to connect with students, community groups and each other. Across the country teachers have used the project as an eye-opening history lesson for their students. Veterans have been able to meet with classes, sharing their experiences with students and having their stories recorded as part of the project.

Two of the biggest supporters of the Veterans History Project in my congressional district are Bill Bruning, a veteran and Patriotic Officer for American Legion Post 52 in LaCrosse, Wisconsin, and Karen Schoenfeld. Karen teaches at a charter school in LaCrosse and includes the Veterans History Project in her class. Inspired by the veterans she and her class have met as part of the project, Karen wrote this beautiful poem that I would like to share. It is entitled "I Never Saw Your Face Before."

"I never saw your face before, I never knew your name. But now our paths have crossed, and I will never be the same.

"I never saw the flag before. Not really, not its soul. I only saw the stars, the stripes, a fabric on a pole.

"Now as I gaze upon our flag, I can see young faces, all called away from our proud land to other distant places.

"They did what they were called to do. They put their dreams on hold. They knew that others needed them. They did what they were told.

"And you, my friend, have taught me this, the sacrifices made. You helped me know what I have earned from the price that others paid.

"I've been in class. I've read the books. I've seen the movies, too. But now I know our freedom's price, all this I've learned from you."

This beautiful poem is a testament to the power this project has had in educating Americans about our bravest men and women.

The Veterans History Project is a salute and an ongoing memorial to these many brave individuals who have sacrificed to protect the ideals of this great Nation and those who continue that proud tradition of service today.

On this Veterans Day, I invite my colleagues in Congress, as well as all

Americans, to participate in this nationwide effort to honor our veterans. Anyone can contact their Representative's or Senator's office for more information on the Veterans History Project, or you can contact the Library of Congress through their Web site at loc.gov.

On this Veterans Day may we all take time to thank the veterans in our life, perhaps do an oral history interview with them or find some other way to show them our gratitude.

May God bless our men and women in uniform wherever they may be serving our country today. May God bless our veterans and their families and may God continue to bless these United States of America.

THE RIGHT PRIORITIES FOR AMERICA

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) is recognized for 5 minutes.

Mrs. CHRISTENSEN. Mr. Speaker, after claiming that they believe in fiscal responsibility and balanced budgets, the Republicans in their years of control in Washington have created the deepest budget deficits in American history and spiraling national debt.

Now, after abandoning fiscal responsibility and borrowing to pay for tax cuts and to reconstruct Baghdad, Republicans say they must cut programs that primarily serve disadvantaged Americans in order to pay for reconstructing the Katrina-leveled gulf region. No other emergency funding required offsets.

They claim that they are going to get tough on Federal spending through the budget reconciliation process where they propose a cut over $50 billion. They are getting tough all right, tough on the weak and needy, because this is where the cutting will be done: $10 billion in Medicaid cuts to health services for poor children and long-term care patients, and increasing the costs of prescription drugs for those beneficiaries; $844 million in food stamp cuts, eliminating nutrition and school lunch and breakfast benefits for hundreds of thousands of families and children; $14 billion in cuts to student aid programs, raising the costs of college for students and their families through the increased interest rates and loan fees. And it cuts all discretionary spending programs, such as veterans' health care, by a 2 percent across-the-board cut.

I listened to some of my Republican friends yesterday who likened the increased spending to increasing a child's allowance, but the analogy does not work. These cuts are not the same as taking away an allowance which a parent gives a child for candy, ice cream, movies, books and incidentals. It is more like taking away the child's meals, not taking them to the doctor, denying them college tuition, and then the parents borrowing for a vacation and having the child have to pay for it out of their allowance.

Many reports and the Washington Post even in an editorial last month pointed out that the Republican post-Katrina budget plan would add to the deficit, not reduce it, because the required spending cuts do not come close to paying for the at least $70 billion in new tax cuts provided for in the budget, cuts that mostly benefit the wealthiest Americans and that apparently remain sacrosanct no matter what other expenses pile up.

I think the American public needs to know what the Congressional Budget Office said about some of those cuts. That office said last Thursday that the House Medicaid cuts would save more than $30 billion over 10 years. However, that office, the Congressional Budget Office, also pointed out that these savings will not come from the premiums and copays the Republicans say will create the savings, but they will come because those cuts would keep our must vulnerable communities and residents out of the health care system.

Many of those people dropped would be the hard-working poor. The majority of those dropped, like those in Tennessee like I visited with last week, would be African American and other minorities. But there will be large numbers of people with disabilities, children, people living in our rural areas and the poor of every race, ethnicity and nationality.

So instead of closing the health care disparity gap, which causes close to 100,000 premature, preventable deaths in this country every year, this body, should it pass the Republican budget package, would by that act be increasing those deaths and continuing the health care inequality which the Reverend Dr. Martin Luther King, Jr., called the most shocking and inhumane of all.

The poor folks, the folks in our rural areas, people with disabilities, seniors, people of color, immigrants, and our children should not be made to carry the burden of the war and pay for the luxuries of the rich. At the same time the Republicans are proposing such spending cuts, they are preparing to move forward with $106 billion in additional tax cuts this year that will largely benefit the wealthy.

Will it save money? No. The net result of the GOP budget plan is $100 billion of debt over the next 5 years.

As I said to my American Legion this past weekend, America is being transformed by the actions of this administration and this Congress into a country I do not recognize, one that has gone far astray from the values and principles on which it was founded and on which this United States became the leader of the free world. What this budget reconciliation will do and what it says about this country is not what they fought for and laid their lives on the line for. It dishonors their service and that of the men and women who are fighting for this Nation even today.

So it is my hope and prayer that my friends on the other side of the aisle will abandon the irresponsible and heartless budget plan. Now is not the time to cut programs that are vital to the victims of Hurricanes Katrina and Rita and to our most vulnerable citizens who, like those victims, also face smaller but just as devastating socioeconomic hurricanes every day, while they have cut taxes for the most fortunate and add to the deficit.

These are not the actions of a people who value life as Americans do. These are not the right priorities for our country.

CUTS AND BLOOD

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Illinois. Mr. Speaker, since Hurricane Katrina and Rita and the budget reconciliation talks began, practically all that we have heard in this House about budgets has been cut, cut, cut, and cut. And of course, Mr. Speaker, where I come from back in Chicago, if all that you do is cut, cut and cut, all that you get is blood, blood, and more blood. And, of course, the blood will be on the hands of those who have the knife.

Much of the debate in this House during the past 2 months has been around the majority's proposal to cut mandatory programs by $35 to $50 billion over the next 5 years. Just the idea of some of these Draconian measures is enough to send chills up and down one's spine because we are talking about programs that provide basic assistance to vulnerable, low-income families and individuals.

In essence and in reality, we are talking about Robin Hood in reverse; that is, take from the poor and give to the rich. We are talking about programs that provide help to people with disabilities, people who make use of the earned income tax credit, people who use Supplemental Security Income programs, Temporary Assistance to Needy Families and individuals who are indeed elderly.

□ 1945

Some of the proposed cuts include $11.9 billion to Medicaid, and I can just imagine what this will do to the more than 20 hospitals, health centers, private physician practices in my district. Imagine the large number of children and poor people who will not be able to access adequate health care.

Student loans, $14.3 billion. Look at the number of students who will not be able to go to college, to get the education that we all know that they must have if they are to compete and survive in a highly technical, service-oriented economy. We think of all of those who would not be able to go to law school, medical school, who would not be in a position to provide the services that our country will need.

Child support, $4.9 billion. Imagine what will happen to the large number of children in my district being raised by single mothers and how difficult it will be for them to receive child support payments.

Foster care, $577 million. My district has one of the highest percentages of children in foster care in the Nation. Any reduction in these funds will seriously imperil our ability to provide and care for these children.

Food stamps, unimaginable. I mean, how can you think of cutting food stamps, with all of the individuals who are homeless, hungry, in many instances hopeless and helpless, individuals who are unemployed, laid off from their jobs and having difficulties with acquiring the basic necessities to sustain life.

Mr. Speaker, I am strongly in favor of our government operating on sound fiscal policies. I am in favor of reducing the deficit to the extent prudent and possible. I am in favor of rebuilding the areas damaged by Katrina and Rita, but I am not in favor of continuing to throw money away on a war that we never should have been in in the first place. I am not in favor of giving huge tax breaks and cuts to the wealthiest 1 percent of the population. I am in favor of budget reconciliation, but not on the backs of the poor, needy, and most vulnerable sectors of our society.

Therefore, Mr. Speaker, I could do nothing less than oppose. As a matter of fact, it would be a dereliction of my duty and responsibility if I were to vote for the Budget Reconciliation Act that is before us. I will vote prudently and sensibly.

DEFICIT REDUCTION ACT OF 2005

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentlewoman from Tennessee (Mrs. BLACKBURN) is recognized for 60 minutes as the designee of the majority leader.

Mrs. BLACKBURN. Mr. Speaker, you know, there is an age-old drama that Americans have seen play out time and time again here in Washington, and I know that some nights as they are watching TV and they click across C-SPAN and they watch individuals come to the floor, they might think this is a rerun or they might think same song, second verse because they have to think that they have heard this before.

I think probably their thoughts go something like this, that taxpayers are tired of seeing their hard-earned paychecks wasted by Big Government, and so the taxpayers say we are going to demand some spending reductions. The Republicans agree and the Republicans propose some spending reductions.

Well, the Democrats just cannot stand to see those spending reductions. So they start the name-calling, and they come down and they say that any reduction that we want to make in spending, anytime we are going to slow the growth of spending, well, you know what, it is draconian, it is mean-spirited, it is cruel, it is heartless, it is cold-blooded. We all hear all the descriptive adjectives. They start telling virtually every man, woman, and child in America that these reductions will do terrible, awful things and that the Republicans are just mean, nasty people.

Mr. Speaker, it is like clockwork. It really is like clockwork, and I think that I know why many times our colleagues across the aisle fight our efforts when it comes to fiscal responsibility, when it comes to reining in the size of the Federal Government, when it comes to reducing spending, when it comes to getting government off your back and out of your pocket. I think I know why the Democrats fight it time and time and time again.

This government, this big, Washington-focused bureaucracy that spends your money out of your pocket, that you go to work and you earn, this government, this bureaucracy, is a monument to them. They spent 40 years with an iron grip on this U.S. House of Representatives; and in that time, they constructed a vast monument to themselves called Federal Government bureaucracy.

It is expensive, it is old, and it is a mismanaged monument that forces you, the taxpayer, the average, hardworking American family, to spend 6 months every year paying for it. Tax freedom day, look at some of the dates we have had in years past, July 4, June 30, June 28. You are working half the time to pay for government.

Well, Mr. Speaker, I can tell you something right now. This Republican majority in the U.S. House of Representatives is working to change that. We want to change that. Democrats do not. It is that simple.

So, tonight, we are going to talk a little bit about the budget savings we are working to pass in this House in a bill that is called the Deficit Reduction Act of 2005.

Mr. Speaker, this legislation is a good, solid plan from the Republican leadership. It is a plan that will put this government on track to reform; and in the end, the goal is to yield a savings for the American taxpayer.

The bill that my colleagues are going to join me in discussing tonight is finding $53.9 billion in spending reductions over the next several years in a $2.4 trillion-a-year budget. Mr. Speaker, I want everybody at home to hear that: $53.9 billion, that is billion with a B, in savings, over several years of a yearly budget of $2.4 trillion, and that is trillion with a T.

Mr. Speaker, we are not asking a lot. In fact, we should be asking for a whole lot more. The constituents in my seventh district of Tennessee want to see us reduce Federal spending more. They want to see more of these programs that have outlived their usefulness put on the table, reviewed, put into sunset, deauthorized, scaled down, or taken away.

But I will tell you, I think that for many of the Democrats what we are proposing is too much. They cannot commit even to that. So tonight we are going to talk some about why we need to reform this government and why we need to make these spending reductions.

At this time, I would like to yield to one of my colleagues who has joined us. The gentleman from Georgia (Mr. GINGREY) is going to join us and talk for a few minutes about Medicaid. We are hearing so much about Medicaid. We have heard the left say that we are slashing it, that we are cutting it; and you know what, in spite of all this talk, Medicaid will grow. We are not talking about cuts. We are talking about reducing spending, and I yield to the gentleman from Georgia (Mr. GINGREY).

Mr. GINGREY. Mr. Speaker, I appreciate the gentlewoman from Tennessee for yielding, and I do want to speak a little bit about the Medicaid program.

The gentlewoman from Tennessee and the struggle that that State has had with their Medicaid program and TennCare, the cutbacks that have been necessary, she understands as well as anybody how important it is to make sure that these programs work the way they were intended to work, Mr. Speaker.

As the gentlewoman from Tennessee (Mrs. BLACKBURN) points out, we are not talking about cutting anything. We are talking about reforming government. I mean, this Republican majority has a plan to reform government, to effect savings for our taxpayers and to spend their money wisely and efficiently and to spend it for those who have the need and to eliminate all this waste, fraud and abuse that is so rampant in government and certainly in the Medicaid program.

But as the gentlewoman from Tennessee (Mrs. BLACKBURN) points out, this is no cut. The reduction in the growth rate is what we are talking about, Mr. Speaker. Medicaid, over the last 5 years and in this current fiscal year, is growing at 7.3 percent a year. 7.3 percent a year growth rate. So we have in this plan to cut that growth rate by three-tenths of 1 percent, cut it from 7.3 percent to 7 percent over the next 5 years.

Today, in fiscal year 2006, before this cut, we are spending $200 billion with a B on the Federal part of Medicaid. Over a 5-year period, in 2010, because of that 7 percent rate of growth, we will be spending $260 billion. So our colleagues on the other side, they want to say, oh, you are cutting, you are cutting to the bone, you are taking away. They call it Robin Hood taking away from the poor and giving to the rich.

This program, Mr. Speaker, will continue to grow at a healthy 7 percent rate, but we are talking about cutting waste, fraud, and abuse. Yes, we are going to cut that. We are going to cut out this situation where people are gaming the system and it happens. It happens in every State, including my own.

What is so tragic about that is that then you end up taking money away from those people, those pregnant women, those young children, those aged and infirm that really, really need our help. With this plan and these savings that we can effect, that is who the help will go to, exactly where it is needed.

I want to take a little time to explain one thing that I think is so important that my colleagues and anybody who might be listening to these proceedings tonight understands very clearly.

With long-term care in this country, we have a huge problem; and it is shocking when you find out that probably 70 percent of nursing home care is paid for with Medicaid dollars. Some of those people who are in long-term care facilities, a skilled nursing home is what I am referring to, they clearly are low income. They do not have the financial wherewithal once their Medicare benefit runs out, and it does pretty quickly; and they need to have that Medicaid benefit.

But 70 percent of all expenditures for skilled nursing home care is coming out of the Medicaid program. Something is wrong with that, and what it is is people and maybe it is not the individual so much as a smart lawyer figuring out a way to game the system.

So in this reform, Mr. Speaker, we are saying that if a person, an individual, has more than $500,000, I believe that is a half a million if my math is correct, if an individual has more than $500,000 equity in their home, then they are not going to be eligible for Medicaid to pick up the tab for nursing home care.

□ 2000

What is happening, and we are going to eliminate this, is that families, and I guess in a way I can understand their thinking, but it is just not right, they do not think about the fact that it is taking needed dollars away from people that really need this benefit.

As an example, say mom or dad needs to go into a nursing home, a skilled nursing home, and is going to be there for a long time. They may have $750,000 in equity in their home. So all of a sudden they figure out a way to transfer the ownership to a son or a daughter or a first cousin and let mom or dad rent the house and live in the house or pay out of their Social Security check.

That is totally wrong. I think my colleagues understand that, and I think the American people understand that.

So we, again, are not talking about cutting benefits to people that really need them. We are trying to make sure that in this reform we get the dollars where they need to be. That is really what it is all about, cutting out waste, fraud and abuse and spending the money efficiently and effectively. That is what we are doing.

I really appreciate the gentlewoman from Tennessee for leading this hour and giving me the opportunity to talk about this. You see, I spent 30 years practicing medicine and seeing some of these patients and writing prescriptions for those who need that Medicaid benefit. So I know how important it is to do it the right way, and I commend my leadership in the Republican majority for facing up to the problem we have.

I can remember, and I will say this in closing, Mr. Speaker, when we were trying to bring some sense in solvency to the Social Security program for our needy seniors, the other side of the aisle said, Well, you know, you do not need to be doing this because the need is in Medicare and Medicaid. It is going to run out of money much quicker; you need to reform that. Why are you all spending your time on Social Security?

So here Social Security seems to have been pushed off to the back burner, much to their satisfaction, and we are trying to deal with the problems of Medicare and especially Medicaid.

Every one of our 50 States is suffering. Governor Huckaby, Republican Governor from Arkansas, and Governor Warner, Democratic Governor of Virginia, both agreed with a bipartisan governors' report that we need to do this. So this is what we are talking about.

And with that, I will yield back to the gentlewoman from Tennessee.

Mrs. BLACKBURN. Mr. Speaker, I thank the gentleman for his comments, and he is exactly right. Medicaid needed reforms that would address some of the waste, fraud and abuse; reforms that would deal with the processes and procedures of the delivery of the program. Once we go through achieving these efficiencies, there will be individuals who truly need it, who will see a better delivery of service.

These are flexibilities that the governors, the nonpartisan National Governors Association, have asked us to make. They are things we have worked with them on, and we are pleased to bring forward the type of reforms that will yield the efficiencies that are needed.

Mr. Speaker, another colleague who is joining us this evening is the gentleman from Tennessee (Mr. WAMP), another member of my delegation who is a member of the Appropriations Committee. He has brought wisdom and expertise to the appropriations process and being certain that we are wise stewards of the taxpayers' dollars.

I yield to Mr. WAMP out of Chattanooga, who is going to talk with us for a few moments about the work they have done in the Appropriations Committee as we work toward a Deficit Reduction Act that is going to help put us on track to achieve some savings for the American people through the reform process.

Mr. WAMP. Mr. Speaker, I thank the gentlewoman for yielding to me and for her leadership and for all my colleagues on the floor tonight. I am encouraged as a member of the class of 1994, the class that came in with the new majority for the first time in 40 years, to see the passion and the focus that we now see again in the House with that same vigor for reform and responsibility that actually brought us here years ago. You can feel it every day here building steam, because the American people demand it, and we are carrying out an agenda now of reform and responsibility.

Interesting for me, I do not come to the House floor to speak much except for specific legislation, but today you kind of hear mixed messages on the minority side. Half of them say, you are spending too much and the other half says we are not spending enough. What we see over here now is a very consistent message that we cannot spend this much, that we have an $8 trillion debt.

Now, when we first came in in 1995 in the new class, our goal was to hold the growth of spending below inflation and let the economy grow, it was strong, so that revenues would surpass expenditures. And that happened and the budget got balanced. Seems like a long time ago, but it happened. For 3 consecutive years we held the growth of government spending below inflation, below the family's budget growth; and then revenues passed expenses.

Then we were dealt a difficult hand. September 11 happened, challenges beyond our control, and spending escalated. And for several years in a row, it averaged 6 percent growth per year in discretionary spending, which was twice inflation, and it started slipping away.

Sometimes it is easy to forget when something like Katrina happens, what was going on before Katrina hit, but we need to think back. I remember this spring I put out a press release after the House passed the budget and we then passed our 602(b) allocations for the appropriation bills to match that budget. I put out a press release that said, this is the most austere budget in the 11 years I have been in Congress, because it only grew nonsecurity discretionary spending by 1 percent. Well below inflation, this budget. Not only did we pass it, we passed all the appropriations bills out of the House within that agreement by July 4, the first time in a generation that that had happened. We were marching towards fiscal responsibility with vigor.

And then we went home for the August District Work Period, and Katrina hit towards the end and everyone focused on what the government did not do and we became insecure. But I think it is easy for some to forget how responsible we were going into that catastrophe.

A little primer on this whole process for folks that are outside the Beltway, because sometimes we forget their language, is that the budget is broken down between discretionary spending that the Congress annually appropriates and annually oversees and mandatory spending, sometimes called entitlements.

When my wife, sweet Kim, was born in 1964, two-thirds of all Federal spending was appropriated by the Congress with annual oversight, and one-third was mandatory, which is really made up of Medicare and Medicaid and pensions, mandatory spending programs, and interest on the debt, things that are fixed by previous law. And unless the Congress acts again, they automatically go out. They are indexed to inflation. People either qualify for them or they do not, but they automatically get the money. In 1964, that was one-third of all spending and appropriations was two-thirds.

Today, it is the other way around: Two-thirds is mandatory and one-third we still have discretion on. But if you take out national security and homeland security, the part of the discretionary budget that is left is only one-eighth of the $2.4 trillion annual budget that the gentlewoman referred to. So discretionary spending is now a small portion of it.

That is why it is so important to have this budget reduction act. Because the mandatory spending is where fraud and abuse and waste creeps in over time because the Congress does not annually oversee it. It sets in, and people back home do not like it when people are cheating the government. But if we fail to act and they win, the status quo has prevailed and it gets worse.

When we act, they say you are mean and cruel, but the people want us to tighten the belt of government, which creates efficiency. Any government program that has to tighten its belt will become more efficient because somebody has got their fingers on the buttons to make it more efficient to live with what they have.

We have done well on discretionary spending, but we can do more and we will do more. But I come as a member of the Appropriations Committee to say that this majority is doing it. We are doing it like we were when we got here, again with vigor and commitment. I am excited.

We have just been joined by another member of my class, and he was shaking his head as he walked across the floor, because he can feel it. He knows it. We are focused on being responsible and reforming this government so that it works better and so that people can see us acting on what they would like to see us do.

So I thank all of my colleagues that have come to the floor tonight, and the gentlewoman for hosting this hour. It is important that we unite and we bring people to this most important cause at this critical time. And I yield back to her.

Mrs. BLACKBURN. I thank the gentleman from Tennessee for his wise words and for joining us in this debate and reminding us we do hear a lot of rhetoric, as he mentioned. We have the Blue Dogs from the Democrat side, who have been coming to the floor demanding spending increases. Suddenly they are not so fiscally conservative.

Well, it is like the story I used to read to my children, the Three Little Bears. It is almost as if you have to have it just right. Just right. And they are going to let the perfect be the enemy of the good, because these are good, solid reductions and a good, solid plan for moving forward, a great first step.

As we have worked through this process, we have heard from the gentlewoman from Virginia several times in regard to military issues and veterans' issues. She has such a heart for this and works so diligently on these issues, so at this time I yield to the gentlewoman from Virginia (Mrs. DRAKE) to set the record straight about the appropriations and the funding for our veterans' programs.

Mrs. DRAKE. Mr. Speaker, I thank the gentlewoman from Tennessee for hosting this event tonight and for inviting us here to tell the American people exactly what is in this bill that we will all vote on tomorrow. I know that she joins me as a Republican in our belief in smaller government, personal responsibility, and accountability.

This deficit reduction bill is an example of this philosophy. This bill creates a planned reform and savings for taxpayers. It is important that we set priorities and that we make tough choices.

I also know the gentlewoman from Tennessee would agree with me that how we spend taxpayer dollars is one of our greatest responsibilities as Members of Congress, and that we need to spend smarter and wiser.

It is unfortunate, Mr. Speaker, that this plan is being misrepresented. Just Monday of this week it was represented on the House floor by Mr. MEEK, and this was in regards to veterans' care, who said, and I quote, "because the majority side has made a 5-year cut of $14 billion." That same night Ms. WASSERMAN SCHULTZ said, and I quote "There is a proposal to cut $600 million in veterans' health care."

Mr. Speaker, the reality is in this deficit reduction bill there are no cuts proposed for veterans' health care. In fact, in the last 5 years, funding has increased by 50 percent. In fact, the Veterans Committee was not asked to participate in spending reform. We recognize, we appreciate, and we value the service of our military members and our veterans, and we know that their health care and their benefits are critical and very, very important to them.

On November 2, this House unanimously approved H.R. 4061, the Department of Veterans' Affairs Information Technology Management Improvement Act. This Act combines three information technology programs into one. Currently, benefits, health, and burial claims are handled by three separate IT departments. This was common-sense reform to turn these into one and will save the Federal Government $1.7 billion simply by turning three programs into one. This is exactly the type of example which shows we are redesigning government, reforming programs, and saving taxpayer dollars.

Mr. Speaker, billions have been spent on IT systems by both the VA and Department of Defense, and these agencies still cannot share medical information. This is corrected in H.R. 4061.

☐ 2015

The result of this reform is not only to save taxpayer dollars, but it provides a seamless transition for our servicemembers and makes the process easier. I know the gentlewoman from Tennessee is happy to hear that: save money, do it easier, and do something that makes sense. The Department of Defense and the VA will be able to share information on health records and claims for disability benefits.

Also understand that these necessary responsible reforms are critical to be sure that important programs remain in place and are able to sustain themselves.

Mr. Speaker, I thank the gentlewoman for sharing her time with me today and being able to talk just before Veterans Day about the wonderful service of our veterans and our military.

Mrs. BLACKBURN. Mr. Speaker, I join the gentlewoman in a heartfelt thanks to our veterans, as she speaks about the fiscal stewardship and the common-sense reforms we need to put into these programs. It is so frustrating to veterans in my district when they get the runaround and cannot get a proper answer and go from one bureaucracy to another bureaucracy. To take three programs and roll it into one, as H.R. 4061 has done, that is common sense.

We hope to achieve efficiencies and save money on that program and the administration so it goes into programs and we get that money into programs that are so needed and so deserved by our veterans.

Again, God bless those veterans. And I say God bless the gentlewoman from Virginia who has worked so hard on these issues.

A leader on agricultural issues is the gentleman from Iowa (Mr. KING). He is going to talk about the agriculture bill and then will return to the floor to talk about what has been done through the agriculture appropriations process.

Mr. Speaker, I yield to the gentleman from Iowa (Mr. KING).

Mr. KING of Iowa. Mr. Speaker, I thank the gentlewoman for organizing this Special Order and her leadership.

At this time I would like to address the Deficit Reduction Act. It seemed like it was heavy lifting for a lot of people in this Congress; it should not be. It should not be when you are going to reduce by one-half of 1 percent the trajectory of the increase of Federal spending down range 5 years. I do not find that heavy lifting. I find that a piece of cake for somebody who has had to balance a family budget, a business budget, and meet payroll with my own employees for over 1,400 consecutive months. We had to find a way to make it work, and we did not have a budget like this to work with, and we made it work.

I want to talk about the agricultural aspect of this. First, we brought this package before the Committee on Agriculture, and we went for approximately 3 hours in debate, listening to demagoguery about how painful it was to squeeze down some of these categories within the agriculture budget. And this is over 5 years.

One of those subjects is the commodity programs direct payments. We reduce that, the projected spending, by 1 percent. That is $1 out of $100. The actual effect out in the field is approximately one-twentieth of the payments going into a region like I represent where we raise corn and soybeans.

The people that I represent there are fiscally responsible people. They watch their budget. They invest their dollars wisely and do a good job of marketing and managing, all because it is good business. That is what it takes to have black ink on the bottom line instead of red ink.

I am very confident I can take this back and look my neighbors in the eye and say we did the best we can for the agriculture economy. We did the best we could for our agriculture producers. We pinched that down by 1 percent on direct payments.

We are looking at WTO trade negotiations coming up in Hong Kong in December. We are talking with the rest of the world about how we want to really eliminate export subsidies, and we can do that without great pain to this country and reduce domestic subsidies and be able to get access to the developing world so we can sell our products.

Our agriculture producers know they can compete with anybody in the world if they can get access to the markets without having punishing tariffs at every developing country in the world. We brought some of those people in as trading partners. We are going to expand that. But if that 1 percent here is a painful thing, then I am going to say we are going to have one difficult debate when the time comes to adjust our long-term trade trajectory.

By the way, there was not a single Democrat that would support any of this reconciliation package, and it became a partisan issue just to pass CAFTA. People in sugar said, no, it might take a teaspoon a day out of our markets. Possibly so. Aside from that, there was not even an argument that CAFTA was not good, but it became a partisan issue. I am watching trade become a partisan issue. I watched budget responsibility become a partisan issue, and I listened to criticism after criticism from the other side of the aisle about what we are doing to our producers during a time of need. It is always a time of need.

But it is also a time where we have just pulled in the best 3 years in agriculture ever where I live. We have harvested the best crops in the last 3 years. Their overall accumulated value is more than it has ever been. We raised more corn and soybeans this year than any time in history, except last year, which was a record. That came upon a good crop for 2003. It is a good time to be responsible in agriculture, and I believe the producers will stand up and take this just fine.

We minimized some of the damage to agriculture as well. Some money was left over in the watershed rehab program, and so we put that in our Deficit Reduction Act. The Conservation Security Program, I like that program. I spent my life in soil conservation. I have built more terraces than any Member of Congress, and I do not have to wonder who is second. More waterways, more watershed dams. I have spent my life protecting soil and water. I like those projects. We took no money out of any one that was qualified today, but were required to pull some money out down range in order to come with these savings that we needed to get, which is $3.7 billion out of agriculture.

Skipping across some of these, the food stamp program, that probably consumed, out of 3 hours, probably 2 hours of the apportioned demagoguery for the day. It was how we could take food out of the mouths of babes, pregnant mothers, senior citizens, everybody you can imagine. I sat there and listened to that, and if I did not have a brain of my own to work with, I would have felt so guilty I would have crawled out of that room after they got done with me. The truth is when you look at it, we did not take any food out of anybody's mouth. We saved overall $844 million up to the year 2010.

I went back and looked, how much waste do we have in food stamps just for the last year we have records. Well, $1 billion in food stamp waste. That is fraud.

Mr. GINGREY spoke about how we will cut waste, fraud and abuse. We did that in the food stamp program, and we did not do it randomly. We realized there are States that grant food stamps to people who do not qualify for any other benefit. That is a pretty good sign it is a fraud. We conditioned it if they need another benefit, like TANF, it will qualify them for food stamps. Unless they do, we are not going to give them a bunch of food stamps because, likely, they are not qualified. Most of the States are that way. Iowa is that way. It works for us. We do not hear complaints because it is a responsible way to manage.

The other side of the food stamp piece was we extended the period of time. When people come into this country legally, they pledge they are going to be self-sufficient. We say to them, under current law that means you do not get these benefits for 5 years. Then you can be unself-sufficient and we will help you out. We extend that time on food stamps from 5 years to 7 years. That picked up $275 million. We found our $3.7 billion without a lot of pain.

I will not say it was easy, because I had to listen to 3 hours of demagoguery; but we did not hurt anybody, and we helped people and we helped the taxpayer.

We have another way we can help this country. I have got to say this because agriculture is so susceptible to energy, but we have 406 trillion cubic feet of natural gas out there under the Outer Continental Shelf. We are paying $14.50 per million Btus here in this country. In Venezuela it is $1.60 compared to our $14.50. The same with Brazil, Argentina, and most places on this continent; and we have got 406 trillion cubic feet of natural gas right there next to the pipeline. All we have to do is move our drill rigs a little further to the east, sink them in the ground, hook the pipes up, and go to the same refineries and we can drive this price down. If we do so, we can cut fertilizer prices down and grain drawing prices down for our grain as well.

Go up and drill in ANWR, fix the energy piece in all of this, and we are going to see a big difference in this country. This is not all of the work we need to do, but this is a bunch of the important work we need to do. I am looking forward to getting on with it.

Mrs. BLACKBURN. Mr. Speaker, the gentleman from Iowa truly is a great conservationist not only with the soil and the land in Iowa, and we love to say he gets his best information on the back of his tractor working his pastures, as we hear his good, conservative philosophies put to work in this House, as he talks about being a conservative and a conservationist in his spending, in his farming and in his love of the land and in his love of freedom. We are so pleased that he has reminded us and shown us how the Committee on Agriculture, again practicing fiscal stewardship, practicing what they preach, living it out to be certain that every single committee looks at their programs and says there is a better way for us to do this. There is a way to reduce this spending, and the American people are going to benefit.

We have heard many times over the past several months from the gentleman from Texas (Mr. HENSARLING) who has come to the floor and has talked with us about having respect for families and the family budget, about how important it is that we realize that taxes and fees are the largest part of a family budget and how the Federal Government should be sensitive to that and work to reduce that burden.

I have asked Mr. HENSARLING to join us tonight and talk with us for a few minutes about what happens if we do not pass the Deficit Reduction Act, where will we be if we do not pass this act.

Mr. Speaker, I yield to the gentleman from Texas (Mr. HENSARLING).

Mr. HENSARLING. Mr. Speaker, I thank the gentlewoman for her leadership in the area of government reform.

Mr. Speaker, you have heard how important it is that we have a plan that is going to reform government, that will help achieve savings for the American people. It is so sad that the Democrats on the other side of the aisle, not one, not one has risen up to join us in this effort to try to reform government.

We know that our Nation faces a number of challenges. We have Medicare and Medicaid and Social Security. We have important programs, but they are growing beyond our ability to pay for them. Now we have had the devastating hurricanes hit. We know there are only three ways we can pay for all of this: one, we are going to pass debt on to our children; two, we are going to raise taxes on the American people; or, three, we are going to find smart ways to hold government accountable and decrease the rate of growth in spending and bring about reforms.

Well, the Democrats have attacked all of our reforms. They claim that somehow these are massive cuts, notwithstanding the fact that the Federal budget is going to grow next year over this year in what we call mandatory spending that has most of the welfare programs growing next year over this year. TANF is going to grow. Medicaid, Medicare, it is all going to grow. But they attack all of our reforms, and they claim that they do not want to pass debt on to our children. Well, what does that leave us? That leaves us with tax increases.

They do not like to talk about it, but it is the only other option on the table. In this case, massive, unconscionable tax increases that, if imposed on the American people, will leave the next generation with a lower standard of living than we enjoy, because the government we already have is growing beyond our ability to pay for it.

Chairman Greenspan of the Federal Reserve recently said, "As a Nation, we may have already made promises to coming generations of retirees that we will be unable to fulfill."

The Brookings Institution, which is no bastion of conservative thought, says expected growth in these programs, speaking of Social Security, Medicare and Medicaid, along with projected increases in the debt and defense, will absorb all of the government's currently projected revenue within 8 years, leaving nothing for any other program.

That is the Democrats' plan. That means no veterans funding. That means that beloved Pell grants are gone. All of this is gone because they refuse to join us in any of these reforms. The Government Accountability Office said in order to balance the Federal budget in the next 30 years, total Federal spending is going to have to be cut in half or Federal taxes doubled.

Mr. Speaker, we have a chart that shows what is happening to the size of our government. This shows here the percent of our economy that we are devoting to government. Right now it is about 20 percent. Our revenues, which is this line here, runs pretty consistently between 18 and 20 percent of our economy.

□ 2030

But the government programs that are in place today, not all the ones that the Democrats want to add, but the government programs that we have today that are on automatic pilot, without the reforms, if we do not reform them, if we do not achieve success in our vote for reform, in just one generation we are going to go from 20 percent of our economy devoted to government to 40 percent, Mr. Speaker, in just one generation.

And that, Mr. Speaker, is the cost of it. Here we have the year 2005, and look at the tax increases on the average American family as the years go by. Again, what does that mean? It means in just one generation we are going to end up doubling taxes on the American people. And, Mr. Speaker, I just believe that that is absolutely unconscionable, particularly for a party that continues to want to preach compassion to us.

Right now, right now, they want to cut the child tax credit in half. And that is their idea of compassion? That is what they are telling us. That is what their tax plan is. They want to reinstitute the death tax so that people have to visit the undertaker and the IRS on the same day. And that is their idea of compassion, Mr. Speaker? They want to bring back the marriage penalty. They want to punish people. They want to tax people extra because they choose to fall in love and marry somebody. And that is their idea of compassion? That is just what they want to do today.

But what they want to do to my children and your children, my 3½-year-old daughter and my 2-year-old son, they want to double taxes on them. An average family of four, what that means to them is that as they spend $11,000 a year in housing today, under the Democrat doubling of taxes plan, that will go down to $8,500. That means that although you may own a home, your children will not be able to afford one.

When it comes to transportation, this average family of four spends about $5,300 today. But under the government plan where we double taxes, that will go down to about $4,000. Mr. Speaker, people are struggling to fill up their cars now. I suppose under the Democrat plan they will not have to worry about it because Americans will not be able to afford to buy cars anymore.

Let us talk about food. The average family of four is spending about $5,300. That goes down to $4,000. The Democrats in their so-called compassion plan and fighting our reforms just took 3 months of groceries away from the average American family because they have their plan to double taxes on the American people. And, Mr. Speaker, the list goes on and on and on.

We have a common-sense plan, a common-sense plan, to reform government and achieve savings for the American people. I mean, who is going to argue with the fact that we should not be giving food stamps to illegal aliens? Who is going to be arguing with the reform that we ought to quit paying twice the market rate for student loans? These are common-sense reforms. And, Mr. Speaker, as this debate continues to unfold, we have to remember what the Democrats really want to do, and that is massive tax increases that are going to leave the next generation with a lower standard of living than we enjoy, and that is unconscionable.

Compassion, Mr. Speaker, ought to be measured by how we treat the next generation and how many paychecks we create, not how many welfare checks we create. Our reform plan will help create paychecks. We have already created 4 million new jobs in this economy. Theirs is more of the same: more government, more spending, tax increases for future generations. There is no compassion there, Mr. Speaker. No compassion whatsoever.

Mrs. BLACKBURN. Mr. Speaker, reclaiming my time, I thank the gentleman from Texas for his comments.

And he is so correct. If we do not take these steps to rein in spending, to reform government, to get on this plan that is going to reform this government and begin yielding a savings for the American people, we will see it go from taking 20 percent to 40 percent of our resources. Fiscal stewardship demands that we work to find a way to restrain the growth of government, to begin to roll it back. And it is not easy, as I said earlier. The Democrats spent 40 years building a monument to themselves, a great big bureaucracy; and it takes time to begin to break it apart.

As the gentleman from Texas was talking, I was looking over a chart that had the 12 largest post-war deficits that we have seen in this country. Of course, one of them was 1946, when we were hard at war and fighting and coming back from World War II. Mr. Speaker, these other years, 1983, 1985, 1986, 1984, 1992, 1991, 1976, 1982, 1993, 1990, Democrat control. It is time for us to put this Nation on a track to reform government, to reduce the bureaucracy, to be certain that money is going into programs to meet needs at the local level; that money is not being soaked up by the bureaucracy that sits in these buildings around Washington, D.C.

Mr. Speaker, I yield to the gentlewoman from North Carolina (Ms. FOXX), who is a leader in education on the Education and Workforce Committee, and she is going to talk with us for just a few moments and dispel a couple of myths pertaining to education funding and talk about what we are trying to do to be certain that young people have the opportunity to dream big dreams, dream big dreams and have great adventures and look forward with hope and opportunity to a future.

Ms. FOXX. Mr. Speaker, I want to thank the gentlewoman from Tennessee (Mrs. BLACKBURN) for organizing this Special Order again and for helping us bring the facts to the people of this country.

She used a very nice word, "myths." Some people could use much stronger words about the things that are being said about this Deficit Reduction Act. So I think she is being very kind. We need to set the record straight about what is being said about this bill and about what we are actually doing.

The Education and Workforce Committee was given the task to find $18.1 billion in net savings. Of that $18.1 billion, we generated $14.5 billion by making the Federal programs dealing with higher education more efficient and effective.

I did serve many years in higher education. I was a community college president, a university administrator, dealt with higher education programs, with financial aid. So I understand these programs a great deal. And let me tell the Members just in summary what we did. We are helping the students and the families of this country tremendously by what we are doing. We are going to continue to increase student financial aid as college enrollment increases. We are going to see financial aid going up through increases in loan limits and reductions in origination fees. That is going to help students and families. We are going to end the practice that allowed some lenders to collect the minimum of 9.5 percent rate of return on some student loans.

And yet the Democrats have fought these tooth and nail. They all voted against these measures. They do not want to help make access to higher education better for low- and middle-income students like we do. And that is what this is going to do. It is going to generate savings for taxpayers by eliminating waste and inefficiency, trimming subsidies paid to lenders, and place the aid programs on a stable financial foundation. We are going to put a complete and permanent end to practices that have allowed some lenders to collect the minimum 9.5 percent rate of return on some student loans. That is just simply unfair to the students who are having to borrow money.

It will also reduce student loan fees by 75 percent over 5 years. Student loan borrowers today pay up to 4 percent in loan fees and a 3 percent origination fee. We are going to reduce that origination fee to 1 percent. It also is going to expand student loan borrowing by increasing the amounts for first- and second-year college students. This is going to be a tremendous boon to those students.

It is also going to protect borrowers' credit by requiring lenders to report to all national credit bureaus to ensure students and graduates will be able to take full advantage of the good credit history they have earned through repayment of their Federal student loans. They cannot do that now, and it is a shame because they cannot build a good credit history.

We also, through this bill, improve consumer protection and awareness by eliminating unfair rules that limit options for consolidation borrowers and providing borrowers more information about their loans. We want students to be responsible. We are going to help them be responsible.

The Democrats are opposed to that. It is really mind-boggling to understand why they would oppose all these reforms that we are putting in. One would think they would want to help moderate- and low-income people get a higher education, but they keep throwing stumbling blocks up and saying we are reducing money; we are increasing the amount of money. We make it easier for the neediest students to participate in these programs by simplifying eligibility.

I know when I conducted programs with financial aid, it took a college degree to fill out the forms. So it was a real problem. We are going to improve that.

Taken as a whole, CBO estimates these reforms will save $14.5 billion over 5 years. That is money going into the pockets of the students and the families that we want to help and other taxpayers.

Spending is out of control, Mr. Speaker. We cannot afford to keep increasing Federal spending at astronomical and unreasonable rates. Contrary to what our colleagues on the other side of the aisle are purporting, we are not finding these savings on the backs of college students. We are going to help college students. These reforms will strengthen student aid programs and expand student benefits.

Everybody needs to support this bill and know that they can go home and say to students trying to get an education, We are helping you with this.

Mrs. BLACKBURN. Mr. Speaker, reclaiming my time, I thank the gentlewoman from North Carolina for her comments.

She is exactly right. Reforming the process, reforming the way government does business, making it simple, being certain that we find another way to get government off people's back, out of their pocketbook, simplify the system so that the money gets to where it is needed, in this case, in education, getting that money into the student loan programs so that students are in the classrooms, so that they have access to those classrooms.

We have been joined by the gentlewoman from Ohio (Mrs. SCHMIDT), and she is new as a Member of the U.S. House of Representatives. She comes with a State legislative background from the State of Ohio where she has worked on so many of the health care programs, the reform programs that were needed, and working with Governors. At this time she is going to spend just a couple of moments and talk about some of the reforms that were needed by the Governors and are addressed in this bill.

I yield to the gentlewoman from Ohio.

Mrs. SCHMIDT. Mr. Speaker, I thank the gentlewoman from Tennessee (Mrs. BLACKBURN) for yielding to me.

Mr. Speaker, I am going to keep this very brief. I just came here 64 days ago, and I served on the general assembly and I served on the appropriations committee. And I can tell the Members most States are seeing their budgets being crippled by Medicaid, and Medicaid is tied to the Federal programs. What we have done in this bill is we have a plan to reform government, to reduce spending, not just at the Federal level but at the State level as well.

The gentleman from Texas's (Chairman BARTON) program that addresses the eldercare with Medicaid will really help States initiate programs that truly take care of the elderly who are in need, but force people who are not in need who try to circumvent the system from circumventing that system. And that is so important. That is reforming government. That is reducing spending. That is getting rid of waste, fraud, and abuse. And that is a plan.

Chairman BARTON also has a plan for Medicaid savings on prescription drugs. That is important, because when I came from Ohio and when 85 percent of our budget is crippled by Medicare and education, we need to have help at the Federal level to enact reforms at the State level that will allow us to feed our poor, feed our elderly, educate our children, and not bankrupt our system. That is what this act does.

I am going to vote for it, and I want to applaud the leadership on the Republican side of this aisle for giving us a plan to reform government, reduce spending, and save our future.

Mrs. BLACKBURN. Mr. Speaker, reclaiming my time, I thank the gentlewoman for her comments.

At this time I yield to the gentleman from Minnesota (Mr. GUTKNECHT), who is going to talk with us about the food stamp program and address some of the myths that we have been hearing about this program. This gentleman has done so much work in the agriculture programs, looking to be certain that we address the stewardship requirements that our constituents and citizens have for us.

☐ 2045

Mr. GUTKNECHT. Mr. Speaker, I thank the gentlewoman for holding this special order tonight.

Mr. Speaker, John Adams once said very simply, "Facts are stubborn things." Somebody else once said that you can ignore the facts, you can deny the facts, but in the end, there they are. Tonight we are talking about the facts.

I want to just share with my colleagues some information according to the Office of Management and Budget, because this is pretty shocking. Some of our friends on the left are saying, Well, it is because we are wasting all this money fighting terrorism in Iraq and Afghanistan. Well, maybe they are right, I do not know. Some of them say, Well, the reason we have a deficit problem is because of tax cuts. Well, I think we can dispel that myth, because let me just share with my colleagues some numbers from the Office of Management and Budget.

Since 2001 through 2005, the inflation rate here in the United States has averaged a little more than 12 percent, total. We have increased spending on science, space, and technology by 21 percent. This Congress has increased spending on transportation by 24 percent. We have increased spending on unemployment benefits by 26 percent; general government, 32 percent; income security programs, or what we would call welfare and other programs we are going to talk about in a minute, have increased by 39 percent. Now, that is at a time when inflation has been a little over 12 percent, so it has increased at triple the inflation rate.

Health care programs, we have increased by 42 percent just since 2001; community development, 71 percent; housing and commerce, 86 percent; international affairs, what some people call mostly foreign aid, has increased by 94 percent.

Finally, Mr. Speaker, this area that we are just slashing and burning, education, has increased by 99 percent. The facts are right here, and if anyone would like a copy of the article, if they call my office, I will be happy to send them one.

We talked about facts, and the gentlewoman mentioned food stamps. Now, listen, I think I speak for everyone on both sides of the aisle here in the U.S. House of Representatives and, frankly, I think I speak for all Americans, it is something we take pretty seriously. We do not want anybody to go to bed hungry here in the United States. But I am happy to say that this House, this House leadership, this Budget Committee and the chairman and the members of the Republican Caucus have a plan that will reform government and provide savings for the American taxpayers. Spending has been going up too fast, and we propose to do something about that.

I came here in 1994, and earlier my colleague, the gentleman from Tennessee (Mr. WAMP) talked about what we did in 1995 and 1996. One of the things we did that I will always be proud of is, we reformed the welfare system, and we put limits on welfare. We heard some of the same arguments back then. Oh, my gosh, people are going to be thrown into the streets, people will go hungry, this is going to be terrible. Well, let us look at what happened. We cut the welfare caseloads by 50 percent.

Mr. Speaker, I always said, and I really believe this, welfare reform was never about saving money. It was about saving people; it was about saving families; it was about saving children from one more generation of dependency and despair.

Unfortunately, our friends on the left still believe in big government. They somehow believe that big government programs can really solve problems.

Mr. Speaker, we believe people should not go to bed hungry.

Mrs. BLACKBURN. Mr. Speaker, I thank the gentleman for his time tonight. I will remind everyone that facts are stubborn things. We know we do not balance the budget by raising taxes and balancing it on the backs of hardworking Americans. You get this deficit under control by cutting spending and promoting economic growth and creating a bright future for future generations.

30-SOMETHING WORKING GROUP

The SPEAKER pro tempore (Mr. FORTENBERRY). Under the Speaker's announced policy of January 4, 2005, the gentleman from Florida (Mr. MEEK) is recognized for 60 minutes as the designee of the minority leader.

Mr. MEEK of Florida. Mr. Speaker, it is once again an honor to come before the House, and we want to give thanks to the Democratic leadership for allowing us to be here one more night.

Mr. Speaker, as my colleagues know, the 30-Something Working Group and hard-working members on this side of the aisle have come to the floor repeatedly, night after night, in some instances, 2 to 3 hours, to inform not only the Members, Mr. Speaker, but also the American people on what is happening to them under this budget. I will tell my colleagues something for them.

As I stand here now on the floor, Mr. Speaker, the Rules Committee is meeting. They are not meeting under the lights of the American people or even in the daylight. They are meeting here at almost, close to 9 o'clock at night to try to figure out how they can come to the floor and put forth a budget that is going to increase lines at veteran hospitals and clinics in rural areas, decrease services to veterans, and also bring up a higher copayment and premiums for veterans to be able to receive health care.

They are meeting now trying to figure out, Mr. Speaker, how poor children, who do not have to pay a copayment to get health care, they are trying to figure out how they can explain that to the American people and how they can bring it to the floor and package it in a way that even some moderate Republicans can vote for it.

They are trying to figure out now, Mr. Speaker, they are going to be able to ask Members of this Congress, who have been federalized by the fact that they have been elected to Congress, to watch out for the well-being of the country; and drilling, having oil rigs just miles off the coast of Florida where so many of us here in this country go to these destinations for relaxation.

And also as it relates to even helping our own U.S. economy, people fly from overseas to come over and try to enjoy themselves and, at the same time, bring dollars to the United States. They are trying to figure out how they can go to pristine areas throughout our country and national parks and how they can stick an oil rig in the middle of a national park because special interests want that to happen, not that the American people want it to happen.

They are also trying to figure out, Mr. Speaker, how they can save face, and when I say "they," I am saying the Republican majority, how they can come to this floor and ask Members to vote to increase fees for students, which is going to be handed down to the States and they are going to have to increase fees to students for college education as it relates to loans.

They also are trying to figure out how they are going to say that their budget is better than the Democratic alternative, and it is all about priorities.

Mr. Speaker, that is the reason why we are here on the floor tonight. This is the eve of the budget vote. I will tell my colleagues this: I just do not know how, on the majority side, they can swell up about the troops, how they can get teary-eyed, how they can talk about the War on Terror, how they can talk about all of the things that they talk about as it relates to defending our country, and then those very individuals that are defending our country, as we speak, Mr. Speaker, will come back only to have to wait 6 months to see a specialist at the VA.

Where is the money going to come from and the services if you are pulling the rug out from under the veterans?

Mr. RYAN of Ohio. Mr. Speaker, this is about third-party validators. This is not KENDRICK MEEK, TIM RYAN, BILL DELAHUNT; this is not just us spewing out rhetoric to the American people, Mr. Speaker.

I want to read a letter that I think may be of some interest to the Republican majority as they are all deciding right now how they are going to vote. It is about time you get on your knees, you say your prayers before you go to bed tonight. The Republican majority needs to remember this letter:

"The absolute folly and moral bankruptcy of this plan is apparent." He is referring to the budget reconciliation package that the Republicans are about ready to pass out of this Chamber.

This gentleman says, "The absolute folly and moral bankruptcy of this plan is apparent to the United States Senate, who voted to bar funding for it from the appropriations bill now in conference.

"The VFW," I say to my friends, "urges the Congress to put a stop to the wartime assault on past and present warriors who have fought for and continue to defend our country."

Mr. DELAHUNT. That is from the VFW.

Mr. RYAN of Ohio. "Understand that this situation is totally unacceptable to the VFW and its 2.4 million members and auxiliaries. We will do what is necessary to protect, in Lincoln's words, 'He who bore the battle, and his widow, and his orphan.' These words are marked on the front of the VA headquarters building. I urge you to take them to heart. Sincerely, Robert E. Wallace, Executive Director, the Veterans of Foreign Wars, Washington Office."

We are not making this up. This is the VFW.

Mr. DELAHUNT. That is the Veterans of Foreign Wars.

Mr. RYAN of Ohio. Veterans of Foreign Wars.

Mr. MEEK of Florida. Mr. Speaker, if the gentleman will yield, will the gentleman from Ohio give that to the Clerk so that we can enter it into the RECORD.

Mr. RYAN of Ohio. Mr. Speaker, I will enter the letter into the RECORD at this time.

NOVEMBER 7, 2005.

ALL MEMBERS OF CONGRESS: The absolute folly and moral bankruptcy of this plan is apparent to the United States Senate, who voted to bar funding for it from the appropriation bill now in conference. We have heard, however, that the House Leadership fully intends to strip this provision from the bill, and require the VA to execute this witch-hunt of a review.

The VFW urges the Congress to put a stop to this wartime assault on past and present warriors who have fought for, and continue to defend our country. Understand that this situation is totally unacceptable to the VFW, and its 2.4 million members and auxiliaries. We will do what is necessary to protect, in Lincoln's words, "He who bore the battle, and his widow, and his orphan." These words are marked on the front of the VA headquarters building. I urge you to take them to heart.

Sincerely,

ROBERT E. WALLACE,
Executive Director,
VFW Washington Office.

Mr. MEEK of Florida. Mr. Speaker, what is going to happen is that historians are going to look at this moment right now in the U.S. Congress; they are going to look at this very moment, as we are on the floor right now, and the Rules Committee, they are meeting behind closed doors, at night, in the dark, making decisions that are going to affect the American people, the everyday American people. It is going to affect them.

This is not a hearing that is broadcast to the American people; it is not a hearing, not even in the daytime. It is a hearing in the middle of the night. And what they are going to do in that closed-door hearing is set the stage to try to come to this floor.

They cannot persuade our Members on this side, because we are already on the side of the American people. We already know, together we can do better on this side of the aisle. We already know that we put forth amendments in the Budget Committee that were voted down on a party-line vote.

As it relates to the oil companies' profits, there was a hearing today with the oil companies here. They must have heard us talk about it, and so they said, Well, let us call a couple of them in and let us talk to them about why the American people possibly got price-gouged. A lot of talk.

But it was the Democratic Caucus and the Democrats in committee that put forth the amendment, not talk, but action, to make sure that the American people no longer were being price-gouged; and also making sure that those individuals in America that have to pay higher fees, especially our poor, for heating oil and gas this winter. Action, not talk. To come to the floor and to just talk, without action.

We in the minority, and by the fact that we are in the minority, we are trying to do the best that we can to fight on behalf of the American people that sent us here to represent them throughout this country, we are here fighting. We are not just giving them lip service. We are not saying, Hey, listen, we are going left, but we are really going right. We are not here to sugarcoat or glaze the reality.

The reality is the fact that they know that they are wrong, and they know they are going to have a problem with the vote. I guarantee my colleagues, as sure as my name is KENDRICK MEEK, when that board opens up tomorrow, the vote on the budget, we are going to be here for some time. We are going to be here for some time while arms are being twisted, while the special interests are calling in on cell phones saying, you have to vote for this because our stuff is in that bill.

But meanwhile, back at the ranch, I grabbed the PAC list a little earlier. I did not see a PAC on behalf of people who fought for this country. I did not even see a PAC that was put forth by the children in America that are on Title I and free and reduced lunches; I did not see a PAC on their behalf to get the attention of this Congress. I did not even see a PAC that said, Hey, listen, we just want you to do the right thing on behalf of the American people. I did not see that PAC listed on the PAC list.

But I will tell my colleagues this: This is very disturbing.

The reason why I asked the gentleman to put that VFW letter into the RECORD, and we need to put that AARP letter that came in yesterday since we are helping seniors, into the RECORD, because we want historians to look at the time when we had the highest deficit in the history of the Republic, we want historians to be able to look at when one President, with a majority Congress, with a majority House and a majority Senate, borrowed more from foreign countries than 42 previous Presidents and 42 previous administrations, Democrats and Republican.

Mr. DELAHUNT. Mr. Speaker, it was interesting to listen to our Republican colleagues and friends in the previous hour. I heard the word "reform" over and over again. I heard the term "fiscal responsibility." I heard the concept or the phrase "spending cuts reining in" and "making government smaller."

□ 2100

And they kept referring to Democrats and the minority side with certain gestures. I guess my response is, who has been running this place for 12 years? Who has been in charge, Mr. Speaker, for 12 years? It was in 1994 that the Republicans came to power and took control of this body. Twelve years ago. Is it just dawning on you now that fiscal responsibility is essential to our economy, essential to the future of our children? And reform, you have had 12 years to do reform. They speak of the veterans and health care and they recite statistics and they were mostly newer Members of the Republican Party that spoke here tonight, so maybe they are unaware of what the Republican leadership in the House did about a year or two ago. The chairman of the veterans services committee, the then chairman was the gentleman from New Jersey, someone whom I disagree with on occasion, but for whom I have great respect because he tells it like it is and he stands tall, and if he believes in something his commitment is unwavering. He made a big mistake. He sided with the VFW. He sided with the American Legion and the DAV, Disabled American Veterans organization. These are the people who understand best. They are not governmental organizations. They are nonprofit voluntary associations of veterans.

Mr. RYAN of Ohio. Who do not give money.

Mr. DELAHUNT. Who do not give money to politicians. But because he sided with them in terms of their priorities, their expression of what was needed to properly respect the needs of American servicepeople who have done so much for this country, you know what happened to him? Now, they probably do not know this. He got fired, for all intents and purposes. He was removed as chairman of that veterans services committee. And that is CHRIS SMITH, a man of courage and moral principle.

Mr. MEEK of Florida. If the gentleman will yield, even more, not only was he removed as chairman; he was taken off the committee. I think he was taken off the committee as it relates to being the chairman. I am not just talking about being off the committee, taken out of the chairmanship. But that is what you get when you stand up against the machine.

Mr. RYAN of Ohio. The machine.

Mr. MEEK of Florida. That is what happens to so many individuals that stand up against the machine.

Mr. RYAN of Ohio. Will the gentleman yield?

Mr. MEEK of Florida. Yes.

Mr. RYAN of Ohio. I thought it was very interesting how, as we were gathering or coordinating our efforts here tonight, I thought as I was listening to our Republican friends on the other side, there were things missing that I think the American people, Mr. Speaker, need to know about. No one on the other side said that we should cut the $16 billion in oil subsidies to pay for some of the other cuts that are being made for poor children or middle-class college students. No one on the other side said anything about the $100 billion in subsidies that are going to the pharmaceutical companies. No one said anything about that. And if there is any concern about the lack of responsibility, the incompetent leadership, complete incompetence, complete inability to govern, all we need to do is look at what has happened in the last 4 years.

Mr. DELAHUNT. I say to the gentleman from Ohio, how about some welfare reform? Welfare reform for the oil industry and welfare reform for the pharmaceutical companies. You know, when they speak to the issue of welfare reform, they are not talking about the oil industry or the drug manufacturers. No, they are not talking about those folk. They are not talking about corporate welfare. And as you just indicated, $16 billion to go to Big Oil for what? For an industry that just had record profits.

As you indicated earlier, they were up here today, brought up here by Republicans because it is so embarrassing to have passed an appropriation and provided subsidies for Big Oil, and then they report these incredible profits. I mean, it was embarrassing.

Mr. RYAN of Ohio. Mr. Speaker, we may be a little more intense tonight than normal, and the reason is that tomorrow this budget may come before this House, and all the rhetoric over the past few weeks may become reality tomorrow on this floor. And we are not going to sit up in our offices and watch C-SPAN and watch this happen. We are not going to sit in our office and turn on Chris Matthews or some MTV, VH-1 show and just relax tonight.

The American people will be hurt if this budget passes this Congress tomorrow. People who are on Medicaid will be hurt tomorrow. People who are trying to bite, scratch, and pinch to send their kids to college will be hurt tomorrow. And veterans who fought for this country will be hurt tomorrow. And if they think we are going to stand up, or lay down, in our offices and turn the TV on or go back home to our apartments and watch this happen without a fight, they have got another think coming, because they have taken this country, and in the last 4 years borrowed over $1 trillion from foreign countries. In the last 224 years, we have not borrowed that much from foreign countries.

Mr. MEEK of Florida. I know you have a point there. I just want a point of clarification. Point of clarification. I did speak correctly, Mr. Speaker, when I said that the chairman, the past chairman of the Veterans' Affairs Committee, Republican, was not only removed as chairman, but kicked off of the committee. They did not even want his thoughts on the committee because he stood up for veterans. He stepped out of line. He stepped out of line. Chairman SMITH, CHRIS SMITH stepped out of line, because he did what he thought was right. I am holding in my hand, and I am sorry, but I just wanted to share that because we were making a point earlier and I said he was off the committee, and then folks were looking around. I knew that I was correct.

Here is the legislative directory for the 109th Congress. It has the names of the members on the committee, and I do not blame the Members. I am talking about the leadership. But there are two spots there that say vacancy, vacancy. One of those vacancies was the past chairman of that committee who was a Republican that could no longer stomach doing what the Republican leadership was asking in this House for him to do.

Mr. DELAHUNT. Because he sided with the veterans of foreign wars, with the American Legion, with the disabled veterans and the various veterans services organizations.

Mr. RYAN of Ohio. And the American people, for that matter.

Mr. DELAHUNT. And the American people. Because the American people want to take care of the veteran. Before we leave the veteran issue, if anyone who should be watching our conversation this evening has any doubts, do not call us. Do not call our offices. Do not call the offices of the Democratic Congressional Campaign Committee. Do not call the Republican Members. Do not call the Republican leadership. Call the Veterans of Foreign Wars where you live. Call the American Legion where you live.

MS. WASSERMAN SCHULTZ. We have a very important holiday coming up the day after tomorrow, and each of us is hoping that we have an opportunity to go home and look our veterans in the eye and tell them how much we appreciate and honor them. And I know that I will be able to do that in good conscience. I know that I will stand proud with my veterans and tell them that I did everything I could and will continue to do everything I can and House Democrats will continue to do everything we can to ensure that we honor their service.

I certainly would not want to be any Member of Congress with an R next to their name that votes for this bill tomorrow if it comes up on the floor because, growing up, my mom always told me that the guide that I should use when making a decision was whether I was going to be able to sleep well and then wake up in the morning and look at myself in the mirror and be comfortable with the decision that I made and know that I did the right thing.

Well, I wonder just how well our Republican friends on the other side of the aisle are going to be sleeping tonight. They have a lot for their stomach to be churning about; and for those that are going to wake up in the morning and decide that they are going to vote "aye" and support this legislation, I do not know how the very next morning they are going to be able to stand on the podium with their veterans and look them in the eye and say that they continue to honor them.

And, you know, we sometimes stand here and people listening to us or, Mr. Speaker, sometimes people might think that, you know, this is just our opinion, that we are obviously committed Democrats and committed to our beliefs and our agenda. But we are here every night not representing just our own opinion, although we certainly do vociferously express our opinion. We like to make sure that we bring third-party validators to back up the opinion that we are espousing on this floor.

I just want to read an excerpt from a letter that was sent to each Member of Congress, all 535 Members of us, of these two Chambers, on Monday, November 7, 2005 by Robert E. Wallace who is the executive director of the Veterans of Foreign Wars Washington office. And I am hopeful that I am not being repetitive. I am not sure if you have already read his words. But, you know, for those that may question whether or not we know what we are talking about or that we are exaggerating or engaging in hyperbole when it comes to what is in this bill and the priorities of the Republican leadership versus our priorities when it comes to commitment to veterans, he says:

"Dear Senator or Representative. To all Members of Congress, we have at the Veterans of Foreign Wars of the United States, VFW, observed for the past several months astonishing efforts to cast veterans who have been found to be severely disabled by the Department of Veterans Affairs' own determinations as undeserving of the veterans benefits their grateful Nation has provided for them in the law. This assault on the most vulnerable members of the veteran community, disabled in service to this country and suffering from post-traumatic stress disorder, is broad in its scope and execution. At a time when the VA should be preparing to serve combat veterans returning from the war on terrorism being fought in Iraq, Afghanistan and elsewhere, they are expending their limited resources planning a systematic effort to reduce or remove benefits earned by the parents and older siblings of the troops fighting in the field today."

Well, that is not Tim Ryan saying it. That is not Debbie Wasserman Schultz or Bill Delahunt or Kendrick Meek saying it. That is the executive director of the VFW's Washington office.

Mr. RYAN of Ohio. They are just saying stop. The VFW is telling the Republican Party, Mr. Speaker, stop. Look what you are doing. You are hurting veterans. I mean, the executive director of the Veterans of Foreign Wars does not just say I am going to send a letter to Congress today. Mr. Speaker. Stop it. You are going to hurt veterans. And at the same time, you are giving tax cuts to people who make $1 million a year or more. You are giving $16 billion in subsidies to the oil companies. You are giving handouts to the pharmaceutical companies, the wealthiest corporations in the world. And you are cutting veterans benefits. What is going on here?

Mr. DELAHUNT. Well, I think what is going on is that there is a misunderstanding on the part of the Republican leadership when they speak of patriotism. Patriotism is not about a parade. It is not simply respect for the flag. It is about treating the men and women who go to war for us, who serve the country with respect.

☐ 2115

That is what patriotism is about.

We hear a lot about patriotism on the floor of this House, and I am sure that those words are uttered with great conviction and sincerity. But I guess what we are trying to convey is that patriotism is not just rhetoric.

Remember what Franklin Delano Roosevelt used to say during World War II? Shared sacrifice. Who is sacrificing for our veterans? Those that receive this egregious tax benefit who are among the most affluent in America. I daresay if those people were inquired of, one by one, they would say, Take that tax break; I want the veterans to be respected.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I heard some of our friends on the other side of the aisle taking issue or calling into question what we have been saying about what they would propose to do to our Nation's veterans. I did not notice them holding up anything in black and white that disproves what we are saying.

Mr. DELAHUNT. Did you hear about reform?

Ms. WASSERMAN SCHULTZ. I did not notice.

Mr. DELAHUNT. Did you hear about limited government? Did you hear about fiscal responsibility?

You know what is interesting? I served with a gentleman who is a genuine conservative and he was part of the leadership on the Republican side. He chose not to run again. And I guess that must be a very liberating experience, because he recently spoke out and this is what he said:

Our President is publicly oblivious to criticism, although off-the-record reports indicate his patience is running thin inside the White House. He argues the right wing is now spending like profligates with no tomorrow; and is displaying a very real arrogance. What they say about absolute power is coming to reality.

Those words were written by, as I said, a former member of the Republican leadership, Representative J.C. Watts of Oklahoma, a conservative, a man of principle.

As I said earlier, we have heard about reform. We hear about we have got to limit government. Well, what have they been doing for 12 years?

Mr. RYAN of Ohio. It had to be a joke. They had to be kidding.

Mr. DELAHUNT. Maybe it is just that they do not get it. They have not been here long enough to understand that they have been in power for 12 years. I mean, we have a single-party government in this country today, the Senate, the House, and the White House. And yet conservatives like the President of the American Conservative Union, David Keen, he noted in a letter to members that Federal spending has increased by $300 billion since George Bush took office, including $96 billion for domestic social welfare programs. By comparison, Keen said, spending increased by only $51 billion during President Clinton's 8 years. So I guess what we are talking about is the capacity of an administration to spend money wisely and effectively.

We heard about welfare reform, Mr. Speaker, and yet we have created a welfare state for major corporations. We have created in Iraq a welfare state for Iraqis. And as we have said here before, it was the Republican majority that insisted that the money that goes to Iraq, to rebuild Iraq, never be paid back to the American taxpayers. That just does not make any sense. That makes absolutely no sense. And we stood here on this floor and said, Make it a loan so that we get the money back, so that we can use it to control the deficit, this deficit that is the product of this administration and this Congress.

When Bill Clinton left office, there was a surplus of $5.6 trillion. And I kept hearing something about facts over here. Well, that is a fact that they should recognize, the Republican majority. Bill Clinton left a surplus for the American people. And what do we have now? We have trillions, trillions of a deficit that will explode in future years harming the interests of generations of Americans to come.

Ms. WASSERMAN SCHULTZ. And their answer to the deficit that they have ballooned is to not just hurt veterans, but to hurt people just when they are on the cusp of being able to make a change and turn the corner in their life. There are $844 million in food stamp cuts in this bill.

Now, I have heard some of our friends on the Republican side of the aisle argue that there is fraud in the food stamp program and that there are people who are collecting food stamps that do not deserve it or maybe we do not have as many people who need food stamps these days. Well, today, not yesterday, not 5 months ago, not a year ago, today, this is a picture of a line of 25,000 people, 25,000 people in Broward County where I am from, who lined up as early as 3:00 in the morning to sign up for food stamps following Hurricane Wilma.

Now, I checked to make sure that I was being accurate when I came down here tonight. This food stamp application process is through the regular food stamp program, nothing special, no special appropriations, nothing from FEMA. This is 25,000 people, most of whom have never before applied for public assistance.

Now, if the Republicans are going to say that there are not people in need and that it is more important to cut taxes for the wealthy then to provide for the people who are standing in this line, who have already been through so much, then really I guess we are serving with many who are serving in this Chamber without conscience.

Mr. DELAHUNT. Mr. Speaker, may I say something?

I do not know if the gentlewoman had the opportunity to listen earlier to our friends and colleagues, but they talked about common sense and they talked about respect for families. And yet in their proposal there is a cut of some $5 billion in a category called child support enforcement.

Now, common sense would dictate that if you invest money, if you invest $1 and get $4 in return that you do it because that is a good deal. Well, that is a bureaucratic term, child support enforcement. Really what it comes down to is, in most cases, deadbeats, deadbeat fathers who are running out on their obligation to their children, leaving mom and the children without any support, and forcing them onto welfare.

So instead of really demonstrating common sense, this Republican budget reduces the enforcement of audits on fathers to provide support for their children and former wives. It eliminates that or reduces it by $5 billion, and that translates, if you look at it as a business decision, into a loss of some $20 billion, $20 billion that would go to support children in this country.

Ms. WASSERMAN SCHULTZ. Let us just make sure people understand and the Speaker understands that we are not talking about made-up numbers here that we are just pulling out of thin air.

In the Washington Post last Thursday, another third-party validator, they describe the cuts in this bill and they go on to say, The food stamp cuts in the House measure would knock nearly 300,000 people off nutritional assistance programs, including 70,000 legal immigrants, according to the nonpartisan Congressional Budget Office, which is the office that we get our economic facts from.

Those immigrants would lose their benefits because the House measure would require legal immigrants to live in the United States for 7 years before becoming eligible for receiving food stamps. About 40,000 children would lose eligibility for free or reduced-price lunches, the CBO estimated. The food stamp cuts, if approved, will especially affect 11 States, including Maryland, that use the changes in the food stamp law, approved with the President's support in 2002, to expand eligibility and to simplify the application process.

Under the House measure that we will consider tomorrow, eligibility for food stamps would be tightened to exclude some recipients, get this, who qualify for nutritional support simply because they qualify for other antipoverty programs funded by the Federal welfare program known as Temporary Assistance for Needy Families, not eliminate fraud, not eliminate people who are not supposed to be getting food stamps, but eliminate people who already qualify because they qualify for other poverty programs.

And then today we have 25,000 more people in one county applying for the same program that we are going to cut 300,000 from tomorrow if this bill passes.

Where is outrage? Where is the conscience? I want to know how our colleagues are going to sleep tonight knowing that they have to cast this vote tomorrow.

Mr. RYAN of Ohio. Mr. Speaker, we have been talking for a little while here. I think it is important for us to just kind of recap before we get on to something else.

The Republican budget that is going to pass this House tomorrow, probably without one Democratic vote, probably anyone on this side of the aisle will not vote for this bill because of the egregious cuts in there.

Mr. MEEK of Florida. Mr. Speaker, let me just say real quick, the gentleman said, when it passes the House floor tomorrow, and I think the reason why you said that, because I know personally that the gentleman has watched on 3, 4, 5 major votes, that 20 minutes into the vote, 30 minutes into the vote, 1 hour into the vote, 90 minutes into the vote, the arm-twisting, the squeals, the cries from this side of the aisle of individuals getting hammered, literally, with their hands on the table saying that you will vote for this. You will vote for this. And that is the reason why the gentleman is speaking in those terms, "when it passes."

But I am going to say something. I believe in the spirit of the American people. I hope it rises up tomorrow in a way that it should rise up against this very bad budget. I hope that we can adopt the Democratic budget that is sensible, that put us on the trail for fiscal responsibility by 2015, to make sure that we prioritize on behalf of Americans and not on behalf of special interests.

□ 2130

So you are 110 percent right. If things happen at all the way it appears here under this Republican majority, it will pass. It will pass because they will literally make their Members vote for it.

Mr. RYAN of Ohio. I appreciate that. So we go through this bill here and we look at the cuts.

Medicaid cuts on poor and working-class families who are trying to get some health care for their kids, student loan cuts $14.3 billion; $24 billion in reduced child support collections. It is going to knock 300,000 Americans off food stamps. Many of them have been displaced because of the natural disasters. 40,000 kids are going to get kicked off school lunch programs. Foster care is going to take a hit of 7 or $800 million, I believe. Veterans are going to get cut $600 million. There is a funny thing here because at the same time all this is going on, our friends who make more than a half a million dollars a year are going to receive a tax cut worth $70 billion.

So as all of these programs on college students and their parents, Medicaid, child support, food stamps, veterans, foster care are getting cut, there is going to be $70 billion in tax cuts for people who make more than a half a million dollars a year; and before I yield over there to my friend from Florida, there is something funny about this list that we have here.

I am looking at this: poor kids and poor mothers on Medicaid, who have their kids on Medicaid; college students who are just trying to get a better life, improve themselves; kids on child support and mothers who are receiving child support; people on food stamps; kids and families who qualify for the school lunch program; veterans.

Ms. WASSERMAN SCHULTZ. Mr. Speaker, do you know what that is called? That is called taking from the needy and giving to the greedy.

Mr. RYAN of Ohio. Exactly right, and there is a funny thing here. It is that none of these groups who are going to face the cuts tomorrow from our Republican friends have a lobby group on Shakedown Street, on K Street, not one of them. There is no lobby group for the college students who are going to have to pay more on student loans. There is no lobby group for the kids who need foster care.

I hope, Mr. Speaker, that the American people recognize that this budget is bought and paid for by the special interests on K Street, down on Shakedown Street, because our friends who are given the tax cuts will not take the

$16 billion from the oil companies that they are giving in subsidies. They will not reduce the cost of the Medicare part B prescription drug bill. They will not do it, the billions that are going to go to the pharmaceutical industry. Those people are off the table. The Republican majority will not cut from them.

They have to go to poor kids who qualify for free and reduced lunch to go try to balance the budget; and at the same time, they are giving more tax cuts. It is frustrating to me as a Member of Congress, from a district that has a high unemployment rate, a district that 50 percent of the people in my district who pay taxes did not even receive a tax cut and many who either qualify for these programs or want to qualify for the student loans and the Pell grants so they could improve their lives are going to get hurt because of this.

At the same time, the lack of leadership, the incompetence, the inability to govern in a way that will improve the country and invest in the country continues down here, this is a disgrace.

This budget is an absolute disgrace, and you take any American and you ask them to come down here and be the distinguished gentleman like the movie and come down here and try to make the decisions that we have to make and you look at what we look at, there are not many Americans who would say giving tax cuts to people who make $1 million a year and cutting from the middle class, cutting from Medicare, cutting from our seniors' health care program or the poverty programs in this country is somehow okay.

One final comment. We heard from a lot of the religious organizations through the course of the last election, the Christian Coalition. I spent 12 years in Catholic schools, and I remember the Christianity I learned about had more to do with helping people who were not doing so well and trying to do your best to lift them up. To listen to the rhetoric come out of the organizations, not the members of the organizations because there are a lot of Christians in my district, these cuts offend them. The people who work at Catholic Charities, this offends them; and for the organizations who say they are religious to be deaf on this issue is an outrage.

Mr. MEEK of Florida. Well, there is nothing more evident than the truth as it relates to this budget, and I mentioned earlier about holding the clock open and violating the spirit of the rules of the House when there is a 15-minute vote called. It is customary to give Members 5 extra minutes to get here to vote, but it is not customary to hold a clock open for 3 hours.

Let me just say, October 7, 2005, Republicans held open a 5-minute vote on the Gasoline for America's Security Act for over 40 minutes to pass the energy bill. Republicans, which also passed by two votes because of the arm twisting.

On November 22, 2003, the majority held open the vote for 3 hours, the longest in the history of the House of Representatives, on the prescription drug bill.

Then on the Central American Free Trade Agreement on July 27 and 28, it has two dates because the clock was held open so long. For a 15-minute vote, the vote was held open for over an hour; and it passed on a 217 to 215 vote.

Here is the evidence. It is in the RECORD. I do not need to enter it. It is already there.

When you talk about how can this happen, how could this be allowed to happen in America, as we speak now, the Rules Committee is meeting in a dark room just above this Chamber, trying to figure out how they are going to come to the floor under the lights and the cameras and justify voting for a budget like this.

I am wondering where the majority's letters are from Family U.S.A. that is saying that these Medicaid cuts that the House has, that it will cause enormous hardships out there. Where is their letter and support from the AARP, the largest retirement organization in the world, that is saying that they are against the Medicaid cuts because it will affect seniors? Where are their third-party validators, these nonpartisan groups? I have to question that because I cannot help think about what we are facing right now.

We are facing allegations in the White House of outing a CIA agent and several other agents because someone thought that it would be politically right for them to share classified information about a clandestine agent with reporters. This is not what I am saying; this is what the indictment says.

You know what I did get, not from help from the majority, but we finally got the list of the subpoenas that were issued under the Clinton administration versus the Bush administration. It saddens me to see that the Republicans can provide oversight when they want to. They can get to the bottom of what actually happened when they want to.

I will tell you this, just one committee I am going to take, just one committee, the House Government Reform Committee issued over 1,089 subpoenas to the Clinton administration. That is the record. That is not my report; that is what the record reflects. Ninety-seven percent of those subpoenas were targeted towards the Clinton administration and the Democratic Party. Only 11 subpoenas for the Republicans, 11 out of 1,089.

It goes on further to say that the GAO, this is the Government Accountability Office, examined the White House's efforts to provide documents to the Congress over an 18-month period from October 1996 to March 1, 1999. The Government Accountability Office found that during that period the White House staff spent, alone, over 55,000 hours responding to over 300 congressional requests, producing hundreds of thousand of pages of documents and videotapes and audiotapes to the Congress.

They called 134 Clinton administration White House agency officials to hearings concerning allegations of the Clinton administration. The witnesses were called to appear before the committee and in public session, not secret session, but public session, so the American people can see it. The White House chief of staff and the counsel to the President, the counsel to the Vice President, all of them were called here, spent over 568 hours in depositions with staff. That is just with staff. They also provided discussions between the President and his advisers. President Clinton waived the executive privilege and allowed these advisers to testify before the committee about their discussions with him.

Internal White House e-mails, over $12 million was spent to reconstruct those e-mails. Confidential conversations within the White House counsel's office were provided to the Congress, but now we have questionable intelligence that sent us to war. We have a CIA agent that has been outed, and this is what the Republican Congress does now.

Well, we know that CIA agents are being outed, but we are not looking over there because our friends may be embarrassed. It may jeopardize national security, but that is not important. It is all about making sure that we stay in power and that we do not pay attention to what the American people constitutionally have asked us to do, to provide oversight and to give the American people a voice when wrongdoing is evident, et cetera, et cetera, et cetera.

It is a shame. It is a shame that this is happening as we speak in this Congress.

Ms. WASSERMAN SCHULTZ. But do not worry because last week President Bush rode in on his white steed to the rescue of the American people and addressed the culture of corruption and cronyism and lack of competence that is going on and emanating from the White House.

Mr. DELAHUNT. What did he do?

Ms. WASSERMAN SCHULTZ. He required all of the White House staff to take an ethics refresher course this week.

Mr. DELAHUNT. Is that mandatory?

Ms. WASSERMAN SCHULTZ. Oh, yes, do not worry. White House staff attendance is mandatory for anyone holding any level of security clearance.

Mr. DELAHUNT. Is this a semester-long course?

Ms. WASSERMAN SCHULTZ. No. This is a 4-hour class that actually I think it is being given this week by White House counsel Harriet Miers' office, who, of course, we know has been doing such a bang-up job at guiding the White House through their ethical morass.

Mr. DELAHUNT. Not being facetious for a moment, we have, I would submit, a very serious problem in terms of the health of our democratic institutions. There has not been, and if you reflect, you will not be able to identify another administration with the obsession for secrecy that this administration has.

What I found particularly interesting, the Republican chairman, highly respected, former Governor of New Jersey, Tom Kean, who headed the independent 9/11 Commission report, he observed that many so-called classified documents he reviewed in the course of their investigation were not true secrets as much as there was information that was publicly available.

□ 2145

It just did not make any sense at all. And what we have seen is a 25 percent increase on documents being classified almost on an annual basis in this administration. We know that they refuse to submit to any oversight or any accountability, and the American people should know that.

In a moment of candor, a friend of ours, again a senior member of the Republican Caucus, had this to say. He aptly characterized recent congressional oversight of the administration. This is Mr. RAY LAHOOD, a very solid Member and someone respected on both sides of the aisle. These are his words, not mine. This is RAY LAHOOD, whom the Speaker and every Member in this body knows and respects.

Mr. RYAN of Ohio. Good man.

Mr. DELAHUNT. "Our party controls the levers of government. We are not about to go out and look beneath a bunch of rocks to try to cause heartburn."

In other words, you have a shroud of secrecy that has descended around the democratic institutions that are controlled by the majority party. That is dangerous.

Mr. RYAN of Ohio. If the gentleman will yield, this is about protecting their party. If the Republicans control the House and the Senate and the White House, and they are not being investigated to find what went wrong, whether it was Katrina or the CIA leak or Karl Rove or "Scooter" Libby or the Vice President's role in all this, or how are we going to balance the budget, if the Republican Party is not willing to investigate those problems, those situations, then they are putting the Republican Party before the interests of the country. And that has been the consistent modus operandi of this institution.

Mr. DELAHUNT. And if you disagree with them, what happens?

Mr. RYAN of Ohio. You get punished.

Mr. DELAHUNT. Right. Ask General Shinseki, who was dismissed when he disagreed, when he gave just a different opinion as to the number of troops that were going to be required in Iraq. He said 300,000. The then-Under Secretary of Defense, Mr. Wolfowitz, said, Hey, that is vastly overrated. Subsequently, we have discovered that the good general was correct.

What about Larry Lindsey, who was an economic adviser to the President and who came out with an estimate that the range of dollars that would be necessary in Iraq would go from $100 billion to $200 billion. We are way past $200 billion now. But the administration, the White House, kept saying it will not exceed $60 billion. The American people should remember that.

And what happened to Larry Lindsey? He got bumped too.

Mr. MEEK of Florida. If my colleague will give out the Web site before we have to close.

Mr. RYAN of Ohio. We want an opportunity to take this Congress and this country in a new direction, change the way we are going and derive some independence. We are at 30somethingdems@mail.house.gov. That is 30, the number, at mail.house.gov.

Mr. MEEK of Florida. Mr. Speaker, I want to thank the Members for joining us here this hour. I look forward to being back on the floor, all of us, in one more hour when my colleague claims his hour so that we can continue sharing good information not only with the Members but the American people.

Mr. Speaker, I thank the Democratic leadership for allowing us to have this hour.

THE PRESIDENT, AND THE WAR ON TERROR

The SPEAKER pro tempore (Mr. FORTENBERRY). Under the Speaker's announced policy of January 4, 2005, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes.

Mr. KING of Iowa. Mr. Speaker, I appreciate the opportunity to be recognized, and as I get organized here, I would point out that I have had the privilege to listen to this dialogue here tonight. I know that this group comes to the floor nearly every night, and that shows a certain kind of tenacity, and I appreciate that effort they put into this. But I wanted to just start down the list of some of the things that I heard and address some of the remarks.

I happen to have seen a poster that I hope was not presented here, because I believe it would have challenged the mendacity of the President, and I believe that would have been out of order here in these Chambers, Mr. Speaker. So I hope that kind of poster is never presented. But I will say that I have heard that challenge made in a number of different oblique ways.

I have looked into the eyes of this President, and I think there is a distinction that should be made in a very clear way to the people here on the floor every night, the 30-something Group and all the Members of this Congress, Mr. Speaker, and the people in this country, and that is there is a difference between a mistake and a lie.

I look back on a Presidential campaign, and I remember the face and the voice of Charlton Heston as it came on television over and over again. He said to the previous President over the airwaves of television, "Mr. President, when you say something that's wrong and you don't know that it's wrong, that's a mistake. When you say something that's wrong and you know that it's wrong, that's a lie." That distinction seems to be lost amongst many of the Members of the minority party in this Congress.

And by the way, I would not concede that the President has made a statement that was even wrong, let alone a mistake, and certainly a long ways away from a lie. When you look into the eyes of this man we have as our commander in chief, you see those eyes look back at you with conviction. You hear it in his voice, you can see it in his bearing, and you can see it in his actions.

I would like to go back to an event that maybe was not designed to be spoken about necessarily in public, but I think it speaks well of this President, so I want to mention it at this time.

A few Members of Congress were invited to the White House for a small luncheon. It was on a Monday noon, and I recall it was the Monday noon after the *Columbia* had gone down on Saturday. It was a hard time for all of us. We saw our space program go up in flames, along with the lives of the brave men and women that were up in space. We knew that our NASA program was going to be suspended for a good, long time.

Thankfully, we are back on track, at least to some degree.

I was surprised that the President had gone ahead with the luncheon that day, because I believed he would be taking care of so many issues that he would not have time to sit and talk with us, but he did. There were maybe 15, 20 people in the room, a few of the President's closest staff and about 10 or so, maybe a dozen Members of Congress, myself among them.

As we sat around the tables and had our lunch, the President got up and stood at an old, rickety, wooden podium, a podium not as stable as this one. I wondered if it was really quite suitable for the White House. And as he leaned on the podium this way and that way, he went through the whole spectrum of issues that we were concerned about at the time, Mr. Speaker.

He talked about the impending operations in Iraq. He talked about our national security and al Qaeda, and about September 11. He talked about the overall budget and the tax cuts that we needed to stimulate this economy. And he talked about education. Now, remember, we had not gone into Iraq at that point. It was speculated about certainly, but we had not gone in at that point.

As he got through the education cases, he said, just a minute. I want to back up a minute and I want to tell you this with regard to Iraq. My critics have me wrong on Iraq. The media has me wrong on Iraq. There is only one person that orders our men and women into battle, and that is the person that hugs the widows and the widowers of those who do not come back home.

I will never forget the tone of his voice, the look in his eye, and the look on his face. He told me afterwards that to finally give that order, he knew it was going to be hard, but it was a lot harder when the time finally came that he had to make that decision and give that order.

I look at this entire operation in this view of the war in the Middle East and in this war against terror and this war against militant Islamic extremism, and I will always see those eyes and hear that tone in his voice; and I will always understand that this is not a President that would give an order that would put anyone in harm's way and do so for any reason other than a profound conviction that it was necessary for the protection, the preservation, the future of the people in this country and the destiny of the United States of America. Never would that order come unless it fit that standard, unless it fit that very high standard and that qualification.

The order was given. And it seems as though there are a couple hundred Members in this Congress that do not understand this war against terror, as we define it, and this war against militant Islamic extremism, as I define it.

I would point out, Mr. Speaker, that this battle that is going on in Iraq right now is a battle. It is not a war; we are at war with an entire group of people who are philosophically opposed to us, and we have known that for a long time.

We did not do anything to offend their sensibilities, not to such an extent to justify losing 3,000 Americans in the attack on the Twin Towers and the Pentagon and on the plane that went down in Pennsylvania. That was an unprovoked, sneaky, stealthy, I guess I would say a pretty well strategized attack on American people. We had never had that loss of life on our own shores in the history of this country.

That should epitomize the level of the hatred that is embodied in the people who are pledged to kill us. Yet I still hear from the other side of the aisle that somehow, if we would just pull our troops all back home to the shores of the United States of America, plant more flowers around our bases, and ask them how can we better understand you, can we sit down and have some kind of an encounter session, can we somehow feel or emote in some other way so we can connect with the people pledged to kill us.

I do not believe you can negotiate with people like that. They want to establish their caliphate across this country and across this world. Their number one enemies are capitalism, coupled with Jews or Christians. I think they actually prefer Jewish capitalists first, probably Christian capitalists second, but anybody that is not like them, even other Muslims. If you look at the death loss around the world, I think you will see that al Qaeda and their colleagues have killed really more Muslims than they have any other category.

But, Mr. Speaker, they hate us worse than they hate the other Muslims, because some of the other Muslims are sympathetic. In fact, many of them are sympathetic, and that is another part of the problem. But we have seen the terrorist cells in Afghanistan and in Pakistan, and we went there and settled that question.

And, by the way, for the first time in the history of the world they had free elections on the soil of Afghanistan, Mr. Speaker. It was an astonishing accomplishment, something never accomplished before in their history.

We went there so quickly and were successful so quickly that most people in this country do not remember the voices of the naysayers, the voices of the people that said no one has ever gone up the Khyber Pass and not been slaughtered. No one has ever been able to go into Afghanistan and invade or liberate and occupy. It is impossible to bring freedom to people that have never experienced freedom before. The American military cannot do what has never been possible before in the history of the world.

It came from this side of the aisle, Mr. Speaker, over and over and over again. And it was only muted when it was clear that there was a full victory established in Afghanistan. And when we saw the elections come up, we had at least 750 Iowa Guardsmen on the ground in Afghanistan protecting the voting booths, protecting the travel routes to and from the voting booths to make sure that there would be free and fair elections in Afghanistan. It was astonishing accomplishment, an accomplishment that came about because of the vision of George W. Bush, because of the courage, the training, the tactics and technology of our U.S. military and because of the selfless sacrifice and risk that was taken by our men and women in uniform.

Mr. Speaker, those men and women in uniform went to war as the single highest quality military ever to take the field in any war, and I am including this entire war against the militant Islamic extremists in Afghanistan, Iraq, and whatever theater we might be in right now and not know about, or whatever theater we will be in in the future and find out about sometime down the line.

The reasons for that high quality are many. One of them is that we have a strong mix of our National Guard people. These volunteers had a little more age on them, probably more gray hair in this military than we have ever had before in a foreign war. But this is a day when we have high technology. It takes a lot of technology and a lot of training to be able to manage that technology.

Our National Guard and military Reserves are seasoned to the point where they bring their professionalism from their walks of life into their military, and when they are deployed overseas they perform extraordinarily well. Couple that with an outstanding active duty force, all of them volunteers, because everyone who has gone to war has gone as a volunteer, that does something for the spirit. That does something for the esprit de corps, as they say in the part of the world that is in flames now, which would be France. And I may get to that subject matter before this hour is over, Mr. Speaker.

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I want to speak highly of the people who went to Afghanistan. We have lost 200 Americans in Afghanistan, liberated 25 million people. That is a legacy for the world and a legacy that the United States is leaving there for them to pick up as they earn their freedom.

Why is nobody saying, Pull your troops out of Afghanistan? Can their troops not handle the security? Can Afghanistan run their country themselves? Why is no one on this side of the aisle addressing that? Why are they not saying, Get the troops out of Afghanistan, or Kosovo, for example.

Mr. Speaker, the President that ordered the troops into Kosovo promised the world that our troops would be back from there in 1 year. I have to go back and check the calendar, but I know it has been over a decade; I expect it is 12 years. They are still there. No one on the other side of the aisle is saying, Bring the troops home. No one is saying the President previous to our current President Bush, no one is saying, He did not tell the truth to the American people when he ordered troops into Kosovo and said, They will be back in a year. But I would submit that the accuracy of this President exceeds the accuracy of that statement.

So we have troops in Afghanistan, and 200 Americans have lost their lives there. One of my constituents was lost there, the son of a friend of mine. I stop at his grave, and I commemorate him and all of the soldiers we have lost from time to time. That is how I symbolize his loss, it is how I remember everyone.

I remember the freedom in Afghanistan and the pride that the remaining troops had when they came home, how his father led them all in with a big American flag on the back of his motorcycle, and how the highway was lined with American patriots who stopped, took off their hats and saluted that young man that had given the ultimate sacrifice and helped free 25 million Afghanis, and no one is saying, Let the Taliban grow their ranks or let al Qaeda go back into Afghanistan. No one is saying, Bring them home, Mr. President. What is the difference between Afghanistan and Iraq?

I think the people that are critics of the operations of Iraq ought to draw a distinction between Afghanistan and Iraq. I believe from a national strategic standpoint they are one and the same. They are not the same by the numbers of casualties. By those that say, We have reached the 2,000 death casualty list in Iraq, bring them home, that is too many casualties, none of those people had the courage or the foresight or the conviction to make an announcement as to what was a tolerable number of casualties to free another 25 million people.

No one was willing to speculate how many lives they would be willing to invest of American patriots to preserve and protect the lives of 282 million Americans. No one is willing to say it is not worth risking a single American life to protect 282 million Americans. No one is willing to look back in history and say, I wish we had not stepped in and defended ourselves in Korea or World War I or World War II. I wish we had never fought the Civil War to free the slaves or fought the Spanish American or Mexican American, or I wish we had never fought the Revolutionary War.

None of those people that say that risking a single American life is never worth it is willing to go back and unravel history. They would not be standing on the floor of this Congress if not for the lives of the brave men who have gone before us who have carved out our freedom from the jaws of tyranny.

That brings us back to 1898. I recall a speech by President Arroyo of the Philippines here in Washington, D.C., at one of the hotels. My wife and I went to that dinner and sat and listened to that speech. I believe I was the only Member of Congress that was there to hear the speech, the rest was downtown people and other Representatives.

She was not speaking to the faces of Congress, she was speaking to Americans. She saw that group as a few hundred Americans that had gone to dinner to listen to her keynote address. But President Arroyo said, Thank you, America; thank you, America, for sending the United States Marine Corps to the Philippines in 1898. Thanks for their sacrifice, thanks for liberating us. Thank you for establishing that stability and establishing a stable government in the Philippines and allowing us to be a free people.

Thank you for sending your missionaries over to the Philippines that taught us Christianity. Thank you for sending 10,000 American teachers over to teach the Filipinos reading, writing and arithmetic. Thank you for teaching us your language because we learned English, and today 1.6 million Filipinos leave the Philippines and go work anywhere else they want to in the world, and send that money back to the Philippines because they have a command of the language that is universal in the commercial world. All of these blessings have come from the freedom that came to the Philippines as part of the Spanish American War, I will say.

Now we have a friend over there in the Philippines. Now we have a people that speak English, who are engaged in commerce. And because of that, a people who understand democracy and a constitutional republic. That is an example of what happens when you are willing to take a risk, when you understand that this mantle of freedom is not something you can wear lightly, and it is not something that comes without responsibility.

There were people that believed that prior to September 11 and, in fact, even after September 11 that we did not have a responsibility to the rest of the world, that we could just retreat back to our own shores, our own borders, run the United States of America, disregard the rest of the world, not do any trade treaties, not engage in any foreign conflicts. If we were not at risk, we should not be involved in anything else going on in the world.

But we know what the history of the world is. In fact, I take you back to the years that built up to World War II, and I want to compare that to the war we are in now against terror and the militant Islamic extremists.

We are having trouble today connecting the idea that you can have al Qaeda that is run out of perhaps the mountains in Pakistan, Afghanistan, up in that region. So al Qaeda is there, and some of the other sympathizers that are around the world. There are a whole number of different splinter groups, groups that are in Iraq and Indonesia. We have seen these attacks around the world, and we know there are cells all around the world.

We know there are second-generation Pakistanis that set off bombs in the subway in London. We have first-and second-generation Middle Easterners, both North Africans and Middle Easterners, mostly Muslim, probably all Muslim, that are running all over the streets of Paris as I speak, burning approximately 1,000 cars a day, and buildings, and attacking the very facilities designed for them.

So how is that Saddam Hussein could have been cooperating with Osama bin Laden when bin Laden is an Islamic fundamentalist and Saddam Hussein is a secular Arab and a Baathist and a Sunni? They could not get along, surely, because they are not motivated by the same things.

We forget about this thing that the enemy of my enemy is my friend. Well, we are the enemy of those enemies. It is easy for them to be friends, whether you are secular or a fundamentalist. In fact, Saddam had the entire Koran written inside a mosque with his blood. It is kind of hard to be secular when you give that much blood to be written inside a mosque.

So he kind of joined himself with his blood with Osama bin Laden. There is a philosophical connection. You do not have to be on a e-mail list and distribution tree from Osama bin Laden to be wired in with the philosophy worldwide. So this network rolls around here. People can work autonomously. The bombers in the subway in London may or may not have had direct orders from Osama or Zarqawi or whoever else the leaders might be.

The people that are out running in the streets of Paris today, I do not think each one of them gets their daily marching orders from on high. It becomes spontaneous after awhile. You get a sympathetic support and a kind of synergy that grows and a philosophy that connects. And they start to think, if they can cause this trouble, so can I. If they can blow up this embassy, I can blow up the USS *Cole*. And if Ramzi Yousef can go in and strategize the first bombing of the World Trade Center, the next person can come along and figure out how to fly two planes into there and take it down. It does not have to be one command person sitting at the top distributing all of this.

Now going back to World War II, and that is that people in those days prior to World War II had a little trouble connecting how it could be that a national socialist, a Nazi like Hitler, could be connected with and allied with a Fascist like Mussolini in Italy. That did not quite fit. People said they are not philosophically connected. And we had the civil war going on in Spain, and people did not put it together as any kind of axis powers. There is no genesis of the axis of powers.

Furthermore, how could, for example, the Soviet Union be allied with and make any deals with Hitler because they really are not philosophically connected. One is a Nationalist-Socialist and the other is a Socialist or a Communist, take your pick. And I say, if you take people's freedom away at the point of a gun, you are a Communist. Stalin was a Communist.

You look across and you see that the revolution was beginning to form itself in China, culminating in 1949. And looking at the Japanese, they invaded Manchuria and wound down the coast of China. They invaded Singapore. How in the world could the Imperial Japanese have something in common with the Nazis in Germany and be tied with an axis power effort of the Fascists in Italy? And how does it work with the Soviet Union in the middle that really has a little bit of trouble figuring out who their friends are and who their enemies are?

All of that was an unfathomable equation to most people until September 1, 1939, when the Soviet Union, and I will say the Russians, and the Germans carved up Poland. It did not last very long. It was over in a matter of 3 weeks.

Then they began to see maybe they can find a way to cut a deal, shake hands and make a treaty. So World War II began. As it began, we did our best to stay out of it. We did a lend-lease program, and we tried to help the Allied powers.

The British essentially were standing there without a lot of help. The Australians were with them from the beginning, and then the attack came on Pearl Harbor from the Japanese. As soon as that happened, as quick as administratively it could be done, Hitler and Germany declared war on the United States.

Now it all starts to fit together. We know it from the historical perspective because we have seen it unfold. Now it makes sense. Now we do not even ask the questions: What are the philosophical differences between Nazism, Fascism, Japanese Imperialism, and the Communism that was Russia at the time? How did they all get together?

Well, if you have a common interest, you can be joined together. This common interest of opposing the United States, this great Satan that they declare us to be, is plenty enough to join together the people that danced in the streets when the Twin Towers were hit on September 11, 2001, plenty enough to bind them together.

We should understand by now this enemy far better than we do, and it is predictable what is taking place in France right now. And I do not remember if this is the 12th or 13th night of riots going on in France.

The population of France, perhaps 10 percent, is Muslim. These people have come from North Africa and the Middle East. France opened up their doors and said, Let us have an open border policy. We will make a place for you.

I am starting to hear they did not make jobs for them, but I am not sure that is the government's job. I do not think government can create jobs. You have to set the structure and let the private sector do that, and we recognize the French have a different view.

What I saw were probably hundreds and perhaps thousands of radical Middle Eastern, North African Muslim demonstrators running all over the place with Molitov cocktails, torching buildings, torching cars and trucks, attacking schools and libraries and churches. Yes, churches. You will listen to CNN for a long time before you will hear "church burned in France." And you will listen to ABC, NBC and CBS a long time before you will hear the words "church burned in France."

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In fact, we will listen to them for a long time before they will say "Muslim youth" torch anything in France. They will say "youth," "disgruntled youth," "unemployed youth," "disenfranchised youth." But they do not want to say "Muslim youth attack France."

So what do the French do when they are being attacked? Essentially we could define it as a civil war going on there right now. Had I been Jacques Chirac, I would have declared martial law a long time ago. I would have put the French troops out into the streets. I would have established a curfew. I would have had people on the rooftops with infrared sniper rifles. We would have said looters will be shot on sight. Anybody with a molotov cocktail, we will try to shoot that molotov for you from the roof so you can experience what it is like when you are at the other end of that bomb.

None of that is happening. They had their high-level meeting and put out some warnings; and as far as I know, they arrested 250 people or so. They have not done the hard things that needed to be done early to shut this off. So instead, 1,000 Frenchmen and women put the tri-color banner on and marched in the street for peace.

Well, they have got a little trouble over there, Mr. Speaker, because we have an enemy that is not interested in negotiations. They are not interested in hand-holding. They are not interested in talking. They are interested in killing the people who are not like them.

And, by the way, we are not guilty of doing something. We are not guilty because of something we have done or failed to do. We are guilty and deserve a death penalty by their viewpoint because of who we are, what we are, what we are born; and it cannot be rectified. So we cannot talk and negotiate with these people. This is really difficult for the French, Mr. Speaker, because when 10 percent of their population lives within them and among them and they are out there burning things, some of which you built and provided those facilities for them, day care centers, schools, libraries. Maybe not the churches. I do not think they are burning any mosques. I am pretty confident they are not. But a people that are determined to kill them, and yet there is no organized head from the top to the bottom. The French cannot go surrender to Osama bin Laden. They cannot find him. They cannot find Zarqawi and surrender to him. In fact, if every Frenchman held up a white flag, and I imagine some have by now, there is nobody to surrender to. They do not want us to surrender. They want to kill us. They want to take over Western Civilization. They want to destroy Western Civilization.

And I happen to believe that Western Civilization, as civilizations go, has been a great gift to all the people in the world. I would be willing to state also, Mr. Speaker, that of all of the missionaries that have ever gone to Africa or to anywhere in the world, and God love them for all the work they have done and it has been a lot of good work, free enterprise capitalism has done more for the world, more for the well-being of humanity than all of the missionaries that ever went anywhere from a standard-of-living standpoint, from a medical care standpoint.

I would submit, Mr. Speaker, that the investment of capital and the desire for profit has developed this technology that has raised everyone's standard of living. And the health care that we have, because we have research and development for pharmaceuticals, for example, for new surgery techniques, for preventative health care, most of that was driven as a desire to make a little money. Well, a good thing. A good thing that that happened. A good thing that we have a motivation in this country to lead the world in patents, lead the world in creativity. We have that because we have freedom. That all came from Western Civilization.

Mr. Speaker, this is the Western Civilization that our enemy wants to destroy, this great gift to the world, this descendant that we can trace back to; and I will say Western Civilization has descended from the Greeks, the Age of Reason, the age where the Greeks sat around and analyzed and set up a structure that let them rationalize their way through and establish science, the beginning of the rationalization that has allowed us to develop technology. And the Greeks took great pride in their ability to reason. And there were philosophies and we can name many of them.

Go back and look at these readings. They did not know a lot about science and technology then, but they established the theorem principles that have carried us through to this day, Mr. Speaker. And that Age of Reason that became the culture in Greece back in those years, 2,000 to 3,000 years ago, found its way into Western Europe in later years and established the Age of Enlightenment. The Age of Enlightenment, I have to say, centered in

France. I will give the French the credit for that.

And as the Age of Enlightenment developed, we saw the technology come. We saw some of the mass production come. We saw that, as that technology and that science took a step forward, took another step forward, Western Civilization had successfully manifested itself in the Age of Enlightenment in France just in time to be transported across the Atlantic Ocean and be established here in the United States of America where it found the most fertile ground it could have imagined because here we were in the United States establishing a free country, a free country unfettered by taxes, by regulation, by restrictions, by managed economies, by managed societies, where we let people go out and invest capital and the sweat off their brow and their labor and to grow technology at the same time and energize this manifest destiny and settle this continent in record time, lightning speed, fertile ground here in the United States for Western Civilization to establish itself.

And, yes, we descended from Europe, but we are different than Europe. The difference is many of the people in this country came here to get away from the restrictions and the oppression that was there, both religious and otherwise. The royalty structure that was there kept people from really being free. The property right structure there kept people from owning and keeping property and passing it along to the next generation, they did not have the freedom that we have.

One of the examples that would be, and I am speaking in of all the Europe, Holland today is probably the most liberal country in the world. They have euthanasia. They have abortion. They have legalized drugs, legalized prostitution. And they have their troubles too with a lot of Muslim immigrants that are there.

But it is a whole different politic than the Dutch areas that I represent in northwest Iowa, where they are very conservative. They would not think of ending someone's life at the end of life. They believe in life being sacred from conception to natural death. Life is sacred from the instant of conception until natural death. They have a maximum number of churches, a minimum number of bars. They do not believe in illegal drugs. Those things that I have said that are all legal and open and open and part and parcel of the culture and civilization of Holland did not get transferred here to the United States because they left there to get away from some of those things. They knew what they wanted to get away from. They knew what they wanted to establish.

That is just an example of the many people who came over here for religious freedom. They brought their standards with them. And the strength that we have in this Nation, Mr. Speaker, is a strength of a three-legged stool built here in this Western Civilization that we have.

And I will argue this: that the strength comes from Judeo-Christian values, free enterprise capitalism, and Western Civilization. Science and technology and the Age of Reason and the Age of Enlightenment and all of its descendants came over here where we had all of these natural resources and this unfettered free enterprise capitalism to join with this Age of Enlightenment and blossom this economy that was here and established more patents than any country had ever created, more creativity, more freedom, more opportunity, more economic growth. And all of that would have created an imperialistic Nation that would not have just been manifest destiny out to the Pacific Ocean, but imperialistic to dominate the rest of the world.

What kept us from doing that, Mr. Speaker? Our Judeo-Christian moral values put the brakes on that kind of a robust desire to occupy or command or own the world. We recognize our responsibility for freedom. We recognize our freedom comes from God. We have a morality and a responsibility to restrain ourselves because of the Judeo-Christian foundation that is the culture of this country. No matter how one tries to secularize America, we have a Judeo-Christian foundation that is part of everything that we do. And that has been the restraint, the brakes that have held us back, that has caused us to try to project and promote our way of life to the rest of the world without imposing it on the rest of the world.

Which brings me back, Mr. Speaker, to Iraq. Iraq where we have lost more than 2,000 Americans. 300 to 400 of them were not combat deaths, but they gave their lives for freedom and liberty just the same. And I have held some of those widows and looked them in the eye and prayed with them, the mothers, the fathers. It is hard, but they are some of the most patriotic people that I have met. And some of the most meaningful times I have ever had as a Member of this United States Congress have been standing in that living room, understanding and to some extent trying to take some of the pain away from a family.

Mr. Speaker, Iraq is a country that is a cell. It is a place where, yes, there was al Qaeda; yes, Saddam did send agents around the world; yes, he did provide sanctuary for the first planner and strategist for the first attack on the Twin Towers; yes, he did send one of his security operatives, who was a colonel in the Iraqi military security, over to Malaysia. He was there. He was in the meeting that planned the second attack on the Twin Towers.

Not only that, but there were al Qaeda training camps in Iraq. And whether or not there were massive quantities of weapons of mass destruction in Iraq, the President could not take that chance. We cannot take the chance of having hundreds of thousands of people there and an ability to fund this kind of enemy and someone who has continually funded terrorism around the world, give him weapons of mass destruction.

And, by the way, a lot was made of David Kay's report when he came back to this Congress and reported. As I listened to the other side of the aisle, their interpretation was there were no weapons of mass destruction in Iraq; David Kay said so. And I read the report. It is kind of interesting sometimes when we read the actual text of something after we hear the interpretation. What I read in there was David Kay did not find mass quantities of inventory of weapons of mass destruction when he was there. He was not sure what might or might not have happened to them. He could not argue that they never existed. Certainly not. But in his report he did say that Saddam Hussein maintained the ability to reestablish his system to develop weapons of mass destruction and could do so within 2 weeks.

And, by the way, it does not take a lot of bacterial germ agent to produce a lot of problems. And I would argue that if you give me $2 million and put $1 million in one coffee can and $1 million in another coffee can and give me a posthole digger and send me to California with a GPS, I will go out there and bury those two coffee cans someplace in California and then come back out of there, let it rain, if it rains in California, and you go to California and look for those $2 million. There is almost no chance of finding that. And that is about what chance we had of finding some of the weapons of mass destruction. And we are continually digging up different weapons in Iraq that we stumble across. I read an article just the other day.

But I would argue this to the people on that side of the aisle: we know Saddam Hussein had weapons of mass destruction. He used them against Iran. No one argues that. He used them against his own people in Kurdistan and killed at least 5,000 people there, perhaps more. In fact, I met with the judges in the tribunal, and in a moment we will hear from the gentleman from Texas (Mr. BURGESS). Those three judges talked about, if I have got the number right, and I am going to ask Mr. BURGESS to give us a precise number, but it was over 100,000 Kurds killed and slaughtered by Saddam. I do not know how many were by gas, at least 5,000.

But I would argue this: either Saddam Hussein had significant quantities of weapons of mass destruction, and we know because he used them on Iran and on the Kurds and other places, either he had those quantities or he used up his last can of mustard gas on the Kurds. Is there anybody over here willing to say they believe Saddam Hussein, out of all that inventory that he used against the Iranians and the Kurds, used up his last can of mustard gas and we just lied to America because we knew his warehouse was empty, but nobody else did, not even Bill Clinton, not Al Gore, not the Israelis, not the French, not the United Nations, not the United States, not Great Britain. Everybody's intelligence said the same thing. It was logical. It was rational. And now the ridicule that comes from the other side is an irrational ridicule, Mr. Speaker.

And with that I yield to the gentleman from Texas (Mr. BURGESS), who, by the way, last August joined with me over in Iraq where we saw some extraordinarily interesting things, one who performs so well for the people from Texas.

□ 2230

Mr. BURGESS. Mr. Speaker, I thank the gentleman for organizing this hour, for being here. I know the gentleman has been a little bit under the weather, and I was concerned about his voice holding up for the whole time, but I am so glad he was talking about this issue.

Mr. Speaker, just the other day I pulled out the joint resolution from the 107th Congress. I would point out that the 107th Congress was the term before either the gentleman from Iowa (Mr. KING) or myself was in Congress. This was the joint resolution authorizing the use of force in Iraq. It is really quite an interesting document. It is instructive to read through this document.

To be sure, there is mention of weapons of mass destruction, but there is also a good deal of discussion of Iraq being in breach of its international obligations, failure to follow United Nations resolutions, oppression of their own people, using weapons of mass destruction against his own people and, perhaps very interestingly, the violation of Public Law 105–338 which was passed in a previous President's administration in 1998 where it was a sense of Congress that it should be the policy of the United States to support efforts to remove from power the current Iraqi regime and promote the emergence of a democratic government to replace that regime. That was passed in 1998, and we had to wait until 2003 to have a President who had the courage to actually execute that. I am glad we have a President who had that wisdom, because I would not like to think of the world in 25 or 30 years time had we not taken the effort that has been undertaken in Iraq.

The gentleman from Iowa (Mr. KING) is quite right. We were in Iraq in August. It was my fourth trip there. Boy, big steps. Every time I go to that country, it is incredible the amount of work that has been accomplished, hard work in sometimes tough, tough climatic conditions, the weather is hot in the summer, cold in the winter, dusty all year-round, and then of course the constant threat of danger from terrorists and insurgents who live in that country.

But the actual quote that the gentleman was talking about from the judges, I think they were referencing the beginnings of the trial of Chemical Ali, the man who was responsible for the killing of the Kurds in Halabja, and he was accused of killing 180,000 Kurds. Chemical Ali's defense of that was, it was not one bit over 100,000, and I do not know why you continue to lie about it. So perhaps he will get his day in court soon. I hope that is true.

Mr. Speaker, I had been on the Floor earlier tonight talking about the debate that we are going to have on the budget, and I know the gentleman from Iowa (Mr. KING) has referenced some of those points. I do get so frustrated, and the group that was here the hour before us, continuing to vilify the productive sector of our society, the productive segment of our society that provides the tax revenue for us to be able to do all of those free market capitalism things that the gentleman from Iowa referred to, all of those things that we want to do that are good things for people who are less fortunate than ourselves. All of those things are made possible because of the productive segment of society. This angst over the $55 billion that was returned to the most productive segment in society in May of 2003, legislation that I voted for and I believe the gentleman from Iowa (Mr. KING) voted for, this $55 billion they desperately want to have back. But what has that $55 billion that we passed in May of 2003, what has that given us? It has given us 262 billion additional dollars in tax revenue for fiscal year 2005, the fiscal year that just ended on September 30.

So, Mr. Speaker, to get back the benefit of that $55 billion that we reinvested in the American economy, we would have to raise taxes, not that $55 billion, but you would have to double that and double that again to get the same number of dollars back to the Federal Treasury that the tax relief provided in May of 2003.

I think one of the most telling things I have seen in the past several days as we prepare for the debate was a quote from Roll Call from just yesterday. This fall is not the time for Democrats to roll out a positive agenda, said a House Democrat aid. That is some of the most unfortunate language that I have heard since coming to this House a year-and-a-half ago. If the other side is so bereft of ideas, if they are intimidated or frozen by their leadership, if they are afraid to show up for the debate, then that is truly one of the saddest comments on this body and this country.

Because we need their ideas. We need their enthusiasm, we need their participation. I think, Mr. Speaker, hopefully, over the days and weeks to come, we will see more of that. We will see more of a willingness to have and to engage in debate, and not just the talking points that are in the top drawer of your desk. We can have talking points read to us by a commentator on CNN. We do not need people to come down here and read their talking points, we need them to come down here where really it should be the free exchange of ideas. This should be the marketplace of great ideas in this country where they are talked about and debated. So I would welcome the opportunity if the other side would some day wish to do that.

Mr. Speaker, I know the gentleman from Iowa (Mr. KING) has some other very important data that he wants to share with us, and I yield back to the gentleman.

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman from Texas (Mr. BURGESS), a person who has become a good friend, and such a good friend that he is over working at night in his office and he sees me having a little difficulty with my voice and comes over to help me out. That is the kind of camaraderie we have here. We have seen a lot of Iraq together, and we do see it through the same eyes, and I appreciate his 4 trips over there and my 3 trips over there, and each time we are there, the troops appreciate it. But I can tell my colleagues that we appreciate them a great, great deal, and it is an honor to be with them at a time like that.

There are so many pieces of subject matter, Mr. Speaker, that I really intended to talk about tonight, and as I got into the depths of this Iraq issue and this worldwide war we are fighting, militant Islamic extremists, I wanted to make sure that we defined our enemy and defined them accurately.

There are a lot of places on this globe, and they are perhaps 16,000 Madrasas in Pakistan alone, places where they teach a kind of fundamentalism that sets the framework, sets the foundation for them to turn that into an active hatred. France and Great Britain perhaps are higher populations and more concentrations and further along in the growth and development of the kind of societies that reject those who have accepted them. They have rejected assimilation, they do not want to live as French or British. In fact, many of them do not really want to live as Americans. So I am a great proponent of assimilation. I will not take up that subject.

But I have 2 others that I would like to address here in the next 12 or so minutes that we have here. One of them is I wrote down a list of the things that I heard from the people on the other side of the aisle and I really only got to subject number one. The next one that I heard was energy.

Mr. Speaker, there are many things we can do with energy in this country. We are not getting help from the Democrats. There is a strong segment of I will call them environmentalist extremists. I do not claim to be an environmentalist myself. I am a conservationist. I have spent my life protecting soil and water. I have built more terraces than. I said earlier tonight. than any Member of Congress: waterways. farm ponds, larger reservoirs. You name it, we have protected the water and also protected our soil and sent the rain drops down through the soil profile. I believe in all of that. I am one of the people that has been up to ANWR, and I challenge anybody here in this Congress out of the 435, if you are opposed to going up there and drilling in ANWR and have not been there, to see the environmental success that has been established on the north slope.

We began drilling up there with that entire operation in 1972. You could fly an environmental extremist over the oil fields in the north slope and they could look down from a thousand feet, and they would not know they were over the oil slope oil fields. They would say, where are the derricks? Where are the pump jacks? Where are the oil spills? Where are the pipelines? Where are the roads? Where are the electrical lines? Where are the distribution systems? Where are they burning off the gas here? How come I do not see an oil field below me, when you tell me I am right over the top of it?

The reason is because there are no derricks, there are no pump jacks, there are no electrical lines visible, there are not any collection pipelines visible. All of this is underground. The pumps are all submersible pumps. When you fly over there and look at that, it is simply rock pad for a workover rig. It is perhaps 50 by 100 or 150 feet long of I call it limestone; it is probably not; say 3 feet above that swamp floodplain. There are ice roads to go in there in the wintertime and work on it only. The ice roads melt. There is no impact whatsoever on the environment, except caribou herds now have gone from 7,000 in 1970 to 28,000 head today. So they have done pretty well. We should go up there and drill. God put the oil there. I could not think of a better place. I cannot improve upon that. Where would you have the oil if you cannot have it up there where nobody goes, or we cannot have it up there where nobody goes, where we can do that with almost no impact on the environment, and if we can do so with .04 percent, 4 hundredths of 1 percent of a footprint on that region. Yet, where is our help over here from the other side of the aisle?

Mr. Speaker, 406 trillion cubic feet of natural gas offshore in the United States. There has never been a natural gas spill that has impacted anybody's environment. It is just scientifically and physiologically impossible. The gas dissipates.

By the way, there is natural gas bubbling up out of the ocean all the time. No impact on our environment, 406 trillion cubic feet, many times more gas on the outer continental shelf than there is on the north slope of Alaska. Where is our help over here to lower the highest price of natural gas anywhere in the world? And we pay that price, every American. If you want to help, let us do something proactive. They come to the Floor and every single night, negative, negative. I could not get out of belt if I felt like that. By the way, I do not believe that stuff anyway.

The argument about outing a CIA agent, Mr. Speaker. I listened carefully twice through to the special prosecutor's presentation that did bring out the indictment of Scooter Libby. He did not make any allegations that there had been any CIA agent outed. It was the purpose of his investigation. He apparently did not discover that, or he would have brought an indictment for that. But if the special prosecutor cannot find it in 2 years, how can the 30–Something Group find it over here? I would like to hear some more details on that. By the way, I read Bob Novak's column too and he argued that it was a common known thing that there was a CIA agent that was married to the gentleman who went to Niger, and I am not talking about Joseph C. Wilson, our Member of Congress who is Joe Wilson from South Carolina, we call him the good Joe. But the Joseph C. Wilson that went via the CIA to Niger to look and see if Iraq was out there seeking to purchase yellow cake uranium, came back with a report that apparently conflicts his public testimony.

By the way, if you are a CIA agent and you are being paid to go to Africa and investigate as to whether Saddam Hussein is trying to purchase uranium so that he can develop nuclear weapons, weapons of mass destruction, I might add, would that not be a classified report, or is that individual going to come back here and give a report that says, well, yes, there were some people negotiating to do business with Niger, but no, I do not think they are trying to buy uranium. I do not know what else he would buy there, and neither did he. But he makes that report, that when he disagrees with his own report, he makes that public? Why kind of an agent of the CIA would do that, and why are we not challenging that in this country? Why are we not going to wait until there is a trial and find out what really happened under those circumstances, Mr. Speaker. So it saddens my heart that these conclusions can be leaped to from the same people who would say that the impeached President was innocent until proven guilty. Talk about a culture of corruption. No, I do not believe it exists, Mr. Speaker.

Mr. Speaker, looking at this clock, I want to bring up one more piece of subject matter here and it is of significant importance, especially to the Midwest, but all over this country, and that is the issue of methamphetamines.

I want to point out on this chart, this is the Iowa experience. Mr. Speaker, we have some of the worst meth abuse in Iowa than of anyplace in the country. We have busted quite a lot of method labs. There are only a couple of States that can compete with us in the number of meth abuse labs that there are. We recognize that it takes some things to make methamphetamines, the worst illegal drug this country has ever seen. It takes pseudoephedrine, ephedrine, or a product called PPA. Those things are all available in the midwest. We have more experience with it than anybody else, Mr. Speaker. So we began addressing this.

When I was in the Iowa Senate about 5 years ago, we did some things to take some of that off the shelf. We did not do enough. So in our first try, we found out that these people are creative and they will find a way around you. So they wrote some new legislation. I was not involved in that. But I want to commend the Iowa legislature and the governor for signing legislation into law that was enacted on the first day of June 2005.

This red line on this chart, Mr. Speaker, here are the meth labs that were busted from the previous year, this year, for the same period of time, 2004–2005, meth labs running per month: 229, 185, 122, 127, 213, 146. A law was passed right here, kind of at the peak of the meth labs being busted. March is a big month. And they began, the retailers began pulling the precursors off the shelf by April. By May, by the end of May, we had seen a dramatic reduction in the number of meth labs that were busted by our, I will say, very efficient drug enforcement people in Iowa.

☐ 2245

And that May number went down from 42 in May to 29 in June, to 25 labs only in July, to 12 in August, to 12 in September, to 10 in October, and then this is up until October 28. That is an 80 percent reduction in meth labs because we took the precursors off the shelf, except we made sure that moms that had kids that get sick in the night could go down to the convenience store or the grocery store and pick up enough pseudoephedrine to get those kids through the next day.

And this is what you can buy in Iowa off the shelf today legally. This product right here, Mr. Speaker, is 360 milligrams active ingredient of pseudoephedrine in this product that is by one of our grocery stores, a good old homegrown Iowa chain grocery store. They private-label package this in a 360-milligram package because that is the amount that you can purchase for a single day in Iowa. And you can go out and do that the next day and the next day and the next day in Iowa, or you can go into the pharmacy, in either case, in a monthly supply you can purchase 7,500 milligrams. But in 1 day what I have on display back here, Mr. Speaker, is what I bought in a single day, and all but this from a pharmacy in Cherokee, Iowa.

Mr. Speaker, this represents the pseudoephedrine that you can purchase at one stop, all of these behind me that you can purchase in one stop in Iowa. And that is plenty enough to take care of a family for a good long time.

We have passed some legislation out of the Judiciary Committee today. Instead of limiting it to 360 milligrams a day, it limits it to 3.6 grams or 3,600 milligrams a day. We have a 7,500 milligram per month purchase that we can do in Iowa, but that quantity needs to be purchased from a pharmacist who will watch that volume. The law that passed, the language that passed out of the Judiciary Committee today, that 3.6 grams a day will allow a meth cook to go and make 19 stops around through retail establishments. Now, they sign up each place. They give their ID at each place, but there is not a way to track one retail place to another. So they will go from place to place. They will do 19 stops. They will pick up perhaps 70 grams of pseudoephedrine, go home and make an ounce of methamphetamine and they can get that all done all before noon.

And that ounce of methamphetamine will last one addict 90 days, or their 1-day supply, and then they go sell the 89-day supply, go back again in the afternoon and produce another 90 days' worth of methamphetamine under law that came out of the Judiciary Committee today.

We can do better. I have introduced the Meth Lab Eradication Act. These are the conditions that are part of it. We have set it to comply with Federal law. Schedule 5 drug, penalties are associated with the Schedule 5. This was so easy to adapt to in Iowa with regard to the retailers, the pharmacists and the consumers that the adjustment, according to the author, of this bill was simply pathetically easy. We need to do that in this Congress so we can eradicate meth labs in America.

Mr. Speaker, I promised earlier tonight that I would solve all the world's problems in 60 minutes. And you know, in fact, it is possible, but I did not solve them all tonight. So I am going to pledge to come back and keep working on the world's problems in an optimistic, solution-oriented way. And I appreciate the opportunity to address this Congress.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4241, DEFICIT REDUCTION ACT OF 2005

Mr. PUTNAM (during Special Order of Mr. KING of Iowa), from the Committee on Rules, submitted a privileged report (Rept. No. 109–281) on the resolution (H. Res. 542) providing for consideration of the bill (H.R. 4241) to provide for reconciliation pursuant to section 201(a) of the concurrent resolution on the budget for fiscal year 2006, which was referred to the House Calendar and ordered to be printed.

OUTING OF CIA AGENTS

The SPEAKER pro tempore (Mr. FORTENBERRY). Under the Speaker's announced policy of January 4, 2005, the gentleman from Ohio (Mr. RYAN) is recognized for 60 minutes.

Mr. RYAN of Ohio. Mr. Speaker, we appreciate the opportunity for the 30-something Working Group to be back in action, and our friend from Iowa has not solved all the world's problems tonight. We will take it from here. We are ready, willing, and able to take the country in a new direction. A couple of the issues that the other side has addressed, one is the meth labs. I had a meeting recently with some sheriff deputies in Trumbull County, Ohio, from Geauga County, Ohio, and Ashtabula, Ohio, who were saying that they were unable to confiscate the methamphetamine labs because the drug program, the Federal drug task force program has been cut. So maybe we can work together in a bipartisan way to try to increase the funding for that, and you will be supportive, I am sure, so that we can make sure we crack down on these methamphetamine labs. This is something that we want to do.

Also, Mr. Speaker, the other side brought up the fact that a CIA agent was outed, and there was some disagreement. The prosecutor here, Mr. Fitzgerald, said that the reason Scooter Libby was not charged with outing a CIA agent is because he lied so much to the grand jury that he could not prove it. And he used the example, he said that I am like the umpire. I am the Federal prosecutor. I am the umpire. And as I was trying to make a decision here of whether or not he outed the CIA agent, Scooter Libby threw sand in my eyes. So I was not able to get to the point where I could actually charge him with outing a CIA agent because he threw sand in my eyes.

So he charged him with two counts of making false statements to a Federal agent, two counts of perjury to a grand jury, and one count of obstruction of justice. And how the other side could somehow say that that is all right, that is okay, I cannot believe that they would just charge him with that. You just lied to a grand jury? That was all you did? Okay. Well, that is all right. You did not out a CIA agent, or at least we could not prove it. And before we get going here, there are some CIA agents, former covert operatives that I think would disagree.

Mr. MEEK of Florida. Those are third-party validators that were actually CIA agents. Am I correct, sir?

Mr. RYAN of Ohio. That is absolutely right. Here is one CIA agent, Jim Marcinkowski. This was on "60 Minutes." He says exposing Brewster-Jennings, let me give a little background here. When Joe Wilson's wife was outed, when it became public, the world all of a sudden knew that everyone she was associated with and affiliated with was a part of the CIA in some way, shape or form, and so they also outed Brewster-Jennings, which was a front company, CIA front company in Boston, not to mention the 20 years' worth of contacts that also got outed.

But here is a quote from Jim Marcinkowski on "60 Minutes," a former covert CIA agent. He said exposing the Boston firm Brewster-Jennings could lead foreign intelligence agencies to other spies. There is a possibility that there were other agents that would use the same kind of a cover so they may have been using Brewster-Jennings just like her. Another one from The Washington Post, a small Boston company, listed as Valerie Plame's employer, suddenly was shown to be a bogus CIA front and her alma mater in Belgium discovered it was a favored haunt of an American spy.

By Karl Rove and Scooter Libby and the executive branch outing Joe Wilson's wife, they put a lot of people in jeopardy, and they hurt our intelligence capabilities all over the world because now people who have dealt with Americans who went to the University of Belgium or who had dealings with Brewster-Jennings are now being looked upon as suspect.

Not only that, the word now is that the spouses of American ambassadors are being looked at suspiciously because now people think just because Valerie Plame was the spouse of an American ambassador and she was a CIA agent that every other spouse of an ambassador all over the world may be a CIA agent. This has ramifications, Mr. Speaker, that we do not even realize yet. And that has done nothing but weaken the country.

Now, here is the ultimate third-party validator on why the corruption going on in the White House right now must stop, because it is hurting our ability to fight the war on terrorism. They are weakening our ability to fight this war. This is Melissa, who was a 14-year covert CIA operative, and she was asked a question on "60 Minutes." She says because we are talking about lives, and we are talking about capabilities, we do our work. We risk our own lives. We risk the lives of our agents in order to protect our country. And when something like this happens, it cuts to the very core of what we do. We are not being undermined by the North Koreans. We are not being undermined by the Russians. We are being undermined by officials in our own government. That I find galling.

Mr. Speaker, to come to the floor, for our Republican friends to come to this floor and to somehow defend this is crazy.

Ms. WASSERMAN SCHULTZ. Will the gentleman yield?

Mr. RYAN of Ohio. It is outrageous. I would be happy to yield.

MS. WASSERMAN SCHULTZ. Because, you know, I think most people would understand why a CIA agent, a fellow CIA agent, would be outraged at the conduct coming from the Vice President's chief of staff, that he would do anything that would potentially put their lives or the lives of their colleagues in jeopardy. So some people might say, well, of course that would upset other CIA agents, and of course they would think that that was a problem. But in the spirit of continuing our desire to demonstrate that this is not just our opinion, and that we have some other third-party validators who agree, let us look at what Ed Gillespie, who is the chairman of the Republican National Committee, said.

He was speaking to Chris Matthews on "Hardball," and Chris Matthews asked him what he thought of it. And his comment to Chris Matthews then was that I think if the allegation is true, to reveal the identity of an undercover CIA operative is abhorrent, and it should be a crime and it is a crime. And then Chris Matthews went on to ask Chairman Gillespie, he said, it would be worse than Watergate, would it not? And Gillespie's response was, Yeah, I suppose in terms of the real world implications of it, it is not just politics.

I mean, if that is not the ultimate third-party validator saying that it is abhorrent and it should be a crime and it is a crime to reveal the identity of an undercover CIA operative. Now, let us just make sure we say that Mr. Libby has only been accused of conduct related to that likelihood, not convicted of that. So, you know, of course we want to remember that this is a democracy and in our democracy you are innocent until proven guilty. However, it is really deeply disturbing that this is the first time in 130 years, 130 years, that we have had a White House official indicted on anything, never mind betrayal of this country's deepest secrets. And we have a long list of people who have commented on that possibility. We also have in the White House, still, I mean, Scooter Libby has left. Scooter Libby has now resigned from the White House. But you still have Karl Rove there in the White House as the right hand of the President with full, the highest level of security clearance.

Mr. RYAN of Ohio. Deputy chief of staff.

Ms. WASSERMAN SCHULTZ. Deputy chief of staff.

Mr. RYAN of Ohio. He is the deputy chief of staff in the White House, in the West Wing.

Ms. WASSERMAN SCHULTZ. He has multiple titles, actually. I know that he has more than just that one title. And the President has not dismissed him or asked him to step aside.

Mr. RYAN of Ohio. Why is that? Can I ask, can we have a discussion here, a serious discussion, you know, at 11 o'clock at night? Why would the President not fire him?

Ms. WASSERMAN SCHULTZ. You know, let us just give them the benefit of doubt. Let us say we did not think the President should fire him. We do, but let us say, why has the President not suspended him at least until he called upon even the White House council to do an internal investigation? They are really good at copping to internal investigations and not allowing independent investigations of wrongdoing or potential wrongdoing. But he has not even suggested that his duties should be suspended so that you can clear the cloud away.

□ 2300

Mr. RYAN of Ohio. Maybe we should clear up exactly what happened here. In the indictment on or around June 12 or 13, Karl Rove told "Scooter" Libby about Joe Wilson's wife. On or about June 12 Karl Rove told Libby about Joe Wilson's wife and that Bob Novak was going to probably write an article about it. So Rove was tipping off Libby that this article was going to be in the paper and we need to deal with this somehow. That was in June.

On September 14, Karl Rove tells ABC News that he does not even know who Joe Wilson is or his wife or anything else. And then 2 years later, I think it may have been last summer, he reiterates the fact.

Okay, so we have Karl Rove telling Libby one thing about Valerie Plame and then telling the American people a few months later he does not know anything about it. That is why Karl Rove is no longer fit to serve the American public because he did not lie to ABC News. He did not lie to CNN. Karl Rove lied to the American people. Period. Dot. End of story. And he tried to revise, he tried to recant but he just cannot do it. This is the fact.

The indictment says he lied to the American people. He needs to be fired. I mean, no one here would accept that from their staff.

Mr. MEEK of Florida. If I can, can I just be the majority right now?

Mr. RYAN of Ohio. I would love for the gentleman to be the majority right now.

Mr. MEEK of Florida. Can I role play for a minute for the Republican majority?

What they are doing in response here in this House to what the gentleman has just pointed out that is public record, third-party validator, using the very words of these individuals. This is what the majority is doing.

We read it in the paper. We are hearing it on the news. People all over the world are talking about these allegations. The indictment has quotes of individuals where they contradict one another as it relates to the outing of a CIA agent, but they are my friends. And even though they are not from my district and they did not vote for me, I have their back.

Whatever the Democrats say and whatever they may write, or the ranking member of said committee of oversight that wants to review national security clearances for these individuals, I will do nothing to help in that environment to be able to bring about protection of national security clearance credentials for individuals that are questioned in these allegations. Not only will I not talk about it, I will not even have a hearing on it. As a matter of fact, I will not even allow a hearing on it.

We would come to the floor and we would say, it is just the Democrats once again being negative, not being productive. All they can do is talk about things that are not of any consequence to national security.

Now, that is what they are doing. That is what they are doing. If you ask the majority about oversight, you heard in the last hour we had a couple of hours ago, I read the record under the Clinton administration, 1,089 subpoenas of the Clinton administration for far less, for far less.

Mr. RYAN of Ohio. How many under this administration?

Mr. MEEK of Florida. At that particular time only 11 subpoenas for Republicans. Under this administration, we are still getting that information. Far less. The Republican-controlled Congress, thousands upon thousands of hours of staff interviews of Clinton administration officials.

Mr. RYAN of Ohio. $40-some million.

Mr. MEEK of Florida. Millions of dollars of taxpayer dollars, and we have the outing of a CIA agent. We have an indictment for the first time in years.

Ms. WASSERMAN SCHULTZ. One hundred thirty years.

Mr. MEEK of Florida. One hundred thirty years of a White House Chief of Staff of the Vice President of these United States indicted. We have an Official A that we now know as the Senior Chief of Staff or Assistant Chief of Staff to the President of these United States, and not a mumbling word. Not one floor speech. Not one letter. Not one hearing in the people's House.

Ms. WASSERMAN SCHULTZ. No outrage, no floor speeches, no 1-minutes, no 5-minutes.

Mr. MEEK of Florida. No message meeting from the Republican Conference about we need to make sure that we stand up to our constitutional responsibilities.

So when we talk about a culture of corruption and cronyism and incompetence, that is not what we are saying. That is what the American people are thinking and what they know. That is the reason why this Congress has between a 35 percent approval rating to 31 percent approval rating. It is not our doing. It is the doing of the majority that are not doing their job.

Mr. RYAN of Ohio. Almost 60 percent of the American people believe that Karl Rove needs to resign, 60 percent. This is not me or my colleagues or the gentleman from Massachusetts (Mr. DELAHUNT), who failed a little bit on us tonight. We tried to squeeze him into the 30-something Group. We tried to help him out, then he faded on us, got a little sleepy, started yawning. We had to dismiss him.

But here it is. There is a poll. This is a Washington Post poll in November of 2004. Fifty-nine percent of people in this country believe Karl Rove needs to resign.

Ms. WASSERMAN SCHULTZ. Does the gentleman remember when we were growing up, it seemed like any time you turned on C-SPAN or there was a shot of the Congress doing something, when we were kids, it was a shot of the Congress in a hearing, the Iran Contra hearings or some kind of investigatory hearing that would immediately be called. The ink on the accusation would not be dry before congressional hearings were called to investigate.

Am I missing something? Maybe I am not in the loop.

Mr. RYAN of Ohio. Article 1, section 1 of the United States Constitution creates this Chamber right here, the people's House. And we have oversight of everything else that happens in the government, over the executive, over all the agencies, the Cabinet, departments and everything else. This is the people's House.

And as my friend from Florida likes to say, you cannot get appointed to this House. You have to run if I pass out here and I die.

Mr. MEEK of Florida. We do not want that.

Mr. RYAN of Ohio. I do not want that either. I am not ready. But if I pass out here and I die, the Governor in Ohio will call a special election and people will run for my seat and have to get elected here. That is the bottom line. This is the people's House. We directly represent the people in our district. And we have the ability in this Chamber to oversee every other aspect of the government.

But our Republican friends refuse to investigate the CIA leak. They refuse to have an independent or create an independent investigation. This has become so political here that we cannot get straight answers on how to fix the way our government runs.

Mr. MEEK of Florida. Let me just, like we say, put the cookie on the bottom shelf here.

Veterans Day is Friday. I am just thinking about this. Folks have put statements in the RECORD. Our veterans, we love them, tear drops on the paper while they are writing it. And here we are living in an environment now in the 109th Congress, Republican-controlled Congress, where it has been proven, literally put on paper to be judged in a court of law that officials in the White House several years ago, someone finally came forth and told the truth or said that someone lied. And they have the power to call these White House officials in a public hearing to talk about what happened. They have the power to do that, but they choose not to.

Now, just like I have this mike here and this podium, there will be some Members of Congress that will be asked to speak at a Veterans Day event and they are going to talk about the war on terror. And they are going to talk about winning the hearts and minds of Iraqis and other groups that are out there. And they are going to talk about the troops and their commitment. But I tell you one thing that they will not talk about. They will not talk about the fact that we know what is going on.

We are not going to call these people before Congress and ask questions like we are supposed to when CIA agents are outed, when national security is jeopardized. We are not going to, when there is almost close to prima facie evidence that it jeopardized national security as it relates to a person's job, who was to find out and seek out those countries that have weapons of mass destruction for the reason that we went to war in the first place.

I am just in the middle of what they are doing or not doing.

By the way, I want to let you know that I have voted to make sure that you veterans of wars that allow me to go into a free House in the Congress to represent you, that I have voted to increase your copayments. I voted to make sure that the Committee on Veterans' Affairs over the next 5 years makes $798 million in cuts that very well will result in two things: one, making sure that you pay higher fees when you go to the Veterans Affairs Department for a death benefit, or make sure that you wait longer to see a specialist in the Veterans' Department and clinics and hospitals.

That will not be said. That will not be shared with those veterans. But I guarantee you, as we sit here, letter after letter after letter from these groups that are saying that they are against what this Republican majority is doing. So when we see what is public knowledge here in the United States and throughout the world, that it is okay as long as it is the Republican White House and the Republican Congress that is condoning it to happen.

In the Senate, in the Senate I am so glad that the Democratic leadership used Rule 21 to call them into a closed session, to force the Republican majority to come with Democrats and Republicans, three on each side, to finish looking into the allegations of false information given to the Congress when it was time to go to war.

So when we start talking about the budget and we start talking about corruption and cronyism, it is happening in the moment. And I am so glad that I am a part of a party and have leadership that is willing to stand up on behalf of the American people.

Guess what? There are some of my Republican friends, because I talked to them, and when I say they are my friends, they are my friends. They wake up and put their pants on one leg at a time or grab their purse or what have you; and they are good people. But it is the leadership. That is the reason why the votes are extended.

I have here, right here in my hand, it is called The House Rules and Manual of the 109th Congress. In this manual, I must add that it says, under rule 20, Mr. Speaker, and it is number 2 here, it talks about the fact that the maximum time for a recorded vote or quorum call by electronic device shall be 15 minutes.

□ 2315

Now, as I stand here as Carrie Meek's son, my mother, I guarantee you tomorrow when this vote comes up that the spirit of that rule will not prevail. We will be here for some time because they have to convince some of our friends in the majority to vote for the rule.

We can talk about that a little bit because I think we need to share that with the Members, Mr. Speaker, of what the Rules Committee did tonight. I think we need to talk about that since it was in a dark room on the third floor. We are on the second floor now. It was on the third floor of this very building.

Ms. WASSERMAN SCHULTZ. While you are on the rule, about an hour ago, the Rules Committee reported a rule which are the directions that are given to the House for legislation that we consider each day. The Rules Committee gives us the parameters under which we can operate and act on each bill.

So, the rule for tomorrow that has come out on a party-line vote for this budget reconciliation bill tomorrow, is called a closed rule. You may be asking, well, what is a closed rule, what does that mean? A lot of the terms we use in Washington are cryptic.

A closed rule means that no one can offer any amendments to this bill. We will have, using the term that people have heard so often, an up-or-down vote on this budget reconciliation bill.

A short time ago, I recall that one of the distinguished members of the Rules Committee was discussing with us how open the process is and how much input we as Democrats in the minority party have had in the process and how many amendments we have been able to get in and have considered.

This document, this bill, that we are considering tomorrow is perhaps the most important piece of legislation which will have the most far-reaching impact of almost anything that we are going to consider in this Congress: $844 million in food stamps, eliminating 300,000 people off of food stamp rolls, cutting child care, $17.5 billion in financial assistance to college students. The list goes on and on, and the Republican leadership, because we have got to call it like it is, created a closed rule so that we cannot offer any changes to that bill tomorrow, none. That is the democracy.

Mr. RYAN of Ohio. One of the things, among others, what we would try to do, as we try to reconcile the budget, is not give $70 billion in tax cuts that go primarily to the people who make more than half a million dollars a year.

The whole idea of this whole thing was to somehow find in the budget $50 billion to pay for Katrina, and instead, they found the $50 billion to pay for Katrina supposedly, but they also gave $70 billion in tax cuts, which means their deficit, this is what is great about Washington, their deficit reduction package actually increases the deficit by $20 billion because they just cannot resist giving people who make more than $500,000 i.e., their campaign contributors, a tax cut.

Ms. WASSERMAN SCHULTZ. Could I ask a question?

Mr. RYAN of Ohio. Sure.

Ms. WASSERMAN SCHULTZ. I think it is always helpful for us to provide information to people who do not really know much about this process here. It is kind of arcane. Maybe you could help describe for people who are wondering about the process, we have to name each piece of legislation, so that it is descriptive for the membership.

Mr. RYAN of Ohio. Supposed to be. The words at the top are supposed to identify what is happening.

Ms. WASSERMAN SCHULTZ. Ideally, it is actually supposed to define what we are doing.

Mr. RYAN of Ohio. You would think a deficit reduction bill would reduce the deficit.

Ms. WASSERMAN SCHULTZ. Yes, of course. The name of this legislation is the Deficit Reduction Act of 2005. I am a freshman and I do not know the rules in that book as well as the two of you or as well as some of my senior colleagues. So I wonder if there is anything in the book, the rules book, that says you cannot be inaccurate or misleading.

Mr. RYAN of Ohio. Let us be a little more specific. Maybe the 30 Something Working Group will offer an amendment to the House rules to say that a bill specifically called the Deficit Reduction Act.

Ms. WASSERMAN SCHULTZ. Actually has to reduce the deficit.

Mr. RYAN of Ohio. Yeah.

Ms. WASSERMAN SCHULTZ. Why would you want to do that?

Mr. RYAN of Ohio. Let us try.

Mr. MEEK of Florida. All right. Here is a perfect example of what we call the Potomac 2–Step. You have just outlined a perfect example. Some may say hoodwink. Others may say bamboozle. But here in Washington we call it Potomac 2–Step. It is a dance where, hey, I am going this way, you go that way, you swing your arms.

Mr. RYAN of Ohio. They call it the bootleg: fake left, go around the other side.

Mr. MEEK of Florida. Let me just tell you what they are doing.

Presently, they would say it is reducing the deficit, but what they are not saying within another 2 weeks, we are going to give people that make over half a million dollars a year the biggest tax cut they have ever seen. One Member described it on that side as we are going to help the productive people here in the United States: we are going to help the productive people. So I guess that means, American worker, if you make between $34,000 and $54,000 and you get an $840 tax cut, you are not necessarily in that group of the half a million folks.

I want you to go further on that chart, but just before we get too far away from what the Rules Committee did tonight on a party-line vote, you hear Members come to the floor and other Members say, oh, well, we are for fairness; we do not know why the Democrats will not offer their alternatives; they have nothing but complaints; it is almost un-American.

I am going to tell you what is un-American, Mr. Speaker, and I am going to tell you what is limiting the voice of the Democratic side over here.

The rule that was passed from the Rules Committee just moments ago in darkness, there was not a television camera in that room. When we start talking about the back halls of Congress, it is our job here in the 30 Something Working Group, good or bad, we are supposed to expose what happens in the back halls of Congress.

Let me just read this. This is not something that I printed. This is what the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) just pointed out on H.R. 4241, what they call the Deficit Reduction Act of 2005, even though it is increasing the deficit by $20 billion and change. I did not put these in order.

Number 1, closed rule. Closed rule means that we cannot even offer an amendment to this Act when it comes to the floor, democrat or Republican. Let me just keeping going here. This gets interesting.

Two, provides 2 hours of debate in the House, equally divided and controlled by the chairman and ranking member of the Committee on the Budget. That is where the Republican side gets two hours to talk about how good it is, the Democrats get 2 hours to talk about why we cannot offer anything to this budget, why are we cutting veteran benefits, why we are increasing student loan costs to students for our next generation of workers in this country, why can we not have more female engineers in this country, why are we putting what I call tax, they call fee, why are we putting additional tax on American families to educate their children.

Three, waive all points of order against consideration of the bill. Well, goodness gracious.

Ms. WASSERMAN SCHULTZ. What does that mean?

Mr. MEEK of Florida. That means if you have a point of order to the Speaker, that is waived, you are out of order. What do you mean point of order? If something was found in the rule book tomorrow that violates the rules of this House and I want to make a point of order, you cannot make it because it has been waived by the Rules Committee.

Number 4, provides that all amendments printed in the Rules Committee report accompanying the resolution shall be considered as adopted.

Ms. WASSERMAN SCHULTZ. Without a vote?

Mr. MEEK of Florida. Without a vote. Should be considered as adopted. That means it is already adopted. What are they meeting for? What is the 2 hours on both side? Why debate it? We did it because we are in the majority, and guess what, we have the power to do that. They are setting the rules. They think they are muzzling the Democratic side. They are muzzling the people that sent us up here to represent them. That is what they are doing. That is the reason why this stuff happens at night here.

Number 5, this is not my order, Mr. Speaker. This is from the Rules Committee. Waive all points of order against provisions in the bill as amended. They have already, in their opinion, adopted this bill. When I say "they," I am talking about the Republican majority. When we talk about power, when we talk about an abuse of power, Mr. Speaker, that is what we are talking about.

I want to say it again, just in case someone missed it. This is not what we are doing, Mr. Speaker. This is what the Republican majority is doing on the Rules Committee.

Number 6, provides one motion to recommit, with or without instructions.

Ms. WASSERMAN SCHULTZ. Now, is that an opportunity for us to amend the bill or change it?

Mr. MEEK of Florida. No.

Ms. WASSERMAN SCHULTZ. What does that let us do?

Mr. MEEK of Florida. That is just an attempt by the individuals that have problems with this bill to recommit it back to committee. I mean, this is not something to change or improve or someone comes to the floor and say, you know, if you just did not do what you are doing to free and reduced lunch for children, poor children in my community, I just cannot vote for this because I just cannot close a clinic which is only open in my rural area once every 2 weeks and now this may very well close it; all these billions of dollars in cuts to the veterans assistance and health care and death benefit, I just cannot vote for it in good conscience. So that means that that cannot even happen.

Ms. WASSERMAN SCHULTZ. Can I ask you another question on that point. In the time that you have been here, which is 3 years now, has a motion to recommit ever passed out of the House of Representatives since you have been here?

Mr. MEEK of Florida. No, no. It does not happen.

Ms. WASSERMAN SCHULTZ. So they never send a bill back to committee even if something may be wrong with it?

Mr. MEEK of Florida. No.

Number 7, provides that notwithstanding the operation of the previous question, the Chair may postpone further consideration of the bill to a time designated by the Speaker. Now, that is the out in number 7, and I can tell you, Mr. Speaker, in no way do I want to see the American people go through what the majority wants them to go through if this bill passes hypothetically tomorrow.

That allows the Republican majority to say, oh, the leadership, goodness, we could not get some of our Members to vote against their own constituents that sent them up here; we tried but it just could not happen because it was the wrong thing to do. They thought about it. Some slept on it. Some got calls from their veterans and from faith-based organizations that do what they can do on behalf of those that do not have as much as others; those that were concerned about the effects on the environment that is in this budget; those that cared about children to have an education environment, Mr. Speaker, where you do not have kids on one end that had breakfast, lunch and dinner because their families were able to provide it versus those kids that could have been stricken by natural disaster or a father could have died or under this bill a single mother because we cut child enforcement dollars to help go after deadbeat parents that are not paying for it.

Mr. RYAN of Ohio. Can I say something. What we are trying to do here is move away from a country that says if you are born in the right neighborhood, with the right family, you are going to be fine, and if you are not born in the right neighborhood to the right family, the heck with you. That is what this is all about. I mean, if we have got to boil this down 30-Something-style and lay it out there, that is what it is. You cannot cut Medicaid. You cannot cut food stamps, foster care, child support enforcement, raise the fees on student loans.

□ 2330

What are we doing? This does not make any sense. We are a bit younger, on average, than most Members here, but this makes no sense. I do not know any other way to say it than this is crazy, what we are doing here. This makes no sense, at the same time we are giving half a million people, making half a million more here, huge tax cuts.

Mr. MEEK of Florida. It is not what we are doing, it is what the majority is doing.

Mr. RYAN of Ohio. It is late, and I appreciate my colleague correcting me.

Mr. MEEK of Florida. It is not what we are doing.

Mr. RYAN of Ohio. It is what we are fighting against.

Mr. MEEK of Florida. It is what we are fighting against. And guess what? Those that come to the floor, and I guarantee there will be some come to the floor, and someone will give them a piece of paper, and they will say, Okay, thank you, and they will run up here, grab the mike and they will say, Why do the Democrats not offer something?

Hello? The Rules Committee has spoken. It is done. Period. Dot. Even if someone had a great idea, they cannot do it. And there is a history of this kind of abuse here in the House and muzzling individuals and people with great ideas that want to help this country. But, better yet, the rule.

And this is America. This is not a Third World country. This is not a Communist country. This is America.

Ms. WASSERMAN SCHULTZ. I want to elaborate on what my colleague is saying, because some people might think that this is unusual and that it is a rare occurrence that they would close a bill and not allow us to offer any amendments. This is just my first year, but I wanted to just check on what the Republican leadership's track record is in terms of allowing us the input that they say they so desperately want us to provide.

There have been about 85 bills, as of last Thursday, which was November 3, 85 bills that we have considered on this floor that were amendable. There are lots of bills we consider that are under what is called the suspension calendar, and we vote those up or down. Those are the noncontroversial bills. But 85 bills.

Of the 85 bills that were potentially amendable, 38 of them were given restrictive rules where there were severe limitations on the amendments that were allowed to be offered. Severe. Fifteen of those bills were closed, like the one that we are considering tomorrow, meaning no additional amendments were allowed. No amendments at all were allowed. Plus three additional closed rules that were included in another bill.

Now, there have been, of the 85, 12 open rules, meaning anyone can offer an amendment, but 11 of those were appropriations bills, spending bills, which we always are allowed to offer amendments to.

So what it boils down to, and 10 were conference reports and 10 were procedural. But what that boils down to is that since I was elected and have served in Congress 11 months, we have had one bill, one substantive bill, that had an open rule, one where we could offer any idea we wanted.

Now, my colleague from Florida talked earlier about how we all put our pant legs on one at a time. And I wear pants and sometimes I wear skirts, and sometimes I wear pajamas. I might be bringing those tomorrow because we are not sure how long we are going to be here and how long they are going to hold that vote open until they get their way. But we were also all elected by the same number of people, or we certainly represent the same number of people, the same 633,000 people. But we are not all treated equally in this Chamber, because on our side of the aisle we are not allowed to provide the input that they say they want us to provide.

I actually just want to, if you do not mind, tell a little story, because we should demonstrate what is going on here in this bill tomorrow. Gene Sperling, who was at one time President Clinton's top economic adviser, he compared this budget and the cutting in the budget to cutting only peanut butter. I will share this story with you. Imagine the following:

The father of a financially stretched family decides to live it up. He leases three fully loaded Hummer H1s for the bargain price of $9,750 a month, almost $10,000. As the family's financial situation deteriorates, the father calls the family together for a belt-tightening discussion. He holds up a jar of Whole Foods chunky peanut butter and says, Do you realize we are spending $4.49 on this? We could be saving $2.04 if we bought Skippy Peanut Butter for only $2.45.

His teenage son responds, like, Dad, man, why are you busting on us about two bucks on peanut butter when you are spending like almost $10,000 a month on cars?

Then the father responds. Do not change the subject. We are talking about peanut butter.

Well, that is essentially what the leadership is saying by giving tax cuts to millionaires and the greedy, their cronies, and cutting programs for veterans, children, and the poor who are the needy. They are basically saying, We need to talk about the peanut butter, that is all that matters to us.

In some of the time we have left, we should let people know just exactly what the conscience vote is tomorrow, so that people know when we all go to sleep tonight just who is going to be able to wake up and look at themselves in the mirror and hold their head up high. We are being asked tomorrow to vote to cut $844 million from food stamps. They say there is fraud in the food stamp program and that we need to reduce waste.

Well, I held up this picture earlier tonight, and I will hold it up again, because I think it is very descriptive. There is the picture of the 25,000 people who lined up in Broward County today to apply for food stamps after getting hit by Hurricane Wilma. They started lining up at 3 a.m. They did not line up for emergency funding.

Mr. RYAN of Ohio. Those are new people. Those are not people who were probably on food stamps.

Ms. WASSERMAN SCHULTZ. These are new people. The vast majority of people in this line were applying for the first time.

Mr. RYAN of Ohio. And there are a lot of other people in the country because the poverty rate has gone so high.

Ms. WASSERMAN SCHULTZ. And this does not come from FEMA money. This is not the emergency funding. This comes right out of the food stamp program.

We have cuts in child care. We have cuts that would prevent us from ensuring that deadbeat dads are pursued. There is a $4.9 billion cut from child support programs. As a result, parents will receive $7.1 billion, as the chart points out, less in child support over 5 years and $21.3 billion less over 10 years.

There is a $577 million cut from foster care. Now, I know there are colleagues of mine on the other side of the aisle who are just bristling at that possibility. They do not want to make it so that families cannot take children in.

Mr. RYAN of Ohio. We are not kidding here either. If you are watching at home, you might think these guys are out there telling a story.

Ms. WASSERMAN SCHULTZ. This is real.

Mr. RYAN of Ohio. This is real stuff. It is why we are up at 11:35 at night talking about it.

Mr. MEEK of Florida. My colleagues, it is not only what we are saying, it is what is in House Resolution 4241. You can go on line. Members that have not taken a look at that, they can look in the morning, read over it, have staff highlight exactly, verbatim, what we are talking about here.

I know the reason why the Rules Committee, Republican majority, closed the rule. I know why they did it. Because on this side of the aisle we will do what we tried to do in the Budget Committee. We will replace the cuts that they made to veterans' services and health care. We will replace that.

And guess what? Under the lights and in this Chamber they would have to go up, take my voting card out, they would have to go up to the machines that we have here and actually take out their voting card and put it in the machine and go on the record, on the board, saying that they are willing to cut child support enforcement.

I wonder what their State attorneys are going to say and district attorneys are going to say when a single parent, nine times out of ten women, that are going to go into the State attorney's office and prosecutor's office and say, he ran out on me; he left me here with these four kids. I have not seen him and he has not given a dime towards child support. Can you help me?

Yes, they will take their information. But you know what they will say? Ma'am, I am sorry, it is going to probably take 3 years because we have a backlog because of our friends in Congress. You need to call your Congressman because they cut the child enforcement money.

But it gets worse, Mr. Speaker. The three of us were members of the State legislatures. Mr. RYAN was in the senate in Ohio, Ms. WASSERMAN SCHULTZ and myself, we were in the senate in Florida and in the house. My colleague from Florida speaks of the fact that she is a freshman here, but her public service goes beyond mine. I have been here 11 years, and I met her when I came into the house because she was already there a term before me.

So what is going to happen when it gets to the State legislatures? What are they going to do, Mr. Speaker? They are going to make a cut, too, to child support enforcement.

Ms. WASSERMAN SCHULTZ. They will not have a choice.

Mr. MEEK of Florida. They will not have a choice because we handed it to them. We gave it to them.

So the Republican majority once again uses this book. And the power that they have on the majority side to close the rule, the power the people gave to them, is to prevent us from saying, Mr. Speaker, I have an amendment at the desk that will replace the cuts that are made to veterans, that will replace the cuts made to child enforcement. Mr. Speaker, I have an amendment at the desk that will make sure that those oil companies that are celebrating historic record profits, that we not only talk about those record profits here in Congress, that we do something about it; and we make sure that those who cannot afford heating oil and LP gas this winter can receive a break on that. They stopped that from happening.

So when you start talking about where are the Democrats, where are their ideas? Well, guess what? We are not going to tell you that last night at 10 p.m., while some of you all were home asleep, we got them good. We shut them down. We put forth a rule that they cannot even introduce their ideas. And you know why they did it? Because they might very well have lost some of their Members, who would have had to take this card out and put it in these machines behind these chairs and vote for their constituents and the American people.

Mr. RYAN of Ohio. The American people did not give the Republican Party the power that they have to use it to suppress good ideas or to suppress other Americans' voices.

So the question may be, as we are talking about the closed rule and all the parliamentary procedures used here to shut down Democrats, many people would be saying, Well, what would you offer?

Well, a couple of things I can think of off the top of my head, one of the amendments we would offer on this floor is to strip the $16 billion that we are giving right now to the oil companies in corporate welfare. We would take that back. The Democrats, Mr. Speaker, would offer an amendment to repeal the $16 billion.

And the Democrats would offer an amendment on this floor tomorrow during the budget debate to pull back the prescription drug Medicare Part D and put in the bill a provision to allow the Secretary of Health and Human Services to negotiate down the drug prices.

We would also put in there that we would allow reimportation to drive the costs down. We would save the American taxpayer, with just those two or three amendments tomorrow, billions and billions and billions of dollars. And probably, over the course of the next few years, we would be able to pay for Katrina and be able to invest in our students through the Pell Grant and the student loan, and be able to make sure that every child has adequate health care.

That is what we would offer. So if you are sitting at home paying attention to this debate, those are a couple of the basic things the Democrats would do.

I yield to my colleague.

Ms. WASSERMAN SCHULTZ. I thank my colleague. And there is good news in all of this sadness. And that is the best word I can apply to this piece of garbage that we are going to consider tomorrow. There is good news, because the voters get it. They know this country should be turned around and moved in a new direction, and they sent a very strong message yesterday.

We had a number of elections across this country yesterday, and in every single one that rose and fell on issues like these, who won? The Democrats won. We will have a Democratic governor of Virginia, we will have a Democratic governor of New Jersey. All eight initiatives in California that would have abused the process, abused democracy, that would have harmed people had they passed in California, which were initiated by Republican Governor Arnold Schwarzenegger, were repudiated by the voters of California. All eight were defeated.

☐ 2345

So it is very clear that the American people are rejecting their agenda and want to go in a new direction.

Mr. RYAN of Ohio. We have the new ideas to take the country in a new direction and get away from this corruption and the cronyism of hiring friends to run major organizations like FEMA.

How rotten is the system, how corrupt is a system that the Republican majority will not go to the wealthiest people, will not go to the oil companies or the pharmaceutical companies to pay for Hurricane Katrina or invest in the student aid and those kinds of things because they need the money for their campaign contributions. That is a corrupt system. That is what we want to change.

We want to move away from that and allow this body to once again become the independent body that it should be, that the Founding Fathers wrote up Article I, Section 1 in the Constitution providing the oversight for the executive branch, like the Republican majority has shown they know how to do. They did not do it for a great reason. They did it to get into the personal life of President Clinton.

But now we have public violations, violations of the public trust through CIA leaks, leaks of CIA prisons, and all of this nonsense that has been going on. Let us restore some integrity back to this place and get rid of the three C's: corruption, cronyism, and the lack of competence.

Mr. MEEK of Florida. Mr. Speaker, I want to read Point No. 4. This paper is still a little warm because they just carried out this act. It states: "Provide that the amendment printed in the Rules Committee report accompanying the resolution shall be considered as adopted."

Why come to the floor tomorrow? We cannot offer an amendment.

Mr. RYAN of Ohio. People are going to make career decisions tomorrow.

Mr. MEEK of Florida. Yes, that is the bottom line. Some Member is going to make a career decision tomorrow because somebody told him to vote for something that they did not want to vote for in the first place.

We are going to make the right decisions, decisions on behalf of the American people. May the blocks fall where they may. There is going to be a difference between the Members and the followers in this Chamber. It is important that we let the American people know who is standing for them.

So when Ms. Wasserman Schultz talks about when judgment day comes every 2 years, when Democrats, Republicans and the one Independent we have, when people go to make their decision, I want them to think about the fact that they should vote principle over party. Do not go for, in the last minute what we call in some areas of this country, the okie-doke. Hey, I am strong on terror. I am with the trips. We have Members flying to Iraq. Thank you for fighting for our country; but do not talk to me when you become a veteran. I am just fresh off a vote cutting your future benefits. But, hey, I am with you all of the way. But as long as you stay enlisted, we stay with you.

Mr. Speaker, I want to give the Web site out, but I wanted to make that point so people remember what happened this November. They came to the floor and came willing to vote for a budget that was unjust.

Mr. RYAN of Ohio. Mr. Speaker, the Web site is 30SomethingDems@mail.house.gov. Send an e-mail recommendation to the Members of this body tomorrow. And bring your PJ pants. We may be here into the wee hours of the morning. We want to apologize in advance to the veterans organizations we are supposed to be at Friday morning for speaking engagements because we may be here voting on this budget.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Ms. Kilpatrick of Michigan (at the request of Ms. Pelosi) for today until 2:00 p.m.

Mr. Conaway (at the request of Mr. Blunt) for today on account of attending a funeral.

Mr. Sweeney (at the request of Mr. Blunt) for today and November 10 on account of personal reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Mr. Kind) to revise and extend their remarks and include extraneous material:)

Mr. Emanuel, for 5 minutes, today.

Ms. Woolsey, for 5 minutes, today.

Mr. DeFazio, for 5 minutes, today.

Mr. George Miller of California, for 5 minutes, today.

Mr. Hinchey, for 5 minutes, today.

Mr. Wynn, for 5 minutes, today.

Mr. McDermott, for 5 minutes, today.

Mrs. Christensen, for 5 minutes, today.

Mr. Kind, for 5 minutes, today.

Ms. Corrine Brown of Florida, for 5 minutes, today.

Mr. Davis of Illinois, for 5 minutes, today.

Ms. Waters, for 5 minutes, today.

(The following Members (at the request of Mr. Poe) to revise and extend their remarks and include extraneous material:)

Mr. Kirk, for 5 minutes, today.

Mr. Jones of North Carolina, for 5 minutes, today.

Mr. Burgess, for 5 minutes, today.

Mr. Gingrey, for 5 minutes, today.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 2490. An act to designate the facility of the United States Postal Service located at 442 West Hamilton Street, Allentown, Pennsylvania, as the "Mayor Joseph S. Daddona Memorial Post Office".

H.R. 3339. An act to designate the facility of the United States Postal Service located at 2061 South Park Avenue in Buffalo, New York, as the "James T. Molloy Post Office Building".

BILL PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on November 4, 2005, he presented to the President of the United States, for his approval, the following bills.

H.R. 2744. Making appropriations for Agriculture, Rural Development, Food and Drug Administration, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

H.R. 2967. To designate the Federal Building located at 333 Mt. Elliott Street in Detroit, Michigan, as the "Rosa Parks Federal Building".

ADJOURNMENT

Mr. RYAN of Ohio. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 11 o'clock and 50 minutes p.m.), the House adjourned until tomorrow, Thursday, November 10, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5083. A letter from the Congressional Review Coordinator, APHIS, Department of Agrilculture, transmitting the Department's final rule — Emerald Ash Borer; Quarantined Areas [Docket No. 05-067-1] received November 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5084. A letter from the Assistant Secretary for Reserve Affairs, Department of Defense, transmitting the Department's report on the differing Army and Air Force policies for taking adverse administrative actions against National Guard officers in a State status and a determination as to whether changes are needed in those policies, pursuant to 32 U.S.C. 104 note Public Law 107-314 section 511(b); to the Committee on Armed Services.

5085. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General William Welser III, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

5086. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Philip R. Kensinger, Jr., United States Army, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

5087. A letter from the Secretary, Department of Defense, transmitting a letter on the approved retirement of Lieutenant General Walter E. Buchanan III, United States Air Force, and his advancement to the grade of lieutenant general on the retired list; to the Committee on Armed Services.

5088. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General Michael W. Peterson, United States Air Force, to wear the insignia of the grade of lieutenant general in accordance with title 10 United States Code, section 777; to the Committee on Armed Services.

5089. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Lieutenant General William T. Hobbins, United States Air Force, to wear the insignia of the grade of general in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

5090. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Major General Michael D. Maples, United States Army, to wear the insignia of the grade of lieutenant general in accordance with title 10 United States Code, section 777; to the Committee on Armed Services.

5091. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of Rear Admiral Patrick M. Walsh, United States Navy, to wear the insignia of the grade of vice admiral in accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

5092. A letter from the Under Secretary for Personnel and Readiness, Department of Defense, transmitting authorization of the enclosed list of officers to wear the insignia of the grade of brigadier general accordance with title 10, United States Code, section 777; to the Committee on Armed Services.

5093. A letter from the Comptroller, Department of Defense, transmitting notification of advance billing for the Defense-Wide Working Capital Fund, pursuant to 10 U.S.C. 2208; to the Committee on Armed Services.

5094. A letter from the General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — List of Communities Eligible for the Sale of Flood Insurance [Docket No. FMA-7780] received October 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5095. A letter from the General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7893] received October 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5096. A letter from the General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations [Docket No. FEMA-7577] received October 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5097. A letter from the General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Final Flood Elevation Determinations — received October 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5098. A letter from the General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Suspension of Community Eligibility [Docket No. FEMA-7891] received October 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5099. A letter from the General Counsel, FEMA, Department of Homeland Security, transmitting the Department's final rule — Changes in Flood Elevation Determinations — received October 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5100. A letter from the Principal Deputy Associate Administrator, Environmental Proection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Virginia; Update to Materials Incorporated by Reference [VA200-5100; FRL-7985-6] received November 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5101. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Colorado; PM10 Designation of Areas for Air Quality Planning Purposes, Lamar [CO-001-0076a; FRL-7983-4] received October 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5102. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; State of Utah; State Implementation Plan Corrections [Docket No. R08-OAR-2005-UT-0002; FRL-7987-9] received October 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5103. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; North Carolina: Approval of Revisions to the Control of Visible Emissions Rule [R04-OAR-2005-NC-0001-200503, FRL-7988-2] received October 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5104. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans; Tennessee: Nashville Area Second 10-Year Maintenance Plan for the 1-Hour Ozone National Ambient Air Quality Standard [R04-OAR-2005-TN-0006-200519(a); FRL-7990-3] received October 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5105. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the California State Implementation Plan, Ventura County Air Pollution Control District [R09-OAR-2005-CA-0005; FRL-7986-8] received October 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5106. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Standards and Practices for All Appropriate Inquiries [SFUND-2004-0001; FRL-7989-7] (RIN: 2050-AF04) received October 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5107. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Delaware; Ambient Air Quality Standard for Ozone and Fine Particulate Matter [R03-OAR-2005-DE-0001; FRL-7992-3] received November 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5108. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Maryland: Repeal of NOx Budget Program COMAR 26.11.27 and 26.11.28 [R03-OAR-2005-MD-0005; FRL-7992-5] received November 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5109. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; State of Utah; Provo Attainment Demonstration of the Carbon Monoxide Standard, Redesignation to Attainment, Designation of Areas for Air Quality Planning Purposes, and Approval of Related Revisions [RME Docket Number R08-OAR-2005-UT-0006; FRL-7992-6] received November 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5110. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutants for Primary Aluminum Reduction Plants [OAR-2002-0031; FRL-7992-8] (RIN: 2060-AK50) received November 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5111. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revision to the Guideline on Air Quality Models (appendix W to 40 CFR Part 51): Adoption of a preferred general purpose (flat and complax terrain) dispersion model and other revisions [AH-FRL-7990-9] (RIN: 2060-AK60) received November 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5112. A letter from the Secretary, Federal Trade Commission, transmitting the Commission's annual report for FY 2003 and 2004 on the implementation of the National Do Not Call Registry, pursuant to The Do Not Call Implementation Act; to the Committee on Energy and Commerce.

5113. A communication from the President of the United States, transmitting notification that the national emergency with respect to Iran, as declared by Executive Order 12170 on November 14, 1979, is to continue in effect beyond November 14, 2005, pursuant to 50 U.S.C. 1622(d); (H. Doc. No. 109-68); to the Committee on International Relations and ordered to be printed.

5114. A letter from the Director, Pentagon Renovation Program, Department of Defense, transmitting the Department's certification that the total cost for the planning, design, construction and installation of equipment for the renovation of wedges 2 through 5 of the Pentagon, cumulatively, will not exceed four times the total cost for the planning, design, construction, and installation of equipment for the renovation of wedge 1, pursuant to 10 U.S.C. 2674; to the Committee on Armed Services.

5115. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5116. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5117. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5118. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5119. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5120. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5121. A letter from the Assistant Director, Executive & Political Personnel, Department of Defense, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5122. A letter from the Secretary, Department of Transportation, transmitting the Department's annual report for FY 2004 prepared in accordance with Section 203 of the Notification and Federal Employee Antidiscrimination and Retaliation Act of 2002 (No FEAR Act), Public Law 107-174; to the Committee on Government Reform.

5123. A letter from the Administrator, Environmental Protection Agency, transmitting the Agency's report entitled "Annual Report to Congress on Implementation of Public Law 106-107"; to the Committee on Government Reform.

5124. A letter from the Chairman, Occupational Safety and Health Review Commission, transmitting the Commission's strategic plan for fiscal years 2006 through 2011, in accordance with Pub. L. 103-62; to the Committee on Government Reform.

5125. A letter from the Director, Office of Management and Budget, transmitting a report entitled "Statistical Programs of the United States Government: Fiscal Year 2006"; to the Committee on Government Reform.

5126. A letter from the Executive Secretary/Chief of Staff, U.S. Agency for International Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5127. A letter from the Executive Secretary/Chief of Staff, U.S. Agency for International Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5128. A letter from the Deputy Assistant Administrator for Regulatory Programs, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Magnuson-Stevens Fishery Conservation and Management Act Provisions; Fisheries of the Northeastern United States; Emergency Fishery Closure Due to the Presence of the Toxin That Causes Paralytic Shellfish Poisoning [Docket No. 050613158-5262-03; I.D. 090105A] (RIN: 0648-AT48) received October 31, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5129. A letter from the Federal Liaison Officer, Patent and Trademark Office, Department of Commerce, transmitting the Department's final rule — Provisions for Claiming the Benefit of a Provisional Application with a Non-English Specification and Other Miscellaneous Matters [Docket No.: 2005-P-053] (RIN: 0651-AB65) received October 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5130. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulations; Atlantic Intracoastal Waterway, Onslow Beach, North Carolina [CGD05-05-048] (RIN: 1625-AA09) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5131. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Drawbridge Operation Regulation: CSX Railroad, Hillsborough River, mile 0.7 Tampa, FL [CGD07-04-148] (RIN: 1625-AA09) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5132. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule — Security Zone; High Capacity Passenger Vessels in the Seventeenth Coast Guard District [CGD17-05-003] (RIN: 1625-AA87) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. PUTNAM: Committee on Rules. House Resolution 542. Resolution providing for consideration of the bill (H.R. 4241) to provide for reconciliation pursuant to section 201(a) of the concurrent resolution on the budget for fiscal year 2006 (Rept. 109-281). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. BISHOP of Georgia:

H.R. 4261. A bill to provide eligibility for veterans benefits for individuals who served in the United States merchant marine in the Southeast Asia theater of operations during the Vietnam Era; to the Committee on Veterans' Affairs.

By Mr. ENGLISH of Pennsylvania:

H.R. 4262. A bill to provide a standard deduction for business use of a home; to the Committee on Ways and Means.

By Mr. MARKEY (for himself, Mr. EMANUEL, Mr. SANDERS, Mr. NADLER, and Mr. HINCHEY):

H.R. 4263. A bill to amend the Internal Revenue Code of 1986 to impose a temporary windfall profit tax on crude oil, to establish the Consumer Energy Assistance Trust Fund, and to provide for a rebate to energy consumers; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. McINTYRE:

H.R. 4264. A bill to amend title 38, United States Code, to improve the outreach activities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Ms. HART:

H.R. 4265. A bill to establish a pilot program to provide grants to encourage eligible institutions of higher education to establish and operate pregnant and parenting student services offices for pregnant students, parenting students, prospective parenting students who are anticipating a birth or adoption, and students who are placing or have placed a child for adoption; to the Committee on Education and the Workforce.

By Mr. PICKERING (for himself, Mr. TAYLOR of Mississippi, Mr. WICKER, Mr. JINDAL, Mr. ALEXANDER, Mr. BONNER, Mr. BOUSTANY, and Mr. McCRERY):

H.R. 4266. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to provide temporary emergency assistance for primary residences damaged or destroyed by Hurricanes Katrina and Rita; to the Committee on Transportation and Infrastructure.

By Mr. BEAUPREZ (for himself and Mrs. MUSGRAVE):

H.R. 4267. A bill to provide for the coordination and use of the National Domestic Preparedness Consortium by the Department of Homeland Security, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. DEAL of Georgia (for himself, Mrs. MYRICK, and Mr. PRICE of Georgia):

H.R. 4268. A bill to improve proficiency testing of clinical laboratories; to the Committee on Energy and Commerce.

By Mr. GORDON:

H.R. 4269. A bill to amend title XVIII of the Social Security Act to provide for cost-based reimbursement for ambulance services furnished directly by, or under arrangements with, a critical access hospital; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. GRIJALVA:

H.R. 4270. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in the Avra/Black Wash Reclamation and Riparian Restoration Project; to the Committee on Resources.

By Mr. GRIJALVA:

H.R. 4271. A bill to amend the Reclamation Wastewater and Groundwater Study and Facilities Act to authorize the Secretary of the Interior to participate in modifications to the Pima County Wastewater Management Regional Treatment System for Improved Reclaimed Water Production; to the Committee on Resources.

By Mr. FARR (for himself, Mr. Rohrabacher, Ms. Woolsey, Mr. Frank of Massachusetts, Mr. Conyers, Mr. Hinchey, Ms. Baldwin, Mr. McDermott, Mr. Case, and Mr. Kucinich):

H.R. 4272. A bill to amend the Controlled Substances Act to provide an affirmative defense for the medical use of marijuana in accordance with the laws of the various States, and for other purposes; to the Committee on the Judiciary, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. HARRIS:

H.R. 4273. A bill to make single family housing owned by the Department of Housing and Urban Development available for purchase by teachers and public safety officers at a discount; to the Committee on Financial Services.

By Mrs. JONES of Ohio:

H.R. 4274. A bill to amend the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974 to provide for protections with respect to the accrued benefits of participants during conversions of pension plans to cash balance plans; to the Committee on Education and the Workforce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mrs. KELLY:

H.R. 4275. A bill to amend Public Law 106-348 to extend the authorization for establishing a memorial in the District of Columbia or its environs to honor veterans who became disabled while serving in the Armed Forces of the United States; to the Committee on Resources.

By Mr. LARSON of Connecticut (for himself and Ms. DeLauro):

H.R. 4276. A bill to amend the Internal Revenue Code of 1986 to impose a windfall profit tax on oil and natural gas (and products thereof) and to use the proceeds of the windfall profit tax collected to carry out the Low-Income Home Energy Assistance Act and for medical services provided by the Department of Veterans Affairs; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, Education and the Workforce, and Veterans' Affairs, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LATHAM (for himself, Mr. Peterson of Minnesota, Mr. McCaul of Texas, Mr. Goode, and Mr. Fortuño):

H.R. 4277. A bill to amend title 38, United States Code, to provide veterans enrolled in the health system of the Department of Veterans Affairs the option of receiving covered health services through facilities other than those of the Department; to the Committee on Veterans' Affairs.

By Ms. LEE (for herself, Mrs. Christensen, Mr. Owens, Ms. McKinney, Mr. Grijalva, Ms. Carson, Mr. Kucinich, and Mr. Clay):

H.R. 4278. A bill to assist teachers and public safety officers in obtaining affordable housing; to the Committee on Financial Services.

By Ms. McKINNEY:

H.R. 4279. A bill to redesignate the Federal building located at 935 Pennsylvania Avenue Northwest in the District of Columbia as the "Frank F. Church Federal Building"; to the Committee on Transportation and Infrastructure.

By Mrs. MYRICK (for herself, Ms. Foxx, Mr. Jones of North Carolina, Mr. McHenry, and Mr. Taylor of North Carolina):

H.R. 4280. A bill to ensure that States do not accept an individual taxpayer identification number as proof of identification or legal residence; to the Committee on Transportation and Infrastructure.

By Mr. NUNES:

H.R. 4281. A bill to amend the Tariff Act of 1930 and the Internal Revenue Code of 1986 relating to importation of tobacco products; to the Committee on Ways and Means.

By Mr. PAUL (for himself, Mr. Jones of North Carolina, Mr. Duncan, Mr. DeFazio, Mr. Bartlett of Maryland, Mr. Burton of Indiana, Mr. Miller of Florida, and Mr. Bishop of Utah):

H.R. 4282. A bill to amend the Federal Food, Drug, and Cosmetic Act concerning foods and dietary supplements, to amend the Federal Trade Commission Act concerning the burden of proof in false advertising cases, and for other purposes; to the Committee on Energy and Commerce.

By Mr. ROGERS of Alabama (for himself, Mr. Meek of Florida, and Mr. McCaul of Texas):

H.R. 4283. A bill to require the Comptroller General to conduct a review of the basic training provided by United States Customs and Border Protection to Border Patrol agents to ensure that this training is being conducted as efficiently and cost-effectively as possible; to the Committee on Homeland Security.

By Mr. ROGERS of Alabama (for himself, Mr. King of New York, Mr. Thompson of Mississippi, Mr. McCaul of Texas, Mr. Pearce, Mr. Simmons, and Mr. Shays):

H.R. 4284. A bill to direct the Inspector General of the Department of Homeland Security to conduct reviews of certain contract actions by the Department of Homeland Security for the new Secure Border Initiative; to the Committee on Homeland Security.

By Mr. ROGERS of Alabama (for himself, Mr. McCaul of Texas, and Mr. Pearce):

H.R. 4285. A bill to increase the number of trained detection canines of the Department of Homeland Security, and for other purposes; to the Committee on Homeland Security, and in addition to the Committees on the Judiciary, and Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAW:

H.R. 4286. A bill to amend the Internal Revenue Code of 1986 to allow electric utility companies to expense the cost of replacing above-ground electric transmission lines with underground electric transmission lines; to the Committee on Ways and Means.

By Mr. SHERMAN (for himself, Mr. Berman, and Mr. Marshall):

H.R. 4287. A bill to amend the Internal Revenue Code of 1986 to allow a deduction for portion of charitable contributions related to Hurricane Katrina or Hurricane Rita in computing adjusted gross income; to the Committee on Ways and Means.

By Mr. STUPAK:

H.R. 4288. A bill to amend title 38, United States Code, to provide a presumption of service connection for injuries classified as cold weather injuries which occur in veterans who while engaged in military operations had sustained exposure to cold weather; to the Committee on Veterans' Affairs.

By Mr. UDALL of Colorado:

H.R. 4289. A bill to promote health care coverage parity for individuals participating in legal recreational activities or legal transportation activities; to the Committee on Energy and Commerce, and in addition to the Committees on Ways and Means, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WOLF (for himself, Mr. Lantos, Mr. Souder, Mr. Rohrabacher, Ms. Pelosi, Mr. Smith of New Jersey, Mr. Inglis of South Carolina, Mr. Burton of Indiana, and Mr. Stark):

H. Con. Res. 294. Concurrent resolution calling on the international community to condemn the Laogai, the system of forced labor prison camps in the People's Republic of China, as a tool for suppression maintained by the Chinese Government; to the Committee on International Relations.

By Mr. ABERCROMBIE:

H. Res. 543. A resolution providing for consideration of the joint resolution (H.J. Res. 55) requiring the President to develop and implement a plan for the withdrawal of United States Armed Forces from Iraq; to the Committee on Rules.

By Mr. CAMP (for himself, Mr. Oberstar, and Mr. Rogers of Michigan):

H. Res. 544. A resolution recognizing and supporting the goals and ideals of National Adoption Month; to the Committee on Government Reform.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. VAN HOLLEN introduced a bill (H.R. 4290) for the relief of Judith Atuh Tanjoh, Serge Mbah Tikum, Marie Noel Tikum, Emmanuel Ngwa Tikum, and Roger Fon Tikum; which was referred to the Committee on the Judiciary.

ADDITIONAL SPONSORS

Under clause 7 of rule XII. sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. CRAMER.

H.R. 147: Mr. RANGEL and Mr. CLYBURN.

H.R. 354: Mr. ROTHMAN.

H.R. 503: Ms. EDDIE BERNICE JOHNSON of Texas, Mr. MEEHAN, and Mr. FITZPATRICK of Pennsylvania.

H.R. 551: Mr. ANDREWS and Mrs. NAPOLITANO.

H.R. 552: Mr. MARCHANT.

H.R. 602: Mr. CARNAHAN.

H.R. 615: Mrs. WILSON of New Mexico.

H.R. 688: Mr. GINGREY.

H.R. 698: Mr. FOLEY, Mr. LINDER, Ms. FOXX, Mr. CARTER, Mr. SAM JOHNSON of Texas, and Mr. MILLER of Florida.

H.R. 772: Ms. DEGETTE and Mr. WYNN.

H.R. 896: Mr. STUPAK.

H.R. 939: Mr. INSLEE.

H.R. 1067: Ms. DELAURO.

H.R. 1131: Ms. HART and Mr. HERGER.

H.R. 1188: Mr. SIMMONS.

H.R. 1264: Mr. SOUDER and Mr. LATHAM.

H.R. 1414: Mr. HIGGINS.

H.R. 1578: Mr. GERLACH, Mr. THOMPSON of California, and Mr. HOLT.

H.R. 1588: Ms. LEE.

H.R. 1663: Mr. TURNER.

H.R. 1668: Mr. GUTIERREZ and Mr. RYAN of Ohio.

H.R. 1940: Mr. MENENDEZ and Ms. SOLIS.

H.R. 1951: Mr. BARROW and Mr. SERRANO.

H.R. 2092: Ms. NORTON, Ms. DEGETTE, and Mr. WATT.

H.R. 2134: Ms. WOOLSEY.

H.R. 2206: Mr. BARROW.

H.R. 2231: Mr. WILSON of South Carolina, Mr. FATTAH, Mr. CARNAHAN, Ms. WATSON, Mr. SHAYS, Ms. CARSON, Mr. JEFFERSON, Mr. BECERRA, Mr. BRADY of Pennsylvania, Mr. REYES, Mr. BISHOP of Georgia, Mr. SANDERS, Mr. FILNER, Mr. MORAN of Virginia, and Mr. DEFAZIO.

H.R. 2234: Mr. TIERNEY and Mr. CASTLE.

H.R. 2683: Mr. SERRANO.

H.R. 2716: Mr. BARROW.

H.R. 2747: Mr. BISHOP of Georgia.

H.R. 2808: Ms. LEE and Mr. SALAZAR.

H.R. 2926: Mr. WAXMAN.

H.R. 2961: Mr. SHUSTER, Mr. MCHUGH, and Mr. SALAZAR.

H.R. 3044: Mr. BRADY of Pennsylvania.

H.R. 3049: Mr. KLINE.

H.R. 3128: Mr. FATTAH.

H.R. 3183: Mr. BLUMENAUER.

H.R. 3195: Mr. SERRANO, Ms. LEE, Mr. BISHOP of Georgia, Ms. CORRINE BROWN of Florida, Mr. BROWN of Ohio, Mr. BRADY of Pennsylvania, Mr. DAVIS of Illinois, Mr. WYNN, and Mr. HINCHEY.

H.R. 3334: Mr. PASTOR, Ms. DEGETTE, Mr. DOOLITTLE, Ms. DELAURO, Mr. THOMPSON of Mississippi, Mr. WEXLER, and Mr. MEEKS of New York.

H.R. 3369: Mr. DEFAZIO.

H.R. 3547: Mr. PAUL and Mr. KUHL of New York.

H.R. 3569: Mr. CARNAHAN.

H.R. 3607: Mr. FATTAH.

H.R. 3614: Mr. GINGREY.

H.R. 3630: Mr. PICKERING and Mr. JINDAL.

H.R. 3640: Mr. BOUCHER, Mr. STARK, Mr. OWENS, Ms. CORRINE BROWN of Florida, Ms. JACKSON-LEE of Texas, Mr. PAYNE, Mr. MCNULTY, Mr. GRIJALVA, Mr. LEWIS of Georgia, Mr. RUSH, Mr. MCDERMOTT, Ms. WOOLSEY, and Ms. BORDALLO.

H.R. 3642: Mr. WAXMAN, Ms. SCHAKOWSKY, Ms. CORRINE BROWN of Florida, Mr. GRIJALVA, Mr. MCNULTY, Mr. OWENS, Mr. LYNCH, Mrs. CHRISTENSEN, Mr. REYES, Ms. JACKSON-LEE of Texas, Mr. GENE GREEN of Texas, Ms. LINDA T. SÁNCHEZ of California, and Mr. MEEKS of New York.

H.R. 3657: Ms. ZOE LOFGREN of California, Mr. SMITH of Washington, and Mr. FILNER.

H.R. 3748: Mr. LEWIS of Georgia, Mr. VAN HOLLEN, Ms. CORRINE BROWN of Florida, Mr. BUTTERFIELD, Mr. FATTAH, Mr. HOLT, Ms. KAPTUR, Mr. THOMPSON of Mississippi, Mrs. CAPPS, Mr. OBERSTAR, Mrs. JONES of Ohio, Mr. CARDIN, Mr. EMANUEL, and Mr. DAVIS of Florida.

H.R. 3753: Mr. GALLEGLY.

H.R. 3875: Mr. MCNULTY, Mr. JEFFERSON, Mr. COSTA, Mr. WEXLER, and Ms. MCKINNEY.

H.R. 3889: Mr. BISHOP of Georgia.

H.R. 3908: Mr. CALVERT.

H.R. 3917: Mr. GRIJALVA.

H.R. 3922: Mr. NADLER, Mr. CROWLEY, Ms. CARSON, Mrs. CAPPS, Mr. HONDA, Ms. SCHAKOWSKY, Mr. BONNER, Mrs. CHRISTENSEN, Mr. STUPAK, Ms. BERKLEY, Mr. WU, Mr. LEWIS of Georgia, Mr. GENE GREEN of Texas, Mr. UDALL of New Mexico, Ms. MCKINNEY, Ms. PELOSI, Mrs. MALONEY, Ms. MCCOLLUM of Minnesota, Mrs. TAUSCHER, Mr. UDALL of Colorado, Mr. ENGEL, and Mr. VAN HOLLEN.

H.R. 3923: Mr. PAUL and Mr. TERRY.

H.R. 3924: Mr. PAUL.

H.R. 3969: Mr. BOOZMAN.

H.R. 4006: Mr. RAMSTAD.

H.R. 4049: Mrs. TAUSCHER, Mr. DANIEL E. LUNGREN of California, Ms. MATSUI, AND Ms. ESHOO.

H.R. 4062: Mr. GONZALEZ, Ms. SOLIS, and Mr. BROWN of Ohio.

H.R. 4063: Mr. GIBBONS, Mr. PAYNE, Mr. SHAYS, Mr. WAXMAN, Mr. CUMMINGS, Mr. MCDERMOTT, Mr. HOLT, Mr. LATHAM, Mr. WOLF, Mr. ALLEN, Mr. FOLEY, Mr. HOYER, and Ms. LEE.

H.R. 4086: Ms. JACKSON-LEE of Texas, Mr. PAUL, and Mr. MILLER of Florida.

H.R. 4098: Mr. LINCOLN DIAZ-BALART of Florida, Mr. SHAYS, Mr. PETERSON of Minnesota, and Mr. KILDEE.

H.R. 4099: Mrs. MYRICK, Mr. NEUGEBAUER, Mr. ROHRABACHER, Mr. BARTLETT of Maryland, Mr. WELDON of Florida, Mr. WILSON of South Carolina, and Mr. WESTMORELAND.

H.R. 4110: Mr. BRADY of Pennsylvania.

H.R. 4145: Mr. NEY, Mr. RUPPERSBERGER, Mr. JONES of North Carolina, Mr. PETERSON of Minnesota, Mr. HINCHEY, and Mr. DOGGETT.

H.R. 4194: Mr. BASS, Mr. LANTOS, and Mr. MORAN of Virginia.

H.R. 4196: Mr. GONZALEZ.

H.R. 4200: Mr. STUPAK, Mrs. MILLER of Michigan, Mrs. MYRICK, Mr. POE, Mr. FOLEY, Mrs. BONO, Mr. BURTON of Indiana, and Mr. SHUSTER.

H.R. 4223: Mr. CUMMINGS, Mr. HASTINGS of Florida, Mr. JEFFERSON, Mr. WYNN, Mrs. MCCARTHY, Mr. MCNULTY, Mr. FATTAH, Mr. HINOJOSA, Mr. HOLDEN, Mr. GRIJALVA, and Mr. WEXLER.

H.R. 4238: Mr. MARCHANT, Ms. GINNY BROWN-WAITE of Florida, Mr. FEENEY, Mr. PITTS, Mrs. MYRICK, Mr. GINGREY, Mr. CHABOT, Mr. GOODE, Mr. GUTKNECHT, Mr. KING of Iowa, Mr. GARRETT of New Jersey, Mr. KUHL of New York, Mr. MCHENRY, Mr. PRICE of Georgia, Mr. JINDAL, Mr. ISSA, Mr. DOOLITTLE, Mr. BARRETT of South Carolina, Mr. GOHMERT, Mr. WILSON of South Carolina, Mr. KLINE, Mr. WESTMORELAND, Mr. WELDON of Florida, and Mr. COLE of Oklahoma.

H.R. 4239: Mr. KLINE and Mr. PEARCE.

H.R. 4243: Mr. RUPPERSBERGER.

H.R. 4259: Mr. WEXLER.

H. Con. Res. 42: Mr. UPTON.

H. Con. Res. 222: Mr. TERRY.

H. Con. Res. 230: Mr. SMITH of Texas, Ms. BEAN, Mrs. MCCARTHY, and Mr. DOOLITTLE.

H. Con. Res. 231: Mr. ALLEN.

H. Con. Res. 234: Mr. PASTOR and Ms. KAPTUR.

H. Con. Res. 235: Mr. MICHAUD.

H. Con. Res. 272: Ms. BEAN, Mr. HINOJOSA, and Mrs. KELLY.

H. Con. Res. 273: Ms. MCKINNEY.

H. Con. Res. 285: Mr. ROGERS of Alabama.

H. Con. Res. 287: Mr. AL GREEN of Texas, Mr. LIPINSKI, Mr. WAXMAN, Ms. BORDALLO, Mr. LEWIS of Georgia, and Ms. SOLIS.

H. Con. Res. 288: Mr. FARR.

H. Con. Res. 289: Mr. CARNAHAN.

H. Con. Res. 293: Ms. SOLIS.

H. Res. 196: Mr. BROWN of Ohio, Mr. CLEAVER, Mr. DOGGETT, Mr. SMITH of Washington, Mr. GONZALEZ, Mr. RUPPERSBERGER, and Mr. STRICKLAND.

H. Res. 223: Mr. STARK, Ms. ZOE LOFGREN of California, and Mr. GRIJALVA.

H. Res. 230: Mr. SPRATT, Mr. ANDREWS, and Mr. OLVER.

H. Res. 409: Mr. STUPAK.

H. Res. 410: Mr. DOYLE.

H. Res. 456: Mr. LANTOS, Mr. FALEOMAVAEGA, and Mrs. MALONEY.

H. Res. 458: Mr. PRICE of North Carolina.

H. Res. 479: Mr. GONZALEZ.

H. Res. 499: Mr. GERLACH, Mr. FITZPATRICK of Pennsylvania, Mr. PITTS, and Mr. SHIMKUS.

H. Res. 504: Mr. CARTER.

H. Res. 505: Mr. LANGEVIN, Mrs. DAVIS of California, Mr. THOMPSON of Mississippi, Mr. SCHIFF, Mr. LARSEN of Washington, and Mr. GONZALEZ.

H. Res. 517: Mr. ACKERMAN, Mr. KUHL of New York, and Mr. HOLT.

H. Res. 524: Mr. DAVIS of Tennessee and Mr. GEORGE MILLER of California.

H. Res. 526: Mr. SIMMONS.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 4200: Mr. LEWIS of California.

EXTENSIONS OF REMARKS

A TRIBUTE TO THE REVEREND CANON H. GREGORY SMITH

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise today to honor Reverend Canon H. Gregory Smith as he commemorates the 25th anniversary of his ordination. Reverend Smith is highly respected and beloved by the worshipping community of St. Luke's Episcopal Church in Germantown, Pennsylvania, and has earned this respect in the many roles he has taken on throughout his life.

A graduate of Bradley University, Reverend Smith majored in Education and Music, and also trained professionally as a tenor. After graduation, he went on to work for the Red Cross, but he never forgot his childhood dream of working in the White House. His father had told him that the only black people in the White House were servants, but the young Reverend Smith vowed that he would someday work at the White House, and not as a servant. True to his word, Reverend Smith soon moved on from his position at the Red Cross to become a writer at the White House for First Lady Betty Ford.

After three years at the White House, Reverend Smith left to follow a call to attend seminary at Nashota House, and was ordained in June of 1980. Since then, he has served as Pastor in Chicago, Atlanta, and Denver. Today, Mr. Speaker, I wish to express my deep gratitude for Reverend Smith's years of service to the community, and I extend my warmest congratulations to him on this 25th anniversary of his ordination. I ask that you and my other distinguished colleagues rise to congratulate him on all of his accomplishments.

HONORING AL LOPEZ

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of Al Lopez, Tampa's beloved son and one of America's greatest baseball players and managers.

Born in Ybor City as the son of a cigar factory worker, Al Lopez never forgot his roots. His devotion to his hometown as he rose through the ranks of baseball stardom was one of many reasons that "Senor," as he was affectionately nicknamed, was so cherished in the Tampa community.

Al was the first Tampa native to play in the major leagues. He launched his major league career in 1928 as a catcher for the Brooklyn Robins, soon to become the Dodgers. Al went on to catch for the Boston Braves, the Pittsburgh Pirates and the Cleveland Indians. Al retired after 19 years in the majors, during which he was a two time All-Star and earned the record for the most games caught—1,918—a record he held until 1987.

But Al's career was far from over. He went on to manage for 14 years, earning a .581 winning percentage and a spot in Baseball's Hall of Fame in 1977. Al brought both the Cleveland Indians and the Chicago White Sox to the World Series and managed several All-Star teams. However, he may be best known for managing teams that finished ahead of the New York Yankees between 1949 and 1964.

Al Lopez's success inspired countless Tampa youngsters to pursue their baseball dreams. In his honor, Tampa dedicated Al Lopez Field in 1954 and Al Lopez Park in 1992. Those who had the pleasure of getting to know Al remember him as being the consummate gentleman. In spite of his fame, Al was always kind and eager to hear what others had to say.

Al's remarkable skill and performance as a player on the field and a manager on the sidelines was only exceeded by his exemplary character and the commitment to others he exhibited throughout his life. His very powerful example will undoubtedly inspire generations to come. On behalf of the entire Tampa Bay community, I extend my deepest sympathies to Al's family. Al gave so much to his hometown. In turn, Tampa will forever remember and honor Al Lopez.

HONORING JUDGE SONDRA MILLER

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mrs. LOWEY. Mr. Speaker, I rise today to honor Judge Sondra Miller on her retirement from the Appellate Division of the Supreme Court of the State of New York.

A graduate of Wellesley College and Harvard Law School, Sondra Miller has had a distinguished career as an Associate Justice since her appointment to the court by Governor Cuomo in 1990. She also made notable contributions in her service as a Family Court Judge in Westchester County.

Judge Miller is an active member of the legal community. She currently serves as Commissioner of the Governor's Permanent Judicial Commission on Justice for Children, a member of the New York State Bar Association Special Committee on Justice and the Community, a founding member of Judges and Lawyers Breast Cancer Alert (JALBCA), and a Member of the Board of Visitors at Pace University School of Law.

Over the course of her legal career, Judge Miller has been respected as a scholarly and incisive jurist, receiving numerous awards for her work. Among the honors she has received are the Westchester Women of the Year Award, the New York State Bar Association's Ruth H. Schapiro Award, the Women's Bar Association of the State of New York's Founders Award, and the Pace School of Law Leadership Award. In 2005 the Westchester Women's Bar Association Foundation established the "Justice Sondra M. Miller Scholarship," which will be awarded annually.

Sondra's work in our community is far-reaching. She is a respected and valued member of the League of Women Voters, Planned Parenthood, Hadassah, the Harvard Club, and the Westchester Jewish Center.

Sondra and her husband Stanley Gelfman live in Westchester County. She is a devoted mother to Sabrina and David Miller, Miriam and Gary Reback, Seth and Amanda Miller, Wendy and Andrew Tatarsky, Sarri and Rick Harner, and a loving grandmother to her 13 grandchildren.

Mr. Speaker, I ask my colleagues to join me in honoring Judge Sondra Miller and in thanking her for a career of dedicated service to the citizens of New York.

A TRIBUTE TO THE CORPORATE HEROES OF HURRICANE KATRINA

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. BONNER. Mr. Speaker, today I rise to highlight some of the exceptional actions taken by our corporate citizens in the wake of Hurricane Katrina.

It is common to hear criticism from this floor of our Nation's largest companies, and I think it is only fair to recognize the good these companies do in times of national emergency.

The cover of a September Fortune magazine reads: "Government Broke Down. Business Stepped Up. How Wal-Mart, FedEx, and Home Depot got the job done after Katrina."

We have a select committee working hard to address the first part of this headline. We should also recognize and learn lessons from the second part of the headline, how business stepped up.

The Wall Street Journal on September 12, 2005, said, "The Federal Emergency Management Agency could learn some things from Wal-Mart Stores, Inc." Indeed, FEMA could.

I recall talking to a mayor in my district in September of last year when Hurricane Ivan had just devastated his city and much of the Alabama Gulf Coast. He said the community's demands on the government for basic services such as water, food, and ice were relentless and almost overwhelming. Then the city's

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

Wal-Mart SuperCenter reopened; the cavalry had arrived. The mayor said it was as if a huge weight had been lifted.

Mr. Speaker, this Wal-Mart store did not reopen without careful planning, without superb execution, and without the extraordinary effort of Wal-Mart employees in Alabama and throughout the Wal-Mart distribution system.

The efforts of Wal-Mart and other corporate citizens have been extraordinary in response to Hurricane Katrina. Wal-Mart Stores, Inc. has contributed $17 million to relief efforts and donated 19 vacant facilities for use by relief agencies.

After the storm made landfall, the company immediately dispatched pre-positioned trucks to the devastated region bearing $3 million worth of emergency supplies. In addition, Wal-Mart employees personally donated over $9 million.

To quote Fortune magazine, "The world's biggest company flexed its massive distribution muscle to deliver vital supplies to victims of Hurricane Katrina."

It was this distribution muscle that provided relief to the hardest hit areas. Wal-Mart Stores, Inc. and its employees have earned our respect and our heartfelt thanks.

Mr. Speaker, there are other companies, perhaps not as large, that contributed in quiet, unheralded ways to Hurricane Katrina relief.

One additional company I would like to highlight is EADS, a European aerospace and defense firm that has recently chosen to open a facility in Mobile, Alabama, my home town.

In the chaotic days immediately following landfall of Hurricane Katrina, two EADS helicopters flew dangerous missions to rescue stranded victims, transport medical personnel, and deliver critical supplies to the Gulf Coast, stopping only to load, unload, and refuel.

EADS also coordinated with Airbus to deliver 23 tons of blankets, cots, tents and other items donated by the United Kingdom and France. The aid was flown onboard the Airbus A300–600ST cargo jetliner, also known as the Beluga, from Europe to Brookley Field in Mobile, Alabama.

In addition to the rescue and aid missions, EADS built a mobile medical rescue station in Long Beach, Mississippi. EADS, the German government, and Airbus coordinated to move the 12-ton medical rescue station from Frankfurt to Atlanta. Once in Atlanta, the Airbus Beluga moved it to Mississippi. The rescue station is staffed by 38 doctors and treats approximately 150 patients a day, handling everything from routine immunizations to surgical procedures.

In this time of such extreme adversity for the people of the Gulf Coast, the people of EADS truly came to our aid. I am humbled by their dedication and commitment to help in the recovery from Hurricane Katrina.

Mr. Speaker, I am truly grateful to the national and international corporations that made generous contributions in the wake of Hurricane Katrina. I have singled out two for our well-deserved thanks, and I am glad to call them neighbors.

TRIBUTE TO ALL MEN AND WOMEN WHO HAVE SERVED

HON. DANIEL LIPINSKI

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. LIPINSKI. Mr. Speaker, I rise today to pay tribute to all the dedicated men and women who have served, and those who continue to serve and protect this great Nation.

Veterans Day is a day of remembrance and rededication. We pause to remember the noble service and great sacrifices of those who have worn our Nation's uniform. And we rededicate ourselves, in the words of President Lincoln, "to care for him who shall have borne the battle."

As our Nation is at war, we look to the brave mothers, fathers, sons and daughters that have answered the call to defend us. With courage and character, American soldiers continue to put themselves on the line to defend our freedom, and so many have paid the ultimate sacrifice.

On this Veterans Day, let us remember the service of our veterans, and let us renew our national promise to fulfill our sacred obligations to our veterans and their families who have sacrificed so much so that we can live free.

On the battlefield, the military pledges to leave no soldier behind. As a nation, let it be our pledge that when they return home, we leave no veteran behind. As more veterans return home from the battlefield, let us honor the service of all veterans, young and old, that have stood guard and fought so bravely to ensure our freedom. Our Nation must provide sufficient access to healthcare, adequate benefits, and the supplemental resources our veterans were promised and so dearly need. We owe our heroes no less.

Today and every day, the prayers of the American people are with those who wear our country's uniform. They serve a great cause and they follow a great tradition, handed down to them by America's greatest heroes, our veterans. Veterans from every era are the finest of citizens. We owe them the life we know today. They command the respect of the American people, and they have our everlasting gratitude.

May God bless our troops. May God bless our veterans and their families. And may God bless the United States of America.

A TRIBUTE TO RON DOWNS

HON. JIM COSTA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. COSTA. Mr. Speaker, I rise today in honor of Lieutenant Ron Downs of Fresno, California. Mr. Downs was a respected member of the Fresno police department. He passed away Monday, October 31st, 2005 of a heart attack; he was three weeks away from retirement.

Mr. Downs was sworn as a police officer in July 1, 1967, at the young age of 22. He worked as a lieutenant and commander of the special investigations bureau, for the department's narcotics unit. He previously was commander of the internal affairs bureau. At the time of Mr. Downs' death, he was one of the longest-serving active officers in the department.

Mr. Downs worked tirelessly on behalf of our community for 38 years as a member of the police force. On any given day, he was willing to sacrifice his own safety to protect others. Mr. Downs was an exemplary citizen; his contributions to our community will be long lived.

Mr. Downs is survived by his wife, Carolyn. He is also survived by his son, Kenneth Downs; his daughter, Kris Loughney; his wife's son, Michael Dick; three brothers; and five grandchildren. The community of Fresno is saddened by his passing and I would like to extend my condolences to his family.

HONORING THE ACCOMPLISHMENTS OF ANITA BOERI 93 YEAR OLD WORLD WAR II MARINE VETERAN

HON. STEVE ISRAEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. ISRAEL. Mr. Speaker, I rise today to acknowledge the many accomplishments of Anita Boeri, whose lifetime of service to her family and country is cause for celebration and honor this Veterans' Day.

Anita Boeri was born on July 6, 1912 to Louise and Rinaldo Boeri in the Italian enclave of East Harlem, NYC. After graduating from Erasmus Hall High School, Ms. Boeri attended Pratt Institute—the School of Home Economics in Brooklyn, NY—obtaining a degree as a dietician. She also completed courses at the School of Business in Brooklyn.

After the outbreak of World War II, when the U.S. Marine Corps called for female volunteers, Anita Boeri applied and was accepted to the "Free a Marine to Fight" program as enlisted personnel on September 22, 1943. Her active duty began on November 30, 1943 with a trip to Camp LeJeune, New River, NC for basic training boot camp. In January of 1944, Ms. Boeri was a member of the first contingent of the Women's Reserve Battalion to arrive on Parris Island, South Carolina. After a week of orientation, she was assigned clerical duties in the office of the Commanding General.

Anita Boeri was promoted to the rank of Sergeant and through her hard work and dedication, became a confidential clerk to Major General Clayton B. Vogel, Commanding General, Parris Island. Ms. Boeri was honorably discharged from the Marine Corps Women's Reserve on November 26, 1945.

Following her career of service to her country, Anita Boeri spent the next 35 years of her life caring for her family. She cared for her ailing father and mother as well as her uncle who lived in the apartment above her.

In 1998, Anita Boeri moved to Atria Senior Living in Huntington Station, NY. There she joined the community with enthusiasm, volunteering for various duties in the gift shop and keeping in touch with Atria residents who were hospitalized.

Mr. Speaker, this weekend it will be my great honor to present Ms. Boeri with two medals to recognize her achievements—the World War II Victory Medal and the American Campaign Medal. As Veterans' Day approaches, all Americans can look to the achievements of Anita Boeri as a model of commitment and service.

HONORING MR. JAMES BERTRAL GALLOWAY

HON. ROBERT B. ADERHOLT

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. ADERHOLT. Mr. Speaker, today I would like to honor Mr. James Bertral Galloway, who was born on November 3, 1924, in the Hopewell Community near Geraldine, Alabama. Mr. Galloway was a Navy veteran who served stateside in Chincoteague, Virginia as an air mechanic, near the end of World War II. He later married the former Miss Pauline Mayes on October 17, 1970. Until retirement, the two of them taught school at Geraldine High School. Mrs. Galloway taught remediation for 30 years, and Mr. Galloway taught history and also coached basketball.

As a devoted teacher, Mr. Galloway also had a passion for the contributions of veterans to our society, and a desire to honor those contributions. Mr. Galloway started the Geraldine Veterans Day Program. Spanning three decades, 2005 marks its 31st year. This program has become a Geraldine staple, and its special nature is attested to by the fact that it prompts surrounding communities to make plans to attend each year.

In recent years, the Geraldine School administration, in conjunction with the Student Government Association, has sponsored the Veterans Day Program and has taken it to new heights. The well-organized program, with the participation of the SGA, sponsors, faculty, and of course the veterans themselves includes being escorted to special seating, commemorative speeches, drama productions, and martial music in front of the student body, which numbers over 1,100. Each veteran is recognized by name, service branch, years of service and theater of operations. There is a special memorial component of the program, to honor those veterans who have passed away during the year. Upon conclusion of the formal program, the veterans and their families share a meal together and have the opportunity to visit the school, where the halls and doorways have been decorated with a patriotic theme.

It is with sadness I note that Mr. James Galloway passed away on July 13, 2005. I want to publicly express how deeply he will be missed. His efforts will not be forgotten or unnoticed, and although we mourn his absence, we celebrate his many years of unselfish service to the community. His sincerity and devotion to country and service shine to this day. The Veterans Day Program at Geraldine School is one that has enriched countless lives for 31 years. Through Mr. James Bertral Galloway's efforts, and those who followed him, the Geraldine School community has a greater appreciation of the sacrifices made by our veterans.

PERSONAL EXPLANATION

HON. MAJOR R. OWENS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. OWENS. Mr. Speaker, I was absent on Monday November 7, 2005 and Tuesday November 8, 2005 due to unavoidable circumstances in my Congressional District. Had I been present on November 7, I would have voted: "yea" to H. Con Res. 260—Recognizing the 40th anniversary of the Second Vatican Council's Declaration on the Relation of the Church to Non-Christian Religions, Nostra Aetate, and the continuing need for mutual inter-religious respect and dialogue; "yea" to H.R. 1973—the Water for the Poor Act of 2005 and "yea" to H. Res. 444—the Gynecological Resolution for Advancement of Ovarian Cancer Education.

Had I been present on November 8, I would have voted: "no" on the motion to Table the Appeal of the Ruling of the Chair; "yea" to H. Res. 38—Expressing support for the accession of Israel to the Organization for Economic Co-operation and Development; "yea" to H. Res. 302—Recognizing and commending the continuing dedication and commitment of employers of the members of the National Guard and the other reserve components who have been mobilized during the Global War on Terrorism and in defense of the United States; and "yea" to H.R. 3770—Grant W. Green Post Office Building Designation Act.

PERSONAL EXPLANATION

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. PASCRELL. Mr. Speaker, I rise to offer a personal explanation. Earlier today, I was unavoidably detained on rollcall votes 573, 574, 575 and 576 due to a prior obligation in my district. Had I been present, I would have voted "nay" on rollcall vote 573 (to Table Appeal of the Ruling of the Chair on the Obey Motion to Instruct the Conferees on the Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act of 2006), "yea" on rollcall vote 574 (H. Res. 38, Expressing support for the accession of Israel to the Organization for Economic Co-operation and Development H.R. 1973, The Water for the Poor Act of 2005) and "yea" on rollcall vote 575 (H. Res. 302, Recognizing and commending the continuing dedication and commitment of employers of the members of the National Guard and the other reserve components who have been mobilized during the Global War on Terrorism and in defense of the United States and "yea" on rollcall Vote 576 (H.R. 3770, Grant W. Green Post Office Building Designation Act).

RECOGNITION OF HONORABLE THOMAS R. SUOZZI

HON. CAROLYN McCARTHY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mrs. McCARTHY. Mr. Speaker, this year, Governing.com, a leading online publication for and about State and local governments and a subsidiary of Congressional Quarterly, announced their list of the 2005 Public Officials of the Year. Only eight State, county and local leaders from throughout our Nation received this most noteworthy award. It is an honor for me to bring to the attention of my colleagues and this House one of those eight outstanding public officials, the Honorable Thomas R. Suozzi, County Executive of Nassau County, New York.

Tom Suozzi is a true leader. He has led Nassau County for the past four years with common, practical sense; with an approach toward running government as a business; with a vision to the future while not forgetting our past; all the while making paramount the needs of the people of Nassau County. He has established a record as County Executive, and before that as mayor of his home town of Glen Cove, New York, that can serve as a blueprint for governments at all levels, and yes, even the Federal Government, to follow.

Upon his election as County Executive, Mr. Suozzi inherited a county that had amassed a debt of $3 billion, had a junk bond rating and was ready to be taken over by State intervention. County facilities such as parks and public buildings were insufficient to meet the needs of the people. It has been said that 'Nassau County was not just on the brink of disaster, but rather had toppled over and was nearing terminal velocity.'

Today, Nassau County has not only turned the corner on its financial woes, it is a national leader with its innovative ideas to governing. Since 2001, under the guidance of Mr. Suozzi, the County has had a balanced budget every year; it has a $200 million surplus; it has had ten upgrades in its bond rating to an A+ level currently, and most significantly, this has all been achieved without a tax increase in the last three years. It is important to point out, too, that during his tenure as mayor, Mr. Suozzi had very similar problems and very similar results.

Tom Suozzi is a visionary, looking to the future for ways to grow an economy and to make Nassau County and suburbs in general more affordable and livable for everyone, including seniors and our young people. But at the same time, he understands the benefits of suburbia and combines his vision for the future with the heritage of our past.

Mr. Speaker, Tom Suozzi has demonstrated to all of us that governmental problems of our past do not need to be transferred to future generations. They can be resolved with logical and brave initiatives. On behalf of this Congress, and Nassau County, New York that I proudly represent, I congratulate Tom Suozzi on being named Public Official of the Year 2005.

IT'S TIME TO PULL THE PLUG ON ASSISTANCE TO ETHIOPIA

HON. DANA ROHRABACHER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. ROHRABACHER. Mr. Speaker, the international community knows that the May 15 election in Ethiopia was rigged, and yet our government and other nations along with international banks and aid agencies, continue to prop up the corrupt regime of Prime Minister Meles Zenawi. Last week Meles security forces killed 76 members of the opposition party that refused to join the parliament and yet U.S. taxpayer money continues to flow.

Mr. Speaker, what will it take to turn off the spigot? The United States Agency for International Development in FY 2004 spent $75 million propping up the Ethiopian dictators, in FY 2005 it was $55 million and in FY 2006 it will be $51 million. What have we received in return? We have aligned ourselves with a ruler who is complice in the murder of voters who only wanted an honest election. Thousands of good people were arrested last week when they peacefully took to the streets after the Ethiopian political opposition refused to join parliament because of the rigged election. Many were greeted with live ammunition and gunned down dead like animals.

Prime Minister Meles must now step aside and the international community must step forward to decide what to do about the stolen elections. This week thousands came out to protest in front of the White House. Today many Americans of Ethiopian origin are demonstrating at the State Department. Our Nation must support them and democracy in Africa. Continuing business as usual with Ethiopia is not the way to do so. It's not the American way.

Let it be understood, America is on the side of the people struggling for an honest democratic government in Ethiopia. The popular opposition to Ethiopia's current corrupt regime is comparable to the Orange Revolution in Ukraine and the brave Lebanese demonstrators who removed the Syrian puppet regime in their country. Our State Department is often wrong and timid. In the case of Ethiopia, Americans clearly back democratic reform movement and that should be our government's policy.

A TRIBUTE TO BEBASHI

HON. ROBERT A. BRADY

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. BRADY of Pennsylvania. Mr. Speaker, I rise today to honor BEBASHI, as it commemorates its 20th Anniversary as the first minority-based AIDS Service Organization in the United States. It was created in 1985 in reaction to the growing rates of HIV/AIDS in the African-American community of Philadelphia. Initially established as a volunteer program focused on street outreach, BEBASHI has developed into a full-service agency offering counseling, testing, case management, support groups, a food bank, and housing counseling.

BEBASHI has improved the lives of people in our region and beyond through its research, advocacy and community service programs. I applaud this remarkable organization as it leads the way to better lives in the 21st century.

I also extend my best wishes and deep appreciation to the two exemplary individuals who will receive BEBASHI's John Allen Blue Award at the BEBASHI Gala on November 22, 2004. Bishop Vashti Murphy McKenzie and State Senator Vincent Hughes will be recognized for their long-term outstanding leadership and support to the HIV/AIDS community. They and BEBASHI are to be congratulated for their achievements and for leading the Nation by example to work towards further improvement in HIV/AIDS care and education.

HONORING JOHN LONG

HON. JIM DAVIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. DAVIS of Florida. Mr. Speaker, I rise in honor of John Long, former Pasco County School Superintendent and former Florida House member whose sudden death last week is a terrible loss for our community and State.

A Florida native, John earned his master's degree and doctorate in education at the University of South Florida. His impressive career with Pasco County Schools began in 1976, when he was hired to oversee employee relations, and culminated just one year ago when he retired after eight years of service as the Pasco County School Superintendent.

During that time, John became known far and wide as an asset to Pasco's families and school children—a dedicated servant to the schools, a highly effective problem solver and a fair and principled leader with an open ear to all of the school system's employees. Whether he was listening and responding to the concerns of teachers, parents and students or lobbying for Penny for Pasco, a penny increase in the sales tax which voters approved in 2004 to benefit school construction and renovation efforts, John earned great respect for his tireless efforts. In 2000, the Florida Association of District School Superintendents acknowledged his work by naming him Florida's Superintendent of the Year.

John also served Pasco County in the Florida House of Representatives from 1986 until 1994. During his tenure, John secured millions in State funds for his community and fought for fair funding for the State's public school system. John quickly became known for his integrity and his ability to bring his colleagues from both sides of the aisle together.

In fact, John was on the verge of becoming Speaker of the House when he walked away from his successful legislative career in order to spend more time with his family. John's departure from the Florida Legislature was a major loss to the State. John was truly a representative for the entire State, especially in improving public education for all of Florida's schoolchildren.

In addition to his enormous contributions to Florida and Pasco County's schools, John will probably be best remembered for his character. Always honest, always kind, John was beloved for his quick wit and his humble nature. I feel honored to have been among John's many friends. The vast community of those who loved John was deeply saddened by his loss.

When John retired just last year, we were all happy to know that he would be able to spend his retirement with his greatest love—his wife and children. Their time together was rich and full, but all too short. Today, I extend my deepest sympathies to Marsha, Jennifer and Jessica. John Long's remarkable character and contributions will not be forgotten.

HONORING GEDALE HOROWITZ

HON. NITA M. LOWEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mrs. LOWEY. Mr. Speaker, I rise today to honor Gedale Horowitz on 50 years working with Salomon Brothers, Salomon Smith Barney and Citigroup.

A graduate of Columbia College and Columbia Law School, Gedale Horowitz has had a distinguished career dating back to November 1955 when he first joined Salomon Brothers.

His career with Salomon Brothers took off in 1967 when he became a General Partner. From there, Gedale would go on to serve on the Executive Committee of Salomon Brothers and on the board of Salomon Inc. from its inception in 1981 until its sale to Traveler's Corp. in 1997.

Gedale's brilliant mind has been recognized throughout the business world. He is a founder of the Public Securities Association, now known as the Bond Market Association. He is also a former member of the U.S. Treasury Borrowing Advisory Committee of the Bond Market Association, serving as its Chairman from 1986 to 1987. Additionally, Gedale was appointed as an original member of the Securities and Exchange Commission's Municipal Securities Rulemaking Board, serving as its Chairman in 1977.

Beyond his professional work, Gedale has been a trusted and valued member of our community. He has served as a Trustee of Barnard College for over 29 years; he is a Trustee, Chairman Emeritus and member of the Executive Committee of the Board of Trustees of North Shore-Long Island Jewish Health Care System; a member of the Board of Visitors of Columbia Law School; and the past-President of the Jewish Community Relations Council of New York, Inc.

Gedale and his loving wife Barbara have been married for 47 years. They are the proud parents of two children and two grandchildren.

Mr. Speaker, I ask my colleagues to join me in honoring Gedale Horowitz for his years of service and for his dedication to helping his community.

CONGRATULATING MOBILE COUNTY PUBLIC SCHOOLS SUPERINTENDENT HAROLD DODGE FOR BEING NAMED ALABAMA'S SUPERINTENDENT OF THE YEAR

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to honor Mobile County schools Superintendent Harold Dodge on the occasion of being named Alabama's 2006 Superintendent of the Year.

Dr. Dodge has been a distinguished member of the Mobile, AL, community and a tremendous advocate for the county school system. He came to Mobile in 1998 to be the superintendent of the Mobile County public school system, the State's largest with over 65,000 students and 8,000 employees.

Under the leadership of Dr. Dodge, the Mobile County public school system has implemented a nationally recognized strategic plan that encourages sustained parental and community involvement while focusing on making children proficient in learning. His objectives for the next year include increasing the number of seniors who pass the High School Graduation Exam and increasing the number of Highly Qualified Teachers all while operating below budget projections. I have full confidence that these objectives will be met under the leadership of Dr. Dodge in 2006. During the last year, the Mobile County public school system received State and national attention for the transformation process of its five lowest-performing schools.

Mr. Speaker, there are few individuals more dedicated or more committed to our students than Harold Dodge, and I would like to offer my congratulations for being named Alabama's 2006 Superintendent of the Year and for his many professional achievements. I know his wife, Jean, and his many family and friends join with me in praising his accomplishments and extending thanks for his many efforts on behalf of the students of Mobile County and the State of Alabama.

PERSONAL EXPLANATION

HON. ROBIN HAYES

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. HAYES. Mr. Speaker, I was unable to participate in the following votes. If I had been present, I would have voted as follows, November 8, 2005:

Rollcall vote 575, on motion to suspend the rules and agree to H. Res. 302—recognizing and commending the continuing dedication and commitment of employers of the members of the National Guard and the other Reserve components who have been mobilized during the global war on terrorism and in defense of the United States, I would have voted "yes".

Rollcall vote 576, on motion to suspend the rules and agree to H.R. 3770—to designate the facility of the United States Postal Service located at 205 West Washington Street in Knox, IN, as the Grant W. Green Post Office Building, I would have voted "yes".

RECOGNITION OF THE GLENWOOD HIGH SCHOOL BOYS SOCCER TEAM

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. SHIMKUS. Mr. Speaker, I rise today to pay tribute to an outstanding group of young men from Central Illinois. The Glenwood High School boys soccer team from Chatham, Illinois, won the Class AA state championship on November 5, with a 2–1 win over Rockford Boylan. This win followed a thrilling, double-overtime semifinal win, and continues a 19-game winning streak for the Titans, who finished the year with a record of 26–1.

Mr. Speaker, I want to congratulate Head Coach Jay Lipe, who also achieved his 100th career victory this season, and assistant coaches Greg Lipe, Tom Johnson and B.J. Moore on a truly outstanding season. Most of all, I want to recognize the members of the 2005 state champion Chatham Glenwood Titans soccer team: Brandon Lex, Trevor Noonan, Tim Johnson, James Dice, Jaron Stretch, Neil Wilmarth, Ryan South, Paul Hummel, Derek Schilson, Bryan Curry, Blair Spencer, Hunter Schad, Dennis McIlhaney, Blake Vorreyer, Dan Short, Brett Dickson, Paul South, Dominick Traina, Kevin Hopkins, Bobak Hadidi, Trevor Kohlrus and Dustin Curtis.

These young men did an exceptional job of representing themselves, their school and their community, and I wish them best of luck in all of their future endeavors.

INTRODUCTION OF THE "WINDFALL PROFITS AND CONSUMER ASSISTANCE ACT OF 2005"

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. MARKEY. Mr. Speaker, in the coming weeks, Democrats will be laying out a comprehensive energy strategy and a vision for America's energy future. Today, Representative RAHM EMANUEL and I are beginning that process by introducing a bill that would impose a windfall profits tax on the oil industry.

The Windfall Profits and Consumer Assistance Act of 2005 would impose a windfall profits tax on oil companies on oil sold above $40 a barrel. Our bill would then use half of the revenue generated by this tax to fund a tax rebate for all American consumers to help them deal with their high gas and energy costs. Our bill would use the other half of the tax revenue to supplement funding for the Low-Income Home Energy Assistance Program that helps poor families and seniors of fixed incomes pay their energy bills.

Now, more than ever, huge sums of money are gushing into the pockets of the oil and gas industry. Exxon and Shell recently reported third quarter profits that were $2 and $3 billion more than the greatest quarterly profits we have ever seen, from any company, in the history of the world. These historic profits are coming as the result of oil prices that are currently around $60 a barrel and have recently been near $70 a barrel.

Meanwhile, American consumers are facing astronomical prices at the pump and with winter coming, an impending home heating crisis. According to projections in the Energy Information Administration's recently released "Short-Term Energy Outlook and Winter Fuels Outlook," home heating oil prices are likely to be 31.5 percent higher than they were last year. This increase translates into an average consumer expenditure of $1,577—an increase of $378 over last winter. Moreover, last year only 15.6 percent of households eligible for the Low Income Home Energy Assistance Program nationwide were served. We can and must do better in addressing the additional burden that both average consumers and low-income consumers will face as a result of the current price increases.

Our bill would take a portion of the historic high profits that oil companies are making and use it to help the millions of American consumers who are bearing the brunt of high energy costs. Our bill will help reverse the Bush Administration's policy to "Leave No Oil Company Behind" and would provide relief to American consumers who are paying the price for the Republican Party's energy mistakes.

PERSONAL EXPLANATION

HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. BROWN of Ohio. Mr. Speaker, on Monday, November 7, 2005, I was unable to cast votes on 3 measures on the suspension calendar. I ask that my absence be excused, and that the CONGRESSIONAL RECORD show that had I been present, I would have voted "yea" on H. Con. Res. 260 (Recognizing the 40th anniversary of the Second Vatican Council's Declaration on the Relation of the Church to Non-Christian Religions, Nostra Aetate, and the continuing need for mutual inter-religious respect and dialogue), "yea" on H.R. 1973 (Water for the Poor Act of 2005), and "yea" on H. Res. 444 (Gynecological Resolution for Advancement of Ovarian Cancer Education).

TRIBUTE TO THE LIFE OF SISTER ANNE LOUISE STOELZEL

HON. MARCY KAPTUR

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Ms. KAPTUR. Mr. Speaker, it is with a sense of deep gratitude and sorrow that I rise to pay tribute to the life of Sister Anne Louise Stoelzel, an Ursuline sister of Toledo, Ohio who passed from this life on Nov. 19. Sister Anne Louise dedicated her life to the education of young women and men, and helped build St. Ursula Academy in our community into a premier institution of advanced learning at the high school level. She tutored students even into her 80's and remained a smiling and vibrant presence to all who knew her.

Sister Anne Louise took on the task of moderating the school's large, and growing alumnae association for 30 years, no small task, after having taught mathematics for two decades. In 1990, she received the Alumna of the Year Award and was sought out and loved by the school's graduates. She remembered them, followed their lives, amazingly, kept in touch with thousands of girls, their families, and their lives.

She was an avid fan of St. Ursula sports teams and a regular attendee at games as St. Ursula's winning teams rose to fame locally and statewide. She rooted on the bench with all she had in her.

Sister Anne Louise was a Toledoan through and through. She carried its values. She grew up in the Old West End, a parishioner at Rosary Cathedral, and a woman in service to Christ throughout her most generous life. She held bachelor of arts and science degrees from the former Mary Manse College in Toledo, and received a master's degree from the Catholic University of America. Her pursuit of lifelong learning took her to many universities—Notre Dame, St. Louis University, Bowling Green, Ohio State, and the University of Toledo.

No measure can be placed on the gift of the life of one woman to her community. The life of Sister Anne Louise stands as living testament to a woman who loved others more than herself, who believed in the education and potential of young women to excel and make contributions to life beyond what we know today. It was to that future that she gave herself long before even the laws in the United States afforded women equal opportunity in education.

Our entire community sends its sympathies to the sisters of St. Ursula and the loving community of women and men that surrounded her, and St. Ursula's ongoing mission toward education of young women, and the advancement of learning for the betterment of humankind. Sister Anne Louise lived with distinction the legacy of St. Angela Merici, the foundress of the Order of St. Ursula. May Sister Anne Louise rest in peace, a beloved daughter of the Lord who served with love and faith throughout her precious life.

ST. URSULA GRAD TAUGHT MATH AT ALMA MATER

SISTER ANNE LOUISE STOELZEL, 1922–2005

Sister Anne Louise Stoelzel, 83, a graduate of St. Ursula Academy who taught mathematics at her alma mater for 20 years and was moderator of the school's alumnae association for 30 years, died Tuesday of congestive heart failure in the Ursuline Center.

Sister Anne Louise retired from classroom teaching in 1991, but she continued to tutor math students until about two years ago.

"She was a very good teacher and very patient," Sister Kathleen Padden said. "As a tutor, she taught not only the girls from the academy, but boys from St. Francis [de Sales High School] and students from the public schools whose mothers might have been alumnae."

She was a strict teacher, "but an excellent teacher," said Fran Sears, whose daughter, Ellen, was a student of Sister Anne Louise's. "She knew and understood math perfectly," Mrs. Sears said.

Sister Anne Louise was moderator of the St. Ursula Alumnae Association from 1971 to 2001 and was moderator emerita afterward. She received the Alumna of the Year Award in 1990.

Not only was she a regular at St. Ursula reunions, she kept in touch with alumnae and followed the events of their lives.

"She knew all the grads, all the alumnae. She knew their families and their daughters and granddaughters," Mrs. Sears said. "You mentioned somebody, she could tell you about her."

Sister Anne Louise was a fan of St. Ursula sports teams and followed local high school sports, Mrs. Sears said.

She was born Marie Kathryn Stoelzel and grew up in the Old West End. She was a parishioner of Rosary Cathedral when she entered the Ursuline Community in 1943.

Sister Anne Louise received bachelor of arts and bachelor of science in education degrees from the former Mary Manse College. She received a master's degree from Catholic University of America in Washington.

She was awarded National Science Foundation grants to pursue her post-graduate education during summer breaks. Her studies took her to the University of Notre Dame, St. Louis University, DePauw University, Bowling Green State University, the University of Toledo, and Ohio State University.

Sister Anne Louise previously taught at the elementary schools of St. Teresa and St. Thomas Aquinas in Toledo and at Lima, Ohio, Central Catholic High School.

She and her sister, Gertrude Trompeter, were close, and she visited the Trompeter home on holidays and other occasions, her brother-in-law, Carl Trompeter, said. She also took a keen interest in her four nephews—they called her Aunt Marie—and their families.

Her sister died Nov. 19, 2003.

There are no immediate survivors.

Visitation will begin at 3 p.m. today in the Ursuline Center, where there will be a vigil service at 7 tonight. Funeral services will be at 10 a.m. tomorrow in the Ursuline Center. Arrangements are by the Coyle Funeral Home.

It is suggested that tributes be to the Ursuline Sisters Retirement Fund.

THE HIPAA RECREATIONAL INJURY TECHNICAL CORRECTION ACT OF 2005

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. UDALL of Colorado. Mr. Speaker, today I am introducing the Health Care Parity for Participation for Legal Transportation and Recreational Activities Act. This bill would protect those individuals who participate in legal recreational activities from being discriminated against by their employers for health insurance purposes.

In 1996, Congress passed and the President signed into law the Health Insurance Portability and Accountability Act (HIPAA). This legislation was enacted so that employees could continue health care coverage if they switched jobs and so that employees would not be denied health care coverage based on a pre-existing medical condition or participation in legal recreational activities.

On January 5, 2001, the Center for Medicare and Medicaid Services (CMS) released a Final Rule for Nondiscrimination in Health Coverage in a Group Market, which was required under HIPAA. Under the rule, employers are prohibited from refusing coverage based simply on an employee's participation in a legal recreational activity, such as motorcycling, skiing, snowmobiling, horseback riding and all-terrain vehicle riding. However, CMS, in its interpretation of the word "participation" effectively legalized the denial of benefits for any injuries sustained while participating in these activities. Clearly, Congress did not include specific language in HIPAA to provide coverage for people who engage in these activities, only to be denied coverage in the event they sustain an injury. The rule is counter to the intent of Congress and should be corrected.

In 2001, I joined with several of my House colleagues in sending a letter to HHS Secretary Tommy Thompson asking him to reverse the CMS ruling, but he said it would take an act of Congress. I cosponsored legislation that addressed this issue in the 108th Congress. There is legislation that has been introduced in the 109th Congress but that bill excludes individuals who participate in skiing and snowboarding. That excludes a large number of people in my district and throughout the country who are winter sports enthusiasts, and I think it's critical that they be covered for any injuries they sustain from participating in winter sports.

Mr. Speaker, this bill, which is identical to legislation introduced by Senator SUSAN COLLINS, is about fairness in health coverage for the millions of Americans who enjoy skiing, motorcycle riding, horseback riding, ORV riding, or any other legal recreational activity. It also further clarifies Congress' intent when it passed this landmark law, which has helped so many Americans keep or obtain health insurance. I look forward to working with my colleagues on both sides of the aisle to pass this important legislation.

INTRODUCTION OF HIS PRIVATE BILL FOR THE RELIEF OF JUDITH TANJOH AND HER CHILDREN SERGE, MARINE, EMMANUEL AND ROGER TIKUM

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. VAN HOLLEN. Mr. Speaker, today I have introduced a bill for the relief of Judith Tanjoh and her children Serge, Marie, Emmanuel and Roger Tikum.

This family last entered the United States in 1988 in A–2 diplomatic status from the Republic of Cameroon when the now deceased husband of Judith Tanjoh was attached to the Cameroon Embassy. For the next several years the family lived in lawful status in the U.S. through December 31, 1997 when the husband was recalled to the Cameroon because of Judith's political activities against the Cameroon government.

Cameroon has been found by the U.S. State Department's Country Reports on Human Rights Practices to possess a "poor human rights record", continuing to commit "numerous serious abuses". After her husband's recall, Judith decided to file for asylum. However, in turn her application was denied by the INS Asylum Office, the Immigration Judge, the Board of Immigration Appeals, and the U.S. Court of Appeals for the 4th Circuit.

When the Board of Immigration Appeals "affirmed without opinion" the denial of the asylum application by the Immigration Judge on December 17, 2002, it also permitted the family to "voluntarily depart the U.S. . . . within 30 days from the date of this order or any extension beyond that time as may be granted by the district director [of the INS]". Within that 30-day period, Judith's attorneys filed for an extension of the voluntary departure period and a Petition for Review in the U.S. Court of Appeals for the 4th Circuit. Each filing was in accordance with the family's statutory and regulatory rights.

The INS has never responded to the request for extension of the voluntary departure period. The 4th Circuit issued its mandate on November 10, 2003 "enforcing the Board's order of December 17, 2002". Of course, part of that order was permitting the family to voluntarily depart within 30 days.

While these proceedings were pending, INS issued Judith authorization to work and she obtained employment as a certified nursing assistant. Her employer has sponsored her (and her children derivatively) for lawful permanent residence via the Labor Certification process. That application, initially filed prior to April 30, 2001, has been certified by the U.S. Department of Labor and an Immigrant Worker's Visa Classification Petition has been pending with INS since July, 2003.

An INS General Counsel's Memo advises INS Government Attorneys to no longer apply the "exceptional and compelling circumstances" standard to motions to reopen for consideration of adjustment of status to lawful permanent residence for persons who have been in deportation proceedings. The Memo instructs that the INS should join in such a motion (which otherwise could not be filed if more than 3 months have expired since the decision of the Board of Immigration Appeals) if the alien is statutorily eligible and warrants a favorable exercise of discretion. Judith's attorneys have twice requested the INS Chief Counsel's Office in Baltimore to join in such a motion in this case. Since Judith's labor certification was timely filed to allow her to adjust her status to permanent residence, she is statutorily eligible.

The family also clearly warrants a favorable exercise of discretion. Judith has been a hard-working, tax-paying certified nursing assistant for several years as she has worked with INS permission. The children have successfully progressed through our school system for the last 15 years.

The Tanjoh/Tikum family are not criminals. They are not terrorists. The children fear being uprooted from their true home in the U.S. and forced to live in a human rights abusive country which they do not know and whose predominant language they do not speak.

Yet, the INS Government Attorneys have coldly rejected each overture for clemency. First, by insisting that the harsher "exceptional and compelling circumstances" standard applies and that these circumstances were neither exceptional nor compelling. Second, by stating that the family was not statutorily eligible for permanent residence because they overstayed the Board of Immigration Appeals' December 17, 2002 Order granting a 30-day voluntary departure period even though the INS has never responded to the extension requests and even though the family timely pursued their Petition for Review rights to the 4th Circuit which only enforced the Board's Order on November 10, 2003.

Therefore, today I have introduced a Private Bill that will enable Judith Tanjoh and the Tikum children to obtain permanent residency. I hope my action today will help bring this heartbreaking story to a close.

IN HONOR AND REMEMBRANCE OF BARNEY KILIAN

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Barney Kilian, affectionately known as the "Mayor of Old Brooklyn," and beloved husband, father, grandfather, great-grandfather, community activist, expert gardener and friend to countless people in Cleveland's Old Brooklyn neighborhood and far beyond.

Mr. Kilian lived life with great joy and energy and was always willing to offer assistance to anyone in need. His unwavering focus on the welfare of the Old Brooklyn neighborhood extended beyond the lines of ward borders. His life-long interest in local politics never subsided; Mr. Kilian was an active member of the Democratic Party and was elected to serve as Precinct Committeeman in Ward 15.

In the Spring of 1980, at the age of 72, Mr. Kilian led a volunteer effort to clean up and restore the historic Benjamin Franklin Community Gardens. Neglected for decades, the Gardens had become overgrown with weeds, rocks and refuse. Though a daunting task, Mr. Kilian welcomed the challenge of renewing the site, which is the largest community garden in Cuyahoga County. Armed with a generous heart and quick wit, Mr. Kilian, with support from the Old Brooklyn Community Development Corporation, led neighborhood volunteers in transforming the seven-acre site into 220 plots of thriving, flourishing gardens. He restored the teaching garden utilized by adjacent Benjamin Franklin Elementary School and set aside several plots where produce was specifically grown to help feed Cleveland's hungry. For 21 consecutive growing seasons, Mr. Kilian kept a watchful eye on the Gardens. Making several trips a week, he loaded up his old car and delivered the produce to area hunger centers, including the Brookside Center, St. Herman's, St. Mary's and St. Augustine's.

Mr. Speaker and colleagues, please join me in honor, remembrance and gratitude to Mr. Barney Kilian, whose life was framed by kindness, humor and devotion to his community. I offer my condolences to his daughters, June, Diane and Donald; to the memory of his late wife, Janet and late son, Raymond; to his son-in-law, Charles; to his grandchildren, Charlene, Christine, Cheryl, Lisa and Raymond Jr.; to his four great-grandchildren; and to his many friends. Although Barney Kilian will be deeply missed, his love for the people of Old Brooklyn and their love for him will rise every Spring with the first sign of radiant color rising from Benjamin Franklin Gardens along Spring Road, and far beyond.

CONGRATULATIONS TO GOVERNOR ED RENDELL AND CONGRESSMAN BOB BRADY

HON. JOHN P. MURTHA

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. MURTHA. Mr. Speaker, I want to commend Governor Ed Rendell and Congressman BOB BRADY of Pennsylvania for their key roles in facilitating successful contract negotiations between the Southeastern Pennsylvania Transportation Authority (SEPTA) and the labor union.

The following article, "The Pair Who Powered the SEPTA Deal," illustrates Governor Rendell's and Congressman BRADY's skillful and active leadership in resolving the issues between the parties. They saw a large problem facing the region and without hesitation waded in, rolled up their sleeves, and brought everyone together. I believe their hands-on approach and the confidence that both sides placed in their ability to handle the issues fairly serves as an excellent reminder of the kind of dedicated public service everyone looks for in their elected leaders.

[From the Philadelphia Inquirer, Nov. 8, 2005]

THE PAIR WHO POWERED THE SEPTA DEAL

(By Larry King and Marcia Gelbart)

At 3:45 a.m. yesterday, he paced alone on an empty, shadowed sidewalk at Broad and Walnut Streets.

He was not part of the SEPTA contract negotiations taking place above him on the 11th floor of the Bellevue in Center City. But like an anxious mother hen, neither was he ever far from them.

A passerby recognized the barrel-chested figure in the dark-blue warm-up suit, a thatch of gray curls atop his head.

Congressman Brady?

"Yeah, how you doin'?" came the familiar gruff voice.

Any news? "They're done."

Done? When? "About 10 minutes ago."

Two hours passed before Gov. Rendell emerged with union and SEPTA leaders to announce the deal that ended the region's transit strike. Together, the governor and U.S. Rep. Robert A. Brady (D., Phila.) were called prime catalysts in events leading to the proposed settlement.

The duo worked like this: Rendell relied on his power over the state-created agency, and Brady relied on his patience to deal with the personalities of its managers and union leaders.

As for other officials, State Sen. Vincent J. Fumo (D., Phila.) was around but talking mostly through the ear of Brady. House

Speaker John M. Perzel (R., Phila.) was set to jump in today, at a scheduled meeting at the Holiday Inn City Line, with SEPTA board chairman Pasquale T. "Pat" Dean.

And Mayor Street played a low-key role. He met with union leaders for five hours on Friday, phoned Deon later that day, and then made at least two calls to the governor late Sunday.

While Street was limited by strained ties with Harrisburg lawmakers, Rendell had "no choice" but to wade in, said J. Whyatt Mondesire, president of the Philadelphia chapter of the NAACP.

Rendell "could not have an election campaign gearing up after the holidays, and a bitter public-transit strike in his backyard," he said.

And Brady, Mondesire said, was "a natural bridge . . . . He talks a straight workingman's kind of language . . . and because he has political connections, the SEPTA people listen to him."

All involved with the negotiations said Brady—a labor leader from the carpenters' union and a peacemaker with a long record of settling feuds as a longtime head of the city's Democratic Party—cajoled them to talk, to keep talking, to talk until their minds could meet.

Brady "was very instrumental in this," said Jeffrey Brooks, president of Transport Workers Union Local 234.

Brady, of course, demurred—just as he did seven years ago at the end of the last SEPTA strike when he stood three rows deep at a news conference to announce a deal he helped broker to end that 40-day walkout.

"I just keep 'em talking, that's all," he said in yesterday's early hours. "They didn't talk for what—two, three days? This morning I met with the governor and Jeff at 8. They agreed to try and kick-start this thing back again. I told them, 'If you do, please don't stop until it's over. It's got to be done sooner or later, so why not do it sooner instead of later?' "

Brady was the first politician to visibly inject himself into the negotiations, turning up late Tuesday as the contract negotiations briefly resumed at the Crowne Plaza hotel.

Rendell, meanwhile, was the hands-on deal maker. He spoke out first from Harrisburg on Thursday, warning both sides that the strike was "killing" chances of getting the dedicated source of state funding that the perennially strapped SEPTA so sorely needs.

And once in town, he said, he made a point of sitting down with Brooks and assuring him that SEPTA's pot of money for crafting a deal was finite—that it was all a matter of slicing it fairly.

That was the point made at a noon meeting on Sunday, where Brooks made his case to 50 or so mostly elected officials whom BRADY assembled at the Democratic City Committee headquarters.

"That's one thing we made clear to both sides," Rendell said. "If the strike goes on too much longer, or if the settlement is not seen as affordable, then that seriously decreases our chances of getting dedicated funding."

City Councilman Michael A. Nutter said, "That meeting was certainly a part of what led to the contract."

All week long, Brady had been calling Brooks two or three times a day. Now, in what would be the final moments, Rendell and his staff stuck side by side with SEPTA's chief labor negotiator, Patrick Battel, from "basically 9 a.m. Sunday until we signed the memorandum of agreement at 5:30 a.m.," according to Battel. The governor, he said, "is a skilled mediator and a skilled politician."

To be sure, there were other factors.

"Looming in people's minds was the 40-day strike," said State Rep. Dwight Evans (D., Phila.). "People knew they could not afford to do that."

There was also, he said, the uncertain fate of SEPTA's financial future.

"Rendell's message was 'there is not going to be any new money,' and that is the same message Perzel and I were putting together as legislative leaders," Evans said.

As it turned out, that message was no longer needed.

LEGAL SERVICES OF NORTHERN VIRGINIA: CELEBRATING 25 YEARS OF SERVICE

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. MORAN of Virginia. Mr. Speaker, I rise to honor a commendable and worthwhile nonprofit organization which operates in my congressional district, the Legal Services of Northern Virginia.

Legal Services of Northern Virginia (LSNV) is celebrating its 25th year of providing free legal assistance and representation to those in our society who are unable to secure it on their own. The founders and staff of this invaluable organization have dedicated their time and energy to give voice to those who often go unheard.

The mission of Legal Services is to provide necessary legal assistance to low income individuals and families. The organization assists its clients on a wide range of issues including family law, consumer protections, housing, employment, and access to health care.

Through the work of LSNV, thousands of eligible residents in Northern Virginia have gained access to health care; moved into affordable housing, received over due child support payments to care for their children, and achieved citizenship in our great country.

Legal Services of Northern Virginia is an example of a great equalizer in our society. Without its extraordinary work and commitment of its staff, conscientious instructions and assistance, thousands of residents in Northern Virginia would not be able to pursue their legal rights and responsibilities.

Over the course of 25 years, LSNV has made sure that rights are more than theoretical concepts. It has worked to ensure that our laws and legal protections apply to all men and women equally, without regard to race, religion, or income level.

I am proud to stand before you today, in the House of the people, to recognize the great accomplishments of Legal Services of Northern Virginia.

APPOINTMENT OF MR. BILL JANIS AS A FELLOW TO NORTHWESTERN MICHIGAN COLLEGE

HON. BART STUPAK

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. STUPAK. Mr. Speaker, I rise today to pay tribute to an outstanding member of the Traverse City, Michigan community, Mr. William G. Janis. On September 23, Mr. Janis was appointed a Fellow to Northwestern Michigan College. Mr. Janis' service to Northwestern Michigan College (NMC) stands as a shining example to us all.

Mr. Janis' service to NMC spans a wide range of roles including that of member and officer of the Board of Trustees; as a passionate leader and supporter in helping establish the Michigan Technical Education Center and as a life-long philanthropist whose efforts have helped establish the University Center, Dennos Museum Center, M–TEC and the Great Lakes Campus.

Born to George and Mary Janis in 1943, Mr. Janis is the oldest child in the Janis family. He attended school in Grosse Isle, Michigan and graduated from Grosse Isle High School in 1961. After graduation, he went on to serve his country in the United States Marine Corps. Upon being honorably discharged from the military, he continued his education at Michigan State University where Mr. Janis graduated with a Bachelor of Arts Degree in 1970.

Upon graduating from Michigan State, Mr. Janis took a job with Century, Inc. in Wyandotte, Michigan. He worked in Wyandotte until he and seven employees moved the business to Traverse City, Michigan in 1974. Today, Mr. Janis is the owner and President of Century, Inc.; a business which employs two-hundred and eighty workers.

In 1976, Bill Janis and Susie Kildee exchanged marriage vows. Together, with their children from previous marriages, Eddie and Julie, they became a family. Bill and Susie Janis still reside in Traverse City where Mrs. Janis serves on a number of community boards and charities. Mr. Janis is an active member of the Munson Hospital Board, the Knife and Fork Club, and a Board Member of Huntington National Bank. In addition, Mr. Janis is also the owner of Leorie Vineyards in Traverse City and a partner in Black Star Farm's Winery.

Aside from his many business ventures, Mr. Janis remains an active member of the Detroit Men's Club and is an honorary member of the Michigan State Varsity Athletic Club. Mr. Janis is also an avid golfer with memberships to some of the country's most prestigious golf clubs including The Bear in North Palm Beach, Florida; Hobe Sound in Hobe Sound, Florida; The Medalist in Marshall, Michigan; and the Grand Traverse Resort in Acme, Michigan.

Mr. Speaker, I ask the U.S. House of Representatives to join me in recognizing Mr. Bill Janis for being named a Fellow to Northwestern Michigan College and for his tireless service to the college and the organizations he provides with dedicated leadership. Beyond his incredible credentials, leadership roles and accomplishments that span his lifetime, Mr. Janis has shown unwavering commitment to the people he has known throughout that time.

Mr. Janis is an example of true American ingenuity and a person who continues to generously devote himself to the ideals he values most: his family, his work and his community. We in northern Michigan and those throughout America who have benefited greatly from his work and contributions thank him for his efforts.

CONGRATULATIONS TO COLONEL JAMES KELLY, THE UNIVERSITY OF ALABAMA'S FIRST ASTRONAUT AND PILOT OF THE SPACE SHUTTLE "DISCOVERY" RETURN TO FLIGHT MISSION

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. BONNER. Mr. Speaker, it is with great pride and pleasure that I rise to honor and congratulate Colonel James Kelly, the pilot of the recent space shuttle *Discovery* Return to Flight Mission and the University of Alabama's first astronaut.

Colonel Kelly earned his master of science in aerospace engineering from the University of Alabama in 1996. That same year, he applied for NASA's astronaut class. Colonel Kelly was one of 44 members and one of only 10 pilots selected out of 2,400 applicants.

Colonel Kelly has logged over 3,800 flight hours in more than 35 different aircraft. Additionally, he has logged over 643 hours in space. He served as pilot on both the STS–102 *Discovery* and the STS–114 *Discovery*. The STS–102 *Discovery* was the eighth shuttle mission to visit the International Space Station. The two-week, 5.8 million mile STS–114 *Discovery* Return to Flight Mission reaffirmed our confidence in NASA and America's successful future in space.

Mr. Speaker, I take this opportunity to commend Colonel James Kelly for his commitment to excellence and his willingness to explore. I thank him for his dedication and brave service to this country.

THE HEALTH FREEDOM PROTECTION ACT

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. PAUL. Mr. Speaker, I rise to introduce the Health Freedom Protection Act. This bill restores the First Amendment rights of consumers to receive truthful information regarding the benefits of foods and dietary supplements by codifying the First Amendment standards used by federal courts to strike down the Food and Drug Administration (FDA) efforts to censor truthful health claims. The Health Freedom Protection Act also stops the Federal Trade Commissions (FTC) from censoring truthful health care claims.

The American people have made it clear they do not want the federal government to interfere with their access to dietary supplements, yet the FDA and the FTC continue to engage in heavy-handed attempts to restrict such access. The FDA continues to frustrate consumers' efforts to learn how they can improve their health even after Congress, responding to a record number of constituents' comments, passed the Dietary Supplement and Health and Education Act of 1994 (DSHEA). FDA bureaucrats are so determined to frustrate consumers' access to truthful information that they are even evading their duty to comply with 4 federal court decisions vindicating consumers' First Amendment rights to discover the health benefits of foods and dietary supplements.

FDA bureaucrats have even refused to abide by the DSHEA section allowing the public to have access to scientific articles and publications regarding the role of nutrients in protecting against diseases by claiming that every article concerning this topic is evidence of intent to sell a drug.

Because of the FDA's censorship of truthful health claims, millions of Americans may suffer with diseases and other health care problems they may have avoided by using dietary supplements. For example, the FDA prohibited consumers from learning how folic acid reduces the risk of neural tube defects for 4 years after the Centers for Disease Control and Prevention recommended every woman of childbearing age take folic acid supplements to reduce neural tube defects. This FDA action contributed to an estimated 10,000 cases of preventable neutral tube defects!

The FDA also continues to prohibit consumers from learning about the scientific evidence that glucosamine and chondroitin sulfate are effective in the treatment of osteoarthritis; that omega–3 fatty acids may reduce the risk of sudden death heart attack; and that calcium may reduce the risk of bone fractures.

The Health Freedom Protection Act will force the FDA to at last comply with the commands of Congress, the First Amendment, and the American people by codifying the First Amendment standards adopted by the federal courts. Specifically, the Health Freedom Protection Act stops the FDA from censoring truthful claims about the curative, mitigative, or preventative effects of dietary supplements, and adopts the federal court's suggested use of disclaimers as an alternative to censorship. The Health Freedom Protection Act also stops the FDA from prohibiting the distribution of scientific articles and publications regarding the role of nutrients in protecting against disease.

This legislation also addresses the FTC's violations of the First Amendment. Under traditional First Amendment jurisprudence, the federal government bears the burden of proving an advertising statement false before censoring that statement. However, the FTC has reversed the standard in the case of dietary supplements by requiring supplement manufactures to satisfy an unobtainable standard of proof that their statement is true. The FTC's standards are blocking innovation in the marketplace.

The Health Freedom Protection Act requires the government bear the burden of proving that speech could be censored. This is how it should be in a free, dynamic society. The bill also requires that the FTC warn parties that their advertising is false and give them a chance to correct their mistakes.

Mr. Speaker, if we are serious about putting people in charge of their health care, then shouldn't we stop federal bureaucrats from preventing Americans from learning about simple ways to improve their health. I therefore call on my colleagues to stand up for good health care and the First Amendment by cosponsoring the Health Freedom Protection Act.

TED KOPPEL: HE KNOWS THE BURDEN OF THE IRAQ WAR MUST BE SHARED

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. RANGEL. Mr. Speaker, I rise to appreciate the career and character of Ted Koppel, who is retiring after 25 years as a stalwart and honest news reporter on the show "Nightline."

Upon his retirement, he expressed some thoughts in the November 8, 2005 issue of the Washington Post. I applauded him then and I applaud him now for showing the photographs and naming the fallen in Afghanistan and Iraq on his show when others called him unpatriotic for that act to honor those killed in Afghanistan and Iraq. I applaud him for his statement in the Washington Post today. He remarked on the unshared burden of the war in Iraq. This is a topic I have brought up again and again. One tiny fraction of this nation bears the entire burden of this war.

Ted Koppel put it this way: "You don't fight a war and allow just a tiny fraction of the population to carry the burden. It's hard to make a case that the rest of us are sharing the burden of being at war when our taxes have been cut, not increased. There are no victory gardens. No one is being asked to do anything, really. That's why I thought it was important to show all those photographs and read all those names. . . ."

Ted, thank you. You have done a wonderful job for 25 years. Your honest reporting will be missed.

[From the Washington Post, Nov. 8, 2005]

HIS NIGHT IN THE SUN

AFTER 25 YEARS, TED KOPPEL IS LEAVING THE SHOW THAT DID IT HIS WAY

(By Howard Kurtz)

Given all the heat Ted Koppel took last year for reading the names of the hundreds of Americans killed in Iraq, he could be forgiven for claiming vindication over the huge coverage when the death toll hit 2,000 late last month.

The "Nightline" anchor believes a meaningless milestone was overplayed by the media—and is happy to tell you why.

"If the administration was really doing what it ought to be doing, they—everyone from the president on down—would have explained we have to remain in Iraq with such clarity that everyone would understand the sacrifice of 2,000, or even 20,000, lives is essential," he says. "My complaint is that the administration has done a poor job of explaining why we're in Iraq. You don't fight a war and allow just a tiny fraction of the population to carry the burden. It's hard to make the case that the rest of us are sharing in the burden of being at war when our taxes have been cut, not increased. There are no victory gardens. No one is being asked to do anything, really. That's why I thought it was important to show all those photographs and read all those names, not as a way of saying the war is wrong."

It is classic Koppel: tough-minded, eloquent, focused on world affairs and sometimes, it seems, conducting his own foreign policy. As he prepares to relinquish the helm of the ABC program he launched 26 years ago, when his focus was entirely on Iran and the Americans held hostage there, it is hard to avoid the end-of-an-era language that followed the departures of Tom Brokaw and Dan Rather and the death of Peter Jennings.

"This is easily perceived as the fourth 20-year-plus anchor stepping aside, and that's not the case," says Executive Producer Tom Bettag, who plans to launch a reporting venture with Koppel after they leave ABC. Perhaps their greatest accomplishment, Bettag says, is that the program will continue after Koppel's last night, Nov. 22, with an anchor triumvirate of Cynthia McFadden, Terry Moran and Martin Bashir. "A number of people said once Ted goes, there goes 'Nightline.'"

One thing that will be lost with the new incarnation's wide-ranging format is what Koppel, 65, always has boasted about: an in-depth look at one subject each night. Does that bother him? "I don't want to begin by prejudging what's going to be done, because it may be terrific," he says. "I don't want this to be interpreted as Ted saying the new approach ain't going to work."

Koppel announced his resignation in March after ABC News President David Westin decided he wanted "Nightline"—the ratings of which have been slipping in recent years—to be live at 11:35 p.m. Koppel had no desire to work such a schedule, and always has argued that the program is live when it needs to be live and otherwise there is no point in having guests wait around all evening.

"At some point, it would probably be time to pull out anyway," says Koppel, who served notice five years ago that he and Bettag wanted to phase themselves out gradually. Koppel had hoped that Chris Bury would succeed him as anchor—Bury and John Donvan will remain as correspondents, most likely joined by Vicki Mabrey from CBS—and that former producer Leroy Sievers would replace Bettag. But management, which hired British journalist James Goldston to run the program, had other ideas.

"It's their broadcast in the final analysis," Koppel says. "I've always taken the position it's our job to make the program as attractive to the audience as we could possibly make it, but there are limits. You don't bring on dancing girls."

That's not an entirely frivolous comment, given that Koppel's competition includes Jay Leno and David Letterman. In fact, ABC tried to junk the show three years ago by luring Letterman from CBS. Koppel fought back, criticizing ABC and parent company Disney in a New York Times op-ed.

"I never questioned the corporation's right to do that," he says. "This is an industry, it's a business. We exist to make money. We exist to put commercials on the air. The programming that is put on between those commercials is simply the bait we put in the mousetrap.

"If it is true that David Letterman can draw a lot more viewers than 'Nightline' and Ted Koppel, if you can make an extra $30 million or $50 million a year, I absolutely understand they not only have the right but the fiduciary obligation to do that. I just don't think they did it the best way in terms of the handling of it. We were among the last to learn about it. You just don't do that to people who have worked hard for you for a long time."

In his 42 years at ABC, and especially in his quarter-century at "Nightline," Koppel seemingly has conducted every kind of interview. He's talked to Nelson Mandela and Muhammad Ali, Larry Flynt and Ginger Rogers, Chuck D and Buzz Aldrin. He famously quizzed Gary Hart about adultery, told Michael Dukakis he just didn't get it and swatted down the racial views of baseball executive Al Campanis, who lost his job over the interview.

He also has reported from around the world—a foray to South Africa in the 1980s made news worldwide—and, more recently, covered the 2003 Iraq war amid the tanks in the desert. Just last week, "Nightline" did a show on Zimbabwe ruler Robert Mugabe's devastating impact on his country—not the sort of thing other programs are clamoring to cover.

Television executives, Koppel says, "live under the misapprehension that Americans don't care about foreign news. They don't care about boring news. If you present it in a boring fashion, then they don't care about foreign news. What really dictates here is the cost of foreign news. At a time that we really have to worry about what's going on in the rest of the world, what people in other countries think of us, we are less well informed by television news than we have been in many years.

"If the only time you cover foreign news is when you send someone, every foreign story is going to cost you a lot of money when you do it and likely to be less well informed than in the days when you had people who lived in the country for two, three, five, 10 years and understand the culture."

In a been-there-done-that media culture, Koppel relished the idea of returning to his signature issues again and again: the Middle East, South Africa, AIDS, racism, crime and punishment. Asked whether evening newscasts do the same thing, he says: "There's a huge difference between coming back to a story and devoting 2½ minutes to it, and the next time 1:45, and what we have done when we focused on an issue for two, three or four programs." Taking the show to such places as Congo—which Koppel says has "an invisible war which barely exists even in newspapers"—boosted the ratings and burnished the program's reputation. "But it's a very expensive thing to do and it's also thoroughly exhausting."

Koppel relishes the contrarian role. In 1996 he created a major stir by packing up and leaving the Republican National Convention in San Diego, saying no news was being committed there. "In the intervening years," he says, "guess what? Everyone's come to the conclusion that conventions really aren't worth covering, except on cable."

Last week Koppel committed news himself when he appeared to endorse Charlie Gibson, the "Good Morning America" co-host who has been doing part-time duty on the evening news, as ABC's next anchor. Koppel says he was just responding to a specific question about Gibson from a TV Guide reporter.

"I do think Charlie Gibson would make an absolutely splendid anchor," he says. But noting the rise of "GMA" under Gibson and Diane Sawyer, he says, "Those morning shows are moneymaking machines. Changing such a successful equation could cost you tens of millions of dollars."

Koppel and Bettag say they will not make a deal with another media outlet until their departure—although they have had talks with HBO—but say there is a vacuum in long-form reporting that they intend to fill. Still, they are leaving a very big stage.

"You can't help but have mixed feelings," Bettag says. "Trying to wean yourself away from the daily news adrenaline is no small thing. But this is something we've planned for a very long time. Ted is very much at peace with this."

Koppel plans to take a few months off, but "I'm not going to slide into semi-retirement," he says. "Nothing lights my fire more than a big story out there and going out to cover it."

TRIBUTE TO ALAN A. REICH

HON. TOM LANTOS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. LANTOS. Mr. Speaker, it is with a heavy heart that I announce to my colleagues in the House the sad news of the passing of one of our Nation's great leaders for rights of the disabled, my friend Alan A. Reich. I offer our heartfelt condolences to his family.

Mr. Speaker, my wife Annette and I consider ourselves blessed to count Alan among our good friends. He inspired both of us with his deep compassion, his energy and humor, as well as his determination to overcome obstacles no matter how insurmountable they appear. Alan was a true American visionary, a person who never let circumstance define or defy him. This perspective enabled him to implement a new understanding of disability rights and human rights, which included both and united them.

Mr. Speaker, only a few months ago, I informed my colleagues that Alan had retired as President of the National Organization on Disability (N.O.D.), which he founded. For the past 23 years, he provided extraordinary leadership as the head of N.O.D., one of the leading non-governmental organizations promoting disability rights in the United States and around the world. Alan Reich was an outstanding human rights and disability rights leader, whose courageous work has had an impact on people with disabilities around the world.

In recognition of his leadership, President George H.W. Bush awarded Alan the George Bush Medal, an award that recognizes leaders in the fight to fulfill the promise of the Americans with Disabilities Act (ADA). Alan certainly epitomized the ambitious goals of the ADA, and I cannot imagine a more fitting recipient of this award. In commenting on Alan's extraordinary leadership, former President Bush said: "As the Honorary Chairman of N.O.D. and its World Committee, I've observed first-hand Alan's tenacious commitment to providing hope and opportunity for millions of people with disabilities, not only in this country but also worldwide."

Mr. Speaker, Alan Reich joined the disability community over 40 years ago as a result of a swimming accident, and he has used a wheelchair since that time, but he refused to permit his disability to constrain his boundless energy and commitment to worthy causes. Alan has been at the center of progress on disability issues, including public awareness, disability programs and promoting important legislation, and he has made groundbreaking contributions toward uniting and engaging the community of people with disabilities. His outstanding abilities to move disability rights issues forward first became apparent as the founder of the U.S. Council for the International Year of Disabled Persons in 1981. He was the first wheelchair user to address the United Nations General Assembly when he called on the international organization to declare 1981 the U.N. International Year of Disabled Persons.

While President of N.O.D., Alan built the coalition of disability groups that successfully fought for the inclusion of a statue of former United States President Franklin Delano Roosevelt in his wheelchair at the FDR Memorial in Washington, DC. He also spearheaded the critical survey research with Harris Poll Surveys that tracks the progress of Americans with disabilities in key areas of life.

In addition, Alan is the founder and Chairman of the World Committee on Disability, the international arm of N.O.D., which further underscores the worldwide reach of his contributions. He is a founder of the World Committee's Franklin D. Roosevelt International Disability Award, which recognizes nations for progress toward the United Nations' goals for disabled persons. I should add, Mr. Speaker, that my wife Annette and I are honored to be members of the World Committee on Disability.

A graduate of Dartmouth College, Alan has also had a distinguished career in both private business and government. Alan served as Deputy Assistant Secretary of State for Educational and Cultural Affairs. In this position, he developed international exchange programs to further mutual understanding. He also served as Deputy Assistant Secretary of Commerce for East-West Trade and Director of the Bureau of East-West Trade, where he was credited with the expansion of U.S. commercial relations with the People's Republic of China, the Soviet Union and the countries of Eastern Europe. Prior to his outstanding career as a public servant, Alan was an executive in manufacturing management and corporate long-range planning with Polaroid Corporation.

Mr. Speaker, in many ways, Alan has changed the world's attitude and approach to disability issues and made groundbreaking contributions to uniting the disability movement. Our entire Nation is profoundly saddened at the loss of this outstanding leader. We join in expressing our deep condolences to Alan's family, and express our sincere gratitude for his outstanding achievements.

ABUSE OF PRESIDENTIAL POWER: THE WAR ON TORTURE

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. RANGEL. Mr. Speaker, I rise today to raise my voice against the use of torture by the United States of America against any human being for any reason. I believe torture in any for, including cruel and inhuman and degrading interrogation of human beings in the custody of the United States of America violates everything we stand for as Americans.

The Senate recently passed the McCain amendment to a military appropriation bill by a vote of 90 to 9. The McCain amendment is very telling in terms of whether the United States has been battling terrorisms or fighting the wars in Iraq and Afghanistan in lawful ways. The McCain amendment bans "cruel, inhuman, or degrading treatment or punishment of persons under the custody or control of the United States Government." This amendment has passed the Senate twice; the first vote was 90 to 9. The second time it passed was after the disclosure of the secret CIA prisons. Senator McCAIN made a strong anti-torture speech. He said the CIA should not be running prisons. The second time the McCain amendment passed the Senate it did so by a voice vote.

I support the McCain amendment and will vote for it when it reaches the House of Representatives for a vote.

I find it unbelievable that the President in a speech today, November 8, 2005, in Panama City, Panama stated: "We do not torture." The evidence of torture in Abu Ghraib and the prison at Guantanamo Bay in Cuba has been documented by the International Committee of the Red Cross, Amnesty International, eyewitness testimony of American Military officers and photographs and tapes, some of which the Department of Defense is still attempting to keep from the public.

This should not be shocking to me, but still it shocks. The statements of President Bush are a natural outgrowth of the unnatural power he was given by his lawyers and Justice department lawyers because of their willingness to overlook or disregard the United States Constitution on the grounds that this war and this enemy was "special." Congress was lied to, about the reasons for the war; but Congress gave away its Constitutional Power under Article 1, Section 8 when it authorized the President to declare war, a power reserved solely to the Congress by the Constitution.

Less well known and just as ignored is that Article 1, Section 8 of the Constitution, gives Congress and only Congress the decision of how to treat prisoners.

Just as the President declared a preemptive war on a country not involved in the attacks of 9/11, this President and Vice President decided how prisoners, even those "suspected" of being terrorists, were to be treated. This President has abused his power, ignored the Constitution and misled the American people.

The policies on treatment of prisoners which have included torture and interrogation techniques that are "cruel, inhuman, and degrading" were born with the Bush Administration. President Bush asked his Justice Department, then run by John Ashcroft and a man of ideas named John Woo; his trusted Counsel, Alberto Gonzales who gave him the answers he liked when President Bush was Governor of Texas. President Bush asked these lawyers for guidance on whether the United States had to afford protections of the Geneva Accords to Taliban and al Qaeda prisoners. He also asked his civilian advisor in the Pentagon, Secretary Donald Rumsfeld, how far American military and intelligence personnel could go in questioning these prisoners. The answer from these civilians, people who had never served in the military, was the prisoners did not need to be afforded any of the protections of the Geneva Conventions. John Woo, who worked directly for John Ashcroft took the position that the President could do anything he wanted. This was a very popular position and the one Alberto Gonzales passed on to the President.

Within the Bush administration, the advisor who knew the most about the Military, Colin Powell was against these policies. President Bush decided the military advice was not what he wanted to hear or follow. The professional military people who disagreed with the "war president" found themselves silenced or "retired."

On November 7, 2005, the Washington Post reported "Over the past year, Vice President Cheney has waged an intense and largely unpublicized campaign to stop Congress, the Pentagon and the State Department from imposing more restrictive rules on handling terrorist suspects." Before the news of Vice President's secret CIA prison system was disclosed by the Washington Post, Mr. CHENEY had offered a "deal" to Senator McCAIN. He would stop opposing the McCain amendment the amendment did not include the CIA from torturing non-Americans. Senator McCAIN turned the Vice President down. In light of what we now know about America's secret CIA prisons and Vice President CHENEY's insistence that the CIA should be exempt from any ban on torture, I am very concerned about what has happened and is still happening to prisoners in the custody of the CIA.

I doubt whether anyone who has experienced war would have to be convinced to support an anti-war amendment proposed by my noble friend JOHN McCAIN, a veteran subjected to torture for more than five years in a North Vietnamese prison. So I take issue with Vice President CHENEY, a man who received five deferments during the Vietnam War, who has lobbied fiercely and shamelessly against the McCain amendment.

I take issue with President Bush that because we have an enemy he thinks "lurks and plots and plans and want to hurt America again," we can disregard the concerns of the human rights organizations, the European Union and the millions of Muslims who view Americans through the lens of Abu Ghraib, Guantanamo Bay and the Hooded Man attached to electric wires.

The practices approved by the President, the Vice President, Porter Goss and whomever knew in the Senate and the House; anyone complicit in the torture of prisoners in the custody of the United States has shamed us all. Richard Cohen got it right when he said in an opinion piece in the Washington Post today entitled "Torture, Shaming Us All." We in the United States not only have our torture and humiliating interrogation practices on the internet, but we have had to reassert 200 years of U.S. principles. The real shame is that the President of the United States has threatened to use his veto for the first time if the McCain amendment comes to his desk as part of a bill.

There are compelling reasons to support the McCain amendment. The first is that torture results in bad intelligence; second it endangers our troops; and third; it is causing us to lose the war of ideas. According to President Bush and his supporters in Congress, this war in Iraq is about bringing democracy and freedom to Iraq. Muslims around the world see handcuffed naked men at Abu Ghraib and the orange jump suit hooded men of Guantanamo Bay, Cuba when they see the United States. This abuse of Muslims is what they see of "democracy" American style.

The people throughout the world know that prisoners in the custody of the United States have been tortured even if President Bush denies it. As Richard Cohen points out, many countries torture prisoners but none admit to the practice. The United States has never had to consider a ban on torture before because this country has never tortured prisoners as a matter of policy. The Uniform Code of Military Justice is clear about how prisoners in the custody of the United States should be treated. This country has signed the Geneva Conventions and in 1994 ratified the Convention Against Torture and Other Cruel, Inhuman, or Degrading Treatment or Punishment, which prohibits such treatment under all circumstances including "a state of war." According to David Cole, the legal affairs correspondent of The Nation, the Bush Administration argued that the ban does not apply to foreign national being held and interrogated abroad. According to Mr. Cole, this interpretation runs against the central purpose of the Torture Convention, which is to protect all human beings, regardless of location and nationality.

Because of the Bush Administration and its abuse of power, we must, for the first time in our history, ban torture. And for the first time in our history, we have a President who is threatening to veto the ban and further shame us all.

HONORING JOSEPH P. LOFTUS

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to honor the important contributions of Joseph P. Loftus Jr. who lived in San Antonio, Texas and passed away recently on September 4th, 2005.

Mr. Speaker, Joe Loftus Jr. was a fine American citizen who served in the aviation and space activities division of government for 47 years. He wasn't always in the spot light, but he was behind the scenes on the Mercury capsules and the Apollo lunar missions. Because of his efforts, NASA created the Orbital Debris Program Office. He had an international reputation for his expertise on orbital debris research and he was awarded NASA's Exceptional Service Metal twice and upon his death, the Distinguished Service Metal. When Mr. Loftus retired, NASA lost a smart, dedicated employee whose talents were in many fields. Eric Hoffer, an American author once wrote, "Our passionate preoccupation with the sky, the stars, and God somewhere in outer space is a homing impulse. We are drawn back to where we came from" Joe Loftus Jr. has returned to where he came from and he will be greatly missed.

Mr. Speaker, thank you for the time to address the House on this somber but momentous occasion.

HONORING DR. DENZIL L. DOUGLAS

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. RANGEL. Mr. Speaker, this coming weekend, between November 10 and 13 I and more than twenty of our colleagues in the House will be meeting and participating in the 10th annual Caribbean Multi-national Business Conference sponsored by the New York Carib News in St. Thomas, U.S. Virgin Islands where we will be enjoying the hospitality of Carib News publishers Karl and Faye Rodney and Delegate DONNA CHRISTIAN CHRISTENSEN. Over the last decade the conference has brought together elected officials, civic leaders, entrepreneurs, and executives of major corporations to explore opportunities for growth and expansion in the emerging markets and developing economies of the Caribbean. The conference has significantly contributed to the building of closer working relationships and personal ties between Caribbean leadership and the Members of Congress who have participated. As we approach this year's conference, I wish to recognize and pay tribute to an outstanding Caribbean leader, Dr. Denzil L. Douglas, the Prime Minister of St. Kitts-Nevis by placing in the CONGRESSIONAL RECORD the text of a proclamation to be awarded at the conference:

A PROCLAMATION CELEBRATING THE ACCOMPLISHMENTS OF DR. DENZIL L. DOUGLAS, PRIME MINISTER, ST. KITTS-NEVIS

Whereas, It is an established and honorable tradition for elected officials to recognize the outstanding contributions of those persons whose leadership and life's work have made a substantial difference to the lives of people everywhere, especially in their own countries; and

Whereas, Such committed leaders are like beacons that show the way to a better life for those persons at the lowest rungs of the economic and social ladder and are therefore an Inspiration to people at home and abroad; and

Whereas, Dr. Denzil L. Douglas, a national and Prime Minister of the independent Federation of St. Kitts-Nevis, is surely one such leader and dedicated public servant; and

Whereas, Dr. Denzil L. Douglas, a physician, is being cited and honored at the annual Caribbean Multi-National Business Conference 2005 in St. Thomas In the U.S. Virgin Islands for his service to his native land, the wider Caribbean community and developing nations generally, serving as head of Government in St. Kitts-Nevis at a time when the United Nations placed his country on the list of the World's top 50 states where the quality of life is high; is the Caribbean Community, Caricom, lead Prime Minister on health issues, championing the fight against HIV/AIDS infection in the Caribbean; and

Whereas, The Prime Minister has led his country with distinction for the past 10 years while Demonstrating to the world that a small nation can be an international model of development, an example when it comes to adherence to the rule of law and parliamentary democracy; now, therefore be it

Resolved, That we salute and commend Dr. Denzil Douglas for his distinguished an unblemished record of service to humanity and for his leadership on the national and international stages, within Caricom and the countries which belong to the Organization of Eastern Caribbean States.

125TH ANNIVERSARY OF THE HOLDING INSTITUTE

HON. HENRY CUELLAR

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. CUELLAR. Mr. Speaker, I rise today to honor the 125th anniversary of the Holding Institute. The Holding Institute is a training facility that helps young Hispanic women, children and families improve their ability to read, write and speak English. Since Miss Nannie Emory Holding, a Methodist missionary teacher from Kentucky, helped a small group of Laredo women organize a school for girls on the north bank of the Rio Grande back in the early 1880's, the name Holding has meant educational opportunity to the residents of Los Dos Laredos.

In 1987, Holding became a community learning center offering learning opportunities for adults, offering day and evening classroom instruction to women and men above 16 years of age who wanted to learn English as a second language, improve their Spanish, obtain their GED, gain work skills including computer literacy, or get ready for entry into college.

Today, Holding is recognized for future projects that will take learning at Holding to another level for the 21st Century.

Mr. Speaker, I am proud to have had this opportunity to recognize the Holding Institute, an invaluable learning center for many people in Laredo, for their 125 years of ministry and teaching.

HONORING DAME BILLIE ANTOINETTE MILLER

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. RANGEL. Mr. Speaker, this coming weekend, between November 10 and 13 I and more than 20 of our colleagues in the House will be meeting and participating in the 10th annual Caribbean Multi-national Business Conference sponsored by the New York Carib News in St. Thomas, U.S. Virgin Islands where we will be enjoying the hospitality of Carib News publishers Karl and Faye Rodney and Delegate DONNA CHRISTIAN CHRISTENSEN. Over the last decade the conference has brought together elected officials, civic leaders, entrepreneurs, and executives of major corporations to explore opportunities for growth and expansion in the emerging markets and developing economies of the Caribbean. The conference has significantly contributed to the building of closer working relationships and personal ties between Caribbean leadership and the Members of Congress who have participated. As we approach this year's conference, I wish to recognize and pay tribute to an outstanding Caribbean leader, Dame Billie Antoinette Miller by placing in the CONGRESSIONAL RECORD the text of a proclamation to be awarded at the conference:

A PROCLAMATION CELEBRATING THE ACCOMPLISHMENTS OF DAME BILLIE ANTOINETTE MILLER

Whereas, It is a long and honorable tradition for elected Officials to recognize the outstanding contributions of those individuals whose Life Has made an important difference to people Everywhere, especially in their own communities; and

Whereas, Such persons serve as role models and an Inspiration to people at home and abroad; and

Whereas, Dame Billie, a national of the independent nation of Barbados in the Caribbean, is unquestionably such a major contributor; and

Whereas, Dame Billie Miller is being cited and honored at the annual Caribbean Multinational Business Conference 2005 in St. Thomas in the U.S. Virgin Islands for service to Barbados, the Caribbean and the international community, serving as a member of her nation's parliament for more than 25 years; Deputy Prime Minister for almost a decade; Minister of Foreign Affairs and Foreign Trade since 1994; was the first woman to sit in the cabinet of Barbados, for several years was the only woman serving as an attorney at the private Bar of Barbados, and holds the distinction of being the first woman to be elected Chairman of the Executive Committee of the Commonwealth Parliamentary Association since its establishment in 1911; and

Whereas, Dame Billie, one of the Caribbean's longest Serving cabinet ministers, was President of the 32nd Regular Session of the General Assembly of the Organization of American States in 2002; was Chairman of the Inter-American Development Bank's Advisory Council on Women and Development in the Western Hemisphere; and in 1998 was President of the African, Caribbean and Pacific States Council of Ministers and is the current chairman of the Inter-American Parliamentary Group on Population and Development in the Western Hemisphere; now, therefore be it

Resolved, That we salute and commend Dame Billie Miller for her distinguished and unblemished record of service to humanity.

PERSONAL EXPLANATION

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Ms. LEE. Mr. Speaker, on November 7, 2005, I missed rollcall votes Nos. 570–572. Had I been present, I would have voted "aye" on H. Con. Res. 260, a resolution recognizing the 40th anniversary of the Second Vatican Council's promulgation of Noestra Aetate; "aye" on H.R. 1973, the Water for the Poor Act of 2005; and "aye" on H. Res. 444, the Gynecological Resolution for Advancement of Ovarian Cancer Education.

HONORING DR. KENNY ANTHONY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. RANGEL. Mr. Speaker, this coming weekend, between November 10 and 13, I and more than 20 of our colleagues in the House will be meeting and participating in the 10th annual Caribbean Multi-national Business Conference sponsored by the New York Carib News in St. Thomas, U.S. Virgin Islands where we will be enjoying the hospitality of Carib News publishers Karl and Faye Rodney and Delegate DONNA CHRISTIAN CHRISTENSEN. Over the last decade the conference has brought together elected officials, civic leaders, entrepreneurs, and executives of major corporations to explore opportunities for growth and expansion in the emerging markets and developing economies of the Caribbean. The conference has significantly contributed to the building of closer working relationships and personal ties between Caribbean leadership and the Members of Congress who have participated. As we approach this year's conference, I wish to recognize and pay tribute to an outstanding Caribbean leader, Dr. Kenny Anthony, the Prime Minister of St. Lucia by placing in the CONGRESSIONAL RECORD the text of a proclamation to be awarded at the conference:

A PROCLAMATION CELEBRATING THE ACCOMPLISHMENTS OF DR. KENNY ANTHONY, PRIME MINISTER, ST. LUCIA

Whereas, It is an established and honorable tradition for elected officials to recognize the outstanding contributions of those persons whose leadership, scholarship and total life's work have helped to transform people's lives for the better, especially in their own countries and region; and

Whereas, Such committed leaders are reliable foundations on which sustained economic growth and human development are built, paving the way for a better standard of living for all, particularly the poor, and are therefore an inspiration to people at home and abroad; and

Whereas, Dr. Kenny, a national and Prime Minister of the independent nation of St. Lucia is obviously one such leader and a dedicated public servant; and

Whereas, Dr. Kenny Anthony, an attorney and recognized legal expert with graduate degrees in law, including a PhD from the University of Birmingham in England, is being cited and honored at the annual Caribbean Multi- National Business Conference 2005 in St. Thomas in the U.S. Virgin Islands for his service to his country of birth, the wider Caribbean community and developing nations generally, serving as head of Government in St. Lucia at a time when the country has gained international recognition for its pace of human development; is the Caribbean Community, Caricom, lead Prime Minister on governance and jurisprudence; and

Whereas, The Prime Minister has led St. Lucia with distinction for almost a decade while directing much of the work on the historic creation of the Caribbean Court of Justice and showing the world that St. Lucia which has given the world 2 Nobel Prize winners, one in economics and the other in literature is contributing even more to the improvement of the human condition and that a small nation can be a showcase of talent and intellect while being an example when it comes to adhering to the rule of law and parliamentary democracy: now, therefore be it

Resolved, That we salute and commend Dr. Kenny Anthony for his distinguished an unblemished record of service to humanity and for his leadership on the national and international stages, within Caricom and the countries which belong to the Organization of Eastern Caribbean States.

REMEMBERING MS. ROSA PARKS

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. REYES. Mr. Speaker, I join the entire Nation today in mourning the death of Ms. Rosa Parks. This humble woman showed how a single act, the refusal to give up her seat on a bus to a white man, could change the course of history. Her actions helped spark the civil rights movement, inspiring leaders like Martin Luther King Jr., and led to the Civil Rights Act of 1964.

Ms. Parks' courage in an era marked by racial tension and hatred is still an example to us today. Indeed, we are all indebted to Ms. Parks for helping move this country toward one in which all men and women—black, Latino, Asian, Native American, white—can take their rightful place in society.

Ms. Parks' commitment to justice did not end with the civil rights movement. She went on to co-found the Rosa and Raymond Parks Institute for Self Development to help young adults attain a higher education, register to vote, and work toward racial harmony.

In recognition of a lifetime of achievement, Ms. Parks was awarded the Presidential Medal of Freedom in 1996 and the Congressional Gold Medal in 1999. She is also the first woman in history to lie in honor in the Capitol Rotunda, which is a testament to her enormous impact on our Nation's history.

Mr. Speaker, I join all Americans in mourning the passing of Ms. Rosa Parks. Though we are saddened by this loss, we are mindful of the fact that through her life she made our country a better place, and through her memory we will never forget the importance of justice and equality for all Americans.

HONORING DIANE ABBOTT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. RANGEL. Mr. Speaker, this coming weekend, between November 10 and 13, I and more than 20 of our colleagues in the House will be meeting and participating in the 10th annual Caribbean Multi-national Business Conference sponsored by the New York Carib News in St. Thomas, U.S. Virgin Islands where we will be enjoying the hospitality of Carib News publishers Karl and Faye Rodney and Delegate DONNA CHRISTIAN CHRISTENSEN. Over the last decade the conference has brought together elected officials, civic leaders, entrepreneurs, and executives of major corporations to explore opportunities for growth and expansion in the emerging markets and developing economies of the Caribbean. The conference has significantly contributed to the building of closer working relationships and personal ties between Caribbean leadership and the Members of Congress who have participated. As we approach this year's conference, I wish to recognize and pay tribute to an outstanding Caribbean leader, Ms. Diane Abbott, Member of House of Commons, United Kingdom by placing in the CONGRESSIONAL RECORD the text of a proclamation to be awarded at the conference:

A PROCLAMATION CELEBRATING THE ACCOMPLISHMENTS OF MS. DIANE ABBOTT, MEMBER OF THE HOUSE OF COMMONS, UNITED KINGDOM

Whereas, It is an established and honorable tradition for elected officials to recognize the outstanding contributions of those persons whose leadership and life's work have made a substantial difference to the lives of people everywhere, especially in their own countries; and

Whereas, Such committed leaders are often pioneers, who blaze a trail, becoming a role model for others to emulate, especially the young and the less fortunate in society.

Whereas, Diane Abbott, the first Black woman ever elected to the British House of Commons has earned her place on the scroll of outstanding women of achievement and is certainly one such pioneer.

Whereas, Diane Abbott, the daughter of Jamaican Immigrant parents and an honors graduate of Britain's prestigious Cambridge University, has represented a working class, multi-ethnic District In London since she was first elected to the House of Commons in 1987.

Whereas, Diane Abbott is being cited and honored at the annual Caribbean Multi-National Business Conference 2005 in St. Thomas in the U.S. Virgin Islands for service to her country, the Caribbean community and the developing world generally.

Whereas, Diane Abbott, a member of the Treasury Committee of the International Monetary Fund helped to raise the consciousness of the International community about the damage which the debt crisis was having on governments and people of the Caribbean, Africa, Eastern Europe and Latin America; now, therefore be it

Resolved, That we salute and commend Ms. Diane Abbott for her distinguished an unblemished record of service to humanity and for her leadership on the national and international stages in the United Kingdom, the Caribbean as elsewhere.

RECOGNIZING THE 87TH ANNIVERSARY OF THE INDEPENDENCE OF THE REPUBLIC OF POLAND

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. EMANUEL. Mr. Speaker, on November 11, I will proudly join thousands of Polish Americans living in Chicago in celebrating the 87th anniversary of the Independence of the Republic of Poland.

Until Poland was recognized again as a sovereign nation, it struggled against tyranny, just as the United States did against colonial rule before our own independence was achieved. From the end of the 18th century until World War I, Poles were forced to live under the despotic rule of the Russian czars and Prussian and Austrian emperors. During the war, the Polish territory suffered under the heavy hand of Russian, German, and Austrian occupation. However, during World War I, Poles were gradually able to self-govern at local levels and established institutions, laying the groundwork for eventual independence.

Meanwhile, President Woodrow Wilson made the restoration of Polish independence one of his 14 conditions for peace. President Wilson was a friend of Ignacy Jan Paderewski, a famous Polish artist, composer, statesman and great patriot. As World War I drew to a close, Polish culture began to flourish again and self-governance was finally achieved when the first Polish government was established.

After 123 years of partitions and uprisings, Poland's dream of independence was realized when it became a sovereign state again on November 11, 1918, the same day as the Armistice ending World War I. With its long and rich history and traditions, Poland regained its rightful place among free and independent nations. Eighty-seven years later, we continue to celebrate Poland's independence.

I am proud to represent more than 111,000 people of Polish descent who live in the Fifth Congressional District on Chicago's northwest side. We must continue to build upon a strong record of cultural and economic ties between our two nations. We are grateful to Poland for its friendship and commitment to democratic ideals of liberty, human rights, and most recently, its commitment of resources and troops who stood shoulder to shoulder with the U.S. Armed Forces during Operation Iraqi Freedom. Poland continues to be our staunch ally and steadfast friend in Europe in our fight against terrorism.

On this day, I am proud to join the people of my district, as well as those of Polish descent around the globe, in celebrating the 87th Anniversary of Poland's independence.

HONORING THE HON. GORDON "BUTCH" STEWART

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. RANGEL. Mr. Speaker, this coming weekend, between November 10 and 13, I and more than 20 of our colleagues in the House will be meeting and participating in the 10th annual Caribbean Multi-national Business Conference sponsored by the New York Carib News in St. Thomas, U.S. Virgin Islands where we will be enjoying the hospitality of Carib News publishers Karl and Faye Rodney and Delegate DONNA CHRISTIAN CHRISTENSEN. Over the last decade the conference has brought together elected officials, civic leaders, entrepreneurs, and executives of major corporations to explore opportunities for growth and expansion in the emerging markets and developing economies of the Caribbean. The conference has significantly contributed to the building of closer working relationships and personal ties between Caribbean leadership and the Members of Congress who have participated. As we approach this year's conference, I wish to recognize and pay tribute to an outstanding Caribbean leader, Hon. Gordon "Butch" Stewart, Renowned Jamaican and Caribbean Business leader and Entrepreneur by placing in the CONGRESSIONAL RECORD the text of a proclamation to be awarded at the conference:

A PROCLAMATION CELEBRATING THE ACCOMPLISHMENTS OF HON. GORDON "BUTCH" STEWART

Whereas, It is an established and honorable tradition for elected officials to recognize the outstanding contributions of those persons whose groundbreaking leadership and life's work have helped to transform the private sector as a key engine of economic growth while upgrading people's standard of living, especially in their own countries;

Whereas, Such successful business leaders have earned their places in history the old-fashion way, working hard, taking risks, blazing profitable commercial trails, thus setting examples for others to follow:

Whereas, The Hon. Gordon "Butch" Stewart, a national of Jamaica who is Chairman of Sandals Resorts International, sits at the pinnacle one of the largest corporate conglomerates in the Caribbean;

Whereas, The Hon. Gordon "Butch" Stewart, until recently Chairman of Air Jamaica, has been widely recognized and honored throughout the Caribbean, North America and Europe for his business innovation, entrepreneurship and success.

Whereas, Two of most cherished awards are his country's highest national honors, the Order of Jamaica and Commander of the Order of Distinction.

Whereas, The Hon. Gordon "Butch" Stewart is being cited and honored at the annual Caribbean Multi-National Business Conference 2005 in St. Thomas in the U.S. Virgin Islands for service to his country, the Caribbean community and the global business community; now, therefore be it

Resolved, That we salute and commend the Hon. Gordon "Butch" Stewart for his outstanding, distinguished an unblemished record of service to business and humanity and for his leadership on the national and international stages in Jamaica, the Caribbean, North America and Europe.

TRIBUTE TO JOHN E. TAYLOR

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. VAN HOLLEN. Mr. Speaker, it is with great pleasure that I rise to commend John E.

will be meeting and participating in the 10th annual Caribbean Multi-national Business Conference sponsored by the New York Carib News in St. Thomas, U.S. Virgin Islands where we will be enjoying the hospitality of Carib News publishers Karl and Faye Rodney and Delegate DONNA CHRISTIAN CHRISTENSEN. Over the last decade the conference has brought together elected officials, civic leaders, entrepreneurs, and executives of major corporations to explore opportunities for growth and expansion in the emerging markets and developing economies of the Caribbean. The conference has significantly contributed to the building of closer working relationships and personal ties between Caribbean leadership and the Members of Congress who have participated. As we approach this year's conference, I wish to recognize and pay tribute to an outstanding Caribbean leader, Dame Billie Antoinette Miller by placing in the CONGRESSIONAL RECORD the text of a proclamation to be awarded at the conference:

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Whereas, It is a long and honorable tradition for elected Officials to recognize the outstanding contributions of those individuals whose Life Has made an important difference to people Everywhere, especially in their own communities; and

Whereas, Such persons serve as role models and an Inspiration to people at home and abroad; and

Whereas, Dame Billie, a national of the independent nation of Barbados in the Caribbean, is unquestionably such a major contributor; and

Whereas, Dame Billie Miller is being cited and honored at the annual Caribbean Multinational Business Conference 2005 in St. Thomas in the U.S. Virgin Islands for service to Barbados, the Caribbean and the international community, serving as a member of her nation's parliament for more than 25 years; Deputy Prime Minister for almost a decade; Minister of Foreign Affairs and Foreign Trade since 1994; was the first woman to sit in the cabinet of Barbados, for several years was the only woman serving as an attorney at the private Bar of Barbados, and holds the distinction of being the first woman to be elected Chairman of the Executive Committee of the Commonwealth Parliamentary Association since its establishment in 1911; and

Whereas, Dame Billie, one of the Caribbean's longest Serving cabinet ministers, was President of the 32nd Regular Session of the General Assembly of the Organization of American States in 2002; was Chairman of the Inter-American Development Bank's Advisory Council on Women and Development in the Western Hemisphere; and in 1998 was President of the African, Caribbean and Pacific States Council of Ministers and is the current chairman of the Inter-American Parliamentary Group on Population and Development in the Western Hemisphere; now, therefore be it

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PERSONAL EXPLANATION

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Ms. LEE. Mr. Speaker, on November 7, 2005, I missed rollcall votes Nos. 570–572. Had I been present, I would have voted "aye" on H. Con. Res. 260, a resolution recognizing the 40th anniversary of the Second Vatican Council's promulgation of Noestra Aetate; "aye" on H.R. 1973, the Water for the Poor Act of 2005; and "aye" on H. Res. 444, the Gynecological Resolution for Advancement of Ovarian Cancer Education.

HONORING DR. KENNY ANTHONY

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

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Whereas, Dr. Kenny, a national and Prime Minister of the independent nation of St. Lucia is obviously one such leader and a dedicated public servant; and

Whereas, Dr. Kenny Anthony, an attorney and recognized legal expert with graduate degrees in law, including a PhD from the University of Birmingham in England, is being cited and honored at the annual Caribbean Multi- National Business Conference 2005 in St. Thomas in the U.S. Virgin Islands for his service to his country of birth, the wider Caribbean community and developing nations generally, serving as head of Government in St. Lucia at a time when the country has gained international recognition for its pace of human development; is the Caribbean Community, Caricom, lead Prime Minister on governance and jurisprudence; and

Whereas, The Prime Minister has led St. Lucia with distinction for almost a decade while directing much of the work on the historic creation of the Caribbean Court of Justice and showing the world that St. Lucia which has given the world 2 Nobel Prize winners, one in economics and the other in literature is contributing even more to the improvement of the human condition and that a small nation can be a showcase of talent and intellect while being an example when it comes to adhering to the rule of law and parliamentary democracy; now, therefore be it

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REMEMBERING MS. ROSA PARKS

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. REYES. Mr. Speaker, I join the entire Nation today in mourning the death of Ms. Rosa Parks. This humble woman showed how a single act, the refusal to give up her seat on a bus to a white man, could change the course of history. Her actions helped spark the civil rights movement, inspiring leaders like Martin Luther King Jr., and led to the Civil Rights Act of 1964.

Ms. Parks' courage in an era marked by racial tension and hatred is still an example to us today. Indeed, we are all indebted to Ms. Parks for helping move this country toward one in which all men and women—black, Latino, Asian, Native American, white—can take their rightful place in society.

Ms. Parks' commitment to justice did not end with the civil rights movement. She went on to co-found the Rosa and Raymond Parks Institute for Self Development to help young adults attain a higher education, register to vote, and work toward racial harmony.

In recognition of a lifetime of achievement, Ms. Parks was awarded the Presidential Medal of Freedom in 1996 and the Congressional Gold Medal in 1999. She is also the first woman in history to lie in honor in the Capitol Rotunda, which is a testament to her enormous impact on our Nation's history.

Mr. Speaker, I join all Americans in mourning the passing of Ms. Rosa Parks. Though we are saddened by this loss, we are mindful of the fact that through her life she made our country a better place, and through her memory we will never forget the importance of justice and equality for all Americans.

HONORING DIANE ABBOTT

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

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A PROCLAMATION CELEBRATING THE ACCOMPLISHMENTS OF MS. DIANE ABBOTT, MEMBER OF THE HOUSE OF COMMONS, UNITED KINGDOM

Whereas, It is an established and honorable tradition for elected officials to recognize the outstanding contributions of those persons whose leadership and life's work have made a substantial difference to the lives of people everywhere, especially in their own countries; and

Whereas, Such committed leaders are often pioneers, who blaze a trail, becoming a role model for others to emulate, especially the young and the less fortunate in society.

Whereas, Diane Abbott, the first Black woman ever elected to the British House of Commons has earned her place on the scroll of outstanding women of achievement and is certainly one such pioneer.

Whereas, Diane Abbott, the daughter of Jamaican Immigrant parents and an honors graduate of Britain's prestigious Cambridge University, has represented a working class, multi-ethnic District In London since she was first elected to the House of Commons in 1987.

Whereas, Diane Abbott is being cited and honored at the annual Caribbean Multi-National Business Conference 2005 in St. Thomas in the U.S. Virgin Islands for service to her country, the Caribbean community and the developing world generally.

Whereas, Diane Abbott, a member of the Treasury Committee of the International Monetary Fund helped to raise the consciousness of the International community about the damage which the debt crisis was having on governments and people of the Caribbean, Africa, Eastern Europe and Latin America; now, therefore be it

Resolved, That we salute and commend Ms. Diane Abbott for her distinguished an unblemished record of service to humanity and for her leadership on the national and international stages in the United Kingdom, the Caribbean as elsewhere.

RECOGNIZING THE 87TH ANNIVERSARY OF THE INDEPENDENCE OF THE REPUBLIC OF POLAND

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. EMANUEL. Mr. Speaker, on November 11, I will proudly join thousands of Polish Americans living in Chicago in celebrating the 87th anniversary of the Independence of the Republic of Poland.

Until Poland was recognized again as a sovereign nation, it struggled against tyranny, just as the United States did against colonial rule before our own independence was achieved. From the end of the 18th century until World War I, Poles were forced to live under the despotic rule of the Russian czars and Prussian and Austrian emperors. During the war, the Polish territory suffered under the heavy hand of Russian, German, and Austrian occupation. However, during World War I, Poles were gradually able to self-govern at local levels and established institutions, laying the groundwork for eventual independence.

Meanwhile, President Woodrow Wilson made the restoration of Polish independence one of his 14 conditions for peace. President Wilson was a friend of Ignacy Jan Paderewski, a famous Polish artist, composer, statesman and great patriot. As World War I drew to a close, Polish culture began to flourish again and self-governance was finally achieved when the first Polish government was established.

After 123 years of partitions and uprisings, Poland's dream of independence was realized when it became a sovereign state again on November 11, 1918, the same day as the Armistice ending World War I. With its long and rich history and traditions, Poland regained its rightful place among free and independent nations. Eighty-seven years later, we continue to celebrate Poland's independence.

I am proud to represent more than 111,000 people of Polish descent who live in the Fifth Congressional District on Chicago's northwest side. We must continue to build upon a strong record of cultural and economic ties between our two nations. We are grateful to Poland for its friendship and commitment to democratic ideals of liberty, human rights, and most recently, its commitment of resources and troops who stood shoulder to shoulder with the U.S. Armed Forces during Operation Iraqi Freedom. Poland continues to be our staunch ally and steadfast friend in Europe in our fight against terrorism.

On this day, I am proud to join the people of my district, as well as those of Polish descent around the globe, in celebrating the 87th Anniversary of Poland's independence.

HONORING THE HON. GORDON "BUTCH" STEWART

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. RANGEL. Mr. Speaker, this coming weekend, between November 10 and 13, I and more than 20 of our colleagues in the House will be meeting and participating in the 10th annual Caribbean Multi-national Business Conference sponsored by the New York Carib News in St. Thomas, U.S. Virgin Islands where we will be enjoying the hospitality of Carib News publishers Karl and Faye Rodney and Delegate DONNA CHRISTIAN CHRISTENSEN. Over the last decade the conference has brought together elected officials, civic leaders, entrepreneurs, and executives of major corporations to explore opportunities for growth and expansion in the emerging markets and developing economies of the Caribbean. The conference has significantly contributed to the building of closer working relationships and personal ties between Caribbean leadership and the Members of Congress who have participated. As we approach this year's conference, I wish to recognize and pay tribute to an outstanding Caribbean leader, Hon. Gordon "Butch" Stewart, Renowned Jamaican and Caribbean Business leader and Entrepreneur by placing in the CONGRESSIONAL RECORD the text of a proclamation to be awarded at the conference:

A PROCLAMATION CELEBRATING THE ACCOMPLISHMENTS OF HON. GORDON "BUTCH" STEWART

Whereas, It is an established and honorable tradition for elected officials to recognize the outstanding contributions of those persons whose groundbreaking leadership and life's work have helped to transform the private sector as a key engine of economic growth while upgrading people's standard of living, especially in their own countries;

Whereas, Such successful business leaders have earned their places in history the old-fashion way, working hard, taking risks, blazing profitable commercial trails, thus setting examples for others to follow;

Whereas, The Hon. Gordon "Butch" Stewart, a national of Jamaica who is Chairman of Sandals Resorts International, sits at the pinnacle one of the largest corporate conglomerates in the Caribbean;

Whereas, The Hon. Gordon "Butch" Stewart, until recently Chairman of Air Jamaica, has been widely recognized and honored throughout the Caribbean, North America and Europe for his business innovation, entrepreneurship and success.

Whereas, Two of most cherished awards are his country's highest national honors, the Order of Jamaica and Commander of the Order of Distinction.

Whereas, The Hon. Gordon "Butch" Stewart is being cited and honored at the annual Caribbean Multi-National Business Conference 2005 in St. Thomas in the U.S. Virgin Islands for service to his country, the Caribbean community and the global business community; now, therefore be it

Resolved, That we salute and commend the Hon. Gordon "Butch" Stewart for his outstanding, distinguished an unblemished record of service to business and humanity and for his leadership on the national and international stages in Jamaica, the Caribbean, North America and Europe.

TRIBUTE TO JOHN E. TAYLOR

HON. CHRIS VAN HOLLEN

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. VAN HOLLEN. Mr. Speaker, it is with great pleasure that I rise to commend John E.

Taylor for his dedicated service to the National Archives. Mr. Taylor has worked for the National Archives since 1946. Throughout those years, Mr. Taylor has been acclaimed by researchers worldwide for his extraordinary grasp of history and ability to locate pertinent documents.

Mr. Taylor specializes in World War II documents and records of the Office of Strategic Services. Mr. Taylor's colleagues praise him as one of the most knowledgeable and generous archivists, known for his sound advice and resourceful assistance to authors, scholars and historians.

Throughout his illustrious career, Mr. Taylor has been honored by groups all over the world. In 1997 Mr. Taylor was honored by the Japanese Embassy for helping Japanese historians and journalists for the previous 40 years. In 2003 the American Jewish Historical Society awarded Mr. Taylor its first "Distinguished Archivist Award" for his lifetime of work as an archivist. He has also received numerous honors from the National Archives itself. The National Archives has a special John E. Taylor Collection of books on espionage and intelligence which largely consists of works with which Mr. Taylor provided critical assistance.

Mr. Taylor is truly an invaluable resource. His service at the National Archives is legendary. I applaud his outstanding achievements and dedication to his work, and this landmark achievement of 60 years of service.

BUDGET RECONCILIATION

HON. PATRICK J. KENNEDY

OF RHODE ISLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. KENNEDY of Rhode Island. Mr. Speaker, in October 1999, a presidential candidate from Texas said that House Republicans "shouldn't balance the budget on the backs of the poor." He criticized his fellow Republicans for projecting "pessimism, indifference, and I disdain for government."

That man was President George W. Bush, and what a sad, tragic difference 6 years in power has made.

Today, too many Americans are struggling just to get by, let alone get ahead. They're trying to scratch out a living . . . [pause] . . . and some hope for the future in the face of rising energy prices, higher education costs, stagnant wages, and for some, the complete loss of homes, jobs, and even loved ones to Hurricane Katrina.

To them, this reconciliation bill says, "we need you to sacrifice more so that the energy companies can get their subsidies and the wealthy elite can get their tax breaks."

Democrats believe that government should reflect the sense of community that Americans demonstrated after Katrina—the sense of community that has defined and united America throughout its history.

We believe in some basic human principles—everyone should have the opportunities not just to survive, but to excel with their God-given talents and abilities. Those are the values that should be reflected in our budgets. We could have a budget that brings Americans together.

But sadly, instead, we have a budget that will widen the divide in America between those who have plenty, and those who struggle just to have enough.

EDUCATION

One of those people is a young lady in my district. She will graduate from high school this spring; the first in her family with a chance at college.

She will work in an America that faces more global economic competition than ever before in its history.

But this budget will limit her opportunity and turn education into a commodity because it will increase by almost $6,000 the interest rates, taxes and fees she will have to pay.

Robert McKenna, who heads up higher education in my state, has proclaimed that this budget could severely undermine already existing education benefits. And make it harder to expand access to higher education.

I have 44,000 students like that young lady in my state, and this spring when she graduates, she will have one less tool to build the American Dream for her and her family.

FOOD STAMPS

Unfortunately, these families will have plenty of company in their disproportionate sacrifice. At the beginning of every month, you will find many families in the supermarket, pinching and saving and clipping coupons to get by. We saw some of those same faces on August 31—those without enough money at the end of the month to fill up the gas tank to get out of New Orleans.

In my state, over 17,000 households are going hungry on a regular basis.

My state has the highest child poverty rate in all of New England, above the national average.

What does this budget do for the people in my state?

It starts by taking school lunches from their kids.

It continues by taking 300,000 families in this country—over 12,000 in my state alone—and kicking them off food stamps. Leaving them to sacrifice basic nutrition for their children to keep the heat on this winter or a roof over their heads.

Bernie Beaudreau, the Executive Director of the Rhode Island Community Food Bank, recently commented: "The forces and trends in our economy creating conditions of poverty and hunger—low wages, unemployment and low incomes, housing and energy costs, the cost of food and health care, are outstripping our capacity to respond. Given this hunger data, cutting food stamps is a disastrous idea."

MEDICAID

Regarding Medicaid, I recently had a chance to visit with some young adults who have Down's Syndrome or autism, at the Groden Center in Providence, Rhode Island. Of all the people in America who are asked to sacrifice, I can't believe this budget would go after them.

And yet the Medicaid program that helps them meet the challenges of their disabilities is also on the chopping block.

Dale Klatzker, Executive Director of the Providence Center, a facility that provides mental health treatment and supportive services, recently commented, "Perhaps if some of the Members of the House could spend some time with the individuals that these changes seek to make more personally responsible—they would have a different take on the life and death decisions they seem intent on making."

Nearly 200,000 Rhode Islanders on Medicaid will be affected by these changes.

CONCLUSION

In conclusion, reconciliation is more than a line item in a budget. It should be about hope and dreams and opportunity, not just tax breaks for the wealthiest among us.

In his Second Inaugural Address, President Roosevelt said, "The test of our progress is not whether we add more to the abundance of those who have much; it is whether we provide enough for those who have too little."

With this budget it is all too clear that we are failing the test.

THE CONGRESSIONAL ROLE IN DECLARING WAR

HON. CHARLES B. RANGEL

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 9, 2005

Mr. RANGEL. Mr. Speaker, I rise today to ask that we return to the framework for declarations of war set out by our Founding Fathers and found in the United States Constitution.

The Iraq War and all the damage it has done and continues to do, is a demonstration of what happens when Congress ignores the Constitution and the intentions of the Founding Fathers. As Leslie H. Gelb and Anne-Marie Slaughter point out in their article in the November 8, 2005 Washington Post "No More Blank-Check Wars" "Most wars overflow with mistakes and surprises. Still, in Iraq, much that has gone wrong could have been foreseen—and was. . . . Too often our leaders have entered wars with unclear and unfixed aims, tossing away American lives, power and credibility before figuring out what they were doing and what could be done. Congress saw the problem after the Vietnam War and tried to fix it with the War Powers Act. It states that troops sent into combat by the President must be withdrawn within 60 days unless Congress approves an extension. But Presidents from Nixon on never recognized the validity of this legislation against their powers as commander in chief. Nor did Congress ever assert its rights and take political responsibility. Since the Korean War, the process has consisted of at most a Congressional resolution, a few serious speeches and authorization for the President to do whatever he wants. Odds are against changing these 'political realities.' But, impaled as we are on costs and carelessness of so many of our recent wars, it is worth trying to find a better way."

As it happens, Gelb and Slaughter point out: the answer is in the Constitution. The Founding Fathers understood that sending Americans to war required careful reflection and vigorous debate. The answer survives in Article 1, Section 8, of the Constitution, which give

Congress—and only Congress—the power to declare war. The authors suggest that power needs to be reestablished and reinforced by new legislation. The new legislation would require a declaration of war from Congress in advance of any commitment of troops. Requiring a declaration by Congress would require congress to debate the issues, analyze the threat, and consider the costs of a war. In the case of the September 11, 2001 attacks, the President would retain his power to repel the attack and strike back without a Congressional declaration. But if he went to Afghanistan and planned to keep troops there, topple the government and transform the country, he would need a Congressional declaration. Without the declaration, he would have no funding for nation building. These are ideas that need discussion. These ideas come from the document we all swear an oath to uphold: the Constitution of the United States.

In my view, a patriot is a person who remembers he must uphold and defend the Constitution, not a political party or a President.

[From the Washington Post, Nov. 8, 2005]

NO MORE BLANK-CHECK WARS

(By Leslie H. Gelb and Anne-Marie Slaughter)

Most wars overflow with mistakes and surprises. Still, in Iraq, much that has gone wrong could have been foreseen—and was. For example, most experts knew that 100,000 U.S. troops couldn't begin to provide essential security and that Iraqi oil revenue wouldn't dent war costs. But none of this was nailed down beforehand in any disciplined review.

And Iraq, whether justified or not, is only the latest in a long line of ill-considered and ill-planned U.S. military adventures. Time and again in recent decades the United States has made military commitments after little real debate, with hazy goals and no appetite for the inevitable setbacks. John F. Kennedy and Lyndon Johnson plunged us into the Vietnam War with little sense of the region's history or culture. Ronald Reagan dispatched Marines to Lebanon, saying that stability there was a "vital interest," only to yank them out 16 months later after a deadly terrorist attack on Marine barracks. Bill Clinton, having inherited a mission in Somalia to feed the starving, ended up hunting tribal leaders and trying to build a nation.

Too often our leaders have entered wars with unclear and unfixed aims, tossing away American lives, power and credibility before figuring out what they were doing and what could be done. Congress saw the problem after the Vietnam War and tried to fix it with the War Powers Act. It states that troops sent into combat by the president must be withdrawn within 60 days unless Congress approves an extension. But presidents from Richard Nixon on never recognized the validity of this legislation against their powers as commander in chief. Nor did Congress ever assert its rights and take political responsibility. Since the Korean War, the process has consisted at most of a presidential request for a congressional resolution, a few serious speeches and authorization for the president to do whatever he wants. Odds are against changing these "political realities." But impaled as we are on the costs and carelessness of so many of our recent wars, it is worth trying to find a better way.

As often happens, an answer can be found with the Founding Fathers and the Constitution. They could not have foreseen the present age of nuclear missiles and cataclysmic terrorism. But they understood political accountability, and they knew that sending Americans to war required careful reflection and vigorous debate. Their answer survives in Article 1, Section 8, of the Constitution, which gives Congress—and only Congress—the power to declare war. That power, exercised only a few times in our history, and not at all since World War II, needs to be reestablished and reinforced by new legislation. This legislation would fix guidelines for exercising the provision jointly between the White House and Congress. It would restore the Framers' intent by requiring a congressional declaration of war in advance of any commitment of troops that promises sustained combat.

Requiring Congress to declare war, rather than just approve or authorize the president's decision to take troops into combat, would make it much harder for Congress to duck its responsibilities. The president would be required to give Congress an analysis of the threat, specific war aims with their rationale and feasibility, general strategy and potential costs. Congress would hold hearings, examine the information and conclude with a full floor debate and solemn vote.

In case of a sudden attack on the United States or Americans abroad, the president would retain his power to repel that attack and strike back without a congressional declaration. But any sustained operations would trigger the declaration process. In other words, the president could send troops into Afghanistan to hunt down al Qaeda and punish the Taliban in response to the Sept. 11 attacks. But if he planned to keep the troops there to topple the government and transform the country, he would need a congressional declaration. Without one, funding would be restricted to bringing the troops home soon and safely.

This declaration process should appeal to conservatives and even neocons. It meets their valid concern that the United States often loses diplomatic showdowns and wars not on the battlefield but at home. It adds credibility to presidential threats and staying power to our military commitments. Binding Congress far more closely to war, for instance, might have convinced Saddam Hussein of Washington's resolve to fight him in both gulf wars; today it would help convince insurgents in Iraq of America's long-term commitment to make Iraq secure. Liberals and moderates, always rightly complaining about a rush to war, would welcome the restored declaration. Not least, the attractiveness of this approach would be aided by the political power of the Constitution itself.

Nor would the process proposed here diminish a president's leadership or stature as commander in chief as he makes his case to Congress. If, even with these advantages, his arguments fail, then the case cannot be very compelling.

Today Congress deliberates on transportation bills more carefully than it does on war resolutions. Our Founding Fathers wanted the declaration of war to concentrate minds. Returning to the Constitution's text and making it work through legislation requiring joint deliberate action may be the only way to give the decision to make war the care it deserves.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, November 10, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 14

3 p.m.
Foreign Relations
International Economic Policy, Export and Trade Promotion Subcommittee
To hold hearings to examine a clean technology solution relating to U.S.-International climate change approach.
SD–419

NOVEMBER 15

9:30 a.m.
Armed Services
Business meeting to consider certain military nominations.
SR–222

Foreign Relations
To hold hearings to examine Treaty Between the United States of America and Japan on Mutual Legal Assistance in Criminal Matters, signed at Washington on August 5, 2003; including a related exchange of notes (Treaty Doc. 108–12), Treaty Between the United States of America and the Federal Republic of Germany on Mutual Legal Assistance in Criminal Matters, signed at Washington on October 14, 2003, and a related exchange of notes (Treaty Doc. 108–27), Extradition Treaty Between the United States of America and the United Kingdom of Great Britain and Northern Ireland, and related exchanges of letters, signed at Washington on March 31, 2003 (Treaty Doc. 108–23), and Protocol between the Government of the United States of America and the Government of the State of Israel, signed at Jerusalem on July 6, 2005 (Treaty Doc. 109–3).
SD–419

Judiciary
To hold hearings to examine The Streamlined Procedures Act relating to habeas reform.
SD–226

10 a.m.
Banking, Housing, and Urban Affairs
To hold hearings to examine the nominations of Ben S. Bernanke, of New Jersey, to be a Member and to be Chairman of the Board of Governors of the Federal Reserve System.
SD–106

Commerce, Science, and Transportation
To hold hearings to examine public policy options for encouraging alternative automotive fuel technologies.
SD–562

Energy and Natural Resources
To hold hearings to examine a status report on the Environmental Protection Management programs of the Department of Energy.
SD–366

2:30 p.m.
Armed Services
Airland Subcommittee
To hold hearings to examine defense acquisition issues related to tactical aviation and Army programs.
SR–222

Judiciary
To hold hearings to examine judicial nominations.
SD–226

Energy and Natural Resources
National Parks Subcommittee
To hold hearings to examine S. 431, to establish a program to award grants to improve and maintain sites honoring Presidents of the United States, S. 505, to amend the Yuma Crossing National Heritage Area Act of 2000 to adjust the boundary of the Yuma Crossing National Heritage Area, S. 1288, to authorize the Secretary of the Interior to enter into cooperative agreements to protect natural resources of units of the National Park System through collaborative efforts on land inside and outside of units of the National Park System, S. 1544, to establish the Northern Plains National Heritage Area in the State of North Dakota, S. Con. Res. 60, designating the Negro Leagues Baseball Museum in Kansas City, Missouri, as America's National Negro Leagues Baseball Museum, S. 748 and H.R. 1084, bills to authorize the establishment at Antietam National Battlefield of a memorial to the officers and enlisted men of the Fifth, Sixth, and Ninth New Hampshire Volunteer Infantry Regiments and the First New Hampshire Light Artillery Battery who fought in the Battle of Antietam on September 17, 1862, and H.R. 2107, to amend Public Law 104–329 to modify authorities for the use of the National Law Enforcement Officers Memorial Maintenance Fund.
SD–366

3 p.m.
Homeland Security and Governmental Affairs
Federal Financial Management, Government Information, and International Security Subcommittee
To hold an oversight hearing to examine the current nuclear situation in Iran and the U.S. response, focusing on the relationship between Iran's pursuit of nuclear weapons and its status as a state-sponsor of terrorism.
SD–342

NOVEMBER 16

9:30 a.m.
Environment and Public Works
To hold an oversight hearing to examine transportation fuels of the future.
SD–406

Judiciary
To hold hearings to examine the need to reform the Grand Jury.
SD–226

10 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005.
SD–562

Homeland Security and Governmental Affairs
To hold hearings to examine how government can learn from the private sector's response to Hurricane Katrina.
SD–342

11:30 a.m.
Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

2 p.m.
Energy and Natural Resources
Public Lands and Forests Subcommittee
To hold hearings to examine Earth Island Institute vs. Ruthenbeck.
SD–366

2:30 p.m.
Commerce, Science, and Transportation
Consumer Affairs, Product Safety, and Insurance Subcommittee
To hold hearings to examine protecting the consumer from flooded and salvage vehicle fraud.
SD–562

Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings to examine issues relative to creating new Federal judgeships.
SD–226

NOVEMBER 17

10 a.m.
Agriculture, Nutrition, and Forestry
To hold hearings to examine the role of United States agriculture in the control and eradication of avian influenza.
SR–328A

Commerce, Science, and Transportation
Aviation Subcommittee
To hold hearings to examine aviation safety.
SD–562

Homeland Security and Governmental Affairs
To hold hearings to examine regulations for the National Security Personnel System.
SD–342

Indian Affairs
To hold oversight hearings to examine issues relating to In Re Tribal Lobbying Matters, Et Al.
SH–216

2 p.m.
Judiciary
To hold hearings to examine recent developments in assessing future asbestos claims under the FAIR Act.
SD–226

2:30 p.m.
Commerce, Science, and Transportation
Business meeting to consider pending calendar business.
SD–562

HOUSE OF REPRESENTATIVES—*Thursday, November 10, 2005*

The House met at 10 a.m.

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord of all the earth, the sea and sky, in today's world, when we take to flight, it is not just in fanciful imagination or escape, nor always in mystic prayer. Physically we fly in the sky over this resourceful Nation and survey the many blessings You shower upon Your people.

We marvel at Your Creation and Your infinity beyond.

By placing ourselves in the hands of an experienced flight crew and of sophisticated aircraft, we form an uncertain community of trust and sheer abandon. We become accountable to one another for tentative security. We share a common destination and seek freedom from turbulence along the way.

Together we hope for peace in the end.

Lord, help the frequent fliers of Congress understand the parable of their flight. Lift them with the wings of inspiration and accountability to take us beyond our confinement to new heights of progress and integrity while caring for the most needy and the most frightened traveling with us. Our hope is placed in their leadership and Your power to hold us in this moment of suspension now and forever. Amen.

THE JOURNAL

The SPEAKER. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

Mr. WILSON of South Carolina. Mr. Speaker, pursuant to clause 1, rule I, I demand a vote on agreeing to the Speaker's approval of the Journal.

The SPEAKER. The question is on the Speaker's approval of the Journal.

The question was taken; and the Speaker announced that the ayes appeared to have it.

Mr. WILSON of South Carolina. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER. Pursuant to clause 8, rule XX, further proceedings on this question will be postponed.

The point of no quorum is considered withdrawn.

PLEDGE OF ALLEGIANCE

The SPEAKER. Will the gentleman from New York (Mr. BISHOP) come forward and lead the House in the Pledge of Allegiance.

Mr. BISHOP of New York led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

ANNOUNCEMENT BY THE SPEAKER

The SPEAKER. The Chair will entertain up to 10 one-minutes on each side.

THE AMERICAN VETERAN

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, the American veteran has fought in these conflicts: French and Indian war, War for Independence, the First Barbary War, the War of 1812, the Second Barbary War, War for Texas Independence, the War Between the States, the Indian Wars, the Spanish-American War, the Philippine-American War, the Boxer Rebellion, First World War, Russian Revolution, Spanish Civil War, the Great World War II, the Cold War, Korean War, Vietnam War, Tehran hostage rescue, Grenada, Beirut, Panama, the Gulf War, Somalia, Yugoslavia, Afghanistan, and the Iraq War.

These are wars that were fought in, fought by and fought for Americans. This land of the free is consecrated by the blood of the fallen. In many of these wars the liberty of the Nation's people was at stake. Across the massive seas of time the American veteran shall be remembered and praised, for they fought in lands they had never seen, and they fought for peoples they did not know.

These, like my dad, represent the finest the Nation has ever produced. We honor them and we thank them on Veterans Day.

DEFICIT REDUCTION ACT

(Mr. McGOVERN asked and was given permission to address the House for 1 minute.)

Mr. McGOVERN. Mr. Speaker, this so-called Deficit Reduction Act is an intellectually dishonest, cruel hoax. The Republican leadership claims they are reducing the deficit, but in reality they are actually hurting the poorest and most vulnerable in this country:

Health care for poor people, slashed by $9.5 billion; food for poor people, decreased by over $840 million; student loans for college students, a $14.3 billion cut.

Mr. Speaker, Hurricane Katrina and Hurricane Rita reopened the eyes of Americans to the staggering poverty that still exists in this country, yet the Republican leadership wants to slash over $50 billion from programs that will help our most vulnerable citizens across America. If that were not bad enough, there is a tax cut worth at least $70 billion on its way. Combined with this upcoming tax cut, the so-called Deficit Reduction Act will actually increase the deficit by $20 billion.

We are a much better country than this bill puts forth. If this bill passes today, the Republicans will have succeeded in creating a government without a conscience. Shame on them.

Let me appeal to the moderates on the other side. Do the right thing. Don't throw away your conscience. Don't be a cheap date. Vote against this bill.

PREPARING FOR AN AVIAN (BIRD) INFLUENZA PANDEMIC

(Mr. MURPHY asked and was given permission to address the House for 1 minute.)

Mr. MURPHY. The United States must prepare for an avian flu pandemic which could potentially kill tens of thousands of people and cost tens of billions of dollars. Similar to the 1918 influenza epidemic, the avian flu is a primary cause of death where victims suffer a severe response of respiratory distress as their immune system is compromised.

Citizens should make sure they still get their annual flu shot and practice good hygiene, even though the likelihood of scenarios of flu pandemic will not occur. But Congress needs to make sure we improve vaccine distribution mechanisms, improve lines of communications and take steps to mitigate panic to make sure that there is essential communication with local media outlets.

We also must increase vaccine production and create incentives for pharmaceutical manufacturers to lower costs and promote cooperation. All this means Congress must move forward to follow the President's national strategy for the pandemic influenza.

For further information, I encourage my colleagues to visit my Web site at murphy.house.gov.

□ This symbol represents the time of day during the House proceedings, e.g., □ 1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

PRIORITIES

(Mr. CHANDLER asked and was given permission to address the House for 1 minute.)

Mr. CHANDLER. Mr. Speaker, the cuts to education, health care, housing and nutrition programs that we will consider later today once again expose the real agenda of the majority.

This reconciliation package presents a simple choice, either care for the poor, the sick and the hungry, and help students attend college, or cut taxes for the wealthy and give yet another handout to the oil industry. The choice seems almost too easy, but yet again, our friends on the other side of the aisle will sacrifice the moral principle of caring for your neighbor in favor of funneling billions in tax breaks and government handouts to the most well off.

These are the priorities of the majority. Increase our debt, punish the least among us, and line the pockets of the wealthy. I urge my colleagues to oppose this misguided and immoral reconciliation package.

CONGRATULATING MR. AND MRS. STANLEY AND DEANNA MAYFIELD ON BEING HONORED AS DISTINGUISHED CITIZENS BY THE BOY SCOUTS OF AMERICA

(Mr. CONAWAY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CONAWAY. Mr. Speaker, I rise today to recognize two of San Angelo, Texas' most dedicated and patriotic citizens, Stanley and Deanna Mayfield. On November 21, 2005, they will be honored by the Concho Valley Council of the Boy Scouts of America with the Distinguished Citizen Award in recognition of their contributions to scouting and the citizens of San Angelo.

John Stanley Mayfield and Deanna Lee Gilmore Mayfield married on August 22, 1964. They moved to San Angelo after Stanley completed 5½ years of service as an Air Force F–111 pilot. Since then, they have been active volunteers in San Angelo and throughout Texas. They have dedicated their lives to the service of others and deserve to be recognized for their contributions.

In addition to volunteering as members of and on the board of directors of many charitable and community development organizations, both are active members of the First Baptist Church and have served as appointees of Governor George W. Bush, Deanna as Vice Chairman of the Texas Real Estate Commission and Stanley on the State Bar of Texas.

The proud parents of three children and seven grandchildren, their giving hearts have been inspirational to many, and they have truly led by example. I personally know of no two people more worthy, who have worked harder, donated more time or who have been as valuable to their community as Stanley and Deanna Mayfield. They serve as an inspiration to all those who are lucky enough to be around them, and I am honored to represent them in the 11th Congressional District of Texas.

THE DEFICIT REDUCTION BILL

(Mr. BISHOP of New York asked and was given permission to address the House for 1 minute.)

Mr. BISHOP of New York. Mr. Speaker, when explaining budget reconciliation to the American people, perhaps the closest thing we can compare it to is balancing a checkbook. Unless, of course, we are talking about the way Congress balances its books.

On one side of the ledger, spending cuts ostensibly earmarked for rebuilding the gulf coast are in reality set aside for tax cuts, despite three consecutive record-breaking deficits and $3 trillion in new debt.

Even after the tax cuts are in place, there won't be anything left in the other column to relieve Americans from the misery left in the wake of devastating hurricanes.

Championing tax cuts for the wealthiest Americans by punching holes in the safety net is the hallmark of this administration's failed economic policies. But it shouldn't be the way we balance our books.

While millionaires will gain another $19,000 tax break, the typical student, already saddled with $17,500 in debt, faces $5,800 in new fees and higher interest rates. How can we in good conscience cut student loans after the College Board tells us this is the most expensive semester ever?

Common sense tells us: When you are in a hole, stop digging. But we are still digging, falling deeper into red ink with this budget, beyond what we and future generations of Americans can afford.

I urge my colleagues to vote against this sham deficit reduction bill.

VETERANS DAY

(Mr. PITTS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PITTS. Mr. Speaker, tomorrow is Veterans Day. On this holiday, it is certainly appropriate that we recognize the sacrifice of our brave veterans that have fought to protect our freedom in years past.

But Veterans Day also provides a good opportunity to note the progress our military is making today. Today, we are at war. Our troops are fighting in the cause of freedom. Just 3 years ago, Saddam Hussein wielded a brutal totalitarian regime over an oppressed people. Today, Saddam is in jail and Iraqis have adopted a constitution upholding the rule of law.

Our effort to train and deploy new Iraqi security forces is also progressing. As of October, over 206,000 Iraqi forces have been trained and equipped. Similar progress has been seen in Afghanistan. Each day we continue the rebuilding of these war-torn countries. As a veteran, I am proud to say our military is not about occupation; it is about freedom, our freedom and freedom around the world.

Mr. Speaker, as we take time tomorrow to remember our living veterans, let us also recognize the noteworthy accomplishments of our troops serving today and not forget the words on the Mall—"Freedom Is Not Free."

BUDGET RECONCILIATION

(Ms. JACKSON-LEE of Texas asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. JACKSON-LEE of Texas. Mr. Speaker, tomorrow we will honor our Nation's veterans. But the budget reconciliation legislation that we present today will not honor our veterans, because their families will be impacted by the negative aspects of this legislation.

$11.9 billion in cuts in Medicaid will impact the families of veterans. $50 billion cuts in Medicaid over 10 years will impact the families of veterans. $14.3 billion in student loan cuts will impact the children of veterans. And those National Guard and Reservists who came home after battling in Iraq to Alabama, Mississippi, Texas, and Louisiana will find that $7 billion has been cut from the most vulnerable, and their homes that have been destroyed will be impacted by this budget because there will be no money at the end to be able to provide for the restoration of their lives.

This budget reconciliation legislation will not honor our veterans. We honor them tomorrow. Why do we not honor them today? We can do better.

□ 1015

HONORING AMERICA'S VETERANS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, as the son of a World War II veteran, as a 31-year veteran of military service and the father of three sons serving today in the military, Veterans Day is particularly meaningful to my family. America exists today only because of the courage of the men and women who wear the uniform of the United States military. Generations of American soldiers have turned impossible challenges into incredible victories, and they have earned our highest respect.

As troops continue to risk their lives in the war on terrorism, we are especially inspired by the bravery of America's 25 million veterans. By risking their lives to protect our freedoms, there is a greater spread of freedom today worldwide than ever in history. We will forever remain grateful for their service.

I would like to encourage all citizens to take time on Friday to personally express their sincere appreciation to the veterans of their communities.

In conclusion, God bless our troops, and we will never forget September 11 or the terrorist attacks on Jordan.

BUDGET RECONCILIATION

(Mr. KUCINICH asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. KUCINICH. Mr. Speaker, I would like to begin our day here by quoting from the book of Deuteronomy, the 15th chapter, the seventh verse:

"If there be among you a poor man of one of thy brethren within any of thy gates in thy land which the Lord thy God hath giveth thee, thou shalt not harden thine heart nor shut thine hand from thy poor brother."

Remember this today when in the name of deficit reduction, you would vote to cut health care for poor children. Thou shalt not harden thine heart.

Those who would today cut food stamps, school breakfast and school lunch benefits for the poor, thou shalt not harden thine heart.

Those who would cut rental housing benefits for hurricane victims, there is a moral imperative about us being in this House. And we cannot just look at this as business as usual when we choose to just cut benefits for the poor and then turn around and give tax cuts for the rich.

MEDICARE

(Mr. NEUGEBAUER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. NEUGEBAUER. Mr. Speaker, this year is the 40th anniversary of Medicare. Medicare has come a long way. Initially, it started off as a hospitalization policy. Later we added physician benefits and physician visits and even some tests. Now we have put the third leg of that stool on; and we are going, effective January 1, to add prescription drugs to Medicare, making Medicare now a full health care policy for our seniors.

The reason that Congress did this was because many times the physicians would prescribe prescriptions for our seniors, yet they would have to make a decision between buying food or the prescription. Congress did not think that was a good idea; and so effective January 1, seniors will have a prescription drug option. The sign-up begins next Tuesday, November 15. We encourage seniors to begin to go shopping.

I held a town hall meeting in Abilene, Texas, on Monday at the Rose Park Senior Center and encouraged our seniors to go shopping. One of the things that was so important about this new process was that we allowed seniors the ability to make their own choices and brought competition in it.

I urge our seniors to look very closely at this new great prescription drug benefit that has been provided for them.

REPUBLICAN BUDGET DOESN'T REFLECT AMERICA'S PRIORITIES

(Mr. EMANUEL asked and was given permission to address the House for 1 minute.)

Mr. EMANUEL. Mr. Speaker, the Republican Congress is about to slash nearly $50 billion from investments in our children's future, in health care and education. Yet because of Republican priorities, they are going to actually add $20 billion to the $3 trillion in our deficit. Only in a Republican Congress.

What kind of Congress passes a budget that cuts $9.5 billion from children's health care, affecting 6 million children, while overpaying HMOs by $5.4 billion? What kind of Congress hands out $16.5 billion to oil and gas companies, while cutting 40,000 children's nutrition programs and seniors from home heating assistance?

What kind of Congress cuts 330,000 children from child care assistance, while giving special tax breaks to bow and arrow manufacturers, NASCAR track owners, and logging companies?

What kind of Congress cuts $14.5 billion from student college assistance, the largest cut ever, while cutting taxes for millionaires?

A Republican Congress, but of course.

Those are the wrong priorities for America. Americans know.

Mr. Speaker, we should cut spending, but we should not do it by throwing our children under the bus. America can do better. It is time for a change.

CELEBRATING OUR VETERANS

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Mr. Speaker, tomorrow we celebrate Veterans Day to honor America's most courageous men and women of the past and the present. In conflicts around the world, those serving in our military protect our country and safeguard the values that Americans hold dear: safety and freedom and democracy.

The Defense Department has a program allowing a recorded phone call so that soldiers from my district serving overseas can listen to it and then contact me. The opinions of those serving our country are so very important, and I encourage all Members of Congress to participate in this program.

Veterans Day is often marked by parades. However, we in Congress must remember that the celebration of our veterans is more than just a once-a-year event. Over the past 5 years, we have increased benefits to veterans by over $20 billion, from the GI Bill to VA home loan guarantees to benefits for disabled veterans, widows, and dependents.

However, dollars and cents cannot measure the sacrifice of our soldiers. We enjoy our freedoms today because of what they do every day of every year. To those who have served, a grateful Nation says thank you.

REPUBLICANS STIFLE OPEN AND MEANINGFUL DEBATE ON BUDGET RECONCILIATION

(Mr. COSTA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COSTA. Mr. Speaker, having served in the California State legislature for 24 years, half of which was spent in a leadership role, I know how to engage in a bipartisan process. This budget reconciliation bill is not bipartisan.

Rather than provide the House with an opportunity to engage in a serious and meaningful budget discussion, we are left with this take-it-or-leave-it package that, if passed, will increase our budget deficit nearly $20 billion.

Rather than accept an offer by the Blue Dogs to discuss our 12-point deficit reduction alternative, we are left with this plan as our only option. It is a Hobson's choice, which is no choice at all.

Rather than do what our constituents expect us to do, which is discuss, debate, and have meaningful oversight and make tough policy choices, we are left with a budget reconciliation package that is nothing more than a fig leaf to cover up a host of fiscal shortcomings.

I may be new to Congress and the process, but I know this budget reconciliation package is wrongheaded and sadly lacking in transparency. I urge a "no" vote.

TIME TO REDUCE FEDERAL SPENDING

(Mrs. BLACKBURN asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. BLACKBURN. Mr. Speaker, today, this body is going to address and pass the Deficit Reduction Act. While we are doing this, the left is out in full force telling Americans that we are about to cut Medicaid.

Mr. Speaker, shame on them.

Next year, under this bill, Medicaid will grow 7 percent. That is not a cut. We are taking the rate of growth from 7.3 to 7 percent.

If the left wants to lie about it, there is not a lot that we are going to be able to do to stop them, but the American people should know that they are not being told the truth.

So when the Democrats come down here today talking about how we are hurting the poor and hurting seniors and hurting children, they are being dishonest, because they know they cannot win this argument. The American people are ready to see Federal Government spending reduced.

STANDING UP FOR AMERICA

(Mr. SCOTT of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCOTT of Georgia. Mr. Speaker, who is telling the truth? The Democrats are telling the truth on this. This is smoke and mirrors, and the Republicans are offering a budget reconciliation package that is definitely harmful to the American people.

We can do better, this Congress deserves to do better, and the American people are expecting us to do better.

Here is the truth: the truth is that this is not deficit reduction. It will add a total of $16 billion to our deficit. Here are the facts: The cuts are $54 billion. Yet there is a tax cut in here for $70 billion. Separate it, the math is there: 54 from 70 is 16. It adds $16 billion just in adding the tax cuts to it.

I tell my colleagues, there was a young fellow named David who came from the sheep and they told him to go back and mind his sheep, and he was to go get Goliath. David looked at him and said, Is there not a cause?

Well, I am here to tell my colleagues there is a cause for you and a cause for me, and that cause is to stand up for Americans, stand up for the American people. We can do better. Let us vote down this awful budget reconciliation.

SUPPORT THE DEFICIT REDUCTION ACT

(Mr. MARIO DIAZ-BALART of Florida asked and was given permission to address the House for 1 minute.)

Mr. MARIO DIAZ-BALART of Florida. Mr. Speaker, today Congress will debate the Deficit Reduction Act of 2005, which includes over $50 billion in mandatory savings. Thanks to the Republican majority in Congress, Mr. Speaker, we have today the opportunity to reduce the size of the deficit, protect the American taxpayer, lessen the burden on future generations, and also fund the priorities of the American people.

Now, there are two reasons why the extreme left will not support this historic legislation. As a matter of fact, they will and they already have, like Chicken Little, claim that the sky is falling, the sky is falling. The reason that they will not support it is because tax increases and irresponsible spending are nowhere to be found in this bill. In fact, this legislation reduces spending and has no tax increases whatsoever, something that the left cannot deal with.

A vote, Mr. Speaker, in favor of this legislation is a vote against the left-wing economic agenda of tax increases and reckless spending, and for the American people.

BLUE DOGS OFFER ALTERNATIVE 12-POINT DEFICIT REDUCTION PACKAGE THAT IS BETTER FOR AMERICA

(Mr. MATHESON asked and was given permission to address the House for 1 minute.)

Mr. MATHESON. Mr. Speaker, later on today, the House is going to vote on a budget reconciliation package and, from what we are hearing, up is down and down is up.

We are supposed to be here to be lowering the deficit. I am concerned about the deficit. We should not be burdening future generations with our consumption today. Yet the package being put forth today by the majority, the package of spending cuts, but also tax cuts, is going to end up with an increase in our deficit of $16 billion. That is not right.

Look, deficit reduction is hard to do. It requires some tough choices. The only way, in my opinion, that this Congress is going to take on those tough choices is if we put in a set of rules that force us to do it.

The Blue Dog Democrats have a 12-point plan that will put those provisions in place: a balanced budget amendment to the Constitution, real pay-as-you-go rules. Those are just two of the 12 provisions that would require this Congress to come together and make those very tough decisions; and they will be tough, let us not deny it.

Mr. Speaker, if we want to show fiscal responsibility, if we want to do right by future generations, we will come together in a bipartisan way. That is not what is happening today. It is very unfortunate.

I encourage my colleagues to vote down this package today.

□ 1030

HONORING OUR VETERANS

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, the Good Book tells us if you owe debts, pay debts. If honor, then honor. If respect, then respect. As Washington, D.C., begins today to embark on a healthy debate over the future course of the Federal budget, I rise in the quiet of this morning to pay a debt of gratitude to those that will be remembered in ceremonies and parades wearing mothballed uniforms and gray hair across the land as Veterans Day is remembered and celebrated.

Memorial Day in the spring is that day we remember those who did not come home; Veterans Day is the day that we remember those who did. I will never forget a close friend of my late father, who said years after he returned from having served in combat in Korea, "I don't think your dad ever got over the guilt of coming home."

My dad said good-bye forever to many close friends who served alongside of him in Korea, but he carried a special weight, having fired shots in anger for the United States in uniform. Let us remember our veterans and celebrate them across the land tomorrow.

BUDGET RECONCILIATION

(Ms. MATSUI asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. MATSUI. Mr. Speaker, a budget is about planning. It is about the future. And for me the idea of the future is intertwined with my granddaughter, Anna, who is 2 years old. We all have someone like that, someone for whom we want to build a better tomorrow, but to do so we must address the real challenges our Nation faces, including an ever-increasing debt.

Unfortunately, the package that we are dealing with today passes more debt on to future generations, my Anna and your Anna, while making it more difficult for working families to achieve the American dream. This does not reflect the values and priorities of our constituents.

The American people want courage, leadership and shared sacrifice and we are giving them a bill that is shortsighted, narrowly targeted and driven by ideology instead of good policy. We could really do better.

RECESS

The SPEAKER pro tempore (Mr. LAHOOD). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 10 o'clock and 32 minutes a.m.), the House stood in recess subject to the call of the Chair.

□ 1620

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. LAHOOD) at 4 o'clock and 20 minutes p.m.

VACATING ORDERING OF YEAS AND NAYS ON H.R. 1953 AND H.R. 3665

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that the House vacate the ordering of the yeas and nays on the motions to suspend the rules and pass H.R. 1953 and H.R. 3665 to the end that the Chair may put the question on each motion de novo.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

SAN FRANCISCO OLD MINT COMMEMORATIVE COIN ACT

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from New York (Mrs. KELLY) that the House suspend the rules and pass the bill, H.R. 1953, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

VETERANS HOUSING AND EMPLOYMENT IMPROVEMENT ACT OF 2005

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arkansas (Mr. BOOZMAN) that the House suspend the rules and pass the bill, H.R. 3665, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to provide adaptive housing assistance to disabled veterans residing temporarily in housing owned by a family member, to make certain improvements in veterans employment assistance programs, and for other purposes.".

A motion to reconsider was laid on the table.

THE JOURNAL

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the pending business is the question of agreeing to the Speaker's approval of the Journal of the last day's proceedings.

The question is on the Speaker's approval of the Journal.

Pursuant to clause 1, rule I, the Journal stands approved.

AMENDMENT PROCESS FOR CONSIDERATION OF H.R. 1065, UNITED STATES BOXING COMMISSION ACT

(Mr. DREIER asked and was given permission to address the House for 1 minute.)

Mr. DREIER. Mr. Speaker, the Rules Committee may meet next week to grant a rule which could limit the amendment process for floor consideration of H.R. 1065, the United States Boxing Commission Act.

Any Member wishing to offer an amendment should submit 55 copies of the amendment and one copy of a brief explanation of the amendment to the Rules Committee in room H-312 of the Capitol by 12 noon on Tuesday. Members are advised that the combined text from the committees of jurisdiction should be available for their review on the Web sites of the Energy and Commerce Committee, the Judiciary Committee, the Education and the Workforce Committee and the Rules Committee by later today.

Members should use the Office of Legislative Counsel to ensure that their amendments are drafted in the most appropriate format and should check with the Office of the Parliamentarian to be certain that their amendments comply with the rules of the House.

PRIVILEGED REPORT ON RESOLUTION OF INQUIRY TO THE PRESIDENT

Mr. SMITH of New Jersey, from the Committee on International Relations, submitted an adverse privileged report (Rept. No. 109–291) on the resolution (H. Res. 505) requesting the President of the United States and directing the Secretary of State to provide to the House of Representatives certain documents in their possession relating to the White House Iraq group, which was referred to the House Calendar and ordered to be printed.

LEGISLATIVE PROGRAM

(Mr. HOYER asked and was given permission to address the House for 1 minute.)

Mr. HOYER. Mr. Speaker, I yield to my friend from Missouri (Mr. BLUNT), the acting majority leader, for the purposes of informing us of the schedule for the week to come.

Mr. BLUNT. Mr. Speaker, I thank my friend from Maryland for yielding and would say that the House will convene on Tuesday at 10:30 p.m. for morning hour and 12 noon for legislative business. We will consider several measures under suspension of the rules. A final list of those bills will be sent to Members' offices by the end of the week. Any votes called on these measures will be rolled until 6:30 p.m. on Tuesday.

For Wednesday and the balance of the week, the House will consider additional legislation under suspension of the rules, as well as two measures under a rule, H.R. 1065, the United States Boxing Commission Act, and we anticipate either the budget or the tax reconciliation package on the floor next week.

We also anticipate that the House will consider up to four additional appropriations conference reports as those reports become available. We have every reason to believe that those could all be available next week, and if they are, all of the appropriations bills will be passed individually and, with the exception of the defense and homeland security bills, the collection of the others, individually and under last year's spending limit.

Mr. HOYER. Mr. Speaker, I thank the gentleman for that information.

I also want to reiterate what I understand has been the change in schedule for all of our Members to note that we will not be meeting on Monday, but Tuesday will be our day. I thank the gentleman for that information.

Which appropriation bills do you expect to come on the floor next week?

Mr. BLUNT. Well, there are four bills remaining, and we think any and all of those bills could be here next week. We have already sent the previous eight bills to the President's desk, and so we have the remaining bills, all of which are likely to be done by the end of next week.

Mr. HOYER. Mr. Speaker, I thank the gentleman. Do you anticipate a motion to go to conference on the DOD appropriations bill next week?

Mr. BLUNT. I would expect to have that conference motion next week.

Mr. HOYER. Do you know how early in the week that might be? Obviously, as you know, there is a very important motion to instruct which would be in order at that time. Many of our Members are concerned about that. Would you know when possibly that might be done? I yield to my friend.

Mr. BLUNT. Mr. Speaker, I thank my friend for yielding to me. I do not know exactly when in the week we would get to that, but I am hopeful that enough staff work and other progress has been made on that bill that it could be on the floor next week. If it is on the floor next week, we obviously would have to go to the official conference sometime midweek.

Mr. HOYER. I thank the gentleman. The current CR, as you know, runs out on Friday. First of all, presumably, we anticipate another CR coming. I am sure we have to have another CR at least for some agencies. How long do you think that CR would run? I yield to my friend.

Mr. BLUNT. Mr. Speaker, I thank my friend again for yielding. We are continuing to consult with the Senate on that. Of course, as a senior appropriator, as you well know, as we work the appropriations bills out, the nature of that CR changes. Ideally, we would not have to have a CR because it would be clear that we would have all the bills passed by Friday. If not, we would have to consult with the Senate, see how long they are willing to have a CR or how long we think is in the best interest of the process, but the appropriations work has gone well and I would not see any being extended for a significant period of time.

Mr. HOYER. Mr. Speaker, I thank the gentleman for that information.

The budget reconciliation bill, we did not take it up today and the mandatory spending cuts bill today. When might we consider that?

Mr. BLUNT. I thank my friend again for yielding, and we are continuing to work on that bill. We have asked our budget chairman to take one final look at it. We have not had a mandatory review of the mandatory programs in terms of looking at their budget for almost a decade now. Frankly, what we are learning is when you have not done anything in almost 10 years, it takes a little longer to do it than you thought it would.

We hoped to have that bill on the floor today. The appropriate eagerness of Members to want to be sure and be home tomorrow for Veterans Day events and, frankly, the challenge of the last few details did not allow us to have that happen. So we have asked the budget chairman to look at those details again, and we hope to have that bill on the floor next week.

Mr. HOYER. Mr. Speaker, I thank the gentleman. So it is possible that that bill will be back next week?

Mr. BLUNT. It is possible. I would like to say likely. I think it is likely it will be back, and certainly, it is possible it will be back next week.

Mr. HOYER. Mr. Speaker, as I understand it, from your announcement, the tax reconciliation bill will also be on the floor next week? I yield to my friend.

Mr. BLUNT. I thank my friend for yielding. At this point, we are still talking to the Ways and Means chairman about his schedule of moving forward with that event. Like some of our other chairmen, he is also involved in the mandatory spending reconciliation, and we will be talking to him about his view of how he manages those two conflicting things going on and whether we can have them both going on at the same time or not.

☐ 1630

Mr. HOYER. I thank my colleague for that information. Reclaiming my time, the pension bill, as the gentleman knows, which had passed through the Education and the Workforce Committee, was considered by Ways and Means and marked up on Wednesday, I believe. Is it my colleague's expectation that that might be on the floor next week as well? I yield to my friend.

Mr. BLUNT. I thank my friend for yielding. My expectation is not that we would have that on the floor next week, but that we would have that on the floor between now and the time we leave here for the end of this year.

Mr. HOYER. Let me then go to that question about when is the end. As I understood from our previous colloquies, we are going to be out Friday for at least 14 days, that would be the Thanksgiving week and the week thereafter. And then if we need to come back, am I correct that we are still looking at coming back the week of December 5? I yield to my friend.

Mr. BLUNT. I thank my friend for yielding. I understand everybody has their holiday plans or wants to begin to make their holiday plans. The gentleman is correct in his observations about our past discussion here. We would not intend to be here the week of Thanksgiving or the week after Thanksgiving. We do plan to be back and do not see any reason we would not be, and every Member should anticipate being back the week of December 5.

It is possible it could take 2 weeks to complete our work for the year and that we could have some work even into the week that begins on December 12. But we definitely intend to be here the 5th and would encourage Members to plan to be here both of those weeks in case our work carries over into the week following the week of December 5. That would be the week of December 12.

Mr. HOYER. Mr. Speaker, I thank the gentleman for his information.

ADJOURNMENT TO MONDAY, NOVEMBER 14, 2005 AND HOUR OF MEETING ON TUESDAY, NOVEMBER 15, 2005

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that when the House adjourns today, it adjourn to meet at 6 p.m. on Monday next, and further, when the House adjourns on that day, it adjourn to meet at 10:30 a.m. on Tuesday, November 15, 2005, for morning hour debate.

The SPEAKER pro tempore (Mr. LAHOOD). Is there objection to the request of the gentleman from Missouri?

There was no objection.

DISPENSING WITH CALENDAR WEDNESDAY BUSINESS ON WEDNESDAY NEXT

Mr. BLUNT. Mr. Speaker, I ask unanimous consent that the business in order under the Calendar Wednesday rule be dispensed with on Wednesday next.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Missouri?

There was no objection.

APPOINTMENT OF HON. FRANK R. WOLF TO ACT AS SPEAKER PRO TEMPORE, TO SIGN ENROLLED BILLS AND JOINT RESOLUTIONS THROUGH NOVEMBER 15, 2005

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 10, 2005.

I hereby appoint the Honorable FRANK R. WOLF to act as Speaker pro tempore to sign enrolled bills and joint resolutions through November 15, 2005.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

The SPEAKER pro tempore. Without objection, the appointment is approved.

There was no objection.

DEMOCRATS ARE LIKE SIRENS

(Ms. FOXX asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. FOXX. Mr. Speaker, I rise today to set the record straight on some of the false accusations in the debate over the majority's plan to help reform government and yield savings for American taxpayers.

Unfortunately, some Members on the other side of the aisle have decided to attack Republicans with false statements which may sound true, but which actually ring false in their reality.

In fact, the Republican plan will help save and strengthen Medicaid by reducing waste, fraud and abuse, strengthen and simplify the student loan process, reduce our dependence on Middle Eastern oil, restrict illegal immigrant access to food stamps and Medicaid, and reduce the deficit by $50 billion.

The Democrats remind me of the sirens in Greek mythology. Sirens would sing beautiful songs to sailors who were unable to resist the beautiful music and would try to swim or steer their boats to the music. The problem, Mr. Speaker, is that the sirens actually lived on islands of sharp rocks that sank the sailors' boats or stranded the sailors for eternity.

The Democrats, like sirens, are trying to strand the American public on an island of myth.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

IRAQ AND VETERANS DAY

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Madam Speaker, the irony could not be thicker or, for that matter, sweeter. Today, the day before Veterans Day, the Republican leadership failed to gather the necessary votes to pass a shameful budget reconciliation bill that will, among other things, decrease funding for veterans. Somewhere Mr. DELAY should be left to wonder how the callously efficient arm-twisting regime that he installed in the House has crumbled so quickly.

The sheer audacity of trying to pass a budget reconciliation bill that provides more tax breaks to the wealthy at the expense of important social-net programs for the poor is unbelievable. The programs slated to be cut include health care for veterans, Medicaid, student loans, and child support enforcement.

The idea that America's Republican leaders would slash funding for veterans the day before they should be honoring them would be even more appalling than it already is if it were not so commonplace. In fact, this pattern has repeated itself throughout President Bush's tenure in office.

The U.S. invasion of Iraq in March 2003 coincided with the sharp decrease in veterans health care and other benefits for those who have bravely served in our Nation's military. The backlog at veterans hospitals had never been greater than when the United States went to war in Iraq. Now, with more than half a million soldiers having served in Iraq, the burden on the VA will only increase.

And while the U.S. has spent over $200 billion for military operations and reconstruction in Iraq over the past 2 years, during this same time period the Bush administration and the Republican Congress have repeatedly refused to provide veterans with the benefits they have earned and the benefits they deserve.

Our Nation's so-called leaders have continually refused to fix the system called "concurrent receipt," whereby veterans health benefits are deducted from their retirement benefits. This veterans tax is wrong, and it needs to be fixed. Unfortunately, the Republicans in Congress are too busy trying to pass bills that would make the rich even richer, instead of fixing real inequities in our system.

Mr. Speaker, veterans deserve our respect not only on November 11, Veterans Day, but all throughout the year. They deserve our respect, they deserve our support, and they deserve all of the benefits our government has promised them without scrimping, without exception, without escape clauses. They certainly did not offer any excuses when they enlisted in our military.

Six weeks ago, I traveled to Iraq with a small congressional delegation to learn more about the mission and the heroic Americans carrying it out. Nothing I saw changed my mind about the wrongness of our Iraq policy. But one thing did move me: I came away from the trip absolutely awed by our soldiers. They were even more committed, more dedicated, and more courageous than I had ever imagined.

Having met and talked with them, it pains me to the core that their fate rests in the hands of leaders who have failed them time and time again. The men and women who wear the uniform deserve so much more. They deserve civilian leaders who will put their safety before their own political interests. They deserve leaders who would not send them to Iraq on false pretenses on a poorly defined mission without all the tools they need and without a plan to get them out of there; and they deserve leaders who will give them adequate medical and financial support when they come home.

For all the reasons I have mentioned today, it is time to bring our troops home from Iraq. We need to focus on healing the wounds incurred over the last 2½ years of war and administering to America's domestic priorities. If we want to truly honor our veterans on Veterans Day, the best thing we can do is prevent more veterans from being created. We could do this tomorrow, if we wanted to, by ending the war in Iraq and bringing our troops home. That would be the best gift of all.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mrs. JONES of Ohio (at the request of Ms. PELOSI) for November 8 on account of business in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. WOOLSEY) to revise and extend their remarks and include extraneous material:)

Ms. WOOLSEY, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mr. SCHIFF, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. WYNN, for 5 minutes, today.

Mr. DAVIS of Illinois, for 5 minutes, today.

Mr. ALLEN, for 5 minutes, today.

Mr. MCDERMOTT, for 5 minutes, today.

(The following Members (at the request of Mr. LAHOOD) to revise and extend their remarks and include extraneous material:)

Mr. FRANKS of Arizona, for 5 minutes, today.

Mr. POE, for 5 minutes, today.

Mr. ENGLISH of Pennsylvania, for 5 minutes, today.

Mr. STEARNS, for 5 minutes, November 15.

ADJOURNMENT

Ms. WOOLSEY. Madam Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 4 o'clock and 43 minutes p.m.), under its previous order, the House adjourned until Monday, November 14, 2005, at 6 p.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5133. A letter from the General Counsel, Federal Energy Regulatory Commission, transmitting the Commission's "Major" final rule—Regulations Implementing Energy Policy Act of 2005; Pre-Filing Procedures for Review of LNG Terminals and Other Natural Gas Facilities [Docket No. RM05-31-000; Order No. 665] received October 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5134. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting the Administration's final rule—Cold, Cough, Allergy, Bronchodilator, and Antiasthmatic Drug Products for Over-the-Counter Human Use; Amendment of Final Monograph for Over-the-Counter Nasal Decongestant Drug Products [Docket No. 2004N-0289] (RIN: 0910-AF34) received October 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5135. A letter from the Director, Regulations Policy and Management Staff, Food and Drug Administration, transmitting the Administration's final rule—Medical Devices; Immunology and Microbiology Devices; Classification of AFP-L3% Immunological Test Systems [Docket No. 2005N-0341] received October 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5136. A letter from the Director, Office of Congressional Affairs, Nuclear Regulatory Commission, transmitting the Commission's final rule—Price-Anderson Act Financial Protection Regulations and Elimination of Antitrust Reviews (RIN: 3150-AH78) received October 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5137. A letter from the Secretary, Department of the Treasury, transmitting as required by Executive Order 13313 of July 31, 2003, a 6-month periodic report on the national emergency with respect to Iran that was declared in Executive Order 12170 of November 14, 1979, pursuant to 50 U.S.C. 1641(c); to the Committee on International Relations.

5138. A letter from the Director, Internation Cooperation, Department of Defense, transmitting pursuant to Section 27(f) of the Arms Export Control Act and Section 1(f) of Executive Order 11958, a copy of Transmittal No. 12-05 which informs of an intent to sign a Memorandum of Agreement (MOA) between the United States and India for Research, Development, Testing, and Evaluation Projects, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

5139. A letter from the Director, International Cooperation, Department of Defense, transmitting pursuant to Section 27(f) of the Arms Export Control Act and Section 1(f) of Executive Order 11958, a copy of Transmittal No. 13-05 which informs of an intent to sign a Project Arrangement (PA) to the Navigation Warfare Technology Demonstrator and System Ptototype Projects Memorandum of Understanding (MOU) between the United States, Australia, Canada, and the United Kingdom, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

5140. A letter from the Director, International Cooperation, Department of Defense, transmitting pursuant to Section 27(f) of the Arms Export Control Act and Section 1(f) of Executive Order 11958, a copy of Transmittal No. 11-05 which informs of an intent to sign an Memorandum of Agreement (MOA) between the United States and Australia concerning the Soldier Combat System, pursuant to 22 U.S.C. 2767(f); to the Committee on International Relations.

5141. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, Transmittal No. 06-16 , concerning the Department of the Navy's proposed Letter(s) of Offer and Acceptance to Spain for defense articles and services; to the Committee on International Relations.

5142. A letter from the Deputy Director, Defense Security Cooperation Agency, transmitting pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, Transmittal No. 06-17, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to Greece for defense articles and services; to the Committee on International Relations.

5143. A letter from the Deputy Assistant Secretary for Export Administration, Department of Commerce, transmitting the Department's final rule—Removal of License Requirements for Exports and Reexports to India of Items Controlled Unilaterally for Nuclear Nonproliferation Reasons and Removal of Certain Indian Entities from the Entity List [Docket No. 050822227-5227-01] (RIN: A694-AD44) received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

5144. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's final rule—Amendments to the International Traffic in Arms Regulations: Part 126 (Z-RIN: 1400-ZA17) received November 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on International Relations.

5145. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 2005-39 on Transfers of Defense Articles or Services for Libya for Chemical Weapons Destruction; to the Committee on International Relations.

5146. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a copy of Presidential Determination No. 2005-40 on Transfers of Defense Articles or Services and Brokering Activities for Libya Relating to Disposition of Libyan-owned C-130H Aircraft; to the Committee on International Relations.

5147. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting pursuant to section 3(d) of the Arms Export Control Act, certification regarding the proposed transfer of major defense equipment from the Government of the Netherlands (Transmittal No. RSAT-05-05); to the Committee on International Relations.

5148. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting a report concerning methods employed by the Government of Cuba to comply with the United States-Cuba September 1994 "Joint Communique" and the treatment by the Government of Cuba of persons returned to Cuba in accordance with the United States-Cuba May 1995 "Joint Statement," together known as the Migration Accords, pursuant to Public Law 105-277; to the Committee on International Relations.

5149. A letter from the Federal Register Certifying Officer, Department of the Treasury, transmitting the Department's final rule—Federal Governemnt Participation in the Automated Clearing House (RIN: 1510-AB04) received November 2, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

5150. A letter from the Secretary, Department of Defense, transmitting the Department's and the Office of Management and Budget's intention to jointly file final regulations for the National Security Personnel System (NSPS), as authorized by the National Defense Authorization Act for Fiscal Year 2004; to the Committee on Government Reform.

5151. A letter from the General Counsel, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5152. A letter from the General Counsel, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5153. A letter from the General Counsel, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5154. A letter from the General Counsel, Department of Housing and Urban Development, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5155. A letter from the Assistant Attorney General for Administration, Department of Justice, transmitting the Department's final rule—Privacy Act of 1974; Implementation [AAG/A Order No. 007-2005] received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

5156. A letter from the Chairman, Federal Maritime Commission, transmitting a report on the Annual Inventory of Commercial and Inherently Governmental Activities for 2005, in accordance with Section 2 of the Federal Activities Inventory Reform Act of 1998; to the Committee on Government Reform.

5157. A letter from the Director, Holocaust Memorial Museum, transmitting a strategic plan for the United States Holocaust Memorial Museum, as required under the Government Performance and Results Act of 1993; to the Committee on Government Reform.

5158. A letter from the Office of the District of Columbia Auditor, transmitting a report entitled, "Audit of Advisory Neighborhood Commission 4D for Fiscal Years 2003 Through 2005, as of March 31, 2005"; to the Committee on Government Reform.

5159. A letter from the General Counsel, Office of Government Ethics, transmitting the Office's FAIR Act Inventory for FY 2005; to the Committee on Government Reform.

5160. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Federal Employees' Retirement System; Death Benefits and Employee Refunds (RIN: 3206-AK57) received September 1, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

5161. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Examining System (RIN: 3206-AK85) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

5162. A letter from the Director, Office of Personnel Management, transmitting the Office's final rule—Excepted Service; Career and Career-Conditional Employment (RIN: 3206-AJ28) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Government Reform.

5163. A letter from the Office of Special Counsel, transmitting the Office's Fiscal Year 2005 Report on Agency Management of Commercial Activities Under the Federal Activities Inventory Reform (FAIR) Act of 1998; to the Committee on Government Reform.

5164. A letter from the Director, Selective Service System, transmitting the FY 2005 report pursuant to the Federal Managers' Financial Integrity Act, pursuant to 31 U.S.C. 3512(c)(3); to the Committee on Government Reform.

5165. A letter from the Assistant Secretary, Land and Minerals Management, Department of the Interior, transmitting the Department's final rule—Oil, Gas, and Sulphur Operations and Leasing in the Outer Continental Shelf (OCS)—Waiver of Fees (RIN: 1010-AD27) received October 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5166. A letter from the Assistant Secretary for Policy, Management and Budget, Department of the Interior, transmitting a report on the results and conclusions of environmental investigations of areas of Naval Oil Shale Reserve Number 3 and an estimate of the total costs necessary to address the site's environmental conditions, pursuant to Public Law 105-85; to the Committee on Resources.

5167. A letter from the Secretary, Department of Commerce, transmitting the Department's biennial report on the Adminsitration of the Coastal Zone Management Act by the Office of Ocean and Coastal Resource Management, National Ocean Service, National Oceanic and Atmospheric Administration for fiscal years 2002 and 2003, pursuant to 16 U.S.C. 1451 et seq.; to the Committee on Resources.

5168. A letter from the Assistant Secretary, Policy, Management and Budget, OFM, Department of the Interior, transmitting the Department's final rule—Administrative Wage Garnishment (RIN: 1090-AA93) received July 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5169. A letter from the Rules Administrator, Bureau of Prisons, Department of Justice, transmitting the Department's final rule—Inmate Fees for Health Care Services [BOP-1111-F] (RIN: 1120-AB11) received August 12, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on the Judiciary.

5170. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Oswego Harbor Fest Fireworks, Lake Ontario, Oswego, NY [CGD09-05-100] (RIN: 1625-AA00) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5171. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Rohrbach's Ontario Regatta, Hamlin Beach State Park, Monroe County, NY [CGD09-05-101] (RIN: 1625-AA00) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5172. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Camp Rilea Offshore Small Arms Firing Range; Warrenton, Oregon [CGD13-05-030] (RIN: 1625-AA11) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5173. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety and Security Zones: Liquefied Hazardous Gas Vessel, Liquefied Hazardous Gas Facility and Designated Vessel Transits, New York Marine Inspection Zone and Captain of the Port Zone [CGD01-05-072] (RIN: 1625-AA00) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5174. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Sisters Creek, Jacksonville, FL [COTP Jacksonville 05-092] (RIN: 1625-AA00) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5175. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone Regulations, New Tacoma Narrows Bridge Construction Project [CGD13-05-028] (RIN: 1625-AA00) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5176. A letter from the Director, Regulations and Rulings Division, Alcohol & Tobacco Tax & Trade Bureau, Department of the Treasury, transmitting the Department's final rule—Establishment of the Red Hill Douglas County, OR Viticultural Area (2001R-88P) [T.D. TTB-35: Re: ATF Notices Nos. 960 and 966; TTB Notice Nos. 6 and 31] (RIN: 1513-AA39) received October 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5177. A letter from the Director, Regulations and Rulings Division, Alcohol & Tobacco Tax & Trade Bureau, Department of the Treasury, transmitting the Department's final rule—Establishment of the Dos Rios Viticultural Area (2004R-0173P) [T.D. TTB-34; Re: Notice No. 37] (RIN: 1513-AA95) received October 25, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5178. A letter from the Senior Counsel, Office of the General Counsel, International Trade Administration, transmitting the Administration's final rule—Procedures for Conducting Five-year ("Sunset") Reviews of Antidumping and Countervailing Duty Orders [Docket No. 050803215-5260-02] (RIN: 0625-AA69) received October 28, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5179. A letter from the Regulations Coordinator, CMS, Department of Health and Human Services, transmitting the Department's "Major" final rule—Medicare Program; E-Prescribing and the Prescription Drug Program [CMS-0011-F] (RIN: 0938-AN49) received November 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

5180. A letter from the Regulations Coordinator, CMS, Department of Health and Human Services, transmitting the Department's "Major" final rule—Medicare Program; Home Health Prospective Payment System Rate Update for Calendar Year 2006 [CMS-1301-F] (RIN: 0938-AN44) received November 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); jointly to the Committees on Energy and Commerce and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. OXLEY: Committee on Financial Services. H.R. 4146. A bill to facilitate recovery from the effects of Hurricane Rita and Hurricane Wilma by providing greater flexibility for, and temporary waivers of certain requirements and fees imposed on, depository institutions, credit unions, and Federal regulatory agencies, and for other purposes (Rept. 109–282). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. House Concurrent Resolution 267. Resolution expressing the sense of the Congress upholding the Makah Tribe treaty rights; with amendments (Rept. 109–283). Referred to the House Calendar.

Mr. POMBO: Committee on Resources. H.R. 323. A bill to redesignate the Ellis Island Library on the third floor of the Ellis Island Immigration Museum, located on Ellis Island in New York Harbor, as the "Bob Hope Memorial Library" (Rept. 109–284). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 679. A bill to direct the Secretary of the Interior to convey a parcel of real property to Beaver County, Utah (Rept. 109–285). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 1096. A bill to establish the Thomas Edison National Historical Park in the State of New Jersey as the successor to the Edison National Historic Site; with an amendment (Rept. 109–286). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 1436. A bill to remove certain use restrictions on property located in Navajo County, Arizona (Rept. 109–287). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 1564. A bill to authorize the Secretary of the Interior to convey certain buildings and lands of the Yakima Project, Washington, to the Yakima-Tieton Irrigation District (Rept. 109–288). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 1972. A bill to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin; with an amendment (Rept. 109–289). Referred to the Committee of the Whole House on the State of the Union.

Mr. POMBO: Committee on Resources. H.R. 3443. A bill to direct the Secretary of the Interior to convey certain water distribution facilities to the Northern Colorado Water Conservancy District (Rept. 109–290). Referred to the Committee of the Whole House on the State of the Union.

Mr. HYDE: Committee on International Relations. House Resolution 505. Resolution requesting the President of the United States and directing the Secretary of State to provide the House of Representatives certain documents in their possession relating to the White House Iraq Group; adversely (Rept. 109–291). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. FRANK of Massachusetts (for himself, Mr. George Miller of California, Mr. Obey, Mr. Rangel, Mr. Sabo, and Ms. Velázquez):

H.R. 4291. A bill to amend the Securities Exchange Act of 1934 to require additional disclosure to shareholders of executive compensation; to the Committee on Financial Services.

By Mr. POMBO (for himself and Mr. Rahall):

H.R. 4292. A bill to amend Public Law 107-153 to further encourage the negotiated settlement of tribal claims; to the Committee on Resources.

By Mr. WAXMAN (for himself, Mr. Dingell, Mr. Rangel, Mr. Brown of Ohio, Mr. Stark, Mrs. Capps, Ms. Schakowsky, Mr. Baca, Ms. Baldwin, Mr. Berman, Mr. Brady of Pennsylvania, Ms. Corrine Brown of Florida, Mr. Chandler, Mr. Clay, Mr. Frank of Massachusetts, Mr. Grijalva, Mr. Gutierrez, Mr. Hinchey, Mr. Holden, Ms. Kaptur, Mr. Kildee, Mr. Kucinich, Mrs. Maloney, Mr. Markey, Mrs. McCarthy, Mr. McDermott, Mr. McNulty, Mr. Meehan, Mr. Moore of Kansas, Ms. Norton, Mr. Owens, Mr. Pallone, Ms. Roybal-Allard, Mr. Rush, Mr. Sanders, Mr. Thompson of Mississippi, Mr. Van Hollen, Ms. Waters, Mr. Wexler, Mr. Wynn, Ms. Solis, and Mr. Holt):

H.R. 4293. A bill to amend titles XVIII and XIX of the Social Security Act to establish minimum requirements for nurse staffing in nursing facilities receiving payments under the Medicare or Medicaid Program; to the Committee on Energy and Commerce, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. PORTER:

H.R. 4294. A bill to authorize the Secretary of the Interior to enter into cooperative agreements to protect natural resources of units of the National Park System through collaborative efforts on land inside and outside of units of the National Park System, and for other purposes; to the Committee on Resources.

By Mr. CANNON (for himself, Mr. BISHOP of Utah, and Mr. MATHESON):

H.R. 4295. A bill to designate the facility of the United States Postal Service located at 12760 South Park Avenue in Riverton, Utah, as the "Mont and Mark Stephensen Veterans Memorial Post Office Building"; to the Committee on Government Reform.

By Mr. SODREL (for himself, Mr. WESTMORELAND, Mr. TIAHRT, Mr. COLE of Oklahoma, Mr. FRANKS of Arizona, Mr. PENCE, Mr. ROHRABACHER, Mr. WILSON of South Carolina, Mr. SHADEGG, Mr. CULBERSON, Mr. JONES of North Carolina, Mr. COBLE, Mr. KUHL of New York, Mr. MCCAUL of Texas, Mr. BOUSTANY, Mr. MARCHANT, Ms. FOXX, Mr. GOHMERT, and Mr. HOSTETTLER):

H.R. 4296. A bill to amend title 11 of the United States Code with respect to avoidable preferences; and to amend title 28 of the United States Code with respect to venue for proceedings to avoid preferences under section 547 of title 11 of the United States Code; to the Committee on the Judiciary.

By Mr. THOMAS:

H.R. 4297. A bill to provide for reconciliation pursuant to section 201(b) of the concurrent resolution on the budget for fiscal year 2006; to the Committee on Ways and Means.

By Ms. BALDWIN:

H.R. 4298. A bill to clarify the effective date of the modification of treatment for retirement annuity purposes of part-time service before April 7, 1986, of certain Department of Veterans Affairs health-care professionals; to the Committee on Veterans' Affairs.

By Mr. BOREN:

H.R. 4299. A bill to authorize the President to present a gold medal on behalf of the Congress to the Choctaw Code Talkers in recognition of their contributions to the Nation, and for other purposes; to the Committee on Financial Services.

By Mr. FERGUSON (for himself, Mr. BROWN of South Carolina, Mr. GOODE, Mr. SIMMONS, Mr. SANDERS, and Mr. UDALL of Colorado):

H.R. 4300. A bill to amend the Internal Revenue Code of 1986 to extend the credit for residential energy efficient property and certain expiring provisions of the energy credit; to the Committee on Ways and Means.

By Ms. HERSETH:

H.R. 4301. A bill to direct the Secretary of the Interior to convey certain parcels of land acquired for the Blunt Reservoir and Pierre Canal features of the initial stage of the Oahe Unit, James Division, South Dakota, to the Commission of Schools and Public Lands and the Department of Game, Fish, and Parks of the State of South Dakota for the purpose of mitigating lost wildlife habitat, on the condition that the current preferential leaseholders shall have an option to purchase the parcels from the Commission, and for other purposes; to the Committee on Resources.

By Mrs. JONES of Ohio:

H.R. 4302. A bill to require, in the event of any future round of base realignments and closures, the prompt release of all military value data used by the Secretary of Defense to prepare the recommendations of the Secretary for the realignment and closure of military installations; to the Committee on Armed Services.

By Ms. MOORE of Wisconsin (for herself and Mr. ROGERS of Kentucky):

H.R. 4303. A bill to amend the Small Business Investment Act of 1958 to reauthorize and expand the New Markets Venture Capital Program, and for other purposes; to the Committee on Small Business.

By Mr. MORAN of Virginia (for himself, Ms. BORDALLO, Mr. MCCOTTER, Mr. ABERCROMBIE, Mr. CAPUANO, and Mr. BLUMENAUER):

H.R. 4304. A bill to designate the Republic of Korea as a program country under the visa waiver program established under section 217 of the Immigration and Nationality Act; to the Committee on the Judiciary.

By Mrs. MUSGRAVE (for herself, Mr. FEENEY, Mr. GINGREY, Mr. KING of Iowa, Mr. GARRETT of New Jersey, Mr. JINDAL, Mr. DOOLITTLE, Mr. BARRETT of South Carolina, Mr. WILSON of South Carolina, Mr. KLINE, Mr. COLE of Oklahoma, Mr. WESTMORELAND, Mr. ISSA, Mr. WELDON of Florida, Mr. FORTENBERRY, and Mr. HENSARLING):

H.R. 4305. A bill to amend the Internal Revenue Code of 1986 to provide increased expensing for section 179 property in the Gulf Opportunity Zone; to the Committee on Ways and Means.

By Mr. POE (for himself, Mr. SOUDER, Mr. CULBERSON, Mrs. MUSGRAVE, Mr. KENNEDY of Minnesota, Mr. PITTS, Mrs. MYRICK, Mr. GINGREY, Mr. GOODLATTE, Mr. GUTKNECHT, Mr. DOOLITTLE, Mr. BARRETT of South Carolina, Mr. GOHMERT, Mr. WESTMORELAND, Mr. PAUL, and Mr. MARCHANT):

H.R. 4306. A bill to direct the Secretary of State to make publicly available information related to certain funding provided to nongovernmental organizations by the Department of State; to the Committee on International Relations.

By Mr. ROGERS of Alabama (for himself, Mr. MCCAUL of Texas, and Mr. PEARCE):

H.R. 4307. A bill to require the Secretary of Homeland Security to annually compile data relating to unauthorized aliens who cross the borders into the United States; to the Committee on Homeland Security.

By Mr. WAXMAN (for himself, Ms. SOLIS, Ms. SLAUGHTER, and Mr. PALLONE):

H.R. 4308. A bill to amend the Toxic Substances Control Act to reduce the exposure of children, workers, and consumers to toxic chemical substances; to the Committee on Energy and Commerce.

By Mr. WU:

H.R. 4309. A bill to amend title 38, United States Code, to improve services for veterans residing in rural areas; to the Committee on Veterans' Affairs.

By Mr. BROWN of Ohio (for himself, Mr. JONES of North Carolina, Ms. SOLIS, Ms. SCHAKOWSKY, Ms. LEE, Mr. GEORGE MILLER of California, and Ms. KAPTUR):

H. Con. Res. 295. Concurrent resolution providing that any agreement relating trade and investment that is negotiated by the executive branch with other countries must comply with certain minimum standards; to the Committee on Ways and Means.

By Mr. NADLER:

H. Con. Res. 296. Concurrent resolution expressing the sense of Congress that there is no honor in "honor killings"; to the Committee on International Relations.

By Ms. ROS-LEHTINEN (for herself, Mr. ACKERMAN, Mrs. BLACKBURN, and Mr. FORD):

H. Res. 545. A resolution expressing the sense of the House of Representatives on the arrest of Sanjar Umarov in Uzbekistan; to the Committee on International Relations.

By Ms. ROS-LEHTINEN (for herself, Mr. ACKERMAN, Mr. LANTOS, Mr. CHABOT, Mr. BERMAN, Mr. PENCE, Mr. ENGEL, Mr. BURTON of Indiana, Mr. MCCOTTER, Mr. ISSA, Mr. PITTS, Ms. WATSON, Mr. WEXLER, Mr. WILSON of South Carolina, Mr. TANCREDO, Mr. POE, Mr. SHAYS, Mr. CROWLEY, Mr. LINCOLN DIAZ-BALART of Florida, Mr. BARRETT of South Carolina, Mr. SCHIFF, Mr. MEEKS of New York, Ms. BERKLEY, Mr. MACK, Mr. BOOZMAN, Ms. HARRIS, Mr. HASTINGS of Florida, Mrs. JO ANN DAVIS of Virginia, Mr. CHANDLER, Mr. SHERMAN, Mr. KIRK, Mr. MCCAUL of Texas, Mr. ROYCE, Mr. FORTENBERRY, Mr. TANNER, Mr. KING of New York, and Mr. MARIO DIAZ-BALART of Florida):

H. Res. 546. A resolution condemning in the strongest terms the terrorist attacks that occurred on November 9, 2005, in Amman, Jordan; to the Committee on International Relations.

By Mr. MURPHY (for himself, Mr. PITTS, Mr. POE, Mr. RYUN of Kansas, Mrs. MYRICK, Mr. GINGREY, Mr. KING of Iowa, Mr. GARRETT of New Jersey, Mr. KUHL of New York, Mr. PRICE of Georgia, Mr. MCHENRY, Mr. JINDAL, Mr. ISSA, Mr. DOOLITTLE, Mr. CHOCOLA, Mr. BARRETT of South Carolina, Mr. GOHMERT, Mr. ADERHOLT, Mr. KLINE, Mr. WESTMORELAND, Mr. TIAHRT, Mr. COLE of Oklahoma, Mr. WAMP, Mr. FORTENBERRY, Mr. RYAN of Wisconsin, Mr. BARTLETT of Maryland, Mr. ROHRABACHER, Mrs. MUSGRAVE, Mr. NEUGEBAUER, Mr. FEENEY, Mr. PENCE, Mr. HENSARLING, Mr. HOSTETTLER, Mr. SULLIVAN, Mr. MCKEON, Ms. HART, Mrs. BLACKBURN, and Mr. FRANKS of Arizona):

H. Res. 547. A resolution expressing the sense of the House of Representatives that the United States Court of Appeals for the Ninth Circuit deplorably infringed on parental rights in Fields v. Palmdale School District; to the Committee on the Judiciary.

By Ms. ROS-LEHTINEN (for herself, Mr. ACKERMAN, Mr. MCDERMOTT, Mr. HOLT, Ms. ZOE LOFGREN of California, Mr. CHANDLER, Mr. MCCOTTER, Mr. MEEK of Florida, Mr. STARK, Mr. MATHESON, Ms. HARRIS, Mr. DAVIS of Florida, Mr. WYNN, Mr. CROWLEY, Mr. LANTOS, Mr. HONDA, Mr. WILSON of South Carolina, Mr. PRICE of North Carolina, Mr. CARDOZA, Mr. HOYER, Mr. PUTNAM, Mr. PALLONE, Ms. LEE, Ms. WATSON, Mr. WEXLER, Mr. ENGLISH of Pennsylvania, Mr. FALEOMAVAEGA, Mr. BROWN of Ohio, Mr. ENGEL, Ms. LORETTA SANCHEZ of California, Mr. CANNON, Mr. RANGEL, Ms. BERKLEY, and Mrs. MALONEY):

H. Res. 548. A resolution recognizing the religious and historical significance of the festival of Diwali; to the Committee on Government Reform.

By Mr. HINCHEY (for himself, Mr. CONYERS, and Mr. WAXMAN):

H. Res. 549. A resolution requesting the President of the United States provide to the House of Representatives all documents in his possession relating to his October 7, 2002, speech in Cincinnati, Ohio, and his January 28, 2003, State of the Union address; to the Committee on International Relations.

By Mr. KIRK (for himself, Mr. LARSEN of Washington, Mr. MANZULLO, Mr.

BURTON of Indiana, Mr. CROWLEY, Mr. KENNEDY of Minnesota, Mr. SMITH of Washington, and Mr. WILSON of South Carolina):

H. Res. 550. A resolution expressing the sense of the House of Representatives regarding the importance of maintaining the Asia-Pacific Economic Cooperation (APEC) forum as the preeminent multilateral institution in the Asia-Pacific region; to the Committee on International Relations.

By Mr. PENCE (for himself, Mr. HASTERT, Mr. DELAY, Mr. CANTOR, Mr. FEENEY, Mr. SESSIONS, Mr. FLAKE, Mr. GINGREY, Mr. KLINE, Mr. CHOCOLA, Mr. COLE of Oklahoma, Mr. TIAHRT, Mr. WESTMORELAND, Mr. FRANKS of Arizona, Mr. MCHENRY, Mr. ADERHOLT, Mr. BRADY of Texas, Mr. GARRETT of New Jersey, Mr. ISSA, Mr. BARTLETT of Maryland, Mr. GOODE, Mr. SHADEGG, Mr. RYAN of Wisconsin, Mr. JINDAL, Mr. RYUN of Kansas, Mr. SAM JOHNSON of Texas, Mr. PITTS, Mr. WAMP, Mr. BARRETT of South Carolina, Mr. ROHRABACHER, Mr. WILSON of South Carolina, Mr. CULBERSON, Mr. CANNON, Mr. HENSARLING, Mrs. CUBIN, Mr. AKIN, Mr. KING of Iowa, Mr. BACHUS, Mrs. JO ANN DAVIS of Virginia, Mr. ROYCE, Mr. HERGER, Mr. MILLER of Florida, Mr. BURGESS, Mr. NEUGEBAUER, Mr. MCCAUL of Texas, Mr. HAYWORTH, Mr. STEARNS, Mr. BURTON of Indiana, Mrs. MYRICK, Ms. FOXX, Mr. NORWOOD, Mrs. MUSGRAVE, Ms. HART, and Mrs. BLACKBURN):

H. Res. 551. A resolution honoring National Review magazine on its 50th anniversary for its contribution to the national political discourse; to the Committee on Government Reform.

PRIVATE BILLS AND RESOLUTIONS

Under clause 3 of rule XII,

Mr. FITZPATRICK of Pennsylvania introduced a bill (H.R. 4310) to authorize and request the President to award the Medal of Honor to Richard Gresko, of Newtown, Pennsylvania, for acts of valor in the Republic of Vietnam on March 11-12, 1970, while serving as a lance corporal in the Marine Corps during the Vietnam War; which was referred to the Committee on Armed Services.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 202: Mr. ENGEL.

H.R. 282: Mr. MCINTYRE and Mr. HALL.

H.R. 475: Mr. CUMMINGS and Mr. ROTHMAN.

H.R. 601: Ms. WATSON, Mr. CONYERS, Ms. KILPATRICK of Michigan, and Ms. MATSUI.

H.R. 697: Mr. CUMMINGS.

H.R. 698: Mr. ROGERS of Alabama, Mr. FORBES, Mr. BOOZMAN, Mrs. DRAKE, and Mr. WELDON of Florida.

H.R. 856: Mr. LEWIS of Georgia.

H.R. 864: Mr. ABERCROMBIE.

H.R. 983: Mr. SANDERS.

H.R. 1053: Mr. PLATTS and Mr. FITZPATRICK of Pennsylvania.

H.R. 1107: Mr. HONDA.

H.R. 1131: Mr. SERRANO.

H.R. 1141: Mr. ADERHOLT, Mr. UPTON, Mrs. BONO, Mr. SCOTT of Georgia, and Mr. KINGSTON.

H.R. 1204: Ms. MCKINNEY and Mr. CUELLAR.

H.R. 1246: Mr. CUNNINGHAM.

H.R. 1297: Mr. SHAYS.

H.R. 1415: Mr. GRIJALVA.

H.R. 1416: Ms. DEGETTE, Mr. ACKERMAN, Mr. CROWLEY, Ms. MATSUI, Ms. MCCOLLUM of Minnesota, Mrs. MALONEY, and Ms. DELAURO.

H.R. 1424: Mr. OBERSTAR.

H.R. 1498: Ms. SCHAKOWSKY, Mr. HEFLEY, and Mr. SHUSTER.

H.R. 1518: Mr. CONYERS and Mr. RUPPERSBERGER.

H.R. 1636: Mr. KENNEDY of Rhode Island.

H.R. 1668: Ms. SOLIS, Mr. DAVIS of Illinois, and Mr. TIERNEY.

H.R. 1704: Ms. DEGETTE and Mr. FATTAH.

H.R. 1898: Mr. MICA.

H.R. 1940: Ms. CARSON.

H.R. 1951: Mrs. LOWEY and Mr. REHBERG.

H.R. 2012: Mr. LAHOOD.

H.R. 2059: Mr. ALLEN.

H.R. 2089: Mr. OTTER.

H.R. 2180: Mr. BRADY of Texas.

H.R. 2233: Mr. FRANK of Massachusetts.

H.R. 2328: Mr. PICKERING and Mr. FOLEY.

H.R. 2669: Mr. CLAY and Mr. CARDIN.

H.R. 2671: Ms. SOLIS and Mrs. CAPPS.

H.R. 2682: Mr. GRIJALVA.

H.R. 2694: Mr. SALAZAR.

H.R. 2715: Mr. DEFAZIO.

H.R. 2717: Mr. HIGGINS, Mr. WYNN, and Mr. SANDERS.

H.R. 2793: Mr. BAIRD, Mr. SHAW, and Mr. SMITH of Washington.

H.R. 2803: Mr. MCHENRY, Mr. LATHAM, Mr. DUNCAN, and Ms. BERKLEY.

H.R. 2869: Mr. DOYLE.

H.R. 2963: Mr. RYAN of Wisconsin.

H.R. 3005: Mr. ALLEN, Mr. FATTAH, Ms. DEGETTE, and Mr. FITZPATRICK of Pennsylvania.

H.R. 3006: Mr. FATTAH and Mr. WEXLER.

H.R. 3063: Mr. FATTAH and Mr. GENE GREEN of Texas.

H.R. 3127: Ms. VELÁZQUEZ.

H.R. 3195: Mr. LIPINSKI, Mr. OWENS, Mrs. MALONEY, Mr. LARSEN of Washington, Mr. ROSS, and Mr. FARR.

H.R. 3301: Mr. PENCE.

H.R. 3312: Mr. LARSON of Connecticut.

H.R. 3373: Mr. JACKSON of Illinois, Mr. HOSTETTLER, Mr. NADLER, and Mr. HINOJOSA.

H.R. 3438: Mr. CONYERS.

H.R. 3476: Mr. MENENDEZ.

H.R. 3555: Mr. INSLEE.

H.R. 3560: Mr. GRIJALVA.

H.R. 3561: Mr. CAPUANO and Mr. UDALL of New Mexico.

H.R. 3616: Mr. FORD, Mr. DICKS, Mr. KING of New York, Mr. GILCHREST, Mr. PALLONE, Mr. ETHERIDGE, Mrs. BONO, Mr. ENGEL, Mr. RANGEL, Mrs. JONES of Ohio, Mr. CLAY, Mr. LYNCH, and Mr. ISRAEL.

H.R. 3617: Mr. KENNEDY of Minnesota and Mr. RYAN of Ohio.

H.R. 3630: Mr. WALDEN of Oregon.

H.R. 3639: Mr. VAN HOLLEN.

H.R. 3774: Mr. HINOJOSA.

H.R. 3858: Mr. PRICE of North Carolina, Mr. DEAL of Georgia, Mr. FOLEY, and Mr. HASTINGS of Florida.

H.R. 3883: Mr. BISHOP of Georgia, Mr. DAVIS of Alabama, Mr. HAYES, Mr. WU, Mr. REHBERG, and Mr. THOMPSON of Mississippi.

H.R. 3917: Mr. BERMAN.

H.R. 3931: Mr. CASTLE.

H.R. 3949: Mr. MCCOTTER, Mr. MENENDEZ, and Mr. RAMSTAD.

H.R. 3954: Mr. CUMMINGS.

H.R. 3960: Mrs. DRAKE, Mr. KLINE, and Mr. EVERETT.

H.R. 3985: Mr. UDALL of Colorado, Mr. TOWNS, Mr. SNYDER, Mr. REICHERT, Ms. DELAURO, Mr. MOORE of Kansas, Mr. TIERNEY, Ms. ESHOO, Mr. REYES, Ms. CARSON, Mr. HINCHEY, Mr. FARR, Mr. BASS, Mr. THOMPSON of California, Mr. LANTOS, Mr. STUPAK, and Mr. DAVIS of Alabama.

H.R. 4015: Mr. SHADEGG.

H.R. 4023: Mr. SIMMONS, Mr. SHERMAN, and Mr. GRIJALVA.

H.R. 4072: Mr. GILLMOR.

H.R. 4082: Mr. LEWIS of Kentucky and Mr. HERGER.

H.R. 4097: Mr. FOSSELLA.

H.R. 4099: Mr. ROGERS of Alabama, Mr. SESSIONS, Mr. CARTER, and Mr. BURGESS.

H.R. 4126: Mr. WELDON of Pennsylvania.

H.R. 4156: Ms. ZOE LOFGREN of California, Mr. SERRANO, Ms. WASSERMAN SCHULTZ, and Mr. COOPER.

H.R. 4157: Mr. KENNEDY of Minnesota.

H.R. 4158: Mr. MOORE of Kansas, Ms. EDDIE BERNICE JOHNSON of Texas, and Ms. LEE.

H.R. 4196: Mr. HOLT.

H.R. 4207: Mr. CANTOR.

H.R. 4222: Mr. SIMMONS and Mr. RUPPERSBERGER.

H.R. 4223: Ms. WATSON, Mr. RAHALL, Mr. MCGOVERN, Mr. MEEHAN, Mr. CUELLAR, and Mr. HONDA.

H.R. 4229: Ms. CARSON, Mr. CUMMINGS, and Ms. ZOE LOFGREN of California.

H.R. 4238: Mr. ROGERS of Alabama, Mr. BONILLA, Mr. SMITH of Texas, Mr. NEUGEBAUER, Mr. CULBERSON, Mr. SESSIONS, Mr. BRADY of Texas, Mr. ROYCE, and Mr. CARTER.

H.R. 4253: Mr. MCCAUL of Texas.

H.R. 4259: Ms. MCKINNEY, Mr. MOORE of Kansas, Mr. BOYD, Mr. KUCINICH, and Mr. BERRY.

H.R. 4263: Mr. KILDEE, and Mr. FRANK of Massachusetts.

H.R. 4265: Mrs. JO ANN DAVIS of Virginia, Mr. RYAN of Ohio, Mr. SMITH of New Jersey, and Mr. FORTENBERRY.

H.R. 4267: Mr. SALAZAR.

H.J. Res. 3: Mr. BOREN.

H. Con. Res. 90: Mr. GORDON.

H. Con. Res. 231: Mrs. LOWEY.

H. Con. Res. 280: Mr. CUELLAR.

H. Con. Res. 284: Mrs. JO ANN DAVIS of Virginia, Mr. KING of New York, Mr. BOOZMAN, Mr. CARDIN, Mr. WILSON of South Carolina, and Mr. KINGSTON.

H. Con. Res. 290: Mr. BROWN of Ohio.

H. Res. 85: Mr. HAYWORTH.

H. Res. 166: Mr. DOYLE.

H. Res. 299: Mrs. CHRISTENSEN.

H. Res. 411: Mr. CONYERS.

H. Res. 466: Mr. KLINE.

H. Res. 477: Mr. MCDERMOTT.

H. Res. 498: Mr. UPTON.

H. Res. 507: Mr. MOORE of Kansas.

H. Res. 517: Mr. MENENDEZ and Mr. TOWNS.

H. Res. 524: Mr. PALLONE and Mr. HASTINGS of Florida.

SENATE—*Thursday, November 10, 2005*

The Senate met at 9:30 a.m. and was called to order by the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

Eternal Spirit, fountain of wisdom, reveal to us the path that leads to the fulfillment of Your will. Illuminate the minds of our Senators that they will accomplish Your purposes. Thwart the plans of the enemies of peace.

As Veterans Day approaches, we ask You to give wisdom to our military people in harm's way that they will be instruments of Your providence. Lord, hasten the day when peace will reign.

Empower the citizens of this Nation to live with integrity so that You will hear our prayers and heal our land. Give us wisdom today to see what we ought to do, courage to begin it, fidelity to continue it, and skill to complete it.

We pray in Your powerful Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable JOHN E. SUNUNU led the Pledge of Allegiance, as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, November 10, 2005.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable JOHN E. SUNUNU, a Senator from the State of New Hampshire, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. SUNUNU thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today, following the 1 hour for morning business, we will resume work on the Department of Defense authorization bill. Under the agreement reached last night, we have two rollcall votes to begin at 11:30 this morning. The first vote is on Senator TALENT's amendment relating to C–17s, and the second vote is in relation to the Dorgan amendment on a special committee. Yesterday, we made good progress on the bill, and we will finish the bill today.

In addition to a couple amendments already pending, there are only a few remaining amendments in order to be offered. Senators should be prepared to offer those amendments this morning. I hope we can finish this bill at a reasonable time today. I encourage the two managers to move forward with the bill if Senators do not show up to offer their amendments. We must finish the Defense bill today, along with three appropriations conference reports that are now at the desk. I do not expect a great deal of debate on those conference reports, but we will need to schedule rollcall votes on each.

Having said that, we will have a full day of voting to finish our work, but with the cooperation of Senators, we can complete our work at a reasonable time today.

JORDAN BOMBINGS

Mr. FRIST. Mr. President, yesterday the world received the sobering news that a series of three explosions struck Jordan's capital city of Amman. At least 57 innocent civilians were killed in the immediate blast, and well over 100 were wounded.

In an apparently coordinated attack, terrorists targeted three large hotels that are frequented by Americans. Indeed, when I traveled to Jordan, I stayed at one of those hotels, as many in this body have in the past. One of the blasts occurred during a wedding party of over 300 guests. We have seen over the course of the night and the morning those pictures displayed on television.

On behalf of the Senate and the American people, I express my heartfelt condolences to the victims, their families, and the Jordanian people. I condemn in no uncertain terms the perpetrators of this grievous attack. It is an attack on all free peoples. It is an attack on civilization. Together, we will help the Government of Jordan, if requested, to hunt down the criminals responsible for this egregious event and bring them to justice.

Throughout the global war on terrorism, Jordan has been our steadfast partner, a reliable partner of our country. King Abdullah has bravely spoken against Islamic terrorism and extremism in the Arab world. Under his leadership, Jordan has demonstrated their commitment to peace, stability, and moderation.

Yesterday's violence against the Jordanian people is another reminder of the indiscriminate brutality and vicious nature of the terrorist enemy. My Senate colleagues and I renew our call on the international community to redouble its efforts to defeat the terrorists and dismantle their networks. Defeating terrorism is the duty of all civilized nations. It is the challenge of our age.

The United States stands shoulder to shoulder with the people of Jordan during this difficult time. We share their grief and their determination to bring the killers to justice.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will now be a period for the transaction of morning business for up to 1 hour, with the first half of the time under the control of the majority leader or his designee and the second half of the time under the control of the Democratic leader or his designee.

The Senator from Idaho.

116TH BRIGADE COMBAT TEAM IN IRAQ

Mr. CRAIG. Mr. President, tomorrow and through the weekend, we will be celebrating Veterans Day. I thought it was appropriate that I come to the Chamber this morning for two purposes. First, as chairman of the Veterans' Affairs Committee in the Senate, I have had the distinct pleasure of working with the VA and working with veterans across this country over the last year to not only provide them the services they need to improve their lives but to recognize the changing scene of veterans health care and the new veterans that are being created out of the conflict in Iraq and Afghanistan and the kind of care and service those brave young men and women will need as they return home, some of them certainly not as physically or mentally whole as we would like.

Because of their tremendous service to our country in the war on terrorism, I can say very proudly that this Congress and our committee and the Veterans' Administration have clearly stepped up to do what is right and appropriate in the recognition of the time-honored care we have provided for our veterans down through the decades and down through the conflicts in which America found itself, in the preservation of our freedom and the advancement of all peoples around the world.

Idaho played a unique role this year, and I am here today to talk about the Idaho National Guard 116th Brigade Combat Team that is now returning from service in Iraq. For the last 18 months, these brave men and women have made a tremendous sacrifice to be away from their families and friends to defend our Nation and work to build a stable and free Iraq. For that, I am extremely grateful to all of them.

It is important to remember that the soldiers of the National Guard are civilians first and soldiers second. They are our doctors and our business men and women, plumbers, farmers, teachers. Yet they have all answered their country's call to action during this time of need. The skills these civilian soldiers bring to the table have proven to be invaluable as our soldiers work side by side with the Iraqi people to restore the critical infrastructure, establish a thriving economy, and promote a free and prosperous system of government.

Earlier this year, I had the privilege, once again, to visit Iraq—it was my second time while we have been engaged there in the war on terrorism—fulfilling a promise I had made to the 116th as I and the delegation and the Governor saw them off now over a year ago. So I was extremely proud to be there and to see this phenomenally enthusiastic civilian soldier in his or her work area as they did what they do so very well in a very courageous and skillful manner.

These civilian skills not only were essential to provide the security for the Iraqi people, but they also provided the essential ongoing construction efforts. I was humbled to have that opportunity to meet with these fine young men and women on the battlefield in Iraq and to express the gratitude of the people of the State of Idaho and our Nation for these efforts.

I also have enormous respect for what they did, but what is phenomenal is the feedback we received from the Iraqi Government officials regarding the work of the 116th. As I say, these are unique soldiers. The Iraqi people saw that and understood that these were really civilians who had tremendous talents in civilian life, and they incorporated that not only in the protection and the soldiering that went on over there but in the rebuilding of the infrastructure about which I talked. These soldiers faced a very difficult and dangerous task of maintaining the peace and stability in some very hostile environments. Yet they continued their mission, and they handled it with tremendous honor.

The members of the 116th have spent 12 months in Kirkuk and other areas within that region. Their mission was to provide for the security of the people of Iraq against insurgents and terrorist attacks, establishment of self-reliant government institutions, and the reconstruction of the basic and critical infrastructure. Their two overriding missions were overseeing the successful national elections in January and the national referendum vote on October 15. Both of these missions were tremendously successful. We know about that. This is exactly what our President had proposed and laid out before us.

While Americans and Members of Congress are tremendously anxious about the war currently going on in Iraq, the reality is we are on schedule and on course to do exactly what we set out to do to help the citizens of Iraq in standing up for government, providing a representative form of government, and stabilizing that area of the world. The 116th from Idaho, these tremendous civilian soldiers, participated in that, and I must tell you that in representing the largest deployment from the State of Idaho that has ever happened to our National Guard, we stand as Idahoans today tremendously proud of the work they did.

The good news is, they are coming home, and most of them will be home for Thanksgiving. We will be glad to see them back with their families and back in their communities and reassuming their civilian lives and doing that not only for the Idaho National Guard but for all guardsmen and reservists around the country. As chairman of the Veterans' Affairs Committee, working with the Secretary of the VA, holding hearings in Idaho and other places around the country, we want to make sure that this transition back into civilian life is as seamless as possible.

These are men and women who have been at war. To simply step out of a war zone and step into their community is not going to be an easy task. Yet that is exactly what a civilian citizen soldier does. Whether it is the Idaho 116th or whether it is the tens of thousands of other guards men, women, and reservists around the country, we owe them a phenomenal debt of gratitude for the work they have done.

You see, we have a system within our military that it is not just the active soldier who serves so well, but it is that citizen soldier, our friends and neighbors in our communities across the country, such as the 116th of Idaho, who continue to serve and, in a time of war, serve with honor and dignity.

As we celebrate Veterans Day tomorrow and this weekend, recognizing those who have stood in harm's way and in many instances have given their lives so our lives could be freer, let's remember those currently serving in Iraq, be it the active soldier or be it the Guard or Reserve, for they are all one and their missions are all the same. The 116th of Idaho Brigade Combat Team has made Idaho extremely proud.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Alabama.

THE WAR IN IRAQ

Mr. SESSIONS. Mr. President, I want to express my appreciation for Senator CRAIG's comments. I think they are so appropriate as we approach Veterans Day tomorrow, November 11. As he said, it is important that we give gratitude to these soldiers. But it is also very important—maybe even more important—that this Senate and this Congress give our support to them, we back them up, we affirm them in the courageous service they are giving and not undermine what they are doing by thoughtless and unfair criticisms. That is what is on my heart today and I want to talk about it a little bit. I think it goes to the core of our integrity and our personal self-discipline as Senators.

I have to say, with great respect, that politics on too many occasions has overridden our commitment in this Senate to the soldiers who serve on the battlefield. We are a free and open society. We value and protect free and public debate in our country, and in the Senate one has the freedom to say or write almost anything he or she desires, whether wise or foolish. To secure and maintain that freedom and our other freedoms, on many occasions we have sent our soldiers to battle hostile forces around the globe.

Over 1 million personnel have died in combat to preserve the freedoms and liberties we take for granted today. Young soldiers, volunteers, and draftees have been called over the years to defend the values and liberties our Nation cherishes. As Senators, we are a key part of the process by which this Nation authorizes hostilities and calls them up. If there is any maturity of judgment in us at all, we understand that such a decision, when we make it, is a grave one and we know the lives of our military personnel will be placed at risk when we send them out. History and common sense tells us so. Any Senator not understanding this is not fit for the office they hold.

It is my view that there is and are no glorious wars. All war is bad. The Lord did not want His children to fight. But I am resigned to the fact that, throughout history, human efforts to maintain peace at any price have failed and that the option of war at certain times becomes better than the alternatives.

Let me speak frankly about the war on terrorism. We in this Senate are not children led about like the Pied Piper of Hamelin by President Bush or Vice President CHENEY. We are not and were not ignorant concerning the situation we found ourselves in after 9/11. We cheered President Bush's strong and determined response to terrorism at that time, and even when he warned us it would be a long, protracted, and bitter struggle, which he said repeatedly, the Senate promptly authorized the attack on the Taliban, who oppressed their own people in Afghanistan and who harbored and provided training for al-Qaida and Osama bin Laden. This Senate supported the President's demand on Mullah Omar that the Taliban cease these training bases and turn over bin Laden or face military action. We supported that. And when Mullah Omar and his oppressors refused, the Senate supported military action against the Taliban. When the war went so well, virtually everyone was pleased and said it was a good and proper thing we had done.

We are proud of what is happening in Afghanistan today. We have soldiers there, as Senator CRAIG said, working directly with the people of Afghanistan to try to lift them up and give them a period of sunshine and peace, after decades of war. These good results happened, however, not because we voted to authorize force but because this Nation was able to call on great soldiers, sailors, airmen, and marines to go into harm's way, facing what they had to know would be great danger, to execute the policy we voted for and that the President was authorized to execute.

The military action in Afghanistan went well. But make no mistake, we Senators knew the mission was dangerous and most predicted far more casualties than occurred in that effort. The credit goes to our military's brilliant tactics.

At this same time, Iraq was continuing its systematic, illegal, and unconscionable actions against its own people, against the United States, and against the United Nations—continuing violation of 16 U.N. resolutions. These resolutions in essence were a result of Iraq's plea for peace after the coalition forces ejected it from the nation of Kuwait. Surely this Nation has not forgotten that. Surely this Senate has not forgotten that. Surely we remember that Saddam's Iraq had, by surprise and brutality, attacked and occupied its peaceful neighbor Kuwait. At that time, with the United States in the lead, the coalition demanded that Saddam withdraw or face military force.

In 1991, he refused and, in a brilliant strike, our forces, under the command of General Norman Schwarzkopf, forcibly ejected Saddam's military from Kuwait and liberated that nation. Then Kuwait's was a responsible voice on the world scene, as it is today.

To stop the coalition forces from moving to Baghdad to remove him from office, Saddam made a series of agreements under the supervision of the United Nations. He did not keep them, of course. First he declared he had not lost the war but was in fact the victor. Such a statement was a clear indication of his plans to continue his drive to dominate that region and to lead a fight against the west. When a U.N. plan was developed to allow the sale of Iraq's oil so food could be made available to the Iraqi people, he cheated on the Oil for Food Program to rebuild his military and his personal palaces, leaving millions of his own people hungry.

He attacked his own people, brutally repressing the Shiites in the south and the Kurds in the north. He had earlier used poison gas, a weapon of mass destruction, against his own people, the Kurds. He effectively ejected U.N. inspectors and refused to provide assurance that he was not creating or was not in possession of weapons of mass destruction. He had previously promised not to possess or develop these weapons. He fired missiles regularly at American and British aircraft as they sought to enforce the no-fly zones to protect the Kurds and the Shiites from oppression.

In response, President Clinton and President Bush authorized hundreds of military responses against Iraq, dropping bombs on military positions and carrying out missile strikes. Surely we have not forgotten—we were in a state of hot hostility with Iraq, leading up to our decision to remove him from power.

The megalomania of Saddam, and his brutality, presented the decent nations of the world with a direct challenge. With the growth of terrorism that had culminated in the 9/11 attacks, and which threatened the peaceful world, it became clear that the reconstituting of Saddam's forces in violation of the United Nations could not be allowed to continue. Once again, our Nation led a huge international coalition to demand that he comply with the U.N. resolutions. The vote in this Senate to authorize that and to insist that he comply and use force if he refused to do so was 78 to 22, with a clear majority of our Democratic Senators in support to authorize military force with or without U.N. approval if Saddam refused to comply with these resolutions.

Our decision was not taken lightly or in haste. The issue had been openly discussed for months. The Senate debate was full and free. Most felt there was no other option.

I remember the Economist magazine of London said the embargo was failing. We either give up or fight. They concluded in their editorial: Our choice is to fight. The British Government reached the same conclusion, as did many others.

Of course, our vote was consistent with the 1999 resolution of this Senate signed by President Clinton to make it the official policy of our Government to effect a regime change in Iraq, so bad had Saddam's actions become even at that time. Still, there was no rush to war. President Bush powerfully made his case abroad and at the U.N. Countless efforts were undertaken to bring Saddam into compliance, but they all failed. The demands on Saddam became more and more direct, the warnings more and more explicit, and his utter refusal to comply with the agreements on weapons inspections and other U.N. resolutions became more and more obvious. He had made up his mind. The stark reality became clear. He would not ever voluntarily comply.

He thought he could break the coalition, that we would not invade, that he could continue on with his fantasy that Iraq, under his leadership, would dominate this whole region of the world. Please remember, the Senate vote consisted not just of a majority of the Democratic Members but it included the Democratic Party's Presidential candidate, its Vice Presidential candidate, its leader, its former Vice Presidential candidate, and then and current leaders. The decision was a bipartisan decision. Only then did we send our finest soldiers into harm's way—a bipartisan decision, after extensive debate by this body.

Our soldiers, as a result of this process, were then directed to engage and defeat one of the world's largest armies, to effect a regime change in Iraq. The men and women of our military heard their Nation's call, as they have for so many years. They responded with professionalism, courage, and determination. The challenge was great. The initial hostilities and military actions went exceedingly well, but it was very dangerous and there were important threats that they faced throughout that effort. Saddam's forces were vast, but they collapsed relatively quickly in the face of our aggressive forces executing General Frank's superb battle plan. While the effort was fraught with dangers, as our media told us every night, and indeed there was considerable tough fighting, our soldiers were again magnificent. We all rejoiced to see the Iraqi celebrations break out.

Some said, What happened to the celebrations? They were there. We saw them on TV, to see the fall of the statue of Saddam. The coalition then set about to help this exhausted nation, brutalized by decades of oppression, rebuild itself with freedom and prosperity.

While the initial military conflict went better than we could have hoped, our vision for a prosperous and democratic Iraq is still on track. But it definitely has presented more difficulties than most of us anticipated. It has been hard. It has been difficult. Suicide bombers persist in their hateful bombings. Terrorists are still active against our forces and the people in Iraq, attacking their own people. Still, despite the violence, initial elections were completed with blue fingers held high and a separate election ratified the Constitution. Now the first democratic elections are set for December and are on track.

Vicious, terroristic suicide bombers remain. While they will be able to inflict suffering and fear on the people of Iraq and death on our soldiers, their efforts are and must be doomed. The terrorists offer no hope, no plan, no vision. They simply desire, like Saddam, to seize power and run Iraq for their own purposes, to control the reins of power for their own radical and twisted purposes.

But, our military personnel, soldiers, marines, sailors, and airmen, all one force, have performed magnificently. I have been to Iraq three times, and visited with active, Guard and Reserve units. I talked to the soldiers and we are so proud of them. They have not whined or advocated retreat. They want the war to be successful. Every day they go out on patrol placing their lives on the line to carry out the policies and directions we, the Senate, the House of Representatives, and the President gave them. Our soldiers know their civics. They are placing their lives on the line for America. Because in this Republic, the proper governmental authorities of the people have spoken.

Consistently, they tell me, their parents, and their friends that they believe in what they are doing. They know the Iraqi people want a better life. They, by countless acts of kindness and courtesy, amid the violence and strain of war, work to create good will, to explain democracy, and promote harmony. They want to help the Iraqi people to have a better life, and then, then they want to come home.

You bet they want to come home. But they truly desire that our noble goal, their mission for a better Iraq, be realized.

Who, more than our soldiers, knows the dangers from hidden and sneak attacks? Who knows the reality on the ground better than they? Certainly not the television networks constantly focusing on violence and contention who drop in and bug out.

But, colleagues, the greatest concern our soldiers have is that this Senate, our Congress, will lose its nerve and pull back before the job is done. You see, losing our nerve will undermine what they have accomplished by blood and sweat.

While remarkably steadfast and determined, they do not like what they see and hear from Congress or the media. Their successes ignored, the problems exaggerated. Their errors are highlighted. I am particularly concerned that our Senate debate in recent months has become infected by personal animosity and political venom. The rhetoric coming out of Congress is astounding. It was somewhat understandable last year, when we were in a Presidential election campaign, that the political language would be overheated. But, now, after the American people have affirmed President Bush's leadership by reelecting him with the first majority vote for President in many years, there seems to be a blind force driving some of my Democrat colleagues to prove their votes for military force in Iraq were wrong, and that our election was not an affirmation of our Nation's bipartisan Iraqi policy, but that this policy was a result of "lies." What false and damaging rhetoric this is. I urge my colleagues to remember that the world, our enemies, and our soldiers fighting for our policies are listening. While there were intelligence failures, our leaders did not lie us into war. We Senators heard the same intelligence estimates and we voted to authorize war. The truth is this: We all heard the intelligence and we authorized those hostilities. Some of the intelligence was wrong, but it was not wrong that an unleashed Saddam, freed from his box, would again become a dangerous threat to world peace. That is a true fact. That is a strategic issue we faced. As we wrestle over the intelligence failures that occurred, we must not overreact. This Senate should never parrot the false charges of our enemies. If we make errors, confront them honestly and fix them. But undermining our Nation's position in the world, encouraging the enemy to falsely believe the U.S. is divided, and leading the enemy to believe that we may quit if they can just kill a few more American soldiers or marines is wrong, wrong, wrong. Political animosity in some cases seems to have so infected our rhetoric that criticism has become not constructive but destructive.

So my plea to my colleagues is insistent. Please remember that the world hears what we say here. Please remember that exaggerated political charges can do more than sting officials at home. The world hears what is said, and many believe what is being said.

This war was not based on a lie. I have explained how we came to our final vote. The issue of the existence of weapons of mass destruction in Iraq was important, but it was the strategic recognition that an unrepentant and triumphant Saddam, unloosed from the U.N. embargo and in acting violation of 16 U.N. resolutions, was the fundamental threat to us and to the world. And we certainly all knew that weapons of mass destruction would surely be his easiest tool for international intimidation.

The United Nations' final report when they exited the country concluded that Saddam had weapons of mass destruction and virtually all intelligence agencies in the world, including the French that certainly were not under, our control agreed. The Intelligence Committee report, phase I, unanimously passed 17 to 0, concluded, however, that the intelligence given to the President and Congress was wrong in part. The report specifically concluded that President Bush was not lying to the American people. And, importantly, the report concluded that the intelligence community was not pressured to alter or shape their views to please the President or anyone else.

Another major report, the Robb-Silberman Report—Senator Robb, a former Democratic Member of this body, was cochairman—on weapons of mass destruction, was clear. They found "no evidence of political pressure to influence the Intelligence Community's pre-war assessments of Iraq's weapons programs . . . analysts universally asserted that in no instance did political pressure cause them to skew or alter any of their analytical judgements. We conclude that it was the paucity of intelligence and poor analytical tradecraft, rather than political pressure, that produced the inaccurate pre-war intelligence assessments."

So why do our colleagues continue to promote what I believe are falsehoods? Why call the President and the Vice President liars? Why accuse them of sending soldiers to death based on some secret agenda? We debated it openly here for months. For the life of me, I can't understand it. We all—all of us—know the facts today; we knew the situation then; we know the score. There was no mystery when we voted to authorize military force, nor is there mystery now. The going, though, is tough in Iraq now. The need, therefore, is even greater for us to all work together to meet the challenge and successfully conclude our policies to create a better, positive, democratic, and prosperous future for Iraq. We must pull together and focus on the goal we endorsed when the war started.

I thank the Chair. I yield the floor.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Rhode Island.

(The remarks of Mr. REED pertaining to the introduction of S. 1989 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Washington.

VETERANS DAY

Mrs. MURRAY. Madam President, tomorrow our country is going to be celebrating Veterans Day. Together, across the country, we will be honoring the service and sacrifice that so many Americans have made to keep all of us safe and free.

Tomorrow, in the State of Washingon. I am going to join with local veterans at a breakfast for the Compass Center, which provides services to homeless veterans.

I will be at a "Service of Remembrance" at the Evergreen-Washelli Memorial Park in Seattle, and I will visit the Washington Soldiers Home in Pierce County.

I am looking forward to those events and the chance to share my thanks with those who have sacrificed so much.

Veterans Day is not just a ceremonial holiday. It is not just an occasion for us to thank others for what they have done for us. It is also a time to ask if we have done enough for those who serve our country. And that is a very timely occasion today with so many veterans coming home from places such as Iraq and Afghanistan, and with an aging veterans population that needs more care today.

So today I ask: Are we keeping our promise to those who served our country? Do our politicians and our budgets reflect the great debt that we owe to so many veterans?

I want to try to answer that question by looking at how we treat our veterans who need health care and how we budget for their needs and how we treat our Guard and Reserve members.

First of all, we recognize we have an obligation to those who serve us. When they signed up to serve our country, we agreed to take care of them. They kept their part of the bargain, and now we need to keep ours.

In my home State of Washington, we have made a tremendous contribution to that effort. I am sad to report that 102 servicemembers from Washington State have made the ultimate sacrifice on behalf of our Nation in this war in Iraq. They have earned a place of eternal honor in a rollcall of freedom.

We owe them and their families a debt that can never be fully repaid.

Many other veterans have come home to us with serious injuries, both visible and invisible. They need our help as well.

Today, more than 6,500 Washington State citizens are serving in Operation Iraqi Freedom and Operation Enduring Freedom.

Since 2001, more than 1 million Americans have served in Iraq and Afghanistan, and of those 20,000 have been from my home State of Washington.

Back in March, I traveled to Iraq and Kuwait. I had the opportunity to meet with a number of our Washington State National Guard who are serving our country there. I saw firsthand they were all operating under tremendously difficult and dangerous conditions. I also saw how every one of them was professional and fully committed to completing their mission.

We need to do right by everyone who serves us because we made a promise and because it keeps our military strong. The way we treat our veterans today affects our ability to recruit new soldiers tomorrow. But don't take my word for it. Listen to what George Washington once said:

> The willingness with which our young people are likely to serve in any war, no matter how justified, shall be directly proportional as to how they perceive the Veterans of earlier wars were treated and appreciated by their country.

Those are the words of George Washington. They are just as true today as when he said them.

Let's look at how well we are keeping our promise, starting with health care. We can all be proud the VA provides some of the best health care available anywhere in America. We have a great health care system in the VA, but we don't fund it like a priority. Every year it is a struggle to get Congress to provide the funding that is needed. That is why we need to make veterans health care spending mandatory so it is not subject to budget games every year.

This year we had a big fight to make sure veterans did not lose their health care. Starting last February, I began warning that the lines were growing at the VA and we needed to do more. I pointed to the many veterans who were returning home from Iraq and Afghanistan who needed care. Three times I offered amendments to boost VA funding in the Senate. And three times they were voted down. For months the VA and the administration assured us that everything was fine.

But then in June we learned that the VA was facing a massive shortfall of $1 billion. Again, I introduced a bill to provide the $1.5 billion in supplemental that the VA needed for funding. That time it passed.

Today, the House and the Senate are in negotiations to set the final veterans health care budget for fiscal year 2006. I am very concerned we will not provide enough funding. Yesterday, I joined with leaders from six national veterans service organizations to send a message. Together, we said we are watching. We expect the House and the Senate to keep their commitment to America's veterans. Any dollar below the Senate level is $1 taken away from a veteran. It is a VA clinic that will not be constructed. It is a VA doctor who will not be hired. It is a veteran who doesn't get the care America promised them when they enlisted. We cannot leave our veterans without care; we have to stick with the Senate budget in the final appropriations bill.

I am also very concerned about how we treat those who have challenges such as post-traumatic stress disorder. Instead of focusing on getting help to those who need it, today the VA is moving to scrutinize and stigmatize our veterans with post-traumatic stress syndrome. That is why I worked with Senators DURBIN and OBAMA to put language into the Senate VA bill that will require the VA to explain its plan to Congress and to hold veterans harmless, except, of course, in cases of fraud. Those protections have to stay in the final bill that emerges from this conference. We will be watching.

As I think about the way we treat veterans health care, it is pretty clear we need to do two more things. First of all, the VA has to provide an accurate accounting of how it is spending the money we have provided. It needs to give us a clear picture of the needs it is seeing throughout the country. Second, the Bush administration needs to start sending realistic budgets, no more gimmicks, no games—send a 2007 budget that is based on real numbers and real needs. They need to send a budget that takes care of both our aging veterans and our veterans of current operations. When I look at our budget and our priorities, I know we have a lot more work to do to keep our promise to our American veterans.

Another area that concerns me is how we are treating our Guard and Reserve members, especially when they come home from the battle front. In this war, we are relying on Guard and Reserve heavily. It is estimated that 40 percent of those on the ground in Iraq are citizen soldiers. Unfortunately, today the support services for the Guard have not kept pace with the way we are now relying on them in this war. They did not often have access to employment services or job training or family support or health care when they return home.

This past summer, I held a series of roundtables around the State of Washington. I heard from Guard and Reserve members who had come home, who could not find a doctor that accepts TRICARE. I heard about reservists who returned home and fell through the cracks without the payments or support they were promised. I heard from veterans who could not find a job when they came home to this country after serving so honorably.

Our transition services are left over from the Cold War. They do not work for a military that now today relies so heavily on Guard and Reserve members. I fear this administration is moving the cost of war on to businesses and families who are our Guard members. I believe they have already sacrificed enough. To do our part, we have to update transition and employment services that we bring to the returning Guard and Reserve members.

As I evaluate today how we were treating our veterans, one thing is clear to me: America's military personnel are providing the highest level of service to our country, but we have got some work to do to make sure our support of them, when they come home, is equal to the service they have provided. I am committing to keep a promise our country has made. I ask for the support and leadership of every member of the Senate to do the same. We owe our veterans nothing less.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I commend my friend from the State of Washington for an excellent statement and comment. She has been a tireless worker in terms of veterans' rights. Listening to her today, reminds us once again about our responsibility to them. I commend her for her excellent presentation. I certainly want to work with her in every possible way to make sure those efforts are achieved for people not only in the State of Washington and Massachusetts but all across the country.

Madam President, how much time remains?

The PRESIDING OFFICER. Seventeen minutes remains.

Mr. KENNEDY. I ask the Chair to let me know when 1 minute is remaining.

The PRESIDING OFFICER. The Chair will notify the Senator.

IRAQ

Mr. KENNEDY. Earlier this week, Madam President, several of our Republican colleagues came to the Senate and attempted to blame individual Democratic Senators for their errors in judgment about the war in Iraq. It was little more than a devious attempt to obscure the facts and take the focus off the real reason we went to war in Iraq. Madam President, 150,000 American troops are bogged down in a quagmire in Iraq because the Bush administration misrepresented and distorted the intelligence to justify a war that America never should have fought. The President wrongly and repeatedly insisted that it was too dangerous to ignore the weapons of mass destruction in the hands of Saddam Hussein and his ties to al-Qaida.

If his march to war, President Bush exaggerated the threat to the American people. It was not subtle. It was not nuanced. It was pure, unadulterated fear mongering based on a devious strategy to convince the American people that Saddam's ability to provide nuclear weapons to al-Qaida justified immediate war.

The administration officials suggested the threat from Iraq was imminent and went to great lengths to convince the American people that it was. At a roundtable discussion with European journalists last month, Secretary Rumsfeld deviously insisted:

> I never said imminent threat.

In fact, Secretary Rumsfeld told the House Committee on Armed Services on September 18, 2002:

> . . . some have argued that the nuclear threat from Iraq is not imminent—that Saddam Hussein is at least 5–7 years away from having nuclear weapons. I would not be so certain.

In May of 2003, White House spokesman Ari Fleischer was asked whether we went to war because we said WMD were a direct and imminent threat to the United States. And Fleischer responded, "Absolutely."

What else could National Security Adviser Condoleezza Rice have been suggesting other than an imminent threat, extremely imminent threat when she said on September 2, 2002:

> We don't want the smoking gun to be a mushroom cloud.

President Bush himself may not have used the word "imminent," but he carefully chose strong and loaded words about the nature of the threat, words that the intelligence community never used to persuade and prepare the Nation to go to war against Iraq.

In the Rose Garden on October 2, 2002, as Congress was preparing to vote on authorizing the war, the President said the Iraqi regime "is a threat of unique urgency."

In a speech in Cincinnati on October 7, President Bush specifically invoked the dangers of nuclear devastation:

> Facing clear evidence of peril, we cannot wait for the final proof—the smoking gun—that could come in the form of a mushroom cloud.

At an appearance in New Mexico on October 28, 2002, after Congress had voted to authorize war and a week before the election, President Bush said Iraq is a "real and dangerous threat."

At a NATO summit on November 20, 2002, President Bush said Iraq posed a "unique and urgent threat."

In Ft. Hood, TX, on January 3, 2003, President Bush called the Iraqi regime "a grave threat."

Nuclear weapons. Mushroom cloud. Unique and urgent threat. Real and dangerous threat. Grave threat. These words were the administration's rallying cry to war. But they were not the words of the intelligence community, which never suggested the threat from Saddam was imminent or immediate or urgent.

It was Vice President CHENEY who first laid out the trumped-up argument for war with Iraq to an unsuspecting public. In a speech on August 26, 2002, to the Veterans of Foreign Wars, he asserted:

> . . . We now know that Saddam has resumed his efforts to acquire nuclear weapons . . . Many of us are convinced that Saddam will acquire nuclear weapons fairly soon.

As we now know, the intelligence community was far from certain. Yet the Vice President had been convinced.

On September 8, 2002, he was even more emphatic about Saddam. He said:

> [we] do know, with absolute certainty, that he is using his procurement system to acquire the equipment he needs in order to enrich uranium to build nuclear weapons.

The intelligence community was deeply divided about the aluminum tubes, but Vice President CHENEY was absolutely certain.

One month later, on the eve of the watershed vote by Congress to authorize the war, President Bush said it even more vividly. He said:

> Iraq has attempted to purchase high strength aluminum tubes . . . which are used to enrich uranium for nuclear weapons. If the Iraqi regime is able to produce, buy, or steal an amount of highly enriched uranium a little larger than a single softball, you can have a nuclear weapon in less than a year. And if we allow that to happen, a terrible line would be crossed . . . Saddam would be in a position to pass nuclear technology to terrorists.

In fact, as we now know, the intelligence community was far from convinced of any such threat. The administration attempted to conceal that fact by classifying the information and the dissents within the intelligence community until after the war, even while making dramatic and excessive public statements about the immediacy of the danger.

In October of 2002, the intelligence agencies jointly issued a national intelligence estimate stating that "most agencies" believe that Iraq had restarted its nuclear program after inspectors left in 1998 and that if left unchecked, Iraq "probably will have a nuclear weapon during this decade."

The State Department's intelligence bureau, however, said the "available evidence" was inadequate to support that judgment. It refused to predict when "Iraq could acquire a nuclear device or weapon."

About the claims of purchases of nuclear material from Africa, the State Department's intelligence bureau said that claims of Iraq seeking to purchase nuclear material from Africa were "highly dubious." The CIA sent two memoranda to the White House stressing strong doubts about those claims. But the following January 2003, the President included the claims about Africa in his State of the Union Address and conspicuously cited the British Government as the source of that intelligence.

Information about nuclear weapons was not the only intelligence distorted by the administration. On the question of whether Iraq was pursuing a chemical weapons program, the Defense Intelligence Agency concluded in September 2002 that:

> . . . there is no reliable information on whether Iraq is producing and stockpiling chemical weapons, or whether Iraq has—or will—establish its chemical warfare agent production facilities.

That same month, however, Secretary Rumsfeld told the Committee on Armed Services that Saddam has chemical weapons stockpiles.

He said, "We do know that the Iraqi regime has chemical and biological weapons of mass destruction," that

Saddam "has amassed large clandestine stocks of chemical weapons." He said that "he has stockpiles of chemical and biological weapons" and that Iraq has "active chemical, biological and nuclear programs." He was wrong on all counts.

Yet the October 2002 National Intelligence Estimate actually quantified the size of the stockpiles, stating that "although we have little specific information on Iraq's CW stockpile, Saddam probably has stocked at least 100 metric tons and possibly as much as 500 metric tons of CW agents—much of it added in the last year." In his address to the United Nations on February 5, 2003, Secretary of State Colin Powell went further, calling the 100 to 500 metric ton stockpile a "conservative estimate."

Secretary Rumsfeld made an even more explicit assertion in his interview on "This Week with George Stephanopoulos" on March 30, 2003. When asked about Iraqi weapons of mass destruction, he said:

> We know where they are. They're in the area around Tikrit and Baghdad and east, west, south and north somewhat.

The administration's case for war based on the linkage between Saddam Hussein and al-Qaida was just as misguided.

Significantly, here as well, the Intelligence Estimate did not find a cooperative relationship between Saddam and al-Qaida. On the contrary, it stated only that such a relationship might develop in the future if Saddam was "sufficiently desperate"—in other words, if America went to war. But the estimate placed "low confidence" that, even in desperation, Saddam would give weapons of mass destruction to al-Qaida.

But President Bush was not deterred. He was relentless in playing to America's fears after the devastating tragedy of 9/11. He drew a clear link—and drew it repeatedly—between al-Qaida and Saddam.

On September 25, 2002, at the White House, President Bush flatly declared:

> You can't distinguish between Al Qaeda and Saddam when you talk about the war on terror.

In his State of the Union Address in January 2003, President Bush said, "Evidence from intelligence sources, secret communications, and statements by people now in custody reveal that Saddam Hussein aids and protects terrorists, including members of Al Qaeda," and that he could provide "lethal viruses" to a "shadowy terrorist network."

Two weeks later, in his Saturday radio address to the Nation, a month before the war began, President Bush described the ties in detail, saying, "Saddam Hussein has longstanding, direct and continuing ties to terrorist networks. . . ."

He said:

> Senior members of Iraqi intelligence and Al Qaeda have met at least eight times since the early 1990s. Iraq has sent bomb-making and document-forgery experts to work with Al Qaeda. Iraq has also provided Al Qaeda with chemical and biological weapons training. An Al Qaeda operative was sent to Iraq several times in the late 1990s for help in acquiring poisons and gases. We also know that Iraq is harboring a terrorist network headed by a senior Al Qaeda terrorist planner. This network runs a poison and explosive training camp in northeast Iraq, and many of its leaders are known to be in Baghdad.

Who gave the President this information? The NIE? Scooter Libby? Chalabi?

In fact, there was no operational link and no clear and persuasive pattern of ties between the Iraq Government and al-Qaida. A 9/11 Commission staff statement in June of 2004 put it plainly:

> Two senior bin Laden associates have adamantly denied that any ties existed between Al Qaeda and Iraq. We have no credible evidence that Iraq and Al Qaeda cooperated on attacks against the United States.

The 9/11 Commission Report stated clearly that there was no "operational" connection between Saddam and al-Qaida. That fact should have been abundantly clear to the President.

The Pentagon's favorite Iraqi dissident, Ahmed Chalabi, is actually proud of what happened. "We are heroes in error," Chalabi said in February 2004. "As far as we're concerned, we've been entirely successful. That tyrant Saddam is gone and the Americans are in Baghdad. What was said before is not important. The Bush administration is looking for a scapegoat. We're ready to fall on our swords, if he wants."

What was said before does matter. The President's words matter. The Vice President's words matter. So do those of the Secretary of State and the Secretary of Defense and other high officials in the administration. And they did not square with the facts.

The Intelligence Committee agreed to investigate the clear discrepancies, and it is important that they get to the bottom of this and find out how and why President Bush took America to war in Iraq. Americans are dying. Already more than 2,000 have been killed and more than 15,000 have been wounded.

The American people deserve the truth. It is time for the President to stop passing the buck and for him to be held accountable.

I yield back the remainder of the time.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Parliamentary inquiry. Madam President: We are in morning business?

The PRESIDING OFFICER. Yes, for another 2 minutes.

EXTENSION OF MORNING BUSINESS

Mr. WARNER. Madam President, I ask unanimous consent that the period of morning business be extended another 5 or 6 minutes.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, reserving the right to object, could the time be evenly divided? I will not object if he wants to add time but that it be for both sides.

Mr. WARNER. Madam President, I am delighted to do that. We will have a 6-minute extension on each side in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Madam President, if the Senator will entertain a question, we will allocate my time on the question, as I propound it, and to the extent he responds will be on his time.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

Mr. WARNER. Madam President, I was grievously concerned when the Senator said we are locked down in a quagmire in Iraq. I have made a number of trips there and completed a trip there several weeks ago with Senator STEVENS and Senator JOHN KERRY.

Our troops are not in a quagmire. They are fighting a very courageous war against international terrorism. The movement sparked by Osama bin Laden, Zarqawi, and others is a worldwide movement. It goes from Spain to Indonesia. And they have selected, in the last 6 or 8, maybe a year's time, Iraq as the focal point to where they will challenge the free nations of the world in this struggle against terrorism.

By no means, by no stretch of any measure of military analysis, can it be said that our troops are bogged down in a quagmire. They are fully mobile. They are working better than ever with the Iraqi security forces, largely trained by the coalition forces, who are now fighting side by side with coalition forces and engaging the enemy wherever they can find them.

Iraq is a nation with vast borders which are unsecure. There is really no way to secure them to the point you can stop total infiltration. But these infiltrations of insurgents throughout the world are responding to a worldwide challenge to the free nations. We awakened in the last few days, or in just 24 hours or less, to an attack in Jordan, again sparked by the worldwide move in terrorism, against the Kingdom of Jordan.

So I say to my friend, I would hope that this comment about "in a quagmire" is not relative to the courageous performance of the men and women of the Armed Forces in this war on terrorism in Iraq. They are fully mobile. They are selecting their field of battle. They are assisted by the Iraqi forces. And they are taking a toll on the terrorists.

I ask my colleague, do you disagree with that analysis?

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Well, Madam President, I have nothing but the highest regard and respect for those who are involved in the conflict and fighting for the United States. I regret sometimes that we have not provided them with the military equipment that we should have. But I have the highest regard and respect for the Armed Forces of the United States, and I have supported, and will continue to support, to make sure they have the equipment they need to carry on their mission. They are all heroes.

The question is the policy. At some time, I will respond, whenever—Madam President, what is the time allocation now?

The PRESIDING OFFICER. The Senator from Virginia has 3 minutes, the Senator from Massachusetts has 5 minutes.

Mr. KENNEDY. Fine. Well, that will be the answer. When the Senator is finished, I will be glad to respond generally to his theme.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I am perfectly willing to, at this point in time, conclude this colloquy. I certainly feel I have had adequate opportunity to make my point. So unless the Senator so desires, we will proceed on with the bill.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Well, I will make a brief comment in response to the general statement that the Senator made and use my own time. And then the Senator can use whatever time.

Madam President, we were attacked on 9/11. We were attacked by Osama bin Laden. Where is Osama bin Laden today? Since 9/11 we have not captured him. The focus and attention was in Afghanistan. Nonetheless, this administration took us to war in Iraq. At that time, we had al-Qaida effectively by the throat and instead we lost that opportunity and now have ourselves bogged down in Iraq. That happens to be the fact. We have not enhanced the war against terror by being in Iraq. I think we made Iraq a training ground for terrorists.

So I differ with my friend and colleague. I think the job should have been finished in Afghanistan. That is where Osama bin Laden has been. But the idea that the President of the United States—as I illustrated in 15 minutes of direct quotes; and I will not repeat them—brought the United States to war on the basis of the dangers that Saddam Hussein had a nuclear weapon and there was a tie between Saddam Hussein and al-Qaida is basically wrong. That is not the Senator from Massachusetts saying that. That is the 9/11 Commission saying that.

Now, what is so wrong about trying to get the facts on this? The reason to get the facts and the reason it is so important—with the Rockefeller effort and the efforts by my friends, the Senators from Michigan and California, to get the facts—is because we do not want to repeat that. We have a dangerous situation in Iran. We have a dangerous situation in North Korea. We do not want to duplicate the mistakes that this country took with its leaders. We do not want to duplicate that. That is why this report is so important.

Madam President, I stand by my statement that I think that the war in Iraq was a grave mistake, that the American people were misled, and that there is ultimately not going to be a military solution. There is the quagmire: a military solution to solve the problem in Vietnam, a military solution to try and solve the problem in Iraq. It is not going to work.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Madam President, I will simply state to my colleague and fellow member of the Senate Armed Services Committee that it is well recognized that certain intelligence that was used by not only our President but the Prime Minister of Great Britain, the President of France—we could go on and on—was universally accepted at that point in time. History has shown that a good deal of that intelligence turned out to be inaccurate.

But there were many reasons for going to war in Iraq, not the least of which our forces were trying to enforce the United Nations resolution prohibiting Iraq from taking certain actions to the north and to the south.

They were actually firing on our aircraft that were trying to patrol and enforce U.N. resolutions. Saddam Hussein ignored consecutive resolutions of the United Nations. That whole structure was before the world, and he was flaunting it.

Most recently, I note that the United Nations Security Council has extended the basis on which operations are now being conducted by the coalition of forces in Iraq today.

With regard to the administration, I commend the administration for putting out, for example, this report called "The Special Inspector General for Iraq and Reconstruction." It is very truthful with the American people and, indeed, the world on the successes and the lack of success in certain areas. This administration is being accountable for its participation as one of the several nations in the coalition in putting the facts down. But when the Senator says it is all for naught, I say to myself, Iraq is in a struggle to establish its own government. We have just seen the referendum on the constitution. They have adopted the constitution. The constitution is subject to further rework as the next government stands up in the aftermath of the December 15 elections—free elections, free elections that have not taken place in Iraq in several decades. Much has been accomplished to try to stabilize that nation to enable it to select, by the freedom to vote, its own government and the degree to which it wishes to join the rest of the nations in exploring the challenges of democracy, particularly in that area of the world.

I salute the men and women of the Armed Forces who have made this possible. Yes, we always hope that diplomacy can solve the disputes between nations. Diplomacy can be no stronger than the will to back it up and enforce the decisions of the diplomats. That has been done bravely by the men and women of the Armed Forces of the United States and other coalition forces.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, the definition of a quagmire is a complex or precarious position where disengagement is difficult. That says it, in regard to Iraq. This body understood the reason we went to war with Iraq was because this administration represented that Saddam Hussein had a nuclear weapon or was on the brink of getting nuclear weapons and, secondly, had ties with al-Qaida. Others may draw from another part of history, but I stand by that. Both of those facts are not so. It is important that we understand how we came about using those facts, which we see are not so, to make sure we are not going to make those mistakes in the future.

I yield back the remainder of my time.

Mr. WARNER. Madam President, parliamentary inquiry as to the status of the Senate at this time.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Morning business is now closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1042, which the clerk will report.

The assistant legislative clerk read as follows:

> A bill (S. 1042) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Dorgan amendment No. 2476, to establish a special committee of the Senate to investigate the awarding and carrying out of contracts to conduct activities in Afghanistan and Iraq and to fight the war on terrorism.

Lautenberg amendment No. 2478, to prohibit individuals who knowingly engage in certain violations relating to the handling of classified information from holding a security clearance.

Talent amendment No. 2477, to modify the multiyear procurement authority for C-17 aircraft.

Mr. WARNER. Madam President, there is a further order for two votes to occur beginning at the hour of 11:30. I think it would be helpful to all Members if the Chair would restate the timing and status of those votes.

The PRESIDING OFFICER. Under the previous order, the time until 11:30 shall be equally divided in the usual form, followed by a vote on the Dorgan amendment at 11:30, which will be followed by the Talent amendment.

Mr. WARNER. I thank the Chair.

Under the time I control, I yield such time as my colleague from Alabama may desire to speak. He will speak as in morning business, to reserve the time on the bill, on such aspects of the amendments that he so desires.

The PRESIDING OFFICER. The Senator from Alabama.

AMENDMENT NO. 2476

Mr. SESSIONS. Madam President, I rise to speak on the Dorgan amendment and share some thoughts about that. I think there has been a lot of misinformation, and the Senator has been misled in some of the allegations he is making and is certainly inaccurate in picturing our handling of the reconstruction effort in Iraq as being a wasteful enterprise. So much good has gone on. We need to talk about that. Where there are errors, as I will note, we are taking vigorous steps to correct them.

With regard to Senator KENNEDY's remarks, he said it is not the soldiers, it is the policy. We decided the policy. This Senate voted 78 to 22 to establish a policy with regard to regime change in Iraq. We authorized the President to execute military action if Saddam Hussein failed to comply, as Senator WARNER said, with the U.N. resolutions. We have a policy. He may not like it. He was 1 of the 22 who voted against it. But he ought not to be doing things that undermine the established policy of the United States, a policy that was bipartisan. A majority of the Democratic Senators supported it. The former Presidential candidate for the Democratic Party, its former Vice Presidential candidate, and another former Vice Presidential candidate all supported it. It is our policy. We established it, and we sent our men and women into harm's way to execute it. We don't need Senators undermining their ability to do their job and placing them at greater risk. It is wrong. Some people need to examine their conscience as we come up to November 11 tomorrow, Veterans Day.

I rise to speak on the reconstruction effort. Commander Paquette, who works with me, served in Iraq. He was there when the statue of Saddam fell. He had the responsibility for reconstruction in the northern third of Iraq. He is a good man. He put his life on the line for this country. He did what he believed was right. He didn't waste a dime of the American people's money. He had to pass out cash. That is the way you do business there—not to say there is something wrong with that. They don't have checks and banks. That is how you have to do business if somebody does work for you, you pay them in cash.

I am not by any means claiming that there have not been abuses, that contractors and others may have taken advantage of the difficult circumstances to exploit their profits. That is, unfortunately, the history of the world. We need to watch it constantly. I am a strong supporter of that and don't doubt that. But enough is enough. The reckless commentary we have been hearing has created in the media and with the American people a distorted view of the reality of what is happening on the ground in Iraq for reconstruction. It is the same thing that is occurring with regard to the detainee abuse scandal—greatly exaggerated, without any recognition of the efforts that have been taken to make sure abuses don't occur.

My colleagues on the other side of the aisle are requesting yet another investigation. They wish to create a special committee on war and reconstruction in the middle of this war. This special committee will look into matters that are already being investigated by the Government Accountability Office, an independent agency—not a Department of Defense agency—which we call on in a bipartisan way to investigate complicated matters. The Department of Defense inspector general is investigating all allegations. The Defense Contract Audit Agency, the State Department inspector general, the Army's inspector general, and other organizations are watching what goes on there and conducting investigations into any allegation of fraud or abuse that may be presented. And a special inspector general's office was created already to increase accountability. This is important. It is the Special Inspector General for Iraq Reconstruction, commonly called SIGIR in the theater.

The Senator from North Dakota offers examples of abuse that he claims need another investigation. I honestly believe these charges are exaggerated distortions of reality and overlook the great work that is being done there toward reconstruction. I could stand here and address many of these complaints, but I will take issue with three he has continually raised in recent months as evidence of the fraud and waste he suggests is occurring. We can consider the overall picture of how things are being done.

Point No. 1, the allegation that $85,000 brand new trucks were left on the side of the road to be torched and looted because they had a clogged fuel pump or because they had a flat tire—we have heard that, haven't we?

The decision to leave a vehicle behind in a combat zone resides with the convoy commander and his or her best judgment, not the Senate. There are cities in America where people would be hesitant to stay with a car at night. They would not want to stay there. They may have to leave that car if it broke down. Should the convoy commander call AAA? How about that—we are going to call AAA to come fix it. Waiting for a repair crew out there by yourself or a tow truck to arrive or leaving the whole convoy sitting in a hostile area is not a realistic scenario from a force protection standpoint. Speed and mobility are keys to life in the combat zone. Disabled vehicles are always planned to be recovered; however, on occasion, they may be destroyed by insurgents or criminal elements in Iraq if they break down. The life of each military member—what if it was your son or daughter, would you like for them to stay with a disabled vehicle—is worth more than any vehicle. I fully support the decision of our convoy commanders to abandon disabled vehicles to ensure the safety of the personnel under their command.

Point No. 2, contractors in Iraq are paid in large amounts of bundled cash.

These are Iraqi contractors who do work for us, and we want to use them wherever possible so that they can create jobs. They are paid in large amounts of bundled cash, as we heard the charges made. This is the quote:

> When it was time to get paid, just bring a big bag because we are going to give you cash.

The statement suggests the money is being given away, come and get it. That is simply not true. Payments for services in Iraq have to be made in cash. There is no central banking system in Iraq where checks could be processed or allowed for on some electronic fund transfer. A modern bank and currency system is being developed there now, but as of today, cash is the only way to effectively pay local Iraqis for their labor and materials. The average Iraqi worker performing under a Government contract is paid in U.S. dollars because that currency is accepted throughout that nation. The large bricks of money are needed because in many small towns and villages, paying workers in one hundred dollar bills is not practical. No one in these towns could break a one hundred dollar bill, so there was a need for payment in twenties, tens, and fives. Paying large contracts in small bills does create a large amount of dollars and necessitates bundling and transporting of money in bags and lockers. How else are you going to do that?

When I was in Iraq right after the war and was in the area in Mosul where Commander Paquette was working, I met personally with General Petraeus, commander of the 101st Airborne. He said the best thing he could do was to go out and see a problem in a neighborhood that could be fixed and to have his own discretion to engage a contractor and get that thing fixed. Maybe it is a bridge, a roof at the hospital, a door on the school.

Get it done right then and pay the person who did the work. He said that is the best way we can help create and reestablish this country. And he asked for more power.

Do you think General Petraeus is stealing the money? He was No. 1 in his class at West Point. No, sir, this is a true patriot trying to serve our country to help Iraq and fix it up.

Point No. 3, they charge this. This is the quote and the charge

> There is massive waste, fraud and abuse going on with respect to contracting in Iraq . . . who is watching over this massive amount of fraud, waste and abuse? Nobody seems to care.

Nobody seems to care? That is not true. This statement is most misleading of all. It implies that U.S. tax dollars are just being wasted with no care or concern. However, 100 audits and management reviews have been performed to date by the GAO, the Defense Contract Audit Agency, the DOD inspector general, the Army Criminal Investigative Service, and so on. I met with the chief inspector general in Iraq, and he is a firecracker. I mean he is a totally focused man, dedicated to his job of establishing accountability and eliminating fraud.

Have there been instances of fraud? Sadly, yes. Those found guilty are being punished. Companies defrauding the Government have had payments withheld. They have been removed. Investigations and audits continue and those who violate criminal laws will be prosecuted. The Department of Defense and other Government agencies in charge of reconstruction in Iraq are reacting swiftly to the comments of the auditors and incorporating all of the recommended corrective actions.

There is even a special investigative body in Iraq, SIGIR, that issued the report I believe that Chairman WARNER quoted from with respect to the Special Inspector General for Iraq Reconstruction, a special inspector general for just Iraq.

Yet claims persist that no one cares, there is no oversight and no accountability. It is not true. It is a slander on our people whose lives are at risk serving our country in Iraq. As with detainee abuse allegations, time and again an objective review of the facts is slowly rolling back outlandish accusations that we have heard. Iraq is a war zone. It is a dangerous place in many areas. For too many in Congress and across the Nation we seem to overlook this fact, even while the media gives us all a daily count of fatalities.

As any soldier can tell you, paperwork is not always the first priority when someone is in combat. However, we place special trust and confidence in military officers and senior Government officials overseeing the expenditures of taxpayer funds. Continuing to claim fraud and abuse is rampant and that no one is accountable is directly questioning the competency and dedication of these professionals who are doing their best job possible in very difficult and many times dangerous circumstances.

There are areas in Iraq that are dangerous. And even the contractors' lives are in danger, as we well know. Their actions are making a difference. The most recent report to Congress from the SIGIR states—this is the Special Inspector General for Iraq Reconstruction. Listen to this:

> The positive results achieved in the reconstruction program are impressive . . .
>
> The United States has made steady progress in its part of Iraq's construction, despite the hazardous security environment, the fluid political situation, and the harsh realities of working in a war zone.

The media and the other side of the aisle spend too much time telling the negative side of what is going on in Iraq, I believe. To far too many Americans, the image of the conflict in Iraq is a burning humvee or the scene of a car bomb. I would like to show you a few before and after photos of how the reconstruction funds have benefitted the people of Iraq.

This first slide portrays reconstruction of the Ministry of the Environment Building. Here is the way it looked after the war. And here we see how it has been reconstructed. Somebody was paid for that. I hope it was an Iraqi contractor who had a family to feed. Commander Paquette says it was. This is a matter he has personal knowledge of, I believe. So somebody went out there and did a job similar to in the United States, did a great job of reconstructing this building that was utterly gutted.

Here is another one, the Az Zubayr Courthouse. Look at this courthouse here. Now, we have to have the rule of law. General Petraeus told me when he was in Mosul how he worked on that, had the Iraqis out here doing the work. Are they going to be paid or not? They don't want a check, I can tell you that. And here we have a new courthouse where we hope justice can be done.

Mr. WARNER. Madam President, will the Senator yield?

Mr. SESSIONS. I would be pleased to yield.

Mr. WARNER. Has the Senator put into the RECORD the name of the assistant he has worked with in developing this and explained about his background as having been there and participated? Because this is an extremely important segment of our debate that the Senator is filling in this morning. You are receiving a lot of this information from your very able assistant who is an on-the-scene individual responsible for some of this.

Mr. SESSIONS. I thank the chairman. I did not do enough. Commander Paquette was in Iraq shortly after Saddam Hussein's government fell, when the statue fell and he was given the charge of handling the northern third of the reconstruction effort for the military. He was a Naval lieutenant commander then and that was his responsibility in our joint effort. We have Navy people, Air Force people there, Army and Marines, of course, and he worked on the reconstruction effort. Much of what I am saying, many of these photos he has had personal involvement with.

Here is a hospital operating facility. You can see what a pathetic, sad thing it was—one little chair. Now, after we have come in with reconstruction efforts, you have a fully functional hospital.

Here is a bridge replacement with a new structure. This bridge was totally destroyed, broken here, and you can see the old bridge here, but a new bridge has been constructed. Somebody had to be paid to do that work. You can't rebuild a bridge for $500. If you pay people in cash, you have to have a bundle of cash to pay the expense of building a bridge.

How about this one. This is one Commander Paquette mentioned to me. This is a street in a town he personally has visited, with sewage running down the main street there, kids wading in it, he said. And here, after our work to create a sewage system, we have a safe street for this lady to walk on. And of course, you have heard about the sabotage of electric powers. This one was sabotaged and here you have Iraqis climbing up there fixing it. Are you going to climb up to the top of a tower like that and fix it and not be paid? Somebody has to pay you. They are not going to take a check. We have to pay them in cash, and that is what is being done, in an effective way, I believe.

I could go on. There are hundreds of examples such as this from all around Iraq, thousands of them. Let's not politicize this conflict. It is important. We are a nation at war, and the mission in Iraq is vital to ensuring democracy, that democracy takes hold in a region of the world that has known far too many tyrants and despots.

I am proud of the accomplishments of our military, our civilian and contractor personnel in Iraq. Many of them were former military people who retired, who brought their skills and who had the courage to go into dangerous areas. They are dedicated to improving the quality of life for millions of Iraqis and Afghanis and are doing so under very difficult circumstances.

As we approach Veterans Day, the Senate should spend a little less time advertising allegations of wrongdoing, allegations that we are already taking vigorous actions to deal with, and spend more time talking about what is going right. We owe it to the men and women we voted to send into harm's way. We owe it to their families and to the families of the fallen to tell them that their mission is important, that their sacrifice is making a difference for nearly 50 million people in a region that has known so much suffering and violence.

I thank the Chair. I also want to express my personal appreciation to Commander Paquette for his service. He will soon be leaving us, going back on active duty. He has been a tremendous asset to my office and helped me craft the legislation I am most proud of to double the death benefits for soldiers who lose their life in defense of our country. We appreciate it, and I thank him also for helping us bring a personal touch directly from the frontline in our efforts in Iraq.

I yield the floor.

The PRESIDING OFFICER. All time has expired.

The Senator from Virginia.

Mr. WARNER. Madam President, I want to say again how important is the debate our distinguished colleague from Alabama has provided the Senate this morning on these key subjects. It is reassuring. The Senator made, as did I, reference to this report, which I think is an accurate compilation of what has been achieved and what remains to be achieved and the struggle they are having with regrettably this cultural thing called graft, which is all pervasive throughout much of the Middle East, but nevertheless somehow we are overcoming that.

Mr. SESSIONS. I thank the chairman. I note I did meet that special inspector general. He impressed me. I know Senator COLLINS has met with him and is thoroughly impressed with him. He is very present throughout Iraq to make sure our dollars are being spent wisely.

Mr. WARNER. I thank the Senator.

Madam President, it is my understanding that the time under the control of the Senator from Virginia has now expired.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. And there remains what period of time?

The PRESIDING OFFICER. There is 20 minutes 15 seconds.

Mr. WARNER. Madam President, the Senate has already defeated this amendment twice—first on September 14, 2005, on the Commerce, State, Justice, Appropriations bill by a vote of 53–44 and then on October 19, 2005 on the Transportation, Treasury, Housing and Urban Development Appropriations bill by a vote of 54–44.

This amendment is unnecessary and duplicative of the current contracting oversight mechanisms created to meet the challenges that then Senator Truman identified. The Truman Committee was needed at the outbreak of World War II. There were no GAO or IG investigations, no Defense Contract Audit Agency or Defense Contract Management Agency. There were no conflict of interest laws to reign in the dollar-a-day men and no Truth in Negotiations Act, Whistle blower Protections, or Competition in Contracting Act.

The Armed Services Committee is currently performing its oversight tasks and I see no need for a Special Senate Committee to look at contracting practices in Iraq and Afghanistan.

The potential for fraud, waste and abuse is not limited to just Iraq and Afghanistan. The Air Force has just been through the worst contracting scandal in the last 20 years and the Armed Services Committee was at the forefront of uncovering this scandal by using normal committee legislative oversight tools. We conducted hearings, tasked the GAO and the Inspector General to review specific issues, and requested and reviewed thousands of documents.

The Armed Services Committee has conducted numerous hearings and briefings on acquisition oversight and reform, including oversight of contracting in Iraq, and initiated numerous investigations by the GAO and the Inspector General on DOD acquisition practices and programs.

Senator ENSIGN plans to conduct several more Iraq contracting hearings in the near future in the Readiness Subcommittee and Senator MCCAIN is conducting a series of hearings on the overall procurement process.

The Office of the Special Inspector General of Iraq Reconstruction was established to look at Iraqi contracting. This new IG has routinely briefed this Committee and others on its findings.

Section 823 of this bill establishes a contract fraud task force at DOD to identify potential areas where DOD is susceptible to fraud, waste and abuse. This group will inform Congress on how to modify our contracting laws wherever we need to get tougher on contract fraud.

This is how best to conduct our oversight—through the established committee process and established oversight mechanisms. I am sure that the Chairman of the Senate Foreign Relations Committee who shares responsibility for the oversight and jurisdiction of contracts in Iraq, as well as the Chairman of the Homeland Security Committee who has jurisdiction of Federal contracting would agree.

I appreciate the concerns of the sponsors of this legislation. However, I do not support the establishment of a new special committee which would duplicate the work of this committee and others and only look at a narrow amount of Federal expenditure.

The PRESIDING OFFICER. Who yields time?

The Senator from Michigan.

Mr. LEVIN. Madam President, is the time between now and 11:30 allocated?

The PRESIDING OFFICER. All time remaining until the vote is controlled by the Senator from Michigan.

Mr. LEVIN. I thank the Presiding Officer. I know that Senator DORGAN wanted some of this time. I would have a couple comments relative to the Dorgan amendment, first of all. I happen to agree with what has been recently said about the Special Inspector General for Iraq Reconstruction. He, indeed, would be a useful witness for the Senate to call, and I hope that either the Armed Services Committee or the Homeland Security and Governmental Affairs Committee would call that Special Inspector General for Iraq Reconstruction so that he could come and testify before us. That has not been done.

The Department of Defense IG has withdrawn his people. These are the people who look at the contracts with the contractors that are supporting our troops. The DOD IG withdrew his people so that there are no longer those folks on the ground who can tell us about those contractors. I do not believe that the Government Accountability Office people have been called to testify before the Senate.

There are a lot of issues. There are a lot of issues about the initial contract, why it was awarded on a sole-source basis, whether the CPA, the provisional authority, was overcharged by Halliburton for oil which was purchased. There are serious questions about meals which were served or not served. There are questions about whether Halliburton had the estimating, subcontracting, and financial management systems they needed to run two multibillion dollar contracts. There are a lot of questions which need to be reviewed. They ought to be reviewed. And we ought to have Senate committees that are calling these people to testify in front of us. It seems to me that in the absence of that, what Senator DORGAN is doing is saying: Let's have a Truman-type committee, a special inspector general to look at the contracting issues. Not only do I see nothing wrong with it, it has tremendously powerful precedent.

It is named the Truman committee because Harry Truman, in the middle of a war—I emphasize in the middle of a war, World War II—Harry Truman, a

Democrat, with a Democratic President, was willing to undertake an investigation of contracting practices and procurement practices because he felt the war was being exploited for profit by certain persons who were trying to profiteer off the bravery of others.

There is no disagreement among any Member of this body that I know of about the bravery, the professionalism, the courage of our troops. They deserve everything we can give them, and I believe we are giving them everything they need. There is no disagreement about that here. When Members of this body get up and are critical about the way in which this war has been won, it seems to me that is what we owe our troops. We not only owe them the material and the training and we owe their families everything, but we also owe them our best thinking. And our best thinking is not unanimous. There is not a consensus. There are not 100 people here who are cloned to think the same way. There are different thoughts.

We owe our troops our best, honest, conscientious thinking, and when people get up on this floor and provide that thinking, particularly where it is critical, it should not just be characterized as somehow or another undermining our troops.

Our troops depend upon us for the equipment, the training, the materiel, morale, for the support of their families. They depend on us for that. They are entitled to that. People who stand up and give their best thinking are supporting our troops in the best sense of the word: they are giving them their best, honest, conscientious thoughts as to how we can succeed in Iraq and make the best of a situation that is not going well, not just stay the course, stay the course, which is a bumper sticker, not a strategy, but how can we modify this course to increase our chances for success.

I want to yield the floor. I see Senator DORGAN is in the Chamber. I know he wants to speak on his amendment. I yield to him such time as he needs to speak relative to his amendment.

The PRESIDING OFFICER (Mr. THUNE). The Senator from North Dakota.

Mr. DORGAN. Mr. President, my colleague from Michigan has said it pretty well. This is not an unusual time. The money we have spent with respect to the war in Iraq and the reconstruction of Iraq are not usual expenditures. We have been asked, and the Congress has complied, with support for legislation that moves $50 billion, $60 billion, $20 billion—huge chunks of money—to pursue, first of all, the war in Iraq to support our troops and also to pursue what is called the reconstruction of Iraq.

Almost all of that—I think perhaps all of it—was done without any requirement to pay for it. It was all designed as an emergency, just to add it to the debt of this country.

My colleague, Senator LEVIN, said we have not in any way, nor would we refuse any request that would be helpful to our troops. When we ask men and women in uniform to risk their lives, we have a responsibility to them, and that is to give them everything they need to carry out the mission they have been asked to carry out. That is not what is at issue with this amendment.

This amendment is designed to respond to what we already know, and everyone in this Chamber knows, is a massive amount of waste, fraud, and abuse of the taxpayers' money. I spoke yesterday about this, but can anyone here justify having the American taxpayers purchase $85,000 trucks to be used on the roads of Iraq by contractors, and when the trucks get a flat tire, what do they do with them? They leave them beside the road and let them be torched. An $85,000 truck with a plugged fuel pump, what do they do? Abandon it. It is a plus-cost, sole-source contract. The American taxpayer will pay for that; don't worry about it. The list is almost endless.

A company—Halliburton in this case—charged the taxpayers for 42,000 meals served to American troops. It turns out they were only serving 14,000 meals. They have overcharged us by 28,000 meals. The people who last were responsible in the Pentagon, now retired, for managing all the fuel contracts to move fuel to the battlefield, after they retired they came back and testified and said: What has happened since is just unbelievable. The massive overcharges to move fuel to the battlefield by these contractors is almost unthinkable.

The stories go on and on. Renting a car for $7,500 a month, buying towels for the troops, double the price so you can put the company logo on it because the company tells their buyers that is what they are required to do: Double the cost of the towels so we can put our company logo on it.

How many of these stories do we need? Do we need 100 more stories like it? There is rampant waste, fraud, and abuse.

Why is that the case? Because massive quantities of money are being shipped over there in pursuit of reconstruction. Massive quantities of money are going, in many cases, to no-bid, sole-source contracts under the buddy system, and the taxpayers, I think in many of these cases, are being robbed blind. Will someone do something about it?

This amendment I have offered would establish what I call a Truman-type committee. Harry Truman stood on this floor in the 1940s in the middle of a war with a President of his own political party in the White House, and said: I think there is substantial waste, fraud, and abuse in military contracting and in military spending. They formed a special Truman committee, and he went after and uncovered tens of billions of dollars, in today's dollars, of waste, fraud, and abuse.

Normally, we would do this through oversight hearings, but we have not had many oversight hearings. In some cases, in other venues, none at all; in other venues, a few but really no aggressive oversight hearings designed to track this massive amount of money.

Yesterday, I showed a picture of a fellow who testified at a hearing I chaired that we have been doing in the Policy Committee. Why? Because the regular committees don't want to have oversight hearings. Why don't they want to do that? I guess they don't want to embarrass anybody. It would be embarrassing to the White House, I guess, if we had hearings about no-bid, sole-source contracts under the buddy system to big companies that then waste a lot of money. It would be embarrassing to display that in public.

The fact is, we owe it to the taxpayers to get rid of the waste, fraud, and abuse. Yesterday, I showed a photograph of money that was in the downstairs vault of a building that was occupied by the Coalition Provisional Authority in Iraq, which was us, by the way. CPA is us, not anything else. It is a fancy name for us. They were dealing in cash. I showed a photograph of one hundred dollar bills wrapped in Saran Wrap in bundles. The guy who testified at my committee and who was pictured in that photograph said: We told all the contractors, show up with a bag because we pay in cash. He said this was like the Old West. Bring a bag, we pay in cash. He said: We actually threw around like a football those bundles of one hundred dollar bills wrapped in Saran Wrap. You would be able to play catch with them. It was the Old West.

After all, when we provide funding for these contracts, it doesn't come out of the pockets of the 100 Members of the Senate. It is taxpayers' money, and we have a responsibility to the taxpayers to make sure it is spent appropriately.

If all of the 100 Senators would sit and listen to the stories I have listened to in many hearings now from contractor employees who were sickened and disgusted by the waste, fraud, and abuse they saw, if all of the Members of this Senate could hear that and then vote against an amendment that asks for this kind of long-term investigation, I don't know how they can sleep at night.

We have had this vote previously, and sufficient Members of the Senate have said it does not matter what the evidence is: I don't intend to support a special type committee to investigate this waste, fraud, and abuse. And they have prevailed. So we will have another vote today.

I say to those Senators who have voted against this amendment previously, if they still believe this waste, fraud, and abuse doesn't matter very much, then vote against it. If they still believe it is OK for the regular committees of the Senate not to hold any significant oversight hearings, not to do their due diligence, not to meet their accountability responsibility, and they don't care about that, then vote against this. Just vote against it, it doesn't matter. But then they should not stand up at home and say to their constituents that they care about how this money is spent when there is such dramatic evidence of waste, fraud, and abuse.

I used some newspaper headlines yesterday to describe the charges: $18.6 million worth of Government equipment missing at the moment that a contracting company was given to manage. One-third of the equipment that company was entrusted with at this point cannot be accounted for. Does it matter? Is somebody looking into this? It doesn't look like it to me. It is really pretty unbelievable. I have spoken before. I am guessing nobody in this Chamber—at least only a few in this Chamber—care.

My colleague from Michigan was at a hearing we held with Bunnatine Greenhouse who rose to become the top civilian contracting official in the Corps of Engineers. She was the top civilian contracting official in the Corps of Engineers. She had outstanding recommendations every single year. She was an outstanding Federal employee, and she was in charge as the highest civilian in the Corps of Engineers for making sure contracting was done properly.

As the war in Iraq ramped up and some companies began to get substantial no-bid contracts under the old buddy system, she said this doesn't meet the test of the law; you are violating the procedures of the Corps of Engineers. You are not doing things the right way; there is a right way and wrong way to do things. You do it this way. We are going to see substantial waste, abuse, and fraud. When she started raising those questions, something important happened to her. She was told one of two things will happen: You will either be fired or you will be demoted.

This public servant had the courage to speak up and speak out against practices she thought were horribly unfair and were going to hurt this country, and she paid for it with her career.

What a message to send to those who have the courage to blow the whistle and speak up. Does anybody care about that? It doesn't appear so. It really doesn't appear that way. We have asked Secretary Rumsfeld. We sent many letters to Secretary Rumsfeld. It is like sending those letters into a deep abyss someplace. You get a little one-paragraph reply saying: Got your letter, get back to you later. And there will never be a later. That is the way it works. Zip it up, cover it up, sew it up, it doesn't matter and, oh, by the way, ask Congress for more money; they will certainly appropriate it. Don't worry where it is going. If it is waste, nobody cares very much and, by the way, if somebody does care and raises the issue, we will have sufficient votes on it to say we won't do anything about it. And those sufficient votes will go home and talk about the fact, boy, they are tigers watching out for the American taxpayers. Hardly. Hardly.

We will see, once again, in a few minutes whether people really do care about this and whether they are willing to own up to the oversight responsibility Congress has, to care about how the taxpayers' money is spent.

This case is made. This is not an open case, it is not an argument that has to be made. This case is made. The evidence is all around us. The question is whether enough Senators will care.

Mr. President, I reserve the remainder of the time.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I ask unanimous consent that I speak on the bill for just a minute or two.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I say to my good friend and colleague, if there is an award to be made for determination, he has it on this particular issue. It is interesting that the Senator from North Dakota invoked a good deal of history as to the Truman committee. I think colleagues should know, however, that the Senate has already addressed this amendment on two previous occasions: first on September 14, 2005, on the Commerce-State-Justice appropriations bill. The vote was 53 to 44, defeated, and then again on October 19, 2005, on the DOD appropriations bill. Again, the Senate rejected it 54 to 44. Those matters should be before Senators.

Mr. LEVIN. Mr. President, if the Senator will yield, since Senator DORGAN does have another minute left, I believe, and I want to give him an opportunity to respond, I will use 30 seconds of that time simply to say that Senator DORGAN has, indeed, been tenacious. There has been an absence of oversight in this area which has been glaring. He has almost by himself filled in some of those gaps as he described it. He should not need to do that. We should either have the committees doing that or else we need this special Truman-type committee.

I commend him for his tenacity. I am glad he is bringing this to a vote, and maybe one of these days—hopefully today—he will prevail.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. At this point in time, a vote is imminent.

EXECUTIVE SESSION

NOMINATION OF DONALD C. WINTER, TO BE SECRETARY OF THE NAVY

Mr. WARNER. Mr. President, I ask unanimous consent that the Senate now proceed to the Executive Calendar.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I ask unanimous consent that the Senate immediately proceed to executive session to consider Calendar No. 410. I further ask unanimous consent that the nomination be confirmed, the motion to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and finally that the Senate then return to legislative session. This has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nomination considered and confirmed is as follows:

DEPARTMENT OF DEFENSE

Donald C. Winter, of Virginia, to be Secretary of the Navy.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I believe now the confirmation has taken place?

Mr. WARNER. That is correct.

Mr. LEVIN. I wish to have a very brief colloquy with my dear friend from Virginia on this matter, which I think he would want to comment briefly on, and that is I understand that once Secretary Winter is confirmed, which he now is, the Department of Defense will adopt an approach under which Secretary England will continue to act as Deputy Secretary of Defense on an interim basis. This approach is lawful, but it is temporary only and it is not intended to establish a pattern for future appointments. Would the Senator agree with that statement?

Mr. WARNER. Yes, Mr. President. This is a subject I have discussed with the administration and most specifically with the Secretary of Defense. I assure my colleague that it will not establish a pattern because to me the advice and consent process is a very precise obligation of the Senate. This type of action is taken in this case because it is my understanding that the President will make a recess appointment within 120 days, and I assure the Senator this matter will not go beyond the 120 days.

I thank the Senator for bringing it up, and I thank him for his cooperation and the cooperation of other Senators on this matter.

Mr. LEVIN. I do welcome that assurance. It is important for this institution. Whether the President is a Democrat or a Republican makes no difference on this issue. This is a matter of this institution asserting its constitutional responsibility, and I thank my friend from Virginia.

Mr. WARNER. Mr. President, I spoke with Secretary of Defense Rumsfeld very early this morning on this issue.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will now return to legislative session.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006—Continued

Mr. WARNER. Mr. President, under the order, the Senate is about to address the amendment by the distinguished Senator from North Dakota.

AMENDMENT NO. 2476

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. How much time remains?

The PRESIDING OFFICER. All time for debate has expired.

Mr. DORGAN. I ask unanimous consent for 30 seconds.

Mr. WARNER. Yes.

Mr. DORGAN. The Senator from Virginia is quite right that we have twice before voted on this amendment and I believe ignored the value of the amendment. In almost all cases, there is virtue in being consistent, but being consistently wrong is hardly virtuous. My hope is the Senate will understand the value of this amendment this morning as we vote on it for the third time.

Mr. SESSIONS. Mr. President, I ask unanimous consent to have 30 seconds to respond?

Mr. WARNER. Yes.

The PRESIDING OFFICER. Is there objection?

Mr. DORGAN. Mr. President, respond on this amendment?

Mr. SESSIONS. I ask unanimous consent to make one point on this amendment.

Mr. WARNER. With time being given to the Senator from North Dakota if he wishes to rebut.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SESSIONS. Mr. President, he asked for 30 seconds, and I thought I would get 30 seconds after all time had expired.

The Department of Defense inspector general is working on this. I say this in response to the idea that nothing is being done and nobody cares. That is not true. The Army inspector general's office is fully engaged. The Army Criminal Investigation Department is engaged. The Defense Contract Audit Agency is engaged. The Defense Contract Management Agency is looking at these things. Most important, in response to Senator DORGAN's concerns and others, a Special Inspector General for Iraq Reconstruction is engaged and is very tough and capable.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. DORGAN. In 30 seconds, I say the Senator has just made my point. He recited a long description of people interested in this, none of whom reside in the Congress. The oversight responsibility belongs to the Congress. It belongs here, and it is not happening here. That is precisely the point I believe the Senator made on the floor just a moment ago. That is precisely why we ought to support this amendment.

Mr. WARNER. Regular order. Have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not been ordered.

Mr. WARNER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Mr. WARNER. I further request the yeas and nays on the Talent amendment which follows.

The PRESIDING OFFICER. The yeas and nays have been ordered on the Talent amendment.

The question is on agreeing to the amendment.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Tennessee (Mr. ALEXANDER).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "no."

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 44, nays 53, as follows:

[Rollcall Vote No. 316 Leg.]

YEAS—44

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Conrad
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—53

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—3

Alexander
Corzine
Inouye

The amendment (No. 2476) was rejected.

Mr. WARNER. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2477

Mr. WARNER. Mr. President, if we could have order in the Senate, can the Senators with this amendment be recognized for, I think, 2 minutes each?

Mr. TALENT. Mr. President, Senator LIEBERMAN and I have introduced this amendment which we believe is crucial in providing our Armed Forces with the air transport capabilities they need. The amendment is cosponsored by Senators STEVENS, BOXER, FEINSTEIN, CORNYN, CHAMBLISS, and a number of others. We have worked with the chairman, the ranking member, and the managers, and are grateful for their help. It has been cleared on both sides. It is an important amendment. I encourage the Senate to agree to it.

Mr. McCAIN. Mr. President, I oppose the amendment. There has been a mobility capability study which indicates that we have an acceptable number for this capability.

We are looking at cuts in defense spending, and there are a lot of tremendous cost overruns. We are looking at rapidly escalating procurement costs. These additional aircraft are not needed. They are not needed today. I believe we have to at some point have some kind of discipline and listen to what we need and have in capabilities, and this is not one of them.

I yield the floor.

Mr. DODD. Mr. President, as many of you may know, almost every person in uniform who has looked at this believes that this program is of critical importance to our national security structures in the 21st century. There is not any debate that exists there. We believe it is an important element. If we don't do this, there is a great fear that this line will be dropped and the C–17 will be lost.

We, obviously, have an interest in Connecticut. The engines are made in our State. But this aircraft is far more important than where the engines or the bodies are made. It is important to our national security needs. That is why we have this bipartisan support.

We thank the chairman and ranking member for their support as well of the amendment being offered by the Senator from Missouri and the Senator from Connecticut. I am proud to be a sponsor of it.

We urge adoption of the amendment.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered, and the clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Tennessee (Mr. ALEXANDER).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "yea."

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER (Mr. GRAHAM). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 89, nays 8, as follows:

[Rollcall Vote No. 317 Leg.]

YEAS—89

Akaka
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Isakson
Jeffords
Johnson
Kennedy
Kerry
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Talent
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—8

Allard
Feingold
Kohl
Kyl
McCain
Sessions
Sununu
Thomas

NOT VOTING—3

Alexander
Corzine
Inouye

The amendment (No. 2477) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. KERRY. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, we are making progress on this bill. It is the intention of the joint leadership, the majority leader, and the Democrat leader, that this bill be finished. Senator LEVIN and I are doing the best we can to accommodate all colleagues. The amendments we know of that remain—one by the distinguished Senator from South Carolina. At this time I would like to set the hour of 2:30 to consider that. Is that agreeable? We simply bring it up at 2:30 and we determine how it unfolds with regard to second degrees.

Mr. LEVIN. The Senator from Massachusetts is ready to proceed with his amendment.

Mr. WARNER. There is no objection to that.

Mr. LEVIN. Senator AKAKA needs 5 minutes—have you gone through this?

Mr. WARNER. What I am trying to get at the moment is the amendments, and then we will try to splice in periods of time for our colleagues to speak to other matters on the bill.

Mr. LEVIN. We are hopeful we can complete the drafting of an Iraq amendment in the next half hour which, if we succeed, we would want to show it to the Senator from Virginia, but it may take some real time this afternoon.

Mr. WARNER. Fine. Let's deal with the known quantities.

The Senator from Massachusetts wishes to bring up an amendment which is within the 12 amendments of the Senator from Michigan. That is to be taken up now. We will proceed with that. There may well be an amendment in the second degree; I cannot anticipate that.

Mr. LEVIN. If I could ask the Senator to yield, the Senator from Minnesota has an amendment or needs morning business?

Mr. DAYTON. To speak on two amendments already included in the managers' package.

Mr. WARNER. We will try and package, for the moment, two items. The Senator from Massachusetts will now proceed on his amendment. We cannot predict how long it will take because we do not know of the potential for second degrees. That will take place under the underlying unanimous consent. At 2:30 we take up the amendment of the Senator from South Carolina and proceed on that.

Mr. LEVIN. With a second-degree amendment expected on that.

Mr. WARNER. So let us get those two locked in for the moment.

Mr. LEVIN. Excuse me. We made reference to two other Senators within that period of time. Senator AKAKA would get 5 minutes for morning business, and I want to make sure the Senator from Minnesota, within that same time period, will have 10 minutes that relates to the pending amendments, as I understand the Senator.

Mr. DAYTON. Amendments to the bill that are in the managers' package.

Mr. WARNER. And Senator BURR needs 5 minutes.

Within that period of time we will accommodate the three colleagues for the matters they wish.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Further, I wish to inform Senators that the likelihood of any votes between, say, the hour of 12:45 and 2 o'clock is most unlikely. As a matter of fact, I ask unanimous consent there be no votes during that period of time to accommodate a number of Senators on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEVIN. Does the Senator expect the possibility of a vote before 12:45?

Mr. WARNER. No.

Mr. LEVIN. So it is unlikely between now and when?

Mr. WARNER. 2:15.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. I understand the Senator from Hawaii wants to speak for 5 minutes. I ask unanimous consent the Senator from Hawaii be recognized for 5 minutes and I be recognized at the conclusion.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Hawaii.

VETERANS DAY 2005

Mr. AKAKA. Mr. President, I thank my friend and colleague, Senator KERRY, for the time.

Tomorrow is Veterans Day. I pause this morning and join my fellow Americans in paying homage to those who served in this Nation's Armed Forces.

Observance of this day is a wonderful tradition that allows all Americans to reflect upon the sacrifices made by our veterans in protecting our freedoms and liberties. This Veterans Day is especially poignant during this time of conflict.

Our current battles abroad are a constant reminder of the ordeals our soldiers of this war and past wars endured on behalf of this great Nation. I commend the many soldiers, sailors, airmen, and marines on Active Duty, and the National Guard and the Reserves, and their families for their service to our country. Our support of our service members must be steadfast and strong.

Veterans Day has a long and important history. In 1911—at the eleventh hour of the eleventh day of the eleventh month—an armistice was signed between the Allied nations and Germany, effectively ending World War I, then hoped to be "the war to end all wars". In November of 1919, President Wilson proclaimed November 11 the first commemoration of Armistice Day.

This great day was initially celebrated in honor of those veterans who fought in World War I.

It was not until 1954 that Congress, at the urging of veterans service organizations, renamed Armistice Day as Veterans Day to extend the commemoration to all those who have so honorably served this Nation.

Although we pause today to commemorate the service of those who served on behalf of this grateful Nation, we must make certain that this day has meaning and is not merely set aside for fanfare and speeches. Indeed, we must make certain that our veterans have our commitment and support every day and not just Veterans Day.

Too often our veterans' priorities are not our own. As we saw earlier this year, VA had a tremendous funding shortfall.

It took some too long to acknowledge what so many of us had known for some time—that VA health care was not being funded at an adequate level—a level commensurate with the sacrifice that our veterans made on the beaches of Normandy, the harbors of Hawaii, the jungles of Vietnam, and the deserts of the Middle East.

I am pleased that VA has announced that it is suspending its planned review of 72,000 post traumatic stress disorder claims. This is surely great news for all veterans because many times VA compensation is the sole source of income for a veteran and his family.

We must put into practice daily the sentiment that Abraham Lincoln expressed when he said during his second inaugural address that we should—and I quote the President—

> care for him who shall have borne the battle and for his widow and for his orphan.

Our 25 million living veterans are the backbone of this Nation.

Today, I want to personally express my gratitude to all veterans of our Armed Forces and thank them for their service.

Mr. President, I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Massachusetts.

AMENDMENT NO. 2507

Mr. KERRY. Mr. President, I send an amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Massachusetts [Mr. KERRY] proposes an amendment numbered 2507.

Mr. KERRY. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To require reports on clandestine facilities for the detention of individuals captured in the global war on terrorism)

At the end of subtitle D of title X, add the following:

SEC. ___. REPORTS ON CLANDESTINE DETENTION FACILITIES FOR INDIVIDUALS CAPTURED IN THE GLOBAL WAR ON TERRORISM.

(a) SECRETARY OF DEFENSE REPORT.—

(1) REPORT REQUIRED.—Not later than sixty days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a detailed report on the knowledge of the Secretary, and of the personnel of the Department of Defense, on whether or not there exists, or has existed, any clandestine facility outside of United States territory for the detention of individuals captured in the global war on terrorism, whether operated by the United States Government or at the request of the United States Government.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) Whether or not the Secretary or any personnel of the Department of Defense have affirmative knowledge that a facility described in paragraph (1) exists.

(B) If the Secretary or any such personnel have affirmative knowledge that such a facility does exist—

(i) the existence of such facility;

(ii) any support provided by the Department of Defense to any other department, agency, or element of the United States Government, or any foreign government, for the establishment, operation, or maintenance of such facility;

(iii) the amount of funds obligated or expended by the Department in furtherance of the establishment, operation, or maintenance of such facility;

(iv) whether the Department has transported individuals captured in the global war on terrorism to or from such facility, and if so—

(I) the number of such individuals;

(II) the date of transfer of each such individual to such facility;

(III) the place from which each such individual was so transferred; and

(IV) the identity of the agency or authority in whose custody each such individual was held before such transfer.

(v) whether any detainee in such facility is expected to be prosecuted by military commission or another system for administering justice; and

(vi) the interrogation procedures used on each individual detained in such facility.

(C) Whether or not the Department has ever held any individual captured in the global war on terrorism at a facility controlled by the Department at the request of, or in cooperation with, another department, agency, or element of the United States Government, and for any such individual so held, a detailed description of the circumstances surrounding the detention of such individual and the disposition, if any of such individual.

(3) FORM OF REPORT.—The report required by paragraph (1) shall be submitted in classified form.

(b) DIRECTOR OF NATIONAL INTELLIGENCE REPORTS.—

(1) REPORTS REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence shall provide to each member of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a detailed report setting forth the nature and cost of, and otherwise providing a full accounting on, any clandestine prison or detention facility currently or formerly operated by the United States Government, regardless of location, where detainees in the global war on terrorism are or were being held.

(2) ELEMENTS.—The reports required by paragraph (1) shall set forth, for each prison or facility covered by such report, the following:

(A) The location and size of such prison or facility.

(B) If such prison or facility is no longer being operated by the United States Government, the disposition of such prison or facility.

(C) The number of detainees currently held or formerly held, as the case may be, at such prison or facility.

(D) Any plans for the ultimate disposition of any detainees currently held at such prison or facility.

(E) A description of the interrogation procedures used or formerly used on detainees at such prison or facility.

(3) FORM OF REPORTS.—The reports required by paragraph (1) shall be submitted in classified form.

Mr. KERRY. Mr. President, I ask unanimous consent that Senator HARRY REID of Nevada and Senator BIDEN be added as cosponsors of the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, in recent weeks the American people and Members of the Senate have heard allegations about the existence of secret prison facilities operated by the U.S. Government in various countries around the world.

Now, I know many of my colleagues take this matter very seriously. The Central Intelligence Agency has reportedly requested a Justice Department investigation of how classified intelligence information made its way into print. Clearly, the revelation of the potential of these programs is a serious national security matter. It is one we can all agree on, no matter where we sit.

No one in this Chamber underestimates the seriousness of the war on radical Islamic terrorists. It is a war we have to win, we must win. And no one underestimates the depravity and the viciousness of our enemies. We do not need to look any further than the bombings last night in Jordan to once again be reminded of the kind of enemy we face—an enemy willing to always target the innocent. We know that success in any war requires the informed consent of the American people. And in an issue as sensitive as this, that informed consent can only be derived from the Congress's full and appropriate understanding and involvement in these issues. That in and of itself requires information and cooperation from the administration so we in Congress can provide effective and informed oversight. That begins by knowing what the money we authorize and appropriate is being used to do. The American people demand no less than that. The fact is, we are not aware; we are not as a Congress performing that proper oversight. The vast majority of us first heard about the possibility of clandestine detention facilities in the Washington Post last Wednesday.

Since then, we have heard that this may have been discussed by Vice President CHENEY in a meeting with the Republican caucus. That obviously comes from statements by people at the caucus made publicly. If, as has been reported by Senator LOTT, members of the Republican caucus can hear about these facilities from the Vice President of the United States, then the Senate Armed Services Committee and the Senate Select Committee on Intelligence ought to be able to receive a full accounting.

So the amendment I offer today seeks to simply assert, appropriately, congressional oversight in this matter by requiring two classified reports—one by the Secretary of Defense and one by the Director of National Intelligence—to the appropriate committees, detailing the involvement of the Department of Defense and the intelligence community in these activities if, indeed, there is any.

Not later than 60 days after enactment, the Secretary of Defense will provide a classified report to the House and Senate Armed Services Committees of any knowledge or participation in the operation of clandestine facilities by the Department of Defense, including support provided by the Department of Defense to any other part of the U.S. Government or foreign government. The Secretary of Defense must also report on whether the Department has transported any individuals to or from such a facility, and whether detainees in such facilities are to be tried by military commission. Finally, this report will include details about detainees held at DOD facilities for other Government agencies.

The second classified report required by this amendment is from the Director of National Intelligence to the Intelligence Committees of both the House and the Senate. In it, the Director will provide a detailed accounting of the nature, cost, and operation of any clandestine prison or detention facility operated by the U.S. Government, regardless of location, where detainees from the global war on terror are being or have been held.

Now, let me be clear: We are not passing judgment on the merit or the value of these facilities. What we are saying is we need to know and understand what the policy of our country is, what is being done with taxpayer money, and what are the appropriate accounting and oversight mechanisms with respect to this.

In its reporting, the Washington Post said:

> The CIA and the White House, citing national security concerns and the value of the program, have dissuaded Congress from demanding that the agency answer questions in open testimony [about the facilities].

My colleagues will note that both of these reports would be classified, both of them would be limited to the committees of jurisdiction. This is not about open testimony. It is about Congress doing its appropriate job through the appropriate committees.

I do not have any doubt that in the American public's mind we are all united and determined to win the war against radical Islamic terrorists. But I do know that any administration that tries to keep Congress in the dark ultimately winds up damaging the very effort we are engaged in. We have seen this all through history. This goes back for years in the relationship of oversight by the Congress and efforts by administrations to undertake clandestine initiatives on their own.

The executive branch cannot win this by itself. It needs Congress to be invested. It needs Congress to be knowledgeable. It needs Congress to act on behalf of the American people. And in this case, the simple job of oversight is critical to our ability to maintain the consensus necessary for our Nation. We have seen too often too many instances of efforts that go awry that cost us leverage as a nation, cost us leverage with other communities, and ultimately may even cost us lives of Americans because they do go awry without the proper consent.

We also do better as a country in these kinds of efforts when Members of both parties across the aisle have joined together in a foreign policy that represents the broad consensus of the American people and where all of us are accepting responsibility for our actions.

I would hope my colleagues, the distinguished chairman and ranking member, would accept this amendment because I think it acts in the best interests of this institution and of our Nation.

With that, Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, the Senator from Massachusetts provided us a copy of his amendment just a minute before he began his remarks to the Senate. Senator ROBERTS, on this side, is now in consultation with the ranking member, Senator ROCKEFELLER, and I anticipate that one or both will shortly come to the floor on this issue. At this time I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I ask unanimous consent that the quorum call not be charged to the time of either the proponent of the amendment or those who will be giving a different perspective, perhaps, in opposition.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. BURR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER (Mr. WARNER). Without objection, it is so ordered.

Mr. BURR. Mr. President, I ask unanimous consent to address the Senate as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The remarks of Mr. BURR pertaining to the introduction of S. 1990 and S. 1991 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. I ask unanimous consent that I be permitted to speak as in morning business for up to 15 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DAYTON. Mr. President, I rise to thank the distinguished chairman of the Senate Armed Services Committee and the ranking member, who are two of the finest public servants I have ever had the privilege of knowing, for their leadership of that committee on which I serve and for their leadership on this important legislation before the Senate, which I support. I also thank them for including two of my amendments in the bill, the first of which is a sense-of-the-Senate resolution, which I am proud to coauthor with Senator MURRAY of Washington and Senator COLLINS of Maine, that says the Department of Defense must honor its promise to pay reenlistment bonuses to members of the Army National Guard. I was told yesterday that the Pentagon has reversed its position and has now approved the National Guard's payment of those promised reenlistment bonuses.

My second amendment authorizes an additional $50 million for childcare for Active-Duty military families and an additional $10 million for family assistance centers. The committee bill already provided for increased funding for these two vital programs, and I thank the chairman and ranking member for agreeing to these further authorizations which parallel the increased funding that I added to the Senate's 2006 Defense appropriations bill.

Our military families are facing increased pressures as husbands and wives are deployed in faraway war zones and thus separated from their families for up to 18 months at a time. The Office of the Secretary of Defense has reported that some 38,000 children of Active-Duty families are being denied childcare in military facilities due to the lack of funding for the centers and for the spaces needed. This imposes an unfair additional hardship on these wonderful American families. The extended absence of a parent is compounded by the lack of available, reliable childcare. For the same reasons of extended absences, emotional and financial stresses, and the understandable need for support, the military family assistance centers are more important now than ever. They are especially valuable for the families of Reserve and Guard men and women whose wife or husband is called to active duty and then deployed in adjusting to extended absences and then readjusting to the spouses return or, in the worst case, to the spouse's not returning home alive, or returning home seriously wounded or maimed for life. When we talk about supporting our troops, which all of us truly want to do, two very important ways are through childcare and family assistance services.

I wanted to take this opportunity to address briefly a related area, one vital to our national security. Last week the Washington Post reported that the CIA is operating secret prisons in up to eight other countries, including one in a former Soviet gulag in eastern Europe. These are so-called "black sites" where reportedly the CIA's "enhanced interrogation techniques," some of which are prohibited by U.N. convention or U.S. military law—in other words, torture—are being used against unidentified subjects for indefinite periods of time. They are reportedly being denied lawyers or any opportunity to defend themselves against whatever charges of wrongdoing have brought them there.

At the same time, the Vice President has reportedly given "one of the most impassioned pitches he has ever delivered" to Republican Senators at last week's caucus lunch opposing the McCain amendment, which passed the Senate by a vote of 90 to 9, that would prohibit the use of torture against detainees. The President has reportedly threatened to veto the entire 2006 Defense appropriations bill if it contains the McCain amendment. The Vice President was reportedly urging that the prohibition against torture be stricken, or at least an exception be given to the CIA.

Now we know why the President and the Vice President are so adamantly opposed to the Senate's ban on the use of torture or want an exemption for the CIA. It is because the CIA is operating secret prisons in other countries where torture is allegedly being used. Why else would they be against prohibiting torture, if they weren't doing it or intending to do it?

In response to the Post story, Republican congressional leaders sent a letter to the chairmen of the Senate and House Intelligence Committees requesting them to "immediately initiate a joint investigation into the possible release of classified information to the media alleging that the United States Government may be detaining and interrogating terrorists at undisclosed locations abroad. As you know, if accurate, such an egregious disclosure could have long-term and far-reaching damaging and dangerous consequences, and would imperil our efforts to protect the American people and our homeland from terrorist attacks."

Well, with all due respect, I say that the Republican leaders have the right idea but the wrong focus. There ought to be a congressional investigation, but it ought to be on the existence of those secret prisons, on who is being held there, why, for how long, and how are they being treated, whether torture is being used, and why these "black sites" are being hidden from Congress. I know my colleague, the distinguished Senator from Massachusetts, Mr. KERRY, has just proposed an amendment to this legislation that would require disclosure of these secret sites.

I ask unanimous consent to be added as a cosponsor of his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DAYTON. The oversight responsibilities of Congress have tragically been emasculated by this administration, and too many Members of Congress have acquiesced. They have bowed to this administration's wishes or demands that it be able to do whatever it wants, wherever it wants, and to whomever it wants. And then, if they are caught doing it, they say it is part of the war against terror, or that it is essential to our national security.

You don't defeat terror with terror. You don't stop those inhuman beings who would commit atrocities by committing atrocities against them. And you don't make our citizens more secure by taking away other people's brothers and sisters, mothers and fathers to secret gulags and torturing them for months or years. Of those torture victims themselves, if you release them, does anyone suppose that they will not be filled with hatred and revenge towards the United States? After they have been tortured, you keep them secretly locked up forever so they can't torture Americans in return?

These are not only hideous, horrible, and inhuman practices, they are stupid policies, shortsighted, misguided, and immoral policies which, if not illegal, should be, and which, to use the CIA's term, will blow back or boomerang against our own citizens in the years ahead.

Yes, there should be a congressional investigation into how unelected people with no accountability to the American people or to the civilized world can usurp the powers and responsibilities which are this Congress's by law, and why this Congress has let them get away with it and continues to look the other way while they blacken America's great name, debase our good values, and endanger our national security with their depravity.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. PRYOR. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded and that I be allowed to speak for 10 minutes as in morning business.

The PRESIDING OFFICER (Mr. MARTINEZ). Without objection, it is so ordered.

VETERANS DAY

Mr. PRYOR. Mr. President, as Veterans Day approaches, we pay homage to the soldiers who once stormed the beaches of Normandy, reclaimed the mountains of Korea and crossed the sands of Kuwait. We pay homage to our veterans' sacrifice and courage, and also to the brave men and women who now follow their example in places like Iraq and Afghanistan.

In paying respect, we must also follow through on our Nation's commitment's to ensure our veterans receive the benefits they earned and deserve.

Arkansas has a long and distinguished record of service, one that my State is proud of, and one that we will continue to build upon. In addition to honorable service by our active duty soldiers, marines, seamen and airmen, the Arkansas National Guard has mobilized more than 8,000 of its guardsmen since Sept. 11, 2001. In fact, this Veterans Day is an especially poignant one for families in Rogers, AR where 180 guardsmen have just been deployed to serve in Iraq.

Arkansas is not alone in its commitment to military service. Since the wars in Iraq and Afghanistan, there are 393,000 new veterans to care for, including 103,000 who are currently seeking health care from VA hospitals.

We can never truly repay our veterans for their service to our Nation, but we can care for them just as they cared for us. In honor of these men and women, Senator NORM COLEMAN and I have introduced the Veterans Benefits Outreach Act to help ensure that all veterans collect the benefits they have earned but for whatever reason are not receiving.

Nearly 600,000 veterans nationwide are not receiving the benefits they are entitled to, often due to a simple lack of knowledge that they are eligible.

Instead of veterans having to cut through bureaucracy to learn about and receive the various benefits they earn, our bill seeks to bring this information to them. It requires the VA to prepare a plan to identify veterans who are not enrolled in programs they are eligible for and an action plan to enroll them.

This measure represents an opportunity to help our current veterans and meet the challenges we foresee instead of waiting until benefit problems escalate for a new generation of veterans. I hope this Veterans Day will add the necessary momentum for the full Senate to consider and pass this measure.

We owe this to veterans like Chaplain—Colonel—David McLemore—a soldier's soldier who has dedicated a career to providing outreach to service men and women in the field.

Chaplain McLemore is a native Arkansan and has served as a chaplain in the Arkansas Army National Guard for 21 years. During that time he has served soldiers at the company, battery, battalion, and brigade level. He has personally answered the call to duty in two wars, Operation Desert Storm and Operation Iraqi Freedom II.

In both of these conflicts, Chaplain McLemore served on the front lines with combat units, where he ministered to soldiers conducting the day-to-day fight with the enemy. Chaplain McLemore always chose to be up front providing a "Ministry of Presence" to those in the greatest place of danger.

Those who served in combat with Chaplain McLemore knew that he would always be there with a listening ear, an open heart, and a guiding hand. His mere presence gave courage and inspiration to those who knew that they could lose their lives at any minute.

As any chaplain, Chaplain McLemore did not carry a weapon as he faced the perils of combat, but the soldiers he served with knew that he carried more firepower than any of them, the grace and word of God, and they always wanted Chaplain McLemore and that firepower with them.

They knew that he risked his life every day for one mission, to serve them. In the simple but strong bond of combat, it was clear that Chaplain McLemore loved his fellow soldiers and they loved him.

Two months after his return from Operation Iraqi Freedom II, Chaplain McLemore was involved in a motorcycle accident where he sustained severe injuries. Today, he fights to recover from those injuries in the Veterans Administration Hospital in North Little Rock, AR.

As he does, he has the prayers, respect, and encouragement from us and all of his fellow soldiers. We honor him today for his commitment and selfless service to God, his country, and his fellow soldiers. Thank you, Chaplain David McLemore. God Bless and Godspeed.

We owe all our veterans not only our gratitude, but also our freedoms and American way of life. Our military has kept us safe for a long time. We cannot thank them enough, but we can begin to repay their sacrifices by providing them with the resources they need in the field and the support they have earned when they return home.

Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2006—CONFERENCE REPORT

Mr. McCONNELL. Under the previous order, I ask unanimous consent that the Senate proceed to the immediate consideration of conference report to accompany H.R. 3057, the Foreign Operations appropriations bill. I further ask that there now be 5 minutes of debate, and that following the next vote on the Defense authorization bill the Senate proceed to a vote on adoption of the conference report with no intervening action or debate.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Mr. President, reserving the right to object—I, of course, will not—in terms of sequence, it is possible there may be two amendments relating to the first-degree amendments relating to the same subject. If that were true, it may be wiser that this not intervene those two amendments.

Have amendments been scheduled for votes?

The PRESIDING OFFICER. No amendments are scheduled at this time.

Mr. McCONNELL. Mr. President, in other words, the Senator from Michigan is suggesting this simply be at the end of the next sequence and, therefore, not in the middle.

Mr. LEVIN. I think that may be better.

Mr. McCONNELL. Mr. President, I so modify my request.

The PRESIDING OFFICER. Is there objection to the modification?

Mr. KERRY. Reserving the right to object.

Mr. McCONNELL. Mr. President, I understand I have the floor, but I am perfectly willing to yield for a question.

Mr. KERRY. I do not object.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

The clerk will report.

The legislative clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3057), making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2006, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate to the text, and agree to the same with an amendment, and the Senate agree to the same; that the Senate recede from its amendment to the title of the bill, signed by all of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of November 2, 2005.)

Mr. McCONNELL. Mr. President, I want to take a moment before the Senate completes consideration of the fiscal year 2006 foreign operations and related programs conference report to thank Chairman KOLBE and Ranking Member LOWEY in the House, and their staffs, and my friend from Vermont and his staff for the hard work and compromise that went into this legislation.

Although the bill we send to the President is more than $1.8 billion below the budget request—and more than $1.1 billion below the Senate mark—we did our best to fund our Nation's foreign assistance priorities, whether countering terrorism, combating HIV/AIDS, TB and malaria or advancing democracy abroad. I am also pleased we were able to provide significant funding for Afghanistan, Pakistan, Israel and Sudan.

Given bipartisan support for several accounts, we were able to provide modest increases over last year's enacted levels for the Child Survival and Health Programs Fund, Development Assistance, International Narcotics Control and Law Enforcement, Migration and Refugee Assistance, and Nonproliferation, Anti-Terrorism, Demining and Related Programs.

For HIV/AIDS, TB and malaria, we provided a total of $2.8 billion from all accounts in the bill, an increase of $268 million above the budget request. There is $450 million available for a U.S. contribution to the Global Fund. We also include a provision, for the first time in the bill, designating $100 million to combat malaria.

Finally, the bill includes a new appropriations account entitled "Democracy Fund" that will help ensure America's activities to promote democracy, good governance, human rights and the rule of law abroad are conducted in a more efficient and effective manner.

Let me close with a brief word of thanks to my staff—but especially to their families. It takes a long time to produce a foreign aid bill, and I appreciate the dedication of Tom Hawkins, Harry Christy, Bob Lester, LaShawnda Smith and Paul Grove to this task. But to their families, I offer a special thanks for their understanding and support as the midnight oil was burned and weekends were spent at the office.

I hope we can move quickly to a vote on the conference report.

Mr. LEAHY. Mr. President, I support the Foreign Operations Conference Report for fiscal year 2006 and urge all Senators to vote its passage.

Like every appropriations bill, there are things in this conference report that I disagree with. There are programs which I, as do many here, believe need substantially more funding than we were able to provide. A good example is our migration and refugee programs. This conference report provides less than the President requested and far less than the Senate bill. The suffering of refugees and displaced people that we are able to relieve but will not because of the scant resources in this bill is shameful and inexcusable. We and other industrialized nations could and should do far more to help them.

Another problem is HIV/AIDS, although we were able to provide $268 million more than the President requested. I am disappointed that the amount of our contribution to the Global Fund to Fight AIDS, TB and Malaria was $50 million less than in the Senate bill. There are few more compelling needs for those funds than fighting these insidious diseases.

I had hoped we would have enough to fully fund the Non-Proliferation, Anti-Terrorism, Demining and Related Programs account. It is a mistake to cut funding for the Comprehensive Test Ban Treaty International Monitoring System, for which the President did not request sufficient funds. The amount in this conference report represents a cut of $4.498 million below the fiscal year 2005 level, and is at least $6 million less than the amount of the U.S. share for this vitally important monitoring system.

The fact is, despite the help we got from Chairman COCHRAN and Senator BYRD with our allocation, for which we are very grateful, this conference report does not provide nearly enough resources to respond adequately to the multitude of threats we face across the globe. We had to make the kind of peevish choices that the world's wealthiest, most powerful country should not be making.

There are other funding problems in this conference report, but on the whole it strikes the right balance for the bipartisan support it needs, and for that I commend Chairman MCCONNELL, Chairman KOLBE, and Congresswoman LOWEY. We have worked very cooperatively as is our practice, and I think we did about the best we could with an allocation that was almost $2 billion below the President's budget request.

I want to mention a few other issues.

First, Colombia. I was pleased that the conferees agreed to my request to provide an additional $6 million for economic and social programs. Despite assurances by the administration that they would increase funding for these programs as the security situation in Colombia improves, they have done the opposite. Military programs have consistency received a larger share of the budget.

I was pleased that the conferees included report language I requested, directing that $500,000 of our military aid for Colombia be used to pay incidental costs relating to the treatment at U.S. hospitals of seriously injured Colombian soldiers. Due to the tireless work of the nonprofit organization "United for Colombia," these hospitals have generously offered to perform this surgery—which requires sophisticated technology and expertise that is unavailable in Colombia—free of charge. But there are additional expenses such as transportation, lodging and medicines. The conferees also included my recommendation that additional assistance from the Leahy War Victims Fund be made available for civilians who have been injured by landmines and other causes relating to the conflict.

The conference report also includes language concerning the demobilization of Foreign Terrorist Organizations in Colombia. We would like to support this process, but it has been flawed from the beginning and the "Peace and Justice" law has been widely criticized by human rights experts in Colombia, the United States, Europe, the United Nations, and the Organization of American States. There is considerable skepticism that the paramilitary leaders will in fact give up narco-trafficking, surrender their illegally acquired land and other assets, or be brought to justice. We want to be sure that the law is being implemented in a manner that lives up to its promise of peace and justice, that these organizations are dismantled, and that their leaders receive the severe punishment they deserve.

We provide up to $20 million in fiscal year 2006 for the demobilization. These are mostly funds that were already requested by the Administration for other purposes. We require the Secretary of State to first certify that certain conditions have been met and to notify the Congress. This reflects the serious concerns that Members of Congress have with the demobilization process. Among those conditions is that the Government of Colombia is "providing full cooperation to the Government of the United States to extradite the leaders and members of [Foreign Terrorist Organizations] who have been indicted in the United States."

This is very important, and it was included at the insistence of both Republican and Democrat Members. When we say "full cooperation" we mean nothing less. We want to see these people in handcuffs and on an airplane to the United States as soon as possible. We do not want anything to happen that would interfere with the extradition of the leaders of these narcoterrorist organizations—organized crime syndicates is what they are—for major crimes for which they have been indicted here.

These are not ordinary criminals. Some of them make Pablo Escobar look like an amateur. They are responsible for creating and arming their own death squads, for killing thousands of civilians, for shipping billions of dollars worth of cocaine into the United States, and they have infiltrated many sectors of Colombian society including, we learned recently, the police intelligence service. We also know they have sway with some members of the Colombian Congress.

Impunity has been the norm throughout Colombia's history. Nothing would be worse for the cause of justice, or for democracy in Colombia, than for people who are among the most notorious criminals in this hemisphere to escape punishment that is proportional to their crimes. If that happens, you can be sure that their criminal enterprises will not be dismantled, the cocaine will keep flowing across our borders, the Colombian people will continue to be plagued by narcotics related violence and corruption, and peace and justice will remain out of reach.

Another item in this conference report deals with Indonesia.

President Yudhoyono, who was democratically elected, has been advancing reformist policies that we support, including reducing the army's role in the political process. He has also been a reliable ally in fighting terrorism in the world's largest Muslim country.

The conference report provides assistance to the Indonesian Navy in the amount requested by the Administration, and it also provides IMET assistance for Indonesia without restriction. In addition, our largest counterterrorism training program is with Indonesia, and the Defense Department regularly conducts joint exercises and other activities with the Indonesian military.

But one area where there has been no discernable progress is accountability for crimes by the army. In 1992 the Indonesian army shot to death an estimated 200 unarmed protesters in a cemetery in Dili, East Timor. A few low-ranking soldiers were punished, but in a perversity of justice several of the civilians were sent to jail for far longer sentences. Then in 1999, the Indonesian military armed the militias who laid waste to East Timor after the independence referendum. The U.N. identified the top officers involved and accused them of crimes against humanity, but the army sabotaged the government's halfhearted efforts to bring them to justice. Thousands of innocent people died, and no one has been punished.

Some have suggested that because these are "past" crimes, we should look forward, not backward. What crime isn't a past crime? Does that make it any less important that justice be done? How do you prevent future atrocities if you let those who order and commit murder get away with it? What is more fundamental to democracy than justice?

For many years, the Congress has put conditions on U.S. assistance to the Indonesian army. The conditions in our law require nothing more than that the army respect the law, yet both Secretary Rumsfeld and Secretary Rice asked Congress to eliminate the conditions. I understand there are competing concerns and that we and Indonesia have common security interests. I would have supported their request if there were any sign that the Indonesian army is prepared to be accountable to the law for any of these heinous crimes. So far, there is not.

The conference agreement also requires a report on the status of the FBI investigation of the August 2002 murders of two American civilians and one Indonesian civilian in Timika, West Papua. Soon after the killings the Indonesian military tried to frame an innocent man. Then, when the police implicated the military in the attack, the investigation abruptly ended. Nothing happened for another year or so because the military actively impeded further efforts to investigate. Since then, the military has been more cooperative and one West Papuan individual has been indicted in the U.S. But he has yet to be indicted in Indonesia and responsibility for this heinous crime does not stop there. It is now more than three years since this tragedy and no one has been brought to justice.

Finally, the conference report requires a report on the humanitarian and human rights situation in West Papua.

Another item I want to mention is Nepal. We have once again put conditions on our military aid because of the King's undemocratic and repressive actions on February 1, and the army's continuing involvement in human rights violations. We detest the tactics of the Maoists, who forcibly recruit children, who engage in extortion, and brutalize civilians. But the King's actions have only made a political solution to the conflict in Nepal more elusive, and at great cost to democracy and the rule of law. The conference agreement provides $2.5 million for a U.S. contribution to the U.N. High Commissioner for Human Rights Office in Nepal, to monitor and report on human rights violations throughout the country.

The conference agreement also provides another $10 million for USAID's new Amazon Basin Conservation Strategy. This is a regional initiative that I am personally committed to, and I greatly appreciate the efforts that USAID has made to develop this strategy through an extensive process of consultations with governments and nongovernmental organizations.

The Amazon Basin encompasses nine countries and has global environmental, health and economic importance that dwarfs any other forest or river system in the world. We all have a responsibility to protect it. Brazil and Colombia are examples of countries that already have environmental laws and policies in place and protected areas and indigenous reserves. Coordinating with other donors, governments and civil society organizations, we can help build the capacity to strengthen, enforce, implement, and replicate these laws and policies throughout the region.

On a related matter, the conference report requires USAID to establish a new position of "Advisor for Indigenous Peoples Issues." Indigenous peoples, from the Kalahari Desert in Botswana to the forests of Ecuador, are the most vulnerable people on Earth. Their land and traditional ways of life are under siege, and often their own governments are part of the problem, as was the case in our own country a century and a half ago. USAID, which works in these countries on issues that affect indigenous peoples, needs someone who is knowledgeable and has the responsibility to consult with indigenous peoples, advocate on their behalf in relation to USAID policies, programs and activities and coordinate with other federal agencies. I look forward to discussing this with USAID.

I want to mention a provision in this conference report that deals with reform at the multilateral development banks. There are several parts to this provision, but one that deserves special mention concerns the rights of whistleblowers. Too often at these institutions, people who complain about waste, fraud or abuse are harassed, threatened, silenced, or demoted. That is the opposite of what should happen, and it is long overdue for whistleblowers to be given the protection and recourse they deserve. This provision, among other things, calls for independent adjudicatory bodies, including "external arbitration based on consensus selection and shared costs". I believe that access to external arbitration is long overdue, and I urge the World Bank and the other MDBs to act expeditiously to implement this and the other reforms called for in this provision.

The conference report provides $1.77 billion for the Millennium Challenge Corporation, MCC. While this represents a deep cut from the President's request, it reflects the tight budgetary constraints we faced. The conference allocation required us to cut nearly $2 billion from the President's total request and therefore many programs, including the MCC, were not fully funded.

I support the goals of the MCC, and I look forward to working with the new CEO Ambassador Danilovich. We know that foreign aid is most effective when governments are committed to fighting corruption and addressing the needs of their people, and when public officials, civil society and the private sector work together to reduce poverty.

I am pleased that the conference agreement includes language emphasizing the importance of strong participation from indigenous civil society organizations to help ensure that the MCC is responsive to local people's concerns. It is through the meaningful participation of civil society that democracy is strengthened, good governance is valued, and open discussions of how best to achieve national priorities are accomplished. The conference agreement requires the MCC to submit a report that details how contributions of indigenous civil society have been incorporated in completed compact negotiations.

The conference report provides funds above the President's request for both the Inter-American Foundation and the African Development Foundation. The Congress strongly supports the work of these foundations which support local initiatives to increase income for Latin America's and Africa's poorest people.

I was very pleased that the conference report provides additional assistance for civilian victims of the military operations in Iraq and Afghanistan. We provide $5 million for the Marla Ruzicka Iraqi War Victims Fund for assistance for Iraqi families and communities, which is named for Marla Ruzicka, the founder of Campaign for Civilian Victims of Conflict. Ms. Ruzicka died, at the age of 28, along with her colleague Faiz Ali Salim, in a car bombing in Baghdad on April 16, 2005. We also provide $2 million for assistance for Afghan families and communities that have suffered losses as a result of the military operations. By providing this assistance the United States is seeking to alleviate the suffering, as well as the anger and resentment, resulting from tragic mistakes that occur in the military operations.

I was also pleased that the conference report includes $15 million to support an initiative I sponsored to combat certain neglected diseases. Lymphatic filariasis, onchocerciasis, intestinal parasites, schistosomiasis, leprosy, and trachoma cause terrible suffering and disfigurement among hundreds of millions of people in mostly tropical countries. In addition to providing additional funds to prevent and treat these diseases, this initiative seeks to develop a multilateral, integrated approach to coordinate and maximize donor contributions to control them. This is important because current efforts are poorly coordinated and underfunded. As with the infectious diseases initiative I sponsored nearly a decade ago, I look forward to working with USAID, other Federal agencies, the World Health Organization, and the relevant international technical and nongovernmental organizations to develop such an approach that has broad support.

I was disappointed that the amount provided for the Global Environmental Facility, $80 million, fell $27 million short of the U.S. pledge. I want to emphasize that this cut does not reflect any dissatisfaction on the part of the conferees with the GEF, which had taken steps to adopt management and transparency reforms advocated by the United States, but instead was due to budgetary constraints. As a strong supporter of the GEF I am hopeful that we can make up this shortfall in the fiscal year 2007 budget.

The conference report supports the Extractive Industries Transparency Initiative, which aims to improve the capacity of developing countries to sustainably manage the extraction of natural resources and to monitor revenues generated from such extraction so they are used for purposes which benefit their people. This is an anti-corruption, good governance initiative spearheaded by the British Government, which responds to the longstanding practice in many developing countries of exploiting natural resources in a wasteful and environmentally destructive manner that benefits only the elites. The conference agreement provides $1 million for USAID to support EITI implementation and to strengthen the role and capacity of civil society organizations in the EITI process. This is another issue I look forward to discussing with USAID before funds are obligated.

Finally, I want to mention the funding in the conference report for USAID Operating Expenses, which was cut by $50 million below the administration's request. Again, this was the result of the budgetary constraints we faced, but it also reflects some concerns with USAID's management of appropriated funds. This cut will force USAID to make difficult choices, which should be the subject of consultations with the Appropriations Committees.

There are many other provisions in this conference report that I do not have time here to recount. I want to again thank my friend from Kentucky, Senator McCONNELL, who has been a pleasure to work with. I also thank our counterparts in the House, Congressman KOLBE and Congresswoman LOWEY, and their capable staffs. I commend the Senate majority staff, Paul Grove, Tom Hawkins, Harry Christy, Bob Lester and LaShawnda Smith. They put in long hours and they held themselves to the highest standards. And for the minority, I thank Tim Rieser, Kate Eltrich and Jennifer Park.

EAST TIMOR

Mr. LEAHY. Mr. President, I want to mention one other item in the Foreign Operations conference report. It does not earmark Foreign Military Financing funds for Timor-Leste, formerly East Timor, the world's newest democracy and a friend of the United States. However, we do not earmark funding for many of the countries for which FMF was requested, but we provide $241.7 million in FMF assistance to cover these needs, including for Timor-Leste. The administration's budget request included $1.5 million in FMF for East Timor. The fact that we did not earmark these funds for Timor-Leste should not be misinterpreted as an indication of any disagreement on the part of the conferees with the administration's request.

Mr. McCONNELL. That is correct. We did not earmark FMF for Timor-Leste but we intend the administration to provide an amount similar to the request. We also provided $1.5 million in International Narcotics and Law Enforcement, INCLE assistance for Timor-Leste, for on the ground police training, as well as $19 million in Economic Support Fund assistance. The cut in ESF from the fiscal year 2005 level of $22 million was due, in part, to the earmark in INCLE assistance which had not been requested by the administration.

Mr. President, do I have time under the consent agreement?

The PRESIDING OFFICER. The Senator does.

Mr. McCONNELL. I yield back the remainder of my time.

The PRESIDING OFFICER. All time is yielded.

MORNING BUSINESS

Mr. KERRY. Mr. President, I ask unanimous consent that I be permitted to speak for a period of time in as if in morning business.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Mr. KERRY. Mr. President, are we now in morning business?

The PRESIDING OFFICER. The Senator is correct.

Mr. KERRY. Mr. President, I send a bill to the desk for appropriate referral to the committee.

The PRESIDING OFFICER. The bill will be received and appropriately referred.

(The remarks of Mr. KERRY pertaining to the introduction of S. 1993 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006—Continued

AMENDMENT NO. 2507

Mr. KERRY. Mr. President, sometime later today when we dispose of a few of the next amendments, Senator LEVIN, on behalf of leadership and a group of Senators on our side of the aisle—and we hope others might join in—will be submitting an amendment with respect to the issue of Iraq. I am pleased to join in that with them. I look forward to participating in that debate at that time. I have come to the Senate at this moment to introduce an amendment that lays out what, in my judgment, represents a comprehensive and new strategy that is essential for the President to implement in order to successfully complete the mission in Iraq, as well as to bring our troops home in a reasonable timeframe.

At a news conference a week ago I referred to this in a speech I gave recently. I left Iraq departing on a C–130 from Mosul, together with Senator WARNER and Senator STEVENS. The three Senators and the staff, all of us, were gathered in this cavernous C–130. In the middle of the cargo hold was a simple aluminum coffin with a small American flag draped over it. We were bringing another American soldier home to his family and to his resting place.

The starkness of the coffin in the center of that hold, and the silence—except for the din of the engines; believe me, there was a kind of silence notwithstanding—was a real-time, cold reminder of the consequences of decisions for which all of us as Senators bear responsibility.

As we enter a make-or-break 6-month period in Iraq, that long journey of that soldier and 2,000-plus more of them remind us, all of us, about our responsibilities with respect to the troops in Iraq. It underscores the need to help this administration take steps that will bring our troops home within a reasonable timeframe from an Iraq that is not permanently torn by conflict.

Some say we should not ask tough questions because we are at war. I say, no. A time of war, that is precisely when you have to ask the hardest questions of all. It is essential, if we want to correct our course and do what is right for our troops, that instead of repeating the same mistakes over and over again, we ask those questions. No matter what the President says, asking tough questions is not pessimism. It is patriotism. We have a responsibility to our troops and our country and our conscience to be honest about where we should go from here.

There is a way forward that gives us the best chance to both salvage a difficult situation in Iraq and to save American and Iraqi lives. With so much at stake, we all have a responsibility to follow the best way forward.

No. 1, we cannot pull out precipitously, as many argue and call for, but also we cannot merely promise to stay as long as it takes. The promise simply to stay as long as it takes, in fact, exacerbates the situation. It is not a policy. To undermine the insurgency we must, instead, simultaneously pursue a political settlement that gives Sunnis a real stake in the future of Iraq, while at the same time reducing the sense of American occupation. That means a phased withdrawal of American troops as we meet a series of military and political benchmarks, starting, I have said, with a reduction of 20,000 troops over the holidays as we meet the first benchmark—the completion of the December elections.

Earlier today, my good friend, the Senator from Arizona, Mr. McCAIN, made a speech in which he mischaracterized my plan to bring our troops home within a reasonable timeframe and to succeed in Iraq. He mischaracterized how one arrived at 20,000 troops. The fact is, that is a benchmark. It is a benchmark set by this administration itself. The fact is, most of last year, during which time the administration says we have adequate troops to do the job, we had about 138,000 troops in Iraq. The fact is, for the purposes of the constitutional referendum and for the purposes of the election, the administration upped the number of troops in order to guarantee security for the purpose of those two events.

I have said specifically that when those two events are completed successfully, and with the increased numbers of Iraqis trained, there is no excuse for not being in a position to go from the current 161,000 down to the 138,000, where we were before, where our generals told us we had enough troops to do the job. That figure is set not by any arbitrary standard but by the accomplishment of the specific benchmark.

It is also critical that we send this signal to the Iraqi people that we do not desire a permanent occupation and that Iraqis themselves must fight for Iraq. History shows again and again that guns alone do not end an insurgency, and guns alone, particularly, will not end this insurgency. The real struggle in Iraq is not what the President has described again and again as the war on terror as we know it against al-Qaida. The real struggle in Iraq is Sunni versus Shiite. It is a struggle that has gone on for years with oppressor and oppressed, and it will only be settled by a political solution. No political solution can be achieved when the antagonists can rely on indefinite large-scale presence of occupying American combat troops.

The reality is our military presence in vast and visible numbers has become part of the problem, not just the solution. Our own generals are telling us this in open hearings of the Senate. Our generals understand this well. GEN George Casey, our top military commander in Iraq, recently told Congress that our large military presence "feeds the notion of occupation" and "extends the amount of time that it will take for Iraqi security forces to become self-reliant," and Richard Nixon's Secretary of Defense, Melvin Laird, breaking a 30-year silence, writes:

> Our presence is what feeds the insurgency, and our gradual withdrawal would feed the confidence and the ability of average Iraqis to stand up to the insurgency.

It comes down to this: An open-ended declaration "to stay as long as it takes," lets Iraqi factions maneuver for their own political advantage by making us stay as long as they want. It becomes an excuse for billions of American tax dollars to be sent to Iraq and siphoned off into the coffers of cronyism and corruption.

When I was last in Iraq, at a dinner put on by the Ambassador and others with the Minister of Defense—the Minister of Interior, the Prime Minister, and others—we sat and listened while they told us themselves of the corruption that has been taking place in the disbursement of American taxpayer funds.

This administration needs to pay attention to that corruption. The administration must also use all of the leverage in America's arsenal—our diplomacy, the presence of our troops, our reconstruction money, all of the diplomacy—in order to convince the Shiites and the Kurds to address the legitimate Sunni concerns about regional autonomy and oil revenues and to make Sunnis accept the reality that they will no longer dominate Iraq. We cannot and we should not do this alone.

The administration must immediately call a conference of Iraq's neighbors: Britain, Turkey, other key NATO allies, and Russia. The absence of legitimate international effort with respect to this is, frankly, absolutely extraordinary. I am not alone in calling for that. Republicans, colleagues on the other side of the aisle, Senator HAGEL, others, have talked about the need for an international leverage in order to help resolve this issue. Together we have to implement a collective strategy to bring the parties in Iraq to a sustainable political compromise that also includes mutual security guarantees among Iraqis. To maximize our diplomacy, the President should appoint a special envoy to bolster Ambassador Khalilzad's commendable efforts.

To enlist the support of Iraqi Sunni neighbors, we should commit to a new regional security structure. I have heard from countless numbers of members of government in the region that the old security arrangement that existed prior to the invasion of Iraq has, in fact, been altered by that invasion. And today there are great uncertainties with respect to the Gulf States—Kuwait, Saudi Arabia, and obviously uncertainties with the saber rattling of Iran and the problems with Syria. We ought to be committing our efforts to create a new regional security structure that will include improved security assistance programs, joint exercises, and provide a greater confidence to the region about long-term strategy.

To show Iraqi Sunnis the benefits of participating in the political process, we should press these countries to set up a reconstruction fund specifically for the majority Sunni areas. The absence of specific economic transformation remains the heart of one of the reasons for people to move toward insurgency rather than the governance process. We need to also jump-start our lagging reconstruction efforts by providing necessary civilian personnel to do the job, standing up civil-military reconstruction teams throughout the country, streamlining the disbursement of funds to the provinces, expanding job creation programs, and strengthening the capacity of government ministries.

Prime Minister Blair, a few weeks ago, suggested that different countries actually adopt a ministry. I know in the Ministry of Finance there are precious few U.S. personnel helping that finance ministry to be able to do the job of administering payrolls and managing the budget of the country. It is unbelievable that at a time when our troops are making such a valiant effort to provide for this transformation we are absent the kind of diplomatic and civilian personnel necessary to make those things happen.

On the military side, we must make it clear now that we do not want permanent military bases in Iraq. We still have not done that. In the absence of doing that, we lend credence to the notion of occupation and of long-term designs on oil, on land, or other designs. Those lend themselves to the recruitment process.

The administration must immediately give Congress and the American people a detailed plan for the transfer of military and police responsibilities on a sector-by-sector basis to Iraqis so the majority of our combat forces can be withdrawn—ideally as a target by the end of next year.

Simultaneously, the President needs to put the training of Iraqi security forces on a 6-month wartime footing and ensure that the Iraqi government has the budget to deploy them. The administration should accept the longstanding efforts and offers of Egypt, Jordan, France, and Germany to do more training. They should prod the new Iraqi government to ask for a multinational force to help protect Iraq's borders until a capable national Army is formed. And that force, if sanctioned by the United Nations, could attract participation by Iraq's neighbors and countries like India, and it would be a critical step in stemming the tide of insurgents and money into Iraq, especially from Syria.

Finally, we must alter the deployment of American troops themselves. I believe deeply that special operations obviously need to continue. They must continue in order to pursue specific intelligence needs and in order to ferret out those jihadist and other hard-core insurgents that we have in Tehran. But the vast majority of our troops could easily move to a rear guard, garrison kind of status in order to provide security backup. You do not need to send the young Americans on search-and-destroy mission that invite alienation and deepen the risks they face.

If the President were to do this, then the Iraqis would far more rapidly, according to our own generals, begin to assume the responsibilities which we are asking them to and which they need to and which, in the end, are the only way to be successful.

If the President refuses to move in this course, ultimately it is our responsibility, the U.S. Congress, to debate and ultimately help to put this policy in the right direction. If we take these steps, there is, frankly, no reason that within 12 to 15 months we couldn't be able to take on a new role—a role as an ally, not an occupier. And only then will we have provided our troops with what they really deserve, which is leadership equal to our soldiers' sacrifice.

I yield the floor.

The PRESIDING OFFICER (Mr. VITTER). The Senator from Virginia.

Mr. WARNER. Mr. President, in consultation with the ranking member, we are anxious to move now to further debate on the Kerry amendment. For that purpose, if we could get an estimate of the amount of time that might be required and we could proceed to the second-degree amendment.

Could the Senator advise the managers how quickly we could proceed with the resolution of your amendment, first and second degree to be offered by Senators Roberts and Rockefeller, short debate on that, and such final debate as needed on the underlying amendment, and move to a vote?

The PRESIDING OFFICER. The Senator from Massachusetts is recognized.

Mr. KERRY. Mr. President, I would like to help the distinguished manager move the process as rapidly as possible. Senator ROCKEFELLER has just pulled me aside. I will spend a few minutes with him now in the cloakroom, and we will try to report back as fast as we can. I hope we can dispose of it. If we were to proceed under a quorum call until then, it would be helpful.

The PRESIDING OFFICER. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, to help clarify the situation: Is it the proposal that there be two amendments voted on?

Mr. WARNER. Mr. President, that is correct. I say to my distinguished colleague. The proposal, eventually is that you will have some sort of a——

Mr. KERRY. My understanding is we are talking about a second-degree amendment; is that correct?

Mr. WARNER. That is correct, but then, as we have with others, if it is desired by the three principals here, to do it in a side-by-side fashion. There is a parliamentary means to do that.

Mr. KERRY. Mr. President, if I could have a chance to work with Senator ROCKEFELLER, we may just have one vote.

Mr. LEVIN. That would be better.

Mr. WARNER. Fine. In that event, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. KERRY. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. KERRY. Mr. President, I ask unanimous consent that I be able to reserve the time on my amendment, but that we set the amendment aside and proceed immediately to the second-degree amendment of Senator ROBERTS and Senator ROCKEFELLER.

The PRESIDING OFFICER. Is there objection?

Hearing none, it is so ordered.

The Senator from Kansas.

AMENDMENT NO. 2514 TO AMENDMENT NO. 2507

Mr. ROBERTS. Mr. President, I rise to offer a second-degree amendment, along with the vice chairman of the Senate Select Committee on Intelligence, Senator ROCKEFELLER, in regard to reporting language for certain intelligence activities.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from Kansas [Mr. ROBERTS], for himself and Mr. ROCKEFELLER, proposes an amendment numbered 2514 to amendment No. 2507.

Mr. ROBERTS. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection it is so ordered.

The amendment is as follows:

(Purpose: To require a report on alleged clandestine detention facilities for individuals captured in the global war on terrorism)

In lieu of the language proposed to be inserted, insert the following:

SEC. ___. REPORT ON ALLEGED CLANDESTINE DETENTION FACILITIES FOR INDIVIDUALS CAPTURED IN THE GLOBAL WAR ON TERRORISM.

(a) IN GENERAL.—The President shall ensure that the United States Government continues to comply with the authorization, reporting, and notification requirements of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

(b) DIRECTOR OF NATIONAL INTELLIGENCE REPORT.—

(1) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence shall provide to the members of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a detailed report setting forth the nature and cost of, and otherwise providing a full accounting on, any clandestine prison or detention facility currently or formerly operated by the United States Government, regardless of location, where detainees in the global war on terrorism are or were being held.

(2) ELEMENTS.—The report required by paragraph (1) shall set forth, for each prison or facility, if any, covered by such report, the following:

(A) The location and size of such prison or facility.

(B) If such prison or facility is no longer being operated by the United States Government, the disposition of such prison or facility.

(C) The number of detainees currently held or formerly held, as the case may be, at such prison or facility.

(D) Any plans for the ultimate disposition of any detainees currently held at such prison or facility.

(E) A description of the interrogation procedures used or formerly used on detainees at such prison or facility.

(3) FORM OF REPORT.—The report required by paragraph (1) shall be submitted in classified form.

Mr. ROBERTS. Mr. President, the Senate did create the Select Committee on Intelligence as a unique means to provide oversight of our sensitive activities in regard to intelligence. I agree with Senator KERRY that more information will improve our ability to conduct the oversight we need to do on intelligence.

Senator ROCKEFELLER and Senator WARNER and myself, however, believe this intelligence oversight function should remain focused in the Select Committee on Intelligence, as intended by S. Res. 400, the legislation that actually created the Intelligence Committee back in 1976.

I can assure my colleagues that the membership of the Senate Intelligence Committee is designed to include significant crossover membership from the various national security committees. For example, I am one of the several Armed Services Committee members currently on the Intelligence Committee, including Senator WARNER and Senator LEVIN. That construct was intentionally created by the Senate to address situations just like this.

Transparency is important and open government is critical, but in certain circumstances sensitive information must be handled in a proper way. That is exactly why we created the Committee on Intelligence. This amendment strikes the appropriate balance between the Senate's needs for transparency and the need to handle sensitive information appropriately.

Accordingly, I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Delaware is recognized.

Mr. BIDEN. Mr. President, will the chairman yield for a question?

Mr. ROBERTS. Certainly.

Mr. BIDEN. Mr. President, I have no debate or disagreement about what the Senator said. I was wondering whether the chairman and the cochair, the Democratic chair, would object to—maybe this is not the appropriate place to do it—a second-degree amendment, or an additional amendment, whatever form it would take, that would require not the intelligence community but the State Department to report to the Foreign Relations Committee on the status of their judgment as to whether we are in compliance with international treaties—their view on that matter.

I don't want to be the skunk at the family picnic. I am not trying to cause any difficulty. But it seems to me that such an approach would not in any way fly in the face of the intelligence community reporting to the Intelligence Committee. The Senator is right—historically, the various committees, including the Foreign Relations Committee, have been represented on the Intelligence Committee. I have no argument with that. I wonder whether any of my friends could respond to that concern I have raised.

The PRESIDING OFFICER. The Senator from Kansas.

Mr. ROBERTS. Reclaiming my time, let me say to the Senator, he is welcome to the picnic any time he wants to come. I believe we have resolved this matter in response to the original amendment regarding this subject. Senator KERRY and Senator ROCKEFELLER and Senator WARNER and I have crafted a second-degree amendment that will be accepted by Senator KERRY. I recognize the unique concern in regard to the Senator from Delaware. I would hope we could dispense with this first and then enter into a discussion as to the merits of the Senator's concern.

Mr. BIDEN. Parliamentary inquiry: If we dispense with the second-degree amendment, is there any ability to further amend this legislation? This is a substitute or a second degree?

Mr. ROBERTS. This is a second-degree amendment, I inform my colleague.

The PRESIDING OFFICER. The second degree is drafted as a substitute, if it is adopted.

Mr. BIDEN. If it is adopted, and I am not saying I will, but will the Senator from Delaware have an opportunity to amend the substitute?

The PRESIDING OFFICER. No.

Mr. LEVIN. Will the Senator yield for a question?

The PRESIDING OFFICER. The Senator from Kansas has the floor.

Mr. ROBERTS. I would simply say that my colleague would have ample opportunity to offer an amendment in its own standing, and this carefully crafted compromise should receive priority attention.

I yield to the distinguished Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, we can solve this if we do the following: First, the amendment of the Senator from Delaware, which is a good amendment, is outside of the jurisdiction of the Intelligence Committee. It is not something that involves the Intelligence Committee. It is really a separate judgment. My suggestion would be, since we are trying to dispense with this fairly expeditiously, if we were to modify now the amendment simply to say that it is not a substitute but, rather, only a second degree, immediately upon disposition of that second degree, I could accept the second degree of the Senator from Delaware, at which point we could have a vote on the final amendment, as amended. Would that be satisfactory?

Mr. WARNER. Mr. President, we would need to examine the second-degree amendment by the distinguished Senator.

Mr. KERRY. Could we have an agreement now that we would modify the amendment as submitted so that it is a second degree, not a substitute, but simply a second degree?

Mr. WARNER. Mr. President, I would defer to the distinguished chairman of the Intelligence Committee.

Mr. ROBERTS. As I have indicated or as has been indicated by the distinguished chairman, the subject matter before us now pertains to the jurisdiction of the Intelligence Committee. The amendment, as I understand it, of the Senator from Delaware does not. I would rather go ahead with the agreed-upon method, and then we could take a look at the amendment and handle that separately.

Mr. KERRY. We would simply modify the title "substitute." We are not changing any of the substance of what we have agreed on, nor will it change the procedure which we are going to follow. This amendment, with respect to the Intelligence Committee, will be disposed of separately, freestanding now. But if we don't change the title of the substitute, then the Senator from Delaware is closed out, and we don't have the right to amend it. This is a technicality.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I believe that we are dealing with an important unknown; that is, the content of what the distinguished Senator from Delaware wishes to put on. May I make this suggestion, without any prejudice to this colloquy and honest effort to resolve it, if we were just to lay aside the Kerry amendment, go to another amendment, and then at such time as there is reconciliation of viewpoints, I think we could then perfect his amendment to whatever is needed and proceed.

Mr. KERRY. Before we do that, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. The group that is working on the Kerry amendment, with the proposed Roberts-Rockefeller second degree, is working diligently, but it is important that we continue on the bill. At this time, I ask unanimous consent that the amendment by the Senator from Massachusetts be laid aside and that the Senator from South Carolina be recognized for the purpose of offering an amendment.

The PRESIDING OFFICER. Is there objection?

Mr. KERRY. Reserving the right to object.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Is it my understanding that upon the disposition of the next amendment, this will be the pending business?

Mr. WARNER. That can easily be arranged.

Mr. KERRY. Can we have that?

Mr. WARNER. I so ask.

The PRESIDING OFFICER. That will be the order pending further action of the body.

Mr. WARNER. I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

AMENDMENT NO. 2515

Mr. GRAHAM. Mr. President, I call up amendment No. 2515 which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM], for himself, Mr. KYL, and Mr. CHAMBLISS, proposes an amendment numbered 2515.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Relating to the review of the status of detainees of the United States Government)

At the end of subtitle G of title X, add the following:

SEC. ___. REVIEW OF STATUS OF DETAINEES.

(a) SUBMITTAL OF PROCEDURES FOR STATUS REVIEW OF DETAINEES AT GUANTANAMO BAY, CUBA.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, and to the Committees on the Judiciary of the Senate and the House of Representatives, a report setting forth the procedures of the Combatant Status Review Tribunals and the noticed Administrative Review Boards in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay.

(b) PROCEDURES.—The procedures submitted to Congress pursuant to subsection

(a) shall, with respect to proceedings beginning after the date of the submittal of such procedures under that subsection, ensure that—

(1) in making a determination of status of any detainee under such procedures, a Combatant Status Review Tribunal or Administrative Review Board may not consider statements derived from persons that, as determined by such Tribunal or Board, by the preponderance of the evidence, were obtained with undue coercion; and

(2) the Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advice and consent of the Senate.

(c) REPORT ON MODIFICATION OF PROCEDURES.—The Secretary of Defense shall submit to the committees of Congress referred to in subsection (a) a report on any modification of the procedures submitted under subsection (a) not later than 30 days before the date on which such modifications go into effect.

(d) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

(1) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

"(e) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien outside the United States (as that term is defined in section 101(a)(38) of the Immigration and Naturalization Act (8 U.S.C. 1101(a)(38)) who is detained by the Department of Defense at Guantanamo Bay, Cuba.".

(2) CERTAIN DECISIONS.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any decision of a Designated Civilian Official described in subsection (b)(2) that an alien is properly detained as an enemy combatant.

(B) LIMITATION ON CLAIMS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

(C) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the procedures and standards specified by the Secretary of Defense for Combatant Status Review Tribunals.

(D) TERMINATION ON RELEASE FROM CUSTODY.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the custody of the Department of Defense.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to any application or other action that is pending on or after the date of the enactment of this Act. Paragraph (2) shall apply with respect to any claim regarding a decision covered by that paragraph that is pending on or after such date.

Mr. GRAHAM. Mr. President, will you notify me when I have used 15 minutes of the time?

The PRESIDING OFFICER. The Chair will so notify the Senator.

Mr. GRAHAM. Mr. President, this whole debate we are having now with Senator KERRY, what we did with Senator McCAIN's amendment earlier, and what I am trying to do, is a healthy debate about where we are going as a nation, how we prosecute the war on terror, and what kind of value set we are going to adopt.

One thing we need to understand as a nation and we need to understand in the Senate, in my opinion, is that the attack of 9/11 was an act of war. It was not a criminal enterprise. That is an important statement to make. Every Senator needs to understand in their own mind: Was 9/11 and were those who planned it and those who blew up the people in Jordan yesterday common criminals or are these people engaged in acts of terrorism and war? Let it be said clearly, in my opinion, that the United States is at war with al-Qaida and associate groups, and we have been since 9/11.

When a country such as the United States is at war, we have a rich tradition of following the law of armed conflict, of living up to the Geneva Conventions and all other international treaties that regulate the conduct of war. We have a moral imperative as a nation not to lose our way in fighting this war. Using tactics of one's enemy is no excuse in defeating one's enemy.

It is clear to me from Abu Ghraib backward, forward, and other things we know about that at times we have lost our way in fighting this war. What we are trying to do in a series of amendments is recapture the moral high ground and provide guidance to our troops. That is why Senator McCAIN's amendment, which I cosponsored, is so important, and it passed by voice vote.

The McCain amendment requires standardization of interrogation techniques when it comes to people in our charge, not as criminal defendants but as enemy combatants, people detained on the battlefield, POWs. It requires the Army Field Manual, not the United States Code, to be changed in a way to give our troops the guidance they need as to what is in bounds and out of bounds when it comes to interrogating prisoners. It is important that we get good information. It is equally important that we not lose our value set in obtaining that information.

Senator McCAIN has two things in his amendment that we desperately need. It standardizes interrogation techniques for the military, dealing with people who are part of this war, our enemies, and it also makes a statement to every other agency in the Government that you are going to treat people humanely if they are captured under your charge as part of fighting this war.

Guantanamo Bay is a place we have designated to take people off the battlefield and hold them, and the determinations that go on at Guantanamo Bay fall into two categories. Some can be prosecuted for violations of the law of war, not criminal violations in terms of domestic criminal law but violations in terms of the law of war. Enemy combatants are being held at Guantanamo Bay like POWs were held in the past. What we have done at Guantanamo Bay is we have set up a procedure that will allow every suspected enemy combatant to be brought to Guantanamo Bay and given due process in terms of whether they should be classified as an enemy combatant.

The Geneva Conventions in article V state that if there is a doubt about one's status, the host country, the person who is in charge of the person, the suspected enemy person, that host country will have a competent tribunal to determine the status.

What is going on at Guantanamo Bay is called the Combat Status Review Tribunal, which is the Geneva Conventions protections on steroids. It is a process of determining who an enemy combatant is that not only applies with the Geneva Conventions and then some, it also is being modeled based on the O'Connor opinion in Hamdi, a Supreme Court case, where she suggested that Army regulation 190–8, sections 1 through 6, of 1997, would be the proper guide in detaining people as enemy prisoners, enemy combatants. That regulation is "Enemy Prisoners of War, Retained Personnel, Civilian Internees, and other Detainees." We have taken her guidance. We have the Army regulation 190-8, and we have created an enemy combat status review that goes well beyond the Geneva Conventions requirements to detain someone as an enemy combatant.

The McCain amendment says if you are an enemy combatant, we will treat you humanely, even though you may be part of the most inhuman group the world has ever known. Senator McCAIN is right. How we treat detainees in our charge once they are captured is about us, but their legal status is about them. Once they choose to become part of a terrorist organization in an irregular force that blows up people at a wedding, then their legal status is about them and their conduct.

I want to make sure we follow the law of armed conflict, that we comply with the spirit of the Geneva Conventions, that we do it right because we are a country that believes in doing it right. I believe the Congress needs to get involved. We have been AWOL.

I have enjoyed working with Senator LEVIN and my Democratic colleagues, Senator WARNER, Senator MCCAIN, and others to get the Congress involved. Here is what we have done. The Congress is now setting interrogation standards that have long been overdue and neglected. The Congress is now setting a humane treatment standard that will serve us well in the international community. The Congress, through my amendment, is now getting involved in the enemy combatant detention process.

People worry about taking folks to Guantanamo Bay and never hearing from them again. I can assure you they can be heard from. They are being heard from. They are being inspected in terms of their treatment by the International Red Cross. I have been to Guantanamo Bay twice. If you worry about what is going on at Guantanamo Bay, go down there yourself. The press has access to Guantanamo Bay. The International Red Cross has access to Guantanamo Bay. My amendment gets Congress in the ball game.

My amendment requires that Combat Status Review Tribunal regulations have to come to the Senate and the House for our review. Congress now is looking over the shoulder of what is going on there.

My amendment requires that the person sitting at the top of the pyramid who makes the decision to release or detain has to be confirmed by the Senate so they will be accountable to us.

My amendment prohibits the use of undue coerced statements to detain somebody as an enemy combatant.

If you are a POW in a war, you are there until the war is over. An enemy combatant falls into that same category, and we are going to make sure they get due process accorded under international law and then some, and the Congress is going to watch what happens. The Congress is going to be involved, and we are going to take a stand. We are going to help straighten out this legal mess we are in.

But there is another problem. For those who want to treat people in our charge humanely, sign me up. For those who want to get Congress involved in making sure we have standardized interrogation techniques so our own troops won't get into trouble, sign me up. For those who want to give enemy combatants due process in accordance with the Geneva Conventions, and then some, sign me up. For those who want to turn an enemy combatant into a criminal defendant in U.S. court and give that person the same rights as a U.S. citizen to go into Federal court, count me out. Never in the history of the law of armed conflict has an enemy combatant, irregular combatant, or POW been given access to civilian court systems to question military authority and control, except here.

What has happened at Guantanamo Bay that we need to fix? I know what we need to fix in terms of the way we have treated prisoners. We are doing it. We are getting it right. We are making up for our past sins. My request to this body is, let's not go too far and create problems that will come back to haunt us. We are at war; we are not fighting the Mafia. We are fighting an enemy desirous of taking us down as a nation.

The Supreme Court decided that the Guantanamo Bay activity was part of the United States, not in its territory so much as under its control. The Supreme Court has been shouting to us in Congress: Get involved.

Habeas corpus rights have been given to Guantanamo Bay detainees because the location is under control of the United States, and Congress has been silent on how to treat these people. The Supreme Court has looked at section 2241, the habeas statute, and they are saying to us: Since you haven't spoken, we are going to confer habeas rights until you act.

Justice O'Connor said that we will under habeas give due process to enemy combatants, but if you were smart, you would have a process like Army regulation 190-8, and that would be more than enough. Well, we are smart.

Here is what has happened. If you want to give a Guantanamo Bay detainee habeas corpus rights as a U.S. citizen, not only have you changed the law of armed conflict like no one else in the history of the world, I think you are undermining our national security because the habeas petitions are flowing out of that place like crazy. There are 500-some people down there, and there are 160 habeas corpus petitions in Federal courts throughout the United States. Three hundred of them have lawyers in Federal court and more to follow. We cannot run the place.

They are not entitled to this status. They are not criminal defendants. And here is what they are doing in our courtrooms:

A Canadian detainee who threw a grenade that killed an army medic in a firefight and who came from a family of longstanding al-Qaida ties moved for preliminary injunction forbidding interrogation of him or engaging in cruel, inhumane, or degrading treatment of him. It was a motion to a Federal judge to regulate his interrogation in military prison.

Another example. A Kuwaiti detainee sought a court order that would provide dictionaries in contradiction of Gitmo's force protection policy and that their counsel be given high-speed Internet access at their lodging on the base and be allowed to use classified DOD telecommunications facilities, all on the theory that otherwise their right to counsel is unduly burdened.

This is one of my favorites. There was a motion by a high-level al-Qaida detainee complaining about base security procedures, speed of mail delivery, and he is seeking an order that he be transferred to the least onerous conditions at Gitmo and asking the court to order that Gitmo allow him to keep any books and reading materials sent to him and to report to the court on his opportunities for exercise, communication, recreation, and worship.

Can you imagine Nazi prisoners suing us about their reading material?

Two medical malpractice claims have come out of this.

Here is another great one. There was an emergency motion seeking a court order requiring Gitmo to set aside its normal security policies and show detainees DVDs that are purported to be family videos.

Where does this stop? It is never going to stop.

Let me tell you what it is doing. Here is a quote from one of the lawyers representing these detainees in Federal court:

> We have over one hundred lawyers now from big and small firms working to represent these detainees. Every time an attorney goes down there, it makes it that much harder for the U.S. military to do what they're doing. You can't run an interrogation . . . with attorneys. What are they going to do now that we're getting court orders to get more lawyers down there?

Know what. The people at Gitmo are asking that same question: What are we going to do? It is impossible to interrogate people with this much court intervention. We are undermining the role Gitmo plays in helping our own national security. No POW enemy combatant in the history of the world has been given Federal court unlimited access as an American citizen.

Here is what I propose we do: that we take the procedures that are in place far beyond what the Geneva Conventions require, that we make the reforms my amendment suggests where Congress is now involved in oversight, and we do one other thing, we allow a detainee to go to Federal court, not anywhere and everywhere, but to one place, the Circuit Court of Appeals for the District of Columbia where they can challenge what the military has done to them in terms of their status.

That is a right beyond what any enemy combatant POW has ever had in history. That will make sure two things happen: My amendment will make sure Congress will supervise what goes on and will be notified about what happens at Gitmo. They will be able to hold people off the battlefield as enemy combatants; they will have a process recognized by the Geneva Conventions and then some; and they will also have a right to go to Federal court to challenge their status to make sure we did it right.

If we will do these things together, then we can be proud as a nation. They all need to be done together. We need to make sure standardized interrogation techniques exist for the benefit of our own troops in the Army Field Manual to create clarity out of chaos. We need to make a statement as a nation that no matter who you are or where you are, if you are in our charge, you are going to be treated humanely.

Shaikh Mohammed, the mastermind of 9/11, is somewhere in our care. He is not a criminal defendant. He is a warrior, the planner of 9/11. It is not a decision we should have to make to try him or let him go. We keep him off the battlefield as we have kept every other POW and enemy combatant off the battlefield. We get good intelligence from him and we treat him humanely. Let us not turn this war into a crime. It would be a crime to do so.

I think I have presented what I believe to be as balanced an approach as I know how without giving up our right to defend ourselves. To the human rights activists out there, God bless you. You have helped us in many ways. We are going to make the statements you want us to make about treating people humanely. We are going to have standardized interrogation techniques. Congress is going to provide oversight and we are going to let the courts provide oversight. But in the name of human rights, we are not going to let this jail run amok. We are not going to create a status in international military law that has never been granted before. Of all the people in the world who should enjoy the rights of an American citizen in Federal court, the people at Guantanamo Bay are the last we should confer that status on. We did not do it for the Nazis. We should not do it for these people.

I reserve the remainder of my time.

The PRESIDING OFFICER (Mr. Coleman). Who yields time?

Mr. LEVIN. I yield 10 minutes to the Senator from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I thank my colleague from Michigan. I rise to speak in opposition to this amendment as currently drafted. After the Senate deals with this amendment, I will offer a second-degree amendment to remove the problematic language that I believe is included. First, I commend Senator Graham for taking on the issue of treatment of these prisoners in Guantanamo. He did work with Senator Levin, myself, and others, I am sure, to try to improve the procedures for processing prisoners at Guantanamo. We agreed upon some language. We included that language. He proposed it and it was included in the Defense appropriations bill. That was agreed to. Unfortunately, here he has taken that language and he has modified it. He has added to it. His additions are a terrible mistake.

His amendment now also contains a provision that strips aliens at Guantanamo of any right to seek habeas corpus in our Federal courts. The right to file a petition challenging the legality of a prisoner's detention was specifically recognized by our Supreme Court in the Rasul case. Considering that many prisoners have been held there for over 3 years, that the administration has argued they can be held there indefinitely, it would be a major mistake for us to remove the very limited judicial review the Supreme Court has recognized that these prisoners still have.

The writ of habeas corpus, which is what his amendment would eliminate, which is in essence a right to petition the court to review the legality of one's detention by the Government, is at the core of civil rights in this country. It came originally from the Magna Carta. Our Founding Fathers wrote this into our own Constitution. In the first article of the Constitution, in Section 9, it says:

> The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion and Invasion the public Safety may require it.

Our Founding Fathers wanted to ensure that the Government could not simply imprison people at will and that there was judicial review that would be available as a check on that executive power.

When the executive branch detains or imprisons a person within the jurisdiction of the United States—and that is all we are talking about here, detaining someone within the jurisdiction of the United States—the Government, upon the issuance of a writ by a court, must show cause why that person is being detained. This right is enshrined in our own Constitution. It would be a terrible mistake for us to suspend that right as an amendment on a Thursday afternoon to the Defense authorization bill.

This is an extremely serious issue. There have been no hearings on this issue in the Judiciary Committee. I see the chairman of the Judiciary Committee on the Senate floor this afternoon. If we are going to seriously consider suspending the privilege of habeas corpus, of filing a petition for habeas corpus, the Judiciary Committee should be the committee that considers that type of a proposal and has hearings on it.

There have been no hearings in the Armed Services Committee. It would be a terrible mistake for us to do this sort of as a by-the-way kind of amendment on a Thursday afternoon as we are preparing to leave for the weekend.

Through our history, Congress has suspended the "great writ," as it has been called in Anglo jurisprudence for centuries now, only on very few occasions. Abraham Lincoln suspended the writ during the Civil War in order to imprison suspected southern supporters. During the Second World War, President Roosevelt unilaterally suspended the writ in order to imprison more than 70,000 Japanese Americans in prison camps. This Congress has since gone on record indicating its regret at that action taken by this Government.

Today, the executive branch has once again asserted extraordinary powers. The President has argued that he has the authority to indefinitely imprison anyone, whether a citizen or noncitizen, that he deems to be an enemy combatant, and the judicial review of such decisions is not needed or appropriate.

It is in times such as these that our Founding Fathers envisioned that habeas corpus would be preserved. According to the Wall Street Journal article earlier this year, an estimated 70 percent of individuals held at Guantanamo were wrongfully imprisoned. BG Jay Hood was quoted as saying in that article: Sometimes we just did not get the right folks.

This is not the time Congress should suspend the writ and grant the executive branch additional unchecked authority.

The administration has gone to great lengths to avoid the legal restraints that normally would apply under our legal system. They have argued that the laws of war are not applicable because we are fighting a new type of enemy. They have argued the criminal laws are not applicable because we are fighting a war. The administration position is that there is a rights-free zone where the President has complete authority to detain and hold individuals indefinitely.

Within this framework, the administration argues that the prohibition on torture is an unnecessary barrier. They argue that the Geneva Conventions are outdated, that constitutional rights do not exist for this group of individuals. In essence, they argue that the rights of these prisoners, if any, are at the discretion of the President.

According to press reports, in deciding where they wanted to hold suspected terrorists, the administration has gone to enormous lengths to avoid putting them some place where they would be under the jurisdiction of our courts. They considered Soviet-era detention centers in Eastern Europe, secret facilities in Thailand, Egypt, Jordan, and Zambia. They finally settled on putting them at Guantanamo in Cuba because, as the Secretary of Defense said, it was the least worst place. It also had the advantage, they thought, of giving them a plausible argument that they were outside the reach of the U.S. courts on the theory that since this was Cuban territory, if these prisoners had objections or problems they could always seek redress from the Cuban Government. That was the argument our own Department of Justice made in our courts.

Of course, the Supreme Court disagreed in the Rasul case and held that Guantanamo prisoners do have the right to challenge the basis of their detention in U.S. Federal court.

As I understand it, the number of prisoners facing trial today is about 10. That is 10 out of the 500 prisoners who are being held there. The rest are being held without charges. There is no prospect for them being charged in the near future that I am aware of.

The President and the administration in this country have a credibility problem with regard to our detention policies. The administration says one thing regarding its position on torture. We appear to do something different. We all watched as the President toured Latin America last week and reassured our allies at every stop that, in fact, it is not the policy of our Government to engage in torture. We are on the defensive on an issue that should not be an issue in this country.

We can effectively combat terrorism without resorting to these types of techniques, and we can do so in a manner consistent with American values. Our Nation's longstanding commitment to the respect of law, to the rule of law, and basic human rights is founded on a set of values that distinguishes us from terrorists and it is important that we keep those principles and those values intact as we pursue this war on terrorism.

This is not the time to back away from the basic principles this country was founded on. Considering the ambiguity that exists with regard to the legal status of so-called enemy combatants and the revelations that have come out regarding secret prisoners, irregular rendition, torture and abuse, I believe it would be a tragic mistake to further limit the ability of our courts to provide the minimal judicial review that has been afforded thus far. The world has come to doubt our Government's commitment to the rule of law as a result of many of the actions I have recounted. Let us not provide an additional basis for those doubts by stripping our Federal courts of the right to consider petitions for habeas corpus.

I urge that this amendment be defeated. If appropriate, after consideration of this amendment, I have an alternative amendment which would enact the first three sections of Senator GRAHAM's amendment as we passed them on the appropriations bill but would delete the portion that strips the Federal courts of jurisdiction.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BINGAMAN. I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. LEVIN. Mr. President, I yield 10 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I thank the Senator from Michigan for yielding me 10 minutes.

The issues presented by the Graham amendment are very important, and I commend Senator GRAHAM for taking the initiative in offering this amendment. This is an issue which this Senator has been wrestling with for some time.

Shortly after 9/11, on February 13, Senator DURBIN and I introduced legislation which would have dealt with the military commission procedures. This is pursuant to the provisions of article I, section 8, clauses 10 and 11 of the Constitution, which confers upon the Congress the power "To define and punish . . . Offenses against the Law of Nations; . . . make Rules concerning Captures on Land and Water."

Early this year, after becoming chairman of the Judiciary Committee, in collaboration with the distinguished ranking member, Senator LEAHY, we took up this issue.

We held a hearing on June 15 this year, which I had sought continually in 2002, 2003, and 2004. I believe this was the first hearing to deal with these issues. In line with that effort, I traveled to Guantanamo Bay in mid-August. I had the expectation of having a hearing and making progress to really come to grips with the complex issues which are involved here.

These issues are very difficult. When you talk about detainees and their status as an enemy combatant, you first wrestle with the problem of what evidence is there. It is very hard to quantify any of the evidence. You talk about competent evidence, which we are familiar with in a courtroom—here there is none. Hearsay is permitted, but it is impossible to put your hands on what the hearsay is. There are some suggestions that on the battlefield somebody who is known and trusted to our forces would just identify: You, you, and you are enemy combatants; and it would stick. These detainees are then held for the duration.

There is no doubt that these detainees are the worst of the worst. That is the way they have been characterized. We are facing very difficult problems with these terrorists. Some of them have been released, and they have gone back to Afghanistan or gone back to Iraq, so we are fighting them all over again. It is a very difficult problem.

Finally, the Supreme Court of the United States came down with three decisions in June of 2004, which were a patchwork, really a crazy quilt, of decisions. Now you have the Supreme Court of the United States again undertaking jurisdiction in the Hamdan case, which challenges the Presidential authority to set up the commissions. It does so on the ground that the Geneva Convention says that there must be a tribunal who makes the determination of enemy combatant status.

The question raised in the circuit court—this opinion got a lot of notoriety because Chief Justice Roberts, then Judge Roberts of the circuit court, was on the panel—dealt with the issue as to whether there had to be a tribunal. That is what the district court said. The circuit court overruled the district court's ruling that the President was not a tribunal. Although it is hard to fashion the President as a tribunal, I do realize that the President has to act to protect the country.

These are the kind of weighty problems which we have not sorted through, quite frankly. I have discussed this matter with the Senator from South Carolina. He is on the Judiciary Committee and participated in the hearing which we held. He took a good bit of what we had found and worked with it in the Armed Services Committee. That is the way it should be. But when you undertake to remove habeas corpus, you better know where you are, and you better have a comprehensive plan and a comprehensive way of dealing with the issue which deals with evidence and which deals with the right of counsel.

Detainees do not have the right to counsel. I can understand why the Department of Defense does not want to give detainees the right of counsel. But we have not come up with an answer as to how the detainees ought to be handled. The detainees are reviewed only once a year. We have submitted draft legislation to the Department of Defense, as we worked on this issue in June, July, August, and through the fall. A number of the suggestions which we made were incorporated by the Department of Defense. I think they have been moving in the right direction. They have changed the commission so that the presiding judge is no longer a fact finder or juror, but functions more like a judge. Changes in the Classified Information Act have occurred.

But until we can sort through these issues and find a comprehensive approach which deals with them—and we should be doing that—the Judiciary Committee will still be wrestling with these problems. But it is well known that we have been busy since we took up this issue with a June 15 hearing. In July we had the nomination of Roberts, and we had the nomination of Miers, and now we have the nomination of Alito. We have had so many matters: class actions, bankruptcy and asbestos and judicial nominations, that we have not been able to come to grips with all of the issues.

Candidly, it is very hard to deal with the Department of Defense on these matters. When we were in Guantanamo on August 1, we took up an issue that the New York Times had publicized, on August 1, where three officers had said that the trials were rigged by the military. We sought information from the Department of Defense on an inspector general's report and on an internal investigation. There was delay after delay after delay, as we tried to find out what was going on. It was very difficult. This is sort of a pattern, where the Department of Defense wants to do it their way and is very resistant to congressional inquiries and to congressional oversight.

While it is a collateral matter, it bears on some of the work by the Judiciary Committee on Able Danger. There we have, notwithstanding commitments by the Department of Defense, not been able to get important information.

I see the Presiding Officer edging forward. Is my time about to expire?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. SPECTER. I thank the Chair. But I am not prepared, at this stage, to support legislation which calls for removal of habeas corpus. The issues on detainees and military commissions have been pending since 9/11 of 2001. Until the Judiciary Committee held a hearing in June 15 of 2005, nothing had been done by Congress. The Supreme Court finally took the bull by the horns and came down with the three decisions in June of 2004 because the Congress had not acted. It didn't know what to do. It didn't know quite how to approach it. And perhaps it was too hot to handle. But the Congress frequently is inactive in the face of assertions by the executive of the need to defer to Presidential power. But I believe that the habeas corpus provisions which are now in effect need to be maintained.

While the three decisions by the Supreme Court in June of 2004 did not answer the problem, they did get us started. Their movement in the Hamdan case is again significant. My own thinking, as chairman of the Judiciary Committee, is to try to find answers to these complex issues.

When the Senator from South Carolina decries the numerous habeas corpus appeals, I know what that means. I was a district attorney of a big city, 30,000 cases a year, with a lot of convictions and a lot of habeas corpus matters. The Federal Government can handle the habeas corpus provision. But I read in the revised statute that there are going to be appeals.

The PRESIDING OFFICER. The time of the Senator has expired.

Mr. SPECTER. I ask for an additional 2 minutes.

Mr. LEVIN. I yield those 2 minutes.

Mr. SPECTER. When I read in the bill of the Senator from South Carolina about appeals to the court of appeals of the District of Columbia from detainee status, that opens up a brand new Pandora's box. You have existing procedures under habeas corpus which we currently understand, but if you provide for a new jurisdiction for the circuit court of appeals for detainees' appeals than that could make it worse.

I think this probably requires a lot more analysis. We have an able Senator from South Carolina who sits on both Judiciary and Armed Services. We are going to continue to work on it, but I do not think this amendment is the answer.

I thank the Senator from Michigan for yielding me the time and I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. GRAHAM. How much time do I have remaining?

The PRESIDING OFFICER. The Senator has 12½ minutes.

Mr. GRAHAM. I yield 6 minutes to my colleague from Arizona.

The PRESIDING OFFICER. The Senator from Arizona.

Mr. KYL. Mr. President, let's go back to the fundamentals of what actually happened and what the amendment of the Senator from South Carolina would actually do. The Congress did not create laws to deal with terrorists, primary to the beginning of the war on terrorism. Questions arose as to the executive branch's treatment of these terrorists in detention. Absent congressional direction, the U.S. Supreme Court had to interpret an existing statute, section 2241. It held that, since Congress had not expressed any intention outside of section 2241 in interpreting that section, the courts had jurisdiction to consider habeas corpus petitions regarding the status of these detainees. That is all that the Court has held.

As Justice Scalia said in his dissent, "the petitioners do not argue that the Constitution independently requires jurisdiction here." So let's be plain, that the Great Writ does not apply to terrorists. No one argued in the Rasul case that the Constitution required habeas corpus petitions. It was, rather, a matter of statutory interpretation. As the Justice said:

> Accordingly, the case turns on the words of section 2241.

How did the Court in the majority opinion treat that?

> Considering that section 2241 draws no distinction between Americans and aliens held in Federal custody, there is little reason to think that Congress intended it not to apply . . .

The bottom line is that the Congress has, on numerous occasions, statutorily limited the writ of habeas corpus to American citizens. In 1996, when the courts were plugged up with habeas petitions, Congress passed a substantial revision of the habeas corpus laws, reducing this backlog of habeas petitions in Federal court from U.S. citizens. We have the statutory jurisdiction to write whatever kinds of laws we want. We clearly have the statutory jurisdiction to say it does not apply to foreign terrorists. And nothing in the Rasul case says otherwise.

So let's be very clear about this Great Writ. It does not apply to terrorists, and it should not apply to terrorists, and nothing in this amendment goes any further than to say it applies to U.S. citizens. It does not apply to terrorists.

Another argument is that we should not suspend the writ of habeas corpus. We are not suspending the writ of habeas corpus. It does not apply. The only reason the Court in Rasul said the Court had jurisdiction to consider it is because the language in 2241 was not explicit enough to exclude the aliens, the terrorists who were detained at Guantanamo Bay from asserting that jurisdiction.

Third, our chairman, Senator SPECTER, has said we need a comprehensive way to deal with the prisoner claims. And he is absolutely correct about that. And this amendment provides such a mechanism.

What Senator SPECTER says is: I'm not sure that we should be granting a circuit court of appeals review right.

That's a pretty good right, I would say. That's what this amendment does. Either we are arguing we are not giving these detainees enough rights or we are giving them too many rights, but let's get one or the other here. I think what we are doing is granting a substantial right to appeal the issue of status when, first of all, it is determined by the CSRT procedures in the military tribunals at Guantanamo Bay and then there is an automatic right to appeal this, not just to a Federal court but to the U.S. court of appeals, on the record. That is a substantial right.

But what we have gotten rid of are these hundreds of habeas petitions that will be clogging the Federal courts. We have already seen them making medical malpractice claims against the doctors, saying they want one kind of food as opposed to another kind of food and so on. It is going to get like it did with prisoners. One of the real-life cases that came out of Arizona that we tried to take care of in 1996 law is a prisoner said: I want chunky peanut butter, I don't want creamy peanut butter. And that was the habeas petition. You have a right to question food in a habeas petition. Do we want our Federal courts clogged with terrorists making these kind of petitions? No.

As a result, what Senator GRAHAM has done here is very sensible, to say there is going to be a military tribunal to determine status. By the way, it is reviewed every single year. When that status is first determined, there is an automatic right to appeal to the U.S. Court of Appeals for the District of Columbia. But the writ of habeas corpus, which has never been intended to apply to prisoners of war, much less terrorists, does not apply in this case.

We are not going to clog up the courts with habeas corpus petitions. You can have an automatic right to the circuit court of appeals.

It gets us back to the point that Senator GRAHAM made in the beginning. Let us recognize that we are not dealing with criminal defendants. We are dealing with people who have committed acts of war against the United States. They certainly should not be accorded greater privileges than U.S. citizens or prisoners of war.

A final point: There has been a suggestion by some that this would somehow undercut the McCain antitorture amendments. I think Senator GRAHAM laid that to rest. But make it crystal clear. Under McCain, there is not private right of action. They are enforced by the constitutional requirement that the President take care that the laws be executed. The Graham amendment does not take away the right of action to enforce McCain because there is no right of action to enforce McCain in the McCain amendments.

This is a very good amendment. It gets us back to the basics of what kind of folks these terrorists are. It grants them substantial rights to contest their status but not the right to clog up Federal courts.

Mr. LEVIN. Mr. President, I yield 2 minutes to the Senator from Vermont.

Mr. LEAHY. Mr. President, I am always concerned that when they speak of terrorism we are constantly adding new things to our laws to show how we are opposed to terrorists. Maybe it would be easier to just to pass a resolution 100 to 0 saying we are all opposed to terrorists. Of course, we are.

I also remember when it was written and attributed to Benjamin Franklin at a time when he and other Founders of this great Nation faced the hangman's noose. Had they failed in their efforts to create a democracy instead of trade, their liberties for security deserve neither.

We should go very slowly when we want to make changes on the great rift.

The distinguished chairman of the Judiciary Committee is absolutely right. We should oppose this amendment.

We made a major change in the habeas corpus laws a few years ago when we were looking at that to see how that works.

This is not the time nor the place nor the bill to willy-nilly—that is really what it is—make this change in the habeas corpus law. There are just too many things going on—whether it is the reports in the press about us using secret prisons that had been abandoned by the old Soviet Union following criticism of every President, Republican or Democrat, in my lifetime, that we are now using that, to questions that are raised and appropriately raised about Guantanamo.

I have heard it said here that the Red Cross has available to them all prisoners, that the press has available to them all prisoners—we have found that isn't so—and prisoners are spirited out in the middle of the night to these secret prisons.

Let us stand as a country that believes in the rule of law.

I hope we stand with the senior Senator from Pennsylvania in opposing this amendment.

The PRESIDING OFFICER. Who yields time?

Mr. WARNER. Mr. President, if the Senator from South Carolina would defer to the managers, I would like to address the Senate in connection with a unanimous consent request. My understanding is that it has been cleared on both sides.

I ask unanimous consent that it now be in order for Senator GRAHAM to offer a perfecting second-degree amendment. I further ask unanimous consent that at 4:30 the Senate proceed to a vote in relation to the Graham second-degree amendment; further, that following that vote Senator BINGAMAN be recognized and it be in order for him to offer a motion to strike; further, that the Senate proceed immediately to a vote on the motion to strike.

Finally, I ask unanimous consent that if the motion to strike is agreed to, it be in order for Senator GRAHAM to offer a further amendment.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object.

Mr. BINGAMAN. Mr. President, I would like to ask a question for clarification. I anticipated offering a second-degree amendment, for which I understood I would be entitled to 30 minutes equally divided. I want to make sure I have a right to argue that amendment and have my 30 minutes of debate on my second-degree amendment before we wind up agreeing to a 4:30 vote.

Mr. WARNER. Mr. President, would the Senator be willing to amend this by saying that the time remaining between now and 4:30 be equally divided between himself and Senator GRAHAM? Would that serve your purpose?

Mr. BINGAMAN. That will be an acceptable result.

Mr. LEVIN. Mr. President, reserving the right to object, we have not seen the perfecting amendment of the Senator from South Carolina. I have not seen the perfecting language. Reserving the right to object, what is the purpose of that, if I may inquire?

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. I have no objection.

Mr. WARNER. There are no objections that I know of, Mr. President.

The PRESIDING OFFICER. Without objection, it is so ordered.

There will be 20 minutes divided on each side. Who yields time? The Senator from South Carolina is recognized.

Mr. GRAHAM. I defer to my colleague from New Mexico.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me speak very briefly. I wanted to clarify a couple of points. The Senator from South Carolina has indicated that instead of people having a right to challenge the legality of their detention through a writ of habeas corpus, we are going to give them the right to challenge the legality of their detention in the Court of Appeals for the District of Columbia. That is not what his amendment says. His amendment says the Court of Appeals for the District of Colombia shall have a limited scope of review. The jurisdiction of the U.S. Court of Appeals for the District of Columbia on any claims with respect to an alien under this paragraph shall be limited to consideration of whether the determination of the combatant status review tribunal regarding such alien was consistent with such procedures and standards as specified by the Secretary of Defense.

The very limited scope of review that he would provide to the court of appeals would just say you can look to see whether they, in fact, followed their own procedures—the procedures set out by the Secretary of Defense—not whether the status, or whether the detention of that individual is legal. That is the question that the writ of habeas corpus gets to—a question of whether, in fact, a person is being legally held by the government.

To say that we are going to give the Court of Appeals for the District of Columbia authority to look at whether the Department of Defense followed their own procedures does not, in fact, solve that problem.

I think that is clearly a clarification that needs to be understood by everyone.

The other point that I would make is it does not matter, frankly, what people put in these petitions. I heard my colleagues—both the Senator from South Carolina and then the Senator from Arizona—say we have these outrageous requests being made that they didn't like the peanut butter, they don't like the television they are having to watch. It doesn't make any difference what they put in these petitions. The writ of habeas corpus which the Senator from South Carolina would have us eliminate as to these individuals is a procedure which says the court can determine whether you are legally being held, not whether you are given the right peanut butter, not whether you are being allowed to see the right DVDs, and there is no obligation of the court to grant any of these petitions. There is no obligation of the court to hold hearings on any of these petitions.

All we are saying is if a court receives a petition from an individual who is being held prisoner and determines that there is a problem or a potential problem, that court does have authority to go ahead and issue an order which is a writ saying bring that individual here and justify the imprisonment of this individual.

This is the bedrock of our constitutional system. This is the bedrock of our legal system which goes back long before the Founders even wrote the Constitution. It would be a very tragic mistake for us, on a Thursday afternoon, in an amendment to the Defense authorization bill, to dispense with this for this or any group of individuals.

I urge my colleagues to resist the amendment, as I did before. If the amendment is defeated, the second-degree amendment which I would offer contains the first three sections of the amendment that the Senator from South Carolina has offered. That is the portion of the amendment which we agreed to for the Defense appropriations bill and that is the part which is appropriate for us to enact again as part of this bill, if the Senate desires to do so.

I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I wanted to ask the Senator from South Carolina if he would object to a unanimous consent that we allow Senator ROCKEFELLER and Senator ROBERTS to take 5 minutes to introduce a modification, and then to stack the votes and have the vote on that amendment prior to his on the unanimous consent order.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Mr. President, reserving the right to object, it is essential that the amount of time between now and 4:30 be used on the debate on the Graham amendment. That would detract, I am afraid, from that amount of time.

Mr. KERRY. It would be difficult. I think it would take 5 minutes to handle what we have to do.

Mr. LEVIN. I would ask unanimous consent—and I ask everyone to pay attention to this—that any time taken to comply with that request be added on at 4:30 so that the vote would be at 4:35 or 4:40, depending upon whether this insert would take 5 or 10 minutes to that modification.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Is the Presiding Officer's question, Is there objection?

The PRESIDING OFFICER. To the unanimous consent for 5 minutes, or such time as may be consumed.

Mr. KERRY. The order would be that Senator ROCKEFELLER and Senator ROBERTS would introduce the modification on his amendment, at which point the debate would conclude with respect to the Kerry amendment. We would vote on the Kerry amendment prior to the Graham amendment, and then subsequently his unanimous consent request, as propounded, already would stand.

Mr. WARNER. Mr. President. I have to at this time object.

I suggest the absence of a quorum so we can hopefully resolve this.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. WARNER. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I appreciate the patience of all of our colleagues, wherever they may be. We are continuing to make considerable progress. That progress will hopefully lead to final passage tonight.

Consistent with those objectives, I ask unanimous consent that the Roberts amendment now be modified with the changes that are at the desk; provided further that the amendment be agreed to. I further ask consent that no later than the hour of 4:45, the Senate proceed to votes in relation to the following amendments: the Kerry amendment, as amended: Lautenberg No. 2478, as modified with the changes at the desk; Graham amendment 2516; the Bingaman motion to strike is under the previous order; conference report to accompany the foreign operations bill; further, that no second degrees be in order to the Kerry or Lautenberg amendments prior to the vote; and that there be 2 minutes equally divided before the votes, with the Lautenberg amendment getting 8 minutes equally divided before the vote. I further ask that after the first vote, all subsequent votes be 10 minutes.

Mr. LEVIN. Reserving the right to object—I don't intend to object—I ask a parliamentary inquiry as to whether there is anything in this unanimous consent agreement which would preclude the offering of additional second-degree amendments to the Graham amendment should the Graham amendment 2516 be agreed to and should the Bingaman motion to strike be defeated.

The PRESIDING OFFICER. Depending on how the amendment is drafted, a further second-degree amendment could be in order.

Mr. LEVIN. Or amendments.

The PRESIDING OFFICER. Or amendments.

Mr. LEVIN. I thank the Presiding Officer.

Mr. WARNER. I hear no further comment or objection.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The amendment (No. 2514), as modified, was agreed to as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. . REPORT ON ALLEGED CLANDESTINE DETENTION FACILITIES FOR INDIVIDUALS CAPTURED IN THE GLOBAL WAR ON TERRORISM.

(a) IN GENERAL.—The President shall ensure that the United States Government continues to comply with the authorization, reporting, and notification requirements of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

(b) DIRECTOR OF NATIONAL INTELLIGENCE REPORT.—

(1) REPORT REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence shall provide to the members of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a detailed report setting forth the nature and cost of, and otherwise providing a full accounting on, any clandestine prison or detention facility currently or formerly operated by the United States Government, regardless of location, where detainees in the global war on terrorism are or were being held.

(2) ELEMENTS.—The report required by paragraph (1) shall set forth, for each prison or facility, if any, covered by such report, the following:

(A) The location and size of such prison or facility.

(B) If such prison or facility is no longer being operated by the United States Government, the disposition of such prison or facility.

(C) The number of detainees currently held or formerly held, as the case may be, at such prison or facility.

(D) Any plans for the ultimate disposition of any detainees currently held at such prison or facility.

(E) A description of the interrogation procedures used or formerly used on detainees at such prison or facility, and a determination, in coordination with other appropriate officials, on whether such procedures are or were in compliance with United States obligations under the Geneva Conventions and the Convention Against Torture.

(3) FORM OF REPORT.—The report required by paragraph (1) shall be submitted in classified form.

The amendment (No. 2478), as modified, is as follows:

On page 286, strike lines 1 through 3, and insert the following:

SEC. 1072. IMPROVEMENTS OF INTERNAL SECURITY ACT OF 1950.

(a) PROHIBITION ON HOLDING OF SECURITY CLEARANCE AFTER CERTAIN VIOLATIONS ON HANDLING OF CLASSIFIED INFORMATION.—

(1) PROHIBITION.—Section 4 of the Internal Security Act of 1950 (50 U.S.C. 783) is amended by adding at the end the following new subsection:

"(B) No person, including individuals in the executive branch and Members of Congress and their staffs, who knowingly violates a law or regulation regarding the handling of classified information in a manner that could have a significant adverse impact on the national security of the United States, including the knowing disclosure of the identity of a covert agent of the Central Intelligence Agency or the existence of classified programs or operations, the disclosure of which could have such an impact, to a person not authorized to receive such information, shall be permitted to hold a security clearance for, or obtain access to, classified information.".

(2) APPLICABILITY.—Subsection (f) of section 4 of the Internal Security Act of 1950, as added by paragraph (1), shall apply to any individual holding a security clearance on or after the date of the enactment of this Act with respect to any knowing violation of law or regulation described in such subsection,

regardless of whether such violation occurs before, on, or after that date.

(b) CLARIFICATION OF AUTHORITY TO ISSUE SECURITY REGULATIONS AND ORDERS.—

Mr. BINGAMAN. Mr. President, could I clarify, how long is this discussion going to take because I know this is set for 4:45.

Mr. ROBERTS. Five minutes.

Mr. WARNER. Mr. President, I see that the Senator from Kansas says 5 minutes, and the Senator from Massachusetts is indicating some time to help our colleague.

Mr. BINGAMAN. Mr. President, the concern is, we still need a few minutes to complete the debate on the Graham amendment and my second degree. I would hate to see that time all used up while they are discussing this other amendment.

The PRESIDING OFFICER. Consistent with the previous agreement, Senators Bingaman and Graham would each have 15 minutes, and they may yield that time to others.

The Senator from West Virginia.

Mr. ROCKEFELLER. Mr. President, it is my understanding, from the colloquy we had around the desk of the chairman of the Armed Services Committee, in order to expedite the whole process, we would lead with the Kerry amendment, and we would then proceed onward. I thought that was the agreement.

Mr. WARNER. Mr. President, I can only say to my colleague, having been a part of this, we seemed to reach a consensus. Staffs on both sides compiled this UC request, which my understanding is it was cleared, subject to clarification by the Senator from Michigan, and it was a concluded matter.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I do not think we need to get hung up on this at all. I think the unanimous consent request was absolutely correct in the order it proceeded. We simply now have to agree that Senators ROCKEFELLER and ROBERTS would have a total of 5 minutes between them, and subsequently Senator GRAHAM and Senator BINGAMAN would follow with their 15 minutes, approximately, and the votes would follow immediately thereafter.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, do I understand now that the Presiding Officer has ruled that the UC is in place that I so stated?

The PRESIDING OFFICER. It is.

Mr. WARNER. I thank the Chair.

I yield the floor.

The PRESIDING OFFICER. The Senator from West Virginia.

Mr. ROCKEFELLER. I thank the Presiding Officer.

AMENDMENT NO. 2507

Mr. President, I support the objective of the underlying amendment proposed by Senator KERRY and others, those others being the minority leader and Senator BIDEN.

The information required by the Kerry amendment is essential if we are to ensure that the U.S. intelligence community is carrying out its intelligence collection mission against a dangerous and nefarious terrorist enemy.

In fact, earlier this year, I took to the Senate floor during the consideration of the emergency supplemental appropriations bill and offered a sense-of-the-Senate amendment calling for such an investigation in the Intelligence Committee. The amendment was ruled out of order by the Chair.

The reason I raise this point is that the Intelligence Committee is the only committee in the Senate with the expertise and the jurisdictional responsibility for overseeing the Central Intelligence Agency and the other agencies comprising the U.S. intelligence community. The Kerry amendment, as amended, correctly points out that all members of the Intelligence Committee must have answers to key questions concerning alleged clandestine detention facilities. We need the information so we can ensure that the intelligence activities of this Nation are both effective and lawful. The Senate Intelligence Committee was established 30 years ago to carry out precisely this type of matter.

I wish to commend, once again, the Senator from Massachusetts, Mr. KERRY, and the cosponsors for offering this amendment. I am pleased that the second-degree amendment has been agreed to.

I thank my colleagues. I hope we can adopt this amendment on the floor because I believe it is a good piece of legislation that John Kerry has put forward.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KERRY. Mr. President, I will just take 1 minute.

I thank Senator ROCKEFELLER and Senator ROBERTS for their cooperation in this effort and Senator WARNER and Senator LEVIN for helping to proceed down the road here. We are happy to accept the modification, a modification that I think appropriately keeps the jurisdiction within the Intelligence Committee, but at the same time it also appropriately makes certain that the Senate will have the information necessary to be able to provide accountability with respect to these activities.

So I thank my colleagues and look forward to the vote. I hope my colleagues will overwhelmingly embrace this amendment.

I thank Senator BINGAMAN and Senator GRAHAM for their courtesy.

Mr. President, I yield back any time we have.

AMENDMENT NO. 2515

The PRESIDING OFFICER. The Senator from New Mexico and the Senator from South Carolina each have 12½ minutes under their control.

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, I yield 5 minutes to the Senator from Michigan.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank the Senator from New Mexico.

I do not see the Senator from South Carolina on the floor, and I wanted to propound a question to him. So I will wait until he returns.

Mr. President, I wonder if the Senator from South Carolina might make himself available to answer an inquiry by the Senator from Michigan.

Mr. GRAHAM. I say to the Senator, I would be glad to, if I could just wrap up my thoughts. But do you want to do that now? What would you like to do?

Mr. LEVIN. Mr. President, I wonder if the Senator from New Mexico, then, would like to proceed with his time and then yield to me in a few minutes? And then I could propound that question at a later moment.

Mr. GRAHAM. Shall I go first?

Mr. BINGAMAN. Go right ahead.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, how much time do I have?

The PRESIDING OFFICER. Twelve and a half minutes.

Mr. GRAHAM. Twelve and a half minutes.

Mr. President, one thing I have not done in this whole process is be willy-nilly about this amendment or about this issue. I am deeply concerned as a Senator that we have lost the moral high ground in the war, that we have confused our own troops, that our interrogation techniques have been out of bounds. That is why I support Senator MCCAIN and other Members of this body—90 to 9—to get it right, because we have to maintain the moral high ground.

We did not have hearings about that because we do not need hearings. We know that our interrogation techniques have been confusing and sometimes unacceptable. We know it is time for America to say to the world that no matter what agency is involved or where the person is, they are going to be treated humanely. We know that.

I have been dealing with this for a year. I have worked with Senator SPECTER. I have been trying to find some way to get a grip on the legal aspects of this war, as well as the moral aspects of this war. And before I got here—I am still an active member of the Reserves. I have been a judge advocate in the Air Force most of my adult life.

Senator LEAHY mentioned something: Let's be a nation of the rule of law. I applaud that. The question is, What is the law here? What is the rule of law when you are at war? The rule of law when you are at war is the law of armed conflict. When we were attacked on 9/11, we went to war, ladies and gentlemen. We are not fighting a criminal enterprise. The rule of law in the law of armed conflict says that POWs and enemy combatants and irregular combatants will be detained within the guidelines of the Geneva Conventions. An enemy combatant is not entitled to Geneva Conventions protection because they do not wear a uniform, they do not fight for a nation. But an enemy combatant is entitled to certain things. We as Americans say you are entitled to be treated humanely, interrogated humanely, and you are entitled to due process to be kept off the battlefield. But you are what you are. You are someone who took up arms against our country. Never in the history of the rule of law of armed conflict has an enemy combatant, POW, person who is trying to kill U.S. troops, been given the right to sue those same troops for their medical care, for their exercise programs, or for their reading materials.

Do you want to be the Senator who has changed 200 years of law? Do you want to be the Senator who is changing the law of armed conflict to say that an enemy combatant—someone caught on the battlefield, engaged in hostilities against this country—is not a person in a war but a criminal and given the same rights as every other American citizen? Do you want to be the Senator who changes 200 years of that? I do not want to be. This is not complicated. One thing is for sure, this is not complicated. No POW in the history of this country has ever been allowed to sue our own troops in Federal court. Does it matter? The habeas corpus writ that is being exercised does not come from the Constitution. This is not a constitutional right that an enemy combatant has under our law. This is an interpretation of a statute we passed, 2241.

The question is, 4 years after 9/11, do we want to change our law and give a terrorist, an al-Qaida member, the ability to sue our own troops in Federal court, all over the country, for anything and everything? I do not. I want to treat them humanely. I want to get good information. And I want to prosecute them within the rule of law. But I do not want to do something that is absurd and is going to hurt our national security; that is, allowing a terrorist the ability to go to Federal court and sue our own troops, who are fighting for our freedom, as if they were an American citizen.

Do you know why the Nazis did not get to do that when we had them in our charge? Because that is not the law. It has never been the law. We caught six German saboteurs sneaking into this country, trying to blow up part of America. They were tried. Where? In a military commission, a military tribunal, not in a civilian court. We had German POWs who tried to come into Federal court, and our court said: As a member of an armed force, organized against the United States, you are not entitled to a constitutional right of habeas corpus.

Do you want to give these terrorists habeas corpus rights just like an average, everyday American citizen or a common criminal to sue our own troops? Well, if you do, vote against my amendment. If you want to get back to where we have been for 200 years, then you need to support me.

This is not complicated. We need to do more than one thing at a time. We need to have interrogation techniques we can be proud of. We need the McCain amendment. We need to standardize interrogation techniques so we do not lose the moral high ground. We need to make a statement that we are going to treat everybody humanely. Enemy combatant, POW—no matter who you are—we are going to treat you humanely.

The Congress does not need to give the executive branch a blank check on how to run this war. My amendment requires the executive branch to report to us about what they are doing at Guantanamo Bay. It requires the Senate to confirm the person in charge of releasing or retaining these enemy combats. My amendment gives them every right the Geneva Conventions afford an enemy combatant, and then some. It gives them an adversarial proceeding at Guantanamo Bay, where they can challenge their status. We go further. It gives them a right to go to the District Court of Appeals of the District of Columbia—something never done in the history of warfare—because we want to let the world know we are going to go out of our way to get it right.

But, ladies and gentlemen, if we do not rein in prisoner abuse, we are going to lose the war. But if we do not rein in legal abuse by prisoners, we are going to undermine our ability to protect ourselves.

I am making one simple request of this body: Do not give the terrorists, the enemy combatants, the people who blow up folks at weddings, who fly airplanes into the Twin Towers, the ability to sue our own troops all over the country for any and everything. Give them due process. Treat them humanely. Try them under the rule of law. But let's not change 200 years of the law of armed conflict.

Your vote today matters. Your vote today matters. We are going to make history one way or the other.

Does the Senate, honestly to God, want to give terror suspects the same rights as American citizens based on a statute we pass? That is what is at stake here. Our troops are counting on us.

They are being taken all over the country, and here is what is going on according to some of the people involved in these habeas petitions:

> We have over one hundred lawyers now from big and small firms working to represent these detainees. Every time an attorney goes down there, it makes it that much harder for the U.S. military to do what they're doing. You can't run an interrogation . . . with attorneys. What are they going to do now that we're getting court orders to get more lawyers down there?

Civilian judges cannot run this war. This is about the rule of law. The rule of law protects people in armed combat. This is about changing our law to give terror suspects rights of U.S. citizens.

Shame on us if we do that.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. BINGAMAN. How much time remains, Mr. President?

The PRESIDING OFFICER. The Senator from New Mexico has 11½ minutes.

Mr. BINGAMAN. And how much on the side of the proponent?

The PRESIDING OFFICER. Four minutes.

Mr. BINGAMAN. I yield 5 minutes to the Senator from Michigan.

Mr. LEVIN. I thank my friend from New Mexico. I wonder if I could inquire of the Senator from South Carolina. I agree with much of what he said, and I congratulate him for trying to get some rules and regulations into these proceedings. I believe that is important. But if the habeas corpus proceedings were added to the Senator's amendment—they were not part of the Senator's amendment to begin with, and I think all of us shared the original amendment of the Senator from South Carolina, but then the court-stripping provisions were added relative to habeas corpus. That is where we are getting into very precipitous trouble.

Given the language of the new amendment of the Senator from South Carolina, if one of these enemy combatants is sentenced to death, there would be no appeal; is that correct?

Mr. GRAHAM. No, sir. That is not correct.

Mr. LEVIN. Let me read the language of the Senator's amendment.

Mr. GRAHAM. The military commissions would be the sentencing body, not the CSRTs. I know this is a bit complicated, but the CSRT provision doesn't try people. It determines whether they are enemy combatants.

Mr. LEVIN. If I could read this, because I only have a few minutes, on page 3 of the amendment, Judicial Review:

United States Code is amended by saying no court, justice, or judge shall have jurisdiction to hear or consider an application for writ of habeas corpus filed by or on behalf of an alien outside the United States who is detained at Guantanamo Bay.

Is it not accurate to say that no court of the United States could review a conviction which even resulted in a death sentence for one of these people down at Guantanamo and that that is inconsistent with the decision of the Supreme Court in re Quirin?

Mr. GRAHAM. No, sir. That is not accurate. This says that no illegal, no foreign alien who is being detained as an enemy combatant can file a writ of habeas corpus. The reason for that being said is because that has been the law for 200 years. We didn't let German prisoners file writs. Under the Roosevelt administration, these six people were captured. They were tried. Four were executed. A writ of habeas corpus was not available to them. It should not have been available to them. The reason we have a military system and we have a civilian system is because we understand the military is a unique body. We don't try our own people in civilian court. We try them in military court. It has been the history of the law of armed conflict that when you have somebody tried for a violation of law of armed conflict, you don't go to Federal court. You go to a military commission or a military court. That is what happened in World War II. That is what will happen to these people, if they are tried.

Mr. LEVIN. Let me read from the opinion in the Hamdan case to see if the Senator would agree with it. Ex parte Quirin, in which captured German saboteurs challenged the lawfulness of the military commission before which they were to be tried, provides a compelling historical precedent for the power of civilian courts to entertain challenges that seek to interrupt the processes of military commissions. The Supreme Court ruled against the petitioners in Quirin but only after considering their arguments on the merits.

What the language of the Senator's amendment does—and I hope it is inadvertent—the Senator eliminates court review of the sentences of enemy combatants before these commissions. I understand that he provides a mechanism to review the status of those enemy combatants. That is fine. He sends them all to court. That creates the kind of problem which the Senator from Pennsylvania talked about. But he goes way beyond that. The Senator's language goes way beyond saying that we are substituting court review for habeas corpus relative to status determinations. The Senator's amendment eliminates habeas corpus on all issues for enemy combatants at Guantanamo. That would be a clear repeal of the decision in Quirin and would also do one other thing.

In the Rasul case, which has been already decided by the Supreme Court, the Supreme Court concluded that Federal courts have jurisdiction to determine the legality of the executive's potentially indefinite detention of individuals who claim to be wholly innocent of wrongdoing. This decision of the Supreme Court would be reversed if we adopted this language.

Finally, in the moment I have remaining, there is pending a decision at the Supreme Court which would be retroactively prohibited. The Supreme Court has agreed to hear a case recently, about a week ago, in the case of Hamdan v. Rumsfeld to decide whether military commissions established by the President—

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BINGAMAN. I yield whatever time the Senator needs.

Mr. LEVIN. In the Hamdan case, the Supreme Court, a few days ago, agreed to determine the legality of the military commissions established by the President to try enemy combatants and about whether detainees at Guantanamo are entitled to protections under the Geneva Conventions. That case would be wiped out under the language which is retroactive in the Senator's amendment. The Supreme Court, although they have agreed to hear the case, would be stymied in hearing a case they have agreed to hear. This goes way beyond the question of whether we are substituting. I have no great problem in substituting the court review for habeas corpus relative to those determinations of status. I think that is a fair substitute because at least then there is a court review. But this goes way beyond that, because this amendment eliminates habeas corpus for all issues which might be raised by detainees, including a conviction which leads to a death sentence that violates Quirin.

It is inconsistent with what the Supreme Court did in the case which I already referred to. It would eliminate the jurisdiction already accepted by the Supreme Court in Hamdan.

I urge that we not adopt this amendment. It is far too broad. Senator SPECTER's argument that the Judiciary Committee should have an opportunity to look at this is an argument to which we ought to listen.

Although I disagree with the Senator's modified amendment, I do want to commend Senator GRAHAM because he has at least undertaken to tackle a very difficult issue which this body should tackle.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. To my good friend Senator LEVIN, we fundamentally disagree. There is a principle at stake here that is as old as war itself. Writs of habeas corpus have never been given to enemy combatants or POWs. They have never been allowed access to the Federal court to challenge their enemy combatant status tribunal which is new and different, beyond the Geneva Conventions. The German prisoners were tried by a military commission. Four of them were executed. They were not allowed to go into Federal court under writ of habeas corpus because the Constitution does not confer the right of a writ to a foreign alien involved in combat activities against the United States. The only reason we are talking about this is, the Court is inviting us: As the Senate, do you want al-Qaida members, under 2241, to have the writ of habeas corpus. The military commissions are set up to try these people. My amendment talks about the procedure of keeping them off the battlefield, allows them due process rights beyond Geneva Conventions article 5, allows them now to go to a district court and the Court of Appeals for the District of Columbia beyond what the Geneva Conventions ever envisioned. The military commissions are totally different. No one has been tried yet.

Here is the one thing I can tell you for sure as a military lawyer. A POW or an enemy combatant facing law of armed conflict charges has not been given the right of habeas corpus for 200 years because our own people in our own military facing court-martials, who could be sentenced to death, do not have the right of habeas corpus. It is about military law. I am not changing anything. I am getting us back to what we have done for 200 years.

If you want to give terrorists habeas corpus rights as if they were American citizens, that they are not part of an outfit trying to wage war on us, fine, vote against me. If you think they are common criminals like American citizens, vote against me. I will be the first to say that if these were criminals, we wouldn't treat them this way. These are not criminals. These are people caught on the battlefield as the Nazis were caught on the battlefield. They need to be held accountable. They need to be treated humanely. Does this body want to be the first Senate in the history of the United States to confer rights on a POW and an enemy combatant to sue the troops who are trying to protect us? There are 160 cases down there. There are going to be 300 cases. They are going to ruin the ability to get intelligence because we in the Senate haven't acted, and we need to act.

How are we going to act? Are we going to act in the best tradition of the United States in accordance with the rule of law, or are we going to give terrorist suspects, al-Qaida members, the right to sue our own troops in Federal court? If you want that, vote against me. If you think that is absurd, vote with me.

Mr. LEVIN. Does the Senator from South Carolina want to give those same terrorists due process, for heaven's sake? Of course, he does. He gets up on the floor and says he wants to provide due process. I say—

Mr. GRAHAM. May I respond?

Mr. LEVIN. I want an opportunity here. He is on the right track in doing it. The question is whether there will be an appeal. If there is a conviction of those alleged terrorists for committing a war crime, is there any appeal under this language in the amendment? I am afraid there is not. I don't think it is the intention of the amendment, because the Senator says, of course, there is going to be appeal. The trouble is, the language of the amendment, by its own specific terms, says: No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by somebody at Guantanamo. That is the problem here. There would be no appeal.

Although the Senator makes a plea for due process for these same terrorists, he would eliminate the appeal of a conviction that led to a capital offense, the death penalty, for these same terrorists. I hope that is not his intent, but it would be the first time that that would ever happen, that we would purport, as the Senate, to strip the court of habeas corpus opportunity to review that kind of a conviction. Since ex parte Quirin, we have never done that.

Mr. GRAHAM. May I answer that? I say to the Senator, with all due respect, that is dead wrong. Military commissions that will be trying the people designated by the President, subject to be tried at Guantanamo Bay for violation of the law of armed conflict, do get appeals. They get more appeal rights than the people who were tried as German saboteurs under military commissions. They get a lawyer. They get the right to confront witnesses against them. They get the right to call witnesses. The military commissions are different than the CSRTs. There is a process in the military commissions for people to have every right under the Geneva Conventions and then some, to have more rights than the German saboteurs. The German saboteurs did not have habeas corpus rights. They had an appeal right within the military commission system, as the al-Qaida members do. To say that you can be tried at Guantanamo Bay for a war crime and not have an appeal is not true. It is like we did with the saboteurs. To say that people at Guantanamo Bay should have habeas corpus rights is doing something no one has ever had in the law of armed conflict, Nazi or otherwise.

Mr. LEVIN. My final question, to what court would the conviction of a detainee at Guantanamo for a capital offense subject to death, to what court would that appeal lie, if this language of the Senator is adopted? It is a very specific question, to what court?

Mr. GRAHAM. Under the military commission model, there is an appeal to a three-judge panel of civilians appointed to hear appeals. In the military commission model, under World War II, they didn't get that. There is an appeal process for civilian review of the trial of enemy combatants detained at Guantanamo Bay. My amendment doesn't affect that. It doesn't change that at all. My amendment prevents the use of habeas rights for POWs and enemy combatants, something we have never given in the history of the law of armed conflict to people in the military system because we don't want civilian judges coming in here and running the war. I am trying to get us back where we have always been. This is not complicated, but it is very important.

The PRESIDING OFFICER. The time of the Senator from South Carolina has expired.

Mr. LEVIN. If we are getting back to where we have always been, we don't need this amendment. The Senator just answered my question by not answering it. I asked him what court would an appeal of a death sentence be appealed to? His answer was, a three-judge panel. That three-judge panel is appointed by the Secretary of Defense. I asked specifically to what court would a death sentence be appealed, if this language is adopted. I read the language as to how broad it is. It eliminates explicitly any appeal: No court, justice, or judge shall have jurisdiction to hear or consider an application for writ of habeas corpus, and that is the way an appeal goes to a court from one of these people. It is eliminated. We strip courts of the right to hear a habeas corpus petition on a death sentence.

I agree with what the Senator started out to do with his amendment. He was on the right track. But this language goes way beyond it. That is why the chairman of the Judiciary Committee, Senator SPECTER, and the ranking member of the Judiciary Committee, Senator LEAHY, oppose this amendment.

Mr. GRAHAM. Mr. President, I want to end with this thought. Never in the history of military commissions where we have tried enemy combatants and spies have they appealed those convictions to Federal court. Never.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 1 minute remaining.

Mr. BINGAMAN. Mr. President, let me use the final minute of this debate to clarify for my colleagues what we are doing here. There are four parts to the amendment that the Senator from South Carolina has offered. There are parts A, B, C, and D. Parts A, B, and C are perfectly acceptable and provisions that I support and Senator LEVIN supports. They were worked out. They were added to the Defense appropriations bill.

The first deals with procedures for status review of detainees. The second sets out what those procedures would generally provide. The third is a report on modification of procedures that would be made to the Congress.

It is the last part, this section D, judicial review, that is such a terrible mistake, in my opinion. It has us, on a Thursday afternoon as part of a debate on a Defense authorization bill, making a very major change that is within the jurisdiction of the Judiciary Committee. The Judiciary Committee should be considering any effort by the Congress to limit or prohibit or suspend the writ of habeas corpus. We should not be trying to do that sort of "oh, by the way, let's do this."

The PRESIDING OFFICER. All time has expired.

Mr. BINGAMAN. I urge the defeat of the Graham amendment. Assuming it is defeated, I will not have to offer a second-degree amendment. If it is adopted, I will offer a second-degree amendment to retain the first three portions.

Mr. President, I yield the floor.

Mr. GRAHAM. I ask unanimous consent to add Senator CORNYN as a cosponsor to the amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2507, AS AMENDED

The PRESIDING OFFICER. Under the previous order, the question is on the Kerry amendment, as amended.

Mr. WARNER. Mr. President, have the yeas and nays been ordered?

The PRESIDING OFFICER. They have not.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Wyoming (Mr. ENZI), the Senator from Nebraska (Mr. HAGEL), the Senator from Indiana (Mr. LUGAR), the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Wyoming (Mr. THOMAS).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "yea."

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER (Mr. CORNYN). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 82, nays 9, as follows:

[Rollcall Vote No. 318 Leg.]

YEAS—82

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Byrd
Cantwell
Carper
Chafee
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeWine
Dodd
Dole
Dorgan
Durbin
Ensign
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Harkin
Hatch
Hutchison
Inhofe
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Sarbanes
Schumer
Shelby
Smith
Snowe
Specter
Stabenow
Sununu
Talent
Thune
Voinovich
Warner
Wyden

NAYS—9

Burr
Chambliss
DeMint
Isakson
Kyl
Martinez
Sessions
Stevens
Vitter

NOT VOTING—9

Alexander
Corzine
Domenici
Enzi
Hagel
Inouye
Lugar
Santorum
Thomas

The amendment (No. 2507), as amended. was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I ask for the regular order.

The PRESIDING OFFICER. There is now 8 minutes equally divided on the Lautenberg amendment.

Mr. WARNER. Mr. President, I see the distinguished Senator from New Jersey.

The PRESIDING OFFICER. The Senator from New Jersey.

AMENDMENT NO. 2478, AS MODIFIED

Mr. LAUTENBERG. Mr. President, this modified version of my amendment contains several good suggestions from the managers of this bill. Senator WARNER and Senator LEVIN. My underlying amendment stands for a very simple proposition: Those who knowingly compromise significant classified information should not continue to hold a security clearance and they should be denied further access to classified information. The modification to the amendment makes clear that it applies to Members of the Congress and to their staffs as well.

My amendment is similar to one offered by our Democratic leader, Senator REID, in July. Some of our colleagues reacted to Senator REID's amendment by expressing their concern that it was an open-ended standard. In deference to these concerns, I have added the "knowing" standard; in other words, if someone reveals information knowingly. I am pleased to see my colleagues find this version acceptable.

Senator WARNER and I served in World War II. We had an expression then. It said: "Loose lips sink ships." Everybody was participating in protecting ourselves from revealing information to the enemy. Exposing our secrets was a grave offense then and it is a grave offense now.

No one is above this law and no one has a right to keep their security clearance if they knowingly reveal our secrets. Anybody in Government, whether the White House or the Congress or a Government employee, should have to live by the same standards as other hard-working Federal employees. The Los Angeles Times recently reported that an intelligence analyst lost his clearance because he faxed his resume using a commercial machine. A Defense Department employee had her clearance suspended because a jilted boyfriend called her office and said she was unreliable. An Army officer had his clearance revoked over $67 in personal calls charged to a military cell phone. There should not be a double standard for anybody.

I want to be clear with my colleagues. This amendment has nothing to do with criminal behavior. That is taken care of in other statutes. It merely governs under what circumstances someone should lose their security clearance for improper behavior. Given recent developments of which we are all aware, this is a necessary amendment. We need to make sure those who are careless with national security information are denied continued access to top-secret information. Anyone who leaks classified information should not continue to have a security clearance. I am sure across the country people would agree with that. If you are giving out information you should not reveal in the first place, why should you have access to that same type information on a continuing basis?

I urge my colleagues to support this amendment.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I worked on the amendment with the distinguished Senator from New Jersey. I have done so in consultation with my leadership and the leadership of the Intelligence Committee.

I would like to make this offer to my good friend. We have a rapidly moving bill. We have a number of amendments yet to vote on tonight. The leadership may well be addressing the Senate, the majority leader and Democratic leader, about this bill.

Is it at all possible that we can voice vote this amendment? I urge my colleague to do so.

Mr. LAUTENBERG. I want to be cooperative, but I do want to make sure it is clearly understood that we are all supporting—or those who are supporting this amendment. I would like it clearly on the record. Perhaps a 10-minute vote?

Mr. WARNER. Suppose we had a voice vote and you determined from the resounding ayes if it meets your specifications?

Mr. LAUTENBERG. If I were sitting in that chair, I would probably say yes, but I am not sitting in that chair.

I ask that we have a rollcall vote.

Mr. STEVENS. I will be glad to have you occupy the Chair right now, as President pro tempore.

Mr. LAUTENBERG. If we continue to talk about it, we will have lost the opportunity to move the bill along. This was the understanding that we had, for a rollcall vote. Forgive me, my colleagues, but like everybody else I want to have a rollcall vote.

Mr. STEVENS. Will the Senator take a division vote? A standing vote? A division of the Senate, a standing vote? All those in favor stand?

Mr. LAUTENBERG. No.

Mr. WARNER. Mr. President, I say to my good friend, we have worked with you in a most cooperative way.

I would like to have the attention of my good friend. We have worked with you in a most cooperative way. What I am trying to do is convenience a number of Members who have commitments tonight. I once more ask if you will not accept this on a voice vote.

Mr. LAUTENBERG. I don't want to be obstinate. If we could now declare the time that this session will end, perhaps we can then look at a standing vote. Other than that, if I agree to move my amendment along and find out that we still continue to drag on—will all the other amendments be subjected to voice votes?

Mr. WARNER. I will ask all.

Mr. STEVENS. Where there is no objection, yes.

Mr. WARNER. If there is no objection.

So once again I ask my colleague if we could voice vote this amendment?

Mr. STEVENS. How about a unanimous consent request?

Mr. LAUTENBERG. I have the yeas and nays on this.

Mr. KENNEDY. What is the parliamentary situation? Will the Senator yield? Will the Senator yield for a brief question?

Mr. WARNER. Yes.

Mr. KENNEDY. As I understand the rules, if you get a standing division and the Chair calls it and you are the author of the amendment and you are not satisfied, you can still ask for the yeas and nays, am I not correct?

Mr. WARNER. I think the Senator is correct in his interpretation of the rules.

Mr. KENNEDY. So you can say you want a voice vote and if you are not satisfied, you can ask for the yeas and nays. Can you get a standing division if you are not satisfied? You can still get the yeas and nays, am I not correct?

Mr. WARNER. The Senator is correct. Can we have a standing division?

Mr. LAUTENBERG. If that is the situation, I am going to cooperate.

Mr. WARNER. Will the Presiding Officer arrange for a division vote?

May we have order in the Chamber.

The PRESIDING OFFICER. A division is requested.

All those in favor of the amendment, stand and remain standing until counted. The ayes will be seated and the nays will rise.

On a division, the amendment (No. 2478), as modified, was agreed to.

Mr. REID. Mr. President, I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2516

The PRESIDING OFFICER. The next amendment to be considered is the Graham amendment.

Mr. GRAHAM. Mr. President, I call up my amendment which is at the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from South Carolina [Mr. GRAHAM], for himself, Mr. KYL, and Mr. CHAMBLISS proposes an amendment numbered 2516.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: Relating to the review of the status of detainees of the United States Government)

Strike all after the word SEC.

. REVIEW OF STATUS OF DETAINEES.

(a) SUBMITTAL OF PROCEDURES FOR STATUS REVIEW OF DETAINEES AT GUANTANAMO BAY, CUBA.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, and to the Committees on the Judiciary of the Senate and the House of Representatives, a report setting forth the procedures of the Combatant Status Review Tribunals and the noticed Administrative Review Boards in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay.

(b) PROCEDURES.—The procedures submitted to Congress pursuant to subsection (a) shall, with respect to proceedings beginning after the date of the submittal of such procedures under that subsection, ensure that—

(1) in making a determination of status of any detainee under such procedures, a Combatant Status Review Tribunal or Administrative Review Board may not consider statements derived from persons that, as determined by such Tribunal or Board, by the preponderance of the evidence, were obtained with undue coercion; and

(2) the Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advice and consent of the Senate.

(c) REPORT ON MODIFICATION OF PROCEDURES.—The Secretary of Defense shall submit to the committees of Congress referred to in subsection (a) a report on any modification of the procedures submitted under subsection (a) not later than 30 days before the date on which such modifications go into effect.

(d) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

(1) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

"(e) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien outside the United States (as that term is defined in section 101(a)(38) of the Immigration and Naturalization Act (8 U.S.C. 1101(a)(38)) who is detained by the Department of Defense at Guantanamo Bay, Cuba.".

(2) CERTAIN DECISIONS.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any decision of a Designated Civilian Official described in subsection (b)(2) that an alien is properly detained as an enemy combatant.

(B) LIMITATION ON CLAIMS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

(C) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the procedures and standards specified by the Secretary of Defense for Combatant Status Review Tribunals.

(D) TERMINATION ON RELEASE FROM CUSTODY.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the custody of the Department of Defense.

(3) EFFECTIVE DATE.—The amendment made by paragraph (1) shall apply to any application or other action that is pending on or after the date of the enactment of this Act. Paragraph (2) shall apply with respect to any claim regarding a decision covered by that paragraph that is pending on or after such date.

This section shall become effective 1 day after enactment.

Mr. WARNER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The question is on agreeing to the amendment.

Debate is equally divided on the amendment. Is there further debate?

Mr. BINGAMAN. Mr. President, let me speak briefly in opposition to this amendment.

This amendment contains a provision that I think is a very major mistake. It essentially denies all courts anywhere the right to consider any petition from any prisoner being held at Guantanamo Bay. In my view, it is contrary to the way the court decisions have come down already. It is an extraordinary step for this Congress to be taking as an amendment to the Defense bill. This is an issue that should be dealt with in the Judiciary Committee. Senator SPECTER has spoken against the amendment. Senator LEVIN has spoken against the amendment. Senator LEAHY has spoken against the amendment. It is something that requires hearings. It is a very important issue, and we should not be dealing with it here on a late evening on Thursday as part of this authorization bill.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from South Carolina.

Mr. GRAHAM. Mr. President, we need to standardize our interrogation techniques because we have lost our way. We need to make a statement we are not going to treat people poorly during our charge. For 200 years in the law of armed conflict, no nation has given an enemy combatant, a terrorist, al-Qaida member the ability to go into every Federal court in the United States and sue the people who are fighting the war for us. There are 160 habeas corpus petitions being filed against Guantanamo Bay detention.

Let me read what one of them is saying, a motion by a high-level al-Qaida detainee complaining about basic security procedures: Speed of mail delivery, medical treatment, seek an order to be transferred to the least onerous condition at Gitmo, and asking the court to order Gitmo to allow him to keep any books and reading material sent to him, and report to the court on his opportunities for exercise, communication, recreation, and worship.

The Nazis couldn't go to a Federal court when we had them in our charge as prisoners of war. Never in the history of armed conflict has this been allowed.

Let us stand up for our troops in a reasonable way, protect them from abuses, and protect them from the court suits filed by the people they are fighting.

The PRESIDING OFFICER. The question is on agreeing to the amendment. The yeas and nays have been ordered. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Wyoming

(Mr. ENZI), the Senator from Nebraska (Mr. HAGEL), the Senator from Indiana (Mr. LUGAR), the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Wyoming (Mr. THOMAS).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "yea."

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 49, nays 42, as follows:

[Rollcall Vote No. 319 Leg.]

YEAS—49

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Ensign
Frist
Graham
Grassley
Gregg
Hatch
Hutchison
Inhofe
Isakson
Kyl
Landrieu
Lieberman
Lott
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Sessions
Shelby
Snowe
Stevens
Talent
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—42

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Jeffords
Johnson
Kennedy
Kerry
Kohl
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Smith
Specter
Stabenow
Sununu

NOT VOTING—9

Alexander
Corzine
Domenici
Enzi
Hagel
Inouye
Lugar
Santorum
Thomas

The amendment (No. 2516) was agreed to.

Mr. WARNER. I move to reconsider the vote.

Mr. CRAIG. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BINGAMAN. Mr. President, I do not intend to call for a vote on my amendment at this time. We can proceed to the next item on the unanimous consent request.

Mr. WARNER. For clarification, does the Senator formally withdraw his amendment?

Mr. BINGAMAN. That is correct. I will not offer the amendment at this time so we can proceed to the remainder of the votes that are scheduled.

Mr. KENNEDY. Parliamentary inquiry: The Senator is not withdrawing his amendment permanently. Are you withdrawing your amendment permanently?

Mr. BINGAMAN. Mr. President, as I understand the unanimous consent agreement we have entered into, it is still possible to file second-degree amendments and to propose second-degree amendments to the Graham amendment even after we take the series of votes that are scheduled tonight. And it is not my intent to go to a vote on my amendment at this time so we can proceed to the remainder of the votes.

Mr. KENNEDY. I thank the Senator.

Mr. WARNER. Regular order. Has the Chair ruled on his request to withdraw the amendment?

The PRESIDING OFFICER. The amendment was never offered.

Mr. WARNER. I thank the Chair for the clarification.

FOREIGN OPERATIONS, EXPORT FINANCING, AND RELATED PROGRAMS APPROPRIATIONS ACT, 2006—CONFERENCE REPORT—Continued

The PRESIDING OFFICER. We now move to the conference report to accompany the foreign operations bill, H.R. 3057.

Is there further debate? If not, the question is on agreeing to the conference report.

Mr. WARNER. I understand the leadership requests the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. LEAHY. Parliamentary inquiry: What is the order for debate entered into on this conference report?

The PRESIDING OFFICER. Two minutes of debate equally divided.

Mr. LEAHY. Mr. President, I see the senior Senator from Kentucky. I praise him and his staff.

Mr. McCONNELL. I yield back our time.

The PRESIDING OFFICER (Mr. CHAFEE). All time having been yielded back, the question is on agreeing to the conference report. The yeas and nays have been ordered.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senators were necessarily absent: the Senator from Tennessee (Mr. ALEXANDER), the Senator from New Mexico (Mr. DOMENICI), the Senator from Wyoming (Mr. ENZI), the Senator from Nebraska (Mr. HAGEL), the Senator from Indiana (Mr. LUGAR), the Senator from Pennsylvania (Mr. SANTORUM), and the Senator from Wyoming (Mr. THOMAS).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "yea."

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) and the Senator from Hawaii (Mr. INOUYE) are necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 91, nays 0, as follows:

[Rollcall Vote No. 320 Leg.]

YEAS—91

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Dorgan
Durbin
Ensign
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Harkin
Hatch
Hutchison
Inhofe
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—9

Alexander
Corzine
Domenici
Enzi
Hagel
Inouye
Lugar
Santorum
Thomas

The conference report was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. FRIST. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. FRIST. Mr. President, I ask unanimous consent that the only remaining first-degree amendments to the Defense bill, other than any further managers' amendments that are cleared, be an amendment offered by the majority leader or his designee on Iraq, and an amendment offered by the Democratic leader or his designee on Iraq, and that they be laid down this evening with no second degrees in order. I further ask unanimous consent that there be 3 second degrees in order to the Graham amendment, two offered by Senator LEVIN or his designee, and one offered by Senator GRAHAM. I further ask consent that all amendments be offered and debated on Monday, under the previous limitations, and that on Tuesday, at a time determined by the majority leader, after consultation with the Democratic leader, the

Senate proceed to a vote in relation to the majority amendment on Iraq, to be followed by a vote in relation to the Democratic amendment, to be followed by votes in relation to the second degree amendments in order offered, to be followed by a vote on the underlying Graham amendment, as amended; and that following these votes the bill be read a third time and the Senate proceed to a vote on passage of the bill, with no intervening action or debate; finally, that there be 30 minutes equally divided between the two managers prior to the start of the votes.

The PRESIDING OFFICER. Is there objection?

Mr. LEVIN. Reserving the right to object, and I surely will not, is it my understanding that we had agreed that there would be some brief time period on Tuesday, prior to the votes on the Iraq amendments. I believe it was like 20 minutes?

Mr. FRIST. Mr. President, just for the information of our colleagues, there will be 30 minutes equally divided between the two managers prior to the start of the votes.

Mr. LEVIN. With that clarification, I am very content.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia.

Mr. WARNER. I thank the distinguished majority leader and the Democratic leader and all others who made possible that we will now have a Defense authorization bill, a strong bill, a good bill. The UC just propounded by the distinguished majority leader requires that the Iraq amendments be laid down tonight.

AMENDMENT NO. 2518

On behalf of the distinguished majority leader and myself, I now send to the desk the Iraq amendment as required by the UC. My understanding is the amendment by the distinguished Senator from Michigan on Iraq is at the desk; is that correct?

Mr. LEVIN. I was going to send that up immediately after the Senator sends up his amendment.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Virginia [Mr. WARNER], for himself, and Mr. FRIST proposes an amendment numbered 2518.

The amendment is as follows:

(Purpose: To clarify and recommend changes to the policy of the United States on Iraq and to require reports on certain matters relating to Iraq)

At the end of title XII, add the following:

SEC. . UNITED STATES POLICY ON IRAQ.

(a) SHORT TITLE.—This section may be cited as the "United States Policy on Iraq Act".

(b) SENSE OF SENATE.—It is the sense of the Senate that, in order to succeed in Iraq—

(1) members of the United States Armed Forces who are serving or have served in Iraq and their families deserve the utmost respect and the heartfelt gratitude of the American people for their unwavering devotion to duty, service to the Nation, and selfless sacrifice under the most difficult circumstances;

(2) it is important to recognize that the Iraqi people have made enormous sacrifices and that the overwhelming majority of Iraqis want to live in peace and security;

(3) calendar year 2006 should be a period of significant transition to full Iraqi sovereignty, with Iraqi security forces taking the lead for the security of a free and sovereign Iraq, thereby creating the conditions for the phased redeployment of United States forces from Iraq;

(4) United States military forces should not stay in Iraq any longer than required and the people of Iraq should be so advised;

(5) the Administration should tell the leaders of all groups and political parties in Iraq that they need to make the compromises necessary to achieve the broad-based and sustainable political settlement that is essential for defeating the insurgency in Iraq, within the schedule they set for themselves; and

(6) the Administration needs to explain to Congress and the American people its strategy for the successful completion of the mission in Iraq.

(c) REPORTS TO CONGRESS ON UNITED STATES POLICY AND MILITARY OPERATIONS IN IRAQ.—Not later than 90 days after the date of the enactment of this Act, and every three months thereafter until all United States combat brigades have redeployed from Iraq, the President shall submit to Congress an unclassified report on United States policy and military operations in Iraq. Each report shall include to the extent practicable the following unclassified information:

(1) The current military mission and the diplomatic, political, economic, and military measures, if any, that are being or have been undertaken to successfully complete or support that mission, including:

(A) Efforts to convince Iraq's main communities to make the compromises necessary for a broad-based and sustainable political settlement.

(B) Engaging the international community and the region in the effort to stabilize Iraq and to forge a broad-based and sustainable political settlement.

(C) Strengthening the capacity of Iraq's government ministries.

(D) Accelerating the delivery of basic services.

(E) Securing the delivery of pledged economic assistance from the international community and additional pledges of assistance.

(F) Training Iraqi security forces and transferring security responsibilities to those forces and the government of Iraq.

(2) Whether the Iraqis have made the compromises necessary to achieve the broad-based and sustainable political settlement that is essential for defeating the insurgency in Iraq.

(3) Any specific conditions included in the April 2005 Multi-National Forces-Iraq campaign action plan (referred to in United States Government Accountability Office October 2005 report on Rebuilding Iraq: DOD Reports Should Link Economic, Governance, and Security Indicators to Conditions for Stabilizing Iraq), and any subsequent updates to that campaign plan, that must be met in order to provide for the transition of security responsibility to Iraqi security forces.

(4) To the extent that these conditions are not covered under paragraph (3), the following should also be addressed:

(A) The number of battalions of the Iraqi Armed Forces that must be able to operate independently or to take the lead in counterinsurgency operations and the defense of Iraq's territory.

(B) The number of Iraqi special police units that must be able to operate independently or to take the lead in maintaining law and order and fighting the insurgency.

(C) The number of regular police that must be trained and equipped to maintain law and order.

(D) The ability of Iraq's Federal ministries and provincial and local governments to independently sustain, direct, and coordinate Iraq's security forces.

(5) The criteria to be used to evaluate progress toward meeting such conditions.

(6) A schedule for meeting such conditions, an assessment of the extent to which such conditions have been met, information regarding variables that could alter that schedule, and the reasons for any subsequent changes to that schedule.

The PRESIDING OFFICER. The Senator from Michigan.

AMENDMENT NO. 2519

Mr. LEVIN. Mr. President, I send an amendment to the desk on behalf of myself, Senator BIDEN, Senator HARRY REID, and others.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Michigan [Mr. LEVIN], for himself, Mr. BIDEN, Mr. REID, Mr. DODD, Mr. KERRY, Mr. FEINGOLD, Mr. DURBIN, Mr. REED, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. OBAMA and Mrs. BOXER proposes an amendment numbered 2519.

The amendment is as follows:

(Purpose: To clarify and recommend changes to the policy of the United States on Iraq and to require reports on certain matters relating to Iraq)

At the end of title XII, add the following:

SEC. ___. UNITED STATES POLICY ON IRAQ.

(a) SHORT TITLE.—This section may be cited as the "United States Policy on Iraq Act".

(b) SENSE OF SENATE.—It is the sense of the Senate that, in order to succeed in Iraq—

(1) members of the United States Armed Forces who are serving or have served in Iraq and their families deserve the utmost respect and the heartfelt gratitude of the American people for their unwavering devotion to duty, service to the Nation, and selfless sacrifice under the most difficult circumstances;

(2) it is important to recognize that the Iraqi people have made enormous sacrifices and that the overwhelming majority of Iraqis want to live in peace and security;

(3) calendar year 2006 should be a period of significant transition to full Iraqi sovereignty, with Iraqi security forces taking the lead for the security of a free and sovereign Iraq, thereby creating the conditions for the phased redeployment of United States forces from Iraq;

(4) United States military forces should not stay in Iraq indefinitely and the people of Iraq should be so advised;

(5) the Administration should tell the leaders of all groups and political parties in Iraq that they need to make the compromises necessary to achieve the broad-based and sustainable political settlement that is essential for defeating the insurgency in Iraq, within the schedule they set for themselves; and

(6) the Administration needs to explain to Congress and the American people its strategy for the successful completion of the mission in Iraq.

(c) Reports to Congress on United States Policy and Military Operations in Iraq.—Not later than 30 days after the date of the enactment of this Act, and every three months thereafter until all United States combat brigades have redeployed from Iraq, the President shall submit to Congress an unclassified report on United States policy and military operations in Iraq. Each report shall include the following:

(1) The current military mission and the diplomatic, political, economic, and military measures, if any, that are being or have been undertaken to successfully complete or support that mission, including:

(A) Efforts to convince Iraq's main communities to make the compromises necessary for a broad-based and sustainable political settlement.

(B) Engaging the international community and the region in the effort to stabilize Iraq and to forge a broad-based and sustainable political settlement.

(C) Strengthening the capacity of Iraq's government ministries.

(D) Accelerating the delivery of basic services.

(E) Securing the delivery of pledged economic assistance from the international community and additional pledges of assistance.

(F) Training Iraqi security forces and transferring security responsibilities to those forces and the government of Iraq.

(2) Whether the Iraqis have made the compromises necessary to achieve the broad-based and sustainable political settlement that is essential for defeating the insurgency in Iraq.

(3) Any specific conditions included in the April 2005 Multi-National Forces-Iraq campaign action plan (referred to in United States Government Accountability Office October 2005 report on Rebuilding Iraq: DOD Reports Should Link Economic, Governance, and Security Indicators to Conditions for Stabilizing Iraq), and any subsequent updates to that campaign plan, that must be met in order to provide for the transition of security responsibility to Iraqi security forces.

(4) To the extent that these conditions are not covered under paragraph (3), the following should also be addressed:

(A) The number of battalions of the Iraqi Armed Forces that must be able to operate independently or to take the lead in counterinsurgency operations and the defense of Iraq's territory.

(B) The number of Iraqi special police units that must be able to operate independently or to take the lead in maintaining law and order and fighting the insurgency.

(C) The number of regular police that must be trained and equipped to maintain law and order.

(D) The ability of Iraq's Federal ministries and provincial and local governments to independently sustain, direct, and coordinate Iraq's security forces.

(5) The criteria to be used to evaluate progress toward meeting such conditions.

(6) A schedule for meeting such conditions, an assessment of the extent to which such conditions have been met, information regarding variables that could alter that schedule, and the reasons for any subsequent changes to that schedule.

(7) A campaign plan with estimated dates for the phased redeployment of the United States Armed Forces from Iraq as each condition is met, with the understanding that unexpected contingencies may arise.

Mr. WARNER. Mr. President, by way of preliminary debate on the Iraq amendment, I would simply advise my distinguished colleague from Michigan and other Senators that we were given, in a timely manner, the amendment that has just been sent to the desk by the Senator from Michigan, known as the leadership Iraq amendment. Senator FRIST, I, and others have simply taken that amendment and amended it in several ways, and that then becomes the Warner-Frist amendment.

So I just inform colleagues, basically, we are dealing with the basic amendment as provided by the Senator from Michigan, the distinguished Senator from Nevada, and others. We have modified our leadership amendment in a manner which we think is consistent with the strong needs of our country to achieve the objectives that we have in Iraq.

Having said that, I think we have pretty well concluded business for the day on this bill.

Mr. LEVIN. If the Senator will yield, Mr. President, I agree with the description which my dear friend from Virginia has provided, that I did provide him with our amendment. Even though our amendment has a later number, it was the amendment which was first provided. The Senator from Virginia, after consultation with his leader and others, has made some modifications in our amendment and that amendment, under the unanimous consent agreement which will be voted on first, is the amendment basically that we drafted over here with the modifications made by the Senator from Virginia and others. So that is the chronology, that is the history, and that is the order we will be voting on and will be debating these on Monday under the unanimous consent agreement.

There are some differences. I would not describe them as major differences but, nonetheless, there are some differences that now exist between the two versions, and we can debate which is the preferable version. But in any event, under either version, it strikes me that there is clearly a call here for some changes in course in policy in Iraq. But that again is something we can debate further on Monday.

Mr. WARNER. Mr. President, I thank my colleague. I do believe it is very wise for the Senate to have this debate. We are prepared for that debate.

I would simply advise colleagues—and the leadership later will in wrap-up give more specifics—my understanding is there will be a vote at 5:30, preceded by 1 hour of debate on that vote, which is on one of the appropriations bills. That is my understanding. Can the Presiding Officer advise me as to what the vote is that is scheduled on Monday at 5:30?

I am advised it is the Energy and Water Conference Report. Am I reasonably correct in preliminarily informing the Senate that vote will take place at about 5:30, and the 1 hour prior to it will be reserved for debate on that? I interpret that to mean that from the time the Senate comes in on Monday up until 4:30, that would be available for the important debate on the respective Iraqi amendments.

Mr. LEVIN. If the Senator will yield, also I believe the debate on the second-degree amendments to the Graham amendment would occur on Monday since the only time on Tuesday prior to votes on the amendments would be 30 minutes equally divided and that would be needed, perhaps, for both second degrees to Graham and the Iraqi amendments, all wrapped into that 30 minutes.

There may be and I think there probably would be debate on Monday on the second-degree amendments, referred to in this unanimous consent agreement, to the Graham amendment.

Mr. WARNER. I wonder if the distinguished Senator from Michigan and I can visit here for 1 minute.

The PRESIDING OFFICER (Mr. ALLEN). The Senator from Virginia.

Mr. WARNER. The Senator from Michigan and I desire to accommodate colleagues. Again, the hour from 4:30 to 5:30 is on the appropriations bill. The time from whenever the Senate convenes on Monday up until 4:30 is subject to debate on the Iraqi amendments; indeed, if Senators want to comment on the bill and such amendments as may be filed in connection with the Graham issues.

I think we would urge our colleagues to try to contact our respective offices as to their needs for time to vote on these matters so the Senator from Michigan and I can try to accommodate them. But I also wish to remind colleagues that presumably the vote on the appropriations bill starts at 5:30, and by all measures should be completed sometime after 6. Then, subject to leadership, I would think there would be time that evening, Monday evening, to continue votes for those Senators whose travel plans otherwise do not enable them to get here before 4:30. So the same framework for debate that can take place prior to 4:30 can take place after 6:30.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, if the Senator will yield, I agree with his comments and I reinforce the importance of our colleagues notifying our offices and our cloakrooms if they desire to have time to speak on Monday afternoon so we can schedule that time. It would be very helpful for us to be so informed as early as possible on Monday. I want to reiterate there are two groups of amendments we are talking about here that will need to be debated

Monday. One is the Iraqi amendment. The other one is the second-degree amendments to the Graham amendment. We are going to have to fit all that in on Monday afternoon, and possibly, as the Senator from Virginia mentions, after the vote on Monday. So it is important that our colleagues let us, our offices and our cloakrooms, know on Monday morning if they want time on either or both of those subjects. We will try to work the best we can and protect everybody's opportunity to speak.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, may I pause momentarily.

Mr. President, I think our respective staffs can incorporate in the wrap-up document such that the Senator from Michigan and I will share equally the time before 4:30, after leadership, and in that way be able to work more effectively with our colleagues.

Mr. LEVIN. That is fine.

Mr. WARNER. Mr. President, I again thank all Senators. I thank our staff. I thank the professional staff of the Senate, who in many ways have made possible the completion of this bill. We are owing a debt of gratitude to many to get where we are.

Mr. LEVIN. We are almost there. We are going to be there on Monday. We thought we would be there tonight, but we will on Monday.

Mr. WARNER. In a way we are. We have charted the course.

Mr. LEVIN. Fixed stars.

AMENDMENT NO. 2485, AS MODIFIED

Mr. WARNER. Mr. President, I say to my colleague, we have some cleared amendments we can do.

Mr. President, I ask unanimous consent the previously agreed-to amendment 2485 be modified with a technical correction. I send that modification to the desk. I understand it has been cleared on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2485), as modified, is as follows:

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. ESTABLISHMENT OF NATIONAL FOREIGN LANGUAGE COORDINATION COUNCIL.

(a) Establishment.—There is established the National Foreign Language Coordination Council (in this section referred to as the "Council"), which shall be an independent establishment as defined under section 104 of title 5, United States Code.

(b) Membership.—The Council shall consist of the following members or their designees:

(1) The National Language Director, who shall serve as the chairperson of the Council.

(2) The Secretary of Education.

(3) The Secretary of Defense.

(4) The Secretary of State.

(5) The Secretary of Homeland Security.

(6) The Attorney General.

(7) The Director of National Intelligence.

(8) The Secretary of Labor.

(9) The Director of the Office of Personnel Management.

(10) The Director of the Office of Management and Budget.

(11) The Secretary of Commerce.

(12) The Secretary of Health and Human Services.

(13) The Secretary of the Treasury.

(14) The Secretary of Housing and Urban Development.

(15) The Secretary of Agriculture.

(16) The Chairman and President of the Export-Import Bank of the United States.

(17) The heads of such other Federal agencies as the Council considers appropriate.

(c) Responsibilities.—

(1) In general.—The Council shall be charged with—

(A) developing a national foreign language strategy, within 18 months of the date of enactment of this section, in consultation with—

(i) State and local government agencies;

(ii) academic sector institutions;

(iii) foreign language related interest groups;

(iv) business associations;

(v) industry;

(vi) heritage associations; and

(vii) other relevant stakeholders;

(B) conducting a survey of the status of Federal agency foreign language and area expertise and agency needs for such expertise; and

(C) monitoring the implementation of such strategy through—

(i) application of current and recently enacted laws; and

(ii) the promulgation and enforcement of rules and regulations.

(2) Strategy content.—The strategy developed under paragraph (1) shall include—

(A) identification of crucial priorities across all sectors;

(B) identification and evaluation of Federal foreign language programs and activities, including—

(i) any duplicative or overlapping programs that may impede efficiency;

(ii) recommendations on coordination;

(iii) program enhancements; and

(iv) allocation of resources so as to maximize use of resources;

(C) needed national policies and corresponding legislative and regulatory actions in support of, and allocation of designated resources to, promising programs and initiatives at all levels (Federal, State, and local), especially in the less commonly taught languages that are seen as critical for national security and global competitiveness during the next 20 to 50 years;

(D) effective ways to increase public awareness of the need for foreign language skills and career paths in all sectors that can employ those skills, with the objective of increasing support for foreign language study among—

(i) Federal, State, and local leaders;

(ii) students;

(iii) parents;

(iv) elementary, secondary, and postsecondary educational institutions; and

(v) employers;

(E) recommendations for incentives for related educational programs, including foreign language teacher training;

(F) coordination of cross-sector efforts, including public-private partnerships;

(G) coordination initiatives to develop a strategic posture for language research and recommendations for funding for applied foreign language research into issues of national concern;

(H) recommendations for assistance for—

(i) the development of foreign language achievement standards; and

(ii) corresponding assessments for the elementary, secondary, and postsecondary education levels, including the National Assessment of Educational Progress in foreign languages;

(I) recommendations for development of—

(i) language skill-level certification standards;

(ii) frameworks for pre-service and professional development study for those who teach foreign language;

(iii) suggested graduation criteria for foreign language studies and appropriate non-language studies, such as—

(I) international business;

(II) national security;

(III) public administration;

(IV) health care;

(V) engineering;

(VI) law;

(VII) journalism; and

(VIII) sciences;

(J) identification of and means for replicating best practices at all levels and in all sectors, including best practices from the international community; and

(K) recommendations for overcoming barriers in foreign language proficiency.

(d) Submission of Strategy to President and Congress.—Not later than 18 months after the date of enactment of this section, the Council shall prepare and transmit to the President and the relevant committees of Congress the strategy required under subsection (c).

(e) Meetings.—The Council may hold such meetings, and sit and act at such times and places, as the Council considers appropriate, but shall meet in formal session at least 2 times a year. State and local government agencies and other organizations (such as academic sector institutions, foreign language-related interest groups, business associations, industry, and heritage community organizations) shall be invited, as appropriate, to public meetings of the Council at least once a year.

(f) Staff.—

(1) In general.—The Director may—

(A) appoint, without regard to the provisions of title 5, United States Code, governing the competitive service, such personnel as the Director considers necessary; and

(B) compensate such personnel without regard to the provisions of chapter 51 and subchapter III of chapter 53 of that title.

(2) Detail of government employees.—Upon request of the Council, any Federal Government employee may be detailed to the Council without reimbursement, and such detail shall be without interruption or loss of civil service status or privilege

(3) Experts and consultants.—With the approval of the Council, the Director may procure temporary and intermittent services under section 3109(b) of title 5, United States Code.

(4) Travel expenses.—Council members and staff shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Council.

(5) Security clearance.—

(A) In general.—Subject to subparagraph (B), the appropriate Federal agencies or departments shall cooperate with the Council in expeditiously providing to the Council members and staff appropriate security clearances to the extent possible pursuant to existing procedures and requirements.

(B) Exception.—No person shall be provided with access to classified information under this section without the appropriate required security clearance access.

(6) Compensation.—The rate of pay for any employee of the Council (including the Director) may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

(g) Powers.—

(1) Delegation.—Any member or employee of the Council may, if authorized by the Council, take any action that the Council is authorized to take in this section.

(2) Information.—

(A) Council authority to secure.—The Council may secure directly from any Federal agency such information, consistent with Federal privacy laws, including The Family Educational Rights and Privacy Act (20 U.S.C. 1232g) and Department of Education's General Education Provisions Act (20 U.S.C. 1232(h)), the Council considers necessary to carry out its responsibilities.

(B) Requirement to furnish requested information.—Upon request of the Director, the head of such agency shall furnish such information to the Council.

(3) Donations.—The Council may accept, use, and dispose of gifts or donations of services or property.

(4) Mail.—The Council may use the United States mail in the same manner and under the same conditions as other Federal agencies.

(h) Conferences, Newsletter, and Website.—In carrying out this section, the Council—

(1) may arrange Federal, regional, State, and local conferences for the purpose of developing and coordinating effective programs and activities to improve foreign language education;

(2) may publish a newsletter concerning Federal, State, and local programs that are effectively meeting the foreign language needs of the nation; and

(3) shall create and maintain a website containing information on the Council and its activities, best practices on language education, and other relevant information.

(i) Reports.—Not later than 90 days after the date of enactment of this section, and annually thereafter, the Council shall prepare and transmit to the President and the relevant committees of Congress a report that describes—

(1) the activities of the Council;

(2) the efforts of the Council to improve foreign language education and training; and

(3) impediments to the use of a National Foreign Language program, including any statutory and regulatory restrictions.

(j) Establishment of a National Language Director.—

(1) In general.—There is established a National Language Director who shall be appointed by the President. The National Language Director shall be a nationally recognized individual with credentials and abilities across the sectors to be involved with creating and implementing long-term solutions to achieving national foreign language and cultural competency.

(2) Responsibilities.—The National Language Director shall—

(A) develop and monitor the implementation of a national foreign language strategy across all sectors;

(B) establish formal relationships among the major stakeholders in meeting the needs of the Nation for improved capabilities in foreign languages and cultural understanding, including Federal, State, and local government agencies, academia, industry, labor, and heritage communities; and

(C) coordinate and lead a public information campaign that raises awareness of public and private sector careers requiring foreign language skills and cultural understanding, with the objective of increasing interest in and support for the study of foreign languages among national leaders, the business community, local officials, parents, and individuals.

(k) Encouragement of State Involvement.—

(1) State contact persons.—The Council shall consult with each State to provide for the designation by each State of an individual to serve as a State contact person for the purpose of receiving and disseminating information and communications received from the Council.

(2) State interagency councils and lead agencies.—Each State is encouraged to establish a State interagency council on foreign language coordination or designate a lead agency for the State for the purpose of assuming primary responsibility for coordinating and interacting with the Council and State and local government agencies as necessary.

(l) Authorization of Appropriations.—There are authorized to be appropriated such sums as necessary to carry out this section.

AMENDMENT NO. 1550, AS FURTHER MODIFIED

Mr. WARNER. Mr. President, I ask the previously agreed-to amendment 1550 be modified and I send the modification to the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 1550) as further modified, is as follows:

At the appropriate place, insert the following:

SEC. . PILOT PROJECT FOR CIVILIAN LINGUIST RESERVE CORPS.

(a) Establishment.—The Secretary of Defense (referred to in this section as the "Secretary"), through the National Security Education Program, shall conduct a 3-year pilot project to establish the Civilian Linguist Reserve Corps, which shall be composed of United States citizens with advanced levels of proficiency in foreign languages who would be available, upon request from the President, to perform any services or duties with respect to such foreign languages in the Federal Government as the President may require.

(b) Implementation.—In establishing the Civilian Linguist Reserve Corps, the Secretary, after reviewing the findings and recommendations contained in the report required under section 325 of the Intelligence Authorization Act for Fiscal Year 2003 (Public Law 107-306; 116 Stat. 2393), shall—

(1) identify several foreign languages that are critical for the national security of the United States and the relative priority of each such language;

(2) identify United States citizens with advanced levels of proficiency in those foreign languages who would be available to perform the services and duties referred to in subsection (a);

(3) cooperate with other Federal agencies with national security responsibilities to implement a procedure for calling for the performance of the services and duties referred to in subsection (a); and

(4) implement a call for the performance of such services and duties.

(c) Contract Authority.—In establishing the Civilian Linguist Reserve Corps, the Secretary may enter into contracts with appropriate agencies or entities.

(d) Feasibility Study.—During the course of the pilot project, the Secretary shall conduct a study of the best practices in implementing the Civilian Linguist Reserve Corps, including—

(1) administrative structure;

(2) languages to be offered;

(3) number of language specialists needed for each language;

(4) Federal agencies who may need language services;

(5) compensation and other operating costs;

(6) certification standards and procedures;

(7) security clearances;

(8) skill maintenance and training; and

(9) the use of private contractors to supply language specialists.

(e) Reports.—

(1) Evaluation reports.—

(A) In general.—Not later than 1 year after the date of enactment of this Act, and annually thereafter until the expiration of the 3-year period beginning on such date of enactment, the Secretary shall submit to Congress an evaluation report on the pilot project conducted under this section.

(B) Contents.—Each report required under subparagraph (A) shall contain information on the operation of the pilot project, the success of the pilot project in carrying out the objectives of the establishment of a Civilian Linguist Reserve Corps, and recommendations for the continuation or expansion of the pilot project.

(2) Final report.—Not later than 6 months after the completion of the pilot project, the Secretary shall submit to Congress a final report summarizing the lessons learned, best practices, and recommendations for full implementation of the Civilian Linguist Reserve Corps.

(f) Authorization of Appropriations.—There are authorized to be appropriated $3,100,000 for fiscal year 2006 to carry out the pilot project under this section.

(g) Offset—The amounts authorized to be appropriated by section 301(4) are hereby reduced by $3,100,000 from operation and maintenance, Air Force.

Mr. LEVIN. I understand this also is technical?

Mr. WARNER. That is correct. It was cleared on both sides. Has the vote been taken?

The PRESIDING OFFICER. Consent has been granted.

Mr. DURBIN. Mr. President, noting that tomorrow is Veterans Day, I rise to discuss an amendment which will make it clear that returning combat veterans of the National Guard and Reserve will receive the same consideration as other combat veterans when applying for a Federal job.

I am offering this bipartisan amendment along with Senators Vitter, Chambliss, Wyden, Landrieu, Schumer, Clinton and Dayton.

Since the time of the Civil War, veterans of the Armed Services have been given some degree of preference in the consideration process for employment with the Federal Government. This usually takes the form of an additional 5 points added to the score received by a veteran on the test they must take to qualify for the job. If the veteran is disabled, he or she receives an additional

5 points for a total of 10 added points. This program is known as "Veterans Preference."

The way the law reads now, veterans applying for a Federal job can receive preferential consideration if they served on active duty during a war in a campaign or expedition for which a campaign badge has been authorized and have been separated from the Armed Forces under honorable conditions.

Unfortunately, the term "separated" is not defined in the Veterans Preference law and this lack of clarity has had the practical effect of causing some veterans, who saw combat as mobilized members of the Guard or Reserve, to be denied the veterans preference they had earned.

That is exactly what happened to an Army reservist from my own State of Illinois.

Earlier this year, I was contacted by a young woman serving in the Army Reserve as a military police officer. Her name is Kylene Conlon. Since 9/11, Kylene has been mobilized twice. The first time she spent nearly a year in Guantanamo Bay, Cuba. The second time she spent a full year in Iraq.

Upon her return she learned that the United States Marshals Service was hiring. When she requested an application, she was informed that the hiring program was open only to those eligible for Veterans Preference. She provided copies of her two different Department of Defense forms verifying her overseas service over two major mobilizations, yet she was told that that was not good enough for veterans preference. She was told that she had to have a discharge. But Kylene did not have a discharge certificate, which she would receive after ending military service because she had not quit the Army Reserve. She had come home from Iraq and gone back to attending weekend drills and annual training periods. She had two Department of Defense forms 214 which stated that her type of separation was a "release from active duty." To be given a discharge certificate, Kylene would have to quit the Army Reserve.

She was stunned. She could not believe that the Federal Government would require her to quit the Army Reserve before being able to receive the veterans preference she had earned. So, she came to my office for help.

I sent a letter to the Marshals Service in the Department of Justice to ask why Kylene Conlon was being denied veterans preference.

They wrote back. Here is what their letter said:

> The Office of Personnel Management (OPM) administers the veterans preference program for the Federal Government in accordance with statute and regulation. Unfortunately, service as a member of the Army Reserve does not qualify for veterans preference. The OPM VetGuide states "to receive preference, a veteran must have been separated from active duty in the Armed Forces with an honorable discharge." Ms. Conlon has not been discharged from the Army.

Every word of that letter was 100 percent true. OPM administers the program according to the law. OPM's guide requires a discharge. Reservists completing a mobilization and returning to part-time status don't receive discharges. Therefore, reservists were being deemed ineligible for Veterans Preference.

I knew right then that the law had to be changed.

My staff checked into this and found that it was that vague word "separated" in the current Veterans Preference law that was the problem. Somebody could read that word and assume it means only "discharged" and so they had.

That was not Congress's intent. Elsewhere in Federal law, rather than the term "separated," one finds the phrase "discharged or released." That's a better phrase. It covers both those who end full-time, active duty service completely with an honorable discharge as well as reservists who are released after a tour of active duty and go back to reserve duty. Troops leaving the military altogether are given a discharge. Reservists who are simply ending a period of active duty and reverting to their previous part-time reservist status are given a release from active duty.

The measure which I introduce today clarifies title 5 by replacing the vague term "separated" with the clearer and more precise phrase "discharged or released." While this may seem a small change in wording, it will have an important effect. It will make it absolutely clear that a member of the National Guard or Reserve who serves honorably in a war, campaign or expedition for which a campaign medal has been authorized can receive full access to veterans preference in Federal hiring. We want these honorable veterans to receive this preference without any pressure or incentive whatsoever to terminate their valuable service in the reserve components of our Armed Forces.

This change in the law is merely a clarification to avoid future errors of interpretation as have occurred in the past. It will have no effect on previous grants of veterans preference and it will in no way limit or reduce future considerations for veterans preference eligibility.

The measure is endorsed by the Reserve Officers Association. I am very grateful to the managers of the Defense authorization bill for agreeing to accept this measure as an amendment. It is important and timely legislation as we approach Veterans Day and honor all those who serve our Nation in uniform.

Mr. KENNEDY. I support the extension of the Defense Department's program ensuring that its Federal contracting process in no way supports or subsidizes the discrimination that has long been a problem in the contracting business. The extension of the program through September 2009 is needed to help achieve that goal.

The Senate Armed Services Committee has learned a great deal about the effects of discrimination in denying contracting opportunities for minority-owned businesses. The ugly reality is that contracting has long been dominated by "old-boy" networks that make it very difficult for African Americans, Latinos, Asians, and Native Americans to participate fairly in these opportunities, or even obtain information about them.

Years of congressional hearings have shown that minorities historically have been excluded from both public and private construction contracts in general, and from Federal defense contracts in particular. Since its adoption, the Defense Department program, called the 1207 Program, has helped level the playing field for minority contractors. But there is still more to do, as the additional information we have received since the program was last reauthorized makes clear.

Ever since the program was first adopted in 1986, racial and ethnic discrimination—both overt and subtle—have continued to erect significant barriers to minority participation in Federal contracting. In some cases, overt discrimination has prevented minority-owned businesses from obtaining needed loans and bonds. Prime contractors, unions, and suppliers of goods and materials have preferred to do business with White contractors rather than with minority firms.

We have seen repeated reports of bid-shopping and of minority businesses being denied contracts despite submitting the lowest bid.

The Department's decision to award a growing number of defense contracts noncompetitively has had the unfortunate effect of excluding minority-owned businesses from a significant number of contracting opportunities. No-bid contracts also hurt White-owned businesses, but they disadvantage minority-owned firms in particular.

These problems affect a wide variety of areas in which the Department offers contracts, and the problems are detailed in many recent disparity studies, including:

> City of Dallas Availability and Disparity Study, Mason Tillman Associates, Ltd. (2002); City of Cincinnati Disparity Study, Griffin & Strong, P.C. (2002); Ohio Multi-Jurisdictional Disparity Studies, Mason Tillman Associates, Ltd. (2003); Procurement Disparity Study of the Commonwealth of Virginia, MGT of America, Inc. (2004); Alameda County Availability Study, Mason Tillman Associates (2004); City of New York Disparity Study, Mason Tillman Associates, Ltd. (2005).

We are also mindful that the data contained in the Department of Commerce benchmark study supports the need for efforts to improve contracting opportunities for minority-owned businesses.

The 1207 Program helps to correct these problems of discrimination without imposing an undue burden on White-owned businesses. Small businesses owned by White contractors are eligible to receive the benefits of the program if they are socially or economically disadvantaged.

All of us benefit when recipients of Federal opportunities reflect America's diversity, and I am proud to support the reauthorization of the 1207 Program.

Mr. ROBERTS. Mr. President, I thank my friend and colleague Chairman CRAIG, for offering this amendment to correct current law, which permits capital offenders to be buried in a national cemetery with full military funeral honors. I am pleased to be an original cosponsor of this amendment, which would deny capital offenders a hero's funeral.

I believe that the congressional intent was crystal clear on this issue when Congress passed two laws denying capital offenders eligibility for burial in a national cemetery and certain funeral benefits in 1997 and 2002. However, a loophole remains and is vulnerable to misapplication. It is unfortunate that it took the mistaken internment of double murderer Russell Wayne Wagner in Arlington National Cemetery earlier this summer to shed light on this egregious loophole.

I commend Chairman CRAIG's immediate response to this oversight by quickly convening a hearing to study how big this loophole really is. According to a study of the law conducted by the Congressional Research Service, CRS, because Wagner's double life sentences carried the possibility of parole, he was technically eligible for burial in a national cemetery. Upon further study, it was determined that this same parole loophole also would apply to Dennis Rader, the serial killer who terrorized Kansans for over three decades.

In Kansas, we take honoring those who made the ultimate sacrifice very seriously. Entire towns make their way in the funeral procession of the hometown hero to pay their respects and say a quiet prayer as he or she is laid to rest. This respect was recently demonstrated in South Haven, KS, as the community gathered en mass to honor Sgt. Evan Parker, who died of wounds from a bomb attack during Operation Iraqi Freedom. Neighbors and fellow members of the community poured out their front doors to silently watch the funeral procession and 150 members of the American Legion convened to erect a barrier to block protesters from interrupting the mourners. This is what small town America does to honor those who gave all.

It is unconscionable that Dennis Rader, BTK for short, as he referred to himself, who brutally bound, tortured, and killed 10 innocent victims would be granted a hero's funeral. A criminal who is facing 10 life sentences and no less than 175 years of prison could be honored among our Nation's heros under the law as it stands today because his sentence included the phrase "with parole." The idea that the brave men and women of our Nation's military forces like SGT Evan Parker could be memorialized and laid to rest in the same sacred ground as the BTK Killer is outrageous and simply wrong.

If current law cannot prevent this brutal murderer from internment in a national cemetery or with military funeral honors, then the law needs to be fixed. This amendment closes the parole loophole by tying eligibility for burial in a national cemetery and military funeral honors to the underlying action of the capital offender rather than to the sentence, which can vary from State to State.

I understand that Chairman WARNER and Ranking Member LEVIN are including this amendment as a part of a broader manager's amendment. I appreciate the inclusion of this important legislation that ultimately protects the honor and memory of our Nation's heros and the hallowed ground in which they rest.

Mrs. FEINSTEIN. Mr. President, I rise today to voice my concern over apparent discrepancies between the administration's rhetoric with respect to our treatment of detainees, and the clear reality of the situation.

We all agree, I hope, that individuals in the custody of the United States must be treated humanely. We certainly agree that under no circumstances must American military and government personnel engage in torture. That is why we ratified the United Nations Convention Against Torture in 1994.

And that is why Senator MCCAIN's provision prohibiting the use of "cruel, inhuman, or degrading treatment", and adopting the Army Field Manual as the standard for interrogation procedures passed the Senate as part of the Defense appropriations bill by a 90 to 9 vote on October 5. It was also unanimously adopted to be included in this Defense authorization bill.

Senator MCCAIN's amendment simply makes it clear that the Convention Against Torture applies without geographical limitation.

It states that conduct that is unacceptable on U.S. soil is also unacceptable in Guantanamo Bay, in Abu Ghraib, or anywhere else the United States government may be holding detainees.

President Bush has repeatedly stated that captives are to be treated humanely, and just this week he reiterated his policy that:

> In this effort, any activity we conduct, is within the law. We don't torture.

And yet, the administration, led by Vice President CHENEY, has been making a great effort to lobby Members of Congress to alter the McCain provision by exempting the CIA and members of the intelligence community from its prohibition on torture.

According to Human Rights Watch, the language he circulated on October 20th proposes that:

"Subsection (a)"—that is, the prohibition against cruel, inhuman or degrading treatment or punishment —"shall not apply with respect to clandestine counterterrorism operations conducted abroad, with respect to terrorists who are not citizens of the United States, that are carried out by and element of the United States Government other than the Department of Defense and are consistent with the Constitution and laws of the United States and treaties to which the United States is a party, if the President determines that such operations are vital to the protection of the United States or its citizens from terrorist attack."

Why? The President has stated that it is not his policy to torture. We all know the catastrophic effects that even the appearance of impropriety in this area has on the image of the United States abroad. We know the irreparable harm that reports of abuse and secret detention centers do to our war effort. And, we know that torture does not produce good and effective intelligence. So why fuel that fire by enacting a specific exemption to our long-standing policy of humane treatment?

Earlier this month, the Washington Post reported that the CIA has been "hiding and interrogating" its most valuable prisoners at so-called "black sites" at several locations in Eastern Europe and Asia.

If this is true, it would allow the intelligence community to engage in "unconventional" interrogation procedures at secret locations outside of Congressional oversight or military directives on the treatment of prisoners.

Earlier this week, I wrote a letter to the chairman and vice chairman of the Senate Intelligence Committee requesting that the committee conduct hearings into these allegations that the CIA is holding prisoners in "black sites" around the world.

The Senate Intelligence Committee has jurisdiction over the entire intelligence community. And therefore, it is critical that it have access to all information and material related to these disturbing allegations.

Moreover, I believe that the committee must do a better job with its oversight responsibilities, particularly as they relate to detention, interrogation, and rendition activities by our intelligence agencies.

The fact is that our policy to date with respect to detainees has been confused, and that that confusion has led to disturbing allegations of abuse and even torture.

The Senate has already acted to clarify the rules by passing the McCain amendment. I have heard it argued that this will somehow "tie the hands" of the President in his prosecution of the war, but I strongly disagree.

In the first place, the President himself insists that detainees should be treated humanely. We are simply acting to codify his policy.

Secondly, the Constitution is perfectly clear with regard to the authority for regulating the United States military: that authority lies with the Congress.

Some claim that the Founding Fathers intended the executive branch to have a free hand in prosecuting this Nation's wars.

But their consideration and deliberation on this issue resulted in Article VII, Section 8 of the Constitution, which states that Congress shall have the power to "make Rules concerning Captures on Land and Water," and also "To make Rules for the Government and Regulation of the land and naval Forces."

It is clear that this administration has been inconsistent and mistake-prone in regulating the Armed Forces with respect to the treatment of detainees.

There is the case of Captain Ian Fishback of the 82nd Airborne Division, who attempted for 17 months to determine what regulations were in force.

He determined that, years after President Bush had declared that all prisoners, regardless of their Geneva status, were to be treated "humanely," the definition of what constituted humane treatment was still being left to individual commanders.

He reports:

> We've got people with different views of what "humane" means and there's no Army statement that says "this is the standard for humane treatment for prisoners to Army officers." Army officers are left to come up with their own definition of humane treatment.

The results of this lapse are well documented. Even the Pentagon's own reports are highly critical:

The Taguba Report found "numerous incidents of sadistic, blatant, and wanton criminal abuses," which the report described as "systemic."

Along the same lines, the Mikolashek Report examined 94 cases of confirmed abuse in Iraq and Afghanistan, and found that "ambiguous guidance from command on the treatment of detainees" was a contributing factor.

Further, the Fay-Jones Report implicated 35 soldiers, including the top two military intelligence officers at Abu Ghraib prison, in 44 cases of abuse.

So the problem goes far beyond a "few, isolated bad apples." Decent, hardworking American soldiers simply do not know how they may or may not treat their captives.

I note that on Tuesday, the Department of Defense released a new directive banning the use of unmuzzled dogs in interrogations, or to harass or intimidate prisoners. I welcome this directive, but it is too little, too late. The ban comes after dozens of confirmed reports of soldiers using dogs to intimidate inmates of Abu Ghraib, and it is limited in scope and details.

The McCain amendment would give a clear baseline standard of human rights, which all Americans will always recognize—the rights which our Founders believed were inalienable rights; the rights they chose to enshrine in our Constitution.

It is not for the Vice President, or anyone else for that matter, to circumvent those rights in the name of fighting terrorism.

This week the White House Press Secretary, Scott McClellan, tried to justify the exemption, saying, "You're talking about people like Khalid Shaykh Muhammad; people like Abu Zubaydah."

I agree that these are terrible men, but we must also consider men like Mr. Dilawar, an innocent taxi driver who was beaten to death in Afghanistan.

We are talking about thousands of innocent Iraqis rounded up in sweeping neighborhood raids and systematically abused.

And we are talking about their friends and families, and an entire generation of young people around the world who are watching and judging the actions of the United States.

If we fail, in their eyes, to live up to our ideals, if the promise of America is reduced to self-serving hypocrisy, then I fear we will breed more terrorists than we can ever stop.

In fact, the scale of the problem is such that the narrowly-focused Pentagon reports do not provide us an adequate picture.

In conclusion, let me state this—it is essential that we answer these three fundamental questions:

Is our current policy legal?

Is it moral?

And does it work?

From my work on this issue in the Judiciary Committee and Intelligence Committee, I fear the answer to all three is "No."

I believe that Congress did not intend to permit torture abroad when it ratified the Convention Against Torture. The overwhelming support enjoyed by Mr. MCCAIN's amendment is evidence of that.

Furthermore, I do not believe that violating fundamental human rights is ever justified.

There are some absolutes in this world, and some activities that the United States simply cannot condone.

I am convinced that our detainee policy has been a costly failure. Far from making us safer, the aggressive interrogation of terror suspects has served to breed more terrorists, and to make us more vulnerable to attack.

Should Congress refuse to statutorily codify the legal and humane treatment of prisoners, we risk endangering those Americans who become prisoners themselves.

We must set an honorable example for the entire international community; to do otherwise would be a betrayal of the values we hold dear.

American values, such as the humane treatment of detainees, are truly at the very core of this debate.

We must not fail—America's future will rest on it.

AMENDMENT NO. 2519

Mr. President, I rise today in support of an amendment introduced by Senator LEVIN and several colleagues that formulates our military strategy and foreign policy in Iraq.

We need clear, defined benchmarks that lay out how and when we can begin a structured downsizing of the 160,000 Americans currently serving in Iraq.

Increasingly, Americans are demanding answers about how we intend to transition sovereign control of Iraq to the newly elected government.

If we do not heed the call of the American people, popular support for this war will continue to wane.

We must have a well-reasoned approach that will allow our Armed Forces to remove themselves from the constant crossfire between Sunnis and Shia.

As we look forward, I believe the parliamentary election on Dec. 15 represents one such opportunity.

For the first time in history, the Iraqi people will have democratically elected their permanent leaders to serve full 4-year terms. Their constitution, problematic as it may be, has been adopted, and it is time for Iraqis to take greater control.

A growing perception is that U.S. military forces buttress the Shiites. As a result, we pay a high cost, in lives lost and casualties.

We need to change course to remove ourselves from being the literal and figurative target of Sunni enmity.

Frankly, this battle cannot be won militarily by American forces.

A structured downsizing of our presence in Iraq will not only take our service men and women out of harm's way, but it will also force Iraq's religious and political leaders to confront the insurgency and find a balance of power acceptable to Shiites, Sunnis, and Kurds.

The first and primary impetus for transitioning our forces will be a better trained Iraqi Security Force.

Ultimately, the Iraqis will have to defend themselves and confront the insurgency, both militarily and politically. The question is when.

Training of the Iraqi Security Forces has been too slow, and the administration has been less than forthright about the capabilities of the Iraqi troops on the ground.

In the interim period ahead, U.S. forces may continue to have a significant role to play, especially in the areas of training and rebuilding infrastructure. But this requires a change of focus for American troops from leading combat missions to buttressing and backing Iraqis as they seek to quell the insurgency and growing violence.

For starters, we need to increase the number of U.S. military personnel providing initial training to the Iraqi forces from the current 1,200. This number is frankly inadequate, and raises questions about our military's priorities in Iraq.

This does not necessarily mean that all Iraqi forces will be trained to the level of U.S. forces—that is unlikely—but the real benchmark is for Iraqi units to have a basic level of training and equipment to safeguard their towns, cities and communities.

The Pentagon recently estimated that an additional 125,000 Iraqi security personnel will be needed to bring total endstrength to 325,000.

If it is going to take a force of 325,000 Iraqis, then it is incumbent upon the U.S. military to prioritize this training and put enhanced efforts into recruiting qualified individuals to serve.

It is only fair to our service men and women, and to their families, if we put every effort into properly training Iraqis so that American troops can come home as soon as possible.

America needs to change course, reassess its mission in light of this escalating insurgency, place more responsibility on Iraq for a negotiated settlement, and begin a structured drawdown of American forces.

This structured drawdown must come in the form of a consistent, planned strategy. This amendment uses the word "redeployment," which I frankly believe is confusing.

Our military leaders must establish a framework for a careful, cautious removal of our troops from Iraq, in conjunction with the rising number of trained Iraqis.

This might mean the removal of 10,000 American troops for every 20,000 trained Iraqis, or a similar but concrete formula.

Certainly, we should prioritize what troops are most needed in the training process and begin to drawdown our endstrength in other areas.

This amendment rightly requires the President to report regularly on American policy in regards to Iraq and our military operations there.

The administration needs to define and lay out an endgame.

The Levin provision ensures that Congress will be receiving regular updates on the administration's strategy in Iraq, and as it must be unclassified, will provide the American people the opportunity to see whether there truly is a plan for success.

Again, I believe it is time to reevaluate our policy and strategies in Iraq.

We have lost over 2,000 American troops, and tens of thousands of Iraqis have died.

Americans are tired of hearing daily about the chaos and violence that has beset Iraq. With American soldiers and scores of Iraqi civilians dying every day, there has to be a better course.

In my view, it is clear that now is the time to consider a comprehensive plan for the structured downsizing of our mission, while we greatly increase the emphasis on training Iraqis to protect themselves.

Mr. ROCKEFELLER. Mr. President, today, I want to commend my colleagues on the Armed Services Committee for taking a step forward to help our soldiers who are wounded, and removed from the combat zone for medical treatment.

Under current law, when soldiers are removed from a combat zone, even if it is for a severe wound, they lose all of their special duty pay, which for some enlisted soldiers can reduce their pay by half. It does not seem right to cut a soldier's pay at the time of an injury when that soldier and his family will face personal and financial hardships. For example, if a young soldier is sent to Walter Reed Hospital to recover, it is often important to have family nearby to assist in recovery. But that often means a young wife or husband must leave their home and job to help the wounded soldier. They may face new temporary housing costs or added expenses just to live nearby and support in the soldier's recovery.

Thanks to action in our Armed Services Committee, there is a provision to continue some of the specialty pays for imminent danger for our wounded soldiers as long as they are in the hospital. The House Defense authorization includes a similar provision that creates a new pay provision specifically for rehabilitation from combat-related injuries.

I support such provisions, and in fact, I introduced S. 461, the Crosby-Puller Combat Wounds Compensation Act, to maintain full pay for soldiers during recovery. I was proud to have Senators KENNEDY, CLINTON, and SALAZAR as cosponsors.

My commitment to this legislation was based on hearing the plight of wounded soldiers. My West Virginia caseworkers have heard from many soldiers and families who are struggling. While everyone is tragically aware of the more than 2,000 soldiers, including 15 West Virginians, who have lost their lives, we do not hear as much about our wounded soldiers.

Current estimates are that 16,220 soldiers have been wounded in Iraq and Afghanistan, and 104 are West Virginians. Thanks to better medical care and better equipment, when it is available, our soldiers are surviving devastating attacks, but too often at high costs including the loss of limbs. Such soldiers face long recoveries, and they need their families nearby to support them. But there are extra costs for families at this time, and we should not be substantially reducing the pay of our wounded heroes.

As the conference committee is appointed and we begin the hard work of resolving the differences between these two bills, I hope that we will keep in mind the struggles and financial hardships of our wounded soldiers and their families. We need to provide them with adequate pay in honor of their distinguished service.

MORNING BUSINESS

TRIBUTE TO MR. HENRY OSCAR WHITLOW

Mr. MCCONNELL. Mr. President, I today honor the life of a prominent Kentuckian, Mr. Henry Oscar Whitlow, and to pay tribute to the numerous contributions he made to his community and to the Commonwealth of Kentucky.

A native of Ballard County, KY, Mr. Whitlow spent his professional life practicing law in Paducah. In addition to being a respected attorney, he was also an active member of the Broadway United Methodist Church, and served as President of the Paducah Area Chamber of Commerce, the Paducah Jaycees, and the Paducah Rotary Club.

People like Henry Whitlow are what make Kentucky such a special place. I extend my condolences to his wife of 55 years, Elizabeth Ann Clement Whitlow, his son Mark Whitlow, his daughter Rebecca Gutherie, and all those that mourn the passing of this great man.

Earlier this week the Paducah Sun marked the passing of this community icon in a piece titled, "Whitlow remembered for community contributions." I ask that the full article be printed in the RECORD and that the entire Senate join me in paying our respect to this beloved Kentuckian.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Paducah Sun, Nov. 8, 2005]

WHITLOW REMEMBERED FOR COMMUNITY CONTRIBUTIONS

(By Bill Bartleman)

Henry Oscar Whitlow was remembered Monday as soft-spoken and unassuming, but strong and powerful in his contribution to the community and the legal profession.

Whitlow, 91, died at 5:42 a.m. Monday at Lourdes hospital. His son, Mark Whitlow, said he had suffered from Alzheimer's and had been in a nursing home since last year.

Visitation will be held at the Milner and Orr Funeral Home of Paducah from 4 to 7 p.m. Thursday. Services will be at Broadway United Methodist Church in Paducah at 1:30 p.m. Friday followed by burial in Mount Kenton Cemetery.

Whitlow, a native of Monkey's Eyebrow in Ballard County, began practicing law in Paducah in 1937 with the Waller and Threlkeld law firm. He eventually became a partner and the firm is now known as Whitlow Roberts Houston and Straub. It is one of Paducah's largest and most prestigious firms.

He was a member of Broadway United Methodist Church for almost 70 years and held every leadership position in the church. He also was a lay speaker and a Sunday School teacher.

He also was active in civic affairs and served as president of what is now the Paducah Area Chamber of Commerce, the Paducah Rotary Club, the Paducah Jaycees and many other organizations.

Senior U.S. District Judge Edward H. Johnstone described Whitlow as a leader with humility, a litigator with compassion and a scholar with the common touch.

"He was a great man," Johnstone said. "The thing that distinguished him from present-day lawyers is that he built his reputation by what he did, not how much he advertised or blew his own horn. His work is what sold him to the public. He never sought glory or credit. He was unselfish and always a perfect gentleman."

U.S. District Judge Thomas Russell said Whitlow had a profound effect on those around him. Russell was associated with Whitlow's firm for almost 25 years.

Without Whitlow as a mentor, Russell said he would have never risen to the federal judgeship. "You can learn the practice of law from a lot of people, but he taught me what it takes to represent people—to feel their sorrow, their joys and their concerns."

Whitlow served as the attorney for the Paducah Board of Education for more than 40 years. Bill Black Jr., a long-time board member, said Whitlow viewed his work with the board as public service. "The fees he charged were not what he could get investing his time in other legal work," Black said.

He said Whitlow never tried to influence board decisions and only got involved when he thought the board was straying in the wrong legal direction.

"He listened very carefully and said very little," Black said. "But when he did speak, we always knew it was our time to listen to his wisdom and take his advice."

Black noted that Whitlow was the board attorney in 1956 when the city schools were integrated. He said Whitlow's legal advice undoubtedly played an important role in the successful and peaceful integration that had been mandated by the U.S. Supreme Court.

"Many schools in the South started integrating in the 1st grade and did it over 12 years," Black said. "Paducah allowed any African American who wanted to attended a previously all-white school to do it in the first year."

Away from the legal profession, Russell said Whitlow set an example of how a person should be a good citizen. In addition to being a church leader, Russell said Whitlow was active in the Boy Scouts, charitable work "and was past president of the Rotary Club and every other civic organization that he belonged to. "In all that he ever did, he didn't seek any kind of recognition."

Mark Whitlow, also an attorney, said his father was an inspiration.

"We all love our fathers," Whitlow said. "But he also was an outstanding mentor in terms of being a scholar of the law and in his love for the community and public service. He set a good example for all of us."

Fred Paxton, chairman of the board of Paxton Media which owns the Paducah Sun, said Whitlow's slight frame and soft voice were deceiving.

"He was a very rugged individual and very, very strong," Paxton said. "If you exchange a hand shake with him, you knew that. He also had a delightful sense of humor. It was very low key and subtle, but rich."

In 1993 Whitlow was honored as the Kentucky Bar Association's "Lawyer of the Year."

He was humbled by the honor. "It was like a bolt out of the blue," he told the Paducah Sun. "I still don't know how the lightning happened to strike me. I am just an old country boy who came up in the Depression."

In addition to his son, Whitlow is survived by his wife of 55 years, Elizabeth Ann Clement Whitlow; a daughter, Rebecca Gutherie of Maryland; a sister, Mildred Hughes of Tucson, Ariz., and two grandchildren.

TRIBUTE TO MR. EVERETT RAINS

Mr. McCONNELL. Mr. President, I pay tribute to a great leader in public service, Mr. Everett Rains. Everett served as county clerk in Whitley County, KY, for 24 years. I first met him when I started my political career in Kentucky, more than two decades ago. Everett was known for his numerous acts of kindness and generosity. He inspired others to serve, including his own nephew Tom Rains, who succeeded him as Whitley County clerk.

Last month, Everett passed away at the age of 88. He spent his career serving the people of Whitley County, and will be missed by all who knew and loved him.

On October 26, 2005, The Williamsburg News Journal published an article highlighting Everett's contributions, caring nature, and strong character. I ask that the full article be printed in the RECORD and that the entire Senate join me in paying our respect to this beloved Kentuckian.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

[From the Williamsburg News Journal, Oct. 26, 2005]

FAMILY, FRIENDS HAVE FOND MEMORIES OF RAINS, FORMER COUNTY CLERK

(By Mark White)

Everett Rains will undoubtedly go down in history as one of the most successful politicians in Whitley County history, but his nephew, current Whitley County Clerk Tom Rains, says he will remember Everett more as a generous man that always tried to help people.

"Many times at the Corbin hospital we would go visit the sick men, who were his friends. If the men didn't have a pair of socks on, that really bothered him the most," Rains said Monday afternoon, unsuccessfully trying to choke back tears. "He would pull his socks off and give them to them. He would leave and go home without any socks on. I've never seen anybody do that before in my life; that was how generous he was."

Everett Rains, who served as Whitley County Clerk for 24 years, passed away Saturday afternoon at the Oak Tree Hospital in Corbin at the age of 88.

"He was a tremendous gentleman. They called him the best politician in Whitley County, but it all came from his heart. Everything came out of Everett's heart. He did things for people out of his heart, not because he was county clerk. He was just that type of person," said Tom Rains, who worked for Everett for eight years before succeeding him as county clerk. "He treasured this office. He was a good county clerk."

Everett Rains began his career in politics serving one term as Whitley County sheriff from 1954 through 1957. At the time, sheriffs couldn't succeed themselves, and Rains made a failed bid for county clerk in 1957 against incumbent Ernie Hickey. He ran again for county clerk in 1961, and was elected to the first of his six terms in office. Rains was unopposed in his bid for re-election during three of his six terms, and left office in 1985. Kay Schwartz, who has worked in the county clerk's office for nearly 31 years and who worked for Everett Rains for 11 years until he left office, described her former boss as an easygoing person, who never raised his voice to any workers.

"He would always tell us in a kind way how things needed to be done, or what he needed done. He never did anything to humiliate you. He always wanted to help you," she noted.

"He was a very good man. He was always kind to people. It didn't matter if they came in mad, they never left mad. He always calmed them down, and took care of their needs. It didn't matter what they needed, he always tried to help them," Schwartz said. "Even if he knew somebody was against him, he was kind to them when they came in. He shook their hand, and he helped them. It didn't matter to him. He was a man that would turn the other cheek. He was always good to people."

Tom Rains said some of his fondest memories as a child were of he and his twin brother riding around with Everett as he traveled the county buying and selling cattle.

"We used to come down and sit on the sheriff's counter. While he was working we used to get to stay a few hours at the courthouse. It was the biggest treat ever. He was a special person, who made you feel so good," Tom Rains said.

Everett Rains and his wife of 46 years, Delois, never had any children. The couple didn't marry until they were 42 years old, Tom Rains noted. Still, the couple had a large family, including seven nephews and five nieces.

Everett and Delois attended 73 birthday parties for their great-nephews and nieces in Tom Rains' family, only missing one birthday party due to illness.

Tom Rains noted that Everett had a great love for children, period. "There is probably not anyone in this county that Everett Rains didn't buy a bottle of soda pop for when he was young. Young boys would run to the county store when they saw Everett coming down the road because they knew Everett would buy them a pop. Every child everywhere he went, he would give them a quarter and in later years he would give a dollar to every child he saw. He was really so generous," Tom Rains said.

In addition to being a politician, Rains was also an active farmer, who raised crops and cattle on his farm near Dal Road until last year.

"He had a real closeness to all the farmers in Whitley County," Tom Rains noted Monday. "Back in the '40s, '50s and '60s, everyone had a milk cow; in Whitley County that was the most valuable thing on your place. Everett would loan people milk cows. So many people came to me today, and said, 'I remember when your uncle brought us a milk cow.' He didn't ask nothing."

Rains said about a year ago, Everett suffered a bump on his head that required surgery in Lexington for internal bleeding in his brain. After the stint in the hospital, he developed lung problems, and had suffered from pneumonia for the past month until he passed away Saturday.

Funeral services were scheduled for 2 p.m. today at the Ellison Funeral Home Chapel with the Rev. Bill Mitchell officiating. He will be buried at the Highland Park Cemetery in the Davis Addition.

The Whitley County Courthouse closed at noon Wednesday for the funeral, and remained closed for the remainder of the day.

VALARIE YOUNG—2005 MILKEN FAMILY FOUNDATION NATIONAL EDUCATOR AWARD WINNER

Mr. REID. Mr. President, I rise today to congratulate Valarie Young, a high school social studies teacher at the Advanced Technologies Academy in Las Vegas, who was selected as one of two winners from Nevada of the Milken Family Foundation National Educator Award for 2005.

The Milken Family Foundation National Educator Awards program, which began in the early 1980s, provides public recognition and financial rewards to elementary and secondary school teachers, principals, and other education professionals who strive for excellence in education. By honoring outstanding educators from across the United States, the program's goals are to attract, develop, motivate, and retain talented educators.

It takes a special, dedicated educator to make a subject come alive for students and to teach them that knowledge about history will serve them in their future.

Mrs. Young's creativity makes history come alive for her students, and this Milken Family Foundation distinction validates her efforts. I salute Valarie Young for her service and dedication to the students of the Advanced Technologies Academy, and extend my best wishes for a successful future.

ELLEN FALLON—2005 MILKEN FAMILY FOUNDATION NATIONAL EDUCATOR AWARD WINNER

Mr. REID. Mr. President, I rise today to congratulate Ellen Fallon, a sixth an eighth grade teacher of advanced mathematics at Carson Middle School in Carson City, who was selected as one of two winners from Nevada of the Milken Family Foundation National Educator Award for 2005.

The Milken Family Foundation National Educator Awards program, which began in the early 1980s, provides public recognition and financial rewards to elementary and secondary school teachers, principals, and other education professionals who strive for excellence in education. By honoring outstanding educators from across the United States, this program seeks to attract, develop, motivate, and retain talented educators.

Strong mathematics instruction is an integral part of preparing students for the global economy. Her dedication to this goal is what makes Mrs. Fallon's recognition all the more significant.

Carson Middle School is all in the family for the Fallons: Mrs. Fallon is an alumni, her husband is a sixth grade English teacher, and her daughtr is a seventh grade student at the school.

I trust that her example will influence others to pursue teaching excellence and applaud the Milken Family Foundation for recognizing her leadership. I salute Ellen Fallon for her service and dedication to the students of Carson Middle School, and extend my best wishes for a successful future.

Mrs. BOXER. Mr. President, today I rise to pay tribute to 20 young Americans who have been killed in Iraq since October 7. This brings to 477 the number of soldiers who were either from California or based in California who have been killed while serving our country in Iraq. This represents 23 percent of all U.S. deaths in Iraq.

LANCE CORPORAL SERGIO H. ESCOBAR

At age 18, Lance Corporal Escobar died October 9 from an improvised explosive device while conducting combat operations against enemy forces in Ar Ramadi.

He was assigned to the 3rd Battalion, 7th Marine Regiment, 1st Marine Division, Twentynine Palms, CA. During Operation Iraqi Freedom, his unit was attached to the 2nd Marine Division.

He was from Pasadena, CA.

STAFF SERGEANT JERRY L. BONIFACIO

At age 28, Staff Sergeant Bonifacio died in Baghdad on October 10 when a vehicle-borne improvised explosive device detonated near his checkpoint.

He was assigned to the Army National Guard's 1st Battalion, 184th Infantry Regiment, Dublin, CA.

He was from Vacaville, CA.

SPECIALIST TIMOTHY D. WATKINS

At age 24, Specialist Watkins died in Ar Ramadi on October 15 when an improvised explosive device detonated near their Bradley Fighting Vehicle during combat operations.

He was assigned to the 2nd Battalion, 69th Armor Regiment, 3rd Brigade, 3rd Infantry Division, Fort Benning, GA.

He was from San Bernardino, CA.

LANCE CORPORAL CHRISTOPHER M. POSTON

At age 20, Lance Corporal Poston died October 17 from a nonhostile vehicle accident in Hit.

He was assigned to Battalion Landing Team 2nd Battalion, 1st Marine Regiment, 13th Marine Expeditionary Unit, Camp Pendleton, CA.

LANCE CORPORAL CHAD R. HILDEBRANDT

At age 22, Lance Corporal Hildebrandt died October 17 from small-arms fire while conducting combat operations against enemy forces in Al Rutbah.

He was assigned to 1st Light Armored Reconnaissance Battalion, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was attached to the 2nd Marine Division.

LANCE CORPORAL DANIEL SCOTT R. BUBB

At age 19, Lance Corporal Bubb died October 17 from small-arms fire while conducting combat operations against enemy forces in Al Rutbah.

He was assigned to the 1st Light Armored Reconnaissance Battalion, 1st Marine Division, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was attached to the 2nd Marine Division.

SERGEANT ARTHUR A. MORA

At age 23, Sergeant Mora died in Balad on October 19 when his Humvee was struck by enemy indirect fire during patrol operations.

He was assigned to the 5th Squadron, 7th Cavalry Regiment, 1st Brigade Combat Team, 3rd Infantry Division, Fort Stewart, GA.

He was from Pico Rivera, California.

SERGEANT JACOB D. DONES

At age 21, Sergeant Dones died in Hit on October 20 when his forward operating base was attacked by enemy forces using indirect fire.

He was assigned to the 2nd Squadron, 11th Armored Cavalry Regiment, Fort Irwin, CA.

LANCE CORPORAL JONATHAN R. SPEARS

At age 21, Lance Corporal Spears died October 23 from enemy small-arms fire while conducting combat operations against enemy forces in Ar Ramadi.

He was assigned to 3rd Battalion, 7th Marine Regiment, 1st Marine Division, Twentynine Palms, CA. During Operation Iraqi Freedom, his unit was attached to the 2nd Marine Division.

SERGEANT JAMES WITKOWSKI

At age 32, Sergeant Witkowski died on October 26 near Ashraf of injuries sustained there earlier that day when an improvised explosive device detonated near his Humvee during convoy operations.

He was assigned to the Army Reserve's 729th Transportation Company, Fresno, CA.

CAPTAIN MICHAEL J. MACKINNON

At age 30, Captain Mackinnon died on October 27 in Baghdad when an improvised explosive device detonated near his Humvee during convoy operations.

He was a Regular Army soldier assigned to the Army National Guard's 1st Battalion, 184th Infantry Regiment, Modesto, CA.

COLONEL WILLIAM W. WOOD

At age 44, Colonel Wood died in Baghdad on October 27 when he was directing security operations in response to the detonation of an improvised explosive device. During this response, a second improvised explosive device detonated near his position.

He was a Regular Army soldier assigned to the Army National Guard's 1st Battalion, 184th Infantry Regiment, Modesto, CA.

CAPTAIN RAYMOND D. HILL, II

At age 39, Captain Hill died in Baghdad on October 29 when an improvised explosive device detonated near his Humvee during patrol operations.

He was assigned to the Army National Guard's 1st Battalion, 184th Infantry Regiment, Modesto, CA.

He was from Turlock, CA.

SERGEANT SHAKERE T. GUY

At age 23, Sergeant Guy died in Baghdad on October 29 when an improvised explosive device detonated near his Humvee during patrol operations.

He was assigned to the Army National Guard's 1st Battalion, 184th Infantry Regiment, Modesto, CA. He was from Pomona, CA.

SERGEANT FIRST CLASS JONATHAN TESSAR

At age 36, Sergeant Tessar died in Al Mahmudiyah on October 31 when an improvised explosive device detonated near his Humvee during patrol operations.

He was assigned to the Army's 2nd Battalion, 502nd Infantry Regiment, 2nd Brigade Combat Team, 101st Airborne Division, Fort Campbell, KY. He was from Simi Valley, CA.

SERGEANT DANIEL A. TSUE

At age 27, Sergeant Tsue died November 1 from an improvised explosive device while conducting combat operations in the vicinity of Ar Ramadi.

He was assigned to the 7th Engineer Support Battalion, 1st Marine Logistics Group, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was attached to the 2nd Force Support Group.

PETTY OFFICER SECOND CLASS ALLAN M. CUNDUNGA ESPIRITU

At age 28, Petty Officer Espiritu died November 1 from an improvised explosive device while conducting combat operations in the vicinity of Ar Ramadi.

He was assigned to 2nd Force Service Support Group, II Marine Expeditionary Force. He was from Oxnard, CA.

CAPTAIN MICHAEL D. MARTINO

At age 32, Captain Martino died November 2 when his Super Cobra helicopter crashed while flying in support of security and stabilization operations near Ar Ramadi.

He was with Marine Light-Attack Helicopter Squadron 369, Marine Aircraft Group 39, 3rd Marine Aircraft Wing, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was attached to the 2nd Marine Aircraft Wing.

MAJOR GERALD M. BLOOMFIELD, II

At age 38, Major Bloomfield died November 2 when his Super Cobra helicopter crashed while flying in support of security and stabilization operations near Ar Ramadi.

He was with Marine Light-Attack Helicopter Squadron 369, Marine Aircraft Group 39, 3rd Marine Aircraft Wing, Camp Pendleton, CA. During Operation Iraqi Freedom, his unit was attached to the 2nd Marine Aircraft Wing.

SERGEANT FIRST CLASS JAMES F. HAYES

At age 48, Sergeant Hayes died in Taji on November 6 when an improvised explosive device detonated near his Humvee during patrol operations.

He was assigned to the 1st Battalion, 320th Field Artillery Regiment, 101st Airborne Division, Fort Campbell, KY. He was from Barstow, CA.

Mr. President, 477 soldiers who were either from California or based in California have been killed while serving our country in Iraq. I pray for these young Americans and their families.

I would also like to pay tribute to the two soldiers from or based in California who have died while serving our country in Operation Enduring Freedom since October 7.

PRIVATE FIRST CLASS JOSEPH CRUZ

At age 22, Private First Class Cruz died in Bagram, Afghanistan, on October 16, of non combat-related injuries sustained in an accident at Organ-E, Afghanistan, on October 15.

He was assigned to the 1st Battalion, 508th Infantry Regiment, Vicenza, Italy. He was from Whittier, CA.

PETTY OFFICER THIRD CLASS FABRICIO MORENO

At age 26, Petty Officer Moreno was killed Oct. 14 in a single-vehicle accident in Manda Bay, Kenya.

He was assigned to Naval Mobile Construction Battalion 3, Port Hueneme, CA. In support of Operation Enduring Freedom, he was deployed as part of a Combined Joint Task Force Horn of Africa construction team.

Mr. President, 34 soldiers who were either from California or based in California have been killed while serving our country in Operation Enduring Freedom. I pray for these Americans and their families.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On October, 15, 2005, in Missoula, MT, two gay students were near their home on the University of Montana campus when they were chased by a group of men and beaten. According to police, the group of men were shouting derogatory terms regarding their sexual orientation before and during the beating.

I believe that our Government's first duty is to defend its citizens, in all circumstances, from threats to them at home. The Local Law Enforcement Enhancement Act is a major step forward in achieving that goal. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

THE 10TH ANNIVERSARY OF THE DEATH OF KEN SARO-WIWA

Mr. OBAMA. Mr. President, I rise today in support of a resolution submitted by Mr. LEAHY, Mr. KENNEDY, Mr. FEINGOLD, and myself on the 10th anniversary of Ken Saro-Wiwa's death. On November 10, 1995, a terrible injustice occurred when Mr. Saro-Wiwa and eight of his countrymen were hanged by Sani Abacha's regime in Nigeria. While we cannot undo that tragedy, we must never forget it.

Mr. Saro-Wiwa led the Movement for the Survival of the Ogoni People, dedicated to defending the rights of his fellow Ogoni in the Niger Delta through nonviolent means. Over the course of his life, he had dozens of opportunities to take a different path, to stop speaking out, to let someone else intervene. Instead, he risked everything, over and over again, to call the world's attention to suffering and injustice, to demand action. In May 1994, Abacha responded by imprisoning Mr. Saro-Wiwa and eight other Ogoni men, the Ogoni Nine, and unjustly accusing them of murder.

Ten years ago on this day, Mr. Saro-Wiwa is said to have told his executioners: "Lord, take my soul, but the struggle continues."

Sadly, the struggle has indeed continued for the Ogoni people, whose standard of living is among the lowest in the world, and whose oil rich land remains severely polluted. The names of the Ogoni Nine have yet to be cleared, and they remain convicted of the crime for which they were unfairly tried and hanged.

This resolution acknowledges not only the tremendous legacy left by Ken Saro-Wiwa, but also the battles that remain to be fought in the Niger Delta and beyond. I urge my colleagues to join me in this effort to honor his memory, his vision, and his struggle which continues today.

LABOR-HHS APPROPRIATIONS

ENHANCED STUDY AND EXCHANGE ACTIVITIES

Mr. COLEMAN. Mr. President, I want to bring the attention of my colleague from Kentucky to a provision Senator BINGAMAN and I offered to the Labor-HHS appropriations bill regarding a strategic plan for enhancing access of legitimate foreign students, scholars, scientists, and exchange visitors in the United States for study and exchange activates. Since September 11, restrictive visa policies and negative perceptions of the United States have led to a drastic decline in the number of foreign students studying in the United States, a development which has a negative consequences for both American foreign policy and economic competitiveness. A strategy is needed to proactively counter negative perceptions about America as unwelcoming to foreign students, and to enable us to successfully compete with places like the EU, the UK, and Australia, which have developed strategies to recruit the world's best and brightest. In my amendment to the Labor-HHS bill, I initially requested the Secretary of Education, in consultation with the Secretaries of State, Commerce, Homeland Security and Energy and others, to prepare this plan.

Mr. McCONNELL. I am aware of this provision and have been alerted by the State Department that they would prefer that the Secretary of State take the lead in coordinating this strategic plan, given Secretary Rice's jurisdiction over this matter. Had this provision been offered to the fiscal year 2006 Foreign Operations Appropriations Act, I can assure my friend that it would have been included as a requirement for the State Department to fulfill.

Mr. COLEMAN. I, too, have been informed of the State Department's jurisdictional concern. Given that this issue is more appropriate to the Foreign Operations bill, I wonder if my friend from Kentucky will work with me and the State Department to ensure that this provision is fulfilled, specifically that within 180 days of enactment of the foreign aid bill the Department provide the relevant congressional committees with a report detailing this strategic plan, in consultation with the Departments of Education, Commerce, Homeland Security, and Energy, as well as institutions and organizations involved in international education. The strategy should seek to use innovative media like the Internet to develop a marketing strategy. It should also include policy recommendations for streamlining the procedures related to international student access.

Mr. McCONNELL. My staff has already discussed this matter with the State Department and they have committed to providing such a plan within that timeframe.

Mr. COLEMAN. I thank the chairman of the State, Foreign Operations, and Related Programs Subcommittee.

DECEPTIVE PRACTICES AND VOTER INTIMIDATION PREVENTION

Mr. KERRY. Mr. President, I proudly join as a cosponsor of Senator OBAMA's Deceptive Practices and Voter Intimidation Prevention Act of 2005. This important legislation will protect voters from the deceptive practices that aimed to keep them from the polls on election day.

Free and fair elections are the foundation of our democracy—a democracy built on the unassailable principle that every single American should have an equal say in their government. No American should ever approach their polling place in fear. No American should ever worry that they will somehow be penalized for exercising their fundamental right to vote. No American should ever be tricked into thinking they do not have the right to vote.

The Deceptive Practices and Voter Intimidation Prevent Act takes great strides towards ensuring that no American will ever be denied the right to vote. It both criminalizes deceptive practices and provides affected individuals with a private right of action. It prevents the negative effects of deceptive practices by ensuring voters get accurate election information. It also requires the Attorney General to report allegations of deceptive practices, the actions taken to correct them, and any prosecutions resulting from those allegations.

We have worked hard to bring fair and free elections to people around the word-including the people of Iraq and Afghanistan. We must do everything in our power to ensure that our own elections are at least as fair and as free.

ADDITIONAL STATEMENTS

TRIBUTE TO CAROLYN HARRIS

• Mr. JEFFORDS. Mr. President, I am here today to honor my fellow Vermonter, Carolyn Harris, who has spent the last four decades improving the management and implementation of long-term health care.

A nurse by training, Carolyn Harris has worked in the management, administration, and certification of long-term care systems, as well as acting as a care provider. Additionally, through her work with the Vermont association of the American Health Care Association, AHCA, a national health organization representing more than 10,000 long-term care facilities and providers Ms. Harris has trained fellow physicians, nurses, and other health care professionals to provide appropriate and effective long-term care to patients.

Along with the Vermont Health Care Association, VHCA, Ms. Harris has worked for more than 30 years to promote affordable, accessible quality care in Vermont nursing and assisted-living facilities. Her efforts have gone a long way to assure the privacy, rights, dignity, comfort, and well-being of Vermont nursing home residents and to foster a spirit of cooperation and excellence in long-term care. Most remarkably, Ms. Harris continues to provide personal attention and care to her patients while sharing her wisdom, energy, and compassion with her colleagues. Carolyn Harris has met the challenge of providing long-term health care head on and has become a trusted adviser to long-term care providers and patients throughout Vermont.

Today, at the Helen Porter Nursing Home in Middlebury, VT, Carolyn Harris is being honored by the VHCA and the AHCA for her service to all long-term care recipients and Vermonters. Ms. Harris is a valuable member of the long-term health care community, and I am proud to be able to honor her before the Senate.•

TRIBUTE TO PAULA YEAGER

• Mr. LUGAR. Mr. President, I rise today to honor the memory of Paula Yeager, a distinguished Hoosier and executive director of the Indiana Wildlife Federation, who passed away yesterday following a 7-year battle with cancer. Over the years, I have valued Paula counsel and advocacy on behalf of conservation in Indiana.

After studying business at the University of Nebraska, Paula began a career as a travel agent. Eventually, this career brought her into close contact with John Denver, a singer who shared Paula's respect for the importance of nature and dedication to wildlife conservation. The two became close friends and their friendship inspired Paula to use her remarkable talents to make a difference in conservation.

This dedication led Paula to pursue an opportunity as executive director of the Indiana Wildlife Federation. In that role, she reinvigorated the organization as she worked with like-minded groups to advance initiatives and become effectively engaged in the political process at both the State and Federal level.

Paula's efforts have been recognized across Indiana. She has twice been recognized with the President Award from the Indiana Wildlife Federation and was named Conservationist of the Year in 2001 by the Indiana Department of Natural Resources.

While I know that this is a difficult time for Paula's family and many friends, my thoughts are with her husband John and their two children Stephanie and Corey as they remember her life of leadership.•

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Mr. Thomas, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations and a treaty which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 9:32 a.m., a message from the House of Representatives, delivered to Ms. Niland, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

H.R. 2490. An act to designate the facility of the United States Postal Service located at 442 West Hamilton Street, Allentown, Pennsylvania, as the "Mayor Joseph S. Daddona Memorial Post Office".

H.R. 3339. An act to designate the facility of the United States Postal Service located at 2061 South Park Avenue in Buffalo, New York, as the "James T. Molloy Post Office Building".

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

At 1:58 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 1751. An act to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes.

The message also announced that the House has passed the following bill, without amendment:

S. 1894. An act to amend part E of title IV of the Social Security Act to provide for the making of foster care maintenance payments to private for-profit agencies.

At 5:03 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 1953. An act to require the Secretary of the Treasury to mint coins in commemoration of the Old Mint at San Francisco, otherwise known as the "Granite Lady", and for other purposes.

H.R. 3665. An act to provide adaptive housing assistance to disabled veterans residing temporarily in housing owned by a family member, to make certain improvements in veterans employment assistance programs, and for other purposes.

ENROLLED BILL SIGNED

At 7:30 p.m., a message from the House of Representatives, delivered by one of its clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 3057. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2006, and for other purposes.

Under authority of the order of the Senate of November 10, 2005, the enrolled bill was signed subsequently on today, November 10, 2006, by the Majority Leader (Mr. FRIST).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 1751. An act to amend title 18, United States Code, to protect judges, prosecutors, witnesses, victims, and their family members, and for other purposes; to the Committee on the Judiciary.

H.R. 1953. An act to require the Secretary of the Treasury to mint coins in commemoration of the Old Mint at San Francisco, otherwise known as the "Granite Lady", and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

H.R. 3665. An act to amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to provide adaptive housing assistance to disabled veterans residing temporarily in housing owned by a family member and to make direct housing loans to Native American veterans, and for other purposes; to the Committee on Veterans' Affairs.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4604. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Exclusion of Vendor Purchases Made Under the Competitive Acquisition Program for Outpatient Drugs and Biologicals Under Part B for the Purpose of Calculating the Average Sales Price" (RIN0938–AN58) received on November 4, 2005; to the Committee on Finance.

EC–4605. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; E-Prescribing and the Prescription Drug Program" (RIN0938–AN49) received on November 4, 2005; to the Committee on Finance.

EC–4606. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Home Health Prospective Payment System Rate Update for Calendar Year 2006" (RIN0938–AN44) received on November 4, 2005; to the Committee on Finance.

EC–4607. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Changes to the Hospital Outpatient Prospective Payment System and Calendar Year 2006 Payment Rates" (RIN0938–AN46) received on November 4, 2005; to the Committee on Finance.

EC–4608. A communication from the Regulations Coordinator, Centers for Medicare and Medicaid Services, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medicare Program; Revisions to Payment Policies Under the Physician Fee Schedule for Calendar Year 2006 and Certain Provisions Related to the Competitive Acquisition Program of Outpatient Drugs and Biologicals Under Part B" (RIN0938–AN84 and RIN0938–AN58) received on November 4, 2005; to the Committee on Finance.

EC–4609. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Review and Report on Current Standards of Practice for Pharmacy Services Provided to Patients in Nursing Facilities"; to the Committee on Finance.

EC–4610. A communication from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Amendment to Sunset Date of Section 1441 Voluntary Compliance Program under Rev. Proc. 2004–59" (Rev. Proc. 2005–71) received on November 4, 2005; to the Committee on Finance.

EC–4611. A communication from the Secretary, Judicial Conference of the United States, transmitting, the report of a draft bill relative to amending the Internal Revenue Code of 1986 to make certain rules regarding sales of property to comply with conflict-of-interest requirements applicable to the federal judiciary, and for other purposes, received on November 7, 2005; to the Committee on the Judiciary.

EC–4612. A communication from the Director, Regulations and Rulings Division, Alcohol and Tobacco Tax and Trade Bureau, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Suspension of Special (Occupational) Tax" (RIN1513–AB04) received on November 7, 2005; to the Committee on the Judiciary.

EC–4613. A communication from the General Counsel, Department of Housing and Urban Development, transmitting, pursuant to law, the report of nomination confirmations for the following Presidentially-appointed Senate-confirmed positions within the Department of Housing and Urban Development: Assistant Secretary for Fair Housing and Equal Opportunity; Assistant Secretary for Administration; Assistant Secretary for Policy Development and Research; and General Counsel, received on November, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–4614. A communication from the Chairman and President (Acting), Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Qatar (Qatar Liquefied Gas Company Limited); to the Committee on Banking, Housing, and Urban Affairs.

EC–4615. A communication from the Chairman and President (Acting), Export-Import Bank of the United States, transmitting, pursuant to law, a report relative to transactions involving U.S. exports to Mexico (credit guarantee facility); to the Committee on Banking, Housing, and Urban Affairs.

EC–4616. A communication from the Counsel for Legislation and Regulations, Office of

Public and Indian Housing, Department of Housing and Urban Development, transmitting, pursuant to law, the report of a rule entitled "Project-Based Voucher Program" ((RIN2577–AC25)(FR–4636–F–02)) received on November 7, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–4617. A communication from the Executive Director, United States Access Board, transmitting, pursuant to law, the Board's report under the Inspector General Act and the Federal Managers' Financial Integrity Act for fiscal year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4618. A communication from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting, pursuant to the Case-Zablocki Act, 1 U.S.C. 112b, as amended, the report of the texts and background statements of international agreements, other than treaties (List 05-260—05-276); to the Committee on Foreign Relations.

EC–4619. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Aleutian District of the Bering Sea and Aleutian Islands Management Area" (I.D. No. 092805A) received on November 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4620. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pacific Ocean Perch in the Western Aleutian District of the Bering Sea and Aleutian Islands Management Area" (I.D. No. 100605B) received on November 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4621. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Western Aleutian District of the Bering Sea and Aleutian Islands Management Area" (I.D. No. 100605C) received on November 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4622. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Atka Mackerel in the Bering Sea and Aleutian Islands Management Area" (I.D. No. 100705A) received on November 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4623. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Trawl Gear in the Gulf of Alaska" (I.D. No. 092805E) received on November 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4624. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Pollock in Statistical Area 630 of the Gulf of Alaska" (I.D. No. 100705B) received on November 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4625. A communication from the Acting Director, Office of Sustainable Fisheries, National Marine Fisheries Service, National Oceanic and Atmospheric Administration, transmitting, pursuant to law, the report of a rule entitled "Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area" (I.D. No. 100405D) received on November 7, 2005; to the Committee on Commerce, Science, and Transportation.

EC–4626. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, the Fiscal Year 2002 and 2003 Annual Reports on the Child Support Enforcement Program; to the Committee on Finance.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. COCHRAN, from the Committee on Appropriations:

Special Report entitled "Further Revised Allocation to Subcommittees of Budget Totals from the Concurrent Resolution for Fiscal Year 2006" (Rept. No. 109–176).

By Mr. CRAIG, from the Committee on Veterans' Affairs, with an amendment in the nature of a substitute:

S. 1182. A bill to amend title 38, United States Code, to improve health care for veterans, and for other purposes (Rept. No. 109–177).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. REED (for himself and Mr. Chafee):

S. 1989. A bill to designate the facility of the United States Postal Service located at 57 Rolfe Square in Cranston, Rhode Island, shall be known and designated as the "Holly A. Charette Post Office"; to the Committee on Homeland Security and Governmental Affairs.

By Mr. BURR:

S. 1990. A bill to amend title 38, United States Code, to improve the outreach activities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BURR:

S. 1991. A bill to amend title 38, United States Code, to establish a financial assistance program to facilitate the provision of supportive services for very low-income veteran families in permanent housing, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. LEVIN:

S. 1992. A bill for the relief of Marcos Antonio Sanchez-Diaz; to the Committee on the Judiciary.

By Mr. KERRY:

S. 1993. A bill to provide for a comprehensive, new strategy for success in Iraq that includes a sustainable political solution and the redeployment of United States forces tied to specific political and military benchmarks; to the Committee on Foreign Relations.

By Mr. HARKIN (for himself, Mr. Lugar, and Mr. Obama):

S. 1994. A bill to require that an increasing percentage of new automobiles be dual fueled automobiles, to revise the method for calculating corporate average fuel economy for such vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. JEFFORDS (for himself, Mr. Lautenberg, Mrs. Boxer, and Mr. Obama):

S. 1995. A bill to amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works; to the Committee on Environment and Public Works.

By Mr. KOHL:

S. 1996. A bill to authorize the Secretary of Energy to temporarily prohibit the exportation of a finished petroleum product or liquefied petroleum gas from the United States if the Secretary determines that the supply of the product or gas in any Petroleum Allocation Defense District has fallen or will fall below expected demand; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. HARKIN (for himself, Mr. Schumer, Mrs. Clinton, Mr. Bingaman, and Mr. Reed):

S. 1997. A bill to authorize the Secretary of Energy to establish a program of energy assistance grants to local educational agencies; to the Committee on Energy and Natural Resources.

By Mr. CONRAD (for himself, Mr. Vitter, Mr. Salazar, Mr. Nelson of Nebraska, Mr. Johnson, Mr. Chambliss, Mr. Thune, Mr. Hagel, Mr. Isakson, Mr. Lautenberg, and Mrs. Dole):

S. 1998. A bill to amend title 18, United States Code, to enhance protections relating to the reputation and meaning of the Medal of Honor and other military decorations and awards, and for other purposes; to the Committee on the Judiciary.

By Mr. KERRY:

S. 1999. A bill to amend the Workforce Investment Act of 1998 to transfer the YouthBuild program from the Department of Housing and Urban Development to the Department of Labor, to enhance the program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Ms. MURKOWSKI (for herself and Mr. Stevens):

S. 2000. A bill to amend the Alaska Native Claims Settlement Act to provide for equitable allotment of land to Alaska Native veterans; to the Committee on Energy and Natural Resources.

By Mr. THUNE:

S. 2001. A bill to amend title 38, United States Code, to improve the management of information technology within the Department of Veterans Affairs by providing for the Chief Information Officer of that Department to have authority over resources, budget, and personnel related to the support function of information technology, and for other purposes; to the Committee on Veterans' Affairs.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BINGAMAN (for himself, Mr. ROCKEFELLER, Mr. REED, Mrs. CLINTON, Mrs. MURRAY, Mr. BAUCUS, Ms. MIKULSKI, Mr. CORZINE, Mr. LAUTENBERG, Mr. DODD, and Mr. SALAZAR):

S. Res. 302. A resolution to express the sense of the Senate regarding the impact of medicaid reconciliation legislation on the health and well-being of children; to the Committee on Finance.

By Mr. LEAHY (for himself, Mr. KENNEDY, Mr. OBAMA, Mr. FEINGOLD, Mr. DODD, and Mr. DURBIN):

S. Res. 303. A resolution calling for the Government of Nigeria to conduct a thorough judicial review of the Ken Saro-Wiwa case, and for other purposes; to the Committee on Foreign Relations.

By Mr. SPECTER (for himself and Mr. CORZINE):

S. Res. 304. A resolution to designate the period beginning on November 1, 2005 and ending on October 31, 2006 as the Year of Polio Education; to the Committee on Health, Education, Labor, and Pensions.

By Mr. FRIST (for himself, Mr. REID, Mr. McCONNELL, Mr. AKAKA, Mr. ALEXANDER, Mr. ALLARD, Mr. ALLEN, Mr. BAUCUS, Mr. BAYH, Mr. BENNETT, Mr. BIDEN, Mr. BINGAMAN, Mr. BOND, Mrs. BOXER, Mr. BROWNBACK, Mr. BUNNING, Mr. BURNS, Mr. BURR, Mr. BYRD, Ms. CANTWELL, Mr. CARPER, Mr. CHAFEE, Mr. CHAMBLISS, Mrs. CLINTON, Mr. COBURN, Mr. COCHRAN, Mr. COLEMAN, Ms. COLLINS, Mr. CONRAD, Mr. CORNYN, Mr. CORZINE, Mr. CRAIG, Mr. CRAPO, Mr. DAYTON, Mr. DeMINT, Mr. DeWINE, Mr. DODD, Mrs. DOLE, Mr. DOMENICI, Mr. DORGAN, Mr. DURBIN, Mr. ENSIGN, Mr. ENZI, Mr. FEINGOLD, Mrs. FEINSTEIN, Mr. GRAHAM, Mr. GRASSLEY, Mr. GREGG, Mr. HAGEL, Mr. HARKIN, Mr. HATCH, Mrs. HUTCHISON, Mr. INHOFE, Mr. INOUYE, Mr. ISAKSON, Mr. JEFFORDS, Mr. JOHNSON, Mr. KENNEDY, Mr. KERRY, Mr. KOHL, Mr. KYL, Ms. LANDRIEU, Mr. LAUTENBERG, Mr. LEAHY, Mr. LEVIN, Mr. LIEBERMAN, Mrs. LINCOLN, Mr. LOTT, Mr. LUGAR, Mr. MARTINEZ, Mr. McCAIN, Ms. MIKULSKI, Ms. MURKOWSKI, Mrs. MURRAY, Mr. NELSON of Florida, Mr. NELSON of Nebraska, Mr. OBAMA, Mr. PRYOR, Mr. REED, Mr. ROBERTS, Mr. ROCKEFELLER, Mr. SALAZAR, Mr. SANTORUM, Mr. SARBANES, Mr. SCHUMER, Mr. SESSIONS, Mr. SHELBY, Mr. SMITH, Ms. SNOWE, Mr. SPECTER, Ms. STABENOW, Mr. STEVENS, Mr. SUNUNU, Mr. TALENT, Mr. THOMAS, Mr. THUNE, Mr. VITTER, Mr. VOINOVICH, Mr. WARNER, and Mr. WYDEN):

S. Res. 305. A resolution expressing the sense of the Senate regarding Veterans Day 2005; considered and agreed to.

By Mr. AKAKA (for himself and Mr. BOND):

S. Res. 306. A resolution recognizing that Veterans Day is a day to honor all veterans of the Army and to support the Army Freedom Team Salute's mission to recognize the unsung heroes who have served this country; considered and agreed to.

By Mr. ALLEN (for himself, Mr. INOUYE, Ms. MIKULSKI, Mrs. BOXER, Mr. WARNER, and Mr. AKAKA):

S. Res. 307. A resolution to recognize and honor the Filipino World War II veterans for their defense of democratic ideals and their important contribution to the outcome of World War II; considered and agreed to.

By Mr. DURBIN (for himself, Mr. ALEXANDER, Mr. FEINGOLD, Mr. CRAIG, Mr. AKAKA, Mr. COLEMAN, and Mr. COCHRAN):

S. Res. 308. A resolution designating 2006 as the "Year of Study Abroad"; considered and agreed to.

By Mr. FRIST (for himself, Mr. REID, Mr. LUGAR, Mr. BIDEN, Mr. BROWNBACK, and Mr. CHAFEE):

S. Res. 309. A resolution expressing sympathy for the people of Jordan in the aftermath of the deadly terrorist attacks in Amman on November 9, 2005; considered and agreed to.

By Mr. LAUTENBERG (for himself, Mr. VOINOVICH, Mr. BIDEN, Mr. LUGAR, Mr. CHAFEE, and Mr. BROWNBACK):

S. Res. 310. A resolution honoring the life, legacy, and example of Israeli Prime Minister Yitzhak Rabin on the tenth anniversary of his death; considered and agreed to.

ADDITIONAL COSPONSORS

S. 146

At the request of Mr. INOUYE, the name of the Senator from Virginia (Mr. ALLEN) was added as a cosponsor of S. 146, a bill to amend title 38, United States Code, to deem certain service in the organized military forces of the Government of the Commonwealth of the Philippines and the Philippine Scouts to have been active service for purposes of benefits under programs administered by the Secretary of Veterans Affairs.

S. 484

At the request of Mr. WARNER, the name of the Senator from Kansas (Mr. BROWNBACK) was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 625

At the request of Mr. SCHUMER, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 625, a bill to amend the Internal Revenue Code of 1986 to allow a $1,000 refundable credit for individuals who are bona fide volunteer members of volunteer firefighting and emergency medical service organizations.

S. 633

At the request of Mr. JOHNSON, the name of the Senator from Wyoming (Mr. THOMAS) was added as a cosponsor of S. 633, a bill to require the Secretary of the Treasury to mint coins in commemoration of veterans who became disabled for life while serving in the Armed Forces of the United States.

S. 855

At the request of Mrs. MURRAY, her name was added as a cosponsor of S. 855, a bill to improve the security of the Nation's ports by providing Federal grants to support Area Maritime Transportation Security Plans and to address vulnerabilities in port areas identified in approved vulnerability assessments or by the Secretary of Homeland Security.

S. 1014

At the request of Ms. SNOWE, the name of the Senator from South Dakota (Mr. THUNE) was added as a cosponsor of S. 1014, a bill to provide additional relief for small business owners ordered to active duty as members of reserve components of the Armed Forces, and for other purposes.

S. 1173

At the request of Mr. DeMINT, the name of the Senator from Louisiana (Mr. VITTER) was added as a cosponsor of S. 1173, a bill to amend the National Labor Relations Act to ensure the right of employees to a secret-ballot election conducted by the National Labor Relations Board.

S. 1399

At the request of Mr. THOMAS, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1399, a bill to improve the results the executive branch achieves on behalf of the American people.

S. 1496

At the request of Mr. CRAPO, the names of the Senator from Alaska (Mr. STEVENS) and the Senator from Montana (Mr. BAUCUS) were added as cosponsors of S. 1496, a bill to direct the Secretary of the Interior to conduct a pilot program under which up to 15 States may issue electronic Federal migratory bird hunting stamps.

S. 1504

At the request of Mr. ENSIGN, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 1504, a bill to establish a market driven telecommunications marketplace, to eliminate government managed competition of existing communication service, and to provide parity between functionally equivalent services.

S. 1508

At the request of Mr. FEINGOLD, the name of the Senator from Louisiana (Ms. LANDRIEU) was added as a cosponsor of S. 1508, a bill to require Senate candidates to file designations, statements, and reports in electronic form.

S. 1735

At the request of Ms. CANTWELL, the name of the Senator from Massachusetts (Mr. KENNEDY) was added as a cosponsor of S. 1735, a bill to improve the Federal Trade Commissions's ability to protect consumers from price-gouging during energy emergencies, and for other purposes.

S. 1791

At the request of Mr. SMITH, the name of the Senator from Mississippi (Mr. COCHRAN) was added as a cosponsor of S. 1791, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for qualified timber gains.

S. 1926

At the request of Mr. INHOFE, the name of the Senator from Oklahoma (Mr. COBURN) was added as a cosponsor of S. 1926, a bill to provide the Department of Justice the necessary authority to apprehend, prosecute, and convict individuals committing animal enterprise terror.

S. 1930

At the request of Mr. REID, the names of the Senator from Connecticut (Mr. DODD), the Senator from California (Mrs. FEINSTEIN), the Senator from Maryland (Mr. SARBANES), the Senator from New Jersey (Mr. LAUTENBERG) and the Senator from Louisiana (Ms. LANDRIEU) were added as cosponsors of S. 1930, a bill to expand the research, prevention, and awareness activities of the National Institute of Diabetes and Digestive and Kidney Diseases and the Centers for Disease Control and Prevention with respect to inflammatory bowel disease.

S. 1959

At the request of Mr. KERRY, the names of the Senator from Wisconsin (Mr. FEINGOLD), the Senator from Minnesota (Mr. DAYTON) and the Senator from Connecticut (Mr. DODD) were added as cosponsors of S. 1959, a bill to direct the Architect of the Capitol to obtain a statue of Rosa Parks and to place the statue in the United States Capitol in National Statuary Hall.

S. 1975

At the request of Mr. OBAMA, the name of the Senator from Massachusetts (Mr. KERRY) was added as a cosponsor of S. 1975, a bill to prohibit deceptive practices in Federal elections.

S. 1986

At the request of Mr. SALAZAR, his name was added as a cosponsor of S. 1986, a bill to provide for the coordination and use of the National Domestic Preparedness Consortium by the Department of Homeland Security, and for other purposes.

S. CON. RES. 62

At the request of Mr. MCCONNELL, the names of the Senator from Nevada (Mr. REID), the Senator from Michigan (Mr. LEVIN), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Washington (Ms. CANTWELL), the Senator from Maryland (Ms. MIKULSKI), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Wisconsin (Mr. KOHL), the Senator from Minnesota (Mr. DAYTON), the Senator from Vermont (Mr. LEAHY), the Senator from Tennessee (Mr. FRIST), the Senator from Pennsylvania (Mr. SANTORUM), the Senator from Texas (Mrs. HUTCHISON), the Senator from Arizona (Mr. KYL), the Senator from North Carolina (Mrs. DOLE), the Senator from Utah (Mr. BENNETT), the Senator from Tennessee (Mr. ALEXANDER), the Senator from Virginia (Mr. ALLEN), the Senator from Kansas (Mr. BROWNBACK), the Senator from Rhode Island (Mr. CHAFEE), the Senator from Georgia (Mr. CHAMBLISS), the Senator from Texas (Mr. CORNYN), the Senator from South Carolina (Mr. DEMINT), the Senator from Ohio (Mr. DEWINE), the Senator from Utah (Mr. HATCH), the Senator from Georgia (Mr. ISAKSON), the Senator from Alabama (Mr. SESSIONS), the Senator from Alabama (Mr. SHELBY), the Senator from Oregon (Mr. SMITH) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S. Con. Res. 62, a concurrent resolution directing the Joint Committee on the Library to procure a statue of Rosa Parks for placement in the Capitol.

S. RES. 9

At the request of Mr. SALAZAR, his name was added as a cosponsor of S. Res. 9, a resolution expressing the sense of the Senate regarding designation of the month of November as "National Military Family Month".

S. RES. 219

At the request of Mrs. FEINSTEIN, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. Res. 219, a resolution designating March 8, 2006, as "Endangered Species Day", and encouraging the people of the United States to become educated about, and aware of, threats to species, success stories in species recovery, and the opportunity to promote species conservation worldwide.

S. RES. 232

At the request of Mr. ALLEN, his name was added as a cosponsor of S. Res. 232, a resolution celebrating the 40th anniversary of the enactment of the Voting Rights Act of 1965 and reaffirming the commitment of the Senate to ensuring the continued effectiveness of the Act in protecting the voting rights of all citizens of the United States.

AMENDMENT NO. 2304

At the request of Mr. HAGEL, the name of the Senator from New Hampshire (Mr. SUNUNU) was added as a cosponsor of amendment No. 2304 intended to be proposed to H.R. 3010, a bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes.

AMENDMENT NO. 2474

At the request of Mr. MARTINEZ, the names of the Senator from Florida (Mr. NELSON), the Senator from Arizona (Mr. KYL) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of amendment No. 2474 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2476

At the request of Mr. DORGAN, the names of the Senator from Minnesota (Mr. DAYTON) and the Senator from West Virginia (Mr. BYRD) were added as cosponsors of amendment No. 2476 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2477

At the request of Mr. TALENT, the names of the Senator from Texas (Mrs. HUTCHISON) and the Senator from Maine (Ms. SNOWE) were added as cosponsors of amendment No. 2477 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2481

At the request of Mr. SALAZAR, the name of the Senator from Rhode Island (Mr. CHAFEE) was added as a cosponsor of amendment No. 2481 intended to be proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2485

At the request of Mr. AKAKA, the names of the Senator from Mississippi (Mr. COCHRAN), the Senator from Connecticut (Mr. DODD), the Senator from Illinois (Mr. DURBIN) and the Senator from Wisconsin (Mr. FEINGOLD) were added as cosponsors of amendment No. 2485 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. REED (for himself and Mr. CHAFEE):

S. 1989. A bill to designate the facility of the United States Postal Service located at 57 Rolfe Square in Cranston, Rhode Island, shall be known and designated as the "Holly A. Charette Post Office"; to the Committee on Homeland Security and Governmental Affairs.

Mr. REED. Mr. President, I rise today to pay tribute to one of Rhode

Island's brave soldiers, Lance Corporal Holly A. Charette, who was killed in Iraq on June 23, 2005. In honor of her sacrifice, I am introducing a bill, along with Senator CHAFEE, to name the post office at 57 Rolfe Square in Cranston, RI, the "Holly A. Charette Post Office."

Twenty-one year old Holly Charette died when a suicide bomber in Fallujah attacked the military convoy in which she was riding. This was the deadliest attack on women in the U.S. military since the start of operations in Iraq, and yet another example of the violence that continues to plague our soldiers serving in this conflict.

Those who were close to Holly describe her as a happy and positive young woman loved by all those who knew her. She was a cheerleader at Cranston East High School, where she worked hard in college-prep courses. Her teachers remember her as a "bright, shining star."

Holly had dreams of becoming a postal worker. Instead, in 2002, she made the choice to serve her Nation by joining the U.S. Marine Corps.

She was deployed to Iraq in March of this year with her unit from Camp Lejeune, NC, and assigned to Headquarters Battalion, 2nd Marine Division, II Marine Expeditionary Force. It was here that Holly was able to combine her dreams of postal service with that of serving her Nation.

During her service in Iraq, Holly utilized her strong organizational skills to take on and complete various administrative tasks, including that of mail delivery to the troops. She became known as the "Marine who brought the good news." Holly never forgot a name, and would often stop Marines in the mess hall to let them know that they had mail.

The day that Holly was killed, she was working with Iraqi security forces to prevent insurgents from gaining a foothold in that country.

Her tragic passing has touched the lives of Rhode Islanders. Holly's presence will be deeply missed by all those who knew and loved her.

This legislation will pay proper tribute to this remarkable young woman, and commemorate her valor for future generations. I ask my colleagues to join me in honoring Lance Corporal Holly A. Charette by supporting this bill.

I ask unanimous consent that the text of this legislation to name the post office in Cranston after Lance Corporal Charette be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 1989

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. HOLLY A. CHARETTE POST OFFICE.

(a) DESIGNATION.—The facility of the United States Postal Service located at 57 Rolfe Square in Cranston, Rhode Island, shall be known and designated as the "Holly A. Charette Post Office".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the facility referred to in subsection (a) shall be deemed to be a reference to the "Holly A. Charette Post Office".

By Mr. BURR:

S. 1990. A bill to amend title 38, United States Code, to improve the outreach activities of the Department of Veterans Affairs, and for other purposes; to the Committee on Veterans' Affairs.

By Mr. BURR:

S. 1991. A bill to amend title 38, United States Code, to establish a financial assistance program to facilitate the provision of supportive services for very low-income veteran families in permanent housing, and for other purposes; to the Committee on Veterans' Affairs.

Mr. BURR. Mr. President, I rise today to honor our Nation's veterans for their service and their sacrifice. We will celebrate Veterans Day tomorrow, and I am proud of the improvements we have made in providing benefits and care to our country's heroes.

In the past 10 years, since I first came to Congress, the veterans budget has increased by 77 percent, an annual average increase of over 7 percent. The VA's health care budget has increased over 85 percent during this time. We have also enacted a fix to the concurrent receipt problem and made groundbreaking progress with computerized health records at the Veterans Department. I am proud of these efforts, but I certainly understand the need to do more to stay ahead of the curve.

I also want to detail the recent growth in the veterans population in North Carolina. Our State's veteran population has increased by over 100,000, to 780,000 veterans since 1980.

This growth rate comes at a time when the number of veterans in the United States is decreasing. Veterans are moving to the State because many of them were stationed there while on active duty, and they have moved back because of the quality of life in North Carolina.

I have two bills I have introduced today that I believe will improve the services we currently provide to our veterans. The first is the Services to Prevent Veterans Homelessness Act which makes grants to nonprofit and faith-based organizations to provide services to extremely low-income veterans who are in permanent housing. The goal is to keep them from becoming homeless. The services provided for in this bill—from vocational counseling and personal finance planning to health and rehabilitation—were designed to address the root causes of homelessness.

The VA estimates on any given night as many as 200,000 veterans are homeless and as many as 400,000 are homeless at some point during the year. We also know that 45 percent of the homeless veterans have a mental illness, and 50 percent have some sort of addiction.

The cost of this bill is $25 million annually, a small sum to help the poorest of our veterans. In North Carolina alone, over 43,000 veterans live below the poverty line. This bill would allow the VA to partner with nonprofits in order to help poor veterans escape the root causes of homelessness. I urge the Senate to consider whether we are doing enough on this issue. More importantly, I invite my colleagues to study this bill and to become a cosponsor.

Next, I introduced the Veterans Outreach Improvement Act which authorizes the Secretary of Veterans Affairs to partner with State and local governments for outreach to veterans. This bill provides grants to State veterans agencies and county veterans service offices to help them with outreach and claims development and to provide education and training of officers. The bill would also authorize $25 million annually for this outreach program.

County veterans service officers are charged with assisting veterans and their dependents in seeking benefits as a supplement to the work being performed by the Department of Veterans Affairs. They are overseen by the Division of Veterans Affairs in North Carolina and receive accreditation from organizations approved by the Secretary of Veterans Affairs. Many veterans need assistance in filing claims in order to make sure that the claim is accurate and complete. County veterans service officers and officials from State veterans agencies are often the officials who can actually sit down face to face with a veteran to develop a claim and to send it to the VA. This bill makes the VA a partner in that outreach process.

On the eve of Veterans Day this year, I join my colleagues in honoring veterans across this country for their heroic service to our Nation.

By Mr. HARKIN (for himself, Mr. LUGAR, and Mr. OBAMA):

S. 1994. A bill to require that an increasing percentage of new automobiles be dual fueled automobiles, to revise the method for calculating corporate average fuel economy for such vehicles, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. HARKIN. Mr. President, when we talk about moving toward energy independence in this country, we are really speaking to the issue of reducing America's dangerous dependence on imported oil. Our addiction to oil is most acute in the U.S. transportation sector where a stunning ninety-seven percent of our fuel comes from petroleum—97 percent. In the electricity sector we have largely turned away from oil but not so in transportation.

Fortunately a growing percentage of transportation energy is now coming from clean, domestically-produced renewable fuels like ethanol and biodiesel. With the nearly 8-billion-gallon Renewable Fuels Standard now the law of the land, renewable fuels will supply 5 percent of the energy for our passenger vehicles by 2012, perhaps more. These home-grown, environmentally friendly alternatives made from corn, soybeans and other sources of biomass are helping to improve air quality, reduce greenhouse gas emissions and enhance the rural economy while substantially reducing dependence on foreign oil.

The best part of this trend is that the health, community, and domestic security benefits of renewable fuels come with the bonus of price savings at the pump. Ethanol prices in this country can be as much as 70 cents a gallon less than regular gasoline. Drivers in my State of Iowa are saving as much as 10 cents a gallon on E10—a blend of just 10 percent ethanol and 90 percent gasoline. This is a savings of about $100 a year for a typical family.

A report earlier this year by the Consumer Federation of America found that consumers throughout our country would experience similar savings if all refiners offered E10. That is a significant savings in all regions of the country. Now, consider the savings if ethanol and other renewable fuels were blended not at 10 percent, but at 85 percent or more. That $100 a year savings turns into hundreds of dollars each year for a typical family.

Unfortunately, right now only about two percent of vehicles on the road in the United States can use ethanol blends of 85 percent—what we call E85. It turns out standard gasoline engines aren't designed for the different fuel to oxygen ratio.

The good news is, manufacturing a new vehicle to run on E85 or other clean alternative fuel blends is simple—the manufacturer adds a fuel sensor and modifies the engine calibration and fuel line to allow the vehicle to run on gasoline or a combination of gas and alternative fuels.

Right now, these "flex-fuel" vehicles cost at most an additional $100 or so to produce. Some cost estimates are as low as $50. Many auto manufacturers offer them to customers at no additional cost. But few Americans are even aware of the option.

At a time of record-high gas prices and continued instability in the Middle East and other oil-producing countries of the world, I believe that all Americans deserve the option to choose the fuel they put in their car.

In Brazil, all new vehicles on the road are expected to be flex-fuel-ready by 2008—meaning every new vehicle owner will have the choice to fill up with gasoline, ethanol, or a combination of the two. If the Brazilians can do it, why can't we?

That's why today Mr. LUGAR, Mr. OBAMA and I are introducing the Fuel Security and Consumer Choice Act to require that automobile manufacturers equip a growing percentage of new vehicles sold in the U.S. for flexible fuel operation. Mr. LUGAR is a leader in promoting research and development into the conversion of cellulosic biomass into useable fuels. Mr. OBAMA is a leader in promoting renewable fuels and in particular E85.

Starting eighteen months after the bill's enactment, manufacturers will be required to equip 10 percent of their cars and light trucks with flex-fuel vehicle, FFV, capability. This is a modest proposal. Several manufacturers are close to meeting or beating this requirement already.

Each model year thereafter, the requirement increases 10 percentage points, so in the second year the manufacturers would have to make at least 20 percent of their vehicles FFVs, and so on, until in about ten years' time 100 percent of new vehicles sold in the United States are flex fuel. I recognize that we could be more aggressive in our timetable, but I believe we've struck the right balance here in pushing and prodding.

In addition, the bill allows auto manufacturers to bank and trade FFV credits toward meeting the requirements. In other words, if one company produced more than its required percentage of FFV vehicles in a given year, it could trade or sell extra credits earned to another company that would then use them to meet the bill's requirements. Credits would have a three-year window if banked or traded. This banking and trading provision is similar to others in law, in the RFS for example, making it that much easier for companies to meet statutory obligations at the lowest possible cost.

Finally, the bill would leave intact the corporate average fuel economy (CAFE) credits for FFV production. However, the bill would change the way the credits are calculated for vehicles produced above the required percentages. Rather than keeping the assumption that the vehicle runs 50 percent of the time on fuel like E85, which isn't an appropriate figure since most don't run yet on E85, we phase-down the assumed use from 50 percent in the first model year the requirement applies to 30 percent in the second year, 10 percent the third year, and 0 percent thereafter. This should still spur interest among automakers in the early years of the requirement to go beyond the minimum FFV production levels outlined in the bill to get the extra credits. And in the meantime the FFV requirement is kicking in and the ramp up of FFVs won't dilute or weaken CAFE.

This bill will give American consumers true choice in fuel selection for the first time. Drivers will have the option to choose low-price, high-performance E85, or another fuel. My firm belief is that consumers will choose to buy home-grown renewable fuels that directly reduce oil dependence rather than buy traditional fossil fuels often derived from unstable regimes around the globe.

Now, I don't doubt some automobile manufacturers will complain that this requirement is unduly onerous, that it will hurt the industry somehow. Well, I heard the same thing back in 1989 when I proposed another revolutionary idea: closed captioning for TV sets. Industry was in an uproar when I suggested that the hearing impaired should have access to television programming on the public airwaves. The industry said closed captioning would bankrupt it and drive the price of televisions through the roof.

But then, an amazing thing happened. Electronics manufacturers realized that they could reach a broad range of new audiences, including not just the hearing impaired, but also the learning disabled, and immigrants for whom English is a second language. Sales for several companies reached an all-time high, and with implementation across the electronics industry, the cost of the closed captioning chip dropped dramatically to less than a dollar a set.

I have no doubt that vehicle manufacturers will discover similar unexpected efficiencies and benefits with flex fuel vehicles. As more Americans discover the savings from flexible fuels, the more they will seek them out. What better way to boost car sales than to market the fuel cost savings that flexible fuel vehicles offer? Any very small additional cost of the flex-fuel vehicle will be more than offset by the price benefits drivers will achieve from a flexible fuel supply over time, not to mention the tremendous energy security benefits for our Nation.

The country will benefit from cleaner air, reduced greenhouse gas emissions, reduced dependence on foreign oil, and an enhanced rural economy. Simply, put, this is a low-cost measure with a tremendous payoff.

It is already well-established that federal auto standards for the benefit of our Nation are an appropriate policy option. It's also important to note that auto manufacturers already comply with literally dozens of other requirements having to do with the make-up, design, and performance of their vehicles. Making an FFV is a lot cheaper than putting in air bags, or many other components.

Agriculture and renewable fuels producers are ready to provide the fuel. Automobile manufacturers have the technology to do it. Given the country's great energy and security challenges, all sectors must do their part to chart a path toward energy independence: government, individual citizens, energy companies, and yes, auto manufacturers.

I'm grateful that this legislation has been endorsed by a wide array of renewable fuel, agriculture, clean energy and security organizations, including the Renewable Fuels Association, American Coalition for Ethanol, Alliance to Save Energy, Set America Free, and National Corn Growers Association.

In closing I want to recognize Mr. LUGAR and Mr. OBAMA for co-sponsoring this legislation with me today. Mr. LUGAR and I have teamed up many times over the years, most recently to enact the national Renewable Fuels Standard, which we did as part of the comprehensive energy bill. This bill builds upon the RFS, to guarantee that renewable fuels which are being produced in ever greater abundance can find a home in just about any vehicle on the market a few short years from now. I am thankful for his leadership on this and so many other important energy security issues. I am also grateful to Mr. OBAMA for his leadership.

I hope we can rapidly enact this legislation.

Mr. OBAMA. Mr. President, oil companies recently announced record profits. Those of us who drive cars and trucks could feel our wallets shrink at the news. Throughout most of this year, American drivers have paid the highest gas prices of all time—more so in the wake of refinery disruptions caused by Hurricane Katrina. While petroleum company shareholders enjoy healthy stock dividends, the rest of us hemorrhage the cash. Industry analysts explain it away as "business is business."

Sound familiar? In the 1970s, political conflicts compelled Middle East oil sheiks to tighten their reins on oil production, sending shockwaves throughout our economy and creating long lines at the gas pump. Congress responded with laws promoting energy conservation and fuel efficiency that we thought would reduce our dependence on foreign oil.

Unfortunately, 30 years later, here we are again. The Middle East remains in turmoil, and the engines of America remain firmly fueled on foreign oil. Exacerbating the problem is that the economies of China and India—two nations totaling over 2 billion citizens—are quickly expanding, and they are competing with the U.S. for the same pool of oil. Quite simply, worldwide production capacity cannot keep pace. And that means U.S. gas prices likely will remain high for the foreseeable future.

More so than at any other time in a generation, our economy is exposed. In the year 2035, will the American market be shackled still to foreign oil? Will we question whether bolder past policies could have prevented future crisis?

The response to these questions can be "no" if we begin now.

For about $100 worth of hoses and sensors, we can make our cars run on ethanol made from homegrown corn. Automakers made 1 million of these cars this year. We have the technology, and it is proven. With 200 million cars on the road, and 17 million more each year, why can't more cars run on ethanol?

The answer is they can, and that is why I am pleased to join my colleagues from Iowa and Indiana, Senators HARKIN and LUGAR, in introducing legislation to require all cars made in the United States to be ethanol-capable vehicles within 10 years.

Making ethanol cars is not expensive. It is less than the cost of airbags. It is less than the cost of a sunroof. It is less than the cost of foglights. It is less than the cost of a fancy CD player. It is less than the cost of heated seats.

Making ethanol cars is not restrictive. These cars are known as flexible fuel vehicles. Where ethanol is not yet available, you simply fill up with regular gas.

And making ethanol cars is good for American automakers, because American automakers have a head start. Already, 5 percent to 7 percent of their fleet can run on ethanol. We are only asking for an increase over a decade.

I remind my colleagues that the renewable fuels standard enacted in the Energy bill of 2005 will incorporate enough ethanol into our fuel supply to reduce the use of foreign oil. The Harkin-Lugar-Obama bill, if enacted, would accelerate that reduction. And we can do it without hardship, without requiring drivers to purchase matchbox cars, without proposing futuristic technologies that only our great-great-grandchildren's children will see.

The Harkin-Lugar-Obama bill transforms existing, inexpensive, and simple technology into a genuine movement towards energy independence for the United States within a time period that we all can witness. I urge my colleagues' swift approval of this legislation.

By Mr. JEFFORDS (for himself, Mr. LAUTENBERG, Mrs. BOXER, and Mr. OBAMA):

S. 1995. A bill to amend the Federal Water Pollution Control Act to enhance the security of wastewater treatment works; to the Committee on Environment and Public Works.

Mr. JEFFORDS. Mr. President, today I rise to introduce the Wastewater Treatment Works Security Act of 2005. This legislation is designed to improve the safety and security of our Nation's wastewater treatment systems.

There are 16,000 wastewater treatment facilities across the United States serving almost 190 million people. Approximately 1,600 facilities are located near large metropolitan areas. These industrial facilities use large quantities of toxic chemicals in their treatment and disinfection processes, and their collection systems run beneath every city and town in America.

A recent Department of Homeland Security planning scenario estimates that a chlorine tank explosion could result in 17,500 deaths, 10,000 severe injuries, and 100,000 hospitalizations. In February 2005, the Government Accountability Office (GAO) released a report on wastewater security which ranks the release of chlorine as the number two security risk after damage to sewer collection systems.

In the past few years alone, fatal accidents involving large quantities of chlorine have reminded us of the highly volatile nature of this popular wastewater disinfection agent. In January 2005, 9 people were killed in South Carolina when a train carrying chlorine gas was involved in a crash. In June 2004, 3 people died when two freight trains collided in Texas and caused a chlorine tank to rupture.

At the very least, wastewater facilities that use chlorine should evaluate how the chemical is stored on site and how to react in the event of a harmful intentional act. The GAO report on wastewater security recommends mandatory vulnerability assessments and emergency response plans as an immediate step towards addressing the security concerns.

The Wastewater Treatment Works Security Act takes the essential first step in closing the security gaps that make our wastewater treatment systems vulnerable to terrorist attack. The provisions contained in this bill are the product of four years worth of lessons learned since 9/11, mirroring similar legislative efforts to secure critical infrastructure and minimize potential terrorist targets.

This legislation requires all wastewater facilities to conduct vulnerability assessments and to develop or modify site security and emergency response plans to incorporate the results of the vulnerability assessments. Treatment works must certify that alternative approaches, such as using smaller quantities or replacing substances of concern, were considered in their site security plans. It requires that these documents be submitted to EPA for review, and it includes significant security measures to protect this information from unauthorized disclosure.

Additionally, the legislation authorizes $250 million for assistance in completing vulnerability assessments, for immediate security improvements, and for assistance to small treatment works. Finally, it authorizes $15 million for research to identify threats, detection methods and response actions. This bill makes tangible progress towards more secure and better prepared wastewater treatment works.

By contrast, drinking water facilities have conducted vulnerability assessments under the Safe Drinking Water Act since 2002, when Congress passed H.R. 3448, the Public Health and Bioterrorism Preparedness Response Act, P.L. 107-188. These plants are often co-located. It makes no sense to adopt strong standards for one infrastructure sector and not the other. In anticipation of congressional action on wastewater security, EPA has already issued guidance on conducting vulnerability assessments of wastewater treatment works, and many plants have already completed them.

The Wastewater Treatment Works Security Act will codify what are now voluntary prevention and security measures and require all wastewater facilities to complete vulnerability assessments and emergency response plans, just as drinking water facilities have done since 2002.

Our homeland security strategy begins with protecting critical infrastructure, and wastewater treatment facilities can no longer remain the exception. I urge my colleagues to support this legislation.

By Mr. KOHL:

S. 1996. A bill to authorize the Secretary of Energy to temporarily prohibit the exportation of a finished petroleum product or liquefied petroleum gas from the United States if the Secretary determines that the supply of the product or gas in any Petroleum Allocation Defense District has fallen or will fall below expected demand; to the Committee on Banking, Housing, and Urban Affairs.

Mr. KOHL. Mr. President, I would like to address an issue that I know my constituents in Wisconsin are worried about; indeed, something that all Americans should be concerned about. On Tuesday, the Energy Information Administration (EIA) announced the most recent outlook for home heating costs. For the average family, the cost of heating oil will increase approximately $325. And for families relying on propane, they can expect to pay an increase of about $230. I would like to stress that this is the average; in some areas, the prices could be much higher. And while these increased costs will place an undue burden on all sectors of the economy, the heaviest toll will clearly be on middle and low-income families.

Yesterday, executives from several major oil companies were called to Capitol Hill, to defend the nearly $33 billion they earned last quarter. The answers they gave, for why Americans could expect to pay significantly more to heat their homes this winter, often were directed at the economics of supply and demand. The Chairman and CEO of ConocoPhillips argued that prices are "a function of longer-term supply-and-demand trends, and lost energy production during the recent hurricanes." John Hofmeister, the President of Shell Oil Company, told Senators that the industry is doing everything in its power to "supply shortfalls."

Given the testimony of Mr. Hofmeister, I find it surprising to note that currently, American companies are actually exporting products that could be used for home heating. According to the EIA, between January and August 2005 more than 48 million barrels of refined product was exported out of the U.S. This amount is 24 times the size of what is stored in the Northeast Heating Oil Reserve. While some of this went to both Canada and Mexico, large quantities were also sent to Argentina, Chile, France and Peru.

I believe my constituents would be shocked to hear that while the oil companies are blaming high prices on low supplies, they are also reaping the benefits of exporting home heating oil abroad. That is why, on November 4th, I, along with 11 of my colleagues, wrote to several of the major oil companies and refiners, asking them to voluntarily halt all unnecessary exports of products that could be used for home heating. Such action would not be without precedent: in 2000, some refiners, including Shell Oil, voluntarily suspended heating oil exports after consulting with then Energy Secretary Richardson. We have not yet heard a response from any of the companies.

I remain hopeful that these companies will help American consumers by temporarily suspending their unnecessary exports. Yesterday's hearing, however, did not inspire confidence in the companies to act on behalf of consumers rather than profits. That is why I am introducing the Stop Heating Oil Exports bill today.

My legislation would grant emergency powers to the Energy Secretary to halt all unnecessary exports in the face of a serious price spike or supply shortfall. It is that simple. If the Secretary finds that demand will heavily outpace supply, then he or she should be able to stop exports—thereby temporarily improving supply, and preventing a major price spike, such as the one we can expect this winter.

Yesterday, the oil companies cautioned those of us in Congress against policy changes that would amount to long-term involvement in energy markets. I would assure these executives that my legislation is a simple, short-term answer that is designed to protect American consumers. The companies have a chance to do the right thing, to increase supply and avoid the significantly increased home heating prices that have been forecasted.

I believe that in the future, if they fail to use such an opportunity, the Energy Secretary should have the power to intervene on behalf of consumers. I would remind my colleagues that in 2000, as many as 4 refiners voluntarily suspended exports, citing "market conditions" and the desire to ensure adequate supplies of home heating oil for the winter. And I would remind the President of Shell that his company was one of them.

Americans across the country could face potentially life-threatening conditions this winter, when temperatures drop and home heating prices soar. I believe that the oil companies have it in their power to prevent such a crisis—if they fail to use it, I believe it is the responsibility of the Federal Government to protect American families. I ask unanimous consent that the text of our legislation be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 1996

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Stop Heating Oil Exports Act of 2005".

SEC. 2. FINDINGS.

Congress finds that—

(1) according to the Energy Information Administration, households heated primarily with heating oil can expect to pay an average increase of $378, or 32 percent more than last year, to heat their homes;

(2) households relying on propane can expect to pay, on average, $325 more this winter;

(3) the National Oceanic and Atmospheric Administration projects a 3.2-percent colder winter than last year, and if colder weather prevails, home heating expenditures will be significantly higher;

(4) high home heating prices will disproportionately impact moderate- and low-income families;

(5) in October 2000, the Secretary of Energy, Bill Richardson, successfully worked with major refiners to temporarily halt heating oil exports, to ensure adequate supplies of home heating oil for the winter;

(6) between January and August 2005, refiners in the United States have exported more than 48,000,000 barrels, or 2,000,000,000 gallons, of product that could be used for home heating; and

(7) at a time when consumers in the United States can expect nearly double their home heating costs in 2004, refiners in the United States should not be diminishing the supply by exporting home heating products.

SEC. 3. AUTHORITY TO TEMPORARILY PROHIBIT EXPORT OF CERTAIN PETROLEUM PRODUCTS.

If the Secretary of Energy determines that the supply of a finished petroleum product or liquefied petroleum gas in any of the 5 Petroleum Allocation Defense Districts has fallen or will fall below expected demand for the product or gas, the Secretary may temporarily prohibit the exportation of the product or gas from the United States.

By Mr. HARKIN (for himself, Mr. SCHUMER, Mrs. CLINTON, Mr. BINGAMAN, and Mr. REED):

S. 1997. A bill to authorize the Secretary of Energy to establish a program of energy assistance grants to local educational agencies; to the Committee on Energy and Natural Resources.

Mr. HARKIN. Mr. President, today, I am introducing the School Energy Crisis Relief Act. This bill would authorize the Secretary of Energy to award School Energy Grants to the poorest school districts in each State. I am pleased that Senators Schumer, Clinton, and Bingaman have joined me in sponsoring this bill.

With cold weather setting in, people all across the country are worried about the sky-high cost of energy. Americans are feeling pain at the pump, and they are feeling even more pain at home, with home-heating costs expected to rise as much as 70 percent above last year's levels.

At the same time, many public school districts across the country are struggling to cope with a dramatic, unexpected surge in their energy costs. Schools are facing a double hit: they operate large fleets of buses, and they must heat large, sprawling buildings. This problem is especially acute in the West and Midwest, where many school districts cover large geographic areas, and in urban areas, which are burdened with some of the nation's oldest and often least energy-efficient buildings.

For affluent suburban districts, these unanticipated energy costs are a challenge. But for poor school districts, they are a full-blown crisis. Many school boards face a choice between paying their higher energy bills or cutting instructional staff and programs.

My bill would allow the Secretary of Energy to award grants to schools districts with the highest percentage and highest number of students eligible for Title I assistance. The grant amounts would be awarded based on the population of school-age children in the district, as well as the regional costs of transportation and heating fuel.

This is a nationwide crisis, and it calls for an urgent Federal response. School districts across the country are already implementing drastic measures in response to higher energy costs. In Kentucky, for instance, several school districts have cut back to four days of classes per week. In September, most of Georgia's schools cancelled classes for two days in an effort to conserve energy and cut costs.

In my State, the Iowa Association of School Boards estimates that, this winter, there will be $40 million shortfall in funding to cover school heating costs. Higher fuel costs for school buses could worsen the shortfall by another $8 million. And because that will come out of the fixed general fund for public education, every additional dollar spent on energy costs will come at the expense of classroom and instructional quality. For example, Charles City, IA, expects to spend $140,000 more on fuel this winter. That's enough to pay the salaries of four teachers.

According to the Iowa Association of School Boards, school districts are responding to the energy crisis by reducing staff, increasing class sizes, reducing course offerings, postponing technology purchases, or cutting Headstart transportation programs. Many school districts are lowering their thermostats to unhealthful levels. In fact, just yesterday, I heard that the school district in Ottumwa, IA, has asked parents to start sending kids to school with coats to keep them warm indoors. This is just not acceptable.

In addition, I remind my colleagues that school districts—especially high-poverty school districts—are struggling heroically to try to meet the requirements of the No Child Left Behind Act. It is penny wise and pound foolish to force these districts to cut instructional staff and classroom resources in order to pay their higher energy bills. And none of us can be comfortable with the prospect of children sitting at their school desks in coats and scarves to fight off the chill. As I said, this is just not acceptable.

The poorest school districts all across America are in desperate need of assistance with their energy costs. Low-income children deserve the opportunity to learn and achieve in classrooms that are properly heated. And we certainly don't want schools to be eliminating school days and laying off teachers because of higher energy costs. So we need to act. I urge my colleagues to support the School Energy Crisis Relief Act so we can respond to this emergency as expeditiously as possible. According to the Iowa Association of School Boards, this has led to some schools deciding to scale back after-school activities because of heating costs and to cut non-varsity sports because they lack funding necessary to take them to games. It is very troubling to me that schools have been forced to make cuts that have directly affected the educational experience of the children in their schools, in the name of rising fuel costs. For instance, some schools have had to cut back on field trips, put off buying new text books and school supplies, while reducing course offerings in fine arts and academics.

In addition, the Iowa Association of School Boards has reported that schools have cut back on staff and increased class sizes while also turning down the thermostat in the classroom. I ask, Mr. President, are we supposed to expect students to learn at a high-level when rising energy costs have put them in overcrowded, cold classrooms?

But this problem is not specific to my home State of Iowa. As the sponsor of companion legislation in the House of Representatives, Congressman Joe Baca, pointed out that some schools in Kentucky have cut back to four-day school weeks to keep their energy costs down. Recently, Georgia schools cancelled two days of classes in an attempt to keep their costs down. In Colton Joint Unified District in Congressman Baca's congressional district, the price of a gallon of diesel fuel has risen from under a dollar at one point to $2.72 a gallon increasing annual fuel costs by over $300,000.

So I have come to the floor today to introduce the School Energy Crisis Relief Act. This legislation meets the needs of struggling school districts by authorizing the Secretary of Energy to award grants to poor school districts struggling to balance skyrocketing energy costs with providing a quality education. Grants would be awarded to the poorest urban and rural school districts in each state. In Iowa alone, this means both poor rural and urban districts would be eligible to receive grants.

I ask for my colleagues support for the School Energy Crisis Relief Act and urge the Senate to work quickly to pass this crucial legislation and provide relief to those school districts in need.

By Mr. CONRAD (for himself, Mr. VITTER, Mr. SALAZAR, Mr. NELSON of Nebraska, Mr. JOHNSON, Mr. CHAMBLISS, Mr. THUNE, Mr. HAGEL, Mr. ISAKSON, Mr. LAUTENBERG, and Mrs. DOLE):

S. 1998. A bill to amend title 18, United States Code, to enhance protections relating to the reputation and meaning of the Medal of Honor and other military decorations and awards, and for other purposes; to the Committee on the Judiciary.

Mr. CONRAD. Mr. President, it is an honor for me to introduce the Stolen Valor Act of 2005. This legislation will honor the brave veterans of our Nation who have been awarded valorous medals for their service to our Nation. It is only appropriate that this bill be introduced today, the day before our country remembers all servicemen and women—past and present—who have served America in uniform.

Recipients of the Medal of Honor, Distinguished Service Awards, Silver Star, or Purple Heart have made incredible sacrifices for our country. They deserve our thanks and respect.

Unfortunately, however, there are some individuals who diminish the accomplishments of award recipients by using medals they have not earned. These imposters use fake medals—or claim to have medals that they have not earned—to gain credibility in their communities. These fraudulent acts can often lead to the perpetration of very serious crimes.

Currently, Federal law enforcement officials are only able to prosecute those who wear counterfeit medals. The statute does not apply to individuals who claim to be award recipients either verbally or in writing, or to those who display fake medals in their offices or homes.

My legislation will allow law enforcement officials to prosecute those who falsely claim, either verbally or in writing, to be medal recipients. It calls for a six-month jail sentence and a fine for improper use of most medals, and includes a maximum sentence of one year for perpetrators who claim to have earned the Medal of Honor, Distinguished Service Awards, Silver Star, or Purple Heart.

The Military Order of the Purple Heart, the VFW, and the FBI Agents Association have endorsed this legislation because of the capabilities it will provide law enforcement officials to prosecute these fraudulent acts.

It is my hope that this legislation will serve to honor the courageous heroes who have rightfully earned these awards. We must never allow their service and sacrifice to be cheapened by those who wish to exploit these honors for personal gain.

By Mr. KERRY:

S. 1999. A bill to amend the Workforce Investment Act of 1998 to transfer the YouthBuild program from the Department of Housing and Urban Development to the Department of Labor, to enhance the program, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

Mr. KERRY. Mr. President, today I am introducing legislation that would transfer the YouthBuild program from its current home in the Department of Housing and Urban Development to the Department of Labor. Transferring departmental jurisdiction over this program will help ensure that Youthbuild continues to receive the funds it needs to help unemployed and undereducated young people ages 16-24 work toward their GED or high school diploma while learning job skills by building affordable housing for homeless and low-income people. It is supported by the YouthBuild Coalition.

Poverty, neglect, abuse, and deprivation of all kinds can prevent people from reaching their true potential. Many of those who have fallen off track, suffered losses, and made mistakes can recover. If given the opportunity, they can learn to cope with obstacles and care effectively about themselves, their families and their communities. YouthBuild helps young people who have lost their way to turn their lives around.

YouthBuild is a uniquely comprehensive program that offers at-risk youth an immediate productive role rebuilding their communities. While attending basic education classes for 50 percent of program time, students also receive job skills training in the construction field, personal counseling from respected mentors, a supportive peer group with positive values, and experience in civic engagement. They build houses for homeless and low-income people while earning their own GED or high school diploma.

YouthBuild is built on success. The first YouthBuild program was created in 1978. At that time, YouthBuild's future founder, Dorothy Stoneman, formed the Youth Action Program to rebuild homes in New York City. The successful renovation of an East Harlem tenement led to a city-wide coalition and in 1990, led to YouthBuild USA, an organization created to replicate this program around the Nation.

In 1992, I introduced legislation which was enacted into law as part of the Cranston-Gonzalez National Affordable Housing Act, authorizing federal funding for YouthBuild through the Department of Housing and Urban Development.

In its first 10 years of Federal funding, YouthBuild has demonstrated the ability to bring the most disadvantaged youth into productive employment, higher education, and civic engagement. Since 1994, more than 40,000 YouthBuild students have helped rebuild their communities, creating more than 12,000 units of affordable housing, while transforming their lives at the same time.

YouthBuild has earned majority bipartisan support for Federal funding in the Senate due to its great success in local communities. Today there are 226 YouthBuild programs in 44 States engaging 7,000 young adults.

The number of programs could easily be expanded. Last year alone, 260 communities were denied YouthBuild funding. The programs that exist could easily grow. In 2004, local programs turned away 10,000 applicants solely for lack of funds.

The expansion of YouthBuild would help address critical national problems: the construction industry is short 80,000 workers; over 500,000 youth are dropping out of high school every year with no prospects of becoming gainfully employed; states are spending huge amounts on prisons, housing 365,000 16 to 24 year olds, 65 percent of whom have dropped out of high school.

Consider this story of success: Manny Negron grew up in New Britain, CT. He left school during his Sophomore year after having some personal problems. He started selling drugs and getting into trouble. Then he joined YouthBuild, obtained a GED and learned more about the construction industry. "Before YouthBuild, I didn't know what I wanted to do with my life." Manny said. "I had no goals, no plans—I had nothing. If it was a weekend when I was partying and in the street, I had no plans. Now it's completely different and YouthBuild did that for me. Now that I'm away from all that, I actually see a future for myself and see what I'm capable of and what I can do with my life."

Research on 900 YouthBuild graduates several years after program completion showed that 75 percent were employed at an average wage of $10/hour or in college. They were voting and paying taxes. Of those who had committed felonies, the recidivism rate was a strikingly low, 15 percent.

The legislation I am introducing today responds to the Bush administration's attempt to move YouthBuild from HUD to DoL in its FY 2006 budget request. I did not agree with the Administration attempt to transfer YouthBuild in the budget; it was simply the wrong approach. However, my staff has met with Administration officials, with YouthBuild and with YouthBuild's strong supporters. And I believe that we can find a way to do this, and I appreciate that the Administration has shown a willingness to work with us so far. If done properly, I transferring YouthBuild from HUD to DoL could increase YouthBuild's scope, helping it to reach the communities and young people that are currently denied access due to a lack of funds. This legislation not only authorizes the transfer of YouthBuild from HUD to DoL, but also allows unlimited future federal funding, continues centralized management at DoL and continues the historic role of YouthBuild USA as the partner and contractor for quality assurance.

This legislation is an attempt to help move the process of transferring the YouthBuild program forward. I look forward to working with Senators Enzi and Kennedy, the Chairman and Ranking Member of the Senate Committee on Health, Education, Labor and Pensions to develop compromise legislation that will ensure that YouthBuild continues to assist young people around the nation. I ask that all my colleagues support this legislation and continue to support the YouthBuild.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 302—TO EXPRESS THE SENSE OF THE SENATE REGARDING THE IMPACT OF MEDICAID RECONCILIATION LEGISLATION ON THE HEALTH AND WELL-BEING OF CHILDREN

Mr. BINGAMAN (for himself, Mr. Rockefeller, Mr. Reed, Mrs. Clinton, Mrs. Murray, Mr. Baucus, Ms. Mikulski, Mr. Corzine, Mr. Lautenberg, Mr. Dodd, and Mr. Salazar) submitted the following resolution; which was referred to the Committee on Finance:

S. Res. 302

Whereas the Medicaid program provides health insurance for more than ¼ of children in the United States and pays for more than ⅓ of the births and health care costs for newborns in the United States each year;

Whereas the Medicaid program provides critical access to health care for children with disabilities, covering more than 70 percent of poor children with disabilities and children with special needs in low-income working families, including 1 in 9 military children with special health care needs;

Whereas low-income children who depend on the Medicaid program experience a rate of health conditions and health risks much greater than those found among children who are not low-income;

Whereas the Medicaid program is the largest source of payment for health care provided to children with special health care needs in the Nation and is also a critical source of funding for health care provided to children in foster care and for health care services provided in schools to children eligible for coverage under the Medicaid program;

Whereas the Medicaid program is the single largest source of revenue for the Nation's safety net hospitals, including children's hospitals and community health centers, and is critical to the ability of these providers to adequately serve all children;

Whereas the Medicaid program, in combination with the State Children's Health Insurance Program, has helped to dramatically reduce the number of uninsured children, cutting the rate by more than ⅓ between 1997 and 2003;

Whereas without the Medicaid program, the number of children without health insurance—8,300,000 in 2004—would be substantially higher;

Whereas the Medicaid program's guarantee of affordable coverage and access to necessary health care is essential to the ability of the Medicaid program to adequately serve children whose families have low-incomes and whose health care expenses often exceed the norm;

Whereas for nearly 40 years, the Medicaid program has ensured particularly comprehensive benefits for infants, young children, school-age children, and adolescents, in recognition of the unique growth and development needs of children and the importance of strong and healthy young adults to the safety and welfare of the Nation;

Whereas the Medicaid program's special benefits, added in 1967, were a direct response to findings of the Department of Defense regarding pervasive physical, dental, and developmental conditions among low-income military recruits, and the implications of these findings for national preparedness;

Whereas the Medicaid program's benefits for children are comprehensive, in order to ensure that all low-income infants, even those born too soon and too small, have the chance to survive and thrive into a healthy childhood;

Whereas the Medicaid program's benefits for children help ensure that young children grow and develop properly, arrive at school ready to learn, and have the opportunity to achieve their full educational potential;

Whereas the Medicaid program ensures that children have the benefits, health services, and health care support they need to be fully immunized, and that children can secure eyeglasses, dental care, and hearing aids when necessary, and have access to comprehensive, regularly scheduled, and as-needed health examinations, as well as preventive interventions, to correct physical and mental conditions that threaten to delay proper growth and development;

Whereas the Medicaid program ensures that the sickest and highest risk infants, toddlers, and children have access to the specialized diagnostic and treatment care that become essential when serious illness strikes;

Whereas title III of the budget reconciliation bill of the House of Representatives, as reported out by the Committee on Energy and Commerce, would eliminate Medicaid Early and Periodic Screening Diagnosis and Treatment (EPSDT) benefit rules outright for approximately 6,000,000 low-income children, whose family incomes are only slightly above the Federal poverty level and who are therefore without the resources to secure basic health care or essential medical care;

Whereas title III of the budget reconciliation bill of the House of Representatives permits States to eliminate the following benefits for children: comprehensive developmental assessments, assessment and treatment for elevated blood lead levels, eyeglasses, dental care, hearing aids, wheelchairs and crutches, respiratory treatment, comprehensive mental health services, prescription drugs, and speech and physical therapy services;

Whereas title III of the budget reconciliation bill of the House of Representatives would allow States to impose premiums, deductibles, and copayments on children whose families have incomes only slightly above the Federal poverty level and who therefore cannot afford the cost of medically necessary care and millions of children, especially infants, young children, and school-age children with serious disabilities and high health care needs, would potentially be affected;

Whereas although title III of the budget reconciliation bill of the House of Representatives purports to exempt poor children, it permits States to redefine the meaning of poverty virtually without limitation, in order to eliminate cost sharing safeguards for poor children currently available under the law;

Whereas title III of the budget reconciliation bill of the House of Representatives would permit States to require that even the poorest children pay copayments for prescription drugs, without providing exemptions to this requirement, not even in the case of children in foster care or special needs adoptions;

Whereas title III of the budget reconciliation bill of the House of Representatives would permit States to allow hospital emergency departments to impose cost sharing requirements on the poor and on near-poor infants, toddlers, and young children, without providing exemptions to this requirement, not even in the case of children in foster care or special needs adoptions;

Whereas title III of the budget reconciliation bill of the House of Representatives would permit providers to turn children away because their families are unable to pay deductibles and copayments;

Whereas title III of the budget reconciliation bill of the House of Representatives would potentially eliminate medical case management coverage for Medicaid-enrolled children in foster care, even though Federal foster care programs expressly assume that medical case management services for such children will be furnished through the Medicaid program;

Whereas title III of the budget reconciliation bill of the House of Representatives would permit States to entirely replace the Medicaid program for children with "health opportunity accounts" that eliminate all Medicaid coverage in favor of cash accounts of $1,000 and catastrophic-only, high deductible health insurance coverage for children with family incomes only slightly above the Federal poverty level; and

Whereas title III of the budget reconciliation bill of the House of Representatives would only exempt the poorest children from participation in health opportunity accounts during the first 5 years of the demonstration projects under which the accounts are available and would permit States to redefine the meaning of poverty to any level, no matter how low: Now, therefore, be it

Resolved, That it is the sense of the Senate that the conferees for any budget reconciliation bill of the 109th Congress shall not report a reconciliation bill that would—

(1) allow States to—

(A) reduce coverage for medically necessary health care for poor or low-income children; or

(B) impose premiums, deductibles, copayments, or coinsurance on poor or low-income children;

(2) reduce coverage of, or payment for, medical case management services under title XIX of the Social Security Act for children in foster care, including targeted case management services; or

(3) allow the Secretary to undertake any Health Opportunity Account demonstrations involving poor or low-income children.

Mr. BINGAMAN. Mr. President, I am submitting a Senate resolution today with Senators ROCKEFELLER, REED, CLINTON, MURRAY, BAUCUS, AKAKA, MIKULSKI, CORZINE, LAUTENBERG, and DODD that does three things: 1. Explains the importance of Medicaid to children; 2. Explains the consequences of the various provisions in the House budget reconciliation bill that will negatively impact the health and well-being of children's health; and 3. Expresses the Sense of the Senate that the conferees for the budget reconciliation bill shall not report back language that has negative consequences for the health and well-being of children.

This resolution highlights the many ways in which the House of Representatives budget reconciliation bill affects the health of low-income children across this Nation. According to the Congressional Budget Office (CBO), the House budget reconciliation package increases cost-sharing placed on low-income Medicaid beneficiaries, even while reducing health services by $6.5 billion over 5 years and an astounding $30.1 billion over 10 years.

In sharp contrast, the Senate budget reconciliation bill includes only one provision—the targeted case management reduction of $750 million over 5 years—that could negatively affect young Medicaid beneficiaries.

For children, the impact would be devastating. Medicaid covers more than 27 million children—or almost one in four—American children. Medicaid also covers more than one-third of all the births and health care costs of newborns in the United States each year.

In spite of the importance of Medicaid, the House budget package increases cost-sharing for all children who rely on it for prescription drugs and emergency room services. The bill also allows States to impose premiums for the first time under Medicaid for children's coverage and deny children coverage even if their family cannot afford to pay the premium or other cost-sharing.

The House budget bill also allows States to eliminate the Early and Periodic Screening Diagnosis and Treatment (EPSDT) benefit rules that are so critical to the health of children with special health care needs or disabilities. Benefits that could be lost include: comprehensive developmental assessments, assessment and treatment for elevated blood lead levels, eyeglasses, dental care, hearing aids, wheelchairs and crutches, respiratory treatment, comprehensive mental health services, prescription drugs, and speech and therapy services.

In short, the vast majority or three-fourths of the savings in the House bill come at the expense of low-income Medicaid beneficiaries. By CBO's estimate, half of the beneficiaries affected by the increased cost sharing provisions in the House package are imposed on children, and half of those who will lose Medicaid benefits would be children.

Without the Medicaid program, the number of children without health insurance—8.3 million in 2004—would be substantially higher. In fact, the number of uninsured children has dropped by over one-third of a million children over the past 4 years due in large part to Medicaid and the State Children's Health Insurance Program, or SCHIP.

As Representative FRANK PALLONE noted, "Once again, Medicaid has proven to be part of the solution, not the problem. Burdensome cost-sharing requirements and reduced benefits included in the reconciliation package will undoubtedly weaken Medicaid's ability to ensure all of America's children have access to the health care they need."

Representative LOIS CAPPS of California adds, ". . . this reconciliation package would allow states to deny critical medical screening, treatment, and follow up care for these children. And it would allow excessive out of pocket costs and premiums which—experience shows—causes families to lose coverage or fail to get even needed services for children."

I urge Senators to closely monitor what the House of Representatives is doing with respect to the health and well-being of children in their budget reconciliation bill. Low-income children should not be asked to bear the burden of billions of dollars in budget cuts—cuts that are not even being used to reduce the deficit, but rather to help pay for tax cuts.

There are a variety of reasons that I did not support the Senate's budget reconciliation bill, but even with its imperfections, it is far superior to the House's budget package. If nothing else, it does not contain the types of cuts to children's health that are included in the House bill.

Senators need to know that the House budget package is terrible for the health and well-being of the children in our country.

With that in mind, I offer today's Senate resolution on children's health.

I ask for unanimous consent that a copy of the CBO analysis of the impact that the Medicaid provisions in the budget reconciliation bill passed by the House Energy and Commerce Committee be printed in the RECORD.

There being no objection, the analysis was ordered to be printed in the RECORD, as follows:

CONGRESSIONAL BUDGET OFFICE—ADDITIONAL INFORMATION ON CBO'S ESTIMATE FOR THE MEDICAID PROVISIONS IN H.R. 4241, THE DEFICIT REDUCTION ACT OF 2005

The Congressional Budget Office (CBO) estimates that the provisions of subtitle A of Title III of H.R. 4241 would reduce federal Medicaid spending by $12 billion over the 2006–2010 period and $48 billion over the 2006–2015 period (see CBO's cost estimate of the reconciliation recommendations of the House Committee on Energy and Commerce, issued on October 31, 2005). About 75 percent of those savings are due to provisions that would increase penalties on individuals who transfer assets for less than fair market value in order to qualify for nursing home care, restrict eligibility for people with substantial home equity, allow states to impose higher cost-sharing requirements and/or premiums on certain enrollees, and permit states to restrict benefits for certain enrollees. This memorandum provides additional information about the estimates and the number and types of Medicaid enrollees who would be affected by those provisions.

ASSET TRANSFERS AND HOME EQUITY

CBO estimates that the provisions changing the treatment of asset transfers and home equity would reduce net Medicaid outlays by $2.5 billion over the next five years and by $6.8 billion over the next 10 years. Of those amounts, more than three-quarters is due to the proposed change to the start date of the penalty for prohibited transfers and the prohibition of nursing home benefits for individuals with home equity exceeding $500,000.

Under current law, very few of the applicants for Medicaid incur penalties for prohibited asset transfers. CBO estimates that changing the start date of the penalty would result in a delay of Medicaid eligibility for approximately 120,000 people in 2010, growing to approximately 130,000 in 2015. Such delays would occur because individuals would either incur a penalty for prohibited transfers or refrain from making such transfers and instead pay for some nursing home care themselves. Those figures represent about 15 percent of the new recipients of Medicaid nursing home benefits each year.

The majority of penalties or delays would apply to individuals who otherwise would have employed a strategy to preserve half of their assets—the so-called "half-a-loaf" strategy. Under the bill, some of those individuals would simply not transfer assets and thus not incur a penalty, but instead accept a delay in Medicaid eligibility. The bill's provisions that allow greater exemptions for hardship situations reduce the number of affected individuals, while the changes to the look-back window increase that number.

The period of delayed eligibility for affected recipients would range from one day to more than one year, averaging about three months in 2006 and decreasing to an average of about two months in 2015. The length of the delay would decrease because payment rates for nursing home services are expected to grow faster than assets.

CBO estimates that about 1 percent of the unmarried applicants for Medicaid nursing home benefits have homes valued at over $500,000. (The policy would have a negligible effect on the treatment of the homes of married individuals.) That figure translates to about 5,000 affected individuals annually by 2010.

COST SHARING

CBO estimates that the provisions allowing states to impose higher cost-sharing requirements and premiums on certain recipients would reduce Medicaid spending by $10 billion over the 2006–2015 period. Of that total, about two-thirds of the estimated savings are due to increased cost sharing and one-third to higher premiums. We anticipate that states would phase in changes in cost sharing and that those changes would not be fully effective until 2012.

We assume that states would impose cost-sharing requirements primarily for services such as prescription drugs, physician services, and non-emergency visits to emergency rooms. We also anticipate that states would require greater cost-sharing payments by individuals and families with higher income than by those with income just above the poverty level. Although states would be likely to raise nominal copay amounts and increase them over time, we expect that aggregate enrollee cost sharing would remain, on average, below limits established under H.R. 4241.

Under the bill, CBO estimates that states with about one-half of all Medicaid enrollees would impose cost-sharing requirements (for at least one service) on enrollees who currently are not subject to cost sharing. We estimate that the number of affected enrollees would increase from 7 million in 2010 to 11 million by 2015, and that about half of those enrollees would be children. States also would increase cost-sharing requirements for many of those who are subject to cost sharing under current law and thus increase copays for another 6 million enrollees by 2015. In sum, we expect that about 17 million people—27 percent of Medicaid enrollees—would ultimately be affected by the cost-sharing provisions of the bill.

We estimate that about 80 percent of the savings from higher cost sharing would be due to decreased use of services; the remaining 20 percent would reflect lower payments to providers. CBO anticipates that about three-quarters of states imposing cost sharing would allow providers to deny services for lack of payment and that there would be greater decreases in utilization in those states. The estimate accounts for the fact that savings from the reduced use of certain services (such as prescription drugs or physician services) could be partly offset by higher spending in other areas (such as emergency room visits).

PREMIUMS

CBO estimates that about 75 percent of the savings from higher premiums under H.R. 4241 would be due to higher premium receipts and the remaining 25 percent would stem from individuals leaving the Medicaid program.

States would charge premiums to about 1 million enrollees by fiscal year 2010 and to about 2 million enrollees by fiscal year 2015. CBO expects that most of those enrollees would be nondisabled adults and children and that, on average, premiums would range from 1 percent to 3 percent of family income. Those amounts would be less than the maximum allowed by the legislation. In response, some beneficiaries would leave Medicaid or would be disenrolled for nonpayment. CBO estimates that about 70,000 enrollees would lose coverage in fiscal year 2010 and that 110,000 would lose coverage in fiscal year 2015 because of the imposition of premiums.

ALTERNATIVE BENEFIT PACKAGES

CBO's estimate assumes that states with about 20 percent of Medicaid enrollees would provide reduced benefit packages to at least some of their enrollees. Those benefit reductions would affect an estimated 2.5 million Medicaid enrollees in 2010 and about 5 million enrollees by 2015—about 8 percent of the Medicaid population—and that about one-half of those receiving alternate benefit packages would be children. We anticipate that states would phase in benefit reductions and that those changes would not be fully effective until 2015. CBO expects that only a limited number of states would exercise that option because the bill would prohibit states that provide limited benefit packages from expanding such coverage to groups not covered under the state plan when the bill is enacted.

While many states trimming benefits likely would offer a benefit package for Medicaid children similar to that provided in the State Children's Health Insurance Program, we expect that others would look to their state employee programs or private-sector plans as models for benefits to offer parents, families, and some disabled adults. CBO anticipates that only a few states would offer benefit plans that offer leaner benefits than those types of plans, though the bill would permit them to do so.

On average, CBO expects that alternative benefit packages provided by the states would reduce per capita spending by 15 percent to 35 percent for the affected populations, depending on the eligibility group targeted and the generosity of the state's program under current law. Most of the reductions would be for services such as dental, vision, mental health, and certain therapies, but also could include restrictions on the amount, duration, and scope of coverage for other services.

UNCERTAINTY OF ESTIMATES

CBO's estimates are particularly uncertain in two areas. We have limited information about people's asset holdings prior to their admission to nursing homes and about the number of people engaging in asset transfers that would be prohibited by the bill. How states would react to this legislation is also very uncertain. We anticipate wide variation in the extent to which different states would reshape their Medicaid programs by increasing cost sharing or premiums or by restricting benefits. Some states might make limited changes, such as increasing cost sharing for a few specific services or certain enrollees, while others would make more far-reaching changes. Our estimates, therefore, account for a range of possible responses by states to the bill.

SENATE RESOLUTION 303—CALLING FOR THE GOVERNMENT OF NIGERIA TO CONDUCT A THOROUGH JUDICIAL REVIEW OF KEN SARO-WIWA CASE, AND FOR OTHER PURPOSES

Mr. LEAHY (for himself, Mr. KENNEDY, Mr. OBAMA, Mr. FEINGOLD, Mr. DODD, and Mr. DURBIN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 303

Whereas on November 10, 1995, Ken Saro-Wiwa, Nigerian writer, environmental activist, and nominee for the Nobel Peace Prize, along with 8 colleagues, together known as the "Ogoni 9", were hanged by the military government of Nigeria, based on charges widely regarded as false;

Whereas the Ogoni 9 had been nonviolently campaigning for improved living standards and a clean environment for the Ogoni People, whose Niger Delta land, air, and water was, and remains, severely polluted from oil extraction, and whose standard of living, despite the great mineral wealth their land has yielded since the early 1960s, is among the lowest in the world;

Whereas the international condemnation that followed the executions included the suspension of Nigeria from the British Commonwealth of Nations;

Whereas in 1996 a United Nations mission to Nigeria found the military tribunal in contravention of international and domestic law, and recommended financial relief for the survivors of the Ogoni 9 and improvements in the socioeconomic conditions of the Ogoni and other minorities in the Delta;

Whereas 10 years later, none of the United Nations recommendations have been implemented, and the environmental and social situations have deteriorated for the Ogoni and other Delta communities;

Whereas the Ogoni 9 remain convicted of a crime of which they were unfairly tried;

Whereas Ogoniland remains severely polluted and gas flaring continues unabated;

Whereas the security and stability in the Niger Delta are threatened by a proliferation of small arms, armed gangs, and black market oil bunkering;

Whereas despite these pressures, Ogoniland remains an island of nonviolence, and the Ogoni voted in high numbers in the 1999 elections;

Whereas stability in the Niger Delta is necessary to prevent an increase in global oil costs; and

Whereas in the interest of the protection of human rights, justice, and stability in the Delta, redress should be given to the Ogonis and their use of nonviolent means should be recognized: Now, therefore, be it

Resolved, That the Senate—

(1) urges the Government of Nigeria to conduct a thorough judicial review of the trial of the Ogoni 9 and to provide just compensation to the survivors of the Ogoni 9 if a miscarriage of justice is found;

(2) urges the Government of Nigeria, international donors, and international oil companies operating in the Delta to increase assistance significantly to improve the lives of the Ogoni and other affected communities and for pollution abatement and cleanup in the Niger Delta region, in close consultation with local communities;

(3) urges the Government of Nigeria to ensure that all members of the security forces receive training in international standards on the use of force and firearms, particularly the 1979 United Nations Code of Conduct for Law Enforcement Officials and the 1990 United Nations Basic Principles on the Use of Force and Fire Arms by Law Enforcement Officials;

(4) calls upon the Department of State to seek urgently to ensure that American oil companies operating in the Niger Delta comply, at a minimum, with the Voluntary Principles for Security and Human Rights; and

(5) urges the Secretary General of the United Nations to institute a 10-year followup mission to Ogoniland.

Mr. LEAHY. Mr. President, ten years ago today, in what was by all accounts a barbaric miscarriage of justice, Ken Saro-Wiwa and eight of his Ogoni colleagues from the delta region of Nigeria were hanged after being convicted by a biased military tribunal.

Those of us who knew Mr. Saro-Wiwa remember him as a thoughtful, passionate, nonviolent advocate for the rights of the Ogoni people. His arrest, conviction and hanging by the corrupt and brutal Abacha government outraged the world and resulted in Nigeria's suspension from the British Commonwealth, and a United Nations investigation which concluded that Saro-Wiwa and his colleagues had been denied due process in violation of international and Nigerian law. The UN recommended financial relief for their families and improvements in the living conditions of the Ogoni people and the other minorities in the delta region.

Unfortunately, none of the UN's recommendations have been carried out, the environmental, economic and social conditions there have gotten worse, and ten year's later the Ogoni Nine remain convicted of a crime for which they were unfairly tried.

Today, I am honored to submit, on behalf of myself and Senators KENNEDY, OBAMA, FEINGOLD, DURBIN, and DODD a resolution calling on the Government of Nigeria to conduct a thorough judicial review of this travesty.

By this resolution we remember Ken Saro-Wiwa and the others who were executed, and we honor their courage and their nonviolent commitment to social justice. In addition to calling for a judicial review and just compensation to the survivors if a miscarriage of justice is found, we urge the Nigerian government, international donors, and international oil companies operating in the Niger delta to increase assistance significantly to improve the lives of the people who live there. It is unconscionable that after all the billions of dollars in oil that have been extracted from that area, these people continue to suffer daily from the polluted water and soil and the gas flaring and are living in squalor.

And we call on the Nigerian Government to ensure that its security forces receive the necessary training and discipline to prevent the violations of human rights that the Ogoni have suffered for so many years.

The volatile situation in the Niger delta has been ignored for far too long. It cannot be resolved by force. It cannot be resolved by lip service. There are serious environmental issues and urgent economic and social needs. Ken Saro-Wiwa's example of nonviolence stands today as it did a decade ago as a model for the Nigerian government, the people of the Niger delta, and the international community to join together to finally address them.

Mr. KENNEDY. Mr. President, I'm honored to join Senator LEAHY, Senator OBAMA, Senator FEINGOLD, Senator DODD and Senator DURBIN in submitting this tribute to one of the world's most courageous human rights and environmental activists, Ken Saro-Wiwa, on the tenth anniversary of his death.

Mr. Saro-Wiwa was a champion of nonviolence for social and economic justice and the environment in the oil-rich communities of the Niger Delta. He was a voice for hundreds of thousands of persons suffering from government repression and corporate greed, and he raised global awareness of the need for more responsible environmental and social practices by the oil industry.

On this day ten years ago, Ken Saro-Wiwa and eight of his Ogoni compatriots were unjustly put to death based on apparently trumped-up charges by an apparently biased Nigerian military tribunal. Their only crime was their courage in daring to speak out against the exploitation of the Ogoni environment and its people. Despite widespread international condemnation of the killings, Mr. Saro-Wiwa has not been cleared of the false charges, and environmental and social degradation persists in the Ogoni and other communities in the Niger Delta.

The resolution that we are introducing today calls on the Nigerian Government to conduct a thorough judicial review of the military tribunal, and to pay compensation to the heirs of Mr. Saro-Wiwa and his colleagues if a miscarriage of justice is found. A United Nations mission to Nigeria in 1996 found such a violation and called for such relief. The resolution also calls for increased assistance to the Ogoni people and for environmental support for the Niger Delta region. In addition, it calls for American oil companies operating in the Delta to follow more responsible social practices, and for the Government of Nigeria to ensure that its security forces are properly trained, so that nonviolent protest is never again met with violent repression.

At a time when the Niger Delta is increasingly threatened by violence and instability from past failures to address these long-standing grievances, it is urgent that we honor the legacy of Ken Saro-Wiwa and the Ogoni people by seeking creative, nonviolent solutions to the environmental and social problems that plague the region. I urge my colleagues to support this resolution as an important step in that direction.

SENATE RESOLUTION 304—TO DESIGNATE THE PERIOD BEGINNING ON NOVEMBER 1, 2005 AND ENDING ON OCTOBER 31, 2006 AS THE YEAR OF POLIO EDUCATION

Mr. SPECTER (for himself, Mr. CORZINE) submitted the following resolution; which was referred to the Committee on Health, Education, Labor, and Pensions:

S. RES. 304

Whereas 2005 is the 50th anniversary of the injectable polio vaccine;

Whereas the polio vaccines eliminated naturally occurring polio cases in the United States but have not yet eliminated polio in other parts of the world;

Whereas as few as 57 percent of American children receive all doses of necessary vaccines during childhood, including the polio vaccine;

Whereas the Centers for Disease Control and Prevention recommends that every child in the United States receive all doses of the inactivated polio vaccine;

Whereas the success of the polio vaccines has caused people to forget the 1,630,000 Americans born before the development of the vaccines who had polio during the epidemics in the middle of the 20th century;

Whereas at least 70 percent of paralytic polio survivors and 40 percent of nonparalytic polio survivors are developing post-polio sequelae, which are unexpected and often disabling symptoms that occur about 35 years after the poliovirus attack, including overwhelming fatigue, muscle weakness, muscle and joint pain, sleep disorders, heightened sensitivity to anesthesia, cold pain, and difficulty swallowing and breathing;

Whereas 2005 is the 131st anniversary of the diagnosis of the first case of post-polio sequelae and is the 21st anniversary of the creation of the International Post-Polio Task Force;

Whereas research and clinical work by members of the International Post-Polio Task Force have discovered that post-polio sequelae can be treated, and even prevented, if polio survivors are taught to conserve energy and use assistive devices to stop damaging and killing the reduced number of overworked, poliovirus-damaged neurons in the spinal cord and brain that survived the polio attack;

Whereas many medical professionals, and polio survivors, do not know of the existence of post-polio sequelae, or of the available treatments; and

Whereas the mission of the International Post-Polio Task Force includes educating medical professionals and the world's 20,000,000 polio survivors about post-polio sequelae through the international Post-Polio Letter Campaign, The Post-Polio Institute at New Jersey's Englewood Hospital and Medical Center, the publication of The Polio Paradox, and the television public service announcement provided by the National Broadcasting Company: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the need for every child, in America and throughout the world, to be vaccinated against polio;

(2) recognizes the 1,630,000 Americans who survived polio, their new battle with post-polio sequelae, and the need for education and appropriate medical care;

(3) requests that every State designate the period beginning on November 1, 2005 and ending on October 31, 2006 as the "Year of Polio Education" to promote vaccination and post-polio sequelae education and treatment; and

(4) requests that all appropriate Federal departments and agencies take immediate action to educate—

(A) the people of the United States about the need for polio vaccination; and

(B) polio survivors and medical professionals in the United States about the cause and treatment of post-polio sequelae.

Mr. SPECTER. Mr. President, I have sought recognition today to submit a resolution to designate November 1, 2005 to October 31, 2006 as the Year of Polio Education.

During the 1940s and the early 1950s, between 30,000 and 50,000 cases of polio were recorded annually in the United States, causing widespread fear and panic. I recall as a youngster attending a public swimming pool in Wichita, KS, and wondering if going to the swimming pool would cause polio.

Polio is a viral illness that leads to paralysis. The polio virus damages nerves that control muscles, which results in muscle weakness. In severe cases of polio, a person may lose the ability to move their arms and legs, the ability to breathe without help, or die.

President Franklin Delano Roosevelt was the most famous symbol of how physically debilitating polio can be. Yet despite the paralysis of his legs, he was a magnificent President and a great leader of the United States during the Depression and World War II.

This year, 2005, marks the 50th anniversary of the successful nationwide trial to administer the injectable polio vaccine to children. While the invention of injectable polio vaccines eliminated naturally occurring polio cases in the United States, some American children did not receive the polio vaccine necessary to protect them. On September 29, 2005, the first of four children from a rural Minnesota Amish community was diagnosed with polio. While none of the four have suffered paralytic symptoms, the occurrence underscores the need for vaccinations.

The need for continued diligence to protect this country's youth from polio and other illnesses is critical. As chairman of the Labor, Health and Human Services, Education, and Related Agencies—LHHS—Appropriations Subcommittee, I have worked to provide $101.25 million in the fiscal year 2006 Senate LHHS Appropriations bill for global polio eradication, an increase of $500,000 since 2005. These funds provide polio vaccinations internationally in locations where naturally occurring polio has not been eradicated. Further, I have supported $461.5 million for the vaccine for children program as part of the fiscal year 2006 Senate LHHS Appropriations bill, an increase of $41 million since 2005. This program helps families of children who may not otherwise have access to vaccines by providing free vaccines to doctors who serve them.

This year is also the 131st anniversary of the first diagnosed case of post-polio sequelae. Post-polio sequelae is a condition that may develop several decades after a person has had polio, which affects the muscles and nerves, causing weakness, fatigue, pain, and other symptoms. Approximately 70 percent of paralytic polio survivors and 40 percent non-paralytic polio survivors, develop this illness.

The need for continued polio and polio vaccinations education are important to the health of all Americans, especially children. I encourage my colleagues to work with Senator Corzine and me to move this legislation forward promptly.

SENATE RESOLUTION 305—EXPRESSING THE SENSE OF THE SENATE REGARDING VETERANS DAY 2005

Mr. FRIST (for himself, Mr. Reid, Mr. McConnell, Mr. Akaka, Mr. Alexander, Mr. Allard, Mr. Allen, Mr. Baucus, Mr. Bayh, Mr. Bennett, Mr. Biden, Mr. Bingaman, Mr. Bond, Mrs. Boxer, Mr. Brownback, Mr. Bunning, Mr. Burns, Mr. Burr, Mr. Byrd, Ms. Cantwell, Mr. Carper, Mr. Chafee, Mr. Chambliss, Mrs. Clinton, Mr. Coburn, Mr. Cochran, Mr. Coleman, Ms. Collins, Mr. Conrad, Mr. Cornyn, Mr. Corzine, Mr. Craig, Mr. Crapo, Mr. Dayton, Mr. DeMint, Mr. DeWine, Mr. Dodd, Mrs. Dole, Mr. Domenici, Mr. Dorgan, Mr. Durbin, Mr. Ensign, Mr. Enzi, Mr. Feingold, Mrs. Feinstein, Mr. Graham, Mr. Grassley, Mr. Gregg, Mr. Hagel, Mr. Harkin, Mr. Hatch, Mrs. Hutchison, Mr. Inhofe, Mr. Inouye, Mr. Isakson, Mr. Jeffords, Mr. Johnson, Mr. Kennedy, Mr. Kerry, Mr. Kohl, Mr. Kyl, Ms. Landrieu, Mr. Lautenberg, Mr. Leahy, Mr. Levin, Mr. Lieberman, Mrs. Lincoln, Mr. Lott, Mr. Lugar, Mr. Martinez, Mr. McCain, Ms. Mikulski, Ms. Murkowski, Mrs. Murray, Mr. Nelson of Florida, Mr. Nelson of Nebraska, Mr. Obama, Mr. Pryor, Mr. Reed, Mr. Roberts, Mr. Rockefeller, Mr. Salazar, Mr. Santorum, Mr. Sarbanes, Mr. Schumer, Mr. Sessions, Mr. Shelby, Mr. Smith, Ms. Snowe, Mr. Specter, Ms. Stabenow, Mr. Stevens, Mr. Sununu, Mr. Talent, Mr. Thomas, Mr. Thune, Mr. Vitter, Mr. Voinovich, Mr. Warner, and Mr. Wyden) submitted the following resolution; which was considered and agreed to:

S. Res. 305

Whereas tens of millions of Americans have served in the Armed Forces of the United States during the past century;

Whereas hundreds of thousands of Americans have given their lives while serving in the Armed Forces of the United States during the past century;

Whereas the contributions and sacrifices of the men and women who have served in the Armed Forces of the United States have been vital in maintaining our freedom and way of life;

Whereas the more than 700,000 brave Americans who have sacrificed their lives while serving in the Armed Forces of the United States have ensured that the Nation, which is founded on the principles of freedom, justice, and democracy, shall endure;

Whereas Armistice Day was first proclaimed by President Woodrow Wilson in 1919 to commemorate the November 11, 1918, armistice between the Allies and the Central Powers that ended the fighting of World War I;

Whereas on June 1, 1954, President Dwight D. Eisenhower signed into law the Act proclaiming November 11 as Veterans Day (Public Law 83-380);

Whereas on October 8, 1954, in anticipation of the first nationwide observance of Veterans Day, President Dwight D. Eisenhower issued a Presidential proclamation regarding Veterans Day, which states, "[o]n that day let us solemnly remember the sacrifices of all those who fought so valiantly, on the seas, in the air, and on foreign shores, to preserve our heritage of freedom, and let us reconsecrate ourselves to the task of promoting an enduring peace so that their efforts shall not have been in vain";

Whereas veterans play important roles in communities throughout the United States;

Whereas it is important to preserve the memory of the veterans of the Nation and to teach every generation about the sacrifices that all veterans have made in securing and preserving the freedom that all Americans enjoy today;

Whereas the United States is in a time of conflict that highlights the incommensurable sacrifices the brave men and women of our Armed Forces have made and continue to make for our Nation and its principles of freedom, justice, and democracy;

Whereas as of October 2005, there were 433,398 new veterans from the present conflict who bravely defended America;

Whereas November 11 is a day of solemn reflection on, and commemoration of, the contributions of those who have served and defended the Nation, especially those who gave the ultimate sacrifice to secure the freedoms enjoyed by all citizens; and

Whereas it is proper that the Senate observe the day with appropriate tributes, commemorations, and reflection even when it conducts the Nation's business: Now, therefore, be it

Resolved, That it is the sense of the Senate—

(1) that those that have died in war serving the Nation, and the veterans of the Armed Forces of the United States, living and dead, are to be honored for their contributions and sacrifices to preserve the Nation and the principles of freedom, justice, and democracy that all Americans hold dear;

(2) that Veterans Day 2005 should be commemorated with appropriate tributes to all veterans of the Armed Forces of the United States for their contributions and sacrifices, and most especially to those who made the ultimate sacrifice; and

(3) that all Americans are encouraged to join the Senate in honoring and paying tribute to veterans of the Armed Forces of the United States on Veterans Day and throughout the year.

SENATE RESOLUTION 306—RECOGNIZING THAT VETERANS DAY IS A DAY TO HONOR ALL VETERANS OF THE ARMY AND TO SUPPORT THE ARMY FREEDOM TEAM SALUTE'S MISSION TO RECOGNIZE THE UNSUNG HEROES WHO HAVE SERVED THIS COUNTRY

Mr. AKAKA (for himself and Mr. Bond) submitted the following resolution; which was considered and agreed to:

S. Res. 306

Whereas Army personnel have for 230 years answered the call to duty by becoming guardians and defenders of America's freedoms;

Whereas millions of Army veterans selflessly served this Nation and their legacy of duty has reigned in their continued support of the mission of the Army;

Whereas the Army appreciates the sacrifices these courageous men and women have made in answering the call to duty by choosing a life of service;

Whereas the 83rd Congress created Veterans Day as a national day of observance to commemorate the heroes who served in the Armed Forces and the Army recognizes the importance of honoring those who have served their country; and

Whereas the Army created the Freedom Team Salute program to provide a way for the United States and the Army to thank its veterans: Now, therefore, be it

Resolved, That the Senate recognizes that November 11, 2005, Veterans Day, is a day to honor all Army veterans and supports the Army Freedom Team Salute's mission to recognize the unsung heroes who have served this country.

SENATE RESOLUTION 307—TO RECOGNIZE AND HONOR THE FILIPINO WORLD WAR II VETERANS FOR THEIR DEFENSE OF DEMOCRATIC IDEALS AND THEIR IMPORTANT CONTRIBUTION TO THE OUTCOME OF WORLD WAR II

Mr. ALLEN (for himself, Mr. Inouye, Ms. Mikulski, Mrs. Boxer, Mr. Warner, and Mr. Akaka) submitted the following resolution; which was considered and agreed to:

S. Res. 307

Whereas in 1898, the Philippines Archipelago was acquired by the United States of America, became an organized United States territory in 1902, and, in preparation for her independence, a self-governing commonwealth in 1935;

Whereas the people of the Philippines and of the United States developed strong ties throughout the decades-long democratic transition of the island, compelling the United States to assume the responsibilities of defending the archipelago and protecting the people of the Philippines;

Whereas on July 26, 1941, anticipating the aggression of Japanese invasion forces in the Asia Pacific region, as well as the imminent conflict between the United States and Japan, President Franklin D. Roosevelt issued a military order, calling the organized military forces of the Government of Commonwealth of the Philippines into armed service under the command of United States

Army officers led by General Douglas MacArthur;

Whereas on December 7, 1941, the Japanese Government began a devastating 4-year war with the United States with their stealth bombing attacks of Pearl Harbor, Hawaii, and Clark Air Field, Philippines, and led to the loss of tens of thousands of American and Filipino soldiers and countless civilian casualties;

Whereas on February 20, 1946, President Harry Truman stated, "Philippine Army veterans are nationals of the United States and will continue in that status until July 4, 1946. They fought, as American nationals, under the American flag, and under the direction of our military leaders. They fought with gallantry and courage under most difficult conditions. I consider it a moral obligation of the United States to look after the welfare of the Philippine Army veterans.";

Whereas on October 17, 1996, President William J. Clinton issued a proclamation on the anniversary of the 1944 return of United States forces under General MacArthur to liberate the Philippines and said, "I urge all Americans to recall the courage, sacrifice, and loyalty of Filipino Veterans of World War II and honor them for their contribution to our freedom.";

Whereas on July 26, 2001, President George W. Bush, in his greetings to the Filipino WWII veterans said, "More than 120,000 Filipinos fought with unwavering loyalty and great gallantry under the command of General Douglas MacArthur. The combined United States-Philippine forces distinguished themselves by their valor and heroism in defense of freedom and democracy. Thousands of Filipino soldiers gave their lives in the battles of Bataan and Corregidor. These soldiers won for the United States the precious time needed to disrupt the enemy's plan for conquest in the Pacific. During the three long years following these battles, the Filipino people valiantly resisted a brutal Japanese occupation with an indomitable spirit and steadfast loyalty to America."; and

Whereas the contributions of the Filipino people, and the sacrifices of their soldiers in World War II, have not been fully recognized: Now, therefore, be it

Resolved, That the Senate reaffirms, recognizes, and honors the Filipino World War II veterans for their defense of American democracy and their important contribution to the victorious outcome of World War II.

SENATE RESOLUTION 308—DESIGNATING 2006 AS THE "YEAR OF STUDY ABROAD"

Mr. DURBIN (for himself, Mr. ALEXANDER, Mr. FEINGOLD, Mr. CRAIG, Mr. AKAKA, Mr. COLEMAN, and Mr. COCHRAN) submitted the following resolution; which was considered and agreed to:

S. RES. 308

Whereas ensuring that the citizens of the United States are globally literate is the responsibility of the educational system of the United States;

Whereas educating students internationally is an important way to share the values of the United States, to create goodwill for the United States around the world, to work toward a peaceful global society, and to increase international trade;

Whereas, according to a 2002 American Council on Education poll, 79 percent of people in the United States agree that students should have a study abroad experience sometime during college, but only 1 percent of students from the United States currently study abroad each year;

Whereas study abroad programs help people from the United States to be more informed about the world and to develop the cultural awareness necessary to avoid offending individuals from other countries;

Whereas a National Geographic global literacy survey found that 87 percent of students in the United States between the ages of 18 and 24 cannot locate Iraq on a world map, 83 percent cannot find Afghanistan, 58 percent cannot find Japan, and 11 percent cannot even find the United States;

Whereas studying abroad exposes students from the United States to valuable global knowledge and cultural understanding and forms an integral part of their education;

Whereas Congress recognized through the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) that the security, stability, and economic vitality of the United States in an increasingly complex global age depend largely upon having a globally competent citizenry and the availability of experts specializing in world regions, foreign languages, and international affairs;

Whereas the Coalition for International Education, an ad hoc group of higher education organizations with interests in the international education programs of the Department of Education, and Government Accountability Office reports have found that Federal agencies, educational institutions, and corporations in the United States are suffering from a shortage of professionals with international knowledge and foreign language skills;

Whereas, according to the Coalition for International Education, institutions of higher education in the United States are struggling to graduate enough students with the language skills and cultural competence necessary to meet the current demands of business, government, and educational institutions;

Whereas a survey done by the Institute for the International Education of Students shows that studying abroad influences subsequent educational experiences, decisions to expand or change academic majors, and decisions to attend graduate school;

Whereas substantive research literature demonstrates that some of the core values and skills of higher education are enhanced by participation in study abroad programs;

Whereas study abroad programs not only open doors to foreign language learning, but also empower students to better understand themselves and others through a comparison of cultural values and ways of life;

Whereas study abroad programs for students from the United States can provide specialized training and practical experiences not available at institutions in the United States;

Whereas a blue ribbon task force of NAFSA: Association of International Educators, a global association of individuals dedicated to advancing international education and exchange, found that a national effort to promote study abroad programs is needed to address a serious deficit in global competence in the United States;

Whereas the bipartisan, federally-appointed Commission on the Abraham Lincoln Study Abroad Fellowship Program, established pursuant to section 104 of the Miscellaneous Appropriations and Offsets Act, 2004 (division H of the Consolidated Appropriations Act, 2004 (Public Law 108-199; 118 Stat. 435)), is scheduled to make recommendations by December 1, 2005, for a national study abroad program to meet this need: Now, therefore, be it

Resolved, That the Senate—

(1) designates 2006 as the "Year of Study Abroad";

(2) encourages secondary schools, institutions of higher learning, businesses, and government programs to promote and expand study abroad opportunities; and

(3) encourages the people of the United States to—

(A) support initiatives to promote and expand study abroad opportunities; and

(B) observe the "Year of Study Abroad" with appropriate ceremonies, programs, and other activities.

SENATE RESOLUTION 309—EXPRESSING SYMPATHY FOR THE PEOPLE OF JORDAN IN THE AFTERMATH OF THE DEADLY TERRORIST ATTACKS IN AMMAN ON NOVEMBER 9, 2005

Mr. FRIST (for himself, Mr. REID, Mr. LUGAR, Mr. BIDEN, Mr. BROWNBACK, and Mr. CHAFEE) submitted the following resolution; which was considered and agreed to:

S. RES. 309

Whereas the United States and a broad international coalition are engaged in a Global War on Terrorism;

Whereas on November 9, 2005, a series of explosions struck 3 hotels in Amman, Jordan, killing at least 56 people and injuring at least 115 others;

Whereas the terrorist attacks on Amman, Jordan, were senseless and barbaric acts carried out against innocent civilians;

Whereas Al Qaeda in Iraq has claimed responsibility for the terrorist attacks in Amman, Jordan;

Whereas the people and Government of the Hashemite Kingdom of Jordan have been targeted in several attempted terrorist attacks over the past few years;

Whereas the people of Jordan have a long and enduring friendship with the people of the United States and their close cooperation in political, economic, and humanitarian endeavors has benefitted both nations and the people of the Middle East region;

Whereas the Hashemite Kingdom of Jordan is a stalwart ally of the United States in the global war against terrorism;

Whereas the people of the United States stand in solidarity with the people of Jordan in fighting terrorism;

Whereas the Government of the United States immediately condemned the terrorist attacks and extended the support and condolences of the people of the United States to the people of Jordan; and

Whereas on September 12, 2001, in a letter to President George W. Bush condemning the September 11, 2001, terrorist attacks on the United States, King Abdullah of the Hashemite Kingdom of Jordan stated that "the people of Jordan join the people of the United States in our absolute condemnation of the terrorist aggression against your nation . . . our hearts reach out to the victims and their families, and we honor the selfless men and women who have risked their lives to aid the injured and suffering . . . be assured that the Hashemite Kingdom of Jordan, its leaders and people stand with you against the perpetrators of these terrorist atrocities. We denounce the violence and hatred they represent.": Now, therefore, be it

Resolved, That the Senate—

(1) condemns, in the strongest terms, the senseless and barbaric terrorist attacks on the innocent people of Amman, Jordan, on November 9, 2005;

(2) expresses its condolences to the families and friends of those individuals who were killed in the attacks and expresses its sympathies to those individuals who have been injured;

(3) expresses the strong and continued solidarity of the people and Government of the United States with the people and Government of the Hashemite Kingdom of Jordan as they recover from these inhumane attacks;

(4) declares its readiness to support and assist the authorities of Jordan in their efforts to bring to justice those individuals responsible for the attacks; and

(5) calls upon the international community to renew and strengthen efforts to—

(A) defeat terrorists by dismantling terrorist networks and exposing the violent and nihilistic ideology of terrorism;

(B) increase international cooperation to advance personal and religious freedoms, ethnic and racial tolerance, political liberty and pluralism, and economic prosperity; and

(C) combat the social injustice, oppression, poverty, and extremism that bolsters terrorism.

SENATE RESOLUTION 310—HONORING THE LIFE, LEGACY, AND EXAMPLE OF ISRAELI PRIME MINISTER YITZHAK RABIN ON THE TENTH ANNIVERSARY OF HIS DEATH

Mr. LAUTENBERG (for himself, Mr. Voinovich, Mr. Biden, Mr. Lugar, Mr. Chafee, and Mr. Brownback) submitted the following resolution; which was considered and agreed to:

S. Res. 310

Whereas Yitzhak Rabin was born March 1, 1922, in Jerusalem;

Whereas Yitzhak Rabin volunteered for the Palmach, the elite unit of the Haganah (predecessor of the Israeli Defense Forces), and served for 27 years, including during the 1948 War of Independence, the 1956 Suez War, and as Chief of Staff in the June 1967 Six Day War;

Whereas, in 1975, Prime Minister Yitzhak Rabin signed the interim agreement with Egypt (Sinai II) which laid the groundwork for the 1979 Camp David Peace Treaty between Israel and Egypt;

Whereas Yitzhak Rabin served as Ambassador to the United States from 1968–1973, Minister of Defense from 1984–1990, and Prime Minister from 1974–1977 and from 1992 until his assassination in 1995;

Whereas, on September 13, 1993, in Washington, D.C., Yitzhak Rabin signed the Declaration of Principles framework agreement between Israel and the Palestinians;

Whereas, upon the signing of the Declaration of Principles, Yitzhak Rabin said to the Palestinian people: "We say to you today in a loud and clear voice: Enough of blood and tears. Enough! We harbor no hatred toward you. We have no desire for revenge. We, like you, are people who want to build a home, plant a tree, love, live side by side with you—in dignity, empathy, as human beings, as free men.";

Whereas Yitzhak Rabin received the 1994 Nobel Prize for Peace for his vision and bravery as a peacemaker, saying at the time: "There is only one radical means of sanctifying human lives. Not armored plating, or tanks, or planes, or concrete fortifications. The one radical solution is peace.";

Whereas, on October 26, 1994, Yitzhak Rabin and King Hussein of Jordan signed a peace treaty between Israel and Jordan;

Whereas, on November 4, 1995, Yitzhak Rabin was brutally assassinated after attending a peace rally in Tel Aviv, where his last words were: "I have always believed that the majority of the people want peace, are prepared to take risks for peace . . . Peace is what the Jewish People aspire to."; and

Whereas Yitzhak Rabin dedicated his life to the cause of peace and security for the state of Israel by defending his nation against all threats, including terrorism, and undertaking courageous risks in the pursuit of peace: Now, therefore, be it

Resolved, That the Senate—

(1) honors the historic role of Yitzhak Rabin for his distinguished service to the people of Israel and extends its deepest sympathy and condolences to the family of Yitzhak Rabin and the people of Israel on the tenth anniversary of his death;

(2) recognizes and reiterates its continued support for the close ties and special relationship between the United States and Israel;

(3) expresses its admiration for Yitzhak Rabin's legacy and reaffirms its commitment to the process of building a just and lasting peace between Israel and its neighbors;

(4) condemns any and all acts of terrorism; and

(5) reaffirms unequivocally the sacred principle that democratic leaders and governments must be changed only by the democratically-expressed will of the people.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2507. Mr. KERRY (for himself, Mr. Reid, Mr. Biden, and Mr. Dayton) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

SA 2508. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2445 submitted by Mr. Brownback (for himself, Mr. Inhofe, and Mr. DeMint) and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 2509. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2445 submitted by Mr. Brownback (for himself, Mr. Inhofe, and Mr. DeMint) and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 2510. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2445 submitted by Mr. Brownback (for himself, Mr. Inhofe, and Mr. DeMint) and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 2511. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2475 submitted by Mr. Brownback (for himself, Mr. Coburn, Mr. DeMint, Mr. Inhofe, Mr. Sessions, and Mr. Talent) and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 2512. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2475 submitted by Mr. Brownback (for himself, Mr. Coburn, Mr. DeMint, Mr. Inhofe, Mr. Sessions, and Mr. Talent) and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 2513. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2475 submitted by Mr. Brownback (for himself, Mr. Coburn, Mr. DeMint, Mr. Inhofe, Mr. Sessions, and Mr. Talent) and intended to be proposed to the bill S. 1042, supra; which was ordered to lie on the table.

SA 2514. Mr. ROBERTS (for himself and Mr. Rockefeller) proposed an amendment to amendment SA 2507 proposed by Mr. Kerry (for himself, Mr. Reid, Mr. Biden, and Mr. Dayton) to the bill S. 1042, supra.

SA 2515. Mr. GRAHAM (for himself, Mr. Kyl, Mr. Chambliss, and Mr. Cornyn) proposed an amendment to the bill S. 1042, supra.

SA 2516. Mr. GRAHAM (for himself, Mr. Kyl, and Mr. Chambliss) proposed an amendment to amendment SA 2515 proposed by Mr. Graham (for himself, Mr. Kyl, Mr. Chambliss, and Mr. Cornyn) to the bill S. 1042, supra.

SA 2517. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2515 proposed by Mr. Graham (for himself, Mr. Kyl, Mr. Chambliss, and Mr. Cornyn) to the bill S. 1042, supra; which was ordered to lie on the table.

SA 2518. Mr. WARNER (for himself and Mr. Frist) proposed an amendment to the bill S. 1042, supra.

SA 2519. Mr. LEVIN (for himself, Mr. Biden, Mr. Reid, Mr. Dodd, Mr. Kerry, Mr. Feingold, Mr. Durbin, Mr. Reed, Mr. Kennedy, Mrs. Feinstein, Mr. Obama, and Mrs. Boxer) proposed an amendment to the bill S. 1042, supra.

SA 2520. Mr. FRIST (for Mr. Inouye) proposed an amendment to the resolution S. Res. 9, expressing the sense of the Senate regarding designation of the month of November as "National Military Family Month".

SA 2521. Mr. FRIST (for Mr. Leahy) proposed an amendment to the bill S. 1558, An act to amend the Ethics in Government Act of 1978 to protect family members of filers from disclosing sensitive information in a public filing and to extend for 4 years the authority to redact financial disclosure statements of judicial employees and judicial officers.

SA 2522. Mr. FRIST (for Mr. Leahy) proposed an amendment to the bill S. 1558, supra.

TEXT OF AMENDMENTS

SA 2507. Mr. KERRY (for himself, Mr. Reid, Mr. Biden, and Mr. Dayton) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes: as follows:

At the end of subtitle D of title X, add the following:

SEC. ___. REPORTS ON CLANDESTINE DETENTION FACILITIES FOR INDIVIDUALS CAPTURED IN THE GLOBAL WAR ON TERRORISM.

(a) Secretary of Defense Report.—

(1) REPORT REQUIRED.—Not later than sixty days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a detailed report on the knowledge of the Secretary, and of the personnel of the Department of Defense, on whether or not there exists, or has existed, any clandestine facility outside of United States territory for the detention of individuals captured in the global war on terrorism, whether operated by the United States Government or at the request of the United States Government.

(2) ELEMENTS.—The report required by paragraph (1) shall include the following:

(A) Whether or not the Secretary or any personnel of the Department of Defense have affirmative knowledge that a facility described in paragraph (1) exists.

(B) If the Secretary or any such personnel have affirmative knowledge that such a facility does exist—

(i) the existence of such facility;

(ii) any support provided by the Department of Defense to any other department, agency, or element of the United States Government, or any foreign government, for the establishment, operation, or maintenance of such facility;

(iii) the amount of funds obligated or expended by the Department in furtherance of the establishment, operation, or maintenance of such facility;

(iv) whether the Department has transported individuals captured in the global war on terrorism to or from such facility, and if so—

(I) the number of such individuals;

(II) the date of transfer of each such individual to such facility;

(III) the place from which each such individual was so transferred.; and

(IV) the identity of the agency or authority in whose custody each such individual was held before such transfer;

(v) whether any detainee in such facility is expected to be prosecuted by military commission or another system for administering justice; and

(vi) the interrogation procedures used on each individual detained in such facility.

(C) Whether or not the Department has ever held any individual captured in the global war on terrorism at a facility controlled by the Department at the request of, or in cooperation with, another department, agency, or element of the United States Government, and for any such individual so held, a detailed description of the circumstances surrounding the detention of such individual and the disposition, if any of such individual.

(3) FORM OF REPORT.—The report required by paragraph (1) shall be submitted in classified form.

(b) DIRECTOR OF NATIONAL INTELLIGENCE REPORTS.—

(1) REPORTS REQUIRED.—Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence shall provide to each member of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a detailed report setting forth the nature and cost of, and otherwise providing a full accounting on, any clandestine prison or detention facility currently or formerly operated by the United States Government, regardless of location, where detainees in the global war on terrorism are or were being held.

(2) ELEMENTS.—The reports required by paragraph (1) shall set forth, for each prison or facility covered by such report, the following:

(A) The location and size of such prison or facility.

(B) If such prison or facility is no longer being operated by the United States Government, the disposition of such prison or facility.

(C) The number of detainees currently held or formerly held, as the case may be, at such prison or facility.

(D) Any plans for the ultimate disposition of any detainees currently held at such prison or facility.

(E) A description of the interrogation procedures used or formerly used on detainees at such prison or facility.

(3) FORM OF REPORTS.—The reports required by paragraph (1) shall be submitted in classified form.

SA 2508. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2445 submitted by Mr. BROWNBACK (for himself, Mr. INHOFE, and Mr. DEMINT) and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year of the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 11 of the amendment, strike lines 20 and 21.

SA 2509. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2445 submitted by Mr. BROWNBACK (for himself, Mr. INHOFE, and Mr. DEMINT) and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year of the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 10 of the amendment, line 23, strike "contraceptives" and insert "drugs or devices approved by the Food and Drug Administration as contraceptives, or generic equivalents approved as substitutable by the Food and Drug Administration".

SA 2510. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2445 submitted by Mr. BROWNBACK (for himself, Mr. INHOFE, and Mr. DEMINT) and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year of the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, strike all after the first word and insert the following:

___. PROTECTION OF CHILDREN AND PARENTAL INVOLVEMENT IN THE PERFORMANCE OF ABORTIONS FOR DEPENDENT CHILDREN OF MEMBERS OF THE ARMED FORCES.

Section 1093 of title 10, United States Code, is amended by adding at the end the following new subsections:

"(c) PARENTAL NOTICE.—(1) A physician may not use facilities of the Department of Defense to perform an abortion on a pregnant unemancipated minor who is a child of a member of the armed forces unless—

"(A) the physician gives at least 48 hours actual notice, in person or by telephone, of the physician's intent to perform the abortion to—

"(i) the member of the armed forces, or another parent of the minor, if the minor has no managing conservator or guardian; or

"(ii) a court-appointed managing conservator or guardian;

"(B) the judge of an appropriate district court of the United States issues an order authorizing the minor to consent to the abortion as provided by subsection (d) or (e);

"(C) the appropriate district court of the United States by its inaction constructively authorizes the minor to consent to the abortion as provided by subsection (d) or (e);

"(D) it is necessary to preserve the life or health of the minor; or

"(E) the pregnancy is the result of rape or incest.

"(2) If a person to whom notice may be given under paragraph (1)(A) cannot be notified after a reasonable effort, a physician may perform an abortion if the physician gives 48 hours constructive notice, by certified mail, restricted delivery, sent to the last known address, to the person to whom notice may be given under that paragraph. The period under this paragraph begins when the notice is mailed. If the person required to be notified is not notified within the 48-hour period, the abortion may proceed even if the notice by mail is not received.

"(3) The requirement that 48 hours actual notice be provided under this subsection may be waived by an affidavit of—

"(A) the member of the armed forces concerned, or another parent of the minor, if the minor has no managing conservator or guardian; or

"(B) a court-appointed managing conservator or guardian.

"(4) A physician may execute for inclusion in the minor's medical record an affidavit stating that, according to the best information and belief of the physician, notice or constructive notice has been provided as required by this subsection. Execution of an affidavit under this paragraph creates a presumption that the requirements of this subsection have been satisfied.

"(5) A certification required by paragraph (1)(D) is confidential and privileged and is not subject to disclosure, discovery, subpoena, or other legal process. Personal or identifying information about the minor, including her name, address, or social security number, may not be included in a certification under paragraph (1)(D). The physician must keep the medical records on the minor in compliance with regulations prescribed by the Secretary of Defense.

"(6) A physician who intentionally performs an abortion on a pregnant unemancipated minor in violation of this subsection commits an offense punishable by a fine not to exceed $10,000.

"(7) It is a defense to prosecution under this subsection that the minor falsely represented her age or identity to the physician to be at least 18 years of age by displaying an apparently valid governmental record of identification such that a reasonable person under similar circumstances would have relied on the representation. The defense does not apply if the physician is shown to have had independent knowledge of the minor's actual age or identity or failed to use due diligence in determining the minor's age or identity.

“(d) Judicial Approval.—(1) A pregnant unemancipated minor who is a child of a member of the armed forces and who wishes to have an abortion using facilities of the Department of Defense without notification to the member of the armed forces, another parent, her managing conservator, or her guardian may file an application for a court order authorizing the minor to consent to the performance of an abortion without notification to either of her parents or a managing conservator or guardian.

“(2) Any application under this subsection may be filed in any appropriate district court of the United States. In the case of a minor who elects not to travel to the United States in pursuit of an order authorizing the abortion, the court may conduct the proceedings in the case of such application by telephone.

“(3) An application under this subsection shall be made under oath and include—

“(A) a statement that the minor is pregnant;

“(B) a statement that the minor is unmarried, is under 18 years of age, and has not had her disabilities removed;

“(C) a statement that the minor wishes to have an abortion without the notification of either of her parents or a managing conservator or guardian; and

“(D) a statement as to whether the minor has retained an attorney and, if she has retained an attorney, the name, address, and telephone number of her attorney.

“(4) The court shall appoint a guardian ad litem for the minor. If the minor has not retained an attorney, the court shall appoint an attorney to represent the minor. If the guardian ad litem is an attorney, the court may appoint the guardian ad litem to serve as the minor's attorney.

“(5) The court may appoint to serve as guardian ad litem for a minor—

“(A) a psychiatrist or an individual licensed or certified as a psychologist;

“(B) a member of the clergy;

“(C) a grandparent or an adult brother, sister, aunt, or uncle of the minor; or

“(D) another appropriate person selected by the court.

“(6) The court shall determine within 48 hours after the application is filed whether the minor is mature and sufficiently well-informed to make the decision to have an abortion performed without notification to either of her parents or a managing conservator or guardian, whether notification would not be in the best interest of the minor, or whether notification may lead to physical, sexual, or emotional abuse of the minor. If the court finds that the minor is mature and sufficiently well informed, that notification would not be in the minor's best interest, or that notification may lead to physical, sexual, or emotional abuse of the minor, the court shall enter an order authorizing the minor to consent to the performance of the abortion without notification to either of her parents or a managing conservator or guardian and shall execute the required forms.

“(7) If the court fails to rule on the application within the period specified in paragraph (6), the application shall be deemed to be granted and the physician may perform the abortion as if the court had issued an order authorizing the minor to consent to the performance of the abortion without notification under subsection (c).

“(8) If the court finds that the minor does not meet the requirements of paragraph (6), the court may not authorize the minor to consent to an abortion without the notification authorized under subsection (c)(1).

“(9) The court may not notify a parent, managing conservator, or guardian that the minor is pregnant or that the minor wants to have an abortion. The court proceedings shall be conducted in a manner that protects the anonymity of the minor. The application and all other court documents pertaining to the proceedings are confidential and privileged and are not subject to disclosure, discovery, subpoena, or other legal process. The minor may file the application using a pseudonym or using only her initials.

“(10) An order of the court issued under this subsection is confidential and privileged and is not subject to disclosure, discovery, subpoena, or other legal process. The order may not be released to any person but the pregnant minor, the pregnant minor's guardian ad litem, the pregnant minor's attorney, another person designated to receive the order by the minor, or a governmental agency or attorney in a criminal or administrative action seeking to assert or protect the interest of the minor.

“(11) A filing fee is not required of and court costs may not be assessed against a minor filing an application under this subsection.

“(e) Appeal.—(1) A minor whose application under subsection (d) is denied may appeal to the court of appeals of the United States having jurisdiction of the district court of the United States that denied the application. If the court of appeals fails to rule on the appeal within 48 hours after the appeal is filed, the appeal shall be deemed to be granted and the physician may perform the abortion using facilities of the Department of Defense as if the court had issued an order authorizing the minor to consent to the performance of the abortion using facilities of the Department of Defense without notification under subsection (c). Proceedings under this subsection shall be given precedence over other pending matters to the extent necessary to assure that the court reaches a decision promptly.

“(2) A ruling of the court of appeals under this subsection is confidential and privileged and is not subject to disclosure, discovery, subpoena, or other legal process. The ruling may not be released to any person but the pregnant minor, the pregnant minor's guardian ad litem, the pregnant minor's attorney, another person designated to receive the ruling by the minor, or a governmental agency or attorney in a criminal or administrative action seeking to assert or protect the interest of the minor.

“(3) A filing fee is not required of and court costs may not be assessed against a minor filing an appeal under this subsection.

“(f) Definitions.—In this section:

“(1) The term ‘abortion’ means the use of any means at a medical facility of the Department of Defense to terminate the pregnancy of a female known by an attending physician to be pregnant, with the intention that the termination of the pregnancy by those means will with reasonable likelihood cause the death of the fetus. The term applies only to an unemancipated minor known by an attending physician to be pregnant and may not be construed to limit a minor's access to drugs or devices approved by the Food and Drug Administration as contraceptives, or generic equivalents approved as substitutable by the Food and Drug Administration.

“(2) The term ‘appropriate district court of the United States’ means—

“(A) with respect to a proposed abortion at a particular Department of Defense medical facility in the United States or its territories, the district court of the United States having proper venue in relation to that facility; or

“(B) if the minor is seeking an abortion at a particular Department of Defense facility outside the United States or its territories—

“(i) if the minor elects to travel to the United States in pursuit of an order authorizing the abortion, the district court of the United States having proper venue in the district in which the minor first arrives from outside the United States; or

“(ii) if the minor elects not to travel to the United States in pursuit of an order authorizing the abortion, the district court of the United States for the district in which the minor last resided.

“(3) The term ‘guardian’ means a court-appointed guardian of the person of the minor.

“(4) The term ‘physician’ means an individual licensed to practice medicine.

“(5) The term ‘unemancipated minor’ includes a minor who is not a member of the armed forces and who—

“(A) is unmarried; and

“(B) has not had any disabilities of minority removed.”.

SA 2511. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2475 submitted by Mr. Brownback (for himself, Mr. Coburn, Mr. DeMint, Mr. Inhofe, Mr. Sessions, and Mr. Talent) and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 11 of the amendment, strike lines 24 and 25.

SA 2512. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2475 submitted by Mr. Brownback (for himself, Mr. Coburn, Mr. DeMint, Mr. Inhofe, Mr. Sessions, and Mr. Talent) and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 11 of the amendment, line 2, strike “contraceptives” and insert “drugs or devices approved by the Food and Drug Administration as contraceptives, or generic equivalents approved as substitutable by the Food and Drug Administration”.

SA 2513. Mrs. MURRAY submitted an amendment intended to be proposed to amendment SA 2475 submitted by Mr. Brownback (for himself, Mr. Coburn, Mr. DeMint, Mr. Inhofe, Mr. Sessions, and Mr. Talent) and intended to be proposed to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 2 of the amendment, strike all after the first word and insert the following:

. PROTECTION OF CHILDREN AND PARENTAL INVOLVEMENT IN THE PERFORMANCE OF ABORTIONS FOR DEPENDENT CHILDREN OF MEMBERS OF THE ARMED FORCES.

Section 1093 of title 10, United States Code, is amended by adding at the end the following new subsections:

“(c) Parental Notice.—(1) A physician may not use facilities of the Department of Defense to perform an abortion on a pregnant unemancipated minor who is a child of a member of the armed forces unless—

“(A) the physician gives at least 48 hours actual notice, in person or by telephone, of the physician's intent to perform the abortion to—

“(i) the member of the armed forces, or another parent of the minor, if the minor has no managing conservator or guardian; or

“(ii) a court-appointed managing conservator or guardian;

“(B) the judge of an appropriate district court of the United States issues an order authorizing the minor to consent to the abortion as provided by subsection (d) or (e);

“(C) the appropriate district court of the United States by its inaction constructively authorizes the minor to consent to the abortion as provided by subsection (d) or (e);

“(D) it is necessary to preserve the life or health of the minor; or

“(E) the pregnancy is the result of rape or incest.

“(2) If a person to whom notice may be given under paragraph (1)(A) cannot be notified after a reasonable effort, a physician may perform an abortion if the physician gives 48 hours constructive notice, by certified mail, restricted delivery, sent to the last known address, to the person to whom notice may be given under that paragraph. The period under this paragraph begins when the notice is mailed. If the person required to be notified is not notified within the 48-hour period, the abortion may proceed even if the notice by mail is not received.

“(3) The requirement that 48 hours actual notice be provided under this subsection may be waived by an affidavit of—

“(A) the member of the armed forces concerned, or another parent of the minor, if the minor has no managing conservator or guardian; or

“(B) a court-appointed managing conservator or guardian.

“(4) A physician may execute for inclusion in the minor's medical record an affidavit stating that, according to the best information and belief of the physician, notice or constructive notice has been provided as required by this subsection. Execution of an affidavit under this paragraph creates a presumption that the requirements of this subsection have been satisfied.

“(5) A certification required by paragraph (1)(D) is confidential and privileged and is not subject to disclosure, discovery, subpoena, or other legal process. Personal or identifying information about the minor, including her name, address, or social security number, may not be included in a certification under paragraph (1)(D). The physician must keep the medical records on the minor in compliance with regulations prescribed by the Secretary of Defense.

“(6) A physician who intentionally performs an abortion on a pregnant unemancipated minor in violation of this subsection commits an offense punishable by a fine not to exceed $10,000.

“(7) It is a defense to prosecution under this subsection that the minor falsely represented her age or identity to the physician to be at least 18 years of age by displaying an apparently valid governmental record of identification such that a reasonable person under similar circumstances would have relied on the representation. The defense does not apply if the physician is shown to have had independent knowledge of the minor's actual age or identity or failed to use due diligence in determining the minor's age or identity.

“(d) Judicial Approval.—(1) A pregnant unemancipated minor who is a child of a member of the armed forces and who wishes to have an abortion using facilities of the Department of Defense without notification to the member of the armed forces, another parent, her managing conservator, or her guardian may file an application for a court order authorizing the minor to consent to the performance of an abortion without notification to either of her parents or a managing conservator or guardian.

“(2) Any application under this subsection may be filed in any appropriate district court of the United States. In the case of a minor who elects not to travel to the United States in pursuit of an order authorizing the abortion, the court may conduct the proceedings in the case of such application by telephone.

“(3) An application under this subsection shall be made under oath and include—

“(A) a statement that the minor is pregnant;

“(B) a statement that the minor is unmarried, is under 18 years of age, and has not had her disabilities removed;

“(C) a statement that the minor wishes to have an abortion without the notification of either of her parents or a managing conservator or guardian; and

“(D) a statement as to whether the minor has retained an attorney and, if she has retained an attorney, the name, address, and telephone number of her attorney.

“(4) The court shall appoint a guardian ad litem for the minor. If the minor has not retained an attorney, the court shall appoint an attorney to represent the minor. If the guardian ad litem is an attorney, the court may appoint the guardian ad litem to serve as the minor's attorney.

“(5) The court may appoint to serve as guardian ad litem for a minor—

“(A) a psychiatrist or an individual licensed or certified as a psychologist;

“(B) a member of the clergy;

“(C) a grandparent or an adult brother, sister, aunt, or uncle of the minor; or

“(D) another appropriate person selected by the court.

“(6) The court shall determine within 48 hours after the application is filed whether the minor is mature and sufficiently well-informed to make the decision to have an abortion performed without notification to either of her parents or a managing conservator or guardian, whether notification would not be in the best interest of the minor, or whether notification may lead to physical, sexual, or emotional abuse of the minor. If the court finds that the minor is mature and sufficiently well informed, that notification would not be in the minor's best interest, or that notification may lead to physical, sexual, or emotional abuse of the minor, the court shall enter an order authorizing the minor to consent to the performance of the abortion without notification to either of her parents or a managing conservator or guardian and shall execute the required forms.

“(7) If the court fails to rule on the application within the period specified in paragraph (6), the application shall be deemed to be granted and the physician may perform the abortion as if the court had issued an order authorizing the minor to consent to the performance of the abortion without notification under subsection (c).

“(8) If the court finds that the minor does not meet the requirements of paragraph (6), the court may not authorize the minor to consent to an abortion without the notification authorized under subsection (c)(1).

“(9) The court may not notify a parent, managing conservator, or guardian that the minor is pregnant or that the minor wants to have an abortion. The court proceedings shall be conducted in a manner that protects the anonymity of the minor. The application and all other court documents pertaining to the proceedings are confidential and privileged and are not subject to disclosure, discovery, subpoena, or other legal process. The minor may file the application using a pseudonym or using only her initials.

“(10) An order of the court issued under this subsection is confidential and privileged and is not subject to disclosure, discovery, subpoena, or other legal process. The order may not be released to any person but the pregnant minor, the pregnant minor's guardian ad litem, the pregnant minor's attorney, another person designated to receive the order by the minor, or a governmental agency or attorney in a criminal or administrative action seeking to assert or protect the interest of the minor.

“(11) A filing fee is not required of and court costs may not be assessed against a minor filing an application under this subsection.

“(e) Appeal.—(1) A minor whose application under subsection (d) is denied may appeal to the court of appeals of the United States having jurisdiction of the district court of the United States that denied the application. If the court of appeals fails to rule on the appeal within 48 hours after the appeal is filed, the appeal shall be deemed to be granted and the physician may perform the abortion using facilities of the Department of Defense as if the court had issued an order authorizing the minor to consent to the performance of the abortion using facilities of the Department of Defense without notification under subsection (c). Proceedings under this subsection shall be given precedence over other pending matters to the extent necessary to assure that the court reaches a decision promptly.

“(2) A ruling of the court of appeals under this subsection is confidential and privileged and is not subject to disclosure, discovery, subpoena, or other legal process. The ruling may not be released to any person but the pregnant minor, the pregnant minor's guardian ad litem, the pregnant minor's attorney, another person designated to receive the ruling by the minor, or a governmental agency or attorney in a criminal or administrative action seeking to assert or protect the interest of the minor.

"(3) A filing fee is not required of and court costs may not be assessed against a minor filing an appeal under this subsection.

"(f) Rule of Construction.—Nothing in subsections (c), (d), or (e) shall be construed to create any exemption to the restrictions contained in subsections (a) and (b).

"(g) Definitions.—In this section:

"(1) The term 'abortion' means the use of any means at a medical facility of the Department of Defense to terminate the pregnancy of a female known by an attending physician to be pregnant, with the intention that the termination of the pregnancy by those means will with reasonable likelihood cause the death of the fetus. The term applies only to an unemancipated minor known by an attending physician to be pregnant and may not be construed to limit a minor's access to drugs or devices approved by the Food and Drug Administration as contraceptives, or generic equivalents approved as substitutable by the Food and Drug Administration.

"(2) The term 'appropriate district court of the United States' means—

"(A) with respect to a proposed abortion at a particular Department of Defense medical facility in the United States or its territories, the district court of the United States having proper venue in relation to that facility; or

"(B) if the minor is seeking an abortion at a particular Department of Defense facility outside the United States or its territories—

"(i) if the minor elects to travel to the United States in pursuit of an order authorizing the abortion, the district court of the United States having proper venue in the district in which the minor first arrives from outside the United States; or

"(ii) if the minor elects not to travel to the United States in pursuit of an order authorizing the abortion, the district court of the United States for the district in which the minor last resided.

"(3) The term 'guardian' means a court-appointed guardian of the person of the minor.

"(4) The term 'physician' means an individual licensed to practice medicine.

"(5) The term 'unemancipated minor' includes a minor who is not a member of the armed forces and who—

"(A) is unmarried; and

"(B) has not had any disabilities of minority removed.".

SA 2514. Mr. ROBERTS (for himself and Mr. Rockefeller) proposed an amendment to amendment SA 2507 proposed by Mr. Kerry (for himself, Mr. Reid, Mr. Biden, and Mr. Dayton) to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

In lieu of the language proposed to be inserted insert the following:

SEC. . REPORT ON ALLEGED CLANDESTINE DETENTION FACILITIES FOR INDIVIDUALS CAPTURED IN THE GLOBAL WAR ON TERRORISM.

(a) In General.—The President shall ensure that the United States Government continues to comply with the authorization, reporting, and notification requirements of title V of the National Security Act of 1947 (50 U.S.C. 413 et seq.).

(b) Director of National Intelligence Report.—

(1) Report required.—Not later than 60 days after the date of the enactment of this Act, the Director of National Intelligence shall provide to the members of the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives a detailed report setting forth the nature and cost of, and otherwise providing a full accounting on, any clandestine prison or detention facility currently or formerly operated by the United States Government, regardless of location, where detainees in the global war on terrorism are or were being held.

(2) Elements.—The report required by paragraph (1) shall set forth, for each prison or facility, if any, covered by such report, the following:

(A) The location and size of such prison or facility.

(B) If such prison or facility is no longer being operated by the United States Government, the disposition of such prison or facility.

(C) The number of detainees currently held or formerly held, as the case may be, at such prison or facility.

(D) Any plans for the ultimate disposition of any detainees currently held at such prison or facility.

(E) A description of the interrogation procedures used or formerly used on detainees at such prison or facility.

(3) Form of report.—The report required by paragraph (1) shall be submitted in classified form.

SA 2515. Mr. GRAHAM (for himself, Mr. Kyl, Mr. Chambliss, and Mr. Cornyn) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. . REVIEW OF STATUS OF DETAINEES.

(a) Submittal of Procedures for Status Review of Detainees at Guantanamo Bay, Cuba.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, and to the Committees on the Judiciary of the Senate and the House of Representatives, a report setting forth the procedures of the Combatant Status Review Tribunals and the noticed Administrative Review Boards in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay.

(b) Procedures.—The procedures submitted to Congress pursuant to subsection (a) shall, with respect to proceedings beginning after the date of the submittal of such procedures under that subsection, ensure that—

(1) in making a determination of status of any detainee under such procedures, a Combatant Status Review Tribunal or Administrative Review Board may not consider statements derived from persons that, as determined by such Tribunal or Board, by the preponderance of the evidence, were obtained with undue coercion; and

(2) the Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advice and consent of the Senate.

(c) Report on Modification of Procedures.—The Secretary of Defense shall submit to the committees of Congress referred to in subsection (a) a report on any modification of the procedures submitted under subsection (a) not later than 30 days before the date on which such modifications go into effect.

(d) Judicial Review of Detention of Enemy Combatants.—

(1) In general.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

"(e) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien outside the United States (as that term is defined in section 101(a)(38) of the Immigration and Naturalization Act (8 U.S.C. 1101(a)(38)) who is detained by the Department of Defense at Guantanamo Bay, Cuba.".

(2) Certain decisions.—

(A) In general.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any decision of a Designated Civilian Official described in subsection (b)(2) that an alien is properly detained as an enemy combatant.

(B) Limitation on claims.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

(C) Scope of review.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the procedures and standards specified by the Secretary of Defense for Combatant Status Review Tribunals.

(D) Termination on release from custody.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the custody of the Department of Defense.

(3) Effective date.—The amendment made by paragraph (1) shall apply to any application or other action that is pending on or after the date of the enactment of this Act. Paragraph (2) shall apply with respect to any claim regarding a decision covered by that paragraph that is pending on or after such date.

SA 2516. Mr. GRAHAM (for himself, Mr. Kyl, and Mr. Chambliss) proposed an amendment to amendment SA 2515 proposed by Mr. Graham (for himself, Mr. Kyl, Mr. Chambliss, and Mr. Cornyn) to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

Strike all after the word SEC.

. ___. REVIEW OF STATUS OF DETAINEES.

(a) Submittal of Procedures for Status Review of Detainees at Guantanamo Bay, Cuba.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, and to the Committees on the Judiciary of the Senate and the House of Representatives, a report setting forth the procedures of the Combatant Status Review Tribunals and the noticed Administrative Review Boards in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay.

(b) Procedures.—The procedures submitted to Congress pursuant to subsection (a) shall, with respect to proceedings beginning after the date of the submittal of such procedures under that subsection, ensure that—

(1) in making a determination of status of any detainee under such procedures, a Combatant Status Review Tribunal or Administrative Review Board may not consider statements derived from persons that, as determined by such Tribunal or Board, by the preponderance of the evidence, were obtained with undue coercion; and

(2) the Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advice and consent of the Senate.

(c) Report on Modification of Procedures.—The Secretary of Defense shall submit to the committees of Congress referred to in subsection (a) a report on any modification of the procedures submitted under subsection (a) not later than 30 days before the date on which such modifications go into effect.

(d) Judicial Review of Detention of Enemy Combatants.—

(1) In general.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

"(e) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien outside the United States (as that term is defined in section 101(a)(38) of the Immigration and Naturalization Act (8 U.S.C. 1101(a)(38)) who is detained by the Department of Defense at Guantanamo Bay, Cuba.".

(2) Certain decisions.—

(A) In general.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any decision of a Designated Civilian Official described in subsection (b)(2) that an alien is properly detained as an enemy combatant.

(B) Limitation on claims.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

(C) Scope of review.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the procedures and standards specified by the Secretary of Defense for Combatant Status Review Tribunals.

(D) Termination on release from custody.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the custody of the Department of Defense.

(3) Effective date.—The amendment made by paragraph (1) shall apply to any application or other action that is pending on or after the date of the enactment of this Act. Paragraph (2) shall apply with respect to any claim regarding a decision covered by that paragraph that is pending on or after such date.

This section shall become effective 1 day after enactment.

SA 2517. Mr. BINGAMAN submitted an amendment intended to be proposed to amendment SA 2515 proposed by Mr. Graham (for himself, Mr. Kyl, Mr. Chambliss, and Mr. Cornyn) to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; which was ordered to lie on the table; as follows:

On page 3, strike line 3 and all that follows through the end.

SA 2518. Mr. WARNER (for himself and Mr. Frist) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of title XII, add the following:

SEC. ___. UNITED STATES POLICY ON IRAQ.

(a) Short Title.—This section may be cited as the "United States Policy on Iraq Act".

(b) Sense of Senate.—It is the sense of the Senate that, in order to succeed in Iraq—

(1) members of the United States Armed Forces who are serving or have served in Iraq and their families deserve the utmost respect and the heartfelt gratitude of the American people for their unwavering devotion to duty, service to the Nation, and selfless sacrifice under the most difficult circumstances;

(2) it is important to recognize that the Iraqi people have made enormous sacrifices and that the overwhelming majority of Iraqis want to live in peace and security;

(3) calendar year 2006 should be a period of significant transition to full Iraqi sovereignty, with Iraqi security forces taking the lead for the security of a free and sovereign Iraq, thereby creating the conditions for the phased redeployment of United States forces from Iraq;

(4) United States military forces should not stay in Iraq any longer than required and the people of Iraq should be so advised;

(5) the Administration should tell the leaders of all groups and political parties in Iraq that they need to make the compromises necessary to achieve the broad-based and sustainable political settlement that is essential for defeating the insurgency in Iraq, within the schedule they set for themselves; and

(6) the Administration needs to explain to Congress and the American people its strategy for the successful completion of the mission in Iraq.

(c) Reports to Congress on United States Policy and Military Operations in Iraq.—Not later than 90 days after the date of the enactment of this Act, and every three months thereafter until all United States combat brigades have redeployed from Iraq, the President shall submit to Congress an unclassified report on United States policy and military operations in Iraq. Each report shall include, to the extent practicable, the following unclassified information:

(1) The current military mission and the diplomatic, political, economic, and military measures, if any, that are being or have been undertaken to successfully complete or support that mission, including:

(A) Efforts to convince Iraq's main communities to make the compromises necessary for a broad-based and sustainable political settlement.

(B) Engaging the international community and the region in the effort to stabilize Iraq and to forge a broad-based and sustainable political settlement.

(C) Strengthening the capacity of Iraq's government ministries.

(D) Accelerating the delivery of basic services.

(E) Securing the delivery of pledged economic assistance from the international community and additional pledges of assistance.

(F) Training Iraqi security forces and transferring security responsibilities to those forces and the government of Iraq.

(2) Whether the Iraqis have made the compromises necessary to achieve the broad-based and sustainable political settlement that is essential for defeating the insurgency in Iraq.

(3) Any specific conditions included in the April 2005 Multi-National Forces-Iraq campaign action plan (referred to in United States Government Accountability Office October 2005 report on Rebuilding Iraq: DOD Reports Should Link Economic, Governance, and Security Indicators to Conditions for Stabilizing Iraq), and any subsequent updates to that campaign plan, that must be met in order to provide for the transition of security responsibility to Iraqi security forces.

(4) To the extent that these conditions are not covered under paragraph (3), the following should also be addressed:

(A) The number of battalions of the Iraqi Armed Forces that must be able to operate independently or to take the lead in counterinsurgency operations and the defense of Iraq's territory.

(B) The number of Iraqi special police units that must be able to operate independently or to take the lead in maintaining law and order and fighting the insurgency.

(C) The number of regular police that must be trained and equipped to maintain law and order.

(D) The ability of Iraq's Federal ministries and provincial and local governments to independently sustain, direct, and coordinate Iraq's security forces.

(5) The criteria to be used to evaluate progress toward meeting such conditions.

(6) A schedule for meeting such conditions, an assessment of the extent to which such conditions have been met, information regarding variables that could alter that schedule, and the reasons for any subsequent changes to that schedule.

SA 2519. Mr. LEVIN (for himself, Mr. BIDEN, Mr. REID, Mr. DODD, Mr. KERRY, Mr. FEINGOLD, Mr. DURBIN, Mr. REED, Mr. KENNEDY, Mrs. FEINSTEIN, Mr. OBAMA, and Mrs. BOXER) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of title XII, add the following:

SEC. ___. UNITED STATES POLICY ON IRAQ.

(a) SHORT TITLE.—This section may be cited as the "United States Policy on Iraq Act".

(b) SENSE OF SENATE.—It is the sense of the Senate that, in order to succeed in Iraq—

(1) members of the United States Armed Forces who are serving or have served in Iraq and their families deserve the utmost respect and the heartfelt gratitude of the American people for their unwavering devotion to duty, service to the Nation, and selfless sacrifice under the most difficult circumstances;

(2) it is important to recognize that the Iraqi people have made enormous sacrifices and that the overwhelming majority of Iraqis want to live in peace and security;

(3) calendar year 2006 should be a period of significant transition to full Iraqi sovereignty, with Iraqi security forces taking the lead for the security of a free and sovereign Iraq, thereby creating the conditions for the phased redeployment of United States forces from Iraq;

(4) United States military forces should not stay in Iraq indefinitely and the people of Iraq should be so advised;

(5) the Administration should tell the leaders of all groups and political parties in Iraq that they need to make the compromises necessary to achieve the broad-based and sustainable political settlement that is essential for defeating the insurgency in Iraq, within the schedule they set for themselves; and

(6) the Administration needs to explain to Congress and the American people its strategy for the successful completion of the mission in Iraq.

(c) REPORTS TO CONGRESS ON UNITED STATES POLICY AND MILITARY OPERATIONS IN IRAQ.—Not later than 30 days after the date of the enactment of this Act, and every three months thereafter until all United States combat brigades have redeployed from Iraq, the President shall submit to Congress an unclassified report on United States policy and military operations in Iraq. Each report shall include the following:

(1) The current military mission and the diplomatic, political, economic, and military measures, if any, that are being or have been undertaken to successfully complete or support that mission, including:

(A) Efforts to convince Iraq's main communities to make the compromises necessary for a broad-based and sustainable political settlement.

(B) Engaging the international community and the region in the effort to stabilize Iraq and to forge a broad-based and sustainable political settlement.

(C) Strengthening the capacity of Iraq's government ministries.

(D) Accelerating the delivery of basic services.

(E) Securing the delivery of pledged economic assistance from the international community and additional pledges of assistance.

(F) Training Iraqi security forces and transferring security responsibilities to those forces and the government of Iraq.

(2) Whether the Iraqis have made the compromises necessary to achieve the broad-based and sustainable political settlement that is essential for defeating the insurgency in Iraq.

(3) Any specific conditions included in the April 2005 Multi-National Forces-Iraq campaign action plan (referred to in United States Government Accountability Office October 2005 report on Rebuilding Iraq: DOD Reports Should Link Economic, Governance, and Security Indicators to Conditions for Stabilizing Iraq), and any subsequent updates to that campaign plan, that must be met in order to provide for the transition of security responsibility to Iraqi security forces.

(4) To the extent that these conditions are not covered under paragraph (3), the following should also be addressed:

(A) The number of battalions of the Iraqi Armed Forces that must be able to operate independently or to take the lead in counterinsurgency operations and the defense of Iraq's territory.

(B) The number of Iraqi special police units that must be able to operate independently or to take the lead in maintaining law and order and fighting the insurgency.

(C) The number of regular police that must be trained and equipped to maintain law and order.

(D) The ability of Iraq's Federal ministries and provincial and local governments to independently sustain, direct, and coordinate Iraq's security forces.

(5) The criteria to be used to evaluate progress toward meeting such conditions.

(6) A schedule for meeting such conditions, an assessment of the extent to which such conditions have been met, information regarding variables that could alter that schedule, and the reasons for any subsequent changes to that schedule.

(7) A campaign plan with estimated dates for the phased redeployment of the United States Armed Forces from Iraq as each condition is met, with the understanding that unexpected contingencies may arise.

SA 2520. Mr. FRIST (for Mr. INOUYE) proposed an amendment to the resolution S. Res. 9, expressing the sense of the Senate regarding designation of the month of November as "National Military Family Month"; as follows:

On page 2, line 2, strike "; and" and all that follows to the end.

SA 2521. Mr. FRIST (for Mr. LEAHY) proposed an amendment to the bill S. 1558, An act to amend the Ethics in Government Act of 1978 to protect family members of filers from disclosing sensitive information in a public filing and to extend for 4 years the authority to redact financial disclosure statements of judicial employees and judicial officers; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. PROTECTION OF FAMILY MEMBERS.

Section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in subparagraph (A), by inserting "or a family member of that individual" after "that individual"; and

(2) in subparagraph (B)(i), by inserting "or a family member of that individual" after "the report".

SEC. 2. EXTENSION OF PUBLIC FILING REQUIREMENT.

Section 105(b)(3)(E) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking "2005" each place it appears and inserting "2009".

SA 2522. Mr. FRIST (for Mr. LEAHY) proposed an amendment to the bill S. 1558, An act to amend the Ethics in Government Act of 1978 to protect family members of filers from disclosing sensitive information in a public filing and to extend for 4 years the authority to redact financial disclosure statements of judicial employees and judicial officers; as follows:

At the appropriate place, insert the following:

Amend the title so as to read: "To amend the Ethics in Government Act of 1978 to protect family members of filers from disclosing sensitive information in a public filing and to extend for 4 years the authority to redact financial disclosure statements of judicial employees and judicial officers.".

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON AGRICULTURE, NUTRITION, AND FORESTRY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Agriculture, Nutrition and Forestry be authorized to conduct a hearing during the session of the Senate on Thursday, November 10, 2005 at 9 a.m. in 328A, Senate Russell Office Building. The purpose of this committee hearing will be to consider the nominations for Chief Financial Officer and Administrator of the Rural Utilities Service at the United States Department of Agriculture.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on November 10, 2005, at 9:30 a.m., to conduct a hearing on "The Development of New Basel Capital Accords."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Thursday, November 10 at 10:30 a.m. The purpose of this meeting is to consider the nominations of Jeffrey D. Jarrett to be Assistant Secretary for Fossil Energy, DOE; and Edward F. Sproat, III to be Director, Office of Civilian Radioactive Waste Management, DOE.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Thursday, November 10, 2005, at 10 a.m., to consider an original bill that will include the Committee's budget reconciliation instructions pertaining to expiring tax provisions and also additional incentives for hurricane affected areas.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a markup on Thursday, November 10, 2005 at 9:30 a.m. in Senate Dirksen Office Building Room 226.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON VETERANS' AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Veterans' Affairs be authorized to meet during the session of the Senate on Thursday, November 10, 2005, for a committee hearing to examine the rebuilding of VA assets on the Gulf Coast. The hearing will take place in room 138 of the Dirksen Senate Office Building at 2 p.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AVIATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Aviation be authorized to meet on Thursday, November 10, 2005, at 9:30 a.m., on the Wright Amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON THE CONSTITUTION, CIVIL RIGHTS, AND PROPERTY RIGHTS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary Subcommittee on the Constitution, Civil Rights and Property Rights be authorized to meet to conduct a hearing on "Why the Government Should Care about Pornography: The State Interest in Protecting Children and Families" on Thursday, November 10, 2005 at 2 p.m. in SD226.

Witness List

Panel I: Pamela Paul, author of Pornified, New York, NY; Dean Rodney Smolla, Dean, University of Richmond School of Law, Richmond, VA; Jill Manning, Social Science Fellow, Heritage Foundation, Washington, DC, Sociologist, Brigham Young University, Provo, UT; Leslie Harris, Senior Consultant and Incoming Executive Director, Center for Democracy and Technology, Washington, DC; and Richard Whidden, Executive Director and Senior Counsel, National Law Center for Children and Families, Fairfax, VA.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CLEAN AIR, CLIMATE CHANGE, AND NUCLEAR SAFETY

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Clean Air, Climate Change, and Nuclear Safety be authorized to hold a hearing on November 10 at 9:30 a.m. regarding the implementation of the existing particulate matter and ozone air quality standards.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON DISASTER PREVENTION AND PREDICTION

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on Science and Space and Subcommittee on Disaster Prevention and Prediction be authorized to meet on Thursday, November 10, 2005, at 2:30 p.m., on S. 517-Weather Modification.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. SESSIONS. Madam President, I ask unanimous consent that CDR Richard Paquette, a Navy legislative fellow with my office, be granted the privileges of the floor for the remainder of the debate on S. 1042, the fiscal year 2006 National Defense Authorization Act.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. LEAHY. Mr. President, I ask unanimous consent that Bill Sexton of my staff be granted privilege of the floor for the duration of the consideration of this bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. McCONNELL. Mr. President, I ask unanimous consent that Harry Christy and Bob Lester of the State Foreign Operations and Related Programs Subcommittee be given floor privileges during consideration of the fiscal year 2006 Foreign Operations bill.

UNANIMOUS CONSENT AGREEMENT—H.R. 2419

Mr. FRIST. I ask unanimous consent that at 4:30 p.m. Monday, November 14, the Senate proceed to the conference report to accompany H.R. 2419, the Energy and Water appropriations bill, with 1 hour of debate allocated as follows: 30 minutes equally divided between the bill managers, 15 minutes under the control of Senator MCCAIN, and 15 minutes under the control of Senator COBURN.

I further ask consent that following the use or yielding back of time the Senate proceed to a vote on adoption of the conference report, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

EXECUTIVE SESSION

EXECUTIVE CALENDAR

Mr. FRIST. I ask unanimous consent the Senate immediately proceed to executive session to consider the following nominations on today's Executive Calendar: Calendar Nos. 399, 435, and 438; provided further that the Committee on Finance be discharged from further consideration of the nomination of Susan Schwab, PN 1032, and the Senate proceed to its consideration; provided further that the Committee on Agriculture be discharged from further consideration of the following nominations: James Andrew, PN 802; Charles Christopherson, PN 839.

I further ask unanimous consent the nominations be confirmed en bloc, the motions to reconsider be laid upon the table, the President be immediately notified of the Senate's action, and the Senate then return to legislative session.

The PRESIDING OFFICER. Without objection, it is so ordered.

The nominations considered and confirmed en bloc are as follows:

DEPARTMENT OF STATE

Anne W. Patterson, of Virginia, a Career Member of the Senior Foreign Service, Class of Career Minister, to be an Assistant Secretary of State (International Narcotics and Law Enforcement Affairs.

DEPARTMENT OF JUSTICE

Sue Ellen Wooldridge, of Virginia, to be an Assistant Attorney General.

DEPARTMENT OF VETERANS AFFAIRS

George J. Opfer, of Virginia, to be Inspector General, Department of Veterans Affairs.

EXECUTIVE OFFICE OF THE PRESIDENT

Susan C. Schwab, of Maryland, to be a Deputy United States Trade Representative, with the rank of Ambassador.

James M. Andrew, of Georgia, to be Administrator, Rural Utilities Service, Department of Agriculture.

Charles R. Christopherson, Jr., of Texas, to be Chief Financial Officer, Department of Agriculture.

LEGISLATIVE SESSION

The PRESIDING OFFICER. Under the previous order, the Senate will resume legislative session.

REMOVAL OF INJUNCTION OF SECRECY PROTOCOL AMENDING THE CONVENTION WITH SWEDEN ON TAXES ON INCOME

Mr. FRIST. As in executive session, I ask unanimous consent the injunction of secrecy be removed from the following treaty transmitted to the Senate on November 10, 2005, by the President of the United States: Protocol Amending the Convention with Sweden on Taxes on Income (Treaty Document 109-8).

I further ask that the treaty be considered as having been read a first time; that it be referred with accompanying papers to the Committee on Foreign Relations in order to be printed; and that the President's message be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The message of the President is as follows:

To the Senate of the United States:

I transmit herewith for the advice and consent of the Senate to ratification, a Protocol Amending the Convention Between the Government of the United States of America and the Government of Sweden for the Avoidance of Double Taxation and the Prevention of Fiscal Evasion with Respect to Taxes on Income signed at Washington on September 30, 2005 (the "Protocol"). Also transmitted for the information of the Senate is the report of the Department of State with respect to the Protocol.

The Protocol eliminates the withholding tax on certain cross-border dividend payments The proposed Protocol is one of a few recent U.S. tax agreements to provide for the elimination of the withholding tax on dividends arising from certain direct investments. In addition, the Protocol also modernizes the Convention to bring it into closer conformity with current U.S. tax-treaty policy, including strengthening the treaty's provisions preventing so-called treaty shopping.

I recommend that the Senate give early and favorable consideration to this Protocol and that the Senate give its advice and consent to ratification.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 10, 2005.*

EXPRESSING THE SENSE OF THE SENATE REGARDING VETERANS DAY 2005

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 305, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will please report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 305) expressing the sense of the Senate regarding Veterans Day 2005.

There being no objection, the Senate proceeded to consider the resolution.

VETERANS DAY

Mr. BYRD. Mr. President, this Friday, November 11, is celebrated in this country as Veterans Day. It is always held on the 11th of November in memory of the end of World War I. In that "War to End All Wars" what wishful, optimistic thinking. All guns were laid down on the eleventh hour of the eleventh day of the eleventh month, at 11 o'clock a.m. on November 11, 1918. On that fateful hour, I am sure that many prayers of thanksgiving flew heavenward as Doughboys and their families rejoiced at their survival in spite of the most bitter and horrible fighting the world had yet experienced.

World War I saw the introduction of new and more deadly forms of warfare, as technology and chemistry were brought to bear on the battlefield. Horses were replaced by the first crude tanks and self-propelled guns. Monoplanes and biplanes brought warfare to the skies overhead for the first time.

Chemical weapons, terrible and deadly, clouded the trenches. Diseases stalked the fields as well, from trenchfoot to the deadly Spanish flu that killed combatants and civilians alike. It was a dreadful time, one that would surely erase the desire to battle, if only that desire could be wiped from the human genome.

In 2005, in wake of World War II, the Korean war, the Vietnam conflict, the cold war and repeated conflicts in the Balkans, in Iraq, and in Afghanistan, World War I seems almost quaint. There was no threat of nuclear war bringing vast destruction to our homeland. There was no threat of terrorist attacks against innocent civilians. There was some respect for noncombatants, and there were no kidnappings or concentration camps.

Today's battlefield is amorphous. It touches humanitarian volunteers and journalists. It strikes at soldiers in their weary bivoacs, and it threatens to reach again into our everyday lives and travels. Our battle-stained soldiers get no rest.

This Veterans Day, we are at war on three fronts. First, let us never forget that we have troops in Afghanistan, still struggling to defeat the remnants of those who attacked us on September 11, 2001. They do not receive as much press coverage as the conflict in Iraq, but their fight is taking place in the heartland of the Taliban, the refuge of last resort for the mastermind of the 9/11 attack, Osama bin Laden. Our prayers go out to those brave men and women who labor in the deserts and the high, cold mountains of that embattled land. Your efforts and your sacrifices are not forgotten.

Second, we also have troops in Iraq, in a battle of our choosing. It is a battle that is consuming a high and bloody price on each difficult day. Our anxious prayers are with those men and women too, who must face each day not knowing what is around each corner or along each dangerous roadway. They may be sure, beyond a shadow of a doubt, that whatever we do here to question or investigate the circumstances that led to their deployment to Iraq, they have our unwavering respect and support in addition to our prayers. Those of their comrades who have paid a dear price and who lie wounded in hospitals have our thanks and sincere wishes for a speedy recovery. To the families who have lost a loved one in battle in service to our Nation, we owe a great debt.

They have no Veterans Day prayer of thanksgiving, only the honored memory of their loved one.

Our third war is taking place at home, as the Nation struggles to put in place protections to deter, prevent, or respond to a terror attack within our borders. The military, the Department of Homeland Security, and State and local first responders all must define and organize themselves to meet these new threats. We are all familiar with the early responses, from machine-gun wielding National Guardsmen patrolling our airports to fighter jets circling overhead on combat air patrol. We now dutifully take our shoes off for inspection before boarding a plane, and we park farther from public buildings. We are reviewing what role the military should play in responding to terror attacks or natural disasters. We are debating what legal protections and due process are due to those who are accused of involvement in suspected terror plots. We are weighing what loss of privacy with regard to our electronic transactions, even our library book withdrawals and Web searches, is commensurate with the threat to our safety. These new threats have made significant changes in our way of life, to be sure. Thankfully, we have not been tested again so far.

The changes in our daily routines are minute, however, in comparison to the challenges facing our men and women in uniform. Their foes wear no uniforms, no recognizable insignia. They travel in crowds, in taxis and buses, in private cars and cement trucks loaded with explosives. They target diplomats, journalists, and those laboring to improve local living conditions as well as those in uniform. They target their own countrymen serving to keep the peace on their neighborhood streets. They come from other nations, driven by a fanaticism most of us cannot fathom, let alone comprehend. Our men and women in uniform are fighting the hardest kind of war against a chameleon foe hidden in plain sight among the passing crowd. They have made repeated trips to the battlefield as our overstretched forces must deploy and redeploy. My heart goes out to them and my prayers are with them.

American men and women in the military services customarily state that they are proud to serve, proud to answer the Nation's call. Know that this Senator, too is proud—proud and thankful for the bravery and skill of our Nation's soldiers, sailors, and airmen. And I am proud of the families who support our troops with their love, their care packages, their prayers, and their loving welcomes home.

On Veterans Day, the Nation pays its respects to the men and women who have served and are now serving our Nation in uniform, and who have faced or are facing our foes in battle. Give them your thanks, and give them their due. They are true patriots. They have faced great dangers for each and every one of us.

Mr. President, I close with a poem by Edgar Guest:

The things that make a soldier great and send him out to die,
To face the flaming cannon's mouth nor ever question why,
Are lilacs by a little porch, the row of tulips red,
The peonies and pansies, too, the old petunia bed,
The grass plot where his children play, the roses on the wall:
'Tis these that make a soldier great.
He's fighting for them all.

'Tis not the pomp and pride of kings that make a soldier brave;
'Tis not allegiance to the flag that over him may wave;
For soldiers never fight so well on land or on the foam:
As when behind the cause they see the little place called home.
Endanger but that humble street whereon his children run, You make a soldier of the man who never bore a gun.

What is it through the battle smoke the valiant soldier sees?
The little garden far away, the budding apple trees,
The little patch of ground back there, the children at their play,
Perhaps a tiny mound behind the simple church of gray.
The golden thread of courage isn't linked to castle dome;
But to the spot, where'er it be—the humblest spot called home.

And now the lilacs bud again and all is lovely there,
And homesick soldiers far away know spring is in the air;
The tulips come to bloom again, the grass once more is green,
And every man can see the spot where all his joys have been.
He sees his children smile at him, he hears the bugle call,
And only death can stop him now—he's fighting for them all.

Ms. LANDRIEU. Mr. President, we observe Veterans Day on an anniversary of a day when war ended and our Nation was again at peace. November 11, 1918, Armistice Day, has been a day we use to remember our debt to all who have worn the uniform of the United States.

Our veterans have borne the costs of America's wars and have sacrificed so that not only our Nation but also our world can be free from terror. Today, every veteran can be certain, the Nation you serve and the people you defend are grateful.

Today more than 25 million Americans are either veterans or retired military. This number includes men and women from World War I, World War II, Korea, Vietnam, Desert Storm, Afghanistan, and Iraq. Every Veteran has their own story of how they entered military service. Many enlisted on December 8, 1941, or at the beginning of other conflicts. Some began their military careers at a service academy or with a letter from the U.S. government. Yet when their service is complete, veterans of every era, every background, every branch, have certain shared commitments and experiences that form bonds that will last a lifetime.

America's war veterans have fought for the security of this Nation and for the safety and peace of the world. They have humbled tyrants and defended the innocent and oppressed. The men and women of our Armed Forces have engaged the enemy on many fronts and confronted grave dangers to defend the safety of the American people. They serve and fight today, and their great achievements are added to American history. Americans are forever grateful for their honor, their courage, and their sacrifice.

Today and every day, the prayers of the American people are with those who wear our country's uniform. They follow a great tradition handed down to them by America's veterans. Our veterans from every era are the finest of citizens. We owe them the life we know today. They command the respect of the people, and they have our lasting gratitude.

Mr. FEINGOLD. Mr. President, tomorrow the Nation will pause to honor those brave Americans who have so selflessly served our country in the Armed Forces. For more than 200 years, men and women have proudly worn the uniform of the United States. In peacetime and in wartime, these selfless individuals have served and sacrificed on our behalf, many of them far away from their homes and from their families. Too may of them have made the ultimate sacrifice, and too many others bear the permanent scars of war, both seen and unseen. We owe them—and their families—our deepest, heartfelt gratitude.

As we prepare to mark Veterans Day in the United States with appropriate ceremonies and recognitions such as those that will take place in big cities and small towns across my home State of Wisconsin, men and women from my State and across our country will be continuing to serve with honor and distinction on our behalf in Iraq, Afghanistan, and elsewhere. Their dedication to this great country—and that of those who served before them—should inspire us all.

These quiet heroes can be found in all of our communities—in our families, within our circles of friends and acquaintances, in our schools, at our places of worship, at the local barber shop or salon, and at various neighborhood gathering places. Many of our veterans, while intensely patriotic and proud of their service—to our country, decline to talk in detail about their own acts of courage. Such humility is a testament to the selfless nature of these individuals. It is also a reminder of the sometimes painful burden that too many of our veterans carry as a result of their service—a burden that may include memories of wartime experiences that are too personal to share even with the closest of family members and friends.

These men and women show their pride in and dedication to their country in ways large and small, but do not call attention to their own heroism. Many of them continue to serve their fellow Americans and their fellow veterans though active membership in veterans service organization and other community groups. Others talk to school and youth groups about the importance of service, and many work tirelessly to keep alive the memories of those who did not return home.

Thousands of veterans around the country will gather proudly tomorrow for events marking Veterans Day. November 11 is a date with special significance in our history. On that day in 1918—at the eleventh hour of the eleventh day of the eleventh month—World War I ended. In 1926, a joint resolution of Congress called on the President to issue a proclamation to encourage all Americans to mark this day by displaying the United States flag and by observing it with appropriate ceremonies.

In 1938, Armistice Day was designated as a legal holiday "to be dedicated to the cause of world peace" by an act of Congress. This annual recognition of the contributions and sacrifices of our Nation's World War I veterans was renamed Veterans Day in 1954 so that we might also recognize the service and sacrifice of those who had fought in World War II and the veterans of all of America's other wars.

We owe these brave men and women our gratitude, and we also owe them our best efforts to ensure they know about and receive the Federal benefits and services that they have earned through their service to our country. I have long been concerned that too many veterans and military personnel are unaware of benefits and programs that are available to them through the Departments of Veterans Affairs and Defense and a number of other Federal agencies. I will continue my work to ensure that all veterans know about the benefits for which they may be eligible. I will also continue to support efforts to fully fund VA health care programs so that all veterans who wish to take advantage of their health care benefits are able to do so. No veteran should have to wait months to see a doctor or should be told that he or she is barred from enrolling in the VA health care system because of a lack of funding.

In addition, I am committed to ensuring that our current military personnel receive adequate health care and transition services, including mental health services, as they return from deployments abroad and when they return to civilian life. I am pleased that earlier this week the Senate passed an amendment that I offered to the fiscal year 2006 Defense authorization bill which is based on legislation I introduced in June, the Veterans Enhanced Transition Services Act, VETS Act. This amendment represents another step toward enhancing and strengthening transition services that are provided to our military personnel by making a number of improvements to the existing transition and post-deployment/pre-discharge health assessment programs.

My amendment will ensure that members of the National Guard and Reserve who have been on active duty continuously for at least 180 days are able to participate in transition programs and requires that additional information be included in these transition programs, such as details about employment and reemployment rights and a description of the health care and other benefits to which personnel may be entitled through the VA. The amendment also requires that demobilizing military personnel have access to follow-up care for physical or psychological conditions incurred as a result of their service. In addition, the amendment requires that assistance be provided to eligible military personnel to enroll in the VA health care system.

Mr. President, as we reflect upon the solemn meaning of this day, let us keep all of our veterans and their families in our thoughts. These men and women are examples of the best that our country has to offer, and they deserve our support—both during times of conflict and after the battles have ended and these valiant men and women have come home to their families and their communities. As we reflect upon the service of these courageous individuals on this Veterans Day, we should also redouble our commitment to continue to honor and support America's brave veterans, military personnel, and their families on this day and throughout the year.

Mrs. FEINSTEIN. Mr. President, I rise today to pay tribute to the veterans of our armed services. As combat operations continue in Iraq and Afghanistan, Veterans Day provides an important opportunity to honor those men and women who have made such great sacrifices for our Nation, both young and old.

Veterans Day is a time to reflect upon and celebrate the extraordinary contributions of all those who have served our country in uniform.

Veterans Day originated on November 11, 1918, as Armistice Day, commemorating the end of World War I. Although Veterans Day originally marked the end of a conflict, it now is an important reminder that our responsibility to veterans extends far beyond the close of hostilities.

First, I believe it is important that we pause and pay tribute to the approximately 160,000 troops still fighting in the regions of Iraq and Afghanistan.

Sadly, more than 2,000 soldiers have paid the ultimate sacrifice. Numerous others have experienced serious injury and harm.

With thousands and thousands of veterans coming home from this war, we must prepare for their return and ensure that they receive the care and benefits they deserve.

Today, there are 24.5 million living veterans in the United States. And I am proud that California is home to the most veterans in the country—over 2.3 million.

As California's senior Senator, I am honored to serve as the ranking member of the Military Construction and Veteran Affairs Appropriations Subcommittee.

In July of this year, the Senate approved a spending package that provides over $70.7 billion for the Department of Veterans Affairs, over $1 billion more than the administration's request.

The appropriated funds contain $23.3 billion for medical services, including nearly $2 billion in emergency funding to address the fiscal year 2006 shortfall.

The Senate and House are currently in conference to reconcile differences between the two Chambers' respective bills. It is my hope that we will finish conference on a final version of the Military Construction and Veterans Affairs Appropriations bill and send it to the President for his signature over the next several days.

In addition to medical services and research, the Senate bill also allocates $104 million for extended care facilities for our veterans. With 9.5 million Veterans over the age of 65, the need for properly funded long-term care is more important than ever.

To date, a quarter of a million veterans of Operation Enduring Freedom and Operation Iraqi Freedom have been discharged from Active Duty.

Of these, 49,000 have sought care from the Veterans Administration. As a nation we must fully meet our responsibilities to the veterans of this country.

Advances in medicine have thankfully spared many veterans of Iraq and Afghanistan from death, but roadside explosives and other weapons have left many of our troops maimed and disabled. To better serve wounded veterans, the Senate recently allocated $412 million for medical and prosthetics research.

There should not be any doubt that these brave men and women have given their all to protect freedom and our way of life.

It is estimated that 500,000 veterans spent all or part of this past year homeless. But tragically, the VA only has the capabilities to assist one-fifth of all homeless veterans.

We must continue to push for the development of an effective and expansive therapeutic housing program to help these thousands of veterans.

The new funding will bring us closer to guaranteeing the health, safety, and comfort of all veterans. The San Diego VA Medical Center alone will be able to provide care for 2,000 additional patients.

It is also our responsibility to ensure that prescription drugs are affordable. We must also ensure that health care is accessible and that veterans' hospitals are provided with the proper tools and support they need.

This is why I have consistently voted for increased funding for VA health care. Just this year I supported an amendment to the Defense Appropriations Act, which extends military health care benefits beyond retirement.

Noble sacrifices of past generations deserve to be remembered and cherished. Congress has consistently supported the construction of new cemeteries where the memories of our esteemed veterans can be honored and their legacies celebrated.

As a nation I believe we should also resist attempts to sell out land and facilities earmarked for veterans to commercial interests.

In west Los Angeles, pressure is increasing on the VA to develop some of the last open space left in the Los Angeles Basin. Land donated to honor the service of veterans should be kept in the hands of veterans. We cannot allow our responsibility to former servicemembers to be subordinated to economic interests.

To truly honor veterans, our country needs to preserve the memory of their courage. I worked with my colleagues from Iowa and California to make the battleship USS *Iowa* a permanent floating museum. The legendary ship's service in World War II and the Korean war will serve as a proper tribute to the veterans who served aboard this great fighting ship.

I look forward to continuing to work in service of our Nation's veterans. I hope you all will think of these courageous patriots beyond this special day and honor our veterans and the sacrifices they made in order for us to remain a free, self-governing people. To our veterans, I extend a heartfelt thank you for your service to our country. May God bless each of you and your families.

Mr. SMITH. Mr. President, I rise today to honor our Nation's veterans. Nowhere is dedication to duty and love of country more evident than among those who have voluntarily chosen to serve our country. Today, America honors the sons and daughters who have helped preserve our freedom and left a lasting legacy of selfless service.

Since 1954, we have designated November 11 as Veterans Day to remember the brave men and women who have served in our Armed Forces and defended our Nation. We also give our heartfelt gratitude to today's active service members and members of the National Guard and Reserve who are serving our country as we help to maintain peace and support democracy throughout the world.

I am especially proud to recognize Oregon's soldiers serving in our Armed Forces, as they represent our State with honor and distinction across the country and throughout the world. Whether protecting Iraqi citizens in their historic effort to form a free and democratic state or helping evacuate victims of Hurricane Katrina in the gulf coast region, their continued commitment to our Nation inspires us all.

Throughout our proud history, the United States has courageously met the challenges posed by enemies of freedom. In the last 100 years, we have lost some 700,000 men and women in defense of our country. As we recall their noble sacrifices, it is also important to honor the relatives and loved ones who help shoulder the burden of service.

America now faces new challenges from enemies that did not exist when our Nation's veterans fought in previous wars. Those who fought tyranny and paid the ultimate price did so for an honorable and enduring cause. Generations of free and democratic people around the world join us in thanking the brave Americans who helped them achieve and protect their liberty.

Today, we honor the legacy of the fallen and the courage of our veterans and salute the values that have made the United States the greatest Nation in the world. I have the highest respect for those who serve, and I appreciate and honor all of the men and women who continue to defend freedom at home and abroad. These American heroes and their families are at the forefront of our thoughts and prayers on this special day.

Mr. SALAZAR. Mr. President, this weekend we will all return home to our States and march in parades and participate in memorial events. Personally, I am always humbled to meet with men and women who heard duty calling and answered without hesitation. When duty called for brave Americans to stand against the spread of tyranny and oppression—whatever its many forms—they answered. They were willing to go anywhere—from the shores of Normandy to the islands of the Pacific to the jungles of Southeast Asia, to Afghanistan and the Persian Gulf—they put their lives on the line for our safety and freedom. And in exchange for that, our Nation owes them sincere gratitude and a promise of support when they return.

During World War II, my father was a soldier and my mother worked in the War Department. During that time, my uncle Leandro was killed in Europe. My parents knew firsthand about the ultimate sacrifice to protect America. They taught me the fundamental values I hold dear—love of family, community, country and God.

My dad taught me something else. Four years ago, my father died at the age of 85. Even though his mind was wracked with Alzheimer's, my father's last wish was to be buried in his World War II uniform. My dad knew that there is no greater honor, in life or in death, than to love our country.

When I got to the Senate, I asked to serve on the Committee on Veterans' Affairs. I wanted to fight for heroes like my father, uncle, brothers, and nephews. In fact, my brother John, himself a veteran and Congressman from Colorado's third district, will speak at Veterans Day events across his district tomorrow. Like millions of other veterans, whose actions matched their ideals, it is time the Nation acted to keep the promises it made to veterans.

Veterans Day is an opportunity for all of us to come together to hold parades and give speeches. Veterans all will hear from a number of politicians tomorrow.

It reminds me of something a young Ben Franklin wrote to his mother and father in 1738:

> The scripture assures me that at the last day we shall not be examined by what we thought, but by what we did . . . that we did good to our fellow creatures.

John Kennedy put it another way:

> As we express our gratitude, we must never forget that the highest appreciation is not to utter words, but to live by them.

Veterans Day is an important day, and veterans deserve every single word of praise that politicians utter. But our veterans deserve more than good speeches. They need the Government to keep the promises it made to them. We need to keep our promises to our soldiers at all stages of their lives, from when they first serve, to when they return home, to when they pass away.

Our military faces very different and daunting challenges as we begin the 21st century. We are fighting an enemy with a singular obsession—nothing less than the destruction of our way of life. We must provide our military with the resources to fight the war on terror and keep us safe. And just as we must protect our soldiers in battle, we must serve them when they return home.

Many of our veterans have seen and experienced things that will torment them for all of their days. Many return to us damaged physically and emotionally. Many will rise from the worst of it and work to help others to do the same.

Colorado has 433,000 veterans who have fought for our freedom, and our state has more than 13,000 soldiers deployed in Iraq and Afghanistan. We need to show these heroes that we will support them when they come home.

Earlier this year, I was alarmed when I learned the VA had a $1.3 billion budget shortfall and was delaying construction and rearranging funds to hide the gap. I was proud to work with my colleagues on the Veterans' Affairs Committee to pass $3.5 billion in additional funds to cover the shortfall this year and next.

This is an important first step, but we need to make sure that veterans never have to worry about losing their health care again. First, we need to make sure that the VA's budget process works. I have worked with my colleagues to successfully launch a Government Accountability Office investigation into what went wrong at the VA. I also authored legislation that passed the Senate to make sure that we are not surprised by this kind of news in the future.

Second, we need to ensure that the VA's budget is not dependent on the political whims inside Washington. I believe we need to make VA funding mandatory so that VA never has to ration care and veterans never have to worry about losing their coverage.

Colorado's veterans deserve a new state-of-the-art veterans hospital at Fitzsimons. When negotiations between the VA, the Fitzsimons Redevelopment Authority, and the University of Colorado broke down, I was proud to step in and help restart negotiations. This remains one of my top priorities in the Senate, and I am optimistic about the hospital's prospects. Colorado's veterans will get a new VA medical center at Fitzsimons.

But veterans in the metro area are not the only ones who need better care. In many rural parts of Colorado, veterans are being forced to drive hundreds of miles to get basic health care at overutilized facilities. This distance can lead to delayed care. And in the case of our aging veterans, the trip can be damaging to their health. That is just unacceptable.

Across Colorado, many brave and dedicated State officials and veterans groups are providing transportation services to rural veterans. Such volunteer programs currently exist in

Alamosa, Denver, La Plata, Moffat, Prowers, and Weld counties. These are successful, but financial uncertainties put them in jeopardy.

I am proud to have introduced the VetsRide Act to help programs like these survive. The bill provides small grants to groups that provide transportation or otherwise assist veterans in rural areas. This bill has earned the support of 17 Senate cosponsors including 8 Republicans. I hope to get this legislation approved so that we can continue these transportation programs that are a lifeline to our rural veterans.

In August, I hosted a field hearing on rural veterans issues in Grand Junction. Based on that hearing, I introduced legislation to require the VA to reevaluate outdated policies that disadvantage rural areas in the placement of new VA clinics. In September the Senate passed that legislation, which hopefully will help clear the way for the veterans of northwestern Colorado to get a clinic that they deserve.

In addition, I have introduced critical legislation to improve care for veterans living in rural areas, blinded veterans, and our elderly veterans. These are three areas where the VA is not doing enough, and a relatively small investment can make a major difference in our heroes' quality of life.

As we celebrate this Veterans Day, I am reminded of a sad fact. By 2015, the veteran population in Colorado is expected to fall by 49,500. Most of those will be World War II and Korean War veterans who will take their rightful places of honor next to the heroes buried in the four veterans cemeteries spread across Colorado.

I believe we need to honor the men and women who sacrificed so much for our freedom by giving them a burial option close to their homes. Yet one of the Nation's largest veterans communities, Colorado Springs, does not have a veterans cemetery. There are more than 105,000 veterans in the Pikes Peak Region. Despite this, the nearest veterans cemetery is at Fort Logan, a 70-mile trip from Springs through heavy Denver traffic. I have cosponsored legislation that would fix this inequity and hope it will be passed by the Congress.

I have also cosponsored legislation this week to close a terrible loophole in the law that allows capital offenders to be buried at national cemeteries. Our veterans deserve the dignity of not being buried next to murderers and monsters.

Since the American Revolution, nearly 1.2 million American soldiers have died defending this country. Their valor is an example to us. It requires us, the living, to ensure that the country they fought for continues to be worthy of their sacrifice.

Colorado and the Nation will not forget what our veterans have done and continue to do for us. We owe veterans our gratitude and our lifelong support.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 305) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 305

Whereas tens of millions of Americans have served in the Armed Forces of the United States during the past century;

Whereas hundreds of thousands of Americans have given their lives while serving in the Armed Forces of the United States during the past century;

Whereas the contributions and sacrifices of the men and women who have served in the Armed Forces of the United States have been vital in maintaining our freedom and way of life;

Whereas the more than 700,000 brave Americans who have sacrificed their lives while serving in the Armed Forces of the United States have ensured that the Nation, which is founded on the principles of freedom, justice, and democracy, shall endure;

Whereas Armistice Day was first proclaimed by President Woodrow Wilson in 1919 to commemorate the November 11, 1918, armistice between the Allies and the Central Powers that ended the fighting of World War I;

Whereas on June 1, 1954, President Dwight D. Eisenhower signed into law the Act proclaiming November 11 as Veterans Day (Public Law 83-380);

Whereas on October 8, 1954, in anticipation of the first nationwide observance of Veterans Day, President Dwight D. Eisenhower issued a Presidential proclamation regarding Veterans Day, which states, "[o]n that day let us solemnly remember the sacrifices of all those who fought so valiantly, on the seas, in the air, and on foreign shores, to preserve our heritage of freedom, and let us reconsecrate ourselves to the task of promoting an enduring peace so that their efforts shall not have been in vain";

Whereas veterans play important roles in communities throughout the United States;

Whereas it is important to preserve the memory of the veterans of the Nation and to teach every generation about the sacrifices that all veterans have made in securing and preserving the freedom that all Americans enjoy today;

Whereas the United States is in a time of conflict that highlights the incommensurable sacrifices the brave men and women of our Armed Forces have made and continue to make for our Nation and its principles of freedom, justice, and democracy;

Whereas as of October 2005, there were 433,398 new veterans from the present conflict who bravely defended America;

Whereas November 11 is a day of solemn reflection on, and commemoration of, the contributions of those who have served and defended the Nation, especially those who gave the ultimate sacrifice to secure the freedoms enjoyed by all citizens; and

Whereas it is proper that the Senate observe the day with appropriate tributes, commemorations, and reflection even when it conducts the Nation's business: Now, therefore, be it

Resolved, That it is the sense of the Senate—

(1) that those that have died in war serving the Nation, and the veterans of the Armed Forces of the United States, living and dead, are to be honored for their contributions and sacrifices to preserve the Nation and the principles of freedom, justice, and democracy that all Americans hold dear;

(2) that Veterans Day 2005 should be commemorated with appropriate tributes to all veterans of the Armed Forces of the United States for their contributions and sacrifices, and most especially to those who made the ultimate sacrifice; and

(3) that all Americans are encouraged to join the Senate in honoring and paying tribute to veterans of the Armed Forces of the United States on Veterans Day and throughout the year.

RECOGNIZING THAT VETERANS DAY IS A DAY TO HONOR ALL VETERANS OF THE ARMY

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 306, submitted earlier today.

The PRESIDING OFFICER. The clerk will please report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 306) recognizing that Veterans Day is a day to honor all veterans of the Army and to support the Army Freedom Team Salute's mission to recognize the unsung heroes who have served this country.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 306) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 306

Whereas Army personnel have for 230 years answered the call to duty by becoming guardians and defenders of America's freedoms;

Whereas millions of Army veterans selflessly served this Nation and their legacy of duty has reigned in their continued support of the mission of the Army;

Whereas the Army appreciates the sacrifices these courageous men and women have made in answering the call to duty by choosing a life of service;

Whereas the 83rd Congress created Veterans Day as a national day of observance to commemorate the heroes who served in the Armed Forces and the Army recognizes the importance of honoring those who have served their country; and

Whereas the Army created the Freedom Team Salute program to provide a way for the United States and the Army to thank its veterans: Now, therefore, be it

Resolved, That the Senate recognizes that November 11, 2005, Veterans Day, is a day to honor all Army veterans and supports the Army Freedom Team Salute's mission to recognize the unsung heroes who have served this country.

RECOGNIZING AND HONORING THE FILIPINO WORLD WAR II VETERANS

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 307, which was submitted early today.

The PRESIDING OFFICER. The clerk will please report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 307) to recognize and honor the Filipino World War II veterans for their defense of democratic ideals and their important contribution to the outcome of World War II.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 307) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 307

Whereas in 1898, the Philippines Archipelago was acquired by the United States of America, became an organized United States territory in 1902, and, in preparation for her independence, a self-governing commonwealth in 1935;

Whereas the people of the Philippines and of the United States developed strong ties throughout the decades-long democratic transition of the island, compelling the United States to assume the responsibilities of defending the archipelago and protecting the people of the Philippines;

Whereas on July 26, 1941, anticipating the aggression of Japanese invasion forces in the Asia Pacific region, as well as the imminent conflict between the United States and Japan, President Franklin D. Roosevelt issued a military order, calling the organized military forces of the Government of Commonwealth of the Philippines into armed service under the command of United States Army officers led by General Douglas MacArthur;

Whereas on December 7, 1941, the Japanese Government began a devastating 4-year war with the United States with their stealth bombing attacks of Pearl Harbor, Hawaii, and Clark Air Field, Philippines, and led to the loss of tens of thousands of American and Filipino soldiers and countless civilian casualties;

Whereas on February 20, 1946, President Harry Truman stated, "Philippine Army veterans are nationals of the United States and will continue in that status until July 4, 1946. They fought, as American nationals, under the American flag, and under the direction of our military leaders. They fought with gallantry and courage under most difficult conditions. I consider it a moral obligation of the United States to look after the welfare of the Philippine Army veterans.";

Whereas on October 17, 1996, President William J. Clinton issued a proclamation on the anniversary of the 1944 return of United States forces under General MacArthur to liberate the Philippines and said, "I urge all Americans to recall the courage, sacrifice, and loyalty of Filipino Veterans of World War II and honor them for their contribution to our freedom.";

Whereas on July 26, 2001, President George W. Bush, in his greetings to the Filipino WWII veterans said, "More than 120,000 Filipinos fought with unwavering loyalty and great gallantry under the command of General Douglas MacArthur. The combined United States-Philippine forces distinguished themselves by their valor and heroism in defense of freedom and democracy. Thousands of Filipino soldiers gave their lives in the battles of Bataan and Corregidor. These soldiers won for the United States the precious time needed to disrupt the enemy's plan for conquest in the Pacific. During the three long years following these battles, the Filipino people valiantly resisted a brutal Japanese occupation with an indomitable spirit and steadfast loyalty to America."; and

Whereas the contributions of the Filipino people, and the sacrifices of their soldiers in World War II, have not been fully recognized: Now, therefore, be it

Resolved, That the Senate reaffirms, recognizes, and honors the Filipino World War II veterans for their defense of American democracy and their important contribution to the victorious outcome of World War II.

DESIGNATING 2006 AS THE "YEAR OF STUDY ABROAD"

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 308, submitted early today.

The PRESIDING OFFICER. The clerk will please report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 308) designating 2006 as the "Year of Study Abroad."

There being no objection, the Senate proceeded to consider the resolution.

Mr. DURBIN. Mr. President, I rise today to urge my colleagues to support a Senate resolution designating 2006 as the "Year of Study Abroad." This resolution encourages initiatives to promote and expand study-abroad opportunities. Now more than ever, America needs citizens who can understand and communicate with people all over the world. However, fewer than 1 percent of all U.S. undergraduates participate in study-abroad programs while nearly 600,000 international students from more than 200 countries study in the United States each year. The future of our Nation depends on our ability to prepare the next generation of leaders for an increasingly complex global society.

This resolution seeks to promote study-abroad experiences as valuable opportunities for exposure to global knowledge and cultural understanding. An education that includes study abroad not only opens doors to careers, it opens minds and worlds of possibility. Studying abroad can help students develop foreign language proficiency, improve decisionmaking skills, and increase maturity and self-confidence. Such experience can also help heighten a student's cultural sensitivity. Put simply, an international education prepares U.S. citizens to live, work, and compete in the global economy. Studying abroad is also an effective way to promote the development of a peaceful global community, increase international trade, and create goodwill towards the United States.

Congress recognized the importance of studying abroad in 2004 when it established the Commission on the Abraham Lincoln Study Abroad Fellowship Program. The Commission was tasked with formulating a national program that would dramatically increase the number of American students studying abroad each year. The Commission is scheduled to issue its recommendations on December 1 of this year. This resolution underscores the importance of the Commission's work and builds on the message of International Education Week, November 14 to 18, 2005.

The future challenges that face all nations will require an unprecedented degree of understanding and cooperation among countries and their leaders. The experiences and lifelong friendships that result from studying abroad can help foster mutual understanding between the future leaders of the world. Such relationships and cooperation are vital for a secure and prosperous future, not only for the United States, but for the entire world.

Mr. FRIST. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 308) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 308

Whereas ensuring that the citizens of the United States are globally literate is the responsibility of the educational system of the United States;

Whereas educating students internationally is an important way to share the values of the United States, to create goodwill for the United States around the world, to work toward a peaceful global society, and to increase international trade;

Whereas, according to a 2002 American Council on Education poll, 79 percent of people in the United States agree that students should have a study abroad experience sometime during college, but only 1 percent of students from the United States currently study abroad each year;

Whereas study abroad programs help people from the United States to be more informed about the world and to develop the cultural awareness necessary to avoid offending individuals from other countries;

Whereas a National Geographic global literacy survey found that 87 percent of students in the United States between the ages of 18 and 24 cannot locate Iraq on a world map, 83 percent cannot find Afghanistan, 58 percent cannot find Japan, and 11 percent cannot even find the United States;

Whereas studying abroad exposes students from the United States to valuable global knowledge and cultural understanding and forms an integral part of their education;

Whereas Congress recognized through the Higher Education Act of 1965 (20 U.S.C. 1001 et seq.) that the security, stability, and economic vitality of the United States in an increasingly complex global age depend largely upon having a globally competent citizenry and the availability of experts specializing in world regions, foreign languages, and international affairs;

Whereas the Coalition for International Education, an ad hoc group of higher education organizations with interests in the international education programs of the Department of Education, and Government Accountability Office reports have found that Federal agencies, educational institutions, and corporations in the United States are suffering from a shortage of professionals with international knowledge and foreign language skills;

Whereas, according to the Coalition for International Education, institutions of higher education in the United States are struggling to graduate enough students with the language skills and cultural competence necessary to meet the current demands of business, government, and educational institutions;

Whereas a survey done by the Institute for the International Education of Students shows that studying abroad influences subsequent educational experiences, decisions to expand or change academic majors, and decisions to attend graduate school;

Whereas substantive research literature demonstrates that some of the core values and skills of higher education are enhanced by participation in study abroad programs;

Whereas study abroad programs not only open doors to foreign language learning, but also empower students to better understand themselves and others through a comparison of cultural values and ways of life;

Whereas study abroad programs for students from the United States can provide specialized training and practical experiences not available at institutions in the United States;

Whereas a blue ribbon task force of NAFSA: Association of International Educators, a global association of individuals dedicated to advancing international education and exchange, found that a national effort to promote study abroad programs is needed to address a serious deficit in global competence in the United States;

Whereas the bipartisan, federally-appointed Commission on the Abraham Lincoln Study Abroad Fellowship Program, established pursuant to section 104 of the Miscellaneous Appropriations and Offsets Act, 2004 (division H of the Consolidated Appropriations Act, 2004 (Public Law 108-199; 118 Stat. 435)), is scheduled to make recommendations by December 1, 2005, for a national study abroad program to meet this need: Now, therefore, be it

Resolved, That the Senate—

(1) designates 2006 as the "Year of Study Abroad";

(2) encourages secondary schools, institutions of higher learning, businesses, and government programs to promote and expand study abroad opportunities; and

(3) encourages the people of the United States to—

(A) support initiatives to promote and expand study abroad opportunities; and

(B) observe the "Year of Study Abroad" with appropriate ceremonies, programs, and other activities.

EXPRESSING SYMPATHY FOR THE PEOPLE OF JORDAN

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate now proceed to the consideration of S. Res. 309 which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 309) expressing sympathy for the people of Jordan in the aftermath of the deadly terrorist attacks in Amman on November 9, 2005.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SALAZAR. Mr. President, I rise to express my deepest sympathies to the people of Jordan, and to all of those affected by the terrorist attacks that occurred yesterday in Amman.

Abu Musab al-Zarqawi and his al-Qaida organization in Iraq have taken responsibility for this attack, and if this is true, they have added still more blood to their hands. These attacks on civilians—guests, workers, a wedding party at three hotels in Jordan's capital brutally illustrate the hateful agenda of the terrorists. The hotels themselves may have been associated with the West, but reports indicate that the victims of this terrorist attack were Americans, Palestinians, Chinese, Indonesians, Syrians, Saudi Arabians, and, of course, Jordanians. Just as global terrorist networks threaten all people of all faiths, so too did this attack cause terrible pain and loss for families and communities around the world.

Every time I read headlines like those we all read this morning, I am reminded of the tragedy of September 11, 2001. The American people know something about how the people of Jordan feel today. We feel grief, but we also feel outrage, and these feelings merge into unshakable resolve. We will work in partnership with countries and communities around the world to resist and to defeat those who would have us live in fear.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 309) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 309

Whereas the United States and a broad international coalition are engaged in a Global War on Terrorism;

Whereas on November 9, 2005, a series of explosions struck 3 hotels in Amman, Jordan, killing at least 56 people and injuring at least 115 others;

Whereas the terrorist attacks on Amman, Jordan, were senseless and barbaric acts carried out against innocent civilians;

Whereas Al Qaeda in Iraq has claimed responsibility for the terrorist attacks in Amman, Jordan;

Whereas the people and Government of the Hashemite Kingdom of Jordan have been targeted in several attempted terrorist attacks over the past few years;

Whereas the people of Jordan have a long and enduring friendship with the people of the United States and their close cooperation in political, economic, and humanitarian endeavors has benefitted both nations and the people of the Middle East region;

Whereas the Hashemite Kingdom of Jordan is a stalwart ally of the United States in the global war against terrorism;

Whereas the people of the United States stand in solidarity with the people of Jordan in fighting terrorism;

Whereas the Government of the United States immediately condemned the terrorist attacks and extended the support and condolences of the people of the United States to the people of Jordan; and

Whereas on September 12, 2001, in a letter to President George W. Bush condemning the September 11, 2001, terrorist attacks on the United States, King Abdullah of the Hashemite Kingdom of Jordan stated that "the people of Jordan join the people of the United States in our absolute condemnation of the terrorist aggression against your nation . . . our hearts reach out to the victims and their families, and we honor the selfless men and women who have risked their lives to aid the injured and suffering . . . be assured that the Hashemite Kingdom of Jordan, its leaders and people stand with you against the perpetrators of these terrorist atrocities. We denounce the violence and hatred they represent.": Now, therefore, be it

Resolved, That the Senate—

(1) condemns, in the strongest terms, the senseless and barbaric terrorist attacks on the innocent people of Amman, Jordan, on November 9, 2005;

(2) expresses its condolences to the families and friends of those individuals who were killed in the attacks and expresses its sympathies to those individuals who have been injured;

(3) expresses the strong and continued solidarity of the people and Government of the United States with the people and Government of the Hashemite Kingdom of Jordan as they recover from these inhumane attacks;

(4) declares its readiness to support and assist the authorities of Jordan in their efforts to bring to justice those individuals responsible for the attacks; and

(5) calls upon the international community to renew and strengthen efforts to—

(A) defeat terrorists by dismantling terrorist networks and exposing the violent and nihilistic ideology of terrorism;

(B) increase international cooperation to advance personal and religious freedoms, ethnic and racial tolerance, political liberty and pluralism, and economic prosperity; and

(C) combat the social injustice, oppression, poverty, and extremism that bolsters terrorism.

HONORING ISRAELI PRIME MINISTER YITZHAK RABIN

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 310 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 310) honoring the life, legacy and example of Israeli Prime Minister Yitzhak Rabin on the tenth anniversary of his death.

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 310) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 310

Whereas Yitzhak Rabin was born March 1, 1922, in Jerusalem;

Whereas Yitzhak Rabin volunteered for the Palmach, the elite unit of the Haganah (predecessor of the Israeli Defense Forces), and served for 27 years, including during the 1948 War of Independence, the 1956 Suez War, and as Chief of Staff in the June 1967 Six Day War;

Whereas, in 1975, Prime Minister Yitzhak Rabin signed the interim agreement with Egypt (Sinai II) which laid the groundwork for the 1979 Camp David Peace Treaty between Israel and Egypt;

Whereas Yitzhak Rabin served as Ambassador to the United States from 1968–1973, Minister of Defense from 1984–1990, and Prime Minister from 1974–1977 and from 1992 until his assassination in 1995;

Whereas, on September 13, 1993, in Washington, D.C., Yitzhak Rabin signed the Declaration of Principles framework agreement between Israel and the Palestinians;

Whereas, upon the signing of the Declaration of Principles, Yitzhak Rabin said to the Palestinian people: "We say to you today in a loud and clear voice: Enough of blood and tears. Enough! We harbor no hatred toward you. We have no desire for revenge. We, like you, are people who want to build a home, plant a tree, love, live side by side with you—in dignity, empathy, as human beings, as free men,";

Whereas Yitzhak Rabin received the 1994 Nobel Prize for Peace for his vision and bravery as a peacemaker, saying at the time: "There is only one radical means of sanctifying human lives. Not armored plating, or tanks, or planes, or concrete fortifications. The one radical solution is peace.";

Whereas, on October 26, 1994, Yitzhak Rabin and King Hussein of Jordan signed a peace treaty between Israel and Jordan;

Whereas, on November 4, 1995, Yitzhak Rabin was brutally assassinated after attending a peace rally in Tel Aviv, where his last words were: "I have always believed that the majority of the people want peace, are prepared to take risks for peace . . . Peace is what the Jewish People aspire to."; and

Whereas Yitzhak Rabin dedicated his life to the cause of peace and security for the state of Israel by defending his nation against all threats, including terrorism, and undertaking courageous risks in the pursuit of peace: Now, therefore, be it

Resolved, That the Senate—

(1) honors the historic role of Yitzhak Rabin for his distinguished service to the people of Israel and extends its deepest sympathy and condolences to the family of Yitzhak Rabin and the people of Israel on the tenth anniversary of his death;

(2) recognizes and reiterates its continued support for the close ties and special relationship between the United States and Israel;

(3) expresses its admiration for Yitzhak Rabin's legacy and reaffirms its commitment to the process of building a just and lasting peace between Israel and its neighbors;

(4) condemns any and all acts of terrorism; and

(5) reaffirms unequivocally the sacred principle that democratic leaders and governments must be changed only by the democratically-expressed will of the people.

RECOGNIZING THE 40TH ANNIVERSARY OF THE SECOND VATICAN COUNCIL

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H. Con. Res. 260 which was received from the House.

The PRESIDING OFFICER. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 260) recognizing the 40th anniversary of the Second Vatican Council's promulgation of Nostra Aetate, the declaration on the relation of the Roman Catholic Church to non-Christian religions, and the historic role of Nostra Aetate in fostering mutual interreligious respect and dialogue.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. VOINOVICH. Mr. President, I rise to strongly encourage my colleagues in the Senate to support this resolution recognizing the 40th anniversary of the Second Vatican Council's Declaration on the Relation of the Church to Non-Christian Religions, Nostra Aetate, and the continuing need for mutual interreligious respect and dialogue.

October 28, 2005 marked the 40th anniversary of Nostra Aetate, which means "in our time." On October 28, 1965, Nostra Aetate affirmed the respect of the Roman Catholic Church for Hinduism, Buddhism, Islam, and Judaism, and called upon all Catholics to engage in dialogue and cooperation with the followers of other religions. Nostra Aetate states that the Roman Catholic Church, moved by the Gospel's spiritual love, decries hatred, persecution, and displays of anti-Semitism directed at Jews at any time and by anyone. As stated in the resolution, Nostra Aetate marked a new relationship between Catholics and Jews worldwide and opened a chapter in Jewish-Christian relations that is unprecedented in its closeness and warmth.

With Nostra Aetate, Pope John Paul VI called on all Catholics not only to decry the persecution of people of non-Christian religions, but also to love and respect them.

As it is stated in a passage from Nostra Aetate: "In our time, when day by day mankind is being drawn closer together, and the ties between different peoples are becoming stronger, the Church examines more closely its relationship to non-Christian religions. In her task of promoting unity and love among men, indeed among nations, she considers above all in this declaration what men have in common and what draws them to fellowship. . . . Men expect from the various religions answers to the unsolved riddles of the human condition, which today, even as in former times, deeply stir the hearts of men: What is man? What is the meaning, the aim of our life? What is moral good, what sin? Whence suffering and what purpose does it serve? Which is the road to true happiness? What are death, judgment and retribution after death? What, finally, is that ultimate inexpressible mystery which encompasses our existence: whence do we come, and where are we going?"

Nostra Aetate acknowledges that all people of all religions are united by the fact that we are all searching for the answers to the most basic questions about life and God, and that we must love and respect one another, despite our differences.

The message of Nostra Aetate is of particular importance today, amidst the conflict in the Middle East and terrorism in the name of Islam. As we continue the battle against the rise in anti-Semitism, prejudice against Muslims, and all other forms of intolerance and xenophobia, both internationally and within the United States, we must remember the value of this message that calls for interreligious respect, tolerance, and dialogue and decries all forms of hatred.

Mr. FRIST. I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating to the concurrent resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 260) was agreed to.

The preamble was agreed to.

NATIONAL STALKING AWARENESS MONTH

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate now proceed to S. Con. Res. 10.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (S. Con. Res. 10) raising awareness and encouraging prevention of stalking by establishing January 2006 as "National Stalking Awareness Month".

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. FRIST. I ask unanimous consent that the concurrent resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (S. Con. Res. 10) was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

S. CON. RES. 10

Whereas an estimated 1,006,970 women and 370,990 men are stalked annually in the United States and, in the majority of such cases, the person is stalked by someone who is not a stranger;

Whereas 81 percent of women who are stalked by an intimate partner are also physically assaulted by that partner, and 76 percent of women who are killed by an intimate partner were also stalked by that intimate partner;

Whereas 26 percent of stalking victims lose time from work as a result of their victimization and 7 percent never return to work;

Whereas stalking victims are forced to take drastic measures to protect themselves, such as relocating, changing their addresses, changing their identities, changing jobs, and obtaining protection orders;

Whereas stalking is a crime that cuts across race, culture, gender, age, sexual orientation, physical and mental ability, and economic status;

Whereas stalking is a crime under Federal law and under the laws of all 50 States and the District of Columbia;

Whereas rapid advancements in technology have made cyber-surveillance the new frontier in stalking;

Whereas there are national organizations, local victim service organizations, prosecutors' offices, and police departments that stand ready to assist stalking victims and who are working diligently to craft competent, thorough, and innovative responses to stalking;

Whereas there is a need to enhance the criminal justice system's response to stalking and stalking victims, including aggressive investigation and prosecution; and

Whereas Congress urges the establishment of January, 2006 as National Stalking Awareness Month: Now, therefore, be it

Resolved by the Senate (the House of Representatives concurring), That—

(1) it is the sense of Congress that—

(A) National Stalking Awareness Month provides an opportunity to educate the people of the United States about stalking;

(B) all Americans should applaud the efforts of the many victim service providers, police, prosecutors, national and community organizations, and private sector supporters for their efforts in promoting awareness about stalking; and

(C) policymakers, criminal justice officials, victim service and human service agencies, nonprofits, and others should recognize the need to increase awareness of stalking and availability of services for stalking victims; and

(2) Congress urges national and community organizations, businesses in the private sector, and the media to promote, through National Stalking Awareness Month, awareness of the crime of stalking.

NATIONAL MILITARY FAMILY MONTH

Mr. FRIST. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 9 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 9) expressing the sense of the Senate regarding designation of the month of November as "National Military Family Month".

There being no objection, the Senate proceeded to consider the resolution.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendment which is at the desk be agreed to, the resolution, as amended, be agreed to, the preamble be agreed to, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the resolution be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2520) was agreed to, as follows:

AMENDMENT NO. 2520

On page 2, line 2, strike "; and" and all that follows to the end.

The resolution (S. Res. 9), as amended, was agreed to.

The preamble was agreed to.

The resolution, as amended, with its preamble reads as follows:

S. RES. 9

Whereas military families, through their sacrifices and their dedication to our Nation and its values, represent the bedrock upon which our Nation was founded and upon which our Nation continues to rely in these perilous and challenging times: Now, therefore, be it

Resolved, That it is the sense of the Senate—

(1) that the month of November should be designated as "National Military Family Month"; and

(2) to request that the President—

(A) designate the month of November as "National Military Family Month"; and

(B) issue a proclamation calling upon the people of the United States to observe the month with appropriate ceremonies and activities.

AMENDING THE ETHICS IN GOVERNMENT ACT OF 1978

Mr. FRIST. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be discharged from further consideration of S. 1558, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1558) to amend the Ethics in Government Act of 1978 to protect family members of filers from disclosing sensitive information in a public filing and extend the public filing requirement for 5 years.

There being no objection, the Senate proceeded to consider the bill.

Mr. LEAHY. Mr. President, Senator SPECTER and I have introduced a comprehensive court security measure, S. 1968, the Court Security Improvement Act of 2005, CSIA. Our bill responds to requests by the judiciary for a greater voice in working with the United States Marshals Service to determine their security needs. It enacts new criminal penalties for the misuse of restricted personal information to harm or threaten to seriously harm judges, their families or other individuals performing official duties. It also enacts criminal penalties for threatening judges and Federal law enforcement officials by the malicious filing of false liens, provides increased protections for witnesses, and makes available new resources for State courts to improve security for State and local court systems. Finally, it extends life insurance benefits to bankruptcy, magistrate and territorial judges, and health insurance to surviving spouses and families of Federal judges.

One of the provisions of CSIA extends the "sunset" of a provision first enacted in the "Identity Theft and Assumption Deterrence Act of 1998" that grants the Judicial Conference of the United States the authority to redact information from a judge's mandatory financial disclosure in circumstances in which it is determined that the release of the information could endanger the filer or the filer's family. The Specter-Leahy bill also extends the protections of this provision to the family members of filers.

The misuse of this redaction authority has been a matter of some concern to me. I appreciate that the Judicial Conference is seeking to improve its practices. I offer this amendment to S. 1558, which is drawn from CSIA, because none of us wants to see judges or their families endangered. The redaction authority need not expire if there is agreement that it should be continued by reauthorization for another 4-year period before another sunset. Instead, if the Senate adopts our amendment and the House accepts the Senate bill, the authority will be extended without interruption. I hope that the House will join us without delay both in extending the redaction authority and in expanding the scope of its protections to include family members.

I also hope that we will move quickly to pass the other important provisions of CSIA so that we can better protect the dedicated women and men throughout the judiciary in this country who do a tremendous job under challenging circumstances.

Mr. FRIST. Mr. President, I ask unanimous consent that the amendment that is at the desk be agreed to, the bill, as amended, be read a third time and passed, the title amendment be agreed to, the motion to reconsider be laid upon the table, with no intervening action or debate, and that any statement relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2521) was agreed to, as follows:

AMENDMENT NO. 2521

Strike all after the enacting clause and insert the following:

SECTION 1. PROTECTION OF FAMILY MEMBERS.

Section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in subparagraph (A), by inserting "or a family member of that individual" after "that individual"; and

(2) in subparagraph (B)(i), by inserting "or a family member of that individual" after "the report".

SEC. 2. EXTENSION OF PUBLIC FILING REQUIREMENT.

Section 105(b)(3)(E) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking "2005" each place it appears and inserting "2009".

The amendment (No. 2522) was agreed to, as follows:

AMENDMENT NO. 2522

(Purpose: To amend the title of the bill.)

At the appropriate place, insert the following:

Amend the title so as to read: "To amend the Ethics in Government Act of 1978 to protect family members of filers from disclosing sensitive information in a public filing and to extend for 4 years the authority to redact financial disclosure statements of judicial employees and judicial officers.".

The bill (S. 1558), as amended, was read the third time and passed, as follows:

S. 1558

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PROTECTION OF FAMILY MEMBERS.

Section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended—

(1) in subparagraph (A), by inserting "or a family member of that individual" after "that individual"; and

(2) in subparagraph (B)(i), by inserting "or a family member of that individual" after "the report".

SEC. 2. EXTENSION OF PUBLIC FILING REQUIREMENT.

Section 105(b)(3)(E) of the Ethics in Government Act of 1978 (5 U.S.C. App.) is amended by striking "2005" each place it appears and inserting "2009".

PROHOBITION ON THE TRAFFICKING OF GOODS AND SERVICES

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 277, S. 1095.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1095) to amend chapter 113 of title 18, United States Code, to clarify the prohibition on the trafficking in goods or services, and for other purposes.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment.

[Strike the part shown in black brackets and insert the part shown in italic.]

S. 1095

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Protecting American Goods and Services Act of 2005".

[SEC. 2. PROHIBITION ON TRAFFICKING OF CERTAIN GOODS AND SERVICES.

[(a) IN GENERAL.—Section 2320 of title 18, United States Code, is amended—

[(1) by striking subsection (a) and inserting the following:

["(a)(1) Any person who intentionally traffics or attempts to traffic in goods or services and knowingly uses a counterfeit mark on or in connection with such goods or services—

["(A) if an individual, shall be fined not more than $2,000,000, imprisoned not more than 10 years, or both; and

["(B) if a person other than an individual, shall be fined not more than $5,000,000.

["(2) Any person who possesses goods with a counterfeit mark with an intent to traffic such goods—

["(A) if an individual, shall be fined not more that $2,000,000, or imprisoned not more than 10 years, or both; and

["(B) if a person other than an individual, shall be fined not more than $5,000,000.

["(3) In the case of an offense by a person under this section that occurs after that person is convicted of another offense under this section, the person—

["(A) if an individual, shall be fined not more than $5,000,000, imprisoned not more than 20 years, or both; and

["(B) if other than an individual, shall be fined not more than $15,000,000."; and

[(2) in subsection (b), by striking paragraph (2) and inserting the following:

["(2) the term 'traffic' means—

["(A) transport, transfer, or otherwise dispose of, to another as consideration for anything of value or without consideration; or

["(B) make or obtain control of with intent to so transport, transfer, or dispose of; and".

[(b) PROHIBITION OF TRANSPORT OF COUNTERFEIT GOODS OR UNAUTHORIZED COPIES AND PHONORECORDS OF COPYRIGHTED WORKS.—

[(1) IN GENERAL.—Chapter 113 of title 18, United States Code, is amended by inserting after section 2320 the following:

["§ 2320A. Transport of counterfeit goods and unauthorized copyrighted works into or out of the United States

["(a) DEFINITIONS.—In this section—

["(1) the terms 'copies' and 'phonorecords' have the respective meanings given under section 101 of title 17;

["(2) the term 'counterfeit mark' has the meaning given under section 2320(e)(1); and

["(3) the term 'United States' means each of the several States of the United States, the District of Columbia, and the territories and possessions of the United States.

["(b) OFFENSE.—Any person who intentionally transports goods bearing a counterfeit mark or copies or phonorecords of a copyrighted work not authorized by the copyright holder into or out of the United States for the purposes of commercial advantage or private financial gain shall be fined not more than $100,000, imprisoned not more than 10 years, or both.".

[(2) TECHNICAL AND CONFORMING AMENDMENT.—The table of sections for chapter 113 of title 18, United States Code, is amended by inserting after the item relating to section 2320 the following:

["2320A. Transport of counterfeit goods and unauthorized copyrighted works into or out of the United States.".]

SECTION 1. TRAFFICKING DEFINED.

(a) COUNTERFEIT GOODS OR SERVICES.—Section 2320(e) of title 18, United States Code, is amended—

(1) by striking paragraph (2) and inserting the following:

"(2) the term 'traffic' means to transport, transfer, or otherwise dispose of, to another, for purposes of commercial advantage or private financial gain, or to make, import, export, obtain control of, or possess, with intent to so transport, transfer, or otherwise dispose of;"; and

(2) by redesignating paragraph (3) as paragraph (4) and inserting the following:

"(3) the term 'financial gain' includes the receipt, or expected receipt, of anything of value; and".

(b) CONFORMING AMENDMENTS.—

(1) SOUND RECORDINGS AND MUSIC VIDEOS OF LIVE MUSICAL PERFORMANCES.—Section 2319A(e) of title 18, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) the term 'traffic' has the same meaning as in section 2320(e) of this title.".

(2) COUNTERFEIT LABELS FOR PHONORECORDS, COMPUTER PROGRAMS, ETC.—Section 2318(b) of title 18, United States Code, is amended by striking paragraph (2) and inserting the following:

"(2) the term 'traffic' has the same meaning as in section 2320(e) of this title;".

(3) ANTI-BOOTLEGGING.—Section 1101 of title 17, United States Code, is amended by striking subsection (b) and inserting the following:

"(b) DEFINITION.—As used in this section, the term 'traffic' has the same meaning as in section 2320(e) of title 18, United States Code.".

Mr. CORNYN. Mr. President, I rise today to thank my colleagues for joining me in the fight against global counterfeiting—a plague on our economy, on the safety of our citizens, and on our national security.

S. 1095, the Protecting American Goods and Services Act, or PAGS, is important legislation designed to combat the trafficking of illegitimate goods throughout the world—and I look forward to working with our colleagues in the House of Representatives to send it to the President.

I am particularly pleased to work with Senator LEAHY in our continued bipartisan effort to protect intellectual property rights as well as to work on other important issues. Recently, we have worked together on a matter near and dear to my heart—good government legislation related to the Freedom of Information Act, and it indeed has been a pleasure to work with the ranking member of the Judiciary Committee and his staff again.

Mr. President, the rampant distribution of illegitimate goods—be it counterfeited products, illegal copies of copyrighted works or any other form of piracy—undermines property rights, threatens American jobs, decreases consumer safety and, often times, supports organized crime and terrorist activity.

Amazingly, it is estimated that between and 5 percent and 7 percent of worldwide trade is conducted with counterfeit goods and services. According to FBI estimates, counterfeiting costs U.S. businesses as much as $200-$250 billion annually—and that costs Americans their jobs—more than 750,000 jobs according to U.S. Customs.

In recent years, this plague on global trade has grown significantly. According to the World Customs Organization and Interpol, the global trade in illegitimate goods has increased from $5.5 billion in 1992 to more than $600 billion per year today: that is, $600 billion per year illegally extracted from the global economy.

But perhaps most troubling, the counterfeit trade threatens our safety and our security. Counterfeit goods undermine our confidence in the reliability of our goods and service. For example, the Federal Aviation Administration estimates that 2 percent of the 26 million airline parts installed each year are counterfeit. And the Federal Drug Administration estimates that as much as 10 percent of pharmaceuticals are counterfeit. Worse yet—evidence indicates that the counterfeit trade supports terrorist activities. Indeed, alQaeda training manuals recommended the sale of fake goods to raise revenue.

And the reach of counterfeiting runs deep in my own home State of Texas. Data is difficult to collect, but a 1997 piece detailing Microsoft's efforts to combat counterfeiting and piracy—while dated—pointed out that this type of activity costs Texas over 10,000 jobs and almost $1 billion. Today, we know those numbers are much higher.

Mr. President, we must act to stop this illegal activity.

The legislation that we are sending over to the House today, the Protecting American Goods and Services Act, is not complicated, it is not long—but its global impact will be significant. The legislation is designed to provide law enforcement with additional tools to curb the flow of these illegitimate goods and it is perhaps even more critical for businesses, large and small, throughout America and for ensuring the safety of consumers around the globe.

Those who traffic in counterfeit goods put Americans in danger, support terrorism and undermine the health of our Nation's economy. The PAGS Act fills certain important gaps in current counterfeiting law by clarifying the term "trafficking" to ensure that it is illegal to: Possess counterfeit goods with the intention of selling them; give away counterfeit goods in exchange for some future benefit—in effect, the "bartering" of counterfeit goods in such a way that avoids criminality and import or export counterfeit goods or unauthorized copies of copyrighted works.

This bill will protect property rights, protect consumer safety, preserve American jobs and bolster the American economy by cracking down on the trade of illegal counterfeit goods and services.

Each of these items was highlighted by the Department of Justice in its October, 2004 report on its Task Force on Intellectual Property. In it, the Department describes the significant limitation law enforcement often times faces in pursuing counterfeiters and offers, among others, the principles embraced in the Protecting American Goods and Services Act, as possible solutions to these obstacles.

This legislation, and other reforms, will help turn the tide of the growing counterfeit trade. The legislation is critically important to law enforcement—but it is even more critical for businesses, large and small, throughout America—including in my home state of Texas—as well as for ensuringthe safety of consumers around the globe. Those who traffic in counterfeit goods put Americans in danger, support terrorism and undermine the health of our Nation's economy. It is time to put an end to this scourge on society.

I look forward to working with my colleagues to move this legislation forward, and in so doing, protect property rights, protect consumer safety, preserve American jobs and bolster the American economy.

Mr. LEAHY. Today, I am pleased that the Senate is passing S. 1095, the Protecting American Goods and Services Act of 2005, which is the latest of the bipartisan efforts that Senator CORNYN and I have made to improve the lives of Americans through effective and efficient government. The Protecting American Goods and Services Act of 2005 will strengthen our ability to combat the escalating problem of counterfeiting worldwide. In order to effectively fight intellectual property theft, we need stiff penalties for counterfeiters and those who are caught with counterfeit goods with the intent to traffic their false wares. Ours is a short bill—indeed, it is only two pages long—but it will have powerful global implications in the fight against piracy.

Counterfeiting is a growing problem that costs our economy hundreds of billions of dollars every year and has been linked to organized crime, including terrorist organizations. According to the International Anti-Counterfeiting Coalition, counterfeit parts have been discovered in helicopters sold to NATO, in jet engines, bridge joints, brake pads, and fasteners in equipment designed to prevent nuclear reactor meltdowns. The World Health Organization estimates that the market for counterfeit drugs is about $32 billion each year.

Several years ago, Senator HATCH joined me in sponsoring the Anti-counterfeiting Consumer Protection Act of 1996, which addressed counterfeiting by amending several sections of our criminal and tariff codes. That law made important changes, particularly by expanding RICO, the Federal antiracketeering law, to cover crimes involving counterfeiting and copyright and trademark infringement. Then, as now, trafficking in counterfeit goods hurts purchasers, State and Federal Governments, and economies at every level.

Perhaps most disturbingly, the U.S. Customs Service reports that terrorists have used transnational counterfeiting operations to fund their activities: The sale of counterfeit and pirated music, movies, software, T-shirts, clothing, and fake drugs "accounts for much of the money the international terrorist network depends on to feed its operations."

Last year, as in years past, I worked with Senator ALLEN on an amendment to the Foreign Operations bill that provides the State Department with vital resources to combat piracy of U.S. goods abroad. The bill we ultimately passed included $3 million for this important purpose. Yet more work both at home and abroad remains. When you consider that the economic impact of tangible piracy in counterfeit goods is estimated to be roughly $350 billion a year and to constitute between 5 percent and 7 percent of worldwide trade, a few million dollars is a worthwhile investment.

We have certainly seen how this form of theft touches the lives of hard-working Vermonters. Burton Snowboards is a small company, whose innovation has made it an industry leader in snowboarding equipment and apparel. Unfortunately, knockoff products carrying Burton's name have been found across the globe. Vanessa Price, a representative of Burton, testified about counterfeiting at the Judiciary Committee's March 23, 2004, hearing on this topic. In addition to learning about the economic costs of counterfeiting, I asked her after the hearing about the risks posed to consumers by these goods. Her answer was chilling: "In the weeks since my Senate testimony, I discovered a shipment of counterfeit Burton boots for sale through a discount sports outfit . . . After examining the poor quality of the counterfeit boots, we determined that anyone using the boots for snowboarding risks injury due to a lack of reinforcement and support in the product's construction."

Customers and businesses lose out to counterfeiters in other ways, too. SB Electronics in Barre, VT has seen its capacitors reverse engineered and its customers lost to inferior copycat models. Vermont Tubbs, a furniture manufacturer in Rutland, has seen its designs copied, produced offshore with inferior craftsmanship and materials, and then reimported, so that the company is competing against cheaper versions of its own products. And Hubbardton Forge in Castleton, VT has seen its beautiful and original lamps counterfeited and then sold within the United States at prices—and quality—far below their own. This is wrong. It is unfair to consumers who deserve the high quality goods they think they are paying for, and it is unfair to innovators who play by the rules and deserve to profit from their labor.

The Protecting American Goods and Services Act of 2005 will help to combat this growing scourge. It amends the definition of trafficking in the counterfeit law to criminalize the possession of counterfeit goods with the intent to sell or traffic in those goods, as well as to include any distribution of counterfeits with the expectation of gaining something of value—criminals should not be able to skirt the law simply because they barter illegal goods and services in exchange for their illicit wares. Finally, the bill's new definition will criminalize the importation and exportation of counterfeit goods, as well as of bootleg copies of copyrighted works into and out of the United States.

By tying off these loopholes and improving U.S. laws on counterfeiting, we will be sending a powerful message to the criminals who belong in jail, and to our innovators.

Mr. FRIST. Mr. President, I ask unanimous consent that the committee substitute be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 1095), as amended, was read the third time and passed.

STOP COUNTERFEITING IN MANUFACTURED GOODS ACT

Mr. FRIST. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 278, S. 1699.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1699) to amend title 18, United States Code, to provide criminal penalties for trafficking in counterfeit marks.

There being no objection, the Senate proceeded to consider the bill which had been reported from the Committee on the Judiciary with an amendment.

S. 1699

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; FINDINGS.

(a) SHORT TITLE.—This Act may be cited as the "Stop Counterfeiting in Manufactured Goods Act".

(b) FINDINGS.—The Congress finds that—

(1) the United States economy is losing millions of dollars in tax revenue and tens of thousands of jobs because of the manufacture, distribution, and sale of counterfeit goods;

(2) the Bureau of Customs and Border Protection estimates that counterfeiting costs the United States $200 billion annually;

(3) counterfeit automobile parts, including brake pads, cost the auto industry alone billions of dollars in lost sales each year;

(4) counterfeit products have invaded numerous industries, including those producing auto parts, electrical appliances, medicines, tools, toys, office equipment, clothing, and many other products;

(5) ties have been established between counterfeiting and terrorist organizations that use the sale of counterfeit goods to raise and launder money;

(6) ongoing counterfeiting of manufactured goods poses a widespread threat to public health and safety; and

(7) strong domestic criminal remedies against counterfeiting will permit the United States to seek stronger anticounterfeiting provisions in bilateral and international agreements with trading partners.

SEC. 2. TRAFFICKING IN COUNTERFEIT MARKS.

Section 2320 of title 18, United States Code, is amended as follows:

(1) Subsection (a) is amended by inserting after "such goods or services" the following: ", or intentionally traffics or attempts to traffic in labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature, knowing that a counterfeit mark has been applied thereto, the use of which is likely to cause confusion, to cause mistake, or to deceive,".

(2) Subsection (b) is amended to read as follows:

"(b)(1) The following property shall be subject to forfeiture to the United States and no property right shall exist in such property:

"(A) Any article bearing or consisting of a counterfeit mark used in committing a violation of subsection (a).

"(B) Any property used, in any manner or part, to commit or to facilitate the commission of a violation of subsection (a).

"(2) The provisions of chapter 46 of this title relating to civil forfeitures, *including section 983 of this title*, shall extend to any seizure or civil forfeiture under this section. At the conclusion of the forfeiture proceedings, the court, unless otherwise requested by an agency of the United States, shall order that any forfeited article bearing or consisting of a counterfeit mark be destroyed or otherwise disposed of according to law.

"(3)(A) The court, in imposing sentence on a person convicted of an offense under this section, shall order, in addition to any other sentence imposed, that the person forfeit to the United States—

"(i) any property constituting or derived from any proceeds the person obtained, directly or indirectly, as the result of the offense;

"(ii) any of the person's property used, or intended to be used, in any manner or part, to commit, facilitate, aid, or abet the commission of the offense; and

"(iii) any article that bears or consists of a counterfeit mark used in committing the offense.

"(B) The forfeiture of property under subparagraph (A), including any seizure and disposition of the property and any related judicial or administrative proceeding, shall be governed by the procedures set forth in section 413 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 853), other than subsection (d) of that section. Notwithstanding section 413(h) of that Act, at the conclusion of the forfeiture proceedings, the court shall order that any forfeited article or component of an article bearing or consisting of a counterfeit mark be destroyed.

"(4) When a person is convicted of an offense under this section, the court, pursuant to sections 3556, 3663A, and 3664, shall order the person to pay restitution to the owner of the mark and any other victim of the offense as an offense against property referred to in section 3663A(c)(1)(A)(ii).

"(5) The term 'victim', as used in paragraph (4), has the meaning given that term in section 3663A(a)(2).".

(3) Subsection (e)(1) is amended—

(A) by striking subparagraph (A) and inserting the following:

"(A) a spurious mark—

"(i) that is used in connection with trafficking in any goods, services, labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature;

"(ii) that is identical with, or substantially indistinguishable from, a mark registered on the principal register in the United States Patent and Trademark Office and in use, whether or not the defendant knew such mark was so registered;

"(iii) that is applied to or used in connection with the goods or services for which the mark is registered with the United States Patent and Trademark Office, or is applied to or consists of a label, patch, sticker, wrapper, badge, emblem, medallion, charm, box, container, can, case, hangtag, documentation, or packaging of any type or nature that is designed, marketed, or otherwise intended to be used on or in connection with the goods or services for which the mark is registered in the United States Patent and Trademark Office; and

"(iv) the use of which is likely to cause confusion, to cause mistake, or to deceive; or"; and

(B) by amending the matter following subparagraph (B) to read as follows:

"but such term does not include any mark or designation used in connection with goods or services, or a mark or designation applied to labels, patches, stickers, wrappers, badges, emblems, medallions, charms, boxes, containers, cans, cases, hangtags, documentation, or packaging of any type or nature used in connection with such goods or services, of which the manufacturer or producer was, at the time of the manufacture or production in question, authorized to use the mark or designation for the type of goods or services so manufactured or produced, by the holder of the right to use such mark or designation.".

(4) Section 2320 is further amended—

(A) by redesignating subsection (f) as subsection (g); and

(B) by inserting after subsection (e) the following:

"(f) Nothing in this section shall entitle the United States to bring a criminal cause of action under this section for the repackaging of genuine goods or services not intended to deceive or confuse.".

SEC. 3. SENTENCING GUIDELINES.

(a) REVIEW AND AMENDMENT.—Not later than 180 days after the date of enactment of this Act, the United States Sentencing Commission, pursuant to its authority under section 994 of title 28, United States Code, and in accordance with this section, shall review and, if appropriate, amend the Federal sentencing guidelines and policy statements applicable to persons convicted of any offense under section 2318 or 2320 of title 18, United States Code.

(b) AUTHORIZATION.—The United States Sentencing Commission may amend the Federal sentencing guidelines in accordance with the procedures set forth in section 21(a) of the Sentencing Act of 1987 (28 U.S.C. 994 note) as though the authority under that section had not expired.

(c) RESPONSIBILITIES OF UNITED STATES SENTENCING COMMISSION.—In carrying out this section, the United States Sentencing Commission shall determine whether the definition of "infringement amount" set forth in application note 2 of section 2B5.3 of the Federal sentencing guidelines is adequate to address situations in which the defendant has been convicted of one of the offenses listed in subsection (a) and the item in which the defendant trafficked was not an infringing item but rather was intended to facilitate infringement, such as an anti-circumvention device, or the item in which the defendant trafficked was infringing and also was intended to facilitate infringement in another good or service, such as a counterfeit label, documentation, or packaging, taking into account cases such as U.S. v. Sung, 87 F.3d 194 (7th Cir. 1996).

Mr. LEAHY. Mr. President, counterfeiting threatens the American economy, our workers, and our consumers. I am pleased that the Senate has today taken an important step towards beating back that threat, by passing S. 1699, the "Stop Counterfeiting in Manufactured Goods Act." Senator SPECTER is the principal cosponsor, and I know that he shares with me the conviction that this bill that will give law enforcement improved tools to fight counterfeit trademarks, and that it could work a significant change in the efforts to combat this type of theft. So are all our cosponsors, and I thank them: Senators ALEXANDER, BAYH, BROWNBACK, COBURN, CORNYN, DEWINE, DURBIN, FEINGOLD, FEINSTEIN, HATCH, KYL, LEVIN, REED, STABENOW, and VOINOVICH.

It is all too easy to think of counterfeiting as a victimless crime, a means of buying sunglasses or a purse that would otherwise strain a monthly budget. The reality, however, is far different. According to the Federal Bureau of Investigation, counterfeiting costs the U.S. between $200 billion and $250 billion annually. In Vermont, companies like Burton Snowboards, Vermont Tubbs, SB Electronics, and Hubbardton Forge—all of which have cultivated their good names through pure hard work and creativity—have felt keenly the damage of intellectual property theft on their businesses. This is wrong. It is simply not fair to the businesses who innovate and to the people whose economic livelihoods depend on these companies.

The threat posed by counterfeiting is more than a matter of economics. Inferior products can threaten the safety of those who use them. When a driver taps a car's brake pedals there should be no uncertainty about whether the brake linings are made of compressed grass, sawdust, or cardboard. Sick patients should not have to that they will ingest counterfeit prescription drugs and, at best, have no effect. The World Health Organization estimates that the market for counterfeit drugs is about $32 billion each year. Knock-off parts have even been found in NATO helicopters. What's more, according to Interpol, there is an identifiable link between counterfeit goods and the financing of terrorist operations.

S. 1699 makes several improvements to the U.S. Code. The bill strengthens 18 U.S.C. 2318, the part of the criminal code that deals with counterfeit goods and services, to make it a crime to traffic in counterfeit labels or packaging, even when counterfeit labels or packaging are shipped separately from the goods to which they will ultimately be attached. Savvy counterfeiters have exploited this loophole to escape liability. This bill closes that loophole.

The bill will also make counterfeit labels and goods, and any equipment used in facilitating a crime under this part of the code, subject to forfeiture upon conviction. Any forfeited goods or machinery would then be destroyed, and the convicted infringer would have to pay restitution to the lawful owner of the trademark. Finally, although the bill is tough, it is also fair. It states that nothing "shall entitle the United States to bring a cause of action under this section for the repackaging of genuine goods or services not intended to deceive or confuse." It is truly just the bad actors we want to punish.

Those who profit from another's innovation have proved their creativity only at escaping responsibility for their actions. As legislators it is important that we provide law enforcement with the tools needed to capture these thieves. I am committed to this effort, and will continue to sponsor legislation that will support law enforcement in the protection of the intellectual property rights that are so important to the American economy and its creative culture.

Mr. SPECTER. Mr. President, I want to take a moment to speak about S. 1699, the Stop Counterfeiting in Manufactured Goods Act of 2005, a bill I have sponsored with Senator LEAHY and fifteen other cosponsors—Senators ALEXANDER, BAYH, BROWNBACK, COBURN, CORNYN, DEWINE, DURBIN, FEINGOLD, FEINSTEIN, HATCH, KYL, LEVIN, REED, STABENOW, and VOINOVICH.

The Stop Counterfeiting in Manufactured Goods Act addresses a problem that has reached epidemic proportions as a result of a loophole in our criminal code: the trafficking in counterfeit labels. Criminal law currently prohibits the trafficking in counterfeit trademarks "on or in connection with goods or services." However, it does not prohibit the trafficking in the counterfeit marks themselves. As such, there is nothing in current law to prohibit an individual from selling counterfeit labels bearing otherwise protected trademarks within the United States.

This loophole was exposed by the Tenth Circuit Court of Appeals in *United States* v. *Giles*, 213 F.3d 1247—10th Cir. 2000. In this case, the United States prosecuted the defendant for manufacturing and selling counterfeit Dooney & Bourke labels that third parties could later affix to generic purses. Examining Title 18, section 2320, of the United States Code, the Tenth Circuit held that persons who sell counterfeit trademarks that are not actually attached to any "goods or services" do not violate the federal criminal trademark infringement statute. Since the defendant did not attach counterfeit marks to "goods or services," the court found that the defendant did not run afoul of the criminal statute as a matter of law. Thus, someone caught redhanded with counterfeit trademarks walked free.

S. 1699 closes this loophole by amending Title 18, section 2320 of the United States Code to criminally prohibit the trafficking, or attempt to traffic, in "labels, patches, stickers" and generally any item to which a counterfeit mark has been applied. In so doing, S. 1699 provides U.S. Department of Justice prosecutors with the means not only to prosecute individuals trafficking in counterfeit goods or services, but also individuals trafficking in labels, patches, and the like that are later applied to goods.

Congress must act expeditiously to protect U.S. held trademarks to the fullest extent of the law. The recent ten count indictment of four Massachusetts residents of conspiracy to traffic in approximately $1.4 million of counterfeit luxury goods in the case of *U.S.*

v. *Luong et al.*, 2005 D. Mass. underscores the need for this legislation. According to the indictment, law enforcement officers raided self-storage units earlier this year and found the units to hold approximately 12,231 counterfeit handbags; 7,651 counterfeit wallets; more than 17,000 generic handbags and wallets; and enough counterfeit labels and medallions to turn more than 50,000 generic handbags and wallets into counterfeits. Although the U.S. Attorneys Office was able to pursue charges of trafficking and attempting to traffic in counterfeit handbags and wallets, they could not bring charges for trafficking and attempting to traffic in the more than 50,000 counterfeit labels and medallions. As such, these defendants will escape prosecution that would have otherwise been illegal if they had only been attached to an otherwise generic bag. This simply does not make sense and had the Stop Counterfeiting in Manufactured Goods Act of 2005 been in effect at the time of indictment, U.S. prosecutors would have been able to bring charges against the defendants for trafficking and attempting to traffic in not only counterfeit goods, but also counterfeit labels.

As Assistant Attorney General Alice Fisher said, "Those who manufacture and sell counterfeit goods steal business from honest merchants, confuse or defraud honest consumers, and illegally profit on the backs of honest American workers and entrepreneurs." This point is underscored by the Bureau of Customs and Border Protection estimate that trafficking in counterfeit goods costs the United States approximately $200 to $250 million annually. With each passing year, the United States loses millions of dollars in tax revenues to the sale of counterfeit goods. Further, each counterfeit item that is manufactured overseas and distributed in the United States costs American workers tens of thousands of jobs. With counterfeit goods making up a growing 5-7 percent of world trade, this is a problem that we can no longer ignore.

To be sure, counterfeiting is not limited to the popular designer goods that we have all seen sold on comers of just about every major metropolitan city in the United States. Counterfeiting has a devastating impact on a broad range of industries. In fact, for almost every legitimate product manufactured and sold within the United States, there is a parallel counterfeit product being sold for no more than half the price. These counterfeit products range from children's toys to clothing to Christmas tree lights. More frightening are the thousands of counterfeit automobile parts, batteries, and electrical equipment that are being manufactured and placed into the stream of commerce with each passing day. I am told that the level of sophistication in counterfeiting has reached the point that you can no longer distinguish between the real and the counterfeit good or label with the naked eye. However, just because these products look the same does not mean that they have the same quality characteristics. The counterfeit products are not subject to the same quality controls of legitimate products, resulting in items that are lower in quality and likely to fall apart. In fact, counterfeit products could potentially kill unsuspecting American consumers.

In addition to closing the "counterfeit label loophole," the Stop Counterfeiting in Manufactured Goods Act strengthens the criminal code and provides heightened penalties for those trafficking in counterfeit marks. Current law does not provide for the seizure and forfeiture of counterfeit trademarks, whether they are attached to goods or not. Therefore, many times such counterfeit goods are seized one day, only to be returned and sold to an unsuspecting public. To ensure that individuals engaging in the practice of trafficking in counterfeit marks cannot reopen their doors, S. 1699 establishes procedures for the mandatory seizure, forfeiture, and destruction of counterfeit marks prior to a conviction. Further, it provides for procedures for the mandatory forfeiture and destruction of property derived from or used to engage in the trafficking of counterfeit marks.

In crafting the language in Section 2(b)(I)(B) of this bill pertaining to the forfeiture authority of the U.S. Department of Justice, Senator LEAHY and I discussed the scope of the facilitation language, which parallels the drug and money laundering forfeiture language in 21 U.S.C. 853 and 18 U.S.C. 982, respectively, and how it might relate to Internet marketplace companies, search engines, and ISPs. Specifically, we were aware of concerns regarding the potential misapplication of the facilitation language in Section 2(b)(1)(B) to pursue forfeiture and seizure proceedings against responsible Internet marketplace companies that serve as third party intermediaries to online transactions. To this end, I would like to make it clear for the record that this bill is not intended to apply to "good actor" Internet service providers that serve as third party intermediaries to online transactions and take demonstrable steps to prevent the exchange or trafficking of counterfeit goods on their networks.

Does Senator LEAHY agree?

Mr. LEAHY. I agree with the Senator.

Section 2(b)(1)(B) authorizes U.S. Attorneys to pursue civil in rem forfeiture proceedings against "any property used, in any manner or part, to commit or to facilitate the commission of a violation of subsection (a)." The intent of this language is to provide attorneys and prosecutors with the authority to bring a civil forfeiture action against the property of bad actors who are facilitating trafficking or attempts to traffic in counterfeit marks. The forfeiture authority in Section 2(b)(1)(B) cannot be used to pursue forfeiture and seizure proceedings against the computer equipment, website or network of responsible Internet marketplace companies, who serve solely as a third-party to transactions and do not tailor their services or their facilities to the furtherance of trafficking or attempts to traffic in counterfeit marks. However, these Internet marketplace companies must make demonstrable good faith efforts to combat the use of their systems and services to traffic in counterfeit marks. Companies must establish and implement procedures to take down postings that contain or offer to sell goods, services, labels, and the like in violation of this act upon being made aware of the illegal nature of these items or services.

It is the irresponsible culprits that must be held accountable. Those who profit from another's innovation have proved their creativity only at escaping responsibility for their actions. As legislators it is important that we provide law enforcement with the tools needed to capture these thieves.

It is also my understanding that the U.S. Sentencing Commission recently promulgated new Federal sentencing guidelines to count for the changes in how intellectual property crimes are committed. Could the Senator from Pennsylvania clarify for the RECORD why we have authorized the U.S. Sentencing Commission to further amend the Federal sentencing guidelines and policy statements for crimes committed in violation of Title 18, section 2318 or 2320, of the United States Code?

Mr. SPECTER. As the Senator is aware, the Sentencing Commission has sought to update the Federal sentencing guidelines upon the periodic directive of Congress to reflect and account for changes in the manner in which intellectual property offenses are committed. The recent amendments to which you refer were promulgated by the Sentencing Commission pursuant to the authorization in the Family Entertainment and Copyright Act of 2005, also known as FECA. These amendments to the Federal sentencing guidelines, which took effect on October 24, 2005, address changes in penalties and definitions for intellectual property rights crimes, particularly those involving copyrighted pre-release works and issues surrounding "uploading." For example, these guidelines provide for a 25-percent increase in sentences for offenses involving prerelease works. In addition, the Commission revised its definition of "uploading" to ensure that the guidelines are keeping up with technological advances in this area.

I would like to make it clear for the record that the directive to the Sentencing Commission in Section 3 of S. 1699 is not meant as disapproval of the Commission's recent actions in response to FECA. Rather, Section 3 covers other intellectual property rights crimes that Congress believes it is time for the Commission to revisit. Specifically, Section 3 directs the Commission to review the guidelines, and particularly the definition of "infringement amount," to ensure that offenses involving low-cost items like labels, patches, medallions, or packaging that are used to make counterfeit goods that are much more expensive, are properly punished. It also directs the Commission to ensure that the penalty provisions for offenses involving all counterfeit goods or services, or devices used to facilitate counterfeiting are properly addressed by the guidelines. As it did in response to the No Electronic Theft Act of 1997 and FECA, I am confident that the Commission will ensure that the Federal sentencing guidelines provide adequate punishment and deterrence for these very serious offenses and I look forward to the Commission's response to this directive.

Mr. LEAHY. I thank Senator SPECTER for that clarification. As he is aware, we have received over a dozen letters in support of S. 1699, the Stop Counterfeiting in Manufactured Goods Act of 2005. I ask unanimous consent to have several of these letters printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

LEXMARK INTERNATIONAL INC.,
Lexington, KY, November 4, 2005.

Hon. PATRICK J. LEAHY,
U.S. Senate,
Washington, DC.

DEAR SENATOR LEAHY: I am writing to the members of the Senate Judiciary Committee to express Lexmark's strong support for Senate Bill 1699 (the "Stop Counterfeiting in Manufactured Goods Act"), and to urge your support for its passage. S. 1699 creates a much-needed deterrent targeting traffickers in counterfeit labels and goods—illegal acts which plague not only our business, but many others. S. 1699 amends 18 U.S.C. 2320 to strengthen the application of this statute to include those who traffic in counterfeit labels and goods, thus greatly helping our fight against counterfeiters.

Unfortunately, counterfeiting continues to grow out of control because it is seen as a lucrative, yet low risk, crime that some even try to paint as a victimless crime. Nothing could be farther from the truth—not only are the illicit profits being funneled into other criminal activities, but law abiding citizens around the world are made victims when they unwittingly buy illegitimate products. Intellectual property owners, their counsels, private investigators and law enforcement fight counterfeiting every day. We must be able to send a message to counterfeiters that the theft of intellectual property is intolerable and that the battle against counterfeiting will be fought with stronger weapons. S. 1699 accomplishes that precise goal, by strengthening forfeiture and destruction remedies.

Counterfeiting costs the United States billions of dollars each year in lost intellectual property, revenues, profits and ultimately, jobs. These criminals must be stopped, and this bill seeks to take away some of the tools they use to manufacture counterfeit goods. If S. 1699 is enacted into law, it will also help the United States seek reciprocal legislation abroad.

I urge your personal support for S. 1699 both in Judiciary Committee deliberations and in promotion of its passage in the full Senate. Thank you for your consideration in addressing this very serious problem.

Yours sincerely,

PATRICK T. BREWER,
Director, Government Affairs.

ZIPPO MANUFACTURING COMPANY,
Bradford, PA, November 2, 2005.

Hon. PATRICK J. LEAHY,
Ranking Democratic Member, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: I am writing to express my absolute support for Senate Bill 1699, the "Stop Counterfeiting in Manufactured Goods Act" S. 1699 creates a necessary disincentive in the criminal code for traffickers in counterfeit labels and goods. We urge you to endorse S. 1699 and promote its passage in the full Senate.

First, the S. 1699 amendments to 18 U.S.C. 2320 will help our fight against counterfeiters by strengthening the application of this statute to those who traffic in counterfeit labels and goods. We are pleased that S. 1699 recognizes the need to strengthen the effectiveness of 18 U.S.C. 2320.

Second, S. 1699 strengthens forfeiture and destruction remedies that are necessary to deter counterfeiting. Unfortunately, counterfeiting continues to grow out of control because it is seen as a lucrative yet low risk crime. Intellectual property owners, their counsels, private investigators and law enforcement fight counterfeiting every day. We must be able to send a message to counterfeiters that the theft of intellectual property is intolerable and that the battle against counterfeiting will be fought with stronger weapons. S. 1699 accomplishes that precise goal.

Counterfeiting will continue to cost the U.S. hundreds of billions of dollars each year if U.S. law does act as a deterrent. This bill takes the very equipment out of the hands of counterfeiters who would perpetuate the manufacture of illicit goods. Once S. 1699 is enacted into law it will allow the U.S. to seek similarly strong legislation abroad as it enters into trade negotiations with other countries.

We ask you to support S. 1699 as written in your next Executive Business meeting and promote its passage in the full Senate. Thank you for attending to a serious problem that undermines U.S. intellectual property.

Sincerely,

CHARLES JEFFREY DUKE,
Corporate Secretary and General Counsel.

WARNACO,
New York, NY, November 2, 2005.

Hon. Senator PATRICK J. LEAHY,
Ranking Democratic Member, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY: I am writing to express my absolute support for Senate Bill 1699, the "Stop Counterfeiting in Manufactured Goods Act." S. 1699 creates a necessary disincentive in the criminal code for traffickers in counterfeit labels and goods. We urge you to endorse S. 1699 and promote its passage in the full Senate.

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Counterfeiting will continue to cost the U.S. hundreds of billions of dollars each year if U.S. law does act as a deterrent. This bill takes the very equipment out of the hands of counterfeiters who would perpetuate the manufacture of illicit goods. Once S. 1699 is enacted into law it will allow the U.S. to seek similarly strong legislation abroad as it enters into trade negotiations with other countries.

We ask you to support S. 1699 as written in your next Executive Business meeting and promote its passage in the full Senate. Thank you for attending to a serious problem that undermines U.S. intellectual property.

Sincerely,

DOREEN SMALL,
Associate General Counsel.

ROLEX WATCH U.S.A., INC.,
New York, NY, November 2, 2005.

Hon. Senator PATRICK J. LEAHY,
Russell Senate Office Building,
Washington, DC.

DEAR SENATOR LEAHY: I am the President and CEO of Rolex Watch U.S.A., Inc., which as you may be aware, has been battling counterfeiters for many years. I am writing to express my absolute support for Senate Bill 1699, the "Stop Counterfeiting in Manufactured Goods Act." S. 1699 creates a necessary disincentive in the criminal code for traffickers in counterfeit labels and goods. We urge you to endorse S. 1699 and promote its passage in the full Senate.

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Second, S. 1699 strengthens forfeiture and destruction remedies that are necessary to deter counterfeiting. Unfortunately, counterfeiting continues to grow out of control because it is seen as a lucrative yet low risk crime. Intellectual property owners, their counsels, private investigators and law enforcement fight counterfeiting every day. We must be able to send a message to counterfeiters that the theft of intellectual property is intolerable and that the battle against counterfeiting will be fought with stronger weapons. S. 1699 accomplishes that precise goal.

Counterfeiting will continue to cost the U.S. hundreds of billions of dollars each year if U.S. law does act as a deterrent. This bill takes the very equipment out of the hands of counterfeiters who would perpetuate the manufacture of illicit goods. Once S. 1699 is enacted into law it will allow the U.S. to seek similarly strong legislation abroad as it enters into trade negotiations with other countries.

Sincerely,

ALLEN BRILL,
President and CEO.

VISION COUNCIL OF AMERICA,
Alexandria, VA, November 2, 2005.

Hon. PATRICK J. LEAHY,
Ranking Democratic Member, Russell Senate Office Building, Washington, DC.

DEAR SENATOR LEAHY, I am writing to express my absolute support for Senate Bill 1699, the "Stop Counterfeiting in Manufactured Goods Act". S. 1699 creates a necessary disincentive in the criminal code for traffickers in counterfeit labels and goods. We urge you to endorse S. 1699 and promote its passage in the full Senate.

First, the S. 1699 amendments to 18 U.S.C. 2320 win help our fight against counterfeiters by strengthening the application of this statute to those who traffic in counterfeit labels and goods. We are pleased that S. 1699 recognizes the need to strengthen the effectiveness of 18 U.S.C. 2320.

Second, S. 1699 strengthens forfeiture and destruction remedies that are necessary to deter counterfeiting. Unfortunately, counterfeiting continues to grow out of control because it is seen as a lucrative yet low risk crime. Intellectual property owners, their counsels, private investigators and law enforcement fight counterfeiting every day. We must be able to send a message to counterfeiters that the theft of intellectual property is intolerable and that the battle against counterfeiting will be fought with stronger weapons. S. 1699 accomplishes that precise goal.

Counterfeiting will continue to cost the U.S. hundreds of billions of dollars each year if U.S. law does act as a deterrent. This bill takes the very equipment out of the hands of counterfeiters who would perpetuate the manufacture of illicit goods. Once S. 1699 is enacted into law it will allow the U.S. to seek similarly strong legislation abroad as it enters into trade negotiations with other countries.

We ask you to support S. 1699 as written in your next Executive Business meeting and promote its passage in the full Senate. Thank you for attending to a serious problem that undermines U.S. intellectual property.

Sincerely,

DONNA VAN GREEN,
Frame Division Liaison,
Vision Council of America.

THE TIMBERLAND COMPANY,
Stratham, NH, November 2, 2005.

Senator ARLEN SPECTER,
Chairman, Senate Committee on the Judiciary, Hart Senate Office Building, Washington, DC.

Senator PATRICK J. LEAHY,
Ranking Member, Senate Committee on the Judiciary, Russell Senate Office Building, Washington, DC.

DEAR SENATOR SPECTER AND SENATOR LEAHY: On behalf of the more than 2,100 people employed in the U.S. by The Timberland Company, I am writing to express my support for S. 1699, the "Stop Counterfeiting in Manufactured Goods Act" which creates necessary disincentives in the criminal code for traffickers in counterfeit labels and goods. This bill is an essential step toward protecting our trademark, our brand, and our company's identity. I urge you to endorse this bill and promote its passage in the full Senate.

As you know, the elicit counterfeiting of legitimate products is a serious problem, both internationally and in the United States. This bill, which is similar to H.R. 32, which was passed by the U.S. House of Representatives in May, will strengthen efforts to combat counterfeiting in the U.S. in two very important ways. Specifically, S. 1699 would:

Amend Title 18 of the United States Code to close the loophole in the criminal trademark infringement statute, which currently does not criminally prohibit the trafficking of labels, patches, and stickers, and other counterfeit marks; and

Ensure that counterfeit goods and marks seized in violation of this statute are properly disposed of and do not make their way back on the street.

Counterfeiting costs the U.S. hundreds of billions of dollars each year, and will continue to do so if our laws do not act as a deterrent. Not only would S. 1699 take the very equipment out of the hands of counterfeiters who would perpetuate the manufacture of illicit goods, it would allow the U.S. to seek similarly strong legislation abroad as it enters into trade negotiations with other countries.

I appreciate this opportunity to address this critically important issue, and I hope you will continue the fight against elicit counterfeiting of U.S. products by supporting S. 1699 and promoting its passage in the full Senate.

Sincerely,

DANETTE WINEBERG,
Vice President,
General Counsel and Secretary.

Mr. LEAHY. Mr. President, it has been very heartening to see such overwhelming support for this important bill. Counterfeiting is a threat to America. It wreaks real harm on our economy, our workers, and our consumers. This bill is a tough bill that will give law enforcement improved tools to fight this form of theft. The bill is short and straight-forward, but its impact should be profound and far-reaching.

Mr. SPECTER. I would like to take this opportunity to thank Senators ALEXANDER, BAYH, BROWNBACK, COBURN, CORNYN, DEWINE, DURBIN, FEINGOLD, FEINSTEIN, HATCH, KYL, LEVIN, REED, STABENOW and VOINOVICH for their cosponsorship.

I would also like to thank Representative JIM SENSENBRENNER, chairman of the House Judiciary Committee, and Representative JOE KNOLLENBERG for their leadership in the House with regard to H.R. 32, counterfeiting legislation directly related to S. 1699. In January of this year, Representative KNOLLENBERG introduced H.R. 32, the initial draft of the Stop Counterfeiting in Manufactured Goods Act of 2005, in the House. When the bill was in Committee, he fostered negotiations between the Department of Justice, the U.S. Chamber of Commerce, and the International Trademark Association to craft language nearly paralleling S. 1699. I commend to my colleagues the Housing Judiciary Committee Report on H.R. 32, as amended.

Mr. LEAHY. Some of our most important legislation is produced not only when we reach across the aisle in the name of bipartisanship, but, when we work across chambers and reach true consensus. I would also like to thank Senators ALEXANDER, BAYH, BROWNBACK, COBURN, CORNYN, DEWINE, DURBIN, FEINGOLD, FEINSTEIN, HATCH, KYL, LEVIN, REED, STABENOW and VOINOVICH for their cosponsorship. Counterfeiting is a serious problem that does not lend itself to a quick and easy solution. This legislation is an important step towards fighting counterfeiting. I hope we can build on the success of this law.

Mr. FRIST. Mr. President, I ask unanimous consent that the committee amendment be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid upon the table, with no intervening action or debate, and that any statements relating to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The committee amendment was agreed to.

The bill (S. 1699), as amended, was read the third time and passed.

AUTHORITY TO SIGN DULY ENROLLED BILLS OR JOINT RESOLUTIONS

Mr. FRIST. Mr. President, I ask unanimous consent that during the adjournment of the Senate, the majority leader and the junior Senator from Virginia be authorized to sign duly enrolled bills or joint resolutions.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR MONDAY, NOVEMBER 14, 2005

Mr. FRIST. I ask unanimous consent that when the Senate completes its business today, it adjourn until 2 p.m. on Monday, November 14. I further ask that following the prayer and the pledge, the morning hour be deemed to have expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved and the Senate resume consideration of S. 1042 as under the previous order.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. FRIST. Mr. President, on Monday, the Senate will continue its consideration of the Defense authorization bill. Under the agreement reached this evening, we will have debate on only a few remaining amendments. We will complete action on those amendments and proceed to passage of the bill with a series of votes that will start on Tuesday morning. We will have a vote on Monday. Under the order just entered, we will vote on the Energy and Water appropriations conference report at 5:30. We will also complete action on the State, Justice, Commerce appropriations conference report next week.

ADJOURNMENT UNTIL MONDAY, NOVEMBER 14, 2005, AT 2 P.M.

Mr. FRIST. If there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:56 p.m., adjourned until Monday, November 14, 2005, at 2 p.m.

NOMINATIONS

Executive nominations received by the Senate November 10, 2005:

DEPARTMENT OF COMMERCE

ROBERT C. CRESANTI, OF TEXAS, TO BE UNDER SECRETARY OF COMMERCE FOR TECHNOLOGY, VICE PHILLIP BOND, RESIGNED.

DAVID M. SPOONER, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF COMMERCE, VICE JAMES J. JOCHUM, RESIGNED.

DEPARTMENT OF HOMELAND SECURITY

UTTAM DHILLON, OF CALIFORNIA, TO BE DIRECTOR OF THE OFFICE OF COUNTERNARCOTICS ENFORCEMENT, DEPARTMENT OF HOMELAND SECURITY. (NEW POSITION)

SUPREME COURT OF THE UNITED STATES

SAMUEL A. ALITO, JR., OF NEW JERSEY, TO BE AN ASSOCIATE JUSTICE OF THE SUPREME COURT OF THE UNITED STATES, VICE SANDRA DAY O'CONNOR, RETIRING.

THE JUDICIARY

LEO MAURY GORDON, OF NEW JERSEY, TO BE A JUDGE OF THE UNITED STATES COURT OF INTERNATIONAL TRADE, VICE THOMAS J. AQUILINO, RETIRED.

DEPARTMENT OF JUSTICE

STEPHEN C. KING, OF NEW YORK, TO BE A MEMBER OF THE FOREIGN CLAIMS SETTLEMENT COMMISSION OF THE UNITED STATES FOR THE TERM EXPIRING SEPTEMBER 30, 2008, VICE JEREMY H. G. IBRAHIM, TERM EXPIRED.

DEPARTMENT OF STATE

DUANE ACKLIE, OF NEBRASKA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTIETH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

GOLI AMERI, OF OREGON, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTIETH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

ROBERT C. O'BRIEN, OF CALIFORNIA, TO BE AN ALTERNATE REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTIETH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

DONALD M. PAYNE, OF NEW JERSEY, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTIETH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

EDWARD RANDALL ROYCE, OF CALIFORNIA, TO BE A REPRESENTATIVE OF THE UNITED STATES OF AMERICA TO THE SIXTIETH SESSION OF THE GENERAL ASSEMBLY OF THE UNITED NATIONS.

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be general

LT. GEN. DAVID D. MCKIERNAN, 8864

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT IN THE UNITED STATES ARMY TO THE GRADE INDICATED WHILE ASSIGNED TO A POSITION OF IMPORTANCE AND RESPONSIBILITY UNDER TITLE 10, U.S.C., SECTION 601:

To be lieutenant general

LT. GEN. CHARLES C. CAMPBELL, 6999

THE FOLLOWING ARMY NATIONAL GUARD OF THE UNITED STATES OFFICER FOR APPOINTMENT IN THE RESERVE OF THE ARMY TO THE GRADE INDICATED UNDER TITLE 10, U.S.C., SECTION 12203:

To be major general

BRIG. GEN. RICHARD G. MAXON, 0268

IN THE AIR FORCE

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be colonel

JON R. STOVALL, 1043

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

KENNETH W. BULLOCK, 5774

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be lieutenant colonel

RANDALL S. LECHEMINANT, 8408
SCOTT H. R. LEE, 6491

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

RENA A. NICHOLAS, 6817

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

JEFFREY S. BRITTIG, 3803

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES AIR FORCE UNDER TITLE 10, U.S.C., SECTION 624:

To be major

ALBERT J. BAINGER, 9418

IN THE ARMY

THE FOLLOWING NAMED OFFICER FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTION 12203:

To be colonel

JACK N. WASHBURNE, 0047

THE FOLLOWING NAMED ARMY NATIONAL GUARD OF THE UNITED STATES OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE RESERVE OF THE ARMY UNDER TITLE 10, U.S.C., SECTIONS 12203 AND 12211:

To be colonel

BARRY J. BERNSTEIN, 4573
MARK D. NETHERTON, 5225
JAMES D. REECE, 9950
GUY C. SCHULTZ, 8807
JUAN M. VERA, 0473

THE FOLLOWING NAMED OFFICERS FOR APPOINTMENT TO THE GRADE INDICATED IN THE UNITED STATES ARMY UNDER TITLE 10, U.S.C. SECTION 624:

To be lieutenant colonel

MELVIN S. HOGAN, 1902
JOSEPH M. JACKSON, 8140

CONFIRMATIONS

Executive nominations confirmed by the Senate Thursday, November 10, 2005:

DEPARTMENT OF STATE

ANNE W. PATTERSON, OF VIRGINIA, TO BE AN ASSISTANT SECRETARY OF STATE (INTERNATIONAL NARCOTICS AND LAW ENFORCEMENT AFFAIRS).

DEPARTMENT OF VETERANS AFFAIRS

GEORGE J. OPFER, OF VIRGINIA, TO BE INSPECTOR GENERAL, DEPARTMENT OF VETERANS AFFAIRS.

THE ABOVE NOMINATION WAS APPROVED SUBJECT TO THE NOMINEE'S COMMITMENT TO RESPOND TO REQUESTS TO APPEAR AND TESTIFY BEFORE ANY DULY CONSTITUTED COMMITTEE OF THE SENATE.

DEPARTMENT OF AGRICULTURE

JAMES M. ANDREW, OF GEORGIA, TO BE ADMINISTRATOR, RURAL UTILITIES SERVICE, DEPARTMENT OF AGRICULTURE.

CHARLES R. CHRISTOPHERSON, JR., OF TEXAS, TO BE CHIEF FINANCIAL OFFICER, DEPARTMENT OF AGRICULTURE.

EXECUTIVE OFFICE OF THE PRESIDENT

SUSAN C. SCHWAB, OF MARYLAND, TO BE A DEPUTY UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR.

DEPARTMENT OF DEFENSE

DONALD C. WINTER, OF VIRGINIA, TO BE SECRETARY OF THE NAVY.

DEPARTMENT OF JUSTICE

SUE ELLEN WOOLDRIDGE, OF VIRGINIA, TO BE AN ASSISTANT ATTORNEY GENERAL.

EXTENSIONS OF REMARKS

CONGRATULATING DAVID WHITE

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. BURGESS. Mr. Speaker, I rise today to congratulate Mr. David White for receiving the Gold Medal of Achievement in Royal Rangers.

Royal Rangers is an achievement program of the Assemblies of God which utilizes an outdoor theme to teach positive character, responsibility, leadership, citizenship and service to God, men and country. The Gold Medal of Achievement is the highest achievement that can be earned in the Royal Ranger Program.

Mr. White is a freshman in Roanoke, Texas. His achievement represents many years of diligent work completing merits, camping and nature skills, leadership training camps, memorization, essays and service projects. A special service honoring Mr. White's accomplishment is planned for November 27, 2005 at Grace Community Assembly of God in Flower Mound, Texas.

I extend my sincere congratulations to Mr. David White on receiving the Gold Medal of Achievement. His hard work and dedication to excellence warrants the highest achievement given by the Royal Rangers Program.

HONORING MARGARET ATENCIO

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. UDALL of Colorado. Mr. Speaker, I rise today to honor a leader in Colorado's Hispanic community, Ms. Margaret Atencio. Margaret's tireless efforts in the competitive arena of Colorado politics has spanned many years. She is a beloved person in the Colorado Democratic Party, and well respected by all, including many Republican friends, for her dedication to Hispanic youth and increasing the participation and clout of the Latino vote. Her contributions are an inspiration to anyone interested in public service.

Margaret Atencio has had a distinguished career which began with her work at the Environmental Protection Agency and the Equal Opportunity Employment Commission. Governor Roy Romer appointed her to the Second Judicial Performance Committee Commission. She serves as the chair of the Downtown Democratic Forum, the Democratic Outreach Commission, and was a founder of the Democratic Latino Initiative.

Margaret has shown boundless energy and commitment to political causes in Colorado. She is currently the vice chair of the 1st Congressional District, the captain and precinct committeeperson of House District IB, the 2nd Vice Chair of the Colorado Democratic Party, and the president of the Denver Jane Jeffersons. She has been a delegate to many National Democratic Party Conventions and State Party Conventions.

As influential as she has been in politics, it is not her partisan affiliation that strikes me as most worthy of recognition, but rather her commitment to projects that strengthen her community. She is a member of a grassroots group in Denver, "Finding Common Ground" and she serves on the Board of Brothers Redevelopment, Incorporated, which is a non-profit group that sponsors programs to help low-income, elderly and disabled persons find affordable housing and support services.

Margaret does not hold public office, nor has she been a candidate for office, but she is, nevertheless, the kind of person who makes a difference. She is one of those persons who has helped others get elected, and to make sure that her candidates keep their promises.

Mr. Speaker, I ask my colleagues to join with me in expressing our gratitude to Margaret Atencio for her continuing commitment to honest politics in Colorado. In a time when voter turnout is sometimes disappointingly low and faith in government has fallen, it is heartening to know that there are people like Margaret who find time to volunteer, engage others and who are devoted to bettering the political process, increasing political participation and strengthening our communities in the process. I'm proud to know Margaret Atencio, to count her as a friend and advocate of people whose voices are not always heard, but need to be heard.

MOUNT ST. HELENS NATIONAL VOLCANIC MONUMENT

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. SOUDER. Mr. Speaker, on May 18, 1980, a catastrophic volcanic eruption forever changed the face of Mt. St. Helens in Washington. As a result of the eruption, fifty-seven people were killed, hundreds of square miles of forest were shattered, and the once graceful peak of the mountain was reduced to a smoldering crater.

In 1982, President Ronald Reagan established the Mount St. Helens National Volcanic Monument within the U.S. Forest Service. The Monument is unique in that it is the only unit of its kind in the U.S. Forest Service. The Monument's mission to provide research, recreation, and education opportunities related to Mt. St. Helens and the 1980 eruption does not fit with that of the Forest Service, which is charged with management of our Nation's forests.

The attached article, which appeared in The Columbian, a Vancouver, Washington-based newspaper, puts forth the idea that the Mount St. Helens National Volcanic Monument should be removed from the Forest Service, and made a unit of the National Park Service, whose primary mission is research, recreation, and education.

When I visited the Monument earlier this year, the same idea occurred to me. Perhaps it is time we look into it.

[From the Columbian, Nov. 7, 2005]

PARK STATUS MAY EASE ST. HELENS' BLUES

(By Erik Robinson)

Dave Uberuaga has been watching with interest as his neighbor to the south struggles to pay the bills.

Uberuaga, superintendent of Mount Rainier National Park, has a built-in advantage over the Mount St. Helens National Volcanic Monument: a steady and reliable source of funding.

While the U.S. Forest Service looks for private enterprise to help make ends meet at Mount St. Helens, Congress provides 80 percent of Mount Rainier's budgetary needs. Out of an annual budget of just over $10 million, Uberuaga said Congress provides all but about $1.9 million.

In contrast, the $2.25 million recreation budget at Mount St. Helens is supported roughly 50–50 by direct allocations from the Federal government and fees generated by visitors. Even with that, the Gifford Pinchot National Forest has had to jockey with other forests for a $400,000 boost from the Forest Service's regional office in Portland this year and last.

"It makes it very difficult on Mount St. Helens to have a viable operation," Uberuaga said.

For some, the proximity of Mount Rainier offers one tantalizing solution to the chronic funding woes at Mount St. Helens.

"I think the possibility of it being folded into the Park Service or redesignated as a national park has never been greater," said Sean Smith, regional director of the National Parks Conservation Association in Seattle.

A NEW NATIONAL PARK?

Mount Rainier and other national parks receive direct appropriations from Congress.

Mount St. Helens, on the other hand, receives its share of recreation funding only after it filters through three distinct layers of administrative overhead from national headquarters, through the regional office in Portland, and, finally, through the Gifford Pinchot forest headquarters in Vancouver. At each level, the monument must compete with other recreation programs operated by the Forest Service.

"That's what the park service doesn't have," said Cliff Ligons, monument manager at Mount St. Helens for the past 5 years.

Ligons added that the Forest Service had ample money and resources to operate in the years after Congress established the 110,000-acre monument in 1982.

Times have changed since then, beginning with a precipitous decline in timber revenue

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

since the 1980s. Since the Forest Service opened the last of three visitor centers at Mount St. Helens in 1997, direct appropriations for recreation have dwindled.

"The money to fight wars and to fight terrorism comes from someplace, especially when you cut taxes," Ligons said. "Where do you think that's coming from? It comes from government programs. Mount St. Helens is one of many areas in the Forest Service that's currently struggling."

Ted Stubblefield, who retired as Gifford Pinchot forest supervisor in 1999, said Congress ought to establish a budget for national monuments such as Mount St. Helens as they do for national parks. He said it made sense for the Forest Service to hang onto Mount St. Helens once the monument was established, partly because national parks tend to employ more people with higher salaries.

"Our guess is it would have been somewhere between two to four times as expensive to operate it," he said.

Stubblefield and another former Gifford Pinchot forest supervisor, Bob Tokarczyk, blasted members of Washington's congressional delegation for failing to adequately fund the monument in a guest opinion piece published by The Columbian on Oct. 28. Although Stubblefield said the monument is suffering from budgetary neglect, he doesn't believe the solution is to simply fold it into the National Park Service.

Instead, he said the volcano should be treated less like a wayside and more like Mount Rainier, Liberty Island or Mount Rushmore.

"Congress should do the same thing with monuments that the Forest Service manages," he said. "The monuments are really owned by the public in a more deeply held manner, in my mind. They're like our national treasures."

BROADENING OPPORTUNITIES

Were it not for a new system of collecting fees on public lands authorized by Congress in 1997, the Mount St. Helens recreation program would have run out of money long ago.

The Forest Service collected about $1.1 million in visitor fees for the volcano last year. Now, the agency is looking for more help from private enterprise.

In a 150-page prospectus issued last month, the Forest Service solicited proposals from private businesses willing to pay the government to operate helicopter tours, mobile food stands, RV sites, or other amenities around the erupting volcano. Forest Service officials said the outreach may help to improve the monument's bottom line, but it also would "broaden visitor opportunities" around Mount St. Helens.

"The government doesn't run gift shops," said Steve Nelson, recreation planner for the Gifford Pinchot.

Uberuaga said Mount Rainier also has private concessions, including two overnight lodges, gift shops, a store for campers and three services providing guided climbs to the top of the 14,410-foot peak. He acknowledged, however, that people generally expect a national park to have a limited range of commercial opportunities.

"So there are no off-road vehicles at Mount Rainier, and yet on the forest there's appropriate places for that," he said.

Snowmobile tours are one of the potential opportunities suggested in the prospectus offered by the Forest Service at Mount St. Helens. Uberuaga said he will be interested to see how the Forest Service strikes a balance between new recreational opportunities while protecting the unique environment surrounding the most active volcano in the Cascade Range.

"I think the Forest Service has a great opportunity there to demonstrate their recreation and visitor experience," he said. "They just need a little more funds to take some of the pressure off."

LEGISLATION TO MAKE SOUTH KOREA A VISA WAIVER PROGRAM COUNTRY

HON. JAMES P. MORAN

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. MORAN of Virginia. Mr. Speaker, the Republic of Korea has long been a staunch ally and friend of the United States. In the last few years, South Koreans have been one of our strongest partners in the global war on terror. They have shown their commitment by supporting continued operations in Afghanistan. In line with the U.S. and Great Britain, South Korea committed the 3rd largest number of troops to support the efforts of our Armed Forces in Iraq. Korea has also adopted economic policies that have helped them become the world's eleventh largest economy, the United States' seventh largest trading partner, and the fifth largest market for United States agricultural products.

In recognition of this steadfast friendship and unique relationship our nation has with the Republic of Korea, I am introducing legislation to make South Korea a Visa Waiver Program country. Under the Visa Waiver Program, a traveler to the United States, either for business or pleasure, can enter the country for up to ninety days without obtaining a visa. This courtesy has already been extended to United States citizens by the South Korean government. Currently, twenty-seven countries are on the visa waiver list, ranging from France and Japan to Brunei and Slovenia.

The United States is home to over two million people of Korean heritage. By placing South Korea on the Visa Waiver Program list, we would make it easier friends and family the opportunity to visit our country and strengthen relationships with their loved ones. Currently, if a friend or family member wants to visit someone in the U.S. they must apply for a visa at the U.S. Embassy in Seoul, requiring travel to the capital city where the process often takes up to two weeks to complete. For many family and friends the process is too expensive and onerous to complete. Allowing the Republic of Korea into the waiver program will streamline this process, granting our South Korean friends the same opportunity to visit our country as people from our other allied nations.

Placing Korea on the visa waiver country list would have a positive impact on our economy. More than 626,000 Korean citizens visit the United States each year. According to the U.S. Department of Commerce, overall tourism dollars spent in the U.S. by tourists from the Republic of Korea exceeded $1 billion in fiscal year 2004. Visitation and tourism dollars are bound to grow if South Korea is allowed to be a part of the Visa Waiver Program.

To curb any potential abuses, the South Korean government is taking aggressive steps to comply with post 9/11 security requirements to combat visa fraud. South Korea has already invested in state of the art technology and currently issues secure machine readable passports with digitalized photographs that are difficult to counterfeit. By 2007, e-passports will be introduced with biometric identifiers in compliance with International Civil Aviation Organization standards.

Economically, militarily and politically, the U.S. and South Korean share a vision of freedom and democracy that has made our nations solid friends and allies. In recognition of this friendship and our shared history, it is time to ease the restrictions Korean citizens encounter when they attempt to visit our nation, which has strong cultural ties to the people of Korea.

IN RECOGNITION OF ALL VETERANS WHO HAVE SERVED

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. SCHIFF. Mr. Speaker, this week we honor our Nation's veterans—not just the thousands who have risked their lives in Iraq and Afghanistan, but the millions more who over the years have answered the call to arms and served as a member of the United States Armed Forces.

Since the founding of this Nation, Americans have battled courageously to protect the helpless, defeat despots and spread the cause of freedom to every corner of the globe. Most of the men and women who served in World War I are no longer with us. World War II, Korea and Vietnam veterans still walk among us today, and we owe them the most heartfelt gratitude.

The torch was passed to a new generation after the horrific terrorist attacks of September 11, 2001. Since then, hundreds of thousands of young people have donned the uniform of a soldier, Marine, sailor or airman in our Global War on Terrorism. They have chosen an often arduous life not for fame or riches, but because they believe in America and her ideals. These great young people have embraced the challenge. From the dusty streets of Iraq to the jagged mountains of Afghanistan, they have done their duty with honor, fighting for their country and each other.

I have traveled overseas several times to Iraq and Afghanistan to meet our military personnel and have witnessed them doing their job magnificently; they fight voluntarily on our behalf. I was awed by their courage, determination and dedication as they combat a brutal enemy thousands of miles from home.

The times have changed, but the sacrifices have not. More than 2,000 U.S. service members have been killed and over 16,000 have been wounded in Iraq and Afghanistan.

We in Congress must honor our veterans not just with words, but with deeds. The survivors of those who make the ultimate sacrifice must be cared for in a manner that honors their memory. Benefits and health care must remain readily available for service members and their families—active duty, Reserve or Guard. And those wounded warriors who return home must be mended back to health, in body and spirit.

In my district, I have convened a working group to assist veterans in every possible way. The goal of this group is for communities to create innovative and effective programs which show appreciation and offer financial, moral and physical support for veterans.

Over 25 million U.S. veterans live among us today. You may know one. Pause a moment and thank them for their service. They deserve no less.

RECOGNIZING CHILD ADVOCACY CENTER AWARDEES

HON. DALE E. KILDEE

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. KILDEE. Mr. Speaker, I am pleased to stand before you today on behalf of one of my district's premier human service organizations, the Child Advocacy Center of Genesee County. On Thursday, November 10, the Center will hold its Inaugural Awards Dinner, where they will acknowledge several individuals who have shown tremendous courage, kindness, and selflessness through acts of goodwill toward our young people.

Polly Sheppard will have the distinction of being awarded the first Volunteer of the Year Award.

The cooperation between the CAC and the Michigan Department of Human Services will be shown, as Linda Crouch and Director Denise Chambers will receive DHS Worker of the Year awards. The CAC will recognize its friends in law enforcement, as Detective Matt Bade of the Burton Police Department, and Detective Diana Mills of the Mt. Morris Police Department will be honored as Police Officers of the Year. John Greene and Marcie Mabry will be honored as Prosecutors of the Year.

The Sponsor of the Year Award will be presented to the Ruth Mott Foundation.

Mr. Speaker, I applaud these wonderful men and women for all they have done for others. Through their actions, they ensure that our children are able to enjoy healthy, productive, and safe lives, and I ask my colleagues in the 109th Congress to please join me in recognizing their heroic efforts.

CONGRATULATING SUE ANN SLAY

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. BURGESS. Mr. Speaker, I rise today to congratulate Ms. Sue Ann Slay of Fort Worth, Texas on completing the Redman Iron Distance Triathlon on September 24, 2005 in Oklahoma City.

Currently, only five Ironman Triathlons occur every year in the United States. On September 14, 2005 Mayor Mick Cornett of Oklahoma City announced the first annual Redman Iron Distance Triathlon to be held at Lake Hefner on September 24, 2005. The Redman Triathlon consisted of a 2.4-mile swim in the open waters of Lake Hefner, a 112-mile bike ride, and a 26.2-mile marathon run. Nearly 125 people participated in this Iron distance race.

The Redman Iron Distance Triathlon began at 7 a.m. on September 24, 2005. Ms. Slay crossed the finish line 16 hours, 36 minutes, and 20 seconds later at 11:36 p.m. Many participants in triathlons battle cramps, fatigue, heat, and humidity just to complete the 140.6-mile race. In order to prepare for these intense conditions, Ms. Slay began training for the race in 2003, getting up at 6:00 a.m. to run 7 days a week.

Today I congratulate Ms. Sue Ann Slay on competing and completing the Redman Iron Distance Triathlon sponsored by Valir Health. Ms. Slay's dedication and commitment to fitness and her recent accomplishment is worthy of recognition.

RECOGNIZING THE ACHIEVEMENTS OF THE GIRL SCOUTS OF SOUTHWEST FLORIDA

HON. KATHERINE HARRIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Ms. HARRIS. Mr. Speaker, I rise today, as a Girl Scout, First Class, to congratulate the Girl Scouts of Gulfcoast Florida on the recent opening of its new regional headquarters in Sarasota, Florida.

The Searcy S. Koen Regional Girl Scout campus, located on 12-acres, designed around protected wetlands, focuses on conserving energy and protecting our environment. Notably, the facility is Sarasota County's second project certified for Leadership in Environmentally Engineered Design.

The new Wetlands Learning Habitat, plus the Council Headquarters and Gulf Coast Event and Conference Center will create and enhance opportunities for Girl Scouts throughout Southwest Florida. The Girl Scouts of Gulfcoast Florida, with over 9,700 registered girls, continues to build character, courage and confidence in girls who will strive to make the world a better place.

Having experienced scouting for twelve years, I well know the extraordinary opportunities offered to these girls, from camping in Florida's beautiful State parks, to earning badges representing a plethora of skills and knowledge acquired. Attaining the Eagle Equivalent as a Girl Scout "First Class" was an extremely meaningful achievement for me as a young woman.

In today's world, I believe we would all do well to reflect upon the Girl Scout Promise: "On my honor, I will try: to serve God and my country, to help people at all times, and to live by the Girl Scout Law . . . I will do my best to be honest and fair, friendly and helpful, considerate and caring, courageous and strong, and responsible for what I say and do; and to respect myself and others, respect authority, use resources wisely, make the world a better place, and be a sister to every Girl Scout."

COMMENTS FROM A USMC VETERAN

HON. MARK E. SOUDER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. SOUDER. Mr. Speaker, I would like to submit comments of USMC veteran, Barry Yeakle, about the Vietnam war, delivered at the Whitley County Veterans Observance in Columbia City, Indiana, on November 6, 2005, for the RECORD.

Try and picture this: I am a green 19-year-old, just off the boat from Indiana. I'm 9,000 miles away in Viet Nam. A delegation of Vietnamese peasants approaches me. Their appointed spokesman steps forward and very formally gives me to understand by an amazing mixture of Vietnamese, French, English and even Japanese (but mostly by waving his arms about wildly) that they have heard that the United States intends to send a man to the moon. They are incredulous. To make sure I understand which moon they mean, they keep tugging at my sleeve and pointing to it.

Looking back, what amazes me most is the matter-of-fact way I answered him: Sure, absolutely, we're going to do it. I had never doubted it. That story illustrates the times. We were idealistic and maybe a little naïve. We believed in our country and it wasn't hard to convince those peasants that they could believe in us as well. Is it any wonder that they believed we could protect them from communism?

When I was fourteen, this country elected its youngest-ever President. He was very charismatic and taking office, this is what he said: "Let every nation know, whether it wishes us well or ill, that we shall pay any price, bear any burden, meet any hardship, support any friend, oppose any foe, in order to assure the survival and success of liberty."

It was an amazing promise; looking back, perhaps a foolish or impossible one, but the cold war was a great reality in our lives and his message was heard in the Soviet and Chinese empires. It was also heard by my generation, many of whom were sons and daughters of the men who'd won World War II. We believed that what he said was possible. We believed it was our duty.

The story of this country's longest war can be told briefly. Nine years after the Japanese Army was ejected from Viet Nam at the end of WWII, the French lost a huge battle against the communists and Viet Nam became two countries with a communist government in the North and republican government in the South. There was a time period in which citizens could decide in which country they would live. Not surprisingly, an overwhelming majority emigrated to the South, while virtually no one emigrated to the North.

At once, the communist government under the sponsorship of the Soviet Union began a guerilla war. As the new democracy began to totter under the terrorism, President Kennedy decided to give it military aid against the fear that communism could spread throughout all of Indo China.

It was a near thing in the beginning and as American soldiers arrived to advise and train, the escalation of the guerilla war continued. By the summer of 1965, President Johnson sent the 3rd Marine Amphibious Force to keep the critical city of Da Nang from falling. We had been trained for grand amphibious assaults in the Pacific and great land battles in central Europe. Although we as Americans had a legacy from our own Revolution, we scarcely remembered how to fight a guerilla war and it was painful to learn it again.

Still, the Communist soldiers kept invading from the North, and always the men who died along side me seemed the least the United States could afford to lose. Besides being courageous, they always seemed to be the Eagle Scouts, the valedictorians and class presidents. Two thirds of them were volunteers, the very opposite of WW II.

An opposite type fled to Canada to evade the draft. Though non-combat service was offered them, others cleverly transferred from college to college to evade service. Each time, someone else had to serve in their place. Some tell me that these actions were consistent with their honour, but they don't look me in the eye when they say it. Interestingly, when the draft ended, all campus objection to the war seemed to end with it.

By the end of 1967, we had thousands of troops in Viet Nam and had brought the enemy to certain defeat. In a desperate gambit, they broke a truce they'd requested themselves and launched assaults all over South Viet Nam. In this the Tet Offensive, they suffered one of the most lop-sided defeats in modern history; but an impatient television newsman named Walter Cronkite, who didn't understand the imprudence of the communist's desperation, reported it otherwise. He influenced many Americans. Those of us in the field were horrified that all the sacrifice we'd witnessed could be wasted if the country turned against the war.

A famous American actress went to the enemy capital. She wore their insignia. As the photographers clicked away, she pretended to sight-in an anti-aircraft gun, a gun that had but one purpose: to shoot down American warplanes. Little was made of her treason; she went on to become an even bigger star. This apathy of the American people was very hurtful to the returning servicemen. And it got worse. There is a decorated man in this room who was abused when he got off the airplane in California. His experience was not unique.

A new President, known to be tough on communism, Nixon, was elected and the war went into a sort of stalemate. An accord was reached with the communists that made it possible for the American troops to leave. Our faithful allies were promised that we would respond if the country were to have its sovereignty threatened. When that did indeed happen, still another President, Ford, did nothing. South Viet Nam, our ally, fell.

Though American arms had lost only one battle, the war itself was lost. Nearly all of us were home by that terrible day in 1975. Choked with emotion, I ran to my church for comfort and found it empty and locked. I realized I would have to keep my sorrow to myself for years to come and that is exactly what happened.

Over 58,000 American men and women—more people than live in Whitley County—died. Thousands more have died since from causes born in the war. Our friends from Australia, South Korea, Thailand and the Philippines lost over 6,000 more, and the Army of South Viet Nam's losses were nearly a quarter of a million. Future generations will ask to what avail, since Viet Nam became one more brutal communist dictatorship. Here is the answer I like: There are some who say that Viet Nam made WW III unnecessary. That so many brave men could stand so firmly against a bully 9,000 miles away deeply impressed that bully.

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CONGRATULATING DOUGLAS M. WAGONER, SR., ON HIS RETIREMENT

HON. TOM DAVIS

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. TOM DAVIS of Virginia. Mr. Speaker, I rise today to honor Mr. Douglas M. Wagoner, Sr., on the occasion of his retirement after 40 years of service to the Northern Virginia community and to our Nation.

Mr. Wagoner began his business, Wagoner Welding Supply, 40 years ago. The company has been integral in servicing the growing construction needs of the Northern Virginia area. Wagoner Welding Supply has held a prominent role and an outstanding service record in the construction community as it has serviced many of the area company's welding needs and has had a working relationship with most of the construction companies in the area. Wagoner Welding Supply has also served the White House Engineering office for 35 years and has been recognized for outstanding service. The White House Engineers are responsible for the upkeep of the residence and Executive Office Buildings, and demand nothing short of outstanding service which Mr. Wagoner's company has provided for over three decades. Servicing the White House entails being on call 24 hours a day, 7 days a week, and Wagoner Welding Supply has always answered that call.

As a long time resident of Alexandria, Virginia, Mr. Wagoner has made time to service his community by belonging to organizations such as the Chamber of Commerce, Alexandria Art League, and the Knights of Columbus. Now in retirement, Mr. Wagoner will certainly look forward to some additional leisure time and spending time with his granddaughters Lydia and Madeline.

Mr. Speaker, in closing, I ask my colleagues to join me in congratulating Douglas M. Wagoner, Sr., and wishing him the best of luck in all future endeavors.

* * *

TRIBUTE TO DR. JAMES RECKNER

HON. RANDY NEUGEBAUER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. NEUGEBAUER. Mr. Speaker, it is with great honor that I rise today to pay tribute to Dr. James Reckner, Director of the Vietnam Center at Texas Tech University.

Dr. Reckner, a combat veteran who served two tours in Vietnam, is a dedicated historian who has created an internationally renowned program dedicated to all aspects of the Vietnam War. The main focus at the Vietnam Center has been the Virtual Vietnam Archive. Second only to the U.S. National Archives, Texas Tech University is home to one of the most complete collections of artifacts related to America's involvement in Southeast Asia.

Dr. Reckner's vision began in 1989 when he asked his freshman history class to name a general from the Vietnam War. He was amazed to discover that only 1 student out of 100 knew the name of General William C. Westmoreland, the commander of American military operations during the Vietnam War.

As a result, Dr. Reckner organized a meeting with a group of West Texas veterans to talk about what steps could be taken to preserve the stories, information, and lessons from the Vietnam conflict and pass them on to future generations. It was then that the Texas Tech Vietnam Center was born.

For 15 years, dedicated veterans, scholars and students have been collecting and preserving materials relating to the American Vietnam experience. The Virtual Vietnam Archive now contains more than 2 million pages of material. Earlier this year, James Harton, a Rating Specialist with the U.S. Department of Veterans Affairs sent a letter to U.S. Representative STEVEN BUYER, Chairman of the House Committee on Veterans' Affairs, outlining the successes of the archive. Mr. Harton wrote, "Because of the documents provided by Texas Tech, I am often able to resolve a veteran's claim within fifteen minutes as opposed to the request sent to the USASCURR." Often times requests sent to the U.S. Armed Services Center for Unit Record Research take 6 to 12 months for a reply. With the help of Texas Tech's virtual archive, Mr. Harton has been able to resolve over 500 veteran's claims in the past four years.

America's men and women in the military give their time, and in many cases life and limb, to serve our country. Dr. Reckner served his country admirably during the Vietnam War. Today, he continues to serve this country and the memory of a significant time in American history. Thanks to his efforts, the Vietnam Center at Texas Tech University will assist future generations in remembering the Vietnam experience.

It is our duty to ensure that our children and grandchildren never forget our country's finest heroes and always know of their sacrifices. Their sacrifices and those of our military families serve as freedom's foundation. Without the brave efforts of all the soldiers, sailors, airmen, and marines and their families, our country would not stand so boldly, shine so brightly, and live so freely.

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NATURAL RESOURCE PROTECTION COOPERATIVE AGREEMENT ACT

HON. JON C. PORTER

OF NEVADA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. PORTER. Mr. Speaker, protecting our Nation's natural resources is one of the greatest gifts that we can give to future generations. When one thinks of our national resources, images of Yellowstone National Park, Lake Mead National Recreation Area, or the Grand Canyon National Park often come to mind. However, in recent years, these areas have all experienced the devastating effects of invasive plant species such as salt cedar, or tamarisk.

This is why I rise today to announce the introduction of the Natural Resource Protection Cooperative Agreement Act.

Invasive plant species know no boundaries. According to the Department of the Interior, the National Park Service currently manages 388 units, comprised of 84.4 million acres of land throughout the United States. Of these units, 196 have been cited as having "serious problems" due to invasive plant species.

Today, I am introducing the Natural Resource Protection Cooperative Agreement Act. The purpose of this bill is to allow the National Park Service to enter into cooperative agreements with State, local, educational, and Tribal experts to restore and protect these lands from the effects of invasive plant species. The goal of this legislation is to allow the National Park Service to work with those who are best able to remove these species before they enter federal units, putting the National Park Service into a better position to preserve our native species.

Thank you, Mr. Speaker, for allowing me to speak on this important bill.

HONORING GORDON AND ANITA MURCHIE FOR THEIR CONTRIBUTIONS TO THE WINE INDUSTRY

HON. GEORGE RADANOVICH

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. RADANOVICH. Mr. Speaker, it is a pleasure for me today to pay tribute to two very good friends and fellow Californians, Gordon and Anita Murchie. On the 14th of August, 1955, in the midst of family and friends, Gordon and Anita were married in the Presbyterian Church in Santa Barbara. Both had attended college at University of California at Santa Barbara. As a lifelong ambition, Gordon wanted to join the U.S. Diplomatic Service; thus, when a recruiter from the US. Information Agency arrived on the University of Southern California's campus where Gordon was attending graduate school, Gordon was one of the first to be interviewed. Following a quick trip to Washington, D.C. to take the language and written exam for USIA, he subsequently was offered a Foreign Service appointment.

The Murchies moved to Washington, D.C., in early 1958 as new members of that year's junior Foreign Service family. Before year's end, Gordon and Anita began their long string of Foreign Service postings, first in the Philippines, then Indonesia, and on to Thailand, where they spent the next 9 years equally divided between Udorn, in the northeast of the country, and Bangkok, the capital city.

Having learned the Thai language up-country, they both have served as interpreters, Gordon for President Johnson and Vice President Humphrey, and Anita for Lady Bird Johnson, Mrs. Joan Kennedy, Mrs. Stan Getz, and other American political and cultural representatives visiting Thailand. For his service to Thailand, he was awarded the Royal Order of the White Elephant medal by the King.

Returning to the U.S. in late 1969, Gordon attended, on government assignment, the Fletcher School of Law and Diplomacy in Massachusetts where he earned a Master's Degree in International Law and Public Diplomacy. Returning to Washington, D.C., the Murchies, now with two young children, resided in the Alexandria area of northern Virginia and Anita was completing her Bachelor's Degree in Anthropology.

With things heating up in Central America, the Murchies were reassigned to the U.S. Embassy in San José, Costa Rica, for the next 4 years. Again, working as a team, they immersed themselves in the Costa Rican community and the political, economic and cultural issues of the region. While there, Anita authored the only book to comprehensively research and relate the story of the Anglo-American contributions to Costa Rica from the period of Independence, 1824, to the end of that century, entitled Imported Spices. Gordon served as the Public Affairs Attaché at the Embassy. Gordon's last overseas assignment was as an advisor to the U.S. military in northern Iraq to establish a safe zone for the Kurds in 1991.

Having received two Superior Service Medals during his 35 years of government service, Gordon retired in 1993. Upon retirement, Gordon and Anita were asked to take on the management of the Virginia-based organization as President and Executive Secretary, which they have continued to administer to the present day. In recognition of their contributions to the growth of the Virginia wine industry, Gordon was presented the first Association's Lifetime Achievement Award. Gordon is also credited with promoting a renewed public interest in the evolution of viticulture and enology in America, from 1607 Jamestown to the present day. For the past 9 years, he has served as the wine consultant to George Washington's Mount Vernon, which conducts annual wine and history events.

The Murchies remain active participants in the support of the growth and development of the U.S. wine industry, as a whole, with particular attention to the rapid growth of the wine industry in the Commonwealth of Virginia. As a team, the Murchies are well known in the American wine industry, on Capitol Hill, and in a number of foreign communities abroad. As Gordon says of their partnership through life, he would never have been able to realize his career dreams if it had not been for the above-and-beyond-the-call-of-duty support of Anita.

As Co-Chairman of the Congressional Wine Caucus, I wish to commend and recognize the contributions of the Murchies for their lifelong work in promoting the American way of life and the democratic principles of our Nation. I wish them continued health and happiness and success in their endeavors as American ambassadors in an increasingly challenging world.

HONORING MICHAEL A. CONDUFF, DENTON CITY MANAGER

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. BURGESS. Mr. Speaker, I rise today to recognize Mr. Michael A. Conduff, retiring City Manager of Denton, Texas, for his outstanding service to the local community for the past four and a half years.

Since Mr. Conduff assumed the duties as Denton's City Manager on May 14, 2001, the City was able to accomplish many goals including the completion of the Downtown improvements, implementation of computer aided dispatch in the police department, and the opening of the North Branch Library and the Water Works Park. Mr. Conduff was also implemental in multiple economic development projects including Denton Crossing, Presbyterian Hospital of Denton, improvements to Denton Regional Medical Center, and Peterbilt expansion. Additionally, Mr. Conduff has won over 130 awards, including 3 Texas Municipal League Awards and personal awards, during his time in Denton.

Mr. Conduff earned his B.S. in civil engineering at the University of New Hampshire, graduating Cum Laude. His M.B.A. is from Pittsburg State University. He is also a charter graduate of the Carver Policy Governance® Academy in Atlanta, Georgia, and serves on the Board of Directors and as Secretary of the International Policy Governance® Association. Prior to assuming the City Manager's position in Denton, Mr. Conduff was a nine-year City Manager of Bryan, Texas. Before he came to Texas, Mike served as City Manager in Manhattan, Kansas, home of Kansas State University, for five years. He also served as City Manager of Pittsburg, Kansas, home of Pittsburg State University, for five and a half years. Prior to his city managerial roles, Mr. Conduff was City Engineer for Pittsburg.

I am honored to today to recognize the exceptional service of Mr. Michael A. Conduff as Denton City Manager. His leadership and dedication to the improvement and development of Denton, Texas deserves the highest thanks and recognition. Michael, his wife, and grandchildren have my best wishes and prayers for the future.

TRIBUTE TO PHILIP McGOLDRICK

HON. JIM MARSHALL

OF GEORGIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. MARSHALL. Mr. Speaker, I rise today to honor Philip McGoldrick, of Macon, Georgia, for his efforts on behalf of Middle Georgia's children and for his long record of community service and activism.

In September, for its successful efforts to bring the joy of Christmas to underprivileged children in Middle Georgia, the Marine Toys for Tots Foundation recognized Macon's Toys for Tots campaign as the 2004 Local Community Organization of the year. With 481 local community campaigns nationwide, this is a tremendous achievement and a great honor for Middle Georgia. As the coordinator for Macon's Toys for Tots campaign, Philip also received a commendation from the United States Marine Corps for his exemplary administration, his tireless dedication, and his commitment to helping children in need.

When I learned of the devastation wrought by Hurricane Katrina in Louisiana, Mississippi and Alabama, and seeing first hand the nationwide outpouring of support and assistance, it really struck home for me exactly how much a small number of caring people—or even one dedicated volunteer—can do to reduce hardship and suffering. In Middle Georgia, we are extremely lucky to have many kind souls willing to help and support those less fortunate than themselves.

Mr. Speaker, one of Middle Georgia's kindest, most caring souls is Philip McGoldrick, and I am proud to call him my friend. Philip's recent success with Toys for Tots is not an isolated event. He is active in all manner of civic organizations which do tremendous good for the Middle Georgia Community. Philip is a charter member of CrimeStoppers and the chairman of the Macon Sports Hall of Fame, and he founded Macon Youth Day, just to name a few of the many hats he wears.

In response to his recent commendation, Philip's modest reaction was typical. "I do this because I love it, not to win an award," Philip told the Macon Telegraph's Ed Grisamore. "This is really Macon's award."

Mr. Speaker, community leaders like Philip McGoldrick are a real treasure for a city like Macon. Already, Philip is working on ways to help this year's Toys for Tots annual drive bring Santa to every child in Macon, but he hasn't forgotten the critical need to bring Santa to the children left devastated by Hurricane Katrina. I can only wish that other cities each have at least one Philip McGoldrick to lead, organize and motivate civic organizations. Truly, the "gold" in the Philip's surname must reference his heart, for it is made of pure gold.

HONORING THE NORRISTOWN AREA HIGH SCHOOL HALL OF CHAMPIONS INDUCTEES

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. GERLACH. Mr. Speaker, I rise today to honor five distinguished men and women on the occasion of their induction into the Norristown Area High School Hall of Champions Association.

The Norristown Area High School Hall of Champions Association was established in 1977 to honor and commemorate the athletic accomplishments of distinguished alumni of the Norristown Area High School.

The 2005 Annual Hall of Champions Inductees will be John Sewell III; Willie A. Suber, posthumously; Robert V. Mitchell; Angela Henry Lee; and Melissa Mary Kelly.

John Sewell III, Class of 1954, was a football and track and field standout for three years in high school and won the District One shot put title with a distance of 49 feet, 11¾ inches. Mr. Sewell also played both offensive and defensive line positions in football. During his career, he earned all-star team honorable mention.

Willie A. Suber, Class of 1958, received All-Suburban honors as halfback during the 1957 Eagles football team's undefeated season, which was only the second in school history. Mr. Suber also participated on the track and field team and ran both the 100 and 200 yard dashes. Mr. Suber passed away in 1994.

Robert V. Mitchell, Class of 1961, was well-known in high school as a basketball, baseball, and track star. Mr. Mitchell helped lead the basketball team to the Suburban One title in the 1960–1961 season. Mr. Mitchell also batted .313 for the baseball team which placed second in the league, and he set a school high jump record of 6 feet 4½ inches while helping the track team to the District One title in 1961.

Angela Henry Lee, Class of 1987, was the captain of the indoor track team and co-captain of the 1984 outdoor team. In 1984, she won four medals in the PIAA State title meet in the 400 meter dash, the 100 meter dash, the 4x100 yard relay, and the 4x400 yard relay. Mrs. Lee also won four additional medals in the District One track meet as well as winning three gold medals in the Suburban One championships.

Melissa Mary Kelly, Class of 1998, was an outstanding basketball and softball player. Her athletic accomplishments resulted in her being named to the first team Suburban One League all three years, while also leading the basketball team in scoring and assists. Ms. Kelly also won all-league honors for her athletic talent in softball all three years.

Mr. Speaker, it is an honor to rise today to recognize these remarkable and talented men and women who have all excelled in their respective sports and have made a positive impact on their school and community.

RECOGNITION OF INTERNATIONAL DAY OF PRAYER FOR THE PERSECUTED CHURCH

HON. PATRICK T. McHENRY

OF NORTH CAROLINA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. MCHENRY. Mr. Speaker, in recognition of the International Day of Prayer for the Persecuted Church on November 13, 2005, I commend Burke Community Bible Church and Pastor David Doster, New Day Christian Church and Pastor George Logan, and First Hmong Baptist Church and Pastor Nhia Yee Her for gathering in worship and prayer on behalf of Christians around the world who are persecuted for their faith.

Hebrews 13:3 says, "Remember them that are in bonds, as bound with them; and them which suffer adversity, as being yourselves also in the body." This day of prayer is an opportunity to live that verse, and to remember that prayer changes things. Today we place a special focus on their situation, and we need to continue to remember and pray for those being persecuted, those involved in the persecution, and those that choose to ignore it.

With over 100,000 United States churches representing nearly every denomination taking part in this day of remembrance and prayer, I urge the country to remember those believers who are suffering because of their faith.

As Christians living in a free nation, we often take our freedoms for granted. Remembering those who can not worship in freedom should cause us to thank God for His blessings to us, and compel us to live out our faith in every single aspect of our lives.

RECOGNIZING JACK C. SMITH ON THE 50TH ANNIVERSARY OF FOOD CITY

HON. RICK BOUCHER

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. BOUCHER. Mr. Speaker, I rise today to honor one of my constituents. On November 17, 2005, Jack Curtis Smith, founder of K–VA–T Food Stores, Inc., will mark his 50th year in the grocery business in southwest Virginia, and I would like to take this occasion to recognize his many contributions to my Congressional District. K–VA–T Food Stores, Inc. is an important asset in southwest Virginia, eastern Kentucky, and northeast Tennessee, employing more than 11,000 residents and honoring a strong commitment of service to the region.

Jack C. Smith returned to his hometown of Grundy, Virginia, in 1954 after graduating from the U.S. Naval Academy in Annapolis, Maryland, and serving in the U.S. Navy for 10 years. While standing in a lengthy line at Grundy's only grocery store, Jack Smith decided that his hometown needed a larger, more convenient supermarket with an emphasis on customer service. Earl Smith, Jack's uncle, Ernest Smith, Jack's cousin, and Curtis Smith, Jack's father, shared the vision that Jack could meet this need. These four local businessmen formed a partnership and began work with the Piggly Wiggly Corporation to construct a new, state-of-the-art grocery store, and on November 17, 1955, Jack Smith and his partners opened the Piggly Wiggly supermarket in the town of Grundy.

After experiencing great success with his Grundy store, Jack Smith acquired grocery stores in eastern Kentucky, southwest Virginia, and east Tennessee from grocery chains such as White Stores, Food City, Winn Dixie, and Piggly Wiggly. Retaining the Food City name, Smith remodeled and modernized the stores, adding features such as wide aisles, larger selection of products and computerized checkout systems, designed to provide the customers greater accessibility to the products and to facilitate an easier shopping experience. Smith soon created K–VA–T Food Stores, Inc., as the organization under which his supermarkets would operate. K–VA–T is an acronym for Kentucky, Virginia, and Tennessee, the States in which his grocery stores are located.

The work begun 50 years ago by Jack C. Smith has borne fruit. Today K–VA–T Food Stores, Inc., operates nearly 100 Food City stores. K–VA–T has grown to become the largest employer in the Tri-Cities region of Tennessee and Virginia and the fifth largest employer in the Commonwealth of Virginia. Despite its development as a large retail grocery chain, the headquarters of K–VA–T as well as its distribution facility remain in southwest Virginia near the location of its first supermarket.

Most importantly, K–VA–T has adopted a policy of improving the lives of the residents in the communities it serves. The company is 16 percent employee owned. Jack Smith once stated, "The ultimate objective of K–VA–T Food Stores is to fulfill its ongoing commitment to planned growth. My wish is that the public, our corporate officers, associates and patrons can find their lives enriched because of this company's existence and its efforts. But first, and foremost, let us remember that the friendship of those we serve is the foundation of our progress." For 50 years, Jack Smith has been making investments in the communities his stores serve in cities such as Knoxville, Tennessee, as well as small, rural towns such as Grundy, Virginia.

K–VA–T supports local farmers and produce vendors by selling locally grown produce in its stores. Through the Apples for Students program, K–VA–T has provided over $9.2 million in computers and computer equipment to over 700 schools. The company regularly participates in local food drives and provides assistance to chapters of the Second Harvest food bank network. Semi-annually, K–VA–T sponsors Food City Family Race Night, which occurs during the week before the NASCAR races the company sponsors. Food City Family Race Night draws over 40,000 race fans, and the proceeds from the event are contributed to local charities. These are just a few of the many ways K–VA–T supports its communities.

The outstanding work of Jack C. Smith and K–VA–T Food Stores has improved the quality of life of thousands of citizens in my Congressional District in southwest Virginia as well as throughout eastern Kentucky and northeast Tennessee. The affects of his dedication to shaping the communities in this region will be lasting. I applaud the efforts of Jack C. Smith, and it is with great pleasure that I congratulate him on 50 years in the grocery business.

CONGRATULATING ARGYLE HIGH SCHOOL MARCHING BAND

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. BURGESS. Mr. Speaker, I rise today to congratulate the Argyle High School Marching Band on winning the Class 2A State Championship.

The Music Program of the University Interscholastic League, UIL, is designed to support and enrich the teaching of music as an integral component of the public school curriculum in the state of Texas. Each year approximately 500,000 middle school, junior high and high school students reap the benefits of participation in the 10 UIL music events. This year the UIL State marching band championship was held in the San Antonio Alamodome on November 7–8, 2005.

The Argyle High School Marching Band won the state title 2 years ago, when they were last eligible to compete. This year, after successfully competing in regional and area UIL contests, the band was able to advance to the UIL State competition. After performing their original music and marching routine, the band was selected as one of the 7 top finalists out of a total 18 2A bands at the competition. The final performance determined that the Argyle High School Band won the UIL Class 2A State Championship.

I sincerely commend the Argyle High School Marching Band and their Director, Cindy Mikel, for winning the UIL Class 2A State Championship. Their hard work, dedication, desire to excel, and success in promoting and performing music deserves the highest recognition and congratulations.

RECOGNIZING THE 12TH ROUND OF INTER-KOREAN FAMILY REUNIONS NOVEMBER 5–10, 2005

HON. XAVIER BECERRA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. BECERRA. Mr. Speaker, since the landmark Joint Declaration was signed during the inter-Korean summit that took place on June 15, 2000, 11 rounds of family reunions between South and North Korea have taken place. Over these 5 years, more than 10,000 people have been given the chance to do something they have not done in over 50 years—and that is to once again feel the warm embrace of their family. This past Saturday, November 5, 2005, a 12th reunion began at North Korea's Mount Kumgang Resort and will last through today, November 10, 2005.

And so Mr. Speaker, I rise today to recognize this historic event, as these incredibly emotional and heart-warming reunions underscore the unimaginable pain experienced by families forced apart in 1950 at the outbreak of the Korean War. A renewed sense of urgency surrounds these reunions as divided family members are well into their senior years; many of whom have already passed away and were never afforded the opportunity to do that which so many of us are blessed to do daily: converse face to face with a daughter or brother or mother or father.

Great strides have been taken to expand the breadth and depth of these reunifications to allow for greater participation. In addition to the face to face meetings, South Korea has incorporated live television and video feeds for those family members who cannot make the trip to Mount Kumgang. South Korea has also committed to hold family reunions on a regular basis and institutionalize both the exchange of letters and the process of confirming the fates and whereabouts of separated family members. Already, the status of some 20,000 individuals—living and deceased—have been confirmed. Furthermore, South Korea is currently constructing a family reunion center that will serve as the permanent location for hosting future reunions.

A seldom-cited fact is that there are more than 10 million separated family members—a staggering one quarter of the nation's population—currently in South Korea. In addition, there are more than 500,000 Korean Americans here in our own country who also share the pain of having separated family members in North Korea.

The South Korean government has held talks with North Korea on the topic of including Koreans from all over the world in the reunification efforts. As a result of the second and third round of ministerial meetings that were held in 2000 between the two Koreas, 115 Koreans living overseas, including 84 Korean Americans, have been afforded the opportunity to see and be with their separated family members.

The South Korean government has stated that it will make all efforts possible to continue to create greater opportunities for Koreans living abroad to meet their divided family members. So far, about 1,000 Koreans living overseas have applied to participate in the reunions, 600 of whom live right here in the United States.

For these reasons, Mr. Speaker, I wish to recognize and pay tribute to the 12th round of inter-Korean family reunions. Perhaps it is also fitting for all of us here in this body to take a moment to reflect on the importance of family, recognizing that the time we spend with them is so precious and must never be taken for granted. I also wish to express my personal appreciation and commend the government and people of South Korea for all they have done to institutionalize these important reunions and encourage them to continue their full commitment to family reunification.

OLD JAIL ART CENTER SILVER ANNIVERSASRY

HON. RANDY NEUGEBAUER

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. NEUGEBAUER. Mr. Speaker, I would like to congratulate the Old Jail Art Center in Albany, Texas on its 25th anniversary. The Art Center first opened on December 19, 1980 and, as the name indicates, is located in the first permanent jail built in Shackelford County. The historic location in combination with the excellent permanent art collection and other exhibits gives Albany an important cultural center that receives over 30,000 visitors a year.

Texas Monthly magazine has called The Old Jail Art Center the best small-town museum in the state and it is easy to see why. It has a permanent collection of over 1900 works of art, including modem paintings by artists such as Thomas Hart Benton, Pierre-Auguste Renoir, and Pablo Picasso. The museum's Eastern Art Collection displays thirty-five Chinese terra-cotta tomb figures from the Han and T'ang dynasties. The Old Jail Art Center provides art education opportunities with 43 Big Country school districts. In addition, the museum offers historical archives and serves as a research library for Shackelford County. I am pleased to honor this full service art center that contributes to the cultural and educational opportunities for my constituents in the 19th Congressional District of Texas.

I would like to congratulate all those involved with making this museum such a success. The citizens of Albany and all Texans can be proud of the Old Jail Art Center and its programs.

VETERANS DAY

HON. HILDA L. SOLIS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Ms. SOLIS. Mr. Speaker, I rise today to pay tribute to America's 24.5 million living veterans who have served and sacrificed for our country—including the 28,000 veterans in my district.

Veterans Day is the time to honor the servicemen and women that have protected this country and the freedom we hold so dear. Throughout history, our veterans have served our nation with great distinction and honor. Today, we recognize both those who have worn the uniform and those who are currently serving.

That is why I support several key pieces of legislation that serve to benefit our nation's veterans. I am proud to be a cosponsor of H.R. 2131, the New GI Bill of Rights for the 21st Century. The new GI Bill would repeal unfair tax burdens on military families, provide veterans with affordable health care, education, and job training benefits, and strengthen our support for men and women in uniform, including our National Guard and Reservists.

On this Veterans Day, our servicemen and women continue to risk their lives in Iraq and Afghanistan to protect our country. Recently, the 2,000th soldier was killed in Iraq and more than 15,000 troops have been wounded there. During the Iraqi conflict, my district has suffered the loss often brave servicemen who did not return to their families. They are Marine Corporal Jorge A. Gonzalez; Army Sergeant Atanasio Haromarin; Army Private First Class Jose Casanova; Marine Private First Class Francisco A. Martinez Flores; Army Specialist Leroy Harris-Kelly III; Marine Corporal Rudy Salas; Lance Corporal Benjamin M. Gonzalez; Lance Corporal Manuel A. Ceniceros; Specialist Private First Class Marcos O. Nolasco; and Corporal Stephen P. Johnson. These men, our fallen soldiers, are heroes. My heart and prayers go out to their families and friends.

We have learned that freedom is not free and no one has paid a higher price and sacrifice for our freedom than our veterans. I join the rest of the nation in remembering their service to our country. Let us renew our efforts to keep our promises to our veterans. We can do that by making sure that legislation is passed that will help our veterans. Our nation's veterans and service members need to know that their families will be taken care of while they sacrifice so much.

I urge my colleagues to keep our promises to our veterans and fight for the improvement of services to them.

HONORING THE HALL OF FAME INDUCTEES TO THE NORRISTOWN AREA HIGH SCHOOL HALL OF CHAMPIONS ASSOCIATION

HON. JIM GERLACH

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. GERLACH. Mr. Speaker, I rise today to honor five distinguished gentlemen on the occasion of their induction into the Hall of Fame of the Norristown Area High School Hall of Champions Association.

The Norristown Area High School Hall of Champions Association was established in 1977 to honor and commemorate the accomplishments of distinguished alumni of the Norristown Area High School.

The 2005 Annual Hall of Fame inductees will be: James R. Caiola, posthumously; Salvatore P. Carfagno; Carl G. Sander; David G. Fry; and Guy Reinbold.

James R. Caiola, Class of 1926, was a Norristown area attorney for nearly sixty years. Additionally, Mr. Caiola was very active in his community and was instrumental in the founding of the Norristown Fraternal Order of Police Lodge, No. 31. He also prepared the first pension plan for police officers and was active with Camp Rainbow, a camp for underprivileged children. Mr. Caiola passed away in February of this year.

Salvatore P. Carfagno, Class of 1943, is also being honored for his notable accomplishments after graduation. Mr. Carfagno served as director of nuclear engineering and the head of the engineering department of the Franklin Institute in Philadelphia from 1948 to 1989. Mr. Carfagno also served as a consultant to the Nuclear Regulatory Commission and has published numerous technical papers and has given lectures throughout the United States and several foreign countries.

Carl G. Sander, Class of 1948, had an impressive career with Scott Paper Company where he served as a regional marketing manager. Therefore, he joined McCormick and Company where he served as managing director of a subsidiary in England. From 1976 to 1979, Mr. Sander continued his career in England with Country Kitchen Foods. Upon Mr. Sander's return to the United States in 1984, he demonstrated the spirit of entrepreneurship and started his own company, the Carl G. Sander Co., a food brokerage company in Jacksonville, Florida.

David G. Fry, Class of 1973, is the head of the structural chemistry department of Hoffman-LaRoche Company in New Jersey. He has published more than 35 research papers and is involved in numerous research programs for drugs intended to combat both hepatitis C and HIV/AIDS.

Guy Reinbold, Class of 1974, has had an outstanding career in the hospitality industry. He has worked as the director of food and beverage services at the Marriot Waterfront Hotel in Baltimore and he has previously worked locally at both the Whitford Country Club and the Chadds Ford Inn. In 1999, he was appointed the director of culinary development for Marriot Hotels and, in 2000, he was named vice president of culinary for Marriot International.

Mr. Speaker, it is a pleasure to rise and recognize these remarkable and talented individuals who have all excelled in their respective fields and brought honor to the Norristown Area High School and Community.

NORTHWEST INDEPENDENT SCHOOL DISTRICT "A SALUTE TO HURRICANE VOLUNTEERS"

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. BURGESS. Mr. Speaker, I rise today to salute those individuals and organizations that opened their hearts and dedicated both financial and emotional support to the evacuees of Hurricane Katrina and Hurricane Rita. All of the states along the Gulf Coast have endured terrible hardships during this hurricane season, and I know that the generosity of North Texans played a vital role in bringing some peace into their lives.

Today, I want to specifically thank the students from Northwest ISD for their outstanding collective fundraising effort. Northwest ISD students collected $13,517.58 for Hurricane Katrina victims. Additionally, Gilley-Tarpley Associates agreed to match the donation up to $5,000.00, for a total of $18,517.58.

The district-wide relief effort, which began in September, was organized by the Northwest High School Student Council, PAL, and the Key Club organizations.

I stand here today to sincerely thank the students in Northwest ISD and Gilley-Tarpley Associates for their generous donation. I am proud to call these people fellow Texans. Through their contribution, they not only stand as devoted and giving American citizens, but they serve as an inspiration to others.

IN MEMORY OF R.C. GORMAN

HON. TOM UDALL

OF NEW MEXICO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. UDALL of New Mexico. Mr. Speaker, I rise today to honor the memory of R.C. Gorman, a close family friend and a legendary Navajo artist known as "the Picasso of American painters."

R.C. grew up using the earth as his canvas. His palette was the desert of the Southwest and his tools were the rocks and sands around him. After years of mastering his craft, he found a home in Taos, New Mexico, and began to carve out a voice in the world of Native American art.

For four decades, R.C. was a pioneer. He opened the first Native American-owned art gallery. He helped lead Native American artwork into the mainstream conversations and consciousness of all Americans. And he explored the world around him, from artwork to cooking, from history to politics, all the while staying true to his roots.

R.C. was very close to my family. I knew him since I was a young boy, and he was a dear friend to both my mother and father. During a drawn out legal battle over health concerns being suffered by Navajo uranium miners, the legal team was being burdened by mounting costs. R.C., in his typical selfless style, donated two pieces of artwork to assist the cause. Both pieces were auctioned off and the proceeds were used to help pay down the legal fees. It was characteristic of him to provide anything and everything to help others and to do so without fanfare and without self-congratulations, but rather with humility and respect. And it is that personal side of R.C. that will be forever ingrained in our memories.

We will always be grateful for the way in which he used the canvas with grace and the way in which he helped us see so much beauty in places we once overlooked. R.C. will be greatly missed, but his spirit will live on.

IN HONOR OF SISTER JULIE HYER

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. FARR. Mr. Speaker, I rise today to honor Sister Julie Hyer, as she has recently celebrated 20 years as President of Dominican Hospital in Santa Cruz, California. Since 1985, Sister Julie has enlivened and inspired those affiliated with Dominican Hospital and the community at large with her leadership in ways that are practical and profound.

Before coming to Santa Cruz, Sister Julie served at the Mercy Healthcare Corporation in Farmington, Michigan. There, she served for 11 years beginning as a hospital coding clerk in 1974 and ascending to Associate Director of Medical Affairs at the corporate level. Sister Julie has an MBA in Finance from the University of Detroit, BS in Medical Record Administration from Mercy College in Detroit, and a BA in Mathematics from Siena Heights University in Adrian, Michigan.

Dominican Hospital is a non-profit community hospital located in Santa Cruz, sponsored by the Adrian Dominican Sisters. As President of Dominican Hospital, Sister Julie oversees acute care, inpatient and outpatient services, four subsidiary corporations, two congregate living facilities totaling 356 apartments, and other multiple joint ventures. She also serves as a member of many corporate-wide initiatives and committees.

Mr. Speaker, the service of local community leaders is an asset to this Nation, and I applaud Sister Julie for her significant contribution. The 20 year anniversary of Sister Julie's presidency signifies a fruitful career of improving the health of the community through her core values of dignity, excellence, collaboration, justice, and stewardship. It is clear that Sister Julie has made a lasting impact on our community and I join Dominican Hospital in honoring her tenure.

PERSONAL EXPLANATION

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. HIGGINS. Mr. Speaker, I missed a rollcall vote on the night of Wednesday November 9, 2005. I would like to enter into the RECORD how I intended to vote on the missed rollcall:

On rollcall No. 582 regarding S. 1894, the Fair Access Foster Care Act of 2005, I would have voted "yea."

CONGRATULATIONS TO THE McCANDLESS TOWNSHIP SANITARY AUTHORITY

HON. MELISSA A. HART

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Ms. HART. Mr. Speaker, I would like to take this opportunity to congratulate the McCandless Township Sanitary Authority on the 50th anniversary of its founding.

Over the past fifty years the McCandless Township Sanitary Authority has provided service to 52,000 customers in Bradford Woods Borough, the Borough of Franklin Park, Marshall Township, Pine Township, the Town of McCandless and boundaries of Hampton and Ross Townships. Their customers vary from residential and commercial facilities to schools, colleges, and hospitals. The authority owns and operates a comprehensive sanitary sewer system that includes four treatment plants, and sixteen pumping stations.

To celebrate their 50 years of great service, the authority will commemorate the anniversary on December 17, 2005 as part of the annual Christmas Dinner at Highland Country Club.

I ask my colleagues in the United States House of Representatives to join me in honoring the 50th anniversary of the McCandless Township Sanitary Authority. It is an honor to represent the Fourth Congressional District of Pennsylvania and a pleasure to salute such a dedicated institution as the McCandless Township Sanitary Authority.

RECOGNIZING FLOWER MOUND HIGH SCHOOL SPEECH AND DEBATE TEAM

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. BURGESS. Mr. Speaker, I rise today to commend the Flower Mound High School speech and debate team for being recognized as 13th out of the top 50 speech and debate teams in the country.

The ranking was announced by the National Forensic League on Oct. 22, 2005. The National Forensic League is comprised of 103 districts that govern the affiliate and charter schools in all 50 states. The purpose of the National Forensic League is to promote interscholastic debate, oratory, public speaking, and interpretation of literature by encouraging a spirit of fellowship and by conferring upon deserving candidates a worthy badge of distinction. The National Forensic League works to accomplish this mission by promoting debate and speech through a nation-wide network of competitive tournaments and by honoring students for their achievements. The culmination of the year is a National Speech and Debate Tournament in the month of June. This year's topic will be whether or not the U.S. government should reduce its authority to detain without charges or search without probable cause.

The Flower Mound High School speech and debate team has 25 students traveling during weekends from speech to debate tournaments. At Flower Mound High School, each member of the speech and debate team is guaranteed to compete in at least five rounds per year. If a student performs well, he or she can enter additional tournaments. Students are awarded a degree of merit for each round they compete in, which then gets accumulated by the team. Flower Mound was the 13th team nationwide with the most accumulated degrees of merit.

Today I congratulate the Flower Mound High School speech and debate team and Head Debate Coach, Eric Mears, on ranking 13th out of the top 50 speech and debate teams in the country. Their dedication and hard work in perpetuating intellectual debate, oratory and public speaking deserves the highest recognition and praise.

COMMENDING EFFORTS OF CROHN'S AND COLITIS FOUNDATION OF AMERICA

HON. SUE W. KELLY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mrs. KELLY. Mr. Speaker, I rise today to commend the efforts of the Crohn's and Colitis Foundation of America in fighting Inflammatory Bowel Disease (IBD). Today, the Foundation will visit Capitol Hill and ask for our support of H.R. 3616—The Inflammatory Bowel Disease Research Act.

Crohn's Disease and ulcerative colitis are chronic disorders of the gastrointestinal tract that afflict approximately 1.4 million Americans, 30 percent of whom are diagnosed in their childhood years. IBD represents a major cause of morbidity from digestive illness and has a devastating impact on both patients and families. The cause is unknown, and there is no medical cure.

I urge my colleagues to cosponsor the bipartisan Inflammatory Bowel Disease Research Act that I'm sponsoring with the gentleman from Illinois, JESSE JACKSON, Jr. The IBD Research Act builds upon legislation we sponsored last Congress, which garnered 183 cosponsors. This Congress—we look forward to even more support. Together we can help millions of children and adults that suffer from these devastating diseases.

BIPARTISAN LEGISLATION INTRODUCED TO HELP INCREASE EQUITY INVESTMENT IN SMALL BUSINESSES LOCATED IN LOW-INCOME AREAS

HON. GWEN MOORE

OF WISCONSIN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Ms. MOORE of Wisconsin. Mr. Speaker, I rise today to offer legislation along with my colleague from Kentucky, Congressman HAROLD "HAL" ROGERS, which seeks to increase venture capital investment in small businesses located in low-income urban and rural communities nationwide. Our bill, the Securing Equity for the Economic Development of Low Income Areas—SEED—Act, would reauthorize and expand the New Markets Venture Capital (NMVC) program of the Small Business Administration (SBA).

The New Markets Venture Capital Program was established in 2000 for the purposes of making equity investments in small businesses located in economically distressed communities through the creation of NMVC companies. Many conventional venture capital firms have been unwilling to invest in economically disadvantaged areas. NMVC companies aim to help fill the access to capital gap that exists for many small firms in these communities.

New Market Venture Capital companies will leverage equity capital backed by SBA-guaranteed funds to invest in small businesses in depressed areas. NMVC companies can also apply for matching operational assistance grants to provide entrepreneurs with the services and technical support needed to help their businesses grow and succeed.

Through the program, 6 New Markets Venture Capital companies have been formed and are currently still operating and making quality investments in small businesses throughout the country. For example, the Southern Appalachian Fund located in Congressman ROGERS' Congressional District was one of the original New Markets Venture Capital companies established during the initial round of funding. The Southern Appalachian Fund (SAF) is a $12.5 million venture capital fund offering equity capital and operational assistance to eligible small businesses located in the Appalachia regions of Kentucky, Tennessee, Georgia, Alabama, and Mississippi. In 2004 alone, SAF invested over $1 million in three companies, which helped attract an additional $1.7 million in venture capital funding for these firms. As a result, these investments assisted in the creation of over 50 new jobs in the region.

Unfortunately, though authorized, this worthy program has not received funding in each of the last 3 fiscal years. The SEED Act would reauthorize the New Markets Venture Capital program by providing $100 million in debenture guarantees and $25 million in operational assistance grants to fund the creation of a fresh round of NMVC companies. In addition, our legislation would incorporate small manufacturers into the mission of the program by encouraging the SBA to set up at least one company that is primarily involved in the investment and development of small manufacturing firms. The bill also seeks to diversify venture capital investments beyond the typical Silicon Valley and Northeastern corridors by encouraging the formation of NMVC companies in each of the ten geographic regions of the SBA.

Many of my constituents have fallen on hard times and are in need of help. A large portion of my district is in the midst of an economic crisis at this moment. In 2002, the Bureau of Labor Statistics found that 59 percent of working age African American males in Milwaukee were either unemployed or out of the workforce. In the past five 5, Milwaukee has lost 33,000 manufacturing jobs, an industry that was once the lifeblood of the local economy. And, according to a study conducted by the University of Kansas, Milwaukee ranks 49th out of the 50 largest U.S. cities in terms of per capita venture capital dollars.

Small businesses create nearly 75 percent of all new jobs and account for 99 percent of all employers. It is not a stretch to conclude that increased investment in small businesses leads to the creation of new jobs and sparks much needed economic development in areas that have experienced better days. And given the high levels of unemployment that exist in many distressed urban and rural communities throughout the country, the New Markets Venture Capital program would provide a crucial source of investment capital to small firms and help create new jobs.

I strongly urge my colleagues to support this very important bipartisan bill.

INTRODUCTION OF THE BLUNT RESERVOIR AND PIERRE CANAL LAND CONVEYANCE ACT OF 2005

HON. STEPHANIE HERSETH

OF SOUTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Ms. HERSETH. Mr. Speaker, today, I am introducing the Blunt Reservoir and Pierre Canal Land Conveyance Act of 2005.

The origins of the bill stretch back to The Flood Control Act of 1944 which authorized a 190,000 acre irrigation project surrounding the Oahe dam and reservoir. As part of this project, the Bureau of Reclamation acquired approximately 19,000 acres of land in two South Dakota counties before organized opposition halted the project in 1977. Since then, the Bureau of Reclamation has retained ownership of the land and, even today, the original landowners continue to lease the land from the department.

Recognizing that the project will not be restarted, the State of South Dakota initiated talks to resolve the ownership situation. Working with the South Dakota Department of Game Fish and Parks, local stakeholders, the Bureau of Reclamation, and others, a general consensus emerged that the best way to deal with the associated economic, tax base, wildlife mitigation, and public access concerns would be to allow the original landowners to buy back the land. Years of negotiations and meetings led to the bill I am introducing today.

Under this bill, former Blunt Reservoir and Pierre Canal landowners would be allowed to repurchase their former lands, on which they currently hold preferential leases, from the Bureau of Reclamation. The bill also will transfer non-preferentially-leased lands and unleased lands to the South Dakota Department of Game, Fish, and Parks, GFP, as part of its broader plan to restore wildlife habitat that was lost due to the construction of the Missouri River dams.

The proposals in this legislation were included in an identical bill that passed the Senate by unanimous consent last year. This legislation is an important opportunity to resolve a land ownership issue left open for over 3 decades. I urge my colleagues in the House to give this bill their swift consideration.

TRIBUTE TO ERNEST C. FORD, AN AMERICAN VETERAN

HON. DANIEL E. LUNGREN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. DANIEL E. LUNGREN of California. Mr. Speaker, Veterans Day is a special day we set aside to honor all of our brave service men and women both past and present. It is a day to remember, a day to honor and a day to reflect upon our fellow citizens who, risking their lives, were willing to make the ultimate sacrifice. It is a day to honor those we know and those we have never met.

It is my privilege to honor one of our veterans in the Third Congressional District of California, Ernest C. Ford. Mr. Ford's story was brought to my attention some months ago. Like many of my fellow colleagues in Congress, we represent our constituents and are honored to have veterans among them. It is their story that humanizes the importance of Veterans Day.

In May of 1927, Charles Lindbergh took off from Roosevelt Field, Long Island, New York and flew into aviation history and into the imagination of a 5½ year old boy, "Ernie" Ford. With the onset of World War II, the young farm boy from Dodge City, Kansas left his family and friends to join a cause larger than himself.

Fifteen years later to the day of Lindbergh's faithful flight, Staff Sergeant Ernest C. Ford graduated from advanced flying school at Luke Field in Phoenix, Arizona. Like many, in what has been referred to as the greatest generation, he served with honor and distinction to preserve Liberty and Freedom throughout the world. Flying over 6,500 hours and 364 combat missions, the most of any pilot in the USAAF during World War II, he showed his dedication to duty, honor and country.

On February 6, 1943, Staff Sergeant Ernie Ford, a transport pilot, is credited with saving three C–47 planes, their crews, and 87 Australian infantry during the battle of Wau in New Guinea, Australia. While the battle raged around him, Mr. Ford proceeded to takeoff on a bombed out airstrip while under enemy fire. Witnessing his lead plane shot down on ascent, he decided to keep his plane low for maximum speed. With the plane only 10 to 15 feet off the ground, Ernie Ford escaped the fate of his comrades before him and showed the remaining C–47s a way to escape the battle.

For his exceptional service, he won a battlefield commission and was promoted to the rank of 2nd lieutenant. At the end of the war in the Pacific, Mr. Ford earned 6 Distinguished Flying Crosses, one garnering a V for valor, 2 Air Medals, and was recommended for our nation's third highest military honor, the Silver Star for his actions at Wau. Along with personal recognition, his squadron received three Presidential Unit Citations and two Battle Stars. Following World War II, he helped stem the tide of communism during the Korean Conflict by flying 21 combat missions. After 23 years of service, Mr. Ford eventually retired with the rank of Major with over 15 decorations.

The gratitude that all Americans owe to Mr. Ford cannot be expressed in mere words alone.

I will tell you every day that I go to work; I am reminded of our veterans and the sacrifices they made by the sight of the many beautiful memorials erected in their memory. These memorials represent the dogged determination of our veterans and are a reminder of the heartfelt gratitude all Americans owe them for their service.

As President Ronald Reagan on the 40th anniversary of D-Day said, "We will always remember. We will always be proud. We will always be prepared, so we may always be free."

I thank you, Mr. Ford, and all our honored American Veterans for your service to our country.

TRIBUTE TO THE MARCH-WESTIN COMPANY AND THE ST. JAMES CATHOLIC CHURCH

HON. SHELLEY MOORE CAPITO

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mrs. CAPITO. Mr. Speaker, I rise today to recognize the March-Westin Company of Morgantown, West Virginia and the St. James Catholic Church for their exceptional achievement in the field of occupational safety and health.

Incorporated in 1984, the March-Westin Company is a full-service engineering and general contracting firm located in Morgantown, WV. March-Westin has worked on over 600 projects throughout West Virginia, establishing themselves as one of the best firms in all of West Virginia. After a rigorous review by the Occupational Safety and Health Administration, OSHA, March-Westin has been awarded the agency's approval as a Star participant in their Voluntary Protection Program, VPP. Since 1982, this demanding award has been given to fewer than 1,000 worksites across the Nation and I am pleased to recognize March-Westin and the St. James Catholic Church for their work in receiving this award. In fact, this exemplary small construction company had no employee injuries or illnesses during the qualifying period for the program. VPP sites serve as a model for what can be accomplished through a commitment to workplace safety, as these sites achieve a level of worker protection that goes far beyond compliance with already strict government regulations.

In Charles Town, WV, the March-Westin Company is constructing a 55,000 square foot, old style church which includes a parish hall, library, classrooms, a chapel, bell tower, and a kitchen. This $10 million project will serve not only as a model for workplace safety but also as a wonderful place for worship and a welcome addition to the eastern panhandle of West Virginia.

In closing, I want to again commend the March-Westin Company, the St. James Catholic Church, and the Wheeling-Charleston Catholic Diocese for their commitment to workplace health and safety and ask my colleagues here in Congress to join me in recognizing their efforts.

FREEDOM FOR JOSÉ ENRIQUE SANTANA CARREIRA

HON. LINCOLN DIAZ-BALART

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I rise today to speak about José Enrique Santana Carreira, a political prisoner in totalitarian Cuba.

Mr. Santana Carreira is the national coordinator of the Democratic Party November 30 and a member of the pro-democracy opposition. Unfortunately, those who believe in truth are targeted by the tyrant's machinery of repression. According to an article for the Information Bridge Cuba Miami, on February 28, 2002, Mr. Santana Carreira was arrested for simply participating in a civic activity at the Catholic Church of the Passionists. More than 2 years later, in a sham trial, Mr. Santana Carreira was sentenced to 4 years in the totalitarian gulag.

In a letter to his mother that was translated and published at punteinfocubamiami.org, Mr. Santana Carreira describes the horrible conditions in the gulag to his mother:

> For my mother:
>
> With lots of love is that I write you this missive which I know is going to hurt you, but it is hurting me already, since they have beaten me and I could not get up . . . they have beaten me with no Humanity whatsoever. . . .
>
> My dearest mother, I am resolved to take this until the maximum consequences if they already have beaten me, this will not stop, the only thing that I want is for all to know of the abuses that we are being subjected to and to receive the necessary support from all the people so that all these abuses end and all the World learns about the cruelties committed against those who fight peacefully with their reason and their right. . . .
>
> Take care my viejita, I am very ill, suffering with all this, but I am willing to die for the reason that assists me in this our pacific fight.
>
> I love you a lot. José Enrique Santana Carreira

Mr. Santana Carreira represents the very best of the Cuban people: No matter how intense the beatings, no matter how remorseless the repression, no matter how inhumane the conditions, he will never relent in his belief that the men and women of Cuba should be and will be free.

Mr. Speaker, it is as inconceivable as it is unacceptable that, in the 21st century and only 90 miles from our shore, brave men and women are locked in grotesque dungeons because they believe that all people have basic human rights. It is a profound embarrassment for mankind that the world stands by in silence and acquiescence while political prisoners are systematically tortured because of their belief in freedom, democracy, human rights and the rule of law. My colleagues, we must demand the immediate and unconditional release of José Enrique Santana Carreira and every political prisoner in totalitarian Cuba.

CONGRATULATING CJ'S STUDIO OF PERFORMING ARTS

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. BURGESS. Mr. Speaker, I rise today to congratulate Ms. Darion Albert, Ms. Brittany Carey, Ms. Christian Hargers, Ms. Brittania Jones, and Ms. De'Ona Stafford of CJ's Studio of Performing Arts, located in my district, for their opportunity to dance in the Moscow Ballet's presentation of The Nutcracker in Dallas.

The Moscow Ballet is a classical ballet company that brings the grand tradition of a century of Russian ballet to audiences throughout the world, and it is considered a great honor to be part of the troop. Moscow Ballet's The Great Russian Nutcracker combines the family favorite with a special prayer for peace. Unlike many American adaptations, The Great Russian Nutcracker ends not in the "Land of the Sweets," but in the "Land of Peace and Harmony." The Russian Nutcracker has charmed us for more than a century because it takes its audience to a world of enchantment and peace where dreams are made real, language is no barrier, and it is always the season of love and giving.

The five young ladies of CJ's Studio of Dance were selected this year to perform in this timeless tradition and performance. Ms. Albert, Ms. Carey, Ms. Hargers, Ms. Jones, and Ms. Stafford have all attended CJ's for a number of years, under the direction of Ursula Gibbs. Ms. Gibbs serves as the studio's artistic director and dance instructor and is to be congratulated for her skillful dance instruction.

I extend my sincere congratulations to these young ladies for this distinguished opportunity. I wish them the best of luck in their dedicated pursuit of dance and the performing arts.

HONORING AMERICA'S VETERANS

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Ms. McCOLLUM of Minnesota. Mr. Speaker, every year on November 11, the American people honor the men and women who have served and sacrificed for our Nation as members of the armed forces. The sacrifices of our veterans and their families are the foundation of our Nation's freedom. All Americans owe them a debt of gratitude for their service.

Veterans Day is a national holiday for remembrance and appreciation. Whether a veteran served during WWII, Korea, Vietnam, the Gulf War, or have recently returned from Iraq and Afghanistan, they have earned our respect. As a member of Congress, I feel strongly about honoring our veterans and their families. With over 25 million veterans in America, Congress must keep its promise to those veterans who have served, as well as those who will be returning home from Iraq and Afghanistan. Providing the necessary healthcare, education, and disability benefits to meet the needs of our veterans is both a responsibility and a moral obligation.

This Veterans Day, let us thank our family, friends and neighbors who have served our Nation in uniform. Their courage is to be celebrated. Their commitment to our Nation must be matched by a commitment from Congress to truly honor their service by guaranteeing the benefits they deserve.

RESOLUTION OF INQUIRY, H. RES. 505 REQUESTING THE PRESIDENT TRANSMIT TO THE HOUSE OF REPRESENTATIVES, DOCUMENTS PERTAINING TO THE WHITE HOUSE IRAQ GROUP

HON. SHERROD BROWN

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. BROWN of Ohio. Mr. Speaker, earlier today the House International Relations Committee convened to consider an important resolution of inquiry, H. Res. 505.

The resolution would have required the President and Secretary of State to turn over to the House of Representatives all white papers, minutes, notes, e-mails or other communications relating to the White House Iraq Group (WHIG).

Unfortunately, the committee voted to report the resolution unfavorably, so we won't be getting those important documents.

It was also unfortunate that the committee called for a vote before all Democrats wishing to speak could be heard. Because the chairman acted in this manner, further debate was closed.

Due to this, I feel it necessary to have my statement from the International Relations Committee included in the CONGRESSIONAL RECORD.

I hope that in the future, when our committee meets on important legislation with serious international and national security implications, all members will be allowed to address their concerns vocally and publicly.

My statement for the committee record appears below.

Here we are again, asking for the answers to the same questions we've been asking for over two and a half years.

I commend my colleagues for introducing H. Res. 505, a resolution that would require the President and Secretary of State to turn over to the House of Representatives all white papers, minutes, notes, e-mails or other communications relating to the White House Iraq Group (WHIG).

It seems many of my colleagues on the other side of the aisle have forgotten that Congress has an obligation to the American people to oversee the activities of the Executive Branch.

Because of that duty, we owe it to the American public to investigate the actions of the WHIG if we are to determine what the Bush Administration was peddling less than the actual truth of the Iraqi threat prior to going to war.

Over the past several years, Congress has continually failed to investigate the Administration's faulty intelligence claims with regard to Iraq.

Now we know that Andrew Card formed the WHIG in 2002, with the goal of marketing an invasion of Iraq. The group included numerous senior administration officials, including Lewis "Scooter" Libby, Karl Rove and Condoleezza Rice.

It appears much of the administrations support for the Iraq invasion came from the WHIG, and it helped create materials for use by administration officials.

The materials were then used to make claims which it appears the members of the WHIG knew or had reason to know were questionable or false.

In the buildup to the war, these materials included but were not limited to possible erroneous claims that Iraq sought uranium from Niger; that Iraq's aluminum tubes could be used only for nuclear weapons purposes; and that Iraq was a training ground for Al Qaeda operatives.

Following these and similar claims, an aggressive media assault continued. In mid-September 2002, Condoleeza Rice stated that action on Iraq was necessary because, "We don't want the smoking gun to be a mushroom cloud."

Vice President Cheney also appeared that month on "Meet the Press" stating that Saddam Hussein was "actively and aggressively" working towards a nuclear bomb.

President Bush himself claimed during a 2002 major speech in Cincinnati: "We've learned that Iraq has trained al Qaeda members in bomb- making and deadly gases."

The American people deserve answers regarding the truth about information peddled by WHIG.

I urge my colleagues to do no more than their Congressional service demands—we must investigate possible wrongdoing by the Executive Branch.

If you do not fear the truth, you will vote to report this resolution favorably.

PERSONAL EXPLANATION

HON. MIKE PENCE

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. PENCE. Mr. Speaker, I was detained the afternoon of November 9, 2005. Had I been present, I would have voted in the following manner:

Rollcall 581 (On Passage—H.R. 2862)—"aye"; rollcall 582 (On Passage—S. 1894)—"aye"; rollcall 583 (On Agreeing to the Scott #9 Amendment)—"nay"; rollcall 584 (On Motion to Recommit with Instructions—H.R. 1751)—"nay"; and rollcall 585 (On Passage—H.R. 1751)—"aye."

REMARKS REGARDING VETERANS DAY

HON. AL GREEN

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. AL GREEN of Texas. Mr. Speaker, it is because of the great sacrifices of the men and women in our armed forces that we are able to live in freedom. We are committed and indebted to America's veterans who have risked their lives to protect liberty and defend freedom both here in the United States and abroad. Today, I take the opportunity to recognize the sacrifices our veterans have made serving our country and I extend to them my deep felt admiration.

On this Veterans Day, we must not just recognize the war heroes among us with our words, rather we must recognize them with our deeds. Members of our armed forces serve our Nation with distinction and we must honor them with more than just our gratitude. We must honor them by providing them with the most basic benefits, access to health care, education, job training, and full receipt of the disability compensation to which they are entitled. Tragically, we are failing our Nation's veterans.

It is our duty to provide men and women returning from service with the resources to seamlessly resume their lives as civilians. This means providing them with exceptional educational opportunities, job training and health care.

We must abolish the Disabled Veterans Tax, a tax that forces disabled military retirees to give up one dollar of their pension for every dollar of disability pay they receive. Abolishing this tax is critical to the nearly 400,000 military retirees who continue to pay it. We should work together in the U.S. House of Representatives to increase the benefits veterans receive and to make them mandatory.

Our soldiers and veterans have made the ultimate sacrifice by placing themselves in harm's way to protect democracy in our country and around the world. I am grateful to these brave men and women for the sacrifices they have made, the patriotism they have demonstrated, and the courage and love they have displayed for our country. Let us all take a moment to reflect and to thank our Nation's soldiers who have served and those who are still serving to protect liberty and justice for us all.

KID SAFE CHEMICALS ACT OF 2005

HON. HENRY A. WAXMAN

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. WAXMAN. Mr. Speaker, today, I am pleased to introduce the "Child, Worker and Consumer-Safe Chemicals Act of 2005," also known as the "Kid Safe Chemicals Act." I am particularly pleased that Representatives SOLIS, SLAUGHTER, and PALLONE are joining me in this effort to create a non-toxic environment to protect the health of children, workers and others.

The legislation we introduce today is companion legislation to an important bill that was introduced in the U.S. Senate earlier this year. Senators LAUTENBERG and JEFFORDS introduced S. 1391 with Senators BOXER, CLINTON, CORZINE, KENNEDY and KERRY to address the major problem of inadequate chemical regulation in this country.

The United States' current regulatory approach to chemicals is in dire need of being modernized. As Congress begins to take up this issue, the European Union is starting to resolve a multi-year process to achieve the same goal and is developing what may become the state-of-the-art approach to chemicals regulation. While this issue is proceeding overseas, we cannot sit upon our hands here in the United States. It's clear that our system must be modernized, and I have no doubt that it will be modernized. Our goal is that Congress begin this process sooner rather than later.

The Kid Safe Chemicals Act responds to the growing body of scientific literature which identifies chemical exposures as a factor in the rise of disorders and diseases such as birth defects, asthma, neurological and developmental disorders, infertility and certain types of cancer.

Study after study reveals alarming evidence of our exposure to industrial chemicals and pollutants. Bio-monitoring studies report the presence of hundreds of synthetic chemicals in our bodies—even in the bodies of infants and fetuses. These chemicals are not household names: bisphenol A, brominated flame retardants, phthalates, and perfluoro compounds. Yet we are exposed every day—on the job, through our food and water, and in our homes. Computers, cosmetics, even children's toys can contribute to our collective "body burden" of chemical contamination.

Tens of thousands of chemicals have never been properly assessed for their potential health and environmental risks. The problem can be traced to the 1976 federal law that was meant to empower the Environmental Protection Agency (EPA) to take action on such threats. The Toxic Substances Control Act (TSCA) has been in place for 29 years, but has failed to protect Americans from dangerous chemicals.

A July 2005 report by the Governmment Accountability Office documented the abysmal results of this federal policy. Of the 62,000 chemicals on the market when the law took effect, the EPA has used its authority under the Toxic Substances Control Act to evaluate less than two hundred, and invoked its power to regulate just five groups of chemicals.

This system is badly broken.

The Kid Safe Chemicals Act will reform our failed approach to chemical regulation and put us on track to reassert U.S. leadership. This legislation will protect kids by recognizing their special vulnerabilities and requiring manufacturers to provide health and safety information prior to distributing a chemical in consumer products. This will end the false presumption that we have relied upon for too long—that a substance is safe until proven dangerous.

This legislation is endorsed by the American Public Health Association, the Natural Resources Defense Council, and over a dozen pediatricians, other physicians and researchers from the National Centers for Children's Environmental Health. This legislation is a strong starting point in a debate our country needs to have. I am proud to introduce Senator LAUTENBERG's legislation in the House and look forward to working with colleagues in both chambers to act upon it as soon as possible.

SECURE ACCESS TO JUSTICE AND COURT PROTECTION ACT

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. HOLT. Mr. Speaker, yesterday the House considered the so-called Secure Access to Justice and Court Protection Act, H.R.1751.

We have all heard of the tragic and deeply troubling violence directed at judges or other court employees. In just March of this year, U.S. District Judge Joan H. Lefkow came home from a day at work to discover her husband and mother shot dead in the basement. We clearly need to act to help protect the lives and security of all federal court employees, including judges.

H.R. 1751 would authorize the appropriation of additional funds over the next five years to increase court security, and to provide grants to States do the same and to help protect witnesses. The bill would also toughen the penalties on the books for threatening or committing acts of violence against federal judges or court employees.

While I support and believe we need to protect federal court employees, there are too many troubling and fundamental problems with this bill for me to support it.

This bill creates 22 new mandatory minimum penalties. Mandatory minimum penalties do not work. They discount mitigating factors in crimes, prevent judges from meting out punishments that are tailored to the criminal, and mandatory minimum have proven discriminatory to people of color. They may make legislators feel good but they have been shown not to reduce crime rates. Even the Judicial Conference, the group that represents Federal judges, has said that mandatory minimums violate common sense.

Also troubling is the fact that this legislation creates seven additional death penalties. Yet, research has shown that capital punishment is not a deterrent to crime. Let me repeat, the death penalty simply does not reduce crime. The death penalty is also flawed because it is applied unevenly and unjustly along racial lines, and far too often is applied to someone who is only later exonerated, often too late.

Given these two deeply troubling problems with this bill, I cannot support it.

TRIBUTE TO FRANK COLLAZO AND THE EMPLOYEES OF COLSA CORPORATION

HON. ROBERT E. (BUD) CRAMER, JR.

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. CRAMER. Mr. Speaker, I rise today to congratulate Frank Collazo and all of the employees of the COLSA Corporation on the company's 25th anniversary.

Mr. Collazo founded the COLSA Corporation in his home in Huntsville, Alabama. Today COLSA has locations in Huntsville; Colorado Springs, Colorado; Orlando and Shalimar, Florida; San Diego, California; and Washington, D.C.

Mr. Speaker, COLSA has been recognized as a leader in the defense industry. It works with a number of governmental agencies including NASA, AMCOM, SMDC, MDA, MSIC, the NSA, the U.S. Navy, and the U.S. Air Force.

COLSA's employees provide a wide variety of services to its clients including IT Services, Complex Systems Integration, Software Engineering and Analysis, Business Management Solutions, and Modeling and Simulation. They also provide Test and Evaluation Support, Security Solutions, Intelligence Support, Advance Algorithms Services, and Engineering Services.

Despite its short history, COLSA has received the Department of Defense's Small Business Prime Contractor of the Year, the James S. Cogswell Award for Security Excellence, and the American Business Ethics Award, among others.

Mr. Speaker, I appreciate Frank and the entire COLSA team for their hard work and dedication towards strengthening our military and intelligence capabilities and I congratulate them on 25 years of service to our country.

Mr. Speaker, on behalf of the United States House of Representatives and everyone in North Alabama, I would like to thank the COLSA Corporation for its commitment to the war fighter and the security of our nation.

CONGRATULATING SGT. JEREMY KAMPHUIS FOR BEING NAMED 2005 U.S. ARMY NONCOMMISSIONED OFFICER OF THE YEAR

HON. VERNON J. EHLERS

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Thursday, November 10, 2005

Mr. EHLERS. Mr. Speaker, I rise today to honor and congratulate Sgt. Jeremy Kamphuis for being named the 2005 U.S. Army Noncommissioned Officer of the Year. Sgt. Kamphuis is a member of the 127th Military Police Company, stationed in Hanau, Germany. His hometown is Grand Rapids, Michigan, in the Third Congressional District of Michigan, which I represent, and where his parents, Don and Mary Kamphuis, also reside.

Sgt. Kamphuis, 23, enlisted with the U.S. Army Reserves in August 2000 shortly after graduating from Covenant Christian High

School and signed up for active duty in October 2003. In April 2004, Sgt. Kamphuis was deployed with his fellow members of the 127th Military Police Company from their base in Hanau, Germany, to Baghdad, where they were involved in the very important work of training Iraqi police.

Earlier this year, three weeks after returning from his Iraq deployment, Sgt. Kamphuis's commanding officer suggested that he participate in the Noncommissioned Officer competition. After winning four lower levels, beginning at battalion level and through his brigade and the Fifth Army Corps, Sgt. Kamphuis found himself at Fort Lee, Virginia, this September with nine other finalists, competing for 5 days and enduring stringent physical and mental challenges. The final challenge was a six-mile run in which Sgt. Kamphuis and his competitors each had to wear a full uniform, 40 pounds of body armor, a 40-pound pack and combat boots. Sgt. Kamphuis completed the course in one hour, 10 minutes.

As the Army's Noncommissioned Officer of the Year, Sgt. Kamphuis will represent the Army on key occasions, as well as continuing to do his job as a member of and trainer for the 127th Military Police Company.

On the occasion of Veterans Day, I want to commend Sgt. Jeremy Kamphuis and all his comrades for the jobs they do in protecting our country and our world each and every day. Thank you and congratulations to Sgt. Kamphuis on being named the U.S. Army's Noncommissioned Officer of the Year.

HOUSE OF REPRESENTATIVES—*Monday, November 14, 2005*

The House met at 6 p.m. and was called to order by the Speaker pro tempore (Mr. WOLF).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC.
November 14, 2005.

I hereby appoint the Honorable FRANK R. WOLF to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Reverend John Bradford, Pastor, Faith Lutheran Church, Arlington, Virginia, offered the following prayer:

Sovereign God, we come into this hallowed Chamber in the midst of troubling times. As we cling to our freedom, we lift up to Your care the brave women and men of our Armed Forces who are serving this great country around the world to make global freedom and peace a reality.

We consider those who have lost all their worldly possessions in natural disasters and our hearts go out to them even as we seek more effective ways to help them in these unspeakable times. Even as we are blessed to live in a land of tremendous prosperity and abundance, may we continue to reach out to those who have little.

I ask Your blessing upon these dedicated servants of the House of Representatives as they continue to strive individually and collectively for peace and harmony throughout our land and the world.

In Your holy name we pray. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. The Chair will lead the House in the Pledge of Allegiance.

The SPEAKER pro tempore led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 260. A concurrent resolution recognizing the 40th anniversary of the Second Vatican Council's promulgation of Nostra Aetate, the declaration on the relation of the Roman Catholic Church to non-Christian religions, and the historical role of Nostra Aetate in fostering mutual interreligious respect and dialogue.

The message also announced that the Senate has passed bills and a concurrent resolution of the following titles in which concurrence of the House is requested:

S. 1095. An act to amend chapter 113 of title 18, United States Code, to clarify the prohibition on the trafficking in goods or services, and for other purposes.

S. 1558. An act to amend the Ethics in Government Act of 1978 to protect family members of filers from disclosing sensitive information in a public filing and to extend for 4 years the authority to redact financial disclosure statements of judicial employees and judicial officers.

S. 1699. An act to amend title 18, United States Code, to provide criminal penalties for trafficking in counterfeit marks.

S. 1932. An act to provide for reconciliation pursuant to section 202(a) of the concurrent resolution on the budget for fiscal year 2006 (H. Con. Res. 95).

S. Con. Res. 10. A concurrent resolution raising awareness and encouraging prevention of stalking by establishing January 2006 as "National Stalking Awareness Month".

COMMUNICATION FROM THE CLERK OF THE HOUSE

The SPEAKER pro tempore laid before the House the following communication from the Clerk of the House of Representatives:

OFFICE OF THE CLERK,
HOUSE OF REPRESENTATIVES,
Washington, DC, November 10, 2005.

Hon. J. DENNIS HASTERT,
The Speaker, House of Representatives, Washington, DC.

DEAR MR. SPEAKER: Pursuant to the permission granted in Clause 2(h) of Rule II of the Rules of the U.S. House of Representatives, the Clerk received the following message from the Secretary of the Senate on November 10, 2005, at 6:45 p.m.:

That the Senate Passed S. 1988; and that the Senate Agreed to Conference Report H.R. 3057.

With best wishes, I am
Sincerely,

JEFF TRANDAHL,
Clerk of the House.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 4 of rule I, the Speaker signed the following enrolled bill on Thursday, November 10, 2005:

H.R. 3057, making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2006, and for other purposes.

APPOINTMENT OF ADDITIONAL CONFEREE ON H.R. 3199, USA PATRIOT AND TERRORISM PREVENTION REAUTHORIZATION ACT OF 2005

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferee:

From the Committee on the Judiciary, for consideration of the House bill (except section 132) and the Senate amendment, and modifications committed to conference: Mr. DANIEL E. LUNGREN of California.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferee.

APPOINTMENT OF CONFEREES IN LIEU OF THEIR APPOINTMENTS ON NOVEMBER 9, 2005, ON H.R. 3199, USA PATRIOT AND TERRORISM PREVENTION REAUTHORIZATION ACT OF 2005

The SPEAKER pro tempore. Without objection, the Chair appoints the following conferees in lieu of their appointments on November 9, 2005:

From the Committee on the Judiciary, for consideration of the House bill (except section 132) and the Senate amendment, and modifications committed to conference: Mr. NADLER and Mr. SCOTT of Virginia.

There was no objection.

The SPEAKER pro tempore. The Clerk will notify the Senate of the change in conferees.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. YOUNG of Florida (at the request of Mr. BLUNT) for November 10 on account of a family medical emergency.

SENATE BILLS REFERRED

Bills of the Senate of the following titles were taken from the Speaker's

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.

Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

table and, under the rule, referred as follows:

S. 1095. An act to amend chapter 113 of title 18, United States Code, to clarify the prohibition on the trafficking in goods or services, and for other purposes, to the Committee on the Judiciary.

S. 1558. An act to amend the Ethics in Government Act of 1978 to protect family members of filers from disclosing sensitive information in a public filing and to extend for 4 years the authority to redact financial disclosure statements of judicial employees and judicial officers; to the Committee on the Judiciary.

S. 1988. An act to authorize the transfer of items in the War Reserves Stockpile for Allies, Korea; to the Committee on International Relations in addition to the Committee on Armed Services for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

S. Con. Res. 10. Concurrent resolution raising awareness and encouraging prevention of stalking by establishing January 2006 as "National Stalking Awareness Month"; to the Committee on the Judiciary.

ENROLLED BILLS SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled bills of the House of the following titles, which were thereupon signed by the Speaker:

H.R. 3057. An act making appropriations for foreign operations, export financing, and related programs for the fiscal year ending September 30, 2006, and for other purposes.

ADJOURNMENT

The SPEAKER pro tempore. Without objection, the House stands adjourned until 10:30 a.m. tomorrow for morning hour debate.

There was no objection.

Accordingly (at 6 o'clock and 5 minutes p.m.), under its previous order, the House adjourned until tomorrow, Tuesday, November 15, 2005, at 10:30 a.m., for morning hour debate.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5181. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone Regulations; Downed Aircraft, Browns Bay, WA [CGD13–05–037] (RIN: 1625–AA00) received October 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5182. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Fireworks Display, Potomac River, Washington, DC [CGD05–05–122] (RIN: 1625–AA00) received October 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5183. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Outer Continental Shelf Facility in the Gulf of Mexico for Mississippi Canyon 778 [CGD08–05–019] (RIN: 1625–AA00) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5184. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Outer Continental Shelf Facility in the Gulf of Mexico for Green Canyon 782 [CGD08–05–012] (RIN: 1625–AA00) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5185. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Outer Continental Shelf Facility in the Gulf of Mexico for Green Canyon 787 [CGD08–05–015] (RIN: 1625–AA00) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5186. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zones; Long Island Sound annual fireworks displays [CGD01–05–012] (RIN: 1625–AA00) (RIN: 1625–AA08) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5187. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Lower Mississippi River, Below Head of Passes, Mile Marker Minus 5.0 to Mile Marker Minus 7.0, extending the entire width of the river, LA [COTP New Orleans-05–17] (RIN: 1625–AA00) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5188. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Allegheny River Mile Marker 0.6 to Mile Marker 0.8, Pittsburgh, PA [COTP Pittsburgh-04–028] (RIN: 1625–AA00) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5189. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Allegheny River Mile Marker 0.0 to Mile Marker 0.7 and Ohio River Mile Marker 0.0 to Mile Marker 0.7, Pittsburgh, PA [COTP Pittsburgh-05–005] (RIN: 1625–AA00) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

5190. A letter from the Chief, Regulations and Administrative Law, USCG, Department of Homeland Security, transmitting the Department's final rule—Safety Zone; Allegheny River, Mile Marker 18.0 to Mile Marker 22.0, New Kensington, PA [COTP Pittsburgh-05–006] (RIN: 1625–AA00) received September 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Transportation and Infrastructure.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 1721. A bill to amend the Federal Water Pollution Control Act to reauthorize programs to improve the quality of coastal recreation waters, and for other purposes (Rept. 109–292). Referred to the Committee of the Whole House on the State of the Union.

Mr. YOUNG of Alaska: Committee on Transportation and Infrastructure. H.R. 3963. A bill to amend the Federal Water Pollution Control Act to extend the authorization of appropriations for Long Island Sound (Rept. 109–293). Referred to the Committee of the Whole House on the State of the Union.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. SENSENBRENNER:

H.R. 4311. A bill to amend section 105(b)(3) of the Ethics in Government Act of 1978 (5 U.S.C. App); to the Committee on the Judiciary.

By Mr. KING of New York (for himself, Mr. Daniel E. Lungren of California, and Ms. Loretta Sanchez of California):

H.R. 4312. A bill to establish operational control over the international land and maritime borders of the United States, and for other purposes; to the Committee on Homeland Security, and in addition to the Committees on the Judiciary, and Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HUNTER (for himself, Mr. Goode, Mr. Davis of Kentucky, Mr. Issa, Mr. Bilirakis, Mr. Royce, Mr. Forbes, Mr. Deal of Georgia, Mr. Calvert, Mr. Hayworth, Mr. Tancredo, Mr. Cunningham, Mr. Norwood, Mr. Sullivan, Mr. Franks of Arizona, Mr. Garrett of New Jersey, Ms. Foxx, Mr. Marchant, Mr. Gary G. Miller of California, Mr. Culberson, Mr. Walden of Oregon, Mr. Kuhl of New York, and Mr. Taylor of North Carolina):

H.R. 4313. A bill to amend the Immigration and Nationality Act and other Act to provide for true enforcement and border security, and for other purposes; to the Committee on the Judiciary, and in addition to the Committees on Homeland Security, Ways and Means, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. BAKER (for himself, Mr. Oxley, Mrs. Kelly, Ms. Pryce of Ohio, Mr. Sessions, Mr. Ferguson, Mr. Renzi, Mr. Fossella, and Mr. Davis of Kentucky):

H.R. 4314. A bill to extend the applicability of the Terrorism Risk Insurance Act of 2002; to the Committee on Financial Services.

By Mr. KENNEDY of Minnesota (for himself and Mr. Thompson of California):

H.R. 4315. A bill to amend the Acts popularly known as the Duck Stamp Act and the Wetland Loan Act to reauthorize appropriations to promote the conservation of migratory waterfowl and to offset or prevent the serious loss of important wetlands and other waterfowl habitat essential to the preservation of such waterfowl, and for other purposes; to the Committee on Resources.

By Ms. MILLENDER-McDONALD:

H.R. 4316. A bill to reduce and eliminate electronic waste through recycling; to the Committee on Ways and Means, and in addition to the Committees on Energy and Commerce, and Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. WELDON of Florida (for himself, Mr. PETERSON of Minnesota, Mrs. MYRICK, Mr. PENCE, Mr. ISSA, Mr. GUTKNECHT, Mr. GOODE, Mr. SHADEGG, Mr. PITTS, Mr. GINGREY, Mr. KING of Iowa, Mr. FEENEY, Mr. BARTLETT of Maryland, Mr. HENSARLING, and Mr. WESTMORELAND):

H.R. 4317. A bill to enforce the numerical limits Congress has placed on immigration; to the Committee on the Judiciary.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

187. The SPEAKER presented a memorial of the General Assembly of the State of California, relative to Assembly Joint Resolution No. 6 urging the Congress of the United States to take all prudent and necessary steps to ensure that the matters surrounding the Darfur genocide are addressed at the highest levels of the federal government; to the Committee on International Relations.

188. Also, a memorial of the General Assembly of the State of California, relative to Assembly Joint Resolution No. 7 urging the United States Postmater to create ZIP Codes that do not emcompass more than one municipality; to the Committee on Government Reform.

189. Also, a memorial of the General Assembly of the State of California, relative to Assembly Joint Resolution No. 1 memorializing the Congress of the United States to urge the Citizens' Stamp Advisory Committee and the United States Postal Service to issue a commemorative stamp to honor the first Asian member of Congress; to the Committee on Government Reform.

190. Also, a memorial of the General Assembly of the State of California, relative to Assembly Joint Resolution No. 19 memorializing the Congress of the United States to declare their public support for reauthorizing the Voting Rights Act of 1965 as written, with jurisdiction-specific provisions designed to expire after a set period of time subject to renenwal; to the Committee on the Judiciary.

191. Also, a memorial of the General Assembly of the State of California, relative to Assembly Joint Resolution No. 15 memorializing the Congress of the United States to take necessary action to extend by two years Mag Instrument's flashlight patent by approving House Resolution 607 and thereby protecting this highly valued manufacturing company and prized employment for the citizens of Inland Empire; to the Committee on the Judiciary.

192. Also, a memorial of the Legislature of the State of Texas, relative to House Concurrent Resolution 13 urging the Congress of the United States to support parity for Mexican visitors to the United States by enacting legislation that would allow then the same six-month length of stay afforded to Canadian travelers; to the Committee on the Judiciary.

193. Also, a memorial of the General Assembly of the State of California, relative to Assembly Joint Resolution No. 16 memorializing the Congress of the United States to take necessary action to amend the federal statutes in an expeditious manner to allow for the equal treatment of commercial drivers who are off duty and using a private vehicle when they incur minor traffic infractions; to the Committee on Transportation and Infrastructure.

194. Also, a memorial of the Legislature of the State of Texas, relative to House Concurrent Resolution 49 urging the Congress of the United States to fully fund the National Aeronautics and Space Administration budget request in support of the Space Exploration Vision, as submitted to the Congress for fiscal year 2006, to enable the United States, and the State of Texas, to remain leaders in the exploration and development of space; to the Committee on Science.

195. Also, a memorial of the Legislature of the State of Texas, relative to House Concurrent Resolution 138 urging the Congress of the United States and the Department of Veterans Affairs to fulfill the department's goal of providing excellence in patient care by building a veterans hospital in Weslaco, Texas, to serve the more than 46,000 veterans in South Texas who have bravely defended and served our country; to the Committee on Veterans' Affairs.

196. Also, a memorial of the General Assembly of the State of California, relative to Assembly Joint Resolution No. 21 memorializing the Congress of the United States to increase federal funding for California's ports for infrastructure and security improvements; jointly to the Committees on Ways and Means and Transportation and Infrastructure.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 224: Mr. SALAZAR.

H.R. 654: Mr. ANDREWS.

H.R. 676: Mrs. JONES of Ohio and Mrs. NAPOLITANO.

H.R. 690: Mr. GILCHREST.

H.R. 699: Mr. LEVIN, Mr. CARDIN, Mr. SERRANO, and Mrs. CHRISTENSEN.

H.R. 809: Mr. CALVERT.

H.R. 986: Mrs. JOHNSON of Connecticut and Mrs. BIGGERT.

H.R. 998: Mr. DAVIS of Tennessee.

H.R. 1124: Mr. THOMPSON of California.

H.R. 2695: Mr. HINOJOSA.

H.R. 2791: Mr. MANZULLO.

H.R. 2939: Mrs. CHRISTENSEN.

H.R. 3145: Mr. CONYERS and Mr. HINOJOSA.

H.R. 3630: Mr. PASCRELL.

H.R. 3852: Ms. MOORE of Wisconsin.

H.R. 3889: Mr. McCOTTER.

H.R. 3922: Mr. ALLEN, Mr. OWENS, Mr. WATT, Ms. BORDALLO, Ms. BALDWIN, Mr. SALAZAR, Mr. GRIJALVA, Mr. SNYDER, and Mr. WAXMAN.

H.R. 4007: Mr. BISHOP of Georgia.

H.R. 4026: Mr. HIGGINS.

H.R. 4098: Mr. CLYBURN, Mr. RUSH, Mr. JEFFERSON, Mr. SCOTT of Virginia, Mr. PAYNE, and Mr. MEEK of Florida.

H.R. 4150: Mr. BAIRD.

H.R. 4238: Mr. McHUGH.

H.R. 4263: Mr. DEFAZIO.

H.J. Res. 70: Ms. KILPATRICK of Michigan and Mr. BLUMENAUER.

H. Con. Res. 37: Mr. ISRAEL.

H. Con. Res. 222: Mr. MANZULLO and Mr. ROTHMAN.

H. Res. 58: Mr. ISRAEL.

H. Res. 456: Mr. KUCINICH, Mr. HASTINGS of Florida, Mr. LEACH, Mr. TANCREDO, Mr. PAYNE, Ms. LEE, Mr. BROWN of Ohio, Ms. McCOLLUM of Minnesota, Mr. FRANK of Massachusetts, Ms. BALDWIN, Mr. ROTHMAN, Mr. AKIN, and Mr. FARR.

H. Res. 500: Mr. CLYBURN, Mr. FOLEY, Mr. PASCRELL, Mr. CONYERS, Mr. SIMMONS, and Mr. PETERSON of Minnesota.

H. Res. 504: Ms. FOXX and Mr. SWEENEY.

SENATE—*Monday, November 14, 2005*

The Senate met at 2 p.m. and was called to order by the Honorable LAMAR ALEXANDER, a Senator from the State of Tennessee.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray. Eternal Spirit, who brings a rich harvest with Your footsteps, mountains melt in Your presence. You are robed with honor and majesty. We praise Your name and celebrate Your goodness. Remind us that without Your help, there is no national security. May we focus less on what we can accomplish and more on Your unstoppable providence. Send Your peace into the hearts of our Senators. Take away distracting worries and fill them with faith. Cleanse them from any bitter or unforgiving spirit as You give them contentment in serving You and this great Nation. Inspire them with the courage to work to build a world without dividing walls. We pray in Your holy name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable LAMAR ALEXANDER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The assistant legislative clerk read the following letter:

> U.S. SENATE,
> PRESIDENT PRO TEMPORE,
> *Washington, DC, November 14, 2005.*
>
> *To the Senate:*
>
> Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable LAMAR ALEXANDER, a Senator from the State of Tennessee, to perform the duties of the Chair.
>
> TED STEVENS,
> *President pro tempore.*

Mr. ALEXANDER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Today we will be returning to the Defense authorization bill. I think this is our sixth day on the bill. We spent 5 or 6 days on it several months ago. Under the consent agreement from last Thursday, we will debate the final amendments to the Defense authorization bill today and then tomorrow morning we will have a series of votes on the remaining amendments, concluding with a vote on final passage of that bill. Those amendments include two amendments relating to our policies in Iraq and second-degree amendments to the Graham amendments on the status of detainees. We will start those votes at about 10:45 tomorrow morning, and therefore we will finish the Defense authorization bill prior to our normal recess that we take on Tuesdays for our respective policy lunches.

I also want to remind my colleagues that at 4:30 today, we will begin an hour of debate on the Energy and Water appropriations conference report. This will be our sixth conference report. We have done Homeland Security, Interior, Agriculture, Legislative Branch, and then Foreign Operations. This will be No. 6 as we continue to bring these bills across the floor one by one.

We will have a vote at about 5:30 today, after an hour of debate on Energy and Water appropriations. In addition to those two matters, we have a whole host of other important issues to address prior to adjourning for Thanksgiving.

The most common question I get is on the schedule and what time we will be getting out for Thanksgiving and, of course, the holidays in December as well. In the short term, this week we may consider tax reconciliation under the statutory time limitation as provided by the Budget Act. The Budget Act provides for up to 20 hours of debate on that bill, and therefore we could have late nights during this week in order to finish that tax bill. We have five remaining appropriations conference reports, and we will consider them over the course of the week as they become available. We have Defense, Labor-HHS, MILCON, the Transportation-HUD bill, and DC appropriations.

As I mentioned, we will finish the Energy and Water conference report today, and we are ready to lock in a short time agreement on the Commerce, Justice, and Science conference report, which is now at the desk.

Following that one—today we will do six—we will have done seven of the appropriations conference reports. I expect the remainder to become available over the course of the week. As they become available, we will set aside time and have, hopefully, very tight time agreements and deal with them accordingly.

In addition to the DOD authorization bill and the conference reports, we have other things to address this week. On the conference report on the PATRIOT Act, which is expected this week, there has been a lot of work done over the course of the last 2 weeks and over the course of the weekend. We will complete that prior to our Thanksgiving time away as well.

Another item that we have worked on a lot over the last 5 or 6 weeks that will be back on the floor is pension legislation. We are very close to an agreement on that. We will be able to do that before Thanksgiving, as well, if we continue to make the progress that we have made over the last 2 weeks. We are hoping to reach a unanimous consent agreement that would allow the Senate to proceed on that pensions bill in a reasonable period of time.

I keep stressing reasonable period of time, keeping time requirements down, because in order to accomplish all of this, it is going to take a lot of organization, efficiency, understanding, and tolerance on the part of all of our colleagues as we go through.

Finally, I mention our continued efforts on the Executive Calendar, as well as a number of other legislative items that will be in wrapup. We will consider those nominations and clear legislation each day this week as they become available, a lot of work over a very short period of time.

That gets us through this week. Then people ask, what about next week? Until we see the pacing over the next several days, it is going to be impossible for me to really know exactly when we are going to be out. But I remain hopeful that we can work through the issues that I just mentioned and finish this week.

The next question: When does this week end? Does it end Friday afternoon, Saturday, or Sunday? I cannot answer that yet until we get a little bit further.

There is a chance we could do all of that by late Friday afternoon. However, if it becomes necessary to stay longer, either into the weekend on Saturday or into next week, then we will certainly do just that. Senators are going to have to remain flexible with their schedules beyond Friday. I do want to at least throw out that a weekend schedule would be possible because

I know a lot of people have things scheduled. So please keep your calendars flexible.

In December, I can also say the following just for planning purposes, and that is that we will not be in for votes in December before Monday, December 12. I will not know until later this week, Saturday night or maybe Monday night of next week exactly what the plans will be for the week beginning December 12. So again I ask our colleagues to keep their schedule flexible in case we have no choice but to return sometime during that week.

What I have just said is going to stir the pot with lots of questions coming forward, but that is about as much as I know right now. I will share the information on schedule with colleagues as soon as it becomes apparent to me based on how much work we get done today, tomorrow, the next day, and over the course of this week.

On another issue, but related to the bill that we are returning to shortly, we are resuming consideration of the National Defense Authorization Act of 2006, day No. 6, and we will complete that bill tomorrow. I do want to thank Senator WARNER for his steady leadership. Under the guidance of our chairman, we have been able to proceed in a very orderly and smooth manner on a very important bill.

Last month, I sent a request to the minority leader asking for his agreement to keep amendments limited to issues that are important to our military personnel and armed services and that are within the jurisdiction of the Senate Armed Services Committee. Fortunately, we were able to reach agreement and do just that. I do want to thank our colleagues for their patience and cooperation in allowing us to move forward on a bill that is central to America's national security.

MOMENTOUS AND HISTORIC TIMES FOR AMERICA

Mr. FRIST. Mr. President, these are momentous and historic times for America. In just 4 years, we have toppled two of the most brutal regimes in human history and liberated 50 million people from tyranny. Afghanistan and Iraq are now governed by the consent of the people under constitutions that have been ratified by the popular vote. Many people simply would not have believed that just several years ago.

Next month, on December 15, the Iraqi people will vote to form a permanent government. On that day, they will show, once more, their tremendous courage, boldness, and fortitude in moving their country toward full democracy and independence.

While the news media focuses on the terrorist activity and the terrorist insurgency, by any standard of history, Iraq and Afghanistan are making remarkable progress. Only 4 years ago, Saddam Hussein and the Taliban seemed like permanent, malignant fixtures in the Middle East, but today Saddam sits in prison on trial for his life, and the Taliban no longer rules the Afghani people.

Meanwhile, progress is cropping up all over the region. Again, the news media simply does not cover it, and we always hear excuses why that might be the case. But if one just looks back, they will see that Egypt has just held its freest elections in history.

I had the opportunity to be in Lebanon about a month after this, in April. But this spring, on March 14, the Lebanese people rose up in a remarkable protest that was indeed televised throughout the world. We all saw it. After 30 years of occupation, Syria was forced to withdraw. Libya has given up its weapons of mass destruction program and is now cooperating with international inspectors. Kuwait has granted full political rights to women, and democracy is slowly beginning to take root in Saudi Arabia.

All of this has been made possible by the bravery, valor, and strength of our men and women in uniform. They deserve our deepest respect, gratitude, and our unwavering commitment to the success of their mission. These young people heard the call of duty and they went to the frontlines to defend America.

Every day, at risk to their own lives, our soldiers are helping the Iraqis secure a democratic future. They are training Iraqi forces to defend and protect the Iraqi people, and real progress is being made. The Iraqis are getting stronger and they are getting more skilled at the dangerous work of facing down the terrorist enemy.

In the recent Tal Afar operation, Iraqi forces outnumbered coalition forces for the first time in a major engagement. Eleven Iraqi combat battalions were independently employed in Tal Afar, twice the number than in Fallujah operations this year. That is progress.

Currently, 116 Iraqi security forces are conducting operations, and Iraqi civilians are gaining confidence handling the matters there and in providing tips and information to help defeat the insurgents in the region.

Meanwhile, Iraq continues to build and improve its infrastructure. Again, you don't see it on the nightly news or on the 24-hour coverage. Since the liberation, coalition forces have helped complete over 4,000 reconstruction projects, including 3,400 public schools, 304 water projects, 257 fire and police stations, and 149 health facilities.

Under Saddam, Iraq's infrastructure was in shambles. Citizens were not allowed free access to the media or to communicate freely with one another. Saddam maintained his iron grip by keeping his people fearful and totally cut off from the outside world. But now that has changed. Slowly but surely, under the democratic leadership, Iraq is emerging as a modern country. Internet subscribers have risen from 5,000 to 196,000. It is opening up. Light is shining into the country and to the people of Iraq.

Now over 4.5 million Iraqis have telephone service, and that is a fourfold increase to what it was before the war. Under Saddam there was nothing such as that. There was no independent media. Today, Iraq has more than 100 newspapers and magazines. There are over 40 commercial television stations broadcasting to an eager Iraqi public. They are hearing and seeing things for the first times in their lives.

We hear the critics hurtle invective and level false charges against the administration. That is disappointing. We know some are, indeed, trying to rewrite history. We hear it on the Senate floor and we see it on the television news shows. This rewriting of history is wrong. It shows, to my mind, very little respect for the very things—the freedom, the democracy, the transparency, letting the light shine in—the sort of things our men and women are fighting for overseas.

At the same time that we hear this invective and these false charges, brave men and women—American and, as I just mentioned, Iraqi coalition forces, and Afghanis—are working hard to promote democracy and freedom in the heart of the Middle East. We salute them.

Governments that were once sworn enemies of the United States are now sworn enemies of the terrorists they once harbored and people who feared their government are now active participants in its transformation. It is huge progress.

The Defense authorization bill before us provides our soldiers with the resources and the training, the technology, equipment, and the authorities they need to win this global war on terror. From cutting-edge technologies to personnel protection systems, the authorization bill keeps our military system strong so our men and women in uniform can keep America safe.

I look forward to passage of the Defense authorization bill tomorrow. The Senate has no higher duty than to protect and defend our fellow citizens.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Missouri.

Mr. BOND. Mr. President, I ask unanimous consent to proceed as in morning business for up to 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

JULIE DAMMANN

Mr. BOND. Mr. President it is both with deep gratitude and regret that I announce to my colleagues the liberation of my Chief of Staff, Julie Dammann, from the public sector.

Julie has been with me since I came to town in 1987 and has been a perfectly reliable source of sound judgment, energy, and friendship.

Within any successful enterprise, there is the heart of the operation. In the case of Julie, she has been the heart, the legs, the mind, the backbone, and the can-do spirit of my staff.

In addition to her professional service, she always subsumed her interests to mine, to the Senate, to the public interest, and most important, to our country. For the Nation, she has been a loyal public servant of the first order and a true patriot.

For me, from the time she first marched into my office, she has been my friend. Remarkably, from that first day to the present, through 19 Congressional sessions, 3 reelections, marriage, motherhood, and her bravely defiant and prevailing fight against cancer, she has never stopped. Chemotherapy met its match. She never rested, and she never let me rest either. F. Scott Fitzgerald once said that "action is character." In that case, Julie is character. Some who have dealt with her would say "character" is entirely appropriate.

Among her many unique talents is what I have learned is referred to as multitasking. At any given time, she can be talking with me, listening to C-SPAN, Blackberrying instructions to staff, while checking out statistics of the previous Vikings game and evaluating the potential draft picks 9 months in advance. When she is talking, we all listen as fast as we can, but it can be very hard to keep up.

Our great country sends a lot of talent and integrity to Washington to staff our congressional offices and Julie is as good as I have seen.

Few understand the high-profile issues that are in the papers every day. Julie comprehends those "big" issues, but is extraordinary with the issues that are low on visibility and high on complexity. She has handled issues including farm credit, patent protection, voting reform, postal reform, highway transportation funding formulas, and California's clean air enforcement regulations, just to mention a few. Her intellectual dexterity has earned her extraordinary respect among her colleagues who have worked with her; and particularly those who have worked against her.

Julie began her work for the Senate in 1979, as an intern with Senator Rudy Boschwitz, eventually coming to Washington in 1982 as one of his legislative assistants—where one of her first major assignments was the Highway bill.

In 1987, after joining my staff as Legislative Director, she met Rolf Dammann at the National Republican Senatorial Committee who was apparently interested in more than her highly-regarded agricultural acumen. Rolfs new found interest in Budget and appropriations issues eventually paid off and they were married—after the 1988 election, of course. They both enjoy politics, history, golf, and German beer. As legendary Green Bay Packers coach once said, "On third and long, I'll take the beer drinkers to milk drinkers any day." But more on the legendary Packers later.

Rolf and Julie are the proud parents of two daughters, Monika who is now 10, and Paula 8.

In 1997, Julie became my Chief of Staff.

During consideration of the Fiscal Year 1988 Va/HUD appropriations bill, we were able to expedite completion of the bill by successfully appealing to Senators that Julie needed to leave the floor to have her second daughter who was due to arrive that very day. Betting on the Senate internally to be family-friendly was a bold strategy Julie suggested, but it worked.

I noted to the Senate that:

> I want to make a special mention of my chief of staff, Julie Dammann, whose second child was due today and she stayed with us throughout all the proceedings and wanted to see the VA-HUD bill delivered first. She has been an invaluable help in all legislative activities and helped us shepherd this through. So, a very special thank you, and best wishes to Julie, to Rolf and their other daughter, Monika. Again, I express my appreciation.

Senator MIKULSKI echoed the comments saying:

> I hope that she can go home, rest easy, put her feet up and we are looking forward to being the proud Godparents of Bond-Mikulski. Maybe we will name something after her in conference.

In any event, the bill passed, and Paula arrived.

Julie was born in Roseville, MN and graduated from the University of Minnesota while also becoming a diehard Gopher, Vikings and Twins fan. For those indiscretions, she was forced to undertake an amnesty program and extensive, but unsuccessful, Bond-office Missouri rehabilitation program.

The fact that she was able to stay in my employ after the Twins-Cardinals World Series of 1987 an epic tragedy which occurred in the horrible chamber the twins call a baseball stadium, speaks volumes to her otherwise high value.

In fact, the only successful indoctrination resulted in the staff being forced to root against the arch-rival Green Bay Packers. Even one of my leatherneck Marines on staff, a Packer fan, minds his football manners around Julie.

Rolfs father, a native of Germany, bought Julie a 2-foot-tall Packers NFL action figure for Christmas one year as a joke—it sat in the garage unopened for over a year until it was re-gifted to a friend in Germany. Julie believes that the opposition should be given little room to breath and that U.S. citizenship is a privilege which should not be abused.

But while competitive, she always respected the process and the people on both sides working diligently to pursue the agenda they were elected or hired to pursue.

Through all the pressures, high expectations, and fast city life, I think that Julie may be proudest of her terrific family and, proudest that to this day, she quite obviously remains a small town Minnesota gal—hard work, loyalty, integrity, optimism, enthusiasm, and courage, which can often be misinterpreted in Julie's case as stubbornness.

Her parents, the late Dr. Paul Hasbargen and Mrs. Ervina Hasbargen made Washington a better place by producing Julie and lending her to the Federal Government.

For me, having Julie has been one of my greatest blessings in public life. In this case, it is unlike losing one member of the family because I am simultaneously losing a colleague, a trusted advisor, and, yes, at times a mother. We know that she will be very successful in the private sector, with her intelligence, experience and drive.

Julie, with the deepest affection, we have been honored to be near you for so many years. We will miss you. We wish you and your family the very best.

Mr. President, I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. DORGAN. Mr. President, I ask unanimous consent to speak in morning business for 10 minutes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

TRADE ISSUES

Mr. DORGAN. Mr. President, I was just asked by a news reporter about the President's trip to Asia. The President is now going to Japan, Korea, and China and will be talking, presumably, about a wide range of issues, including trade. My hope certainly is that he will talk about trade.

Last month, we had a trade deficit of $66 billion—in 1 month—one-third of it from China. When the President goes to China, he could visit a lot of American jobs because the jobs that used to be here in America exist now in China—jobs that made bicycles, Radio Flyer's Little Red Wagon, Tony Lama boots. The jobs that used to make a wide range of products now exist in China. An American President—any

American President—visiting China could visit a lot of American jobs. They are not the same kind of jobs that existed in America because in America, in most cases, those jobs were performed by employees who made a decent wage and who had benefits. No longer, in most cases. Those jobs in China are being performed by people who are being paid a small amount of money and no benefits.

By the way, if they complain about the working conditions, they will be either fired or put in prison.

As the President goes to China in the shadow of last month's devastating announcement of a $66 billion monthly trade deficit, one-third of it coming from China, what should the President do? It seems to me the President, with respect to China, Japan, and Korea—all three of those countries—should begin to get tough and exhibit on the part of this country a backbone that says to countries with whom we do business, we expect and demand and deserve fair trade.

Fair trade means it is mutually beneficial. It is not fair, and it is not mutually beneficial when last month—when the last month for which we had reporting—we bought one dollar's worth of goods from China, and for every dollar's worth of goods from China we sold them 10 cents' worth. A dollar and 10 cents—that is not fair trade. With a $66 billion trade deficit, with nearly 20 percent of it coming from the country of China, we ought to expect something substantially different.

The Commerce Department announced that the trade deficit that shattered all records was in the month of September. Our country had a trade deficit of $66 billion.

This is what it looks like. Our country is choking in red ink. Behind this red are American jobs leaving for China. Companies know they can simply get rid of their American workers and save a lot of money by hiring people in Third World countries—in this case, China—and they can presumably boost their profits believing, apparently, that people are like wrenches and pliers. You just get rid of them when you are done with them and find something less expensive. Go and hire that less expensive commodity—in this case "commoditizing" labor.

This is what our trade deficit looks like with China. We have a $220 billion annual deficit with China. You can see what has happened. We are sinking into a deep abyss with respect to the trade deficit with China.

One of the reasons for the trade deficit is piracy and counterfeiting. That is just one of the reasons.

Let me describe something interesting. This happens to be the logo for the 2008 Chinese Olympics. It says: Beijing 2008. It is a great-looking logo. It actually belongs to the Chinese. The Chinese know how valuable a logo like this is because in Greece they had the logo for the Greek Olympics, and I am told they raised something over $850 million with this logo. So the Chinese know.

First of all, this logo belongs to them. Secondly, it is very valuable. And some people on the streets of China decided they were going to counterfeit this logo. They decided, We are going to pirate this logo. They started selling mugs, coffee mugs, banners, all kinds of things with the official Chinese logo on it for the 2008 Olympics.

Guess what. The Chinese Government can, in fact, control piracy and counterfeiting. They demonstrated it.

The President, if he gets out of the car and walks down the street in Beijing, will not find someone selling counterfeit goods. They are gone. They are in prison. They are off the streets. The Chinese Government shut them down, just like that, in an instant.

So when it is their money that is at stake, they understand how to stop piracy and counterfeiting. They do it.

Two-thirds of all counterfeit and pirated goods coming into this country come from China. Does China lift a finger to stop it? Not a finger; don't care; doesn't matter to them. It mattered when it was goring their ox, when they were about ready to lose money. Then it mattered.

So the question is, What do we do about this? I could put up a chart that shows Japan, a $60 billion to $70 billion a year—every single year—trade deficit.

I could put up a chart that shows Korea and talk about my favorite subject with Korea: that little old Dodge pickup truck called the Dodge Dakota. I kind of like the name because it is named after my State—Dakota. It is so wonderful they named a pickup truck after it.

At a time when 700,000 vehicles come into this country over the high seas from Korea to be sold to the American consumers, we are able to sell, if we are lucky, about 3,800 to 3,900 vehicles in Korea. So 700,000 this way, and 3,800 to 3,900 going to Korea.

Why is that? The Koreans don't want American cars in Korea, and 99 percent of the vehicles on the roads in Korea are Korean-made vehicles. That is what the Korean Government wants.

The Dodge Dakota folks thought they would have a niche in Korea selling Dodge Dakota pickup trucks. For the first 3 or 4 months they started selling some. All of a sudden, the Korean Government shut them down just like that. With Japan, with Korea, and with China, the fact is, in all of these cases, governments take action to complete trade arrangements with us that are not mutually beneficial—trade arrangements that hurt us, ship our jobs overseas and help them.

This trip by the President is very important. The question is, Will this country stand up for its own economic interests? There is no evidence in the past that it will.

My colleague, Senator GRAHAM, and I have offered several pieces of legislation on these very issues. But there is a giant yawn on the part of the U.S. Congress, not very interested; giant yawn at the White House, not very interested.

Why is that? It is because most of these policies—I am talking about policies that affect the jobs of our citizens, policies that affect this country's economy, and whether we grow or not, whether people have a good job that pays well with benefits—are viewed through the lens of soft-headed foreign policy and not hard-nosed economic policy.

That is the problem. You have to run all these things by the U.S. State Department to see if we could begin to be a little bit tough and take some action, maybe, with respect to some unfair trade practices of the Chinese. Oh, no. We are worried about offending the Chinese. Don't do it.

They are engaged in managed trade and hard-nosed economic issues, and we are engaged in soft-headed foreign policy.

Mr. GRAHAM. Will the Senator yield for a question?

Mr. DORGAN. I would be happy to yield.

Mr. GRAHAM. I don't know if anyone has done an analysis of our trade deficit. What percentage does the Senator believe is directly attributable to unfair trade practices on behalf of the Chinese? It is one thing to be outworked. If people work harder than you do and are smarter than you are, shame on you. But I believe, as the Senator does, that a lot of the market share that we are losing in the trade deficit explosion has to do with Chinese Government policy when it comes to trade behavior rather than just simply outworking the American worker.

What is the Senator's view on that?

Mr. DORGAN. I don't have a numeric answer to that. But I think it is self-evident that most of the trade deficit we have with China has to do not with fair competition but a manipulation of currency, a refusal to deal with piracy and counterfeiting, a refusal to open their markets. I think that is what it is about.

To give you a point of reference, the U.S Trade Ambassador's Office, on April 29 of this year, issued its report. This is our official Government report. It concludes that Chinese piracy was at epidemic levels and that the Chinese had broken promises.

Despite the fact the Chinese continued to break promises, piracy of our intellectual properties was at epidemic levels, and two-thirds of the pirated products coming into this country are coming from China, despite that, our Trade Ambassador says it is not ready to file a WTO case against China. Why? Because, instead, we are going to put China on a watch list. Boy, that will teach them. You put somebody on a watch list, and that will strike fear in the hearts of almost anybody. A priority watch list.

Here are the deficits with China. Going back to 1996, $39 billion. Go back another 7 years, and we had a balanced trade with China. But it is sinking deeper and deeper into this abyss. Now, all of a sudden we are going to put them on a priority watch list.

On behalf of farmers in North Dakota. I can say I know that inside the administration, in the Trade Policy Review Group, they made a recommendation that we should take action against China with respect to unfair trade dealing with wheat. But the State Department said they thought it would be too much "in your face." So they wouldn't do it. They ran it through the State Department. Would this offend somebody if we decided they ought to play fair?

Yes. It might offend them. Let us not do that.

I have said many times there is not anyone in this Chamber whose job is jeopardized by this unfair trade with these three Asian countries.

I could also describe it with Canada, Mexico, and the European Union as well. But because the President is on a trip to Asia. I am talking about the problems we confront there. It is safe to say there is no one in this Chamber serving in the Senate who is going to lose his or her job due to a bad trade agreement, or due to us not having the backbone to demand of other countries that they play fair. Nobody here is going to lose their job. We will just sit around, thumb our suspenders, toot our horn, and put on our blue suits every morning. But nobody's job is in jeopardy. It is just a lot of other people's jobs that are in jeopardy.

Do you remember that little Etch A Sketch? Everybody played with Etch A Sketch. There were two knobs on it. You had some sand in there, and you tried to draw a picture on your Etch A Sketch. Gone—gone to China. They are all gone.

I could go through a list of 100 companies. In fact, I should bring over just the first 6 months of this year, the Department of Labor's report which is 33 pages, on both sides, single-spaced, of the names of companies that have sourced jobs off our shores. It is 33 pages, single-spaced, the names of companies—not people, companies.

It is unbelievable what is happening. They are selling this country piece by piece. When today we import $2 billion more than we export, the financial transaction is we put in the hands of foreigners the currency or securities by which they own part of America. Each day they buy $2 billion more of this country. It doesn't seem to mean a whit to anybody.

Last week was the announcement of the $66 billion monthly trade deficit. Did you hear any outcry from this Chamber? I came over and gave a little speech—but nothing. It is almost like everybody pulls their sombrero down and takes a big siesta and sleeps forever on this subject.

Then what is going to happen someday—because I think every economist understands this cannot stand. You can't keep doing this. You add this $700 billion trade deficit to a $550 billion budget debt increase this year—yes, this year—that is $1.2 trillion that we sunk deeper in debt in this country. We cannot keep doing that. Every economist understands that. But nobody is saying much because we are all for the jingoistic "free trade."

Give folks some tambourines and robes, put them on the street corner, and let them bang around out there chanting "free trade." But when the American people have had enough of it, they will say stop already. We fought for 100 years for good jobs with good benefits and the right to organize; now you will pole-vault over that and ship the jobs elsewhere and go visit them as you talk about trade? At some point when this collapses—and it will; this cannot continue—when it collapses of its weight, we are all going to stand around, thumbing our pockets and saying: We knew it could not last.

Really? Read the Washington Post. By the way, if you do read the Washington Post, you will not read both sides of this debate because the Washington Post will run only one side. I have actually gone back for 6 years. We did a column appraisal of what the Washington Post runs with respect to trade. If you are for free trade, which is jingoistic nonsense about shipping America's jobs overseas and running our trade policy through the eye of the needle called foreign policy, if you are for that, God bless you, send some op-ed pieces our way, we would love to run them. If you are on the other side, if you believe in fair trade and that free trade and the monumental deficits are hurting this country and shipping jobs overseas, try to get an op-ed piece published in the Washington Post. Good luck. Take some medicine, it will take some while. It just will not happen. The whole town is like that on this issue.

I understand, when we have that much invested in failure, you certainly want to defend it. But there will come a time, in my judgment, when everyone has to understand this is not representing the long-term economic interests of our country.

Producing products for 30 cents an hour with kids working 7 days a week so you can ship them to a big box retailer in this country and sell them for pennies might be good, in the short term, for corporate profits, but it is not good for the long-term economic interests of this country. One day enough Members will wake up. It has not happened yet. It did not happen on the Central America Free Trade Agreement which we had in this Senate, another chapter in the book of failures. It did not happen. Enough said.

First, let's agree that we will bind our hands and not allow any amendments. So agree not to be original and let's not think about this stuff. And second, when we have the vote, we will also agree to vote for a treaty—and it is a treaty but was called an agreement so it does not need 67 votes—we will agree to something that was negotiated behind closed doors somewhere else. And we will continue to open the new testament of trade dogma believing that somehow it will have a happy ending. It will not.

President Bush is on his way to Asia. I want him to succeed. But I doubt whether he will raise these hard-nosed, tough trade issues in a significant way that tells these countries, "Enough is enough." I want our country to stand up for its economic interests. Its economic interest is rooted, yes, in some expanded trade. No question about that. But it is rooted especially in the demand to require full trade.

If I might make one additional observation, the same companies shipping companies overseas all in the name of profit because they do not say the Pledge of Allegiance in those boardrooms anymore, those same companies do not want to pay taxes in most cases. Here is an interesting statistic: In the Cayman Islands, there is a five-story white building. That five-story white building is home to 12,748 corporations. They do not all live there. No, no, they get their mail there. It is a mail box. The mail box is for the purpose of being able to say they belong to the Grand Cayman Islands and they can avoid paying taxes in the United States.

Isn't that interesting, and also disgusting, that 12,000 companies are claiming one white five-story building in the Cayman Islands as their home?

Finally, as part of all of this, this Congress—yes, this Congress—decided to give a special gift to those that have exported jobs. The gift was to say that in this year, if you have moved jobs overseas, if you have created foreign subsidiaries and you are doing business overseas, we will allow you to repatriate your foreign earnings on which you expected someday to pay a tax in the United States, we will allow you to repatriate those earnings, and you get a special income tax rate that no other American gets. It is a 5.25 rate. Does Mrs. Smith pay that? Mr. Jones? Mr. Johnson? The people of North Dakota pay that? The people of Tennessee? No, no, only one group. Just the group that moved their jobs overseas, made a lot of money overseas, who expect to have to pay income taxes on it. When they bring it back to this country, they are told. Bring it back, we will give you a sweetheart deal, 5.25 percent.

That was called a JOBS Act. In fact, we now see the result. Companies are bringing somewhere around $300 billion back, and the very companies that are repatriating these earnings and paying 5.25 percent income taxes—a fraction of what the lowest income American is paying—they are cutting jobs and moving jobs overseas.

My colleague who sat in this desk, the amendment that would have stripped that little sweetheart deal for these companies. I supported him, spoke for him, and he lost. Why? Because as in the rest of trade, there are sufficient numbers who will stand up in this Senate and say: Sign me up. Let me give a special deal to those companies that not only do business in that five-story white building in the Caymans but also give them an opportunity to pay 5.25 percent income tax when they repatriate the money to the United States.

I hope one day all of those workers in America who had good jobs, who were proud of them, and who were taking care of their families someday march on this Capitol and ask the question: Where is my job? What did you do to my job? How much did you reward the people that took my job and moved it overseas? It would be an interesting question and one that ought to be answered by people in this Senate, by people in the White House, and people in the House as well.

I yield the floor and suggest the absence of a quorum.

Mr. NELSON of Florida. Mr. President, I ask to be recognized.

Mr. LEVIN. Would the Senator from Florida ask that he be allowed to proceed as in morning business?

Mr. NELSON of Florida. Mr. President, I ask unanimous consent I be allowed to proceed as in morning business.

The PRESIDING OFFICER (Mr. DEMINT). Without objection, it is so ordered.

Mr. LEVIN. I thank the Senator.

MEDICARE PRESCRIPTION DRUG BENEFIT

Mr. NELSON of Florida. I thank the Senator and I thank the Senators from South Carolina and Michigan for giving me the privilege to share with the Senate what I have experienced since I have returned from a meeting in West Palm Beach with senior citizens concerned about the implementation of the prescription drug benefit for Medicare which starts tomorrow.

This prescription drug benefit, which many in this Senate opposed because it was faulty, it was a meager benefit, and it broke the principles of free enterprise economics by not allowing the Federal Government, through Medicare, to negotiate the prices of prescription drugs downward by bulk purchases, as has been the case in Government for the past two decades through the Veterans' Administration, as well as the Department of Defense. Veterans today pay $7 per month for their prescription drugs. Part of that is subsidized. But a large part of that is the fact that the Veterans' Administration buys prescription drugs in huge quantities and therefore negotiates a lower price.

Not so with the prescription drug benefit passed for Medicare in this Senate, of which almost half—maybe not quite half of the Senate, including this Senate—voted against. But, nevertheless, it is the law. It is being implemented tomorrow.

The current law says the senior citizens of this country have until next May in order to make a determination which one of these plans—often they may be through an HMO or they may be through some organization created for the dispensing of the drugs—but which one of these plans they will choose, or choose nothing, especially if their former employer, now that they are retired, is providing under their retirement a prescription drug plan.

It sounds, on the surface, that a decision could be made. But the fact is a senior citizen in West Palm Beach this morning told me there were 103 plans that senior citizens were trying to choose between. There is confusion. There is concern. There is fear that if they do not choose the right plan, then they are not going to be able to change for a whole year.

There is all of this confusion and additional concerns. Maybe the senior citizen lives in a small town that has only one or two pharmacies, and naturally the senior citizen wants to continue to get their prescription drugs from that pharmacy. But what happens if the plan they choose does not use that pharmacy? Again, concern for instability, concern for not being able to get the kind of drugs they want and need.

Another concern voiced to me this morning in that meeting in West Palm Beach was, What if I choose a plan that, in fact, provides the drugs my doctor prescribes for me now, but what happens if the doctor changes the prescription to a drug that is not covered by that particular plan? They are stuck, and they are stuck for a year, until at the end of that year when they can change plans.

These are the questions senior citizens are asking all around this Nation. And they are asking these questions in my State of Florida.

What should we do? A very practical approach is to extend the deadline so senior citizens will have more time to make up their mind, to evaluate the plans, to be counseled in order to get the right plan. Remember, with the advances of modern medicine through the miracles of prescription drugs, so often the quality of life is dependent upon the right prescription and that prescription being available to the person and especially so to the senior citizen. It is my hope the Senate will recognize we need to buy some time for our seniors.

I have filed a bill that extends the deadline from May until December. That legislation would also allow, in the course of that year, up to the end of 2006, if the senior citizen makes a mistake and chooses the wrong plan and then realizes their mistake, they will be able to change their plan. Furthermore, for those with the great uncertainty of whether they are going to stick with their former employer-based prescription drug plan, that if they choose and make a mistake and want to go back to their employer, they have that grace period of 1 year up to the end of December of next year in order to be able to go back to their employer-based plan.

Is this too much to ask for our seniors? Out of all of the confusion, out of all the concern and what is now turning into fright for our seniors, this is, after all, what was enacted, and was supposed to help senior citizens.

The Department of HHS, so you can clarify this, Mr. Senior Citizen, says you can go on our Web site. Senators, I bet you all have a number of senior citizens who are not accustomed to using the computer and going on the Web. We need to give them some relief.

Now, the bill I filed, I am looking for the legislative vehicle to attach it to as an amendment.

I wanted the Senate to know, directly expressed to me in this meeting this morning, the great confusion and consternation that is being felt out there among many of those in what Tom Brokaw labeled the "Greatest Generation," those who have helped us to enjoy the freedoms we have. I think for us to do less than to help them out would certainly be less than the honor we should pay to our seniors.

At an appropriate time, with an appropriate legislative vehicle, I will offer this bill as an amendment.

In the meantime, I thank the leadership of our Senate Armed Services Committee for the great job they have all done in handling this legislation. And I thank them for the privilege of serving on that committee. It has been a great blessing to me to work with people of the caliber we have on our Senate Armed Services Committee.

Mr. President, I yield the floor.

RESERVATION OF LEADER TIME

The PRESIDING OFFICER. Under the previous order, the leadership time is reserved.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

The PRESIDING OFFICER. Under the previous order, the Senate will resume consideration of S. 1042, which the clerk will report.

The legislative clerk read as follows:

A bill (S. 1042) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Graham amendment No. 2515, relating to the review of the status of detainees of the United States Government.

Warner/Frist amendment No. 2518, to clarify and recommend changes to the policy of the United States on Iraq and to require reports on certain matters relating to Iraq.

Levin amendment No. 2519, to clarify and recommend changes to the policy of the United States on Iraq and to require reports on certain matters relating to Iraq.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, before the Senator from Florida leaves the floor, I wish to do two things. First, I want to thank him for the energy and the perception he has shown in pointing out some of the problems with this prescription drug benefit which was voted on.

He has a lot of seniors in his State, and he is uniquely aware of, sensitive to, and determined to see if we cannot make some changes in this process which will make what we have done a lot more friendly to seniors. I cannot think of anybody in this body who knows more about this subject or is more determined to make the changes necessary for the benefit of our seniors.

Because of the confusion out there, the uncertainty is rife. We do not have quite as many seniors in our State as they do in Florida, but our seniors are telling me pretty generally what the seniors down in Florida are saying to the Senator from Florida. I thank him and commend him for the leadership he is taking and for the proposed change he is proposing.

Secondly, I thank him for his service on the Armed Services Committee. We have a wonderful committee. It is a bipartisan committee. The Senator from Florida, Mr. NELSON, makes an important contribution to it. He is there all the time with very perceptive questions that are intended to support the men and women in our military. I thank him for his participation.

Mr. President, the Senator from New Mexico, I believe, now is ready to offer an amendment which is referred to in the unanimous consent agreement. I will yield to him 15 minutes, should he so need 15 minutes, on our side of the debate for that purpose.

The PRESIDING OFFICER. The Senator from New Mexico is recognized.

Mr. BINGAMAN. Mr. President, I thank my colleague from Michigan for yielding.

AMENDMENT NO. 2523 TO AMENDMENT NO. 2515

Mr. President, I send an amendment to the desk and I ask for its consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

The Senator from New Mexico [Mr. BINGAMAN] proposes an amendment numbered 2523 to amendment No. 2515.

Mr. BINGAMAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To improve the amendment)

Strike subsection (d) and insert the following:

(d) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to consider an application for writ of habeas corpus filed by or on behalf of an alien outside the United States (as that term is defined in section 101(a)(38) of the Immigration and Naturalization Act (8 U.S.C. 1101(a)(38))—

(A) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(B) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specific by the Department of Defense.

(2) EXCEPTIONS.—This subsection does not apply to the following:

(A) An individual charged with an offense before a military commission.

(B) An individual who is not designated as an enemy combatant following a combatant status review, but who continues to be held by the United States Government.

(3) VENUE.—Review under paragraph (1) shall commence in the United States Court of Appeals for the District of Columbia Circuit.

(4) CLAIMS REVIEWABLE.—The United States Court of Appeals for the District of Columbia Circuit may not, in a review under paragraph (1) with respect to an alien, consider claims based on living conditions, but may only hear claims regarding—

(A) whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the procedures and standards specified by the Secretary of Defense for Combatant Status Review Tribunals;

(B) whether such status determination was supported by sufficient evidence and reached in accordance with due process of law, provided that statements obtained through undue coercion, torture, or cruel or inhuman treatment may not be used as a basis for the determination; and

(C) the lawfulness of the detention of such alien.

(5) TERMINATION ON RELEASE FROM CUSTODY.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this subsection shall cease upon the release of such alien from the custody or control of the United States.

(6) EFFECTIVE DATE.—This subsection shall apply to any application or other action that is pending on or after the date of the enactment of this Act.

Mr. BINGAMAN. Mr. President, before describing the amendment, let me talk briefly in opposition to Senator GRAHAM's amendment, the underlying amendment that was adopted by the Senate on Thursday, and address some of the mistaken claims that were made last week during the debate on that amendment.

There were a lot of statements made last week. It is important to be clear about what the Graham amendment does. The amendment, as drafted, as voted on last week in the Senate, would overrule a Supreme Court case issued earlier this year that recognized the longstanding right to file a petition for habeas corpus. This right is absolutely fundamental. It is the right of an individual who is being detained by the executive branch of our Government to question the legality of that person's detention.

Contrary to what Senator GRAHAM has said, I do not believe we are giving prisoners new rights in the amendment that I just sent to the desk or in the underlying bill. I believe we need to keep in place the rights that have already existed, that currently exist, and that the Supreme Court has recognized. We need to prevent the courts from being stripped of the authority they have and have always had.

Let me take a moment to address the notion that we should not care about these individuals because these individuals are terrorists. Frankly, I have no doubt that some of the individuals being detained at Guantanamo are a threat, and it is for this reason I have never advocated that we release these prisoners. But we need to recognize that not all of these prisoners are necessarily terrorists in the sense that we are debating that here.

There is a January 2005 Wall Street Journal article stating:

> American commanders acknowledge that many of the prisoners shouldn't have been locked up here in the first place because they weren't dangerous and didn't know anything of value.

The article also quoted BG Jay Hood, the commander at Guantanamo, saying:

> Sometimes, we just didn't get the right folks.

The deputy commander, GEN Martin Lucenti, was also quoted as saying:

> Most of these guys weren't fighting. They were running.

My point is simple. It is reasonable to insist that when the Government deprives a person of his or her liberty—and in this case for an indefinite period of time—the individual have a meaningful opportunity to challenge the legality of their detention and challenge whether they are being wrongfully detained. This is not a radical proposition I have enunciated. It is enshrined in our Constitution. It was recently reaffirmed by our own Supreme Court in the Rasul decision.

That brings me to the second point. Last week, Senator KYL compared challenges by Guantanamo prisoners to a frivolous prisoner lawsuit filed by an inmate in Arizona who was unhappy with the type of peanut butter he was being served at his meals.

Let's be clear. We are not talking about depriving a person of their right to eat a certain type of peanut butter. We are talking about individuals challenging their indefinite imprisonment. If a claim is filed that is frivolous, a court can simply refuse to hear the claim.

We are also not talking about suits against U.S. soldiers. There were statements made in last week's debate about "we don't want these prisoners going and suing our soldiers." There is nothing in what I am proposing or what is currently in place that permits that. We are talking about suits challenging the legality of a person's imprisonment by our own Government. The right to challenge the legality of one's detention by the Government is one of the most fundamental human rights, the right to be free from being unlawfully detained by the Government.

It was also argued, last week, that by refusing to overrule the Rasul decision, which was issued by our Nation's highest Court this last year, we are giving Guantanamo prisoners access to rights that even our own soldiers do not enjoy.

Last week, Senator GRAHAM asserted:

> Here is the one thing I can tell you for sure as a military lawyer. A POW or an enemy combatant facing law of armed conflict charges has not been given the right of habeas corpus for 200 years because our own people in our own military facing court-martials, who could be sentenced to death, do not have the right of habeas corpus. It is about military law. I am not changing anything. I am getting us back to what we have done for 200 years.

Frankly, that statement is completely an incorrect representation of what the Graham amendment does. If a U.S. soldier is detained for committing a crime, then that soldier is charged, provided an attorney, and tried pursuant to the Uniform Code of Military Justice. Military personnel can challenge a court-martial conviction by filing a writ of habeas corpus in a U.S. district court pursuant to 28 USC 2241. Cases such as Dodson v. Zeliz, which is a Tenth Circuit decision in 1990, demonstrate that they are provided such habeas corpus relief or the opportunity to file for habeas corpus.

One could also look at CPT Dwight Sullivan's article, "The Last Line of Defense: Federal Habeas Review of Military Death Penalty Cases," in the Military Law Review, from 1994, to see that U.S. servicemen are also allowed to seek habeas review in death penalty cases.

Mr. President, I ask unanimous consent that a letter sent to me by the chief defense counsel for the Office of Military Commissions, COL Dwight Sullivan, that flushes out these points, be printed in the RECORD at the conclusion of my remarks.

The PRESIDING OFFICER. Without objection, it is so ordered.

(See exhibit 1.)

Mr. BINGAMAN. With regard to these Guantanamo prisoners, the administration has refused to apply the laws of war, and only a handful of the 500 prisoners held at Guantanamo have been charged. None have been tried as yet, and it is unreasonable to say that these prisoners are being granted more rights than our military personnel.

I would also like to take a moment to read to you the names of some of the many people who oppose the Graham amendment: John Hudson, a former Judge Advocate General of the Navy, has written to me indicating his strong opposition; John Gibbons, a former Nixon appointee who served on the Third Circuit Court of Appeals; Eugene Fidell, the president of the National Institute of Military Justice; Dwight Sullivan, the chief defense counsel for the Office of Military Commissions. And I have a long list of other distinguished former officials of our military. They have joined, and I will enter letters they have given to me as part of the RECORD in a moment.

These leaders have dedicated their lives to fighting for and preserving our freedom, democracy, human rights, and respect for the rule of law. They oppose the Graham amendment because they see it as contrary to the values and rights that the men and women of our armed services have fought for.

I have no doubt that some of my colleagues are concerned that if they vote against the Graham amendment, they would face 30-second attack ads accusing them of being soft on terrorism. But this is not about our resolve to defeat terrorists. This is about our resolve to maintain in place the legal protections on which our country was established. These are hard decisions. They are tough votes. This is the Senate. We have taken an obligation to uphold the Constitution of the United States, even in times of war.

The amendment I offer would maintain the right to seek a meaningful judicial review. Specifically, the amendment would allow individuals—any individual—to seek habeas review but would provide that the U.S. Court of Appeals for the District of Columbia Circuit would have exclusive jurisdiction to hear these claims. It would also limit the ability of a court to consider claims regarding one's living conditions, such as whether they were given peanut butter of a particular type or access to particular DVDs or whatever other frivolous claim might be envisioned. It would, however, allow a person to seek review regarding whether he or she is being unlawfully imprisoned. If a court determines that the detention is lawful, the court can simply deny the petitioner's application.

There are good provisions in the Graham amendment, but there are also some extremely problematic sections. Both the chairman and ranking member of the Judiciary Committee argued on the Senate floor, last Thursday, that this is an issue that needs careful consideration before the Senate Judiciary Committee. Unfortunately, it appears this proposal may have the votes to move forward.

The amendment I am offering will keep in place the necessary protections in our Constitution and in our common law, and it will also take the necessary steps to ensure there is a proper and expedited procedure for these proceedings.

Mr. President, let me, briefly, before I yield the floor, call my colleagues' attention to some of these letters that I think are extremely important and make the case extremely well. I have previously alluded to the letter I received from COL Dwight Sullivan, U.S. Marine Corps Reserve, Chief Defense Counsel for the Office of Military Commissions. This is the office that was established in the Department of Defense to defend people who are charged by military commissions.

Colonel Sullivan goes step by step through the various statements that have been made in support of the Graham amendment and refutes those contentions at every step.

I also have a letter from the National Institute of Military Justice, written by Eugene Fidell. Let me read it to my colleagues:

> On behalf of the National Institute of Military Justice (and as a retired Lieutenant Commander in the U.S. Coast Guard Reserve), I am writing to express NIMJ's strong opposition to Senator Graham's amendment to the Defense Authorization Bill, withdrawing federal court authority to grant writs of habeas corpus on the petition of non-citizens in military custody as enemy combatants.
>
> The proposed amendment would sanction unreviewable Executive detention that cannot be harmonized with our Nation's longstanding adherence to the rule of law. Military detention without due process is antithetical to our fundamental values, values that our men and women in uniform put their lives on the line to protect.
>
> The practical effect of the amendment would be to validate actions by non-democratic countries around the world. Some of these countries may try to jail our citizens (including but not limited to GIs) on trumped-up grounds and then deny them access to judicial forums in which they might at least try to gain their freedom or fairer treatment. We should not take a step we would be unwilling to see others apply to our fellow citizens. We disable ourselves from objecting to flagrant lawlessness elsewhere when we shut the doors to our courts, which are the jewel in the crown of our democracy.
>
> I will only add that oftentimes when NIMJ considers taking a position on a matter of public policy our directors and advisors have a range of views. That is one of our strengths

as an organization. On this one, we are emphatically of one mind.

I also have letters from the Brennan Center for Justice in opposition to the Graham amendment, from the Franklin Pierce Law Center in opposition to the amendment, and a letter signed by nine former generals and admirals in the military indicating their opposition, also signed by Scott Silliman, former U.S. Air Force Judge Advocate, indicating their strong opposition to the Graham amendment unless it is changed as my amendment would change it.

I ask unanimous consent to print those letters in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

BRENNAN CENTER FOR JUSTICE
AT NYU SCHOOL OF LAW,
New York, NY, November 9, 2005.

Re: Graham Jurisdiction-Stripping Amendment to Defense Appropriations Bill

DEAR SENATOR: The Brennan Center for Justice at New York University School of Law strongly urges you to oppose an amendment, sponsored by Senator Lindsey Graham, expected to be offered as early as today, that would strip all courts, including the United States Supreme Court, of jurisdiction to consider habeas corpus petitions or "any other action challenging any aspect of the detention" of foreign detainees held at Guantánamo Bay. We urge you to reject the Graham Amendment because it would violate key constitutional principles and would inflict great damage on both the reputation of the United States and our ability to persuade other countries to lend critical cooperation in counter-terrorism efforts.

The Brennan Center, founded in 1995, unites thinkers and advocates in pursuit of a vision of inclusive, effective, and just democracy. Our Liberty & National Security Project, initiated in July 2004, promotes thoughtful and informed debate about how to maximize security and safeguard civil liberties. It has published on the problem of classified evidence in terrorism trials and litigates on matters related to the Graham Amendment. Our scholarship and litigation experience suggest that the amendment neither reflects our long-standing constitutional traditions nor furthers our present counter-terrorism efforts.

In many ways, the war on terror is new. But it cannot justify shredding our oldest constitutional principles. Constant revelations of how the United States is treating detainees at Guantánamo and elsewhere have damaged our image around the world. It would be ironic indeed if the Congress's response were not to address the underlying problems but instead to make it more difficult for rights to be vindicated and facts to be learned.

In June 2004, the Supreme Court squarely rejected the federal government's position that Guantánamo Bay is a legal no-man's land, outside the reach of American courts. The rule of law now applies to Guantánamo Bay, and the federal courts have the authority to review government actions there to determine whether they are unconstitutional or otherwise illegal. Just last Friday, the Senate overwhelming and courageously voted to affirm the rule of law by bolstering the prohibition against government torture and cruel, inhuman, and degrading treatment. Yet the Graham Amendment would suspend the rule of law, including the anti-torture rule, for those detained at Guantánamo Bay. Even more troublingly, the amendment may extend to any and all aliens who lawfully reside in the United States.

Nothing is more emblematic of the rule of law than judicial review and the availability of habeas corpus in the courts. And nothing is a greater marker of the absence of the rule of law than the lack of judicial review of government action, especially the legality of executive detention. Stripping the courts of their historic habeas jurisdiction would violate separation-of-powers principles and undermine the checks-and-balances on which our Constitution rests.

This suspension of the rule of law has clear, long-term costs for our nation's efforts to combat terrorists. The Graham Amendment would terminate ongoing litigation on behalf of detainees at Guantánamo who have never had a fair hearing to prove their innocence. International condemnation of the perceived "legal black hole" of Guantánamo has been persistent and wide-ranging. Our allies have expressed broad concerns about the legality and morality of placing individuals beyond the rule of law. The Graham Amendment purports to achieve a short-term goal of minimizing government litigation but, rather, would only create a wave of new litigation. It would do this at the cost of tremendous damage to .the United States' reputation overseas by sending the message that we cannot defend the decision to detain those at Guantánamo in a court of law.

The Brennan Center strongly urges you to reject the Graham Amendment to the Defense Department authorization bill. Please do not hesitate to call us at 212-992-8632 if you have any questions.

Sincerely,

MICHAEL WALDMAN,
Executive Director.
AZIZ HUQ,
Associate Counsel.

FRANKLIN PIERCE LAW CENTER,
Concord, NH, November 9, 2005.

Senator ARLEN SPECTER,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR SPECTER: As Dean of a law school and as former Judge Advocate General of the Navy, I am writing in strong opposition to the amendment which I understand Senator Graham intends to offer to S. 1042, the Defense Department Authorization Bill. Among other things, the proposed Graham Amendment would strip U.S. courts of jurisdiction to hear habeas corpus petitions from aliens who are detained by the United States or any other action which would challenge any aspect of their detention.

This amendment, however well-intentioned, is the wrong law at the wrong time. It appears aimed at fixing a problem that doesn't exist, and creates a raft of new problems of its own.

For generations, the United States has stood firm for the rule of law. It is not the rule of law if you apply it when it is convenient and toss it over the side when it is not. The Great Writ of Habeas Corpus has been at the heart of U.S. law since the first drafts of the Constitution. Indeed, it has been part of Western culture for 1000 years, since the Magna Carta. Creating broad exceptions that would categorically deny the writ to thousands of those subject to the full detention power of the U.S. Government should be done, if at all, only with the utmost care, serious debate and consideration, and attention to the practical effects of such a limit. The restriction on habeas contemplated by the Graham Amendment would be a momentous change. It is certainly not a change in the landscape if U.S. jurisprudence we should tack on to the Defense Department Authorization Bill at the last minute.

In any case, the practical effects of such a bill would be sweeping and negative. America's great strength isn't our economy or natural resources or the essentially island nature of our geography. It is our mission, and what we stand for. That's why other nations look to us for leadership and follow our lead. Every step we take that dims that bright, shining light undermines our role as a world leader. As we limit the rights of human beings, even those of the enemy, we become more like the enemy. That makes us weaker and imperils our valiant troops. I am proud to be an American. This Amendment, well intentioned as it may be, will diminish us.

More immediately, the Graham Amendment would be viewed by our allies and enemies alike as just another example of the United States taking a step down the slippery slope from the high road to the low road. It would increase the likelihood that our own troops, who daily face the risk of capture by any number of our enemies abroad, will be subject to ad hoc justice at the hands of those who would seize upon any excuse. I believe it is the duty of those who would put our troops in harm's way to deny our enemies any such an excuse.

I urge you to insist at the least upon full and forthright consideration of this Amendment by the Judiciary Committee. And I urge you to advocate vigorously for its defeat.

Sincerely,

JOHN D. HUTSON,
Dean and President.

NOVEMBER 14, 2005.

Honorable SENATOR,
U.S. Senate,
Washington, DC.

DEAR SENATOR: We understand that the Senate may revisit the issue of jurisdiction over habeas corpus petitions brought by aliens who are detained by the United States at Guantánamo Bay. We write to express our opposition to the court-stripping provisions of Amendment 2516 to S. 1042, the Defense Department Authorization Bill. We urge you to reject any proposal that would diminish the power of another branch of government and effectively suspend habeas corpus without thoughtful deliberation.

Amendment 2516 is the wrong law at the wrong time. It appears aimed at fixing a problem that doesn't exist, and creates a raft of new problems of its own.

For generations, the United States has stood firm for the rule of law. It is not the rule of law if you only apply it when it is convenient and toss it over the side when it is not. The Great Writ of Habeas Corpus has been at the heart of U.S. law since the first drafts of the Constitution. Indeed, it has been part of Western culture for 1000 years, since the Magna Carta. Creating broad exceptions that would categorically deny the writ to thousands of those subject to the full detention power of the U.S. Government should be done, if at all, only with the utmost care, serious debate and consideration, and attention to the practical effects of such a limit. The restriction on habeas contemplated by Amendment 2516 would be a momentous change. It is certainly not a change in the landscape of U.S. jurisprudence we should tack on to the Defense Department Authorization Bill at the last minute.

In any case, the practical effects of Amendment 2516 would be sweeping and negative. America's great strength isn't our economy or natural resources or the essentially island nature of our geography. It is our mission, and what we stand for. That's why other nations look to us for leadership and follow our lead. Every step we take that dims that bright, shining light diminishes our role as a world leader. As we limit the rights of human beings, even those of the enemy, we become more like the enemy. That makes us weaker and imperils our valiant troops. We are proud to be Americans. This Amendment, well intentioned as it may be, will diminish us.

More immediately, Amendment 2516 would be viewed by our allies and enemies alike as just another example of the United States taking a step down the slippery slope from the high road to the low road. It would increase the likelihood that our own troops—who daily face the risk of capture by any number of our enemies abroad—will be subject to ad hoc justice at best at the hands of those who would seize upon any excuse. We believe it is the duty of those who would put our troops in harm's way to deny our enemies any such an excuse.

We urge you to insist at the least upon full and forthright consideration of the issues by the Judiciary Committee before allowing Amendment 2516 to become law and to exercise your role in oversight of the military. We urge you to advocate vigorously for full and fair judicial review.

Sincerely,

Lieutenant General Robert G. Gard, Jr., USA (Ret.); Lieutenant General Charles Otstott, USA (Ret.); Major General Fred E. Haynes, USMC (Ret.); Rear Admiral John D. Hutson, USN (Ret.); Brigadier General David M. Brahms, USMC (Ret.); Brigadier General James Cullen, USA (Ret.); Brigadier General Evelyn P. Foote, USA (Ret.); Brigadier General David R. Irvine, USA (Ret.); Scott L. Silliman, former United States Air Force Judge Advocate.

Lt. General Robert G. Gard, Jr., USA (Ret.)

General Gard is a retired Lieutenant General who served in the United States Army; his military assignments included combat service in Korea and Vietnam. He is currently a consultant on international security and president emeritus of the Monterey Institute for International Studies.

Lt. General Charles Otstott, USA (Ret.)

General Otstott served 32 years in the Army. As an Infantryman, he commanded at every echelon including command of the 25th Infantry Division (Light) from 1988–1990. His service included two combat tours in Vietnam. He completed his service in uniform as Deputy Chairman, NATO Military Committee, 1990–1992.

Major General Fred Haynes, USMC (Ret.)

General Haynes is a veteran of World War II, Korea and Vietnam. He was an infantry officer for 35 years and commanded the second Marine division and the third Marine division. He was also the senior member of the U.S. military at the U.N. military armistice at Pat. Mun Jom, Korea.

Rear Admiral John D. Hutson, USN (Ret.)

Admiral John D. Hutson served as the Navy's Judge Advocate General from 1997 to 2000. Admiral Hutson now serves as President and Dean of the Franklin Pierce Law Center in Concord, New Hampshire.

Brigadier General David M. Brahms, USMC (Ret.)

General Brahms served in the Marine Corps from 1963–1988. He served as the Marine Corps' senior legal adviser from 1983 until his retirement in 1988. General Brahms currently practices law in Carlsbad, California and sits on the board of directors of the Judge Advocates Association.

Brigadier General James Cullen, USA (Ret.)

General Cullen is a retired Brigadier General in the United States Army Reserve Judge Advocate General's Corps and last served as the Chief Judge (IMA) of the U.S. Army Court of Criminal Appeals. He currently practices law in New York City.

Brigadier General Evelyn P. Foote, USA (Ret.)

General Foote was Commanding General of Fort Belvoir in 1989. She was recalled to active duty in 1996 to serve as Vice Chair of the Secretary of the Army's Senior Review Panel on Sexual Harassment. She is President of the Alliance for National Defense, a non-profit organization.

Brigadier General David R. Irvine, USA (Ret.)

General Irvine is a retired Army Reserve strategic intelligence officer and taught prisoner interrogation and military law for 18 years with the Sixth Army Intelligence School. He last served as Deputy Commander for the 96th Regional Readiness Command, and currently practices law in Salt Lake City, Utah.

Scott L. Silliman, former United States Air Force Judge Advocate

Mr. Silliman served as a United States Air Force Judge Advocate for 25 years, from 1968–1993, before joining the faculty of Duke University School of Law as a professor of the Practice of Law. He is also the Executive Director of the Center on Law, Ethics and National Security at Duke University School of Law.

EXHIBIT NO. 1

DEPARTMENT OF DEFENSE, OFFICE OF THE CHIEF DEFENSE COUNSEL,
OFFICE OF MILITARY COMMISSIONS
Washington, DC, November 14, 2005.

Re Amendment No. 2515 of National Defense Authorization Act for Fiscal Year 2006.

Hon. JEFF BINGAMAN,
Hart Senate Office Building,
Washington, DC.

DEAR SENATOR BINGAMAN: I am the Chief Defense Counsel for the Office of Military Commissions. Please note that I am writing in my capacity as Chief Defense Counsel for the Office of Military Commissions and I do not purport to speak for the Department of Defense.

Please accept my congratulations for your arguments in opposition to certain portions of Amendment No. 2515. I also wholeheartedly endorse your proposal to eliminate detainees being tried by military commission from the class of detainees whose access to habeas relief would be abolished. I am writing to provide specific legal support for some of the points you raised in your debate with Senator Graham and to point out some of the specific errors in Senator Graham's arguments.

In his initial floor speech supporting the Amendment, Senator Graham stated, "Never in the history of the law of armed conflict has an enemy combatant, irregular component, or POW been given access to civilian court systems to question military authority and control, except here." 151 Cong. Rec. S12656 (daily ed. Nov. 10, 2005). That claim simply is not true. As discussed in greater detail below, the Supreme Court considered habeas petitions filed on behalf of seven of the eight would-be German saboteurs in Ex parte Quirin, 317 U.S. 1 (1942), and on behalf of a Japanese general who was a prisoner of war in In re Yamashita, 327 U.S. 1 (1946). Senator Graham also described Ex parte Quirin by stating, "We had German POWs who tried to come into Federal court, and our court said: As a member of an armed force, organized against the United States, you are not entitled to a constitutional right of habeas corpus." 151 Cong. Rec. at S12663. In fact, the Supreme Court said nothing of the sort. Rather, the Court said almost the exact opposite. Again, Senator Graham erred when he stated that "[i]t has been the history of the law of armed conflict that when you have somebody tried for a violation of law of armed conflict, you don't go to Federal court." Id. at S12664.

Contrary to Senator Graham's arguments, the Supreme Court bas held repeatedly held that enemy combatants can pursue federal habeas litigation to challenge their susceptibility to trial by military commission. In Ex parte Quirin, which dealt with the trial of the would-be German saboteurs who were captured in 1942, the Supreme Court considered the merits of the enemy combatants' habeas petition. Ex parte Quirin, 317 U.S. 1 (1942). While the Court ultimately denied the petitioners' applications for leave to file petitions for habeas corpus, the Court specifically observed that neither President Roosevelt's military order convening the commission "nor the fact that they are enemy aliens forecloses consideration by the courts of petitioners' contentions that the Constitution and laws of the United States constitutionally enacted forbid their trial by military commission." Id. at 25 (emphasis added). Quirin has been celebrated for giving the individuals the right to file such habeas corpus petitions, even though the President had tried to bar it. See, e.g., Louis Fisher, Nazi Saboteurs on Trial 173 (2003).

In re Yamashita similarly involved an application for leave to file a petition for writ of habeas corpus with the Supreme Court. 327 U.S. 1 (1946). General Yamashita, who had commanded the Imperial Japanese Army's Fourteenth Army Group in the Philippines, was tried by a U.S. Army military commission, found guilty, and sentenced to death. Id. at 5. After unsuccessfully seeking a writ of habeas corpus from the Supreme Court of the Philippine Islands, Yamashita sought both a writ of certiorari and an original writ of habeas corpus from the United States Supreme Court. Citing Ex parte Quirin, the Supreme Court reemphasized that in considering such a request for habeas relief arising from trial by military commission, "[w]e consider . . . only the lawful power of the commission to try the petitioner for the offense charged." Id. at 8. So, while the Supreme Court emphasized the limited scope of review, it reemphasized that the federal courts we available to consider habeas petitions filed by enemy combatants challenging trial by military commission. In language specifically relevant to the debate over Amendment No. 2515, the Supreme Court observed, "The courts may inquire whether the detention complained of is within the authority of those detaining the petitioner." Id. The Court added: "Finally, we held in Ex parte Quirin, [317 U.S. at] 24, 25, as we hold now, that Congress by sanctioning trials of enemy aliens by military commission for offenses against the law of war had recognized the right of the accused to make a defense. Cf Ex: parte Kawato, 317 U.S. 69. It has not foreclosed their right to contend that the Constitution or laws of the United States withhold authority to proceed with the trial. It has not withdrawn, and the Executive branch of the Government could not, unless there was suspension of the writ, withdraw from the courts the duty and power to make such inquiry into the authority of the commission as may be made by habeas corpus."

Id. at 9. In fact, in his dissent Justice Murphy went out of his way to praise the majority for doing exactly the opposite of what Senator Graham said—for providing the unlawful combatants the right to habeas corpus: "This Court fortunately has taken the first and most important step toward insuring the supremacy of law and justice in the treatment of an enemy belligerent accused of violating the laws of war. Jurisdiction properly has been asserted to inquire "into the cause of restraint of liberty" of such a person. 28 U.S.C. §452. Thus the obnoxious doctrine asserted by the Govermnent in this case, to the effect that restraints of liberty resulting from military trials of war criminals are political matters completely outside the arena of judicial review, has been rejected fully and unquestionably. This does not mean, of course, that the foreign affairs and policies of the nation are proper subjects of judicial inquiry. But when the liberty of any person is restrained by reason of the authority of the United States the writ of habeas corpus is available to test the legality of that restraint, even though direct court review of the restraint is prohibited. The conclusive presumption must be made, in this country at least, that illegal restraints are unauthorized and unjustified by any foreign policy of the Government and that commonly accepted juridical standards are to be recognized and enforced. On that basis judicial inquiry into these matters may proceed within its proper sphere."

In re Yamashita, 327 U.S. at 30 (Murphy, J., dissenting).

Additionally, in response to a point made by Senator Levin, Senator Graham stated: "Here is the one thing I can tell you for sure as a military lawyer. A POW or an enemy combatant facing law of armed conflict charges has not been given the right to habeas corpus for 200 years because our own people in our own military facing court-martials, who could be sentenced to death, do not have the right of habeas corpus.

Again, Senator Graham's argument is factually incorrect. U.S. servicemembers do have a right to challenge court-martial proceedings through habeas petitions, in addition to the direct appeal rights provided by Articles 66, 67, and 67a of the Uniform Code of Military Justice. In Burns v. Wilson, which was a habeas challenge to an Air Force capital court-martial, the Supreme Court observed: "In this case, we are dealing with habeas corpus applicants who assert—rightly or wrongly—that they have been imprisoned and sentenced to death as a result of proceedings which denied them basic rights guaranteed by the Constitution. The federal civil courts have jurisdiction over such applications." Burns v. Wilson, 346 U.S. 137, 139 (1953) (plurality opinion). Interestingly, in reaching this conclusion, the Supreme Court cited In re Yamashita, 327 U.S. 1, 8 (1946), thus drawing a historical parallel to the right of a U.S. servicemember to seek a writ of habeas corpus and the right of an enemy combatant detained by the United States military to do the same. Federal courts continue to review habeas challenges to court-martial convictions and occasionally grant relief. See, e.g., Monk v. Zelez, 901 F.2d 885 (10th Cir. 1990) (ordering petitioner's release from the United States Disciplinary Barracks due to constitutionally-deficient reasonable doubt instruction); Dodson v. Zelez, 917 F.2d 1250 (10th Cir. 1990) (finding a due process violation where the military judge's sentencing instructions did not require the members to reach a three-fourths majority vote in order to impose life imprisonment).

An important policy consideration also suggests the need to reassess the amendment. In its current form, Amendment No. 2515 would provide detainees seeking review of Combatant Status Review Tribunals (CSRTs) with greater access to federal courts than a detainee who has been sentenced to imprisonment for life, or even death, by a military commission. This result is anomalous for two reasons. First, generally due process protections increase in direct proportion to the magnitude of the interest at stake. Because military commissions are literally empowered to take a life, the recourse to Article III courts for those sentenced by these tribunals should be at least equal to that of individuals who are merely challenging their susceptibility to continued detention. Second, the burden on the federal judiciary is far greater in the case of review of CSRTs than the review of commission proceedings. During the floor debate, Senator Graham noted that there are currently 160 habeas petitions filed by or on behalf of Guantanamo detainees pending in federal courts. But only three individuals being tried by military commissions have filed habeas petitions challenging those trials. The total number of individuals with approved charges before military commissions is only nine. There can be little doubt that nowhere near 160 of the Guantanamo detainees will ever face trial by military commission. Accordingly, while the federal courts' burden of resolving habeas challenges to continued detention might be large, the burden of resolving habeas challenges to military commission proceedings will be quite minimal. The resources that will be devoted to the District of Columbia Circuit's review of CSRTs will likely dwarf the resources that would be necessary to litigate every habeas petition that has or will be filed by an accused before a military commission.

I will be happy to provide any additional information that might be helpful. You can reach me at my office, at home, or by e-mail. Unfortunately, I am currently scheduled to leave for Guantanamo Bay on the morning of Tuesday, November 15. If you or a member of your staff would like to reach me after today, please leave a voice mail on my work phone and I will return your call.

Very Respectully,
DWIGHT H. SULLIVAN,
Colonel, USMCR, Chief Defense Counsel,
Office of Military Commissions.

Mr. BINGAMAN. How much time remains of the 15 minutes I am allotted?

The PRESIDING OFFICER. One minute.

Mr. BINGAMAN. I retain that minute and yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I will be glad to get a letter from the prosecutor at the military commission about the procedures. I will bet $100 he will say they are great. The point is, we are talking about two different things. My amendment is designed to get us back to what we have been doing for a couple hundred years. What I am concerned about is that an enemy prisoner, not someone charged with a crime, is having access to Federal courts to sue our own troops about the food, about the mail, about whether they should have Internet access, about whether they should get DVDs. There are 160 lawsuits now in Federal court suing to stop interrogations unless a Federal judge oversees the interrogation.

Never in the history of the law of armed conflict has a military prisoner, an enemy combatant, been granted access to any court system, Federal or otherwise, to have a Federal judge come in and start running the prison and determining what is in bounds and what is out. The military is the proper body to determine who an enemy combatant is and how to run a war and how to interrogate people, not Federal judges who are not trained in the art of military science.

Here is what these lawsuits are about. Here is why I am so adamant that we stop it. No. 1, what are we stopping? We are not stopping a constitutional right that exists under our law for an enemy prisoner in our hands to be able to question their detention through Federal court action. There is no constitutional right under habeas corpus in American jurisprudence for an enemy prisoner to go to Federal court and challenge whether they should have Internet access or DVD access, all the other things they are suing the people for, medical malpractice. That has never been the case. None of the Germans in World War II who were housed in the United States, and the Japanese prisoners, were allowed to go to Federal court and get a Federal judge to come in and oversee their treatment. We don't allow that. That is not part of the law of armed conflict.

Habeas petitions are not coming from the Constitution. They are coming from an interpretation of section 2241. The Rasul case was a Supreme Court case that said that contrary to the Government's argument, Guantanamo Bay, Cuba is in the effective control of the United States, even though it is not part of our own territories. Because of the lease arrangements and because the Department of Defense is an agency covered by the jurisdiction of the Federal courts, the argument that it is outside the jurisdiction of Federal courts because of its location was defeated. That led to the decision that since you are within the control of our jurisdiction at Guantanamo Bay, section 2241 applies unless Congress says otherwise.

Here is the question I will ask every Member of this body: Does the Senate want enemy terrorists, al-Qaida members being detained at Guantanamo

Bay, to have unlimited access to our Federal courts to sue our troops about the following:

A Canadian detainee, who threw a grenade that killed an American Army medic in a firefight and who comes from a family of longstanding al-Qaida ties, moves for preliminary injunction forbidding interrogation of him or engaging in cruel, inhumane, or degrading treatment of him. That was a lawsuit brought in a Federal court by a person who blew up one of our medics, who wanted a Federal judge to supervise his military interrogation. If we start doing that, we might as well close Guantanamo Bay down.

These are not people being charged. They are being kept off the battlefield because they have been captured on the battlefield, and they have been labeled enemy combatants. The procedures I am trying to get in place will comply with the law of armed conflict. Twelve of the people have been let go at Guantanamo Bay. Over 200 in total have been let go. They have been found no longer to have intelligence value or to be a threat to the United States. Once those two determinations are made, they are let go, even if they are an enemy combatant. Twelve of them have been recaptured. A couple of them have been killed. They have gone back to the fight.

The people at Guantanamo Bay are captured as part of the war on terror, and some of them may be running. The point is, when you join al-Qaida, whether you stand or fight or run, you have lost your rights to be considered anything other than what you are—an enemy combatant taking up arms against the United States.

Here is my message to the terrorists: If you join a terrorist organization taking up arms against the United States and you get involved in combat, you are likely to get killed. If you get captured, you will be taken off the battlefield as long as necessary to make sure our country is protected from you.

Under the law of armed conflict, there is no right to try them or let them go. Shaikh Mohammed, the mastermind of 9/11, is in U.S. control right now. He is not a criminal, but you have to charge within 90 days or let go. He is an enemy combatant, the mastermind of 9/11, and 9/11 was an act of war. It was not a crime. The law of war needs to apply. Anybody who suggests that Shaikh Mohammed should have unlimited access to the Federal courts to get a Federal judge to supervise his interrogation is fundamentally changing the law of war and making us less safe. He will not be let go. If you don't want to be captured and detained for a long time, don't join al-Qaida.

Listen to this: Kuwaiti detainees seek court orders that they be provided dictionaries in contravention of GTMO's force protection policy and that their counsel be given high-speed Internet access at their lodging on the base and be allowed to use classified DOD telecommunications facilities, all on the theory of the right to counsel. A motion by a high-level al-Qaida detainee complaining about base security procedures, speed of mail delivery, and medical treatment, seeking an order that he be transferred to the least onerous conditions at GTMO and asking the court to order that GTMO allow him to keep any books and reading materials sent to him and to report to the court on his opportunities for exercise, communication, recreation, and worship. A man captured on the battlefield, engaged in a war against the United States, because of 2241's interpretation where Congress hasn't spoken, is petitioning a court to supervise his opportunity to exercise, communicate, recreate, and worship, and where he should be housed.

In other words, Federal judges are going to determine how we run the war, not the people fighting the war. Never in the history of warfare has an enemy prisoner been allowed to do such things. It didn't happen in World War II. Why? Because we have a right, as a country capturing enemy prisoners, to take them off the battlefield. They are not common criminals. We have an obligation to treat them humanely under the law of armed conflict.

An emergency motion seeking a court order requiring GTMO to set aside its normal security policies and show detainees DVDs that are purported to be family videos. One hundred sixty of these cases, another 40 or 50 suing our own people, one for $100 million, suing the doctor who treated the guy. This is an absurd result.

I proudly stand before the Senate asking the Senate to fix this absurd result. The court in Rasul is asking the Senate and the House, do you intend for al-Qaida terrorists, enemy combatants, to have access to Federal courts under habeas rights to challenge their detention as if they were American citizens? The answer should be, no, we never intended that. That is what my amendment does. It says to the courts and to the world that an enemy combatant is not going to have the rights of an American citizen, and we are going to stop all these lawsuits undermining our ability to protect ourselves.

What have I done in place? I have stopped a procedure that has never been granted before because it is totally out of bounds of what we need to be doing and have done. I allow Federal courts to review each enemy combatant's determination at the Circuit Court of Appeals for the District of Columbia to look at whether the combat status review tribunal, the group deciding whether you are an enemy combatant, followed the procedures and standards we set up.

What do the Geneva Conventions give our own troops, if our own troops fall into enemy hands under the Geneva Conventions? If there is a question about their status, it says a competent tribunal has the ability to challenge. The combat status review tribunal that we have set up at Guantanamo Bay since August of 2004 is Geneva Conventions protection on steroids. They have a full-blown hearing, a right every year to have their status redetermined. And what do you look at? Were they an enemy combatant engaged in armed conflict against the United States? Do they present intelligence value or a continuing threat to the United States? That determination is made every year, a full-blown adversarial process way beyond what the Geneva Conventions require in such situations.

We have added to that Federal court oversight to see if the people at Guantanamo Bay are following the rules and procedures set up in accordance with the law of armed conflict.

Senator BINGAMAN is a very fine man, a fine Senator. I deeply disagree with him. And any letter that anybody writes, I have my own letters from JAGs.

It is a simple proposition. His amendment allows unlimited habeas petitions regarding detention to come to the Circuit Court of Appeals for the District of Columbia. The type lawsuits that we see now will continue: A motion by Kuwaiti detainees unsatisfied with the Koran they are provided and want another version, a filing by a detainee requesting a stay of litigation pending related appeals, an emergency motion by a detainee accusing military health professionals of gross and intentional malpractice.

They are swamping the system. Americans are losing their day in court because somehow we have allowed enemy combatants, people who have signed up to kill us all, to take us into Federal court and sue us about everything.

That is not part of the law of armed conflict. Our troops are not going to get that right if they are in the hands of someone else. What I am asking for is for us to treat enemy combatants humanely and in accordance with the law of armed conflict. I am asking for us to provide due process in accordance with the Geneva Conventions and then some. I am even allowing a Federal court review of the process down there. But I will not now or ever sit on the sidelines and give rights to enemy combatants who have been caught on the battlefield in the war of terror the unending, endless right to think of every reason in the world to take our own troops into court. We will keep having this debate and we will keep having this argument until the cows come home because I am not going to sit on the sidelines and watch that happen.

There has never been a constitutional right for that to happen. Section

2241 is what we are talking about here. Congress wrote it. Congress has restricted habeas rights for illegal immigrants. Congress has restricted habeas rights of its own citizens numerous times because these petitions can get out of control and take over a courtroom.

The question for this Congress is whether you, after 9/11, want to give enemy combatants detained at Guantanamo Bay who have been captured on the battlefield the unlimited right to go into any Federal court in this land and to sue over everything they can think of. If you do, then we have made a huge mistake in the war on terror. I suggest that you say no to Senator BINGAMAN's amendment and get us back to where we have been for 200 years. Apply the law of armed conflict. Once you have been determined to be an enemy combatant, you get the due process of the Geneva Conventions. We have done that and then some to allow a limited Federal court review, more than anybody has ever gotten in history. We get back on track. And when it comes to military commissions and those who will be charged with the law of armed conflict violations, I am working with Senator LEVIN and others to try to find a way to get a Federal court appeal right.

How much time do I have, Mr. President?

The PRESIDING OFFICER. The Senator has 2 minutes remaining.

Mr. GRAHAM. I will try to retain 1 minute.

Let it be said that the people who attacked us on 9/11 committed an act of war, not a crime, and they are going to be tried under military commissions, not in our Federal courts, because they are engaged in a war and they are violating the law of armed conflict. They will get their day in court and we will come up with a fair process to make sure they have their day in court, but we are not going to take a war and turn it into a crime.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, let me use the remaining 1 minute I have and then I will ask permission to speak for another 4 minutes, if possible.

Let me say that I think the Senator obviously hasn't read the amendment I have offered. The amendment I have offered makes it very clear that the Federal court is available only to hear claims regarding whether the determination of the combat status review tribunal is consistent with the procedures and standards specified by the Department of Defense, whether the status determination was supported by sufficient evidence, and to determine the lawfulness of the detention of the alien. They are not permitted under my amendment to consider whether the DVDs are the ones that the prisoner would like. They are not permitted to consider whether the peanut butter is the peanut butter the prisoner would like, or anything else.

To try to trivialize this debate by suggesting that is what we are talking about I think does a disservice to the issue.

The PRESIDING OFFICER. The Senator's time has expired.

Mr. BINGAMAN. Mr. President, I ask unanimous consent to speak for an additional 4 minutes as if in morning business.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. I don't mind if the Senator wants 4 more minutes to speak on his amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BINGAMAN. I appreciate my colleague's courtesy.

Mr. President, first let me say we have a real difference of opinion here as to what has been the law of this land for the last couple hundred years.

The Senator from South Carolina continues to say we have never recognized a right for people in conflict, armed conflict, to petition for habeas corpus. The truth is we have. The truth is the Supreme Court has—in the Ex parte Quirin case, the In re Yamashita case. There are a variety of cases where this has been the case. The Supreme Court has repeatedly held that enemy combatants can pursue Federal habeas litigation to challenge that you are susceptible to trial by military commission. It is very clear that that right has been there.

All I am trying to do is to be sure we do not strip the courts of the right to consider these types of petitions. If we strip the courts of the right to consider petitions in these cases, how many other areas can we find where we will deny people within the jurisdiction of our Federal court system the right to proceed with a petition for habeas corpus in the Federal judiciary?

This is the most fundamental right any of us can conceive of. When you start talking about imprisoning a person and not allowing that person any opportunity to have a court review of the legality of that imprisonment, you are talking about the most fundamental of rights.

Unfortunately, that is what the amendment by Senator GRAHAM would do. It would deny that right. It would be an unfortunate act by this Congress. It would be an extraordinary act by this Congress to do that, and I believe would be very contrary to the traditions this country was built on. I strongly urge my colleagues to support the amendment I have offered which maintains the right to petition for habeas corpus on the part of everybody because there is nothing in our Constitution, there is nothing in the history and tradition of this country that says this is only available for citizens. It is available for all individuals who become imprisoned within the confines of the United States and within the jurisdiction of the Federal courts. Our Department of Defense tried to locate these prisoners outside the jurisdiction of Federal courts and put them in Guantanamo and it argued to the Federal court they are now outside your jurisdiction, and the Federal court said, no, they are not. The United States Government is the sovereign in Guantanamo. We have a 100-year lease on that property, we operate that facility, and we are responsible for the treatment of those individuals.

So the Federal courts have authority to look at whether the detentions that occur there are legal or illegal. That is the law as it has always been in this country. That is the law today. We should not change that by allowing the Graham amendment to remain as it is. We need to adopt a refinement of that amendment, an improvement of that amendment, and that is the second-degree amendment I have offered at this point.

Mr. President, I will yield the floor. I think my colleague wants to respond.

Mr. GRAHAM. If I may have the same courtesy and have 4 minutes.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. No. 1, we have a fundamental difference. I do not want everyone to have habeas rights. I do not want the enemy combatant al-Qaida terrorist to be able to go in our courts and start to sue our own troops. I don't want it. I don't think people in this body want it. I do not think the American people want it. I want al-Qaida members to be detained in armed conflict. They should not have due process rights beyond what the Geneva Conventions ever envisioned.

As to Senator BINGAMAN's amendment, he talks about they can't base claims on living conditions, but listen to this: Whether the status determination was supported by sufficient evidence and reached in accordance with due process of law, provided that statements obtained through undue coercion, torture, or cruel or inhuman treatment may not be used as a basis for the determination, and consideration of lawfulness of the detention of such alien. You could drive an army of trucks through those legal exceptions. What it would do is legitimize this request by a Canadian detainee, who threw a grenade and killed an American medic, in moving for a preliminary injunction forbidding the interrogation of him or engaging in cruel, inhumane, or degrading treatment of him. In other words, under this amendment, that claim stands. He could come in and ask a Federal judge: I want you sitting there while they interrogate me. And we are turning the war away from military people to Federal judges. We can't do that. We will compromise our own defense, our own freedom.

As to the people at Guantanamo Bay who are going to be charged with a crime, I am working with Senator LEVIN to come up with a military commission model we all can be proud of. There are 490 enemy combatants down there who are not going to be charged with crimes, and if we allowed them unfettered freedom to have courts, to have judges control military interrogation and get into the bowels of running this war—not only has it never been done, but I challenge anybody to bring one case down here where an enemy prisoner has been able to go into Federal court and complain about their detention. Once you have a combatant charged with a crime, you are working with 490 of them who are going to have unfettered access under 2241 unless Congress acts. If you want to stop this kind of litigation and not turn over the war to Federal judges, then you need to tell the courts that 2241 does not apply. No law in the history of armed conflict has allowed this to happen and it needs to not happen now. Twelve people have been released down there under the procedures we already have, and they have gone back to try to kill us.

Nothing is perfect. Nothing is perfect. We may let some people go who go back to the fight, but what we are going to do is we are going to have a process we can be proud of that fairly determines who an enemy combatant is and who is not following the Geneva Conventions law of armed conflict. We are not going, with my amendment, to turn the al-Qaida member into an American citizen suing us for anything they can think of about due process of law and as to where they have been detained.

This is a fundamental moment in terms of values in the law of armed conflict. The American value system is being maintained by due process and then some. The American value system that you can allow people who are trying to kill you unfettered access to the Federal courts to sue your own troops—if that becomes our value, we are going to lose this war.

I thank the Chair.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I yield 6 minutes to the Senator from Wisconsin.

Mr. FEINGOLD. Mr. President, I thank the Senator from Michigan.

In March 2003, the brave men and women of our Armed Forces were sent into war in Iraq. Now, over 2½ years later, that war continues and those brave men and women are waiting for what they should have gotten long ago—a clear, realistic military mission with a flexible timetable for achieving that mission. And, of course, that timetable has to include a plan for withdrawing our troops from Iraq when their mission is done.

On Tuesday, the Senate can start to put our Iraq policy on the right course by demanding a public plan and a flexible timetable for achieving our military goals and bringing our troops home. The absence of any kind of timetable is not fair to our troops and their families. It is making the American people increasingly anxious. And it is hurting, not helping, our Iraq policy and our broader national security strategy.

Why is it hurting us? Well, for one thing, the perception that U.S. troops will be there indefinitely discourages Iraqi ownership of the political process. It also fuels the insurgency, which thrives on conspiracy theories about our intentions and presence in Iraq. The failure to put forth a timetable is helping the recruitment of foreign fighters and unifying elements of the insurgency that might otherwise turn on each other. Former Republican Defense Secretary and Wisconsin Congressman Melvin Laird recognized that when he said that "our presence is what feeds the insurgency." GEN George Casey recognized that when he said that the perception of occupation in Iraq "fuels the insurgency." So did one of the top military commanders I spoke with in Iraq, who told me off the record that nothing would take the wind out of the sails of the insurgents more than a public timetable for finishing the mission.

Drawing down our troops in Iraq is also essential if we are going to prevent the U.S. army from being hollowed out and ensure our military readiness. And it is essential if we are going to make sure that our Iraq policy is consistent with our broader national security priority—going after the global terrorist networks that threaten the U.S. Despite the administration's desperate efforts to link them, Iraq has been a dangerous and self-defeating diversion from that central fight against global terrorism.

Unfortunately, the President is one of the dwindling group of people who don't support a timetable. They argue that a timetable will embolden the insurgency. Actually, it will undermine the insurgency. They argue that fighting insurgents in Iraq means we won't have to fight them elsewhere. That is just wishful thinking, of course—the idea that all of our terrorist enemies will be irresistibly drawn to Iraq like bees to honey doesn't make a whole lot of sense. They argue that the insurgents will wait us out if we have a timetable. Of course, the insurgents could do that now if that is what they wanted—lay low and wait until we leave. They argue that if we leave prematurely, Iraq will fall into chaos. The only problem is that the insurgency isn't letting up and there is not much expectation it will, as long as our troops remain with no endgoal in sight.

For months, I have been calling on the President to provide a flexible, public timetable for our mission in Iraq. I am not calling for a rigid timetable—I mean one that is tied to clear and achievable benchmarks, with estimated dates for meeting those benchmarks. Today, I am pleased to join with some of my distinguished colleagues in the Senate in offering an amendment that demands just that. I hope that the Senate will finally tell the administration that "stay the course" isn't a strategy for success—it is not even a strategy. We need to correct the course we are on. To do that, we need openness, we need honesty, and we need clarity about our military mission in Iraq. The American people, and our troops in Iraq, have been waiting for that for far too long. We can't afford to wait any longer.

I yield the floor.

Mr. GRAHAM. Mr. President, I ask unanimous consent to have letters in support of my amendment printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Birmingham, AL, November 13, 2005.

Hon. LINDSEY O. GRAHAM,
c/o Ms. Meredith Beck, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: Congratulations on your success in obtaining Senate adoption of your amendment (Senate Amendment 2516 to S. 1042) to restrict the ability of terrorist detainees held at Guantanamo, to gain access to the U.S. Districts Courts through habeas corpus applications.

I understand that Amendment opponents will make an effort on Monday, November 14, to remove the habeas corpus restrictions in the Amendment so that detainees can continue to contest various issues regarding their detention and the conduct of the Global War on Terror in the U.S. Federal Court System.

While I strongly support Senator McCain's efforts to prohibit cruel and degrading treatment against detainees in American custody, I am not in favor of granting detainees' access to our civilian court system. There are effective and adequate procedures for detainees to question their status through the Combatant Status Review Tribunal and the Administrative Review Board without granting aliens outside the United States access to our federal civilian courts.

I urge you to make the strongest effort possible to resist efforts to weaken your amendment. If the habeas restrictions are removed we can expect a logjam of litigation with the attendant adverse effects on our ability to gather intelligence and prosecute the Global War on Terrorism.

Very Respectfully.

ROBERT W. NORRIS,
Major General, USAF (Ret.).

NOVEMBER 14, 2005.

Hon. LINDSEY O. GRAHAM,
c/o Ms. Meredith Beck, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: I support your efforts to keep Senate Amendment 2516 (the "Amendment") in S. 1042, the FY 06 National Defense Authorization Act.

Habeas corpus applications, brought on behalf of terrorist—Guantanamo detainees, to which the Amendment will put a stop, have become a means to advance efforts to frustrate the Global War on Terror. The detainees appear to have become secondary to anti-war efforts.

On the Senate floor, during last Thursday's debate on the Amendment, you appropriately cited the Michael Ratner interview in Mother Jones Magazine (The Torn Fabric of the Law: An Interview with Michael Ratner, Mother Jones Magazine, March 21, 2005.) I read Mr. Ratner's interview and I note that, to him, the disruptive results of litigation brought against the United States (under the guise of habeas corpus applications) appear to be more important than his detainee—clients. "While we may not be having many victories in freeing people, we're winning heavily in the litigation." That litigation, according to Mr. Ratner, as you pointed out,

". . . is brutal for them [the United States]. It's huge. We have over one hundred lawyers now from big and small firms working to represent these detainees. Every time an attorney goes down there, it makes it that much harder to do what they're [the United States] doing. You can't run an interrogation and torture camp with attorneys. What are they [the United States] going to do now that we're getting court orders to get more lawyers down there?"

Thank you for your strong efforts made in securing adoption of the Amendment and in its preservation.

Thank you for your time and interest.

Very respectfully,

EDWARD F. RODRIGUEZ, Jr.,
Brig. Gen., USAFR (Ret.).
Air Force Judge Advocate '70–'99.

NOVEMBER 13, 2005.

Hon. LINDSEY O. GRAHAM,
c/o Ms. Meredith Beck, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: I write to support Senate Amendment 2516 (the "Amendment") to S. 1042, the FY 06 National Defense Authorization Act.

You proposed the Amendment to restrict the ability of Global War on Terror detainees, held at Guantanamo, to gain access to US District Courts through habeas corpus applications, among other things. On Thursday, November 10, you succeeded in persuading the Senate to adopt the Amendment by a vote of 49 to 42.

I understand that, when the Senate reconvenes on Monday, November 14, the Amendment's opponents will make a strong effort to strip away the habeas restriction. That will enable detainees to continue to contest all manner of issues related to their detention and the conduct of the Global War on Terror in the US civilian court system.

Detainees have ample opportunity to contest their combatant status through the Combatant Status Review Tribunal ("CSRT") process, especially now since other provisions of the Amendment provide for the exclusion of statements made under undue coercion and for the appeal of adverse CSRT rulings to the US Court of Appeals for the DC Circuit.

I urge you to hold fast and to prevent any watering down of the Amendment. If the habeas restriction is struck from the Amendment, then the pending 160 habeas applications will be only the tip of the iceberg. This is a true "floodgates of litigation" scenario. This is no way to run a terrorist detention facility and a war against foreign terrorists attacking our security. It would be a significant setback in our resolve to defeat terrorists who do not respect human rights and the rule of law.

It is ironic that we would knowingly facilitate foreign terrorists to have access to our Constitutional safeguards to condemn and attack them. The Constitutional safeguards and rights that we have and protect should not be a tool for foreign terrorists.

Thank you for your strong efforts made in securing adoption or the Amendment and in its preservation.

Very Respectfully,

BOHDAN DANYLIW,
Brig. Gen., USAF (Ret), Former Command Judge Advocate Air Force Systems Command.

NOVEMBER 12, 2005.

Hon. LINDSEY O. GRAHAM,
c/o Ms. Meredith Beck, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: Please know I support Senate Amendment 2516 (the "Amendment") to S. 1042, the FY 06 National Defense Authorization Act. The Amendment restricts the ability of Global War on Terror detainees, held at Guantánamo, to gain access to U.S. District Courts through habeas corpus applications, among other things. Yesterday the Senate adopted the Amendment by a vote of 49 to 42. However, I suspect this is not the end of the matter. The Amendment's opponents will most likely undertake efforts to strip away the habeas restriction so that detainees can continue to contest, in the U.S. civilian court system, every conceivable issue related to their detention and the conduct of the Global War on Terror.

Detainees have ample opportunity to contest their combatant status through the Combatant Status Review Tribunal ("CSRT") process. This is especially true now, since other provisions of the Amendment provide for the exclusion of statements made under undue coercion and for tbe appeal of adverse CSRT rulings to the U.S. Court of Appeals for the DC Circuit.

I urge you to hold fast and to prevent any watering down of the Amendment. If the habeas restriction is struck from the Amendment, then the pending 160 habeas applications will be only the tip of the iceberg—a true "floodgates of litigation" scenario. This is no way to run a terror detention facility, much less a war.

Thank you for your strong efforts in securing adoption of the Amendment and in its preservation.

Very respectfully,

NOLAN SKLUTE,
Major General, USAF (Ret.).

LAW OFFICES OF
DRIANO & SORENSON,
Seattle, WA, November 11, 2005.

Hon. LINDSEY O. GRAHAM,
c/o Ms. Meredith Beck, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: I write to support Senate Amendment 2516 (the "Amendment") to S. 1042, the FY 06 National Defense Authorization Act.

You proposed the Amendment to restrict the ability of Global War on Terror detainees, held at Guantánamo, to gain access to U.S. District Courts through habeas corpus applications, among other things.

Yesterday, you succeeded in persuading the Senate to adopt the Amendment by a vote of 49 to 42.

I understand that, when the Senate reconvenes on Monday the Amendment's opponents will make a strong effort to strip away the habeas restriction so that detainees can continue to contest all manner of issues related to their detention and the conduct of the Global War on Terror in the U.S. civilian court system.

Detainees have ample opportunity to contest their combatant status through the Combatant Status Review Tribunal ("CSRT") process, especially now since other provisions of the Amendment provide for the exclusion of statements made under undue coercion and for the appeal of adverse CSRT rulings to the U.S. Court of Appeals for the DC Circuit.

I urge you to hold fast and to prevent any watering down of the Amendment. If the habeas restriction is struck from the Amendment, then the pending 160 habeas applications will be only the tip of the iceberg. This is a true "floodgates of litigation" scenario. This is no way to run a terror detention facility, much less a war.

Thank you for your strong efforts made in securing adoption of the Amendment and in its preservation.

Very respectfully,

DOMINICK V. DRIANO,
Brig. Gen., USAF (Ret.).

NOVEMBER 11, 2005.

Hon. LINDSEY O. GRAHAM,
c/o Ms. Meredith Beck, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: I write to support Senate Amendment 2516 (the "Amendment") to S. 1042, the FY 06 National Defense Authorization Act.

You proposed the Amendment to restrict the ability of Global War on Terror detainees, held at Guantánamo, to gain access to U.S. District Courts through habeas corpus applications, among other things.

Yesterday, you succeeded in persuading the Senate to adopt the Amendment by a vote of 49 to 42.

I understand that, when the Senate reconvenes on Monday, the Amendment's opponents will make a strong effort to strip away the habeas restriction so that detainees can continue to contest all manner of issues related to their detention and the conduct of the Global War on Terror in the U.S. civilian court system.

Detainees have ample opportunity to contest their combatant status through the Combatant Status Review Tribunal. ("CSRT") process, especially now since other provisions of the Amendment provide for the exclusion of statements made under undue coercion and for the appeal of adverse CSRT rulings to the U.S. Court of Appeals for the D.C. Circuit.

I urge you to hold fast and to prevent any watering down of the Amendment. If the habeas restriction is struck from the Amendment, then the pending 160 habeas applications will be only the tip of the iceberg. This is a true "floodgates of litigation" scenario. This is no way to run a terror detention facility, much less a war.

Thank you for your strong efforts made in securing adoption of the Amendment and in its preservation.

Very respectfully,

WALTER A. REED,
M. Gen. USAF (Ret).
AF Judge Advocate General (1977–1980).

NOVEMBER 14, 2005.

Hon. LINDSEY O. GRAHAM,
c/o Ms. Meredith Beck, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: A world in which non-state actors engaged in terrorist activities can be our greatest security threat requires legal mechanisms that allow us to deal effectively with these threats while remaining true to our values. I believe Senate Amendment 2516 to S. 1042 accomplishes these purposes.

When I was a Military Judge during the Viet Nam conflict, a defense counsel who regularly appeared before me said that he loved military juries. They always followed orders, and he said that when a judge told a court to acquit if there was reasonable doubt, they did their duty and would acquit regardless of how difficult that decision might be. The CSRT assures that detainee status decisions will be made by persons with both the backbone, and the background, to get it right. Simply stated, the members of the CSRT are in the best position to make the necessary findings, and any review process must take this into account.

Establishing the D.C. Circuit as the singular court for review of CSRT decisions will promote consistency and fairness. Similarly, the exclusion of statements made under undue coercion promotes the integrity of the decision process and is consistent with our core values.

I am pleased to offer my support for the Amendment.

Sincerely,

GILBERT J. REGAN,
Brig. Gen. USAF (Ret.).

NOVEMBER 11, 2005.

Hon. LINDSEY O. GRAHAM,
c/o Ms. Meredith Beck, U.S. Senate, Russell Senate Office Building, Washington, DC.

DEAR SENATOR GRAHAM: I write to support Senate Amendment 2516 (the "Amendment") to S. 1042, the FY 06 National Defense Authorization Act.

You proposed the Amendment to restrict the ability of Global War on Terror detainees, held at Guantánamo, to gain access to U.S. District Courts through habeas corpus applications, among other things.

Yesterday, you succeeded in persuading the Senate to adopt the Amendment by a vote of 49 to 42.

I understand that, when the Senate reconvenes on Monday, the Amendment's opponents will make a strong effort to strip away the habeas restriction so that detainees can continue to contest all manner of issues related to their detention and the conduct of the Global War On Terror in the U.S. civilian court system.

Detainees have ample opportunity to contest their combatant status through the Combatant Status Review Tribunal ("CSRT") process, especially now since other provisions of the Amendment provide for the exclusion of statements made under undue coercion and for the appeal of adverse CSRT rulings to the U.S. Court of Appeals for the D.C. Circuit.

I urge you to hold fast and to prevent any watering down of the Amendment. If the habeas restriction is struck from the Amendment, then the pending 160 habeas applications will be only the tip of the iceberg. This is a true "floodgates of litigation" scenario. This is no way to run a terror detention facility, much less a war.

Thank you for your strong efforts made in securing adoption of the Amendment and in its preservation.

Very respectfully,

OLAN G. WALDROP, JR.,
Brig. Gen., USAF (Retired).

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I ask unanimous consent that in the absence of a speaker on the Republican side, the time between now and 4:30 p.m. be divided as follows: the Senator from Massachusetts be recognized for 30 minutes, then the Senator from Connecticut be recognized for 10 minutes. If, during that period, the floor manager on the Republican side indicates time is required on the Republican side, we would then do our best to make arrangements for that to happen, perhaps delaying the 4:30 p.m. timetable. We are trying to accommodate two Senators, the Senator from Massachusetts, who needs a half hour, and the Senator from Connecticut, who needs 10 minutes.

Mr. GRAHAM. So I have to pick whom I like best?

Mr. LEVIN. We are trying to accommodate colleagues and make sure you are protected. I suggest the following: the Senator from Massachusetts speak for a half hour; the Senator from Connecticut speak for 10 minutes, unless the Senator from South Carolina knows of someone on his side; and then if our people or a person on their side, Mr. President, needs some time, the 4:30 p.m. shift to the appropriations bill be delayed by 5 or 10 minutes to accommodate the Republican side. I can't think of anything better without knowing exactly who wants to speak.

Mr. GRAHAM. I agree.

Mr. LEVIN. Mr. President, I ask unanimous consent that the Senator from Massachusetts be recognized for 30 minutes, the Senator from Connecticut for 10 minutes, and the remainder of the time between now and 4:30 p.m. not be assigned at this time, and we will do our best to accommodate the Republican side should there be speakers after the Senator from Connecticut speaks.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. No.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KERRY. Mr. President, I thank the managers, particularly Senator GRAHAM and Senator LEVIN.

Veterans Day is a very special day in our country's history. There are a lot of veterans who believe Veterans Day is just plain sacred—a lot of families, Gold Star mothers, wives for whom it is a day set aside to memorialize the unbelievable sacrifice of generations of Americans who have given themselves for our country. Veterans Day is sacred. It is a day to honor veterans, not a day to play attack politics. The President, who is Commander in Chief, should know and respect this.

Veterans Day originally marked the 11th hour of the 11th day of the 11th month when the guns of World War I, the war to end all wars, finally fell silent. Instead of honoring that moment, instead of laying a wreath at the Tomb of the Unknown Soldier at Arlington, instead of laying out a clear plan for success in Iraq, the President laid into his critics with an 11th hour rhetorical assault that I believe dishonors that day and does a disservice to veterans and to those serving today. He did so even as he continued to distort the truth about his war of choice.

Perhaps most striking of all is that his almost desperate sounding Veterans Day attack on those who have told the truth about his distortion was itself accompanied by more distortion. Does the President really think the many generals, former top administration officials, and Senators from his own party who have joined over two-thirds of the country in questioning the President's handling of the war in Iraq—are they all unpatriotic, too? This is America, a place where we thrive on healthy debate. That is something we are trying to take to Afghanistan and Iraq. It is something we are trying to export to the rest of the world. The President does not have a monopoly on patriotism, and this is not a country where only those who agree with him support the troops or care about defending our country.

You can care just as much about defending our country and have just as much support for the troops by being a critic of policies. No matter what the President says, asking tough questions is not pessimism, it is patriotism. And fighting for the right policy for our troops sends them exactly the right message that all of us here take very seriously the decision to put them in harm's way and that our democracy is alive and well.

Ironically, the President even used the solemn occasion of Veterans Day to continue his campaign of misrepresenting the facts and throwing up smokescreens. His statement that Democrats saw and heard the same intelligence he did is just flat-out untrue, unless, of course, the President and the administration did not do their job and study the additional intelligence given only to them and not the Congress.

As the Washington Post said on Saturday, Bush and his aides had access to much more voluminous intelligence information than lawmakers who were dependent on the administration to provide the material. But that whole discussion is nothing more than an effort to distract attention from the issue that matters most and can be answered most simply: Did the administration go beyond what even the flawed intelligence would support in making the case for war? Did they use obviously inaccurate intelligence, despite being told clearly and repeatedly not to? Did they use the claims of known fabricators and rely on those claims of known fabricators? The answer to each and every one of these questions is yes. The only people who are now trying to rewrite that history are the President and his allies.

There is no greater breach of the public trust than knowingly misleading the country into war. In a democracy, we simply cannot tolerate the abuse of this trust by the Government.

To the extent this occurred in the lead-up to the war in Iraq, those responsible must be held accountable. That is precisely why Democrats have been pushing the Senate Intelligence Committee to complete a thorough and balanced investigation into the issue. When the President tried to pretend on Friday that the Intelligence Committee had already determined that he had not manipulated intelligence and misled the American public, he had to have known full well they have not yet reported on that very question. That is precisely why Democrats were forced to shut down the Senate in secret session and go into that secret session in order to make our colleagues on the other side of the aisle take this issue seriously.

When the President said his opponents were throwing out false charges, he knew all too well that these charges are anything but false. But the President and the Republicans seem far more interested in confusing the issue and attacking their opponents than in getting honest answers.

Let's be clear, Mr. President, let's be clear, my fellow Americans: There is no question that Americans were misled into the war in Iraq. Simply put, they were told that Saddam Hussein had weapons of mass destruction when he did not. The issue is whether they were misled intentionally.

Just as there is a distinction between being wrong and being dishonest, there is a fundamental difference between relying on incorrect intelligence and making statements that you know are not supported by the intelligence.

The bottom line is that the President and his administration did mislead America into war. In fact, the war in Iraq was and remains one of the great acts of misleading and deception in American history. The facts are incontrovertible.

The act of misleading was pretending to Americans that no decision had really been made to go to war and that they would seriously pursue inspections when the evidence now strongly suggests that they had already decided as a matter of policy to take out Saddam Hussein, were anxious to do it for ideological reasons, and hoped that inspections, which Vice President CHENEY had opposed and tried to prevent, would not get in their way.

The President misled America about his intentions and the manner in which he would make his decision. We now know that his speech in Cincinnati right before the authorization vote was carefully orchestrated window dressing where, again, he misled America by promising, "If we have to act, we will take every precaution that is possible, we will plan carefully, and we will go with our allies." We did not take every precaution possible, we did not plan—that is evident for every American to see—and except for Great Britain, we did not go in with our allies.

The act of misleading was just going through the motions of inspections while it appears all the time the President just could not wait to kick Saddam Hussein out of power. The act of misleading was pretending to Americans the real concern was weapons of mass destruction when the evidence suggests the real intent was to finish the job his father wisely refused and remove Saddam Hussein in order to remake the Middle East for modern times.

The act of misleading was saying in a Cincinnati speech that "approving this resolution does not mean that military action is imminent or unavoidable," when the evidence suggests that all along the goal was always to replace Saddam Hussein through an invasion. For most of us in Congress, the goal was to destroy the weapons of mass destruction. For President Bush, weapons of mass destruction were just the first public relations means to the end of removing Saddam Hussein. For most of the rest of us, removing Saddam Hussein was incidental to the end of removing any weapons of mass destruction. In fact, the President was misleading America right up until 2 days before launching his war of choice when he told Americans that we had exhausted all other avenues.

The truth is that on the Sunday preceding the Tuesday launch of the war, there were offers of Security Council members to pursue an alternative to war, but the administration, in its race and rush to go to war, rebuffed them, saying the time for diplomacy is over.

By shortcutting the inspections process and sidestepping his own promises about planning, coalition building, and patience, the President used WMD as an excuse to rush to war, and that was an act of misleading contrary to everything the President told Americans about the walkup to war.

The very worst that Members of Congress can be accused of is trusting the intelligence we were selectively given by this administration and taking the President at his word. Imagine that, taking a President of the United States at his word. But unlike this administration, there is absolutely no suggestion that the Congress intentionally went beyond what we were told by the facts. That is the greatest offense by this administration. Just look at the most compelling justification for war: "Saddam's nuclear program and his connections with al-Qaida."

The facts speak for themselves. The White House has admitted that the President told Congress and the American public in his State of the Union Address that Saddam was attempting to acquire fuel for nuclear weapons despite the fact that the CIA specifically told the administration three times in writing and verbally not to use this intelligence. Obviously, Democrats did not get that memo. In fact, similar statements were removed from a prior speech by the President, and Colin Powell refused to use it in his presentation to the U.N. This is not relying on faulty intelligence as Democrats did, it is knowingly and admittedly misleading the American public on a key justification for going to war.

This is what the administration was trying so desperately to hide when it attacked Ambassador Wilson and compromised national security by outing his wife. It is shameful that to this day, Republicans continue to attack Ambassador Wilson rather than condemning the fact that those 16 words were ever spoken and that so many lies were told to cover it up.

How are the same Republicans who tried to impeach a President over whether he misled a nation about an affair going to pretend it does not matter if the administration intentionally misled the country into war?

The State of the Union was hardly an isolated event. In fact, it was part of a concerted campaign to twist the intelligence, to justify a war that had already been decided was more preferable. Again playing on people's fears after 9/11, the administration made statements about the relationship between al-Qaida and Iraq that went beyond what the intelligence supported. As recently reported by the New York Times in the Cincinnati Address, the President said, We have learned that Iraq has trained al-Qaida members in bombmaking and poisons and deadly gases, despite the fact that the Defense Intelligence Agency had previously concluded that the source was a fabricator.

The President went on to say that Iraq has a growing fleet of unmanned and manned aerial vehicles that could be used to disburse chemical or biological weapons, despite the fact that the Air Force disagreed with that conclusion. As the Wall Street Journal reported: The Air Force dissent was kept secret, even as the President publicly made the opposite case before a congressional vote on the war resolution.

That is two more memos that the Congress never got. In fact, when faced with the intelligence community's consensus conclusion that there was no formal relationship between Saddam and al-Qaida, the administration then proceeded to set up their own intelligence shop at DOD to get some answers that were better suited to their agenda. Again, there is a fundamental difference between believing incorrect intelligence and forcing or making up your own intelligence.

Where would the Republicans and the President draw the line? How else would 70 percent of the American public be led to conclude that Saddam

Hussein was involved in 9/11? That was not an accident. In fact, I remember correcting the President of the United States at our first debate when he said to America it was Saddam Hussein who attacked us.

Why else did Vice President CHENEY cite intelligence about a meeting between one of the 9/11 hijackers and Iraqis that the intelligence community and the 9/11 Commission concluded never took place? Why else make false statements about Saddam's ability to launch a chemical or biological weapon attack in under an hour without ever clearing that statement with the CIA, which in itself mistrusted the source and refused to include it in the National Intelligence Estimate? Why else would they say we would be greeted by liberators when their own intelligence reports said we could be facing a prolonged and determined insurgency? Why else tell Americans that Iraqi oil would pay for the invasion when they had to know that the dilapidated oil infrastructure would never permit that to happen?

What about the President's promises to Congress that he would work with allies, that he would exhaust all options, that he would not rush to war? If the President wants to use quotes of mine from 2002, he might just look at the ones that were not the result of relying on faulty intelligence and trusting the President's word. As I said in my former statement before the authorizing vote—I wish the President had read this—if we go it alone without reason, we risk inflaming an entire region, breeding a new generation of terrorists, a new cadre of anti-American zealots, and we will be less secure, not more secure, at the end of the day. Let there be no doubt or confusion about where we stand on this. I will support a multilateral effort to disarm him by force if we ever exhaust those other options, as the President has promised, but I will not support a unilateral U.S. war against Iraq unless that threat is imminent and the multilateral effort has proven not possible.

In my speech at Georgetown on the eve of the war, I said: The United States should never go to war because it wants to. The United States should go to war because we have to. And we do not have to until we have exhausted the remedies available, built legitimacy, and earned the consent of the American people.

We need to make certain that we have not unnecessarily twisted so many arms, created so many reluctant partners, abused the trust of Congress, or strained so many relations that the longer term and more immediate vital war on terror is made more difficult. I say to the President, show respect for the process of international diplomacy because it is not always right but it can make America stronger, and show the world some appropriate patience in building a genuine coalition. Mr. President, do not rush to war.

Today, our troops continue to bear the burden of that promise broken by this administration. We need to move forward with fixing the mess the administration has created in Iraq. I have laid out in detail on five or six occasions my views about exactly how we can accomplish that and how we can get our troops home within a reasonable period of time. But that does not excuse our responsibility to hold the administration accountable if they knowingly misled the country when American lives were at stake. We need to do both.

Those colleagues on the other side of the aisle need to stop pretending that it does not matter if the administration stretched the truth beyond recognition and they need to start working to find out the real answers that the country deserves and the real leadership that our troops in Iraq deserve. They deserve it from a Commander in Chief, not just a "campaigner in chief."

I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. I believe the Senator from Rhode Island had an inquiry.

Mr. REED. Parliamentary inquiry: What is the status of the floor?

The PRESIDING OFFICER. The routine is the Senator from Connecticut is due to be recognized for 10 minutes, followed by a Republican.

Mr. REED. Mr. President, I understand the Senator from Tennessee will seek recognition after the Senator from Connecticut. How much time did the Senator want?

Mr. ALEXANDER. Three minutes.

Mr. REED. I ask unanimous consent that at the conclusion of Senator DODD's time, Senator ALEXANDER be recognized for 3 minutes, and at the conclusion of Senator ALEXANDER's time I be recognized for 15 minutes.

The PRESIDING OFFICER. Is there objection?

Mr. GRAHAM. Reserving the right to object, how does this affect the debate on the Energy and Water conference report?

The PRESIDING OFFICER. If this request is approved, it would delay the beginning of consideration of the conference report.

Mr. GRAHAM. By how long?

The PRESIDING OFFICER. By approximately 6 minutes.

Mr. GRAHAM. I have no objection.

Mr. DODD. Reserving the right to object, what I think might be the appropriate way to do it, since I do not want to have my remarks on Iraq to necessarily go directly from that to the celebration of the year of dealing with premature babies, I suggest that at the conclusion of my remarks on the subject matter that I wish to speak on that we then turn to the Senator from Tennessee about the issue for 3 minutes, which I may ask him to yield for a minute of time just to comment because we worked together on this issue, and then turn to my colleague from Rhode Island. Is that all right?

Mr. REED. That is perfectly all right. I think to expedite consideration of the Energy bill, I revise my consent rather than 15 minutes, 10 minutes.

The PRESIDING OFFICER. As I understand, it is 10 minutes, 3 minutes, 10 minutes. Is there objection?

Without objection, it is so ordered.

The Senator from Connecticut.

Mr. DODD. Mr. President, in these 10 minutes I will address the issue of an amendment offered by my colleague from Michigan, and several others including this Senator, which we have worked on over the last week or so. This amendment will be voted on tomorrow, and we have tried here to come up with some ideas that could build bipartisan support for how we go from where we are today in Iraq to a successful conclusion of that conflict.

I think all of us recognize that we have ourselves in a mess in Iraq, no matter how one wants to characterize it. I was disappointed that the President used Veterans Day last week as an opportunity to attack those who have agreed with him at certain points and disagreed with him at others. It seems to me that what we need from the administration is far more clarity, a greater sense of vision, some concrete ideas on how we intend to conclude our involvement in Iraq, and a strategy for increasing the likelihood that the Iraqi people can build a stable government.

As we know, from the very beginning, the rationale for going to war in Iraq was filled with misrepresentations, deceits, and the falsification of many facts. There was no Iraqi purchase of uranium from Niger. There were no aluminum tubes being used to construct nuclear centrifuges. There were no stockpiles of biological and chemical weapons. We now know that allegations linking Iraqi officials to al-Qaida were untrue. To make matters worse, in my view, the administration's penchant for discarding international norms with respect to our missions in Iraq, Afghanistan and elsewhere, has unraveled decades of American diplomacy dedicated to enshrining the rule of law.

The course set by this administration has cost America its treasure, but it has also cost the lives of more than 2,000 of our service men and women. More than 14,000 others have sustained serious injuries. We are now spending somewhere around $4–$6 billion every month for U.S. military operations alone in that country.

There have been intangible costs as well most—significantly, the cost to America's favorable public image at home and abroad—a cost that has seriously impaired our ability to shape global responses to global challenges.

These challenges include North Korea's nuclear weapons, Iran's ambitions to develop its own weapons capability, genocide in Sudan's Darfur region, political instability in Lebanon and Syria, and a festering Arab-Israeli conflict. Anti-American nationalism is spreading throughout our own hemisphere as we saw in recent days during the summit meetings of the Americas; and the HIV/AIDS epidemic and the possibility of an avian flu epidemic all are being held hostage because of the missteps we have taken in Iraq.

These missteps have tarnished America's image, and have allowed the disaffected in Iraq and elsewhere to capitalize on these misfortunes and to distort our values and intentions, in order to inspire violence for their own purposes. We saw it in recent protests in Argentina. We are seeing it to a certain extent in the ongoing youth violence in France. We saw it several days ago in the tragic bombings in Amman, Jordan. We see it every day in Iraq as American and Iraqi soldiers and civilians are randomly attacked by angry, nameless, and faceless individuals. It is not enough to simply decry past mistakes or America's tarnished reputation. We have to do something to correct these mistakes and restore America's prestige.

In short, what we need is a plan for success in Iraq, and what better place to start than in that war-torn nation. Last month, while visiting Baghdad with my colleague from Rhode Island, Senator REED, I had the opportunity to meet with U.S. commanders on the ground and to visit with our men and women in uniform who in some cases are on their second or third tours of duty in that nation.

I cannot say how impressed I was with these heroes who risk their lives every single day in the service of our Nation, and with the senior military officers who lead them. We owe these brave Americans a huge debt of gratitude for their courage, sacrifice, and professionalism. But we owe them much more than that. We owe them a strategy and a framework for completing this mission. We owe them a sense of conviction that this is not going to be an indefinite struggle. That is why I joined with Senator LEVIN and others in crafting this amendment, which we hope will be embraced on a bipartisan basis. This amendment would require the President to publicly lay out for the first time a strategy and framework for our troops to follow so that they can successfully complete the mission in Iraq and come home.

Recently, the President told the American people that Iraq has made incredible political progress: from tyranny, to liberation, to national elections, to a new constitution in the space of 2½ years.

I agree with that assessment, but that is not a strategy for success. It is a statement of discrete events that have thus far occurred in Iraq, albeit positive events. Our troops and the American people deserve more than that, in my view. They certainly deserve more than simply being told that the strategy is: When they stand up, we will stand down. What our troops are looking for, what I believe the American people are looking for, what Iraq and Iraq's neighbors are looking for, is a clearly articulated strategy, a timetable which culminates in the election of a sovereign, inclusive Iraqi government with the expertise and experience to govern effectively. Thus far, the administration has failed to articulate such a strategy or such a timetable.

Before success can be a reality, however, competent Iraqi security and police forces, respectful of the civilian authority, must be at the ready to secure Iraq's borders and provide security within its territory.

And fundamental to achieving success, in my view, is ensuring that the vast majority of Iraqi Kurds, Sunnis, and Shi'as have bought into whatever political architecture emerges from the upcoming elections. At the moment, that is not a given.

Some but not all Iraqis have decided that the road to reconciliation and inclusion is the right road. Others remain mistrustful and uncertain. Although the latter may be a minority, it is painfully evident that they have the capacity to derail progress for all Iraqis.

With more than 160,000 American servicemen in Iraq, our presence and our policies are going to be pivotal in helping to shape Iraq's future. But the United States, despite all of its military strength, cannot, through force alone, remake Iraq. Moreover, the longer U.S. troops remain an occupying force there, the greater the hatred and disaffection among Iraqis and the larger attraction for foreign jihadists.

That is why it is especially important that the administration proceed with some sense of urgency in setting forth its strategy for involving Iraq's neighbors in addressing the political, ethnic, and tribal divisions that exist in Iraq and fuel instability, particularly so in light of the size of the "no" vote cast by Sunni voters against the new constitution.

The Levin amendment imbues the administration with that urgency. It states that U.S. forces should not remain in Iraq indefinitely. It establishes expectations that calendar year 2006 should be a period of significant transition to full Iraqi sovereignty, thereby creating the conditions for the phased redeployment of U.S. forces from Iraq. It stresses the need for compromise among Iraqis to achieve a sustainable sovereign government. And most important, it calls upon the President no later than 30 days after enactment of this bill to tell the American people his campaign plan and estimated dates for the redeployment of U.S. forces.

The pending amendment provides concrete ideas for completing our mission in Iraq successfully, for phased redeployment of U.S. combat forces, for reassuring Iraq and its neighbors that we have no ulterior motives with respect to Iraq's future, and for restoring America's influence and prestige.

A successful strategy for Iraq will free-up critical resources and personnel to enable America to address urgent homeland security priorities: protecting schools and hospitals, water and power stations, and other vital locations; equipping our firefighters and other first responders who are the first line of defense in our communities against acts of terror; and fortifying our Nation's transportation infrastructure.

Today, America is less secure than it was 5 years ago, as resources have been diverted from programs to maintain the readiness of our Armed Forces, and to strengthen our homeland security, in order to pay for the continuing occupation of Iraq. It is time for the Bush administration to make a major course correction in our policy in Iraq if we are going to be successful, one that will bring our military involvement nearer to a close. It is time for the administration to refocus attention and resources on our Nation's real priorities—keeping America strong, secure, and prosperous for the 21 century.

I urge my colleagues to take a good look at the Levin amendment. It has been worked on for the last week by a number of us who have tried to come up with a plan for success, recognizing the achievements that have occurred but also laying out a strategy of how to succeed in the coming months. We cannot continue on the path we are on indefinitely. It will not work. It has cost us dearly at home and abroad.

I think that this amendment is one that many of my colleagues could be drawn to. It doesn't lay out timetables definitely, but it does lay out a framework, a strategy for success. I urge my colleagues to vote to adopt this amendment when it comes to a vote tomorrow.

I yield the floor.

NATIONAL PREMATURITY AWARENESS DAY

The PRESIDING OFFICER. The Senator from Tennessee.

Mr. ALEXANDER. While my friend, the Senator from Connecticut, is on the floor, I would like to change the subject for just 2 or 3 minutes and talk about the issue of babies born prematurely, an area he and I have been working on together. Premature infants are 14 times more likely to die in the first year of their lives. This is Prematurity Awareness Month. Tomorrow is Prematurity Awareness Day. It is the No. 1 cause of infant death in the first month of life in the United States. Premature babies who survive may suffer lifelong consequences, including cerebral palsy, mental retardation, chronic lung disease, vision and hearing loss. Half the cases of premature birth have no known cause, and any pregnant woman is at risk.

That is why the Senator from Connecticut and I have introduced the Prematurity Research Expansion and Education for Mothers Who Deliver Infants Early Act, which we call the PREEMIE Act. It expands research into the causes and prevention of prematurity and increases education and support services related to prematurity.

I ask unanimous consent that the following Senators be added to our legislation in honor of Prematurity Awareness Day, which is tomorrow: Senators BENNETT, BINGAMAN, CLINTON, BOND, COCHRAN, COLLINS, HAGEL, INOUYE, LIEBERMAN, LUGAR, OBAMA, LAUTENBERG, LINCOLN, and TALENT.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. The March of Dimes is our partner, a strong advocate for the PREEMIE bill. It is leading the prematurity campaign. It will sponsor a symposium on prematurity research here in Washington, DC, on November 21 and 22.

Mr. GRAHAM. Would the Senator add my name, please?

Mr. ALEXANDER. I ask unanimous consent to add the name of the Senator from South Carolina.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ALEXANDER. It calls for a Federal research plan. I thank our colleagues for joining us in this effort. We hope the legislation will pass Congress this year.

With the permission of the Senator from Rhode Island, I ask unanimous consent that the Senator from Connecticut have a minute to make his comments on the legislation.

Mr. REED. I have no objection.

Mr. DODD. I thank my colleague. I am pleased to join with my colleague from Tennessee in this effort. I commend our colleagues from around the country who joined us, including our friend from South Carolina, the most recent cosponsor of this legislation.

One out of every eight babies in our country is born prematurely—that is 1,300 infants every day and over 470,000 every year. The problems associated with prematurity are legion. We are making incredible advances in how we treat these children, but we need to do a lot more. I am not going to go to great length here except to commend my colleague from Tennessee and tell him how much I have enjoyed working with him on this issue.

This is a critically important issue. It is the kind of issue that deserves more attention. We hope to get that attention with these efforts. I commend him for his leadership. I am pleased to be a partner in this effort, and I am grateful to my colleagues for joining us in this endeavor.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Rhode Island.

Mr. REED. Mr. President, I rise to express my strong support for the amendment offered by Senator LEVIN from Michigan. I was pleased to work with a number of my colleagues on this amendment, including Senator LEVIN, Senator BIDEN, Senator HARRY REID, Senator KERRY, Senator FEINGOLD, Senator KENNEDY, Senator DURBIN, and particularly Senator DODD. Senator DODD and I had the privilege of traveling together through Iraq just about 3 weeks ago. Our trip was very illuminating. His participation is one I deeply appreciated.

We all understand that there are over 160,000 American troops in Iraq. They are serving magnificently, and they have paid a difficult price for their service. We have lost soldiers and sailors and airmen and marines. We know how important it is to succeed in Iraq.

But the American people are concerned. A Pew Research poll conducted last week found that those polled believed that Iraq was the most important problem facing the country today. A second poll conducted by NBC News and the Wall Street Journal, however, found that 64 percent of those polled disapproved of the way President Bush is handling this situation in Iraq.

At the heart of that, I believe, is a sense that there is no plan. There are slogans—"Stay the course." There are slogans—"When the Iraqis stand up, we stand down." But a slogan is not a plan, and the American people and this Congress should demand a plan.

That is the essence of the Levin amendment. We are not collectively a Commander in Chief. We should not presume to think so. He is responsible for such a plan, and he has to provide, not just to us but to the American people, a sense that there is a plan that is leading to an outcome which is successful in a timeframe which is feasible. What the American people are seeing, however, is chaos without a plan.

I did not vote to authorize the use of force in Iraq. At that time, my concerns were, after the initial decisive military victory, that we would be swept up in a difficult situation. That is what has come to pass. I thought the cost would be huge then, but I did not expect that we would enter the phase after military operations, the conventional attack, with essentially no plan. That was a surprise to me and a surprise to so many others.

According to an article in the Philadelphia Inquirer, when a lieutenant colonel briefed war planners and intelligence officers in March 2003 on the administration's plans in Iraq, the slide for the rebuilding operations or phase 4-C, as it is known in the military, was simply this: "To be provided." We are still waiting. We are still waiting for a plan that works, that is measurable, and that will give the American public the confidence that our course ahead will lead to success.

We all know in February of 2003 when General Shinseki was asked about the troop strength we needed there, he said several hundred thousand soldiers. He was dismissed—and that is a kind word for the treatment he received. Secretary Rumsfeld said the estimate was " . . . far from the mark." Secretary Wolfowitz called it "outlandish." In fact, it was very accurate, very perceptive—prophetic, indeed, because after our initial entry into Iraq, after the first days of fighting, it became more and more obvious we needed more troops to, among other things, secure ammo dumps that were prolific throughout the country. Perhaps we have lost that window where more troops will make a difference, but we certainly have not gone past the point where a good plan will make a difference, and we need that good plan.

The Congressional Research Service has summarized dozens of reports and articles, cataloging mistake after mistake. In their words:

> The lack of reconstruction plan; the failure to adequately fund reconstruction early on; unrealistic application of U.S. views to Iraqi conditions by, for example, emphasizing privatization policy; the organizational incompetence of the CPA; changing deadlines . . .

Et cetera, et cetera, et cetera.

I could add, a very unwise de-Baathification process and the disestablishment of the Iraqi army. But the litany goes on and on. It was ad hoc, off the cuff. It was not a plan that worked and it is not working today.

We need this plan. That is what the Levin amendment calls for. Give us a plan. Not just us, but give the American people a plan. We have made progress in Iraq. We have had elections. But that progress is fragile and reversible. We have to have a coherent way ahead. And again, hope is not a plan.

This amendment is not, as some would characterize it, cut and run. It asks the President to lay out conditions. It asks to define a mission. It asks to catalog the resources necessary. Then it anticipates—and I think this is prudent—that we would have a phased redeployment of troops.

Just today, in London, Prime Minister Blair talked about British troops coming out next year, 2006. Jalal Talabani, the Iraqi President, said the troops are coming out in 2006. British Defense Secretary John Reid—no relation—said that we are likely to see troops come out next year if conditions allow. So the idea of looking ahead with a good plan and making a good-faith estimate as to troop levels seems to me the appropriate thing to do. It is a campaign plan. It is a campaign plan which will give us an idea of how long we will be there.

We need not simply to reflect what is happening on the ground in Iraq. We cannot sustain indefinitely 160,000 American troops in Iraq.

It will bring our land forces, our Army, our Marines to their knees. They are overstretched. They have a billion dollars of built-up maintenance on helicopters and vehicles. And the personnel turmoil is excruciating. We owe it to them to have a plan. And we must be able to show how we are paying for this plan.

This plan would also ask the President to talk about a definition of "success," talk about the conditions, talk about situations which would cause those conditions to be reevaluated. The Levin amendment is asking for the obvious. Show us the way ahead, not in a slogan but in concrete, measurable elements that will constitute a good plan. We have been waiting for 2½ years for such a plan.

What is the mission? It has changed. One of the initial missions was to deny the Iraqi Government weapons of mass destruction. We find they had none.

Then, of course, the mission was to root out terrorist insurgents that might be collaborating with Saddam Hussein's regime. The evidence strongly suggests there was no such material collaboration. But today there are thousands of hardened terrorists that we are in the process of rooting out—after the attack, not before.

Then, of course, there was the mission of creating a democratic oasis in Iraq that would be transformative of the entire region.

Is that still the mission? If it is the mission, we are going to need many decades, billions of dollars, and to mobilize the strength of this country, not just militarily but for technical and political assistance, and we haven't done that.

The President doesn't suggest—from everything I have heard and from everything I have seen—that he intended to do that.

What is the mission? What are the resources? We are spending about $4 billion to $6 billion a month in Iraq and Afghanistan. How long will we spend that much money, and when we finish how much will we have to spend to reconstitute our equipment, to reorganize our troops? Tell us. It is important because we make decisions on this floor that are based upon assumptions about how much we will be spending years ahead in Iraq, and we have to have those numbers. We need the conditions. More than that, we need all this tied into our troop strength in Iraq.

That is essentially what the American people are looking at very consciously.

How long will their sons and daughters be committed to this struggle?

I believe we have to succeed, and I am here because we can't succeed without a coherent plan, not one that is made up of slogans and good intentions but one that is premised on real conditions, hardnosed, and something that will help us and help the American people to understand our commitment and help us to succeed in that commitment.

I hope very strongly that the Levin amendment is agreed to. The Republican counterpart makes a few changes, but the critical change is it essentially takes out the notion of a plan.

The opposing amendment would strip out something vital in the Levin amendment: that is, a campaign plan that would help show, project, the phased redeployment of American troops. I think that is essential.

If Tony Blair can speak off the cuff in London today about the phased withdrawal of British troops, and Talabani, the Iraqi President can do it, and John Reid, the Defense Secretary of Great Britain can do it, then certainly the President of United States can do it. And we ask him to do it. In fact, if we agree to this amendment, it will require him to do it.

I yield the floor.

ENERGY AND WATER DEVELOPMENT APPROPRIATIONS ACT, 2006—CONFERENCE REPORT

The PRESIDING OFFICER (Mr. THOMAS). The hour of 4:30 having arrived, the Senate will proceed to the consideration of the conference report to accompany H.R. 2419, which the clerk will report.

The legislation clerk read as follows:

The Committee of Conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill, H.R. 2419, making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, and the Senate agree to the same, signed by all of the conferees on the part of both Houses.

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report.

(The conference report is printed in the proceedings of the House in the RECORD of November 7, 2005.)

The PRESIDING OFFICER. Under the previous order, there will now be 30 minutes of debate equally divided between the bill managers, with 15 minutes under the control of the Senator from Arizona, Mr. MCCAIN, and 15 minutes under the control of the Senator from Oklahoma, Mr. COBURN.

DEFENSE AUTHORIZATION

Mr. LEVIN. Mr. President, I think we indicated last week that while the time is limited, as it had been prior to this point in terms of debate on the Iraq amendments, there would be time either on the amendments themselves or in morning business tonight after the vote. There is a very limited period of time under the unanimous consent agreement for tomorrow. We had hoped that could have been expended, but apparently there is no agreement to that.

I remind colleagues who have not had a chance to speak on the Iraq amendments which are pending that the best time to do that, given the very limited time remaining on tomorrow on these amendments, would be after the vote on the appropriations bill tonight.

I suggest the absence of a quorum.

The assistant legislative clerk proceeded to call the roll.

Mr. DOMENICI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DOMENICI. Mr. President, I ask unanimous consent that 5 minutes of my time be reserved intact prior to the vote at 5:30, and I object for the other side.

How much time remains, and how is it allotted?

The PRESIDING OFFICER. Each side has 10 minutes at this time, and there are four Senators to equally divide the 10 minutes. Each of the four Senators has 10 minutes. The vote will be 40 minutes from now.

Mr. DOMENICI. I didn't understand. Do we know the names of the Senators? REED. DOMENICI.

The PRESIDING OFFICER. And Senators MCCAIN and COBURN.

Mr. DOMENICI. All right.

I ask consent to call up conference authority to accompany H.R. 2419 and ask it be considered.

The PRESIDING OFFICER (Mr. ISAKSON). The report is before the Senate.

Mr. DOMENICI. Mr. President it is my pleasure to bring the Energy and Water conference report for fiscal year 2006 to the floor for consideration.

The bill provides $30.495 billion, consistent with the conference allocation and $748 million above the request and the House level and budget request and $750 million below the Senate allocation. This bill is a product of extensive compromise on both sides.

U.S. Army Corps: $5.38 billion: +$636 million above the House, $84 million above the Senate and $57 million below fiscal year 2005 levels and +$1.05 billion above the request.

In the wake the hurricanes, this budget rejects the direction of the President's proposed budget. It is clear that we need to invest more in critical water infrastructure, not less.

This also funds an $8 million study to investigate various storm protection needs for New Orleans and vicinity, as well as $10 million for the Louisiana coastal area.

The report does not provide for the supplemental needs of Louisiana, Mississippi, Texas or Florida, nor does it repay any of the projects that have been tapped to support the Corps' post hurricane operations. The Congress will address this as part of the emergency supplemental.

Bureau of Reclamation $1.06 billion. This is: +$53.5 million above the House. -$16 million below the Senate, +$114 million above the request.

Mr. President—$24.29 billion is provided to the Department. This is $76 million above the request and consistent with fiscal year 2005 levels. NNSA received $9.196 billion. This is $217 above fiscal year 2005 levels and $200 million below the request, $348 million above the House and -$250 below the Senate.

The Conferees have agreed to increase funding for the Reliable Replacement Warhead Program. This innovative approach is intended to challenge weapons designers to enhance the existing warheads to improve the safety, surety and manufacturability.

The conference agreement provides no funding for a modern pit facility. I do not believe the administration has made the case that this costly new project is necessary at this point. The Department must focus on improving the manufacturing capability of pits at Los Alamos rather than experimental activities.

Lab Directed Research and Development, LDRD. The bill increases the LDRD amount to 8 percent. As an experiment, it applies overhead costs, but also ensures that overall LDRD funding does not fall below the 6 percent overall.

NNSA's Office of Nuclear Nonproliferation is provided $1.63 billion. This is a slight decrease below the President's request. However, the conferees were able to provide needed funding for key nonproliferation programs.

Mr. President, $220 million is provided to initiate construction of the mixed oxide conversion plant at Savannah River Site in South Carolina this fiscal year. This level of funding will permit the Department to move ahead with construction in fiscal year 2006.

The conference report provides $309 million, an increase of $42 million above the request and $85 million above fiscal year 2005, for the Nuclear Detection Research and Development account. This is critical funding provided to the labs to stay a step ahead of terrorists and other threats.

The conferees provide $427 million, an increase of $83 million, to protect nuclear materials in Russia that was negotiated as part of the Bratislava Summit in February 2005 between President's Bush and Putin.

This will allow the administration to secure several new Russian weapons sites that have previously not been open to the U.S. to make critical security upgrades to protect Russian nuclear warheads. Russian sites have traditionally been poorly protected despite the fact that the sites store nuclear warheads.

The conferees provide the Office of Science $3.63 billion, an increase of $170 million above the request. The conferees provide an additional $30 million for advanced computing at Oak Ridge.

Fossil Energy R&D will receive $597 million, up $26 million from fiscal year 2005 and $106 million above the request. The conferees defer the use of $257 million to be used to support the construction of the FutureGen coal plant.

The conference report provides $1.8 billion for Energy Supply and Conservation research and development. This is $24 million above fiscal year 2005 and $81 million above the request.

For fiscal year 2006, the conferees have provided $240 million for weatherization assistance. This is a $15 million increase above the request and will provide important funding to offset rising energy costs this winter.

In fiscal year 2006, the conferees provide $7 billion in funding for environmental management activities. Within this amount the defense cleanup activities receive $6.19 billion, an increase of $177 million above the request.

Yucca Mountain is facing serious delays regarding the filing of the license application and the EPA established radiation standard. In addition, this facility will be too small to address all our Nation's spent fuel and defense waste needs.

We need to find ways to reduce the amount of spent fuel to be sent to the repository and encourage the Department to find ways to do more through spent fuel recycling.

Recently, the Secretary of Energy Sam Bodman outlined his vision for the future of nuclear power, which includes investment in commercial spent fuel recycling and to minimize the proliferation threats.

The conference agreement provides $50 million for the Denali Commission, an increase of $47 million over the President's request.

The conference agreement provides $65 million for the Appalachian Regional Commission, consistent with the President's request.

The conference agreement provides $12 million for the Delta Regional Authority.

The conference agreement provides a total budget of $734 million for the Nuclear Regulatory Commission, the same as the Senate bill and is $41 million above the request. NRC is charged with new security investigations, as well as supporting the filing of new reactor license requests.

The conference report provides $5.4 billion for the Army Corps of Engineers. This is approximately $57 million less than enacted in fiscal year 2005.

The conference report provides $1.05 billion more for the Corps than was proposed by the budget request. It also includes $636 million more than the House Bill and $85 million more than the Senate bill.

This significant increase signifies a congressional commitment to restore our aging water resources infrastructure.

For too long we have not provided sufficient resources for our water infrastructure and we are now paying the price.

Navigation channels are not being dredged, which limits commerce.

Preventive maintenance is not being performed, resulting in unscheduled outages of projects.

Construction of new infrastructure is being delayed and constructed inefficiently due to funding constraints.

Studies of water resource needs are being delayed or deferred due to funding constraints.

This conference report attempts to set us on the right path to recapitalize our water resources infrastructure by providing $2.4 billion for construction projects and $2 billion for Operations and Maintenance of existing projects.

Some of the construction highlights of the bill include: All of the Dam Safety projects are funded at the Corps' full capability; $90 million for continued construction of the Olmsted Lock and Dam; $101 million for continued construction of the New York-New Jersey Harbor; $70 million for continued construction of the McAlpine Lock and Dam, on the Ohio River; $28 million for continued construction of the West Bank and Vicinity, New Orleans, Louisiana flood control project; and $137 million for continuation of the Everglades Restoration Projects in Florida.

Some of the operation and maintenance items include: $24 million for the maintenance of the Tennessee-Tombigbee Waterway; $62.4 million for operations and maintenance of the Upper River navigation system; $55 million for operation and maintenance of the Ohio River navigation system; $17 million for maintenance of the Columbia River jetties; and dredging funds were included for most of our smaller ports and waterways as well.

The Mississippi River and Tributaries Project was funded at $400 million. This project provides for comprehensive navigation and flood control improvements on the Mississippi River and its tributaries below St. Louis, MO.

The conference report includes $10 million for continued studies of how to restore Louisiana's Coastal Wetlands. Additional funding and authorization for wetland recovery work is included in the administration's emergency supplemental proposal.

The conference bill contains a proviso concerning a comprehensive hurricane protection study for south Louisiana that would afford protection from a category 5 storm surge and would exclude the normal policy considerations in determining the benefits of this protection level.

It is my understanding that previous studies undertaken by the Corps of Engineers balanced the level of protection with the benefits that established policies allowed.

None of the existing studies provide detailed analysis of what is necessary to provide Category 5 protection for south Louisiana.

This study would provide that analysis. In order to expedite the work, the Corps is directed to provide a plan for short term protection within 6 months of enactment, a plan for interim protection within 12 months of enactment and long term comprehensive protection within 24 months of enactment.

This study would rely heavily on existing studies with projections of necessary actions to achieve Category 5 protection. The study would also integrate flood, coastal and hurricane protection measures into a seamless line of protection for south Louisiana.

On August 29, Hurricane Katrina came ashore on the Louisiana and Mississippi Gulf coast. This storm devastated the region.

The conference report does not include funding that has been requested by the administration for hurricane recovery efforts along the gulf coast; rather, these efforts will continue to be funded through emergency supplemental appropriations.

The administration has proposed spending $1.6 billion to restore the levees to prehurricane strength and make repairs to existing Corps infrastructure located in the hurricane's path.

The conference report provides $1.065 billion for the Bureau of Reclamation. This is approximately $47 million more than was enacted in fiscal year 2005.

The conference report provides $114 million more for Reclamation than was proposed by the budget request. It also includes $53.5 million more than the House bill and $16 million less than the Senate bill.

The conference report provides sufficient funding to allow Reclamation to continue their mission of providing water and power to the West.

Some of the major highlights include: $129.4 million for the various divisions of the Central Valley Project in California; $52.2 million for the Central Valley Project Restoration Fund; $34.4 million for the Central Utah Project; $56 million to continue construction of the Animas-La Plata Project; $16 million for the Ft. Peck-Dry Prairie Rural Water System in Montana; $21 million for the Klamath Project, $37 million for the California Bay-Delta Restoration program.

These ongoing water resource projects provide benefits to our citizens by making large parts of the western United States habitable.

Mr. President, I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. Without objection, the clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CRAIG. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, I ask unanimous consent to be allowed to use 5 minutes of Senator MCCAIN's allotted time under the UC.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CRAIG. Mr. President, for just a few moments, I rise to recognize the work that has been done on H.R. 2419, the Energy and Water Development Appropriations Act of 2006.

For a good number of years, some of us who work on the physical sciences in the Senate—by that I mean on committees that recognize the kind of research dollars that are applied to new technologies beyond health care, but more in the physical sciences—have been increasingly concerned that we have dedicated almost exclusively all research money to health care, medical science, biological sciences, and not to the physical sciences.

We had once invested heavily in the space program, and for decades it advanced our country beyond all other countries in technology, in all of the high-tech that has led our economy today and is now leading the world economy. Much of that was a spinoff from the early days of the investment in the space program. When few saw the opportunities or the benefits, some in Congress did, and it was well funded.

While I am not standing on the floor in any way to criticize our investment in the biological sciences or health care—and clearly that has advanced technology today well beyond where we thought we could go, and in a much more rapid way to look at cancer and diabetes and other of our chronic illnesses in this country that are causing tremendous problems and death loss—the one thing that has been obvious in tight budget years is that we have not been willing to commit the kind of investment dollars to the physical sciences this bill begins to speak to clearly today. For example, we are spending more money than ever before on nuclear energy, pushing the technology curve once again to become leaders in the world on a technology that we once led on but we let move away. Now for a variety of reasons, most importantly because of a need for clean energy, we are recognizing once again we have to put the hard dollars back into the technology that takes us beyond the lightwater reactor to the high temperature gas reactor and even beyond that some day, out there 40 or 50 or 60 years to technologies such as fission. That is in part what this budget and this appropriations bill speaks to.

Certainly I come to the floor to thank the chairman of the Appropriations subcommittee, PETE DOMENICI, for his vision, his farsightedness in recognizing and fighting for some of the new money that advances us at our national laboratories that are tremendous treasures to advance these types of technologies. Once weapons laboratories during the Cold War, they are transforming themselves into lead research facilities well beyond what they were a decade or two ago. Clearly, that is true, whether it is in my State of Idaho or in New Mexico or California or in the other States that have the privilege of housing these laboratories and the quality of work they do.

While this conference did not come about easily, while there are many more dollars that could be spent productively to advance our country and our leadership in the world of science, this is a major step in the right direction under tight budget constraints.

I am proud to be a conservative. I believe in balanced budgets. I believe in bringing down deficits. I believe that all parts of the appropriating process have to share in that responsibility. Clearly, we have shared in it in the Energy and Water Development appropriations legislation. At the same time we have worked cooperatively with the House and, in a common cause, advanced a variety of the technologies that are embodied within this appropriations bill that is critically important.

I thank the chairman for the work he has done to advance a variety of the technologies I have spoken to, and yield the floor.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. DOMENICI. I thank the Senator. Let me reciprocate. He, too, is a very significant part and plays a very important role in not only the matters he discussed but many others in this bill. I commend him for it. His State has a magnificent laboratory. They are performing some great activity in terms of the future generation of civilian nuclear power. That is important for our and the world's future.

I take a moment to thank the staff and recognize their hard work, long hours, many discussions: From the majority staff, Scott O'Malia, Roger Cockrell, and Emily Brunini; on the minority staff, Drew Willison and Nancy Olkewicz. Everybody should understand that these appropriations bills are put together by a small, excellent, and professional staff. Some people think that more oversight should occur. I hope the authorizers will do that. We can't do it in detail. We do our best.

I yield the floor.

The PRESIDING OFFICER. The Senator from Nevada.

Mr. REID. Mr. President, I make a couple of points that I think are worth making on this most important bill. First, I express my appreciation to

Senator Domenici. He and I have worked on this bill for a long time. When I say "this bill," year after year we work hard to put a bill together. Some years are easier than others. This was not an easy year. It was a very difficult year. We have a lot of Senators who are not happy with what we have been able to do, but we have done the best we can under very trying circumstances.

Our conference allocation is $750 million above the President's request. Of that amount, $600 million went to the Corps of Engineers for flood control and navigation projects. This is in relation to the post-Katrina world in which it is certainly obvious why we needed to do this. This is a wise investment of our Nation's resources. The scrutiny of the Corps' activities is only going to increase in coming years. So it is imperative that they conduct themselves in a completely open and transparent manner moving forward.

Unfortunately, the result of placing such a high priority on flood control is that important programs of the Department of Energy are essentially flat. This will not be an easy year for renewable and energy-efficient programs, the Office of Science, or the critically important environmental cleanups at nuclear weapons sites nationwide. We must do better in future years. In fact, we have to find more resources for these important activities.

Secondly, this conference report is the product of thousands of compromises, not hundreds. None of the four principal subcommittee conferees agrees with every provision contained in this conference report, and that is an understatement. For example, as far as I am concerned, we are carrying a small amount of funding and some report language directing the Department to set a nationwide competition to see if there is a State out there willing to voluntarily accept a spent fuel reprocessing facility. While I have always supported processing research as a prudent investment, I have never supported moving forward in any way on an actual reprocessing facility for many of the same reasons that I oppose centralized storage—the danger of transportation outweighs the benefits.

However, I completely respect the desire of Chairman Hobson, Chairman Domenici, and Ranking Member Visclosky to do something—I appreciate and congratulate and applaud each of them—to change the dynamics surrounding what I believe is the failed Yucca Mountain project. I have worked with Senator Domenici for many years. He is my friend. It goes without saying that we have difficulties in this bill, but it is never anything personal. We have communication that is as good as any two Senators in this Congress. It is a good give-and-take process. Senator Domenici understands that legislation is the art of compromise. We are both realists. I have been the chairman of this subcommittee on a number of occasions, and he has been the ranking member. We have always worked well together.

I thank both the House and the Senate staff for doing a tremendous job under the most trying circumstances. A lot of times we are at home, in the safety and security of our homes and we have staff members working well into the night, into the morning, trying to come up with a product they can submit to us that we can get through this body. This has been a long, difficult road this year. My hat is off to all the House and Senate staff for sticking with it and bringing forward the recommendations that will be accepted this evening.

On the House side, thanks to Kevin Cook, Scott Burnison, John Blazey, Terry Tyborowski, Tracy LaTurner, Tanya Berquam, Dixon Butler, Peder Morebeer, and Felicia Kirksey.

On the Senate side, thanks to Scott O'Malia, Emily Brunini, Roger Cockrell, and Nancy Olkewicz. I probably shouldn't spend too much time on Drew Willison, but I couldn't spend too much time. What he has done in working to craft this legislation, not for me, not for Senator Domenici, not for the Senate, but for the people of this country, words cannot express adequately my appreciation for his good work. No one—I say that without qualification or reservation—knows this bill better than he does. His work is something the American people should understand they have gotten their money's worth from the work he has done. It was a tough year. It is a product we can all be proud of.

I thank the Chair.

The PRESIDING OFFICER. The Senator from New Mexico.

Mr. REID. I yield back all of the time I have.

The PRESIDING OFFICER. The Senator yields back his time.

The Senator from New Mexico.

Mr. DOMENICI. Mr. President, parliamentary inquiry: I know there is another Senator, but if he doesn't come by 5:30, I understand we are going to vote; is that correct?

The PRESIDING OFFICER. If all time is yielded back, the vote will occur at 5:30.

Mr. REID. I have yielded back my time. How much time is left?

The PRESIDING OFFICER. The Senator from New Mexico reserved 5 minutes prior to the vote and has 4 minutes remaining.

Mr. DOMENICI. I must say, if the Senator from Oklahoma isn't here by 5:30, we can't yield back his time, but we are supposed to vote.

The PRESIDING OFFICER. The Senator is correct.

Mr. DOMENICI. I am not trying to take his time. I am going to speak because I have time. If he comes, I will give him whatever I have.

Senator Reid talked about renewables. While we weren't able to do everything in each of the R&D programs, we are over the budget with reference to conservation, wind, biomass, solar, and hydrogen. We are higher than the budget request in each of those. We are pleased about that.

Move over to the nonproliferation budget, which everybody says is terrifically important for our country. That is up. An area which the occupant of the Chair is familiar with, that is the MOX, the mixed oxide, which is a part of nonproliferation but is America's first significant effort in moving ahead with reprocessing. It starts by a giant step at converting plutonium that comes from thousands of nuclear weapons that have been reduced, eliminated, and the plutonium remains. We are trying to convert it. The Savannah River Project has accepted it. While the House had zeroed it out—a big mistake, in my opinion—we were able to fund it by long and hard negotiations. It was one of the items that held this bill up. It is funded not as much as it should be but sufficient to keep this valuable, almost necessary, project going. That is good.

Likewise, there should be no doubt, harkening back to nonproliferation, that the President was right in his budget. He asked for a big increase, while the rest was either zeroed out, slightly reduced. There was an 11 or 12-percent increase. We retained that, and it will now see us make a very major effort in the detection, the cleanup, the safety of items that could proliferate in all the areas, but predominantly in the area of nuclear.

With that, I yield the floor.

The PRESIDING OFFICER. The Senator yields the floor.

PROTECTING THE TREATY FISHING RIGHTS OF TRIBES

Mr. INOUYE. Mr. President, I rise today to address some lingering concerns about certain report language in the fiscal year 2006 Energy and Water Appropriations Conference Report and to seek clarification. During my many years as chairman and vice chairman of the Indian Affairs Committee, I became acutely aware of the importance of protecting the treaty fishing rights of tribes in the Northwest and spent much time discussing this issue with many of the Northwest tribal leaders. I know that without independent technical data and analyses on the status of salmon and steelhead runs in the Columbia Basin, it will be difficult for them to act professionally as comanagers of the resource. The final conference report contains language directing the Bonneville Power Administration, BPA, to cease funding an important independent scientific research center based in the Pacific Northwest, known as the Fish Passage Center, FPC. The language directs BPA and the Northwest Power and Conservation

Council, NPCC, to transfer the functions of the Fish Passage Center in a way that ensures "seamless continuity of activities" without giving direction about how this transfer should take place.

The Northwest Power Act called for the NPCC to establish a fish and wildlife program. That program has called for BPA to fund the Fish Passage Center for the past 20 years. The data and analyses the center has provided has been invaluable to the States and tribal fishery managers of the Columbia Basin. Can the distinguished chairman of the Energy and Water Subcommittee tell me if this language was in any way intended to supersede the NW Power Act or the specific provisions in the NPCC's present fish and wildlife program calling for a number of key functions to be performed and whether the state and tribal fishery managers will have input into how the center is reconstituted?

Mr. DOMENICI. The premise of the longtime member of the Indian Affairs Committee is correct. We do not intend this language to supersede the Northwest Power Act or the Council's fish and wildlife program. Certainly both the Bonneville Power Administration and the NPCC are expected to work closely with the State and tribal fishery managers in determining a suitable entity that could take over these functions so that the fishery managers, including the tribes, continue to receive independent analyses as they have in the past.

Mr. CRAIG. Mr. President, I appreciate the attention of my colleagues to this regional issue regarding the Fish Passage Center and would like to make a few comments to clarify the intent of the language.

This language is not about treaty rights; this issue is about ensuring accurate data is used in recovering the species. Removal of funding to the FPC does not mean the current functions will disappear. It is my understanding that other institutions in the region now perform most of the data collection and dissemination that is performed by the FPC. Reduced redundancies mean increased efficiency and effectiveness in the regional fish and wildlife program. The end result is a more focused program and the region moves forward toward recovery of the species.

While BPA has contracted the FPC for the last 20 years, many questions have arisen regarding the reliability of the technical data. The Northwest Power and Conservation Council's Independent Scientific Advisory Board, ISAB, issued a report in 2003 in which it raised serious questions about the FPC's analyses. The ISAB said FPC's "basic model and methods of presentation are now inadequate to make confident predictions for management, and other interpretations of the accumulated data are needed." Clearly, I am not alone in questioning FPC's reliability. Data cloaked in advocacy create confusion. False science leads people to false choices. We do not have to choose dams or salmon. They can, and should, continue to coexist.

I am confident the BPA and NPCC will work with the region, both States and tribes, to ensure a seamless transition of functions. I thank the chairman for allowing me to speak on this matter.

MIXED OXIDE FUEL PROJECT

Mr. GRAHAM. Mr. President, I rise today to express my concern regarding the Mixed Oxide fuel project. This project is vital to reduce the threat of terrorists or rogue nations obtaining nuclear weapon materials. By resulting in the disposal of 34 metric tons—64 tons in total—of surplus weapon-grade plutonium, enough for thousands of nuclear weapons, the MOX program helps accomplish one of our most important nonproliferation goals. This plutonium, once converted into fuel for commercial nuclear power plants, is a real "swords into plowshares" program.

Mr. DOMENICI. I have been a forceful advocate of the permanent disposal of the 34 tons of excess weapons-grade plutonium from the U.S. and Russian stockpiles. This material equals the same amount of plutonium as contained in 8,000 warheads. This is the largest non-proliferation effort undertaken by the U.S. and G-8 partners. In the Fiscal Year 1999 Energy and Water bill, I included $200 million in emergency/funding to provide the initial investment in the Plutonium Disposition program. Excess weapons grade plutonium in Russia is a clear and present danger. For that reason, the committee considers the Department's material disposition program of utmost importance.

Mr. GRAHAM. Despite this importance, the Department of Energy has not requested full funding for this project in the President's Fiscal Year 2004, Fiscal Year 2005 and Fiscal Year 2006 budget request as originally proposed in the report to Congress entitled "Disposition of Surplus Defense Plutonium at Savannah River Site, February 2002." The funding shortfalls will add to the existing 3-year delay caused by the negotiations between the Russian and U.S. Governments regarding liability for the project. However, with agreement between the U.S. and Russia on liability, the administration has no reason not to request full funding in next year's budget. It is vital that in the next budget the administration proposes fully funding the MOX program at a level that will bring this project closer to its original schedule.

Mr. DOMENICI. I agree with the Senator from South Carolina that the administration needs to fully fund this project in fiscal year 2007 and thereafter. Without a viable disposal solution, the cleanup of the Hanford Site and arrangements for decreasing inventories of plutonium at Lawrence Livermore National Laboratory and the Pantex Plant will cost taxpayers hundreds of millions of dollars annually for storage and related security costs.

Mr. GRAHAM. Never hesitant to support missions in support of our national defense, the residents of South Carolina took considerable risk by allowing shipments of defense plutonium to be sent to the Savannah River Site from Rocky Flats and other DOE sites in advance of the construction of the MOX plant. In addition to supporting DOE's efforts to consolidate plutonium and accomplish the goals of the plutonium disposition program, this agreement greatly assisted DOE's efforts to expeditiously close Rocky Flats, resulting in considerable cost savings for DOE.

In a sign of good faith to the State of South Carolina, language was negotiated between the State of South Carolina and the Federal Government that required the Department of Energy to convert one metric ton of defense plutonium into fuel for commercial nuclear reactors by 2011 or face penalties of $1 million per day up to $100 million per year until the plutonium is either converted into the fuel or removed from the State. It has never been the intention of South Carolina to receive penalty payments; the residents of the State simply sought reassurances that weapons-grade plutonium would not remain at SRS indefinitely. South Carolina would not have accepted plutonium without this statute. However, until the plant is operational, it is critical to maintain the protections provided in Section 4306 of the Atomic Energy Defense Act, 50 USC 2566. This is the reassurance the Federal Government gives to South Carolina that it is DOE's intention to see this project through.

Mr. DOMENICI. I recognize the importance of that language. The appropriations bill includes a 3-year delay in the penalty payment language to reflect the delays caused by the Russians in negotiating a liability agreement. This delay does not allow DOE to withdraw support for the program. Any effort to eliminate funding for this project will likely foreclose a disposal pathway for plutonium stored at Savannah River causing the Department to pay the State of South Carolina up to $100,000,000 per year in fines starting in 2014.

Mr. GRAHAM. It is also my intention to make a technical correction, in the future, to language contained in the conference report to the Fiscal Year 2006 Energy and Water Appropriations Act. This conference report contains a change to important authorizing language that would make these penalty payments "subject to the availability of appropriations." I appreciate the willingness of the Senator from New Mexico to see that this is resolved.

Mr. DOMENICI. I understand the concerns of the Senator from South Carolina. I will work with the Senator to find a fair solution that does not impact existing Department of Energy programs, and in the event that the Department is unable to meet the statutory requirements for the Mixed Oxide Fuel Conversion facility, the solution ensures that South Carolina does not become the permanent storage site for defense plutonium.

Mr. GRAHAM. I thank the Senator from New Mexico and look forward to working with him to continue to fully support the construction and operation of the MOX facility.

CLARIFICATION ON FUNDS

Mr. DORGAN. I would like to ask the Senator from Nevada, Mr. REID, for clarification on funding that was included in the fiscal year 2006 Energy and Water appropriations conference report. Under the fossil energy research and development section, the report provided $6,000,000 for the Energy and Environmental Research Center for cooperative research and development. Was it not the intent of the conference committee that the funding identified for the Energy and Environmental Research Center be split with their partners in the fossil fuel research, the Western Research Institute, WRI, in Wyoming?

Mr. REID. That is correct.

Mr. DORGAN. Was it also the case that the $1,000,000 in funding for the Energy and Environmental Research Center under the fuels & powers account was meant to be exclusively for the Energy and Environmental Research Center in North Dakota as described in the report?

Mr. REID. That is correct.

Mr. DORGAN. I thank the Senator from Nevada.

DEPARTMENT OF ENERGY NATIONAL USER FACILITIES

Ms. CLINTON. First, I want to compliment the chairman and ranking member of the Energy and Water Subcommittee for their hard and successful work in leading the development of the Energy and Water bill that is before the body today. I know it is especially difficult to fund all of the important programs under the jurisdiction of this subcommittee, particularly in light of the significant needs of the Army Corps of Engineers to respond to the calamitous impact of Hurricane Katrina on the lives of so many Americans.

However, it seems to me that the funding pressures faced by the subcommittee resulted in the programs of the Office of Science being funded at a level significantly below the value of these programs to the future security and economic health of the Nation.

When the Senate passed the Energy and Water Appropriations bill, an appropriation of $419,741,000 was included for the Department of Energy's nuclear physics program, an increase of $49 million over the President's budget request, according to the Committee on Appropriations' report, to ensure full utilization of experimental facilities. The House-passed bill included an amount of $408,341,000, also including adequate funds to restore operation time of the facilities in the nuclear physics program.

The conference report accompanying the bill before the Senate provides $370,741,000, the amount of the President's budget request. Due to severe budget constraints, the conferees were unable to retain the increases provided in the House and Senate bills for national user facilities, including the increase for the Relativistic Heavy Ion Collider, RHIC, at the Brookhaven National Laboratory in New York and the Jefferson Laboratory in Virginia. I understand the allocation for the conference bill reduced the total amount available. I also understand the Senate-passed bill was about $1.5 billion above the House bill and that the conference bill allocation provided for a split of that additional amount leaving an increase of $750 million over the House-passed bill. I further understand that the vast majority of the $750 million in new funding was provided to the Army Corps of Engineers for flood control and navigation projects in the wake of Hurricanes Katrina, Ophelia, Wilma and others. Under the circumstances, this was a wise investment of our Nation's resources.

However, an unintended consequence of these cutbacks is a negative impact on the Brookhaven National Laboratory in my State of New York, where the Relativistic Heavy Ion Collider, known as RHIC, is a key nuclear physics facility with many user groups in our region and elsewhere. I am told that this amazing major facility will be severely impacted by the amount approved by the conference agreement for nuclear physics. We had urged the Committee to approve additional funds above the President's budget request to ensure the continued operations of this facility at last year's level. The budget request was inadequate to begin with, principally because of the increased power costs that have occurred in our area to operate the facility for experiments for approximately 30 weeks operating time. Unfortunately, the situation with the power costs has worsened.

Mr. WARNER. We are facing similar problems at the Jefferson Laboratory in Virginia. As the chairman knows, the Jefferson Lab in Newport News, VA, is one of our basic research labs that would be negatively impacted by this funding level.

Specifically, as a result of this cut the Jefferson Lab will have to reduce the physics output of this world-leading laboratory by 25 percent. Just last month the National Academy of Sciences issued a report titled "Rising Above the Gathering Storm." That report underscored that the Nation's economic health is seriously at risk without a sustained investment in science. The report noted that in Germany, 36 percent of undergraduates receive their degrees in science and engineering. In China the figure is 59 percent, and in Japan 66 percent. In the United States the corresponding figure is 32 percent.

It seems to me that this is a time when the Nation needs to invest in science, not cut science programs. At the Jefferson Lab we need to invest in the 12GeV upgrade necessary to sustain the pace of scientific discovery, not cut programs.

Mr. SCHUMER. My understanding is that the conference amount for nuclear physics may not provide sufficient funds for the RHIC facility. Because of the increased power costs and other factors, I am advised that without an increase in funding it is possible that there will not be any experimental operations in this fiscal year. I think we can all agree that is a bad and unintended outcome.

Mr. ALLEN. Mr. Chairman, you and Senator REID, the ranking member, have long been strong supporters of our national labs and specifically the work done at the Jefferson Lab and Brookhaven National Lab. The questions that we collectively pose relate to how we can repair the unintended damage done by this funding level. It is my understanding that the actual bill only provides funding for the Office of Science and that the Department has wide discretion to reallocate those funds among the various programs. Does the Department of Energy have the flexibility and authority to move funds around or to reprogram funding to help to alleviate situations such as this?

Mr. DOMENICI. The Department does, indeed, have broad reprogramming authority.

Mrs. CLINTON. I understand that these reallocations or reprogramming usually require approval by the subcommittee. Will both the chairman and ranking member join us, in writing, in an effort to urge the Department to reprogram funds to ensure reasonable operating times for these vital national user facilities during fiscal year 2006?

Mr. DOMENICI. Thank you for highlighting this matter. Senator REID and I agree that the programs of the Office of Science, including nuclear physics, merit appropriate consideration for additional funding under the circumstances. I appreciate the efforts of the Senators to provide examples of the impacts on one of our basic research laboratories of the funding levels provided by this conference agreement. I pledge my efforts to work with the Department and other Congressional leaders to help resolve this issue.

Mr. REID. I also pledge to work with the Department and affected Members of this body to reach an acceptable outcome.

AUBURN DAM

Mrs. FEINSTEIN. Mr. President, I rise to address a provision in the Energy and Water appropriations conference report, which requires the Bureau of Reclamation to produce a special report analyzing costs and benefits associated with constructing an Auburn Dam.

As part of that report, I believe it is critical that the Secretary of the Interior should utilize the expertise of U.S. Geological Survey to produce an up-to-date assessment of the seismic hazards associated with Auburn Dam.

I would also like to make it clear that this Auburn study cannot become a distraction from the vital work that needs to be done right away to protect Sacramento from a tragic flood.

I am deeply concerned with the lack of adequate flood protection for Sacramento. Sacramento is the only major United States city without 100-year flood protection.

The Army Corps of Engineers has reviewed six other major flood-prone cities: New Orleans, St. Louis, Dallas, Kansas City, Omaha, and Tacoma. All of these cities have at least 200-year flood protection.

Our top priority has to be to quickly shore up levees and improve Folsom Dam to protect Sacramento from a 200-year flood. Until this is complete, 300,000 people are at risk from catastrophic flood.

With respect to the conference provision, there are other issues involved with Auburn Dam, such as who would pay for the project, and the potential environmental effects of flooding 50 miles of the American River. But today I would like to focus on the seismic risk issue.

This is not the first time that building an Auburn Dam has been proposed. In the late 1960s construction began on an Auburn Dam. Construction continued, and $200 million was spent, until 1975, when an earthquake occurred nearby on a previously unknown fault. This earthquake forced a reexamination of the risks involved.

According to a 1980 Bureau of Reclamation report, if an earthquake caused the Auburn Dam to fail, Folsom Dam would be overtopped by a water surge only minutes later.

Most of the Sacramento area, an area inhabited by 750,000 people, would be flooded in a matter of hours, making evacuation difficult. Floodwater would be fast-moving and as deep as 40 feet, destroying houses and lowering chances of rooftop survival.

The risk of earthquake and its effects, which stopped construction back then, has not gone away. That's why it is so critical that Congress know what the risks are, and take this into consideration when deciding whether to go forward with this dam.

It has now been 30 years since work at the proposed site was halted, and as a result, the seismic risk assessments are out-of-date.

The most recent comprehensive study of seismic hazard issues associated with the dam project was produced by the U.S. Geological Survey in 1996, nearly 10 years ago. Even when this report was written, the science of seismic hazard assessment had already progressed considerably since most of the data on the dam project were collected in the 1970s.

The report called for additional study and analysis, much of which was never undertaken. This need for study and analysis still exists.

The Auburn Dam, if constructed, would sit on part of the Foothills fault system. The faults in the area of the proposed dam site are currently considered inactive, but were active in the past. The U.S. Geological Survey should use the best science available to evaluate past earthquakes, as well as the potential for future earthquakes, in the vicinity of the proposed dam.

One potential risk comes from a "reservoir triggered earthquake." Filling a reservoir is well-established as a potential trigger for seismic activity. Even inactive faults may experience seismic events after reservoirs are built on top of them.

The weight and pressure of the water in the reservoir increases stress and weakens the effective strength of the rock. Water seeps into fissures and pores in the rock, and may lubricate faults, allowing movement even in some cases where friction would have held dry rock in place.

It has been suggested that the Oroville earthquake, a Richter scale magnitude 5.8 earthquake that occurred in 1975, may have been caused by filling the reservoir behind the Oroville Dam. The Auburn Dam, if constructed, would be built along the same fault system as the Oroville Dam.

Many other instances of these "reservoir triggered earthquakes" have been studied around the world. Recent global reviews list nearly 100 sites where filling reservoirs may have triggered seismic activity.

These studies show that the increased risk of earthquakes may last for years after a reservoir is filled. Both flood-control-only and permanent-waterstorage dams entail some risk.

The 1996 U.S. Geological Survey report for Auburn took this possibility very seriously. The report devoted a lengthy section to its consideration, and called for additional study.

The new report must address this issue. This is essential information that will influence Congress's decision on whether to proceed beyond preliminary feasibility studies. Do my colleagues agree?

Mr. DOMENICI. I understand the 1996 U.S. Geological Survey report called for a reevaluation of the dam design based on seismic data. A reevaluation should be performed using the best available science and the U.S. Geological Survey should produce an analysis integrating new data.

Mr. REID. I also concur. The potential consequences in this region are enormous. In California, assessing earthquake risks for a major project like this is an important part of the process. Concern about the possibility of earthquakes contributed to putting the project on hold in the first place. This concern remains important and should be addressed before deciding whether to proceed. The best way to do this is for the U.S. Geological Survey to produce an updated analysis on the risks involved.

Mrs. FEINSTEIN. I thank my colleagues.

LAKE SAKAKAWEA RECREATION UPGRADES

Mr. DORGAN. Mr. President, I would like to commend the Senator from New Mexico, Mr. Domenici, and the Senator from Nevada, Mr. Reid, for their work in completing the fiscal year 2006 Energy and Water appropriations bill and conference report. I am aware of the very difficult choices they had to make in order to fall within their tight spending allocation. I appreciate their leadership on this important piece of legislation.

If I could, I would like to ask the Senator from Nevada a question regarding an activity at Lake Sakakawea, a Federal lake in North Dakota operated by the Army Corps of Engineers. For the past couple of years, Congress has asked the Corps of Engineers to extend docks and boat ramps around Lake Sakakawea as a result of the low lake levels.

Is it not the expectation of the conference committee that the Army Corps of Engineers continue its work on these recreation upgrades within the Corps' fiscal year 2006 operation and maintenance budget for Lake Sakakawea?

Mr. REID. It is true that while we were unable to provide funding above the President's request for this activity, the intent of the conference committee was that this activity would continue within its regular operation and maintenance allocation.

Mr. DORGAN. I thank the Senator from Nevada, and I yield the floor.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

FUTUREGEN FUNDING

• Mr. BYRD. Senator REID, I want to thank you for your support and assistance in shepherding this conference report to this point today. I plan to support this bill, but I have a specific point of clarification that I would like to discuss with you regarding the provisions related to the fiscal year 2006 FutureGen funding.

I have not opposed the FutureGen program and have supported the administration's requests for this project over the last 3 years. However, I have and will continue to raise concerns about how this administration is going to fund the FutureGen program when it has not been able to provide adequate and sustained funding for core key fossil research and development programs. This situation appears only more ominous as our budgetary constraints worsen by the year and, adding to that, are new energy programs that were authorized in the Energy Policy Act of 2005 which will further heighten and constrain funding pressures.

The fiscal year 2006 Energy and Water Conference Report provides the $18 million for FutureGen that the administration has requested. However, even larger funding requests are going to be required if this initiative is to move forward according to its schedule. It is my understanding that the Congress has deferred $237 million of clean coal technology funding until fiscal year 2007 and will give full consideration to the administration's funding requests for the FutureGen initiative utilizing these funds. Would it be your expectation that the Congress will only consider the administration's FutureGen requests from the deferred amount contingent upon the administration providing full funding requests for the clean coal and other fossil energy research, development, and demonstration programs, especially the Clean Coal Power Initiative that was woefully underfunded in fiscal year 2006?

Mr. REID. Senator, that would be my understanding and expectation.

Mr. BYRD. I thank the Senator for that clarification. When there are so many other unmet fossil energy funding needs, as I have and will continue to reiterate, I cannot and will not support such a transfer from deferred funds, in whole or in part, to the FutureGen initiative until all other critical fossil energy programs are fully funded to the satisfaction of the Appropriations Committee in fiscal year 2007 and future years. I will certainly consider new moneys requested in the administration's budget request, but I will first prioritize other key fossil energy programs and other needs as a priority above the FutureGen program from deferred funds. This administration has been playing shell games with FutureGen. They have been attempting to rob Peter to pay Paul which is simply masking the underlying problem of continued inadequate funding commitments for other core fossil energy programs.

Would it also be the Senator's understanding that other fossil energy programs have equal, if not greater, funding needs and that there is no guarantee that any portion of the $237 million in the deferred clean coal technology fund will be transferred to the FutureGen program in fiscal year 2007 or future years. Should the administration or other interested parties expect that the deferred amount will be set aside, in whole or in part, for FutureGen in fiscal year 2007 or beyond?

Mr. REID. Senator, I agree that the administration needs to provide more adequate funding to the fossil energy research, development, and demonstration accounts. I also agree with you that there should be no assumption by the administration, Members of Congress, State governments, or any other parties that there is a guarantee that any funding, including the administration's future budget request for FutureGen will be provided by the Congress, given the austere budget environment that we are in. It is my understanding that $237 million is deferred and is available in fiscal year 2007 and beyond for a number of pressing fossil energy funding needs. The FutureGen program will only be given consideration for such deferred amounts if and only if all other critical fossil energy programs are fully funded, especially the Clean Coal Power Initiative.•

Mr. REED. Mr. President, the second storm surge from Hurricanes Katrina and Rita—high energy prices—threatens to overwhelm working families and senior citizens. The Energy Information Administration forecasted that households heating with natural gas will spend $306, or 41 percent, more for fuel this winter than last winter; households primarily using heating oil can expect to pay $325, or 27 percent, more; and households heating primarily with propane can expect to pay $230, or 21 percent, more.

Low-income families and seniors need assistance from the Federal Government in order to guarantee energy security in this high price environment. To provide immediate help this winter, I am working with Senator COLLINS to secure $5.1 billion in funding for the Low-Income Home Energy Assistance Program. Over the last 4 weeks, we have offered two amendments to increase funding for LIHEAP. While a majority of the Senate supported these amendments, we have been unable to reach the required 60 vote supermajority needed to waive the budget point of order on emergency spending.

Oil companies reported record profits for the third quarter of this year. As oil prices go up, low-income hard working Americans struggle to pay their heating bills. That is why fully funding LIHEAP is vital, and I believe oil companies should help shoulder the cost through a temporary, one-year windfall profit tax on integrated oil companies.

The President also has been silent, failing to ask for any funding for LIHEAP in the supplemental appropriations request he sent to Congress. In addition, Energy Secretary Bodman has repeatedly stated that the administration is against a windfall profits tax.

The Administration's National Energy Policy Report, the National Petroleum Council's report, Balancing Natural Gas Policy, and the National Commission on Energy Policy's report, Ending the Energy Stalemate, emphasized that energy efficiency is essential to managing the nation's short- and long-term energy challenges. Unfortunately, despite all of the agreement, federal funding for energy efficiency is not keeping pace.

In September, Senator SNOWE and I wrote a bipartisan letter signed by 33 of our colleagues urging the Administration to request $500 million for the Weatherization Assistance Program, WAP, and $100 million for the State Energy Program, SEP, in the wake of Hurricanes Katrina and Rita. President Bush and Secretary Bodman called on the American people to conserve energy and invest in energy efficiency, and the American people are responding. I am disappointed that the administration did not seek additional funding for these key programs in their supplemental appropriations request.

Indeed, SEP helps states implement energy efficiency and energy emergency preparedness programs in all sectors of the economy, thereby, reducing energy consumption for residential consumers, schools, hospitals, the agricultural sector, commercial enterprises, and industry. For every Federal dollar invested in SEP, over $7 is saved in energy costs. SEP funds would immediately be directed to energy efficiency projects to bring energy usage down. Instead of our bipartisan request of $100 million, the Energy and Water Appropriations Conference Report provides only $36 million for the program in FY2006. This is almost a 20-percent cut from this year's funding level. This cut means States will not be able to provide rebates to homeowners for energy conservation, schools and hospitals will be ill-equipped to reduce energy usage, and small business will not receive needed energy efficiency upgrades. Basically, every sector of the economy will be harmed in the midst of an energy crisis.

I hope that the Senate will provide more funding for LIHEAP, SEP, and the weatherization program before the worst of the winter season hits.

Mr. BINGAMAN. Mr. President, today we are voting on the conference report for the 2006 Energy and Water Development appropriations Act. On the whole, the conference report contains many items well worth supporting, including funding for a number of important water and energy projects in New Mexico.

Regardless of my support for the report as a whole, I would like to take this opportunity to express my strong concern with a provision inserted into the legislation without any debate, and which I believe represents a setback to sound public policy.

Section 121(b) of the bill is a very short provision addressing endangered species issues in the Middle Rio Grande in New Mexico. It amends an existing law enacted in Public Law 108-447 which holds that a March 2003 biological opinion addressing water operations in the Middle Rio Grande fully satisfies the requirements of the Endangered Species Act, ESA. I had supported the original provision because a thorough review of that biological opinion indicated that it was based on a credible interpretation of the best available science and contained reopeners that ensured the biological opinion would be amended if it failed to meet its objectives.

Section 121(b) goes much farther and provides legal protection to any amendments to the 2003 biological opinion. The result of section 121(b) is that Congress will now take the unprecedented step of providing legal protection to the environmental analysis and decisions of a Federal agency before we know what the analysis looks like, or have a chance to assess the impacts of any decisions. The ESA requires that any analysis be based on, and reflect the use of, the best available scientific and commercial data. Section 121(b) undermines that requirement and gives the U.S. Fish & Wildlife Service a blank check in issuing a modified opinion that can have far-reaching impacts to both the environment and the rights of water users in the Middle Rio Grande basin.

There are a variety of scenarios that could develop over the next decade necessitating significant changes to the biological opinion. I am very uncomfortable with providing the U.S. Fish and Wildlife Service, or any Federal agency for that matter, unchecked power when it has the potential to significantly impact the rights and interests of so many people. Looking at the bigger picture, I am equally disturbed that Congress, by disallowing any opportunity to challenge a Federal agency, is now effectively casting aside the use of the best available science as the standard by which environmental analysis and subsequent decisions should be measured. I don't think this represents good public policy.

Finally, over the last few years, there has been a commitment by a diverse group of interests in the Middle Rio Grande region to cooperate on creative approaches to address endangered species needs. The goal of this effort is to balance the need for environmental restoration with a recognition of the need to protect the interests of water users who are dependent on the limited supply provided by the Rio Grande. This group, which includes relevant Federal, State, and local entities, is capable of developing workable solutions to any future developments that may necessitate amendments to the 2003 biological opinion. I hope that section 121(b), by eliminating the ability to hold the Federal agencies to an objective standard, does not undermine the efforts of this group or its collaboration on these issues.

Ms. CANTWELL. Mr. President, I rise today to share my views on the conference report to accompany H.R. 2419, the Energy and Water appropriations bill. While I support this legislation, I do have significant reservations about certain provisions of the conference report before the Senate today. Most significantly, I am very disappointed with the funding level included for Hanford Site cleanup.

The Federal Government has a legal and moral obligation to cleanup the Hanford site and its nuclear legacy. The President budget sets the tone for the appropriations process. I was very concerned when the President's request slashed funds by more than $290 million from last year levels, jeopardizing compliance with cleanup milestones and putting the health and safety of our citizens at risk.

Among the most important risk reduction projects are the cleanup and treatment of waste stored in underground storage tanks near the Columbia River. At the Hanford site there are 177 underground storage tanks containing more than 53 million gallons of radioactive and toxic waste. Sixty-seven of these tanks are known to have leaked, allowing at least 1 million gallons of waste to seep into the soil.

Tank waste cleanup is critical to the overall effort in Hanford. I am extremely concerned about a recent report from the Department of Energy Inspector General that found significant problems with the administration's plan for tank waste cleanup in the C–Tank Farm. The audit found that the Department of Energy was overly optimistic and failed to account for problems encountered during previous retrieval operations.

The Department has known since January of this year, before the presentation of the President's budget, that the scheduled C–Tank completion date of September 2006 would likely be missed and project costs would more than double. Falling behind on the C–Tank Farm cleanup will jeopardize long term tank cleanup commitments.

Despite those challenges, the Department cut the tank cleanup program by $62 million in its fiscal year 2006 request. That request forced Congress to work within an incredibly limited budget environment to restore at least some of the funding necessary to keep tank cleanup on track. Fortunately, we could add $27 million in the conference report.

I remain concerned, however, that the Department has yet to publicly acknowledge that it will miss the C–Tank Farm Tri Party Agreement milestone, nor has it committed to adequate funding in fiscal year 2007. I urge the Department of Energy to quickly respond and propose a new appropriate cost estimate and cleanup schedule.

In order to fully reduce risk we must have the facilities necessary to treat the toxic and radioactive waste from Hanford tanks. The timely construction of the vitrification plant is critical to reducing risk and protecting our citizens. The facility was designed to treat most of the waste removed from the 177 underground tanks before its storage at the Hanford site or a national depository.

But in the face of design challenges, the administration's budget cut funding for vitrification plant construction—setting it at $58 million less than fiscal year 2005 funding levels. The Department said it needed to reduce funding in order to address the seismic issues with the design of the facility.

Despite both Houses of Congress supporting funding levels for the vitrification plant at least at the President's request level, this conference report reduces funding to $100 million below the already-low fiscal year 2006 request. This level of funding would be $158 million less than the fiscal year 2005 appropriations level.

Remarkably, the President has proposed a rescission of an additional $100 million in previously appropriated vitrification plant construction funds to address hurricane recovery efforts. In his letter to the Congress, the President labeled plant construction as a lower priority Federal program.

This cut comes at the same time that the administration has noted that the cost of the vitrification plant has increased by at least 25 percent. And language in the underlying report estimates that the cost of the plant may rise to $9.3 billion. Yet this administration continues to cut funding, jeopardizing long-term cleanup milestones.

I urge the administration to drop its proposed $100 million rescission, set forth a clear cost and schedule for the completion of the vitrification plant, and fund the vitrification plant in a way that does not jeopardize the health and safety of our region.

I do not support the funding levels for Hanford cleanup in this year conference report and hope that the administration will make a clear commitment with its fiscal year 2007 request. The Federal Government must keep its commitment. I hope the current administration will back its words with clear action.

Mrs. MURRAY. Mr. President, I appreciate the work that went into the bill this year, recognizing how difficult it was given the allocation and given the level of support by the administration. I am particularly concerned about some specific levels within the bill, like funding for our Nation's environmental management program within the Department of Energy's cleanup responsibilities. Specifically, the Waste Treatment Plant, or Vitrification Plant, at the Hanford site is one of those nationally important projects. The Hanford site played a critical role in support of national security efforts in World War II and the Cold War. As a result, tens of millions of gallons of radioactive waste was left behind. It is the obligation of the U.S. Government to clean up that site and the Department of Energy identified the Vit Plant as the flagship project in that cleanup effort.

Officials at DOE claim the administration is 100 percent dedicated to the project. Actions speak louder than words. The request for this fiscal year was $64 million below necessary funding, according to the Department's own out-year projections. On top of that, the supplemental package sent to Congress came with rescissions for "lower-priority" programs including a $100 million cut for the Vit Plant. How can cleaning up one of the most polluted sites in our country be deemed a lower priority? Given this lack of support from the administration, I understand how difficult the project is to defend this year, and understand the hesitation on the part of this subcommittee to go beyond the official request by this White House.

And while the cuts to the funding are deep, and while I have deep concerns about what they will mean for our Nation's commitment to cleaning up this dangerous waste, I do concede that it could have been worse.

I specifically thank Senator REID and his staff for his last-minute assistance in limiting the cuts to the Vit Plant and I thank the chairman for being receptive. When I met with Senator REID last week, he shared my concern for this project, and together we were able to fight back additional cuts.

I will continue to support the cleanup efforts at the Hanford site.

Mrs. FEINSTEIN. Mr. President, I rise today in support of the fiscal year 2006 Energy and Water appropriations conference report.

One of the most important things about this conference report is a program that it does not fund. The Robust Nuclear Earth Penetrator—also known as the "bunker buster"—is not funded in this bill. I am proud that Congress—for the second year in a row—has stated clearly and unambiguously that we should not spend taxpayer dollars on this program. I hope the administration gets the message and does not request funding for developing this new generation of nuclear weapons next year.

This conference report includes $327 million for the National Ignition Facility at Lawrence Livermore National Laboratory. This funding means that construction of the National Ignition Facility, NIF, can continue. When it is completed in a few years, the NIF will help keep the United States nuclear weapons stockpile reliable, without facing the dangers of underground nuclear testing. A completed NIF is a key component of the National Nuclear Security Administration's Stockpile Stewardship Program to maintain the safety, reliability, and effectiveness of our Nation's nuclear stockpile. There are also many California-specific needs met in this bill. city

I am pleased that the conference report provides $37 million for the Federal-State partnership for California Bay-Delta Restoration, CalFed. The CalFed reauthorization took considerable effort on the part of many in Congress, but that effort has paid off, in this, the first authorized CalFed appropriations in 5 years. I am grateful to Senator DOMENICI and Senator REID for providing $2 million over the President's Budget request for this program in the Senate bill and I am pleased that this allocation was maintained in conference with the House.

These funds will contribute to the much needed improvement of California's water supply infrastructure and protection of aquatic ecosystems. Among the elements of a balanced CalFed program that are in progress are feasibility studies on the enlargement of several reservoirs, improved water conveyance, ecosystem restoration, and water quality projects. The improvements we make to California's water infrastructure now will head off a supply crisis with water, similar to the one we faced with energy a few years ago.

This conference report includes funding for specific flood control priorities in California. My State faces a number of significant flood threats. The city of Sacramento, the surrounding areas like Marysville and Rancho Cordova, and the Sacramento-San Joaquin Delta face some of the greatest flood danger in the Nation. Currently, much of Sacramento is below 100-year flood protection. This legislation allocates $39 million to improve flood control in Sacramento and provides funding to ensure that other regional flood control projects are ready to go to construction next year.

While the funds in this bill are a good start, I will continue to seek additional funding to protect the Sacramento metropolitan area from catastrophic flooding.

The conference report also includes $5 million for Upper Newport Bay Restoration. Upper Newport Bay is the largest functioning full tidal wetland in southern California. However, the bay's ability to sustain wildlife is threatened due to decades of increasing sedimentation related to rapid urbanization of the watershed. As a result, open water areas are disappearing in the bay, tidal circulation has diminished, and shoaling is occurring within Federal and local navigation channels and slips. This project will restore degraded habitat and reestablish wetland and wildlife habitat areas.

I am also pleased that the conference report includes $61.65 million, $11.65 million above the President's Budget request, for the Santa Ana River Mainstem Project. These funds will construct flood control improvements to protect over 3 million people in Orange, Riverside, and San Bernardino counties.

One issue that concerns me in this conference report is a requirement for the Bureau of Reclamation to complete a special report to update the analysis of costs and associated benefits of the Auburn Dam on the American River. I am concerned that the reporting requirements do not include an updated assessment of the risks of an earthquake, risks that are serious enough to have caused the termination of earlier work on the Auburn Dam in 1975.

I again want to express my congratulations to Chairman DOMENICI and Senator REID and want to thank them for the level of support given to California in this conference report.

(At the request of Mr. REID, the following statement was ordered to be printed in the RECORD.)

• Mr. BYRD. Mr. President, if the U.S. is to remain competitive and keep pace with its growing energy demands, then we must take stock, as a nation, of our energy security, economic growth, and environmental protection and make these issues top national priorities. We cannot achieve greater energy security with our continued, piece-meal efforts. It is time to devote new innovation and ingenuity to energy policy and blaze a path forward. We must strive to be free of the chains of foreign oil. To do that, we must seriously invest in the energy resources that we have here at home, and coal should be at the heart of that effort.

The Energy Policy Act of 2005, which I supported and which was signed by the President in August 2005, made many promises to the country on energy policy. To make good on those promises, the administration must be willing to put financial support behind these initiatives. Will this administration do so in subsequent budget requests for the clean coal and many other important energy programs?

The Energy Policy Act of 2005 is only a way station on a long journey and more work remains ahead. It is a start, and I am committed to continuing to work toward that goal. Yet I continue to be concerned about this administration's commitment to funding fossil energy research, especially because new clean coal and other energy programs were authorized in the Energy bill. There is only so much blood that one can squeeze out of a turnip. So where are we going to find the funding for these new programs?

In related matters, H.R. 2419, the fiscal year 2006 Energy and Water Conference Report provides sufficient funding for the fossil energy research and development, R&D, programs for the Department of Energy, DOE. But this effort requires a much more sustained and increased commitment in future years if this Nation is to be successful in going beyond an incremental approach toward new breakthroughs on the use of fossil energy resources. In this conference report, I worked to ensure that there was adequate funding for coal R&D at the National Energy Technology Laboratory, the Nation's premier Fossil Energy Laboratory.

In addition to coal, other energy research investments that must not be overlooked are within the oil and natural gas R&D programs. Oil and natural gas provide 60 percent of America's energy needs, and demand for both will continue to rise, resulting in significant price increases. By 2025, U.S. reliance on fossil fuels is expected to grow from the current 85 percent to 90 percent. But the administration's budget proposal for oil and natural gas technology R&D for fiscal year 2006 was reduced by 75 percent from fiscal year 2005 levels. The administration's fiscal year 2006 budget request was $20 million for both programs. The funds were to be used to conclude the oil and natural gas programs. The DOE's R&D spending for oil and natural gas has consistently ranked at the bottom of the scale. If the United States is to maintain its ability to produce its domestic supplies for oil and natural gas at a reasonable cost to consumers, then Federal expenditures on R&D must fill some of the void left by the private sector, primarily independent producers.

Furthermore, how is this administration going to fund FutureGen when it has not been able to provide adequate and sustained funding for other fossil energy programs? The fiscal year 2006 Energy and Water Conference Report provides the $18 million for FutureGen that the administration has requested. However, even larger funding requests are going to be required if this initiative is to move forward according to its schedule. I stand behind the agreement reached in the conference report, but the Congress will consider its FutureGen requests contingent upon the Administration maintaining adequate funding for other clean coal and fossil energy programs.

When there are so many other unmet fossil energy funding needs, I cannot and will not support the transfer of monies from the clean coal technology account to a FutureGen account. In fiscal year 2007 and beyond, I will not support the transfer of any moneys, in whole or in part, to the FutureGen initiative that are not a part of the administration's request unless and until other critical fossil energy programs are fully funded. This is simply robbing Peter to pay Paul and masks the underlying problem of continued inadequate funding commitments for the fossil energy programs by this administration. There are other fossil energy programs that have equal, if not greater, funding needs.

Additionally, the Clean Coal Power Initiative, CCPI, is a program that was initiated in 2001, to demonstrate the economically and environmentally acceptable use of coal. The CCPI was the successor to the long and successful Clean Coal Technology Program that I initiated in 1985. The CCPI program, if pursued, will continue to lead to the successful development of a set of coal-based technologies that will be cost effective and highly efficient and achieve greater control of air and water emissions compared to currently available technology.

President Bush committed to funding the CCPI program during his first campaign speech made in West Virginia in 2000. The President pledged to provide $2 billion over 10 years for this program, yet the administration's budget requests have not met that goal. Over a period of 5 years, the President has requested a total of approximately $530 million, including only $50 million this year. This is barely more than half of the funding pledged to the program. A great deal more funding will be required in fiscal year 2007 and beyond if the program is to remain on a schedule consistent with the President's commitment.

The DOE is in the practice of issuing a solicitation every other year and has done so twice to date. This practice has been required in order to collect enough appropriations for a single solicitation. While I am fully aware of the fiscal limits we currently face and the immense pressure on the budget, it is crucial that the CCPI reach the necessary funding level in order to initiate a solicitation in fiscal year 2007. The fiscal year 2007 CCPI budget request must be substantially higher than the fiscal year 2006 request in order to maintain a schedule of solicitations every second year, and I strongly encourage the administration to submit a request in an amount sufficient to initiate a third CCPI solicitation in fiscal year 2007.

Finally, the Office of Fossil Energy has been lacking in leadership for far too long. There remains a strong team in place, along with a new director, at the National Energy Technology Laboratory, but that must be matched with a strong Fossil Energy Assistant Secretary. This position has now been vacant for at least 20 months. This post should be filled by someone who can bring strong technical, policy, and managerial experience and who can work well with a variety of constituencies.

In conclusion, I would like to thank Senators DOMENICI and REID for their leadership and assistance on this conference report. I would also like to thank Senator DOMENICI's staff Scott O'Malia, Roger Cockrell, and Emily Brunini as well as Senator REID's staff, Drew Willison and Nancy Olkewicz for their hard work. This is the first year that fossil energy R&D programs were included in the Energy and Water Appropriations bill. This is a good conference report given the very tough fiscal circumstances that we faced. I have urged Senators DOMENICI and REID to give greater oversight and scrutiny to the administration's fossil energy requests and look forward to working with them on this important matter next year. Because our Nation's energy security is so important, the fossil energy R&D programs, especially the clean coal programs, require strong support. I will remain ever watchful and strongly supportive of them in the coming years.●

Mr. DOMENICI. I yield back the remainder of my time.

The PRESIDING OFFICER. The Senator from New Mexico yields back the remainder of his time.

Mr. DOMENICI. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

Apparently there is.

The question is on agreeing to the conference report. The clerk will call the roll.

The legislative clerk called the roll.

MR. MCCONNELL. The following Senators were necessarily absent: the Senator from Montana (Mr. BURNS), the Senator from North Carolina (Mr. BURR), the Senator from Texas (Mr. CORNYN), the Senator from Arizona (Mr. MCCAIN), and the Senator from Alaska (Ms. MURKOWSKI).

Further, if present and voting, the Senator from Texas (Mr. CORNYN) and the Senator from Montana (Mr. BURNS) would have voted "yes."

Mr. DURBIN. I announce that the Senator from Indiana (Mr. BAYH), the Senator from Delaware (Mr. BIDEN), the Senator from California (Mrs. BOXER), the Senator from West Virginia (Mr. BYRD), the Senator from New York (Mrs. CLINTON), the Senator from New Jersey (Mr. CORZINE), and the Senator from Massachusetts (Mr. KENNEDY) are necessarily absent.

The PRESIDING OFFICER (Mr. SUNUNU). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 84, nays 4, as follows:

[Rollcall Vote No. 321 Leg.]

YEAS—84

Akaka
Alexander
Allard
Allen
Baucus
Bennett
Bingaman
Bond
Brownback
Bunning
Cantwell
Carper
Chafee
Chambliss
Cochran
Coleman
Collins
Conrad

Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McConnell
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—4

Coburn
Feingold
Schumer
Sununu

NOT VOTING—12

Bayh
Biden
Boxer
Burns
Burr
Byrd
Clinton
Cornyn
Corzine
Kennedy
McCain
Murkowski

The conference report was agreed to.

Mr. DOMENICI. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

DEFENSE AUTHORIZATION

Mr. LEVIN. I ask unanimous consent that the Senator from Hawaii proceed in morning business for 5 minutes and then we would turn to the committee bill pursuant to the unanimous consent agreement.

The PRESIDING OFFICER. Is there objection?

The Senator from Virginia.

Mr. WARNER. Reserving the right to object, and I will not object, I wish to inform Senators that when we return to the bill, I know the distinguished colleague from Michigan and I are going to debate the two amendments that are pending relating to Iraq, one submitted by this side of the aisle and one by that side of the aisle, and then such discussions as the Senator from South Carolina and the Senator from Michigan may have on the habeas corpus issue, will that be dealt with at all tonight?

Mr. LEVIN. I think that is going to be up to the Senator from South Carolina as to what progress he is making on it.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. We will continue to have a debate tonight on those amendments that are going to be voted on in the morning and such other matters as any Senator wishes to bring up relative to the bill.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. We should again put our colleagues on notice that there is very limited time tomorrow morning under the unanimous consent agreement. There was an effort made to extend that time. The effort did not succeed. So there will literally be 30 minutes tomorrow morning equally divided between both Iraq amendments and the habeas corpus matter, which is a very small window of time tomorrow morning. We would urge, I think my good friend from Virginia would agree, that the Senators who wish to speak on either of those matters should make a real effort to get here tonight.

Mr. WARNER. Mr. President, I would only say let us not leave the impression that this side of the aisle is rushing to judgment. This framework of votes and amendments were carefully worked out on Thursday evening. The Senate has been in session since 2 today. There has been quite a bit of activity and opportunity for Senators to speak. I repeat, we are going to continue on shortly after our two colleagues finish.

The PRESIDING OFFICER. Without objection, it is so ordered. The Senator from Hawaii will be recognized for 5 minutes as in morning business.

The Senator from Hawaii.

IN HONOR OF NATIONAL BIBLE WEEK

Mr. AKAKA. Mr. President, I rise today to celebrate one of the most important books in the history of mankind: the Bible. As the Senate cochairman of the 2005 National Bible Week, it is my honor to join the National Bible Association and our Nation's citizens in celebrating the Good Book and its teachings. During the week of November 20 to 27, I encourage everyone to participate in this fine tradition by reading and reflecting on the important lessons of the Bible.

As a child growing up in Hawaii, my parents introduced me to the Bible and it has always played an important role in my life. I turn to it on a regular basis in search of inspiration, guidance and strength. The Bible is a resource of profound but fundamental truths that retain relevance throughout the ages. They are the lessons that serve as the building blocks of good citizens, good families, good communities and good government.

One of my favorite scriptures in the Bible teaches us that God loved us so that He sent us His only begotten Son so that we might live through Him. Because God so loved us, we ought also to love one another and His love will be perfected in us. In this time of international strife, natural disaster, and political turmoil, this basic instinct of caring for our fellow man, of love for our neighbor, is a good place to begin.

The Holy Bible is one of man's greatest legacies. I congratulate and commend the National Bible Association for its efforts to promote the Good Book and to encourage better understanding of its universal truths among people of all faiths. Aloha ke Akua. God is love.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, it is the understanding of the distinguished Senator from Michigan and myself that the Senator from Minnesota has a period of time to speak with regard to the bill. Is that our understanding?

Mr. DAYTON. I thank you, Mr. Chairman.

Mr. WARNER. Then the distinguished Senator from South Carolina desires to enter into a colloquy with the distinguished Senator from Michigan relative to the amendments by the Senator from South Carolina. Am I not correct on that?

Mr. LEVIN. If he is ready, I am happy to proceed.

Mr. WARNER. That will immediately follow the remarks of Senator DAYTON.

Mr. DAYTON. I don't want to deceive the chairman. My remarks are related to the remarks of last Veterans Day rather than the bill directly. I ask either that be accommodated or I speak as in morning business for a period of up to 12 minutes.

Mr. WARNER. We are in a period of morning business. The Senator is in no way restricted in what he wishes to address. We thought it was related to the bill, but whatever he desires.

The PRESIDING OFFICER. The Senator from Minnesota will be recognized to speak as in morning business.

IRAQ

Mr. DAYTON. Mr. President, last Friday, on Veterans Day, President Bush attacked those of us who questioned or criticized his conduct of the Iraq war. Once again, he tried to portray his critics as opposing our own troops or aiding their enemies. Once again, he was wrong. Once again, he tried to blame others for his mistakes and for the failures of his policies—mistakes and failures that have trapped 158,000 of America's best and bravest soldiers in Iraq for over 2½ years, since the fall of Saddam Hussein, with no end in sight.

Let's be clear that every person in this Senate supports our troops 1,000 percent. We provided every dollar requested for defense authorizations, appropriations, and supplementals with overwhelming bipartisan and often unanimous support. Some of us have tried to provide more funding than the administration would support for our returning troops and veterans. We have never accused them of being against our troops or un-American.

Together, on the Senate Armed Services Committee on which I am proud to sit, Republicans and Democrats have repeatedly asked our civilian and military commanders: What more do you need to win this war as soon as possible? What do you need to bring our troops home as safely and quickly as possible, with the victory that they won in 3 weeks in the spring of 2003 secured, finally, by the Iraqis? Tell us what you need, and it is yours.

This Senate has not failed our troops. This Senator, a critic of your policies, has not failed our troops. You, sir, have failed our troops; and you, sir, have failed the American people by the failures of your policies in Iraq.

Last Friday, President Bush stood in front of a banner that said: "Strategy For Victory." Two and a half years ago, he stood on the aircraft carrier *Abraham Lincoln* before a banner: "Mission Accomplished." Unfortunately, he had the banners mixed up. If he had a "Strategy For Victory" 2½ years ago, we would have "Mission Accomplished" today.

The President accuses his critics of rewriting the history of this war. Nonsense. The history of this war was clearly enunciated by this administration and is available for all to reread. The President, the Vice President, and their top advisers repeatedly presented their rationales for this war and predicted its outcomes, and they were repeatedly wrong. On just about everything, they were wrong. I say that with sorrow because when the President of the United States is wrong, all Americans suffer the consequences.

There is no better or worse summary of the administration's prewar fallacies than the transcript of Vice President CHENEY's appearance on "Meet The Press" with Tim Russert the Sunday before the invasion began. I excerpted those remarks for brevity but without altering their meaning.

The Vice President said on the program, as he had said repeatedly during the past 7 months:

> We believe Saddam Hussein has in fact reconstituted nuclear weapons.
>
> We know he's out trying once again to produce nuclear weapons and we know he has a longstanding relationship with various terrorist groups, including the al-Qaida organization.

When Mr. Russert queried:

> And even though the International Atomic Energy Agency said he does not have a nuclear program, we disagree?

Vice President CHENEY replied:

> I disagree, yes. . . .We believe he has, in fact, reconstituted nuclear weapons. I think Mr. ElBaradei frankly is wrong.
>
> Mr. Russert: If your analysis is not correct, and we're not treated as liberators, but as conquerors, and the Iraqis begin to resist, particularly in Baghdad, do you think the American people are prepared for a long, costly, and bloody battle with significant American casualties?
>
> Vice President Cheney: Well, I don't think it's likely to unfold that way, Tim, because I really do believe that we will be greeted as liberators. I've talked with a lot of Iraqis in the last several months myself, had them to the White House. . . . The read we get on the people of Iraq is there is no question but what they want to get rid of Saddam Hussein and they will welcome as liberators the United States when we come to do that.
>
> Mr. Russert: The army's top general said that we would have to have several hundred thousand troops there for several years in order to maintain stability.
>
> Vice President Cheney: I disagree. . . . But to suggest that we need several hundred thousand troops there after military operations cease, after the conflict ends, I don't think is accurate. I think that's an overstatement.
>
> Mr. Russert: We have had 50,000 troops in Kosovo for several years, a country of just five million people. This is a country of 23 million people. It will take a lot in order to secure it.
>
> Vice President Cheney: . . . There's no question but what we'll have to have a presence there for a period of time. It is difficult now to specify how long. We will clearly want to take on responsibilities in addition to conducting military operations and eliminating Saddam Hussein's regime. We need to be prepared to provide humanitarian assistance, medical care, food, all of those other things that are required to have Iraq up and running again. And we are well-equipped to do that. We have got a lot of effort that's gone into that.
>
> Mr. Russert: Every analysis said this war itself would cost over $80 billion, recovery of Baghdad, perhaps of Iraq, about $10 billion per year. We should expect as American citizens that this would cost at least $100 billion for a two-year involvement.
>
> Vice President Cheney: I can't say that, Tim. . . . In Iraq you've got a nation that's got the second-largest oil reserves in the world, second only to Saudi Arabia. It will generate billions of dollars a year in cash flow if they get back to their production of roughly three million barrels of oil a day, in the relatively near future.

On every one of those key assertions, Vice President CHENEY was wrong. Whether he was misinformed, misguided, mistaken, or knowingly misleading the American people, I cannot say. I can say that he was consistently wrong. And because he and the President were wrong, over 2,000 of our best and bravest Americans have lost their lives in Iraq. Many thousands more have returned home wounded or maimed for life. Hundreds of thousands more have been separated from their families for years, with more separations for more years still to come.

Because the Bush administration's assumptions and expectations were wrong, because their preparations for post-Saddam Hussein Iraq were wrong, and because their predictions before and after the war began were wrong, America's standing in the world is worse than before. The terrorist organizations that hate the United States are stronger than before, and our national security is tragically and terribly weaker than before this war began.

When I voted against the Iraq war resolution in October of 2002, I said I hoped I was wrong and the war's proponents were right because the stakes were too high for partisanship. When I disagreed with President Bush's decision to invade Iraq in March of 2003, I said I hoped I was wrong and he was right because the stakes were too high for anything but patriotism.

I deeply regret when he has been wrong. I deeply regret the mistakes of his policies and the failures of his practices because a President's mistakes and failures become America's mistakes and failures. And America, the greatest Nation on Earth, the leader of the world's hopes and opportunities for peace and prosperity, America cannot afford mistakes and failures in this difficult and dangerous world, and this world cannot afford America's mistakes and failures.

Two and a half years after our troops toppled Saddam Hussein is too long for 158,000 of Americas's soldiers, the world's best and bravest, to still be doing the patroling, the policing, the fighting, the bleeding, and the dying in Iraq—too long, and there is no end in sight. It is because we support our troops, because they are our sons and daughters and we love them, that we want to bring them home safely as soon as possible with their military successes of 2½ years ago secured by Iraqis, not Americans.

The President and the Vice President could show their support for our troops by telling them and us what the strategy for victory in Iraq really is and how and when we will achieve it and what are the timetables and measures of that success or lack of it so our courageous fighting men and women and their families and their fellow Americans can know how they will win, when they will win. Those are the answers they and we deserve.

Mr. President, I yield the floor.

Mr. LEVIN. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRAHAM. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER (Mr. CORNYN). Without objection, it is so ordered.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006—Continued

AMENDMENT NO. 2524 TO AMENDMENT NO. 2515

Mr. GRAHAM. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

> The Senator from South Carolina [Mr. GRAHAM], for himself, Mr. LEVIN, and Mr. KYL, proposes an amendment numbered 2524 to amendment No. 2515.

Mr. GRAHAM. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To improve the amendment)

In lieu of the matter proposed to be inserted, insert the following:

SEC. . REVIEW OF STATUS OF DETAINEES.

(a) SUBMITTAL OF PROCEDURES FOR STATUS REVIEW OF DETAINEES AT GUANTANAMO BAY, CUBA.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, and to the Committees on the Judiciary of the Senate and the House of Representatives, a report setting forth the procedures of the Combatant Status Review Tribunals and the noticed Administrative Review Boards in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay.

(b) PROCEDURES.—The procedures submitted to Congress pursuant to subsection (a) shall, with respect to proceedings beginning after the date of the submittal of such procedures under that subsection, ensure that—

(1) in making a determination of status of any detainee under such procedures, a Combatant Status Review Tribunal or Administrative Review Board may not consider statements derived from persons that, as determined by such Tribunal or Board, by the preponderance of the evidence, were obtained with undue coercion; and

(2) the Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advice and consent of the Senate.

(c) REPORT ON MODIFICATION OF PROCEDURES.—The Secretary of Defense shall submit to the committees of Congress referred to in subsection (a) a report on any modification of the procedures submitted under subsection (a) not later than 60 days before the date on which such modification goes into effect.

(d) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

(1) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

"(e) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien outside the United States (as that term is defined in section 101(a)(38) of the Immigration and Naturalization Act (8 U.S.C. 1101(a)(38)) who is detained by the Department of Defense at Guantanamo Bay, Cuba.".

(2) REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any decision of a Designated Civilian Official described in subsection (b)(2) that an alien is properly detained as an enemy combatant.

(B) LIMITATION ON CLAIMS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

(C) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the status determination of the Combatant Status Review Tribunal with regard to such alien applied the correct standards and was consistent with the procedures specified by the Secretary of Defense for Combatant Status Review Tribunals (including the requirement that the conclusion of the Tribunal be supported by a preponderance of the evidence and allowing a rebuttable presumption in favor the Government's evidence); and

(ii) whether subjecting an alien enemy combatant to such standards and procedures is consistent with the Constitution and laws of the United States.

(D) TERMINATION ON RELEASE FROM CUSTODY.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the custody of the Department of Defense.

(3) REVIEW OF FINAL DECISIONS OF MILITARY COMMISSIONS.—

(A) IN GENERAL.—Subject to subparagraphs (C) and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision rendered pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order).

(B) GRANT OF REVIEW.—Review under this paragraph—

(i) with respect to a capital case or a case in which the alien was sentenced to a term of imprisonment of 10 years or more, shall be as of right; or

(ii) with respect to any other case, shall be at the discretion of the United States Court of Appeals for the District of Columbia Circuit.

(C) LIMITATION ON APPEALS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to an appeal brought by or on behalf of an alien—

(i) who was, at the time of the proceedings pursuant to the military order referred to in subparagraph (A), detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a final decision has been rendered pursuant to such military order.

(D) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on an appeal of a final decision with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the final decision applied the correct standards and was consistent with the procedures specified in the military order referred to in subparagraph (A); and

(ii) whether subjecting an alien enemy combatant to such order is consistent with the Constitution and laws of the United States.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall take effect on the day after the date of the enactment of this Act.

(2) REVIEW OF COMBATANT STATUS TRIBUNAL AND MILITARY COMMISSION DECISIONS.—Paragraphs (2) and (3) of subsection (d) shall apply with respect to any claim whose review is governed by one of such paragraphs and that is pending on or after the date of the enactment of this Act.

Mr. GRAHAM. Mr. President, at this time I would like to, in conjunction with my colleague Senator LEVIN, lay down this amendment, give a brief explanation of what it is designed to do, and I think we will vote on it tomorrow after we vote on Senator BINGAMAN's amendment.

No. 1, Senator LEVIN and his staff have been working on this, along with Senator KYL and other Senators, for the last couple of days. I do not know how to say it other than it has been a lot of fun. It has been tough at times, but I think we have come out with a product that the Senate can be proud of, and hopefully the country can be proud of when it comes to how to treat detainees at Guantanamo Bay.

Here is what we are trying to do. With my amendment, which we voted on last week, the concern I had was we were about to criminalize the war because of the Rasul case. Section 2241 of the habeas statute had been interpreted not to prohibit foreign alien enemy terror suspects from seeking habeas petitions in Federal court about their confinement and detainment as enemy combatants. The Rasul case was the result of the Supreme Court rejecting the Government's argument that Guantanamo Bay was outside the jurisdiction of the Federal court. They ruled that Guantanamo Bay was constructively within the jurisdiction of the Federal court, and in that opinion basically challenged the Congress.

Now that we have decided that, since there are no due process rights in place at the time, we are going to provide habeas petitions to these detainees until Congress comes in and says otherwise.

My amendment was, Congress being on record that the 2241 habeas statute has been used to provide habeas corpus rights by Congress to American citizens, that we do not intend for an enemy combatant or foreign national—someone captured in conflict against the United States—to have habeas rights before our Federal courts to complain about their confinement and their detention. In other words, we are not going to allow enemy prisoners of war the right to go into civilian court and start challenging their detention. The military commissions are operating at Guantanamo Bay with a different purpose. They are going to try people who are charged with violations of the law. Right now there are about 10 or 15 cases. There are almost 500 people who are being detained as enemy combatants. Last week, when Senator LEVIN was arguing with me about my amendment, I think he made some very good points. By working with him and others, Senator KYL and others, we have addressed some of the weaknesses in my original amendment. Senator BINGAMAN will have another amendment, and I think we deal with some of his concerns, too. I do see this as a win-win.

What we are trying to do, instead of changing what has been the rule of law for 200 years in terms of enemy prisoner rights, is create a process that not only mirrors the Geneva Convention but goes well beyond the Geneva Convention.

An enemy combatant is a legal term of art. It applies to those people involved in hostilities against the United States but are not part of a Geneva Convention-recognized Army. The Geneva Convention uses the term "irregular combatant." We have case law in the United States talking about enemy combatant. It deals with German saboteurs; those people who commit hostilities are engaged in acts of war but shed the cloak of being part of a uniformed force. So the term "enemy combatant" has been well recognized in our law.

What we do with an enemy combatant, once a person has been determined to be an enemy combatant, we can detain them similar to a prisoner of war. The Geneva Convention says if there is a question about whether a person's status is rightfully conferred whether you are a prisoner of war, enemy combatant, irregular combatant, or a civilian who has done nothing wrong, the Geneva Convention requires the host country to have a competent tribunal set up to determine status.

Since August of 2004, at Guantanamo, the Combatant Status Review Tribunal system has been in place. In my opinion, it is Geneva Convention article 5 tribunals on steroids. It gives a right to confront. It gives adversarial process to the suspected enemy combatant. It also allows a yearly review of an enemy combatant status. What they are looking at, at Guantanamo Bay, is whether a person was engaged in hostile acts against the United States in a regular fashion, whether the person has intelligence value to the United States or poses a threat. If one or two of those three conditions are met, they can be detained at Guantanamo Bay, and every year there is a reevaluation.

We have had some people caught up in the net, and we found later probably did not have all three requirements and they have been let go. We have also had about a dozen people caught up in the net in the war on terror who we thought were no longer a threat to the United States. We released them and a dozen at least have gone back to fighting. Some have been killed. Some have been captured yet again.

The process we use is important, but no process is perfect. We are trying to come up with a process the country can be proud of that applies the law of armed conflict standard and does not turn the war on terror into a crime. Right now every person sent to Guantanamo Bay will be offered a Combatant Status Review Tribunal hearing, which is well beyond what the Geneva Convention requires, to determine their status.

In addition to the yearly review, working with Senator LEVIN, Senator KYL, and others, we have come up with a right of every enemy combatant to go to Federal court. Instead of having unlimited habeas corpus opportunities under the Constitution, we give every enemy combatant, all 500, a chance to go to Federal court, the Circuit Court of Appeals for the District of Columbia. On top of everything else we are doing, they can challenge their status determination in a Federal court. The Federal court will look at the process involved in their individual case to see if it complied with the CSRT standards in terms of procedure and the standards that were to be used to determine whether a person was properly detained—the evidentiary standards, all other standards.

This will allow a Federal court oversight of any combatant status. It will be a one-time deal. It will not be an opportunity for the enemy prisoner to sue us about everything they can think of.

Now, that to me is unprecedented. That is well beyond what the Geneva Convention requires or envisions but is something we ought to do and we can be proud of because it is a Federal court oversight of a military action in a way that doesn't erode the military's ability to conduct a war. We can go to other people in the world and say, Our courts are now involved in looking at what we do. We can also say that Congress is finally involved because in addition to the rights I have described, under our amendment, the person who determines whether an enemy combatant is retained or released will be confirmed by the Senate. That will give the Senate a connection to what is going on in Guantanamo Bay.

If you change the CSRT regulations in any way, you have to send those changes to the Congress. That way we are involved. And we have a statement in our bill to make sure you do not use statements that were a result of undue coercion to determine if you are an enemy combatant.

So now we have Congress involved in an oversight function. We have the courts involved in oversight function. We have a due process right well beyond the Geneva Convention requirements. That is something we should be proud of.

Military commissions. There are 10 or 20 people potentially facing a military commission trial for what are violations of law of armed law conflict. The flaw in my amendment is it did not have a right of appeal from a military commission verdict to a Federal court. In World War II, the enemy saboteurs I described before were all tried by military commissions that President Roosevelt created by Executive order. Four of the six were sentenced to death. The Supreme Court reviewed the military commission process in the Quirin case and found that military commissions were lawful if the person being tried was truly an enemy combatant. So there is a historical precedent in our country for the Federal courts, the Supreme Court, to look at military commission trials to make sure they are lawfully constituted.

What we have done, working with Senators LEVIN, KYL, and others, we have created that same type appeal process for all military commission decisions. Under the amendment that we have come up with, any case resulting in a capital punishment finding—any person who is given the death penalty by the military commission—has an automatic direct right of appeal to the Circuit Court of Appeals for the District of Columbia and the court will determine if they were tried in a court up to the military commission standards and procedures and whether the military commission was constitutional.

Anyone who receives a sentence of 10 years or more will also have an automatic right to appeal the same court. If you receive a sentence less than 10 years, the Circuit Court of Appeals for the District of Columbia will determine whether they want to hear your case based on a petition for certiorari or something akin to it.

That, in essence, is what we are trying to do. In both instances, the CSRT procedures and the military commission procedures will be reviewed by Federal courts and the court will have the ability to determine whether they are constitutional and will have an ability in an individual case to determine whether the enemy combatant or the person tried under the military commission procedures will be reviewed by Federal courts to decide whether they are constitutional according to the rules and procedures that have been set up.

I defer to my friend and colleague, Senator LEVIN.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. I thank my friend from South Carolina for working on this matter as hard as he has. The Senator from Arizona has also worked hard. Many Members on this side have worked on this issue as well as the Republican side. There is a lot of thought that has been given to this matter.

The amendment approved last Thursday had some real problems with it, in my judgment, and I voted against it, as did 41 Senators. The amendment which was approved last Thursday, which is the one now awaiting this amendment, would have provided for review only for status determinations and not of convictions by military commissions.

As my friend from South Carolina pointed out, that is an omission which he and others acknowledge. It is a real indication of his commitment to try to figure out what the right course of action is, that he does acknowledge that omission. One of the reasons I voted against the amendment last Thursday is that it did not provide for that direct judicial review of convictions by military commissions. That is the major change in the amendment before the Senate, the so-called Graham-Levin-Kyl amendment which is before the Senate.

There are a number of other changes as well, but of all the changes, what this amendment does is add to the Graham amendment, which was agreed to last Thursday, adds a direct appeal for convictions by military commissions—not just for status determinations—and that direct appeal would, of course, go to a Federal court.

The amendment which we are going to consider tomorrow morning, after we consider the Bingaman amendment, will also provide for review of whether the standards and procedures which are referred to in the amendment are consistent with the Constitution and laws of the United States. Those are important words because all Members believe we must operate according to our Constitution. Our laws and the review which is provided for now, if we agree to this amendment to the adopted Graham amendment, would explicitly make it clear that the review of a court would look at whether standards and procedures that have been agreed to are consistent with our Constitution and our laws.

The other problem which I focused on last Thursday with the first Graham amendment was that it would have stripped all the courts, including the Supreme Court, of jurisdiction over pending cases. What we have done in this amendment, we have said that the standards in the amendment will be applied in pending cases, but the amendment will not strip the courts of jurisdiction over those cases. For instance, the Supreme Court jurisdiction in Hamdan is not affected.

However, what our amendment does, as soon as it is enacted and the enactment is effective, it provides that the standards we set forth in our amendment will be the substantive standards which we would expect would be applied in all cases, including cases which are pending as of the effective date of this amendment.

We will first vote on the Bingaman amendment tomorrow. I will vote for that amendment. It does preserve some habeas corpus review of constitutional issues relative to the detention of enemy combatants at Guantanamo Bay. It avoids habeas corpus review of less consequential issues, while enumerating the important issues which it would provide or permit habeas review of.

However, I cosponsored the Graham amendment with Senator GRAHAM because I believe it is a significant improvement over the provision which the Senate approved last Thursday, specifically for the two main reasons I identified. The direct review will provide for convictions by the military commissions, and because it would not strip courts of jurisdiction over these matters where they have taken jurisdiction, it does, again, apply the substantive law and assume that the courts would apply the substantive law if this amendment is agreed to. However, it does not strip the courts of jurisdiction.

My friend from South Carolina has pointed out what the scope of the review would be if this amendment was agreed to. I will read something which he made reference to that is important it be very clear as to what this grant of review is on page 6, paragraph B:

> (i) with respect to a capital case in which the alien was sentenced to a term of imprisonment of 10 years or more, shall be as of right; or
>
> (ii) with respect to any other case, shall be at the discretion of the United States Court of Appeals for the District of Columbia Circuit.

The scope of review is set forth. It gets the Congress back into the business of laying out the ground rules for these reviews, which has been the main goal of the Senator from South Carolina. It is a goal which I hope all share. We may disagree as to what the ground rules are, but I hope all Members share in that goal that Congress become reinvolved in setting the ground rules for both the commissions and for the tribunals which make the status determinations.

Again, it has been a very constructive effort on the part of Senator GRAHAM, myself, Senator KYL, and others who cosponsored and will vote for this. It makes a significant improvement over what the Senate did last Thursday. Again, I as one Senator will first support the Bingaman amendment, but if it is not agreed to, I will strongly urge our colleagues to vote for the Graham-Kyl amendment.

I support my friend from South Carolina.

The PRESIDING OFFICER (Mr. THUNE). The Senator from South Carolina.

Mr. GRAHAM. Mr. President, my hope is, as Senator LEVIN indicated, we are all doing this because we believe Congress has a role in this war. The executive branch has the job to lay the battle plans in place and to go after the enemy and be the Commander in Chief. But the Congress regulates captives of land and sea. The Congress is involved in issues about the detention, interrogation, and prosecution of enemy combatants and those who are trying to do harm to the country.

My goal over the last week was to do two things: get the Congress involved and for us to start thinking, what do we want, as a nation, to happen in this war now and down the road? What do we want to happen to the Sheik Mohammeds and people such as he? Do we want them to be common criminals? No. We want them to be people considered under the law of armed conflict.

My amendment last week was a direct result of what I think was a growing problem for our country. Section 2241 habeas rights were being exercised by noncitizen, foreign terrorist suspects to the point they were flooding our courts. They were bringing lawsuits.

I will give you an example. One Canadian detainee, who threw a grenade that killed an Army medic in a firefight and who comes from a family with longstanding al-Qaida ties, moved for a preliminary injunction forbidding the interrogation of him or engaging in "cruel, inhuman, or degrading" treatment of him.

In other words, he wanted the judge to come in and stop his interrogation before it started and to sit there basically and supervise it.

Another al-Qaida detainee complained about basic security procedures, the speed of mail delivery and medical treatment. He was seeking an order that he be transferred to the "least onerous conditions" at Gitmo and asking the court to order that Gitmo allow him to keep any books and reading materials sent to him and to "report to the Court" on "his opportunities for exercise, communication, recreation, worship, etc."

As I said last week, we never allowed enemy prisoners to go into civilian courts and ask judges to come over and take over the military prison in a time of war.

The Nazis did not get that right in World War II. We had plenty of Nazi prisoners housed in military prisons all over the United States. They were not able to go to Federal court and complain about the books and the DVDs—they didn't have DVDs then—whatever they were asking for.

There is an "emergency" motion seeking a court order requiring Gitmo to set aside its normal security policies and show detainees DVDs that are purported to be family videos.

There is another lawsuit wanting the lawyer to have Internet access at Guantanamo Bay. That is what I objected to. This is not the law of armed conflict being applied. This is giving an enemy prisoner a right that no enemy prisoner has ever enjoyed before in the law of armed conflict. It was creating litigation against our troops.

There was one medical malpractice claim. There are over 40 cases suing for monetary damages. Can you imagine, after 9/11, if the Senate were asked the question, Do you want an al-Qaida suspect who is captured to be able to go into Federal court, in unlimited fashion, and bring lawsuits against our own troops for their behavior? The answer is no.

But Senator LEVIN was right. The military commission, part of it is written in a way without a direct appeal to

Federal courts. There is historical precedent for doing it in-house, but there is a Supreme Court review precedent. So I am willing to take that part of the amendment that was not really the focus of the lawsuit abuse and come up with a compromise the country should be proud of.

Now, as to Senator BINGAMAN's attempt to strike my language, I will vote against Senator BINGAMAN's amendment, and I will urge all those who voted for me last time to stand with me. Senator BINGAMAN is trying to create a right to the DC Circuit Court of Appeals for all enemy combatants to bring habeas petitions similar to an American citizen, not what we have done in our amendment but a true habeas petition under section 2241.

The question is, Does the Congress want al-Qaida members to have habeas rights similar to American citizens? I say no. Senator BINGAMAN allows that right to still exist. He addressed some of the concerns I raised. He says the habeas petition cannot consider claims based on living conditions. Because I have described how outrageous these claims are—about the exercise regime, the reading materials—most Americans would be highly offended to know that terrorists are suing us in our own courts about what they read.

He has two exceptions, however. They can still bring habeas lawsuits similar to an American citizen, "whether such status determination was supported by sufficient evidence and reached in accordance with due process of law, provided that statements obtained through undue coercion, torture, or cruel or inhuman treatment may not be used as a basis for the determination; and (C) the lawfulness of the detention of such alien."

The reason I am going to vote no on the Bingaman amendment is that these exceptions—the lawfulness of the detention of such alien—would allow a court, if they chose, to look at every condition of the enemy prisoner's life and do, again, what we are trying to prevent, that you could go into Federal court and start asking for a Federal judge to intervene in your interrogation before it even starts. My belief is the military is the best group to run the war, not Federal judges.

So I am going to oppose Senator BINGAMAN's amendment because it preserves habeas rights for noncitizen, foreign terrorists to come into Federal court at the District Court of Appeals, DC Court of Appeals, to put a wide variety of issues on the table. I do not think that is good for us. I do not think it is good for the war.

Now, I will vote with Senator LEVIN on our comprehensive package when it comes to how we are going to conduct the war on terror.

I will end with this thought. For the first time I know of, since September 11, 2001, we have sat down as a Congress and an administration to start thinking this thing through. We have come up with, I believe, a darn good package.

I say to Senator LEVIN, I have enjoyed working with him on this. I have been a military lawyer for over 20 years. There are a lot of things that go on in the Senate I do not know as well as I should. But I feel very comfortable that the war on terror is truly a war, that 9/11 was an act of war, it was not a crime, and if we will apply the law of armed conflict, we can be proud as a nation.

I say to the Senator, your amendment and my amendment together have gotten us back to where we should have been years ago, applying the law of armed conflict to these terror suspects in a way that goes beyond the Geneva Conventions because we are a nation that wants to do it right and then some. But we are also preserving our own ability to defend ourselves.

So to the world, if you are wondering what is going on in America now, if anybody goes to Guantanamo Bay, the Congress will be told about what goes on, and we will have a say about what goes on. If anybody at Guantanamo Bay is determined to be an enemy combatant, not only will Congress be involved in how they are kept and how long they are kept, our Federal courts will review the actions of our military to see if they comply with the Constitution of our Nation. And that is a huge change.

I say to the Senator, I congratulate you for working with me—working together—to come up with a review process, where the world can know for sure that what we are doing meets our own constitutional standards. Enemy combatants are going to get a chance to go to Federal court. The Federal court is going to look at the big picture and see whether what we have done is constitutional, and when it comes to that individual's case, to look at whether the procedures and standards that were involved were properly applied. The world should respect us for that. I am proud to have been part of that process.

To those who go to court and have their liberty interests dealt with, those who are going to be tried for law of armed conflict violations, we can tell the world that those people who will be tried at Guantanamo Bay will not be tried in secret. They will be tried in public to the extent that we can.

There is an op-ed piece today in the Washington Post by a defense counsel—and God bless him; I have been a defense counsel, and I want every right I can get as a defense counsel—saying that the trials at Guantanamo Bay are a lot different than the ones at Nuremberg. He is right in this regard. Nuremberg was trying people after the war was over. We will be trying people at Guantanamo Bay while the war is going on.

What we want to do is make sure the public knows as much as possible about the process, that the defendants understand the evidence against them, that they have the right to challenge the evidence, call witnesses, and testify. And they are presumed innocent. It is a very good infrastructure. But there may be some evidence down there about a particular defendant that has to be classified because to divulge that evidence would tip our enemy off as to what we are doing and how we are doing it.

We are still at war. It is important we understand we are still at war. But we can tell the world that for every person who goes through a military commission trial, we will be as open as we possibly can be without compromising our own security.

When that verdict is rendered, the Federal courts of the United States of America will look at the military action to see if it comports with the Constitution of our Nation, the preeminent legal document in the world, and will also review the individual's case. I am proud of that. It is going further than we probably absolutely have to, but it is doing the American thing. It is putting American values on display.

Ladies and gentlemen of the Senate, tomorrow is a historic day in the war on terror. You have a chance to put some legal infrastructure in place that will be a model for the world, that will help us win this war on our terms. I am proud to have been part of it.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, I want to commend the Senator from South Carolina and my colleague from Michigan whom I have worked with these many years.

If the Senator from South Carolina will retake his seat for a minute while the chairman speaks, I wish to say I thank my distinguished colleague because I look upon the work by Members of the Senate toward a resolution of these very difficult issues regarding prisoners taken in this series of conflicts, seeing what we have witnessed in terrorism, where there are no clear precedents, in many ways, in history for this nonstate-sponsored aggression.

As we witnessed in the tragedy in Jordan, it is not restricted to Iraq and Afghanistan. As General Abizaid has briefed the Senate and, indeed, briefed the American public on television, this is a worldwide movement that goes all the way from Spain to Indonesia. And you do not know where they will hit next or whom they will hit or by what means they will hit.

But I do believe as to the work initiated by our distinguished colleague from Arizona, Mr. MCCAIN, which you and I worked with him on, this matter, which you and Senator LEVIN have worked on, and to a limited extent—I am supporting you—I have had a voice, this is—and I say this with great respect to the President and the administration—a coequal branch of Government, the Senate. The Congress has a very clear mandate in the Constitution that we shall take care of the men and women of the Armed Forces. And this is part of that.

So I say to my good friends who have worked on this, well done. You are profiles in courage.

AMENDMENTS NOS. 2518 AND 2519

Now, Mr. President, as announced earlier, we will continue the remarks regarding the two amendments, one by my distinguished colleague from Michigan with his distinguished leader, the Senator from Nevada, and one by myself together with Senator FRIST.

Now, I wish to make an opening comment, and then I would like to yield the floor for such time as my distinguished colleague may speak, and then I will make some closing comments.

But it is important in our bill, and particularly on the last day, to address the situation in Iraq. But, indeed, it is broader than Iraq. It is, as I said a moment ago, the militant Jihadists attacking from Spain to Indonesia, wherever they want to bring freedom and current government to a standstill.

So we could have devised on this an entire amendment out of whole cloth, but it seemed to me—and I am going to take responsibility—it seemed to me that we could show the maximum bipartisanship if we took the amendment, as drawn by my distinguished colleague from Michigan, Senator REID, and others, and made a minimal number of changes.

That is exactly the posture of these proper amendments. That, to me, indicates how much we really agree upon, page after page, paragraph after paragraph. It is carefully drawn so, first, the Senate expresses the sense of the Senate, not binding on the executive branch, it is the sense of the Senate. Then the second portion is a reporting requirement. But those reporting requirements are looking forward. We are not going back to debate history. History will debate that fully. We are going forward because the next 120 days, with Iraq in particular in mind, with the election in December, the formation of a new government, this next 120 days we must maintain stability, a clarity of understanding among the American people and the Iraqi people, and we cannot adopt any language, be it sense of the Senate or reporting language, that in any way raises speculation. Everything we say about the implementation of our Armed Forces should be with complete clarity.

The amendment by my good friend from Michigan left only the option, in the reporting to the President, of putting out unclassified information. That, to the maximum, the executive branch will do. But there are certain aspects—and every Member should be cognizant of this—of this very complicated war on terrorism that have to be given to the Congress in a classified version.

So that is the sum and substance of our amendment. Take away any indication of timetable, give the President the option to do unclassified and classified and have a forward-looking approach as we go into these next 120 critical days. This document can be referred to, hopefully, as a bipartisan instrument.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I thank my dear friend from Virginia for his positive comments. As always, he seeks to build bridges and to overcome differences and to reach across the aisle. It is typical of him, and it has been that way since the first day I met him many years ago.

The Levin-Reid amendment—there are two amendments pending—is an effort to, indeed, try to improve the situation in Iraq, to try to change the course for the better. There is no date for withdrawal in our amendment. It is not saying that we will withdraw troops at any particular specific date. We have done that because we think it would be a mistake to set a specific date, at least most of us do. On the other hand, we believe it is essential that we change course in a number of directions in order to improve the chances of Iraq becoming a success.

America is going to be less secure if Iraq is a failed state. Everybody agrees on that. The question is, How can we improve the chances of Iraq not becoming a failed state? What could we do here, carrying out our responsibility, what contribution can we make here to success in Iraq? Things are not working very well in Iraq in many ways. I know there are people who will point to progress in Iraq and, obviously, there are things to which one could point. But on the other hand, there are things that are not working well, and this amendment intends to address those in a constructive and positive way.

Staying the course is not a strategy; that is a slogan. How do we improve the chances for success? How do we modify our course so that we can achieve or help the Iraqis achieve—more accurately—a nation? And how can we also look forward to the day when our troops come out sooner rather than later?

This amendment looks at the year 2006 as a transition year, with Iraqi forces taking over security functions to a far greater extent. For that to happen, this amendment points out that a number of things need to happen. First, we have to advise the Iraqis that we are not there for an indefinite period of time, that they must take the steps necessary to achieve a broad-based political settlement which is so essential to defeating the insurgency. Our military advisers are unanimous on this point. There is no purely military solution unless the Iraqis come together politically. Unless they unify politically, they will not be able to defeat the insurgents. It is a point which must be made to the Iraqis. They cannot simply continue to squabble over the content of a constitution. They have to come together or else they are not going to succeed, and we are not going to succeed in helping them to achieve the security they want.

We need to advise the Iraqis we are not there indefinitely. They have to take the steps necessary to achieve a broad-based political settlement which is critically important to defeating the insurgency. We need a plan for success. We don't have a plan for success. I will speak more about that in a moment.

I want to go through the amendment. I want to point out where there is apparently agreement and where there is disagreement and what the significance is of both. The sense of the Senate starts by saying something that I think every Member of this body would agree with:

> . . . members of the United States Armed Forces who are serving or have served in Iraq and their families deserve the utmost respect and the heartfelt gratitude of the American people for their unwavering devotion to duty, service to the Nation, and selfless sacrifice under the most difficult circumstances.

We start with that. Our troops and their families deserve the very best in equipment, training, and support, but also in our thinking. That doesn't mean there is going to be unanimity around. People who disagree on what the next step should be should not be pilloried in any way or criticized as being less American than those who support the administration's policy lock, stock, and barrel. There is a place for constructive criticism, for different points of view in a democracy. That is what our troops have always fought for. That is what men and women have died for, so that we would have an opportunity to have the kind of debate on policy which is going on now.

First, our heartfelt gratitude to our troops. Second, the sense of the Senate recognizes that the Iraqi people have made enormous sacrifices and that the overwhelming majority of Iraqis want to live in peace and security. There is no disagreement on that. The alternative amendment that we will be voting on does not differ with that.

The next paragraph there is no difference on either. Both amendments have the same language. There is no change in our version from the Frist-Warner version. That is:

> . . . calendar 2006 should be a period of significant transition to full Iraqi sovereignty, with Iraqi security forces taking the lead for the security of a free and sovereign Iraq,

> thereby creating the conditions for the phased redeployment of United States forces from Iraq.

That is in paragraph 3 of the sense of the Senate. There is no change in that language to the Frist-Warner language. That is paragraph (b)(3). Creating the conditions for the phased redeployment of U.S. forces from Iraq surely ought to be a goal.

> (4) United States military forces should not stay in Iraq indefinitely and the Iraqi people should be so advised.

That is an important statement to the Iraqi people, and it is an important statement to our people. We should not be staying in Iraq indefinitely. That is the wrong message to send for a number of reasons to the Iraqi people.

What the Warner version does is, it strikes the word "indefinitely" and says:

> United States military forces should not stay in Iraq any longer than required and the people of Iraq should be so advised.

The problem with that is, they could be required forever. That is open-ended. It is unlimited. It is the wrong message. That is a difference, and it is the first difference.

The next paragraph, there is no difference on:

> . . . the Administration should tell the leaders of all groups and political parties in Iraq that they need to make the compromises necessary to achieve the broad-based political settlement that is essential for defeating the insurgency . . . within the schedule that they have set for themselves.

By the way, the schedule that they have set for themselves is to appoint a commission when the new assembly takes office in January, to appoint a constitutional commission to review the constitution and make recommendations for changes within 4 months. That is their schedule. They ought to keep that.

Next—there is no disagreement on this language—

> . . . the Administration needs to explain to Congress and the American people its strategy for successful completion of the mission in Iraq.

No difference on that language.

Now to paragraph C on the reports.

Mr. WARNER. Mr. President, to help those following, you have now concluded that section entitled "Sense of the Senate." Both amendments have it phrased such, not binding on the administration.

Mr. LEVIN. That is correct.

Mr. WARNER. As you carefully pointed out, but I would like to repeat, the entire section that you have referred to we have accepted—I accepted and recommended to my colleague—except for that one change of striking "indefinitely" and using "any longer than required." And when I regain the floor, I will explain why I felt that modest one-word change was important. Other than that, we have accepted in its entirety that section entitled "Sense of the Senate" except for a one-word change.

Mr. LEVIN. The Senator is correct.

On the report section, there is a change from 30 days to 90 days, which I will not spend time on. I think it is a fairly technical change, that there is not a particular difference or problem.

After that first report, whether it is 30 days or 90 days—30 days in our version, 90 days in Senator WARNER's version—every 3 months thereafter, until all U.S. combat brigades have been redeployed from Iraq, the President shall submit to Congress an unclassified report on U.S. policy and military operations in Iraq. In our version we say:

> Each report shall include the following:

What the Warner version adds is "to the extent practicable, unclassified information." And by the way, it is clear that there is classified information that cannot be in a report, and we don't suggest to the contrary. We just want an unclassified report to the extent you can have an unclassified report on each of the following items:

> . . . The current military mission and the diplomatic, political, economic, and military measures, if any, that are being or have been undertaken to successfully complete that mission.

So far, no difference on that one.

> Efforts to convince Iraq's main communities to make the compromises necessary for a broad-based and sustainable political settlement.

That is what I referred to before. It is so critically important that we must convince the communities in Iraq that they must make the compromises necessary for a broad-based, politically acceptable settlement. No difference on that language; no proposed change in that.

Next, in our amendment, we need to engage

> the international community and the region in the effort to stabilize Iraq and to forge a broad-based and sustainable political settlement.

No difference on that.

We need a report to us every 30 days on what is being done to strengthen the capacity of Iraq's Government ministries; to accelerate the delivery of basic services; to secure the delivery of pledged economic assistance from the international community, and additional pledges of assistance; to train Iraqi security forces and transfer security responsibilities to those forces and the Government of Iraq.

No difference on that in terms of what must be in this report.

Next, we need in this report to know

> whether the Iraqis have made the compromises necessary to achieve the broad-based and sustainable political settlement—

We need to keep the pressure on the Iraqis. We need the administration to tell us the Iraqis have made the compromises necessary. Without that kind of keeping the Iraqis' feet to the fire, it is less likely the Iraqis are going to make the kind of broad-based compromises that are necessary—the compromises that are necessary to achieve that broad-based political settlement that is essential, in our words, to defeat the insurgency in Iraq.

And now we get down to the heart of the matter where there seems to be a difference, and I want to spend another couple minutes on this. This report, according to our amendment—not disagreed to with the Warner amendment—must include specific conditions that were included in an April 2005 campaign action plan and any subsequent update to that campaign plan that must be met in order to provide for the transition of security responsibility to the Iraqi security forces.

There seems to be no objection to that. There is no change in that. So we want that document, that report from the administration to set forth any specific conditions that were in the April 2005 campaign action plan and any updates to that campaign plan that need to be met in order to provide for transition of security responsibility.

There is an acknowledgement by no change in our language that there is a report containing conditions, that there is a need for updates to that campaign plan that need to be met in order to provide for the transition of security responsibility to the Iraqi forces.

Now we then have language which on this whole next page is not objected to, which is accepted, which is that to the extent these conditions are not covered, as I have just outlined, the following needs to be addressed. We lay out here one, two, three, four conditions: number of battalions of Iraqi Armed Forces that have to operate independently or take the lead in counterinsurgency operations; number of Iraqi police units that have to operate independently or take the lead in maintaining law and order in fighting the insurgency, the number of regular police that must be trained and equipped to maintain law and order; the ability of Iraq's ministries and provincial and local governments to independently sustain, direct, and coordinate Iraq's security forces.

Now, so far there is apparently no problem. We have laid out all of those conditions that need to be set forth in the report that has to come every 30 days after that first report.

Then in subsection (6) we have a requirement in the report that is also not objected to, which is a schedule for meeting such conditions. There is no objection to that in the Warner amendment. There is no language change in his version.

So we require a schedule for meeting those conditions which I have outlined and an assessment of the extent to which such conditions have been met, information regarding variables that could alter that schedule, and the reasons for any subsequent changes to that schedule.

So far, so good. No change in the language.

Mr. WARNER. Mr. President, if the Senator will yield, for those following, we covered first the sense of the Senate. The Senator has now covered very carefully all the other provisions. It seems to me that there has been no disagreement whatsoever between the two sides. You pointed out, yes, I asked for 90 days; you have 30. But I don't think that was particularly troublesome. And I pointed out that one little change in language, "to the extent practicable," so that the President could include classified. So in essence there is absolutely no difference between the two amendments up to the point you are now addressing, which is the last paragraph; is that correct?

Mr. LEVIN. Not quite, because there was that one change which the Senator from Virginia made in the sense-of-the-Senate language.

Mr. WARNER. No, I pointed that out.

Mr. LEVIN. I know you said there has been no change other than this. I said there was a prior one which we agreed was a change.

Mr. WARNER. I was referring to now the statutory report language. There is no difference until you get to the last paragraph.

Mr. LEVIN. I would agree. Now to the last paragraph, which for reasons beyond me has been stricken.

We referred to the campaign plan—without objection. There was a campaign plan we referred to which said, what are the conditions in that plan that must be met in order to provide for the transition of security responsibilities to Iraqi security forces? There is the campaign plan. There are the conditions which have been laid out, which of those conditions must be met in order to achieve the goal which we have agreed on in this document—transition of security responsibility to security forces.

Then we have agreed that the report has to contain a schedule for meeting those conditions. What are the conditions? What is the schedule for meeting them? Three times we refer to that schedule in that same paragraph. No objection so far.

But now we say that campaign plan should also contain estimated dates for the phased redeployment of the United States Armed Forces from Iraq as each condition is met. The conditions are already laid out. What is the campaign plan with estimated dates for the phased redeployment as those conditions are met?

Then we explicitly acknowledge that, with the understanding that unexpected contingencies may arise.

We have already made reference to the phased redeployment. That is the first time we have made a reference to phased redeployment.

In the sense of the Senate, paragraph (b)(3), we have said:

> Calendar year 2006 should be a period of significant transition to full Iraqi sovereignty, with Iraqi security forces taking the lead for the security of a free and sovereign Iraq, thereby creating the conditions for the phased redeployment of United States forces from Iraq.

So in subparagraph (7), the last paragraph, which makes reference to the campaign plan—we have already described what that is, with no objection to it—are the estimated dates for the phased redeployment of the United States Armed Forces from Iraq—we have already made reference to the goal of phased redeployment of United States Armed Forces—as each condition is met. We already have agreement on everything up to now, talking about all those conditions and the need that they be met, with the understanding that unexpected contingencies may arise, which I can't imagine anybody would object to because there are unexpected contingencies that always arise. We have acknowledged this.

But why it is there is objection to acknowledging what is obvious, that a campaign plan needs to have dates, estimated dates for the phased redeployment we have already agreed is desirable, as conditions allow and as each condition is met? Why that would be objectionable is frankly a mystery to me unless there is a reluctance to do what we do in an earlier paragraph, which is to say, folks, we can't stay there forever, we have a plan for success, where there is a takeover of the major security operations by the Iraqis so we can in a phased way redeploy our forces. Eliminating that part of the plan, it seems to me, is eliminating what is essential, what clearly follows from everything that precedes it, which has been agreed to, and I think it would send exactly the wrong message, to agree to all of the pieces that come up to that conclusion, including the conditions which need to be met, the desirability of phased redeployment, the fact that there is a campaign plan, the fact that that campaign plan has conditions in it that need to be met in order to provide for the transition of security responsibility.

It is all there. It is all there in the pieces leading right up to paragraph (7). Suddenly in the Warner version, paragraph (7) is stricken.

Again, I close with this emphasis. We have not said in this document that there should be a date for withdrawal. We said there should be a plan. What are the conditions for phased redeployment? What would it take for this to happen? What number of battalions need to be brought up to capability on the part of the Iraqis in order for there to be a number of our forces that are reduced and under what conditions? What are those circumstances and conditions which will allow us to reduce our forces?

For the administration to resist stating to the American people what are the conditions that need to exist for us to reduce our forces in Iraq it seems to me is wrong. It means there is no plan, there is no strategy that they are willing to lay out for the American people and for the Iraqi people as well so that there is no misunderstanding as to where this responsibility must fall ultimately, which is on the people of Iraq to come together politically and to take over their own military security.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, again I commend my colleague. I think I have fairly clearly stated, and I believe there has been concurrence, the document prepared by the Senator and others is virtually accepted in our amendment. The changes that I put out, the one simple change in the sense of the Senate, you understood that. Then we get to the conditions, which is changing 120 days instead of 30. So I say to my colleague—and I think the Senator has been very fair and objective about it—the amendments are parallel in every respect except the last paragraph.

I say to my good friend, I say to all Senators, the next 120 days are critical. If this is to become law, the President would have to start every 90 days addressing the estimated dates for the phased redeployment of United States Armed Forces from Iraq. No mention about the other coalition forces.

I say that few words can be interpreted by all as being the timetable, and we do not in this 120 days, in my judgment, want to have any hint whatsoever of a timetable. It is so critical, with all the progress thus far by the Iraqi people—elections and a series of transitional governments, then acceptance of the constitution by referendum, then the election of a new legislative body, and then they have to stand up and begin to strengthen the ministries and take hold in such a way that it is clear to the Iraqi people and the world that that government is in control. To put any language such as this in there, to suggest any timetable by which we begin to withdraw forces, would undermine entirely and make highly risky the next 120 days.

I yield the floor.

Mr. LEVIN. Will the Senator yield for a correction? I inadvertently said the report would be every 30 days after the first report. I misspoke. It would be every 90 days, as the Senator from Virginia correctly has stated. It would be every 90 days after the first report.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. LIEBERMAN. Mr. President, this is one of those quiet moments in the Senate with very few people in the Chamber when, in my opinion, something very important is happening. It is happening in good measure because of the two good men, my colleagues from Virginia and Michigan, who lead the Armed Services Committee, of which I am privileged to be a member. They are two gentlemen, two patriots, two people who have known each other for a long time, who work closely together, respect each other, even seem to like each other and, most important of all, trust each other.

Those qualities of personal trust and personal relationship have been too absent from our Nation's consideration of the ongoing war in Iraq among our political leadership. We have, I am convinced, suffered from it.

It is no surprise to my colleagues that I strongly supported the war in Iraq. I was privileged to be the Democratic cosponsor, with the Senator from Virginia, of the authorizing resolution which received overwhelming bipartisan support.

As I look back on it and as I follow the debates about prewar intelligence, I have no regrets about having sponsored and supported that resolution because of all the other reasons we had in our national security interest to remove Saddam Hussein from power, a brutal, murdering dictator, an aggressive invader of his neighbors, a supporter of terrorism, a hater of the United States of America. He was for us a ticking timebomb that if we did not remove him I am convinced would have blown up, metaphorically speaking, in America's face. I am grateful to the American military for the extraordinary bravery and brilliance of their campaign to remove Saddam Hussein.

I know we are safer as a nation, and to say the obvious that the Iraqi people are freer as a people, and the Middle East has a chance for a new day and stability with Saddam Hussein gone. We will come to another day to debate the past of prewar intelligence. But let me say briefly the questions raised in our time are important. The international intelligence community believed Saddam Hussein had weapons of mass destruction. Probably most significant, and I guess historically puzzling, is that Saddam Hussein acted in a way to send a message that he had a program of weapons of mass destruction. He would not, in response to one of the 17 U.N. Security Council resolutions that he violated, declare he had eliminated the inventory of weapons of mass destruction that he reported to the U.N. after the end of the gulf war in 1991.

I do not want to go off on that issue. I want to say that the debate about the war has become much too partisan in our time. And something is happening here tonight that I believe, I hope, I pray we will look back and say was a turning point and opened the road to Republican and Democratic cooperation, White House and congressional cooperation, to complete the mission. As Senator LEVIN said, no matter what anyone thinks about why we got into the war and whether we should have been in there, it is hard to find anybody around the Senate—I have not heard anybody—who does not want us to successfully complete our mission there. I feel that deeply. If we withdraw prematurely from Iraq, there will be civil war, and there is a great probability that others in the neighborhood will come in. The Iranians will be tempted to come in on the side of the Shia Muslims in the south. The Turks will be tempted to come in against the Kurds in the north. The other Sunni nations, such as the Saudis and the Jordanians, will be sorely tempted, if not to come in at least to aggressively support the Sunni Muslim population. There will be instability in the Middle East, and the hope of creating a different model for a better life in the Middle East in this historic center of the Arab world, Iraq, will be gone.

If we successfully complete our mission, we will have left a country that is self-governing with an open economy, with an opportunity for the people of Iraq to do what they clearly want to do, which is to live a better life, to get a job, to have their kids get a decent education, to live a better life.

There seems to be broad consensus on that, and yet the partisanship that characterizes our time here gets in the way of realizing those broadly expressed and shared goals.

Politics must end at the water's edge. That is what Senator Arthur Vandenberg of Michigan said, articulating the important ideal that we seem to have lost too often in our time.

I found a fuller statement of Senator Vandenberg's position, the ideal. I found it to be in some ways more complicated and in other ways much more compelling. I want to read from it. Senator Vandenberg said:

> To me "bipartisan foreign policy" means a mutual effort, under our indispensable two-Party system, to unite our official voice at the water's edge so that America speaks with maximum authority against those who would divide and conquer us and the free world.

If that doesn't speak to us today—the threat of Islamist terrorism, the desire they have to divide us and, in that sense, to conquer us in the free world. Senator Vandenberg continued in his definition of what he meant by bipartisanship in foreign policy:

> It does not involve the remotest surrender of free debate in determining our position. On the contrary, frank cooperation and free debate are indispensable to ultimate unity—

Of which I speak.

> In a word, it simply seeks national security ahead of partisan advantage.

I felt again in recent days and recent months how far we have strayed down the partisan path from Vandenberg's ideals. The most recent disconcerting evidence of this was the lead story from the Washington Post—it was in papers all over the country—last Saturday, November 12. I read from that story:

> President Bush and leading congressional Democrats lobbed angry charges at each other Friday in an increasingly personal battle over the origins of the Iraq war. Although the two sides have long skirmished over the war, the sharp tenor Friday resembled an election year campaign more than a policy disagreement.

That from Saturday's Washington Post. Campaign rhetoric over policy debate, and what about? About how we got into the war 2½ years ago, not about how we together can successfully complete our mission in Iraq.

The questions raised about prewar intelligence are not irrelevant, they are not unimportant, but they are nowhere near as important and relevant as how we successfully complete our mission in Iraq and protect the 150,000 men and women in uniform who are fighting for us there.

I go back to Vandenberg's phrase: the question is how Democrats and Republicans can "unite our . . . voice at the water's edge . . . against those who would divide and conquer us and the free world" in Iraq, I add, and beyond.

The danger is that by spending so much attention on the past here, we contribute to a drop in public support among the American people for the war, and that is consequential. Terrorists know they cannot defeat us in Iraq, but they also know they can defeat us in America by breaking the will and steadfast support of the American people for this cause.

There is a wonderful phrase from the Bible that I have quoted before:

> If the sound of the trumpet be uncertain, who will follow into battle?

In our time, I am afraid that the trumpet has been replaced by public opinion polls, and if the public opinion polls are uncertain, if support for the war seems to be dropping, who will follow into battle and when will our brave and brilliant men and women in uniform in Iraq begin to wonder whether they have the support of the American people? When will that begin to affect their morale?

I worry the partisanship of our time has begun to get in the way of the successful completion of our mission in Iraq. I urge my colleagues at every moment, when we do anything regarding this war, that we consider the ideal and we are confident within ourselves. Not that we are stifling free debate. Free debate, as Vandenberg said, is the necessary precondition to the unity we need to maximize our authority against those who would divide and conquer us. But the point is to make sure we feel in ourselves that the aim of our actions and our words is national security, not partisan advantage.

Now we come to today. After reading that paper on Saturday, I took the original draft amendment submitted by

Senator WARNER and Senator FRIST—it actually wasn't offered, but it was around—and Senator LEVIN and Senator REID. I took the amendments back to Connecticut, and last night I looked them over. Neither one expressed fully what I hoped it would, but as I stepped back, I said that these two amendments—one Republican, one Democrat, unfortunate in a way breaking by parties—these amendments are not that far apart.

I like the way in which the Warner amendment recited again the findings that led us to war against Saddam Hussein and, quite explicitly, cited the progress that has been made. I do think Senator LEVIN's amendment doesn't quite do this part enough, about the progress, particularly among the political leaders of Iraq. They have done something remarkable in a country that lived for 30 years under a dictator who suppressed all political activity, encouraged the increasing division and bitterness among the Shia's, the Sunnis, the Kurds. These people, with our help and encouragement, have begun to negotiate like real political leaders in a democracy. It is not always pretty. What we do here is not always most attractive. That is democracy. Most important of all, 8 million Iraqis came out in the face of terrorist threats in January to vote on that interim legislation. Almost 10 million came out to vote on a constitution, which is a pretty good document, a historically good document in the context of the Arab world.

What happened when the Sunnis felt they were not getting enough of what they wanted in a referendum? They didn't go to the street, most of them, with arms to start a civil war; they registered to vote. That is a miraculous achievement and a change in attitude and action. They came out to vote in great numbers, and they will come out, I predict, again in December in the elections and elect enough Sunnis to have an effect on the Constitution next year.

So I wish that some of that had been stated in Senator LEVIN's amendment.

Mr. LEVIN. Would the Senator yield on that point?

Mr. LIEBERMAN. I would.

Mr. LEVIN. My amendment is exactly the same as Senator WARNER's amendment in that regard. Senator WARNER has adopted my amendment with two minor changes. He has not made any change in terms of the progress that has been made or the reference to the great work of our troops. I thought I heard the Senator from Connecticut—and I have no dearer friend in the Senate—suggest that he had wished that my amendment would be more fulsome relative to progress. I just wanted to assure the Senator that there is no change in that language in the version which was subsequently filed by the Senator from Virginia.

Mr. LIEBERMAN. I thank my friend from Michigan. What I said, and I know the Senator from Michigan was involved in a conversation, I was actually going back and quoting the draft of the Warner amendment that was circulating at the end of last week which had statements about why we went to war and marked the progress that had been made politically and economically since then. But the Warner amendment did not raise questions about what our plan is now and how to successfully complete the mission. It did not raise the questions Senator LEVIN's amendment rightly raises for progress reports from the administration about how we are doing and in that sense did not create an opportunity for a dialogue that can get us beyond the partisan gridlock in our discussions about the war. I wrote a statement last night expressing my frustration on that.

I had other concerns about Senator LEVIN's amendment, including particularly the last paragraph which I believe creates a timetable for withdrawal, and I think that is a mistake, particularly in the next 3 to 6 months as the Iraqis stand up a new government. It may not be the intention of the sponsors, but it does send a message that I fear will discourage our troops because it seems to be heading for the door. It will encourage the terrorists, and it will confuse the Iraqi people and affect their judgments as they go forward.

Incidentally, I do thank the Senator from Michigan because I know he and others in the Democratic caucus worked very hard to make this amendment an inclusive amendment. I had the opportunity to make a few suggestions, some of which were accepted, some of which were not. Then I arrive back in Washington today and I find that the Senator from Virginia has decided not to put in that amendment, has seen some real strengths in the amendment of the Senator from Michigan, has cut out a few points as enumerated, that I personally—and Senator WARNER and I had no conversation about this—thought weakened or at least I found objectionable. I think it is better to strike the word "indefinitely," that our troops will not stay there indefinitely. Of course they will not stay there indefinitely but to make the telling point that we will stay there as long as conditions require and no longer. I fear that if a timetable is put in at the end, ask for a series of dates of phased deployment, even though they are based on those conditions that were cited, it looks like a withdrawal plan and does not send a sound of strength, the sound of a certain trumpet.

The point that I wish to make is that Senator WARNER has now taken most of Senator LEVIN's amendment. The Republican leader, if I could talk in partisan terms, has said to the Democratic leader: We accept most of his amendment with these few changes. I think this is a turning point. It is a significant development in terms of the Senate's consideration of the war in Iraq and hopefully in terms of the administration's consideration as well.

The distrust, the lack of dialogue between the executive branch and Democrats in Congress is so deep and complicated now that I cannot even begin to describe how we got to this point. I know it is a bad place to be, particularly when we are at war.

I remember the words of the Secretary of War during the Second World War, Henry L. Stimson—this was actually after the war. He said: Sometimes the best way to make a person—and he really meant a nation—trustworthy is to trust them. That has been lacking in the relations between the executive branch and the Democrats in Congress.

I believe Senator WARNER, the Republican chairman of the Armed Services Committee, in accepting almost all of the Democratic amendment, has in some sense expanded the trust he feels for the ranking Democrat on the committee and created a process where the administration does have to report to us every 90 days, and if the administration—let me put it another way, respectfully. I hope the White House, the Pentagon, sees this also as a moment of opportunity to engage with the Congress so that we will achieve, after free debate—and that is exactly what we have heard on the floor tonight—the result Senator Vandenberg spoke to, which is that we will, under our indispensable two-party system, unite our official voice at the water's edge so that America speaks with maximum authority against those who would divide and conquer us in the free world.

It is a different kind of enemy, but the extremist Islamist terrorists who face us, as Senator WARNER said, from Spain to Indonesia, it is their plan for conquer. They struck us on 9/11. They are preparing to strike us again. If we cannot pull together across party lines to defeat this enemy to our security and our way of life, shame on us, particularly if we are stopped from doing so by momentary partisan political ambitions.

So I am going to vote for the Warner amendment—I believe it is a significant step forward—for the reasons I have said, because of the timetable at the end particularly. I am going to respectfully vote against the Levin amendment. I hope the Levin amendment comes up first, and if it is not passed, I hope there is an overwhelming bipartisan vote for the Warner amendment.

I cannot resist one final quote from the great Vandenberg—succeeded by another great Senator, I might say, from Michigan, Mr. LEVIN—and this is that famous speech on January 10, 1945.

when he abandoned his long-time isolationism and embraced an internationalist foreign policy, and, boy, did his words speak directly to us in our circumstances in Iraq and around the world today. I hope they give us pause. I hope in some sense—frankly, they give us a bit of discomfort about some of the things that have happened in the political consideration of the war.

Here is what Vandenberg said:

> There are critical moments in the life of every nation, which call for the straightest, the plainest and most courageous thinking of which we are capable. We confront such a moment now. . . .

And we do today, as well.

Vandenberg continued:

> . . . It is not only desperately important to America, it is important to the world. It is important not only to this generation, which lives in blood . . .

As ours sadly does, as the people who were in the Trade Towers and the Pentagon and Jordan over the weekend and so many other places around the world.

> . . . It is important to future generations if they shall live in peace. No man in his right senses will be dogmatic in such an hour.

I digress to thank the Senator from Virginia for coming across the aisle a long way. I thank the Senator from Michigan for the work he did to make his amendment as inclusive and broad as it was so that it enabled the Senator from Virginia to do that.

Vandenberg ended:

> Each of us can only speak according to his little lights—and pray for a composite wisdom that shall lead us to a high, safe ground.

That is exactly what we need with regard to Iraq today. We have to do what is best for our country. We have to do what is best for the 150,000 Americans who are there. We have to do what best enables us to do what we say we all want to do, which is to successfully complete America's mission in Iraq. The sooner we do that, what is best for our country and our great military, the sooner we will succeed in Iraq, and the sooner we will be able to bring our brave soldiers home.

This compromise amendment offered by Senator WARNER, building on the excellent work Senator LEVIN has done, is an enormous step forward toward that higher ground. I thank them both for the work they have done.

I yield the floor.

The PRESIDING OFFICER. The Senator from Virginia.

Mr. WARNER. Mr. President, there are rare moments in the life of the Senate that one shall never forget. I thank the Senator not just because he has indicated support for my amendment but for the Senator's very extraordinary observations about the times, the difficulty, and the need to have bipartisanship and to leave our politics at the water's edge. As I said earlier, I take responsibility for adopting this course rather than the earlier draft I had prepared.

I say to my colleagues on both sides of the aisle, it is an expression of how close we really are on the fundamental things. The sole point of difference is how each Senator shall read the last paragraph. It is as simple as that. I read it as lending to the world an interpretation of what we have done and what we will do in the future as embracing some definitive timetable, and the President will have to every 90 days address those key words and in doing so could well complicate and jeopardize the next 120 days, which this Senator thinks is so critical.

I yield the floor.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, first let me thank my good friend from Connecticut, particularly for his repeated reference to a Senator from Michigan whom we all hold in such huge esteem—particularly Michigan, but it is not limited, obviously. We just put his portrait out in the reception room, one of the two Senators we have added in that reception room. I believe there are only seven Senators whose portraits are there. One of them is now Senator Vandenberg. I quote him often for many purposes, including the bipartisan foreign policy that he espoused.

As the Senator from Connecticut pointed out, he also urged us to give our very best thinking and not to worry about being mischaracterized or being challenged in terms of patriotism because all of us, I believe, agree that when we give our best assessment of the path forward, the success in Iraq, that we are all acting in the best of faith.

I know every colleague I either know of or do not know of is operating in the best of faith, total support for our troops, total support for their families, and how we can best succeed in Iraq. I believe we have to make some changes in our course. This amendment explicitly suggests some of those changes in course. It will hopefully make it more likely that we will succeed in Iraq.

One thing I know for sure, and that is that unless the Iraqis take hold, unless they put their political house in order, unless they do what this amendment says in both versions, that they make the political compromises and the tough political decisions that are necessary for them to be unified against the insurgency, unless they do that, there is no chance that they are going to succeed against this insurgency. They must come together politically. That is what this amendment says.

This amendment provides that they also must understand that we are not there for an unlimited period of time, because if they do believe that we are there for an unlimited period of time, they are less likely to make the political compromises which must be made for them to unite against the insurgency. That is the reason the message is so important. Are we there for an unlimited period of time, as long as you need us? Is that the right message? Or is the right message that we are not there for an unlimited period of time, we are not setting a date for departure, but we are putting you on notice, folks, you need to get your political house in order so that you can defeat, with our assistance, that insurgency. And without that kind of coming together, that military success is either unachievable or far more difficult.

That is the purpose of this amendment, and that is why the few words that were in this version, which the Senator from Virginia would change, are important words, to let the Iraqis know that the American military forces are not going to be there indefinitely, because, again, if they think we are there as long as they need us, which is the way the administration has phrased it, it is less likely that they are going to make the very difficult compromises that need to be made in order to put together a modified constitution around which all Iraqi factions can rally.

That is one of the purposes of this amendment. The other purpose is on the reports, which already, in this amendment which has been agreed to by my friend from Virginia, this amendment as written and as agreed to—there is no change to this—requires a schedule for meeting conditions. It requires a listing of variables that could alter a schedule. It requires that reasons be provided for any subsequent changes to that schedule.

What is one of the conditions? One of the conditions is that there be a campaign plan that must be met to provide for the transition of security responsibility to Iraqi security forces. So that is one of the stated conditions, that there be this campaign plan provided to the Congress, and that plan provide for the transition of security responsibility to Iraqi security forces.

Three times we make reference to a schedule and we make very clear the conditions which must be laid out as to which conditions need to be met when, including what are the number of the battalions in the Iraqi Armed Forces that can operate independently or take the lead in counterinsurgency operations—all that seems to be agreed to. We have a schedule. We have to lay out the conditions. One of the conditions is how many battalions of Iraqi Armed Forces need to be able to operate independently. We lay all of that out.

But then in the last paragraph, when we use the words "estimated dates" rather than "schedule," for some reason the use of the words "estimated dates" creates a problem. Maybe it is not the words "estimated dates," maybe it is the words "phased redeployment," but I would again remind my colleagues that, in our sense of the Senate, we set forth a goal that, in order to succeed in Iraq, we have to have significant transition in the year 2006, with Iraqi security forces taking the lead, thereby creating the conditions for the phased redeployment of the United States forces. That is a goal stated and apparently agreed to by my good friend from Virginia.

There is much in common here. I think the Senator from Connecticut is right. There is clearly a sense we have to do some things here to make it more likely that we are going to succeed in Iraq. That has to be everybody's goal, regardless of what our positions were going in or how critical we are of the way this war is run. Our goal is to maximize the chances for success in Iraq.

But our amendment does have some differences. We should not paper over those differences. There are two differences, which the Senator from Virginia has pointed out and I have pointed out. I guess that is where it is going to rest when the Senate votes tomorrow.

Mr. WARNER. Mr. President, our magnificent service men and women, along with allies and partners, are supporting the Iraqis as they develop their own concepts of democracy. Jointly we are improving infrastructure, improving the internal security, and together confronting the extremists.

By any fair objective political measure, the people of Iraq are making progress. In 1 year, the Iraqis elected a transitional government, ratified a constitution, and are preparing to elect a permanent parliamentary government on December 15th.

During many hearings and briefings, the senior military commanders, particularly General Abizaid has stressed that the extremist militant jihadists are focusing on dominating a geographic area that extends from Spain to Indonesia. The tragic events in Jordan underscore the accuracy of that military analysis.

The al-Qaida group in Iraq claimed responsibility for the tragic attacks in Jordan against innocent Arab civilians. While portions of Iraq remain focal points for terrorist attacks, the threat extends far beyond.

This enemy seeks neither compromise nor coexistence with the United States or others who do not share their world vision. The United States, along with partners and allies, must continue their strong resolve and effectively address this threat. The civilized world has no choice.

Of equal importance to the military mission in Iraq is the development of political structures and reconstruction of the infrastructure. I, like many of you, have made a number of trips to Iraq; I have seen progress.

Now I would like to specifically address the pending amendments related to our policy to achieve our military, political, and reconstruction goals in Iraq. While there are similarities, the amendments differ on several major points.

Both amendments recognize the magnificent work being done by our Armed Forces; the unwavering support of their families at home; the importance of political developments to take place in Iraq next year; the necessity to put Iraqi Security Forces in the lead in securing Iraq; and the requirement to keep the American people well informed of all aspects of the military, political, and reconstruction efforts in Iraq.

Both amendments call for the President to submit a quarterly report on our progress in Iraq. While Congress already receives a number of reports and Members and committees in both bodies receive briefings from civilian and military leaders, this report from the President would become the most comprehensive report on the situation in Iraq.

These are the three important differences between the two amendments.

No. 1 the reporting timeline—section c. The Warner-Frist amendment calls for the first report 90 days after the enactment of the Act. Ninety days allows the President sufficient time to assemble this very wide-ranging report. A report of this scope will require close consultation with all departments and agencies of the Federal Government; American diplomats in Iraq and in the region; United States allied and partnered nations; and our military leaders here and in the theater of operations.

The Levin amendment would allow for just 30 days of coordination and consultation before submitting the initial report. I believe that is insufficient time to produce a report as comprehensive as this.

No. 2 is section c. The Levin-Reid amendment calls for a completely unclassified report. The Warner-Frist amendment directs that the report be unclassified to the extent possible. This is an important distinction. Some information on international negotiations and agreements, and plans for Iraq's domestic security will be an integral part of the development of Iraqi security forces, this may be too sensitive to be presented in an unclassified forum. The Warner-Frist amendment allows the President to produce a classified annex if the President and his advisors believe it is necessary.

No. 3 is a campaign plan with estimated dates for phased withdrawal—section c(7). The Levin-Reid amendment asks for a campaign plan with estimated dates for the phased withdrawal of U.S. forces to be published in the unclassified report. I believe that any program for the withdrawal of American combat forces must be conditions-based, and linked to specific, responsible benchmarks not just dates on a calendar, per se. While I agree that we must continue to make it clear to the Iraqis that a program for withdrawal is a common goal, any announcement of immediate withdrawal or even speculation of withdrawal before a secure and democratic Iraq is in place is simply not prudent.

I am concerned that the release of a timeline such as that in the last paragraph of the Levin-Reid amendment now that announces our withdrawal plans, even with estimated dates, could promote speculation and send an erroneous message to our troops, the Iraqi people, our coalition partners, and the terrorists.

I urge you to vote for Warner-Frist amendment and that we follow Levin and Reid, rather than an entire new amendment to show how much we do agree on and that this is an effort to seek partisanship.

We are down to two differences: the word "indefinite," which to me precludes the chance—could be construed as we would not leave a very small unit there to facilitate the logistic transfer, the need to bring up to a level of acceptability the armaments the Iraqis have; and the continuation of some security work as well as training. But I will not belabor the point. I was very specific in the careful choice of words substituted for "indefinite."

The last paragraph—every Senator has to decide for himself or herself the clear meaning of the English language and whether that cannot be construed by many to invoke the thought of a timetable.

I say to my good friend, we have had a very good debate tonight. How fortunate we are that our distinguished colleague, a long-time member of the committee, the Senator from Connecticut, joined us.

I think we have done a good service to our colleagues who, in a very brief period tomorrow, will be required to focus on this and cast their votes accordingly.

Mr. LEVIN. Mr. President, I hope we have performed that service. I know we all tried in good faith to do it. I am perfectly content, as the Senator from Virginia is, that our colleagues read that last paragraph, read the paragraph before that making reference three times to schedules, read the entire resolution we have written, and then determine as to which is the better message to send to the Iraqis.

I am perfectly content to leave it rest there.

Mr. WARNER. Mr. President, I think the matter now is that the Senate should go off the bill and I will proceed to do morning business.

Mrs. DOLE. Mr. President, I thank Chairman WARNER and ranking Member LEVIN for their leadership in bringing the fiscal year 2006 Defense authorization bill, S. 1042, to the floor and shepherding it through to final passage after months of unfortunate delays.

Due to procedural limitations associated with the managers' amendment which included my amendments, it was impossible to have original cosponsors added. The following Senators are cosponsoring certain of my amendments:

Senators CHAFEE and DEWINE would like to cosponsor my amendment to provide for mental health counselors under TRICARE, S.A. 2456; Senators NELSON of Florida, TALENT, ROBERTS and HARKIN would like to cosponsor my amendment to require a report on predatory lending directed at members of the Armed Forces and their dependents, S.A. 2468.

MORNING BUSINESS

Mr. WARNER. I ask unanimous consent there be a period for morning business with Senators to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On November, 7, 2005, in New York City, NY, Kyle Spidle was attacked near the Monster Bar where he worked. The attack began when two men began yelling from a vehicle at Mr. Spidle about the way he was walking down the street. When Mr. Spidle yelled back the pair of men got out of the car and begin to beat him. According to police, the pair hurled homophobic epithets at Mr. Spidle as they beat him

I believe that our Government's first duty is to defend its citizens, in all circumstances, from threats to them at home. The Local Law Enforcement Enhancement Act is a major step forward in achieving that goal. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

ADDITIONAL STATEMENTS

MONTANA'S BLUE RIBBON SCHOOLS

• Mr. BURNS. Mr. President, I rise today to honor Bryant Elementary School, Chief Joseph Elementary School, and Huntley Project Elementary School. Montana is proud and I am honored to recognize these three schools identified as blue ribbon schools under No Child Left Behind.

As the spouse of a schoolteacher, I understand the many difficulties our schools face. Each and every day, parents send their children off to school to be educated, cared for, and disciplined. These three Montana schools have received this important award, and were honored last week at the Department of Education. I thank the staff, teachers, and parents for their hard work to make such success possible. The Blue Ribbon Award is no small achievement—students from these schools are in the top 10 percent of students across the State. I am honored to acknowledge them for their work.

Principals Howard Corey, Rick Knisely, and Russell Van Hook all understand the importance an education can have on the life of a child, as well as the significant role parents and the community play in the development of these future leaders. They should be commended for their leadership and vision which produced such meaningful results.

I would be remiss if I did not recognize the students at each of these institutions. While the adults have provided the foundation for a positive and educational classroom experience, ultimately the students decide to succeed for themselves, meeting and exceeding the high standards set for them. I am confident that we are raising the next generation of successful Americans to be productive and educated members of society. I am especially proud of the progress that these Montana students have made, and I urge them to keep up the good work. I am proud of each and every one of you. To the students, educators, and parents, thanks for all the good work you do.•

HONORING MAYOR JOHN O. COTANT

• Mr. CRAPO. Mr. President: I would like to pay special tribute today to a remarkable man who has dedicated the past 36 years of his life to the citizens of Chubbuck, ID. Mayor John O. Cotant entered the Chubbuck mayoral race the night before the elections in 1969. He won and has been mayor ever since. Through his dedication to youth and community improvement, Chubbuck has become the thriving town of 10,000 it is today. Under his exemplary leadership, Chubbuck increased the number of city parks from 1 to 14. He initiated the construction of a monument to veterans of our wars and his love of sports inspired him to promote a thriving youth sports program for the city. He brought critical infrastructure improvements to the community, to position Chubbuck for the vibrant growth it is experiencing today. John and his wife of 59 years, Alice, are the proud parents of 3, grandparents of 13 and great-grandparents of 19 children. He has been very involved in his church, serving as Bishop, the ecclesiastical teacher, of his LDS church congregation. At a robust 81, he says that he is going to pursue his personal interests of genealogy and a collection of city memorabilia, and make a point of not volunteering for anything controversial. I must say I understand the sentiment. Local public servants like John are the lifeblood of our civic community and our daily lives in rural towns not just in Idaho, but across the Nation. As a mayor of a smaller city, you are on duty and under the spotlight 24 hours a day. It is quite a testament to John's character, energy and spirit that he has served for so many years. I congratulate him on three and a half decades of community commitment service and wish him and Alice the very best in the next exciting chapter of their life together.•

PETITIONS AND MEMORIALS

The following petitions and memorials were laid before the Senate and were referred or ordered to lie on the table as indicated:

POM–212. A joint resolution adopted by the Legislature of the State of California relative to the "Don't Ask, Don't Tell" military policy; to the Committee on Armed Services.

SENATE JOINT RESOLUTION No. 11

Whereas, Since the 1994 codification into law by the United States Congress, and by the signature of the President, the policy now known as "Don't Ask, Don't Tell, Don't Pursue, Don't Harass" (National Defense Authorization Act of 1994 (Public Law 103–160)) has led to the discharge of a great number of lesbian and gay service members, thus ending their careers and burdening them with a lifelong stigma; and

Whereas, The capacity of the Armed Forces of the United States to carry out its missions, like the Global War on Terror, is hindered when competent and qualified individuals are involuntarily discharged from those forces; and

Whereas, The Armed Forces of the United States have been forced to retain Reserve and National Guard service members on active duty past standard deployment lengths in order to carry out its missions during the Global War on Terror; and

Whereas, The ability of the Armed Forces to recruit and retain the best and brightest Americans is hindered by excluding a section of the population solely because of sexual orientation; and

Whereas, Lesbian and gay service members have served honorably throughout United States history and continue to serve with distinction on active duty in the Global War on Terror, including in Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq; and

Whereas, These men and women have achieved military honors, decorations, and promotions to the highest ranks of their respective services for their valor and service to the people of the United States; and

Whereas, America's allies in the war on terror, like the United Kingdom, Australia, and Israel, all allow lesbian and gay service members to serve openly; and

Whereas, The Department of Homeland Security, the Federal Bureau of Investigation, the Defense Intelligence Agency, the National Security Agency, the Central Intelligence Agency, and other federal departments handling national security allow their lesbian, gay, bisexual, and transgender personnel to serve openly; and

Whereas, A February 2005 Government Accountability Office report shows that more than 9,488 service members have been discharged under the "Don't Ask, Don't Tell" policy, including at least 757 service members in "critical occupations," such as counterintelligence experts, at a cost to taxpayers of more than $190 million; and

Whereas, The Department of Defense reported that 209 language specialists have been discharged from the military under the "Don't Ask, Don't Tell" policy, including 54 Arabic and 9 Farsi translators, vitally important positions to intelligence gathering and in critical shortage; and

Whereas, Evidence from a study conducted by the Center for the Study Of Sexual Minorities in the Military suggests that the "Don't Ask, Don't Tell" policy increases gay troops' stress levels, lowers their morale, impairs their ability to form trusting bonds with their peers, restricts their access to medical care, psychological services and religious consultations, and limits their ability to advance professionally and their willingness to join and remain in the services; and

Whereas, Every Department of Defense authorized study has shown that there is no correlation between sexual orientation and unit cohesion in the Armed Forces; and

Whereas, The majority of American citizens support keeping trained and skilled openly gay and lesbian service members in the military; and

Whereas, The United States military's readiness to protect and defend our nation is severely compromised because of the discriminatory "Don't Ask, Don't Tell" policy that is arbitrarily enforced by commanders whose personal beliefs may influence their disciplinary actions; and

Whereas, Discharges under "Don't Ask, Don't Tell" are historically fewer when troop strength is low, as in times of war, which denotes the tacit recognition by the military that lesbian and gay service members are fit and capable of military service, thereby further illustrating the arbitrary enforcement of this policy; and

Whereas, California has 26 military bases which are home to tens of thousands of military personnel and their families, and, according to a 2004 Urban Institute study, an estimated 137,000 lesbian and gay veterans live in California; and

Whereas, The Legislature and courts of the State of California have extended protections based on sexual orientation and gender identity that affirm the equality under the law of lesbian, gay, bisexual, and transgender citizens in order to prevent invidious discrimination; and

Whereas, In 2004 the California Legislature passed, and the Governor signed, legislation that protects nonfederally recognized personnel in the California State Military from the threat of "Don't Ask, Don't Tell"; and

Whereas, Military readiness is enhanced when every qualified, capable American, regardless of sexual orientation, is welcomed into our Armed Forces and has their talents utilized in the best interest of our national security; now, therefore, be it

Resolved by the Senate of the State of California, the Assembly thereof concurring, That the Legislature of the State of California respectfully urge the President and the Congress of the United States to adopt the Military Readiness Enhancement Act of 2005 (H.R. 1059) to end the discriminatory federal policy of "Don't Ask, Don't Tell"; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President of the United States, to each Senator and Representative in the Congress of the United States, and to the presiding officer of each house of each state legislature of the several states.

POM-213. A resolution adopted by the Senate of the Legislature of the State of Michigan relative to expressing opposition to the study and construction of an international border crossing in the Downriver area; to the Committee on Commerce, Science, and Transportation.

SENATE RESOLUTION NO. 57

Whereas, The Detroit-Windsor and Port Huron-Sarnia border crossings of Southeast Michigan/Southwest Ontario are the busiest international crossings in North America, representing nearly 50 percent of the traffic volume crossing the United States/Canadian border. In 2000, American trade with Ontario reached $243 billion, which is larger than the total U.S. trade with Japan; and

Whereas, More than 75,000 vehicles use the Southeast Michigan/Southwest Ontario border crossings each day. Traffic at the Michigan and Canadian ports of entry has grown 44 percent from 19.7 million vehicles in 1990 to 28.4 million vehicles in 2000. Truck traffic at these ports has more than doubled from 2.5 million vehicles in 1990 to 5.1 million in 2000. Over the next thirty years, the cross-border traffic along the Detroit-Windsor corridor is projected to increase 40 percent in car traffic and 120 percent in truck traffic. This corresponds to an increase in daily cross-border car trips from 52,000 to 70,000 and an increase in daily cross-border truck trips from 13,000 to 28,000; and

Whereas, The Canada-US-Ontario-Michigan Border Transportation Partnership is conducting a Planning/Need and Feasibility Study to examine existing and future cross-border transportation problems and opportunities within the Southeast Michigan and Southwest Ontario region. In June 2005, the partnership proposed several international crossing alternatives that address these identified transportation problems and opportunities. Each alternative would involve massive reconfiguration to either the I-275 or I-75 interchange area and significant expansion of either King Road, Pennsylvania Road, or Eureka Road to connect the proposed interchange areas to the river crossing plazas; and

Whereas, The Detroit River International Crossing Study proposes 12 river crossing plazas along the riverfront from Belle Isle to Grosse Ile. Four of the proposed plazas are located in the Downriver area. The first plaza consists of 173 acres located on the northeast corner of Fort Street and King Road in Trenton near the McLouth Steel property. The second proposed plaza is located in Trenton on the east side of Jefferson Avenue, north of King Road, on 217 acres owned by McLouth Steel. The third proposed plaza consists of 85 acres located at the Atofina Chemical Company, located south of Pennsylvania Road, west of Longsdorf Street in Riverview. The fourth proposed Downriver plaza is located at the Atofina Chemical Company on 85 acres located off Pennsylvania Road, east of Biddle Avenue, and south of Wyandotte Shores Golf Club in Wyandotte; and

Whereas, The reconfiguration of an interchange, the expansion of major roadways, and the construction of a plaza will have adverse effects on the quality of life in Downriver's 19 cities and townships. In particular, these wholesale transportation-related transformations will lead to plummeting property values that will have a devastating financial impact on the whole of Wayne County, particularly public schools. These changes will bring about excessive traffic-related noise that may have to be mitigated by the erection of intrusive noise barriers, thereby eroding community aesthetics and fueling negative public perception; and

Whereas, These transportation-related changes will also result in increased passenger vehicle and truck traffic. Residents near the recommended bridge plaza will face unacceptable health risks from the degraded local air quality caused by heavy-duty truck exhaust emissions. Heavy-duty trucks burn diesel fuel and are major emitters of nitrogen oxides and particulate matter. Nitrogen oxides emitted by on-road vehicles are a major contributor to high ozone levels in Southeast Michigan. The Downriver area will incur significant costs just to control emissions from current vehicle traffic in order to attain the federal ozone standard. Fine particulate matter emitted by diesel and gasoline engines is implicated as the cause of premature death in persons with cardiac and/or respiratory ailments after short-term exposure as well as being linked to an increased risk of lung cancer following long-term exposure; and

Whereas, The partnership also proposes the construction of one of three alternative bridges connecting the river crossing plazas to Ontario via Grosse Ile. Anyone of the alternative bridges would produce intolerable traffic noise that could not be mitigated by noise barriers, vegetation, buffer zones, or any other noise abatement method. The proposed King Road plazas bridge would span Grosse Ile along Horse Mill road, with an attendant plaza facility near Church and East River Roads. This proposed facility would either destroy or have a decidedly negative impact on hundreds of privately-owned residences, a Presbyterian Church and cemetery, a Roman Catholic Church and cemetery, sensitive wetlands, marshes, woods and transitional prairies, and a number of locations on the Michigan Register of Historic Sites. The proposed facility would also obliterate the historical landing site of Antoine de la Mothe Cadillac, who camped on Grosse Ile more than 300 years ago before proceeding upriver to settle modern-day Detroit. The two proposed Pennsylvania Road plaza bridges would extend over Hennepin Point, located on the northern end of Grosse Ile. Any one of the proposed bridges will pose significant problems for pilots flying out of Grosse Ile Municipal Airport; endanger the 27 species of waterfowl, 17 species of raptors (eagles, hawks, and falcons), 48 species of nonraptors (loons, warblers, neotropical songbirds, cranes, and shore birds); and bring peril to numerous species of dragonflies and butterflies that migrate to the Grosse Ile coastal wetlands; and

Whereas, The construction of an international bridge crossing in the Downriver area will have a detrimental impact on the Detroit River, the first river to be designated a bi-national Heritage River and an International Wildlife Refuge. As such, the river's marshes, coastal wetlands, islands, shoals, and other natural features are to be preserved and restored to protect wildlife habitat. The Detroit River is also a primary source of drinking water for Wayne County.

This is important because an international bridge crossing may involve the dredging of the Black Lagoon, which is directly downstream from the McLouth Steel property. Sediments in this area have been well documented to contain high levels of mercury, PCBs, cadmium, chromium, copper, lead, zinc, oils, and grease, substances that are known to be hazardous to humans, wildlife, and aquatic species. Lead contamination levels in this vicinity also exceed human contact standards. Moreover, the construction of an international bridge will have injurious consequences on the small streams, ponds, and other sensitive ecosystems of the Downriver watershed caused by road salt runoff. Road deicing salts are contributing to the gradual salinization of the Detroit River and area groundwater supplies; now, therefore, be it

Resolved by the Senate, That we express opposition to the study and construction of an international border crossing in the Downriver area; and be it further

Resolved, That copies of this resolution be transmitted to the Office of the Governor, the Michigan Department of Transportation, the Federal Highway Administration, the President of the United States, the President of the United States Senate, the Speaker of the United States House of Representatives, and the members of the Michigan congressional delegation.

POM–214. A joint resolution adopted by the Legislature of the State of California relative to stem cell research; to the Committee on Health, Education, Labor, and Pensions.

SENATE JOINT RESOLUTION NO. 17

Whereas, An estimated 128 million Americans suffer from the crippling economic and psychological burden of chronic, degenerative, and acute diseases, including diabetes, Parkinson's disease, cancer, and Alzheimer's disease; and,

Whereas, Chronic, degenerative, and acute disease result in extreme human loss and suffering for those who suffer from them and their families and caregivers, and result in hundreds of billions of dollars annually in medical treatment and lost productivity costs; and

Whereas, Stem cell research offers immense promise for developing new medical therapies for these debilitating diseases and a critical means to explore fundamental questions of biology and could lead to improved treatments and potential cures for diabetes, Parkinson's disease, Alzheimer's disease, spinal cord injuries, burns, cancer, heart disease, and other diseases; and

Whereas, The United States has historically taken a leading role in funding biomedical research and has been a haven for open scientific inquiry and technological innovation, and, as a result, is the preeminent world leader in biomedicine and biotechnology; and

Whereas; On August 9, 2001, the President adopted a policy that restricts federal funding for embryonic stem cell research to a limited number of embryonic stem cell lines that were in existence as of that time, and subsequent research has found those existing stem cell lines to be significantly limited in their ability to support stem cell research; and

Whereas, The United States House of Representatives has twice passed legislation to prohibit some forms of stem cell research, but voted on May 24, 2005, to allow federal funding for stem cell research using excess embryos from fertility clinics; and

Whereas, California voters approved Proposition 71 in November 2004, which will provide $3 billion over 10 years for stem cell research in California; and

Whereas, The Legislature has enacted legislation declaring that research involving the derivation and use of human stem cells, human embryonic germ cells, and human adult stem cells from any source, including somatic cell nuclear transplantation, shall be permitted in California, calling for the development of ethical guidelines for stem cell research, and prohibiting human cloning; and

Whereas, In 2005, the National Academy of Sciences issued guidelines for conducting human embryonic stem cell research in an ethical and responsible manner; and

Whereas, Similar guidelines are being developed by the California Institute for Regenerative Medicine and the State Department of Health Services; now, therefore, be it

Resolved by the Senate and the Assembly of the State of California, jointly, That the Legislature of the State of California hereby memorializes Congress and the President of the United States to: (1) lift restrictions on federal funding for stem cell research; (2) not impair the ability of researchers to conduct stem cell research applications that hold promise for developing therapies for treating and curing chronic diseases; (3) develop ethical guidelines for federally funded stem cell research; and (4) prohibit human cloning; and be it further

Resolved, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

POM–215. A resolution adopted by the Senate of the General Assembly of the Commonwealth of Pennsylvania relative to the Low-Income Home Energy Assistance Program (LIHEAP); to the Committee on Health, Education, Labor, and Pensions.

Whereas, The Low-Income Home Energy Assistance Program (LIHEAP) was established by Congress as a federally funded program providing energy assistance to low-income persons for heating their homes; and

Whereas, Many Pennsylvanians received these energy assistance grants for several years; and

Whereas, Natural gas, electric and home heating oil prices have risen steadily over the past several years and are predicted to be even higher for this winter; and

Whereas, Home heating oil prices are predicted to increase by 52%; and

Whereas, Natural gas prices are predicted to increase by 36% or higher; and

Whereas, The Federal allocation for LIHEAP has remained at $2 billion for years; and

Whereas, The Commonwealth of Pennsylvania will receive $120 million, the same amount it received last year; and

Whereas, More than 70% of eligible residential customers in the Commonwealth of Pennsylvania are not able to receive assistance due to lack of funding; and

Whereas, Some increases in home heating prices is due to devastation from Hurricanes Katrina and Rita; and

Whereas, While the Gulf Coast states were directly struck by Hurricane Katrina and Rita, northeastern states have felt the impact of the storms through a sharp increase in natural gas, electric and home heating oil costs; and

Whereas, Gas companies in the Commonwealth of Pennsylvania receive 80% of their natural gas supply from the Gulf Coast suppliers; therefore be it

Resolved, That the Senate of the Commonwealth of Pennsylvania memorialize Congress to appropriate supplemental LIHEAP funds as part of any disaster relief legislation to assist those states which will be impacted by higher prices and shortages in the midst of a predicted harsh winter; and be it further

Resolved, That copies of this resolution be transmitted to the Clerk of the United States Senate and the Clerk of the United States House of Representatives.

POM–216. A resolution adopted by the City Council of the City of South Charleston, West Virginia relative to the withdrawal of troops from Iraq; to the Committee on Armed Services.

POM–217. A resolution adopted by the California State Lands Commission relative to opposing lifting of the Federal Moratorium on Oil and Gas Leasing off the California Coast; to the Committee on Energy and Natural Resources.

POM–218. A resolution adopted by the Jefferson Davis Parish Police Jury of the State of Louisiana relative to temporarily removing the embargo restrictions on Cuba; to the Committee on Foreign Relations.

POM–219. A resolution adopted by the Board of Supervisors of the County of Los Angeles of the State of California relative to supporting House Resolution 316 and House Concurrent Resolution 195 which relate to the Armenian Genocide of 1915 to 1923; to the Committee on Foreign Relations.

POM–220. A resolution adopted by the Township Council, Township of South Brunswick, State of New Jersey relative to expressing disapproval of those sections of the Patriot Act that may infringe upon fundamental civil rights; to the Committee on the Judiciary.

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

Mr. STEVENS. Mr. President, for the Committee on Commerce, Science, and Transportation I report favorably the following nomination list which was printed in the RECORD on the date indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that this nomination lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Coast Guard nomination of Kathleen M. Donohoe to be Captain.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

[Treaty Doc. 109-2 Convention Strengthening Inter-American Tuna Commission (Exec. Rept. No. 109–7)]

TEXT OF THE RESOLUTION OF RATIFICATION AS REPORTED BY THE COMMITTEE ON FOREIGN RELATIONS

Resolved (two-thirds of the Senators present concurring therein), That the Senate advises and consents to the ratification of the Convention for the Strengthening of the Inter-American Tropical Tuna Commission Established by the 1949 Convention Between the United States of America and the Republic of Costa Rica, with Annexes, adopted on June 27, 2003, in Antigua, Guatemala, and signed by the United States on November 14, 2003 (Treaty Doc. 109–2).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. DURBIN (for himself, Mr. AKAKA, and Mr. SCHUMER):

S. 2002. A bill to provide protection against bovine spongiform encephalopathy and other prion diseases; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. WYDEN:

S. 2003. A bill to make permanent the authorization for watershed restoration and enhancement agreements; to the Committee on Energy and Natural Resources.

By Mr. VITTER:

S. 2004. A bill to amend title 23, United States Code, to establish a demonstration project to begin correcting structural bridge deficiencies; to the Committee on Environment and Public Works.

By Mr. REED:

S. 2005. A bill to provide for the reviewing, updating, and maintenance of National Flood Insurance Program rate maps, and for other purposes; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. INHOFE (for himself and Mr. JEFFORDS):

S. 2006. A bill to provide for recovery efforts relating to Hurricanes Katrina and Rita for Corps of Engineers projects; to the Committee on Environment and Public Works.

By Mr. SALAZAR (for himself and Mr. MCCAIN):

S. 2007. A bill to examine the circumstances contributing to the problems facing the health care system of the United States and to develop public and private policies as appropriate to address rising health care costs and the number of uninsured Americans; to the Committee on Health, Education, Labor, and Pensions.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. MCCAIN (for himself and Mr. BIDEN):

S. Res. 311. A resolution expressing support for the people of Sri Lanka in the wake of the tsunami and the assassination of the Sri Lankan Foreign Minister and urging support and respect for free and fair elections in Sri Lanka; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 333

At the request of Mr. SANTORUM, the names of the Senator from Illinois (Mr. DURBIN), the Senator from New Hampshire (Mr. SUNUNU) and the Senator from North Dakota (Mr. DORGAN) were added as cosponsors of S. 333, a bill to hold the current regime in Iran accountable for its threatening behavior and to support a transition to democracy in Iran.

S. 431

At the request of Mr. DEWINE, the names of the Senator from Indiana (Mr. LUGAR) and the Senator from Virginia (Mr. ALLEN) were added as cosponsors of S. 431, a bill to establish a program to award grants to improve and maintain sites honoring Presidents of the United States.

S. 484

At the request of Mr. WARNER, the name of the Senator from Hawaii (Mr. AKAKA) was added as a cosponsor of S. 484, a bill to amend the Internal Revenue Code of 1986 to allow Federal civilian and military retirees to pay health insurance premiums on a pretax basis and to allow a deduction for TRICARE supplemental premiums.

S. 627

At the request of Mr. HATCH, the name of the Senator from Georgia (Mr. CHAMBLISS) was added as a cosponsor of S. 627, a bill to amend the Internal Revenue Code of 1986 to permanently extend the research credit, to increase the rates of the alternative incremental credit, and to provide an alternative simplified credit for qualified research expenses.

S. 632

At the request of Mr. LUGAR, the names of the Senator from Arizona (Mr. MCCAIN) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of S. 632, a bill to authorize the extension of unconditional and permanent nondiscriminatory treatment (permanent normal trade relations treatment) to the products of Ukraine, and for other purposes.

S. 695

At the request of Mr. COCHRAN, the names of the Senator from Mississippi (Mr. LOTT) and the Senator from Louisiana (Mr. VITTER) were added as cosponsors of S. 695, a bill to suspend temporarily new shipper bonding privileges.

S. 757

At the request of Mr. CHAFEE, the name of the Senator from Texas (Mr. CORNYN) was added as a cosponsor of S. 757, a bill to amend the Public Health Service Act to authorize the Director of the National Institute of Environmental Health Sciences to make grants for the development and operation of research centers regarding environmental factors that may be related to the etiology of breast cancer.

S. 1272

At the request of Mr. NELSON of Nebraska, the names of the Senator from Mississippi (Mr. COCHRAN) and the Senator from Kansas (Mr. BROWNBACK) were added as cosponsors of S. 1272, a bill to amend title 46, United States Code, and title II of the Social Security Act to provide benefits to certain individuals who served in the United States merchant marine (including the Army Transport Service and the Naval Transport Service) during World War II.

S. 1779

At the request of Mr. AKAKA, the names of the Senator from Connecticut (Mr. DODD) and the Senator from Hawaii (Mr. INOUYE) were added as cosponsors of S. 1779, a bill to amend the Humane Methods of Livestock Slaughter Act of 1958 to ensure the humane slaughter of nonambulatory livestock, and for other purposes.

S. 1813

At the request of Mr. CRAIG, the name of the Senator from Colorado (Mr. SALAZAR) was added as a cosponsor of S. 1813, a bill to amend titles 10 and 38 of the United States Code, to modify the circumstances under which a person who has committed a capital offense is denied certain burial-related benefits and funeral honors.

S. 1934

At the request of Mr. SPECTER, the names of the Senator from Hawaii (Mr. AKAKA) and the Senator from New York (Mr. SCHUMER) were added as cosponsors of S. 1934, a bill to reauthorize the grant program of the Department of Justice for reentry of offenders into the community, to establish a task force on Federal programs and activities relating to the reentry of offenders into the community, and for other purposes.

S. 1959

At the request of Mr. KERRY, the names of the Senator from Illinois (Mr. DURBIN) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. 1959, a bill to direct the Architect of the Capitol to obtain a statue of Rosa Parks and to place the statue in the United States Capitol in National Statuary Hall.

S. 1969

At the request of Mr. BAUCUS, the names of the Senator from New York (Mrs. CLINTON), the Senator from Maryland (Ms. MIKULSKI), the Senator from New Jersey (Mr. CORZINE), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from North Dakota (Mr. DORGAN), the Senator from Colorado (Mr. SALAZAR), the Senator from Massachusetts (Mr. KENNEDY), the Senator from Minnesota (Mr. DAYTON), the Senator from Washington (Ms. CANTWELL) and the Senator from West Virginia (Mr. ROCKEFELLER) were added as cosponsors of S. 1969, a bill to express the sense of the Senate regarding Medicaid reconciliation legislation to be reported by a conference committee during the 109th Congress.

S.J. RES. 25

At the request of Mr. TALENT, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S.J. Res. 25, a joint resolution proposing an amendment to the Constitution of the United States to authorize the President to reduce or disapprove any appropriation in any bill presented by Congress.

S. CON. RES. 62

At the request of Mr. MCCONNELL, the names of the Senator from Hawaii (Mr. INOUYE), the Senator from Ohio (Mr. VOINOVICH), the Senator from Nevada (Mr. ENSIGN), the Senator from California (Mrs. BOXER), the Senator from Hawaii (Mr. AKAKA), the Senator from Illinois (Mr. DURBIN) and the Senator from Maryland (Mr. SARBANES) were added as cosponsors of S. Con. Res. 62, a concurrent resolution directing the Joint Committee on the Library to procure a statue of Rosa Parks for placement in the Capitol.

S. RES. 232

At the request of Mr. MARTINEZ, his name was added as a cosponsor of S. Res. 232, a resolution celebrating the 40th anniversary of the enactment of the Voting Rights Act of 1965 and reaffirming the commitment of the Senate to ensuring the continued effectiveness of the act in protecting the voting rights of all citizens of the United States.

AMENDMENT NO. 2456

At the request of Mrs. DOLE, the names of the Senator from Rhode Island (Mr. CHAFEE) and the Senator from Ohio (Mr. DEWINE) were added as cosponsors of amendment No. 2456 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2468

At the request of Mrs. DOLE, the names of the Senator from Florida (Mr. NELSON), the Senator from Missouri (Mr. TALENT), the Senator from Kansas (Mr. ROBERTS) and the Senator from Iowa (Mr. HARKIN) were added as cosponsors of amendment No. 2468 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. DURBIN (for himself, Mr. AKAKA, and Mr. SCHUMER):

S. 2002. A bill to provide protection against bovine spongiform encephalopathy and other prion diseases; to the Committee on Agriculture, Nutrition, and Forestry.

Mr. DURBIN. Mr. President, I am introducing a bill to strengthen our Nation's firewalls against prion diseases. This bill would prevent the spread of mad cow disease, or bovine spongiform encephalopathy, BSE. It also addresses other forms of prion disease that affect humans and animals.

For many years, we thought that we didn't have BSE in the United States. But now we have to assume that the disease does exist in our cattle, though it has been detected only twice.

In June 2005, U.S. Department of Agriculture, USDA, officials announced that a Texas cow had tested positive for BSE.

It is troubling that the USDA and Food and Drug Administration, FDA, investigation could not pin down how the cow became infected. Reports compiled for the Texas Animal Health Commission and obtained by The Dallas Morning News showed that 85 percent of the cattle traced in the investigation had already been sent for slaughter.

We should not settle for half-measures in BSE control. Yet nearly two years after USDA and FDA announced efforts to strengthen our nation's firewalls against BSE, critical gaps remain in our defenses.

Just last week, the Government Accountability Office released a study that found that testing of cattle feed is at times too slow to prevent cattle from eating feed that might be contaminated.

Poultry litter, plate waste, and pet food can still be fed to cattle, creating loopholes in the ruminant feed ban.

In addition, the USDA Office of the Inspector General has raised concerns about the design of USDA's surveillance program, including whether the Agency is appropriately selecting animals for testing and testing an adequate number of older cattle.

To fully protect animal and public health, I am reintroducing my bill to strengthen our Nation's firewalls against prion diseases like BSE. My bill would close loopholes in the ruminant feed ban. It would ensure that all older cattle are tested for BSE. In addition, my bill would improve enforcement of the feed ban and take steps to ensure that meat intended for human consumption is free of tissues that could harbor infectious prions.

The bill also would require the Secretary of Health and Human Services to assess the risk of transmission of human prion diseases through blood and surgical equipment and strengthen surveillance of prion diseases in humans.

I urge my colleagues to support this bill.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2002

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "BSE and Other Prion Disease Prevention and Public Health Protection Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) BSE.—The term "BSE" means bovine spongiform encephalopathy.

(2) COVERED ARTICLE.—

(A) IN GENERAL.—The term "covered article" means—

(i) food or feed for a human or animal;

(ii) a food or nutritional supplement;

(iii) a medicine;

(iv) a pituitary-derived hormone;

(v) transplant material;

(vi) a fertilizer derived from animals;

(vii) a cosmetic; and

(viii) any other article of a kind that is ordinarily ingested, implanted, or otherwise taken into a human or animal.

(B) EXCLUSIONS.—The term "covered article" does not include—

(i) an unprocessed agricultural commodity that is readily identifiable as nonanimal in origin, such as a vegetable, grain, or nut;

(ii) an article described in subparagraph (A) that, based on compelling scientific evidence, the Secretary determines does not pose a risk of transmitting prion disease; or

(iii) an article regulated by the Secretary that, as determined by the Secretary—

(I) poses a minimal risk of carrying prion disease; and

(II) is necessary to protect animal health or public health.

(3) CWD.—The term "CWD" means chronic wasting disease.

(4) PRION DISEASE.—The term "prion disease" means—

(A) a transmissible spongiform encephalopathy (including prion diseases that affect humans, cattle, bison, sheep, goats, deer, elk, and mink); and

(B) any related disease, as determined by the Secretary in consultation with the Secretary of Agriculture.

(5) SPECIFIED RISK MATERIAL.—

(A) IN GENERAL.—The term "specified risk material" means—

(i) the skull, brain, trigeminal ganglia, eyes, tonsils, spinal cord, vertebral column, or dorsal root ganglia of—

(I) cattle and bison 30 months of age and older; or

(II) sheep, goats, deer, and elk 12 months of age and older;

(ii) the intestinal tract of a ruminant of any age; or

(iii) any other material of a ruminant that may carry a prion disease, as determined by the Secretary in consultation with the Secretary of Agriculture, based on scientifically credible research.

(B) MODIFICATION.—The Secretary, in consultation with the Secretary of Agriculture, may modify the definition of specified risk material based on scientifically credible research.

(6) Secretary.—The term "Secretary" means the Secretary of Health and Human Services.

SEC. 3. PROTECTION OF BORDERS.

(a) Prohibitions.—

(1) Disclosure requirement.—It shall be unlawful for any person to import a covered article—

(A) in the case of a covered article that contains animal-derived material, if the covered article does not exhibit or contain, or is not otherwise accompanied by, a statement in English that—

(i) states that the covered article contains animal-derived material;

(ii) states the common English name of the animal from which the material in the article is derived; and

(iii) if the animal from which the material in the covered article is derived is a ruminant—

(I) identifies the country of origin of the ruminant; and

(II) states whether specified risk material from the ruminant is or may be part of the covered article; or

(B) in the case of a covered article that does not contain animal-derived material, if the covered article does not exhibit or contain, or is not otherwise accompanied by, a statement in English that states that the covered article does not contain animal-derived material.

(2) Prohibition of importation.—It shall be unlawful for any person to import a covered article described in section 2(2)(A) if, as determined by the Secretary of Agriculture—

(A) the article contains animal-derived material from a ruminant that was in any country at a time at which there was a risk of transmission of BSE in the country; and

(B) the country did not meet the guidelines on BSE established in the World Organization for Animal Health's (OIE) Terrestrial Animal Health Code.

(b) Regulations.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, shall promulgate regulations that establish standards for compliance with this section, including—

(1) the manner of disclosure that shall be considered to be in compliance with this subsection;

(2) any manner of disclosure that shall be considered not to be in compliance with this subsection; and

(3) definitions of the terms "animal-derived material", "country of origin", and other terms used but not defined in this section.

(c) Interim Guidance.—Until the date on which final regulations promulgated under subsection (b) become effective, the Secretary shall provide guidance and advice on general applicability of, and compliance with, this section.

(d) Enforcement.—For the purposes of administering the customs laws of the United States, the requirement to comply with subsection (a)(1) shall be treated as a requirement to mark an article under section 304 of the Tariff Act of 1930 (19 U.S.C. 1304).

SEC. 4. PROTECTION OF FOOD AND ANIMAL FEED SUPPLIES AND PUBLIC HEALTH.

(a) Covered Articles.—

(1) Prohibition.—It shall be unlawful for any person to introduce into interstate or foreign commerce a covered article if the covered article contains—

(A)(i) specified risk material from a ruminant; or

(ii) any material from a ruminant that was in any foreign country at a time at which there was a risk of transmission of BSE in the country and the country did not meet the guidelines on BSE established in the World Organization for Animal Health's (OIE) Terrestrial Animal Health Code, as determined by the Secretary of Agriculture; or

(B) any material from a ruminant exhibiting signs of a neurological disease.

(2) Reporting.—The Secretary of Agriculture will make publicly available quarterly reports containing the number of noncompliance reports relating to regulations on specified risk materials and the reasons for noncompliance.

(3) Punitive or retaliatory action.—It shall be unlawful to take punitive or retaliatory action against inspectors and other employees who report cases of noncompliance.

(4) Regulations.—

(A) Secretary of agriculture.—Not later than 1 year after the date of enactment of this Act, the Secretary of Agriculture, in consultation with the Secretary, shall promulgate regulations that establish standards for compliance with this subsection, including—

(i) requirements for the disposal of dead and nonambulatory ruminants on a farm or ranch so that the prion disease, if present in the animals, will not be recycled or expose other animals;

(ii) requirements for the registration with the Food and Drug Administration of all renderers and all persons that engage in the business of buying, selling, or transporting—

(I) dead, dying, disabled, or diseased livestock; or

(II) parts of the carcasses of livestock that die other than by slaughter;

(iii) requirements for the handling, transportation, and disposal of dead, dying, disabled, and diseased livestock that are condemned on ante-mortem or post-mortem inspection in accordance with any policy that is developed for the disposal of dead or nonambulatory ruminants on the farm; and

(iv) a requirement that slaughterhouses institute best practices to prevent contamination of material intended for human consumption with specified risk material.

(B) Secretary.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, shall promulgate regulations that establish standards for compliance with this subsection, including a prohibition on the use of salvaged pet food, plate waste, poultry litter, and blood and blood products in animal feed intended for food producing ruminants, with an exemption for the use of blood and blood products in bovine biologics.

(b) Animal Feed.—

(1) Monitoring and evaluation.—The Secretary shall annually conduct a formal evaluation of the implementation of section 589.2000 of title 21, Code of Federal Regulations (or a successor regulation), including an assessment of coordination between the Food and Drug Administration, the Department of Agriculture, and State agencies.

(2) Registration of businesses.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate regulations for the registration with the Food and Drug Administration of all animal feed manufacturers, transporters, on-farm mixers, and other animal feed industry businesses that are subject to section 589.2000 of title 21, Code of Federal Regulations (or a successor regulation).

(3) Prevention of admixing.—Not later than 1 year after the date of enactment of this Act, the Secretary, in consultation with the Secretary of Agriculture, shall promulgate regulations and an inspection plan to prevent admixing of ruminant and nonruminant feed by animal feed manufacturers, animal feed transporters, and producers that feed both ruminants and nonruminants on the same farm.

(4) Enforcement plan.—

(A) In general.—The Secretary shall develop and implement a plan for enforcing section 589.2000 of title 21, Code of Federal Regulations (or a successor regulation).

(B) Contents.—The plan shall include—

(i) a computer database that would allow for effective management of inspection data;

(ii) a hierarchy of enforcement actions to be taken;

(iii) timeframes for persons that are subject to that section to correct violations; and

(iv) timeframes for followup inspections to confirm that violations are corrected.

(5) Review of exclusion of certain portions of animals from definition of protein derived from mammalian tissues.—On the motion of the Secretary or on the petition of any person that, citing scientifically credible evidence, demonstrates that there is reason to believe that any of the portions of mammalian animals excluded from the definition of protein derived from mammalian tissues in section 589.2000(a) of title 21, Code of Federal Regulations (or a successor regulation), may carry prion disease, the Secretary shall commence a proceeding to determine whether the exclusion should be modified or stricken.

(6) Labeling requirements for animal feed.—Animal feed intended for export shall be subject to the labeling requirements for animal feed described in section 589.2000 of title 21, Code of Federal Regulations (or a successor regulation).

SEC. 5. SURVEILLANCE OF BSE AND PRION DISEASES IN HUMANS AND ANIMALS.

(a) Ruminant Identification Program.—Title I of the Federal Meat Inspection Act (21 U.S.C. 601 et seq.) is amended by adding at the end the following:

"SEC. 25. RUMINANT IDENTIFICATION PROGRAM.

"(a) In General.—The Secretary shall accelerate the establishment of a ruminant identification program, so that, not later than 1 year after the date of enactment of this section, the program will be capable of tracing, within 48 hours after an animal is diagnosed with any reportable animal disease or any condition that can cause disease in humans, the movements of all exposed animals from birth to slaughter.

"(b) Requirements.—

"(1) In general.—Under the ruminant identification program, the Secretary shall identify cattle, sheep, goats, bison, deer, and elk and any other ruminant species intended for human consumption through a nationally recognizable uniform numbering system under which an identification number is assigned to—

"(A) each premises of a producer; and

"(B) each individual animal or group or lot of animals, as determined by the Secretary.

"(2) Continuation of existing programs.—The program shall augment, and not supplant, nationally recognized systems in existence on the date of enactment of this section, such as the program for scrapie traceback and eradication in sheep and goats.

"(c) Prohibition or Restriction on Entry.—The Secretary may prohibit or restrict entry into any slaughtering establishment inspected under this Act of any cattle, sheep, goats, bison, deer, elk, or other ruminant intended for human consumption that is not identified under the program.

"(d) Records.—

"(1) In general.—The Secretary may require that a producer required to identify livestock under the program maintain records, as prescribed by the Secretary, regarding the purchase, sale, and identification of livestock for such period of time as the Secretary prescribes.

"(2) Access.—A producer shall, at all reasonable times, on notice by an authorized representative of the Secretary, allow the representative access to examine and copy the records described in paragraph (1).

"(e) Prohibitions.—It shall be unlawful for a producer to—

"(1) falsify or misrepresent to any other person or to the Secretary any information relating to any premises at which any cattle, sheep, swine, goats, bison, deer, elk, or other ruminant intended for human consumption, or carcasses thereof, are held; or

"(2) alter, detach, or destroy any records or means of identification prescribed by the Secretary for use in determining the premises at which any cattle, sheep, swine, goats, bison, deer, elk, or other ruminant intended for human consumption, or carcasses thereof, are held.".

(b) Programs.—

(1) In general.—Not later than 1 year after the date of enactment of this Act—

(A) the Secretary of Agriculture shall develop programs to—

(i)(I) waive diagnostic laboratory charges for the diagnosis of neurological disease in ruminants and mink;

(II) provide compensation for each submission payable to the attending veterinarian to pay the costs of obtaining and processing neurological samples; and

(III) develop a program to pay a fee to renderers or producers for each cattle head not already tested that is submitted to a certified lab for BSE testing;

(ii)(I) fund the development of the national animal health laboratory network;

(II) expand the network to include all certified Federal, State, and university veterinary diagnostic laboratories; and

(III) facilitate the timely processing of samples from surveillance and epidemiological investigation;

(iii) require rapid prion disease screening tests on—

(I) all cattle and bison 30 months of age and older and all sheep, goats, deer, and elk 12 months of age and older presented for slaughter and intended for human consumption; and

(II) all such livestock of a younger age than either of the ages specified in subclause (I) if the Secretary determines, based on scientifically credible research, that screening of livestock of a younger age should be conducted;

(iv) require rapid prion disease screening tests on all nonambulatory ruminants, including all ruminants exhibiting neurological signs, when presented at a slaughterhouse or for disposal;

(v) ensure that—

(I) any ruminant tested for BSE is excluded from use in any animal feed until the test is confirmed negative in writing that clearly identifies the carcass with the negative test result; and

(II) all ruminants exhibiting neurological signs are excluded from the human food supply regardless of the results of the BSE test;

(vi) expand, in conjunction with the Secretary of the Interior, the collection of animal tissue by Federal, State, tribal, and local agencies for testing for chronic wasting disease;

(vii) develop programs to require CWD herd certification and interstate movement restrictions for farm raised deer and elk;

(viii) develop a coordinated strategy to identify resources needed to increase inspections of imported goods; and

(ix) allow qualified entities to conduct additional voluntary rapid prion disease screening tests; and

(B) the Secretary shall develop programs to—

(i) expand survey efforts for prion diseases in humans, in conjunction with the National Prion Disease Pathology Research Center at Case Western Reserve University;

(ii) evaluate the effectiveness of practices in effect as of the date of enactment of this Act to—

(I) protect the human blood supply from contamination from blood infected with prion disease; and

(II) prevent transmission of BSE through contaminated medical equipment; and

(iii) develop a coordinated strategy to identify resources needed to increase inspections of imported goods.

(2) Definition of qualified entity.—For purposes of paragraph (1)(A)(ix), the term "qualified entity" means a person or a State that—

(A) uses rapid test technology approved by the Secretary of Agriculture for the detection of BSE in cattle; and

(B) meets or exceeds standards established by the Secretary for—

(i) laboratory sample collection and chain of custody;

(ii) sample and laboratory methods quality control; and

(iii) laboratory safety and quality.

(c) Liaison.—Each of the Secretary and the Secretary of Agriculture shall establish liaison positions at each appropriate Undersecretary level to ensure adequate coordination and communication between the Department of Health and Human Services and the Department of Agriculture regarding prion diseases.

(d) Task Force.—

(1) In general.—As soon as practicable after the date of enactment of this Act, the Secretary and the Secretary of Agriculture shall jointly establish a task force on prion diseases to provide recommendations to Congress on the status of all surveillance and research programs.

(2) Membership.—The Task Force shall include representatives of—

(A) the Food Safety and Inspection Service;

(B) the Animal and Plant Health Inspection Service;

(C) the Agricultural Research Service;

(D) the Food and Drug Administration;

(E) the Centers for Disease Control and Prevention;

(F) the National Institutes of Health;

(G) the Customs Service;

(H) the National Prion Research Program;

(I) the Public Health Service; and

(J) any other Federal Agency the assistance of which the President determines is required to carry out this subsection.

(3) Existing task force.—The Secretary may expand or amend an existing task force to perform the duties of the task force under this section.

(4) Duties.—The task force shall—

(A) evaluate, with respect to prion diseases, the need for structural changes in and among Federal agencies that exercise jurisdiction over food safety and other aspects of public health protection;

(B) prioritize prion disease resource and prion disease research needs at all Federal agencies that exercise jurisdiction over matters relating to prion diseases, including—

(i) genetic markers for all species affected by prion disease;

(ii) in vivo diagnostic tests;

(iii) human blood supply diagnostic tests;

(iv) therapies for humans and animals;

(v) processing techniques that denature the prion protein in carcasses and other materials; and

(vi) development of stunning devices that are humane, protect worker safety, and do not allow contamination of meat products; and

(C) perform such other duties pertaining to surveillance and research of prion disease as the Secretary may specify.

(5) Preliminary recommendations.—Not later than 180 days after the date of enactment of this Act, the task force shall submit to Congress any preliminary recommendations of the task force.

(6) Final recommendations.—Not later than 1 year after the date of enactment of this Act, the task force shall submit to Congress the final recommendations of the task force.

SEC. 6. ENFORCEMENT.

(a) Cooperation.—The Secretary and the heads of other Federal agencies, as appropriate, shall cooperate with the Attorney General in enforcing this Act.

(b) Due Process.—Any person subject to enforcement action under this section shall have the opportunity for an informal hearing on the enforcement action as soon as practicable after, but not later than 10 days after, the enforcement action is taken.

(c) Remedies.—In addition to any remedies available under other provisions of law, the head of a Federal agency may enforce this Act by—

(1) seizing and destroying an article that is introduced into interstate or foreign commerce in violation of this Act; or

(2) issuing an order requiring any person that introduces an article into interstate or foreign commerce in violation of this Act—

(A) to cease the violation;

(B)(i) to recall any article that is sold; and

(ii) to refund the purchase price to the purchaser;

(C) to destroy the article or forfeit the article to the United States for destruction; or

(D) to cease operations at the facility at which the article is produced until the head of the appropriate Federal agency determines that the operations are no longer in violation of this Act.

SEC. 7. AUTHORIZATION OF APPROPRIATIONS.

(a) Authorization of Appropriations.—There are authorized to be appropriated to carry out this Act—

(1) $100,000,000 for each of fiscal years 2007 and 2008; and

(2) such sums as are necessary for each subsequent fiscal year.

(b) Allocation of Funds.—

(1) In general.—Of the funds made available for each fiscal year under subsection (a)—

(A) 30 percent shall be available to the Secretary; and

(B) 70 percent shall be available to the Secretary of Agriculture.

(2) Modification of allocations.—The President may alter the allocation of funding under paragraph (1) as needed to better protect the public against prion disease.

By Mr. WYDEN:

S. 2003. A bill to make permanent the authorization for watershed restoration and enhancement agreements; to the Committee on Energy and Natural Resources.

Mr. WYDEN. Mr. President, the legislation I introduce today reauthorizes a very successful cooperative watershed restoration program that I originally sponsored, and that was originally enacted for the Forest Service, in the fiscal year 1999 Interior Appropriations bill. The original legislation lasted through fiscal year 2001 after which it was reauthorized by the Appropriations Committees, at my request, through fiscal year 2005 and then again through fiscal year 2011. It is time this legislation had a full hearing in the Energy and Natural Resources Committee and was made a permanent authority.

The bill making what is commonly referred to as the Wyden amendment permanent authorizes the Secretary of Agriculture to use appropriated Forest Service funds for watershed restoration and enhancement agreements that benefit the ecological health of National Forest System lands and watersheds. The Wyden Amendment does not require additional funding, but allows the Forest Service to leverage scarce restoration dollars thereby allowing the Federal dollars to stretch farther. During the 7 years the program has existed the Forest Service has leveraged three dollars for every Forest Service dollar spent on these agreements.

The Wyden amendment has resulted in countless Forest Service cooperative agreements with neighboring State and local land owners to accomplish high priority restoration, protection and enhancement work on public and private watersheds. The projects authorized by these agreements have improved watershed health and fish habitat through the control of invasive species, culvert replacement, and other riparian zone improvement projects. In addition to ecological restoration, use of the Wyden amendment has improved cooperative relationships between the Forest Service, private land owners, State agencies and other federal agencies.

I am hopeful that my colleagues on the Energy and Natural Resources Committee will have a hearing on this program soon to highlight its successes and that thereafter this legislation can pass the Senate expeditiously.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2003

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Watershed Restoration and Enhancement Agreements Act of 2005".

SEC. 2. WATERSHED RESTORATION AND ENHANCEMENT AGREEMENTS.

Section 323(a) of the Department of the Interior and Related Agencies Appropriations Act, 1999 (16 U.S.C. 1011 note; Public Law 105-277), is amended by striking "each of fiscal years 2006 through 2011" and inserting "fiscal year 2006 and each fiscal year thereafter".

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 311—EXPRESSING SUPPORT FOR THE PEOPLE OF SRI LANKA IN THE WAKE OF THE TSUNAMI AND THE ASSASINATION OF THE SRI LANKAN FOREIGN MINISTER AND URGING SUPPORT AND RESPECT FOR FREE AND FAIR ELECTIONS IN SRI LANKA

Mr. MCCAIN (for himself and Mr. BIDEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 311

Whereas, on December 26, 2004, Sri Lanka was struck by a tsunami that left some 30,000 dead and hundreds of thousands of people homeless;

Whereas the United States and the world community recognized the global importance of preventing that tragedy from spiraling into an uncontrolled disaster and sent aid to Sri Lanka to provide immediate relief;

Whereas the massive tsunami reconstruction effort in Sri Lanka creates significant challenges for that country's struggling democracy;

Whereas the democratic process in Sri Lanka is further challenged by the refusal of the Liberation Tigers of Tamil Eelam, a group that the Secretary of State has designated as a Foreign Terrorist Organization, to renounce violence as a means of effecting political change;

Whereas, on August 12, 2005, the Sri Lankan Foreign Minister Lakhsman Kadirgamar was assassinated at his home in Colombo in a brutal terrorist act that has been widely attributed to the Liberation Tigers of Tamil Eelam by officials in Sri Lanka, the United States, and other countries;

Whereas democratic elections are scheduled to be held in Sri Lanka on November 17, 2005;

Whereas nondemocratic foreign powers and private sources have reportedly been aiding and funding various political factions in Sri Lanka, including both extremist Sinhalese and extremist Tamil parties or groups; and

Whereas the United States has an interest in a free and fair democratic process in Sri Lanka, and the peaceful resolution of the insurgency that has afflicted Sri Lanka for more than two decades: Now, therefore, be it

Resolved, That the Senate—

(1) expresses its support for the people of Sri Lanka as they recover from the devastating tsunami that occurred on December 26, 2004, and the assassination of the Sri Lankan Foreign Minister Lakhsman Kadirgamar on August 12, 2005;

(2) expresses its support for the courageous decision by the democratically-elected Government of Sri Lanka, following the assassination of Foreign Minister Kadirgamar, to remain in discussions with the Liberation Tigers of Tamil Eelam in an attempt to resolve peacefully the issues facing the people of Sri Lanka;

(3) urges all parties in Sri Lanka to remain committed to the negotiating process and to make every possible attempt at national reconciliation; and

(4) urges all outside parties, including governments of foreign countries, private individuals, and other organizations, to support and respect a free and fair democratic process in the Sri Lankan elections scheduled to be held on November 17, 2005, and to work to prevent extremist groups in Sri Lanka from interfering with that process.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2523. Mr. BINGAMAN proposed an amendment to amendment SA 2515 proposed by Mr. GRAHAM (for himself, Mr. KYL, Mr. CHAMBLISS, and Mr. CORNYN) to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

SA 2524. Mr. GRAHAM (for himself, Mr. LEVIN, and Mr. KYL) proposed an amendment to amendment SA 2515 proposed by Mr. GRAHAM (for himself, Mr. KYL, Mr. CHAMBLISS, and Mr. CORNYN) to the bill S. 1042, supra.

TEXT OF AMENDMENTS

SA 2523. Mr. BINGAMAN proposed an amendment to amendment SA 2515 proposed by Mr. GRAHAM (for himself, Mr. KYL, Mr. CHAMBLISS, and Mr. CORNYN) to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

Strike subsection (d) and insert the following:

(d) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

(1) IN GENERAL.—Except as provided in paragraph (2), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to consider an application for writ of habeas corpus filed by or on behalf of an alien outside the United States (as that term is defined in section 101(a)(38) of the Immigration and Naturalization Act (8 U.S.C. 1101(a)(38))—

(A) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(B) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specific by the Department of Defense.

(2) EXCEPTIONS.—This subsection does not apply to the following:

(A) An individual charged with an offense before a military commission.

(B) An individual who is not designated as an enemy combatant following a combatant status review, but who continues to be held by the United States Government.

(3) VENUE.—Review under paragraph (1) shall commence in the United States Court of Appeals for the District of Columbia Circuit.

(4) CLAIMS REVIEWABLE.—The United States Court of Appeals for the District of Columbia Circuit may not, in a review under paragraph

(1) with respect to an alien, consider claims based on living conditions, but may only hear claims regarding—

(A) whether the status determination of the Combatant Status Review Tribunal with regard to such alien was consistent with the procedures and standards specified by the Secretary of Defense for Combatant Status Review Tribunals;

(B) whether such status determination was supported by sufficient evidence and reached in accordance with due process of law, provided that statements obtained through undue coercion, torture, or cruel or inhuman treatment may not be used as a basis for the determination; and

(C) the lawfulness of the detention of such alien.

(5) TERMINATION ON RELEASE FROM CUSTODY.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this subsection shall cease upon the release of such alien from the custody or control of the United States.

(6) EFFECTIVE DATE.—This subsection shall apply to any application or other action that is pending on or after the date of the enactment of this Act.

SA 2524. Mr. GRAHAM (for himself, Mr. LEVIN, and Mr. KYL) proposed an amendment to amendment SA 2515 proposed by Mr. GRAHAM (for himself, Mr. KYL, Mr. CHAMBLISS, and Mr. CORNYN) to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

In lieu of the matter proposed to be inserted, insert the following:

SEC. ___. REVIEW CF STATUS OF DETAINEES.

(a) SUBMITTAL OF PROCEDURES FOR STATUS REVIEW OF DETAINEES AT GUANTANAMO BAY, CUBA.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees, and to the Committees on the Judiciary of the Senate and the House of Representatives, a report setting forth the procedures of the Combatant Status Review Tribunals and the noticed Administrative Review Boards in operation at Guantanamo Bay, Cuba, for determining the status of the detainees held at Guantanamo Bay.

(b) PROCEDURES.—The procedures submitted to Congress pursuant to subsection (a) shall, with respect to proceedings beginning after the date of the submittal of such procedures under that subsection, ensure that—

(1) in making a determination of status of any detainee under such procedures, a Combatant Status Review Tribunal or Administrative Review Board may not consider statements derived from persons that, as determined by such Tribunal or Board, by the preponderance of the evidence, were obtained with undue coercion; and

(2) the Designated Civilian Official shall be an officer of the United States Government whose appointment to office was made by the President, by and with the advice and consent of the Senate.

(c) REPORT ON MODIFICATION OF PROCEDURES.—The Secretary of Defense shall submit to the committees of Congress referred to in subsection (a) a report on any modification of the procedures submitted under subsection (a) not later than 60 days before the date on which such modification goes into effect.

(d) JUDICIAL REVIEW OF DETENTION OF ENEMY COMBATANTS.—

(1) IN GENERAL.—Section 2241 of title 28, United States Code, is amended by adding at the end the following:

"(e) No court, justice, or judge shall have jurisdiction to hear or consider an application for a writ of habeas corpus filed by or on behalf of an alien outside the United States (as that term is defined in section 101(a)(38) of the Immigration and Naturalization Act (8 U.S.C. 1101(a)(38)) who is detained by the Department of Defense at Guantanamo Bay, Cuba.".

(2) REVIEW OF DECISIONS OF COMBATANT STATUS REVIEW TRIBUNALS OF PROPRIETY OF DETENTION.—

(A) IN GENERAL.—Subject to subparagraphs (B), (C), and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any decision of a Designated Civilian Official described in subsection (b)(2) that an alien is properly detained as an enemy combatant.

(B) LIMITATION ON CLAIMS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to claims brought by or on behalf of an alien—

(i) who is, at the time a request for review by such court is filed, detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a Combatant Status Review Tribunal has been conducted, pursuant to applicable procedures specified by the Secretary of Defense.

(C) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on any claims with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the status determination of the Combatant Status Review Tribunal with regard to such alien applied the correct standards and was consistent with the procedures specified by the Secretary of Defense for Combatant Status Review Tribunals (including the requirement that the conclusion of the Tribunal be supported by a preponderance of the evidence and allowing a rebuttable presumption in favor the Government's evidence); and

(ii) whether subjecting an alien enemy combatant to such standards and procedures is consistent with the Constitution and laws of the United States.

(D) TERMINATION ON RELEASE FROM CUSTODY.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit with respect to the claims of an alien under this paragraph shall cease upon the release of such alien from the custody of the Department of Defense.

(3) REVIEW OF FINAL DECISIONS OF MILITARY COMMISSIONS.—

(A) IN GENERAL.—Subject to subparagraphs (C) and (D), the United States Court of Appeals for the District of Columbia Circuit shall have exclusive jurisdiction to determine the validity of any final decision rendered pursuant to Military Commission Order No. 1, dated August 31, 2005 (or any successor military order).

(B) GRANT OF REVIEW.—Review under this paragraph—

(i) with respect to a capital case or a case in which the alien was sentenced to a term of imprisonment of 10 years or more, shall be as of right; or

(ii) with respect to any other case, shall be at the discretion of the United States Court of Appeals for the District of Columbia Circuit.

(C) LIMITATION ON APPEALS.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit under this paragraph shall be limited to an appeal brought by or on behalf of an alien—

(i) who was, at the time of the proceedings pursuant to the military order referred to in subparagraph (A), detained by the Department of Defense at Guantanamo Bay, Cuba; and

(ii) for whom a final decision has been rendered pursuant to such military order.

(D) SCOPE OF REVIEW.—The jurisdiction of the United States Court of Appeals for the District of Columbia Circuit on an appeal of a final decision with respect to an alien under this paragraph shall be limited to the consideration of—

(i) whether the final decision applied the correct standards and was consistent with the procedures specified in the military order referred to in subparagraph (A); and

(ii) whether subjecting an alien enemy combatant to such order is consistent with the Constitution and laws of the United States.

(e) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided in paragraph (2), this section shall take effect on the day after the date of the enactment of this Act.

(2) REVIEW OF COMBATANT STATUS TRIBUNAL AND MILITARY COMMISSION DECISIONS.—Paragraphs (2) and (3) of subsection (d) shall apply with respect to any claim whose review is governed by one of such paragraphs and that is pending on or after the date of the enactment of this Act.

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Monday, November 14, 2005, at 11:30 a.m., on Implementing Legislation for the Agreement between the Government of the United States and the Government of the Russian Federation on the Conservation and Management of the Alaska-chukotka Polar Bear Population.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Monday, November 14, 2005, at 2:30 p.m., on the nominations of Thomas Rosch and William Kovacic to be Federal Trade Commissioners.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session on Monday, November 14, 2005, at 6 p.m., to consider an original bill that will include the Committee's budget reconciliation instructions pertaining to expiring tax provisions and also additional incentives for hurricane affected areas.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON INTERNATIONAL ECONOMIC POLICY, EXPORT AND TRADE PROMOTION

Mr. DOMENICI. Mr. President, I ask unanimous consent that the Subcommittee on International Economic Policy, Export and Trade Promotion be authorized to meet during the session of the Senate on Monday, November 14, 2005, at 3 p.m. to hold a hearing on U.S.-International Climate Change Approach: A Clean Technology Solution.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. DOMENICI. Mr. President, I ask unanimous consent, on behalf of Senator FEINSTEIN, that floor privileges be granted to Josh Trapani, a legislative fellow in her office, for the duration of floor debate on the Energy and Water appropriations conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DAYTON. I ask unanimous consent that Luke Ballman of my staff be granted the privilege of the floor for the remainder of the debate on this authorization bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

ORDERS FOR TUESDAY, NOVEMBER 15, 2005

Mr. WARNER. Mr. President, I ask unanimous consent that when the Senate completes its business today the Senate stand in adjournment until 9:45 a.m., on Tuesday, November 15. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to a period of morning business for up to 30 minutes, with the first 15 minutes under the control of the Democratic leader or his designee and the final 15 minutes under the control of the majority leader or his designee; further, that the Senate then resume consideration of S. 1042, the Defense authorization bill; I further ask that there then be 30 minutes of time equally divided between the Senator from Michigan and myself, between the bill managers, followed by a series of stacked votes as under the previous order; I further ask that there be 2 minutes equally divided prior to each vote; I further ask that following the vote on passage of the Defense bill, the Senate stand in recess until 2:15 p.m. to accommodate the weekly policy lunches.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. WARNER. Tomorrow the Senate will vote on final passage of the Defense authorization bill. Senators should note that we will have several votes starting at approximately 10:45. We have a lot to address this week and the majority leader reminds his colleagues to plan for many votes, late nights, and a longer than usual week.

ADJOURNMENT UNTIL 9:45 A.M. TOMORROW

Mr. WARNER. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 8:21 p.m., adjourned until Tuesday, November 15, 2005 at 9:45 a.m.

EXTENSIONS OF REMARKS

IN HONOR OF THE HUNGER NETWORK OF GREATER CLEVELAND AND THRIVENT FINANCIAL FOR LUTHERANS

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Hunger Network of Greater Cleveland and Thrivent Financial for Lutherans, for their commitment to feeding Greater Cleveland's most vulnerable families during this Thanksgiving season.

Since 1995, the Hunger Network has committed itself to the elimination of hunger in the Greater Cleveland area. Through public partnerships, volunteer mobilization and their own facilities, the Network feeds over 50,000 Greater Clevelanders every month, in the form of emergency food distribution and hot meal programs. Under the auspices of its Care for Others program, Thrivent Financial provides resources to community programs and local development throughout the Nation.

On Friday, November 11th the Hunger Network, through the generosity of Thrivent Financial, will receive 6,200 chickens for Cleveland families. With the help of volunteers from Turkeys4America and Lutheran High School West, the Hunger Network will distribute full Thanksgiving dinners to hungry children and families in Cleveland and throughout Cuyahoga County.

Mr. Speaker and Colleagues, please join me in honor and recognition of the Hunger Network of Greater Cleveland and Thrivent Financial for Lutherans, as well as efforts of members of Turkeys4America, Lutheran High School West, and so many other volunteers who are giving their time and resources to help the hungry of Greater Cleveland. Through their dedication and vision, they will provide a bountiful Thanksgiving for thousands of families who would otherwise go hungry. Their commitment to the elimination of hunger and the proper nutrition of Cleveland's most vulnerable families is inspiration for all.

HONORING THE 100TH ANNIVERSARY OF THE KNIGHTS OF COLUMBUS, EUREKA COUNCIL, NO. 1067

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 2005

Mr. THOMPSON of California. Mr. Speaker, I rise today in recognition of the Centennial Anniversary of the Knights of Columbus, Eureka Council, No. 1067, chartered in Eureka, California on December 3, 1905. Over the past ten decades, this fraternal and spiritual organization has had a proud and distinguished record of public service in Humboldt County and is deserving of our recognition.

Through charity, fellowship and hard work, the Eureka Knights of Columbus have reached out to thousands of families and children to establish important community institutions of compassion and caring.

Among other endeavors, the Eureka Knights of Columbus helped establish St. Joseph Hospital in Eureka, which serves the sick and the poor from across the region. They initiated efforts to found the local St. Vincent DePaul of Eureka, Arcata and Fortuna, communities within Humboldt County. The club also worked to bring about educational opportunities for youth through the establishment of St. Bernard's Catholic Schools, Camp St. Michaels and the Boy Scouts of America, Troop 54.

On this occasion, the Eureka Council of the Knights of Columbus will honor Anthony Gosselin, Sr. as the Knight of the Century. This distinguished honor is bestowed upon the late Mr. Gosselin, who led the Knights of Columbus as a founding board member of St. Vincent de Paul, served as a volunteer fire chief for the City of Eureka and as a member of the Humboldt County Water District board for fifteen years.

Mr. Gosselin served in World War I, married Eva Dandurand and had two children, Anthony Joseph Gosselin, Jr. and Beverly Gosselin Inskip. Mr. Gosselin was a tireless volunteer and devotee of the Knights of Columbus for over 65 years.

Mr. Speaker, it is appropriate at this time that we recognize the Knights of Columbus, Eureka Council 1067 and the Knight of the Century, Anthony Joseph Gosselin, Sr., for distinguished and extraordinary service to the community.

IN RECOGNITION OF THE GLENDALE MASONIC LODGE'S 100TH ANNIVERSARY CELEBRATION

HON. ADAM B. SCHIFF

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 2005

Mr. SCHIFF. Mr. Speaker, I rise today to congratulate Glendale Masonic Lodge #368 for 100 years of outstanding service to the community.

Glendale Masons lead by example, give back to their community, and support numerous philanthropic causes. They invest in children, neighborhoods, and our future. Glendale Lodge #368 now represents the consolidation of 8 Lodges from the Glendale area: Unity #368 (1905), Glendale #544 (1922), Crescenta Valley #652 (1926), Meridian #667 (1928), Verdugo Hills #727 (1953), La Canada #739 (1954), Oakwood #743 (1954) and Frank S. Land #819 (1965). Unity was started by several brothers who felt there was enough interest in Masonry in Glendale to start a Lodge. The name Unity was chosen because it covered several towns and villages (Glendale, Tropico, West Glendale, and Casa Verdugo) and they did not want to single out any one area. All of these villages and towns were eventually annexed into what is today the City of Glendale.

The first Masonic Temple in Glendale was built in 1914 at 232 South Brand. In 1928, it was torn down to make way for the present Historic Temple. However, the stock market crash and depression came that same year and the Lodge was unable to service their loan and thus lost the building to private interests. After Word War I, a great interest in Masonry resulted and the Lodge grew at an impressive rate. Masonry held its own until after World War II. In 1947 through 1957 another large influx of members was experienced. In 1956, membership slowly declined. It accelerated in the late 1960s through the 1980s. This resulted in the consolidation of Lodges starting in 1980, and in 1997, the last lodge joined to form Glendale Lodge #368.

The Masonic Lodge's mission is guided by the enduring and relevant tenets of their fraternity—Brotherly Love, Relief, and Truth—and core values which include ethics, tolerance, and family. The Lodge currently holds annual recognition nights for the teachers and employees of the Glendale Unified School District, Glendale Police Officers and Firefighters. They also sponsor a successful and vital tutoring program at Wilson and Roosevelt Middle Schools in Glendale. The Glendale Masonic Lodge also supports the Shriner's Hospital for children, and the Scottish Rite Language Program. Through the Grand Lodge of California, the Glendale Lodge supports two homes for the elderly located in Covina and Union City, the Children's Home in Covina, and a very active scholarship program.

I ask all Members of Congress to join me today in congratulating the Glendale Masonic Lodge and its members for 100 years of outstanding service to the City of Glendale and surrounding communities.

REQUESTING CLARIFICATION OF REPORT LANGUAGE ON ENERGY AND WATER APPROPRIATIONS CONFERENCE REPORT

HON. JAY INSLEE

OF WASHINGTON

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 2005

Mr. INSLEE. Mr. Speaker, I rise today to express concern with report language that was included in the Fiscal Year 2006 Energy and Water Appropriations Conference Report (H. Rpt. 109–275). It is my hope that you can assist me in my efforts to seek clarification. The

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

final conference report contains language directing the Bonneville Power Administration (BPA) to cease funding of an important independent scientific research center based in the Pacific Northwest, known as the Fish Passage Center. The language directs BPA and the Northwest Power and Conservation Council (NPCC) to transfer the functions of the Fish Passage Center in a way that ensures "seamless continuity of activities" without giving any direction about how this transfer should take place.

The Northwest Power Act called for the NPCC to establish a Fish and Wildlife Program. That Program has called for BPA to fund the Fish Passage Center for the past 20 years. The data and analyses the Center has provided have been invaluable to the States and tribal fishery managers of the Columbia Basin. BPA should be clear that this report language does not supersede the NW Power Act or the specific provisions in the NPCC's present Fish and Wildlife program calling for a number of key functions to be performed. I certainly would assume that BPA will ensure that the State and tribal fishery managers will have input into how the Center is reconstituted and will take actions to ensure that the fishery managers continue to receive the same independent analyses they have in the past.

RECOGNIZING CARRE J. BROWN OF POTTER VALLEY, CALIFORNIA

HON. MIKE THOMPSON

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 2005

Mr. THOMPSON of California. Mr. Speaker, I rise today to recognize Carre J. Brown, a lifelong Mendocino County cattle rancher who has served as Executive Administrator of the Mendocino County Farm Bureau for 20 years. Carre's contributions to agriculture, young people, and her community are exemplary on a personal as well as public level.

Born in Ukiah, Carre comes from a long line of Mendocino County ranchers dating back more than a hundred years. Following in the footsteps of her grandfather—John Newman, the first president of the Mendocino Farm Bureau in 1920—Carre continues the family tradition of promoting the interests and issues of local farmers. Wife of Louis Brown and mother of Todd, Beth, Will and Burke, she has been an active 4–H leader and served for 10 years on the County's 4–H Council.

Carre is a lifelong member of the Mendocino-Lake Woolgrowers Association and the County Cattlewomen. She also has served on the Potter Valley Community Unified School District Board and on the California Watershed Round Table.

Carre's excellent work with the Mendocino County Fann Bureau is one of the many reasons why her community and the Mendocino County Winegrowers Alliance will honor her on November 12, 2005. Carre's interest in young people makes her a tireless supporter of the Winegrowers' Agricultural Scholarship Program, which helps deserving children of local vineyard workers attend college.

On a personal level, it is my privilege to know Carre, whose easy-going disposition, boundless energy, and organizational skills are just a few of the attributes that have made her an integral member of this community. Her passion for her work, family, and agricultural pursuits make her a treasured associate and resource.

Mr. Speaker, it is appropriate at this time that we recognize Carre J. Brown for her commitment, service, dedication and contributions not only to the ranchers and farmers, but to all the people of Mendocino County, as well as to our country.

CONGRATULATIONS TO WILLIAM E. BREEN ON THE OCCASION OF HIS RETIREMENT AFTER 40 YEARS OF FAITHFUL PUBLIC SERVICE

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 2005

Mr. BONNER. Mr. Speaker, I rise today to pay tribute to William E. Breen on the occasion of his retirement after 40 years of faithful public service to this great nation.

Mr. Breen began his public career as a police officer with the U.S. Park Police during the tumultuous 1960s when Washington, D.C. was the epicenter of protest and demonstration. His skills both as a police officer and as an instructor were quickly recognized, and in 1970, he transferred to the U.S. Secret Service.

Over the course of 15 years as a special agent for the Secret Service, William Breen helped protect Presidents Richard Nixon, Gerald Ford, Jimmy Carter and Ronald Reagan. He also played an integral role during the papal visit of John Paul II to the United States.

Of particular significance, Special Agent Breen was awarded the U.S. Secret Service Valor Award for extreme courage during an assassination attempt on the life of Presidential candidate and Alabama Governor George C. Wallace, in Laurel, Maryland, on May 15, 1972. After giving a speech at an open-air rally, Governor Wallace stepped down from the podium to shake hands with the cheering crowd when shots were fired. Special Agent Breen responded immediately providing assistance to the wounded candidate. He covered and removed Mrs. Wallace from her husband's side in order to prevent her from being attacked. After ensuring Mrs. Wallace's safety, Special Agent Breen returned to administer first aid to the governor. For exemplifying the highest standards of bravery, the United States Secret Service presented Special Agent Breen the United States Secret Service Valor Award.

More recently, Mr. Breen served with distinction in the Office of the Inspector General of the U.S. Small Business Administration. In this capacity, he used his extensive investigative and law enforcement skills to develop and execute programs designed to maintain the integrity and the credibility of Small Business Administration programs. Mr. Breen proved relentless in identifying and eliminating fraud throughout Small Business Administration assistance programs. Perhaps more significant, Mr. Breen's leadership, mentoring, and expertise in training, leaves a legacy that will live on in the agency long after his retirement.

Mr. Speaker, the faithful service of outstanding Americans like Mr. Breen has aided in a measurable way to the well being of this great country. He has made an impact. I am proud to have called Bill Breen my friend for many years, and I am particularly proud he has selected the First District of Alabama as his retirement home.

ILLEGAL IMMIGRANTS ARE CRIMINALS

HON. C.L. "BUTCH" OTTER

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 2005

Mr. OTTER. Mr. Speaker, I commend to the attention of this body a recent column that appeared on Monday, October 24, 2005, in my hometown newspaper, The Idaho Statesman. It was written by syndicated columnist Ruben Navarrette, and it makes some very important and relevant points about personal responsibility, parental responsibility, the problem of illegal immigration and the children it victimizes. I hope that our colleagues will take the opportunity to read it, and perhaps gain a new perspective on an issue that is growing in urgency across America.

[From The Idaho Statesman, Oct. 24, 2005]

ILLEGAL IMMIGRANTS ARE CRIMINALS

(By Ruben Navarrette)

I get accused of always defending Latinos. But sometimes what they really need is a good scolding.

Like on those occasions when Latino activists go into left field and start advocating totally impractical policies that add nothing to the national discourse on important and controversial issues.

I got an earful of that recently when I was asked to join in a town hall meeting in Dallas organized by Hispanic CREO, a Washington-based educational reform group dedicated to giving Latino parents more choices regarding their children's education.

My fellow panelists and I were expected to talk about education and how Latinos could demand and receive more from public schools that are doing future generations a disservice with a mixture of neglect, excuses and low expectations.

My own solution to the educational crisis is all about self-help. Latinos can't sit around waiting for teachers and principals to suddenly develop higher expectations for them. Rather, Latino parents need to understand the power they have to pressure those students to take tougher classes, work harder and get grades that are so good no one can keep them down.

The same principle applies to the subject that the audience really wanted to talk about above all others: illegal immigration. And it was during that discussion that reality went out the window.

It started when a woman who identified herself as a teacher asked what she was supposed to tell parents (who were illegal immigrants) about why their children (who were also here illegally) couldn't go to college or apply for financial aid, even after they had worked hard and earned good grades.

You see, typically, the pursuit of higher education requires a valid Social Security number, which illegal immigrants don't have. Some states also require that undocumented immigrant students pay exorbitantly high out-of-state tuition rates, even if they and their families have lived in that particular state and paid taxes for years.

My answer to the question shocked some in the mostly Latino audience: Tell the parents they made a terrible mistake when they came into the country illegally, and that they compounded that mistake every day that they stayed here without legal documentation. Explain to them that our actions have consequences and that one consequence of their decision to trespass across the border into the United States is that they and their children were destined to live lives that may never realize their full potential. Make them understand that, while they may be splendid parents in every other way, they did their children a great disservice by leaving them to wander in the shadows.

Whether they can go to college is the least of their worries. I don't care if the children are honor students, they can be picked up and deported at any time. And now, unless there are substantial legislative changes—like the enactment of the federal Dream Act championed by Sen. Orrin Hatch, R–Utah, which would allow illegal immigrant students to attend college—there is not much any of us can do for these children.

The good news is that there is still quite a bit that parents can do for their children. They can contact an immigration lawyer or a low-cost legal clinic and ask how it is that one begins the long and often expensive process for obtaining legal residency.

I told the crowd that I knew of one person who spent 12 years and more than $12,000 to convert her status, and that of her son, from "illegal" to "legal." That brought gasps. Apparently, that sounded like a lot of money. It isn't, I told them. It's $1,000 per year, or about $80 a month.

I know immigrants who spend that on their monthly cell phone bill, and this is much more important. If these illegal immigrant parents don't want to do it for themselves, then they should do it for their children.

I received scattered applause, but it was nothing compared to the rousing response that went to another panelist—Raul Yzaguirre, former president of the National Council of La Raza—when he said that he didn't like the term "illegal immigrant" because he didn't think that people who came to this country to feed their families should be considered criminals.

What else would we call them? They broke the law. We can be sympathetic to their plight without condoning their actions. In order for Latinos to make real progress, first they have to stay in the real world.

IN HONOR OF SS. CYRIL AND METHODIUS CATHOLIC SCHOOL

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Monday, November 14, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor of the teachers, staff, administrators and students of SS. Cyril & Methodius Catholic School, in celebration of their newly appointed status from the U.S. Department of Education as a No Child Left Behind-Blue Ribbon School of Excellence.

This significant tribute, awarded to less than 300 schools nationwide, represents the highest levels of academic excellence, achievement and improvement. The Blue Ribbon School of Excellence recognition also honors schools in which at least 40 percent of students come from disadvantaged backgrounds.

Reverend Jerome Duke, Pastor of SS. Cyril & Methodius Catholic Church, turned down an offer to merge his school with three other local Catholic Schools. His decision mirrors his dedication to the east side neighborhoods of Lakewood and his true commitment and service to the families and children of SS. Cyril & Methodius Catholic School. Reverend Duke knew that if the school had merged, most families would have been unable to afford the tuition at the new school.

Mr. Speaker and colleagues, please join me in honor and recognition of Reverend Jerome Duke, Principal Carol Shakarian and every student, teacher, pastor, staff member, volunteer and donor of SS. Cyril & Methodius Catholic School, as they celebrate their newly appointed status as a National Blue Ribbon School of Excellence. Their collective work and dedication focused on uplifting the lives of our youth with a strong foundation of education and personal achievement, serves to shine a light of hope and promise on a bright future for the children of the SS. Cyril & Methodius Catholic School. Moreover, the tenacity and heart reflected from these students who face daily struggles, inspires us all and offers our entire community the promise for a better tomorrow.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Tuesday, November 15, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 16

9:30 a.m.
Environment and Public Works
To hold an oversight hearing to examine transportation fuels of the future.
SD–406

Foreign Relations
To hold hearings to examine the new currency of foreign policy, focusing on the high costs of crude.
SD–419

Judiciary
To hold hearings to examine The Streamlined Procedures Act relating to habeas reform.
SD–226

10 a.m.
Commerce, Science, and Transportation
To hold hearings to examine the Magnuson-Stevens Fishery Conservation and Management Reauthorization Act of 2005.
SD–562

Homeland Security and Governmental Affairs
To hold hearings to examine how government can learn from the private sector's response to Hurricane Katrina.
SD–342

10:30 a.m.
Appropriations
Legislative Branch Subcommittee
To hold hearings to examine the progress of the Capitol Visitor Center construction.
SD–138

11:30 a.m.
Energy and Natural Resources
Business meeting to consider pending calendar business.
SD–366

2:30 p.m.
Commerce, Science, and Transportation
Consumer Affairs, Product Safety, and Insurance Subcommittee
To hold hearings to examine protecting the consumer from flooded and salvage vehicle fraud.
SD–562

Judiciary
Administrative Oversight and the Courts Subcommittee
To hold hearings to examine issues relative to creating new Federal judgeships.
SD–226

Intelligence
To receive a closed briefing regarding intelligence matters.
SH–219

4 p.m.
Conferees
Meeting of conferees on H.R. 889, to authorize appropriations for the Coast Guard for fiscal year 2006, to make technical corrections to various laws administered by the Coast Guard.
SDG–50

NOVEMBER 17

9:30 a.m.
Environment and Public Works
Business meeting to consider S. 1708, to modify requirements relating to the authority of the Administrator of General Services to enter into emergency leases during major disasters and other emergencies, S. 1714, to modify requirements under the emergency relief program under title 23, United States Code, with respect to projects for repair or reconstruction in response to damage caused by Hurricane Katrina, S. 1496, to direct the Secretary of the Interior to conduct a pilot program under which up to 15 States may issue electronic Federal migratory bird hunting stamps, S. 1165, to provide for the expansion of the James Campbell National Wildlife Refuge, Honolulu County, Hawaii, and proposed Army Corps Assessment Authorization for the State of Louisiana; to be followed by a hearing to examine the degree to which the preliminary findings on the

failure of the levees are being incorporated into the restoration of hurricane protection.

SD–406

Judiciary

Business meeting to consider pending calendar business.

SD–226

10 a.m.

Agriculture, Nutrition, and Forestry

To hold hearings to examine the role of United States agriculture in the control and eradication of avian influenza.

SR–328A

Commerce, Science, and Transportation

Aviation Subcommittee

To hold hearings to examine aviation safety.

SD–562

Banking, Housing, and Urban Affairs

To hold hearings to examine a Government Accountability Office report on the sale of financial products to military personnel.

SD–538

Homeland Security and Governmental Affairs

To hold hearings to examine regulations for the National Security Personnel System.

SD–342

Indian Affairs

To hold oversight hearings to examine issues relating to In Re Tribal Lobbying Matters, Et Al.

SH–216

10:30 a.m.

Intelligence

To hold closed hearings to examine the nomination of Dale W. Meyerrose, of Indiana, to be Chief Information Officer, Office of the Director of National Intelligence.

SH–219

2 p.m.

Judiciary

To hold hearings to examine recent developments in assessing future asbestos claims under the FAIR Act.

SD–226

2:30 p.m.

Foreign Relations

African Affairs Subcommittee

To hold hearings to examine cross-continental progress relating to African organizations and institutions.

SD–419

Commerce, Science, and Transportation

Business meeting to consider pending calendar business.

SD–562

Intelligence

Closed business meeting to consider certain intelligence matters.

SH–219

CANCELLATIONS

NOVEMBER 16

9:30 a.m.

Judiciary

To hold hearings to examine the need to reform the Grand Jury.

SD–226

2 p.m.

Energy and Natural Resources

Public Lands and Forests Subcommittee

To hold hearings to examine Earth Island Institute v. Ruthenbeck.

SD–366

SENATE—*Tuesday, November 15, 2005*

The Senate met at 9:45 a.m. and was called to order by the Honorable DAVID VITTER, a Senator from the State of Louisiana.

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

O God our saviour, You faithfully answer our prayers with awesome deeds. You formed the mountains with Your power and quieted the raging ocean.

Today, bless us with the transforming impact of Your presence. May this walk with You strengthen us to live blameless lives that honor Your name.

Bless our Senators. Give them the courage to speak the truth from sincere hearts. Keep their hearts in tune with You. Help them to labor to bring life and health where there is death and despair.

Deliver us all from persistent sins and make us Your faithful followers. We pray in Your loving Name. Amen.

PLEDGE OF ALLEGIANCE

The Honorable DAVID VITTER led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

APPOINTMENT OF ACTING PRESIDENT PRO TEMPORE

The PRESIDING OFFICER. The clerk will please read a communication to the Senate from the President pro tempore (Mr. STEVENS).

The legislative clerk read the following letter:

U.S. SENATE,
PRESIDENT PRO TEMPORE,
Washington, DC, November 15, 2005.

To the Senate:

Under the provisions of rule I, paragraph 3, of the Standing Rules of the Senate, I hereby appoint the Honorable DAVID VITTER, a Senator from the State of Louisiana, to perform the duties of the Chair.

TED STEVENS,
President pro tempore.

Mr. VITTER thereupon assumed the chair as Acting President pro tempore.

RECOGNITION OF THE MAJORITY LEADER

The ACTING PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, this morning, following leader remarks we will begin a 30-minute period for morning business. That will be followed by an additional 30-minute period of time which has been set aside for closing remarks on the Defense authorization bill. At approximately 10:50 or so this morning we are scheduled to begin a series of votes which will end with a vote on passage of the Defense authorization bill. Those stacked votes include the Warner amendment on Iraq; a Levin amendment on Iraq; Senator BINGAMAN's second-degree amendment relating to detainees; Senator GRAHAM's underlying amendment on detainees, and then final passage of the bill. Therefore, we should complete our work on the Defense bill by the start of our policy lunch recess.

Yesterday, I mentioned the many items that we will need to consider prior to adjourning for Thanksgiving. The tax reconciliation bill may be available as early as later today, and we will proceed to that bill under the statutory time limit as soon as possible. We will know a little bit later this morning.

We will continue to expedite consideration of the other appropriations conference reports as they arrive at the desk and we can clear them with short time agreements. We will also consider other conference reports I mentioned yesterday, the PATRIOT Act, as well as the pension bill under an agreement now being negotiated. That is the pension bill.

If we use all of this time wisely we can get through our remaining business in this week. I hope we can work together during these final days so we do not have to work into Saturday or longer to complete the items that remain. We will have to gauge our progress over the next 24 to 48 hours in that regard, and I urge everyone to keep a flexible schedule over the next several days.

I yield the floor.

Mr. REID. I suggest the absence of a quorum.

The ACTING PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

RESERVATION OF LEADER TIME

The ACTING PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 30 minutes, with the first half of the time under the control of the Democratic leader or his designee and the second half of the time under the control of the majority leader or his designee.

The Senator from Colorado is recognized.

Mr. SALAZAR. Mr. President, I yield the floor for a unanimous consent request by my colleague from Oklahoma.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

CHANGE OF VOTE

Mr. INHOFE. Mr. President, I thank the Senator from Colorado for yielding. On rollcall vote No. 307, I was recorded as voting yea. I voted no. Therefore, I ask unanimous consent that the official record be corrected to accurately reflect my vote. This will in no way change the outcome of the vote.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from Colorado.

ENERGY INDEPENDENCE: A 21ST CENTURY IMPERATIVE

Mr. SALAZAR. Mr. President, I rise today to discuss an urgent problem that continues to confront this great Nation. The problem is simply stated. Today, America is held hostage to our overdependence on foreign oil. That dependency is continuing to grow at an ever-alarming rate. America deserves better.

The problem is a result of the malignant neglect of the United States of a meaningful national energy policy for the last three decades. From the formation of OPEC and President Carter's national statement that we must embrace energy independence with "the moral imperative of war," Washington has been stuck in the swamp of inaction. It is time to change this neglect and, for the sake of ourselves and for our children, find our way out of this swamp of inaction.

Ever since 1970, America's domestic production of oil has been dropping. And ever since, many speeches have been given in Washington about the importance of achieving energy independence. Many of us remember the speeches of Richard Nixon and President Carter in the 1970s and the 1980s.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

In 1973, following the formation of OPEC, President Nixon gave a speech to the Nation where he said:

> our overall objective . . . can be summed up in one word that best characterizes this Nation and its essential character. The word is "independence."

Then again in 1980, President Carter spoke to the Congress at his State of the Union address. In that speech, President Carter said:

> Our excessive dependence on foreign oil is a clear and present danger to our Nation's security. The need has never been more urgent. At long last, we must have a clear, comprehensive energy policy for the United States.

That was President Jimmy Carter in 1980. Well, here we are in 2005 and the Nation has miserably failed to achieve any meaningful reform and any progress toward energy independence. Instead, we have retreated and gone backward. We have become more dependent on imports of foreign oil. The words of President Nixon and President Carter today in 2005 sound hollow because there has not been action to follow the words that have come out of Washington. I am sure both President Nixon, if he were alive today, and President Carter today would be frustrated with the refusal by Washington, the refusal by the White House, to move this great Nation toward energy independence.

I, too, am tired of this talk, and I believe many of my colleagues in this Chamber are tired of this talk. I am tired of the maneuvering of Congress to protect the special interests, and it is time for us to take action.

The facts do not lie about the national energy crisis that we are in and how we are being held hostage to the whims of foreign governments. The conclusion is inescapable when one reviews the facts. Let me review just a few of those important facts. One, Americans today consume one-quarter of the world's oil, but we only stand on top of about 3 percent of the global reserves. So we consume one-quarter of the world's oil, but we only have 3 percent of the world's reserves.

Currently, the OPEC member countries produce about 40 percent of the world's oil, but they hold 80 percent of the proven world reserves. That is a second fact that should be alarming to us because 85 percent of those reserves are in the greater Middle East in countries such as Iraq, Iran, and Saudi Arabia.

Third, 22 percent of the world's oil is in the hands of state sponsors of terrorism under U.S. or U.N. sanction, and only 9 percent of the world's oil is in the hands of free countries.

Today, as we debate the Department of Defense authorization bill to make sure that we remain a strong America, this ought to be something in the back of our minds and in the front of our minds, that we cannot really have a strong America unless we address this most fundamental national security threat of our overdependence on foreign oil.

In the 1970s, this Nation imported about a third of our oil needs. Today, we import almost 60 percent, and the projections are that 20 to 25 years from now we will be importing 70 percent of our oil from foreign countries.

Fifth, we are importing more oil at a time when other growing nations such as China continue to grow in their importation of oil from other countries. China, today, has become the No. 2 petroleum user on the entire globe. Experts predict that China's 1.2 billion people and its large and rapidly growing demand for oil will have serious implications for the United States and for oil prices and supplies at home.

Fully one-quarter of the U.S. trade deficit today—those of us like my colleague from Oklahoma who is here today, who is concerned about the growing deficits that we have in America today, understand that one-quarter of the U.S. trade deficits are associated with oil imports. The problem that we face for sure is due in part to dwindling resources in America. Domestic reserves of oil and natural gas are declining although our demand continues to grow. However, the reality is that there has been a deliberate unwillingness to address this problem in America.

As proof, the average American vehicle gets fewer miles per gallon today than it did in 1988. That is right. Even though transportation fuels represent about two-thirds of our demand for petroleum products, our current fuel economy is worse today than it was 17 years ago. According to EPA estimates, back in 1988 passenger vehicles in America had an average fuel economy of 26 miles per gallon. Today, in the midst of this national crisis, we have 50 million more passenger vehicles on the road and the average fuel economy has declined to less than 24 miles per gallon. That is going in the wrong direction. How is it possible that the world's biggest economy with the world's best scientists and engineers, we, the United States of America, are doing worse today on fuel economy than we were 17 years ago?

We find ourselves in this mess because we have not taken our energy consumption problem seriously. Since most of the known oil reserves lie in one specific region of the world, the Middle East, our addiction to foreign oil means that we will continue to be held hostage to the whims of despotic or increasingly unstable regimes. Ominously, the money we pay today for foreign oil helps pay for the activities of extremists and terrorists around the world who hate the United States and the West in general. We only need to recall the horrors of 9/11 to know how real that hatred is.

Even worse, the money pit grows deeper because we as a world consume more oil and that oil becomes more expensive and the money that keeps some of these regimes in place gets more concentrated in the hands of these few countries. So, yes, America is held hostage and in a tighter and tighter grip.

There is only one way for us to fix this. America must stop the rhetoric, and we must embrace a true imperative of energy independence.

I wish to say a word about the work of this body, this Congress, in the last year with the Energy Policy Act of 2005. I wish to say two things about that legislation. It was the first time in 13 years that any significant energy legislation came out of Washington, DC, again, demonstrating the malignant neglect. There are two important lessons we should take from the act. The first is it was a good template of bipartisan cooperation. In this body, with more than 80 votes, Republicans and Democrats coming together saying we need to embrace a new National Energy Policy Act, we are making a statement that this is an important issue for the American people. We ought to find more places where the American people can get that kind of bipartisan action on the part of the Senate, the Congress.

Second, the Energy Policy Act of 2005 did some good things in making us move forward toward energy independence. It embraced an ethic of energy conservation, of which all of us should be proud, and included in that are efficiency standards for the 14 appliances that are most commonly used in our homes. That is an important step for the United States of America to take because we know from the experts at the Department of Energy that we currently waste about 62 percent of the energy we consume.

Third, the 2005 Energy Policy Act also took some major steps forward with regard to renewable energy. We embraced an ethic that said we can start growing our way toward energy independence. We increased the amount of ethanol that will be produced in America so we will have 7.5 billion gallons of ethanol being produced by 2012. That is only 5 years away. That will be very helpful to us as we move toward energy independence.

Fourth, the new technologies that were embraced in this law are important. When we look at the possibility of coal gasification, we know the huge reserves we have in America can be used in a way to help us fill up that menu board that we must fill up if we are going to find our way toward energy independence.

Finally, there are approaches in the legislation that will help us with the balanced development of our current natural resources, including the appropriate development of oil shale within my State of Colorado.

While I have been a fan of our 2005 legislation. I believe there is more that we must do to set America free from the overdependence on foreign oil. We need to do more. There is a hard winter ahead for many Americans. Gas prices remain very high. Diesel prices remain even higher. This directly affects the pocketbooks of people across America.

In Colorado, as across the Nation, high fuel prices affect everyone, and they also hit our agricultural producers and perhaps hit them the hardest. Farming and ranching equipment uses diesel fuel. When you have to tend to hundreds of acres, you use a lot of it.

Americans are in for a one-two punch on energy prices this winter because home heating prices are going to be high as well. The cost of natural gas is at an unprecedented level and, similar to the high prices at the pump, the resulting high heating costs will affect every American. We should take action.

Back in August I remember traveling around in places where I saw gas prices hit $3 for the first time around. Yet through the ravages of Katrina and Rita and the escalation of gas prices over the last several months, we in Congress have had a few hearings but we have not taken action to deal more effectively with the crisis at hand. We must do more. We must begin now. I suggest we start in the following three ways.

First, we should embrace a national price-gouging law. That is a law which was discussed by Senator BINGAMAN and Senator STEVENS in a hearing that was held in the Senate last week. The oil companies should have nothing to be afraid of with respect to price gouging because they say they have not engaged in price gouging. But we need to have a definition of what price gouging is so in the future we can make the determinations as to whether price gouging has occurred on the backs of the American people. We ought to be able to pass a price-gouging law in America today.

Second, we need to immediately embrace conservation emergency efforts for the year 2005 and for this winter. The years of malignant neglect have suddenly caught up with all of us, and we need to conserve energy for this winter. I believe we need to pass an Emergency Energy Conservation Act of 2005. I have promoted a number of proposals on the floor of the Senate, as have several of my colleagues. On the House side, the story is the same. There are many good ideas available to this Congress that will encourage conservation. But we do not have time to wait. We need to act now, before the cold days of winter are upon us.

Finally, we need to continue to put the spotlight on the possibilities and opportunities of renewable energy. Today, the nation of Brazil produces about half of its energy supply from renewable energy. They have truly embraced and achieved a goal of energy independence. If Brazil and other countries that are less prosperous, Third World countries, can in fact achieve energy independence by looking at renewable fuels, why can't we in the United States do the same? I believe we can. More production of renewable fuels combined with more development of wind, solar, biomass, and other renewable resources will move the United States closer to energy independence. At the same time, renewable energy production will directly benefit those agricultural and rural communities hardest hit by high energy prices. Harvesting renewable energy from our Nation's farmlands and wide open spaces is perhaps the most important opportunity to come to rural America in the last 50 years.

A group called the Energy Future Coalition, composed of leading conservatives and leading progressives—from across the political spectrum—is working toward harvesting 25 percent of America's energy demands by the year 2025. I believe we can do even better than that, and there are experts within the Department of Energy who believe that we can do that.

There is a lot of work ahead of us as we deal with what I believe is one of the two most important domestic issues that face America and that is energy and how we get to energy independence. It ought to be at the forefront of the work of this Senate and this Congress.

In conclusion, this country has an Energy bill and it is a good first step. However, the Energy Policy Act of 2005 does not do enough to prepare America for the future. The events of the last several months prove that. We can do better with a more comprehensive long-term energy policy that hammers home on two simple points: energy efficiency and developing renewable resources. America can do better. America deserves better. America can do better with true deeds that move us to energy independence, with deeds that transcend the rhetoric of Washington and the stalemate of Washington for the last 30 years.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Oklahoma is recognized.

A REAL WAR

Mr. COBURN. Mr. President, I come to the floor today because, as I travel around Oklahoma, one of the things I find is a lack of recognition of the war we are in, why we are there, what the problems are associated with it. Every one of us has a heavy heart for the fact that we now have troops committed and dying and sacrificing every day in the war on terrorism.

As I thought about what to say to my constituents in Oklahoma but also to the American people, I found that I could not say it as well as retired MG Vernon Chong of the U.S. Air Force. I wish to read, for a few moments, a commentary he has written, dated October 1, 2005. If you would indulge me to read that, I think it will give us some enlightenment to where we are. He says:

> To get out of a difficulty, one usually must go through it. Our country is now facing the most serious threat to its existence, as we know it, that we have faced in your lifetime and mine (which includes WWII).
>
> The deadly seriousness is greatly compounded by the fact that there are very few of us who think we can possibly lose this war, and even fewer who realize what losing really means.
>
> First, let's examine a few basics. When did the threat to us start? Many will say September 11, 2001. The answer, as far as the United States is concerned, is 1979—22 years prior to September 2001—with the following attacks on us:
>
> Iran Embassy Hostages, 1979; Beirut, Lebanon, Embassy, 1983; Beirut, Lebanon, Marine Barracks, 1983; Lockerbie, Scotland, Pan-Am flight to New York, 1988; First New York World Trade Center attack, 1993; Dhahran, Saudi Arabia, Khobar Towers Military complex, 1996; Nairobi, Kenya, U.S. Embassy, 1998; Dares Salaam, Tanzania, U.S. Embassy, 1998; Aden, Yemen, USS *Cole*, 2000; New York, World Trade Center, 2001; Pentagon, 2001; and Shanksville, Pennsylvania, Plane Crash, 2001
>
> Why were we attacked: Envy of our position, our success, and our freedoms. The attacks happened during the administration of Presidents Carter, Reagan, Bush, Clinton, and Bush. We cannot fault either the Republicans or Democrats, as there were no provocations by any of the Presidents or their immediate predecessors, Presidents Ford or Carter.
>
> Who were the attackers? In each case, the attacks on the U.S. were carried out by Muslims. What is the Muslim population of the World? Twenty-five percent. Isn't the Muslin Religion peaceful? Hopefully, but that is really not material. There is no doubt that the predominantly Christian population of Germany was peaceful, but under the dictatorial leadership of Hitler (who was also Christian), that made no difference. You either went along with the administration, or you were eliminated.
>
> Although Hitler kept the world focused on the Jews, he had no hesitancy about killing anyone who got in his way of exterminating the Jews, or of taking over the world—German, Christian, or any others.
>
> Same with the Muslim terrorists. They focus the attention of the world on the U.S., but kill all in the way—their own people, or the Spanish, French, or anyone else. The point here, is that just like the peaceful Germans were of no protection to anyone from the Nazis, no matter how many peaceful Muslins there may be, they are no protection for us from the terrorist Muslim leaders, and what they are fanatically bent on doing—by their own pronouncements—killing all of us "infidels." I don't blame the peaceful Muslins. What would you do—if the choice was shut up, or die?
>
> So who are we at war with? There is no way we can honestly respond that it is anyone other than the Muslim terrorists. Trying to be politically correct, and avoid verbalizing this conclusion can well be fatal. There is no way to win, if you don't clearly recognize, and articulate who you are fighting.

So with that background, now to the two major questions: Can we lose this war? What does losing really mean? If we are to win, we must clearly answer these two pivotal questions.

We can definitely lose this war, and as anomalous as it may sound, the major reason we can lose is that so many of us simply do not fathom the answer to the second question—"What does losing mean?"

It would appear that a great many of us think that losing the war means hanging our heads, bringing the troops home, and going on about our business, like post-Vietnam. This is as far from the truth as one can get. What losing really means is: We would no longer be the premier country in the world. The attacks will not subside, but rather will steadily increase. Remember, they want us dead, not just quiet. If they had just wanted us quiet, they would not have produced an increasing series of attacks against us, over the past 18 years. The plan was clearly, for terrorists to attack us, until we were neutered, and submissive to them.

We would, of course, have no future support from other nations, for fear of reprisals, and for the reason that they would see that we are impotent, and cannot help them.

They will pick off the other non-Muslim nations, one at a time. It will be increasingly easier for them. They already hold Spain hostage. It doesn't matter whether it was right or wrong for Spain to withdraw its troops from Iraq. Spain did it because the Muslim terrorists bombed their train, and told them to withdraw the troops. Anything else they want Spain to do, will be done.

The next will probably be France. Our one hope on France is that they might see the light and realize that if we don't win, they are finished too, in that they can't resist the Muslim terrorists without us. However, it may already be too late for France.

If we lose the war, our production, income, exports, and way of life will all vanish, as we know it. After losing, who would trade or deal with us, if they are threatened by the Muslims?

If we can't stop the Muslims, how could anyone else?

The Muslims [Islamo-fascists] fully know what is riding on this war, and therefore, are completely committed to winning, at any cost. We better know it too, and be likewise committed to winning at any cost.

Why do I go on at such lengths about the results of losing? Simple. Until we recognize the costs of losing, we cannot unite, and really put 100 percent of our thoughts and efforts into winning. And, it is going to take that 100 percent effort to win.

So, how can we lose the war?

Again, the answer is simple. We can lose the war by "imploding." That is, defeating ourselves, by refusing to recognize the enemy and their purpose, and really digging in and lending full support to the war effort. If we are united, there is no way that we can lose. If we continue to be divided, there is no way that we can win!

Let me give you a few examples of how we simply don't comprehend the life-and-death seriousness of this situation.

President Bush selects Norman Mineta as Secretary of Transportation. Although all of the terrorist attacks were committed by Muslim men between 17 and 40 years of age, Secretary Mineta refuses to allow profiling. Does that sound like we are taking this thing seriously?

This is war! For the duration, we are going to have to give up some of the civil rights we have become accustomed to. We had better be prepared to lose some of our civil rights temporarily, or we will most certainly lose all of them, permanently.

And, don't worry that it is a slippery slope. We gave up plenty of civil rights during WWII, and immediately restored them after the victory, and in fact, added many more since then.

Do I blame President Bush or President Clinton before him?

No, I blame us for blithely assuming we can maintain all of our Political Correctness, and all of our civil rights during this conflict, and have a clean, lawful, honorable war. None of those words apply to war. Get them out of your head.

Some have gone so far in their criticism of the war and/or the Administration that it almost seems they would literally like to see us lose. I hasten to add that this isn't because they are disloyal. It is because they don't recognize what losing means. Nevertheless, that conduct gives the impression to the enemy that we are divided and weakening. It concerns our friends, and it does great damage to our cause.

Of more recent vintage, the uproar fueled the politicians and media regarding the treatment of some prisoners of war, perhaps exemplifies best what I am saying.

We have recently had an issue, involving the treatment of a few Muslim prisoners of war, by a small group of our military police.

By the way, all of those have gone to trial or are going to trial, and will be punished.

Again, these are MG Chong's words:

These are the type of prisoners, who just a few months ago, were throwing their own people off buildings, cutting off their hands, cutting out their tongues, and otherwise murdering their own people, just for disagreeing with Saddam Hussein.

And just a few years ago, these same types of prisoners chemically killed 400,000 of their own people for the same reason. They are also the same type of enemy fighters who recently were burning Americans, and dragging their charred corpses through the streets of Iraq.

And still more recently, the same type of enemy that was, and is, providing videos to all news sources internationally, of the beheading of American prisoners they held.

Compare this with some of our press and politicians, who, for several days, have thought and talked about nothing else but the "humiliating" of some Muslim prisoners—not burning them, not dragging their charred corpses through the streets, not beheading them, but "humiliating" them.

Can this be for real?

If this doesn't show the complete lack of comprehension and understanding of the seriousness of the enemy we are fighting, the life and death struggle we are in, and the disastrous results of losing this war, nothing can.

To bring our country to a virtual political standstill over this prisoner issue makes us look like Nero playing his fiddle, as Rome burned—totally oblivious to what is going on in the real world. Neither we, nor any other country, can survive this internal strife.

Again I say, this does not mean that some of our politicians or media people are disloyal. It simply means that they are absolutely oblivious to the magnitude of the situation we are in, and into which the Muslim terrorists have been pushing us, for many years.

Remember, the Muslim terrorists' stated goal is to kill all infidels! That translates into all non-Muslims—not just in the United States, but throughout the world.

We are the last bastion of defense.

We have been criticized, for many years, as being "arrogant." That charge is valid, in at least one respect. We are arrogant in that we believe that we are so good, powerful, and smart; that we can win the hearts and minds of all those who attack us; and that with both hands tied behind our back, we can defeat anything bad in the world.

We can't.

If we don't recognize this, our Nation as we know it, will not survive, and no other free country in the world will survive, if we are defeated.

And finally, name any Muslim countries throughout the world that allow freedom of speech, freedom of thought, freedom of religion, freedom of the press, equal rights for anyone—let alone everyone, equal status, or any status for women.

This has been a long way of saying that we must be united on this war, or we will be equated in the history books to the self-inflicted fall of the Roman Empire. If, that is, the Muslim leaders will allow history books to be written, or read.

Democracies don't have their freedoms taken away from them by some external military force. Instead, they give their freedoms away, politically correct piece by politically correct piece.

And, they are giving those freedoms away to those who have shown, worldwide, that they abhor freedom, and will not apply it to you, or even to themselves, once they are in power.

They have universally shown that when they have taken over, they then start brutally killing each other, over who will be the few who control the masses. Will we ever stop hearing from the politically correct, about the "peaceful Muslims"?

I close on a hopeful note, by repeating what I said above. If we are united, there is no way that we can lose. I hope the factions in our country will begin to focus on the critical situation we are in, and will unite to save our country. It is your future we are talking about! Do whatever you can to preserve it.

After reading the above, we all must do this not only for ourselves, but our children, our grandchildren, our country, and the World.

Whether Democrat or Republican, conservative or liberal, and that includes the politicians and media of our country, and the free World!

Those are the words of retired MG Vernon Chong, U.S. Air Force.

I think it brings to mind the very important facts that face us today. We are at war. The war is real. The threats to our country and to our freedom are real. We must come together as a nation and recognize this threat, or we stand to lose the very principles, the very freedom, we each cherish so much.

I yield the floor.

CONCLUSION OF MORNING BUSINESS

The ACTING PRESIDENT pro tempore. Morning business is now closed.

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

The ACTING PRESIDENT pro tempore. Under the previous order, the

Senate will resume consideration of S. 1042, which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1042) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

Pending:

Graham amendment No. 2515, relating to the review of the status of detainees of the United States Government.

Warner/Frist amendment No. 2518, to clarify and recommend changes to the policy of the United States on Iraq and to require reports on certain matters relating to Iraq.

Levin amendment No. 2519, to clarify and recommend changes to the policy of the United States on Iraq and to require reports on certain matters relating to Iraq.

Bingaman amendment No. 2523 (to amendment No. 2515), to provide for judicial review of detention of enemy combatants.

Graham amendment No. 2524 (to amendment No. 2515), in the nature of a substitute.

The ACTING PRESIDENT pro tempore. There will be 30 minutes for debate equally divided between the bill's managers.

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, first, I advise the Senate that last night for a period of 2 hours we had a very thorough debate on amendments of my distinguished colleague from Michigan and amendments that I put in with our distinguished leader, Mr. FRIST, and I believe cosponsors of Senator LEVIN, and we were joined by another colleague, Senator LIEBERMAN. Of course, Senators don't have access to that RECORD yet. But I assure you the merits of both cases were thoroughly stated.

As we have 30 minutes divided between the two of us this morning, my distinguished friend and I talked this morning, and he expressed an interest in having his amendment voted first. As a matter of comity and courtesy, we offer that to the Senator from Michigan. If that is his desire, I ask unanimous consent that be the order in which votes be taken.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. LEVIN. Mr. President, that would be acceptable, indeed, and I think preferable from every perspective. It is our understanding there is a suggestion to that effect from the Republican side. Whether it is from the Republican side or our side, I think it is wise. I accept the suggestion and do so with thanks to my good friend from Virginia.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Mr. WARNER. Mr. President, to inform the Senate, there are two amendments. Basically, as we will explain momentarily, the amendments are almost identical except in three areas. They are important areas, and we will go into that in some detail here in a moment.

The Levin amendment will go first, and ours will go second. There will be votes on both amendments.

We had the option to draw up an entirely different amendment, to go into many ramifications and many issues that we feel very strongly about on this side of the aisle. I take the responsibility. Or if anyone wishes to share it with me, they may well do so. I felt that it is so critical at this point in history with regard to the United States policy towards Iraq, together with our coalition forces, that the extent to which the Senate could speak with one voice had great merit. Therefore, essentially on this side we looked at the amendment of the Senator from Michigan and made, in my judgment, several minor modifications and one very significant modification. That is the standing.

As Senators vote, they will note the similarity between these amendments. But I felt the Senator from Michigan and I have a very strong feeling that the basic purpose of these amendments—whichever one is voted and survives—is to send the strongest possible message to the Iraqi people, the new government that will be formed subsequent to December 15, that our country, together with our coalition partners, has made enormous efforts, enormous sacrifice of life and limb, contributions by the people not only from our country but a number of other countries, to let them establish for themselves a form of democracy.

I believe we have made great progress with several transitional governments, a referendum vote, and now on the verge of what I perceive—and I think the Senator from Michigan shares the view—of an even stronger and larger vote to elect the permanent government.

The next 120 days, in my judgment, are critical—absolutely critical. Every word that comes from the Congress of the United States will be carefully scrutinized not only by the Iraqi people but by the nations throughout the Middle East and indeed our coalition partners. We have to be extremely careful in the formulation of those words and messages so they are not misconstrued.

I feel, with all due respect to the amendment originally drawn by my colleague from Michigan and others, that the last paragraph phrases a timetable of withdrawal requiring the President to file a report every 90 days giving specific dates and other factors.

That is the major change between these two amendments. The amendment of the Senator from Virginia strikes that last paragraph. I will go into further detail momentarily as to exactly why. We made the effort to have a bipartisan amendment. It is forward-looking.

Again, it is my intention to have the amendment on this side of the aisle not contain any language that could be misconstrued as a timetable which could establish and set up a fragile situation, particularly on the eve of another election on December 15.

I thank my distinguished colleague from Michigan. I commend him for much of the language he included in the amendment. I was privileged to draw on it. However, it sends that message on which we have absolute unity to the Iraqi people: We mean business. We have done our share. Now the challenge is up to you.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan.

Mr. LEVIN. I yield myself 1 minute, and then I will yield to Senator KENNEDY.

I thank the Senator from Virginia for his words. There is no timetable for withdrawal in the last paragraph. I, like him, urge Members to read that paragraph. It simply says that the same type of schedule which we all agreed to in paragraph 6 should also be proposed with an estimated schedule relative to phased withdrawal if—if—the conditions which we all agree upon should be set forth in the report have been achieved.

That is what it does. That is an important message. It is not a withdrawal timetable in paragraph 7, but each Member will reach their own conclusion on that. It sends an important message, but it is not the one the Senator from Virginia has characterized.

I yield 5 minutes to the Senator from Massachusetts.

Mr. KENNEDY. Mr. President, I thank the Senator for his strong leadership.

I strongly support the Levin-Biden-Reid amendment on Iraq. Our amendment expresses the clear sense of the Senate that the U.S. military forces should not stay in Iraq indefinitely. Although many disagree with the President about the war, we all honor the service and sacrifice and heroism of our brave men and women in Iraq. Our Armed Forces are serving courageously in Iraq, under enormously difficult circumstances. The policy of our Government must be worthy of their sacrifice. Unfortunately, it is not. The American people know it.

An open-ended commitment in Iraq is not in America's interests, and it is not in Iraq's interests, either. Our amendment clearly states that the commitment of our military is not open-ended. The goal of our military should be to establish a legitimate functioning government, not to dictate to it. If we want the new Iraqi government to succeed, we need to give Iraq back to the Iraqi people. We need to let Iraq make its own political decisions without American interference. We need to train the Iraqi security forces, but we also need to reduce our military presence.

There is widespread recognition that our overwhelming military presence is inflaming the insurgency. After the election of a permanent Iraqi government, we should begin a substantial and continuing drawdown of U.S. forces. If additional forces are necessary during our drawdown or when our drawdown is completed, they should have the support of the Iraqi people and the United Nations and come from the international community. American troops can participate, but, unlike the current force, it should not consist mostly of Americans or be led by Americans.

All nations of the world have an interest in Iraq's stability and territorial integrity. Defenders of President Bush's failed stay-the-course policy pretend that alternatives such as this are a cut-and-run strategy. They are not.

Last February, General Abizaid said what makes it hard for the United States is that an overbearing presence or a larger than acceptable footprint in the region works against you. No one accused him of cut and run.

Last July, GEN George Casey, commanding general of the Multi-National Force in Iraq, talked about fairly substantial reduction of troops in 2006. No one has accused him of cut and run.

Just last month, America's Ambassador to Iraq said it is possible we can adjust our courses, downsizing them in the course of next year. No one has accused him of cut and run.

This month, Mel Laird, Secretary of Defense of the Nixon administration, wrote in the current issue of the Journal of Foreign Affairs that our presence is what feeds the insurgency, and our gradual withdrawal would feed the confidence and the ability of average Iraqis to stand up to the insurgency. No one has accused him of cut and run.

We need to have an open and honest debate about our future military presence in Iraq. An open-ended commitment of our military forces does not serve America's best interests and does not serve Iraqi's interests, either. Our current misguided policy has turned Iraq into a quagmire with no end in sight. It is urgent for the administration to adopt an honest and effective plan to end the violence and stabilize Iraq so that our soldiers can begin to come home with dignity and honor.

Last Friday, President Bush outlined a new bumper-sticker slogan for his misguided policy in Iraq: "Strategy for Victory." But it is still the same failed strategy. He should have called it "Strategy for Quagmire."

Our men and women in uniform deserve better, much better from this President. So does the Nation. We can do better. I urge my colleagues to support the Levin-Biden-Reid amendment.

I yield back the remainder of my time.

AMENDMENTS NOS. 1345, 1354, 1468, AS MODIFIED; 1500, AS MODIFIED; 1518, 1522, AS MODIFIED; 1538, 1898, 1902, 2525, 2526, 2527, 2528, 2529, 2530, 2531, 2532, 2533, 2534, 2535, 2536, 2537, 2538, 2539, 2540, 2541, 2542, 2543, 2544, 2545, 2546, 2547, 2548, 2549, 2550, 2551, 2552, 2553, 2554, 2555, 2556, 2557, 2558, 2559, 2560, 2561, 2562, 2563, 2564, 2565, 2566, 2567, 2568, 2569, 2570, 2571, 2572, 2573, 2574, 2575, 2576, 2577, 2578, 2579, EN BLOC

Mr. WARNER. At this juncture, the distinguished Senator from Michigan and I would like to offer our managers' package to this bill. I send a managers' package of some 64 amendments to the desk. They have been cleared by both sides.

Mr. LEVIN. The amendments have been cleared on our side.

Mr. WARNER. I ask unanimous consent that the Senate consider the amendments en bloc, the amendments en bloc be agreed to, the motions to reconsider be laid upon the table, and any statements relating to any of these individual amendments be printed in the RECORD.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The amendments were agreed to, as follows:

AMENDMENT NO. 1345

(Purpose: To provide for expedited action in bid protests conducted under OMB Circular A-76)

On page 292, between lines 15 and 16, insert the following:

SEC. 1106. BID PROTESTS BY FEDERAL EMPLOYEES IN ACTIONS UNDER OFFICE OF MANAGEMENT AND BUDGET CIRCULAR A-76.

(a) ELIGIBILITY TO PROTEST.—(1) Section 3551(2) of title 31, United States Code, is amended to read as follows:

"(2) The term 'interested party'—

"(A) with respect to a contract or a solicitation or other request for offers described in paragraph (1), means an actual or prospective bidder or offeror whose direct economic interest would be affected by the award of the contract or by failure to award the contract; and

"(B) with respect to a public-private competition conducted under Office of Management and Budget Circular A-76 regarding performance of an activity or function of a Federal agency, includes—

"(i) any official who submitted the agency tender in such competition; and

"(ii) any one person who, for the purpose of representing them in a protest under this subchapter that relates to such competition, has been designated as their agent by a majority of the employees of such Federal agency who are engaged in the performance of such activity or function.".

(2)(A) Subchapter V of chapter 35 of such title is amended by adding at the end the following new section:

"§3557. Expedited action in protests for Public-Private competitions

"For protests in cases of public-private competitions conducted under Office of Management and Budget Circular A-76 regarding performance of an activity or function of Federal agencies, the Comptroller General shall administer the provisions of this subchapter in a manner best suited for expediting final resolution of such protests and final action in such competitions.".

(B) The chapter analysis at the beginning of such chapter is amended by inserting after the item relating to section 3556 the following new item:

"3557. Expedited action in protests for public-private competitions.".

(b) RIGHT TO INTERVENE IN CIVIL ACTION.—Section 1491(b) of title 28, United States Code, is amended by adding at the end the following new paragraph:

"(5) If a private sector interested party commences an action described in paragraph (1) in the case of a public-private competition conducted under Office of Management and Budget Circular A-76 regarding performance of an activity or function of a Federal agency, then an official or person described in section 3551(2)(B) of title 31 shall be entitled to intervene in that action.".

(c) APPLICABILITY.—Subparagraph (B) of section 3551(2) of title 31, United States Code (as added by subsection (a)), and paragraph (5) of section 1491(b) of title 28, United States Code (as added by subsection (b)), shall apply to—

(1) protests and civil actions that challenge final selections of sources of performance of an activity or function of a Federal agency that are made pursuant to studies initiated under Office of Management and Budget Circular A-76 on or after January 1, 2004; and

(2) any other protests and civil actions that relate to public-private competitions initiated under Office of Management and Budget Circular A-76 on or after the date of the enactment of this Act.

AMENDMENT NO. 1354

(Purpose: To authorize the participation of members of the Armed Forces in the Paralympic Games)

At the appropriate place in title V, insert the following:

SEC. ___. PARTICIPATION OF MEMBERS OF THE ARMED FORCES IN THE PARALYMPIC GAMES.

Section 717(a)(1) of title 10, United States Code, is amended by striking "and Olympic Games" and inserting ", Olympic Games, and Paralympic Games,".

AMENDMENT NO. 1468, AS MODIFIED

(Purpose: Relating to contracting in the procurement of certain supplies and services)

At the end of subtitle A of title VIII, add the following:

SEC. 807. CONTRACTING FOR PROCUREMENT OF CERTAIN SUPPLIES AND SERVICES.

(a) MODIFICATION OF LIMITATION ON CONVERSION TO CONTRACTOR PERFORMANCE.—Section 8014(a)(3) of the Department of Defense Appropriations Act, 2005 (Public Law 108-287; 118 Stat. 972) is amended—

(1) in subparagraph (A), by inserting ", payment that could be used in lieu of such a plan, health savings account, or medical savings account" after "health insurance plan"; and

(2) in subparagraph (B), by striking "that requires" and all that follows through the end and inserting "that does not comply with the requirements of any Federal law governing the provision of health care benefits by Government contractors that would be applicable if the contractor performed the activity or function under the contract.".

AMENDMENT NO. 1500, AS MODIFIED

(Purpose: To require a strategy and report by the Secretary of Defense regarding the impact on small businesses of the requirement to use radio frequency identifier technology)

On page 237, after line 17, insert the following:

SEC. 846. RADIO FREQUENCY IDENTIFIER TECHNOLOGY.

(a) SMALL BUSINESS STRATEGY.—As part of implementing its requirement that contractors use radio frequency identifier technology, the Secretary of Defense shall develop and implement a strategy to educate the small business community regarding radio frequency identifier technology requirements, compliance, standards, and opportunities.

(b) REPORTING.—Not later than 180 days after the date of enactment of this Act, the Secretary of Defense shall submit a report to the Committee on Small Business and Entrepreneurship and the Committee on Armed Services of the Senate and the Committee on Small Business and the Committee on Armed Services of the House of Representatives detailing the status of the efforts by the Secretary of Defense to establish requirements for radio frequency identifier technology used in Department of Defense contracting, including—

(A) standardization of the data required to be reported by such technology; and

(B) standardization of the manufacturing quality required for such technology; and

(C) the status of the efforts of the Secretary of Defense to develop and implement a strategy to educate the small business community, as required by subsection (a)(2).

AMENDMENT NO. 1518

(Purpose: To require lenders to include information regarding the mortgage and foreclosure rights of servicemembers under the Servicemembers Civil Relief Act)

At the end of subtitle E of title VI, add the following:

SEC. 653. SERVICEMEMBERS RIGHTS UNDER THE HOUSING AND URBAN DEVELOPMENT ACT OF 1968.

(a) IN GENERAL.—Section 106(c)(5)(A)(ii) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)) is amended—

(1) in subclause (II), by striking "; and" and inserting a semicolon;

(2) in subclause (III), by striking the period and inserting "; and"; and

(3) by adding at the end the following:

"(IV) notify the homeowner by a statement or notice, written in plain English by the Secretary of Housing and Urban Development, in consultation with the Secretary of Defense and the Secretary of the Treasury, explaining the mortgage and foreclosure rights of servicemembers, and the dependents of such servicemembers, under the Servicemembers Civil Relief Act (50 U.S.C. App. 501 et seq.), including the toll-free military one source number to call if servicemembers, or the dependents of such servicemembers, require further assistance.".

(b) NO EFFECT ON OTHER LAWS.—Nothing in this section shall relieve any person of any obligation imposed by any other Federal, State, or local law.

(c) DISCLOSURE FORM.—Not later than 150 days after the date of enactment of this Act, the Secretary of Housing and Urban Development shall issue a final disclosure form to fulfill the requirement of section 106(c)(5)(A)(ii)(IV) of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701x(c)(5)(A)(ii)).

(d) EFFECTIVE DATE.—The amendments made under subsection (a) shall take effect 150 days after the date of enactment of this Act.

AMENDMENT NO. 1522, AS MODIFIED

At the end of subtitle D of title VIII, add the following:

SEC. 834. TRAINING FOR DEFENSE ACQUISITION WORKFORCE ON THE REQUIREMENTS OF THE BERRY AMENDMENT.

(a) TRAINING DURING FISCAL YEAR 2006.—The Secretary of Defense shall ensure that each member of the defense acquisition workforce who participates personally and substantially in the acquisition of textiles on a regular basis receives training during fiscal year 2006 on the requirements of section 2533a of title 10, United States Code (commonly referred to as the "Berry Amendment"), and the regulations implementing that section.

(b) INCLUSION OF INFORMATION IN NEW TRAINING PROGRAMS.—The Secretary shall ensure that any training program for the defense acquisition workforce development or implemented after the date of the enactment of this Act includes comprehensive information on the requirements described in subsection (a).

AMENDMENT NO. 1538

(Purpose: To provide a termination date for the Small Business Competitiveness Demonstration Program)

On page 237, after line 17, insert the following:

SEC. 846. TERMINATION OF PROGRAM.

Section 711(c) of the Small Business Competitive Demonstration Program Act of 1988 (15 U.S.C. 644 note) is amended by inserting after "January 1, 1989" the following: ", and shall terminate on the date of enactment of the National Defense Authorization Act for Fiscal Year 2006".

AMENDMENT NO. 1898

(Purpose: To authorize the disposal and sale to qualified entities of up to 8,000,000 pounds of tungsten ores and concentrates from the National Defense Stockpile)

On page 379, after line 22, add the following:

SEC. 3302. AUTHORIZATION FOR DISPOSAL OF TUNGSTEN ORES AND CONCENTRATES.

(a) DISPOSAL AUTHORIZED.—The President may dispose of up to 8,000,000 pounds of contained tungsten in the form of tungsten ores and concentrates from the National Defense Stockpile in fiscal year 2006.

(b) CERTAIN SALES AUTHORIZED.—The tungsten ores and concentrates disposed under subsection (a) may be sold to entities with ore conversion or tungsten carbide manufacturing or processing capabilities in the United States.

AMENDMENT NO. 1902

(Purpose: To acquire a report on records maintained by the Department of Defense on civilian casualties in Afghanistan and Iraq)

At the appropriate place in the bill, insert:

REPORT

SEC. . Not later than 90 days after enactment of this Act, the Secretary of Defense shall submit a report to the Committee on Armed Services and the Committee on Appropriations with the following information—

(a) Whether records of civilian casualties in Afghanistan and Iraq are kept by United States Armed Forces, and if so, how and from what sources this information is collected, where it is kept, and who is responsible for maintaining such records.

(b) Whether such records contain (1) any information relating to the circumstances under which the casualties occurred and whether they were fatalities or injuries; (2) if any condolence payment, compensation, or assistance was provided to the victim or to the victim's family; and (3) any other information relating to the casualties.

AMENDMENT NO. 2525

(Purpose: To provide for the temporary inapplicability of the Berry Amendment to procurements of specialty metals that are used to produce force protection equipment needed to prevent combat fatalities in Iraq and Afghanistan)

On page 213, between lines 2 and 3, insert the following:

SEC. 807. TEMPORARY INAPPLICABILITY OF BERRY AMENDMENT TO PROCUREMENTS OF SPECIALTY METALS USED TO PRODUCE FORCE PROTECTION EQUIPMENT.

(a) IN GENERAL.—Section 2533a(a) of title 10, United States Code, shall not apply to the procurement, during the 2-year period beginning on the date of the enactment of this Act, of specialty metals if such specialty metals are used to produce force protection equipment needed to prevent combat fatalities in Iraq or Afghanistan.

(b) TREATMENT OF PROCUREMENTS WITHIN PERIOD.—For the purposes of subsection (a), a procurement shall be treated as being made during the 2-year period described in that subsection to the extent that funds are obligated by the Department of Defense for that procurement during that period.

AMENDMENT NO. 2526

(Purpose: To express the sense of the Senate with regard to manned space flight)

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE REGARDING MANNED SPACE FLIGHT.

(a) FINDINGS.—The Congress finds that—

(1) human spaceflight preeminence allows the United States to project leadership around the world and forms an important component of United States national security;

(2) continued development of human spaceflight in low-Earth orbit, on the Moon, and beyond adds to the overall national strategic posture;

(3) human spaceflight enables continued stewardship of the region between the earth and the Moon—an area that is critical and of growing national and international security relevance;

(4) human spaceflight provides unprecedented opportunities for the United States to lead peaceful and productive international relationships with the world community in support of United States security and geopolitical objectives;

(5) a growing number of nations are pursuing human spaceflight and space-related capabilities, including China and India;

(6) past investments in human spaceflight capabilities represent a national resource that can be built upon and leveraged for a broad range of purposes, including national and economic security; and

(7) the industrial base and capabilities represented by the Space Transportation System provide a critical dissimilar launch capability for the nation.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that it is in the national security interest of the United States to maintain preeminence in human spaceflight.

AMENDMENT NO. 2527

(Purpose: To require an annual report on the costs incurred by the Department of Defense in implementing or supporting resolutions of the United Nations Security Council)

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. ANNUAL REPORT ON COSTS TO CARRY OUT UNITED NATIONS RESOLUTIONS.

(a) REQUIREMENT FOR ANNUAL REPORT.—The Secretary of Defense and the Secretary of State shall submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives an annual report that sets forth all direct and indirect costs (including incremental costs) incurred by the Department of Defense during the preceding year in implementing or supporting any resolution adopted by the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, international peace enforcement operations, monitoring missions, observer missions, or humanitarian missions undertaken by the Department of Defense. Each such report shall include an aggregate of all such Department of Defense costs by operation or mission, the percentage of the United States contribution by operation or mission, and the total cost of each operation or mission.

(b) COSTS FOR ASSISTING FOREIGN TROOPS.—The Secretary of Defense and the Secretary of State shall detail in each annual report required by this section all direct and indirect costs (including incremental costs) incurred in training, equipping, and otherwise assisting, preparing, resourcing, and transporting foreign troops for implementing or supporting any resolution adopted by the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, international peace enforcement operations, monitoring missions, observer missions, or humanitarian missions.

(c) CREDIT AND COMPENSATION.—The Secretary of Defense and the Secretary of State shall detail in each annual report required by this section all efforts made to seek credit against past United Nations expenditures and all efforts made to seek compensation from the United Nations for costs incurred by the Department of Defense in implementing and supporting United Nations activities.

(d) FORM OF REPORT.—Each annual report required by this section shall be submitted in unclassified form, but may include a classified annex.

AMENDMENT NO. 2528

(Purpose: To provide for the Administrator of the Small Business Administration's determination)

On page 237, after line 17, insert the following:

SEC. 846. EXCLUSION OF CERTAIN SECURITY EXPENSES FROM CONSIDERATION FOR PURPOSE OF SMALL BUSINESS SIZE STANDARDS.

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)), is amended by adding at the end the following:

"(4) EXCLUSION OF CERTAIN SECURITY EXPENSES FROM CONSIDERATION FOR PURPOSE OF SMALL BUSINESS SIZE STANDARDS.—

"(A) DETERMINATION REQUIRED.—Not later than 30 days after the date of enactment of this paragraph, the Administrator shall review the application of size standards established pursuant to paragraph (2) to small business concerns that are performing contracts in qualified areas and determine whether it would be fair and appropriate to exclude from consideration in the average annual gross receipts of such small business concerns any payments made to such small business concerns by Federal agencies to reimburse such small business concerns for the cost of subcontracts entered for the sole purpose of providing security services in a qualified area.

"(B) ACTION REQUIRED.—Not later than 60 days after the date of enactment of this paragraph, the Administrator shall either—

"(i) initiate an adjustment to the size standards, as described in subparagraph (A), if the Administrator determines that such an adjustment would be fair and appropriate; or

"(ii) provide a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives explaining in detail the basis for the determination by the Administrator that such an adjustment would not be fair and appropriate.

"(C) QUALIFIED AREAS.—In this paragraph, the term 'qualified area' means—

"(i) Iraq,

"(ii) Afghanistan, and

"(iii) any foreign country which included a combat zone, as that term is defined in section 112(c)(2) of the Internal Revenue Code of 1986, at the time of performance of the relevant Federal contract or subcontract.".

AMENDMENT NO. 2529

(Purpose: To encourage small business contracting in overseas procurements)

On page 237, after line 17, insert the following:

SEC. 846. SMALL BUSINESS CONTRACTING IN OVERSEAS PROCUREMENTS.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

"(3) SMALL BUSINESS CONTRACTING IN OVERSEAS PROCUREMENTS.—

"(A) STATEMENT OF CONGRESSIONAL POLICY.—It is the policy of the Congress that Federal agencies shall endeavor to meet the contracting goals established under this subsection, regardless of the geographic area in which the contracts will be performed.

"(B) AUTHORIZATION TO USE CONTRACTING MECHANISMS.—Federal agencies are authorized to use any of the contracting mechanisms authorized in this Act for the purpose of complying with the Congressional policy set forth in subparagraph (A).

"(C) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than 1 year after the date of enactment of this paragraph, the Administrator and the Chief Counsel for Advocacy shall submit to the Committee on Small Business and Entrepreneurship of the Senate and Committee on Small Business of the House of Representatives a report on the activities undertaken by Federal agencies, offices, and departments to carry out this paragraph.".

AMENDMENT NO. 2530

(Purpose: To ensure fair access to multiple-award contracts)

On page 237, after line 17, insert the following:

SEC. 846. FAIR ACCESS TO MULTIPLE-AWARD CONTRACTS.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

"(3) FAIR ACCESS TO MULTIPLE-AWARD CONTRACTS.—

"(A) STATEMENT OF CONGRESSIONAL POLICY.—It is the policy of the Congress that Federal agencies shall endeavor to meet the contracting goals established under this subsection with regard to orders under multiple-award contracts, including Federal Supply Schedule contracts and multi-agency contracts.

"(B) AUTHORIZATION FOR LIMITED COMPETITION.—The head of a contracting agency may include in any contract entered under section 2304a(d)(1)(B) or 2304b(e) of title 10, United States Code, a clause setting aside a specific share of awards under such contract pursuant to a competition that is limited to small business concerns, if the head of the contracting agency determines that such limitation is necessary to comply with the congressional policy stated in subparagraph (A).

"(C) REPORT REQUIREMENT.—

"(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Administrator shall submit a report on the level of participation of small business concerns in multiple-award contracts, including Federal Supply Schedule contracts, to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

"(ii) CONTENTS.—The report required by clause (i) shall include, for the most recent 2-year period for which data are available—

"(I) the total number of multiple-award contracts;

"(II) the total number of small business concerns that received multiple-award contracts;

"(III) the total number of orders under multiple-award contracts;

"(IV) the total value of orders under multiple-award contracts;

"(V) the number of orders received by small business concerns under multiple-award contracts;

"(VI) the value of orders received by small business concerns under multiple-award contracts;

"(VII) the number of small business concerns that received orders under multiple-award contracts; and

"(VIII) such other information as may be relevant.".

AMENDMENT NO. 2531

(Purpose: To address research and development efforts for purposes of small business research)

On page 218, strike line 1 and all that follows through page 220, line 5, and insert the following:

SEC. 814. RESEARCH AND DEVELOPMENT EFFORTS FOR PURPOSES OF SMALL BUSINESS RESEARCH.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

"(x) RESEARCH AND DEVELOPMENT FOCUS.—

"(1) REVISION AND UPDATE OF CRITERIA AND PROCEDURES OF IDENTIFICATION.—In carrying out subsection (g), the Secretary of Defense shall, not less often than once every 4 years, revise and update the criteria and procedures utilized to identify areas of the research and development efforts of the Department of Defense which are suitable for the provision of funds under the Small Business Innovation Research Program and the Small Business Technology Transfer Program.

"(2) UTILIZATION OF PLANS.—The criteria and procedures described in paragraph (1) shall be developed through the use of the most current versions of the following plans:

"(A) The joint warfighting science and technology plan required under section 270 of the National Defense Authorization Act for Fiscal Year 1997 (10 U.S.C. 2501 note).

"(B) The Defense Technology Area Plan of the Department of Defense.

"(C) The Basic Research Plan of the Department of Defense.

"(3) INPUT IN IDENTIFICATION OF AREAS OF EFFORT.—The criteria and procedures described in paragraph (1) shall include input in the identification of areas of research and development efforts described in that paragraph from Department of Defense program managers (PMs) and program executive officers (PEOs).

"(y) COMMERCIALIZATION PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary of Defense and the Secretary of each military department is authorized to create and administer a 'Commercialization Pilot Program' to accelerate the transition of technologies, products, and services developed under the Small Business Innovation Research Program to Phase III, including the acquisition process.

"(2) IDENTIFICATION OF RESEARCH PROGRAMS FOR ACCELERATED TRANSITION TO ACQUISITION PROCESS.—In carrying out the Commercialization Pilot Program, the Secretary of Defense and the Secretary of each military department shall identify research programs of the Small Business Innovation Research Program that have the potential for rapid transitioning to Phase III and into the acquisition process.

"(3) LIMITATION.—No research program may be identified under paragraph (2), unless the Secretary of the military department concerned certifies in writing that the successful transition of the program to Phase III and into the acquisition process is expected to meet high priority military requirements of such military department.

"(4) FUNDING.—For payment of expenses incurred to administer the Commercialization Pilot Program under this subsection, the Secretary of Defense and each Secretary of a military department is authorized to use not more than an amount equal to 1 percent of the funds available to the Department of Defense or the military department pursuant to the Small Business Innovation Research Program. Such funds—

"(A) shall not be subject to the limitations on the use of funds in subsection (f)(2); and

"(B) shall not be used to make Phase III awards.

"(5) EVALUATIVE REPORT.—At the end of each fiscal year, the Secretary of Defense and each Secretary of a military department shall submit to the Committee on Armed Services and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Armed Services and the Committee on Small Business of the House of Representatives an evaluative report regarding activities under the Commercialization Pilot Program. The report shall include—

"(A) an accounting of the funds used in the Commercialization Pilot Program;

"(B) a detailed description of the Commercialization Pilot Program, including incentives and activities undertaken by acquisition program managers, program executive officers, and by prime contractors; and

"(C) a detailed compilation of results achieved by the Commercialization Pilot Program, including the number of small business concerns assisted and a number of inventions commercialized.

"(6) SUNSET.—The pilot program under this subsection shall terminate at the end of fiscal year 2009.".

(b) IMPLEMENTATION OF EXECUTIVE ORDER 13329.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (b)—

(A) in paragraph (6), by striking "and" at the end;

(B) in paragraph (7), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(8) to provide for and fully implement the tenets of Executive Order 13329 (Encouraging Innovation in Manufacturing).";

(2) in subsection (g)—

(A) in paragraph (9), by striking "and" at the end;

(B) in paragraph (10), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(11) provide for and fully implement the tenets of Executive Order 13329 (Encouraging Innovation in Manufacturing)."; and

(3) in subsection (o)—

(A) in paragraph (14), by striking "and" at the end;

(B) in paragraph (15), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(16) provide for and fully implement the tenets of Executive Order 13329 (Encouraging Innovation in Manufacturing).".

(c) TESTING AND EVALUATION AUTHORITY.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) the term 'commercial applications' shall not be construed to exclude testing and evaluation of products, services, or technologies for use in technical or weapons systems, and further, awards for testing and evaluation of products, services, or technologies for use in technical or weapons systems may be made in either the second or the third phase of the Small Business Innovation Research Program and of the Small Business Technology Transfer Program, as defined in this subsection.".

AMENDMENT NO. 2532

(Purpose: To clarify that the Small Business Administration has authority to provide disaster relief for small business concerns damaged by drought)

On page 237, after line 17, insert the following:

SEC. 846. DISASTER RELIEF FOR SMALL BUSINESS CONCERNS DAMAGED BY DROUGHT.

(a) DROUGHT DISASTER AUTHORITY.—

(1) DEFINITION OF DISASTER.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(A) by inserting "(1)" after "(k)"; and

(B) by adding at the end the following:

"(2) For purposes of section 7(b)(2), the term 'disaster' includes—

"(A) drought; and

"(B) below average water levels in the Great Lakes, or on any body of water in the United States that supports commerce by small business concerns.".

(2) DROUGHT DISASTER RELIEF AUTHORITY.—Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended—

(A) by inserting "(including drought), with respect to both farm-related and nonfarm-related small business concerns," before "if the Administration"; and

(B) in subparagraph (B), by striking "the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961)" and inserting the following: "section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), in which case, assistance under this paragraph may be provided to farm-related and nonfarm-related small business concerns, subject to the other applicable requirements of this paragraph".

(b) LIMITATION ON LOANS.—From funds otherwise appropriated for loans under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), not more than $9,000,000 may be used during each of fiscal years 2005 through 2008, to provide drought disaster loans to nonfarm-related small business concerns in accordance with this section and the amendments made by this section.

(c) PROMPT RESPONSE TO DISASTER REQUESTS.—Section 7(b)(2)(D) of the Small Business Act (15 U.S.C. 636(b)(2)(D)) is amended by striking "Upon receipt of such certification, the Administration may" and inserting "Not later than 30 days after the date of receipt of such certification by a Governor of a State, the Administration shall respond in writing to that Governor on its determination and the reasons therefore, and may".

(d) RULEMAKING.—Not later than 45 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final rules to carry out this section and the amendments made by this section.

AMENDMENT NO. 2533

(Purpose: To require the Secretary of Defense to maintain a website listing information on Federal contractor misconduct, and to require a report on Federal sole source contracts related to Iraq reconstruction)

At the appropriate place in title VIII, insert the following:

SEC. . ENSURING TRANSPARENCY IN FEDERAL CONTRACTING.

(a) PUBLICATION OF INFORMATION ON FEDERAL CONTRACTOR PENALTIES AND VIOLATIONS.—

(1) The Secretary of Defense shall maintain a publicly-available website that provides information on instances in which major contractors have been fined, paid penalties or restitution, settled, pled guilty to, or had judgments entered against them in connection with allegations of improper conduct. The website shall be updated not less than once a year.

(2) For the purpose of this subsection, a major contractor is a contractor that receives at least $100,000,000 in Federal contracts in the most recent fiscal year for which data are available.

(b) REPORT ON FEDERAL SOLE SOURCE CONTRACTS RELATED TO IRAQ RECONSTRUCTION.—

(1) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall submit to Congress a report on all sole source contracts in excess of $2,000,000 entered into by executive agencies in connection with Iraq reconstruction from January 1, 2003, through the date of the enactment of this Act.

(2) CONTENT.—The report submitted under paragraph (1) shall include the following information with respect to each such contract:

(A) The date the contract was awarded.

(B) The contract number.

(C) The name of the contractor.

(D) The amount awarded.

(E) A brief description of the work to be performed under the contract.

(3) EXECUTIVE AGENCY DEFINED.—In this subsection, the term "executive agency" has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

AMENDMENT NO. 2534

(Purpose: To provide for improved assessment of public-private competition for work performed by civilian employees of the Department of Defense)

On page 213, between lines 2 and 3, insert the following:

SEC. 807. PUBLIC-PRIVATE COMPETITION FOR WORK PERFORMED BY CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) LIMITATION.—Section 2461(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) Notwithstanding subsection (d), a function of the Department of Defense performed by 10 or more civilian employees may not be converted, in whole or in part, to performance by a contractor unless the conversion is based on the results of a public-private competition process that—

"(i) formally compares the cost of civilian employee performance of that function with the costs of performance by a contractor;

"(ii) creates an agency tender, including a most efficient organization plan, in accordance with Office of Management and Budget Circular A-76, as implemented on May 29, 2003; and

"(iii) requires continued performance of the function by civilian employees unless the competitive sourcing official concerned determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of $10,000,000 or 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees.

"(B) Any function that is performed by civilian employees of the Department of Defense and is proposed to be reengineered, reorganized, modernized, upgraded, expanded, or changed in order to become more efficient shall not be considered a new requirement for the purpose of the competition requirements in subparagraph (A) or the requirements for public-private competition in Office of Management and Budget Circular A-76.

"(C) A function performed by more than 10 Federal Government employees may not be separated into separate functions for the purposes of avoiding the competition requirement in subparagraph (A) or the requirements for public-private competition in Office of Management and Budget Circular A-76.

"(D) The Secretary of Defense may waive the requirement for a public-private competition under subparagraph (A) in specific instances if—

"(i) the written waiver is prepared by the Secretary of Defense or the relevant Assistant Secretary of Defense, Secretary of a military department, or head of a Defense Agency;

"(ii) the written waiver is accompanied by a detailed determination that national security interests preclude compliance with the requirement for a public-private competition; and

"(iii) a copy of the waiver is published in the Federal Register within 10 working days after the date on which the waiver is granted, although use of the waiver need not be delayed until its publication.".

(b) INAPPLICABILITY TO BEST-VALUE SOURCE SELECTION PILOT PROGRAM.—Paragraph (5) of section 2461(b) of title 10, United States Code, as added by subsection (a), shall not apply with respect to the pilot program for best-value source selection for performance of information technology services authorized by section 336 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1444; 10 U.S.C. 2461 note).

(c) REPEAL OF SUPERSEDED LAW.—Section 327 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 10 U.S.C. 2461 note) is repealed.

SEC. 808. PERFORMANCE OF CERTAIN WORK BY FEDERAL GOVERNMENT EMPLOYEES.

(a) GUIDELINES.—

(1) IN GENERAL.—The Secretary of Defense shall prescribe guidelines and procedures for ensuring that consideration is given to using Federal Government employees on a regular basis for work that is performed under Department of Defense contracts and could be performed by Federal Government employees.

(2) CRITERIA.—The guidelines and procedures prescribed under paragraph (1) shall provide for special consideration to be given to contracts that—

(A) have been performed by Federal Government employees at any time on or after October 1, 1980;

(B) are associated with the performance of inherently governmental functions;

(C) were not awarded on a competitive basis; or

(D) have been determined by a contracting officer to be poorly performed due to excessive costs or inferior quality.

(b) NEW REQUIREMENTS.—

(1) LIMITATION ON REQUIRING PUBLIC-PRIVATE COMPETITION.—No public-private competition may be required under Office of Management and Budget Circular A-76 or any other provision of law or regulation before the performance of a new requirement by Federal Government employees commences, the performance by Federal Government employees of work pursuant to subsection (a) commences, or the scope of an existing activity performed by Federal Government employees is expanded. Office of Management and Budget Circular A-76 shall be revised to ensure that the heads of all Federal agencies give fair consideration to the performance of new requirements by Federal Government employees.

(2) CONSIDERATION OF FEDERAL GOVERNMENT EMPLOYEES.—The Secretary of Defense shall, to the maximum extent practicable, ensure that Federal Government employees are fairly considered for the performance of new requirements, with special consideration given to new requirements that include functions that—

(A) are similar to functions that have been performed by Federal Government employees at any time on or after October 1, 1980; or

(B) are associated with the performance of inherently governmental functions.

(c) USE OF FLEXIBLE HIRING AUTHORITY.—The Secretary shall include the use of the flexible hiring authority available through the National Security Personnel System in order to facilitate performance by Federal Government employees of new requirements and work that is performed under Department of Defense contracts.

(d) INSPECTOR GENERAL REPORT.—Not later than 180 days after the enactment of this Act, the Inspector General of the Department of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the compliance of the Secretary of Defense with the requirements of this section.

(e) DEFINITIONS.—In this section:

(1) The term "National Security Personnel System" means the human resources management system established under the authority of section 9902 of title 5, United States Code.

(2) The term "inherently governmental function" has the meaning given that term in section 5 of the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 112 Stat. 2384; 31 U.S.C. 501 note).

AMENDMENT NO. 2535

(Purpose: To express the sense of Congress that the President should take immediate steps to establish a plan to address the military and economic development of China)

At the appropriate place, insert the following:

SEC. _____. THE UNITED STATES-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION.

(a) FINDINGS.—Congress finds the following:

(1) The 2004 Report to Congress of the United States-China Economic and Security Review Commission states that—

(A) China's State-Owned Enterprises (SOEs) lack adequate disclosure standards, which creates the potential for United States investors to unwittingly contribute to enterprises that are involved in activities harmful to United States security interests;

(B) United States influence and vital long-term interests in Asia are being challenged by China's robust regional economic engagement and diplomacy;

(C) the assistance of China and North Korea to global ballistic missile proliferation is extensive and ongoing;

(D) China's transfers of technology and components for weapons of mass destruction (WMD) and their delivery systems to countries of concern, including countries that support acts of international terrorism, has helped create a new tier of countries with the capability to produce WMD and ballistic missiles;

(E) the removal of the European Union arms embargo against China that is currently under consideration in the European Union would accelerate weapons modernization and dramatically enhance Chinese military capabilities;

(F) China is developing a leading-edge military with the objective of intimidating Taiwan and deterring United States involvement in the Strait, and China's qualitative and quantitative military advancements have already resulted in a dramatic shift in the cross-Strait military balance toward China; and

(G) China's growing energy needs are driving China into bilateral arrangements that undermine multilateral efforts to stabilize oil supplies and prices, and in some cases may involve dangerous weapons transfers.

(2) On March 14, 2005, the National People's Congress approved a law that would authorize the use of force if Taiwan formally declares independence.

(b) SENSE OF CONGRESS.—

(1) PLAN.—It is the sense of Congress that the President should take immediate steps to establish a coherent and comprehensive plan to address the emergence of China economically, diplomatically, and militarily, to promote mutually beneficial trade relations with China, and to encourage China's adherence to international norms in the areas of trade, international security, and human rights.

(2) CONTENTS.—The plan should contain the following:

(A) Actions to address China's policy of undervaluing its currency, including—

(i) encouraging China to continue to upwardly revalue the Chinese yuan against the United States dollar;

(ii) allowing the yuan to float against a trade-weighted basket of currencies; and

(iii) concurrently encouraging United States trading partners with similar interests to join in these efforts.

(B) Actions to make better use of the World Trade Organization (WTO) dispute settlement mechanism and applicable United States trade laws to redress China's trade practices, including exchange rate manipulation, denial of trading and distribution rights, insufficient intellectual property rights protection, objectionable labor standards, subsidization of exports, and forced technology transfers as a condition of doing business. The United States Trade Representative should consult with our trading partners regarding any trade dispute with China.

(C) Actions to encourage United States diplomatic efforts to identify and pursue initiatives to revitalize United States engagement in East Asia. The initiatives should have a regional focus and complement bilateral efforts. The Asia-Pacific Economic Cooperation forum (APEC) offers a ready mechanism for pursuit of such initiatives.

(D) Actions by the administration to work with China to prevent proliferation of prohibited technologies and to secure China's agreement to renew efforts to curtail North Korea's commercial export of ballistic missiles.

(E) Actions by the Secretaries of State and Energy to consult with the International Energy Agency with the objective of upgrading the current loose experience-sharing arrangement whereby China engages in some limited exchanges with the organization, to a more structured arrangement.

(F) Actions by the administration to develop a coordinated, comprehensive national policy and strategy designed to maintain United States scientific and technological leadership and competitiveness, in light of the rise of China and the challenges of globalization.

(G) Actions to review laws and regulations governing the Committee on Foreign Investment in the United States (CFIUS), including exploring whether the definition of national security should include the potential impact on national economic security as a criterion to be reviewed, and whether the chairmanship of CFIUS should be transferred from the Secretary of the Treasury to a more appropriate executive branch agency.

(H) Actions by the President and the Secretaries of State and Defense to press strongly their European Union counterparts to maintain the EU arms embargo on China.

(I) Actions by the administration to discourage foreign defense contractors from selling sensitive military use technology or weapons systems to China. The administration should provide a comprehensive annual report to the appropriate committees of Congress on the nature and scope of foreign military sales to China, particularly sales by Russia and Israel.

AMENDMENT NO. 2536

(Purpose: To require a report on the development and utilization by the Department of Defense of robotics and unmanned ground vehicle systems)

At the end of subtitle E of title II, add the following:

SEC. ___. REPORT ON DEVELOPMENT AND USE OF ROBOTICS AND UNMANNED GROUND VEHICLE SYSTEMS.

(a) REPORT REQUIRED.—Not later than nine months after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report on the development and utilization of robotics and unmanned ground vehicle systems by the Department of Defense.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of the utilization of robotics and unmanned ground vehicle systems in current military operations.

(2) A description of the manner in which the development of robotics and unmanned ground vehicle systems capabilities supports current major acquisition programs of the Department of Defense.

(3) A detailed description, including budget estimates, of all Department programs and activities on robotics and unmanned ground vehicle systems for fiscal years 2004 through 2012, including programs and activities relating to research, development, test and evaluation, procurement, and operation and maintenance.

(4) A description of the long-term research and development strategy of the Department on technology for the development and integration of new robotics and unmanned ground vehicle systems capabilities in support of Department missions.

(5) A description of any planned demonstration or experimentation activities of the Department that will support the development and deployment of robotics and unmanned ground vehicle systems by the Department.

(6) A statement of the Department organizations currently participating in the development of new robotics or unmanned ground vehicle systems capabilities, including the specific missions of each such organization in such efforts.

(7) A description of the activities of the Department to collaborate with industry, academia, and other Government and nongovernment organizations in the development of new capabilities in robotics and unmanned ground vehicle systems.

(8) An assessment of the short-term and long-term ability of the industrial base of the United States to support the production of robotics and unmanned ground vehicle systems to meet Department requirements.

(9) An assessment of the progress being made to achieve the goal established by section 220(a)(2) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–38) that, by 2015, one-third of operational ground combat vehicles be unmanned.

(10) An assessment of international research, technology, and military capabilities in robotics and unmanned ground vehicle systems.

AMENDMENT NO. 2537

(Purpose: To modify and extend the pilot program on share-in-savings contracts)

At the end of subtitle A of title VIII, add the following:

SEC. ___. MODIFICATION AND EXTENSION OF PILOT PROGRAM ON SHARE-IN-SAVINGS CONTRACTS.

(a) INCLUSION OF INFORMATION TECHNOLOGY IMPROVEMENTS IN SHARE-IN-SAVINGS.—Paragraph (1) of subsection (a) of section 2332 of title 10, United States Code, is amended by adding at the end the following new sentence: "Each such contract shall provide that the contractor shall incur the cost of implementing information technology improvements, including costs incurred in acquiring, installing, maintaining, and upgrading information technology equipment and training personnel in the use of such equipment, in exchange for a share of any savings directly resulting from the implementation of such improvements during the term of the contract.".

(b) CONTRACT PERFORMANCE EVALUATION.—Such subsection is further amended—

(1) in paragraph (3), by striking ", to the maximum extent practicable.";

(2) by striking paragraph (4);

(3) by redesignating paragraph (5) as paragraph (7); and

(4) inserting after paragraph (3) the following new paragraphs:

"(4) The head of an agency that enters into contracts pursuant to the authority of this section shall establish a panel of employees of such agency, independent of any program office or contracting office responsible for awarding and administering such contracts, for the purpose of verifying performance baselines and methodologies for calculating savings resulting from the implementation of information technology improvements under such contracts. Employees assigned to any such panel shall have experience and expertise appropriate for the duties of such panel.

"(5) Each contract awarded pursuant to the authority of this section shall include a provision containing a quantifiable baseline of current and projected costs, a methodology for calculating actual costs during the period of performance, and a savings share ratio governing the amount of payments the contractor is to receive under such contract that are certified by a panel established pursuant to paragraph (4) to be financially sound and based on the best available information.

"(6) Each contract awarded pursuant to the authority of this section shall—

"(A) provide that aggregate payments to the contractor may not exceed the amount the agency would have paid, in accordance with the baseline of current and projected costs incorporated in such contract, during the period covered by such contract; and

"(B) require an independent annual audit of actual costs in accordance with the methodology established under paragraph (5)(B), which shall serve as a basis for annual payments based on savings share ratio established in such contract.".

(c) EXTENSION OF PILOT PROGRAM.—Such section is further amended—

(1) in subsection (b)(3)(B), by striking "fiscal years 2003, 2004, and 2005" and inserting "fiscal years 2003 through 2007"; and

(2) in subsection (d), by striking "September 30, 2005" and inserting "September 30, 2007".

(d) REPORTS TO CONGRESS.—

(1) SECRETARY OF DEFENSE REPORTS.—Not later than March 31, 2006, and each year thereafter until the year after the termination of the pilot program under section 2332 of title 10, United States Code (as amended by subsection (a)), the Secretary of Defense shall submit to Congress a report containing a list of each contract entered into by each Federal agency under such section during the preceding year that contains terms providing for the contractor to implement information technology improvements in exchange for a share of the savings derived from the implementation of such improvements. The report shall set forth, for each contract listed—

(A) the information technology performance acquired by reason of the improvements concerned;

(B) the total amount of payments made to the contractor during the year covered by the report; and

(C) the total amount of savings or other measurable benefits realized by the Federal agency during such year as a result of such improvements.

(2) COMPTROLLER GENERAL REPORTS.—Not later than two months after the Secretary submits a report required by paragraph (1), the Comptroller General of the United States shall submit to Congress a report on the costs and benefits to the United States of the implementation of the technology improvements under the contracts covered by such report, together with such recommendations as the Comptroller General considers appropriate.

AMENDMENT NO. 2538

(Purpose: To provide for the supervision and management of the Defense Business Transformation Agency)

At the end of subtitle C of title III, add the following:

SEC. . SUPERVISION AND MANAGEMENT OF DEFENSE BUSINESS TRANSFORMATION AGENCY.

Section 192 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) SPECIAL RULE FOR DEFENSE BUSINESS TRANSFORMATION AGENCY.—(1) The Defense Business Transformation Agency shall be supervised by the vice chairman of the Defense Business System Management Committee.

"(2) Notwithstanding the results of any periodic review under subsection (c) with regard to the Defense Business Transformation Agency, the Secretary of Defense shall designate that the Agency be managed cooperatively by the Deputy Under Secretary of Defense for Business Transformation and the Deputy Under Secretary of Defense for Financial Management.".

AMENDMENT NO. 2539

(Purpose: To make available, with an offset, an additional $45,000,000 for aircraft procurement for the Air Force for the procurement of one C–37B aircraft)

At the end of Subtitle D of title I, add the following:

SEC. 138. C–37B AIRCRAFT.

(a) ADDITIONAL AMOUNT FOR AIRCRAFT PROCUREMENT, AIR FORCE.—The amount authorized to be appropriated by section 103(1) for aircraft procurement for the Air Force is hereby increased by $45,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 103(1) for aircraft for the Air Force, as increased by subsection (a), up to $45,000,000 may be used for the procurement of one C–37B aircraft.

(c) OFFSET.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby reduced by $25,000,000 and the amount authorized to be appropriated by section 301(5) for O&M, defensewide is hereby reduced by $20,000,000.

AMENDMENT NO. 2540

(Purpose: To designate certain financial assistance for cadets at military junior colleges as Ike Skelton Early Commissioning Program Scholarships)

At the end of subtitle F of title V, insert the following:

SEC. . DESIGNATION OF IKE SKELTON EARLY COMMISSIONING PROGRAM SCHOLARSHIPS.

Section 2107a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j) Financial assistance provided under this section to a cadet appointed at a military junior college is designated as, and shall be known as, an 'Ike Skelton Early Commissioning Program Scholarship'.".

AMENDMENT NO. 2541

(Purpose: To modify eligibility for the position of President of the Naval Postgraduate School)

At the end of subtitle H of title V, add the following:

SEC. . MODIFICATION OF ELIGIBILITY FOR POSITION OF PRESIDENT OF THE NAVAL POSTGRADUATE SCHOOL.

Subsection (a) of section 7042 of title 10, United States Code, is amended to read as follows:

"(a)(1) The President of the Naval Postgraduate School shall be one of the following:

"(A) An officer of the Navy not below the grade of rear admiral (lower half) who is detailed to such position.

"(B) A civilian individual having qualifications appropriate to the position of President of the Naval Postgraduate School who is appointed to such position.

"(2) The President of the Naval Postgraduate School shall be detailed or assigned to such position under paragraph (1) by the Secretary of the Navy, upon the recommendation of the Chief of Naval Operations.

"(3) An individual assigned as President of the Naval Postgraduate School under paragraph (1)(B) shall serve in such position for a term of not more than five years.".

AMENDMENT NO. 2542

(Purpose: To provide an additional death gratuity to the eligible survivors of servicemembers who died between October 7, 2001, and May 11, 2005, from noncombat-related causes while on active duty)

On page 167, between lines 6 and 7, insert the following:

(c) ADDITIONAL DEATH GRATUITY.—In the case of an active duty member of the armed forces who died between October 7, 2001, and May 11, 2005, and was not eligible for an additional death gratuity under section 1478(e)(3)(A) of title 10, United States Code (as added by section 1013(b) of Public Law 109–13), the eligible survivors of such decedent shall receive, in addition to the death gratuity available to such survivors under section 1478(a) of such title, an additional death gratuity of $150,000 under the same conditions as provided under section 1478(e)(4) of such title.

AMENDMENT NO. 2543

(Purpose: To express the sense of the Senate with regard to aeronautics research and development)

At the end of subtitle G of title X, insert:

SEC. . SENSE OF SENATE ON AERONAUTICS RESEARCH AND DEVELOPMENT.

(a) FINDINGS.—Congress makes the following findings:

(1) The advances made possible by Government-funded research in emerging aeronautics technologies have enabled long-standing military air superiority for the United States in recent decades.

(2) Military aircraft incorporate advanced technologies developed at research centers of the National Aeronautics and Space Administration.

(3) The vehicle systems program of the National Aeronautics and Space Administration has provided major technology advances that have been used in every major civil and military aircraft developed over the last 50 years.

(4) It is important for the cooperative research efforts of the National Aeronautics and Space Administration and the Department of Defense that funding of research on military aviation technologies be robust.

(5) Recent National Aeronautics and Space Administration and independent studies have demonstrated the competitiveness, scientific merit, and necessity of existing aeronautics programs.

(6) The economic and military security of the United States is enhanced by the continued development of improved aeronautics technologies.

(7) A national effort is needed to ensure that the National Aeronautics and Space Administration can help meet future aviation needs.

(b) SENSE OF SENATE.—It is the sense of the Senate that it is in the national security interest of the United States to maintain a strong aeronautics research and development program within the Department of Defense and the National Aeronautics and Space Administration.

AMENDMENT NO. 2544

(Purpose: To modify the limited acquisition authority for the commander of the United States Joint Forces Command)

At the end of subtitle E of title VIII, add the following:

SEC. ___. MODIFICATION OF LIMITED ACQUISITION AUTHORITY FOR THE COMMANDER OF THE UNITED STATES JOINT FORCES COMMAND.

(a) SCOPE OF AUTHORITY.—Subsection (a) of section 167a of title 10, United States Code, is amended by striking "and acquire" and inserting ", acquire, and sustain".

(b) INAPPLICABILITY TO CERTAIN SYSTEMS FUNDED WITH OPERATION AND MAINTENANCE FUNDS.—Subsection (d) of such section is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(3) the total expenditure for operation and maintenance is estimated to be $2,000,000 or more.".

(c) EXTENSION OF AUTHORITY.—Subsection (f) of such section is amended—

(1) by striking "through 2006" and inserting "through 2009"; and

(2) by striking "September 30, 2006" and inserting "September 30, 2009".

AMENDMENT NO. 2545

(Purpose: To authorize certain emergency supplemental authorizations for the Department of Defense)

At the end of subtitle A of title X, add the following:

SEC. . AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR THE DEPARTMENT OF DEFENSE.

(a) FIRST EMERGENCY SUPPLEMENTAL TO MEET NEEDS ARISING FROM HURRICANE KATRINA.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2005 in the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorized amount are increased by a supplemental appropriation, or by a transfer of funds, pursuant to the Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (Public Law 109–61).

(b) SECOND EMERGENCY SUPPLEMENTAL TO MEET NEEDS ARISING FROM HURRICANE KATRINA.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2005 in the Ronald W. Reagan National Defense Authorization Act for Fiscal

Year 2005 are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorized amount are increased by a supplemental appropriation, or by a transfer of funds, pursuant to the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (Public Law 109–62).

(c) Supplemental Appropriations for Avian Flu Preparedness.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2006 in this Act are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorized amount are increased by a supplemental appropriation, or by a transfer of funds, arising from the proposal of the Administration relating to avian flu preparedness that was submitted to Congress on November 1, 2006.

(d) Amounts Reallocated for Hurricane-Related Disaster Relief.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2006 in this Act are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorized amount are increased by a reallocation of funds from the Disaster Relief Fund (DRF) of the Federal Emergency Management Agency arising from the proposal of the Director of the Office of Management and Budget on the reallocation of amounts for hurricane-related disaster relief that was submitted to the President on October 28, 2005, and transmitted to the Speaker of the House of Representatives on that date.

(e) Amounts for Humanitarian Assistance for Earthquake Victims in Pakistan.—There is authorized to be appropriated as emergency supplemental appropriations for the Department of Defense for fiscal year 2006, $40,000,000 for the use of the Department of Defense for overseas, humanitarian, disaster, and civic aid for the purpose of providing humanitarian assistance to the victims of the earthquake that devastated northern Pakistan on October 8, 2005.

(f) Reports on Use of Certain Funds.—

(1) Report on use of emergency supplemental funds.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the obligation and expenditure, as of that date, of any funds appropriated to the Department of Defense for fiscal year 2005 pursuant to the Acts referred to in subsections (a) and (b) as authorized by such subsections. The report shall set forth—

(A) the amounts so obligated and expended; and

(B) the purposes for which such amounts were so obligated and expended.

(2) Report on expenditure of reimbursable funds.—The Secretary shall include in the report required by paragraph (1) a statement of any expenditure by the Department of Defense of funds that were reimbursable by the Federal Emergency Management Agency, or any other department or agency of the Federal Government, from funds appropriated in an Act referred to in subsection (a) or (b) to such department or agency.

(3) Report on use of certain other funds.—Not later than May 15, 2006, and quarterly thereafter through November 15, 2006, the Secretary shall submit to the congressional defense committees a report on the obligation and expenditure, during the previous fiscal year quarter, of any funds appropriated to the Department of Defense as specified in subsection (c) and any funds reallocated to the Department as specified in subsection (d). Each report shall, for the fiscal year quarter covered by such report, set forth—

(A) the amounts so obligated and expended; and

(B) the purposes for which such amounts were so obligated and expended.

(g) Report on Assistance for Earthquake Victims in Pakistan.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report describing Department of Defense efforts to provide relief to victims of the earthquake that devastated northern Pakistan on October 8, 2005, and assessing the need for further reconstruction and relief assistance.

AMENDMENT NO. 2546

(Purpose: To express the sense of the Senate on certain matters relating to the National Guard and Reserves)

At the end of subtitle C of title V, add the following:

SEC. ___. SENSE OF SENATE ON CERTAIN MATTERS RELATING TO THE NATIONAL GUARD AND RESERVES.

It is the sense of the Senate—

(1) to recognize the important and integral role played by members of the Active Guard and Reserve and military technicians (dual status) in the efforts of the Armed Forces; and

(2) to urge the Secretary of Defense to promptly resolve issues relating to appropriate authority for payment of reenlistment bonsuses stemming from reenlistment contracts entered into between January 14, 2005, and April 17, 2005, involving members of the Army National Guard and military technicians (dual status).

AMENDMENT NO. 2547

(Purpose: To authorize the disposal of ferromanganese from the National Defense Stockpile)

At the end of title XXXIII of division C, add the following:

SEC. 3302. DISPOSAL OF FERROMANGANESE.

(a) Disposal Authorized.—The Secretary of Defense may dispose of up to 75,000 tons of ferromanganese from the National Defense Stockpile during fiscal year 2006.

(b) Contingent Authority for Additional Disposal.—If the Secretary of Defense completes the disposal of the total quantity of ferromanganese authorized for disposal by subsection (a) before September 30, 2006, the Secretary of Defense may dispose of up to an additional 25,000 tons of ferromanganese from the National Defense Stockpile before that date.

(c) Certification.—The Secretary of Defense may dispose of ferromanganese under the authority of subsection (b) only if the Secretary submits written certification to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, not later than 30 days before the commencement of disposal, that—

(1) the disposal of the additional ferromanganese from the National Defense Stockpile is in the interest of national defense;

(2) the disposal of the additional ferromanganese will not cause undue disruption to the usual markets of producers and processors of ferromanganese in the United States; and

(3) the disposal of the additional ferromanganese is consistent with the requirements and purpose of the National Defense Stockpile.

(d) Delegation of Responsibility.—The Secretary of Defense may delegate the responsibility of the Secretary under subsection (c) to an appropriate official within the Department of Defense.

(e) National Defense Stockpile Defined.—In this section, the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

AMENDMENT NO. 2548

(Purpose: To improve the Armament Retooling and Manufacturing Support Initiative)

At the end of subtitle C of title III, add the following:

SEC. ___. ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE MATTERS.

(a) Inclusion of Additional Facilities Within Initiative.—Section 4551(2) of title 10, United States Code, is amended by inserting ", or a Government-owned, contractor-operated depot for the storage, maintenance, renovation, or demilitarization of ammunition," after "manufacturing facility".

(b) Additional Consideration for Use of Facilities.—Section 4554(b)(2) of such title is amended by adding at the end the following new subparagraph:

"(D) The demilitarization and storage of conventional ammunition.".

AMENDMENT NO. 2549

(Purpose: To require the Secretary of Defense to consult with appropriate State and local entities on transportation, utility infrastructure, housing, schools, and family support activities related to the planned addition of personnel or facilities to existing military installations in connection with the closure or realignment of military installations as part of the 2005 round of defense base closure and realignment)

At the end of subtitle D of title XXVIII of division B, add the following:

SEC. 2887. REQUIRED CONSULTATION WITH STATE AND LOCAL ENTITIES ON TRANSPORTATION, HOUSING, AND OTHER INFRASTRUCTURE ISSUES RELATED TO THE ADDITION OF PERSONNEL OR FACILITIES AT MILITARY INSTALLATIONS AS PART OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

Section 2905(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new paragraph:

"(3) In carrying out any closure or realignment under this part that would add personnel or facilities to an existing military installation, the Secretary shall consult with appropriate State and local entities on matters affecting the local community related to transportation, utility infrastructure, housing, schools, and family support activities during the development of plans to implement such closure or realignment.".

AMENDMENT NO. 2550

(Purpose: To express the sense of the Senate on reversionary interests at Navy homeports)

At the end of subtitle D of title XXVIII of division B, add the following:

SEC. 2887. SENSE OF THE SENATE ON REVERSIONARY INTERESTS AT NAVY HOMEPORTS.

It is the sense of the Senate that, in implementing the decisions made with respect to

Navy homeports as part of the 2005 round of defense base closure and realignment, the Secretary of the Navy should, consistent with the national interest and Federal policy supporting cost-free conveyances of Federal surplus property suitable for use as port facilities, release or otherwise relinquish any entitlement to receive, pursuant to any agreement providing for such payment, compensation from any holder of a reversionary interest in real property used by the United States for improvements made to any military installation that is closed or realigned as part of such base closure round.

AMENDMENT NO. 2551

(Purpose: To require a report on claims related to the bombing of the LaBelle Discotheque in Berlin, Germany)

At the end of subtitle G of title X, add the following:

SEC. 1073. REPORT ON CLAIMS RELATED TO THE BOMBING OF THE LABELLE DISCOTHEQUE.

(a) SENSE OF CONGRESS.—It is the sense of Congress that—

(1) the Government of Libya should be commended for the steps the Government has taken to renounce terrorism and to eliminate Libya's weapons of mass destruction and related programs; and

(2) an important priority for improving relations between the United States and Libya should be a good faith effort on the part of the Government of Libya to resolve the claims of members of the Armed Forces of the United States and other United States citizens who were injured in the bombing of the LaBelle Discotheque in Berlin, Germany that occurred in April 1986, and of family members of members of the Armed Forces of the United States who were killed in that bombing.

(b) REPORTS.—

(1) INITIAL REPORT.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report on the status of negotiations between the Government of Libya and United States claimants in connection with the bombing of the LaBelle Discotheque in Berlin, Germany that occurred in April 1986, regarding resolution of their claims. The report shall also include information on efforts by the Government of the United States to urge the Government of Libya to make a good faith effort to resolve such claims.

(2) UPDATE.—Not later than one year after enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees an update of the report required by paragraph (1).

(c) APPROPRIATE CONGRESSIONAL COMMITTEES DEFINED.—In this section, the term "appropriate congressional committees" means the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives.

AMENDMENT NO. 2552

(Purpose: To provide that none of the funds authorized to be appropriated to the Department of Energy under this Act may be made available for the Robust Nuclear Earth Penetrator)

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. PROHIBITION ON USE OF FUNDS FOR ROBUST NUCLEAR EARTH PENETRATOR.

None of the funds authorized to be appropriated to the Department of Energy under this Act may be made available for the Robust Nuclear Earth Penetrator.

AMENDMENT NO. 2553

(Purpose: To require the identification of environmental conditions at military installations closed or realigned as part of the 2005 round of defense base closure and realignment)

At the end of subtitle D of title XXVIII of division B, add the following:

SEC. 2887. IDENTIFICATION OF ENVIRONMENTAL CONDITIONS AT MILITARY INSTALLATIONS CLOSED OR REALIGNED UNDER 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

(a) IDENTIFICATION OF ENVIRONMENTAL CONDITION OF PROPERTY.—

(1) IN GENERAL.—Not later than May 31, 2007, the Secretary of Defense, in consultation with the Administrator of the Environmental Protection Agency, other appropriate Federal agencies, and State, tribal, and local government officials, shall complete an identification of the environmental condition of the real property (including groundwater) of each military installation approved for closure or realignment under the 2005 round of defense base closure and realignment in accordance with section 120(h)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(4)).

(2) RESULTS.—

(A) IN GENERAL.—As soon as practicable after the date on which an identification under paragraph (1) is completed, the Secretary of Defense shall—

(i) provide a notice of the results of the identification to—

(I) the Administrator of the Environmental Protection Agency;

(II) the head of any other appropriate Federal agency, as determined by the Secretary; and

(III) any affected State or tribal government official, as determined by the Secretary; and

(ii) publish in the Federal Register the results of the identification.

(B) REQUEST FOR CONCURRENCE.—The Secretary shall include in a notice provided under subclause (I) or (III) of subparagraph (A)(i) a request for concurrence with the identification in such form as the Secretary determines to be appropriate.

(3) CONCURRENCE.—

(A) IN GENERAL.—An identification under paragraph (1) shall not be considered to be complete until—

(i) for a property that is a site, or part of a site, on the National Priorities List developed by the President in accordance with section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B)), the date on which the Administrator of the Environmental Protection Agency and each appropriate State and tribal government official concur with the identification; and

(ii) for any property that is not a site described in clause (i), the date on which each appropriate State and tribal government official concurs with the identification.

(B) FAILURE TO ACT.—The Administrator, or a State or tribal government official, shall be considered to concur with an identification under paragraph (1) if the Administrator or government official fails to make a determination with respect to a request for concurrence with such identification under paragraph (2)(B) by not later than 90 days after the date on which such request for concurrence is received.

(b) EXPEDITING ENVIRONMENTAL RESPONSE.—The Secretary of Defense shall coordinate with appropriate Federal, State, tribal, and local governmental officials, as determined by the Secretary, to expedite environmental response at military installations approved for closure or realignment under the 2005 round of defense base closure and realignment.

(c) REPORT.—The Secretary shall submit to Congress, as part of each annual report under section 2706 of title 10, United States Code, a report describing any progress made in carrying out this section.

(d) EFFECT OF SECTION.—Nothing in this section affects any obligation of the Secretary with respect to any other Federal or State requirement relating to—

(1) the environment; or

(2) the transfer of property.

AMENDMENT NO. 2554

(Purpose: To express the sense of Congress that the Secretary of Defense should not transfer any unit from a military installation that is closed or realigned until adequate facilities and infrastructure necessary to support such unit and quality of life requirements are ready at the receiving location)

At the end of subtitle D of title XXVIII, add the following:

SEC. 2887. SENSE OF CONGRESS ON LIMITATION ON TRANSFER OF UNITS FROM CLOSED AND REALIGNED MILITARY INSTALLATIONS PENDING READINESS OF RECEIVING LOCATIONS.

(a) FINDINGS.—

(1) The Commission on Review of Overseas Military Facility Structure of the United States, also known as the Overseas Basing Commission, transmitted a report to the President and Congress on August 15, 2005, that discussed considerations for the return to the United States of up to 70,000 service personnel and 100,000 family members and civilian employees from overseas garrisons.

(2) The 2005 Base Closure and Realignment Commission released a report on September 8, 2005, to the President that assessed the closure and realignment decisions of the Department of Defense, which would affect 26,830 military personnel positions.

(3) Both of these reports expressed concerns that massive movements of units, service personnel, and families may disrupt unit operational effectiveness and the quality of life for family members if not carried out with adequate planning and resources.

(4) The 2005 Base Closure and Realignment Commission, in its decision to close Fort Monmouth, included a provision requiring the Secretary of Defense to provide a report that "movement of organizations, functions, or activities from Fort Monmouth to Aberdeen Proving Ground will be accomplished without disruption of their support to the Global War on Terrorism or other critical contingency operations, and that safeguards exist to ensure that necessary redundant capabilities are put in place to mitigate potential degradation of such support, and to ensure maximum retention of critical workforce".

(5) The Overseas Basing Commission found that "base closings at home along with the return of yet additional masses of service members and dependents from overseas will have major impact on local communities and the quality of life that can be expected. Movements abroad from established bases into new locations, or into locations already in use that will be put under pressure by increases in populations, will impact on living conditions."

(6) The Overseas Basing Commission notes that the four most critical elements of quality of life as they relate to restructuring of

the global defense posture are housing, military child education, healthcare, and service member and family services.

(7) The Overseas Basing Commission recommended that "planners must take a 'last day-first day' approach to the movement of units and families from one location to another", meaning that they must maintain the support infrastructure for personnel until the last day they are in place and must have the support infrastructure in place on the first day troops arrive in the new location.

(8) The Overseas Basing Commission further recommended that it is "imperative that the 'last day-first day' approach should be taken whether the movement is abroad from one locale to another, from overseas to the United States, or from one base in CONUS [the continental United States] to yet another as a result of base realignment and closures".

(b) Sense of Congress.—It is the sense of Congress that the Secretary of Defense should not transfer any unit from a military installation closed or realigned due to the relocation of forces under the Integrated Global Presence and Basing Strategy or the 2005 round of defense base closure and realignment until adequate facilities and infrastructure necessary to support the unit's mission and quality of life requirements for military families are ready for use at the receiving location.

AMENDMENT NO. 2555

(Purpose: To extend the period for which certain individuals in families that include members of the Reserve and National Guard do not have to reapply for supplemental security income benefits after a period of ineligibility for such benefits)

In title VI, subtitle E, at the end, insert the following:

SEC. ___. EXTENSION OF ELIGIBILITY FOR SSI FOR CERTAIN INDIVIDUALS IN FAMILIES THAT INCLUDE MEMBERS OF THE RESERVE AND NATIONAL GUARD.

Section 1631(j)(1)(B) of the Social Security Act (42 U.S.C. 1383(j)(1)(B)) is amended by inserting "(24 consecutive months, in the case of such an individual whose ineligibility for benefits under or pursuant to both such sections is a result of being called to active duty pursuant to section 12301(d) or 12302 of title 10, United States Code, or section 502(f) of title 32, United States Code)" after "for a period of 12 consecutive months".

AMENDMENT NO. 2556

(Purpose: To urge the prompt submission of interim reports on residual beryllium contamination at Department of Energy vendor facilities)

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. SENSE OF THE SENATE REGARDING INTERIM REPORTS ON RESIDUAL BERYLLIUM CONTAMINATION AT DEPARTMENT OF ENERGY VENDOR FACILITIES.

(a) Findings.—The Senate makes the following findings:

(1) Section 3169 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 42 U.S.C. 7384 note) requires the National Institute for Occupational Safety and Health to submit, not later than December 31, 2006, an update to the October 2003 report of the Institute on residual beryllium contamination at Department of Energy vendor facilities.

(2) The American Beryllium Company, Tallevast, Florida, machined beryllium for the Department of Energy's Oak Ridge Y-12, Tennessee, and Rocky Flats, Colorado, facilities from 1967 until 1992.

(3) The National Institute for Occupational Safety and Health has completed its evaluation of residual beryllium contamination at the American Beryllium Company.

(4) Workers at the American Beryllium Company and other affected companies should be made aware fo the site-specific results of the study as soon as such results are available.

(b) Sense of the Senate.—It is the sense of the Senate to urge the Director of the National Institute for Occupational Safety and Health—

(1) to provide to Congress interim reports of residual beryllium contamination at facilities not later than 14 days after completing the internal review of such reports; and

(2) to publish in the Federal Register summaries of the findings of such reports, including the dates of any significant residual beryllium contamination, at such time as the reports are provided to Congress under paragraph (1).

AMENDMENT NO. 2557

(Purpose: To require a report on an expanded partnership between the Department of Defense and the Department of Veterans Affairs for the provision of health care services)

At the end of subtitle B of title VII, add the following:

SEC. . COMPTROLLER GENERAL REPORT ON EXPANDED PARTNERSHIP BETWEEN THE DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF VETERANS AFFAIRS ON THE PROVISION OF HEALTH CARE SERVICES.

(a) Report Required.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report on the feasibility of an expanded partnership between the Department of Defense and the Department of Veterans Affairs for the provision of health care services.

(b) Report Elements.—The report required by subsection (a) shall include the following:

(1) An overview of the current health care systems of the Department of Defense and the Department of Veterans Affairs, including—

(A) the total number of eligible beneficiaries in each system as of September 30, 2005;

(B) the total number of current consumers of health care services in each system as of that date;

(C) the total cost of each system in the most recent fiscal year for which complete cost data for both systems exists;

(D) the annual workload or production of health care by beneficiary category in each system in the most recent fiscal year for which complete data on workload or production of health care for both systems exists;

(E) the total cost of health care by beneficiary category in each system in the most recent fiscal year for which complete cost data for both systems exists;

(F) the total staffing of medical and administrative personnel in each system as of September 30, 2005;

(G) the number and location of facilities, including both hospitals and clinics, operated by each system as of that date; and

(H) the size, capacity, and production of graduate medical education programs in each system as of that date.

(2) A comparative analysis of the characteristics of each health care system, including a determination and comparative analysis of—

(A) the mission of such systems;

(B) the demographic characteristics of the populations served by such systems;

(C) the categories of eligibility for health care services in such systems;

(D) the nature of benefits available by beneficiary category in such systems;

(E) access to and quality of health care services in such systems;

(F) the out-of-pocket expenses for health care by beneficiary category in such systems;

(G) the structure and methods of financing the care for all categories of beneficiaries in such systems;

(H) the management and acquisition of medical equipment and supplies in such systems, including pharmaceuticals and prosthetic and other medical assistive devices;

(I) the mix of health care services available in such systems;

(J) the current inpatient and outpatient capacity of such systems; and

(K) the human resource systems for medical personnel in such systems, including the rates of compensation for civilian employees.

(3) A summary of current sharing efforts between the health care systems of the Department of Defense and the Department of Veterans Affairs.

(4) An assessment of the advantages and disadvantages for military retirees and their dependents participating in the health care system of the Department of Veterans Affairs of an expanded partnership betwen the health care systems of the Department of Defense and the Department of Veterans Affairs, with a separate assessment to be made for—

(A) military retirees and dependents under the age of 65; and

(B) military retirees and dependents over the age of 65.

(5) Projections for the future growth of health care costs for retirees and veterans in the health care systems of the Department of Defense and the Department of Veterans Affairs, including recommendations on mechanisms to ensure more effective and higher quality services in the future for military retirees and veterans now served by both systems.

(6) Options for means of achievinng a more effective partnership between the health care systems of the Department of Defense and the Department of Veterans Affairs, including options for the expansion of, and enhancement of access of military retirees and their dependents to, the health care system of the Department of Veterans Affairs.

(c) Solicitation of View.—In preparing the report required by subsection (a), the Comptroller General shall seek the views of representatives of military family organizations, military retiree organizations, and organizations representing veterans and their families.

(d) Appropriate Committees of Congress Defined.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services and Veterans Affairs' of the Senate; and

(2) the Committees on Armed Services and Veterans Affairs' of the House of Representatives.

AMENDMENT NO. 2558

(Purpose: To authorize grants for local workforce investment boards for the provision of services to spouses of certain members of the Armed Forces)

At the end of subtitle C of title III, add the following:

SEC. ___. GRANTS FOR LOCAL WORKFORCE INVESTMENT BOARDS FOR SERVICES FOR CERTAIN SPOUSES OF MEMBERS OF THE ARMED FORCES.

(a) GRANTS AUTHORIZED.—The Secretary of Defense may, from any funds authorized to be appropriated to the Department of Defense, and in consultation with the Department of Labor, make grants to local workforce investments boards established under section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2832), or consortia of such boards, in order to permit such boards or consortia of boards to provide services to spouses of members of the Armed Forces described in subsection (b).

(b) COVERED SPOUSES.—Spouses of members of the Armed Forces described in this subsection are spouses of members of the Armed Forces on active duty, which spouses—

(1) have experienced a loss of employment as a direct result of relocation of such members to accommodate a permanent change in duty station; or

(2) are in a family whose income is significantly reduced due to—

(A) the deployment of such members;

(B) the call or order of such members to active duty in support of a contingency operation pursuant to a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code;

(C) a permanent change in duty station of such members; or

(D) the incurral by such members of a service-connected disability (as that term is defined in section 101(16) of title 38, United States Code).

(c) REGULATIONS.—Any grants made under this section shall be made pursuant to regulations prescribed by the Secretary in consultation with the Department of Labor. Such regulation shall set forth—

(1) criteria for eligibility of workforce investment boards for grants under this section;

(2) requirements for applications for such grants; and

(3) the nature of services to be provided using such grants.

AMENDMENT NO. 2559

(Purpose: To make available $7,000,000 from Operation and Maintenance, Defense-Wide, for the reimbursement of expenses related to the Rest and Recuperation Leave Programs)

At the end of subtitle C of title III, add the following:

SEC. ___. REST AND RECUPERATION LEAVE PROGRAMS.

(a) AVAILABILITY OF FUNDS FOR REIMBURSEMENT OF EXPENSES.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance for Defense-wide activities, $7,000,000 may be available for the reimbursement of expenses of the Armed Forces Recreation Centers related to the utilization of the facilities of the Armed Forces Recreation Centers under official Rest and Recuperation Leave Programs authorized by the military departments or combatant commanders.

(b) UTILIZATION OF REIMBURSEMENTS.—Amounts received by the Armed Forces Recreation Centers under subsection (a) as reimbursement for expenses may be utilized by such Centers for facility maintenance and repair, utility expenses, correction of health and safety deficiencies, and routine ground maintenance.

(c) REGULATIONS.—The utilization of facilities of the Armed Forces Recreation Centers under Rest and Recuperation Leave Programs, and reimbursement for expenses related to such utilization of such facilities, shall be subject to regulations prescribed by the Secretary of Defense.

AMENDMENT NO. 2560

(Purpose: To require a report on the information given to individuals enlisting in the Armed Forces of the so-called "stop loss" authority of the Armed Forces)

At the end of subtitle B of title V, add the following:

SEC. ___. REPORT ON INFORMATION ON STOP LOSS AUTHORITIES GIVEN TO ENLISTEES IN THE ARMED FORCES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense began retaining selected members of the Armed Forces beyond their contractual date of separation from the Armed Forces, a policy commonly known as "stop loss", shortly after the events of September 11, 2001, and for the first time since Operation Desert Shield/Desert Storm.

(2) The Marine Corps, Navy, and Air Force discontinued their use of stop loss authority in 2003. According to the Department of Defense, a total of 8,992 marines, 2,600 sailors, and 8,500 airmen were kept beyond their separation dates under that authority.

(3) The Army is the only Armed Force currently using stop loss authority. The Army reports that, during September 2005, it was retaining 6,929 regular component soldiers, 3,002 soldiers in the National Guard, and 2,847 soldiers in the Army Reserve beyond their separation date. The Army reports that it has not kept an account of the cumulative number of soldiers who have been kept beyond their separation date.

(4) The Department of Defense Form 4/1, Enlistment/Reenlistment Document does not give notice to enlistees and reenlistees in the regular components of the Armed Forces that they may be kept beyond their contractual separation date during times of partial mobilization.

(5) The Department of Defense has an obligation to clearly communicate to all potential enlistees and reenlistees in the Armed Forces their terms of service in the Armed Forces.

(b) REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the actions being taken to ensure that each individual being recruited for service in the Armed Forces is provided, before making a formal enlistment in the Armed Forces, precise and detailed information on the period or periods of service to which such individual may be obligated by reason of enlistment in the Armed Forces, including any revisions to Department of Defense Form 4/1.

(2) ELEMENTS.—The report under paragraph (1) shall include—

(A) a description of how the Department informs enlistees in the Armed Forces on—

(i) the so-called "stop loss" authority and the manner in which exercise of such authority could affect the duration of an individual's service on active duty in the Armed Forces;

(ii) the authority for the call or order to active duty of members of the Individual Ready Reserve and the manner in which such a call or order to active duty could affect an individual following the completion of the individual's expected period of service on active duty or in the Individual Ready Reserve; and

(iii) any other authorities applicable to the call or order to active duty of the Reserves, or of the retention of members of the Armed Forces on active duty, that could affect the period of service of an individual on active duty or in the Armed Forces; and

(B) such other information as the Secretary considers appropriate.

AMENDMENT NO. 2561

(Purpose: To require preparation of a development plan for a national coal-to-liquid fuels program)

At the end of subtitle G of title X of division A, add the following:

SEC. 1073. COAL-TO-LIQUID FUEL DEVELOPMENT PLAN.

(a) DEFINITION OF DESIGNATED COMMITTEES.—In this section, the term "designated committees" means—

(1) the Committees on Armed Services, Energy and Natural Resources, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Energy and Commerce, and Appropriations of the House of Representatives.

(b) DEVELOPMENT PLAN AND REPORT.—Not later than 90 days after the date of enactment of this Act, using amounts available to the Department of Defense and the National Energy Technology Laboratory of the Department of Energy—

(1) the Secretary of Energy, in coordination with the Secretary of Defense, shall prepare and submit to the designated committees a development plan for a coal-to-liquid fuels program; and

(2) the Secretary of Defense, in coordination with the Secretary of Energy, shall prepare and submit to the designated committees a report on the potential use of the fuels by the Department of Defense.

(c) REQUIREMENTS.—The development plan described in subsection (b)(1) shall be prepared taking into consideration—

(1) technology needs and developmental barriers;

(2) economic and national security effects;

(3) environmental standards and carbon capture and storage opportunities;

(4) financial incentives;

(5) timelines and milestones;

(6) diverse regions having coal reserves that would be suitable for liquefaction plants;

(7) coal-liquid fuel testing to meet civilian and military engine standards and markets; and

(8) any roles other Federal agencies, State governments, and international entities could play in developing a coal-to-liquid fuel industry.

AMENDMENT NO. 2562

(Purpose: To amend titles 10 and 38 of the United States Code, to modify the circumstances under which a person who has committed a capital offense is denied certain burial-related benefits and funeral honors)

At the appropriate place, insert the following:

SECTION ___. DENIAL OF CERTAIN BURIAL-RELATED BENEFITS FOR INDIVIDUALS WHO COMMITTED A CAPITAL OFFENSE.

(a) PROHIBITION AGAINST INTERMENT IN NATIONAL CEMETERY.—Section 2411 of title 38, United States Code, is amended—

(1) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) A person whose conviction of a Federal capital crime is final."; and

(B) by amending paragraph (2) to read as follows:

"(2) A person whose conviction of a State capital crime is final."; and

(2) in subsection (d)—

(A) in paragraph (1), by striking "the death penalty or life imprisonment" and inserting "a life sentence or the death penalty"; and

(B) in paragraph (2), by striking "the death penalty or life imprisonment without parole may be imposed" and inserting "a life sentence or the death penalty may be imposed".

(b) DENIAL OF CERTAIN BURIAL-RELATED BENEFITS.—Section 985 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "who has been convicted of a capital offense under Federal or State law for which the person was sentenced to death or life imprisonment without parole." and inserting "described in section 2411(b) of title 38.";

(2) in subsection (b), by striking "convicted of a capital offense under Federal law" and inserting "described in section 2411(b) of title 38"; and

(3) by amending subsection (c) to read as follows:

"(c) DEFINITION.—In this section, the term 'burial' includes inurnment.".

(c) DENIAL OF FUNERAL HONORS.—Section 1491(h) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking " means a decedent who—" and inserting the following: "—

"(1) means a decedent who—";

(3) in subparagraph (B), as redesignated, by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(2) does not include any person described in section 2411(b) of title 38.".

(d) RULEMAKING.—

(1) DEPARTMENT OF DEFENSE.—The Secretary of Defense shall prescribe regulations to ensure that a person is not interred in any military cemetery under the authority of the Secretary or provided funeral honors under section 1491 of title 10, United States Code, unless a good faith effort has been made to determine whether such person is described in section 2411(b) of title 38, United States Code, or is otherwise ineligible for such interment or honors under Federal law.

(2) DEPARTMENT OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs shall prescribe regulations to ensure that a person is not interred in any cemetery in the National Cemetery System unless a good faith effort has been made to determine whether such person is described in section 2411(b) of title 38, United States Code, or is otherwise ineligible for such interment under Federal law.

(e) SAVINGS PROVISION.—The amendments made by subsections (a), (b), and (c) shall not apply to any person whose sentence for a Federal capital crime or a State capital crime (as such terms are defined in section 2411(d) of title 38, United States Code) was commuted by the President or the Governor of a State.

AMENDMENT NO. 2563

(Purpose: To require an annual report on the budgeting of the Department of Defense related to key military equipment)

At the end of subtitle D of title X, add the following:

SEC. ___. ANNUAL REPORTS ON BUDGETING RELATING TO KEY MILITARY EQUIPMENT.

(a) IN GENERAL.—Chapter 9 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 234. Budgeting for key military equipment: annual reports

"(a) ANNUAL REPORT REQUIRED.—The Secretary of Defense shall submit to Congress each year, at or about the time that the budget of the President is submitted to Congress that year under section 1105(a) of title 31, a report on the budgeting of the Department of Defense for key military equipment.

"(b) REPORT ELEMENTS.—The report required by subsection (a) for a year shall set forth the following:

"(1) A description of the current strategies of the Department of Defense for sustaining key military equipment, and for any modernization that will be required of such equipment.

"(2) A description of the amounts required for the Department for the fiscal year beginning in such year in order to fully fund the strategies described in paragraph (1).

"(3) A description of the amounts requested for the Department for such fiscal year in order to fully fund such strategies.

"(4) A description of the risks, if any, of failing to fund such strategies in the amounts required to fully fund such strategies (as specified in paragraph (2)).

"(5) A description of the actions being taken by the Department of Defense to mitigate the risks described in paragraph (4).

"(c) KEY MILITARY EQUIPMENT DEFINED.—In this section, the term 'key military equipment'—

"(1) means—

"(A) major weapons systems that are essential to accomplishing the national defense strategy; and

"(B) other military equipment, such as major command, communications, computer intelligence, surveillance, and reconnaissance (C4ISR) equipment and systems designed to prevent fratricide, that is critical to the readiness of military units; and

"(2) includes equipment reviewed in the report of the Comptroller General of the United States numbered GAO–06–141.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"234. Budgeting for key military equipment: annual reports.".

AMENDMENT NO. 2564

(Purpose: To improve the general authority of the Department of Defense to accept and administer gifts)

At the end of subtitle C of title III, add the following:

SEC. ___. IMPROVEMENT OF AUTHORITIES ON GENERAL GIFT FUNDS OF THE DEPARTMENT OF DEFENSE.

(a) RESTATEMENT AND EXPANSION OF CURRENT AUTHORITY.—Subsection (a) of section 2601 of title 10, United States Code, is amended to read as follows:

"(a)(1) Subject to subsection (b), the Secretary concerned may accept, hold, administer, and spend any gift, devise, or bequest of real or personal property made on the condition that it be used for the benefit, or in connection with, the establishment, operation, or maintenance of a school, hospital, library, museum, cemetery, or other institution or organization under the jurisdiction of such Secretary.

"(2)(A) Subject to subsection (b), the Secretary concerned may accept, hold, administer, and spend any gift, devise, or bequest of real or personal property made on the condition that it be used for the benefit of members of the armed forces or civilian employees of United States Government, or the dependents or survivors of such members or employees, who are wounded or killed while serving in Operation Iraqi Freedom, Operation Enduring Freedom, or any other military operation or activity, or geographic area, designated by the Secretary of Defense for purposes of this section.

"(B) The Secretary of Defense shall prescribe regulations specifying the conditions that may be attached to a gift, devise, or bequest accepted under this paragraph.

"(C) The authority to accept gifts, devises, or bequests under this paragraph shall expire on December 31, 2007.

"(3) The Secretary concerned may pay all necessary expenses in connection with the conveyance or transfer of a gift, devise, or bequest made under this subsection.".

(b) SCOPE OF AUTHORITY TO USE ACCEPTED PROPERTY.—Such section is further amended—

(1) by redesignating subsections (b), (c) and (d) as subsections (c), (d), and (e), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b)(1) Except as provided in paragraph (2), property accepted under subsection (a) may be used by the Secretary concerned without further specific authorization in law.

"(2) Property accepted under subsection (a) may not be used—

"(A) if the use of such property in connection with any program, project, or activity would result in the violation of any prohibition or limitation otherwise applicable to such program, project, or activity;

"(B) if the conditions attached to such property are inconsistent with applicable law or regulations;

"(C) if the use of such property would reflect unfavorably on ability of the Department of Defense, any employee of the Department, or any member of the armed forces to carry out any responsibility or duty of the Department in a fair and objective manner; or

"(D) if the use of such property would compromise the integrity or appearance of integrity of any program of the Department of Defense, or any individual involved in such a program.".

(c) CONFORMING AMENDMENT.—Subsection (c) of such section, as redesignated by subsection (b)(1) of this section, is further amended in the flush matter following paragraph (4) by striking "benefit or use of the designated institution or organization" and inserting "purposes specified in subsection (a)".

(d) GAO AUDITS.—Such section is further amended by adding at the end the following new subsection:

"(f) The Comptroller General of the United States shall make periodic audits of real or personal property accepted under subsection (a) at such intervals as the Comptroller General determines to be warranted. The Comptroller General shall submit to Congress a report on the results of each such audit.".

AMENDMENT NO. 2565

(Purpose: To express the sense of the Senate on the applicability of the Uniform Code of Military Justice to members of the reserve components of the Armed Forces on inactive-duty training overseas)

At the end of subtitle D of title V, add the following:

SEC. ___. SENSE OF SENATE ON APPLICABILITY OF UNIFORM CODE OF MILITARY JUSTICE TO RESERVES ON INACTIVE-DUTY TRAINING OVERSEAS.

It is the sense of the Senate that—

(1) there should be no ambiguity about the applicability of the Uniform Code of Military Justice (UCMJ) to members of the reserve components of the Armed Forces while serving overseas under inactive-duty training (IDT) orders for any period of time under such orders; and

(2) the Secretary of Defense should—

(A) take action, not later than February 1, 2006, to clarify jurisdictional issues relating to such applicability under section 802 of title 10, United States Code (article 2 of the Uniform Code of Military Justice); and

(B) if necessary, submit to Congress a proposal for legislative action to ensure the applicability of the Uniform Code of Military Justice to members of the reserve components of the Armed Forces while serving overseas under inactive-duty training orders.

AMENDMENT NO. 2566

(Purpose: To facilitate the commemoration of the success of the United States Armed Forces in Operation Enduring Freedom and Operation Iraqi Freedom)

At the end of subtitle C of title III, add the following:

SEC. ___. COMMEMORATION OF SUCCESS OF THE ARMED FORCES IN OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM.

(a) FINDING.—Congress finds that it is both right and appropriate that, upon their return from Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq, all soldiers, sailors, marines, and airmen in the Armed Forces who served in those operations be honored and recognized for their achievements, with appropriate ceremonies, activities, and awards commemorating their sacrifice and service to the United States and the cause of freedom in the Global War on Terrorism.

(b) CELEBRATION HONORING MILITARY EFFORTS IN OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM.—The President may, at the sole discretion of the President—

(1) designate a day of celebration to honor the soldiers, sailors, marines, and airmen of the Armed Forces who have served in Operation Enduring Freedom or Operation Iraqi Freedom and have returned to the United States; and

(2) issue a proclamation calling on the people of the United States to observe that day with appropriate ceremonies and activities.

(c) PARTICIPATION OF ARMED FORCES IN CELEBRATION.—

(1) PARTICIPATION AUTHORIZED.—Members and units of the Armed Forces may participate in activities associated with the day of celebration designated under subsection (b) that are held in Washington, District of Columbia.

(2) AVAILABILITY OF FUNDS.—Subject to paragraph (4), amounts authorized to be appropriated for the Department of Defense may be used to cover costs associated with the participation of members and units of the Armed Forces in the activities described in paragraph (1).

(3) ACCEPTANCE OF PRIVATE CONTRIBUTIONS.—(A) Notwithstanding any other provision of law, the Secretary of Defense may accept cash contributions from private individuals and entities for the purposes of covering the costs of the participation of members and units of the Armed Forces in the activities described in paragraph (1). Amounts so accepted shall be deposited in an account established for purposes of this paragraph.

(B) Amounts accepted under subparagraph (A) may be used for the purposes described in that subparagraph until expended.

(4) LIMITATION.—The total amount of funds described in paragraph (2) that are available for the purpose set forth in that paragraph may not exceed the amount equal to—

(A) $20,000,000, minus

(B) the amount of any cash contributions accepted by the Secretary under paragraph (3).

(d) AWARD OF RECOGNITION ITEMS.—

(1) AUTHORITY TO AWARD.—Under regulations prescribed by the Secretary of Defense, appropriate recognition items may be awarded to any individual who served honorably as a member of the Armed Forces in Operation Enduring Freedom or Operation Iraqi Freedom during the Global War on Terrorism. The purpose of the award of such items is to recognize the contribution of such individuals to the success of the United States in those operations.

(2) RECOGNITION ITEMS DEFINED.—In this subsection, the term "recognition items" means recognition items authorized for presentation under section 2261 of title 10, United States Code (as amended by section 593(a) of this Act).

AMENDMENT NO. 2567

(Purpose: To authorize the construction of battalion dining facilities at Fort Knox, Kentucky)

On page 310, in the table following line 16, insert after the item relating to Fort Campbell, Kentucky, the following:

	Fort Knox	$4,600,000

On page 311, in the table preceding line 1, strike the amount identified as the total in the amount column and insert "$1,199,722,000".

On page 317, between lines 3 and 4, insert the following:

SEC. 2105. CONSTRUCTION OF BATTALION DINING FACILITIES, FORT KNOX, KENTUCKY.

(a) AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 2104(a) for military construction, land acquisition, and military family housing functions of the Department of the Army and the amount of such funds authorized by paragraph (1) of such subsection for military construction projects inside the United States are each hereby decreased by $3,600,000.

(b) USE OF FUNDS.—Of the amount authorized to be appropriated by section 2104(a)(1) for the Department of the Army and available for military construction at Fort Knox, Kentucky, $4,600,000 is available for the construction of battalion dining facilities at Fort Knox.

AMENDMENT NO. 2568

(Purpose: To provide for a responsibility of the Joint Chiefs of Staff as military advisors to the Homeland Security Council)

At the end of subtitle A of title IX, add the following:

SEC. ___. RESPONSIBILITY OF THE JOINT CHIEFS OF STAFF AS MILITARY ADVISERS TO THE HOMELAND SECURITY COUNCIL.

(a) RESPONSIBILITY AS MILITARY ADVISERS.—

(1) IN GENERAL.—Subsection (b) of section 151 of title 10, United States Code, is amended—

(A) in paragraph (1), by inserting "the Homeland Security Council," after "the National Security Council,"; and

(B) in paragraph (2), by inserting "the Homeland Security Council," after "the National Security Council,".

(2) CONSULTATION BY CHAIRMAN.—Subsection (c)(2) of such section is amended by inserting "the Homeland Security Council," after "the National Security Council," both places it appears.

(3) ADVICE AND OPINIONS OF MEMBERS OTHER THAN CHAIRMAN.—Subsection (d) of such section is amended—

(A) in paragraph (1), by inserting "the Homeland Security Council," after "the National Security Council," both places it appears; and

(B) in paragraph (2), by inserting "the Homeland Security Council," after "the National Security Council,".

(4) ADVICE ON REQUEST.—Subsection (e) of such section is amended by inserting "the Homeland Security Council," after "the National Security Council," both places it appears.

(b) ATTENDANCE AT MEETING OF HOMELAND SECURITY COUNCIL.—Section 903 of the Homeland Security Act of 2002 (6 U.S.C. 493) is amended—

(1) by inserting "(a) MEMBERS.—" before "The members"; and

(2) by adding at the end the following new subsection:

"(b) ATTENDANCE OF CHAIRMAN OF JOINT CHIEFS OF STAFF AT MEETINGS.—The Chairman of the Joint Chiefs of Staff (or, in the absence of the Chairman, the Vice Chairman of the Joint Chiefs of Staff) may, in the role of the Chairman of the Joint Chiefs of Staff as principal military adviser to the Homeland Security Council and subject to the direction of the President, attend and participate in meetings of the Homeland Security Council."

AMENDMENT NO. 2569

(Purpose: To express the sense of the Senate on the lives saved by the Common Remotely Operated Weapons Station (CROWS) platform)

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. SENSE OF SENATE ON COMMON REMOTELY OPERATED WEAPONS STATION (CROWS) PLATFORM.

(a) FINDINGS.—The Senate makes the following findings:

(1) With only a few systems deployed, the Common Remotely Operated Weapons Station (CROWS) platform is already saving the lives of soldiers today in Iraq by moving soldiers out of the exposed gunner's seat and into the protective shell of an up-armored Humvee.

(2) The Common Remotely Operated Weapons Station platform dramatically improves battlefield awareness by providing a laser rangefinder, night vision, telescopic vision, a fire control computer that allows on-the-move target acquisition, and one-shot one-kill accuracy at the maximum range of a weapon.

(3) As they become available, new technologies can be incorporated into the Common Remotely Operated Weapons Station platform, thus making the platform scalable.

(4) The Army has indicated that an additional $206,000,000 will be required in fiscal year 2006 to procure 750 Common Remotely Operated Weapons Station units for the Armed Forces, and to prepare for future production of such weapons stations.

(b) SENSE OF SENATE.—It is the sense of the Senate that the President should include in the next request submitted to Congress for supplemental funding for military operations in Iraq and Afghanistan sufficient funds for the production in fiscal year 2006 of a number of Common Remotely Operated Weapons Station units that is adequate to meet the requirements of the Armed Forces.

AMENDMENT NO. 2570

(Purpose: To include packet based telephony service in the Department of Defense telecommunications benefit)

At the end of subtitle C of title III, add the following:

SEC. . INCLUSION OF PACKET BASED TELEPHONY IN DEPARTMENT OF DEFENSE TELECOMMUNICATIONS BENEFIT.

(a) Inclusion in Benefit.—Subsection (a) of section 344 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1448) is amended by inserting "packet based telephony service," after "prepaid phone cards,".

(b) Inclusion of Internet Telephony in Deployment of Additional Telephone Equipment.—Subsection (e) of such section is amended—

(1) by inserting "or Internet service" after "additional telephones";

(2) by inserting "or packet based telephony" after "to facilitate telephone"; and

(3) by inserting "or Internet access" after "installation of telephones".

(c) Conforming Amendments.—Such section is further amended—

(1) in the subsection caption of subsection (a), by striking "PREPAID PHONE CARDS" and inserting "BENEFIT"; and

(2) in the subsection caption of subsection (e), by inserting "OR INTERNET ACCESS" after "TELEPHONE EQUIPMENT".

AMENDMENT NO. 2571

(Purpose: To express the sense of the Senate to emphasize that financial assistance may be provided for the performance of activities by the Army National Guard without use of competitive procedures under standard exceptions to the use of such procedures)

At the end of subtitle A of title VIII, add the following:

SEC. . SENSE OF SENATE ON APPLICABILITY OF COMPETITION EXCEPTIONS TO ELIGIBILITY OF NATIONAL GUARD FOR FINANCIAL ASSISTANCE FOR PERFORMANCE OF ADDITIONAL DUTIES.

It is the sense of the Senate that the amendment made by section 806 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2010) permits the Secretary of Defense to provide financial assistance to the Army National Guard for the performance of additional duties specified in section 113(a) of title 32, United States Code, without the use of competitive procedures under the standard exceptions to the use of such procedures in accordance with section 2304(c) of title 10, United States Code.

AMENDMENT NO. 2572

(Purpose: To clarify that military reservists, who are released from active duty and who are otherwise qualified, are eligible for veterans preference in Federal hiring)

At the appropriate place, insert the following:

SEC. . VETERANS PREFERENCE ELIGIBILITY FOR MILITARY RESERVISTS.

(a) Short Title.—This section may be cited as the "Reservist Access to Veterans Preference Act".

(b) Veterans Preference Eligibility.—Section 2108(1) of title 5, United States Code, is amended by striking "separated from" and inserting "discharged or released from active duty in".

(c) Savings Provision.—Nothing in the amendment made by subsection (b) may be construed to affect a determination made before the date of enactment of this Act that an individual is preference eligible (as defined in section 2108(3) of title 5, United States Code).

AMENDMENT NO. 2573

(Purpose: To require the Secretary of Defense to conduct a study and submit a report on the feasibility of conducting a military and civilian partnership health care project)

At the end of subtitle B of title VII, add the following:

SEC. 718. STUDY AND REPORT ON CIVILIAN AND MILITARY PARTNERSHIP PROJECT.

(a) Study.—The Secretary of Defense shall conduct a study on the feasibility of conducting a military and civilian partnership project to permit employees of the Department of Defense and of a non-profit health care entity to jointly staff and provide health care services to military personnel and civilians at a Department of Defense military treatment facility.

(b) Report.—Not later than December 31, 2006, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the study required by subsection (a).

AMENDMENT NO. 2574

At the appropriate place in title VIII, insert:

SEC. . CONTRACTING INCENTIVE FOR SMALL POWER PLANTS ON FORMER MILITARY BASES.

(a) Authorization.—Notwithstanding the limitation in Section 501(b)(1)(B) of title 40, United States Code, the Administrator of the General Services Administration is authorized to contract for public utility services for a period of not more than 20 years, provided that such services are electricity services procured from a small power plant located on a qualified HUBZone base closure area.

(b) Definition of Small Power Plant.—In this section, the term small power plant includes any power facility or project with electrical output of not more than 60 Megawatts.

(c) Definition of Public Utility Electric Services.—In this section, the term "public utility services", with respect to electricity services, includes electricity supplies and services, including transmission, generation, distribution, and other services directly used in providing electricity.

(d) Definition of Hubzone Base Closure Area.—In this section, the term "HUBZone base closure area" has the same meaning as such term is defined in Section 3(p)(4)(D) of the Small Business Act, 15 U.S.C. 632(p)(4)(D).

(e) Applicability of Other Provisions of Law.—Contracting pursuant to this section shall be subject to all other laws and regulations applicable to contracting for public utility services.

AMENDMENT NO. 2575

(Purpose: To extend through 2010 the requirement for an annual report on the maturity of technology at the initiation of major defense acquisition programs)

At the end of subtitle E of title VIII, add the following:

SEC. ___. EXTENSION OF ANNUAL REPORTS ON MATURITY OF TECHNOLOGY AT INITIATION OF MAJOR DEFENSE ACQUISITION PROGRAMS.

Section 804(a) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107-107; 115 Stat. 1180) is amended by striking "through 2006" and inserting "through 2010".

AMENDMENT NO. 2576

(Purpose: To authorize $4,500,000 for the Army National Guard for the construction of a readiness center at Camp Dawson, West Virginia, to authorize $2,000,000 for the Air National Guard for C-5 aircraft shop upgrades at Eastern West Virginia Regional Airport, Shepherd Field, Martinsburg, West Virginia, and to provide an offset)

On page 337, between lines 4 and 5, insert the following:

SEC. 2602. NATIONAL GUARD CONSTRUCTION PROJECTS.

(a) Army National Guard at Camp Dawson, West Virginia.—

(1) Authorization of appropriations.—The amount authorized to be appropriated by section 2601(1)(A) for the Department of the Army for the Army National Guard of the United States is hereby increased by $4,500,000.

(2) Use of funds.—Of the amount authorized to be appropriated by section 2601(1)(A) for the Department of the Army for the Army National Guard of the United States, as increased by paragraph (1), $4,500,000 is available for the construction of a readiness center at Camp Dawson, West Virginia.

(3) Offset.—The amount authorized to be appropriated by section 2601(3)(A) for the Department of the Air Force for the Air National Guard of the United States, and available for the construction of a bridge/gate house/force protection entry project at Camp Yeager, West Virginia, is hereby decreased by $4,500,000.

(b) Air National Guard at Eastern West Virginia Regional Airport.—Of the amount authorized to be appropriated by section 2603(3)(A) for the Department of the Air Force for the Air National Guard of the United States, and otherwise available for the construction of a bridge/gate house/force protection entry project at Camp Yeager Air National Guard Base, West Virginia, $2,000,000 shall be available instead for C-5 aircraft shop upgrades at Eastern West Virginia Regional Airport, Shepherd Field, Martinsburg, West Virginia.

AMENDMENT NO. 2577

(Purpose: To require a report on the effects of windmill farms on military readiness)

At the end of subtitle C of title III, add the following:

SEC. ___. REPORT ON EFFECTS OF WINDMILL FARMS ON MILITARY READINESS.

(a) Finding.—Congress finds that the Ministry of Defence of the United Kingdom has determined, as a result of a recently conducted study of the effect of windmill farms on military readiness, not to permit construction of windmill farms within 30 kilometers of military radar installations.

(b) Report Required.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the effects of windmill farms on military readiness, including an assessment of the effects on the operations of military radar installations of the proximity of windmill farms to such installations and of technologies that could mitigate any adverse effects on military operations identified.

AMENDMENT NO. 2578

(Purpose: To require a report on advanced technologies for nuclear power reactors in the United States)

At the end of subtitle B of title XXXI, add the following:

SEC. ___. REPORT ON ADVANCED TECHNOLOGIES FOR NUCLEAR POWER REACTORS IN THE UNITED STATES.

(a) REPORT REQUIRED.—Not later than six months after the date of the enactment of this Act, the Secretary of Energy shall submit to Congress a report on advanced technologies for nuclear power reactors in the United States.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description and assessment of technologies under development for advanced nuclear power reactors that offer the potential for further enhancements of the safety performance of nuclear power reactors.

(2) A description and assessment of technologies under development for advanced nuclear power reactors that offer the potential for further enhancements of proliferation-resistant nuclear power reactors.

(c) FORM OF REPORT.—The information in the report required by subsection (a) shall be presented in manner and format that facilitates the dissemination of such information to, and the understanding of such information by, the general public.

AMENDMENT NO. 2579

(Purpose: To require quarterly reports on the war strategy in Iraq)

At the end of subtitle D of title X, add the following:

SEC. ___. QUARTERLY REPORTS ON WAR STRATEGY IN IRAQ.

(a) QUARTERLY REPORTS.—At the same time the Secretary of Defense submits to Congress each report on stability and security in Iraq that is submitted to Congress after the date of the enactment of this Act under the Joint Explanatory Statement of the Committee on Conference to accompany the conference report on the bill H.R. 1268 of the 109th Congress, the Secretary of Defense and appropriate personnel of the Central Intelligence Agency shall provide the appropriate committees of Congress a briefing on the strategy for the war in Iraq, including the measures of evaluation utilized in determining the progress made in the execution of that strategy.

(b) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services and Appropriations of the Senate; and

(2) the Committees on Armed Services and Appropriations of the House of Representatives.

Mr. BINGAMAN. Mr. President, I rise today in support of an amendment to the Defense Authorization Act of 2006, introduced by Senator WARNER along with Senator LEVIN and myself, which would authorize emergency supplemental appropriations for the Department of Defense for domestic hurricane relief and avian flu preparedness. At my request, this amendment also includes $40 million in relief assistance for the people affected by the devastating earthquake that struck northern Pakistan, India, and Afghanistan on October 8, 2005. It would also require the Secretary to submit a report to Congress describing the Department of Defense's humanitarian efforts in the region and assessing the need for further reconstruction and relief assistance. Although I fully support the $40 million authorized in this amendment, I believe the DOD assessment will reveal the need for a substantial increase in assistance for the approximately 3 million people left homeless by this earthquake.

Initial reports of this disaster described the situation as critical, with over 30,000 people estimated dead and 1 million people in desperate need of assistance. It is my understanding that, based on these initial estimates, USAID has spent approximately $50 million of the $156 million that the United States pledged in humanitarian assistance to South Asia. In addition, the U.S. military has been allocated $56 million of this pledge to support logistical and other military relief efforts, and $50 million of this has already been spent. As of November 9, the Department of Defense had more than 900 personnel providing relief and reconstruction support. DOD has flown more than 1,100 helicopter missions delivering 2,700 tons of relief supplies and evacuated over 8,200 casualties from the affected area. In addition, the 212th Mobile Army Surgical Hospital has established a unit in Pakistan and has 36 intensive care unit beds, 60 intermediate minimal care beds, and 2 operating rooms. This unit has performed valiantly, having completed more than 100 surgeries and treated 1,200 nonsurgical patients.

While I fully support these efforts, it has become clear that this disaster is much larger than what was first assumed. The United Nations is now reporting that "the unfolding picture reveals levels of human and economic devastation unprecedented in the history of the subcontinent." In Pakistan alone, approximately 80,000 people have died, half of whom were children. Nearly the same amount of people are injured, with both numbers expected to rise. This region is home to 5 million people scattered across this mountainous area, and with a harsh winter quickly approaching, the situation has the potential to become much worse.

The earthquake destroyed most hospitals, schools, and government buildings, and hundreds of towns and villages in the region have been completely wiped out. Most roads and bridges have been completely destroyed, and the 900 aftershocks have blocked the remaining roads by landslides. Tens of thousands of people are still completely cut off from any form of assistance. According to the United Nations, over 2 million people require life-saving assistance, including basic necessities like food, water, and medicine. In addition, approximately 3 million people lack adequate shelter at a time when temperatures are consistently below freezing and growing colder. There is now growing concern that the death toll could quickly double if increased aid is not provided immediately.

The U.N. has increased its appeal for aid to $550 million for the next 6 months of operations, and it is estimated that disaster relief and reconstruction may cost up to $6 billion over the long term. In the near term however, I believe it is critical that we do all we can before the Thanksgiving recess to help these people as they struggle through the winter months. It is also important that if we are truly committed to changing how the United States is perceived in a region which is predominantly rural, poor, and Muslim, we must be willing to demonstrate America's compassion and generosity in this time of urgent need. To this end, I urge my colleagues to support this amendment.

AMENDMENT NO. 2577

Mr. WARNER. Mr. President, for the past several years the Senate has been very engaged in producing a comprehensive energy policy. This summer we took a positive step forward passing the first Energy bill in more than 14 years.

It is my hope that this Energy bill will expand domestic supply, encourage alternative sources, and help reduce our overall demand for energy. Alternative energy sources will continually play a larger role in the Nation's future and I believe wind power is a part of that solution.

The Energy bill shifted the inadequate permitting process for alternative energy production on outer continental shelf lands from the Army Corps of Engineers to the Department of Interior's Minerals Management Service. Given the Minerals Management Service's experience with permitting offshore oil and gas leases, the inclusion of alternative energy production such as windmills is a natural fit. Now the permitting of wind farms, whether on or off shore, follows a strong permitting process with input from the local, State, and Federal Governments.

However, as windmills become a more prevalent part of the Nation's energy landscape, we must be fully aware of the effects these facilities may have on other aspects of the country's well being.

I have been prompted to look into this based upon the experiences of the United Kingdom, which has studied in detail the potential adverse effects of wind turbines on their radar abilities. The UK Ministry of Defence is now a part of the permitting process for potential wind farms in that country and some of these findings are currently being shared with our own Department of Defense. However, we need more study.

Today I offer an amendment to provide a study regarding the effects of wind turbines on military readiness, including an assessment of the effects such farms may have on military radar. My amendment also requires the report to include an assessment of technologies that could mitigate any adverse effects wind projects could have on military operations. As the entire world continues the development of alternative sources of energy, it is imperative that the Department of Defense and the Congress understand the effects that those energy sources may have on the military's ability to do its job.

Whether it is a wind farm in the middle of the Arizona desert, several miles off the Alaska Coast, or set along the shore of South Africa, this Nation's military simply must be able to adequately deal with the potential effects.

I thank the Senate for agreeing to include this study in the Defense Authorization bill and look forward to its findings.

AMENDMENT NO. 1345

Ms. COLLINS. Mr. President, competitive sourcing is the process by which the Federal Government conducts a competition to compare the cost of obtaining a needed commercial service from a private sector contractor rather than from Federal employees. Properly conducted, competitive sourcing can be an effective tool to achieve cost savings. Poorly utilized, however, it can increase costs and hurt the morale of the Federal workforce.

The current guidelines under which agencies conduct these competitions are contained in the Office of Management and Budget's Circular A-76. To ensure that we maximize the benefit and minimize the cost of competitive sourcing, A-76 competitions must be conducted in a carefully crafted manner. The rules under which they take place must be fair, objective, transparent, and efficient. In one particular regard, I believe the current rules fail to meet these criteria.

Specifically, they do not allow Federal employees to protest the agency's decisions in an A-76 competition beyond the agency's own internal review processes to the General Accountability Office. Congress has vested in the GAO the jurisdiction to hear and render opinions in protests of agency acquisition decisions generally. Private sector contractors, in contrast to Federal employees, have standing to protest agency procurement decisions, including those in A-76 competitions, before GAO.

The current situation does not arise from any conscious policy decision of Congress, GAO, or OMB. Rather, it occurs because the Federal statute that confers protest jurisdiction upon GAO, the Competition in Contracting Act of 1984 or "CICA" was not drafted to address the unique nature of A-76 competitions, in particular, the role of Federal employees in the "Most Efficient Organization" or "MEO," which is the in-house side of these competitions. This was not deliberate—this particular circumstance for protest was simply not contemplated by Congress when drafting CICA.

Recent revisions to A-76 created the potential for GAO to review past decisions by Federal courts and revisit its own opinions to see whether the revisions would merit a determination that Federal employees had gained standing to protest adverse A-76 competition decisions. However, a GAO protest decision indicates that GAO has concluded it lacks the authority under CICA to hear protests from Federal employees in the MEO in these competitions. As a result, corrective legislation became necessary in our view.

The Collins-Akaka amendment addresses a very important inequity in our current procurement system. The amendment would ensure that Federal employees have standing to protest to GAO similar to what the private sector enjoys. The amendment would extend GAO protest rights on behalf of the MEO in A-76 competitions to two individuals. The first is the Agency Tender Official or "ATO." The ATO is the agency official who is responsible for developing and representing the Federal employees' MEO. The second is a representative chosen directly by the Federal employees in the MEO for the purposes of filing a protest with GAO where the ATO does not, in the view of a majority of the MEO, fulfill his or her duties in regards to a GAO protest. Our intent is to bolster the A-76 process by providing a mechanism for Federal employees to seek redress from GAO, an entity that is well known for its fair, effective and expert handling of acquisition protests.

STUDY OF NUCLEAR POWER

Mr. WARNER. Mr. President, as the world economy continues to develop, populations and economies grow, and energy demand continues to rise, it is imperative that we diversify our supply of energy. Nuclear power provides approximately 20 percent of our Nation's electricity needs and it is a clean air alternative to fossil fuels. The safety record of our commercial nuclear industry is a positive story and one that we need to share. In an era where resources have become increasingly scarce and expensive, it is unfortunate that nuclear power hasn't seemed to be a part of the readily accepted solution. We have not been building nuclear power plants in the past 20 plus years because of environmental and safety concerns and this is a trend that I feel must be reversed.

I feel these concerns and that opposition to nuclear power are simply a result of a lack of information. Today I offer an amendment that will provide objective data for the public to see. Specifically, my amendment calls on the Department of Energy to report to Congress on the technologies for advanced nuclear power reactors and the potential for safety enhancements as a result of those technologies.

This amendment will build on the nuclear provisions in the recently passed Energy bill. Specifically, the extension of Price Anderson insurance, incentives for nuclear power production, and support for the construction of new nuclear reactors are positive policy developments. In addition, there are several security related provisions regarding security exercises, worker screening, and minimum facility standards that will further enhance the safety and security of our nuclear facilities. However, I feel there is information that would help many understand the safety record of the industry and the potential enhancement of that through new technology in the future.

I believe we must expand our nuclear power output as part of a comprehensive energy policy and it is my hope that this study helps the public better understand the safe and reliable contribution nuclear power can make.

I thank the Senate for including this amendment.

Mr. WARNER. Returning to the debate on the two amendments, I yield from my time 3 minutes to the distinguished Senator from Connecticut.

The ACTING PRESIDENT pro tempore. The Senator from Connecticut is recognized.

Mr. LIEBERMAN. Mr. President, I thank the Senator from Virginia. I rise to support the Warner amendment and to respectfully oppose the Levin amendment.

I believe something very important has happened in the last 24 hours. In my opinion, the debate has grown in our country and in this city much too partisan over what is happening in Iraq. That partisanship has begun to get in the way of the potential for a successful completion of our mission there.

I cite the great Senator Arthur Vandenberg of Michigan, who said: Politics must end at the water's edge. Why? So that America speaks with maximum authority against those who would divide and conquer us in the free world. That is from an earlier chapter in history, but his words cry out to us.

Here is what the Washington Post said Saturday:

> President Bush and leading congressional Democrats lobbed angry charges at each other Friday in an increasingly personal battle over the origins of the Iraq war. The sharp tenor Friday resembled an election year campaign more than a policy disagreement.

That is the danger that Vandenberg warns of. And about what? About prewar intelligence, almost 3 years ago—not irrelevant, not unimportant, but not as relevant and important as how we successfully complete our mission in Iraq, how we protect the 150,000 men and women fighting for us in uniform over there, how we do what the majority of Members of both parties have said is so important to us—successfully complete this mission.

Senator WARNER and Senator LEVIN have done something unique. Senator LEVIN worked very hard on our side to try to put together a broad amendment that could involve as many members of the Democratic caucus as possible. He did something that is important: expressed support for the troops, for successful completion of the mission, but quite correctly asked the administration and the Pentagon for a plan, for measurements, for the beginning of a more open and complete dialog with Congress.

He put something in there that I don't agree with that will lead me respectfully to vote against the amendment. The last paragraph in the Levin-Reid amendment looks like a timetable for withdrawal. It may not be the intention, but I fear that is the message it will send. That is a message I fear will discourage our troops in the field, will encourage the terrorists, and will confuse the Iraqis.

Senator WARNER has come along and accepted most of the Levin amendment except primarily eliminated that last paragraph. In doing so, these two leaders, Senator LEVIN and Senator WARNER, have created a context to break through the partisanship that has begun to diminish American public support for the war, and that means making it more difficult for our troops to successfully complete the mission.

We set up a dialog between the Congress and the President, measuring points, and hopefully the administration will respond. This is a statement of trust between Senator WARNER and Senator LEVIN. I hope it will be responded to by the administration because ultimately, only together, as Vandenberg advised, will we achieve success in Iraq. And success in Iraq means great stability in the Middle East, great freedom for the people of Iraq, and a setback for the terrorists who attacked us on September 11 and are anxious to do so again. I thank my friends for working together to get us to this point.

Here is my hope. The vote on the Levin amendment, I gather, will be first. I will respectfully vote against it. If it does not pass, I hope there is overwhelming support for the Warner amendment. I can even dream that 100 Senators would vote for it. That would be the strongest statement of support to our troops and the strongest statement of opposition to our enemy in Iraq.

I yield the floor.

Mr. LEVIN. How much time remains?

The ACTING PRESIDENT pro tempore. The Senator has 9 minutes 55 seconds.

Mr. LEVIN. I yield 5 minutes to the Senator from Delaware.

Mr. BIDEN. Mr. President, before my friend from Connecticut leaves, I point out it is not partisanship that has caused the American people to leave this war; it is the incredible gap between the rhetoric of the administration of the last 2 years and the reality on the ground. Before we ever got into the open debate, the American people in droves were leaving this not just because Americans are dying, as tragic as that is, but because they do not think we have a plan.

What I think all Democrats and Republicans are deciding is, Tell us the plan, Stan. Tell us, Mr. President, what is the plan? It is the first time this has happened.

The purpose of the amendment is as clear as it is critical: to require the Bush administration to lay out what we need to do to succeed in Iraq. For the first time, our Republican colleagues have joined Democrats in insisting on a clear Iraqi strategy from this administration, a schedule to achieve it, and real accountability.

Let me be clear about what the amendment does not do. It does require the administration to explain in detail, in public, its plan for success—it has not been public, and that is why the American people have left this outfit—and do it with specific goals, a realistic schedule for achieving those goals, and the relationship between achieving the goals and redeploying U.S. forces. It does not set a deadline for withdrawal.

In providing the plan, both Democrats and Republicans are saying: I hope the administration will start by being realistic and state specifically what the mission is. Is the mission to protect every Iraqi, or is the mission different? As the military will tell, and no one knows better than my friends on the Committee on Armed Services, the mission dictates the force structure, and the more realistic mission calls for less force. We have to refocus our mission on preserving America's fundamental interests in Iraq. What are they?

First, we have to ensure that Iraq does not become what it was not before the war: a haven for jihadist terrorists.

Second, we have to do what we can to prevent a full-blown civil war that turns into regional war. I predict if there is a civil war, there will be a regional war.

To leave Iraq a stable and a united country with representative government, posing no threat to its neighbors, we need to proceed on three tracks at the same time: a political diplomatic track, an assistance track, and a security track. We cannot succeed in Iraq without all three of those succeeding.

On the diplomatic track, nothing is more important than getting Iraq's three main groups—Shiites, Sunnis, and Kurds—to agree to changes in a constitution by next spring so that there is a consensus constitution.

My friend, the chairman of the committee, says without a political solution, we cannot do this. He is right. We need to know exactly what the administration is doing to convince each community to make the compromises necessary for a broad and sustainable political settlement.

We also need to know that the administration plans to engage the world powers and regional powers in this effort, as we did in the Six Plus Two Plan in Afghanistan, as we did in Bosnia. Iraq's neighbors have real influence with these different communities, and we need them to use that influence to arrive at a political settlement.

On the assistance track, the whole house of cards will collapse if Iraqis have no capacity to govern themselves, and if the Iraqi people cannot turn on the lights, drink the water, and walk out their front doors without wading into sewage.

So we need to know what specific steps the administration is taking to strengthen the capacity of Iraq's governmental ministries. We all know none of them can function now—none. Not a single Iraqi ministry is capable of functioning. The administration rejected the British plan to adopt these ministries. So what is the plan? What are you going to do, Mr. President, to make them able to function? How many regular police do we have to keep? What are the basic law-and-order requirements before we can draw down?

We need to stop this silliness about having trained 179,000 troops. Stop this silliness. Tell us what the facts are and tell us the relationship between the facts and our ability to draw down.

What is the plan to ensure that these local ministries are able to move on their own and coordinate Iraqi security forces?

Our amendment lays this out. The fact that our Republican colleagues have signed on to a very similar amendment makes it clear that all of us in this body are tired of not being told the facts.

So, Mr. President, the gap between this administration's rhetoric on Iraq and the reality on the ground has created a huge credibility gap. And I would have never thought this: Only this President could unite the Senate. He has united the Senate on a single point: What is the plan? That is what our amendment does.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Mr. BIDEN. I thank the Chair and I thank my colleague.

The ACTING PRESIDENT pro tempore. Who yields time?

Mr. BIDEN. Mr. President, I ask unanimous consent, if it is possible, for 1 minute for my friend from California.

The ACTING PRESIDENT pro tempore. Is there objection?

The Senator from Michigan.

Mr. LEVIN. Mr. President, is that an additional minute above the time allotted to us?

Mr. BIDEN. Yes.

The ACTING PRESIDENT pro tempore. Is there objection?

Mr. WARNER. Mr. President, I assume that a minute comes to this side likewise.

Mr. BIDEN. Yes.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

The Senator from California is recognized for 1 minute.

Mrs. BOXER. I thank the Chair and my friend from Delaware.

Mr. President, remember when Secretary Rumsfeld said he doubted the war would last 6 months, and when White House Budget Director Daniels said Iraq would be an affordable endeavor, and Condoleezza Rice used the imagery of a mushroom cloud to describe the threat of Iraq, and Vice President CHENEY's now famous assessment of the insurgency: "They are in their last throes, if you will"? That is a quote.

Well, this administration has failed to lead in Iraq in a way that is ensuring a way out of this with a successful mission.

Finally, the Senate is finding its voice today in both of these proposals in front of us. I am proud to say the Senate is standing up for a change in policy. The status quo is not working. In California, we have lost about 24 percent of the dead. We are suffering. Their families are suffering. Just to say, "stay the course, stay the course, no matter how badly it is going," is simply not going to help our troops in the field.

So, Mr. President, I view this day as a very important breakthrough for the American people. They are being heard. The Democrats are hearing them. The Republicans took the very words of our resolution, made a couple of changes, I think important changes, which mitigate in favor of ours, but I certainly will be voting for both.

Thank you very much.

The ACTING PRESIDENT pro tempore. The Senator has used her 1 minute.

Who yields time?

Mr. LEVIN. Mr. President, how much time is remaining on both sides?

The ACTING PRESIDENT pro tempore. The Senator from Michigan has 3 minutes 38 seconds. The Republican side has 4 minutes 18 seconds.

Mr. LEVIN. Mr. President, I yield a minute to the Senator from Rhode Island.

The ACTING PRESIDENT pro tempore. The Senator from Rhode Island is recognized for 1 minute.

Mr. REED. Mr. President, after 2½ years of insurgency warfare in Iraq, it is a stunning indictment of the Bush administration that this Senate has to ask for a plan. And we are asking on behalf of the American people because their disquiet with Iraq is not a function of political bickering, it is a function of not understanding what the plan is because the President has not presented us with a viable, coherent plan.

I believe an important part of that plan is the phased redeployment of American forces without a deadline. I believe that is being embraced by people around the world. Yesterday, Tony Blair spoke about the possibility of withdrawing British troops in 2006. Talabani, the Iraqi leader, spoke about it. John Reid, the Defense Secretary of Great Britain, talked about it.

I think we have to have from the administration a notion of when our forces will come out of Iraq or redeployed within Iraq. It is important not only for Iraq, it is important for our security across the globe. How can we defend ourselves in the future if we do not know if our forces will be freed up to respond to other crises? How can we pay for these troops if we don't know when they will be coming out of Iraq? I think it is important to do this and essential to any plan. I hope that is something we can agree on today.

The ACTING PRESIDENT pro tempore. The Senator has used 1 minute.

Who yields time?

Mr. LEVIN. Mr. President, I yield a minute to the Senator from Illinois.

The ACTING PRESIDENT pro tempore. The Senator from Illinois is recognized for 1 minute.

Mr. DURBIN. Mr. President, this debate today is going to be a significant debate because you are going to hear from both sides of the aisle that we are voting for change. We will reject the status quo. We will reject the President's call for blind loyalty to his policies in Iraq because we cannot be blind to the fact that we have lost over 17,000 American soldiers who have been killed and wounded. We cannot be blind to the fact that there is no plan for success in Iraq. We cannot be blind to the fact that it does no favor to our troops and their families to ignore the obvious.

We need new leadership and new direction. The vote today on the Warner amendment and the vote on the Levin amendment are both votes for change. They are not votes to cut and run. Even though the Republicans have done a cut-and-paste job on the Democratic amendment, both amendments say to the administration: It is time to change the course for success, to make certain that 2006 is a significant year, so that we move toward a success and victory for our troops and for our Nation.

The ACTING PRESIDENT pro tempore. The Senator's 1 minute has expired.

Who yields time?

The Senator from Virginia is recognized.

Mr. WARNER. Mr. President, I regret the term "cut and paste" was used. Senator LEVIN and I have worked together now for 27 years in the Armed Services Committee. I worked with him and told him we decided not to completely rewrite the amendment. This in an effort, as the Senator from Connecticut, Mr. LIEBERMAN, a member of our committee, so eloquently stated, to reach a sense of bipartisanship at this very critical time, on the eve of another and perhaps the most significant election in Iraq, to show strong bipartisan support on those points on which we agree. And we agree almost on every point, with the exception of the last paragraph.

I was interested in listening to each of the debates thus far, and I did not hear anyone on that side specifically reinforce this last paragraph, which we cannot accept, nor should the country have Congress send across the airwaves of the world this message:

> A campaign plan with estimated dates for the phased redeployment of the United States Armed Forces from Iraq as each condition is met, with the understanding that unexpected contingencies may arise.

Therein is a short paragraph that could completely destabilize this forthcoming election on December 15, sending the wrong message. It is not needed.

This amendment, as drawn, is a very powerful, very powerful statement by the Congress—hopefully, if the House adopts it, but certainly by the Senate—of the need to tell the Iraqi people that we have done our share, we are not going to leave them, but we expect from them equal, if not greater, support than they have given to this date.

I yield the floor.

The ACTING PRESIDENT pro tempore. The Senator from Michigan is recognized.

Mr. LEVIN. Mr. President, this amendment represents a significant change in the course that we are on and so does the Republican amendment. The title of both amendments is "To clarify and recommend changes to the policy of the United States on Iraq. . . ." That is the purpose of my amendment. It is a purpose which is retained in the Warner amendment.

We lay out what those changes are. We agree on almost all of the changes, that "2006 should be a period of significant transition," that there should be "phased redeployment of United States forces." That is on page 2. That is not paragraph 7. They accept the idea that we should create the conditions for phased redeployment. They accept my idea and our idea that the United States "should tell the leaders of all groups and political parties in Iraq that they need to make the compromises necessary" for a broad-based political settlement.

We need that political settlement. Our military leaders tell us, if there is any chance of a military victory, you have to have a political settlement. So we endorse paragraph 7. Senator FEINGOLD read it. I have read it. We totally endorse it for what it says. It is not cut and run. It is not a statement that we are going to withdraw on a fixed date.

The ACTING PRESIDENT pro tempore. The Senator's time has expired.

Who yields time?

The minority leader is recognized.

Mr. REID. Mr. President, I will use leader time.

The ACTING PRESIDENT pro tempore. The Senator may use his leader time.

Mr. REID. Mr. President, today, Senate Democrats offer the most important amendment to this most important bill. Our amendment asks the Bush administration to give our troops in Iraq a strategy that is worthy of their sacrifices and heroic service.

Three years ago, America invaded Iraq with the finest Armed Forces in the world. Our military forces were unchallenged and unmatched, and they remain so today. Unfortunately, the President and this administration have not exercised the leadership our troops deserve. They place our troops in harm's way without a plan for success and have damaged our standing in the world.

It is long past time for the President, the Vice President, and the rest of the Bush White House to level with the American people and present a winning plan and strategy for Iraq and our troops and for the American people. They both deserve this, the troops and the American people.

For the last 3 years, Democrats have stood with our troops and have tried to make certain we did everything we could to help them succeed. From the outset, we offered the administration concrete proposals that would have greatly increased our prospects for success.

We called on the administration to put more troops on the ground, but the administration rejected this call. We fought to provide more body armor and equipment for our troops, but the administration rejected this call. We urged the administration to increase international participation to secure and rebuild Iraq, but the administration rejected this call. We stressed the importance of putting together a plan to win the peace, but the administration rejected this call.

Now, to remind my colleagues, it was not just the advice of Democrats that the administration chose to ignore. It ignored the advice of our senior generals, our friends and allies around the world, teams of weapons inspectors, and even senior officials in the previous Bush administration.

The President and his team also chose to disregard the Powell Doctrine, which holds that military actions should be used only as a last resort where there is a clear risk to national security.

According to this doctrine, if we do choose to fight, we should use overwhelming force, we should ensure that the conflict is strongly supported by the American people, and we should develop a clear exit strategy before we get into the conflict. That is the Powell Doctrine.

Before this administration took office, the Powell Doctrine was supported by the previous two Presidents, our military leaders, and congressional leaders from both sides of the aisle. But this administration turned the Powell Doctrine upside down. They determined that military action should be a first resort, not a last. When the risk to our national security was not clear, they manipulated and cherry-picked intelligence to hype the threat. Instead of using overwhelming force, this administration rejected our senior military leaders' advice and deployed a smaller force. And as we all know, there was not, and is not, an exit strategy to win the peace and bring our troops home.

While we are determined to understand the mistakes this administration made that brought us to this point, we are just as committed to finding a way forward to succeed in Iraq. Every day that goes by, it becomes increasingly clear that the administration's Iraq policy is adrift and rudderless. All they are offering is a bumper-sticker slogan: "Stay the course."

"Staying the course" is not a winning strategy. More than 2,050 soldiers have died and about 16,000 have been wounded. Iraq now risks becoming what it was not before the war: a haven for international terrorists and, as we saw in Jordan, a new launching pad for terrorist attacks.

In addition, America's taxpayers have already contributed more than $250 billion and are spending an additional $2 billion every week this war continues. In short, our troops deserve more than a slogan. They deserve a real, clear strategy for completing their mission in faraway Iraq.

Our amendment sets forth in the clearest terms the Democrats' view of what the President and the Iraqi people must accomplish to succeed in Iraq and complete our mission.

First, it is time to see a significant transition toward full Iraqi sovereignty with Iraqi forces helping to create the conditions that will eventually lead to the phased redeployment of U.S. Armed Forces. Two thousand six should be a year we take the training wheels off the Iraqi government and let the Iraqi people run their own country.

Second, the administration must tell the Iraqi people, clearly and unambiguously, that U.S. military forces will not stay indefinitely and that Iraqis must achieve a broad-based and sustainable political settlement that is essential for defeating the insurgency.

Third, the President must submit to the Congress and the American people a plan for success in Iraq. The American people deserve to know the conditions we seek to establish, the challenges we face in achieving these conditions, and the progress, if any, being made. As an example, the administration said repeatedly that our forces can stand down as Iraqi forces stand up. The American people deserve to know what that means in real and clear terms. How many capable Iraqi security forces are needed so that we can begin phased redeployment of U.S. forces as our tasks are achieved? How long will it take? Is it no longer acceptable that the President refuses? The answer is yes, it is no longer acceptable not to answer these and many other basic questions about his policy in Iraq. It is not acceptable to this Member of Congress, and it is certainly not acceptable to our troops. Many of those troops are serving their third tour of duty with no apparent end in sight.

With this amendment, Democrats are standing with our troops and the American people, insisting that the President and the Republican-controlled Congress do their jobs. The President must be held accountable and tell our troops and the American people his plan for Iraq and what additional sacrifices will be expected of our troops and the American people. We must honor our troops. We must preserve our national security. We must protect the American people. That is the least we should expect from our Commander in Chief.

I am going to vote for both amendments. Understand that the Democratic amendment and the Republican amendment have the same purpose. It is on both amendments. Purpose: To clarify and recommend changes to the policy of the United States in Iraq and to require reports of matters relating to Iraq. That is the purpose.

Based on what I see here today, the Republicans have no plan and no end in sight. We want to change the course. We can't stay the course. I appreciate, though, the Republicans following the Democrats as far as they have on this amendment. It is a tremendous step forward because we all agree—all 100 Senators, obviously—to clarify and recommend changes in the policy of the United States on Iraq and to require reports on matters relating to Iraq. That is the purpose of both amendments. We stand united. The Democrats stand united. We appreciate the support of the Republicans in this amendment process.

The PRESIDING OFFICER (Mr. COLEMAN). Who yields time?

Mr. WARNER. Mr. President, my understanding is that I have 2 minutes remaining on the 15-minute allocation.

The PRESIDING OFFICER. The Senator is correct.

Mr. WARNER. Given that we have no time to speak of before the amendment of the Senator from South Carolina and Senator LEVIN, I yield my 2 minutes for a matter other than the Iraqi debate, the habeas corpus issue, to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

AMENDMENT NO. 2524

Mr. SPECTER. I thank the Senator from Virginia.

I just want to alert my colleagues to the fact that the amended Graham amendment, which is the subject of newspaper comment but hasn't been the subject of any hearings, apparently agreed to by Senator LEVIN, or at least with fewer objections, this amendment in its present form is blatant court stripping in the most confusing way possible. The language of the amended Graham amendment says that there will be exclusive jurisdiction in the Court of Appeals for the District of Columbia Circuit.

If it means what it says, the Supreme Court of the United States would not have jurisdiction. This language has not been subjected to any analysis or hearing. An earlier part of the amendment provides that no court, justice, or judge shall have jurisdiction to consider the application for writ of habeas corpus. The Supreme Court of the United States, in three decisions handed down in June of last year, gave very substantial, articulated U.S. constitutional law as giving significant rights to the detainees to have an adjudication as to their status.

We have had many efforts at court stripping. Under the language of exclusive jurisdiction in the DC Circuit, the U.S. Supreme Court would not have jurisdiction to hear the Hamdan case which came into sharp focus because Chief Justice Roberts was on the panel there.

This is a sophisticated, blatant attempt at court stripping. It ought to be rejected, and we ought to have an opportunity to give it some thoughtful analysis before these fundamental changes are made.

I thank my colleague from Virginia.

AMENDMENTS NOS. 2518 AND 2519

Mr. McCAIN. Mr. President, the Iraq amendment under consideration today constitutes no run-of-the-mill resolution and reporting requirement. It is much more important than that, and likely to be watched closely in Iraq—more closely there, in fact, than in America. In considering this amendment, I urge my colleagues to think hard about the message we send to the Iraqi people. I believe that, after considering how either version will be viewed in Iraq, we must reject both.

Reading through each version, one gets the sense that the Senate's foremost objective is the drawdown of American troops. But America's first goal in Iraq is not to withdraw troops, it is to win the war. All other policy decisions we make should support, and be subordinate to, the successful completion of our mission. If that means we can draw down troop levels and win in Iraq in 2006, that is wonderful. But if success requires an increase in American troop levels in 2006, then we should increase our numbers there.

But that is not what these amendments suggest. They signal that withdrawal, not victory, is foremost in Congress's mind, and suggest that we are more interested in exit than victory. A date is not an exit strategy. This only encourages our enemies, by indicating that the end to American intervention is near, and alienates our friends, who fear an insurgent victory. Instead, both our friends and our enemies need to hear one message: America is committed to success in Iraq and we will win this war.

The Democratic version requires the President to develop a withdrawal plan. Think about this for a moment. Imagine Iraqis, working for the new government, considering whether to join the police forces, or debating whether or not to take up arms. What will they think when they learn that the Democrats are calling for a withdrawal plan? The Republican alternative, while an improvement, indicates that events in 2006 should create the conditions for a redeployment of U.S. forces. Are these the messages we wish to send? Do we wish to respond to the millions who braved bombs and threats to vote, who have put their faith and trust in America and the Iraqi Government, that our No. 1 priority is now bringing our people home? Do we want to tell insurgents that their violence has successfully ground us down, that their horrific acts will, with enough time, be successful? No, we must not send these messages. Our exit strategy in Iraq is not the withdrawal of our troops, it is victory.

If we can reach victory in 2006, that would be wonderful. But should 2006 not be the landmark year that these amendments anticipate, we will have once again unrealistically raised the expectations of the American people. That can only cost domestic support for America's role in this conflict, a war we must win.

I repeat that. This is a war we must win. The benefits of success and the consequences of failure are too profound for us to do otherwise. The road ahead is likely to be long and hard, but America must follow it through to success. While the sponsors of each version of this amendment might argue that their exact language supports this view, perceptions here and in Iraq are critical. By suggesting that withdrawal, rather than victory, is on the minds of America's legislators, we do this great cause a grave disservice.

The PRESIDING OFFICER. The majority leader is recognized.

Mr. FRIST. Mr. President, I wish to speak on leader time.

Shortly, we will be voting on two amendments, one offered by Senators LEVIN and REID, and the other proposed by Senator WARNER and myself.

Our amendment, the Republican amendment, shows leadership, signals our commitment, and reflects an exit strategy we call victory. As Chairman WARNER just said a few moments ago, there are many similarities between the two amendments which reflect a lot of broad agreement that we have on the war, the progress to date, and the way ahead.

Notwithstanding the Democrats' political carping of the last several days, and really the last several weeks, these two amendments that we will be voting on are forward-looking. They don't get into the issues that were debated and decided a long time ago in the last election. They are forward-looking. They don't try to rewrite history of how Members voted, why they voted, or what they supposedly meant at the time they voted when they spoke in support of the war.

There is a lot being made in the media about the requirement of a quarterly report, an update on the war's progress, allegations that this in some way shows dissatisfaction with the administration. That is absurd. It is ridiculous. The fact is that Congress, this body, is charged with oversight of the executive branch regardless of which party is in power at the time. This amendment is a continuation of that oversight. It is not a change in policy. It is a continuation of that oversight that we have been conducting for years in the Senate. That includes whether we are looking at prewar intelligence issues or investigating the Abu Ghraib prison abuses or inquiring about the pace of reconstruction efforts in Iraq.

The Senate has been doing this for years. We are already getting much of the information from the administration, largely at the urging of the Republican leadership.

There is a huge, important difference between the two amendments we will be voting on. That main difference between these amendments is that the Democrats' amendment requires a timeline, a plan for withdrawal of U.S. forces from Iraq. Some have referred to this as the cut-and-run provision; that is, pick an arbitrary timeline and get out of Iraq regardless of what is happening on the ground, regardless of the security situation, regardless of the political developments occurring in Iraq. We believe that is dangerous. We believe that is irresponsible. It is irresponsible to tell the terrorists, who we know are waiting to take us out, what that timeline is because the timeline, once exposed, simply says: All we have to do is wait and then we attack. Then we swoop in to overwhelm Iraq's fledgling democracy, once those troops depart, turning Iraq into a safe haven and base of operations to export terrorism abroad.

That is why cut-and-run is the wrong policy. Such a scenario would play very nicely into the plans that we know al-Qaida has. The recently intercepted letter between Zawahiri and Zarqawi laid out what that terrorists' strategy is, to force the United States out of Iraq and use the media and public opinion against us, to turn Iraq into a safe haven, and from there launch their twisted vision of establishing a radical caliphate throughout the Middle East. They laid it out. A cut-and-run strategy plays right into their hands.

That is why telling the enemy our plans is irresponsible and dangerous. That is why the votes on these amendments in a few moments are so important. It is dangerous for our troops in the region, for our Nation, and for the American people.

Democrats want an exit strategy, thinking cut-and-run. What we are for is a victory strategy. The President of the United States has laid that strategy out clearly in four steps: First, defeat the insurgency using military force while helping Iraq build its own security capability; second, help Iraq rebuild its infrastructure and supporting economy to promote growth and prosperity and hope; third, promote democracy in its institutions through a political process that culminates in an elected government that respects and represents the views of all Iraqis; and fourth, integrate that new Iraq into the international community of civilized nations. Four steps, that is the victory strategy.

We have already seen great progress by the Iraqis on each of these issues. As the President has said, U.S. forces will not stay one day longer than necessary. Our troops will step aside as Iraqi forces stand up. Publishing a timeline for our retreat will encourage the terrorists. It will confuse the Iraqi people. It will play into the hands of the Zawahiri and Zarqawi letter. It will discourage our troops, and it sends all the wrong signals to friends and foes alike in this country and, indeed, around the world.

My colleague from Connecticut, Senator LIEBERMAN, made many of these points a few moments ago and again last night when he so eloquently announced his strong support for the Warner amendment. Yes, 2006 will be a transition year for Iraq. We can celebrate that. With elections in 6 weeks, 2006 will be the year a permanent democratically elected government will finally take power, 31 months after the fall of Saddam Hussein. This government will be guided by its recently approved constitution. On October 15, 10.5 million people came out to ratify that constitution. The government will represent the views and the backgrounds and the beliefs and deeds of all peace-loving Iraqis. That is progress.

With Iraqi security forces now numbering 200,000, and their experience and leadership growing every day, I believe we can continue handing our security responsibilities over to Iraqi forces. I also believe that given the professionalism and courage of our Armed Forces, the commitment of the Iraqi people, and the support of the American people, we can achieve the vision. The vision is crystal clear. It is a free, democratic, and prosperous Iraq that is governed by the rule of law, that protects the rights of all Iraqis, that is not a threat to its neighbors, and is a responsible international citizen.

Mr. President, the Republican amendment is not a change in policy. It is not a change in tone as has been suggested on the floor. Our amendment reflects where this body has always been, supportive of the President and supportive of our troops overseas, forward-looking and optimistic, always conscious of the oversight responsibilities of this institution and our obligation as Senators to the American people. Indeed, I urge all of my colleagues to oppose the Levin amendment and to support the Frist-Warner amendment.

Mr. President, I ask for the yeas and nays.

Mr. REID. I yield my leader time to the Senator from Michigan.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The yeas and nays were ordered.

The PRESIDING OFFICER. The Democratic leader.

Mr. REID. I yield time to the Senator from Michigan. I think I have a minute or 2.

The PRESIDING OFFICER. The Senator has a minute.

The Senator from Michigan.

Mr. LEVIN. Mr. President, the majority leader has railed against language which does not exist in our amendment. Repeating over and over again a cut-and-run strategy is wrong, he tries to create the impression that that is what paragraph 7 proposes. It does not by its own terms. By repeating cutting and running enough I guess the hope is that people who don't read this language will believe that that is the language in paragraph 7. It is not.

What we propose in paragraph 7 is that there be estimated dates, estimated dates if the conditions on the ground are met as the Republican and Democratic amendment both propose occur. Then give us estimated dates for a phased redeployment—estimated dates—if those conditions are met and with the understanding that unexpected contingencies may arise. That cannot be fairly characterized the way the majority leader repeatedly characterized it.

The PRESIDING OFFICER. The Senator has used 1 minute.

The question is on agreeing to the amendment. The yeas and nays have been ordered.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Tennessee (Mr. ALEXANDER).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "nay."

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER (Mr. SUNUNU). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 40, nays 58, as follows:

[Rollcall Vote No. 322 Leg.]

YEAS—40

Akaka
Baucus
Bayh
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Murray
Obama
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Stabenow
Wyden

NAYS—58

Allard
Allen
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lieberman
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (FL)
Nelson (NE)
Pryor
Roberts
Santorum
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—2

Alexander
Corzine

The amendment (No. 2519) was rejected.

Mr. WARNER. I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2518

Mr. WARNER. Mr. President, I ask for the yeas and nays on the Warner amendment.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

Mr. WARNER. Mr. President, beginning with this vote, all remaining votes will be 10 minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Under the previous order, there is 2 minutes equally divided on the Warner amendment on which the yeas and nays have been ordered.

Mr. WARNER. Mr. President, I am very grateful for the bipartisan support on this amendment. Our amendment is simply taking portions of the Levin amendment, putting them into an amendment that we put together, rather than draw up a totally new amendment, so we can have the maximum bipartisanship but carefully crafting the Warner amendment so that not any words can be construed to indicate there is a timetable for the withdrawal of coalition forces, most particularly U.S. forces.

We are on the verge of an historic election in Iraq for a permanent government in a matter of weeks, and thereafter they have 60 days in which to stand up that government. The next 120 days are absolutely critical. The Warner amendment is forward-looking. It clearly sends a message to the Iraqi people that we have stood with them; we have done our part. Now it is time for them to put their government together, stand strong so that eventually they can exercise total sovereignty and select their own form of democracy. We cannot allow any verbiage to come out of the Congress of the United States that can be construed as a timetable of withdrawal at this critical time.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Michigan.

Mr. LEVIN. Mr. President, I intend to vote for the Warner amendment because it represents change, not as much change as we would have liked, and we have debated that and argued that. But there are significant changes that are being proposed in this amendment which we have worked very hard to put in our amendment and we think would represent an improvement. We need to have 2006 be a year of transition. We need to have the administration lay out a strategy. We need to state what our military states, which is that the Iraqis have to solve their political problems and come together and unify if that insurgency is going to be defeated. This amendment continues to say to the administration they need to tell that to the Iraqis.

This amendment also sets up a schedule for conditions that are goals we hope to be achieved on the ground. That "schedule," which is the word that remains in this amendment, is an important schedule that needs to be retained, and it is retained. It needs to be met, and if it is not met, we need to be told what has changed so that it can be met.

I support the Warner amendment as the second-best approach, but it continues to keep the purpose, to clarify and recommend changes to the policy of the United States on Iraq. Keeping that purpose is critical.

The PRESIDING OFFICER. The Senator's time has expired. All time has expired for debate.

The question is on agreeing to the amendment.

The yeas and nays have been ordered. The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Tennessee (Mr. ALEXANDER).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "yea."

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER (Mr. BURR). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 79, nays 19, as follows:

[Rollcall Vote No. 323 Leg.]

YEAS—79

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Burns
Cantwell
Carper
Chafee
Clinton
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
Dayton
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Grassley
Gregg
Hagel
Hatch
Hutchison
Inouye
Jeffords
Johnson
Kohl
Landrieu
Lautenberg
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Voinovich
Warner
Wyden

NAYS—19

Bunning
Burr
Byrd
Chambliss
Coburn
Conrad
DeMint
Graham
Harkin
Inhofe
Isakson
Kennedy
Kerry
Kyl
Leahy
McCain
Sessions
Thune
Vitter

NOT VOTING—2

Alexander
Corzine

The amendment (No. 2518) was agreed to.

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. REED. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2523

Mr. WARNER. Mr. President, may we have order?

I ask the Presiding Officer to once again restate the sequence of votes that are about to take place.

The PRESIDING OFFICER. The Senate will come to order.

The upcoming amendment is the Bingaman amendment to the Graham amendment. The previous order allows 2 minutes of debate.

Mr. WARNER. I thank the Presiding Officer and again remind the Senators the votes are 10 minutes.

The PRESIDING OFFICER. The Senator from Virginia is correct. All votes from here on are 10 minutes.

Mr. WARNER. The time reserved to me under the Bingaman amendment I yield to the distinguished Senator from South Carolina.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, last week we had a debate and vote on whether an enemy combatant terrorist al-Qaida member should be able to have access to our Federal courts under habeas like an American citizen. Senator BINGAMAN is trying to strip that part of the amendment. He is consolidating the habeas petitions into the DC Court of Appeals, but habeas still lies with a standard you can drive a truck through. The court would look at the lawfulness of the detention which would allow, in my opinion, the ability of a terrorist to go into the DC Circuit Court of Appeals and start asking for Internet access under the right of counsel. It is a never-ending process that should never have begun anyway.

I urge a "no" vote to make sure the right of appeal is consistent with the law of armed conflict and we do not have unfettered right of court access by enemy combatants to sue us over everything to undermine the war effort. I ask a "no" vote consistent with the last vote.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from New Mexico.

Mr. LEAHY. Mr. President, the Senate is not in order. The Senator should be heard.

The PRESIDING OFFICER. The Senate will come to order.

The Senator from New Mexico.

Mr. BINGAMAN. Mr. President, last year the Supreme Court said that Federal courts have authority to consider petitions for a writ of habeas corpus. This would apply to prisoners at Guantanamo. People should not be imprisoned without having the ability to challenge the legality of that imprisonment. That is the history of our common law system and our Constitution as well.

I will yield the remainder of my time to the Senator from Pennsylvania.

Mr. SPECTER. Mr. President, I support the Bingaman amendment and oppose the Graham amendment because the Graham amendment is sophisticated court-stripping. On the face of the Graham amendment, it says the DC Circuit has exclusive jurisdiction, and on the face of it, that even takes away jurisdiction from the Supreme Court of the United States.

To alter habeas corpus in the context where the Supreme Court last June,

2004. found substantial rights of the detainees is court-stripping and would set a very bad precedent. not only for this factual situation but in general.

I thank my colleague from New Mexico.

Mr. KERRY. Mr. President. last week I voted against an amendment introduced by Senator GRAHAM, No. 2515, which stripped the Federal courts of their historic jurisdiction to hear applications for writs of habeas corpus filed by or on behalf of detainees at Guantanamo Bay. I did so because the amendment would have eliminated virtually all judicial review of combatant detentions, including review of the decisions of military tribunals.

Today, I voted in favor of Senator BINGAMAN's amendment No. 2523, because it would have preserved judicial review in the most important areas while also preventing frivolous claims. When the Bingaman amendment failed, I voted for a second-degree amendment No. 2524, which reflected the hard work of Senator LEVIN to provide another means to preserve some form of judicial review of the proceedings at Guantanamo Bay. And, it is my understanding that, as Senator LEVIN stated on the floor of the Senate just yesterday, "this amendment will not strip courts of jurisdiction over [pending] cases."

The war on terror presents us with challenges unique in our Nation's history, requiring solutions that are sustainable over the long-term. We have little reason to trust the administration's record on this score. But with these provisions, the Senate declares it is our priority to prosecute the war on terror with every tool at the country's disposal including the rule of law. It remains my priority, and I know the priority of my colleagues, to win this war, to hunt down and destroy terrorists wherever they are, destroy their networks, and make our world safe.

Mr. DURBIN. Mr. President, I support the Bingaman second-degree amendment to the Graham detainee amendment.

The Senator from South Carolina has been a leader on the issue of detention and interrogation policies. I share his goal of setting clear rules for the detention of enemy combatants.

This amendment would do some positive things that I support. It would require the Defense Department to report to Congress on the procedures for determining the status of detainees held at Guantanamo Bay. It would prohibit the Defense Department from determining the status of a detainee based on evidence obtained from torture.

However, I am concerned that one section of the Graham amendment would have very dramatic unintended consequences.

However, subsection (d) of the amendment would eliminate habeas corpus for detainees at Guantanamo Bay. In so doing, it would overturn the Supreme Court's landmark decision in Rasul v. Bush. It would strip federal courts, including the U.S. Supreme Court, of the right to hear any challenge to any practice at Guantanamo Bay, other than a one-time appeal to the D.C. Circuit Court on the limited question of whether the Defense Department is complying with its own rules for classifying detainees. It applies retroactively, and therefore would also likely prevent the Supreme Court from ruling on the merits of the Hamdan case, a pending challenge to the legality of the administration's military commissions.

For these reasons, I am opposed to Senator GRAHAM's amendment.

I will support Senator BINGAMAN's second degree amendment to the Graham amendment. It would preserve the positive elements of the Graham amendment and would strike subsection (d) of the amendment. It would replace subsection (d) with a streamlined judicial review system that would preserve habeas for Guantanamo detainees, consolidate habeas claims in the D.C. Circuit Court, allow claims challenging the legality of detention, and prohibit claims based on "living conditions," e.g. the type of food a person is provided. These restrictions would not apply to people who have been charged by military commissions or who have been determined not to be enemy combatants by a Combatant Status Review Tribunal, CSRT.

The Graham-Levin substitute amendment would somewhat improve the underlying amendment by expanding the scope of review by the D.C. Circuit Court to include whether the CSRT's procedures are legal, but not whether a particular detainee's detention is legal. It would also allow for post-conviction review of military commission convictions. However, the amendment would still eliminate habeas review and overrule the Rasul case. As a result, I will oppose it.

No one questions the fact that the United States has the power to hold battlefield combatants for the duration of an armed conflict. That is a fundamental premise of the law of war.

However, over the objections of then-Secretary of State Colin Powell and military lawyers, the Bush administration has created a new detention policy that goes far beyond the traditional law of war.

The administration claims the right to seize anyone, including an American citizen, anywhere in the world, including in the United States, and to hold him until the end of the war on terrorism, whenever that may be.

They claim that a person detained in the war on terrorism has no legal rights. That means no right to a lawyer, no right to see the evidence against him, and no right to challenge his detention. In fact, the government has argued in court that detainees would have no right to challenge their detentions even if they claimed they were being tortured or summarily executed.

U.S. military lawyers have called this detention system "a legal black hole."

Under their new detention policy, people who never raised arms against the United States have reportedly been taken prisoner far from the battlefield, including in places like Bosnia and Thailand.

Defense Secretary Rumsfeld has described the detainees as "the hardest of the hard core" and "among the most dangerous, best trained, vicious killers on the face of the Earth." However, the administration now acknowledges that innocent people are held at Guantanamo Bay. In late 2003, the Pentagon reportedly determined that 15 Chinese Muslims held at Guantanamo are not enemy combatants and were mistakenly detained. Almost 2 years later, those individuals remain in Guantanamo Bay.

Last year, in the Rasul decision, the Supreme Court rejected the administration's detention policy. The Court held that detainees at Guantanamo have the right to habeas corpus to challenge their detentions in federal court. The Court held that the detainees' claims that they were detained for years without charge and without access to counsel "unquestionably describe custody in violation of the Constitution, or laws or treaties of the United States."

The Graham amendment would protect the Bush administration's detention system from legal challenge. It would effectively overturn the Supreme Court's decision. It would prevent innocent detainees, like the Chinese Muslims, from challenging their detention.

Yesterday, I received a letter from Colonel Dwight Sullivan of the U.S. Marine Corps. Colonel Sullivan is the Chief Defense Counsel in the Office of Military Commissions. He and other military lawyers have gone to court to challenge the legality of the administration's detention policies.

Colonel Sullivan opposes the Graham amendment. In his letter to me, he said:

> I am writing to call your attention to serious errors in the arguments advanced by proponents of Amendment No. 2515 to the FY 2006 DOD Authorization Act that would strip Guantanamo detainees of habeas rights.
>
> In his initial floor speech supporting the Amendment, Senator GRAHAM stated, "Never in the history of the law of armed conflict has an enemy combatant, irregular component, or POW been given access to civilian court systems to question military authority and control, except here." That claim simply is not true. As discussed in greater detail below, the Supreme Court considered habeas petitions filed on behalf of seven of the eight would-be German saboteurs in Ex parte Quirin and on behalf of a Japanese general

who was a prisoner of war in In re Yamashita.

Senator GRAHAM stated:

> Here is the one thing I can tell you for sure as a military lawyer. A POW or an enemy combatant facing law of armed conflict charges has not been given the right to habeas corpus for 200 years because our own people in our own military facing court-martials, who could be sentenced to death, do not have the right of habeas corpus.

Again, Senator GRAHAM's argument is factually incorrect. U.S. servicemembers do have a right to challenge court-martial proceedings through habeas petitions, in addition to the direct appeal rights.

Colonel Sullivan is not the only military leader who has raised concerns about the Graham amendment. Yesterday, every member of the Senate received a letter from nine retired military officers, including seven Generals and one Rear Admiral. Here is what they said about the Graham amendment:

> For generations, the United States has stood firm for the rule of law. It is not the rule of law if you only apply it when it is convenient and toss it over the side when it is not.
>
> The Great Writ of Habeas Corpus has been at the heart of U.S. law since the first drafts of the Constitution. Indeed, it has been part of Western culture for 1000 years, since the Magna Carta . . . The restriction on habeas contemplated by Amendment 2516 would be a momentous change. It is certainly not a change in the landscape of U.S. jurisprudence we should tack on to the Defense Department Authorization Bill at the last minute.
>
> The practical effects of Amendment 2516 would be sweeping and negative. America's great strength isn't our economy or natural resources or the essentially island nature of our geography. It is our mission, and what we stand for. That's why other nations look to us for leadership and follow our lead. Every step we take that dims that bright, shining light diminishes our role as a world leader. As we limit the rights of human beings, even those of the enemy, we become more like the enemy. That makes us weaker and imperils our valiant troops. We are proud to be Americans. This Amendment, well intentioned as it may be, will diminish us.

These American patriots, who served our country for decades, say it better than I ever could. This is not about giving rights to suspected terrorists. It is about American values. Secret indefinite detention is not the American way. Eliminating habeas corpus is not the American way. I urge my colleagues to support the Bingaman second-degree amendment.

The PRESIDING OFFICER. The time of the Senator has expired.

The question is on agreeing to the amendment.

Mr. WARNER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The question is on agreeing to the amendment. The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Tennessee (Mr. ALEXANDER).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "no."

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 44, nays 54, as follows:

[Rollcall Vote No. 324 Leg.]

YEAS—44

Akaka
Baucus
Biden
Bingaman
Boxer
Byrd
Cantwell
Carper
Chafee
Clinton
Dayton
Dodd
Dorgan
Durbin
Feingold
Feinstein
Harkin
Inouye
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lincoln
Mikulski
Murray
Nelson (FL)
Obama
Pryor
Reed
Reid
Rockefeller
Salazar
Sarbanes
Schumer
Smith
Specter
Stabenow
Sununu
Wyden

NAYS—54

Allard
Allen
Bayh
Bennett
Bond
Brownback
Bunning
Burns
Burr
Chambliss
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
DeMint
DeWine
Dole
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Isakson
Kyl
Lieberman
Lott
Lugar
Martinez
McCain
McConnell
Murkowski
Nelson (NE)
Roberts
Santorum
Sessions
Shelby
Snowe
Stevens
Talent
Thomas
Thune
Vitter
Voinovich
Warner

NOT VOTING—2

Alexander
Corzine

The amendment was rejected.

Mr. GRAHAM. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2524 TO AMENDMENT NO. 2515

The PRESIDING OFFICER. Under the previous order, there is 2 minutes equally divided on the Graham amendment to the Graham amendment.

Mr. GRAHAM. Mr. President, I ask unanimous consent for an additional minute to set the record straight.

The PRESIDING OFFICER. Is there objection?

Mr. SPECTER. Mr. President, reserving the right to object, is the Senator from South Carolina asking for a second minute for each side?

Mr. GRAHAM. That would be fine. I would like an extra minute. Senator KERRY gave me some very good advice, and I will take it if I am given the time.

The PRESIDING OFFICER. Is there objection to 4 minutes equally divided?

Mr. SPECTER. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRAHAM. Mr. President, this is a serious and very important vote. During the debate last week, I made a statement about what rights our troops would have. Our troops, once they are charged under the Uniform Code of Military Justice, get appeal rights under the military system, and they do have habeas rights about their criminal misconduct.

What I am trying to say—I got it wrong—is when our troops are enemy prisoners there is no right to appeal to the civil courts wherever they may be, nor has there ever been a right for an enemy prisoner to go to our court. Senator KERRY gave me some good advice. I misstated, and I am sorry. But the concept of an enemy prisoner or enemy combatant not having access to civilian courts has been the tradition of 200 years. We are about to end this whole endeavor on a high note. I thank Senator KYL for being a very constructive finder of solutions, and I thank Senator LEVIN for going that extra mile to find a way we can leave this issue with honor.

This Levin-Graham-Kyl amendment allows every detainee under our control to have their day in court. They are allowed to appeal their convictions, if they are tried by military commissions—a model that goes back for decades to the Federal courts of this country, if they get a sentence of 10 years or the death penalty.

We are going to have court review. An enemy combatant will not be left at Guantanamo without a court looking at whether they are properly characterized. We are doing it in a way consistent with the law of armed conflict, in an orderly way.

I am proud that we are because this is a war of values. We can win this war without sacrificing our values, and part of our values is due process, even for the worst among us.

I thank Senator LEVIN very much. Senator SPECTER's stated that the Circuit Court of Appeals of the District of Columbia is the primary court to hear these cases, but the Supreme Court can receive a certiorari petition from that court.

The PRESIDING OFFICER. Is there a Senator seeking time in opposition?

Mr. SPECTER. Mr. President, when the Senator from South Carolina says the Supreme Court of the United States can take certiorari, it is at variance with the plain language of the statute. The statute says:

> The United States Court of Appeals for the District of Columbia shall have exclusive jurisdiction.

Mr. GRAHAM. Mr. President, will the Senator yield?

Mr. SPECTER. No. It means what it says.

I can't yield having only 2 minutes, but I would be glad to hear the Senator afterwards.

It means what it says—the Supreme Court has no jurisdiction.

The great difficulty with the Graham-Levin amendment is that it was worked out yesterday—sort of an affront to the Judiciary Committee, if I may say so—that there is no time for the Judiciary Committee to have a hearing on the matter to consider it.

We are dealing with very fundamental rights, habeas corpus.

Another provision of the Graham-Levin amendment says there shall be no habeas corpus jurisdiction.

There have been repeated efforts in the history of our country to take away the jurisdiction of the courts. Court stripping was a big issue in the confirmation process of Chief Justice Roberts. He ran from it like the plague. He had an early memo. He didn't want to be associated with it.

These are weighty and momentous considerations that go far beyond the detainees at Guantanamo. And we ought not to be deciding these questions on an amendment, which was agreed to yesterday between Senator GRAHAM and Senator LEVIN, and no one has had a chance to study or analyze—most of all the authors—which on the face takes away jurisdiction of the Supreme Court of the United States. It is untenable and unthinkable and ought to be rejected.

Mr. LEAHY. Mr. President, I commend my colleagues across the aisle who are attempting to address the treatment of detainees in U.S. custody, despite resistance from members of their own party and the strong opposition of the White House. I know Senator GRAHAM has worked closely with Senator MCCAIN and others to give our troops the clear guidance they need to effectively detain and interrogate enemy prisoners, and I commend him for that. The legislative branch has not met its obligation of oversight and policymaking in this area. For months, Senator GRAHAM has been prodding the Congress to take action. He is one of the few members of his party to forcefully speak out on the need to change the administration's policies.

While I support Senator GRAHAM's efforts on these issues, I cannot support his amendment to strip Federal courts of the authority to consider a habeas petition from detainees being held in U.S. custody as enemy combatants.

The Graham amendment would deny prisoners who the administration claims are unlawful combatants the right to challenge their detention. At no time in the history of this Nation have habeas rights been permanently cut off from a group of prisoners. Even President Lincoln's suspension of habeas was temporary. The Supreme Court has held numerous times that enemy combatants can challenge their detention.

Many of my colleagues across the aisle argue that terrorists do not deserve access to our Federal courts. This argument would be far more persuasive if all of the detainees at Guantanamo Bay were terrorists. Unfortunately, many of them are almost certainly not. Numerous press accounts have quoted unnamed officials who believe that a significant percentage of those detained at Guantanamo do not have a connection to terrorism. And yet they have been held for years without the right to challenge their detention in a fair and impartial hearing, a situation that does significant harm to our Nation's reputation as a leader in human rights and which puts our own soldiers at risk.

Filing a writ of habeas corpus is often the detainee's only opportunity to openly challenge the basis for his detention. Providing detainees this right is not about coddling terrorists—it is about showing the world that we are a nation of laws and that we are willing to uphold the values that we urge other nations to follow. It is about honoring and respecting the principles that are part of our heritage as Americans and that have been a beacon to the rest of the world. Allowing a detainee to file a habeas petition provides legitimacy to our detention system and quells speculation that we are holding innocent people in secret prisons without any right to due process.

Some Members of the Senate have argued that these prisoners should be tried in the military justice system. I think that we could all agree on such a course if the administration had worked with Congress from the start and established with our approval procedures that are fair and consistent with our tradition of military justice. I introduced a bill in the 107th Congress to do just that. So did Senator SPECTER. The fact is, that the system that has been established by the administration to try individuals held at Guantanamo is not a system that reflects our values. It does not give due process or independent review.

Everyone in Congress agrees that we must capture and detain terrorist suspects, but it can and should be done in accord with the laws of war and in a manner that upholds our commitment to the rule of law. The Judiciary Committee held a hearing on detainee issues in June. At that hearing, Senator GRAHAM said that once enemy combatant status has been conferred upon someone, "it is almost impossible not to envision that some form of prosecution would follow." He continued, "We can do this and be a rule of law nation. We can prove to the world that even among the worst people in the world, the rule of law is not an inconsistent concept." I agree with Senator GRAHAM, but I strongly believe that in order to uphold our commitment to the rule of law, we must allow detainees the right to challenge their detention in Federal court.

As Chairman SPECTER noted on the floor last week, there are existing procedures under habeas corpus that have been upheld by the Supreme Court that do not invite frivolous claims, and that are appropriate. Senator GRAHAM's amendment would not only restrict habeas in a manner never done before in our Nation, but, as the chairman of the Judiciary Committee said last week, it would open a Pandora's box.

The chairman is right. He spoke forcefully again this morning about the danger of such court stripping efforts. We must not rush to change a legal right that predates our Constitution. Creating one exemption to the "great writ" only invites more. The Judiciary Committee has jurisdiction over habeas corpus and it should have the first opportunity to review any proposed changed carefully and thoroughly. Although congressional action on the issue of foreign detainees is long overdue, we must not act hastily when the "great writ"—something that protects us all—is at stake.

I ask unanimous consent to have printed in the RECORD a letter from the deans of four of our Nation's most prestigious law schools that articulates the dangers of adopting the Graham amendment.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NOVEMBER 14, 2005.

DEAR SENATOR LEAHY: We write to urge that the Senate adopt the amendment of Senator Bingaman removing the court-stripping provisions of the Graham Amendment to the Department of Defense authorization bill. As professors of law who serve as deans of American law schools, we believe that immunizing the executive branch from review of its treatment of persons held at the U.S. Naval Base at Guantánamo strikes at the heart of the idea of the rule of law and establishes a precedent we would not want other nations to emulate.

At the Guantánamo Naval Base, the Government has subjected foreign nationals believed to be linked to Al Qaeda to long-term detention and has established military commissions to try a small number of the detainees for war crimes. It is entirely clear that one of the Executive Branch's motivations for detaining noncitizens at Guantánamo was to put their treatment beyond the examination of American courts.

The Supreme Court rejected the Government's claim in Rasul v. Bush that federal habeas corpus review did not extend to Guantánamo. The extent of the rights protected by federal habeas law is now before the Federal Court of Appeals for the D.C. Circuit. Another challenge has been filed to the authority of the President, acting without congressional authorization, to convene military commissions at Guantánamo. Just last week the Supreme Court announced that it would review the case, Hamdan v. Rumsfeld.

The Graham Amendment would attempt to stop both of these cases from proceeding and would unwisely interrupt judicial processes in midcourse. Respect for the constitutional principle of separation of powers should counsel against such legislative interference in the ongoing work of the Supreme Court and independent judges.

Unfortunately, the Graham Amendment would do much more. With a minor exception, the legislation would prohibit challenges to detention practices, treatment of prisoners, adjudications of their guilt and their punishment.

To put this most pointedly, were the Graham Amendment to become law, a person suspected of being a member of Al Qaeda could be arrested, transferred to Guantánamo, detained indefinitely (provided that proper procedures had been followed in deciding that the person is an "enemy combatant"), subjected to inhumane treatment, tried before a military commission and sentenced to death without any express authorization from Congress and without review by any independent federal court. The American form of government was established precisely to prevent this kind of unreviewable exercise of power over the lives of individuals.

We do not object to the Graham Amendment's procedural requirements for determining whether or not a detainee is an enemy combatant and providing for limited judicial review of such decisions. This kind of congressional structuring of the detention of military prisoners is long overdue, and it highlights the absence of congressional regulation of standards of detainee treatment and the establishment of military commissions. Curiously, the Graham Amendment recognizes the need for judicial review of the determination of enemy combatant status, but then purports to bar judicial review of far more momentous commission rulings regarding determinations of guilt and imposition of punishment.

We cannot imagine a more inappropriate moment to remove scrutiny of Executive Branch treatment of noncitizen detainees. We are all aware of serious and disturbing reports of secret overseas prisons, extraordinary renditions, and the abuse of prisoners in Guantánamo, Iraq and Afghanistan. The Graham Amendment will simply reinforce the public perception that Congress approves Executive Branch decisions to act beyond the reach of law. As such, it undermines two core elements of the rule of law: congressionally sanctioned rules that limit and guide the exercise of Executive power and judicial review to ensure that those rules have in fact been honored.

When dictatorships have passed laws stripping their courts of power to review executive detention or punishment of prisoners, our government has rightly challenged such acts as fundamentally lawless. The same standard should apply to our own government. We urge you to vote to remove the court-stripping provisions of the Graham Amendment from the pending legislation.

T. ALEXANDER ALEINIKOFF,
Dean, Georgetown University Law Center.
ELENA KAGAN,
Dean and Charles Hamilton Houston Professor of Law, Harvard Law School.
HAROLD HONGJU KOH,
Dean and Gerard C. & Bernice Latrobe Smith Professor of International Law, Yale Law School.
LARRY KRAMER,
Dean and Richard E. Lang Professor of Law, Stanford Law School.

Mr. LEVIN. Mr. President, the Graham amendment, which the Senate approved last Thursday, includes a prohibition on Federal courts having jurisdiction to hear habeas petitions brought by aliens outside the United States who are detained by the Defense Department at Guantanamo Bay, Cuba.

The Graham-Levin-Kyl amendment would make three significant improvements to the underlying Graham amendment.

The habeas prohibition in the Graham amendment applied retroactively to all pending cases—this would have the effect of stripping the Federal courts, including the Supreme Court, of jurisdiction over all pending case, including the Hamdan case.

The Graham-Levin-Kyl amendment would not apply the habeas prohibition in paragraph (1) to pending cases. So, although the amendment would change the substantive law applicable to pending cases, it would not strip the courts of jurisdiction to hear them.

Under the Graham-Levin-Kyl amendment, the habeas prohibition would take effect on the date of enactment of the legislation. Thus, this prohibition would apply only to new habeas cases filed after the date of enactment.

The approach in this amendment preserves comity between the judiciary and legislative branches. It avoids repeating the unfortunate precedent in Ex parte McCardle, in which Congress intervened to strip the Supreme Court of jurisdiction over a case which was pending before that Court.

The Graham amendment would provide for direct judicial review only of status determinations by combat status review tribunals, not to convictions by military commissions.

The Graham-Levin-Kyl amendment would provide for direct judicial review of both status determinations by CSRTs and convictions by military commissions. The amendment does not affirmatively authorize either CSRTs or military commissions; instead, it establishes a judicial procedure for determining the constitutionality of such processes.

The Graham amendment would provide only for review of whether a tribunal complied with its own standards and procedures.

The Graham-Levin-Kyl amendment would authorize courts to determine whether tribunals and commissions applied the correct standards, and whether the application of those standards and procedures is consistent with the Constitution and laws of the United States.

This amendment is not an authorization of the particular procedures for the military commissions; rather it is intended to set a standard—consistent with our Constitution and laws—with which any procedures for the military commissions must conform.

Mr. REID. Mr. President, in a series of votes last Thursday and today, the Senate has voted to deny the availability of habeas corpus to individuals held by the United States at Guantanamo Bay, Cuba. I rise to explain my vote against the Graham amendment last week, and my votes in favor of the Bingaman amendment and the Graham-Levin amendment earlier today.

First, let's put the whole issue of the rights of suspected terrorists in context. As Senator MCCAIN said over the weekend, terrorists are "the quintessence of evil. But it's not about them; it's about us." This debate is about respect for human rights and adherence to the rule of law. It is about the continued moral authority of this Nation.

For the past four years, the Bush administration has advocated a policy of detaining suspects indefinitely and largely in secret, without access to meaningful judicial oversight. This policy is inconsistent with our core values as Americans. In addition, a policy so inconsistent with human rights will further damage America's image abroad and provide more ammunition for those who wish to do us harm.

The writ of habeas corpus is one of the pillars of the Anglo-American legal system. It is the mechanism by which people who are held by the government can seek an independent review of the legality of their detention. Very often the people who rely on habeas corpus are unpopular, whether they are convicted criminals or suspected terrorists. But habeas corpus protects all of us—it is the way we ensure that the executive branch acts within the bounds of the law.

The amendment offered by Senator GRAHAM last week created an exception to the habeas corpus rights established in title 28 of the United States Code. It contained a separate, essentially hollow review of whether the Defense Department had complied with its own procedures in declaring someone an enemy combatant. In a practical sense, the amendment put the actions of U.S. officials with respect to the Guantanamo detainees beyond the reach of the law, and created a legal no-man's land. I opposed the Graham amendment for this reason.

Nobody thinks that detainees should be able to file habeas petitions about what kind of peanut butter they are served or whether they can watch DVDs. That is not what this is about. This is about whether we are going to permit the President to detain a human being indefinitely without independent judicial review.

I want to draw the attention of my colleagues to an op-ed published in the Washington Post yesterday by one of the pro bono lawyers for the Guantanamo Bay detainees. The lawyer describes the importance of habeas review for his client, who remains in jail despite the military's determination that his client was innocent and was not associated with al-Qaida or the Taliban.

The writ of habeas corpus is for people like this. It is for figuring out whether those held at Guantanamo are in fact terrorists—and whether they are held lawfully and in accordance with the requirements of the Constitution.

In addition, the Senate recently passed, by a vote of 90 to 9, the McCain amendment to prohibit the use of torture at Guantanamo and elsewhere. The Graham amendment would undermine this prohibition by preventing its enforcement by the Federal courts. The Federal courts exist to vindicate important rights. In general, this jurisdiction-stripping amendment would trample on the independence of the judiciary and violate principles of separation of powers.

Today the Senate voted on two amendments to improve the Graham amendment. I supported the Bingaman amendment, because it would have preserved the fundamental right of habeas corpus, while at the same time streamlining judicial review of Guantanamo cases and ensuring that only the most serious cases are before the Federal courts. I applaud the Senator from New Mexico for his defense of habeas corpus and I regret that his amendment did not pass.

I also voted in favor of the Graham-Levin amendment because it is an improvement over the original Graham amendment, which, as the vote last week demonstrated, would have passed the Senate with or without improvements. Importantly, the Graham-Levin amendment would allow courts to consider whether the standards and procedures used by the Combatant Status Review Tribunals are consistent with the Constitution and U.S. laws, and would allow for court review of the actions of military commissions.

As a supporter of the Graham-Levin amendment, let me state my understanding of several important issues. First, I agree with Senator LEVIN that his amendment does not divest the Supreme Court of jurisdiction to hear the pending case of Hamdan v. Rumsfeld. I believe the effective date provision of the amendment is properly understood to leave pending Supreme Court cases unaffected. It would be highly irregular for the Congress to interfere in the work of the Supreme Court in this fashion, and the amendment should not be read to do so.

Second, I do not understand this legislation to represent a congressional authorization of the military commissions unilaterally established by the executive branch at Guantanamo Bay. We would hardly authorize these commissions based upon a few hours of floor debate. Instead, I regard this legislation as establishing a process for the federal courts to review the constitutionality of the commissions. To the extent that question turns on whether Congress has authorized or recognized the commissions, nothing we have done today lends support to the argument that the commissions are a valid exercise of executive authority.

Third, Senator SPECTER raised the question of whether the grant of "exclusive jurisdiction" to the DC Circuit precludes Supreme Court review of the DC Circuit's final orders in these cases. I do not understand the amendment to strip the Supreme Court of such appellate jurisdiction. Congress often grants "exclusive jurisdiction" to one court or another, but that phrase is not understood to preclude appeals through the usual means.

Finally, there may be questions about what Congress meant when it directs the courts to review "whether subjecting an alien enemy combatant to such standards and procedures is consistent with the Constitution and laws of the United States." In my view, the Federal court should hear any factual or legal challenge by a detainee who contests being classified as an enemy combatant in the first place.

Even after adoption of the Graham-Levin amendment, the underlying Graham amendment still strips the courts of jurisdiction to hear habeas corpus petitions. For this reason, I oppose the final Graham amendment as amended. I hope it is either improved in conference or deleted altogether.

But even if the Graham amendment is enacted into law, the Judiciary Committee should hold hearings to define the rights of the detainees at Guantanamo with greater care and to develop sensible procedures for enforcing those rights. It is of the utmost importance that this Congress work to preserve the principles of human rights and the rule of law upon which this Nation was founded.

The PRESIDING OFFICER. The question is on the Graham amendment.

Mr. SPECTER. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The question is on agreeing to the amendment, and the clerk will call the roll.

The bill clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Tennessee (Mr. ALEXANDER).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "yea."

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 84, nays 14, as follows:

[Rollcall Vote No. 325 Leg.]

YEAS—84

Akaka
Allard
Allen
Bayh
Bennett
Bond
Boxer
Brownback
Bunning
Burns
Burr
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Ensign
Enzi
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kerry
Kohl
Kyl
Landrieu
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Salazar
Santorum
Schumer
Sessions
Shelby
Smith
Snowe
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—14

Baucus
Biden
Bingaman
Byrd
Dayton
Durbin
Feingold
Harkin
Kennedy
Lautenberg
Leahy
Rockefeller
Sarbanes
Specter

NOT VOTING—2

Alexander
Corzine

The amendment (No. 2524) was agreed to.

Mr. WARNER. I move to reconsider the vote and to lay that motion on the table.

The motion to lay on the table was agreed to.

AMENDMENT NO. 2515, AS AMENDED

Mr. WARNER. Mr. President, we now turn to the underlying amendment. It is my understanding the Senator from South Carolina has agreed to a voice vote.

The PRESIDING OFFICER. The question is on agreeing to amendment No. 2515, as amended.

The amendment (No. 2515), as amended, was agreed to.

Mr. LEVIN. I move to reconsider the vote.

Mr. WARNER. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

ORDER FOR RECESS

Mr. REID. Mr. President, I ask unanimous consent that the time for the recess, which is already part of the order of the Senate, be extended until 2:30. I am sure both caucuses have a lot of work to do, and we could convene at 2:30.

Mr. McCONNELL. Reserving the right to object, if we could just withhold for a moment and discuss it.

Mr. REID. Of course.

I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Virginia.

Mr. WARNER. Mr. President, I presume, now that the quorum call has been withdrawn, that under the unanimous consent agreement, the Senate may now move to third reading of the bill.

Mr. REID. Mr. President, I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The bill clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. REID. Mr. President, I appreciate very much the chairman of the subcommittee and the ranking member, Senators SHELBY and MIKULSKI, for being understanding. I ask unanimous consent that the recess be extended until 2:30.

The PRESIDING OFFICER. Without objection, it is so ordered.

The majority leader is recognized.

Mr. FRIST. Mr. President, I think it is a reasonable request by the Democratic leader so we can get on with this vote and go to our caucuses. The reason there was an initial objection to it was because Senator SHELBY, chairman of the committee, had something he had to move. But we will work it out and start at 2:30. We will have plenty of time for our caucus lunch.

IRAQI MILITARY EQUIPMENT

Mr. DODD. Mr. President, it is in our Nation's interest and in our own troops' interests to ensure that Iraqi security forces, fighting side by side with America's soldiers and marines, are well-trained and well-equipped. As the chairman of the Armed Services Committee has indicated, our capacity to transfer security responsibilities to the Iraqis will chiefly rely on one thing—the ability of Iraqi forces to stand up and assume control over their nation's security.

To successfully complete the mission in Iraq and to bring our troops home as quickly as possible, we need to ensure that Iraq's soldiers and policemen have the capacity to assume control over their nation's security and law enforcement. And in the immediate term, as our troops deploy on patrol with their Iraqi partners, they need to know that they can rely on Iraqi forces to shoulder their share of combat operations.

Achieving this goal is not only a matter of training Iraq's soldiers and policemen. We need to also ensure that they are adequately equipped to perform their missions safely and effectively. Last week, the New York Times reported on the difficulties Iraqi troops are facing in procuring inadequate armor and safety gear. According to that article, the biggest shortage is in fortified vehicles. Tragically, Iraqis are being required to patrol the same roads and marketplaces that are besieged on a daily basis by improvised explosive devices and suicide bombers without any armored protection or heavy vehicles. With several hundred Iraqis operating in military vehicles, only three dozen such vehicles are outfitted with protective armor. We need to do better than that if we expect Iraqi troops to have even a fighting chance. But at the same time, we also need to recognize that the needs of our own troops are of paramount concern. That is why, with the chairman's support, I offered an amendment to reimburse troops for protective gear that they purchased; why we have supported rapidly fielding increasingly more armored protection to U.S. soldiers, sailors, airmen, and marines deployed in Iraq and Afghanistan; why the Senate supported the chairman's amendment last July to add an additional 1,800 up-armored HMMWVs for the U.S. Marines Corps; and why, yesterday on the bill, we voted to add an additional $360 million for even more armored vehicles.

Members of this body have few higher priorities than the safety and well-being of our troops deployed in harm's way. And there is no greater champion of the American GI than the current chairman of the Armed Services Committee. Therefore, I am sure that he would agree that the best way we can safeguard the safety and security of our troops is to ensure that U.S. forces can complete their mission and return home as soon as possible. Doing so will require well-equipped as well as well-trained Iraqi forces to take over from U.S. forces the responsibilities for maintaining peace and order through Iraq.

Mr. WARNER. I thank the Senator from Connecticut. He has raised a significant concern that we both, and many others in this body, share. There is no question we must continue to provide our magnificent soldiers, sailors, airmen, and marines with the finest equipment available to meet the mission requirements in Iraq and elsewhere around the world. In Iraq, there is no doubt that efforts to train and equip Iraqi Security Forces are decisive to Iraq's future and a major element in the policy of the United States. Lieutenant General Petraeus performed masterfully as Commander of the Multi-National Security Transition Command in Iraq that was charged with training the Iraqi Security Forces and now Lieutenant General Dempsey has the reins on this mission. During the most recent elections in Iraq, the performance of Iraqi Security Forces was an important contributor to that success. The Iraqi Security Forces provided protection to more than 6,000 polling sites. That was a very positive step in the right direction, but we still have some way to go in training and equipping the Iraqi Security Forces. As chairman of the Senate Armed Services Committee, I am monitoring the readiness of these Iraqi units. The viability of Iraqi units must be measured by a series of indicators, including efforts to measure intangibles such as morale and unit cohesion, as well as quantifying the military training of Iraqi Security Forces and the distribution of weapons and equipment. As the Senator from Connecticut indicated, the quality of the weapons and equipment we provide to the Iraqis must be of the caliber that contributes to the discipline, confidence, and morale of the Iraqis we are training. It is in the best interest of all that we move quickly to equip the Iraqi Security Forces with the proper equipment. We cannot ask the Iraqi Security Forces to conduct patrols or engage in battle in pickup trucks and SUVs while the embedded American forces are in up-armored HMMWVs and Bradley Fighting Vehicles. I am prepared to work with my colleague and the Secretary of Defense to provide suitable equipment for the Iraqi Security Forces. I am also prepared to work with other elements of the administration to engage our Allies and partners in this effort. I, for one, do not believe we have time to build and then rebuild the Iraqi Security Forces.

Mr. DODD. I thank the chairman for his statement and applaud his commitment to improving the availability of suitable equipment to the Iraqi Security Forces. As I said before, I share his belief that our first obligation is to the safety and well-being of our men and women deployed in harm's way. In that same token, I also appreciate his assertion that ensuring Iraqi troops have the equipment they need is in the security interest of our Nation and our troops. I urge the administration to—make available to the Iraqis adequate force protection equipment as soon as possible to allow them to take the lead in Iraq, and, ultimately, operate independently in securing their own country.

As American forces upgrade their own armor and safety equipment, perhaps the Departments of Defense and State will consider making available to Iraqi forces some of the older equipment of the United States, to allow Iraqis the ability to operate side by side with American forces. As U.S. forces upgrade their armored vehicles in Iraq, from what is called Level One protection to the more advanced Level Two protection, we might wish to consider distributing these older vehicles to Iraqi forces. And perhaps, when American forces eventually withdraw from Iraq, the United States would further consider leaving their older Level One armored fleet for use by the Iraqis. Another option might be to seek out other non-U.S. sources of armored vehicles to replace the substandard equipment that the Iraqis are currently using.

The sooner we can properly train and equip these Iraqi police and military units, the sooner we can get our troops home safe and secure. And that must be our principal objective in completing Operation Iraqi Freedom.

I thank the Chairman for engaging in this colloquy.

Mr. OBAMA. Mr. President, I rise today to thank my colleagues, the senior Senator from Virginia and the Senior Senator from Michigan, for their hard work in getting the fiscal year 2006 Defense authorization bill to the floor and for including in the bill two amendments I offered. These amendments will directly affect the quality of health care we provide our Nation's armed forces.

As many of you know, the Department of Veterans Affairs, VA, has created one of the most effective electronic medical records systems in the Nation. Despite a number of problems at the VA—from funding shortfalls to delayed benefits—the electronic medical records system is one of the VA's great successes and serves as a national model. Unfortunately, the Department of Defense, DOD, has not created a similar system for members of the military.

Despite a significant expenditure of time and money, the Department of Defense appears to be far from completion of its system, the Composite Health Care System II, CHCS II. Consequently, we have soldiers who have honorably served their country leaving the military and entering the VA system, and yet there is no easy way to transfer their medical records to the new health care system. This lack of compatibility results in severe inefficiencies and delayed benefits for our veterans. This is a problem that the national veterans' service organizations have highlighted over the years, but despite their efforts, the Department of Defense is still lagging behind the VA.

The Government Accountability Office, in a report released last year, found that one of the primary reasons for the Defense Department's severe delays in producing a compatible medical records system is the lack of strong oversight of the process. My amendment is an effort to implement some oversight. Pursuant to my amendment, 6 months after enactment of the bill, the DOD would be required to report to Congress on the progress being made on the development of the CHCS II system, the timeframe for implementation of the system, a cost estimate for completion of the system, and a description of the management structure used in the development of the system.

I also want to thank Senators LEVIN and WARNER for accepting my amendment requiring that DOD report to the Senate and House Armed Services Committees about its pandemic flu preparedness activities. When pandemic flu strikes, many of our military and civilian personnel will be at high risk for infection, particularly those deployed in Asia where avian flu poses the greatest current risk; military and civilian personnel in this country also will likely be involved in domestic response activities in the event of a pandemic. Our Nation's security is contingent on a healthy military, and we must ensure that these members will be protected.

It is Congress's duty to oversee the delivery of health care to our Nation's soldiers, and these amendments will help in our efforts to exercise this oversight. I hope to work with the conferees on this authorization bill to retain these provisions in conference.

Mrs. CLINTON. Mr. President, the Senate today is considering the Department of Defense authorization bill for the 2006 fiscal year. As a member of the Senate Armed Services Committee, I have attended numerous hearings and participated in the markup of this legislation. And I want to commend the chairman of the Senate Armed Services Committee, Senator WARNER, and the ranking member, Senator LEVIN, for the serious, bipartisan approach they have taken in preparing this bill for consideration on the Senate floor.

I just returned from an International Rule of Law symposium focusing on the need to create an international rule of law movement. As we talk today about providing our troops with the support they need to serve our Nation, it is also important to recognize that we should be doing all we can to make sure that we are not tarnishing their service. As we promote the rule of law in other societies, we need to begin by recognizing that the United States has a special heritage and a special responsibility—a responsibility not to be perfect, for that is impossible, but to admit our mistakes and use the rule of law to mend them, not to cover them up. When we fail that standard, we harm the ideals we most seek to promote—and undermine the foundations of our own society and our influence around the world.

That is why it is so important that we send a clear signal that the mistreatment of prisoners under our control was a mistake that will not happen again. Our commitment to the rule of law demands it. The men and women who signed up to defend our country, not to defend accusations of torture, deserve it.

It is very unclear whether any good information ever comes from torture—many experienced intelligence officers say no. But it is crystal clear that the bad consequences of this high-level political decision will haunt us for years—in how hostile armies treat our soldiers; how foreign governments judge our trustworthiness; and how foreign citizens respond to our best shared values, like faith in the rule of law.

This DOD authorization bill is critically important, particularly with our service men and women serving bravely in Iraq, Afghanistan, and around the world. We owe it to our men and women in uniform to do everything we can to support them.

Back when we first considered the DOD authorization bill in July, the Senate accepted an amendment Senator GRAHAM and I offered to make Tricare available to all National Guard members and reservists.

This week, the Senate has accepted another amendment I offered—this one with Senator COLLINS—that will improve financial education for our soldiers. This is a problem that has plagued military service men and women for years: a lack of general knowledge about the insurance and other financial services available to them.

This amendment instructs the Secretary of Defense to carry out a comprehensive education program for military members regarding public and private financial services, including life insurance and the marketing practices of these services, available to them. This education will be institutionalized in the initial and recurring training for members of the military. This is important so that we don't just make an instantaneous improvement, but a truly lasting benefit to members of the military.

This amendment also requires that counseling services on these issues be made available, upon request, to members and their spouses. I think it is very important to include the spouses in this program, because we all know that investment decisions should be made as a family. Too many times, a military spouse has to make these decisions alone, while their husband or wife is deployed.

This amendment requires that during counseling of members or spouses regarding life insurance, counselors must include information on the availability of Servicemembers' Group Life Insurance, SGLI, as well as other available products. It requires that any junior enlisted member—those in the grades of E1–E4—that they must provide confirmation that they have received counseling before entering into any new contract with a private sector life insurer. It is my expectation that this will help prevent our young troops from being taken advantage of by unscrupulous insurance companies.

I am proud my fellow Senators support this legislation and I look forward to working hard during conference to ensure its incorporation in the final bill put before the President.

Today, I would also like to speak about several issues that, while unlikely to be brought up as amendments to this bill, we will have to seriously consider during conference.

The first is the extremely important issue of the role of women in combat. In the House Armed Services Subcommittee markup of the Defense bill, a provision was inserted that would have turned back the clock on the roles that women play in our military. The uproar over this provision from the public and from the Pentagon was strong. General Cody, the Vice Chief of Staff of the Army, wrote a letter to the House Armed Services Committee explaining that such a provision would disrupt our forces serving overseas. The House Armed Services Committee withdrew the offending provision and instead included a provision to codify the Pentagon's 1994 policy regarding women in combat. I am uncertain that this policy needs to be codified and will be looking at this language closely in conference.

Because of the House's efforts to restrict the role of women, I want to take a few minutes to recognize the enormous contributions that women have made and continue to make to our military.

Women have a long history of proud service in our Armed Forces. Women have served on the battlefield as far back as the American Revolution, where they served as nurses, water bearers, cooks, laundresses, and saboteurs. Since that time, opportunities have increased, especially since 1948 when the Women's Armed Services Integration Act of 1948 was passed.

More than 200,000 women currently serve, making up approximately 17 percent of the total force. Thousands of women are currently serving bravely in Iraq, Afghanistan, and elsewhere. During my own visits to Iraq—and as I am sure that many of my colleagues who have also visited Iraq can also attest—I witnessed women performing a wide range of tasks in a dangerous environment. In Iraq, the old distinctions between the front lines and the rear are being blurred, and women are ably shouldering many of the same risks as men. And when I have met with women soldiers in Iraq and Afghanistan, they have not complained that they are being placed in harm's way. To the contrary, they have expressed pride in being able to contribute to the mission.

At a time when our Armed Forces are struggling to meet recruiting and retention goals, it makes no sense to further restrict the role of our women in uniform. Doing so would only add to the strain on our Armed Forces and undermine the morale of our service members.

Since September 11, our Armed Forces have stretched to meet new and growing needs. It is essential that we fully utilize and retain personnel. Women in uniform have increasingly served in the line of fire, performing honorably and courageously in service to our country. Over 100,000 women have been deployed in support of military operations since September 11. Imagine the strain that our forces would suffer if many of these women were suddenly deemed ineligible to serve in their current roles.

Our soldiers, both men and women, volunteered to serve their Nation. They are performing magnificently. There should be no change to existing policies that would decrease the roles or positions available to women in the Armed Forces. Earlier this year, I introduced, along with several of my colleagues, a sense-of-the-Senate resolution stating that there should be no change to existing laws, policies or regulations that would decrease the roles or positions available to women in the Armed forces.

As we approach the conference, I will oppose any efforts that would send a negative signal to women currently serving and I hope my colleagues will join me in preserving the ability of women to fully serve their country.

As we talk about honoring those who serve, I would also like to draw the attention of my colleagues to another piece of legislation that I have introduced in the Senate, the Cold War Medal Act of 2005.

It is important that we remember and honor the contributions of all veterans, from our World War II veterans to those just returning from Iraq. It is especially important that we not forget those who served during the Cold War, a decades-long struggle that, even in the absence of a formal declaration of hostilities, was for nothing less than the future of the world.

Our victory in the Cold War was made possible by the willingness of millions of Americans in uniform to stand prepared against the threat from behind the Iron Curtain.

That is why I have introduced legislation, S. 1351, the Cold War Medal Act of 2005, to create a military service medal to members of the Armed Forces who served honorably during the Cold War.

This is the companion bill to legislation that was introduced on the House side by Congressman ANDREWS. This legislation would establish a Cold War Medal for those who served at least 180 days from September 2, 1945 to December 26, 1991. About 4.8 million veterans would be eligible to receive this medal.

Our victory in the Cold War was a tremendous accomplishment and the men and women who served during that time deserve to be recognized. This legislation has been included in the House-passed version of the Defense authorization bill and I intend to encourage my colleagues in both the House and Senate to support its inclusion in the bill that emerges from the House-Senate conference.

It is also important that we honor those men and women who are currently serving. One issue that has come to my attention is the status of National Guard members who served at Ground Zero in the aftermath of September 11. In the rush to send National Guard members to Ground Zero immediately after the attacks on September 11, New York's Governor activated them in their State status. However, many of these Guard men and women ended up serving at Ground Zero for over a year. Since they were in their State status, these Guard men and women did not qualify for Federal retirement credits. However, other New York National Guardsmen who were activated to protect Federal installations after September 11 were activated in their Federal status. The result was that two groups of Guardsmen were created. Each group served honorably after September 11, but the Guardsmen serving at Ground Zero did not earn retirement credit, while the Guardsmen protecting Federal installations did earn that credit. Several months ago, I introduced legislation, S. 1144, to remedy this injustice. This legislation was included in the House's version of the Defense authorization bill and I will once again urge my colleagues to support this in the House-Senate conference on the legislation.

One issue that is not addressed in either the House or the Senate version of the Defense authorization bill is our spending priorities for science and technology at the Defense Advanced Research Projects Agency, DARPA. I would like to use the remainder of my time to raise some concerns that I have regarding the Department of Defense's investments in science and technology and disturbing trends in our investments in the longer term, basic research—investments that will develop the next generation of capabilities on which our military superiority will depend. To put it plainly, I am concerned that DARPA is losing its focus on basic and early stage research.

The Department's science and technology programs make investments in research at our nation's universities and innovative high-tech small businesses in areas such as robotics, artificial intelligence, and nanotechnology. In the past, we have seen these investments grow into revolutionary capabilities that our military takes for granted today. We have seen the fruits of these investments support our efforts in the global war on terrorism and operations in Iraq and Afghanistan.

That is why I am concerned that the Department of Defense seems to be systematically underinvesting in fundamental and long-term research programs that will shape the military of the future. I note that the Department's science and technology request for 2006 was down $2.8 billion from the 2005 appropriated level and even $28 million below the original 2005 budget request. In fact, the request is so low it has triggered a congressionally mandated Defense Science Board review of the effects of the lowered S&T investment on national security. I look forward to seeing the results of that review. I am pleased that this bill has increased those funding levels by over $400 million. While I understand the need to focus efforts on current events and operational issues—we cannot do it at the expense of sacrificing the research base that shapes the military of the future.

Of particular concern to me are the trends in funding of DOD's premier research agency. DARPA has been the engine of defense innovation for nearly 50 years—spawning innovations such as the Internet, unmanned air vehicles, and stealth capability—a record of unmatched technological accomplishments of which we should all be proud. However, I am concerned that in recent years—despite tremendous overall budgetary increases—DARPA has lost some of its unique, innovative character and is no longer funding the "blue sky" research for which it is famous.

Concern over DOD's, and especially DARPA's support for early stage research has come from a number of distinguished scientific circles. The National Academy of Sciences, in a recent report requested by the Senate Armed Services Committee, recommended that "DOD should redress the imbalance between its current basic research allocation" and its needs to support new technology areas, new researchers, and especially more unfettered or long-term research.

President Bush's own Information Technology Advisory Committee, PITAC, recently noted that DARPA had decreased funding in the critical area of cybersecurity research, stating, ". . . very little, if any, of DARPA's substantial cybersecurity R&D investment was directed towards fundamental research." They also noted a "shift in DARPA's portfolio towards classified and short-term research and development and away from its traditional support of unclassified longer-term R&D."

The Defense Science Board has also raised concerns over DARPA's funding of computer science, stating that DARPA has further limited university participation in its computer science programs. These limitations have arisen in a number of ways, including non-fiscal limitations, such as the classification of work in areas that were previously unclassified, precluding university submission as prime contractors on certain solicitations, and reducing the periods of performance to 18-24 months." That kind of short term-focus is not conducive to university programs or to addressing broad, fundamental technical challenges—especially when research in computer science is helping develop and shape our networked forces of the future.

I know that our chairman, Senator WARNER, is also a great supporter of DOD research programs and the committee has taken a number of steps to ensure that these programs are well-managed and adequately funded. In addition to the National Academy study that I mentioned above, the Senate Armed Services Committee has initiated a Defense Science Board, DSB, review of the position of the Director of Defense Research and Engineering. This position also serves as the Chief Technology Officer of DOD, and the head of all science and technology programs. The committee has been concerned that the position does not have adequate authority to advocate for S&T budgets or ensure that Services and DARPA programs are well-coordinated into a broader defense technology strategy. I understand that the DSB should report out its findings sometime later this year.

I hope the members of the Armed Services Committee, and indeed the entire Senate, will consider carefully the findings of these expert, independent studies and reports. At a time when we are so dependent on technologies to combat IEDs, treat battlefield injuries, and defend our homeland, we should make sure that DOD's science and technology organizations—especially DARPA—are adequately funded, well managed, and investing in the development of capabilities for the battlefields of both today and tomorrow.

I look forward to working with the committee to look closely at DARPA and the entire DOD S&T program. Although we should be clearly focused on the issues our troops are facing here at home, in Iraq, Afghanistan and elsewhere, we cannot afford to lose sight of the important role that scientific research plays in developing the military of the future.

Mr. President, I look forward to working with my colleagues in the Armed Services committee and in the Senate as well as the House on the issues that I have discussed today.

Mr. SALAZAR. Mr. President, I rise to support the Defense authorization bill for the 2006 fiscal year, and to comment on several amendments to the bill that build on the good work of the Armed Services Committee under the leadership of Chairman WARNER and Ranking Member LEVIN.

I am pleased that this bill includes an amendment I offered to create a grant program for employment services provided to the spouses of certain members of the Armed Forces. Many of our men and women in uniform change duty stations every 2 to 5 years, wreaking havoc on their spouses' careers. Additionally, when Reservists and National Guardsmen are called to active duty, many of their spouses enter the workforce to make up the difference between civilian and military pay.

It is not just those in uniform who make sacrifices for this country. Military families need our support as well. My amendment would create a DoD grant program for workforce boards established under the Workforce Investment Act of 1998. Many of these centers already provide employment services for military spouses through the National Emergency Grant fund under the Department of Labor, but this fund has been severely strained.

This DOD grant program will provide assistance to spouses who have lost their job to accommodate a servicemember's permanent change in duty station. It will also assist spouses who have experienced a reduction in family income due to a servicemember's deployment, disability, death or the activation of a National Guardsman or Reservist.

Helping our military families cope with the disruption that comes with deployment cycles and frequent moves is the least we can do, and I thank the managers for including my amendment.

I have also cosponsored an amendment with Senator LANDRIEU that will allow up to $10 million under Title VI, the Defense Health Program, to be used for mental health screenings for members of the Armed Forces.

Mental health experts predict that because of the intensity of warfare in Iraq and Afghanistan 15 percent or more of the servicemembers returning from these conflicts will develop post-traumatic stress disorder, PTSD. This nearly equals the PTSD rate for Vietnam War veterans, and the Veterans Affairs' National Center for Post Traumatic Stress Disorder estimates rates of PTSD could reach as high as 30 percent.

Additionally, concussions both small and large can cause what is known as Traumatic Brain Injury, or TBI. While there are no service-wide figures available on how many troops are affected by TBIs, doctors at Walter Reed found that 67 percent of the casualties they treated in a 6-month period had brain injuries. This is far higher than the 20 percent figure that military doctors documented in Vietnam and other modern wars. Because of the number of soldiers affected by TBIs they are being called the "signature injury" of the war.

Rates of TBI in Iraq and Afghanistan are high because of soldiers' frequent exposure to improvised explosive devices. Thanks to dramatic improvements to body armor and vehicle armor in recent years, these explosions, thankfully, often do not kill a soldier. But the blast jars their brain, often causing bruising or permanent damage. Studies of veterans who suffered TBIs in previous wars indicate that they experience cognitive deficits in social behavior, reasoning, attention, and planning that need effective diagnosis and rehabilitation.

Without more mental health screenings, too many of these injuries will continue to go undiagnosed. This amendment will help to diagnose soldiers earlier, and improve their long-term quality of life. I am pleased that it has been included in the bill.

This bill also includes an amendment I authored to allow the Office of Special Events within the Department of Defense to provide more support to paralympic competitions in the United States. This is a matter of basic fairness. The Pentagon currently supports Olympic and other international games. This amendment just makes it easier for the Pentagon to support such competitions and this is especially important now, as so many of our seriously injured servicemembers are working to rebuild their lives and find new outlets for their drive and determination.

This bill also contains an amendment I authored as a result of a letter I received from one of my constituents. He is an Army specialist and is currently deployed to Iraq. He wrote to me because one of his friends was killed by an IED while sitting in the exposed gunner's seat of a Humvee. His letter reads as follows:

> Two days ago a good friend of mine was killed in action when an Improvised Explosive Device (IED) detonated next to his M1114 Humvee. He was sitting in the gunner seat and pulling rear security. I have seen automated guns that can go on the top of these same Humvees. These guns are controlled from inside the vehicle. Why are these guns not on every Humvee? I do not have the time or the resources over here to check, but if you were to look into it I believe you would be shocked at the percentage of KIA's that were sitting in the gunner's seat of Humvees since OIF 1 in 2003. All I do know is that the four people that were inside the vehicle were physically unharmed. If the answer is money, then I would really like to know how much my friend's life was worth.

Since receiving that letter I have been in close contact with the Pentagon about the technology this young specialist is referring to. The Common Remotely Operated Weapons Station, known as CROWS, can move our soldiers out of the exposed gunner's seat and inside the protective shell of an uparmored Humvee.

In a CROWS-equipped vehicle, the gunner controls a powerful weapons platform through a computer screen. The system can be mounted on a variety of platforms, and it gives a solder the capability to acquire and engage targets while protected inside the vehicle, out of range of enemy fire or IED attacks.

Right now we have a few of these systems deployed in Iraq, and I am told that our soldiers "hot seat" them, which means that when one of these Humvees comes back from a patrol or an escort mission, another group of soldiers takes the vehicle out again as soon as they can gas it up.

My amendment would express the sense of the Senate that the administration should ask for full funding of this program in their next supplemental budget request. I appreciate the managers' support for my efforts to send a strong signal to the Pentagon about this important priority.

Another amendment, which I cosponsored, will resolve the last remaining obstacle to the creation of the Rocky Flats National Wildlife Refuge. The amendment authorizes the Department of Energy to spend up to $10 million to acquire the mineral interests on four parcels of land within the tentative boundaries of the refuge. These mineral interests would be acquired from willing sellers. The Departments of Energy and Interior agree that these four parcels represent the areas which include sand and gravel deposits of sufficient value that future mining is possible and which also include significant and unique ecological values that should be protected as part of the refuge.

This amendment also resolves the potential claims for natural resource damages that might arise in the future as a result of releases of hazardous substances that have already been identified in the lengthy administrative record of the Rocky Flats cleanup. The State of Colorado trustees with responsibility to pursue such claims, the Colorado attorney general, the director of the Colorado Department of Natural Resources, and the director of the Colorado Department of Public Health and the Environment, all agree that the expenditure of $10 million to acquire these mineral interests is fair compensation for the waiver of potential Natural Resource Damage claims. The release of hazardous materials not previously identified would not be waived by this amendment, and the Department of Energy would remain liable for such releases, if any.

As our brave men and women in uniform continue to perform so admirably in tremendously difficult conditions, and as their families continue to make their own sacrifices, it is vitally important that the Senate has finally acted on this bill. I am committed to continuing to work with my colleagues on both sides of the aisle to give our troops the support that they deserve.

Mr. FEINGOLD. Mr. President, I am pleased that the Senate was finally able to debate and pass the Defense authorization bill. It was inexcusable that this bill that is so critical to our men and women in uniform was allowed to languish for over half a year. Vital defense policies are set every year in the authorization bill, including policies with a direct impact on military families such as pay and benefits. I am very pleased that we were able to include a 3.1 percent pay raise for all of our men and women in uniform and am proud of the Senate's strong bipartisan efforts to make TRICARE available for the Guard and Reserve. I was pleased to support these efforts and the successful efforts to eliminate the SBP–DIC offset and reduce the retirement age for those in the Reserve component.

One of the key policy debates that took place during the Senate's consideration of this bill involved our Nation's Iraq policy. For months, I have been calling on the President to provide a flexible, public timetable for completing our mission in Iraq and for withdrawing our troops once that mission is complete. I am not calling for a rigid timetable I mean one that is tied to clear and achievable benchmarks, with estimated dates for meeting those benchmarks. I worked with some of my distinguished Democratic colleagues in the Senate to draft an amendment that demanded just that, and I am pleased that 40 Members of the Senate agreed that we need a flexible timetable for achieving our military mission in Iraq and withdrawing our troops. They recognize what increasing numbers of military leaders and experts are saying, that having such a timeline will help us defeat the insurgency.

Our servicemembers deserve to know what their military mission is and when they can expect to achieve it. And the American people deserve to know that we have a plan, tied to clear benchmarks, for achieving our military goals and redeploying our troops out of Iraq so we can focus on our most pressing national security priority, defeating the global terrorists who threaten this country. I will keep fighting for a timeframe for our military mission and I am heartened by the fact that an increasing number of my Senate colleagues agree with me, and with the American people, on the need for such a timeframe.

I am pleased that the Senate passed my amendment to enhance and strengthen the transition services that are provided to our military personnel by making a number of improvements to the existing transition and post-deployment/pre-discharge health assessment programs. My amendment will ensure that members of the National Guard and Reserve who have been on active duty continuously for at least 180 days are able to participate in transition programs and requires that additional information be included in these transition programs, such as details about employment and reemployment rights and a description of the health care and other benefits to which personnel may be entitled through the VA. The amendment also requires that demobilizing military personnel have access to follow-up care for physical or psychological conditions incurred as a result of their service. In addition, the amendment requires that assistance be provided to eligible military personnel to enroll in the VA health care system. I thank the chairman and the Ranking Member for their assistance on this important issue.

This bill also contains a provision I authored establishing the Civilian Linguist Reserve Corps, CLRC, pilot project. It became abundantly clear after the attacks of September 11, 2001, that the U.S. Government had a dearth of critical language skills. The 9/11 Commission report documented the disastrous consequences of this deficiency that, unfortunately, we still have not made enough progress in addressing 4 years after the 9/11 tragedy.

CLRC is designed to address the Government's critical language shortfall by creating a pool of people with advanced language skills that the Federal Government could call on to assist when needed. The National Security Education Program completed a feasibility study of CLRC and concluded that the concept was sound and "an important step in addressing both short- and long-term shortfalls related to language assets in the national security community." It also recommended that a 3-year pilot project be conducted to work out any potential problems. My amendment establishes this pilot project. I want to thank the managers of the bill for working with me to include this worthwhile measure and thank Senator COLEMAN for cosponsoring my amendment.

I also want to thank the bill managers for continuing to work with me in assisting the families of injured servicemembers. I was pleased that Congress included my amendment on travel benefits for the family of injured servicemembers in the Emergency Supplemental Appropriations Act for Defense, the Global War on Terror, and Tsunami Relief of 2005, P.L. 109-13. My amendment corrected a flaw in the law that unintentionally restricted the number of families of injured servicemembers that qualify for travel assistance. Too many families were being denied help in visiting their injured loved ones because the Army had not officially listed them as "seriously injured," even though these men and women have been evacuated out of the combat zone to the United States for treatment. The change in the law now ensures that families of injured servicemembers evacuated to a U.S. hospital get at least one trip paid for so that these families can quickly reunite and begin recovering from the trauma they have experienced. I introduced my amendment to this bill because the family travel provision in P.L. 109-13 was sunset at the end of the 2005 fiscal year by the conferees. I thank the Senate for adopting my amendment that will make the provision permanent.

The Senate also adopted an amendment I authored requiring the Department of Defense to report on the steps it is taking to clearly communicate the stop-loss policy to potential enlistees and re-enlistees. One of my constituents, a sergeant in the Army, wrote to me earlier this year articulating his frustration with the Army's stop-loss policy. He had been scheduled to be released from service prior to his unit's deployment to Iraq but the stop-loss order kept him in uniform making him feel that his service was completely unappreciated. Part of this sergeant's frustration and the frustration experienced by others who have been put under stop-loss orders stems from the fact that many don't know that the military can keep them beyond their contractual date of separation. They may find out about this policy only shortly before they are deployed to a war zone, as was the case with my constituent. This situation is simply unacceptable.

The sergeant who shared his story with me was killed in Iraq only days after he wrote his letter. With thousands of soldiers still on stop-loss, I am certain that similar tragic stories have played out many times over the last few years. The very least we owe those who volunteer to serve our Nation is full disclosure of the terms under which they are volunteering. My amendment includes a finding that states exactly that. I hope that, by pushing the Department to report on the actions it is taken to ensure that potential recruits know the terms of their service, the Department will take quick action to do just that. One good place for it to start would be to revise DOD Form 4/1, Enlistment/Reenlistment Document, the service contract new enlistees and reenlistees must sign to join the military. Form 4/1 does not currently include information that tells those joining the active component that they may be kept on stop-loss during partial mobilizations. The Department must immediately fix this flaw and take other steps to clearly communicate to our men and women in uniform the terms under which they are volunteering to serve.

Congress has a crucial role in defense oversight and I am disappointed that the Senate has again failed to adopt Senator DORGAN's amendment that would have created a Truman Committee to oversee our efforts in Iraq. This measure was a commonsense way to assure that we carry out our policies in the most effect way possible and not, as now, waste millions if not billions of taxpayer dollars. After all, our shared goal is to get needed resources to our troops and rebuilding efforts not to profiteers.

One measure the Senate adopted that should assist in our oversight responsibilities is my amendment requiring DOD to report on how it will address deficiencies related to key military equipment. According to a recent GAO report, DOD has not done a good job in replacing equipment that is being rapidly worn out due to the military's high operational tempo or even tracking its equipment needs. Military readiness has suffered as a result. My amendment requires DOD to submit a report in conjunction with the President's annual budget request that details DOD's program strategies and funding plans to ensure that DOD's budget decisions address these equipment deficiencies. Specifically, the Department must detail its plans to sustain and modernize key equipment systems until they are retired or replaced, report the costs associated with the sustainment and modernization of key equipment, and identify these funds in the Future Years Defense Program. Finally, if the Department chooses to delay or not fully fund their plan, it must describe the risks involved and the steps it is taking to mitigate those risks.

Although I am voting for the Department of Defense authorization bill, I am disappointed with the mixed messages that the Senate continues to send to the administration and the country on issues related to the detainees held at Guantanamo Bay. Even as the Senate passed the important McCain amendment on torture, the Senate also included in this bill the Graham amendment, which even as modified would still eliminate habeas review for detainees at Guantanamo Bay. The modification worked out by Senators GRAHAM and LEVIN would provide detainees with only limited review in the DC Circuit of the procedures for determining whether they are enemy combatants and the procedures the military commissions used to try them. This is an improvement over the original amendment offered by Senator GRAHAM, but it would not allow a court to review any claim that an individual detainee is not, in fact, an enemy combatant. I was very disappointed that this became part of this bill, although I am pleased with the amendment's ban on the use of evidence obtained by undue coercion. It is troubling that after 4 years of congressional acquiescence to the administration on this issue, it took a Supreme Court decision allowing habeas review for the Senate to take action. It is good that the Senate is finally paying attention to this issue, but this amendment is the wrong result. It sends the wrong message about this country's commitment to basic fundamental fairness and the rule of law.

I must also note with some disappointment that this bill continues the wasteful trend of spending billions of dollars on Cold War era weapons systems while at the same time not fully funding the needs of the military personnel fighting our current wars. I think the Senate missed some opportunities when it rejected amendments that could have made the bill better. However, on balance this legislation contains many good provisions for our men and women in uniform and their families and that is why I support it.

Mr. KERRY. Mr. President, I want to speak in support of the important amendment on Iraq offered by my colleague Senator LEVIN. I am pleased to have worked with many of my Democratic colleagues on this amendment and to be an original cosponsor.

Mr. President, 2006 will be the pivotal year in determining whether we can successfully complete our mission in Iraq and bring our troops home in a reasonable amount of time. As we enter this make or break period, the administration must finally adopt a realistic, clear, and comprehensive strategy.

This Democratic amendment lays out many of the principles that should guide that strategy, including using all of our diplomatic, military, political and economic leverage to defeat the insurgency, getting greater international support for the reconstruction effort, strengthening the capacity of Iraq's governing ministries, and training Iraqi security forces. And it requires the administration to regularly report back to Congress and the American public on the status of implementing the measures necessary to complete the mission.

As we know from painful experience, no President can sustain a war without the support of the American people. In the case of Iraq, their patience is frayed nearly to the breaking point because Americans who care deeply about their country will not tolerate our troops giving their lives without a clear strategy, and will not tolerate vague platitudes when real answers are needed.

The Democratic amendment addresses that by calling on the administration to give Congress and the American public a target schedule for achieving the conditions that will allow for the phased redeployment of U.S. troops, the status of efforts meet that schedule, and the estimated dates for such redeployment.

Let's be very clear on this point: the Democratic amendment does not call for setting any arbitrary deadlines for withdrawal of U.S. troops. It envisions redeployment of U.S. forces as conditions allow. But it rejects the administration's hollow, vague declaration to just "stay as long as it takes" by calling on the administration to give target dates and regular updates on reaching those conditions.

For far too long, Congress and the American public have been left in the dark when it comes to Iraq. We have repeatedly been asked by the administration to take their word that they have a strategy for success, without being given any sense of what that is or when our troops will be home. It is past time for Congress and the American people to be fully informed about what our strategy is, the progress that is being made in implementing it, and when we might expect to see our troops redeployed. That is what the Levin amendment will do.

While the Democratic amendment and the Republican amendment offered by Senators WARNER and FRIST are a wakeup call to the Bush administration that there is an overwhelming bipartisan majority with deep concerns about the administration's aimless course in Iraq, I will not support the Warner-Frist amendment because it stripped out two of the key provisions of the Democratic amendment. The first is the sense of the Senate that America should let the Iraqi people know that we will not stay in Iraq indefinitely, which will send an important message about our intentions while reducing the sense of U.S. occupation. The second is the requirement that the administration provide a report to Congress that includes estimated dates for the redeployment of U.S. troops as specific conditions are met, which is necessary to keep Congress and the American public informed about our progress towards the ultimate goal of finishing our mission and getting our troops home. These provisions are an essential part of a real strategy for success in Iraq. We owe our troops and the country nothing less.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is on the passage of the bill, as amended.

Mr. WARNER. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. McCONNELL. The following Senator was necessarily absent: the Senator from Tennessee (Mr. ALEXANDER).

Further, if present and voting, the Senator from Tennessee (Mr. ALEXANDER) would have voted "yea."

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 0, as follows:

[Rollcall Vote No. 326 Leg.]

YEAS—98

Akaka
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NOT VOTING—2

Alexander
Corzine

The bill (S. 1042), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. WARNER. Mr. President, I move to reconsider.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. Mr. President, I ask unanimous consent that S. 1042, as amended, be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Mr. President, I now ask further unanimous consent that the Senate proceed immediately to the consideration en bloc of S. 1043 through S. 1045, Calendar Orders Nos. 103, 104, and 105; that all after the enacting clause of those bills be stricken, and the appropriate portions of S. 1042, as amended, be inserted in lieu thereof according to the schedule which I am sending to the desk; that these bills be advanced to third reading and passed; that the motions to reconsider en bloc be laid upon the table; and that the above actions occur without intervening action or debate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

The bill (S. 1043) to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as amended.

(The text of the bill will be printed in a future edition of the RECORD.)

MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 2006

The bill (S. 1044) to authorize appropriations for fiscal year 2006 for military construction, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as amended.

(The text of the bill will be printed in a future edition of the Record.)

DEPARTMENT OF ENERGY NATIONAL SECURITY ACT FOR FISCAL YEAR 2006

The bill (S. 1045) to authorize appropriations for fiscal year 2006 for defense activities of the Department of Energy, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as amended.

(The text of the bill will be printed in a future edition of the Record.)

NATIONAL DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2006

Mr. WARNER. Mr. President, with respect to H.R. 1815, the House-passed version of the National Defense Authorization Act for fiscal year 2006, I ask unanimous consent that the Committee on Armed Services be discharged from any further consideration of the bill; that the Senate proceed to its immediate consideration; that all after the enacting clause be stricken and the text of S. 1042, as amended, be substituted in lieu thereof, and that the bill be advanced to third reading and passed; that the Senate insist on its amendment to the bill and request a conference with the House on the disagreeing votes of the two Houses, and the Chair be authorized to appoint conferees; that the motion to reconsider the above-mentioned votes be laid upon the table; and that the foregoing occur without intervening action or debate.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The bill (H.R. 1815), as amended, was read the third time and passed.

Mr. WARNER. I ask unanimous consent with respect to S. 1042, S. 1043, S. 1044, and S. 1045, as just passed by the Senate, that if the Senate receives a message with respect to any of these bills from the House of Representatives, the Senate disagree with the House on its amendment or amendments to the Senate-passed bill and agree to or request a conference as appropriate with the House on the disagreeing votes of the two Houses; that the Chair be authorized to appoint conferees, and that the foregoing occur without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. Now, Mr. President, the Chair was about to announce the conferees.

The PRESIDING OFFICER appointed Mr. Warner, Mr. McCain, Mr. Inhofe, Mr. Roberts, Mr. Sessions, Ms. Collins, Mr. Ensign, Mr. Talent, Mr. Chambliss, Mr. Graham, Mrs. Dole, Mr. Cornyn, Mr. Thune, Mr. Levin, Mr. Kennedy, Mr. Byrd, Mr. Lieberman, Mr. Reed, Mr. Akaka, Mr. Nelson of Florida, Mr. Nelson of Nebraska, Mr. Dayton, Mr. Bayh, and Mrs. Clinton as conferees on the part of the Senate.

Mr. WARNER. Mr. President, time is short. We are about to go to our respective caucuses, but I say to my colleagues that I wish to express my profound appreciation first and foremost to my distinguished friend and colleague of 27 years; we have been together in this Chamber, working toward the passage of authorization bills in each and every one of those 27 years. I thank my friend.

I thank the distinguished members of our staff, and I do use the word "distinguished": Charlie Abell, who left the Department of Defense at our request to come over to be our chief of staff, replacing a very fine person, Judy Ansley, who went on up to the National Security Council, and our Democratic staff director, Rick DeBobes, who has been with us many years. Together they have led a dedicated professional staff, all of whom deserve credit and recognition in helping Members reach agreements and to prepare all types of information needed by the Members, and I may say to give good, sound advice. I have always encouraged that of our staff. They are not just to be there to be "yessayers" or naysayers. They are to give us their best advice, and that they do.

Accordingly, I ask unanimous consent that the names of both the majority and minority staff be printed in the Record.

There being no objection, the material was ordered to be printed in the Record, as follows:

Committee on Armed Services Staff

Charles S. Abell, Staff Director; Richard D. DeBobes, Democratic Staff Director; June M. Borawski, Printing and Documents Clerk; Leah C. Brewer, Nominations and Hearings Clerk; William M. Caniano, Professional Staff Member; Jonathan D. Clark, Minority Counsel; Fletcher L. Cork, Receptionist; Christine E. Cowart, Administrative Assistant to the Minority; Daniel J. Cox, Jr., Professional Staff Member; Madelyn R. Creedon, Minority Counsel; Marie Fabrizio Dickinson, Chief Clerk; Regina A. Dubey, Professional Staff Member; Gabriella Eisen, Research Assistant; Evelyn N. Farkas, Professional Staff Member; Richard W. Fieldhouse, Professional Staff Member; Creighton Greene, Professional Staff Member; William C. Greenwalt, Professional Staff Member; Micah H. Harris, Staff Assistant; Bridget W. Higgins, Research Assistant; Ambrose R. Hock, Professional Staff Member; Gary. J. Howard, Systems Administrator; Gregory T. Kiley, Professional Staff Member; Jessica L. Kingston, Staff Assistant; Michael J. Kuiken, Professional Staff Member.

Gerald J. Leeling, Minority Counsel; Peter K. Levine, Minority Counsel; Sandra E. Luff, Professional Staff Member; Thomas L. MacKenzie, Professional Staff Member; Derek J. Maurer, Professional Staff Member; Michael J. McCord, Professional Staff Member; Elaine A. McCusker, Professional Staff Member; William G. P. Monahan, Minority Counsel; David M. Morriss, Counsel; Lucian L. Niemeyer, Professional Staff Member; Stanley R. O'Connor, Jr., Professional Staff Member; Cindy Pearson, Assistant Chief Clerk and Security Manager; Paula J. Philbin, Professional Staff Member; Benjamin L. Rubin, Staff Assistant; Lynn F. Rusten, Professional Staff Member; Catherine E. Sendak, Special Assistant; Arun A. Seraphin, Professional Staff Member; Jill L. Simodejka, Staff Assistant; Robert M. Soofer, Professional Staff Member; Scott W. Stucky, General Counsel; Kristine L. Svinicki, Professional Staff Member; Diana G. Tabler, Professional Staff Member; Richard F. Walsh, Counsel; Pendred K. Wilson, Staff Assistant.

Mr. WARNER. Mr. President, as we stand in this great Chamber, I marvel at the work conducted by the Armed Services Committee since the beginning of the 109th Congress. The committee has conducted 46 hearings and received numerous policy and operational briefings on the President's budget request for 2006 and related defense issues. Since the committee reported out this important legislation on May 12, the Senate has debated many important provisions contained in this legislation. Along the way, there have been many contentious issues to resolve, such as detainee policy, missile defense, BRAC, and many others.

After a total of 12 days of debate on the Senate floor, we have now resolved them. I am proud we have achieved our goal of passing this important bill. This marks the 46th year the Senate has passed a national defense authorization bill. I thank particularly my ranking member and my colleagues for their support.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, we would not be at this point in our deliberations, we could not have arrived at this point on the road without our chairman, Senator John Warner, who is not only a person who is eminently fair—he is invariably that, fair—he is unflappable. Despite his passion for the men and women of the military, he is unflappable when it comes to getting things done in a very calm, deliberative, and bipartisan manner. I am proud to serve in this Senate for many reasons but not the least of them is being able to be a friend and colleague of John Warner of Virginia, truly a gentleman.

Our staff, as he has pointed out, has made it possible for us to be here as well. We function on a bipartisan basis. We obviously have disagreements at times. We are always able to work those out in an agreeable way or disagree in an agreeable way. We have been able to bring the bill to the floor again with the help of our bipartisan staff. We are glad Charlie Abell is back on our side of the Potomac again where he belongs. Dick DeBobes, as the chairman pointed out, leads our minority staff with distinction. I probably should not single out any other member of our staff, but I want to mention Peter Levine because of the unusual circumstance we found ourselves in where his particular expertise made it possible for us to resolve this issue relative to detainees. It is most needed and appreciated by all of us.

I think I can speak for both Senator WARNER and myself when I say that our staffs not only work together, as Senator WARNER has indicated, but make it possible for us to reach the point where we are.

I wanted to add my thanks, and now on to conference, which is always fun. We have had more bumps on the road this year than I can remember in any prior year for an authorization bill. We were on the floor, off the floor, on the floor, off the floor for various reasons which we don't need to recount. Hopefully, the road ahead of us will be smoother and we can come out of conference, I guess now would be early in the next year.

Mr. WARNER. Mr. President, we won't make any predictions. We will get started and do our best. I thank my good friend and look forward to working with him again next year. We have truly formed a unique partnership, the two of us together. I thank so many Senators who recognize that he and I have a trusting partnership and resolved a lot of problems that otherwise could prove contentious and maybe not had a resolution. So to the next year.

I must say, I have consulted with the Senator from Michigan. Both of us have great concern about the IED problem. We are going to have one more hearing, in all probability a closed hearing, on this subject, listening to some viewpoints in the private sector. We regularly meet with those in the Department of Defense who have the primary jurisdiction over this problem. This is one issue on which I am gravely concerned and over which I lose sleep at night, as I am sure all of us do, about the frightful weaponry the insurgents are employing and how best we can put the entire country to work to resolve this problem.

I thank my good friend.

Mr. LEVIN. Mr. President, if I may very briefly respond.

The PRESIDING OFFICER. The Senator from Michigan.

Mr. LEVIN. Mr. President, I commend our chairman for the initiative which he has shown on the IED issue. We had a hearing a few weeks ago on this issue which was one of the most fascinating and I think one of the most important hearings our committee has held, at least that I can remember, exclusively on the IED issue. It was under the chairman's leadership that we did this. I think it was a significant hearing.

This committee has been absolutely dedicated to doing everything we possibly can in addressing this threat. We have done everything we know how to do, but we still have not solved the problem. As the chairman mentioned, we are looking for additional technologies, additional ways in which this problem can be addressed.

I did want to mention that hearing because I thought it was unusually important.

Mr. WARNER. Mr. President, I thank my good friend; again, a partnership effort to achieve that.

UNANIMOUS CONSENT AGREEMENT—H.R. 2862

Mr. WARNER. Mr. President, on behalf of the distinguished majority leader, I ask unanimous consent that at 2:30 p.m. today, the Senate proceed to the consideration of the conference report to accompany H.R. 2862, the Science-State-Justice appropriations bill. I further ask that there be 75 minutes of debate, with 22½ minutes under the control of Senator SHELBY, 37½ minutes under the control of the Democratic leader or his designee, and 15 minutes under the control of Senator COBURN. I further ask that following the use or yielding back of time and at a time to be determined by the majority leader in consultation with the Democratic leader, the Senate proceed to a vote on the adoption of the conference report, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

RECESS

Mr. WARNER. Mr. President, we will now go to the standing order.

The PRESIDING OFFICER. Under the previous order, following the vote on passage of S. 1042, the Senate stands in recess until 2:30 p.m.

Thereupon, the Senate, at 1:22 p.m., recessed until 2:29 p.m. and reassembled when called to order by the Presiding Officer (Mr. VOINOVICH).

DEPARTMENTS OF COMMERCE AND JUSTICE, SCIENCE, AND RELATED AGENCIES FOR FISCAL YEAR 2006—CONFERENCE REPORT

The PRESIDING OFFICER. The Senate will proceed to the consideration of the conference report to accompany H.R. 2862, which the clerk will report.

The legislative clerk read as follows:

> The committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2862) making appropriations for Science, the Departments of State, Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, having met, have agreed that the House recede from its disagreement to the amendment of the Senate to the text, and agree to the same with an amendment, and the Senate agree to the same, that the Senate recede from its amendment to the title of the bill, signed by a majority of conferees on the part of both Houses.

(The conference report was printed in the House proceedings of November 7, 2005.)

Mr. SHELBY. Mr. President, I would like to begin by thanking Senator MIKULSKI, the distinguished ranking member of this subcommittee. The Senator from Maryland and I have worked in a bipartisan manner to produce the bill that is now before the Senate.

I thank Chairman WOLF and Congressman MOLLOHAN. They have worked with us to resolve some considerable differences in our two bills, and I commend them for their efforts.

Finally, I thank Chairman COCHRAN, the chairman of the full Appropriations Committee.

The bill before us today is the conference report for H.R. 2862, the Science, State, Justice and Commerce appropriations bill. Overall, this is a very good bill. Make no mistake, this was a lean year, a very lean year. The subcommittee's 302(b) allocation did not account for several sizeable programs which were proposed for termination in the administration's budget, which this subcommittee restored.

In the Senate, the subcommittee that I chair is called the Commerce, Justice, Science and Related Agencies, CJS, Appropriations Subcommittee. The Senate CJS Subcommittee no longer has jurisdiction over the operations budget of the State Department, which has been merged with the Foreign Operations Subcommittee. Under a previous arrangement, however, the State Department is being considered under the House framework, therefore the bill before the Senate is the Science, State, Justice and Commerce Appropriations conference report.

The bill that we are considering today provides a total of $61.8 billion in budget authority to agencies under the bill's jurisdiction, including the State Department. For those agencies under the Senate subcommittee's jurisdiction—the Departments of Commerce and Justice, NASA, NSF, and others—approximately $52.2 billion in budget authority is provided.

The bill includes an increase of just over $1 billion above the budget request for the Department of Justice. The bulk of this increase is due to the restoration of many of the proposed cuts to State and local law enforcement grant programs.

The bill provides $6.5 million for the Department of Commerce. Several programs within the Department of Commerce were proposed for termination in the President's fiscal year 2006 budget.

This bill restores funding for these programs, among them the Economic Development Administration and the Public Telecommunications Facilities, Planning and Construction grants.

The bill provides increases for NASA to move forward with the vision the President has proposed, while fulfilling our commitments to important existing programs.

At a time when there are so many demands being made on scarce Federal dollars, difficult decisions had to be made. We have tried to address the priorities that so many of our colleagues brought to our attention. Though we were able to accommodate many of our colleagues' requests, we were obviously not able to do everything everyone has requested.

I believe that we endeavored to produce a bill that is bipartisan and that, we feel, serves the need of this country and we were successful.

I yield to Senator MIKULSKI, my esteemed ranking member, for her statement.

Ms. MIKULSKI. Mr. President, Senator SHELBY and I have worked on a bipartisan basis to bring this bill back to the floor as a conference report. We are in agreement with the principles of the bill so we are able to bring the bill forward. On our side, we estimate that we have three other speakers. We note the Senator from Minnesota is in the Chamber and he wishes to speak. There are two others whom we expect to speak.

This is a new subcommittee. The VA-HUD Subcommittee on Appropriations was dismantled and farmed out to different subcommittees, so some parts came to the Commerce Committee and the Justice Committee, and now we call it the Science Committee. It has a fantastic jurisdiction. Its jurisdiction is focused on saving lives and saving livelihoods. It is about investing in innovation through science and technology for our country's future, and it is about looking out for our communities and justice system.

Despite a tough allocation, I believe this bill, as completed, is fair and we have done the best we could. The Commerce Department oversees many agencies, some of which are very important Federal labs such as NOAA and the National Institute of Standards. The Department of Justice is on the front line. It funds the FBI, DEA, the Bureau of Alcohol, Tobacco and Firearms, the U.S. Marshals Service, and the U.S. Attorneys.

These are not just agencies; these are men and women who every single day are trying to find those people who are often criminals in our country, those who have committed terrible acts of arson. In my own home State, they detected the sniper who held the capital region at bay a few years ago. It is our U.S. attorneys, America's DAs, who are prosecuting drug dealers, organized crime, and white-collar crime, and also chairing the task forces on homeland security.

The Justice Department tries to protect us from terrorists and protect our neighborhoods and our communities. It also provides grants to State and local law enforcement and helps fight gang violence. This year, this bill provides $21 billion to the Justice Department. That is $800 million more than last year. The Justice Department accounts for almost 50 percent of the entire cost of our bill. The FBI, with tremendous responsibility to fight both crime and to find terrorists, will receive $5.7 billion. This is a $500 million increase over last year. It will focus on things such as counterterrorism, in which we then try to use this as a domestic agency to fight terrorists.

We also remember we have other obligations, particularly for missing and exploited children. We are working very closely with the President of the United States and our Attorney General to make sure we have a hotline and a way to identify those sexual predators who have been released from prison who come back to our communities, and also to recover missing children and to prevent abduction and sexual exploitation, whether it is on the Internet or in our communities. They are doing a great job.

Also, they have been used to identify those children who were missing after Katrina. So we not only look for the kids on AMBER alert—as terrible and as chilling as that could be—but after the hurricanes hit we could not find a lot of our children. Moms and dads put their children on some of the last buses leaving Louisiana and now, thanks to the way we work, we have helped bring about family unification.

At the same time, we have a new menace sweeping our country and that is gangs. We have certainly seen an increase in my own home State. We are providing Federal funds for initiatives, particularly focused in Montgomery County and Prince George's County.

Our way of fighting gangs is going to follow a three-point strategy of suppression, intervention, and prevention. We believe this bill will work with law enforcement in our communities and community support groups to do that.

At the same time, we have substantial funding to deal with the methamphetamine scourge that is sweeping our country. Many of my colleagues have spoken about that.

While we are busy fighting criminals, though, we also have to protect the judges as we bring those criminals to justice. We are all aware of the great threat that often happens to our judges as they try to do their duty. So we have increased the funding for the Marshals Service to capture fugitives and protect judges in our Federal court system. Just this past week, the marshals captured a convicted murderer who escaped from a prison in Texas.

Where we had a tough fight was in State and local law enforcement. The President's budget cut that by $1.4 billion. Working on a bipartisan basis, we did increase that budget by $1.1 billion, but that left us $300 million down. I am sorry that had to happen. We did the best we could, and I know others will talk about it.

We put a great deal of effort into making sure we have a national effort that will be funded locally for the growing problem of methamphetamine—and, gosh, how it is affecting not only urban but rural communities is shocking—and also to fund counterterrorism and counterintelligence. These growing problems are facing us. We did the best we could.

I know some of our colleagues will ask: Senator MIKULSKI, how did it all work out with the methamphetamine in conference? When the bill left the Senate, it was pretty good.

I say to my colleagues on both sides of the aisle, we have provided a record amount of money, over $60 million, to fight meth abuse. Meth abuse is one of our biggest problems and we hope this is a significant downpayment in dealing with this problem.

While we are busy fighting crime, we also want to fight for America's future. We believe we need to focus more on innovation. A country that does not innovate stagnates. We are worried that we are losing ground in terms of our ability to innovate. We believe one of the ways to strengthen innovation is through our Federal laboratories. That is why this year we have funded an increase of $62 million at the National Institute of Standards and Technology, raising their appropriations to $761 million. The NIST partners, working with industry, develop new technologies and new breakthroughs that create jobs. At the same time it creates standards for new products coming to the marketplace so they can file patents, they can be exported, and they can meet the demands of the EU and the WTO.

In terms of our Federal labs, we want not only new ideas but also those ideas that protect America. So this year we have increased funding for NOAA, the National Oceanic and Atmospheric Administration. Everybody knows NOAA: they are known for their weather reports. We know them for their hurricane reports. We know them for their tsunami alerts. NOAA generally saves lives and saves livelihoods.

The weather service has given us important forecasts and warnings so we can secure our property and get people out of harm's way. Also, we made a particular note that the conference prohibits the consolidation or reducing of hours of those weather forecast offices. For us coastal Senators, it supports our fisheries which are critical to our economy.

While we are busy working on some of the new ideas, such as at NASA and the National Science Foundation, which I will talk about in a minute, I want to talk about the issue of intellectual property, as I have talked about NIST. In America, we often invent great ideas. We win the Nobel Prizes, but we have to win not only the Nobel Prizes, we have to win the markets. When we go out there to win those markets, we have to protect our intellectual property. It is as important as defending the homeland because it is our jobs, our future, and our source of revenue. All around the world, particularly in southeast Asia, they are trying to steal our ideas. Well, we are not going to allow it. We have to make sure we fight it in our trade agreements, we have to fight it in our trade enforcement, but we have to begin at home to make sure we have a patent office that protects this intellectual property. We have increased their funding 30 percent to reduce the backlog of over 500,000 patents.

Who knows what those patents are. It could be the next generation of pacemaker. It could be the next generation of hybrid for an automobile or for a truck. Most of all, it is going to be the next generation that hopefully keeps jobs, and jobs in manufacturing, in the United States of America.

So while we talk about labs, this is not some wonky legislation. We believe it is our ideas that are saving lives, saving property, and saving jobs.

We do know we need to be on the cutting edge of science. We believe that cutting edge comes from the National Science Foundation, which we have funded at $5.6 billion, $180 million more than last year. The National Science Foundation funds a lot. It funds our basic research in chemistry, biology, and in physics. We all know about the National Institutes of Health and salute them, but at the same time we need to know it is the NSF that is doing the basic science and also breakthrough science such as in nanotechnology and in global warming. It also funds the post-doctorates and the graduate school stipends so our young people can go on to graduate school. That is that next generation.

Then, of course, near and dear to my heart is NASA. This year, we have provided $16.4 billion, $260 million over last year. I know many people are wondering what is going to happen to the Hubble. Is the Hubble going to run out of steam? Will the Hubble stop discovering all that wonderful new science?

Hang on. Hope and help is on the way. We have increased the funding for the Hubble budget to accommodate a servicing mission into space to rescue the Hubble. It will take new batteries. It will take new operating and optical equipment. What we do need, though, is to make sure the shuttle makes two more flights so it is safe for the astronauts to go up. We are helping our astronauts. We are providing full funding for the Space Shuttle, the space station, and the development of crew exploration vehicles. All science programs are funded at the President's request.

We also have funded the Census Bureau at $812 million, which allows the census to move forward with the 2010 census. The census is America's database, and we need to keep it contemporary.

What I have just given sounds like an accountant. I will submit a statement later on that will talk about what this means in terms of innovation. But today Senator SHELBY wanted to brief our colleagues on the numbers and on the money.

We think we have done a good job. What we have done is take our appropriations allocation, put 50 percent of our money into protecting America from terrorists, from crooks, from thugs, and from the exploiters of children. At the same time, we have used the other 50 percent to promote innovation in science and technology and also to protect our intellectual property. We think we have done a very good job.

I thank at this time my very good friend, Senator SHELBY. Senator SHELBY and I came to the House of Representatives together and served with the Energy and Commerce Committee. We came to the Senate at the same time. He is an excellent colleague to work with. We share the same priorities for this country. I want America to know that we do work together, and when we work together we always do better.

I thank staffs who really function with collegiality and with great civility. I thank the Shelby staff: Katherine Hennessey, Art Cameron, Joe Long, Christa Crawford, and Allan Cutler.

My own staff who worked so hard. I thank Paul Carliner, Gabrielle Batkin, Alexa Sewell, and Kate Fitzpatrick for all of the hard work they have done.

This is kind of a thumbnail sketch for our bill in the interest of time. There will be Senators who will be coming to speak on the bill.

I will yield 10 minutes to the Senator from Minnesota, Mr. DAYTON. Later on in the afternoon I will yield 5 minutes to the Senator from North Dakota, Mr. DORGAN; to Senator OBAMA, from Illinois, for 5 minutes; and 5 minutes to Senator SARBANES, my esteemed and cherished colleague from Maryland.

I now yield the floor to our excellent colleague from Minnesota, Senator DAYTON, who, himself, has been an enormous advocate for local law enforcement and has been a real strong voice for increasing funding for fighting the meth scourge. We are so sorry it is going to be his last year with us, the great guy that he is. We know he will do well. We certainly wish him well, and I look forward to hearing him this afternoon.

The PRESIDING OFFICER. The Senator from Minnesota.

Mr. DAYTON. I thank the distinguished ranking member, the Senator from Maryland, for her kind words. I commend her and the chairman of the committee, Senator SHELBY, for their outstanding work on this conference report. I know it was under very difficult circumstances.

There are many good features to the report, as the Senator has just described. Again, I thank her for her leadership and her tenacious fighting on behalf of these efforts, whether they were successful or whether they were not.

Tragically, however, the House and the administration largely prevailed in this conference report in cutting funding for the law enforcement programs to only 38 percent of the Senate's position. Senator CHAMBLISS from Georgia and I cosponsored a bipartisan amendment to the Senate bill that passed the Senate unanimously, which increased the Byrne grant funding from $900 million for fiscal 2006. Yet the House and administration, in the conference, slashed that appropriations to $416.4 million, which is a one-third reduction from fiscal year 2005.

Byrne grants fund local law enforcement to combat the most urgent public safety problems in their own communities. In my own State of Minnesota, Byrne grant programs have provided the critically important funds to fight the scourge of methamphetamine, which is an illegal drug crisis in many States, as the distinguished ranking member has outlined. She has been in the forefront in efforts to increase the Federal funding to fight this catastrophe that is afflicting our citizens, afflicting people of all ages—I am told by chiefs of police, those as young as 10, and senior citizens in their eighties, from all parts of Minnesota and from all walks of life and backgrounds. While the burdens on local police and sheriffs and other local law enforcement officials have been increasing, Byrne grants to Minnesota have decreased from over $8 million in 2000 to $7.5 million last year. This year's cut in this conference report will mean that Minnesota's share of Byrne grant funding will drop to less than $5 million next year, which is a 40-percent reduction from the year 2000.

In addition, the COPS grants in this report are cut from $606 million to $416 million, another one-third reduction, with zero dollars provided for the hiring of new law enforcement officers, which was the program's original goal. Byrne grants and COPS are the two most important sources of Federal funds to boost police and sheriff forces throughout our country, to increase the drug prevention programs or drug court interdictions. They are programs that keep our neighborhoods safer, our communities safer, and our rural counties safer.

Why do the administration and the House want to drastically cut Federal support from local law enforcement; to cut funds from the brave men and women who are on the frontlines against the forces of evil in our society, who are risking their lives day and night to defeat the evil predators who are destroying the lives of our citizens? Why? It is unconscionable, it is incomprehensible that the House and the administration are defunding local law enforcement.

Here we have an administration that preaches national security but will not fund it at home. It is an administration that preaches the war against terrorism but will not fund the war against drug-dealing and drug-pushing terrorists on our streets and in our schools. How mistaken, how shortsighted, how wrong-directed could anyone be?

Again, I thank the Senate's chairman and ranking member for doing their best against the administration, which would like to eliminate these programs because they were the good ideas of the previous administration and their allies in the House. Congress should be providing more money, not less, but more money to strengthen local law enforcement in their fight against organized crime, drug dealers, and other predators. For that reason, I regretfully cannot support this report.

The citizens of America deserve better law enforcement and more Federal support to make it possible—not the lower, the cut position of the House and administration.

I yield the floor.

The PRESIDING OFFICER. The Senator from Maryland is recognized for up to 5 minutes.

Mr. SARBANES. Mr. President, first, I commend both Senator SHELBY, the chairman of the subcommittee, and my colleague from Maryland, Senator MIKULSKI, the ranking member, for their hard work in bringing this conference report to the Senate this afternoon. I do want to express my regret that this report does not contain an important provision, to provide emergency housing vouchers to victims of the recent hurricanes.

On September 14 of this year, the Senate unanimously approved an amendment to this bill to provide $3.5 billion in emergency spending to be used to ensure that any person displaced as a result of the hurricanes could receive a housing voucher. These emergency housing vouchers would have enabled displaced families to find and afford safe, decent, and stable housing.

While FEMA and HUD are providing some housing assistance to evacuees, it is clear from news reports, as well as from people in the affected areas, that the promises of housing assistance from the Federal Government are falling far short of what is necessary. Just in the past week, there have been articles about the lack of stable housing for evacuees. The titles alone indicate the stress evacuees are under. For example:

> Hurricane Evacuees Face Eviction Threats At Both Their Old Homes and New;
> Displaced in Crisis of Affordable Housing;
> FEMA Housing Slow In Arriving.

The administration's housing policy for the victims of the recent hurricanes is unclear and inadequate. HUD is only assisting people who were assisted by HUD previously in the disaster areas, while FEMA has the responsibility for the vast majority of the evacuees. FEMA, an emergency management agency which is overwhelmed in the face of this unprecedented disaster, is now being tasked with the job of housing hundreds of thousands of people. This is not a job for FEMA. FEMA has provided people with 3-months' worth of rental assistance. However, it is clear that not all evacuees have received this assistance. Second, it is also not clear how evacuees and the landlords renting to them can be guaranteed that rental assistance will continue. Indeed, some Katrina victims are being threatened with eviction. FEMA seems to be handling the continuation of rental assistance on a case-by-case basis, with no clear rules or principles guiding these critical decisions.

In the words of an editorial in yesterday's New York Times:

> The woefully inadequate program for housing put forward by the administration is tantamount to stonewalling the Katrina victims.

The emergency housing voucher proposal, which was adopted by the Senate, was, regrettably, not included in the conference report now under consideration. The Senate conferees met implacable resistance, apparently, from the House conferees and from the administration, as I understand it. But the emergency housing voucher proposal which this body adopted would have ensured that every evacuee in need would receive at least 6 months of rental assistance with an additional 6 months of assistance available if necessary. The assistance would have been distributed by HUD and the existing housing network, which houses millions of people around the Nation. There is extensive experience at HUD.

I am disappointed, very disappointed that this critical assistance is not included, and I hope that we can find some other way to provide the needed housing assistance to hurricane victims.

Again, I commend my colleagues, Senators SHELBY and MIKULSKI, for their successful completion of this report. I again underscore that this emergency housing voucher provision was included in the bill which passed the Senate under the leadership of Chairman SHELBY and Ranking Member MIKULSKI. I regret that they met this resistance in conference and were not able to include it in the final version. It is the evacuees of the hurricanes who, unfortunately, will pay the price.

The PRESIDING OFFICER (Mr. COLEMAN). The Senator from Maryland.

Ms. MIKULSKI. Before the senior Senator returns to the Banking Committee, I want him to know that I, too, regret that we could not do the housing vouchers, the small business administration loans, as well as the economic development assistance Katrina amendments. These would have really helped rebuild communities and rebuild lives. But the House was so resistant we could not. We were defeated on a voice vote.

Mr. SARBANES. I thank the ranking member for that observation. I simply point out, as further stories are heard about the inability to get people back up on their feet and address their needs, it should be remembered that there were provisions in the Senate-passed bill which, if included in this conference report and therefore enacted into law, would have provided very important measures of assistance in a very timely fashion. I, too, regret very much that has not taken place.

I yield the floor.

The PRESIDING OFFICER. The Senator from Oklahoma.

Mr. INHOFE. Mr. President, I have addressed this Chamber several times on the subject of global warming. Many times, over and over in the past few years in those speeches I have presented well-documented facts regarding the science and economics of the global warming issue that, sadly, many of my colleagues in the public heard for the first time.

Today, I will discuss something else—scientific integrity and how to improve it. Specifically, I will discuss the systematic and documented abuse of the scientific process by an international body that claims it provides the most complete and objective scientific assessment in the world on the subject of climate change—the United Nations-sponsored Intergovernmental Panel on Climate Change, or IPCC. I will conclude with a series of recommendations as to the minimum changes the IPCC must make if it is to restore its credibility.

When I became chairman of the Senate Committee on Environment and Public Works, one of my top three priorities was to improve the quality of environmental science used in public policymaking by taking the politics out of science. I have convened hearings on this subject and the specific issue of global warming science.

I am a U.S. Senator and a former mayor and businessman. I am not a scientist. But I do understand politics. And the more I have delved into the issue, the more convinced I have become that science is being co-opted by those who care more about peddling fear of gloom and doom to further their own, broader agendas than they do about scientific integrity.

I am committed to shining a light on their activities. Global warming alarmists will undoubtedly continue to accuse me of attacking the science of global warming—that is part of their game. But nothing could be further from the truth. I support and defend credible, objective science by exposing the corrupting influences that would subvert it for political purposes. Good policy must be based on good science, and that requires science be free of bias, whatever its conclusions might be.

As nations meet again next month in Montreal to discuss global warming, the pronouncements of the IPCC leaders will gain renewed attention as they continue their efforts to craft a fourth assessment of the state of global warming science. If the fourth assessment is to have any credibility, fundamental changes will need to be made.

The flaws in the IPCC process began to manifest themselves in the first assessment, but did so in earnest when the IPCC issued its second assessment report in 1996. The most obvious was the altering of the document on the central question of whether man is causing global warming.

Here is what Chapter 8—the key chapter in the report—stated on this central question in the final version accepted by reviewing scientists:

> No study to date has positively attributed all or part [of the climate change observed to date] to anthropogenic causes.

But when the final version was published, this and similar phrases in 15 sections of the chapter were deleted or modified. Nearly all the changes removed hints of scientific doubts regarding the claim that human activities are having a major impact on global warming.

It removes these doubts that were specific in the study.

In the Summary for Policymakers—which is the only part of the report that reporters and policymakers read—a single phrase was inserted. It reads:

> The balance of evidence suggests that there is a discernible human influence on global climate.

The lead author for chapter 8, Dr. Ben Santer, should not be held solely accountable. According to the journal Nature, the changes to the report were made in the midst of high-level pressure from the Clinton/Gore State Department to do so. I understand that after the State Department sent a letter to Sir John Houghton, co-chairman of the IPCC, Houghton prevailed upon Santer to make the changes. The impact was explosive, with media across the world, including heavyweights such as Peter Jennings, declaring this as proof that man is responsible for global warming.

Notably, polls taken shortly afterwards showed scant support for the statement. The word "discernible" implies measurable or detectable, and depending on how the question was asked, only 3–19 percent of American scientists concurred. That is the very best scenario—less than 20 percent.

In 2001, the third assessment report was published. Compared with the flaws in the third assessment, those in the second assessment appear modest. The most famous is the graph produced by Dr. Michael Mann and others. Their study concluded that the 20th century was the warmest on record in the last 1,000 years, showing flat temperatures until 1900 and then spiking upward—in short, it looked like a hockey stick. It achieved instant fame as proof of man's causation of global warming because it was featured prominently in the summary report read by the media.

Let us take a look at this chart. This is the blade of the hockey stick, and this is what Michael Mann tried to show. Since then, the hockey stick has been shown to be a relic of bad math and impermissible practices.

This chart starts the year 1000, 1200, and so forth. If they had included the three centuries prior to that, that was the time called the medieval warming period. In the medieval warming period, you would find another blade such as this where temperatures were actually higher than they are in this exhibit.

Since then, the hockey stick has been shown to be a relic of bad math and impermissible practices. Dr. Hans von Storch, a prominent German researcher with the GKSS Institute for Coastal Research—who, I am told, believes in global warming—put it this way:

> Methodologically it is wrong: Rubbish.

In fact, a pair of Canadian researchers showed that when random data is fed into Michael Mann's mathematical construct, it produces a hockey stick more than 99 percent of the time, regardless of what you put into it. Yet the IPCC immortalized the hockey stick as the proof positive of catastrophic global warming.

How can such a thing occur? Sadly, it is due to the institutional structure of the IPCC itself—it breeds manipulation.

First, the IPCC is a political institution. Its charter is to support the efforts of the U.N. Framework Convention on Climate Change, which has the basic mission of eliminating the threat of global warming. This clearly creates a conflict of interest with the standard scientific goal of assessing scientific data in an objective manner.

The IPCC process itself illustrates the problem. The Summary Report for Policymakers is not approved by the scientists and economists who contribute to the report.

In other words, the Summary Report for Policymakers is the one for policymakers and for the press. That is how people pick up their impressions as to what was in the report. However, the scientists and the economists who contributed to the report never did approve the Summary Report for Policymakers. It is approved by intergovernmental delegates—in short, politicians. It doesn't take a leap of imagination to realize that politicians will insist the report support their agenda.

A typical complaint of scientists and economists is that the summary does not adequately reflect the uncertainties associated with tentative conclusions in the basic report. The uncertainties I identified by contributing authors and reviewers seem to disappear or are downplayed in the summary.

A corollary of this is that lead authors and the chair of the IPCC control too much of the process. The old adage "power corrupts and absolute power corrupts absolutely" applies here. Only a handful of individuals were involved in changing the entire tone of the second assessment. Likewise, Michael Mann was a chapter lead author in the third assessment.

One stark example of how the process has been corrupted involves a U.S. Government scientist who is among the world's most respected experts on hurricanes—Dr. Christopher Landsea. Earlier this year, Dr. Landsea resigned as a contributing author in the upcoming fourth assessment. His reason was simple—the lead author for the chapter on extreme weather, Dr. Kevin Trenberth, had demonstrated he would pursue a political agenda linking global warming to more severe hurricanes.

Trenberth had spoken at a forum where he was introduced as a lead author and proceeded to forcefully make the link. He has spoken here in the Senate as well, and it is clear that Trenberth's mind is completely closed on the issue. The only problem is that Trenberth's views are not widely accepted among the scientific community. As Landsea put it last winter:

> All previous and current research in the area of hurricane variability has shown no reliable, long-term trend up in the frequency or intensity of tropical cyclones, either in the Atlantic or any other basin.

When Landsea brought it to the attention of the IPCC, he was told that Trenberth—who as lead author is supposed to bring a neutral, unbiased perspective to his position—would keep his position. Landsea concluded that:

> Because of Dr. Trenberth's pronouncements, the IPCC process on our assessment of these crucial extreme events in our climate system has been subverted and compromised, its neutrality lost.

Landsea's experience is not unique. Richard Lindzen, a prominent MIT researcher who was a contributing author to a chapter in the third assessment, among others has said that the Summary did not reflect the chapter he contributed to. But when you examine how the IPCC is structured, is it really so surprising?

Second, the IPCC has demonstrated an unreasoning resistance to accepting constructive critiques of its scientific and economic methods, even in the report itself. Of course, combined with my first point, this is a recipe for delegitimizing the entire endeavor in terms of providing credible information that is useful to policymakers.

Let me offer a few examples of what I am talking about.

Malaria is considered one of the four greatest risks associated with global warming. But the relationship between climate and mosquito populations is highly complex. There are over 3,500 species of mosquito, and all breed, feed, and behave differently. Yet the nine lead authors of the health section in the second assessment had published only six research papers on vector-borne diseases among them.

Dr. Paul Reiter of the Pasteur Institute, a respected entomologist who has spent decades studying mosquito-borne malaria, believes that global warming would have little impact on the spread of malaria. But the IPCC refused to consider his views in its third assessment, and has completely excluded him from contributing to the fourth assessment.

Here is another example: To predict future global warming, the IPCC estimated how much world economies would grow over the next century. They had to somehow tie this into the economic activity. Future increases in carbon dioxide emission estimates are directly tied to growth rates, which in turn drive the global warming predictions.

Unfortunately, the method the IPCC uses to calculate growth rates is wrong. It also contains assumptions that developing nations will experience explosive growth—in some cases, becoming wealthier than the United States. These combine to greatly inflate even its lower-end estimates of future global warming.

The IPCC, however, has bowed to political pressure from the developing countries that refuse to acknowledge the likelihood they will not catch up to the developed world. The result: Future global warming predictions by the IPCC are based on a political choice, not on credible economic methodologies.

Likewise, the IPCC ignored the advice of economists who conclude that, if global warming is real, future generations would have a higher quality of life if societies maximize economic growth and adapt to future warming rather than trying to drastically curb emissions. The IPCC turns a deaf ear.

This problem with the economics led to a full-scale inquiry by the UK's House of Lords' Select Committee on Economic Affairs. The ensuing report should be required reading. The committee identified numerous problems with the IPCC.

In fact, the problems identified were so substantial, it led Lord Nigel Lawson, former Chancellor of the Exchequer and a member of the committee, to recently state—in fact, he was here and testified before the committee I chair here in the Senate—Lord Lawson said:

> I believe the IPCC process is so flawed, and the institution, it has to be said, so closed to reason, that it would be far better to thank it for the work it has done, close it down, and transfer all future international collaboration on the issue of climate change. . . .

To regain its credibility, the IPCC must correct its deficiencies in all of the following areas before it releases its fourth assessment report. Structurally, there are four ways we suggest changes be made.

The first is to adopt procedures by which scientific reviewers formally approve both the chapters and the Summary Report for Policymakers. Government delegates should not be part of the approval process.

The second thing is to limit the authority of lead authors and the Chair to introduce changes after approval by the reviewers.

The third is to create an ombudsman for each chapter. These ombudsmen should consult with reviewers who believe valid issues are not being addressed and disseminate a report for reviewers prior to final approval which is made part of the final document.

Fourth is to institute procedures to ensure that an adequate cross-section of qualified scientists wishing to participate in the process is selected based on unbiased criteria. The ombudsmen should review complaints of bias in the selection process.

That is structurally what the IPCC should do.

Now, there are many specific issues that the IPCC must address as well. For instance, the IPCC must ensure that uncertainties in the state of knowledge are clearly expressed in the Summary for Policymakers. When you read the Summary for Policymakers, which is not approved by the scientists and the economists, it does not say anything about the fact that there are doubts in these areas. That should be a part of it.

The IPCC must provide highly defensible ranges of the costs of controlling greenhouse gas emissions. They have to talk about how this is going to be done.

They must defensibly assess the effects of land-use changes in causing observed temperature increases. In other words, there are a lot of things we hear about, we are aware of; that is, the heat island effect that takes place in a lot of the major cities, the various agricultural changes where trees are cut down and crops are planted. These need to be considered.

Fourth is to provide highly defensible ranges of the benefits of global warming. If we know the cost that is going to be incurred, as we learned in the Wharton econometric survey—that for each family of four in America, it would cost them about $1,715 a year in the cost of electricity, the cost of fuel; everything just about doubling—then people need to know what kinds of benefits the global warming will produce.

The fifth thing is to examine the costs and benefits of an adaptive strategy versus a mitigation strategy.

Sixth is to adequately examine studies finding a cooling trend of the Continental Antarctic for the last 40 years, as well as increases in the Antarctic ice mass.

Seventh is to adequately explain why the models predict greater warming than has been observed, avoiding the use of selective data sets.

Eighth is to ensure an unbiased assessment of the literature on hurricanes.

Ninth is to ensure adequate review of malaria predictions by a range of specialists in the field, ensuring all views are expressed.

Going back to No. 8, I am reminded every time something happens—it can be a hurricane or a tornado—there is always somebody standing up and saying: Aha, it is due to global warming. It is a level of desperation that I cannot believe people are becoming subjected to.

There are dozens more issues, most of which are as important as the ones I have just raised. Instead of trying to list them all here, I intend to post on my committee's Web site this winter a more exhaustive and detailed list of issues that must be addressed in the fourth assessment.

In conclusion, I quote from an article in Der Speigel by Dr. von Storch and Dr. Nico Stehr, who is with Zeppelin University. They wrote:

> Other scientists are succumbing to a form of fanaticism almost reminiscent of the McCarthy era. . . . Silencing dissent and uncertainty for the benefit of a politically worthy cause reduces credibility, because the public is more well-informed than generally assumed. In the long term, the supposedly useful dramatizations achieve exactly the opposite of what they are intended to achieve. If this happens, both science and society will have missed an opportunity.

It is my solemn hope that the IPCC will listen to the words of Dr. von Storch and Dr. Stehr and not miss the opportunity to reestablish its credibility, which I believe is totally lost at this time. Only then will its work product be useful to policymakers. If the IPCC remains committed to its current path, however, then Lord Lawson's solution is the only viable one—the IPCC should be disbanded.

Mr. President, I ask unanimous consent that my remarks not be charged against the time on the CJS appropriations conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, as my colleagues know, we continue to discuss the Commerce-Justice-Science appropriations conference report. We note that our colleague from Illinois wishes to speak, and I yield to Senator OBAMA 5 minutes.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. OBAMA. Mr. President, I thank Senator MIKULSKI.

Mr. President, I know I speak for all Members of the Senate when I say we wholeheartedly support our Nation's law enforcement officers and we want to do every single thing possible to assist their efforts to keep our communities safe. Unfortunately, the Commerce-Justice-Science conference report before this body today does not send this message. In fact, it sends the exact opposite message.

The conference report provides important funding for programs such as the Office on Violence Against Women, the National Science Foundation, and important juvenile justice programs. But I am very troubled by the drastic cuts it makes to an important law enforcement program, the Byrne Justice Assistance Grant Program.

This bill further eviscerates a program that has suffered significant cuts in the last few years, despite providing real results and benefits around the country. The conference report cuts the Byrne Program from the $900 million we passed in the Senate to $416 million, which is a 34-percent cut from the fiscal year 2005 funding level.

Now, in Illinois, these cuts will have an immediate and direct effect because law enforcement has been using Byrne grant funds to fight one of the gravest drug threats facing the Nation today—methamphetamines.

In downstate Illinois, as in other rural communities all across the country, there has been a tremendous surge in the manufacture, trafficking, and use of meth. Illinois State Police encountered 971 meth labs in Illinois in 2003, more than double the number uncovered in 2000.

According to the Illinois Criminal Justice Information Authority, the quantity of meth seized by the Illinois State Police increased nearly tenfold between 1997 and 2003. This surge is placing enormous burdens on small-town police forces, which are suddenly being confronted with a large drug trade and the ancillary crimes that accompany that trade.

These police departments rely on Byrne grant funding to participate in meth task forces, such as the Metropolitan Enforcement Group or the Southern Illinois Enforcement Group. These task forces allow police in different communities to combine forces to battle a regional problem. There are a total of seven meth task force zones in Illinois, and these task forces have seen real results with Byrne grant funding.

In 2004, the Southern Illinois Enforcement Group accounted for more than 27 percent of the State's reported meth lab seizures. This group pays 5 of its 12 agents through Byrne grants.

In towns such as Granite City and Alton, cuts in Byrne grant funding will force them to make difficult choices about how to allocate already scarce police resources. Indeed, the chief of police in Granite City told my staff yesterday that cuts in Byrne grant funding will threaten the viability of his meth task force. At a time when meth use is growing, it is inconceivable to me that we would be cutting the resources needed by law enforcement to fight crime and clean up the streets.

This is yet another example of the misplaced priorities of our country. We all know that we are facing a real budget crisis. The deficit is growing, and we need to enforce some fiscal discipline. But I don't believe we should be balancing the budget on the backs of our Nation's law enforcement officers who keep our families and communities safe each and every day.

I am disappointed by this bill. I hope next year we will be able to find the necessary funding that local law enforcement needs. I would ask those who are on the conference and who are looking at this to recognize that it is going to have an impact not just in Illinois but in rural communities all across the country, particularly farming communities in the Midwest that have been devastated by the plague of meth. This has been primarily a program to help prevent it. It is being cut drastically in this bill. It is a bad decision and reflective of misplaced priorities by this Senate.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I ask unanimous consent to speak as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

IRAQ

Mr. DURBIN. Since the war in Iraq began, 2,067 Americans have died; 15,568 have been wounded. Today, I joined my colleagues, Senators LEVIN, BIDEN, HARRY REID, and others, in offering an amendment to honor their sacrifice and service and to seek a new course in Iraq in the coming year. I was proud to cosponsor the Levin amendment. I thought it made three critical policy statements about Iraq.

First, the amendment demanded that the administration provide Congress and the American people with a plan for success and a timetable with estimated dates for the phased redeployment of American forces. Second, the amendment makes it clear that 2006 will not be just another year on the calendar when it comes to the war in Iraq. The next year represents a critical transition period for Iraq, when a newly elected government, as of this December, will take office and must assume the authority and responsibility that comes with sovereignty. This is the year when Iraqi forces must help create the conditions that will finally lead to the phased redeployment of U.S. troops.

The Levin amendment also stated that the administration had to make it crystal clear to the Iraqi people that we were not in Iraq indefinitely. We are neither permanent occupiers nor are we a permanent police force for the Iraqi people. That is a job for Iraq, not for the United States. Building a broad-based and sustainable political settlement is also essential for defeating the insurgency and it, too, is an Iraqi responsibility, not an American responsibility.

President Bush has said over and over again, as the Iraqis stand up, we will stand down. The amendment we offered asked the basic question, When are they going to have capable forces so that American troops can stand down? How many are standing now? How well is the Iraqi Government doing in defending and caring for its people and training its own military and security forces?

This isn't the first time we have asked these questions. Over 40 of us have asked the President over and over again for a report on this war. Sadly, we are still waiting for an answer, unless you count the reply we received from someone at a lower level in the White House stating that he had received the letter and would send it to the appropriate person to take a look at. That was over a month ago. That is not the answer that Senators were looking for. It is certainly not the answer the American people were looking for. The amendment required answers in an unclassified report because we want the American people to know what is going on in Iraq—the challenges, the progress, and, frankly, if there are contingencies we had not anticipated, let us know that.

What we were seeking to do with this amendment was finally to establish that 2006 will not be just another year. I am hoping that no Senator will stand on the floor a year from now and recount that we have lost hundreds more of our best and bravest in Iraq, thousands more injured, wondering if there is any end in sight.

The amendment made it clear as well that we were holding Iraqis responsible. It is their country. It is their future. They need to take control of their own fate and future with their own security force and a political arrangement that works.

Third, we want accountability from this President. It is not good enough for the President to make speeches about staying the course when the course has led to so many lives being lost, so many dollars being spent. Senators WARNER and FRIST saw our amendment when it was offered. It is interesting because I think what they did is probably a very positive thing. They took the amendment, which we had prepared, and basically made changes on its face. If you take a look at this amendment, this is what we offered. Senators WARNER and FRIST scratched out the names of all the Democratic sponsors and put their own names on there on the Republican side. Then they went through, without even retyping, and made handwritten changes on the Democratic amendment. Some of the changes are innocuous, but some are not.

One of the changes is significant. We made it clear, in language the Iraqis and the American people could understand, what the future course will be. Let me read what Democratic language said:

> The United States military forces should not stay in Iraq indefinitely and the people of Iraq should be so advised.

Simple and declarative. The Republican change: They struck the word "indefinitely." Now it reads:

> The United States military forces should not stay in Iraq any longer than required and the people of Iraq should be so advised.

That is quite a difference. Our sentence was clear and more decisive. Theirs is ambiguous, leaving open the possibility of American permanent military bases in Iraq, something I hope does not occur. But the most important thing that they did was to delete the last paragraph of this amendment. In the last paragraph, we have asked for President Bush, every 3 months, to report to the American people on scheduled changes in Iraq: How many soldiers were to be trained to replace American soldiers; how many policemen were to be prepared to provide for the defense of and order in their country; what progress is being made when it comes to basic human services, whether it is electricity, water, employment, the guideposts that we use to determine whether we are establishing a civil society, a stable society.

The Republicans accepted most of those, but they did not accept what I consider to be one of the key paragraphs of the Democratic amendment. That said: We expect a report from the President of a campaign plan with estimated dates for the phased redeployment of the United States Armed Forces from Iraq as each condition is met, with the understanding that unexpected contingencies may occur.

That was critical because it says to the President and to the administration: Let us start talking now about bringing our soldiers home. We are not setting a date to cut and run, which the critics said, but we are saying to the President: We have to take seriously the 161,000 Americans risking their lives every single day, and many—sadly, too many—losing their lives and being injured in the process.

It is interesting to me that this morning's news tells us that the Iraqis are now saying to the British: You can start thinking about going home now. That is great. I am glad they can. I am glad that they will return to the safety of their families and their homes. Shouldn't that same conversation be taking place about American troops, and shouldn't the President be telling us that we are going to move forward in a phased, orderly redeployment of our troops back home, as the Iraqis take over responsibility of their own country?

That is what the Democrats offered. That is what the Republicans refused. The vote came down. There were about 40 who voted for the Democratic amendment. Then there was a following vote. That vote is significant. It was a vote on the Warner-Frist amendment, an amendment which was offered to the Defense authorization bill. It is true that it was an amendment which was a cut-and-paste job on the original Democratic amendment. I have in my hand the original amendment and the changes that were made. It didn't go as far as I would like to have gone. It didn't say American troops will not stay in Iraq indefinitely. It didn't talk about the phased redeployment of American forces. But it did say several important things that were included in the original Democratic amendment.

It did say 2006 is a year of significant transition. It did serve notice on the Iraqis that they have to accept responsibility for their own fate and future. And significantly, this Republican amendment called on their President in the White House to report to the American people, on a quarterly basis, as to the progress being made in Iraq so we can monitor whether the President truly has a plan that can lead to success.

That is significant, maybe historic. The President's own party overwhelmingly voted today for this amendment, an amendment which started on the Democratic side but became bipartisan in the end, an amendment which calls on this administration to be held more accountable in terms of this war in Iraq.

Now, the President did something on Veterans Day which is unusual. The President used Veterans Day, of all days, to make a political speech. He criticized the Democrats who were not agreeing with his war policy, on Veterans Day. I can tell you that I was back in my home State of Illinois visiting communities with Veterans Day celebrations in Carlysle, in Flora, and in Paris, IL. It didn't even cross my mind to make a partisan speech. You don't do that on Veterans Day, for goodness' sake. We don't ask our soldiers their political affiliation. We don't designate on their tombstones what political party they belonged to. Soldiers and veterans serve their country regardless of political affiliation.

But the President used Veterans Day to raise a political issue, and then flew to Alaska yesterday and repeated it, saying that his critics are somehow undermining the morale of the troops and showing they don't appreciate the contributions of the troops. Nothing could be further from the truth. Whether you are Democrat or Republican, whether you voted for the war or against it, as I did—I have given this President every single penny he has asked for for our troops. I have always thought in the back of my mind if it were my son or my daughter in uniform, I would want them to have everything they needed to be safe, to come home with their mission truly accomplished. So for the President to suggest that anyone who questions his foreign policy is not respectful of our troops is just plain wrong.

It is up to us as policymakers to make critical decisions about the policy of this country. But we have learned through bitter experience that even if you disagree with the policy of this country, for goodness' sake don't take it out on the troops and, I might say the flip side of that, don't use the troops as a shield so that you don't have to defend your own public policies. This administration has to stand up to defend those policies for what they are.

So this amendment, with some changes, passed. And what does it say? Well, the purpose of the amendment as it passed says to clarify and recommend changes to the policy of the United States on Iraq. It is significant. For those who said stay the course, make no changes, they lost today. For those who wanted change on both sides of the aisle, we prevailed. I think that is important. I think the national dialog is going to change because of this vote. I sincerely hope it is a good-faith effort. I hope it doesn't go into a conference committee and disappear. I hope it is part of the Defense authorization bill ultimately signed by the President.

There is another thing that concerns me as we get into this whole debate.

and that is this question about intelligence. You may recall that when we decided to invade Iraq it was not just the decision to invade that country but to change America's foreign policy. The Bush administration, for the first time in our history, said we can no longer afford a policy of defense. We can no longer say to the world, If you attack us, we will attack you back tenfold. We have to be preemptive, have a policy of preemption.

What is the difference? The difference is the President believes we should be prepared to attack countries even before they attack or threaten us. Well, that is a new course in American foreign policy and one which is dangerous. It is dangerous if the information you are receiving about potential threats and potential enemies is wrong. And what happened when it came to the invasion of Iraq? Virtually all of the intelligence was wrong.

It is true we knew Saddam Hussein was a dictator and a butcher and a tyrant, that he had precipitated a war against Iran that went on for years, claiming thousands of lives. We knew that he invaded Kuwait. All of that was part of history. But before the invasion of Iraq we were told by this administration that based on the intelligence that they gathered, there were other compelling reasons for us not to wait for the United Nations, not to wait for other allies, not to wait and exhaust all possibilities but to move decisively and invade.

What were those reasons? Weapons of mass destruction, which we later learned didn't exist; the possibility that Iraq was becoming a nuclear power, as Secretary of State Condoleezza Rice said, mushroom clouds in the Middle East and around the world from Saddam Hussein's nuclear weapons; the aluminum tube controversy, evidence that they imported aluminum tubes which the administration said was proof positive that they were reinstituting, reconstituting their nuclear weapons program; connections with Saddam Hussein and al-Qaida, Osama bin Laden. It was argued that 9/11 and Iraq were the same story.

All of these were given to us together with the assertion that somehow the Iraqis were importing this yellow cake from Niger in Africa to make nuclear weapons. We were told all these things to reach a high level of intensity and anxiety to lead to an invasion of Iraq. We found after the invasion virtually every single statement was false, was not true.

We analyzed what the intelligence agencies did in the first phase of our investigation and found utter failure. The agencies we most counted on to tell us of threats against America and how we could defend against them completely dropped the ball. I was part of the Senate Intelligence Committee at the time, and I listened as our staff people went over and reported to us about what they found at these intelligence agencies.

In the ordinary course of events, before you invade a country there is a very careful analysis of intelligence data. You just don't start a war without looking at every possibility and understanding information that has been collected.

Well, that National Intelligence Estimate was not even prepared when the administration started talking about the invasion of Iraq. It was ordered, prepared in a manner of 2 or 3 weeks, just a fraction of the time usually required, and when we finally saw it in the Senate Intelligence Committee, it was embarrassing. It was a report given to us which really didn't carefully evaluate the intelligence data that had been collected, and it is one of the reasons we made this colossal error in judgment when it came to evaluating intelligence.

That was the Senate Intelligence Committee investigation. The President has been saying repeatedly that those who are critical of his decision to invade Iraq today had the same intelligence he had, and so if he made a mistake, they made a mistake, too. I disagree. The President of the United States receives what is known as the daily briefing. Each day he sits down with intelligence officials, including the head of the CIA and others at the highest level, for a briefing about intelligence gathered around the world and what the threat is to America on that given day. He has more information than anyone, as he should, as President, as Commander in Chief. By the time you come to Congress, that information has been filtered and chopped and divided and diced and very little of it makes it to Congress. Most of it comes to the Intelligence Committees. Then it goes to the chairman, ranking member, and then down the chain less information is given to members of the Senate Intelligence Committee and even less to the regular rank-and-file Senators and Congressmen. That is just the food chain, if you will, on intelligence data.

So for the President to suggest that Members of Congress had the same information he did is just not factual. He is given much more information. He was before Iraq; he is every single day given more information. So if Members of the Senate relied on the President's representation, the President's statement, the Vice President's statement, and they were misled into it, it is because they believed the President and Vice President had more information about it than they did.

Now, I sat on the Senate Intelligence Committee shaking my head day in and day out listening as the members of the administration would debate issues like nuclear weapons. This is all unclassified now, but there was a serious disagreement between the Department of Defense and the Department of Energy as to what those aluminum tubes meant. The Department of Energy said: We don't think they have anything to do with nuclear weapons. The Department of Defense said: Oh, yes, they do. And the two of them would have at it in front of us. Then I would walk outside the Intelligence Committee room and hear Vice President CHENEY and Secretary of State Condoleezza Rice saying aluminum tubes equal nuclear weapons, and I am thinking to myself: They are not suggesting there is a difference of opinion even in their own administration.

It was frustrating because serving on that Intelligence Committee I could not discuss what was being debated in that room, but I knew in my heart of hearts that many things being told to the American people were just not backed up with sound, concrete evidence, and that is what is at issue here.

We believe the American people deserve the truth, and the truth comes down to this: The Senate Intelligence Committee promised us over 20 months ago that they would do a thorough investigation to see if any elected official made a statement about the situation in Iraq that could not be substantiated with background intelligence. In other words, did any elected official in this administration, or even in this Congress, deliberately or recklessly mislead the American people?

Is that important? It could not be more important. I cannot think of a greater abuse of power in a democracy than to mislead the people into a war, and to ask the people of a country to offer up the people they love—their sons, their daughters, their husbands, their wives, their friends and their relatives—in defense of the facts.

That is what this investigation is about. We have been waiting 20 months, 20 months for it to take place. I don't know what it will find. There is certainly a lot of questions that need to be asked and answered about statements made by members of the administration. But as of today, we still don't know. We are not certain as to whether that investigation will take place.

I would like to know why, on February 7, 2003, Defense Secretary Donald Rumsfeld told the U.S. troops in Aviano, Italy:

> It is unknowable how long that conflict in Iraq will last. It could last 6 days, 6 weeks. I doubt 6 months.

Secretary Rumsfeld, February 2003. That was over 2½ years ago. The Defense Secretary was not just overly optimistic, he was profoundly wrong. His failure to plan for the conflict that could last years and not weeks has had tragic consequences.

On my first visit to Walter Reed Hospital to visit a soldier whose leg had been amputated, who was from an Ohio Guard unit I asked: What happened?

Well, I was in one of those humvees, Senator. It didn't have any armor plating on either side, and one of those homemade bombs went off and blew off my leg.

Were we ready? Did we have a plan to win, to protect that soldier and others? Clearly not. It was not until recently, and all of our findings after 3 years they finally had the armor plating they needed.

On May 1, 2003, that banner on the aircraft carrier proclaimed that the Iraqi mission was accomplished and President Bush landed on the carrier and celebrated the end of the war.

Tragically, at that time the real war was just beginning. Of those Americans who paid with their lives in this war, only 140 were killed during the phase the President called major combat. We have lost almost 2,000 since then. That means 93 percent of our troops who have been killed in Iraq died after Saddam Hussein was overthrown and his army defeated and since that banner was displayed on that aircraft carrier.

Last May, Vice President CHENEY said the Iraqi insurgency was in its death throes. Well, I can tell you, as we see the casualty reports coming from Iraq, it is clear that the insurgency is not in its death throes. I truly wish it were. Our generals don't agree with that statement. I do not understand what the Vice President used as his basis for making it.

There is one other element I would like to raise which is contemporary, timely, and troubling. For the last week we have had a visit by a foreign Head of State. His name is Ahmed Chalabi. Mr. Chalabi is rather well-known in Washington circles. For years and years he was an Iraqi expatriate who was critical of Saddam Hussein, and he created an Iraqi national congress organization of defectors and those who felt as he did that Hussein should be replaced. That is a good thing. I don't know of anyone who was applauding Hussein in those years, and certainly Chalabi was on the right track in that area.

He ingratiated himself to some of the leaders in this administration, people making policy in this administration, and became, sadly, a source of information. I say "sadly" because we have come to learn that much of the information given by Mr. Chalabi to members of our administration turned out to be just plain wrong.

Ahmed Chalabi helped weave a web of deceit about what turned out to be nonexistent weapons of mass destruction in Iraq. He helped provide the infamous and aptly named source known as "Curveball," who fabricated information about biological weapons labs. This information became a cornerstone, sadly, of Secretary of State Colin Powell's speech and slide show to the United Nations, and it turned out to be all wrong. I suspect that in his decades of distinguished service to the United States there are very few moments that Secretary Powell regrets more than being led into repeating some of these assertions by Ahmed Chalabi and his followers. Chalabi seems to have no such regrets.

I took a look at Mr. Chalabi, who was confronted recently. It was in February of last year, as a matter of fact. He was confronted with the fact that many of the things he told the United States about Iraq turned out to be false, completely false. And here is what they wrote in this article on February 19 of 2004 in the London Telegraph:

> Mr. Chalabi, by far the most effective anti-Saddam lobbyist in Washington, shrugged off charges that he deliberately misled U.S. intelligence. "We are heroes in error," he told the Telegraph in Baghdad.

He goes on to say, and I quote Mr. Chalabi:

> As far as we're concerned we've been entirely successful. That tyrant Saddam is gone and the Americans are in Baghdad. What was said before is not important. The Bush administration is looking for a scapegoat. We are ready to fall on our swords, if he wants.

Unrepentant, giving bad information to the American Government, which it followed in planning this invasion of Iraq. Ahmed Chalabi, no regrets. He achieved what he wanted to achieve: Saddam Hussein is gone. The Americans are in Baghdad. The fact that the American people were misled obviously does not trouble him, but it should trouble others.

What about Mr. Chalabi today? He has a title. He is Deputy Prime Minister in Iraq, and he received a hero's welcome from this administration over the last 7 days.

The other part of this story I haven't mentioned is that on May 20 of last year, the Iraqi security forces raided Mr. Chalabi's home in Iraq, seizing documents and other evidence, and charging him with having sold American secrets to Iran, one of the countries in President Bush's axis of evil, a code that could have endangered American troops and American security.

That is a high crime, as far as I am concerned, the kind of thing which no one can excuse or overlook. In fact, the FBI initiated an investigation of Chalabi for selling or giving those secrets to Iran, and twice last week the FBI told us it was a continuing active investigation. It is ironic they told us that while Mr. Chalabi was the toast of the town in Washington, moving from one Cabinet official to another, from Treasury Secretary Snow to Secretary of State Condoleezza Rice, where he was greeted as warmly as a dignitary from overseas, and then going to visit with Secretary of Defense Donald Rumsfeld and finally, of course, with Vice President CHENEY.

This man under active investigation by the FBI was being warmly received as a Head of State in these agencies. Why, one might ask, isn't the FBI doing its job? Why aren't they calling him in for information, whether he sold secrets that could have endangered American lives? Mr. Chalabi is no hero to me. He seems to be one to some members of the Bush administration. This is a man who should not be treated like a hero. He ought to be treated like a suspect. That is what the FBI said he was last week. The fact he is being vetted by high-ranking officials rather than being questioned by the FBI speaks volumes. Mr. Chalabi went on to say when he was asked about this during his visit to Washington:

> As far as we're concerned, we have been entirely successful. That tyrant Saddam is gone and Americans are in Baghdad.

He said: Let's look to the future. Let's not look to the past.

I think it is clear, as the New York Times editorial stated on November 10, 2005:

> Mr. Chalabi is not just any political opportunist. He more than any other Iraqi is responsible for encouraging the Bush administration to make two disastrous mistakes on the Iraqi intervention. Basing its justification for war on the false premise that Saddam Hussein had active unconventional weapons programs and falsely imagining that the Iraqi people would greet the invasion with undiluted joy.

Even after the invasion when people were beginning to ask where are these weapons of mass destruction, Chalabi insisted the U.S. forces were simply in the wrong places and asking the wrong people.

In spite of all these transgressions, Mr. Chalabi is being warmly received by this administration.

Mr. President, I know Senator STEVENS is on the floor to deliver a eulogy for our former Sergeant at Arms, and in deference to him and his purpose for coming——

Mr. STEVENS. No, I am not going to deliver a eulogy.

Mr. DURBIN. Mr. President, I will close and give the floor to Senator STEVENS for whatever purpose brings him here.

We believe what happened on the floor of the Senate is significant. We said there must be a change of course in Iraq; we cannot continue. This failed policy brought us to this point. We owe it to our servicemen and their families and the American people to have a plan for success that will bring stability to Iraq on a timely basis, give them responsibility for their own future, and start to bring American troops home.

Our critics say we want to cut and run. No, we want to stop the loss of life by Americans in Iraq. We want to make sure the Iraqis know it is their responsibility for their future.

I certainly believe, as others do, that someone such as Ahmed Chalabi is one of the reasons we made fatal errors in the beginning of this invasion of Iraq. He should not be treated as a hero. I didn't vote for this war. In the fall of

2002 when we were debating use of force. I offered an amendment to defend the United States from an imminent attack by Iraqi weapons of mass destruction. That amendment got to the heart of the matter with the intelligence of weapons of mass destruction so cloudy. It would have raised the threshold for war. It failed.

Now we have to move forward making certain that we keep in mind first and foremost our commitment to our troops and our commitment to our mission. This is a historic vote today with the adoption of the Democratic amendment as changed by Senators WARNER and FRIST. I sincerely hope this vote will mean a change in policy to bring our troops home safely.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, I thank the Senator from Illinois for his courtesy. I do intend to attend the ceremony to eulogize the former Sergeant at Arms of the Senate.

(The remarks of Mr. STEVENS pertaining to the introduction of S. 2012 are printed in today's RECORD under "Statements on Introduced Bills and Joint Resolutions.")

Mr. STEVENS. Mr. President, I ask unanimous consent that the Republican-controlled time on the Commerce-Justice-Science appropriations conference report be reserved for later in the day.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. STEVENS. I yield the floor.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. DEMINT. I ask unanimous consent to speak for 10 minutes as in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

WAR ON TERROR

Mr. DEMINT. Mr. President, I was just across the way in my office working on several things that I think are important to the country. We were working on a bill to stop the increases in taxes that will occur unless we act immediately. This is another bill that the Democrats are trying to obstruct, but it is critically important that we pass this stop-the-tax-increase bill in order to keep our economy growing and to keep creating jobs in this country.

I was also working in my office, with some of my staff, on some of the things we can do to move this country more toward energy independence. But I kept listening to my distinguished Democrat colleague from Illinois and heard him talking about our President and this war. The more I listened, the more frustrated I became. As a matter of fact, I would have to say I became very angry because what I was hearing was baseless accusations and shameless criticisms, things that were said that I think diminish the Senate as an institution, which I feel must be refuted.

I am afraid that my Democratic colleagues are playing the war on terror similar to a political game. It is a dangerous game that endangers our troops, and it is a dangerous game that the Democrats have played before. Over the last 25 years, terrorist attacks in this country and around the world have increased. During the Clinton administration, Americans were killed in our embassies, on our warships and even in New York City when the World Trade Center was attacked by terrorists. From the Democrats and the Clinton administration, there was a lot of talk, but there was no action. It was all left to the next President to deal with. Instead of dealing with it in a way that would help secure our future, the Clinton administration instead decimated our intelligence network with politically correct ideas that greatly reduced our ability to gather intelligence in difficult places around the world. John Deutsch, President Clinton's Director of the CIA created rules that hurt our intelligence community's ability to gather human intelligence.

Now my Democrat colleagues accuse President Bush of using poor intelligence to do what they said needed to be done before he was even elected President.

In 1998, with President Clinton's leadership, we supported regime change in Iraq. This was something that was determined as a national policy years before President Bush took office. There are some reasons we did this. Saddam Hussein had demonstrated that he was a danger to civilization years before 9/11. He not only attacked Kuwait and tried to assassinate an American President, he committed mass murder all over his country using weapons of mass destruction. He was a deadly killer.

He supported terrorism in other countries. If a terrorist in Israel blew himself up and killed Israelis, the family of that terrorist would receive a check from Saddam Hussein.

To suggest that Iraq was not supporting terrorists is not true. Saddam Hussein, as part of the original gulf war settlement, agreed to document and prove the destruction of his weapons of mass destruction, which he acknowledged he had. But he did not disarm. He did not document the destruction. The inspectors had to play a cat-and-mouse game with him. The world did not know what Saddam Hussein had. Our decimated intelligence network had to guess whether he had them. President Bush made the only decision he could.

Knowing the history of Saddam Hussein, having a national policy that was written by the Democrats to remove him from power, he made a decision to take action instead of talking about it. The justification for removing Saddam Hussein from power happened before President Bush was elected and had been supported by Democrats. But now they come down to the Senate floor and suggest that because the President had some bad information that he rushed us to war. In fact, leaving Saddam Hussein in power would not have been acceptable to any administration that looked at the facts.

This country cannot allow murderous dictators who have attacked our allies, threatened civilians and destabilized the Middle East to stay in power.

Now we have Democrats, whose attitude basically embolden terrorists for a decade during the 1990s by talking but not doing, on the Senate floor attacking our President for doing what we knew had to be done. But this is the Democrat pattern. They say anything, but they do nothing.

We are dealing with a serious energy situation in this country today, but for the last decade they have obstructed any development of our own domestic energy supplies. Now they are on the floor blaming President Bush for the high energy prices, while the President and the Republican Congress have managed, despite the Democratic obstruction, to pass an Energy bill that will move us toward energy independence.

The Democrats are on the floor often complaining about American job losses, but when we try to pass legislation that improves the business climate in this country, they obstruct. They obstructed passing our elimination of junk lawsuits and the elimination of fraudulent bankruptcies. They tried to stop that, voting en bloc against it. But the President and the Republicans have been able to pass that and move us along.

There are a whole list of things that Republicans, with the President's leadership, have done from the Energy bill, to class action and bankruptcy reform. We have passed a budget that reduced the growth in spending. We have passed a number of things that improve vocational training. There is a huge list.

On the back side of this list is what America needs to know about: The Democrat agenda, of which they have none. The reason they are misleading the American people about our President and the importance of winning the war on terror is they have no agenda. They are not willing to step out and take any leadership on any issue. So all they do is obstruct, attack, distort, and complain with their "do nothing" agenda.

It is hard for some of us, as we try to go about our work, to move America forward and address the difficult problems of today and create more opportunities for tomorrow, when we have to carry a concrete block we call the Democrat Party. But when they go across the line and start misleading America about the importance of this war on terror and treating it akin to some kind of political game, when we and our children and future generations are in danger, as is the rest of the world. As we see almost every day, this war on terror is real—we cannot treat it as some kind of silly political debate where they are trying to give the Commander in Chief of this country a time line as to when our troops need to go home. It is like they have not bothered to go to Iraq themselves and meet with the troops, as I have had the chance to do twice this year, and talk with the generals. The President has met every deadline he set for elections, to approve the constitution, and we are moving exactly as he said we would move, to turn more of the defense of that country over to their military. That is happening. They are opening businesses, schools, and hospitals, and we are helping them along the way. When we get them to the point where they can defend themselves, the President will bring our troops home, but continue to stand firm against terror, wherever it exists around the world.

This is not a game. Terror is a real enemy, and many Americans have already died because we did not take the war on terror seriously. It is time to take it seriously and to stop playing political games with the most important issue of our generation.

I do not think we as a Nation should ever yield to terror or the type of rhetoric we have had to listen to today.

Mr. DEMINT. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. CORNYN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I ask unanimous consent to speak in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

DEFENSE AUTHORIZATION BILL

Mr. CORNYN. Mr. President, I wish to speak briefly about the events this morning, the votes we had prior to our adoption of the Defense Department authorization bill, particularly on the Frist, Warner, and Levin amendments, and try to put this in some context.

First of all, I think we would all agree that our young men and women in uniform who are fighting for freedom's cause in Iraq and Afghanistan and elsewhere are doing a magnificent job, one that they have volunteered to do since we no longer have had the draft. Only people who want to be in our military join our military. Certainly we have nothing but honor and respect for those who put themselves in harm's way in order to make us safer and, beyond that, to engage in the noble cause of delivering the blessings of liberty to those who have known nothing more than the boot heel of a tyrant, as 25 million or so have in Iraq, and those who lived under the Taliban—a similar number—where al-Qaida trained, recruited, and exported its terror in Afghanistan before we were able to turn both of those countries toward the path of democracy and self-determination as peaceful states.

I regret that this war in which we are engaged, the global war on terror, with its central front being in Iraq today, has become such a political football. Unfortunately, we see it is just too tempting a target to partisans, some partisans, to try to engage in revisionist history in order to score political points or, as we have seen this morning, an attempt to impose an arbitrary deadline on the withdrawal of our troops in a way that would jeopardize everything that we have invested in terms of our young men and women, the lives lost, the injuries sustained, and the treasure we have invested in an effort to try to restore Iraq to a self-governing democracy.

I wish to be clear that I am not questioning the patriotism of those who supported this arbitrary timetable for withdrawal in voting for the Levin amendment, but I am questioning their judgment. I think it is simply too important for us to engage in the partisan push and shove here on the floor of the Senate when there is so much at stake. To me it seems clear that a vote on the Levin amendment today was a bipartisan rejection of an artificial timetable for withdrawal.

I have already seen some of the Web sites and even fundraising appeals that have taken place ever since these amendments were voted on. That is the kind of world we live in here in Washington, inside this big fishbowl where politics sometimes overtakes people's common sense or sense of duty. This clearly was not a Democrat victory, to change Iraq policy as some have already suggested, the spin doctors, those who attempt to spin the message of what happens here on the floor for some partisan advantage. I regret that some are attempting to use this message for political gain. This should not be about whether Republicans have scored points or whether Democrats have scored points. Rather, this should be about our military strategy on the ground in Iraq that is being implemented as we speak to restore Iraq to a self-governing democracy.

How are we doing that? By a three-pronged plan that, No. 1, says we need to train the Iraqis to provide the security necessary so democracy can flourish; No. 2, to build basic infrastructure so the quality of life in Iraq is such that people feel they have a stake in the outcome, the success of this new democracy; and No. 3, to build democratic institutions, beginning with the passage of a constitution on October 15 and now leading up to election of their permanent government on December 15.

The people of Iraq have been through a lot in these last years. They have been through, even since the fall of Saddam, a lot of turmoil since government after government has been created in this transition to permanent self-government. It is a shame, it seems to me, that there are those who would call for an artificial deadline for withdrawal, unfortunately to try to generate public opinion in a way that breaks our resolve and increases the likelihood that we will leave before we get the job done.

I am grateful that a bipartisan majority of the Senate rejected that artificial timetable for withdrawal and made a commitment, as I see it, to stay and get the job done until Iraq gets back on its feet and has a reasonable chance of succeeding as a peaceful and democratic country.

Last week, our country celebrated Veterans Day, last Friday, the day we set aside each year to honor the bravery and the sacrifice of our men and women in uniform who serve our country. I had the chance, as did many of us, to return to my home State. I returned to Texas. I went to a ceremony at the Brazos Valley Veterans Memorial to honor these brave men and women. I have must say, I was struck once again at the great chasm that seems to separate the rest of America from the echo chamber here inside the beltway in Washington, DC. I was reminded of the differences in perception of what it is we are about and the obligation we have to support those men and women in uniform who are fighting for what we believe in. We know they are fighting for what they believe in, and they do so even when the going gets tough. They do not cut and run when it becomes politically expedient to do so.

I had the chance to look across that audience. We had a large collection of World War II vets, people like my dad who flew in the Army Air Corps out of Molesworth, England, flying a B-17. Ultimately he was shot down and captured and spent 4 months in a German prison camp before General Patton and his colleagues came along and liberated him and his fellow POWs. But as I looked across that audience, I saw people like my dad, a generation that is certainly getting older and unfortunately leaving us at a relatively rapid pace. There were those present who had previously served, and there were some there who currently are serving. There were family members of loved ones who are now overseas and families of those who had paid the ultimate sacrifice.

Although the circumstances differed from person to person there in that audience, they all had several profound things in common. I don't know that I could tell you that every single person at that veterans event was in complete agreement with the decision of this President or this Congress to authorize the use of force to remove Saddam Hussein, but what I can tell you is that these people were all patriots. They support our troops 100 percent, and they support the ideals upon which our country was founded 100 percent. They know the contributions of our troops represent the Iraqi people's best hope for freedom and for democracy.

So while there may be some here in Washington—in fact, there are—who, of course, criticize what we are about and armchair generals who want to direct our combatant commanders and those who actually have the responsibility of conducting our national security and national defense operations, I thought it appropriate to point out that even though there are those who dramatically undervalue our efforts in Iraq, there is a huge chasm, it seemed to me, between what I saw there in Bryan-College Station at the Brazos Valley Veterans Memorial Friday night and what I hear argued in the halls of the U.S. Congress, including this morning. I am glad to report the obvious to all of us who live and represent constituencies around the country, that patriotism is alive and well, and our fellow citizens realize that we must continue to support our men and women in uniform in their brave and selfless and noble efforts.

I have come to this Chamber several times during the past few weeks to speak about the situation in Iraq and to do my small part in refuting the false charges by some partisans that the administration has manipulated intelligence in the lead-up to the war. I wish to reiterate my view that we must not let the politics of the moment undermine the path to democracy in Iraq. Such a decision, such yielding to such a temptation would be incredibly shortsighted considering how much has been accomplished in a relatively short period of time and how dear our investment has been, both in terms of the lives lost and the money the American taxpayer has committed to this noble effort. We must stay the course in Iraq.

If our troops were to leave prematurely, what would happen? It is likely that the country would collapse into chaos. Terrorists such as Ayman al-Zawahiri, al-Qaida's No. 2 operative and Osama bin Laden's deputy, and Abu Masab al-Zarqawi, al-Qaida's chief terrorist in Iraq and the one principally responsible for the terrorist attacks we saw last week in Jordan at the wedding reception that killed other innocent civilians—these are individuals who vowed to destroy America and everyone who stands in their way in their attempt to seize power.

A letter from Zawahiri and Zarqawi makes this threat exceedingly clear. If there is any doubt about who our enemy is and what their goals are—on which there should not be after September 11—all one needs to do is read this letter. It is easily available to anyone who wants to read it. It is found in full on the Web site of the Director of National Intelligence. That is www.dni.gov. In that letter, Zawahiri clearly describes al-Qaida's vision to establish an Islamic caliphate that would rule the Middle East, destroy Israel, and threaten the very existence of our way of life.

The consequences of a United States pullout from Iraq should not be in question, either. In this letter, Zawahiri tells Zarqawi that when the United States leaves Iraq, al-Qaida must be prepared to claim the most political territory possible in the inevitable vacuum of power that would arise.

Yes, that is right; a premature withdrawal of our troops from Iraq would create a safe haven for al-Qaida. Iraq would be more dangerous—not less—if we fail to finish the job. An early arbitrary withdrawal from Iraq would empower and embolden the sworn enemies of America and, indeed, all civilization and anybody who disagreed with them. Failure to stay the course and continuing to lay the foundations of a functioning democracy would result in more—not less—terrorist attacks.

Let me say that again because there are actually some who make the specious argument that our very presence in Iraq results in more terrorist attacks. But the failure to stay the course, the failure to finish the job that we started in Iraq, and to continue to lay the foundations of a functioning democracy, would result in more—not less—terrorist attacks.

This letter from Zawahiri to Zarqawi makes that clear. Once they see America leave Iraq, once they fill the vacuum that exists, that is where they would continue to train, that is where they would continue to recruit, and that is where they would continue to export terror. Anyone who believes there would not be a greater probability of our sustaining another 9/11 on our own soil is kidding themselves.

Some of the administration's critics are now arguing, as we heard this morning, for a timetable to withdraw from Iraq. Their actions are nothing more than an attempt to gain the attention of a concerned nation for political advantage rather than a serious strategy for victory. Armchair generals in Washington, DC, are hardly in a position to know what is the best military strategy in Iraq. We ought to listen to our combatant commanders, such as General Abizaid, the CENTCOM commander, and General Casey, who is in charge of coalition forces in Iraq. They have told us we have to finish the job, that we can finish the job, that there is no military on the face of the Earth that can defeat the United States of America; that the only one who can defeat the United States of America is the United States itself—by losing our resolve, by prematurely withdrawing, by cutting and running, and leaving the Iraqis to fend for themselves in what would surely descend into chaos.

Our withdrawal from Iraq should be determined by the military commanders on the ground and our Commander in Chief. All of us who have been to Iraq to visit our troops on the ground are confident that over time the 210,000 or so Iraqis who have now been trained to provide security for their own people sooner or later will be able to take this job upon themselves and we can begin to gradually, as circumstances dictate on the ground, bring our troops home.

Do all of us wish our troops could come home sooner rather than later? You bet we do. We want them to come home as soon as we can get them home, consistent with our duty to finish the job we started in Iraq. But we should not under any circumstance impose an arbitrary timetable on our forces, signaling weakness to our enemy, emboldening them to stay with their strategy because it must be working, and we must keep going even though it is tough. Our troops in Iraq are committed to victory.

I mentioned the chasm that separates Washington, DC, and these Chambers from the rest of America when it comes to the perception of what we are about in Iraq and the fight for freedom's cause. There is also a huge difference when you travel to Iraq and talk to our troops. They wonder at some of the news reports and some of the politicalization of what they are about, that they aren't confused about their job, they aren't confused about the nobility of their cause and the importance of what they are about. Our troops in Iraq are committed to victory. I hope our elected officials would show the same resolve here at home.

As every one of our military personnel in Iraq understands, Americans do not cut and run. Americans do not abandon their commitments, and Americans do not abandon their friends.

We must remember that it is in the absence of democracy, in the absence of the rule of law that extremism appears. When the rule of law is implemented, when people have a forum by which to redress their grievances as we do in democratic circumstances, this is when the radical ideologues are stifled and even extinguished.

We have to remember how far the Iraqi people have come in such a relatively short time—from a time when they were ruled by a dictator who cared nothing for human life and who used weapons of mass destruction on his own people. I have seen, as have others in this body, the mass graves where at last count at least 400,000 Iraqis lie dead because of the ruthlessness of this blood-thirsty dictator. It was only 2 short years ago that the people of Iraq were oppressed by this brutal dictator. Those who privately yearned for freedom kept silent out of fear for their lives and the lives of their family and other loved ones. But that is no longer the case.

We have seen and continue to see that our strategy is working. The Iraqi people will vote in elections next month. I make a prediction that their turnout in these elections will be broad-based, across all the sects in Iraq, and their turnout will exceed the turnout we see in this country in our national elections. We saw that happen with, I believe, the 63-percent turnout in the vote to ratify the Constitution. It now appears that the Sunnis, many of whom boycotted that election, will finally participate in full force in electing their first leaders in a permanent government.

I hope the Members of this body who yield to the temptation to politicize this issue realize their remarks run the real risk of not only dividing Americans but undermining the resolve for the important task we have at hand, and devalue the sacrifice of our brave men and women in uniform and the noble cause they are about.

I yield the floor.

MORNING BUSINESS

Mr. McCONNELL. Mr. President, I ask unanimous consent that there now be a period of morning business, with Senators permitted to speak for up to 10 minutes each.

Mrs. MURRAY. Mr. President, I will not object, but I would amend the unanimous consent request by asking unanimous consent that Senator COLLINS and I have 40 minutes equally divided after the Senator from Kentucky speaks.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Kentucky is recognized.

CONDEMNATION OF THE AMMAN TERRORIST BOMBINGS BY KING ABDULLAH II OF JORDAN

Mr. McCONNELL. Mr. President, I rise to express my deepest condolences to the families of the innocent victims of the brutal terrorist attacks that occurred in Amman, Jordan, last Wednesday. Homicide bombers, wearing deadly explosives under their clothes, entered three popular and crowded hotels and detonated themselves. Jordanian authorities have determined the attack was the work of al-Qaida.

So far, 57 are thought dead, among them a number of children; many more are injured. A wedding reception was underway in one of the hotels, and on the day after what should have been the happiest day of their lives, a young Jordanian bride and her groom each had to bury their slain fathers.

I know my colleagues join me in completely condemning the terrorists behind this attack. America will never give in to terrorists and their murder of innocents. Unthinkable evil like that only strengthens our resolve to fight terror and bring those who practice it to justice.

According to our great ally King Abdullah II of Jordan, the targets of these Muslim terrorists were not Americans, but fellow Muslims. The hotels were well known to be frequented by Jordanians and Iraqis.

The terrorists' hope is that by attacking America's allies, like Jordan, they can frighten those countries into abandoning the War on Terror, and divide the grand coalition of free nations who oppose them. That appears to have been the purpose of the Amman attacks.

Well, the terrorists will not get what they want. I wish to bring to my colleagues' attention the inspired words of His Majesty King Abdullah, given shortly after the terrorists struck. Before this bombing, King Abdullah was America's steadfast partner in the War on Terror. Today, if possible, he stands even more aligned with our effort to fight terror.

King Abdullah and the Jordanian people will not be swayed by the terrorists.

In fact, we saw the demonstrators in the streets of Jordan—not against the King but against the terrorists.

The day after the bombings, the King declared: "We will not be intimidated into altering our position, nor will we abandon our convictions or forfeit our role in the fight against terrorism in all its forms." He continued, "To the contrary, every act of terrorism strengthens our resolve to adhere to our convictions, and to confront, with all the means at our disposal, those who seek to undermine the security and stability of this country."

We all applaud King Abdullah for his strength and commitment to this fight. He refuses to bend to fear. His vision of a Jordan that rejects terror strengthens the will of every Jordanian, even those who emerged bloody and scarred from these atrocious attacks, to see this struggle through.

King Abdullah also deserves praise for his message that Islam is a religion of peace, and that the terrorists are not protectors of the Muslim faith but defilers of it. He is one of the world's foremost voices for moderation and tolerance in Islam. He understands that the War on Terror is not a war between America and Islam, as some of the most radical terrorists try to paint it, but actually a war between a small, fringe faction of violent extremists on one hand and a coalition of all freedom-loving peoples, Muslim, Christian, Jewish and Hindu among them, on the other.

I ask for unanimous consent that the entirety of King Abdullah's statement on the Amman bombings of last week be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

HIS MAJESTY KING ABDULLAH'S ADDRESS TO THE NATION FOLLOWING THE AMMAN BOMBINGS, NOVEMBER 10, 2005, AMMAN, JORDAN

I would like to begin by extending my profound condolences to the families of all the innocent victims who were killed, and we are praying for a swift recovery for all of those who were injured.

This is not the first time that Jordan has been a target of terrorism. It is also not the only country that has been a victim of terrorism: there have been many countries in the region and throughout the world which have been similarly terrorized by attacks of greater scope and intensity.

We know, however, that Jordan has been targeted more than any other country for several reasons, among them, its role and its message defending the essence of Islam—the religion of moderation and tolerance that abhors the terrorists who kill innocents in Islam's name, even as Islam is innocent of such crimes.

Let it be clear to everyone that we will pursue these terrorists and those who aide them; we will reach them wherever they are, pull them from their lairs and submit them to justice.

Jordan does not bow to coercion. We will not be intimidated into altering our position, nor will we abandon our convictions or forfeit our role in the fight against terrorism in all its forms. To the contrary, every act of terrorism strengthens our resolve to adhere to our convictions, and to confront, with all means at our disposal, those who seek to undermine the security and stability of this country.

Our confidence in the security services and their ability to protect the security of this country and its stability remains unwavering. We have succeeded in preventing many planned attacks on this country. For every infrequent success terrorists have had in carrying out one of their crimes, we have had many more successes in foiling their plots.

I appeal to every citizen—man and woman—of this country to consider himself or herself a soldier and a security officer. Each one of you has a responsibility to protect your country. Circumstances require each and every citizen to be cautious and vigilant, and to cooperate with the security services to prevent any attack on the security and stability of this country. We must be united in confronting these terrorists, who have neither a religion nor a conscience.

I am confident that the patriots of Jordan—men and women—will maintain, as they always have, a watchful eye over the country and its security, and will be the first line of defense in protecting Jordan and its achievements. Jordan will continue, with the help of God and the determination of its people, to overcome evil.

Finally, all my thanks and appreciation go to our security, military and civil institutions, as well as to the citizens of Jordan who have acted as one in confronting the attacks on our precious capital, Amman.

Mr. McCONNELL. Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Washington is recognized.

(The remarks of Mrs. MURRAY and Ms. COLLINS pertaining to the introduction of S. 2008 are printed in today's

RECORD under "Statements on Introduced Bills and Joint Resolutions.")

The PRESIDING OFFICER. The Senator from Michigan.

ORDER OF PROCEDURE

Ms. STABENOW. Mr. President, I ask unanimous consent that following my remarks, Senator DURBIN be recognized.

The PRESIDING OFFICER. Without objection, it is so ordered.

Ms. STABENOW. I thank the Chair.

ASIAN TRADE

Ms. STABENOW. Mr. President, President Bush arrived in Japan today and will meet tomorrow with Prime Minister Koizumi. Later this week, he will travel to China to meet with their President as well. It is time that we insist that the President use this opportunity, this important opportunity, to demand changes, changes in our economic relationship with China and with Japan. The President needs to say, as he is there with those leaders, that we will no longer accept their illegal trade practices that are costing American jobs, and we demand that changes be made: we no longer accept the fact that China and Japan manipulate their currency, which means their products are artificially lower than ours when they sell them into this country; we no longer accept that they are stealing our patents and our intellectual property.

Last week, I was pleased to author a letter to the President with that very message on behalf of myself and 14 other Senators, urging him to make 2 major changes in our relationship with these important nations: No. 1, we need to end the rampant counterfeiting of American products that is occurring in China. It is estimated that 7 percent of world trade is in counterfeit goods, that the counterfeit market is worth $350 billion. It is estimated that in the auto industry alone, we lose over $12 billion annually to counterfeit auto parts, parts that are unsafe as well as costing us jobs. If you stop this illegal activity, the auto industry could hire an additional 200,000 workers—200,000 workers in Michigan. That would equal our ability to cut our unemployment rate by two-thirds—200,000 people who are now challenged with losing their way of life, trying to figure out what they are going to do if they are making half or a third less of what they used to make because of what is happening in manufacturing in our country. People are paying more for health care and may very well lose their pension.

We can do something about this if we simply change our relationship and send a strong message that we are going to put American businesses and American workers first. Our middle class clearly was built on manufacturing, and our manufacturers are having a hard time these days.

It is critical that we continue to manufacture in this country. Is it changing? Has it changed? Of course, it is now high-tech manufacturing. When you walk into an automobile factory, it looks very different—quiet, clean, computers, highly skilled workers—but we have to maintain a strong, vibrant manufacturing economy. We cannot just step back and say we are going to be a service economy now and let the rest of the world make things and grow things. That will lead to what is now becoming a race to the bottom for American families.

The Economist Magazine recently reported a disturbing fact. This year, manufacturing jobs in the United States dropped below 10 percent of the population for the first time in history. This is not acceptable if we are going to continue to have our way of life in this country, and it is not necessary. If anyone believes that the middle class in this country can survive without a vibrant manufacturing sector, they are mistaken. As I indicated, we must make things in this country and add value to it as we do so, as well as grow things. That is a foundation of our economy, and that is what has created the wonderful middle class and the wonderful way of life we have enjoyed for so long as Americans.

We can do better than this policy that is currently in place.

The President must demand that China and Japan stop manipulating their currency. When they undervalue their currency, it makes U.S. exports to China artificially more expensive and places U.S. manufacturers at an unfair disadvantage in the Chinese market. It also makes their imports to us artificially less expensive, hurting manufacturers and costing American jobs. When they undervalue their currency, it is essentially an illegal subsidy of imports from China and a large tax on U.S. exports to China, and we need to call it the way it is. The President needs to be in China and call it for what it is.

We are projected to finish this year with a record trade deficit of more than $700 billion. That is more than the budget deficit, up $100 billion over the record $618 billion last year. China accounts for $200 billion of this deficit, more than a quarter of the total trade deficit in our country. China is the largest contributor to the U.S. current account trade deficit, and therefore adjustment of its currency has to be a part of anything we do in revitalizing the manufacturing sector.

China is not the only offender here. In 2003, the Bank of Japan spent $190 billion in global currency markets in order to manipulate and artificially weaken the yen. Japan continues this practice today by talking down the value of their currency, promising intervention if the yen moves out of a predetermined trading range.

The President must insist that this stop if we are going to continue to have a relationship, an economic relationship with both of these countries. In fact, we can do something about currency manipulation right now. Every 6 months, the Secretary of the Treasury submits a report to us as to whether countries are manipulating. We expect to have a report in front of us this month, the month of November. Unfortunately, I expect it to say what it has always said, which is technically they are doing what we all know that they are doing, we all know. Any businessperson in my State can tell you that China is manipulating their currency. Talk to people in the auto industry, they will talk about Japan. And yet our own Treasury Secretary will not certify it is happening, giving us the tools to enforce against this illegal trade practice.

Let me be very clear. Currency manipulation kills American jobs, and it is illegal, it is illegal under the WTO and IMF obligations. China says they want to be a part of the world community, the world marketplace. They have been allowed to do that. We now need to say to them very strongly, with this opportunity comes the responsibility to follow the rules.

One of the things that is extremely concerning to me, when you look at currency manipulations, we have lost over 1.5 million manufacturing jobs because of this one policy that is illegal. The Treasury Secretary can do something about that by simply certifying that it is happening, and the President of the United States right now this week can look the President of China in the eye and say this is no longer going to be tolerated by the United States of America, we will not continue to lose manufacturing jobs and our quality of life in this country because they are not following the rules. Cheating is no longer allowed by China and by Japan.

The bottom line is we can no longer continue to sit on the sidelines while our trading partners continue to artificially control prices, look the other way when it comes time to enforce intellectual property rights, and fail to live up to their obligations under the WTO and the IMF. It is not acceptable to say that we are going to throw open our economy in the international marketplace and not care what the rules are.

Every other country cares what the rules are. The European Union took us to court because they felt we were unfairly subsidizing our businesses. They won. We changed our tax laws. We are the only country that does not seem to have policies that get it. This administration doesn't understand they are supposed to be on the same side of the table with American workers and

American businesses. It is time for that to happen. I urge the President to act now before our manufacturing economy and our middle-class way of life is taken from us.

Current Federal policies are based on a philosophy that says to Americans, you are on your own in a global economy; you are on your own, good luck. To American manufacturers, you are on your own; American workers, you are on your own.

Mr. President, I believe that we are in this thing together, and Americans understand that we have a stake in what the rules are and an economy that works for everybody, an economy that puts Americans and American businesses first so that we can continue the great way of life that we have had in this country. Americans know that we are in it together and that together America can do better. I call upon the President to join us in the fight for our way of life in America.

I thank the Chair.

The PRESIDING OFFICER. The Senator yields the floor.

The Senator from Illinois is recognized.

Mr. DURBIN. Mr. President, I thank the Chair.

PRESCRIPTION DRUG PLANS

Mr. DURBIN. Today is the opening day for the new Medicare prescription drug plan D, and it is a day of great concern across America for millions of senior citizens who want to get it right. They believe, as I do, that Medicare should include a prescription drug benefit. It is almost hard to believe that a program that has been in existence for 40 years basically does not provide prescription drug coverage, but it started in a day when there were not that many prescription drugs and they were not as good. Today, we realize that often taking the right medication can make a person independent, strong, and living the life they want to live and avoiding doctors' care and hospital care.

So it is certainly the thing to do. We have known it for a long time. We have talked about it for a long time. We debated it over 2 years ago and decided to pass this approach to Medicare prescription drug benefits. I do not think we could have dreamed up a more complicated approach for a benefit that is basically pretty straightforward. Many of us thought the plan we passed here in Congress was just a sop or a favor for the pharmaceutical industry. They wanted to be able to offer plans all across America and say to seniors: Come and figure out which one is best for you. Well, the problem, of course, is that there are hundreds and hundreds of plans across America. And now senior citizens, some of whom are not in the best shape physically, are forced to make a call.

A fellow in Springfield, IL, told me about his 80-year-old mother who called him really concerned. She said: You know, I am supposed to pick a prescription drug plan, and they tell me to go to the Internet. What does that mean? You see, three-fourths of senior citizens have never logged on, they have never been on the Internet. They go to the traditional sources of information that you might expect—someone they trust. She went to her son and said: Can you help me through this? And her son came to me and said: Senator, what have you done to us? I just took a look at the Internet, and my mom has 40 choices. I now have to line up her prescription drugs and figure out which plan covers those drugs and how much they charge, and then I have to figure out which plan will work with the drugstore that she is comfortable with, the one she trusts. I have to put that all together and make a decision for her, and I better do it quickly. I have until May 16, and if I wait until after that, then I am going face a penalty.

She is lucky. She had her son to call. Some seniors don't have anybody to call. But there are people calling them. Do you know who is calling them? The insurance companies that want to sell these plans, some of the pharmaceutical companies, some of the drug companies, they are calling the senior citizens and telling them: We have a deal for you. And many of these people, bewildered by what they are facing, really don't know where to turn. You can't walk into a drugstore in my hometown of Springfield, IL, without having somebody go up to a senior citizen and say: Let me talk to you about this prescription drug benefit.

Think about that. Some people have knocks on the door and phone calls with folks saying: We have the best plan in the world for you. In fact, the Attorney General of Illinois, Lisa Madigan, had a press conference with us a few weeks ago. They are finding evidence of rampant fraud when it comes to companies that are sadly taking advantage of our seniors. They are calling them and saying: Incidentally, will you give us your Social Security number so we can log you into the system? These people unwittingly give their Social Security number that can open up so many elements of their personal life they should not be advertising and publicizing.

How did we ever reach this point? Is this the best we can do? I don't think so. When it comes to helping our seniors with a real prescription drug benefit, America can do better—a lot better—than what we are asking the seniors to go through right now. American seniors are confused about this plan, and Congress needs to give them at least more time to figure it out.

Let me show a chart that explains part of it. "Understanding How the Benefit Will Be Administered." They asked seniors:

> To the best of your knowledge, do seniors in the traditional Medicare Program have to sign up with a private plan to get the new Medicare drug benefit or not?

Yes, 35 percent; no, 32 percent; don't know, 33 percent.

> Do seniors have to enroll in a Medicare PPO or HMO to get the new Medicare drug benefit or not?

Yes, 17 percent; no, 40 percent; don't know, 42 percent.

According to a poll released by the Kaiser Family Foundation last week, two-thirds of seniors don't even know they have to choose a private plan. One-third of seniors think they are going to get their drugs through Medicare, and that is wrong. That is the proposal we suggested on the Democratic side of the aisle to make this simple and straightforward, a Medicare plan where the Federal Government would bargain with the pharmaceutical companies to get bulk discounts and low prices, saving seniors money and saving taxpayers money. But the pharmaceutical companies wanted no part of it. They want to be able to charge the highest prices they can. They want the smallest bargaining units they can come up with: groups of seniors rather than all Medicare seniors.

Let me show another chart which spells out some of the problems with the current approach seniors are facing. This chart—and this was part of a survey by the Kaiser Family Foundation, Harvard School of Public Health, on awareness and use of the Medicare Web site, medicare.gov. They asked seniors:

> Have you ever heard of the Web site medicare.gov?

Two-thirds said no.

> Have you ever looked for information on medicare.gov?

Three-fourths of them have never been online.

Let me show some other statistics that show the gravity of this problem that faces seniors as they have to make literally life-and-death decisions.

The Kaiser Family Foundation asked in a survey, "Seniors' Beliefs about Enrollment":

> Do seniors generally need to sign up to get the new Medicare prescription drug benefit or will coverage automatically begin by January 1, 2006?

Have to sign up, 64 percent; 10 percent said it will begin automatically; 25 percent, don't know. That was in October 2005.

We are finding fewer and fewer seniors understand the obligation and responsibility they currently have. If a senior does not sign up for a Medicare drug plan in 2006 but wants to enroll in a future year, which of the following is true: He or she will face a financial penalty? Thirty-six percent said yes; 27 percent said don't know; 19 percent said no penalties; 17 percent said maybe.

Most alarming, 63 percent of seniors don't know they will face financial penalties if they don't sign up by May of next year. If a senior decides in June of next year to go back and try to sign up, they will have to wait until November of that same year for the next open enrollment period. Boy, you have to read the fine print. And to think we are putting millions of seniors through this is hard to believe.

I would say this: If you enjoy doing your tax returns, you are going to love signing up for this program because this is going to confront you with more choices and more new information and more fine print that can get you in trouble than most seniors could ever imagine. For every month a senior waits, they will pay a penalty of 1 percent on the national base premium. That penalty is added to their premium every month for the rest of their lives. So by May, if you haven't figured it out and you want to wait until October or November, you now have incurred a penalty of 1 percent a month which you now will have to pay as long as you are part of the program, and the penalty can increase each year as premiums increase. This is some punishment for not signing up.

Let me talk about my State of Illinois. There are 17 insurance companies offering 84 different Medicare HMO or PPO plans. There are 16 prescription drug organizations offering 52 different prescription drug benefits, for a total of 136 plans in my State of Illinois. In Cook County alone, there will be 64 different Medicare drug plans.

I asked my staff to act as if they are a senior signing up for this plan and find out what they can. You won't be able to make much of this if you are following this debate. But if you think that is a big, long list of plans to choose from in the State of Illinois, that is half the story. Here is the whole story. This is what your mother and grandmother, your father and grandfather will have to sort through. They will have to figure out what the premium might be, what the deductible is, what is the copay, whether they are going to fill the donut, which is another problem with this plan, whether it covers your drug.

Incidentally, you know what we found out, even if you get on their Web site, you can't find out if the most common drugs are going to be covered by these plans. We tried to find out if Zocor, a common drug for cholesterol, would be covered by these plans. Not in a single instance could we gather that information off the Web site. You have to call the plan. You are put into voice mail. You have to wait patiently until your turn comes to ask whether one of these plans is the best plan for you.

This chart is what a Cook County senior who doesn't have any extenuating circumstances would have to evaluate. What I mean by "extenuating circumstances" is whether they face factors that make the comparison of these plans even more difficult. This person I am talking about is not in a nursing home, not eligible for State assistance through Illinois Cares Rx or Medicaid, not eligible for Federal low-income assistance, nor is she on Social Security disability.

We assume she is taking four drugs: Zocor for cholesterol, Nexium for chronic heartburn, Fosomax for osteoporosis, and Relafen for arthritis.

Because the formularies—the list of drugs you can receive under each plan—are not listed in the "Medicare and You" handbook she received last week, she has to call every single plan to find out if her drugs are covered, or she can go out to the Web site, if she is one out of four seniors who have ever done that in their life, for companies.

First, she has to find the Web site because they are not listed in the Medicare handbook sent to seniors. Once she knows which companies cover the drugs, she will have to add up the copays, deductibles, and premiums to determine the best deal. Is that the kind of assignment you want to give to your mother in a nursing home? Is that the kind of assignment you want to give to seniors perhaps dealing with their own challenges and problems in their life?

Unfortunately, that is the assignment this bill does give. When the Kaiser Family Foundation told seniors they would have more than 40 plans to choose from, 70 percent of seniors said more plans make the program confusing, and that is obvious.

Sally Moss from Jacksonville, IL, wrote to me and said:

> On my kitchen bar sits material I have received in the mail from Social Security, AARP, and companies advertising their plans.

The PRESIDING OFFICER. The Senator from Illinois has exceeded the time allotted in morning business.

Mr. DURBIN. Mr. President, I ask unanimous consent for 8 additional minutes.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, Sally Moss wrote:

> On my kitchen bar sits materials I received in the mail from Social Security, AARP, and companies advertising their plans.
>
> Periodically, I sit down to try to make sense of it, knowing that I need to make a decision before long. This idea of having to select a drug insurance plan from the private sector is the most ludicrous thing. . . . I am only 66 years old, with a major in business administration and a minor in computer science, and have only been retired for 16 months. If I am frustrated and confused, imagine those who are much older and less educated.

What can seniors do at this point if they don't have someone in their family they can turn to, whom they can trust, who will help them work through this morass of Government redtape to get to the plan for them? Turn to a group that doesn't have a financial interest in your situation. Never, ever give out your Social Security number. Go to Government agencies such as the Senior Health Insurance Program in my home State of Illinois, but be prepared for a long wait. We had our office call on behalf of some seniors to find out how long it would take to get information, and it turns out you are put in voice mail and you could wait for a long time.

In Peoria, IL, there are 23 volunteers answering the phones. They tell us they need 100 to get the job done in that one town.

It is not uncommon for seniors to attend two or three informational sessions because this benefit is so complicated. Some seniors get pretty emotional. They don't want to make the wrong decision.

In DeKalb County, there are four counselors for the whole county. Bob Rosemier is so concerned about the lack of staff that he is trying to get the DeKalb County Board to put on counselors to explain this complicated Federal program.

I am cosponsoring with Senator NELSON and Senator SCHUMER a bill called the Medicare Informed Choice Act of 2005. I ask any of my colleagues in the Senate who are receiving phone calls from seniors in their State facing the same problems I just described—finding it almost impossible to wade through this information and make the right choice, concerned they won't be able to do it even in the few months we have given them, worried over the penalties that could be assessed against them if they miss the next May 16 deadline—to help us pass this bill before we go home for Thanksgiving.

This bill does three things. It delays the late enrollment penalties for an additional 6 months so people have an entire year to sign up without penalty. It gives every Medicare beneficiary the opportunity to make a one-time change in plan enrollment at any point in 2006, so if a senior makes a mistake and chooses the wrong plan, it can be remedied. It also protects employees from being dropped by their former employer's plan during the first year of implementation so that beneficiaries have time to correct enrollment mistakes.

The Medicare Informed Choice Act is a modest, time-limited step we can take to ease the pressure on our senior citizens so that in the first year they get the decision made and made right, and if they make a mistake, they will not be penalized for it.

I urge all my colleagues, if you believed passionately in this bill as it was passed—and I did not—at least be sensitive to the people back home who are struggling to make sense out of this complicated measure. I urge all my colleagues to join me in the effort with Senator NELSON and others to help protect Medicare beneficiaries during the benefits implementation period.

UNANIMOUS-CONSENT REQUEST— S. 1841

Mr. DURBIN. Mr. President, as I advised before I started speaking, I ask unanimous consent that S. 1841, the Medicare Informed Choice Act, be discharged from the Finance Committee and that the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Is there objection?

Mr. DEMINT. I object.

The PRESIDING OFFICER. The Chair hears an objection.

Mr. DURBIN. I yield the floor.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Mr. President, I ask unanimous consent to speak for up to 40 minutes as in morning business and that the time be equally divided between myself and the Senator from South Carolina, and that we may be permitted to engage in a colloquy during that time.

The PRESIDING OFFICER. Without objection, it is so ordered.

SOCIAL SECURITY GUARANTEE ACT OF 2005

Mr. SANTORUM. Mr. President, Senator DEMINT and I are here tonight to talk about an issue that has drifted to the back burner of American political discourse. It is unfortunate that it has. It is an issue that both the Senator and I, and I know many others on this side of the aisle, have worked to accomplish diligently now for many years, for me since 1995, trying to grapple with the shifting demographics and the changes that are coming to this country when it comes to the issue of entitlement programs.

There is no more important entitlement program that we have to preserve and protect and save than the Social Security system. It is the bedrock upon which our seniors have the security to meet the needs they have in their later years in life.

We understand this demographic timebomb of the baby boom generation, people living longer, lower birth rates, all of those things come together to create a demographic perfect storm that causes the Social Security not to be able to pay for the benefits promised to future retirees. We have tried to put forward solutions. I put forward solutions. Senator DEMINT has put forward more than one solution. Other people on this side of the aisle have done so. The House has done so. The President has put forward ideas on how to address this problem. We have done so because we believe it is important for us to step up to the plate and be serious about addressing this serious concern that millions of Americans who are retired, near retirement, and even younger Americans have about their ability to collect their Social Security check.

We fought hard to bring this debate to a head on the floor of the Senate. Unfortunately, we have not succeeded. We have not succeeded because we have been met with a partisan obstructionism that is as rock solid as the marble before me on the rostrum.

The fact is, we have seen no cooperation at all from the other side of the aisle. Unfortunately, we have not seen any attempt to come to the table and try to solve the problems of Social Security that all sides of the spectrum admit is looming for future generations of retirees. That is unfortunate. It is unfortunate because we have had an opportunity this year to address an important issue before the crisis strikes.

One of the great complaints that Americans have about Congress is that we wait until the problem is almost overwhelming us before we do anything to react to it and therefore end up with less-than-optimal solutions.

We have an opportunity now, as the crisis looms but far enough away, to be able to address it in a way that can spread out the burden and create better opportunities for future generations of retirees, and just as importantly, future generations of taxpayers and American families trying to keep the quality of life and, in fact, improve the quality of life that we have in America. But we did not get that accomplished.

What Senator DEMINT and I have decided to do, in cooperation with our leadership in the Senate, is to try to take a first step. Using football analogies, which I know the Senator from Virginia, Mr. ALLEN, loves to use, we tried to throw the long ball and march down the field, but we are going to try to run off tackle here and see if we can pick up a yard or two to move the ball down the field to get to the goal of providing retirement security for future generations and saving and strengthening the Social Security system.

The first play in trying to accomplish that is legislation that I have introduced called the Social Security Guarantee Act of 2005. As I mentioned before, Americans work very hard and pay a lot of money. It is the biggest tax that most Americans pay. The overwhelming majority of Americans, the biggest tax they pay is the Social Security tax. From the tax they pay, they expect that benefit to be there when they retire.

The point is, for those who are at or near retirement, the answer is that it will be there. In fact, in looking at the long-term problems of dealing with Social Security, there is nothing this Congress should do to affect the near-term retirees and those who are retired today. We have said over and over again, those of us who have been advocates for strengthening the system, whether it is the President or Senator DEMINT or Senator FRIST or others, that we do not want to do anything to impact those who are near-term retirees and those who are already in the system.

The reason is twofold. No. 1 is we do not have to. The system is solvent. In other words, there is more money coming in than we need to pay out over the next 15-plus years. Therefore, we do not need to have any kind of fixes for those in the short term. The problem is out in the long term.

The second reason is a matter of fairness and equity. To change the game literally before someone crosses the finish line, to move the finish line—or even the people who have already crossed that finish line and have ended up in Social Security, to move it back would simply be inequitable. People would not have the opportunity to plan for that, and it could be very disruptive to their retirement.

So what Senator DEMINT and I have suggested in the Social Security Guarantee Act is that we put in writing in the statute what everyone has sort of agreed to in casual conversation and even beyond casual conversation. If we can put that chart up, the Senate recently, March 15 of this year, all 100 Senators, including every Senate Democrat, in a rollcall vote, voted for the Graham-Santorum amendment to the budget resolution. If we look at the language, I will point to the part A. It says that Social Security reform "must protect current and near term retirees from any changes to Social Security benefits."

So what the Social Security Guarantee Act does, which I am proposing, is to actually make it a Federal law, not just a resolution, something that we all think is a good idea, which is what a resolution is, but actually put legislative language in place, put something in law that says that your benefits are guaranteed, your cost-of-living increases are guaranteed in the Federal law which, contrary to what most seniors believe, is not the case. There is a Supreme Court case from 1960 which says that there is, in fact, no legal right that you have.

Obviously, there are claims that can be made in the political process to those rights, but as far as legal rights in the statute, there is no guarantee to that cost of living.

It would be vitally important for us, as we head into hopefully a longer term and more complete look at the Social Security system and saving that system, that we start from the ground that we are not going to affect anyone who was born before 1950. That is basically people 55 and older in our society today, we are going to say, If you were born before 1950, you are off the table; we are not going to discuss it. We are not going to play politics with you. We are not going to scare you. We are not going to threaten you. We are going to take these benefits and we are going to enshrine them in the law to protect them from anyone playing politics with them or even trying to include them in any kind of reform down the road.

This is a first step. It is a small step, but it is an important one for our Nation's seniors. I am hopeful we will be able to get that done maybe even this evening.

I yield the floor to the Senator from South Carolina.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I am not going to spend much time, frankly.

(Several Senators addressed the Chair.)

The PRESIDING OFFICER. The Senator from Pennsylvania and the Senator from South Carolina control the time.

Mr. BAUCUS. Mr. President, I ask the Senator from Pennsylvania if I may have 5 minutes. I have to leave very quickly.

Mr. DEMINT. We have been waiting for several days to do this. We will keep the time.

Mr. SANTORUM. I would be happy to yield. I will yield 5 minutes to the Senator from Montana, the ranking member of the Finance Committee.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, I am not going to spend a lot of time on this because this is just "kabuki" tonight. Everyone knows this is not a serious effort. Everyone knows that this is an attempt, frankly, to make a statement to the press and the people back home. It is very disingenuous, in this Senator's view, because it is not serious, and it is playing with the lives of a lot of senior citizens who wonder what is going on.

This consent asks the Finance Committee to be discharged of the legislation. I do not understand that at all. If this is such an important issue, why doesn't the Finance Committee deal with that? I think the answer to that is because there are not the votes in the Finance Committee. The majority of Republicans would not support this in the Finance Committee. They know privatization of Social Security is one of the worst ideas that has come out of this body by any group of Senators in a long time. Why? The DeMint bill increases the Federal debt held by the public by $1 trillion in current dollars in the first 10 years. It increases the Federal debt by $1.7 trillion the first 20 years. By 2080, the debt will be higher under current law by more than $800 billion. So it is a massive increase in the Federal debt.

Secondly, it will cause a huge increase in the annual budget deficits for the same reasons.

Third, what does it do? It means a reduction in benefits that would otherwise go to Social Security recipients. Why is that? Because the money taken out of Social Security would not be available to pay for Social Security benefits. That will reduce the benefit payments out of Social Security.

The argument is private accounts would offset that. All studies show, at best, that is barely a wash, probably worse than that because the private accounts would be subject to the vagaries of the markets. Over the long haul, seniors would not be doing very well at all.

Add to that, it usually creates a huge risk. More than that, it creates a very large administrative cost not recognized by the authors.

Jason Furman, from the Center on Budget and Policy Priorities, estimates the plan would have administrative costs of at least $25 billion over the first 10 years. That is above what is paid now in the current Social Security system.

Also, the DeMint proposal would treat individuals with different years of birth in different ways. It would cause an inequity among benefits of Social Security recipients.

So I am not going to say much more about this. It is flawed. Frankly, it is a phony gimmick. One has to call a spade a spade around here sometimes and not be too deferential, not be too nice, too courteous, but to call it a spade. This is a fraudulent effort to play with people's lives, and at the appropriate time, it will be appropriately objected to.

Mr. SANTORUM. Mr. President, while I was trying to be courteous in yielding to my colleague, I want to make a couple of comments about what the Senator from Montana said. I would hope he would go back and read the Social Security Guarantee Act of 2005 because it does not do anything the Senator from Montana spoke of. What this bill simply does is guarantee benefits in the law for people who were born before 1950. It does not set up any kind of personal account system. It does not do all of the things that the Senator from Montana said.

The Senator from South Carolina will talk about his Stop the Raid bill, which simply takes money out of the surplus and puts it into accounts for holders to make sure that that money is spent on Social Security benefits but no administrative costs. All the things the Senator from Montana talked about do not apply to either one of our bills.

I understand there may be an objection, but I would caution the Senator from Montana that the objection cannot be under those terms because the objections that the Senator from Montana cited are not in either one of the bills. I yield to the Senator from South Carolina.

Mr. DEMINT. I say to Senator SANTORUM, as he can tell, I was originally hesitant to yield to our distinguished Democratic colleague, but I am now so grateful that the Senator did yield because it made the case of why we need to guarantee benefits and why we need to stop the raid on the Social Security surplus.

Practically all the information that we heard is untrue as it relates to my bill, but the misleading information is the best case for the Guarantee Act that Senator SANTORUM has proposed. It is so important, when people are getting untruths and so much misinformation that is intended to confuse them, that we reassure the American people that regardless of how we change Social Security to benefit future workers, that we are not going to change anything about the benefits of anyone who was born before 1950.

I am honored to be presenting these ideas with Senator SANTORUM today. There is no one in this Congress and probably no one in this country who has done more to protect Social Security for this generation or the next than has Senator SANTORUM.

I am also supporting this Guarantee Act because Americans know that we have a problem with Social Security. It is disingenuous for any Member of the Senate to suggest otherwise. So we must guarantee in the face of these folks knowing we have a problem, but we also must begin now the process of fixing the Social Security system so it will be there for younger Americans. We can do that by, first, stop spending Social Security on other things. That is what we are doing right now as I speak.

Americans know why we have a problem with Social Security. Maybe Senator SANTORUM can add more later since he has done so many townhalls. There are many Congressmen and Senators who have gone out to talk about Social Security, and they have had many people stand up and say, Social Security would be fine if you folks in Congress would stop spending Social Security on other things. They figured out that every dime that comes in for Social Security that is not needed for today's retirees is spent on other programs.

If we could look at the next slide, since the mid-1980s we have had $1.7 trillion of Social Security taxes that have come in that were not needed to pay benefits. Our colleagues will say that that is safe and sound in the trust fund but, frankly, if there is one fact that is true on this floor tonight, it is that every dime has been spent on something else. Not one penny has been saved for Social Security for today's retirees or for tomorrow's retirees.

What we are proposing is to stop that raid on Social Security. We are not proposing a comprehensive change in the Social Security system. In fact, Americans would see no difference in the Social Security system. What we would start doing is to take the money that is not needed for Social Security today and save it so that it would not be spent on other things.

Here is the proposition: Between now and 2017, we are going to spend another $775 billion of Social Security money on other things unless we pass this Stop the Raid on Social Security bill. We can see it year to year. This year it is almost $70 billion that came in for Social Security that was spent on other things. Next year it will be well over $80 billion, and it will continue until it disappears in 2017. At that point, there will not be enough Social Security taxes to pay benefits, and we will have to start moving money from the general fund to make sure every American gets their Social Security check.

The Stop the Raid bill would take all of this money, $775 billion, and put it in Treasury bills so that it could not be spent on other things. Instead of the government owning it, the people who send the money for Social Security would own it.

My Democrat colleagues oppose ownership. They do not want the American people to own their own Social Security system. They want the Government to own it, and they want the Government to continue to spend it on other things. We want to stop that raid on Social Security. The Democrats, as we have heard tonight, will say that if we stop spending this Social Security money on other things, it is going to increase the deficit. Again, that is not true. All it does is make us honest with our accounting.

Right now, the $1.7 trillion we have already spent, and this 775 billion additional dollars is spent without any recognition that we are creating a debt. If we save this money in Treasury notes where there is no risk to the American people, we have to start counting it as debt if we continue to spend it. This is a secret slush fund that Congress has used for many years—$1.7 trillion plus $775 billion. Congress, every year, spends this money on other things and does not count it as debt. If we start saving it for Social Security, it will be a debt if we continue to spend it.

Only in Washington—and I am afraid only my Democrat colleagues—could say that saving money creates a debt. I am afraid only a Democratic colleague at this point could say that saving $775 billion of Social Security money for Social Security actually weakens the program. Their intent is to oppose ownership by the American people who should own Social Security. Their intent is to spend this $775 billion on something else.

I have heard my Democrat colleagues over the last couple of weeks talk about stopping the raid. They want to stop the raid by increasing taxes. They have said that they stopped the raid. That has never happened, and that is not true because even when we were in surpluses as a nation a few years ago, every dime of Social Security was spent. Some of it was spent to pay down debt, but it was all spent. And not one penny, even when the Nation was in surplus, was saved for Social Security. We need to stop that practice and be honest with the American people.

My Democrat colleagues have said interesting things about stopping the raid. Our distinguished minority leader has said he supports the raid. He called stopping the raid a "bad idea" that will "threaten benefits and increase the debt and weaken Social Security." Get that. We are going to save Social Security for Social Security and that weakens Social Security. It is amazing.

Let's look at another comment from Democrat leaders. This comes from our colleague in the House, Minority Leader NANCY PELOSI:

> There is nothing wrong with Social Security lending money with the prospect of returning it.

One more quote, and then I know Senator SANTORUM has probably some questions for me. This is from our colleague, CHARLIE RANGEL, the House Ways and Means ranking member. When talking about the raid, he says:

> There is nothing wrong with that.

But let be read his whole statement. He said:

> Would you have any problem if you put your money into a bank and they just took your money and invested it and you went to the bank and they gave you your money when you needed it? There is nothing wrong with that.

The problem is, that is the core of the misinformation we are hearing from Democrats, that our money from Social Security is actually saved in a bank; that it is actually there. But that is not true. It is not fair to tell the American people that it is true. There is no bank. There is no money. We need to start today to stop the raid on Social Security money.

Mr. SANTORUM. I ask the Senator from South Carolina, one of the things I hear, and I think you were alluding to this, is that some people believe that they actually have an account at Social Security where this money they contribute is sort of there—that is maybe what Congressman RANGEL was alluding to—for them to sort of pay their benefits out. Is that the fact, first and foremost? Then I will ask my followup.

Mr. DEMINT. I have had people back home, when we are talking about saving Social Security and putting it in personal accounts, tell me that is what they thought was already happening. They thought we were saving their money because we talk about a trust fund. But the more people find out about the truth, when we say there is not any money in the trust fund, first people smile and think I am not telling them the truth. We need to tell Americans the truth.

Mr. SANTORUM. The Senator got into something that is a rather complex concept, but it is really important for understanding the difference between what he wants to accomplish and what goes on in the current system. That is, what your bill does is it creates an explicit debt. How is that different? What is the difference to the average person, that they have a specific account with that money as opposed to just sort of the general money that is owed to the Social Security trust fund? What is the difference?

Mr. DEMINT. Right now the largest tax most Americans pay is the 12.5 percent for Social Security. That is thousands of dollars for the average American family every year. It comes into the Social Security system. It is credited to a trust fund. Then it is spent either on Social Security benefits or spent on other things.

We have made Americans believe we are saving that money for them, but it is all passing through. The only thing that is in the Social Security trust fund is IOUs. Our President, who has been a leader on this issue, actually went and opened the file cabinet where these IOUs are.

The problem, Senator, as you know, is we cannot pay future benefits from IOUs. But we can from real money if we start saving it. There is nothing risky about saving this money in Treasury notes so it cannot be spent on other things. But you asked an important question. Right now, the Government owns the Social Security benefit and politicians control it. If we start saving Social Security in personal accounts—we are not talking about taking it out of the Social Security system. It is still just as much a part of the Social Security system as what we have today, only it is real money and people own it, which means they have a legal right to it, which they do not today. In the future, politicians cannot build their whole election campaign around frightening seniors that we are going to take their Social Security.

Mr. SANTORUM. What is the impact? Let's take it a step further. Let's assume we were successful tonight in getting the Stop the Raid bill passed and every American would have their own personal retirement account with the money from the Stop the Raid bill, and 15 years go by and that money has built up. What is the practical effect on the average citizen of what your bill does versus the current system?

Mr. DEMINT. This bill alone would not change anyone's benefits. In fact, it includes, as yours does, a guarantee. People will continue to get the benefit they have been promised. Only part of their benefit would be paid by the traditional system and part from real money. Our hope is, as you mentioned before, this is a first step. We need to move past the first step of saving the $775 billion and go back and get the Government to pay back what they have already borrowed from Social Security, invest that in those accounts and let them earn interest, and it grows. It is a large step toward solving the future problems of Social Security.

It is going to take several steps to fix it, but this is the most important first step. If we cannot stop spending Social Security on other things we cannot go to the American people and honestly tell them we have a solution, not if we cannot even stop spending it on something else.

Mr. SANTORUM. I would just ask the Senator from South Carolina, this bill has something to do with something else I hear a lot about, which is honest accounting. One of the things I hear a lot of my colleagues on the other side of the aisle talk about is that the deficit is really much bigger than the deficits reported because the Social Security surplus hides the deficit.

Will your bill cure that problem?

Mr. DEMINT. Only if we slow our spending as a government.

Mr. SANTORUM. Would it cure the problem of hiding the deficit?

Mr. DEMINT. It is definitely an honest accounting bill. Right now this money goes on the table and the Government secretly sweeps it away and spends it.

Mr. SANTORUM. And lowers the deficit as a result, correct?

Mr. DEMINT. Right. We are going to take it off the table and save it. So the whole point is, if you want to keep spending that money as a Congress, we are going to have to recognize it as debt and admit to the American people that we are spending more than we told them we were spending.

Mr. SANTORUM. So this is not just a Stop the Raid bill. This is a truth in accounting bill? This basically says: Here is how much money we are taking in. Here is the obligations that the Federal Government has with this money we are taking in. In fact, we are taking that obligation and realizing it, in other words putting it into an account that actually could pay that obligation. Is that correct?

Mr. DEMINT. Exactly right. We will also be honest about telling the American people we have not been saving the money, but we are going to start saving their money and we are going to figure out a way to go back and get what has been borrowed from Social Security and put it back so that Social Security will be there for your children and mine and our grandchildren.

Mr. SANTORUM. I thank the Senator from South Carolina for, not just the work he has done on the Stop the Raid bill, but I want to thank him for the other ideas he has put forward. He is one of three Senators on this side of the aisle who have put forward comprehensive bills, along with Senator SUNUNU and Senator HAGEL. They have put forth ideas to try to move the ball forward, down the field substantially. I will not speak for the Senator from South Carolina, but I think what he has realized is that the opportunity for us to do that this session of Congress is probably dramatically diminished. So we are both looking at trying to move the ball forward, trying to take a vital first step, or first two steps, in assuring the American public that those who are the most vulnerable, their benefits are safe; and for those concerned about the resources being there to be able to pay benefits in the future, we are going to make sure that money is set specifically aside and given to them to make sure that money is there and promised by the Federal Government to pay in the future.

By the way, the Senator from South Carolina is not the only one who has introduced comprehensive legislation. Over in the House, Congressman KOLBE, Congressman JOHNSON, Congressman SHAW, and Congressman MCCRERY on our side of the aisle have put forward comprehensive proposals on dealing with the long-term issues.

So we have made the case. We have worked hard to try to move this issue before the American public but have met a stonewall here on the other side. I suspect, unfortunately, tonight we will probably continue to see that stonewall appear when we ask for unanimous consent to move forward on this legislation. I will certainly make my commitment that this is an issue I feel very passionate about. This is a issue that is important to my State. We have the second largest percentage of seniors in our population. We have a little over 16 percent of our population who are people over the age of 65. That is second only to the State of Florida.

It is important for my State to have the peace of mind for my seniors. I always say we may have fewer as a percentage of our population, we may have fewer seniors than the State of Florida, but my seniors need Social Security more than those in the State of Florida because all my rich seniors moved to Florida. The folks who are still in Pennsylvania are getting through those tough winters, in some cases they need and rely on their Social Security benefits.

So as a Senator from Pennsylvania I will tell you that this is a high priority for me, to make sure that not only this generation of seniors gets the benefits they deserve but future generations of seniors get those benefits as well. I think this one-two of the Social Security Guarantee Act and the Stop the Raid bill will go a long way in helping create the atmosphere to get real long-term responsible reform of the Social Security system for future generations in place so they will have a strong and solvent system going forward.

I yield for the close to the Senator from South Carolina.

Mr. DEMINT. I say to the Senator, I know you want to make a motion. But it is important that you and our colleagues know what we are asking for. We are not asking to pass a bill tonight. We are asking to move the bill into the debate process so that the American people can find out more about where we are and how this Guarantee Act and this Stop the Raid Act can secure their future.

I yield back to the Senator to make the motion.

Mr. SANTORUM. I thank the Senator from South Carolina for taking the time to have this important debate. I appreciate the indulgence of the Democrat leader for his time.

What this unanimous consent will do, as the Senator from South Carolina has just stated—it will not be to pass the bill tonight. This is not an idea and we are just going to have unanimous consent and pass the bill. What we want to do is engage in a real debate about these two very important issues. So we are going to ask consent, at the time to be determined by the leader, to have a full debate. I am suggesting in this unanimous consent request that we have 10 hours of debate on both of these bills before we move forward and pass them, and obviously here in the next few weeks the chances of finding time to do that is going to be pretty limited. We will be happy to schedule it in January or February of next year so there is plenty of time for the American public to participate in this debate and to have a real discussion about whether we want to protect the benefits that are promised to those who are born before 1950 and whether we want to create the opportunity for honest accounting and for stopping the raid on the Social Security system, to make sure that money stays in the Social Security system and is there to pay benefits for the people who pay money into the system.

That is what this bill does. It stops the raid, it stops that money being used and taken by the Federal Government to pay for other programs and keeps that money—it is vitally important to understand—keeps the money in the system but creates an explicit debt of the Federal Government that must be paid. It is a public debt. It is not one of these privately held little debt transfers from one pocket to another but an explicit debt that is owed to an individual. That is about as explicit as you can get. It is a debt that has your name on the assets—Treasury bills. It is vitally important to have that ownership because it guarantees a legal right to a benefit for those taxes that are being paid in excess of what we need to pay for the Social Security system.

I see the Democrat leader is here. I will propound the unanimous consent.

UNANIMOUS CONSENT REQUEST

Mr. President, I ask unanimous consent that at a time to be determined by the majority leader after consultation with the Democratic leader, the Finance Committee be discharged from further consideration of S. 1750, the Social Security Guarantee Act of 2000; provided further that the Senate then proceed to its immediate consideration and there be 10 hours for debate equally divided in the usual form, no amendments or motions be in order, and that following the use or yielding back of time, the bill be read a third time, and the Senate proceed to a vote on passage of the bill, with no intervening action or debate.

I further ask unanimous consent that following that vote, the Finance Committee be discharged from further consideration of S. 1302, the Stop the Raid on Social Security Act of 2005, and the Senate then proceed to its consideration; provided further that there be 10 hours of debate equally divided in the usual form, no amendments or motions be in order, and that following the use or yielding back of time, the bill be read a third time and the Senate proceed to a vote on passage of the bill, with no intervening action or debate.

The PRESIDING OFFICER (Mr. CHAMBLISS). Is there objection?

Mr. REID. Reserving the right to object, Mr. President, first of all, I will say regarding S. 1750, I will use different words than the distinguished ranking member of the Finance Committee, the Senator from Pennsylvania. My words are as follows: This legislation is a sham, s-h-a-m. Social Security benefits are guaranteed today in the United States Code, the law of the land. To meet that legal commitment, we are saving enough in Social Security to pay full benefits for a long time into the future. The only threat to that guarantee is posed by Republicans who want to undermine Social Security, slash benefits, and privatize the program.

I object to S. 1750.

I reserve my right to object to S. 1302 as follows:

Mr. President, I heard my friend, the distinguished Senator from South Carolina, talk about raiding the Social Security trust funds. This message should be delivered at 16th and Pennsylvania Avenue. During the Clinton years, remember, we weren't doing that. We weren't using the Social Security surplus to mask the deficit. So he should direct those remarks to this administration.

Do not be fooled. This is simply another bill to privatize Social Security. The American people have already rejected this tired approach, and for very good reason. Just like President Bush's privatization plan, the DeMint bill would require deep cuts in benefits and a massive increase in debt. Under the bill, those who divert funds into privatized accounts would have their benefits cut automatically through a privatization tax—even if the value of their account has collapsed. The bill would also require $1.7 billion in additional borrowing over the next 20 years. The bill would do nothing to strengthen Social Security—quite the contrary—and it certainly wouldn't extend the program's solvency. In fact, diverting money from the trust fund accelerates insolvency and makes matters worse.

Despite the claims of its proponents, this bill itself amounts to a massive raid on Social Security and would cut the funds available to pay guaranteed benefits. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

Mr. SANTORUM. Mr. President, if I may address just briefly the comments made by the Democrat leader before I propound one final unanimous consent request, the Senator from Nevada suggested that there is a legal right to Social Security benefits in the law. The fact is that a Supreme Court decision—Nestor v. Fleming, 1960—said that "Americans have no legal right to their Social Security benefits."

While the Senator from Nevada can say those rights are guaranteed, there may be, certainly, a claim on those benefits, and the claim is a political one for anyone in Washington, DC, who would try to change those benefits. But there is no legal right in the law to payment of those benefits. There is no guarantee in the law to the payments of those benefits. The Supreme Court has said so. This would change that.

This particular group of retirees that is being frightened that somehow or another any change in Social Security will mean their benefits are going to be reduced—even for those who are in retirement at this point—we want to take that tactic as well as the fear that goes with it off the table for our seniors and near-term seniors.

With respect to the Stop the Raid bill, the characterization that that bill somehow is taking money out of the Social Security system, I think I made it very clear in the discussion, the fact that the bill is crystal clear with respect to the money that is going into these personal accounts is invested in Treasury bills. They are obligations of the Federal Government and will be used to pay benefits to the extent that is humanly possible. This money is legally bound to the individual who put the money there, and they have their name on this account. They own the Treasury bills that are in that account. That is about as rock-solid a commitment to pay benefits—more rock-solid commitment than promises by future generations of politicians who do not pay them.

When you have an obligation of the Federal Government with your name on it, that is a pretty good obligation and it would require a default of the Federal Government not to have it paid, as opposed to Social Security benefits in a Social Security trust fund, which is a promise to pay by future generations of politicians. I suggest that this idea that somehow or another this would cut benefits—in fact, you could make the argument that the benefit created by these accounts is the only real guaranteed benefit that an individual has going forward in the system. Nevertheless, the Democrat leader objected, and I certainly respect that.

I will make one last attempt to see if we can get an agreement on just one bill.

I remind Members here that earlier this year, in March, we passed the resolution that every Member of the Senate—Democrats and Republicans, all 100 voted for—which said that Social Security reform must protect full-term and near-term retirees—I will underscore that, italicize it—from any changes to Social Security benefits. This bill accomplishes what we voted for.

I assume we voted for it because we thought we needed to communicate a message—that it was important that we wanted to communicate a message—to the American public that we meant this, that we actually believed we should not do this. And the way to accomplish that, contrary to what the Senator from Nevada said, is to put a guarantee in law.

Mr. President, I renew my request just for S. 1750, the Social Security Guarantee Act. I can ask unanimous consent, but it is identical to the request which I read earlier.

The PRESIDING OFFICER. Is there objection?

Mr. REID. Mr. President, reserving the right to object, first of all, understand that when the Constitution was written, it didn't talk about Social Security in the Constitution. But we in Congress have given Social Security to the American people. We did it back in the 1930s under the direction of Franklin Roosevelt. That is the Court decision to which my good friend referred. The Court didn't question Americans' rights to Social Security benefits. In effect, the Court said Congress can change the law if it chooses. But there is no question that under current law, Americans do have a legal right to the benefits they have earned. There is no question about that.

I simply say that these are some of the old arguments—I guess the President is out of town, and they dug up some of his old stuff and brought it up to Capitol Hill today—the old stuff on Social Security that the American people have determined is not good for them. Therefore, I object.

The PRESIDING OFFICER. Objection is heard.

The Senator from North Dakota.

Mr. DORGAN. Mr. President, I have listened with some interest and curiosity over in my office to this fascinating discussion about Social Security, especially the chart about the trust fund.

I would like to take my colleagues on a short visit back to the year 2001 when, in fact, we had surpluses. The surpluses came from a fiscal policy that looked truth straight in the eye and put this country back on track. Big budget surpluses were beginning to develop, and my colleagues on the other side of the aisle said: You know something, even before these surpluses exist, for 10 years let us pretend they do, and let us start getting rid of the money and give big tax cuts, most of which will go to wealthy Americans, by the way. And now we end up years later with very large deficits.

We will borrow $550 billion this year. My colleague seems surprised by that. Somehow it didn't work out quite the way it was supposed to, and somebody is now using the Social Security trust fund.

Interesting. I know who is using the trust funds. It is when the President sends a budget down here with the biggest deficit in history, and he is taking Social Security trust funds to finance the tax cuts. Yes. He is taking money from Uncle Harold and Aunt Gladys to provide some of the biggest tax cuts ever given to the wealthiest Americans. That is the fact. Everybody is entitled to their own opinions in this Chamber. Not everybody is entitled to their own set of facts.

I wish to spend a little time talking about the history because I think it is important for people to know. There are important statistics, useful statistics, truthful statistics.

I remember I was at a town meeting once, and I used kind of a throwaway piece of information. An old fellow in the front row stood up. I said to this group of senior citizens: Do you know that there are 4 women for every man over the age of 85 living in the United States? Some old codger in the front row got up, leaned forward on his cane, and said: Young man, that is the most useless statistic I have ever heard given.

Well, there are useless statistics and then good statistics. There is the truth, and then there is stretching the truth.

Let me talk a moment about where we find ourselves and why. What fascinated me is these charts coming from people who want to take apart the Social Security system, the chart that comes to the floor this evening that suggests somehow they are the ones that really support this.

I will tell how the Social Security system got started and supported—a man named Franklin Delano Roosevelt.

By the way, when he died, there was a poignant story written about the long lines of people waiting to see the body of Franklin Delano Roosevelt then lying in State. It was written that a news reporter walked up to a man, a working man who had waited hours in line with his hat in his hand, and the reporter, as this man was waiting to file past the coffin of Franklin Delano Roosevelt, said to this fellow: Did you know the President? Do you know Franklin Delano Roosevelt? This man said: No. I didn't, but he knew me. He knew me.

What he meant is this President knew the American people, knew and understood working men and women, cared about retired folks.

Yes. He knew me.

It was under this President that we decided to stop what was happening with senior citizens in this country. They reached retirement age—and at that point one-half of the senior citizens in America were living in poverty. They reached that age where their incomes declined, they could no longer work, and one-half of them were living in poverty in this country, this great country.

Franklin Delano Roosevelt and others said, We can do better than that, we can do something about that, and created Social Security. Controversial? You bet your life it was controversial. There were some in this Chamber who said it is socialism, it is going to wreck this country, it is going to throw this country into bankruptcy. Guess what. Now less than 10 percent of our senior citizens live in poverty; 90 percent of them don't. Do you know why?

Social Security. The word "security" means something. It is there. It is what they can count on when they retire. We have folks all around this Senate, particularly the other side, who think we should privatize it, take it apart. Some of them never liked it. Take it apart and privatize it and stick it in the stock market, in fact.

There are a lot of people in this country who rely on Social Security, whose lives are enriched and made better by Social Security. There aren't perhaps many in this Senate who understand its value because perhaps none here will find themselves at the end of their income-producing years having to rely only on Social Security. I know plenty of people who do. I wish more people understood the consequences of that in this Senate.

Someone once asked a question: If a person died and you knew nothing about them, had never met them, and you only had their check register as a piece of information about their life, what could you write as an obituary about that person? What would a check registry tell you about a person you have never met if you had to write the obituary? It would tell you plenty. What did they think was important? What did they spend money on? What were their investments? How did they live their life?

The same can be said of a country. Look at what we do, what we think is important, what we invest in, what we spend money on. It will tell something important about the character of this country. What do we support? Do we support the fundamental promise of Social Security? Do we stand for it and believe in it? Do we believe it has strengthened this country?

I see Members serving who do not believe that. They come to the Senate with big charts, save the Social Security trust fund. Really? Perhaps the time to have thought about that was when they were called on to vote in the Senate and they decided to provide very substantial tax cuts for the highest income Americans with money we did not yet have. And now we have very large Federal budget deficits.

Let me give a couple statistics. Twenty years ago American corporations paid one-sixth of our income taxes. Twenty years later, they are bigger, much bigger, and more profitable, and they now pay one-tenth of this country's income taxes. Guess who makes up the difference. Yes, real people.

Let me give another statistic. There are 400 Americans who are the wealthiest Americans—who file income tax returns, in any event—and their average yearly income is $110 million. About 8 years ago their tax rate was 30 percent to the Federal Government. Now it is 22 percent. It has dropped nearly 25 percent. I am talking now about the wealthiest of all Americans, those who have been most generously treated by this country, many of whom are brilliant, I am sure. They make a good deal of money. Good for them. I hope they expect and want to pay taxes to pay for the common needs of this country—defense, roads, bridges, education; you name it.

The point is, those very people who now say they are the ones who care about the trust fund of Social Security are the ones who voted to be able to take money out of the Social Security system, take money out of the Social Security trust fund so they can provide a tax cut for somebody who gets $110 million a year in income.

It is unbelievable. Just own up to it, in my judgment. If that is what you did, own up to it. Do not bring a big chart to the Senate saying save the trust fund. There was a time to save the trust fund, and you did not do it.

Let me take you back to 1993. This country inherited then the biggest debt, which is now small by comparison from the first President George Bush. I recall that President Bush came to office and he proposed a very controversial fiscal policy. It was cut some spending, it was raise some taxes. It raised taxes, by the way, on the wealthiest Americans. But it was tough. It was a hard vote for a lot of Members. Incidentally, in this Senate, when the roll was called—because we were off track and headed down the wrong direction with budget deficits that were increasing that had now reached the highest level in history—when the roll was called, there wasn't one Member of what is now the majority party, not one Member in the Senate of that side of the aisle who was willing to vote for it. It passed by one vote. A new fiscal policy, a new direction got one vote—One vote in the Senate and one vote in the House.

Guess what. With all of that controversy—and man, there was plenty—8 years later, we were on track. Instead of having record Federal budget deficits, we had no budget deficits. We had surpluses. Those budget surpluses gave us the opportunity to begin putting this country on a solid foundation, a solid financial foundation for Social Security and for many other needs. The estimate was we would have surpluses as far as the eye could see. In fact, Alan Greenspan, who is about to retire as Chairman of the Federal Reserve Board, was worried we would have too much of a surplus. I remember what he said because I thought—I know he is not a drinker so I was trying to figure out where this came from. He said: I worry we are going to pay down our debt too fast.

Oh, really? Where does that worry come from? Do you have a crystal ball, a strange-looking sort of crystal ball? He was an enabler. As an enabler, he gave permission, gave aid and comfort to the majority that said, you know what, let's take surpluses for the long term that do not yet exist, that are simply projections, and decide we will give them away in the form of tax cuts tilted toward the wealthiest Americans. And they did. So here we are, now 5 years later, borrowing $550 billion this year to this country's debt.

The other day I went through the speeches I made at that time. I said, what if something happens and we do not get the surpluses, if there is an unforeseen event? Should we be a bit conservative? Don't worry, the sky is the limit. Things are fine. Be happy.

So what happened? They passed their big tax cuts tilted toward the wealthy Americans and then all of a sudden we had a recession. Then we had a terrorist attack; a war in Afghanistan; a war in Iraq; natural disasters. Things went off track. Now we have very large Federal budget deficits.

Then we are told, one of the ways to deal with that is to privatize Social Security. The President said, I am taking Air Force One, I am getting that old plane up and I am going across this country. I am going to sell this program. Privatize Social Security. And it did not sell. It did not sell. Because people know better. The word "security" means something to people. Social Security works. It has worked for decades, and it will work for decades to come.

One of my colleagues says the genesis of this notion of privatizing Social Security is the phrase "we're all in this alone." But in fact we are not. As a country, part of the genius of Social Security is to understand we are all in this together. We have real challenges to try to hang on to the Social Security system with a President who wants to privatize it, with Members of the Senate who come to the floor with big charts talking about raids on Social Security.

I didn't bring a chart tonight because I wasn't aware we were going to talk about raids on Social Security. But I would love to give a history lesson on who has been raiding Social Security. Paint that money purple and I will point you to the purple pockets in this Senate. I will tell you who has been raiding Social Security funds right along. It is a fact that hooking up a pipe to the Social Security trust fund, hook up the pipe on one end and hook it to pockets at the top of the income ladder for corporations, because that is where the money is going—big, old tax cuts.

The philosophy is trickle down. Pour it in on top and somehow it all trickles down and even the people at the bottom are helped. One day a fellow said to me, I have heard about this trickledown for 8 or 10 years and I ain't even damp yet.

I happen to think there is a better approach called "percolate up." Give the American families something to work with, good jobs and an economy that expands opportunity, and things do pretty well in this country.

It is fascinating to watch this discussion, especially given the history of where we have been in recent years, a discussion about people who have embraced a fiscal policy that has injured the foundation of this country's finances, who now suggest they are the ones who want to protect Social Security. That is a curious thing to watch. It is a little like an illusion in an amateur magic act. It is an illusion that is attempted, but you can see all the moves so it does not look like magic, does it?

My understanding is the President has now parked Air Force One, at least with respect to Social Security, and has decided not to continue to try to push that. My hope is that we as a Congress will decide, Republicans and Democrats together, that Social Security is something worth saving. Should we stop the raid on the trust fund? You bet your life we should. We have been trying to do that for a long time. But those who aid and abet the raid on the trust fund by hooking that hose up to the trust fund and giving it out in big tax cuts do no favor to senior citizens.

This country has many challenges. It will not be made a better country by taking apart the Social Security system. Let me say those who come to the Senate and say the Social Security system is broken, it is bankrupt, it is busted—in fact, President George W. Bush said in 1978 when he ran for Congress, Social Security is busted and it will be bankrupt in 10 years, so we have to privatize it. That was in the year 1978, which tells you this is not about economics, it is about philosophy. Those who say Social Security is bankrupt or busted should remember this: Social Security will pay full benefits under every circumstance without any alteration or any change of any type until George W. Bush is 106 years old. That is hardly a crisis.

People are living longer and healthier lives. Does that mean we have to make some adjustments in Social Security from time to time? You bet. Of course we do. We have, and we will. But the basic framework and promise of Social Security, if we have the people with the courage and strength in this Senate to protect it, will be there for the next century and the century beyond.

I understand part of the success of Social Security and Medicare in our country has been the increased longevity of people living longer. I have spoken of my Uncle Harold before in the Senate. My Uncle Harold did not discover he could run until he was 72 years old. But at age 72 he went to these State meets where you have races in various events for people of different ages. He discovered there was a category age 70 and above. He entered three races. He entered the 400 meter, the 800 meter, and the 3K. He entered three events. The first time he and his wife Evelyn took the RV and parked it and he entered three races at age 72. He won all three easily. And he thought, this is amazing. I am faster than people my age. So pretty soon he started going elsewhere to run. He went to Minnesota. He entered the Minnesota Senior Games Races. He went to South Dakota. He entered South Dakota races. Pretty soon he was running in California, running in Arizona. He became a 400 meter specialist, and at age 82 my uncle had 43 gold medals and can probably outrun about 80 percent of the Senators—at age 82.

People live longer, healthier lives. Thirty years ago he would have been on a Lazy Boy because at age 65 you are supposed to retire, get a Lazy Boy recliner, and stay at home—and do not drive, by the way. Things have changed. People are leading active, wonderful lives. That is born of success, success by increasing the longevity of the American people. My Uncle Harold is one example of that.

Are there some strains on Social Security and Medicare from time to time? Yes, a few. Nothing we cannot handle, and nothing that would justify anybody coming along and saying, by the way, let's take Social Security apart. That is a philosophy rooted half a century ago. It is one that those who never liked it cannot seem to overcome.

There was a fellow at a meeting I held some months ago with Senator REID, the minority leader. At the end of this meeting on Social Security, this old fellow, in his eighties, blind, aided by someone walking beside him holding his arm, came up to me and he said: I am old, I am blind, and Social Security is the only thing I have. This 80-plus-year-old man came to that meeting just to deliver that message: I am old, I am blind, and Social Security is the only thing I have.

It is so important. This is not just some usual debate. This debate about Social Security is about who we are as a country; about whether we will stand up for things that matter; whether we are going to stand up for people who have lived their lives in this country and helped build America and now reach declining income years and are told they can count on Social Security. Yes, they can count on it, as long as we don't let those who come along and decide they want to privatize it begin to take it apart because they never liked it in the first place.

Mr. President, I see my colleague is waiting to speak. I was not even intending to come over until my attention was piqued by a big, old sign that said, "Stop Raiding Social Security Trust Funds," and I thought: Well, that is a curious message from those who supported a fiscal policy that helped drain the trust funds in the first place. I thought I would mention that and talk a little about how important this Social Security fight has been and why the American people—not the Congress, why the American people—have said no to the President and others who want to privatize this important program.

Mr. President, I yield the floor.

The PRESIDING OFFICER (Mr. THUNE). The Senator from Michigan.

Ms. STABENOW. Mr. President, I join my colleague in coming here to speak for a moment about Social Security. Just as my esteemed colleague from North Dakota said he had not originally intended to speak tonight, I did not intend to speak as well. But for all of us who are so proud of the great American success story called Social Security, and for all of us who understand how it does represent the best about us, we want to have an opportunity to say that tonight because there has been a lot of misinformation, unfortunately, I believe, a mischaracterization on the other side of the aisle.

The fact is, Social Security is based on what is best about us: You work all your life. You pay into a system. And then you know you have dignity in your retirement. You also know, because this is really an insurance policy, that if you become disabled, Heaven forbid, Social Security can step in for you, for your family. If the wage earner in the family loses their life, Heaven forbid, their children, their spouse are able to receive assistance to be able to help them from moving back into poverty, because it is an insurance system. It is basically an economic insurance policy. And it has been one of the great American success stories.

The reality is, without Social Security, about 48 percent of those who are now on Social Security would be in poverty. Today, with Social Security, about 9 percent of older Americans and the disabled are in poverty. We know this number needs to be lower. But this is a great American success story.

At a time when there is so much upheaval in so many people's lives—I know in my home State of Michigan, my great State of Michigan, there are so many families today that feel the rug is being pulled out from under them because the jobs they have had and worked hard at all their lives are either going overseas or they are being told they are going to have to work for $9 or $10 an hour. Their health care costs are going up or maybe they are losing their insurance. Their pensions are threatened or maybe gone because of the bankruptcies of companies that have then dumped the pensions into a pension guaranty fund.

With all of this insecurity and challenge families face in fighting to keep the American dream and the American way of life, the one constant we have had is knowing that there is Social Security, that we have paid into a system, and that it will be there for us. There is absolutely no reason that Social Security will not be there for us, as long as we do not privatize it or undermine it, as has been proposed by colleagues on the other side of the aisle.

We are in a situation today where Social Security and the security of Social Security is needed more than ever. I will never forget talking with a group of people who were mid-level executives at Enron—I know, unfortunately, this story can be told and will be told across Michigan as well—folks who worked all their lives, invested in the company, as they were told to do, did all the right things, they are near retirement, and now it is gone.

One gentleman, with tears in his eyes, said to me: Thank God for Social Security; that is all I have left. Too many Americans find themselves in that situation now. I believe we should be doing something about that as well. Earlier this evening, I spoke on the floor about what we need to do to turn that around: enforcing trade policies, changing the way we fund health care, investing in education and innovation, protecting the pensions of those who have worked hard all their lives. But the reality is, Social Security is a very important part of that picture.

Now, it is a value as well as a program. It represents what is best about us. And we have choices about whether we want to keep it secure and keep it as a priority. Back during the budget debate this year, our ranking member, Senator CONRAD, and I offered an amendment to secure Social Security first before going on with other tax cuts that have been proposed for those most blessed in our country, those, in fact, who do not have to worry about whether Social Security will be there for them.

We indicated, as you can see by looking at this chart, that in order to keep Social Security secure for the next 75 years, it will cost $4 trillion. That is compared to the President's tax cuts: If they are made permanent—the overwhelming majority of them going to the top "incomers," those most blessed economically in our country—it will cost $11.6 trillion, if we decide as the majority, our Republican colleagues, appear to be doing, to extend these tax cuts permanently.

If we instead were to say, wait a minute, we are going to fully fund Social Security first before any of this happens—even if we said to those most blessed in our country, instead of $11.6 trillion in tax breaks, let us take $4 trillion off of that—they would have $7.6 trillion. It seems to me, at a minimum, that would be a choice worth making in order to make sure every single American knows that Social Security is secure.

All of the decisions we make in this Chamber are based on our values and our philosophy. Social Security represents our basic belief that we are in it together as a country, that it does matter what happens to other people. We are not in it alone.

I believe the efforts being proposed on the other side of the aisle represent a very different philosophy that says: You are on your own, buddy, unless you are our buddy.

The reality is that Social Security represents a value that says we are in it together and that together America can do better. That is what Social Security is about. It has worked. It has proved the philosophy that together America does better.

So I am hopeful our colleagues will choose, in the waning days of this session, to move on to join us in the great debate of keeping American jobs in America, supporting our American businesses, our American manufacturers that need our help now, and making sure we have a pension bill that works for all of our businesses and all of our workers, showing that we value and want to make sure the promises of pensions, which so many workers have paid into all of their lives, are kept. Let's work on that rather than undermining a great American success story called Social Security.

DAVID GUNN

Mr. McCAIN. Mr. President, last week the Amtrak Board of Directors voted to remove Antrak's president, David Gunn. I think that action is regrettable, and I commend Mr. Gunn for his leadership during his 3½ years at Amtrak's helm.

Amtrak has always been a money-losing proposition. I am afraid that it may always be so. But no one should hold Amtrak's. president accountable entirely for this fact. Congress and the administration are also accountable. Despite repeated efforts to reauthorize and reform this money-losing proposition, we have not had the collective will to make the hard decisions that need to be made to finally turn Amtrak around—and that includes altering Amtrak's route system so that it operates where it actually attracts ridership.

I have known many of Amtrak's presidents over the years and in my judgment, David Gunn was one of the most capable. Not only did he hold an impressive and lengthy career in the rail industry prior to coming out of retirement to take the Amtrak job, I found him to be a man of integrity.

When he testified before hearings I chaired in the Senate Commerce Committee, Mr. Gunn didn't mince words. When I first asked him about the so-called "glidepath to self-sufficiency" which his predecessor continually touted, David Gunn didn't hesitate to inform the committee that it was a sham.

Mr. Gunn and I didn't always see eye-to-eye. Indeed, I disagreed strongly with his unyielding views about the continuation of Amtrak's long distance trains. But I respected the fact that he always spoke his views even when it meant he wouldn't be telling people what they wanted to hear. He faced head on the many problems with Acela and he was committed to getting Amtrak's escalating costs under control. Again, he is a man of integrity and I commend him for his service.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On January, 25, 2000 in New York City, NY, Melissa Hart had just left a local hotel when eight men threw her to the ground and attacked her. One of the assailants held Ms. Hart by her throat and beat her head against the sidewalk, while the other assailants beat her with their fists. The attackers stripped her of her coat, and stole her cell phone and approximately $350 from her purse. According to police, the motivation for the attack was that Ms. Hart was a transgender person.

I believe that our Government's first duty is to defend its citizens, in all circumstances, from threats to them at home. The Local Law Enforcement Enhancement Act is a major step forward in achieving that goal. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

FISCAL YEAR 2006 ENERGY AND WATER APPROPRIATIONS

Mr. FEINGOLD. Mr. President, although I recognize the important programs funded by the fiscal year 2006 Energy and Water appropriations conference report, on balance, I could not support the bill. The conference report provides $50 million in funding for the Department of Energy to develop a plan for reprocessing spent nuclear fuel and to select sites suitable for housing reprocessing facilities. This provision was not in the Senate version of the bill and thus was not debated in the Senate. Because reprocessing raises serious environmental, fiscal, and proliferation concerns, this provision should have, at the very least, been the subject of an open and extensive congressional debate before we simply proceeded down the path directed by the report language.

I am also concerned that the Energy and Water appropriations report extends the authorization of funding for the Animas-La Plata project. This extension of funding authorization—which does not belong in an appropriations bill—is contrary to assurances I received in 2000 when the Colorado Ute Indian Water Rights Settlement Act was amended.

NATIONAL AMERICAN INDIAN HERITAGE MONTH

Mr. JOHNSON. Mr. President, I rise today to announce the beginning of National American Indian Heritage Month. This November we will honor the achievements made by American Indians and Alaskan Natives throughout the history of our country.

For many years, Native Americans strived for an official recognition of their people. The first observance of a day celebrating the contributions of American Indians occurred on the second Saturday of May 1916 in New York State. In 1990, Congress, with my support, passed a joint resolution declaring November 1990 as National American Indian Heritage Month, dedicated to appreciating the impact of Native Americans on the foundation and development of our Nation.

Rooted in the history and culture of South Dakota, as well as the United States, lies the steadfast influence of the Native American people. The Great Sioux Nation of South Dakota consists of nine separate tribes, the Cheyenne River Sioux, the Crow Creek Sioux, the Flandreau Santee Sioux, the Lower Brule Sioux, the Oglala Sioux, the Rosebud Sioux, the Sisseton-Wahpeton Oyate, the Standing Rock Sioux, and the Yankton Sioux. I would like to pay tribute to the more than 62,000 Native Americans in South Dakota and the Native Americans throughout our country whose presence and traditions have enriched our communities.

With the commencement of National American Indian Heritage Month, we have been given an excellent opportunity to educate ourselves about the cultural and historical influence of American Indians and Alaskan Natives. In November, I encourage everyone to join South Dakota in our reverence of Native Americans with the hope that our Government can continue to make the concerns of American Indians a priority and to ensure that their freedoms and way of life are preserved.

ADDITIONAL STATEMENTS

HONORING PAULA YEAGER

• Mr. BAYH. Mr. President, I rise today with a heavy heart to honor the life of a great woman, Paula Yeager, who died last Wednesday after a long battle with cancer. For 6 years, Paula served the State of Indiana as the executive director of the Indiana Wildlife Federation, IWF. She was a true conservationist, a dedicated public servant and a wonderful mother. Her colleagues, friends, and family will miss her dearly, and I know that sentiment is shared by countless others across Indiana and the country.

A career travel agent, Paula first applied for a job with the IWF in order to work on meaningful issues—a decision influenced by her experience with breast cancer. During her 6-year tenure with the group, Paula overcame her relative inexperience and became a successful activist in conservation issues through hard work, an unwavering commitment to diplomacy and tireless advocacy. As executive director, Paula mended the State federation's relationship with the National Wildlife Federation, NWF, improved the group's profile with lawmakers, and confronted many important issues, including mercury contamination and wetlands preservation.

Her ability to unite people with differing interests earned her a reputation for diplomacy, and that effort paid off when the Indiana Department of National Resources, IDNR, banned fenced deer hunting in August. The former IDNR director called Paula the person "most responsible in Indiana for leading the effort to ban canned hunting."

Honored twice with the IWF's Presidents Award, Paula was named the Conservationist of the Year in 2001 by the IDNR, and this past summer the NWF recognized Paula with their Conservation Service Citation.

There is a saying that life is not about what you take out of it but what you put back in. Paula lived that sentiment to the fullest. Her work made Indiana a better place to live for all of us. For that, we will always be grateful to the courageous travel agent who decided it was time to make a difference through the IWF.

Indiana lost a great citizen last week. It is my sad honor to enter the name of Paula Yeager in the RECORD of the Senate for her service to Indiana.●

TRIBUTE TO DR. SCOTT MASON ROULIER

● Mrs. LINCOLN. Mr. President, today I rise to pay tribute to a great educator and a great Arkansan, Dr. Scott Mason Roulier. Dr. Roulier is being honored as the 2005 Arkansas Professor of the Year by the Carnegie Foundation for the Advancement of Teaching and the Council for Advancement and Support of Education, CASE.

Dr. Roulier, Associate Professor of Political Science, is the 12th professor from Lyon College, in Batesville, AR, to receive this honor.

This tribute is in recognition of Dr. Roulier's dedication and hard work in the areas of government and politics in laying the framework for our Arkansas undergraduate students to be successful in their careers. He is teaching his students the value of political action and involvement in current events as it relates to local, State and Federal government.

Higher education is an essential element of any effort to prepare our workforce to meet the demands of today's global marketplace. I share Dr. Roulier's commitment to education and join him in encouraging more students in Arkansas and around our great Nation to pursue a college education.

Congratulations, Dr. Roulier, and thank you for your dedication and contribution not only to Lyon College but also to shaping the minds of our future leaders.●

TRIBUTE TO STEVE PILCHER

● Mr. BURNS. Mr. President, I would like to take a moment today to honor Steve Pilcher, a leader in the Montana livestock industry. At the end of this year, Steve will retire from his years of service as executive vice president of the Montana Stockgrowers Association. His service will be missed, but the values and leadership Steve brought to the organization will continue on.

Many American children grew up with the Saturday Western matinee as the high point of their week. The ideals shared by those men in their white Stetsons were strong, moral, and enduring. There were some great rules to live by that were shared by the cowboys on the Silver Screen.

Steve took every one of those lessons to heart. He not only believes in the "Code of the West" those cowboys shared with us, he continues to live it, both in his personal life and his professional life.

Hopalong Cassidy had a Creed for American Girls and Boys. The first rule in his creed was, "The highest badge of honor a person can wear is honesty, be mindful at all times." Regardless of the fallout, Steve does not believe in bandying the truth. He is always a square shooter. He has taken the heat many times for standing by the truth, but Steve is a man of honor. He knows the truth is worth whatever adversity it brings from others who do not feel the same way.

Gene Autry offered the Ten Commandments of the Cowboy. The first commandment said, "A cowboy never takes unfair advantage." Steve has always worked hard to prove that the ranchers in Montana expect only what they earn. He knows that you have to work those extra hours to make sure things are fair. Nothing is given to you.

Also, there was the Lone Rangers Creed. Perhaps the part Steve took to heart the most was, "God put the firewood here but every man must gather and light it himself." There is no doubt Steve Pilcher has been gathering the firewood for the Montana Stock-growers. He has worked tirelessly for this industry and I know he will continue to light that fire.

As we recognize Steve Pilcher for his major contributions to not only Montana's livestock community but the Nation's, there is one more thing that I must add: Happy Trails my friend, until we meet again.●

HONORING A GREAT IDAHOAN

● Mr. CRAPO. Mr. President, I would like to offer a few words today recognizing the full and joyful life of a remarkable Idahoan, Robert Bershers. Although Bob and his wife Louise traveled extensively, Idaho was home. He lived and worked in Coeur d'Alene where he was active on the Kootenai County Fair Board from 1983 to 2001, and he owned and operated a successful construction business for many years. Bob lived vigorously, enjoying the life of a businessman and rancher and, according to his daughter Khris, was the kind of man "whose idea of going to the fair was getting there on Wednesday just before it opened and staying through the last spin of the ferris wheel on Sunday."

North Idaho was the home of his heart—from the chilly, grey and wet winters to the warm and bright summer days in the mountains and by the lake; he and Louise never stayed away too long. But for Bob, it was Idahoans who made our State truly great. According to his family, Bob loved Idaho because people take the time to be friendly. And Bob not only loved that in others, he lived it himself, taking in those in need, either four-footed or two. Louise reminisced recently that when his children were still at home, the house had a revolving door of kids and animals, all finding refuge in their home when they needed it most.

Bob never failed to tell his children and family that he loved them. Indeed, his unfailing dedication to family and community are true measures of a good and honorable man. Bob will be sorely missed by all who knew him, but those same people will carry on the blessings his life brought to them.●

REPORT OF THE INTENTION TO ENTER INTO AN AGREEMENT WITH THE EUROPEAN UNION, JAPAN, THE REPUBLIC OF KOREA, AND TAIWAN ON TARIFF TREATMENT FOR MULTI-CHIP INTEGRATED CIRCUITS—PM 31

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Foreign Relations:

To the Congress of the United States:

Consistent with section 2103(a)(1) of the Trade Act of 2002, I am pleased to notify the Congress of my intention to enter into an agreement with the European Union, Japan, the Republic of Korea, and Taiwan on tariff treatment for multi-chip integrated circuits. Multi-chip integrated circuits are semiconductor devices used in computers, cell phones, and other high-technology products.

United States-based companies are the principal suppliers to the world of multi-chip integrated circuits. In 2004, global sales of finished multi-chip integrated circuits were estimated to be $4.2 billion, and U.S. semiconductor companies account for roughly half of those sales.

The United States, the European Union, the Republic of Korea, and Taiwan will apply zero duties on these products as of an agreed date. The target date for entry into force of the Agreement is January 1, 2006. Japan already applies zero duties on these products and expects to ratify the Agreement formally in 2006. Further, although all major producers of multi-chip integrated circuits will be parties to the Agreement, we will seek to build on this Agreement by joining together to work in the World Trade Organization to increase the number of countries granting duty-free treatment to these products.

GEORGE W. BUSH.
THE WHITE HOUSE, *November 14, 2005.*

MESSAGE FROM THE HOUSE

ENROLLED BILL SIGNED

At 12:20 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the Speaker has signed the following enrolled bill:

H.R. 2419. An act making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes.

The enrolled bill was signed subsequently by the President pro tempore (Mr. STEVENS).

At 4:03 p.m., a message from the House of Representatives, delivered by Ms. Niland, one of its reading clerks, announced that the House has passed the following bill, without amendment:

S. 161. An act to provide for a land exchange in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership.

The message also announced that the Speaker appoints the following member as an additional conferee in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3199) to extend and modify authorities needed to combat terrorism, and for other purposes:

As an additional conferee from the Committee on the Judiciary, for consideration of the House bill (except section 132) and the Senate amendment, and modifications committed to conference: Mr. DANIEL E. LUNGREN of California.

Ordered further, that the Speaker appoints the following conferees in the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3199) to extend and modify authorities needed to combat terrorism, and for other purposes, in lieu of their appointments on November 9, 2005:

From the Committee on the Judiciary, for consideration of the House bill (except section 132) and the Senate amendment, and modifications committed to conference: Mr. NADLER and Mr. SCOTT of Virginia.

MEASURES READ THE FIRST TIME

The following bill was read the first time:

S. 2008. A bill to improve cargo security, and for other purposes.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4627. A communication from the Regulatory Analyst, Grain Inspection, Packers and Stockyards Administration, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Review Inspection Requirements for Graded Commodities" (RIN0580–AA89) received on November 14, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4628. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Marketing Order Regulating the Handling of Pears Grown in Oregon and Washington; Control Committee Rules and Regulations; Correction" (Docket No. FV05–927–2) received on November 14, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4629. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Regulations Governing the California Clingstone Peach (Tree Removal) Diversion Program" ((RIN0581–AC45) (Docket No. FV05–82–01 FR)) received on November 14, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4630. A communication from the Administrator, Agricultural Marketing Service, Department of Agriculture, transmitting, pursuant to law, the report of a rule entitled "Domestic Dates Produced or Packed in Riverside County, California; Increased Assessment Rate" (Docket No. FV05–987–1 FR) received on November 14, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4631. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "S-metolachlor; Pesticide Tolerance Technical Correction" (FRL No. 7741–7) received on November 14, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4632. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Sulfosulfuron; Pesticide Tolerances for Emergency Exemptions" (FRL No. 7740–1) received on November 14, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4633. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Flucarbazone-sodium; Time-Limited Pesticide Tolerance" (FRL No. 7740–8) received on November 14, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4634. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "2-Bromo-2-Nitro-1,3-Propanediol (Bronopol); Exemptions from the Requirement of a Tolerance" (FRL No. 7743–5) received on November 14, 2005; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4635. A communication from the Secretary of Health and Human Services, transmitting, pursuant to law, a report entitled "Assets for Independence Program—Status at the Conclusion of the Fifth Year"; to the Committee on Health, Education, Labor, and Pensions.

EC–4636. A communication from the Director, Regulations Policy and Management Staff, Food and Drug Administration, Department of Health and Human Services, transmitting, pursuant to law, the report of a rule entitled "Medical Devices; Immunology and Microbiology Devices; Classification of Cystic Fibrosis Transmembrane Conductance Regulator Gene Mutation Detection System" (Docket No. 2005P–0397) received on November 14 2005; to the Committee on Health, Education, Labor, and Pensions.

EC–4637. A communication from the Assistant General Counsel, Federal Election Commission, transmitting, pursuant to law, the report of a rule entitled "$5,000 Exemption for Disbursements of Levin Funds by State, District, and Local Party Committees and Organizations" (Notice 2005–26) received on November 14, 2005; to the Committee on Rules and Administration.

EC–4638. A communication from the Secretary of the Treasury, transmitting, pursuant to law, a six-month periodic report on the national emergency with respect to Syria that was declared in Executive Order 13338 of May 11, 2004; to the Committee on Banking, Housing, and Urban Affairs.

EC–4639. A communication from the Assistant Attorney General, Office of Legislative Affairs, Department of Justice, transmitting, the report of proposed legislation entitled "Intellectual Property Protection Act of 2005"; to the Committee on the Judiciary.

EC–4640. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Low-Income Housing Credit Allocation and Certifications; Revisions" ((RIN1545–BE50) (TD 9228)) received on November 14, 2005; to the Committee on Finance.

EC–4641. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Extension of Time for Filing Returns" ((RIN1545–BE63) (TD9229)) received on November 14, 2005; to the Committee on Finance.

EC–4642. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Annual Pension Plan, etc., Cost-of-Living Adjustments for 2006" (Notice 2005–75) received on November 14, 2005; to the Committee on Finance.

EC–4643. A communication from the Chief, Publications and Regulations Branch, Internal Revenue Service, Department of the Treasury, transmitting, pursuant to law, the report of a rule entitled "Weighted Average Interest Rate Update Notice—Pension Funding Equity Act of 2004" (Notice 2005–72) received on November 14, 2005; to the Committee on Finance.

EC–4644. A communication from the Secretary of Defense, transmitting a report on the approved retirement of General Robert H. Foglesong, United States Air Force, and his advancement to the grade of general on the retired list; to the Committee on Armed Services.

EC–4645. A communication from the Under Secretary of Defense for Personnel and Readiness, transmitting, pursuant to law, a list of

11 officers (beginning with Angelella and ending with Wells) authorized to wear the insignia of the grade of brigadier general; to the Committee on Armed Services.

EC–4646. A communication from the Assistant Secretary for Fish, Wildlife and Parks, Fish and Wildlife Service, Department of the Interior, transmitting, pursuant to law, the report of a rule entitled "Endangered and Threatened Wildlife and Plants: Designation of Critical Habitat for the San Miguel Island Fox, Santa Rosa Island Fox, Santa Cruz Island Fox, and Santa Catalina Island Fox; Final Rule" (RIN1018–AT78) received on November 14, 2005; to the Committee on Environment and Public Works.

EC–4647. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Greene County and Jackson County 8-Hour Ozone Nonattainment Areas to Attainment for Ozone" (FRL7995–9) received on November 14, 2005; to the Committee on Environment and Public Works.

EC–4648. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Implementation Plans for Air Quality Planning Purposes; California—South Coast and Coachella" (FRL7975–7) received on November 14, 2005; to the Committee on Environment and Public Works.

EC–4649. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Designation of Areas for Air Quality Planning Purposes; Arizona; Correction of Boundary of Phoenix Metropolitan 1-Hour Ozone Nonattainment Area" (FRL7995–3) received on November 14, 2005; to the Committee on Environment and Public Works.

EC–4650. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Interim Final Determination to Stay and/or Defer Sanctions, Pinal County Air Quality Control District" (FRL7994–6) received on November 14, 2005; to the Committee on Environment and Public Works.

EC–4651. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Revisions to the Requirements on Variability in the Composition of Additives Certified Under the Gasoline Deposit Control Program; Final Rule" (FRL7996–2) received on November 14, 2005; to the Committee on Environment and Public Works.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. SHELBY, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 705. A bill to establish the Interagency Council on Meeting the Housing and Service Needs of Seniors, and for other purposes (Rept. No. 109–178).

By Mr. INHOFE, from the Committee on Environment and Public Works, with an amendment:

S. 1869. A bill to reauthorize the Coastal Barrier Resources Act, and for other purposes (Rept. No. 109–179).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mrs. MURRAY (for herself, Ms. COLLINS, Mr. LIEBERMAN, and Mr. COLEMAN):

S. 2008. A bill to improve cargo security, and for other purposes; read the first time.

By Mr. MARTINEZ (for himself and Mr. NELSON of Florida):

S. 2009. A bill to provide assistance to agricultural producers whose operations were severely damaged by the hurricanes of 2005; to the Committee on Finance.

By Mr. HATCH (for himself, Mrs. LINCOLN, Mr. SMITH, and Mr. KOHL):

S. 2010. A bill to amend the Social Security Act to enhance the Social Security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes; to the Committee on Finance.

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. 2011. A bill to require the Administrator of the Environmental Protection Agency to establish performance standards for fine particulates for certain pulp and paper mills, and for other purposes; to the Committee on Environment and Public Works.

By Mr. STEVENS (for himself, Mr. INOUYE, Ms. SNOWE, Ms. CANTWELL, Mr. VITTER, and Mrs. BOXER):

S. 2012. A bill to authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2006 through 2012, and for other purposes; to the Committee on Commerce, Science, and Transportation.

By Mr. STEVENS (for himself and Mr. INOUYE):

S. 2013. A bill to amend the Marine Mammal Protection Act of 1972 to implement the Agreement on the Conservation and Management of the Alaska-Chukotka Polar Bear Population; to the Committee on Commerce, Science, and Transportation.

By Mr. DEWINE (for himself, Mr. DURBIN, and Mr. SCHUMER):

S. 2014. A bill to amend title 38, United States Code, to expand and enhance educational assistance for survivors and dependents of veterans; to the Committee on Veterans' Affairs.

By Mr. ISAKSON:

S. 2015. A bill to provide a site for construction of a national health museum, and for other purposes; to the Committee on Environment and Public Works.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. LUGAR (for himself and Mr. BIDEN):

S. Res. 312. A resolution expressing the sense of the Senate regarding the need for the United States to address global climate change through the negotiation of fair and effective international commitments; to the Committee on Foreign Relations.

By Ms. CANTWELL:

S. Res. 313. A resolution expressing the sense of the Senate that a National Methamphetamine Prevention Week should be established to increase awareness of methamphetamine and to educate the public on ways to help prevent the use of that damaging narcotic; to the Committee on the Judiciary.

By Mr. HATCH (for himself and Mr. BENNETT):

S. Res. 314. A resolution designating Thursday, November 17, 2005, as "Feed America Thursday"; considered and agreed to.

By Ms. CANTWELL (for herself, Mr. WYDEN, and Mrs. MURRAY):

S. Res. 315. A resolution to commemorate the bicentennial anniversary of the arrival of Lewis and Clark at the Pacific Ocean considered and agreed to.

By Mr. COLEMAN (for himself, Mr. WARNER, Mr. PRYOR, Mr. SMITH, and Mr. DEMINT):

S. Res. 316. A resolution expressing the sense of the Senate that the United Nations and other international organizations should not be allowed to exercise control over the Internet; to the Committee on Foreign Relations.

ADDITIONAL COSPONSORS

S. 309

At the request of Mr. DEMINT, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 309, a bill to amend the Internal Revenue Code of 1986 to provide for the disposition of unused health benefits in cafeteria plans and flexible spending arrangements.

S. 707

At the request of Mr. ALEXANDER, the names of the Senator from Utah (Mr. BENNETT), the Senator from New Mexico (Mr. BINGAMAN), the Senator from Missouri (Mr. BOND), the Senator from New York (Mrs. CLINTON), the Senator from Mississippi (Mr. COCHRAN), the Senator from South Carolina (Mr. GRAHAM), the Senator from Nebraska (Mr. HAGEL), the Senator from Louisiana (Ms. LANDRIEU), the Senator from Illinois (Mr. OBAMA), the Senator from Hawaii (Mr. INOUYE), the Senator from Connecticut (Mr. LIEBERMAN), the Senator from Indiana (Mr. LUGAR), the Senator from Maine (Ms. COLLINS), the Senator from New Jersey (Mr. LAUTENBERG), the Senator from Arkansas (Mrs. LINCOLN) and the Senator from Missouri (Mr. TALENT) were added as cosponsors of S. 707, a bill to reduce preterm labor and delivery and the risk of pregnancy-related deaths and complications due to pregnancy, and to reduce infant mortality caused by prematurity.

S. 863

At the request of Mr. CONRAD, the names of the Senator from Utah (Mr. BENNETT), the Senator from Connecticut (Mr. LIEBERMAN) and the Senator from Arkansas (Mrs. LINCOLN) were added as cosponsors of S. 863, a bill to require the Secretary of the Treasury to mint coins in commemoration of the centenary of the bestowal of the Nobel Peace Prize on President Theodore Roosevelt, and for other purposes.

At the request of Mr. ALLEN, the names of the Senator from Louisiana (Mr. VITTER) and the Senator from Pennsylvania (Mr. SPECTER) were added as cosponsors of S. 863, supra.

S. 1110

At the request of Mr. SCHUMER, his name was withdrawn as a cosponsor of S. 1110, a bill to amend the Federal Hazardous Substances Act to require engine coolant and antifreeze to contain a bittering agent in order to render the coolant or antifreeze unpalatable.

S. 1172

At the request of Mr. SPECTER, the name of the Senator from Connecticut (Mr. DODD) was added as a cosponsor of S. 1172, a bill to provide for programs to increase the awareness and knowledge of women and health care providers with respect to gynecologic cancers.

S. 1822

At the request of Mrs. MURRAY, the name of the Senator from California (Mrs. BOXER) was added as a cosponsor of S. 1822, a bill to amend titles XVIII and XIX of the Security Act to make improvements to the implementation of the medicare prescription drug benefit.

S. 1841

At the request of Mr. NELSON of Florida, the name of the Senator from New York (Mr. SCHUMER) was added as a cosponsor of S. 1841, a bill to amend title XVIII of the Social Security Act to provide extended and additional protection to Medicare beneficiaries who enroll for the Medicare prescription drug benefit during 2006.

S. 1889

At the request of Mr. HAGEL, the name of the Senator from Georgia (Mr. ISAKSON) was added as a cosponsor of S. 1889, a bill to establish the Comprehensive Entitlement Reform Commission.

S. 1959

At the request of Mr. KERRY, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1959, a bill to direct the Architect of the Capitol to obtain a statue of Rosa Parks and to place the statue in the United States Capitol in National Statuary Hall.

S. 1998

At the request of Mr. VITTER, the name of the Senator from Alaska (Mr. STEVENS) was added as a cosponsor of S. 1998, a bill to amend title 18, United States Code, to enhance protections relating to the reputation and meaning of the Medal of Honor and other military decorations and awards, and for other purposes.

S. CON. RES. 62

At the request of Mr. MCCONNELL, the names of the Senator from Massachusetts (Mr. KERRY) and the Senator from Florida (Mr. NELSON) were added as cosponsors of S. Con. Res. 62, a concurrent resolution directing the Joint Committee on the Library to procure a statue of Rosa Parks for placement in the Capitol.

At the request of Mr. BIDEN, his name was added as a cosponsor of S. Con. Res. 62, supra.

S. RES. 219

At the request of Mrs. FEINSTEIN, the name of the Senator from Illinois (Mr. DURBIN) was added as a cosponsor of S. Res. 219, a resolution designating March 8, 2006, as "Endangered Species Day", and encouraging the people of the United States to become educated about, and aware of, threats to species, success stories in species recovery, and the opportunity to promote species conservation worldwide.

S. RES. 273

At the request of Mr. COLEMAN, the name of the Senator from Oregon (Mr. SMITH) was added as a cosponsor of S. Res. 273, a resolution expressing the sense of the Senate that the United Nations and other international organizations shall not be allowed to exercise control over the Internet.

AMENDMENT NO. 1451

At the request of Mr. SALAZAR, his name was added as a cosponsor of amendment No. 1451 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2518

At the request of Mr. SALAZAR, his name was added as a cosponsor of amendment No. 2518 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

AMENDMENT NO. 2519

At the request of Mr. HARKIN, his name was added as a cosponsor of amendment No. 2519 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

At the request of Mr. ROCKEFELLER, his name was added as a cosponsor of amendment No. 2519 proposed to S. 1042, supra.

AMENDMENT NO. 2524

At the request of Mr. REID, his name was added as a cosponsor of amendment No. 2524 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mrs. MURRAY (for herself, Ms. COLLINS, Mr. LIEBERMAN, and Mr. COLEMAN):

S. 2008. A bill to improve cargo security, and for other purposes; read the first time.

Mrs. MURRAY. Mr. President, today I'm pleased to introduce the bipartisan GreenLane Maritime Cargo Security Act with the chair of the Homeland Security and Government Affairs Committee, Senator SUSAN COLLINS.

We've worked together to create an innovative bill that will protect the American people and protect our economy from terrorist threats.

Our bill will help close one of the most dangerous vulnerabilities facing our nation—a terrorist organization using cargo containers to bring weapons and terrorists into the United States.

For decades, industry leaders in my home state of Washington and around the world have worked hard to create an open, efficient trading system. That system relies on cargo containers to move the vast majority of the world's commerce from factory to market.

The cargo container has reduced the cost of trade—helping American businesses and creating American jobs. We can be proud of the efficiency and speed of our container trading system.

But that system was designed for a different time—before terrorist attacks on American soil and before fanatics took jetliners and turned them into missiles.

Our bill addresses those concerns. Our bill increases scrutiny of shipments. It provides benefits to shippers but only after we have verified that they have improved security. And it ensures we keep testing the system to make sure it stays secure.

Let me quickly summarize the benefits of the GreenLane Act. It gives U.S. officials in foreign ports the authority to inspect suspicious containers before they are loaded for departure into the United States. The GreenLane Act makes the haystack of containers smaller so that the search is smaller. It allows the Government to focus on suspicious cargo. It ensures that we are inspecting and stopping cargo that poses a threat. And it cuts down smuggling of weapons, people, drugs or other illegal cargo.

A smaller haystack and strict overseas security measures will allow the United States and foreign officials to better stop criminal actions and threats to our national security. The GreenLane Act protects America's economy in the event of a terror attack, and it provides a secure, organized way to quickly resume cargo operations after any emergency shutdown. Because any shutdown of ports has the potential to cost the U.S. economy billions of dollars a day, the GreenLane Act will minimize the economic impact of a terrorist attack. And the GreenLane Act creates market incentives for everyone in the supply chain to improve security and take responsibility for the cargo they handle.

Today we have a choice in how we deal with the cargo security challenges that face us. But if we wait for a disaster, we will not have a choice. If we all agree on a system now, we will have a role in shaping what it looks like and making sure it is sensitive to the need for free-flowing commerce. I am here to say, along with Senator COLLINS, that we need to make these changes on our terms now before there is an incident. If we wait until after there is an incident, we risk drastic actions that will hurt everyone. With the GreenLane Act we introduce today, we have the opportunity to create effective, efficient systems and put them in place now.

I invite anyone who cares about our security and our economy to join Senator COLLINS and me in this effort. If anybody would like more information, visit my Web page at Murray.Senate.Gov/GreenLane.

I thank Senator COLLINS for her tremendous leadership and partnership in developing this legislation. She brings tremendous experience and expertise to one of America's biggest threats. It has been a pleasure to work with her in developing this critically important bill. I look forward to working with her, and anyone else here, to help turn the ideas of this bill into laws that will protect the American people.

The PRESIDING OFFICER. The Senator from Maine.

Ms. COLLINS. Mr. President, I am pleased to join my colleague, Senator MURRAY, in introducing today the GreenLane Maritime Cargo Security Act. It has been a great pleasure to work with my colleague on this important issue. Senator MURRAY has been an early leader in the call for greater port security. I am pleased we were able to join our efforts in a bipartisan bill to provide long overdue improvements in maritime security.

Our comprehensive legislation would help build a coordinated approach to maritime and port security across all levels of government and with our overseas trading partners. It would improve our Nation's security as it expedites trade with those governments and businesses that join us in this goal. It would encourage innovation, and it would provide financial assistance to our ports as they strive to strengthen their terrorism prevention and response efforts.

This legislation would provide the structure and resources needed to better protect the American people from attack through these vital yet extremely vulnerable points of entry and centers of economic activity.

Coming from a State with three international cargo ports, including the largest port by tonnage in New England, I am keenly aware of the importance of our seaports to our national economy and to the communities in which they are located. In addition to our ports' obvious economic significance, the link between maritime security and our national security has been underscored time and again by terrorism experts, including the 9/11 Commission. It is easy to see why, if you look at the statistics.

In 2003, more than 6,000 ships made nearly 57,000 calls on American ports. They carried the bulk of approximately 800 million tons of goods that came into our country, including more than 9 million containers. We know that al-Qaida has the stated goal of causing maximum harm to the American people and maximum disruption to our economy. Therefore, when you look at what could achieve those goals, you are instantly drawn to our cargo ports.

We already have a glimpse of the staggering damage a terrorist attack on a cargo port could produce. In the fall of 2002, the west coast dock strike cost our economy an estimated $1 billion a day for each of the 10 days that the work stoppage lasted. It not only brought those western coast ports to a halt but also harmed businesses throughout the country. That astonishing amount of harm, $10 billion worth, was the result of an event that was both peaceful and anticipated. Think of what the impact of a terrorist attack would be.

More recently, Hurricane Katrina brought the port of New Orleans and several other gulf coast ports to a standstill. Fortunately, much of this cargo was able to be diverted to other ports undamaged by the storm. In the aftermath of a terrorist attack, however, it is likely that an attack on one port would result in the closure, at least temporarily, of all ports. All of us remember in the wake of 9/11 that commercial aircraft were grounded across this country for a number of days. It is logical to assume that all of the ports would be closed in this country if there were a terrorist attack on one port.

In addition to the threat of a direct attack on one of our ports, any one of the more than 9 million containers that enter the United States each year has the potential to be the Trojan horse of the 21st century. When we look at these huge cargo ships unloading thousands of containers every day, we think: Oh, that contains consumer goods, maybe television sets or toys or clothing or sneakers. Fortunately, in the vast majority of cases, that is exactly what is in those containers. But a container could include terrorists themselves, biological or chemical agents, or even a small nuclear weapon.

For years, criminals have used cargo containers to smuggle narcotics, firearms, and people into the United States. These containers may come from anyone of 1,000 ports overseas, ports that have varying degrees and levels of security. They could also be intercepted or tampered with along the way.

Earlier year this year, I toured the ports of Los Angeles and Long Beach. The sheer size of these facilities and the activities that are going on every day are startling. So, too, are the risks and the vulnerabilities that they offer for terrorists to exploit. By coincidence, my visit came days before 32 Chinese nationals were smuggled into the port of Los Angeles in two cargo containers. Fortunately, that Trojan horse held people who were simply seeking a better way of life, albeit illegally, and they were not terrorists seeking to destroy our way of life. They were caught. But what is particularly disturbing to me, and speaks to the weaknesses and vulnerabilities of the current system, is they weren't caught through any security measure. It wasn't the container security initiative or the C–TPAT Program or any other new initiative that resulted in these 32 Chinese nationals being caught. Instead it was an alert crane operator who happened to see them crawling out of the containers.

We cannot continue to rely on luck or even alert crane operators to provide for the security of our seaports, our Nation, and our people.

In August, the President issued the National Security Strategy for Maritime Security. It warns of the probability of a hostile state using a weapon of mass destruction sometime in the next decade, and it identifies the maritime sector as most likely to be used to bring a weapon of mass destruction into the United States. In addition, the use of "just in time" inventories, which are now used by most industries, means that a disruption of our ports would have catastrophic repercussions for our entire economy.

A fundamental goal of port security is to head off trouble before it reaches our shores. Current supply-chain security programs within the Federal Government, however, were separately conceived and managed by different agencies, rather than woven together into a layered, consistent approach. The result of that, the Government Accountability Office tells us, is that only 17.5 percent of high-risk cargo identified by our own Customs agents was inspected overseas. I am talking about cargo that has been identified as high risk, and yet we are inspecting less than 20 percent of high-risk cargo. We found that the current programs lack standards, lack staffing, and lack the validation of security measures that are necessary for their success.

We cannot remove the risk of a terrorist attack, but the better security measures outlined by the Murray-Collins bill can build a stronger shield against terrorism without hampering trade.

This legislation provides the tools to construct a more effective security system. It was developed in close consultation with key stakeholders including port authorities, major retailers and importers, carriers, supply chain managers, security and transportation experts, and Federal and State agencies.

First, it addresses the problem of uncoordinated supply-chain security efforts by directing the Secretary of Homeland Security to develop a strategic plan to strengthen international security for all modes of transportation by which containers arrive in, depart from or move through seaports of the United States. This plan will clarify the roles, responsibilities, and authorities of government agencies at all levels and of private sector stakeholders. It will establish clear, measurable goals for furthering the security of commercial operations from point of origin to point of destination. It will outline mandatory, baseline security measures and standards and provide incentives for additional voluntary measures.

The new Office of Cargo Security Policy, established in our legislation, would ensure implementation of the strategic plan. This important office will report to the Department's Assistant Secretary for Policy in order to better coordinate maritime security efforts within the Department of Homeland Security and among our international and private-sector partners.

This legislation also gives the Secretary 6 months to establish minimum standards and procedures for securing containers in transit to the U.S., based on the Department's experience with current cargo security programs. All containers bound for U.S. ports of entry must meet those standards no later than 2 years after they are established. Currently, DHS has been too slow to implement certain vital security measures. For example, the Department has been working on a regulation setting a minimum standard for mechanical seals on containers for more than 2 years. Such delays are unacceptable. This legislation would set clear timelines to ensure steady progress.

The Department has also pledged to deploy radiation detection equipment at all ports of entry in the U.S. to examine 100 percent of cargo. The zero tolerance policy for radiation has been discussed since 2002, though less than a quarter of the detection equipment deemed necessary for domestic coverage had been deployed as of last month. Even more frustrating is that the Department has changed the target for system deployment multiple times. The Department's new Domestic Nuclear Detection Office is beginning to take hold of this critical issue, yet the need for a comprehensive plan for the deployment of radiation detection equipment is evident. Our legislation requires this plan be developed and that 100 percent incoming containers to the U.S. be examined for radiation no later than 1 year after enactment.

I want to thank Senator COLEMAN for his efforts in this area. These provisions address concerns that have been identified through our joint investigative work on programs protecting our nation against weapons of mass destruction.

For the first time, this legislation would authorize the Container Security Initiative. Ongoing, predictable funding—$175 million a year for the five years beginning in 2007—is essential for this crucial program to succeed. In addition to providing funding, the bill lays out requirements for CSI ports and a process for designating new ports under CSI. The Secretary must undertake a full assessment of the potential risk of smuggling or cargo tampering related to terrorism, before designating a port under CSI. This authorization also will enable our CSI partners to strengthen anti-terrorism measures and to improve training of personnel.

We would authorize C-TPAT at $75 million per year for that same 5-year period, and we clearly outline the certification and validation requirements and the benefits associated with meeting those requirements. Our legislation directs the Secretary to correct the deficiencies of the program, and, within one year, to issue guidelines that will be used to certify a participant's security measures and supply chain practices.

In addition, we would create a new, third tier of C-TPAT, called the GreenLane, which offers additional benefits to C-TPAT participants that meet the highest level of security standards. Cargo in transit to the U.S. through the GreenLane would be more secure through the use of container security devices and stronger supply chain security practices in all areas, such as physical, procedural and personnel security. The legislation directs the Secretary to develop benefits that may include further reduced inspections, priority processing for inspections, and, most significantly, preference in entering U.S. ports in the aftermath of a terrorist attack. Senator MURRAY, who developed this concept, will describe GreenLane in greater detail.

The bill also places a greater emphasis on communications among government and industry players in responding to an incident and settles the critical question of "who's in charge."

Technology plays an important role in maritime and cargo security. The Department of Homeland Security has scattered efforts to deploy existing technologies, to enhance those tools and to develop new ones. It is critical that these efforts be undertaken in a more coordinated fashion. In addition, the Government must work closely with and encourage the ingenuity of the private sector in developing the technologies that will improve both security and trade.

Let me close by saying that this legislation recognizes that America's ports, large and small, are our partners in keeping our Nation safe and our economy moving. Our Port Security Grant Program will help our ports make the investments needed to meet the threat of terrorism. The global maritime industry is crucial to our Nation's economy, and our ports are undoubtedly on the front lines of the war against terrorism. This legislation would set clear goals for improving the security of this vital sector, and it would provide the resources to meet and achieve those goals.

I again thank my colleague, Senator MURRAY, for her hard work and initiative on this legislation. We are pleased to be joined as original cosponsors by Senators NORM COLEMAN and JOE LIEBERMAN. That is indicative of the kind of bipartisan support this legislation enjoys, and it is my hope that many more of our colleagues will join us in bringing this legislation to enactment early next year. Our container trading system was designed for a world before September 11.

Now, here we are, 4 years later, and we still have not made our maritime cargo system as secure as it needs to be. Six months after the September 11 attacks, I held a hearing to exam the vulnerability of cargo security. Many of the concerns that were raised at that hearing are still dogging us today.

One of the challenges we face is how we can make trade more secure without slowing it to a crawl. If we have absolute security, we will curtail trade. If we have completely open trade, we will not have enough security.

For the past few years, I have been meeting with leaders in Government and industry to figure out how we can strike the right balance. One thing I know for sure is, it is better for us to work together now to design a security system on our own terms than to wait for an attack and force a security system in a crisis atmosphere.

I have spent several years exploring this challenge and meeting with stakeholders to get their ideas. Senator COLLINS, as chair of the Senate Homeland Security and Governmental Affairs Committee, has held hearings on this issue and has introduced legislation.

As a result of our work, Senator COLLINS and I have developed the GreenLane Maritime Cargo Security Act. It provides, for the first time, a comprehensive blueprint for how we can improve security while keeping trade efficient. At its heart, this challenge is about keeping the good things about trade—speed and efficiency—without being vulnerable to the bad things about trade—the potential for terrorists to use our engines of commerce.

There is an incident that occurred a few years ago that shows just how serious a threat we are facing. Four years ago, in Italy, dockworkers noticed something strange about one of the cargo containers. They opened it up and found an Egyptian man inside. But this was not your average stowaway. This man was a suspected al-Qaida terrorist, and he had all of the tools of the trade with him. His cargo container had been outfitted for a long voyage with a bed, a heater, and water. He had a satellite phone and a laptop computer. He also had security passes and mechanic certificates for four U.S. airports.

Now, that happened in 2001. It can still happen today. But don't take my word for it. The Commissioner of Customs and Border Protection said:

> [T]he container is the potential Trojan Horse of the 21st century.

The 9/11 Commission said terrorists may turn from targeting aviation to targeting seaports because "opportunities to do harm are as great, or greater, in maritime or surface transportation."

As we all know, our Government has uncovered al-Qaida training manuals, and some of these books suggest that terrorists try to recruit workers at borders, airports, and seaports.

There are two main scenarios we need to think about.

First, a group like al-Qaida could use cargo containers to smuggle weapons and personnel into the United States. They could split up a weapon and ship it to the U.S. in separate containers. And those pieces could be reassembled anywhere in the United States. So the first danger is that terrorists could use these cargo containers to get dangerous weapons into the United States.

Secondly, terrorists could use a cargo container as a weapon itself. A terrorist could place a nuclear, chemical, or biological weapon inside a container and then detonate it once it reaches a U.S. port or another destination inside the United States.

This week, the 9/11 Commission said we have not done enough to prevent terrorists from acquiring weapons of mass destruction. One study said if a nuclear device was detonated at a major seaport, it could kill up to a million people.

Now, many of our ports are located near major cities. Others are located near key transportation hubs. For example, if a chemical weapon were detonated in Seattle, the chemical plume could contaminate the rail system, Interstate 5, and SeaTac Airport, not to mention the entire downtown business and residential areas.

Terrorists could also detonate a dirty bomb or launch a bioterror attack. Any of those scenarios would impose a devastating cost in human lives, but that is not all.

We also know that al-Qaida wants to cripple our economy. Cargo containers could offer them a powerful way to do just that, and the damage goes beyond lives. An attack launched through our ports would also have a devastating economic impact. That is because after an attack the Federal Government is likely to shut down our ports to make sure that additional hazards weren't being brought into the country—similar to what we did with airplanes after 9/11.

When we stopped air travel then, it took us a couple of days to get back up to speed. And as we all remember, it cost our economy a great deal. But if you stopped cargo containers without a resumption system in place, it could take as long as 4 months to get them inspected and moving again. That would cripple our economy, and it could even spark a global recession.

Today, our cargo containers are part of the assembly line of American business. We have just-in-time delivery and rolling warehouses. If you shut down the flow of cargo, you are shutting down the economy. If our ports were locked down, we would feel the impact at every level of our economy.

Factories would not be able to get the raw materials they need. Many keep small inventories on hand. Once those inventories run out, factories would be shut down and workers laid off. We would also see the impact in stores. Merchants would not be able to get their products from overseas. Store shelves would go bear, and workers, again, would be laid off.

One study, in fact, concluded that if U.S. ports were shut down for 12 days, it could cost our economy $58 billion. In 2002, we saw what closing down a few ports on the west coast would do. When west coast dockworkers were locked out, it cost our economy about $1 billion a day. Imagine if we shut down all our ports, not just those on the west coast.

Dr. Stephen Flynn, who is a national security expert, has said that a 3-week shutdown could spawn a global recession. It is clear that we are vulnerable and that an attack could do tremendous damage.

If our ports were shut down today, we do not have a system in place for getting them started again. There is no protocol for what would be searched, what would be allowed in, and even who would be in charge.

Now, I want to acknowledge that we have made some progress since 9/11. We have provided some funding to make our ports more secure. I have fought for port security grants to make sure we are controlling access to our ports, and our local ports are on the cutting edge of security. We have implemented the 24-hour rule so we know what is supposed to be in a container before it reaches the United States. We are adding some more detection equipment to American ports, but, remember, once a nuclear device is sitting on a U.S. dock, it is too late. Customs created a program that works with foreign ports to speed some cargo into the United States. It is a good idea, but to date it has not been implemented well.

In May, the Government Accountability Office issued a very troubling report. It found that if companies applied for C-TPAT status, we gave them less scrutiny simply for submitting paperwork. We never checked to see if they actually did what they said they were going to do. We just inspected them less. One expert called that approach "trust, but don't verify."

Even when U.S. Customs inspectors do find something suspicious at a foreign port, they cannot force a container to be inspected today. They can ask the local government, but those requests are frequently rejected.

So because we cannot enforce those agreements through our State Department, our Customs officials do not have the power they need, and potentially dangerous cargo can arrive at U.S. ports without being inspected overseas.

I am deeply concerned about this issue because I know that maritime cargo, especially container cargo, is a critical part of our economy. My interest in trade goes back to my childhood. My dad ran a small dime store. He relied on imports to stock the shelves in his store. International trade put food on our table, and I have never forgotten that. So I want to make sure we close the loopholes that threaten our ability to trade, while we protect our lives and our economy.

I have worked on this challenge for several years. I have held hearings. I wrote and funded Operation Safe Commerce. And I have been meeting with various stakeholders.

I know this proposal has to work for everyone in the supply chain: importers, freight forwarders, shippers, terminal operators, and workers such as longshoremen, truckdrivers, and port employees—all the people who are on the frontlines as our eyes and our ears. They need to be part of the solution because they would be among the first to be hurt if an incident occurred.

Senator COLLINS and I have worked together to get input from stakeholders, and with that we have crafted a bill that I believe strikes the right balance. Our proposal is built around five commonsense ideas.

It has been over 4 years since the tragedy of September 11, and some of our most vulnerable assets—our ports and our maritime cargo system—still do not have a coordinated security regime. So the GreenLane Act will take that first step and ensure minimum security standards are in place for all container cargo entering our ports.

Secondly, because there are so many cargo containers coming into our country, we need to make that haystack smaller. We need to do a better job in front-loading our inspections overseas before the cargo ever gets loaded on a ship that is headed for the United States. Then, instead of focusing on a small percent of all containers, we can separate the most secure containers from the ones that need more security.

Third, we need to give businesses incentives to adopt better security. Companies are going to do what is in their financial interest, and we can use market incentives to make the entire industry more secure.

Fourth, we need to minimize the impact of any incident. Right now, if there were a terrorist attack through one of our ports, there would be an awful lot of confusion. So we need to put one office in charge of cargo security policy. We need to create protocols for resuming trade after an incident occurs. And we need to establish joint operations centers to help make local decisions that will get our trade moving again.

We cannot afford to leave cargo on the docks for weeks. We need a plan that tells us in advance what cargo will be unloaded first, and how we will get this system back on its feet.

Finally, we need to monitor and secure cargo from the factory floor overseas until it reaches our own shores. There are vulnerabilities at every step of the supply chain. A secure system is going to start at the factory overseas and continue until that cargo reaches its final destination.

I want to detail how our bill will make the American people safer. First of all, it raises the security standards for everyone across the board and directs the Department of Homeland Security to take all of the best practices and lessons learned and create new standards that will establish a new baseline of security for everyone.

Secondly, it creates the GreenLane. If shippers agree to follow the higher security standards of the GreenLane, they get a series of benefits.

To be designated as GreenLane cargo, importers have to ensure that all entities within their supply chain are validated C-TPAT participants; access to the cargo and containers is restricted to those employees who need access and we are assured of their identification; a logistics system is in place that provides the ability to track everything loaded into a GreenLane container back to the factory; and, a container security device, such as an e-seal, is used to secure the container.

Remember, GreenLane is optional. No one has to participate. I believe companies will want to participate because they will get benefits in return.

What are those benefits? Their bonding requirements could be reduced or eliminated. Instead of paying customs duties on every shipment, they could be billed monthly or quarterly. Their cargo will be subject to fewer searches and will be released faster upon entering the United States. They will lose less cargo to theft, and they will have the stability that comes from having one uniform standard to plan around.

Finally, the GreenLane Act sets up a plan so that trade can be resumed quickly and safely if an attack occurs. Today, there are no protocols. There is no guide on how to get the system going again. Our bill will create one, and it will let the most secure cargo—the GreenLane cargo—be released first.

Our bill creates joint operations centers to ensure a coordinated, measured response and the resumption and flow of commerce in the event of an incident or heightened national security threat level.

Our bill takes other steps. It expands port security grants. It makes sure we continue to monitor our security system to make sure it is working. It makes sure that a company's cargo data is not available to competitors. It sets a uniform standard for security so shippers and others have some certainty, rather than a hodgepodge of different standards.

There have been a lot of commissions and studies on port security, and we have worked to address their recommendations in our bill.

The 9/11 Commission said we need "layered" security, that we need to centralize authority so we can have more accountability, and that Federal agencies need to share information better. Our bill implements all of those recommendations.

The Government Accountability Office looked at current Customs programs and identified some troubling shortcomings.

By Mr. MARTINEZ (for himself and Mr. NELSON of Florida):

S. 2009. A bill to provide assistance to agricultural producers whose operations were severely damaged by the hurricanes of 2005; to the Committee on Finance.

Mr. MARTINEZ. Mr. President, I ask unanimous consent that the Agriculture Hurricane Recovery Act of 2005 be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2009

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Agriculture Hurricane Recovery Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.
Sec. 2. Definitions.

TITLE I—CROP ASSISTANCE

Sec. 101. Crop disaster assistance.
Sec. 102. Nursery crops and tropical fruit producers.
Sec. 103. Citrus and vegetable assistance.
Sec. 104. Sugar producers.

TITLE II—LIVESTOCK ASSISTANCE

Sec. 201. Livestock assistance program.

TITLE III—FORESTRY

Sec. 301. Tree assistance program.

TITLE IV—CONSERVATION

Sec. 401. Emergency conservation program.

TITLE V—LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS

Sec. 501. Emergency grants for low-income migrant and seasonal farmworkers.

TITLE VI—FISHERIES

Sec. 601. Fisheries assistance.

TITLE VII—TIMBER TAX RELIEF

Sec. 701. Timber tax relief for businesses affected by certain natural disasters.

TITLE VIII—MISCELLANEOUS

Sec. 801. Infrastructure losses.
Sec. 802. Commodity Credit Corporation.
Sec. 803. Emergency designation.
Sec. 804. Regulations.

SEC. 2. DEFINITIONS.

Except as otherwise provided in this Act, in this Act:

(1) ADDITIONAL COVERAGE.—The term "additional coverage" has the meaning given the term in section 502(b) of the Federal Crop Insurance Act (7 U.S.C. 1502(b)).

(2) CATASTROPHIC RISK PROTECTION.—The term "catastrophic risk protection" means the level of insurance coverage provided under section 508(b) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)).

(3) DISASTER COUNTY.—The term "disaster county" means a county included in the geographic area covered by a natural disaster declaration due to hurricanes in calendar year 2005—

(A) made by the Secretary under section 321(a) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961(a)) due to hurricanes in calendar year 2005; or

(B) made by the President under the Robert T. Stafford Disaster Relief and Emergency Assistance Act (42 U.S.C. 5121 et seq.).

(4) INSURABLE COMMODITY.—The term "insurable commodity" means an agricultural commodity for which producers are eligible to obtain a policy or plan of insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.).

(5) NONINSURABLE COMMODITY.—The term "noninsurable commodity" means an eligible crop for which producers are eligible to

obtain assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333).

(6) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

TITLE I—CROP ASSISTANCE

SEC. 101. CROP DISASTER ASSISTANCE.

(a) EMERGENCY ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall use such sums as are necessary of funds of the Commodity Credit Corporation to make emergency assistance under this section to producers on a farm or aquaculture operation (other than producers of sugarcane) that meet the eligibility criteria of paragraph (2) in the same manner as provided under section 815 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–55), including using the same loss thresholds for quantity and quality losses as were used in administering that section.

(2) ELIGIBILITY CRITERIA.—For producers described in paragraph (1) to be eligible for emergency assistance under this section—

(A) the farm or aquaculture operation must be located in a disaster county; and

(B) the producers must have incurred qualifying crop or quality losses with respect to the 2004, 2005, or 2006 crop (as elected by a producer), but limited to only 1 such crop, due to damaging weather or related condition, as determined by the Secretary.

(3) LIMITATION.—Qualifying crop losses for the 2006 crop are limited to only those losses caused by a hurricane or tropical storm occurring during the 2005 hurricane season in disaster counties.

(b) INELIGIBILITY FOR ASSISTANCE.—Except as provided in subsection (c), the producers on a farm shall not be eligible for assistance under this section with respect to losses to an insurable commodity or noninsurable commodity if the producers on the farm—

(1) in the case of an insurable commodity, did not obtain a policy or plan of insurance for the insurable commodity under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) for the crop incurring the losses;

(2) in the case of a noninsurable commodity, did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for the noninsurable commodity under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) for the crop incurring the losses;

(3) had an average adjusted gross income (as defined in section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308-3a)) of greater than $2,500,000; or

(4) were not in compliance with highly erodible land conservation and wetland conservation provisions under subtitles B and C of title XII of the Food Security Act of 1985 (16 U.S.C. 3811 et seq.).

(c) CONTRACT WAIVER.—The Secretary may waive subsection (b) with respect to the producers on a farm if the producers enter into a contract with the Secretary under which the producers agree—

(1) in the case of all insurable commodities produced on the farm for each of the next 2 crop years—

(A) to obtain additional coverage for those commodities under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.); and

(B) in the event of violation of the contract, to repay to the Secretary any payment received under this section; and

(2) in the case of all noninsurable commodities produced on the farm for each of the next 2 crop or calendar years, as applicable—

(A) to file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for those commodities under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333); and

(B) in the event of violation of the contract, to repay to the Secretary any payment received under this section.

(d) PAYMENT LIMITATIONS.—

(1) LIMIT ON AMOUNT OF ASSISTANCE.—Assistance provided under this section to the producers on a farm for losses to a crop, together with the amounts specified in paragraph (2) applicable to the same crop, may not exceed 95 percent of what the value of the crop would have been in the absence of the losses, as estimated by the Secretary.

(2) OTHER PAYMENTS.—In applying the limitation in paragraph (1), the Secretary shall include the following:

(A) Any crop insurance payment made under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or payment under section 196 of the Federal Agricultural Improvement and Reform Act of 1996 (7 U.S.C. 7333) that the producers on the farm receive for losses to the same crop.

(B) The value of the crop that was not lost (if any), as estimated by the Secretary.

(e) CROP INSURANCE DEDUCTIBLES.—For the purpose of determining crop insurance payments under this section, the Secretary shall consider Hurricane Wilma has having occurred during the 2005 crop year.

SEC. 102. NURSERY CROPS AND TROPICAL FRUIT PRODUCERS.

(a) EMERGENCY FINANCIAL ASSISTANCE.—Notwithstanding section 508(b)(7) of the Federal Crop Insurance Act (7 U.S.C. 1508(b)(7)), the Secretary shall use such sums as are necessary of funds of the Commodity Credit Corporation to make emergency financial assistance available to—

(1) commercial ornamental nursery and fernery producers in a disaster county for eligible inventory losses due to hurricanes in calendar year 2005; and

(2) tropical fruit producers in a disaster county who have suffered a loss of 35 percent or more relative to their expected production (as defined in section 1480.3 of title 7, Code of Federal Regulations (or a successor regulation)) due to hurricanes in calendar year 2005.

(b) ADMINISTRATION.—

(1) DETERMINATION OF COMMERCIAL OPERATIONS.—For a nursery or fernery producer to be considered a commercial operation for purposes of subsection (a)(1) or (d)(1), the producer must be registered as nursery or fernery producer in the State in which the producer conducts business.

(2) DETERMINATION OF ELIGIBLE INVENTORY.—For purposes of subsection (a)(1), eligible nursery and fernery inventory includes foliage, floriculture, and woody ornamental crops, including—

(A) stock used for propagation; and

(B) fruit or nut seedlings grown for sale as seed stock for commercial orchard operations growing fruit or nuts.

(c) CALCULATION OF LOSSES AND PAYMENTS.—

(1) NURSERY AND FERNERY PRODUCERS.—

(A) IN GENERAL.—For purposes of subsection (a)(1)—

(i) inventory losses for a nursery or fernery producer shall be determined on an individual-nursery or -fernery basis; and

(ii) the Secretary shall not offset inventory losses at 1 nursery or fernery location by salvaged inventory at another nursery or fernery operated by the same producer.

(B) AMOUNT.—The amount of payment to a nursery or fernery producer under subsection (a)(1) shall be equal to the product obtained by multiplying (as determined by the Secretary)—

(i) the difference between the pre-disaster and post-disaster inventory value, as determined by the Secretary using the wholesale price list of the producer, less the maximum customer discount provided by the producer, and not to exceed the prices in the Department of Agriculture publication entitled "Eligible Plant List and Price Schedule";

(ii) 25 percent; and

(iii) the producer's share of the loss.

(2) TROPICAL FRUIT PRODUCERS.—The amount of a payment to a tropical fruit producer under subsection (a)(2) shall be equal to the product obtained by multiplying (as determined by the Secretary)—

(A) the number of acres affected;

(B) the payment rate; and

(C) the producer's share of the crop.

(3) PAYMENT LIMITATION.—The Secretary shall not impose any payment limitation on an assistance payment made to a nursery, fernery, or tropical fruit producer under paragraph (1) or (2) of subsection (a).

(d) DEBRIS-REMOVAL ASSISTANCE.—

(1) AVAILABILITY OF ASSISTANCE.—The Secretary shall use such sums as are necessary of funds of the Commodity Credit Corporation to make emergency financial assistance available to commercial ornamental nursery and fernery producers in a disaster county to help cover costs incurred for debris removal and associated cleanup due to hurricanes in calendar year 2005.

(2) AMOUNT OF ASSISTANCE.—

(A) IN GENERAL.—Assistance under this subsection may not exceed the actual costs incurred by the producer for debris removal and cleanup or $250 per acre, whichever is less.

(B) NO ADDITIONAL PAYMENT LIMITATIONS.—Except as provided in subparagraph (A), the Secretary shall not impose any limitation on the maximum amount of payments that a producer may receive under this subsection.

(e) NONDISCRIMINATION.—

(1) IN GENERAL.—Except as provided in paragraph (2), in carrying out this section, the Secretary shall not discriminate against or penalize producers that did not purchase crop insurance under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) with respect to an insurable commodity or did not file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for assistance under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333) with respect to a noninsurable commodity.

(2) PENALTY.—In the case of a producer described in paragraph (1)—

(A) payment rates under this section shall be reduced by 5 percent; and

(B) the producer shall comply with subsection (f).

(f) CONTRACT TO PROCURE CROP INSURANCE OR NAP.—In the case of a producer described in subsection (e)(1) who receives any assistance under this section, the producer shall be required to enter into a contract with the Secretary under which the producer agrees—

(1) in the case of all insurable commodities grown by the producer during the next available coverage period—

(A) to obtain at least catastrophic risk protection for those commodities under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.); and

(B) in the event of violation of the contract, to repay to the Secretary any payment received under this section; and

(2) in the case of all noninsurable commodities grown by the producer during the next available coverage period—

(A) to file the required paperwork, and pay the administrative fee by the applicable State filing deadline, for those commodities under section 196 of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7333); and

(B) in the event of violation of the contract, to repay to the Secretary any payment received under this section.

(g) RELATION TO OTHER ASSISTANCE.—

(1) LINK TO ACTUAL LOSSES.—Assistance provided under subsection (a) to a producer for losses to a crop, together with the amounts specified in paragraph (2) applicable to the same crop, may not exceed 100 percent of what the value of the crop would have been in the absence of the losses, as estimated by the Secretary.

(2) OTHER PAYMENTS.—In applying the limitation in paragraph (1), the Secretary shall include the following:

(A) Any crop insurance payment made under the Federal Crop Insurance Act (7 U.S.C. 1501 et seq.) or payment under section 196 of the Federal Agricultural Improvement and Reform Act of 1996 (7 U.S.C. 7333) that the producer receives for losses to the same crop.

(B) Assistance received under any other emergency crop loss authority.

(C) The value of the crop that was not lost (if any), as estimated by the Secretary.

(h) ADJUSTED GROSS INCOME LIMITATION.—The average adjusted gross income limitation specified in section 1001D of the Food Security Act of 1985 (7 U.S.C. 1308-3a), shall apply to assistance provided under this section.

SEC. 103. CITRUS AND VEGETABLE ASSISTANCE.

Notwithstanding any other provision of this Act or any other law, the Secretary shall use such sums as are necessary of funds of the Commodity Credit Corporation to make emergency financial assistance authorized under this section available to both citrus and vegetable producers to carry out an assistance program similar to the program entitled the "Florida Citrus Disaster Program", described at 69 Fed. Reg. 63134, October 29, 2004, Document No. 04-24290 (relating to Florida citrus, fruit, vegetable, and nursery crop disaster programs), except that qualifying crop losses shall be limited to those losses caused by a hurricane or tropical storm occurring during the 2005 hurricane season in a disaster county.

SEC. 104. SUGAR PRODUCERS.

The Secretary shall use $395,000,000 of the funds of the Commodity Credit Corporation to make payments to processors in Florida and Louisiana that are eligible to obtain a loan under section 156(a) of the Federal Agriculture Improvement and Reform Act of 1996 (7 U.S.C. 7272(a)) to compensate first processors and producers for crop and other losses that are related to hurricanes, tropical storms, excessive rains, and floods occurring during calendar year 2005, to be calculated and paid on the basis of losses on 40-acre harvesting units, in disaster counties, on the same terms and conditions, to the maximum extent practicable, as payments made under section 102 of the Emergency Supplemental Appropriations for Hurricane Disasters Assistance Act, 2005 (Public Law 108-324; 118 Stat. 1235).

TITLE II—LIVESTOCK ASSISTANCE

SEC. 201. LIVESTOCK ASSISTANCE PROGRAM.

(a) EMERGENCY FINANCIAL ASSISTANCE.—

(1) IN GENERAL.—The Secretary shall use such sums as are necessary of funds of the Commodity Credit Corporation to make payments for livestock losses to producers for 2005 or 2006 losses (as elected by a producer), but not both, in a county that has received an emergency disaster designation by the President after January 1, 2004.

(2) RESTRICTION.—In determining eligibility for assistance under this section, the Secretary shall not use the end date of the normal grazing period to determine the threshold of a 90-day loss of carrying capacity.

(b) ADMINISTRATION.—Except as provided in subsection (a), the Secretary shall make assistance available under this subsection in the same manner as provided under section 806 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2001 (Public Law 106–387; 114 Stat. 1549A–51).

(c) MITIGATION.—In determining the eligibility for or amount of payments for which a producer is eligible under this section, the Secretary shall not penalize a producer that takes actions (including recognizing disaster conditions) that reduce the average number of livestock the producer owned for grazing during the production year for which assistance is being provided.

(d) INCLUSION OF POULTRY.—In providing assistance under this section, the Secretary shall include poultry within the definition of "livestock".

TITLE III—FORESTRY

SEC. 301. TREE ASSISTANCE PROGRAM.

(a) SPECIFIC INCLUSION OF NURSERY TREES, CHRISTMAS TREES, TIMBER AND FOREST PRODUCTS.—Section 10201 of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8201) is amended by striking paragraph (1) and inserting the following:

"(1) ELIGIBLE ORCHARDIST.—The term 'eligible orchardist' means—

"(A) a person that produces annual crops from trees for commercial purposes;

"(B) a nursery grower that produces field-grown trees, container-grown trees, or both, whether or not the trees produce an annual crop, intended for replanting after commercial sale; or

"(C) a forest landowner who produces periodic crops of timber, Christmas trees, or pecan trees for commercial purposes.".

(b) APPLICATION OF AMENDMENT.—The Secretary shall apply the amendment made by subsection (a) beginning in disaster counties.

(c) COST-SHARING WAIVERS.—

(1) TREE ASSISTANCE PROGRAM.—The cost-sharing requirements of section 10203(1) of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8203(1)) shall not apply to the operation of the tree assistance program in disaster counties in response to the hurricanes of calendar year 2005.

(2) COOPERATIVE FORESTRY ASSISTANCE ACT.—The cost-sharing requirements of the Cooperative Forestry Assistance Act of 1978 (16 U.S.C. 2101 et seq.) shall not apply in disaster counties during the 2-year period beginning on the date of enactment of this Act.

(3) REFORESTATION.—In carrying out the tree assistance program under subtitle C of title X of the Farm Security and Rural Investment Act of 2002 (7 U.S.C. 8201 et seq.), the Secretary shall provide such funds as are necessary to compensate forest owners that—

(A) produce periodic crops of timber or Christmas trees for commercial purposes; and

(B) have suffered tree losses in disaster counties.

TITLE IV—CONSERVATION

SEC. 401. EMERGENCY CONSERVATION PROGRAM.

(a) SPECIFIC INCLUSION OF NURSERY AND FERNERY PRODUCERS AND INTERIOR FENCES.—Section 401 of the Agricultural Credit Act of 1978 (16 U.S.C. 2201) is amended—

(1) by striking "sec. 401. The Secretary" and inserting the following:

"SEC. 401. PAYMENTS TO AGRICULTURAL PRODUCERS FOR WIND EROSION CONTROL OR REHABILITATION MEASURES.

"(a) IN GENERAL.—The Secretary"; and

(2) by adding at the end the following:

"(b) INCLUSIONS.—In this title:

"(1) AGRICULTURAL PRODUCER.—The term 'agricultural producer' includes a producer of nursery or fernery crops.

"(2) INTERIOR FENCES.—The term 'fences' includes both perimeter pasture and interior corral fences.".

(b) APPLICATION OF AMENDMENT.—The Secretary shall apply the amendment made by subsection (a)(2) beginning in disaster counties.

(c) COMPENSATION.—The Secretary shall use funds of the Commodity Credit Corporation to compensate producers on a farm operating in a disaster county for costs associated with repairing structures, barns, storage facilities, poultry houses, beehives, greenhouses, and shade houses due to hurricane damage in calendar year 2005.

TITLE V—LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS

SEC. 501. EMERGENCY GRANTS FOR LOW-INCOME MIGRANT AND SEASONAL FARMWORKERS.

(a) IN GENERAL.—The Secretary shall use $40,000,000 of funds of the Commodity Credit Corporation, to remain available until December 31, 2007, to provide emergency grants to assist low-income migrant and seasonal farmworkers under section 2281 of the Food, Agriculture, Conservation, and Trade Act of 1990 (42 U.S.C. 5177a)

(b) USE OF GRANTS.—Grants provided under this section may be used to provide such emergency services as the Secretary determines to be necessary, including—

(1) the repair of existing farmworker housing and construction of new farmworker housing units to replace housing damaged as a result of hurricanes during 2005; and

(2) the reimbursement of public agencies and private organizations for emergency services provided to low-income migrant or seasonal farmworkers after October 31, 2005.

TITLE VI—FISHERIES

SEC. 601. FISHERIES ASSISTANCE.

(a) FUNDS FOR OYSTER RESTORATION.—

(1) IN GENERAL.—Not later than 30 days after the date of enactment of this Act, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Commerce $10,000,000 to provide assistance for reseeding, rehabilitation, and restoration of oyster reefs located in Alabama, Florida, Louisiana, or Mississippi.

(2) AVAILABILITY OF FUNDS.—The funds transferred under paragraph (1) shall remain available until September 30, 2007.

(3) RECEIPT AND ACCEPTANCE.—The Secretary of Commerce shall be entitled to receive, shall accept, and shall use as described in this section the funds transferred under paragraph (1) without further appropriation.

(b) FUNDS FOR FISHERIES DISASTER ASSISTANCE.—

(1) IN GENERAL.—In addition to amounts appropriated or otherwise made available,

not later than 30 days after the date of enactment of this Act, out of any funds in the Treasury not otherwise appropriated, the Secretary of the Treasury shall transfer to the Secretary of Commerce $60,000,000 to provide fisheries disaster assistance.

(2) Limitation on use of funds.—Of the funds transferred under paragraph (1)—

(A) not more than 5 percent of such funds may be used for administrative expenses; and

(B) none of such funds may be used for lobbying activities or representational expenses.

(3) Receipt and acceptance.—The Secretary of Commerce shall be entitled to receive, shall accept, and shall use as described in this section the funds transferred under paragraph (1) without further appropriation.

(c) Provision of Assistance.—

(1) Lump sum payments to states.—The Secretary of Commerce shall use the funds transferred under this section to provide direct lump sum payments to the States of Louisiana, Mississippi, Alabama, and Florida to provide assistance to persons located in a disaster county who have experienced significant economic hardship due to the loss of fisheries, oysters, lobsters, stone crabs, or clams, destroyed or damaged processing facilities, or closures due to red tide or other water quality issues.

(2) Use of funds.—Funds transferred to the Secretary of Commerce under this section shall be used to provide assistance—

(A) to individuals, with priority given to food, energy needs, housing assistance, transportation fuel, and other urgent needs;

(B) to small businesses, including fishermen, fish processors, and related businesses serving the fishing industry;

(C) to carry out activities related to domestic product marketing and seafood promotion; and

(D) to carry out seafood testing programs operated by a State.

TITLE VII—TIMBER TAX RELIEF

SEC. 701. TIMBER TAX RELIEF FOR BUSINESSES AFFECTED BY CERTAIN NATURAL DISASTERS.

(a) Casualty Losses.—

(1) In general.—Section 1211 of the Internal Revenue Code of 1986 (relating to limitation of capital losses) shall not apply to any qualified timber loss.

(2) Qualified timber loss.—For purposes of this subsection, the term "qualified timber loss" means a loss with respect to timber which is attributable to—

(A) Hurricane Dennis,

(B) Hurricane Katrina,

(C) Hurricane Rita, or

(D) Hurricane Wilma.

(b) Increased Expensing for Reforestation Expenditures.—

(1) In general.—In applying section 194(b) of the Internal Revenue Code of 1986 to any specified qualified timber property for the first taxable year beginning after the date of the enactment of this section, subparagraph (B) of section 194(b)(1) shall be applied—

(A) by substituting "$20,000" for "$10,000", and

(B) by substituting "$10,000" for "$5,000".

(2) Specified qualified timber property.—The term "specified qualified timber property" means qualified timber property (within the meaning of section 194(c)(1) of the Internal Revenue Code of 1986) which is located in an area with respect to which a natural disaster has been declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act as a result of—

(A) Hurricane Dennis,

(B) Hurricane Katrina,

(C) Hurricane Rita, or

(D) Hurricane Wilma.

TITLE VIII—MISCELLANEOUS

SEC. 801. INFRASTRUCTURE LOSSES.

(a) Infrastructure Losses.—The Secretary shall compensate producers on a farm in a disaster county for costs incurred to repair or replace barns, greenhouses, shade houses, poultry houses, beehives, and other structures, equipment, and fencing that—

(1) was used to produce or store any agricultural commodity; and

(2) was damaged or destroyed by the hurricanes of calendar year 2005.

(b) Timing of Assistance.—The Secretary may provide assistance authorized under this section in the form of—

(1) reimbursement for eligible repair or replacement costs previously incurred by producers; or

(2) cash or in-kind assistance in advance of the producer undertaking the needed repair or replacement work.

(c) Payment Limitations.—Assistance provided under this section to a producer for a repair or replacement project, together with amounts received for the same project from insurance proceeds or other sources, may not exceed 95 percent of the costs incurred to repair or replace the damaged or destroyed structures, equipment, or fencing, as estimated by the Secretary.

(d) Loan Eligibility.—After approval of the county committee established under section 8 of the Soil Conservation and Domestic Allotment Act (16 U.S.C. 590h) for the county or other area in which the farming operation is located, the producers on a farm in a disaster county shall be eligible to receive an emergency loan under subtitle C of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961 et seq.) regardless of whether the producers satisfy the requirements of the first proviso of section 321(a) of that Act (7 U.S.C. 1961(a)).

SEC. 802. COMMODITY CREDIT CORPORATION.

Except as otherwise provided in this Act—

(1) the Secretary shall use the funds, facilities, and authorities of the Commodity Credit Corporation to carry out this Act; and

(2) funds made available under this Act shall remain available until expended.

SEC. 803. EMERGENCY DESIGNATION.

The amounts provided under this Act or under amendments made by this Act to respond to the hurricanes of calendar year 2005 are designated as an emergency requirement pursuant to section 402 of H. Con. Res. 95 (109th Congress).

SEC. 804. REGULATIONS.

(a) In General.—The Secretary may promulgate such regulations as are necessary to implement this Act and the amendments made by this Act.

(b) Procedure.—The promulgation of the regulations and administration of this Act and the amendments made by this Act shall be made without regard to—

(1) the notice and comment provisions of section 553 of title 5, United States Code;

(2) the Statement of Policy of the Secretary of Agriculture effective July 24, 1971 (36 Fed. Reg. 13804), relating to notices of proposed rulemaking and public participation in rulemaking; and

(3) chapter 35 of title 44, United States Code (commonly known as the "Paperwork Reduction Act").

(c) Congressional Review of Agency Rulemaking.—In carrying out this section, the Secretary shall use the authority provided under section 808 of title 5, United States Code.

By Mr. HATCH (for himself, Mrs. Lincoln, Mr. Smith, and Mr. Kohl):

S. 2010. A bill to amend the Social Security Act to enhance the Social Security of the Nation by ensuring adequate public-private infrastructure and to resolve to prevent, detect, treat, intervene in, and prosecute elder abuse, neglect, and exploitation, and for other purposes; to the Committee on Finance.

Mr. HATCH. Mr. President, with my good friend and colleague, Senator Blanche Lincoln, I rise to introduce the Elder Justice Act of 2005. We are joined in this effort by Senator Gordon Smith, the chairman of the Aging Committee, and Senator Herb Kohl, the ranking minority member of that committee.

As my colleagues may recall, Senator John Breaux and I introduced similar legislation in both the 107th and 108th Congresses, with the strong support of Senators Lincoln, Smith and Kohl. The bill was reported by the Finance Committee last year, but unfortunately it was not approved before we adjourned.

Although the number of older Americans is growing at a rapid pace, thousands of cases of elder abuse go unaddressed every day. The problem of elder abuse, neglect and exploitation has long been invisible and is probably one of the most serious issues facing seniors and their families.

Research in the field is scarce, but, by some estimates, up to five million cases of elder abuse, neglect and exploitation occur each year. Without more attention and more resources, far too many of these cases of abuse, neglect and exploitation will go unaddressed and far too many older Americans will suffer.

Few pressing social issues have been as systematically ignored as elder abuse. In fact, 25 years of congressional hearings on the devastating effects of elder abuse have found this problem to be a "disgrace" and a "burgeoning national scandal." Yet, to date, no federal legislation has been enacted to address elder abuse in a comprehensive manner.

During that same time period, Congress passed comprehensive bills to address child abuse and crimes against women, yet there is not one full-time Federal employee working on elder abuse in the entire Federal Government.

The cost of elder abuse is high. This is true in terms of needless human suffering, inflated health care costs, limited Federal resources and the loss of one of our greatest national assets—the wisdom and experience of older citizens.

S. 2010 is designed to create a national focus on elder abuse to increase detection, prevention, prosecution and victim assistance. It ensures that states, communities, consumers and families will have access to the information and resources they need to confront this difficult issue.

By addressing law enforcement, social service and public health concerns, our bill uses the proven approach Congress has adopted to combat child abuse and violence against women.

I would like to take this opportunity to describe our legislation in more detail.

The Elder Justice Act establishes dual Offices of Elder Justice at the Departments of Justice, DOJ, and Health and Human Services, HHS, to coordinate Federal, State and local efforts to combat elder abuse in residential and institutional settings. In addition, an Elder Justice Coordinating Council will be established to make recommendations to the HHS Secretary and the Attorney General on coordinating activities of Federal agencies related to elder abuse. This Council is specifically mandated to advise us on legislation, model laws and other appropriate action on addressing elder abuse.

The bill creates an Advisory Board on Elder Abuse, Neglect and Exploitation to establish a short-term and long-term multi-disciplinary strategic plan for expanding the field of elder justice. The board would make recommendations to HHS, DOJ, and the Elder Justice Coordinating Council and submit to HHS, DOJ, and Congress information and recommendations on elder justice programs, activities and legislation.

The Elder Justice Act also directs the HHS Secretary to establish an Elder Resource Center to develop ways to collect, maintain and disseminate information relevant to consumers, families and providers in order to protect individuals from elder abuse and neglect. It is our hope that this Center will improve the quality, quantity and accessibility of information available on elder abuse. In addition, the bill establishes a National Elder Justice Library within the Center to serve as a centralized repository for materials on training, technical assistance and promising practices related to elder justice.

S. 2010 also improves, streamlines and promotes uniform collection and dissemination of national data related to elder abuse, neglect and exploitation. Today, data on elder abuse are very limited. The Director of the Centers for Disease Control and Prevention, CDC, is directed to develop a method for collecting national data regarding elder abuse and then create uniform national data reporting forms to help determine what a reportable event on elder abuse is.

The legislation includes several grants to combat elder abuse including grants to improve data collection activities on elder abuse prevention and prosecution of elder abuse cases. These grants would establish five Centers of Excellence nationwide to specialize in research, clinical practice and training related to elder abuse.

In addition, the HHS Secretary will award safe haven grants to six diverse communities to examine elder shelters to test various models for establishing safe havens. Elder victims' needs, which are rarely addressed, will be better met by supporting the creation of safe havens for seniors who are not safe where they live. Development of safe haven programs which focus on the special needs of at-risk elders and older victims are needed and necessary.

The legislation directs the HHS Secretary to award training grants to groups with responsibility for elder justice, eligible entities to provide care for those with dementia and certain entities to make recommendations on caring for underserved populations of seniors living in rural areas, minority populations, and Indian tribes. Training to combat elder abuse, neglect and exploitation will be supported both within individual disciplines and in multi-disciplines such as public health, social service and law enforcement settings.

In addition, our bill directs the Secretary to award fellowships to individuals so they may obtain training in both forensic pathology and geriatrics. An individual receiving such a fellowship shall provide training in forensic geriatrics to interdisciplinary teams of health care professionals. Grants also would be awarded to create programs to increase the number of health care professionals with geriatric training. Finally, the Elder Justice Act directs the HHS Secretary to award grants to conduct a national multimedia campaign to raise awareness on elder abuse.

Our legislation also requires a number of studies on elder abuse including one on the responsibilities of federal, state and local governments in response to reports of elder abuse. This study would be to improve response time to elder abuse and reduce elder victimization.

In addition, the CDC Director is directed to conduct a study on the best method to address elder abuse from a public health perspective, including reducing elder abuse, neglect and exploitation committed by family members. Current statistics indicate that only 20 percent of elder abuse occurs in long-term care facilities and institutions—80 percent of elder abuse is committed in the home.

The bill also establishes new programs to assist victims and provides grants for education and training of law enforcement and prosecutors. It requires reporting of crimes in long-term care settings, creates a national criminal background check program for those employed by long-term care providers—something strongly advocated by Senator KOHL—and establishes a national nurse aide registry program based on recommendations by HHS.

Senior citizens cannot wait any longer for this legislation to pass.

More and more of us will enjoy longer life in relative health, but with this gift comes the responsibility to prevent the needless suffering too often borne by our frailest seniors.

In closing, I must note that our legislation has been endorsed by the Elder Justice Coalition, a national membership organization dedicated to eliminating elder abuse, neglect, and exploitation in America. This coalition, which has been a strong advocate and supporter of the Elder Justice Act, has 397 members.

This Congress, one of my top priorities is to get this bill signed into law, once and for all, so that elder justice will become a reality for those Americans who need it most. Our seniors deserve no less.

Mrs. LINCOLN. Mr. President, I am pleased to join my distinguished colleague, Senator HATCH, to introduce the Elder Justice Act of 2005. I am pleased that Senate Special Committee on Aging Chairman SMITH and Ranking Member KOHL are joining us as original cosponsors of this important legislation.

I have been a cosponsor of the Elder Justice Act since Senator BREAUX and Senator HATCH introduced the original bill in 2002. I joined them again as a cosponsor in 2003 and helped pass a version of the legislation out of the Senate Finance Committee in late 2004.

Unfortunately and regrettably, the Elder Justice Act failed to become law last year, despite the incredible leadership by Senator BREAUX and Senator HATCH. It has yet to become law despite the fact that our Nation continues to grow older and despite the fact that the tragedy of elder abuse, neglect, and exploitation continues.

Abuse of our senior citizens can be physical, sexual, psychological, or financial. The perpetrator may be a stranger, an acquaintance, a paid caregiver, a corporation, and sadly, even a spouse or another family member. Elder abuse happens everywhere, at all levels of income and in all geographic areas. No matter how rich you are, and no matter where you live, no one is immune.

Congress must make our seniors a priority and pass the Elder Justice Act as soon as possible.

This bill represents the culmination of 25 years of congressional hearings on the distressing effects of elder abuse. It represents a consensus agreement developed by the Elder Justice Coalition, a national organization dedicated to eliminating elder abuse, neglect, and exploitation in America. This bill reminds us of the fact that Congress has already passed comprehensive bills to address child abuse and violence against women but has continued to ignore the fact that we have no Federal law enacted to date on elder abuse.

Every older person has the right to be free of abuse, neglect, and exploitation. And the Elder Justice Act will enhance our knowledge about abuse of our seniors in all its terrible forms. It will elevate elder abuse to the national stage. Too many of our seniors suffer needlessly. Each year, anywhere between 500.000 and 5 million seniors in our country are abused, neglected, or exploited. And, sadly, most abuse goes unreported.

This historical problem will only get worse as 77 million baby boomers age.

The Elder Justice Act confronts elder abuse in the same ways we combat child abuse and violence against women: through law enforcement, public health programs, and social services at all levels of government. It also establishes research projects to assist in the development of future legislation.

The Elder Justice Act will take steps to make older Americans safer in their homes, nursing home facilities, and neighborhoods. It enhances detection of elder abuse and helps seniors recover from abuse after it starts. It increases collaboration between federal agencies and between Federal, State, local, and private entities, law enforcement, longterm care facilities, consumer advocates, and families to prevent and treat elder abuse.

Each of us will grow older, and if we're lucky, we will live for a very long time. A baby girl born today has a 50 percent chance of living until she is 100 years old. What will we gain if we fail to ensure that baby girl ages with dignity, free of abuse, neglect, and exploitation? As Hubert Humphrey said, "The moral test of government is how that government treats those who are in the dawn of life, the children; those who are in the twilight of life, the elderly; and those who are in the shadows of life, the sick, the needy, and the handicapped."

It is time for Congress to pass the first comprehensive federal law to address elder abuse, the Elder Justice Act of 2005, to ensure that those in the twilight of life are protected from abuse that threatens their safety, independence, and productivity.

Mr. SMITH. Mr. President, I rise in support of the Elder Justice Act.

My job as a Senator is to help protect and defend the freedoms of all Americans. As the Chairman of the Senate Aging Committee it is an expressed duty of mine to focus on one of our more vulnerable populations, older Americans.

All too often we concentrate our efforts to stop crime on crimes that are reported or easy to identify. However, crimes against the elderly are often never reported or identified. Many older Americans find themselves reliant on a caregiver or close one who is taking advantage of them physically or monetarily and have no means to take action against this individual. This scary and sad scenario happens more often then we would like to admit.

According to the best available estimates, between 1 and 2 million Americans age 65 or older have been injured, exploited, or otherwise mistreated by someone on whom they depended for care or protection. Too many older Americans suffer from the various forms of abuse and the legislation we are introducing today will take very important steps to stop the long ignored problem of elder abuse. The Elder Justice Act prevents and treats elder abuse by:

Improving prevention and intervention through funding projects to make older Americans safer in their homes, facilities, and neighborhoods. The bill specifically enhances long-term care staffing.

Creating forensic centers and targeting funding to develop expertise in the detection of signs of elder abuse.

Targeting funding to efforts to better find ways to mitigate the consequences of elder mistreatment.

Enhancing collaboration by supporting coordination between federal and local entities including consumer advocates, long-term care facilities and most importantly families.

My home state of Oregon has been a leader in many of these efforts. One program, the Elder Safe program IN Washington County, helps victims aged 65 and older after a crime is reported to police and continues to help them through the criminal justice system. Based at the Sheriff's Office, Elder Safe collaborates with the District Attorney's Office and the Department of Aging and Veterans' Services and all city police department to coordinate services to help seniors read legal documents or travel to the courthouse. Assistance from the Elder Safe program is tailored to the unique circumstance of each victim and may include personal support, court advocacy, or help filling out forms. It is important that we support programs, like the Elder Safe program, nationally. The Elder Justice Act will be a huge boost to our efforts. I urge my colleagues on both sides of the aisle to support this important bill.

Mr. KOHL. Mr. President, I rise today in strong support of the Elder Justice Act. I applaud the leadership and commitment that Senator HATCH and Senator LINCOLN have shown to protecting our Nation's senior citizens by reintroducing this legislation. As Ranking Member of the Special Committee on Aging, I am pleased to join Senator SMITH, our Chairman, as an original cosponsor of this important bill.

I also want to commend the bipartisan Elder Justice Coalition for its role in developing and moving this bill forward. In particular, I would like to acknowledge the contributions of Wisconsin members of the Coalition, including the Coalition of Wisconsin Aging Groups, the Wisconsin Association of Area Agencies on Aging, and the Wisconsin Board on Aging and Long Term Care, among many others. Passage of the Elder Justice Act is long overdue, and we look forward to working with the Coalition to ensure that it becomes law as soon as possible.

In the past forty years, our Nation has made great strides to address the ugly truth of child abuse and domestic violence in our society. We have made a difference by making comprehensive legislation designed to combat these terrible issues a top priority. Today, I ask the Congress to once again focus on the issue of abuse only this time, to focus on the grim reality of elder abuse, neglect and exploitation.

For the past 25 years, Congress has held hearings on the devastating effects of elder abuse; yet no comprehensive action has been taken. Abuse of the elderly is certainly nothing new, but as our Nation has aged and the Baby Boom generation stands on the cusp of retirement, the prevalence of elder abuse will only get worse. The time to act is now. The shame and scandal of abuse, neglect and exploitation of our Nation's seniors can no longer be ignored or tolerated.

I am pleased that the Elder Justice Act includes one of my top priorities—a provision mandating a national criminal background check system for nursing home, home health and other long-term care employees. While the vast majority of employees are hardworking, dedicated and professional, it is simply too easy for people with abusive and criminal backgrounds to find work in long term care.

Today, seven States, including my home State of Wisconsin, are engaged in a pilot project to require FBI criminal background checks before hiring a new employee. The Elder Justice Act will ensure that once the pilot is over, we will move to a national criminal background check system so seniors in all fifty states will be protected. I want to thank Senators HATCH and LINCOLN and their staff for working with me to once again include this provision as a key part of the Elder Justice Act. I very much appreciate their efforts and look forward to working with them to see that it becomes law.

In addition to the background check provision, the Elder Justice Act takes a number of steps to prevent and treat elder abuse. First, it will improve prevention and intervention by funding State and local projects that keep older Americans safe.

Second, it will improve collaboration by bringing together a variety of different Federal, State, local, and private entities to address elder abuse.

The bill ensures that health officials, social services, law enforcement, long-term care facilities, consumer advocates and families are all working together to confront this problem.

Third, it will develop expertise to better detect elder abuse, neglect and exploitation, by training health professionals in both forensic pathology and geriatrics.

Fourth, it will develop victim assistance programs for at-risk seniors and create "safe havens" for seniors who are not safe where they live.

Finally, it will give extra resources to law enforcement officials to investigate cases of elder abuse and make them a top priority.

Once again, I thank Senators HATCH and LINCOLN for bringing the issue of elder abuse to the forefront by re-introducing this important legislation. I urge my colleagues to join us in supporting it.

By Mr. JEFFORDS (for himself and Mr. LEAHY):

S. 2011. A bill to require the Administrator of the Environmental Protection Agency to establish performance standards for fine particulates for certain pulp and paper mills, and for other purposes; to the Committee on Environment and Public Works.

Mr. JEFFORDS. Mr. President, today I am introducing the Tire Derived Fuel Safety Act of 2005 to ensure that Americans living near pulp and paper mills that burn tires for energy are protected from the potential harmful effects of air pollutants such as fine particulates.

As the price of oil and natural gas continues to rise, U.S. manufacturing facilities are seeking alternative energy sources. Pulp and paper mills, in particular, are replacing these high cost energy sources with lower cost tire derived fuels or TDF due to its high-energy value.

The burning of tires results in the emissions of particulates, carbon monoxide, sulfur oxides, nitrogen oxides, volatile organic compounds, PCBs, arsenic, cadmium, nickel, zinc, mercury, chromium and vanadium. These air pollutants can have serious health impacts on the people living downwind of facilities when effective emissions control technologies are not used.

Luckily, most U.S. pulp and paper mills that burn TDF have already installed electrostatic precipitators or fabric filters to control for fine particulate emissions. And, in fact, EPA's 1997 "Air Emissions From Scrap Tire Combustion" report states that it is not likely that a solid fuel combustor without add-on particulate controls—such as an ESP or fabric filter—could satisfy air emissions regulatory requirements in the United States.

Yet, that hasn't stopped International Paper from proposing to burn 72 tons a day of tires at its Ticonderoga, NY mill without the addition of commonly accepted emissions control technologies. Doing so jeopardizes the health of Vermonters and New Yorkers alike.

My bill requires EPA to issue performance standards for fine particulates for pulp and paper mills that switch to tire-derived fuels to ensure that all communities across United States are equally and fairly protected.

My bill also requires EPA to study and report to Congress on the health impacts of increased emissions, particularly fine particulates, from the use of TDF. It also requires EPA to work with Health and Human Services to document the rates of childhood diseases—particularly respiratory diseases—of children that live or attend school within a 20-mile radius of a pulp and paper mill burning TDF.

I invite my colleagues to join me in my efforts to ensure that all Americans are equally protected from the harmful effects of the burning of tire-derived fuel without adequate air pollution controls. I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2011

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Tire-Derived Fuel Safety Act of 2005".

SEC. 2. COMBUSTION OF TIRE-DERIVED FUEL.

(a) DEFINITIONS.—In this section:

(1) ADMINISTRATOR.—The term "Administrator" means the Administrator of the Environmental Protection Agency.

(2) ELIGIBLE MILL.—The term "eligible mill" means any pulp or paper mill (SIC code 2611 or 2621) that burns or proposes to burn tire-derived fuel.

(3) EMISSION.—The term "emission" means an emission into the air of—

(A) a criteria pollutant, including a fine particulate; or

(B) a hazardous air pollutant.

(4) TIRE-DERIVED FUEL.—The term "tire-derived fuel" means fuel derived from whole or shredded tires, including in combination with another fuel.

(b) REQUIREMENTS FOR APPROVAL.—

(1) IN GENERAL.—Except as provided in paragraph (2), notwithstanding any other provision of law, the Administrator shall not issue a permit under the Clean Air Act (42 U.S.C. 7401 et seq.), and shall object to the issuance of a permit under section 505(b) of that Act (42 U.S.C. 7661d(b)), authorizing the burning of tire-derived fuel at an eligible mill that is a major stationary source (as defined in section 111(a) of that Act (42 U.S.C. 7411(a))) unless—

(A) the Administrator has listed the source as part of a source category for which a performance standard has been established under subsection (c); and

(B) the source demonstrates to the satisfaction of the Administrator that the source—

(i) will install any control equipment required or make the necessary process changes before the date on which the source begins operation; and

(ii) will operate at or below the required emissions performance standards as demonstrated by data from a continuous emissions monitoring device.

(2) INTERIM PERMITS.—Notwithstanding paragraph (1), the Administrator may approve an interim permit (including a trial permit) to burn tire-derived fuel at a new eligible mill, or an eligible mill in existence on the date of enactment of this Act, that is a major stationary source (as defined in section 111(a) of the Clean Air Act (42 U.S.C. 7411(a))) that demonstrates to the satisfaction of the Administrator that the source—

(A) will install—

(i) an electrostatic precipitator;

(ii) a Kevlar baghouse; or

(iii) any other technology that achieves a reduction in emissions that is equivalent to the reduction achieved using an electrostatic precipitator or a Kevlar baghouse; and

(B) will operate at or below the required emissions performance standards as demonstrated by data from a continuous emissions monitoring device.

(c) STANDARDS FOR CERTAIN PULP AND PAPER MILLS.—

(1) ESTABLISHMENT.—

(A) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Administrator shall establish performance standards for fine particulates for—

(i) new eligible mills; and

(ii) eligible mills in existence on the date on which the standards are proposed.

(B) REQUIREMENTS.—In establishing standards under subparagraph (A), the Administrator shall—

(i) ensure that the standards would result in reductions in emission levels that are at least equal to reductions achieved through the use of an electrostatic precipitator or Kevlar baghouse; and

(ii) require pulp and paper mills that are in operation as of the date on which the standards are proposed, but that are not in compliance with those standards, to come into compliance with the standards by not later than 18 months after the effective date of the standards.

(2) STUDY AND REPORT ON GENERAL HEALTH EFFECTS.—Not later than 1 year after the date of enactment of this Act, the Administrator shall conduct a study, and submit to Congress a report, on the impact on human health of increased emissions, especially fine particulates, from the use of tire-derived fuel.

(3) REPORT ON HEALTH EFFECTS ON CERTAIN CHILDREN.—As soon as practicable after the date of enactment of this Act, the Administrator, in coordination with the Secretary of Health and Human Services, shall submit to Congress a report that describes the rates of birth defects and childhood diseases (particularly respiratory and immune system diseases) of children that live or attend school within a 20-mile radius of any pulp and paper mill that burns tire-derived fuel.

By Mr. STEVENS (for himself, Mr. INOUYE, Ms. SNOWE, Ms. CANTWELL, Mr. VITTER, and Mrs. BOXER):

S. 2012. A bill to authorize appropriations to the Secretary of Commerce for the Magnuson-Stevens Fishery Conservation and Management Act for fiscal years 2006 through 2012, and for other purposes; to the Committee on Commerce, Science, and Transportation.

Mr. STEVENS. Mr. President, today I come to the Senate, along with my good friend and coauthor, Senator DAN INOUYE of Hawaii, to introduce a bill to reauthorize the Magnuson-Stevens Fisheries Conservation and Management Act.

This legislation reauthorizes the law that manages and regulates fisheries in the United States exclusive economic zone. It is cosponsored by Senators SNOWE, CANTWELL, and VITTER.

The law was originally enacted in 1976. A that time it was titled the Fishery Conservation and Management Act. Senator Warren Magnuson and I developed the law after Warren sent me to monitor the law of the sea negotiations, which took place all over the world. A concept considered during these negotiations was the expansion of a coastal nation's sovereignty over its seaward waters out to 200 miles.

Warren and I took a bipartisan approach to the legislation and developed a bill that established our country's exclusive right to harvest fishery resources from 3 to 200 miles and put in place one of the most successful Federal-State management systems. This system recognized the complexity of our differing fish stocks and the unique regional approaches needed to manage these resources.

This is now the seventh authorization of the act we created over 30 years ago. It is the first reauthorization I have been a part of as chairman of the Commerce, Science, and Transportation Committee, which has jurisdiction over this legislation.

The Magnuson-Stevens Fishery Conservation and Management Act of 2005 implements many of the recommendations made by the U.S. Commission on Ocean Policy—the first such commission authorized by Congress to review our nation's ocean policies and laws in over 35 years. This was coauthored by my great friend from South Carolina, Senator Ernest Hollings. The Commission's recommendations were important to the development of this act we present to the Senate today.

The intent of this legislation is to authorize these recommendations and to build on some of the sound fishery management principles we passed in the Sustainable Fisheries Act in 1996, which was the last time we reauthorized the act.

Our bill will preserve and strengthen the regional fishery management councils. The eight regional councils located around the United States and Caribbean Islands are a model of Federal oversight benefiting from local innovation and management approaches. This reauthorization establishes a council training program designed to prepare members for the numerous legal, scientific, economic, and conflict of interest requirements which apply to the fishery management process. In addition, this reauthorization addresses concerns over the transparency of the regional council process—it provides additional financial disclosure requirements for council members and clarifies the act's conflict of interest and recusal requirements.

In order to prevent overfishing and preserve the sustainable harvest of fishery resources in all eight regional council jurisdictions, this bill mandates the use of annual catch limits which shall not be exceeded. Under the 1996 Sustainable Fisheries Act, overfishing of overfished stocks was to end. To meet this goal, we required the implementation of rebuilding plans which would restore any overfished species to sustainable levels. It has been almost 10 years since we passed the Sustainable Fisheries Act and overfishing of overfished stocks remains a significant problem. The legislation we are introducing today requires every fishery management plan to contain an annual catch limit which is set at or below optimum yield, based on the best scientific information available.

This bill also requires that any harvests exceeding the annual catch limit be deducted from the annual catch limit for the following year.

An important recommendation from the U.S. Commission on Ocean Policy was to establish national standards for quota programs. Our legislation establishes national guidelines for the harvesting of fish for limited access privilege programs, which are also called LAPPs. These guidelines would require that any LAPP must accomplish important objectives, including: assisting in rebuilding an overfished fishery; reducing capacity in a fishery that is overcapitalized; promoting the safety of human life at sea; promoting conservation and management; and providing a system for monitoring, management, and enforcement of the program.

The regional councils, the administration, and to a lesser extent the U.S. Commission on Ocean Policy, all recommended we address the inconsistencies between the Magnuson-Stevens Act and the National Environmental Protection Act. They recommended we resolve timeline or "process" issues which have required councils to spend much of their time and funding developing litigation-proof environmental impact statements and environmental assessments under NEPA.

This bill provides a uniform process under which councils can consider the substantive requirements of NEPA while adhering to the timelines found in Magnuson-Stevens when they are developing fishery management plans, plan amendments, and regulations.

Several of the provisions in this bill strengthen the role of science in council decisionmaking, which was another strong recommendation made by the U.S. Commission on Ocean Policy. Our bill specifies that the scientific and statistical committees, called SSCs, are to provide their councils with ongoing scientific advice needed for management decisions. This may include recommendations on acceptable biological catch or optimum yield, annual catch limits, or other mortality limits. The SSCs are also expected to advise the councils on a variety of other issues, including stock status and health, bycatch, habitat status, and socioeconomic impacts.

We have enhanced the overall effectiveness of this act by improving data collection and management. Our legislation authorizes a national cooperative research and management program, which would be implemented on a regional basis and conducted through partnerships between Federal and State managers, commercial and recreational fishing industry participants, and scientists. This will improve data related to recreational fisheries by establishing a new national program for the registration of marine recreational fishermen who fish in Federal waters. Our legislation also directs the secretary, in cooperation with the councils, to create a regionally based bycatch reduction engineering program which will develop technological devices and engineering techniques for minimizing bycatch, bycatch mortality, and post-release mortality.

The Magnuson-Stevens Act has worked well. It has enabled effective conservation and management of our fishery resources and allowed for sustainable harvests. Both the U.S. Commission on Ocean Policy and the Pew Oceans Commission singled out the fisheries managed by the North Pacific Council—which does not have an overfished or endangered species of fish—as an example of proper fisheries management.

Let me say that again. They singled out the fisheries management by the North Pacific Council, which does not have an overfished or endangered species of fish, as an example of proper fisheries management.

The council consistently sets an optimum yield far below the acceptable biological catch, and the fisheries in its jurisdiction have remained sustainable and abundant. That is the North Pacific Council, Mr. President. Our goal is to build upon this success and ensure the sustainability of this resource for generations to come.

Unfortunately, management internationally and especially on the high-seas is lacking. Industrial foreign fleets continue to expand and fish in remote and deep parts of the oceans. When we first developed this legislation over 30 years ago, such practices were unimaginable. The illegal, unreported, and unregulated—we call this IUU—fishing on the high-seas now threatens the good management taking place in U.S. waters that we control.

Our bill strengthens U.S. leadership in international conservation and management. It requires the Secretary of Commerce to establish an international compliance and monitoring program and to provide Congress with reports on our progress in reducing IUU fishing. This bill also requires the Secretary to promote international cooperation and strengthen the ability of regional fishery management organizations to combat IUU and other harmful fishing practices. In addition, this legislation allows the use of measures authorized under the High Seas Driftnet Act to force compliance in cases where regional or international fishery management organizations are unable to stop IUU fishing.

I have been pleased with the bipartisan approach we have taken on this bill. My co-chairman, Senator INOUYE, and I have worked together on this reauthorization, and I look forward to working with my colleagues on the Commerce Committee to move this legislation forward.

By Mr. STEVENS (for himself and Mr. INOUYE):

S. 2013. A bill to amend the Marine Mammal Protection Act of 1972 to implement the Agreement on the Conservation and Management of the Alaska-Chukotka Polar Bear Population; to the Committee on Commerce, Science, and Transportation.

Mr. STEVENS. Mr. President, I introduce today a bill to implement the provisions of the "Agreement Between the Government of the United States of America and the Government of the Russian Federation on the Conservation and Management of the Alaska-Chukotka Polar Bear Population". This bill is co-sponsored by Senator INOUYE.

The United States-Russia Polar Bear Conservation and Management Implementation Act of 2005 will amend the Marine Mammal Protection Act adding provisions to create a binational U.S. and Russian Polar Bear Commission. This commission will be authorized to determine annual take limits and the adoption of other measures to restrict the taking of polar bears for subsistence purposes. The Commission will also identify polar bear habitats and "develop recommendations for habitat conservation measures." Additionally, it prohibits the possession, import, export, transport, sale, receipt, acquisition, or purchase of any polar bear, or any part or product thereof, that is taken in violation of the Agreement.

This bill will simultaneously support the conservation of U.S. and Russian Polar Bear populations and the historical traditions of indigenous peoples in the arctic region.

This implementing legislation for the Polar Bear Treaty is necessary to establish the needed regulatory and management entities in both the U.S. and Russia. The shared population of Polar Bears that migrate between our two nations deserve the added protections and conservation this bill will provide.

The U.S.-Russian Polar Bear Treaty was completed and signed by both countries on October 16, 2000. The Senate Foreign Relations Committee held a hearing on the treaty in June of 2003, and reported it out favorably on July 23, 2003. The full Senate agreed to the resolution of advice and consent on the treaty on July 31, 2003. This legislation is needed for the U.S. to ratify and implement the treaty. The administration is supportive of the treaty and the proposed legislation, as are Alaska Natives, the State of Alaska, and conservation groups.

Russia has indicated that once the U.S. ratifies the treaty, it will promptly do the same.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 312—EXPRESSING THE SENSE OF THE SENATE REGARDING THE NEED FOR THE UNITED STATES TO ADDRESS GLOBAL CLIMATE CHANGE THROUGH THE NEGOTIATION OF FAIR AND EFFECTIVE INTERNATIONAL COMMITMENTS

Mr. LUGAR (for himself and Mr. BIDEN) submitted the following resolution; which was referred to the Committee on Foreign Relations:

S. RES. 312

Whereas there is a scientific consensus, as established by the Intergovernmental Panel on Climate Change and confirmed by the National Academy of Sciences, that the continued buildup of anthropogenic greenhouse gases in the atmosphere threatens the stability of the global climate;

Whereas there are significant long-term risks to the economy and the environment of the United States from the temperature increases and climatic disruptions that are projected to result from increased greenhouse gas concentrations;

Whereas the potential impacts of global climate change, including long-term drought, famine, mass migration, and abrupt climatic shifts, may lead to international tensions and instability in regions affected and thereby have implications for the national security interests of the United States;

Whereas the United States, as the largest economy in the world, is also the largest greenhouse gas emitter;

Whereas the greenhouse gas emissions of the United States are currently projected to continue to rise;

Whereas the greenhouse gas emissions of developing countries are rising more rapidly than the emissions of the United States and will soon surpass the greenhouse gas emissions of the United States and other developed countries;

Whereas reducing greenhouse gas emissions to the levels necessary to avoid serious climatic disruption requires the introduction of new energy technologies and other climate friendly technologies, the use of which results in low or no emissions of greenhouse gases or in the capture and storage of greenhouse gases;

Whereas the development and sale of climate-friendly technologies in the United States and internationally presents economic opportunities for workers and businesses in the United States;

Whereas climate-friendly technologies can improve air quality by reducing harmful pollutants from stationary and mobile sources, and can enhance energy security by reducing reliance on imported oil, diversifying energy sources, and reducing the vulnerability of energy delivery infrastructure;

Whereas other industrialized countries are undertaking measures to reduce greenhouse gas emissions, which provides the industries in those countries with a competitive advantage in the growing global market for climate-friendly technologies;

Whereas efforts to limit emissions growth in developing countries in a manner that is consistent with the development needs of those countries could establish significant markets for climate-friendly technologies and contribute to international efforts to address climate change;

Whereas the United States is a party to the United Nations Framework Convention on Climate Change, done at New York May 9, 1992, and entered into force in 1994 (hereinafter referred to as the "Convention");

Whereas the Convention sets a long-term objective of stabilizing greenhouse gas concentrations in the atmosphere at a level that would prevent dangerous anthropogenic interference with the climate system;

Whereas the Convention establishes that parties bear common but differentiated responsibilities for efforts to achieve the objective of stabilizing greenhouse gas concentrations;

Whereas an effective global effort to address climate change must provide for commitments and action by all countries that are major emitters of greenhouse gases, developed and developing alike, and the widely varying circumstances among the developed and developing countries may require that such commitments and action vary; and

Whereas the United States has the capability to lead the effort against global climate change: Now, therefore, be it

Resolved, That it is the sense of the Senate that the United States should act to reduce the health, environmental, economic, and national security risks posed by global climate change and foster sustained economic growth through a new generation of technologies, by—

(1) participating in negotiations under the United Nations Framework Convention on Climate Change, done at New York May 9, 1992, and entered into force in 1994, and leading efforts in other international fora, with the objective of securing United States participation in agreements that—

(A) advance and protect the economic and national security interests of the United States;

(B) establish mitigation commitments by all countries that are major emitters of greenhouse gases, consistent with the principle of common but differentiated responsibilities;

(C) establish flexible international mechanisms to minimize the cost of efforts by participating countries; and

(D) achieve a significant long-term reduction in global greenhouse gas emissions; and

(2) establishing a bipartisan Senate observer group, the members of which shall be designated by the chairman and ranking

member of the Committee on Foreign Relations of the Senate, to—

(A) monitor any international negotiations on climate change; and

(B) ensure that the advice and consent function of the Senate is exercised in a manner to facilitate timely consideration of any applicable treaty submitted to the Senate.

SENATE RESOLUTION 313—EXPRESSING THE SENSE OF THE SENATE THAT A NATIONAL METHAMPHETAMINE PREVENTION WEEK SHOULD BE ESTABLISHED TO INCREASE AWARENESS OF METHAMPHETAMINE AND TO EDUCATE THE PUBLIC ON WAYS TO HELP PREVENT THE USE OF THAT DAMAGING NARCOTIC

Ms. CANTWELL submitted the following resolution; which was referred to the Committee on the Judiciary:

S. RES. 313

Whereas methamphetamine is a highly addictive, man-made drug that can be injected, snorted, smoked, or ingested orally, the effects of which include feelings of euphoria that last for up to 24 hours and psychotic behavior such as auditory hallucinations, mood disturbances, delusions, and paranoia, potentially causing the user to experience homicidal or suicidal thoughts as well as violent behavior and brain damage;

Whereas the number of admissions to treatment in which methamphetamine was the primary substance of abuse increased exponentially from 20,776 in 1993 to 116,604 in 2003;

Whereas methamphetamine is easily produced in clandestine laboratories, known as "meth labs", using a variety of volatile and toxic ingredients available in stores, and presents a danger to the individual preparing the methamphetamine, the community surrounding the laboratory, and the law enforcement personnel who discover the laboratory;

Whereas the Drug Enforcement Administration reports that domestic meth lab seizures have increased from 7,438 in 1999 to 17,170 in 2004;

Whereas studies have found that methamphetamine use is strongly linked to identity theft, domestic violence, overall crime rates, child abuse, and child neglect;

Whereas the National Association of Counties has conducted surveys with law enforcement and child welfare officials in more than 500 counties, and found that 87 percent of all law enforcement agencies surveyed reported increases in methamphetamine-related arrests in recent years, and 40 percent of all the child welfare officials in the survey reported increased out-of-home placements of children due to methamphetamine use;

Whereas methamphetamine use and production is prevalent around the world;

Whereas approximately 65 percent of the methamphetamine supply in the United States is trafficked in the form of a finished product from other countries;

Whereas the United Nations Office on Drugs and Crime reports that more than 30,000,000 people around the world use amphetamine-type stimulants, a number that eclipses the combined global use of cocaine and heroin;

Whereas methamphetamine and narcotics task forces, judges, prosecutors, defense attorneys, substance abuse treatment and rehabilitation professionals, law enforcement officials, researchers, students and educators, community leaders, parents, and others dedicated to fighting methamphetamine have a profound influence within their communities; and

Whereas the establishment of a National Methamphetamine Prevention Week would increase awareness of methamphetamine and educate the public on effective ways to help prevent methamphetamine use at the international, Federal, State, and local levels: Now, therefore, be it

Resolved, That it is the sense of the Senate that—

(1) a National Methamphetamine Prevention Week should be established to increase awareness of methamphetamine and educate the public on effective ways to help prevent methamphetamine use at the international, Federal, State, and local levels; and

(2) the people of the United States and interested groups should be encouraged to observe National Methamphetamine Prevention Week with appropriate ceremonies and activities.

SENATE RESOLUTION 314—DESIGNATING THURSDAY, NOVEMBER 17, 2005, AS "FEED AMERICA THURSDAY"

Mr. HATCH (for himself and Mr. BENNETT) submitted the following resolution; which was considered and agreed to:

S. RES. 314

Whereas Thanksgiving Day celebrates the spirit of selfless giving and an appreciation for family and friends;

Whereas the spirit of Thanksgiving Day is a virtue upon which our Nation was founded;

Whereas 33,000,000 Americans, including 13,000,000 children, continue to live in households that do not have an adequate supply of food;

Whereas almost 3,000,000 of those children experience hunger; and

Whereas selfless sacrifice breeds a genuine spirit of Thanksgiving, both affirming and restoring fundamental principles in our society: Now, therefore, be it

Resolved, That the Senate—

(1) designates Thursday, November 17, 2005, as "Feed America Thursday"; and

(2) calls upon the people of the United States to sacrifice 2 meals on Thursday, November 17, 2005, and to donate the money that they would have spent on food to a religious or charitable organization of their choice for the purpose of feeding the hungry.

SENATE RESOLUTION 315—TO COMMEMORATE THE BICENTENNIAL ANNIVERSARY OF THE ARRIVAL OF LEWIS AND CLARK AT THE PACIFIC OCEAN

Ms. CANTWELL (for herself, Mr. WYDEN, and Mrs. MURRAY) submitted the following resolution; which was considered and agreed to:

S. RES. 315

Whereas, on January 18, 1803, President Thomas Jefferson began an extraordinary journey by sending a secret message to Congress requesting approval and funding to establish the "Corps of Volunteers for Northwest Discovery" to explore the most direct and practical water route across the continent of the United States all the way to the Pacific Ocean;

Whereas, on May 14, 1804, the journey up the Missouri River and across the vast and newly acquired Louisiana Territory began at Camp Dubois, Illinois, led by Captain Meriwether Lewis and Second Lieutenant William Clark;

Whereas after a long year and a half and 4,133 arduous miles, the expedition endured a dangerous storm of wind, rain, and waves for 6 days at Clark's Dismal Nitch;

Whereas, on November 13, 1805, the Corps of Discovery moved further west to Station Camp and beheld their first comprehensive view of the Pacific Ocean, and thereby began the realization of the vision of President Jefferson of a country "from sea to shining sea";

Whereas Station Camp also marks the occurrence of a historical democratic vote to determine where to stay for winter that included all members of the expedition, including Sacagawea, an Indian woman, and York, an African American slave;

Whereas, on November 19, 1805, Clark and 11 of his men set out on an ocean excursion, hiking 25 miles to Cape Disappointment to get a complete view of the Pacific Ocean and reach the furthest western point of the expedition;

Whereas the expedition built their winter camp on the south side of the Columbia River at Fort Clatsop, Oregon, named in honor of the friendly local Clatsop Indians, and the 33 member party spent 106 days among lush old-growth forest, wetlands, and wildlife preparing for their long journey back to St. Louis, Missouri;

Whereas Lewis and Clark's Corps of Discovery produced detailed journals with maps, charts, samples, and descriptions of the previously undocumented western geography, climate, plants, animals, and native cultures from which the Nation continues to benefit today;

Whereas the Lewis and Clark Expedition marks a significant benchmark in American history and a crucial step in securing the claim and the eventual creation of all the States in the Pacific Northwest;

Whereas the exploration of the western frontier of our fledgling Nation was the great odyssey of America, symbolic of the core values of teamwork, courage, perseverance, science, and opportunity held by the United States;

Whereas, on October 30, 2004, President George W. Bush signed into law legislation creating the Lewis and Clark National Historical Park which preserves these 3 Washington State sites integral to the dramatic arrival of the expedition at the Pacific Ocean, and incorporates Fort Clatsop of Oregon and important State parks for the benefit and education of generations to come; and

Whereas, during November 2005, Washington and Oregon are hosting, "Destination: The Pacific", a unique commemoration of the 200 year anniversary of the arrival of the Corps of Discovery in the Pacific Northwest: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the bicentennial anniversary of the arrival of Lewis and Clark at the Pacific Ocean; and

(2) recognizes that by exploring the unknown frontier, Lewis and Clark expanded the boundaries of our great Nation and pushed the limits of what we are capable of as citizens.

SENATE RESOLUTION 316—EXPRESSING THE SENSE OF THE SENATE THAT THE UNITED NATIONS AND OTHER INTERNATIONAL ORGANIZATIONS SHOULD NOT BE ALLOWED TO EXERCISE CONTROL OVER THE INTERNET

Mr. COLEMAN (for himself, Mr. WARNER, Mr. PRYOR, Mr. SMITH, and Mr. DEMINT) submitted the following resolution; which was referred to the Committee on the Foreign Relations:

S. RES. 316

Whereas market-based policies and private sector leadership have given the Internet the flexibility to evolve;

Whereas given the importance of the Internet to the global economy, it is essential that the underlying domain name system and technical infrastructure of the Internet remain stable and secure;

Whereas the Internet was created in the United States and has flourished under United States supervision and oversight, and the Federal Government has followed a path of transferring Internet control from the defense sector to the civilian sector, including the Internet Corporation for Assigned Names and Numbers (ICANN) with the goal of full privatization;

Whereas the developing world deserves the access to knowledge, services, commerce, and communication, the accompanying benefits to economic development, education, and health care, and the informed discussion that is the bedrock of democratic self-government that the Internet provides;

Whereas the explosive and hugely beneficial growth of the Internet did not result from increased government involvement but from the opening of the Internet to commerce and private sector innovation;

Whereas on June 30, 2005, President George W. Bush announced that the United States intends to maintain its historic role over the master "root zone" file of the Internet, which lists all authorized top-level Internet domains;

Whereas the recently articulated principles of the United States on the domain name and addressing system of the Internet (DNS) are that—

(1) the Federal Government will—

(A) preserve the security and stability of the DNS;

(B) take no action with the potential to adversely affect the effective and efficient operation of the DNS; and

(C) maintain the historic role of the United States regarding modifications to the root zone file;

(2) governments have a legitimate interest in the management of country code top level domains (ccTLD);

(3) the United States is committed to working with the international community to address the concerns of that community in accordance with the stability and security of the DNS;

(4) ICANN is the appropriate technical manager of the Internet, and the United States will continue to provide oversight so that ICANN maintains focus and meets its core technical mission; and

(5) dialogue relating to Internet governance should continue in multiple relevant fora, and the United States encourages an ongoing dialogue with all stakeholders and will continue to support market-based approaches and private sector leadership;

Whereas the final report issued by the Working Group on Internet Governance (WGIG), established by the United Nations Secretary General in accordance with a mandate given during the first World Summit on the Information Society, and comprised of 40 members from governments, private sector, and civil society, issued 4 possible models, 1 of which envisages a Global Internet Council that would assume international Internet governance;

Whereas that report contains recommendations for relegating the private sector and nongovernmental organizations to an advisory capacity;

Whereas the European Union has also proposed transferring control of the Internet, including the global allocation of Internet Protocol number blocks, procedures for changing the root zone file, and rules applicable to DNS, to a "new model of international cooperation" which could confer significant leverage to the Governments of Iran, Cuba, and China, and could impose an undesirable layer of politicized bureaucracy on the operations of the Internet that could result in an inadequate response to the rapid pace of technological change;

Whereas some nations that advocate radical change in the structure of Internet governance censor the information available to their citizens through the Internet and use the Internet as a tool of surveillance to curtail legitimate political discussion and dissent, and other nations operate telecommunications systems as state-controlled monopolies or highly-regulated and highly-taxed entities;

Whereas some nations in support of transferring Internet governance to an entity affiliated with the United Nations, or another international entity, might seek to have such an entity endorse national policies that block access to information, stifle political dissent, and maintain outmoded communications structures;

Whereas the structure and control of Internet governance has profound implications for homeland security, competition and trade, democratization, free expression, access to information, privacy, and the protection of intellectual property, and the threat of some nations to take unilateral actions that would fracture the root zone file would result in a less functional Internet with diminished benefits for all people;

Whereas the Declaration of Principles of the First World Summit on the Information Society, held in Geneva in 2003, delegates from 175 nations declared the "common desire and commitment to build a people-centered, inclusive and development oriented Information Society, where everyone can create, access, utilize and share information and knowledge";

Whereas delegates at the First World Summit also reaffirmed, "as an essential foundation of the Information Society, and as outlined in Article 19 of the Universal Declaration of Human Rights, that everyone has the right to freedom of opinion and expression" and that "this right includes freedom to hold opinions without interference and to seek, receive and import information and ideas through any media and regardless of frontiers";

Whereas the United Nations Secretary General has stated the objective of the 2005 World Summit on the Information Society in Tunis is to ensure "benefits that new information and communication technologies, including the Internet, can bring to economic and social development" and that "to defend the Internet is to defend freedom itself"; and

Whereas discussions at the November 2005 World Summit on the Information Society may include discussion of transferring control of the Internet to a new intergovernmental entity, and could be the beginning of a prolonged international debate regarding the future of Internet governance: Now, therefore, be it

Resolved, That the Senate—

(1) calls on the President to continue to oppose any effort to transfer control of the Internet to the United Nations or any other international entity;

(2) applauds the President for—

(A) clearly and forcefully asserting that the United States has no present intention of relinquishing the historic leadership role the United States has played in Internet governance; and

(B) articulating a vision of the future of the Internet that places privatization over politicization with respect to the Internet; and

(3) calls on the President to—

(A) recognize the need for, and pursue a continuing and constructive dialogue with the international community on, the future of Internet governance; and

(B) advance the values of an open Internet in the broader trade and diplomatic conversations of the United States.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2525. Mr. WARNER (for Mr. SMITH) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

SA 2526. Mr. WARNER (for Mrs. HUTCHISON (for herself and Mr. NELSON of Florida)) proposed an amendment to the bill S. 1042, supra.

SA 2527. Mr. WARNER (for Mr. ENSIGN) proposed an amendment to the bill S. 1042, supra.

SA 2528. Mr. WARNER (for Ms. SNOWE) proposed an amendment to the bill S. 1042, supra.

SA 2529. Mr. WARNER (for Ms. SNOWE) proposed an amendment to the bill S. 1042, supra.

SA 2530. Mr. WARNER (for Ms. SNOWE) proposed an amendment to the bill S. 1042, supra.

SA 2531. Mr. WARNER (for Ms. SNOWE (for herself and Mr. KERRY)) proposed an amendment to the bill S. 1042, supra.

SA 2532. Mr. WARNER (for Mr. KERRY) proposed an amendment to the bill S. 1042, supra.

SA 2533. Mr. WARNER (for Mr. LAUTENBERG) proposed an amendment to the bill S. 1042, supra.

SA 2534. Mr. WARNER (for Mr. KENNEDY (for himself and Mr. CHAMBLISS)) proposed an amendment to the bill S. 1042, supra.

SA 2535. Mr. WARNER (for Mr. INHOFE) proposed an amendment to the bill S. 1042, supra.

SA 2536. Mr. WARNER (for himself and Mr. LEVIN) proposed an amendment to the bill S. 1042, supra.

SA 2537. Mr. WARNER proposed an amendment to the bill S. 1042, supra.

SA 2538. Mr. WARNER proposed an amendment to the bill S. 1042, supra.

SA 2539. Mr. WARNER (for Mr. CHAMBLISS) proposed an amendment to the bill S. 1042, supra.

SA 2540. Mr. WARNER (for Mr. ISAKSON) proposed an amendment to the bill S. 1042, supra.

SA 2541. Mr. WARNER proposed an amendment to the bill S. 1042, supra.

SA 2542. Mr. WARNER (for Mr. DeWine) proposed an amendment to the bill S. 1042, supra.

SA 2543. Mr. WARNER (for Mr. Allen (for himself, Mr. DeWine, and Mr. Warner)) proposed an amendment to the bill S. 1042, supra.

SA 2544. Mr. WARNER proposed an amendment to the bill S. 1042, supra.

SA 2545. Mr. WARNER (for himself, Mr. Levin, and Mr. Bingaman) proposed an amendment to the bill S. 1042, supra.

SA 2546. Mr. WARNER (for Mr. Dayton (for himself, Mrs. Murray, and Ms. Collins)) proposed an amendment to the bill S. 1042, supra.

SA 2547. Mr. WARNER (for Mr. Byrd) proposed an amendment to the bill S. 1042, supra.

SA 2548. Mr. WARNER (for Mr. Reid) proposed an amendment to the bill S. 1042, supra.

SA 2549. Mr. WARNER proposed an amendment to the bill S. 1042, supra.

SA 2550. Mr. WARNER (for Mr. Lott (for himself and Mr. Cornyn)) proposed an amendment to the bill S. 1042, supra.

SA 2551. Mr. WARNER (for Mr. Levin) proposed an amendment to the bill S. 1042, supra.

SA 2552. Mr. WARNER (for Mr. Kennedy (for himself and Mrs. Feinstein)) proposed an amendment to the bill S. 1042 supra.

SA 2553. Mr. WARNER (for Ms. Snowe (for herself and Ms. Collins)) proposed an amendment to the bill S. 1042, supra.

SA 2554. Mr. WARNER (for Ms. Snowe) proposed an amendment to the bill S. 1042, supra.

SA 2555. Mr. WARNER (for Mr. Hagel) proposed an amendment to the bill S. 1042, supra.

SA 2556. Mr. WARNER (for Mr. Nelson of Florida) proposed an amendment to the bill S. 1042, supra.

SA 2557. Mr. WARNER (for Mr. Graham) proposed an amendment to the bill S. 1042, supra.

SA 2558. Mr. WARNER (for Mr. Salazar) proposed an amendment to the bill S. 1042, supra.

SA 2559. Mr. WARNER proposed an amendment to the bill S. 1042, supra.

SA 2560. Mr. WARNER (for Mr. Feingold) proposed an amendment to the bill S. 1042, supra.

SA 2561. Mr. WARNER (for Mr. Byrd) proposed an amendment to the bill S. 1042, supra.

SA 2562. Mr. WARNER (for Mr. Craig (for himself, Mr. Roberts, Mr. Brownback, Ms. Mikulski, Mr. Warner, and Mr. Salazar)) proposed an amendment to the bill S. 1042, supra.

SA 2563. Mr. WARNER (for Mr. Feingold) proposed an amendment to the bill S. 1042, supra.

SA 2564. Mr. WARNER (for Mr. Martinez (for himself and Mr. Warner)) proposed an amendment to the bill S. 1042, supra.

SA 2565. Mr. WARNER (for Mr. McCain) proposed an amendment to the bill S. 1042, supra.

SA 2566. Mr. WARNER (for Mr. McConnell) proposed an amendment to the bill S. 1042, supra.

SA 2567. Mr. WARNER (for Mr. McConnell) proposed an amendment to the bill S. 1042, supra.

SA 2568. Mr. WARNER (for himself and Mr. Levin) proposed an amendment to the bill S. 1042, supra.

SA 2569. Mr. WARNER (for Mr. Salazar) proposed an amendment to the bill S. 1042, supra.

SA 2570. Mr. WARNER proposed an amendment to the bill S. 1042, supra.

SA 2571. Mr. WARNER (for Ms. Collins (for herself and Ms. Snowe)) proposed an amendment to the bill S. 1042, supra.

SA 2572. Mr. WARNER (for Mr. Durbin (for himself, Mr. Vitter, Mr. Wyden, Mr. Dayton, Ms. Landrieu, Mr. Chambliss, Mr. Isakson, and Mr. Schumer)) proposed an amendment to the bill S. 1042, supra.

SA 2573. Mr. WARNER (for Mr. DeWine) proposed an amendment to the bill S. 1042, supra.

SA 2574. Mr. WARNER (for Ms. Snowe) proposed an amendment to the bill S. 1042, supra.

SA 2575. Mr. WARNER (for himself and Mr. McCain) proposed an amendment to the bill S. 1042, supra.

SA 2576. Mr. WARNER (for Mr. Byrd) proposed an amendment to the bill S. 1042, supra.

SA 2577. Mr. WARNER proposed an amendment to the bill S. 1042, supra.

SA 2578. Mr. WARNER proposed an amendment to the bill S. 1042, supra.

SA 2579. Mr. WARNER (for Mr. Bayh) proposed an amendment to the bill S. 1042, supra.

SA 2580. Mr. SANTORUM (for Mr. Frist) proposed an amendment to the bill H.R. 1499, To amend the Internal Revenue Code of 1986 to allow members of the ArmedForces serving in a combat zone to make contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income.

TEXT OF AMENDMENTS

SA 2525. Mr. WARNER (for Mr. Smith) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 213, between lines 2 and 3, insert the following:

SEC. 807. TEMPORARY INAPPLICABILITY OF BERRY AMENDMENT TO PROCUREMENTS OF SPECIALTY METALS USED TO PRODUCE FORCE PROTECTION EQUIPMENT.

(a) In General.—Section 2533a(a) of title 10, United States Code, shall not apply to the procurement, during the 2-year period beginning on the date of the enactment of this Act, of specialty metals if such specialty metals are used to produce force protection equipment needed to prevent combat fatalities in Iraq or Afghanistan.

(b) Treatment of Procurements Within Period.—For the purposes of subsection (a), a procurement shall be treated as being made during the 2-year period described in that subsection to the extent that funds are obligated by the Department of Defense for that procurement during that period.

SA 2526. Mr. WARNER (for Mrs. Hutchison (for herself and Mr. Nelson of Florida)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . SENSE OF THE SENATE REGARDING MANNED SPACE FLIGHT.

(a) Findings.—The Congress finds that—

(1) human spaceflight preeminence allows the United States to project leadership around the world and forms an important component of United States national security;

(2) continued development of human spaceflight in low-Earth orbit, on the Moon, and beyond adds to the overall national strategic posture;

(3) human spaceflight enables continued stewardship of the region between the earth and the Moon—an area that is critical and of growing national and international security relevance;

(4) human spaceflight provides unprecedented opportunities for the United States to lead peaceful and productive international relationships with the world community in support of United States security and geopolitical objectives;

(5) a growing number of nations are pursuing human spaceflight and space-related capabilities, including China and India;

(6) past investments in human spaceflight capabilities represent a national resource that can be built upon and leveraged for a broad range of purposes, including national and economic security; and

(7) the industrial base and capabilities represented by the Space Transportation System provide a critical dissimilar launch capability for the nation.

(b) Sense of the Senate.—It is the sense of the Senate that it is in the national security interest of the United States to maintain preeminence in human spaceflight.

SA 2527. Mr. WARNER (for Mr. Ensign) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. ANNUAL REPORT ON COSTS TO CARRY OUT UNITED NATIONS RESOLUTIONS.

(a) Requirement for Annual Report.—The Secretary of Defense and the Secretary of State shall submit to the congressional defense committees, the Committee on Foreign Relations of the Senate, and the Committee on International Relations of the House of Representatives an annual report that sets forth all direct and indirect costs (including incremental costs) incurred by the Department of Defense during the preceding year in implementing or supporting any resolution adopted by the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, international peace enforcement operations, monitoring missions, observer missions, or humanitarian missions undertaken by the Department of Defense. Each such report shall include an aggregate of all such

Department of Defense costs by operation or mission, the percentage of the United States contribution by operation or mission, and the total cost of each operation or mission.

(b) COSTS FOR ASSISTING FOREIGN TROOPS.—The Secretary of Defense and the Secretary of State shall detail in each annual report required by this section all direct and indirect costs (including incremental costs) incurred in training, equipping, and otherwise assisting, preparing, resourcing, and transporting foreign troops for implementing or supporting any resolution adopted by the United Nations Security Council, including any such resolution calling for international sanctions, international peacekeeping operations, international peace enforcement operations, monitoring missions, observer missions, or humanitarian missions.

(c) CREDIT AND COMPENSATION.—The Secretary of Defense and the Secretary of State shall detail in each annual report required by this section all efforts made to seek credit against past United Nations expenditures and all efforts made to seek compensation from the United Nations for costs incurred by the Department of Defense in implementing and supporting United Nations activities.

(d) FORM OF REPORT.—Each annual report required by this section shall be submitted in unclassified form, but may include a classified annex.

SA 2528. Mr. WARNER (for Ms. SNOWE) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 237, after line 17, insert the following:

SEC. 846. EXCLUSION OF CERTAIN SECURITY EXPENSES FROM CONSIDERATION FOR PURPOSE OF SMALL BUSINESS SIZE STANDARDS.

Section 3(a) of the Small Business Act (15 U.S.C. 632(a)), is amended by adding at the end the following:

"(4) EXCLUSION OF CERTAIN SECURITY EXPENSES FROM CONSIDERATION FOR PURPOSE OF SMALL BUSINESS SIZE STANDARDS.—

"(A) DETERMINATION REQUIRED.—Not later than 30 days after the date of enactment of this paragraph, the Administrator shall review the application of size standards established pursuant to paragraph (2) to small business concerns that are performing contracts in qualified areas and determine whether it would be fair and appropriate to exclude from consideration in the average annual gross receipts of such small business concerns any payments made to such small business concerns by Federal agencies to reimburse such small business concerns for the cost of subcontracts entered for the sole purpose of providing security services in a qualified area.

"(B) ACTION REQUIRED.—Not later than 60 days after the date of enactment of this paragraph, the Administrator shall either—

"(i) initiate an adjustment to the size standards, as described in subparagraph (A), if the Administrator determines that such an adjustment would be fair and appropriate; or

"(ii) provide a report to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives explaining in detail the basis for the determination by the Administrator that such an adjustment would not be fair and appropriate.

"(C) QUALIFIED AREAS.—In this paragraph, the term 'qualified area' means—

"(i) Iraq,

"(ii) Afghanistan, and

"(iii) any foreign country which included a combat zone, as that term is defined in section 112(c)(2) of the Internal Revenue Code of 1986, at the time of performance of the relevant Federal contract or subcontract.".

SA 2529. Mr. WARNER (for Ms. SNOWE) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 237, after line 17, insert the following:

SEC. 846. SMALL BUSINESS CONTRACTING IN OVERSEAS PROCUREMENTS.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

"(3) SMALL BUSINESS CONTRACTING IN OVERSEAS PROCUREMENTS.—

"(A) STATEMENT OF CONGRESSIONAL POLICY.—It is the policy of the Congress that Federal agencies shall endeavor to meet the contracting goals established under this subsection, regardless of the geographic area in which the contracts will be performed.

"(B) AUTHORIZATION TO USE CONTRACTING MECHANISMS.—Federal agencies are authorized to use any of the contracting mechanisms authorized in this Act for the purpose of complying with the Congressional policy set forth in subparagraph (A).

"(C) REPORT TO CONGRESSIONAL COMMITTEES.—Not later than 1 year after the date of enactment of this paragraph, the Administrator and the Chief Counsel for Advocacy shall submit to the Committee on Small Business and Entrepreneurship of the Senate and Committee on Small Business of the House of Representatives a report on the activities undertaken by Federal agencies, offices, and departments to carry out this paragraph.".

SA 2530. Mr. WARNER (for Ms. SNOWE) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 237, after line 17, insert the following:

SEC. 846. FAIR ACCESS TO MULTIPLE-AWARD CONTRACTS.

Section 15(g) of the Small Business Act (15 U.S.C. 644(g)) is amended by adding at the end the following:

"(3) FAIR ACCESS TO MULTIPLE-AWARD CONTRACTS.—

"(A) STATEMENT OF CONGRESSIONAL POLICY.—It is the policy of the Congress that Federal agencies shall endeavor to meet the contracting goals established under this subsection with regard to orders under multiple-award contracts, including Federal Supply Schedule contracts and multi-agency contracts.

"(B) AUTHORIZATION FOR LIMITED COMPETITION.—The head of a contracting agency may include in any contract entered under section 2304a(d)(1)(B) or 2304b(e) of title 10, United States Code, a clause setting aside a specific share of awards under such contract pursuant to a competition that is limited to small business concerns, if the head of the contracting agency determines that such limitation is necessary to comply with the congressional policy stated in subparagraph (A).

"(C) REPORT REQUIREMENT.—

"(i) IN GENERAL.—Not later than 180 days after the date of enactment of this paragraph, the Administrator shall submit a report on the level of participation of small business concerns in multiple-award contracts, including Federal Supply Schedule contracts, to the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Small Business of the House of Representatives.

"(ii) CONTENTS.—The report required by clause (i) shall include, for the most recent 2-year period for which data are available—

"(I) the total number of multiple-award contracts;

"(II) the total number of small business concerns that received multiple-award contracts;

"(III) the total number of orders under multiple-award contracts;

"(IV) the total value of orders under multiple-award contracts;

"(V) the number of orders received by small business concerns under multiple-award contracts;

"(VI) the value of orders received by small business concerns under multiple-award contracts;

"(VII) the number of small business concerns that received orders under multiple-award contracts; and

"(VIII) such other information as may be relevant.".

SA 2531. Mr. WARNER (for Ms. SNOWE (for herself and Mr. KERRY)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes: as follows:

On page 218, strike line 1 and all that follows through page 220, line 5, and insert the following:

SEC. 814. RESEARCH AND DEVELOPMENT EFFORTS FOR PURPOSES OF SMALL BUSINESS RESEARCH.

(a) IN GENERAL.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended by adding at the end the following:

"(x) RESEARCH AND DEVELOPMENT FOCUS.—

"(1) REVISION AND UPDATE OF CRITERIA AND PROCEDURES OF IDENTIFICATION.—In carrying out subsection (g), the Secretary of Defense shall, not less often than once every 4 years, revise and update the criteria and procedures utilized to identify areas of the research and development efforts of the Department of Defense which are suitable for the provision of funds under the Small Business Innovation Research Program and the Small Business Technology Transfer Program.

"(2) UTILIZATION OF PLANS.—The criteria and procedures described in paragraph (1) shall be developed through the use of the most current versions of the following plans:

"(A) The joint warfighting science and technology plan required under section 270 of the National Defense Authorization Act for Fiscal Year 1997 (10 U.S.C. 2501 note).

"(B) The Defense Technology Area Plan of the Department of Defense.

"(C) The Basic Research Plan of the Department of Defense.

"(3) INPUT IN IDENTIFICATION OF AREAS OF EFFORT.—The criteria and procedures described in paragraph (1) shall include input in the identification of areas of research and development efforts described in that paragraph from Department of Defense program managers (PMs) and program executive officers (PEOs).

"(y) COMMERCIALIZATION PILOT PROGRAM.—

"(1) IN GENERAL.—The Secretary of Defense and the Secretary of each military department is authorized to create and administer a 'Commercialization Pilot Program' to accelerate the transition of technologies, products, and services developed under the Small Business Innovation Research Program to Phase III, including the acquisition process.

"(2) IDENTIFICATION OF RESEARCH PROGRAMS FOR ACCELERATED TRANSITION TO ACQUISITION PROCESS.—In carrying out the Commercialization Pilot Program, the Secretary of Defense and the Secretary of each military department shall identify research programs of the Small Business Innovation Research Program that have the potential for rapid transitioning to Phase III and into the acquisition process.

"(3) LIMITATION.—No research program may be identified under paragraph (2), unless the Secretary of the military department concerned certifies in writing that the successful transition of the program to Phase III and into the acquisition process is expected to meet high priority military requirements of such military department.

"(4) FUNDING.—For payment of expenses incurred to administer the Commercialization Pilot Program under this subsection, the Secretary of Defense and each Secretary of a military department is authorized to use not more than an amount equal to 1 percent of the funds available to the Department of Defense or the military department pursuant to the Small Business Innovation Research Program. Such funds—

"(A) shall not be subject to the limitations on the use of funds in subsection (f)(2); and

"(B) shall not be used to make Phase III awards.

"(5) EVALUATIVE REPORT.—At the end of each fiscal year, the Secretary of Defense and each Secretary of a military department shall submit to the Committee on Armed Services and the Committee on Small Business and Entrepreneurship of the Senate and the Committee on Armed Services and the Committee on Small Business of the House of Representatives an evaluative report regarding activities under the Commercialization Pilot Program. The report shall include—

"(A) an accounting of the funds used in the Commercialization Pilot Program;

"(B) a detailed description of the Commercialization Pilot Program, including incentives and activities undertaken by acquisition program managers, program executive officers, and by prime contractors; and

"(C) a detailed compilation of results achieved by the Commercialization Pilot Program, including the number of small business concerns assisted and a number of inventions commercialized.

"(6) SUNSET.—The pilot program under this subsection shall terminate at the end of fiscal year 2009.".

(b) IMPLEMENTATION OF EXECUTIVE ORDER 13329.—Section 9 of the Small Business Act (15 U.S.C. 638) is amended—

(1) in subsection (b)—

(A) in paragraph (6), by striking "and" at the end;

(B) in paragraph (7), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(8) to provide for and fully implement the tenets of Executive Order 13329 (Encouraging Innovation in Manufacturing).";

(2) in subsection (g)—

(A) in paragraph (9), by striking "and" at the end;

(B) in paragraph (10), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(11) provide for and fully implement the tenets of Executive Order 13329 (Encouraging Innovation in Manufacturing)."; and

(3) in subsection (o)—

(A) in paragraph (14), by striking "and" at the end;

(B) in paragraph (15), by striking the period at the end and inserting "; and"; and

(C) by adding at the end the following:

"(16) provide for and fully implement the tenets of Executive Order 13329 (Encouraging Innovation in Manufacturing).".

(c) TESTING AND EVALUATION AUTHORITY.—Section 9(e) of the Small Business Act (15 U.S.C. 638(e)) is amended—

(1) in paragraph (7), by striking "and" at the end;

(2) in paragraph (8), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(9) the term 'commercial applications' shall not be construed to exclude testing and evaluation of products, services, or technologies for use in technical or weapons systems, and further, awards for testing and evaluation of products, services, or technologies for use in technical or weapons systems may be made in either the second or the third phase of the Small Business Innovation Research Program and of the Small Business Technology Transfer Program, as defined in this subsection.".

SA 2532. Mr. WARNER (for Mr. KERRY) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 237, after line 17, insert the following:

SEC. 846. DISASTER RELIEF FOR SMALL BUSINESS CONCERNS DAMAGED BY DROUGHT.

(a) DROUGHT DISASTER AUTHORITY.—

(1) DEFINITION OF DISASTER.—Section 3(k) of the Small Business Act (15 U.S.C. 632(k)) is amended—

(A) by inserting "(1)" after "(k)"; and

(B) by adding at the end the following:

"(2) For purposes of section 7(b)(2), the term 'disaster' includes—

"(A) drought; and

"(B) below average water levels in the Great Lakes, or on any body of water in the United States that supports commerce by small business concerns.".

(2) DROUGHT DISASTER RELIEF AUTHORITY.—Section 7(b)(2) of the Small Business Act (15 U.S.C. 636(b)(2)) is amended—

(A) by inserting "(including drought), with respect to both farm-related and nonfarm-related small business concerns," before "if the Administration"; and

(B) in subparagraph (B), by striking "the Consolidated Farmers Home Administration Act of 1961 (7 U.S.C. 1961)" and inserting the following: "section 321 of the Consolidated Farm and Rural Development Act (7 U.S.C. 1961), in which case, assistance under this paragraph may be provided to farm-related and nonfarm-related small business concerns, subject to the other applicable requirements of this paragraph".

(b) LIMITATION ON LOANS.—From funds otherwise appropriated for loans under section 7(b) of the Small Business Act (15 U.S.C. 636(b)), not more than $9,000,000 may be used during each of fiscal years 2005 through 2008, to provide drought disaster loans to nonfarm-related small business concerns in accordance with this section and the amendments made by this section.

(c) PROMPT RESPONSE TO DISASTER REQUESTS.—Section 7(b)(2)(D) of the Small Business Act (15 U.S.C. 636(b)(2)(D)) is amended by striking "Upon receipt of such certification, the Administration may" and inserting "Not later than 30 days after the date of receipt of such certification by a Governor of a State, the Administration shall respond in writing to that Governor on its determination and the reasons therefore, and may".

(d) RULEMAKING.—Not later than 45 days after the date of enactment of this Act, the Administrator of the Small Business Administration shall promulgate final rules to carry out this section and the amendments made by this section.

SA 2533. Mr. WARNER (for Mr. LAUTENBERG) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place in title VIII, insert the following:

SEC. ___. ENSURING TRANSPARENCY IN FEDERAL CONTRACTING.

(a) PUBLICATION OF INFORMATION ON FEDERAL CONTRACTOR PENALTIES AND VIOLATIONS.—(1).—The Secretary of Defense shall maintain a publicly-available website that provides information on instances in which major contractors have been fined, paid penalties or restitution, settled, plead guilty to, or had judgments entered against them in connection with allegations of improper conduct. The website shall be updated not less than once a year.

(2) For the purposes of this subsection, a major contractor is a contractor that receives at least $100,000,000 in Federal contracts in the most recent fiscal year for which data are available.

(b) REPORT ON FEDERAL SOLE SOURCE CONTRACTS RELATED TO IRAQ RECONSTRUCTION.—

(1) REPORT REQUIRED.—Not later than 120 days after the date of the enactment of this Act, the Administrator for Federal Procurement Policy shall submit to Congress a report on all sole source contracts in excess of $2,000,000 entered into by executive agencies

in connection with Iraq reconstruction from January 1, 2003, through the date of the enactment of this Act.

(2) CONTENT.—The report submitted under paragraph (1) shall include the following information with respect to each such contract:

(A) The date the contract was awarded.

(B) The contract number.

(C) The name of the contractor.

(D) The amount awarded.

(E) A brief description of the work to be performed under the contract.

(3) EXECUTIVE AGENCY DEFINED.—In this subsection, the term "executive agency" has the meaning given such term in section 4 of the Office of Federal Procurement Policy Act (41 U.S.C. 403).

SA 2534. Mr. WARNER (for Mr. KENNEDY (for himself and Mr. CHAMBLISS)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 213, between lines 2 and 3, insert the following:

SEC. 807. PUBLIC-PRIVATE COMPETITION FOR WORK PERFORMED BY CIVILIAN EMPLOYEES OF THE DEPARTMENT OF DEFENSE.

(a) LIMITATION.—Section 2461(b) of title 10, United States Code, is amended by adding at the end the following new paragraph:

"(5)(A) Notwithstanding subsection (d), a function of the Department of Defense performed by 10 or more civilian employees may not be converted, in whole or in part, to performance by a contractor unless the conversion is based on the results of a public-private competition process that—

"(i) formally compares the cost of civilian employee performance of that function with the costs of performance by a contractor;

"(ii) creates an agency tender, including a most efficient organization plan, in accordance with Office of Management and Budget Circular A–76, as implemented on May 29, 2003; and

"(iii) requires continued performance of the function by civilian employees unless the competitive sourcing official concerned determines that, over all performance periods stated in the solicitation of offers for performance of the activity or function, the cost of performance of the activity or function by a contractor would be less costly to the Department of Defense by an amount that equals or exceeds the lesser of $10,000,000 or 10 percent of the most efficient organization's personnel-related costs for performance of that activity or function by Federal employees.

"(B) Any function that is performed by civilian employees of the Department of Defense and is proposed to be reengineered, reorganized, modernized, upgraded, expanded, or changed in order to become more efficient shall not be considered a new requirement for the purpose of the competition requirements in subparagraph (A) or the requirements for public-private competition in Office of Management and Budget Circular A–76.

"(C) A function performed by more than 10 Federal Government employees may not be separated into separate functions for the purposes of avoiding the competition requirement in subparagraph (A) or the requirements for public-private competition in Office of Management and Budget Circular A–76.

"(D) The Secretary of Defense may waive the requirement for a public-private competition under subparagraph (A) in specific instances if—

"(i) the written waiver is prepared by the Secretary of Defense or the relevant Assistant Secretary of Defense, Secretary of a military department, or head of a Defense Agency;

"(ii) the written waiver is accompanied by a detailed determination that national security interests preclude compliance with the requirement for a public-private competition; and

"(iii) a copy of the waiver is published in the Federal Register within 10 working days after the date on which the waiver is granted, although use of the waiver need not be delayed until its publication.".

(b) INAPPLICABILITY TO BEST-VALUE SOURCE SELECTION PILOT PROGRAM.—Paragraph (5) of section 2461(b) of title 10, United States Code, as added by subsection (a), shall not apply with respect to the pilot program for best-value source selection for performance of information technology services authorized by section 336 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108–136; 117 Stat. 1444; 10 U.S.C. 2461 note).

(c) REPEAL OF SUPERSEDED LAW.—Section 327 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 10 U.S.C. 2461 note) is repealed.

SEC. 808. PERFORMANCE OF CERTAIN WORK BY FEDERAL GOVERNMENT EMPLOYEES.

(a) GUIDELINES.—

(1) IN GENERAL.—The Secretary of Defense shall prescribe guidelines and procedures for ensuring that consideration is given to using Federal Government employees on a regular basis for work that is performed under Department of Defense contracts and could be performed by Federal Government employees.

(2) CRITERIA.—The guidelines and procedures prescribed under paragraph (1) shall provide for special consideration to be given to contracts that—

(A) have been performed by Federal Government employees at any time on or after October 1, 1980;

(B) are associated with the performance of inherently governmental functions;

(C) were not awarded on a competitive basis; or

(D) have been determined by a contracting officer to be poorly performed due to excessive costs or inferior quality.

(b) NEW REQUIREMENTS.—

(1) LIMITATION ON REQUIRING PUBLIC-PRIVATE COMPETITION.—No public-private competition may be required under Office of Management and Budget Circular A–76 or any other provision of law or regulation before the performance of a new requirement by Federal Government employees commences, the performance by Federal Government employees of work pursuant to subsection (a) commences, or the scope of an existing activity performed by Federal Government employees is expanded. Office of Management and Budget Circular A 76 shall be revised to ensure that the heads of all Federal agencies give fair consideration to the performance of new requirements by Federal Government employees.

(2) CONSIDERATION OF FEDERAL GOVERNMENT EMPLOYEES.—The Secretary of Defense shall, to the maximum extent practicable, ensure that Federal Government employees are fairly considered for the performance of new requirements, with special consideration given to new requirements that include functions that—

(A) are similar to functions that have been performed by Federal Government employees at any time on or after October 1, 1980; or

(B) are associated with the performance of inherently governmental functions.

(c) USE OF FLEXIBLE HIRING AUTHORITY.—The Secretary shall include the use of the flexible hiring authority available through the National Security Personnel System in order to facilitate performance by Federal Government employees of new requirements and work that is performed under Department of Defense contracts.

(d) INSPECTOR GENERAL REPORT.—Not later than 180 days after the enactment of this Act, the Inspector General of the Department of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the compliance of the Secretary of Defense with the requirements of this section.

(e) DEFINITIONS.—In this section:

(1) The term "National Security Personnel System" means the human resources management system established under the authority of section 9902 of title 5, United States Code.

(2) The term "inherently governmental function" has the meaning given that term in section 5 of the Federal Activities Inventory Reform Act of 1998 (Public Law 105–270; 112 Stat. 2384; 31 U.S.C. 501 note).

SA 2535. Mr. WARNER (for Mr. INHOFE) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC.   . THE UNITED STATES-CHINA ECONOMIC AND SECURITY REVIEW COMMISSION.

(a) FINDINGS.—Congress finds the following:

(1) The 2004 Report to Congress of the United States-China Economic and Security Review Commission states that—

(A) China's State-Owned Enterprises (SOEs) lack adequate disclosure standards, which creates the potential for United States investors to unwittingly contribute to enterprises that are involved in activities harmful to United States security interests;

(B) United States influence and vital long-term interests in Asia are being challenged by China's robust regional economic engagement and diplomacy;

(C) the assistance of China and North Korea to global ballistic missile proliferation is extensive and ongoing;

(D) China's transfers of technology and components for weapons of mass destruction (WMD) and their delivery systems to countries of concern, including countries that support acts of international terrorism, has helped create a new tier of countries with the capability to produce WMD and ballistic missiles;

(E) the removal of the European Union arms embargo against China that is currently under consideration in the European

Union would accelerate weapons modernization and dramatically enhance Chinese military capabilities;

(F) China is developing a leading-edge military with the objective of intimidating Taiwan and deterring United States involvement in the Strait, and China's qualitative and quantitative military advancements have already resulted in a dramatic shift in the cross-Strait military balance toward China; and

(G) China's growing energy needs are driving China into bilateral arrangements that undermine multilateral efforts to stabilize oil supplies and prices, and in some cases may involve dangerous weapons transfers.

(2) On March 14, 2005, the National People's Congress approved a law that would authorize the use of force if Taiwan formally declares independence.

(b) SENSE OF CONGRESS.—

(1) PLAN.—It is the sense of Congress that the President should take immediate steps to establish a coherent and comprehensive plan to address the emergence of China economically, diplomatically, and militarily, to promote mutually beneficial trade relations with China, and to encourage China's adherence to international norms in the areas of trade, international security, and human rights.

(2) CONTENTS.—The plan should contain the following:

(A) Actions to address China's policy of undervaluing its currency, including—

(i) encouraging China to continue to upwardly revalue the Chinese yuan against the United States dollar;

(ii) allowing the yuan to float against a trade-weighted basket of currencies; and

(iii) concurrently encouraging United States trading partners with similar interests to join in these efforts.

(B) Actions to make better use of the World Trade Organization (WTO) dispute settlement mechanism and applicable United States trade laws to redress China's trade practices, including exchange rate manipulation, denial of trading and distribution rights, insufficient intellectual property rights protection, objectionable labor standards, subsidization of exports, and forced technology transfers as a condition of doing business. The United States Trade Representative should consult with our trading partners regarding any trade dispute with China.

(C) Actions to encourage United States diplomatic efforts to identify and pursue initiatives to revitalize United States engagement in East Asia. The initiatives should have a regional focus and complement bilateral efforts. The Asia-Pacific Economic Cooperation forum (APEC) offers a ready mechanism for pursuit of such initiatives.

(D) Actions by the administration to work with China to prevent proliferation of prohibited technologies and to secure China's agreement to renew efforts to curtail North Korea's commercial export of ballistic missiles.

(E) Actions by the Secretaries of State and Energy to consult with the International Energy Agency with the objective of upgrading the current loose experience-sharing arrangement whereby China engages in some limited exchanges with the organization, to a more structured arrangement.

(F) Actions by the administration to develop a coordinated, comprehensive national policy and strategy designed to maintain United States scientific and technological leadership and competitiveness, in light of the rise of China and the challenges of globalization.

(G) Actions to review laws and regulations governing the Committee on Foreign Investment in the United States (CFIUS), including exploring whether the definition of national security should include the potential impact on national economic security as a criterion to be reviewed, and whether the chairmanship of CFIUS should be transferred from the Secretary of the Treasury to a more appropriate executive branch agency.

(H) Actions by the President and the Secretaries of State and Defense to press strongly their European Union counterparts to maintain the EU arms embargo on China.

(I) Actions by the administration to discourage foreign defense contractors from selling sensitive military use technology or weapons systems to China. The administration should provide a comprehensive annual report to the appropriate committees of Congress on the nature and scope of foreign military sales to China, particularly sales by Russia and Israel.

SA 2536. Mr. WARNER (for Mr. LEVIN) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle E of title II, add the following:

SEC. . REPORT ON DEVELOPMENT AND USE OF ROBOTICS AND UNMANNED GROUND VEHICLE SYSTEMS.

(a) REPORT REQUIRED.—Not later than nine months after the date of the enactment of this Act, the Under Secretary of Defense for Acquisition, Technology, and Logistics shall submit to the congressional defense committees a report on the development and utilization of robotics and unmanned ground vehicle systems by the Department of Defense.

(b) ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description of the utilization of robotics and unmanned ground vehicle systems in current military operations.

(2) A description of the manner in which the development of robotics and unmanned ground vehicle systems capabilities supports current major acquisition programs of the Department of Defense.

(3) A detailed description, including budget estimates, of all Department programs and activities on robotics and unmanned ground vehicle systems for fiscal years 2004 through 2012, including programs and activities relating to research, development, test and evaluation, procurement, and operation and maintenance.

(4) A description of the long-term research and development strategy of the Department on technology for the development and integration of new robotics and unmanned ground vehicle systems capabilities in support of Department missions.

(5) A description of any planned demonstration or experimentation activities of the Department that will support the development and deployment of robotics and unmanned ground vehicle systems by the Department.

(6) A statement of the Department organizations currently participating in the development of new robotics or unmanned ground vehicle systems capabilities, including the specific missions of each such organization in such efforts.

(7) A description of the activities of the Department to collaborate with industry, academia, and other Government and non-government organizations in the development of new capabilities in robotics and unmanned ground vehicle systems.

(8) An assessment of the short-term and long-term ability of the industrial base of the United States to support the production of robotics and unmanned ground vehicle systems to meet Department requirements.

(9) An assessment of the progress being made to achieve the goal established by section 220(a)(2) of the Floyd D. Spence National Defense Authorization Act for Fiscal Year 2001 (as enacted into law by Public Law 106–398; 114 Stat. 1654A–38) that, by 2015, one-third of operational ground combat vehicles be unmanned.

(10) An assessment of international research, technology, and military capabilities in robotics and unmanned ground vehicle systems.

SA 2537. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle A of title VIII, add the following:

SEC. ___. MODIFICATION AND EXTENSION OF PILOT PROGRAM ON SHARE-IN-SAVINGS CONTRACTS.

(a) INCLUSION OF INFORMATION TECHNOLOGY IMPROVEMENTS IN SHARE-IN-SAVINGS.—Paragraph (1) of subsection (a) of section 2332 of title 10, United States Code, is amended by adding at the end the following new sentence: "Each such contract shall provide that the contractor shall incur the cost of implementing information technology improvements, including costs incurred in acquiring, installing, maintaining, and upgrading information technology equipment and training personnel in the use of such equipment, in exchange for a share of any savings directly resulting from the implementation of such improvements during the term of the contract.".

(b) CONTRACT PERFORMANCE EVALUATION.—Such subsection is further amended—

(1) in paragraph (3), by striking ", to the maximum extent practicable,";

(2) by striking paragraph (4);

(3) by redesignating paragraph (5) as paragraph (7); and

(4) inserting after paragraph (3) the following new paragraphs:

"(4) The head of an agency that enters into contracts pursuant to the authority of this section shall establish a panel of employees of such agency, independent of any program office or contracting office responsible for awarding and administering such contracts, for the purpose of verifying performance baselines and methodologies for calculating savings resulting from the implementation of information technology improvements under such contracts. Employees assigned to any such panel shall have experience and expertise appropriate for the duties of such panel.

"(5) Each contract awarded pursuant to the authority of this section shall include a provision containing a quantifiable baseline of current and projected costs, a methodology for calculating actual costs during the period of performance, and a savings share ratio governing the amount of payments the contractor is to receive under such contract that are certified by a panel established pursuant to paragraph (4) to be financially sound and based on the best available information.

"(6) Each contract awarded pursuant to the authority of this section shall—

"(A) provide that aggregate payments to the contractor may not exceed the amount the agency would have paid, in accordance with the baseline of current and projected costs incorporated in such contract, during the period covered by such contract; and

"(B) require an independent annual audit of actual costs in accordance with the methodology established under paragraph (5)(B), which shall serve as a basis for annual payments based on savings share ratio established in such contract.".

(c) EXTENSION OF PILOT PROGRAM.—Such section is further amended—

(1) in subsection (b)(3)(B), by striking "fiscal years 2003, 2004, and 2005" and inserting "fiscal years 2003 through 2007"; and

(2) in subsection (d), by striking "September 30, 2005" and inserting "September 30, 2007".

(d) REPORTS TO CONGRESS.—

(1) SECRETARY OF DEFENSE REPORTS.—Not later than March 31, 2006, and each year thereafter until the year after the termination of the pilot program under section 2332 of title 10, United States Code (as amended by subsection (a)), the Secretary of Defense shall submit to Congress a report containing a list of each contract entered into by each Federal agency under such section during the preceding year that contains terms providing for the contractor to implement information technology improvements in exchange for a share of the savings derived from the implementation of such improvements. The report shall set forth, for each contract listed—

(A) the information technology performance acquired by reason of the improvements concerned;

(B) the total amount of payments made to the contractor during the year covered by the report; and

(C) the total amount of savings or other measurable benefits realized by the Federal agency during such year as a result of such improvements.

(2) COMPTROLLER GENERAL REPORTS.—Not later than two months after the Secretary submits a report required by paragraph (1), the Comptroller General of the United States shall submit to Congress a report on the costs and benefits to the United States of the implementation of the technology improvements under the contracts covered by such report, together with such recommendations as the Comptroller General considers appropriate.

SA 2538. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title III, add the following:

SEC. ___. SUPERVISION AND MANAGEMENT OF DEFENSE BUSINESS TRANSFORMATION AGENCY.

Section 192 of title 10, United States Code, is amended by adding at the end the following new subsection:

"(e) SPECIAL RULE FOR DEFENSE BUSINESS TRANSFORMATION AGENCY.—(1) The Defense Business Transformation Agency shall be supervised by the vice chairman of the Defense Business System Management Committee.

"(2) Notwithstanding the results of any periodic review under subsection (c) with regard to the Defense Business Transformation Agency, the Secretary of Defense shall designate that the Agency be managed cooperatively by the Deputy Under Secretary of Defense for Business Transformation and the Deputy Under Secretary of Defense for Financial Management.".

SA 2539. Mr. WARNER (for Mr. CHAMBLISS) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of Subtitle D of title I, add the following:

SEC. 138. C–37B AIRCRAFT.

(a) ADDITIONAL AMOUNT FOR AIRCRAFT PROCUREMENT, AIR FORCE.—The amount authorized to be appropriated by section 103(1) for aircraft procurement for the Air Force is hereby increased by $45,000,000.

(b) AVAILABILITY OF AMOUNT.—Of the amount authorized to be appropriated by section 103(1) for aircraft for the Air Force, as increased by subsection (a), up to $45,000,000 may be used for the procurement of one C–37B aircraft.

(c) OFFSET.—The amount authorized to be appropriated by section 301(1) for operation and maintenance for the Army is hereby reduced by $25,000,000 and the amount authorized to be appropriated by section 301(5) for O&M, defensewide is hereby reduced by $20,000,000.

SA 2540. Mr. WARNER (for Mr. ISAKSON) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle F of title V, insert the following:

SEC. ___. DESIGNATION OF IKE SKELTON EARLY COMMISSIONING PROGRAM SCHOLARSHIPS.

Section 2107a of title 10, United States Code, is amended by adding at the end the following new subsection:

"(j) Financial assistance provided under this section to a cadet appointed at a military junior college is designated as, and shall be known as, an 'Ike Skelton Early Commissioning Program Scholarship'.".

SA 2541. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle H of title V, add the following:

SEC. . MODIFICATION OF ELIGIBILITY FOR POSITION OF PRESIDENT OF THE NAVAL POSTGRADUATE SCHOOL.

Subsection (a) of section 7042 of title 10, United States Code, is amended to read as follows:

"(a)(1) The President of the Naval Postgraduate School shall be one of the following:

"(A) An officer of the Navy not below the grade of rear admiral (lower half) who is detailed to such position.

"(B) A civilian individual having qualifications appropriate to the position of President of the Naval Postgraduate School who is appointed to such position.

"(2) The President of the Naval Postgraduate School shall be detailed or assigned to such position under paragraph (1) by the Secretary of the Navy, upon the recommendation of the Chief of Naval Operations.

"(3) An individual assigned as President of the Naval Postgraduate School under paragraph (1)(B) shall serve in such position for a term of not more than five years.".

SA 2542. Mr. WARNER (for Mr. DEWINE) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 167, between lines 6 and 7, insert the following:

(c) ADDITIONAL DEATH GRATUITY.—In the case of an active duty member of the armed forces who died between October 7, 2001, and May 11, 2005, and was not eligible for an additional death gratuity under section 1478(e)(3)(A) of title 10, United States Code (as added by section 1013(b) of Public Law 109–13), the eligible survivors of such decedent shall receive, in addition to the death gratuity available to such survivors under section 1478(a) of such title, an additional death gratuity of $150,000 under the same conditions as provided under section 1478(e)(4) of such title.

SA 2543. Mr. WARNER (for Mr. ALLEN (for himself, Mr. DEWINE, and Mr. WARNER)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, insert:

SEC. ___. SENSE OF SENATE ON AERONAUTICS RESEARCH AND DEVELOPMENT.

(a) FINDINGS.—Congress makes the following findings:

(1) The advances made possible by Government-funded research in emerging aeronautics technologies have enabled longstanding military air superiority for the United States in recent decades.

(2) Military aircraft incorporate advanced technologies developed at research centers of the National Aeronautics and Space Administration.

(3) The vehicle systems program of the National Aeronautics and Space Administration has provided major technology advances that have been used in every major civil and military aircraft developed over the last 50 years.

(4) It is important for the cooperative research efforts of the National Aeronautics and Space Administration and the Department of Defense that funding of research on military aviation technologies be robust.

(5) Recent National Aeronautics and Space Administration and independent studies have demonstrated the competitiveness, scientific merit, and necessity of existing aeronautics programs.

(6) The economic and military security of the United States is enhanced by the continued development of improved aeronautics technologies.

(7) A national effort is needed to ensure that the National Aeronautics and Space Administration can help meet future aviation needs.

(b) Sense of Senate.—It is the sense of the Senate that it is in the national security interest of the United States to maintain a strong aeronautics research and development program within the Department of Defense and the National Aeronautics and Space Administration.

SA 2544. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle E of title VIII, add the following:

SEC. . MODIFICATION OF LIMITED ACQUISITION AUTHORITY FOR THE COMMANDER OF THE UNITED STATES JOINT FORCES COMMAND.

(a) Scope of Authority.—Subsection (a) of section 167a of title 10, United States Code, is amended by striking and "and acquire" and inserting ", acquire, and sustain".

(b) Inapplicability to Certain Systems Funded With Operation and Maintenance Funds.—Subsection (d) of such section is amended—

(1) in paragraph (1), by striking "or" at the end;

(2) in paragraph (2), by striking the period at the end and inserting "; or"; and

(3) by adding at the end the following new paragraph:

"(3) the total expenditure for operation and maintenance is estimated to be $2,000,000 or more.".

(c) Extension of Authority.—Subsection (f) of such section is amended—

(1) by striking "through 2006" and inserting "through 2009"; and

(2) by striking "September 30, 2006" and inserting "September 30, 2009".

SA 2545. Mr. WARNER (for himself, Mr. Levin, and Mr. Bingaman) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle A of title X, add the following:

SEC. ___. AUTHORIZATION OF EMERGENCY SUPPLEMENTAL APPROPRIATIONS FOR THE DEPARTMENT OF DEFENSE.

(a) First Emergency Supplemental To Meet Needs Arising From Hurricane Katrina.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2005 in the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375) are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorized amount are increased by a supplemental appropriation, or by a transfer of funds, pursuant to the Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (Public Law 109–61).

(b) Second Emergency Supplemental To Meet Needs Arising From Hurricane Katrina.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2005 in the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorized amount are increased by a supplemental appropriation, or by a transfer of funds, pursuant to the Second Emergency Supplemental Appropriations Act to Meet Immediate Needs Arising From the Consequences of Hurricane Katrina, 2005 (Public Law 109–62).

(c) Supplemental Appropriations for Avian Flu Preparedness.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2006 in this Act are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorized amount are increased by a supplemental appropriation, or by a transfer of funds, arising from the proposal of the Administration relating to avian flu preparedness that was submitted to Congress on November 1, 2006.

(d) Amounts Reallocated for Hurricane-Related Disaster Relief.—Amounts authorized to be appropriated to the Department of Defense for fiscal year 2006 in this Act are hereby adjusted, with respect to any such authorized amount, by the amount by which appropriations pursuant to such authorized amount are increased by a reallocation of funds from the Disaster Relief Fund (DRF) of the Federal Emergency Management Agency arising from the proposal of the Director of the Office of Management and Budget on the reallocation of amounts for hurricane-related disaster relief that was submitted to the President on October 28, 2005, and transmitted to the Speaker of the House of Representatives on that date.

(e) Amounts for Humanitarian Assistance for Earthquake Victims in Pakistan.—There is authorized to be appropriated as emergency supplemental appropriations for the Department of Defense for fiscal year 2006, $40,000,000 for the use of the Department of Defense for overseas, humanitarian, disaster, and civic aid for the purpose of providing humanitarian assistance to the victims of the earthquake that devastated northern Pakistan on October 8, 2005.

(f) Reports on Use of Certain Funds.—

(1) Report on use of emergency supplemental funds.—Not later than six months after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the obligation and expenditure, as of that date, of any funds appropriated to the Department of Defense for fiscal year 2005 pursuant to the Acts referred to in subsections (a) and (b) as authorized by such subsections. The report shall set forth—

(A) the amounts so obligated and expended; and

(B) the purposes for which such amounts were so obligated and expended.

(2) Report on expenditure of reimbursable funds.—The Secretary shall include in the report required by paragraph (1) a statement of any expenditure by the Department of Defense of funds that were reimbursable by the Federal Emergency Management Agency, or any other department or agency of the Federal Government, from funds appropriated in an Act referred to in subsection (a) or (b) to such department or agency.

(3) Report on use of certain other funds.—Not later than May 15, 2006, and quarterly thereafter through November 15, 2006, the Secretary shall submit to the congressional defense committees a report on the obligation and expenditure, during the previous fiscal year quarter, of any funds appropriated to the Department of Defense as specified in subsection (c) and any funds reallocated to the Department as specified in subsection (d). Each report shall, for the fiscal year quarter covered by such report, set forth—

(A) the amounts so obligated and expended; and

(B) the purposes for which such amounts were so obligated and expended.

(g) Report on Assistance for Earthquake Victims in Pakistan.—Not later than 30 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report describing Department of Defense efforts to provide relief to victims of the earthquake that devastated northern Pakistan on October 8, 2005, and assessing the need for further reconstruction and relief assistance.

SA 2546. Mr. WARNER (for Mr. Dayton (for himself, Mrs. Murray, and Ms. Collins)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title V, add the following:

SEC. . SENSE OF SENATE ON CERTAIN MATTERS RELATING TO THE NATIONAL GUARD AND RESERVES.

It is the sense of the Senate—

(1) to recognize the important and integral role played by members of the Active Guard and Reserve and military technicians (dual status) in the efforts of the Armed Forces; and

(2) to urge the Secretary of Defense to promptly resolve issues relating to appropriate authority for payment of reenlistment bonsuses stemming from reenlistment contracts entered into between January 14, 2005, and April 17, 2005, involving members of the Army National Guard and military technicians (dual status).

SA 2547. Mr. WARNER (for Mr. Byrd) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of title XXXIII of division C, add the following:

SEC. 3302. DISPOSAL OF FERROMANGANESE.

(a) Disposal Authorized.—The Secretary of Defense may dispose of up to 75,000 tons of ferromanganese from the National Defense Stockpile during fiscal year 2006.

(b) Contingent Authority for Additional Disposal.—If the Secretary of Defense completes the disposal of the total quantity of ferromanganese authorized for disposal by subsection (a) before September 30, 2006, the Secretary of Defense may dispose of up to an additional 25,000 tons of ferromanganese from the National Defense Stockpile before that date.

(c) Certification.—The Secretary of Defense may dispose of ferromanganese under the authority of subsection (b) only if the Secretary submits written certification to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives, not later than 30 days before the commencement of disposal, that—

(1) the disposal of the additional ferromanganese from the National Defense Stockpile is in the interest of national defense;

(2) the disposal of the additional ferromanganese will not cause undue disruption to the usual markets of producers and processors of ferromanganese in the United States; and

(3) the disposal of the additional ferromanganese is consistent with the requirements and purpose of the National Defense Stockpile.

(d) Delegation of Responsibility.—The Secretary of Defense may delegate the responsibility of the Secretary under subsection (c) to an appropriate official within the Department of Defense.

(e) National Defense Stockpile Defined.—In this section, the term "National Defense Stockpile" means the stockpile provided for in section 4 of the Strategic and Critical Materials Stock Piling Act (50 U.S.C. 98c).

SA 2548. Mr. WARNER (for Mr. Reid) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title III, add the following:

SEC. ___. ARMAMENT RETOOLING AND MANUFACTURING SUPPORT INITIATIVE MATTERS.

(a) Inclusion of Additional Facilities Within Initiative.—Section 4551(2) of title 10, United States Code, is amended by inserting ", or a Government-owned, contractor-operated depot for the storage, maintenance, renovation, or demilitarization of ammunition," after "manufacturing facility".

(b) Additional Consideration for Use of Facilities.—Section 4554(b)(2) of such title is amended by adding at the end the following new subparagraph:

"(D) The demilitarization and storage of conventional ammunition.".

SA 2549. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle D of title XXVIII of division B, add the following:

SEC. 2887. REQUIRED CONSULTATION WITH STATE AND LOCAL ENTITIES ON TRANSPORTATION, HOUSING, AND OTHER INFRASTRUCTURE ISSUES RELATED TO THE ADDITION OF PERSONNEL OR FACILITIES AT MILITARY INSTALLATIONS AS PART OF 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

Section 2905(a) of the Defense Base Closure and Realignment Act of 1990 (part A of title XXIX of Public Law 101–510; 10 U.S.C. 2687 note) is amended by adding at the end the following new paragraph:

"(3) In carrying out any closure or realignment under this part that would add personnel or facilities to an existing military installation, the Secretary shall consult with appropriate State and local entities on matters affecting the local community related to transportation, utility infrastructure, housing, schools, and family support activities during the development of plans to implement such closure or realignment.".

SA 2550. Mr. WARNER (for Mr. Lott (for himself and Mr. Cornyn)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle D of title XXVIII of division B, add the following:

SEC. 2887. SENSE OF THE SENATE ON REVERSIONARY INTERESTS AT NAVY HOMEPORTS.

It is the sense of the Senate that, in implementing the decisions made with respect to Navy homeports as part of the 2005 round of defense base closure and realignment, the Secretary of the Navy should, consistent with the national interest and Federal policy supporting cost-free conveyances of Federal surplus property suitable for use as port facilities, release or otherwise relinquish any entitlement to receive, pursuant to any agreement providing for such payment, compensation from any holder of a reversionary interest in real property used by the United States for improvements made to any military installation that is closed or realigned as part of such base closure round.

SA 2551. Mr. WARNER (for Mr. Levin) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X, add the following:

SEC. 1073. REPORT ON CLAIMS RELATED TO THE BOMBING OF THE LABELLE DISCOTHEQUE.

(a) Sense of Congress.—It is the sense of Congress that—

(1) the Government of Libya should be commended for the steps the Government has taken to renounce terrorism and to eliminate Libya's weapons of mass destruction and related programs; and

(2) an important priority for improving relations between the United States and Libya should be a good faith effort on the part of the Government of Libya to resolve the claims of members of the Armed Forces of the United States and other United States citizens who were injured in the bombing of the LaBelle Discotheque in Berlin, Germany that occurred in April 1986, and of family members of members of the Armed Forces of the United States who were killed in that bombing.

(b) Reports.—

(1) Initial report.—Not later than 90 days after the date of enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees a report on the status of negotiations between the Government of Libya and United States claimants in connection with the bombing of the LaBelle Discotheque in Berlin, Germany that occurred in April 1986, regarding resolution of their claims. The report shall also include information on efforts by the Government of the United States to urge the Government of Libya to make a good faith effort to resolve such claims.

(2) Update.—Not later than one year after enactment of this Act, the Secretary of State shall submit to the appropriate congressional committees an update of the report required by paragraph (1).

(c) Appropriate Congressional Committees Defined.—In this section, the term "appropriate congressional committees" means the Committee on Armed Services and the Committee on Foreign Relations of the Senate and the Committee on Armed Services and the Committee on International Relations of the House of Representatives.

SA 2552. Mr. WARNER (for Mr. Kennedy (for himself and Mrs. Feinstein)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. PROHIBITION ON USE OF FUNDS FOR ROBUST NUCLEAR EARTH PENETRATOR.

None of the funds authorized to be appropriated to the Department of Energy under this Act may be made available for the Robust Nuclear Earth Penetrator.

SA 2553. Mr. WARNER (for Ms. SNOWE (for herself and Ms. COLLINS)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle D of title XXVIII of division B, add the following:

SEC. 2887. IDENTIFICATION OF ENVIRONMENTAL CONDITIONS AT MILITARY INSTALLATIONS CLOSED OR REALIGNED UNDER 2005 ROUND OF DEFENSE BASE CLOSURE AND REALIGNMENT.

(a) IDENTIFICATION OF ENVIRONMENTAL CONDITION OF PROPERTY.—

(1) IN GENERAL.—Not later than May 31, 2007, the Secretary of Defense, in consultation with the Administrator of the Environmental Protection Agency, other appropriate Federal agencies, and State, tribal, and local government officials, shall complete an identification of the environmental condition of the real property (including groundwater) of each military installation approved for closure or realignment under the 2005 round of defense base closure and realignment in accordance with section 120(h)(4) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9620(h)(4)).

(2) RESULTS.—

(A) IN GENERAL.—As soon as practicable after the date on which an identification under paragraph (1) is completed, the Secretary of Defense shall—

(i) provide a notice of the results of the identification to—

(I) the Administrator of the Environmental Protection Agency;

(II) the head of any other appropriate Federal agency, as determined by the Secretary; and

(III) any affected State or tribal government official, as determined by the Secretary; and

(ii) publish in the Federal Register the results of the identification.

(B) REQUEST FOR CONCURRENCE.—The Secretary shall include in a notice provided under subclause (I) or (III) of subparagraph (A)(i) a request for concurrence with the identification in such form as the Secretary determines to be appropriate.

(3) CONCURRENCE.—

(A) IN GENERAL.—An identification under paragraph (1) shall not be considered to be complete until—

(i) for a property that is a site, or part of a site, on the National Priorities List developed by the President in accordance with section 105(a)(8)(B) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9605(a)(8)(B)), the date on which the Administrator of the Environmental Protection Agency and each appropriate State and tribal government official concur with the identification; and

(ii) for any property that is not a site described in clause (i), the date on which each appropriate State and tribal government official concurs with the identification.

(B) FAILURE TO ACT.—The Administrator, or a State or tribal government official, shall be considered to concur with an identification under paragraph (1) if the Administrator or government official fails to make a determination with respect to a request for concurrence with such identification under paragraph (2)(B) by not later than 90 days after the date on which such request for concurrence is received.

(b) EXPEDITING ENVIRONMENTAL RESPONSE.—The Secretary of Defense shall coordinate with appropriate Federal, State, tribal, and local governmental officials, as determined by the Secretary, to expedite environmental response at military installations approved for closure or realignment under the 2005 round of defense base closure and realignment.

(c) REPORT.—The Secretary shall submit to Congress, as part of each annual report under section 2706 of title 10, United States Code, a report describing any progress made in carrying out this section.

(d) EFFECT OF SECTION.—Nothing in this section affects any obligation of the Secretary with respect to any other Federal or State requirement relating to—

(1) the environment; or

(2) the transfer of property.

SA 2554. Mr. WARNER (for Ms. SNOWE) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle D of title XXVIII, add the following:

SEC. 2887. SENSE OF CONGRESS ON LIMITATION ON TRANSFER OF UNITS FROM CLOSED AND REALIGNED MILITARY INSTALLATIONS PENDING READINESS OF RECEIVING LOCATIONS.

(a) FINDINGS.—

(1) The Commission on Review of Overseas Military Facility Structure of the United States, also known as the Overseas Basing Commission, transmitted a report to the President and Congress on August 15, 2005, that discussed considerations for the return to the United States of up to 70,000 service personnel and 100,000 family members and civilian employees from overseas garrisons.

(2) The 2005 Base Closure and Realignment Commission released a report on September 8, 2005, to the President that assessed the closure and realignment decisions of the Department of Defense, which would affect 26,830 military personnel positions.

(3) Both of these reports expressed concerns that massive movements of units, service personnel, and families may disrupt unit operational effectiveness and the quality of life for family members if not carried out with adequate planning and resources.

(4) The 2005 Base Closure and Realignment Commission, in its decision to close Fort Monmouth, included a provision requiring the Secretary of Defense to provide a report that "movement of organizations, functions, or activities from Fort Monmouth to Aberdeen Proving Ground will be accomplished without disruption of their support to the Global War on Terrorism or other critical contingency operations, and that safeguards exist to ensure that necessary redundant capabilities are put in place to mitigate potential degradation of such support, and to ensure maximum retention of critical workforce".

(5) The Overseas Basing Commission found that "base closings at home along with the return of yet additional masses of service members and dependents from overseas will have major impact on local communities and the quality of life that can be expected. Movements abroad from established bases into new locations, or into locations already in use that will be put under pressure by increases in populations, will impact on living conditions."

(6) The Overseas Basing Commission notes that the four most critical elements of quality of life as they relate to restructuring of the global defense posture are housing, military child education, healthcare, and service member and family services.

(7) The Overseas Basing Commission recommended that "planners must take a 'last day-first day' approach to the movement of units and families from one location to another", meaning that they must maintain the support infrastructure for personnel until the last day they are in place and must have the support infrastructure in place on the first day troops arrive in the new location.

(8) The Overseas Basing Commission further recommended that it is "imperative that the 'last day-first day' approach should be taken whether the movement is abroad from one locale to another, from overseas to the United States, or from one base in CONUS [the continental United States] to yet another as a result of base realignment and closures".

(b) SENSE OF CONGRESS.—It is the sense of Congress that the Secretary of Defense should not transfer any unit from a military installation closed or realigned due to the relocation of forces under the Integrated Global Presence and Basing Strategy or the 2005 round of defense base closure and realignment until adequate facilities and infrastructure necessary to support the unit's mission and quality of life requirements for military families are ready for use at the receiving location.

SA 2555. Mr. WARNER (for Mr. HAGEL) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

In Title VI, subtitle E, at the end, insert the following:

SEC. ____. EXTENSION OF ELIGIBILITY FOR SSI FOR CERTAIN INDIVIDUALS IN FAMILIES THAT INCLUDE MEMBERS OF THE RESERVE AND NATIONAL GUARD.

Section 1631(j)(1)(B) of the Social Security Act (42 U.S.C. 1383(j)(1)(B)) is amended by inserting "(24 consecutive months, in the case of such an individual whose ineligibility for benefits under or pursuant to both such sections is a result of being called to active duty pursuant to section 12301(d) or 12302 of title 10, United States Code, or section 502(f) of title 32, United States Code)" after "for a period of 12 consecutive months".

SA 2556. Mr. WARNER (for Mr. NELSON of Florida) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of

Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 378, between lines 10 and 11, insert the following:

SEC. 3114. SENSE OF THE SENATE REGARDING INTERIM REPORTS ON RESIDUAL BERYLLIUM CONTAMINATION AT DEPARTMENT OF ENERGY VENDOR FACILITIES.

(a) FINDINGS.—The Senate makes the following findings:

(1) Section 3169 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 42 U.S.C. 7384 note) requires the National Institute for Occupational Safety and Health to submit, not later than December 31, 2006, an update to the October 2003 report of the Institute on residual beryllium contamination at Department of Energy vendor facilities.

(2) The American Beryllium Company, Tallevast, Florida, machined beryllium for the Department of Energy's Oak Ridge Y-12, Tennessee, and Rocky Flats, Colorado, facilities from 1967 until 1992.

(3) The National Institute for Occupational Safety and Health has completed its evaluation of residual beryllium contamination at the American Beryllium Company.

(4) Workers at the American Beryllium Company and other affected companies should be made aware fo the site-specific results of the study as soon as such results are available.

(b) SENSE OF THE SENATE.—It is the sense of the Senate to urge the Director of the National Institute for Occupational Safety and Health—

(1) to provide to Congress interim reports of residual beryllium contamination at facilities not later than 14 days after completing the internal review of such reports; and

(2) to publish in the Federal Register summaries of the findings of such reports, including the dates of any significant residual beryllium contamination, at such time as the reports are provided to Congress under paragraph (1).

SA 2557. Mr. WARNER (for Mr. GRAHAM) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title VII, add the following:

SEC. ___. COMPTROLLER GENERAL REPORT ON EXPANDED PARTNERSHIP BETWEEN THE DEPARTMENT OF DEFENSE AND THE DEPARTMENT OF VETERANS AFFAIRS ON THE PROVISION OF HEALTH CARE SERVICES.

(a) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Comptroller General of the United States shall submit to the appropriate committees of Congress a report on the feasibility of an expanded partnership between the Department of Defense and the Department of Veterans Affairs for the provision of health care services.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall include the following:

(1) An overview of the current health care systems of the Department of Defense and the Department of Veterans Affairs, including—

(A) the total number of eligible beneficiaries in each system as of September 30, 2005;

(B) the total number of current consumers of health care services in each system as of that date;

(C) the total cost of each system in the most recent fiscal year for which complete cost data for both systems exists;

(D) the annual workload or production of health care by beneficiary category in each system in the most recent fiscal year for which complete data on workload or production of health care for both systems exists;

(E) the total cost of health care by beneficiary category in each system in the most recent fiscal year for which complete cost data for both systems exists;

(F) the total staffing of medical and administrative personnel in each system as of September 30, 2005;

(G) the number and location of facilities, including both hospitals and clinics, operated by each system as of that date; and

(H) the size, capacity, and production of graduate medical education programs in each system as of that date.

(2) A comparative analysis of the characteristics of each health care system, including a determination and comparative analysis of—

(A) the mission of such systems;

(B) the demographic characteristics of the populations served by such systems;

(C) the categories of eligibility for health care services in such systems;

(D) the nature of benefits available by beneficiary category in such systems;

(E) access to and quality of health care services in such systems;

(F) the out-of-pocket expenses for health care by beneficiary category in such systems;

(G) the structure and methods of financing the care for all categories of beneficiaries in such systems;

(H) the management and acquisition of medical equipment and supplies in such systems, including pharmaceuticals and prosthetic and other medical assistive devices;

(I) the mix of health care services available in such systems;

(J) the current inpatient and outpatient capacity of such systems; and

(K) the human resource systems for medical personnel in such systems, including the rates of compensation for civilian employees.

(3) A summary of current sharing efforts between the health care systems of the Department of Defense and the Department of Veterans Affairs.

(4) An assessment of the advantages and disadvantages for military retirees and their dependents participating in the health care system of the Department of Veterans Affairs of an expanded partnership between the health care systems of the Department of Defense and the Department of Veterans Affairs, with a separate assessment to be made for—

(A) military retirees and dependents under the age of 65; and

(B) military retirees and dependents over the age of 65.

(5) Projections for the future growth of health care costs for retirees and veterans in the health care systems of the Department of Defense and the Department of Veterans Affairs, including recommendations on mechanisms to ensure more effective and higher quality services in the future for military retirees and veterans now served by both systems.

(6) Options for means of achieving a more effective partnership between the health care systems of the Department of Defense and the Department of Veterans Affairs, including options for the expansion of, and enhancement of access of military retirees and their dependents to, the health care system of the Department of Veterans Affairs.

(c) SOLICITATION OF VIEW.—In preparing the report required by subsection (a), the Comptroller General shall seek the views of representatives of military family organizations, military retiree organizations, and organizations representing veterans and their families.

(d) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services and Veterans Affairs' of the Senate; and

(2) the Committees on Armed Services and Veterans Affairs' of the House of Representatives.

SA 2558. Mr. WARNER (for Mr. SALAZAR) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title III, add the following:

SEC. ___. GRANTS FOR LOCAL WORKFORCE INVESTMENT BOARDS FOR SERVICES FOR CERTAIN SPOUSES OF MEMBERS OF THE ARMED FORCES.

(a) GRANTS AUTHORIZED.—The Secretary of Defense may, from any funds authorized to be appropriated to the Department of Defense, and in consultation with the Department of Labor, make grants to local workforce investments boards established under section 117 of the Workforce Investment Act of 1998 (29 U.S.C. 2832), or consortia of such boards, in order to permit such boards or consortia of boards to provide services to spouses of members of the Armed Forces described in subsection (b).

(b) COVERED SPOUSES.—Spouses of members of the Armed Forces described in this subsection are spouses of members of the Armed Forces on active duty, which spouses—

(1) have experienced a loss of employment as a direct result of relocation of such members to accommodate a permanent change in duty station; or

(2) are in a family whose income is significantly reduced due to—

(A) the deployment of such members;

(B) the call or order of such members to active duty in support of a contingency operation pursuant to a provision of law referred to in section 101(a)(13)(B) of title 10, United States Code;

(C) a permanent change in duty station of such members; or

(D) the incurral by such members of a service-connected disability (as that term is defined in section 101(16) of title 38, United States Code).

(c) REGULATIONS.—Any grants made under this section shall be made pursuant to regulations prescribed by the Secretary in consultation with the Department of Labor. Such regulation shall set forth—

(1) criteria for eligibility of workforce investment boards for grants under this section;

(2) requirements for applications for such grants; and

(3) the nature of services to be provided using such grants.

SA 2559. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title III, add the following:

SEC. . REST AND RECUPERATION LEAVE PROGRAMS.

(a) AVAILABILITY OF FUNDS FOR REIMBURSEMENT OF EXPENSES.—Of the amount authorized to be appropriated by section 301(5) for operation and maintenance for Defense-wide activities, $7,000,000 may be available for the reimbursement of expenses of the Armed Forces Recreation Centers related to the utilization of the facilities of the Armed Forces Recreation Centers under official Rest and Recuperation Leave Programs authorized by the military departments or combatant commanders.

(b) UTILIZATION OF REIMBURSEMENTS.—Amounts received by the Armed Forces Recreation Centers under subsection (a) as reimbursement for expenses may be utilized by such Centers for facility maintenance and repair, utility expenses, correction of health and safety deficiencies, and routine ground maintenance.

(c) REGULATIONS.—The utilization of facilities of the Armed Forces Recreation Centers under Rest and Recuperation Leave Programs, and reimbursement for expenses related to such utilization of such facilities, shall be subject to regulations prescribed by the Secretary of Defense.

SA 2560. Mr. WARNER (for Mr. FEINGOLD) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title V, add the following:

SEC. ___. REPORT ON INFORMATION ON STOP LOSS AUTHORITIES GIVEN TO ENLISTEES IN THE ARMED FORCES.

(a) FINDINGS.—Congress makes the following findings:

(1) The Department of Defense began retaining selected members of the Armed Forces beyond their contractual date of separation from the Armed Forces, a policy commonly known as "stop loss", shortly after the events of September 11, 2001, and for the first time since Operation Desert Shield/Desert Storm.

(2) The Marine Corps, Navy, and Air Force discontinued their use of stop loss authority in 2003. According to the Department of Defense, a total of 8,992 marines, 2,600 sailors, and 8,500 airmen were kept beyond their separation dates under that authority.

(3) The Army is the only Armed Force currently using stop loss authority. The Army reports that, during September 2005, it was retaining 6,929 regular component soldiers, 3,002 soldiers in the National Guard, and 2,847 soldiers in the Army Reserve beyond their separation date. The Army reports that it has not kept an account of the cumulative number of soldiers who have been kept beyond their separation date.

(4) The Department of Defense Form 4/1, Enlistment/Reenlistment Document does not give notice to enlistees and reenlistees in the regular components of the Armed Forces that they may be kept beyond their contractual separation date during times of partial mobilization.

(5) The Department of Defense has an obligation to clearly communicate to all potential enlistees and reenlistees in the Armed Forces their terms of service in the Armed Forces.

(b) REPORT.—

(1) IN GENERAL.—Not later than 90 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the congressional defense committees a report on the actions being taken to ensure that each individual being recruited for service in the Armed Forces is provided, before making a formal enlistment in the Armed Forces, precise and detailed information on the period or periods of service to which such individual may be obligated by reason of enlistment in the Armed Forces, including any revisions to Department of Defense Form 4/1.

(2) ELEMENTS.—The report under paragraph (1) shall include—

(A) a description of how the Department informs enlistees in the Armed Forces on—

(i) the so-called "stop loss" authority and the manner in which exercise of such authority could affect the duration of an individual's service on active duty in the Armed Forces;

(ii) the authority for the call or order to active duty of members of the Individual Ready Reserve and the manner in which such a call or order to active duty could affect an individual following the completion of the individual's expected period of service on active duty or in the Individual Ready Reserve; and

(iii) any other authorities applicable to the call or order to active duty of the Reserves, or of the retention of members of the Armed Forces on active duty, that could affect the period of service of an individual on active duty or in the Armed Forces; and

(B) such other information as the Secretary considers appropriate.

SA 2561. Mr. WARNER (for Mr. BYRD) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle G of title X of division A, add the following:

SEC. 1073. COAL-TO-LIQUID FUEL DEVELOPMENT PLAN.

(a) DEFINITION OF DESIGNATED COMMITTEES.—In this section, the term "designated committees" means—

(1) the Committees on Armed Services, Energy and Natural Resources, and Appropriations of the Senate; and

(2) the Committees on Armed Services, Energy and Commerce, and Appropriations of the House of Representatives.

(b) DEVELOPMENT PLAN AND REPORT.—Not later than 90 days after the date of enactment of this Act, using amounts available to the Department of Defense and the National Energy Technology Laboratory of the Department of Energy—

(1) the Secretary of Energy, in coordination with the Secretary of Defense, shall prepare and submit to the designated committees a development plan for a coal-to-liquid fuels program; and

(2) the Secretary of Defense, in coordination with the Secretary of Energy, shall prepare and submit to the designated committees a report on the potential use of the fuels by the Department of Defense.

(c) REQUIREMENTS.—The development plan described in subsection (b)(1) shall be prepared taking into consideration—

(1) technology needs and developmental barriers;

(2) economic and national security effects;

(3) environmental standards and carbon capture and storage opportunities;

(4) financial incentives;

(5) timelines and milestones;

(6) diverse regions having coal reserves that would be suitable for liquefaction plants;

(7) coal-liquid fuel testing to meet civilian and military engine standards and markets; and

(8) any roles other Federal agencies, State governments, and international entities could play in developing a coal-to-liquid fuel industry.

SA 2562. Mr. WARNER (for Mr. CRAIG (for himself, Mr. ROBERTS, Mr. BROWNBACK, Ms. MIKULSKI, Mr. WARNER, and Mr. SALAZAR)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. ___. DENIAL OF CERTAIN BURIAL-RELATED BENEFITS FOR INDIVIDUALS WHO COMMITTED A CAPITAL OFFENSE.

(a) PROHIBITION AGAINST INTERMENT IN NATIONAL CEMETERY.—Section 2411 of title 38, United States Code, is amended—

(1) in subsection (b)—

(A) by amending paragraph (1) to read as follows:

"(1) A person whose conviction of a Federal capital crime is final."; and

(B) by amending paragraph (2) to read as follows:

"(2) A person whose conviction of a State capital crime is final."; and

(2) in subsection (d)—

(A) in paragraph (1), by striking "the death penalty or life imprisonment" and inserting "a life sentence or the death penalty"; and

(B) in paragraph (2), by striking "the death penalty or life imprisonment without parole may be imposed" and inserting "a life sentence or the death penalty may be imposed".

(b) DENIAL OF CERTAIN BURIAL-RELATED BENEFITS.—Section 985 of title 10, United States Code, is amended—

(1) in subsection (a), by striking "who has been convicted of a capital offense under Federal or State law for which the person was sentenced to death or life imprisonment without parole." and inserting "described in section 2411(b) of title 38.";

(2) in subsection (b), by striking "convicted of a capital offense under Federal law" and inserting "described in section 2411(b) of title 38"; and

(3) by amending subsection (c) to read as follows:

"(c) DEFINITION.—In this section, the term 'burial' includes inurnment.".

(c) DENIAL OF FUNERAL HONORS.—Section 1491(h) of title 10, United States Code, is amended—

(1) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively;

(2) by striking " means a decedent who—" and inserting the following: "—

"(1) means a decedent who—";

(3) in subparagraph (B), as redesignated, by striking the period at the end and inserting "; and"; and

(4) by adding at the end the following:

"(2) does not include any person described in section 2411(b) of title 38.".

(d) RULEMAKING.—

(1) DEPARTMENT OF DEFENSE.—The Secretary of Defense shall prescribe regulations to ensure that a person is not interred in any military cemetery under the authority of the Secretary or provided funeral honors under section 1491 of title 10, United States Code, unless a good faith effort has been made to determine whether such person is described in section 2411(b) of title 38, United States Code, or is otherwise ineligible for such interment or honors under Federal law.

(2) DEPARTMENT OF VETERANS AFFAIRS.—The Secretary of Veterans Affairs shall prescribe regulations to ensure that a person is not interred in any cemetery in the National Cemetery System unless a good faith effort has been made to determine whether such person is described in section 2411(b) of title 38, United States Code, or is otherwise ineligible for such interment under Federal law.

(e) SAVINGS PROVISION.—The amendments made by subsections (a), (b), and (c) shall not apply to any person whose sentence for a Federal capital crime or a State capital crime (as such terms are defined in section 2411(d) of title 38, United States Code) was commuted by the President or the Governor of a State.

SA 2563. Mr. WARNER (for Mr. FEINGOLD) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle D of title X, add the following:

SEC. . ANNUAL REPORTS ON BUDGETING RELATING TO KEY MILITARY EQUIPMENT.

(a) IN GENERAL.—Chapter 9 of title 10, United States Code, is amended by adding at the end the following new section:

"§ 234. Budgeting for key military equipment: annual reports

"(a) ANNUAL REPORT REQUIRED.—The Secretary of Defense shall submit to Congress each year, at or about the time that the budget of the President is submitted to Congress that year under section 1105(a) of title 31, a report on the budgeting of the Department of Defense for key military equipment.

"(b) REPORT ELEMENTS.—The report required by subsection (a) for a year shall set forth the following:

"(1) A description of the current strategies of the Department of Defense for sustaining key military equipment, and for any modernization that will be required of such equipment.

"(2) A description of the amounts required for the Department for the fiscal year beginning in such year in order to fully fund the strategies described in paragraph (1).

"(3) A description of the amounts requested for the Department for such fiscal year in order to fully fund such strategies.

"(4) A description of the risks, if any, of failing to fund such strategies in the amounts required to fully fund such strategies (as specified in paragraph (2)).

"(5) A description of the actions being taken by the Department of Defense to mitigate the risks described in paragraph (4).

"(c) KEY MILITARY EQUIPMENT DEFINED.—In this section, the term 'key military equipment'—

"(1) means—

"(A) major weapons systems that are essential to accomplishing the national defense strategy; and

"(B) other military equipment, such as major command, communications, computer intelligence, surveillance, and reconnaissance (C4ISR) equipment and systems designed to prevent fratricide, that is critical to the readiness of military units; and

"(2) includes equipment reviewed in the report of the Comptroller General of the United States numbered GAO–06–141.".

(b) CLERICAL AMENDMENT.—The table of sections at the beginning of such chapter is amended by adding at the end the following new item:

"234. Budgeting for key military equipment: annual reports.".

SA 2564. Mr. WARNER (for Mr. MARTINEZ (for himself and Mr. WARNER)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title III, add the following:

SEC. . IMPROVEMENT OF AUTHORITIES ON GENERAL GIFT FUNDS OF THE DEPARTMENT OF DEFENSE.

(a) RESTATEMENT AND EXPANSION OF CURRENT AUTHORITY.—Subsection (a) of section 2601 of title 10, United States Code, is amended to read as follows:

"(a)(1) Subject to subsection (b), the Secretary concerned may accept, hold, administer, and spend any gift, devise, or bequest of real or personal property made on the condition that it be used for the benefit, or in connection with, the establishment, operation, or maintenance of a school, hospital, library, museum, cemetery, or other institution or organization under the jurisdiction of such Secretary.

"(2)(A) Subject to subsection (b), the Secretary concerned may accept, hold, administer, and spend any gift, devise, or bequest of real or personal property made on the condition that it be used for the benefit of members of the armed forces or civilian employees of United States Government, or the dependents or survivors of such members or employees, who are wounded or killed while serving in Operation Iraqi Freedom, Operation Enduring Freedom, or any other military operation or activity, or geographic area, designated by the Secretary of Defense for purposes of this section.

"(B) The Secretary of Defense shall prescribe regulations specifying the conditions that may be attached to a gift, devise, or bequest accepted under this paragraph.

"(C) The authority to accept gifts, devises, or bequests under this paragraph shall expire on December 31, 2007.

"(3) The Secretary concerned may pay all necessary expenses in connection with the conveyance or transfer of a gift, devise, or bequest made under this subsection.".

(b) SCOPE OF AUTHORITY TO USE ACCEPTED PROPERTY.—Such section is further amended—

(1) by redesignating subsections (b), (c) and (d) as subsections (c), (d), and (e), respectively; and

(2) by inserting after subsection (a) the following new subsection (b):

"(b)(1) Except as provided in paragraph (2), property accepted under subsection (a) may be used by the Secretary concerned without further specific authorization in law.

"(2) Property accepted under subsection (a) may not be used—

"(A) if the use of such property in connection with any program, project, or activity would result in the violation of any prohibition or limitation otherwise applicable to such program, project, or activity;

"(B) if the conditions attached to such property are inconsistent with applicable law or regulations;

"(C) if the use of such property would reflect unfavorably on ability of the Department of Defense, any employee of the Department, or any member of the armed forces to carry out any responsibility or duty of the Department in a fair and objective manner; or

"(D) if the use of such property would compromise the integrity or appearance of integrity of any program of the Department of Defense, or any individual involved in such a program.".

(c) CONFORMING AMENDMENT.—Subsection (c) of such section, as redesignated by subsection (b)(1) of this section, is further amended in the flush matter following paragraph (4) by striking "benefit or use of the designated institution or organization" and inserting "purposes specified in subsection (a)".

(d) GAO AUDITS.—Such section is further amended by adding at the end the following new subsection:

"(f) The Comptroller General of the United States shall make periodic audits of real or personal property accepted under subsection (a) at such intervals as the Comptroller General determines to be warranted. The Comptroller General shall submit to Congress a report on the results of each such audit.".

SA 2565. Mr. WARNER (for Mr. MCCAIN) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle D of title V, add the following:

SEC. . SENSE OF SENATE ON APPLICABILITY OF UNIFORM CODE OF MILITARY JUSTICE TO RESERVES ON INACTIVE-DUTY TRAINING OVERSEAS.

It is the sense of the Senate that—

(1) there should be no ambiguity about the applicability of the Uniform Code of Military Justice (UCMJ) to members of the reserve components of the Armed Forces while serving overseas under inactive-duty training (IDT) orders for any period of time under such orders; and

(2) the Secretary of Defense should—

(A) take action, not later than February 1, 2006, to clarify jurisdictional issues relating to such applicability under section 802 of title 10, United States Code (article 2 of the Uniform Code of Military Justice); and

(B) if necessary, submit to Congress a proposal for legislative action to ensure the applicability of the Uniform Code of Military Justice to members of the reserve components of the Armed Forces while serving overseas under inactive-duty training orders.

SA 2566. Mr. WARNER (for Mr. McConnell) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title III, add the following:

SEC. ___. COMMEMORATION OF SUCCESS OF THE ARMED FORCES IN OPERATION ENDURING FREEDOM AND OPERATION IRAQI FREEDOM.

(a) Finding.—Congress finds that it is both right and appropriate that, upon their return from Operation Enduring Freedom in Afghanistan and Operation Iraqi Freedom in Iraq, all soldiers, sailors, marines, and airmen in the Armed Forces who served in those operations be honored and recognized for their achievements, with appropriate ceremonies, activities, and awards commemorating their sacrifice and service to the United States and the cause of freedom in the Global War on Terrorism.

(b) Celebration Honoring Military Efforts in Operation Enduring Freedom and Operation Iraqi Freedom.—The President may, at the sole discretion of the President—

(1) designate a day of celebration to honor the soldiers, sailors, marines, and airmen of the Armed Forces who have served in Operation Enduring Freedom or Operation Iraqi Freedom and have returned to the United States; and

(2) issue a proclamation calling on the people of the United States to observe that day with appropriate ceremonies and activities.

(c) Participation of Armed Forces in Celebration.—

(1) Participation authorized.—Members and units of the Armed Forces may participate in activities associated with the day of celebration designated under subsection (b) that are held in Washington, District of Columbia

(2) Availability of funds.—Subject to paragraph (4), amounts authorized to be appropriated for the Department of Defense may be used to cover costs associated with the participation of members and units of the Armed Forces in the activities described in paragraph (1).

(3) Acceptance of private contributions.—(A) Notwithstanding any other provision of law, the Secretary of Defense may accept cash contributions from private individuals and entities for the purposes of covering the costs of the participation of members and units of the Armed Forces in the activities described in paragraph (1). Amounts so accepted shall be deposited in an account established for purposes of this paragraph.

(B) Amounts accepted under subparagraph (A) may be used for the purposes described in that subparagraph until expended.

(4) Limitation.—The total amount of funds described in paragraph (2) that are available for the purpose set forth in that paragraph may not exceed the amount equal to—

(A) $20,000,000, minus

(B) the amount of any cash contributions accepted by the Secretary under paragraph (3).

(d) Award of Recognition Items.—

(1) Authority to award.—Under regulations prescribed by the Secretary of Defense, appropriate recognition items may be awarded to any individual who served honorably as a member of the Armed Forces in Operation Enduring Freedom or Operation Iraqi Freedom during the Global War on Terrorism. The purpose of the award of such items is to recognize the contribution of such individuals to the success of the United States in those operations.

(2) Recognition items defined.—In this subsection, the term "recognition items" means recognition items authorized for presentation under section 2261 of title 10, United States Code (as amended by section 593(a) of this Act).

SA 2567. Mr. WARNER (for Mr. McConnell) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 310, in the table following line 16, insert after the item relating to Fort Campbell, Kentucky, the following:

	Fort Knox	$4,600,000

On page 311, in the table preceding line 1, strike the amount identified as the total in the amount column and insert "$1,199,722,000".

On page 317, between lines 3 and 4, insert the following:

SEC. 2105. CONSTRUCTION OF BATTALION DINING FACILITIES, FORT KNOX, KENTUCKY.

(a) Authorization of Appropriations.—The amount authorized to be appropriated by section 2104(a) for military construction, land acquisition, and military family housing functions of the Department of the Army and the amount of such funds authorized by paragraph (1) of such subsection for military construction projects inside the United States are each hereby decreased by $3,600,000.

(b) Use of Funds.—Of the amount authorized to be appropriated by section 2104(a)(1) for the Department of the Army and available for military construction at Fort Knox, Kentucky, $4,600,000 is available for the construction of battalion dining facilities at Fort Knox.

SA 2568. Mr. WARNER (for Mr. Levin) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle A of title IX, add the following:

SEC. . RESPONSIBILITY OF THE JOINT CHIEFS OF STAFF AS MILITARY ADVISERS TO THE HOMELAND SECURITY COUNCIL.

(a) Responsibility as Military Advisers.—

(1) In general.—Subsection (b) of section 151 of title 10, United States Code, is amended—

(A) in paragraph (1), by inserting "the Homeland Security Council," after "the National Security Council,"; and

(B) in paragraph (2), by inserting "the Homeland Security Council," after "the National Security Council,".

(2) Consultation by chairman.—Subsection (c)(2) of such section is amended by inserting "the Homeland Security Council," after "the National Security Council," both places it appears.

(3) Advice and opinions of members other than chairman.—Subsection (d) of such section is amended—

(A) in paragraph (1), by inserting "the Homeland Security Council," after "the National Security Council," both places it appears; and

(B) in paragraph (2), by inserting "the Homeland Security Council," after "the National Security Council,".

(4) Advice on request.—Subsection (e) of such section is amended by inserting "the Homeland Security Council," after "the National Security Council," both places it appears.

(b) Attendance at Meeting of Homeland Security Council.—Section 903 of the Homeland Security Act of 2002 (6 U.S.C. 493) is amended—

(1) by inserting "(a) Members.—" before "The members", and

(2) by adding at the end the following new subsection:

"(b) Attendance of Chairman of Joint Chiefs of Staff at Meetings.—The Chairman of the Joint Chiefs of Staff (or, in the absence of the Chairman, the Vice Chairman of the Joint Chiefs of Staff) may, in the role of the Chairman of the Joint Chiefs of Staff as principal military adviser to the Homeland Security Council and subject to the direction of the President, attend and participate in meetings of the Homeland Security Council.".

SA 2569. Mr. WARNER (for Mr. Salazar) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 286, between lines 7 and 8, insert the following:

SEC. 1073. SENSE OF SENATE ON COMMON REMOTELY OPERATED WEAPONS STATION (CROWS) PLATFORM.

(a) Findings.—The Senate makes the following findings:

(1) With only a few systems deployed, the Common Remotely Operated Weapons Station (CROWS) platform is already saving the lives of soldiers today in Iraq by moving soldiers out of the exposed gunner's seat and into the protective shell of an up-armored Humvee.

(2) The Common Remotely Operated Weapons Station platform dramatically improves battlefield awareness by providing a laser rangefinder, night vision, telescopic vision, a fire control computer that allows on-the-move target acquisition, and one-shot one-kill accuracy at the maximum range of a weapon.

(3) As they become available, new technologies can be incorporated into the Common Remotely Operated Weapons Station platform, thus making the platform scalable.

(4) The Army has indicated that an additional $206,000,000 will be required in fiscal year 2006 to procure 750 Common Remotely Operated Weapons Station units for the Armed Forces, and to prepare for future production of such weapons stations.

(b) Sense of Senate.—It is the sense of the Senate that the President should include in the next request submitted to Congress for supplemental funding for military operations in Iraq and Afghanistan sufficient funds for the production in fiscal year 2006 of a number of Common Remotely Operated Weapons Station units that is adequate to meet the requirements of the Armed Forces.

SA 2570. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title III, add the following:

SEC. . INCLUSION OF PACKET BASED TELEPHONY IN DEPARTMENT OF DEFENSE TELECOMMUNICATIONS BENEFIT.

(a) Inclusion in Benefit.—Subsection (a) of section 344 of the National Defense Authorization Act for Fiscal Year 2004 (Public Law 108-136; 117 Stat. 1448) is amended by inserting "packet based telephony service," after "prepaid phone cards,".

(b) Inclusion of Internet Telephony in Deployment of Additional Telephone Equipment.—Subsection (e) of such section is amended—

(1) by inserting "or Internet service" after "additional telephones";

(2) by inserting "or packet based telephony" after "to facilitate telephone"; and

(3) by inserting "or Internet access" after "installation of telephones".

(c) Conforming Amendments.—Such section is further amended—

(1) in the subsection caption of subsection (a), by striking "Prepaid Phone Cards" and inserting "Benefit"; and

(2) in the subsection caption of subsection (e), by inserting "or Internet Access" after "Telephone Equipment".

SA 2571. Mr. WARNER (for Ms. Collins) (for herself and Ms. Snowe)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle A of title VIII, add the following:

SEC. . SENSE OF SENATE ON APPLICABILITY OF COMPETITION EXCEPTIONS TO ELIGIBILITY OF NATIONAL GUARD FOR FINANCIAL ASSISTANCE FOR PERFORMANCE OF ADDITIONAL DUTIES.

It is the sense of the Senate that the amendment made by section 806 of the Ronald W. Reagan National Defense Authorization Act for Fiscal Year 2005 (Public Law 108–375; 118 Stat. 2010) permits the Secretary of Defense to provide financial assistance to the Army National Guard for the performance of additional duties specified in section 113(a) of title 32, United States Code, without the use of competitive procedures under the standard exceptions to the use of such procedures in accordance with section 2304(c) of title 10, United States Code.

SA 2572. Mr. WARNER (for Mr. Durbin) (for himself, Mr. Vitter, Mr. Wyden, Mr. Dayton, Ms. Landrieu, Mr. Chambliss, Mr. Isakson, and Mr. Schumer)) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place, insert the following:

SEC. . VETERANS PREFERENCE ELIGIBILITY FOR MILITARY RESERVISTS.

(a) Short Title.—This section may be cited as the "Reservist Access to Veterans Preference Act".

(b) Veterans Preference Eligibility.—Section 2108(1) of title 5, United States Code, is amended by striking "separated from" and inserting "discharged or released from active duty in".

(c) Savings Provision.—Nothing in the amendment made by subsection (b) may be construed to affect a determination made before the date of enactment of this Act that an individual is preference eligible (as defined in section 2108(3) of title 5, United States Code).

SA 2573. Mr. WARNER (for Mr. DeWine) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title VII, add the following:

SEC. 718. STUDY AND REPORT ON CIVILIAN AND MILITARY PARTNERSHIP PROJECT.

(a) Study.—The Secretary of Defense shall conduct a study on the feasibility of conducting a military and civilian partnership project to permit employees of the Department of Defense and of a non-profit health care entity to jointly staff and provide health care services to military personnel and civilians at a Department of Defense military treatment facility.

(b) Report.—Not later than December 31, 2006, the Secretary of Defense shall submit to the Committee on Armed Services of the Senate and the Committee on Armed Services of the House of Representatives a report on the study required by subsection (a).

SA 2574. Mr. WARNER (for Ms. Snowe) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the appropriate place in title VIII, insert:

Sec. ___ Contracting Incentive for Small Power Plants on Former Military Bases.

(A) Authorization.—Notwithstanding the limitation in Section 501(b)(1)(B) of title 40, United States Code, the Administrator of the General Services Administration is authorized to contract for public utility services for a period of not more than 20 years, provided that such services are electricity services procured from a small power plant located on a qualified HUBZone base closure area.

(B) Definition of small power plant.—In this section, the term small power plant includes any power facility or project with electrical output of not more than 60 Megawatts.

(C) Definition of public utility electric services.—In this section, the term 'public utility services', with respect to electricity services, includes electricity supplies and services, including transmission, generation, distribution, and other services directly used in providing electricity."

(D) Definition of hubzone base closure area: In this section, the term "HUBZone base closure area" has the same meaning as such term is defined in Section 3(P)(4)(D) the Small Business Act, 15 USC 632(p)(4)(D).

(E) Applicability of other provisions of law.—Contracting pursuant to this section shall be subject to all other laws and regulations applicable to contracting for public utility services.

SA 2575. Mr. WARNER (for himself and Mr. McCain) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle E of title VIII, add the following:

SEC. . EXTENSION OF ANNUAL REPORTS ON MATURITY OF TECHNOLOGY AT INITIATION OF MAJOR DEFENSE ACQUISITION PROGRAMS.

Section 804(a) of the National Defense Authorization Act for Fiscal Year 2002 (Public Law 107–107; 115 Stat. 1180) is amended by striking "through 2006" and inserting "through 2010".

SA 2576. Mr. WARNER (for Mr. BYRD) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

On page 337, between lines 4 and 5, insert the following:

SEC. 2602. NATIONAL GUARD CONSTRUCTION PROJECTS.

(a) ARMY NATIONAL GUARD AT CAMP DAWSON, WEST VIRGINIA.—

(1) AUTHORIZATION OF APPROPRIATIONS.—The amount authorized to be appropriated by section 2601(1)(A) for the Department of the Army for the Army National Guard of the United States is hereby increased by $4,500,000.

(2) USE OF FUNDS.—Of the amount authorized to be appropriated by section 2601(1)(A) for the Department of the Army for the Army National Guard of the United States, as increased by paragraph (1), $4,500,000 is available for the construction of a readiness center at Camp Dawson, West Virginia.

(3) OFFSET.—The amount authorized to be appropriated by section 2601(3)(A) for the Department of the Air Force for the Air National Guard of the United States, and available for the construction of a bridge/gate house/force protection entry project at Camp Yeager, West Virginia, is hereby decreased by $4,500,000.

(b) AIR NATIONAL GUARD AT EASTERN WEST VIRGINIA REGIONAL AIRPORT.—Of the amount authorized to be appropriated by section 2603(3)(A) for the Department of the Air Force for the Air National Guard of the United States, and otherwise available for the construction of a bridge/gate house/force protection entry project at Yeager Air National Guard Base, West Virginia, $2,000,000 shall be available instead for C-5 aircraft shop upgrades at Eastern West Virginia Regional Airport, Shepherd Field, Martinsburg, West Virginia.

SA 2577. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle C of title III, add the following:

SEC. . REPORT ON EFFECTS OF WINDMILL FARMS ON MILITARY READINESS.

(a) FINDING.—Congress finds that the Ministry of Defence of the United Kingdom has determined, as a result of a recently conducted study of the effect of windmill farms on military readiness, not to permit construction of windmill farms within 30 kilometers of military radar installations.

(b) REPORT REQUIRED.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Defense shall submit to the Committees on Armed Services of the Senate and the House of Representatives a report on the effects of windmill farms on military readiness, including an assessment of the effects on the operations of military radar installations of the proximity of windmill farms to such installations and of technologies that could mitigate any adverse effects on military operations identified.

SA 2578. Mr. WARNER proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle B of title XXXI, add the following:

SEC. . REPORT ON ADVANCED TECHNOLOGIES FOR NUCLEAR POWER REACTORS IN THE UNITED STATES.

(a) REPORT REQUIRED.—Not later than six months after the date of the enactment of this Act, the Secretary of Energy shall submit to Congress a report on advanced technologies for nuclear power reactors in the United States.

(b) REPORT ELEMENTS.—The report required by subsection (a) shall include the following:

(1) A description and assessment of technologies under development for advanced nuclear power reactors that offer the potential for further enhancements of the safety performance of nuclear power reactors.

(2) A description and assessment of technologies under development for advanced nuclear power reactors that offer the potential for further enhancements of proliferation-resistant nuclear power reactors.

(c) FORM OF REPORT.—The information in the report required by subsection (a) shall be presented in manner and format that facilitates the dissemination of such information to, and the understanding of such information by, the general public.

SA 2579. Mr. WARNER (for Mr. BAYH) proposed an amendment to the bill S. 1042, to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes; as follows:

At the end of subtitle D of title X, add the following:

SEC. . QUARTERLY REPORTS ON WAR STRATEGY IN IRAQ.

(a) QUARTERLY REPORTS.—At the same time the Secretary of Defense submits to Congress each report on stability and security in Iraq that is submitted to Congress after the date of the enactment of this Act under the Joint Explanatory Statement of the Committee on Conference to accompany the conference report on the bill H.R. 1268 of the 109th Congress, the Secretary of Defense and appropriate personnel of the Central Intelligence Agency shall provide the appropriate committees of Congress a briefing on the strategy for the war in Iraq, including the measures of evaluation utilized in determining the progress made in the execution of that strategy.

(b) APPROPRIATE COMMITTEES OF CONGRESS DEFINED.—In this section, the term "appropriate committees of Congress" means—

(1) the Committees on Armed Services and Appropriations of the Senate; and

(2) the Committees on Armed Services and Appropriations of the House of Representatives.

SA 2580. Mr. SANTORUM (for Mr. FRIST) proposed an amendment to the bill H.R. 1499, To amend the Internal Revenue Code of 1986 to allow members of the Armed Forces serving in a combat zone to make contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income; as follows:

On page 3, line 3, change "December 31, 2004" to "December 31, 2003".

NOTICES OF HEARINGS/MEETINGS

COMMITTEE ON INDIAN AFFAIRS

Mr. McCAIN. Mr. President, I would like to announce that the Committee on Indian Affairs will meet on Wednesday, November 16, 2005, at 10 a.m. in room 216 of the Hart Senate Office Building to conduct an oversight hearing on the In Re Tribal Lobbying Matters, Et Al. Those wishing additional information may contact the Indian Affairs Committee at 224–2251.

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on November 15, 2005, at 10 a.m. to conduct a hearing on the nomination of Mr. Ben S. Bernanke, of New Jersey, to be a member and chairman of the Board of Governors of the Federal Reserve System.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE, AND TRANSPORTATION

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Tuesday November 15, 2005, at 10 a.m., on Public Policy Options for Encouraging Alternative Automotive Fuel Technologies.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, November 15, at 10 a.m. The purpose of this hearing is to evaluate and receive a status report on the environmental management programs of the Department of Energy.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FINANCE

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Finance be authorized to meet in open Executive Session during the session on Tuesday, November 15, 2005, at 10 a.m. to consider an original bill that will include the Committee's budget reconciliation instructions pertaining to expiring tax provisions and also additional incentives for hurricane affected areas.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Tuesday, November 15, 2005, at 9:30 a.m. to hold a hearing on Treaties.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to meet to conduct a hearing on "Judicial Nominations" on Tuesday, November 15, 2005 at 2:30 p.m. in the Dirksen Senate Office Building Room 226.

Witness List

Panel I: Members of Congress.

Panel II: Virginia Mary Kendall to be United States District Judge for the Northern District of Illinois; Kristi DuBose to be United States District Judge for the Southern District of Alabama; W. Keith Watkins to be United States District Judge for the Middle District of Alabama.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON AIRLAND

Mr. WARNER. Mr. President, I ask unanimous consent that the subcommittee on Airland be authorized to meet during the session of the Senate on November 15, 2005, at 2:30 p.m., in open session to receive testimony on defense acquisition issues related to tactical aviation and army programs.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON FEDERAL FINANCIAL MANAGEMENT, GOVERNMENT INFORMATION, AND INTERNATIONAL SECURITY

Mr. WARNER. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs' Subcommittee on Federal Financial Management, Government Information, and International Security be authorized to meet on Tuesday, November 15, 2005, at 3 p.m. for a hearing regarding "Iran: Teheran's Nuclear Recklessness and the U.S. Response—The Experts' Perspective."

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON NATIONAL PARKS

Mr. WARNER. Mr. President, I ask unanimous consent that the Subcommittee on National Parks of the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Tuesday, November 15 at 2:30 p.m. The purpose of the hearing is to receive testimony on the following Bills: S. 431, a Bill to establish a program to award grants to improve and maintain sites honoring Presidents of the United States, S. 505, a bill to amend the Yuma Crossing National Heritage ARA Act of 2000 to adjust the boundary of the Yuma Crossing National Heritage Area, S. 1288, a Bill to authorize the Secretary of the Interior to enter into cooperative agreements to protect natural resources of units of the National Park System through collaborative efforts on land inside and outside of units of the National Park System, S. 1544, a Bill to establish the Northern Plains National Heritage Area in the State of North Dakota, and for other purposes, S. Con. Res. 60, a concurrent resolution designating the Negro Leagues Baseball Museum in Kansas City, Missouri, as America's National Negro Leagues Baseball Museum, S. 748 and H.R. 1084, Bills to authorize the establishment at Antietam National Battlefield of a memorial to the officers and enlisted men of the Fifth, Sixth, and Ninth New Hampshire Volunteer Infantry Regiments and the First New Hampshire Light Artillery Battery who fought in the Battle of Antietam on September 17, 1862, and for other purposes, and H.R. 2107, to amend Public Law 104-329 to modify authorities for the use of the Notational Law Enforcement Officers Memorial Maintenance Fund, and for other purposes.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGES OF THE FLOOR

Mr. SALAZAR. Mr. President, I ask unanimous consent that a member of my staff, Velina Wallick, and a science fellow in my office, John Plumb, be granted the privilege of the floor during the duration of today's Senate business.

The ACTING PRESIDENT pro tempore. Without objection, it is so ordered.

Ms. MIKULSKI. Mr. President, I ask unanimous consent that Chris Crawford of the Appropriations Committee staff be granted the privilege of the floor during consideration of H.R. 2862.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. INHOFE. Mr. President, I ask unanimous consent that Harry Christy and Bob Lester of the State Foreign Operations and Related Programs Subcommittee be granted the privilege of the floor during considering of the fiscal year 2006 Science, State, Justice, Commerce and related agencies conference report.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. SANTORUM. Mr. President, I ask unanimous consent that MAJ Alison Thompson, a Marine fellow in the office of Senator ELIZABETH DOLE, be granted the privilege of the floor for November 16.

The PRESIDING OFFICER. Without objection, it is so ordered.

UNANIMOUS CONSENT AGREEMENT—S. 1783

Mr. SANTORUM. Mr. President, I ask unanimous consent that at a time to be determined by the majority leader, after consultation with the Democratic leader, the Senate proceed to the immediate consideration of calendar No. 231, S. 1783. I further ask that the managers' substitute at the desk be agreed to as original text for purpose of further amendment and that the only other amendments in order be an amendment offered by Senator ISAKSON or his designee on airline pension plans and an amendment to be offered by Senator AKAKA on pilots, the text of which is at the desk. I further ask unanimous consent that general debate on the bill be limited to 2 hours equally divided, and the debate on the Isakson and Akaka amendments be limited to 30 minutes equally divided, respectively, and that following the disposition of those specified amendments, the bill, as amended, be read a third time, and the Senate proceed to vote on passage, with no intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

FEED AMERICA THURSDAY

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 314, which was submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 314) designating Thursday, November 17, 2005, as "Feed America Thursday."

There being no objection, the Senate proceeded to consider the resolution.

Mr. SANTORUM. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 314) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 314

Whereas Thanksgiving Day celebrates the spirit of selfless giving and an appreciation for family and friends;

Whereas the spirit of Thanksgiving Day is a virtue upon which our Nation was founded;

Whereas 33,000,000 Americans, including 13,000,000 children, continue to live in households that do not have an adequate supply of food;

Whereas almost 3,000,000 of those children experience hunger; and

Whereas selfless sacrifice breeds a genuine spirit of Thanksgiving, both affirming and restoring fundamental principles in our society: Now, therefore, be it

Resolved, That the Senate—

(1) designates Thursday, November 17, 2005, as "Feed America Thursday"; and

(2) calls upon the people of the United States to sacrifice 2 meals on Thursday, November 17, 2005, and to donate the money that they would have spent on food to a religious or charitable organization of their choice for the purpose of feeding the hungry.

BICENTENNIAL ANNIVERSARY OF ARRIVAL OF LEWIS AND CLARK AT THE PACIFIC OCEAN

Mr. SANTORUM. I ask unanimous consent that the Senate proceed to the immediate consideration of S. Res. 315 submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 315) to commemorate the bicentennial anniversary of the arrival of Lewis and Clark at the Pacific Ocean.

There being no objection, the Senate proceeded to the consideration of the resolution.

Ms. CANTWELL. Mr. President, I rise today in support of a Senate resolution commemorating the bicentennial of Lewis and Clark's remarkable arrival on the Pacific Coast. I am pleased that Senators MURRAY and WYDEN are original cosponsors of the resolution.

Meriwether Lewis and William Clark's epic journey explored and charted the western frontier of our fledgling Nation.

This journey was America's great odyssey. It marked our Nation's coming of age and represents its core values: courage, innovation, perseverance, and opportunity.

And two centuries ago, they reached their destination. On Nov. 7 1805, William Clark wrote in this in his journal:

> Great joy in camp, we are in View of the Ocean, this great Pacific Ocean which we been so long anxious to See and the roaring or noise made by the waves breaking on the rocky Shores may be heard distinctly.

It's no wonder he was so excited. Their expedition began a year and half earlier and 4,000 meandering miles east.

President Thomas Jefferson had charged them with finding the most direct, practical water route across the continent.

When Clark wrote that they had seen the Pacific on that day, 200 years ago, he was slightly off target. They were actually 25 miles away, in the Columbia's widening estuary.

Dangerous storms, wind, rain, and waves battered them without relent. They were trapped for 6 days and forced to hunker down at the spot we now call Clark's Dismal Nitch.

When the weather finally cleared, they moved west to Station Camp. They set down for ten days and got their first real glimpse of the Pacific.

Expedition-member Sgt. Patrick Gass wrote: "We could see the waves, like small mountains, rolling out in the ocean."

Station Camp also marks the spot where Lewis and Clark held a historic democratic vote among all of the group's members—including Sacagawea and the African American slave, York—to determine where the expedition should stay for the winter.

On November 19, William Clark took 11 expedition members from Station Camp on an excursion beyond camp, and for the first time saw a full view of the Pacific Ocean.

That land, now called Cape Disappointment, marks the westernmost point of their journey. Its name belies the great hope and joy that moment inspired in our travel-worn heroes.

Today, in Washington State, you can visit these historic locations and find that hope again. Dismal Nitch, Station Camp, Cape Disappointment: In addition to Oregon's Fort Clatsop and other nearby state parks, they comprise America's newest national park.

I introduced legislation with Representative BRIAN BAIRD to create the Lewis and Clark National Historic Park: to preserve those beautiful and precious lands, to build local tourism, and to educate future generations.

Last November, President Bush signed it into law. This November, we celebrate an incredible bicentennial.

Lewis and Clark produced the first maps and charts of a previously undocumented region.

They created an invaluable record of the native cultures, the flora, and the fauna they encountered on their journey.

Prior to the expedition, the United States' claim to the Pacific Northwest, was tenuous at best, based on American sea captain Robert Gray's discovery of the Columbia River in 1792.

And so: Lewis and Clark's expedition, more than a decade later, was crucial to securing the claim. It was crucial to the eventual creation of all the States in the Pacific Northwest.

More fundamentally though: their task was to explore the unknown. In doing so, they expanded the boundaries of our Nation and pushed the limits of what we were capable, as a people.

It was not easy for them; it rarely is. But many have come after Lewis and Clark. Inspired by their spirit, we have transformed our great Nation many times over in those 200 years.

We would be wise to turn to Lewis and Clark again, as we confront so many critical challenges before us today.

Only by truly reaching beyond our grasp, can we make our Nation great, as Thomas Jefferson said: "from Sea to Shining Sea."

I yield the floor.

Mr. SANTORUM. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and any statements relating thereto be printed in the RECORD, without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 315) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 315

Whereas, on January 18, 1803, President Thomas Jefferson began an extraordinary journey by sending a secret message to Congress requesting approval and funding to establish the "Corps of Volunteers for Northwest Discovery" to explore the most direct and practical water route across the continent of the United States all the way to the Pacific Ocean;

Whereas, on May 14, 1804, the journey up the Missouri River and across the vast and newly acquired Louisiana Territory began at Camp Dubois, Illinois, led by Captain Meriwether Lewis and Second Lieutenant William Clark;

Whereas after a long year and a half and 4,133 arduous miles, the expedition endured a dangerous storm of wind, rain, and waves for 6 days at Clark's Dismal Nitch;

Whereas, on November 13, 1805, the Corps of Discovery moved further west to Station Camp and beheld their first comprehensive view of the Pacific Ocean, and thereby began the realization of the vision of President Jefferson of a country "from sea to shining sea";

Whereas Station Camp also marks the occurrence of a historical democratic vote to determine where to stay for winter that included all members of the expedition, including Sacagawea, an Indian woman, and York, an African American slave;

Whereas, on November 19, 1805, Clark and 11 of his men set out on an ocean excursion, hiking 25 miles to Cape Disappointment to get a complete view of the Pacific Ocean and reach the furthest western point of the expedition;

Whereas the expedition built their winter camp on the south side of the Columbia River at Fort Clatsop, Oregon, named in honor of the friendly local Clatsop Indians, and the 33 member party spent 106 days among lush old-growth forest, wetlands, and wildlife preparing for their long journey back to St. Louis, Missouri;

Whereas Lewis and Clark's Corps of Discovery produced detailed journals with maps, charts, samples, and descriptions of the previously undocumented western geography, climate, plants, animals, and native cultures from which the Nation continues to benefit today;

Whereas the Lewis and Clark Expedition marks a significant benchmark in American history and a crucial step in securing the claim and the eventual creation of all the States in the Pacific Northwest;

Whereas the exploration of the western frontier of our fledgling Nation was the great odyssey of America, symbolic of the core values of teamwork, courage, perseverance, science, and opportunity held by the United States;

Whereas, on October 30, 2004, President George W. Bush signed into law legislation creating the Lewis and Clark National Historical Park which preserves these 3 Washington State sites integral to the dramatic arrival of the expedition at the Pacific Ocean, and incorporates Fort Clatsop of Oregon and important State parks for the benefit and education of generations to come; and

Whereas, during November 2005, Washington and Oregon are hosting, "Destination: The Pacific", a unique commemoration of the 200 year anniversary of the arrival of the Corps of Discovery in the Pacific Northwest: Now, therefore, be it

Resolved, That the Senate—

(1) commemorates the bicentennial anniversary of the arrival of Lewis and Clark at the Pacific Ocean; and

(2) recognizes that by exploring the unknown frontier, Lewis and Clark expanded the boundaries of our great Nation and pushed the limits of what we are capable of as citizens.

RECOGNIZING THE 40TH ANNIVERSARY OF THE WHITE HOUSE FELLOWS PROGRAM

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Judiciary Committee be discharged from further consideration and the Senate now proceed to H. Con. Res. 269.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

A concurrent resolution (H. Con. Res. 269) recognizing the 40th anniversary of the White House Fellows Program.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. SANTORUM. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The concurrent resolution (H. Con. Res. 269) was agreed to.

The preamble was agreed to.

BICENTENNIAL ANNIVERSARY OF ZEBULON MONTGOMERY PIKE'S EXPLORATIONS

Mr. SANTORUM. I ask unanimous consent that the Judiciary Committee be discharged from further consideration of S. Res. 252 and that the Senate then proceed to its consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the resolution by title.

The legislative clerk read as follows:

A resolution (S. Res. 252) recognizing the Bicentennial Anniversary of Zebulon Montgomery Pike's explorations in the interior west of the United States.

There being no objection, the Senate proceeded to consider the resolution.

Mr. SANTORUM. I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, the motion to reconsider be laid upon the table, and that any statements relating thereto be printed in the RECORD, without further intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 252) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. RES. 252

Whereas Zebulon Montgomery Pike was born January 5, 1779, in Lamberton, New Jersey, to a military family, which quickly was on the move across the Nation with Pike growing up on frontier military posts;

Whereas Zebulon Montgomery Pike served the United States with distinction, initially as a commissioned First Lieutenant in the First Infantry Regiment of the United States Army, later as a Captain, further as a Colonel of the 15th Regiment during the War of 1812, and ultimately as a Brigadier General in 1813;

Whereas in July of 1806, Zebulon Montgomery Pike was given the assignment of leading an expedition west from present-day St. Louis, Missouri, up the Arkansas River to its source in the highest of the Rocky Mountains, then into Colorado's San Luis Valley;

Whereas Zebulon Montgomery Pike and his expedition traveled through the present day states of Missouri, Nebraska, Kansas, and Colorado observing the geography, natural history, and population of the country through which he passed;

Whereas Zebulon Montgomery Pike and his expedition reached the site of present day Pueblo, Colorado on November 23, 1806, and, fascinated with a blue peak in the Rocky Mountains to the west, Pike set out to explore the mountain;

Whereas Zebulon Montgomery Pike was prevented from completing the ascent due to waist-deep snow, inadequate clothing, and sub-zero temperatures, and so chose to turn back for the safety of his expedition;

Whereas Zebulon Montgomery Pike never set foot on "Pike's Peak" but did contribute significantly to the interior west's early exploration through the headwaters of the Arkansas River;

Whereas Zebulon Montgomery Pike and his expedition found the area of present day Great Sand Dunes National Park in Colorado and the headwaters of the Rio Grande, which he mistakenly thought was the Red River; and

Whereas on April 27, 1813, Zebulon Montgomery Pike died in valiant service to his country, leading an attack on York, later to become Toronto, during the War of 1812: Now, therefore, be it

Resolved, That the Senate—

(1) recognizes the year 2006 as the 200th anniversary of Zebulon Montgomery Pike's discoveries throughout the American West; and

(2) encourages the people of the United States to observe and celebrate his contributions to our Nation's history with appropriate ceremonies and activities throughout the year.

HEROES EARNED RETIREMENT OPPORTUNITIES ACT

Mr. SANTORUM. Mr. President, I ask unanimous consent that the Committee on Finance be discharged from further consideration of H.R. 1499 and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1499) to amend the Internal Revenue Code of 1986 to allow a deduction to members of the Armed Forces serving in a combat zone for contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. SANTORUM. I ask unanimous consent the amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motion to reconsider be laid on the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2580) was agreed to, as follows:

On page 3, line 3, change "December 31, 2004" to "December 31, 2003".

The bill (H.R. 1499), as amended, was read the third time and passed.

MEASURE READ THE FIRST TIME—S. 2008

Mr. SANTORUM. I understand there is a bill at the desk. I ask for its first reading.

The PRESIDING OFFICER. The clerk will report.

A bill (S. 2008) to improve cargo security and for other purposes.

Mr. SANTORUM. I now ask for a second reading and in order to place the bill on the calendar under the provisions of rule XIV, I object to my own request.

The PRESIDING OFFICER. Objection is heard. The bill will be read the second time on the next legislative day.

ORDERS FOR WEDNESDAY, NOVEMBER 16, 2005

Mr. SANTORUM. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Wednesday, November 16. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to a period of morning business for up to 60 minutes with the first 30 minutes under the control of the majority leader or his designee and the final 30 minutes under the control of the Democrat leader or his designee. I further ask that the Senate then begin consideration of S. 1783, the pensions bill as provided under the unanimous consent.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. SANTORUM. Today the Senate unanimously passed the Defense authorization bill. I congratulate Senator WARNER and Senator LEVIN for this long, long, long awaited accomplishment, keeping up the record of the Armed Services Committee in passing Defense authorization bills on the floor of the Senate.

Tomorrow the Senate will vote on the CJS appropriations bill conference report. Under the consent agreement just entered, the Senate will begin consideration of a very important piece of legislation, the pension bill, and complete action on that bill during tomorrow's session. We also expect to begin consideration of the tax reconciliation measure, which was reported out of the Finance Committee today, during Wednesday's session of the Senate. Rollcall votes will occur throughout the day.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. SANTORUM. If there is no further business to come before the Senate, I ask unanimous consent the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:57 p.m., adjourned until Wednesday, November 16, 2005, at 9:30 a.m.

HOUSE OF REPRESENTATIVES—*Tuesday, November 15, 2005*

The House met at 10:30 a.m. and was called to order by the Speaker pro tempore (Mr. GOHMERT).

DESIGNATION OF SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 15, 2005.

I hereby appoint the Honorable LOUIE GOHMERT to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

MORNING HOUR DEBATES

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the Chair will now recognize Members from lists submitted by the majority and minority leaders for morning hour debates. The Chair will alternate recognition between the parties, with each party limited to not to exceed 30 minutes, and each Member, except the majority leader, the minority leader, or the minority whip, limited to not to exceed 5 minutes.

The Chair recognizes the gentleman from Massachusetts (Mr. MCGOVERN) for 5 minutes.

PRESIDENT BUSH CAN'T REWRITE HISTORY

Mr. MCGOVERN. Mr. Speaker, beginning on Veterans Day, President Bush has begun a series of attacks against his critics on the war in Iraq. He has been supported by a well-orchestrated set of groupies of conservative policymakers, Members of Congress and talking heads all spouting the same line, that the Bush Administration was not alone in believing that Iraq had weapons of mass destruction. Everyone thought so. And the administration certainly did not manipulate or misrepresent any intelligence to Congress, the American people or to the international community.

Mr. Speaker, this is just one more false claim in a history of falsehoods put forward by this administration in its effort to cover up its failures in Iraq. Today's New York Times editorial attempts to set the record straight on the Bush coverup of the truth.

On Veterans Day, President Bush claimed that Congress had access to the same intelligence as his administration. This is patently false. According to the Washington Post and The New York Times, President Bush and his aides had access to much more voluminous intelligence information than did lawmakers, who are dependent on his administration to provide Congress with materials.

More recently, the President has asserted that Congress had more intelligence information than the White House. This is so patently absurd, I barely know how to respond. The only intelligence materials the Congress has, it receives from the President and his administration.

The President has gone on to state that the bipartisan investigation carried out by the Senate Intelligence Committee found, and I again quote, no evidence of political pressure to change the intelligence community's judgments related to Iraq's weapons programs.

This claim is wrong on several counts. First, the Senate Select Committee on Intelligence has not yet done its inquiry into whether Bush officials mischaracterized or misrepresented intelligence.

Second, the Senate Intelligence Committee's first report did find that the national intelligence estimate was manipulated.

Finally, the overall soft approach of this first report by the Senate Intelligence Committee has been disputed by several senior intelligence officials. Richard Kerr, the former acting CIA director, who led an internal investigation of the CIA's failure to correctly analyze Iraq's weapons of mass destruction capability, stated that the intelligence analysts were pressured and heavily so. Senators ROCKEFELLER, DURBIN and LEVIN noted in their additional views to the Senate Intelligence Committee's report that the CIA's independent review found, and I quote, significant pressure on the intelligence community to find evidence that supported a connection between Iraq and al Qaeda.

A second independent investigation by the CIA ombudsman found that the, quote, hammering by the Bush Administration on Iraq intelligence was unusual and that George Tenet confirmed that agency officials had raised with him personally the matter of pressure on analysts.

President Bush tries to assert that President Clinton believed in the same threat. What he leaves out is that President Clinton has repeatedly asserted that he believes it was a mistake to invade Iraq before the United Nations weapons inspectors had a chance to complete their investigation. In fact, the U.N. investigation was aborted before it even had a chance to really begin by the launch of U.S. military operations.

Mr. Speaker, President Bush asserts that other governments' intelligence agencies agreed with ours. That is simply false. Many countries felt that the U.S. intelligence was faulty or overblown and did not agree with their own intelligence data, and that is why they opposed us in the United Nations Security Council or declined to provide troops for our invasion. Even this year we have heard Vice President CHENEY continue to imply that Iraq was somehow tied to the September 11 attacks and was developing weapons of mass destruction.

Well, let us set the record straight. There were no weapons of mass destruction, there were no ties to al Qaeda, there was no imminent threat. The arguments in favor of war presented to Congress and the American people by the President deliberately used the most inflammatory of language.

Mr. Speaker, I would like to say one more word on the President's latest series of attacks. He says that those of us who criticize the war, who called for withdrawal, or who focused on how the American people were deliberately misled into supporting the invasion on Iraq, that somehow we are betraying our troops and advocating a cut-and-run strategy.

Mr. Speaker, our troops, who have carried out this mission with courage, dignity and sacrifice, represent our Nation with honor, but they have been betrayed. They have been betrayed by policymakers who rushed into a war on false pretenses, they were betrayed by policymakers who sent them into harm's way and overruled the good advice of our top military leaders as to troop strength and post-invasion planning, and they have been betrayed by policymakers who will not admit that mistakes were made and significant changes in policy are required in order to bring them home safe and sound.

Critics of this policy strongly support reconstruction assistance for Iraq. We strongly support the training and equipping of Iraqi security forces. We strongly support internationally supported security forces in Iraq. We do not support cutting and running, but we do not support lying and hiding. Mr. Bush cannot rewrite history, he cannot

☐ This symbol represents the time of day during the House proceedings, e.g., ☐ 1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

rewrite the intelligence again, and he cannot continue to lie to the American people. The truth. the ugly truth. is coming out.

[From the New York Times, Nov. 2005]

DECODING MR. BUSH'S DENIALS

To avoid having to account for his administration's misleading statements before the war with Iraq. President Bush has tried denial, saying he did not skew the intelligence. He's tried to share the blame. claiming that Congress had the same intelligence he had, as well as President Bill Clinton. He's tried to pass the buck and blame the C.I.A. Lately, he's gone on the attack, accusing Democrats in Congress of aiding the terrorists.

Yesterday in Alaska, Mr. Bush trotted out the same tedious deflection on Iraq that he usually attempts when his back is against the wall: he claims that questioning his actions three years ago is a betrayal of the troops in battle today.

It all amounts to one energetic effort at avoidance. But like the W.M.D. reports that started the whole thing, the only problem is that none of it has been true.

Mr. Bush says everyone had the same intelligence he had—Mr. Clinton and his advisers, foreign governments, and members of Congress—and that all of them reached the same conclusions. The only part that is true is that Mr. Bush was working off the same intelligence Mr. Clinton had. But that is scary, not reassuring. The reports about Saddam Hussein's weapons were old, some more than 10 years old. Nothing was fresher than about five years, except reports that later proved to be fanciful.

Foreign intelligence services did not have full access to American intelligence. But some had dissenting opinions that were ignored or not shown to top American officials. Congress had nothing close to the President's access to intelligence. The National Intelligence Estimate presented to Congress a few days before the vote on war was sanitized to remove dissent and make conjecture seem like fact.

It's hard to imagine what Mr. Bush means when he says everyone reached the same conclusion. There was indeed a widespread belief that Iraq had chemical and biological weapons. But Mr. Clinton looked at the data and concluded that inspections and pressure were working—a view we now know was accurate. France, Russia and Germany said war was not justified. Even Britain admitted later that there had been no new evidence about Iraq, just new politics.

The administration had little company in saying that Iraq was actively trying to build a nuclear weapon. The evidence for this claim was a dubious report about an attempt in 1999 to buy uranium from Niger, later shown to be false, and the infamous aluminum tubes story. That was dismissed at the time by analysts with real expertise.

The Bush administration was also alone in making the absurd claim that Iraq was in league with Al Qaeda and somehow connected to the 9/11 terrorist attacks. That was based on two false tales. One was the supposed trip to Prague by Mohamed Atta, a report that was disputed before the war and came from an unreliable drunk. The other was that Iraq trained Qaeda members in the use of chemical and biological weapons. Before the war, the Defense Intelligence Agency concluded that this was a deliberate fabrication by an informer.

Mr. Bush has said in recent days that the first phase of the Senate Intelligence Committee's investigation on Iraq found no evidence of political pressure to change the intelligence. That is true only in the very narrow way the Republicans on the committee insisted on defining pressure: as direct pressure from senior officials to change intelligence. Instead, the Bush administration made what it wanted to hear crystal clear and kept sending reports back to be redone until it got those answers.

Richard Kerr, a former deputy director of central intelligence, said in 2003 that there was "significant pressure on the intelligence community to find evidence that supported a connection" between Iraq and Al Qaeda. The C.I.A. ombudsman told the Senate Intelligence Committee that the administration's "hammering" on Iraq intelligence was harder than he had seen in his 32 years at the agency.

Mr. Bush and other administration officials say they faithfully reported what they had read. But Vice President Dick Cheney presented the Prague meeting as a fact when even the most supportive analysts considered it highly dubious. The administration has still not acknowledged that tales of Iraq coaching Al Qaeda on chemical warfare were considered false, even at the time they were circulated.

The president and his top advisers may very well have sincerely believed that Iraq had weapons of mass destruction. But they did not allow the American people, or even Congress, to have the information necessary to make reasoned judgments of their own. It's obvious that the Bush administration misled Americans about Mr. Hussein's weapons and his terrorist connections. We need to know how that happened and why.

Mr. Bush said last Friday that he welcomed debate, even in a time of war, but that "it is deeply irresponsible to rewrite the history of how that war began." We agree, but it is Mr. Bush and his team who are rewriting history.

NEW DAY FOR HEALTH CARE

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from Georgia (Mr. PRICE) is recognized during morning hour debates for 5 minutes.

Mr. PRICE of Georgia. Mr. Speaker, contrary to what some of my friends on the other side of the aisle do, I like to take this time, morning hour, and share a little good news with the American people, because this is an exciting day. It is a new day for health care in our Nation. It is a day of great opportunity for seniors all across our Nation. Today is the first day that seniors all across America are able to sign up voluntarily and participate in the new Medicare part D prescription drug program.

As many members of Congress know, I am a third-generation physician, and the things that were available to treat patients by my father and my grandfather have changed so significantly. The kinds of things that I was able to use to take care of patients were remarkably different than those that my father and grandfather were able to use. Medicine is an evolving science, and it changes almost daily.

But the Medicare program, like most government programs, has not kept up. When Medicare started 40 years ago, there really were very few medications that were able to be used to significantly alter the course of a disease or to prevent disease. But a lot of things have changed. Over the past 40 years, there are wonderful opportunities that have been created with the use of drug treatments and medications to prevent and cure diseases.

Yet Medicare, until now, has not covered a single medication. None. The Medicare system would cover, for example, the incredibly expensive surgery to take care of an ulcer, but it would not cover the medications to prevent the ulcer in the first place. That Medicare would cover, for example, the expensive hospitalization or potential surgery to treat an individual who had a stroke but would not cover the medications that were available to prevent a stroke. itself, does not make any sense at all. But all that is changing, and all of that is changing beginning today.

I want to stress that this is a voluntary program, a voluntary program for all seniors. Most seniors, if they look at the options available to them, will be helped significantly and assisted in their purchase and the ability to purchase medications by this new program.

Some might argue that much of this will be confusing, and it may be at the beginning. All kinds of programs that start anew oftentimes have many things that are confusing in them. However, I encourage my colleagues, both in Congress and in the medical profession, to assist in educating seniors about the options that are available to them.

I have held a number of meetings around my district with seniors in an effort to try to educate them, and they have wonderful questions, will this program help me, how do I know that it will cover the medications that I have, how do I sign up, how do I get that information.

If I may pass along a couple of items, the first is the Medicare number: 1-800-Medicare. There are many individuals available at that line to be able to help seniors. Also, the Web site, www.medicare.gov. I was on it just this morning and it has a wealth of information available to folks.

In these meetings that I had, I always had somebody available from CMS, or the Center for Medicare and Medicaid Services, with me to be able to help answer questions. But what I was most impressed with, in Georgia at least, the vast majority of seniors will be able to have a program that is better for them, covers more of their medications than they currently have with this Medicare program.

There are some important dates to remember. Today is the first date that is important. Today is the first day that seniors are able to sign up for a program whose coverage begins on January 1. This window of opportunity, that time to sign up, is between now, November 15, 2005, and May 15, 2006, even though the program begins on January 1.

Many seniors are currently receiving some prescription drug coverage now through a Medicare plus program or a supplemental program. I think it is important again for most seniors to appreciate that this program, the Medicare part D program, will be better for them than the current program that they have.

Again, 1–800–Medicare is the phone number. The Web site is www.medicare.gov. It is important that seniors look at the list of medications that they are currently taking and the list of medications that are available through the plans that are available to them and select one that is able to meld those that is going to cover the medications that they have.

It is an exciting time. It is a great opportunity for all seniors across our Nation. I encourage every senior to look at the options available to them and make certain that they are selecting a program that suits them best. I am hopeful that this will help improve the health care and the healthful status of all seniors across our Nation. I look forward to watching this program as it unfolds and as it evolves, and hopefully this will be an impetus to allow Medicare to be a much more nimble program.

PETER DRUCKER

The SPEAKER pro tempore. Pursuant to the order of the House of January 4, 2005, the gentleman from California (Mr. DREIER) is recognized during morning hour debates for 5 minutes.

Mr. DREIER. Mr. Speaker, I rise today to mark the passing of an incredible individual. He was a teacher and a friend of mine, and he was known to the world as the father of modern management. I am referring, of course, to Professor Peter Drucker, who passed away last Friday at his home in Claremont at the age of 95. When I spoke to his wonderful wife, Doris, early Saturday morning, the first thing she said, of course, was that Peter led an incredibly full life, which we all know that he did.

I was able to, as an undergraduate, because of this great structure at the Claremont colleges, that allows for cross registration among the six different colleges, to begin taking classes as an undergraduate with Professor Drucker. Then, of course, going on to the graduate university there, I did the same.

His words and his wisdom have had a profound effect on my strong beliefs and personal responsibility, free markets, the power of entrepreneurship and, of course, the very healthy and important skepticism of the effectiveness of sprawling government bureaucracies. I remember having dinner with him just a few years ago, and he was talking about an Italian observer who said the greatest threat to the future of Italy is efficient government. He was a genius, he was a genius who generously shared his talents, his kindness and his time with so many of us.

For a man of such unparalleled vision and capability, he had wonderfully disarming sense of humor and an amazing humility. He was a world-class thinker and a provocative, as we all know, prolific writer.

When he was just 23 years of age, living in Germany, he wrote an essay that was both outlawed and burned by the Nazis. When he was 30 years of age, his first book, The End of Economic Man, was made required reading for graduates of the British Officers' Candidate School by Winston Churchill. All told he wrote over 30 books that sold millions of copies around the globe and influenced business leaders, social pioneers and heads of state.

The great thing was that while he had the ears of the world's top leaders in both business and government, he maintained his strong commitment to teaching. He put great emphasis on individuals, and their contributions to large organizations and society. He saw employees as a company's most valuable resource, and in working together toward a defined goal, its greatest source of progress and change.

Mr. Speaker, I could not agree more. He also believed that the highest standards of ethics and morality were essential to both a successful enterprise and a vibrant society. Being a good corporate citizen was a duty on par and not at odds with maximizing profits.

Later in his career, he devoted much of his time to studying community organizations, because, in his words, the 21st century will be the century of the social sector organization. The more economy, money and information become global, the more community will matter. He donated his expertise to a wide range of organizations, the American Red Cross, the American Heart Association. The results of his advice and leadership have played a role in responding most recently to Hurricanes Katrina and Rita. His groundbreaking work resulted in many accolades and many opportunities to share his thoughts.

In 1987, Claremont named its graduate school of management in his honor. He was a regular economist for the Wall Street Journal for two decades, from 1975 to 1995. He was bestowed with 25 doctorates from universities in Europe and here in the United States.

In 1990, he created the Peter Drucker Foundation to bring together business and social leaders. One of the great thrills for me was I was able to be with Professor Drucker and his wonderful and extraordinarily talented wife, Doris, in the East Room of the White House when President Bush in 2002 bestowed the Medal of Freedom, the highest civilian award in our country, on Professor Drucker.

The Economist Magazine, one of my favorite publications, called him the greatest thinker management theory has ever produced. In his book, Innovation and Entrepreneurship, Dr. Drucker described entrepreneurs as those who create something new, something different. They change or transmute values. By his own definition, it is clear that Dr. Drucker was an intellectual entrepreneur.

I mentioned this dinner that I had with him just a few years ago. I had the thrill of spending 3 hours with him. We talked about the impact that he had on so many people. The Los Angeles Times recounted that great entrepreneur Jack Welch, who headed General Electric, as saying that the turning point in large part came for him when Professor Drucker asked him the question, if you were not doing exactly what you are doing today, would you begin doing it, which was a very, very important point in determining what the future of General Electric was going to be.

I also remember our former colleague Amo Houghton often quoting Peter Drucker when he said every brilliant idea ultimately degenerates to hard work. He was an amazing individual. He was a man of great warmth and accomplishment, and I will miss him personally, and I know the world is better because of his life.

My thoughts and prayers are with Doris and their wonderful children and grandchildren. I will simply say to Professor Drucker, thank you, thank you, thank you for everything that you have done to improve the quality of life for so many.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until noon today.

Accordingly (at 10 o'clock and 50 minutes a.m.), the House stood in recess until noon.

□ 1200

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. GINGREY) at noon.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord God Almighty, Creator of inalienable rights, guide the work of Congress and the personal decisions of all Americans today.

Having sworn an oath to uphold the Constitution of the United States, help the Members of the House of Representatives to make sound judgments. Give them wisdom to shape common resolve of the most important issues facing the Nation and in need of proper legislation.

Lord, help all Americans to be true democratic citizens who can give an account of their commitment to human rights and abide by the rule of law.

May government leaders and citizens together seek personal excellence and the common good of all; so to give You glory now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Rhode Island (Mr. KENNEDY) come forward and lead the House in the Pledge of Allegiance.

Mr. KENNEDY of Rhode Island led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2419) "An Act making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes.".

MEDICARE PRESCRIPTION DRUG COVERAGE

(Mr. CARTER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. CARTER. Mr. Speaker, I rise today to remind seniors all across America that they can sign up for Medicare prescription drug coverage starting today, November 15. As of January 1, 2006, Medicare begins offering participants drug coverage for citizens 65 and older. Medicare will work with employers and unions to ensure that people who currently receive prescription drug coverage through their employer or union will continue to do so.

Like other insurance, if you join, you will pay a monthly premium, generally about $37, plus a share of the cost of the prescriptions. Costs may be different, depending on the drug plan you choose. Plans will vary in the prescription drugs covered, how much you have to pay, and the pharmacies you can use.

All drug plans will have to provide at least a standard level of coverage which Medicare will set. Some plans may offer more coverage and additional drugs for higher monthly premiums. I encourage you to join the drug plan that best meets your needs.

MENTAL HEALTH PARITY

(Mr. KENNEDY of Rhode Island asked and was given permission to address the House for 1 minute.)

Mr. KENNEDY of Rhode Island. Mr. Speaker, as of today, a bipartisan majority of the House has cosponsored the Paul Wellstone Mental Health Equity Treatment Act. This marks the fifth year in a row that the majority of our colleagues have supported ending this arbitrary insurance limit on the treatment of a whole category of what this poster makes clear are neurological, physical diseases.

In the last 5 years, more than 150,000 Americans have lost their lives to suicide, 90 percent of them with serious mental illness.

In the last 5 years, American employers have lost over $150 billion of productivity to depression alone. That is more than the GDP of 28 different States during the same period.

In the 5 years, well over 60,000 American families have been broken apart by the absence of insurance because the only way for parents to get treatment for their children is to turn the custody of those children over to the State.

And, in those 5 years, Mr. Speaker, the leadership of this House and the committees of jurisdiction have yet to even give this bill an up and down vote. We need a vote on the Paul Wellstone Equity Act for mental health insurance.

TRIBUTE TO LANCE CORPORAL SCOTT ZUBOWSKI

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, Marines arrived at Barbara Weitzel's doorstep this Saturday at 5:30 p.m. in New Castle, Indiana. She said, my first question was, "Which one?" Two of her sons are Marines. Both are in Iraq.

She learned in that moment that her brave son, Lance Corporal Scott Zubowski, died in Iraq on 12 November 2005. While fighting to defend America and secure Iraq, he was a rear passenger traveling with four other soldiers near Fallujah when a roadside bomb exploded beneath his vehicle.

Scott and his family moved to New Castle in 1991 where he attended Greenstreet Elementary School for first and second grade. His teachers quickly recognized his gifts. They placed him in the gifted and talented program, an accelerated academic program at Sunnyside Elementary.

Scott did not grow up dreaming of a life in the military but, as is the case with younger brothers, he respected his older brother David. Sergeant David Zubowski enlisted in the Marines. Scott noticed the growing confidence in his brother, and he wanted to enlist as well, which he did after graduating from North Manchester High School in 2003.

Mr. Speaker, Lance Corporal Scott Zubowski is a hero. I offer my deepest condolences to his parents, Barbara Weitzel and Richard Zubowski; his lovely new wife, Klancey Zubowski; his two brothers, Brian and Sergeant David Zubowski; and all the family and friends who loved and admired this courageous young man.

Scott's mother recently told the hometown newspaper, "He gave himself for us, and we can't forget."

He did give himself, Mrs. Weitzel. No greater love has a man than this, that he should lay down his life for his friends. We will never forget your brave son.

AMERICANS DESERVE THE TRUTH REGARDING WAR IN IRAQ

(Mr. GEORGE MILLER of California asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GEORGE MILLER of California. Mr. Speaker, last week, President Bush said it was irresponsible for people to rewrite the way the war began, and the White House communications director said the American people expect an honest debate. I could not agree with both statements more.

Then, yesterday, the President donned his flight jacket and suggested that he was going to attack his critics and, in fact, attacked his critics rather than contribute to the honest debate.

The American people need to know, after the dramatic failure of intelligence, just how that intelligence was used, how it was emphasized, how it was manipulated, and who was the source of much of the intelligence that this administration used to hook people into the war in Iraq.

Did they use the intelligence provided by Mr. Chalabi, who was on our payroll, and by Mr. Chalabi's defectors, who paid and bribed to provide that intelligence to the administration? Did the administration, and this goes to the crux of the question: Did the administration do the due diligence that was necessary before they made the decision to put American men and women in harm's way into Iraq? Did they look at the case and make the case that this was an imminent threat to the security of the United States?

So far, we do not have the answers to those questions. We know that there was a concerted effort within the Department of Defense, within the administration to push us into the war in Iraq. We now need to know how that was done. We need that honest debate. We do not need the President to continue to attack his critics.

The American people are entitled to that debate. They are entitled to the results of the investigations that were promised 17 months ago, and nothing has happened from those investigations.

WORLD WAR I VETERAN KENNETH MEYERS

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, when Kenneth Meyers was born in 1889, Teddy Roosevelt was charging up San Juan Hill, the airplane had not been invented, and electricity was a novelty. Kenneth Meyers, at 107, is the oldest surviving World War I veteran in Texas. There are less than 50 World War I veterans in all of the United States.

Meyers joined the Navy as a teenager in 1917 and served aboard the Battleship *Oklahoma* in World War I until 1919. Meyers, who lives in Houston, says he was proud to serve in the "War to End All Wars."

After the Navy, Meyers earned his masters degree, became an agricultural expert for Uncle Sam, and even helped farmers as far away as Greece. He herded cattle in Wyoming, and he still owns land there.

As we honor American veterans, we appreciate the generations of sailors and doughboys in World War I who adopted the song "Over There" that states, in part, "Send the word to beware, that the Yanks are coming, the Yanks are coming and we won't come back 'til its over, over there."

Mr. Speaker, like warriors since then, those Yanks got the job done for freedom and only came back when it was over, over there. That's just the way it is.

MEDICARE MEETS SENIORS' NEEDS

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker, Americans have benefited significantly from medical advancements throughout the past 40 years, and Medicare must also evolve with the changing technology.

Today marks an historic date for the Medicare program. For the first time, America's seniors will have the opportunity to enroll in a voluntary prescription drug benefit that will meet their needs.

I would like to encourage all seniors to sign up for this valuable benefit. For more information on how to register, and this is a special exclusive surprise for biased ABC News, seniors can call 1-800-Medicare or visit www.medicare.gov. Seniors can also contact professional pharmacists in their communities for additional details about the program.

By strengthening Medicare, President Bush and Congress have delivered a program to ensure America's seniors live healthier, happier, and longer.

In conclusion, God bless our troops, and we will never forget September 11.

PREEMIE ACT

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, I rise today in support of National Prematurity Awareness Day. I stand with parents and physicians, organizations and associations around our country that are working to draw attention to the serious and growing problem of premature birth.

Nearly 500,000 babies will be born prematurely this year. In my own State of Georgia, 342 premature babies will be born this week. It is a serious problem, one that is far too common. Unfortunately, in most cases, we do not know why it happens.

From my experience as an OB-GYN physician for nearly 30 years, I know the anxiety, confusion, frustration and concern that premature birth places on both the families as well as the medical system. That is why I am a proud cosponsor of H.R. 2861, the PREEMIE Act, which was introduced by my friend and colleague from Michigan (Mr. UPTON).

Mr. Speaker, I am here today not only to encourage my colleagues to cosponsor this important piece of legislation but also to let the women in our country know how important it is to talk to their doctors about the risk factors associated with pre-term birth. Together, we can work to find a solution to this very costly crisis.

NEW MEDICARE PRESCRIPTION DRUG BENEFIT

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Mr. Speaker, can you imagine an insurance policy that paid thousands of dollars for the most expensive treatment for a disease but not a few hundred dollars for medicine to prevent that disease from occurring? Well, that is what Medicare has been, until now. Today is the first day that seniors all across our country can join Medicare part D.

As a physician, I am keenly aware that medications are a mainstay of the treatment and prevention of disease and, with this new prescription drug benefit, Medicare will now assist seniors in obtaining medicines that can prevent serious illness. Seniors should get more choices and better treatment, and America will get a Medicare system that moves into the 21st century.

In my district, I have held senior education seminars, trying to give seniors helpful information about this new and exciting program. This is not about politics, this is about helping those eligible for Medicare to select the plan that is best for them.

I encourage all of my colleagues in medicine and in Congress to help seniors as they have the opportunity to participate in a new health program, one that should result in a more rewarding and healthier life.

RECESS

The SPEAKER pro tempore (Mr. GINGREY). Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 12 o'clock and 15 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 1400

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BISHOP of Utah) at 2 p.m.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken after 6:30 p.m. today.

YAKIMA-TIETON IRRIGATION DISTRICT CONVEYANCE ACT OF 2005

Mrs. MUSGRAVE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1564) to authorize the Secretary of the Interior to convey certain buildings and lands of the Yakima Project, Washington, to the Yakima-Tieton Irrigation District.

The Clerk read as follows:

H.R. 1564

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Yakima-Tieton Irrigation District Conveyance Act of 2005".

SEC. 2. CONVEYANCE OF CERTAIN BUILDINGS AND LANDS OF THE YAKIMA PROJECT, WASHINGTON.

(a) CONVEYANCE REQUIRED.—The Secretary of the Interior shall convey to the Yakima-Tieton Irrigation District, located in Yakima County, Washington, all right, title, and interest of the United States in and to the buildings and lands of the Yakima Project, Washington, in accordance with the terms and conditions set forth in the agreement titled "Agreement Between the United States and the Yakima-Tieton Irrigation District to Transfer Title to Certain Federally Owned Buildings and Lands, With Certain Property Rights, Title, and Interest, to the Yakima-Tieton Irrigation District" (Contract No. 5-07-10-L1658).

(b) LIABILITY.—Effective upon the date of conveyance under this section, the United States shall not be held liable by any court for damages of any kind arising out of any act, omission, or occurence relating to the conveyed buildings and lands, except for damages caused by acts of negligence committed by the United States or by its employees or agents before the date of conveyance. Nothing in this section increases the liability of the United States beyond that provided in chapter 171 of title 28, United States Code (popularly known as the Federal Tort Claims Act), on the date of the enactment of this Act.

(c) BENEFITS.—After conveyance of the buildings and lands to the Yakima-Tieton Irrigation District under this section—

(1) such buildings and lands shall not be considered to be a part of a Federal reclamation project; and

(2) such irrigation district shall not be eligible to receive any benefits with respect to any buildings and lands conveyed, except benefits that would be available to a similarly situated person with respect to such buildings and lands that are not part of a Federal reclamation project.

(d) REPORT.—If the Secretary of the Interior has not completed the conveyance required under subsection (a) within 12 months after the date of the enactment of this Act, the Secretary shall submit to Congress a report that explains the reason such conveyance has not been completed and stating the date by which the conveyance will be completed.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Colorado (Mrs. MUSGRAVE) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. MUSGRAVE).

GENERAL LEAVE

Mrs. MUSGRAVE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. MUSGRAVE. Mr. Speaker, I yield myself such time as I may consume.

H.R. 1564, sponsored by our colleague DOC HASTINGS, conveys 9 acres of federally owned land and administrative buildings to the Yakima-Tieton Irrigation District in Washington State. No project facilities such as dams, diversion structures, or canals are included in this title transfer.

The transfer has been in the works for almost a decade. This legislation, also introduced by the junior Senator from Washington, will enhance more private ownership and decrease the Federal Government's liability. It is a win for the local community and a win for the American taxpayer. I urge my colleagues to support this important bipartisan legislation.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the majority has already explained the legislation. I would only add that we on this side of the aisle have no objection to its passage.

Mr. Speaker, I yield back the balance of my time.

Mrs. MUSGRAVE. Mr. Speaker, I yield such time as he may consume to the gentleman from Washington (Mr. HASTINGS).

Mr. HASTINGS of Washington. I thank the gentlewoman for yielding.

Mr. Speaker, my legislation would enable a long-awaited transfer of property from the Bureau of Reclamation to the Yakima-Tieton Irrigation District in central Washington. This transfer involves the conveyance of approximately 9 acres of Federal property as well as a few associated structures. These facilities are already dedicated to purposes related to the irrigation district. With this conveyance, the district will be able to use district funds to make needed improvements for the future. The irrigation district has fully repaid its obligations to the United States related to these properties, and the bureau is no longer interested in their day-to-day management and upkeep.

During hearings before the Resources Committee earlier this year, the administration expressed its support for this legislation and noted that this transfer allowed the bureau to focus its limited resources where they are more urgently needed. In my view, this is an example of local problem-solving at its best.

Mr. Speaker, I commend the staff of the irrigation district and the Bureau of Reclamation for their work on this. This legislation would not be before us today without their cooperative efforts over the last few years to negotiate this agreement. I also want to thank Resources Chairman POMBO and Water and Power Subcommittee Chairman RADANOVICH for moving this legislation through the process, as well as Kiel Weaver and other members of the committee staff for their work on this bill.

Again, this is a noncontroversial conveyance of property agreed to by the irrigation district and the Bureau of Reclamation. I urge my colleagues to support the bill.

Mrs. MUSGRAVE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado (Mrs. MUSGRAVE) that the House suspend the rules and pass the bill, H.R. 1564.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. MUSGRAVE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

FRANKLIN NATIONAL BATTLEFIELD STUDY ACT

Mrs. MUSGRAVE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1972) to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin, as amended.

The Clerk read as follows:

H.R. 1972

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Franklin National Battlefield Study Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) STUDY AREA.—The term "study area" means the cities of Brentwood, Franklin, Triune, Thompson's Station, and Spring Hill, Tennessee.

SEC. 3. SPECIAL RESOURCE STUDY.

(a) IN GENERAL.—The Secretary shall conduct a special resource study of sites in the study area relating to the Battle of Franklin to determine—

(1) the national significance of the sites; and

(2) the suitability and feasibility of including the sites in the National Park System.

(b) REQUIREMENTS.—The study conducted under subsection (a) shall include the analysis and recommendations of the Secretary on—

(1) the effect on the study area of including the sites in the National Park System; and

(2) whether the sites could be included in an existing unit of the National Park System or other federally designated unit in the State of Tennessee.

(c) CONSULTATION.—In conducting the study under subsection (a), the Secretary shall consult with—

(1) appropriate Federal agencies and State and local government entities; and

(2) interested groups and organizations.

(d) APPLICABLE LAW.—The study required under subsection (a) shall be conducted in accordance with Public Law 91-383 (16 U.S.C. 1a-1 et seq.).

SEC. 4. REPORT.

Not later than 3 years after the date funds are made available for the study, the Secretary shall submit to the Committee on Resources of the House of Representatives and the Committee on Energy and Natural Resources of the Senate a report that describes—

(1) the findings of the study; and

(2) any conclusions and recommendations of the Secretary.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Colorado (Mrs. MUSGRAVE) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. MUSGRAVE).

GENERAL LEAVE

Mrs. MUSGRAVE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. MUSGRAVE. Mr. Speaker, I yield myself such time as I may consume.

H.R. 1972, introduced by Congresswoman MARSHA BLACKBURN, would direct the Secretary of the Interior to determine the suitability and feasibility of including sites related to the Battle of Franklin into the National Park System. This study area will include the cities of Brentwood, Franklin, Triune, Thompson's Station and Spring Hill, Tennessee. The Secretary will determine if the sites within the study area have national significance and if they may be included in an existing national park or another federally designated unit.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

I want to congratulate both sponsors, including the cosponsor on this side, Congressman LINCOLN DAVIS, for their leadership in getting this bill to the floor today. The majority has already explained this legislation. I would only add that we on this side of the aisle also support it.

Mr. Speaker, I reserve the balance of my time.

Mrs. MUSGRAVE. Mr. Speaker, I yield such time as she may consume to the gentlewoman from Tennessee (Mrs. BLACKBURN).

Mrs. BLACKBURN. Mr. Speaker, I would like to begin by thanking my colleague, Congressman DAVIS, for his diligence and his attention to this matter. This addresses Williamson County, Tennessee, which he and I share the representation of. He and his staff have worked very closely with us to address this issue of looking at the Franklin battlefield.

By way of history, Mr. Speaker, on the afternoon of November 30, 1864, General Hood's Army of Tennessee marched down Winstead Hill in Franklin, Tennessee, and charged the Union forces of General Schofield. Fighting continued until late in the evening as both sides sustained heavy casualties. The following morning revealed the terrible consequences of the fighting that took place and how the battle became the darkest day of the Civil War. With over 9,000 dead soldiers and six dead Confederate generals, the battle would be the bloodiest battle of the Civil War and would sound the death knell of the Confederacy. The battle is known as the Battle of Franklin.

Mr. Speaker, the Battle of Franklin was one of the last significant battles leading to the Union victory over the Confederacy in the Civil War and has tremendous significance not only to our community but to American history. Yet there is neither a national cemetery nor a national battlefield park commemorating the battle. This bill is a first step toward preserving and protecting sites that contributed to this important Civil War landscape and achieving a solution to save the area as a national heritage through partnerships with the local communities.

It does, as the gentlewoman from Colorado said, direct the Secretary of the Interior to study sites in Williamson County, Tennessee, where portions of the Battle of Franklin took place or were related to the battle. The battlefield will serve as a memorial of the American citizens who fought and died for what they believed was right. I urge my colleagues' consideration on this bill. Again, I thank the gentleman from Tennessee for his support and assistance.

Mrs. CHRISTENSEN. Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Tennessee (Mr. DAVIS), the cosponsor of the legislation.

Mr. DAVIS of Tennessee. Mr. Speaker, I rise today in strong support of H.R. 1972, the Franklin National Battlefield Study Act. It is fitting that we protect this piece of American history by preserving this battlefield, home to the Battle of Franklin. As Roberts Hicks and Julian Bibb of Franklin's Charge put it best:

"What happened on the late afternoon and evening of November 30, 1864, was an epic display of courage and valor as troops on both sides gave their lives for causes they believed worthy and just. But the battle was much more. In essence, the Battle of Franklin was one of the most significant events in national unity, peace, and the end of slavery."

The Franklin battlefield might be one of the smallest battlefields in the United States, but it is also among the bloodiest. A staggering 9,000 soldiers were killed or wounded at Franklin, including the largest number of generals ever lost in any American battle. It was the largest infantry charge ever conducted in North America. In the 5 tragic hours that make up the Battle of Franklin, more men died in those 5 hours than the 19 hours on D-Day. Eleven Congressional Medals of Honor were earned at the Battle of Franklin.

The Civil War Sites Advisory Commission designated Franklin as one of just 45 principal battles having a direct, observable impact on the direction, duration, conduct, or outcome of the war. Marking the beginning of the end for the Western Theater of the Civil War, it is now listed among the country's Top 10 Most Endangered Civil War Battlefields by the Civil War Preservation Trust. I strongly support Representative BLACKBURN's legislation to correct this injustice. The Battle of Franklin is considered the beginning of the defeat of the Confederacy.

I applaud the efforts of Save the Franklin Battlefield, Incorporated; Mayor Miller of Franklin; Franklin's Charge; the Williamson County Historical Society; interested city and county leaders; and leading preservationists and conservation organizations that have sought to make this legislation a reality. It has been a delight to work with the gentlewoman from Tennessee on this particular issue, which is in her home district, a county that we both share.

I believe it is our duty to preserve this historical battlefield, and we are bound by the respect and homage we must pay for those who died to preserve the Nation we hold so dear and revere today. But this is also for our children and grandchildren who will now be able to experience a chapter in our Nation's history in a way that a textbook cannot provide.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

Mrs. MUSGRAVE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado (Mrs. MUSGRAVE) that the House suspend the rules and pass the bill, H.R. 1972, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

☐ 1415

PECHANGA BAND OF LUISENO MISSION INDIANS LAND TRANSFER ACT OF 2005

Mrs. MUSGRAVE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3507) to transfer certain land in Riverside County, California, and San Diego County, California, from the Bureau of Land Management to the United States to be held in trust for the Pechanga Band of Luiseno Mission Indians, and for other purposes.

The Clerk read as follows:

H.R. 3507

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pechanga Band of Luiseno Mission Indians Land Transfer Act of 2005".

SEC. 2. TRANSFER OF LAND IN TRUST FOR PECHANGA BAND OF LUISENO MISSION INDIANS.

(a) TRANSFER AND ADMINISTRATION.—

(1) TRANSFER.—Effective on the date of the enactment of this Act and subject to valid existing rights, all right, title, and interest of the United States in and to the Federal lands described in subsection (b), including all improvements thereon, appurtenances thereto, and rights to all minerals thereon or therein, including oil and gas, water, and related resources, shall be held by the United States in trust for the Pechanga Band of Luiseno Mission Indians, a federally recognized Indian tribe.

(2) ADMINISTRATION.—The transferred land shall be declared part of the Pechanga Indian Reservation and administered in accordance with—

(A) the laws and regulations generally applicable to property held in trust by the United States for an Indian tribe; and

(B) a memorandum of understanding entered into between the Pechanga Band of Luiseno Mission Indians and the United States Fish and Wildlife Service.

(b) DESCRIPTION OF LAND.—The lands referred to in subsection (a) consist of approximately 990.74 acres in Riverside County, California, and San Diego County, California, as referenced on the map titled, "H.R. 4908, Pechanga Land Transfer Act" and dated September 13, 2004, which, before the transfer under such subsection, were administered by the Bureau of Land Management and are more particularly described as follows:

(1) Sections 29, 30, and 32 of township 8 south, range 2 west, San Bernardino base and meridian.

(2) Section 6 of township 9 south, range 2 west, San Bernardino base and meridian.

(3) Mineral Survey 3540, section 22 of township 5 south, range 4 west, San Bernardino base and meridian.

(c) SURVEY.—Not later than 180 days after the date of the enactment of this Act, the Office of Cadastral Survey of the Bureau of Land Management shall complete a survey of the lands transferred under subsection (a) for the purpose of establishing the boundaries of the lands.

(d) MAP ON FILE.—The map referred to in subsection (b) shall be on file in the appropriate offices of the Bureau of Land Management.

(e) LEGAL DESCRIPTIONS.—

(1) PUBLICATION.—On approval of the survey completed under subsection (c) by the duly elected tribal council of the Pechanga Band of Luiseno Mission Indians, the Secretary of the Interior shall publish in the Federal Register—

(A) a legal description of the boundary lines; and

(B) legal description of the lands transferred under subsection (a).

(2) EFFECT.—Beginning on the date on which the legal descriptions are published under paragraph (1), such legal descriptions shall be the official legal descriptions of the boundary lines and the lands transferred under subsection (a).

(f) RULES OF CONSTRUCTION.—Nothing in this Act shall—

(1) enlarge, impair, or otherwise affect any right or claim of the Pechanga Band of Luiseno Mission Indians to any land or interest in land that is in existence before the date of the enactment of this Act; or

(2) affect any water right of the Pechanga Band of Luiseno Mission Indians in existence before the date of the enactment of this Act.

(g) RESTRICTED USE OF TRANSFERRED LANDS.—The lands transferred under subsection (a) may be used only for the protection, preservation, and maintenance of the archaeological, cultural, and wildlife resources thereon.

The SPEAKER pro tempore (Mr. BISHOP of Utah). Pursuant to the rule, the gentlewoman from Colorado (Mrs. MUSGRAVE) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. MUSGRAVE).

GENERAL LEAVE

Mrs. MUSGRAVE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. MUSGRAVE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3507 is a noncontroversial bill to transfer two parcels of public land to the Pechanga Band of Mission Indians. Located in Riverside County, California, these lands total 991 acres in size.

The lands subject to the transfer are currently administered by the Bureau of Land Management, but they contain archaeological, cultural and wildlife resources that are extremely valuable to the tribe.

In the last Congress, the Resources Committee held a hearing on a similar bill to transfer the same lands. In this hearing, both the tribe and the Interior Department testified that these lands belong in Tribal ownership.

After reporting that legislation, it was learned that the U.S. Fish and Wildlife Service had certain concerns relating to the management and use of the lands, and Congress adjourned before the problem could be resolved. These concerns have been addressed through a memorandum of understanding between the tribe and the Fish and Wildlife Service, and the sponsor of last year's bill has introduced H.R. 3507 to reference the MOU.

Because the lands are part of the Pechanga's ancient heritage, the tribe has adopted a resolution to zone them for conservation purposes. To reinforce the Tribe's intent, this bill requires the tribe to use the properties only for the protection and preservation of cultural, archaeological and wildlife resources.

The Pechanga Tribe should be commended for seeking to care for lands that are so important to preserving the heritage of its tribal members. In this spirit, I urge my colleagues to support H.R. 3507.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we on this side on the aisle again have no objection to the passage of this bill for the Pechanga Tribe of California.

Resources Committee Ranking Member NICK RAHALL worked hard last Congress with the gentleman from California (Mr. ISSA) to have land put into trust for this tribe so they could preserve an area vital to their ceremonies and culture. We expect the tribe to manage this land in a similar manner and do not object to its consideration today.

Mr. ISSA. Mr. Speaker, I rise today to offer H.R. 3507, the Pechanga Band of Luiseno Mission Indians Land Transfer Act of 2005, for final passage in the House. This bill will transfer approximately 990 acres of land currently being held by the Bureau of Land Management to the United States to be held in trust for the Pechanga tribe as apart of their reservation.

The Pechanga people have called the Temecula Valley, which is located in my district, their home for more than 10,000 years. They like to say that they have governed themselves and cared for their lands since time immemorial.

This bill transfers into trust land that has immense historical, archaeological, and cultural significance for the Pechanga tribe. It also includes a memorandum of understanding that has been agreed upon by the Pechanga Tribe and the U.S. Fish and Wildlife Service. This M.O.U. provides restrictions that limit the use of this land to only preservation, protection and maintenance of its historical and cultural artifacts and its resources.

It is widely agreed that the BLM currently has more land in its possession than it can properly care for and maintain. I view the opportunity to return this mostly rocky hillside area to those who are willing and have the resources to provide proper maintenance and care for the land.

Mr. Speaker, the Pechanga have done an exemplary job of integrating and investing in their community, both on their reservation land and beyond. They have been good neighbors to the City of Temecula, and have demonstrated that they can properly care for and maintain Federal land transferred to their care.

I hope that my colleagues will join me today in voting to pass this bill out of the House.

Mr. BACA. Mr. Speaker, I rise today in support of H.R. 3507, the Pechanga Band of Luiseno Mission Indians Land Transfer Act of 2005.

The Pechanga Tribe has sought for years to acquire this land because of its importance as an ancestral burial site.

This bill demonstrates respect for the sovereignty of the tribe and recognizes the importance of preserving America's rich Native American Heritage.

It demonstrates respect for the sovereignty of tribes by ensuring that these lands are not arbitrarily separated from their tribal community.

In 2002 I co-sponsored H.R. 3476 to protect the ancestral land of Great Oak Ranch because I understand the significance of these sites to both the tribe and the surrounding community.

In preserving these lands we show that we are aware of our Congressional responsibility to ensure that archaeological, historical, and cultural sites from America's Native American heritage are not taken from future generations.

We must continue the work begun today to restore and strengthen our awareness of America's rich Native American history.

Mrs. CHRISTENSEN. Mr. Speaker, I yield back the balance of my time.

Mrs. MUSGRAVE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado (Mrs. MUSGRAVE) that the House suspend the rules and pass the bill, H.R. 3507.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

ALLOWING USE OF CERTAIN ROADS WITHIN DELAWARE WATER GAP NATIONAL RECREATION AREA

Mrs. MUSGRAVE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3721) to amend the Omnibus Parks and Public Lands Management Act of 1996 to allow certain commercial vehicles to continue to use Route 209 within Delaware Water Gap National Recreation Area and to allow the National Park Service to continue to collect fees from those vehicles, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3721

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. USE OF CERTAIN ROADS WITHIN DELAWARE WATER GAP.

Section 702 of Division I of the Omnibus Parks and Public Lands Management Act of 1996 (Public Law 104-333; 110 Stat. 4185) is amended—

(1) by striking "2005" and inserting "2015, or whenever a feasible alternative exists, whichever comes first," each place it appears; and

(2) by amending the last sentence in subsection (c)(2) to read as follows: "Such fee shall be set to fully cover the cost of operation of the road, but not to exceed $40 per trip.".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Colorado (Mrs. MUSGRAVE) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. MUSGRAVE).

GENERAL LEAVE

Mrs. MUSGRAVE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. MUSGRAVE. Mr. Speaker, I yield myself such time as I may consume.

H.R. 3721, introduced by the gentleman from Pennsylvania (Mr. SHERWOOD) and amended by the Resources Committee, would amend the Omnibus Parks and Public Lands Management Act of 1996 to continue to permit certain commercial vehicles to utilize Route 209 within the Delaware Water Gap National Recreation Area in Pennsylvania as well as allow the National Park Service to continue to collect fees from these vehicles.

Since 1996, this route has become an increasingly important north-south artery connecting the two northeast Pennsylvania towns of Milford and Stroudsburg. While an alternate routes does exist outside the Recreation Area, the fact is that the route transverses a much more mountainous region and thus takes more time and is more dangerous, especially during the winter months. I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the majority has again already explained the purpose of H.R. 3721, which deals with truck traffic on a park road within the Delaware Water Gap National Recreation Area. The Congress has dealt with this issue on three different occasions in the past. It is our hope that this will be the last time we will need to address this subject.

Mr. Speaker, we have no objection to its adoption as amended by the House today.

Mr. Speaker, I yield back the balance of my time.

Mrs. MUSGRAVE. Mr. Speaker, I yield as much time as he may consume to the gentleman from Pennsylvania (Mr. SHERWOOD).

Mr. SHERWOOD. Mr. Speaker, I thank Chairman POMBO and Ranking Member RAHALL for working with me to get H.R. 3721 on the suspension calendar and considered in an expeditious fashion.

At the request of the National Park Service, I introduced H.R. 3721 which would extend for 10 years the current authority for commercial vehicle traffic through the Delaware Water Gap National Recreation Area along Route 209. All bordering counties and boroughs are supportive of the bill.

In supporting the bill, the National Park Service cites the continuing need for commercial vehicle traffic to travel through the park in a manner that protects park resources and visitors while also providing the Water Gap Recreational Area the financial means for monitoring and enforcement of commercial use restrictions.

The bill is needed to continue a program that has worked for the Park Service and the community surrounding the Water Gap National Recreation Area for over 20 years. The fee collection system resolved the potential problems raised when the 21-mile segment of U.S. Route 209 was transferred to Park Service control. The system allows limited commercial vehicle access, and the tolls allow the Park Service to monitor the road without using regular operation and maintenance budgets.

Authorization for the program was done in 10-year increments. The most recent 10-year increment authorization expired September 30. My bill would extend the authorization to September 30, 2015.

The current program has been in operation since 1983 and was largely successful until it started running a deficit. The main problem with the existing program is the lack of the ability for the park to adjust the fee schedule to cover the expense of operating the contact stations. This problem is resolved by authorizing the park superintendent to adjust fees as necessary to cover operating costs.

A reduction or elimination of commercial traffic is not feasible at this time as the commercial traffic continues to serve local businesses immediately adjacent to the park and concessionaires within the park and is necessary for continued business operation within the area for another decade.

The management of U.S. Route 209, in accordance with this legislation, meets the goals of the park and is supported by the experience of the park, public sentiment, and economic analysis. On behalf of the National Park Service, I ask for your support for this legislation.

Mrs. MUSGRAVE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado (Mrs. MUSGRAVE) that the House suspend the rules and pass the bill, H.R. 3721, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

LAND EXCHANGES, TAHOE NATIONAL FOREST, CALIFORNIA

Mrs. MUSGRAVE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3981) to authorize the Secretary of Agriculture to carry out certain land exchanges involving small parcels of National Forest System land in the Tahoe National Forest in the State of California, and for other purposes.

The Clerk read as follows:

H.R. 3981

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LAND EXCHANGES, TAHOE NATIONAL FOREST, CALIFORNIA.

(a) CHRISTENSEN EXCHANGE.—Notwithstanding section 3 of Public Law 97-465 (16 U.S.C. 521e; commonly known as the Small Tracts Act), the Secretary of Agriculture may use the authority of such Act to acquire land from Irving N. Christensen in that portion of the SW¼NW¼ of section 16, township 19 north, range 9 east, Mount Diablo meridian, lying southwest of California State Highway 49 and that portion of the S½NE¼ of section 17 of the same township and range lying southwest of California State Highway 49 and northeast of the North Fork Yuba River, through an exchange of all right, title, and interest of the United States in and to a parcel National Forest System land in Tahoe National Forest, California, lying north of California State Highway 49 within the N½N½ of such section 17.

(b) MCCREARY EXCHANGE.—The Secretary of Agriculture may use the authority of provided by Public Law 97–465 (16 U.S.C. 521c et seq.; commonly known as the Small Tracts Act) to acquire land from Dennis W. McCreary and Cindy M. McCreary in lot 19 of section 35, township 20 north, range 10 east, Mount Diablo meridian, through an exchange of all right, title, and interest of the United States in and to a parcel National Forest System land in Tahoe National Forest, California, in lot 121 of such section 35. For purposes of Public Law 97-465, this land exchange is deemed to involve a mineral survey fraction.

(c) WITHDRAWAL.—Subject to valid existing rights, all lands to be exchanged under this section are withdrawn from location, entry, and patent under the mining laws of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Colorado (Mrs. MUSGRAVE) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. MUSGRAVE).

GENERAL LEAVE

Mrs. MUSGRAVE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. MUSGRAVE. Mr. Speaker, I yield myself such time as I may consume.

H.R. 3981, authored by the gentleman from California (Mr. DOOLITTLE), would facilitate the exchange of two small tracts of land under the Small Tracts Act in the Tahoe National Forest in California.

The first would exchange 3 acres of mineral rights from the Forest Service to the owner of the surface in exchange for 7 acres of land adjacent to a Forest Service campground. The second would provide for the exchange of less than 1 acre owned by the Forest Service and located in the backyard of the property owner with a parcel of less than 1 acre near a Forest Service trailhead. The Forest Service has indicated its interest and support for these exchanges in correspondence to the landowners.

I urge you to support this important measure.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 3981 directs the Secretary of Agriculture to exchange two small parcels of National Forest System land in the Tahoe National Forest in California. We do not object to the two land exchanges included in H.R. 3981.

We had concerns with an earlier version of this legislation, H.R. 1905, that included generic amendments to the Small Tracts Act, but those are not included in this bill, and we have no objection to H.R. 3981.

Mr. Speaker, I yield back the balance of my time.

Mrs. MUSGRAVE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado (Mrs. MUSGRAVE) that the House suspend the rules and pass the bill, H.R. 3981.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

NORTHERN ARIZONA LAND EXCHANGE AND VERDE RIVER BASIN PARTNERSHIP ACT OF 2005

Mrs. MUSGRAVE. Mr. Speaker, I move to suspend the rules and pass the Senate bill (S. 161) to provide for a land exchange in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership.

The Clerk read as follows:

S. 161

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Northern Arizona Land Exchange and Verde River Basin Partnership Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—NORTHERN ARIZONA LAND EXCHANGE

Sec. 101. Definitions.
Sec. 102. Land exchange.
Sec. 103. Description of non-Federal land.
Sec. 104. Description of Federal land.
Sec. 105. Status and management of land after exchange.
Sec. 106. Miscellaneous provisions.
Sec. 107. Conveyance of additional land.

TITLE II—VERDE RIVER BASIN PARTNERSHIP

Sec. 201. Purpose.
Sec. 202. Definitions.
Sec. 203. Verde River Basin Partnership.
Sec. 204. Verde River Basin studies.
Sec. 205. Verde River Basin Partnership final report.
Sec. 206. Memorandum of understanding.
Sec. 207. Effect.

TITLE I—NORTHERN ARIZONA LAND EXCHANGE

SEC. 101. DEFINITIONS.

In this title:

(1) CAMP.—The term "camp" means Camp Pearlstein, Friendly Pines, Patterdale Pines, Pine Summit, Sky Y, and Young Life Lost Canyon camps in the State of Arizona.

(2) CITIES.—The term "cities" means the cities of Flagstaff, Williams, and Camp Verde, Arizona.

(3) FEDERAL LAND.—The term "Federal land" means the land described in section 104.

(4) NON-FEDERAL LAND.—The term "non-Federal land" means the land described in section 103.

(5) SECRETARY.—The term "Secretary" means the Secretary of Agriculture.

(6) YAVAPAI RANCH.—The term "Yavapai Ranch" means the Yavapai Ranch Limited Partnership, an Arizona Limited Partnership, and the Northern Yavapai, L.L.C., an Arizona Limited Liability Company.

SEC. 102. LAND EXCHANGE.

(a) IN GENERAL.—(1) Upon the conveyance by Yavapai Ranch of title to the non-Federal land identified in section 103, the Secretary shall simultaneously convey to Yavapai Ranch title to the Federal land identified in section 104.

(2) Title to the lands to be exchanged shall be in a form acceptable to the Secretary and Yavapai Ranch.

(3) The Federal and non-Federal lands to be exchanged under this title may be modified prior to the exchange as provided in this title.

(4)(A) By mutual agreement, the Secretary and Yavapai Ranch may make minor and technical corrections to the maps and legal descriptions of the lands and interests therein exchanged or retained under this title, including changes, if necessary to conform to surveys approved by the Bureau of Land Management.

(B) In the case of any discrepancy between a map and legal description, the map shall prevail unless the Secretary and Yavapai Ranch agree otherwise.

(b) Exchange Process.—(1) Except as otherwise provided in this title, the land exchange under subsection (a) shall be undertaken in accordance with section 206 of the Federal Land Policy and Management Act (43 U.S.C. 1716).

(2) Before completing the land exchange under this title, the Secretary shall perform any necessary land surveys and pre-exchange inventories, clearances, reviews, and approvals, including those relating to hazardous materials, threatened and endangered species, cultural and historic resources, and wetlands and flood plains.

(c) Equal Value Exchange.—(1) The value of the Federal land and the non-Federal land shall be equal, or equalized by the Secretary by adjusting the acreage of the Federal land in accordance with paragraph (2).

(2) If the final appraised value of the Federal land exceeds the final appraised value of the non-Federal land, prior to making other adjustments, the Federal lands shall be adjusted by deleting all or part of the parcels or portions of the parcels in the following order:

(A) A portion of the Camp Verde parcel described in section 104(a)(4), comprising approximately 316 acres, located in the Prescott National Forest, and more particularly described as lots 1, 5, and 6 of section 26, the NE¼NE¼ portion of section 26 and the N½N½ portion of section 27, Township 14 North, Range 4 East, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(B) A portion of the Camp Verde parcel described in section 104(a)(4), comprising approximately 314 acres, located in the Prescott National Forest, and more particularly described as lots 2, 7, 8, and 9 of section 26, the SE¼NE¼ portion of section 26, and the S½N½ of section 27, Township 14 North, Range 4 East, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(C) Beginning at the south boundary of section 31, Township 20 North, Range 5 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, and sections 33 and 35, Township 20 North, Range 6 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, by adding to the non-Federal land to be conveyed to the United States in ⅛-section increments (E-W 64th line) while deleting from the conveyance to Yavapai Ranch Federal land in the same incremental portions of section 32, Township 20 North, Range 5 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, and sections 32, 34, and 36 in Township 20 North, Range 6 West, Gila and Salt River Base and Meridian, Yavapai County, Arizona, to establish a linear and continuous boundary that runs east-to-west across the sections.

(D) Any other parcels, or portions thereof, agreed to by the Secretary and Yavapai Ranch.

(3) If any parcel of Federal land or non-Federal land is not conveyed because of any reason, that parcel of land, or portion thereof, shall be excluded from the exchange and the remaining lands shall be adjusted as provided in this subsection.

(4) If the value of the Federal land exceeds the value of the non-Federal land by more than $50,000, the Secretary and Yavapai Ranch shall, by mutual agreement, delete additional Federal land from the exchange until the value of the Federal land and non-Federal land is, to the maximum extent practicable, equal.

(d) Appraisals.—(1) The value of the Federal land and non-Federal land shall be determined by appraisals prepared in accordance with the Uniform Appraisal Standards for Federal Land Acquisitions and the Uniform Standards of Professional Appraisal Practice.

(2)(A) After the Secretary has reviewed and approved the final appraised values of the Federal land and non-Federal land to be exchanged, the Secretary shall not be required to reappraise or update the final appraised values before the completion of the land exchange.

(B) This paragraph shall apply during the three-year period following the approval by the Secretary of the final appraised values of the Federal land and non-Federal land unless the Secretary and Yavapai Ranch have entered into an agreement to implement the exchange.

(3) During the appraisal process, the appraiser shall determine the value of each parcel of Federal land and non-Federal land (including the contributory value of each individual section of the intermingled Federal and non-Federal land of the property described in sections 103(a) and 104(a)(1)) as an assembled transaction.

(4)(A) To ensure the timely and full disclosure to the public of the final appraised values of the Federal land and non-Federal land, the Secretary shall provide public notice of any appraisals approved by the Secretary and copies of such appraisals shall be available for public inspection in appropriate offices of the Prescott, Coconino, and Kaibab National Forests.

(B) The Secretary shall also provide copies of any approved appraisals to the cities and the owners of the camps described in section 101(1).

(e) Contracting.—(1) If the Secretary lacks adequate staff or resources to complete the exchange by the date specified in section 106(c), Yavapai Ranch, subject to the agreement of the Secretary, may contract with independent third-party contractors to carry out any work necessary to complete the exchange by that date.

(2) If, in accordance with this subsection, Yavapai Ranch contracts with an independent third-party contractor to carry out any work that would otherwise be performed by the Secretary, the Secretary shall reimburse Yavapai Ranch for the costs for the third-party contractors.

(f) Easements.—(1) The exchange of non-Federal and Federal land under this title shall be subject to any easements, rights-of-way, utility lines, and any other valid encumbrances in existence on the date of enactment of this Act, including acquired easements for water pipelines as generally depicted on the map entitled "Yavapai Ranch Land Exchange, YRLP Acquired Easements for Water Lines" dated August 2004, and any other reservations that may be agreed to by the Secretary and Yavapai Ranch.

(2) Upon completion of the land exchange under this title, the Secretary and Yavapai Ranch shall grant each other at no charge reciprocal easements for access and utilities across, over, and through—

(A) the routes depicted on the map entitled "Yavapai Ranch Land Exchange, Road and Trail Easements, Yavapai Ranch Area" dated August 2004; and

(B) any relocated routes that are agreed to by the Secretary and Yavapai Ranch.

(3) An easement described in paragraph (2) shall be unrestricted and non-exclusive in nature and shall run with and benefit the land.

(g) Conveyance of Federal Land to Cities and Camps.—(1) Prior to the completion of the land exchange between Yavapai Ranch and the Secretary, the cities and the owners of the camps may enter into agreements with Yavapai Ranch whereby Yavapai Ranch, upon completion of the land exchange, will convey to the cities or the owners of the camps the applicable parcel of Federal land or portion thereof.

(2) If Yavapai Ranch and the cities or camp owners have not entered into agreements in accordance with paragraph (1), the Secretary shall, on notification by the cities or owners of the camps no later than 30 days after the date the relevant approved appraisal is made publicly available, delete the applicable parcel or portion thereof from the land exchange between Yavapai Ranch and the United States as follows:

(A) Upon request of the City of Flagstaff, Arizona, the parcels, or portion thereof, described in section 104(a)(2).

(B) Upon request of the City of Williams, Arizona, the parcels, or portion thereof, described in section 104(a)(3).

(C) Upon request of the City of Camp Verde, Arizona, a portion of the parcel described in section 104(a)(4), comprising approximately 514 acres located southeast of the southeastern boundary of the I–17 right-of-way, and more particularly described as the SE¼ portion of the southeast quarter of section 26, the E½ and the E½W½ portions of section 35, and lots 5 through 7 of section 36, Township 14 North, Range 4 East, Gila and Salt River Base and Meridian, Yavapai County, Arizona.

(D) Upon request of the owners of the Younglife Lost Canyon camp, the parcel described in section 104(a)(5).

(E) Upon request of the owner of Friendly Pines Camp, Patterdale Pines Camp, Camp Pearlstein, Pine Summit, or Sky Y Camp, as applicable, the corresponding parcel described in section 104(a)(6).

(3)(A) Upon request of the specific city or camp referenced in paragraph (2), the Secretary shall convey to such city or camp all right, title, and interest of the United States in and to the applicable parcel of Federal land or portion thereof, upon payment of the fair market value of the parcel and subject to any terms and conditions the Secretary may require.

(B) A conveyance under this paragraph shall not require new administrative or environmental analyses or appraisals beyond those prepared for the land exchange.

(4) A city or owner of a camp purchasing land under this subsection shall reimburse Yavapai Ranch for any costs incurred which are directly associated with surveys and appraisals of the specific property conveyed.

(5) A conveyance of land under this subsection shall not affect the timing of the land exchange.

(6) Nothing in this subsection limits the authority of the Secretary or Yavapai Ranch to delete any of the parcels referenced in this subsection from the land exchange.

(7)(A) The Secretary shall deposit the proceeds of any sale under paragraph (2) in a special account in the fund established under Public Law 90–171 (commonly known as the "Sisk Act") (16 U.S.C. 484a).

(B) Amounts deposited under subparagraph (A) shall be available to the Secretary, without further appropriation, to be used for the acquisition of land in the State of Arizona for addition to the National Forest System, including the land to be exchanged under this title.

SEC. 103. DESCRIPTION OF NON-FEDERAL LAND.

(a) In General.—The non-Federal land referred to in this title consists of approximately 35,000 acres of privately-owned land within the boundaries of the Prescott National Forest, as generally depicted on the map entitled "Yavapai Ranch Land Exchange, Non-Federal Lands", dated August 2004.

(b) Easements.—(1) The conveyance of non-Federal land to the United States under section 102 shall be subject to the reservation of—

(A) water rights and perpetual easements that run with and benefit the land retained by Yavapai Ranch for—

(i) the operation, maintenance, repair, improvement, development, and replacement of not more than 3 wells in existence on the date of enactment of this Act;

(ii) related storage tanks, valves, pumps, and hardware; and

(iii) pipelines to point of use; and

(B) easements for reasonable access to accomplish the purposes of the easements described in subparagraph (A).

(2) Each easement for an existing well referred to in paragraph (1) shall be 40 acres in area, and to the maximum extent practicable, centered on the existing well.

(3) The United States shall be entitled to one-half the production of each existing or replacement well, not to exceed a total of 3,100,000 gallons of water annually for National Forest System purposes.

(4) The locations of the easements and wells shall be as generally depicted on the map entitled "Yavapai Ranch Land Exchange, Reserved Easements for Water Lines and Wells", dated August 2004.

SEC. 104. DESCRIPTION OF FEDERAL LAND.

(a) In General.—The Federal land referred to in this title consists of the following:

(1) Certain land comprising approximately 15,300 acres located in the Prescott National Forest, as generally depicted on the map entitled "Yavapai Ranch Land Exchange, Yavapai Ranch Area Federal Lands", dated August 2004.

(2) Certain land located in the Coconino National Forest—

(A) comprising approximately 1,500 acres as generally depicted on the map entitled "Yavapai Ranch Land Exchange, Flagstaff Federal Lands Airport Parcel", dated August 2004; and

(B) comprising approximately 28.26 acres in two separate parcels, as generally depicted on the map entitled "Yavapai Ranch Land Exchange, Flagstaff Federal Lands Wetzel School and Mt. Elden Parcels", dated August 2004.

(3) Certain land located in the Kaibab National Forest, and referred to as the Williams Airport, Williams golf course, Williams Sewer, Buckskinner Park, Williams Railroad, and Well parcels number 2, 3, and 4, cumulatively comprising approximately 950 acres, as generally depicted on the map entitled "Yavapai Ranch Land Exchange, Williams Federal Lands", dated August 2001.

(4) Certain land located in the Prescott National Forest, comprising approximately 2,200 acres, as generally depicted on the map entitled "Yavapai Ranch Land Exchange, Camp Verde Federal Land General Crook Parcel", dated August 2004.

(5) Certain land located in the Kaibab National Forest, comprising approximately 237.5 acres, as generally depicted on the map entitled "Yavapai Ranch Land Exchange, Younglife Lost Canyon", dated August 2004.

(6) Certain land located in the Prescott National Forest, including the "Friendly Pines", "Patterdale Pines", "Camp Pearlstein", "Pine Summit", and "Sky Y" camps, cumulatively comprising approximately 200 acres, as generally depicted on the map entitled "Yavapai Ranch Land Exchange, Prescott Federal Lands, Summer Youth Camp Parcels", dated August 2004.

(b) Condition of Conveyance of Camp Verde Parcel.—(1) To conserve water in the Verde Valley, Arizona, and to minimize the adverse impacts from future development of the Camp Verde General Crook parcel described in subsection (a)(4) on current and future holders of water rights in existence of the date of enactment of this Act and the Verde River and National Forest System lands retained by the United States, the United States shall limit in perpetuity the use of water on the parcel by reserving conservation easements that—

(A) run with the land;

(B) prohibit golf course development on the parcel;

(C) require that any public park or greenbelt on the parcel be watered with treated wastewater;

(D) limit total post-exchange water use on the parcel to not more than 300 acre-feet of water per year;

(E) provide that any water supplied by municipalities or private water companies shall count towards the post-exchange water use limitation described in subparagraph (D); and

(F) except for water supplied to the parcel by municipal water service providers or private water companies, require that any water used for the parcel not be withdrawn from wells perforated in the saturated Holocene alluvium of the Verde River.

(2) If Yavapai Ranch conveys the Camp Verde parcel described in subsection (a)(4), or any portion thereof, the terms of conveyance shall include a recorded and binding agreement of the quantity of water available for use on the land conveyed, as determined by Yavapai Ranch, except that total water use on the Camp Verde parcel may not exceed the amount specified in paragraph (1)(D).

(3) The Secretary may enter into a memorandum of understanding with the State or political subdivision of the State to enforce the terms of the conservation easement.

SEC. 105. STATUS AND MANAGEMENT OF LAND AFTER EXCHANGE.

(a) In General.—Land acquired by the United States under this title shall become part of the Prescott National Forest and shall be administered by the Secretary in accordance with this title and the laws applicable to the National Forest System.

(b) Grazing.—Where grazing on non-Federal land acquired by the Secretary under this title occurs prior to the date of enactment of this Act, the Secretary may manage the land to allow for continued grazing use, in accordance with the laws generally applicable to domestic livestock grazing on National Forest System land.

(c) Timber Harvesting.—(1) After completion of the land exchange under this title, except as provided in paragraph (2), commercial timber harvesting shall be prohibited on the non-Federal land acquired by the United States.

(2) Timber harvesting may be conducted on the non-Federal land acquired under this title if the Secretary determines that such harvesting is necessary—

(A) to prevent or control fires, insects, and disease through forest thinning or other forest management techniques;

(B) to protect or enhance grassland habitat, watershed values, native plants and wildlife species; or

(C) to improve forest health.

SEC. 106. MISCELLANEOUS PROVISIONS.

(a) Revocation of Orders.—Any public orders withdrawing any of the Federal land from appropriation or disposal under the public land laws are revoked to the extent necessary to permit disposal of the Federal land.

(b) Withdrawal of Federal Land.—Subject to valid existing rights, the Federal land is withdrawn from all forms of entry and appropriation under the public land laws; location, entry, and patent under the mining laws; and operation of the mineral leasing and geothermal leasing laws, until the date on which the land exchange is completed.

(c) Completion of Exchange.—It is the intent of Congress that the land exchange authorized and directed under this title be completed not later than 18 months after the date of enactment of this Act.

SEC. 107. CONVEYANCE OF ADDITIONAL LAND.

(a) In General.—The Secretary shall convey to a person that represents the majority of landowners with encroachments on the lot by quitclaim deed the parcel of land described in subsection (b).

(b) Description of Land.—The parcel of land referred to in subsection (a) is lot 8 in section 11, T. 21 N., R. 7 E., Gila and Salt River Base and Meridian, Coconino County, Arizona.

(c) Amount of Consideration.—In exchange for the land described in subsection (b), the person acquiring the land shall pay to the Secretary consideration in the amount of—

(1) $2500; plus

(2) any costs of re-monumenting the boundary of land.

(d) Timing.—(1) Not later than 90 days after the date on which the Secretary receives a power of attorney executed by the person acquiring the land, the Secretary shall convey to the person the land described in subsection (b).

(2) If, by the date that is 270 days after the date of enactment of this Act, the Secretary does not receive the power of attorney described in paragraph (1)—

(A) the authority provided under this section shall terminate; and

(B) any conveyance of the land shall be made under Public Law 97-465 (16 U.S.C. 521c et seq.).

TITLE II—VERDE RIVER BASIN PARTNERSHIP

SEC. 201. PURPOSE.

The purpose of this title is to authorize assistance for a collaborative and science-based water resource planning and management partnership for the Verde River Basin in the State of Arizona, consisting of members that represent—

(1) Federal, State, and local agencies; and

(2) economic, environmental, and community water interests in the Verde River Basin.

SEC. 202. DEFINITIONS.

In this title:

(1) Director.—The term "Director" means the Director of the Arizona Department of Water Resources.

(2) Partnership.—The term "Partnership" means the Verde River Basin Partnership.

(3) Plan.—The term "plan" means the plan for the Verde River Basin required by section 204(a)(1).

(4) Secretary.—The term "Secretary" means the Secretary of Agriculture.

(5) State.—The term "State" means the State of Arizona.

(6) Verde river basin.—The term "Verde River Basin" means the land area designated

by the Arizona Department of Water Resources as encompassing surface water and groundwater resources, including drainage and recharge areas with a hydrologic connection to the Verde River.

(7) Water Budget.—The term "water budget" means the accounting of—

(A) the quantities of water leaving the Verde River Basin—

(i) as discharge to the Verde River and tributaries;

(ii) as subsurface outflow;

(iii) as evapotranspiration by riparian vegetation;

(iv) as surface evaporation;

(v) for agricultural use; and

(vi) for human consumption; and

(B) the quantities of water replenishing the Verde River Basin by precipitation, infiltration, and subsurface inflows.

SEC. 203. VERDE RIVER BASIN PARTNERSHIP.

(a) In General.—The Secretary may participate in the establishment of a partnership, to be known as the "Verde River Basin Partnership", made up of Federal, State, local governments, and other entities with responsibilities and expertise in water to coordinate and cooperate in the identification and implementation of comprehensive science-based policies, projects, and management activities relating to the Verde River Basin.

(b) Authorization of Appropriations.—On establishment of the Partnership, there are authorized to be appropriated to the Secretary and the Secretary of the Interior such sums as are necessary to carry out the activities of the Partnership for each of fiscal years 2006 through 2010.

SEC. 204. VERDE RIVER BASIN STUDIES.

(a) Studies.—

(1) In general.—The Partnership shall prepare a plan for conducting water resource studies in the Verde River Basin that identifies—

(A) the primary study objectives to fulfill water resource planning and management needs for the Verde River Basin; and

(B) the water resource studies, hydrologic models, surface and groundwater monitoring networks, and other analytical tools helpful in the identification of long-term water supply management options within the Verde River Basin.

(2) Requirements.—At a minimum, the plan shall—

(A) include a list of specific studies and analyses that are needed to support Partnership planning and management decisions;

(B) identify any ongoing or completed water resource or riparian studies that are relevant to water resource planning and management for the Verde River Basin;

(C) describe the estimated cost and duration of the proposed studies and analyses; and

(D) designate as a study priority the compilation of a water budget analysis for the Verde Valley.

(b) Verde Valley Water Budget Analysis.—

(1) In general.—Subject to the availability of appropriations, not later than 14 months after the date of enactment of this Act, the Director of the U.S. Geological Survey, in cooperation with the Director, shall prepare and submit to the Partnership a report that provides a water budget analysis of the portion of the Verde River Basin within the Verde Valley.

(2) Components.—The report submitted under paragraph (1) shall include—

(A) a summary of the information available on the hydrologic flow regime for the portion of the Middle Verde River from the Clarkdale streamgauging station to the city of Camp Verde at United States Geological Survey Stream Gauge 09506000;

(B) with respect to the portion of the Middle Verde River described in subparagraph (A), estimates of—

(i) the inflow and outflow of surface water and groundwater;

(ii) annual consumptive water use; and

(iii) changes in groundwater storage; and

(C) an analysis of the potential long-term consequences of various water use scenarios on groundwater levels and Verde River flows.

(c) Preliminary Report and Recommendations.—.

(1) In general.—Not later than 16 months after the date of enactment of this Act, using the information provided in the report submitted under subsection (b) and any other relevant information, the Partnership shall submit to the Secretary, the Governor of Arizona, and representatives of the Verde Valley communities, a preliminary report that sets forth the findings and recommendations of the Partnership regarding the long-term available water supply within the Verde Valley.

(2) Consideration of recommendations.—The Secretary may take into account the recommendations included in the report submitted under paragraph (1) with respect to decisions affecting land under the jurisdiction of the Secretary, including any future sales or exchanges of Federal land in the Verde River Basin after the date of enactment of this Act.

(3) Effect.—Any recommendations included in the report submitted under paragraph (1) shall not affect the land exchange process or the appraisals of the Federal land and non-Federal land conducted under sections 103 and 104.

SEC. 205. VERDE RIVER BASIN PARTNERSHIP FINAL REPORT.

Not later than 4 years after the date of enactment of this Act, the Partnership shall submit to the Secretary and the Governor of Arizona a final report that—

(1) includes a summary of the results of any water resource assessments conducted under this title in the Verde River Basin;

(2) identifies any areas in the Verde River Basin that are determined to have groundwater deficits or other current or potential water supply problems;

(3) identifies long-term water supply management options for communities and water resources within the Verde River Basin; and

(4) identifies water resource analyses and monitoring needed to support the implementation of management options.

SEC. 206. MEMORANDUM OF UNDERSTANDING.

The Secretary (acting through the Chief of the Forest Service) and the Secretary of the Interior, shall enter into a memorandum of understanding authorizing the United States Geological Survey to access Forest Service land (including stream gauges, weather stations, wells, or other points of data collection on the Forest Service land) to carry out this title.

SEC. 207. EFFECT.

Nothing in this title diminishes or expands State or local jurisdiction, responsibilities, or rights with respect to water resource management or control.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Colorado (Mrs. Musgrave) and the gentlewoman from the Virgin Islands (Mrs. Christensen) each will control 20 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. Musgrave).

GENERAL LEAVE

Mrs. MUSGRAVE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. MUSGRAVE. Mr. Speaker, I yield myself such time as I may consume.

S. 161, introduced by Senator McCain, provides for a land exchange in the State of Arizona between the Secretary of Agriculture and the Yavapai Ranch Limit Partnership.

This bill would consolidate the largest remaining checkerboard ownership in Arizona. The Forest Service will receive 35,000 acres of land and the Yavapai Ranch Limited Partnership would receive approximately 21,000 acres of land.

This legislation also creates the Verde River Basin Partnership to help resolve water issues. The goal of this collaborative group is to develop a water resource management plan and submit this plan to the Secretary of the Interior and the Governor of Arizona.

Nothing in this section would undermine State and local water laws. In fact, this legislation's partnership is simply a forum for planning and working together on the Verde Basin's pressing water issues. As such, there is a very serious expectation that the partnership will reach out to everyone in the basin's communities as it creates its plan. Holding town meetings, meeting with all levels of local government, and releasing draft documents for the general public's comment are just three items that the partnership is expected to perform.

I am confident that the partnership will truly be accountable to the local community who lives in the backyard of the Verde River. These local citizens have asked for and deserve the very best in having their voices heard and this legislation will meet that need. I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

☐ 1430

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, S. 161 directs the Secretary of Agriculture to provide for a land exchange of various parcels between the United States Forest Service and the Yavapai Ranch Limited Partnership in Arizona.

While S. 161 is not ideal, it is an improvement upon legislation considered by the House in the past.

Specifically, efforts were made to address water use concerns with the Camp Verde parcel, lowering the watering use limitation from 700 acre feet per year to 300 acre feet per year. Furthermore, a parcel in the city of Cottonwood was removed from this legislation.

Mr. Speaker, we, therefore, have no objections to S. 161.

Mr. Speaker, I yield back the balance of my time.

Mrs. MUSGRAVE. Mr. Speaker, I yield as much time as he may consume to the gentleman from Arizona (Mr. HAYWORTH).

Mr. HAYWORTH. Mr. Speaker, I thank my colleague from Colorado for the time.

Mr. Speaker, S. 161 provides for a Federal land exchange that places some 35,000 acres of pristine ponderosa pine forest land and biologically diverse land, much of which borders an existing wilderness area, in the hands of the Forest Service.

This bill has been carefully crafted to ensure that the environment, ecosystem, watershed, and forest lands of northern Arizona are protected and preserved. I would particularly like to commend my colleague from Arizona, Congressman RICK RENZI of the first district, for his very hard work on this legislation.

Mr. Speaker, I know that we work here in a deliberative body, but it is not an overstatement to say that this bill has been a long time coming. Over half a decade ago, I originally introduced this bill in the House, working closely with my good friend, the late Bob Stump.

For several years now, details of this bill have been negotiated and many compromises made on all sides in order to come up with this legislation entertained on the floor of the people's House today. I do not believe that it gives every party everything they wanted, but it shows that the overarching goal of preserving forest land and doing something good for small towns and communities in Arizona has been given the highest priority by all parties involved.

The concept of a land exchange to consolidate the Yavapai Ranch lands just makes sense. Through this land exchange, the Federal Government will receive environmentally sensitive, pristine forest lands that truly belong under the stewardship of the U.S. Forest Service to be preserved for future generations.

This exchange was originally initiated by the Forest Service to consolidate the largest remaining checkerboard parcel of land in Arizona and to protect the Juniper Mountains forested area from future development. Watershed management, wildlife habitat, and outdoor recreation in the consolidated land parcel will be preserved through this action.

Many of the land parcels the Forest Service will trade to accomplish these goals are eagerly sought by local communities for a variety of worthwhile civic purposes, including expansion of airports, parks, and other municipal facilities. Also, six summer camps that currently lease lands from the Forest Service will acquire those leased areas.

There has been considerable participation of local elected officials, Forest Service personnel, private citizens, and various citizen groups from northern Arizona and Arizona's Verde Valley in drafting this legislation. Their input and perspectives have proven invaluable, and I am confident that the bill now put forth by my colleague from Arizona addresses every major concern that has been brought forward.

This bill makes good common sense for our forests and for our people of Arizona. The cost savings for the Federal Government and, therefore, for American taxpayers associated with this land exchange are significant. The savings are accomplished through consolidation of Federal lands that allows for much greater ease in forest management.

But much more important, this exchange will ensure that one of the last largest pristine forested parcels in Arizona will pass out of private hands and be protected from potentially harmful development indefinitely.

It will prove good for this generation of Arizonans, future generations of Arizonans and for all Americans, and I join my colleagues from both Colorado and the Virgin Islands in urging passage of this legislation.

Mr. RENZI. Mr. Speaker, I rise in support of S. 161, the Northern Arizona Land Exchange and Verde River Basin Partnership Act. This legislation facilitates a land exchange in northern Arizona of private land within the Yavapai Ranch for Forest Service land in the northern portion of the state and establishes a water resource planning and management partnership in the Verde River Basin.

This legislation accomplishes several goals in northern Arizona. First, it will preserve the pristine areas within Yavapai Ranch for wildlife and recreation, by consolidating a 110 square mile area in the Prescott National Forest. This area is adjacent to the Juniper Mesa Wilderness Area and will help preserve precious habitat for ponderosa pine, alligator juniper and pronghorn antelope.

Second, the bill provides the City of Flagstaff with the opportunity to acquire land to expand and improve Pulliam Airport. This legislation will allow the City of Flagstaff to develop a new city park and recreational areas and obtain ownership of land near their water treatment plant. This is critical to the City of Flagstaff's future by providing economic development and affordable housing.

The Northern Arizona Land Exchange Act will also allow the City of Williams to acquire land for its well sites, water storage tanks and wastewater facility and drinking water treatment plants. Until recently, the City of Williams relied completely on surface water supplies to service the community, however, surface water reservoirs in Williams are well below their needed capacity. This legislation will assist Williams in meeting their water challenges in the future by providing new land for well drilling sites.

Finally, this legislation ensures that six summer youth camps, serving between 10 and 12 thousand children a year, have the opportunity to acquire the land and benefit from full ownership and management of this land.

S. 161 ensures that stringent water conservation and water use restrictions must be met for any future development. In addition, any development must also comply with the State of Arizona's surface and ground water laws, as well as local community planning standards.

This legislation also creates the Verde River Basin Partnership to help resolve water issues. The goal of this collaborative group is to develop a water resource management plan and submit this plan to the Secretary of the Interior and the Governor of Arizona.

Nothing in this section will undermine state and local water laws. In fact, this legislation's partnership is simply a forum for planning and working together on the Verde Basin's pressing water issues. As such, there is a very serious expectation that the Partnership will reach out to everyone in the Basin's communities as it creates its Plan. Holding town meetings, meeting with all levels of local government and releasing draft documents for the general public's comment are just three items that the Partnership is expected to perform.

I am confident that the Partnership will truly be accountable to the local communities who live in the backyard of the Verde River. These local citizens have asked for and deserve the very best in having their voices heard and the legislation will meet that need.

This legislation will benefit the public, the many communities and camps in northern Arizona that will receive opportunities for future economic development, and the natural beauty of the Yavapai Ranch. In addition, the science-based water resource planning and management partnership created by this legislation will provide much- needed research in this sensitive area. Bringing the Yavapai Ranch into federal ownership is in the best interest of the public, and the Forest Service has indicated that it would otherwise be unable to acquire these parcels.

I urge my colleagues to support S. 161, the Northern Arizona Land Exchange Act and Verde River Basin Partnership Act.

Mrs. MUSGRAVE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BISHOP of Utah). The question is on the motion offered by the gentlewoman from Colorado (Mrs. MUSGRAVE) that the House suspend the rules and pass the Senate bill, S. 161.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the Senate bill was passed.

A motion to reconsider was laid on the table.

NATIONAL PARK SERVICE STUDY REGARDING CASTLE NUGENT FARMS

Mrs. MUSGRAVE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 318) to authorize the Secretary of the Interior to study the suitability and feasibility of designating Castle Nugent Farms located on St. Croix, Virgin Islands, as a unit of the National Park System, and for other purposes.

The Clerk read as follows:

H.R. 318

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. NATIONAL PARK SERVICE STUDY REGARDING CASTLE NUGENT FARMS.

(a) FINDINGS.—Congress finds the following:

(1) Castle Nugent Farms, located on the southeastern shore of St. Croix, U.S. Virgin Islands, is the largest parcel of privately-held land in the Virgin Islands and has been an operating cattle ranch for 50 years.

(2) This land has the largest and healthiest fringing coral reef anywhere in the Virgin Islands.

(3) It consists of Caribbean dry forest and pasturelands with considerable cultural resources including both pre-Columbian and post-European settlement.

(4) Castle Nugent Farms contains a large historic 17th century Danish estate house that sits on over 4 miles of pristine Caribbean oceanfront property.

(5) In addition to being an area for turtle nesting and night heron nesting, it is the home for the Senepol cattle breed, a unique breed of cattle that was developed on St. Croix in the early 1900's to adapt to the island's climate.

(b) STUDY.—The Secretary of the Interior shall carry out a study regarding the suitability and feasibility of designating Castle Nugent Farms as a unit of the National Park System.

(c) STUDY PROCESS AND COMPLETION.—Section 8(c) of Public Law 91-383 (16 U.S.C. 1a-5(c)) shall apply to the conduct and completion of the study required by this section.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Colorado (Mrs. MUSGRAVE) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. MUSGRAVE).

GENERAL LEAVE

Mrs. MUSGRAVE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. MUSGRAVE. Mr. Speaker, I yield myself as much time as I may consume.

H.R. 318, introduced by my Resources Committee colleague DONNA CHRISTENSEN of the U.S. Virgin Islands, would authorize the Secretary of the Interior to study the suitability and feasibility of designating the Castle Nugent Farms located on St. Croix, U.S. Virgin Islands, as a unit of the National Park System. I understand that the owners of the farm, the largest parcel of privately held land in the United States Virgin Islands, are aware of this legislation and support the national park study.

Mr. Speaker, H.R. 318 is supported by the majority and minority of the Resources Committee and the administration. Additionally, identical legislation was passed by the House in the 108th Congress.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am very pleased that the House today is considering H.R. 318, legislation that I introduced to provide for a study to determine the feasibility and suitability of designating Castle Nugent Farms in the United States Virgin Islands as a unit of the National Park System.

Castle Nugent Farms is a unique 1,350-acre property located on the southeastern shore of my home island of St. Croix. It contains natural and cultural resources which could provide an unparalleled insight into the plantation period of the Virgin Islands.

Castle Nugent Farms is presently operated as a cattle ranch by owners who are very interested in preserving and interpreting the natural and cultural resources of the area. Caroline Gasperi, whose family members have been stewards of this land for more than 50 years, has been an enthusiastic supporter for the preservation of this site. The passage of this bill today would bring her one step closer to her long-held and also hard-fought-for dream.

The owners are justifiably proud of their ranch, which contains more than 4 miles of pristine oceanfront with a large and healthy fringing coral reef. The interior of the property consists of Caribbean dry forest and pasture lands with cultural resources from both pre-Colombian and post-European settlement.

A large Danish estate house, dating to the 1730s, sits on the property. That house is listed on the National Register of Historic Places.

At various points in its history, Castle Nugent Farm has been operated as a cotton plantation and a sugar cane plantation. Its current use as a cattle ranch involves raising unique Senepol cattle, a breed which is well suited to the climate and vegetation of the area.

H.R. 318 is a noncontroversial bill. Identical language, as we have heard, passed the House in the last Congress. The National Park Service has no objections to the legislation, and the property's owners not only support a park study of the site but are enthusiastic about the opportunity to preserve the natural and cultural resources of the farm.

Mr. Speaker, it is my hope that the park study will provide the blueprint by which we can preserve and interpret this unique piece of island history and resources for the benefit of present and future generations.

I thank my colleagues on the other side of the aisle for their support, and I strongly support the adoption of this bill by the House today.

Mr. Speaker, I yield back the balance of my time.

Mrs. MUSGRAVE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado (Mrs. MUSGRAVE) that the House suspend the rules and pass the bill, H.R. 318.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

BOB HOPE MEMORIAL LIBRARY

Mrs. MUSGRAVE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 323) to redesignate the Ellis Island Library on the third floor of the Ellis Island Immigration Museum, located on Ellis Island in New York Harbor, as the "Bob Hope Memorial Library".

The Clerk read as follows:

H.R. 323

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REDESIGNATION.

The Ellis Island Library on the third floor of the Ellis Island Immigration Museum, located on Ellis Island in New York Harbor, shall be known and redesignated as the "Bob Hope Memorial Library".

SEC. 2. REFERENCES.

Any reference in a law, map, regulation, document, paper, or other record of the United States to the Ellis Island Library on the third floor of the Ellis Island Immigration Museum referred to in section 1 shall be deemed to be a reference to the "Bob Hope Memorial Library".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Colorado (Mrs. MUSGRAVE) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. MUSGRAVE).

GENERAL LEAVE

Mrs. MUSGRAVE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. MUSGRAVE. Mr. Speaker, I yield myself as much time as I may consume.

H.R. 323, introduced by the gentleman from New York (Mr. ENGEL), designates the library on the third floor of the Ellis Island museum as the Bob Hope Memorial Library.

Bob Hope arrived as an immigrant to Ellis Island in 1908 at the age of 4. Later, he became one of the country's greatest entertainers and was sometimes referred to as "America's most famous immigrant."

H.R. 323 simply renames the library on the third floor of the immigration station museum. The Hope family is supportive of the effort to redesignate the library.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, the majority has already explained pretty much the purpose of H.R. 323, which was introduced by our colleague from New York (Mr. ENGEL).

Bob Hope and his family immigrated to the United States in 1908, and like millions of other immigrants entered the United States through Ellis Island. As all of us know and many of us have had the opportunity to enjoy, Bob Hope went on to have an illustrious career as a comedic entertainer and is remembered by many for his work over nearly six decades traveling the globe to entertain American servicemen and -women.

Mr. Speaker, we wholeheartedly support H.R. 323 as a means to honor the contributions of a great entertainer and great American and urge the adoption of the legislation by the House today.

Mr. Speaker, I yield such time as he may consume to our colleague from New York (Mr. ENGEL), the sponsor of the bill.

Mr. ENGEL. Mr. Speaker, I thank the gentlewoman from the Virgin Islands for yielding time to me, and I thank the gentlewoman from Colorado as well and I want to thank the Speaker for the opportunity to talk about H.R. 323, which is what was mentioned before, a bill which will name the third-floor library at Ellis Island in New York Harbor as the Bob Hope Memorial Library.

I would also like to thank the gentleman from California (Mr. GALLEGLY) for his assistance and support of the bill.

Mr. Speaker, most Americans remember Bob Hope for his work in the entertainment business, as a comedian, actor, dancer, singer, as well as his work with American troops abroad; but what few know or remember about Bob Hope is that he was an immigrant from England.

The gentlewoman mentioned he came to the United States when he was only 4 years old, and certainly he is referred to as America's most famous immigrant whose life epitomizes the American Dream.

I would like to also take this opportunity to vent my frustration a little bit with the National Park Service and its handling of this legislation.

We need to pass this bill. I read in Congressional Quarterly that the National Park Service does not support the bill on the grounds that Bob Hope's journey through Ellis Island and his life's accomplishments may not be enough to warrant renaming the island's library in his honor.

I want to say that they presented that same sort of testimony before the committee; and the committee had the good sense, in a bipartisan fashion, to reject that kind of thinking, because this is something that is very deserving for Bob Hope because, after all, it is Bob Hope. Everyone knows Bob Hope and everyone knows what he stood for. Bob Hope embodies the American Dream, and the Ellis Island Restoration Commission even called naming the library a fitting tribute.

After a long period of restoration, Ellis Island was turned into a museum in 1990 for people to come and remember the 16 million immigrants who passed through Ellis Island from 1892 to 1954 to pursue the American Dream.

☐ 1445

When I talk about Ellis Island and the immigrants who came through Ellis Island, it is very personal because all four of my grandparents came through Ellis Island, and so many Americans had family coming through Ellis Island. It is estimated that some 40 percent of the current United States population has roots in Ellis Island. So this is a very fitting thing that we do today in memory of Bob Hope.

Like many of the other 16 million immigrants who passed through Ellis Island, Bob Hope arrived in America with little. Bob Hope described himself upon arrival as "a 4-year-old boy in knickers who had no idea of the opportunities that lay ahead." He went on to become a household name in the United States and around the world as well.

After arriving in the United States, the Hope family moved to Ohio, and he later started his career in radio. He moved on to appear in numerous movies and Broadway plays. He is perhaps best known, however, for his unwavering commitment to entertaining our Nation's military overseas. Who can ever forget all the various Bob Hope shows at Christmas and Thanksgiving and all throughout the year entertaining our troops in harm's way?

For nearly six decades, often during holidays, from World War II all the way through the Persian Gulf War, Bob Hope traveled the globe, bringing a little bit of America to U.S. troops during times of war and peace. Troops abroad even called him "G.I. Bob," and in 1997 Congress even named him as an honorary veteran for all the work he did with veterans serving overseas.

Bob Hope has been honored in many ways for his work. In fact, the family tells us he has been honored with over 1,500 awards. Some notable awards include several Academy Awards, obviously; a Congressional Gold Medal in 1962; an Emmy; and a Golden Globe.

Despite all the awards Bob Hope received, he had a special place in his heart for Ellis Island, and in 1990 when the Ellis Island Restoration Commission suggested naming the third floor library of the museum in his honor, he stated that it would be "one of the single most important highpoints in my career."

Sadly, Bob Hope passed away in 2003 at the age of 100 and did not see this project finished. So the Bob Hope Memorial Library will serve as a daily reminder to Ellis Island's visitors of Bob Hope's great contributions to the American people, American culture, and the American dream.

Mr. Speaker, I have a letter from Bob Hope expressing his support of the museum as well as a letter from the Ellis Island Restoration Commission expressing their support for this project which I will include for the RECORD.

In conclusion, I want to just say I know that everyone supports this and I trust this will pass unanimously because, after all, this is Bob Hope.

MAY 3, 1991.

Mr. PHILIP LAX, President,
Mr. NORMAN LISS, Chairman of Development,
Ellis Island Restoration Commission,
New York, NY 10005.

DEAR PHIL AND NORMAN: As you well know, I am very honored to be part of the Family Heritage Center at Ellis Island.

However, with my trip to Saudi Arabia at Christmas, two television specials and a hectic schedule, I have not been able to fully express my enthusiasm for the project. Enthusiasm, by the way, which is greater than ever.

Is it possible that I can meet with you and Ann Belkov of Ellis Island along with Alan Prigge and his associate Friedman to discuss details of the campaign and/or a news conference?

I'll be in New York from June 12–16 and hope we can all meet during that period at my Garden City Hotel suite to go over the important details. Or, would you like to set a press conference date hosted by Secretary Lujan?

Once again, the Ellis Island recognition is very special to me and my family and I really appreciate this great honor.

Warm regards,

BOB HOPE.

ELLIS ISLAND RESTORATION
COMMISSION,
New York, NY, November 27, 2003.

Mr. WARD GRANT,
North Pass Avenue,
Burbank, CA

DEAR MR. GRANT: The Ellis Island Restoration Commission, together with the National Park Service, are desirous of naming the third floor of the National Museum at Ellis Island in New York Harbor, the Bob Hope Memorial Library in honor of that great American legend.

The ship's manifest, which we have in our possession, reflects that Bob Hope emigrated to America through Ellis Island with his mother and siblings on March 28, 1908, at the age of four. He is probably the most famous immigrant to come through Ellis Island, of the sixteen million who so emigrated. Forty percent of the current United States population has roots in Ellis Island.

The Museum is owned and administered by the National Park Service on behalf of the Department of the Interior. Ellis Island and the Statute of Liberty, to which it is connected, are the most sought after destinations for tourists visiting New York. The Library contains, among other rooms, the Oral History Room, in which the stories of immigrants who arrived through Ellis Island are recorded and computerized, and the Ellis Island Archives.

As reflected in the letters we have enclosed, Mr. Hope in 1990 and 1991, showed great interest in the Island and reflected sincere appreciation for the honor of having the Library named after him. Unfortunately, at that time, bureaucratic complications did not permit the project to move ahead.

It would be our intention, if the family approves, to seek a bill passed by Congress and have it signed into law by the President. We would not be seeking any funds from the Bob Hope Foundation or any family members, but this would simply be in recognition of the great contributions to America's life, culture and entertainment by Bob Hope.

Ironically, we were in London at the time of Mr. Hope's passing and took the opportunity to visit his childhood home and the Bob Hope Theatre in Eltham.

We were provided your contact information by WOR's Joe Franklin and his producer, Richard Orenstein, in New York, both of whom enthusiastically encouraged this idea.

We look forward to hearing from you after you have communicated with the family and if the response is in the affirmative, make appropriate arrangements for a formal announcement by the Commission, Congressional representatives, National Park Service, as well as family members.

We eagerly await your response.

Sincerely yours,

PHIL LAX,
President.
NORMAN LISS,
Chairman of Development.

Mrs. CHRISTENSEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. MUSGRAVE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BISHOP of Utah). The question is on the motion offered by the gentlewoman from Colorado (Mrs. MUSGRAVE) that the House suspend the rules and pass the bill, H.R. 323.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. MUSGRAVE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

YUMA CROSSING NATIONAL HERITAGE AREA BOUNDARY ADJUSTMENT

Mrs. MUSGRAVE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 326) to amend the Yuma Crossing National Heritage Area Act of 2000 to adjust the boundary of the Yuma Crossing National Heritage Area and to extend the authority of the Secretary of the Interior to provide assistance under that Act, as amended.

The Clerk read as follows:

H.R. 326

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. YUMA CROSSING NATIONAL HERITAGE AREA BOUNDARY ADJUSTMENT.

Section 3(b) of the Yuma Crossing National Heritage Area Act of 2000 (16 U.S.C. 461 note; Public Law 106–319; 114 Stat. 1281) is amended to read as follows:

"(b) BOUNDARIES.—The Heritage Area shall comprise the lands generally depicted on the map entitled 'Yuma Crossing National Heritage Area Boundary Adjustment', numbered 903-80071, and dated October 16, 2005.".

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Colorado (Mrs. MUSGRAVE) and the gentlewoman from the Virgin Islands (Mrs. CHRISTENSEN) each will control 20 minutes.

The Chair recognizes the gentlewoman from Colorado (Mrs. MUSGRAVE).

GENERAL LEAVE

Mrs. MUSGRAVE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Colorado?

There was no objection.

Mrs. MUSGRAVE. Mr. Speaker, I yield myself such time as I may consume.

H.R. 326, introduced by Congressman RAÚL GRIJALVA, reduces the boundary of the Yuma Crossing Heritage Area. When the Yuma Crossing Heritage Area was authorized in 2000, the public in Yuma County did not understand the scope of the project and were surprised by the size of the designation. Citizens originally believed that the heritage area would focus mainly around the historic district. Many private property owners were not aware that they were also included in the new designation. Concerns were raised by citizens about the size of the designation and the potential for additional Federal oversight.

Local officials testified that there is now broad public support for the designation with the new reduced boundary.

I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mrs. CHRISTENSEN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, my colleague has already explained the purpose of H.R. 326, which was introduced by the gentleman from Arizona (Mr. GRIJALVA).

Representative GRIJALVA is to be commended for his leadership on this legislation. He has worked closely with the local community and others to determine the most appropriate means to preserve and interpret the history of the area.

Mr. Speaker, we support H.R. 326 and urge its adoption by the House today.

Mr. Speaker, I yield back the balance of my time.

Mrs. MUSGRAVE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado (Mrs. MUSGRAVE) that the House suspend the rules and pass the bill, H.R. 326, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend the Yuma Crossing National Heritage Area Act of 2000 to adjust the boundary of the Yuma Crossing National Heritage Area and for other purposes.".

A motion to reconsider was laid on the table.

FEDERAL YOUTH COORDINATION ACT

Mr. OSBORNE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 856) to establish a Federal Youth Development Council to improve the administration and coordination of Federal programs serving youth, and for other purposes, as amended.

The Clerk read as follows:

H.R. 856

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Federal Youth Coordination Act".

SEC. 2. ESTABLISHMENT AND MEMBERSHIP.

(a) MEMBERS AND TERMS.—There is established the Federal Youth Development Council (in this Act referred to as the "Council") composed of members as follows:

(1) The Attorney General, the Secretary of Agriculture, the Secretary of Labor, the Secretary of Health and Human Services, Secretary of Housing and Urban Development,

the Secretary of Education, the Secretary of the Interior, the Secretary of Commerce, the Secretary of Defense, the Secretary of Homeland Security, the Director of National Drug Control Policy, the Director of the Office of Management and Budget, the Assistant to the President for Domestic Policy, the Director of the U.S.A. Freedom Corps, the Deputy Assistant to the President and Director of the Office of Faith-Based and Community Initiatives, and the Chief Executive Officer of the Corporation for National and Community Service, or a designee of each such individual who holds significant decision-making authority, and other Federal officials as directed by the President, to serve for the life of the Council.

(2) Any additional members as the President shall appoint from among representatives of faith-based organizations, community based organizations, child and youth focused foundations, universities, non-profit organizations, youth service providers, State and local government, and youth in disadvantaged situations. In making the appointments under this paragraph, the President shall consult with the Speaker of the House of Representatives, who shall take into account the recommendations of the Majority Leader and the Minority Leader of the House of Representatives, and the president pro tempore of the Senate, who shall take into account the recommendations of the Majority Leader and the minority Leader of the Senate. Each member appointed under this paragraph shall serve for 1 term of 2 years.

(b) CHAIRPERSON.—The Chairperson of the Council shall be the Secretary of Health and Human Services.

(c) MEETINGS.—The Council shall meet at the call of the Chairperson, not less frequently than 4 times each year. The first meeting shall be not less than 4 months after the date of enactment of this Act.

SEC. 3. DUTIES OF THE COUNCIL.

(a) The duties of the Council shall be—

(1) to ensure communication among agencies administering programs designed to serve youth, especially those in disadvantaged situations;

(2) to assess the needs of youth, especially those in disadvantaged situations, and those who work with youth, and the quantity and quality of Federal programs offering services, supports, and opportunities to help youth in their educational, social, emotional, physical, vocational, and civic development;

(3) to recommend objectives and quantifiable 5-year goals for such programs;

(4) to make recommendations for the allocation of resources in support of such goals and objectives;

(5) to identify areas of overlap or duplication in purpose and operation of programs serving youth and recommend ways to better facilitate coordination and consultation, improve efficiency, and streamline such programs;

(6) to identify target populations of youth who are disproportionately at risk and assist agencies in focusing additional resources on them;

(7) to develop a recommended plan, including common indicators of youth well-being, and assist agencies, at the request of 1 or more agency, in coordinating to achieve such goals and objectives;

(8) to assist Federal agencies, at the request of 1 or more such agency, in collaborating on model programs and demonstration projects focusing on special populations, including youth in foster care, migrant youth, projects to promote parental involvement, and projects that work to involve young people in service programs;

(9) to solicit and document ongoing input and recommendations from—

(A) youth, especially those in disadvantaged situations;

(B) national youth development experts, researchers, parents, faith and community-based organizations, foundations, business leaders, youth service providers, and teachers; and

(C) State and local government agencies, particularly agencies serving children and youth; and

(10) to work with Federal agencies to conduct high-quality research and evaluation, identify and replicate model programs and best practices, provide technical assistance, and coordinate the collection and dissemination of youth services-related data and research.

(b) The Council may provide technical assistance to a State at the request of a State to support State-funded councils for coordinating State youth efforts.

SEC. 4. ASSISTANCE OF STAFF.

(a) DIRECTOR.—The Chairperson, in consultation with the Council, shall employ and set the rate of pay for a Director.

(b) STAFF OF FEDERAL AGENCIES.—Upon request of the Council, the head of any Federal department or agency may detail, on a reimbursable basis, any of the personnel of that department or agency to the Council to assist it in carrying out its duties under this Act.

SEC. 5. POWERS OF THE COUNCIL.

(a) MAILS.—The Council may use the United States mails in the same manner and under the same conditions as other departments and agencies of the United States.

(b) ADMINISTRATIVE SUPPORT SERVICES.—Upon the request of the Council, the Administrator of General Services shall provide to the Council, on a reimbursable basis, the administrative support services necessary for the Council to carry out its responsibilities under this Act.

SEC. 6. REPORT.

Not later than 1 year after the Council holds its first meeting, the Council shall transmit to Congress an interim report of its findings, and not later than 2 years after the Council holds its first meeting, the Council shall transmit to Congress a final report including its findings and recommendations. The report shall—

(1) include a comprehensive list of recent research and statistical reporting by various Federal agencies on the overall well-being of youth, including the ratings of the Program Assessment Ratings Tool (PART) of Federal programs serving youth used by the Office of Management and Budget, if applicable;

(2) include the assessment of the needs of youth and those who serve them;

(3) include a summary of the plan called for in section 3(a)(7);

(4) recommend ways to coordinate and improve Federal training and technical assistance, information sharing, and communication among the various programs and agencies serving youth;

(5) include recommendations to better integrate and coordinate policies across agencies at the Federal, State, and local levels, including recommendations for legislation and administrative actions;

(6) include a summary of actions the Council has taken at the request of Federal agencies to facilitate collaboration and coordination on youth serving programs and the results of those collaborations, if available;

(7) include a summary of the action the Council has taken at the request of States to provide technical assistance under section 3(b), if applicable; and

(8) include a summary of the input and recommendations from the groups identified in section 3(a)(9).

SEC. 7. TERMINATION.

The Council shall terminate 60 days after transmitting its final report under section 6.

SEC. 8. AUTHORIZATION OF APPROPRIATIONS.

There is authorized to be appropriated $1,000,000 for each of fiscal years 2007 and 2008 to carry out this Act.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Nebraska (Mr. OSBORNE) and the gentleman from Texas (Mr. HINOJOSA) each will control 20 minutes.

The Chair recognizes the gentleman from Nebraska (Mr. OSBORNE).

GENERAL LEAVE

Mr. OSBORNE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous information on H.R. 856.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Nebraska?

There was no objection.

Mr. OSBORNE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in strong support of H.R. 856, the Federal Youth Coordination Act. I am very pleased that the House of Representatives will have the opportunity to consider this important legislation.

I have long advocated for a stronger emphasis at the Federal level on youth development programming because I believe our Nation's future is linked to a healthy, educated, morally sound next generation.

The genesis of this bill is in the report of the White House Task Force on Disadvantaged Youth. Although the final report was issued several years ago, I believe that the task force report and its thoughtful analysis and recommendations should be implemented. This legislation does that. Although the executive branch is charged with implementing youth programs, Congress creates many of these programs and funds them. We need to know that our efforts are producing the best results for our young people.

The White House Task Force on Disadvantaged Youth noted a number of facts about America's young people and the programs that serve them:

First, the National Academy of Sciences estimates that one-quarter of adolescents in this country, almost 10 million teens, are at serious risk of not achieving productive adulthood.

Number two, most young people will grow up just fine without government involvement, but the most vulnerable young people may be missed by programs designed to help them. And, worse, the programs we think will help them the most may not at all. There is a serious lack of rigorous evaluation of Federal youth efforts at the present time.

Number three, a large number of youth-serving programs are targeting many youth subgroups. These services and target populations often overlap, creating unnecessary duplication and multiple programs that are ofttimes not necessary.

Number four, the current Federal response to youth failure is convoluted and complex and is a perfect example of what the GAO has called "mission fragmentation." The GAO recommends that programs with similar goals, target populations, and services be coordinated, consolidated, or streamlined to ensure that goals are consistent.

The White House Task Force identified a number of goals and changes that would help to better coordinate the hundreds of programs across 12 Federal departments that serve youth. The three largest youth-serving agencies are the Department of Health and Human Services, Justice, and Education. To support these efforts, in February of this year, I, along with my colleagues, Mr. HOEKSTRA, Mr. FORD, and Mr. PAYNE, introduced H.R. 856, the Federal Youth Coordination Act, which was crafted to help implement many of the recommendations of the White House Task Force on Disadvantaged Youth.

The Federal Youth Coordination Act creates the Federal Youth Development Council to evaluate, coordinate, and improve Federal youth-serving programs and hold Federal agencies accountable for achieving results. The purpose of this bipartisan legislation is to maximize the return on Federal investment in young people, not to eliminate programs that work.

America's young people deserve high-quality, effective, and meaningful youth development programs. Our Nation's taxpayers deserve their tax dollars to be spent on high-quality, effective, and meaningful youth development programs as well.

Among the Council's duties will be: to ensure communication among agencies administering programs designed to serve youth. Many of these programs are not allowed by statute to even communicate with each other, and this is a mistake.

To recommend objectives and quantifiable 5-year goals for Federal youth programs. Many of these programs do not have any measurable quantifiable goals at all.

To make recommendations as to how to better facilitate coordination and consultation.

To improve efficiency in programs, identify target populations of youth who are disproportionately at risk and assist agencies in focusing additional resources on them.

To assist agencies in coordinating and collaborating on youth programs.

And to conduct research and evaluation programs, solicit input and recommendations from outside groups.

In addition, the Council may provide technical assistance to a State at the request of a State to support State-funded councils for coordinating State youth efforts.

The Council will also be charged with issuing a report to Congress so that Congress and the authorizing and appropriations committees can use the information in future decisions. This additional information will lead to a more cohesive, efficient, and effective Federal youth policy that our young people deserve. Further, while the Council is chaired by the Department of Health and Human Services, its charge is to coordinate across the full range of Federal departments with a focus on the needs of youth, not on the needs of bureaucracy.

This legislation was developed with the assistance of a number of organizations and has been endorsed by over 250 organizations. I want to thank all of these organizations for their grassroots support, which helped propel this legislation. Among these organizations has been the National Collaboration for Youth, Big Brothers Big Sisters, Campfire USA, Volunteers of America, YMCA of the USA, Forum for Youth Investment, Youth Service America, Volunteers of America, and America's Promise—the Alliance for Youth.

I want to thank all of the cosponsors of the legislation as well as the chairman of the Education and Workforce Committee, JOHN BOEHNER, and the chairman of the Subcommittee on Select Education, PAT TIBERI. Their support has been critical.

I would also like to thank the staff who worked on this legislation, particularly Erin Duncan from my staff, Whitney Rhoades of the Education and Workforce Committee, Krisann Pearce and Jo-Marie St. Martin, also of the Education and Workforce Committee, as well as Brady Young of the Legislative Counsel's Office.

I hope my colleagues will join me in supporting this important effort toward creating more cohesive and meaningful positive youth development programs by passing H.R. 856.

Mr. Speaker, I reserve the balance of my time.

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Mr. HINOJOSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I support H.R. 856, entitled Federal Youth Coordination Act. I would like to commend the gentleman from Nebraska (Mr. OSBORNE) for bringing this bill forward. I would also like to add that I admire the gentleman's exemplary work in support of our youth from mentoring and outreach programs to this type of effort to coordinate Federal youth programs.

His commitment to young people is genuine, and his leadership is greatly appreciated. His Federal Youth Coordination Act would establish a Federal Youth Development Council consisting of all of the Federal agencies that have youth development programs. With input from the community, this council would be tasked with ensuring communication across Federal agencies serving youth and developing a plan and set of recommendations to improve Federal services to youth.

I think that we can all agree that coordination is sorely needed. Today's population of adolescents and young adults is the largest in our Nation's history. High schools and colleges are seeing record enrollments.

Tragically, the White House Task Force on Disadvantaged Youth reported that one-quarter of our young people are at serious risk of not achieving productive adulthood. We know from numerous reports that nearly one-third of our high school students fail to earn a diploma with their peers. For African American and Hispanic students, the number is even worse with only 50 percent graduating. Furthermore, many of our young people are not leaving high school ready for college or for work.

It is incumbent upon all of us to build communities with the educational opportunities and support system in place to help our youth become successful adults. Our record number of teenagers must become a record number of high school and college graduates, and a record number of teachers, scientists, doctors, lawyers, and unskilled professionals. We must not allow this generation to produce record numbers for the juvenile justice, runaway, and homeless youth or foster care systems.

Clearly, success will require strong coordination, schools, families, community-based organizations, employers, health providers, and social service agencies all working together. The Federal Government should lead by example, coordinating its own efforts to support our youth, and H.R. 856 is a step in the right direction.

I would note one concern with the legislation as drafted, however. The amended version of the bill requires the council to report using the results from the Office of Management and Budget's program assessment rating tool, often referred to by the acronym PART. This tool is the subject of significant controversy. For example, a recent GAO report highlighted the closed nature of the PART process and its emphasis on short-term budget planning over long-term goal setting.

In fact, the administration has used the PART as a means to eliminate programs that are not viewed as priorities. Some of these programs are critical to youth and young families, such as the Even Start Family Literacy program, TRIO program, and the GEAR UP and Dropout Prevention programs. It would be ironic to have the PART tool used to provide a rationalization for eliminating programs to help youth rather than expanding their reach and effectiveness.

It is my hope that our focus on accountability for programs will remain with the Government Performance and Results Act of 1993, our public law that provides for an open public process for developing objective information on the effectiveness and efficiency of Federal programs and spending.

In closing, I would like to encourage my colleagues to support this legislation, H.R. 856, to coordinate our Federal youth programs. May it spark an even greater sustained investment in our young people.

Mr. Speaker, I reserve the balance of my time.

Mr. OSBORNE. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. BOEHNER), the chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, I thank the gentleman for yielding me this time, and thank him for his work on bringing this bill to the floor. He and I have talked about the idea that we ought to take all of these programs that the Federal Government has that affect disadvantaged youth and try to bring some coordination to the overall effort.

As many of us know, Congress gets in the business of duplicating programs coming from different committees and different agencies of the Federal Government. Before we know it, we have a proliferation of programs, many of them not connected to each other in any way, shape, or form.

I think the proposal brought to us by the gentleman from Nebraska creating this coordinating council really will, in fact, help us achieve what we are attempting to achieve by closer coordination of these 30 different programs.

I can go through a lot of different areas, but I can talk about the Workforce Investment Act, for example. A little different example, but I looked up, along with the gentleman from California (Mr. MCKEON) some 10 years ago, and we found 63 Federal job training and retraining programs scattered across the different agencies of the government that we were able to bring together under one roof to serve those who needed training and retraining. We have one-stop-shop centers now all over the country.

This is a little different example of trying to reorganize how we do what we do, well meaning, well intentioned; but when we have all of these different programs working on their own without the kind of coordination that this council would bring, I do not think we bring as much of an impact to these children who need our help as we could.

I think the goal here is pretty clear from Mr. OSBORNE, myself, and others that this coordinating council would be there to see that these programs are working, that they are working together to help those disadvantaged youth who need help.

I do not think there is any effort here to consolidate programs, but I think the effort here ought to be making sure that they are effective and making sure that they work together for the advantage of these disadvantaged youth who so desperately need our help. I congratulate my colleague from Nebraska for his work and ask my colleagues to support the bill.

Mr. HINOJOSA. Mr. Speaker, I yield 3 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I rise in strong support of H.R. 856. I commend the gentleman from Nebraska for introducing this legislation, as well as for many of the other creative ideas and thoughts that I have seen and heard him express in the Education Committee.

I also want to commend my colleague from Texas for yielding to me and for the leadership he displays as the ranking member on one of our subcommittees.

I think that coordination, while it does not necessarily appear to be earth-shaking or earth-shattering, is a tremendous concept that is greatly needed. Unfortunately, many of our programs operate in isolation. Unfortunately, there are instances where there is duplication and things oftentimes get missed.

When we can bring together all of these tremendous resources we have at our disposal so they are coordinated in such a way that the recipients become the beneficiaries of this coordinated approach, then I think it will tremendously aid in the development of our young people. It is a great piece of legislation. It is a great idea. It is a great concept. I simply want to add my voice to those who are in support of it and urge that we support it.

Mr. OSBORNE. Mr. Speaker, I thank the gentleman from Ohio (Mr. BOEHNER) for his support and comments and the gentleman from Texas (Mr. HINOJOSA) for his support, as well, and the support of the gentleman from Illinois (Mr. DAVIS). I have enjoyed working with these gentlemen on this project and the staff.

Mr. Speaker, I yield back the balance of my time.

Mr. HINOJOSA. Mr. Speaker, it is always a pleasure to work with Congressman OSBORNE, and I want to say that I think this piece of legislation is one that is going to be very beneficial.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COLE of Oklahoma). The question is on the motion offered by the gentleman from Nebraska (Mr. OSBORNE) that the House suspend the rules and pass the bill, H.R. 856, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. PENCE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

RECOGNIZING 30TH ANNIVERSARY OF ENACTMENT OF EDUCATION FOR ALL HANDICAPPED CHILDREN ACT OF 1975

Mr. CASTLE. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 288) recognizing the 30th anniversary of the enactment of the Education For All Handicapped Children Act of 1975 and reaffirming support for the Individuals With Disabilities Education Act so that all children with disabilities have access to a free appropriate public education in the least restrictive environment.

The Clerk read as follows:

H. Con. Res. 288

Whereas the Education for All Handicapped Children Act of 1975 (Public Law 94–142) was signed into law 30 years ago on November 29, 1975, and amended the State grant program under part B of the Education of the Handicapped Act;

Whereas the Education for All Handicapped Children Act of 1975 established the Federal priority of ensuring that all children, regardless of the nature or severity of their disability, have available to them a free appropriate public education in the least restrictive environment;

Whereas the Education of the Handicapped Act was further amended by the Education of the Handicapped Act Amendments of 1986 (Public Law 99–457) to create a preschool grant program for children with disabilities aged 3 through 5 and an early intervention program for infants and toddlers with disabilities under 3 years of age and their families;

Whereas the Education of the Handicapped Act Amendments of 1990 (Public Law 101–476) renamed the statute as the Individuals with Disabilities Education Act (IDEA);

Whereas IDEA currently serves an estimated 269,000 infants and toddlers, 679,000 preschoolers, and 6,000,000 children aged 6 to 21;

Whereas IDEA has assisted in a dramatic reduction in the number of children with developmental disabilities who must live in State institutions away from their families;

Whereas the number of children with disabilities who complete high school with standard diplomas has grown significantly since the enactment of IDEA;

Whereas the number of children with disabilities who enroll in college as freshmen has more than tripled since the enactment of IDEA;

Whereas IDEA promotes partnerships between parents of children with disabilities and education professionals in the design and implementation of the special education and related services provided to children with disabilities;

Whereas IDEA has raised the Nation's expectations regarding the abilities of children with disabilities by requiring access to the general education curriculum;

Whereas the 2004 reauthorization of IDEA ensures that children with disabilities are guaranteed a quality education based on the high academic standards required under the No Child Left Behind Act of 2001 (Public Law 107–110);

Whereas the 2004 reauthorization strengthens IDEA's focus on the educational results of children with disabilities and better prepares those children for employment or further education beyond high school;

Whereas the 2004 reauthorization further enables special education teachers, related services providers, other educators, and State and local educational agencies to focus on promoting the academic achievement of children with disabilities;

Whereas the 2004 reauthorization maintains the necessary procedural safeguards that guarantee the rights of children with disabilities and their parents while encouraging the mutual resolution of disputes and reducing unnecessary litigation;

Whereas the 2004 reauthorization continues to ensure the provision of a free appropriate public education to students referred to a private school by a public agency and ensures the provision of special education and related services to students placed by their parents in private schools;

Whereas, although the Federal Government has not yet met its commitment to fund IDEA at 40 percent of the average per pupil expenditure, it has increased IDEA funding over the last decade from $2.3 billion to $10.6 billion and increased its percentage share of the average per pupil expenditure from 7.8 percent to 18.6 percent;

Whereas the 2004 reauthorization ensures that the vast majority of funds will go directly to the classroom and provides States and local educational agencies additional flexibility to provide for the costs of educating high need children with disabilities;

Whereas IDEA has supported, through its discretionary programs, three decades of research, demonstration, and personnel preparation in effective practices for educating children with disabilities, enabling teachers, related services providers, and other educators to effectively meet the educational needs of all children;

Whereas Federal and State governments can support effective practices in the classroom to ensure appropriate and effective services for children with disabilities; and

Whereas IDEA has succeeded in marshalling the resources of this Nation to implement the promise of full participation in society for children with disabilities: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That the Congress—

(1) recognizes the 30th anniversary of the enactment of the Education for All Handicapped Children Act of 1975 (Public Law 94–142);

(2) acknowledges the many and varied contributions of children with disabilities and their parents, teachers, related services providers, and other educators; and

(3) reaffirms its support for the Individuals with Disabilities Education Act so that all children with disabilities have access to a free appropriate public education.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Delaware (Mr. CASTLE) and the gentleman from Texas (Mr. HINOJOSA) each will control 20 minutes.

The Chair recognizes the gentleman from Delaware (Mr. CASTLE).

GENERAL LEAVE

Mr. CASTLE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on H. Con. Res. 288.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Delaware?

There was no objection.

Mr. CASTLE. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H. Con. Res. 288, which I introduced with a bipartisan group of my colleagues. The resolution importantly recognizes the 30th anniversary of the enactment of the Education for All Handicapped Children Act of 1975, what we all know as the Individuals With Disabilities Education Act, or IDEA. Not only does this resolution recognize the act's anniversary but also reaffirms this body's support for IDEA.

For too many years, children with disabilities were denied access to public education. However, with the passage of the Education for All Handicapped Children Act in 1975, the doors of educational opportunity were opened. Today, more than ever, students with disabilities have an opportunity to accomplish their goals.

□ 1515

According to the Department of Education, about 6.6 million students currently participate in these programs across the Nation. Signed into law on November 29, 1975, the Act established the Federal priority of ensuring that all children, regardless of the nature or severity of their disability, have available to them what has become the tenet of IDEA, a free, appropriate public education in the least restrictive environment.

In 1986 we expanded the program to serve children with disabilities age 3 through 5, and created an early intervention program for infants and toddlers with disabilities under 3 years of age and their families.

The successes over the past 30 years are worth stating. Based on data from the U.S. Department of Education, since enactment there has been a dramatic reduction in the number of children with developmental disabilities who must live in State institutions away from their families.

The number of children with disabilities who complete high school with standard diplomas has grown significantly since the enactment of IDEA. The number of children with disabilities who enroll in college as freshman has more than tripled since the enactment of IDEA. And IDEA has raised the Nation's expectations regarding the abilities of children with disabilities by requiring access to the general education curriculum.

Last December, President Bush signed into law the latest reauthorization of IDEA. The evolution of the Act, its successes and other education reforms played an integral role in the reauthorization. The 2004 reauthorization aligns IDEA with the No Child Left Behind Act by guaranteeing children with disabilities a quality education based on high academic standards. Along these same lines, we strengthened the focus on the educational results of children with disabilities to better prepare these children for employment or an education beyond high school.

I am pleased that we are able to come together to recognize the good that has been done and to recognize the parents, students and educators impacted over the past 30 years. My hope for the future is that we continue to find ways to raise the achievement of students with disabilities and ensure that they have the services necessary to do so.

I ask my colleagues to support my resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. HINOJOSA. Mr. Speaker, I yield myself such time as I may consume.

I rise to support H.R. 288, recognizing the 30th anniversary of the Education for All Handicapped Children Act of 1975, now known as the Individuals With Disabilities Education Act, or by the acronym IDEA. I am proud to join our committee chairmen, chairman of the committee of the whole, Mr. BOEHNER, and the chairman of one of the subcommittees, Mr. CASTLE, as well as our ranking members, Mr. MILLER and Ms. WOOLSEY, to commemorate this important occasion.

I remember the hope that was ushered in with the passage of the Education for All Handicapped Children Act of 1975. As a member of the Texas State Board of Education at that time, I chaired the Committee on Special Populations which oversaw programs for migrant children, bilingual education programs for limited English proficient children, gifted and talented programs and programs for children with disabilities. In those days, it was a struggle to provide even basic access to schools for children with disabilities.

We have come a long way. IDEA currently serves an estimated 269,000 infants and toddlers, as well as 679,000 preschoolers and 6 million children ages 6 to 21. There has been a dramatic reduction in the number of children with developmental disabilities who must live in State institutions away from their families. The number of children with disabilities who complete high school with standard diplomas has also grown significantly since the enactment of IDEA.

Finally, the number of children with disabilities who enroll in college as freshmen has more than tripled since the enactment of IDEA 30 years ago.

Although we have come a long way, we still have a way to go. The Federal Government's promise to schools across the country was to share 40 percent of the cost of providing free and appropriate public education to children with disabilities. Today, in 2005, we are only halfway there and seem to have lost our momentum.

In 2004, IDEA reauthorization authorized full funding by the year 2011. Unfortunately, the President's fiscal year 2006 budget proposal for IDEA, part B, was $3.5 billion less than the authorized level for fiscal year 2006. The House fiscal year 2006 bill is about $3.9 billion less than the authorized level.

Mr. Speaker, it seems to me that if we continue to increase IDEA funding at the same percentage as the increase between fiscal year 2005 and the 2006 House bill, we will never reach full funding.

As we celebrate the 30th anniversary of this landmark education and civil rights act, let us redouble our commitment to keeping our congressional commitment and promise in 2004 to fully fund IDEA.

Mr. Speaker, I reserve the balance of my time.

Mr. CASTLE. Mr. Speaker, I yield such time as he may consume to the gentleman from Ohio (Mr. BOEHNER), chairman of the Education and Workforce Committee.

Mr. BOEHNER. Mr. Speaker, let me thank the gentleman from Delaware (Mr. CASTLE) who has worked on IDEA issues for a long time; thank him for bringing this resolution to the floor today, he and Ranking Member WOOLSEY from California, who have brought this resolution honoring the 30 years since the passage of the first IDEA bill.

For far too long in our history, we treated people with disabilities as outside of the mainstream of American society. The opportunity to serve those children prior to the passage of IDEA in 1975 was often haphazard. Certainly there was not any organization to it, and many times these children were not in any school whatsoever. And I think passage of IDEA clearly has sent a clear signal to all parents of disabled children all schools, that we believe that all children can learn.

Just last year, we reauthorized the IDEA law. That, along with the work that we did with No Child Left Behind, I think, presents a new paradigm for special needs children. For far too long we judged the accountability for educating those children by how many T's we could cross and how many I's we could dot. Mountains of paperwork, but no focus on the results that we were getting for those children.

Today, under No Child Left Behind and under the new IDEA law, the paradigm has shifted to one of let us measure the results that we are getting for all children, including those with special needs; and I think what we are beginning to see are improved results. Because while they may not learn at the same rate and while they may not attain the same levels, these children can learn just like all other children. So 30 years of good work, I think, is something that we should be proud of; and I appreciate the opportunity to take time and to remember how far we have come over these last 30 years.

In 1975, when Congress passed IDEA, they made a commitment, a commitment that said that we would pay up to 40 percent of the cost of educating special needs children. Over the years, the education community and others believed that the law said that we would spend 40 percent to educate special needs children. But I will remind you what the original law says and what it says today is that we will spend up to 40 percent and try to reach that.

It is really interesting that, from 1975 until the mid-1990s, Congress paid little attention to the commitment that they gave to those parents of special needs children and to educators who were obliged to follow the law, and it really has only been over the last 10 or 12 years that we have made a real commitment to funding the needs of these children.

If you go back to 1995, Congress at that time was spending $2.3 billion annually for the education of special needs children. Today, that has grown to $10.6 billion, a 360 percent increase over these last 10 years. While we have not reached the goal of getting up to 40 percent of the cost, we are about halfway there. I think we have made tremendous progress.

In 1995, we were paying about 6 percent of the cost of educating these children. So we have made great strides. Do we need to continue to do more? Yes, we do. And I think you will see another increase in funding this year as the budget process begins to come to a close. I think the commitment for Members on both sides of the aisle is very strong to continue our commitment to increasing those funds.

Let me, lastly, remark that someone I would have hoped would have been on the floor today is not here. In 1974, there was a new Member of Congress, a member of our committee, happens to be the ranking Democrat on our committee today, GEORGE MILLER. GEORGE MILLER, over these last 30 years that he has been a Member of Congress, probably has exhibited more commitment to this issue and the education of children with special needs than any Member.

I think that while we are pausing to remember the great things that have happened since IDEA became law, we ought to take a moment to thank our colleague, GEORGE MILLER, who, without his commitment, without his dedication to this cause, many Members of Congress may have forgotten.

Mr. HINOJOSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I enjoyed listening to the remarks by our chairman of the Education Committee. I, too, am saddened that the ranking member of our committee, GEORGE MILLER from California, and the ranking member of one of the other committees that deals with this issue, LYNN WOOLSEY, was unable to make the hearing so that they could participate and express their own thoughts. But I can say this, that everything that the chairman said is correct, that we have made great strides.

But coming from an area that has a great rural community in Texas that I represent, I have met with many parents who have children who need this type of education. Their children are disabled, and they talk about the frustration that they have. They wish that the State government would invest much more, together with our public schools. Unfortunately, throughout the country, States find themselves lacking the wherewithal and the financial ability to put more money into many of our public schools. So it is up to the Federal Government, who has a $2.5 trillion budget, to be able to find the money to increase that investment as we promised 30 years ago and to get to that full funding as we promised then, because I see a lot of potential in those disabled children who, but for the money that the Federal Government could invest, they are not getting the best education possible.

Mr. Speaker, I yield 4 minutes to the gentleman from Illinois (Mr. DAVIS).

Mr. DAVIS of Illinois. Mr. Speaker, I am pleased to join with Chairman BOEHNER, with Subcommittee Chairman CASTLE, with Mr. MILLER, who is not here, and certainly with Ms. WOOLSEY and the ranking member, Mr. HINOJOSA, in strong support of H. Con. Res. 288, which recognizes the 30th anniversary of the enactment of the Education for All Handicapped Children Act of 1975 and reaffirms support for individuals with disabilities education.

This program currently serves 7 million children, and without it many of those children would live in State institutions, would not have been able to complete high school and would have no possibility of enjoying the quality of life to which now they have the potential to enjoy.

□ 1530

I have always been led to believe that the greatness of society can be measured by how well it treats its old, how well it treats its young, and how well it treats those who have difficulty caring for themselves. I must say that I have been tremendously impressed with the progress that we have made toward the goal of assuring every handicapped child in our country optimal opportunity to experience the educational attainment and personal development that they have the potential to experience.

I agree that we have certainly come a long way and there is still much further to go. I have had the good fortune of being fairly close to the education of individuals with disabilities, and I can tell my colleagues I had one of the greatest experiences of my life last year when I gave a commencement address at the Neil Elementary School.

There were young people there who had difficulty speaking and needed special equipment in order to be able to speak. There were individuals who could not walk and were in wheelchairs or had other kinds of devices that helped them move. But the interesting thing, and, actually, it was one of those days that I actually left Washington to go back to Chicago to participate in this activity. My sister was the principal of that school, and I had promised her that I would be there for the graduation.

But by the time the graduation ended, there was not a dry eye in the auditorium. Because all of the teachers, all of the parents, all of the students, all of the people who had come to be a part had become so emotionally involved in what was taking place; and to see the glee and excitement on the faces and to feel the emotion coming from these young people, many of whom would never have been given any real chance at all of reaching that level of education attainment, as I sat there and saw that, I could not help but say to myself that no matter how difficult funds may be to acquire, no matter how tight the budgets might be, that we have no choice except to find every possible resource that we can to put all of the funding into these special education programs and activities. Because every time we change one life, then it has been worth the whole effort.

Mr. HINOJOSA. Mr. Speaker, I yield back the balance of my time.

Mr. CASTLE. Mr. Speaker, just briefly, first of all, both of the speakers on the other side of the aisle are men with whom I have worked extensively on this program as well as others, and they have the tremendous interests I think of the students, as we heard from their testimony here today, at heart, and I think everybody over here does as well.

I do get a little frustrated I guess at some of the economic arguments here. The gentleman from Ohio (Mr. BOEHNER) pointed out that over the last 10 years we have increased the funding for IDEA by 360 percent, from $2.3 billion to $10.6 billion, and comparably, before that, the increases had never, ever gotten above 10 percent. We are up to 20 percent now, and we are on a glide path, if you will, to try to get to 40 percent before it is all said and done.

I think it is important to understand that because of the court-ordered aspect and the way IDEA was born, that the States have the responsibility to make up that difference. So, essentially, when we pick up that extra amount of money, we are basically letting the States spend that money on something else, which may or may not be disabilities. Usually it is something else. And we are trying to continue to move that along and give the States fuller funding. But a tremendous effort has been done in a bipartisan way on that in the last 10 years. I just want to make sure that that is recognized.

I appreciate the comments from everybody on both sides of the aisle on this. I think it is an important subject, and I hope that everybody would support it.

Ms. WOOLSEY. Mr. Speaker, I was pleased to join my Subcommittee Chairman, Mr. CASTLE, and many other Republicans and Democrats, in introducing this resolution to commemorate the upcoming 30th anniversary of the Individuals with Disabilities Education Act.

In 1975, when what we now call IDEA was passed as the Education for All Handicapped Children Act, educating children with disabilities was an afterthought at best.

IDEA marked a critical turning point in the lives of people with disabilities, by ensuring that all children, regardless of their disability, have available to them a free appropriate public education.

IDEA currently serves 269,000 infants and toddlers, 679,000 preschoolers, and 6,000,000 children aged 6 to 21.

It has assisted in a dramatic reduction in the number of children with developmental disabilities who must live in State institutions away from their families.

Under IDEA, the number of students with disabilities who graduate from high school has grown significantly, and the number of students with disabilities who enroll in college has more than tripled.

Unfortunately, as this resolution recognizes, the Federal Government has not met even half of its commitment to fund IDEA at 40 percent of the average per pupil expenditure. Today, 30 years later, we provide States and school districts with only 18.6 percent of that amount.

Four years ago, during conference on the No Child Left Behind Act, we could have included a bipartisan provision that would have fully funded IDEA, but House Republican leaders refused to agree to that.

Today, I believe that the best way for Congress and the President to commemorate IDEA's 30th anniversary would be to fund IDEA at the levels authorized in the 2004 reauthorization, which passed the House and Senate with overwhelming bipartisan support.

Those levels would fully fund IDEA by 2011.

Unfortunately, less than a year later, the Republican-controlled House has passed an appropriations bill that falls nearly $4 billion short of the funding promised for this fiscal year.

At the rate of increase proposed by the Republican House for this fiscal year, we would never—never—reach full funding.

I hope that my colleagues will join me in supporting both this resolution and full funding for IDEA, so that the Federal Government finally will keep its promise to all students, their parents, and their teachers.

Mr. HOLT. Mr. Speaker, I rise today in support of H. Con. Res. 288, recognizing the 30th anniversary of the Education for All Handicapped Children Act. I am pleased to be an original cosponsor of this resolution.

First introduced in 1975 as the Education for All Handicapped Children Act and later as the Individuals with Disabilities Education Act, or IDEA, this legislation has continued to be a vital part of providing equal support for children with disabilities. Before its passage, children with disabilities were either segregated from other students or had little opportunity for education. Today, about 6.1 million children with disabilities are receiving special education and related services.

As a former educator and a member of the Committee on Education and the Workforce, I recognize the importance of continued Federal support of special education. Research shows that when we invest in the education of children with disabilities from birth throughout their school years, our entire society benefits. Giving these children the opportunities they deserve directly impacts their ability to live independently as contributing members of society.

Congress reauthorized IDEA almost a year ago, and it has continued to provide enormous support to children in dire need. However, as this resolution states, we have not yet met our commitment to fund 40 percent of the additional average pupil expenditure. Until we fulfill our responsibility, we are failing our Nation's children. This funding is needed by school districts that must make up the difference of what the Federal Government is not funding.

IDEA is a powerful civil rights law that was intended to provide education to more than one million children who were marginalized because of their disabilities. Today, it does much more. IDEA is based on the premise that children in our society are capable of success, and this law has raised the standards in education for all children. In doing so, it has also produced much improved results, proving that when we dedicate resources and attention to our children they can succeed.

IDEA requires teachers to be qualified and fair in their classrooms. IDEA also protects and supports the parents of children with disabilities. These parents have challenging, full-time jobs in raising their children. However, when given the support that they need, their children succeed. There cannot be a greater reward for a parent than this.

This law focuses on results. It strives to direct funding to where it makes a difference, to give teachers and schools the resources they need to help students. I believe that more funding will produce greater results. While we have, as a society, made great strides, we can not let these children fall behind. I urge my fellow Representatives to work towards full funding of this act.

We should be proud that we are now providing free and appropriate public education to every child with a disability. This law adds to the basic right of education the rights to fairness, support, and respect. I join my fellow Representatives in celebrating the 30th anniversary of the Education for All Handicapped Children Act.

Mr. HONDA. Mr. Speaker, I rise today in support of H. Con. Res. 288, a resolution commemorating the 30th anniversary of the legislation that led to the Individuals with Disabilities Education Act, IDEA.

On November 29, 1975, the Education for All Handicapped Children Act was signed into law. Enactment of that legislation was a historic achievement, ensuring for the first time access to education for children with disabilities, regardless of the nature or severity of their disability. Today, IDEA continues to provide for a free appropriate public education for children with disabilities in the least restrictive environment—in other words, it ensures educational opportunities for children with special needs.

The expansion of IDEA to cover preschool aged children through a grant program and to cover infants and toddlers through an early intervention program has enabled the program to reach many more students—currently IDEA serves an estimated 269,000 infants and toddlers, 679,000 preschoolers, and 6,000,000 children aged 6 to 21. Because these services are being delivered near their homes, IDEA has helped to dramatically reduce the number of children with developmental disabilities who must live in State institutions away from their families.

The success of IDEA has been overwhelming. Under IDEA, the number of children with disabilities who receive a high school diploma has increased significantly and the number of children who enroll in college has more than tripled. By promoting partnerships, between parents and educators in the design and implementation of special education and related: services for children with disabilities, IDEA helps these children to reach their full potential and prepares those children for employment or further education beyond high school.

As we recognize the 30th anniversary of IDEA today and reaffirm our support for the legislation, I must note that the Federal Government is still falling far short of its commitment to fully fund IDEA at 40 percent of the average per pupil expenditure. We are currently providing funding at only 18.6 percent, less than half of what we promised. While the teachers and students working under the auspices of IDEA have been able to accomplish many great things, we should think about all that is not being done, the students who are not reaching their full potential and the teachers who cannot do all that they want or need to do with their students, because IDEA is not being fully funded.

We must live up to our commitment and fully fund IDEA, so that it can truly live up to its potential and so that students with disabilities can live up to their potential.

Mr. CASTLE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COLE of Oklahoma). The question is on the motion offered by the gentleman from Delaware (Mr. CASTLE) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 288.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

A motion to reconsider was laid on the table.

CHILD MEDICATION SAFETY ACT OF 2005

Mr. KLINE. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1790) to protect children and their parents from being coerced into administering a controlled substance or a psychotropic drug in order to attend school, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1790

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Child Medication Safety Act of 2005".

SEC. 2. REQUIRED POLICIES AND PROCEDURES.

(a) IN GENERAL.—As a condition of receiving funds under any program or activity administered by the Secretary of Education, not later than 1 year after the date of the enactment of this Act, each State shall develop and implement policies and procedures prohibiting school personnel from requiring a child to obtain a prescription for substances covered by section 202(c) of the Controlled Substances Act (21 U.S.C. 812(c)) as a condition of attending school or receiving services.

(b) RULE OF CONSTRUCTION.—Nothing in subsection (a) shall be construed to create a Federal prohibition against teachers and other school personnel consulting or sharing classroom-based observations with parents or guardians regarding a student's academic performance or behavior in the classroom or school, or regarding the need for evaluation for special education or related services under section 612(a)(3) of the Individuals with Disabilities Education Act (20 U.S.C. 1412(a)(3)).

SEC. 3. DEFINITIONS.

In this Act:

(1) CHILD.—The term "child" means any person within the age limits for which the State provides free public education.

(2) STATE.—The term "State" means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

SEC. 4. GAO STUDY AND REVIEW.

(a) REVIEW.—The Comptroller General of the United States shall conduct a review of—

(1) the variation among States in definitions of psychotropic medication as used in regard to State jurisdiction over public education;

(2) the prescription rates of medications used in public schools to treat children diagnosed with attention deficit disorder, attention deficit hyperactivity disorder, and other disorders or illnesses;

(3) which medications used to treat such children in public schools are listed under the Controlled Substances Act; and

(4) which medications used to treat such children in public schools are not listed under the Controlled Substances Act, including the properties and effects of any such medications and whether such medications have been considered for listing under the Controlled Substances Act.

(b) REPORT.—Not later than 1 year after the date of enactment of this Act, the Comptroller General of the United States shall prepare and submit a report that contains the results of the review under subsection (a).

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Minnesota (Mr. KLINE) and the gentleman from Texas (Mr. HINOJOSA) each will control 20 minutes.

The Chair recognizes the gentleman from Minnesota (Mr. KLINE).

GENERAL LEAVE

Mr. KLINE. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1790.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Minnesota?

There was no objection.

Mr. KLINE. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H.R. 1790, the Child Medication Safety Act. This common sense legislation will prevent school personnel from forcing parents to medicate their children in order to remain in the classroom.

I would first like to thank Chairman BOEHNER and Speaker HASTERT for their support of this legislation and staff members from my office and the Education Committee for their hard work on this bipartisan bill.

In recent decades, a growing number of children have been diagnosed with attention deficit disorder, ADD, or attention deficit hyperactivity disorder, ADHD, and treated with medication such as Ritalin or Adderall. When a licensed medical practitioner properly diagnoses a child as needing these drugs, the administration of the drugs may be beneficial. However, these medications also have the potential for serious harm and abuse, especially for children who do not need the medications.

Unfortunately, in some instances, school personnel freely offer diagnoses for ADD and ADHD disorders and urge parents to obtain drug treatment for their child. Sometimes, officials even attempt to force parents into choosing between medicating their child and allowing that child to remain in the classroom.

This is unconscionable. Parents should never be forced to medicate their child against their will and better judgment in order to ensure their child will receive educational services.

That is why I introduced the Child Medication Safety Act, a straightforward, sensible approach to remedy this growing problem. The Child Medication Safety Act calls on States to establish policies and procedures prohibiting school personnel from forcing parents to place their child on any drug intended to have an altering effect on perception, emotion, or behavior in order to attend school.

The bill before the House today also includes a provision to ensure that parents and teachers are not prohibited from having an open dialogue about any academic or behavior-related needs of their child. Teachers spend a great deal of time with students and observe a wide variety of situations. These men and women have a valuable perspective to offer to parents, and a candid dialogue between teachers and parents should be encouraged, not stifled. The Child Medication Safety Act makes clear that these constructive conversations can still take place.

This bill is not anti-school, anti-teacher, or anti-medication. This bill is pro-children and pro-parent. The Child Medication Safety Act is essential in protecting children and reinforcing parental control.

I urge my colleagues to support this bill that restores power to parents and puts children first.

Mr. Speaker, I reserve the balance of my time.

Mr. HINOJOSA. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 1790, entitled the Child Medication Safety Act.

Later today, we will be considering a resolution. In fact, we just finished that resolution where we are celebrating the 30th anniversary of the Individuals with Disabilities Education Act. So it is fitting that we consider this bill to reaffirm parents' rights on this day, and I thank the gentleman from Minnesota (Mr. KLINE) for bringing this legislation forward.

One of the most difficult decisions for parents is choosing the best course of care for a child with mental health needs. Teachers and other school personnel often play a very important role in bringing problems to the attention of parents because children spend the majority of the day in the classroom. They help to identity children's mental health needs and behavioral problems and assist children and their families in overcoming these barriers toward academic achievement.

Mental health professionals often work with teachers and other school personnel to help create classroom environments that best support children's mental health needs. The information that school personnel provide to the health care professionals about a child's behavior in the classroom is critical to an accurate diagnosis of a child's emotional disorder, learning disability, or other disability. However, the decision to medicate a child to treat mental health problems such as attention deficit hyperactivity disorder, better known as ADHD, belongs solely to the parents. It is a matter between the child, his or her parents, and qualified health and mental health care professionals. That is what this suspension bill today is aimed at achieving.

I support this bill because it achieves this goal while especially recognizing the critical role of teachers and other school personnel in promoting positive child adjustment together with parents.

Mr. Speaker, our intent here today is not to cause school administrators to become overly cautious or to discourage teachers in aiding parents in the identification of children with serious emotional disorders but to ensure that the decision to use medication to treat serious problem behavior remains with the family.

Mr. Speaker, I reserve the balance of my time.

Mr. KLINE. Mr. Speaker, I am very pleased to yield such time as he may consume to the gentleman from Ohio (Mr. BOEHNER), chairman of the Committee on Education and the Workforce.

Mr. BOEHNER. Mr. Speaker, I appreciate the chance to be here to support the bill offered by the gentleman from Minnesota (Mr. KLINE). An identical bill to this passed the last Congress 425-1.

Now, one would wonder, why do we need to be here doing this? There are children that do, in fact, have behavioral disorders, have mental health issues, other issues, and certainly teachers and school administrators have a role to play in terms of helping bring this to the attention of parents and, in many cases, urging them to seek qualified medical attention.

But what has come to our attention in a number of hearings that we have had on this issue over the last 4 or 5 years are the number of complaints from parents, grandparents and others where their children were going to be denied admission to school or denied services unless their child was put on medication.

As was noted by both of my colleagues earlier, that is a decision that should be left to the parents, and only to the parents. Certainly, school personnel and teachers can play a role in terms of helping the parents understand what is happening in the school, helping the medical professional in terms of what type of behavior is being exhibited, but, at the end of the day, parents of children ought to have the right to make that decision about whether their child should be on some prescription drug.

☐ 1545

The bill is very simple, and I think it lays it out very clearly. Last year when we reauthorized IDEA, the special ed law, we put identical language in that law to protect the parents of special needs children. What this does is covers the rest of the children. I think it is a great step in the right direction, and I urge my colleagues to support it.

Mr. HINOJOSA. Mr. Speaker, I was delighted to participate in the discussion and debate on this legislation. I want to urge my colleagues to support and vote for H.R. 1790, the Child Medication Safety Act.

Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. KLINE. Mr. Speaker, I yield myself such time as I may consume only to thank my colleague from Texas (Mr. HINOJOSA) and, of course, the chairman of the full committee, the gentleman from Ohio (Mr. BOEHNER), for their support on this very important bill and again to encourage all of my colleagues to pass this pro-parent, pro-child bill.

Mr. MURPHY. Mr. Speaker, I want to convey my appreciation to my distinguished colleague from Minnesota, Congressman JOHN KLINE, for his deep concern about our Nation's youth. I thank him for offering this legislation, and I also thank the distinguished Chairman of the Education Committee for his work. Let me be clear that I support H.R. 1790.

Mr. Speaker, during my career in elected office, I have worked to raise awareness that mental illnesses are real and they must be dealt with. Patients diagnosed with psychological disorders, like depression, have higher rates of chronic medical illness and use health care services more often. Untreated depression costs employers more than $51 billion per year in absenteeism and lost productivity, plus even higher medical and pharmaceutical costs. I have seen first-hand that medication can, indeed, be very successful to depression patients, especially when it is accompanied by proper psychotherapy by a trained and licensed professional.

That notwithstanding, I am concerned about some schools coercing parents to medicate their children without medical justification—exactly what this legislation aims to prevent. When I saw child patients as a psychologist, I was once strongly pressured by a school administrator to recommend medication for students. That sort of pressure is unethical, not to mention potentially leading to harm for children.

While I support H.R. 1790, please allow me to raise one concern that we should keep in mind as the bill moves forward. This bill would make Federal education funding to States contingent on their establishing a policy to prohibit school personnel from requiring a child to be medicated in order to attend school. I am concerned that an unintended consequence of this requirement would be that teachers will be less likely to report legitimate mental health illnesses and needs out of a fear of losing Federal funds.

The current language that would call for a GAO study does not address this problem. I believe, instead that the study should focus on schools that actively influence parents to have their children receive controlled substances. I have shared language that provides this focus with the author of the bill, and I know we can work together with our colleagues to adjust the direction of the GAO study.

Ultimately, we should be doing all we can to encourage parents, teachers and health personnel to communicate with each other whenever there are concerns about children. Our job is to support that communication in every way possible. Nothing in this bill should be construed to limit that important relationship.

Mr. FERGUSON. Mr. Speaker, specifically pertaining to H.R. 1790, the Child Medication Safety Act, I firmly believe that parents should have the final say about the administering of medication to their child. I agree with the legislation's main intent to prohibit school personnel from requiring a child, as a condition of attending school or receiving services, to obtain a prescription for a controlled substance or a psychotropic drug.

Mrs. DAVIS of California. Mr. Speaker, I opposed the Child Medication Safety Act in the 108th Congress and I rise today to oppose it once again on the same grounds.

It is a solution without a problem. The bill is based on the assumption that a substantial number of educators require students to take medication in order to attend school.

I opposed it previously after the House Committee on Education and the Workforce held a hearing on the bill. At that time, not one witness could produce statistical evidence that this was a nationwide problem and that students were prevented from attending school over medication.

I still believe passing this legislation is an irresponsible rush to legislative judgment without all the facts. We should not pass legislation over anecdotes and isolated incidents, and I have yet to see evidence that this legislation is necessary.

Today, we vote on H.R. 1790 without even holding a hearing to determine why this bill is needed and to look at any new evidence.

I will not argue that there may be cases when a teacher unfairly or unjustly asks that a student take medication for behavioral concerns.

But H.R. 1790 assumes teachers across the nation are requiring students to take medication. Please, let us be clear, teachers educate. They do not medicate; physicians must prescribe medication.

This legislation is based largely on false assumptions.

Let us consider the impact of this bill in the classroom. If a child is having trouble seeing the blackboard, the teacher must advise the parent to seek professional help.

The same is true if a child has behavioral problems or mental health issues. Teachers can make recommendations that may help the student learn.

Again, I have yet to see statistical evidence that teachers are preventing students from attending school because they refusing to take medication.

Mr. Speaker, until I see hard evidence that this issue is a problem for our students and schools, I cannot support this bill.

Mr. KLINE. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. COLE of Oklahoma). The question is on the motion offered by the gentleman from Minnesota (Mr. KLINE) that the House suspend the rules and pass the bill, H.R. 1790, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. KLINE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess until approximately 6:30 p.m. today.

Accordingly (at 3 o'clock and 46 minutes p.m.), the House stood in recess until approximately 6:30 p.m.

☐ 1832

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. KLINE) at 6 o'clock and 32 minutes p.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 1065, UNITED STATES BOXING COMMISSION ACT

Mr. LINCOLN DIAZ-BALART of Florida, from the Committee on Rules, submitted a privileged report (Rept. No. 109–295) on the resolution (H. Res. 553) providing for consideration of the bill (H.R. 1065) to establish the United States Boxing Commission to protect the general welfare of boxers and to ensure fairness in the sport of professional boxing, which was referred to the House Calendar and ordered to be printed.

NOTIFICATION OF INTENTION TO ENTER INTO AGREEMENT ON TARIFF TREATMENT FOR MULTI-CHIP INTEGRATED CIRCUITS—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 109–70)

The SPEAKER pro tempore laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

Consistent with section 2103(a)(1) of the Trade Act of 2002, I am pleased to notify the Congress of my intention to enter into an agreement with the European Union, Japan, the Republic of Korea, and Taiwan on tariff treatment for multi-chip integrated circuits. Multi-chip integrated circuits are semiconductor devices used in computers, cell phones, and other high-technology products.

United States-based companies are the principal suppliers to the world of multi-chip integrated circuits. In 2004, global sales of finished multi-chip integrated circuits were estimated to be $4.2 billion, and U.S. semiconductor companies account for roughly half of those sales.

The United States, the European Union, the Republic of Korea, and Taiwan will apply zero duties on these products as of an agreed date. The target date for entry into force of the Agreement is January 1, 2006. Japan already applies zero duties on these products and expects to ratify the Agreement formally in 2006. Further, although all major producers of multi-chip integrated circuits will be parties to the Agreement, we will seek to build on this Agreement by joining together to work in the World Trade Organization to increase the number of countries granting duty-free treatment to these products.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 14, 2005.*

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, proceedings will resume on motions to suspend the rules previously postponed.

Votes will be taken in the following order:

H.R. 1564, by the yeas and nays;

H.R. 323, by the yeas and nays;

H.R. 856, by the yeas and nays.

The first and third electronic votes will be conducted as 15-minute votes. The second vote in this series will be a 5-minute vote.

Proceedings will resume on H.R. 1790 tomorrow.

YAKIMA-TIETON IRRIGATION DISTRICT CONVEYANCE ACT OF 2005

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 1564.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado (Mrs. MUSGRAVE) that the House suspend the rules and pass the bill, H.R. 1564, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 420, nays 0, not voting 13, as follows:

[Roll No. 586]

YEAS—420

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird

Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—13

Andrews
Boswell
Cunningham
Granger
Gutierrez
Jenkins
McNulty
Mollohan
Murtha
Reichert
Stark
Taylor (MS)
Wexler

□ 1856

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

BOB HOPE MEMORIAL LIBRARY

The SPEAKER pro tempore (Mr. KLINE). The pending business is the question of suspending the rules and passing the bill, H.R. 323.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Colorado (Mrs. MUSGRAVE) that the House suspend the rules and pass the bill, H.R. 323, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 419, nays 0, answered "present" 1, not voting 13, as follows:

[Roll No. 587]

YEAS—419

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (FL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri

Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

ANSWERED "PRESENT"—1

Lofgren, Zoe

NOT VOTING—13

Andrews
Boswell
Cunningham
Granger
Gutierrez
Jenkins
McNulty
Mollohan
Murtha
Reichert
Stark
Taylor (MS)
Wexler

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KLINE) (during the vote). Members are advised 2 minutes remain in this vote.

☐ 1905

So (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FEDERAL YOUTH COORDINATION ACT

The SPEAKER pro tempore. The pending business is the question of suspending the rules and passing the bill, H.R. 856, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Nebraska (Mr. OSBORNE) that the House suspend the rules and pass the bill, H.R. 856, as amended, on which the yeas and nays are ordered.

The vote was taken by electronic device, and there were—yeas 353, nays 62, not voting 18, as follows:

[Roll No. 588]

YEAS—353

Abercrombie
Ackerman
Aderholt
Alexander
Allen
Baca
Bachus
Baird
Baker
Baldwin
Barrow
Barton (TX)
Bass
Bean
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blumenauer
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Bonilla
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Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Case
Castle
Chabot
Chandler
Clay
Cleaver
Clyburn
Cole (OK)
Cooper
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Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Cummings
Davis (AL)
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Davis (FL)
Davis (IL)
Davis (TN)
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Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
Dent
Diaz-Balart, L.
Dicks
Dingell
Doggett
Doolittle
Doyle
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Ferguson
Filner
Fitzpatrick (PA)
Foley
Forbes
Ford
Fortenberry
Fossella
Frank (MA)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
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Gonzalez
Goodlatte
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Graves
Green, Al
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Hall
Harman
Harris
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Hastings (FL)
Hastings (WA)
Hayes
Herseth
Higgins
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Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hoyer
Hulshof
Hunter
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Jones (OH)
Kanjorski
Kaptur
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Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Lantos
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
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Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Maloney
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHugh
McIntyre
McKeon
McKinney
McMorris
Meehan
Meek (FL)
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Melancon
Menendez
Mica
Michaud
Millender-McDonald
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Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Peterson (MN)
Peterson (PA)
Petri
Pickering
Platts
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Solis
Souder
Spratt
Strickland
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Sullivan
Sweeney
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
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Weldon (PA)
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Whitfield
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Wilson (NM)
Wolf
Woolsey
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Blackburn
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Davis, Jo Ann
DeLay
Diaz-Balart, M.
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Feeney
Flake
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Franks (AZ)
Garrett (NJ)
Gingrey
Goode
Green (WI)
Hayworth
Hefley
Hensarling
Herger
Hostettler
Inglis (SC)
Istook
Jindal
Johnson, Sam
Jones (NC)
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Mack
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McHenry
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Miller, Gary
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Pitts
Poe
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Ryan (WI)
Ryun (KS)
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Sodrel
Stearns
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Westmoreland
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Andrews
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Carter
Conyers
Cunningham
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Gutierrez
Jenkins
McNulty
Miller, George
Mollohan
Murtha
Reichert
Schakowsky
Slaughter
Stark
Taylor (MS)
Wexler

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. KLINE) (during the vote). Members are advised that there are 2 minutes remaining in this vote.

☐ 1922

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. ANDREWS. Mr. Speaker, I regret that I missed three votes on November 15th, 2005. Had I been present I would have voted "yes" on H.R. 1564 (Yakima-Tieton Irrigation District Conveyance Act); "yes" on H.R 323 (to redesignate the Ellis Island Library on the third floor of the Ellis Island Immigration Museum, located on Ellis Island in New York Harbor, as the "Bob Hope Memorial Library"); and "yes" on H.R. 856 (Federal Youth Coordination Act).

PERSONAL EXPLANATION

Mr. GUTIERREZ. Mr. Speaker, I was unavoidably absent from this chamber today. I would like the RECORD to show that, had I been present, I would have voted "yea" on rollcall votes 586, 587 and 588.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 3385

Mr. SAM JOHNSON of Texas. Mr. Speaker, I ask unanimous consent to remove Representative SANDER LEVIN as a cosponsor of H.R. 3385.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

PRIVILEGED REPORT ON RESOLUTION OF INQUIRY TO THE PRESIDENT

Mr. BOEHLERT, from the Committee on Science, submitted an adverse privileged report (Rept. No. 109-296) on the resolution (H. Res. 515) of inquiry requesting the President of the United States to provide to the House of Representatives certain documents in his possession relating to the anticipated effects of climate change on the coastal regions of the United States, which was referred to the House Calendar and ordered to be printed.

MEDICARE

(Mr. BURGESS asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. BURGESS. Mr. Speaker, this year marks the 40th year of Medicare. Two years ago, the 108th Congress passed significant legislation that filled in a missing link in Medicare. That missing link was the missing part of prescription drugs.

Significant changes in the Medicare program are going to result in more services, more coverage, and more responsiveness from a program that, quite frankly, no longer lived up to what it needed to do, which is taking care of our seniors in a timely fashion, allowing them access to prescription drugs on a timely basis.

Mr. Speaker, a lot of people are complaining that there are too many plans and it is too complex. Two years ago we heard the opposite, that not enough plans would show up, and that it would be a default position that would only be offered to Medicare beneficiaries.

The situation is complex because health care is complex, but these are important decisions. I urge people over this holiday season coming up to sit down with their mothers and fathers, to sit down with the Medicare beneficiaries in their families and help them work through this process. I think we will find this to everyone's betterment.

PERMISSION TO FILE CONFERENCE REPORT ON H.R. 3058, TRANSPORTATION, TREASURY, HOUSING AND URBAN DEVELOPMENT, THE JUDICIARY, THE DISTRICT OF COLUMBIA, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2006

Mr. KNOLLENBERG. Mr. Speaker, I ask unanimous consent that the managers on the part of the House have until midnight, November 15, 2005, to file the conference report to accompany H.R. 3058.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

ED ROYBAL

(Ms. LORETTA SANCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LORETTA SANCHEZ of California. Mr. Speaker, I rise today to honor the life of Ed Roybal, a member of this House of Representatives, and also to honor the work that his daughter, my colleague, LUCILLE ROYBAL-ALLARD, does in this House.

Ed Roybal for many of us was a pathmaker. He was the first Mexican American on the City of Los Angeles City Council, and he was the first Mexican American from California to this House of Representatives. He is probably best known for his work in civil rights and his work on behalf of all people in California. Tonight, we honor him. We honor him, because for many of us he was an inspiration, an inspiration that told us that we could be a politician, that we could be a legislator, that we could be a leader from our community.

I hope that this House will remember the great work of that appropriator, Ed Roybal.

ED ROYBAL

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Mr. Speaker, I too wish to associate my words with our colleagues from California and honor the great legend, Congressman Ed Roybal. I had the privilege of knowing of his work. I worked with his daughter also when she was a member of the assembly. Ed Roybal in the tradition of Hispanic politics really led the way for so many of us by creating an activism and participation that cannot be compared anywhere.

He started NALEO, National Association of Latino Elected Officials, and also was very much an advocate on health care. One of his major comprehensive health care centers is in East Los Angeles, and it stands there as a tribute to the work that he did tirelessly for the people in poverty, for the elderly, for seniors and helped establish the school of gerontology at USC and UCLA.

He has been a wonderful individual role model for many of us, fighting discrimination. He fought against Dodger Stadium in East L.A. in Chavez Ravine when developers wanted to displace low-income Mexican Americans back in that era.

He is someone who will be strongly remembered by many of us. I know that his daughter serves very proudly representing his district, and I know that legacy will continue on. He is someone who fought for immigrants when it was not popular, was someone who fought for civil rights, for education and for equal treatment and also for AIDS education and awareness.

He was truly a pioneer and someone to this very day whose very history can be repeated here through, I think, the leadership of his daughter as well as other members of the Hispanic Caucus, which he was the first individual to start. He served as our Chair for that congressional caucus that now has been in operation, I would say, for more than 20 years, if not more.

Mr. Speaker, with that, I would just pay tribute to the Roybal family and also to their daughter who serves with us here.

□ 1930

ED ROYBAL

(Mr. GRIJALVA asked and was given permission to address the House for 1 minute.)

Mr. GRIJALVA. Mr. Speaker, I rise today to add my voice of homage and respect that we all have for Congressman Ed Roybal.

Our entire Nation, and Latinos in particular, owe Congressman Roybal a huge debt of gratitude. We can manifest our gratitude by holding true to the integrity, the values, the fairness that Congressman Roybal represented in this Chamber.

We can also repay Congressman Roybal by insisting that all Americans have an equal voice and demanding truth as a guiding principle in our government.

I would not be here to celebrate the life of Ed Roybal if he had not blazed a path to which all of us aspire to follow in our political lives. Indeed, Congressman Roybal's shoes cannot be filled, but we can all stay on the path.

My sincere respect and pesame to the Roybal family and my thanks to Congressman Roybal for sharing the possibilities and raising our expectations. Congressman Roybal established our Hispanic Caucus as a founder; NALEO, an organization that represents Latino elected officials; but more importantly he broke the stereotypes about Latinos' place in our Nation and in our political life, that we no longer are just observers in this process but empowered participants. And for that all Americans should be grateful. We should honor and celebrate a life well-served, a life well-dedicated and a life well-spent.

U.S. DOES NOT CONDONE TORTURE

(Mr. HUNTER asked and was given permission to address the House for 1 minute.)

Mr. HUNTER. Mr. Speaker, around the world right now American troops are being disserved by a mistake promulgated by the American and international news media to the effect that American law allows torture. That is the lie that is being propagated by electronic and written news media around the world.

Mr. Speaker, we have the law here. It is title 18, section 2340A; and I want to read it. It says, "Whoever outside the United States commits or attempts to commit torture shall be fined under this title or imprisoned not more than 20 years, or both, and if death results to any person from conduct prohibited by this subsection, shall be punished by death or imprisoned for any term of years or for life."

That law was signed by then President Bill Clinton on September 13, 1994. The United States does not allow torture. It is against the law to torture people, and if you torture someone to death you may be executed.

CONGRESSMAN EDWARD ROYBAL

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, this evening I honor and celebrate the life of former Representative Edward Ross Roybal.

Edward Roybal is a role model and a hero to us all. Congressman Roybal was a founding member of the Congressional Hispanic Caucus, the National Association of Latino Elected and Appointed Officials, and the Congressional Hispanic Caucus Institute.

Much is owed to him for his foresight and leadership in establishing these organizations. Today, these organizations are among the leading voices for the Latino community.

I quickly want to share a story that I think epitomizes Ed Roybal's life in the House. In 1982, he opposed a comprehensive immigration reform bill that had many bad provisions and many punitive provisions in it. He threatened to offer more than 100 amendments to the bill and demand a recorded vote on each amendment if the bill was brought to the floor.

Fortunately for him and the Latino community, the House leaders backed down from this battle. This also is a clear example of how much respect folks had for this man because he stood up for what was right. The powers that be recognized him for his leadership.

In June of 1984, this bill was brought up again; and this time he offered seven amendments to amend the bill. His actions showed his relentless commitment and passion for immigration and its human impact on the Latino community.

Today, we face a similar challenge defending those seeking a better life. It is my hope that Members will remember his courage and integrity when we debate this matter.

Mother Teresa once said, "I slept and I dreamed that life is all joy. I woke and I saw that life is all service. I served and I saw that service is joy." Ed Roybal serves as a shining example of the profound impact that one person can have on his or her community and country. He is a model for selflessness and eternal optimism, and I wish to honor him this evening.

"Blessed is the leader who seeks the best for those he serves." For over a quarter of a century, the people of California had such a leader in Edward Roybal. As we all know, the name Ed Roybal has become synonymous with leadership and integrity in the local and national political arena. Indeed, Ed Roybal was blessed for selflessly giving his energy and love and for dedicating his life to those most in need. Let us honor and celebrate his life's work in public service.

Through his life, Edward Ross Roybal was a tireless champion of the most vulnerable—the elderly and sick in the country. That is why in 2001 President Clinton awarded Congressman Roybal the Presidential Citizens Medal for "exemplary deeds of service for our Nation."

Edward Roybal graduated from the University of California Los Angeles and Southwestern University, where he studied law. After working for the California Tuberculosis Association, he served in the U.S. Army during World War II from April 1944 to December 1945.

Edward Roybal was first elected to the House in 1962. Early in his congressional career, he served on various committees where he distinguished himself for his leadership. In 1971, Congressman Roybal was selected to serve on the Appropriations Committee, where he remained for the rest of his tenure in the House. He was a powerful advocate for funding education, civil rights, and health programs. Most notably, he was one of the first Members of Congress to press for HIV/AIDS research funding.

Representative Roybal also served on the Select Committee on Aging, serving as chair from 1985 to 1993. In 1980, he led a campaign for the restoration of funds to programs for the elderly. In 1982, he was successful in maintaining the Meals on Wheels program.

After Congress, former Representative Roybal used his leftover campaign funds to found a non-profit research agency dedicated to improving the quality and effectiveness of health and human services to older persons, now called the Edward R. Roybal Institute for Applied Gerontology at the California State University—Los Angeles campus. Clearly, Roybal was committed to public health issues that affected the most vulnerable. To this end, in 1999 the Centers for Disease Control (CDC) honored Congressman Roybal's support for public health programs by naming its main campus in Atlanta in his honor and awarding him its Champion of Prevention Award.

Congressman Roybal was also a founding member of the Congressional Hispanic Caucus, the National Association of Latino Elected Officials, and the Congressional Hispanic Caucus Institute. Much is owed to him for his foresight and leadership in establishing these organizations. Today, these organizations are among the leading voices for the Latino community.

Mother Teresa once said, "I slept and I dreamed that life is all joy. I woke and I saw that life is all service. I served and I saw that service is joy." Ed Roybal serves as a shining example of the profound impact one person can have on his or her community and nation. He is a model for selflessness and eternal optimism. Ed Roybal is a role model and a hero to us all.

EDWARD ROYBAL

(Ms. WATERS asked and was given permission to address the House for 1 minute.)

Ms. WATERS. Mr. Speaker, I rise to pay my respects to Edward R. Roybal.

Congressman Roybal was a true leader. He opened the doors for Hispanics and minorities in so many ways. He was the first Hispanic to serve on the City Council for the City of Los Angeles. He should have been the first to serve on the County Board of Supervisors.

He went on to be elected to the Congress of the United States, where he distinguished himself as a courageous defender of minorities, senior citizens, and the poor. As the Chairman of the Select Committee on Aging, he defended Social Security and Medicare, both of which are now under attack. He also worked to expand access to health care and improve long-term care.

He was a gentle man. He was a man of impeccable integrity. He was a man whose face reflected what he really cared about and who he really was. I will never forget those huge eyes and the way he looked at you. You knew you had to handle yourself a certain way in his presence. You had to handle yourself in a proper way. He was a very dignified man.

I shall never forget how I felt each time I was in his presence; and a testament to who he was and what he cared about certainly is reflected here today in his daughter, LUCILLE ROYBAL-ALLARD.

ED ROYBAL

(Ms. KAPTUR asked and was given permission to address the House for 1 minute.)

Ms. KAPTUR. Mr. Speaker, I, too, would like to rise to honor the life of

Ed Roybal, a great Member of this House with whom I had the pleasure of serving for many years when I first came here back during the 1980s. I would have to say that no one fought harder for health care, particularly for senior citizens and Social Security and Medicare, than the great congressman from the State of California, Mr. Roybal.

He had a quiet strength about him and great dignity, and he treated Members with such graciousness. I certainly remember how he treated me when I first came to the House as a new Member. There were only 24 women serving in the House at that time. I think it is fair to say we have come a long way since then, but Ed Roybal is someone who especially was kind to the women and to the new Members, and I shall never forget him for that.

He helped me in my own campaign when I was running for reelection in my district back in the mid-1980s when there was an effort made to distort votes on Social Security and Medicare, and Ed Roybal came to set the record straight.

I would like to extend to his daughter, who I know he is smiling on today as she serves here in this Congress, and to his entire family the greatest sympathy from the people of Ohio who thank him for the efforts toward which he dedicated his life. I know that the senior citizens who continued to receive Social Security and Medicare during the decades of the 1980s and 1990s and now into the 21st century have Ed Roybal to thank for that.

Condolences to the entire Roybal-Allard family on the passing of this great American gentleman and lawmaker.

ED ROYBAL

(Mr. MORAN of Kansas asked and was given permission to address the House for 1 minute.)

Mr. MORAN of Kansas. Mr. Speaker, I yield to the gentleman from California.

Mr. HUNTER. I thank my friend for yielding.

Mr. Speaker, when I came out to speak about another issue that was very important to me, I did not realize that we were doing 1-minutes on our great friend Ed Roybal.

I just wanted to add my voice as a Californian who came to Congress and was subject to Ed Roybal's kindness and goodness and great sense of courtliness and courtesy, that he will be deeply missed. Because the fabric of Ed Roybal is what makes this House run and gives us civility in difficult times. What a wonderful, fine gentleman and what wonderful treatment he accorded all of us in the California delegation, Republican and Democrat.

ED ROYBAL

(Mr. HOYER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOYER. Mr. Speaker, I rise to join my colleagues to reflect upon the life and service of Ed Roybal. I had a great privilege in that I served all of the time that he and I served together, from 1981 until his retirement.

I had the opportunity to serve on two of the appropriations subcommittees with Congressman Roybal. First on the Labor Health Subcommittee, on which I now serve with his daughter LUCILLE who does an extraordinary job and of whom I know he is extraordinarily proud. I then served with him as well on the Treasury Postal Subcommittee, a subcommittee that was very important to me in my district because of my Federal employees.

I was a young, new Member. Ed Roybal was a mentor. Ed Roybal was someone who had great experience and wisdom and who taught me much as a Member of the House of Representatives. He taught me about commitment to people and keeping people uppermost in our minds as we considered the policies before the House and before the Appropriations Committee.

I was privileged to work with Ed Roybal. I was privileged to learn from Ed Roybal. I was privileged to know a gentleman, an American, a proud Mexican-American, and an American who made a difference.

LUCILLE, as you sit there and listen to us talk, and you and I have talked before, I know that you are extraordinarily proud to be the daughter of an American who made a difference, of a Mexican-American who made his people proud, of a Californian who represented his State well.

Mr. Speaker, I am pleased to rise to honor the memory and the record of a great American, my friend and mentor, Chairman Ed Roybal.

□ 1945

SPECIAL ORDERS

The SPEAKER pro tempore (Mr. POE). Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

REPUBLICAN CREDIBILITY DROWNING IN SEA OF RED INK

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Maryland (Mr. HOYER) is recognized for 5 minutes.

Mr. HOYER. Mr. Speaker, today House Republicans had the audacity to claim that they are getting tough on spending, that they are restoring fiscal discipline. But I say to my friends on the other side of the aisle, who do you think you are kidding? Do you not think the American public is watching what you have done?

Just this morning, USA Today reported on our Nation's dire fiscal conditions, quoting experts on both sides of the aisle.

For example, the newspaper said: "To hear Comptroller General David Walker tell it, the United States can be likened to Rome before the fall of the empire. Its financial condition is 'worse than advertised.' It has a 'broken business model.' It faces deficits in its budgets, its balance-of-payments, its savings, and its leadership."

The leadership, of course, of this city and this country is a Republican President, a Republican-led Senate, and a Republican-led House.

Mr. Speaker, I have been a proud Member of this body for 25 years. For 17 of those years, a Republican has occupied the White House. I would suggest to my colleagues, there is one person and only one person in America that can stop spending in its tracks, and that is the President of the United States. No single Member of Congress, no single member of the Senate, but a President can say "no" to spending. So when Presidents lament spending, they lament what they have done.

Here is the reality, Mr. Speaker: in every single one of those 17 years, this country has had substantial deficits. Let me repeat that: 17 years of Republican leadership and 17 straight years of deficits.

The Republican budget reconciliation bill would only perpetuate that record of irresponsibility and recklessness. Why? Because the net effect of their reconciliation package would add $20 billion additional deficits in this country. Five years ago, the Bush administration and this Republican Congress inherited from a Democratic President a 10-year budget surplus of $5.6 trillion and four consecutive budget surpluses from the Clinton administration.

I call your attention to this chart: budget deficits, fiscal year 1982, the first fiscal year for which Ronald Reagan was responsible, to fiscal year 2006, which is the current year we are budgeting for. Look at that, 17 straight years of Republican deficits, with no exception.

Now the Republicans come to the floor and they say, oh, my goodness, we have had Iraq. We have, but when Ronald Reagan said it was good morning in America, when he said the economy was doing extraordinarily well and that America was back and had an overwhelming reelection based upon that premise, guess what? We had a deficit of $212 billion. The next year we had a deficit of $221 billion. So the deficit picture you see on this chart is unblemished straight deficits until Bill Clinton is elected President of the United States.

Then Bill Clinton, as you can see on this chart, introduced an economic plan on this floor, and I will get to that.

President Bush had promised the American people that he would proceed with tax relief without fear of budget deficits, even if the economy softens. You will see he was dead flat wrong. So when you hear these Republicans make representations about what they are going to do, look at the 17 years Ronald Reagan said he was going to balance the budget. He did not do it. George Bush the First said he was going to balance the budget. He did not do it. The present President of the United States said we can adopt his economic program and we would pay off the national debt, we would not spend a nickel of Social Security, and we would not spend a nickel of Medicare. He was wrong, or I might say, he misrepresented politely every one of those points, and has run up deficits of 157, 377, 412, 319 and $323 billion.

That record is one that ought to be rejected. Democrats have been united in rejecting those proposals. We will continue to take that posture.

At the same time, Republicans have raised the debt limit not once, but twice, not three times—but four times in four years; $450 billion in 2002, $984 billion in 2003, $800 billion in 2004, and $781 billion this year.

The interest payments on the national debt are now the fastest growing category of spending in our budget.

So today, when Republicans say that they want to restore fiscal discipline, we must respond: You have lost all credibility on this issue.

President Bush has not vetoed one—not one—spending bill.

Republicans rammed a prescription drug bill through this Congress that they insisted would cost $395 billion. But they suppressed a more accurate estimate, and now that legislation is expected to cost $1 trillion.

The budget reconciliation bills are the Republican Party's latest charade.

They say that they are cutting spending by some $54 billion—including cuts of $12 billion to Medicaid, $14 billion to student loans, $1 billion to food stamps and $5 billion to child support programs.

But they also plan to cut taxes on the wealthiest people in America by $70 billion.

Anyway you cut it, this Republican majority intends to increase the deficit, not reduce it.

Even Alan Greenspan, the Chairman of the Federal Reserve, is sounding the alarm. Recently, he said: "You should not be cutting taxes by borrowing."

Fortunately, not all Republicans are willing to participate in this irresponsible fraud.

Last Thursday, for example, Senator VOINOVICH told the Washington Post: "I do not know how anyone can say with a straight face that when we voted to cut spending last week to help achieve deficit reductions, we can now then turn around two weeks later to provide tax cuts that exceed the reduction in spending. That is beyond me, and I am sure the American people."

So I implore my colleagues on the other side of the aisle: Demonstrate the courage of your convictions.

Put the interests of the American people ahead of the interests of your political party.

Oppose these irresponsible reconciliation bills.

Join Democrats in fighting to restore fiscal discipline to our budget.

RECOGNIZING THE LEADERSHIP OF COACH BILL SNYDER OF KANSAS STATE UNIVERSITY

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Kansas (Mr. MORAN) is recognized for 5 minutes.

Mr. MORAN of Kansas. Mr. Speaker, I am here this evening to honor a legend at Kansas State University, its football program coach Bill Snyder. At a press conference earlier today, Coach Snyder announced his retirement as the head coach of the Kansas State Wildcats after 17 seasons. Coach Snyder leaves behind a legacy of success for a football program, a school, and a community that is stronger and better because of his tremendous leadership.

Football is a great American tradition, and this tradition is alive and well in Manhattan, Kansas. This is Wildcat country, where during football season Powercat flags are proudly flown and where Saturdays are spent at Wagner Field cheering K-State to victories.

But times were different when Coach Snyder took over the Kansas State football program in 1988. Sports Illustrated had identified K-State as the worst college football program in the Nation. Undeterred, Coach Snyder took on the challenge, and through hard work and determination performed what has been labeled as the "Miracle in Manhattan."

By 1993, K-State had achieved a victory in the Copper Bowl. During the next 10 seasons, they would advance to bowl games, including the Cotton Bowl, Fiesta Bowl, and a memorable defeat over first-ranked Oklahoma in 2003 to seize the Big 12 Championship.

With 135 victories, Coach Snyder is K-State's all-time winningest football coach. He is credited with orchestrating what many regard to be the biggest turnaround in college football history. As former Oklahoma and Dallas Cowboy coach Barry Switzer once said, "Bill Snyder isn't the coach of the year, and he isn't the coach of decade. He's the coach of the century."

Coach Snyder's successes on the field are matched by his achievements off the field. He has taught his players the value of a sound work ethic, attention to detail and respect that has helped them succeed during the game as well as in the classroom and in their lives.

Coach Snyder has used his prominence in the hearts of K-State fans to promote causes that have strengthened the Manhattan community and our entire State of Kansas. No one could deny the pride that has risen following K-State University President John Wefald's decision to hire Coach Snyder. The school's growing athletic program, flourishing and succeeding student body, visionary administration and supportive alumni have all contributed to Kansas State University being one of our country's premier institutions of higher education.

On behalf of many grateful Kansans, I thank Coach Snyder for his contributions. It will be hard to imagine K-State football without this legendary coach, but I wish him and his family the very best.

MEDICARE PRESCRIPTION DRUG PROGRAM AND PLAN FINDER COMPLICATED FOR SENIORS

Mr. DEFAZIO. Mr. Speaker, I ask unanimous consent to take the time of the gentleman from California (Mr. GEORGE MILLER) since I am next on the list.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Oregon?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Oregon (Mr. DEFAZIO) is recognized for 5 minutes.

TRIBUTE TO ED ROYBAL

Mr. DEFAZIO. Mr. Speaker, first, I missed the earlier discussion of Chairman Ed Roybal, but I had the privilege of serving with him for a number of years on the Transportation Committee, and he was a wonderful inspiration to a young Member of Congress. I was much younger then, and I learned a good deal during his leadership and would say that he provided a tremendous leadership and a legacy for Californians and all Americans in terms of his investment in transportation infrastructure for America. So my condolences to the family.

I rise tonight to discuss the Medicare prescription drug benefit. I went online today to see what seniors would experience. It is fairly extraordinary, mind-boggling, particularly given the fact that a large number of seniors have never experienced the Internet.

Seventy-six percent of seniors have never been online. I have. It was still not easy. Twenty-six percent of people on Medicare have cognitive impairments. Some of my detractors on the other side of the aisle might say I have that, but I do not. Three million have visual impairments. I wear corrective lenses. And 2.3 million reside in nursing homes.

These are all extraordinary complications for an unbelievably, unnecessarily complicated program. Why was it constructed this way? For two reasons: the pharmaceutical industry and the insurance industry, not the 40 million seniors and others who are eligible for Medicare in this country. The bill was designed by the Republicans to reward their very, very generous contributors in the pharmaceutical and insurance industry.

The insurance industry is an industry, of course, which is exempt from antitrust law. It can and does collude to set prices, exclude people and is quite profitable. Then, of course, the pharmaceutical industry is the most consistently profitable industry in the world.

They are both given subsidies through this legislation. We could have done something much simpler, much less expensive. This plan will cost $1 trillion over 10 years for the American taxpayers in addition to incredible sums for seniors, particularly those who make wrong choices.

In my little survey, 41 plans came up: and in comparing three, it is going to take me all night if I wanted to compare all 41. I keep going back to the screen that only allows three at a time. My annual costs would vary between $2,457 and $5,243; and, of course, the pharmaceutical companies can change the drug benefit weekly. Seniors can change the plan once a year, and you know what will happen if they have large claims during the year and they actually get a benefit? They will be disallowed. They will not be allowed to reenroll in that plan by the private insurance sector next year. There is nothing that requires that they be reenrolled if they are willing to pay the premiums to get the benefits.

We could have had the government, like we do with the VA, go out and negotiate the lowest price for prescription drugs for the Nation's 40 million Medicare eligible citizens. That would have saved billions of dollars; but the Republicans said, well, that is unfair, that is anticompetitive. Well, no, actually we are forming a buying group. We are using market power to negotiate lower prices. They say, no, we should give subsidies to the pharmaceutical industry and subsidies to the noncompetitive insurance industry. That is their version of a free market. Of course, again, they are generous campaign contributors so we can understand some of this rhetoric on their side of the aisle.

Nonetheless, an incredibly expensive, confusing plan which gives all of the benefit to the pharmaceutical and insurance industry, puts seniors at risk, puts taxpayers at risk, and we could have done so much better for so much less. It would cost nothing to negotiate those lower prices. The VA gets prices at a 70, 75 percent reduction from list price; but, no, the Republicans had a special provision in this bill.

Medicare, the default provider for anybody who cannot buy into an insurance plan that is red-lined by the insurance industry, and they can do that legally under this bill, they say, oh, we are not selling you a premium; you have got too many drug claims; we are not going to take you. But they can go to Medicare as a default provider, and guess what? Medicare is the only entity in the world, other than uninsured individuals, who will have to pay list price for drugs. Nobody can afford list price for drugs except the superwealthy and, according to Republicans, Medicare. This will bankrupt the program, but that is where the highest risk seniors, the ones that are not desirable to the industry, will get pushed after maybe 1 year of enrollment, if they are lucky enough to get enrolled in the first year.

So huge costs to taxpayers, confusion and risks for seniors, the end of Medicare in the not-too-distant future by bankruptcy, by design, by the Republicans, all to profit the private insurance industry and the pharmaceutical industry.

You should be really, really ashamed of this horrible product.

NATURAL GAS CRISIS

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Pennsylvania (Mr. PETERSON) is recognized for 5 minutes.

Mr. PETERSON of Pennsylvania. Mr. Speaker, I rise tonight to speak about an issue I have spoken about many times: the natural gas crisis that faces this country.

Yes, we just passed an energy bill, but it did little to help our homeowners heat their homes. We have had a 500 percent increase in natural gas prices in the last 5 years. A month ago, when we were still facing the impact of Katrina, we had a 700 percent gas increase when it reached $14.50 when it had been $2 just 5 years ago.

These natural gas prices, in my view, threaten homeownership, church ownership, schools, YMCAs, YWCAs, and small businesses.

In my districts, those kinds of organizations are renewing their gas contracts, and they are paying 100 percent more than they paid last year and many times more than they paid a couple of years ago.

□ 2000

Industries like the fertilizer industry are being crushed by these natural gas prices because 70 percent of the cost of producing fertilizer is natural gas. Forty-four percent of our fertilizer companies are now offshore, and our farmers are paying two and three and four times as much for fertilizer as they did just several years ago.

The huge petrochemical industry that is dominated by America will not be for long because there are 20 chemical plants being built in the world and 19 are offshore. Why? Natural gas prices. Petrochemicals use gas not only as a fuel, but they use it as an ingredient for all the chemicals we buy every day. Polymers and plastics involved in everything we market today use natural gas as an ingredient and natural gas as a fuel. Forty to fifty percent of their costs are natural gas.

We have huge reserves in this country of natural gas. We are not poor on natural gas. Congress and Presidents have chosen to lock it up. Our Outer Continental Shelf, that is the first 200 miles offshore, is rich in natural gas.

We have a bill that we introduced today that will open up the Outer Continental Shelf. We increase States' rights from three miles to 20 miles so it will be all out of sight. There has never been a gas production well that has ever in any way soiled a beach. We need to unlock our natural gas supplies.

Canada, Belgium, Great Britain, Norway, Denmark, Sweden, New Zealand, and Australia produce most of their natural gas offshore, right off of their coastlines. They have beautiful beaches. They are not a threat. There has never been a gas production well that has ever in any way caused beach problems.

I urge Members of this body to deal with this natural gas crisis. We have to open up some supply or we are going to lose major industries. A million or more jobs will be gone in the next 2 or 3 years, some of the best blue collar jobs we have left in this country.

We cannot just subsidize people with natural gas prices. We need to bring prices down by increasing supply because we have lots of it. We have lots of it in the Midwest. But on the Outer Continental Shelf on our coastlines, it is right close to our population centers, it is right close to our plants and our manufacturers.

We will not make steel in this country in the years ahead if we continue. We will not make aluminum in this country. We will not produce anything that uses natural gas to melt it, to bend it, to twist it, to treat it because we cannot afford it. Europe pays half as much for natural gas as we do. China, Taiwan, and Japan are big competitors economically and pay a third of what we pay for natural gas. The rest of the world pays less than $2.

It is time to get our heads out of the sand. It is time to open up our natural gas reserves in this country and pass House bill 4318, which would open up huge reserves on our shorelines to produce natural gas in this country so we can compete and have jobs for our working people.

PAYING TRIBUTE TO ED ROYBAL

Ms. PELOSI. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore (Mr. POE). Is there objection to the request of the gentlewoman from California?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. PELOSI) is recognized for 5 minutes.

Ms. PELOSI. Mr. Speaker, I rise this evening to join my colleagues in paying tribute to our former colleague and friend, Congressman Ed Roybal.

Many people who are in Congress now did not have the privilege of serving with him. They serve with his very distinguished daughter, Congresswoman LUCILLE ROYBAL-ALLARD, but the legacy lives on. I wish everyone in this Congress could have seen the outpouring of love and support and devotion to Ed Roybal at his magnificent funeral at the Catholic Cathedral in Los Angeles. We know how respected Ed Roybal is in this body. It was wonderful to see the love of the people he was closest to in California. Many of us went there, and we told his many friends and his family and those close to him of the respect in which he was held here.

Mr. Speaker, I knew Ed Roybal very well for many years. I was a big fan of his when he was doing work with the farm workers organizing in California. He was a legend in our State. And then he continued his leadership for our country in the Congress of the United States.

When I was first named to the Appropriations Committee, Ed Roybal was my chairman. We were in the majority at the time. He was my chairman on the Treasury Postal Subcommittee. So, on a daily basis, I saw firsthand his command of the policy, of the issues, the power of his advocacy and his determination to help all Americans.

Ed Roybal had no time for government of the few. He was about the many. When others in Washington turned their backs on seniors, the disadvantaged, and the poor, Ed Roybal was there. He was the first Member of Congress to appropriate funds for HIV/AIDS, and that sounds very remarkable and commendable now. It was very courageous at the time. He then was a leader. He fought the good fight with courage. He had a special grace about him and a dignity and a twinkle in his eye.

In recognition of his leadership on public health, the Campus of the Centers for Disease Control in Atlanta was named in his honor. Ed Roybal probably has more buildings in California named for him than any other politician ever in California. But at the CDC, at the Centers for Disease Control, they named an entire campus for him, if that gives Members any idea of the respect and the gratitude that they felt for Ed Roybal.

Fiercely proud of his Hispanic roots and deeply patriotic, the two went hand in hand. Ed Roybal loved America. He helped found the Congressional Hispanic Caucus and the Caucus's Institute and embarked on a mission to provide scholarships to needy Latino children and expand opportunities for all Americans.

Through his work as founder emeritus of the National Association of Latino Elected and Appointed Officials, he contributed to the advancement of Latino political power first in Southern California and then in the Nation. Hundreds of Latino elected officials have since followed in his footsteps, all knowing that they stand on his shoulders. By his courage and his determination to open the doors to minorities, Latinos have become much more active in politics and all facets of American society. Indeed, in our State of California, we are now a minority majority State, so we see regularly and firsthand the magnificent contribution of the Latino community to our great country, and Ed Roybal was very much a part of facilitating all of that.

As I said, Mr. Speaker, Eddie Roybal loved his country and he loved his family, speaking with pride of them every day that he served here. Tonight we bring the deepest sympathy of this Congress in which he led and served and indeed the sympathy of our entire country to the family he loved, he adored. I hope it is a comfort to Ms. ROYBAL-ALLARD's beautiful mother, Lucille, her name is Lucille as well, and his three children, our colleague Lucille, her sister Lillian and Ed, Jr., that so many people mourn their loss and are praying for them at this sad time.

With the life and leadership of Ed Roybal, God truly blessed America.

MEDICARE PRESCRIPTION DRUG BENEFIT IS A FAILURE

Mr. EMANUEL. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Illinois?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Illinois (Mr. EMANUEL) is recognized for 5 minutes.

Mr. EMANUEL. Mr. Speaker, today marks the first day seniors can enroll in the new Medicare prescription drug benefit.

When the Medicare drug bill passed this House more than 2 years ago, my colleagues on the other side of the aisle touted it as the greatest health care achievement since Medicare's inception. Today, we have a different reality.

The Medicare drug benefit is an absolute failure. The way this thing is designed, one would think that Brownie from FEMA had something to do with it. It is a failure because of its complexity and inability to provide seniors with access to affordable drugs.

My colleagues on the other side of the aisle have said this benefit would help 42 million Americans who are served by Medicare. But the only people who are really benefiting from this benefit are the pharmaceutical companies who gave $132 million over 10 years and have walked away with $139 billion in additional profits from this bill. Insurers who gave well over $100 million to the Republican Party are awarded with over $130 billion in additional profits, all paid for by the taxpayers.

This bill was never designed with the customer in mind. This legislation was designed with the pharmaceutical companies and the HMOs and the insurance companies in mind. They could never have designed something this complex if they were thinking of people who were 65 years and older whose 60 cents out of every dollar for their health care goes to prescription drugs. They could never have thought of that when they designed this legislation and this bill.

Aside from the horrible corporate welfare, the complexity is a real shame here. But what is ironic is on this floor where we debated this, all the Republicans talked to us about how this choice was going to be a real win for the seniors. The gentleman from Pennsylvania (Mr. ENGLISH) said, "We are simply saying let us offer choices to seniors." The gentleman from Illinois (Mr. WELLER) said, "To qualify for Medicare, you qualify for this program, and you are going to have choice." The gentleman from Michigan (Mr. CAMP) said, "This Medicare bill offers a prescription drug benefit through competing private health insurance plans, marking the first time the private sector plans and consumer choice would be the principal vehicle for delivering Medicare benefits."

But it is all this choice that is causing the problem. Sometimes simplicity is better than choice, like Part A and Part B in the Medicare plan. Through all this choice, the only thing they have done is confuse seniors and driven up the profits for the pharmaceutical companies and the HMOs. There is no choice here. Mass confusion is what is going on.

The benefit is so complicated and confusing that even beneficiaries who are PhDs say they cannot figure it out. A recent Kaiser Family Foundation poll found that more than six in ten seniors either barely understand the benefit or do not understand it at all.

But just as important are the choices that the Republican Congress did not make. What did they not do? They did not do anything about the price of these drugs. They could have done something with direct negotiations just like Wal-Mart, just like Target, just like private sector companies, just like VA, the Veterans Administration does: negotiate, pool the resources, purchase bulk, just like every company in the private sector does. They refused to allow Medicare to do that. So we in America now are paying top premium dollar for drug and pharmaceutical prices and products that we could negotiate and get better pricing for. Why do we do that? Because of the pharmaceutical companies. And who is left holding the bag? The taxpayers and seniors.

What else does this legislation refuse to do? It does not allow us to actually access products in Canada and Europe and allow competition to bring prices down. For a party dedicated to the principles of a free market, it is not understandable why they decided to choose a closed market, forcing America to pay the highest prices of any country in the world. Again, negotiation or allowing people access to the prices of drugs in Canada and Europe, we could have brought prices down; and, third, they could have allowed generics to get to the market faster. Three market ways: competition, open markets, negotiations. They could have brought the prices down and had a simpler plan, but there is nobody paying the piper for those ideas, and that is why the pharmaceutical companies are walking off with corporate welfare to the tune of $139 billion in additional profits, all paid for by the taxpayers, all brought to us by a Republican Congress.

The final bill that created the drug benefit left seniors with a limited benefit that failed to reduce the cost of prescription drugs, gave them serious choices that have led to complexity.

Now it is possible that seniors would understand the drug benefit a little better if this administration had distributed information to beneficiaries that was actually correct. But they botched that, too. The administration's own "Medicare & You" handbook included inaccurate information. Once the errors were discovered, CMS directed seniors to Medicare's Web site, even though over 75 percent of seniors have never used the Internet.

Mr. Speaker, the Medicare prescription drug benefit is an absolute failure. It is a failure because it was never designed with the customer in mind.

HONORING DON DEARMON ON THE OCCASION OF HIS RETIREMENT

Ms. ROYBAL-ALLARD. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. ROYBAL-ALLARD) is recognized for 5 minutes.

Ms. ROYBAL-ALLARD. Mr. Speaker, I rise to honor a friend and trusted adviser, Donald McCamie DeArmon, on the occasion of his retirement from a distinguished career of 28 years of public service in the United States House of Representatives.

☐ 2015

Don began his service on Capitol Hill following his graduation from the University of North Carolina at Chapel Hill in 1977. During those 28 years, he worked for the Office of House Information Systems and six Members of Congress.

Congressmembers Bill Ketchum, BARBARA MIKULSKI, Les AuCoin, DAVID PRICE, Vic Fazio, and I all had the good fortune to know and work with him.

It was in 1999 that Don brought his wealth of experience and knowledge to my office, serving first as associate staff for appropriations and then as legislative director and currently as acting chief of staff.

Don is a team player who has mentored many junior coworkers. His political sense and institutional knowledge of the House and his familiarity with the legislative process have provided my office with wise counsel.

His many bipartisan and bicameral friendships built over years in the House have been invaluable to my work on the Committee on Appropriations. His knowledge of the numerous funding accounts has been key to my ability to serve my constituents better. In addition to his work on the Committee on Appropriations, Don has also been the lead staff person for my legislative health agenda. Through his stewardship, we have made progress in addressing the health crisis of underaged drinking and in reducing preventable birth defects through enhanced education of women on the importance of folic acid.

Don's commitment to public service and his love of politics reached its natural conclusion when he ran for a seat in the U.S. House of Representatives. There is no doubt that during his campaigns Maryland voters were enriched by Don's discussions of the critical issues facing our Nation.

Although his neighbors in Maryland were denied his direct representation, I can attest to the fact that his public service during the past 28 years has enriched their lives and the lives of many in our Nation.

Don is a man who has admirably met the difficult challenge of balancing the demanding world of public service with being an involved, loving father and husband. He and his wife, Ann, a teacher, have raised four successful and politically active children. Belle, 23, is an English major at the University of Maryland, College Park. McCamie, 21, will be graduating in December from the University of Pittsburgh. Alexandra, 17, is a freshman at Wagner College; and John, 13, is an 8th grader at West Frederick Middle School.

To Don and his family, I extend my deep appreciation and heartfelt congratulations on the momentous occasion of his retirement. We will miss him, his hard work, his wealth of knowledge of political history, and his wonderful anecdotes about his childhood in North Carolina, experiences on the Hill and life in Frederick, Maryland.

Mr. Speaker, I join the many friends and colleagues who have had the privilege of working with Don in wishing him happiness and success as he embarks on his new career in the private sector. Don's new work, advocating on behalf of institutions of health, clearly demonstrates his commitment to the true public servant's belief that the people's work is never done. Godspeed, Don DeArmon.

BROKEN PENSION SYSTEM

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from Ohio (Ms. KAPTUR) is recognized for 5 minutes.

Ms. KAPTUR. Mr. Speaker, USA Today on the front of the business page has a major story: "'Fundamentally broken' pension system in 'crying need' of a fix: Even companies that play by the rules face shortfalls." It goes on to say that David Walker, the chief of Congress's nonpartisan Government Accountability Office, describes the pension system as "fundamentally broken."

Mr. Speaker, workers who dedicate years of service to a company should be able to count on a decent retirement and a measure of economic security. Yet in this time when more and more companies are reducing or dropping their defined benefit pension plans and retiree health coverage, worker earned benefits are often not guaranteed. This Congress must step up with meaningful pension reform to help shore up pension plans and encourage companies to continue providing them.

Unfortunately, a bill authored by the gentleman from Ohio (Mr. BOEHNER), who chairs the committee here in the House, is not that needed legislation.

It pays lip service to pension reform for workers, but continues to protect big corporate interests and executives at the expense of workers. It is my sincere hope that this Congress will produce legislation that is truly needed by America and by America's workers. Private pension plans are supposed to be one leg of a three-legged stool of retirement security for all American workers, along with Social Security. However, we live in an era when personal savings are virtually nonexistent, and Social Security's future is menaced by the specter of Republican plans to privatize Social Security. Therefore, workers have to try even harder to shore up increasingly fragile private pension plans.

Unfortunately, the Republican leaders in this Congress want to pass legislation which would actually further destabilize and underfund private pension plans. How in the world can they defend that approach?

Doehler-Jarvis, a company in my district, several years ago was the victim of a takeover where they had to cancel retiree health benefits, and they just did it over one weekend. They never even told the workers they were going to do it. When they filed liquidation bankruptcy, they pushed their obligations onto the Pension Benefit Guaranty Corporation, which is going further and further into the red as I speak here this evening.

Though that was not a perfect solution, that was the only one that existed at that time. Recently, we have heard the announcement by Delphi, the largest U.S. automotive manufacturer, that they are going to declare bankruptcy; and that it is the largest filing of bankruptcy ever in the history of the automotive industry. It will have a significant impact on thousands and thousands of workers. And under the terms of their bankruptcy filing, Delphi is attempting to require its employees to take pay cuts as high as 63 percent and benefit cuts of up to 77 percent just, they say, to keep a few of their U.S. plants open.

The current Pension Benefit Guaranty Corporation has a several billion dollar shortfall already. How in the world are they going to be able to try to hold things together without that fund being shored up, whether it is to help Delphi or anyone else. Frankly, this Congress should have legislation passed that would disallow the bankruptcy system to be used by companies to abdicate their pension and health responsibilities.

However, given the recent flood of companies that have experienced pension problems or breakdowns, the Pension Benefit Guaranty Corporation is no longer as fail-safe as it used to be. It had a $23 billion deficit last year, and since the time of President Clinton has continued to fall from a position of surplus to greater and greater deficit. The chairman of the committee, Mr. BOEHNER, dubs his plan the Pension Protection Plan; but it does nothing to prevent runaway pension plan terminations, nothing to provide meaningful disclosure and transparency, or ensure fairness to workers, while rewarding corporate executives. And it does nothing to adequately protect the workers pension plans.

Mr. Speaker, true pension reform legislation would repeal special protections for executives where they can receive these so-called golden parachutes while employees suffer deep cuts in their promised benefits. And the bill currently authored here says if an employer does not fund its pension plan above 80 percent, then workers cannot receive any increases in benefits or take a lump sum at retirement. No similar restriction is placed on executives.

And as the amount of guaranteed benefit goes down, for example if the employer does not fund above 60 percent, the workers' plan must be frozen with no new benefits allowed.

Mr. Speaker, America can do better than this. We ought to deep six the Boehner bill and allow the workers of this country to be able to receive the deferred compensation that was part of the contract that they signed when they went to work for America's largest corporations.

[From the USA Today, Nov. 15, 2005]

"FUNDAMENTALLY BROKEN" PENSION SYSTEM IN 'CRYING NEED' OF A FIX

(By Marilyn Adams)

WASHINGTON.—Most surviving American steelmakers long ago abandoned costly pensions plans. But AK Steel still covers most of its 7,500 workers with a plan that pays retirees a monthly benefit based on tenure and past wages—a coveted defined-benefit plan.

AK has never missed a benefit payment to a pensioner or a payment to fund the plan. That's a source of pride for the 105-year-old Middletown, Ohio, company.

Nonetheless, the assets of the AK pension plan fall $1.3 billion short of meeting estimated future obligations. The plan's long-term survival isn't assured.

Much of the attention in the raging pension-reform debate in Congress and the executive branch focuses on big companies such as United Airlines and other corporate giants that have used Chapter 11 bankruptcy-court reorganization to dump defined-benefit pension plans on the already overburdened government insurer, the Pension Benefit Guaranty Corp. But it's also cases such as AK Steel—a relative corporate good guy that has seen assets fall short of liabilities even while the company follows the rules—that have reformers fearing a possible financial catastrophe on the scale of the savings-and-loan meltdown 15 years ago.

David Walker, chief of Congress' non-partisan Government Accountability Office, describes the pension system as "fundamentally broken." He's frustrated that policymakers so far have been unable to solve a problem that's been documented over and over.

"There's a crying need," he says.

Business, Congress and the Bush administration agree that the U.S. system of private pensions is badly in need of fixing. What they haven't agreed on is how to fix it. Despite alarming statistics, years of studies and urgent calls for reform from advocates on all sides, Rep. John Boehner, R-Ohio, a sponsor of the pending House bill on pension reform, rates chances of passage by both houses of Congress this year as slim. Senate Majority Leader Bill Frist, R-Tenn., said Monday that the Senate bill might reach that chamber's floor by next week.

If Congress fails to act, "The problem will become much worse," said Bradley Belt, PBGC executive director. "To call upon taxpayers—most of whom don't have defined-benefit pensions—to pay for the benefits of those who do would be fundamentally unfair."

In total, defined-benefit pension plans offered by private employers are underfunded by $450 billion, up from $39 billion just five years ago. The PBGC itself has a deficit of at least $23 billion. PBGC numbers coming out today are expected to paint an even bleaker picture: The high number of failed plans has left it without enough assets to cover future benefits. As more plans fail, the agency's deficit will grow.

In recent years, Huffy bicycles, Big Bear supermarkets, Polaroid, Kaiser Aluminum, Bethlehem Steel, WestPoint Stevens, Archibald Candy and United Airlines have terminated their plans and transferred responsibility for them to the PBGC. What worries PBGC officials now is how many other large companies are out there with ailing plans covering tens of thousands of workers.

The PBGC last year calculated that financially weak companies with a reasonable chance of terminating their pensions are $96 billion short of covering promised benefits.

GM A CONCERN

The PBGC won't say whether General Motors, whose pension plan is the biggest in U.S. industry, is among them. But the PBGC estimates that if financially troubled GM had to terminate its plan soon, it would be underfunded by $31 billion, an estimate first reported by The New York Times. Using a different accounting method, Credit Suisse First Boston estimates the underfunding at $12.3 billion.

GM, whose plan covers 600,000 participants, disputes those figures but declined to provide its own estimate. It is not required by law to do so. "We don't think it's appropriate to view the pension plan on a termination basis," because GM has no plan to end it, said GM spokesman Jerry Dubrowski.

The U.S. Securities and Exchange Commission, meanwhile, is investigating how GM reports pension-plan liabilities in its financial statements as part of a broader look into the automaker's accounting.

PBGC director Belt fears the mounting pension crisis could approach the scope of the savings-and-loan debacle that pushed the Federal Savings and Loan Insurance Corp. into insolvency in 1989 and cost taxpayers $200 billion.

If the PBGC, which is supported by insurance-premium payments from pension-plan sponsors, were to sink too deeply into red ink, a giant taxpayer bailout might be the only way to keep millions of pensioners from losing their checks.

Stopgap pension relief for companies expires Dec. 31. Without comprehensive reform legislation this year, temporary rules will take effect that will increase the contributions companies must make to their plans as well as the insurance premiums they must pay the PBGC. U.S. Labor Secretary Elaine Chao says the price of doing nothing about reform will be "very bad" for plan sponsors.

The pension system in Corporate America is in trouble for many reasons, some within the control of Washington policymakers and some not.

Not the least of the problems is Americans' lengthening life spans. Retirees are living longer than ever and will draw pension checks longer than ever. The biggest generation in history, the baby boom, starts hitting 65 in 2011. Making things worse is that many pension plans let workers start drawing benefits after 30 years of work. For many retirees, that means benefits start in their 50s.

Another factor: Pension funds rely on assets that grow through investments in stocks and bonds. For five years, markets have produced lackluster returns.

LOOPHOLES IN THE LAW

But Congress can do nothing about demographics or investment returns. So reformers are focusing on loopholes in the law—and some companies' willingness to exploit them to avoid or reduce payments.

Private pensions are governed by the Employee Retirement Income Security Act, passed in 1974 after the collapse of automaker Studebaker a decade earlier, which left its retirees almost empty-handed.

The law established the PBGC insurance program, which covers benefits up to specific annual dollar limits—up to $45,600 this year for someone retiring at 65—and requires companies to pay premiums. Over the years, changes have crept into the law designed to make it easier for firms to comply.

Among the issues that reform proposals address:

PBGC premiums. Almost everyone agrees that without higher premiums and stricter funding rules, pension problems will get worse. The Bush administration proposed $30 per worker per year, up from $19 now.

Skipped payments. Rules allow employers to skip plan payments by applying excess contributions from an earlier year as an offset to the minimum requirement for a later year—even if the plan is underfunded.

"The combination of rules allows companies to go for years on end without putting any money into their pension plans," says Belt.

US Airways, for example, made no contributions to its pilots' pension plan for years before it was terminated in 2003.

Overpromising. Employers with underfunded plans are allowed under current rules to sign labor contracts that promise union members larger benefits that the companies can't necessarily afford.

Secrecy. Every employer with a troubled plan is required to tell the PBGC each year how underfunded the plan would be if it had to be terminated. But the company is not required to tell the people directly affected: workers and pensioners. The PBGC is not allowed to tell.

Inadequate funding. PBGC's Belt says funding rules today simply don't ensure that pension plans are fully funded.

Most controversial is an administration proposal to penalize companies with poor credit ratings and underfunded plans by accelerating their plan payments. The thinking is that those companies are at higher risk for pension default and should be required to do more to keep plans afloat.

'SKY IS NOT FALLING'

Boehner, The Ohio congressman, says such tough medicine would "kill the patient" and prompt some employers to drop their plans.

AK Steel, for example, says its credit rating has been below investment grade for years, yet it has never missed a payment.

Business groups such as the National Association of Manufacturers acknowledged pension rules require tightening. But they question the administration's alarming projections and say companies with pension problems don't represent the majority.

"Our message is the pension sky is not falling," says NAM spokesman Darren McKinney. "The problem is not as big as some would have you believe."

He says the PBGC's statistics show only 15% of private defined-benefit plans were funded below 70% in 2002, the latest data available.

What seems to gall reformers most is the recent pattern of big companies using Chapter 11 of the bankruptcy code to jettison the debt of underfunded pension plans, then exit bankruptcy and survive. U.S. Airways did it, and United is in the process. Huff and Big Bear did the same in the bankruptcy court.

Now, reformers fear Delta Air Lines, Northwest Airlines and auto-parts maker Delphi, all of which filed Chapter 11 cases recently, will make the same argument to their bankruptcy-court judges.

"People are using the pension system and bankruptcy code as a business strategy,"charges Walker of GAO.

AK STEEL FEELS PENALIZED

AK Steel agrees. It has seen plenty of competitors unload their plans. AK says its pension and retiree medical costs make its steel at least $40 a ton more costly to produce than some of its competitors'.

"We are penalized because we didn't go bankrupt," says Vice President Alan McCoy.

So, AK has been going to its unions during contract talks, asking them to agree to freeze members' pension plans so benefits don't keep growing and so new employees aren't covered. Three unions, representing 20% of AK's unionized workforce, have agreed.

"They told us they needed that relief to stay competitive and stay out of bankruptcy," says Tim Imes, president of the United Steelworkers union in Ashland, KY, that represents AK workers there. Given pension-plan terminations at Bethlehem Steel, National Steel and elsewhere, the union knew "the monster was real."

AK officials say they still believe in good pensions but can't ignore their competition.

"We are disturbed that the bankruptcy system allows what has happened to happen," says McCoy. "We don't think that's right."

HONORING EDWARD R. ROYBAL

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. LEE) is recognized for 5 minutes.

Ms. LEE. Mr. Speaker, I rise this evening to recognize and honor and pay tribute to the extraordinary life of Congressman Edward R. Roybal. Throughout his career, including 30 years in the United States Congress, Congressman Roybal championed the rights of the underprivileged and broke down barriers for social justice.

I would like to express my deepest sympathy to his family and his friends, especially to his devoted daughter, my colleague and friend, Congresswoman LUCILLE ROYBAL-ALLARD, and say with the passing of her father, we lost a great man, a man who stood up for his convictions, a man who stood up for what he believed, and one who stood up for those who needed a voice who did not have a voice in our country. He will be deeply missed.

Like many, I feel very blessed to have known Congressman Roybal personally. He lived his life and I always noticed how he did this: by his actions and by his words. He had principles. He had principles that guided each and every one of his actions, and I think all of us should really understand that those principles are absolutely necessary for us to fight for the rights and the well-being of all human beings, especially those who have been shut out of the American Dream.

His life was not only extraordinary; it was an example to follow for generations to come. Each one of us, I believe, has a duty to carry on the legacy of this great man. Our young people must get to know Congressman Roybal, for he made history taking on tough issues when they were not popular. What a role model he was.

Congressman Roybal not only cared about his own congressional district, which he did very deeply, but he also worked very hard to help communities throughout our country. As a member of my predecessor's, Ronald Dellums, staff, I vividly remember Congressman Roybal's unbelievable efforts to help bring a Federal building to downtown Oakland. Congressman Roybal and Congressman Dellums had a deep friendship and mutual respect for each other. As a result of their partnership, we have a beautiful Ronald V. Dellums Federal Building where my congressional office is presently located.

And in the Federal Building, we also have an Edward R. Roybal Auditorium. And each time I walk into this beautiful building, I am reminded of this great man and his magnificent spirit and his love for his country and for our district.

The 9th Congressional District of California, we owe Congressman Roybal a debt of gratitude; and we thank you and his family for really sharing this giant of a human being with us.

I have several personal and professional affiliations with Congressman Roybal. His son, Eddie, headed up a successful legal services center called Centro Legal De La Raza in Oakland, California. This center provides badly needed legal services to families otherwise unable to afford them.

Many years ago after leaving Ron's staff, Congressman Roybal called me and he said, Barbara, please, you have to do this for me. I really want you to help us raise money for Centro Legal De La Raza.

Of course I was honored to receive this call from Congressman Roybal, and how could I say no. It was such a great honor to be able to work with him and his family to make sure that we raised the money for many years to provide these badly needed services.

His commitment to justice was unparalleled. His ability to use his clout for those without access to the halls of power, not for himself personally, but for all of those shut out, his love for human kind, his great spirit will be with me forever. He was such a gentleman, a kind human spirit. He was a respectful man, and many of us loved him so much.

So tonight, on behalf of the 9th Congressional District of California, we salute a great warrior; we thank him for a job well done. We also thank Congressman Roybal for a life well lived. In his memory, I think we should all rededicated ourselves to Congressman Edward R. Roybal's ideals and his vision for a better world.

Mr. Speaker, my thoughts and prayers are with you and your family, LUCILLE. May God bless you.

RETHINKING THE IRAQ WAR

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to speak out of order.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, first, I need to say I did not know Congressman Edward Roybal; but if he did nothing more than bring his daughter, LUCILLE ROYBAL-ALLARD, into this world, he brought a gift to all of us. I honor him for that.

Mr. Speaker, I was struck by something that I heard the chairman of the Senate Intelligence Committee say over the weekend. Now that it is all too clear that the intelligence leading up to the Iraq war was deeply flawed, he was brave enough to say, "I think a lot of us would really stop and think a minute before we would ever vote for war or take military action." And then he added, "We do not accept this intelligence at face value anymore."

☐ 2030

Great. I am glad that the gentleman from Kansas, Mr. ROBERTS, is so cautious and skeptical now, after more than 2,000 soldiers have been killed, after we have poured $200 billion into this war, after we have squandered America's global credibility and goodwill.

Back when this could have made a difference, the chairman and so many others in this body and the upper Chamber fell in line behind the President, rubberstamping his war with barely a peep of dissent.

Where were the hard questions then? Where was the oversight and the scrutiny back when it could have saved lives and changed the course of history?

The latest line of argument from the White House is essentially this: Sure, we were wrong about Saddam and weapons of mass destruction, but we did the best we could with what we had.

Leaving aside whether they were mistaken about the intelligence or they actively manipulated it, I would like to see the President look a widow or a grieving mother in the eye and use that line.

The other thing they are saying is maybe we were wrong, but so were a lot of other people, including a lot of Democrats, so get off our backs. This attempt at spreading the blame is dishonest, and it is irresponsible. It was not the previous administration, nor was it the President's opponents in last year's election who launched a preemptive war and put American credibility on the line in selling it.

It was not some other Vice President that leaned on analysts at Langley to reach certain conclusions. It was not some other White House that was fixing the intelligence and the facts around the policy, as the Downing Street Memo put it.

There is only one Commander-in-Chief, and the buck must stop with him. Besides, there were plenty of us who were deeply skeptical about the case for war; and for raising our concerns, many of us had our patriotism called into question.

Ambassador Joe Wilson was among those who raised the red flag, and look what they did to him and to his family.

But of course, as the President is now implicitly admitting, we who questioned the intelligence were right. The very fact that they are trying to rewrite the history of the run-up to war is evidence that the war has been a disastrous mistake. If all were going well in Iraq, the President would not be in this defensive posture, casting about for scapegoats.

There is a way to make it right. There is a way to fix the problem. By ending the war once and for all. It is time for the President not just to admit his mistakes but to correct them. It is time to return Iraq to the Iraqi people and return our troops home to the families that have gone too long without them.

HONORING CONGRESSMAN ED ROYBAL

The SPEAKER pro tempore (Mr. POE). Under a previous order of the House, the gentlewoman from California (Ms. WATSON) is recognized for 5 minutes.

Ms. WATSON. Mr. Speaker, Congressman Ed Roybal, who recently passed, will be remembered as a true pioneer in the struggle for human and civil rights. He was an advocate his whole life for the poor, disenfranchised and for seniors.

Ed was first elected to the House of Representatives in 1962, at a time when Henry Gonzalez of Texas was the only other Hispanic representative in the House of Representatives. Ed served with distinction in the House of Representatives for 30 years. He quickly earned the respect of his congressional colleagues and, in 1971, was elected to serve on the Appropriations Committee, where he remained for the rest of his career in Congress. He became Chair of the Treasury, Postal Service, General Government Subcommittee in 1981. There he became a powerful advocate for funding for education, civil rights and health programs. He was one of the first Members of Congress to support HIV/AIDS research funding.

Ed also had an abiding interest in the needs of our elderly and from 1985 to 1989 served as the Chair of the Select Committee on Aging. In 1980, he successfully restored funds to programs for the elderly and in 1982 played an instrumental role in maintaining the Meals on Wheels program.

He was a trailblazer for the rights of not only Hispanics but of all persons, white, black, brown, the young and the elderly, who had been denied an equal opportunity and were looking for a hand up. He always selflessly extended his hand and never lost sight of those in need throughout his distinguished career as a public servant.

I looked to Ed as he served on the Los Angeles City Council and then in Congress as a voice that could be trusted to consistently respond on behalf of those who could not speak for themselves. We saw him as the go-to guy on the City Council.

Ed's strong and dedicated message will never be silenced. He leaves behind a spiritual and an indelible legacy that will live on. God bless him.

RECOGNIZING THE LIFE OF CONGRESSMAN ED ROYBAL

The SPEAKER pro tempore (Mr. DAVIS of Kentucky). Under the Speaker's announced policy of January 4, 2005, the gentlewoman from California (Ms. LOFGREN) is recognized for 60 minutes as the designee of the minority leader.

Ms. ZOE LOFGREN of California. Mr. Speaker, I am honored to recognize the life and work of Congressman Edward Roybal. As Chair of the California Democratic Congressional Delegation, I am proud to recognize the accomplishments of the pioneer of California Hispanic politics.

In his more than 30 years in Congress, from 1963 to 1993, Congressman Roybal opened many doors for immigrants and the less fortunate in this country, but more importantly he also opened many minds. As the first Hispanic to serve in Congress from California since 1879, his leadership was proof that our Nation's greatness rests in its diversity. He gave future generations the power to be involved in the democratic process by sponsoring legislation which funded bilingual education and inspired thousands to follow his noble example and enter into public service.

Californians are proud to call the visionary Congressman Roybal one of our own. But his contribution was not limited to Hispanics or Californians. Congressman Roybal's vision and passion for social justice issues transcended color lines, age groups and district and State boundaries. He worked tirelessly to extend the civil rights and push the Democratic Party to become more attuned to the needs of immigrants and minorities.

In addition to all the legislation he fought for and all the programs he sponsored, Congressman Roybal will also be remembered because of the legion of public servants he inspired. One of those, a man who fought for equal rights for farm workers of California, was a young man in San Jose named Cesar Chavez.

In 1947, Mr. Roybal first ran unsuccessfully for a seat on the Los Angeles City Council. Reacting to his defeat he founded the Los Angeles Community Services Organization, CSO, with a goal of mobilizing L.A.'s Mexican Americans against discrimination in housing, employment and education. The CSO was founded on the idea that people would learn from each other and would craft solutions to mutual problems, and the model caught on and chapters formed throughout California. In San Jose, Cesar Chavez's first experience in politics was registering voters for the San Jose CSO, and the rest is history.

Today, Congressman Roybal's legacy lives on in Congress and in cities across this country. More than 6,000 Hispanic elected officials have followed him into public service. His daughter and our colleague, the distinguished Congresswoman Lucille Roybal-Allard, now represents part of her father's old district in East L.A. Lucille carries on her father's work of fighting for compassion and diversity in our government.

Although he has passed from this earth, Congressman Roybal's passion for the poor and his vision for a more inclusive America will live on in the law books of this country and in the hearts and minds of those who have been touched by his service to our country.

On behalf of the my California Democratic colleagues and my constituents in San Jose, I am honored to be here this evening to pay tribute to former Congressman Ed Roybal.

We thank his family for supporting his work over many years and for being the source of tremendous pride for him, his wife, Lucille, his three children, Congresswoman Lucille Roybal-Allard, Lillian and Edward. Our thoughts are with you during your grief, and we are honored to be in this institution that was graced by Congressman Roybal.

This evening, we are going to comanage the time. We have the Chairperson of the Congressional Hispanic Caucus, my wonderful colleague, Mrs. NAPOLITANO, who will speak now for 4 minutes; and then we will yield back to the many colleagues who are here this evening who want to remember Ed.

Mrs. NAPOLITANO. Mr. Speaker, I do not want to repeat all the accolades that have been showered upon a former Member of Congress who I had the opportunity to meet but unfortunately never was able to work alongside of him. You have heard how he was a trailblazer and how he cared for all minorities, all people that were the unvoiced of America; that he chose his battles to where he would stand on this floor and advocate relentlessly on behalf of all the poor and all the unjust things that were carried out against the many peoples of the United States.

I can tell you, though, that from listening to the many stories said about this wonderful individual, you are able to put a picture of a human, humble, dedicated, compassionate, loving family man who devoted his life to politics to make life better for all. And as you have heard, Mr. Speaker, he has become the trailblazer of Latino politics in not only California but in the United States; that, because of him, many of us now are able to stand before great bodies and be able to voice the concerns of those who have no voice in these Chambers.

Mr. Speaker, we have great pride; and another accomplishment of this great man is that he and four other individuals, including the father of our seated Member of Congress from San Antonio, Charlie Gonzalez, Henry B. and several others joined together to form the Congressional Hispanic Caucus Institute, which now fosters young Latinos for future leadership of this country. Another great accomplishment.

I could go on, and I probably would be repeating a lot of things, but there are a lot of unsaid accolades that this gentleman, this gentle man was able to transmit to those many people who knew nothing of him but knew of his greatness.

To his daughter, LUCILLE, my good friend, we are very, very happy she is here and trust that he is smiling down upon her.

GENERAL LEAVE

Ms. ZOE LOFGREN of California. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of my special order today.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield to the gentleman from Texas (Mr. REYES).

Mr. REYES. Mr. Speaker, I thank the gentlewoman for yielding.

Tonight is both a sad night, because we are here because of the passing of a great American, Congressman Ed Roybal, but it is also a time to celebrate his life and his accomplishments and his legacy.

I was just spending a few minutes with my good friend and colleague, the gentlewoman from California (Ms. ROYBAL-ALLARD), a great American in her own right, who carries on that great legacy of her dad, and I was telling her how proud she must be here this evening to hear so many people talk about her dad. I know that she misses him, and I know that there is a huge void in her heart as there exists in many Members that worked with Congressman Roybal.

I did not have the privilege of working with him in the House, but I certainly knew him, or at least I felt I knew him. I got to know him even more by virtue of becoming a good friend of his daughter and my colleague, LUCILLE ROYBAL-ALLARD. She always told us about her experiences coming to Washington and working in and around the Capitol with her mom and her dad and about the things that her dad stood for and about the things that he wanted to change and the things that he did change.

□ 2045

She told us about the optimism that some day in this great country and in this, the people's House, there would be many more Latinos and Latinas that would represent communities all around the country. And guess what? Today, that is reality. Today, we have not only Latinos and Latinas here but many other minorities that carry on the work and the legacy of Congressman Roybal.

What a giant he is among all of us. What a giant he is for us to look up to. As a grandfather, I want to be able to tell my grandkids that they should be proud of their heritage because of leaders like Congressman Roybal and the many things that he has left for us.

There is a lot of work left to be done, but certainly many of us are here tonight and many of us are able to be here in these elected positions because of the work that he and a few others did back then when it must have been much harder than it is today. The challenge may be different. The challenge today may take on a different venue and a different texture, but we are able to do that and to take on that responsibility because we stand on the shoulders of great leaders like Ed Roybal.

So, tonight, it is sad that we are here because we are going to miss him, but it is also a time to celebrate a great American, a great leader, one that leaves a legacy that I feel personally blessed is carried on by his daughter, LUCILLE ROYBAL-ALLARD. May God bless all of the Roybal family, and certainly God has blessed this country because they have walked into this people's House for two generations.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield to the gentleman from California (Mr. BACA).

Mr. BACA. Mr. Speaker, I rise to pay tribute and respect to Congressman Roybal, father to LUCILLE ROYBAL-ALLARD, who passed away recently. I was very fortunate with many other individuals who attended the funeral, and there was an outpouring of love that came out. It was an outpouring because this is an individual that led by example. This is an individual that really believed in true family values. He set the example by leading by example. A true husband, a father, an individual who cared about his family.

Beyond caring about his family, he accomplished many things along the way. He created hope, he created opportunity, and he paved the way for many of us who are currently serving right now.

I was blessed to know him as a member of San Bernardino Community College district during my period of time; and during that time, I was involved in NALEAO. He was the man that was very instrumental in creating NALEAO. NALEAO now has created an opportunity for 6,000 individuals to be elected. He created hope, he created opportunity, and he created an opportunity to say, "a si se puede," that you can be whatever you want to be.

He was an individual that cared about people. He cared about the poor, the disadvantaged, the seniors. He believed in fighting for what was right. It is not about representing one segment of the community but representing all segments of the community, because he never forgot where his roots came from.

He originally was born in New Mexico, in Albuquerque, like I and many others who have gone out, but he never forgot his roots. He felt it was important for others to be proud of who you are and where you come from and to say, I represent every individual, regardless of where I come from, but be proud of who you are and where you come from. And he did that. He did that for a lot of us.

Because of that, many of us are in positions that we would not be in right now. But it took someone that was willing to stand up and pave the way, not only fighting for civil rights and education and opportunities for many individuals and being the first elected to many of the positions that we now have. He was a city councilman, the very first one, and then he became a role model, a mentor, a counselor, someone who guided someone. It is not easy when you are the first, because everybody else expects you to fall down. He did not fall down. He set a good example for others to follow.

Mr. Speaker, because he led by example and did positive things. There were many other opportunities for Hispanics like me and others to say, you know what? If Congressman Roybal can be a city councilman, maybe I can become a school board member, a Senator, a United States Congressman like him. He created that. He created those opportunities for us.

Let me tell my colleagues, we are all very proud of his accomplishments, of what he has done not only in creating opportunity but, at the same time, when there were segregated pools, when they did not let Mexican Americans and others utilize the pools, he wanted to make sure that everyone could. Like Rosa Parks, he believed in civil rights, and he believed in standing up for it. He stood up. The price was not easy, but he stood up and fought. Because of that, America is a lot better today. He has paved the way and set an example for all of us to follow.

Let us follow the lead that Congressman Roybal has done and his daughter is now doing here in Congress by doing the same thing here: fighting for civil rights, fighting for education, fighting for health, being a voice for many people who do not have voices. The daughter is leading because the father set the example to say it is important to have people that speak out.

I am glad to have known Congressman Roybal, and I am equally glad to know LUCILLE ROYBAL-ALLARD, and sometimes we forget to mention her last name, ALLARD, as well here serving in Congress.

I offer my condolences to the family, his wife, Lucille, his daughters, LUCILLE and Lillian, and his son, Edward, Jr. You truly are a good example that if you follow your dad's steps, he has true values, he truly is a leader, his legacy will live on forever because he truly is a pioneer for all of us. He has paved the way for hope and opportunity for each and every one of us.

Mr. Speaker, life is a lot better, and no one will ever know how those doors have been opened for many individuals throughout the country. I thank him and say God bless him and God bless your mother and God bless you, LUCILLE ROYBAL.

Ms. ZOE LOFGREN of California. Mr. Speaker, I now would like to yield to the distinguished gentlewoman from Los Angeles County (Ms. MILLENDER-MCDONALD).

Ms. MILLENDER-McDONALD. Mr. Speaker, I am honored tonight to stand here to honor a great American. Last month, America lost a visionary leader, and those of us in Congress lost a dear friend with the passing of the late, great Congressman Edward R. Roybal.

Ed Roybal was a forward-thinking, progressive Latino politician long before there was something called the Chicano movement. He was born in February, 1916, in Albuquerque, New Mexico. At the age of 6, he moved with his family to the Boyle Heights neighborhood of Los Angeles. After earning degrees at UCLA and Southwestern University, he joined the Army in 1944 and went off to fight in World War II.

Upon his return to Los Angeles in 1945, Ed worked as the Director of Health Education for the Los Angeles County Tuberculosis and Health Association. In 1949, he became the first Mexican American elected to the Los Angeles City Council in nearly a century, and it would be his springboard to greater accomplishments.

In 1959, he founded the Mexican American Political Association, one of the first organizations formed to improve the social, economic, cultural, and civic advancements of Mexican Americans and all Spanish-speaking Americans through political action. This organization has become a premier leader in our Nation, fighting for the rights of all Americans.

Later, he also formed the National Association of Latino Elected and Appointed Officials. He knew the importance of a political system and wanted to ensure Latinos made their voices heard through this process.

In 1963, he again broke down barriers by becoming the first Mexican American elected to the U.S. House of Representatives in the 20th century.

When he took his seat in Congress, Ed Roybal never forgot his roots and those he represented. But not only did he represent Latinos. I saw him as a leader representing all of us. He worked tirelessly to ensure that all people, Latinos and others alike, were fairly represented and that their interests were not diluted during redistricting. Sadly, he often stood alone in these efforts.

Ed Roybal was also a strong advocate for the elderly and the working poor. We have heard how he served as chairman of both the Select Committee on Aging and the Subcommittee on Health and Long Term Care, moving legislation on health care, Social Security, housing, and other human services. What a great man he was.

He was indeed a New Deal Democrat who was known as a legislator's legislator for his ability to craft and pass landmark legislation. In the 1950s, he stood up against the loyalty oath of the McCarthy era. In the 1960s, he became an early congressional critic of the Vietnam war. And throughout his life, he was a strong advocate of workers' rights.

Ed Roybal opened the doors for a new generation of Latino elected officials; and, in my opinion, he opened the doors for all folks, including his great daughter and our friend and colleague, Representative LUCILLE ROYBAL-ALLARD. She will now carry the torch of her great father. Other Latino leaders, such as Los Angeles Mayor Antonio Villaraigosa, owe a huge debt of gratitude to this unassuming, yet powerful figure in American politics. He was a trailblazer and an icon of the Latino community. We all owe a debt of gratitude to this great distinguished American who saw a wrong and tried to right it.

I called upon Congressman Roybal at a time when I was in the State legislature, and I had an issue in the city of Compton. I did not know the man, but I called on him because he had shown such compassion for those who were the downtrodden. I called on him, and he came to my aid and with such compassion helped me through the turmoils that I had in my district. I will never forget this very compassionate, powerful, unassuming but great man.

In 1976, he co-founded the Congressional Hispanic Caucus along with others and helped to expand Latino representation across this country. Following his leadership and example, Latinos are today represented in Congress in State legislatures, as governors, and in many other leadership positions, and they lead many of our most populous cities. Yes, he paved the way to political power for today's Latino leaders and all Americans who care about fair and representative elections, and we can be grateful for the path that we crossed with this great man. His service to our country will not be forgotten. His stellar leadership will be with us for always.

The condolences of my constituents of the 37th Congressional District of California are extended to the Roybal family. God bless them all.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield to the gentleman from Texas (Mr. GONZALEZ).

Mr. GONZALEZ. Mr. Speaker, I thank my colleagues.

I think I bring a different perspective to the comments and the remarks regarding the extraordinary life of Congressman Ed Roybal, and that is that I followed in my father's footsteps just as Congresswoman LUCILLE ROYBAL-ALLARD does today, so I think we have shared experiences.

I know that about 4 years ago Lucille and I were interviewed about our experiences as children being raised in a political family and then following in their parent's footsteps. We had so much to share. So I think that some of my remarks I would hope do bring what I consider a very special view.

The first thing is that our fathers started their careers here in this Congress in 1961 and 1962 respectively and, combined, I think served about 67 wonderful, productive, very successful and historical years in so many different ways. But I think we need to go to the very beginning. They both started their political years in the late 1940s, and they both lost their first races. So I think they always would rise to the challenge, of course, over tremendous adversity in their entire lives. I think both of our fathers were always referred to as "the first," the first Hispanic to be elected to the House of Representatives from California, the first Hispanic to be elected from the State of Texas, and so on.

□ 2100

People forget what that truly signifies. Being the first at anything means that you are surviving in a very hostile environment; and where we find ourselves today, even when we complain about the challenges and the obstacles that are before us, there is no comparison. It pales to the situation in the 1940s, the 1950s, and the 1960s; and there is no doubt, even today, the barriers are there for people of color.

They had to succeed where no one else had ever succeeded before, and they had to maintain and sustain that position, because much more was expected of them, being that representative of a minority. Yet I do not want to restrict Ed Roybal's contributions and define him simply by his ethnicity, because that is not true. It went way beyond that. He understood until there was justice for all, there would be justice for none; and that is what his life was all about. I am hoping that tonight it is a celebration. I think my colleague, Congressman REYES, has aptly pointed that out.

On the personal side, I ventured a guess that my colleague, LUCILLE ROYBAL-ALLARD, did not see much of her father after 1962, that he was way over here on the east coast and the family was way over there on the west coast for the most part, and I know that feeling.

There was tremendous sacrifice on the part of the Roybal family. Tonight I know that my colleagues join me in saying thank you to your mother, to your brother, to your sister and to you, for sharing your father, because he gave much more to us than he probably did individually to you as far as the time that was allowed him to spend with the family.

That was a great sacrifice, which then leads you to the eventual question, and one that we all ask ourselves, and that is the careers that we choose, have we made a difference to sacrifice for our families, because there is no doubt that your father could have been very successful at other enterprises that materially and financially would have been much more rewarding, and he would have been right there at home, but he chose to do something for so many others, and that is a very special calling.

Your mother, your brother, your sister, yourself will probably ask but was it worth it, was it worth that sacrifice. It is a resounding "yes." It is a resounding "yes" if you look at all the city halls, if you look at all our State legislatures, if you look at the United States Congress.

If we go back to 1961 and 1962, I think if we had a congressional Spanish Caucus, the total membership would have been two, LUCILLE's father and my father. The legacy lives on. Tangible and living proof of that is that tomorrow morning there will be 27 Members of this House that will come through these doors that are either Hispanic or Portuguese in descent. All Americans, of course, first and foremost, because I think that is what your father's message was. It was then and it is today and his legacy lives tomorrow.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield to the gentleman from California (Mr. SHERMAN).

Mr. SHERMAN. Mr. Speaker, I will be brief, because all that I can say has been said and will be said more eloquently by others on this floor. I wanted to be here for this sad and happy occasion as we celebrate the life and mourn the death of a great American and a great Los Angelino.

Ed Roybal was a pioneer. He started the community service organization and formed a partnership of Mexican Americans, the Jewish community, the Asian community and then was the first in the century, in over a century, member of the Los Angeles City Council, then the first Hispanic in over a century to represent our State here in the House of Representatives, where he served for three decades fighting for the rights of minorities, the elderly, and the physically challenged.

He was a founding member, as has been said before, and the first chair of the Congressional Hispanic Caucus and was a pioneer in fighting for funding for HIV and AIDS. Edward Roybal leaves a legacy, not just all the awards named after him, not just the program at Cal State Los Angeles that he helped found, not just all of the legislation that he influenced in this House.

He leaves a legacy of his children and grandchildren, and our own LUCILLE ROYBAL-ALLARD, I know you far better than I know your brother and sister; but if you are any indication, he left quite a legacy. He was an inspiration to your family and an inspiration to all of us.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield to the gentleman from California (Mr. FARR), who preceded me as Chair of the Democratic delegation.

Mr. FARR. I thank the gentlewoman for yielding.

Mr. Speaker, I rise tonight realizing what an incredible privilege it is for us to speak in the well of the floor of the House of Representatives and what a privilege it is to grow up in a family that is politically inspired.

I also know what a heart-wrenching loss a parent is. It tears your heart out. I speak tonight because I feel very privileged, having grown up in a political family, like LUCILLE ROYBAL-ALLARD. I remember so much early childhood politics of what was going on in our house and in the State of California. In many ways, Ed Roybal was like another father, because he was in the era that my father was in politics.

He was born the same year as my mother, 1916, Albuquerque, New Mexico. He came to California, worked in the Civilian Conservation Corps, worked for the California Tuberculosis Association, became involved in World War II as a soldier, and then returned to Los Angeles County as director of health education and then got into politics at the same time, as he and my father both ran for city council, my father in Northern California and Ed Roybal in Southern California. They both lost.

Later on he was elected and became the first Hispanic to serve on the city council in more than a century. I remember in 1954, he was the Democratic nominee for lieutenant governor. My father was on that ballot. I remember that ballot. That was when red baiting went op. People just tore people apart.

They both lost in that election. My father went on to become elected to the State senate and Ed Roybal to the United States Congress. When he arrived here in Congress, he was the first Hispanic Californian to serve in Congress since 1879. He was a pioneer for all our great State, and, indeed, the multicultural democracy that California has become.

He served on the Appropriations Committee, and there is where our paths crossed. I am on the Appropriations Committee. I met LUCILLE when she got elected to the California State Assembly in 1986. We served together there. She came to Congress a few months before I did. We have served both on the Appropriations Committee, the only California Democrats on that committee.

I think when we think back about the privilege we had, not only growing up in a family, yes, things were tough, as pointed out by CHARLIE GONZALEZ, there were also privileges, the privileges of debate, the privileges of commitment to public services, the privileges of wanting to make the world a better place. Those were privileges.

I think that the legacy that he left for his own children, LUCILLE serving in the United States Congress, Lillian, who is a constituent of mine in Santa Cruz and a really able professional, doing a lot to deal with discrimination and how to teach tolerance, and their brother, Edward Roybal, Jr., carrying the yoke of his father, obviously, with not only the same name but all of the responsibilities that his father has left for him.

It is a privilege, and it is sad to lose a parent, but what an opportunity to be able to come to the well of the House of Representatives and give this tribute, a tribute that he, Mr. Roybal, has gotten not only from us here tonight, for his life, but during his life, recognized by Presidents, by Senators, by Congressmembers, by members of the State legislature and city council members; and, frankly, I cannot think of a person who we really know was a pioneer in being able to bring an understanding that if you are going to have a government of by and for the people, it better look like the people.

I am very proud to be in a congressional delegation from California that is the most multicultural delegation in the United States Congress. Your father started that. I am very, very proud to serve with you.

Perhaps one of the nicest titles that your father has been given, which was while he was still alive, back in 2004, the Mexican-American Political Association named him the Latino Legend of the 20th Century.

LUCILLE, we appreciate the great life that your father gave to public service. We love you for serving with us in the United States Congress. Please pass on our best to all of your family, your sister, and your brother and your mother for the service that your father gave to this country. It made us a better America.

Ms. ZOE LOFGREN of California. Mr. Speaker, I yield to Congressman JOSÉ SERRANO from New York.

Mr. SERRANO. Mr. Speaker, I thank the gentlewoman for yielding. I come with a photograph that sits in my office for many years. It is a photograph of the day that I was sworn in as chairman of the Congressional Hispanic Caucus. In the picture is the previous chairman, SOLOMON ORTIZ, and at the center is Ed Roybal.

I think it is fitting that he was at the center, because he was always at the center of any change or movement or any small or large or historic moment in our community. The folks that gave me the photograph titled it "Passing of the Torch." At that moment, it was not passing of the torch because I was such a change in the caucus, but because he always welcomed every new Member, and he always felt that every new Member had something new to add.

Today, as I look at this photograph, I realize that we have two major parties and a lot of other parties courting the Latino vote. We have posters and journalists and editorial boards saying how strong we have become and how important we are. Yet I wonder at times what it must have been for Ed Roybal to be a member of the L.A. City Council at that time and to be a Member of Congress at the time that he was, when it was not fashionable to be a Latino Member of Congress, when it was indeed a pioneering effort.

What I remember most about him is sitting on the House floor and having him speak to me, and in the cloakroom speak to me, with such dignity and such respect about what was expected of me as a Member of Congress, and how much I had to represent the east coast and the Puerto Rican-American community in everything that we did.

He had a way about him that is mentioned here. He is what we call a class act. He conducted himself in such a way. He spoke in such a way. If you did not know the history, you were baffled at the fact that this man spoke in a low voice, in a soft voice, and yet he had been a giant in tearing down walls.

I guess what he taught me more than anything else is you do not have to yell and scream and kick and get into a rage to make change. You just had to know what it was that you and your community wanted and go at it. This photograph has been replicated today; and tomorrow, LUCILLE, I will present it to you in the hope that your family takes it not as a moment when I was chairman of the caucus, but rather when the founder of the caucus took time to once again continue the message to yet another generation of Members of Congress and Latino Americans, that this was an important thing to do.

This was the passing of the torch at that moment, but he has been passing on the torch and will continue to for as long as we are around.

Ms. ZOE LOFGREN of California. Mr. Speaker, we have heard many things today about Congressman Edward Roybal, what a giant he was, what a leader he was, how he stood up for people who had too little, how he changed our world. I am mindful all of us who lost a dad know how very hard it is in a very personal way. Leader or no, it is still your dad. I also know that the best way maybe to know a person, to know someone like Congressman Roybal, is to look at his daughter, who is the same kind of tenacious, dignified person who will stand up for those who have nothing and make a difference, as she is making a difference, just as her father did in the Congress for those in need.

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I would like to yield to our beloved colleague, the gentlewoman from California (Ms. ROYBAL-ALLARD).

Ms. ROYBAL-ALLARD. Mr. Speaker, on behalf of the Roybal family I sincerely thank the gentlewoman from California (Ms. LOFGREN), the gentlewoman from California (Mrs. NAPOLITANO), and my colleagues for tonight's special order and for their kind words about my father, former Congressman Edward R. Roybal.

I thank the President and Mrs. Bush for their considerate letter of condolence, the Speaker of the House, the gentleman from Illinois (Mr. HASTERT) for his graciousness in presenting my mother the flag flown over our Nation's Capitol in my father's honor, and Senate Minority Leader HARRY REID for sharing his special memories of my father on the Senate floor.

For their kind and eloquent words during the memorial services in Los Angeles, I thank my colleagues, the gentlewoman from California (Ms. PELOSI), the Minority Leader, the gentleman from California (Mr. DREIER), the chairman of the Rules Committee, the gentleman from Texas (Mr. ORTIZ), my father's good friend and colleague, and the gentleman from California (Mr. BECERRA).

The Roybal family is also extremely grateful to my father's former chiefs of staff and Antonio Villaraigosa, Mayor of Los Angeles, and his staff for providing so much help and support during this difficult time. My family also send a heartfelt thank you to my many colleagues, constituents, and friends who gave their condolences, attended the services and/or sent flowers.

Mr. Speaker, my father Edward R. Roybal loved our country and this House of Representatives where he served proudly for 30 years. During the past weeks we have heard stories of my father's many legislative accomplishments and oftentimes lonely battles on behalf of the sick, the elderly and the disadvantaged. As one of the 13 cardinals of the House Committee on Appropriations, colleagues from both sides of the aisle have related to me stories of his fairness and ability to work in a bipartisan way on behalf of his constituents and our Nation.

We have also heard about his many tributes, including the naming of the Atlanta campus of the Centers for Disease Control in his honor, and the recognition received for his lifelong leadership when he was awarded our Nation's highest civilian honor, the Presidential Citizens Medal.

I would like to end this special order, Mr. Speaker, by talking about Edward Roybal, the father, from the personal experiences of his three children. As many families do in such times of sadness, my brother, sister and I sat and talked about our memories of Dad or "Pop" as we lovingly called him.

We recalled how deeply he loved our mother and his wife of 65 years, Lucille Beserra Roybal. Always by his side, her hard work and devotion was the glue that held our family together and provided the strength and support that helped to make possible our father's many accomplishments, which started when he was only a teenager, successfully leading the fight against discrimination at a local swimming pool and continued when he was a public health educator in the State of California.

We remembered his strong belief in the value and strength of family and how he, with my mother, shaped our values and modeled for us deep personal integrity.

He taught us faith in God, the value of family and friends and the importance of giving back to one's community. And, without a doubt, he taught us the importance of participating in the political process.

My sister Lillian, my brother Ed and I remembered how we never sat down to dinner at a normal hour with just the immediate family but always surrounded by our political family and friends. We remembered how at any time our house could fill with people and another emergency meeting would be convened, for our house was always the gathering place. We remembered triumphant elections, painful defeats, high expectations, and fearful realities.

The fearful realities were particularly vivid during the forties and fifties when we were young children growing up in the Boyle Heights community of Los Angeles. During that time in our city's history, Mexican Americans and other minorities were not welcomed in many parts of our city. Therefore, one can well imagine the reception my father received in 1949 when he was the first Latino to be elected to the Los Angeles City Council in the 20th century. The racial slurs and not-so-quiet whispers directed at him and our family when we attended events and dinners remain vivid in our minds today.

But equally as vivid is the strength and the courage he demonstrated as many in our society tried to humiliate and intimidate him to give up his cause. Giving up was something he would never consider, because he clearly understood and reminded us often that the struggles and the victories were not about him and our family but about creating a foundation of opportunity for future generations of Latinos and other disenfranchised Americans and community.

In the midst of all of the political turmoil, we also remembered that there was laughter and fun, and we always knew we were loved. We remembered family gatherings when Dad played his guitar and sang with our mother. We remembered his love for his sons-in-law, Michael Rose and Edward Allard, and the deep love and pride he had for his grandchildren, Lisa Elliott, Ricardo Olivarez, Michael Rose, Loushana R. Rose and his great grandchildren Emily Rose, Diego, Santiago, and Lourdes Olivarez and Mason Elliott.

The void my father leaves behind will always be filled with these and many more fond memories and values he left with us as part of his legacy. We miss him, and he will always be in our hearts with great love and pride.

Mr. Speaker, on behalf of the Roybal family, I again thank my colleagues for tonight's special order and for sharing their thoughts and special memories of my father, Congressman Edward R. Roybal.

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The Roybal family is also extremely grateful to my father's former Chiefs of Staff, Ed Avila, Henry Lozano, Dan Maldonado, Jorge Lambrinos, Harry Pachon and the Mayor of Los Angeles Antonio Villaraigosa and his staff, for providing so much help and support during this difficult time.

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We miss him and he will always be in our hearts with great love and pride.

Mr. Speaker, on behalf of the Roybal family, I again thank my colleagues for tonight's Special Order and for sharing their thoughts and special memories of my father, Congressman Edward R. Roybal.

Mr. LANTOS. Mr. Speaker, today I rise to recognize the contributions of an outstanding Californian. We lost a tireless public servant and inspiring colleague when Edward R. Roybal passed away on October 25th. He dedicated his career to a better America for minorities, the poor, and the elderly. This is a sad loss for our delegation, but also a time to reflect upon and remember the aspirations and accomplishments of an outstanding colleague and friend.

Edward Roybal served here for 30 years as the first Hispanic member from California in over 80 years. He was a founding member and the first chair of the Congressional Hispanic Caucus (CHC). He was a founding member of the National Association of Latino Elected Officials (NALEO) and the Congressional Hispanic Caucus Institute.

Before his election to the House, Ed worked in health education and fought for equal rights in housing, education and employment. Ed brought these passions to the House of Representatives in 1963, and made his mark as a visionary for a more inclusive America. In the years to come, Ed labored to pass legislation to outlaw age discrimination. He worked for numerous benefits and opportunities for those with handicaps. As we accept and embrace the rights of these fellow citizens, Ed was a trailblazer leading the way.

In his work on the Appropriations Committee, Ed led efforts to protect funding for programs for the elderly, including public housing programs for senior citizens, community-based alternatives to nursing homes, and the Meals on Wheels program. Ed also continued to fight for laws that treated all Americans fairly. He voted to pass the Equal Rights Amendment and played a key role in helping to pass legislation that reversed a 1989 Supreme Court decision allowing age-based discrimination in employee benefits. Ed retired following the 1992 elections leaving a thirty-year record of success for minorities, the poor and the elderly.

Los Angeles County, the Center for Disease Control and Prevention, California State Los Angeles, and the University of California, Los Angeles, recognized Ed with facilities carrying his name. President Clinton awarded Representative Roybal the Presidential Citizens Medal for "exemplary deeds of service for our Nation. These honors stand in constant reminder of the lives he touched through his public service to California and the nation.

When Ed retired, he left us an outstanding legacy when his daughter, LUCILLE ROYBAL-ALLARD, was elected to represent a part of his old Congressional district. She continues in that tradition of public service today as a valued friend and colleague. My wife Annette and I extend to her and all her family and friends our most sincere sympathy.

I ask all of my colleagues to join me in remembering a true public servant, Edward Roybal, who served California and our nation with honor, helping to make a better place for all Americans.

Mr. STARK. Mr. Speaker, I rise to honor the life of former Representative Edward Roybal who passed away on October 24, 2005. He is survived by his wife, Lucille Beserra Roybal, and his three children, Rep. LUCILLE ROYBAL-ALLARD, Lillian Roybal-Rose an Edward Roybal, Jr.

Edward Ross Roybal was born on February 10, 1916 in Albuquerque, New Mexico and then moved to the Boyle Heights area of Los Angeles at an early age.

He began his political career as many of us did—by losing his first run for office. In reaction to that defeat, he founded the Los Angeles Community Service Organization (CSO) with the goal of mobilizing Los Angeles's Mexican-Americans against discrimination in housing, employment and education.

In 1949, following a groundswell of support from minority communities, Mr. Roybal was elected to the L.A. City Council, the first Hispanic to serve on the city council in more than a century.

In 1962, he was elected to the U.S. House of Representatives representing an LA District that changed several times during his 30-year tenure in the House.

At the time of his election, he became the first Hispanic from California to serve in Congress since 1879.

He was one of the founding members—and became the first chair—of the Congressional Hispanic Caucus (CHC).

During his time in Congress, he ascended to the powerful Appropriations Committee, where he was an outspoken advocate for funding for education, civil rights, and health programs.

He was one of the first members of Congress to press for HIV/AIDS research funding.

He was a true advocate for senior citizens as well. He served on the Select Committee on Aging—and was the Chairman from 1985 to 1993. He worked tirelessly for the rights of senior citizens and was most proud of his efforts to protect and expand the Meals on Wheels program.

Upon his retirement from Congress in 1992, Representative Roybal was honored to see his daughter—and our colleague—LUCILLE ROYBAL-ALLARD elected to Congress to represent the newly-created 33rd District, which included a portion of the same district that Rep. Ed Roybal had represented in Congress for 30 years.

After leaving Congress, Ed continued to advocate for those he cared most about and founded a non-profit research agency, now called the Edward R. Roybal Institute for Applied Gerontology, at the California State University—Los Angeles campus.

In 1999, the Centers for Disease Control (CDC) honored Rep. Roybal's support for public health programs by naming its main campus in Atlanta in his honor and awarding him its Champion of Prevention Award.

Rep. Roybal was a tireless advocate for the less fortunate. He served his country with honor both in uniform and in this Congress. His contributions will be remembered and celebrated; his death will be deeply mourned.

On behalf of Congress, I extend my deepest sympathies to those he loved and those who loved him. He had a rich life and we can best honor him by striving to live up to his example of how best to serve.

Mr. MENENDEZ. Mr. Speaker, I thank my distinguished colleague and good friend from Texas for organizing this Special Order and for yielding me this time.

Mr. Speaker, I rise today to pay honor to a visionary leader, a distinguished public servant, and a great American, the late gentleman from California, Edward Roybal. Though I never had the pleasure of serving with Congressman Roybal in the House, I hold him in the highest regard, and I am grateful for the opportunity to join my colleagues in paying tribute to this amazing man.

Today, we mourn the loss of a truly inspiring individual, who spent his long career working to improve the lives of the underprivileged and underrepresented.

During his 30-year tenure in the House of Representatives, Congressman Roybal served with distinction and established himself as a powerful voice in the fight for social justice and a trailblazer among Latino leaders. He rose from the ranks of local politics to become one of the most powerful members of Congress, eventually serving on the House Appropriations Committee.

Though Congressman Roybal was not the most outspoken member of Congress, he was known as a man of action. He worked diligently to give a voice to the voiceless, and fought to make significant policy changes to important issues that affected his constituents, especially the elderly, Latinos, and immigrants.

Even before his political career began, Congressman Roybal was fighting for civil rights and working to create unity in his East Los Angeles community. He established the Community Service Organization, which partnered the Jewish and Mexican-American communities in efforts to end the discrimination he witnessed in education, housing, and employment.

In 1949, Congressman Roybal overcame threats and racism to become the first Hispanic to serve on the Los Angeles City Council in more than a century. Though he faced discrimination, he was not deterred. He used his experiences as motivation to invoke change, and spent his career in public service advocating civil rights. As a leading figure in the Latino community, he worked to address the issues facing his many Latino constituents, whose problems were often ignored. Congressman Roybal understood the importance of supporting the Hispanic community—and in a country with more than 40 million Latinos, we see that his investment in this community was well founded.

As the son of immigrants, I applaud Congressman Roybal's work to protect the rights of those coming to America in search of a better life. He played a pivotal role in getting Congress to support funding initiatives for educational and medical services for immigrants, and he authored the Bilingual Education Act of 1968—the first federal law of its kind.

Congressman Roybal's efforts to help those that society often overlooks did not end there. During his extensive career in this chamber, he played a critical role in developing legislation to improve the lives of the elderly. As the founder and chairman of the House Select Committee on Aging, he was committed to improving housing and health care for our nation's seniors.

In the 1980s, when the country knew little about HIV and AIDS, Congressman Roybal was instrumental in securing funding for research of this deadly disease. His hard work inspired the Centers for Disease Control to rename its main campus after him.

The first Mexican-American to represent a district of California, Congressman Roybal began his career in the House in 1962, joining Henry B. González as the second Hispanic serving in the chamber at that time.

But Congressman Roybal was not content being merely a shining star among Latinos. He made it his personal mission to see that others would follow and served as a mentor to numerous lawmakers and aspiring public servants. He went on to found the Congressional Hispanic Caucus Institute and the National Association of Latino Elected and Appointed Officials, both influential organizations that empower Latinos and encourage their participation in politics. Today, thanks in part to CHCI's work and NALEO's advocacy, more than 6,000 Latinos serve in elected and appointed offices. Within the halls of Congress, he founded the Congressional Hispanic Caucus, which today boasts 21 members.

Congressman Roybal helped pave the way for Latinos in politics, and all of us serving in Congress—myself included—owe part of our success to him. I know his daughter, Congresswoman LUCILLE ROYBAL-ALLARD, feels blessed to have had such an inspiring figure in her life, and I'm sure Congressman Roybal enjoyed seeing her continue his legacy in the House.

Once introduced as the "new Mexican councilman who also speaks Mexican," Congressman Roybal not only educated public officials about the Latino community, but created a lasting legacy in Los Angeles, where he has more buildings named after him than almost any other politician in the city.

Congressman Roybal received numerous honors, including two honorary doctor of law degrees and the Presidential Citizens Medal of Honor. But it is not his awards that people will remember. It is his dedication to serving his district and the Nation.

Edward Roybal was a man ahead of his time, who saw beyond the limits society tried to impose. His vision for this country has empowered and improved the lives of many in this Nation—and I would not be standing here in the midst of so many of my distinguished Latino colleagues if it hadn't been for the work of leaders like him. We are impressed by his many accomplishments and truly grateful for his outstanding service.

I would like to offer my sincere condolences to his wife, Lucille, and to my dear colleague, LUCILLE ROYBAL-ALLARD, and her entire family. May they take comfort in the proud legacy that Congressman Roybal left behind, and may they find peace in knowing that his mission to defend civil rights and empower Latinos will be taken up and continued by those of us here today.

Mr. HINOJOSA. Mr. Speaker, I rise to pay tribute to one of the most pre-eminent trailblazers in the Hispanic community—the recently departed former Congressman Edward Roybal from the great State of California.

Recently, we celebrated the unveiling of the portrait of Romualdo Pacheco—the first Hispanic elected to this body from the State of California. The man we honor today, Congressman Edward Roybal was the second Hispanic Member of Congress, elected in 1962—over 80 years since Congressman Pacheco served.

Congressman Roybal was a founding member of the Congressional Hispanic Caucus. He was also one of the founding members of the National Association of Latino Elected Officials (NALEO) and the Congressional Hispanic Caucus Institute. He made sure that the voice of the barrio was heard loud and clear in our Nation's capital. His example looms large over all of the work we do today.

Congressman Roybal wrote the first bilingual education law. He was a tireless champion for children and families whose first language was not English. He made a personal commitment to ensuring that language was no barrier to education, health services, voting rights, our court rooms and other areas vital to the community.

He was a champion for elderly Americans. He served on the Select Committee on Aging and fiercely protected programs such as Meals on Wheels.

As we prepare for the reauthorization of the Older Americans Act, his handiwork is evident, and his spirit lives on.

After leaving Congress, he found new venues for his advocacy. In 1993, former Representative Roybal used his leftover campaign funds to found a non-profit research agency dedicated to improving the quality and effectiveness of health and human service delivery to older persons, now called the Edward R. Roybal Institute for Applied Gerontology at the California State University—Los Angeles campus.

Here in the halls of Congress, his legacy continues. The Congressional Hispanic Caucus that he founded is now 21 members strong and poised for growth. His daughter, our friend and colleague, Congresswoman LUCILLE ROYBAL-ALLARD, carries on the family tradition of service and great leadership. LUCILLE has earned the respect of Members of Congress on both sides of the aisle the same way her father did it during his many years of service in Washington.

The best way we can honor Edward Roybal's memory is to continue the fight to improve the quality of life for our community—young and old, immigrant and native born, English speakers and speakers of other languages. To the Roybal family, I offer my heartfelt condolences and my pledge to continue the fight.

Ms. MATSUI. Mr. Speaker, I rise today in tribute to the late California Congressman Ed Roybal.

Ed Roybal left this nation a rich legacy. He was a civil rights and social justice champion. He was an advocate for those least likely to have a voice—the poor and the elderly. Ed Roybal consistently fought to invest in people, seeing the long-term benefit and future pay-off of this investment.

But Ed Roybal also forged a path in politics creating new opportunities for many Hispanics. Not only was Ed an inspiration to future generation, he actively worked to encourage many in the Hispanic community to explore a future in politics—personally serving as a mentor to a number of future elected officials.

While I did not serve with Ed Roybal, my late husband did. Bob was honored to have served in the House of Representatives with him, as he greatly admired Ed. They shared a similar philosophy. Both chose not to allow discrimination in their youth define their role in life. Instead of condemning intolerance in this nation, Ed Roybal, chose to serve and make it a better place.

To my friend and colleague, LUCILLE and the entire Roybal family, please accept my deepest condolences on your loss.

Mr. BERMAN. Mr. Speaker, Edward Roybal was a man of dignity and determination. I had the great pleasure of serving in Congress with him for 10 years. During that time, we worked very closely on immigration issues and on many matters affecting Los Angeles and California. He was not only a colleague, but my mentor and my friend.

Ed served his country in the Army during World War II and returned to serve it as one of America's political trailblazers.

Beginning with his first election to the Los Angeles City Council in 1949, Ed's distinguished career in politics spanned more than six decades. He was the first Hispanic elected to the Council since 1881 and he served there for four terms. It would take 23 additional years before another Mexican American took a seat on the City Council.

Although "just" a city official, Ed was a vociferous critic of the excesses of the House Un-American Activities Committee—and Jewish leaders in Los Angeles well remember how he stepped forward in the early 1950s to welcome the prime minister of Israel to the City of Angels.

In 1962, he was elected to Congress—the first Hispanic from California to serve in Congress since 1879. From that first campaign, the support given him by his constituents was unwavering. He never received less than 66 percent in a general election. The three times he was challenged in a primary, he won by more than 80 percent.

From his position as chairman of the Appropriation Committee's Subcommittee on Treasury, Postal Service and General Government, he sought funding for Alzheimer's victims, and for Alzheimer's disease research.

He introduced a medigap proposal, and had a universal health care bill. He promoted a measure to offset a national nursing shortage by providing funds to recruit and raise the salaries of nurses.

He also took on the cause of mental health treatment, passing provisions that expanded demonstration projects for rural mental health care and establishing a national mental health education program.

In 1985, he succeeded Representative Claude Pepper as chairman of the Select Committee on Aging. The two of them worked long and hard to provide funding for long-term health care for the chronically ill. In the 101st Congress, he helped enact legislation that reversed a 1989 Supreme Court ruling allowing age-based discrimination in employee benefits.

As a founding member and the first chairman of the Congressional Hispanic Caucus, Ed mounted strong opposition to the Simpson-Mazzoli immigration bill because it imposed sanctions on U.S. employers who hired illegal immigrants. He worked against this provision with such intensity that it had to be brought up in three Congresses—two as Simpson-Mazzoli and one as Simpson-Rodino—before it finally won passage. I supported it, and learned in the process, that he could be not only a good friend, but a worthy adversary.

After his retirement from Congress, Ed maintained his interest in health care and public health programs and to this end, he founded the Edward R. Roybal Institute for Applied Gerontology at UCLA. The Centers for Disease Control named its Atlanta campus after him and named him their "Champion of Prevention"—an honor reserved for individuals who have made significant contributions to public health. He was also honored by President Clinton with the highest civilian award in the Nation—the Presidential Medal of Freedom— for his "exemplary deeds of service for our Nation."

No award meant more to him than the affection and respect of his family. He was enormously proud of his three children, LUCILLE, Lillian and Edward, Jr.—and I am certain that he was greatly pleased that his oldest daughter followed him into public service and into this great body, where U.S. Representative LUCILLE ROYBAL-ALLARD serves with dedication and distinction and where she is one of my favorite colleagues.

I am privileged today to tell you of my enormous regard and high esteem for Edward R. Roybal—a mentor for a whole generation of Hispanic community leaders, a prominent national advocate for the elderly and the infirm, and a great champion for civil rights and social justice.

Mr. WAXMAN. Mr. Speaker, I rise to pay tribute to the life of my former colleague, Edward Ross Roybal.

Ed Roybal lived an extraordinary life. As a young man growing up during the Great Depression, he joined the Civilian Conservation Corps. Later he served his country in World War II.

He made his jump into politics—and into history—in 1949. Ed was elected to the Los Angeles City Council, becoming the Council's first Hispanic Member in over 100 years. After 13 years of distinguished service to Los Angeles, Ed was elected to the House of Representatives.

From 1963 to 1993, Ed Roybal served this House—and his constituents—with distinction. He was a quiet power on the Appropriations Committee and used his enormous influence to help those who needed help the most. He worked tirelessly for funding health and civil rights programs and spearheaded efforts to restore funding for programs benefiting the nation's elderly population. He was ultimately successful in preserving the widely used Meals on Wheels program.

In 1976, Ed was one of the founding members of the Congressional Hispanic Caucus and served as its first chair. He was also one of the founding members of the National Association of Latino Elected Officials, NALEO, as well as the Congressional Hispanic Caucus Institute.

After deciding not to run for re-election in 1992, Ed's daughter, LUCILLE ROYBAL-ALLARD was elected to Congress to carry on Ed's essential work.

His service to his community did not end when he left public office. In 1993, Ed established a non-profit research organization committed to efficient health and human service delivery to the elderly. The center is now known as the Edward R. Roybal Institute for Applied Gerontology. In 2001, Ed Roybal received the Presidential Citizens Medal from President Clinton. And in 2004, the Mexican-American Political Association honored him as a "Latino Legend of the 20th Century."

Ed Roybal will always be remembered as a dedicated community activist and a devoted public servant who always made the needs of those he served paramount. His life and work will continue to serve as an example to us all. I was proud to have served in the House with him and I consider him a friend and mentor.

Mr. ORTIZ. Mr. Speaker, today we mourn the loss of a 20th Century American giant, Congressman Edward Roybal. When I got to Congress so many years ago, there were not many people in Washington that I could identify with or look up to as a role model. There were just a few Hispanics in Congress when I arrived there. Nobody stood taller than Ed Roybal in my eyes. He was already a legend in Congress and Los Angeles.

Lord knows we were different—he was a businessman from California, I was a sheriff from Texas. But we were more the same for our backgrounds in families that came from modest means. We both represented a large number of low income people.

We met in 1976—the year the Congressional Hispanic Caucus, or CHC—was founded. Even then he was organizing the nation's elected Hispanic officials; and as a County Commissioner in Texas, I was invited to a conference on Hispanic matters.

My first impression was what a gentleman he was, and how smart and well-organized. He seemed to know everybody and know everything about the organs of government at all levels. He was a charming and gentle mentor. Paying tribute to Ed Roybal is to remember that to see the future, you must stand on the shoulders of a giant. And this Hispanic pioneer had giant shoulders on which we all stand today.

When Ed came to Congress in 1963, he was nearly alone as a Hispanic member of Congress. He faced quite a quandary: While he represented a Los Angeles area district, he carried the hopes and dreams of a growing segment of the population that lived all over the Nation.

When he left Congress in early 1993, he saw not only his beloved daughter win a seat in Congress—he witnessed yet another growth spurt of the number of Hispanic members sitting in Congress. That year our Caucus grew to 20 members, quadrupling the membership just over a decade earlier when Ed founded the CHC.

Ed knew that he and his Hispanic colleagues: Herman Badillo, Kika de la Garza, Henry Gonzalez, and Baltasar Corrada del Rio represented disjointed districts and the interests of the national Hispanic community. It was Ed's leadership in this group that led to the creation of the Congressional Hispanic Caucus in 1976.

When he talked about the formation of the CHC, he talked about the use of other Hispanic members as a "force multiplier"—or the philosophy that more people working together created more opportunities and more information for the larger national community. In the beginning, there were just the five members and they all sat on various committees. Ed knew if there was a central organization for the sitting members, it would be easier for all of them to know what was coming in the various committees.

In Washington, information is power. Ed understood that and through the CHC the Hispanics in Congress shared information in a regular, organized way.

He was an extraordinary visionary. Just as he organized the Hispanic members of Congress to maximize our numbers to serve the larger Hispanic population—Ed also carried that vision beyond Capitol Hill.

He helped create the National Association of Latino Elected Officials, NALEO, which connects the Hispanic office holders around the Nation.

Visiting Ed's Capitol Hill office was to take a walk through the important events of the 20th Century.

There were pictures of Ed with President Kennedy, with President Johnson, with Cesar Chavez, and with dozens of other bigger-than-life people. His office seemed almost like a living museum.

He loved his wife very much. They were a beautiful couple. They were always together and he was so attentive.

He was forever explaining to the younger members: the issues are large and complex, and our population is growing, be smart. He was enormously respected on both sides of the aisle and that may have been the legacy he will be remembered for by those of us who labor on Capitol Hill.

Ed never believed the other party was bad or evil; he knew we were all Americans, and we all wanted the best for our Nation.

He brought his considerable business sense to our cause.

Realizing that our future was literally ours to shape, Ed founded, in 1978, a non-profit called the Congressional Hispanic Caucus Institute, whose main purpose was: "each one, teach one."

CHCI, the Institute, was created to bring young people to Capitol Hill each year, put them in congressional offices to learn and understand the dynamics of our government, then send them back to their communities with more savvy about affecting change at the national level. In the early 1980s after my service in Congress began, Ed pointed out that we were wasting precious resources on rent for the Institute on Capitol Hill and insisted that we buy a building. He told us this was literally an investment in our children's future, and in the future of the Hispanic community. As always, he was right.

While Ed was a quiet man, he had an unwavering commitment to the principles of justice and compassion and to the poor, the elderly and the disenfranchised. He had an enormous heart, a quick wit, and was among the smartest members I ever served with. I was always fascinated by his stories of his early days in the 1960s when the population of Hispanic members of Congress could be counted on one hand. Many of his stories reminded me of experiences many of us shared—how other members of Congress were surprised that he spoke English fluently, with exceptional diction how people didn't think he was Mexican because he didn't have a long mustache or wear a sombrero.

Ed Roybal's legacy simply cannot be measured but it can be found in policies he championed, in the organizations he created to further the cause of Hispanic Americans, in the thousands of young lives he touched and influenced during the course of his amazing public service and in the service of his daughter who went on to follow in his footsteps in Congress.

Mr. LANTOS. Mr. Speaker, at the recent memorial service for our former colleague the Honorable Edward Roybal of California, whom we remember tonight, my distinguished friend the Honorable DAVID DREIER delivered a moving eulogy. The remarks that I will submit for the CONGRESSIONAL RECORD include Mr. DREIER's recollections of the powerful influence that our friend Mr. Roybal had on this House. It is in that same bipartisan spirit that I compliment my colleague, Mr. DREIER, for his comments. Mr. Speaker, I ask unanimous consent that the remarks of Mr. DREIER be included in the CONGRESSIONAL RECORD.

STATEMENT OF THE HONORABLE DAVID DREIER HONORING FORMER CONGRESSMAN ED ROYBAL, NOVEMBER 15, 2005

Mr. Speaker, recently, our nation lost two icons in the battle for equal rights. Twenty-five years before Rosa Parks refused to give up her seat on that bus in Montgomery, Alabama, a young Ed Roybal was in the vanguard of the struggle for equality here in Los Angeles.

Speeches are given in Congress every day. Mr. Roybal's account of his fight for justice was one of the most memorable speeches I've ever heard.

He told a packed House chamber that the Evergreen swimming pool in Boyle Heights was a favorite neighborhood hangout where fun was had by all. There was just one problem. They would only allow Mexican Americans to swim the day before the pool was to be cleaned. Still a teenager, Ed Roybal led the effort to overturn that abhorrent policy.

Without bitterness or anger but with resolve he spent the rest of his life confronting the Evergreen pools that pervade our culture and laws.

The Times called him, "a mentor to scores of lawmakers." I hope this doesn't upset anyone but he had at least one Republican protege who has been inspired by his example. Mr. Roybal was a giant in public service. A gracious man, who through his conscience and his actions was one of the great leaders of this city and our nation.

I have served in Congress for twenty-five years. It has been an honor to be a colleague of Mr. Roybal's for half that time and a colleague of Lucille's for the other half. There is no greater tribute to his legacy than the dedication of his daughter to the very same ideals and beliefs that guided him.

Ms. ZOE LOFGREN of California. Mr. Speaker, it is with a heavy heart at the loss but pride for the service of Congressman Ed Roybal that we yield back the balance of our time.

MEDICARE PRESCRIPTION PART D DRUG PLAN

The SPEAKER pro tempore (Mr. DAVIS of Kentucky). Under the Speaker's announced policy of January 4, 2005, the gentleman from Georgia (Mr. GINGREY) is recognized for 60 minutes as the designee of the majority leader.

Mr. GINGREY. Mr. Speaker, I have an hour as the designee to talk about the subject that I want to bring to my colleagues, but I think I need to take at least a few seconds of my time from this side of the aisle to express my and our heartfelt sympathies to our colleague, the gentlewoman from California (Ms. ROYBAL-ALLARD), on the death of her father.

I spent the last 15 minutes listening to their special hour and learning about that great, great American who represented the State of California so well in this body for 30 years; and I want to express my sympathy to my colleague from California.

Mr. Speaker, today, November 15, is a historic day and not just because it is my wife Billie's birthday, which it is. Happy birthday, honey. But really the historic aspect of today is the roll-out and the sign-up today for the first of a 6-month window of opportunity for our seniors to voluntarily sign up for the Medicare part D prescription drug plan which this Congress made available to them in December of 2003. So indeed, Mr. Speaker, today, November 15, is indeed a historic day.

I have seen clips of the original signing of the Medicare legislation back in 1965 when President Lyndon Baines Johnson signed that bill into law. Actually, the very first person to sign up for the other voluntary part of Medicare, the part B which is applicable to the physician care and outpatient testing, not the hospital part but the voluntary part, the first individual to sign up for that was former President Harry Truman, that being 40 years ago.

Here we are now finally, Mr. Speaker, after all of these years, offering something that was left out of that original program, I guess for a fairly good reason. Maybe back then, I was a freshman in medical school. I barely knew who was happening, but there was not quite the emphasis then on prescription drug treatment. We had some good prescriptions but not nearly what is available to our public and our seniors today; and there was much more emphasis on trying to get hospital care and needed surgery, emergency room care, indeed long-term care, skilled nursing home care for people who had, as an example, suffered a stroke.

So this was all very, very important in the program; and I know my colleagues on both sides of the aisle would agree with me it has been a great success. There was some concern, though. I remember this much about it as I was working as a scrub technician during the summertime hearing the doctors at the scrub sink before they went into surgery, talking about this new law that was going into effect, this Medicare bill. There was some naysayers, no question about it, and some were downright opposed to it. But so many seniors were living in poverty and not getting needed health care, and it at that time was a Godsend for them.

Mr. Speaker, I will say this. I think today, starting today, November 15, 2005, some 40 years later another Godsend is coming to our seniors, brought to them by this Congress and this President, this administration, and that is the Medicare part D prescription drug coverage. It is especially a Godsend for those seniors who are living at or near the Federal poverty level, and I say that because heretofore they have not been able to afford prescription drugs.

They go to their doctor and get maybe a handful of prescriptions because many of our seniors who are living just off of a Social Security check are the very ones that have what are called co-morbidities, more than one disease, maybe high blood pressure, heart disease and diabetes; and they need to take four or five or maybe six prescriptions a day. They are the very ones who cannot afford it, not that they do not want to. They want to take care of themselves, but they also want to eat, and they want to have a roof over their head, and they have to pay their utility bills, so this program is so necessary for them.

In the past, Mr. Speaker, what has been happening is they would put off taking care of themselves because they have could not afford the prescriptions. Then, when some catastrophe would occur, they would finally get care, whether it was in the emergency room because their high blood pressure led to a stroke or whether it was on the operating table because their blood sugar, their diabetes was out of control and led to a limb becoming gangrenous and needed an amputation or maybe even because of high cholesterol they would have to have open heart surgery.

□ 2130

We have finally begun this prescription drug part D sign-up as of today, and that is what makes November 15, 2005, so historic.

I want to spend most of my time then talking about this aspect of the Medicare Modernization Act of 2003. There are other things that I think are going to be tremendously helpful.

I will mention just briefly, Mr. Speaker, the fact that with this change in the law, for the first time a senior can actually go to his or her internist or family practitioner, we call them primary care specialist, and get a complete, thorough physical examination when they turn 65, if you want to call it an entry-level physical examination. In the past, that was not paid for, and a lot of these diseases that I have already spoken of in their earlier stages have no symptoms at all, and people really do not know, but with this new program, they get an opportunity to go have that physical exam.

Also included in the modernization piece is the coverage for a lot of screening tests that were not included in the original Medicare. I am talking about things like mammograms, screening for breast cancer obviously; colonoscopies, screening for colon cancer; PSA blood testing, screening for prostate cancer. I am talking about checking blood sugar. I am talking about getting a cholesterol level to see if the patient needs to be on one of these statin drugs that do such a great job of hopefully preventing heart attacks.

All of this is now available to our seniors. I am not going to spend a lot of time, as I say, Mr. Speaker, on that aspect of the bill because I really do want to spend most of the hour talking about the prescription drug part because it is so important.

I have got a few posters here, and we will be referring to them from time to time. I also have some of my colleagues that have worked so hard and been so supportive of this legislation and are working hard in their districts as we roll out this program. As they go home, usually we get back into the district on Thursday or Friday morning, and I know a lot of our colleagues on both sides of the aisle are holding town hall meetings and trying to explain to the seniors and assure them that although this is somewhat complicated, there are people there to help them through the process and encouraging them, especially the low-income individuals that I spoke of, to sign up and sign up early.

They do have 6 months to do it. It starts November 15, today, and goes until May 15 of 2006. They have that window of opportunity; but it would be a real mistake, particularly for our low-income seniors, not to get signed up before the end of the year because the program really starts, Mr. Speaker, and I know my colleagues are aware of this, it starts on January 1. So if they wait till the last minute into May of 2006, they will have actually missed 5 months of opportunity, in many instances, to get their prescription drugs with hardly any cost, and I will repeat that, with hardly any cost except maybe $1 if their medication is a generic drug and $3 to $5 if it is a brand-name prescription drug.

So I will have a number of my colleagues joining me, and we will be calling on them in just a few minutes. I want them to take as much time as they would like to talk about what they are doing in their districts, how they feel about this program, what sort of feedback they are getting from their seniors, and then maybe we will engage also in a little bit of colloquy.

Let me call my colleagues' attention to this first slide, which I think begins to tell the story: "Helping seniors get the medicine they need to stay well." That is what it is all about. It is not an emphasis on episodic treatment and maybe trying to catch the horse after the barn door has been left open when some catastrophe occurs. It is so much more difficult, rather, to get the medicine they need to stay well. I do not think we can really emphasize that too much.

Now, Medicare helps seniors prevent disease in addition to treating it. I said at the outset, in 1965, all of the emphasis was on treating it, and that was good, but not the 21st century medicine. We need to emphasize the prevention of disease.

Medicare part D, it is important that our seniors know that this option, prescription drug coverage, really is for all seniors. It is not just the low-income. I mentioned them, and we will talk about throughout the hour, but no matter what a person's income, if they are a Medicare recipient, either because they are 65 years old, and that is probably 36 or 37 million in this country, or because of a disability at a younger age, and there are probably 6 million or 7 million of our citizens who are on Medicare because of a disability, but all of them, no matter what their income level, they are eligible for Medicare part D.

As I point out in this next slide, it is a voluntary program. Seniors must choose to enroll. They will be getting lots of information and have gotten lots of information, whether it is public service announcements on television or mail pieces that have come from CMS, the Committee on Medicare and Medicaid Services, information maybe they obtained from a senior center, from their physician's office or, indeed, from their Member of Congress' office, either in Washington or in the district, but they do have to make that decision. It cannot and will not be made for them.

There are going to be many plans. Seniors will have a choice of plans. We estimate that the monthly premium, and it is premium-based just like Medicare part B, Mr. Speaker, is a premium-based and an optional program. By the way, I would guess that I am accurate in saying that 98 percent, maybe more, of seniors have chosen and will continue to choose to enroll in that premium-based part B that covers the doctor's expense and outpatient testing and surgery because it is a very good deal.

We will talk a little bit later about what percentage of seniors we think will want to sign up for the Medicare part D, the prescription drug part; but it will be a substantial number. We are estimating that the monthly premiums for that monthly benefit will be about $25 on average, some plans less, some plans more, depending on what the coverage is.

All Medicare-approved plans cover both prescription and generic drugs, and they are accepted at local pharmacies. That is very important because people want to know if they can continue to go to that corner druggist. In no way am I suggesting that the chains, the Eckerds, the Walgreens, the CVSs that do such a great job, are not a wonderful place to go and get prescriptions filled. They are. Many of our seniors will choose that type of location, but others who have a pharmacist friend that they have known for many years, they call them doctor and go to church with them, a lot of times they are able to charge their prescriptions and pay a little bit along, the kind of service that only a small corner druggist can give. That is very important that they know that they will be able to continue as part of this program to be serviced by those great pharmacists that we call corner druggists.

Mr. Speaker, before I call on my colleague, the gentleman from Texas (Mr. CARTER), for his remarks, I want to just present one more poster; and, again, I do not think we can emphasize this too much, that is, this issue of the dates; and I have already mentioned several times that today is the starting date, November 15, for enrollment. This little icon, if you will, shows an hourglass, and that means that starting today the sands of time, that 6 months, is ticking away. Of course, the program, if you get signed up right away, you reap the benefits starting January 1. Then if you sign up before May 15, that 6-month window, then you incur no penalties; but after that, there are some penalties for signing up late. Again, I am sure some of my colleagues will talk about that.

At this time, I am very happy to see the gentleman from Texas (Mr. CARTER) with me again to share one of these hours on health care issues. The judge knows a lot about legal issues and the judiciary, but he also knows a lot about health care. So I am honored at this time to yield to the gentleman from Texas (Mr. CARTER).

Mr. CARTER. Mr. Speaker, I thank my colleague, the gentleman from Georgia (Mr. GINGREY), my good friend, for yielding to me; and I actually came down here because, Mr. Speaker, the gentleman from Georgia (Mr. GINGREY) is probably one of the people that has dedicated more time and effort to the health care issues that affect the American public than any other Member of this Congress.

On many occasions, he has educated me on health care issues and given me good advice and good counsel on how we need to make health care available, because the health of our Nation is very important to the gentleman from Georgia (Mr. GINGREY) and all Members of this House on both sides of the aisle. We battle and toil with how exactly we are going to address health care issues.

I really wanted to start and come down here and share with the gentleman from Georgia (Mr. GINGREY) an absolutely true event that happened to me personally; I guess by now it is probably almost 2 years ago or maybe even better. It was right after I was blessed to join this august body.

I was back home in my district, and I was back at my pharmacy, that I am not going to advertise for, but where I regularly buy my prescription drugs. I was standing in line for my turn to get prescription drugs, and I am sure people have told this story that I never had actually experienced, a story like this, until I heard the story.

There was a lady that was at that time being waited on by the pharmacist there at the counter and getting her prescription drugs, and they brought them to her. She was getting two prescriptions as I recall, one for herself and one for her husband. I do not know how old this lady was, but she was clearly on Social Security because she said so. This was when we were still working on trying to come up with a prescription drug benefit that would help our senior citizens.

She asked the pharmacist how much the two prescriptions were going to be. The price was very expensive for both of the drugs that she was going to have to pay, and between the two drugs, it was going to add up to, as I recall, over $500 for these prescriptions. She told the pharmacist, well, I cannot get these two prescriptions and continue to feed my husband and me on what we have to live on; I am just not going to be able to do it. Would it be possible that I could get half of the prescription?

The pharmacist said, well, ma'am, the one for you was obviously for something that had come upon her. The other was an ongoing prescription for her husband, the way I understood it. He said, your doctor has a reason he wants you to have this whole prescription. It may have been an antibiotic or something like that. I am not in the medical profession, but the pharmacist clearly said you need to take all of this prescription; you just cannot take half. Well, she said, ma'am, I just cannot spend that kind of money and take care of my family.

When you heard that, when you actually heard that from a human being, you said to yourself, we have got to do something to get some relief for people like this lady that was standing there. I was two people back from her in line, and what I heard that day from that lady touched my heart to where I really felt like I had seen the crisis firsthand.

☐ 2145

We have now put together Medicare part D, as my colleague from Georgia has been explaining and will be able to explain in far better detail than I can as to what the benefits are for this, but we have now got a solution for that lady who was standing in line, and it is now time for people to start going out and getting signed up for Medicare part D. That is why I wanted to come join my colleague tonight in the hopes that people in my district and people across this entire country will hear our message that the time is here. We have arrived at the time when they need to go down and register to get involved in Medicare part D. And benefits will actually start, as Mr. GINGREY has explained, in January of 2006.

Now, I have traveled my district and I hold town hall meetings, and a lot of our senior citizens are concerned about, well, this seems so complicated, I do not know whom to turn to. And we are here to let the people know this is important to them and their loved ones. There are people there to assist them.

I would ask the families of those Medicare recipients that need help, sometimes as we grow into our later years, little things become big things to folks like my parents, who now are deceased, but I can remember when they become big things for them as we grow older. And I would hope that the families of these people along with these folks will encourage them to go look into getting registered, getting set up in a plan.

There are multiple plans that are offered. There are people there to help them understand those plans. There are people to tell them what fits their life, their life-style, where they come from, and I would hope not only those people who are going to be eligible for the program but those people who have folks in their family that will be eligible for the program will encourage them to go down and talk to folks, get the help, get signed up.

It is not as complicated as people think it is. There is a lot of fear that is unwarranted fear of this program. It happens on everything we do. When we deal with the government in many areas in our lives, dealing with the government is a frightening thing, dealing with plans and paperwork. This is cut down to where it is not going to be that hard to understand the plans.

There are people there to look at what people's circumstances are and tell them and show them which plans offer them the best options. Every State except Alaska has a State plan, as I recall. There are regional plans, and there are 10 nationwide plans that are available. There are multiple options that they can talk to them about. People can talk to their pharmacists. Medicare has people that will help them.

Call that number, 1-800-Medicare, and they will explain how to sign up. It is so important to your family. Do not let a little fear or a new world attitude that you do not understand keep you from getting signed up for a benefit. Because this is going to be able to assist all Americans in their health care needs, and it is especially going to be of great assistance to those people who are in the lower economic sector of our country. In most instances, those people who make, I think, $11,500 as an individual and $22,000 as a couple, they are basically not going to have hardly any Medicare costs for drugs. So it is important that you not let the fear of a new program or something you might have seen on television or some political rhetoric that was in some campaign somewhere that got you concerned that you would not be able to understand what the program is about to keep you from getting what you need so that you never have to be like that lady who stood in line in front of me and have to make a decision as to whether you took your medicine.

Does my colleague know what was really loving about that story? There was no question she was going to buy her husband's medicine. She never even blinked on that. She was saying, I will give up so we can live our life here what I need, but of course there is no question I am buying the medicine for my husband.

That kind of love permeates American society, and I think we have a duty to our loved ones who are eligible for Medicare to help them and encourage them to go get signed up for this. Because Americans do care about their elderly. Americans do care about those senior citizens who have given all that they had for us today. It is time for us to give them the benefits that they need so they do not ever have to have the kind of experience that that sweet lady did who was standing in front of me at the drugstore.

That is why I came down here tonight, to join Congressman GINGREY and speak directly to the American people and say, get out there and help, get out there and get yourself registered, or get somebody to help you get registered, because these benefits are important. There are occasions now where people say, right now, prescription drug benefits do not mean much to me. One never knows what is right down the road, and it is important that people get registered now and have those benefits available. Because in the month of May, they may come down with something where they have got a permanent situation where for the rest of their life they are going to be taking medicine, and if they had not gotten registered, then they would be in a scramble trying to get registered. So it is important to look at it now.

Mr. Speaker, one of the things that I think is most important as we sit here this evening is to encourage our seniors and their families to assist our seniors to get out and learn about the program and get signed up. Getting signed up is what it is all about. Trained professionals are available 24 hours a day, 7 days a week at 1-800-Medicare.

They have got a Web site, and I am reading from Congressman GINGREY's sign, www.Medicare.gov, for those high-tech seniors, who are probably better at that than I am, to get out there and do this on-line. There is a lot of help available.

I hope that that lady who was standing in line in front of me in the drugstore in Round Rock, Texas, I hope she hears, by accident or whatever, channel surfing, and tunes into this show tonight and will say "I had better go do that."

I think our colleagues on both sides of the aisle are going to be out in our districts talking to people and saying do not let something new keep you away. Get out there and get involved and get signed up.

Mr. GINGREY. Mr. Speaker, reclaiming my time, I thank the gentleman from Texas for being with me. I appreciate his comments tonight. I welcome him to, if possible, to stay around and maybe we can get involved in a colloquy or I can respond to his questions and yield to him.

Mr. Speaker, the thing that he pointed out, that little anecdote, true story, about that little lady in Round Rock, that is why it is so important. I appreciate Judge Carter mentioning that, because this is real, and the emphasis that he put in his remarks on how important it is to get signed up is real.

Thanksgiving is going to be upon us pretty soon. I think I am correct in saying a week from Thursday. And what comes the day after? Well, I call it "black Friday," Mr. Speaker. That is that big shopping day, the first day of the Christmas season when everybody hits the malls. I think that would be a great day for families, children, grandchildren to sit down with their grandparents, children to sit down with their parents and help them. That would be a wonderful day. It would save money as well, probably. The retailers may not like me very much, Mr. Speaker, for mentioning that, but that would be a great day to just sit down and say, look, I am pretty good at the computer, Mom, Dad, and let us go on-line, let us get on www.Medicare.gov.

If I tried to do that, that computer would start smoking, and everybody in my office knows that. Anytime I need to do anything on the computer, they have to hold my hand. So I understand the need and the fear of computers. But really for the younger people especially, it is a challenge. It is pretty easy for them. They have learned it in high school and college, and some of them even work in the industry. So help is readily available, as Judge Carter said; and it is not that difficult.

I called this morning. I think it was about 8:30, and I decided I was just going to call 1-800-Medicare just to see how long it took to get somebody on the telephone. Mr. Speaker, I had a response in about 3 minutes. The first time I dialed, I got a busy signal, and so I immediately, within a matter of seconds, dialed again and got right through and began the process.

Now I am not quite 65, and I did not have a card and a number, so at some point I had to quit. I had to hang up. It was a bogus call. But I was very impressed.

Of course, CMS has hired and trained, and that is very important, not just hired but trained probably by a factor of four the number of employees that they normally have responding to these calls. So, as Judge CARTER said, that information, that help is there, whether it is by the telephone or on the Web site, and we will get into the specifics of how a senior prepares themselves for this process. There is something called worksheets that are available through CMS. Those are easily obtained, and people just kind of go through that worksheet. We will talk about it a little later in the hour, so that when those questions come up, and, again, they are not difficult, they know the answers, and we can help them through the process.

Mr. Speaker, I see that we have been joined by another of our colleagues and not just any colleague because this is my good friend and fellow physician, indeed a fellow OB-GYN physician who came in in the 108th Congress with Judge CARTER and me, the gentleman from Texas.

So I yield to the gentleman from Texas (Mr. BURGESS) to give us a little of his insight into this program and what he is doing in his district.

Mr. BURGESS. Mr. Speaker, I thank the gentleman for yielding to me, and I thank him for once again bringing this subject to the floor of the House.

It is a timely subject. Here we are celebrating Medicare's 40th birthday; and, Mr. Speaker, as the Members will recall, 2 years and 1 week ago we actually passed this legislation, on November 22 of 2003, which now has become the Medicare Modernization Act and with it the prescription drug plan.

Mr. Speaker, I have been doing town hall events and informational groupings throughout my district, and my district is pretty diverse. I have been very fortunate. I have had someone there from CMS with me, and together I think we have been able to answer a lot of the questions that come up. I do not want to get ahead of the program that Dr. GINGREY has proposed for this evening, but the concept of the worksheet, the concept of prearranging some of the information in an organized fashion, is a critical one. It is so important because we are coming up on a time of year of celebration of holidays, Thanksgiving and Christmas holiday, when families are going to be together. It is a great opportunity for them to talk, after they have had all the football and turkey that they can handle, to sit down and talk about what are the changes that are coming up in this Medicare program.

The gentleman alluded to calling 1-800-Medicare. I must admit I have not had the courage to do that myself, but I do go on the Internet, and we can go into the plan selector part on www.Medicare.gov. They do ask for their Medicare number, but if they scroll down that page just a little bit, they can actually fill out the plan finder information without giving up any information, if they just want to check and see what is available.

I have done this for Texas. We have got in excess of 40 plans available to seniors in the Lone Star State, and they are good plans. Some of them come in with less of a premium and less of a deductible than what Medicare proposes. In fact, I have seen premiums as low as $10 and $20, and I have seen some programs with a zero dollar deductible.

A lot has been made about the so-called gap in coverage that occurs at some levels. And do remember, Mr. Speaker, we passed this legislation 2 years ago, and what were we trying to do? We knew we could not cover every last single person in this country, so we wanted to provide the greatest amount of coverage to those who were the poorest and those who were the sickest, and I think we did a good job in accomplishing that. But it does leave a gap in coverage, or at least the Medicare proposal, the proposal for the Medicare prescription drug plan, was to leave a gap. But, actually, there are some plans in Texas where, if they are willing to accept generics, there is, in fact, no gap in coverage. So there is complete coverage from the first dollar spent up and to the so-called catastrophic ranges.

I have had some people complain about the time frame that is available to sign up for this program. It starts today, and for the next 6 months people can sign up for any of the Medicare-eligible programs. Those who have not signed up by May 15, right now Medicare is proposing a 1 percent penalty per month. That will be 32 cents penalty the first month of June of 2006, and it will continue at a 1 percent per month increase thereafter.

□ 2200

But realistically, this should be thought of as insurance and not an entitlement. That is what I have tried to explain to my constituents when they say they do not like the idea that you are forcing me to sign up. It is a voluntary program. If you decide it is not for you, you are absolutely free not to sign up.

But when I was a physician and I offered health insurance to my employees, they would be expected to pay a small part of it. If they chose not to pay that part, they could opt not to take the insurance. But they could not just wait until they got sick and then say, I would like to sign up for the insurance. Otherwise, it would not be fair to the rest of the people who have been paying their premiums all along. The program is structured to look like commercial insurance. It is on purpose not scheduled to look like an entitlement, because it is not. It is insurance coverage for seniors who need help with paying for their prescription drugs.

Mr. Speaker, I would just stress as a last point that when people evaluate these plans for their families or for themselves, that they look at cost, coverage, and they look at convenience. Many of the plans cost less than what Medicare has proposed.

The coverage part is important. You want to be certain that you pick a plan that covers the medicines that you are actually taking. Talk it over with your doctor. If your doctor is watching a problem like a mildly elevated blood pressure, be sure that those medications would likely be covered. Every plan lists on the Web site how many of the top 100 prescriptions covered by Medicare that particular plan covers. Most are in the high-90 range. I have not seen one less than 82 or 83 of the top 100 prescriptions covered by Medicare. But check out the coverage.

Finally, convenience. They will provide a pharmacy that is close by. If your neighborhood pharmacy is the one you want to use because they have a delivery boy you like, use that tool to help you decide which one of those pharmacies you want to use. There is also mail order.

There is a lot of flexibility in these plans. Yes, it is complicated. Health care is complicated in the 21st century. These are not easy decisions. Yet at the same time, Tom Brokaw called you the Greatest Generation. You beat the Nazis, solved the problems of the Great Depression, and solved a lot of the problems related to civil rights. Seniors can solve these problems as well.

This program will become streamlined over time. I am happy about things like disease management and physicals that will be offered now. It is good legislation. Mr. Speaker, it is good medicine.

Mr. GINGREY. Mr. Speaker, one thing that the gentleman from Texas (Mr. BURGESS) mentioned was the fact that if a senior is interested in a mail order opportunity, then as they go through that list, the litany of companies that provide a benefit, they may want to choose one that would allow them to get their drugs in a mail-order fashion. So that option is available.

I had mentioned earlier in the evening talking about the worksheet and what a senior would need to have if they are dialing the 1–800 Medicare number or dialing the Web site with or without assistance at www.Medicare.gov, or coming to one of the congressional offices to get help, they need that work sheet and that work sheet should include and should already be filled out.

Again, it is information that the seniors know. First and foremost, it should include a list of the prescription drugs that you are currently taking, including the dosage, the milligram, the strength, if you will, and how often you are taking those drugs.

Secondly, information about any prescription drug coverage you currently have, be it employer or union-sponsored or a Medigap policy. Or maybe you are a veteran and have TRICARE for Life, or possibly you are retired State or Federal employee and you have coverage that includes a prescription drug benefit. You need to have that information so we can put that into the formula and help you decide whether you want to continue with that program or opt for the Medicare part D program, whichever is better, whichever really is the best deal, unique to your situation.

And of course the name and address, as Mr. BURGESS and Mr. CARTER both said, the name of the local pharmacy that you use to fill prescriptions. So we will need your ZIP Code as well and the out-of-pocket amount you spend on prescription drugs each year currently. Again, I know our seniors know that because they are real good accountants. They have to watch every dollar, and it is important that we know that. And then last but not least, your Medicare enrollment information, your Medicare number and your address and all of those particulars, whether you are on traditional Medicare or Medicare Advantage under an HMO or PPO-type program.

Mr. Speaker, I see that we are joined by another health care professional, the gentleman from Pennsylvania (Mr. MURPHY). Mr. MURPHY has been with us on just about all of these hours that we have done on health care and this particular issue.

Mr. MURPHY. Mr. Speaker, I thank the gentleman from Georgia for yielding to me. I thought it would be helpful to point out a couple of things. When an individual contacts 1–800 Medicare or Medicare.gov, when they have their name, address, medications and dosage level, and what they are paying for it and their ZIP Code, they can find out a number of things. They will be able to compare the cost of medications. Because with the 75 percent discount, 75 percent paid by their tax dollars and other folks' taxes for the first couple thousand, and then after $5,000, 95 percent is paid for by the government, but from this it is important to be able to compare medications.

I have a chart here. This is Pennsylvania, my home State. I want to point out something, and that is savings for seniors with multiple chronic conditions for someone in Pennsylvania, this is comparing the savings in the best plan and savings in an average plan. Let me read. Jane is a hypothetical medical beneficiary taking the following medications: Celebrex, 200 milligrams; Fosamas, 70 milligrams; Nexium, 40 milligrams; Singulair, 10 milligrams; Zoloft, 50 milligrams; and metroprolol tartrate, 50 milligrams.

What comes out of this is in the best plan it appears there is about a 60 percent savings, or $3,797. In the average plan, about a 32 percent savings, being $2,036 of what they will pay. I am not sure what sort of medical condition this is, and perhaps you can diagnose based upon the medications alone, but I am just interested in your comments on this because it becomes a matter, it is one of the reasons when somebody calls and says how much is my discount going to be, it gets complex. In each case, you have to look at the individual's prescriptions.

I wonder if my physician friends here can tell just what this tells them and why it is a matter that deals with the discussions of Medicare.

Mr. GINGREY. Mr. Speaker, I call on the gentleman from Texas (Mr. BURGESS) and enter into a colloquy with you on that issue.

Mr. BURGESS. Mr. Speaker, my understanding is you will be offered the top three plans based on cost to evaluate. Then you can go to the next three plans and the next three plans. So the information is given in those sorts of segment. My understanding is cost, since cost is one of the principal concerns in people's minds, cost is one of the parameters upon which the three plans are picked. Here are the top three plans in your area based on cost, covering some portion of these medications, and whether there would be a stand-alone prescription drug plan or one of the PPO- or HMO-type products that would include a prescription drug plan, those are also included in the choices as they are given.

We have some 47 prescription drug plans in Texas that are recognized by Medicare as being good products. You cannot evaluate all 47. So give me the top three based on cost, and let me figure out the coverage and convenience aspect of those. If you have expanded the search to include a HMO or PPO product, let me make the decision based on can I see any doctor I want or would I have to see a select panel of doctors.

Those are the kinds of decisions, the same kinds of decisions people would make in starting a new job, when they went and met with their employee benefits manager. Just like we did when we started in the House 3 years ago, they asked, do you want a HMO, PPO product, and went through the litany of things that might be available to us.

This would be the type of information that would be given to someone. And again, this may be too much for an individual 85 years of age to deal with three plans that are somewhat different in their construct. That is why it is going to be helpful to have a child, a nephew, a grandchild to be able to help make those decisions. Probably the person who helps arrange for those prescription purchases on a regular basis would be the best person to advocate for that particular senior and help them make those choices.

Mr. MURPHY. Mr. Speaker, when you are comparing plans, my understanding is if you look at the most commonly prescribed drugs for seniors, and not every drug may be covered by every plan, there is 97 to 95 percent overlap.

Mr. BURGESS. That is correct, and that information is listed on the Web site.

Mr. MURPHY. And the reason a person wants to compare different plans is to make sure that not only their drug is covered, but different plans may have different costs for those individual drugs. So the person can actually shop around on the Internet or on the phone.

Mr. BURGESS. That is correct. The Internet would provide some transparency that probably is not available to that senior today.

Mr. MURPHY. Mr. Speaker, I was in the grocery store the other day, and I wanted to buy a loaf of bread. I had not been in this store before. This store must have had 30 or 40 different types of bread. Every roll, shape, flat, cut, everything. I said I just want some whole wheat bread. They helped me find it.

I thought this sort of reminds me with some of the choices with the Medicare plan. If anything, yes, there are many choices, but it is important to keep in mind that by working with somebody on the Web site or on the phone, and many pharmacies and senior centers offer this. Ultimately the issue is this: that a person should not just compare the cost of a drug, what is this drug going to cost, but what is it going to cost me over a year's period of time.

We looked, for this hypothetical person Jane, what does it cost for a year because in some cases people may say if there is coverage up to $2,250, and if my drugs cost $3,000, they may ask, do I have to pay $3,000? And the answer to that is?

Mr. BURGESS. The answer is, if it is over $2,250, it would be $750.

Mr. MURPHY. But the rest is covered. That is part of the confusion that takes place. We need to make sure that our colleagues and America understands this is a matter of looking at the overall cost of medications for your year, and that is why it is important the person writes down all those numbers, and have those annual costs ready, or even your monthly costs, so you can compare.

□ 2215

But it is, I think, the most valuable way that seniors can look at the overall cost of the Medicare plan.

Mr. GINGREY. If the gentleman from Pennsylvania would yield for just a second in regard to that issue. As you go through the Web site, it is important that our colleagues know to let their seniors understand that there is a page there, and Mr. MURPHY was referencing that, where you are able to compare the different plans. Let us say you have several in your community that are available to you, and you narrow it down by the process of whether or not they allow mail order, if they have good discounts for all of the drugs you are on or three out of the four, and then you finally narrow it down maybe to three or four that you want to choose from.

As you go through this process, and again there is someone right there to guide you through it, you can see really what your cost per year, as Mr. MURPHY was referring to, what each plan would be and then make that intelligent choice, based on a lot of factors, but not the least of which, of course, is that cost factor.

Mr. MURPHY. I thank the gentleman for explaining that. It is such a critically important thing here. And this is where, when you look at the cost, a couple of elements that I consider very important, as a health care practitioner myself, that one of the things we recognize is for the most part, when a physician prescribes medication, I am sure the gentleman has seen this too in his practice, prescribe medications, sometimes patients will not fill that prescription. Sometimes, even if they fill it, they may not take it all. They may take it in part and discontinue it, or they may find if they feel they cannot afford it, they stretch it out. Under such circumstances, when a patient does not take a medication that the physician feels is needed, it can actually worsen their health and cost more.

One of the things about this Medicare plan, when the critics were out there saying this is going to cost more, we have to remember the CBO, the Congressional Budget Office, does not score savings. And between the entry physical, between the case management, where there will be pharmacists and others who will work with the physician to make sure they are not getting duplicate drugs, there is not confusion, just checking the dosage and following through, plus the idea that the drugs are more affordable, lifesaving, life enhancing, the kind of things that are so important for people's health are more affordable, that means people will take them. And part of this effect is people will be staying out of the hospitals and staying out of emergency rooms with that as well.

Mr. GINGREY. If the gentleman will yield, Mr. MURPHY hit the nail, I think, right on the head. And as we talk about this, the gentleman from Texas (Mr. CARTER) is still with us. He may want to weigh in and share some of his thoughts on this subject. But there is no question that this program has the potential to significantly lower prices across the board, maybe not just for our seniors, but to everybody for some of these heretofore very expensive pharmaceutical drugs. And we anticipate that this program, and again, we talked about participation level. Remember, I said at the outset of the hour that Medicare part D, that other optional part of Medicare, probably got a 98 percent participation rate because it is such a good deal.

We will not have that higher participation rate with the part D because many of our seniors already have prescription drug coverage. We mentioned some of those categories. But this program, we anticipate across the board about a 50 percent savings, maybe 11 or $1,200 a year on average, and that of course includes people that are low-income. It includes people that are high-income; but on average, we anticipate, is that not right, Mr. CARTER, about a 50 percent reduction.

Mr. CARTER. That is right. And if the gentleman would yield once again.

As we talk about this, let us reemphasize again to our seniors the importance of getting registered and signed up for the program. You know, as the gentleman was talking about these drugs, and we read the list off, of those drugs I am familiar with and some of them I am not.

But I thought about how much medicine has changed. And you are the doctors. I am just an old lawyer and trial judge. But I can recall that my father almost died from bleeding ulcers. As a younger man, I was working my way down that road, and, in fact, at one point in time had an ulcer. But Tagamet, I am not plugging any particular brand, but that is the name I know of because that is what I took when Tagamet came on the market; and with that drug, I have never had any more problems whatsoever with ulcers, where my father almost died. They had to give him 7 pints of blood, and he had to be cut from stem to stern like he had been in a knife fight to try to save his life and they had to remove two-thirds of his stomach.

Medicine now can stop a condition that we used to solve with major surgery with prescription drugs. This tool is now available to our Medicare recipients. It is critical that they understand, do not be frightened even by what we have tried to make simple here tonight. Some could even be frightened by that. Do not be frightened by that. Make the effort to save your life. Make the effort to go out there and have every tool that you can be one of those blessings to our country, and that is a senior citizen with long life and good wisdom to pass on to future generations. And you can only be that way if you take care of yourself.

And part of taking care of yourself is getting signed up so that modern medicine can care for you, because with no offense to the great work that our surgeons do, in the long haul, having had a couple of those surgeries myself, I will take that pill all day long and into the night before I want them to cut me wide open because I think modern medicine has been proven over and over, that good preventive medicine, which we now have in this plan, meaning going to get your checkups, get your tests for which you are now covered, do those things that were not available but are now available to you to make sure you are maintaining a look at your health.

And the prescription drug plan along with the other normal medical benefits that have been available before make this a better future for our senior citizens, a better, healthier, longer future. I cannot impress it upon our people enough. This is so, so life changing in the world. It is not perfect, and we all would love for the world to be perfect. But you know what? When we came in here, somebody hit on it tonight, when we came in here and signed up for Congress and they dropped those half a dozen or a dozen plans in front of me, it might as well have been written in Greek. And I sat there and stumbled and fumbled and said I am sticking with my Texas plan and stayed right where I was. And that is my own fault. And I am confessing it right here in front of God and everybody that that is what I did. But in fact I thought I had a better plan in Texas anyway. But that is a different story. But I understand their frustration because it is a frustrating thing. But that is the world we deal with right now.

Mr. GINGREY. Well, as usual, the gentleman is right on target. And I think it is important that we remember that the plan, typically, if I could describe a typical plan for the typical senior, would be about a $30 a month premium, would be a $250 deductible, would be a 25 percent copay, that is, the senior has to pay 25 percent of the cost of the prescription drugs after the 250 out of pocket, up to a total of $2,250. Then there is this issue of the hole in the doughnut, or the gap, where any cost above $2,250, up to about $5,100, is 100 percent on the back of the senior. A lot of people have been concerned about that. They tend to forget, though, that above that you have this catastrophic coverage. If you have spent in any one year on Medicare part D prescription drugs, if you have spent more than $3,600 out of your pocket, then anything above that is covered at the 95 percent level.

And, really, there are situations like that. Maybe for some seniors today before they sign up for this program, they already know that they are spending $3,600 or more, maybe $6,000 a year on prescription drugs. Now, they very well may want to choose a plan. This slide that I have in front of me now sort of goes over that, talks about the premium and the deductible and the gap in the coverage. Well, seniors can choose. They can literally, if they want, particularly, and I would recommend this, if they are on a number of drugs already and they have high costs already and they know that, then they may want to pick a plan that the monthly premium is a little bit higher than the average of 25 or $30, maybe it is $50 a month. But it does not have any gap in the coverage. Those plans are available, and that information of course is what they will obtain from the Web site.

I know we are getting close to the exhaustion of our time, and I wanted to call again on my colleague from Pennsylvania to see if he had any closing remarks before we wrap up this hour. And I want to, before I run out of time, express my appreciation to Mr. CARTER, to Mr. MURPHY, and Mr. BURGESS for joining us during this hour.

Mr. MURPHY. Actually, I think we are out of time, so I yield back the floor here and thank the gentleman for leading this.

Mr. GINGREY. I thank my colleagues. Thank you, Mr. Speaker. I yield back whatever remaining time we have and look forward to the next session.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). The Chair would remind all members to direct their remarks to the Chair and not to the television audience.

30-SOMETHING WORKING GROUP

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Ohio (Mr. RYAN) is recognized for half of the remaining time until midnight.

Mr. RYAN of Ohio. Thank you, Mr. Speaker. We appreciate the opportunity to be here again representing the 30-Something Working Group. I want to thank Leader PELOSI for the opportunity, our favorite uncle, BILL DELAHUNT, who is here from Massachusetts, also KENDRICK MEEK from Florida, DEBBIE WASSERMAN SCHULTZ from Florida, who are also members of the working group and will be here in just a few minutes.

We want to welcome, Mr. Speaker, everyone to the first-ever 30-Something Live, in which we will be interacting not only with other Members of Congress here, not only with the audience, C–SPAN audience, but also with our friends in the blogosphere. And we will be interacting with them, reading e-mails that they will be sending to us, as we have been receiving e-mails from our constituents in our offices for years on Capitol Hill.

But this is the first time ever that there will be interaction between Members of Congress on the House floor and at the same time constituents and citizens of the United States of America having direct access to this Chamber. So we are very, very excited about introducing 30-Something Live. Being the 30-Something Group, we are trying to take our communications to the next level, trying to reach out to the American people, because we have said for quite some time that if we are going to solve problems in this country, that we have to engage the best and brightest talent that is out in the country in order to do this.

So we are not only going to answer your questions, Mr. Speaker. We are going to take suggestions as to issues that need to be addressed, ideas that folks may have at home. And this is a pretty exciting time for all of us.

We have been joined here with our friend from Florida, Ms. WASSERMAN SCHULTZ. And this is going to be the first ever. So this is pretty exciting stuff.

Ms. WASSERMAN SCHULTZ. This is really amazing, and I guess, you know, it would not be a surprise. It was an excellent suggestion on your part, Mr. RYAN; and we, I think, are trying to make our generational working group here innovative. I mean, I think we all, as individual Members of Congress basically make our highest priority the ability and desire for us to interact directly with our constituents. And the one place that we are generally not able to do that is on the floor when we are here debating the very issues that impact everyone in this country.

We can interact fairly well with constituents in committee because they can obviously testify in front of us in committee meetings. We obviously interact with constituents in our offices. But once we are here, this is a very insular environment. This opportunity tonight for us to kick this off, 30-something Live, and interact with people who will be submitting questions to us online will be historic and exciting.

Mr. RYAN of Ohio. Now, you and I, we are ready to rock and roll on this. And when Mr. MEEK gets here, he is going to be ready to rock and roll. But we may have to break it down for our favorite uncle.

Ms. WASSERMAN SCHULTZ. Maybe we need a glossary for Mr. DELAHUNT.

Mr. RYAN of Ohio. We can break it down.

Mr. DELAHUNT. If I can just interrupt. I heard that in my absence the other night that there were some comments that were made about my lack of, well, made about my absence. Could you explain that to me?

Mr. RYAN of Ohio. I cannot remember exactly which one of us said something, but it was to the effect that we had to tuck you in bed and make sure that you were getting your proper amount of rest.

Mr. DELAHUNT. Well, I am part of the 30-Something Working Group. I might be a two-fer, though. You know, I mean, I would suggest that in my case you get two for one.

Ms. WASSERMAN SCHULTZ. The only difference in your definition of 30-something is maybe it is 30-something by decade.

Mr. DELAHUNT. Something.

Ms. WASSERMAN SCHULTZ. And we are 30-something by year.

Mr. DELAHUNT. Exactly. It is a very loose term.

Mr. RYAN of Ohio. It is very loose. Adaptable. But it is good to see that you got your nap in this afternoon.

Mr. DELAHUNT. I did. I am rested up and looking forward to participating tonight.

□ 2230

I do concur with everything you said and, again, I want to acknowledge your commitment, your creativity, and the fact that this is an effort to allow people to participate in our conversation, because we want to know what they are interested in, and my understanding is there has been a number of questions posed. Maybe the gentleman from Ohio (Mr. RYAN) or the gentlewoman from Florida (Ms. WASSERMAN SCHULTZ) could tell me what the number is.

Mr. RYAN of Ohio. I believe over 400 e-mails.

Mr. DELAHUNT. That is going to take some time.

Mr. RYAN of Ohio. Well, we are not going to be able to get through them all, so we will lay down some basic ground rules here. We will not be able to get through them all, obviously, Mr. Speaker. We are going to have to take a few and maybe expound on them, but we are going to continue, Mr. Speaker, to make our arguments. We are going to lay out the case for what we believe needs to happen in the country, what direction we need to go in, and as we receive information from the public, use that to supplement our arguments that we have been making here.

Ms. WASSERMAN SCHULTZ. This is not the last time we are going to do this. We are kicking this effort off. So even if we do not get to all the questions tonight, which with over 400 we obviously will not be able to in the 60 minutes, we will be doing this again.

Mr. DELAHUNT. This is simply an inaugural effort. It will be interesting.

Mr. RYAN of Ohio. I think it is important for us to recognize that we want to make cohesive, coherent arguments, and we are asking, Mr. Speaker, other Members in this chamber and the citizens around the country to help us with that, make points that we feel that maybe they feel need to be made.

Before we get into today, before we get rocking and rolling here, the big issue now is the pre-war intelligence. The President has dusted off this same old speech that he has given hundreds of times already in a hundred different viewing areas regarding the pre-war intelligence. The President has said that anybody accusing the administration of having "manipulated the intelligence and misled the American people was giving aid and comfort to the enemy." So if you question the pre-war intelligence, you are giving aid to the enemy. So it seems like the President is asking us as Members of the United States Congress not to even question any of the intelligence or any of the drum beat leading up to the war.

Mr. DELAHUNT. Mr. Speaker, if I can, if the gentleman would yield, what I would like to do is try to emphasize that these questions have been posed by Republicans as well as Democrats regarding intelligence, whether it was manipulated, or whether it was used in a selective fashion.

Now, I am going to begin by quoting the former Secretary of State, Colin Powell, who back in June of 2004 in an interview had this to say about the issue of intelligence: In recent weeks, Powell has apologized for at least 2 lapses regarding information about Iraq and terrorism. In a recent Meet the Press appearance, Powell said that he had relied on faulty intelligence when he told the United Nations in 2003 that Iraq had biological weapons. It turned out that the sourcing was inaccurate and wrong and, in some cases, deliberately misleading.

I want to repeat that this evening, because I believe it is important that the American people pay attention to the former Secretary of State's use of words here: In some cases, deliberately misleading.

Now, he does not go on to explain who did the misleading, whose responsibility it was to review the intelligence, to ensure that the sources were reliable, whether there was manipulation. But what I find interesting, Mr. Speaker, is that we are here on this floor asking these questions years, years after Democrats have asked for full and exhaustive investigations, inquiries, and oversight hearings. We have not had a single oversight hearing. Maybe this is simply the by-product of a situation, when you have a single party controlling both branches of Congress and the White House. But if that is the case, it is damning, because it puts before the responsibilities, the constitutional responsibilities of this Congress party loyalty, and I dare say the American people will not accept that.

If I can further proceed, Mr. Speaker, a statement that the intelligence that was available to him was available to Members of Congress, both Members of the House and Members of the Senate. Well, I find that very interesting. First of all, that is inaccurate and wrong. And to support my premise or the statement I just made, I would refer my colleagues and those overhearing this conversation to read a book called The Price of Loyalty written by a journalist of some renowned, which is basically a memoir of the experiences of the former Secretary of the Treasury, Paul O'Neill whom, by the way, is a conservative Republican, a captain of industry. He ran Alcoa and was selected by this President to serve as his first Secretary of Treasury.

He relates that in the first National Security Council meeting about a week or 10 days after this President was inaugurated, prior, prior to September 11 of 2001, that he was taken aback at that meeting because he participated in those meetings by virtue of his being Secretary of the Treasury, that the focus of the Bush administration was to shift from resolving the Israeli-Palestinian issue to how this administration would deal with Iraq. He was truly taken aback by that.

About a week later, he is at another meeting where there is a map that is put forward about how the oil fields in Iraq would be divvied up; what countries and what companies would be allocated the development of those oil fields.

□ 2240

Go to page 96 of that book. But what was particularly interesting was on page 334. This is Secretary O'Neill, a member of the administration, a good Republican with solid conservative credentials.

Mr. RYAN of Ohio. He was in the room.

Mr. DELAHUNT. In the room.

"'In the 23 months I was there, I never saw anything that I would characterize as evidence of weapons of mass destruction.' O'Neill told Time, referring to Time Magazine. 'There were allegations and assertions by people, but I have been around a hell of a long time and I know the difference between evidence and assertions and allusions or conclusions that one could draw from a set of assumptions. To me there is a difference between real evidence and everything else and I never saw anything in the intelligence that I would characterize as real evidence.'"

"In response, a top administration official tried to dismiss O'Neill as out of the loop on weapons of mass destruction intelligence. 'That information was on a need-to-know basis. He wouldn't have been in a position to see it.'"

Just imagine this. We have the President saying that the intelligence was available to everybody. Yet a top administration official in response to the assertion by Secretary O'Neill that he never saw any evidence had this to say: "Oh, it wouldn't have been available to him."

That to me is just inexplicable. I think we deserve an answer from the President. We deserve an answer from the administration as to what actually happened. And I would like to hear from Secretary O'Neill sometime. I think it is important.

Mr. RYAN of Ohio. Then one of the questions we have here, Mr. Speaker, from Hayward, California asked, What is our mission in Iraq other than being targets for anyone with a weapon? That is really what we are saying. If you try to ask the administration why are we there, what is going on, when are they coming home, we get called unpatriotic. If we ask these questions that a man like Robert Veloza asks, Mr. Speaker, we get called unpatriotic. These are the questions. We have got a lot of questions that people ask, what are we still doing there? What is the plan for getting out? A lot of these. We have got 400 or 500 of these now. A lot of people are asking us, Mr. Speaker, what are we doing? If we try to say to the President, Mr. President, what are we doing, we are unpatriotic now?

Ms. WASSERMAN SCHULTZ. Both of my colleagues are absolutely right. The President has some nerve questioning our patriotism. That is what America is all about. I happen to be in the middle of reading Washington's biography. The Founding Fathers created this country so that there could be an opportunity for a vocal minority to express dissent. The farthest thing from their mind when they created this country was that opposition would be unpatriotic. Of course it is certainly understandable given the climate that the Republican leadership has created here where they do not allow or expect either members of their own party to disagree with them and certainly have structured the rules so that it is virtually impossible for us to voice disagreement or make a significant impact on the process once the process reaches here. Mr. Speaker, the people that have communicated with us have caused me to ask this question. Not only has the President called into question the patriotism of those of us who have questioned why we are still there and when are we going to have a plan to withdraw, but he has also implied that Democrats who have objected to the way we got into this war and the misrepresentation or misallocation of the facts that led us into this war, he has also suggested that those same Democrats saw the same intelligence that the President did. No, they did not. That is factually inaccurate.

Mr. DELAHUNT. Neither did Paul O'Neill, the former Secretary of Treasury who served on the National Security Council.

Ms. WASSERMAN SCHULTZ. The bottom line is that every morning the President gets an intelligence document that we are not privy to. He gets massive amounts of intelligence that they do not widely distribute, even though we have security clearance, widely distribute to Members of Congress. So they were able to be, one would think, Mr. Speaker, selective in what they released to the Members of Congress when we were in the throes of making the decision about whether or not to support, and I was not here at that time, but when those of you that were here were in the throes of deciding whether to support the war.

I just want to read this question that brought this all to mind. You have Mr. Lehman from Goshen, Indiana, who said to us, Since the Iraq war and tax breaks for the wealthy have devastated our Federal budget, why can't the Democrats invoke procedures to semi-close down Congress as this is an emergency situation which is affecting our national economy when the money could be better spent on domestic social programs including hurricane relief. Cut and strut.

That is a really good point. If the American people are asking what are we doing in Iraq when we have so many needs here, when we have literally hundreds of thousands of people in our gulf coast twisting in the wind literally because we cannot get them the assistance they need, yet we are sending millions of dollars, billions of dollars as the gentleman from Ohio has detailed in the charts we have here in the last few weeks that we have been talking about this, the administration has literally chosen sending assistance, infrastructure rebuilding assistance, to the Iraqi people and we are not able to provide that for our own people. All the while, today, they may still be in the committee meeting now, our own Ways and Means Committee is marking up the tax reconciliation bill, $70 billion in tax reconciliation to supposedly balance out the budget deficit, the budget deficit reduction act which is a total misnomer that they could not pass last week. The reason that they could not pass it and the reason that it makes no sense is because if you are passing $70 billion in tax cuts and $50 billion in spending cuts, that still leaves $20 billion. That is the kind of thing that the people who are communicating with us are asking, just like Mr. Lehman from Indiana.

Mr. RYAN of Ohio. That is absolutely right. Let's get this straight out. I want to kind of lay some things out here because all the rhetoric that we are now hearing and the administration is really good at getting in the huddle and then breaking the huddle and everyone goes onto the TV shows on Sunday and everyone starts singing from the same hymn book and trying to convince the American people that the world is really not what everyone thinks it is. They find a way to try to spin it. I just want to go back just for a couple of minutes for all of us to recognize who we are dealing with here and what their track record is.

The CIA leak where Scooter Libby, the chief of staff of the Vice President of the United States, was indicted on five counts for lying basically, obstruction of justice, false statements, everything else. This is right from the indictment. On July 10 or 11, Libby spoke to Karl Rove who advised Libby of a conversation that he had. Rove talked to Novak, Bob Novak, the columnist, and Novak said that he was going to basically use Joe Wilson, the ambassador who went to Africa to find out what was really going on with uranium and everything else. So Rove tells Libby that Novak is going to write about Joe Wilson's wife. That was in July. Okay?

Then we find out, here it is, 2 months later, in September, Karl Rove denies even knowing anything about a CIA leak or outing Valerie Plame. So he told Libby that Joe Wilson's wife was going to be outed in July and then in September ABC News asks him what is up with this and he says, "I don't know." He lied to the American people. Scooter Libby lied to the American people. The Vice President of the

United States in the same indictment told Scooter Libby about Joe Wilson's wife and then 2 months later he did not give all the facts on Meet the Press.

☐ 2250

We have to be very careful with the Rules of the House when we deal with high-ranking administrative officials. Okay. So this is the outfit we are dealing with here. This is the group that has failed to be honest.

Now we go through the war. Remember what we heard prior to the war? We are going to use the oil for reconstruction. We are going to be greeted as liberators. They had weapons of mass destruction. All not true.

We even got a little piece of information, it will be interesting to see how this comes out with the use of phosphorus in Falujah. We were told months ago there was no phosphorus being used. Phosphorus they use in the military. We are not using any of that stuff. If we are using it. we are just using it to light the sky.

Then we find out on November 10, this is quoting from the BBC. This is not the Meek report, the Wasserman Schultz report, the Delahunt report. This is the BBC. "We have learned that some of the information we were provided is incorrect. White phosphorus shells which produce smoke were used in Falujah, not for illumination but for screening purposes." That was in the March and April, 2005. issue of Field Artillery Magazine: and it was used as a potent psychological weapon against the insurgents in trench lines and spider holes.

Now this is the use of a chemical weapon. Now I do not know if it is true or not, but what I do know is that they said they were not using it, and now they are saying they used it.

Mr. DELAHUNT. We do not know. But you know what is sad is that this Republican majority in Congress will not allow us an oversight hearing to determine whether this report is true or not. There has not been a single hearing in the House of Representatives in terms of the Iraq war and all of the issues that we have raised here. not a single hearing; and I would submit that that is just a total abdication of our responsibility.

Ms. WASSERMAN SCHULTZ. In that vein, we actually have an e-mail from one of the folks out there in blogger land who wants us to talk about and ask the question. Mr. Speaker, are the rules that have been enacted for the operation of our U.S. House of Representatives constitutional? And if not, what is the remedy for that? There is a person from Vermont. Can a lawsuit be brought about legal or unconstitutional House rules?

In other words, all Americans must have representation in their government, Mr. Speaker; and if Democrats are ignored because of House rules. not allowed hearings like the ones you are talking about. not allowed to offer an amendment on the House floor to legislation when we are duly elected in the same way, putting our pant legs on one at a time just like they do. or a skirt. like I do on occasion. because of House rules that give full power to a majority political party. half the country does not have representation in the day-to-day business of our own government.

That is the bottom line. We are shut down. And this is not about whining. This is not about. gee, we cannot get in our say. This is about that we were duly elected just like every one of the other 434 Members of this body, and it is not like that in the U.S. Senate. In the U.S. Senate. the minority is treated with respect. It does not always go their way, but they can at least make an impact. It is truly enough.

What is more unfortunate is how the Republican leadership in this Chamber misrepresents how the process works here, as if we are allowed to call hearings whenever we want to or have subpoena power in the Katrina committee that was created a few weeks ago. They really, consistently, at least since I have been here from the beginning of this year. if you recall during the Schiavo case. facts were not relevant. They just made it up if it suited their argument.

Mr. DELAHUNT. And they will not have a hearing. They are afraid of transparency and accountability.

Ms. WASSERMAN SCHULTZ. And they protect themselves with the rules. They hide behind the rules.

Mr. DELAHUNT. They are eroding the confidence of the American people in this institution: and I would hope that they would reflect. stop. and change course. Because if it continues, it is demeaning to this institution, and it is eroding our democracy.

If I can. just for one moment. let me hold up this chart. The gentlewoman earlier talked about the monies that have been expended by American taxpayers in Iraq. There are an abundance of reports from a variety of sources about Iraq reconstruction. The biggest corruption scandal in history.

I serve as the senior Democrat. the so-called ranking member on a subcommittee of International Relations that ought to be looking into these assertions and allegations. I do not know if they are true.

We have had colleagues that have corresponded seeking to have hearings. This is just some of the quotes.

"It is possibly one of the largest thefts in history." This is the Iraqi finance minister speaking about more than $1 billion missing from the Iraqi Defense Ministry.

"This country is filled with projects that were never completed or were completed and have never been used." This is a U.S. civil affairs officer who asked not to be identified.

"We were told to stimulate the economy any way we can, and a lot of money was wasted in the process." That is Captain Kelly Mims, part of the Army liaison team in Falujah.

"We were squandering the money we were entrusted to handle. We were a blind mouse with money." That is Bill Keller, former deputy advisor to the Iraqi Communications Ministry, referring to reconstruction projects.

"I presume that some of them are ghost employees. but we paid them." That is Frank Willis, former Coalition Provisional Authority, regarding the payments of salaries to 2,400 people who did not exist.

Mr. RYAN of Ohio. Would the gentleman read that one again about the ghost employees?

Mr. DELAHUNT. "I presume that some of them are ghost employees, but we paid them."

Mr. RYAN of Ohio. We are paying ghost employees in Iraq, and we are not allowed to question the validity of what is going on over there?

How about ghosts paying some of my Adelphi workers who are going to get their salaries cut by 60 percent? Does this administration want to ghost pay some of them?

Do we have enough money to pay people for not doing work in Iraq?

Mr. DELAHUNT. We have wasted billions of dollars of taxpayers' money in Iraq, and yet not a single hearing. And I do not want a hearing where some administration official comes up and presents a 5-minute overview and we have 5 minutes to question. I am talking about a thorough. exhaustive investigation done by staff on both sides of the aisle and by serious Republicans and Democrats who find this kind of waste and scandal abhorrent.

Mr. RYAN of Ohio. We are joined by our good friend, the gentleman from Florida (Mr. MEEK), who was getting an award tonight. I congratulate the gentleman. Welcome to the inaugural 30-something Live.

Mr. MEEK of Florida. I thank the gentleman very much. It is always an honor to be here on the floor, not only addressing the Members of the House but also sharing with the American people what is not happening.

I came here and I actually picked up an e-mail here. Has there ever been a President who has presided in a bigger increase of the country's national debt and has not vetoed a single spending bill during his term in office?

I can tell you that from what I know, just from my knowledge of what I have been reading recently. I can't remember a President outside of the President that we have right now. And I am pretty sure as we start talking about national debt, we can also talk about the fact that this administration, along with this majority, has led us in just 4 years. $1.05 trillion in money we borrowed from foreign nations.

Now that is not my number. That came from the Department of the U.S. Treasury.

□ 2300

That is more than 42 Presidents combined. Mr. Speaker. 42 Presidents only were able to get to the point of $1.01 trillion, and that is over a period of 224 years.

A lot of folks say, well, why are you alarmed? Well, you should be very alarmed, and if the Republican majority allows that kind of borrowing to take place, especially from foreign countries, I guarantee you that the President could not do it on his own.

I guess one of the things that is quite disturbing, I could not help but on Veterans Day turn on the television and watch our President of the United States attack other Americans for being American. I could not help but think that it must have been some sort of coordinated plan in operation, look over there from over here, from what is actually happening.

I can tell you, when you are dealing with the issue of outing CIA agents and indictments and then you say, well, I am going to start attacking Members of Congress that question my policy, maybe we can make that the discussion for the week. I think the American people and also the Members of this House are far more intelligent than that, to think that just because this is your message for this week, it does not necessarily mean that the American people are going to follow you in that message.

You see the majority following suit because it seems to be a message machine. The President spoke of sending the troops mixed signals. Well, I could not help but reflect on that, being a Member of Congress and seeing what is happening right now.

We have a budget amendment that is supposed to come to the floor pretty soon. I guess they did not have the stomach to pass a budget amendment that would have cut VA benefits to veterans, that would have instructed the Veterans Affairs Committee to cut over $767 million in services to veterans and march in the Veterans Day parade. I guess that was just a little too much for some of the many Members on the majority side, and I want to thank some of those Members who said they were not going to vote for it. I hope they still stand by their convictions this week because that budget resolution has not changed a bit. What they felt last week, they should feel this week.

Also, I should say the President is saying we are sending mixed signals. Well, I guess it is mixed signals when we have over 50 million Americans without health care. What kind of signals are we sending them?

I guess it is mixed signals when we have our men and women who are fighting in harm's way right now, but better yet, when they become veterans, we do not have the same passion for their health care and for their needs.

I guess it is mixed signals when you have to look at our generation and parents that are trying to pay for their child's education and you cut $40 billion and change out of student loans and student aid. That is mixed signals.

I hope that the President can get just as passionate when it comes down to cutting free and reduced lunches in this country, get passionate about that.

We talk about winning the hearts and minds of the Iraqi people and people abroad. How about winning the hearts and minds of Americans that pay taxes every day?

One other point I just want to make, another mixed signal, as we speak now the Budget Committee is meeting. I guarantee that they are ready and meeting, and on the majority side, the Republican side, to protect people who make over $500,000 to be able to receive their $80,000 tax cut. That is sending mixed signals to the American taxpayer. So, if anyone that raised their hand and said they uphold the Constitution of the United States, you need to be passionate about those Americans that know what it means to punch in and punch out every day.

Last week, one of the Members on the majority side came to the floor and said, well, we are giving tax cuts to the productive Americans. I am assuming that I guess if anyone makes under $500,000 they are not productive in America.

The bottom line is, is that I am not disappointed in what the President said. I am just a little taken aback because my constituents work every day. Your constituents work every day. There are Americans out there trying to make ends meet.

Better yet, we want to scream at Members of Congress talking about rewriting history. Let us talk about putting this country in a debt that it will be very difficult for us to get out of. Let us talk about record-breaking in 4 years of an administration and this majority allowed this President to do $1.05 trillion in borrowing from foreign countries, like China I must add, more than Democrat, Republican and Whig party Presidents was not able to achieve. I have to go all the way back to the Whig party, 1776.

Folks say, oh, well, hard times. Well, World War II happened on this side of the chart. World War I happened on this side of the chart. The Great Depression happened on this side of the chart.

Challenges are not new to leadership in Washington, D.C. If people want to borrow and spend, then that is okay if they do it with their money, but when they do it with the American people's money, it is another thing.

Mr. RYAN of Ohio. Mr. Speaker, one of the words that our President used was irresponsible: it is irresponsible to question what is going on. Is that responsible, that kind of fiscal undiscipline, reckless disregard for a budget in the United States? That is irresponsible?

And what else is irresponsible? Cutting money for student loans, that is irresponsible.

How about Karl Rove telling Scooter Libby about Joe Wilson's wife and then going on TV a couple of months later and saying he did not know anything about it. I think that is kind of irresponsible to say that to the American public. I did not hear the President say Scooter Libby was irresponsible.

Mr. MEEK of Florida. I know the gentleman from Massachusetts (Mr. DELAHUNT) is standing by there, but I want to just share this with you.

I have one message for the majority and for the President: Get passionate about the right issues. We are all passionate about the war. We are all concerned about our men and women in uniform, but I tell you one thing. We have American cities that are trying to make ends meet. We have children that are trying to do the best they can under the circumstances. The Leave No Child Left Behind Act is known by the States, and States are suing the Federal Government for a lack of funding. Meanwhile, as we speak here on this floor, the Ways and Means Committee is meeting to make sure that the tax cuts are permanent for millionaires.

So I am glad that some members of the Senate last week said I cannot vote, at the same time that I am cutting Medicaid for poor Americans free and reduced lunch for children, veterans benefits and then within the same time period, within a couple of days I am going to vote to give millionaires a permanent tax cut?

What I am saying is that there are things that we should get passionate about, and there are some things that we really need to be passionate about. I can tell you right now, there are a number of issues not being addressed, and like you said, the outing of a CIA agent is just like someone running over and telling the enemy about the Marines are going to be on this beach at this time and this day; I just wanted you to know that because I know it. That is what it is like.

Mr. RYAN of Ohio. That is irresponsible.

Mr. MEEK of Florida. And it is setting us back. My message for the majority and also for the President is get passionate about the right issues. You want to get passionate about some of the actions in the White House, it is happening right there under your nose. Passion stops at we will just give an ethics course on not sharing national secrets with the press. You have to go far beyond that. Too many people have died. Too many veterans right now need assistance to just go use the restroom right now to give that speech.

Mr. DELAHUNT. Mr. Speaker, if I can for a moment, I want to take issue with the President's statement relative to support the troops and that asking questions somehow undermines that support. That is false. That is inaccurate.

There is not a Member in this House on either side of the aisle, I cannot believe there is an American anywhere in this country, that does not fervently pray that these young men and women come home, come home without wounds, but I will talk about support for the troops because I believe that if there is a grade to be given for supporting the troops by this White House, it is a failure. It is a failure.

How many letters have we, and again, not just Democrats, but Republicans, sent to this White House complaining about the lack of vests, complaining about the unarmored humvees that so many of our young troops have been killed, permanently maimed, and yet we still have problems? It is an issue that has been lingering for years, not just for months.

I am not suggesting that that was intended, but it is a demonstration of the incompetence of this administration, and underscores, if we are talking about supporting the troops, the lack of that support.

You referenced earlier about veterans. It is easy for the President to wish the troops well as they march into war, and yet it was this White House, this administration, that submitted a budget for the Veterans Administration that was $2.5 billion less than hopefully the budget that this Congress will pass.

Let me suggest to the White House that that demonstrates callousness and turning your back on those young men and women in Iraq, and it is absolutely a stain on our national honor.

INTELLIGENCE ISSUES AND THE WAR IN IRAQ

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Under the Speaker's announced policy of January 4, 2005, the gentleman from Iowa (Mr. KING) is recognized for the remaining time until midnight.

Mr. KING of Iowa. Mr. Speaker, I appreciate being recognized and the opportunity to address the House tonight and until tomorrow begins I understand.

First, I would speak to this issue that we have heard as the conclusion of my friends and colleagues from the other side of the aisle, however optimistic they may not be in their presentation to the American people on a regular basis.

As I go through some of the things that are in front of me and I listened to the allegations that have been made that somehow the President has manipulated the intelligence and led this Nation into war because there never were any weapons of mass destruction in Iraq, I will point out that I flat out reject that statement. It is not possible to prove a negative in the first place, and a rational person would understand that from the beginning.

Additionally, we know that Saddam Hussein had weapons of mass destruction. We know that he used them 1 time.

Mr. DELAHUNT. Mr. Speaker, will the gentleman yield.

Mr. KING of Iowa. I yield to the gentleman from Massachusetts.

Mr. DELAHUNT. Mr. Speaker, there is no doubt that we know that he did have weapons of mass destruction because we provided, during the 1980s, the means for the development of those weapons to Saddam Hussein.

Members of this administration, former Secretary of State Colin Powell, the Secretary of Defense Rumsfeld, they clearly knew because they were involved in assuring that the means to develop weapons of mass destruction were provided to the Saddam Hussein regime.

Mr. KING of Iowa. Mr. Speaker, reclaiming my time, I would point out that I will not concede the accuracy of that, and I do not because I do not have that evidence and I have not seen that. I acknowledge the gentleman's statement for the honorable individual he is, and I would point out that we can concur then that Saddam had weapons of mass destruction.

In fact, President Clinton made that statement in 1998 very clearly and unequivocally, and my point is that either Saddam Hussein used his last canister of mustard gas on the Kurds and simply ran out of inventory or else those weapons of mass destruction still have to be someplace, and he constructed then an elaborate ruse to dupe the world and dupe seven or eight or nine different countries on the intelligence.

I point out President Clinton's statement: Other countries possess weapons of mass destruction and ballistic missiles. This is December 1998. With Saddam there is one big difference; he has used them. The international community has little doubt then, and I have no doubt today, says President Clinton, that left unchecked Saddam Hussein will use these terrible weapons.

Again, 1998, Mr. Speaker, and allegations here on this floor and around this country are that somehow President Bush has manipulated intelligence and apparently misrepresented this to the American people, and the implication is also that he has duped these people that have made these statements, including former President Bill Clinton and a number of other high-profile people within his administration.

The allegation would then have to hold true that somehow the governor of Texas, now President Bush, found a way to dupe the national leaders to somehow manipulate and maneuver hundreds of billions of dollars worth of national intelligence to produce these kinds of results.

□ 2315

It is simply a ludicrous position to take. It will not hold water, it is not logical, it is not rational, and the more the American people hear about this, the more they begin to think about it, the more they begin to understand it, the less they are going to believe these allegations.

I would also point out that the individual who has had his 15 minutes of fame and then some, the erstwhile ambassador who was sent by the CIA to go to Niger to investigate the question as to whether Saddam Hussein was seeking yellowcake uranium from Niger, that individual, of course, we know as the husband of now publicly discussed Valerie Plame, at her recommendation. As we understand, he was sent by the CIA.

He had not been in Niger in 20 years. He was not a weapons expert like his wife may have been. But he went there, and he came back and gave one story to the New Republic Magazine. He gave another story under oath to the Senate Select Committee on Intelligence which thoroughly eviscerated his viability and his credibility.

So the statements that were made for publication for the fame did not hold up under oath, did not hold up under scrutiny. One thing we are confident of is that erstwhile ambassador who went on a mission to supposedly represent the United States, Joseph C. Wilson, the individual who went over there for the CIA, if one is on a mission in a foreign country for the CIA, one would think that they would have some level of integrity they would have to hold up, have some level of confidentiality that they would have to hold up. One would think that if they went on a mission, a secret clandestine mission, first, that they would be qualified; second, that they would maintain that level of secrecy and confidentiality, that they would come back and report back to their superiors and it would be an accurate report and it would be precise and it would be credible and it would hold up under oath.

That report, alleged to have been delivered in print by one Joseph C. Wilson, erstwhile ambassador, was not delivered in print. It was delivered verbally, and the verbal report that we have the notes of and the knowledge of, Mr. Speaker, is a verbal report that indicates that the Iraqis were seeking weapons of mass destruction, yellowcake uranium in Niger. It indicates the very thing that he alleges today was not true.

Yet this seems to be some kind of allegations by the other side, if they like what they hear, are enough for them to say this is confirmed and absolute proof; and rational, thinking Americans know better. Critical thinking Americans know better. In fact, this President would not use any language in a State of the Union address or any other kind of speech unless he knew that it had been thoroughly vetted, it was reliable. And it was, by the way, vetted and reliable and delivered into that speech on January 28, 2003, in these Chambers from just in front of where the Speaker is right now when the President gave his State of the Union Address.

Those now infamous 16 words that are alleged to have been untruthful to the American people start out with "we have learned from the British" that the Iraqis have been seeking uranium from Africa. Now, "we have learned from the British" is true. That is a fact, and no one has challenged that fact. "We have learned from the British that the Iraqis are seeking," that qualification precludes any of the rest of that statement as long as the rest of that statement is consistent with what we have learned from the British; and to turn that into something that is now called a lie is disingenuous and dishonest to the American people.

I reminded the body here last week, last Wednesday night, that there were commercials that were run across this country on television in the 1996 Presidential campaign. There were issues there about integrity and honesty in that Presidential campaign. Charlton Heston went on television, and he said, looking into the camera, "Mr. President, when you say something that is wrong and you do not know that it is wrong, that is a mistake. But, Mr. President, when you say something that is right and you know it is wrong, that is a lie." That is the distinction between a mistake and a lie. That distinction has not been recognized by the other side of the aisle, and it is willfully being ignored.

I will not concede that a mistake was made. I think the words in that State of the Union Address are precisely accurate. I think the British would concede that point today. I think any rational, critical thinking person would concede that point today, Mr. Speaker. But this has been twisted and warped to the point where it is jeopardizing our national security, and that is why I am on the floor here tonight.

I have been over in the Middle East a number of times. The last time I came back was August 20 of this past summer. I have been there with our men and women in uniform when they are strapped on with helmets and bulletproof vests. I have been in and ridden in and inspected some of those armored vehicles that have been hit by enemy fire, hit by IEDs. I happen to have inspected an armored Humvee that was hit by a rocket and an RPG almost simultaneously. It rolled off the road upside down, and the four American soldiers that were in that armored Humvee walked away and were on patrol the next day thanks to the armor that is there.

I have been to Fallujah, I believe a year ago last May, where the Marines were bolting on armor then and preparing for battle that was ahead. So we have accelerated the production of our armor for all of our vehicles there. Some of them are not armored. They stay on the base where they are safe. But almost all of our vehicles that go out anywhere where they are in danger are fully armored, top, bottom, and sideways, with bullet-proof windows in them. We have done a fantastic job to ramp up the construction and development of armor and done a pretty good job.

We were not ready for this. The Humvees were not designed to go into combat. They were not designed to drive over IEDs. They were not designed to take direct hits from RPGs or rocket fire. In fact, they were not designed to take hits from AK-47s. They were not a combat vehicle in the beginning of those operations. So we had to adapt to the circumstances that were there.

We began sending steel over there, and it was cut and fitted and it was bolted on or welded on, and our military went right to work as quickly as they could to get as much armor up as fast as they could. We started our factories up here. We took an existing production line and multiplied its production capability by at least 10 times to get our armored Humvees out in place and to put the armor on our trucks and to get ready.

Now we do send out convoys that are fully armored on a regular basis, and it has been a long time since we have exposed significant numbers of vehicles or American soldiers out there in vehicles that were not armored, Mr. Speaker. So this argument that it is something other than that I think is specious, and I do not think it is based on fact.

The statement that the President made about the irresponsible statements when people undermine our military efforts, I will go further than that, and I will relate an incident for me a year ago last June, about June 17. I was in a hotel in Kuwait waiting to go into Iraq the next day early. I turned on the television to Al-Jazeera TV. As I watched that television, it was Arabic audio and it was English subtitles, and on that television came Moqtada al-Sadr, a big black beard, and as he spoke in Arabic, the English subtitles came on underneath on the screen, and the subtitles said, "If we keep attacking Americans, they will leave Iraq the same way they left Vietnam, the same way they left Lebanon, the same way they left Mogadishu."

Listen to that echo in the ears of Moqtada al-Sadr, and we know that his voice was echoing in the ears of our enemy, the people we call the insurgents on our nice days, the people who are sitting somewhere in a mud hut or a stone building and they have some 155mm rounds. They have got explosives. They have got detonating devices. They have got shrapnel built into this, and they are making improvised explosive devices. They are watching their new satellite dish TV.

Some of the communities there in Iraq have more than one satellite dish per household. They were illegal when we first came into Iraq, but every Iraqi today has access to satellite TV. Every Iraqi today can watch Al-Jazeera TV. And on Al-Jazeera TV, they would see these kinds of scenes of Moqtada al-Sadr saying, "If we keep attacking Americans, they will leave Iraq the same way they left Vietnam, the same way they left Lebanon, the same way they left Mogadishu." And the enemy who are making improvised explosive devices see that on television. It encourages them. It causes them to build more bombs, not less. It causes them to plant more bombs, not less. It causes them to detonate more bombs, not less. It causes them to have more courage, more hope, a stronger spirit to fight our American soldiers because of the words that came out of Moqtada al-Sadr.

Now, imagine how encouraging that is to our enemy over in Iraq, and many of them are not Iraqis. In fact, most of the enemy, I understand, are not Iraqis but imported fighters from other countries. Imagine how encouraging it is when they see on their Al-Jazeera TV, when they hear the voice and see the face of a quasi-leader of the United States of America, someone from the floor of Congress, someone from the floor of the United States Senate, someone who is doing a press conference out on the steps of the Capitol, someone who is doing talking head television, someone who says, wrong war, wrong place, wrong time, get them out of there, Mr. President, we need to get out of Iraq. Imagine how much encouragement that gives to the enemy. And what is the enemy going to do? They are going to recruit more. They are going to build more bombs. They are going to attack more Americans.

I reject the idea that one can say they fervently pray that the troops come home and they support the troops. I reject the idea that they can support the troops and reject their mission. Mr. Speaker, if you are for the troops, you are for their mission. And if you are against the troops, you are against their mission. But these things are inextricably linked. They cannot be separated.

We cannot ask an American soldier to go in this country or overseas, risk their life, perhaps give their life on a mission that we do not believe in. We would not send them on a mission we do not believe in. We would not ask them to do that. It would be the most dishonest, disingenuous thing we could do as the United States Government in Congress and the President of the United States and Commander-in-Chief to order men and women into a theater of battle and not support their mission.

When I talk with the families that have lost a loved one in this war on terror, it is a sad time, and that price they have paid cannot be felt unless we ourselves have had that loss, but we can empathize with them. We can pray for them. We can sympathize with them. We can try to understand. But invariably those that I talk to, those that I meet with, will tell me they want their son or their daughter's life to have meaning. They want that sacrifice to have meaning. And they will say do not give up on this mission. My son believed in what he did. He volunteered for this mission. Let us have meaning. Let us have freedom for the Iraqi people. Let us have freedom for the Afghani people.

By the way, while I bring that up, what is the distinction between Afghanistan and Iraq? Why do I not hear from the other side of the aisle "get your troops out of Afghanistan"? The statement is never made. We forget about the naysayers that were here before we went into Afghanistan and before we liberated the Afghanis. There were plenty of naysayers. They said we cannot go into that part of the world. No one has ever been able to be go into that part of Afghanistan or even Afghanistan at all and be able to liberate, invade, occupy because the terrain is so difficult, that Mujahideen are such tough fighters.

So 2 months after September 11, the American military were in there, coalition forces were in there, and we still heard the naysayers. But as the operation got wrapped up, as there was more security and more safety and votes coming along in Afghanistan where people had never voted before on that particular piece of real estate, they did so and they have done so twice. They have done that because of the American soldiers giving them that liberty. But the critics essentially shut up about Afghanistan but not about Iraq.

Is the difference the number of lives, Mr. Speaker? Is the difference that 200 Americans have lost their lives in Afghanistan and 2,000 Americans have lost their lives in Iraq? If that is the difference, then I would challenge the left, the pacifist left, the people who have difficulty figuring out how they are going to support the troops and oppose the mission, and if they were rational, they would admit that that dichotomy could not be accepted or tolerated. They cannot seem to draw the line on what the difference is between Afghanistan and Iraq, 200 lives versus 2,000 lives. If the number of lives were the difference, then they should tell us from their position how many are enough. How many lives would they spend to free 25 million Afghanis? How many lives would it cost to free 25 million Iraqis?

And, yes, the price has been high, and it has hurt. And it will hurt far more if this job, this task, is not completed, if this freedom that has been so hard fought and won is allowed to go back to a state of tyranny where a dictator would take over in Iraq and where we would see a center for Islamic terrorism for al Qaeda.

□ 2330

It would clearly be there if we pulled out of there today. I would wager if you put this up for a ballot to the Iraqi people and asked, do you want the United States and the coalition forces to pull out as fast as they can, that ballot referendum, I believe 95 percent would say, no, we would like to have the Americans leave not real soon, just soon enough to get control of our country.

That is moving along at an acceptable rate. I will not say I am happy about the speed. It is a tough job. The infrastructure in Iraq has been depreciated and dilapidated over 35 to 40 years of neglect. So there is old equipment that does not function very well. Parts and materials to keep it in shape, many have to be manufactured. The oil fields need new wells and distribution systems. They need to get their refineries up to shape. They need a distribution system that will get that oil out of the country so they can get some cash coming back in.

But Saddam Hussein, when he was in power, was killing an average of 182 of his own people every day. Every day on average. Hundreds of thousands of them have been found in mass graves. The 800,000 Swamp Arabs that were there before Saddam Hussein decided they were an enemy of the state were decimated down to 220,000. Some escaped. In the end, about a fourth of the population of Swamp Arabs in the area of the wetlands. Saddam Hussein dried them up in order to take away their livelihood and way of life. That area is twice the size of the Everglades, and that way of life was destroyed by Saddam. We have reconstructed about the size of the Everglades, and the Swamp Arabs are starting to repopulate. But that is one-thirtieth of Iraqi population doing what they can.

The argument that Saddam Hussein did not have weapons of mass destruction, and now we hear from the gentleman from Massachusetts that he did, what did he do with them? Where did they go? Matter can neither be created nor destroyed. Saddam Hussein said, I have those weapons of mass destruction. He defied 17 U.N. resolutions stretching back to 1990. We know from September 11 that we cannot wait until a threat is fully developed.

The question still remains, we do not know, we do not know how large the stockpiles of weapons of mass destruction were. We just know he had stockpiles. He used them. We do not know what happened to them. But the King rule of physics is everything has to be someplace. So where are they? There is no evidence he destroyed the weapons of mass destruction. But due to Saddam Hussein's obstruction, the materials once declared by the Saddam regime were never accounted for, even though he declared them.

I also want to point out that in October 2002, a bipartisan majority of Congress authorized President Bush to use force if necessary to deal with the continuing threat posed by Saddam Hussein. We also had a national policy that Congress endorsed of regime change in Iraq.

All of these things were consistent with the will of the people of America, as debated and voted on in Congress. H.J. Res. 114 stated that by continuing to possess and develop a significant chemical and biological weapons capability, and actively seeking a nuclear weapons capability and supporting and harboring terrorist organizations, those were the activities going on by Saddam Hussein.

And the intelligence of countries that concurred with ours. The 15 members of our intelligence community in this country, and additionally some of the other countries who concurred with our intelligence were Great Britain and France. France opposed our operations there, concurred with our intelligence. Germany opposed our operations and concurred with our intelligence. Russia same story: concurred with our intelligence, opposed our operations there.

What do those three countries have in common? The answer is those three countries were three of the most vocal opponents to the liberalization of Iraq. I said at the time that the decibels of their objections to the liberation of Iraq can be directly indexed to their interest in the oil development contracts that they had access to that they designed with Saddam Hussein prior to the beginning of our operations of the liberation of Iraq.

They had a vested interest in the oil in Iraq. They had contracts signed with Saddam Hussein, which of course were nullified by the liberation of Iraq. Come to find out after the fact, it was not just legitimate oil contracts that had them all in a dither; it was also the Oil-For-Food fraud campaign that was replete through those three countries, a number of others besides, and through the United Nations itself. Also, the U.N. Security Council echoed the congressional assessment of the threat posed by Iraq. Even the U.N. Security Council agreed with our intelligence: there was a fair amount of fraud going through the Oil-For-Food program.

I have to point out George Galloway, as a Brit, was apparently profiting significantly from Oil-For-Food, and his wife had a number of six-figure checks deposited in her checking account: and the facts are coming home to roost in the case of Mr. Galloway.

So the objections to the liberation of Iraq, many of the countries that objected had a conflict of interest. That vested interest reminds me of Barbara Conable's famous statement of hell hath no fury as a vested interest masquerading as a moral authority.

That is what we heard prior to the liberation of Iraq. We know Saddam Hussein had sufficient time to shuffle his weapons of mass destruction. They could have buried or spirited them out of the country.

By the way, Iraq is a country where everybody digs holes. It looks like one big prairie dog village. That countryside has a lot of open holes and a lot of things buried. We found a fully operational MiG–29 buried in the desert in Iraq. That is a whole lot bigger than you would need for a stockpile of the weapons of mass destruction. Did we find it because of intelligence or we had a metal detector or because somebody had good instincts, or because we had some scientific way to fly over the top and notice the difference in the terrain? Or did somebody tip us off to find that fully operational MiG–29 buried in Iraq?

Mr. Speaker, no, we found it because the wind blew the sand off the tail fin. If there had been weapons of mass destruction inside that plane, if it just filled the cockpit, that would have been plenty enough to convince even the skeptics on the other side of the aisle that the weapons of mass destruction are not really the question that is before this country or the world, but a red herring that is designed to throw the American people into a frustration with the decision-making process and the effort to convince Americans that things are going badly there.

Whenever we lose an American, that is something going very, very badly. Whenever we have Americans exposed to enemy, we will have casualties, Mr. Speaker. But when we look objectively at what has been accomplished in Iraq, when we objectively look to see that there were milestones set on the calendar, the effort over there has met or exceeded every single milestone.

Certainly the liberation of Iraq came around a lot faster than anybody thought it would. I point out to the American people that the city of Baghdad, about 5 million people, is the largest city in the world, ever in the history of the world, to be invaded and occupied by a foreign power. It happened in the blink of a historical eye with an extraordinarily small number of casualties for a city that size. No one quite believed on that Thursday, an American armored column had gone into Baghdad, driven in and came back out, and the enemy had given up the ghost and essentially disappeared.

But that is what happened. They met that deadline. They set a new milestone for armored columns going across the desert and for the liberation of 5 million people. They were way ahead of the agenda, the targeted timetable.

And then we set up the CPA, the provisional authority under Paul Bremer. The idea was to establish a functional government in Iraq and be able to pass that over to the Iraqis so they could govern themselves. This began in March of 2003. March 22 was the date Baghdad was liberated.

I happen to know, since I was in Mosul sometime after that, that General Patrais and the 101st Airborne that liberated Mosul, they held open and free elections in May of 2003. They elected a governor and vice governor and put together a government of the people by the people and for the people, a Kurd, and I am not sure actually of the religious definition of the other individual, but I watched them interact with each other and I watched them do business. They brought a businessman that could speak English. They were optimistic about the city of Mosul.

In fact, when the 101st Airborne left Mosul and deployed after their year tour of duty, the Iraqis took a boulevard, a broad boulevard in Mosul. And I only saw one street sign in all of Baghdad my first trip. Most everything had been looted and stripped for the metal. The one street sign in Baghdad was a street named Jihad. So they left that up and tore down the other street signs.

Go over to the city of Mosul and I did not notice any street signs there, but I have a picture of a street sign in Mosul, that sign is 101st Airborne Air Assault Division. They named that street after the 101st Airborne. And this was not something put up by the 101st Airborne unless they had the same difficulty with spelling that the Iraqis had. They misspelled "division" and they misspelled "assault." That makes it genuine in that effort.

I am quite proud of the way the Iraqis responded to the Americans. I am proud of the way they respond to them in most of the areas of Iraq.

Mr. Speaker, it is interesting to fly over Fallujah, where we have had as much conflict as anywhere, and see people come out into the streets and wave and smile. They come out and wave because they are grateful to Americans for giving them a chance at freedom.

But this message that the American people are getting that the credibility of the administration is not there disappoints me a great deal. It undermines our American troops. It does give aid and comfort to the enemy. It encourages the enemy to attack more Americans. It is costing American lives.

When people come to this floor of Congress, when they step out into a press conference, when they speak on the floor of the Senate, they are viewed as quasi-leaders of the United States of America. This encourages our enemies. When I see a soldier anywhere in America, particularly in my district, serve their second tour of duty, and they lost their life defending freedom in their second tour of duty, it is infuriating to me because I believe if we stuck together as a Nation, if we stuck by the deal and the agreement that this Congress has when we have our vote on the floor of this Congress, when the vote goes up and men and women go to war, you stand with them, you stand beside them, you support them with everything you have. That means, yes, bulletproof vests; yes, armored Humvees; and, yes, support and equipment and training and tactics and technology and great leadership.

□ 2345

But it means support the mission, Mr. Speaker. You cannot ask a soldier to go to war and tell him that you do not support their mission. And so the pessimism that abounds that seeks to undermine the presidency here and seeks to establish a majority in the House and the Senate in the upcoming election is all about negativism. It is all about dragging down our foreign policy. It is all about trying to prove to the American people that the administration has not been successful.

But each milestone that is reached in Iraq, handing over the CPA of Paul Bremer's over to the temporary civilian government, that happened 2 days early. And then they had elections, and the elections were there to put people in temporarily into their temporary parliament and the temporary parliament got together and they agreed on a constitution and the constitution was rolled out on time. And they had an election to ratify the constitution, Mr. Speaker, all in an extraordinary amount of time.

The United States of America declared its independence July 4, 1776; and yet we did not get our Constitution ratified until 1789, 13 years later. Now it took a while to earn our freedom, I grant, and the war was long, and it was bloody, and it was costly, and it was brutal. We have our freedom, and we have our Constitution. In fact, the Iraqis have their constitution far sooner than the American Constitution has been established, and it is ratified by a full vote of the Iraqi people.

Now, about 1 month from today, the Iraqis will go to the polls, and they will select a new parliament, and this will be a sovereign nation when that new parliament is seated. It will have all the legitimacy of any nation that sits at the United Nations today. Iraq will be fully, fully legitimized. The vote of the people will seat the members of parliament. They will select a prime minister and their leaders and that legitimacy that is there takes them to another level.

But this is an astonishing thing. This is far, far more freedom, far, far closer to establishing a functioning rule of law than has ever been seen in that part of the world before. And the inspiration for the Arab people all around Iraq that see that a nation like Iraq can have freedom, when people breathe free, they give inspiration to others who see them breathe free and out of that yearning will bring them to the streets like it did in Lebanon.

The Lebanese reached out for their measure of freedom, and that is part of the inspiration of Iraq, and it is part of the inspiration of Afghanistan. It is part of the inspiration that this President has laid out in an articulated way to the world, the inspiration that we have been attacked by enemies from without. We did nothing to provoke them. They attacked us and killed approximately 3,000 Americans on September 11, 2001. And we went to Afghanistan and liberated 25 million people, and we went to Iraq and liberated 25 million people. Fifty million people that had not been free before in any substantive way are free today. Those two countries can become and I believe will become the lodestar nations, the Arab nations that can be the inspiration for the rest of the Arab world.

The habitat that breeds terror is a habitat that breeds poverty, ignorance, jealousy and hatred. That is the environment that is being exploited by the wahabis and the madrassas that are teaching this hatred in the young people. And the pressure that comes on those countries from the measure of that kind of hatred, they are being taught that, somehow or another, it is part of this age-old philosophy.

I really do believe that if you would scramble up all of our cultures and all of our people and erase our institutional memory and toss us into a totally new environment in a random way, some of us would wake up in the morning and think, huh, my glass is half full, and I am going to go to work and see if I can fill it up the rest of the way. And others, they look at their glass and say mine is half empty and that fellow over there, he is seeking to fill his glass. If he were not doing that, mine would fill spontaneously. That is the class envy, jealousy, hatred that comes.

It has always been this conflict between freedom and communism, freedom and fascism, freedom and national socialism, and freedom and militant Islamic extremism, all the same kind of class envy jealousy, the hatred that comes from the idea that if somehow other people were not industrious and did not earn a profit, somehow those resources of the world are finite and they will flow at random to other folks who do not quite try so hard or have the technology or have not developed the education. But this spirit of entrepreneurship and free enterprise will establish itself in a strong way in Afghanistan and in Iraq.

In fact, I gave a speech to the Baghdad Chamber of Commerce. I did not know they had a Chamber of Commerce. We pulled into Baghdad at the al Rashid Hotel, and they asked me if I would give a speech to them. So I said yes I would.

It was about 3:00 in the afternoon. Walked in there, and they were getting ready to introduce me, and I said introduce me to the interpreter first. That is going to be really helpful. And they said, no, we do not have an interpreter. You do not need an interpreter, Mr. Congressman, because they all speak English here at the Baghdad Chamber of Commerce. About 56 to 58 of them sitting at the dinner tables.

So I gave them a little speech, and you could tell they understood English. They laughed at the right time, and they smiled at the right time, and they clapped at a time that I thought was appropriate anyway. I was quite encouraged at the level of interest in developing a culture of free enterprise in Iraq.

When that speech was over, I needed to get on to the next meeting, but it was an instantaneous cluster, huddle like, actually. They had to eventually just pull me out of this huddle. We were passing back and forth business cards and writing notes and trying to find a way to connect with the inspiration of free enterprise that is embodied in almost every American that walks the streets of Baghdad or Iraq. They look to us to be leaders in a lot of ways, not just military but on free enterprise capitalism perspective, and as they continue to develop that their economy will grow.

It takes a level of integrity and morality to have a functioning free enterprise system. It works on trust is why. As that trust gets built and established in the culture in Iraq, it is going to be a stronger and stronger economy. As the free enterprise economy flows out in Baghdad and the other cities in Iraq and connects itself with the new thing that will come, that will be available for the Iraqis after December 15, when they are a truly sovereign nation in control of all of their own assets, then they will be able to sit down and negotiate or have competitive bids for the development of the oil resources in Iraq.

They must have that. They must have outside capital, foreign capital and foreign technology and foreign know-how, and a lot of it should be and hopefully is American technology capital know-how to pour into Iraq, to go out and punch in hundreds of new oil wells and new pipelines and distribution systems and refineries so that that oil can pour out of that country and the money can pour in.

Another allegation that comes from the other side of the aisle, Mr. Speaker, is that somehow we did this all for oil. But oil is something that you can purchase on the open market around the world. We did not go in there to steal anybody's oil. We went in there to protect that oil for the Iraqis.

It is absolutely clear that the oil resources of Iraq belong to the people of Iraq, and we protected that, preserved that, and we are keeping our pledge with the Iraqi people. They will develop the oil resources with foreign capital and, when that happens, then the cash will flow into the economy and it will multiply itself over and over again. And Iraq becomes the lodestar Arab nation that brings freedom to that part of the world.

Like, as the European, the eastern European nations saw, an echo of freedom go across eastern Europe when the wall went down on November 9, 1989. I believe we will see an echo of freedom go through the Arab world, probably not as dramatically, probably not as quickly, probably not as bloodlessly. But I believe we will see a free Arab people some time within the next generation.

At that point, the habitat that breeds terrorists will disappear. It will not be the culture that can create that kind of a thing. And I mean that two ways. But the culture of freedom does not produce a culture of terror. In fact, free people never go to war against other free people. This country has never gone to war against another democracy, another group of people that had an opportunity to go to the polls and select their leaders and their national destiny. That is another known fact that does not seem to get out on the other side of the aisle, Mr. Speaker.

So I am optimistic about the solutions there. I applaud the President's vision and having the courage to step in and take the initiative to free 50 million people, 50 million Arab people, to give them an opportunity. And those people will be our allies, by the way, for a long, long time to come in a part of the world where it is pretty important to have those kind of allies.

As I listened to some of the other laments that were here earlier this evening, the discussion about the Budget Reconciliation Act, the people who are critical of that, of the Deficit Reduction Act that we brought some $53 billion to come out of the proposed spending up until the year 2010, not enough, but a start. A half of 1 percent of our budget is all that amounts to, Mr. Speaker. I do not think it is very hard to step up and do a very small half of 1 percent trim, given the kind of spending that we have had.

But the other side of the aisle does not offer $1 in fiscally responsible cuts, not one; and they do not offer one vote to support our fiscal responsibility, not one. Additionally, they demagogue the very things we have done that are responsible.

The statement was made over here earlier tonight that we have cut $40 billion from the student loans and that somehow it is going to come out of the students, their loans and their aid. Not. Not $40 billion from the student loans. The students are not going to notice any difference unless there is more cash available, not less, because we have made administrative changes, changes that affect the interest rates and the fees that are being charged by the lenders. This is not going to affect the students. This is reform. That is efficiency in government and efficiency in business.

But you know the demagoguery again. If I was as pessimistic as this and if I had this philosophy, this argument that everything is wrong and you cannot trust your leadership night after night after night, I think I would swim to Cuba and try to find a place where I would be happy. That would be my advice to the people that are here every night tearing down the optimism of America, undermining the truth that is America and making it difficult for us to move forward into this bold and brave future that we need to.

And, by the way, they have no confidence in our economy. I would go down through the whole list of economic indicators. We have had the longest period of consistent growth over 3 percent for 10 consecutive quarters. That is the longest since for the last two decades to have that kind of growth. Unemployment is down to 5.0 percent, when 5.6 is considered to be a pretty good position to be in. It has been ratcheting down. This economy has been creating more and more jobs. Nearly every economic indicator is stronger and stronger and stronger.

That in the face of the negatives, that in the face of Hurricane Katrina. This in 10 consecutive quarters of growth over 3 percent is after we got hit by September 11 and the attack on our financial markets. It is after some of the business circumstances that were brought up short by this Congress, and I am pleased that they were, hit the markets as well. After people lost confidence in the markets, September 11 came and destroyed the financial industry. We still came back and recovered with 10 consecutive quarters of growth over 3 percent, Mr. Speaker.

So this is a strong and robust economy, and it is a credit to the Bush tax cuts, those tax cuts that we need to make permanent, the extra resources, the billions of dollars that we have in our Treasury today because we had the courage to cut taxes so our economy could grow and create jobs. That is the kind of vision that is sorely lacking on the other side. They are good at criticizing, but I am waiting for a positive agenda, Mr. Speaker.

This idea that American soldiers should be, go off and fight without support for their mission has got to come back to the people who believe somehow they can support our soldiers but not support the mission, Mr. Speaker. So I just tell you that I am optimistic about the future of America. I know our economy is strong. I am optimistic about the future of our economy.

I am watching a confirmation process begin over in the United States Senate for Judge Alito. I think he will be the individual that comes to the Supreme Court and begins a constitutional restoration process. I am looking forward to that. We must restore this Constitution. It has been eroded over the last 30 to 40 years with activist judges.

The Kilo decision was the last straw for me and a lot of us. I agreed with the liberals on that. I will say that the gentleman from Massachusetts and I, whom we most generally disagree, he and I agreed and spoke essentially back to back here on the floor in opposing the Kilo decision. That is Mr. FRANK from Massachusetts. When he and I agree on a constitutional issue I am going to say and oppose the Supreme Court, chances are the text of the Constitution ought to be respected.

We will get back to that, Mr. Speaker, with this confirmation of Judge Alito. The corner needs to be turned. The American people need to be informed on how positive things are over in Iraq and that our economy is strong and we are going to move forward in a bold future with a bold agenda.

We need to pass this reconciliation act so that we can offset the costs of Hurricane Katrina. I will do more. We need to drill for oil in ANWR. We need to drill for natural gas and oil on our Outer Continental Shelf and hand this future over to our children and grandchildren with oil supplies, good tax programs, a national security program, a whole package. So, Mr. Speaker, I appreciate your indulgence tonight and the privilege to speak to this House.

Mr. Speaker, I yield back the balance of my time.

PERMISSION TO HAVE UNTIL 2:00 A.M., NOVEMBER 16, 2005 TO FILE CONFERENCE REPORT ON H.R. 3058, TRANSPORTATION, TREASURY, HOUSING AND URBAN DEVELOPMENT, THE JUDICIARY, THE DISTRICT OF COLUMBIA, AND INDEPENDENT AGENCIES APPROPRIATIONS ACT, 2006

Mr. KING of Iowa. Mr. Speaker, I ask unanimous consent that the managers on the part of the House have until 2:00 a.m., November 16, 2005 to file the conference report to accompany H.R. 3058, making appropriations for the Departments of Transportation, Treasury, and Housing and Urban Development, the Judiciary, District of Columbia, and independent agencies for the fiscal year ending September 30, 2006, and for other purposes.

The SPEAKER pro tempore (Mr. INGLIS of South Carolina). Is there objection to the request of the gentleman from Iowa?

There was no objection.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. MCNULTY (at the request of Ms. PELOSI) for today and November 16 on account of a funeral in the district.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. ZOE LOFGREN of California) to revise and extend their remarks and include extraneous material:)

Mr. HOYER, for 5 minutes, today.

Mr. GEORGE MILLER of California, for 5 minutes, today.

Mr. DEFAZIO, for 5 minutes, today.

Mrs. MCCARTHY, for 5 minutes, today.

Mr. WYNN, for 5 minutes, today.

Mr. EMANUEL, for 5 minutes, today.

Ms. ROYBAL-ALLARD, for 5 minutes, today.

Ms. KAPTUR, for 5 minutes, today.

Ms. LEE, for 5 minutes, today.

Mr. CUMMINGS, for 5 minutes, today.

Ms. WOOLSEY, for 5 minutes, today.

Ms. WATSON, for 5 minutes, today.

(The following Members (at the request of Mr. MORAN of Kansas) to revise and extend their remarks and include extraneous material:)

Mr. OSBORNE, for 5 minutes, today and November 17.

Mr. FITZPATRICK of Pennsylvania, for 5 minutes, today.

Mr. BURGESS, for 5 minutes, today.

Mr. FORTENBERRY, for 5 minutes, November 16 and 17.

Mr. BURTON of Indiana, for 5 minutes, today and November 16, 17, and 18.

Mr. POE, for 5 minutes, today and November 16.

Mr. JONES of North Carolina, for 5 minutes, November 16 and 17.

Mr. KING of Iowa, for 5 minutes, November 16.

Mr. HUNTER, for 5 minutes, today.

(The following Members (at their own request) to revise and extend their remarks and include extraneous material:)

Mr. MORAN of Kansas, for 5 minutes, today.

Mr. PETERSON of Pennsylvania, for 5 minutes, today.

Ms. PELOSI, for 5 minutes, today.

ENROLLED BILL SIGNED

Mr. Trandahl, Clerk of the House, reported and found truly enrolled a bill of the House of the following title, which was thereupon signed by the Speaker:

H.R. 2419. An act making appropriations for energy and water development for the fiscal year ending September 30, 2006, and for other purposes.

BILL PRESENTED TO THE PRESIDENT

Jeff Trandahl, Clerk of the House reports that on November 10, 2005, he presented to the President of the United States, for his approval, the following bill.

H.R. 3057. Department of State, Foreign Operations, and Related Programs Appropriations Act, 2006.

ADJOURNMENT

Mr. KING of Iowa. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at midnight), the House adjourned until today, Wednesday, November 16, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5191. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — 2-Bromo-2-Nitro-1, 3-Propanediol (Bronopol); Exemptions from the Requirement of a Tolerance [OPP-2005-0280; FRL-7743-5] received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5192. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Flucarbazone-sodium; Time-Limited Pesticide Tolerance [OPP-2005-0254; FRL-7740-8] received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5193. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — S-metolachlor; Pesticide Tolerance Technical Correction [OPP-2004-0326; FRL-7741-7] received November 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5194. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Sulfosulfuron; Pesticide Tolerances for Emergency Exemptions [OPP-2005-0270; FRL-7740-1] received November 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5195. A letter from the Under Secretary for Acquisition, Technology and Logistics, Department of Defense, transmitting the Selected Acquisition Reports (SARs) for the quarter ending September 30, 2005, pursuant to 10 U.S.C. 2432; to the Committee on Armed Services.

5196. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Qatar pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

5197. A letter from the Chairman and President, Export-Import Bank, transmitting a report on transactions involving U.S. exports to Mexico pursuant to Section 2(b)(3) of the Export-Import Bank Act of 1945, as amended; to the Committee on Financial Services.

5198. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Greene County and Jackson County 8-hour Ozone Nonattainment Areas to Attainment for Ozone [R05-OAR-2005-IN-0009; FRL-7995-9] received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5199. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Implementation Plans for Air Quality Planning Purposes; California — South Coast and Coachella [CA-314-0483; FRL-7975-7] received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5200. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Designation of Areas for Air Quality Planning Purposes; Arizona; Correction of Boundary of Phoenix Metropolitan 1-Hour Ozone Nonattainment Area [OAR-2005-0150a; FRL-7995-3] received November 8, 2006, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5201. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Interim Final Determination to Stay and/or Defer Sanctions, Pinal County Air Quality Control District [R09-OAR-2005-AZ-0007, FRL-7994-6] received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5202. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Revisions to the Requirements on Variability in the Composition of Additives Certified Under the Gasoline Deposit Control Program; Final Rule [OAR-2004-0029; FRL-7996-2] (RIN: 2060-AK62) received Novemebr 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5203. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of Air Quality Implementation Plans; Maryland; Metropolitan Washington D.C. 1-Hour Ozone Attainment Plan, Lifting of Earlier Rules Resulting in Removal of Sanctions and Federal Implementation Clocks [RME NO. R03-OAR-2004-MD-0010; FRL-7997-5] received November 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5204. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Commonwealth of Virginia; Control of Emissions From Hospital/Medical/Infectious Waste Incinerator Units; Correction [VA139-5073a; FRL-7997-6] received November 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5205. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Control of Air Pollution From Aircraft and Aircraft Engines; Emission Standards and Test Procedures [OAR-2002-0030; FRL-7997-3] (RIN: 2060-AK01) received November 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5206. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Control of Air Pollution from New Motor Vehicles; Revisions to Motor Vehicle Diesel Fuel Sulfur Transition Provisions; and Technical Amendments to the Highway Diesel, Nonroad Diesel, and Tier 2 Gasoline Programs [OAR-2005-0153; FRL-7996-9] (RIN: 2060-AJ71) received November 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5207. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Delaware County to Attainment of the 8-Hour Ozone Standard [R05-OAR-2005-IN-0008; FRL-7997-8] received Novemebr 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5208. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard — Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as they Apply in Carbon Monoxide, Particulate Matter and Ozone NAAQS; Final Rule for Reformulated Gasoline [OAR 2003-0079; FRL-7996-8] (RIN: 2060-AJ99) received November 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5209. A letter from the Principal Deputy Associate Administrator, Environmental Protection Agency, transmitting the Agency's final rule — National Emission Standards for Hazardous Air Pollutnats for Brick and Structural Clay Products Manufacturing: Reconsideration [OAR-2002-0054; FRL-7997-9] (RIN: 2060-AM94) received November 14, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5210. A letter from the Chief, Policy and Rules Division, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Part 2 of the Commission's Rules to Allocate Spectrum Below 3 GHz for Mobile and Fixed Services to Support the Introduction of New Advanced Wireless Services, including Third Generation Wireless Systems [ET Docket No. 00-258] received October 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5211. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Goldendale, Washington) [MB Docket No. 05-8; RM-11142]; (Port Angeles, Washington) [MB Docket No. 05-11; RM-11144]; (Ty Ty, Georgia) [MB Docket No. 05-12; RM-11145] received October 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5212. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b) Table of Allotments, FM Broadcast Stations. (Cameron and Hackberry, Louisiana) [MB Docket NO. 05-138; RM-11162; RM-11266] received October 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5213. A letter from the Legal Advisor to the Bureau Chief, Media Bureau, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b). Table of Allotments, FM Broadcast Stations. (Glenville, Clyde, and Weaverville, North Carolina and Tazewell, Tennessee) [MB Docket No. 02-352; RM-10602; RM-10776; RM-10777] received October 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5214. A letter from the Assistant Legal Adviser for Treaty Affairs, Department of State, transmitting Copies of international agreements, other than treaties, entered into by the United States, pursuant to 1 U.S.C. 112b(a); to the Committee on International Relations.

5215. A letter from the Director, Defense Security Cooperation Agency, transmitting pursuant to the reporting requirements of Section 36(b)(1) of the Arms Export Control Act, as amended, Transmittal No. 06-07, concerning the Department of the Air Force's proposed Letter(s) of Offer and Acceptance to the Taipei Economic and Cultural Representative Office for defense articles and services; to the Committee on International Relations.

5216. A letter from the Acting Assistant Secretary for Legislative Affairs, Department of State, transmitting the Department's annual report of the activities of the United Nations and of the participation of the United States during the calendar year 2004; to the Committee on International Relations.

5217. A letter from the Chief Human Capital Officer, Corporation for National and Community Service, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5218. A letter from the Attorney Advisor, Department of Transportation, transmitting a report pursuant to the Federal Vacancies Reform Act of 1998; to the Committee on Government Reform.

5219. A letter from the Chief Administrative Officer, United States Capitol Police, transmitting the semiannual report of receipts and expenditures of appropriations and other funds for the period April 1, 2005 through September 30, 2005 as compiled by the Chief Administrative Officer, pursuant to Public Law 109-55, section 1005; (H. Doc. No. 109-69); to the Committee on House Administration and ordered to be printed.

5220. A letter from the Under Secretary for Emergency Preparedness and Response, Department of Homeland Security, transmitting notification that funding under Title V, subsection 503(b)(3) of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, has exceeded $5 million for the response to the emergency declared as a result the influx of evacuees from areas struck by Hurricane Katrina beginning on August 29, 2005 in the State of Minnesota; to the Committee on Transportation and Infrastructure.

5221. A letter from the Secretary, Department of Transportation, transmitting the Department's eigth report to Congress and sixth report to the President entitled, "The National Initiative for Increasing Safety Belt Use, Buckle Up America Campaign"; to the Committee on Transportation and Infrastructure.

5222. A letter from the Secretary, Department of Transportation, transmitting the Department's summary and detailed breakdown of the disability-related complaints that U.S. and foreign passenger carriers operating to and from the U.S. received during the 2004 calendar year, pursuant to section 707 of the Wendell H. Ford Aviation Investment and Reform Act for the 21st Century; to the Committee on Transportation and Infrastructure.

5223. A letter from the Administrator, General Services Administration, transmitting an informational copy of a Report of Building Project Survey for Lancaster, PA, pursuant to 40 U.S.C. 606(a); to the Committee on Transportation and Infrastructure.

5224. A letter from the President, John F. Kennedy Center for the Performing Arts, transmitting the report due on October 31, 2005 of the John F. Kennedy Center for the Performing Arts, pursuant to 20 U.S.C. 761(c); to the Committee on Transportation and Infrastructure.

5225. A letter from the Chairman, Labor Member, Management Member, Railroad Retirement Board, transmitting the Board's 2005 report for the fiscal year ended September 30, 2004, pursuant to section 7(b)(6) of the Railroad Retirement Act and section 12(l) of the Railroad Unemployment Insurance Act; jointly to the Committees on Transportation and Infrastructure and Ways and Means.

5226. A letter from the Admiral, United States Coast Guard, Department of Homeland Security, transmitting a copy of a draft bill, "To implement Annex VI to the International Convention for the Prevention of Pollution from Ships, 1973, as amended by the Protocol of 1978 relating thereto."; jointly to the Committees on Transportation and Infrastructure, Armed Services, and the Judiciary.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POMBO: Committee on Resources. H.R. 326. A bill to amend the Yuma Crossing National Heritage Area Act of 2000 to adjust the boundary of the Yuma Crossing National Heritage Area and to extend the authority of the Secretary of the Interior to provide assistance under that Act; with amendments (Rept. 109-294). Referred to the Committee of the Whole House on the State of the Union.

Mr. LINCOLN DIAZ-BALART of Florida. Committee on Rules. House Resolution 553. Resolution providing for consideration of the bill (H.R. 1065) to establish the United States Boxing Commission to protect the general welfare of boxers and to ensure fairness in the sport of professional boxing (Rept.109-295). Referred to the House Calendar.

Mr. BOEHLERT: Committee on Science. House Resolution 515. Resolution of inquiry requesting the President of the United States to provide to the House of Representatives certain documents in his possession relating to the anticipated effects of climate change on the coastal regions of the United States; adversely (Rept. 109-296). Referred to the House Calendar.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. PETERSON of Pennsylvania (for himself and Mr. ABERCROMBIE):

H.R. 4318. A bill to terminate the effect of all provisions of Federal law that prohibit the expenditure of appropriated funds to conduct natural gas leasing and preleasing activities for any area of the Outer Continental Shelf, to terminate all withdrawals of Federal submerged lands of the Outer Continental Shelf from leasing for exploration for, and development and production of, natural gas, and for other purposes; to the Committee on Resources, and in addition to the Committees on Energy and Commerce, and Education and the Workforce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. LANTOS (for himself and Mr. SMITH of New Jersey):

H.R. 4319. A bill to provide assistance for small and medium enterprises in sub-Saharan African countries, and for other purposes; to the Committee on International Relations, and in addition to the Committee on Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. OXLEY (for himself and Mr. FRANK of Massachusetts):

H.R. 4320. A bill to restore the financial solvency of the national flood insurance program, and for other purposes; to the Committee on Financial Services.

By Mr. TANCREDO (for himself, Mr. HAYWORTH, and Mr. GOODE):

H.R. 4321. A bill to repeal the amendment made by section 796 of the Agriculture, Rural Development, Food and Drug Administration, and Related Agencies Appropriations Act, 2006, exempting from harboring sanctions compensation for alien volunteers for certain religious organizations; to the Committee on the Judiciary.

By Mr. POMBO (for himself and Mr. RAHALL):

H.R. 4322. A bill to provide for Indian trust asset management reform and resolution of historical accounting claims, and for other purposes; to the Committee on Resources.

By Mr. THOMAS:

H.R. 4323. A bill to amend the Internal Revenue Code of 1986 to extend certain expiring provisions, to provide certain hurricane-related tax relief, and for other purposes; to the Committee on Ways and Means.

By Mr. SHUSTER (for himself, Ms. NORTON, Mr. YOUNG of Alaska, and Mr. OBERSTAR):

H.R. 4324. A bill to amend the Robert T. Stafford Disaster Relief and Emergency Assistance Act to reauthorize the predisaster mitigation program, and for other purposes; to the Committee on Transportation and Infrastructure.

By Mr. WELLER (for himself, Mr. HONDA, Mr. DOOLITTLE, and Mr. SWEENEY):

H.R. 4325. A bill to amend the Internal Revenue Code of 1986 to allow a credit against income for certain education and training expenses, and for other purposes; to the Committee on Ways and Means.

By Mrs. JO ANN DAVIS of Virginia (for herself and Mr. SCOTT of Virginia):

H.R. 4326. A bill to authorize the Secretary of the Navy to enter into a contract for the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson (CVN-70); to the Committee on Armed Services.

By Mr. ANDREWS (for himself and Mr. PLATTS):

H.R. 4327. A bill to authorize the Secretary of State to deny a passport to a noncustodial parent who is the subject of an outstanding State warrant of arrest for nonpayment of child support and to deny a passport to a custodial parent who is likely to remove a child from the United States to prevent contact permitted between the child and the noncustodial parent; to the Committee on International Relations.

By Mr. ANDREWS:

H.R. 4328. A bill to amend title II of the Social Security Act to restore child's insurance benefits in the case of children who are 18 through 22 years of age and attend postsecondary schools; to the Committee on Ways and Means.

By Mr. ANDREWS:

H.R. 4329. A bill to amend the Davis-Bacon Act to provide that a contractor under that Act who has repeated violations of the Act shall have its contract with the United States canceled and to require the disclosure under freedom of information provisions of Federal law of certain payroll information under contracts subject to the Davis-Bacon Act; to the Committee on Education and the Workforce, and in addition to the Committee on Government Reform, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. MARIO DIAZ-BALART of Florida (for himself, Mr. PUTNAM, Ms. ROS-LEHTINEN, Mr. FOLEY, Ms. WASSERMAN SCHULTZ, Mr. LINCOLN DIAZ-BALART of Florida, Ms. CORRINE BROWN of Florida, Mr. MILLER of Florida, Mr. BONNER, Mr. SHAW, Ms. HARRIS, and Mr. MEEK of Florida):

H.R. 4330. A bill to provide assistance to agricultural producers whose operations were severely damaged by the hurricanes of 2005; to the Committee on Agriculture, and in addition to the Committees on the Budget, Ways and Means, and Resources, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Miss MCMORRIS (for herself, Mr. SMITH of Washington, Mr. SIMPSON, Mr. OTTER, Mr. REICHERT, Mr. DICKS, and Mr. WALDEN of Oregon):

H.R. 4331. A bill to provide for a Medicaid demonstration project for chronic disease management; to the Committee on Energy and Commerce.

By Mr. PETERSON of Minnesota (for himself, Mr. COSTA, Mr. SALAZAR, Mr. HOLDEN, Mr. BUTTERFIELD, Mr. ETHERIDGE, Ms. HERSETH, Mr. BACA, Mr. SCOTT of Georgia, Mr. MCINTYRE, Mr. DAVIS of Tennessee, Mr. POMEROY, Mr. MELANCON, Mr. CUELLAR, Mr. MARSHALL, Mr. BARROW, and Mr. BOSWELL):

H.R. 4332. A bill to provide for an automatic one-year extension of the authorizations of appropriations and direct spending programs of the Farm Security and Rural Investment Act of 2002 and to provide for an additional one-year extension if implementing legislation is not submitted with respect to the Doha Development Round of World Trade Organization negotiations by January 15, 2008, and for other purposes; to the Committee on Agriculture.

By Mr. SANDERS:

H.R. 4333. A bill to require the Administrator of the Environmental Protection Agency to establish performance standards for fine particulates for certain pulp and paper mills, and for other purposes; to the Committee on Energy and Commerce.

By Mr. SHAW (for himself, Mr. FOLEY, Ms. ROS-LEHTINEN, Mr. HASTINGS of Florida, Mr. LINCOLN DIAZ-BALART of Florida, Mr. MARIO DIAZ-BALART of Florida, Mr. WEXLER, Ms. HARRIS, Ms. GINNY BROWN-WAITE of Florida, Mr. MACK, Mr. BILIRAKIS, Mr. MILLER of Florida, Ms. WASSERMAN SCHULTZ, Ms. CORRINE BROWN of Florida, Mr. CRENSHAW, Mr. PUTNAM, and Mr. DAVIS of Florida):

H.R. 4334. A bill to provide emergency tax relief for persons affected by Hurricane Wilma; to the Committee on Ways and Means, and in addition to the Committee on the Budget, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SPRATT:

H.R. 4335. A bill to extend the temporary suspension of duty on Fluorobenzene; to the Committee on Ways and Means.

By Mr. STUPAK:

H.R. 4336. A bill to designate the visitor center and other related facilities at the U.S.S. Arizona Memorial in Hawaii as the "Pearl Harbor Memorial Site"; to the Committee on Resources.

By Mr. ORTIZ (for himself, Ms. PELOSI, Mrs. NAPOLITANO, Mr. STARK, Ms. ZOE LOFGREN of California, Ms. LINDA T. SÁNCHEZ of California, Mr. HINOJOSA, Mr. GRIJALVA, Ms. SOLIS, Mr. SERRANO, Mr. BECERRA, Mr. SALAZAR, Ms. LORETTA SANCHEZ of California, Mr. MENENDEZ, Mr. COSTA, Mr. BACA, Mr. PASTOR, Mr. CARDOZA, Mr. GONZALEZ, Mr. REYES, Ms. VELÁZQUEZ, Ms. HARMAN, Mr. HONDA, Mr. LANTOS, Mrs. DAVIS of California, Mr. BERMAN, Mr. SCHIFF, Mr. FARR, Mr. WAXMAN, Ms. MATSUI, Ms. LEE, Mr. GEORGE MILLER of California, Mrs. CAPPS, Mr. HASTINGS of Florida, Mr. AL GREEN of Texas, Mr. MCDERMOTT, Ms. WATSON, Ms. ESHOO, Mr. SMITH of Washington, Ms. MILLENDER-MCDONALD, Mr. SHERMAN, Mrs. TAUSCHER, Mr. GUTIERREZ, Mr. CONYERS, Mr. UDALL of New Mexico, Mrs. JONES of Ohio, Ms. DELAURO, Mr. HOLT, and Mr. DREIER):

H. Con. Res. 297. Concurrent resolution honoring the life and expressing the deepest condolences of Congress on the passing of Edward Roybal, former United States Congressman; to the Committee on House Administration.

By Mr. SHAW:

H. Con. Res. 298. Concurrent resolution supporting the goals and ideals of National Lung Cancer Awareness Month and expressing the sense of the Congress that the Federal commitment to lung cancer research and earlier detection must be significantly increased; to the Committee on Energy and Commerce.

By Mr. THOMPSON of California (for himself, Mr. CUNNINGHAM, Ms. SLAUGHTER, and Mrs. BONO):

H. Con. Res. 299. Concurrent resolution expressing the sense of Congress that the leaders of Congress and other legislative branch offices should work together to establish and implement a coordinated program for the reuse, recycling, and appropriate disposal of obsolete computers and other electronic equipment used by offices of the legislative branch; to the Committee on House Administration.

By Ms. BALDWIN:

H. Res. 552. A resolution recognizing the 50th Anniversary of the Crop Science Society of America; to the Committee on Agriculture.

By Mr. PAYNE (for himself and Mr. WYNN):

H. Res. 554. A resolution urging the Government of the Gabonese Republic to hold orderly, peaceful, and free and fair presidential elections in November 2005; to the Committee on International Relations.

By Mr. WALSH (for himself, Mr. NEAL of Massachusetts, Mr. KING of New York, Mr. CROWLEY, Mrs. MCCARTHY, Mr. MCCOTTER, Mr. HIGGINS, Mr. SWEENEY, and Mr. PAYNE):

H. Res. 555. A resolution expressing support for the Good Friday Agreement of 1998 as the blueprint for lasting peace in Northern Ireland; to the Committee on International Relations.

MEMORIALS

Under clause 3 of rule XII, memorials were presented and referred as follows:

197. The SPEAKER presented a memorial of the General Assembly of the State of New Jersey, relative to Assembly Resolution No. 282 memorializing the Congress of the United States to authorize National Guard members to enroll in Department of Defense managed health care program; to the Committee on Armed Services.

198. Also, a memorial of the Legislature of the State of Texas, relative to House Concurrent Resolution 37 urging the Congress of the United States to increase the presence of the Centers for Disease Control and Prevention in Texas, improve coordination of Centers for Disease Control and Prevention programs with those operated by the Texas Department of State Health Services, and increase the amount of federal resources coming into Texas from the Centers for Disease Control and Prevention; to the Committee on Energy and Commerce.

199. Also, a memorial of the Legislature of the State of Texas, relative to Senate Concurrent Resolution 6 urging the Congress of the United States to enact legislation establishing a domestic energy policy that will ensure an adequate supply of natural gas, the appropriate infrastructure, and a concerted national effort to promote greater energy efficiency and that will open promising new areas for environmentally responsible natural gas protection; to the Committee on Energy and Commerce.

200. Also, a memorial of the General Assembly of the State of New Jersey, relative to Assembly Resolution No. 227 urging the Congress of the United States to support the

Passaic River Restoration Iniative; to the Committee on Transportation and Infrastructure.

201. Also, a memorial of the Legislature of the State of Texas, relative to Senate Concurrent Resolution 2 urging the Congress of the United States to enact legislation to provide for federal deployment of the Strategic National Stockpile within Mexico, provided that the Mexican government approves said requests pursuant to treaties and other agreement with the United States; jointly to the Committees on Energy and Commerce and International Relations.

202. Also, a memorial of the Legislature of the State of Texas, relative to House Concurrent Resolution 166 urging the Congress of the United States to increase funding to the fully authorized level and include advance funds for the Low Income Home Energy Assistance Program and to pursue a more equitable funding allocation formula for the program; jointly to the Committees on Energy and Commerce and Education and the Workforce.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 23: Mr. MURTHA and Mr. MICA.

H.R. 111: Mr. MELANCON.

H.R. 114: Mr. SHERMAN.

H.R. 303: Mr. WALDEN of Oregon.

H.R. 408: Mr. SCHIFF.

H.R. 500: Mr. ROYCE.

H.R. 503: Mr. OWENS.

H.R. 562: Mr. FITZPATRICK of Pennsylvania.

H.R. 586: Mr. KING of Iowa.

H.R. 602: Mr. WALDEN of Oregon, Mr. FITZPATRICK of Pennsylvania, and Mr. KUHL of New York.

H.R. 633: Mr. PASTOR and Mr. KENNEDY of Rhode Island.

H.R. 669: Mr. PASCRELL.

H.R. 676: Ms. CORRINE BROWN of Florida.

H.R. 713: Mr. WAMP.

H.R. 752: Mr. BUTTERFIELD and Mr. BROWN of Ohio.

H.R. 817: Mr. CASTLE.

H.R. 972: Mr. DAVIS of Illinois, Mrs. SCHMIDT, Mr. SNYDER, and Mr. WAXMAN.

H.R. 986: Mr. SHUSTER.

H.R. 1070: Mrs. SCHMIDT.

H.R. 1071: Mr. INSLEE.

H.R. 1105: Mr. OTTER.

H.R. 1141: Mr. SHUSTER, Mr. PLATTS, and Mr. COOPER.

H.R. 1144: Mr. BROWN of Ohio, Mr. WEXLER, and Mr. GRIJALVA.

H.R. 1241: Mr. MOORE of Kansas.

H.R. 1259: Mr. HIGGINS, Mr. SNYDER, Mr. WAXMAN, Mr. LANTOS, Mr. TANNER, Mr. GUTIERREZ, Mr. NADLER, and Ms. HART.

H.R. 1286: Mr. CALVERT.

H.R. 1288: Mr. NUSSLE.

H.R. 1290: Mr. JEFFERSON.

H.R. 1352: Mr. PETERSON of Minnesota.

H.R. 1356: Mr. MOORE of Kansas.

H.R. 1402: Mr. SWEENEY and Ms. HARRIS.

H.R. 1425: Mr. MCNULTY.

H.R. 1595: Mr. AL GREEN of Texas.

H.R. 1668: Mr. ORTIZ and Mr. MCGOVERN.

H.R. 1790: Mr. MANZULLO.

H.R. 1951: Ms. LINDA T. SÁNCHEZ of California, Mr. TANCREDO, and Mr. SCHIFF.

H.R. 1957: Mr. SHADEGG.

H.R. 2014: Mr. ENGLISH of Pennsylvania.

H.R. 2048: Mr. MILLER of Florida, Mr. DEAL of Georgia, and Mr. FOSSELLA.

H.R. 2076: Mr. SCHWARZ of Michigan.

H.R. 2134: Mr. SANDERS.

H.R. 2328: Mr. NEAL of Massachusetts.

H.R. 2355: Mr. POMBO and Mr. CALVERT.

H.R. 2471: Mr. SHAYS.

H.R. 2594: Mr. LEWIS of Georgia.

H.R. 2617: Mr. MEEKS of New York.

H.R. 2652: Mr. ISTOOK.

H.R. 2717: Mr. MCHUGH, Mr. MENENDEZ, and Ms. JACKSON-LEE of Texas.

H.R. 2892: Mr. CUMMINGS and Mr. SANDERS.

H.R. 2989: Mrs. JOHNSON of Connecticut, Mr. PLATTS, and Mr. SHUSTER.

H.R. 3195: Mr. PALLONE and Mr. WEXLER.

H.R. 3255: Mr. THOMPSON of California.

H.R. 3312: Ms. MCCOLLUM of Minnesota.

H.R. 3334: Mr. HINCHEY, Mr. BISHOP of Georgia, Mr. COOPER, and Mr. MCGOVERN.

H.R. 3361: Mr. HOLT, Mr. MEEHAN, Ms. SCHAKOWSKY, and Mr. DENT.

H.R. 3401: Mr. KUHL of New York.

H.R. 3427: Mr. KUHL of New York.

H.R. 3476: Mr. WYNN and Mr. CARDIN.

H.R. 3616: Mr. WYNN, Mr. RUPPERSBERGER, Mr. MENENDEZ, Mr. MARKEY, Mr. GERLACH, Mr. OWENS, Mr. STRICKLAND, Mr. DELAHUNT, Mr. JEFFERSON, and Mr. COOPER.

H.R. 3626: Mr. MATHESON and Mr. CANNON.

H.R. 3640: Mr. HINOJOSA, Mr. CLAY, Mrs. MCCARTHY, Mr. BERMAN, Mr. GUTIERREZ, Mr. CLYBURN, Mr. MCGOVERN, Mr. BUTTERFIELD, Mr. MARKEY, and Mr. JEFFERSON.

H.R. 3641: Ms. DEGETTE.

H.R. 3642: Mr. CLAY, Mr. HINOJOSA, Mr. MCGOVERN, Mr. FITZPATRICK of Pennsylvania, Mr. BUTTERFIELD, and Ms. SOLIS.

H.R. 3680: Mr. BOREN.

H.R. 3704: Mr. GORDON.

H.R. 3709: Mr. LAHOOD, Mr. SCHWARZ of Michigan, Mr. MCGOVERN, Mr. MORAN of Virginia, Mr. DOOLITTLE, Mr. KING of Iowa, Mr. GINGREY, Mr. SAM JOHNSON of Texas, Mrs. MUSGRAVE, Mr. NEUGEBAUER, Mr. ROHRABACHER, and Mr. PALLONE.

H.R. 3717: Mr. CARTER.

H.R. 3748: Ms. KILPATRICK of Michigan and Mr. MCGOVERN.

H.R. 3795: Mr. GRIJALVA, Ms. JACKSON-LEE of Texas, and Mr. BUTTERFIELD.

H.R. 3861: Mr. HONDA, Mr. HINCHEY, Mr. DAVIS of Florida, Mr. MEEHAN, Ms. WASSERMAN SCHULTZ, Mrs. JONES of Ohio, Mr. OWENS, Mr. BUTTERFIELD, Mr. ABERCROMBIE, Ms. MCCOLLUM of Minnesota, Mr. HIGGINS, Mr. UDALL of New Mexico, Mr. HINOJOSA, Mr. LYNCH, Ms. MILLENDER-MCDONALD, Mr. MEEK of Florida, Mr. SCOTT of Virginia, Mr. MARKEY, Mr. ORTIZ, Mr. GUTIERREZ, Mr. DOYLE, Mr. KENNEDY of Rhode Island, and Mr. LANGEVIN.

H.R. 3883: Mr. HAYWORTH, Mr. PRICE of North Carolina, Mr. DEFAZIO, Mr. ROGERS of Alabama, Mr. BOSWELL, and Mr. DANIEL E. LUNGREN of California.

H.R. 3889: Mr. GOODLATTE, Mr. CRAMER, Mr. MOORE of Kansas, Mr. PICKERING, and Ms. PRYCE of Ohio.

H.R. 3915: Mr. JEFFERSON.

H.R. 3944: Ms. MILLENDER-MCDONALD and Mr. KILDEE.

H.R. 3949: Mr. HASTINGS of Florida and Mr. BARTLETT of Maryland.

H.R. 3964: Mr. MORAN of Virginia.

H.R. 4005: Mr. RUPPERSBERGER, Mr. GRIJALVA, Mr. WEXLER, Mr. WYNN, and Mr. ETHERIDGE.

H.R. 4015: Mr. FLAKE.

H.R. 4025: Mr. UDALL of New Mexico, Mr. STUPAK, Mr. BOSWELL, Ms. MCKINNEY, Mr. GRIJALVA, Mr. OWENS, Mr. ORTIZ, Ms. KILPATRICK of Michigan, Mrs. MCCARTHY, and Mr. STRICKLAND.

H.R. 4032: Mr. KING of Iowa, Mr. GUTKNECHT, Mr. ROHRABACHER, Mr. ISSA, Mr. CHABOT, Mrs. MYRICK, Mr. MCCAUL of Texas, Mr. NEUGEBAUER, Mr. PENCE, Mr. HENSARLING, Mr. WESTMORELAND, and Mr. BARTLETT of Maryland.

H.R. 4039: Ms. BALDWIN.

H.R. 4049: Mr. THOMPSON of California.

H.R. 4104: Mr. PAUL and Mr. JEFFERSON.

H.R. 4126: Mr. RANGEL.

H.R. 4145: Mr. BARROW, Mr. SANDERS, Mr. PALLONE, Mr. BERRY, Ms. BERKLEY, Mr. BOSWELL, Mr. FRANK of Massachusetts, Mr. MOLLOHAN, Mr. BLUMENAUER, Mr. PASCRELL, Ms. HARMAN, Mr. VAN HOLLEN, Mr. ENGEL, Mr. SHERMAN, Mr. SPRATT, Mrs. CAPPS, Mr. STRICKLAND, Ms. BALDWIN, Mr. MARKEY, Ms. BORDALLO, Mr. UDALL of Colorado, and Mr. BRADY of Pennsylvania.

H.R. 4183: Mr. BRADY of Pennsylvania and Mr. HINCHEY.

H.R. 4184: Mr. BRADY of Pennsylvania, Mr. HINCHEY, Mr. ENGEL, and Mr. PETERSON of Minnesota.

H.R. 4200: Mr. CRENSHAW, Mr. SMITH of Texas, Mr. PITTS, Mr. BISHOP of Georgia, and Mr. MATHESON.

H.R. 4223: Ms. NORTON, Mrs. CHRISTENSEN, Ms. VELÁZQUEZ, Mr. BARROW, Mr. CLEAVER, and Mr. BISHOP of New York.

H.R. 4239: Mr. LARSEN of Washington, Mr. HALL, and Mr. KUHL of New York.

H.R. 4263: Mr. MCGOVERN.

H.R. 4272: Mr. PAUL, Ms. SCHAKOWSKY, and Mr. DEFAZIO.

H.R. 4293: Mr. MCGOVERN and Mr. PAYNE.

H.R. 4300: Mr. WALSH.

H.R. 4306: Mr. PENCE.

H.J. Res. 38: Mr. MICHAUD.

H.J. Res. 70: Mr. WEXLER, Mr. MEEKS of New York, and Mrs. CAPPS.

H. Con. Res. 40: Mr. KENNEDY of Rhode Island.

H. Con. Res. 42: Mr. BAKER.

H. Con. Res. 88: Mr. MCGOVERN, Mr. CLEAVER, Mr. OBERSTAR, and Mr. VAN HOLLEN.

H. Con. Res. 137: Mr. CONYERS.

H. Con. Res. 173: Mr. LIPINSKI and Ms. LEE.

H. Con. Res. 190: Mr. PAYNE, Mr. PEARCE, and Mr. WILSON of South Carolina.

H. Con. Res. 197: Mr. LARSEN of Washington.

H. Con. Res. 230: Mr. POMBO, Mr. MORAN of Virginia, and Ms. NORTON.

H. Con. Res. 235: Mrs. MALONEY.

H. Con. Res. 268: Mr. ISSA, Mr. FERGUSON, Ms. ZOE LOFGREN of California, Mr. HAYES, and Mr. POMBO.

H. Con. Res. 275: Mr. TERRY, Mr. MCCOTTER, Mr. WILSON of South Carolina, and Mr. SCHIFF.

H. Con. Res. 280: Mr. MCGOVERN, Mr. FALEOMAVAEGA, Mr. DELAHUNT, Ms. WASSERMAN SCHULTZ, Mr. MCCOTTER, and Mr. SOUDER.

H. Con. Res. 284: Mr. ENGEL, Mr. NORWOOD, Mr. SHIMKUS, Mrs. MALONEY, and Mr. WELDON of Pennsylvania.

H. Con. Res. 287: Mr. BARROW, Mrs. CAPPS, Mr. WEXLER, Mr. LARSON of Connecticut, Mr. VAN HOLLEN, Mr. SABO, Ms. SLAUGHTER, Ms. CORRINE BROWN of Florida, Mr. BUTTERFIELD, and Mr. ROTHMAN.

H. Con. Res. 288: Ms. DELAURO, Mr. SCOTT of Virginia, Mrs. MALONEY, Mr. KENNEDY of Rhode Island, and Mr. HONDA.

H. Con. Res. 292: Mr. SANDERS.

H. Con. Res. 294: Mr. TANCREDO, Mr. PAYNE, Ms. ROS-LEHTINEN, Mr. FALEOMAVAEGA, Mr. CROWLEY, Mr. CHABOT, Mr. MEEKS of New York, Mr. ENGEL, Mr. ROYCE, Mr. CARDOZA, Mr. BERMAN, Mr. MCCOTTER, Mr. ACKERMAN, Mr. RYAN of Ohio, Mr. MARKEY, Mrs. MCCARTHY, Mr. JONES of North Carolina, Mr. LYNCH, Mr. SULLIVAN, Mr. DANIEL E. LUNGREN of California, Mr. VAN HOLLEN, Mr. FRANKS of Arizona, Mr. MCGOVERN, Mr. SAXTON, Mr. GINGREY, and Mr. GRIJALVA.

H. Res. 97: Mr. RENZI and Mr. MARSHALL.

H. Res. 123: Mr. HAYES.

H. Res. 196: Mr. RYAN of Ohio, Mr. SANDERS, and Mr. OWENS.

H. Res. 297: Mr. WALDEN of Oregon.

H. Res. 325: Ms. LEE.

H. Res. 430: Mr. ISTOOK.

H. Res. 438: Mr. MEEKS of New York and Mr. SCHIFF.

H. Res. 458: Ms. MOORE of Wisconsin and Mr. MOORE of Kansas.

H. Res. 487: Mr. CALVERT, Mr. FALEOMAVAEGA, Mr. KUHL of New York, Mr. RADANOVICH, Mr. MEEKS of New York, and Mr. INSLEE.

H. Res. 500: Mr. CALVERT, Mr. JOHNSON of Illinois, Mr. MCGOVERN, Mr. WEXLER, and Mr. CRENSHAW.

H. Res. 517: Mr. HINCHEY.

H. Res. 519: Mr. SPRATT and Mr. BARRETT of South Carolina.

H. Res. 526: Mr. MOORE of Kansas.

H. Res. 529: Mr. SHIMKUS, Mr. CROWLEY, Mr. STEARNS, Mr. FERGUSON, Mr. LARSEN of Washington, Mr. SIMMONS, Mr. GARY G. MILLER of California, Mr. LANTOS, Mr. BERMAN, Mr. TERRY, Mr. ROHRABACHER, Ms. HART, Mr. COSTELLO, Mr. CHANDLER, Mr. INSLEE, Mr. ROTHMAN, Mr. BASS, Mr. THOMPSON of California, and Mrs. JO ANN DAVIS of Virginia.

H. Res. 535: Mr. AL GREEN of Texas, Mr. PITTS, Ms. BERKLEY, Mr. BISHOP of New York, Mr. SCOTT of Georgia, Mr. DOYLE, Mr. BLUMENAUER, Mr. PALLONE, Mr. BAIRD, Mr. BURTON of Indiana, Mr. MEEKS of New York, and Mr. SCHIFF.

H. Res. 546: Mr. MCINTYRE, Mr. SMITH of New Jersey, Mr. ROTHMAN, and Mr. MCHUGH.

H. Res. 547: Mr. WELDON of Florida.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 3385: Mr. LEVIN.

EXTENSIONS OF REMARKS

HONORING THE 100TH ANNIVERSARY OF THE FAUQUIER TIMES-DEMOCRAT

HON. FRANK R. WOLF

OF VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. WOLF. Mr. Speaker, I am proud today to honor the 100th year anniversary of publication of the Fauquier Times-Democrat. Over the years, the Democrat has proudly served the people of Fauquier and the Warrenton community in Virginia's 10th Congressional District. The Democrat has undoubtedly carved out a respected place in the family of Virginia newspapers.

I would like to thank the Fauquier Times-Democrat and members of its staff for their tremendous dedication to the people of northern Virginia and wish them continued success for the future.

IN HONOR OF ED KEE

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. CASTLE. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to Ed Kee, recipient of the 2005 Ratledge Family Award, for his noteworthy service to the University of Delaware and the community. The Ratledge Family Award is given only to those unique individuals who exemplify excellence in public service, and Ed Kee is deserving of this coveted award.

Mr. Kee has served in a variety of positions within the University of Delaware's Cooperative Extension Service since 1978. He has held the position of Kent County Agricultural Agent, State Vegetable Crops Specialist and Extension Agricultural Program Leader. In his extensive work throughout Delaware's valuable agriculture industry, Mr. Kee has played an instrumental role in recruiting two major vegetable processing plants to the State—in the highly competitive vegetable industry this is a noteworthy victory for area producers and Mr. Kee.

Mr. Kee contributions go well beyond agriculture, thanks in part to his many and varied community board and commission appointments and his philanthropic efforts. Especially noteworthy, in 1997 Mr. Kee and his wife Debbie established an endowed scholarship for graduates of a Delaware high school who choose to continue at University of Delaware and major in agriculture. Many University of Delaware agriculture student athletes owe Mr. and Mrs. Kee a sincere debt of gratitude, and I am pleased to join them in their appreciation. It is always impressive to see individuals who are willing to contribute to the education of our State's youth.

I congratulate and thank Mr. Kee on his years of service and numerous contributions to the State of Delaware. Mr. Kee is an exemplary citizen and a proud Delawarean. Thank you Ed, for all you have done for the University of Delaware and your community.

HONORING JOYCE MINARD

HON. MAURICE D. HINCHEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. HINCHEY. Mr. Speaker, I rise today to recognize Joyce Minard for her distinguished career in public service and the outstanding contributions she has made to the community of New Paltz, NY, and the surrounding Hudson Valley region. Joyce has translated her commitment to community service into an accomplished career that has been defined by achievement and success. Her broad expertise in education, agriculture and business has supported many new initiatives and resulted in significant improvements in the regional business community.

A high school internship at SUNY New Paltz introduced Joyce to the not-for-profit world and influenced her decision to attend Albany Business College. After stints at SUNY New Paltz, the Ulster County Farm Bureau and Ulster County BOCES, where she broadened her vision and honed her skills as an educator, advocate and leader, Joyce found her true home at the New Paltz Regional Chamber of Commerce.

Beginning on a part-time basis, while raising her two children, Joyce quickly rose to the position of executive director in 1978. Under her leadership, the Chamber has grown from 47 members in 1979 to more than 800, outgrowing one office space after another. Drawing on her considerable personal attributes, Joyce built a chamber that is veritably bursting with accomplishments. The New Paltz Regional Chamber of today employs a team of five, holds numerous events, offers extensive education programs, including customized workshops for small business owners, runs a busy visitors room, and publishes a newsletter and full-color regional guide. Together with other regional chambers, Joyce developed a Business Mentoring Program for Dutchess and Ulster Counties, matching emerging businesses with experienced businesspersons.

As an accomplished mediator and consensus-builder, Joyce has led the Chamber in bringing together the many interests of the New Paltz community. She was among the initiators of the first Town/Gown meetings in the 1980s, providing a forum for community and University leaders to pursue common objectives and address differences. She raised the public's awareness of the agricultural community by promoting visitation of farms and education. And she provided the leadership needed to make the Chamber's most famous event, the Taste of New Paltz, a successful reality. The Taste is now in its 15th year and draws more than 8,000 participants.

Mr. Speaker, Joyce Minard is being honored by the community she serves and loves. Her dedication and leadership—peppered with her irreverent sense of humor—have drawn many admirers and helped to establish New Paltz as one of the premier destinations in New York. Every endeavor that Joyce has pursued has been approached with professionalism and passion and she has built a reputation as an effective and dedicated advocate. I'm pleased to join my constituents in honoring Joyce for her tireless efforts on behalf of New Paltz and its surrounding communities.

COMMENDING BOB ANADELL, HANNAH CHERRY, NANCY KELLY AND THE MEMBERS OF THE HISPANIC WOMEN'S FORUM OF NORTHWEST INDIANA

HON. PETER J. VISCLOSKY

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. VISCLOSKY. Mr. Speaker, it is my distinct honor to commend these dedicated individuals who have made significant contributions to Northwest Indiana: Bob Anadell, Hannah Cherry, Nancy Kelly, and the members of the Hispanic Women's Forum of Northwest Indiana. These individuals will be honored by the Calumet Project at an awards luncheon for their dedication to justice and to the people of Northwest Indiana. The event will take place at the Social Hall of Our Lady of Perpetual Help Parish in Hammond, Indiana on Friday, November 18, 2005.

The Calumet Community Hero Award is being presented to Mr. Bob Anadell. Bob has had many positive accomplishments throughout his career with I.B.E.W. Local 697; he has also actively contributed to his community through participation in various programs aimed at improving opportunities for the people of Northwest Indiana. He has been a powerful member of the Northwest Indiana Building Trades, Secretary Treasurer of the IBEW State Conference, Vice-President of the Indiana State AFL–CIO, Trustee of the Lake Area United Way, Board of Directors of Trade Winds, Member of the Lake County Integrated Services Delivery Board, Chairman of the Board of Directors, Investment Committee, and Executive Committee of the Legacy Foundation, as well as Co-Chairman of the Heroes Committee of the American Red Cross.

Also receiving a Calumet Community Hero Award is Ms. Hannah Cherry. Ms. Cherry

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

graduated from Maywood High School in Hammond, Indiana where she was one of three African Americans that year. Her passion has always been to improve the conditions in the city where she lives and to fight for justice for all people. Hannah is a lifetime member of the NAACP, a member of the Project Area Committee, and a charter member of the Neighborhood Action Council. She has also given her time and efforts selflessly as a volunteer at St. Margaret's Hospital for almost twenty years. Hannah is a compassionate activist and she is being honored for her ongoing quest to see to it that justice prevails.

The third Calumet Community Hero Award is being presented to the Hispanic Women's Forum of Northwest Indiana. The forum was started in the early 1980's when a group of young Hispanic women came together with an idea to form an organization that would focus on mentoring fellow Hispanic women. The Forum's common goal was to make Hispanics in professional careers more visible in the community by stressing the importance of education. The Hispanic Women's Forum conducts a yearly luncheon where they honor young Hispanic women graduating from local high schools. Monetary awards are given to some of the young women based on a selection process. The Hispanic Women's Forum's longstanding commitment to improving the quality of life is truly inspirational and should be commended.

The final award, the Lifetime Achievement Award, is being presented to Nancy Kelly for her outstanding service to the Northwest Indiana Community. Nancy decided at a young age to be a local missionary in the service to her community. Mrs. Kelly was a volunteer and community organizer under Chicago Mayor Richard J. Daley's administration. She moved to Gary, Indiana 30 years ago with her late husband. Mrs. Kelly dedicated herself to improving the quality of life for the residents in her community. She is the founder of the Horace Mann Ambridge Neighborhood Improvement Organization and she has served on the LCEOC board as well as numerous other boards. Mrs. Kelly's lifetime of service continues as she still serves with the Grand Calumet River Task Force. Along with her many other contributions to society, she was also honored with the Indiana Older Hoosier Award of the year. I am proud to commend Mrs. Kelly for her lifetime of service and dedication.

Mr. Speaker, I ask that you and my other distinguished colleagues join me in commending these individuals for their outstanding contributions to Indiana's First Congressional District. Their hard work and dedication has improved the quality of life for the community and is worthy of the highest commendation.

IN HONOR OF CAROL VUKELICH

HON. MICHAEL N. CASTLE

OF DELAWARE

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. CASTLE. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to Carol Vukelich, a recipient of the 2005 Ratledge Family Award. I congratulate her for her noteworthy service to the University of Delaware and the community. The Ratledge Family Award is given only to those unique individuals who exemplify excellence in public service, and Carol Vukelich is deserving of this coveted award.

Ms. Vukelich has devoted the past 32 years as a proud member of the University of Delaware faculty. In addition to her faculty appointment as the Hammonds Professor of Teacher Education, she has served as the founding director of the Delaware Center for Teacher Education. In addition, she is the cofounder of the Delaware Writing Project and the Delaware Reading Project, both professional development programs designed to build teachers' skills as mentors to other teachers.

More recently, Ms. Vukelich has turned her attention to such worthy projects as the enhancement of middle and high school special education teacher content knowledge and the overall strengthening of Head Start teachers. Specifically, she is working to improve early language and reading skills.

Educators serve a critical role in our society, especially those who are as dedicated to improving their field of knowledge as Ms. Vukelich. The University of Delaware and the Ratledge Family deserve much credit for recognizing this dynamic woman.

I congratulate and thank Ms. Vukelich on her years of service and numerous contributions to the State of Delaware. Thank you Carol, for your exceptional career as an educator and for your tireless efforts at improving teaching.

TRIBUTE TO MS. CAROLYN McLAUGHLIN

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. SERRANO. Mr. Speaker, it is with great pleasure that I rise today to pay tribute to Carolyn McLaughlin for her many years of outstanding service as the Executive Director of the Citizens Advice Bureau, a Bronx based social service organization that has helped countless families obtain a new lease on life.

Carolyn has always been dedicated to empowering the people of her community. After receiving her Masters in Social Work from Columbia University, she joined the Mt. Eden Senior Center and later the Vacation Camp for the Blind. In 1979, Carolyn made the Citizens Advice Bureau her home and has overseen CAB's progression from a small organization staffed by two people to one with 450 staff members, eight major divisions, and a budget of more than $25 million.

The Citizens Advice Bureau (CAB) is a multi-service organization whose mission is to improve the well-being of low-income individuals, families, and communities in the South Bronx and Northern Manhattan. CAB provides an array of services including: Early childhood education, after-school and summer camp programs for children, assistance for homeless families, crisis intervention, counseling and case management for persons with AIDS, senior programs, legal and citizenship assistance for immigrants and a wide range of teen programs.

Under Carolyn's strong leadership, CAB has enjoyed many accomplishments over the past 25 years. These accomplishments include: Merging with the Girls Club of New York, obtaining contracts for three Tier II family shelters, creating a Homeless Prevention program, developing a Homeless Outreach team and living room drop in center for homeless adults, launching the Homelessness Relocation Assistance Program for families leaving the shelter system and returning to permanent housing and developing a homeless outreach team.

Carolyn sits on the boards of the Non-Profit Coordinating Committee and the Mid-Bronx Senior Citizen's Council. She chaired the Bronx Cluster of Settlement Houses for two years and oversaw cluster-wide community building activities from 1997 to 2001. She also served on advisory panels commissioned on out-of-school time services and homelessness by Mayor Bloomberg.

Mr. Speaker, I am grateful for Carolyn's unyielding service to the people of the Bronx. Her efforts have helped countless families enjoy a higher standard of living and given them hope that there is a brighter tomorrow. Dr. King once stated that, "Life's most urgent question is: What are you doing for others?" Carolyn, along with the entire staff of Citizens Advice Bureau need simply point to the long list of individuals they have helped to empower in the City of New York.

I ask that my colleagues join me in paying tribute to Ms. Carolyn McLaughlin and the Citizens Advice Bureau.

PERSONAL EXPLANATION

HON. KATHERINE HARRIS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Ms. HARRIS. Mr. Speaker, due to the recent devastation caused by Hurricane Wilma on the State of Florida, I was unable to attend votes on Thursday, October 27, 2005 due to a visit to the State with President Bush and other delegation Members. While I am disappointed I was not able to be present, I am asking, that you include the following intended votes in the Congressional Record.

I would have voted nay on H.J. Res. 65, the Schiff Amendment to H.R. 420, as well as the Democratic Motion to Recommit H.R. 420. I would have voted yea on H.R. 3945, H. Res. 368, Final Passage of H.R. 420, and the Motion to Instruct Conferees on H.R. 3047.

Again, I apologize for my absence and thank you in advance for your time and attention to this matter.

A TRIBUTE TO DR. HERBERT K. ABRAMS

HON. RAÚL M. GRIJALVA

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. GRIJALVA. Mr. Speaker, I rise today to pay tribute to Dr. Herbert K. Abrams, a lifelong Champion of health care for all.

Dr. Abrams has been a particular example to me. He arrived in Tucson in 1968, about the time I was marching in the streets with other Chicanos asking for better health-care and recreation facilities. Within a few years, he had shown those of us in the protest movement that a big heart, intelligence, patience and persistence could convince a government to respond to the needs of the people. I will forever be grateful to him for that quiet leadership.

Dr. Abrams was hired by Dr. Monte DuVal, founding dean of the University of Arizona's College of Medicine, to create what became the Department of Family and Community Medicine. He also acquired federal funding for the El Rio Santa Cruz Neighborhood Health Center.

In each case, he prepared a foundation for growth.

In the early 1970s, he organized family practice clinics in what were then the small towns of Marana, Benson and Casa Grande. Today, his philosophy of taking medical care to those outside metropolitan areas is vested in the department's Rural Health Program, which supports rural clinics and family practice by young doctors.

Back in Tucson, the clinic Dr. Abrams helped create has shortened its name to El Rio Health Clinic, but expanded its service to 11 locations. El Rio was designed to serve the poor; it continues with that emphasis today, but is open to all with a sliding fee schedule.

Through the years, he also has been a significant supporter during difficult times for El Pueblo Clinic and the Pima County-owned Kino Community Hospital, now known as University Physicians Healthcare (UPH) Hospital at Kino Campus.

His impact on medical care has been recognized with the naming of two buildings in his honor. One is the College of Medicine building that houses the department he founded. The other will be visible next fall when construction is completed on the $28 million Herbert K. Abrams Public Health Center on the Kino Campus.

Dr. Abrams came to Tucson already a recognized health-service pioneer. He had spent the preceding 16 years in Chicago, where he established the Martin Luther King Neighborhood Health Center and the 40,000-member Union Health Service, an early-day health maintenance organization that last year celebrated its 50th anniversary.

More than 60 of his scientific papers have been published. Many of them examined occupational medicine, and he has performed specific research on farm workers and pesticides and on the use of the short-handled hoe.

Dr. Abrams is known internationally, having worked, consulted or performed research in China, Japan, Australia, the United Kingdom, Israel and Papua New Guinea. He was a commissioned officer in the U.S. Public Health Service from 1942 to 1946 and served two years of that time training medical officers and working on a cholera control team and as area medical rehabilitation officer in China. He returned to China on at least six other occasions, including earlier this year when he again met with medical colleagues he had first known 60 years ago. He has studied occupational and environmental health along the U.S.-Mexico border, and has consulted for the World Health Organization.

Dr. Abrams received degrees of Doctor of Medicine and Master of Science from the University of Illinois in 1940 and a Master of Public Health from Johns Hopkins University in 1947. He received his bachelor's degree from Northwestern University in 1936.

Through the years, Dr. Abrams, 92, has pursued his goals with a soft voice and a smile. He knows that this nation still does not provide health care for all, and last year wrote an op-ed article reminding Tucson newspaper readers that 45 million Americans remain without health insurance.

A poster on a wall in his office asks: "Whatever happened to health care for the poor?" Dr. Abrams answered the question for Arizona Daily Star reporter Jane Erikson earlier this year, saying: "Not much . . . we still have a long ways to go . . . ."

TRIBUTE TO DR. MARTHA BURK

HON. CAROLYN B. MALONEY

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mrs. MALONEY. Mr. Speaker, I rise in tribute to a remarkable individual whose record of service to the women's movement across this country and around the world is second to none. For the past thirty years, Dr. Martha Burk has devoted her life to advancing equality for women. I ask all of my colleagues to join me in saluting Dr. Burk's record of advocacy, activism and achievement.

Martha Burk was born in 1941 to Ivan Lee Burk and Dorothy May Dean, who owned a retail clothing store in the small east Texas town of Pasadena. She married while still an undergraduate and earned a BS from the University of Houston in 1962. She spent the next few years at home raising her two sons, Mark and Ed Talley. Refusing to accept the limited career options then open to women, she earned a PhD in psychology from the University of Texas in 1974.

After her first marriage ended, Dr. Burk moved to Kansas and became active in the Wichita chapter of the National Organization for Women (NOW). She gradually built her resume as a political psychologist and women's equity expert through work as a university research director, management professor, and adviser, consultant, or board member for an array of political campaigns and organizations including NOW's national board. Dr. Burk and her husband, Dr. Ralph Estes, moved to Washington, D.C. in 1990 and founded the Center for Advancement of Public Policy (CAPP). Dr. Burk is president of CAPP and recently completed a five-year tenure as Chair of the National Council of Women's Organizations (NCWO), a network of over 200 national women's groups collectively representing ten million women.

Under Dr. Burk's leadership, NCWO's membership more than doubled as she brought new energy, inspiration, and resources to the largest network of women's organizations in the nation. Over the past five years, Dr. Burk has focused on involving the next generation of American women in feminist politics. Under her leadership, young women at NCWO launched the Younger Women's Task Force, an exciting nationwide grassroots effort to engage women in their twenties and thirties in women's issues and the public policy debate. Dr. Burk has also developed and invigorated NCWO's summer internship program, New Faces More Voices, a unique program that trains college students to engage in effective advocacy and organizing around feminist social justice issues.

In addition to her extensive work promoting women's equality in the U.S., Dr. Burk has also worked internationally to advance women's rights. She has organized training workshops with women's NGOs internationally in Macedonia and Kuwait, under the sponsorship of USAID, and has conducted training in the U.S. for delegations from Russia, Botswana, Korea, Romania, Bulgaria, and the Middle East. She has recently been a member of official U.S. Delegations to international conferences in Iceland, Lithuania, Estonia, and China. Named one of Ms. Magazine's women of the year in 2003, Dr. Burk's syndicated columns have been published in major newspapers and magazines around the globe, and she has appeared on news shows around the nation.

A former board member of the National Committee on Pay Equity, Dr. Burk has fought throughout her career to end sex discrimination in the workplace. Citing the taxpayer-financed advantages business leaders enjoy at the exclusive Augusta National Golf Club, she led the effort to open membership to women. The power elite's response to this controversy exposed how deeply sex discrimination is ingrained in the culture of corporate America. Her recent book, Cult of Power: Sex Discrimination in Corporate America and What Can Be Done About It, explores how systemic barriers of social injustice were put in place and how they can be brought down. Currently, Dr. Burk is focusing her energies full time on furthering women's progress in the workplace as the director of NCWO's Corporate Accountability Project.

Mr. Speaker, it is an honor to pay tribute to Dr. Martha Burk and to recognize her three decades of heroic commitment to women's progress. I am confident that her work will continue to influence and inspire this generation and future generations to fight for equality. I ask all of my colleagues to join me in thanking Dr. Martha Burk for her unparalleled contribution to her country.

IN SUPPORT OF INCREASED FUNDING FOR THE NATIONAL SCIENCE FOUNDATION IN THE DEPARTMENTS OF COMMERCE AND JUSTICE, SCIENCE, AND RELATED AGENCIES APPROPRIATIONS ACT FOR FISCAL YEAR 2006

HON. SILVESTRE REYES

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. REYES. Mr. Speaker, I rise today in strong support of the commitment this Congress has made to the budget of the National Science Foundation, NSF. Over a 10-year period, we have increased NSF funding 45.2 percent in real terms, and in a tough budget climate we are increasing NSF appropriations by 2.4 percent over last year.

The NSF is perhaps the government's most efficient and effective agency. It provides the backbone of our Nation's basic research efforts and strengthens our institutions of higher education by funding that research at university campuses across the country. The NSF also supports science education in grades K–12 to ensure future generations of Americans are equipped to carry on our tradition of innovation and prosperity. Every dollar appropriated to the National Science Foundation is an investment in this country's future.

Mr. Speaker, we need more investment in science, technology, engineering, and mathematics, STEM. This appropriation is a good first step. However, if this country is to keep pace and maintain its leadership in the global economy, we must greatly expand and improve STEM education for children and college students and continue to increase our support of American innovation.

I ask my colleagues to join me in supporting this appropriation for the NSF and renewing this country's commitment to innovation and economic competitiveness.

RECOGNITION OF THE SESQUICENTENNIAL OF NOKOMIS, IL

HON. JOHN SHIMKUS

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. SHIMKUS. Mr. Speaker, I rise today to pay tribute to the people of Nokomis, IL, on the occasion of their town's sesquicentennial.

The earliest settlers began arriving in Nokomis Township in 1840. The first permanent dwelling was built by Hugh Hightower around 1843. The first sermon was preached by Rev. J.I. Crane, a Methodist Episcopal minister. The Baptist congregation was organized in 1856 and Lutherans became active in the community in 1852.

The first school was taught in the home of Henry Lower in 1848, while the first school was later built in 1853. Since then, the Nokomis community has continued to grow and to prosper—offering its residents a loving place in which to raise their families, establish life-long friendships, conduct their business, to work, to learn, to worship, and to give thanks for God's blessings.

Today, Nokomis is known as a vital link within downstate central Illinois. For more information on all that the people of Nokomis have to offer, I encourage you to visit http://www.nokomisonline.com/.

I wish the people of Nokomis my heartfelt best as they celebrate their sesquicentennial.

TRIBUTE TO PRESIDENT TEX HALL, NATIONAL CONGRESS OF AMERICAN INDIANS

HON. NICK J. RAHALL II

OF WEST VIRGINIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. RAHALL. Mr. Speaker, I rise today to pay tribute to a person who I consider not only a leader in Indian Country, but a friend, Tex Hall, for all of his hard work as President of the National Congress of American Indians (NCAI). Tex Hall is a man who has led by example, dedicating himself to advancing the standard of living for our Nation's first citizens through bold vision, dedication, and integrity. A tireless advocate, Tex has used his position as NCAI president to promote strong tribal sovereignty through self-governance. He has addressed both the challenges and opportunities that lie before today's American Indian and Alaska Native nations.

As Tex stated earlier this year in his State of Indian Nations address, tribes are "A vital part of this country's conscience, its past and its future . . . Strong, healthy tribal self-governance is not just good for the economy of tribal nations, but for the economy of the United States as a whole . . . Today, Indian Country is moving forward and in the right direction,"

For Tex Hall, 2005 marks the end of four outstanding years as head of the National Congress of American Indians, the Nation's oldest and largest Native American organization, representing over 200 Indian tribes in the continental United States and Alaska. Tex's successful 2001 election marked the first time in history that an individual from his tribe, or from the state of North Dakota, had been chosen to lead NCAI. Tex has played a key role in the great strides that Indian country has made, keeping promises, and making a difference in the lives of Indian people—for generations to come.

Tex G. Hall—whose Indian name "Ihbudah Hishi" means "Red Tipped Arrow"—grew up on his family's cattle ranch in Mandaree, located in the heart of the Mandan, Hidatsa and Arikara Nation in North Dakota. One of eight children, Tex and his three brothers and four sisters were instilled with a deep respect and appreciation for education. In the mid-1970's, Tex received his high school diploma at a time when fewer than 40 percent of the Nation's Native Americans were graduating from high school. Persistent in his educational quest, Tex attained his bachelors degree—in an era when only 8 percent of his fellow Native Americans graduated from college—and proceeded to obtain a Masters degree in educational administration.

Tex wished to instill the importance of education in the Indian youth of his reservation. For 11 years, Tex served as the Superintendent and Principal of Mandaree School. Both his classroom instruction and basketball coaching earned Tex 1995's award of North Dakota Indian Educator of the Year. To this day, Tex lives and learns by example—he is currently pursuing a Ph.D. degree in education.

As a committed leader, Tex followed in the footsteps of both his father and grandfather, winning a seat on the Tribal Council of the Three Affiliated Tribes (comprised of the Mandan, Hidatsa and Arikara tribes, having joined together in the mid-1800's) at Fort Berthold in New Town, North Dakota. Eventually becoming the Chairman of his tribe—exactly 40 years after his grandfather was elected Chairman—Tex has served two terms, winning re-election in 2002. Among other positions, Tex has served as Secretary and Treasurer of the United Tribes Technical College, Chairman of the Great Plains Tribal Chairmans' Association, Chairman of the Native American Bank Corporation, Co-Chairman of the National Tribal Leaders Task Force on Trust Reform, and President of the NCAI President's Health Technology Task Force.

As president of NCAI, Tex successfully worked to ensure that the government-to-government relationship and consultation was strictly adhered to on all important matters. As Co-chair of the Task Force on Indian Trust Funds, he brought together representatives of all tribes together with the Department of Interior to work through problems with trust fund management. He is truly a uniter and not a divider as he has managed to work with Indian country to consolidate and unite on like matters.

Tex has also worked with me in my capacity as the Ranking Democrat on the Resources Committee on legislation to protect Indian sacred sites from being destroyed by human abuse. We worked together on drafting the Native American Sacred Lands Act and Tex stood shoulder to shoulder with me as we announced the introduction of this important legislation. Though we have not been able to enact this bill as of yet, I know Tex will continue to fight with me to protect the rights and the sites that our first Americans hold sacred.

Tex Hall has been a major force in several advancements made by tribal governments on a national level. In 1999, Tex chaired a meeting on Indian treaty issues with President Clinton and representatives of the Great Plains Tribes. In 2000, as a result of that meeting and others, President Clinton signed an Executive Order on Consultation with Indian Tribal Governments, stating, "There is nothing more important in federal-tribal relations than fostering true government-to-government relations to empower American Indians and Alaska Natives to improve their own lives, the lives of their children, and the generations to come. We must continue to engage in a partnership, so that the First Americans can reach their full potential. . . . This Executive Order builds on prior actions and strengthens our government-to-government relationship with Indian tribes."

Multiple hurdles still obstruct elevation of the standard of living for Indian people. As Tex told Judy Sarashon of the Washington Post in

2004, "Unfortunately, the first Americans have been the forgotten Americans." Nevertheless, Tex Hall is a man who continues to dedicate his life to advancing the opportunities for Indian Country; an assiduous champion in the fight to protect Indian sacred sites, I have had the honor to work with Tex and hope to successfully pass legislation that addresses the protection of Native American sacred lands.

Whether it is his work strengthening the Violence Against Women Act, tackling the fight to protect sacred sites, or his willingness to travel wherever needed to help work out a problem, Tex Hall will be remembered as a great president of the National Congress of American Indians; and I am proud to call him my friend. Tex, thank you for your service.

INFLUENZA VACCINE REQUIRES SHOTS

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. RUPPERSBERGER. Mr. Speaker, I support the Administration's plans for combating an Influenza Pandemic, including measures to increase the capacity of the vaccine industry so that we have enough influenza vaccine to protect all Americans within 6 months of an outbreak.

However, you can't drink the Influenza vaccine, it has to be delivered with a syringe or other delivery technology, but the Administration's plan does not include any strategies for acquiring sufficient numbers of appropriate injection devices to deliver the vaccine.

The influenza vaccine will probably require 2 shots, which means that we will need 600 million syringes to vaccinate every American.

Without advance planning and stockpiling of injection devices, hospitals and public health agencies will not have sufficient numbers of injection devices to deliver the pandemic influenza vaccine. In fact, without planning and utilizing devices that are designed to ensure the vaccine is used to its full potential, we may waste the very vaccine we are working so hard to acquire.

The Administration has worked diligently with vaccine manufacturers to ensure there is additional capacity to produce pandemic influenza vaccines. The same planning and cooperation must happen with the domestic device industry. I urge the Administration to sit-down with the medical device industry to discuss potential medical device needs and capacity constraints and develop a plan to ensure we are acquiring the appropriate amount and type of syringes necessary to keep all Americans safe. It would be a tragedy to waste life saving vaccine because of a lack of foresight.

RECOGNIZING STEPHEN A. PERRY

HON. RALPH REGULA

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. REGULA. Mr. Speaker, I wish to congratulate my constituent, Stephen A. Perry, for his service to his country as the 17th administrator of the U.S. General Services Administration (GSA). The Buckeye State is proud of Steve as one of the highest ranking Ohioans serving in the Bush administration.

As administrator, Steve brought an extensive background from both the private sector and State government. He has effectively led the GSA during a period where the Federal Government's infrastructure has been aging, but funds have been limited to deal with all these problems. However, Steve guided GSA through prioritizing projects and making sure that agency employees had the support required to tackle Federal infrastructure issues.

He started his career at the Timken Company of Canton, a leading international manufacturer of highly engineered bearings and alloy steels. At Timken, Steve progressed from an initial position as stockroom clerk to vice president. In 1991, then Governor George Voinovich appointed Steve to his Cabinet as director of the Department of Administrative Services, which provides services to State agencies that are similar to what GSA provides Federal agencies. After his successful tenure in State government, Steve returned to Timken where he was elected as an officer and promoted to senior vice president.

Additionally, Steve has been very active in community and charitable organizations. He has been recognized by numerous groups for his commitment to his home community.

On a personal note, I would like to thank Steve for his work in getting a new Federal building for Canton, Ohio. Through Steve's leadership, this new Federal center will be a one-stop facility where citizens can come to various Federal agencies to get issues addressed. The building will be a model for the GSA system, and we owe its success to Steve's guidance. I look forward to being with Steve at the future ceremony that opens Canton's new Federal building.

We are proud of Steve's service at GSA, but also pleased that he, and his wife, Sondra, are returning home to Canton, Ohio and be active members in our community.

TRIBUTE TO MALIK AHMED, FOUNDER AND CEO, BETTER FAMILY LIFE, INC.

HON. WM. LACY CLAY

OF MISSOURI

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. CLAY. Mr. Speaker, I rise today to pay tribute to Malik Ahmed, the founder and chief executive officer of Better Family Life, Inc., a holistic cultural and community development corporation he founded in February 1983. He has pioneered the concept of synthesizing and blending the imperatives of African-American culture with the complexities of community and economic development.

Better Family Life is dedicated to the prosperity and growth of the African-American family, as well as the preservation of culture, consciousness and community. Organized out of a need to find internal solutions to the crises within the African-American family, the organization's mission is to plan and establish social, cultural, artistic, youth, economic, housing and educational programs that help to promote positive and innovative changes within the metropolitan St. Louis and East St. Louis communities.

Under his leadership Better Family Life, Inc. has grown to include a full-time professional staff of more than 70, with 30 percent of the staff having advanced degrees. Recently, the organization purchased the former Ralph Waldo Emerson Elementary School at 5415 Page Boulevard, in St. Louis, MO. When the $4 million renovation is completed, the three-story facility will be home to the Better Family Life Cultural Center & Museum, housing corporate offices and four—job training—community programs: Project RESPECT—job training—Neighbor-to-Neighbor Housing Counseling & Asset Building, Youth Passport to the Future and Cultural Arts.

Other Better Family Life programs include the annual Kwanzaa Expo and the Unity Ball extravaganza. The 20th annual Unity Ball has grown to include approximately 1,500 attendees and honors numerous community leaders, elders, youth, movers and shakers at all levels. Recently, in response to this country's worst disaster on record, Better Family Life, along with the Millions More Movement, spearheaded a relief drive for the victims of Hurricane Katrina, sending an 18–wheel tractor-trailer filled with donations from the St. Louis community to Hattiesburg, MS.

Prior to founding Better Family Life, Mr. Ahmed was a registered representative with the prestigious financial planning firm, The Moneta Group. An avid collector of fine art and literature, he is president of B4 Positive Products and Marketing, a business he founded in 1989 to network, market and distribute books and African artifacts.

Mr. Ahmed has traveled extensively throughout the United States and abroad. He speaks fluent French. As a Peace Corps volunteer, he worked for 3 years as an urban planner in the West African country of Mali, where he successfully developed a cost-effective sanitation program for the capital city of Bamako. Mr. Ahmed holds a bachelor's degree in economics and a master's degree in public administration/policy analysis. He is the recipient of many community service awards and serves on various boards. He is married to DeBorah and they have one son, Shabazz.

Mr. Speaker, I am honored to recognized Mr. Malik Ahmed before the United States House of Representatives for his tireless dedication to the development of culture, community and self-improvement among minorities in St. Louis.

RECOGNIZING MURRAY/CALLOWAY AND OHIO COUNTY

HON. ED WHITFIELD

OF KENTUCKY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. WHITFIELD. Mr. Speaker, I rise to recognize two outstanding communities in my District which were recently selected as two of the 100 Best Communities for Young People by the America's Promise—The Alliance for

Youth organization. Murray/Calloway County and Ohio County, Kentucky, were chosen based on the their fulfillment of the America's Promise Five Promises: Safe Places, Effective Education, Opportunities to Serve, Healthy Start, and Caring Adults. These communities have demonstrated their commitment to the success of our area's youth by focusing on these promises and working together to ensure our youth have the skills and resources they need to succeed in life. I am fortunate to have the opportunity to represent them in Congress and grateful for their hard work and determination.

Murray/Calloway County was recognized for the healthy start and safe places it provides area students. In the fall of 2005, Calloway County implemented a countywide after school program for grades K–5. Up to 175 students participated in the program last year alone. In addition, partnerships between Big Brothers and Big Sisters and local schools have been highly successful in establishing mentoring relationships among citizens and elementary and middle school students. Murray can also be proud of the low dropout rate at Murray High School, which is only one percent. In terms of health, Murray/Calloway County has a teenage birthrate significantly below the statewide average and has decreased drug use among its youth. Clearly, this community has much to be proud of and the youth have an ideal community in which to learn and grow.

Ohio County found itself in the spotlight because of the caring adults in the community, the safe places and healthy start it offers youth, and its effective education policies. Most experts will agree that parental involvement is important in the success of a child's education. In Ohio County, this lesson is certainly understood by the parents who volunteered over 13,800 hours in local schools. The County also invested in a state-of-the-art fitness center and now has 21 percent of the county as members. The birthrate among 15–17 year-olds decreased from 43 percent in 1997 to 14.7 percent in 2001, and the dropout rate among high school students also decreased from 8.5 percent to just over 1 percent. Perhaps most impressively, local students and adults involved in the Together We Care/Ohio County Schools community partnership decided to tackle tobacco use among kids. In a county where the largest crop is tobacco, this was a real challenge. These student/adult groups visited stores selling tobacco products and requested that they remove ads for tobacco products in their stores and move products to less visible locations. One month later, 95 percent of the stores had made the requested changes.

Again, I am proud of the progress these communities are making and pleased that they have been selected as two of the 100 Best Communities for Youth.

TRIBUTE TO HOLY ASCENSION CHURCH AND HIS HOLINESS FILARET PATRIARCH OF KYIV AND ALL RUS-UKRAINE

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. PASCRELL. Mr. Speaker, I would like to call your attention to the 80th anniversary of the existence of Holy Ascension Church, located on Broad Street in Clifton, New Jersey. To mark this important occasion, the church will be honored by a visit from His Holiness Filaret Patriach of Kyiv and all Rus-Ukraine.

As a lifelong resident and former Mayor of the neighboring city of Paterson, I cannot think of another organization that has meant more to the surrounding community than Holy Ascension Church. For the past 80 years, the men and women of Holy Ascension Church have given generously of their time, talents, and energy, and have made an indelible mark on countless people's lives. I feel that it is only fitting that Holy Ascension Church be honored in this, the permanent record of the greatest freely elected body on earth.

The history of the Ukrainian Orthodox Church of Clifton, formerly of Passaic, is the history of many devoted men and woman through the years, who have devoted both time and effort to maintaining the religious traditions of the Holy Orthodox Church and the Ukrainian cultural heritage.

With the large migration of Ukrainians to the United States in the early 1900's, many chose to settle in the Passaic County area. In 1925 a small group of Ukrainian-Americans set out to organize an Orthodox Parish to serve their spiritual needs. Through the efforts of the organizers the original church was purchased and consecrated on Sunday July 25, 1925 by his Excellency Metropolitan John Theodorovich. The new church served as a hub for the Ukrainian community. Over the years the Parish members relished in their heritage and shared it throughout the area. There were various outings of the Ukrainian Folk Ballet and the Lysenko Chorus which helped introduce the Ukrainian culture to other people.

In 1962–63 the parish adopted its current constitution and by-laws that would serve as the basis for all church activity well into its future. Under the pastorate of the Very Reverend Theodore Foresty, the building committee was reorganized. Land was purchased for the present church and its rectory in 1967. With the impending sale of the church property, the parishioners authorized the building committee to hire Mr. Jaroslav Sichynsky as the architect for their new house of worship. The new parish rectory was the first building to be completed in the fall of 1968. In September of 1968 the last Divine Liturgy was celebrated at the Hope Avenue site and contracts were conducted with the State of New Jersey to make way for Rt. 21.

The new church structure is a masterpiece in blending old Byzantine style of architecture with the contemporary structural methods. The central dome rises above the stone and brick edifice symbolizing the glory of the kingdom of God that rises above the material world.

On Sunday, June 7, 1970, the Consecration and Blessing of the new edifice finally took place. With the presentation of floral bouquets to His Beatitude Metropolitan John, His Excellency Archbishop Matyslaw and His Grace Bishop Mark, the distinguished hierarchy, visiting clergy, and honored guests proceeded from the rectory to the church where they were traditionally greeted with bread and salt by the Parish President Peter Dutkevitch.

The blessing of the new church was followed by the Pontifical Liturgy after which the placing of the cornerstone was witnessed by all. The afternoon was celebrated with a dedication banquet.

Fifty years after its initial consecration in Passaic, this beautiful church proudly stands as a landmark in the great city of Clifton, spiritually lead by Father Oleh Zhownirovych.

Mr. Speaker, as you can see, the men and women of the Holy Ascension Church epitomize the noble spirit of community service and volunteerism that we all strive to achieve. The sense of altruism and spirit of humanitarianism demonstrated daily by the congregation of the Holy Ascension Church is living proof of the difference that a handful of people can make in the lives of many.

Mr. Speaker, the job of a United States congressman involves so much that is rewarding, yet nothing compares to recognizing the members of exceptional institutions such as the Holy Ascension Church. I ask that you join our colleagues, the people of the city of Clifton, the Ukrainian community, and me in recognizing the men and women of the Holy Ascension Church for 80 years of ministry to the community of Clifton, New Jersey.

HONORING HARRIET BURGESS, PRESIDENT AND FOUNDATION OF AMERICAN LAND CONSERVANCY

HON. FORTNEY PETE STARK

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. STARK. Mr. Speaker, I rise today to pay tribute to a remarkable woman, Harriet Burgess, President and founder of American Land Conservancy. For the past 20 years, Harriet, who presently resides in Inverness, California, has applied her consummate skill in building consensus among legislators, government agencies, landowners and environmental groups for the conservation of public lands.

Her list of acquisition accomplishments while Vice President of the Trust for Public Land reveals a national landscape of treasured sites. She saw a need for a non-profit land acquisition agency that would tackle the most challenging and difficult projects. She founded the American Land Conservancy to rescue irreplaceable environmental acreage from imminent development.

Through her talent and perseverance she has kept intact precious tracts of land from California's Topanga Canyon to the Sierra Nevada and has been a matchmaker in arranging swaps and purchases of private lands for public uses from the Malibu coast to the Columbia River Gorge.

One transaction in Nevada involved 44 different property swaps. She has also masterminded the acquisition of lands along the upper Sacramento River and the North Fork American. She played a role in the addition of a one thousand plus acre parcel to the San Francisco Bay Area's renowned Gate National Recreation Area.

Harriet Burgess grew up in Xenia, Ohio where her fondest memory is wandering through the forest looking for wildflowers. But she didn't get into protecting public space until after her children were grown, when she volunteered to rewrite the zoning ordinance for Fairfax County, Virginia. During her time in Virginia, she was an exemplary member of my legislative staff in Washington, DC.

After a divorce in 1978, she moved to California and headed the western regional office for the Trust for Public land before founding the American Land Conservancy in 1990. The Conservancy, under Harriet's direction, has become a potent force in safeguarding California's most precious open spaces. Through sheer persistence and tenacity Harriet has time and again brought seemingly out-of-reach projects within grasp, helping local communities realize their dreams of protected land for open space.

Harriett Burgess has been a tireless and highly effective advocate of wilderness and recreational open space protection. Her list of accomplishments will be felt by generations.

As friends gather on November 16, 2005 to pay tribute to Harriet's extraordinary contributions, I join them in thanking her for the fruits of her efforts. We are grateful for her tenacity and perseverance to protect our precious lands.

HONORING WAYNE THOMAS JAQUITH

HON. EDWARD J. MARKEY

OF MASSACHUSETTS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. MARKEY. Mr. Speaker, I rise to recognize Wayne Jaquith upon the occasion of his impending retirement.

Over the last two decades, Wayne Jaquith has worked tirelessly to advance the cause of peace, security and disarmament.

Since June of 1999, he has coordinated the Peace and Security Funders Group, an organization which works with various philanthropic organizations interested in peace and disarmament issues. From December 1997 through May 1999, Wayne founded and ran the Peace Philanthropy Project, which sought to cultivate new philanthropy on peace and security issues. In 2002, Wayne also co-founded the Iraq Peace Fund, and served on its distribution committee. He also has been a consultant to W. Alton Jones Foundation, Ploughshares Fund and Turner Foundation.

Until July 1997, Wayne was president and founder of National Security News Service, Natural Resources News Service and Public Education Center. From 1989 through 1992, he served first as vice president and then as president of Council for a Livable World Education Fund, and as Boston director of Council for a Livable World. From 1978 through 1988, Wayne served successively as executive director of Nantucket Land Council, Physicians for Social Responsibility, Lawyers Alliance for Nuclear Arms Control and Ploughshares Fund. He was co-founder of many coalitions including Professionals Coalition for Nuclear Arms Control, Coalition for the Non-Proliferation Treaty, Coalition to Reduce Nuclear Dangers and the Arms Transfer Working Group.

Wayne has been an invaluable asset to the peace and disarmament community for many years. He will be missed. I wish him all the best in his retirement.

HONORING MSGT DEAN C. TEMPLE UPON HIS RETIREMENT

HON. LOIS CAPPS

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mrs. CAPPS. Mr. Speaker, today I rise to pay tribute to MSgt Dean C. Temple upon his retirement. MSgt Dean C. Temple is a native of Hinckley, Ohio. He enlisted in the United States Air Force in January 1983, shortly after graduating from Poudre High School, in Fort Collins, Colorado. He completed Military Basic Training at Lackland Air Force Base, Texas on March 1, 1983 and was sent, by direct duty assignment, to Altus AFB, Oklahoma.

During his first assignment at Altus, then Amn Basic Temple was put to work as a new General Purpose Vehicle Maintenance Apprentice. After 2 years, he was rotated into the Diagnostic and Quality Assurance section where he served as Non-Commissioned Officer In Charge (NCOIC). In 1988, SrA Temple was promoted to the rank of Buck Sergeant and transferred to Cosimo Air Station, Italy, on the island of Sicily. While at Cosimo, Sgt Temple served as NCOIC of the Base Operation Support, DQ&A section for the 487th Tactical Missile Maintenance Squadron. As part of his duties Sgt Temple directly supported the maintenance of Ground Launch Inter-Continental Ballistic Cruise Missile (GLCM), Launch Control Center (LCC), and Transporter Erector Launcher (TEL) equipment. During this assignment Sgt Temple was promoted to SSgt. In January of 1990 he was reassigned to the Air Training Command, Vehicle Maintenance Technical Training Center, Chanute AFB, Illinois. During this assignment SSgt Temple served as an Instructor, General Purpose Vehicle Maintenance Section and taught the GP Vehicle Maintenance Apprentice Course, Advanced Air Conditioning Course, and the Advanced Vehicle Diagnostic Test Equipment Course. While still at Chanute SSgt Temple attended the Airmen Leadership School and upon graduation was awarded the John Levitow award for leadership.

In 1993, due to Base Realignment and Closure (BRAC) decisions, SSgt Temple moved along with the vehicle maintenance schoolhouse to Lackland AFB, Texas where he assumed the role of Instructor Supervisor for the GP VM section and continued teaching the new 20-day Advanced Diagnostic Test Equipment and Electrical Systems Course which he co-authored with SSgt Andreas Grom. In 1996 SSgt Temple was promoted to Technical Sergeant, this promotion also coincided with another big swing of the BRAC hammer and the schoolhouse shifted again to a new location. Now a veteran of Schoolhouse moves, TSgt Temple was to move again to the newly designated Port Hueneme Schoolhouse in Port Hueneme, California. TSgt Temple now was positioned as a Course Supervisor for the GP section and was qualified to teach six of eight courses to include two Mobile Training Team Courses. These two courses generated 32 Temporary Duty Assignments that sent TSgt Temple throughout the globe. After 5 years at Port Hueneme TSgt Temple was promoted to Master Sergeant. And along with the promotion came the accompanying orders. This time the assignment was to Kunsan AB Republic of Korea, where now MSgt Temple served as Superintendent, Readiness and Evaluations. His duties included Squadron Exercise Evaluation Team Chief, Flight Self-Inspection program manager, and First Sergeant. In June of 2002 MSgt Temple finished with and was reassigned back to Det1 345 TRS, Port Hueneme, CA. After his return he served as the new Vehicle and Equipment Course Supervisor and since mid-2004 is currently serving as Air Force Superintendent, Inter-service Vehicle Mechanic School.

I commend and thank MSgt Dean Temple for his leadership and dedication. He is truly a role model and deserves the many awards and commendations that he has received. I wish him a relaxing and happy retirement.

TRIBUTE TO MS. ELAINE HARRINGTON

HON. BILL PASCRELL, JR.

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. PASCRELL. Mr. Speaker, I would like to call your attention to the life and work of an outstanding individual who I feel fortunate to call my friend, Ms. Elaine C. Harrington. She was recognized on Saturday, November 5, 2005, for her years of unwavering dedication and service as a Professor to the Passaic County Community College.

After 33 years of committed service to the Passaic County Community College (PCCC), Professor Elaine Harrington retired from the College on July 1, 2005. Her tenure at PCCC is a remarkable story of one person's belief in the power of education and its transforming effect on the lives of others. It is only fitting that Elaine Harrington be honored for her commitment to improving the quality of life in Paterson and Passaic County through education in this, the permanent record of the greatest freely elected body on earth.

Arriving at PCCC in 1972, at the earliest stages of the College's existence, Professor Harrington shared her many talents generously. She began by teaching the Music Appreciation course and Cultural Field Surveys. She later began teaching courses in Mathematics, English, Public Speaking and African American Literature. She worked closely with the College's most disadvantaged students, nurturing them from the lowest levels of developmental education to the heights of academic achievement.

While at the College, Professor Harrington was tireless in her pursuit of making PCCC a beacon of educational excellence. She served as President of the Academic Council and the Faculty Association, and Association secretary for more than a decade. For two years, she served as Acting Dean of Student Affairs. She provided leadership to numerous college committees such as Commencement, Convocation, Instructional Resources, Policies and Procedures, Retention and Accreditation. She rarely missed a Board of Trustees' meeting and became one of the PCCC Foundation's most staunch advocates, earning her the Foundation's "Distinguished Service Award" in 2000.

Professor Harrington's accomplishments on campus were rivaled only by her important work in the community. As Past President of both the Paterson Branch of the NAACP and the New Jersey State Conference of NAACP Branches, she strongly advocated for improved economic, educational, social, and political opportunities for disenfranchised persons. In her role as State President, she provided leadership to 38 NAACP branches and 20 youth units. Based on the quality and the breadth of the programming that occurred under her watch, the NAACP recognized New Jersey as the number one State Conference in all of Region II. In 1999, Professor Harrington became a member of the National Board of Directors of the NAACP. In addition to her work with NAACP, she has faithfully served organizations such as Concerned Parents for Head Start, Inc., the Paterson YWCA, and the Paterson Board of Education. She is a charter member of the Christ Church United Methodist.

Born in Philadelphia, PA and raised in Tuskegee, Alabama, Professor Harrington was an honors graduate of Tuskegee Institute High School, earned her B.S. degree in Elementary Education from Tuskegee Institute (University), and later her M.A. degree in Education, Supervision, and Administration from the University of Connecticut, where she graduated Magna Cum Laude. She received certification in Developmental Education from Fairleigh Dickenson University, and is listed in "Who's Who Among African Americans". Upon her retirement, Professor Harrington has returned home to Tuskegee, Alabama.

Mr. Speaker, the job of a United States Congressman involves so much that is rewarding, yet nothing compares to recognizing the efforts of devoted educators and public servants like Ms. Elaine Harrington. I ask that you join our colleagues, the faculty and students of Passaic County Community College, Ms. Harrington's family and friends, and me in recognizing Elaine Harrington for her years of outstanding service to the students of Passaic County.

CONGRATULATING LYNDON LaPLANTE

HON. MICHAEL C. BURGESS

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. BURGESS. Mr. Speaker, I rise today to congratulate Mr. Lyndon LaPlante of Keller, TX, on his dedication and outstanding athletic achievement at the Keller v. Richland high school football game on October 7, 2005.

Mr. LaPlante is an 18-year-old Keller High School senior, who has played on the Keller football team for 4 years. He has attended every practice, summer camp, team meeting and football game since he was a freshman. On October 7, 2005, Mr. LaPlante played in his first football game against Richland High School. At this inaugural game, Mr. LaPlante, who has Down syndrome, brought a home crowd of more than 4,000 to its feet as he ran 99 yards for a Keller touchdown. Mr. LaPlante was also named football player of the week and gave a speech at Keller High School's football pep rally.

Prior to his recent game success, Mr. LaPlante participated on the Keller football team by acting as assistant head coach and running plays with the team in pre-game warm-ups. He also took photographs at every game, which were set to music and shown at the end of every year. On Friday mornings, Mr. LaPlante joins his football teammates to mentor and read stories to elementary school students. He talks to children and signs autographs at Florence Elementary School, which he attended.

I extend my sincere congratulations to Mr. Lyndon LaPlante for his commendable achievements on and off the Keller High School football field. His dedication to his team, to his school, and to his community serves as an inspiration to all.

HONORING THE BEST TEACHERS OF ACADIANA

HON. CHARLES W. BOUSTANY, JR.

OF LOUISIANA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. BOUSTANY. Mr. Speaker, I rise today to recognize a special group of individuals from the Seventh Congressional District of Louisiana. I am proud to represent this distinguished group from my district. They are teachers, who have dedicated their lives to educating our leaders of tomorrow. Recently, Regent Broadcasting Corporation held a banquet to honor the best teachers in the Acadiana area. I join them in this endeavor and enter into the official CONGRESSIONAL RECORD the names of each one of these educators. I ask that my colleagues join me in thanking them for their service to our children.

They are: Cassie Arceneaux, Rosemary Arnold, Stephen Arnold, Kristi Barker, Monica Batiste, Rachelle Beasley, Mary Benjamin, John Bliss, Phyllis Bonhagen, Diedra Bossier Katie Botts, Sarah Boudreaux, Marcy Boudreaux-Johnson, Dina Bourque, Kerry Ann Breaux, Phyllis Breaux, Maria Brodie, Amanda Buteau, Russell Cailler, Carmen Cain, Carolyn Campos, Sera Centanni, Beth Chambers, Jim Chambers, Ashley Charpentier, Jackie Chaote, Patricia Clement, Shann Comeaux, Misti Darby, Carla Darcey, Dene Dauzat, Vianne Dawkins, Nicole Delahoussaye, Rachel Delcambre, Laura Delcambre, Nicole Duhon, Doug Duhon, Denise Ferguson, Keela Folsom, Cathy Frame, Denise Frederick, Donna Gilbert, Delia Girouard, William Greig, Brandi Gonzalea, Donna Goulas, Tiffani Granger, Patrice Grieg, Deany Guidry, Alanna Guillot, Mona Hahn, Renee Harelson, Callie Hardy, Erica Hargrave, Billy Hargroder, Dianne Hebert, Penny Hebert, Amy Hebert, Teres Johnson, Jan Johnson, Lacy Kibodeaux, Tori Kristicevich, Lea Lahasky, Amy Landry, Ginger Landry, Kim Landry, Rebecca Landry; Laurie LaPorte, Denette Latiolais, Camille Lavigne, Hedi LeBlanc, Stephanie Leger, Hayley Lejeaune, Kim LeMaire, Carey Lemoine, Denise Lotief, Angie Louviere, Brenna Mahoney, Vanessa Mayon, Rebekah McGee, Susan Merritt, Dura Minix, Allison Moore, Claire Myers, Kelly Neel, Denise Nugent, Desmond O'Conner, Dori Perez, Tonya Perry, Rosanne Plagens, Rebekah Prudhomme, Rachael Rachel, Rachelle Rachal, Debie Rebert, Nancy Reeves, LaToya Rideau, Ashlyn Roger, Damon Romero, Jonathon Royer, Kristen Royer, Sherry Rude, Tina Sapienza, Rhonda Schwartzenburg, Ros Siebold, Jennifer Semien, Donna Shotwell, Christine Simon, Lisa Stokes, Eric Stromer, Tina Stutes, Monique Taylor, Shawne Taylor, Krystal Theriot, Lyndelle Theriot, Nikki Thevis, Patricia Thibodeaux, Charlene Trahan, Kathy Verrette, Gwen Vice, Melanie Voison, Margaret Walet, Leslie Willis, and Wendy Wisdom.

CONDOLENCES TO PEOPLE OF JORDAN

HON. MARK STEVEN KIRK

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. KIRK. Mr. Speaker, I want to offer my deepest condolences to the people of Jordan in the wake of the deadly suicide bombings which occurred on November 9. Jordan has been a leader of peace and stability in the Middle East, and a strong ally and friend to the United States. King Abdullah stood firmly with the United States following the terrorist acts of September 11, and today the United States stands with him and his country.

Jordan, formerly led by the late King Hussein and now King Abdullah, has worked tirelessly towards the goal of finding a peaceful resolution to the Arab-Israel conflict and promoting stability throughout the region. Jordan is a country of strength and tolerance. From the rubble of these attacks, I am confident Jordan will remain more committed than ever to the eradication of terrorism worldwide.

The heinous acts are the work of cowards. I am confident that Americans and Jordanians will come together in these tragic times to work together towards a safer and more peaceful world.

TRIBUTE TO DENNIS UNDERWOOD

HON. KEN CALVERT

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. CALVERT. Mr. Speaker, I rise today to recognize and honor a man who will long be remembered for his extraordinary leadership and the significant contributions he made to the western states of our Nation. Dennis Underwood served his country in many capacities and dedicated the better part of the past 35 years as an influential leader of water policy in the West. On November 2, 2005, Dennis passed away following a long battle with cancer. Our region collectively mourns his passing, while remembering his lifelong contributions.

Commissioner of the Bureau of Reclamation from 1989 until 1993, Dennis most recently served as the chief executive officer and general manager of the Metropolitan Water District of Southern California, which serves 18 million people. Dennis also served as the Executive Director of the Colorado River Board of California. He worked tirelessly with the seven Basin States, the International Boundary and Water Commission, and various Federal agencies to develop and manage Colorado River water resources.

The greatest challenge facing the West today and for the foreseeable future is meeting water supply needs in an atmosphere of growing population, conflicting state and international claims, and demands of environmental protection. Although Dennis most recently represented water consumers in Southern California, his leadership, ingenuity, fairness, and perseverance yielded important dividends for water users throughout California, Nevada, Arizona, and other states that draw water from the over-allocated Colorado River.

Mark Twain famously stated that "whiskey is for drinking and water is for fighting." While the West has undoubtedly seen its share of water wars, I can't think of a person who had a better ability to get people to stop fighting and sit down at the bargaining table than Dennis. His wisdom, warm good nature, positive approach and—above all—sterling honesty kept all players in the Western water drama focused on finding solutions instead of persisting in conflict.

Personally, I had the pleasure and honor of working with Dennis on a number of important water issues, including the sometimes tumultuous negotiations of the Quantification Settlement Agreement, which brought California's water use in compliance with its legal apportionment for Colorado River supplies. In each instance, Dennis displayed a tremendous ability to find balanced solutions that satisfied all parties.

Mr. Speaker, the United States has lost a great servant, the West has lost a brilliant leader, and I have lost a dear friend. On behalf of our region, I want to convey our appreciation for all of Dennis's efforts and express our heartfelt condolences to the Underwood family, including his wife, Carmen; daughter and son-in-law, Michelle and Ryan Dejournett; brothers, Russell, Lawrence, Rory, Kevin, and Jeffrey; and two grandsons.

TRIBUTE TO BOB SANCHO

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. SERRANO. Mr. Speaker, I rise today to pay tribute to Mr. Robert Sancho, an outstanding individual and a dear friend who has dedicated many years of service to empowering the people of my community. Tonight the Citizens Advisory Board will recognize him for his many achievements in the City of New York.

Bob was born and raised in the South Bronx. He is a product of the New York City Public School system and went on to complete a Bachelor of Arts Degree at the Inter-American University in San German, Puerto Rico specializing in Education and Political Science. As an undergraduate Bob was awarded a Minority Urban Education Scholarship and completed a Teaching Fellowship in both Urban and Rural School Districts on the Island of Puerto Rico. He received a scholarship to the prestigious Graduate School of Urban Affairs at Hunter College where he completed his Masters of Science Degree.

Throughout his career Bob has held positions of great importance in the City of New York and has demonstrated his ability to work extremely well under pressure. As Deputy Superintendent of Schools in Community School District Number 4, he took the district from last place (32nd) in reading and math to 13th among New York City School districts. This feat was achieved over a 7 year period and was considered one of the most successful educational accomplishments in America.

During the 1960s Bob was successful in organizing the East Harlem Community against attempts by the Mayor to close down Metropolitan Hospital Center which provided much needed services to the people of that community.

In 1981 Bob was appointed Vice President of Development and External Affairs at Bronx Lebanon Hospital Center, the second largest medical facility in the Bronx. During his 23 year tenure at the hospital, Bob was an important catalyst in securing over 240 million dollars in New York State guaranteed Bonds. These bond issues financed the construction of three new buildings and provided for the rehabilitation of the existing hospital buildings. In addition his department has raised approximately $15 million during the last several years for various hospital programs.

Mr. Speaker, what makes Bob such a unique an incredible person is that he is willing to put his knowledge and skills to work for causes that help everyday people. Such selflessness is hard to find in today's world. The great work that Bob does at the Bronx Lebanon Hospital Center inspires me to work harder in Washington for the people of the Bronx. It is my hope that he will continue to work to empower and protect those who need it most.

For his unyielding spirit and selfless dedication to the citizens of New York, I ask that my colleagues join me in paying tribute to Mr. Bob Sancho as he is recognized for his many achievements by the board of the Citizens Advice Board.

HONORING MADELINE DUCKLES

HON. BARBARA LEE

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Ms. LEE. Mr. Speaker, I rise today to honor the extraordinary life and work of Madeline Duckles of Berkeley, California. A longtime peace activist and community leader, Ms. Duckles will soon celebrate her 90th birthday, an occasion which will coincide with the 90th Anniversary of a group in which she has been active for several decades, the Women's International League for Peace and Freedom (WILPF).

Born in Loomis, California, Ms. Duckles was the youngest of five children. After her older siblings left for school, Madeline went to live with her school music teacher in a household filled with opportunities to read books, learn music, and explore the outdoors. In this household she was encouraged to attend a university despite the opposition of her father, who felt that sending a girl to college was a waste of money. Ms. Duckles nonetheless went on to attend college, graduating in 1937.

At that time Ms. Duckles also became involved at the local YWCA, which at that time was the only place where she was able to discuss social issues. She received much of her early political education through the time she spent there, which coincided with the Spanish Civil War and a high incidence of labor strikes on the domestic front.

Upon her graduation, Ms. Duckles left California for New York City, where she married Vincent Duckles, who was doing graduate work at Columbia. Over the next several years they moved around to several different states while Vincent completed his studies and they both worked a number of jobs, working at different times as teachers, in retail service and other industries.

Eventually they returned to Berkeley, California, which is where Ms. Duckles became active in WILPF. Still outraged at the Japanese internment and the use of atomic weapons against Japan in World War II, she was part of a group of women who in 1961 went on strike across the country to protest atmospheric nuclear tests. Another issue of growing concern among these women was the increasing involvement of the United States in Vietnam, an issue regarding which Ms. Duckles would become progressively more active in years to come.

Even with five children to care for, Ms. Duckles devoted immeasurable amounts of time and energy into the movement for peace and justice in the years that followed. She attended meetings with the World Council of Peace in Europe and Asia, and even went on a speaking tour through Germany, Austria, Switzerland and Italy. Even following the Vietnam War, Ms. Duckles has remained an outspoken advocate for peace and justice for all people throughout the world, continuing to travel and host international delegations of visitors to the United States as well.

This week Ms. Duckles' friends and family come together to celebrate her many years of activism, and the immeasurable impact she has had on our community. On behalf of the

California's 9th U.S. Congressional District, I salute and thank Madeline Duckles for her many years of work toward creating a peaceful world for all.

WINTER OUTDOORS MONTH RESOLUTION

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. UDALL of Colorado. Mr. Speaker, as obesity and the associated health risks continue to increase it is important to encourage American's of all ages to participate in physical activity all year long.

To help spread this message, today I am introducing with my colleague from New York, Rep. JOHN SWEENEY, a resolution urging the President to declare January 2006 Winter Sports Month.

This resolution notes the increase in adult and childhood obesity along with the negative consequences of extremely overweight and obese people, including a decrease in the average life span and rising health care costs stemming from obesity related illness. It also includes the role winter sport activities can play in addressing obesity and the positive effects of participating in physical activity. It resolves that the House of Representatives urge the President to declare January 2006 Winter Sports Month.

Alpine skiing, snowboarding, snowshoeing and cross country skiing, not only offer excellent aerobic and anaerobic exercise but they also are activities that allow an entire family to play together in a natural environment. Colder temperatures and snow should not deter outdoor activities.

"Winter Outdoors Month" would remind citizens of the importance to maintain a consistent exercise program and healthy lifestyle all year twelve months out of the year. Winter sports offer unique opportunities to allow all Americans a chance to be together outside, enjoy the season.

CONGRESSIONAL RECOGNITION OF ORENE SCHWEINLE JORDAN

HON. RON PAUL

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. PAUL. Mr. Speaker, I rise today to pay tribute to Mrs. Orene Schweinle Jordan on the occasion of her 100th birthday. Mrs. Jordan is a great example of the determination and dedication the citizens of America possessed in striving to improve their lives and the lives of their family members during the stressful years of the early 1900's. She has seen firsthand this great country develop from the horse-and-buggy era to the age of Internet.

Born in a remote area of rural Texas on December 4, 1905 into a family of seven children, Mrs. Jordan had limited formal education and learned early that hard work and self-improvement were her only avenues to a better life. She developed the philosophy that, "You can do anything if you set your mind to it and never quit." That philosophy has sustained her to age 100 and she has set an example for her children and those around her.

Mrs. Jordan has been an outstanding mother to her children and is the recognized force that molded their lives. Her son, Don D. Jordan, became Chairman & Chief Executive Officer of Houston Lighting & Power Company, Houston Industries, and Reliant Energy in which capacity he served for 23 years. He also served as the International President of the World Energy Council in London, England. Mrs. Jordan's daughter, Shirley A. Jordan Flanagan, perhaps made the biggest contribution as she energized young lives while serving as an elementary school teacher in the public schools of Texas for 35 years.

Married to W.G. Jordan for 60 years, Mrs. Orene Jordan was always a working partner. When the family moved from a small town in south Texas, they opened a small grocery store in La Marque, Texas even though they had no real business experience. Mrs. Jordan put her "hard work" philosophy into action by working 12 hours a day, 7 days a week to make her family's business thrive. In 1956, Mr. and Mrs. Jordan sold their store and started a cattle ranch in Van Vleck, Texas in Matagorda County.

Mrs. Jordan still lives on the ranch, which she has helped operate for the past 49 years. During that time, she has developed as an artist, written several short stories, built her own furniture, become a recognized horticulturist, been active in her church, and touched the lives of numerous people.

Above all else, Orene Jordan is a patriot. She loves America and has never wavered from honesty, personal integrity, respect for the rule of law, and consideration of others. She has made the United States of America, Texas and Matagorda County a better place, and she is not finished yet!

IN MEMORY AND TRIBUTE TO JOSEPH MONSERRAT

HON. JOSÉ E. SERRANO

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. SERRANO. Mr. Speaker, it is difficult to bid farewell to friends and mentors, especially those who have worked so hard and given so much to their communities and to our Nation.

Mr. Speaker, I rise today in memory of and tribute to Joseph Monserrat, who passed away this week.

Joe spent his life in public service, both to his community and to his people. He was born in Bayamon, Puerto Rico, and like so many of his generation, moved at a very young age to the United States. He attended public schools and some of New York's most prestigious universities.

Joe served honorably in the Army Air Force, and upon returning, began his long career of public service. He quickly rose to positions of leadership in all his undertakings, making a significant mark as Director of the New York office and Deputy National Director of the Migration Division of the Puerto Rican Department of Labor.

This agency helped assist and smooth the transition for Puerto Ricans resettling in the United States by working to increase employment and business opportunities, increasing the number of major corporations that had employment programs for Puerto Ricans, and other vital services. After eight years in this capacity, because of his hard work and talent, Joe was promoted to National Director of the Division, where he served for another nine years.

Under his leadership, this agency was to become one of the most important national organizations devoted to the cause of helping Puerto Ricans gain a foothold in the United States. He later turned his attention to education, serving on the New York City Board of Education in the early 1970s and later teaching.

In his spare time, Joe served on the boards of many prominent civil rights organizations as well as service with many labor-related organizations. He also spent a great deal of time researching and writing some of the most influential scholarly works on issues affecting Hispanics, Puerto Ricans, the Caribbean and Latin America.

Mr. Speaker, Joe was a tireless leader, brimming with vision, energy and ideals. He was a mentor, a teacher, a friend, and, most importantly, the source of inspiration to countless leaders. The institutions that he touched were forever marked as they reached new heights of service and dedication to worthy causes.

Joe's legacy of service to others and his valuable contributions in all sectors of society will be sorely missed but his legacy lives on.

I would like to extend my deepest sympathy to Joe's family, colleagues, friends, and all those whom he touched by his life and example.

Mr. Speaker, Joe Monserrat was an uncommon leader on the many different issues that he addressed during his life. He truly showed the way for many Puerto Ricans and Hispanics who followed in his footsteps in New York City and in the nation. Joe could truly be called one of the leading lights of the Hispanic community in the United States, and his commitment to public service should be honored. Fortunately through his leadership, he created a generation of people who will ensure that his vision for the betterment of the Puerto Rican and Hispanic community will not be lost.

Mr. Speaker, I am glad to report that even with his passing, his light was not extinguished; instead it will shine stronger than ever among all those he inspired. I ask my colleagues to join me and all who had the privilege of knowing Joe Monserrat in paying tribute to him for serving his community and our nation with uncommon wisdom, generosity and dignity.

HONORING THE LIFE AND ACCOMPLISHMENTS OF VICE ADMIRAL ARTHUR K. CEBROWSKI, UNITED STATES NAVY, RETIRED

HON. MAC THORNBERRY

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. THORNBERRY. Mr. Speaker, I rise to pay tribute to a visionary leader, a dedicated naval officer, and a true gentleman. Vice Admiral Arthur K. Cebrowski passed away on November 12, 2005 after a lengthy illness and a lifetime of service to this Nation.

Most recently, Vice Admiral Cebrowski served as the Director of the Office of Force Transformation in the U.S. Department of Defense. He was charged with helping transform the Nation's military capabilities from the post-Cold War Industrial Age to a more agile Information Age military force. But his legacy is much greater than just the leader of an office within the Pentagon.

Admiral Cebrowski was, for many years, a driving force for change—an intellectual whose ideas mattered and found their way into the battlespace, the hands of the troops, and the nooks and crannies of the Pentagon. It was Vice Admiral Cebrowski who first introduced the idea of Network Centric Warfare, now a critical term of art in military strategy. It was Vice Admiral Cebrowski whose ideas on defense procurement are changing the types and quantities of ships the Navy buys and how the Department of Defense will buy satellites and services in the future. It was Vice Admiral Cebrowski who identified the need to move technology more quickly into the hands of the war fighter. He was able to push innovative equipment and tools to the troops for operational experimentation during the War on Terrorism.

While intellectual honesty and vision were his trademark, he was also able to express those ideas in simple and understandable terms to others. As the Director of Force Transformation and as President of the Naval War College in Newport, Rhode Island, he was able to share his vision to educate and shape a new generation of leaders. It was a vision based on combat experience in Vietnam and Desert Storm and as a commanding officer of fighter squadrons and ships.

It is not often that a nation is blessed with a great military leader whose powerful ideas make lasting and important contributions to the future. Sometimes it is only through the passage of time and history that their greatness is recognized fully. After some decades, Rear Admiral William A. Moffett eventually became known as the father of naval aviation. Admiral Hyman G. Rickover was recognized as the father of the nuclear Navy. I believe that Vice Admiral Arthur K. Cebrowski will become known as the father of a network centric military, and students of warfare and peacemaking will study his ideas and marvel at his contributions for decades to come.

TRIBUTE TO DICK TSCHIDER

HON. EARL POMEROY

OF NORTH DAKOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. POMEROY. Mr. Speaker, I rise this evening to recognize the remarkable career of one of the all-time leaders in North Dakota healthcare.

Dick Tschider, CEO of the St. Alexius Medical Center in Bismarck, North Dakota, for the past 29 years, is retiring from this position. He has devoted his entire career to this outstanding facility, joining it right out of college, 45 years ago.

We all know about the revolution in health care that has occurred during the last four and a half decades. Under Dick Tschider's leadership, St. Alexius has grown dramatically during this period, and is now recognized throughout the region as one of the premier multi-specialty hospitals in the area.

In fact, when ranked in terms of quality of care and patient safety, it is one of the top 100 hospitals in the entire country. Several aspects of St. Alexius care—notably cardiac care—are exceptional, as determined by the competitive analysis of external reviewers.

It has been my personal and professional privilege to know Dick and work closely with him during the last 20 years as I served as North Dakota's Insurance Commissioner and Congressman. Dick was an exceptional football player and he would throw himself into healthcare reimbursement issues with the zeal and intensity he formerly used against gridiron opponents.

During the years of our working relationship, sometimes we agreed, sometimes we didn't, but we maintained a constructive and productive association throughout all of these years. This relationship led to a very significant achievement for North Dakota in the Medicare Modernization Act passed 2 years ago. Dick and other leading members of the medical community convincingly documented the threat discounted Medicare reimbursements held for healthcare—especially in North Dakota. Senator CONRAD, Senator DORGAN and I fought to get an equitable reimbursement adjustment in the Medicare Modernization Act and then worked feverishly to pass the bill which made it by the slimmest margins.

Dick Tschider is an energetic and compassionate man of considerable abilities. Western North Dakota has been fortunate to have someone of his talent and commitment advancing healthcare in our region. I have been fortunate to have him as a friend.

The career of Dick Tschider is an example of leadership and achievement in service to others. I wish him the best in retirement.

AMERICA'S UNSUNG HEROES—THE CRIME VICTIM ADVOCATES

HON. TED POE

OF TEXAS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. POE. Mr. Speaker, each and every Member of Congress has crime victim advocates in his or her District. It's likely you hear from them now and again, particularly when critical funding for crime victim services is at stake—like the Administration's proposal to drain the Crime Victim Fund to balance the budget—or you may hear from them when they plead that victims' rights are enforced in accordance with the law. It's also likely that you have an inkling of what these folks do for a living. But I'm pretty sure that you don't know just how much victim advocates are the "unsung heroes" of America today.

Back when I was a prosecutor in the great state of Texas, we didn't have "victim advocates." There was nobody to provide the victim with support and guidance. The criminal and juvenile justice systems were like a maze to them and, let me tell you, the laboratory mice did a lot better in finding the cheese! Crime victims were lost. Crime victims were forgotten. Crime victims were merely "evidence" used to successfully prosecute criminal cases. Crime victims were "re-victimized" on a daily basis by a system that should be designed to protect them.

At the end of my days as a prosecutor and the beginning of my days as a judge, I started to see these folks called "victim advocates" in court. Back then, their job was to notify victims of the status of their cases and offenders, and explain to them what is often an overwhelming criminal justice process. But if you listened to victims back then, they would tell you that their advocates were so much more. They were a "Rock of Gibraltar" in a rocking sea of confusion. They were there to hold their hands and provide comfort. They were, as one prosecutor from Texas last month noted, "the centerpiece of the courtroom" when it came to helping crime victims and witnesses.

I was privileged earlier this month to deliver a keynote speech at the National Conference of State VOCA Assistance and Crime Victim Compensation Administrators in New Mexico. These are folks that, every single minute of every single day, are on "the front line for victims of crime." There were over 300 "victim advocates" in the house, and I think it is well worth the time of the U.S. Congress to recognize them.

You should know about the remarkable victim advocates who spent the last year planning this conference, and spent some really quality time learning from each other about how to better help crime victims. For 4 days, state-level victim advocates who oversee funding for vital victim services, and manage state victim compensation programs that help victims recover from the financial losses resulting from crime, came together to teach each other, and learn from each other, and figure out ways to improve assistance to crime victims in ALL our Districts.

Let me begin by saluting John Gillis, the Director of the U.S. Department of Justice Office for Victims of Crime. John knows too well the impact of crime on victims. When he was an LAPD detective almost 30 years ago, his beautiful daughter Louarna was murdered by gang members in a vicious "kill a cop's kid" murder that would move them up the gang hierarchy.

John and his wife Patsy reacted to Louarna's death as so many crime victims and survivors do. They became activists to change how our criminal justice system treats victims, and change how our society views victims. John has spent the last three decades fighting for crime victims' rights, and does so now at the helm of the Office for Victims of Crime, considered the "mother ship" of victim assistance in America. John has become a friend and someone whom I admire and deeply respect. He is our nation's leading "victim advocate" and crime victims everywhere in America are fortunate to have him at the Office for Victims of Crime.

Next, I would like to recognize the Directors of the two national associations that help states manage funding for victim services and victim compensation.

Steve Derene is the Director of the National Association of VOCA Assistance Administrators. Back in 1984, he helped craft the Victims of Crime Act, which uses fines and fees assessed against convicted Federal offenders to support crime victim services. He has been a true advocate for victims in Wisconsin and, in the past five years, for victims across our nation. He is known as "Stevie Wonder" because he, more than most, has embraced technology as a means to facilitate more effective justice processes and victim assistance; and because it seems he is on call 24/7 to help victims and those who serve them.

Dan Eddy is the Director of the National Association of Crime Victim Compensation Boards. Dan is a quiet, unassuming victim advocate, but the impact of his work is far-reaching. Under his direction, victims of crime in all of our Districts have received millions of dollars—again, not from taxpayers but from convicted offenders—to help them cope with the financial impact of crime. Dan Eddy is truly an "unsung hero" whose efforts are felt in states, communities, neighborhoods and homes across America each and every day.

The Presidents of both Associations—Joe Hood from Georgia and Larry Tackman from New Mexico—also deserve mention. These are two men with a true vision for the field of crime victim services. When they are not managing their state VOCA and compensation programs, they are working hard to promote strength and unity in victim services across our land. With their respective Boards of Directors, they put on a fine conference, and deserve our thanks.

I am guessing ya'll have attended events where everything ran very smoothly. I can assure you this doesn't happen by "accident." So let me tip my hat to Ms. Gillian Nevers, who had an illustrious career as a Wisconsin victim advocate, and who earlier this month facilitated one of the best victim assistance training conferences ever.

And now I'd like to introduce you to some wonderful victim advocates from New Mexico, and know that my colleagues from New Mexico join me in thanking them. These are the folks who not only put on the conference I attended, but also help victims of their state every day, in ways large and small. These are people for whom compassion is part of their DNA. Let me introduce you to the staff of the New Mexico Crime Victims Reparation Commission: Kristy Ring, Deputy Director; Robin Brassie, VOCA Administrator; Sheila Allen, VAWA Administrator; Julie Duren, Reparation Officer Supervisor; Terri Ruegger, Financial & HR Officer; Dorothy Padilla; Randy Vallejos; Debra Yepa; Jacqueline Chavez; Denise Jaramillo; Mary Anne Garcia; Michele Threlkel; Moises Valdez; Paula Smith; Debra Simpson; Suzanne Gallegos; Wendy Archibeque, and Robert Norfor.

You are simply hearing their names. But I had the chance to meet them, and want you to know that our Nation is a better place because of their ongoing commitment to helping victims of crime.

And that's just the way it is.

THE CONFERENCE REPORT ON THE FISCAL YEAR 2006 AGRICULTURE, RURAL DEVELOPMENT, FOOD AND DRUG ADMINISTRATION, AND RELATED AGENCIES APPROPRIATIONS ACT (H.R. 2744)

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Ms. McCOLLUM of Minnesota. Mr. Speaker, I rise in opposition to the Conference Report on the fiscal year 2006 Agriculture Appropriations Act. While this bill takes some positive steps, overall it is a missed opportunity.

This bill provides increased funding for critical food assistance programs, including Women, Infants and Children, WIC, and school lunch. The conference report also upholds current adjunctive eligibility requirements for WIC and Medicaid. This will save local WIC agencies in six states, including Minnesota, from having to conduct 275,000 duplicative eligibility determinations and keep resources devoted to nutrition assistance.

Voluntary conservation programs that I support, such as the Conservation Reserve Program, CRP, and the Wetlands Reserve Program, WRP, receive $840 million in funding. For generations, farmers and others working close to the land have made positive contributions to the conservation effort. Programs like CRP and WRP assist landowners in reducing erosion, improving soil and water quality, and enhancing fish and wildlife habitat.

Funding for the Animal and Plant Health Inspection Service, APHIS, is increased to address food safety and emerging diseases, namely avian influenza. Prompt action is needed to safeguard against further spread of this deadly strain and to be prepared for a potential outbreak at home or abroad.

Despite these positive aspects, Congress missed an opportunity to make a real difference in the lives of families by failing to provide relief for the millions of Americans facing soaring prescription drug prices. I supported language passed by the House of Representatives to allow reimportation of prescription drugs. Unfortunately, this language—which would have barred the Food and Drug Administration, FDA, from preventing prescription drug reimportation—was stripped in conference committee for a third year in a row. It is unacceptable for anyone to suffer because prescription drugs have become too expensive, and it is disappointing that once again Congress has prioritized pharmaceutical companies over families.

This bill also imposes further delays upon implementation of mandatory Country-of-Origin Labeling, COOL, requirements. COOL provides our families with important information on meat, fish, fruits and vegetables. It also gives U.S. producers credit for the considerable investment they make in the quality and safety of their products. The 2002 Farm Bill required mandatory labeling by 2004. but the fiscal year 2004 Agriculture Appropriations Act delayed implementation of COOL to 2006. This conference report further delays implementation of COOL until 2008.

COMMENDING THE SUPPORT PROVIDED BY EMPLOYERS OF MEMBERS OF THE NATIONAL GUARD AND RESERVES

HON. RAHM EMANUEL

OF ILLINOIS

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Mr. EMANUEL. Mr. Speaker, I rise today in support of H.R. 302, recognizing and commending the support provided by the employers of members of the National Guard and other reserve divisions who have been mobilized during the Global War on Terror.

More than 433,000 members of the reserve components of the United States Army have been mobilized for active duty since September 11, 2001. During this difficult time for them and their families, the commitment of their employers is essential. The obligations of the National Guard and other reserve components will continue for years to come, and job security and support for those who are mobilized in defense of our nation is crucial for the country in continuing the War on Terror.

In my home town of Chicago, many employers have demonstrated their commitment to the safety of the nation and to those who fight to secure it. When National Guard employees of Chicago law firm Bell, Boyd & Lloyd learned they would be deployed, the firm responded by asking how it could help. Whether the need was for supplying care packages to the troops or redoubling their support as deployments were extended, this firm has provided tremendous assistance to its employees and their families.

Doug Ewing, the former president of Ewing-Doherty Mechanical, Inc., left a strong legacy of support for our troops. When his employees were deployed, Mr. Ewing supplied them with necessary provisions and equipment. He also frequently contacted his employees' families in order to boost their morale and ensure that they were provided with any necessary assistance. Mr. Ewing has sadly passed away, but his commitment and compassion will long be remembered by his employees and their families.

The Chicago Fire Departments and Chicago Police Department also merit recognition for the support they give to their employees who have been mobilized during the War on Terror and their families. These employers have shown themselves to be dedicated to the security of the nation, and have provided support beyond that which is required. They deserve our most sincere recognition and gratitude. I would like to offer my praise for their contributions, and encourage the Department of Defense to continue its efforts to maintain a high level of support between deployed Guardsmen and their employers.

Mr. Speaker, I am pleased to join my colleagues in recognizing and commending the strong support provided by employers for those who work to secure the goals and safety of the United States.

DESIGNATING THE ALBERT H. QUIE POST OFFICE (H.R. 3989)

HON. BETTY McCOLLUM

OF MINNESOTA

IN THE HOUSE OF REPRESENTATIVES

Tuesday, November 15, 2005

Ms. McCOLLUM of Minnesota. Mr. Speaker, I rise in support of H.R. 3989, a bill to designate the U.S. Post Office in Dennison, Minnesota as the "Albert H. Quie Post Office."

It is appropriate that we honor this special Minnesotan, who served our great state and Nation in the U.S. Navy during World War II and as State Senator, Congressman, and Minnesota Governor. It is especially fitting that the Post Office in Dennison, MN will carry his name. Al Quie grew up on a farm outside of Dennison and attended school in nearby Nerstrand and Northfield. His family and the community he lived in instilled in him a sense of service that is still with him today.

Governor Quie led a distinguished career in many respects, one that was especially important to me as a student living in his Congressional district. As a long-time member of the House Education Committee, he created a special legacy in the area of education and advocated tirelessly for quality education programs for America's children. His leadership in public education is still respected in Minnesota, where he is often asked to share his vision for education at meetings and conferences.

This devout Lutheran left another legacy in Congress when he helped start the Congressional Prayer Breakfast for his colleagues. Forty-seven years later, Members still enjoy this weekly tradition.

Mr. Quie was elected to Congress in 1958 and ten succeeding Congresses, but I remember most fondly his election in 1972. The 26th Amendment had just been ratified, giving me and other 18 year-olds the right to vote. I cast my vote for Albert Quie, a vote I am still proud of today.

Thank you for your fine service, Governor Quie, and for inspiring a spirit of service in others.

SENATE—*Wednesday, November 16, 2005*

The Senate met at 9:30 a.m. and was called to order by the President pro tempore (Mr. STEVENS).

PRAYER

The Chaplain, Dr. Barry C. Black, offered the following prayer:

Let us pray.

God of mercies, whose unfailing love and faithfulness cover our sins, make us today instruments of Your grace. Give us the wisdom to think before speaking and to say the right thing at the right time. May our actions so please You that even our enemies will live at peace with us.

Guide our lawmakers in their challenging work. Remind them that many counselors bring success. Help them also to remember that they can make plans but You determine their steps. Teach us all that it is better to be patient than powerful, and it is better to have self-control than to conquer a city. Guide us by Your light that we may reach the light that never fades.

We pray in Your holy Name. Amen.

PLEDGE OF ALLEGIANCE

The PRESIDENT pro tempore led the Pledge of Allegiance as follows:

> I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

RESERVATION OF LEADER TIME

The PRESIDENT pro tempore. Under the previous order, the leadership time is reserved.

MORNING BUSINESS

The PRESIDENT pro tempore. Under the previous order, there will be a period for the transaction of morning business for up to 60 minutes with the first half of the time under the control of the majority leader or his designee and the second half of the time under the control of the Democratic leader or his designee.

Mr. REID. I suggest the absence of a quorum.

The PRESIDENT pro tempore. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDENT pro tempore. Without objection, it is so ordered.

RECOGNITION OF THE MAJORITY LEADER

The PRESIDENT pro tempore. The majority leader is recognized.

SCHEDULE

Mr. FRIST. Mr. President, today we will have a 1-hour period for morning business, which will follow the remarks of the two leaders. After morning business, the Senate will begin consideration of the pension security bill under the time agreement which was reached last night. Under that order, there will be 2 hours of general debate on the bill and substitute, with two additional amendments in order limited to 30 minutes each. We will finish that bill today with probably three rollcall votes. We will also vote on the adoption of the conference report to accompany the Commerce-Justice-Science appropriations bill that was debated yesterday. The vote on final passage will be stacked with the pension votes that we will have a little bit later this morning.

In addition, yesterday the Finance Committee reported the tax increase prevention bill. That is the tax reconciliation bill, and we will begin that measure today as well. Hopefully, we will be able to get to that bill as soon as possible in order to begin the clock running on the 20-hour statutory time agreement and, hopefully, we will be able to facilitate a very busy schedule this week by beginning that tax measure early this afternoon and using some of that time to get the clock started.

In addition, we have conference reports that will be coming over from the other side. We will continue to consider any of those available conference reports as they arrive from the House. I will be back to the floor to update Members on the schedule for the remainder of the week as these conference reports become available.

As I have mentioned, we have a lot of business to do today. Although we have made huge progress over the course of yesterday, much of which is seen on the floor, and we had a very successful day, there is much of which people do not see that is occurring in these conferences that are ongoing. We do have a lot to do. I know there are a lot of Members who are asking about their schedules, whether we will be out Friday, Saturday, Sunday, Monday, or Tuesday. Again, things are coming along nicely to be out at a reasonable time, but a lot depends on how efficiently we can work together. I am pleased with the progress that has been made over the last 48 hours.

ASBESTOS LITIGATION REFORM

Mr. FRIST. Mr. President, I have been working with my colleagues for 3 years to reform our asbestos litigation system. It is a system that today is unfair and unjust. Because of that, people suffer, jobs are lost, and bankruptcies occur. The day has come for us to fix it.

I am pleased to inform my colleagues that asbestos reform will be the first major legislation that we consider in late January when we return. In January, asbestos reform will be the first major legislation that we consider.

I commend my friend, Senator SPECTER, chairman of the Judiciary Committee. Rarely a day goes by that we have a conversation that he does not mention the importance of this bill that he, working with the ranking member, Senator LEAHY, has spent so much time and focus on. I commend them for those tireless efforts to forge a bipartisan—and we do not hear that word very much around here—consensus.

I had hoped that the Senate would be able to bring the legislation to the floor some time in the last several weeks or months and that we could debate it and pass asbestos litigation reform this year. Unfortunately, as we all know, there have been a number of circumstances, with Katrina, the fact that we have indeed taken each of the appropriations bills across the floor individually, the Supreme Court nominations, all of which have slowed down our work on asbestos in terms of bringing it to the floor.

Now that wait is over. No more delay. After 4 hearings—10 including markups—2 years of intense negotiations, the Senate will finally resolve the asbestos litigation crisis that currently is clogging our Nation's courtrooms and threatening America's economic health. There is wide agreement that the current asbestos litigation system is disastrous. It is disastrous for everybody. It is disastrous for victims who suffer from asbestosis or mesothelioma. It is disastrous for an ever-widening circle of companies that it bankrupts. It is disastrous for the tens of thousands of jobs that are lost, and it is disastrous ultimately for the American people.

More than 700,000 individuals have filed claims with at least 8,400 defendant companies. More than 300,000 claims are currently pending. More than $70 billion has already been spent trying to resolve these claims that have bankrupted nearly 80 companies. It is time to fix the system. The system is out of control. It is time for commonsense reform.

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.

According to the 2002 study by Nobel laureate Joseph Stiglitz, asbestos bankruptcies have cost nearly 60,000 jobs and $200 million in lost wages. That is wrong. Employees' retirement funds have shrunk by 25 percent. Meanwhile, the sickest victims of asbestos exposure are not getting their efficient compensation or their fair compensation. Instead, they are waiting in line behind thousands of claimants who are themselves unimpaired.

A recent RAND study put the number of unimpaired claimants at 60 percent—6-0 percent. Even if after years of waiting and an ill claimant finally does get a court settlement, that award is whittled down, gets smaller and smaller because of lawyer's fees and other expenses until it is less than half of the original sum that was awarded. It is too little too late for far too many people.

We do have a solution, and we will bring that to the floor. The $140 billion fund that is on the table will ensure that victims receive proper compensation without delay. Unlike the tort system, the $140 billion trust fund—and this is not taxpayer money—will provide certainty and fair relief. The money will go to the victims instead of to the trial lawyers.

Mesothelioma, just to give an example, is a devastating disease. In the mid-1980s I spent almost a year in England operating, doing thoracic surgery, chest surgery, lung surgery, at South Hampton Hospital in South Hampton, England. It was not unusual to see mesothelioma, which is an asbestos-related disease that encases the lung with thick fibrous plaques which restrict the expansion of the lung, and people end up suffocating to death.

Under this bill, a victim suffering from mesothelioma will get $1.1 million within months to help pay for medical expenses and the suffering. It will not be delayed 6 months, 1 year, or 2 years. The entire $1.1 million will go to the victim instead of half of it going to a system that is out of control.

A person suffering from asbestosis, which is a manifestation of asbestos exposure, will receive as much as $850,000 under this bill. The fund provides significant compensation because we recognize that these are serious illnesses. These are dire illnesses that can be caused by asbestos exposure. They are life threatening and life altering and the victims deserve that fair, just, and timely compensation which they are not getting today.

I commend both Chairman SPECTER, Senator LEAHY, and all of my colleagues on the Judiciary Committee for tackling asbestos reform. Again, we will bring that to the floor in late January. The committee is holding a hearing on asbestos on Thursday, tomorrow. I applaud them for moving forward on this bill to help people understand what is at stake.

I call upon my colleagues to work directly with Senator SPECTER and Senator LEAHY over the next few weeks so that this bill can be considered and approved expeditiously in January. I know there is bipartisan support for S. 852 in this Chamber. I understand that it will involve debate and amendment, and that is appropriate. Yet I am confident that by pulling together we can pass S. 852 and put the asbestos crisis where it belongs, and that is behind us.

I look forward to getting this done, and I look forward to continuing to deliver meaningful solutions to the American people.

I yield the floor.

The PRESIDENT pro tempore. The Democratic leader is recognized.

THE NOMINATION OF JUDGE ALITO

Mr. REID. Mr. President, 2 weeks ago the President nominated Judge Samuel A. Alito to serve on the Supreme Court of the United States. I congratulate Judge Alito on this high honor. I pledge that the Senate Democrats will help ensure a thorough and dignified confirmation process. While I approach the confirmation process with an open mind, even at this early stage I have a number of significant concerns I want to share with my colleagues.

First, the President's selection of Judge Alito was not at all the product of consultation with Senate Democrats, as envisioned by the Founding Fathers. On two prior occasions President Bush spoke with me. He invited Senator LEAHY and me to the White House to discuss the future of the Supreme Court. The President listened seriously to our views and appeared to understand that the job of filling judicial vacancies is a constitutional responsibility that he shares with the Senate.

But this time, instead of an invitation to the White House, I received nothing more than a pro forma telephone call from the President's Chief of Staff, telling me he had selected Judge Alito about an hour before he announced the nomination. In fact, the President did consult about the Alito nomination but with the wrong people. It wasn't with me and it wasn't with Senator LEAHY. According to widely recognized press reports, the White House consulted with conservative activists to make sure the President would not disappoint them with his selection. I think the term conservative activists is probably very broad, too broad; with some extremes—extreme on the right wing. Some of these extreme Web sites received word of the Alito nomination before any Senate Democrat was even consulted or informed.

Consultation is not just a courtesy; it is a way for the President to ensure that a candidate for a lifetime appointment to the Supreme Court receives broad bipartisan support in Congress. That was what our Founding Fathers talked about. That is why that provision is in the Constitution. The constitutional design commands a partnership in this endeavor, not mere notification of the coequal branch of Government.

The second reason I have early concerns about this nomination is that it represents an abandonment of the principle that the Supreme Court should be comprised of highly qualified individuals with diverse backgrounds, experiences, and heritages. It is so striking that President Bush has chosen a man to replace Justice Sandra Day O'Connor, the first of only two women ever appointed to the Supreme Court. Today, unlike 24 years ago, when Sandra Day O'Connor herself was nominated, more than half of the Nation's law students are women. There are countless qualified women on the bench, in elective office, in law firms, and serving as law school deans and law professors. I cannot believe the President searched this country and was unable to find a qualified female nominee. But maybe he was unable to find a qualified female nominee who happened to satisfy the extreme right wing of the Republican Party.

Meanwhile, for the third time the President has turned down the opportunity to make history by nominating the first Hispanic to the Supreme Court. How much longer must Hispanics wait before they see someone on the Nation's highest Court who shares their ethnic heritage and their shared experiences?

At the same time, the appointment of Judge Alito largely fails to diversify the Court in terms of professional experience. Judge Alito is a long-serving Federal appellate judge who would join eight other justices with that very same professional credential. While his prior service as a Federal prosecutor is commendable and worthwhile, he was essentially an appellate lawyer like a number of the sitting justices.

We have come a long way from the days when Senators, bar leaders, trial lawyers, leading professors and others with a wide range of life experiences were routinely appointed to the Supreme Court. If Judge Alito is confirmed, the range of professional diversity on the Court will extend all the way from those who served on the D.C. Circuit to those who served on the First, Third, Seventh, or Ninth Circuit before their promotions.

The third and most important basis for my early concern about the Alito nomination is the fact that he was nominated following the forced withdrawal of White House Counsel Harriet Miers. Harriet Miers received a raw deal from her critics. This woman had been the managing partner of a major American law firm, the first female president of the Dallas Bar Association—which, by the way, is larger than most State bar associations. She was the first female president of the Texas Bar Association. She had been one of the Nation's leaders in promoting opportunities for women lawyers and minority lawyers. She has been a champion of ensuring legal representation for the poor. She was a trial lawyer. The one-dimensional portrait her opponents painted of her was malicious and unfair.

Let's not sugarcoat the truth. The nomination of Harriet Miers was derailed by the overwhelming opposition of the extreme right wing. They campaigned against her, they ran paid advertising against her, and they finally succeeded in having the President cave in to these radical right wing activists. They succeeded in defeating her nomination even before this fine woman was afforded an opportunity to make her case to the Senate Judiciary Committee.

Earlier this year we heard Senator after Senator on the other side of the aisle, and conservative commentators across the airwaves, declare that every judicial nominee is entitled to an up-or-down vote. I have a question for those Senators, those commentators: When exactly will Harriet Miers receive her up-or-down vote?

The White House made a half-hearted effort to argue that the Miers nomination was withdrawn in the face of an impasse over what documents would be provided to the Senate. That is a pretext, a laughable cover story.

She was forced to withdraw by conservative activists who want to change the legal landscape of America. They decided she was inadequately radical or insufficiently aggressive for their purposes, so they gave her the boot. You don't have to take my word for it. Listen to the words of John Danforth, our former colleague, Senator from Missouri and, until recently, President Bush's Ambassador to the United Nations. He was asked on CNN recently who he thought were the winners in the Miers episode. I quote his answer:

> The big winner is the right wing of American politics. They have scored a big victory. This was a power play on their part. And they won it . . . they took on Harriet Miers for no explainable reason. It was really an outrage, in my opinion, that this happened.

Senator Danforth is himself a pro-life Republican and an ordained Episcopal priest, but listen to what he says about his fellow Republicans:

> I am very concerned about the ascendancy of the political right, particularly in the Republican Party. It's very obvious that nobody can do enough to please them. The President certainly can't. . . . They gave him a kick in the teeth. I think [the Republican Party has] been taken over by people I feel uncomfortable with and a lot of Republicans feel uncomfortable with . . . They want a political judge. They want a judicial activist.

Senator Danforth has revealed an important truth about today's Republican Party. His warnings are precisely why the Senate needs to take a long, hard look at the Alito nomination.

Even in the first 2 weeks of the confirmation process, a picture of Sam Alito is emerging that may explain why the extreme right wing is popping champagne corks. Earlier this week we learned of the 1985 memo in which Alito said, "I am, and always have been a conservative." He also spoke proudly of his work on behalf of an extremely conservative agenda of the Reagan Justice Department.

We don't have to guess whether Judge Alito's description of himself in that memo would predict what kind of a judge he would be. For the past 15 years, Judge Alito has been one of the most conservative judges in the country—some would say extreme. For example, in civil rights cases he has often dissented to argue for higher barriers to recovery for people with claims of discrimination. In Bray v. Marriott Hotels, his colleagues said Title VII of the Civil Rights Act "would be eviscerated" if Judge Alito's approach were followed. In Nathanson v. Medical College of Pennsylvania, he dissented in a disability rights case where the majority said, "few if any Rehabilitation Cases would survive" if Judge Alito's views were the law. And in Sheridan v. DuPont, he was the only one of 11 judges on the court who would apply a higher standard of proof in sex discrimination cases.

In another area of law, Judge Alito has been quick to limit the authority of Congress, even when it is working to help people solve real problems. In Chittester v. Department of Community Development, he held that the Constitution did not allow a State employee to enforce the Family and Medical Leave Act. The Supreme Court effectively repudiated that view 3 years later in the Hibbs case from my own State of Nevada.

These are a few of Judge Alito's many judicial opinions which merit close review by the Senate. By all accounts, Sam Alito is a decent man, well liked by his colleagues. He has devoted his entire legal career to public service, and for that I admire him. Throughout the confirmation process I will work to ensure that Judge Alito is treated with civility and respect. But there is nothing disrespectful about an open and fair-minded review of a nominee's approach to the Constitution and his commitment to the core American values such as equality, privacy, fairness.

One final point. This nomination will be governed by the 200-year-old rules of the Senate. I was very dismayed to read an essay by the majority leader in the Chicago Tribune last week in which he threatened to change the rules of the Senate to ensure that Judge Alito would be confirmed. Think about that. My friend, the majority leader, wrote:

> If members of the Democratic minority persist in blocking a vote on Alito's nomination, the Senate will have no choice but to change the rules.

The majority leader's accusation is baseless. Democrats can hardly persist in an activity in which we are not engaged. No Democrat has even raised the issue of extended debate. At this early stage of the process, 2 months before committee hearings on this nomination will begin, it is silly to argue about the terms of floor debate. Earlier this year, the entire Senate breathed a sigh of relief when the so-called "nuclear option" was averted by an agreement of a bipartisan group of Senators. We don't know what is going to happen on this nomination. The majority leader should put his sword back in its sheath and let the Senate move forward on this nomination without idle threats. Let's not talk about changing the Senate rules illegally. Let's not start talking about blaming the Democrats for something in which they are not engaged.

I am confident the Senate Judiciary Committee, under the able leadership of the senior Senators from Pennsylvania and Vermont, will do a good job of illuminating Judge Alito's record and views. The rest of the Senate and the rest of our Nation will pay close attention.

THE ASBESTOS BILL

Mr. REID. Mr. President, I want to comment briefly on the statement of the distinguished majority leader this morning that the first piece of legislation we will consider in January 2006, after we return from the winter recess, will be the asbestos bill. What a mistake. I know Senator SPECTER has worked hard on this issue. In fact, Senator SPECTER and his good friend and former school roommate Judge Becker, a judge from Pennsylvania, have worked together on this bill for countless hours. However, whatever that personal relationship and despite how long and hard they may have worked on this bill, is not acceptable in its current form. It is not even close.

All you have to do is look at a bipartisan letter that was sent to Senators FRIST and this Senator, Senator REID, two days ago, dated November 14, 2006. The letter was sent by both the chairman of the Budget Committee, JUDD GREGG of New Hampshire, and the ranking member, KENT CONRAD from North Dakota, and stresses that this asbestos bill is not ready for floor action.

They write:

> . . . we are in the process of gathering data and evaluating available studies in order to provide Senate Members a better understanding of the likely budgetary implication of S. 852. . . .

> There are potentially serious costs to Federal taxpayers in this legislation. S. 852 would create a national trust fund to compensate victims of asbestos exposures in lieu of those victims pursuing compensation through the tort system. The legislation was reported by the Senate Judiciary Committee on May 26, 2005. There remain, however, major unresolved questions about the budgetary impact of this bill. These include: the actual cost of the program; whether proposed funding will be sufficient to compensate all claims; clarity on the allocation of assessments to business and insurance entities, including the balance of those assessments and whether these assessments will generate adequate revenues to satisfy the program's costs; the amount that will be borrowed from the Federal Government under the bill's Federal borrowing authority. The legislation proposes a fund of $140 billion. CBO has advised that this amount could be sufficient to satisfy the program's claims and costs. CBO also cautioned, however that this amount could be insufficient, depending on a number of issues. . . .
>
> Following the release of the CBO report, the Bates White economic consulting firm released a study demonstrating the fund could experience additional costs beyond the proposed amount between $161 billion and $121 billion.

Mr. President, $421 billion in additional costs. The letter concludes:

> Because of the major adverse impact the legislation could have on the Federal budget deficit if there are funding shortfalls, we ask that at least until these issues are fully resolved, that the Senate not take any further action on the legislation.

Mr. President, this bill is not ripe for floor debate and will not be in January. This bill does not adequately address the needs of the dying victims who cannot wait for this trust fund to be established. The bill doesn't address the needs of victims if the trust fund runs out of money, which it clearly seems destined to do. The bill provides special benefits for victims at one asbestos site but ignores the needs of victims at another site. In another letter to Senators FRIST and this Senator, Senator REID, dated yesterday, November 15, 2005, from the Asbestos Victims Groups United, the victims write:

> . . . [W]e write to express our continued and unified opposition to S. 852. We strongly believe that the bill is unfair to victims and is unworkable. . . . We believe it would be wholly irresponsible for Congress to proceed with consideration and passage of this legislation without accurate and complete information concerning the funding issue and the critical factors associated with it. Please do not allow the families who have lost so much to be victimized again.

This legislation will victimize asbestos victims and it will drive American companies out of business. I had a meeting not long ago with the only company in America that still makes wire. They said if this bill goes into effect they will go into bankruptcy. They are able to handle the situation now, but this bill demands that they contribute to a fund for which they have no responsibility. They are willing to take their lumps in the business world as they know them, but they will not be able to sustain themselves if they are told they have to contribute huge amounts of money to this fund.

Another company representative I have met said they spend $1 million a year on asbestos litigation, but if this bill goes into effect, they will go bankrupt because they can't afford the contributions they will be called on to make.

Let us not rush into asbestos legislation. Let us not do it fast; let us do it right. We owe it to the American taxpayers, to our American businesses and we certainly owe it to our asbestos victims to take the time to get it right.

The PRESIDING OFFICER (Mr. VITTER). The Senator from North Carolina is recognized.

Mr. REID. Mr. President, if I could, I am confident the Chair recognizes that I used leader time for my statement.

The PRESIDING OFFICER. The Senator is correct. The Chair is aware of that.

Mr. SCHUMER. Mr. President, a point of order.

The PRESIDING OFFICER. The Senator from North Carolina has the floor. She can yield time.

Mr. SCHUMER. I want to ask a question so I can establish the floor order.

The PRESIDING OFFICER. The next 30 minutes is controlled by the majority, followed by 30 minutes controlled by the minority.

The Senator from North Carolina.

CONTINUED PROGRESS IN IRAQ

Mrs. DOLE. Mr. President, we are today at war—in Iraq, Afghanistan, and so many other places in the world, with an enemy who knows no borders. The recent bombings in Amman, Jordan during a wedding celebration are a strong reminder that terrorists know no limits to their ambitions and the means by which they would achieve those ambitions, however violent and horrific.

Our dedicated American service men and women have answered a noble calling to defeat terrorism, taking the fight to the terrorists abroad, so that we do not have to fight them here at home. The central battleground in the war on terror is Iraq. It has been just 3 years since Iraq was liberated from the brutal regime of an evil dictator, and in that time, we have made tremendous progress. A constitutional democracy is taking hold, and the Middle East is moving towards greater stability. It is integral to the continued progress in this region and to the overall war on terror that we not allow the cowardly acts of insurgents to derail our efforts. America must stand firm with the Iraqis and see that this danger is defeated and freedom prevails.

Last January, the world watched as Iraqis voted for a new government. Rejecting intimidation and embracing the foundations of freedom, 8.5 million Iraqis went to the polls to vote in a free national election. Just last month, Iraqis returned to the polls once again for a referendum on a new constitution. This time, we saw significantly fewer insurgent attacks, with nearly 9.8 million Iraqis voting, and 79 percent supporting the approval of the new constitution. Iraqis have shown great courage by participating in the democratic process. They have walked for miles to the polls, stood in line for hours, and literally put their lives on the line to cast a vote for peace. Eighty-three-year-old Qadir Abdullah, seen here, made his way to the polls—on crutches. He said, "I wish I were young. This is the first time in my life that I've voted freely in Iraq. When I was young, there were always wars and misery." After decades of tragedy, there is a new optimism, as shown by the willingness of Iraqis to step forward and vote for a brighter future. And the success of the referendum indeed is a powerful milestone on Iraq's road to democracy.

In another sign of progress toward democracy, the Sunnis, who in large measure refused to even participate in the January elections, turned out in great numbers to vote in the constitutional referendum, exercising their right to engage in the democratic process. And in recent weeks, three major Sunni political groups have united to participate in the December 15 elections, in which Iraqis will elect a new national assembly to pass legislation and implement the constitution.

And Iraq has seen tremendous progress toward freedom in the new public services, infrastructure, free press, economic activity, and legal institutions that are critical to the longterm success of this democracy.

Over 3,400 public schools have been built; Hundreds of water and sewage projects, 149 new health facilities, and over 250 fire and police stations have been completed.

Before the war, Iraq's media was tightly controlled by Saddam Hussein's propaganda machine. The country had no commercial TV or radio stations, and no independent newspapers or magazines. Today, Iraq has a thriving, competitive, free press, with 44 commercial TV stations, 72 commercial radio stations, and more than 100 independent newspapers and magazines. Iraqis can now make up their own minds, based on varying viewpoints in a marketplace of ideas, about the future of their new democracy.

And another foundation of freedom is taking hold—Iraq is experiencing the beginnings of a competitive financial market, with a modernized Iraqi stock exchange.

And Iraqis are for the first time experiencing the rule of law at work in their legal system, with an independent judiciary free to judge cases on their merits, not under the orders of Saddam Hussein and his henchmen.

Ever more, Iraqis are seeing the insurgents for the thugs, thieves, and indiscriminate killers that they are. In just the past nine months, there has been an astonishing 500 percent increase in the number of tips regarding insurgents that Iraqi civilians are providing to security forces.

Iraq is the central battleground in the war on terror. And yet despite the evident progress, some want to cut and run. They claim that our troops have simply done all that they can do, and that the United States should set arbitrary timelines for withdrawing our forces. Mr. President, I strongly disagree and believe that setting such a timeline would only embolden the terrorists and send the message that the United States has lost its resolve in the war on terror. This is the wrong message. Any timeline for withdrawal must be driven by success—not artificially tied to a calendar.

This is not the first time in our history when cynics and skeptics have balked in the face of landmark challenges. A few years may have passed since I had the pleasure of serving President Ronald Reagan in his Cabinet, but I can still remember the naysayers attacking him for his fixed resolve in fighting the cold war. They questioned President Reagan's reasoning, they questioned his strategy, and they questioned America's chances of coming away victorious in a battle to free Russia and other countries from the grasp of communism. President Reagan rejected communism, he rejected the iron curtain, and he refused to concede that freedom would not prevail. While the Soviet Union was extending its influence and doctrine throughout the world, President Reagan, in the face of severe criticism, pursued a different vision. He knew that the enemy must be defeated, not tolerated. We now know he was right in his actions to bring an end to communism—millions were freed and that global threat no longer exists.

Today, naysayers are at it again. Their droning doubt is all too familiar. Much of this defeatist criticism is being leveled by the very same people who, having access to the same intelligence as the president, agreed that Iraq posed a real and immediate threat. And these very same people supported going into Iraq to fight the war on terror. Now they want to throw up their hands and walk away before the job is done.

No one ever said this would be easy, and mistakes have certainly been made. This is a war—and it is painful and horrific. Every life lost is one tragic loss too many. But we must ensure that their sacrifice was not in vain.

We must honor our fallen heroes, heroes like Major Jeffrey Toczylowski, by completing the job they set out to do. Major Toczylowski, seen here, was a Special Forces detachment commander assigned to the 10th Special Forces Group. Two weeks ago in Anbar province, he made the ultimate sacrifice for his country. In his last email home to his family and friends, he wrote how they should respond if he were to lose his life in battle: And I quote:

> Don't ever think that you are defending me by slamming the global war on terrorism or the U.S. goals in that war. As far as I am concerned, we can send guys like me to go after them, or we can wait for them, to come back to us again. I died, doing something I believed in and have no regrets, except that I couldn't do more.

What a powerful testament to the commitment of our service members fighting the war on terror.

Just yesterday, we debated an amendment to the Defense authorization bill that would have forced the administration to set an arbitrary date for the withdrawal of U.S. troops. I am pleased the Senate rejected this proposal. The Frist-Warner amendment we accepted—79-19—sent a message—a forward-looking message—that we expect the Iraqis to continue their progress—and the Congress, in its oversight, will continue to receive reports on the progress being made. The timeline we should focus on is December 15 the election of a parliamentary government. The establishment of a constitutional democracy, coupled with the continued training of Iraqi security forces—now exceeding 210,000 personnel—will in time allow the Iraqis to defend themselves, and the United States to bring our troop levels down.

Around the country, Iraqi forces are now overseeing 72 percent of security checkpoints and leading 43 percent of all combat patrols. Two Iraqi brigades have been assigned their own battle space in Baghdad in an area once a haven for insurgents.

Freedom and democracy in Iraq are the terrorists' worst nightmare. They know what is at stake and try desperately to derail our success. In a letter intercepted last month from Bin Laden's deputy Zawahiri to al-Qaida's leader in Iraq—the terror network's plan was exposed: to expel the Americans from Iraq, establish radical Islamist authority in the country, and extend the terrorists' jihad into neighboring countries and around the world. They seek to destroy our very way of life. We cannot cut and run—we know all too well what is at stake in this global war against terror. To our men and women in uniform who are protecting our freedom and our security, I say thank you and God bless you. You make us so very proud.

I yield the floor.

The PRESIDING OFFICER. The Senator from Wyoming is recognized.

FIGHTING THE WAR ON TERRORISM

Mr. THOMAS. Mr. President, I thank the Senator from North Carolina for her comments. Certainly I agree with what she has had to say.

Having spent the last weekend, as most of us did, celebrating various events on Veterans Day, I was very much impressed with what we did in my State of Wyoming where we had ceremonies at cemeteries, recognizing all that our veterans have done throughout the years for this country, and the sacrifices that were made by many people over many years to allow us to continue to have the freedoms which we have in our country.

I was particularly impressed by one of the events we had at a school where kids—junior high youngsters—sat there listening to the events that had gone by, and I think probably mostly unaware of the fact that there had been years of sacrifice by so many people to maintain and to protect the freedom of this country.

I think it is appropriate, as we look at all that has been done over the years, that we again focus on those who are now continuing to protect the freedoms of this country—those who are now in the Middle East doing the things we need to be done to ensure that in this country we have our freedom and that this freedom will be expanded to others. I think it is appropriate that we talk about this at this time. It is appropriate also that we continue to support our troops who are there doing these things for us.

One of the most difficult things that could happen in terms of our success and accomplishing our goals there would be to erode the support we have here—and that is not going to happen. We know we will support our troops doing the jobs they are doing.

The war on terror is being fought in Afghanistan and Iraq to fundamentally change the environment that has given rise to Islamic extremism and, of course, brought about, among other things, the terror attacks of 9/11. It is one to bring justice to not only the perpetrators of those horrific attacks but also to change the conditions in the Middle East that brought them about. That is the test. That is the job we must finish. The introduction of a stable democracy and freedom to that oppressed region of the world is the best way to address long term that program and problem.

The ongoing operations in Iraq and Afghanistan are necessary to neutralize and eliminate the elements that produced extreme terrorism. We have made great steps since the liberation in Iraq and Afghanistan from the brutal regimes of Saddam Hussein and the Taliban. Both countries, as we all know, have reached major milestones in recent months by dramatically electing their own governments. The

Iraqi people turned out again in great numbers and voted for a new constitution; 79 percent of Iraqi voters accepted in that vote, including a Sunni minority. This is real progress.

On the 15th of December, Iraqis will go to the polls once again to vote on parliamentary elections. This is an unmistakable shift from tyranny and is being replaced with democracy.

The Iraqi troops and forces have shouldered a great deal of the security efforts, as they should. I was very impressed when I was in Iraq at the training taking place for the troops. I was impressed riding around in military vehicles when the little kids on the street waved and cheered when they would see U.S. forces. I am very impressed, also, at the normalcy, day to day, for most Iraqis. Unfortunately, we have insurgents and the terrorists who disturb citizens on a daily basis. However, the normalcy there is relatively calm, surprisingly so, on the streets of Baghdad.

There are a good many Iraqi army operation specialists and battalions in the regular military but also looking into the policing aspect. It is not in many cases a regular military operation as much as it is a security operation for insurgents. They are doing both of these things. I am impressed with that.

Thirty-six of the units are taking leave with their coalition partners in operating independently; 28 special police battalions are capable of these operations. More than 87,000 soldiers and sailors have been trained. That is a very good thing.

It is fair to say we are making significant progress in the war on terror and creating a stable and democratic Iraq and Afghanistan that will no longer be the breeding ground for aggression. President Bush's vision is clear. Our work in Iraq and Afghanistan is essential to our own security.

There has been great debate, discussion, and questions about why we are there. The fact is, we are there. The fact is, we had reason to be there. The fact is, all the folks who are now grumbling had the same information and helped make the decision at the time and agreed with the decision at the time. We need to complete our task.

By taking the fight to the enemy, we have protected America at home. We have to remember for years terrorists attacked the United States with little or no reaction from the United States. In 1993, terrorists bombed the World Trade Center, killing 6 people and wounding more than 1,000. In 1996, terrorists bombed the U.S. military living quarters at the Khobar Towers in Saudi Arabia, killing 19. In 1998, followers of Osama bin Laden attacked U.S. Embassies in Kenya, killing and wounding hundreds. In 2000, Osama bin Laden's followers attacked the USS Cole in the harbor of Yemen, killing 17 and wounding 39. Nearly 3,000 innocent Americans were killed September 11 before we resolved we were under attack.

In Afghanistan, United States and British forces joined the ally, anti-Taliban troops in the assault. We are fighting beside those partners over there and moving forward. We have a number of activities going on.

In September 2005, Afghanistan held the first parliamentary election in Afghanistan in more than 30 years. Five hundred eighty-three men and women previously regarded as third-class citizens campaigned for 25 of the available seats. Afghan women received ballots in September 2005. In a country of nearly 30 million voting age people, more than 12 million registered to vote. It is a substantial change.

In 2003, the forces we have talked about already in Iraq went on with votes. In June the Iraqi people assumed full sovereignty and moved forward and more than 8 million people voted.

This is where we are. We are making real progress. We have a goal. No one knows exactly what the date will be for accepting that goal. I don't think anyone ever knows a date in wars. We do have to describe more clearly our purpose. We are doing that. We have to understand more clearly we are making a good deal of progress.

The special inspector general's most recent report indicates service men and women completed work on 762 out of 834 schools. I was there, and we toured some of the schools. They had such a change, brought about largely by our troops. We put 5 out of 12 major airports back in place, 66 railroad stations, and so on.

A great deal of progress is being made. We have had a good many changes. In terms of the leadership that used to be all around Osama bin Laden, much of that is gone. Much of that leadership is no longer there. We are changing.

People understand the people of that country can defend and take care of themselves. We are moving in that direction.

Our fighting men and women continue to help in Iraq. We will continue to help. I remain concerned about the violence. I agree the cost is high. I agree clearly that as soon as we complete our task, we should do that and turn this over to the Iraqis. The important thing is they are prepared to begin to go ahead and operate their country for which we have helped provide the opportunity.

It is very important to complete the mission. I believe we are succeeding. The stakes are very high. I believe it is terribly important as Americans we understand what has happened is similar to what has happened through the years where people have given so much to be able to move and change the world so that our freedoms and other freedoms can exist, and we have the kind of world we all would like. The stakes are very high. Certainly, we want to continue to complete our task. It is important we do that. It is important we stay attached.

I have no problem asking for more information with regard to where we are. I am very opposed to the idea of insisting on the date set by the President. That is not reasonable in this situation. I am very proud and very pleased of what our folks are doing there. I am glad we are doing the job that needs to be done. There is real progress being made. We want to continue that progress.

I say, again, as many Members are saying, we have engaged in a very necessary activity. We are making real progress. It is terribly important we support the people who are there, that we support the completion of this task that we have set about of freedom for all.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. COBURN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMERCE-STATE-JUSTICE APPROPRIATIONS

Mr. COBURN. Mr. President, I will spend a few minutes talking about the Commerce-Justice-State-Science appropriations bill and about my reasons for voting against it when it comes up today.

This year we added $538 billion to our debt as of September 30 for the last year. That translates into $1,783 for every man, woman, and child in this country. The cost of every project or program that we cannot afford will be borne with compounding interest by our children and our grandchildren. The American people choose every day to determine their financial priorities. It should be not too much for them to ask Congress to do the same thing.

There are multiple projects that are funded in this bill that should not be considered within the priorities of what we have. The first is, as we are fighting a war, we have a Katrina, Rita, and Wilma disaster, we have $538 billion that we could not pay for last year that we added to the debt, and we are going to put $680 million into a program at NASA to go to Mars? I believe Mars should wait. I don't believe we should be spending $680 million to go to Mars. I believe we should spend $680 million to help our neighbors and our friends in the hurricane-ravaged States.

We are going to spend $80 million for the Advanced Technology Program.

Granted, that is less than what we spent before, but since 1990 the American taxpayers have given over three-quarters of a billion dollars to Fortune 500 companies for technology programs where they, in fact, could have financed those things themselves.

We are going to spend $1.5 million to study highly migratory sharks, $825,000 to study Hawaiian monk seals, and $235,000 to study yellow-finned tuna. We are going to spend $7 million on the Alaska Fisheries Marketing Board, which this year just spent $500,000 to paint an airplane to have a salmon on it.

The priorities are wrong. We need to readjust the priorities. I hope my colleagues will look at that and make the effort.

The other thing I think is critical with this bill and is underfunded——

The PRESIDING OFFICER. The Senator will be informed the majority's time has expired.

Mr. DURBIN. Mr. President, I am prepared to yield 2 minutes from the minority time to the Senator from Oklahoma.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. COBURN. Mr. President, I thank the Senator from Illinois.

Byrne-JAG funding is cut in this bill. If there is anything we know that our sheriffs, our police departments, our drug courts, our drug rehabilitation programs need, it is help in terms of fighting the battle on drugs. I am very disappointed. The Senate passed $900 million for Byrne-JAG grants. It was paid for. It was offset when we passed it through the Senate. It came with full offsets to prioritize, to meet the needs of those people who are presently caught up in drugs.

In Oklahoma, we have had fantastic results with drug courts and drug rehabilitation. Eighty-one percent of the people who now come through these drug courts have a full-time job and never regress back to drugs. What we know is drug treatment works. What we know is drug courts work. It is time for us to reconsider our priorities.

I ask the Members of this body to reconsider this conference report in light of the lack of priorities that should be there.

With that, I yield the remainder of my time and thank the Senator from Illinois for his courtesy.

The PRESIDING OFFICER. The Senator from Illinois is recognized.

IRAQ

Mr. DURBIN. Mr. President, this morning's newspapers across America have lead stories that I think are a grim reminder to us of the reality of life in Washington and the challenges we face. The lead stories in most newspapers across America relate to a vote on the Senate floor yesterday. I believe it was a historic vote. By a vote of 79 to 19, Republican and Democratic Senators said it is time for change in this administration's policy in Iraq.

Certainly, when you look at the statistics, it is understandable: Over 2,060 of our best and bravest soldiers have lost their lives in Iraq. Over 15,000 have been gravely wounded, some of them with injuries that will change their lives. And, of course, 25,000 or 30,000 innocent Iraqis—innocent Iraqis—have died during the course of this war.

This war has gone on for over 3 years, after the administration promised us, in the words of Secretary Rumsfeld, that he could not imagine we would be there for more than 6 months. It is now beyond 3 years; no end in sight.

The American people are frustrated, as they should be; frustrated by the fact that this administration made a case for the war in Iraq that was false. You can recall it, as I do, the President, the Vice President, the Secretary of Defense, Condoleezza Rice, even Secretary of State Powell, making statements about the existence of weapons of mass destruction in Iraq that were a threat to the Middle East and to the world that could easily fall into the hands of terrorists; statements over and over again about nuclear weapons, Condoleezza Rice talking about mushroom clouds that we could fear if we did not invade Iraq and stop Saddam Hussein; and, of course, linking our national tragedy of 9/11 with Saddam Hussein, saying that somehow he had connections with al-Qaida.

Well, it turned out all of those things were false—every single one of them—so false to the point where the President had to do something I do not think has ever been done in the history of this Nation. He had to apologize and recant a remark he made in his State of the Union Address about this yellow cake coming from Niger in Africa so the Iraqis could use it to make nuclear weapons. It turned out it was a phony. It was not true.

So we were drawn into a war under false pretenses. We all knew how terrible Saddam Hussein was, but we certainly came to understand that the specific reasons given for the invasion of Iraq turned out not to be true, one after the other. Weapons of mass destruction, nuclear weapons, connections with al-Qaida, yellow cake from Niger, so-called mobile biological weapons laboratories—all of these things turned out to be totally false.

It is understandable the American people are concerned about it because if you measure an abuse of power by a government, could there be an abuse of power any worse than misleading the people of a country into believing that a war is necessary?

That is, of course, why the Senate Democrats took to the floor just 2 weeks ago and demanded that the promised investigation of this administration for the potential misuse of intelligence be completed by the Senate Intelligence Committee. It has been over 20 months—20 months—since we were promised that this honest investigation would take place, and nothing has happened.

There have been small parts of it that have been addressed, but I think we all know what the story is. The Senate Intelligence Committee, under the control of the President's party, does not want to open that door and look inside. Well, why should we? Why should we reflect and dwell on the past? Some say: Let's look forward. But if we do not get to the heart of this issue, the truth of the matter, if we are not honest with the American people and straightforward as to what happened leading up to that invasion of Iraq, then I think we are derelict in our constitutional responsibilities.

This Congress is designed as one branch of Government to serve as oversight of the executive branch of Government. The failure of the Senate Intelligence Committee, for more than 20 months, to produce this intelligence analysis, which they promised, is proof positive they are dragging their feet, unwilling to accept the responsibility which they have publicly proclaimed.

So yesterday we passed on the floor, by a vote of 79 to 19, a clear statement to this administration that the policy in Iraq must change. No. 1, we said the year 2006 will not just be another year in Iraq, another year of casualties, another year of death, another year of our despondency over whether this is going to end well. It will be a year of significant transition. That is what the Democratic amendment said. That is what was adopted.

Secondly, we served notice on Iraqis that it is their responsibility, not the American responsibility, to secure their own country and to build a political coalition that can defeat the insurgency. I had hoped we would have even stronger language to say to the Iraqis: We are not here indefinitely. We want to bring our troops home. The Republican side watered down that language, but the message was still clear.

The third element is important as well. Accountability is essential. This administration must be held accountable for whether we were prepared not only for the invasion of Iraq but for what occurred afterwards. You know what happened afterwards. Secretary Rumsfeld visited with our troops, and a soldier came forward, held up his hand to ask a question, and said: Mr. Secretary of Defense Rumsfeld, why is it that we soldiers have to scavenge through junk piles to find pieces of armor to stick on these humvees to protect ourselves? A moment of great embarrassment for the Secretary, but I am glad that soldier had the courage to stand up and say what we already knew.

We were not prepared. We sent our troops into combat without the necessary humvee armor, without the necessary body armor, without the necessary protection for our helicopters. It was done, and in some respects too late and too little. We lost American soldiers' lives and many were injured because we did not have the right equipment in place.

So now what we are saying is that this administration must be held accountable, to report to Congress every 90 days to tell us in Congress the progress that is being made in protecting our troops, in preparing the Iraqis to defend their own country, in moving that country toward stability, and in moving us to the point where American soldiers can start coming home. That was passed yesterday, 79 to 19.

As the President stood on Veterans Day and in an unprecedented political speech attacked his Democratic critics for saying they did not agree with his war policy, this Senate, on a bipartisan basis yesterday, 79 to 19, said to the President: Your policy in Iraq must change. We need to start looking to bring American soldiers home. And 2006 is the year to begin that process in earnest.

That is why it was a historic vote. Of course, as we look at the statements made in the lead-up to the invasion of Iraq, there is a recurring theme. It turns out that the major sources of intelligence that were passing through the administration and to the American people were passing across the desk of Vice President CHENEY.

Lieutenant Colonel Wilkerson, chief of staff to Secretary of State Colin Powell, referred to a cabal, a cabal led by Vice President CHENEY and Secretary of Defense Rumsfeld, a cabal which set the stage for the invasion of Iraq. The man speaking was not a partisan Democrat. He was the chief of staff to the Secretary of State in the Bush administration, Colin Powell. I think it makes clear that throughout the lead-up to the invasion of Iraq, our Vice President, RICHARD CHENEY, was making statements that did not reflect the truth of what was occurring in Iraq.

Repeatedly, he said Iraq had links to al-Qaida, and that was proven false. Repeatedly, he said Iraq was an imminent threat to the United States, and that was proven false. Repeatedly, Vice President CHENEY said Iraq was trying to acquire nuclear weapons, and that was proven false.

On "Meet the Press," on March 16, 2003, the Vice President said: "And we believe he [Saddam Hussein] has, in fact, reconstituted nuclear weapons." False.

In addition, there were statements made about whether Iraq was trying to acquire uranium from Africa, statements made by the Vice President which turned out to be false, and statements, of course, relative to aluminum tubes. I knew something about that debate because as a member of the Senate Intelligence Committee, I listened as the Department of Defense and the Department of Energy debated whether these aluminum tubes were really all about nuclear weapons. There was a real division within the administration, and I would walk outside the Senate Intelligence Committee room and hear statements made by the Vice President saying: There is no debate. It is all about nuclear weapons.

Now, I could not repeat what I had heard in the Senate Intelligence Committee. I was prohibited from saying it publicly. I knew what he said was false. It is one of the reasons I voted against that resolution to go to war in Iraq.

But again and again the Vice President was taking information, intelligence information, giving it to the American people selectively, making certain that it was always the strongest spin toward the immediate need for a war, and that is how we ended up in the position we are in today.

It is a lot easier to get into a war than it is to get out of one. And we have learned that with the cost in human lives and the cost to America's Treasury.

AMERICA'S ENERGY CRISIS

Mr. DURBIN. Mr. President, the second story on the front pages of this morning's newspapers relates to the energy crisis in America. You do not have to describe that to any American who has filled up their gas tank in the last several months. And in the weeks ahead, when you start paying your home heating bills, if you live in one of the colder parts of America, you will see the energy problems we are facing.

Of course, it reflects the fact we have no energy policy in this country. In the White House, with the President and Vice President, we have two men who have long careers with the energy industries and with oil companies, and the energy policy they are pushing reflects it.

What did we have in the so-called Energy bill signed by the President just in August of this year? A $9 billion subsidy to oil companies, a $9 billion subsidy to companies which are realizing record-breaking profits at this very moment.

Why in the world would we be sending subsidies, Federal taxpayers' dollars, to these oil companies at a moment in time when they are realizing the largest profits in history? I think every American knows why. When you go to the gas station to fill up your car or your truck, and you put that charge on your credit card, the money from your credit card is going directly to the boardrooms of these oil companies that are realizing more money than they ever have in history.

We wanted to know who wrote the administration's energy bill, and we could not find out. Neither the President nor the Vice President, who was leading the effort to create this energy policy, would tell the American people who was part of it.

This morning's front page story in the Washington Post tells us who was part of it. A document obtained by the Washington Post this week shows that officials from ExxonMobil, Conoco before its merger with Phillips, Shell Oil, and BP America met in the White House complex with Cheney aides who were developing the national energy policy, parts of which became law and parts of which are still being debated.

It comes as no surprise. We suspected as much. A lawsuit was filed to specifically determine whether the oil company executives wrote this Energy bill. That lawsuit was fought all the way to the Supreme Court, and the Supreme Court ruled that the White House didn't have to tell the American people who was involved. Now this memo tells us.

The reason it is important is that last week the executives of these oil companies came before Congress. You probably heard about the hearing before the Senate Commerce Committee. Senator MARIA CANTWELL of Washington insisted that these oil company executives be sworn in and testify under oath, as the tobacco company executives did a few years ago. But Senator STEVENS, chairman of the committee, refused to allow them to be sworn in. Why? So they couldn't be held accountable if they didn't tell the truth.

Unfortunately, some of the statements made in responses to questions by Senator LAUTENBERG raised serious questions as to whether those oil company executives were candid and forthcoming in terms of their involvement in this very bill, the Energy bill, which this memorandum tells us was prepared with the oil company executives. Once again, the special interests trumped America's families and consumers, businesses and farmers. The Energy bill was written with the Vice President's direction that rewarded oil companies at a time when we should have been sensitive to protecting American consumers. Unfortunately, it reflects what has been happening in this capital for too long.

LEWIS LIBBY INDICTMENT

Mr. DURBIN. The third issue is one which everyone is aware of; that is, the fact that for the first time in over a century, some high-level staffer in the White House has been indicted. Lewis "Scooter" Libby was indicted a few weeks ago, charged with perjury and obstruction of justice related to the Valerie Plame affair. Everyone is aware of it now. Joe Wilson, former

Ambassador, sent to Africa to determine whether assertions by the administration about yellow cake uranium coming from Africa to Iraq were true, reached the conclusion they were not. When he published that conclusion, he was attacked in the press by Robert Novak in a column where Mr. Novak said two White House sources had told him that Joseph Wilson's wife Valerie Plame was a CIA agent.

In fact, she was an undercover agent whose identity was being protected. But the White House, in an effort to discredit its critics and to silence them, attacked Joe Wilson's wife Valerie Plame and, in the process, disclosed the identity of a CIA agent. There is a question raised as to whether that violates the law. The fact that people work in covert activities and risk their lives for America is something we should never take for granted. The law is designed to protect them. But the White House decided, for political reasons and in order to protect against the disclosure that they were manufacturing intelligence to justify the war, they would attack Joseph Wilson's wife Valerie Plame. For that action and for the statements he made to the FBI and the grand jury, Mr. Libby was indicted. The investigation continues.

AHMED CHALABI

Mr. DURBIN. The last issue, which is one that is topical, relates to a man by the name of Ahmed Chalabi. What a fascinating man he is. Ahmed Chalabi is an Iraqi exile, now back in Iraq after the fall of Saddam Hussein. What an interesting history this man has.

In 1992, Ahmed Chalabi was convicted of bank fraud and embezzlement of over $230 million for a bank he was running in Jordan. To escape the sentence of 22 years in prison, he fled to London and then to the United States, and certainly that wasn't the last we heard of him. He created something called the Iraqi National Congress, which ingratiated itself with the Bush administration to the point where the Bush administration paid to Ahmed Chalabi's Iraqi National Congress $39 million. Then Mr. Chalabi gave us misleading information about the situation in Iraq, saying there were mobile biological weapons labs, which turned out to be false, information from a source named "Curveball," of all things, one of most discredited sources of intelligence we have ever had who happened to be the brother of one of Chalabi's aides. It turned out that the information he was feeding us all along about Iraq, by and large, was false.

Mr. Chalabi was unrepentant when he was confronted with this. From the London Daily Telegraph, in an article on February 19, 2004, I quote:

> Mr. Chalabi, by far the most effective anti-Saddam lobbyist in Washington, shrugged off charges that he deliberately misled U.S. Intelligence. "We are heroes in error," he told the Telegraph in Baghdad.

He goes on to say:

> As far as we're concerned, we've been entirely successful. That tyrant Saddam [Hussein] is gone and the Americans are in Baghdad. What was said before is not important. The Bush administration is looking for a scapegoat. We're ready to fall on our swords if he wants.

That was not the end of the story. Now that he has misled the Americans into invading Iraq, now that he has us in a position where our American forces are there, he is trying to build up his political fortunes. In May of last year, Iraqi security forces raided his home for documents, accusing him of passing American secrets to the Iranians and endangering American troops and security. He is currently under active investigation.

You might expect this man would be in hiding. He is not. He is in Washington. He is not being served with a subpoena. He is being served lunch. Do you know whom he has visited with in the last week, this man under active investigation? Vice President CHENEY is one; Secretary of State Condoleezza Rice; Secretary of Defense Donald Rumsfeld; the National Security Adviser, Stephen Hadley; the Treasury Secretary, John Snow. And he is under active investigation by the FBI for having sold American secrets to the Iranians.

I don't understand this. It seems to me that if this man is suspected of endangering our troops, he should be called in for questioning, if not more. Instead, he is being called in for a cup of coffee and a cookie. That is what this administration thinks is playing straight with Iraq.

The American people know better. I am glad yesterday, by a vote of 79 to 19, we told this administration their policies in Iraq have to change.

It is long overdue for the Vice President of the United States to hold a press conference and answer questions. It is long overdue for him to speak truth to the American people, to be candid about the misuse of intelligence leading to the invasion of Iraq, to be candid about his role in disclosing the identity of Valerie Plame to Lewis "Scooter" Libby, to be candid about his role in terms of meeting with oil company executives to create this Energy bill, and to be honest about his relationship with Ahmed Chalabi. The American people deserve straightforward, honest answers.

I yield the floor.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I ask unanimous consent to speak for 15 minutes to complete my statement.

Mr. ENZI. I object. We have the pension bill scheduled on a very tight time schedule.

Mr. SCHUMER. It is only an additional 3 or 4 minutes. We have 8½ left, so it would be an additional 5.

Mr. ENZI. OK.

The PRESIDING OFFICER. Without objection, it is so ordered.

SAMUEL ALITO

Mr. SCHUMER. Mr. President, 1 month ago, I expected to be on the Senate floor sometime about now engaged in a debate over the pros and cons of President Bush's nominee to the Supreme Court. Of course, I thought it would be Harriet Miers we would be debating. But that never occurred. As the Senate takes up the nomination of Harriet Miers' replacement, Judge Samuel Alito, we should all continually bear in mind how we got to this point because recent history goes a long way in explaining why the American people want us to examine every portion of Judge Alito's record with great care.

Harriet Miers' nomination was blocked by a cadre of conservative critics who lambasted her at every turn. Why? Because they were not satisfied that her judicial ideology matched their conservative extremism. They were not certain that her legal philosophy squared with their political agenda. In the end, Harriet Miers' nomination was blocked before she could explain her judicial philosophy, before she could have a full and fair hearing to answer the doubters, before she could have an up-or-down vote on the Senate floor. She was blocked by conservatives and Republicans, not Democrats. She was not given an up-or-down vote by many of the same people who are clamoring for an up-or-down vote on Samuel Alito.

The standards seem to change with the nominee. Many of the very people who denied Harriet Miers an up-or-down vote are now saying that there is an imperative to give Samuel Alito one. So before we even begin examining Judge Alito's record, a natural cause for concern is that he was picked to placate a group of vocal and hard-right activists who have been lobbying for him for many years. Many of those who now call for an up-or-down vote are the same ones who denied that vote to Harriet Miers.

Anyone who thinks that this nomination is a foregone conclusion is sadly mistaken. There are too many questions still to be answered, too many doubts still to be alleviated to say this nomination is a slam dunk. The most important thing we must look at is Judge Alito's judicial record. And at least on first perusal, there are reasons to be troubled. In case after case after case, Judge Alito gives the impression of applying meticulous legal reasoning, but each time he happens to reach the most conservative result. That is why he apparently dissented more than most judges in his circuit.

I met with Judge Alito. I found him to be bright and capable and down to earth. He has an impressive life story and history of accomplishment. And his family story is not unlike mine and that of millions of Americans whose families came to these shores in the last two generations and, due to this great system of ours, climbed the ladder of success. But this is about more than legal achievement. In case after case, Judge Alito seems to find a way to rule on the side of business over the consumer, on the side of employer over employee, and often against civil rights, against workers' rights, against women's rights.

Though any analysis is still preliminary—and, of course, we must all wait for the hearings because those will be the most important thing—a quick review of some cases reveals a troubling pattern and warrants tough questioning at Judge Alito's hearing.

Often he stands alone in his decisions, reaching conclusions that almost no other judge has reached or would reach. The machine gun case, Rybar, is very troubling. Judge Alito alone found that Congress could not regulate machine guns, even though the majority ruled that Congress could, even though every other circuit to consider the issue ruled the other way, and even though courts have held for the last 60 years that Congress has such power. Judge Alito was in that case and on that issue an outlier.

This is an issue about which there was and is broad consensus. He went out of his way to find a means to reject that law. When I met with Judge Alito, he cited three bases for his dissent. He said the most important was the lack of specific congressional findings that regulation of machine guns affects interstate commerce. I found this explanation, in all honesty, unpersuasive, to say the least. The effect on commerce is obvious. Congress has passed laws relating to machine guns since the 1930s. There has never been any doubt that their possession and sale affect commerce. Ninety percent of the crime guns in New York come from out of State. So of course it affects interstate commerce.

It seems as if, in certain cases, Judge Alito would want Congress to make a finding that the sky is blue before he will give Congress the ability to make laws. So this case raises questions. Will Judge Alito be unduly cramped in his reading of the Constitution? Will he engage in judicial activism to find ways to strike down laws that the American people want their elected representatives to pass and that the Constitution authorizes? It is too early to tell. But this merits serious and tough questioning at the hearing.

There are other cases similarly disturbing. On sex discrimination, Judge Alito was again alone in ruling against the plaintiff in a sex-discrimination suit. Not only was he alone on the original three-judge panel, he was alone when the case was reheard by the entire Third Circuit. He was alone against 11 of his fellow judges who criticized him for raising the bar much too high for a victim of discrimination. The Supreme Court declined to hear the case, so there are more questions. Will Judge Alito be too quick to dismiss victims of discrimination and not give them their day in court?

On title VII, Judge Alito again was alone on a panel in ruling that a civil rights plaintiff had to meet a higher burden to get a trial than the law already provided.

Here is what the majority found extremely troubling. They wrote that "title VII would be eviscerated" if they were to follow Judge Alito's analysis—eviscerated, which means victims of discrimination would have no recourse.

In other cases we find the same thing. In Chittester, about the Family and Medical Leave Act; in Doe v. Groody, about strip searches, he was on the other side of the conservative Michael Chertoff. In Riley v. Taylor, he was again alone and the majority criticized him for analysis that served to "minimize the history of discrimination against black jurors and defendants." And, of course, Judge Alito was alone again in Planned Parenthood v. Casey.

These are just a few of Judge Alito's decisions that raise serious concerns and cry out for tough questioning.

While there is much more reading and reviewing to be done, it is not too early to wonder whether there is a troubling pattern in his record. Is there an overall consistency in his approach to law or just in the result? Does he practice judicial restraint always or only when it allows the right outcome? Does he use the guise of legal reasoning to turn the clock back, as he appeared to do in the machine gun case? How do we resolve some apparent contradictions?

For instance, sometimes Judge Alito goes out of his way to defer to the legislature, as when he wanted to uphold Pennsylvania's spousal notification law. But at other times he goes out of his way to strike down an act of the legislature, as when he wrote Congress could not ban machine guns.

Sometimes he reads the text narrowly, as when he struck down a school's anti-harrassment policy, but at other times he reads the text broadly, as when he condoned the strip search of a woman and her 10-year-old daughter, though there was no such language in the warrant.

The disclosures this week of his 1985 Justice Department job application only raise further concern and increase his burden to answer questions fully and forthrightly in the hearing.

In that application he wrote, among other things, that he was "particularly proud" of his work to advance the position that "the Constitution does not protect the right to an abortion."

That statement cannot be dismissed as a "personal view" that will not affect how Judge Alito will approach the legal issue. It is a flat statement of what Judge Alito, at least at one time, believed the Constitution, not his personal belief, said. That is not a personal view such as stating you are pro-choice or pro-life. It is decidedly a legal view which involved judicial philosophy and judicial reasoning. If confirmed, his belief about what the Constitution does and does not protect will have the power through his decisions to become the law of the land.

Because Judge Alito so firmly and specifically stated his personal and legal opinion about this controversial issue while in pursuit of a lesser position, he has an obligation to answer questions at his confirmation hearing for the highest judicial job in the land. He cannot, as previous nominees have done, say, I refuse to answer. Have his views changed? Is his mind made up? Was he exaggerating for a potential employer? And if he was, how should we view what he says to us in the committee as he seeks an even higher position? Is he bent on advancing a particular ideological position?

Past nominees have said they could not discuss these issues for fear of creating a perception of bias. Here, unfortunately, the application itself creates the perception of bias and it will be essential for Judge Alito to address the issue head-on.

In conclusion, every Supreme Court nominee has a high burden. For Judge Alito that burden is triply high: first, because he seems to have been picked to placate the extreme rightwing; second, because of his past statements suggesting a closed mind on certain controversial issues; and, finally, because he is replacing Justice O'Connor, for 25 years the pivotal swing seat on a divided Supreme Court.

I hope Judge Alito will be able to meet that burden.

I yield the floor.

Mr. HATCH. Mr. President, I rise to address the nomination of Samuel Alito to be an Associate Justice of the Supreme Court. Judicial nominees should be judged on their qualifications and their judicial philosophy. On the first point, there is no question that Judge Alito is qualified to sit on the Supreme Court of the United States.

In 1990, when the first President Bush nominated Judge Alito to the U.S. Court of Appeals for the Third Circuit, the American Bar Association unanimously gave him its highest "well qualified" rating. This body confirmed him at that time without dissent.

Regarding judicial philosophy, the most important principle is that judges are not politicians. When we hear someone talk only about the results of a judge's decisions, chances are they are applying a political rather than a judicial standard. This is what we heard today on this floor from my Democratic colleagues.

The description of Judge Alito's record by the Senator from New York, Mr. SCHUMER, was all about results. This is how he put it: In case after case, Judge Alito seems to find a way to rule on the side of business over the consumer; on the side of employer over employee; and often against civil rights, against workers' rights, against women's rights.

It would be tough to present a more distorted picture of what judges actually do. Judges do not decide for or against the rights of groups. Judges do not take the side of one group against another. To suggest, as the Senator from New York did, that Judge Alito is actually biased toward certain parties, that he intends to take a particular side, that he, in the Senator's words, seems to find a way to rule a certain way, is just beyond the pale.

Perhaps my Democratic colleagues could provide a list of the side that judges are supposed to take in this case or that. Perhaps they could give us a rundown of the groups whose rights judges are supposed to favor, regardless of the facts. It might be something like a rate card or perhaps just a big piece of litmus paper. That would make this confirmation process a whole lot easier for all of us. Nominees could just check boxes and get a confirmation score.

Are you for big business or are you for the little guy? Are you for this or are you for that? The facts do not make any difference, no matter how right the big guy might be or the little guy might be.

Politicians take sides. Politicians promote political interests. Politicians pursue agendas. Judges are not politicians. Judges settle legal disputes between specific parties by applying the law to specific facts. Without talking about the facts and the law, it is impossible to properly evaluate judicial decisions.

It is not enough, as we heard this morning, to toss in words like "troubling" since all that means is that the person using that label does not like the result. It is not enough to observe that Judge Alito was alone in dissent or that the Supreme Court declined to review a particular decision. Those would be marks of distinction of judicial courage if the Senator from New York liked the result.

If such results-oriented litmus tests are appropriate, Judge Alito's long record contains results to fit every political taste.

Judge Alito has voted on the pro-choice side in some of his abortion-related cases. He has voted for civil rights plaintiffs, against prosecutors, and even in favor of death row inmates desiring to file habeas corpus petitions. Imagine that. Judge Alito will likely get no credit from my liberal friends for these votes, but he should.

As I said, we must apply a judicial rather than a political standard to evaluate a judicial rather than a political record.

This morning, the minority leader, Senator REID, also spoke about the Alito nomination. I would like to respond to a few of his points. First, he said the nomination was not, as he put it, "the product of consultation with Senate Democrats as envisioned by the Founding Fathers."

America's Founders envisioned no such thing but actually advised against it. The Founders gave the power to nominate and appoint exclusively to the President. The Senate's role is to advise the President whether he should appoint someone he has already nominated, expressing that advice through an up-or-down vote.

Some of my Democratic colleagues are fond of taking jabs at President Bush by saying that this is the third nomination to replace Justice Sandra Day O'Connor. If that is true, then he should get credit for consulting with more than 70 Senators, more than any President has ever done regarding a Supreme Court nominee.

The idea that consultations for the same position must begin all over again when the first nominee is appointed elsewhere is absurd.

I hope this will be a fair, honest, and thorough process that results in an up-or-down confirmation vote. I applaud the minority leader for saying this morning that every judicial nominee is entitled to an up-or-down vote. In the 108th Congress, of course, he had a different attitude, leading filibusters against 10 different appeals court nominees, along with Senator Daschle.

While the minority leader, this morning, lamented the fact that Judge Alito is not Hispanic, one of the filibusters he led in 2003 targeted Miguel Estrada, a highly qualified nominee to the Federal appeals bench. Perhaps race only matters some of the time.

Until Democratic Senators began filibustering judicial nominees in 2003 with partisan, leader-led filibusters, it has been Senate tradition that judicial nominees reaching the floor received up-or-down votes. While I hope the minority leader will help us return to that tradition, and I believe he may, he may have a bit of a challenge on his hands.

Although the minority leader claimed this morning that not a single Democrat has talked about filibustering the Alito nomination, the Senator from California, Mrs. BOXER, told the Associated Press on November 1 that "the filibuster is on the table."

According to the Baltimore Sun on November 2, the Senator from Iowa, Mr. HARKIN, said "I believe Democrats will filibuster this nominee."

The Associated Press reported on November 3 that Democrats have, in fact, raised the possibility of a filibuster. Yes, Democrats are already talking filibuster, and I hope the minority leader meant what he said this morning and urges them to take a deep breath.

I urge my colleagues, the media, and the American people to apply the right standard to this and to all judicial nominations. It must be a judicial rather than a political standard when we decide these matters. It must examine the law and the facts of cases as well as the results, and it must be fair to this highly qualified and honorable nominee.

I have been kind of tough on my colleagues on the other side, but I believe everything I said is true. I believe it is time to get rid of the populism and start talking about what we can do to help America. One of the best things we can do is to confirm Judge Alito to the U.S. Supreme Court.

I yield the floor.

Mr. KENNEDY. Mr. President, many Members have serious reservations about the Alito nomination to the Supreme Court.

It is obvious that Judge Alito was chosen because the right wing of the Republican Party felt Harriet Miers did not meet their litmus test for Federal judges, a test of right-wing philosophy that was laid out in great detail by the Justice Department itself when Ed Meese was Attorney General in the 1980s. The right wing flexed its muscle and rebelled even when George Bush said, in effect: Trust me—she will be your kind of justice.

Well before Judge Alito was nominated, these core supporters of the President were aware of the President's dwindling public support, and knew he would be highly unlikely to cross them again. They were certain that Judge Alito passed their ideological test. They embraced him immediately, then moved in lock step with the White House to support and defend him.

The reasons for that immediate endorsement by the right are obvious. On key issues of equal rights, fairness, and access to justice, he has repeatedly found ways to keep people from vindicating their rights, obtaining remedies, and protecting themselves from government invasions of their privacy.

He supported a warrantless strip search of a 10-year-old girl, the elimination of black jurors despite a black defendant's objection, the dismissal of a case against an industrial polluter who had 150 water quality violations, the power of a state to intrude in personal medical decisions of women in Pennsylvania, and people who wanted to make machine guns in their homes.

On Tuesday, the Reagan Presidential Library made public his 1985 application for a promotion in the Meese Justice Department, in which he pledged his allegiance to the right wing views that Attorney General Meese stood for. In the application, he stated, "I am and always have been . . . an adherent to" these views.

He traced his views back to Barry Goldwater's 1964 campaign, which featured strong opposition to civil rights at a time when the growing national support for such rights had just accomplished the landmark Civil Rights Acts of 1964 banning racial discrimination in public accommodations.

As far back as college, he said, his view of constitutional law had been "motivated in large part by disagreement with the Warren Court decisions," particularly the historic decisions supporting basic fairness in the criminal justice system, separation of church and state, and fair districting for legislative elections. In short, for all 20 years of his prior political activity, he had been a dedicated right wing advocate, especially on the major issues that led to the posting of the "Impeach Earl Warren" billboards on highways at the time.

We have also learned of his failure to recuse himself in a case involving the Vanguard mutual funds, in which he had a personal investment of hundreds of thousands of dollars.

A different justification was tried out each time his participation was challenged in recent weeks, even though he had specifically pledged to the Senate Judiciary Committee not to sit on "any cases involving the Vanguard companies," regardless of whether he was technically required to recuse himself.

It appears that either the Judge or the White House is desperately running new explanations up the flagpole to see if anyone salutes them.

When I saw him yesterday, he dismissed the blunt ideological commitments in his application to the Meese Justice Department as simply part of the job application process, and told me, in essence, that it shouldn't be taken seriously. But now he is applying for a job on the Supreme Court.

Should we take his assurances about ignoring ideology as a judge any more seriously now?

The American people have a right to better answers about the record of any nominee to the Nation's highest Court. Certainly, in the hearings to come, Senators will learn a great deal more about whether Judge Alito has the basic commitment to core constitutional rights essential to our Nation, and I look forward to those hearings.

CONCLUSION OF MORNING BUSINESS

The PRESIDING OFFICER. Is there any further morning business? If not, morning business is closed.

PENSION SECURITY AND TRANSPARENCY ACT OF 2005

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to the consideration of S. 1783 which the clerk will report.

The assistant legislative clerk read as follows:

A bill (S. 1783) to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes.

The PRESIDING OFFICER. Under the previous order, the managers' amendment at the desk is agreed to. The bill will be considered original text for further amendment.

The amendment (No. 2581) was agreed to.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. ENZI. Mr. President, this is a very exciting day. We are here to the debate on the pensions bill. Every day hard-working Americans go to their jobs, they are confident we here in Washington are looking out for them and doing everything we can to assure that they will be able to retire some day and live the life they have always dreamed about. For our Nation's older workers and those who have already retired, there are few things more important to them than the health of their pension plan and the protection it provides. It involves younger workers, too.

I am glad we are at this point. This may be one of the biggest bills that has ever been covered with as little debate as we will have today. Part of the reason for that is how detailed it is and how many moving parts there are. I congratulate all of the people who have worked on this bill and worked cooperatively, both sides of the aisle. We have even had some conversations with the other end of the building in order to be able to get it to this point at this time.

I particularly have to commend Senator KENNEDY and his staff and my staff. August is normally a time when we are at recess and traveling our States, as I was and Senator KENNEDY was. It is normally a time our staff can catch up on things. It was not. It was a time they were heavily involved in negotiations to come up with the best possible package for protecting the retirement of the people of this country, and they worked virtually around the clock during the entire month of August. Senator KENNEDY and I were on the phone several times working out some of the big issues and trying to keep the focus on the direction it needed to go.

I also have to specifically congratulate Senator ISAKSON. He has been our coordinator with airlines on this whole thing, and had the airlines not had a crisis, I am not sure we would be here today debating pensions. It was enough of a focal point, enough of an impetus that it got us on the track of solving all of the pension issues, in all of the aspects, and I think we have a very complete reform package here.

Of course, I would be remiss if I did not mention Senator LOTT and Senator COLEMAN, who also were strong advocates on getting a solution for airlines so we would stop seeing the airlines go into bankruptcy over their pension problem. We have a team of them here today to add one more amendment that will make sure we will have airlines and to make sure that airline employees will have a solvent retirement package.

I also have to thank Senator DEWINE and Senator MIKULSKI, the chairman and ranking member of the Subcommittee on Pensions on Health, Education, Labor and Pensions. They held a number of hearings that set up the data so we would actually have information on which to base this pension reform. They have done a tremendous job, not just with the committee but also representing particularly people in manufacturing across this country who also have some very special problems at this point in time.

I would also mention Senator STABENOW and Senator LEVIN, who have a majority of those manufacturing workers. In fact, they probably represent more manufacturing workers than there are people in the whole State of Wyoming. But the team of people worked together and put together a bill for the Health, Education, Labor and Pensions Committee. Senator GRASSLEY and I, and the members of the Budget Committee, had an amendment in the budget bill that required that the HELP Committee and the Finance Committee merge a bill. I have to congratulate Senator GRASSLEY and Senator BAUCUS for their tremendous work with the Finance Committee to put together a separate bill that covered all the jurisdictional areas of the Finance Committee, and then their effort with us to merge a bill, which is the bill that is here today.

I have to tell you there were a lot of people betting that, first, neither committee would be able to report a bill out of committee and, secondly, that we would never be able to merge the two bills. It has a lot to do with Senator BAUCUS and Senator GRASSLEY and their staffs being extremely involved and working again in this detailed, "many moving parts" bill. That is the reason we are here today and have a rather comprehensive bill, and it is one that people have been scrutinizing and working on through all of the months of this year.

I think it is a tribute to all of the people who have worked on it that we have limited debate on S. 1783. Only two amendments are being offered, and then we will have a final vote. That is a lot of agreement for this body of 100 people who usually have a lot of disagreement.

I have some other comments, but I will make them later and allow people to get on with describing the actual workings of this bill to the point where we can do a final vote.

I yield to my neighbor from Montana.

The PRESIDING OFFICER. The Senator from Montana.

Mr. BAUCUS. Mr. President, first. I thank my colleague, Senator ENZI from Wyoming, the chairman of the HELP Committee. As he has indicated, his committee, along with Senator KENNEDY, the ranking member of that committee, Senator GRASSLEY, chairman of the Finance Committee, and myself, the four of us worked together to be where we are today. Clearly we are where we are today because a lot of employees, a lot of retirees are very worried about their pension benefits. The essential way to help address that situation is to make sure these plans are more fully funded so as the promise is made, the promise is kept and, second, to make sure the backstop of the PBGC is also there when companies facing incredible pressures worldwide feel they have to no longer live up to their pension obligations and those obligations are passed on to the PBGC.

It is worldwide competitive pressures that big American companies and smaller American companies are facing as well as the Enron collapse which has forced us to take a good, hard look at this to try to find some good solutions. I thank Senator ENZI, Senator GRASSLEY, and Senator KENNEDY for their very good work.

It is important to say a little bit about this bill so Americans know what we are doing today. Millions of workers clearly have worked very hard over their lifetime. American workers, when they work, feel they are playing by the rules. They want to play by the rules and they want to do what is right. This bill, frankly, is about making sure that the retirement benefits are there when people need them, more likely to be there than a lot of people think.

As we start the debate, let's remember why we are here. We are here to protect workers' pension benefits, plainly and simply. That is why we are here. This need was highlighted recently by cover stories in Time magazine and the New York Times Sunday magazine. Their titles were "The Broken Promise"—that was Time magazine—and "The End of Pensions" in the New York Times magazine. I highly recommend all Members of this body read these articles. I read them both. They are very thorough and very perceptive in stating the problems and some of the solutions to the problems Americans face in having retirement benefits.

The Pension Benefit Guaranty Corporation, PBGC, was established to protect workers' pensions, but there are limits on PBGC's guarantees. Many participants have been promised benefits in excess of those guaranteed by the PBGC. When a company fails and the pension plan terminates with unfunded benefit promises, these workers and retirees pay severely for pension underfunding with part of their own hard-earned retirement benefits.

For example, the PBGC—and that is the outfit that takes over failed plans—has estimated that almost 7,000 United Airlines workers will lose 50 percent or more of the benefits they had earned under their pension plans. Another 28,000 United Airlines workers will lose between a quarter and half of their benefits. Clearly, as a result, promises to those employees are not being kept. We are here to try to help make sure those promises are better kept, and this bill will help move in that direction.

The most basic building block of pension funding is the interest rate used to determine the present value of benefits to be paid for the plan in the future. This bill provides a permanent replacement for the 30-year Treasury rate which has been used basically for this purpose—that is, determining the interest rate—under current law.

Under this legislation, we will change that. It is true Congress did pass a temporary substitute last year. This bill is to enact a permanent interest rate calculation. This bill would extend the current temporary interest rate—a corporate bond rate—for an additional year, and then begin phasing in a permanent solution known as a modified yield curve of interest rates. Using a yield curve to determine the value of future benefit payments is more accurate than using a single interest rate because the yield curve recognizes that you get a different interest rate on a 5-year loan than, say, on a 15-year loan, and that is relevant because clearly more people work longer than others, so their retirement is a different period of time.

This bill simplifies that yield curve by breaking it into three segments—retaining the improved accuracy of a yield-curve measurement, while making it easier to apply the rates.

There are other key changes to the funding rules.

Unfunded benefit liabilities would have to be paid off over a 7-year period. Ideally, every plan would be 100 percent funded every year, but with fluctuating asset values and interest rates, that is not practical.

Large companies could base cost calculations on their own mortality experience. Workers in some industries do not live as long as the general population. That affects the cost of providing lifetime pensions and should be reflected in an accurate measurement of funding obligations.

The increased utilization of early retirement subsidies that occurs when troubled companies start downsizing is reflected in a special at-risk liability calculation. This will ensure that companies begin funding for subsidized benefits before it is too late.

The at-risk calculation is not a penalty imposed on companies when they are down and out. It is a reflection of increased costs. Someone has to pay those costs. The question is who. Should other companies pay through increases in PBGC premiums? Should workers pay through lost retirement benefits? Or should we, as I believe, require the company that made the promise fund the promise?

Failure to recognize the real cost of benefits is one reason for the system's funding problems. Another is that current law actually would have penalized many employers if they had contributed more to their pension plans.

Employer after employer has told us that we need to allow companies to contribute and deduct more in good times to build a cushion for bad times. This bill does that. It allows companies to deduct contributions that would fund the plan up to 180 percent of the cost of benefits already earned and allows employers to maintain a prefunding account with these extra contributions, which is sort of a rainy day fund, to help them meet contribution requirements when cash is a little tighter.

Our goal is retirement security, assuring workers that benefits they had been promised will be paid. There are two sides to keeping that promise—funding what is promised by the company and also not promising more than a company can afford to pay.

This bill limits increases in a plan's benefit formula if the plan is less than 80 percent funded. If a plan is less than 60 percent funded, then no more benefits can be earned until funding improves. Employers would have to fund up collective bargaining plans to keep these limitations from kicking in.

To make sure poorly funded plans do not become even more unfunded, this bill limits the portion of a benefit that can be paid in a lump sum if a plan is less than 60 percent funded. Lump sum payment of pension benefits can drain plan assets and hurt other workers. No benefits would be forfeited. The difference would be paid as an annuity. Retirement benefits are the largest asset of many workers, and they deserve timely, complete information on the state of their investment. Under this bill, most workers and retirees will receive detailed funding information within 90 days after the end of the year. That is new.

There was a time when pension plans paid monthly benefits at normal retirement age, usually based on years of service and some average compensation. The benefits were heavily weighted to workers who spent their entire career with one company. But in today's competitive world, that is not likely to be the future. Today many companies have moved to cash balance plans or other hybrid arrangements that are structured more similar to 401(k) plans, defined contribution plans. Benefits are earned more evenly over a worker's career and are more portable—easier to move from one job to another—than the traditional pension benefit. There has been uncertainty surrounding these plans, and litigation is ongoing. If defined benefit plans are to be a viable, attractive option in the future—and there is a real question whether they can be, and we are trying to make sure we can be—we must bring some certainty to the rules governing these arrangements. That is cash balance and hybrids.

This bill lays down the rules for moving forward with these plans. It recognizes the legitimacy of the basic design. It also provides protections for older workers when a traditional plan that rewards a lifetime of hard work is converted to one of these hybrid arrangements that is designed for a more mobile workforce. I think we have done a good job of protecting participants without putting too onerous a burden on employers.

Let me emphasize that this is a prospective provision; it is not retroactive. We do not step into the legal quagmire that exists with regard to the past. I want to make it clear that this bill offers neither side an inference as to interpretation of existing rules.

Some of the provisions in this bill that provide participant protections were in a bill we introduced in the 107th Congress, a bill designed to help prevent another Enron.

We all remember Enron. Thousands of workers lost their jobs. Because their 401(k) accounts were heavily invested in company stock, these workers lost most of their retirement savings as well. In February 2002, "60 Minutes" did a segment called "Who Killed Montana Power," about my own State's experience with employers behaving badly and havoc wreaked on employees and their savings. The story reported one worker had lost $350,000 in his 401(k) plan because of the crash of employer stock. He certainly was not alone.

This is not to say company stock is a bad investment. Sometimes it is a wonderful investment. So this bill does not prohibit investment in employer stock. It simply puts the choice where it should be—in the hands of participants who are building up their retirement savings.

To help make that decision, we give workers tools to make good decisions and understand the consequences of their actions. We require more frequent benefit statements, and we provide a safe harbor to make it easier for employers to make independent investment advice available to plan participants if they want independent investment advice.

This bill has a number of other provisions that will make it easier for a worker to move retirement plans from employer to employer or from an employer plan to an IRA. There are also provisions that make it easier to administer retirement programs.

All of us are fortunate to have the benefits of the Federal retirement system. We have good pensions. We have good retiree health benefits, and I might add the PBGC does nothing to health benefits. This legislation does nothing to health benefits. It is only pension benefits. Health benefits is something that has to be addressed clearly and solidly at a not-too-distant date.

Imagine, however, if the Government all of a sudden said: Sorry, we can't afford that retirement, all you folks in Federal Government; we are going to cut it back; you will have to learn to live on less. That would be a problem, and it is a problem for many Americans.

That is what many of America's older workers and retirees are facing. Our steel workers, our airline workers, and many others have had the rug pulled out from under them. It is no one's fault, certainly not theirs. America's companies are competing in a cut-throat world. It is important to remember that. They have problems too.

What we are trying to do today is ask everyone to be more responsible and strike the right balance. We need a system where companies put enough money aside to pay for what they promise. And we need a system where workers who carry out their part of the bargain do not have to worry that a pension was more dream than substance.

This is a tough challenge. The bill is not perfect. It is a compromise. But I believe it is a good bill and should become law. The retirement security of millions of workers deserves our attention. I urge my colleagues to support keeping promises, to support protecting workers' retirement benefits. I urge my colleagues to support the bill.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time? The Senator from Georgia.

AMENDMENT NO. 2582

(Purpose: To modify pension funding rules related to airlines, and for other purposes)

Mr. ISAKSON. Mr. President, I call up my amendment at the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The legislative clerk read as follows:

The Senator from Georgia [Mr. ISAKSON] proposes an amendment numbered 2582.

Mr. ISAKSON. Mr. President, I ask unanimous consent that the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Amendments Submitted.")

Mr. ISAKSON. Mr. President, I ask unanimous consent that the following Senators be added to the amendment as cosponsors: Senators LOTT, COLEMAN, ROCKEFELLER, DEWINE, ALEXANDER, BENNETT, BURNS, HATCH, and CHAMBLISS.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ISAKSON. Mr. President, it is a privilege for me to introduce a Member of the Senate who has been instrumental in bringing this amendment to the floor, Senator COLEMAN from Minnesota. I yield him 4 minutes.

The PRESIDING OFFICER. The Senator is recognized for 4 minutes.

Mr. COLEMAN. Mr. President, it is a pleasure to work with the Senator from Georgia. I wish to talk about a piece of this amendment. Before I do, I thank Chairman ENZI and Ranking Member KENNEDY for the work they have done on this bill. I represent Minnesota, Big 10 football, big ground game, not fancy passes. The Senator from Wyoming is not a rabbit, not fast on his feet, but, boy, is he solid, steady, and consistent. This is a great bill.

There is a piece particularly important to the folks in my State and actually throughout the country. This is not just about my State. Pension reform provisions relating to the airline industry take the burdens off the taxpayers. That is what this is about.

Let me be clear, when airlines cannot meet their pension obligations, the Pension Benefit Guaranty Corporation, PBGC, is saddled with the responsibility. Who is the PBGC? It is the American taxpayer. That is who is saddled with the responsibility.

In my State alone, Northwest Airlines is struggling to meet its obligations and make good on their promises of pensions to its employees. Minnesota has almost 22,000 people who depend on Northwest Airlines pensions. As the Senator from Montana said a minute ago, this is about promises made and about promises being kept.

The Federal law defining underfunded defined pension benefit plans is seriously broken and must be fixed. A number of airlines have already terminated their defined benefit plans in bankruptcy and transferred them to PBGC. Other carriers may well suffer the same fate.

I am not going to go into detail as to why it happened—stock market declines, low interest rates, September 11, record oil prices—but as a result, the deficit reduction contribution rules kick in. They require that Northwest and other carriers make massive additional contributions to its defined benefit plans that they cannot afford.

It is difficult to overstate how profoundly these DRC rules have impacted the funding of pensions. It would be akin to telling homeowners with 30-year mortgages that if the value of their homes drop below 80 percent of the purchase price, for whatever reason, their loan will be accelerated such that the balance will become due in 3 to 5 years. This is a problem. Common sense is not in play. This amendment provides common sense to pension laws.

This amendment provides some protection to the taxpayers. This amendment provides protection to the employees. They should get what they have worked for. Promises made, promises kept.

Northwest has worked with the labor unions. They developed a proposal contained in this compromise bill allowing them to proceed in a way to stop adding to the underfunding of airline plans by requiring airlines and their affected unions to freeze their plans, ceasing future benefit accruals, and protect the PBGC by freezing the PBGC guarantee. It would fix the broken DRC rules by extending the term of the pension "mortgage" from its current 3-to-5-year amortization period to a longer amortization period.

Under this proposal, retirees and plan participants would receive the benefits they earned to the date of the freeze. Retirees would be protected. In addition, the PBGC will be in better shape financially since its liability will be capped, and each airline payment that an airline makes to the plan will reduce that liability.

The bottom line is this: Northwest and other airlines are not seeking a subsidy, they are not seeking a bailout from the Government. Just the opposite. They are asking for a responsible alternative to current law that lets them pay their pension liabilities versus shifting those obligations on to a Government agency.

It is the right thing to do. It is a fiscally responsible thing to do. It is the right thing to do for the employers and taxpayers. I urge my colleagues to support this amendment.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Georgia.

Mr. ISAKSON. I yield myself 5 minutes.

Mr. President, I first thank Senator COLEMAN for his remarks and associate myself with those remarks. I particularly thank Chairman ENZI of the HELP Committee, as well as Senator KENNEDY. They have made sure that this stayed alive during the course of this session.

I thank Senator GRASSLEY and Senator BAUCUS for the efforts they made on pensions and particularly thank Senator COLEMAN and Senator LOTT for their untiring efforts to bring this to reality today.

I wish to go back to one thing Mr. COLEMAN said briefly by acknowledging what brings us to this point in terms of airlines. In the past 5 years, there have been five things that have happened, none of which would be in control of the aviation industry: the decline of the stock market early in this decade, the tragic events of 9/11 which grounded American aviation, the unprecedented historically and continuously low interest rates, the hurricanes that hit the United States and shut down refineries and petroleum and closed major airline markets for transportation, and not the least of which is petroleum going to $70 a barrel and aviation fuel tripling in its cost.

If we take all of those and combine them with the constraints of the current formula on pensions, one can understand why the aviation industry has had the difficulties it has had and how employees of legacy airlines will lose their pension benefits unless we adopt reasonable and appropriate amendments such as the amendment we propose today.

Very simply, this amendment does a couple of things. One is for the aviation industry. It allows the amortization of the obligation over a 20-year period of time, an amount that is manageable, an amount that is doable, an amount that for all intents and purposes will ensure employees will get the pensions they have earned. Failure to adopt this amendment will almost guarantee that those employees of airlines such as Delta, Northwest, and others will not ultimately get the pension benefits they have earned. The major consequence of that will be the taxpayers of the United States of America, through their surrogate, the PBGC, the Pension Benefit Guaranty Corporation, will have the additional liability those pensions will thrust upon the PBGC.

In this amendment, we have met the challenges the aviation industry has before it. We have looked responsibly at the right formula and the way in which to calculate that formula to ensure the benefits are paid. We have addressed the concerns of the industry and its individual airlines, all of which have similar unique but some different problems.

In particular, what we do is give hope for the employees to get their benefits. We cap the liability of the PBGC, and we ensure that one of the most important elements of the U.S. economy, the aviation industry, is not forced by laws that are out of sync to unfund, defund, or jettison their pension plans for the employees who have made those airlines fly throughout their careers and throughout their history.

We have some time remaining on our allocation for the amendment, to which Senator LOTT was to speak but was called away. I reserve the remainder of our time on the amendment for Senator LOTT upon his return.

The PRESIDING OFFICER. Without objection, it is so ordered.

Who yields time?

The Senator from Maryland.

Ms. MIKULSKI. I ask unanimous consent to speak up to 10 minutes under the time controlled on the Democratic side.

The PRESIDING OFFICER. Is there objection? Without objection, it is so ordered.

Ms. MIKULSKI. I note that the distinguished chairman of the Finance Committee has come to the Chamber, and I know he is eager to speak on the bill and has many demanding responsibilities.

I compliment both Senators ENZI and KENNEDY, as well as Senators GRASSLEY and BAUCUS, on the outstanding job they have done in developing this legislation and putting two bills together. Pension reform is one of the most important issues facing the American people, and Congress must rise to the challenge of passing legislation. Reform is needed to protect workers' pensions, to protect good-guy businesses, and also to protect the American taxpayer, who often ends up being the safety net for so many pensions.

The bill before us today is generally a very good bill. Yes, I do see some yellow flashing lights about two provisions of the bill regarding the use of credit rating and something called smoothing. That is why Senator DEWINE and I had originally wanted to offer an amendment to avoid the unintended consequences that might push companies to drop their pension plans and leave workers in desperation.

In recent days, we have made a lot of progress. Senator DEWINE and I have had very constructive conversations with Senators GRASSLEY and BAUCUS. Senators ENZI and KENNEDY have been particularly helpful in brokering a resolution to some of the issues. The process seemed far less ominous when their wise heads and hands got involved in it. Their help was invaluable in ironing out some of the wrinkles. I believe we have a commitment to work together in conference to address our concerns because I truly believe that the Senate bill is in many ways a superior bill to those in the House. This is why I am eager to see this bill move ahead.

Throughout my career, everyone knows I have been fighting for the little guy. This is no different. Pensions are part of the American dream. People believe that if one works hard, they can get ahead, but also if they work hard, they are going to have a pension. A pension has to serve as one of three legs of an increasingly wobbly stool supporting older Americans in retirement. That is why we are so concerned about the fragility of so many pension plans in our own country.

We have worked from the beginning on a bipartisan basis. Senator DEWINE and I are the chair and ranking member of the Subcommittee on Retirement Security and Aging in the Health, Education, Labor, and Pensions Committee, of which Senator ENZI is the chair and Senator KENNEDY is ranking. We held a series of hearings, and they were outstanding. I wish the American people could have seen them. They were content rich, and they were also characterized by civility, particularly among members. The hearings demonstrated the need for comprehensive reform that addressed not just single-employer plans, but multi-employer plans and cash balance plans as well.

What I like about the bill is that we have a smart bill, we have a good bill, and we have a bipartisan bill. When we looked at it, part of our bipartisan framework was to let us do no harm either to the people who need pensions or to the people who provide the jobs and the business. We need to make sure workers do not lose their pensions. We had to look out for good-guy businesses that are doing everything they can to fund their pensions. We also had to protect the taxpayer and ensure that the Pension Benefit Guaranty Corporation was solvent. It must not be used as a dumping ground for those companies that want to walk away from their pensions even though there was no need to. I believe we accomplished so much in those principles: do no harm, protect the worker, protect good-guy businesses, and look out for our taxpayers.

When the HELP bill was merged into the finance bill, many improvements were made, but there were several provisions that, as I said, had yellow flashing lights. One is the issue of credit rating and the other is the issue of smoothing.

There are those within the HELP Committee—and my colleague, Senator DEWINE, and I count ourselves as two of them—who are concerned that a company's credit rating is being used as an indicator of its pension plan's health. Companies with bad credit ratings could be forced to put in extra payments, even if they had been responsible in making regular payments to their generally well-funded plans.

Credit rating is a blunt instrument. Data from Moody's, one of the Nation's leading credit rating companies, should help explain this. Moody's looked at companies that were sub-investment grade and followed them for a full 20 years. After these 20 years, a majority of the companies had not defaulted on their bonds. This tells us that the companies had not gone bankrupt.

Some people are worried that weak companies will go into bankruptcy and dump their pension plans. The facts say otherwise: a majority of companies in junk-bond status won't go bankrupt. Forcing struggling companies to make new draconian payments could end up pushing many companies to terminate their plans or enter bankruptcy. We have to take that into consideration. This means in fact this language would bring about exactly what it is designed to protect against.

Auto manufacturers and tech companies, many of whom are just now regaining their financial stability, could be among those hit hardest by these provisions. We should encourage these viable businesses to continue making contributions to their plans, not push them into bankruptcy.

Such an unintended consequence could well cost many Americans their jobs and their pensions. Senator DEWINE and I wanted to make a targeted change to the bill to help prevent this, substituting the actual measure of a plan's health in place of credit ratings.

The other issue that concerned me is limitations on smoothing. Smoothing is the process of averaging estimates of assets and liabilities and is used because pensions are by nature long-term investments. Smoothing improves predictability and makes it easier for companies to plan their budgets around their pension contributions.

Under current law, companies can average estimates of assets and liabilities over 4 or 5 years to smooth fluctuations in the stock market and in interest rates. Senator DEWINE and I wanted to tighten this to 3 years, which is more restrictive than current law but more effective than the merged bill's one year. Numerous experts have said that one year is just not enough.

I also want to highlight a key transparency provision in the merged bill that requires companies to issue a snapshot, unsmoothed picture of their assets and liabilities each year to participants and the PBGC. This new disclosure addresses the criticism that smoothing can hide problems in plan funding for several years. Now, many problems should be apparent just 90 days after the end of the plan year.

Last Wednesday, the House Ways and Means committee passed Chairman THOMAS' bill. Like the HELP bill and like Chairman BOEHNER's bill, the Ways and Means Committee didn't include credit rating and allowed 3 years of smoothing.

I continue to feel strongly about the need to make changes to the legislation before us today. I also believe it is imperative to continue moving through the legislative process so we can pass this much needed reform. The Ways and Means Committee has acted, and we now know that the House of Representatives is sure to have a good position on these issues. There are too many other good provisions in this bill that we must pass.

I am not going to go into all the details of the bill. I note that the chairman of the Finance Committee wishes to speak. We want to move this legislation. I want to pass this bill so we can get to conference. We want to say to the House: They sometimes think the Senate is the body that talks more than it gets done. We challenge the House to pass this bill before they leave the way the Senate is going to do it and to do it the way we did it—working on a bipartisan basis.

I cannot say enough about the appreciation I have for Senator DEWINE of Ohio, who was the chairman of the subcommittee. We worked together, and we really looked out for those jobs that have a defined benefit plan, particularly in the older manufacturing corporations. It was a delight to work with him, and I look forward to that on many other issues.

Senator ENZI, with his accounting background, provided a steady hand and again has worked to create a culture and climate of civility that is becoming a hallmark of our committee. I have also appreciated working with Senators GRASSLEY and BAUCUS to achieve the melding of two very good bills. We thank them and we thank their staffs for their collegiality and consultation.

I look forward to voting for this bill. I look forward to being a conferee, and I look forward to bringing a bill back to the Senate not only that the Senate can be proud of but that people who need pensions can rely upon and that business does not fear. Government must be part of the solution rather than the problem.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Wyoming.

Mr. ENZI. Mr. President, I thank the Senator from Maryland, Ms. MIKULSKI, for her tremendous work. She showed such tremendous concern for the workers and the companies, both of which are multiple in her State, and she did a great job of brokering for both to make sure the businesses would continue and the employees would get their pensions.

The Senator showed the depth of understanding that she already had and that she got from the hearings which were conducted. We appreciate the bipartisan way she has worked on this to get us to this point.

I yield to the Senator from Iowa.

The PRESIDING OFFICER. The Senator from Iowa.

Mr. GRASSLEY. Mr. President, before I give my reasons to my colleagues for why they should support this legislation and why it came out of my committee, there are several thank-yous I would like to give, first to Senator BAUCUS because this is truly a bipartisan bill that came out of committee. In fact, I think it came out totally unanimous. Over a period of many months working with Senator BAUCUS, we were able to put something together to get that kind of bipartisan support.

Then later on, the HELP Committee reported a bill. There was extremely great cooperation between Senator ENZI and Senator KENNEDY with Senator BAUCUS and me. I do not say this tongue-in-cheek, I say it as a matter of fact: I think if one can get Senator ENZI and Senator GRASSLEY together on one side of the aisle and Senator

BAUCUS and Senator KENNEDY together on the other side of the aisle, there ought to be something that ought to pass this body.

I also lend compliments and support for helping move this bill along to Senator MIKULSKI and Senator DEWINE because they had a very controversial amendment—they may not have thought it was controversial—and we were able to work out some understandings beyond the action on this floor to accomplish that. So we would not be here today doing this bill without Senator MIKULSKI and Senator DEWINE's cooperation. I thank the Senator from Maryland for that, and Senator DEWINE as well.

I am very pleased that the Senate now is turning their attention to what we call the Pension Security and Transparency Act, 2005. It is a bipartisan bill, and I support it. I think every Member of the Senate ought to be proud to support this bill and, of course, only a rollcall will show that.

This is a bill that is about one thing—improving the retirement security of all Americans. It will improve Americans' retirement years in many different ways. Much of the public focus on this legislation has been on the comprehensive pension funding reforms that are in the legislation. Those reforms are very important, but before I talk about those, I wish to spend a couple of minutes talking about other important provisions in the bill.

No. 1, the bill represents a completion of the post-Enron retirement plan reform that I have worked out with my good friend Senator BAUCUS, Democrat ranking member. We all remember that when Enron spiraled into bankruptcy and the value of that company's stock evaporated. Enron employees had 401(k) plans locked in Enron stock. They had no chance of diversifying their 401(k) portfolios, and they were blocked from selling Enron stock at the time top executives were cashing that stock out with big gains for them. This bill would say that Enron practice is unacceptable for any company in the future. Employees should not be forced to stuff their 401(k) plans with company stock. Diversification is the most fundamental principle of sound investment strategy. The bipartisan legislation before us today then guarantees that employees have the right to diversify their 401(k) accounts.

This bipartisan bill also seeks to increase savings by adopting new rules to promote automatic enrollment in 401(k) plans. Very often, I am afraid, the hardest dollar to save is that first dollar. Once people begin to save, it can become a habit that lasts a lifetime. Automatic enrollment means that saving that first dollar will be easier, less redtape, and it means that millions of Americans then will be saving many times more than what they save today. Obviously, every month we get statistics on savings that say Americans are almost, throughout the entire globe, the ones who save the least.

The bipartisan bill before us today also simplifies retirement plan rules, making it easier and less burdensome for employers to give retirement plans to their employees. These types of changes will be particularly helpful to small businesses, which are often discouraged from sponsoring a retirement plan because of the costs, administrative costs particularly, and the redtape burdens. The bipartisan bill before us today would allow small businesses to combine a defined benefit plan with a 401(k) plan, and they would do this into one simple plan called DB(k). This type of combined plan will give employees the best of both worlds at the same time.

Speaking of combining the best of both worlds, the bipartisan bill we are considering today provides long-needed clarifications that cash balance and other types of hybrid pension plans are not inherently age discriminatory. Hybrid pensions combine positive features of both the traditional pension plan and the defined contribution plans. These plans have long provided meaningful retirement benefits to employees. Today we will help to lift the cloud of legal uncertainty over these plans. At the same time, we also ensure that the rights of participants are protected and that the plans truly do meet the needs of today's mobile workforce by requiring faster vesting of employees' benefits in those particular plans.

Finally, then, I will refer to the pension funding changes in this bill, those things that really have gotten the most attention and maybe are somewhat controversial. This bill honors a promise that we made way back in 1974, before I came to Congress, when the law governing plans, called ERISA, was enacted. That promise was made that the pensions of rank-and-file employees should not depend on the financial solvency of their particular employer. ERISA, the law, says that it is OK for a nonqualified pension of senior management to be exposed to the company's risk of bankruptcy. But then when it comes to the rank-and-file employee, people who probably had as much to do with making the company as the manager, people who worked hard all their lives in hopes of a good retirement, and a pension being a part of that good retirement—those people's golden years should not be ruined because of their employer falling on hard times.

ERISA is meant to protect against that, and we are making some changes to make sure that ERISA does what it was originally intended to do in 1974, without using the taxpayer as a possible backstop. ERISA, I hope people believe, has worked pretty well for the last 30 years. But we found that in recent years there are times that the promise of ERISA is not honored. So, today, we are here to fulfill the promise and to let the American people know that if you have been promised a pension, we are going to make sure that you receive it.

The pension funding reform in this bill also stands for another bedrock American principle that if you make a promise, you are responsible for your own promise. We all know that most companies fund their pension plans in a very responsible manner. Unfortunately, there are a few—and it only takes a few bad apples to ruin the whole barrel of apples—but a few bad apples who have abused loopholes. Those are loopholes that are in the current rules to avoid funding pensions in a way that shows that they are responsible for their own promises.

Those few who have taken advantage of these loopholes have often, in the end, dumped their pension plans on the Pension Benefit Guarantee Corporation, the Government agency that was set up to provide the insurance; let's say in a sense like the Federal Deposit Insurance Corporation does, for savers in bank accounts. These companies have essentially said we cannot pay our bills. Someone else is going to have to pay them for us. That is the PBGC.

Unfortunately, the people they want to pay are other employers who have done the right thing and have guaranteed their employees the pensions they promised. They are able to deliver on those promises. Those employers who are honest and upright get stuck with the bill, in the form of higher premiums to the Pension Benefit Guarantee Corporation.

I think we would all agree that is not fair, and it is no way to run a pension system. Even more unfair is the concept of a taxpayer bailout of the PBGC. One thing that I am for in this legislation is the attempt to make sure this does not happen, that the taxpayers are not laid bare for this obligation that the corporation ought to pay, but that goes back to the irresponsible actions of a few bad apples who do not fund their pensions adequately. I do not want another savings and loan situation like we had in the late 1980s coming out of bad policy in the PBGC.

As we have watched the financial condition of this Government corporation deteriorate rapidly in recent years, the prospects of such a bailout become increasingly real—in other words, a taxpayer bailout, a savings-and-loan-type bailout that we do not want to let happen. In other words, we ought to show that we have learned a lesson, and hopefully this bill is a good step showing we have learned a lesson.

The bipartisan bill we have before us today will reverse the decline over time by improving pension funding and bringing additional premium revenues into the corporation, the Pension Benefit Guarantee Corporation. This bipartisan bill represents a huge leap forward for retirement security.

Let me say I am cognizant of the fact that we in Congress are saying that it is a huge leap forward. I think it ought to be known to all of my colleagues that the President and his staff, who were interested in this legislation, would say it is not good enough in this direction and maybe there are opportunities, hopefully along the way, for improvement.

I think, once again, in closing, I need to give thanks, as I have already given. I start with Senator BAUCUS for his dedication in this legislation. He has been a great partner to work with me to advance this bill to where it is now. I also thank Chairman ENZI and Senator KENNEDY. I think we have had a partnership working together as two committees on legislation because we share jurisdiction. I have to commend their dedication to important reforms that they put in their bill. They have been tireless in their efforts to get us to this point. I look forward to working closely with them and all my colleagues in the Senate as we continue to work towards the goal of getting this bipartisan legislation to the President for his signature.

I yield the floor.

Mr. ISAKSON. Mr. President, I would like to turn the wheel back on our time allotted to the Isakson amendment and yield that time to the Senator from Mississippi and, in so doing, repeat my acknowledgment of my thanks to Senators GRASSLEY, BAUCUS, ENZI, and KENNEDY for their cooperation in allowing this amendment of the aviation portion of the pension bill to come before the Senate today, and the distinguished Senator from Mississippi for his untiring effort to bring us to this point today.

The PRESIDING OFFICER. The Senator from Mississippi.

Mr. LOTT. I thank the distinguished Senator from Georgia yielding me that time. Might I inquire, what is the time remaining?

The PRESIDING OFFICER. The Senator has 7 minutes.

Mr. LOTT. Mr. President, first of all, I point out this is a classic example of how we can work together to get an agreement to move needed, necessary, balanced legislation. There have been a lot of glitches along the way, but there has been persistence by the Finance Committee and by the HELP Committee to report out the legislation, to have hearings, to listen to the arguments from the administration, from the private sector, from those who are experts in this field of the PBGC. I am very proud of the work that was done by the chairman of the Finance Committee, working hand in hand with the ranking member, Senator BAUCUS, to get the legislation passed and to allow an amendment in which I was very interested dealing with the airline pension situation. They could have said "don't do it" or "we will do it later," but they allowed the process to work its way through.

Then, also, I have to give tremendous credit to the chairman of the HELP Committee, Senator ENZI. He did not give up on it. He was dogged and he was working on trying to get this unanimous consent agreement on how we consider this legislation, and our leadership on both sides of the aisle were able to come together. There were a lot of people who had amendments they wanted. They had objections, there were holds here, holds there, yet here we are. So I hope we can look at this and see if we cannot do this again in the future.

There is no question we need reform in this area. There is real exposure across the board. American workers all over this country, and management, and the leadership in the administration or in the PBGC are very worried about where we are headed with these pensions. Are we going to keep our commitment to the workers and to the people involved in these pensions? We have an exposure, according to an article this morning in the newspaper, this PBGC organization, of approximately $26 billion.

Where are we heading in this regard? Part of the problem with regard to pensions is the requirements that the law places on them are inverted. If you get into difficulty, if you are losing altitude, your payments to the agency, PBGC, go up, making it more likely you are going to continue to plunge into the ground. Conversely, if you are doing well, you pay less. How did we ever allow the law to get into that shape? Reform clearly is needed. If we do not do it, and do it in the right way, more companies are going to go into bankruptcy and are going to wind up dumping their pensions. The people who earned these pensions or had agreements for their pensions are going to get less than they thought they would get or in some cases even less than they should be getting.

We can debate whether or not these pensions have been too inflated, but we have to transition. I personally think we have to get away from these defined benefit plans. We have to go to the defined contribution plans. But I think this legislation is a good compromise. We need it and we certainly should get it done before we complete this session of Congress.

I also congratulate Senator COLEMAN from Minnesota for working on the aviation provisions, and especially Senator ISAKSON, the great Senator from Georgia, for his efforts to stay behind this legislation and to offer the amendment that is going to be voted on before we complete the legislation.

The language in the bill says airlines that freeze their defined benefit plans can amortize any funding shortfalls over a 14-year period. That was a compromise agreement. The chairman had some concerns about what that number would be. The language we have from Senator ISAKSON is slightly broader than that, broader than the base bill.

It allows airlines that freeze their plans and airlines that prefund their plans 20 years over which to amortize their funding shortfalls. I think that is the right number. I would like to have seen it more than 14. I support this amendment. I must say that I know it is critical to some of our airlines that we have this language. I have worked on the language in the pension reform package on airlines. I have worked on supporting this amendment, and I have worked on checking the votes. I want the RECORD to show, in case there is a voice vote, that I believe there are probably over 80 votes in the Senate that would be for this amendment.

I want to make it clear for the future and for the RECORD and for the conference that this amendment is going to be handled in the way it is going to be handled because of the overwhelming support it has. We could have a lot more resistance to it by the leadership, but they continue to be reasonable in their handling of this legislation.

I support the Isakson amendment. I certainly believe it will be accepted by an overwhelming indication of support in the Senate, and that is the way it should be.

I believe, as a result of this legislation, that companies—particularly airline employees—the PBGC, and ultimately, most importantly, the U.S. taxpayer will be better off.

This bill is not perfect. It will probably be better as we go along through the conference, but it will never be perfect. But it is a major step forward and one we should be proud of. It is not the kind of thing you will read about in the local newspaper or, congratulations, you did a good job, unless you are the hub of an airline. It is not something you are going to read a lot about in most places in Wyoming. But this is the right thing to do, and the exposure is cataclysmic if we don't deal with it.

I am delighted to support the legislation and the Isakson amendment.

I yield any remaining time at this point. I thank the Senator for yielding.

Mr. ROCKEFELLER. Mr. President, I am very pleased to offer an amendment with my colleagues: Senator ISAKSON and Senator LOTT. Our amendment provides important pension relief to the airline industry, which has struggled financially as a result of the September 11 terrorist attacks and dramatically higher fuel costs. In the last few years, we have seen United Airlines and US Airways terminate their pension plans and turn over their liabilities to the Pension Benefit Guaranty Corporation. Our amendment is designed to avoid this unhappy outcome for airlines that are still struggling with large pension debts.

Throughout the work on this legislation, my goal has been to protect the employees and retirees who have worked hard to earn retirement benefits. Whenever underfunded pension plans are dumped on the PBGC, everyone loses. Employees and retirees lose benefits that they deserve. Companies struggle with sour employee relations. And the PBGC and ultimately, perhaps someday the taxpayers—gets stuck with a bill for the portion of the pensions that is guaranteed but not funded.

I am very appreciative of the cooperation that we have had from the bipartisan leadership of both the Finance Committee and the HELP Committee. The legislation we are considering today would allow struggling airlines to pay off old pension debts over a 14-year period using reasonable interest rate assumptions. Unfortunately, given the rising fuel costs and the need to attract bankruptcy financing, the relief provided in this bill is insufficient to help Delta Airlines. That is why the Isakson-Rockefeller-Lott amendment, which extends the repayment period to 20 years is so important. The amendment would also allow airlines, such as American and Continental, to benefit from relief without terminating their pension plans, as long as any new obligations were fully funded.

I am very pleased that this amendment has the support of Delta, Northwest, Continental, and American airlines. This amendment does not pick winners or losers within the airline industry. Rather, it focuses on maintaining defined benefit pension promises, and any airline that offers defined benefit plans would be able to benefit from this relief.

I understand the skepticism of Senators who are concerned that in spite of any relief Congress provides, airlines may still terminate their pension plans. I cannot say that this is an unreasonable fear.

However, the amendment we are offering would make it more difficult for airlines to dump their plans. Without sufficient funding relief, airlines may convince a bankruptcy court that the plans must be turned over to PBGC in order for the airline to emerge from bankruptcy. However, if the law requires reasonable-sized payments, stretched out over 20 years, an airline's argument that it cannot make such payments loses credibility.

As a West Virginian, I have seen the tragic consequences of underfunded plans. I am not interested in letting employers off the hook for pension promises they made to workers.

The point of this amendment is to make sure that employers fulfill their obligations. In light of the current financial situation of several airlines, it is unrealistic to expect them to maintain their pension plans under normal funding rules. The reality of the situation calls for reasonable funding relief in order to make sure that the companies continue to make substantial payments to their plans. Providing a 20-year period for airlines to repay their pension debts is the best way to protect workers' benefits and reduce unfunded liabilities covered by the PBGC.

For the sake of the airline employees who have earned a secure retirement and for the sake of the millions of workers who depend on a strong PBGC, I ask my colleagues to support the Isakson-Rockefeller-Lott amendment.

Mr. CHAMBLISS. Mr. President, I rise today in support of Senate amendment No. 2582 offered by my good friend Senator ISAKSON to S. 1783, the Pension Security and Transparency Act of 2005.

The retirement security of millions of Americans participating in single employer defined benefit pension plans depends on employers keeping their pension promises. Unfortunately, in recent years those promises have not been kept. Defaults of pension plans in the airline, steel and auto-parts industries have raised concerns about the health of existing plans and the possibility of a taxpayer bailout of the Pension Benefit Guaranty Corporation, PBGC.

The current system does not ensure that pension plans are adequately funded. When under-funded plans terminate, as several have done recently, they place an increasing strain on the pension insurance system. As of September 30, 2005 the PBGC showed a deficit of $22.8 billion for pension plans sponsored by a single employer. While the PBGC will be able to pay benefits for years to come, the solvency of the pension insurance system is in jeopardy. It is estimated that the PBGC will run out of cash within the next 20 years.

The airline industry in particular has been faced with its own specific set of economic challenges. The attacks on September 11, 2001 coupled with a stock market decline and record oil prices have placed a significant burden on the airline industry, forcing them to make tough choices. The unfortunate reality of our current economic climate is that some businesses, particularly the airlines, are taking devastating financial losses as a result of unforeseen circumstances.

As many of my colleagues know, Delta Airlines is headquartered in my home State of Georgia. Delta has a longstanding history of service to airline passengers throughout the world and has been a great corporate citizen for the State of Georgia. Delta's some 31,000 employees, like many other hard-working Americans, have devoted years to working for companies like Delta. We need to ensure that they receive the pension benefits they were promised and deserve.

The Joint Committee on Taxation estimates that this amendment would raise $14 million over the period 2006-2010 and $30 million in Federal revenues over the period 2006–2015. Changing the amortization period for airline pension plans such as Delta's, from 14 years to 20 years would take the burden off the PBGC while ensuring that the thousands of workers employed by the airline industry would receive the benefits that they have earned.

This common sense amendment, of which I am a cosponsor, will not relieve the airlines of pension liability, nor will it prohibit airlines from meeting pension obligations sooner than 20 years. It discourages airlines from relying on the PBGC and the taxpayers' dollars by allowing them time to fulfill their pension obligations. This amendment complements the purpose of the overall pension reform bill by taking the necessary steps to ensure that American workers receive every penny they have earned, while holding companies accountable and simultaneously reducing the burden on the PBGC.

American workers deserve the security of knowing that their pensions will be there when they retire. I also want to help ensure the job security of the employees of great companies like Delta, while allowing passengers and our economy to benefit from the continued use of our airlines. As we continue this debate, I am committed to passing meaningful pension reform.

The PRESIDING OFFICER (Ms. MURKOWSKI). The Senator from Montana.

Mr. BAUCUS. Madam President, I understand the majority manager favors the Isakson amendment. I control time on this bill, as well as the Senator from Georgia. I support the amendment. Given all of that and the support on both sides, I am prepared to yield back the remainder of time we have on this amendment so we can then prepare to vote on the amendment.

The PRESIDING OFFICER. All time is yielded.

Is there further debate on the amendment? If not, the question is on agreeing to the amendment.

The amendment (No. 2582) was agreed to.

Mr. BAUCUS. Madam President, I move to reconsider the vote.

Mr. ENZI. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. ENZI. Madam President, I yield to the Senator from Ohio.

The PRESIDING OFFICER. The Senator from Ohio.

Mr. DEWINE. Madam President, first, let me congratulate my colleague from Georgia for this amendment, as well as my colleague from Mississippi.

I also commend the chairman of the Finance and the HELP Committees and ranking members Senators GRASSLEY, BAUCUS, ENZI, and KENNEDY for their hard work on the legislation that is before us today, for their hard work in forging the compromise pension reform bill.

While I appreciate all of the hard work that went into this legislation that is before us today, I would like to discuss some grave concerns that I have about this bill. Historically, a defined benefit pension has been the cornerstone of a worker's retirement, along with personal savings and Social Security. However, with the movement away from defined benefit plans and personal savings, many Americans are relying mainly on Social Security for their post-retirement income.

That is a very disturbing trend. This is an alarming trend. The defined benefit pension system is an important part of a worker's retirement, but unfortunately, an increasingly rare one. The number of defined benefit plans has decreased from over 114,000 in 1985 to just over 28,800 in 2004. Since 2001, almost a quarter of Fortune 500 companies have frozen or considered freezing their defined benefit plans.

As chairman of the Subcommittee on Retirement Security and Aging, along with my good friend and colleague from Maryland, Senator MIKULSKI, I chaired a hearing to examine the issue of PBGC funding and the effect that reforms to shore up the PBGC may have on the defined benefit system, which is the financial backbone of many workers' retirement. At that hearing, we heard testimony acknowledging the need to strengthen pension funding rules, but we were warned that going too far would force employers to leave the defined benefit system through freezes and terminations of plans, and in the worst case, could force a company into bankruptcy.

There is no question that something must be done to maintain the solvency of the PBGC. The agency has estimated that its deficit is $22.8 billion and CBO projects a much larger deficit than that over the next 10 years. A taxpayer bailout of the PBGC is a terrible option. But, I also do not believe it is a good option to drive companies out of the defined benefit system. It is important that we balance rules to improve funding of plans without going too far and forcing plan sponsors to abandon their plans or declare bankruptcy.

I believe that the bill that we passed out of the HELP Committee in September by an 18 to 2 vote struck such a balance. The Defined Benefit Security Act amended the funding rules so that companies would fully fund their plans, while at the same time increase the premiums that companies pay to the PBGC to better fund the pension insurance system.

Unfortunately, I believe the bill that we have before the Senate today is a step backwards from the HELP Committee bill. While I commend Chairmen ENZI and GRASSLEY and ranking members KENNEDY and BAUCUS for their efforts to reach a compromise on two very different bills, I am seriously concerned about the impact several of the provisions of the compromise bill will have on plan sponsors and participants. I am concerned about the impact it will have on job creation in the future and on job creation.

First, I am concerned about the 3-year transition to the new funding rules, including the new 100 percent funding standard. For many companies, this will require a significant increase in pension funding in a short amount of time. I also have concerns about decreasing the amortization period from 10 years to 7 years. My biggest concerns, however, are credit rating and smoothing. Senator MIKULSKI and I proposed an amendment that would replace S. 1783's provisions on credit rating and smoothing with the provisions of the HELP bill.

Using credit ratings to determine plan funding would result in a loss of jobs. It is a simple calculation. Using a company's credit rating will put additional pressures on a company experiencing a downturn in their business cycle. They will have to put more money into their plans at the very time they cannot afford to do so. These are funds that could be used to modernize facilities or roll out new product lines—activities which could help a company actually pull out of a downturn.

The at-risk rules can increase a company's required pension contribution by hundreds of millions of dollars, and in some cases, by billions of dollars. Struggling companies experiencing a business downturn cannot absorb that type of additional burden. There is little doubt that if this legislation becomes law, far more struggling companies will be forced out of business as a result of their pension obligations. Their employees will lose some of their pension and their job. This is not in anyone's interest. This hurts the employees, the plan, the company, and the PBGC. We best protect the PBGC and retirees by helping struggling companies recover, so that they can contribute more when they are healthy.

I would also note that the proposed DeWine-Mikulski amendment would have increased the smoothing period for asset valuation and interest rates to three years from the twelve months included in S. 1783.

One of the clearest messages that we have received from the business community is that they need to be able to predict their funding obligations so that they can make necessary business plans. If they cannot predict those obligations with reasonable certainty, they will not maintain defined benefit plans.

This is not idle speculation. As I stated before, companies have been leaving the defined benefit plan system in droves and the reason given is the unpredictability of the funding obligations. So, what should we expect if this bill, in its current form, becomes law, dramatically limiting the smoothing rules and thus limiting predictability? We can expect an even faster exodus from the defined benefit plan system. That would be very sad news for the retirement security of millions of Americans.

In conclusion, while the changes that the DeWine-Mikulski amendment sought to make were not incorporated in the bill before us today, both Senator MIKULSKI and I will be conferees and have the opportunity to help shape the final bill in a way that can be beneficial for participants, plan sponsors and the PBGC. And, I look forward to working with my colleagues on the conference to work on these issues.

Quite frankly, what is at stake is the future of businesses—real companies. What is at stake are future jobs in our home States, whether it be Maryland, whether it be Ohio or the other States in the Union. What is at stake is job creation in the future. What is at stake is job retention now.

The issues that Senator MIKULSKI and I have brought before the American people and before the Senate will have to be addressed in conference because the issues are simply about jobs.

I thank the Chair. I yield the floor.

Mr. BAUCUS. Madam President, I see that the ranking member of the HELP Committee is now on the floor and also the Senator from Hawaii, Mr. AKAKA. I wonder if the Senator might allow the ranking member to speak, and then we could be at a point to bring up the amendment of the Senator from Hawaii.

Under the unanimous consent agreement, I believe we have about 30-some minutes remaining. I yield as much time as the Senator from Massachusetts desires. When the Senator finishes, I urge the Presiding Officer to recognize the Senator from Hawaii for an amendment which he has to offer.

Mr. KENNEDY. If the Senator will withhold, my friend is ready to go and make his presentation. After that presentation, if I could then have a chance perhaps to talk about the importance of this legislation, the history and development of it, that would be agreeable with me.

Mr. BAUCUS. Whatever works out for the two Senators.

Mr. KENNEDY. That is fine.

I thank the Senator from Montana for his typical courteousness, and I welcome the opportunity to hear the Senator from Hawaii.

The PRESIDING OFFICER. The Senator from Hawaii.

Mr. AKAKA. Madam President, I thank the Senator from Montana and the Senator from Massachusetts for providing this time for me.

AMENDMENT NO. 2583

Mr. AKAKA. Madam President, I call up my amendment and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Hawaii, [Mr. AKAKA], for himself and Mr. SPECTER, proposes an amendment numbered 2583.

Mr. AKAKA. I ask unanimous consent the reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To compute the actuarial value of monthly benefits in the form of a life annuity commencing at age 60 for certain airline pilots)

At the end of title IV, add the following:

SEC. 4 . AGE REQUIREMENT FOR EMPLOYERS.

(a) SINGLE-EMPLOYER PLAN BENEFITS GUARANTEED.—Section 4022(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)) is amended in the flush matter following paragraph (3), by adding at the end the following: "If, at the time of termination of a plan under this title, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot after attaining any age before age 65, paragraph (3) shall be applied to an individual who is a participant in the plan by reason of such service by substituting such age for age 65.".

(b) MULTIEMPLOYER PLAN BENEFITS GUARANTEED.—Section 4022B(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322b(a)) is amended by adding at the end the following: "If, at the time of termination of a plan under this title, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot after attaining any age before age 65, this subsection shall be applied to an individual who is a participant in the plan by reason of such service by substituting such age for age 65.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable on or after the date of enactment of this Act.

Mr. AKAKA. Madam President, I rise today to offer my amendment to the pension bill to correct an injustice. I want to thank my cosponsors, Senators SPECTER, FEINSTEIN, SALAZAR, and INOUYE, for working with me on this amendment. I also want to thank the cosponsors of my stand-alone bill S. 685, which include Senators ISAKSON, KENNEDY, HARKIN, OBAMA, DURBIN, SALAZAR, and FEINSTEIN.

The Federal Aviation Administration, FAA, requires commercial airline pilots to retire when they reach the age of 60. Pilots are therefore denied the maximum pension benefit administered by the Pension Benefit Guaranty Corporation, PBGC, because they are required to retire before the age of 65. This significant reduction in benefits puts pilots in a difficult position. With drastically reduced pensions and a prohibition on reentering the piloting profession because of age, many pilots are subjected to undue hardship. For plans terminated in 2005, the maximum benefit for someone that retires at 65 is $45,614 a year. For those who retire at 60, the maximum is $29,649.

While I believe that Congress needs to address the issue of underfunded pension plans, I believe that it is also important for us to address this inequity. We must adopt this amendment to assist pilots whose companies have been or will be unable to continue their defined benefit pension plans. My amendment will slightly alter title IV of the Employee Retirement Income Security Act of 1974 to require the PBGC to take into account the fact that pilots are required to retire at the age of 60 when calculating their benefits.

If pilots want to work beyond the age 60, they must request a waiver from the FAA. It is my understanding that the FAA does not grant many of these waivers, and I have even heard from some pilots that the FAA has never granted these waivers. Therefore, most of the pilots, if not all, do not receive the maximum pension guarantee because they are forced to retire at age 60. Pilots already lose substantial amounts of their promised pensions when the PBGC takes over their pension plans, but this needless penalty makes the pension cuts even harder to adjust to after a termination.

This amendment would benefit US Airways and United Airlines pilots in addition to other legacy carriers whose pensions were absorbed by the PBGC. In my home State of Hawaii, I have 91 United and US Airways pilots in the Air Line Pilots Association data base. I also have 305 active or retired Aloha Airlines pilots in Hawaii. Aloha Airlines recently filed to terminate its pension plan. Other States, such as North Carolina and Virginia have 1,064 and 1,014 United and US Airways pilots respectively. As I look at the financial difficulties confronting Delta Airlines and Northwest Airlines, I am troubled by the prospect of even more pilots losing their plans and being subjected to this unfair penalty.

I ask unanimous consent a letter of support from the Air Line Pilots Association be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

AIR LINE PILOTS ASSOCIATION,
INTERNATIONAL
Washington, DC, September 28, 2005.

Hon. DANIEL K. AKAKA,
U.S. Senate,
Washington, DC.

DEAR SENATOR AKAKA: On behalf of the 64,000 members of the Air Line Pilots Association, I am writing to express our strong support for your legislation, S. 685, The Pilots Equitable Treatment Act, which would put airline pilots on an equal footing with non-pilots with respect to guaranteed benefits payable from the PBGC if a defined benefit pension plan is terminated. I also understand that you plan to offer the language of S. 685 as a floor amendment to pension overhaul legislation that is expected to be considered by the Senate in the next few days. We heartily support and endorse that action as well.

As you know, your legislation would change the PBGC rules so that airline pilots, who by FAA regulation must stop flying at age 60, are protected from having their pension benefits actuarially reduced by the PBGC if their defined benefit retirement plan is terminated. S. 685 is bold and innovative legislation that calls for pilots to receive benefit guarantees at age 60 that are calculated as though they already had reached age 65.

Your legislation will provide some measure of pension protection for those thousands of airline pilots who have already lost and/or will likely lose retirement benefits they had worked for and counted on for years. These employees who have given so much to their companies already deserve no less.

We greatly appreciate your leadership on this important matter, and pledge to work with you and your staff to assist in any way to secure inclusion of the language of S. 685 in pension reform legislation.

Sincerely,

DUANE E. WOERTH,
President.

Mr. AKAKA. I urge my colleagues to support the amendment so pilots are not unfairly penalized for having to retire early by FAA.

I call for the yeas and nays on my amendment.

The PRESIDING OFFICER. Is there a sufficient second? There is a sufficient second.

The yeas and nays were ordered.

Mr. KENNEDY. As I understand it, it has been the request of our leaders we give notification to our colleagues when we are likely to have a vote. It is agreeable with the Senator from Hawaii that we have this vote just prior to the time we have the final passage. I certainly yield to my friend and colleague.

Mr. ENZI. I understand this has been cleared on both sides. I ask unanimous consent when all time is used or yielded back on the amendments and the underlying bill, the measure be temporarily set aside; provided further that at 2:30 today the Senate proceed to a vote in relation to the Akaka amendment, to be followed by a vote on passage of the bill, as amended, to be followed by a vote on the adoption of the conference report to accompany the Commerce-Justice-State appropriations bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I yield such time as I might use.

At the outset, I thank our Senate leadership, Senator FRIST and Senator REID, for arranging the Senate schedule so we would have an opportunity to consider this extremely important legislation. I thank my colleague and friend, my chairman, Senator ENZI, for his commitment to getting good legislation passed at a very important time in the entire history of the evolution of the pension system in our country. This is a very important piece of legislation. His diligence, attention to detail, and persuasiveness has permitted the Senate to move this legislation forward in a timely way. I am very grateful to him for all of his good leadership.

I thank our friends on the Committee on Finance, Senator BAUCUS and Senator GRASSLEY. We have worked together at other times on the pension legislation. We did work closely together over a year ago and received the overwhelming support of the Senate in a bipartisan way. We worked very closely with the members of the Committee on Finance. As a result of both committees working, we have a stronger legislation. This is a bipartisan effort in a very important area of public policy. I am grateful to all who brought the Senate to where we are at this time.

Mr. KENNEDY. Madam President, the retirement security of millions of hard-working Americans is at risk. Millions of our fellow citizens have worked hard all of their lives, played by the rules. They have been dedicated and loyal workers only to find their promised pensions disappear when they retire. They worked faithfully, assuming their retirements would be their golden years. But then suddenly it all disappears. The pension plan is in financial trouble and their retirement dreams are being wiped away. This is exactly what has happened to millions of loyal American workers.

In the past 5 years, 700 pension plans have gone into crisis, and millions of workers have lost $8 billion in pension benefits that they had been promised. It is a crisis. We see it with our airline workers. We see it with our workers in manufacturing industries. We see it with our construction workers and sales clerks at the store and so many of our neighbors. It is a crisis, and this bill responds to it by saving their pensions.

Large numbers of Americans are increasingly concerned about their retirement security and rightfully so. Each leg of the three-legged stool of retirement—private pensions, private savings, and Social Security—is in jeopardy.

Many Americans find they are unable to save anything toward their retirement. In fact, the personal savings rate has now fallen below zero. Americans are spending more than they earn. It is no wonder when wages are stagnant and costs are soaring for basic necessities such as energy, housing, health care, and education.

The Bush administration continues to propose to privatize Social Security, which would put the reliability of future benefits in that landmark and highly successful program in jeopardy.

Many workers have no private pension at all. Only half of American private sector workers have a pension through their job. And 2.7 million fewer private sector workers have a pension today than in 2000. Listen to that: 2.7 million fewer private sector workers have a pension today than in 2000. Most workers who do have a pension today have only a 401(k) account as their pension, but many have nothing saved in these accounts. Even those who are saving do not have enough to live on in retirement. More than half of the workers approaching retirement have less than $43,000 in their 401(k), and workers who rely on these accounts face the constant risk of investments that perform poorly.

These problems make pensions with defined benefits more critical than ever because they are secure. They provide a known monthly benefit for life. They are ensured by the Federal Government. But they are becoming much rarer today, as businesses shift away from them.

In the early 1980s, almost 40 percent of American workers were covered by secure pensions. Today, that number is only 20 percent. Yet, while workers' pensions are being cut, executives' pensions are increasingly generous.

A recent study found that 25 percent of the CEOs of 500 large companies had been promised retirement benefits of more than $1 million a year. Why should Ken Lay of Enron or Bernie Ebbers of WorldCom walk away with millions of dollars in guaranteed pensions after driving their employees' pensions into the ground?

On this chart, we see this rather dramatic decline in terms of what is happening to workers, particularly in defined benefit programs. We find that the CEOs are being well taken care of. Here is Ken Lay. Enron required the employees to invest in the company stock and then lied to the workers, lied about the state of the company's finances. As stock prices plunged on the news of the corporate mismanagement, employees were blocked from selling their stock. This is an area we have dealt with, I think, quite effectively in our reforms. And 11,000 employees lost $1 billion in retirement savings during that period of time. We have the example of the WorldCom CEO. Bernie Ebbers was given a $1.5 million-a-year pension. He was later convicted of accounting fraud. Thirty percent of the employees' 401(k) money was invested in the company stock. When WorldCom stock plunged in value, 93,000 workers and retirees with WorldCom 401(k) accounts lost hundreds of millions of dollars in their retirement savings.

These are issues that are enormously important. I think when we were getting started, in terms of the debate on pension reform, most Americans were wondering what the Congress was going to do about these issues. They were less aware of the fact that the defined benefit programs have been gradually in decline, the kind of pension program that provides the best kind of security to American workers. And they were not familiar with other factors: the drop in the savings accounts, the fact that so many of the 401(k)s have been buffeted around by the stock market and have not been enough to provide for a secure income.

But they are increasingly aware now. I think as the debate took place earlier this spring about the solvency of Social Security, people have focused on the solvency of Social Security and have also thought about their retirement. When they think about their retirement, obviously, they are concerned about their pensions.

But we have also seen that workers have lost dramatically over the period of these past several years. In the last 5 years, workers have lost $8 billion. That is $8 billion workers have lost in the last 5 years. For those pensions, workers give up an increase in their pay, they give up maybe a reduction in the amount of hours they have to work, they give up other kinds of benefits. That is in order to put something aside in terms of pensions they are allegedly going to be guaranteed at the time they finish working for their company. And still, we have seen that amount of money—$8 billion—that has been relied on by American workers effectively wiped out and disappeared. That is why the legislation we have is so important.

When a major pension plan fails, it places a strain on the entire system. The Pension Benefit Guaranty Corporation, which ensures these pension plans, has moved from a surplus in 2001 to a deficit of $23 billion today. Our pension insurance system protects the retirement earnings of over 43 million Americans, and we must do what it takes to see that it is there for the years to come.

These are serious problems that require immediate action by Congress. The pending bill adopts a broad approach, with stronger rules for funding, expanded disclosure, so workers are going to know the stability and the financial security they have with their pension. It includes other new protections for American workers: It strengthens the existing pension plans by requiring companies to fund their pensions that workers have earned. It takes steps to prevent future pension failures and recognizes that workers who are increasingly in charge of investing their own retirement savings need additional help—two very important points.

There is going to be the help and assistance, through the PBGC, to help companies, as they are looking at sort of more financial difficulty, to make sure these pensions are going to be safe and secure. A front-end warning system built into this legislation with flexibility for negotiations—that is very important. And information that is going to be made available to workers about their own retirement—that is enormously important.

The reforms in this bill allow troubled pension plans the leeway they need to get back on their feet. The current rules would require companies to pay large amounts into their troubled pension plans right away. That is unrealistic and could force many companies to drop their pension plans altogether. That would hurt workers. Our reforms allow companies to save their troubled plans by increasing payments gradually over a longer period of time. We provide a realistic payment schedule but strengthen the current rules for single-employer pension plans over time by requiring companies to fund 100 percent of their pension promises to workers. These workers have earned their pensions over a lifetime of hard work, foregoing raises and other benefits. Yet current law allows many companies to lag behind in paying for them. Our legislation solves this problem by requiring companies to pay more into their pensions in a fair and predictable way.

Our legislation also recognizes the power of public disclosure and the urgent need for more effective oversight of pension plans. Under current law, workers receive little financial information about their pensions, and what they do receive is often years out of date. They have earned these pensions, and they deserve to know whether these funds are there to pay them. That is very important and one of the most important changes to the current system: giving the notification to workers.

Our bill ensures that workers and retirees receive up-to-date information each year. The bill also provides incentives to keep pensions financially healthy by tying executive compensation to pension health. Executives should not be able to feather their own retirement nests while workers lose their nest eggs. Our legislation prohibits corporate executives from putting company funds into their own retirement trusts when the pensions of rank-and-file workers are underfunded. That is very important. It should be obvious. Justice demands it. But we will make sure that it is implemented.

Recent headlines show that many companies are using bankruptcy courts to abandon their pension plans. Hundreds of thousands of workers and retirees at companies such as United Airlines, US Airways, Bethlehem Steel, and LTV Steel are now without the pensions they worked so hard to earn.

The bill also contains specific provisions to save airline pensions by offering companies a specialized payment program. And I know that has been reviewed earlier in the debate.

In addition, our legislation addresses the needs of nearly 10 million workers and retirees who receive pensions through multiemployer plans. These are the workers who clean our office buildings and hotel rooms, sell us our groceries, build our homes and schools and highways and deliver goods across the country. Many of them are in industries where they have to move from job to job and would not be able to earn a pension at all without these multiemployer plans, since their employers, particularly small businesses, could not afford to offer a pension plan of their own.

The majority of these plans are in strong financial shape. But the recent economic downturn and weak stock market have put some of these plans in financial difficulties similar to those facing single-employer plans. We owe it to these employees to protect their pensions now, instead of acting only when they are about to fail.

Hybrid pension plans, including cash balance plans, have a growing role in our retirement system. They have a number of advantages. They provide secured, guaranteed pensions. They are attractive to younger workers and those such as parents caring for children. But older workers can lose out when their companies switch to these plans because they lose a large portion of the benefits they were promised. Our legislation requires companies that are going to switch to these plans to protect the benefits that workers have already earned. That is enormously important.

I want to highlight another very important area and that is the legislation also includes very important provisions from the Women's Pension Protection Act that I introduced with Senator SNOWE. Retirement security is essential for all Americans, but too often we fail to meet the needs of women on this basic issue. Women live longer than men, but they continue to earn far less in wages over their lifetimes. They are also much less likely to earn a pension. These factors translate into seriously inadequate retirement income for vast numbers of women.

The realities of this injustice are grim. According to the most recent data, only 28 percent of women age 65 and over are receiving private pension income, and for those who do, the average is only $3,800 per year, compared to $8,100 for men. Minority women are in even more desperate straits. Only 20 percent of African-American women and 9 percent of Hispanic women receive a pension. These disparities are a major reason why nearly one in five elderly single women lives in poverty.

Our legislation gives them much greater retirement security. Widows will receive more generous survivor benefits. Divorced women will have a greater ability to receive a share of their former husband's pension after divorce. These are long-overdue improvements in the private pension system so retirement savings programs will be more responsive to the realities of women's lives and careers.

American workers and their families rightly expect Congress to protect their hard-earned pensions. This legislation is an important start to meeting this challenge. Madam President, I note the Senator from Pennsylvania is in the Chamber. I want to quickly review this legislation, again.

On this chart is effectively a description—I know the writing is small for those who are watching—but this is really the backbone of this legislation. It requires companies to fund their promises. It helps prevent future pension failures. I have outlined, very briefly, in my comments how that is done—by greater flexibility and negotiation. It gives workers timely and accurate information on pension plan finances. That does not exist today. Well, it exists but not in an efficient or effective manner. Many times it takes months or even years to get that timely information. This legislation will provide it in a timely and accurate way, which is enormously important for workers.

It protects the workers and businesses in multiemployer pensions. We have the single pensions, as we mentioned, and now also in the multiemployer pensions they face different issues. But we have strengthened and provided and followed a number of recommendations that were made from the business community and the worker community to strengthen those programs.

It protects older workers in cash balance plan conversions. I have outlined the advantages of cash balance plans to younger workers, but to older workers it can work disadvantageously. This legislation provides a very important way of protecting those who have been reliant on existing programs rather than a cash balance plan. That is enormously important. Otherwise there could be some significant injustice.

It gives workers access to independent investment advice to avoid the kind of Ken Lay situation where they had the requirement of investing in the corporation and were refused, when the company was going south, the ability to sell employer stock, and the workers took a bath. That was true in my State with Polaroid, a similar kind of situation and a tragic situation that involved abuse of the pension system at a time when a number of the executive branch did exceedingly well. We are giving access to independent investment advice, and workers can make their judgments. These are what we call the Bingaman proposals. They have been worked out in a bipartisan way and have solid support in the Senate.

It adopts the post-Enron worker pension protections. It stops corporate executives from lining their pockets when workers' pensions suffer. This is to deal with the issue I mentioned briefly before, where the corporate executives can make out while the workers are losing.

It provides greater retirement security for widows and former spouses. This is enormously important because of the injustice with regard to women and the pension system, which is extraordinary. Senator SNOWE and I have been working for a number of years to try to address that. I am grateful to our chairman, Mr. ENZI, for reviewing these matters in great detail and including these provisions. This is enormously important.

This is an important piece of legislation. It doesn't solve all of the problems, but it will certainly do a great deal in terms of ensuring workers in the future of the security of their pensions. We are very hopeful, with the strong bipartisan support we have been able to develop in the Senate, that we can carry these very important protections for workers, for companies, for women, for the single employer pensions, for multiemployer pensions, through and have them enacted into law.

I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. ENZI. Madam President, I thank the Senator from Massachusetts for his comments and the outstanding way he summarized the principles we have been working on. It is a very good job, considering that this is a 730-page bill. He got into significant details. It has been the details that have been holding it up for literally years. You notice that nobody is speaking in opposition to this bill, so that means the bipartisan effort has paid off.

I yield 10 minutes to the Senator from Pennsylvania.

The PRESIDING OFFICER. The Senator from Pennsylvania.

Mr. SANTORUM. Madam President, I thank the chairman of the HELP Committee, as well as the ranking member, for the excellent work they have done on this legislation and for the tremendous cooperation they have shown me, as well as Senator BAUCUS, and my chairman Senator GRASSLEY, on the issue of multiemployer pensions, which has been my area of focus on this legislation. It is a very important issue—and I will lay out here—it is critically important that we make sure these plans survive. Because unlike the single-employer plans, the backstop, the insurance for a plan that gets dumped into the PBGC is actually less than one-third of what a single-employer plan would be. It is even more important for us to have healthy multiemployer plans from the standpoint of the beneficiary than it is to have healthy single-employer plans.

Again, I thank the chairmen and ranking members of both committees. They have made the case—I have listened to some of the debate—that the need for reform in both these areas is clear. I come from the State of Pennsylvania, which unfortunately has seen its share of plans being dissolved and thrown into the Pension Benefit Guaranty Corporation. We have a lot of steel companies. We have an airline that has done that. We have, unfortunately, tens of thousands of retirees who are now receiving their benefits through the PBGC and who were promised more generous benefits under their contracts with the steel companies and the airline, who are now living, in many cases, very much hand to mouth. We need to do a better job for future workers and retirees. We need to address this problem in a climate where increasingly we are seeing concern about not only the dumping of these plans onto the PBGC, and the transfer of defined benefit plans to defined contribution plans, we are increasingly seeing that trend in a lot of industries. I believe there is a place for defined benefit plans and that we need to have a structure in place to make sure they are adequately funded and safe for pensioners to rely upon as they enter into their retirement years.

Again, I don't want to repeat all that has been said about the state of play of how bad the system is as far as the deficits and the problems with the single-employer plans. I want to focus on the multiemployer plans because that is an area on which I have been active in trying to make sure it was included in this bill and that many of the reforms I put in place in the legislation I introduced with Senator STABENOW a few weeks ago were included in the mark. Again, I thank the chairmen of both committees and the ranking members for working with us to see that happen.

The importance of making sure multiemployer plans are safe is because the maximum guarantee for a multiemployer participant with 30 years of service is less than $13,000 a year. That means if you worked for the IBEW and you were a tradesman, an electrician, and you built some of the greatest buildings in Philadelphia, for example, if the IBEW pension plan goes belly up, the maximum benefit you would receive would be less than $13,000 a year. That is a horrific end for many people from the standpoint of what they would otherwise have been promised under their plan. Contrast that with a retiree covered by a single employer plan with the same record. They are looking at about $45,000 and in some cases up over $100,000. So the fallback, if these plans should fail, is substantially lower in the multiemployer world. That is why it is vitally important that we have remedies and things to improve the overall picture. There are plans that are in bad shape. We have plans that are funded as low as 50 percent. One plan is $20 billion underfunded. We have problems out there. The consequences if a single-employer plan failing pale in comparison to the devastation to pensioners if multiemployer plans fail.

I have worked hard with a coalition to try to put together a piece of legislation that I mentioned before, S. 1825. Senator STABENOW has worked hard on this issue. Many of the reforms we put in place are included in this mark. We worked together with a coalition of management and labor and met over a period of months to come up with a bipartisan and cooperative agreement between those who are on opposite sides of the bargaining table. We have had everybody here—from the building trades, the Teamsters, the food and commercial workers union, the IAM, to the grocery manufacturers, a whole host of grocery chains, as well as freight companies, UPS, contractors, et cetera—and have worked together over a period of months to come up with a bill that, as Chairman ENZI mentioned, has strong bipartisan support because we were able to negotiate. We haven't gotten everything, candidly, we wanted in this legislation.

I ask unanimous consent to print in the RECORD the list of folks supporting this multiemployer bill.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

Senator Santorum worked with the Multiemployer Pension Plan Coalition to develop S. 1825, the Multi-Employer Plan Funding and Deduction Reform Act of 2005. The coalition members are:

Albertsons; American Federation of Musicians; American Federation of Television and Radio Artists; American Trucking Associations; Associated General Contractors of America; Bechtel Construction Company; The Building and Construction Trades Department, AFL-CIO; Carhaul; Food Marketing Institute; Finishing Contractors Association; International Association of Machinists; International Brotherhood of Teamsters; International Council of Employers of Bricklayers & Allied Craftworkers; Kroger; Mechanical Contractors Association of America; Motion Picture Association of America; Motor Freight Carriers; National Electrical Contractors Association; National Coordinating Committee for Multiemployer Plans; Recording Industry Association of America; Safeway; Sheet Metal & Air Conditioning Contrators' National Association; Supervalu; NEA/The Association of Union Constructors; United Food & Commercial Workers Union; UPS; U.S. Chamber of Commerce; and Yellow Roadway Corporation.

Mr. SANTORUM. I have worked with my constituents. I have had I don't know how many meetings with members of labor unions across Pennsylvania to talk about this issue and get their input as to how we can deal with the problem of multiemployer plans to make sure we improve their solvency and increase the reliability of those plans for our pensioners. It was an unprecedented effort. I thank Jen Vesey from my staff for the work she has done. I thank in particular the folks from the Pennsylvania building trades and Teamsters who have been terrific in trying to work through some of these very tough issues to get a consensus bill that I am hopeful we can not only pass here in the Senate, obviously in the next hour or two, but also to get something passed permanently by the end of the year.

One of the key concepts folks were concerned about was the concept of an early warning system for multiemployer plans. Under current law, too often we don't know about economic conditions of these plans until they are facing extreme financial pressure. As we have said, sometimes the remedies are too late to solve the problem, and we end up with the situation of people not having sufficient retirement. In this bill, we do address this problem. However, I have heard from labor and management representatives of the multiemployer plans. They have expressed concerns about the approach to this taken in S. 1783.

It is important that we keep in mind in a multiemployer world, these pension plans typically operate in tandem with health plans. There is a concern the dollars that otherwise could go to maintain important health benefits may be unnecessarily diverted to pensions because of overly stringent performance benchmarks. I have heard about those benchmarks. I have heard about those concerns. We will continue to work on this. It is important that we continue to work toward a solution that imposes discipline, which is what this legislation does, without imposing undue burdens on the plans, particularly how they might affect health benefits.

I am pleased my colleagues have accepted most of the changes we proposed and certainly remain committed to working on these important issues to strengthen multiemployer pensions to protect these folks.

This is an important piece of legislation. This is a great victory for working men and women across the country that the Senate is about to act on. As we head into the holidays, where you want to feel good about your financial security, if we are able to get this accomplished by the end of this year, we will provide a whole host of people across America a better feeling about not just their holiday plans but the security of future holidays after they have finished their working years.

The PRESIDING OFFICER. The time of the Senator has expired.

The Senator from Wyoming.

Mr. ENZI. Madam President, I thank the Senator from Pennsylvania for his diligent effort, particularly in the multiemployer area. He checked with us and gave suggestions several times a month during the process when we were putting together the HELP bill. That was extremely helpful, particularly since he was also on the Finance Committee which had some jurisdiction in this area. His coordination between the two committees was invaluable. His tenaciousness and base of knowledge on that issue were particularly helpful. I thank him for his efforts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. Madam President, I want to mention in particular my colleague and friend on this side of the aisle, Senator BARBARA MIKULSKI, who is ranking member on the Retirement and Aging Subcommittee on the HELP Committee and has attended all of the hearings in the subcommittee and in our full committee and has been a tireless advocate on this issue. I have learned a great deal from her. I am enormously grateful to her for all of her efforts. She has been a great ally.

I also thank my friend TOM HARKIN. This is one in a range of issues in which he has been involved and about which he cares deeply.

He is enormously knowledgeable about it, and he was very committed in terms of the defined benefit programs and how we can strengthen those, concerned about the relationship between the cash balance and the defined benefit programs, whether there is going to be fairness to workers, and he made a great contribution to the development of our legislation.

JEFF BINGAMAN had reforms and worked those out in a bipartisan way.

As we are coming into the final moments, I want to make a few comments.

This legislation is strongly bipartisan. We don't have final legislation over in the House of Representatives. I hope our colleagues and friends in the House of Representatives would at least take some inspiration from what we have been able to achieve over here working in a bipartisan way under Republican Chairs to come up with a product which is going to move through the Senate at 2:30 or 3 o'clock this afternoon, which will make a major difference in terms of protecting workers and also be sensitive to some of the economic challenges. We have not had a finished product over in the House, and I am concerned it has been rather fractured over there in terms of the nature of the debate and discussion.

I hope the leadership over there will take a page from the Enzi and Grassley book about how to work their committees in ways to develop bipartisanship on the committees and also between those committees as it is enormously important.

Finally, Mr. President, why this is important: We see that our Social Security bedrock of retirement now is being reviewed; some believe under attack. We have private pensions. Only 50 percent of our workers have pension coverage at work. Only 21 percent have a secure defined benefit. So it is a three-legged stool: Social Security, pensions, and then private savings, and the private savings count, as shown on this chart in terms of the current savings, negative six-tenths of 1 percent of income—a decline in savings. They have virtually dried up. The reason for that is because, as shown by this chart, of the increased costs of gasoline, health insurance, housing, and college.

People just cannot afford to save. They have to provide for their families in these areas. And when it comes to the very end of the day it is the squeeze on that pension retirement. Living in the richest country of the world, in our democracy, being able to retire with a sense of dignity is certainly a value all of us hold dear. We are in real danger of losing that very important value. This legislation is a very important downpayment to make sure that value is going to be there for millions of our fellow Americans.

I am enormously grateful to the staff: Rohit Kumar with Senator FRIST; Bob Greenawalt, Senator REID; Jon O'Neill, Senator GRASSLEY; Judy Miller, Senator BAUCUS; Stu Sirkin, Finance Committee; Katherine McGuire, Ilyse Schuman, Greg Dean, Diann Howland, and David Thompson, Senator ENZI; Karla Carpenter, Senator DEWINE; Ellen-Marie Whelan and Ben Olinsky, Senator MIKULSKI; and Michael Myers, Holly Fechner, Portia Wu, and Terri Holloway from my staff. As always they have done a terrific job.

I also want to thank particularly Jim Fransen and Stacy Kern from the Senate Legislative Counsel's office, who worked day and night to draft this bill. And thanks also to Carolyn Smith, Patricia McDermott, Nikole Flax, and Allison Wielobob of the Joint Committee on Taxation.

I yield the floor, Mr. President. I see my colleagues here, and I understand we are going into morning business. If not, I am glad to yield time to them.

ORDER OF PROCEDURE

Mrs. CLINTON. Mr. President, I ask unanimous consent to speak for such time as I may consume remaining for the Democratic side on the pension bill, and then for an additional 20 minutes as if in morning business.

The PRESIDING OFFICER (Mr. THUNE). Is there objection?

Mr. ENZI. Reserving the right to object, we still have some time remaining on the bill, and there is a vote at 2:30. I guess I did not understand exactly the time being requested. It sounded like 35 minutes.

Mrs. CLINTON. I think we will be finished by 1:30.

Mr. ENZI. Then I would ask the remainder of the time until 2:30 go to this side of the aisle.

Mr. STEVENS. I object. Mr. President, reserving the right to object, I seek time before the vote to raise a point of personal privilege concerning a comment made about me in the Chamber today. I desire 5 minutes but before the vote.

Mr. ENZI. I was reserving in that time time for the Senator from Alaska to speak.

Mr. STEVENS. If that is agreed to, I won't object to the time until that time being allocated to the Senator from New York.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it so ordered.

Mrs. CLINTON. I thank the Chair. And I thank the managers of the pension bill.

HURRICANE KATRINA COMMISSION

Mr. President, I come to the floor today to discuss a topic that many on the other side of the aisle, as well as in the administration, hope will just go away as we near the end of this session—the creation of an independent bipartisan commission to examine the State, local, and Federal response to Hurricane Katrina. We all know that nearly 3 months ago Katrina struck Louisiana, Mississippi, and Alabama, wreaking havoc on cities along the coast and most especially in New Orleans and the surrounding parishes. Thousands of residents had to flee, and thousands more saw that the levees were breached and cataclysmic flooding wiped out the city's infrastructure causing extensive damage far beyond the boundaries of New Orleans. Along the gulf coast the hurricane force winds destroyed so many of the communities that had been there for years.

Americans were horrified by the images on television of this catastrophe unfolding before our very eyes. It was followed by an equally catastrophic failure of Government in its uncoordinated, failed response.

I remember my own visit to Houston in the days immediately following the hurricane where I met with people who had fled Louisiana and Mississippi for shelter in Texas. They were desperately searching for lost relatives and to try to regain some semblance of order in their lives.

Mr. President, our response at all levels of Government was nothing short of shameful, and the victims of Hurricane Katrina, as well as all Americans, deserve to know why that response was such a colossal failure. Who was in charge? Was it the President, the Director of Homeland Security, the FEMA Administrator?

Why were Government assets not more readily available or prepositioned better? Why was there no plan to deal with an event that had been predicted for years? What went wrong at the Federal, State, and local levels? Why were declarations delayed?

But even more important than the answers to these questions is what do we need to do to fix it so this never happens again in our country? Who is in charge now? What more must be done to fix the problems that plague our national system of disaster, response, and recovery?

On September 11 we lost nearly 3,000 people, and the families of those left behind demanded to know what went wrong. Thanks to their dedication, we finally convinced the President and Congress to establish the 9/11 Commission. It was the right thing to do because over 218 years ago the signers of the Constitution pledged themselves on behalf of all Americans to provide for the common defense. So when we hear things such as the fact there was only one FEMA employee in the entire city of New Orleans from August 27 through 30, we see e-mails from the FEMA Director that he was distracted with his wardrobe when people were drowning in their own homes, waiting for rescue from the roofs of those homes, and the national response plan that is supposed to guide our national response was basically totally ignored, we have to ask ourselves how could we be so unprepared especially after September 11?

Because I believe the victims of Hurricane Katrina and, indeed, all Americans deserve answers to these questions and a way forward that merits the confidence and trust of the American people, I introduced legislation cosponsored by my friend and colleague from Colorado to establish a Katrina commission, modeled after the 9/11 Commission, intended to be nonpartisan, independent, designed to study the Federal, State, and local response to Hurricane Katrina.

We have 17 cosponsors of this legislation, and I am, frankly, outraged we cannot get an up-or-down vote on it. The cameras may have left the area of destruction but the devastation and the devastated lives remain. We owe it to the thousands of people who are still displaced, who lost loved ones, who are still finding bodies in homes that people are returning to, to understand what went wrong, what needs to be fixed, and where the responsibility really resides. Over 80 percent of the American people believe a Katrina commission is the right and necessary thing to do. Yet the Republican leadership of the Congress is afraid to allow an up-or-down vote. Why? Because they know what I know—that a lot of Republicans will vote for this. They were equally dismayed. They saw the same television pictures. They worry about what might happen next with an earthquake, a forest fire, massive tornadoes like just whipped through the central-southern part of our country. But even more significantly, the reason this is important is because of the potential of a terrorist attack that could happen again. And I have to say it appeared that our Federal response based on Katrina is nowhere near ready. We cannot accept the status quo. We must fix FEMA and the Department of Homeland Security.

My friend from Colorado is a cosponsor of that legislation, and I ask him does he believe a Katrina commission is still needed?

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. I thank my colleague from New York for her leadership on this very important issue for our Nation. I deeply share her belief that a Katrina commission is, in fact, needed and that we ought not to wait.

The headline on the New Orleans Times Picayune editorial page this Sunday was "Forgotten Already." "Forgotten Already." It is about how Washington has already forgotten that Katrina is still an ongoing crisis. It is a shame that Washington has such a short attention span.

In the days following the storm, Congress moved quickly to pass a $70 billion hurricane relief effort. We held hearings and we grilled the officials from FEMA. However, because the storm waters have receded, many politicians in Washington feel they can roll their sleeves back down and declare the job is done, the mission is accomplished.

That is not the case. Tell the 1,154 children who are missing or who are looking for their parents that our job in Katrina is done. Tell the 129,000 Louisiana residents, 129,000 Louisiana residents who still do not have electricity, that the Federal Government task is done. Tell the 196,000 Katrina evacuees who are currently unemployed, who do not have jobs, that our mission is accomplished.

Our job is far from done. We need to do much more to ensure that the individuals and communities along the gulf coast recover, and we have to do a lot more to plug the homeland security vulnerabilities that Hurricane Katrina exposed.

What Senator CLINTON's legislation would do is establish a Hurricane Katrina commission, similar to the 9/11 Commission. The commission would investigate what went wrong in the Government's response to Katrina and what steps we need to take to make things better.

I remember a number of years ago meeting with President Bush and then-Homeland Security Adviser Ridge at the White House shortly after 9/11 with attorneys general from States around the country. At that time, the President was opposed to the creation of a department of homeland security. Later, the President relented, taking the position that in the post-9/11 world, a department of homeland security was necessary for us as a nation to make homeland security a greater priority to protect America.

A few years later, I came to Washington as a U.S. Senator to help on that agenda. I want to make protecting our Nation and our homeland a greater priority. Yet 4 years after 9/11, Katrina slapped the Nation with reality. We are not prepared to protect our homeland, even when we have days of warning that American citizens are in the path of the gravest danger. That reality is a shame on the efforts of the last 4 years, but it would be an even greater shame for our Nation not to learn from our failure in the preparation and response to Katrina. We need to learn from those lessons.

My colleague's proposed bipartisan commission would help us make sure we prevent failures in homeland security in the future. Therefore, I am proud to stand here with Senator CLINTON and 16 other cosponsors in demanding accountability from the Federal Government. I am proud to stand with them for a stronger America.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I thank my friend for his support. He knows a lot about what he is speaking of today. He was an attorney general. He had law enforcement responsibilities. He knew how essential it was to coordinate services throughout the State of Colorado. I am very grateful for his support and his eloquence on behalf of this bipartisan commission and his vigilance in working toward the establishment of a Katrina commission.

I have said before that I agree that our established congressional committees should conduct their own oversight roles, but an independent commission is absolutely necessary to get this right.

The Katrina commission would be made up of individuals with the expertise and credentials to do the work; namely, people who have experience with emergency preparedness, mitigation, and cataclysmic planning. The commission would build upon previous investigations and issues we know exist. For example, on 9/11, one of the problems our emergency response system faced was the lack of interoperable communications; namely, the police radios couldn't talk to the fire department radios, couldn't talk with people coming from other parts of New York or even outside New York to be helpful at the site of Ground Zero where the Towers collapsed. Yet 4 years later, we find people responding to Katrina faced the same problems. We have not yet solved the problem of interoperable communications.

How long are we going to let this go on? When the 9/11 Commission issued its report, the majority leader applauded the Commission for its tremendous act of public service and patriotism and looked forward to a time when we could work together to ensure America grew stronger and better prepared. Let's ask ourselves. Are we stronger today and better prepared?

Although I applaud my colleagues on both sides of the aisle who are conducting the committee hearings into what happened, I do not believe this disaster has the attention or the right mix of people investigating it that will give us both answers and a roadmap for the future.

Some of the statistics are frightening. FEMA ordered over 125,000 trailers or mobile homes to provide housing for an estimated 600,000 people. Media reports indicate that as of the beginning of November, hundreds of thousands of people are still in hotel rooms, relatives' rooms, shelters, and even in tents. Now we hear FEMA is going to move these people out of their hotels as of December 1. Where are they going to be moving them? What is going to happen to them? I think these are questions that add to the urgency of such an investigation. There are thousands of churches and other faith-based institutions, as well as nonprofits, that have yet to hear from FEMA as to whether they will get any help in continuing the assistance they are providing.

I cannot help but agree with the Senator from Colorado, who pointed out that we went through this after 9/11. He spoke about his meeting with the President. He spoke about the resistance to a department of homeland security, to any kind of investigation.

This Katrina commission will eventually be put into operation. It will have to be because people are not getting the answers they need. I hope we will come to a realization that this Katrina commission, an independent commission, is the way to proceed.

UNANIMOUS CONSENT REQUEST—S. 1748

Mrs. CLINTON. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of Calendar No. 220, S. 1748, a bill to establish the Katrina commission investigation, that the bill be read a third time and passed, and that the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Is there objection?

Mr. STEVENS. Mr. President, I object.

The PRESIDING OFFICER. Objection is heard.

Mrs. CLINTON. Mr. President, there we have it. We are once again hearing objections. The status quo wins the day. FEMA will not change. The Department of Homeland Security will not change. We will never get to the bottom of what happened and what we need to do to fix the obvious flaws unless we have this independent commission.

I ask my friend from Colorado if he agrees that the only way we will get the answers we need is through an independent commission.

The PRESIDING OFFICER. The Senator from Colorado.

Mr. SALAZAR. Mr. President, I agree with my friend and colleague from New York. The Republican leadership should allow this Senate to have a vote on whether we establish an independent Katrina commission. This ought not be a partisan issue. This is not about Republicans and Democrats and Independents. This is not about assigning blame. It is about learning from our mistakes and building a stronger Nation.

I hope that President Bush, Senator FRIST, and Speaker HASTERT will join us and move forward in developing this independent Katrina commission so we can make our homeland even more secure, because what Katrina taught us, without a doubt, is that we as a nation are not prepared. Every day we go without this commission is a day lost. It puts us a day further from finding answers for the victims of Hurricane Katrina, a day further from identifying the gaps in homeland security, a day further from a safer America.

I want to say that I, too, have been involved as an attorney general looking at difficult issues that have occurred in my State. I walked through the carnage of Columbine High School, the bloodiest school shooting in America. And so many years later, the answers we sought about why that happened and how it could have been prevented, how we could have improved on interoperable communications, those lessons have not yet been placed on the table.

I daresay that without the efforts of the 9/11 Commission, the lessons learned from that most horrific attack on America on 9/11 would not have been learned. In the same way, as we move forward to determine whether we have a Department of Homeland Security that is up to the job of protecting Americans, protecting the homeland, protecting our citizens, it is a major mistake on the part of the United States of America not to undertake this independent review which has been presented in a bill by my colleague from New York.

I thank Senator CLINTON again for her advocacy for this legislation. I vow to work with her and to try again and again with my colleagues on both sides of the aisle. I do not believe we can adjourn this Congress without finishing the job on a Katrina commission.

Mr. STEVENS. Mr. President, will the Senator yield?

Mrs. CLINTON. May I finish, Mr. President?

Mr. STEVENS. I misunderstood the time sequence, and the Parliamentarian tells me the Senator has until 2:30 p.m.?

Mrs. CLINTON. No, 1:30 p.m.

Mr. STEVENS. I remove my previous objection. The Senator should continue to have her time until 1:30.

The PRESIDING OFFICER. The Senator from New York.

Mrs. CLINTON. Mr. President, I thank my colleague from Alaska. I will wrap this up.

I wish to serve notice to my colleagues in the Senate that my good friend from Colorado and I will be back again and again and again, as we were with the 9/11 Commission. He was not in the Senate at that time. He was serving his people in Colorado from a position of trust and responsibility as attorney general, but he watched from afar, understood the tragedy that befell us, and, like so many of us who are given the public trust of public office, wanted answers. He came to this body to help find those answers.

When Katrina struck and it became so apparent that we were not yet prepared, the Senator from Colorado was among the very first to say we need those answers and we need them yesterday because no place is prepared, no place is ready if the Federal Government is not in a position to provide the assistance and the assets and the support that is needed in the face of a large manmade or natural disaster.

We will be back again and again, as we were with the 9/11 Commission, until this commission is established. It is the right thing to do. The country deserves to have it and, most of all, the people along the gulf coast deserve the answers and deserve to know what did occur to them, what could have been prevented, and then the rest of us should act on that information to make sure our Nation is prepared in the future.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Alaska.

Mr. STEVENS. Mr. President, how much time remains for the minority at this time?

The PRESIDING OFFICER. Four minutes.

Mr. STEVENS. Mr. President, if no one seeks that time, I ask that I be permitted to start the majority time at this time.

The PRESIDING OFFICER. Is there objection?

Mr. BAUCUS. No objection.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Alaska.

POINT OF PERSONAL PRIVILEGE

Mr. STEVENS. Mr. President, I have sought the floor now to speak on what I consider to be a matter of personal privilege. It has been brought to my attention that the Senator from Illinois unfairly maligned my character in direct violation of rule XIX of the Standing Rules of the Senate.

Rule XIX states:

> No Senator in debate shall, directly or indirectly, by any form of words impute to another Senator or to other Senators any conduct or motive unworthy or unbecoming a Senator.

The Senator from Illinois apparently takes exception to the fact that witnesses who appeared voluntarily before the joint hearing of the Senate Commerce and Energy Committees last week were not sworn in. I would like to set the record straight about the events of that day.

The request by Senator CANTWELL to swear in the witnesses was delivered to my office at 8:10 a.m. on the morning of the hearing. It was leaked to the press before it was ever delivered to me. As a matter of fact, the Seattle press that morning had reported that I had already rejected the request before I had even received it or read it.

While I have accomplished many things in my 37 years in the Senate, the ability to see into the future or read into the minds of other Members is not one of them. Had the Senator from Illinois read the transcript of that hearing, he would have a better understanding of why I took the actions I did as the chairman opening that hearing.

I made this opening statement:

> I remind the witnesses as well as the Members of these committees, Federal law makes it a crime to provide false testimony. Specifically section 1001 of title 18 provides in pertinent part: "Whoever in any matter within the jurisdiction of the legislative branch of the Government of the United States knowingly or willfully makes any material false, fictitious, or fraudulent statement or representation shall be fined under this title or be imprisoned not more than 5 years, or both."

I continued my statement at that time:

> Having reviewed the rules of the Senate and the rules of the Commerce and Energy Committees and the relevant provisions of title II of United States Code, there is nothing in the standing rules of our committee rules or in the Senate which requires witnesses to be sworn. The statute has the position that everyone appearing before the Congress is in fact under oath. These witnesses accepted an invitation to appear before our committees voluntarily. They are aware that making false statements and testimony is a violation of Federal law whether or not an oath has been administered. I shall not administer an oath today.

Earlier, Senator DURBIN of Illinois came to the Chamber and said—and I quote from the RECORD that has been provided to me:

> You probably heard about the hearing before the Senate Commerce Committee. Senator Maria Cantwell of Washington insisted these oil company executives be sworn in, testify under oath, just as the third base company executives were a few years ago. But Senator Stevens, the chairman of the committee, refused to allow them to be sworn in. Why? So they couldn't be held accountable if they didn't tell the truth.

Mr. President, I believe Senator DURBIN's comments are a direct violation of rule XIX. I did not swear in witnesses who appeared before our committee because they are required to tell the truth under law.

Those are the rules of the Senate, the rules of our committees. To suggest I did not administer an oath to these witnesses to help them lie to Members of Congress is false, inexcusable, and in violation of rule XIX, the longstanding practice of Senatorial courtesy, and I expect an apology from the Senator from Illinois.

What is the status of the time now in terms of control of time?

The PRESIDING OFFICER. The time until 2:30 is controlled by the majority.

Mr. STEVENS. Mr. President, under the conditions that if the Senator from Montana would yield to our colleagues on this side if they come to make a statement on the bill, I yield to the Senator from Montana.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Montana is recognized.

COMMERCE-JUSTICE-SCIENCE CONFERENCE REPORT

Mr. BAUCUS. Mr. President, first, I thank my friend from Alaska for his courtesy in working out this accommodation.

I rise to speak on the Commerce-Justice-Science appropriations bill conference report that might be coming before us later on this day for a vote.

I must say I am outraged. This bill makes further cuts to critical programs that help local law enforcement fight methamphetamine nationwide. These cuts—and they are dramatic—have a particularly damaging impact on my State of Montana. Why? Because we are a rural State. We have very limited resources.

When I ask Montana law enforcement officers what is the No. 1 law enforcement problem they are facing, an open-ended question, they all come back with the same answer: methamphetamine. That is the biggest problem Montana law enforcement officers have.

The Byrne grant program and similar programs support most of the proactive drug enforcement in the 56 counties of my State, and I dare say that is true for a majority of States in this Nation.

Why is Byrne grant money so important? Again, it is because we are spread so thin across a vast area in Montana, a small population with an international border. An adequately funded Byrne program, particularly when combined with a high-intensity drug trafficking area, or HIDTA program, is essential. These programs are critical to help us maintain our seven multijurisdictional regional drug task forces, which have been a huge boon to successful efforts in Montana to fight methamphetamine

Let me give an example. In eastern Montana, we have what is called the Eastern Montana Drug Task Force that is based in Miles City, MT. We also have the Tri-Agency Drug Task Force in Havre that is near the Canadian border. We have a third drug task force in our State, and that is the Big Money Drug Task Force based outside of Wolf Point. They all rely entirely on Byrne funding. These task forces also happen to cover some of the most open, most rural areas in my State where meth enforcement is particularly challenging.

This Commerce report that is soon to be before us guts the Federal Government's commitment to State and local law enforcement. It funds the Byrne grant program at just $416 million for this next fiscal year. That $416 million may sound like a lot of money, but it represents a nearly 35-percent cut over current year funding. We are cutting this law enforcement program by 35 percent.

Is that bad? That is terrible. But it is even worse because that 35-percent cut is on top of a 26-percent cut in funding in reallocation of local law enforcement resources that occurred in 2005. First we had a 26-percent cut last year. Now this is a 35-percent cut on top of the 26-percent cut.

This bill cuts the Community Oriented Policing Services, otherwise known as COPS. That is cut by one-third and provides no funding for communities to hire additional police officers.

According to the president of the Montana Association of Chiefs of Police, COPS funding is necessary to maintain an adequate number of police in the field to protect our communities. One law enforcement officer back home told me that without COPS funding, the number of crimes, especially violent crimes, begins to rise again. Currently, there is no other alternative to the COPS Program. He tells me that the COPS Program is one of those programs that works, one of those programs that is directly responsible for protecting our communities and for getting officers out on the street to protect us all. COPS works. We all know the COPS Program has worked, particularly for us in rural States.

So I ask, where are our priorities? The Senate did its job. We sent over a bill to the House that contained nearly $900 million for the Byrne program, yet somehow we will end up later today with a conference report that funds this program at close to a paltry $348 million. We had $900 million. The conference report comes back at $348 million.

Where were our Senate conferees? Why did they not stand up for the Senate version? Why did they not stand up for the Senate?

The Montana Narcotics Officers Association has told me that if the House version of the CJS bill is passed, this would gut Montana's meth enforcement abilities, especially in rural areas. They told me this would result in an elimination or a dramatic reduction in services provided by Montana's regional drug task forces.

The 26-percent cut in Byrne funding in this last fiscal year resulted in nearly a 50-percent cut in Byrne funding for the entire State of Montana, and that is because of a block grant allocation which has that result.

I frankly cannot believe we are being asked to support a conference report that has cut law enforcement, especially in the areas to fight methamphetamine enforcement, as much as we are asked to.

I am also very disappointed that this conference did something else which I think is a very bad idea. What did they do? They did not accept the Senate-passed combat meth bill. What was that? That bill would put certain methamphetamine ingredients behind pharmacy counters nationwide. We all know that the precursors of methamphetamine over the counter in drugstores are a big inducement for meth manufacturers to take these ingredients and go to local labs out in rural areas and make methamphetamine. It only makes sense that these methamphetamine precursors not be sold over the counter but only sold by prescription or at least behind the counter so there is much more control over the purchase of those ingredients. We passed that in the Senate. What did the conference do? No, they did not adopt it.

Let us look at what this conference report says with respect to rural States that are trying to fight methamphetamine. I might say it is not just rural States; it is most States trying to fight methamphetamine.

First, it did not take up and agree to the combat meth bill. The precursor provisions are not in here anymore. Willy-nilly, they are out of there. It also dramatically cut the Byrne grant money, which is so important.

I made a good part of my job in the Senate devoted to fighting methamphetamine. I have gone to a lot of these drug task force meetings. I go to many assemblies in Montana with high school and middle school students. I put on these programs that show how bad methamphetamine is. I have law enforcement officers there during these sessions with middle school and high school students. I have counselors there. We go over what has to be done to fight methamphetamine.

Again, a reminder, methamphetamine is the No. 1 law enforcement problem in the State of Montana, and I am sure that is true in a lot of other States as well.

I ask for a show of hands at these assemblies. These are schoolwide assemblies. I ask: How many of you here know of somebody who is on meth or recently on meth? Fifty to 70 percent of the students' hands go up. It is such an outrage. We talk about pandemics with the Asian flu. I might say we certainly have an epidemic with methamphetamine. In a certain sense it may be a pandemic. It is a huge problem.

If we are going to fight it—and I hear in my State of Montana, and I am sure the Presiding Officer hears the same thing in his home State of South Dakota—we need to have dollars out in the field to fight methamphetamine. There are all kinds of ways to attack this problem, but certainly dollars out in the field on the law enforcement side are absolutely critical. It is essential, and they are not in this bill.

We need a lot more prevention efforts. That is clear. We need more counseling efforts. That is clear. We need drug counseling and other ways to get people off of methamphetamine. We also need the law enforcement there to catch the bad guys who are doing it.

In a certain sense, this conference report is a huge victory for the druggies. It is a huge victory for those who are peddling methamphetamine in America because they know if there is much less law enforcement, if the dollars are not there to stop them, they have an open field. They are not dumb. The big drug manufacturers and peddlers are not stupid. They know where they can go. They know where there is law enforcement and where there is not.

When I talk to local drug task forces in my State, it is so clear to me how desperately they need these dollars. They beg me for these dollars. That is why I have offered amendments in this body to provide funding to fight methamphetamine.

We passed legislation in the Senate. We have been doing our job. But for the Senate conferees to come back with a conference report which allows all of these antimethamphetamine efforts to be gutted and to be diluted and cut back and ask us to vote for that conference report I think is an outrage. For that reason, I strongly oppose this conference report. It is a bad idea. It is going to allow more methamphetamine in our country, one of the biggest problems this country has.

This is a victory for the drug dealers. It is a big victory for drug dealers. They know where they can deal drugs. They know where there is law enforcement and where there is not. When we start to cut back money—not status quo but cut back law enforcement dollars—that is going to be a huge problem. I very much hope this Congress finds a way to redress this imbalance, to deal with this problem so we can adequately fight methamphetamine.

I have all kinds of PSAs running in Montana, public service ads, against methamphetamine. I have been working in schools to get rid of methamphetamine. There are other people in Montana who are paying a lot of dollars out of their own pockets, with very effective antimethamphetamine ads. Part of the solution is to make sure we have adequate law enforcement. I strongly urge my colleagues to not agree to this conference report until this problem is solved.

I ask unanimous consent that a letter from the National Sheriffs' Association be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, November 10, 2005.
Hon. THAD COCHRAN,
Chairman, Committee on Appropriations, U.S. Senate, Washington, DC.

DEAR MR. CHAIRMAN: On behalf of the National Sheriffs' Association (NSA) and our 23,000 members, I am writing to express our extreme disappointment and concern over the lack of funding for the Edward Byrne Memorial Justice Assistance Grants Program (JAG) in H.R 2862, the Science, State, Justice, Commerce and Related Agencies Appropriations Bill.

The JAG program, which was formed by consolidating the Edward Byrne Memorial Grant program and the Local Law Enforcement Block Grant program, is one of the primary Federal assistance programs for State, tribal and local law enforcement agencies. State and local law enforcement agencies, including the 3,087 sheriffs' offices across the country, rely heavily on JAG funds for critical operational activities. JAG funds support many of our counter-drug activities, particularly drug task forces. Without these funds, our sheriffs will not be able to sustain the task forces or even fight the war on drugs!

Local law enforcement agencies from all across the country are already out-manned and out-gunned by the drug cartels and street gangs in our communities. Over the last several years we have been forced to deal with the loss of personnel, because of budget cuts to the COPS program. Now the COPS Universal Hiring Program has been zeroed out by Congress, thus abandoning an effective program, and the JAG Funds are being cut as well. These cuts will put an end to any progress that has been made and destroy any hope we might have of winning the war on drugs or ridding our communities of methamphetamine!

For more than a decade, the resources provided under the JAG program have allowed law enforcement agencies to expand their capabilities and make great strides in reducing the incidence of crime in communities across the nation. It is our belief that the lack of Federal support for local law enforcement will surely result in increased crime and drug abuse!

The conference agreement would provide just $416 million for the Byrne Memorial Justice Assistance Grants, of which only $321 million is available for local law enforcement assistance. This represents a cut of more than $217 million or 34 percent, from FY 2005 levels. We find this level of funding to be unacceptable and believe that Congress is failing to adequately recognize the mission of law enforcement!

Cuts of this magnitude seriously inhibit law enforcement's abilities and endanger the safety and well being of our communities! In order to keep communities safe from crime and free of drugs, law enforcement agencies must be given the resources they need! The FY06 SSJC appropriations bill does not provide for those resources.

At a time where law enforcement and securing the homeland should be of the highest priority, Congress has chosen to completely dismiss them as a priority! With the rise of terrorism, and the fact that methamphetamine use and abuse has risen to epidemic proportions, Congress should embrace law enforcement, support the JAG program and COPS Hiring Program, and increase their funding, not cut their funding!

Sincerely,
THOMAS N. FAUST,
Executive Director and
Retired Sheriff, Arlington County, VA.

Mr. ISAKSON. Mr. President, I ask unanimous consent that Senators CARPER, SALAZAR, and NELSON be added as cosponsors to the Isakson amendment on the pension bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. ISAKSON. I yield the floor.

Mr. ENZI. Mr. President, I yield 10 minutes to the Senator from Texas.

The PRESIDING OFFICER. The Senator from Texas is recognized for 10 minutes.

Mrs. HUTCHISON. Mr. President, I thank the distinguished chairman. I appreciate very much the chairman bringing this pension reform bill to the floor. As a Senator from a State that has several major airlines, three headquartered in my home State of Texas, I know this is very important for them. It has been worked on for a long time. I appreciate the efforts of the distinguished chairman in this regard.

JUDGE ALITO

I also want to take this opportunity to answer some of the things that have been said in the Chamber today, particularly about Judge Alito, who is the President's nominee for the Supreme Court of the United States.

It has been implied in the Chamber today that maybe he doesn't deserve an up-or-down vote. After all, Harriet Miers didn't get one.

I am the perfect person to say I think Harriet Miers should have gotten one. I do believe Harriet Miers was qualified for the Supreme Court. If she had been allowed to open her mouth and say what she believed and talk about her experience, she would have been confirmed, and she would have been a superb Justice.

However, Harriet Miers didn't get an up-or-down vote because she withdrew her nomination. She withdrew it voluntarily. It was her decision. I was sorry she did. I didn't want her to make that decision. But to imply that all of a sudden now we have a new standard, that Judge Alito doesn't deserve an up-or-down vote, is absolutely wrong and it must be refuted. Judge Alito does deserve an up-or-down vote just as every nominee for the Supreme Court of the United States who has gone through the committee and come out deserves an up-or-down vote. The idea that seems to be creeping in here is that, maybe for the first time in the history of the United States, there might be a filibuster, a partisan filibuster of a judge, a nominee to be Justice for the Supreme Court of the United States. That would be a terrible thing for the United States of America, for the President, and for the Senate of the United States. It would be wrong for everyone concerned. It would set a precedent that I believe would cause partisanship in this body to escalate to a degree that we do not want to see happen.

Partisanship has already escalated in the Senate. I am sorry that it has. But I think there are many instances where we work in a bipartisan way in the Senate, and we accomplish a great deal when we do. So I think the idea of throwing a bombshell into the Senate and breaking all tradition and all precedent and filibustering on a partisan basis a nominee for the Supreme Court who is reported out of committee is wrong, and I hope the hints of that happening are wrong. I hope they are put to bed. I hope we will give this judge his due.

This man is qualified for the Supreme Court of the United States by any standard. He has an academic record that is excellent. He has years of experience as a circuit court judge. He is very well regarded as a circuit court judge. His opinions are reasoned. He has even gone against what are his stated personal beliefs in order to adhere to precedent and give great respect to the law of the land. He is everything we are looking for in a Supreme Court nominee.

When he has his hearings and he has the chance to answer the questions of the Judiciary Committee and he is then voted out of that committee, even a suggestion that he doesn't deserve an up-or-down vote is outrageous. I hope we can stamp out those little feelers, say this was a misunderstanding, that Judge Alito most certainly is a nominee deserving of an up-or-down vote in the Senate if he is, in fact, voted out of the committee.

AMENDMENTS TO THE IRAQ RESOLUTION

I also want to take this opportunity to discuss an amendment that was agreed to yesterday by the Senate regarding the Iraq resolution. There has been a statement on the floor today saying that this was a rebuff of the President's policies. The rebuff was to the amendment that was put forward that would set a timetable for a withdrawal, that would call on the President to say on a date certain we are going to withdraw troops from Iraq.

I have been one in the past who has said we should have a game plan. We should have an exit strategy. I have said that when we were in Bosnia. I said it as we are in Iraq. I said it about Afghanistan. It is a legitimate role for the U.S. Congress to say: Mr. President, give us an update on where we are and give us what we can expect to see. That is exactly what happened. It was not unusual.

When we are in a conflict overseas with our troops on the ground, it is not unusual that the Congress would ask for a report on the status of the conflict. Most certainly it is fair to ask for a report. The President welcomed that because he knows the role of Congress, just as we do. Those who would characterize that as a rebuff are wrong. The President knows how tough this situation is. All of us do. Every one of us grieves when we lose one American life. But I will say I could not be more proud than I am of our Armed Forces, our men and women who are fighting for our freedom today as we speak in this Chamber, because those with boots on the ground know that if we set a time prematurely when we would exit, we would embolden the enemy they are facing today. We would say to the enemy: Have at it. No matter what happens, we are out of here on a date certain.

Don't you think that puts the lives of those troops who are on the ground right now in jeopardy? The idea that we would do something like that is appalling. The Senate didn't do it. The Senate voted down an amendment. The Senate rebuffed that amendment because it was wrong. Instead, we did what is the role of the Senate to do, and that is we asked the President for a status report. We asked the President for the game plan for the future. Of course, the President is going to do that. He has been doing that. We have had briefs on the situation in Iraq and briefs on what the next step is ever since we went in to Iraq.

Of course it is the right of Congress and the role of Congress to ask for this. The President understands that and actually said he was very pleased that the Congress did that and that he would, of course, do that type of report as he has been doing on a regular basis in various ways, through the Secretary of Defense, through the Joint Chiefs, the Chairman, and the Ambassador to Iraq from the United States. We have had reports from all of these people on the status. We have seen the votes that have been taken in Iraq. We have seen the progress.

I think it is important that we set the record straight. On this floor this morning, I think there have been some statements that needed to be refuted, and that is what I have attempted to do.

I thank the chairman of the committee for allowing me this time and thank him for bringing this pension bill to the floor. It is a very important bill. It will mean a lot to the employees in my State and the employees throughout our country in airlines that are struggling right now. This is an industry we need to protect.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I yield myself such time as I might consume. I thank the Senator from Texas for coming to the Chamber and making the comments on pensions, and I appreciate all the work she has done, particularly in the airline area. I don't think there is a single airline that doesn't fly into Texas. I appreciate all the concern she has shown over all the various issues. There are certainly a lot of them in this 730-page bill.

I also thank her for the comments on the other topics because, while the time today was supposed to be for debating the pension bill, I guess the disadvantage of having one that is as bipartisan as this and as much concern to all the employees and businesses of this country is that we didn't have that much opposition today. So people came in with other topics.

I want to address one of those that came up that disturbs me a little bit, and that is the comments about a Katrina Commission.

The Katrina disaster and the others that followed it were bigger than anything we had ever had in this country. I have to tell you that I think there is enough blame to go around on it. If people want to point fingers, it goes the whole circle. The biggest problem with it was we had never seen that many displaced people in one single disaster. There were a million people displaced in that disaster, and 200,000 was the previous record—not that those are the kinds of records we like to keep.

A couple of weeks before Katrina, there was a tornado in Wright, WY, 38 miles south of my hometown. I happened to be there at the time. I spent a lot of time in Wright seeing how the recovery went and seeing what FEMA did. I didn't have much of an idea what FEMA is supposed to do. It was kind of astounding to me. They are the group who comes in after the disaster. They are not the prevention group. They are the after-disaster folks. They come in and register all of the victims of the disaster. Then they help those victims get coordination to find every source of help they possibly can.

This disaster was a lot different than any of the ones before. A lot of times, when there is a disaster in one town and people are displaced from that town, they can move to their friends and relatives in the next town. But in this one, not only did their town get wiped out but the towns of their friends and neighbors and relations got wiped out as well; and so did the next town and the next town. They wound up moving to completely different States.

You can't see those boundaries of States when you drive down the road. There is usually a sign that says "Welcome to Wyoming" or Louisiana, whatever State it is. There isn't any physical line that is drawn, but in everybody's mind there is a tremendous mental barrier of crossing a State line and being in unfamiliar territory.

That happened in this instance, and States are saying those are residents of another State that we are supposed to take care of; people from another State are saying, I am not real comfortable being here, but I am here. What can you do to help me? It was even hard to locate people.

The size of the disaster was tremendous. I think I am in a position to complain about anybody complaining about how it all went because I am from the committee that proposed legislation and actually moved it through the Senate floor. I think the only legislation that has dealt with the Katrina disaster is student displacement, which we had in the deficit reduction bill. We have a health package we are working on, and we hope to be able to move it as well.

There are unprecedented problems with this. We have the opportunity for some unprecedented solutions. They are not the best solutions, but they are the best we can come up with on short notice.

Rather than trying to figure out whose fault it was, I think the whole country has a big problem with this "whose fault it is." We have gotten to the point where, if we fall down, we wonder who caused that and who should pay. We want some kind of retribution for it. What we are doing with that is eliminating some personal responsibility. Everybody has to watch out for themselves and their neighbor and help get ready particularly for events they can see coming. I think people are going to be a lot more responsible on that in the future because of some of the things that happened. But to try to place blame doesn't do much except build divides. We are trying to bring people together.

That is what the pension bill is working to do—bring people together so they can have a secure future, so they can know what is going to happen with their savings and their pensions and how it all comes together. This bill does do that.

It is extremely complicated, with many moving parts. It is hard to have unanimous agreement on anything, but this is pretty close to that. It is because it solves a huge problem. Here again we could talk about what the blame is for the problem.

I actually want to talk a little bit about how we got to the point where there was a problem with pensions. I am not going to go into some of the things mentioned before about how the negotiations went and drove up the amount of benefits people were receiving. Instead, I want to talk a little bit more about the core problem we have; that is, after September 11, 2001, the economy went in a little different direction than we had anticipated—in fact, drastically different than anticipated.

Two things happened at the same time: Both the interest rates and the stock market went down. Usually, when interest rates go down, the stock market goes up and people take their money out of the low-interest mechanisms and put it into the stock market which grows faster because there is more money coming in there, which is driving up the price of the stock. But after 2001, both the interest rates and stocks went down. There was no possibility of taking the money from the pension and hedging it anywhere, of moving it so they would have more income. So the income dropped drastically and investments dropped drastically. That put the companies in a position where those who had fully funded plans no longer had fully funded plans. It wasn't because they stopped putting money in or taking money out. It was because it didn't grow at the rate that had been anticipated before. That created a lot of problems. That is not to say there weren't some problems, but primarily the problem came from the stock market and the interest rates dropping at the same time. The good news is that interest rates, as far as pension plans—and some senior citizens' savings and other people's savings—the good news is the interest rate has been going up. That has not been a help to the stock market, but that has been a help to those people who have money in savings accounts. It has been a help to pensions because the annual statement that just came out by the PBGC for their fiscal year 2005 financial results show they actually had a net gain of almost $.5 billion for last year. That isn't because the PBGC was better. That is because firms were able to generate more revenue for their pension funds. There are a lot of things at work in this.

Another thing that was mentioned this morning that I want to clear up a little was a relationship people draw—the relationship between the Pension Benefit Guaranty Corporation and the savings-and-loan debacle. We have two different ways of paying out here. They are dramatically different. For one thing, when people have money that is ensured by the FDIC and a bank fails, people take their money now. It is an immediate crisis—to the total value of their ensured deposits. With the Pension Benefit Guaranty Corporation, they are guaranteeing that people will get a portion with a cap of what they have coming in pension at the time they would have received it. It is long term. It isn't an immediate disbursal of whatever money they have in that account. It is a disbursal over time at the rate at which they would have received the pension, which would be the rest of their lifetime, as opposed to an immediate withdrawal like savings and loans.

We have another problem that is coming up here shortly. That is when the stock market and the interest rates both went down, they created a crisis. It was not a crisis of bad management as much as this difficulty with the stock market. Recognizing that crisis, we passed some legislation. But it was temporary legislation to allow for some recovery of the economy and the market and that sort of thing, to get things back in balance. That temporary piece of legislation runs out December 31 of this year. We need to have in place something that will continue to encourage the companies to put more into their pension funds, to add to the solvency of their pension funds, to bring them up to the level they are supposed to be, without putting them out of business. We need something that will fill in for these temporary rules that are running out, something that does the job. I hope, better.

We have had some time to review the whole situation and come up with this bipartisan solution.

One of the difficulties during this discussion was over an item called "credit rating." There is a provision in the bill that calls for companies to have to put in considerably more money once they get a bad credit rating. I am counting on that being something we work on in conference committee. We all operated on a principle, and the principle we operated on was we want to know when a company is having difficulty, and we want to know it early. We want to have them make sure their pension for their employees is protected at the time the business starts to go bad.

That was the principle from the White House, that was the principle of the HELP Committee, that was the principle of the Finance Committee, and we tried to arrange a way to do that.

One of the things on the surface that looked like a good idea was credit rating. When they get a bad credit rating, it forces them to bring more solvency into their fund. The idea is once they get a bad credit rating, they cannot put more money in the fund. They are in a very bad situation when they are listed as a junk bond situation already. In fact, one of the difficulties with the credit rating is it is not done by people in the company or people in the Government. It is done by some other experts who look at what they have access to and make decisions about the company. Sometimes they probably get it extremely right, and sometimes they can get it wrong. But that doesn't matter. What matters is if a company gets rated at a junk bond status, they can virtually never get out of that. Why can't they get out of it? One reason is the person who analyzed the thing and who may have replaced a new employee is a little bit reluctant to sign his name to say this company is OK. It is the "protect yourself" kind of attitude. So you don't let them out of the junk bond status, which forces them to make the payments perhaps longer than they ought to have to at that rate, and in fact keeps them in junk bond status. It is a kind of cart-and-the-horse sort of situation—they keep getting one in front of the other and impeding the progress toward what we don't want.

What I am hoping we can do in the conference committee is to find another way that is not the credit rating way but a way that the company will realize and start to correct on this point where they were starting to go downhill, and then also be able to know when they have recovered so we don't force them into bankruptcy. We are asking people for solutions, and we have had a number of them suggested.

Again, I thank Senator DEWINE for his efforts in this area. Senator DEWINE and some of the folks—particularly some manufacturing companies that are involved in this kind of a situation, where some of them even have 100-percent funded plans, but they are in junk bond status. Consequently, even though their funds have a lot of funds, they get different requirements that will escalate the problem and not provide a solution.

That is one of the things particularly I am expecting we will take a look at when we get in conference committee. I think there is a way for all of us to come up with a solution that will work and meet that basic principle of locating companies when they begin to have trouble and make sure that as much solvency is put into the pension plans as possible.

I also will mention that in the deficit reduction bill we passed last week, there was a section that dealt with pensions. I want to reassure everybody that there is the clause in the deficit reduction bill that says if we pass the full pension bill—that means the House and the Senate actually conferring and coming to an agreement and getting a full pension bill signed—that what is in there will modify the pension.

Under deficit reduction, our hands were kind of tied on the options we have to meet the requirements of reconciliation. Under those requirements, all we could do was raise rates to the company. We had to do that considerably higher than we would have had to, had we some of the tools which we have under the full pension bill.

Now, there may still have to be some numbers tweaked on that to meet the requirement that we set for ourselves. We set in the budget a requirement we need to have a $6.6 billion deficit reduction on the Pension Benefit Guaranty Corporation. We needed to reduce potential outlays by the corporation so that it would be solvent or moved toward solvency.

I mentioned this tale that there is on pensions so there was not a need to come up with $22 billion this year. It can be done over a period of years. In that deficit reduction bill, there is a paragraph that says if we pass a full bill, the full bill takes precedence over the deficit reduction package, so it will not be nearly as much of an increase for the company using that as if we went with the deficit reduction.

I thank everyone for the cooperation we had on the deficit reduction part and in coming up with that.

I want to add my words to Senators KENNEDY and MIKULSKI as they challenge the House to get their bill done.

Getting our bill done by itself does not complete the process. It requires that the Senate and the House pass a bill that is the same which means they have to hurry and pass one; we have to conference it and, hopefully, have this done when we come back shortly in December. If not, very quickly after the first of the year. As I mentioned, December 31st is the expiration of the previous formulas.

I need to thank and commend a few people. This has been a lot more complicated and a lot more difficult than the discussion today might seem to indicate. The reason we have had as little discussion and as little opposition today is because people put in a lot of hours to understand what was going on and focusing on principles so we could arrive at a solution for pensions. I commend the work of the staff on this bill. Particularly, I commend my HELP Committee staff. Katherine McGuire is the director of the committee and did an outstanding job of juggling multiple interests and bills. Somebody suggested that we were not a committee, we were a bill factory. If you look at the work that has come out of the committee under Katherine's direction and the cooperation of both sides—near unanimous consent on almost every bill—we have had a very productive year. This bill is one of those indications.

When the President listed his top 10 priorities, my committee had 21 of them. That is largely because in the HELP area he listed one priority, and that turned out to be 16 bills in my committee. We are progressing through those, as well. We are hoping to be able to come up with lower cost health care but with better quality and access. That is a major challenge of this country. We have had double-digit inflation on health care for years. I have a lot of faith in the committee and in staff in what we have been able to do so far.

I also commend Diann Howland and David Thompson. These are my two experts in this area of pensions. I mention that one of them had a lot of experience on the Committee on Finance staff and one of them had a lot of experience on the HELP Committee staff. It was fortuitous we brought these people together with this expertise and have them on the same side working to both come up with the ideas and merge the bill. They probably have, combined, about 20 years' worth of experience on this bill alone.

I congratulate Gregg Dean, who brings the banking knowledge to the debate, and Amy Angelier, who brings the budget expertise to it. Ilyse Schuman does an outstanding job with the legal work we have to do on the bill. I also commend Portia Wu, Holly Fechner, and Terry Holloway of Senator KENNEDY's staff; John O'Neill of Senator GRASSLEY's Committee on Finance staff; Judy Miller and Stuart Sirkin from Senator BAUCUS's staff. We all owe our thanks to Jim Fransen and Stacy Kern of the Legislative Counsel's Office, who drafted numerous versions of this bill and all of its predecessors. A very special thank you is owed to the staff of the Joint Committee on Taxation for their advice and guidance. The staff of the Joint Tax includes Carolyn Smith, Patricia McDermott, Nikole Flax, and Allison Wielobob. Last, but not least, I thank Karla Carpenter of Senator DEWINE's subcommittee for her diligence and Ellen-Marie Whelan and Ben Olinsky of Senator MIKULSKI's staff for all of their hard work. That subcommittee did an absolutely marvelous job.

The way we have our subcommittees set up is pretty much along the lines of the title of our bill. We have some spectacular subcommittee chairmen and ranking members who are out there working on projects. That is the only reason we are able to produce as many bills with as much bipartisanship as we have done.

I also thank Glee Smith, Mike Quiello, and Ed Egee of Senator ISAKSON's staff for their fine work on this airline amendment.

We are about at the point where we will vote on the amendment. I express my opposition to the amendment because I don't think it is fair to the other people who would be getting pensions. I appreciate Senator AKAKA's tremendous effort to try and find a solution for pilots. But as we find the solution, we have to be sure we are finding the solution for everyone. I ask Members to vote against that amendment and for the pension bill as a whole.

I have some remaining time, and I am happy to yield some to the Senator from Massachusetts, who has been absolutely wonderful to work with on this issue. He has tremendous institutional memory on this and has worked on parts of this problem for years. There were numerous times I went to him and asked: What would you do in this situation? And he told me. I think we found that the shortest distance between two points is a straight answer. We have been able to come up with some answers together and I appreciate that cooperation.

I yield to the Senator from Massachusetts.

The PRESIDING OFFICER. The Senator from Massachusetts.

Mr. KENNEDY. I know we will be voting soon. This is a reflection of a legislative process working and working well. We have been fortunate in our committee with Senator ENZI, at the beginning of this whole process, examining the pension issues which have not been dealt with seriously since 1994, at the time of the GATT agreements. So much has changed since then.

We had an openness and a process that has worked through the Committee on Finance in a similar kind of way. Republicans and Democrats working alike. And now, in a short period of time, we are going to pass legislation this evening that is going to give millions and millions of Americans and hundreds of thousands of companies a real sense of hope about their retirement future.

I certainly hope the House of Representatives recognizes the strong bipartisan support we have had for this proposal and follow a similar path.

Finally, we know that workers have enormous insecurity today. They are concerned about the increased costs of gasoline, their health care costs, their job security, the education security of their children, and the security of their retirement. This legislation is focused on retirement security. We all believe in a strong Social Security Program and we all believe in savings. But we all know those savings are down and Social Security is going to need focus and attention over the next years.

This legislation is the backbone to providing help and assistance and assurances to workers about the safety of their retirement programs. It provides innovative and creative ways to deal with the challenges women have presented in terms of the workplace, a much greater sense of equity, much greater protection and information for workers so they can make the appropriate decisions, help and assistance so the good companies can meet their responsibilities to their workers.

We are very much in debt to all of those on our committees—the Senator has mentioned them—and Senators MIKULSKI, HARKIN, and BINGAMAN on the HELP Committee, and our Republican colleagues. I again thank our chairman of this committee. It is a very important piece of legislation that will make a big difference. I thank him and I thank the chairman of the Committee on Finance, Senator GRASSLEY, and my friend, Senator BAUCUS, as well. We have been able to work together.

It is difficult enough around here to get people in your own party to agree on something, I find, and then to get both parties to agree and then two committees to agree on something is remarkable.

All Members understood the importance to American families in this country. They are being challenged about their retirement security. It brought out the best in the membership. I strongly support this legislation. I thank my chairman for all he has done.

To review quickly, this requires the companies to fund all of their pensions. It gives the workers timely and accurate information on the pension plan. It protects older workers in cash balance plan conversions. That is enormously important. It gives independent investment advice so workers can have information to make solid judgments.

It guards against the exploitations we have seen in too many instances, where the CEO's have looked after themselves and failed to look after workers. And it does provide the retirement security for widows and former spouses, which is enormously important. Senator SNOWE, myself, and others have been working on that issue for years.

This is a balanced, well-formulated program that is addressed to meet the needs. I urge my colleagues to support it.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. I yield myself a couple of minutes. I thank Senator KENNEDY for his outstanding charts and summary of what we are about to do. I thank Senator BAUCUS for the outstanding work he has done in dealing with this issue this morning and on the Committee on Finance. I thank Senator GRASSLEY. It has been great teamwork to get to this point. I am looking forward to the vote we have in about 2 minutes.

I yield a minute to Senator BAUCUS and then a minute to Senator AKAKA so he can summarize his amendment.

Mr. BAUCUS. Mr. President, I reinforce a theme that has been in the Senate, working together in bipartisanship. I have thought I am one of the luckiest Senators here because the chairman is Senator GRASSLEY, a great Senator to work with. We work very closely together. That is not rhetoric. That is true. That is accurate.

The same is also true with Senator ENZI, the chairman of the HELP Committee, and Senator KENNEDY. They work very closely together. Not only do they work well together, here are two committees working well together.

A lot of Americans think there is a lot of partisanship in Washington. There is. There is too much. But there are also pockets of cooperation. We are witnessing today one of those pockets, one of those times when we are working together. I take my hat off to the chairman of the HELP Committee, the chairman of the Committee on Finance, Senator KENNEDY, and the staffs. This is an effort to solve a problem in a nonpartisan way.

I thank the chairman.

The PRESIDING OFFICER. The Senator from Hawaii.

AMENDMENT NO. 2583

Mr. AKAKA. Mr. President, my amendment corrects a wrong. Pilots have their promised pensions significantly reduced when the PBGC takes it over. The FAA mandates that the commercial pilots retire at 60. We must take the steps necessary to ensure that the PBGC will have resources to be able to help pilots whose retirement security has been threatened due to the pension takeover and prevented from continuing their careers. This penalty combined with the FAA mandate produce an overly harsh result that hurts pilots and their families when they lose their pension plans.

My legislation only affects pilots. Pilot plans have been some of the largest pension plan terminations in history. Again, the FAA mandates that they retire at 60 and the PBGC's early retirement penalty occurs because they cannot continue to fly past age 60 commercially. My amendment will bring about much needed relief for United Airlines, US Airways, Aloha Airlines, TWA, Eastern Airlines, and Braniff pilots. It is important to note that pilots are the only private sector employees required to retire at the age of 60. I urge my colleagues to support my amendment.

I thank my cosponsors, Senators SPECTER, FEINSTEIN, SALAZAR, and INOUYE, for working with me on this amendment.

The PRESIDING OFFICER. The Senator from Wyoming.

Mr. ENZI. Mr. President, I allot myself some time in opposition to the amendment. I appreciate Senator AKAKA proposing the amendment, but I have to rise in opposition to it for a number of reasons. The biggest reason is the amendment changes how the Pension Benefit Guaranty Corporation calculates benefits for any one class of workers, which would be airline pilots. It is unfortunate that so many airlines have gone into chapter 11 bankruptcy and so many pilots have seen reductions in their pensions. Flight attendants and ground workers also deserve our attention, not just pilots. This carveout for pilots, who are some of the most highly paid professionals in our country, is unfair to other workers who also retire early but happen to have devoted their work lives to other positions in the industry.

Pilots are not the only workers who have expectations of subsidized early retirements. Many machinists, steelworkers, and autoworkers have early retirement benefits which are reduced under the ERISA guarantees. A retiree from any one of these industries has the same complaint as a pilot when his or her company goes bankrupt and dumps its pension plan on the Pension Benefit Guaranty Corporation. The steelworker or the auto parts maker has less notice that a problem could arise if the company went broke. Pilots know, when they start their careers, that they will not work past age 60 and pilots can plan accordingly.

The shortfall confronting pilots of bankrupt companies is not the result of a change in law. The limit on the PBGC guarantee has been on the books for years. Commercial airline pilots who are universally unionized have negotiated over these benefits with their airlines. The fact they retire at age 60 is factored into the structure of their plans. Pilots know they will likely stop flying before reaching normal retirement age of 65. That is why they negotiate rich retirement benefits on top of their high salaries.

It is too harsh to suggest that they in any way assumed the risk that their plans would fail, but it is well known that pilots are some of the most cautious and savvy investors. Risk is something they always anticipate.

On the merits, therefore, the Akaka amendment is unfair to other similarly situated workers and overlooks the fact that they have been before the parties for many years.

But, more important, this amendment at this time is kind of the ultimate non sequitur. This amendment on this legislation just does not follow. It does not fit. The Akaka amendment actually increases the deficit of the Pension Benefit Guaranty Corporation on a bill designed to save the agency from insolvency.

The PBGC estimates that if this provision were applied just to the United Airlines pilots plan, the unfunded guaranteed benefits in the plan would increase by more than $400 million. Additionally, if United pilots would cost $400 million, the cost to the PBGC for all pilots plans would probably exceed $1 billion. Ultimately, the cost is not borne by the PBGC, nor is it borne by the U.S. taxpayers. I hope my colleagues are well aware by now that the full faith and credit of the United States does not stand behind the PBGC. The additional $1 billion in new debt that the Akaka amendment would impose on the PBGC would be borne by all the other companies that sponsor and fund defined benefit pension plans. In this bill, we are already increasing the burden on those companies by about $4 billion through new premiums. Adding another $1 billion in debt is unfair and irresponsible, so I urge my colleagues to oppose the Akaka amendment.

The PRESIDING OFFICER. The Senator's time has expired.

The Senator from Wyoming.

Mr. ENZI. Mr. President, I ask unanimous consent for 30 seconds.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The Senator from Wyoming is recognized.

Mr. ENZI. Mr. President, I made a grave error. I mentioned the tremendous juggling job that Katherine McGuire, my committee director, has done, but I failed to mention Michael Myers, who is the staff director for Senator KENNEDY, who has been part of the juggling act on all of these bills as well, and has done a fantastic job. I apologize for that grave oversight and do want to thank him for his efforts.

I yield the floor and yield back any time.

The PRESIDING OFFICER. Under the previous order, the hour of 2:30 having arrived, the vote occurs on the Akaka amendment, on which the yeas and nays have been ordered.

The question is on agreeing to the amendment.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER (Mr. MARTINEZ). Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 58, nays 41, as follows:

[Rollcall Vote No. 327 Leg.]

YEAS—58

Akaka
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coleman
Conrad
Dayton
DeWine
Dodd
Dole
Dorgan
Durbin
Feingold
Feinstein
Harkin
Hatch
Hutchison
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lugar
Mikulski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Salazar
Santorum
Sarbanes
Schumer
Specter
Stabenow
Talent
Warner
Wyden

NAYS—41

Alexander
Allard
Allen
Baucus
Brownback
Bunning
Burns
Coburn
Cochran
Collins
Cornyn
Craig
Crapo
DeMint
Domenici
Ensign
Enzi
Frist
Graham
Grassley
Gregg
Hagel
Inhofe
Kyl
Lott
Martinez
McCain
McConnell
Murkowski
Roberts
Rockefeller
Sessions
Shelby
Smith
Snowe
Stevens
Sununu
Thomas
Thune
Vitter
Voinovich

NOT VOTING—1

Corzine

The amendment (No. 2583) was agreed to.

Mr. AKAKA. Mr. President, I move to reconsider the vote.

Mr. BINGAMAN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. BURR. Mr. Chairman, the proposed Treasury regulation "safe harbor" in the Pension Security and Transparency Act of 2005 states:

> The accrued benefit determined under this subparagraph shall be determined under regulations prescribed by the Secretary which are consistent with the purposes of this paragraph and which may require a plan to provide a credit of additional amounts or increases in additional account balances in amounts substantially equivalent to the benefits that would be required to be provided to meet the requirements of subparagraphs (B) or (C).

Mr. Chairman, am I correct in my understanding that the intention of this provision authorizing Treasury regulations is that the Secretary be given the widest latitude possible to approve cash balance conversions falling within the spirit of the conversion requirements?

Mr. GRASSLEY. The gentleman from North Carolina is correct in his understanding of the provision, that Congress intends for Treasury to have wide latitude and flexibility in determining which plans could qualify for safe harbor protection.

Mr. BURR. Mr. Chairman, do you agree that the provision is intended to allow Treasury to consider for purposes of the regulatory safe harbor cash balance plan conversions that are announced 5 or more years in advance, allow employees to continue to accrue benefits under the old formula until the conversion date and thereafter provide full protection for previously accrued benefits as well as the opportunity to "grow into" early retirement subsidies under the old formula; and that provide full cash balance plan accruals after conversion without wear away?

Mr. GRASSLEY. The cash balance plan conversion described by the distinguished gentleman would indeed be within the scope of the authority intended for the regulatory safe harbor.

Mr. BURR. I thank the distinguished chairman for this important clarification and for his hard work in developing this important legislation.

Mr. HARKIN. Mr. President, I appreciate that this is a tough, complex bill. I know that the HELP and Finance Committees have worked hard to make this a bipartisan measure and worked to include important provisions to help multiemployer pensions alongside single employer pensions, and I appreciate those efforts. There are some very useful provisions, here, that will help employers to fund pension plans predictably and fully—and to do so when times are good, so we can avoid crash landings when times are bad.

I rise to address the provisions in the bill on an issue very close to my heart: protecting workers in conversions to cash balance plans. I am pleased that we were able to reach a general consensus in this legislation on the cash balance issue. Of course, this compromise is not 100 percent of what I wanted, nor is it 100 percent of what my colleagues on the other side of this issue may have desired. But it is a solid bipartisan compromise. I am coming to the floor, today, to state why I strongly support the provisions in the bill before us, and to explain why I will do everything in my power to oppose any effort to weaken this legislation by giving retroactive approval to cash balance plans that have already been adopted, no matter how badly workers were treated in the conversion.

This is not a hypothetical conversation. Unfortunately, over the last decade, literally millions of employees have seen their traditional defined benefit plans converted into cash balance plans. And, in the process, many have seen their benefits significantly eroded. This erosion of benefits falls primarily on the backs of older workers, who can have their benefits reduced by many thousands of dollars.

The HELP-Finance compromise measure would fix this problem by requiring that, in the future, all cash balance plans must have a strong basic structure that provides some predictable level of wage replacement for workers, and by prohibiting companies from "wearing-away" or eroding the value of the benefits of their older workers, including early retirement benefits. Furthermore, the HELP-Finance compromise recognizes the problem workers face when they find the pension plan they had long counted on has suddenly been turned on its head, and gives people a grace period to continue to accrue benefits in the old plan while they make decisions for the future.

I should back up here, and describe this very complicated issue. In the early 1990s, a groundswell of companies started changing from traditional defined-benefit pension plans to "cash balance" pension plans. A cash balance pension is a hybrid between a defined benefit and defined contribution plan. Like a defined benefit plan, it is insured by the Pension Benefit Guarantee Corporation, and an employer automatically contributes some percent of an employee's pay to a hypothetical guaranteed account for the worker. This account then earns interest. Most defined benefit plans, however, calculate your benefit at retirement as some percent of your final average pay multiplied by the number of years you worked for the company.

Cash balance plans are different: in a cash balance plan an employer contributes a certain percentage of your paycheck to an account and then credits that account with interest. In that regard, a cash balance plan looks a lot more like your typical 401(k) plan, since you have a hypothetical account that you can watch grow over time.

As I noted earlier, during the 1990s, many companies began moving away from traditional defined benefit plans, and toward cash balance plans, for a variety of reasons. Many companies said cash balance plans would be easier for benefits managers to calculate, and easier for workers to understand. We were told the plans would better serve our Nation's new, more mobile workforce.

Unfortunately, many workers found there was often a different motivation for the conversions: to cut benefits. Older, retiring workers covered by these conversions learned, too late, that their retirement benefit was far less than they had expected.

The pension conversions eroded the benefits employees thought they had already earned. One way to erode benefits was to base benefits on a career average instead of highest years of pay average. It throws pay from when an employee was younger and earning less money into the average used for the pension. The motivation here is obvious. This will reduce the benefits that workers can expect to get toward the end of their lives. Then, it will "wear away" the benefits that workers already earned.

What is wear-away? Right now, under pension law, an employer cannot take away money an employee has already earned. If I leave a company tomorrow, I'll get the full value of everything it promised me up to that point. But in a cash balance conversion, as some employers have done the shift from a defined benefit plan to a cash balance plan, they have set up the new account balance at a lower level than the worker had previously accrued or earned in the old defined benefit account. Wear away happens when no new pension funds are added to what was already accrued till the value of the old pension is worn away to reach the level it would have been under the new cash balance plan. The effect? An older worker effectively earns nothing towards their pension for years, while younger workers do.

The length of time it takes for an employee to make up what has been lost is a long time because the wear-away is so significant. Here is a helpful chart from the GAO. This chart shows in the first column, a hypothetical 45-year-old's early retirement subsidy. It is frozen, because the plan is converted. Now, look where she started out under the cash balance formula. It takes her all these years to finally catch up to what she had in the first place. All I am saying is that she should start out in the new plan at the same place she left off in the old plan. Her 30-year-old coworker is getting money added to his account. Why shouldn't she?

The other problem in converting from a traditional plan to a cash balance plan is a complete reversal of the plan formula—so people lose a big chunk of their expected benefits. This is how benefits are accrued under a cash balance plan versus a regular plan. Can you honestly look at these rates of accrual and say that no one thought that there might be a problem for older workers who get caught in the middle, here, and get the downside of both plans? They get the front end of a back-loaded plan, and the back end of a front-loaded plan. Maybe these CFOs are just really bad at math—went to Wharton Business School, but still can't add. I don't know.

Employers are claiming that these are great plans for workers. Sure, they are better than plan termination. But, they turn traditional pensions on their head, taking benefits from older workers and redirecting them to younger folks. Then they say these plans are so terrific for younger workers, but in reality 40 percent of people in these plans never see any benefit at all because they didn't even work at a company long enough to vest.

This is, was, and always will be age discrimination. And it is something that Congress has never before acted to approve. After these injustices were exposed in 1999, I introduced legislation to ban wear-away. While it did not pass, it raised the profile of this problem. That September, the Treasury Department stopped issuing letters of determination stating that these plans meet some basic IRS standards out of concern over how workers were losing out in conversions.

In 2000, the Senate unanimously passed my sense of the Senate resolution saying that it is unfair for older workers to see the benefits they have worked for eroded or worn-away in cash balance conversions. That sense of the Senate state that: "For a number of years after a conversion, the cash balance or other hybrid benefit formula may result in a period of "wear away" during which older and longer-service participants earn no additional benefits."

It said: "Federal law should continue to prohibit pension plan participants from being discriminated against on the basis of age in the provision of pension benefits."

The Senate agreed, in 2000, that: "It is the sense of the Senate that the levels in this resolution assume that pension plan participants whose plans are changed to cause older or longer-service workers to earn less retirement income, including conversions to "cash balance plans," should receive additional protection than what is currently provided, and Congress should act this year to address this important issue. In particular, at a minimum: (1) all pension plan participants should receive adequate, accurate, and timely notice of any change to a plan that will cause participants to earn less retirement income in the future; and (2) pension plans that are changed to a cash balance or other hybrid formula should not be permitted to "wear away" participants" benefits in such a manner that older and longer-service participants earn no additional pension benefits for a period of time after the change.

In 2003, the House and Senate both passed an amendment to the Treasury-Transportation Appropriations measure to block Treasury from promulgating a proposed rule that would have blessed these plans, because they left room for age discrimination. That provision was changed in conference to instead direct Treasury to propose legislation that would help workers caught up in these conversions, and Treasury did so. Treasury sent up a bill that said you can convert to a cash balance plan, but only if you don't wear away currently accrued benefits, and only if you allow people to accrue benefits in the old plan for 5 years after the conversion. Now this legislation did not go quite as far as my bill, but it did firmly state that wear away is unacceptable. It also acknowledged that these conversions result in a serious loss of expected benefits, and some transition period is necessary to help older workers.

Prior to Treasury Secretary John Snow's confirmation vote, Senator DURBIN and I asked him to come to the Senate and talk with us about his intentions on cash balance. He said that fairness and equity would guide the rule of law, and that he would work to protect the workers. After all, when he was CEO of CSX railroad, he put in a cash balance plan. But he gave everyone who worked there a choice between the old and new plans.

His proposed legislation was much fairer to workers than the regulation that had been proposed during the gap between Secretary O'Neill's tenure and Mr. Snow's nomination.

The HELP-Finance bill continues to uphold the principle that has long been supported here in Congress: Cash balance conversions should only be allowed if they are done right, without allowing companies to gouge older workers.

The bipartisan compromise in this bill guarantees this by prohibiting wear-away in future conversions. It requires employers to give older workers a grace period during which they can continue to accrue benefits in the old plan. It says that, because cash balance plans weren't in fact as portable as advertised, we need to make them vest faster so that they actually do provide the benefits to younger workers that have been advertised.

This compromise is very similar to the legislation proposed by the Treasury Department that I outlined above. It is the exact same language as the Frist-Grassley-Baucus-Lott amendment in the Finance Committee's pension markup. It is an excellent example of finding common ground, which is exactly what we should do on this issue. This is not a partisan issue. Retirement security matters to everyone. Keeping promises to workers is critical to our workplace climate. Likewise, it is important for workers to be loyal to their employers. Preserving this tradition is critical to maintaining a skilled, productive workforce.

Turning to another issue, I am pleased that the managers of this bill have decided not to accept any proposals that would amend the fiduciary standards in ERISA to allow pensions to invest in riskier investments, and engender conflicts of interest for pension fund managers. These proposals will expose the retirement income of millions of pension plan participants and beneficiaries to the risk of loss from self-dealing, conflicts of interest and other abuses that have been prevented by ERISA for the last 30 years.

Under current regulations, if 25 percent or more of a hedge fund's assets come from employee benefit plans, including private-sector, public-sector and foreign benefit plans, the investment manager must comply with ERISA. The hedge fund industry would like to weaken that standard greatly by no longer counting public and foreign plan assets and increasing the threshold to at least 50 percent—and as much as 75 percent in some cases.

Part of the reason Congress enacted ERISA in the first place were numerous findings by Congress of pension fund mismanagement. We put fiduciary standards in place to prevent exactly these kinds of conflicts of interests and dangerous financial dealings. I can't understand why at a time when we clearly need to tighten those standards how anyone could work to loosen them.

For too long, pension funds have been seen as a cash cow for CFOs to play with to help bolster the bottom line. Questionable enough when times are good, these methods can be disastrous when investment schemes don't pan out.

I would like to call my colleagues' attention to an excellent article in Congressional Quarterly from September 3, 2005. This article really lays out the basis for much of the so called "perfect storm" we are facing today with pension funding. For the past few years, there have been numerous reports about money evaporating from pension plans. According to those reports, pension funds were being depleted through no fault of those who managed them, but simply because liabilities were increasing exponentially because of the sinking 30-year Treasury rate and the drop in the stock market.

What these stories left out, however, is the fact that decisions made by pension managers contributed significantly to the problem. Beginning in the early 1990s, stocks began to make up a much bigger share of plan assets than they ever had in the past. Stocks went from making up 44 percent of pension plan investments in 1980 to 62 percent in 2004.

Why the shift? According to Bradley Belt at PBGC, interest rates in the 90s were generating 25 percent to 30 percent returns to plans—in other words, investing in stocks were generating so much revenue that on paper, these plans no longer looked like a cost to the company, but instead appeared to be generating profits.

But as we all know, what goes up must often come down. This gamble with the pension security of millions of Americans resulted in massive losses when stocks fell. The PBGC is now in crisis in large measure because of these investment decisions—which is why we are here on the floor trying to figure out how to shore it up.

Why do I bring this all up? Some of my colleagues are talking about making it even easier to invest in even riskier investment vehicles. The irony of pushing a proposal backed by the hedge funds onto a bill to rescue a drowning PBGC and revive a struggling defined benefit pension system is beyond comprehension.

This is absolutely not the time to weaken requirements on pension asset investments. It's no secret that we are in the position we are in because of lax standards in the past. Loosening them in the future will be absolutely disastrous.

Mr. ALLARD. Mr. President, today, I come to the floor of the Senate to briefly state my thoughts about a component of the bill under consideration, the Pension Security and Transparency Act of 2005. I commend both the Senate Finance and HELP Committees for their hard work, and tireless efforts to work towards a bill that we all can support.

A variety of Colorado companies, including Arch Coal, IBM, Gates Rubber, and Qwest Communications, have been carefully following the debate on pension reform. These companies are significant employers in Colorado, and they contribute to the State's economy in countless measures. Many companies, including these, have been affected by the recent court decision Cooper v. IBM, and in turn I have been paying particular attention to the development and treatment of so-called hybrid pension plans. Hybrid pension plans, a combination of a defined benefit and defined contribution, were ruled illegal by one judge, saying that they were discriminatory based on age, since younger workers had more time to accrue more value in their pension than older workers. Since the court decision, IBM and many other companies with similar hybrid plans have been trying to interpret the court's ruling, and the future direction of their pension plans. These companies are trying to do the right thing for their workers. Currently, they are caught in a situation that does not give them any clear guidance or direction on how to help their employees.

As this bill is currently written, it does not provide the necessary validation for the 1,700 existing hybrid pension plans and their 9 million participants and opens the door for more litigation for more companies. If new conversion mandates are put into place, many of these employers may be forced to leave the defined pension system altogether, possibly reducing retirement security for workers. As everyone knows, the defined benefit system is a voluntary system. When companies first started offering defined benefit plans for workers it was an excellent benefit for workers and for their companies. However, now many companies are forced to give up offering defined benefit and the hybrid pension plans because of the legal uncertainty.

While I commend Chairman GRASSLEY and Chairman ENZI for working with their committees and reaching a compromise, I cannot help but point out that this issue is not completely addressed in S. 1783. My hope is that once this bill reaches the conference committee, hybrid pension plans will be a point of focus. I would be happy to work with my colleagues on this issue. It is important to Colorado, and important to many other companies nationwide.

Mr. REED. Mr. President, the Senate is undertaking a long awaited debate on the need to strengthen the private pension system. It is imperative that current and future retirees are assured that they will receive the pension benefits they have been promised so they are able to enjoy a secure retirement.

I am deeply concerned about the growing economic insecurity of today's workers. Despite recent economic growth, a healthy jobs recovery has yet to take hold, wages are failing to keep pace with inflation, income inequality is growing, employer-provided health insurance coverage is falling, and private pensions are in jeopardy. Indeed, strong productivity growth has translated into higher profits for businesses, but not more take home pay for average workers. The stagnation of earnings in the face of soaring prices for gasoline, home heating, food, and health care is squeezing the take home pay of workers.

Any wage gains we have seen seem to be concentrated at the top of the earnings distribution, while the largest losses are at the bottom. Over the past 4 years, average household income has fallen for all income groups except a small slice at the very top of the distribution. Those developments stand in sharp contrast to what happened in the 1990s, when wage and income gains were strong for all income and earnings groups.

At the same time that earnings are stagnating, the average worker's retirement prospects are more uncertain than ever. Twenty years ago, most workers with a pension plan could expect to receive a defined benefit based on years of service and salary. Today, defined contribution plans—which shift most of the investment risk and responsibility onto workers—have become the dominant form of pension coverage. As a result of this increased risk and responsibility, average workers may end up with inadequate retirement savings.

Despite the shift away from traditional pensions, defined benefit plans remain a critical source of retirement support, with 44 million workers and retirees relying on such plans as a source of stable retirement income. However, as we have seen by the recent pension terminations in the airline industry, the real risk of defined benefit plan defaults further exacerbates workers' uncertainty and concern about their retirement prospects.

The Pension Benefit Guarantee Corporation estimates that total underfunding in PBGC-insured pension plans is about $450 billion, more than $100 billion of which is in plans sponsored by financially weak companies and at reasonable risk of default.

And what of the status of PBGC itself, which serves as a backstop to the defined benefit pension system? At the end of 2005, the PBGC reported a cumulative deficit of $22.8 billion in its single-employer program. That figure is a slight improvement from a year earlier, when the shortfall was $23.3 billion which is the largest deficit in the program's 30-year history, and a sharp deterioration from only a few years ago when the single-employer program was in surplus. The deficit is expected to get worse in 2006, as PBGC will account for additional liabilities that it has taken over for the new fiscal year resulting from a number of major airlines and manufacturing companies who have defaulted on their pension obligations.

While the PBGC has sufficient assets to pay benefit obligations for a number of years, without changes in funding, the agency will eventually run out of money. The Congressional Budget Office estimates that PBGC's cumulative deficit will increase to $87 billion over the next 10 years, and suggests that there is a significant likelihood that all of PBGC's assets will be exhausted within the next 20 years.

The increased number of pension defaults means lost benefits for participants whose earned benefits exceed the statutory maximum benefit guarantee; premium increases for healthy plan sponsors remaining in the system; and ultimately the risk of a taxpayer bailout of the PBGC.

Clearly, the private pension funding system needs reform and the bill before us today, S. 1783, the Pension Security and Transparency Act of 2005, is movement in the right direction. I know that Chairman ENZI, Ranking Member KENNEDY, Chairman GRASSLEY, Ranking Member BAUCUS, and their staffs worked long hours to get to this point.

The bill tightens the funding rules to ensure that defined benefit plans are adequately funded. Limiting the use of credit balances to prevent companies with unfunded plans from avoiding plan contributions and requiring an accurate accounting of each plan's true financial condition are important steps.

But we must also avoid imposing unnecessarily burdensome funding requirements on plan sponsors that are playing by the rules. An asset valuation approach that doesn't allow for short-term fluctuations in the stock market will only exacerbate the inherent volatility in pension plan funding and increase funding burdens during economic downturns when companies can least afford them.

The bill also requires truth-in-funding disclosures for companies with underfunded pension plans so participants and other stakeholders can learn the true financial condition of their pension plans, as well as the potential loss of benefits if the plan terminates. This is an especially important safeguard for workers whose pension benefits exceed the PBGC's maximum benefit guarantee limit.

In order for the PBGC to remain a viable insurance program that continues to protect workers and retirees, its current funding gap must be closed. Recognizing this, the bill increases PBGC premiums to $30, while ensuring that companies whose plans pose the greatest insurance risk actually pay the additional premium for that risk.

S. 1783 would also prohibit companies from funding nonqualified plans under certain circumstances, including bankruptcy, significant underfunding of regular pension plans, or the termination of an underfunded regular pension plan. This is a positive development in addressing inequities of what has become a two-tiered pension system. Too often, the executives of those companies that default on their pension obligations escape with padded executive retirement packages while the average worker is left holding the bag. Companies that underfund or default on their regular pension obligations should be prohibited from funding and paying out benefits from special executive pension plans.

Finally, as new types of defined benefit plans evolve, we must ensure that older workers are protected and don't lose the benefits they have been promised.

The Pension Security and Transparency Act makes positive strides toward ensuring that workers will receive the full pension benefits they have earned. While the bill reflects difficult compromises, it is important that we act now to preserve the financial health of defined benefit pensions. I urge my colleagues to not stop here. We must continue work to improve our pensions system to ensure that Americans who work their entire lives have the financial security they deserve and worked so hard for when they retire.

Mr. GREGG. Mr. President, we must get serious as a Congress and a nation about across-the-board retirement reform. It is time every American worker has a sense of ownership over his or her retirement income and the promises that have been made.

To do so requires valid information about the security of his or her future retirement income, and current and relevant information to be able to make smart choices when options are available.

Beneficiaries must be timely notified when their retirement income is in jeopardy; workers must be assured that the law doesn't allow and even encourage hollow promises. Employers and union leaders should be prohibited from offering rank-and-file members benefit increases that cannot be paid for, particularly when a company is below investment grade.

The law must place a tangible price on all plan underfunding to limit the moral hazard of shifting risk to beneficiaries, the PBGC, and other companies paying premiums. Accounting schemes that paper-over massive funding shortfalls must be outlawed, and interest rate policies should be straightforward to administer and consistent with each plan's liability payout schedule.

Continuing the underlying 30-year-old pension law is not an option. It is a law without transparency where union bosses and irresponsible management are allowed to go into back rooms and make promises they know cannot be kept.

If we continue the status quo, we will move ever closer to the precipice of the slippery slope to a taxpayer bailout of the pension insurance system.

Those who make and then break their promises have now pushed us to the edge of a raid on the U.S. Treasury.

The Budget Committee held a hearing back in June where we heard testimony from the Congressional Budget Office, CBO, and the administration that confirmed the Nation is already in the midst of a retirement crisis. I am not speaking of the crisis in Social Security but of private pension plans and the program that insures benefits when sponsors default on their promises.

Since then, the CBO has prepared two additional reports analyzing the current state of health of defined benefit pension plans and the Pension Benefit Guaranty Corporation the Government insurance agency that insures them. Employer groups, think tanks, and the financial press have also widely reported on the poor health of America's single employer defined benefit pension system. The consensus is indisputable that we have a crisis on our hands on our watch if you will.

The PBGC already has a serious deficit and a cash crisis looming with a clock that will toll 20 or 30 years sooner than what we expect in the Social Security system. While many criticized the PBGC over the last year as being overly pessimistic in projecting a $23 billion deficit, we learned just yesterday with their year end reporting that not only was the PBGC surprisingly accurate—posting a deficit of $22.8 billion, if recent events that occurred right after the end of the fiscal year had been included, the deficit in the single-employer program would have been posted at $25.7 billion—a 10 percent increase.

Furthermore, because accounting standards require the PBGC to disclose additional information on the change in its net position, we learned that PBGC's exposure to losses from plans sponsored by weak employers has risen to $108 billion from $96 billion just a year ago—that is an increase of 13 percent in a year when sponsors would have had us believe things are not as bad as they seem.

Just last year, there were 120 defaults requiring the PBGC to assume responsibility for pension benefits of an additional 232,000 workers and retirees. In just 3 short years, the PBGC has taken on more workers' retirement responsibilities than the previous 27 years combined.

We are obviously in a crisis and something must be done. Unfortunately, the bill before us today is only a very modest and incomplete step toward addressing the issue.

With regard to the PBGC's health, modification to premium levels fall $1.7 billion short over 5 years from what was reported just last month by the HELP Committee in meeting its budget reconciliation instruction, comparatively lowering the level of resources available to the PBGC to take on the responsibilities of plan defaults.

With regard to the health of pension plans themselves, the administration has analyzed the funding rules in the bill and reports that its provisions do not improve the underlying funding requirements for plan sponsors over current law.

With regard to innovative retirement programs offered by employers, I continue to have serious reservations about the measure before us today and its failure to provide comprehensive clarification of the law applicable to cash balance and hybrid pension plans.

The Congress should be able to enact legislation stating unequivocally that providing interest on employees' pensions is an important benefit protection and is not and never has been age discriminatory, and that Federal law does not and never has required any type of pension plan to pay out lump sum benefits that are much larger for younger employees than for identically situated older employees.

At best, the bill half heartedly recognizes these principles only as to the future and then only subject to numerous qualifications and benefit mandates—apparently trying to dance around the concerns of some who would try to repeal laws of mathematics, specifically the effect of compound interest.

The failure to acknowledge the legitimate status of plans already in place leaves companies that provided generous pension benefits to their employees, many of them with favorable determination letters from the IRS, facing hundred of billions of dollars in potential liabilities and continues a legal landscape for frivolous lawsuits and attempts by the plaintiff bar to extract unreasonable settlement agreements.

The numerous qualifications and benefit mandates in the bill applying to hybrid plans are more likely to discourage employers from continuing innovative pension plans. Indeed, the only parties that clearly benefit from these provisions as currently drafted are trial lawyers who will gladly file frivolous lawsuits and extract settlement agreements with no basis in underlying Federal law.

On the plus, side, the bill does improve transparency and more-timely notification to participants regarding their retirement plan's health—a significant step in moving toward making more information public and allowing the marketplace to more reliably take into account funding decisions of plan sponsors.

Fortunately PBGC payments are generally not made on a lump sum basis unlike withdrawals on a savings & loan. Nevertheless, the pension insurance fund will first run short on cash in just under 5 years. It will take roughly another 15 years to liquidate its remaining assets to pay claims but then all its resources are gone.

If Congress allows shortcomings in current law to remain, more defined benefit pension plan terminations will happen, and millions of workers will receive only a fraction of the retirement they were promised.

Consider that in 1986 there were over 170,000 defined benefit pension plans. That number has dropped to roughly 56,000. Just since 1999, 7,500 defined benefit plans were terminated—a drop of 19 percent in just 3 years. Continuing a broken system and the uncertainty about promising opportunities to preserve creative defined benefit approaches to retirement plans such as cash balance plans will only increase this trend.

Specifically, absent stronger funding rules, clarifying the legitimacy of innovative plans, improved transparency and increased premiums, employers will have little incentive to restore faltering pension plans to financial stability, and the PBGC deficit will continue to grow, posing an ever greater risk that taxpayers will be asked to step in and bail out the private defined benefit system long before social security goes in the red.

To be very clear, we are very close to the slippery slope of no return from a default crisis of a magnitude that cannot be handled alone by premium increases on employers to shore up the PBGC.

I am disappointed that the measure we have before us today does not solve the defined benefit pension crisis and at best only postpones a political fight about the advisability of a taxpayer bailout of pension promises made by American companies to American workers. But we must move the legislative process forward.

If Congress doesn't act, the PBGC will need to charge even higher premiums for companies that remain in the system, significant economic losses affecting beneficiaries and investors will result, and pressure for a taxpayer bailout will be seen as a commonplace solution to the crisis, resulting in the likely demise of defined benefit pension plans altogether.

While I commend the chairman and ranking member for a significant amount of hard work and progress on these challenging issues, there are still important areas that I believe require a great deal of work. I strongly encourage the chairman to ensure that the shortcomings in this bill that I have identified today be corrected as it moves through the remainder of the legislative process.

An incomplete fix to these issues will have a devastating effect on companies, current workers, and retirees. I understand that this bill is a work in progress and my concerns will continue to be addressed as this legislation proceeds through the legislative process. For the retirement security of millions of American workers and taxpayers, I hope so.

Mr. KERRY. Mr. President, today we are debating the Pension Security and Transparency Act of 2005 which is the culmination of the efforts of the Finance Committee and Health, Education, Labor, and Pensions Committee to improve the funding of both single and multiemployer defined benefit plans. I commend Senators GRASSLEY, BAUCUS, ENZI, and KENNEDY for their efforts in reaching bipartisan compromise legislation. We all agree that defined benefit plans are underfunded and that this issue needs to be addressed.

At the end of fiscal year 2005, the Pension Benefit Guarantee Corporation had $22.8 billion in underfunding in its single employer program. The PBGC's liabilities for fiscal year 2006 are expected to be much higher. If other liabilities that the PBGC assumed after the end of the fiscal year were counted, the 2005 deficit would have been $25.7 billion.

We cannot allow the underfunding of pensions to continue. This legislation takes the right approach by striking the appropriate balance. We want to protect employees, but we do not want to make defined benefit plans so restrictive that employers will not offer them.

The focus of the Pension Security and Transparency Act is to improve the funding of pension plans and to provide more disclosure, but this legislation does address other important pension issues. The Senate Finance Committee has reported out pension legislation in past Congresses that was not addressed by the full Senate. The first reiteration of Senate Finance pension legislation focused on defined contribution issues that arose in light of the collapse of Enron. Along with Senator SNOWE, I introduced legislation which strengthened defined contribution plans by requiring diversification and disclosure. Many of the provisions from this bill were incorporated into the Finance bill.

Even though the collapse of Enron is behind us, the lessons learned remain. It is important for defined contribution plans to be required to allow workers to diversify their contributions out of employer stock. The rank and file employees of Enron do not want anyone else to have the same experience that they had. These provisions are overdue.

Other lessons can be learned from the Enron debacle. Back in 2001, we were all repulsed by the stories of corporate greed and how executives crafted elaborate schemes to falsify the true financial status of the companies. Enron reminded us about the problems with excessive executive compensation.

Unfortunately, excessive executive compensation remains an issue today. Due to the work of the Finance Committee on executive compensation an end has been put to some abusive practices, but some still remain. One in particular that I find troubling is the funding of nonqualified deferred executive compensation prior to the funding of the corporation's pension plan.

In recent years, a number of large companies set aside millions of dollars to fund the pensions of top executives, but they do not bother to fund their pension plans. Companies that chose to do this were not violating laws by doing so, but this legislation will change this. Under this legislation, for the first time the funding of nonqualified deferred executive compensation will be linked to the funding of pension plans.

Executives of financially weak companies will no longer be able to take care of themselves. We repeatedly hear about executives that negotiate deferred compensation to ensure that they have a lucrative nest egg, even if the company is struggling or about to go bankrupt. We cannot stand for this any longer.

This legislation includes a provision which I worked to have included in the Finance Committee bill. Financially weak companies will no longer be able to fund executive compensation unless their pension plan is 80 percent funded. Initially, the Finance Committee restricted the funding of deferred executive compensation for companies with plans that are funded at 60 percent or less. I thought 60 percent was too low because a plan is already in trouble at this point. In addition, no benefit increases will be allowed if a plan is funded at 80 percent or less. There is no valid reason why deferred executive compensation should be funded if a pension plan is funded at a level at which benefit increases are restricted.

Employers have a responsibility to fund pension plans. They should not make promises to their employees and fail to keep them, while they are taking care of their own retirement.

The bill before us today does the right thing by restricting the funding of deferred executive compensation for financially weak companies that have pension plans funded at 80 percent or less and for all companies that have pension plans funded at 60 percent or less.

In June, the PGBC released data on the underfunding of pension plans with more than $50 million in unfunded pension liabilities. This data shows that these plans have an average underfunded ratio of 69 percent. Back in 2000, the average funding ratio was 82.8 percent.

While pension funding has been on the decline, deferred executive compensation is increasing. We need to send a message to corporate executives that they need to fund the pension plans of their workers before they reward themselves with extremely generous benefits for life. I see this not as punitive, but as meeting our responsibility to demand better performance from the executives who can do the most to put pension funding on track. Ultimately, this proposal will protect the taxpayer.

The Pension Security and Transparency Act of 2005 includes provisions which make slight modifications to the funding rules for interstate bus companies. I worked to have these provisions included in the Finance Committee bill. These provisions address a unique situation in which the average age of the participant of the plan is much older than participants in other plans. Congress has addressed this issue before on a temporary basis and the provision in the chairman's modifications would make this relief permanent. It will help retirees in my home state of Massachusetts, and it is an equitable outcome.

Not only does this legislation address single employer plans, it strengthens multiemployer plans. The Pension Security and Transparency Act of 2005 includes important provisions which strengthen the funding rules for multiemployer pension plans. Multiemployer pension plans play a vital role in our pension system. Multiemployer pension plans are collectively bargained arrangements between a labor union and a group of employers in a particular trade or industry. These plans provide a way for workers in industries where job changes are frequent to save for retirement. Pension coverage continues when an employee changes jobs if the new employer is with a participating employer.

The Pension Security and Transparency Act would require troubled plans to improve their finance condition and severely underfunded pension plans would be required to adopt a ten-year rehabilitation plan. This legislation requires the Secretary of the Treasury, and the Executive Director of the Pension Benefit Guaranty Corporation to issue a study on the state of multiemployer funding in five years.

I proposed an amendment which was added to the bill. This provision requires the study to look at the effects that the new funding rules have on small employers and other issues that they face, including the impact of withdrawal liability. Employers that wish to discontinue their cosponsorship of a multi employer plan are required to pay a withdrawl liability, which represents the sponsors' pro rata share of the plan's underfunded liabilities.

Recently, I heard from a small business owner in Massachusetts who contributes to a multiemployer plan and he explained how his withdrawal liability has increased rapidly over the last five years. Some of this is due to corrections in the stock market, but part of it is due to a decrease in companies paying into plans. This small business described withdrawal liability as a "vicious death spiral"—as more companies go out of business or otherwise withdraw from the pension fund, withdrawal for the remaining employers rise.

This provision would require the impact of withdrawal liability on the financial status of small employers to be studied. In addition, the study would look at the role of the multi employer pension plan system in helping small employers to offer pension benefits.

The multiemployer pension system serves an important role in our pension system and we do not want to make these plans a burden for small businesses. If withdrawal liability continues its vicious spiral, it will be difficult for multi employer plans to attract new employers and existing employers could be faced with a situation in which their withdrawal liability exceeds their assets.

In addition, the Pension Security and Transparency Act would incorporate provisions from the Save More for Retirement Act of 2005 which I have cosponsored. These provisions will encourage workers to participate in retirement plans by providing innovative incentives for employers to modify their existing plans to add provisions that will increase savings. Employers will be able to automatically enroll their employees in 401(k)s upon being hired unless the employee notifies the employer that he or she does not want to participate. Studies have shown that this simple change will dramatically increase participation rates. This is a simple improvement that should increase our drastically low national savings rate.

We might not all agree with every single provision in this bill, but overall it reflects a balanced approach to a problem that needs to be addressed. Plans need to be adequately funded. The rules cannot be draconian and lead to the termination of pension plans by employers.

Pensions are a central part of our retirement system and we need to ensure continued participation by employers. Retirement is based on three components: personal savings, employer provided pensions, and Social Security. All three components are necessary for a sound retirement system that is able to provide for most of America's retired workers.

Our current pension laws are inadequate. Employers have not properly funded their pension plans, workers have been promised more than their pension plans can possibly 3 deliver, and the PBGC can not be expected to cover the difference. At the same time, the financial burden of employer-provided pensions is real, and it threatens some of our major companies and the jobs they provide today.

This issue is not going away. The PBGC estimates that its shortfall could approach $100 billion dollars based on the underfunding of plans which have been classified as reasonably possible of termination.

We should avoid a subsidy or bailout with general revenues. The PBGC operates with no taxpayer assistance today and it was designed to be financially independent of the Federal Government. We should maintain that.

Passing the Pension Security and Transparency Act of 2005 is a step in the right direction to preserving our defined benefit pension system.

Mr. ROBERTS. Mr. President, I commend my colleagues on both sides of the aisle for crafting this comprehensive pension reform measure to strengthen the defined benefit pension system and ensure the solvency of the Pension Benefit Guaranty Corporation.

One provision that I am pleased we were able to find bipartisan agreement on and include in S. 1783 is language that recognizes the special nature of multiple-employer defined benefit plans. These multiple-employer plans are sponsored by rural electric, rural telephone, and agriculture-related cooperatives. Nationwide, more than 1,700 cooperatives participate in a multiple-employer plan, providing benefits for over 109,000 workers and retirees. In Kansas, more than 160 cooperatives will benefit from the multiple-employer provisions in this bill.

These cooperatives are not-for-profit, and provide at-cost services to their consumer owners. Multiple-employer defined benefit plans allow cooperatives to pool experience and expenses by maintaining a single plan as opposed to single-employer defined benefit plans that cover just one company's employees.

For companies that sponsor a single-employer plan, if that company goes out of business, the pension plan terminates, and if underfunded, creates risk to the PBGC. Multiple-employer cooperative plans are different because the pension plan continues to operate even if some cooperatives go out of business. Most importantly, no liabilities shift to the PBGC. These cooperative plans are ongoing plans that can outlive many of their participating employers, and are treated as such under this bill.

The Health, Education, Labor and Pensions Committee, of which I am a member, and the Finance Committee, both recognized the special nature of multiple-employer plans, and their lack of risk to the PBGC, in their respective pension bills. During consideration of the HELP Committee's pension bill, the Defined Benefit Security Act, an amendment I offered to clarify the treatment of multiple-employer cooperatives was approved by unanimous consent. The Finance Committee adopted a different approach to recognize the unique nature of multiple-employer plans.

As the committees worked to bring a bill to the Senate floor, I, along with several of my colleagues, shared our concerns about the need to include multiple-employer cooperative language in a final bill in a letter to the chairmen and ranking members of the HELP and Finance Committees.

While different from the provisions of both the HELP and Finance Committee bills, the multiple-employer provisions in S. 1783 achieve their goal. S. 1783 provides a 10-year delayed effective date for these rural cooperative plans, continues to exempt these plans from the bill's at-risk rules, and provides special funding and premium rules during this 10-year period. With regard to funding, these plans will use the four year weighted average of the third segment rate of the corporate bond yield curve created in this bill. For purposes of the premium rules, these plans will use a spot version of the third segment rate.

Mr. President, I urge the inclusion of the multiple-employer rural cooperative provisions contained in S. 1783 when a final pension reform bill is sent to the President for his signature. These provisions have bipartisan support, recognize the special nature of rural cooperatives, and provide an important benefit for over 109,000 employees and retirees across the country.

I ask unanimous consent to print the letter to which I referred in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

U.S. SENATE,
Washington, DC, September 23, 2005.

Hon. MICHAEL B. ENZI, Chairman,
Hon. EDWARD M. KENNEDY, Ranking Member,
Committee on Health, Education, Labor, and Pensions, Russell Senate Office Building, Washington, DC.
Hon. CHARLES GRASSLEY, Chairman,
Hon. MAX BAUCUS, Ranking Member,
Committee on Finance, Dirksen Senate Office Building, Washington, DC.

DEAR CHAIRMAN ENZI, CHAIRMAN GRASSLEY, SENATOR KENNEDY AND SENATOR BAUCUS: We write to urge you to continue recognizing the special nature of rural cooperative "multiple-employer" defined benefit plans sponsored by the National Rural Electric Cooperative Association, the National Telecommunications Cooperative Association and the United Benefits Group (agriculture-related cooperatives), as you work toward an agreement on comprehensive pension reform. By design, these rural cooperative plans are different because they would continue to operate even if some cooperatives go out of business. Most importantly, no liabilities shift to the Pension Benefit Guarantee Corporation (PBGC).

Both the Health, Education, Labor and Pensions Committee and the Finance Committee have recognized the special nature of "multiple-employer" defined benefit plans of these rural cooperatives. We believe that any bill sent to the floor for consideration should include both Committees' provisions.

These rural cooperatives are not-for-profit, and provide at-cost services to their consumer-owners. Their defined-benefit plans permit them to pool experience and expenses by maintaining a single plan for hundreds of employers, as opposed to single-employer plans that cover only one company's employees. We have concerns that unless these specific cooperative provisions are included, these entities may be forced to either reduce benefits to their employees or pass along substantially increased costs to their member-owners.

For companies that sponsor a single-employer plan, if that company goes out of business, the pension plan terminates, and if underfunded, creates risk to the PBGC. Again, these rural cooperative plans are different because the pension plan continues to operate even if some were to go out of business, and no liabilities shift to the PBGC. In fact, none of the liabilities of these rural cooperative "multiple-employer" plans have ever been shifted to the PBGC.

These rural cooperative plans are ongoing plans that can outlive many of their participating employers, and they should be treated as such under any bill that goes to the floor. Again, we urge you to include both Committees' provisions in any bill sent to the floor to recognize the special nature of rural cooperative plans, their ongoing nature, and their lack of risk to the PBGC.

Thank you for your consideration of this request.

Sincerely,

Pat Roberts, Lamar Alexander, Johnny Isakson, Gordon Smith, Craig Thomas, Tom Harkin, Jeff Bingaman, Ron Wyden, Tim Johnson, John Thune.

Mr. LEVIN. Mr. President, the issues addressed in this pension bill are complex. We are treading into a swamp of technical terms and complicated plans. But the core issues are simple matters of fairness. Will retirees receive the benefits they were promised? And will the companies who are trying to do right by their workers be encouraged rather than unfairly penalized?

About half of all private sector workers participate in one of two general types of employer-sponsored retirement plans: a defined-contribution plan or a defined-benefit plan.

Defined-contribution plans, such as a 401(k) plan, are much like individual savings accounts into which employers and employees contribute. These funds are then usually invested into stocks and bonds with the hope that the investment will grow as the worker approaches retirement. When the worker does retire, the balance of the account is available for him or her to withdraw.

Defined-benefit pensions, by contrast, guarantee an employee a certain amount of retirement benefits, typically based on years of service and salary level. To pay these promised benefits, the employer sets aside money in a combined pension fund, which is then invested. The employer decides how that fund is invested and retains control over the funds until dispersed to the retirees.

It is this second category, defined-benefit pensions, that are facing a crisis today. Due to swings in the stock market, complex funding rules, changes in the business climate, or unforeseen developments, companies' defined-benefit pension plans are underfunded. Some companies have declared bankruptcy to get out of their pension obligations, and there is reason to worry that this disturbing trend will continue.

When a company sloughs off its pension obligations in bankruptcy, the Federal pension insurance agency, the Pension Benefit Guaranty Corporation PBGC, steps in to ensure retirees receive benefits, up to a maximum of about $46,000 per year for employees who retire at age 65. The PBGC is self-funded through insurance premiums and fees paid by companies with defined-benefit plans. With the PBGC taking on more companies' pension obligations, however, there is less money coming into the PBGC and more money going out. The PBGC announced just yesterday that it is running a deficit of $22.8 billion.

Ultimately, if the long-term health of the PBGC continues to decline, many people are concerned that only a taxpayer-financed bailout would allow retirees to receive the benefits they were promised.

We need to strengthen the defined-benefit system so that that does not happen. We must encourage the recovery, rather than the termination, of underfunded and vulnerable pension plans. If we can shore up these plans without doing undue harm to the companies, the concerns about PBGC's fiscal problems will be addressed.

To do so, companies should be required to adequately back up the promises they have made to their workers. And changes in Federal pension policy should help them. For example, we need to reduce uncertainties for employers making a good faith effort to meet their obligations. We also need to ensure that we do not give incentives to employers who offer hybrid pension plans to either jettison their retirement plans entirely or offer only defined-contribution plans.

In this way, I believe it is possible to improve retirement security while also reducing the long-term exposure of the PBGC.

However, I have serious concerns that the bill before us today will do some significant harm in the effort to do positive things.

One provision of particular concern would require the pension plans of companies with plans that are less than 93 percent funded who also have declining credit ratings to be considered "at-risk." Once considered "at-risk," companies must use different actuarial assumptions that require them to sock away significantly more money into their pension trusts. That provision alone could require companies to put unnecessarily high amounts of additional dollars into their pension plans. These are dollars that could otherwise be used to boost research and development or doing other activities that could create jobs.

Another provision of concern deals with an actuarial method known as "smoothing." Under current law, how much money companies have to put into their plans is determined by using a 4-year weighted average of the values of pension assets and/or liabilities. It is generally recognized that 4-year smoothing has led plans to become underfunded by masking the diminished current fair market value of a plan's assets.

The original bill from the Health, Education, Labor, and Pensions Committee would have shortened smoothing to 3 years. The House Ways and Means Committee and House Education and Workforce Committee bills also allow 3 years. The HELP/Finance Committee compromise, however, takes a 12-month average. Three years is a fair approach that would tighten current law but still allow some necessary cushion against volatility for employers; twelve months would significantly increase the volatility and unpredictability for employers. This shorter time frame would unwisely add significant volatility for companies when they are determining how much money they need to set aside for the pension plans.

For months, Senators MIKULSKI and DEWINE have been urging an amendment that would have addressed these two problems. The amendment they wanted to offer, which I co-sponsored, would have adopted the HELP Committee's 3-year position on smoothing. Their amendment also would have replaced the use of credit ratings in determining whether a company has to abide by "at-risk" funding requirements and would instead measure "at-risk" by how well-funded the pension plan is.

I am disappointed that we were not able to vote on the DeWine-Mikulski amendment. I am hopeful, however, that these problems with the Senate bill will be adequately addressed in conference. I hope the conferees will come back with what the House committees adopted on those issues.

I am also concerned about the overall effect that the bill will have on the defined-benefit plan system. Some of the actuarial changes that may be appropriate on their own may become problematic when packaged together. The changes required by this bill would require companies to fund their long-term pension obligations somewhat too quickly, and would make the amounts of their required contributions fluctuate unpredictably. The short-term financial impact might push companies with underfunded plans to terminate the plans, rather than working to bring their funding levels up. A survey of chief investment officers for large pension plans found that 60 percent thought significant and rapid changes, such as those in the House or Senate bills, would lead to benefit reductions or plan termination.

I also hope that in the final conference report the Senate's position on credit balances prevails over the unwise House provision. The House bill would penalize companies that prefunded their plans, by making additional, non-required contributions, to subtract these prefunded amounts from the calculations of their plans' assets. This change would trigger unfair financial penalties for the companies and would deter future prefunding, which we should encourage, not discourage.

On a positive note, I am pleased that this bill will give airlines extra time to fund their plans. In the wake of Northwest and Delta airlines declaring bankruptcy, Congress must help companies do the right thing and keep their plans when they emerge from bankruptcy, rather than turning their obligations over to the PBGC.

Also, I am pleased that Senator STABENOW's work to address problems with the multiemployer pension plan system is reflected in this bill. These multiemployer plans provide millions of employees of small firms with the opportunity to be covered by a defined benefit plan.

Finally, I am pleased that this bill protects older workers in cash balance plan conversions, and that it gives guidance regarding some of the uncertainties surrounding hybrid plans. Legal questions surrounding hybrids like cash balance and pension equity plans should not stand in the way of companies offering the best pension plans that they can.

Pension reform is a critical issue for Michigan. Michigan's manufacturing workers have always planned for the future by forgoing some short-term wages in order to provide for themselves and their families when they are no longer working. Likewise, those in other industries, including employees of Northwest Airlines, also rely on defined-benefit pension plans.

The retirement security of Michigan workers and workers across the country would be significantly weakened if we drive guaranteed benefit pension plans out of business, and that is what I am concerned that this bill could do. I will vote no on this bill, because on balance it does not ensure that companies striving to do the right thing are not unfairly penalized and because workers in those companies must also receive the retirement benefits they were promised. I truly hope the final bill reported by the conference committee will repair the defects I have identified.

Mr. ENZI. Mr. President, the calculation of lump sum distributions has been hotly debated. Some have been worried that the bill would shortchange participants in their lump-sum distributions. That is not the case. In fact, this bill has been very careful to avoid the problems that occurred after the enactment of the pension reforms on the GATT in 1994.

Under S. 1783, it is intended that plans may use different assumptions—that is, interest rates and or mortality tables—to determine lump sum distribution amounts so long as the plan provides that a participant's lump sum distribution amount is no less than the present value determined in accordance with the requirements of the bill.

Mr. BURR. Mr. President, I rise today to speak on the pension reform legislation we have been working on for months. Many have said that the policy goal of any major reform to the current pension system is to ensure that the defined benefit system remains a viable option for companies and that employers keep the retirement promises they have made to their employees. In these discussions, one often hears about the proposed new rules and mandates concerning funding rules or asset and liability valuations. Given that the pension statute has not received a major overhaul since the 1970s, new rules are certainly necessary to ensure that past and present employees and the American taxpayer are protected from financial loss.

Nevertheless, what is often left unsaid in our discussions is the fact that the defined benefit system is a voluntary, not a mandatory, system. While rules and mandates exist for companies that choose to participate in the defined benefit system, no such rules or mandates exist requiring companies to participate. Thus, if strengthening the defined benefit system is the basic premise behind this proposed legislation, it is critical that we ask ourselves if the proposed rules and mandates might have the unintended consequence of driving companies out of the voluntary defined benefit system once and for all.

Alternatives to the voluntary defined benefit system do exist. For many companies and employees, they are good alternatives, such as the defined contribution system and its 401(k)s. However, the personal savings rate of Americans remains one of the lowest among the industrialized nations, and the average balances in 401(k) accounts are quite modest. There is no question that without defined benefit plans, fewer Americans would be able to retire comfortably. Further, the disappearance of defined benefit plans, including hybrid defined benefit plans, could very well result in increased pressure on Federal entitlement and income maintenance programs, not to mention an increase in old-age poverty.

Given these troubling facts, the value of defined benefit plans to many American families is clear. Sadly, we have seen a decline in defined benefit plan sponsorship, and these are perilous times for the defined benefit system. Employers are leaving the system for many reasons. Among these are uncertainty about how future pension liabilities will be measured, new pension funding rules that are complicated and unpredictable, the worry over new and more onerous pension funding and premium requirements, upcoming changes to the pension accounting rules, and, of course, legal questions regarding hybrid pension plans.

I appreciate the efforts of my Senate colleagues to craft meaningful defined benefit pension reform legislation. The proposed legislation, however, will have the unintended consequence of driving away company after company from the defined benefit system and further exacerbate the looming deficit of the Pension Benefit Guarantee Corporation, PBGC, thereby passing an unnecessary financial risk on to the American taxpayer. Rather than strengthening the defined benefit system, this proposed legislation contains elements that could negatively affect the retirement security of the current 44 million participants in defined benefit plans. Further, workers coming behind them are at risk if the legislation is not done in a way that encourages plan sponsors to stay in the voluntary defined benefit plan system. I wish to highlight a few of the provisions contained in the proposed legislation I believe will lead employers to opt out of the voluntary defined benefit system.

To plan business investment and operations, employers must be able to anticipate required pension contributions several years into the future. Required contributions cannot be too volatile; otherwise, they will be too difficult to accommodate in cash flow operations of the business. To determine the amount of money an employer must contribute to its pension plan, assets in the plan are compared to the liabilities of the plan. Under the bill, plans would determine the amount of their funding liability using an interest rate averaged over only a 12-month period and asset values also averaged over just a 12-month period. This will make it very difficult for businesses to plan and will force them to set aside assets in the event they are needed for liabilities due to spikes in interest rates. The alternative is to force companies to shift assets out of the equity markets and into fixed income markets which could hike costs and discourage plan sponsorship. This is bad policy.

The proposed legislation also sets a new target liability—100 percent of liabilities promised under the plan. This is a significant increase from the current law target—90 percent. If companies must meet this new target too quickly, sharp upticks in contributions may be required for many companies that are currently considered well-funded. Because the new interest rates will adjust liabilities for some companies, companies that are currently at their maximum funding level could be facing very large contributions. Since obligations are due over a very long period in many instances, these contributions will be unnecessary. Pensions could be frozen, other benefits could be frozen, costs of goods and services could increase, and jobs could be lost as a result. The 3-year phase-in of the new target is insufficient to avoid harmful consequences to American workers and the economy.

Another very troubling provision of the proposed legislation relates to credit ratings. A company's credit rating, determined by private ratings agencies and not the Federal Government, should not determine a pension plan's liability. The credit rating of a company does not determine the funded status of a plan. A company can have a below investment grade credit rating and pose absolutely no risk to the PBGC. It serves no policy goal to impose new liabilities on a company because it is financially weak. That will simply make it more difficult for a company to recover, leading to potentially lower credit ratings, and could result in death-spirals and plan terminations that the legislation seeks to avoid. Furthermore, the credit rating provision would introduce a whole new concept—credit rating of private companies by the Government. If an at-risk liability is to be imposed, it should be based solely on the funded status of the plan.

A final concern I wish to raise relates to one of the most urgent crises in retirement security—clarifying the outstanding issues regarding hybrid pension plans. Hybrid defined benefit pension plans such as cash balance and pension equity plans were developed to meet the needs of our highly mobile workforce by combining the features of both traditional defined benefit plans and defined contribution plans, such as 401(k) and other individual account plans. Traditional defined benefit plans are most effective for employees with long careers with only one employer. Yet, according to the Bureau of Labor Statistics, very few employees are spending a full career with just one company. Today's workers need a pension benefit that is portable and that will produce meaningful benefits, even if they don't stay with one employer for their entire career. In light of these facts, nearly 30 percent of the Nation's largest companies with defined benefit plans have moved to a cash balance or other hybrid plan design. As of 2003, the PBGC reported that there are estimated to be between 1,200 and 1,500 of these plans providing benefits to around 8 million Americans and their families.

Employees know that cash balance and other hybrid plans contain many of the positive features of traditional defined benefit plans such as the safety of an employer-funded, PBGC-insured benefit where the company bears the risk of the investment, while at the same time providing defined contribution plan features such as individual account balances, portability, and a more even benefit accrual pattern. Many people who criticize hybrid plans do not realize that they are defined benefit plans, and as such, they provide a tremendous benefit to Americans, helping them achieve better retirement security.

Hybrid plans also provide greater benefits than traditional pensions for the majority of employees. This is because hybrid plans accrue benefits ratably, rather than toward the end of a long career, which is typical in a traditional pension plan design. For the minority of workers for whom a conversion from a traditional defined benefit plan to a hybrid plan design may result in future benefits that could be less generous than under the old plan, employers have employed a variety of transition assistance techniques to boost their benefit formulas. And of course, benefits earned by employees for service they have already put in are fully protected under the law.

Despite the value that hybrid plans provide to workers, current legal risks threaten their continued existence. One court case has placed all hybrid pension plans, both cash balance and pension equity plans, into doubt. Three other courts have found to the contrary, that hybrid pension plans do not violate the age act and are permissible under law. Yet it is this one single decision on which opponents of the hybrid pension plan hang their arguments. To preserve the retirement security of millions of Americans, it is essential that Congress comprehensively clarify for existing and future plans that the design of hybrid plans is not age discriminatory.

In *Cooper* v. *IBM*, 274 F. Supp. 2d 1010, S.D. Ill. 2003—a District Court judge held, in the face of legal authority to the contrary, that cash balance and pension equity plans are age discriminatory. This decision was based on the fact that younger workers have more time to earn compound interest on their pension benefit than older workers. Compound interest is a feature of all defined contribution plans and of all savings plans. The logic behind declaring compound interest age discriminatory in defined benefit plans is seriously faulty and would nullify many longstanding defined benefit pension plan designs, including contributory defined benefit plans common in the Federal, State, and local government sectors.

As a result of the Cooper decision, every hybrid pension plan sponsor today finds itself in potential financial and legal jeopardy. It is a pity that we have come to this state. I say this because policymakers should be working to create an environment that promotes hybrid plans—not subjects them to greater risk. I had hoped that Congress would have responded to the Cooper case by providing legislative certainty and clarity for hybrid pension plans, both retrospectively and prospectively, to prevent widespread abandonment of these programs by employers.

I do not want my colleagues to think that I have not heard the critics of hybrid plans. I have. However, I believe that the majority of the criticisms of the plans are unfair. Let me review some of these criticisms and rebut them.

Some critics of hybrid plans have claimed that the plans are discriminatory on the basis of age. It is true that there has been one single court case that found that compound interest is age discriminatory in the hybrid plan context. As I said, three other courts have found to the contrary, yet critics give credence to this odd case. Hybrid plans provide the same or greater wage and interest credits for older participants than for young participants. Because older workers under these plans are treated the same as or better than similarly situated younger workers, the plans cannot possibly be in violation of the Age Discrimination in Employment Act, ADEA.

Others have criticized the "wear away" or benefit plateau that occurs in some hybrid plans. This has generated numerous questions and concerns through the congressional review of the hybrid plan issue. It is important to understand that parallel rules in ERISA and the Internal Revenue Code protect all benefits that an employee has already earned for service, to date. Thus, despite assertions to the contrary, existing benefits are not reduced in a hybrid conversion. "Wear away" is the term used for the benefit plateau effect that some employees can experience in conjunction with a cash balance conversion.

Still others criticize hybrid plan conversions because they frequently eliminate an early retirement subsidy, although they do so only prospectively. Some have complained about allowing employers to eliminate any benefits in their retirement plans. My own feeling is that employers must be able to maintain their flexibility to eliminate early retirement subsidies, but only on a prospective basis, as is the case under current law.

Early retirement subsidies are a better alternative to layoffs in many workplaces and they can help a company to manage its workforce. On the other hand, if an employer's right to eliminate early retirement subsidies on a prospective basis is not protected, no employer would ever adopt such an early retirement program in the first place. It makes no sense for employers to encourage highly productive workers to take retirement in their fifties by paying a premium for them to leave the workforce. While current law protects any subsidy that employees have already earned for their service to date, it allows employers to remove those incentives from their plans going forward.

The conclusion that all hybrid plan designs are inherently age discriminatory also raises the question why the Internal Revenue Service, IRS, issued determination letters for many years specifically permitting the hybrid designs and why it issued proposed regulations providing that the cash balance plan design is not inherently age discriminatory. The Cooper decision completely ignored this regulatory history. Of even more interest is that the Cooper decision disregarded the legislative history of the pension age discrimination laws adopted in 1986. That conference report made it clear that intent of Congress was limited to prohibiting the practice of ceasing pension accruals once participants reached normal retirement age, i.e. the so-called post-65 pension accrual.

The Cooper decision emboldened cash balance critics to demand an appropriations rider that prohibited the Treasury Department from finalizing its age regulations addressing hybrid plan designs and conversions. At that time, Congress directed the Treasury Department to publish a legislative proposal regarding conversions from traditional to cash balance plans. In the legislative history, the conference report did state that "[t]he purpose of this prohibition is not to call into question the validity of hybrid plan designs (cash balance and pension equity). The purpose of the prohibition is to preserve the status quo with respect to conversions through the entirety of fiscal year 2004 while the applicable committees of jurisdiction review the Treasury Department's legislative proposals."

While the Cooper case is a rogue decision, there is significant authority to the contrary concluding that hybrid plans are age-appropriate. Unfortunately, the Cooper case has led to what are called copycat lawsuits both in the Southern District of Illinois and elsewhere in the Nation. The Cooper case has also had a chilling effect on the plan sponsor community. Concerns over potential damages from these cases are causing CEOs and CFOs to have very sober discussions regarding the future of their plans. There seems to be a slow, but steady, domino effect of freezing hybrid pension plans as a result of concerns over potential liability from fallout of the Cooper case. This is occurring despite a general belief that the Cooper case could be overturned on appeal. I fear that if Congress fails to bless the hybrid pension plan design in short order, these voluntary plans could all become frozen.

If we can conclude that the design of these plans is consistent with the ADEA, but the conversions to hybrid plans raise questions, why can't we legislate in this area to simply bless the hybrid plan design? Clarifying only the legality of prospective plans does not address any of these problems; it does nothing to eliminate the potential for devastating suits directed at the prior operation of hybrid plans. Retroactive legislation is needed because the consequences of inaction or prospective-only legislation could be disastrous. If retroactive legislation is not adopted and the Cooper case is decided adversely on appeal, the liabilities of hybrid plans would triple if companies are forced to pay the enormous windfalls created under Cooper. This would impose such enormous costs on employers that large numbers of them would have no choice but to eliminate future benefits in their defined benefit plans. Many companies will not be able to absorb those additional liabilities, causing business declines and bankruptcies, as well as widespread damage to the economy.

Many have ignored the taxpayer interest in the outcome of retroactivity legislation. As we contemplate the precarious state of the PBGC, it is important to consider the potential impact of failing to provide retroactive relief on that troubled agency's solvency. Conservative estimates of the national liability attributable to the Cooper theory of age discrimination are well in excess of $100 billion. Many employers would undoubtedly be forced into distress plan terminations by this liability, shifting the liability to the PBGC. Other employers would simply terminate their plans, resulting in a precipitous contraction of the PBGC's premium base. The PBGC reports that for 2004, 24.6 percent of the participants in covered single employer plans are in hybrid plans; this means that such plans generate almost a quarter of the single-employer flat-rate premiums. Both developments would make a taxpayer bailout of PBGC far more likely.

I must also raise an additional issue regarding the hybrid pension plan provisions of the bill before us. As you know, it is the cash balance pension design that has been at the center of the congressional discussion about the need to provide legislative clarity for hybrid plans. Yet, another leading variety of hybrid plan, called the pension equity plan, is in equal need of congressional attention. In a pension equity plan, employers provide credits for each year of employee service and these credits are multiplied by an employee's final pay to produce a lump sum figure. Typically, the benefit credits given to employees increase with age and/or years of service, making this design an attractive one for older and long-service workers. Dozens of large employers around the country offer pension equity plans, including a number of very large employers in my state.

Pension equity plan sponsors and participants face the same risks and are in need of the same legislative clarification as cash balance plans—that their basic design is not, in fact, illegal and does, in fact, satisfy our age discrimination rules. To achieve this objective, the legislative provision clarifying the age discrimination rules for hybrid plans must specifically reference pension equity plans in the statutory language. The legislation before us does not do this. Rather, it leaves the issue of whether pension equity plans receive the same beneficial clarification as cash balance plans up to the Treasury Department in later administrative guidance. This will simply prolong the legal uncertainty that is driving many employers to consider ending their pension equity plans altogether. I believe this must be remedied—that we must give pension equity plans the same explicit statutory treatment as cash balance plans. I hope that, along with applying the clarification of the hybrid designs to existing plans under current law, we can explicitly address pension equity plans as we move toward conference on this pension bill.

I likewise hope that we can make several other refinements to the bill's hybrid provisions so that these provisions more appropriately address some of the unique issues surrounding pension equity plans. For example, the bill currently has a requirement that hybrid plans pay certain minimum interest rates. Yet, unlike in cash balance plans, the benefits in pension equity plans grow with pay increases, as traditional defined benefit plans do, rather than with interest, so this requirement really does not make sense in the pension equity context. In addition, conversions to pension equity plans are typically handled differently than conversions to cash balance plans, and this needs to be acknowledged in the legislation. Finally, just as there are unique differences between cash-balance and pension equity hybrid plans that we must acknowledge, we must also recognize and support unique differences among cash-balance and pension equity plans respectively. No two plans are identical, nor should they be. Congress should not be so overly prescriptive in the rules for hybrid pension plans that it prohibits sponsors from adding unique features that may better serve their employees in retirement. I hope that during the conference on this bill, for example, we can recognize that there are cash balance plans that have returns based on equity indices. Such plans may provide returns that do not fall within the interest rate corridor established in this bill because their returns may be greater or lesser than required under this bill for the plan to be considered a qualified cash balance plan. While I do believe it is good policy for these plans to have a principal protection feature, to ensure workers are guaranteed upon retirement to receive the investment credits they have earned, I also believe that we should not discourage plans which provide participants the opportunity to receive higher returns that are attainable through the equity markets.

I would like to finish my statement by thanking the chairmen and ranking members for their work on the prospective hybrid language. While the bill does not address existing plans, serious discussions have begun to do so. It is imperative that these discussions continue so that we can clarify the validity of the hybrid pension designs, both cash-balance and pension equity, under current law.

Hybrid defined benefit plans play an invaluable role in delivering retirement security to millions of Americans and their families. To prevent total abandonment of hybrid plans by employers and the resulting harm to employees, I hope Congress will quickly provide legislative certainty and clarity for existing cash balance and other hybrid pension plans such as pension equity plans. Waiting for the Cooper case to be resolved on appeal is not the answer; as time goes by, more companies are reacting to the current uncertainty and potential liability by freezing or terminating their plans. At the same time, more and more companies are being dragged into copycat litigation. The losers in this terrible failure to act are my constituents in North Carolina and workers across America who will lose the opportunity to be covered by an employer-provided pension plan. Failure to resolve the status of hybrid defined benefit plans comprehensively is a betrayal of employers who are trying to do the right thing by their employees and the millions of workers who are counting on a pension for their retirement.

Mr. LIEBERMAN. Mr. President, I rise to express my support for S. 1783, the Pension Security and Transparency Act. This bill will make much needed reforms to our pension security system. It takes important steps to address the deteriorating financial condition of the Pension Benefit Guarantee Corporation, PBGC, to ultimately protect the defined benefit plans of millions of American workers. My purpose in coming to the floor today is to make note of a number of provisions in this bill that I believe are particularly important to our system of retirement security, and I am pleased that this bill incorporates these provisions.

First, the bill includes measures to encourage companies to implement so-called auto-enroll 401(k) plans. In plain English, this will accomplish a relatively simple, but tremendously effective change to ensure that more Americans are saving for their retirement. Currently, under most retirement plans, employees must take affirmative steps to join a company's 401(k) plan. Under an automatic enrollment system, new employees would automatically be included in an employer's 401(k) plan, and would have to take affirmative steps to withdraw from the plan. In essence, the choice of whether to participate in a retirement plan is still entirely with the worker, however, the default would be participation in the plan: workers could "opt out", rather than having to "opt in" to be covered.

Many studies have indicated that automatic enrollment is remarkably effective in raising participation rates among eligible workers, particularly for lower income workers. One study, for example, found that automatic enrollment increased participation from 13 percent to 80 percent for workers making under $20,000 a year. The fact is that without automatic enrollment, many workers don't take advantage of the savings opportunities available through 401(k)s. Sometimes it is because of inertia, or because of the more immediate demands of work and family, or because the options appear intimidating and confusing. The automatic 401(k) is a relatively simple concept that has the power to enhance retirement savings for millions of American workers. Earlier this year, I joined Senator BINGAMAN in introducing S. 875, the Save More for Retirement Act, to encourage such auto-enrollment plans. Our bill also included provisions to encourage plans to add a feature whereby employees' contributions would automatically increase each year until certain thresholds were met. We sought to address the concern that many who do participate in company plans don't take full advantage of the savings opportunities and therefore may be ill-prepared for retirement. I am pleased that the bill before us includes both the automatic enrollment and automatic increase provisions.

I am also pleased that the bill includes a number of provisions often referred to as the "post-Enron" measures. We on the Governmental Affairs Committee heard devastating testimony of how thousands of Enron workers saw their retirements savings plummet over the course of weeks. The bill today seeks to address these concerns by ensuring that workers do not have all their eggs in one basket. It encourages diversification of pension investments from employer stock. It also calls for workers and retirees to get regular statements showing the market value of pension investments. In addition, it encourages employers to provide workers with access to unbiased investment advice as to how to invest their pension retirement accounts.

There are many much needed reforms in this bill to ensure that defined benefit plans are adequately funded and that the PBGC remains solvent. It is not perfect, but it represents an effective compromise on a complex matter. I anticipate that additional modifications will be made in conference. I rise here today, however, to make note of these particular provisions that I believe will encourage and protect retirement savings for millions of Americans.

Mr. BOND. Mr. President, thank you for giving me the opportunity to speak on the floor today. First, I thank Chairmen GRASSLEY and ENZI and Ranking Members BAUCUS and KENNEDY in crafting this important legislation. The pension issues we take up today are notoriously complex and could have a significant financial impact on both American families and American businesses. The leaders of the committees have done an impressive job in bringing us to this point, and I congratulate them on their efforts.

One of the issues we address in this legislation is the validity of the so-called hybrid plans. Hybrid plans whether cash balance or pension equity—are a modern form of defined benefit plan that combines the best features of defined contribution plans, such as 401(k)s, with the best features of traditional defined benefit programs. Hybrid plans keep defined benefit plans relevant for workers in our contemporary, mobile economy. Indeed, these hybrid plans have been popular with both employers and employees, and today an estimated 8.5 million workers are earning secure retirement benefits through these plans.

For the past several years, these hybrid plans have been called into question. These turn of events came about when one of our Federal district court judges determined in the infamous Cooper v. IBM decision that the hybrid plan designs are illegal because they pay compound interest. Somehow, this judge believes that it is age discriminatory for employers to pay interest on their employees' pensions. I, for one, have found his position hard to fathom. The judge reached this conclusion despite the fact that the Internal Revenue Service had approved interest-paying hybrid plans for 15 years and despite the fact that every other court addressing the issue found that these plans satisfy the age discrimination rules.

In classic fashion in our litigation-happy society, this lone and misguided court decision has spawned a string of copy-cat class action suits. In these suits, plaintiffs assert hundreds of millions—even billions—of dollars in "damages" (over and above the benefits they have earned under the plan—to "correct" compound interest.

So, the issue we need to address in the legislation before us is to make clear that this lone judge got it wrong and that the IRS and all those other judges got it right. Compound interest in a defined benefit pension is not illegal, and the hybrid plan designs satisfy our age discrimination rules.

The legislation before us makes this important clarification but unfortunately only with respect to the future. While addressing the hybrid issue prospectively is constructive and must be done, failing to clarify the legal regime for the more than 1,500 or so existing hybrid plans and their 8.5 million or so participants will have a number of seriously adverse consequences.

First, employers will continue to face the threat of truly business-busting litigation, which will drain resources from productive use and hamper their competitiveness. Ironically, despite the good efforts of our Senate committee leaders to insert "no inference" language in this bill, judges may read the legislation's prospective-only approach as suggesting the illegality of current plans, thereby worsening the litigation risk faced by employers.

Second, in light of the unresolved threat to current hybrid plans, employers are increasingly likely to abandon their pension plans, denying additional retirement benefits to millions of American families and leaving new hires at these companies with no pensions whatsoever.

Third, as the healthy companies that sponsor hybrid plans leave the pension system, they will aggravate the financial troubles of the Pension Benefit Guaranty Corporation, PBGC. Indeed, hybrid plan sponsors today pay 25 percent of the per participant premiums received by the PBGC. So, unfortunately, while this legislation is designed to shore up the PBGC, we have left unaddressed one of the central threats to that agency's solvency.

In addition, while clarifying the age discrimination rules for hybrid plans prospectively and retroactively, it is my hope that the future conferees of this legislation will considering making a specific reference to pension equity plans—a type of hybrid plan other than cash balance plans—in the statutory language. The reason for this need is that the Cooper v. IBM decision deemed not only cash balance plans to be illegal, but pension equity plans as well.

The legislation before us does not address pension equity plans, specifically. Rather, it leaves the issue of whether pension equity plans receive the same beneficial clarification as cash balance plans up to the Treasury Department in later administrative guidance. This will simply prolong the legal uncertainty that is driving many employers to consider ending their pension equity plans altogether. This leading variety of hybrid plan—the pension equity plan—is in equal need of the same congressional attention as cash balance plans. I urge the future conferees to address this accordingly and to be mindful that the conversion process in pension equity plans is typically different than that of cash balance plans.

Mr. President, it is my sincere hope that as this important bill moves through the legislative process we can address the hybrid design issue in a comprehensive way. We must do so in order to remedy the significant harms to workers and employers that will result if we only address the issue prospectively. In addition, we must give equal consideration to both cash balance and pension equity plans as two legal regimes of hybrid plans. I look forward to working with Chairmen GRASSLEY and ENZI, Ranking Members BAUCUS and KENNEDY, and the future conferees on this bill to ensure a solution that will enhance rather than endanger the retirement security of American families.

Mrs. CLINTON. Mr. President, I would like to begin by expressing my gratitude to Senate Health, Education, Labor and Pensions Committee Chairman ENZI and the HELP Committee's ranking member, Senator KENNEDY, for working together, and with our colleagues on the Senate Finance Committee, to address the wide spectrum of pension issues in the bipartisan bill that is before the Senate today. Their tremendous hard work and conscientious approach to this legislation—and that of their staffs—is commendable. They have had to balance many factors.

Enhancing the retirement security of Americans is one of my priorities in the Senate. Retirement security is, simply put, one of the most important challenges facing our Nation. Single-employer and multiemployer pension plans play an essential role in providing retirement security for so many New Yorkers and millions of Americans around the Nation.

For a variety of reasons, we have recently seen defined benefit plan terminations that have jeopardized the retirement security of many Americans and placed additional burdens on the defined benefit system. I have heard from New Yorkers who are gravely concerned that they will not see the benefits they worked so hard to earn.

A recent report by the Government Accountability Office, GAO, highlights some of the deeply troubling trends facing the defined benefit pension system. GAO notes that "the nation's private defined benefit, DB, pension system, a key contributor to the financial security of millions of American workers and their families, is in long-term decline." The GAO report describes a sharp drop in the number of single-employer DB plans in recent years, down to less than 35,000 in 2002 from more than 95,000 25 years ago. According to the GAO, the same period of time has seen "the number of active participants in such plans dropping from 27.3 percent of all national private wage and salary workers in 1980, to about 15 percent in 2002."

In addition, the GAO report notes that "structural problems in industries like airlines, steel, and auto parts have led to large bankrupt firms terminating their DB plans, with thousands of workers losing some of their benefits and saddling the Pension Benefit Guaranty Corporation, PBGC, with billions of dollars in unfunded benefit guarantees." Moreover, the PBGC reported in 2004 that the "rapid decline" in the net financial position of its single-employer program from 2000 to 2004 "resulted from several very large losses (primarily from steel and airline industry plans), lower interest rates that raised the value of PBGC's liabilities and declining stock prices."

A look at the finances of the PBGC provides a snapshot of the aftermath of these trends. According to the PBGC, in 2004 it insured more than 34 million single-employer plan participants and more than 9.8 million multiemployer plan participants. The PBGC reported that its single-employer program swung from a surplus of $9.7 billion in 2000 to a $23.3 billion deficit in 2004, and that its multiemployer program showed a deficit of $236 million in 2004. Yesterday, the PBGC reported its financial results for fiscal year 2005. According to the PBGC, the single-employer program deficit as of September 30, 2005, was $22.8 billion, and the multiemployer program deficit had grown to $335 million. While at this time it appears the PBGC will be able to pay benefits for some time to come, it is incumbent upon us, as elected representatives, to take meaningful steps to address these challenges to the survival of the defined benefit system and the dangers these challenges pose for workers, retirees, and their families who are depending upon the viability of that system.

A central goal of that effort should be ensuring that employers offering single-employer pension plans keep pension promises and have incentives to remain in the defined benefit system to provide good pensions to their employees. Additional goals include protecting older, longer term employees from unfair changes in their pension plan, enhancing financial transparency, and shoring up the PBGC. It is also important to work to maintain and strengthen the multiemployer pension system.

The Pension Security and Transparency Act of 2005 takes important steps towards these goals, including: transitioning to a full funding target; offering incentives for companies to contribute more in good times to help plans get through economically challenging times; tools for the government to use in an effort to help preserve pension plans facing financial challenges; rules intended to help airlines preserve their pension plans; reforms intended to improve multiemployer plan funding; prospective-only rules for cash balance pension plan conversions, with protections for older and longer serving workers; and enhanced disclosure of pension plan finances.

In addition, the defined contribution autoenrollment provisions included in the bill are an important first step in ensuring that employees start saving today. It has widespread support among employers and employees, and is a commonsense provision that I will work to ensure is included in the final conference agreement.

As is usually the case with new legislation of this scope, I believe there is room for improvement and refinement, particularly with respect to "at risk" plan funding. I hope that in conference the legislation may be brought in line with the approach to "at risk" funding taken in the legislation approved by the Senate HELP Committee in September. We should support efforts of companies that are acting responsibly to preserve their defined benefit pension plans and fund them adequately, in the face of financial distress or cyclical downturns, and we should strive to avoid actions that may, however unintentionally, have the opposite effect of that intended.

Working men and women are counting on the security provided by the benefits they earn through their pensions. Some of the most important decisions of their lives depend on these benefits being there for them when they need them. I am glad that the Senate is acting today on comprehensive pension reform legislation and addressing a wide variety of challenges facing the defined benefit pension system. I will continue to work with my colleagues to enact legislation designed to maintain and strengthen the defined benefit pension system for generations to come.

Mr. KYL. Mr. President, today the Senate is considering long-delayed legislation to reform our defined benefit pension system. While reforms are certainly needed, I must say that I am disappointed with how watered down this legislation has become since we passed it out of the Finance Committee earlier this year.

Obviously, the current system is in dire straits, with the Pension Benefit Guarantee Corporation, the Federal corporation that insures traditional pension plans, running a $22.8 billion deficit for fiscal year 2005. Moreover, the PBGC said that if events that occurred just after the fiscal year's end had occurred a few weeks earlier, the deficit would have been $25.7 billion. If the Government is going to continue to operate a pension-plan insurance program, we must make sure that employers fulfill their pension promises appropriately so that taxpayers are not asked to bail out the PBGC.

This legislation makes a first step toward requiring more realistic funding of pension promises, and it tries to assess more accurately which companies are in such financial difficulty that they are likely to declare bankruptcy and shed their pension plans as part of their reorganization, leaving it to the PBGC to cover their remaining obligations. While I believe the provisions approved by the Finance Committee were stronger and more responsible, I understand that compromises had to be made as the Finance bill was combined with the bill reported out by the Health, Education, Labor, and Pensions Committee. I hope these provisions will be retained and reinvigorated when this legislation is reconciled with the House pension-reform bill.

My primary concern about this legislation has to do with the special provisions for legacy airlines. The bill reported out of the Finance Committee allows certain airlines to freeze their existing defined benefit pension plans so that no new participants can be added and benefits will not increase in any way. Then it allows these companies an additional 14 years to pay off what they owe on these frozen plans. I agree that it makes sense to allow the airlines to freeze their pension plans so that their liabilities do not get any worse. Further, if giving the airlines extra time to pay their obligations will keep them from shifting the debts to the PBGC, then I believe we are acting responsibly to protect the American taxpayers. I must say, however, that this special treatment is unfair to those airlines that have been responsible about funding their pension liabilities or that have different, and more affordable, retirement savings plans for their employees.

Nor is that all we are apparently going to do to provide special relief for the legacy airlines. On the floor, an amendment will be offered, and will likely pass, that will lengthen the amortization period for the so-called "hard-freeze" provision to 20 years and to provide separate funding relief to certain other legacy airlines that will not be taking advantage of the "hard freeze." This separate funding relief will allow these particular airlines an extended period to pay their pension obligations, but will not require the airlines to freeze completely their pension plans. Rather, this so-called "soft-freeze" would not allow new participants, but would allow benefit accruals if the company funds those accruals. This is terrible policy; if the airlines have the resources to fund benefit accruals, they should fund their existing obligations on a timely basis instead of taking on new obligations. Congress should not grant any company the ability to amortize its obligations over a longer period of time without requiring it to freeze its pension plan completely. Further, increasing the 14-year "hard freeze" to 20 years is overly generous and provides a one-size-fits-all plan for two legacy airlines that have very different financial situations. I am pleased that Chairman GRASSLEY will oppose this amendment.

Finally, with respect to the Akaka amendment, I opposed this measure because it would exacerbate the already terrible fiscal problems facing the PBGC. Unfortunately, Federal regulations dictate that individuals age 60 and older may not serve as airline pilots. I am one of 20 Members of this Chamber who have cosponsored Senator INHOFE's bill to remove this blanket prohibition, a stricture which I have concluded cannot be justified as a safety measure. I am heartened that the Senate Commerce Committee will have the opportunity at their next markup to rectify the inequitable treatment of older pilots the right way—by removing the arbitrary mandatory retirement age. Unfortunately, the Akaka amendment would proceed the wrong way—by swelling the PBGC's deficits by raising the ceiling on allowable benefits.

Overall, this legislation moves forward the process of reforming our badly broken defined benefit pension-plan funding system, and for that reason I will support it even though I am very opposed to its special funding relief for certain legacy airlines. I hope, as the conference committee meets to work out a final version, that the conferees will work for the best possible funding requirements for all companies that participate in the system; that they will keep some kind of a benchmark to identify struggling companies; and that they will keep the legacy airline relief as responsible as possible. We must remember that the American taxpayer will be asked to bail out the PBGC if the system, which is supposed to be self-funding, cannot sustain itself. And a taxpayer bailout is an outcome that I know none of us wants to happen.

Mr. HATCH. Mr. President, I rise today in support of the pension reform bill we are now considering. This bill is the product of a great deal of work by members of both the Committee on Finance and the Committee on Health, Education, Labor, and Pensions. As a member of both of these committees, I congratulate the chairmen and ranking Democratic members for their leadership and hard work. It is not often that Senate committees share jurisdiction of an issue the way that the Finance and HELP Committees share the jurisdiction of pensions. Bringing the bill to this point required an unusual procedure where the separate bills approved by the two committees, which were quite different in many respects, were combined into one bill for floor consideration.

The resulting bill, which is before us today, is complex, controversial, and imperfect. It is also very much needed. Traditional pension plans, also known as defined benefit pension plans, are facing a crisis today. The number of defined benefit pensions is in decline. In 1980, around 40 percent of private sector jobs offered pensions to their employees. Today, only 20 percent do.

Since 1985, the number of defined benefit plans backed by the PBGC has declined from 114,500 to fewer than 32,000. Clearly, our economy, and the retirement options for our workforce, are undergoing rapid evolution. This is due to a number of complex factors, but prominent among them is the high expense of starting and maintaining these plans, and the uncertainty and volatility of funding them. The rules governing defined benefit pension plans are among the most complex of all U.S. laws.

Another factor in the debate about pensions is that the American workforce is changing in a fundamental way. No longer is the idea of going to work for one employer and remaining with that company for one's entire career considered the norm. Increasingly, workers are mobile and find themselves changing companies and even careers several times over the course of their work lives. For these workers, the traditional pension plan is not necessarily the ideal. For many such workers, and for most companies in younger industries, hybrid pension plans are more beneficial.

Unfortunately, these hybrid pension plans are under a legal and a legislative cloud today. So what could be a pretty good answer in today's world to the problems of cost, complexity, and inflexibility of a defined benefit plan has been practically halted by legal challenges and by political controversy over how to best clarify the status of hybrid plans.

One of the biggest concerns, however, is that the Pension Benefit Guarantee Corporation (PBGC) is under increasing financial strain as more and more companies with defined benefit plans have defaulted on their pension obligations and left this agency to carry the load. Just yesterday, the PBGC released in its annual report that it had only $56.5 billion in assets to cover $79.2 billion in liabilities. In addition, the report showed the PBGC's exposure to losses from pension plans sponsored by financially weak employers rose to $108 billion from $96 billion the year before.

When I earlier said this pension bill is complex, controversial, and imperfect, it is because, to be effective, the bill must walk the very narrow path between two important public policy objectives. On the one hand, we need to ensure that when an employer establishes a pension plan, and makes inherent promises to its workers, it provides the funds necessary to secure those commitments. Failure to do so does great harm to the millions of employees and their families who depend on those pensions for a secure retirement. It also does harm to our economy, and it puts the PBGC, and possibly the American taxpayer, at great risk.

On the other hand, we must not forget that employers have no legal obligation to offer such pension plans to their employees. These benefits are voluntary, and they must stay so. The Congress has an obligation to ensure that the pension laws provide rational and sensible rules that encourage employers to offer these benefits to their employees. This means they should be understandable, predictable, and easy to administer. If we place unreasonable or overly aggressive requirements on employers, many or most will simply terminate their pension plans, leaving employees without the benefits they might have had.

I believe we must be careful to ensure that pension plans that are currently fully funded and are sponsored by strong employers are not weakened inadvertently by the reforms in this legislation. However, this is not as easy to accomplish at it may sound.

I believe the bill before us goes a long way toward accomplishing the goals of strengthening the pension system, shoring up the PBGC, and not discouraging employers from staying in the system. However, it has certain provisions that, in my view, may not lead us in the direction we need to go. I hope that as the bill goes to conference that it can be further improved.

More specifically, I remain concerned about the provision in the bill that would require certain plan sponsors with credit ratings that have fallen below investment grade to fund their plans faster than they would otherwise have to do. While this provision has improved from its first version in the Finance Committee, I believe it is still too onerous.

I am also very concerned about the impact of this bill on the struggling airline industry. We simply must provide relief to the airlines in funding their pension obligations or many will have to turn their obligations over to the PBGC. Therefore, I am supporting the amendment of the Senator from Georgia, Mr. ISAKSON, and I hope our colleagues will also support it.

There is much to be said in favor of this combined bill. I am very pleased to see that many of the defined contribution provisions that the Finance Committee has long worked on getting enacted have made their way into this bill. I am also glad that certain protections were added for the multiple employer pensions plans that are very important to many of the electrical and telephone cooperatives that are common in many rural States, including my home State of Utah.

I am also pleased to see that the managers' substitute amendment also includes a provision on which I have been working for several years now with the chairman and ranking Democrat of the Finance Committee. This provision, which is important to many associations around the Nation, including the Utah Auto Dealers Association, ensures that they will not unfairly have to give up their health plans, upon which many employers and their families now rely.

And I am happy that we have finally included language that makes it much easier for firms to enroll automatically new employees into a firm's 401(k) plans. One thing we know about human behavior is that inertia is a powerful force—change of any sort can be difficult for even the best of us. The beauty of automatic enrollment is that it uses this inertia to our advantage. The firms that have used automatic enrollment thus far have reported vastly higher savings rates, and employees have been quite pleased with the result.

While nearly everyone on both sides of the aisle supports making automatic enrollment easier for firms, we differ on just how much easier we should make it. There have been a number of proposals that would have made it much easier for firms that offer automatic enrollment of new employees to meet the convoluted pension distribution requirements that deter many smaller firms from even offering 401(k) plans. Unfortunately, the version currently embodied in this bill does not, in my view, adequately address this problem. Still, half a loaf is better than none, and I welcome anything that clears the way for firms to offer automatic enrollment.

I would like to take another couple of minutes to address more fully the issue of hybrid pension plans, which combine elements of defined benefit and defined contribution plans. I think that corporate America is recognizing the importance of these plans. At the same time, there is a cloud of legal uncertainty hanging over them. My hope is that we address this uncertainty in the conference.

Although the defined benefit pension system has helped generations of Americans achieve retirement security, we have witnessed a decline in these plans during the last several years, as I mentioned. While the modern workforce remains interested in the security of employer funding and Federal insurance guarantees, it also demands portability and a greater level of control regarding retirement benefits. Given these diverse criteria it is easy to see why so-called hybrid pension plans have become so popular. These cash-balance and pension equity plans, in which over 9 million Americans currently participate, incorporate the attractive features of a defined contribution plan while offering much of the security associated with traditional defined benefit plans.

Hybrid pension plans are nothing new. In 1991 the Treasury issued regulations that described a safe harbor testing method for cash balance pension plans under nondiscrimination rules. Five years later, the IRS issued Notice 96-8 describing the structure and operation of cash balance pension plans as well as citing the previous safe harbor rule. This notice and prior regulation stood as the official authority from Treasury and IRS on how a cash balance pension plan should be designed and operated. Many plan sponsors even received favorable determination letters from the IRS that their converted cash balance pension plans met all requirements to be qualified to preferred tax treatment under the Internal Revenue Code, including all relevant nondiscrimination requirements. More recently, in 2002 the Treasury issued proposed regulations that clearly established hybrid pension plans and plan conversions as nondiscriminatory against older workers. Most employers who made these plan conversions did so as part of a good-faith effort to protect the retirement security of their employees.

Although many courts have ruled that these plans do not discriminate based on age, they continue to come under attack. The bill we are currently considering does a good job of establishing the principles for evaluating whether post-effective date conversions of a traditional defined benefit pension plan to a hybrid pension plan are permissible. However, the bill does not clarify that employers who previously adopted hybrid pension plans in good faith, based on generally accepted legal principles and in reliance on guidance issued by the Internal Revenue Service, should not be disadvantaged compared to employers who adopt hybrid pension plans in the future.

If Congress does not clarify the legality of pre-effective date hybrid pension plans and plan conversions, it is likely that these plans will be abandoned in favor of programs that shift investment risk for retirement savings back to participants, such as 401(k) plans. The uncertain climate for hybrid pension plans has already had a profound adverse effect on defined benefit plan formation and continuation. I hope that in conference we can consider some moderate and fair retroactive provisions in order to give some legal clarity to these plans.

This bill should not be considered the final word on this issue. It represents good progress, and I am encouraged that those who had placed holds on its consideration have agreed to release them. By approving this legislation, we can move into conference where I believe we can improve the bill even further.

Again, I thank those who have worked so hard on this legislation, and I urge my colleagues to join me in supporting it today.

Mr. SMITH. Mr. President, I would like to commend Chairman GRASSLEY and Senator BAUCUS on their leadership in passing the Pension Security and Transparency Act of 2005. It accomplishes a great deal in reinforcing the security and financial viability of the defined benefit pension system. Americans have worked very hard to earn their pension benefits, and this bill does a lot to ensure that their retirements will be secure.

A number of important reforms will also improve the defined contribution system. In particular, I am proud that a number of these defined contribution reforms were taken from the retirement package that Senator CONRAD and I introduced earlier this year.

S. 1783 included a key piece of our legislation promoting automatic enrollment in 401(k) plans. Automatic enrollment has been shown to increase participation rates in these retirement plans significantly—especially among low and moderate income individuals.

S. 1783 also clarifies the fiduciary rules with respect to defined contribution plans and annuities. Today, very few employers offer annuity distribution options in their defined contribution plans partly due to confusion surrounding the appropriate fiduciary standard. I believe we need to provide retirees with the option to turn a portion of a lump sum into a guaranteed stream of income so that we can ensure they do not outlive their savings as they enter the increasingly long retirement phase of their lives.

On this front, I believe that there is much more we can do to encourage individuals to provide themselves with a guaranteed stream of income for life by providing tax incentives for annuitization.

In particular, we need to provide incentives for retirees without employer provided retirement plans to save. Because many workers benefited from employer provided retirement plans, they may have little saved for retirement. Aside from Social Security, almost one-half of all Americans have only their personal savings to fall back on in retirement. Therefore, I believe we must offer additional encouragement for these retirees to choose retirement income that is guaranteed to last as long as they live, and will not decrease based on their investment results.

I look forward to working with my colleagues to ensure that all Americans have a secure retirement.

Mr. ROCKEFELLER. Mr. President, I am very pleased that the Senate is finally taking action on much needed pension reforms. As the Senate does its work today, there are more than 44 million Americans working hard to earn traditional pension benefits. Steelworkers, coal miners, flight attendants, autoworkers, carpenters, grocery store employees—workers of every description are putting in long hours, in part, because they have been promised that when they retire, they will continue to receive some income from their employers.

Traditional, defined benefit pension plans have been an important part of workers' compensation for generations. Guaranteed retirement income protects workers from the risks of the stock market. And with a steady monthly check, retirees know they cannot outlive their income. We owe it to all of those workers to be sure that the pension benefits they are earning today will be there for them in the future.

Unfortunately, our pension system has failed too many people already. And in West Virginia, sadly, we understand all too well what happens when pension benefits are not paid as promised. Last year, more than 11,000 West Virginians received a pension check from the Pension Benefit Guaranty Corporation, because their employer had terminated their pension plan.

There are another 313,000 West Virginians still participating in traditional pension plans. We have an obligation to fix the pension system so that those workers and retirees will receive what they have been promised. Companies must be encouraged to continue to promise these valuable benefits, but we cannot accept empty promises. Companies must adequately fund the retirement benefits workers earn.

I believe that, on balance, the bill before the Senate today strengthens the retirement system. This legislation requires companies to better fund pension benefits. It provides workers more information about the status of their retirement plan, and it improves the financial position of the PBGC, which will continue to play an important role as Federal safety net for failed pension plans.

The bill also makes some important improvements to the defined contribution pension system. As Enron collapsed, many employees lost all of their retirement savings because they had heavily invested in their company's stock. I am pleased that Congress is finally acting to better protect employees by giving them more information about their investment options and more rights to diversify those investments.

I am also pleased that the legislation includes a provision to enable the UMWA's Construction Workers Pension Plan to excess assets to cover health care costs for retirees, just as many single-employer private pension plans already do. The Construction Workers Pension Plan currently has more than twice the assets needed to cover pension benefits, while retirees have been forced to pay large premiums for health coverage. With this change, the resources set aside to benefit retired construction workers can be used to best advantage—including helping to cover health care costs.

Yet while I believe there are many positive provisions in this bill, it is not a perfect bill. The bill calls for very difficult compromises. Companies are concerned that the funding rules will be difficult to live by. Workers are concerned that benefits may be limited if employers do not adequately fund the pension plans. I appreciate these concerns. And I am interested in improving this bill.

I had hoped to have the opportunity to support an amendment by Senators DEWINE and MIKULSKI to ease some of the funding requirements imposed on struggling employers. Without fundamentally upsetting the balance struck in this bill, the amendment would have made pension plans easier to maintain. Because a company's credit rating is an imperfect indicator of whether the pension plan is sound, I do not believe that we should impose strict new funding requirements on companies with lower credit ratings. I believe that the managers of this legislation have already crafted so many important improvements to the funding rules that the payments associated with low credit ratings are not necessary to guarantee appropriate pension contributions. Rather, the credit ratings rules may limit employers' willingness to offer such benefits.

The reforms contained in this legislation will dramatically improve the health of the Nation's pension system. Improved pension funding rules are necessary to protect the many workers who have been promised pension benefits, and to shore up the Federal pension insurer. As the final legislation is worked out with the House, I will be working with my colleagues to improve this bill even further.

The PRESIDING OFFICER. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The question is on passage of the bill.

Mr. ENZI. Mr. President, I ask unanimous consent that the next two votes be limited to 10 minutes each.

The PRESIDING OFFICER. Is there objection? The Chair hears none, and it is so ordered.

The question is on passage of the bill.

Mr. ENZI. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The result was announced—yeas 97, nays 2, as follows:

[Rollcall Vote No. 328 Leg.]

YEAS—97

Akaka
Alexander
Allard
Allen
Baucus
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Coburn
Cochran
Coleman
Collins
Conrad
Cornyn
Craig
Crapo
Dayton
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stevens
Sununu
Talent
Thomas
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—2

Levin
Stabenow

NOT VOTING—1

Corzine

(The bill will be printed in a future edition of the RECORD.)

DEPARTMENTS OF COMMERCE AND JUSTICE, SCIENCE, AND RELATED AGENCIES FOR FISCAL YEAR 2006—CONFERENCE REPORT—Resumed

Mr. GRASSLEY. Mr. President, I rise today to discuss the conference report to accompany H.R. 2862, the Commerce, Justice, Science Appropriations Act. While I will be voting for this conference report, I have grave concerns regarding the cuts in the Edward Byrne Memorial Justice Assistance Grants Program.

The Byrne/JAG program is the primary Federal assistance program for State and local law enforcement's counter-drug activities. This program is critical to fighting the domestic war on drugs. In my State of Iowa, this grant program funds highly successful drug task forces. I fear that without these grants, many of these task forces will disappear and the threat from methamphetamine will only grow larger.

I have a letter from Sheriff Thomas Faust, the executive director of the National Sheriff's Association. His letter raises many of the concerns I have already highlighted with regard to the JAG program. Sheriff Faust's letter warns that, "Cuts of this magnitude seriously inhibit law enforcement's abilities and endanger the safety and well being of our communities! In order to keep communities safe from crime and free of drugs, law enforcement must be given the resources they need! The fiscal year 2006 CJS appropriations bill does not provide for those resources."

While I have fears that these cuts in the JAG program will have grave results, because the conference report funds other critical programs, I will vote in support of the conference report.

I ask unanimous consent to print the above-referenced letter in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

NATIONAL SHERIFFS' ASSOCIATION,
Alexandria, VA, November 15, 2005.

DEAR SENATOR: On behalf of the National Sheriffs' Association (NSA) and our 23,000 members, I am writing to express our extreme disappointment and concern over the lack of funding for the Edward Byrne Memorial Justice Assistance Grants Program (JAG) in H.R. 2862, the Science, State, Justice, Commerce and Related Agencies Appropriations Bill.

The JAG program, which was formed by consolidating the Edward Byrne Memorial Grant program and the Local Law Enforcement Block Grant program, is one of the primary federal assistance programs for state, tribal and local law enforcement agencies. State and local law enforcement agencies, including the 3,087 sheriffs' offices across the country, rely heavily on JAG funds for critical operational activities. JAG funds support many of our counter-drug activities, particularly drug task forces. Without these funds, our sheriffs will not be able to sustain the task forces or even fight the war on drugs!

Local law enforcement agencies from all across the country are already out-manned and out-gunned by the drug cartels and street gangs in our communities. Over the last several years we have been forced to deal with the loss of personnel, because of budget cuts to the COPS program. Now the COPS Universal Hiring Program has been zeroed out by Congress, thus abandoning an effective program, and the JAG Funds are being cut as well. These cuts will put an end to any progress that has been made and destroy any hope we might have of winning the war on drugs or ridding our communities of methamphetamine!

For more than a decade, the resources provided under the JAG program have allowed law enforcement agencies to expand their capabilities and make great strides in reducing the incidence of crime in communities across the nation. It is our belief that the lack of federal support for local law enforcement will surely result in increased crime and drug abuse!

The conference agreement would provide just $416 million for the Byrne Memorial Justice Assistance Grants, of which only $321 million is available for local law enforcement assistance. We find this level of funding to be unacceptable and believe that Congress is failing to adequately recognize the mission of law enforcement!

Cuts of this magnitude seriously inhibit law enforcement's abilities and endanger the safety and well being of our communities! In order to keep communities safe from crime and free of drugs, law enforcement agencies must be given the resources they need! The FY06 SSJC appropriations bill does not provide for those resources.

At a time where law enforcement and securing the homeland should be of the highest priority, Congress has chosen to completely dismiss them as a priority! With the rise of terrorism, and the fact that methamphetamine use and abuse has risen to epidemic proportions, Congress should embrace law enforcement, support the JAG program and COPS Hiring Program, and increase their funding, not cut their funding!

Sincerely,

THOMAS N. FAUST,
Executive Director &
Retired Sheriff, Arlington County, VA.

Mr. HARKIN. This bill cuts over $200 million from the Byrne Justice Assistance Grant Program and over $120 million from the COPS Program. These cuts follow on 3 previous years of cuts that have decimated these important and successful law enforcement assistance programs.

In 2002, Byrne was funded at $994 million. Next year, it will be funded at only $416 million—a 60 percent cut.

I am also dismayed that after my amendment to add $34 million in funding to legal services programs passed the Senate, not a single dollar was included in the conference report. Meanwhile a study earlier this year found that over half those eligible for legal aid cannot receive the help they need with critical issues including custody, child support, housing, and more critically right now, navigating hurricane related bureaucracy.

These programs have now been cut so severely that law enforcement in my State will likely be left with no alternatives to layoffs. That simply isn't acceptable. While I will be voting for this conference report because I believe that the appropriators did the best they could within the situation they faced, I want to serve notice on the Senate that we must restore funding to local law enforcement grant programs and to legal assistance next year.

The fault for these drastic cuts to law enforcement programs lies directly with the President and with every Member of Congress who voted for his budget that cut $1.3 billion in law enforcement funding. Appropriators only get a certain amount of money to work with, and that money is set by the budget. It was literally impossible for appropriators to restore all of the $1.3 billion in direct help for law enforcement including over $150 million in cuts to victims, over $300 million in assistance to States overwhelmed with illegal aliens, over $150 million in cuts to juvenile justice programs, almost $500 million in cuts to the COPS Program and $800 million in cuts to the Byrne Program.

It is simply outrageous that 54 Members of this Senate voted not to restore this funding during the budget process and that all 55 Republicans voted for a budget that eliminated this funding. Any one of those 55 people who stands up here and complains about these cuts is a hypocrite because they allowed it to happen.

In my State of Iowa, these cuts that will mean a 42-percent reduction in the amount of Byrne funding available statewide from $4.6 million last year, down from $6.2 million the year before, to only $2.6 million. We will receive only $2.6 million to fund 25 drug task forces, 16 offender treatment programs, and 9 early intervention programs. These cuts will come as my State continues to be in the middle of a meth epidemic.

Our preliminary estimates are that this is going to mean the loss of 27 drug task force salaries and corresponding 1300 fewer arrests. It will mean layoffs. There are no longer any alternatives. It will also mean the loss of 22 Byrne funded programs including innovative and successful treatment programs. These cuts will lead to at least 1,200 fewer meth addicts in prison receiving drug treatment. The result will be to put addicts back on the streets where there crimes will escalate and drive up the costs of prosecuting and incarcerating them the next time around.

These cuts will be devastating. Between fiscal year 2003 and 2005 we had already slashed over $1 billion in direct help to local law enforcement officers. How much more can we expect our law enforcement officers to take?

It is simply amazing to me that this administration and this Congress could be so foolish as to slash funds from programs that work. Between 1993 and 2003, violent crime in this country declined by more than 50 percent—from 49.1 to 22.3 incidents of violence per 1,000 persons. This is the exact same period of time when we provided over $1 billion to the COPS and Byrne programs alone.

Even after cuts to the program, last year the Byrne Program funded 4,316 cops and prosecutors working on 764 drug enforcement task forces nationally. Byrne funding led to 130,000 drug arrests in 32 States, the seizure of 136 tons of illegal drugs, the confiscation of over 7,000 weapons, and the seizure of 7,691 meth labs. It is simply crazy that we are slashing over $200 million from this program in this bill.

Mr. KOHL. Mr. President, I rise in support of the conference report accompanying H.R. 2862, the Commerce, Justice, Science and Related Agencies Appropriations Act for Fiscal Year 2006, but I do so with some reservations. To be sure, this bill funds many programs and agencies vital to the Nation's security and economic strength, and the conferees should be complimented for drafting a balanced spending bill. However, this appropriations measure is also supposed to fund local law enforcement and juvenile crime prevention programs, and in the past, it did so successfully. Unfortunately, this year's version does not adequately fulfill the very important responsibility of supporting law enforcement and crime prevention programs.

Let us first consider the Edward J. Byrne Justice Assistance Grant Program. For more than 30 years, Byrne grants have paid for State and local drug task forces, community crime prevention programs, substance abuse treatment programs, prosecution initiatives, and many other local crime control programs. Talk to any police chief or sheriff back in your home State and they will tell you that the Byrne program is the backbone of Federal aid for local law enforcement. We should not walk away from a program with more than 30 years of success supporting our local police chiefs, sheriffs, and district attorneys.

Sadly, this conference report takes a step in that direction by providing a little more than $416 million for the Byrne grant program. That number represents a cut of more than $200 million from last year's level. Slashing the Byrne program in this manner will have a real and negative impact on local police departments, district attorneys, and community crime prevention programs.

The COPS program is another victim of this conference report. Though my colleagues should be commended for increasing the overall COPS Program from last year's level of $388 million to $478 million this year, I am discouraged that we have zeroed out the Universal Hiring Program completely this year. We should remember that just 3 years ago, the overall COPS program received more than a billion dollars, and $330 million of that was for the hiring program which simply puts more cops on the streets. And that simply has led to a reduction in crime. Do we want to risk this success by abandoning a program that works?

Perhaps the biggest disappointment is how the title V Local Delinquency Prevention Program is treated in this appropriations bill. The title V program is the only Federal program solely dedicated to juvenile crime prevention, and the conference report dedicates $65 million to it. But after one takes away all of the national earmarks that are housed in title V—all worthy programs that I support like the Gang Resistance, Education and Training, GREAT Program—title V is left with a mere $5 million to spread across the entire country. That amount is not enough to build robust juvenile crime prevention programs. I should hope that in the future, we can, at a minimum, fund the title V program at the Senate-passed level of $80 million and do so free of national program earmarks. To be sure, these other programs deserve federal dollars and should be funded as separate line items in order that title V can have sufficient program funds to operate successfully.

Make no mistake, juvenile crime prevention programs supported by title V are worth our support. According to many experts in the field, every dollar spent on prevention saves three or four dollars in costs attributable to juvenile crime. And who can put a dollar value on the hundreds, even thousands of young lives turned from crime and into productive work and community life by the juvenile crime prevention initiatives supported by title V? We can and must do better.

This conference report is the product of many long hours of negotiations and hard work. Subcommittee Chairman SHELBY and Ranking Member MIKULSKI and their staffs deserve praise for a balanced product. Indeed, this bill is the result of compromise and I will vote in favor of it. But I hope that next year we can do a better job at helping our overworked local police officers and giving a ray of hope for disadvantaged children who desperately need our help.

Mr. CORNYN. Mr. President, I rise today to voice my disappointment with respect to the funding level provided for Project Safe Neighborhoods in the fiscal year 2006 Commerce, Justice, and Science Appropriations conference report.

The President's Project Safe Neighborhoods has been one of the most incredibly successful crime prevention programs in our Nation. And today, we passed appropriations with tragically low funding for this important program that has been highly effective at removing from our streets criminals who use guns to carry out their crimes.

When I was Attorney General of Texas, I joined with then Governor Bush to launch Texas Exile. That program, modeled after the effective Project Exile in Richmond, VA, also was extraordinarily successful—providing local prosecutors with the funds to get more than 2,000 guns off the streets and to issue more than 1,500 indictments for gun crimes, resulting in almost 1,200 convictions in its first 3 years of existence alone.

And when President Bush came to Washington, he built upon our success in Texas by making Project Safe Neighborhoods one of his top priorities and launching the Project Exile program nationally—providing badly needed resources to jurisdictions throughout the country to combat gun related crimes.

And in the short time this initiative has been up and running, the results have been astonishing. Project Safe Neighborhoods' prosecution, prevention and deterrence efforts have helped fuel historical lows in gun crime across America as well as a 30-year low in the violent crime victimization rate. Over the past 4 years, Federal gun crime prosecutions have increased by 76 percent—and virtually all of these criminals spend time in prison—for example, 94 percent in fiscal year 2004.

The administration has devoted over $1.3 billion to implement Project Safe Neighborhoods since its inception in 2001. These funds have been used to hire almost 200 new Federal prosecutors dedicated to gun crime and provide grants to hire approximately 540 new State and local gun prosecutors.

While I appreciate any effort this body might take to embrace fiscal discipline—I question the efficacy of choosing to cut a program that literally is saving thousands of lives nationwide and making our society increasingly safer just as we are seeing the significant successes resulting from it.

The additional Federal funding for these State and local gun prosecutors, as well as the associated community outreach efforts and other important initiatives are critical to the success of the program and to the national reduction of violent crime.

That is why I was so concerned when I learned of the shortfall in this funding. None of the $73,800,000 in grants for State and local governments requested by President Bush was included initially in either the House or Senate.

And I was not alone. Chairman SPECTER and Senators GRASSLEY, KYL, SESSIONS and COBURN from the Judiciary Committee as well as Senators SANTORUM and LUGAR joined me in requesting full funding for the program in a letter dated September 8, 2005.

And, I must thank my colleague from Alabama, Senator SHELBY, as well as fellow Texan, Congressman JIM CULBERSON, and their respective staffs, for their help in achieving at least a minimal amount of funding of $15 million that we were able to get into the conference report.

The Project Safe Neighborhoods program serves as a model of coordinated government efforts—with Federal, State and local governments sharing the burden of prosecuting criminals and coordinating their resources to do so. At a time when some Federal agencies struggle to coordinate efficiently with state and local governments—the Project Safe Neighborhoods program serves as a model of efficiency and effectiveness.

In closing, while I voted in favor of the appropriations conference report because of its many important programs—I remain committed to seeking full funding for Project Safe Neighborhoods next year and in the years to come and looking forward to working with my colleagues to ensure that we keep America's streets safe from violent gun-using criminals.

The PRESIDING OFFICER. Under the previous order, the question is on agreeing to the conference report to accompany H.R. 2862.

Mr. ROBERTS. Mr. President, I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There appears to be a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. DURBIN. I announce that the Senator from New Jersey (Mr. CORZINE) is necessarily absent.

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 94, nays 5, as follows:

[Rollcall Vote No. 329 Leg.]

YEAS—94

Akaka
Alexander
Allard
Allen
Bayh
Bennett
Biden
Bingaman
Bond
Boxer
Brownback
Bunning
Burns
Burr
Byrd
Cantwell
Carper
Chafee
Chambliss
Clinton
Cochran
Coleman
Collins
Cornyn
Craig
Crapo
DeMint
DeWine
Dodd
Dole
Domenici
Dorgan
Durbin
Ensign
Enzi
Feingold
Feinstein
Frist
Graham
Grassley
Gregg
Hagel
Harkin
Hatch
Hutchison
Inhofe
Inouye
Isakson
Jeffords
Johnson
Kennedy
Kerry
Kohl
Kyl
Landrieu
Lautenberg
Leahy
Levin
Lieberman
Lincoln
Lott
Lugar
Martinez
McCain
McConnell
Mikulski
Murkowski
Murray
Nelson (FL)
Nelson (NE)
Obama
Pryor
Reed
Reid
Roberts
Rockefeller
Salazar
Santorum
Sarbanes
Schumer
Sessions
Shelby
Smith
Snowe
Specter
Stabenow
Stevens
Sununu
Talent
Thune
Vitter
Voinovich
Warner
Wyden

NAYS—5

Baucus
Coburn
Conrad
Dayton
Thomas

NOT VOTING—1

Corzine

The conference report was agreed to.

Mr. BAUCUS. Mr. President, I move to reconsider the vote, and I move to lay that motion on the table.

The motion to lay on the table was agreed to.

The PRESIDING OFFICER. The Senator from Iowa.

THE TAX RELIEF ACT OF 2005

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate begin consideration of S. 2020, the tax reconciliation bill.

The PRESIDING OFFICER. Is there objection?

Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 2020) to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006.

Mr. GRASSLEY. Mr. President, before Senator BAUCUS and I give our opening statements, I yield 5 minutes to the Senator from South Carolina for a statement on another subject, and then I presume the Senator from New York wants to follow him for 5 minutes. So there will be 10 minutes before we start this bill, but the 10 minutes is off the 20 hours allotted to this bill.

The PRESIDING OFFICER. The Senator from South Carolina is recognized.

UNANIMOUS-CONSENT AGREEMENT—S. 295

Mr. GRAHAM. Mr. President, I thank the Senator for allowing us to have this time. I have a unanimous consent request to make for the RECORD. This has been approved by the majority leader and minority leader.

I ask unanimous consent that the consent agreement relating to S. 295, which is a bill about China currency, which was entered on July 1, be modified so that it is applicable under the same terms including any days in December that the Senate is in session but under no circumstances no later than March 31, 2006, with all other provisos remaining.

At this time, I yield to my colleague from New York.

The PRESIDING OFFICER. The Senator from New York.

Mr. SCHUMER. Mr. President, I thank my friend and colleague Senator GRAHAM, who has been a pleasure to work with on this issue, for his help and support.

This extends the privilege we have been granted by the majority leader and minority leader to bring our bill, our proposal, on Chinese currency up at a later date. After our bill on April 6 got 67 votes on a procedural motion, Senator GRAHAM and I agreed to an up-or-down vote on our bill, S. 295, before the August recess.

In July, at the behest of Treasury Secretary Snow and Federal Reserve Chairman Greenspan, we agreed to delay our vote on our bill until the end of the first session of the 109th. Well, that may well be this week. We are finishing up business while the President is, in fact, going to be in China. Senator GRAHAM and I do not think it would be appropriate to vote on this bill while the President is there so we have agreed to delay.

Senators may recall that back on July 21, China promised to let market forces work and they revaluated their currency by a small but significant 2.1 percent. But they said the market should allow the currency to rise or fall about .3 percent a day. Unfortunately, that has not happened. Since the original 2.1 percent revaluation of the yuan, the currency has moved as much in nearly 4 months as China said it would allow it to move in a single day. So in the whole 4 months, it has not even moved a day's worth. Senator GRAHAM and I, frankly, are disappointed in the progress so far. We said at the time it was a good first baby step, but we need additional steps. Thus far, none have been taken.

We are hopeful the President's trip to China will produce positive results. We are willing to forestall our amendment to see what happens on the President's trip.

Under the new agreement, Senator GRAHAM and I can call up the bill in early December, when Congress returns for votes, or early in the second session, with a promise that the bill will be considered no later than March 31, 2006.

We hope and pray China will move. We do not want to dictate anything to the Chinese. We do not want to tell them how quickly they should move or to what degree, but we do need to see some more movement on something that just about everyone agrees ought to happen. The delay of this resolution will be salutary, we believe, to bringing some results.

I yield back my time to my colleague Senator GRAHAM for some concluding remarks. I would also yield the 5 minutes I have been ceded to Senator GRAHAM so he may finish.

The PRESIDING OFFICER. The Senator from South Carolina.

Mr. GRAHAM. Mr. President, I thank my colleague for giving a very good explanation of where we started and where we are today and where we hope to be in the future. Where we started was a situation where China saw no self-interest in allowing their currency to meet international monetary standards of being valued by the market.

The practice of pegging the yuan to the dollar has created a tremendous manufacturing disadvantage for our manufacturers. It has hurt every competitor China deals with. It is a practice that needs to change because China has changed.

Our goal is to allow that change to come about in a reasoned way, in a win-win fashion. The change that occurred, as Senator SCHUMER spoke about, where there was a slight revaluation, was a very good signal coming from China. It was an optimistic event. Since then, 4 months later, very little has happened.

I know the President is going to put it on the table when he goes to China. We stand behind our President in this regard, that we in the Senate, 67 of us, anyway, and the President, through Secretary Snow, and the President himself, have been urging the Chinese to change their currency practices. It is the position of the administration that it should float, while it is also the position of the Senate that China needs to change their currency practices. As Alan Greenspan has said so well, it is in China's self-interest.

I do hope, as Senator SCHUMER said, that after this meeting with President Bush there will be further progress. So I am guardedly optimistic but resolved to make sure we have a level playing field when it comes to dealing with China. This is an opportunity for a win-win. I hope the Chinese will take us up on it and we can have a better relationship.

This one issue is one of the defining moments in the U.S.-China relationship economically and we will see what time yields in terms of these negotiations.

I yield back all time.

The PRESIDING OFFICER. Without objection, the request is agreed to.

The Senator from Montana.

Mr. BAUCUS. Mr. President, I commend my colleagues from New York and South Carolina. This is an appropriate way to handle this issue. Clearly China pegging their yuan to the dollar has caused immense dislocations. It is also fairly clear that a 27-percent tariff on Chinese products coming to the United States is an untenable position and it would not be the right action for the United States Congress to enact legislation which would enact a 27-percent tariff on Chinese goods coming into the United States that, in effect, is a 27-percent tax on products that American consumers would otherwise be purchasing.

Having said that, it is a problem—that is, the Chinese failure to let their currency float. They did let it float a little bit by a couple percentage points not long ago, but most all observers agree that is not enough. To some degree, this issue is tied to Chinese banking reform. Chinese financial institutions have asked the United States and other countries for advice on how to reform their system. There are too many nonperforming loans in the Chinese banking system, which is related to China's inability thus far to let its currency valuate totally freely. There will come a time—and the time is probably sooner rather than later—when this will become an issue and it will come to a head.

Right now is not the time. The Finance Committee clearly takes this issue very seriously. We in the Finance Committee will pay great attention to the degree to which this measure, the Schumer-Graham amendment, should be taken up and passed or modified before reporting it to the floor. Waiting until the end of March of next year certainly is appropriate.

I say to everyone concerned with this issue, we will act in time, and hopefully it is a time when it is an accommodation rather than a confrontation. It is up to both sides of the Pacific, frankly—China and the States—to recognize that we have to get a resolution here. We are two great countries. It is by far better for each country to gauge each other appropriately with eyes wide open. It is not appropriate for either country to sort of stiff-arm each other.

We are here. We are on the world scene. China is on the world scene. China has a huge interest, of course, in China's development but also a huge interest in the stability of the U.S. economy. And vice versa; we do, too, in China.

I urge real leadership in both countries to try to find a solid resolution so we can avoid confrontation. I again thank my friends from New York and South Carolina for their statesmanlike approach to this; namely, not pressing the issue abruptly but rather agreeing to postpone, until March 31, the next deadline.

Mr. President, I would like to turn to the bill before us. The Book of Proverbs counsels: "Do not quarrel with a man for no cause." One might rephrase that for modern times: "Know when to take 'yes' for an answer." That is how I feel about this tax bill before us today.

Last Tuesday, when the chairman of the Finance Committee gave notice of his intention to hold a markup on the tax reconciliation bill, I thought that we were going to have a knock-down, drug-out fight over capital gains, dividends, and the budget deficit. Now it appears that we are going to have an entirely different debate.

When Chairman GRASSLEY first raised the issues of this tax bill with me, I told him: If you take capital gains and dividends out of the bill, I can support it. And the chairman and now the Finance Committee have taken capital gains and dividends out of the bill. And now I do support it. I am willing to take "yes" for an answer.

I am gratified that the chairman and the committee have chosen to forgo the capital gains and dividend provisions that they once contemplated. That is a fundamental change. And from this side of the aisle, that is a welcome change.

The job of a committee chairman is a large part of brokerage job. A committee chairman tries to do the most that he can with the votes that he has. I compliment the chairman of the Finance committee for being among the best at counting the votes. And I think that the bill that the Finance Committee brings before us today represents the moderate consensus of the Senate.

For many reasons, the bill before us today is not all that I would have preferred. It is not always the case, as with any Senator. I would have preferred that we had handled this tax cut legislation outside of the reconciliation straightjacket. I would have preferred that we had done more to address the immediate needs of the people affected by the hurricanes that ravaged the gulf States. I would have preferred that we had done more to address active financing, the provision that we have to help our companies be competitive with companies overseas. And I would have preferred that the committee would have paid for the tax cut in this bill. It is not appropriate by any stretch of the imagination that we add to the deficit rather than not adding to the deficit.

But I know that the chairman and the majority leader would have preferred that the votes had added up a little differently in other ways. That would have been their preference. I gave my preference. They, their preference. Neither of us prevailed.

There are many good things in this mark. Extension of the R&D credit is crucial for American businesses to remain competitive. The devastated Gulf States desperately need the help to rebuild that is in the mark. And I appreciate the work that was done to extend the tax provisions that we all know need to be extended. This is the business of the Finance Committee, to make sure that these extensions are extended so there is no cutoff date which causes a lot of problems for people trying to plan, trying to determine what the future is. That is also the business of the Senate.

The bill before the Senate today thus advances what we have in common. It avoids a massive quarrel.

Later, we will need to resist the fiscally irresponsible road down which the House of Representative seems headed. If the conference reports comes back to the Senate with capital gains and dividends it is, we will be back to a different bill. And will be back to the knock-down, drag-out fight we have thus far avoided.

I am pleased that we have a bill before us without capital gains and divided tax cuts it in. I am pleased that we received "Yes" for an answer. "Proverbs" is something I think we should listen to from time to time. And as a result, I look forward to fewer quarrels on this bill over the balance of the week.

I yield the floor and suggest the absence of a quorum. I will ask the quorum call be equally charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the order for the quorum call be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. GRASSLEY. Mr. President, I want to tell my fellow Senators why they should support this legislation, and most importantly thank Democrats for being so patient while Republicans were figuring out a compromise that we could get a majority of Republicans and all members of the committee behind. I thank Republicans for helping us work something out that we could get done. I have enjoyed the cooperation of Senator BAUCUS. Even though we haven't agreed on the details of this specific piece of legislation—I think you heard Senator BAUCUS speak about the bill that just passed the Senate, the pension bill—there was full cooperation not only between Republicans and Democrats but between two different committees that had jurisdiction over it. There will be differences between Republicans and Democrats on this bill.

I compliment my colleague, Senator BAUCUS, for helping us move things along and being so patient in the process.

This afternoon we begin consideration of an important tax relief measure. The bill before the committee today does three important things. First, it acts on our commitment to provide rebuilding assistance to areas of the country devastated by this year's relentless hurricane season. Second, it provides tax relief for American families by ensuring that there is no interruption in tax provisions that are expiring this year. And third, it provides incentives for increased charitable giving while prohibiting transactions that misuse or abuse charitable organizations and their assets.

An important part of this bill is delivery on a commitment we made to residents of the gulf region, as well as more recently impacted areas of Texas and Florida, to provide much-needed relief and resources for economic rebuilding to those areas.

I want to thank the members of the delegations from States that were devastated by Katrina, Rita, and Wilma during this hurricane season. Specifically, I would like to thank Senator LOTT, a senior member of our Finance Committee. I would also like to thank Senators COCHRAN, LANDRIEU, VITTER, SHELBY, MARTINEZ, and BILL NELSON for their input.

I know some are disappointed we could not do more, especially with respect to Rita and Wilma. But, with the revenue available, we could not answer every need.

As promised, we have made our best effort to marry up our compassion for displaced persons and damaged communities with attention to fiscal discipline and the best use of taxpayer dollars. This hurricane relief package represents an effort to most efficiently and effectively use resources under the Finance Committee's jurisdiction to assist in the rebuilding and revitalization of those regions. I will reiterate the guiding principles of our hurricane relief legislation.

First, because market forces will be the driver in getting these regions back on their feet, our bill includes only provisions that encourage and incentivize redevelopment.

Second, our package provides resources only to those who incurred uninsured losses and does not provide for a bailout of those who assumed risk as an insurer in our capitalist, free-market system.

Third, we have focused our limited Federal resources on those most in need—like the many devastated small business employers who were the backbones of these economies and who will be the engines of their future growth and prosperity. And, finally, the bill provides front-loaded incentives on a timely basis to encourage people and businesses to return to the region as quickly as possible.

This bill also extends popular tax relief ranging from tax deductions for families sending kids to college to relief from the expanding reach of the alternative minimum tax. If we let these provisions lapse, we are raising taxes on a significant number of taxpayers.

I would like to talk briefly about some of the important initiatives in our bill. The largest provision in the bill—about $30 billion of tax relief—amounts to half of the net tax package and is designed to keep people out of the Alternative Minimum Tax. This piece of the package affects 14 million American families in every State in this Nation. The AMT is terrible and should be repealed. Until such time, we owe it to American taxpayers to ensure that they are not hit by this stealth tax.

I have a chart here dealing with the AMT. It shows, by magnitude, the number of taxpayers, mostly families with kids, who would benefit from the so-called AMT "hold-harmless" in this bill.

Now, everyone should know this information comes from the IRS Statistic of Income. This is the latest available government data on State-by-State effects from tax relief proposals in the 2001 and 2003 legislation. With respect to the AMT, the number for 2006 will roughly double what is shown on this chart. So, any Member who looks at his or her State, should understand the number of families affected will double next year.

There will be critics. You are familiar with them. We all know who they are. They will appear with their charts and their over-the-top rhetoric. They will appear here today and they will claim that our hold-harmless isn't good enough. These critics are very good at criticizing. Let me assure everyone that I don't just want the hold-harmless. I want to reform or eliminate the AMT. I challenge the critics in advance, just as I did in the Spring debates on the budget resolution, to propose an AMT reform plan. Don't just whine about it. Join me in fixing it. I look forward to the critics' plan to fix the AMT.

This bill also includes popular and broadly-applicable tax benefits. I will talk about them individually and use charts as I move along.

Let's take a look at the deductibility of college tuition. This is a benefit for families who send their kids to college. By definition, this benefit goes to middle-income families. A lot of these folks aren't low-income, so their kids don't qualify for Pell grants. But they are not high-income either. They get the full benefit of the deduction if they make up to $65,000 as a single person or $130,000 as a couple. Beyond those levels, the benefit phases out. A lot of these folks are paying significant Federal, State and local taxes and they get no help in defraying the high cost of their kids' college education.

This tax deduction provides help to these hard-pressed middle-income families with a benefit and furthers an important national goal of support for higher education. This deduction runs out at the end of this year. These families will face a tax increase if we don't act on this bill. This chart shows the number of families on a State-by-State basis that benefit from the deduction.

Another benefit addressed in this bill is the small savers' credit. Here, I am talking about a tax credit for low-income folks that save through an IRA or pension plan. We all think savings is important. We all want low-income folks to save for retirement. This chart shows the number of low-income savers who benefit in this bill on a State-by-State basis.

The bill also extends a tax deduction for teachers who buy their own supplies for their students. This provision, developed by Senators WARNER and COLLINS, makes whole teachers who go the extra mile by paying out-of-pocket expenses. Who could argue with that? I'm going to point to a chart that shows on a State-by-State basis the number of teachers taking this deduction.

This bill also extends small business expensing. Many small businesses use this benefit to buy equipment on an efficient after-tax basis. It is good for small business. It is good for small business workers. It is good for economic growth.

My final chart deals with the State and local sales tax deduction.

For the States of Alaska, Florida, Nevada, New Hampshire, South Dakota, Tennessee, Texas, Washington, and Wyoming, this bill helps 12.3 million taxpayers in your States. Tennessee is the home of my friend, the majority leader. He has worked hard to get this bill to the floor. Nevada is the home of my friend, the Democratic leader. Unfortunately, the Democratic leader has fought this bill tooth and nail. Hopefully, he will see the light now that we are on the floor. I hope he will work with me to guarantee that folks in his State will be able to deduct their sales taxes next year.

These provisions are bipartisan and millions of American taxpayers rely on them. Every Senator ought to help us pass this bill for these provisions alone.

The bill addresses expiring business and individual provisions known as the "extenders." These provisions include the research and development tax credit and the work opportunity tax credit.

This bill also includes many of the charitable incentives introduced in the CARE Act and which have previously passed the Finance Committee and the Senate. I appreciate the work of Senators SANTORUM and BAUCUS in working with me to balance these incentives with several of the much needed reforms that are supported by the charitable sector, the Treasury Department, I.R.S. and donors and taxpayers overall.

Last, but not least, this bill contains loophole closers and tax shelter fighting provisions that raise revenue.

This bill is bipartisan. I thank my friend and ranking member, Senator BAUCUS, for his cooperation. He and I were not partners on this bill at the beginning and through a large part of the process, but we teamed up yesterday in the Finance Committee. As always, his cooperation and good humor make a big difference.

I yield the floor.

The PRESIDING OFFICER. Who yields time?

The Senator from Montana.

Mr. BAUCUS. Mr. President, I suggest the absence of a quorum and ask unanimous consent it be charged to both sides.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DORGAN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DORGAN addressed the Chair.

The PRESIDING OFFICER. Who yields time to the Senator from North Dakota?

Mr. BAUCUS. Mr. President, I yield to the Senator from North Dakota for purposes of offering an amendment.

The PRESIDING OFFICER. The Senator is recognized.

Mr. DORGAN. Mr. President, I was not aware that time had to be yielded for the purpose of offering an amendment. I appreciate that, but the Presiding Officer was asking "who yields time." My understanding is a Senator can seek recognition and, therefore, offer an amendment on his own volition.

The PRESIDING OFFICER. The Senator is correct. The Chair was not aware that the Senator from North Dakota was going to offer an amendment, but thought we were in general debate.

AMENDMENT NO. 2587

(Purpose: To amend the Internal Revenue Code of 1986 to impose a temporary windfall profit tax on crude oil and to rebate the tax collected back to the American consumer, and for other purposes)

Mr. DORGAN. Mr. President, I offer an amendment on behalf of myself, Senator DODD, Senator BOXER, Senator REED of Rhode Island, and Senator LIEBERMAN. I send the amendment to the desk and ask for its immediate consideration.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from North Dakota [Mr. DORGAN], for himself, Mr. DODD, Mrs. BOXER, Mr. REED, and Mr. LIEBERMAN, proposes an amendment numbered 2587.

Mr. DORGAN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

(The amendment is printed in today's RECORD under "Text of Amendments.")

Mr. DORGAN. Mr. President, this is not a new subject. It is one myself, Senator DODD, and others have spoken about on the floor, as a matter of fact, in recent days and weeks.

Let me describe briefly that it is, in fact, an amendment that is identical to the legislation we have offered that would create a windfall profits tax on profits of the major integrated oil companies, profits above $40 a barrel for oil, the purpose of which would be to collect that money and rebate it in its entirety to consumers. Or in the alternative, if the major integrated oil companies are using that money to invest into the ground or to build refineries above ground to expand the supply of energy and, thereby, bring down the price, they would be completely exempt from the windfall profits tax.

If they are using their profits above $40 a barrel for the purpose of buying back stock, "drilling for oil on Wall Street," as I will describe in a few minutes, or for other purpose that will not expand the supply of oil or the supply of energy, then they would be paying a windfall profits tax on profits above $40 a barrel at the rate of 50 percent—a 50-percent excise tax—all of which would come into the Federal Government, all of which would be rebated by check to individuals in this country in order to help pay for the higher cost of energy that individuals are now facing.

This is very simple. This is not a complex amendment. We are not trying to recalculate income or do things that are particularly difficult. The proposition is simply this: Last year, the major integrated oil companies in this country earned the highest profits in their history. The average price for a barrel of oil was $40 a barrel, and at that price the major integrated oil companies had the highest profits in their history.

Now the price is dramatically above that. It has bounced around from $50 to $60 to $70 a barrel, well above the $40 a barrel, and the profits by the major integrated oil companies—and that is all our amendment deals with, the major integrated oil companies—the profits have been extraordinary.

The third quarter profits: $9.9 billion for ExxonMobil. I have a list of a number of them I can show. But the third quarter profits are very substantial—the highest in the history of corporate America. So you have all of this gain by the major integrated oil companies, and then all of the pain on the other side. The major integrated oil companies have all of the gain. Who has all the pain? All the American people who are trying to pay for the price of a tankful of gas or trying to figure out how they are going to heat their home in the winter or trying to figure out, if they are a farmer, how on Earth they can order that next load of fuel so they will be able to go into the field in the spring. How do they pay for all that? That is where all the pain is. You have all the gain on one side, and all the pain on the other side.

Now, we are told this is just a free market. In fact, I had kind of a mini-lecture about that from the president of Exxon, the CEO of Exxon. He came to the Commerce-Energy Committee hearing we had, the joint hearing, and he kind of gave me a short little mini-lecture about the marketplace: This is the marketplace. Interestingly, he did not say: The free market. He said: The world market.

Well, let's think about this for a moment: the world market. For ExxonMobil, $9.9 billion in profits they made just in the last quarter. The world market, he says. Well, let me tell you about the world market. The world market, first, is the OPEC ministers sitting around a table someplace in a closed room talking about production and, therefore, the impact on price. Second, it is the major integrated oil companies that are larger by far than they have ever been because of blockbuster mergers. They all have two names now. It used to be Exxon and Mobil. Now it is ExxonMobil. It used to Chevron and Texaco. Now it is ChevronTexaco. We didn't know they were dating, and they got married. Now, pretty soon, it is going to be "ChevronTexacoShellExxonMobil." It will be all one name. They don't seem to drop any names: they just get bigger and bigger.

So the second part—after the OPEC ministers talk about production and price—is these folks, the major integrated oil companies, that are bigger because of blockbuster mergers and have more raw muscle in the marketplace than they have ever had before.

Third, and finally, we have what are called futures markets. The futures markets are supposed to provide liquidity for trading. Instead, it has become a speculative bazaar, a grand bazaar of speculation. And that then gives us what is called the world price—not a free market price. This has no relationship to either freedom or the marketplace. This is not a free market. What we have is all of this gain and all of the pain on the part of the consumers.

Let me describe a little about what is happening here. Last year, we had the highest profits in our history for the major integrated oil companies. BusinessWeek wrote an article. BusinessWeek is not some liberal rag someplace. We are not talking about some progressive magazine. BusinessWeek is a solid, conservative business magazine. Here is what they say: Why isn't big oil drilling more? Rather than developing new fields of oil, giants have preferred to buy rivals, drilling for oil on Wall Street.

All right. They were talking about last year. Last year, ExxonMobil made $25 billion in net income. They spent almost $10 billion to buy back their stock. Does anybody think that expands the supply of oil? No. No. No. That is an approach that certainly makes the stock options of the CEOs much more valuable. It enhances and enriches the corporation. It does nothing at all with respect to expanding America's energy supply and thereby bringing down prices.

So BusinessWeek says: Why are they drilling for oil on Wall Street? Oil has been over $20 a barrel since mid-1999. That should have been ample incentive for companies to open new fields since projects are designed to be profitable with prices as low as the mid-teens. Nevertheless, drilling has lagged. Far from raising money to pursue opportunities, oil companies are paying down debt, buying back shares, and hoarding cash.

That, from BusinessWeek. Question: If this was the case at $40 a barrel, and oil goes to $60, $65, and $70 a barrel, and consumers bear all of this pain—an increased pain from high prices that in many cases they cannot afford—for a product they must have to drive to work, to heat their homes, to prepare for spring planting, is that fair?

The answer clearly is no.

Will somebody do something about it? Will somebody stand up and say it is time to do something about it? I hope the answer to that is yes.

Just a few headlines. This is from last month: High energy prices lift profits of ConocoPhillips by 89 percent. Its third-quarter profits almost doubled, the first big American company to report earnings for the third quarter. Net income jumped 89 percent.

ExxonMobil, from October 27: $9.9 billion in one quarter, up 75 percent.

From earlier this year: Big Oil's Burden of Too Much Cash. The world's ten biggest oil companies earned more than $100 billion in the year 2004, a windfall greater than the economic output of Malaysia. Their sales are expected to exceed $1 trillion for the year 2004, more than Canada's gross domestic product.

It goes on to say: ExxonMobil, the world's largest publicly traded company, earned more than $25 billion last year and spent $9.95 billion to buy back its own stock.

I mentioned that earlier, but that, in fact, is the case. At the hearing with the major CEOs of the big oil companies, I asked that question of the CEO of ExxonMobil. These were people that run ExxonMobil gas stations in the Washington, DC-Virginia-Maryland region. September 9, this is titled, "Finger Pointing Begins As Gas Prices Jump 24 Cents in 24 Hours; Exxon Dealers Say They Are Chafing Under Higher Prices Decreed From Atop; Station Owners Accuse Big Oil Company of Profiting From Impact of Hurricane Katrina."

That is very important to point out. Hurricane Katrina hurt these oil companies. Oil was well over $60 a barrel before the first hurricane started circulating in the gulf. That is not what got us $60-plus-per-barrel oil. You have gasoline station dealers saying that Exxon was the one that said, through wholesale prices, you must charge 24 cents more in a 24-hour period. They said: What is going on here?

So I asked Mr. Raymond. Well, he wasn't sure that happened. I said: This was a public charge about your company. Didn't you investigate it?

No. We didn't. We might have. I don't know. He wasn't sure.

Let me back up a step to talk about the slightly larger picture and then come back to this question of fairness. We have a serious problem with energy, there is no question about it. This old planet of ours hosts the U.S. citizens in this little part of the planet. There are about 6.4 billion people who live on this planet as we spin around the Sun. We have a prodigious demand, a huge demand for oil in this little spot called the United States. We suck up—when I say "we," the royal "we"—everybody sucks up about 84 million barrels of oil every day from this earth. Eighty-four million barrels a day are produced from underneath this earth. We also use 84 million barrels a day on this planet. It turns out that 21 million of that 84 is used right here in this country. This country uses one-fourth of all of the oil that is pulled out of the ground.

Is that going to change? Sure. China now has 20 million cars on the road. By the year 2020, 15 years from now, it will have 120 million cars. Add 100 million cars to the mix and the demand to run something through those carburetors or fuel injectors, probably gasoline, ask yourself, in a planet where you are pulling up 84 million barrels a day and this country is using 21 million, one-fourth of it, and we have a demand that now comes from other countries saying, We want some of that, and by the way, we want to have more vehicles on the road—China, as an example—where does the additional oil come from? We have serious issues and significant long-term problems that we have to deal with.

I have my own feelings about that. I largely helped write the hydrogen fuel cell title in the Energy bill. I have ideas about what we need to do. We need to grow energy in our fields with renewable fuels, ethanol, biodiesel. There are so many other things we need to do, including encourage the transition of hybrid cars as we move toward a hydrogen fuel cell future. All of those things I will discuss at greater length at some other time. But at the moment, we live now. We can talk about the longer run. John Kenneth Galbraith used to say, in the long run, we are all dead. But we go into this winter, as consumers in this country, confronting a fuel bill that has dramatically increased over last year, and then reading in the newspaper in the morning, wearing a sweater in a home that you have to keep a couple of degrees cooler in order to afford to heat your home, that ExxonMobil has a 75-percent or 89-percent profit or all the majors are showing massive profit increases. So while they sit there fat and happy, racking up the profits, everybody else is trying to figure out how they pay the price. How do you scrape up the money to heat the home, to fill the car, to fill the tanks so that your tractor and farm equipment is ready in the spring?

People say: Well, if that is a problem for you, that is tough luck. There are a couple of economists writing in recent days—I won't name them—who can tell us everything about the future but can't remember their home phone number. You know the type. They are telling us what will happen here is if people can't afford to pay the cost of energy, it will force them to conserve more. Easy to say for one of these economists who drive around town in their Volvo or Mercedes cogitating about the future. What about the people who have to use a car to drive to work, have to fill the tank with gas but don't have the money to do so, or the people who understand they live in the northern part of this country where we have tough winters and they have to pay the heating bill and it costs a lot of money and they don't have it? What about that?

Senator Dodd and I have offered a proposal. It is widely reviled by the major oil companies. I understand that. For them, it is the hog rule: Give us what we want, we want everything, and what you don't get doesn't matter to us. After all, energy is not something that is like every other commodity.

I did an interview with a radio person the other day, and he said: If you are going to have a windfall profits tax with respect to oil profits above $40, what about a windfall profits tax on the shares of Google? I said: Do you drive up to your gas station and say, Fill it up with Google? Gasoline is different. Gassing up your car, providing natural gas or home heating fuel for your home is different. It is a necessity. Everybody needs to do it. It is part of what we are as Americans. It is the way we live. In the long term, we have to make some changes, maybe so. But in the short term, we live now at a time when the major oil companies are exhibiting the highest profits in their history, and everybody else is trying to figure out how on earth to pay the bills.

Senator Dodd and I put together the simplest possible plan. We have said: If oil continues at this level, understanding that last year, at $40 a barrel, they had the highest profits in their history for the major integrated companies, we say, for the major integrated oil companies, if the price of oil is over $40 a barrel, we believe that is a windfall profit having nothing to do with fairness or the free market. If the oil companies, however, use that extra money to sink back into the ground for exploration and drilling or to build refineries above ground, to do the things that would expand the supply of energy and thereby reduce energy prices, our proposal will not impact them at all. They will not be taxed. We still don't like the prices, but it won't affect them. They are doing the right thing to expand the supply of energy, which will ultimately bring down the price of energy. But if they do not do that—and they are not; they are buying back their stock, hoarding cash, drilling for oil on Wall Street; they are not doing the right thing—then they would be subject to a 50-percent excise tax on those windfall profits above $40.

Senator Dodd and I, unlike others, would not suggest we bring that money into the Federal Government and let it rest here. We suggest that money be brought here and sent out immediately in its entirety as a rebate to the consumers of this country who are paying the bills. They are the ones who are hurt. They are the ones from whom these profits came. They are the ones entitled to have the rebate, if the oil companies are not going to use those profits to expand the supply of our country's energy and oil.

This is a hard proposal to misunderstand. Let me just say, there are many who have deliberately done so. Yesterday, a study came across my desk that appeared to have been paid for by an entity called Investors-Shareholders Alliance. Actually, I Googled them on my computer to find out who on Earth this is. But they have been able not to leave traces, even with a Google search. But I don't need to know who they are without understanding who funded that study. That study purported to evaluate a windfall profits tax by number, which was our bill, and the two authors of the study had not bothered to read it, misdescribed it, and analyzed it in a way that was dishonest.

So the press people called me and asked for my reaction. I said: It is a complete joke, perhaps a Ph.D. joke. These people have really big degrees and tiny glasses and think they are pretty smart. It is just that they forgot to read our legislation because they evaluated something else and attached our number to it. I am assuming that was paid for by the big oil companies. God bless them. They have plenty of money. They will have lots of money to defend themselves against this proposal that we offer today.

I wish no ill will toward the oil companies. I don't. That is not the purpose of this. We produce oil in my State, and I have done plenty of things to be supportive of those who really want to expand America's energy supply and drill for oil. But when I see $65-a-barrel oil and I see people who can't afford to pay the price struggling to figure out how to live day to day, putting gas in the car and heating homes, and then I see record profits announced every single day in the newspapers, I say something is wrong, something is disconnected. It seems to me it falls on the shoulders of this Congress to stand up and do something about it.

On this vote, the question is, Who do you stand with and who do you stand for? We have separate interests, the interests of the largest oil companies who would like even higher profits. When one person said to me, Well, why is it a windfall at $65 a barrel, I said, Let me ask you a question. What if it were $165 a barrel? Would you think that was too much, or doesn't that matter to you?

At $40 a barrel, I would say, finally, last year the major integrated oil companies, larger by far than they have ever been because of blockbuster mergers, made the highest profits in their history. Now they have dramatically expanded those profits at the expense of American consumers. I believe it is unfair. Our amendment would at least begin down the road to try to do something about it. I am pleased to have offered the amendment with my colleague from Connecticut, Senator Dodd.

I yield the floor so he may amplify on my comments.

The PRESIDING OFFICER. The Senator from Connecticut.

Mr. DODD. Mr. President, I commend my colleague from North Dakota who has more than adequately and eloquently described this simple proposal that has some significant implications but, nonetheless, one that is clear and straightforward. Let me repeat what my colleague from North Dakota has stated.

First and foremost, these are not two Senators who believe that oil companies ought not to be able to earn a profit. In fact, our economy depends entirely on the capitalistic system, the profit motive. But all of us have learned historically that there are times when, in the absence of some restraint, the profit motive can cause such disruption, such a misalignment in economic circumstances, that it is imperative that those in positions of responsibility try to step in to do something about it. That is clearly what we are trying to do here. The underlying purpose of this amendment is to provide some relief to consumers.

The New York Times reported the other day that one business has been paying roughly $700,000 for its energy needs. The company anticipated its energy costs this year will be $1.4 million, virtually doubling the cost of its energy needs in a brief period of time.

We know, as a result of these rising costs, what consumers are likely to pay for home heating oil. And while we have seen some abatement in the cost of the price of gasoline, clearly the prices are still very high. We believe these individuals deserve a break.

We talk about tax breaks for people who need them. Clearly, the people who will be paying these costs deserve to have some relief. But we quickly point out that this is a choice the industry can make because what the Senator from North Dakota has said is: If, in fact, you do what you ought to be doing, and that is to plow these profits back into energy creation, energy production, development of resources, there won't be an excess profits tax. That is an option that the industry can have at this juncture and one we would hope they would be engaging in. It was stunning to find out that they are taking virtually half of their profits and just buying back their own stock rather than investing in the expanded development of energy resources.

So at the outset, I want to be very clear. We do not begrudge any company, even an oil company, making a profit and a good profit. It is the engine that keeps our economy moving forward. But as we have said, there is a huge difference between profits and profiteering, and it is profiteering, in our view, that is occurring here.

In the opinion of many, the big oil companies have been engaged in just that, in profiteering. The concept of profiteering is not a new one, and this would not be the first time that the Congress of the United States has acted as a watchdog against such profiteering.

One of the most high profile cases was during World War II when Harry Truman, then a Member of this body, chaired an investigation into the profiteering that was going on among wartime businesses. The concept of profiteering is also not new to this particular industry which operates in a market dominated by the OPEC cartel and a few large corporate conglomerates.

Over the past several years, we have seen a steady and steep increase in the price of oil. In the year 2000, when the Northeast Heating Oil Reserve was established because of concerns that I and others had about heating oil supply and price, crude oil was trading at $30 per barrel. Today, just five years later, the price of crude oil has more than doubled. Refining capacity is near 100 percent, yet over the past 25 years, 176 refineries have closed in the United States. And last month, the five largest oil companies recorded record third-quarter profits.

So here we are. Refining capacity is nearly 100 percent, and 176 refineries in the last 25 years have closed their doors.

ExxonMobil, as this graph here points out, had profits in one quarter, 3 months, of $9.92 billion. Imagine the work that went on in the accounting department to make sure it wasn't $10 billion—we will squeeze it down to $9.92 billion, the largest quarterly profit ever reaped by an American corporation in the history of our Nation. In order to make that profit, ExxonMobil took in a record $100.7 billion in revenue in just those 3 months. To put those numbers in perspective, it is larger than the annual gross domestic product of the United Arab Emirates, a large oil-producing nation. Shell Oil earned third-quarter profits of just over $9 billion. BP earned profits of $6.53 billion, and ChevronTexaco earned $3.6 billion. ConocoPhillips earned profits of $3.8 billion. That is all in 3 months. That is a total of $32.8 billion in profits in 12 weeks.

Mr. President, we all recognize that the gulf coast hurricanes temporarily shook the oil industry as it did other industries, interrupting refining and distribution systems across the country, and it may be some time before all operations are back to normal. We recognize that. But that does not explain the steadily rising oil and gasoline prices that consumers and businesses experienced in the months before the hurricanes. Long before any wind and rain hit the gulf coast, these prices were skyrocketing.

There is evidence that the oil industry deliberately restricted supply to boost profits.

Let me explain using their own language in their own reports, by the way. One major oil company in their 2004 annual report says the following:

> We achieved the highest net income in our history, 18.2 billion. This was 48 percent higher than in 2003 as a result of higher oil and gas prices.

The report goes on to say that these higher profits occurred at the same time that the company produced 3 percent less oil than the year before. They produced less and had almost a 50-percent jump in profits. Mr. President, that is not a coincidence, in my view. It was a deliberate move to raise prices by restricting supply.

It was not long ago that Enron traders were caught on tape colluding to manipulate energy prices during the California energy crisis of 2001. One trader was reported telling the operator of a power plant:

> We want you guys to get a little more creative and come up with a reason to [shut the plant] down.

Mr. President, we don't have anything on tape here from these oil company CEOs, but clearly when you look at some of the reports, they brag about 50 percent profits and yet also point to a 3-percent drop in production.

So given the circumstance of fewer refineries operating at or near capacity, coupled with the increased demand for oil and gas, all we are asking is that these industries reinvest their profits to find alternative sources and types of energy.

In the Energy bill that passed only a few weeks ago, we provide massive tax breaks for the energy industry, and yet even with that they don't want to go out and invest in energy resources to boost energy supply. Instead, profits are used to buy back stock or engage in these mega mergers.

My colleague is right to point out; just look at the names. There used to be a Conoco; there used to be a Phillips. Now it is ConocoPhillips. There used to be a Chevron; there used to be a Texaco. Now it is ChevronTexaco. There used to be an Exxon; there used to be a Mobil. Now it is ExxonMobil. I was born at night but not last night, Mr. President. I know what is going on. You don't have to be an economist or have a Ph.D. in economics to figure out what is going on here.

The simple question is, Do we let this happen and just twiddle our thumbs or do we try to do something about it? And we have offered a simple alternative. The alternative is to provide the rebate and give the people who are paying these increased prices a break.

Let me also be clear that the windfall profits rebate is nothing like the one imposed in 1980. First and foremost, the money would be rebated to consumers. The 1980 windfall profits tax was passed to ensure that the oil industry paid its fair share of taxes to the Federal Government. We are not suggesting that here at all. Just as important, this amendment would apply only to large integrated oil companies, not the independent producers and refiners. They are exempt under the Dorgan-Dodd proposal. The structure of the tax is different as well. In 1980, the tax was imposed on the difference between the market price of oil and the statutory 1979 base price, adjusted quarterly. Our amendment proposes a 50-percent profits tax only on the profit over $40 per barrel. As my colleague from North Dakota has already eloquently pointed out, that number was not chosen arbitrarily.

At that level, record profits were earned by the industry. Yet that price today is substantially more than $40 per barrel. In 1980, the tax included nearly every barrel of oil produced, and thus domestic production suffered. If oil companies do the right thing to increase supply, then there will be no windfall profits tax incurred. I don't know how else to get their attention. Jawboning doesn't seem to work. So why don't we join in a bipartisan way and say to the oil companies—invest in the energy needs of our Nation and, if not, provide some relief to the people out there who are paying these tremendously increased prices.

If domestic production stays relatively constant at 5.2 million barrels a day and oil continues to sell at nearly $65 a barrel, then the windfall profits tax will be approximately $65 million a day.

This is money that constituents of ours across the country could use to offset the record price increases expected for home heating oil this winter or to combat the rising costs of goods and services that are transported on trucks and rails.

I pointed out one business that the New York Times identified the other day as expecting their energy costs to double from $700,000 to a $1.4 million. Obviously, they are going to pass it on as a cost of production. The consumers will pay the additional cost.

I noticed—I see my good friend from Utah—last night the snow was beginning to fall in the home State of my spouse and the State the distinguished Senator represents. This is not just a New England issue. It is going to happen across the country where many expect record cold temperatures this winter. This is not a situation where consumers have a choice. You don't have a choice to stay warm or not warm, to provide for your family or not provide for your family. These people who travel to work every day don't have a choice whether to get into an automobile. They don't have mass-transit systems. There is no other choice but to put gasoline in that car and go to work. Those companies have no choice other than to shut down or swallow the cost and pass it on to their customers.

It is clear that rising energy costs are a drag on the economy, for individuals, for families, businesses, or farmers, and while gasoline prices are coming down all across the Nation to some degree, they are still on average 32 cents per gallon higher than they were just a year ago. And as the winter weather begins to bear down on us, consumers are bracing for higher heating costs. The prices in my State and across the northern tier States are going to go up.

This windfall profits rebate is a solution for working families across our Nation. It is more than the administration or many of our colleagues have proposed. Every time we try to ease the financial burden on individuals and families, we are met with opposition. We have not been able to raise the minimum wage in 9 years. We can't increase the funding for low-income home energy assistance at all. We have been unable to realistically address fuel efficiency. Senator JACK REED of Rhode Island has offered the home heating assistance amendment. Senator KERRY of Massachusetts has also offered it. In the past, we have had joint efforts by Republicans and Democrats on the LIHEAP program. That has all been turned down. Why not do this? If you don't want to have the general revenues pay for increased help, why not ask that these additional huge profits that are being made go back and provide some relief to people?

The administration has been asleep at the wheel for the last several years and was adamantly opposed to embracing conservation measures. In fact, in 2001, Vice President CHENEY said:

> Conservation may be a sign of personal virtue but it is not a sufficient basis all by itself for sound, comprehensive energy policy.

So you can imagine my surprise when the administration trotted out a conservation program, headed by the "Energy Hog," as they call him. I applaud their late arrival to the benefits of conservation, but I am very disappointed that they have done nothing to stem the rising cost of fuel in our Nation. They brought the oil companies in when they were originally crafting their energy policy, but they have been unwilling to jawbone either OPEC or the large oil companies when individuals, families, and businesses are suffering.

This is an amendment that will have tangible benefits to consumers without undermining the oil industry. It gives the oil companies a choice. I hope our colleagues here on both sides of the aisle would embrace the Dorgan-Dodd amendment. I urge its adoption.

Mr. President, I yield the floor.

The PRESIDING OFFICER. The Senator from Utah is recognized.

Mr. HATCH. Mr. President, I came over to make some remarks in morning business until I heard the remarks of my colleagues on the other side. I have to say that the windfall profits tax that we enacted a number of years ago, I voted against it. It did not work. It was a disaster. I think this would be an equal disaster. A lot of these folks on the other side are the people who today own a lot of drilling offshore where we know billions of gallons of oil are, who have fought against ANWR where they have estimated at least 6 to 8 billion barrels of oil lie ready to be recovered from a plot of ground as small as 2,000 acres—equal to the Dulles airport acreage.

And you could go on and on about how they have made it almost impossible to drill, to build refineries, to do the things that have to be done to bring oil and gas prices down—almost every argument that has come from the other side. And now we are here trying to tax the companies that now are making very good profits, the very companies that are considering how can they find more oil and gas, how can they drill offshore, how can they drill up in Alaska where there is a lot of oil and gas, and how can we duplicate what they have done up there in Canada with their tar sands. Canada has not been stupid about recovery, and it has cost billions of dollars of investment by oil companies to do what they are doing.

Today Canada is producing a million barrels of oil a day, and before too long that number will grow to 3.5 million barrels a day, mostly from their tar sands. I might add that they now have the second largest oil reserves in the world today, second only to Saudi Arabia, and that is 1 million barrels a day from the tar sands and approximately 1 million barrels from other energy sources. We have just as big of a resource in the U.S., but our companies can not get access to it. It's becoming too difficult to get the necessary permits which are often completely bottled up by the environmentalists, even in areas where drilling would be environmentally safe.

I think the height of stupidity was locking up the Saudi Arabia of coal, which happens to be in Utah, by creating the Grand Staircase-Escalante Monument. President Clinton closed up 60 miles south of Utah, an area larger than the Grand Canyon, without having talked or consulted with one political official in all of Utah—not the Governor, not Members of the Senate or House of Representatives, not even Democrats in Utah. That coal is high-moisture, low-sulfur content, environmentally sound coal, which, if blended with the less clean coal of the east and the central part of our country would save billions of tons of particulates in the air. The arguments for closing off that huge source of clean energy are very similar to the arguments being made today by my two illustrious colleagues, for whom I care a great deal.

It is wonderful for some to get out here and beat up on the big old oil companies. It was just yesterday when I was chatting with one of the largest oil companies, and more than anything, they want to invest in new development and take advantage of incentives we put into the Energy bill. They want to develop the tar sands and oil shale in our country, we are 15 to 20 years behind Canada on this, so that we can lower the price of oil and gas in this country, so that our good friends in the eastern and northeastern part of this country do not have to pay the high prices they are paying. These oil companies are often not able, even when they make these profits, to drill because they cannot get permits and, in some areas, cannot even drill where we know there are billions of barrels of oil that would lower the price of oil and gas.

That is why I have found this a little hard to take, as I have been sitting here—I didn't plan on talking on this issue. But I am one of those who put into the Energy bill incentives to develop our tar sands and oil shale, our geothermal, our natural gas, and to develop more refineries because over the last 35 years, we have lost 200 refineries and only built 1. Why? Because it is so doggone hard to get approvals to build refineries in this country.

We can't even produce the amount of refined petroleum we need for our automobiles on the road now. Why? Because we have gone so far to the left wing extreme that we cannot develop our own resources, even in an environmentally sound way.

Also, in that bill I put in the CLEAR Act, which provides incentives for alternative fuel vehicles, alternative fuels, alternative fuel stations, alternative fuel cells. Given some time and some investments, I believe we can solve an awful lot of the pollution problems in our country the right way, through incentives, not by punishing the very companies that make our country work. We need to give incentives and government cooperation so companies can get permits to develop more oil and gas, so that we could bring down the price of oil and gas. But every time they want to do that, every time one of these companies wants to do something like that, guess who is throwing up every roadblock they possibly can and all in the interest of politics, in my opinion, which I think is the sum and total of most of the remarks made today on the floor by my two friends and colleagues—and they are friends—on the other side.

Mr. DORGAN. Mr. President, will the Senator from Utah yield for a question?

Mr. HATCH. I listened to the Senator from North Dakota, and I will be happy to take a question. I didn't come here to talk about this, but I got a little bit upset listening to what I consider to be political talk, which we have all too much of on this floor.

Every day we have people coming around here giving these populist talks about how we have to bring oil and gas prices down, and yet they make it almost impossible to do it. Come on, America, wake up. I am sick of it. I used to be in the oil business. I know how hard it is.

Let me tell you, in eastern Utah, western Colorado, and southern Wyoming, we have upwards estimated 3 trillion barrels of oil, 1 trillion or more of which they say is recoverable, at probably $30 or less per barrel. But developing that oil will take billions of dollars of investment and all kinds of bureaucratic anguish to get the permitting and other steps necessary to go in and do it. And we are 20 years behind Canada. They didn't allow this type of talk to stop them from developing their tar sands.

I talked to a company yesterday who said they may be willing to put a tremendous multibillion-dollar investment in there, and when industry is through, it will be over $100 billion, close to $120 billion invested. Mr. President, where do we think this money is going to come from? By the way, that 1 trillion barrels of oil in eastern Utah, southern Wyoming, and western Colorado is more recoverable oil than all the proven reserves in the Middle East. But it is going to cost more to come out because it is a different form of extraction. To do it costs billions, if not hundreds of billions of dollars of investment over the years. But it will save our country if we have the wisdom and the fortitude and the foresight to go and do it.

I might also add that we haven't built a refinery, as I have said, in 35 years—1 refinery and we have lost 200 of them. Why? Because it is so difficult to get anything done because of the so-called environmentalists, and I have to call some of them extreme environmentalists because true environmentalists should want us to get some of the things I put into the Energy bill.

I don't believe that oil companies should make excessive profits that they are unwilling to use for furthering their business interests either, but if they are given a chance to use them and go out and get more oil for us and more gas for us, they are going to do it. But every step of the way, they are stymied by the very people here who have been complaining.

I am personally tired of it. I feel sorry for the people in the Northeast. I feel sorry for the people in Utah. Our folks are paying more than I wish they had to pay for gas. I feel sorry for those over in Europe, where they have paid more than $4 a gallon for gasoline now for decades, some as high as $6 a gallon for gasoline because they were overrun by the same type of philosophical talk. And that is all it is, talk that we get on this floor.

I can tell you, the American people have to wake up. This populist talk is not what is going to get us oil and gas, nor is it going to bring prices down, nor are rebates going to help our people over the long run. What will help our people is to develop, in environmentally sound ways, resources that will help get us out of these difficulties.

As for that Saudi Arabia of coal I mentioned in the Kaiparowitz Plateau in southern Utah, we now have the capacity to take that high-moisture, low-sulfur content, environmentally sound coal, and develop clean-burn diesel and clean-burn jet fuel. We have that ability today, and it is locked up because of what I consider to be a political stunt that we are stuck with, for now. It wasn't on this side of the floor or this administration that caused that political stunt.

I think it is time to get rid of the populist talk and start talking reality. It is nice to come out and beat up the oil companies who are making great profits, but who would use those profits if they could to develop more of their products.

Mr. DORGAN. Mr. President, I wonder if the Senator from Utah will yield on that point.

Mr. HATCH. I will be happy to.

Mr. DORGAN. I say to the Senator from Utah, I have 20 minutes left, and I will use them after the Senator from Utah is completed. It may take all the 20 minutes to correct the errors of his presentation.

Mr. HATCH. I would be interested in the corrections because I don't believe you can find what I said to be false.

Mr. DORGAN. Almost all of it was wrong.

Mr. HATCH. No, it wasn't wrong. I lived in this industry. I understand it. If you have a question—

The PRESIDING OFFICER. Senators need to be reminded that they have to go through Presiding Officer.

Mr. DORGAN. I asked if he would yield for a question. I will ask one simple question.

Mr. HATCH. OK.

Mr. DORGAN. I wonder if the Senator from Utah has seen the chart I used on the floor that comes from BusinessWeek, not a progressive rag or a conservative business journal, that says this about the major oil companies which the Senator defended so aggressively at the moment:

> Rather than developing new fields, oil giants have preferred to buy rivals, drilling for oil on Wall Street. While that makes financial sense, it is no substitute for new oil.

They are the ones saying the oil companies are not using these profits to drill and build refineries. They are the ones saying it, not us.

Mr. HATCH. Do you have a question?

Mr. DORGAN. Yes. How do you justify what you said with what is in the BusinessWeek article, and virtually everyone else knows that they are buying back stock, hoarding cash, and drilling on Wall Street?

Mr. HATCH. First of all, BusinessWeek is not a conservative publication. Anything that is not liberal you consider conservative on that side. Secondly, the fact of the matter is, I have been making a pretty good case that it is pretty tough to get permits and get past the environmentalist roadblocks. It is in my State and every other State that has energy. Thirdly, I mentioned the coal that has been locked up because of the machinations of the Clinton administration, the last administration.

Fourthly, I don't think it is even plausible that the oil companies, if they can get permits fast enough to do it, would not invest in more production, since that is their business. Some of them are going to China, to Russia, and elsewhere to make these profits because they are forced to.

I think it is very unfair for my colleagues, as much as I admire you, it is very unfair to come on this floor and brand the oil companies as a bunch of antipatriotic companies.

Let me finish with my remarks, and I will yield the floor. I have been in this business. I know doggone well what it takes and how much it takes and how much it costs to develop oil and gas. I also know how difficult it is to get past the roadblocks environmentalists put up.

I get tired of the populist rhetoric on the other side of the aisle that never gives any consideration to how difficult it is to be in this business. I don't have any financial interest in oil. All I can say is that I have been there, I know what it is like. Of course, these companies are out to make money, and if they have a business plan to buy back their stock, good for them. There are a lot of companies that are buying back their stock so they can compete.

I feel strongly about this, which is why I fought for incentives in the Energy bill—and I fought hard to get them there—to develop the tar sands and oil shale, to develop geothermal, to develop refineries. We hear all this rhetoric about how these oil companies are making all this big money and not building refineries, tell me where they can build them; tell me where they don't have to spend billions of dollars to build a refinery or hundreds of millions to build a refinery, all because of what many people would argue are pseudo-environmental arguments and delays.

We have gone so far on that side that we made it almost impossible for us to develop our own natural resources for our own benefit.

I don't like any company that gouges, and if these companies are gouging, then let's do something about it. But let's not take away, as we commonly do around here, their ability to be able to go out and find oil, drill for oil and do what I think both of my colleagues sincerely want them to do, to go out and produce energy.

You talk to any oil company executive and talk about how difficult it is to get permits and to do what has to be done in this country, it is amazing.

I again point out—and it was not false—the fact that I chatted with one of the major oil companies recently that is going to go into the tar sands and oil shale at the tristate area, and their estimate is that it could cost industry as much as 120 billion bucks. That is a lot of money even for the oil companies. But, boy, would that save our country.

But it will never happen if we keep doing this type of stuff on the Senate floor. I think we have done it for so many years now that we are getting used to it and we ought to answer it.

Mr. President, I want to address another subject that I came here to address. I apologize to my colleagues if I offended them, but do not tell me that what I am saying is false. I know it is true. I for one am doggone tired of this type of rhetoric.

I want to address the nomination of Judge Samuel Alito to be Associate Justice of the Supreme Court, and I would like this put in morning business.

The PRESIDING OFFICER. Without objection, it is so ordered.

(Several Senators addressed the Chair.)

Mr. DORGAN. Mr. President, I object. We are on an amendment on the reconciliation bill.

Mr. HATCH. I have the floor, do I not?

Mr. DORGAN. I ask the Senator to make his unanimous consent request.

Mr. HATCH. I just got the unanimous consent.

The PRESIDING OFFICER. The Senator from Utah has been yielded time and may speak on any subject.

Mr. DORGAN. Did he not just ask for time in morning business?

Mr. HATCH. I will withdraw the morning business request, and I will put it in this RECORD.

The PRESIDING OFFICER. The understanding is that the statement would be placed in morning business, not under this debate but under morning business, and the time will be charged.

The Senator from Montana.

Mr. HATCH. Mr. President, who has the floor?

The PRESIDING OFFICER. The Senator from Utah has the floor.

Mr. BAUCUS. Parliamentary inquiry to the Chair.

The PRESIDING OFFICER. Will the Senator yield for an inquiry?

Mr. HATCH. Of course, I will.

Mr. BAUCUS. Mr. President, I would just like to know how much time has been yielded to the Senator from Utah, as well as how much time is remaining on the amendment offered by the Senator from North Dakota.

The PRESIDING OFFICER. The Senator from North Dakota has 24 minutes remaining. The Senator from Utah does not have a limit on his time, but he is speaking on the amendment, for which there is 40 minutes remaining.

Mr. BAUCUS. I thank the Chair.

(The remarks of Mr. HATCH are printed in today's RECORD under "Morning Business.")

The PRESIDING OFFICER. The Senator from North Dakota.

Mr. DORGAN. Mr. President, this has been entertaining, if not enlightening, to see my colleague get a full tank of indignation in almost a nanosecond, on two subjects in fact. Let me cover the first at least.

My colleague is a good-natured fellow—I like him—my colleague from Utah. In fact, he didn't get angry at me one day some years ago in a full-scale debate when I said to him, if there were an Olympic event for sidestepping, he would win the Gold Medal by far. In fact, he demonstrated that agility again today by sidestepping this point. The center of our colleague's agitation was he said: You cannot produce any more oil because those leftwingers, those environmentalists, will not let you do it.

So I ask, well, how does one explain this then? The Wall Street Journal says the major oil companies are drilling for oil on Wall Street. They are paying down their debt, buying back their shares, and hoarding cash. That is what they are doing with their money. How does one explain that? Did not hear anything, did we? No explanation.

My colleague said he was sick—he said three times he was sick. It is interesting, I suppose I have felt sick about some debate on the Senate floor over these years. I do not think I have ever admitted that, but I would much prefer to see a colleague of mine agitated about the price of energy in a full-scale agitation about what this is doing to consumers, agitated about what it is going to do when somebody on a fixed income cannot figure out a way to heat their home this winter. I would much sooner see a colleague agitated about that than having just come fresh yesterday from, as he described, a meeting with a major oil company, come to make the case for the major oil companies on the Senate floor, and say: You know what the problem is in this country? It is those populists dripping with venom—that word "populists"—those leftwingers, those environmentalists on this side of the Chamber, they are what is wrong with this country.

Let us see if we can peel back a little bit and expose the truth, if I might. My colleague says those environmentalists and those leftwingers have shut down all of these refineries. Oh, really?

No, that is not true. Take it from me, that is not true. By the way, if my colleague would like to come back to the floor of the Chamber at some point, I would love to have a wide-open debate. Let us just talk back and forth and figure out where the facts are.

Let me give a few facts about refineries. I will not read them all, but I could. Do my colleagues want to know the names of the refineries that were shut down in 1995, 1996, 1997, 1998, 1999, 2000? Do my colleagues want the names of the refineries? I will give names of refineries, and when I tell the names of the refineries I will say who shut them down. The oil companies shut them down.

Now, they did not do that so somebody could come to the Senate floor and blame somebody else. They did it because they were approved for big mergers. They became bigger and bigger, and they decided to shut down refineries. Why? They wanted to tighten the refining capacity and therefore increase margins. And they have done it.

I will not say I get sick about somebody coming to the Senate floor to blame others for the oil companies shutting down refineries. But do I think it is fair, and do I think it is truthful? Absolutely not. The evidence is exactly the opposite of what my friend from Utah said. He has a right to say it, and he even has a right to say it with a full tank of indignation. That does not make it right. The American people need to know the truth about these issues.

Shutting down refineries has, in fact, occurred in this country. Why? Because as the oil companies merged and merged and became bigger, they were shutting down refineries. And I will read the names if anyone would like me to. But my colleague has gone and will not be interested in these names, I guess. I would be happy to yield.

Mr. DODD. I say to my colleague, since 1980, 176 refineries have closed their doors, not because environmentalists shut them down. Is it not true, I ask my colleagues, these were decisions made by the industry themselves?

Mr. DORGAN. Absolutely.

Mr. DODD. Does my colleague not further agree that in recent reports one of the major companies we are talking about, in effect, bragged that they had reduced production by 3 percent while profits over the same year had increased 50 percent? That was not some environmentalist reducing production by 3 percent. That was the industry itself that made that decision. Is my colleague familiar with that?

Mr. DORGAN. Absolutely. These record profits, the highest profits in history, are accompanied, by the way, in most cases—let me give an example. Exxon reports a 75-percent increase in net profits to $9.9 billion and they produced 5 percent less oil and gas at the same time.

Part of that was due to the hurricane. But the company admits that even without the hurricane, they would have produced less oil and gas at the same time they had the highest profits in history. How does that square with what our colleague from Utah said? What our colleague from Utah said is not accurate. It is not. He said it with great conviction, he said it with great agitation, and it is wrong. Flat wrong.

There are plenty of other things to talk about with respect to this issue. Our colleague raises the suggestion that we can't drill anyplace. You can't drill anyplace.

Look, I support drilling in Lease 181 in the Gulf of Mexico. The only place he was accurate about was the issue of ANWR. Do I think we should drill in ANWR as a first resort? The answer is no. I think it ought to be the last resort if we ever drill there. We have people on the floor who want to open up all these pristine places, especially ANWR, that we have set aside and let's drill. Katie bar the door, drill anywhere. We have set ANWR aside, but there are plenty of places I think we ought to drill.

This was one of the most partisan rants I have heard for some while on the floor of the Senate. We are used to it. The minute you offer an amendment that does anything to a particularly large industry, I am telling you we have people coming through these doors saying, Who do I stand for? Let me stand for the big interests here.

My colleague said he met with a major oil company executive yesterday. Good for him. As I said before, I don't bear ill will toward the major oil companies. But I wish he were as agitated about the impact of these prices on America's consumers. He is not. He has raised a lot of questions about why the oil companies are not producing more oil, why prices are where they are. The fact is, point after point after point has been inaccurate.

I say to my colleague with respect to Exxon, let's take Exxon. He says the problem is these Senators and all the environmentalists and all the others prevent them from drilling.

What did Exxon do last year? They made $25 billion and used $9.9 or $10 billion to buy back their stock. How does he square that with what he said to the Senate? He is flat wrong.

Sigmund Freud had a grandson named Clement. I was thinking about it, as my colleague was supporting the major oil industries' profits tonight. Clement, Sigmund's grandson, said this: "When you hit someone over the head with a book and get a hollow sound, it doesn't mean the book is empty."

We have offered a proposal here in the Senate that has great merit. It has been misdescribed by the oil industry for reasons I understand—I am talking about the major integrated companies—misdescribed by our colleague from Utah tonight as something that would reduce the supply of oil. In fact, the single largest incentive that would exist for expanding the supply of energy in this country would be our proposal because the major integrated oil companies would have a choice. They can either use these windfall profits above $40 a barrel to sink back into the ground, exploring for oil, or building refineries. They can either do that, and therefore be exempt from the windfall profits tax we propose, or they can choose to pay a 50-percent excise tax on the windfall profits—one of the two. Which would you choose? There is no question what you would choose. You would choose to expand the supply of energy and reduce energy prices as a result. That is the incentive in our piece of legislation. That is why it makes so much sense and it is why I was sitting here gritting my teeth, listening to the caricature of this legislation offered by my colleague from Utah and the spirited defense of the highest prices in history by the major integrated oil companies and the disparaging comments about the efforts to see if we can give some relief and give some help and stand on the side of consumers.

I chaired the hearings on the Enron scandal several years ago in the Commerce Committee. I had a lot of people there under subpoena, understanding what they did on the west coast with price manipulation.

I must say this issue of pricing, pricing of energy is critically important because this is not some luxury item. This is a necessity for every family, for their daily needs. We need to get this right. The question is, when we vote on this: Who do you stand with and who do you stand for?

Let me yield some time to my colleague. How much time remains on our side?

The PRESIDING OFFICER. There is 13 minutes remaining.

Mr. DORGAN. Let me yield 8 minutes to my colleague from Connecticut.

Mr. DODD. Thank you. I may not use all that time because we made our points. But I want to join with my colleague and friend from North Dakota.

Let me say at the outset I have a great friendship with my colleague from Utah. We have done legislation together over the 24 years we have served together in this body. He has been here a little longer than I have. I enjoyed that relationship. I am somewhat stunned when my colleague from Utah becomes as exercised as he was over the oil industry and its profits. They have done very well. There is no reason to be upset about the oil industry. The profits they recorded in the space of 12 weeks are unprecedented in American history.

I began to wonder whether my colleague from Utah had even read the amendment the Senator from North Dakota and I offered. It very simply says that, with the profits when oil is in excess of $40 a barrel, you either pay an excise tax which would rebate to consumers to the tune of about $65 million a day, which could be meaningful to families who will be paying much higher costs this year, or reinvest this money, these additional profits, into increased production or developing alternatives the industry says it wants to do. That is what the amendment says.

We have watched the industry shut down 176 refineries in 25 years. One company brags about how profits are up 50 percent, and they themselves reduced production by 3 percent.

In any class in 101 economics, when you reduce supply like that, obviously it gives a justification for increasing price. They admit it in their annual reports. I didn't make up that quote. I am quoting one of the major integrated companies in its message to its shareholders: Profits are up 50 percent, we reduced production by 3 percent.

Then I hear my colleague from Utah talking about some environmentalists as if somehow they had shut down the refineries or they were responsible for reducing refinery capacity. It is the oil industry itself that has been closing refineries.

There are not going to be many more opportunities because we are about to adjourn here. We will not be back until the middle of January. This may be the one opportunity we have to express ourselves on whether we think the industry ought to be doing a better job when it comes to increasing production and providing some relief for the people out there who will be paying these increased costs.

This is not an excessive request. It is one that goes right to the heart of what we have talked about, what we talked about during the consideration of the Energy bill. In fact, as I pointed out earlier, we provide literally billions of dollars in tax breaks for the industry to go out and do some of the things the Senator from Utah talked about.

I voted against that Energy bill, not because there were not some things I liked in the bill but, frankly, because I thought those tax breaks were unnecessary. When you are recording $9 billion, almost $10 billion in profits in 12 weeks, why do you need a tax break? But when the integrated companies report more than $32 billion in profits in 12 weeks and we turn around and provide billions of dollars in tax breaks, I didn't understand that. But that is what we decided to do.

Here we have a chance to say: Listen, you got these additional profits. Put them into energy production or provide a rebate to the people of this country who are going to be paying these increased prices. It is one chance here to decide which side you are on. As I mentioned earlier, we tried to get Low-Income Home Energy Assistance increases for the poorest of our poor, the elderly on fixed incomes, and that has been denied over and over again despite amendments even in the last few days and weeks to provide some relief. That has been repeatedly voted down.

What about providing some relief for people who are going to be paying these additional costs? That is what we are trying to do with this amendment. I commend my colleague from North Dakota. I know some people say, It is a futile effort, why do you even bother? We bother because we think it is right to stand up here.

Other Congresses in other times—where are the Harry Trumans today? We are in the middle of a war right now in the Middle East. He stood up as a Member of this body and he called it profiteering, and he was not accused of being a populist. We celebrate Harry Truman today as someone who had the guts to stand up and tell the truth, whether people wanted to hear it or not. We ought to tell the truth now. These companies are making excessive profits at the expense of our economy and hard-working, honest people. They look to us to provide some help.

That is what we exist for, in part, to make sure you don't have unrestrained activities that will do damage to the average person or average business out there trying to make ends meet.

I again urge our colleagues to support this amendment. It is one chance we have to try to make a difference for these people.

I yield.

Mr. DORGAN. Mr. President, how much time remains?

The PRESIDING OFFICER. The Senator has 8½ minutes.

Mr. DORGAN. Let me yield myself 4 minutes. I want to reserve 4 minutes. But let me make a comment. I agree with my colleague from Connecticut. Spirited debate is fine on this floor. I didn't like the representation that was made by our other colleague that somehow what we were proposing here is not only unworthy but part of some cabal that is trying to injure this country and, second, using information that is simply not accurate.

The refineries have been closed by the oil companies, not environmentalists. That is a fact. What has happened is when they merged, they closed refineries in order to restrict supply and boost the yields of the refineries. The fact is, we had experts come in. I am talking about experts, I am not talking about politicians. The so-called experts came to the committee. We said, Why are refineries closing? One reason, because their yields are too low and the major oil companies are closing them. That is exactly the case.

My colleague from Utah talked about tax breaks he had sponsored for the oil industry. He talked about yesterday he was visiting with an executive of the big oil industry—which is fine. He talked about the price they pay in Europe, $3 or $4 a gallon. The interesting thing is in Europe the money between the cost of oil and the $3 or $4 a gallon doesn't go into the pockets of the oil companies, it goes to build infrastructure in Europe. They collect it in taxes and use it to invest in the infrastructure of Europe.

But I think it is important to point out what happens here on this floor. When you offer a proposal such as we offered, it doesn't matter if it is the tobacco industry or pharmaceutical industry or oil industry, we will have people trot through these doors of the Senate and rise to the defense of the pricing policy of the pharmaceutical industry or rise to the defense of the pricing policy of the oil industry. I will ask this. If you are going to get agitated in this Chamber, get agitated about something worthwhile. The agitation ought to be on behalf of some families who are trying to figure out how on Earth will I pay the bill? As I read in tomorrow's paper of the largest profits in the history of this country coming into the treasury of the oil companies, how am I going to pay a 50-percent increase in the bill to heat my home? You want to get agitated, get agitated on behalf of those folks and help us do something.

This notion of partisan blame, coming to the Chamber and ignoring the substance of a proposal and then casting partisan blame, in my judgment is a little tired and a little old. This proposal stands on it own merits. If you don't like it, that is fine. I understand that. Vote against it. But don't suggest somehow you are on the side of the consumer if your interest here on the floor of the Senate is to come and stand with the big oil companies, and to believe that profits above $40 a barrel is fine. It is not. It is not fair.

We believe one of two things should happen: Either it all ought to be sunk back into the ground or above ground for exploring for oil and building refineries and expanding America's supply of energy and bring down prices, or it ought to be recaptured and sent back as a rebate to the people in this country who are having trouble paying their bills, as a rebate to every American using energy.

That is our proposal. Controversial for some? Maybe. Is it the right thing to do for the American people? I believe it is, and I hope this Congress, I hope this Senate will as well.

I yield the floor and I reserve the remainder of my time.

The PRESIDING OFFICER. Who yields time?

Mr. GRASSLEY. I yield whatever time he consumes to the majority whip.

The PRESIDING OFFICER. The Senator from Kentucky is recognized.

Mr. GRASSLEY. I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The legislative clerk proceeded to call the roll.

Mr. BAUCUS. I ask unanimous consent that the order for the quorum be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

IMMIGRATION AND COMPETITIVENESS

Mr. BAUCUS. Mr. President, in 1882, an Irish immigrant named Marcus Daly set off an explosion that shook the world. It happened 300 feet under the ground, near Warm Springs Creek, 26 miles west of Butte, MT. When the dust settled, Daly saw before him the shiny ore of the largest copper deposit ever known.

The rich copper vein transformed the American economy. It made America the world's largest copper exporter. And it inaugurated an economic boom for my home State that lasted for decades. It also enriched many parts of America.

Thousands of immigrants made the boom happen. They came from Ireland and Italy, Canada and Scandinavia, Serbia and Croatia, Greece and Syria. They came to America to find work in the new mining town, christened Anaconda. By 1900, immigrants made up 40 percent of Anaconda's population.

These new Americans formed the backbone of the mining economy. And their descendants have woven the colorful fabric of Montana.

Immigrants helped build the American economy. In the 1850s, hundreds of thousands of young Chinese men helped construct the Transcontinental Railroad. At the beginning in the 1870s, Basque shepherd immigrants helped shape the western ranching economy. Beginning in the 1890s, hundreds of thousands of Norwegian farmers lay the foundations of a competitive farming economy in Wisconsin, Iowa, Minnesota, and the Dakota territories. And in the first decades of the 20th century, more than 100,000 Jewish immigrants created New York City's famous garment industry.

Immigrant entrepreneurs and innovators revolutionized the American economy. Scotsman industrialist Andrew Carnegie transformed the American steel industry and consolidated the Nation's railroads. Hungarian Joseph Pulitzer produced a legacy in newsprint. Polish-born producer Samuel Goldwyn left his mark on film.

Once-foreign names became American household brands. Russian-born Max Factor made makeup. Bavarian-born Levi Strauss manufactured clothes. Hessian-born Adolphus Busch brewed beer.

And today, immigrant innovators still populate the cutting edge. Moscow-born Sergey Brin helped found Google. Taiwan-born Jerry Yang founded Yahoo. French-born Pierre Omidyar founded eBay. And Hungarian-born Andy Grove founded Intel.

America remains a nation of immigrants. More than 33 million people living in America were born abroad. More than 9 million came to our shores just between 1990 and 2000.

Since colonial times, immigrants have been vital to the American economy. Their skills and their labor have made our companies, our industries, and our economy more competitive.

Some immigrants come with little more than their strength and ambition. They become our economy's machine operators, factory workers, farm laborers, and service workers.

But many come with master's and doctorate degrees. They work in research laboratories and universities. They sharpen our economy's cutting edge.

This is my seventh address to the Senate on economic competitiveness. Since summer, I have highlighted the importance to competitiveness of education, international trade, healthcare, national savings, and energy, all components we must focus on to make our country more competitive so we have better high-paying jobs and more paying jobs for more Americans. Today, I speak about immigration and economic competitiveness.

Immigrants make our economy more competitive in at least four ways.

First, immigrants provide labor. Marcus Daly needed workers to dig his Montana copper mine. Similarly, today's booming industries require global talent.

Without foreign-born workers, the largest economic expansion in our Nation's history would not have been possible. In the boom years of the 1990s, the labor force grew by nearly 17 million workers. Nearly 40 percent of them were born abroad. Most of these immigrants came when unemployment was at record lows. They filled 4 out of 10 job vacancies, often in regions short on workers, and often in jobs that natives had no desire to fill. Had these immigrants not lent us their strength, our economy would surely have faltered.

Second, immigrants help balance the budget. Tally up taxpayer-funded benefits to immigrants—education, healthcare, social security—and match those costs against what immigrants pay in State, local, Federal taxes. On balance, each immigrant provides a net benefit to the American economy of about $90,000 in taxes over a lifetime. Overall, immigrants contribute $15 billion to our economy every year.

And immigrants will make an important fiscal contribution as the baby boom generation retires. In just 5 years, the number of Americans approaching retirement will increase by nearly half. Most new foreign-born immigrants, on the other hand, are between 10 and 39 years old. And immigrants are likely to have more children than the U.S.-born population.

These younger workers will help fund the coming Social Security, Medicare, and Medicaid benefit payments. Immigrants bolster the deteriorating ratio of workers to retirees. Immigrants provide a shiny vein of ore in a graying economy.

Third, immigrants push the envelope of innovation. Foreign students earn more than a quarter of the Nation's science and engineering degrees. They earn more than a third of science and engineering doctorates. Most of those are in computer sciences and electrical engineering. Foreign students account for as many as four out of five doctoral students in a number of highly-ranked universities. And foreign students bring $13 billion a year to our economy in tuition and fees.

Foreign students' minds help sharpen our economy's cutting edge. Foreign student researchers support work on new medicines, software, and other innovations. Universities patent this research. A 10 percent increase in the number of foreign graduate students would increase patents granted by more than 7 percent.

Patents mean new inventions. Inventions mean new products. And new products mean new profits and new jobs.

Just as important, nearly three-quarters of highly-skilled students stay in America. Instead of taking their skills home and using them to compete with us, they join highly specialized professions in research and academia. They contribute their knowledge to our economy.

At IBM Research and Intel, for example, foreign nationals make up about a third of high-level researchers. At the National Institutes of Health, foreign-born workers make up about half of researchers. In America's top immigration States, foreign-born workers account for 40 percent of teachers and more than a quarter of physicians, chemists, and economists.

Fourth, immigrants drive entrepreneurship. Entrepreneurship is the irreplaceable genius that sparks economic growth. For every famous immigrant entrepreneur like Hungarian financier George Soros or Belgian designer Liz Claiborne, legions of other immigrants push the limits of the economy, or simply provide a neighborhood service.

For more than a century, immigrants have been more likely than native-born Americans to be self-employed entrepreneurs. Since the 1970s, immigrants have helped reverse a national decline in self-employment. Immigrant-run businesses create jobs, tax revenues, and growth. Even small neighborhood businesses can revitalize entire neighborhoods. And small businesses are the primary driver of new jobs.

Immigrants also swell the ranks of high-technology entrepreneurs. Most of the foreign-born scientists and engineers in Silicon Valley have helped found or run a start-up company. Sixty percent of Indian scientists there have participated in start-ups. And fully three-quarters of Indians and most of the Chinese scientists there have plans to start a business. These entrepreneurs are thinking about tomorrow's economy today.

Immigrants devote their labor. They boost our balance sheets. They drive innovation. And they energize entrepreneurship. Immigrants are vital to our economic competitiveness.

Unfortunately, America is not welcoming global talent and labor. In some cases, we have pulled in welcome mat.

State Department visa procedures and security checks intended to keep out terrorists are instead keeping out talent. In the post-September 11 world, America must vigilantly protect its borders. But we must also strike a balance between this vigilance and economic health.

Look at the case of foreign students who want to study at American universities. In 2003, foreign applications to American engineering doctoral programs fell by more than a third—with Chinese applications dropping nearly in half. Despite considerable efforts to reverse this trend, total foreign graduate school applications declined further last year, by double digits in some cases. This year, the number of international students entering American graduate schools finally held steady, despite a 5 percent drop in applications from foreign students.

The decline in applications is not an anomaly. It is a clear trend. At the same time, our economic rivals are actively attracting the world's brightest. Canada doubled its foreign student enrollment last year. And South Korea will triple its foreign student enrollment by 2010.

We unfortunately have also closed the door on talented workers who drive our companies' competitiveness. Our leading high-tech companies—companies like Intel, Microsoft, and Hewlett-Packard—are imploring Congress to raise the cap for visas for highly-skilled workers—known as H-1B visas. These visas are capped at 65,000. That limit is so out of line with demand that we reached the 2005 cap months before 2005 began.

Today's visa and immigration restrictions also make it difficult for major American companies to employ and train their workforce.

Take this example: A global American entertainment company with headquarters in New York hired Indian managers to run its Bangalore office. The company wanted to train these new hires to company standards, as it does with all employees. The company wanted to send the new hires to New York to receive this training, as it does with all management. The company applied for visas on behalf of its soon-to-be Indian office managers.

What happened? The company filed the paperwork. Months came. Months went. It took 3 months just to get an appointment at the U.S. Embassy. Delays continued. Patience wore thin. Costs mounted, with untrained managers on the payroll. And the company finally gave up.

The company applied for visas to Ireland, where the company had its European branch. The visas came in 4 days. The company trained these new managers at the company's facilities in Ireland, and then sent them back to India to work. This created jobs in Ireland, because the company set up a training program there, instead of using existing trainers in America.

This is no way to do business. We are shooting ourselves in the foot.

We must lift the cap on H-1B visas. We do not have a centrally planned economy. The American Government does not tell companies how many workers they need each year. But the cap has that effect, the effect of a centrally planned economy. That is wrong. Let us listen to business leaders and help them maintain and improve their competitiveness. When our premier global companies implore us to lift the H-1B visa cap or risk hampering their growth, the time for politics is over.

We must simplify temporary entry for foreign workers who need to come to America to help our companies succeed. If we wish to remain a cutting-edge economy, we can no longer obstruct companies from training their overseas employees, participating in meetings and conferences, or traveling to trade shows. Our companies have global markets, global supply chains, and global strategies. We need a global workforce.

Our current commitment of 65,000 H-1B visas each year is outdated. It is outmoded and out of touch with today's needs. We should make a bold commitment to expand that cap. Such a commitment would allow us to lock in similar commitments from our trading partners and enhance exports and American services.

We must actively encourage talented foreign students to study, do research, and innovate at American universities and American research institutions. Visa renewals during multiyear studies need to be routine. These renewals should not require all students to first return to their home countries.

For the most exceptional of these students, who have earned advanced science degrees at American universities, we need a simpler process to obtain permanent residence. These are talented, highly educated individuals, who are in a position to keep our economy competitive. If we do not welcome them into our economy—guess what—then China, India, Europe, or Japan will welcome them into theirs.

Three weeks ago, the National Park Service designated the old mining town of Anaconda, MT, as a national historic landmark. Anaconda's mining boom times are now preserved as part of our Nation's history. But Marcus Daly's explosion—when he found all that copper ore—continues to reverberate through the American economy today.

Let us not stamp out the spark of future booms. Let us, rather, welcome the labor, the innovation, and the entrepreneurship of our new immigrants. Let us ensure for ourselves and for our children the shining ore of boom times to come.

Mr. President, I yield the floor.

The PRESIDING OFFICER. Who yields time?

Mr. CORNYN. Mr. President, I yield myself such time as I may consume from the manager's time.

The PRESIDING OFFICER. Without objection, it is so ordered.

The Senator from Texas is recognized.

AMENDMENT NO. 2587

Mr. CORNYN. Mr. President, I come to the Chamber to respond to some of the arguments that have been made by some of our colleagues in support of an amendment that would impose a so-called windfall profits tax on crude oil and the use of the tax collected to provide an energy tax credit to consumers.

This is an amendment that, while it may make Senators feel good to try to lash out at the oil companies that are making admittedly significant profits, it is the wrong thing to do for reasons I wish to explain.

I think we are here representing our various States to do more than make popular arguments. We are here to make arguments that ultimately make sense and benefit the national interests of the United States of America. I believe passing a windfall profits tax would damage America. It would damage our national security by making us even more reliant on imported oil and, conversely, less reliant on domestic oil because there would be less of it. It would essentially confiscate the legally earned profits of a legal business that has actually made less money than other industries that I will talk about in a minute.

If we are going to determine in the Congress how much of a profit is too much and how much is not enough, I think we are sending a very bad signal. We are ostensibly believers in the free enterprise system in the United States. Certainly there are examples of gouging and illegal profiteering, but those are at the margins. We should not be in the business in the Senate of saying how much is too much and how much is not enough.

I point out the bill pending on the floor already includes a $4.9 billion tax penalty on large integrated oil companies. That is already in this bill—without this windfall profits tax—and imposes a significant penalty tax on the oil industry.

Now, proposals to limit so-called windfall profits are premised on the notion that the oil industry profits are somehow excessive. I would point out to my colleagues that in the second quarter of 2005, the oil industry earned 7.7 cents, not quite 8 cents, for every dollar of sales. The average profit for all U.S. industries during the second quarter was 7.9 cents. In other words, the average profit was two-tenths of a cent more for sales across all industries.

There were 13 industries in the United States that earned higher profits in the second quarter than the oil and gas industry, including banking, at 19.6 cents; software and services, at 17 cents; consumer services, at 10.9 cents; and real estate, at 8.9 cents. Are we going to impose a windfall profits tax on each of these industries that reaped a higher return on their investment than the oil and gas industry? Well, I doubt it. And thank goodness we are not. It simply is wrong to target an industry, particularly one that has not made excessive profits relative to other industries in the United States during this last year, and say: We are going to treat you differently, we are going to discriminate against you because we know you are unpopular, and we are going to tax you at a higher rate than we would otherwise tax business activity in the United States.

Now, we have seen a spike in gasoline prices, up to, on average, $3.07 a gallon, which, thankfully, has dropped a lot now. I was back in Texas this last weekend, and I saw gasoline selling for $1.98 a gallon. That was certainly good news. Those prices are a little bit higher in other parts of the country, obviously, but the good news is, the price is coming down.

It is that law that does not emanate from inside the beltway but one that governs all of our economic activities that applies here. It is the law of supply and demand—the law that this amendment would attempt to tamper with and create perverse incentives that are not good for America. They do not just target this industry, they actually are bad for our national security. They are unfair when you consider other industries. And it violates our fundamental principles as a nation that believes in the benefits of a free market.

But the fact is, one of the things that cramped the supply of gasoline recently was the hurricanes that have damaged refineries and oilfields, including out in the Gulf of Mexico. A lot of the refineries and the oil wells have been offline while they have been repaired and now are largely being restored. What we are seeing, as they are coming online, with more supply, and given the same demand, is that the price is coming down.

But the fact is, as well, that significant portions of the profits of the oil industry are going to have to be used to restore prehurricane infrastructure in the Gulf of Mexico and in the affected region.

One of the problems with this ill-conceived windfall profits tax is it will reduce needed investment. One of the things we need in this country, of course, is a greater supply of oil and gas because we know we are in a worldwide economic competition with countries such as India and China that are becoming increasingly industrialized and consuming more energy than they produce. Here again, the law of supply and demand pertains.

By actually putting a tax on the profits that oil and gas companies have received as a result of their lawful business activity, we will deny them money they can and will invest back into creating a greater supply—exploring for more oil and gas, expanding their refineries—which will, in turn, bring down the price of oil and gasoline.

The other thing I would point out is, we have been here before. We have been there. We tried it. And we found that the effect of a windfall profits tax—no matter how good it feels—simply does not solve any problems and, in fact, creates more problems.

In 1990, the Congressional Research Service analyzed the effects of the windfall profits tax that was enacted between 1980 and 1988. The Congressional Research Service found that the tax reduced domestic oil production from between 3 and 6 percent and increased oil imports from between 8 and 16 percent over its lifetime.

At a time when Senator after Senator, Congressman after Congressman, has stood on the floor of our respective bodies and said, We need to reduce our dependence on imported oil and increase our domestic production, this tax, if imposed, would do just the opposite. It would decrease domestic production. It would increase our reliance on imported oil. It would make America less secure. And it would damage our domestic companies that employ hard-working Americans.

It seems like there are so many good reasons not to adopt this amendment. I cannot think of a single good reason to do it, other than perhaps it makes Senators feel good to try to punish the big bad oil companies for making an excessive profit. But I do not think we want to be in the business of determining how much is enough and how much is too much.

The last thing the Federal Government needs to do is get its clumsy hands on the free enterprise system in a way that damages our precious energy supply. We should be encouraging domestic production. We should be encouraging alternative forms of energy, which, by the way, the higher the price of oil and gasoline gets, the more people begin to look at what are other commercially available alternatives. That is good because what it does is it diversifies our dependency on an energy supply so we are not dependent on just one type of energy.

That is the reason we need to—in addition to producing more oil domestically, expanding the size of refinery capacity so we bring the price down—look at nuclear energy, which is, in part, what we did through our Energy bill we passed this last summer. France, for example, generates 80 percent of its electricity using nuclear power. We need to look at other alternative forms of energy that reduce our dependency on fossil fuels, which cause environmental problems. Everyone who cares about the environment should care about our looking at alternative forms of energy.

There are so many reasons this amendment is bad. I hope my colleagues will consider these arguments. I hope we do not stampede into adoption of this bad amendment based on the populist arguments that oil companies are big, so they must be bad, or somehow argue that to make a profit implies some sort of corruption or inappropriate activity. We have laws on our books against those who violate our anti-gouging laws, but it is no crime to make a profit in a free market system.

It is that profit that creates an investment that expands the supply and ultimately brings the price down. It is the profit earned by these companies that allows them to employ hard-working Americans. If we want to put Americans out of business, if we want to increase our dependency on imported oil and reduce the production of domestic oil, then I guess we should pass this ill-conceived amendment. I hope my colleagues will reconsider and vote against the amendment.

I yield the floor.

The PRESIDING OFFICER. The Senator from Kentucky.

Mr. BUNNING. Mr. President, I am glad that we are debating this bill on the floor of the Senate. Despite some concerns which I will discuss later, I supported this bill in the Finance Committee. I have heard a lot in the last few weeks from some of my colleagues talking about how we can't afford the so-called tax cuts that this bill was expected to contain. As we have been saying for weeks, the growth package is not about tax cuts. It is about stopping tax increases, tax increases that will affect American families.

The so-called tax cuts that Democratic Members of Congress are talking about are nothing more than keeping current tax law in place. There are dozens of provisions that American families and employers have come to rely on that will expire at the end of this year, if we do not pass this bill. These are provisions that are important to our constituents and to our economy. Let's take a look at some of the items that are in the bill before us.

First, the research and development tax credit will expire at the end of this year unless we act. This is an important provision of the Tax Code that spurs innovation and new technologies. A majority—believe me—of Senators have supported this provision in the past. The bill before us not only extends this provision, it also adds some improvements to make it more relevant to today's economy.

A lot of other important provisions also expire if we do not pass this bill. The deduction of tuition expenses, that provision affects 36,000 Kentuckians; the tax deduction for teacher classroom expenses, this one affects 38,000 Kentucky teachers; and the low-income saver's credit affects 94,000 low-income Kentucky taxpayers. These are Kentuckians that do not deserve a tax increase. I am going to do all within my power to make sure they don't get one.

I am extremely disappointed that this bill does not contain a provision that I considered to be a vitally important one—keeping the tax rate on dividends and capital gains income from increasing. It is very important that we extend this 15-percent rate through the end of the budget window. As this bill moves through the legislative process, I will fight to make sure that the bill that the President ultimately signs includes these vital provisions. It is very hard to dispute the positive impact that the 15-percent rate has had on the macroeconomy. Dividends paid by companies in the Standard & Poor's 500 have been up over 50 percent since this tax change was implemented. Capital gains revenues from taxes to the Federal Government is estimated by some to exceed the CBO forecast by billions of dollars in fiscal year 2006.

But let's talk about which taxpayers are benefiting from these 15-percent rates. In my State, Kentucky, 18 percent of taxpayers benefited from the reduced rates on dividend income, and 13 percent benefited from the lower rate on capital gains income in 2003. These numbers are especially interesting when you consider that Kentucky has a median income that is below the national average. This does not even count the millions of workers and retirees who hold these assets inside their 401(k)s. As we all know, these dividends are very important to the elderly. Many of our retired folks rely on dividends to supplement their fixed incomes from pensions and Social Security.

While it is true that the lower rates do not sunset until the end of 2008, it is important that we send a message to the economy by extending these rates this year. If we have not made these provisions permanent, investors and financial markets will grow increasingly uncertain about the future tax treatment of dividends and capital gains as 2008 gets closer. We cannot risk adding unwanted volatility to the markets and the economy which continue to grow.

Again, let me be clear, the proposals that we are planning to extend in this package are not new tax proposals, they are simply current law. If we do not extend these provisions, we will cause a substantial increase in the tax bills of American families and businesses.

I also express my concern about two provisions currently part of this bill that I strongly oppose. First is a provision that will limit the ability of taxpayers who itemize their taxes to take a deduction for their full charitable contributions, as they do under current law. This change would amount to a tax increase on some taxpayers who make small charitable contributions, and I strongly oppose it.

The second is a provision that will change accounting rules for the oil industry. The accounting rules at issue are not some loophole for the oil industry. All taxpayers with inventories can elect to use LIFO inventory rules—all. It would be unfair to impose different rules standards on only one industry and would set a dangerous tax precedent.

Additionally, as my colleagues well know, we just passed an energy bill this summer. It contains incentives to increase refining production which is so desperately needed and which we have been neglecting for too long. To turn around and take away these incentives just a few months later, as this bill does, makes no sense whatsoever. Our focus needs to be on trying to increase domestic production of oil and refining capacity, and this provision will do exactly the opposite.

I am planning to support this bill on the floor of the Senate, but I am only doing so with the expectation that we will improve it and that the bill that lands on the President's desk will ultimately reflect the views of the full Senate and this Congress.

I yield the floor and suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. REID. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

A NEED FOR ANSWERS

Mr. REID. Mr. President, tonight the Vice President has come out of his bunker and is speaking at a gathering of Washington, DC, insiders. Of course, it is closed to the press.

Unfortunately, he brought his bunker mentality with him in the speech. He is repeating the same tired attack we have heard from administrative officials over the last 2 weeks.

Mr. President, in the last 24 hours in faraway Iraq 10 of our brave soldiers have been killed. On such a night, you would think the Vice President would give a speech that honors the fallen and those still fighting by laying out a strategy for success. But no, instead we have the Vice President of the United States playing politics like he is in the middle of a Presidential campaign.

Yesterday, a bipartisan majority of this body, the Senate, gave the administration a vote of no confidence for its Iraq policy. The Senate said the era of their no-plan, no-end approach is over.

Apparently, though, the White House didn't get the message. The Vice President's speech tonight demonstrates that once again this administration intends to stay the course and continue putting their political fortunes ahead of what this country needs, a plan for success.

Our troops and the American people deserve better.

The White House needs to understand that deceiving the American people is what got them into trouble. Now is the time to come clean, not to continue the pattern of deceit.

So again, Mr. President, I ask Vice President CHENEY to make himself available and answer the American people's questions. If he has time to talk to DC insiders, as he is doing tonight, oil executives, and even a discredited felon, Ahmed Chalabi, who by the way is under investigation for giving this Nation's secrets to Iran, it would seem he has time to answer the questions of the American people.

Mr. CHENEY needs to stop stonewalling and hold a press conference.

Finally, I would urge the members of the Bush administration to stop trying to resurrect their political standing by lashing out at their critics. Instead, they need to focus on the job at hand, giving our troops a strategy for success in Iraq.

This week we have seen Stephen Hadley, Donald Rumsfeld, President Bush, and Vice President CHENEY lash out at their critics. Yet they all remain silent when it comes to giving our troops and the American people a plan for success in Iraq. I believe this tired rhetoric and these political attacks do nothing to get the job done in Iraq. I truly believe, Mr. President, America could do better.

The PRESIDING OFFICER. The Senator from Illinois.

Mr. DURBIN. Mr. President, I ask unanimous consent that the pending amendment be set aside for the purposes of offering an amendment.

The PRESIDING OFFICER. Without objection, it is so ordered.

AMENDMENT NO. 2596

Mr. DURBIN. Mr. President, I send an amendment to the desk.

The PRESIDING OFFICER. The clerk will report.

The assistant legislative clerk read as follows:

> The Senator from Illinois [Mr. DURBIN] proposes an amendment numbered 2596.

Mr. DURBIN. Mr. President, I ask unanimous consent that reading of the amendment be dispensed with.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment is as follows:

(Purpose: To express the sense of the Senate concerning the provision of health care for children before providing tax cuts for the wealthy)

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING HEALTH CARE FOR CHILDREN BEFORE TAX CUTS FOR THE WEALTHY.

(a) FINDINGS.—The Senate makes the following findings:

(1) There are more than 9,000,000 children in the United States with no health insurance coverage.

(2) Sixty-seven percent of uninsured children live in families with at least one full-time worker.

(3) According to the Center for Studying Health System Change, uninsured children, when compared to privately insured children, are—

(A) 3.5 times more likely to have gone without needed medical, dental, or other health care;

(B) 4 times more likely to have delayed seeking medical care;

(C) 5 times more likely to go without needed prescription drugs; and

(D) 6.5 times less likely to have a usual source of care.

(4) More than half of these children are eligible for coverage under either the State Children's Health Insurance Program (SCHIP) or Medicaid, but are not enrolled in those safety net programs.

(5) Most States, struggling with budget deficits, have curtailed outreach efforts.

(6) A focus on simple and convenient enrollment and renewal systems, as well as proactive outreach and educational efforts, could help reach these children and reduce the number of uninsured American children.

(7) Some States, seeing that the Federal Government is not providing assistance to middle class families who can't afford health insurance, are trying to extend coverage to some or all children.

(8) State efforts to cover all children will not be successful without financial assistance from the Federal Government.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate should not vote to extend the capital gains and dividend tax cuts, a majority of the benefits of which go to households with incomes over $1,000,000, until Congress has taken steps to ensure that all children in America have access to affordable, quality health insurance;

(2) the Senate should vote instead to use the funds generated by the expiration of the capital gains and dividend tax cuts to further the goal of ensuring that children have access to health insurance coverage by—

(A) awarding grants to States, faith-based organizations, safety net providers, schools, and other community and non-profit organizations to facilitate the enrollment of the 6,800,000 children who are currently eligible for enrollment in the State Children's Health Insurance Program but who are not enrolled;

(B) paying to each State with an approved State Children's Health Insurance Program or Medicaid plan, an amount equal to 90 percent of the sums expended for the design, development, implementation, and evaluation of enrollment systems determined likely to provide more efficient and effective administration of the plan's enrollment and retention of eligible children; and

(C) establishing a grant program under which a State may apply under section 1115 of the Social Security Act to provide medical assistance under the State Children's Health Insurance Program to all children in their State.

Mr. DURBIN. Mr. President, as we gather in the Senate this evening, there are 45 million Americans who are uninsured.

I have introduced this sense-of-the-Senate resolution and invite cosponsors from both sides of the aisle to establish a national goal that we will eliminate the 45 million uninsured in the next 10 years.

Some are critical of a sense-of-the-senate resolution saying this is "pie in the sky," we could not do that, we could not eliminate 45 million uninsured in America in the course of 10 years. I disagree. If we set it as a bipartisan national goal, if the President and Congress agree it is goal we are going to seek, we can reach that goal.

The amendment which I have just offered will eliminate 20 percent of the uninsured Americans—20 percent of them.

Now, which would be the first group that you would turn to, to give health insurance and give the protection of health insurance? Well, I think most Americans, certainly most American families, would say our children. Would we not want to take care of them first?

There are 9.1 million children in America without health insurance. Let me show you what 9 million children might look like in this depiction. Look at the States in yellow. If you took the children in every one of these States, they would total 9 million children. It gives you an indication of the gravity of this challenge. And it also tells you that we need to do much more. The number of children without health insurance in our Nation exceeds the number of all children living in 21 States and the District of Columbia combined.

According to the Center for Studying Health System Change, uninsured children when compared to privately insured children in the year 2003 were, first, 3½ times more likely to have gone without needed medical, dental or health care; second, 4 times more likely to have delayed seeking medical care; third, 5 times more likely to go without needed prescription drugs; fourth, 6½ times less likely to have the usual source of care.

Let me give you the hard number. Six million children went without needed health care in America in the year 2003.

I am sad to report this year I am afraid it is even more. There are more than 250,000 children in my State of Illinois without health insurance. Most come from working families, such as the Akeys family of Chicago. Annette and her husband own a real estate company. They make about $60,000 a year. That is not a huge sum of money in the city of Chicago. They were forced to give up their family health insurance when their premiums rose to $500 a month. Unfortunately, their 6-year old daughter Katana became ill with a kidney problem and a heart murmur.

Katana was in the hospital for 3 days and the Akeys were left with a $10,000 medical bill to pay out of their own pocket. How did they do it? They took a second mortgage on their home.

The Baldwins from Moline, IL, are another working family who can't afford insurance. Amanda Baldwin manages a fast food restaurant. She makes $556 every 2 weeks. Her husband David is a truck driver. He grosses $1,100 every 2 weeks. They have a 1-year-old son Zachary, but the Baldwins of Moline, IL, have no insurance. Why? Because it would cost $400 a month, which is about one-sixth of their monthly income.

Paula Brooks of Adwardsville, IL, has coverage through the nonprofit agency where she is employed, but she can't afford to add her daughter Brittany, who is 9 years old, to her policy.

There isn't a State in this Union, there isn't a city or town or village in this Nation where you could not find this story repeated over and over and over again—families that can't afford health insurance, children that go without protection.

Let me tell you what has happened since Congress has failed to address this issue. If this is impossible to read as you are following this debate, it is because the print is so small, but what I have is the response of 19 States that have decided they are tired of waiting for Congress. They are trying to expand health care to their citizens. It is pretty clear that many of these States have become desperate. California, Colorado, Connecticut, Florida, Hawaii, my home State of Illinois, Kansas, Louisiana, Maine, Maryland, Massachusetts, Minnesota, Missouri, New Hampshire, New York, Ohio, Vermont, Rhode Island, and Wisconsin, they are doing what we are not doing; they are showing leadership on the issue of expanding health coverage to the people living in their State. For the life of me, I can't explain why this President and this Congress ignore one of the most pressing problems facing America today.

Luckily for the kids of my home State of Illinois, Governor Blagojevich signed a bill yesterday that covers all the children in the State. He calls it the All Kids Program. It will offer Illinois's uninsured children comprehensive health care that includes doctor visits, hospital stays, prescription drugs, vision care, dental care, and medical devices, such as eyeglasses and asthma inhalers.

Parents will pay monthly premiums based on their income. For instance, a family of four that earns between $40,000 and $60,000 a year will pay a $40 monthly premium per child and a $10 copay per physician visit.

But let's make it clear, this Governor in my home State is trying. In Illinois, we are doing something that is not being done in Washington. In Washington, we are not even trying. At the very least, Congress should take steps to ensure all American children have access to affordable, quality health insurance coverage.

Does anyone doubt the popularity of that suggestion, that if you went to the people of America and said, I have a plan that will make sure every kid in America will be covered for a hospital stay, can get to a doctor, can have their prescriptions filled when they need them, regular dental care and vision screenings, is there anyone in America who believes that is an extravagance? I don't think so.

Kids are the least expensive people to insure. The average cost to cover a child in the program in Illinois is $93.23 a month. To cover all 9.1 million children in America, if we decided to expand the program in Illinois to all of America, the cost would be $10 billion per year. Now if you are following this and you say, $10 billion, wait a minute, Senator, that is a huge amount of money for a program, remember this: It is health insurance for every child in America.

Where would we find the $10 billion? We would find it in the legislation that is being debated by the House and the Senate right now: the 2-year cost of the extensions on capital gains tax cuts, tax cuts for the wealthiest Americans. The 2-year cost from 2008 to 2010 is $20 billion. So if we defer the tax break the administration is pushing for the wealthiest people in America, if we say they are not going to receive that tax break for the next 2 years, we would have enough money to provide basic health insurance for every uninsured child in America, and we would eliminate 20 percent of the uninsured Americans with that single act alone.

We could cover all the kids in America for 2 years for the cost of capital gains and dividend tax cuts, and that figure doesn't even include the State share of the program.

The first thing Congress can do is provide States more funding to enroll children who are eligible but not enrolled in SCHIP. These kids account for more than half of all uninsured children.

Before his last election, President Bush campaigned in Pennsylvania, and here is what he said on October 22, 2004:

> We'll keep our commitment to America's children by helping them get a healthy start in life. I'll work with Governors and community leaders and religious leaders to make sure every eligible child is enrolled in our Government's low-income health insurance program.

President Bush, then a candidate, went on to say:

> We will not allow a lack of attention, or information, to stand between millions of children and the health care they need.

That was a few days before the election. Since then no proposal to cover the uninsured children in America has come from this White House nor from this Congress—a campaign promise that hasn't been kept.

The majority leader inserted $25 million in funds for outreach in last week's reconciliation bill. That is hardly enough. That isn't going to reach and insure these children. The bill of the Senator from Tennessee to fund outreach to kids would appropriate $100 million. Once we get all eligible kids enrolled, we should provide the Department of Health and Human Services with funds to grant to States that want to cover more children in their State.

Very briefly, here is what my amendment does. It expresses the sense of the Senate that the Senate should not vote to extend the capital gains and dividend tax cuts until Congress has taken steps to ensure that all children in America have access to affordable, quality health insurance.

The majority of the benefits of capital gains and tax cuts go to households with incomes over $1 million a year. Aren't kids in America a higher priority than millionaires? And how many times do people in the course of a campaign or on this floor talk about family values and moral values? Here is a nice moral choice for the Senate: Is it more important to give a tax break to someone making more than a million dollars a year, or provide health insurance for 9 million uninsured children in America?

How does that play out, whether your inspiration is the Bible, the Torah, whatever it happens to be? I think most who have religious convictions and feelings and believe there are moral values we are fighting for say this is a pretty simple choice: a choice between tax cuts for people making over $1 million a year or health insurance for 9 million uninsured children.

Specifically, my amendment would provide grants to States, faith-based organizations, safety net provider schools, and other community and nonprofit organizations to facilitate the enrollment of 6.8 million children currently eligible for SCHIP and not enrolled.

It covers 90 percent of the costs associated with the design, development, implementation, and evaluation of enrollment systems that will provide more efficient enrollment and retention of eligible children.

It will establish a grant program under which a State may apply for a waiver to expand coverage of children in their State.

When I go back home and speak to the families I represent, time and again they say to me: Are you people in Washington in touch with the reality of what is facing us in America? Whether it is a business owner who had to cancel his health insurance because one of his employees had a sick baby which drove the premiums through the roof for every other employee in the pool, whether it is a member of a labor union who says, I am working harder this year, I am getting paid more this year, but I have no take-home pay because it is being taken away from me in health insurance premiums and, Senator, I am getting less coverage, or whether it is a parent worried about a sick child and a medical bill they might never be able to repay—these are the realities of the life in America. It is not the reality of the debate in the Senate. We live in a different world in the Senate. We live in a world where people with a straight face can stand before us and say it is a much more moral thing to do and the right thing to do to give a tax cut to a wealthy person than to provide basic health care for a child in America.

That is the choice, and that is what my amendment will offer to the Members of the Senate. I hope they will choose the children over the millionaires.

Mr. President, I yield the floor, and I suggest the absence of a quorum.

The PRESIDING OFFICER. The clerk will call the roll.

The assistant legislative clerk proceeded to call the roll.

Mr. DURBIN. Mr. President, I ask unanimous consent that the order for the quorum call be rescinded.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. DURBIN. Mr. President, I reserve the remainder of the time for debate on the amendment I just offered.

The PRESIDING OFFICER. The Senator from Iowa.

MORNING BUSINESS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that there now be a period for the transaction of morning business, with Senators permitted to speak for up to 10 minutes each.

The PRESIDING OFFICER. Without objection, it is so ordered.

FUNDING FOR UNIVERSITY OF ALASKA

Mr. McCONNELL. Mr. President, a provision of the Science, State, Justice, Commerce, and Related Agencies Appropriations Act conference report was intended to transfer certain funds. Unfortunately, an error in drafting made that transfer ineffective. It was clearly the intent of the conferees on that act to provide for the transfer of certain unobligated and unexpended balances to the University of Alaska. We will be taking steps to correct that error at the earliest possible opportunity.

Before the Senate votes on this conference report, I want to take a moment to express my gratitude to Deb

Fiddelke at the White House and Michael Allen at the National Security Council for their helpful input and insights into the State Department portion of this bill and the fiscal year 2006 foreign operations and related programs conference report. I appreciate the many courtesies they extend to my staff.

Finally, Secretary Rice and the entire State Department should be aware of the outstanding job Cindy Chang performed in conveying the priorities of the Secretary—indeed, the President—regarding funding for the State Department and our foreign aid programs. My staff and I appreciate the solid working relationship that Cindy has developed with the State Department, Foreign Operations and Related Programs Subcommittee, and she remains vigilant in support of the President's foreign policy agenda.

TRIBUTE TO VIRGINIA ROSE

Mr. REID. Mr. President, I rise today to recognize the contributions of Virginia Rose to Lovelock, NV. After serving the city of Lovelock for 35 years, Virginia retired as deputy city clerk on September 23, 2005.

Virginia has proudly lived in Lovelock all her life. As a young woman, she established a strong work ethic on her family's dairy farm performing daily chores with her nine brothers and sisters.

She continued her hard work as an office clerk for the city of Lovelock from 1961 to 1968. In 1977, Virginia returned as a deputy city clerk and spent the next 28 years as city clerk and treasurer. Virginia's colleagues at the city describe her as a highly motivated and gracious leader who knows how to organize and accomplish what needs to get done.

Virginia continues to serve her community today through active participation in her church, the Pershing County Alumni Association, the Pershing County Democratic Committee, the Lovelock Volunteer Fire Department Ladies Auxiliary, the Sierra Swiss Club, the Lovelock Community Singers, and several other organizations.

Well liked and respected by her community, she has been honored on numerous occasions since 1964. Most recently, she received the Northern Nevada Women of Achievement Award and the Diocese of Reno Outstanding Christian Service Award.

Virginia would likely describe her greatest honor as mother to Kim and Timothy and grandmother to Sarah, Adam, Lauren, and Caroline. She shares in this joy with Glenn, her husband of 46 years.

I have known Virginia for many years. While she is considered a pillar in the Lovelock community, she modestly describes her contributions as a privilege. Her dedication, diligence, and exceptional work has improved the lives of her fellow residents. I hope that you will join me in acknowledging Virginia Rose for her service to the Lovelock community on the occasion of her retirement from the city of Lovelock.

32 YEARS OF DEDICATED SENATE SERVICE

Mr. CRAPO. Mr. President, today I wish to recognize the service of Carolyn Iddings, my Sergeant at Arms customer support analyst. On June 4, 2005, Carolyn celebrated 32 years of service in the Senate.

Carolyn began her Senate career in the office of Senator Mark Hatfield of Oregon. For 16 years, she helped develop many of the systems the Senate uses today including office computers and correspondence management systems. Carolyn then joined the Sergeant at Arms office and has continued to assist in the development and deployment of many Senate information management systems.

Shortly after my election to the Senate, Carolyn was assigned to guide my staff through the complex process of opening a Senate office. Her experience and knowledge of the inner workings of a Member's office were indispensable as she assisted my staff in the opening days of the 106th Congress. She took my systems administrator under her wing and helped him equip in a timely and efficient manner. Thanks to her efforts, my office was up and running the day I was sworn in as a U.S. Senator. Her knowledge of the challenging bureaucratic landscape of the Senate played a key role in the smooth setup of my offices. On numerous occasions Carolyn's help has proven invaluable as our office automation systems have evolved.

Over the last 7 years, Carolyn has answered hundreds of questions, briefed my staff on countless security, information technology, and emergency planning matters. She has shown consistent patience, kindness, and expertise in her interactions with me and my staff, always willing to lend a helping hand. Carolyn demonstrates outstanding professionalism in her job and I wish her the best.

VETERANS AND TROOP DEPLOYMENTS

Mr. BAUCUS. Mr. President, I rise today to commend the contribution of our Armed Forces to this great Nation. It is important to reflect on the sacrifice and commitment of the brave men and women who have put their lives on the line to defend what our Nation stands for—freedom, equality, and justice for all Americans.

Without our veterans, we would not be the free Nation that we are today.

The marines, airmen, and soldiers of Montana have always risen to the challenge by fighting overseas and protecting our homeland.

Over the past 2 weeks 700 members of the first of the 163rd infantry battalion of Montana's National Guard returned home after an 18 month deployment in Iraq and 250 troops from the first of the 189th aviation battalion will return home before the holidays.

I am extremely proud of these men and women, but I also have great concern for them.

Montana now has the highest percentage of veterans per capita in its population than any other state. We also have the highest percentage of female veterans in the country, per capita.

According to the most recent census, the veteran population in Montana is 108,476 out of an adult civilian population of 668,651. Simply put, veterans, and families of veterans, constitute a significant portion of the population in Montana.

They are our mothers, fathers, daughters, sons, sisters, brothers, and friends who are making sacrifices. I take our Nation's commitment to our veterans seriously.

Many Montanans choose to serve because of the economic situation in rural America.

There is no question that rural States are carrying a huge burden when it comes to our current conflicts abroad and these veterans deserve proper healthcare.

I am proud to say that this year the VA Hospital at Fort Harrison, Helena, MT and its outpatient clinics have been ranked as the best VA medical system in the country; however, the shortfalls that we faced in veterans healthcare funding nationwide in 2005 and 2006 are discouraging.

We still need to ensure that those who have given so much for our country are granted their due benefits, and treated with respect. Let's think big when it comes to providing for our veterans and health care.

We must fully fund the veterans' health care system and we should make spending mandatory in order to ensure that those who have given so much to our country are granted their due benefits and are treated with respect and thanks.

Let's think big when it comes to providing for our veterans and health care. We must fully fund the Veterans health care system and we should make spending mandatory in order to ensure that those who have given so much to our country are granted the benefits they deserve.

Since September 11, 2001, about 80 percent of Montana's National Guard members have been deployed to the Middle East, some of them more than once. This Monday in Great Falls, MT, members of our 341st space wing and Red Horse Squadrons from Malmstrom Air Force Base and the Air National Guard will deploy to Iraq.

When they return, they should not have to worry about getting health care and benefits.

As we welcome home our new veterans and deploy troops overseas, let us remember those who have served honorably in all wars, and pay particular attention to those who have made the ultimate sacrifice.

The current wars in Afghanistan and Iraq have taken the lives of the following brave Montanans: SPC Travis Arndt, Great Falls; CPT Michael MacKinnon, Helena; PFC Andrew Bedard, Missoula; LCpl Nicholas Bloem, Bozeman; SFC Robbie McNary, Lewistown; CPL Raleigh Smith, Troy; LCpl Nathan Wood, Great Falls; SSG Aaron Honeyman, Glasgow; LCpl Kane Funke, Kalispell; CPL Dean Pratt, Stevensville; PFC Owen D. Witt, Sand Springs; 1LT Edward Saltz, Big Fork; PFC Kristofer Stoneisfer, Missoula; 1LT Josh Hyland, Missoula.

DEFENSE AUTHORIZATION ACT

Mr. KERRY. Mr. President, drought continues to be a serious problem for many states in this country, and I am very pleased that yesterday, as part of the National Defense Authorization Act for Fiscal Year 2006, we passed legislation that will help small businesses in those States that have been hurt by drought. I thank Senators LEVIN and WARNER, and their staffs, for their help in moving drought relief one step closer to enactment.

This legislation helps small businesses that need disaster assistance but can not get it through the Small Business Administration's disaster loan program. You see, the SBA does not treat all drought victims the same. The agency only helps those small businesses whose income is tied to farming and agriculture. However, farmers and ranchers are not the only small business owners whose livelihoods are at risk when drought hits their communities. The impact can be just as devastating to the owners of rafting businesses, marinas, and bait and tackle shops. Just ask the many small businesses on Lake Mead, outside of Las Vegas, that met with the committee in July: fishing guides that struggle to find ramps that still reach the water to launch their boats; boat dealerships in the county that have lost an estimated $100 million in sales because recreation at the lake is down; marinas paying millions to move their docks, buildings, and utilities, trying to "chase the water." The area usually gets 8 to 10 million visitors a year. However, the impact of drought on Lake Mead has had a serious adverse impact on the regional economy, exceeding $1 billion according to local officials. Lake Michigan has suffered similar economic losses, and its delegation has been pushing for small business relief for years. Sadly, these small businesses cannot get help through the SBA's disaster loan program because of something taxpayers hate about Government—bureaucracy.

The SBA denies these businesses access to disaster loans because its lawyers say drought is not a sudden event and therefore it is not a disaster by definition. However, contrary to the agency's position that drought is not a disaster, in July of 2002, when this legislation was originally introduced, the SBA had in effect drought disaster declarations in 36 States. As of today, 17 States are under SBA drought disaster declarations: Wisconsin, Tennessee, Kentucky, Virginia, Montana, Oregon, Nebraska, South Dakota, Iowa, Oklahoma, Illinois, Arkansas, Louisiana, Mississippi, Texas, Kansas, and California. Adding insult to injury, in those States where the agency declares drought disasters, it limits assistance to only farm-related small businesses. Take, for instance, South Carolina. A couple of years ago that entire State had been declared a disaster by the SBA, but the administration would not help all drought victims. Let me read to you from the declaration:

> Small businesses located in all 46 counties may apply for economic injury disaster loan assistance through the SBA. These are working capital loans to help the business continue to meet its obligations until the business returns to normal conditions. . . . Only small, non-farm agriculture dependent and small agricultural cooperatives are eligible to apply for assistance. Nurseries are also eligible for economic injury caused by drought conditions.

The SBA has the authority to help all small businesses hurt by drought in declared disaster areas, but the agency won't do it. For years the agency has been applying the law unfairly, helping some and not others, and it is out of compliance with the law. The small business drought relief provision that passed yesterday as part of the Defense Authorization Act—and that I introduced this July as the Small Business Drought Relief Act of 2005 S. 1463—would force SBA to comply with existing law, restoring fairness to an unfair system, and get help to small business drought victims that need it.

This legislation has been thoroughly reviewed, passing the committee of jurisdiction and the full Senate three times, with supporters numbering up to 25, from both sides of the aisle. In addition to approval by the committee of jurisdiction, OMB, the Office of Management and Budget, approved virtually identical legislation in 2003. The legislation passed yesterday includes those changes we worked out with the administration, and I see no reason why this should not be retained in the final conference report and sent to the President for his signature.

I thank Senators SNOWE and BOND, our current and past chairs, both of whom have been supportive of this legislation each time it was introduced and passed. And I again thank Senators LEVIN and WARNER.

LOCAL LAW ENFORCEMENT ENHANCEMENT ACT OF 2005

Mr. SMITH. Mr. President, I rise today to speak about the need for hate crimes legislation. Each Congress, Senator KENNEDY and I introduce hate crimes legislation that would add new categories to current hate crimes law, sending a signal that violence of any kind is unacceptable in our society. Likewise, each Congress I have come to the floor to highlight a separate hate crime that has occurred in our country.

On September 3, 2003 in Bridgeport, CT, George Hamilton hosted an afternoon picnic at his home. During the picnic, Hamilton and another guest discovered that one of the other men at the event was gay. They attacked and beat the gay man, causing injuries to his face and ribs. According to sources, throughout the attack the men shouted anti-gay slurs.

I believe that our Government's first duty is to defend its citizens, in all circumstances, from threats to them at home. The Local Law Enforcement Enhancement Act is a major step forward in achieving that goal. I believe that by passing this legislation and changing current law, we can change hearts and minds as well.

DEPARTMENT OF DEFENSE AUTHORIZATION BILL

Mr. DODD. Mr. President, I rise today to speak briefly on some of the votes that this body held yesterday related to the fiscal year 2006 Department of Defense authorization bill. Overall, this year's Defense authorization bill was a step in the right direction—for supporting our troops, for strengthening our military, and for securing our country. While I regret the limited time that we had to debate amendments, the end result here is, on balance, positive.

There are, however, a couple of important votes on amendments that I would like to take this opportunity to discuss. First, the two amendments on Iraq—one offered by Senator LEVIN, which I cosponsored, and the other a Republican alternative offered by Senator WARNER, which I voted for.

These two amendments were very similar, and they were both steps in the right direction. They both express the Senate's belief that U.S. forces should not remain in Iraq indefinitely. They both establish expectations that calendar year 2006 should be a period of significant transition to full Iraqi sovereignty, thereby creating the conditions for the phased redeployment of U.S. forces from Iraq. They both stress the need for compromise among Iraqis to achieve a sustainable sovereign government. And they both require the

President to begin sharing with the American people his campaign plan for success in Iraq.

But these two amendments, despite all of their similarities, have a fundamental difference. The Democratic amendment would have gone one important step further than the Republican amendment that we ended up adopting. It would have required the President to tell the American people not only his campaign plan, but estimated dates for the redeployment of U.S. forces—in other words, a timetable and strategy for success in Iraq. The Levin amendment acknowledged that unexpected contingencies might arise, and that such contingencies might change some of the projected redeployment dates, but I still believe that without these projected dates, we have left ourselves in an open-ended commitment. That is not good for us, it is not good for Iraq, and it is not good for stability in the region.

Ultimately, I supported the Warner amendment because, as I have said, it is a step in the right direction. But it frankly doesn't take us any closer to convincing the American people that the President has a plan or a timetable for bringing our operations in Iraq to a successful conclusion. And I believe that our soldiers and the American public deserve better.

I would also like to briefly address three related amendments offered by Senators GRAHAM, BINGAMAN, and one by both Senators GRAHAM and LEVIN, dealing with the issue of habeas corpus and detainees who are in U.S. custody at Guantanamo Bay, Cuba.

I voted against Senator GRAHAM's underlying amendment on this issue because I believe that it would have been a step in the wrong direction for our country. That is not to say that we should be providing sanctuary to terrorists. We shouldn't. Any coward who is complicit in terrorist attacks against the U.S. and the civilized world must be brought to justice.

I also recognize that the new threat posed by international terrorist organizations such as al-Qaida, and their murderous henchmen, requires law-abiding nations to adapt in how they combat this threat.

But as we adapt to the terrorist threat, we have to make sure that we don't hurt ourselves, and the cause of freedom, in the process. America's judicial system is part of the bedrock of our country. Protecting its integrity should be a cause of highest concern. That is why I voted for Senator BINGAMAN's second-degree amendment to strike the Graham amendment's text that would have stripped U.S. courts of the ability to review writs of habeas corpus submitted by or on behalf of foreign detainees at Guantanamo Bay. I regret that Senator BINGAMAN's amendment failed on a party line vote.

I commend, however, Senator LEVIN for working with Senator GRAHAM to strike a compromise on this issue. The Graham-Levin compromise is not perfect. It certainly doesn't go as far as this Senator would have liked in fixing the underlying text. But faced with the prospect of the original Graham amendment being sent to conference in its original form, I chose to support the Graham-Levin compromise, which is a definite improvement over the underlying text. What is particularly heartening is that Senator GRAHAM, upon reflection, realized that his amendment went too far and accepted the moderating suggestions proposed by Senator LEVIN. My hope is that the conferees on this bill will continue to improve upon the Graham-Levin text.

Mr. President, as I said at the outset, the Defense authorization bill that the Senate passed yesterday is not perfect. But on balance, I believe that it sends a message to our troops that we are here to support them, and that we remain committed to providing them with everything that they need to come home from their missions abroad safely and securely. At the end of the day, that is a good start.

PROFILES IN COMPASSION: IOWANS PITCH IN TO HELP VICTIMS OF KATRINA

Mr. HARKIN. Mr. President, Iowans are a big hearted, generous people, especially toward people in need. And citizens of my State proved this, once again, by extending a helping hand to the victims of Hurricane Katrina. Some Iowans as individuals or in organized groups—traveled directly to the region to give assistance in their areas of expertise. Other collected funds and supplies to send to the gulf coast region. Still others helped to welcome more than 1,400 evacuees who made their way to Iowa. And, of course, countless Iowans reached into their bank accounts to contribute to the Red Cross, the Salvation Army, and other organizations participating in the relief effort.

I would like to mention at least a few of the individuals and groups that went far beyond the call of duty in the aftermath of Katrina.

Even before Katrina made landfall—within 2 hours of receiving an emergency call—the Iowa-1 Disaster Medical Assistance Team based in Kirkwood, IA, began making its way to the gulf. Commanded by Dave Wilson, this team of rapid-response medical professionals set up headquarters in Bay St. Louis and Waveland, MS. In the first 14 days after the Hurricane hit, they took care of more than 2,700 patients. Their facilities were equipped to care for only 125 patients a day, but, on some days, the team cared for as many as 450 people.

Another Disaster Medical Assistance Team from Iowa, this one consisting of 30 members, helped to turn an abandoned hospital in Baton Rouge, LA into a full-fledged emergency room hospital. Key members of this team were Beth Boyd of Nevada, IA; Melissa Groet of Oskaloosa; and Kevin Long of Des Moines. A smaller crew from this DMAT team, all of them environmental health experts, deployed to rural Louisiana where they played a critical role in getting public water systems back online.

Some 140 members of the Iowa Army and Air National Guard deployed from Camp Dodge to the gulf region in a convoy of fuel tankers, water tankers, food and water trucks, and other much-needed equipment. Dubbed "Joint Task Force Iowa," their mission was to provide medical, logistics, and water-purification support in Mississippi. In addition, the 185th Air Refueling Wing of the Iowa National Guard provided evacuation, transport, security, and fuel-handling missions from its base in Sioux City.

Meanwhile, back in Iowa, thousands of Iowans went into action in those initial days and weeks after Katrina hit the gulf. For example, the Iowa Jaycees collected enough supplies to fill 20 semi tractor trailers bound for Louisiana. Half of the semis carried clean drinking water, and the others carried diapers, baby wipes, batteries, hygiene products, canned food, and much more, all bound for Louisiana. Jaycee chapters all across Iowa contributed to this magnificent effort.

So many individual Iowans stood out as profiles in compassion during this difficult time. For example, Pastor Rod Bradley of the True Bible Baptist Church personally made three trips by car to pick up evacuees in Gonzales, LA. Wesley Jones traveled from Iowa to the gulf to help clear away debris. And school children in LeClaire, IA, helped evacuee children to adjust to their new school, and sold homemade bracelets to raise money for the evacuee families.

Mr. President, obviously, these are just snapshots. I cannot possibly name all the people from my State who gave generously of their time, talents, and energy to assist the victims of Katrina. Thousands of Iowans opened their hearts, their homes, and their pocketbooks. I simply want to take this time to thank them—the named and the unnamed for their amazing response to this tragedy. They have done Iowa proud, and I am deeply grateful to them for their service and sacrifice.

WASTEWATER TREATMENT WORKS SECURITY ACT

Mr. OBAMA. Mr. President, I rise today in support of the Wastewater Treatment Works Security Act of 2005. I am proud to be an original cosponsor of this bill.

When Timothy McVeigh drove a rental vehicle up to a Federal building in

Oklahoma City, Americans began to look at trucks in a completely new way. So we learned to screen vehicles to safeguard against such a tragedy ever happening again.

On September 11, 2001, a thing as ordinary as an airplane became an instrument of destruction and terror, robbing innocent people of the rest of their lives. As a result, we have gotten pretty good at screening people and their luggage at airports, and at keeping planes out of protected air space.

While these changes are necessary and prudent, there is another part of the equation to consider: the act of terror not yet committed. We must look at the threats our security experts have identified and address these potential threats.

One such threat is a possible attack on our Nation's wastewater treatment plants. Traditionally, wastewater treatment plants have stored chemicals that, if used properly, clean the water of harmful organisms. When most of these plants were built, we did not design them to ward against use as potential weapons of mayhem and destruction. Appropriately, we were only concerned about the environment, safety, and preventing accidents.

Since September 11, as security concerns have been identified in this sector, many of these facilities have taken steps on their own to switch to safer alternative treatments or to further secure chemicals and the facilities against deliberate acts of terrorism. But, such changes are expensive. Many of these facilities need assistance to upgrade security at the facility and to switch to these safer alternative forms of treatment.

The Wastewater Treatment Works Security Act of 2005 puts in place requirements to assess facilities' vulnerability and provides much needed financial assistance to upgrade security and to switch to safer forms of chemical treatment. My only regret is that the bill does not pick up more of the cost of the assessments and upgrades. I believe the Federal Government needs to take on a larger share of funding these types of homeland security improvements.

This is a much needed bill, and I urge my colleagues to support it.

LEAKGATE AND THE INDICTMENT OF LEWIS LIBBY

Mr. HARKIN. Mr. President, 2 years ago, after the Washington Post first reported that "two senior White House officials" had exposed Valerie Plame Wilson's identity as a covert operative of the Central Intelligence Agency, I repeatedly came to the Senate floor to call on President Bush to act quickly to identify the leakers.

After all, this was a potentially illegal act committed by "senior White House officials." This should have outraged everyone at the White House. President Bush should have taken steps to identity the perpetrators forthwith.

Bear in mind that the number of "senior White House officials" with the appropriate security clearances and access to knowledge about Ms. Wilson's identity could be counted on one hand—two hands at a maximum. If Mr. Bush had been serious about identifying the perpetrators, those 5 to 10 "senior White House officials" could have been immediately summoned to the Oval Office and questioned by the President. This matter would have been resolved literally within 24 hours.

But that did not happen. There was no outrage. There was no internal investigation. There was no angry President Bush demanding answers from his senior aides. Instead, we have had more than 2 years of concealment, coverup, and contempt.

Well, Special Counsel Patrick Fitzgerald has now broken that coverup wide open. Vice President DICK CHENEY's top aide, Scooter Libby, has been indicted for lying and obstructing justice in order to conceal his role as one of the two leakers. "Official A," the second leaker, is President Bush's top aide, Karl Rove, according to multiple reports in the media, quoting senior White House sources.

But let's be clear, Mr. President, this is about more than Mr. Libby repeatedly lying about his role in leaking a CIA agent's identity; this is about the Bush administration hiding the fact that it manipulated and manufactured intelligence in order to justify the war in Iraq. This is about the Bush administration stopping at nothing to attack and discredit anyone who dared to question its efforts to "fix" the intelligence. This is about the United States of America being led to war under false pretenses.

Only one person in this enterprise, Mr. Libby, has been indicted so far—though Mr. Rove remains under investigation. But the issue here is not strictly: Who perpetrated a criminal offense? The issue is: Who else participated in the hardball political campaign to discredit and punish Ambassador Wilson—and who instigated that campaign?

According to Mr. Fitzgerald's indictment, Vice President CHENEY's office was the hub of a concerted effort to gather information about Ambassador Wilson and to counter the assertions made in his famous New York Times op-ed. Indeed, according to the indictment, it was none other than Vice President DICK CHENEY himself who first told Mr. Libby about Valerie Plame Wilson's identity as a CIA operative and wife of Ambassador Joe Wilson.

Again according to the indictment, on July 12, 2003, Mr. Libby flew with the Vice President on Air Force Two, and one of the issues discussed on board was how to deal with the news media. Just hours later, the indictment says, Mr. Libby told two reporters about Mrs. Wilson's status as a CIA agent.

So this gives rise to several obvious questions: What did Vice President CHENEY know, and when did he know it? Why did Mr. Libby lie, saying that he first learned about Mrs. Wilson's identity from reporters? Was he trying to conceal a broader effort, involving the Vice President, to go after Ambassador Wilson?

Vice President CHENEY owes a full explanation to the American people.

Bear in mind that it was Mr. CHENEY who was most aggressive in pushing the CIA to come up with intelligence to justify an invasion of Iraq. The CIA told him definitively that there was no meeting in Vienna between Iraqi agents and 9/11 terrorist Mohammed Atta, but Mr. CHENEY continued to assert in public that this meeting took place. Time and again, he exaggerated the case for Iraq's weapons of mass destruction, including his statement that Iraq had "reconstituted nuclear weapons." It was the Vice President and his aides who took the lead in responding to those who challenged those and other claims by the administration.

By all accounts, Mr. Libby was a disciplined, cautious staff person the antithesis of a rogue operator. It is far-fetched to imagine that he was freelancing when he outed Mrs. Wilson's identity as a CIA agent.

So the American people need to hear directly from Vice President CHENEY: Did he discuss with Mr. Libby whether to tell reporters about Mrs. Wilson's identity? When the Vice President read in the media that Mr. Libby had claimed that reporters first told him about Mrs. Wilson's identity, what did he say to Mr. Libby, given the fact that it was he, the Vice President, who first told Mr. Libby about Mrs. Wilson? Why has the Vice President not condemned the leaks and lies by his top aide?

It is very clear why Mr. Libby lied about who told him about Mrs. Wilson's identity. It was to frustrate, sidetrack, and stall Mr. Fitzgerald's investigation until after the 2004 election. As Mr. Fitzgerald said in announcing his indictment, if Mr. Libby had not thrown sand in the eyes of the prosecutors, "we would have been here in October 2004 instead of October 2005." So Mr. Libby's lies were not only about protecting his original source, Vice President CHENEY; they were also about delaying any indictments by Mr. Fitzgerald until after the election. They were about not allowing the election to become an "accountability moment," which very well could have denied President Bush reelection.

At the same time, we need an accounting from President Bush. Karl Rove is the President's closest adviser.

We now know from multiple accounts in the media, citing senior administration sources, that Mr. Rove was one of the two "senior White House officials" who leaked Mrs. Wilson's identity as a CIA agent to reporters. Mr. Rove is still under investigation, and may or may not face indictment. But whether or not he is actually indicted, his actions were unethical and unacceptable.

Two years ago, we heard testimony from Vincent Cannistrano, former Chief of Operations and Analysis at the CIA Counterterrorism Center, on the far-reaching damage caused by the disclosure of Mrs. Wilson's identify. He said: "Twenty years of training and experience and millions of dollars were invested in this agent, Valerie Plame [Wilson]. . . . The consequences are much greater than Valerie Plame [Wilson's] job as a clandestine CIA employee. They include damage to the lives and livelihoods of many foreign nationals with whom she was connected, and it has destroyed a clandestine cover mechanism that may have been used to protect other CIA non-official cover officers."

Early on, President Bush stated that he would fire any White House official found to have been involved in leaking Mrs. Wilson's identity as a CIA agent. To this day, on the White House Web site, you can read the transcript of a press conference on June 10, 2004. A reporter asked: "Mr. President, do you stand by your pledge to fire anyone found to have [been involved in leaking the CIA agent's name]?" The President responded with an unambiguous "yes."

Today, the President needs to come clean about Mr. Rove's role. He needs to publicly acknowledge, as senior administration officials have already done anonymously, that Mr. Rove was the second leaker. And then he needs to make good on his pledge to fire him.

I urge President Bush—for the good of the country and for the good of his administration—to follow through on his public pledge. The President's original instincts were exactly right: It should be intolerable to allow someone who leaked a CIA agent's identity to stay on in the White House.

It is also deeply disturbing that Mr. Rove continues to hold a top-secret security clearance. Like all holders of a top-secret clearance, Mr. Rove signed a "Classified Information Nondisclosure Agreement" acknowledging that "unauthorized disclosure, unauthorized retention or negligent handling of classified information by me could cause damage or irreparable injury to the United States." The signer of the form states: "I have been advised that any breach of this agreement may result in the termination of any security clearances I hold; removal from any position of special confidence and trust requiring such clearances; or the termination of my employment . . ."

Before signing the nondisclosure agreement, an employee is given training and a booklet explaining the nondisclosure rules, which include prohibitions against providing classified information—or even confirming it—to reporters.

The facts are plain: Mr. Rove violated the terms of his security clearance. If the White House disputes this, then it owes the American people a formal Justice Department investigation of Mr. Rove's actions. If it is determined that he violated the terms of his Nondisclosure Agreement, he should be stripped of his security clearance immediately. This is an issue entirely separate from Mr. Fitzgerald's ongoing investigation, but it is no less important.

I am sure that President Bush is concerned about the damage to his administration from the leaking of Mrs. Wilson's covert identity. A week ago, the Washington Post reported the results of its most recent poll. It found that by a ratio of 3 to 1—46 percent to 15 percent—Americans say that the level of honesty and ethics in the Government has declined since Mr. Bush took office.

I believe it is time for Mr. Rove to go. It is time for President Bush to restore honor and integrity to the White House and to demand the highest ethical standards from his staff.

President Bush still has more than 3 years in office. For our country to be successful, he must be successful. To that end, I urge the President to set a new tone and to chart a new a new course. He should begin by asking Mr. Rove to leave and by asking Vice President CHENEY to give a full and honest accounting of his role in this matter.

ADDITIONAL STATEMENTS

TRIBUTE TO HARDY L. BROWN

• Mrs. BOXER. Mr. President, I rise today to recognize the lifetime of achievement of Hardy L. Brown. His story is a true American success story and he stands today as a leader in his community.

Hardy L. Brown was born in Trenton, NC, in 1942, the son of a sharecropper. After graduating from high school, Hardy Brown relocated to California where he found work as a laborer for Kaiser Steel in Fontana. He did not remain a laborer for long, and, in time, he took a management position with Kaiser Steel. During this same time, he also became actively involved with many community projects, always with a focus on community service.

Hardy Brown was elected to the San Bernardino City Unified School District's Board in 1983 and served for 12 years. He served as president of the board and was the first African-American male to hold this position. During his tenure as board president, he was responsible for the re-opening of and the changing of names of two schools on the west side of San Bernardino.

The banner of The Black Voice News, a weekly news publication focusing on issues surrounding the African American community, claims, "The Black Voice News, serving the Inland Empire for 30 years." Cheryl and Hardy have, in fact, owned and operated the newspaper and served the Inland Empire for 28 of those successful years. He has also served on the board of the West Coast Black Publishers Association and has been active in the National Newspaper Publishers Association, which named him Publisher of the Year in 2000. He also has served as president of the California Black Media Association, an advocacy alliance for Black-owned newspapers, magazines, and radio stations.

Hardy L. Brown has had a lasting impact on southern California both through his public service and through his weekly publications. His advice and counsel are often sought by leaders in education, and by civic leaders and by Members of Congress. In fact, Hardy served on the staff of the late Congressman George E. Brown, Jr. in the Inland Empire. He and his wife, Cheryl, provide an important and reliable progressive voice and insight to the community. I applaud Hardy L. Brown for his lifetime of public service and community leadership and I am pleased to honor him as he celebrates his 63rd birthday. Please join me in honoring a great American and a true community hero, Hardy L. Brown.•

TRIBUTE TO ALBERT CASEY

• Mrs. HUTCHISON. Mr. President, one of my longtime friends, Patricia Patterson, and I were recently discussing the life and service of a great American, and I wanted to take a moment and bring to the attention of my colleagues this American success story.

Al Casey passed away on July 10, 2004, after a lifetime of contributing strong leadership and a gregarious disposition to numerous companies, communities, and organizations from across the country.

After putting himself through Harvard, Al enlisted in the Army during World War II. Following his military service, he returned to Harvard business school, earning a graduate degree in finance. Al loved Harvard, and his friendships there opened doors and enriched his life throughout his long career.

Al's first job was in New York for Railway Express. He and Ellie, his wife of more than 40 years, then moved to San Francisco with the Southern Pacific Railroad. Al later worked as President of the Times Mirror Company and the Los Angeles Times for 8 years, before moving to possibly his most visible corporate assignment—CEO of American Airlines. His philosophy, "you don't have to be mean to be tough," carried him to success in most of his professional endeavors, especially with American, where Al provided aggressive leadership. When he came to American Airlines, he had already established a reputation of high ethical behavior. This, combined with his ability to laugh at himself, secured for him the cooperation and loyalty of his employees.

Following his retirement from American Airlines, Al began a relationship with SMU's Cox Business School as a faculty member. His teaching career was interrupted to rescue First International Bankshares as it emerged from bankruptcy. Later, he served as Postmaster General of the United States under President Reagan. Al enjoyed this tour immensely, even signing letters to close friends as "Big Stamp." He returned to teaching, only to be tapped in 1991 by President George H.W. Bush and Alan Greenspan, Chairman of the Federal Reserve Bank, to pilot the Resolution Trust Corporation—which was charged with disposing of financial and real estate assets left behind in the wake of failed savings and loan companies in the 1980s. It was a massive undertaking that no one thought could be done. Al worked for 18 months and was able to lead the RTC in disposing of almost all of the assets by the time the Clinton administration took office.

Al had a positive outlook on life and genuinely desired to know about the triumphs and tribulations in the lives of friends and coworkers. He supported countless community and civic organizations and was committed to improving the cities and neighborhoods where he lived and worked.

The effects of his steady guidance and endless enthusiasm for life have been felt in major corporations, in professional associations, in government organizations, and in the personal lives of many Americans. Albert Casey coined "Casey's Law," which holds that "if anything could go right, it should." I was honored to know Al, and I thank you, Mr. President, for the opportunity to commemorate such a fine man. He is certainly missed and fondly remembered.•

TRIBUTE TO MICHAEL O. HILL

• Mr. SARBANES. Mr. President, I want to pay tribute today to Michael O. Hill, superintendent of Assateague Island National Seashore. Mike is retiring after a long and distinguished career in the National Park Service, and I want to thank him for his service to our Nation and especially for the outstanding job he did in managing and enhancing Assateague Island National Seashore since coming to Maryland in 2000.

Throughout his 33-year career with the National Park Service, Mike Hill has distinguished himself through his commitment and dedication to managing and protecting some of our Nation's most precious treasures. Beginning as a seasonal employee at Sequoia National Park in 1973, Mike's career quickly took him through a variety of increasingly challenging posts, from his first permanent position as a horse patrol ranger at Petrified Forest National Park to management positions in parks all over our country including Channel Islands National Park, Shenandoah National Park, VA, and Biscayne National Park, FL. In 1990, he was selected for the 2-year Bevinetto congressional fellowship program, where he worked with the National Park Service and Congress to better manage our national parks. In 1993, he became superintendent of Petersburg National Battlefield, and in 2000 he was selected for his present position at Assateague Island National Seashore.

Over the past 5 years, I have had the opportunity and privilege to work closely with Mike on several initiatives to protect the natural resources at Assateague and to enhance visitors' experiences at the seashore. I know firsthand the great leadership and expertise he brought not only to these initiatives, but equally important, to supporting and encouraging one of the finest staffs of park professionals in the country—at a time when all our parks are operating with only two-thirds of the needed funding and personnel. Under Mike's direction, the integrity of the northern 7 miles of the National Seashore has been restored after decades of unnatural erosion, plans have been advanced to develop a new barrier island visitors center to accommodate the increasing number of visitors to the park, and partnerships with the University of Maryland Eastern Shore, the Maryland Coastal Bay Program, and the State and local governments have been strengthened.

Mike's dedication to the stewardship of the National Park System has earned him the respect and admiration of his colleagues, park visitors, and community residents, alike. His passion for Assateague was evident even in his voicemail: "I can't take your call right now. With any luck, I'm out on the Island." It is due to that commitment that visitors to Assateague and other units of the National Park System will benefit from his labors for years to come. I want to extend my personal congratulations and thanks for his many years of hard work and dedication to the principal conservation mission of the National Park Service and join with his friends and coworkers in wishing him and his family well in the years to come.

It is my firm conviction that public service is one of the most honorable callings, one that demands the very best, most dedicated efforts of those who have the opportunity to serve their fellow citizens and country. Throughout his career, Mike Hill has exemplified a steadfast commitment to meeting his demand.•

COMMENDING SMOKEY HOLLER TREE FARM

• Mrs. DOLE. Mr. President, I rise today to congratulate Earl, Betsy, Meg, and Buddy Deal of Smokey Holler Tree Farm in Laurel Springs, NC, for winning the National Christmas Tree Association's 2005 National Christmas Tree Contest. As Grand Champions, the Deal family has the distinguished honor of providing this year's official White House Christmas tree. This is a storied tradition that began in 1966, and I applaud the Deal family for producing North Carolina's ninth official White House Christmas tree. After winning at the State level, the Deal family's prized 18½-foot Fraser fir was selected out of 22 other entries at the national competition. The tree was then approved by White House Chief Usher Gary Walters and Grounds Foreman Mike Lawn to be the Blue Room Christmas tree. The Deal family will have the honor of presenting the prized Blue Room tree to First Lady Laura Bush in a special ceremony at the White House on November 28, 2005. As an added bonus, the Deal family will provide a tree for the Oval Office and another tree for the private residence at the White House.

This year's official White House Christmas tree is a fine example of the exceptional quality of Christmas trees that we have in North Carolina. North Carolina is one of the top producers of Christmas trees, providing roughly one out of every five Christmas trees in the United States, thereby contributing over $100 million annually to North Carolina's economy. But this success does not come easily; it takes several years of meticulous care and attention to raise a Christmas tree. An average 7-foot tree is about 10 years old, and throughout that time the grower diligently shapes, grooms, and fertilizes the tree several times per year. Not many people realize the years of hard work and sacrifice that go into raising a Christmas tree, and our growers are to be commended for their continuous success.

North Carolina has a rich history in Christmas trees, and year after year, many American families enjoy the warmth and beauty of these North Carolina trees that are a symbol of the holiday season. I am proud of the hard work exhibited by our Christmas tree growers in North Carolina, and I am proud that there will be another North Carolina Christmas tree in the White House this year.•

GUIDEONE INSURANCE HONORED WITH "PRINCIPAL 10 BEST COMPANIES" AWARD

• Mr. HARKIN. Mr. President, each year the Principal Financial Group shines a spotlight on companies across the United States that excel in providing for their employees' financial future, including a well-funded retirement. Selected by a blue-ribbon panel, these exemplary companies are honored with the Principal 10 Best Companies Award.

This year, 1 of the 10 recipients of this prestigious award is GuideOne Insurance of West Des Moines, IA. GuideOne, which was founded in 1947, is one of the Nation's largest insurers of churches. It also insures faith-based private schools and colleges as well as not-for-profit senior living communities.

At a time when so many companies across the United States are cutting back—or completely eliminating—their employer-provided retirement benefits, GuideOne is charting a different course. The firm's executives believe that providing for their employees' financial future is critical to success in recruiting, retaining, and motivating an excellent staff.

The 807 employees at GuideOne enjoy a generous benefit package, including a defined benefit pension plan; 100 percent employer-paid premiums for disability insurance; a 401(k) plan with 100 percent employer match up to 3 percent of pay; and health insurance that is 76 percent employer-paid for employees, and 68 percent employer-paid for dependents. Nearly 85 percent of employees participate in the company's 401(k) plan, which is remarkably high by national standards.

To its great credit, the company is also concerned about the health of its employees. GuideOne has a robust wellness program that, among other things, reimburses employees $200 for fitness-related expenses.

Mr. President, it is clear to me that GuideOne understands what too many companies in the United States have forgotten. GuideOne understands that its employees truly are its greatest asset and competitive strength, and that a generous benefit package is the way to attract and retain outstanding talent, while keeping morale and productivity high.

So I congratulate GuideOne for the richly deserved honor of receiving the Principal 10 Best Companies Award, and I salute all the folks at GuideOne for setting an example of enlightened corporate stewardship. They are proving that it is possible to do well and do good at the same time. And I couldn't be more proud that this excellent company calls Iowa home.●

MESSAGES FROM THE PRESIDENT

Messages from the President of the United States were communicated to the Senate by Ms. Evans, one of his secretaries.

EXECUTIVE MESSAGES REFERRED

As in executive session the Presiding Officer laid before the Senate messages from the President of the United States submitting sundry nominations which were referred to the appropriate committees.

(The nominations received today are printed at the end of the Senate proceedings.)

DRAFT OF PROPOSED LEGISLATION ENTITLED "UNITED STATES-BAHRAIN FREE TRADE AGREEMENT IMPLEMENTATION ACT"—PM 32

The PRESIDING OFFICER laid before the Senate the following message from the President of the United States, together with an accompanying report; which was referred to the Committee on Finance:

To the Congress of the United States:

I am pleased to transmit legislation and supporting documents to implement the United States-Bahrain Free Trade Agreement (the "Agreement"). This Agreement enhances our bilateral relationship with a strategic friend and ally in the Middle East region and will promote economic growth and prosperity in both nations.

In negotiating this Agreement, my Administration was guided by the objectives set out in the Trade Act of 2002. The Agreement reflects my Administration's commitment to opening markets and expanding opportunities for American workers, farmers, ranchers, and businesses. The Agreement will open Bahrain's market for U.S. manufactured goods, agricultural products, and services. As soon as it enters into force, the Agreement will eliminate tariffs on all manufactured goods that the United States sells to Bahrain and immediately remove Bahrain's import duties on over 80 percent of U.S. agricultural products. The Agreement is also one of the most comprehensive ever negotiated to reduce barriers to trade in services and will create new opportunities for U.S. services firms.

The Agreement contains procedures that will facilitate cooperation between the United States and Bahrain on environmental and labor matters. The labor chapter of the Agreement reinforces Bahrain's recent legislative actions to expand democracy and improve the protection of worker rights, including trade union rights. Provisions in the Agreement requiring effective enforcement of environmental laws will contribute to high levels of environmental protection.

The approval of this Agreement will be another significant step towards creating a Middle East Free Trade Area by 2013. This Agreement offers the United States yet another opportunity to encourage economic reform in a moderate Muslim nation as we have done through our free trade agreements with Jordan and Morocco. Leaders in Bahrain are supporting the pursuit of social and economic reforms in the region, encouraging foreign investment connected to broad-based development, and providing better protection for women and workers. It is strongly in our national interest to embrace and encourage these reforms, and passing this legislation is a crucial step toward that end.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 16, 2005.*

MESSAGES FROM THE HOUSE

ENROLLED BILLS SIGNED

At 2:20 p.m., a message from the House of Representatives, delivered by Ms. Brandon, one of its reading clerks, announced that the Speaker has signed the following enrolled bills:

S. 1713. An act to make amendments to the Iran Nonproliferation Act of 2000 related to International Space Station Payments, and for other purposes.

S. 1894. An act to amend part E of title IV of the Social Security Act to provide for the making of foster care maintenance payments to private for-profit agencies.

The enrolled bills were signed subsequently by the President pro tempore (Mr. STEVENS).

At 2:25 p.m., a message from the House of Representatives, delivered by Mr. Hays, one of its reading clerks, announced that the House has passed the following bills, in which it requests the concurrence of the Senate:

H.R. 318. An act to authorize the Secretary of the Interior to study the suitability and feasibility of designating Castle Nugent Farms located on St. Croix, Virgin Islands, as a unit of the National Park System, and for other purposes.

H.R. 323. An act to redesignate the Ellis Island Library on the third floor of the Ellis Island Immigration Museum, located on Ellis Island in New York Harbor, as the "Bob Hope Memorial Library".

H.R. 326. An act to amend the Yuma Crossing National Heritage Area Act of 2000 to adjust the boundary of the Yuma Crossing National Heritage Area and to extend the authority of the Secretary of the Interior to provide assistance under that Act.

H.R. 856. An act to establish a Federal Youth Development Council to improve the administration and coordination of Federal programs serving youth, and for other purposes.

H.R. 1564. An act to authorize the Secretary of the Interior to convey certain buildings and lands of the Yakima Project, Washington, to the Yakima-Tieton Irrigation District.

H.R. 1972. An act to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin.

H.R. 3507. An act to transfer certain land in Riverside County, California, and San Diego County, California, from the Bureau of Land Management to the United States to be held in trust for the Pechanga Band of Luiseno Mission Indians, and for other purposes.

H.R. 3721. An act to amend the Omnibus Parks and Public Lands Management Act of 1996 to allow certain commercial vehicles to continue to use Route 209 within Delaware Water Gap National Recreation Area and to allow the National Park Service to continue to collect fees from those vehicles, and for other purposes.

H.R. 3975. An act to ease the provision of services to individuals affected by Hurricanes Katrina and Rita, and for other purposes.

H.R. 3981. An act to authorize the Secretary of Agriculture to carry out certain land exchanges involving small parcels of National Forest System land in the Tahoe National Forest in the State of California, and for other purposes.

The message also announced that the House has agreed to the following concurrent resolution, in which it requests the concurrence of the Senate:

H. Con. Res. 288. Concurrent resolution recognizing the 30th anniversary of the enactment of the Education for All Handicapped Children Act of 1975 and reaffirming support for the Individuals with Disabilities Education Act so that all children with disabilities have access to a free appropriate public education in the least restrictive environment.

At 6:08 p.m., a message from the House of Representatives, delivered by Ms. Brandon, one of its reading clerks, announced that the House has passed the following bill, in which it requests the concurrence of the Senate:

H.R. 4326. An act to authorize the Secretary of the Navy to enter into a contract for the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson (CVN–70).

MEASURES REFERRED

The following bills were read the first and the second times by unanimous consent, and referred as indicated:

H.R. 318. An act to authorize the Secretary of the Interior to study the suitability and feasibility of designating Castle Nugent Farms located on St. Croix, Virgin Islands, as a unit of the National Park System, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 323. An act to redesignate the Ellis Island Library on the third floor of the Ellis Island Immigration Museum, located on Ellis Island in New York Harbor, as the "Bob Hope Memorial Library"; to the Committee on Energy and Natural Resources.

H.R. 326. An act to amend the Yuma Crossing National Heritage Area Act of 2000 to adjust the boundary of the Yuma Crossing National Heritage Area and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 856. An act to establish a Federal Youth Development Council to improve the administration and coordination of Federal programs serving youth, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 1564. An act to authorize the Secretary of the Interior to convey certain buildings and lands of the Yakima Project, Washington, to the Yakima-Tieton Irrigation District; to the Committee on Energy and Natural Resources.

H.R. 3507. An act to transfer certain land in Riverside County, California, and San Diego County, California, from the Bureau of Land Management to the United States to be held in trust for the Pechanga Band of Luiseno Mission Indians, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3721. An act to amend the Omnibus Parks and Public Lands Management Act of 1996 to allow certain commercial vehicles to continue to use Route 209 within Delaware Water Gap National Recreation Area and to allow the National Park Service to continue to collect fees from those vehicles, and for other purposes; to the Committee on Energy and Natural Resources.

H.R. 3975. An act to ease the provision of services to individuals affected by Hurricanes Katrina and Rita, and for other purposes; to the Committee on Health, Education, Labor, and Pensions.

H.R. 3981. An act to authorize the Secretary of Agriculture to carry out certain land exchanges involving small parcels of National Forest System land in the Tahoe National Forest in the State of California, and for other purposes; to the Committee on Energy and Natural Resources.

The following concurrent resolution was read, and referred as indicated:

H. Con. Res. 288. Concurrent resolution recognizing the 30th anniversary of the enactment of the Education for All Handicapped Children Act of 1975 and reaffirming support for the Individuals with Disabilities Education Act so that all children with disabilities have access to a free appropriate public education in the least restrictive environment; to the Committee on Health, Education, Labor, and Pensions.

MEASURES PLACED ON THE CALENDAR

The following bill was read the second time, and placed on the calendar:

S. 2008. A bill to improve cargo security, and for other purposes.

The following bill was read the first and second times by unanimous consent, and placed on the calendar:

H.R. 1972. An act to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin.

MEASURES HELD AT DESK

The following measure was discharged from committee, passed without amendment, and was ordered held at the desk, by unanimous consent:

S. 695. A bill to suspend temporarily new shipper bonding privileges.

EXECUTIVE AND OTHER COMMUNICATIONS

The following communications were laid before the Senate, together with accompanying papers, reports, and documents, and were referred as indicated:

EC–4652. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of Air Quality Implementation Plans; Maryland; Metropolitan Washington D.C. 1-Hour Ozone Attainment Plan, Lifting of Earlier Rules Resulting in Removal of Sanctions and Federal Implementation Clocks" (FRL7997–5) received on November 14, 2005; to the Committee on Environment and Public Works.

EC–4653. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Approval and Promulgation of State Air Quality Plans for Designated Facilities and Pollutants, Commonwealth of Virginia; Control of Emissions From Hospital/Medical/Infectious Waste Incinerator Units; Correction" (FRL7997–6) received on November 14, 2005; to the Committee on Environment and Public Works.

EC–4654. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Determination of Attainment, Approval and Promulgation of Implementation Plans and Designation of Areas for Air Quality Planning Purposes; Indiana; Redesignation of Delaware County to Attainment of the 8-Hour Ozone Standard" (FRL7997–8) received on November 14, 2005; to the Committee on Environment and Public Works.

EC–4655. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Control of Air Pollution From Aircraft and Aircraft Engines; Emission Standards and Test Procedures" (FRL7997–3) received on November 14, 2005; to the Committee on Environment and Public Works.

EC–4656. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Control of Air Pollution from New Motor Vehicles; Revisions to Motor Vehicle Diesel Fuel Sulfur Transition Provisions; and Technical Amendments to the Highway Diesel, Nonroad Diesel, and Tier 2 Gasoline Programs" (FRL7996–9) received on November 14, 2005; to the Committee on Environment and Public Works.

EC–4657. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "National Emission Standards for Hazardous Air Pollutants for Brick and Structural Clay Products Manufacturing; Reconsideration" (FRL7997–9) received on November 14, 2005; to the Committee on Environment and Public Works.

EC–4658. A communication from the Principal Deputy Associate Administrator, Office of Policy, Economics, and Innovation, Environmental Protection Agency, transmitting, pursuant to law, the report of a rule entitled "Final Rule to Implement the 8-Hour Ozone National Ambient Air Quality Standard—Phase 2; Final Rule to Implement Certain Aspects of the 1990 Amendments Relating to New Source Review and Prevention of Significant Deterioration as they Apply in Carbon Monoxide, Particulate Matter and Ozone NAAQS; Final Rule for Reformulated Gasoline" (FRL7996–8) received on November 14, 2005; to the Committee on Environment and Public Works.

EC–4659. A communication from the Secretary, Department of Agriculture, transmitting, a report of draft legislation which would provide for the Secretary of Agriculture to meet certain reporting requirements relating to strategic planning; to the Committee on Agriculture, Nutrition, and Forestry.

EC–4660. A communication from the Acting Under Secretary, Emergency Preparedness and Response, Federal Emergency Management Agency, Department of Homeland Security, transmitting, pursuant to law, a report that funding for the State of Minnesota as a result of the emergency conditions resulting from the influx of evacuees from areas struck by Hurricane Katrina beginning on August 29, 2005, and continuing, has exceeded $5,000,000; to the Committee on Banking, Housing, and Urban Affairs.

EC–4661. A communication from the Director, Office of Legislative Affairs, Federal Deposit Insurance Corporation (FDIC), transmitting, pursuant to law, the report of a rule entitled "Deposit Insurance Coverage; Accounts in Qualified Tuition Savings Programs Under Section 529 of the Internal Revenue Code" (RIN3064–AC90) received on November 15, 2005; to the Committee on Banking, Housing, and Urban Affairs.

EC–4662. A communication from the Secretary, Commission of Fine Arts, transmitting, pursuant to law, a report on Fiscal Year 2005 Competitive Sourcing Efforts and the Commission's Fiscal Year 2005 Inventory of Commercial and Inherently Governmental Activities Report, dated May 24, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4663. A communication from the Independent Counsel, Office of Independent Council, transmitting, pursuant to law, the Office's Annual Report on Audit and Investigative Activities; to the Committee on Homeland Security and Governmental Affairs.

EC–4664. A communication from the Director of Selective Service, transmitting, pursuant to law, a report in accordance with the Federal Managers' Integrity Act; to the Committee on Homeland Security and Governmental Affairs.

EC–4665. A communication from the Chairman, Occupational Safety and Health Review Commission, transmitting, pursuant to law, a report on the Agency's compliance with the Inspector General Act of 1978 and the Federal Managers' Financial Integrity Act for fiscal year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4666. A communication from the Staff Director, Commission on Civil Rights, transmitting, pursuant to law, the Federal Managers' Financial Integrity Act Report for fiscal year 2004; to the Committee on Homeland Security and Governmental Affairs.

EC–4667. A communication from the Director, Division for Strategic Human Resources Policy, Office of Personnel Management, transmitting, pursuant to law, the report of a rule entitled "Department of Defense Human Resources Management and Labor Relations Systems" (RIN3206–AK76/0790–AH82) received on November 15, 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4668. A communication from the Acting Deputy Secretary of Defense, transmitting, pursuant to law, the Department's Fiscal Year 2005 Performance and Accountability Report; to the Committee on Homeland Security and Governmental Affairs.

EC–4669. A communication from the Commissioner, Social Security Administration, transmitting, pursuant to law, the Administration's Performance and Accountability Report for Fiscal Year 2005; to the Committee on Homeland Security and Governmental Affairs.

EC–4670. A communication from the Attorney General, Department of Justice, transmitting, pursuant to law, the Department's Fiscal Year 2005 Performance and Accountability Report; to the Committee on Homeland Security and Governmental Affairs.

EC–4671. A communication from the Chairman, Nuclear Regulatory Commission, transmitting, pursuant to law, the Commission's Fiscal Year 2005 Performance and Accountability Report; to the Committee on Homeland Security and Governmental Affairs.

EC–4672. A communication from the Director, U.S. Trade and Development Agency, transmitting, pursuant to law, the Agency's Performance and Accountability Reports including audited financial statements for fiscal year 2005; to the Committee on Homeland Security and Governmental Affairs.

REPORTS OF COMMITTEES

The following reports of committees were submitted:

By Mr. CRAIG, from the Committee on Veterans' Affairs, without amendment:

S. 716. A bill to amend title 38, United States Code, to enhance services provided by vet centers, to clarify and improve the provision of bereavement counseling by the Department of Veterans Affairs, and for other purposes (Rept. No. 109–180).

By Mr. STEVENS, from the Committee on Commerce, Science, and Transportation, with an amendment in the nature of a substitute:

S. 363. A bill to amend the Nonindigenous Aquatic Nuisance Prevention and Control Act of 1990 to establish vessel ballast water management requirements, and for other purposes (Rept. No. 109–181).

By Mr. SHELBY, from the Committee on Banking, Housing, and Urban Affairs, with an amendment in the nature of a substitute:

S. 467. A bill to extend the applicability of the Terrorism Risk Insurance Act of 2002.

By Mr. GRASSLEY, from the Committee on Finance, without amendment:

S. 2020. An original bill to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006.

EXECUTIVE REPORTS OF COMMITTEES

The following executive reports of committees were submitted:

By Mr. WARNER for the Committee on Armed Services.

Army nominations beginning with Brigadier General Robert P. French and ending with Colonel Terry L. Wiley, which nominations were received by the Senate and appeared in the Congressional Record on November 4, 2005.

Air Force nominations beginning with Brigadier General Larita A. Aragon and ending with Colonel Alex D. Roberts, which nominations were received by the Senate and appeared in the Congressional Record on November 4, 2005.

Air Force nomination of Colonel Steven R. Doohen to be Brigadier General.

Air Force nomination of Colonel Daniel R. Eagle to be Brigadier General.

Army nomination of Lt. Gen. David D. McKiernan to be General.

Army nomination of Maj. Gen. Peter W. Chiarelli to be Lieutenant General.

Army nomination of Maj. Gen. Keith W. Dayton to be Lieutenant General.

Army nomination of Maj. Gen. John R. Wood to be Lieutenant General.

Army nomination of Brig. Gen. William T. Nesbitt to be Major General.

Army nomination of Col. Guy L. Sands-Pingot to be Brigadier General.

Army nomination of Col. Mitchell L. Brown to be Brigadier General.

Navy nomination of Rear Adm. John C. Harvey, Jr. to be Vice Admiral.

Navy nomination of Capt. Frank Thorp IV to be Rear Admiral (lower half).

Mr. WARNER. Mr. President, for the Committee on Armed Services I report favorably the following nomination lists which were printed in the RECORD on the dates indicated, and ask unanimous consent, to save the expense of reprinting on the Executive Calendar that these nominations lie at the Secretary's desk for the information of Senators.

The PRESIDING OFFICER. Without objection, it is so ordered.

Air Force nominations beginning with Brian F. Abell and ending with Ray A. Zuniga, which nominations were received by the Senate and appeared in the Congressional Record on May 26, 2005.

Air Force nomination of Jon R. Stovall to be Colonel.

Air Force nomination of Kenneth W. Bullock to be Lieutenant Colonel.

Air Force nominations beginning with Randall S. Lecheminant and ending with Scott H. R. Lee, which nominations were received by the Senate and appeared in the Congressional Record on November 10, 2005.

Air Force nomination of Rena A. Nicholas to be Major.

Air Force nomination of Jeffrey S. Brittig to be Major.

Air Force nomination of Albert J. Bainger to be Major.

Army nominations beginning with Robinette J. Amaker and ending with Josef H. Moore, which nominations were received by the Senate and appeared in the Congressional Record on October 25, 2005.

Army nominations beginning with Terry K. Besch and ending with John R. Taber, which nominations were received by the Senate and appeared in the Congressional Record on October 25, 2005.

Army nominations beginning with Kimberly K. Armstrong and ending with Kelly A. Wolgast, which nominations were received by the Senate and appeared in the Congressional Record on October 25 2005.

Army nominations beginning with Randall G. Anderson and ending with John H. Trakowski, Jr., which nominations were received by the Senate and appeared in the Congressional Record on October 25, 2005.

Army nominations beginning with Robert Dempster and ending with Errol Lader, which nominations were received by the Senate and appeared in the Congressional Record on October 26, 2005.

Army nominations beginning with Mimms Mabee and ending with Jimmie Perez, which nominations were received by the Senate and appeared in the Congressional Record on October 26, 2005.

Army nominations beginning with Michelle Beach and ending with Helen Laquay, which nominations were received by the Senate and appeared in the Congressional Record on October 26, 2005.

Army nominations beginning with Gregory Brewer and ending with Terrell Morrow, which nominations were received by the Senate and appeared in the Congressional Record on October 26, 2005.

Army nominations beginning with Walter J. Austin and ending with Keith C. Smith, which nominations were received by the Senate and appeared in the Congressional Record on November 4, 2005.

Army nomination of Jack N. Washburne to be Colonel.

Army nominations beginning with Barry J. Bernstein and ending with Juan M. Vera, which nominations were received by the Senate and appeared in the Congressional Record on November 10, 2005.

Army nominations beginning with Melvin S. Hogan and ending with Joseph M. Jackson, which nominations were received by the Senate and appeared in the Congressional Record on November 10, 2005.

By Mr. SHELBY for the Committee on Banking, Housing, and Urban Affairs.

*Ben S. Bernanke, of New Jersey, to be a Member of the Board of Governors of the Federal Reserve System for a term of fourteen years from February 1, 2006.

*Ben S. Bernanke, of New Jersey, to be Chairman of the Board of Governors of the Federal Reserve System for a term of four years.

By Mr. DOMENICI for the Committee on Energy and Natural Resources.

*Jeffrey D. Jarrett, of Pennsylvania, to be an Assistant Secretary of Energy (Fossil Energy).

*Edward F. Sproat III, of Pennsylvania, to be Director of the Office of Civilian Radioactive Waste Management, Department of Energy.

*Nomination was reported with recommendation that it be confirmed subject to the nominee's commitment to respond to requests to appear and testify before any duly constituted committee of the Senate.

(Nominations without an asterisk were reported with the recommendation that they be confirmed.)

EXECUTIVE REPORT OF COMMITTEE

The following executive report of committee was submitted:

By Mr. LUGAR, from the Committee on Foreign Relations:

Convention Concerning Migratory Fish Stock in the Pacific Ocean (Treaty Doc. 109-1) (Ex. Rept. 109-8).

Text of the resolution of ratification as reported by the Committee on Foreign Relations:

Resolved (two-thirds of the Senators present concurring therein),

The Senate advises and consents to the ratification of the Convention on the Conservation and Management of the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, with Annexes, adopted at Honolulu on September 5, 2000, by the Multilateral High Level Conference on the Highly Migratory Fish Stocks in the Western and Central Pacific Ocean, and signed by the United States on that date (Treaty Doc. 109-1).

INTRODUCTION OF BILLS AND JOINT RESOLUTIONS

The following bills and joint resolutions were introduced, read the first and second times by unanimous consent, and referred as indicated:

By Mr. GRASSLEY (for himself and Mr. SESSIONS):

S. 2016. A bill to amend chapter 3 of title 28, United States Code, to provide for 11 circuit judges on the United States Court of Appeals for the District of Columbia Circuit; to the Committee on the Judiciary.

By Mr. FEINGOLD (for himself and Ms. SNOWE):

S. 2017. A bill to amend the provisions of titles 5 and 28, United States Code, relating to equal access to justice, award of reasonable costs and fees, and administrative settlement offers, and for other purposes; to the Committee on the Judiciary.

By Mr. JOHNSON (for himself, Mr. CONRAD, and Mr. DORGAN):

S. 2018. A bill to amend the Federal Meat Inspection Act to provide that a quality grade label issued by the Secretary of Agriculture for beef and lamb may not be used for imported beef or imported lamb; to the Committee on Agriculture, Nutrition, and Forestry.

By Mr. SMITH (for himself and Mr. BAUCUS):

S. 2019. A bill to provide for a research program for remediation of closed methamphetamine production laboratories, and for other purposes; to the Committee on Environment and Public Works.

By Mr. GRASSLEY:

S. 2020. An original bill to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; from the Committee on Finance; placed on the calendar.

By Mr. CHAMBLISS:

S. 2021. A bill to amend title 38, United States Code, to establish in the Department of Veterans Affairs an Office of National Veterans Sports Programs and Special Events; to the Committee on Veterans' Affairs.

By Mr. COLEMAN (for himself and Mr. BINGAMAN):

S. 2022. A bill to amend title XVIII of the Social Security Act to provide for coverage of remote patient management services for chronic health care conditions under the Medicare program; to the Committee on Finance.

By Mr. INHOFE (for himself and Mr. THUNE):

S. 2023. A bill to amend the Oil Pollution Act of 1990 to improve that Act, and for other purposes; to the Committee on Environment and Public Works.

By Ms. MURKOWSKI:

S. 2024. A bill to raise the minimum State allocation under section 217(b)(2) of the Cranston-Gonzalez National Affordable Housing Act; to the Committee on Banking, Housing, and Urban Affairs.

By Mr. BAYH (for himself, Mr. BROWNBACK, Mr. LIEBERMAN, Mr. COLEMAN, Mr. GRAHAM, Mr. SALAZAR, Mr. SESSIONS, Mr. NELSON of Florida, Mr. LUGAR, and Mr. OBAMA):

S. 2025. A bill to promote the national security and stability of the United States economy by reducing the dependence of the United States on oil through the use of alternative fuels and new technology, and for other purposes; to the Committee on Finance.

By Mr. LAUTENBERG (for himself, Mr. KERRY, Mr. DORGAN, and Mr. DAYTON):

S. 2026. A bill to amend title XVIII of the Social Security Act to require that a prescription drug plan or an MA-PD plan that has an initial coverage limit obtain a signed certification prior to enrolling benficiaries under the plan under part D of such title; to the Committee on Finance.

By Mr. GRASSLEY (for himself and Mr. BAUCUS):

S. 2027. A bill to implement the United States-Bahrain Free Trade Agreement; to the Committee on Finance.

SUBMISSION OF CONCURRENT AND SENATE RESOLUTIONS

The following concurrent resolutions and Senate resolutions were read, and referred (or acted upon), as indicated:

By Mr. BURNS (for himself, Mr. LEAHY, Mr. INOUYE, Mr. SMITH, Mr. STEVENS, Mr. SUNUNU, Mr. NELSON of Florida, Mrs. HUTCHISON, Mr. INHOFE, Mr. ALLEN, and Mr. CRAIG):

S. Res. 317. A resolution expressing the sense of the Senate regarding oversight of the Internet Corporation for Assigned Names and Numbers; considered and agreed to.

ADDITIONAL COSPONSORS

S. 1112

At the request of Mr. BAUCUS, the name of the Senator from Connecticut (Mr. LIEBERMAN) was added as a cosponsor of S. 1112, a bill to make permanent the enhanced educational savings provisions for qualified tuition programs enacted as part of the Economic Growth and Tax Relief Reconciliation Act of 2001.

S. 1139

At the request of Mr. SANTORUM, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1139, a bill to amend the Animal Welfare Act to strengthen the ability of the Secretary of Agriculture to regulate the pet industry.

S. 1179

At the request of Mr. AKAKA, the name of the Senator from New York (Mrs. CLINTON) was added as a cosponsor of S. 1179, a bill to amend title XVIII of the Social Security Act to ensure that benefits under part D of such title have no impact on benefits under other Federal programs.

S. 1215

At the request of Mr. GREGG, the name of the Senator from Alabama (Mr. SESSIONS) was added as a cosponsor of S. 1215, a bill to authorize the acquisition of interests in underdeveloped coastal areas in order better to ensure their protection from development.

S. 1496

At the request of Mr. CRAPO, the name of the Senator from North Carolina (Mr. BURR) was added as a cosponsor of S. 1496, a bill to direct the Secretary of the Interior to conduct a pilot program under which up to 15 States may issue electronic Federal migratory bird hunting stamps.

S. 1504

At the request of Mr. ENSIGN, the names of the Senator from Florida (Mr. MARTINEZ) and the Senator from North

Carolina (Mr. BURR) were added as cosponsors of S. 1504, a bill to establish a market driven telecommunications marketplace, to eliminate government managed competition of existing communication service, and to provide parity between functionally equivalent services.

S. 1791

At the request of Mr. SMITH, the names of the Senator from Georgia (Mr. CHAMBLISS), the Senator from Georgia (Mr. ISAKSON), the Senator from North Carolina (Mr. BURR) and the Senator from Kentucky (Mr. BUNNING) were added as cosponsors of S. 1791, a bill to amend the Internal Revenue Code of 1986 to allow a deduction for qualified timber gains.

S. 1841

At the request of Mr. NELSON of Florida, the name of the Senator from Vermont (Mr. LEAHY) was added as a cosponsor of S. 1841, a bill to amend title XVIII of the Social Security Act to provide extended and additional protection to Medicare beneficiaries who enroll for the Medicare prescription drug benefit during 2006.

S. 1930

At the request of Mr. REID, the names of the Senator from Georgia (Mr. CHAMBLISS) and the Senator from Connecticut (Mr. LIEBERMAN) were added as cosponsors of S. 1930, a bill to expand the research, prevention, and awareness activities of the National Institute of Diabetes and Digestive and Kidney Diseases and the Centers for Disease Control and Prevention with respect to inflammatory bowel disease.

S. 2013

At the request of Mr. STEVENS, the name of the Senator from Alaska (Ms. MURKOWSKI) was added as a cosponsor of S. 2013, a bill to amend the Marine Mammal Protection Act of 1972 to implement the Agreement on the Conservation and Management of the Alaska-Chukotka Polar Bear Population.

S. CON. RES. 60

At the request of Mr. TALENT, the name of the Senator from Ohio (Mr. DEWINE) was added as a cosponsor of S. Con. Res. 60, a concurrent resolution designating the Negro Leagues Baseball Museum in Kansas City, Missouri, as America's National Negro Leagues Baseball Museum.

S. CON. RES. 62

At the request of Mr. MCCONNELL, the names of the Senator from Illinois (Mr. OBAMA), the Senator from North Carolina (Mr. BURR) and the Senator from Nebraska (Mr. HAGEL) were added as cosponsors of S. Con. Res. 62, a concurrent resolution directing the Joint Committee on the Library to procure a statue of Rosa Parks for placement in the Capitol.

At the request of Mr. STEVENS, his name was added as a cosponsor of S. Con. Res. 62, supra.

At the request of Mr. DODD, the name of the Senator from Indiana (Mr. BAYH) was added as a cosponsor of S. Con. Res. 62, supra.

At the request of Mr. ROBERTS, his name was added as a cosponsor of S. Con. Res. 62, supra.

S. RES. 219

At the request of Mrs. FEINSTEIN, the names of the Senator from New York (Mr. SCHUMER), the Senator from Maryland (Ms. MIKULSKI), the Senator from Hawaii (Mr. AKAKA), the Senator from Washington (Ms. CANTWELL) and the Senator from Washington (Mrs. MURRAY) were added as cosponsors of S. Res. 219, a resolution designating March 8, 2006, as "Endangered Species Day", and encouraging the people of the United States to become educated about, and aware of, threats to species, success stories in species recovery, and the opportunity to promote species conservation worldwide.

S. RES. 316

At the request of Mr. COLEMAN, the names of the Senator from Utah (Mr. BENNETT), the Senator from Florida (Mr. NELSON) and the Senator from Arizona (Mr. KYL) were added as cosponsors of S. Res. 316, a resolution expressing the sense of the Senate that the United Nations and other international organizations should not be allowed to exercise control over the Internet.

AMENDMENT NO. 2574

At the request of Ms. SNOWE, the name of the Senator from Maine (Ms. COLLINS) was added as a cosponsor of amendment No. 2574 proposed to S. 1042, an original bill to authorize appropriations for fiscal year 2006 for military activities of the Department of Defense, for military construction, and for defense activities of the Department of Energy, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes.

STATEMENTS ON INTRODUCED BILLS AND JOINT RESOLUTIONS

By Mr. GRASSLEY (for himself and Mr. SESSIONS):

S. 2016. A bill to amend chapter 3 of title 28, United States Code, to provide for 11 circuit judges on the United States Court of Appeals for the District of Columbia Circuit; to the Committee on the Judiciary.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the text of this bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2016

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. JUDGES ON THE UNITED STATES COURT OF APPEALS FOR THE DISTRICT OF COLUMBIA CIRCUIT.

(a) IN GENERAL.—The table under section 44(a) of title 28, United States Code, is amended by striking the item relating to the District of Columbia and inserting the following:

"District of Columbia .... 11".

(b) EXISTING VACANCY NOT FILLED.—In order to comply with the amendment made under subsection (a), 1 of the vacancies of circuit judges on the United States Court of Appeals for the District of Columbia Circuit which existed on the date preceding the date of the enactment of this Act, shall not be filled.

By Mr. FEINGOLD (for himself and Ms. SNOWE):

S. 2017. A bill to amend the provisions of titles 5 and 28, United States Code, relating to equal access to justice, award of reasonable costs and fees, and administrative settlement offers, and for other purposes; to the Committee on the Judiciary.

Mr. FEINGOLD. Mr. President, today I plan to introduce the Equal Access to Justice Reform Act of 2005.

This legislation contains adjustments to the Equal Access to Justice Act (EAJA) that will streamline and improve the process of awarding attorneys' fees to private parties who prevail in litigation against the Federal Government. This is the fifth Congress in which I have introduced EAJA reform. I believe this reform is an important step toward reducing the burden of defending government litigation for many individuals and small businesses.

I am very pleased to be joined in introducing this legislation this year by my friend from Maine, Senator OLYMPIA SNOWE, who chairs the Small Business Committee. We hope that by working together on a bipartisan basis, we will increase the chances that this important project will become law.

The legislation we are proposing today deals directly with a problem that affects small businesses and individual Americans across this country who face legal battles with the Federal Government. Even if they win in court, they may lose financially because they incur the great expense of paying their attorneys.

It is important to understand what the Equal Access to Justice Act is, and why it exists. The premise of this statute is very simple. EAJA seeks to level the playing field for individuals and small businesses that face the United States government in litigation. It establishes guidelines for the award of attorneys' fees when the individual or small business prevails in a case brought by the government. Quite simply, EAJA acknowledges that the resources available to the Federal Government in a legal dispute far outweigh those available to most Americans. This disparity is lessened by requiring the government, in certain instances, to pay the attorneys' fees of successful individual and small-business parties. By giving successful parties the right to seek attorneys' fees from the United States, EAJA seeks to prevent individuals and small business owners from having to risk their family savings or their companies' financial well-being to seek justice in court.

My interest in this issue predates my election to the Senate. It arises from my experience as both a private attorney and a Member of the State Senate in my home State of Wisconsin. While in private practice, I became aware of how the ability to recoup attorneys' fees is a significant factor, and often one of the first considered, when parties decide whether to defend a case. Upon entering the Wisconsin State Senate, I authored legislation modeled on the Federal law, which had been championed by one of my predecessors in this body from Wisconsin, Senator Gaylord Nelson. Today, Wisconsin statutes contain provisions similar to the federal EAJA statute.

It seemed to me then, as it does now, that we should do all that we can to help ease the financial burdens on people who need to have their claims reviewed and decided by impartial decision makers. The bill Senator SNOWE and I are introducing today does a number of things to make EAJA more effective for individuals and small business owners across this country.

First, this legislation eliminates the restrictive provision in current law that prevents successful parties from collecting attorneys' fees unless they can show the government's position was "not substantially justified." I believe that this high threshold for obtaining attorneys' fees is unfair. If an individual or small business battles the Federal Government in an adversarial proceeding and prevails, the government should pay the fees incurred. Imagine a small business that spends time and money fighting the government and wins, only to find out that it must undertake the additional step of litigating the justification of government's litigation position just to recover attorneys' fees. For the government, with its vast resources, this second litigation over fees poses little difficulty, but for the small business or individual, it may simply not be financially feasible.

This additional step presents more than a financial burden on the individual or small business litigant. A 1992 study also reveals that it is unnecessary and a waste of government resources. University of Virginia Professor Harold Krent reviewed EAJA cases in 1989 and 1990 and released a study on behalf of the Administrative Conference of the United States. Professor Krent found that only a small percentage of EAJA awards were denied because of the substantial justification defense. While it is impossible to determine the exact cost of litigating the issue of substantial justification, Professor Krent found that the money saved by the government was not enough to justify the cost of the additional litigation. In short, eliminating this often-burdensome second step is a cost-effective step that will streamline recovery under EAJA and may very well save the government money in the long run.

A second improvement this bill makes to EAJA are modifications to the definition of a small business. Small businesses are currently defined for purposes of EAJA as businesses with a net worth of less than $7 million. We update that number to $10 million and also provide for an inflation adjustment every five years based on the Producer Price Index. This provision will ensure that EAJA continues to serve the small businesses it is intended to protect.

Another part of this legislation that will streamline and improve EAJA is a provision designed to encourage settlement and avoid costly and protracted litigation. Under the bill, the government can make an offer of settlement after an application for fees and other expenses has been filed. If the government's offer is rejected and the prevailing party seeking recovery ultimately wins a smaller award, that party is not entitled to the attorneys' fees and costs incurred after the date of the government's offer. Again, this will encourage settlement and speed the claims process. It will reduce the time and expense of the litigation.

This bill also requires the government agency that brought the case against the small business or individual to pay attorneys' fees from their own budgets. This provision ensures federal agencies will consider the financial impact of the actions they choose to bring against individuals and small businesses. OSHA, NLRB, EEOC, and the Mine Safety and Health Administration are exempt from this provision because they play a unique role in acting on behalf of workers to enforce the laws.

Finally, this bill will modify the definition of prevailing party to ensure that if claims filed against the government are the catalyst for a change in the position by the government that results in the individual or small business achieving a significant part of the relief sought, the individual or small business will be considered the prevailing party even if the case settles rather than going to a judgment. This reverses, in cases where fees are available under EAJA, the 2001 decision of the Supreme Court in Buckhannon Board and Care Home, Inc. v. West Virginia Department of Health and Human Resources.

We all know that the American small business owner faces many challenges. Government regulation can be a formidable obstacle to conducting business, and litigation can be costly. The Equal Access to Justice Act was conceived and implemented as a check on the formidable power of the federal government. It has already helped many individual Americans and small businesses. The legislation we are offering today will make EAJA more effective and more fair. I want to thank Senator SNOWE for agreeing to work with me on this important bill. I hope our colleagues can support it.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2017

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Equal Access to Justice Reform Act of 2005".

SEC. 2. FINDINGS AND STATEMENT OF PURPOSE.

(a) FINDINGS.—The Congress finds that—

(1) the Equal Access to Justice Act (Public Law 96–481; 94 Stat. 2325 et seq.) (in this section referred to as "EAJA") was intended to make the justice system more accessible to individuals of modest means, small businesses, and nonprofit organizations (in this section collectively referred to as "small parties") through limited recovery of their attorneys' fees when they prevail in disputes with the Federal Government; and

(2) although EAJA has succeeded, at modest cost, in improving access to the justice system for small parties, EAJA retains formidable barriers to attorneys' fees recovery (even for small parties that completely prevail against the Government), as well as inefficient and costly mechanisms for determining the fees recovery.

(b) PURPOSE.—It is, therefore, the purpose of this Act to remove existing barriers and inefficiencies in EAJA in order to—

(1) equalize the level of accountability to Federal law among governments in the United States;

(2) discourage marginal Federal enforcement actions directed at small parties;

(3) reduce the practice of paying EAJA liabilities from the General Treasury, to ensure that Federal agencies properly consider the financial consequences of their actions and subsequent impact on the Federal budget;

(4) refine and improve Federal policies through adjudication;

(5) promote a fair and cost-effective process for prompt settlement and payment of attorneys' fees claims; and

(6) provide a fairer opportunity for full participation by small businesses in the free enterprise system, further increasing the economic vitality of the Nation.

(c) COMPLIANCE POLICY.—In complying with the statement of congressional policy expressed in this section, each Federal agency, to the maximum extent practicable, should—

(1) avoid unjustified enforcement actions directed at small parties covered by EAJA;

(2) encourage settlement of justified enforcement actions directed at small parties covered by EAJA; and

(3) minimize impediments to prompt resolution and payment of reasonable attorneys' fees to prevailing small parties covered by EAJA.

SEC. 3. REPORTING AND TECHNICAL ASSISTANCE BY OFFICE OF ADVOCACY.

(a) FUNCTIONS OF OFFICE OF ADVOCACY.—Section 202 of Public Law 94–305 (15 U.S.C. 634b) is amended—

(1) in paragraph (3), by inserting before the semicolon at the end the following: "and for

ensuring that the justice system remains accessible to small businesses for the resolution of disputes with the Federal Government''; and

(2) by striking paragraph (11) and inserting the following:

''(11) advise, cooperate with, and consult with the President and Attorney General with respect to section 303(b) of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631b(b)) and section 504(e) of title 5, United States Code; and''.

(b) DUTIES OF OFFICE OF ADVOCACY.—Section 203 of Public Law 94–305 (15 U.S.C. 634c) is amended—

(1) in paragraph (2), by inserting before the semicolon at the end the following: '', including the resolution of disputes with the Federal Government and the role of procedures established by the Equal Access to Justice Act (Public Law 96–481; 94 Stat. 2325) in such disputes''; and

(2) in paragraph (3), by inserting after ''the Small Business Act'' the following: '', including those related to the Equal Access to Justice Act,''.

(c) REPORTS TO CONGRESS.—

(1) IN GENERAL.—Not later than 180 days after the date of enactment of this Act, the Attorney General, in cooperation with the Chief Counsel for Advocacy of the Small Business Administration, shall transmit to the congressional committees specified in paragraph (2) a report containing—

(A) an analysis of the effectiveness of the Equal Access to Justice Act (Public Law 96–481; 94 Stat. 2325) (in this paragraph referred to as ''EAJA'') in achieving its purpose to ease the burden upon small businesses and other small parties covered by EAJA of engaging in dispute resolution with the Federal Government, including—

(i) the relative awareness of EAJA in the small business community;

(ii) the relative awareness of EAJA's requirements among Federal agencies;

(iii) the extent and quality of rules and regulations adopted by each Federal agency for processing, resolving, and paying attorneys' fees claims under EAJA;

(iv) the extent to which each Federal agency claims any exemptions in whole or in part from EAJA's coverage;

(v) the frequency or degree of use of EAJA's procedures by prevailing small businesses; and

(vi) an analysis of the costs and benefits of EAJA generally;

(B) an analysis of the variations in the frequency and amounts of fee awards paid by specific Federal agencies and within specific Federal circuits and districts under section 504 of title 5, United States Code, and section 2412 of title 28, United States Code, including the number and total dollar amount of all claims filed with, and all claims processed, settled, litigated, and paid by, each agency under EAJA; and

(C) recommendations for congressional oversight or legislative changes with respect to EAJA, including any recommendations for promulgation or amendment of regulations issued under EAJA by specific Federal agencies.

(2) SPECIFIED COMMITTEES.—The congressional committees referred to in paragraph (1) are the following:

(A) The Committee on the Judiciary and the Committee on Small Business of the House of Representatives.

(B) The Committee on the Judiciary and the Committee on Small Business and Entrepreneurship of the Senate.

(3) REPORT ON SMALL BUSINESS AND COMPETITION.—Section 303 of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631b) is amended—

(A) in subsection (a), by striking paragraph (5) and inserting the following:

''(5) recommend a program for carrying out the policy declared in section 302 (including a policy to ensure that the justice system remains accessible to small business enterprises for the resolution of disputes with the Federal Government), together with such recommendations for legislation as the President may deem necessary or desirable.'';

(B) in subsection (b)—

(i) by striking ''(b)'' and inserting ''(b)(1)''; and

(ii) by adding at the end the following:

''(2) The President, after consultation with the Chief Counsel for Advocacy of the Small Business Administration and the Attorney General, shall transmit simultaneously as an appendix to such annual report, a report that describes, by agency and department—

''(A) the total number of claims filed, processed, settled, and litigated by small business concerns under section 504 of title 5, United States Code, and section 2412 of title 28, United States Code (originally enacted pursuant to the Equal Access to Justice Act (Public Law 96–481; 94 Stat. 2325));

''(B) the total dollar amount of all outstanding awards and settlements to small business concerns under such sections;

''(C) the total dollar amount of all claims paid to small business concerns under such sections;

''(D) the underlying legal claims involved in each controversy with small business concerns under such sections; and

''(E) any other relevant information that the President determines may aid Congress in evaluating the impact on small business concerns of such sections.

''(3) Each agency shall provide the President with such information as is necessary for the President to comply with the requirements of this subsection.''; and

(C) in subsection (d)—

(i) by striking ''(d)'' and inserting ''(d)(1)''; and

(ii) by adding at the end the following:

''(2) All reports concerning the Equal Access to Justice Act (Public Law 96–481; 94 Stat. 2325), or the congressional policy to ensure that the justice system remains accessible to small business enterprises for the resolution of disputes with the Federal Government, shall be transmitted to the following congressional committees:

''(A) The Committee on the Judiciary and the Committee on Small Business of the House of Representatives.

''(B) The Committee on the Judiciary and the Committee on Small Business and Entrepreneurship of the Senate.''.

SEC. 4. EQUAL ACCESS FOR SMALL PARTIES IN CIVIL AND ADMINISTRATIVE PROCEEDINGS.

(a) ELIMINATION OF SUBSTANTIAL JUSTIFICATION STANDARD.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504 of title 5, United States Code, is amended—

(A) in subsection (a)(1), by striking '', unless the adjudicative officer'' and all that follows through the period at the end and inserting a period; and

(B) in subsection (a)(2), by striking ''The party shall also allege that the position of the agency was not substantially justified.''.

(2) JUDICIAL PROCEEDINGS.—Section 2412 of title 28, United States Code, is amended—

(A) in subsection (d)(1)(A), by striking '', unless the court'' and all that follows through the period at the end and inserting a period;

(B) in subsection (d)(1)(B), by striking ''The party shall also allege'' and all that follows through the period at the end and inserting a period; and

(C) in subsection (d)(3), by striking '', unless the court'' and all that follows through the period at the end and inserting a period.

(b) ELIGIBILITY OF SMALL BUSINESSES FOR FEE AWARD.—

(1) ADMINISTRATIVE PROCEEDINGS.—

(A) IN GENERAL.—Section 504(b)(1)(B)(ii) of title 5, United States Code, is amended by striking ''$7,000,000'' and inserting ''$10,000,000''.

(B) ADJUSTMENT IN NET WORTH LIMITATION.—Section 504(b) of title 5, United States Code, is amended by adding at the end the following:

''(3) Beginning on January 1 of the 5th year following the date of enactment of this paragraph, and on January 1 every 5 years thereafter, the dollar amount under paragraph (1)(B)(ii) shall be adjusted by the Producer Price Index as determined by the Secretary of the Treasury, in collaboration with the Bureau of Labor Statistics.''.

(2) JUDICIAL PROCEEDINGS.—

(A) IN GENERAL.—Section 2412(d)(2)(B)(ii) of title 28, United States Code, is amended by striking ''$7,000,000'' and inserting ''$10,000,000''.

(B) ADJUSTMENT IN NET WORTH LIMITATION.—Section 2412(d) of title 28, United States Code, is amended by adding at the end the following:

''(5) Beginning on January 1 of the 5th year following the date of enactment of this paragraph, and on January 1 every 5 years thereafter, the dollar amount under paragraph (2)(B)(ii) shall be adjusted by the Producer Price Index as determined by the Secretary of the Treasury, in collaboration with the Bureau of Labor Statistics.''.

(c) ELIMINATION OF RATE CAP.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(b)(1)(A) of title 5, United States Code, is amended—

(A) by striking ''(i)''; and

(B) by striking ''by the agency involved'' and all that follows through ''a higher fee'' and inserting ''by the agency involved''.

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(2)(A) of title 28, United States Code, is amended—

(A) by striking ''(i)''; and

(B) by striking ''by the United States'' and all that follows through ''a higher fee'' and inserting ''by the United States''.

(d) OFFERS OF SETTLEMENT.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(a) of title 5, United States Code, as amended by this section, is further amended by adding at the end the following:

''(5)(A) At any time after an agency receives an application submitted under paragraph (2), the agency may serve upon the applicant a written offer of settlement of the claims made in the application. If within 10 business days after such service the applicant serves written notice that the offer is accepted, either the agency or the applicant may then file the offer and notice of acceptance together with proof of service thereof.

''(B) An offer not accepted within the time allowed shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for fees or other expenses incurred (in relation to the application for fees and expenses) after the date of the offer.".

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(1) of title 28, United States Code, as amended by this section, is further amended by adding at the end the following:

"(E)(i) At any time after an agency receives an application submitted under subparagraph (B), the agency may serve upon the applicant a written offer of settlement of the claims made in the application. If within 10 business days after such service the applicant serves written notice that the offer is accepted, either the agency or the applicant may then file the offer and notice of acceptance together with proof of service thereof.

"(ii) An offer not accepted within the time allowed shall be deemed withdrawn. The fact that an offer is made but not accepted shall not preclude a subsequent offer. If any award of fees and expenses for the merits of the proceeding finally obtained by the applicant is not more favorable than the offer, the applicant shall not be entitled to receive an award for fees or other expenses incurred (in relation to the application for fees and expenses) after the date of the offer.".

(e) DECLARATION OF INTENT TO SEEK FEE AWARD.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(a)(2) of title 5, United States Code, as amended by this section, is further amended by inserting before the first sentence the following: "At any time after the commencement of an adversary adjudication, the adjudicative officer may (and if requested by a party shall) require a party to declare whether such party intends to seek an award of fees and expenses against the agency should such party prevail.".

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(1)(B) of title 28, United States Code, as amended by this section, is further amended by inserting before the first sentence the following: "At any time after the commencement of an adversary adjudication, as defined in subsection (b)(1)(C) of section 504 of title 5, United States Code, the court may (and if requested by a party shall) require a party to declare whether such party intends to seek an award of fees and expenses against the agency should such party prevail.".

(f) PAYMENT OF ATTORNEYS' FEES FROM AGENCY APPROPRIATIONS.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504(d) of title 5, United States Code, is amended to read as follows:

"(d)(1) Fees and other expenses awarded under this section shall be paid by any agency over which the party prevails from any funds made available to the agency by appropriation or otherwise.

"(2) Fees and expenses awarded under this section may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.

"(3) Paragraph (2) shall not apply to the National Labor Relations Board, the Occupational Safety and Health Administration, the Mine Safety and Health Administration, or the Equal Employment Opportunity Commission.".

(2) JUDICIAL PROCEEDINGS.—Section 2412(d)(4) of title 28, United States Code, is amended to read as follows:

"(4)(A) Fees and other expenses awarded under this subsection shall be paid by any agency over which the party prevails from any funds made available to the agency by appropriation or otherwise.

"(B) Fees and expenses awarded under this section may not be paid from the claims and judgments account of the Treasury from funds appropriated pursuant to section 1304 of title 31.

"(C) Subparagraph (B) shall not apply to the National Labor Relations Board, the Occupational Safety and Health Administration, the Mine Safety and Health Administration, or the Equal Employment Opportunity Commission.".

(g) ELIGIBILITY OF TAXPAYERS FOR FEE AWARD.—

(1) ADMINISTRATIVE PROCEEDINGS.—Section 504 of title 5, United States Code, as amended by this section, is further amended by striking subsection (f).

(2) JUDICIAL PROCEEDINGS.—Section 2412 of title 28, United States Code, as amended by this section, is further amended by striking subsection (e) and redesignating subsection (f) as subsection (e).

(h) CONFORMING AMENDMENT RELATING TO REPORTING REQUIREMENT UNDER SMALL BUSINESS ACT.—Section 504(e) of title 5, United States Code, is amended to read as follows:

"(e)(1) The Attorney General, after consultation with the Chief Counsel for Advocacy of the Small Business Administration, shall report annually to the Congress on the amount of fees and other expenses awarded to individuals during the preceding fiscal year pursuant to this section and section 2412 of title 28. The report shall describe the number, nature, and amount of the awards, the claims involved in the controversy, and any other relevant information which may aid the Congress in evaluating the scope and impact of such awards for individuals engaged in disputes with Federal agencies. Each agency shall provide the Attorney General with such information as is necessary for the Attorney General to comply with the requirements of this subsection.

"(2) A requirement that the President report annually on proceedings affecting small business concerns under this section and under section 2412 of title 28 is provided in section 303(b) of the Small Business Economic Policy Act of 1980 (15 U.S.C. 631b(b)).".

(i) APPLICABILITY.—The provisions of this section and the amendments made by this section shall apply to any proceeding pending on, or commenced on or after, the effective date of this Act.

SEC. 5. DEFINITION OF PREVAILING PARTY IN EAJA CASES.

(a) TITLE 5.—Section 504(b)(1) of title 5, United States Code, is amended by adding at the end the following:

"(G) 'prevailing party' includes, in addition to a party who prevails through a judicial or administrative judgment or order, a party whose pursuit of a nonfrivolous claim or defense was a catalyst for a voluntary or unilateral change in position by the opposing party that provides any significant part of the relief sought.".

(b) TITLE 28.—Section 2412 of title 28, United States Code, is amended—

(1) in subsection (d)(2)(H), by inserting after "means" the following: ", subject to subsection (g),"; and

(2) by adding at the end the following:

"(g) For the purposes of this section, the term 'prevailing party' includes, in addition to a party who prevails through a judicial or administrative judgment or order, a party whose pursuit of a nonfrivolous claim or defense was a catalyst for a voluntary or unilateral change in position by the opposing party that provides any significant part of the relief sought.".

SEC. 6. EFFECTIVE DATE.

The provisions of this Act and the amendments made by this Act shall take effect 30 days after the date of the enactment of this Act.

Ms. SNOWE. Mr. President, as Chair of the Senate Committee on Small Business and Entrepreneurship, I have fought to ensure that small businesses across the country are treated fairly by the Federal Government. Unfortunately, in far too many cases, Federal agencies take arbitrary or abusive enforcement actions against small businesses. Few repercussions deter the Federal Government from taking these unwarranted and unjust actions, which can irreparably injure the reputation and financial viability of a small business.

Enacted in 1980 on a bipartisan basis, the Equal Access to Justice Act (EAJA) intended to allow small businesses to collect legal fees after prevailing in litigation against the Federal Government. However, a number of barriers and inefficiencies exist within EAJA that prevent its effectiveness.

For example, EAJA currently requires a small business that has prevailed in litigation against the Federal Government to enter into a costly second proceeding with the government. At the second proceeding, the government can assert a "substantial justification" defense to prevent the small business from recovering its legal costs, even though the small business prevailed on the merits of the underlying case in court. Even in instances when the Federal Government based its actions entirely on erroneous facts or without any legal basis, if the Federal Government can show that it was "substantially justified" in taking its actions, then a small business will be barred from EAJA recovery.

In practice, courts typically give a very wide berth to the government's substantially justified defense—a reality that means that prevailing small businesses can rarely, if ever, recover their legal fees under EAJA. And while a second proceeding may be in the best interest of the Federal agency—especially because its case is being funded by the General Treasury—the second proceeding may ultimately be more costly and more time consuming to the small business than the original, underlying case.

I believe that this is a flawed system. Small businesses are a driving force of the United States economy, representing 99.7 percent of all employer firms and generating approximately 75 percent of net new jobs annually. It is in our Nation's best interest to protect and watch over small businesses, as their success and vitality are key to America's economy and job growth.

It's plain and simple: We should not idly stand by while the Federal Government mistreats our Nation's small businesses.

That is why today I introduce with my colleague Senator FEINGOLD the

Equal Access to Justice Reform Act of 2005 (EAJRA). This bill would ensure that small businesses are adequately protected from unreasonable regulations and actions, as well as update EAJA to better serve today's small businesses.

Under our legislation, small parties would be more likely to recover their legal fees when they prevail in litigation against the Federal Government. First, the EAJRA would eliminate the "substantial justification" defense, which would increase the likelihood that small businesses will be able to recover their legal costs after their winning their case.

Second, our legislation would modernize the EAJA by updating eligibility qualifications for small businesses. It would raise the threshold for qualifying small businesses from $7 million to $10 million net worth, and index that threshold for inflation. Given modern economic realities, a net worth of $7 million is no longer sufficient.

Third, the EAJRA would remove the hourly rate cap on attorney's fees. The current hourly rate cap of $125 was set during EAJA's enactment in 1980, and has yet to be adjusted for inflation. However, the market rate for competent legal services, especially for complex and high-risk litigation against the Federal Government, is far greater than the cap of $125 per hour. This limit prevents small businesses from receiving fair and just reimbursement of attorney's fees, placing them at a notable disadvantage.

Finally, the EAJRA would require agencies that lose lawsuits, other than the National Labor Relations Board, the Occupational Safety and Health Administration, the Mine Safety and Health Administration, and the Equal Employment Opportunity Commission, to pay legal fees awarded under EAJA out of their own budgets and not the General Treasury. This would eliminate inefficient uses of Federal agency resources and would discourage marginal or abusive Federal enforcement actions directed at small parties. In addition, the Federal budget would no longer be unnecessarily burdened.

The EAJRA creates a fair and even playing field. It would equalize the level of accountability to Federal law among governments in the United States. It is a "good government" statute that would promote justice and equality of treatment between small and large entities, and would greatly increase transparency in the Federal Government.

This legislation is absolutely necessary. I urge my colleagues to support the Equal Access to Justice Reform Act so that we can ensure that our nation's small businesses are protected from unfair and unreasonable governmental actions.

By Mr. SMITH (for himself and Mr. BAUCUS):

S. 2019. A bill to provide for a research program for remediation of closed methamphetamine production laboratories, and for other purposes; to the Committee on Environment and Public Works.

Mr. BAUCUS. Mr. President, I am pleased to introduce with Senator SMITH a bill that would provide for the establishment of voluntary, "health-based" remediation guidelines for former methamphetamine laboratories, an issue of great importance to Montana, Oregon, and all of rural America.

The material and chemical byproducts of methamphetamine production pose novel risks to the environment and public health. These risks are compounded by the sheer number of meth labs and the vulnerability of police, social service workers, and children exposed to meth production. The DEA estimated that there were as many as 16,000 meth labs in operation in 2004. Additionally, thousands of meth labs have been busted over the years but never properly remediated. Producing one pound of meth leaves behind six pounds of hazardous waste. In addition to bulk waste, cooking meth infuses toxic chemicals into the walls, carpeting, and ventilation systems of the homes, apartments, motel rooms, and parks where meth is produced.

Unremediated methamphetamine labs pose significant public health risks. The Department of Health and Human Services has reported that law enforcement officials and social service workers exposed to meth labs, or even just individuals removed from meth labs, have complained of severe headaches, eye and respiratory irritations, nausea, and burns. The need for remediation guidelines is clear.

Currently, eight States, including Montana, have "feasibility-based" remediation standards. "Feasibility-based" standards consider cost as a key factor in determining what level of remediation is desirable. While such standards are a start, we need greater certainty that our public servants and children are adequately protected.

Our bill provides a remedy. It directs the Assistant Administrator for Research and Development of the EPA to establish voluntary remediation guidelines, based on the best available scientific knowledge. To further this effort, our bill provides for a program of research to identify methamphetamine laboratory-related chemicals of concern, assess the types and levels of exposure to chemicals of concern—including routine and accidental exposures—that may present a significant risk of adverse biological effects, and evaluate the performance of various methamphetamine laboratory cleanup and remediation techniques. Our bill does not regulate States. The remediation guidelines are purely voluntary, meant to put States, remediation consultants, homeowners, and realtors on the same page.

Methamphetamine production poisons not only users but also spouses, children, public servants, and any future owners of properties exposed to meth production. To protect the public we need consistent, scientifically-based remediation guidelines.

By Mr. CHAMBLISS:

S. 2021. A bill to amend title 38, United States Code, to establish in the Department of Veterans Affairs an Office of National Veterans Sports Programs and Special Events; to the Committee on Veterans' Affairs.

Mr. CHAMBLISS. Mr. President, I rise today to introduce my bill, the "Disabled Veterans Sports and Special Events Promotion Act of 2005".

We discovered during World War II that sports and physical activity play a vital role in the rehabilitation of recently disabled military personnel. Young service members who had just returned from WWII and were undergoing rehabilitation were drawn to sports and other team activities. The appeal of sports for these veterans served as more than just a rehabilitation technique. In fact, sports served as a source of motivation as well as a path to a fuller life for young people in the aftermath of a disability. As would be expected, many of these veterans became exceptional athletes and sought opportunities for competition and excellence in the new world of competitive Paralympic sports.

With the onset of hostilities in Afghanistan and Iraq, a new generation of U.S. military personnel with disabilities has emerged. These newly-disabled men and women are young, ambitious, goal-oriented and in their physical prime. Sport, which played a fundamental role for returning veterans of World War II, Korea, and Vietnam, has the capacity to assist military personnel in adjusting to life with a disability. The United States Olympic Committee (USOC) and its Paralympic partners recognize the opportunity to play a key role in the lives of returning military personnel with newly acquired disabilities.

The USOC Paralympic Military Program is a collaborative effort among the USOC, military installations and commands, Veterans' Affairs (VA) offices and programs, and Paralympic organizations nationwide that are conducting Paralympic sport programs for active duty military personnel and veterans who have physical disabilities.

The Program has been established to enable severely injured service members and veterans to enhance their rehabilitation, readiness and lifestyle through participation in Paralympic sports. The Program is designed for recently injured service members, 2001 and after, Paralympic-eligible disabilities; however, other service members and veterans with physical disabilities who are able to engage in program activities are welcome. Paralympic-eligible disabilities are: amputations, visual impairments, Brain injuries affecting physical mobility, spinal cord injuries and, other mobility-impairing disabilities.

This bill would establish within the Department of Veterans Affairs an Office of National Veterans Sports Programs and Special Events which would establish and carry out sports programs for disabled veterans. In addition, the office would arrange for the VA to sponsor sports programs for disabled veterans conducted by other groups if the Secretary detennines that the programs are consistent with the VA's goals and missions. The office would provide for, facilitate, and encourage disabled veterans to participate in these programs. Finally, the office will cooperate with the USOC and their Paralympic Military Program to promote participation of disabled veterans in the Paralympics.

This bill allows those injured in service to our country the option to regain a healthy, active lifestyle through sport and competition. Competing in sports such as cycling, fencing, shooting, sled hockey, table tennis, and sitting volleyball gives these injured veterans the opportunity to rehabilitate their bodies and minds while competing at the highest level. It is my hope that as we proceed with this bill, we keep the people at the receiving end of our decisions and deliberations foremost in our minds.

I ask my colleagues to support this bill.

By Mr. COLEMAN (for himself and Mr. BINGAMAN):

S. 2022. A bill to amend title XVIII of the Social Security Act to provide for coverage of remote patient management services for chronic health care conditions under the Medicare program; to the Committee on Finance.

Mr. COLEMAN. Mr. President, constituents across the country in rural areas face serious health care issues, not only in terms of illness but also in lack of easily accessible services. One out of every five Americans lives in rural areas however only one out of every ten physicians practice in rural areas. Forty percent of our rural population lives in a medically underserved area. With access to care an average of thirty miles away, rural areas have much to gain from the ability to access healthcare information at a distance. We depend on our farmers and ranchers—they are the lifeblood of America and take care of the essentials in our lives such as feeding us and clothing us. We should make sure to take care of them as well.

Today, I am proud to be joined by my friend, Senator BINGAMAN in introducing the Remote Monitoring Access Act of 2005 to overcome the barriers to more rapid diffusion of innovative new technologies that will improve quality and access to care for Medicare beneficiaries, by implementing changes in Medicare fee-for-service reimbursements. Our legislation would create a new benefit category for remote patient management services in the Medicare physician fee schedule. Under this category, Medicare would cover physician services involved with the remote management of specific medical conditions.

New technology that collects, analyzes, and transmits clinical health information is in development or has recently been introduced to the market. The promise of this remote management technology is clear: better information on the patient's condition—collected and stored electronically, analyzed for clinical value, and transmitted to the physician or the patient—should improve patient care and access.

Remote monitoring technology is also emerging to extend the provision of health care services to areas where there is a shortage of physicians. This technology allows physicians to monitor and treat patients without a face-to-face office visit, thereby increasing access to physicians for patients living in rural areas.

In its March 2001 report, "Crossing the Quality Chasm," the Institute of Medicine stated that the automation of clinical and other health transactions was an essential factor for improving quality, preventing errors, enhancing consumer confidence in the health care system, and improving efficiency, yet "health care delivery has been relatively untouched by the revolution in information technology that has been transforming nearly every other aspect of society."

Three major areas in which remote management technologies are emerging in health care are the treatment of congestive heart failure (CHF), diabetes and cardiac arrhythmia.

Despite these innovations and their ability to improve care, many new clinical information and remote management technologies have failed to diffuse rapidly. A significant barrier to wider adoption and evolution of the technologies is the relative lack of payment mechanisms in fee-for-service Medicare to reimburse for remote, non-face-to-face management and disease management services provided by a physician.

Under existing Medicare fee schedules, physicians generally receive a fixed, predetermined amount for a given service. The cost of devices used or supplied in the service is usually bundled into the payment, and payments are primarily provided for face-to-face interactions between the physician and patient. The payment structure creates at least two problems for the wider adoption of patient management approaches using remote management technology.

To overcome the barriers to more rapid diffusion of innovative new technology for Medicare beneficiaries, changes in Medicare fee-for-service reimbursements are necessary. This legislation would create a new benefit category for remote patient management services in the Medicare physician fee schedule. Under this category, Medicare would cover physician services involved with the remote management of specific medical conditions.

The quality of care provided through remote management would allow physicians to qualify for bonus payments conditioned on specific quality measures. This legislation directs the Secretary, through the Agency for Health Care Research and Quality (AHRQ) to develop standards of care and quality standards for the remote management services provided for each medical condition covered. AHRQ would develop these standards working in conjunction with appropriate physician groups. The Secretary is also given the authority to develop guidelines on the frequency of billing for remote patient management services.

I urge my fellow colleagues to join me in ensuring rural Americans have the access to remote monitoring and the opportunity to keep pace with health technology by supporting the Remote Monitoring Access Act of 2005.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2022

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Remote Monitoring Access Act of 2005".

SEC. 2. COVERAGE OF REMOTE PATIENT MANAGEMENT SERVICES FOR CHRONIC HEALTH CARE CONDITIONS.

(a) IN GENERAL.—Section 1861(s)(2) of the Social Security Act (42 U.S.C. 1395x(s)(2)) is amended—

(1) in subparagraph (Y), by striking "and" at the end;

(2) in subparagraph (Z), by inserting "and" at the end; and

(3) by inserting after subparagraph (Z) the following new subparagraph:

"(AA) remote patient management services (as defined in subsection (bbb));".

(b) SERVICES DESCRIBED.—Section 1861 of the Social Security Act (42 U.S.C. 1395x) is amended by adding at the end the following new subsection:

"Remote Patient Management Services

"(bbb)(1) The term 'remote patient management services' means the remote monitoring and management of an individual with a covered chronic health condition (as defined in paragraph (2)) through the utilization of a system of technology that allows a remote interface to collect and transmit clinical data between the individual and the responsible physician or supplier for the purposes of clinical review or response by the physician or supplier.

“(2) For purposes of paragraph (1), the term ‘covered chronic health condition’ includes—

“(A) heart failure;

“(B) diabetes;

“(C) cardiac arrhythmia; and

“(D) any other chronic condition determined by the Secretary to be appropriate for treatment through remote patient management services.

“(3)(A) The Secretary, in consultation with appropriate physician groups, may develop guidelines on the frequency of billing for remote patient management services. Such guidelines shall be determined based on medical necessity and shall be sufficient to ensure appropriate and timely monitoring of individuals being furnished such services.

“(B) The Secretary, acting through the Agency for Health Care Research and Quality, shall do the following:

“(i) Not later than 1 year after the date of enactment of the Remote Monitoring Access Act of 2005, develop, in consultation with appropriate physician groups, a standard of care and quality standards for remote patient management services for the covered chronic health conditions specified in subparagraphs (A), (B), and (C) of paragraph (2).

“(ii) If the Secretary makes a determination under paragraph (2)(D) with respect to a chronic condition, develop, in consultation with appropriate physician groups, a standard of care and quality standards for remote patient management services for such condition within 1 year of such determination.

“(iii) Periodically review and update such standards of care and quality standards under this subparagraph as necessary.”.

(c) Payment Under the Physician Fee Schedule.—Section 1848 of the Social Security Act (42 U.S.C. 1395w–4) is amended—

(1) in subsection (c)(2)—

(A) in subparagraph (B)—

(i) in clause (ii)(II), by striking “clause (iv)” and inserting “clauses (iv) and (v)”; and

(ii) by adding at the end the following new clause:

“(v) Budgetary treatment of certain services.—The additional expenditures attributable to services described in section 1861(s)(2)(AA) shall not be taken into account in applying clause (ii)(II) for 2006.”; and

(B) by adding at the end the following new paragraph:

“(7) Treatment of remote patient management services.—In determining relative value units for remote patient management services (as defined in section 1861(bbb)), the Secretary, in consultation with appropriate physician groups, shall take into consideration—

“(A) costs associated with such services, including physician time involved, installation and information transmittal costs, costs of remote patient management technology (including devices and software), and resource costs necessary for patient monitoring and follow-up (but not including costs of any related item or non-physician service otherwise reimbursed under this title); and

“(B) the level of intensity of services provided, based on—

“(i) the frequency of evaluation necessary to manage the individual being furnished the services;

“(ii) the amount of time necessary for, and the complexity of, the evaluation, including the information that must be obtained, reviewed, and analyzed; and

“(iii) the number of possible diagnoses and the number of management options that must be considered.”; and

(2) in subsection (j)(3), by inserting “(2)(AA),” after “(2)(W),”.

(d) Incentive Payments.—Section 1833 of the Social Security Act (42 U.S.C. 1395l) is amended by adding at the end the following new subsection:

“(v) Incentive for Meeting Certain Standards of Care and Quality Standards in the Furnishing of Remote Patient Management Services.—In the case of remote patient management services (as defined in section 1861(bbb)) that are furnished by a physician who the Secretary determines meets or exceeds the standards of care and quality standards developed by the Secretary under paragraph (3)(B) of such section for such services, in addition to the amount of payment that would otherwise be made for such services under this part, there shall also be paid to the physician (or to an employer or facility in cases described in clause (A) of section 1842(b)(6)) (on a monthly or quarterly basis) from the Federal Supplementary Medical Insurance Trust Fund an amount equal to 10 percent of the payment amount for the service under this part.”.

(e) Effective Date.—The amendments made by this section shall apply to services furnished on or after January 1, 2006.

By Ms. MURKOWSKI:

S. 2024. A bill to raise the minimum State allocation under section 217(b)(2) of the Cranston-Gonzalez National Affordable Housing Act; to the Committee on Banking, Housing, and Urban Affairs.

Ms. MURKOWSKI. Mr. President, I rise to introduce a bill that will increase the minimum funding level for low population States for the U.S. Department of Housing and Urban Development's HOME Investment Partnerships Program.

This program was created when the Cranston-Gonzalez National Affordable Housing bill was signed into law in 1990. Funds were first appropriated for this program in 1992. HOME program funds are disbursed to State and local governments for the purpose of assisting with the expansion of housing for low-income families. These governmental entities have a great deal of flexibility when using these funds to implement the program's purpose.

When this program was created, a minimum funding level of $3 million was created for States that would normally receive a small amount of HOME funds under the allocation formula, which is based on a State's population, among other parameters. Five States—Alaska, Delaware, Nevada, Hawaii, and North Dakota—received this level of funding for this program in fiscal year 2005. Bearing in mind inflation between 1992—when this program was first funded—and 2005, a $3 million allocation in 1992 dollars decreased in value to $2,215,235 in 2005.

This is unacceptable. My State is one of the most expensive areas in the country to develop housing, especially when one takes into account the cost to transport building materials to extremely remote areas of my State.

This legislation increases the minimum State funding level for the HOME program to $5 million. Based on fiscal year 2005 allocations for this program, eight States received less than $5 million. Those States are: Alaska, Delaware, Nevada, Hawaii, Montana, North Dakota, Utah, and Wyoming. My proposed increase in funding would be offset by an overall decrease in allocations to other States. If a $5 million minimum funding level had been in place in fiscal year 2005, the other 42 States would only have experienced an overall decrease of less than $13 million. Bearing in mind that the amount appropriated in fiscal year 2005 for this program is $1.865 billion, such a decrease in funds seems reasonable considering no changes have been made to the minimum State funding level since the HOME program was first funded in 1992.

In addition, the congressionally appointed, bipartisan Millennium Housing Commission recommended increasing the minimum State funding level for the HOME program to $5 million in their May 30, 2002, report to Congress.

It is imperative that we address this important issue so that we can address the housing needs of a greater amount of low-income families in low-population States.

I ask unanimous consent that the text of the bill be printed in the Record.

There being no objection, the bill was ordered to be printed in the Record, as follows:

S. 2024

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the “Small State HOME Program Equity Act of 2005”.

SEC. 2. ALLOCATION OF RESOURCES.

Section 217(b)(2)(A) of the Cranston-Gonzalez National Affordable Housing Act (42 U.S.C. 12747(b)(2)(A)) is amended by striking “$3,000,000” each place it occurs and inserting “$5,000,000”.

By Mr. BAYH (for himself, Mr. Brownback, Mr. Lieberman, Mr. Coleman, Mr. Graham, Mr. Salazar, Mr. Sessions, Mr. Nelson of Florida, Mr. Lugar, and Mr. Obama):

S. 2025. A bill to promote the national security and stability of the United States economy by reducing the dependence of the United States on oil through the use of alternative fuels and new technology, and for other purposes; to the Committee on Finance.

Mr. LIEBERMAN. Mr. President, our dependence on foreign oil is sapping America's power and independence as a nation. It is urgent we begin now to diversify the fuels we use to power our vehicles or risk ceding our national power to the rulers of faraway deserts, distant tundras, steaming rain forests or off-shore, drilling platforms half a world away.

I rise today as part of a bipartisan group of 10 Senators who represent the

American Northeast, South, Midwest and West to introduce the Vehicle and Fuel Choices for America Security Act.

We chose this title because nothing less than our national security is at stake.

Besides myself, the rest of the "Gang of Ten," or the "Energy Security Ten," as some call us are Senators SAM BROWNBACK of Kansas, EVAN BAYH of Indiana, NORM COLEMAN of Minnesota, LINDSEY GRAHAM of South Carolina, KEN SALAZAR of Colorado, JEFF SESSIONS of Alabama, BILL NELSON of Florida, RICHARD LUGAR of Indiana and BARACK OBAMA of Illinois. And we expect even more of our colleagues from both sides of the aisle will be joining us soon.

I hope that in the future we all look back on the day this bill was introduced as the beginning of a major shift in our national security strategy. I hope that history will say we saw a challenge to our national security and prosperity and then met it and mastered it.

A recent report by the International Energy Agency, IEA, sums up the urgent need for our legislation.

According to the IEA, global demand for oil—now about 85 million barrels a day—will increase by more than 50 percent to 130 million barrels a day between now and 2030 if nothing is done.

The industrialized world's dependence on oil heightens global instability. The authors of the IEA report note that the way things are going "we are ending up with 95 percent of the world relying for its economic well-being on decisions made by five or six countries in the Middle East."

Besides the Mideast, I would add that Nigeria is roiled by instability, Venezuela's current leadership is hostile to us and Russia's resurgent state power has ominous overtones.

In fact, we are just one well-orchestrated terrorist attack or political upheaval away from a $100-a-barrel overnight price spike that would that would send the global economy tumbling and the industrialized world, including China and India, scrambling to secure supplies from the remaining and limited number of oil supply sites.

History tells us that wars have started over such competition.

Left unchecked, I fear that we are literally watching the slow but steady erosion of America's power and independence as a nation—our economic and military power and our political independence.

We are burning it up in our automobile engines and spewing it from our tailpipes because of our absolute dependence on oil to fuel our cars and trucks.

That dependence on oil—and that means foreign oil because our own reserves are less than 1 percent of the world's oil reserves—puts us in jeopardy in three key ways—a convergence forming a perfect storm that is extremely dangerous to America's national security and economy.

First, the structure of the global oil market deeply affects—and distorts—our foreign policy. Our broader interests and aspirations must compete with our own need for oil and the growing thirst for it in the rest of the world—especially by China and India.

As a study in the journal Foreign Affairs makes clear, China is moving aggressively to compete for the world's limited supplies of oil not just with its growing economic power, but with its growing military and diplomatic power as well.

Second, today we must depend for our oil on a global gallery of nations that are politically unstable, unreliable, or just plain hostile to us.

All that and much more should make us worry because if we don't change—it is within their borders and under their earth and waters that our economic and national security lies.

Doing nothing about our oil dependency will make us a pitiful giant—like Gulliver in Lilliput—tied down by smaller nations and subject to their whims. And we will have given them the ropes and helped them tie the knots.

We can take on this problem now and stand tall as the free and independent giant we are by moving our nation—and the world—on to energy independence, by setting America free from its dependence on oil.

There is only one way to do this. We need to transform our total transportation infrastructure from the refinery to the tailpipe and each step in between because transportation is the key to energy independence.

Barely 2 percent of our electricity comes from oil.

Ninety six percent of the energy used to power our cars comes from oil—literally millions of barrels of oil per day. This is unsustainable and dangerous.

The Vehicle and Fuel Choices for America Security Act aims to strengthen America's security by transforming transportation from the refinery to the tailpipe and each step in between, thus breaking our dependence on foreign oil.

We start by making it our national policy to cut consumption by 10 million barrels a day over the next 25 years.

First, we need to rethink and then remake our fuel supplies. Gasoline is not the only portable source of stored energy. Tons of agricultural waste and millions of acres of idle grassland can be used to create billions of barrels of new fuels.

Our farmers could soon be measuring production in barrels of energy as well as bushels of food.

Then we must remake our automobile engines as well. Vehicles that get 500 miles per gallon—or that use no refined crude oil—are within our grasp. I know that sounds unbelievable. I am going to tell you how we can do it.

To help us get there, our bill also requires that by 2012, 10 percent of all vehicles sold in the U.S. be hybrid, hybrid-electric plug-in or alternative fuel vehicles. That number will rise by 10 percent a year until it reaches 50 percent in 2016.

To help spur this market along, our bill amends our current energy policy to require that one quarter of federal vehicles purchased must be hybrids or plug-in hybrids.

My bill will detail how we can get there with available technology and previously unavailable Federal Government leadership. Coupling these new programs with the explicit oil-savings goals for the Federal Government is the key to the effectiveness of this proposal.

I can almost hear colleagues murmur, So, Senator LIEBERMAN, what else is new? We've been hearing this for years and nothing has happened.

I can't blame you if you are skeptical. The struggle for oil independence has been going on at least since Jimmy Carter was President.

But things have changed since the days of Jimmy Carter and even since last summer. There is a new understanding of the depth of the crisis that our oil dependence is creating.

This summer's doubling of gasoline and crude oil prices hit tens of millions of Americans with the global reality of oil demand and pricing. And Hurricane Katrina reminded us how vulnerable our supplies can become.

This reality is bipartisan. And, along with my colleagues cosponsoring this bill, I think Americans are ready to set the serious goals that eluded us in the past and take the bold steps necessary to reach those goals.

Now let me give you more details.

The bill I will propose puts our Nation's transportation system on a new road—a road where the tanks are filled with more home-grown fuel—and I do mean grown—not just American corn, but from American sugar, prairie grass, and agricultural waste.

We will push harder for more and quicker production and commercialization of biomass-based fuels.

The Energy bill signed into law last summer created a new set of incentives for these fuel alternatives, including their commercial production.

What my bill would do—again, by including a mass-production mandate for alternative fuel vehicles—is ensure that the investments would be made in the facilities to produce and market these new fuels by providing big demand for them.

The bill would also create a program to guarantee that filling stations had the pumps to provide the fuel to keep pace with the growing alternative-fuel fleet produced by the mandate.

Is there a model to give us confidence we can achieve this transformation? Yes.

Brazil is now enjoying substantial immunity from current high world oil prices, thanks to a long-term strategy, launched during the oil shocks of the 1970s, to integrate sugar cane ethanol into its fuel supply. They started initially with a mandate that all fuel sold in the country contain 25 percent alcohol. They are now up to 40 percent biofuels.

In addition to the fuel mandate, Brazil offered low-interest loans and tax breaks for the building of distilleries and subsidized a fuel distribution network.

Brazil has the advantage of a substantial sugar cane industry already in place. But we have our own vast potential to develop our own biofuel supply, using feedstock like corn, crop waste, switch grass, sugarcane and fast-growing trees and shrubs such as hybrid poplars and willows.

According to the Department of Energy, if two-thirds of the Nation's idled cropland were used to grow these kinds of energy crops, the result could be dramatic. Those 35 million acres could produce between 15 and 35 billion gallons of ethanol each year to fuel cars, trucks, and buses.

That is about 2.2 million barrels of fuel a day from right here in the U.S.A.

What Brazil offers us, more importantly, is a case study of government leadership to combine technology mandates and subsidies to wean its transportation sector from foreign oil to a domestic alternative.

From this January through this July—before this summer's fuel spike—we have sent almost $100 billion out of the country to purchase oil, while the Brazilians are now relying on homegrown fuel.

The key to their success is that they responded 30 years ago to the first storm warnings. We did not, and now the storm is at our shores, slapping against the levees of our economic strength and national security. We have to mobilize and lead a similar response as Brazil did.

If we do this right, our farmers could soon be measuring production in barrels of energy as well as bushels of food. Our energy would be guaranteed "Made in America" and the profits would be guaranteed "Kept in America."

For all these new fuels to be effective, we need the flexible fuel vehicles that can take advantage of them.

As I said earlier, our bill also requires that 50 percent of all vehicles sold in the U.S. be hybrid, hybrid-electric plug-in, or alternative fuel vehicles by 2016.

Sound ambitious? It is not. It has already happened in Brazil. Several automakers selling cars in Brazil, including our own General Motors and Ford, already manufacture a fleet that is more than 50-percent flexible fuel cars that can run on any combination of gasoline and biofuels.

The technology exists now and adds a negligible cost—about $150—to the price of each vehicle. For this we get the flexibility to power a car with fuel made from corn, prairie grass, or agricultural waste from our own heartland that will cost a lot less than gasoline does today.

Maximizing fuel efficiency and promoting energy independence even further would be a new generation of flexible-fuel hybrid cars known as plug-ins because you can plug them in at night to recharge the battery.

Hybrids that use a use both a gasoline engine and electric motor for power are already getting 50 miles per gallon. Making them flexible fuel cars, as I've already said, can save us more than 2 million barrels of gasoline a day.

But we can do even better—dramatically better—with the plug-in hybrid that is just now on the threshold of commercialization. Like the present hybrids, it would use both a gasoline and electric motor. But the plug-in hybrid would be able to use the battery exclusively for the first 30 miles of a trip.

Think of that for a minute. Although Americans drive about 2.2 trillion miles a year, according the Census, the vast majority of those trips are less than 15 miles.

That means a plug-in hybrid would use zero—zero—gallons of gas or any combustible fuel for the vast majority of its trips. And experts tell me it could effectively get the 500 miles per gallon on longer trips.

Plugging in your car during off peak hours—when power is in surplus and cheaper—would soon just become part of the modem daily routine, like plugging in your cell phone or PDA before you go to bed.

And off-peak electricity can be the equivalent of 50 cent a gallon gasoline. I repeat—the equivalent of 50 cent a gallon fuel is feasible.

Of course, electricity does not come magically through the wires to our homes. That power would come from coal, natural gas, nuclear, solar, wind or other sources—sources that we have in abundance here at home—and a little—very little—would come from oil.

This isn't pie in the sky. These vehicles could be in your garage within a couple of years. Some of the incentives for achieving this were included in the Energy bill signed into law in August. But they did not go nearly far enough.

We need to couple these incentives with real performance standards and sales requirements to ensure that as soon as possible new cars are running not just on gasoline but on biofuels and electricity.

As always, there is a do-nothing crowd that says the ever-rising price of gasoline and crude oil are the cure—that with higher prices people will reduce consumption and the market will respond with greater investments in the supply of oil to bring prices down.

But all that would do is perpetuate the problem. Market-driven oil-dependency is still dependency on foreign oil, driving us further down the current path toward national insecurity and economic and environmental troubles.

Some say that we can ease the crisis through greater domestic drilling—in places like the Arctic Refuge and other public lands or off our shores.

But that won't make a dent in the problem. In the world of oil, geology is destiny and the U.S. today has only 1 percent of the world's oil reserves. And that small new supply wouldn't matter much in the global market, since the price of oil produced within the United States rises and falls with the global market, regardless of where it is produced.

We just don't have enough oil in the U.S. anymore. And no matter how much more we drill, we will still be paying the world price of oil—not an American price.

Our present energy and transportation systems were born at the end of the 19th and the beginning of the 20th centuries with the twin discoveries of oil extraction and the internal combustion engine. Those systems have served us well bringing growth to our Nation and the world.

But it is now the 21st century, and it is time to move on. The era of big oil is over. It is time to revolutionize our entire energy infrastructure, from the refinery to the tailpipe, and begin a new era of energy independence.

It is time to set America free by cutting our dependence on foreign oil and by doing so strengthen our security, preserve our independence and energize our economy.

By Mr. LAUTENBERG (for himself, Mr. KERRY, Mr. DORGAN, and Mr. DAYTON):

S. 2026. A bill to amend title XVIII of the Social Security Act to require that a prescription drug plan or an MA-PD plan that has an initial coverage limit obtain a signed certification prior to enrolling beneficiaries under the plan under part D of such title; to the Committee on Finance.

Mr. LAUTENBERG. Mr. President, I rise to introduce the Medicare Prescription Drug Gap Disclosure Act with my colleagues, Senators KERRY, DORGAN and DAYTON. This important legislation will require Medicare beneficiaries enrolling in a Medicare Prescription Drug Plan, PDP, or Medicare Advantage Drug Plan, MA–PD, with a potential coverage gap to sign a short, easy to read, statement indicating that they are aware of the potential loss of coverage.

Yesterday, 42 million Medicare beneficiaries became eligible to sign up for the new Medicare prescription drug benefit, scheduled to start on January 1, 2006. However, too many seniors are understandably confused about this complicated change to Medicare, and I fear that many may sign up for drug plans without understanding the major pitfalls of the program. The biggest pitfall in the drug plan is the notorious "coverage gap" also known as the "donut hole."

In the coverage gap, beneficiaries pay 100 percent of prescription costs after they exceed a certain level of out-of-pocket spending and before protection kicks in against catastrophic drug expenses. They also continue to pay 100 percent of their monthly premiums.

We need to make sure that seniors are aware of the threat that the coverage gap poses, and it should not be hidden in a mountain of paperwork. My legislation would require plan providers to have beneficiaries sign the following certification before enrollment:

> I understand that the Medicare Prescription Drug Plan or MA–PD Plan that I am signing up for may result in a gap in coverage during a given year. I understand that if subject to this gap in coverage, I will be responsible for paying 100 percent of the costs of my prescription drugs and will continue to be responsible for paying the plan's monthly premium while subject to this gap in coverage. For specific information on the potential coverage gap under this plan, I understand that I should contact [prescription drug plan] at [toll free phone number].

The bottom line is that, after months of trying to explain this new drug benefit to Medicare beneficiaries, many do not understand the ramifications of the coverage gap. Unfortunately, millions of Medicare beneficiaries may learn about the coverage gap the hard way—when the pharmacist at the cash register tells them sometime next year that they are suddenly required to pay the full cost of their prescriptions.

Mr. President, a study by the Commonwealth Fund found that 38 percent of Medicare enrollees are likely to experience this costly interruption in care. Moreover, the benefits must be renewed each year, meaning that the coverage gap repeats itself if beneficiaries reach the coverage gap again.

A recent survey by the Kaiser Foundation and the Harvard School of Public Health, found that only 35 percent of people 65 and older said they understood the new drug benefit. In addition, the numerous media stories in recent days contain anecdotal evidence that illustrates the confusion around the new drug benefit.

I therefore urge my colleagues to support this bill. Only with such a clear, separate disclaimer will seniors have a fair opportunity to be warned of the risks posed by this gap in drug coverage.

I ask unanimous consent that the text of the bill be printed in the RECORD.

There being no objection, the bill was ordered to be printed in the RECORD, as follows:

S. 2026

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Medicare Prescription Drug Gap Disclosure Act".

SEC. 2. REQUIREMENT OF SIGNED CERTIFICATION PRIOR TO PLAN ENROLLMENT UNDER PART D.

(a) IN GENERAL.—Section 1860D–1(b)(1) of the Social Security Act (42 U.S.C. 1395w–101) is amended by adding at the end the following new subparagraph:

"(D) SPECIAL RULE FOR PLANS WITH AN INITIAL COVERAGE LIMIT.—

"(i) IN GENERAL.—The process for enrollment established under subparagraph (A) shall include, in the case of a prescription drug plan or an MA–PD plan that has an initial coverage limit (as described in section 1860D–2(b)(3)), a requirement that, prior to enrolling a part D eligible individual in the plan, the plan must obtain a certification signed by the enrollee or the legal guardian of the enrollee that meets the requirements described in clause (ii) and includes the following text: 'I understand that the Medicare Prescription Drug Plan or MA–PD Plan that I am signing up for may result in a gap in coverage during a given year. I understand that if subject to this gap in coverage, I will be responsible for paying 100 percent of the cost of my prescription drugs and will continue to be responsible for paying the plan's monthly premium while subject to this gap in coverage. For specific information on the potential coverage gap under this plan, I understand that I should contact (insert name of the sponsor of the prescription drug plan or the sponsor of the MA–PD plan) at (insert toll free phone number for such sponsor of such plan).'.

"(ii) CERTIFICATION REQUIREMENTS DESCRIBED.—The certification required under clause (i) shall meet the following requirements:

"(I) The certification shall be printed in a typeface of not less than 18 points.

"(II) The certification shall be printed on a single piece of paper separate from any matter not related to the certification.

"(III) The certification shall have a heading printed at the top of the page in all capital letters and bold face type that states the following: 'WARNING: POTENTIAL MEDICARE PRESCRIPTION DRUG COVERAGE GAP'.".

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of enactment of this Act.

SUBMITTED RESOLUTIONS

SENATE RESOLUTION 317—EXPRESSING THE SENSE OF THE SENATE REGARDING OVERSIGHT OF THE INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

Mr. BURNS (for himself, Mr. LEAHY, Mr. INOUYE, Mr. SMITH, Mr. STEVENS, Mr. SUNUNU, Mr. NELSON of Florida, Mrs. HUTCHISON, Mr. INHOFE, Mr. ALLEN, and Mr. CRAIG) submitted the following resolution; which was considered and agreed to:

S. RES. 317

Whereas the origins of the Internet can be found in United States Government funding of research to develop packet-switching technology and communications networks, starting with the "ARPANET" network established by the Department of Defense's Advanced Research Projects Agency in the 1960s and carried forward by the National Science Foundation's "NSFNET";

Whereas in subsequent years the Internet evolved from a United States Government research initiative to a global tool for information exchange as in the 1990s it was commercialized by private sector investment, technical management and coordination;

Whereas since its inception the authoritative root zone server—the file server system that contains the master list of all top level domain names made available for routers serving the Internet—has been physically located in the United States;

Whereas today the Internet is a global communications network of inestimable value;

Whereas the continued success and dynamism of the Internet is dependent upon continued private sector leadership and the ability for all users to participate in its continued evolution;

Whereas in allowing people all around the world freely to exchange information, communicate with one another, and facilitate economic growth and democracy, the Internet has enormous potential to enrich and transform human society;

Whereas existing structures have worked effectively to make the Internet the highly robust medium that it is today;

Whereas the security and stability of the Internet's underlying infrastructure, the domain name and addressing system, must be maintained;

Whereas the United States has been committed to the principles of freedom of expression and the free flow of information, as expressed in Article 19 of the Universal Declaration of Human Rights, and reaffirmed in the Geneva Declaration of Principles adopted at the first phase of the World Summit on the Information Society;

Whereas the U.S. Principles on the Internet's Domain Name and Addressing System, issued on June 30, 2005, represent an appropriate framework for the coordination of the system at the present time;

Whereas the Internet Corporation for Assigned Names and Numbers popularly known as ICANN, is the proper organization to coordinate the technical day-to-day operation of the Internet's domain name and addressing system;

Whereas all stakeholders from around the world, including governments, are encouraged to advise ICANN in its decision-making;

Whereas ICANN makes significant efforts to ensure that the views of governments and all Internet stakeholders are reflected in its activities;

Whereas governments have legitimate concerns with respect to the management of their country code top level domains;

Whereas the United States Government is committed to working successfully with the international community to address those concerns, bearing in mind the need for stability and security of the Internet's domain name and addressing system;

Whereas the topic of Internet governance, as currently being discussed in the United Nations World Summit on the Information Society is a broad and complex topic;

Whereas it is appropriate for governments and other stakeholders to discuss Internet governance, given that the Internet will likely be an increasingly important part of the world economy and society in the 21st Century;

Whereas Internet governance discussions in the World Summit should focus on the real threats to the Internet's growth and stability, and not recommend changes to the current regime of domain name and addressing system management and coordination on political grounds unrelated to any technical need; and

Whereas market-based policies and private sector leadership have allowed this medium the flexibility to innovate and evolve: Now, therefore, be it

Resolved by the Senate, That it is the sense of the Senate that—

(1) it is incumbent upon the United States and other responsible governments to send clear signals to the marketplace that the current structure of oversight and management of the Internet's domain name and addressing service works, and will continue to deliver tangible benefits to Internet users worldwide in the future; and

(2) therefore the authoritative root zone server should remain physically located in the United States and the Secretary of Commerce should maintain oversight of ICANN so that ICANN can continue to manage the day-to-day operation of the Internet's domain name and addressing system well, remain responsive to all Internet stakeholders worldwide, and otherwise fulfill its core technical mission.

AMENDMENTS SUBMITTED AND PROPOSED

SA 2581. Mr. ENZI (for Mr. GRASSLEY (for himself, Mr. ENZI, Mr. KENNEDY, and Mr. BAUCUS)) proposed an amendment to the bill S. 1783, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes.

SA 2582. Mr. ISAKSON (for himself, Mr. NELSON, of Florida, Mr. LOTT, Mr. COLEMAN, Mr. ROCKEFELLER, Mr. DEWINE, Mr. ALEXANDER, Mr. BENNETT, Mr. BURNS, Mr. HATCH, Mr. CHAMBLISS, Mr. CARPER, and Mr. SALAZAR) proposed an amendment to the bill S. 1783, supra.

SA 2583. Mr. AKAKA (for himself, Mr. SPECTER, Mr. DURBIN, Mr. SALAZAR, Mr. INOUYE, and Mrs. FEINSTEIN) proposed an amendment to the bill S. 1783, supra

SA 2584. Mr. ISAKSON (for Mr. CRAIG) proposed an amendment to the bill S. 1234, to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

SA 2585. Mr. ISAKSON (for Mr. DODD (for himself and Mr. MCCONNELL)) proposed an amendment to the concurrent resolution S. Con. Res. 62, directing the Joint Committee on the Library to procure a statue of Rosa Parks for placement in the Capitol.

SA 2586. Mr. SMITH (for himself, Mrs. LINCOLN, Mr. PRYOR, Mr. BUNNING, Mr. BURR, Mr. CHAMBLISS, Mrs. DOLE, Mrs. MURRAY, and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table.

SA 2587. Mr. DORGAN (for himself, Mr. DODD, Mrs. BOXER, Mr. REED, Mr. LIEBERMAN, and Mr. KOHL) proposed an amendment to the bill S. 2020, supra.

SA 2588. Mr. KENNEDY (for himself, Ms. LANDRIEU, Mr. DURBIN, and Mr. JOHNSON) submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2589. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2590. Mr. KOHL (for himself and Mr. HARKIN) submitted an amendment intended to be proposed by him to the bill S. 2020, supra; which was ordered to lie on the table.

SA 2591. Mr. MCCONNELL (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to the bill S. 1238, to amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, and for other purposes.

SA 2592. Mr. MCCONNELL (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to the bill S. 485, to reauthorize and amend the National Geologic Mapping Act of 1992.

SA 2593. Mr. MCCONNELL (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to the bill S. 1170, An act to establish the Fort Stanton-Snowy River Cave National Conservation Area.

SA 2594. Mr. MCCONNELL (for Mr. DOMENICI) proposed an amendment to the bill S. 1170, supra.

SA 2595. Mr. SCHUMER (for himself, Mrs. CLINTON, Mr. SMITH, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table.

SA 2596. Mr. DURBIN proposed an amendment to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table.

SA 2597. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table.

TEXT OF AMENDMENTS

SA 2581. Mr. ENZI (for Mr. GRASSLEY (for himself, Mr. ENZI, Mr. KENNEDY, and Mr. BAUCUS)) proposed an amendment to the bill S. 1783, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE AND TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Pension Security and Transparency Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title and table of contents.

TITLE I—FUNDING AND DEDUCTION RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS AND RELATED PROVISIONS

Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

Sec. 101. Minimum funding standards.
Sec. 102. Funding rules for single-employer defined benefit pension plans.
Sec. 103. Benefit limitations under single-employer plans.
Sec. 104. Technical and conforming amendments.
Sec. 105. Special rules for multiple employer plans of certain cooperatives.
Sec. 106. Temporary relief for certain rescued plans.

Subtitle B—Amendments to Internal Revenue Code of 1986

Sec. 111. Modifications of the minimum funding standards.
Sec. 112. Funding rules applicable to single-employer pension plans.
Sec. 113. Benefit limitations under single-employer plans.
Sec. 114. Increase in deduction limit for single-employer plans.
Sec. 115. Technical and conforming amendments.

Subtitle C—Interest Rate Assumptions and Deductible Amounts for 2006

Sec. 121. Extension of replacement of 30-year Treasury rates.
Sec. 122. Deduction limits for plan contributions.
Sec. 123. Updating deduction rules for combination of plans.

TITLE II—FUNDING AND DEDUCTION RULES FOR MULTIEMPLOYER DEFINED BENEFIT PLANS AND RELATED PROVISIONS

Subtitle A—Funding Rules

PART I—AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

Sec. 201. Funding rules for multiemployer defined benefit plans.
Sec. 202. Additional funding rules for multiemployer plans in endangered or critical status.
Sec. 203. Measures to forestall insolvency of multiemployer plans.
Sec. 204. Special rule for certain benefits funded under an agreement approved by the Pension Benefit Guaranty Corporation.
Sec. 205. Withdrawal liability reforms.

PART II—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986

Sec. 211. Funding rules for multiemployer defined benefit plans.
Sec. 212. Additional funding rules for multiemployer plans in endangered or critical status.

PART III—SUNSET OF FUNDING RULES

Sec. 216. Sunset of funding rules.

Subtitle B—Deduction and Related Provisions

Sec. 221. Deduction limits for multiemployer plans.
Sec. 222. Transfer of excess pension assets to multiemployer health plan.

TITLE III—INTEREST RATE ASSUMPTIONS

Sec. 301. Interest rate assumption for determination of lump sum distributions.
Sec. 302. Interest rate assumption for applying benefit limitations to lump sum distributions.
Sec. 303. Restrictions on funding of nonqualified deferred compensation plans by employers maintaining underfunded or terminated single-employer plans.
Sec. 304. Modification of pension funding requirements for plans subject to current transition rule.

TITLE IV—IMPROVEMENTS IN PBGC GUARANTEE PROVISIONS

Sec. 401. Increases in PBGC premiums.
Sec. 402. Authority to enter alternative funding agreements to prevent plan terminations.
Sec. 403. Special funding rules for plans maintained by commercial airlines that are amended to cease future benefit accruals.
Sec. 404. Limitation on PBGC guarantee of shutdown and other benefits.
Sec. 405. Rules relating to bankruptcy of employer.
Sec. 406. PBGC premiums for new plans of small employers.
Sec. 407. PBGC premiums for small and new plans.
Sec. 408. Authorization for PBGC to pay interest on premium overpayment refunds.
Sec. 409. Rules for substantial owner benefits in terminated plans.
Sec. 410. Acceleration of PBGC computation of benefits attributable to recoveries from employers.
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Sec. 1001. Clarifications regarding purchase of permissive service credit.
Sec. 1002. Allow rollover of after-tax amounts in annuity contracts.
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Sec. 1005. Allow rollovers by nonspouse beneficiaries of certain retirement plan distributions.
Sec. 1006. Faster vesting of employer nonelective contributions.
Sec. 1007. Allow direct rollovers from retirement plans to Roth IRAS.
Sec. 1008. Elimination of higher penalty on certain simple plan distributions.
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Sec. 1013. Modifications of rules governing hardships and unforseen financial emergencies.

TITLE XI—ADMINISTRATIVE PROVISIONS

Sec. 1101. Employee plans compliance resolution system.
Sec. 1102. Notice and consent period regarding distributions.
Sec. 1103. Reporting simplification.
Sec. 1104. Voluntary early retirement incentive and employment retention plans maintained by local educational agencies and other entities.
Sec. 1105. No reduction in unemployment compensation as a result of pension rollovers.
Sec. 1106. Withholding on distributions from governmental section 457 plans.
Sec. 1107. Treatment of defined benefit plan as governmental plan.
Sec. 1108. Increasing participation in cash or deferred plans through automatic contribution arrangements.
Sec. 1109. Treatment of investment of assets by plan where participant fails to exercise investment election.
Sec. 1110. Clarification of fiduciary rules.

TITLE XII—UNITED STATES TAX COURT MODERNIZATION

Sec. 1200. Amendment of 1986 Code.
Sec. 1201. Annuities for survivors of Tax Court judges who are assassinated.
Sec. 1202. Cost-of-living adjustments for Tax Court judicial survivor annuities.
Sec. 1203. Life insurance coverage for Tax Court judges.
Sec. 1204. Cost of life insurance coverage for Tax Court judges age 65 or over.
Sec. 1205. Modification of timing of lump-sum payment of judges' accrued annual leave.
Sec. 1206. Participation of Tax Court judges in the Thrift Savings Plan.
Sec. 1207. Exemption of teaching compensation of retired judges from limitation on outside earned income.
Sec. 1208. General provisions relating to Magistrate Judges of the Tax Court.
Sec. 1209. Annuities to surviving spouses and dependent children of Magistrate Judges of the Tax Court.
Sec. 1210. Retirement and annuity program.
Sec. 1211. Incumbent Magistrate Judges of the Tax Court.
Sec. 1212. Provisions for recall.
Sec. 1213. Effective date.

TITLE XIII—OTHER PROVISIONS

Subtitle A—Administrative Provision

Sec. 1301. Provisions relating to plan amendments.
Sec. 1302. Authority to the Secretary of Labor, Secretary of the Treasury, and the Pension Benefit Guaranty Corporation to postpone certain deadlines.

Subtitle B—Governmental Pension Plan Equalization

Sec. 1311. Definition of governmental plan.
Sec. 1312. Extension to all governmental plans of current moratorium on application of certain nondiscrimination rules applicable to State and local plans.
Sec. 1313. Clarification that Tribal governments are subject to the same defined benefit plan rules and regulations applied to State and other local governments, their police and firefighters.
Sec. 1314. Effective date.

Subtitle C—Miscellaneous Provisions

Sec. 1321. Transfer of excess funds from black lung disability trusts to United Mine Workers of America Combined Benefit Fund.
Sec. 1322. Treatment of death benefits from corporate-owned life insurance.

Subtitle D—Other Related Pension Provisions

PART I—HEALTH AND MEDICAL BENEFITS

Sec. 1331. Use of excess pension assets for future retiree health benefits.
Sec. 1332. Special rules for funding of collectively bargained retiree health benefits.
Sec. 1333. Allowance of reserve for medical benefits of plans sponsored by bona fide associations.

PART II—CASH OR DEFERRED ARRANGEMENTS

Sec. 1336. Treatment of eligible combined defined benefit plans and qualified cash or deferred arrangements.
Sec. 1337. State and local governments eligible to maintain section 401(k) plans.

PART III—EXCESS CONTRIBUTIONS

Sec. 1339. Excess contributions.

PART IV—OTHER PROVISIONS

Sec. 1341. Amendments relating to prohibited transactions.
Sec. 1342. Federal Task Force on Older Workers.
Sec. 1343. Technical corrections to Saver Act.

TITLE I—FUNDING AND DEDUCTION RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS AND RELATED PROVISIONS

Subtitle A—Amendments to Employee Retirement Income Security Act of 1974

SEC. 101. MINIMUM FUNDING STANDARDS.

(a) REPEAL OF EXISTING FUNDING RULES.—Sections 302 through 308 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1082 through 1086) are repealed.

(b) NEW MINIMUM FUNDING STANDARDS.—Part 3 of subtitle B of title I of such Act (as amended by subsection (a)) is amended by inserting after section 301 the following new section:

"MINIMUM FUNDING STANDARDS

"SEC. 302. (a) REQUIREMENT TO MEET MINIMUM FUNDING STANDARD.—

"(1) IN GENERAL.—A plan to which this part applies shall satisfy the minimum funding standard applicable to the plan for any plan year.

"(2) MINIMUM FUNDING STANDARD.—For purposes of paragraph (1), a plan shall be treated as satisfying the minimum funding standard for a plan year if—

"(A) in the case of a defined benefit plan which is a single-employer plan, the employer makes contributions to or under the plan for the plan year which, in the aggregate, are not less than the minimum required contribution determined under section 303 for the plan for the plan year,

"(B) in the case of a money purchase plan which is a single-employer plan, the employer makes contributions to or under the plan for the plan year which are required under the terms of the plan, and

"(C) in the case of a multiemployer plan, the employers make contributions to or under the plan for any plan year which, in the aggregate, are sufficient to ensure that the plan does not have an accumulated funding deficiency under section 304 as of the end of the plan year.

"(b) LIABILITY FOR CONTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of any contribution required by this section (including any required installments under section 303(j)) shall be paid by the employer responsible for making contributions to or under the plan.

"(2) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—If the employer referred to in paragraph (1) is a member of a controlled group, each member of such group shall be jointly and severally liable for payment of such contributions.

"(c) VARIANCE FROM MINIMUM FUNDING STANDARDS.—

"(1) WAIVER IN CASE OF BUSINESS HARDSHIP.—

"(A) IN GENERAL.—If—

"(i) an employer is (or in the case of a multiemployer plan, 10 percent or more of the number of employers contributing to or under the plan are) unable to satisfy the minimum funding standard for a plan year without temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan), and

"(ii) application of the standard would be adverse to the interests of plan participants in the aggregate,

the Secretary of the Treasury may, subject to subparagraph (C), waive the requirements of subsection (a) for such year with respect to all or any portion of the minimum funding standard. The Secretary of the Treasury shall not waive the minimum funding standard with respect to a plan for more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan) consecutive plan years.

"(B) EFFECTS OF WAIVER.—If a waiver is granted under subparagraph (A) for any plan year—

"(i) in the case of a single-employer plan, the minimum required contribution under section 303 for the plan year shall be reduced by the amount of the waived funding deficiency and such amount shall be amortized as required under section 303(e), and

"(ii) in the case of a multiemployer plan, the funding standard account shall be credited under section 304(b)(3)(C) with the amount of the waived funding deficiency and such amount shall be amortized as required under section 304(b)(2)(C).

"(C) WAIVER OF AMORTIZED PORTION NOT ALLOWED.—The Secretary of the Treasury may not waive under subparagraph (A) any portion of the minimum funding standard under subsection (a) for a plan year which is attributable to any waived funding deficiency for any preceding plan year.

"(2) DETERMINATION OF BUSINESS HARDSHIP.—For purposes of this subsection, the factors taken into account in determining temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan) shall include (but shall not be limited to) whether or not—

"(A) the employer is operating at an economic loss,

"(B) there is substantial unemployment or underemployment in the trade or business and in the industry concerned,

"(C) the sales and profits of the industry concerned are depressed or declining, and

"(D) it is reasonable to expect that the plan will be continued only if the waiver is granted.

"(3) WAIVED FUNDING DEFICIENCY.—For purposes of this part, the term 'waived funding deficiency' means the portion of the minimum funding standard under subsection (a) (determined without regard to the waiver) for a plan year waived by the Secretary of the Treasury and not satisfied by employer contributions.

"(4) SECURITY FOR WAIVERS FOR SINGLE-EMPLOYER PLANS, CONSULTATIONS.—

"(A) SECURITY MAY BE REQUIRED.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the Secretary of the Treasury may require an employer maintaining a defined benefit plan which is a single-employer plan (within the meaning of section 4001(a)(15)) to provide security to such plan as a condition for granting or modifying a waiver under paragraph (1).

"(ii) SPECIAL RULES.—Any security provided under clause (i) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or, at the direction of the Corporation, by a contributing sponsor (within the meaning of section 4001(a)(13)) or a member of such sponsor's controlled group (within the meaning of section 4001(a)(14)).

"(B) CONSULTATION WITH THE PENSION BENEFIT GUARANTY CORPORATION.—Except as provided in subparagraph (C), the Secretary of the Treasury shall, before granting or modifying a waiver under this subsection with respect to a plan described in subparagraph (A)(i)—

"(i) provide the Pension Benefit Guaranty Corporation with—

"(I) notice of the completed application for any waiver or modification, and

"(II) an opportunity to comment on such application within 30 days after receipt of such notice, and

"(ii) consider—

"(I) any comments of the Corporation under clause (i)(II), and

"(II) any views of any employee organization (within the meaning of section 3(4)) representing participants in the plan which are submitted in writing to the Secretary of the Treasury in connection with such application.

Information provided to the Corporation under this subparagraph shall be considered tax return information and subject to the safeguarding and reporting requirements of section 6103(p) of the Internal Revenue Code of 1986.

"(C) EXCEPTION FOR CERTAIN WAIVERS.—

"(i) IN GENERAL.—The preceding provisions of this paragraph shall not apply to any plan with respect to which the sum of—

"(I) the aggregate unpaid minimum required contributions for the plan year and all preceding plan years, and

"(II) the present value of all waiver amortization installments determined for the plan year and succeeding plan years under section 303(e)(2),

is less than $1,000,000.

"(ii) TREATMENT OF WAIVERS FOR WHICH APPLICATIONS ARE PENDING.—The amount described in clause (i)(I) shall include any increase in such amount which would result if all applications for waivers of the minimum funding standard under this subsection which are pending with respect to such plan were denied.

"(iii) UNPAID MINIMUM REQUIRED CONTRIBUTION.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'unpaid minimum required contribution' means, with respect to any plan year, any minimum required contribution under section 303 for the plan year which is not paid on or before the due date (as determined under section 303(j)(1)) for the plan year.

"(II) ORDERING RULE.—For purposes of subclause (I), any payment to or under a plan for any plan year shall be allocated first to unpaid minimum required contributions for all preceding plan years on a first-in, first-out basis and then to the minimum required contribution under section 303 for the plan year.

"(5) SPECIAL RULES FOR SINGLE-EMPLOYER PLANS.—

"(A) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—In the case of a single-employer plan, no waiver may be granted under this subsection with respect to any plan for any plan year unless an application therefor is submitted to the Secretary of the Treasury not later than the 15th day of the 3rd month beginning after the close of such plan year.

"(B) SPECIAL RULE IF EMPLOYER IS MEMBER OF CONTROLLED GROUP.—In the case of a single-employer plan, if an employer is a member of a controlled group, the temporary substantial business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

"(i) with respect to such employer, and

"(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary of the Treasury may provide that an analysis of a trade or business or industry of a member need not be conducted if the Secretary of the Treasury determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination under this paragraph.

"(6) ADVANCE NOTICE.—

"(A) IN GENERAL.—The Secretary of the Treasury shall, before granting a waiver under this subsection, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such waiver to each affected party (as defined in section 4001(a)(21)) other than the Pension Benefit Guaranty Corporation and in the case of a multiemployer plan, to each employer required to contribute to the plan under subsection (b)(1). Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV and for benefit liabilities.

"(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary of the Treasury shall consider any relevant information provided by a person to whom notice was given under subparagraph (A).

"(7) RESTRICTION ON PLAN AMENDMENTS.—

"(A) IN GENERAL.—No amendment of a plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted if a waiver under this subsection or an extension of time under section 304(d) is in effect with respect to the plan, or if a plan amendment described in subsection (d)(2) has been made at any time in the preceding 24 months. If a plan is amended in violation of the preceding sentence, any such waiver, or extension of time, shall not apply to any plan year ending on or after the date on which such amendment is adopted.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any plan amendment which—

"(i) the Secretary of the Treasury determines to be reasonable and which provides for only de minimis increases in the liabilities of the plan,

"(ii) only repeals an amendment described in subsection (d)(2), or

"(iii) is required as a condition of qualification under part I of subchapter D, of chapter 1 of the Internal Revenue Code of 1986.

"(8) CROSS REFERENCE.—For corresponding duties of the Secretary of the Treasury with regard to implementation of the Internal Revenue Code of 1986, see section 412(d) of such Code.

"(d) MISCELLANEOUS RULES.—

"(1) CHANGE IN METHOD OR YEAR.—If the funding method, the valuation date, or a plan year for a plan is changed, the change shall take effect only if approved by the Secretary of the Treasury.

"(2) CERTAIN RETROACTIVE PLAN AMENDMENTS.—For purposes of this section, any amendment applying to a plan year which—

"(A) is adopted after the close of such plan year but no later than 2½ months after the close of the plan year (or, in the case of a multiemployer plan, no later than 2 years after the close of such plan year),

"(B) does not reduce the accrued benefit of any participant determined as of the beginning of the first plan year to which the amendment applies, and

"(C) does not reduce the accrued benefit of any participant determined as of the time of adoption except to the extent required by the circumstances,

shall, at the election of the plan administrator, be deemed to have been made on the first day of such plan year. No amendment described in this paragraph which reduces the accrued benefits of any participant shall take effect unless the plan administrator files a notice with the Secretary of the Treasury notifying him of such amendment and such Secretary has approved such amendment, or within 90 days after the date on which such notice was filed, failed to disapprove such amendment. No amendment described in this subsection shall be approved by the Secretary of the Treasury unless such Secretary determines that such amendment is necessary because of a temporary substantial business hardship (as determined under subsection (c)(2)) or a substantial business hardship (as so determined) in the case of a multiemployer plan and that a waiver under subsection (c) (or, in the case of a multiemployer plan, any extension of the amortization period under section 304(d)) is unavailable or inadequate.

"(3) CONTROLLED GROUP.—For purposes of this section, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414 of the Internal Revenue Code of 1986.".

(c) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act is amended by striking the items relating to sections 302 through 308 and inserting the following new item:

"Sec. 302. Minimum funding standards.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after 2006.

SEC. 102. FUNDING RULES FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS.

(a) IN GENERAL.—Part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by section 101 of this Act) is amended by inserting after section 302 the following new section:

"MINIMUM FUNDING STANDARDS FOR SINGLE-EMPLOYER DEFINED BENEFIT PENSION PLANS

"SEC. 303. (a) MINIMUM REQUIRED CONTRIBUTION.—For purposes of this section and section 302(a)(2)(A), except as provided in subsection (f), the term 'minimum required contribution' means, with respect to any plan year of a defined benefit plan which is a single employer plan—

"(1) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)) is less than the funding target of the plan for the plan year, the sum of—

"(A) the target normal cost of the plan for the plan year,

"(B) the shortfall amortization charge (if any) for the plan for the plan year determined under subsection (c), and

"(C) the waiver amortization charge (if any) for the plan for the plan year as determined under subsection (e); or

"(2) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)) equals or exceeds the funding target of the plan for the plan year, the target normal cost of the plan for the plan year reduced (but not below zero) by any such excess.

"(b) TARGET NORMAL COST.—For purposes of this section, except as provided in subsection (i)(2) with respect to plans in at-risk status, the term 'target normal cost' means, for any plan year, the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year. For purposes of this subsection, if any benefit attributable to services performed in a preceding plan year is increased by reason of any increase in compensation during the current plan year, the increase in such benefit shall be treated as having accrued during the current plan year.

"(c) SHORTFALL AMORTIZATION CHARGE.—

"(1) IN GENERAL.—For purposes of this section, the shortfall amortization charge for a plan for any plan year is the aggregate total of the shortfall amortization installments for such plan year with respect to the shortfall amortization bases for such plan year and each of the 6 preceding plan years.

"(2) SHORTFALL AMORTIZATION INSTALLMENT.—For purposes of paragraph (1)—

"(A) DETERMINATION.—The shortfall amortization installments are the amounts necessary to amortize the shortfall amortization base of the plan for any plan year in level annual installments over the 7-plan-year period beginning with such plan year.

"(B) SHORTFALL INSTALLMENT.—The shortfall amortization installment for any plan year in the 7-plan-year period under subparagraph (A) with respect to any shortfall amortization base is the annual installment determined under subparagraph (A) for that year for that base.

"(C) SEGMENT RATES.—In determining any shortfall amortization installment under this paragraph, the plan sponsor shall use the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2).

"(3) SHORTFALL AMORTIZATION BASE.—For purposes of this section, the shortfall amortization base of a plan for a plan year is the excess (if any) of—

"(A) the funding shortfall of such plan for such plan year, over

"(B) the present value (determined using the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2)) of the aggregate total of the shortfall amortization installments and waiver amortization installments which have been determined for such plan year and any succeeding plan year with respect to the shortfall amortization bases and waiver amortization bases of the plan for any plan year preceding such plan year.

"(4) FUNDING SHORTFALL.—

"(A) IN GENERAL.—For purposes of this section, except as provided in subparagraph (B), the funding shortfall of a plan for any plan year is the excess (if any) of—

"(i) the funding target of the plan for the plan year, over

"(ii) the value of plan assets of the plan (as reduced under subsection (f)(4)) for the plan year which are held by the plan on the valuation date.

"(B) TRANSITION RULE FOR AMORTIZATION OF FUNDING SHORTFALL.—

"(i) IN GENERAL.—Solely for purposes of applying paragraph (3) in the case of plan years beginning after 2006 and before 2011, only the applicable percentage of the funding target shall be taken into account under paragraph (3)(A) in determining the funding shortfall for the plan year.

"(ii) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)—

"(I) IN GENERAL.—Except as provided in subclause (II), the applicable percentage shall be 93 percent for plan years beginning in 2007, 96 percent for plan years beginning in 2008, and 100 percent for any succeeding plan year.

"(II) SMALL PLANS.—In the case of a plan described in subsection (g)(2)(B), the applicable percentage shall be determined in accordance with the following table:

"In the case of a plan year beginning in calendar year:	**The applicable percentage is—**
2007	92
2008	94
2009	96
2010	98.

"(5) EARLY DEEMED AMORTIZATION UPON ATTAINMENT OF FUNDING TARGET.—In any case in which the funding shortfall of a plan for a plan year is zero, for purposes of determining the shortfall amortization charge for such plan year and succeeding plan years, the shortfall amortization bases for all preceding plan years (and all shortfall amortization installments determined with respect to such bases) shall be reduced to zero.

"(d) RULES RELATING TO FUNDING TARGET.—For purposes of this section—

"(1) FUNDING TARGET.—Except as provided in subsection (i)(1) with respect to plans in at-risk status, the funding target of a plan for a plan year is the present value of all benefits accrued or earned under the plan as of the beginning of the plan year.

"(2) FUNDING TARGET ATTAINMENT PERCENTAGE.—The 'funding target attainment percentage' of a plan for a plan year is the ratio (expressed as a percentage) which—

"(A) the value of plan assets for the plan year, bears to

"(B) the funding target of the plan for the plan year (determined without regard to subsection (i)(1)).

"(e) WAIVER AMORTIZATION CHARGE.—

"(1) DETERMINATION OF WAIVER AMORTIZATION CHARGE.—The waiver amortization charge (if any) for a plan for any plan year is the aggregate total of the waiver amortization installments for such plan year with respect to the waiver amortization bases for each of the 5 preceding plan years.

"(2) WAIVER AMORTIZATION INSTALLMENT.—For purposes of paragraph (1)—

"(A) DETERMINATION.—The waiver amortization installments are the amounts necessary to amortize the waiver amortization base of the plan for any plan year in level annual installments over a period of 5 plan years beginning with the succeeding plan year.

"(B) WAIVER INSTALLMENT.—The waiver amortization installment for any plan year in the 5-year period under subparagraph (A) with respect to any waiver amortization base is the annual installment determined under subparagraph (A) for that year for that base.

"(3) INTEREST RATE.—In determining any waiver amortization installment under this subsection, the plan sponsor shall use the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2).

"(4) WAIVER AMORTIZATION BASE.—The waiver amortization base of a plan for a plan year is the amount of the waived funding deficiency (if any) for such plan year under section 302(c).

"(5) EARLY DEEMED AMORTIZATION UPON ATTAINMENT OF FUNDING TARGET.—In any case in which the funding shortfall of a plan for a plan year is zero, for purposes of determining the waiver amortization charge for such plan year and succeeding plan years, the waiver amortization bases for all preceding plan years (and all waiver amortization installments with respect to such bases) shall be reduced to zero.

"(f) USE OF PREFUNDING BALANCES TO SATISFY MINIMUM REQUIRED CONTRIBUTIONS.—

"(1) IN GENERAL.—A plan sponsor may credit any amount of a plan's prefunding balance for a plan year against the minimum required contribution for the plan year and the amount of the contributions an employer is required to make under section 302(b) for the plan year shall be reduced by the amount so credited. Any such amount shall be credited on the first day of the plan year.

"(2) PREFUNDING BALANCE.—

"(A) BEGINNING BALANCE.—The beginning balance of a prefunding balance maintained by a plan shall be zero, except that if a plan was in effect for a plan year beginning in 2006 and had a positive balance in the funding standard account under section 302(b) (as in effect for such plan year) as of the end of such plan year, the beginning balance for the plan for its first plan year beginning after 2006 shall be such positive balance.

"(B) INCREASES.—

"(i) IN GENERAL.—As of the first day of each plan year beginning after 2007, the prefunding balance of a plan shall be increased by the excess (if any) of—

"(I) the aggregate amount of employer contributions to the plan for the preceding plan year, over

"(II) the minimum required contribution for the preceding plan year.

"(ii) ADJUSTMENTS FOR INTEREST.—Any excess contributions under clause (i) shall be properly adjusted for interest accruing for the periods between the first day of the current plan year and the dates on which the excess contributions were made, determined by using the effective interest rate for the preceding plan year and by treating contributions as being first used to satisfy the minimum required contribution.

"(iii) CERTAIN CONTRIBUTIONS DISREGARDED.—Any contribution which is required to be made under section 206(g) in addition to any contribution required under this section shall not be taken into account for purposes of clause (i).

"(C) DECREASES.—As of the first day of each plan year after 2007, the prefunding balance of a plan shall be decreased (but not below zero) by the amount of the balance credited under paragraph (1) against the minimum required contribution of the plan for the preceding plan year.

"(D) ADJUSTMENTS FOR INVESTMENT EXPERIENCE.—In determining the prefunding balance of a plan as of the first day of the plan year, the plan sponsor shall, in accordance with regulations prescribed by the Secretary of the Treasury, adjust such balance to reflect the rate of return on plan assets for the preceding plan year. Notwithstanding subsection (g)(3), such rate of return shall be determined on the basis of fair market value and shall properly take into account, in accordance with such regulations, all contributions, distributions, and other plan payments made during such period.

"(3) LIMITATION FOR UNDERFUNDED PLANS.—

"(A) IN GENERAL.—If the ratio (expressed as a percentage) for any plan year which—

"(i) the value of plan assets for the preceding plan year, bears to

"(ii) the funding target of the plan for the preceding plan year (determined without regard to subsection (i)(1)),

is less than 80 percent, the preceding provisions of this subsection shall not apply unless employers liable for contributions to the plan under section 302(b) make contributions to the plan for the plan year in an aggregate amount not less than the amount determined under subparagraph (B). Any contribution required by this subparagraph may not be reduced by any credit otherwise allowable under paragraph (1).

"(B) APPLICABLE AMOUNT.—The amount determined under this subparagraph for any plan year is the greater of—

"(i) the target normal cost of the plan for the plan year, or

"(ii) 25 percent of the minimum required contribution under subsection (a) for the plan year without regard to this subsection.

"(4) REDUCTION IN VALUE OF ASSETS.—Solely for purposes of applying subsections (a) and (c)(4)(A)(ii) in determining the minimum required contribution under this section, the value of the plan assets otherwise determined without regard to this paragraph shall be reduced by the amount of the prefunding balance under this subsection.

"(g) VALUATION OF PLAN ASSETS AND LIABILITIES.—

"(1) TIMING OF DETERMINATIONS.—Except as otherwise provided under this subsection, all determinations under this section for a plan year shall be made as of the valuation date of the plan for such plan year.

"(2) VALUATION DATE.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the valuation date of a plan for any plan year shall be the first day of the plan year.

"(B) EXCEPTION FOR SMALL PLANS.—If, on each day during the preceding plan year, a plan had 100 or fewer participants, the plan may designate any day during the plan year as its valuation date for such plan year and succeeding plan years. For purposes of this subparagraph, all defined benefit plans (other than multiemployer plans) maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

"(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF PLAN SIZE.—For purposes of this paragraph—

"(i) PLANS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of the first plan year of any plan, subparagraph (B) shall apply to such plan by taking into account the number of participants that the plan is reasonably expected to have on days during such first plan year.

"(ii) PREDECESSORS.—Any reference in subparagraph (B) to an employer shall include a reference to any predecessor of such employer.

"(3) DETERMINATION OF VALUE OF PLAN ASSETS.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the value of plan assets shall be the fair market value of the assets.

"(B) AVERAGING ALLOWED.—A plan may determine the value of plan assets on the basis of any reasonable actuarial method of valuation providing for the averaging of fair market values, but only if such method—

"(i) is permitted under regulations prescribed by the Secretary of the Treasury, and

"(ii) does not provide for averaging of such values over more than the period beginning on the last day of the 12th month preceding the valuation date and ending on the valuation date (or a similar period in the case of a valuation date which is not the 1st day of a month).

"(4) ACCOUNTING FOR CONTRIBUTION RECEIPTS.—For purposes of determining the value of assets under paragraph (3)—

"(A) PRIOR YEAR CONTRIBUTIONS.—If—

"(i) an employer makes any contribution to the plan after the valuation date for the plan year in which the contribution is made, and “(ii) the contribution is for a preceding plan year,

the contribution shall be taken into account as an asset of the plan as of the valuation date, except that in the case of any plan year beginning after 2007, only the present value (determined as of the valuation date) of such contribution may be taken into account. For purposes of the preceding sentence, present value shall be determined using the effective interest rate for the preceding plan year to which the contribution is properly allocable.

“(B) SPECIAL RULE FOR CURRENT YEAR CONTRIBUTIONS MADE BEFORE VALUATION DATE.—If any contributions for any plan year are made to or under the plan during the plan year but before the valuation date for the plan year, the assets of the plan as of the valuation date shall not include—

“(i) such contributions, and

“(ii) interest on such contributions for the period between the date of the contributions and the valuation date, determined by using the effective interest rate for the plan year.

“(h) ACTUARIAL ASSUMPTIONS AND METHODS.—

“(1) IN GENERAL.—Subject to this subsection, the determination of any present value or other computation under this section shall be made on the basis of actuarial assumptions and methods—

“(A) each of which is reasonable (taking into account the experience of the plan and reasonable expectations), and

“(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan.

“(2) INTEREST RATES.—

“(A) EFFECTIVE INTEREST RATE.—For purposes of this section, the term ‘effective interest rate’ means, with respect to any plan for any plan year, the single rate of interest which, if used to determine the present value of the plan's accrued or earned benefits referred to in subsection (d)(1), would result in an amount equal to the funding target of the plan for such plan year.

“(B) INTEREST RATES FOR DETERMINING FUNDING TARGET.—For purposes of determining the funding target of a plan for any plan year, the interest rate used in determining the present value of the benefits of the plan shall be—

“(i) in the case of benefits reasonably determined to be payable during the 5-year period beginning on the first day of the plan year, the first segment rate with respect to the applicable month,

“(ii) in the case of benefits reasonably determined to be payable during the 15-year period beginning at the end of the period described in clause (i), the second segment rate with respect to the applicable month, and

“(iii) in the case of benefits reasonably determined to be payable after the period described in clause (ii), the third segment rate with respect to the applicable month.

“(C) SEGMENT RATES.—For purposes of this paragraph—

“(i) FIRST SEGMENT RATE.—The term ‘first segment rate’ means, with respect to any month, the single rate of interest which shall be determined by the Secretary of the Treasury for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the 5-year period commencing with such month.

“(ii) SECOND SEGMENT RATE.—The term ‘second segment rate’ means, with respect to any month, the single rate of interest which shall be determined by the Secretary of the Treasury for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during each of the years in the 15-year period beginning at the end of the period described in clause (i).

“(iii) THIRD SEGMENT RATE.—The term ‘third segment rate’ means, with respect to any month, the single rate of interest which shall be determined by the Secretary of the Treasury for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during periods beginning after the period described in clause (ii).

“(D) CORPORATE BOND YIELD CURVE.—The term ‘corporate bond yield curve’ means, with respect to any month, a yield curve which is prescribed by the Secretary of the Treasury for such month and which reflects the average, for the 12-month period ending with the month preceding such month, of yields on investment grade corporate bonds with varying maturities.

“(E) APPLICABLE MONTH.—For purposes of this paragraph, the term ‘applicable month’ means, with respect to any plan for any plan year, the month which includes the valuation date of such plan for such plan year or, at the election of the plan administrator, any of the 4 months which precede such month. Any election made under this subparagraph shall apply to the plan year for which the election is made and all succeeding plan years, unless the election is revoked with the consent of the Secretary of the Treasury.

“(F) PUBLICATION REQUIREMENTS.—The Secretary of the Treasury shall publish for each month the corporate bond yield curve for such month and each of the rates determined under this paragraph for such month. The Secretary of the Treasury shall also publish a description of the methodology used to determine such yield curve and such rates which is sufficiently detailed to enable plans to make reasonable projections regarding the yield curve and such rates for future months based on the plan's projection of future interest rates.

“(G) TRANSITION RULE.—

“(i) IN GENERAL.—Notwithstanding the preceding provisions of this paragraph, for plan years beginning in 2007 or 2008, the first, second, or third segment rate for a plan with respect to any month shall be equal to the sum of—

“(I) the product of such rate for such month determined without regard to this subparagraph, multiplied by the applicable percentage, and

“(II) the product of the rate determined under the rules of section 302(b)(5)(B)(ii)(II) (as in effect for plan years beginning in 2006), multiplied by a percentage equal to 100 percent minus the applicable percentage.

“(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is 33⅓ percent for plan years beginning in 2007 and 66⅔ percent for plan years beginning in 2008.

“(3) MORTALITY TABLES.—

“(A) IN GENERAL.—Except as provided in subparagraphs (C) and (D), the mortality table used in determining any present value or making any computation under this section shall be the RP-2000 Combined Mortality Table, using Scale AA, as published by the Society of Actuaries, as in effect on the date of the enactment of the Pension Security and Transparency Act of 2005 and as revised from time to time under subparagraph (B).

“(B) PERIODIC REVISION.—The Secretary of the Treasury shall (at least every 10 years) make revisions in any table in effect under subparagraph (A) to reflect the actual experience of pension plans and projected trends in such experience.

“(C) SUBSTITUTE MORTALITY TABLE.—

“(i) IN GENERAL.—Upon request by the plan sponsor and approval by the Secretary of the Treasury, a mortality table which meets the requirements of clause (ii) shall be used in determining any present value or making any computation under this section during the 10-consecutive plan year period specified in the request. A mortality table described in this clause shall cease to be in effect if the plan actuary determines at any time that such table does not meet the requirements of clause (ii).

“(ii) REQUIREMENTS.—A mortality table meets the requirements of this clause if the Secretary of the Treasury determines that—

“(I) there is a sufficient number of plan participants, and the pension plans have been maintained for a sufficient period of time, to have credible information necessary for purposes of subclause (II),

“(II) such table reflects the actual experience of the pension plans maintained by the sponsor and projected trends in general mortality experience,

“(III) except as provided by the Secretary, such table will be used by all plans maintained by the plan sponsor and all members of any controlled group which includes the plan sponsor, and

“(IV) such table is significantly different from the table described in subparagraph (A).

“(iii) DEADLINE FOR DISPOSITION OF APPLICATION.—Any mortality table submitted to the Secretary of the Treasury for approval under this subparagraph shall be treated as in effect for the first plan year in the 10-year period described in clause (i) unless the Secretary of the Treasury, during the 180-day period beginning on the date of such submission, disapproves of such table and provides the reasons that such table fails to meet the requirements of clause (ii). The 180-day period shall be extended for any period during which the Secretary of the Treasury has requested information from the plan sponsor and such information has not been provided.

“(D) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding subparagraph (A)—

“(i) IN GENERAL.—The Secretary of the Treasury shall establish mortality tables which may be used (in lieu of the tables under subparagraph (A)) under this subsection for individuals who are entitled to benefits under the plan on account of disability. The Secretary of the Treasury shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

“(ii) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under clause (i) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

“(iii) PERIODIC REVISION.—The Secretary of the Treasury shall (at least every 10 years) make revisions in any table in effect under clause (i) to reflect the actual experience of pension plans and projected trends in such experience.

“(E) TRANSITION RULE.—Under regulations of the Secretary of the Treasury, any difference in present value resulting from any differences in assumptions as set forth in the mortality table specified in subparagraph (A) and assumptions as set forth in the mortality table described in section 302(d)(7)(C)(ii) (as in effect for plan years beginning in 2006) shall be phased in ratably over the first period of 5 plan years beginning in or after 2007 so as to be fully effective for the fifth plan year.

"(4) PROBABILITY OF BENEFIT PAYMENTS IN THE FORM OF LUMP SUMS OR OTHER OPTIONAL FORMS.—For purposes of determining any present value or making any computation under this section, there shall be taken into account—

"(A) the probability that future benefit payments under the plan will be made in the form of optional forms of benefits provided under the plan (including lump sum distributions, determined on the basis of the plan's experience and other related assumptions), and

"(B) any difference in the present value of such future benefit payments resulting from the use of actuarial assumptions, in determining benefit payments in any such optional form of benefits, which are different from those specified in this subsection.

"(5) APPROVAL OF LARGE CHANGES IN ACTUARIAL ASSUMPTIONS.—

"(A) IN GENERAL.—No actuarial assumption used to determine the funding target for a plan to which this paragraph applies may be changed without the approval of the Secretary of the Treasury.

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan only if—

"(i) the aggregate unfunded benefits as of the close of the preceding plan year (as determined under section 4006(a)(3)(E)(iii)) of such plan and all other plans maintained by the contributing sponsors (as defined in section 4001(a)(13)) and members of such sponsors' controlled groups (as defined in section 4001(a)(14)) which are covered by title IV (disregarding plans with no unfunded benefits) exceed $50,000,000; and

"(ii) the change in assumptions (determined after taking into account any changes in interest rate and mortality table) results in a decrease in the funding shortfall of the plan for the current plan year that exceeds $50,000,000, or that exceeds $5,000,000 and that is 5 percent or more of the funding target of the plan before such change.

"(i) SPECIAL RULES FOR AT-RISK PLANS.—

"(1) FUNDING TARGET FOR PLANS IN AT-RISK STATUS.—

"(A) IN GENERAL.—In the case of a plan to which this subsection applies for a plan year, the funding target of the plan for the plan year is equal to the present value of all liabilities to participants and their beneficiaries under the plan for the plan year, as determined by using the additional actuarial assumptions described in subparagraph (B).

"(B) ADDITIONAL ACTUARIAL ASSUMPTIONS.—The actuarial assumptions described in this subparagraph are as follows:

"(i) All employees who are not otherwise assumed to retire as of the valuation date but who will be eligible to elect benefits during the plan year and the 7 succeeding plan years shall be assumed to retire at the earliest retirement date under the plan but not before the end of the plan year for which the at-risk target liability and at-risk target normal cost are being determined.

"(ii) All employees shall be assumed to elect the retirement benefit available under the plan at the assumed retirement age (determined after application of clause (i)) which would result in the highest present value of liabilities.

"(2) TARGET NORMAL COST OF AT-RISK PLANS.—In the case of a plan to which this subsection applies for a plan year, the target normal cost of the plan for such plan year shall be equal to the present value of all benefits which are expected to accrue or be earned under the plan during the plan year, determined using the additional actuarial assumptions described in paragraph (1)(B).

"(3) MINIMUM AMOUNT.—In no event shall—

"(A) the at-risk target liability be less than the target liability, as determined without regard to this subsection, or

"(B) the at-risk target normal cost be less than the target normal cost, as determined without regard to this subsection.

"(4) DETERMINATION OF AT-RISK STATUS.—For purposes of this subsection, a plan is in at-risk status for a plan year if—

"(A) the plan is maintained by a financially-weak employer, and

"(B) the funding target attainment percentage for the plan year is less than 93 percent.

"(5) FINANCIALLY-WEAK EMPLOYER.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'financially-weak employer' means any employer if—

"(i) as of the valuation date for each of the years during a period of at least 3 consecutive plan years ending with the plan year—

"(I) the employer has an outstanding senior unsecured debt instrument which is rated lower than investment grade by each of the nationally recognized statistical rating organizations for corporate bonds that has issued a credit rating for such instrument, or

"(II) if no such debt instrument has been rated by such an organization but 1 or more of such organizations has made an issuer credit rating for such employer, all such organizations which have so rated the employer have rated such employer lower than investment grade, and

"(ii) at least 2 of the years during such period are deterioration years.

If an employer is treated as a financially-weak employer for any plan year, clause (ii) shall not apply in determining whether the employer is so treated for any succeeding plan year in any continuous period of plan years for which the employer is treated as a financially-weak employer.

"(B) CONTROLLED GROUP EXCEPTION.—If an employer treated as a financially-weak employer under subparagraph (A) is a member of a controlled group (as defined in section 302(d)(3)), the employer shall not be treated as a financially-weak employer if a significant member (as determined under regulations prescribed by the Secretary of the Treasury) of such group has an outstanding senior unsecured debt instrument that is rated as being investment grade by an organization described in subparagraph (A).

"(C) EMPLOYERS WITH NO RATINGS.—If—

"(i) an employer has no debt instrument described in subparagraph (A)(i) which was rated by an organization described in such subparagraph, and

"(ii) no such organization has made an issuer credit rating for such employer,

then such employer shall only be treated as a financially-weak employer to the extent provided in regulations prescribed by the Secretary of the Treasury.

"(6) DETERMINATION OF DETERIORATION YEAR.—For purposes of paragraph (5), the term 'deterioration year' means any year during the period described in paragraph (5)(A)(i) for which the rating described in subclause (I) or (II) of paragraph (5)(A)(i) by each organization is either—

"(A) lower than the lowest rating of the employer by such organization for a preceding year in such period, or

"(B) the lowest rating used by such organization.

"(7) YEARS BEFORE EFFECTIVE DATE.—For purposes of paragraphs (5) and (6), plan years beginning before 2007 shall not be taken into account.

"(8) TRANSITION BETWEEN APPLICABLE FUNDING TARGETS AND BETWEEN APPLICABLE TARGET NORMAL COSTS.—

"(A) IN GENERAL.—In any case in which a plan which is in at-risk status for a plan year has been in such status for a consecutive period of fewer than 5 plan years, the applicable amount of the funding target and of the target normal cost shall be, in lieu of the amount determined without regard to this paragraph, the sum of—

"(i) the amount determined under this section without regard to this subsection, plus

"(ii) the transition percentage for such plan year of the excess of the amount determined under this subsection (without regard to this paragraph) over the amount determined under this section without regard to this subsection.

"(B) IMPROVEMENT YEARS NOT TAKEN INTO ACCOUNT.—

"(i) IN GENERAL.—An improvement year shall not be taken into account in determining any consecutive period of plan years for purposes of subparagraph (A).

"(ii) APPLICATION OF SUBSECTION AFTER IMPROVEMENT YEAR ENDS.—Plan years immediately before and after an improvement year (or consecutive period of improvement years) shall be treated as consecutive for purposes of subparagraph (A).

"(iii) IMPROVEMENT YEAR.—For purposes of this subparagraph, the term 'improvement year' means any plan year for which any rating described in subclause (I) or (II) of paragraph (5)(A)(i) is higher than such rating for the preceding plan year.

"(C) TRANSITION PERCENTAGE.—For purposes of subparagraph (A), the transition percentage shall be determined in accordance with the following table:

"If the consecutive number of years (including the plan year) the plan is in at-risk status is—	**The transition percentage is—**
1	20
2	40
3	60
4	80.

"(D) YEARS BEFORE EFFECTIVE DATE.—For purposes of this paragraph, plan years beginning before 2007 shall not be taken into account.

"(9) PLANS TO WHICH SUBSECTION APPLIES.—

"(A) IN GENERAL.—Except as provided in this paragraph, this subsection shall apply to any plan to which this section applies and which is in at-risk status for the plan year.

"(B) EXCEPTION FOR SMALL PLANS.—This subsection shall not apply to a plan for a plan year if the plan was described in subsection (g)(2)(B) for the preceding plan year, determined by substituting '500' for '100'.

"(C) EXCEPTION FOR PLANS MAINTAINED BY CERTAIN COOPERATIVES.—This subsection shall not apply to an eligible cooperative plan described in subparagraph (D).

"(D) ELIGIBLE COOPERATIVE PLAN DEFINED.—For purposes of subparagraph (C), a plan shall be treated as an eligible cooperative plan for a plan year if the plan is maintained by more than 1 employer and at least 85 percent of the employers are—

"(i) rural cooperatives (as defined in section 401(k)(7)(B) of the Internal Revenue

Code of 1986 without regard to clause (iv) thereof), or

"(ii) organizations which are—

"(I) cooperative organizations described in section 1381(a) of such Code which are more than 50-percent owned by agricultural producers or by cooperatives owned by agricultural producers, or

"(II) more than 50-percent owned, or controlled by, one or more cooperative organizations described in subclause (I).

A plan shall also be treated as an eligible cooperative plan for any plan year for which it is described in section 210(a) and is maintained by a rural telephone cooperative association described in section 3(40)(B)(v).

"(E) EXCEPTION FOR PLANS SECURED BY THIRD PARTIES BOUND BY PBGC AGREEMENTS.—This subsection shall not apply to any plan if—

"(i) a person other than the employer obligated to contribute under the plan is, under the terms of an agreement with the Pension Benefit Guaranty Corporation, liable for any failure of the employer to meet its obligation to pay any minimum required contribution or termination liability with respect to the plan; and

"(ii) such person is not a financially-weak employer under paragraph (5).

"(j) PAYMENT OF MINIMUM REQUIRED CONTRIBUTIONS.—

"(1) IN GENERAL.—For purposes of this section, the due date for any payment of any minimum required contribution for any plan year shall be 8½ months after the close of the plan year.

"(2) INTEREST.—Any payment required under paragraph (1) for a plan year made after the valuation date for such plan year shall be increased by interest for the period from the valuation date to the payment date, determined by using the effective rate of interest for the plan for such plan year.

"(3) ACCELERATED QUARTERLY CONTRIBUTION SCHEDULE FOR UNDERFUNDED PLANS.—

"(A) FAILURE TO TIMELY MAKE REQUIRED INSTALLMENT.—

"(i) IN GENERAL.—In the case of a plan to which this paragraph applies, the employer maintaining the plan shall make the required installments under this paragraph and if the employer fails to pay the full amount of a required installment for the plan year, then the amount of interest charged under paragraph (2) on the underpayment for the period of underpayment shall be determined by using a rate of interest equal to the rate otherwise used under paragraph (2) plus 5 percentage points.

"(ii) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph applies to any defined benefit plan to which this section applies other than a plan which—

"(I) is a plan described in subsection (g)(2)(B)), or

"(II) had a funding shortfall of $1,000,000 or less for the preceding plan year.

"(B) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of subparagraph (A)—

"(i) AMOUNT.—The amount of the underpayment shall be the excess of—

"(I) the required installment, over

"(II) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

"(ii) PERIOD OF UNDERPAYMENT.—The period for which any interest is charged under this paragraph with respect to any portion of the underpayment shall run from the due date for the installment to the date on which such portion is contributed to or under the plan.

"(iii) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of clause (i)(II), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

"(C) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this paragraph—

"(i) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

"(ii) TIME FOR PAYMENT OF INSTALLMENTS.—The due dates for required installments are set forth in the following table:

In the case of the following required installment:	The due date is:
1st	April 15
2nd	July 15
3rd	October 15
4th	January 15 of the following year.

"(D) AMOUNT OF REQUIRED INSTALLMENT.—For purposes of this paragraph—

"(i) IN GENERAL.—The amount of any required installment shall be 25 percent of the required annual payment.

"(ii) REQUIRED ANNUAL PAYMENT.—For purposes of clause (i), the term 'required annual payment' means the lesser of—

"(I) 90 percent of the minimum required contribution (without regard to any waiver under section 302(c)) to the plan for the plan year under this section, or

"(II) in the case of a plan year beginning after 2007, 100 percent of the minimum required contribution (without regard to any waiver under section 302(c)) to the plan for the preceding plan year.

Subclause (II) shall not apply if the preceding plan year referred to in such clause was not a year of 12 months.

"(E) FISCAL YEARS AND SHORT YEARS.—

"(i) FISCAL YEARS.—In applying this paragraph to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this paragraph, the months which correspond thereto.

"(ii) SHORT PLAN YEAR.—This subparagraph shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary of the Treasury.

"(4) LIQUIDITY REQUIREMENT IN CONNECTION WITH QUARTERLY CONTRIBUTIONS.—

"(A) IN GENERAL.—A plan to which this paragraph applies shall be treated as failing to pay the full amount of any required installment under paragraph (3) to the extent that the value of the liquid assets paid in such installment is less than the liquidity shortfall (whether or not such liquidity shortfall exceeds the amount of such installment required to be paid but for this paragraph).

"(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan which—

"(i) is required to pay installments under paragraph (3) for a plan year, and

"(ii) has a liquidity shortfall for any quarter during such plan year.

"(C) PERIOD OF UNDERPAYMENT.—For purposes of paragraph (3)(A), any portion of an installment that is treated as not paid under subparagraph (A) shall continue to be treated as unpaid until the close of the quarter in which the due date for such installment occurs.

"(D) LIMITATION ON INCREASE.—If the amount of any required installment is increased by reason of subparagraph (A), in no event shall such increase exceed the amount which, when added to prior installments for the plan year, is necessary to increase the funding target attainment percentage of the plan for the plan year (taking into account the expected increase in funding target due to benefits accruing or earned during the plan year) to 100 percent.

"(E) DEFINITIONS.—For purposes of this subparagraph:

"(i) LIQUIDITY SHORTFALL.—The term 'liquidity shortfall' means, with respect to any required installment, an amount equal to the excess (as of the last day of the quarter for which such installment is made) of—

"(I) the base amount with respect to such quarter, over

"(II) the value (as of such last day) of the plan's liquid assets.

"(ii) BASE AMOUNT.—

"(I) IN GENERAL.—The term 'base amount' means, with respect to any quarter, an amount equal to 3 times the sum of the adjusted disbursements from the plan for the 12 months ending on the last day of such quarter.

"(II) SPECIAL RULE.—If the amount determined under subclause (I) exceeds an amount equal to 2 times the sum of the adjusted disbursements from the plan for the 36 months ending on the last day of the quarter and an enrolled actuary certifies to the satisfaction of the Secretary of the Treasury that such excess is the result of nonrecurring circumstances, the base amount with respect to such quarter shall be determined without regard to amounts related to those nonrecurring circumstances.

"(iii) DISBURSEMENTS FROM THE PLAN.—The term 'disbursements from the plan' means all disbursements from the trust, including purchases of annuities, payments of single sums and other benefits, and administrative expenses.

"(iv) ADJUSTED DISBURSEMENTS.—The term 'adjusted disbursements' means disbursements from the plan reduced by the product of—

"(I) the plan's funding target attainment percentage for the plan year, and

"(II) the sum of the purchases of annuities, payments of single sums, and such other disbursements as the Secretary of the Treasury shall provide in regulations.

"(v) LIQUID ASSETS.—The term 'liquid assets' means cash, marketable securities, and such other assets as specified by the Secretary of the Treasury in regulations.

"(vi) QUARTER.—The term 'quarter' means, with respect to any required installment, the 3-month period preceding the month in which the due date for such installment occurs.

"(F) REGULATIONS.—The Secretary of the Treasury may prescribe such regulations as are necessary to carry out this paragraph.

"(k) IMPOSITION OF LIEN WHERE FAILURE TO MAKE REQUIRED CONTRIBUTIONS.—

"(1) IN GENERAL.—In the case of a plan to which this subsection applies, if—

"(A) any person fails to make a contribution payment required by section 302 and this section before the due date for such payment, and

"(B) the unpaid balance of such payment (including interest), when added to the aggregate unpaid balance of all preceding such payments for which payment was not made before the due date (including interest), exceeds $1,000,000,

then there shall be a lien in favor of the plan in the amount determined under paragraph (3) upon all property and rights to property, whether real or personal, belonging to such person and any other person who is a member of the same controlled group of which such person is a member.

"(2) PLANS TO WHICH SUBSECTION APPLIES.—This subsection shall apply to a defined benefit plan which is a single-employer plan covered under section 4021 for any plan year for which the funding target attainment percentage (as defined in subsection (d)(2)) of such plan is less than 100 percent.

"(3) AMOUNT OF LIEN.—For purposes of paragraph (1), the amount of the lien shall be equal to the aggregate unpaid balance of contribution payments required under this section and section 302 for which payment has not been made before the due date.

"(4) NOTICE OF FAILURE; LIEN.—

"(A) NOTICE OF FAILURE.—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required contribution payment.

"(B) PERIOD OF LIEN.—The lien imposed by paragraph (1) shall arise on the due date for the required contribution payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in paragraph (2) during the period referred to in the preceding sentence.

"(C) CERTAIN RULES TO APPLY.—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

"(5) ENFORCEMENT.—Any lien created under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Pension Benefit Guaranty Corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

"(6) DEFINITIONS.—For purposes of this subsection—

"(A) CONTRIBUTION PAYMENT.—The term 'contribution payment' means, in connection with a plan, a contribution payment required to be made to the plan, including any required installment under paragraphs (3) and (4) of subsection (j).

"(B) DUE DATE; REQUIRED INSTALLMENT.—The terms 'due date' and 'required installment' have the meanings given such terms by subsection (j), except that in the case of a payment other than a required installment, the due date shall be the date such payment is required to be made under section 303.

"(C) CONTROLLED GROUP.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414 of the Internal Revenue Code of 1986.

"(l) QUALIFIED TRANSFERS TO HEALTH BENEFIT ACCOUNTS.—In the case of a qualified transfer (as defined in section 420 of the Internal Revenue Code of 1986), any assets so transferred shall not, for purposes of this section, be treated as assets in the plan.".

(b) CLERICAL AMENDMENT.—The table of sections in section 1 of such Act (as amended by section 101) is amended by inserting after the item relating to section 302 the following new item:

"Sec. 303. Minimum funding standards for single-employer defined benefit pension plans.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after 2006.

SEC. 103. BENEFIT LIMITATIONS UNDER SINGLE-EMPLOYER PLANS.

(a) LIMITS ON BENEFITS AND BENEFIT ACCRUALS.—

(1) IN GENERAL.—Section 206 of such Act is amended by adding at the end the following new subsection:

"(g) FUNDING-BASED LIMITS ON BENEFITS AND BENEFIT ACCRUALS UNDER SINGLE-EMPLOYER PLANS.—

"(1) LIMITATIONS ON PLAN AMENDMENTS INCREASING LIABILITY FOR BENEFITS.—

"(A) IN GENERAL.—Except as provided in paragraph (4), no amendment to a single-employer plan which has the effect of increasing liabilities of the plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable may take effect during any plan year if the adjusted funding target attainment percentage as of the valuation date of the plan for such plan year is—

"(i) less than 80 percent, or

"(ii) would be less than 80 percent taking into account such amendment.

"(B) EXEMPTION.—Subparagraph (A) shall cease to apply with respect to any plan year, effective as of the first date of the plan year (or if later, the effective date of the amendment), upon payment by the plan sponsor of a contribution (in addition to any minimum required contribution under section 303) equal to—

"(i) in the case of subparagraph (A)(i), the amount of the increase in the funding target of the plan (under section 303) for the plan year attributable to the amendment, and

"(ii) in the case of subparagraph (A)(ii), the amount sufficient to result in an adjusted funding target attainment percentage of 80 percent.

"(C) EXCEPTION FOR CERTAIN BENEFIT INCREASES.—Subparagraph (A) shall not apply to any amendment which provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of participants covered by the amendment.

"(2) LIMITATIONS ON ACCELERATED BENEFIT DISTRIBUTIONS.—

"(A) IN GENERAL.—A defined benefit plan which is a single-employer plan shall provide that, with respect to any plan year—

"(i) if the plan's adjusted funded target liability percentage as of the valuation date for the preceding plan year was less than 60 percent and the preceding plan year is not otherwise in a prohibited period, the plan sponsor shall, in addition to any other contribution required under section 303, contribute for the current plan year and each succeeding plan year in the prohibited period with respect to the current plan year the amount (if any) which, when added to the portion of the minimum required contribution for the plan year described in subparagraphs (B) and (C) of section 303(a)(1), is sufficient to result in an adjusted funded target liability percentage for the plan year of 60 percent, and

"(ii) no prohibited payments will be made during a prohibited period.

"(B) PROHIBITED PAYMENT.—For purpose of this subsection—

"(i) IN GENERAL.—The term 'prohibited payment' means—

"(I) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 204(b)(1)(G)), to a participant or beneficiary whose annuity starting date (as defined in section 205(h)(2)) occurs during a prohibited period,

"(II) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

"(III) any other payment specified by the Secretary of the Treasury by regulations.

"(ii) EXCEPTION FOR CERTAIN PAYMENTS.—In the case of any prohibited period described in subparagraph (C)(i), the term 'prohibited payment' shall not include any payment if the amount of the payment does not exceed the lesser of—

"(I) 50 percent of the amount of the payment which could be made without regard to this subsection, or

"(II) the present value (determined under guidance prescribed by the Pension Benefit Guaranty Corporation, using the interest and mortality assumptions under section 205(g)) of the maximum guarantee with respect to the participant under section 4022.

The exception under this clause shall only apply once with respect to any participant, except that, for purposes of this sentence, a participant and any beneficiary on his behalf (including an alternate payee, as defined in section 206(d)(3)(K)) shall be treated as 1 participant. If the accrued benefit of a participant is allocated to such an alternate payee and 1 or more other persons, the amount under subclause (II) shall be allocated among such persons in the same manner as the accrued benefit is allocated unless the qualified domestic relations order (as defined in section 206(d)(3)(B)(i)) provides otherwise.

"(C) PROHIBITED PERIOD.—For purposes of subparagraph (A), the term 'prohibited period' means—

"(i) except as provided in subparagraph (D), if a plan sponsor is required to make the contribution for the current plan year under subparagraph (A), the period beginning on the 1st day of the plan year and ending on the last day of the 1st period of 2 consecutive plan years (beginning on or after such 1st day) for which the plan's adjusted funded target liability percentage was at least 60 percent,

"(ii) any period the plan sponsor is in bankruptcy, or

"(iii) any period during which the plan has a liquidity shortfall (as defined in section 303(j)(4)(E)(i)).

The prohibited period for purposes of clause (ii) shall not include any portion of a plan year (even if the plan sponsor is in bankruptcy during such period) which occurs on or after the date the plan's enrolled actuary certifies that, as of the valuation date for the plan year, the plan's adjusted funded target liability percentage is at least 100 percent.

"(D) SATISFACTION OF REQUIREMENT BEFORE CLOSE OF PLAN YEAR.—If, before the close of the current plan year—

"(i) the plan sponsor makes the contribution required to be made under subparagraph (A), or

"(ii) the plan's enrolled actuary certifies that, as of the valuation date for the plan year, the adjusted funded target liability percentage of the plan is at least 60 percent,

this paragraph shall be applied as if no prohibited period had begun as of the beginning of such year and the plan shall, under rules described by the Secretary of the Treasury, restore any payments not made during the prohibited period in effect before the application of this paragraph.

"(3) LIMITATION ON BENEFIT ACCRUALS FOR PLANS WITH SEVERE FUNDING SHORTFALLS.—

"(A) IN GENERAL.—Except as provided in paragraph (4), a single-employer plan shall provide that all future benefit accruals under the plan shall cease during a severe funding shortfall period, but only to the extent the cessation of such accruals would have been permitted under section 204(g) if the cessation had been implemented by a plan amendment adopted immediately before the severe funding shortfall period.

“(B) SEVERE FUNDING SHORTFALL PERIOD.—For purposes of subparagraph (A), the term ‘severe funding shortfall period’ means in the case of a plan the adjusted funding target attainment percentage of which as of the valuation date of the plan for any plan year is less than 60 percent, the period—

“(i) beginning on the 1st day of the succeeding plan year, and

“(ii) ending on the date the plan's enrolled actuary certifies that the plan's adjusted funding target attainment percentage is at least 60 percent, and

“(C) OPPORTUNITY FOR INCREASED FUNDING.—For purposes of subparagraph (B), a plan shall not be treated as described in such subparagraph for a plan year if the plan's enrolled actuary certifies that the plan sponsor has before the end of the plan year contributed (in addition to any minimum required contribution under section 303) the amount sufficient to result in an adjusted funding target attainment percentage as of the valuation date for the plan year of 60 percent.

“(4) EXCEPTION FOR CERTAIN COLLECTIVELY BARGAINED BENEFITS.—In the case of a plan maintained pursuant to a collective bargaining agreement between employee representatives and the plan sponsor and in effect before the beginning of the first day on which a limitation would otherwise apply under paragraph (1), (2), or (3)—

“(A) such limitations shall not apply to any amendment, prohibited payment, or accrual with respect to such plan, but

“(B) the plan sponsor shall contribute (in addition to any minimum required contribution under section 303) the amount sufficient to result in an adjusted funding target attainment percentage (as of the valuation date for the plan year in which any such limitation would otherwise apply) equal to the percentage necessary to prevent the limitation from applying.

“(5) RULES RELATING TO REQUIRED CONTRIBUTIONS.—

“(A) SECURITY MAY BE PROVIDED.—

“(i) IN GENERAL.—For purposes of this subsection, the adjusted funding target attainment percentage shall be determined by treating as an asset of the plan any security provided by a plan sponsor in a form meeting the requirements of clause (ii).

“(ii) FORM OF SECURITY.—The security required under clause (i) shall consist of—

“(I) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of this Act,

“(II) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution, or

“(III) such other form of security as is satisfactory to the Secretary of the Treasury and the parties involved.

“(iii) ENFORCEMENT.—Any security provided under clause (i) may be perfected and enforced at any time after the earlier of—

“(I) the date on which the plan terminates,

“(II) if there is a failure to make a payment of the minimum required contribution for any plan year beginning after the security is provided, the due date for the payment under section 303(j), or

“(III) if the adjusted funding target attainment percentage is less than 60 percent for a consecutive period of 7 years, the valuation date for the last year in the period.

“(iv) RELEASE OF SECURITY.—The security shall be released (and any amounts thereunder shall be refunded together with any interest accrued thereon) at such time as the Secretary of the Treasury may prescribe in regulations, including regulations for partial releases of the security by reason of increases in the funding target attainment percentage.

“(B) PREFUNDING BALANCE MAY NOT BE USED.—No prefunding balance under section 303(f) may be used to satisfy any required contribution under this subsection.

“(C) TREATMENT AS UNPAID MINIMUM REQUIRED CONTRIBUTION.—The amount of any required contribution which a plan sponsor fails to make under paragraph (1) or (3) for any plan year shall be treated as an unpaid minimum required contribution for purposes of subsection (j) and (k) of section 303 and for purposes of section 4971 of the Internal Revenue Code of 1986.

“(6) NEW PLANS.—Paragraphs (1) and (3) shall not apply to a plan for the first 5 plan years of the plan. For purposes of this paragraph, the reference in this paragraph to a plan shall include a reference to any predecessor plan.

“(7) PRESUMED UNDERFUNDING FOR PURPOSES OF BENEFIT LIMITATIONS BASED ON PRIOR YEAR'S FUNDING STATUS.—

“(A) PRESUMPTION OF CONTINUED UNDERFUNDING.—In any case in which a benefit limitation under paragraph (1), (2), or (3) has been applied to a plan with respect to the plan year preceding the current plan year, the adjusted funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year shall be presumed to be equal to the adjusted funding target attainment percentage of the plan as of the valuation date of the plan for the preceding plan year until the enrolled actuary of the plan certifies the actual adjusted funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year.

“(B) PRESUMPTION OF UNDERFUNDING AFTER 10TH MONTH.—In any case in which no such certification is made with respect to the plan before the first day of the 10th month of the current plan year, for purposes of paragraphs (1), (2), and (3), the plan's adjusted funding target attainment percentage shall be conclusively presumed to be less than 60 percent as of the first day of such 10th month.

“(8) TREATMENT OF PLAN AS OF CLOSE OF PROHIBITED OR CESSATION PERIOD.—For purposes of applying this part—

“(A) OPERATION OF PLAN AFTER PERIOD.—Unless the plan provides otherwise, payments and accruals will resume effective as of the day following the close of a period of limitation of payment or accrual of benefits under paragraph (2) or (3).

“(B) TREATMENT OF AFFECTED BENEFITS.—Nothing in this paragraph shall be construed as affecting the plan's treatment of benefits which would have been paid or accrued but for this subsection.

“(9) FUNDING TARGET ATTAINMENT PERCENTAGE.—For purposes of this subsection—

“(A) IN GENERAL.—The term ‘funding target attainment percentage’ has the same meaning given such term by section 303(d)(2).

“(B) ADJUSTED FUNDED TARGET LIABILITY PERCENTAGE.—The term ‘adjusted funded target liability percentage’ means the funded target liability percentage which is determined under subparagraph (A) by increasing each of the amounts under subparagraphs (A) and (B) of section 303(d)(2) by the aggregate amount of purchases of annuities, payments of single sums, and such other disbursements as the Secretary of the Treasury shall prescribe in regulations, which were made by the plan during the preceding 2 plan years.

“(10) YEARS BEFORE EFFECTIVE DATE.—No plan year beginning before 2007 shall be taken into account in determining whether this subsection applies to any plan year beginning after 2006.”.

(2) NOTICE REQUIREMENT.—

(A) IN GENERAL.—Section 101 of such Act (29 U.S.C. 1021) is amended—

(i) by redesignating subsection (j) as subsection (k); and

(ii) by inserting after subsection (i) the following new subsection:

“(j) NOTICE OF FUNDING-BASED LIMITATION ON CERTAIN FORMS OF DISTRIBUTION.—The plan administrator of a single-employer plan shall provide a written notice to plan participants and beneficiaries within 30 days—

“(1) after the plan has become subject to the restriction described in section 206(g)(2),

“(2) in the case of a plan to which section 206(g)(3) applies, after—

“(A) the date in the plan year described in section 206(g)(3)(B) on which the plan's enrolled actuary certifies that the plan's adjusted funding target attainment percentage for the plan year is less than 60 percent (or, if earlier, the date such percentage is deemed to be less than 60 percent under section 206(g)(7)), and

“(B) the first day of the severe funding shortfall period, and

“(3) at such other time as may be determined by the Secretary of the Treasury.

The notice required to be provided under this subsection shall be in writing, except that such notice may be in electronic or other form to the extent that such form is reasonably accessible to the recipient.”.

(B) ENFORCEMENT.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended by striking “section 302(b)(7)(F)(iv)” and inserting “sections 101(j) and 302(b)(7)(F)(iv)”.

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

(2) COLLECTIVE BARGAINING EXCEPTION.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before January 1, 2007, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last collective bargaining agreement relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(ii) the first day of the first plan year to which the amendments made by this subsection would (but for this subparagraph) apply, or

(B) January 1, 2010.

For purposes of subparagraph (A)(i), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 104. TECHNICAL AND CONFORMING AMENDMENTS.

(a) MISCELLANEOUS AMENDMENTS TO TITLE I.—Subtitle B of title I of such Act (29 U.S.C. 1021 et seq.) is amended—

(1) in section 101(d)(3), by striking “section 302(e)” and inserting “section 303(j)”.

(2) in section 103(d)(8)(B), by striking "the requirements of section 302(c)(3)" and inserting "the applicable requirements of sections 303(h) and 304(c)(3)";

(3) in section 103(d), by striking paragraph (11) and inserting the following:

"(11) If the current value of the assets of the plan is less than 70 percent of—

"(A) in the case of a single-employer plan, the funding target (as defined in section 303(d)(1)) of the plan, or

"(B) in the case of a multiemployer plan, the current liability (as defined in section 304(c)(6)(D)) under the plan,

the percentage which such value is of the amount described in subparagraph (A) or (B).";

(4) in section 203(a)(3)(C), by striking "section 302(c)(8)" and inserting "section 302(d)(2)";

(5) in section 204(g)(1), by striking "section 302(c)(8)" and inserting "section 302(d)(2)";

(6) in section 204(i)(2)(B), by striking "section 302(c)(8)" and inserting "section 302(d)(2)";

(7) in section 204(i)(3), by striking "funded current liability percentage (within the meaning of section 302(d)(8) of this Act)" and inserting "funding target attainment percentage (as defined in section 303(d)(2))";

(8) in section 204(i)(4), by striking "section 302(c)(11)(A), without regard to section 302(c)(11)(B)" and inserting "section 302(b)(1), without regard to section 302(b)(2)";

(9) in section 206(e)(1), by striking "section 302(d)" and inserting "section 303(j)(4)", and by striking "section 302(e)(5)" and inserting "section 303(j)(4)(E)(i)";

(10) in section 206(e)(3), by striking "section 302(e) by reason of paragraph (5)(A) thereof" and inserting "section 303(j)(3) by reason of section 303(j)(4)(A)"; and

(11) in sections 101(e)(3), 403(c)(1), and 408(b)(13), by striking "American Jobs Creation Act of 2004" and inserting "Pension Security and Transparency Act of 2005".

(b) Miscellaneous Amendments to Title IV.—Title IV of such Act is amended—

(1) in section 4001(a)(13) (29 U.S.C. 1301(a)(13)), by striking "302(c)(11)(A)" and inserting "302(b)(1)", by striking "412(c)(11)(A)" and inserting "412(c)(1)", by striking "302(c)(11)(B)" and inserting "302(b)(2)", and by striking "412(c)(11)(B)" and inserting "412(c)(2)";

(2) in section 4003(e)(1) (29 U.S.C. 1303(e)(1)), by striking "302(f)(1)(A) and (B)" and inserting "303(k)(1)(A) and (B)", and by striking "412(n)(1)(A) and (B)" and inserting "430(k)(1)(A) and (B)";

(3) in section 4010(b)(2) (29 U.S.C. 1310(b)(2)), by striking "302(f)(1)(A) and (B)" and inserting "303(k)(1)(A) and (B)", and by striking "412(n)(1)(A) and (B)" and inserting "430(k)(1)(A) and (B)";

(4) in section 4062(c)(1) (29 U.S.C. 1362(c)(1)), by striking paragraphs (1), (2), and (3) and inserting the following:

"(1)(A) in the case of a single-employer plan, the sum of the shortfall amortization charge (within the meaning of section 303(c)(1) of this Act and 430(d)(1) of the Internal Revenue Code of 1986) with respect to the plan (if any) for the plan year in which the termination date occurs, plus the aggregate total of shortfall amortization installments (if any) determined for succeeding plan years under section 303(c)(2) of this Act and section 430(d)(2) of such Code (which, for purposes of this subparagraph, shall include any increase in such sum which would result if all applications for waivers of the minimum funding standard under section 302(c) of this Act and section 412(d) of such Code which are pending with respect to such plan were denied and if no additional contributions (other than those already made by the termination date) were made for the plan year in which the termination date occurs or for any previous plan year), or

"(B) in the case of a multiemployer plan, the outstanding balance of the accumulated funding deficiencies (within the meaning of section 304(a)(2) of this Act and section 431(a) of the Internal Revenue Code of 1986) of the plan (if any) (which, for purposes of this subparagraph, shall include the amount of any increase in such accumulated funding deficiencies of the plan which would result if all pending applications for waivers of the minimum funding standard under section 302(c) of this Act or section 412(d) of such Code and for extensions of the amortization period under section 304(d) of this Act or section 431(d) of such Code with respect to such plan were denied and if no additional contributions (other than those already made by the termination date) were made for the plan year in which the termination date occurs or for any previous plan year),

"(2)(A) in the case of a single-employer plan, the sum of the waiver amortization charge (within the meaning of section 303(e)(1) of this Act and 430(e)(2) of the Internal Revenue Code of 1986) with respect to the plan (if any) for the plan year in which the termination date occurs, plus the aggregate total of waiver amortization installments (if any) determined for succeeding plan years under section 303(e)(3) of this Act and section 430(e)(3) of such Code, or

"(B) in the case of a multiemployer plan, the outstanding balance of the amount of waived funding deficiencies of the plan waived before such date under section 302(c) of this Act or section 412(d) of such Code (if any), and

"(3) in the case of a multiemployer plan, the outstanding balance of the amount of decreases in the minimum funding standard allowed before such date under section 304(d) of this Act or section 431(d) of such Code (if any);";

(5) in section 4071 (29 U.S.C. 1371), by striking "302(f)(4)" and inserting "303(k)(4)";

(6) in section 4243(a)(1)(B) (29 U.S.C. 1423(a)(1)(B)), by striking "302(a)" and inserting "304(a)", and, in clause (i), by striking "302(a)" and inserting "304(a)";

(7) in section 4243(f)(1) (29 U.S.C. 1423(f)(1)), by striking "303(a)" and inserting "302(c)";

(8) in section 4243(f)(2) (29 U.S.C. 1423(f)(2)), by striking "303(c)" and inserting "302(c)(3)"; and

(9) in section 4243(g) (29 U.S.C. 1423(g)), by striking "302(c)(3)" and inserting "304(c)(3)".

(c) Amendments to Reorganization Plan No. 4 of 1978.—Section 106(b)(ii) of Reorganization Plan No. 4 of 1978 (ratified and affirmed as law by Public Law 98-532 (98 Stat. 2705)) is amended by striking "302(c)(8)" and inserting "302(d)(2)", by striking "304(a) and (b)(2)(A)" and inserting "304(d)(1), (d)(2), and (e)(2)(A)", and by striking "412(c)(8), (e), and (f)(2)(A)" and inserting "412(d)(2) and 431(d)(1), (d)(2), and (e)(2)(A)".

(d) Repeal of Expired Authority for Temporary Variances.—Section 207 of such Act (29 U.S.C. 1057) is repealed.

(e) Effective Date.—The amendments made by this section shall apply to plan years beginning after 2006.

SEC. 105. SPECIAL RULES FOR MULTIPLE EMPLOYER PLANS OF CERTAIN COOPERATIVES.

(a) General Rule.—Except as provided in this section, if a plan in existence on July 26, 2005, was an eligible cooperative plan for its plan year which includes such date, the amendments made by section 401 of this Act, this subtitle, and subtitle B shall not apply to plan years beginning before the earlier of—

(1) the first plan year for which the plan ceases to be an eligible cooperative plan, or

(2) January 1, 2017.

(b) Interest Rate.—In applying section 302(b)(5)(B) of the Employee Retirement Income Security Act of 1974 and section 412(b)(5)(B) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this subtitle and subtitle B) and in applying section 4006(a)(3)(E)(iii) of such Act (as in effect before the amendments made by section 401) to an eligible cooperative plan for plan years beginning after December 31, 2006, and before the first plan year to which such amendments apply, the third segment rate determined under section 303(h)(2)(C)(iii) of such Act and section 430(h)(2)(C)(iii) of such Code (as added by such amendments) shall be used in lieu of the interest rate otherwise used.

(c) Eligible Cooperative Plan Defined.—For purposes of this section, a plan shall be treated as an eligible cooperative plan for a plan year if the plan is maintained by more than 1 employer and at least 85 percent of the employers are—

(1) rural cooperatives (as defined in section 401(k)(7)(B) of such Code without regard to clause (iv) thereof), or

(2) organizations which are—

(A) cooperative organizations described in section 1381(a) of such Code which are more than 50-percent owned by agricultural producers or by cooperatives owned by agricultural producers, or

(B) more than 50-percent owned, or controlled by, one or more cooperative organizations described in subparagraph (A).

A plan shall also be treated as an eligible cooperative plan for any plan year for which it is described in section 210(a) of the Employee Retirement Income Security Act of 1974 and is maintained by a rural telephone cooperative association described in section 3(40)(B)(v) of such Act.

SEC. 106. TEMPORARY RELIEF FOR CERTAIN RESCUED PLANS.

(a) General Rule.—Except as provided in this section, if a plan in existence on July 26, 2005, was a rescued plan as of such date, the amendments made by section 401 of this Act, this subtitle, and subtitle B shall not apply to plan years beginning before January 1, 2014.

(b) Interest Rate.—In applying section 302(b)(5)(B) of the Employee Retirement Income Security Act of 1974 and section 412(b)(5)(B) of the Internal Revenue Code of 1986 (as in effect before the amendments made by this subtitle and subtitle B), and in applying section 4006(a)(3)(E)(iii) of such Act (as in effect before the amendments made by section 401), to a rescued plan for plan years beginning after December 31, 2006, and before January 1, 2014, the third segment rate determined under section 303(h)(2)(C)(iii) of such Act and section 430(h)(2)(C)(iii) of such Code (as added by such amendments) shall be used in lieu of the interest rate otherwise used.

(c) Rescued Plan.—For purposes of this section, the term "rescued plan" means a defined benefit plan (other than a multiemployer plan) to which section 302 of such Act and section 412 of such Code apply and—

(1) which was sponsored by an employer which was in bankruptcy, giving rise to a claim by the Pension Benefit Guaranty Corporation of at least $100,000,000, but not greater than $150,000,000, and

(2) the sponsorship of which was assumed by another employer that was not a member of the same controlled group as the bankrupt sponsor and the claim of the Pension Benefit Guaranty Corporation was settled or withdrawn in connection with the assumption of the sponsorship.

Subtitle B—Amendments to Internal Revenue Code of 1986

SEC. 111. MODIFICATIONS OF THE MINIMUM FUNDING STANDARDS.

(a) IN GENERAL.—Section 412 of the Internal Revenue Code of 1986 (relating to minimum funding standards) is amended to read as follows:

"SEC. 412. MINIMUM FUNDING STANDARDS.

"(a) REQUIREMENT TO MEET MINIMUM FUNDING STANDARD.—

"(1) IN GENERAL.—A plan to which this section applies shall satisfy the minimum funding standard applicable to the plan for any plan year.

"(2) MINIMUM FUNDING STANDARD.—For purposes of paragraph (1), a plan shall be treated as satisfying the minimum funding standard for a plan year if—

"(A) in the case of a defined benefit plan which is a single-employer plan, the employer makes contributions to or under the plan for the plan year which, in the aggregate, are not less than the minimum required contribution determined under section 430 for the plan for the plan year,

"(B) in the case of a money purchase pension plan which is a single-employer plan, the employer makes contributions to or under the plan for the plan year which are required under the terms of the plan, and

"(C) in the case of a multiemployer plan, the employers make contributions to or under the plan for the plan year which, in the aggregate, are sufficient to ensure that the plan does not have an accumulated funding deficiency under section 431 as of the end of the plan year.

"(b) PLANS TO WHICH SECTION APPLIES.—

"(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), this section applies to a plan if, for any plan year beginning on or after the effective date of this section for such plan under the Employee Retirement Income Security Act of 1974—

"(A) the plan included a trust which qualified (or was determined by the Secretary to have qualified) under section 401(a), or

"(B) the plan satisfied (or was determined by the Secretary to have satisfied) the requirements of section 403(a).

"(2) EXCEPTIONS.—This section shall not apply to—

"(A) any profit-sharing or stock bonus plan,

"(B) any insurance contract plan described in subsection (g)(3),

"(C) any governmental plan (within the meaning of section 414(d)),

"(D) any church plan (within the meaning of section 414(e)) with respect to which the election provided by section 410(d) has not been made,

"(E) any plan which has not, at any time after September 2, 1974, provided for employer contributions, or

"(F) any plan established and maintained by a society, order, or association described in section 501(c) (8) or (9), if no part of the contributions to or under such plan are made by employers of participants in such plan.

No plan described in subparagraph (C), (D), or (F) shall be treated as a qualified plan for purposes of section 401(a) unless such plan meets the requirements of section 401(a)(7) as in effect on September 1, 1974.

"(3) CERTAIN TERMINATED MULTIEMPLOYER PLANS.—This section applies with respect to a terminated multiemployer plan to which section 4021 of the Employee Retirement Income Security Act of 1974 applies until the last day of the plan year in which the plan terminates (within the meaning of section 4041A(a)(2) of such Act).

"(c) LIABILITY FOR CONTRIBUTIONS.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the amount of any contribution required by this section and any required installments under section 430(j) shall be paid by any employer responsible for making the contribution to or under the plan.

"(2) JOINT AND SEVERAL LIABILITY WHERE EMPLOYER MEMBER OF CONTROLLED GROUP.—If the employer referred to in paragraph (1) is a member of a controlled group, each member of such group shall be jointly and severally liable for payment of such contribution or required installment.

"(d) VARIANCE FROM MINIMUM FUNDING STANDARDS.—

"(1) WAIVER IN CASE OF BUSINESS HARDSHIP.—

"(A) IN GENERAL.—If—

"(i) an employer is (or in the case of a multiemployer plan, 10 percent or more of the number of employers contributing to or under the plan are) unable to satisfy the minimum funding standard for a plan year without temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan), and

"(ii) application of the standard would be adverse to the interests of plan participants in the aggregate,

the Secretary may, subject to subparagraph (C), waive the requirements of subsection (a) for such year with respect to all or any portion of the minimum funding standard. The Secretary of the Treasury shall not waive the minimum funding standard with respect to a plan for more than 3 of any 15 (5 of any 15 in the case of a multiemployer plan) consecutive plan years.

"(B) EFFECTS OF WAIVER.—If a waiver is granted under subparagraph (A) for any plan year—

"(i) in the case of a single-employer plan, the minimum required contribution under section 430 for the plan year shall be reduced by the amount of the waived funding deficiency and such amount shall be amortized as required under section 430(e), and

"(ii) in the case of a multiemployer plan, the funding standard account shall be credited under section 431(b)(3)(C) with the amount of the waived funding deficiency and such amount shall be amortized as required under section 431(b)(2)(C).

"(C) WAIVER OF AMORTIZED PORTION NOT ALLOWED.—The Secretary may not waive under subparagraph (A) any portion of the minimum funding standard under subsection (a) for a plan year which is attributable to any waived funding deficiency for any preceding plan year.

"(2) DETERMINATION OF BUSINESS HARDSHIP.—For purposes of this subsection, the factors taken into account in determining temporary substantial business hardship (substantial business hardship in the case of a multiemployer plan) shall include (but shall not be limited to) whether or not—

"(A) the employer is operating at an economic loss,

"(B) there is substantial unemployment or underemployment in the trade or business and in the industry concerned,

"(C) the sales and profits of the industry concerned are depressed or declining, and

"(D) it is reasonable to expect that the plan will be continued only if the waiver is granted.

"(3) WAIVED FUNDING DEFICIENCY.—For purposes of this part, the term 'waived funding deficiency' means the portion of the minimum funding standard under subsection (a) (determined without regard to the waiver) for a plan year waived by the Secretary and not satisfied by employer contributions.

"(4) SECURITY FOR WAIVERS FOR SINGLE-EMPLOYER PLANS, CONSULTATIONS.—

"(A) SECURITY MAY BE REQUIRED.—

"(i) IN GENERAL.—Except as provided in subparagraph (C), the Secretary may require an employer maintaining a defined benefit plan which is a single-employer plan (within the meaning of section 4001(a)(15) of the Employee Retirement Income Security Act of 1974) to provide security to such plan as a condition for granting or modifying a waiver under paragraph (1).

"(ii) SPECIAL RULES.—Any security provided under clause (i) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or, at the direction of the Corporation, by a contributing sponsor (within the meaning of section 4001(a)(13) of such Act) or a member of such sponsor's controlled group (within the meaning of section 4001(a)(14) of such Act).

"(B) CONSULTATION WITH THE PENSION BENEFIT GUARANTY CORPORATION.—Except as provided in subparagraph (C), the Secretary shall, before granting or modifying a waiver under this subsection with respect to a plan described in subparagraph (A)(i)—

"(i) provide the Pension Benefit Guaranty Corporation with—

"(I) notice of the completed application for any waiver or modification, and

"(II) an opportunity to comment on such application within 30 days after receipt of such notice, and

"(ii) consider—

"(I) any comments of the Corporation under clause (i)(II), and

"(II) any views of any employee organization (within the meaning of section 3(4) of such Act) representing participants in the plan which are submitted in writing to the Secretary of the Treasury in connection with such application.

Information provided to the Corporation under this subparagraph shall be considered tax return information and subject to the safeguarding and reporting requirements of section 6103(p).

"(C) EXCEPTION FOR CERTAIN WAIVERS.—

"(i) IN GENERAL.—The preceding provisions of this paragraph shall not apply to any plan with respect to which the sum of—

"(I) the aggregate unpaid minimum required contributions for the plan year and all preceding plan years, and

"(II) the present value of all waiver amortization installments determined for the plan year and succeeding plan years under section 430(e)(2),

is less than $1,000,000.

"(ii) TREATMENT OF WAIVERS FOR WHICH APPLICATIONS ARE PENDING.—The amount described in clause (i)(I) shall include any increase in such amount which would result if all applications for waivers of the minimum funding standard under this subsection which are pending with respect to such plan were denied.

"(iii) UNPAID MINIMUM REQUIRED CONTRIBUTION.—For purposes of this subparagraph—

"(I) IN GENERAL.—The term 'unpaid minimum required contribution' means, with respect to any plan year, any minimum required contribution under section 430 for the plan year which is not paid on or before the due date (as determined under section 430(j)(1)) for the plan year.

"(II) ORDERING RULE.—For purposes of subclause (I), any payment to or under a plan for any plan year shall be allocated first to unpaid minimum required contributions for all preceding plan years on a first-in, first-out basis and then to the minimum required contribution under section 430 for the plan year.

"(5) SPECIAL RULES FOR SINGLE-EMPLOYER PLANS.—

"(A) APPLICATION MUST BE SUBMITTED BEFORE DATE 2½ MONTHS AFTER CLOSE OF YEAR.—In the case of a single-employer plan, no waiver may be granted under this subsection with respect to any plan for any plan year unless an application therefor is submitted to the Secretary not later than the 15th day of the 3rd month beginning after the close of such plan year.

"(B) SPECIAL RULE IF EMPLOYER IS MEMBER OF CONTROLLED GROUP.—In the case of a single-employer plan, if an employer is a member of a controlled group, the temporary substantial business hardship requirements of paragraph (1) shall be treated as met only if such requirements are met—

"(i) with respect to such employer, and

"(ii) with respect to the controlled group of which such employer is a member (determined by treating all members of such group as a single employer).

The Secretary may provide that an analysis of a trade or business or industry of a member need not be conducted if the Secretary determines such analysis is not necessary because the taking into account of such member would not significantly affect the determination under this paragraph.

"(6) ADVANCE NOTICE.—

"(A) IN GENERAL.—The Secretary shall, before granting a waiver under this subsection, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such waiver to each affected party (as defined in section 4001(a)(21) of the Employee Retirement Income Security Act of 1974) other than the Pension Benefit Guaranty Corporation and in the case of a multiemployer plan, to each employer required to contribute to the plan under subsection (b)(1). Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV of such Act and for benefit liabilities.

"(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary shall consider any relevant information provided by a person to whom notice was given under subparagraph (A).

"(7) RESTRICTION ON PLAN AMENDMENTS.—

"(A) IN GENERAL.—No amendment of a plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan shall be adopted if a waiver under this subsection or an extension of time under section 431(d) is in effect with respect to the plan, or if a plan amendment described in subsection (e)(2) has been made at any time in the preceding 24 months. If a plan is amended in violation of the preceding sentence, any such waiver, or extension of time, shall not apply to any plan year ending on or after the date on which such amendment is adopted.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to any plan amendment which—

"(i) the Secretary determines to be reasonable and which provides for only de minimis increases in the liabilities of the plan,

"(ii) only repeals an amendment described in subsection (e)(2), or

"(iii) is required as a condition of qualification under part I of subchapter D, of chapter 1 of the Internal Revenue Code of 1986.

"(e) MISCELLANEOUS RULES.—For purposes of this section—

"(1) CHANGE IN METHOD OR YEAR.—If the funding method, the valuation date, or a plan year for a plan is changed, the change shall take effect only if approved by the Secretary.

"(2) CERTAIN RETROACTIVE PLAN AMENDMENTS.—For purposes of this section, any amendment applying to a plan year which—

"(A) is adopted after the close of such plan year but no later than 2½ months after the close of the plan year (or, in the case of a multiemployer plan, no later than 2 years after the close of such plan year),

"(B) does not reduce the accrued benefit of any participant determined as of the beginning of the first plan year to which the amendment applies, and

"(C) does not reduce the accrued benefit of any participant determined as of the time of adoption except to the extent required by the circumstances,

shall, at the election of the plan administrator, be deemed to have been made on the first day of such plan year. No amendment described in this paragraph which reduces the accrued benefits of any participant shall take effect unless the plan administrator files a notice with the Secretary notifying him of such amendment and the Secretary has approved such amendment, or within 90 days after the date on which such notice was filed, failed to disapprove such amendment. No amendment described in this subsection shall be approved by the Secretary unless the Secretary determines that such amendment is necessary because of a temporary substantial business hardship (as determined under subsection (d)(2)) or a substantial business hardship (as so determined) in the case of a multiemployer plan and that a waiver under subsection (d)(1) (or in the case of a multiemployer plan, any extension of the amortization period under section 431(d)) is unavailable or inadequate.

"(3) CERTAIN INSURANCE CONTRACT PLANS.—A plan is described in this paragraph if—

"(A) the plan is funded exclusively by the purchase of individual insurance contracts,

"(B) such contracts provide for level annual premium payments to be paid extending not later than the retirement age for each individual participating in the plan, and commencing with the date the individual became a participant in the plan (or, in the case of an increase in benefits, commencing at the time such increase becomes effective),

"(C) benefits provided by the plan are equal to the benefits provided under each contract at normal retirement age under the plan and are guaranteed by an insurance carrier (licensed under the laws of a State to do business with the plan) to the extent premiums have been paid,

"(D) premiums payable for the plan year, and all prior plan years, under such contracts have been paid before lapse or there is reinstatement of the policy,

"(E) no rights under such contracts have been subject to a security interest at any time during the plan year, and

"(F) no policy loans are outstanding at any time during the plan year.

A plan funded exclusively by the purchase of group insurance contracts which are determined under regulations prescribed by the Secretary to have the same characteristics as contracts described in the preceding sentence shall be treated as a plan described in this paragraph.

"(4) CONTROLLED GROUP.—For purposes of this section and section 430, the term 'controlled group' means any group treated as a single employer under subsection (b), (c), (m), or (o) of section 414.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 2006.

SEC. 112. FUNDING RULES APPLICABLE TO SINGLE-EMPLOYER PENSION PLANS.

Subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to deferred compensation, etc.) is amended by adding at the end the following new part:

"PART III—RULES RELATING TO MINIMUM FUNDING STANDARDS AND BENEFIT LIMITATION

"430. Minimum funding standards for single-employer defined benefit plans.
"431. Minimum funding standards for multiemployer plans.

"SEC. 430. MINIMUM FUNDING STANDARDS FOR SINGLE-EMPLOYER DEFINED BENEFIT PLANS.

"(a) MINIMUM REQUIRED CONTRIBUTION.—For purposes of this section and section 412(a)(2)(A), except as provided in subsection (f), the term 'minimum required contribution' means, with respect to any plan year of a defined benefit plan which is a single employer plan—

"(1) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)) is less than the funding target of the plan for the plan year, the sum of—

"(A) the target normal cost of the plan for the plan year,

"(B) the shortfall amortization charge (if any) for the plan for the plan year determined under subsection (c), and

"(C) the waiver amortization charge (if any) for the plan for the plan year as determined under subsection (e); or

"(2) in any case in which the value of plan assets of the plan (as reduced under subsection (f)(4)) equals or exceeds the funding target of the plan for the plan year, the target normal cost of the plan for the plan year reduced (but not below zero) by any such excess.

"(b) TARGET NORMAL COST.—For purposes of this section, except as provided in subsection (i)(2) with respect to plans in at-risk status, the term 'target normal cost' means, for any plan year, the present value of all benefits which are expected to accrue or to be earned under the plan during the plan year. For purposes of this subsection, if any benefit attributable to services performed in a preceding plan year is increased by reason of any increase in compensation during the current plan year, the increase in such benefit shall be treated as having accrued during the current plan year.

"(c) SHORTFALL AMORTIZATION CHARGE.—

"(1) IN GENERAL.—For purposes of this section, the shortfall amortization charge for a plan for any plan year is the aggregate total of the shortfall amortization installments for such plan year with respect to the shortfall amortization bases for such plan year and each of the 6 preceding plan years.

"(2) SHORTFALL AMORTIZATION INSTALLMENT.—For purposes of paragraph (1)—

"(A) DETERMINATION.—The shortfall amortization installments are the amounts necessary to amortize the shortfall amortization base of the plan for any plan year in level annual installments over the 7-plan-year period beginning with such plan year.

"(B) SHORTFALL INSTALLMENT.—The shortfall amortization installment for any plan year in the 7-plan-year period under subparagraph (A) with respect to any shortfall amortization base is the annual installment determined under subparagraph (A) for that year for that base.

"(C) SEGMENT RATES.—In determining any shortfall amortization installment under this paragraph, the plan sponsor shall use the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2).

"(3) SHORTFALL AMORTIZATION BASE.—For purposes of this section, the shortfall amortization base of a plan for a plan year is the excess (if any) of—

"(A) the funding shortfall of such plan for such plan year, over

"(B) the present value (determined using the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2)) of the aggregate total of the shortfall amortization installments and waiver amortization installments which have been determined for such plan year and any succeeding plan year with respect to the shortfall amortization bases and waiver amortization bases of the plan for any plan year preceding such plan year.

"(4) FUNDING SHORTFALL.—

"(A) IN GENERAL.—For purposes of this section, except as provided in subparagraph (B), the funding shortfall of a plan for any plan year is the excess (if any) of—

"(i) the funding target of the plan for the plan year, over

"(ii) the value of plan assets of the plan (as reduced under subsection (f)(4)) for the plan year which are held by the plan on the valuation date.

"(B) TRANSITION RULE FOR AMORTIZATION OF FUNDING SHORTFALL.—

"(i) IN GENERAL.—Solely for purposes of applying paragraph (3) in the case of plan years beginning after 2006 and before 2011, only the applicable percentage of the funding target shall be taken into account under paragraph (3)(A) in determining the funding shortfall for the plan year.

"(ii) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A)—

"(I) IN GENERAL.—Except as provided in subclause (II), the applicable percentage shall be 93 percent for plan years beginning in 2007, 96 percent for plan years beginning in 2008, and 100 percent for any succeeding plan year.

"(II) SMALL PLANS.—In the case of a plan described in subsection (g)(2)(B), the applicable percentage shall be determined in accordance with the following table:

"In the case of a plan year beginning in calendar year:	**The applicable percentage is—**
2007	92
2008	94
2009	96
2010	98.

"(5) EARLY DEEMED AMORTIZATION UPON ATTAINMENT OF FUNDING TARGET.—In any case in which the funding shortfall of a plan for a plan year is zero, for purposes of determining the shortfall amortization charge for such plan year and succeeding plan years, the shortfall amortization bases for all preceding plan years (and all shortfall amortization installments determined with respect to such bases) shall be reduced to zero.

"(d) RULES RELATING TO FUNDING TARGET.—For purposes of this section—

"(1) FUNDING TARGET.—Except as provided in subsection (i)(1) with respect to plans in at-risk status, the funding target of a plan for a plan year is the present value of all benefits accrued or earned under the plan as of the beginning of the plan year.

"(2) FUNDING TARGET ATTAINMENT PERCENTAGE.—The 'funding target attainment percentage' of a plan for a plan year is the ratio (expressed as a percentage) which—

"(A) the value of plan assets for the plan year, bears to

"(B) the funding target of the plan for the plan year (determined without regard to subsection (i)(1)).

"(e) WAIVER AMORTIZATION CHARGE.—

"(1) DETERMINATION OF WAIVER AMORTIZATION CHARGE.—The waiver amortization charge (if any) for a plan for any plan year is the aggregate total of the waiver amortization installments for such plan year with respect to the waiver amortization bases for each of the 5 preceding plan years.

"(2) WAIVER AMORTIZATION INSTALLMENT.—For purposes of paragraph (1)—

"(A) DETERMINATION.—The waiver amortization installments are the amounts necessary to amortize the waiver amortization base of the plan for any plan year in level annual installments over a period of 5 plan years beginning with the succeeding plan year.

"(B) WAIVER INSTALLMENT.—The waiver amortization installment for any plan year in the 5-year period under subparagraph (A) with respect to any waiver amortization base is the annual installment determined under subparagraph (A) for that year for that base.

"(3) INTEREST RATE.—In determining any waiver amortization installment under this subsection, the plan sponsor shall use the segment rates determined under subparagraph (C) of subsection (h)(2), applied under rules similar to the rules of subparagraph (B) of subsection (h)(2).

"(4) WAIVER AMORTIZATION BASE.—The waiver amortization base of a plan for a plan year is the amount of the waived funding deficiency (if any) for such plan year under section 412(d).

"(5) EARLY DEEMED AMORTIZATION UPON ATTAINMENT OF FUNDING TARGET.—In any case in which the funding shortfall of a plan for a plan year is zero, for purposes of determining the waiver amortization charge for such plan year and succeeding plan years, the waiver amortization bases for all preceding plan years (and all waiver amortization installments with respect to such bases) shall be reduced to zero.

"(f) USE OF PREFUNDING BALANCES TO SATISFY MINIMUM REQUIRED CONTRIBUTIONS.—

"(1) IN GENERAL.—A plan sponsor may credit any amount of a plan's prefunding balance for a plan year against the minimum required contribution for the plan year and the amount of the contributions an employer is required to make under section 412(c) for the plan year shall be reduced by the amount so credited. Any such amount shall be credited on the first day of the plan year.

"(2) PREFUNDING BALANCE.—

"(A) BEGINNING BALANCE.—The beginning balance of a prefunding balance maintained by a plan shall be zero, except that if a plan was in effect for a plan year beginning in 2006 and had a positive balance in the funding standard account under section 412(b) (as in effect for such plan year) as of the end of such plan year, the beginning balance for the plan for its first plan year beginning after 2006 shall be such positive balance.

"(B) INCREASES.—

"(i) IN GENERAL.—As of the first day of each plan year beginning after 2007, the prefunding balance of a plan shall be increased by the excess (if any) of—

"(I) the aggregate amount of employer contributions to the plan for the preceding plan year, over

"(II) the minimum required contribution for the preceding plan year.

"(ii) ADJUSTMENTS FOR INTEREST.—Any excess contributions under clause (i) shall be properly adjusted for interest accruing for the periods between the first day of the current plan year and the dates on which the excess contributions were made, determined by using the effective interest rate for the preceding plan year and by treating contributions as being first used to satisfy the minimum required contribution.

"(iii) CERTAIN CONTRIBUTIONS DISREGARDED.—Any contribution which is required to be made under section 436 in addition to any contribution required under this section shall not be taken into account for purposes of clause (i).

"(C) DECREASES.—As of the first day of each plan year after 2007, the prefunding balance of a plan shall be decreased (but not below zero) by the amount of the balance credited under paragraph (1) against the minimum required contribution of the plan for the preceding plan year.

"(D) ADJUSTMENTS FOR INVESTMENT EXPERIENCE.—In determining the prefunding balance of a plan as of the first day of the plan year, the plan sponsor shall, in accordance with regulations prescribed by the Secretary, adjust such balance to reflect the rate of return on plan assets for the preceding plan year. Notwithstanding subsection (g)(3), such rate of return shall be determined on the basis of fair market value and shall properly take into account, in accordance with such regulations, all contributions, distributions, and other plan payments made during such period.

"(3) LIMITATION FOR UNDERFUNDED PLANS.—

"(A) IN GENERAL.—If the ratio (expressed as a percentage) for any plan year which—

"(i) the value of plan assets for the preceding plan year, bears to

"(ii) the funding target of the plan for the preceding plan year (determined without regard to subsection (i)(1)),

is less than 80 percent, the preceding provisions of this subsection shall not apply unless employers liable for contributions to the plan under section 412(c) make contributions to the plan for the plan year in an aggregate amount not less than the amount determined under subparagraph (B). Any contribution required by this subparagraph may not be reduced by any credit otherwise allowable under paragraph (1).

"(B) APPLICABLE AMOUNT.—The amount determined under this subparagraph for any plan year is the greater of—

"(i) the target normal cost of the plan for the plan year, or

"(ii) 25 percent of the minimum required contribution under subsection (a) for the plan year without regard to this subsection.

"(4) REDUCTION IN VALUE OF ASSETS.—Solely for purposes of applying subsections (a) and (c)(4)(A)(ii) in determining the minimum required contribution under this section, the value of the plan assets otherwise determined without regard to this paragraph shall be reduced by the amount of the prefunding balance under this subsection.

"(g) VALUATION OF PLAN ASSETS AND LIABILITIES.—

"(1) TIMING OF DETERMINATIONS.—Except as otherwise provided under this subsection, all determinations under this section for a plan year shall be made as of the valuation date of the plan for such plan year.

"(2) VALUATION DATE.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the valuation date of a plan for any plan year shall be the first day of the plan year.

"(B) EXCEPTION FOR SMALL PLANS.—If, on each day during the preceding plan year, a plan had 100 or fewer participants, the plan may designate any day during the plan year as its valuation date for such plan year and succeeding plan years. For purposes of this subparagraph, all defined benefit plans (other than multiemployer plans) maintained by the same employer (or any member of such employer's controlled group) shall be treated as 1 plan, but only employees of such employer or member shall be taken into account.

"(C) APPLICATION OF CERTAIN RULES IN DETERMINATION OF PLAN SIZE.—For purposes of this paragraph—

"(i) PLANS NOT IN EXISTENCE IN PRECEDING YEAR.—In the case of the first plan year of any plan, subparagraph (B) shall apply to such plan by taking into account the number of participants that the plan is reasonably expected to have on days during such first plan year.

"(ii) PREDECESSORS.—Any reference in subparagraph (B) to an employer shall include a reference to any predecessor of such employer.

"(3) DETERMINATION OF VALUE OF PLAN ASSETS.—For purposes of this section—

"(A) IN GENERAL.—Except as provided in subparagraph (B), the value of plan assets shall be the fair market value of the assets.

"(B) AVERAGING ALLOWED.—A plan may determine the value of plan assets on the basis of any reasonable actuarial method of valuation providing for the averaging of fair market values, but only if such method—

"(i) is permitted under regulations prescribed by the Secretary, and

"(ii) does not provide for averaging of such values over more than the period beginning on the last day of the 12th month preceding the valuation date and ending on the valuation date (or a similar period in the case of a valuation date which is not the 1st day of a month).

"(4) ACCOUNTING FOR CONTRIBUTION RECEIPTS.—For purposes of determining the value of assets under paragraph (3)—

"(A) PRIOR YEAR CONTRIBUTIONS.—If—

"(i) an employer makes any contribution to the plan after the valuation date for the plan year in which the contribution is made, and

"(ii) the contribution is for a preceding plan year,

the contribution shall be taken into account as an asset of the plan as of the valuation date, except that in the case of any plan year beginning after 2007, only the present value (determined as of the valuation date) of such contribution may be taken into account. For purposes of the preceding sentence, present value shall be determined using the effective interest rate for the preceding plan year to which the contribution is properly allocable.

"(B) SPECIAL RULE FOR CURRENT YEAR CONTRIBUTIONS MADE BEFORE VALUATION DATE.—If any contributions for any plan year are made to or under the plan during the plan year but before the valuation date for the plan year, the assets of the plan as of the valuation date shall not include—

"(i) such contributions, and

"(ii) interest on such contributions for the period between the date of the contributions and the valuation date, determined by using the effective interest rate for the plan year.

"(h) ACTUARIAL ASSUMPTIONS AND METHODS.—

"(1) IN GENERAL.—Subject to this subsection, the determination of any present value or other computation under this section shall be made on the basis of actuarial assumptions and methods—

"(A) each of which is reasonable (taking into account the experience of the plan and reasonable expectations), and

"(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan.

"(2) INTEREST RATES.—

"(A) EFFECTIVE INTEREST RATE.—For purposes of this section, the term 'effective interest rate' means, with respect to any plan for any plan year, the single rate of interest which, if used to determine the present value of the plan's accrued or earned benefits referred to in subsection (d)(1), would result in an amount equal to the funding target of the plan for such plan year.

"(B) INTEREST RATES FOR DETERMINING FUNDING TARGET.—For purposes of determining the funding target of a plan for any plan year, the interest rate used in determining the present value of the benefits of the plan shall be—

"(i) in the case of benefits reasonably determined to be payable during the 5-year period beginning on the first day of the plan year, the first segment rate with respect to the applicable month,

"(ii) in the case of benefits reasonably determined to be payable during the 15-year period beginning at the end of the period described in clause (i), the second segment rate with respect to the applicable month, and

"(iii) in the case of benefits reasonably determined to be payable after the period described in clause (ii), the third segment rate with respect to the applicable month.

"(C) SEGMENT RATES.—For purposes of this paragraph—

"(i) FIRST SEGMENT RATE.—The term 'first segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during the 5-year period commencing with such month.

"(ii) SECOND SEGMENT RATE.—The term 'second segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during each of the years in the 15-year period beginning at the end of the period described in clause (i).

"(iii) THIRD SEGMENT RATE.—The term 'third segment rate' means, with respect to any month, the single rate of interest which shall be determined by the Secretary for such month on the basis of the corporate bond yield curve for such month, taking into account only that portion of such yield curve which is based on bonds maturing during periods beginning after the period described in clause (ii).

"(D) CORPORATE BOND YIELD CURVE.—The term 'corporate bond yield curve' means, with respect to any month, a yield curve which is prescribed by the Secretary for such month and which reflects the average, for the 12-month period ending with the month preceding such month, of yields on investment grade corporate bonds with varying maturities.

"(E) APPLICABLE MONTH.—For purposes of this paragraph, the term 'applicable month' means, with respect to any plan for any plan year, the month which includes the valuation date of such plan for such plan year or, at the election of the plan administrator, any of the 4 months which precede such month. Any election made under this subparagraph shall apply to the plan year for which the election is made and all succeeding plan years, unless the election is revoked with the consent of the Secretary.

"(F) PUBLICATION REQUIREMENTS.—The Secretary shall publish for each month the corporate bond yield curve for such month and each of the rates determined under this paragraph for such month. The Secretary shall also publish a description of the methodology used to determine such yield curve and such rates which is sufficiently detailed to enable plans to make reasonable projections regarding the yield curve and such rates for future months based on the plan's projection of future interest rates.

"(G) TRANSITION RULE.—

"(i) IN GENERAL.—Notwithstanding the preceding provisions of this paragraph, for plan years beginning in 2007 or 2008, the first, second, or third segment rate for a plan with respect to any month shall be equal to the sum of—

"(I) the product of such rate for such month determined without regard to this subparagraph, multiplied by the applicable percentage, and

"(II) the product of the rate determined under the rules of section 412(b)(5)(B)(ii)(II) (as in effect for plan years beginning in 2006), multiplied by a percentage equal to 100 percent minus the applicable percentage.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is 33⅓ percent for plan years beginning in 2007 and 66⅔ percent for plan years beginning in 2008.

"(3) MORTALITY TABLES.—

"(A) IN GENERAL.—Except as provided in subparagraphs (C) and (D), the mortality table used in determining any present value or making any computation under this section shall be the RP-2000 Combined Mortality Table, using Scale AA, as published by the Society of Actuaries, as in effect on the date of the enactment of the Pension Security and Transparency Act of 2005 and as revised from time to time under subparagraph (B).

"(B) PERIODIC REVISION.—The Secretary shall (at least every 10 years) make revisions in any table in effect under subparagraph (A) to reflect the actual experience of pension plans and projected trends in such experience.

"(C) SUBSTITUTE MORTALITY TABLE.—

"(i) IN GENERAL.—Upon request by the plan sponsor and approval by the Secretary, a mortality table which meets the requirements of clause (ii) shall be used in determining any present value or making any computation under this section during the 10-consecutive plan year period specified in the request. A mortality table described in this clause shall cease to be in effect if the plan actuary determines at any time that such table does not meet the requirements of clause (ii).

"(ii) REQUIREMENTS.—A mortality table meets the requirements of this clause if the Secretary determines that—

"(I) there is a sufficient number of plan participants, and the pension plans have been maintained for a sufficient period of time, to have credible information necessary for purposes of subclause (II),

“(II) such table reflects the actual experience of the pension plans maintained by the sponsor and projected trends in general mortality experience,

“(III) except as provided by the Secretary, such table will be used by all plans maintained by the plan sponsor and all members of any controlled group which includes the plan sponsor, and

“(IV) such table is significantly different from the table described in subparagraph (A).

“(iii) DEADLINE FOR DISPOSITION OF APPLICATION.—Any mortality table submitted to the Secretary for approval under this subparagraph shall be treated as in effect for the first plan year in the 10-year period described in clause (i) unless the Secretary, during the 180-day period beginning on the date of such submission, disapproves of such table and provides the reasons that such table fails to meet the requirements of clause (ii). The 180-day period shall be extended for any period during which the Secretary has requested information from the plan sponsor and such information has not been provided.

“(D) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding subparagraph (A)—

“(i) IN GENERAL.—The Secretary shall establish mortality tables which may be used (in lieu of the tables under subparagraph (A)) under this subsection for individuals who are entitled to benefits under the plan on account of disability. The Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

“(ii) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under clause (i) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

“(iii) PERIODIC REVISION.—The Secretary shall (at least every 10 years) make revisions in any table in effect under clause (i) to reflect the actual experience of pension plans and projected trends in such experience.

“(E) TRANSITION RULE.—Under regulations of the Secretary, any difference in present value resulting from any differences in assumptions as set forth in the mortality table specified in subparagraph (A) and assumptions as set forth in the mortality table described in section 412(l)(7)(C)(ii) (as in effect for plan years beginning in 2006) shall be phased in ratably over the first period of 5 plan years beginning in or after 2007 so as to be fully effective for the fifth plan year.

“(4) PROBABILITY OF BENEFIT PAYMENTS IN THE FORM OF LUMP SUMS OR OTHER OPTIONAL FORMS.—For purposes of determining any present value or making any computation under this section, there shall be taken into account—

“(A) the probability that future benefit payments under the plan will be made in the form of optional forms of benefits provided under the plan (including lump sum distributions, determined on the basis of the plan's experience and other related assumptions), and

“(B) any difference in the present value of such future benefit payments resulting from the use of actuarial assumptions, in determining benefit payments in any such optional form of benefits, which are different from those specified in this subsection.

“(5) APPROVAL OF LARGE CHANGES IN ACTUARIAL ASSUMPTIONS.—

“(A) IN GENERAL.—No actuarial assumption used to determine the funding target for a plan to which this paragraph applies may be changed without the approval of the Secretary.

“(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan only if—

“(i) the aggregate unfunded benefits as of the close of the preceding plan year (as determined under section 4006(a)(3)(E)(iii) of the Employee Retirement Income Security Act of 1974) of such plan and all other plans maintained by the contributing sponsors (as defined in section 4001(a)(13) of such Act) and members of such sponsors' controlled groups (as defined in section 4001(a)(14) of such Act) which are covered by title IV of such Act (disregarding plans with no unfunded benefits) exceed $50,000,000; and

“(ii) the change in assumptions (determined after taking into account any changes in interest rate and mortality table) results in a decrease in the funding shortfall of the plan for the current plan year that exceeds $50,000,000, or that exceeds $5,000,000 and that is 5 percent or more of the funding target of the plan before such change.

“(i) SPECIAL RULES FOR AT-RISK PLANS.—

“(1) FUNDING TARGET FOR PLANS IN AT-RISK STATUS.—

“(A) IN GENERAL.—In the case of a plan to which this subsection applies for a plan year, the funding target of the plan for the plan year is equal to the present value of all liabilities to participants and their beneficiaries under the plan for the plan year, as determined by using the additional actuarial assumptions described in subparagraph (B).

“(B) ADDITIONAL ACTUARIAL ASSUMPTIONS.—The actuarial assumptions described in this subparagraph are as follows:

“(i) All employees who are not otherwise assumed to retire as of the valuation date but who will be eligible to elect benefits during the plan year and the 7 succeeding plan years shall be assumed to retire at the earliest retirement date under the plan but not before the end of the plan year for which the at-risk target liability and at-risk target normal cost are being determined.

“(ii) All employees shall be assumed to elect the retirement benefit available under the plan at the assumed retirement age (determined after application of clause (i)) which would result in the highest present value of liabilities.

“(2) TARGET NORMAL COST OF AT-RISK PLANS.—In the case of a plan to which this subsection applies for a plan year, the target normal cost of the plan for such plan year shall be equal to the present value of all benefits which are expected to accrue or be earned under the plan during the plan year, determined using the additional actuarial assumptions described in paragraph (1)(B).

“(3) MINIMUM AMOUNT.—In no event shall—

“(A) the at-risk target liability be less than the target liability, as determined without regard to this subsection, or

“(B) the at-risk target normal cost be less than the target normal cost, as determined without regard to this subsection.

“(4) DETERMINATION OF AT-RISK STATUS.—For purposes of this subsection, a plan is in at-risk status for a plan year if—

“(A) the plan is maintained by a financially-weak employer, and

“(B) the funding target attainment percentage for the plan year is less than 93 percent.

“(5) FINANCIALLY-WEAK EMPLOYER.—

“(A) IN GENERAL.—For purposes of this subsection, the term 'financially-weak employer' means any employer if—

“(i) as of the valuation date for each of the years during a period of at least 3 consecutive plan years ending with the plan year—

“(I) the employer has an outstanding senior unsecured debt instrument which is rated lower than investment grade by each of the nationally recognized statistical rating organizations for corporate bonds that has issued a credit rating for such instrument, or

“(II) if no such debt instrument has been rated by such an organization but 1 or more of such organizations has made an issuer credit rating for such employer, all such organizations which have so rated the employer have rated such employer lower than investment grade, and

“(ii) at least 2 of the years during such period are deterioration years.

If an employer is treated as a financially-weak employer for any plan year, clause (ii) shall not apply in determining whether the employer is so treated for any succeeding plan year in any continuous period of plan years for which the employer is treated as a financially-weak employer.

“(B) CONTROLLED GROUP EXCEPTION.—If an employer treated as a financially-weak employer under subparagraph (A) is a member of a controlled group (as defined in section 412(e)(4)), the employer shall not be treated as a financially-weak employer if a significant member (as determined under regulations prescribed by the Secretary) of such group has an outstanding senior unsecured debt instrument that is rated as being investment grade by an organization described in subparagraph (A).

“(C) EMPLOYERS WITH NO RATINGS.—If—

“(i) an employer has no debt instrument described in subparagraph (A)(i) which was rated by an organization described in such subparagraph, and

“(ii) no such organization has made an issuer credit rating for such employer,

then such employer shall only be treated as a financially-weak employer to the extent provided in regulations prescribed by the Secretary.

“(6) DETERMINATION OF DETERIORATION YEAR.—For purposes of paragraph (5), the term 'deterioration year' means any year during the period described in paragraph (5)(A)(i) for which the rating described in subclause (I) or (II) of paragraph (5)(A)(i) by each organization is either—

“(A) lower than the lowest rating of the employer by such organization for a preceding year in such period, or

“(B) the lowest rating used by such organization.

“(7) YEARS BEFORE EFFECTIVE DATE.—For purposes of paragraphs (5) and (6), plan years beginning before 2007 shall not be taken into account.

“(8) TRANSITION BETWEEN APPLICABLE FUNDING TARGETS AND BETWEEN APPLICABLE TARGET NORMAL COSTS.—

“(A) IN GENERAL.—In any case in which a plan which is in at-risk status for a plan year has been in such status for a consecutive period of fewer than 5 plan years, the applicable amount of the funding target and of the target normal cost shall be, in lieu of the amount determined without regard to this paragraph, the sum of—

“(i) the amount determined under this section without regard to this subsection, plus

“(ii) the transition percentage for such plan year of the excess of the amount determined under this subsection (without regard to this paragraph) over the amount determined under this section without regard to this subsection.

“(B) IMPROVEMENT YEARS NOT TAKEN INTO ACCOUNT.—

“(i) IN GENERAL.—An improvement year shall not be taken into account in determining any consecutive period of plan years for purposes of subparagraph (A).

“(ii) APPLICATION OF SUBSECTION AFTER IMPROVEMENT YEAR ENDS.—Plan years immediately before and after an improvement year (or consecutive period of improvement years) shall be treated as consecutive for purposes of subparagraph (A).

“(iii) IMPROVEMENT YEAR.—For purposes of this subparagraph, the term ‘improvement year’ means any plan year for which any rating described in subclause (I) or (II) of paragraph (5)(A)(i) is higher than such rating for the preceding plan year.

“(C) TRANSITION PERCENTAGE.—For purposes of subparagraph (A), the transition percentage shall be determined in accordance with the following table:

“If the consecutive number of years (including the plan year) the plan is in at-risk status is—	**The transition percentage is—**
1	20
2	40
3	60
4	80.

“(D) YEARS BEFORE EFFECTIVE DATE.—For purposes of this paragraph, plan years beginning before 2007 shall not be taken into account.

“(9) PLANS TO WHICH SUBSECTION APPLIES.—

“(A) IN GENERAL.—Except as provided in this paragraph, this subsection shall apply to any plan to which this section applies and which is in at-risk status for the plan year.

“(B) EXCEPTION FOR SMALL PLANS.—This subsection shall not apply to a plan for a plan year if the plan was described in subsection (g)(2)(B) for the preceding plan year, determined by substituting ‘500’ for ‘100’.

“(C) EXCEPTION FOR PLANS MAINTAINED BY CERTAIN COOPERATIVES.—This subsection shall not apply to an eligible cooperative plan described in subparagraph (D).

“(D) ELIGIBLE COOPERATIVE PLAN DEFINED.—For purposes of subparagraph (C), a plan shall be treated as an eligible cooperative plan for a plan year if the plan is maintained by more than 1 employer and at least 85 percent of the employers are—

“(i) rural cooperatives (as defined in section 401(k)(7)(B) without regard to clause (iv) thereof), or

“(ii) organizations which are—

“(I) cooperative organizations described in section 1381(a) which are more than 50-percent owned by agricultural producers or by cooperatives owned by agricultural producers, or

“(II) more than 50-percent owned, or controlled by, one or more cooperative organizations described in subclause (I).

A plan shall also be treated as an eligible cooperative plan for any plan year for which it is described in section 210(a) of the Employee Retirement Income Security Act of 1974 and is maintained by a rural telephone cooperative association described in section 3(40)(B)(v) of such Act.

“(E) EXCEPTION FOR PLANS SECURED BY THIRD PARTIES BOUND BY PBGC AGREEMENTS.—This subsection shall not apply to any plan if—

“(i) a person other than the employer obligated to contribute under the plan is, under the terms of an agreement with the Pension Benefit Guaranty Corporation, liable for any failure of the employer to meet its obligation to pay any minimum required contribution or termination liability with respect to the plan; and

“(ii) such person is not a financially-weak employer under paragraph (5).

“(j) PAYMENT OF MINIMUM REQUIRED CONTRIBUTIONS.—

“(1) IN GENERAL.—For purposes of this section, the due date for any payment of any minimum required contribution for any plan year shall be 8½ months after the close of the plan year.

“(2) INTEREST.—Any payment required under paragraph (1) for a plan year made after the valuation date for such plan year shall be increased by interest for the period from the valuation date to the payment date, determined by using the effective rate of interest for the plan for such plan year.

“(3) ACCELERATED QUARTERLY CONTRIBUTION SCHEDULE FOR UNDERFUNDED PLANS.—

“(A) INTEREST PENALTY FOR FAILURE TO MEET ACCELERATED QUARTERLY PAYMENT SCHEDULE.—A plan shall make the required installments under this paragraph for a plan year if the plan had a funding shortfall for the preceding plan year. If the required installment is not paid in full, then the minimum required contribution for the plan year (as increased under paragraph (2)) shall be further increased by an amount equal to the interest on the amount of the underpayment for the period of the underpayment, using an interest rate equal to the excess of—

“(i) 175 percent of the Federal mid-term rate (as in effect under section 1274 for the 1st month of such plan year), over

“(ii) the effective rate of interest for the plan for the plan year.

“(B) AMOUNT OF UNDERPAYMENT, PERIOD OF UNDERPAYMENT.—For purposes of subparagraph (A)—

“(i) AMOUNT.—The amount of the underpayment shall be the excess of—

“(I) the required installment, over

“(II) the amount (if any) of the installment contributed to or under the plan on or before the due date for the installment.

“(ii) PERIOD OF UNDERPAYMENT.—The period for which any interest is charged under this paragraph with respect to any portion of the underpayment shall run from the due date for the installment to the date on which such portion is contributed to or under the plan.

“(iii) ORDER OF CREDITING CONTRIBUTIONS.—For purposes of clause (i)(II), contributions shall be credited against unpaid required installments in the order in which such installments are required to be paid.

“(C) NUMBER OF REQUIRED INSTALLMENTS; DUE DATES.—For purposes of this paragraph—

“(i) PAYABLE IN 4 INSTALLMENTS.—There shall be 4 required installments for each plan year.

“(ii) TIME FOR PAYMENT OF INSTALLMENTS.—The due dates for required installments are set forth in the following table:

In the case of the following required installment:	**The due date is:**
1st	April 15
2nd	July 15
3rd	October 15
4th	January 15 of the following year.

“(D) AMOUNT OF REQUIRED INSTALLMENT.—For purposes of this paragraph—

“(i) IN GENERAL.—The amount of any required installment shall be 25 percent of the required annual payment.

“(ii) REQUIRED ANNUAL PAYMENT.—For purposes of clause (i), the term ‘required annual payment’ means the lesser of—

“(I) 90 percent of the minimum required contribution (without regard to any waiver under section 302(c)) to the plan for the plan year under this section, or

“(II) in the case of a plan year beginning after 2007, 100 percent of the minimum required contribution (without regard to any waiver under section 302(c)) to the plan for the preceding plan year.

Subclause (II) shall not apply if the preceding plan year referred to in such clause was not a year of 12 months.

“(E) FISCAL YEARS AND SHORT YEARS.—

“(i) FISCAL YEARS.—In applying this paragraph to a plan year beginning on any date other than January 1, there shall be substituted for the months specified in this paragraph, the months which correspond thereto.

“(ii) SHORT PLAN YEAR.—This subparagraph shall be applied to plan years of less than 12 months in accordance with regulations prescribed by the Secretary of the Treasury.

“(4) LIQUIDITY REQUIREMENT IN CONNECTION WITH QUARTERLY CONTRIBUTIONS.—

“(A) IN GENERAL.—A plan to which this paragraph applies shall be treated as failing to pay the full amount of any required installment under paragraph (3) to the extent that the value of the liquid assets paid in such installment is less than the liquidity shortfall (whether or not such liquidity shortfall exceeds the amount of such installment required to be paid but for this paragraph).

“(B) PLANS TO WHICH PARAGRAPH APPLIES.—This paragraph shall apply to a plan which—

“(i) is required to pay installments under paragraph (3) for a plan year, and

“(ii) has a liquidity shortfall for any quarter during such plan year.

“(C) PERIOD OF UNDERPAYMENT.—For purposes of paragraph (3)(A), any portion of an installment that is treated as not paid under subparagraph (A) shall continue to be treated as unpaid until the close of the quarter in which the due date for such installment occurs.

“(D) LIMITATION ON INCREASE.—If the amount of any required installment is increased by reason of subparagraph (A), in no event shall such increase exceed the amount which, when added to prior installments for the plan year, is necessary to increase the funding target attainment percentage of the plan for the plan year (taking into account the expected increase in funding target due to benefits accruing or earned during the plan year) to 100 percent.

“(E) DEFINITIONS.—For purposes of this subparagraph:

“(i) LIQUIDITY SHORTFALL.—The term ‘liquidity shortfall’ means, with respect to any required installment, an amount equal to the excess (as of the last day of the quarter for which such installment is made) of—

“(I) the base amount with respect to such quarter, over

“(II) the value (as of such last day) of the plan’s liquid assets.

“(ii) BASE AMOUNT.—

“(I) IN GENERAL.—The term ‘base amount’ means, with respect to any quarter, an amount equal to 3 times the sum of the adjusted disbursements from the plan for the 12 months ending on the last day of such quarter.

“(II) SPECIAL RULE.—If the amount determined under subclause (I) exceeds an amount equal to 2 times the sum of the adjusted disbursements from the plan for the 36 months ending on the last day of the quarter and an enrolled actuary certifies to the satisfaction of the Secretary that such excess is the result of nonrecurring circumstances, the base amount with respect to such quarter shall be determined without regard to amounts related to those nonrecurring circumstances.

"(iii) Disbursements from the plan.—The term 'disbursements from the plan' means all disbursements from the trust, including purchases of annuities, payments of single sums and other benefits, and administrative expenses.

"(iv) Adjusted disbursements.—The term 'adjusted disbursements' means disbursements from the plan reduced by the product of—

"(I) the plan's funding target attainment percentage for the plan year, and

"(II) the sum of the purchases of annuities, payments of single sums, and such other disbursements as the Secretary shall provide in regulations.

"(v) Liquid assets.—The term 'liquid assets' means cash, marketable securities, and such other assets as specified by the Secretary in regulations.

"(vi) Quarter.—The term 'quarter' means, with respect to any required installment, the 3-month period preceding the month in which the due date for such installment occurs.

"(F) Regulations.—The Secretary may prescribe such regulations as are necessary to carry out this paragraph.

"(k) Imposition of Lien Where Failure To Make Required Contributions.—

"(1) In general.—In the case of a plan to which this subsection applies, if—

"(A) any person fails to make a contribution payment required by section 412 and this section before the due date for such payment, and

"(B) the unpaid balance of such payment (including interest), when added to the aggregate unpaid balance of all preceding such payments for which payment was not made before the due date (including interest), exceeds $1,000,000,

then there shall be a lien in favor of the plan in the amount determined under paragraph (3) upon all property and rights to property, whether real or personal, belonging to such person and any other person who is a member of the same controlled group of which such person is a member.

"(2) Plans to which subsection applies.—This subsection shall apply to a defined benefit plan which is a single-employer plan covered under section 4021 of the Employee Retirement Income Security Act of 1974 for any plan year for which the funding target attainment percentage (as defined in subsection (d)(2)) of such plan is less than 100 percent.

"(3) Amount of lien.—For purposes of paragraph (1), the amount of the lien shall be equal to the aggregate unpaid balance of contribution payments required under this section and section 302 for which payment has not been made before the due date.

"(4) Notice of failure; lien.—

"(A) Notice of failure.—A person committing a failure described in paragraph (1) shall notify the Pension Benefit Guaranty Corporation of such failure within 10 days of the due date for the required contribution payment.

"(B) Period of lien.—The lien imposed by paragraph (1) shall arise on the due date for the required contribution payment and shall continue until the last day of the first plan year in which the plan ceases to be described in paragraph (1)(B). Such lien shall continue to run without regard to whether such plan continues to be described in paragraph (2) during the period referred to in the preceding sentence.

"(C) Certain rules to apply.—Any amount with respect to which a lien is imposed under paragraph (1) shall be treated as taxes due and owing the United States and rules similar to the rules of subsections (c), (d), and (e) of section 4068 of the Employee Retirement Income Security Act of 1974 shall apply with respect to a lien imposed by subsection (a) and the amount with respect to such lien.

"(5) Enforcement.—Any lien created under paragraph (1) may be perfected and enforced only by the Pension Benefit Guaranty Corporation, or at the direction of the Pension Benefit Guaranty Corporation, by the contributing sponsor (or any member of the controlled group of the contributing sponsor).

"(6) Definitions.—For purposes of this subsection—

"(A) Contribution payment.—The term 'contribution payment' means, in connection with a plan, a contribution payment required to be made to the plan, including any required installment under paragraphs (3) and (4) of subsection (j).

"(B) Due date; required installment.—The terms 'due date' and 'required installment' have the meanings given such terms by subsection (j), except that in the case of a payment other than a required installment, the due date shall be the date such payment is required to be made under section 303.

"(C) Controlled group.—The term 'controlled group' means any group treated as a single employer under subsections (b), (c), (m), and (o) of section 414.

"(l) Qualified Transfers to Health Benefit Accounts.—In the case of a qualified transfer (as defined in section 420), any assets so transferred shall not, for purposes of this section, be treated as assets in the plan.".

(b) Effective Date.—The amendments made by this section shall apply with respect to plan years beginning after 2006.

SEC. 113. BENEFIT LIMITATIONS UNDER SINGLE-EMPLOYER PLANS.

(a) In General.—Part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (relating to rules relating to minimum funding standards) is amended by adding at the end the following new subpart:

"Subpart B—Limitations on Benefit Improvements by Single-Employer Plans

"Sec. 436. Funding-based limits on benefits and benefit accruals under single-employer plans.

"SEC. 436. FUNDING-BASED LIMITS ON BENEFITS AND BENEFIT ACCRUALS UNDER SINGLE-EMPLOYER PLANS.

"(a) General Rule.—For purposes of section 401(a)(29), a defined benefit plan which is a single-employer plan shall be treated as meeting the requirements of this section if the plan meets the requirements of subsections (b), (c), and (d).

"(b) Limitations on Plan Amendments Increasing Liability for Benefits.—

"(1) In general.—Except as provided in this section, no amendment to a single-employer plan which has the effect of increasing liabilities of the plan by reason of increases in benefits, establishment of new benefits, changing the rate of benefit accrual, or changing the rate at which benefits become nonforfeitable may take effect during any plan year if the adjusted funding target attainment percentage as of the valuation date of the plan for such plan year is—

"(A) less than 80 percent, or

"(B) would be less than 80 percent taking into account such amendment.

"(2) Exemption.—Paragraph (1) shall cease to apply with respect to any plan year, effective as of the first date of the plan year (or if later, the effective date of the amendment), upon payment by the plan sponsor of a contribution (in addition to any minimum required contribution under section 430) equal to—

"(A) in the case of paragraph (1)(A), the amount of the increase in the funding target of the plan (under section 430) for the plan year attributable to the amendment, and

"(B) in the case of paragraph (1)(B), the amount sufficient to result in a funding target attainment percentage of 80 percent.

"(3) Exception for certain benefit increases.—Paragraph (1) shall not apply to any amendment which provides for an increase in benefits under a formula which is not based on a participant's compensation, but only if the rate of such increase is not in excess of the contemporaneous rate of increase in average wages of participants covered by the amendment.

"(c) Limitations on Accelerated Benefit Distributions.—

"(1) In general.—The requirements of this subsection are met if the plan provides that, with respect to any plan year—

"(A) if the plan's adjusted funded target liability percentage as of the valuation date for the preceding plan year was less than 60 percent and the preceding plan year is not otherwise in a prohibited period, the plan sponsor shall, in addition to any other contribution required under section 430, contribute for the current plan year and each succeeding plan year in the prohibited period with respect to the current plan year the amount (if any) which, when added to the portion of the minimum required contribution for the plan year described in subparagraphs (B) and (C) of section 430(a)(1), is sufficient to result in an adjusted funded target liability percentage for the plan year of 60 percent, and

"(B) no prohibited payments will be made during a prohibited period.

"(2) Prohibited payment.—For purpose of this subsection—

"(A) In general.—The term 'prohibited payment' means—

"(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 411(a)(9)), to a participant or beneficiary whose annuity starting date (as defined in section 417(f)(2)) occurs during a prohibited period,

"(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

"(iii) any other payment specified by the Secretary by regulations.

"(B) Exception for certain payments.—In the case of any prohibited period described in paragraph (3)(A), the term 'prohibited payment' shall not include any payment if the amount of the payment does not exceed the lesser of—

"(i) 50 percent of the amount of the payment which could be made without regard to this subsection, or

"(ii) the present value (determined under guidance prescribed by the Pension Benefit Guaranty Corporation, using the interest and mortality assumptions under section 417(e)) of the maximum guarantee with respect to the participant under section 4022 of the Employee Retirement Income Security Act of 1974.

The exception under this subparagraph shall only apply once with respect to any participant, except that, for purposes of this sentence, a participant and any beneficiary on his behalf (including an alternate payee, as defined in section 414(p)(8)) shall be treated as 1 participant. If the accrued benefit of a participant is allocated to such an alternate payee and 1 or more other persons, the amount under clause (ii) shall be allocated among such persons in the same manner as the accrued benefit is allocated unless the qualified domestic relations order (as defined in section 414(p)(1)(A)) provides otherwise.

"(3) PROHIBITED PERIOD.—For purposes of paragraph (1), the term 'prohibited period' means—

"(A) except as provided in paragraph (4), if a plan sponsor is required to make the contribution for the current plan year under paragraph (1), the period beginning on the 1st day of the plan year and ending on the last day of the 1st period of 2 consecutive plan years (beginning on or after such 1st day) for which the plan's adjusted funded target liability percentage was at least 60 percent,

"(B) any period the plan sponsor is in bankruptcy, or

"(C) any period during which the plan has a liquidity shortfall (as defined in section 430(j)(4)(E)(i)).

The prohibited period for purposes of subparagraph (B) shall not include any portion of a plan year (even if the plan sponsor is in bankruptcy during such period) which occurs on or after the date the plan's enrolled actuary certifies that, as of the valuation date for the plan year, the plan's adjusted funded target liability percentage is at least 100 percent.

"(4) SATISFACTION OF REQUIREMENT BEFORE CLOSE OF PLAN YEAR.—If, before the close of the current plan year—

"(A) the plan sponsor makes the contribution required to be made under paragraph (1), or

"(B) the plan's enrolled actuary certifies that, as of the valuation date for the plan year, the adjusted funded target liability percentage of the plan is at least 60 percent,

this subsection shall be applied as if no prohibited period had begun as of the beginning of such year and the plan shall, under rules described by the Secretary, restore any payments not made during the prohibited period in effect before the application of this paragraph.

"(d) LIMITATION ON BENEFIT ACCRUALS FOR PLANS WITH SEVERE FUNDING SHORTFALLS.—

"(1) IN GENERAL.—Except as provided in subsection (e), a single-employer plan shall provide that all future benefit accruals under the plan shall cease during a severe funding shortfall period, but only to the extent the cessation of such accruals would have been permitted under section 411(d)(6) if the cessation had been implemented by a plan amendment adopted immediately before the severe funding shortfall period.

"(2) SEVERE FUNDING SHORTFALL PERIOD.—For purposes of paragraph (1), the term 'severe funding shortfall period' means in the case of a plan the adjusted funding target attainment percentage of which as of the valuation date of the plan for any plan year is less than 60 percent, the period—

"(A) beginning on the 1st day of the succeeding plan year, and

"(B) ending on the date the plan's enrolled actuary certifies that the plan's funding target attainment percentage is at least 60 percent.

"(3) OPPORTUNITY FOR INCREASED FUNDING.—For purposes of paragraph (2)(A), a plan shall not be treated as described in such paragraph for a plan year if the plan's enrolled actuary certifies that the plan sponsor has before the end of the plan year contributed (in addition to any minimum required contribution under section 430) the amount sufficient to result in an adjusted funding target attainment percentage as of the valuation date for the plan year of 60 percent.

"(e) EXCEPTION FOR CERTAIN COLLECTIVELY BARGAINED BENEFITS.—In the case of a plan maintained pursuant to a collective bargaining agreement between employee representatives and the plan sponsor and in effect before the beginning of the first day on which a limitation would otherwise apply under subsections (b), (c), or (d)—

"(1) such limitations shall not apply to any amendment, prohibited payment, or accrual with respect to such plan, but

"(2) the plan sponsor shall contribute (in addition to any minimum required contribution under section 430) the amount sufficient to result in a funding target attainment percentage (as of the valuation date for the plan year in which any such limitation would otherwise apply) equal to the percentage necessary to prevent the limitation from applying.

"(f) RULES RELATING TO REQUIRED CONTRIBUTIONS.—

"(1) SECURITY MAY BE PROVIDED.—

"(A) IN GENERAL.—For purposes of this section, the adjusted funding target attainment percentage shall be determined by treating as an asset of the plan any security provided by a plan sponsor in a form meeting the requirements of subparagraph (B) .

"(B) FORM OF SECURITY.—The security required under subparagraph (A) shall consist of—

"(i) a bond issued by a corporate surety company that is an acceptable surety for purposes of section 412 of the Employee Retirement Income Security Act of 1974,

"(ii) cash, or United States obligations which mature in 3 years or less, held in escrow by a bank or similar financial institution, or

"(iii) such other form of security as is satisfactory to the Secretary and the parties involved.

"(C) ENFORCEMENT.—Any security provided under subparagraph (A) may be perfected and enforced at any time after the earlier of—

"(i) the date on which the plan terminates,

"(ii) if there is a failure to make a payment of the minimum required contribution for any plan year beginning after the security is provided, the due date for the payment under section 430(j), or

"(iii) if the adjusted funding target attainment percentage is less than 60 percent for a consecutive period of 7 years, the valuation date for the last year in the period.

"(D) RELEASE OF SECURITY.—The security shall be released (and any amounts thereunder shall be refunded together with any interest accrued thereon) at such time as the Secretary may prescribe in regulations, including regulations for partial releases of the security by reason of increases in the funding target attainment percentage.

"(2) PREFUNDING BALANCE MAY NOT BE USED.—No prefunding balance under section 430(f) may be used to satisfy any required contribution under this section.

"(3) TREATMENT AS UNPAID MINIMUM REQUIRED CONTRIBUTION.—The amount of any required contribution which a plan sponsor fails to make under subsection (b) or (d) for any plan year shall be treated as an unpaid minimum required contribution for purposes of subsection (j) and (k) of section 430 and for purposes of section 4971.

"(g) NEW PLANS.—Subsections (b) and (d) shall not apply to a plan for the first 5 plan years of the plan. For purposes of this subsection, the reference in this subsection to a plan shall include a reference to any predecessor plan.

"(h) PRESUMED UNDERFUNDING FOR PURPOSES OF BENEFIT LIMITATIONS BASED ON PRIOR YEAR'S FUNDING STATUS.—

"(1) PRESUMPTION OF CONTINUED UNDERFUNDING.—In any case in which a benefit limitation under subsection (b), (c), or (d) has been applied to a plan with respect to the plan year preceding the current plan year, the adjusted funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year shall be presumed to be equal to the adjusted funding target attainment percentage of the plan as of the valuation date of the plan for the preceding plan year until the enrolled actuary of the plan certifies the actual adjusted funding target attainment percentage of the plan as of the valuation date of the plan for the current plan year.

"(2) PRESUMPTION OF UNDERFUNDING AFTER 10TH MONTH.—In any case in which no such certification is made with respect to the plan before the first day of the 10th month of the current plan year, for purposes of subsections (b), (c), and (d), the plan's adjusted funding target attainment percentage shall be conclusively presumed to be less than 60 percent as of the first day of such 10th month.

"(i) TREATMENT OF PLAN AS OF CLOSE OF PROHIBITED OR CESSATION PERIOD.—For purposes of applying this part—

"(1) OPERATION OF PLAN AFTER PERIOD.—Unless the plan provides otherwise, payments and accruals will resume effective as of the day following the close of a period of limitation of payment or accrual of benefits under subsection (c) or (d).

"(2) TREATMENT OF AFFECTED BENEFITS.—Nothing in this subsection shall be construed as affecting the plan's treatment of benefits which would have been paid or accrued but for this section.

"(j) FUNDING TARGET ATTAINMENT PERCENTAGE.—For purposes of this section—

"(1) IN GENERAL.—The term 'funding target attainment percentage' has the same meaning given such term by section 430(d)(2).

"(2) ADJUSTED FUNDED TARGET LIABILITY PERCENTAGE.—The term 'adjusted funded target liability percentage' means the funded target liability percentage which is determined under subparagraph (A) by increasing each of the amounts under subparagraphs (A) and (B) of section 430(d)(2) by the aggregate amount of purchases of annuities, payments of single sums, and such other disbursements as the Secretary shall prescribe in regulations, which were made by the plan during the preceding 2 plan years.

"(k) SPECIAL RULES.—

"(1) BANKRUPTCY.—In the case of a plan sponsor during any period the plan is in bankruptcy—

"(A) subsection (b) shall be applied by substituting '100 percent' for '80 percent' each place it appears,

"(B) any exception under subsection (b) for any benefit increases pursuant to a collective bargaining agreement shall not apply, and

"(C) the exception under subsection (f) shall not apply for purposes of subsection (b).

"(2) YEARS BEFORE EFFECTIVE DATE.—No plan year beginning before 2007 shall be taken into account in determining whether this section applies to any plan year beginning after 2006.”.

(b) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

(2) Collective bargaining exception.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified before January 1, 2007, the amendments made by this section shall not apply to plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last collective bargaining agreement relating to the plan terminates (determined without regard to any extension thereof agreed to after the date of the enactment of this Act), or

(ii) the first day of the first plan year to which the amendments made by this subsection would (but for this subparagraph) apply, or

(B) January 1, 2010.

For purposes of subparagraph (A)(i), any plan amendment made pursuant to a collective bargaining agreement relating to the plan which amends the plan solely to conform to any requirement added by this section shall not be treated as a termination of such collective bargaining agreement.

SEC. 114. INCREASE IN DEDUCTION LIMIT FOR SINGLE-EMPLOYER PLANS.

(a) In General.—Section 404 of the Internal Revenue Code of 1986 (relating to deduction for contributions of an employer to an employees' trust or annuity plan and compensation under a deferred payment plan) is amended—

(1) in subsection (a)(1)(A), by inserting “in the case of a defined benefit plan other than a multiemployer plan, in an amount determined under subsection (o), and in the case of any other plan” after “section 501(a),”, and

(2) by inserting at the end the following new subsection:

“(o) Deduction Limit for Single-Employer Plans.—For purposes of subsection (a)(1)(A)—

“(1) In general.—In the case of a defined benefit plan to which subsection (a)(1)(A) applies (other than a multiemployer plan), the amount determined under this subsection for any taxable year shall be equal to the greater of—

“(A) the sum of the amounts determined under paragraph (2) with respect to each plan year ending with or within the taxable year, or

“(B) the sum of the minimum required contributions under section 430 for such plan years.

“(2) Determination of amount.—

“(A) In general.—The amount determined under this paragraph for any plan year shall be equal to the excess (if any) of—

“(i) the sum of—

“(I) the funding target for the plan year,

“(II) the target normal cost for the plan year, and

“(III) the cushion amount for the plan year, over

“(ii) the value (determined under section 430(g)(2)) of the assets of the plan which are held by the plan as of the valuation date for the plan year.

“(B) Special rule for certain employers.—If section 430(i) does not apply to a plan for a plan year, the amount determined under subparagraph (A)(i) for the plan year shall in no event be less than the sum of—

“(i) the funding target for the plan year (determined as if section 430(i) applied to the plan), plus

“(ii) the target normal cost for the plan year (as so determined).

“(3) Cushion amount.—For purposes of paragraph (2)(A)(i)(III)—

“(A) In general.—The cushion amount for any plan year is the sum of—

“(i) 80 percent of the funding target for the plan year, and

“(ii) the amount by which the funding target for the plan year would increase if the plan were to take into account—

“(I) increases in compensation which are expected to occur in succeeding plan years, or

“(II) if the plan does not base benefits for service to date on compensation, increases in benefits which are expected to occur in succeeding plan years (determined on the basis of the average annual increase in benefits over the 6 immediately preceding plan years).

“(B) Limitations.—

“(i) In general.—In making the computation under subparagraph (A)(ii), the plan's actuary shall assume that the limitations under subsection (l) and section 415(b) shall apply.

“(ii) Expected increases.—In the case of a plan year during which a plan is covered under section 4021 of the Employee Retirement Income Security Act of 1974, the plan's actuary may, notwithstanding subsection (j) or (l), take into account increases in the limitations which are expected to occur in succeeding plan years.

“(4) Special rules for plans with 100 or fewer participants.—

“(A) In general.—For purposes of determining the amount under paragraph (3) for any plan year, in the case of a plan which has 100 or fewer participants for the plan year, the liability of the plan attributable to benefit increases for highly compensated employees (as defined in section 414(q)) resulting from a plan amendment which is made or becomes effective, whichever is later, within the last 2 years shall not be taken into account in determining the target liability.

“(B) Rule for determining number of participants.—For purposes of determining the number of plan participants, all defined benefit plans maintained by the same employer (or any member of such employer's controlled group (within the meaning of section 412(f)(4))) shall be treated as one plan, but only participants of such member or employer shall be taken into account.

“(5) Special rule for terminating plans.—In the case of a plan which, subject to section 4041 of the Employee Retirement Income Security Act of 1974, terminates during the plan year, the amount determined under paragraph (2) shall in no event be less than the amount required to make the plan sufficient for benefit liabilities (within the meaning of section 4041(d) of such Act).

“(6) Actuarial assumptions.—Any computation under this subsection for any plan year shall use the same actuarial assumptions which are used for the plan year under section 430.

“(7) Definitions.—Any term used in this subsection which is also used in section 430 shall have the same meaning given such term by section 430.”.

(b) Exception From Limitation on Deduction Where Combination of Defined Contribution and Defined Benefit Plans.—Section 404(a)(7)(C) of such Code, as amended by this Act, is amended by adding at the end the following new clause:

“(iv) Guaranteed plans.—In applying this paragraph, any single-employer plan covered under section 4021 of the Employee Retirement Income Security Act of 1974 shall not be taken into account.”.

(c) Technical and Conforming Amendments.—

(1) The last sentence of section 404(a)(1)(A) of such Code is amended by striking “section 412” each place it appears and inserting “section 431”.

(2) Section 404(a)(1)(B) of such Code is amended—

(A) by striking “In the case of a plan” and inserting “In the case of a multiemployer plan”,

(B) by striking “section 412(c)(7)” each place it appears and inserting “section 431(c)(6)”,

(C) by striking “section 412(c)(7)(B)” and inserting “section 431(c)(6)(A)(ii)”,

(D) by striking “section 412(c)(7)(A)” and inserting “section 431(c)(6)(A)(i)”, and

(E) by striking “section 412” and inserting “section 431”.

(3) Section 404(a)(7)(A) of such Code, as amended by this Act, is amended—

(A) by adding at the end of subparagraph (A) the following new sentence: “In the case of a defined benefit plan which is a single employer plan, the amount necessary to satisfy the minimum funding standard provided by section 412 shall not be less than the plan's funding shortfall determined under section 430.”, and

(B) by striking subparagraph (D) and inserting:

“(D) Insurance contract plans.—For purposes of this paragraph, a plan described in section 412(g)(3) shall be treated as a defined benefit plan.”.

(4) Section 404A(g)(3)(A) of such Code is amended by striking “paragraphs (3) and (7) of section 412(c)” and inserting “paragraphs (3) and (6) of section 431(c)”.

(d) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

SEC. 115. TECHNICAL AND CONFORMING AMENDMENTS.

(a) Amendments Related to Qualification Requirements.—

(1) Section 401(a)(29) of the Internal Revenue Code of 1986 is amended to read as follows:

“(29) Benefit limitations on plans in at-risk status.—In the case of a defined benefit plan (other than a multiemployer plan) to which the requirements of section 412 apply, the trust of which the plan is a part shall not constitute a qualified trust under this subsection unless the plan meets the requirements of section 436.”.

(2) Section 401(a)(32) of such Code is amended—

(A) in subparagraph (A), by striking “412(m)(5)” each place it appears and inserting “section 430(j)(4)”, and

(B) in subparagraph (C), by striking “section 412(m)” and inserting “section 430(j)”.

(3) Section 401(a), as amended by this Act, is amended by striking paragraph (33) and by redesignating paragraphs (34) and (35) as paragraph (33) and (34).

(b) Vesting Rules.—Section 411 of such Code is amended—

(1) by striking “section 412(c)(8)” in subsection (a)(3)(C) and inserting “section 412(d)(2)”,

(2) in subsection (b)(1)(F)—

(A) by striking “paragraphs (2) and (3) of section 412(i)” in clause (ii) and inserting “subparagraphs (B) and (C) of section 412(e)(3)”, and

(B) by striking "paragraphs (4), (5), and (6) of section 412(i)" and inserting "subparagraphs (D), (E), and (F) of section 412(e)(3)", and

(3) by striking "section 412(c)(8)" in subsection (d)(6)(A) and inserting "section 412(e)(2)".

(c) MERGERS AND CONSOLIDATIONS OF PLANS.—Subclause (I) of section 414(l)(2)(B)(i) of such Code is amended to read as follows:

"(I) the amount determined under section 431(c)(6)(A)(i) in the case of a multiemployer plan (and the sum of the funding shortfall and target normal cost determined under section 430 in the case of any other plan), over".

(d) TRANSFER OF EXCESS PENSION ASSETS TO RETIREE HEALTH ACCOUNTS.—

(1) Section 420(e)(2) of such Code is amended to read as follows:

"(2) EXCESS PENSION ASSETS.—The term 'excess pension assets' means the excess (if any) of—

"(A) the lesser of—

"(i) the fair market value of the plan's assets (reduced by the prefunding balance determined under section 430(f)), or

"(ii) the value of plan assets as determined under section 430(g)(3) after reduction under section 430(f), over

"(B) 125 percent of the sum of the funding shortfall and the target normal cost determined under section 430 for such plan year.".

(2) Section 420(e)(4) of such Code is amended to read as follows:

"(4) COORDINATION WITH SECTION 430.—In the case of a qualified transfer, any assets so transferred shall not, for purposes of this section, be treated as assets in the plan.".

(e) EXCISE TAXES.—

(1) IN GENERAL.—Subsections (a) and (b) of section 4971 of such Code are amended to read as follows:

"(a) INITIAL TAX.—If at any time during any taxable year an employer maintains a plan to which section 412 applies, there is hereby imposed for the taxable year a tax equal to—

"(1) in the case of a single-employer plan, 10 percent of the aggregate unpaid minimum required contributions for all plan years remaining unpaid as of the end of any plan year ending with or within the taxable year, and

"(2) in the case of a multiemployer plan, 5 percent of the accumulated funding deficiency determined under section 431 as of the end of any plan year ending with or within the taxable year.

"(b) ADDITIONAL TAX.—If—

"(1) a tax is imposed under subsection (a)(1) on any unpaid required minimum contribution and such amount remains unpaid as of the close of the taxable period, or

"(2) a tax is imposed under subsection (a)(2) on any accumulated funding deficiency and the accumulated funding deficiency is not corrected within the taxable period,

there is hereby imposed a tax equal to 100 percent of the unpaid minimum required contribution or accumulated funding deficiency, whichever is applicable, to the extent not so paid or corrected.".

(2) Section 4971(c) of such Code is amended—

(A) by striking "the last two sentences of section 412(a)" in paragraph (1) and inserting "section 431", and

(B) by adding at the end the following new paragraph:

"(4) UNPAID MINIMUM REQUIRED CONTRIBUTION.—

"(A) IN GENERAL.—The term 'unpaid minimum required contribution' means, with respect to any plan year, any minimum required contribution under section 430 for the plan year which is not paid on or before the due date (as determined under section 430(j)(1)) for the plan year.

"(B) ORDERING RULE.—Any payment to or under a plan for any plan year shall be allocated first to unpaid minimum required contributions for all preceding plan years on a first-in, first-out basis and then to the minimum required contribution under section 430 for the plan year.".

(3) Section 4971(e)(1) of such Code is amended by striking "section 412(b)(3)(A)" and inserting "section 412(a)(1)(A)".

(4) Section 4971(f)(1) of such Code is amended—

(A) by striking "section 412(m)(5)" and inserting "section 430(j)(4)", and

(B) by striking "section 412(m)" and inserting "section 430(j)".

(5) Section 4972(c)(7) of such Code is amended by striking "except to the extent that such contributions exceed the full-funding limitation (as defined in section 412(c)(7), determined without regard to subparagraph (A)(i)(I) thereof)" and inserting "except, in the case of a multiemployer plan, to the extent that such contributions exceed the full-funding limitation (as defined in section 431(c)(6))".

(f) REPORTING REQUIREMENTS.—Section 6059(b) of such Code is amended—

(1) by striking "the accumulated funding deficiency (as defined in section 412(a))" in paragraph (2) and inserting "the minimum required contribution determined under section 430, or the accumulated funding deficiency determined under section 431,", and

(2) by striking paragraph (3)(B) and inserting:

"(B) the requirements for reasonable actuarial assumptions under section 430(h)(1) or 431(c)(3), whichever are applicable, have been complied with.".

Subtitle C—Interest Rate Assumptions and Deductible Amounts for 2006

SEC. 121. EXTENSION OF REPLACEMENT OF 30-YEAR TREASURY RATES.

(a) AMENDMENTS OF ERISA.—

(1) DETERMINATION OF RANGE.—Subclause (II) of section 302(b)(5)(B)(ii) of the Employee Retirement Income Security Act of 1974 is amended—

(A) by striking "2006" and inserting "2007", and

(B) by striking "AND 2005" in the heading and inserting ", 2005, AND 2006".

(2) DETERMINATION OF CURRENT LIABILITY.—Subclause (IV) of section 302(d)(7)(C)(i) of such Act is amended—

(A) by striking "or 2005" and inserting ", 2005, or 2006", and

(B) by striking "AND 2005" in the heading and inserting ", 2005, AND 2006".

(3) PBGC PREMIUM RATE.—Subclause (V) of section 4006(a)(3)(E)(iii) of such Act is amended by striking "2006" and inserting "2007".

(b) AMENDMENTS OF INTERNAL REVENUE CODE.—

(1) DETERMINATION OF RANGE.—Subclause (II) of section 412(b)(5)(B)(ii) of the Internal Revenue Code of 1986 is amended—

(A) by striking "2006" and inserting "2007", and

(B) by striking "AND 2005" in the heading and inserting ", 2005, AND 2006".

(2) DETERMINATION OF CURRENT LIABILITY.—Subclause (IV) of section 412(l)(7)(C)(i) of such Code is amended—

(A) by striking "or 2005" and inserting ", 2005, or 2006", and

(B) by striking "AND 2005" in the heading and inserting ", 2005, AND 2006".

(c) PLAN AMENDMENTS.—Clause (ii) of section 101(c)(2)(A) of the Pension Funding Equity Act of 2004 is amended by striking "2006" and inserting "2007".

SEC. 122. DEDUCTION LIMITS FOR PLAN CONTRIBUTIONS.

(a) IN GENERAL.—Clause (i) of section 404(a)(1)(D) of the Internal Revenue Code of 1986 (relating to special rule in case of certain plans) is amended by striking "section 412(l)" and inserting "section 412(l)(8)(A), except that section 412(l)(8)(A) shall be applied for purposes of this clause by substituting '180 percent (130 percent in the case of a multiemployer plan) of current liability' for 'the current liability' in clause (i)."

(b) CONFORMING AMENDMENT.—Section 404(a)(1) of the Internal Revenue Code of 1986 is amended by striking subparagraph (F).

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2005.

SEC. 123. UPDATING DEDUCTION RULES FOR COMBINATION OF PLANS.

(a) IN GENERAL.—Subparagraph (C) of section 404(a)(7) of the Internal Revenue Code of 1986 (relating to limitation on deductions where combination of defined contribution plan and defined benefit plan) is amended by adding after clause (ii) the following new clause:

"(iii) LIMITATION.—In the case of employer contributions to 1 or more defined contribution plans, this paragraph shall only apply to the extent that such contributions exceed 6 percent of the compensation otherwise paid or accrued during the taxable year to the beneficiaries under such plans. For purposes of this clause, amounts carried over from preceding taxable years under subparagraph (B) shall be treated as employer contributions to 1 or more defined contributions to the extent attributable to employer contributions to such plans in such preceding taxable years."

(b) CONFORMING AMENDMENT.—Subparagraph (A) of section 4972(c)(6) of such Code (relating to nondeductible contributions) is amended to read as follows:

"(A) so much of the contributions to 1 or more defined contribution plans which are not deductible when contributed solely because of section 404(a)(7) as does not exceed the amount of contributions described in section 401(m)(4)(A), or".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to contributions for taxable years beginning after December 31, 2005.

TITLE II—FUNDING AND DEDUCTION RULES FOR MULTIEMPLOYER DEFINED BENEFIT PLANS AND RELATED PROVISIONS

Subtitle A—Funding Rules

PART I—AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974

SEC. 201. FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PLANS.

(a) IN GENERAL.—Part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by this Act) is amended by inserting after section 303 the following new section:

"MINIMUM FUNDING STANDARDS FOR MULTIEMPLOYER PLANS

"SEC. 304. (a) IN GENERAL.—For purposes of section 302, the accumulated funding deficiency of a multiemployer plan for any plan year is—

"(1) except as provided in paragraph (2), the amount, determined as of the end of the plan year, equal to the excess (if any) of the total charges to the funding standard account of the plan for all plan years (beginning with the first plan year for which this part applies to the plan) over the total credits to such account for such years, and

``(2) if the multiemployer plan is in reorganization for any plan year, the accumulated funding deficiency of the plan determined under section 4243.

``(b) Funding Standard Account.—

``(1) Account required.—Each multiemployer plan to which this part applies shall establish and maintain a funding standard account. Such account shall be credited and charged solely as provided in this section.

``(2) Charges to account.—For a plan year, the funding standard account shall be charged with the sum of—

``(A) the normal cost of the plan for the plan year,

``(B) the amounts necessary to amortize in equal annual installments (until fully amortized)—

``(i) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

``(ii) separately, with respect to each plan year, the net experience loss (if any) under the plan, over a period of 15 plan years, and

``(iii) separately, with respect to each plan year, the net loss (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

``(C) the amount necessary to amortize each waived funding deficiency (within the meaning of section 302(c)(3)) for each prior plan year in equal annual installments (until fully amortized) over a period of 15 plan years,

``(D) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 5 plan years any amount credited to the funding standard account under section 302(b)(3)(D) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005), and

``(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of section 302(c)(7)(A)(i)(I) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005).

``(3) Credits to account.—For a plan year, the funding standard account shall be credited with the sum of—

``(A) the amount considered contributed by the employer to or under the plan for the plan year,

``(B) the amount necessary to amortize in equal annual installments (until fully amortized)—

``(i) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

``(ii) separately, with respect to each plan year, the net experience gain (if any) under the plan, over a period of 15 plan years, and

``(iii) separately, with respect to each plan year, the net gain (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

``(C) the amount of the waived funding deficiency (within the meaning of section 302(c)(3)) for the plan year, and

``(D) in the case of a plan year for which the accumulated funding deficiency is determined under the funding standard account if such plan year follows a plan year for which such deficiency was determined under the alternative minimum funding standard under section 305 (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005), the excess (if any) of any debit balance in the funding standard account (determined without regard to this subparagraph) over any debit balance in the alternative minimum funding standard account.

``(4) Special rule for amounts first amortized to plan years before 2007.—In the case of any amount amortized under section 302(b) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005) over any period beginning with a plan year beginning before 2007, in lieu of the amortization described in paragraphs (2)(B) and (3)(B), such amount shall continue to be amortized under such section as so in effect.

``(5) Combining and offsetting amounts to be amortized.—Under regulations prescribed by the Secretary of the Treasury, amounts required to be amortized under paragraph (2) or paragraph (3), as the case may be—

``(A) may be combined into one amount under such paragraph to be amortized over a period determined on the basis of the remaining amortization period for all items entering into such combined amount, and

``(B) may be offset against amounts required to be amortized under the other such paragraph, with the resulting amount to be amortized over a period determined on the basis of the remaining amortization periods for all items entering into whichever of the two amounts being offset is the greater.

``(6) Interest.—The funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary of the Treasury) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs.

``(7) Special rules relating to charges and credits to funding standard account.—For purposes of this part—

``(A) Withdrawal liability.—Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV shall be considered an amount contributed by the employer to or under the plan. The Secretary of the Treasury may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

``(B) Adjustments when a multiemployer plan leaves reorganization.—If a multiemployer plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

``(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

``(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 4243(a) as of the end of the last plan year that the plan was in reorganization.

``(C) Plan payments to supplemental program or withdrawal liability payment fund.—Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 of this Act or to a fund exempt under section 501(c)(22) of the Internal Revenue Code of 1986 pursuant to section 4223 of this Act shall reduce the amount of contributions considered received by the plan for the plan year.

``(D) Interim withdrawal liability payments.—Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary of the Treasury.

``(E) Election for deferral of charge for portion of net experience loss.—If an election is in effect under section 302(b)(7)(F) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005) for any plan year, the funding standard account shall be charged in the plan year to which the portion of the net experience loss deferred by such election was deferred with the amount so deferred (and paragraph (2)(B)(ii) shall not apply to the amount so charged).

``(F) Financial assistance.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section and section 412 of the Internal Revenue Code of 1986 in such manner as is determined by the Secretary of the Treasury.

``(G) Short-term benefits.—To the extent that any plan amendment increases the unfunded past service liability under the plan by reason of an increase in benefits which are payable under the terms of the plan for a period that does not exceed 14 years from the effective date of the amendment, paragraph (2)(B)(i) shall be applied separately with respect to such increase in unfunded past service liability by substituting the number of years of the period during which such benefits are payable for '15'.

``(c) Additional Rules.—

``(1) Determinations to be made under funding method.—For purposes of this part, normal costs, accrued liability, past service liabilities, and experience gains and losses shall be determined under the funding method used to determine costs under the plan.

``(2) Valuation of assets.—

``(A) In general.—For purposes of this part, the value of the plan's assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account fair market value and which is permitted under regulations prescribed by the Secretary of the Treasury.

``(B) Election with respect to bonds.—The value of a bond or other evidence of indebtedness which is not in default as to principal or interest may, at the election of the plan administrator, be determined on an amortized basis running from initial cost at purchase to par value at maturity or earliest call date. Any election under this subparagraph shall be made at such time and in such manner as the Secretary of the Treasury shall by regulations provide, shall apply to all such evidences of indebtedness, and may be revoked only with the consent of such Secretary.

``(3) Actuarial assumptions must be reasonable.—For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

"(A) each of which is reasonable (taking into account the experience of the plan and reasonable expectations), and

"(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan.

"(4) TREATMENT OF CERTAIN CHANGES AS EXPERIENCE GAIN OR LOSS.—For purposes of this section, if—

"(A) a change in benefits under the Social Security Act or in other retirement benefits created under Federal or State law, or

"(B) a change in the definition of the term 'wages' under section 3121 of the Internal Revenue Code of 1986, or a change in the amount of such wages taken into account under regulations prescribed for purposes of section 401(a)(5) of such Code,

results in an increase or decrease in accrued liability under a plan, such increase or decrease shall be treated as an experience loss or gain.

"(5) FULL FUNDING.—If, as of the close of a plan year, a plan would (without regard to this paragraph) have an accumulated funding deficiency in excess of the full funding limitation—

"(A) the funding standard account shall be credited with the amount of such excess, and

"(B) all amounts described in subparagraphs (B), (C), and (D) of subsection (b) (2) and subparagraph (B) of subsection (b)(3) which are required to be amortized shall be considered fully amortized for purposes of such subparagraphs.

"(6) FULL-FUNDING LIMITATION.—

"(A) IN GENERAL.—For purposes of paragraph (5), the term 'full-funding limitation' means the excess (if any) of—

"(i) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

"(ii) the lesser of—

"(I) the fair market value of the plan's assets, or

"(II) the value of such assets determined under paragraph (2).

"(B) MINIMUM AMOUNT.—

"(i) IN GENERAL.—In no event shall the full-funding limitation determined under subparagraph (A) be less than the excess (if any) of—

"(I) 90 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), over

"(II) the value of the plan's assets determined under paragraph (2).

"(ii) ASSETS.—For purposes of clause (i), assets shall not be reduced by any credit balance in the funding standard account.

"(C) FULL FUNDING LIMITATION.—For purposes of this paragraph, unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3) of the Internal Revenue Code of 1986).

"(D) CURRENT LIABILITY.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

"(ii) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—For purposes of clause (i), any benefit contingent on an event other than—

"(I) age, service, compensation, death, or disability, or

"(II) an event which is reasonably and reliably predictable (as determined by the Secretary of the Treasury),

shall not be taken into account until the event on which the benefit is contingent occurs.

"(iii) INTEREST RATE USED.—The rate of interest used to determine current liability under this paragraph shall be the rate of interest determined under subparagraph (E).

"(iv) MORTALITY TABLES.—

"(I) COMMISSIONERS' STANDARD TABLE.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this paragraph shall be the table prescribed by the Secretary of the Treasury which is based on the prevailing commissioners' standard table (described in section 807(d)(5)(A) of the Internal Revenue Code of 1986) used to determine reserves for group annuity contracts issued on January 1, 1993.

"(II) SECRETARIAL AUTHORITY.—The Secretary of the Treasury may by regulation prescribe for plan years beginning after December 31, 1999, mortality tables to be used in determining current liability under this subsection. Such tables shall be based upon the actual experience of pension plans and projected trends in such experience. In prescribing such tables, such Secretary shall take into account results of available independent studies of mortality of individuals covered by pension plans.

"(v) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding clause (iv)—

"(I) IN GENERAL.—The Secretary of the Treasury shall establish mortality tables which may be used (in lieu of the tables under clause (iv)) to determine current liability under this subsection for individuals who are entitled to benefits under the plan on account of disability. Such Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

"(II) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under subclause (I) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

"(vi) PERIODIC REVIEW.—The Secretary of the Treasury shall periodically (at least every 5 years) review any tables in effect under this subparagraph and shall, to the extent such Secretary determines necessary, by regulation update the tables to reflect the actual experience of pension plans and projected trends in such experience.

"(E) REQUIRED CHANGE OF INTEREST RATE.—For purposes of determining a plan's current liability for purposes of this paragraph—

"(i) IN GENERAL.—If any rate of interest used under the plan under subsection (b)(6) to determine cost is not within the permissible range, the plan shall establish a new rate of interest within the permissible range.

"(ii) PERMISSIBLE RANGE.—For purposes of this subparagraph—

"(I) IN GENERAL.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 5 percent above, and not more than 10 percent below, the weighted average of the rates of interest on 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the plan year.

"(II) SECRETARIAL AUTHORITY.—If the Secretary of the Treasury finds that the lowest rate of interest permissible under subclause (I) is unreasonably high, such Secretary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the average rate determined under such subclause.

"(iii) ASSUMPTIONS.—Notwithstanding paragraph (3)(A), the interest rate used under the plan shall be—

"(I) determined without taking into account the experience of the plan and reasonable expectations, but

"(II) consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.

"(7) ANNUAL VALUATION.—

"(A) IN GENERAL.—For purposes of this section, a determination of experience gains and losses and a valuation of the plan's liability shall be made not less frequently than once every year, except that such determination shall be made more frequently to the extent required in particular cases under regulations prescribed by the Secretary of the Treasury.

"(B) VALUATION DATE.—

"(i) CURRENT YEAR.—Except as provided in clause (ii), the valuation referred to in subparagraph (A) shall be made as of a date within the plan year to which the valuation refers or within one month prior to the beginning of such year.

"(ii) USE OF PRIOR YEAR VALUATION.—The valuation referred to in subparagraph (A) may be made as of a date within the plan year prior to the year to which the valuation refers if, as of such date, the value of the assets of the plan are not less than 100 percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

"(iii) ADJUSTMENTS.—Information under clause (ii) shall, in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.

"(iv) LIMITATION.—A change in funding method to use a prior year valuation, as provided in clause (ii), may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

"(8) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary of the Treasury.

"(d) EXTENSION OF AMORTIZATION PERIODS FOR MULTIEMPLOYER PLANS.—

"(1) AUTOMATIC EXTENSION UPON APPLICATION BY CERTAIN PLANS.—

"(A) IN GENERAL.—If the plan sponsor of a multiemployer plan—

"(i) submits to the Secretary of the Treasury an application for an extension of the period of years required to amortize any unfunded liability described in any clause of subsection (b)(2)(B) or described in subsection (b)(4), and

"(ii) includes with the application a certification by the plan's actuary described in subparagraph (B), the Secretary of the Treasury shall extend the amortization period for the period of time (not in excess of 5 years) specified in the application. Such extension shall be in addition to any extension under paragraph (2).

"(B) Criteria.—A certification with respect to a multiemployer plan is described in this subparagraph if the plan's actuary certifies that, based on reasonable assumptions—

"(i) absent the extension under subparagraph (A), the plan would have an accumulated funding deficiency in the current plan year or any of the 9 succeeding plan years,

"(ii) the plan sponsor has adopted a plan to improve the plan's funding status,

"(iii) the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period as extended, and

"(iv) the notice required under paragraph (3)(A) has been provided.

"(2) Additional extension.—

"(A) In general.—If the plan sponsor of a multiemployer plan submits to the Secretary of the Treasury an application for an extension of the period of years required to amortize any unfunded liability described in any clause of subsection (b)(2)(B) or described in subsection (b)(4), the Secretary of the Treasury may extend the amortization period for a period of time (not in excess of 5 years) if the Secretary of the Treasury makes the determination described in subparagraph (B). Such extension shall be in addition to any extension under paragraph (1).

"(B) Determination.—The Secretary make grant an extension under subparagraph (A) if the Secretary determines that—

"(i) such extension would carry out the purposes of this Act and would provide adequate protection for participants under the plan and their beneficiaries, and

"(ii) the failure to permit such extension would—

"(I) result in a substantial risk to the voluntary continuation of the plan, or a substantial curtailment of pension benefit levels or employee compensation, and

"(II) be adverse to the interests of plan participants in the aggregate.

"(C) Action by secretary.—The Secretary of the Treasury shall act upon any application for an extension under this paragraph within 180 days of the submission of such application. If the Secretary rejects the application for an extension under this paragraph, the Secretary shall provide notice to the plan detailing the specific reasons for the rejection, including references to the criteria set forth above.

"(3) Advance notice.—

"(A) In general.—The Secretary of the Treasury shall, before granting an extension under this subsection, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such extension to each affected party (as defined in section 4001(a)(21)) with respect to the affected plan. Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV and for benefit liabilities.

"(B) Consideration of relevant information.—The Secretary of the Treasury shall consider any relevant information provided by a person to whom notice was given under paragraph (1).".

(b) Shortfall Funding Method.—

(1) In general.—A multiemployer plan meeting the criteria of paragraph (2) may adopt, use, or cease using, the shortfall funding method and such adoption, use, or cessation of use of such method, shall be deemed approved by the Secretary of the Treasury under section 302(d)(1) of the Employee Retirement Income Security Act of 1974 and section 412(e)(1) of the Internal Revenue Code of 1986.

(2) Criteria.—A multiemployer pension plan meets the criteria of this clause if—

(A) the plan has not used the shortfall funding method during the 5-year period ending on the day before the date the plan is to use the method under paragraph (1); and

(B) the plan is not operating under an amortization period extension under section 304(d) of such Act and did not operate under such an extension during such 5-year period.

(3) Shortfall funding method defined.—For purposes of this subsection, the term "shortfall funding method" means the shortfall funding method described in Treasury Regulations section 1.412(c)(1)-2 (26 C.F.R. 1.412(c)(1)–2).

(4) Benefit restrictions to apply.—The benefit restrictions under section 302(c)(7) of such Act and section 412(d)(7) of such Code shall apply during any period a multiemployer plan is on the shortfall funding method pursuant to this subsection.

(5) Use of shortfall method not to preclude other options.—Nothing in this subsection shall be construed to affect a multiemployer plan's ability to adopt the shortfall funding method with the Secretary's permission under otherwise applicable regulations or to affect a multiemployer plan's right to change funding methods, with or without the Secretary's consent, as provided in applicable rules and regulations.

(c) Conforming Amendments.—

(1) Section 301 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1081) is amended by striking subsection (d).

(2) The table of contents in section 1 of such Act (as amended by this Act) is amended by inserting after the item relating to section 303 the following new item:

"Sec. 304. Minimum funding standards for multiemployer plans.".

(d) Effective Date.—

(1) In general.—The amendments made by this section shall apply to plan years beginning after 2006.

(2) Special rule for certain amortization extensions.—If the Secretary of the Treasury grants an extension under section 304 of the Employee Retirement Income Security Act of 1974 and section 412(e) of the Internal Revenue Code of 1986 with respect to any application filed with the Secretary of the Treasury on or before June 30, 2005, the extension (and any modification thereof) shall be applied and administered under the rules of such sections as in effect before the enactment of this Act, including the use of the rate of interest determined under section 6621(b) of such Code.

SEC. 202. ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.

(a) In General.—Part 3 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 (as amended by the preceding provisions of this Act) is amended by inserting after section 304 the following new section:

"ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS OR CRITICAL STATUS

"Sec. 305. (a) General Rule.—For purposes of this part, in the case of a multiemployer plan—

"(1) if the plan is in endangered status—

"(A) the plan sponsor shall adopt and implement a funding improvement plan in accordance with the requirements of subsection (c), and

"(B) the requirements of subsection (d) shall apply during the funding plan adoption period and the funding improvement period, and

"(2) if the plan is in critical status—

"(A) the plan sponsor shall adopt and implement a rehabilitation plan in accordance with the requirements of subsection (e), and

"(B) the requirements of subsection (f) shall apply during the rehabilitation plan adoption period and the rehabilitation period.

"(b) Determination of Endangered and Critical Status.—For purposes of this section—

"(1) Endangered status.—A multiemployer plan is in endangered status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is not in critical status for the plan year and either—

"(A) the plan's funded percentage for such plan year is less than 80 percent, or

"(B) the plan has an accumulated funding deficiency for such plan year, or is projected to have such an accumulated funding deficiency for any of the 6 succeeding plan years, taking into account any extension of amortization periods under section 304(d).

For purposes of this section, a plan described in subparagraph (B) shall be treated as in seriously endangered status.

"(2) Critical status.—A multiemployer plan is in critical status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is described in 1 or more of the following subparagraphs as of the beginning of the plan year:

"(A) A plan is described in this subparagraph if—

"(i) the funded percentage of the plan is less than 65 percent, and

"(ii) the sum of—

"(I) the market value of plan assets, plus

"(II) the present value of the reasonably anticipated employer contributions for the current plan year and each of the 5 succeeding plan years, assuming that the terms of all collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years,

is less than the present value of all benefits projected to be payable under the plan during the current plan year and each of the 5 succeeding plan years (plus administrative expenses for such plan years).

"(B) A plan is described in this subparagraph if—

"(i) the plan has an accumulated funding deficiency for the current plan year, not taking into account any extension of amortization periods under section 304(d), or

"(ii) the plan is projected to have an accumulated funding deficiency for any of the 3 succeeding plan years (4 succeeding plan years if the funded percentage of the plan is 65 percent or less), not taking into account any extension of amortization periods under section 304(d).

"(C) A plan is described in this subparagraph if—

"(i)(I) the plan's normal cost for the current plan year, plus interest (determined at the rate used for determining costs under the plan) for the current plan year on the amount of unfunded benefit liabilities under the plan as of the last date of the preceding plan year, exceeds

"(II) the present value of the reasonably anticipated employer contributions for the current plan year,

"(ii) the present value of nonforfeitable benefits of inactive participants is greater than the present value of nonforfeitable benefits of active participants, and

"(iii) the plan has an accumulated funding deficiency for the current plan year, or is projected to have such a deficiency for any of the 4 succeeding plan years, not taking into account any extension of amortization periods under section 304(d).

"(D) A plan is described in this subparagraph if the sum of—

"(i) the market value of plan assets, plus

"(ii) the present value of the reasonably anticipated employer contributions for the current plan year and each of the 4 succeeding plan years, assuming that the terms of all collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years,

is less than the present value of all benefits projected to be payable under the plan during the current plan year and each of the 4 succeeding plan years (plus administrative expenses for such plan years).

"(3) ANNUAL CERTIFICATION BY PLAN ACTUARY.—

"(A) IN GENERAL.—During the 90-day period beginning on the first day of each plan year of a multiemployer plan, the plan actuary shall certify to the Secretary of the Treasury—

"(i) whether or not the plan is in endangered status for such plan year and whether or not the plan is in critical status for such plan year, and

"(ii) in the case of a plan which is in a funding improvement or rehabilitation period, whether or not the plan is making the scheduled progress in meeting the requirements of its funding improvement or rehabilitation plan.

"(B) ACTUARIAL PROJECTIONS OF ASSETS AND LIABILITIES.—

"(i) IN GENERAL.—In making the determinations and projections under this subsection, the plan actuary shall make projections required for the current and succeeding plan years, using reasonable actuarial estimates, assumptions, and methods, of the current value of the assets of the plan and the present value of all liabilities to participants and beneficiaries under the plan for the current plan year as of the beginning of such year. The projected present value of liabilities as of the beginning of such year shall be determined based on the actuarial statement required under section 103(d) with respect to the most recently filed annual report or the actuarial valuation for the preceding plan year.

"(ii) DETERMINATIONS OF FUTURE CONTRIBUTIONS.—Any actuarial projection of plan assets shall assume—

"(I) reasonably anticipated employer contributions for the current and succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years, or

"(II) that employer contributions for the most recent plan year will continue indefinitely, but only if the plan actuary determines there have been no significant demographic changes that would make such assumption unreasonable.

"(C) PENALTY FOR FAILURE TO SECURE TIMELY ACTUARIAL CERTIFICATION.—Any failure of the plan's actuary to certify the plan's status under this subsection by the date specified in subparagraph (A) shall be treated for purposes of section 502(c)(2) as a failure or refusal by the plan administrator to file the annual report required to be filed with the Secretary under section 101(b)(4).

"(D) NOTICE.—In any case in which a multiemployer plan is certified to be in endangered or critical status under subparagraph (A), the plan sponsor shall, not later than 30 days after the date of the certification, provide notification of the endangered or critical status to the participants and beneficiaries, the bargaining parties, the Pension Benefit Guaranty Corporation, the Secretary of the Treasury, and the Secretary.

"(c) FUNDING IMPROVEMENT PLAN MUST BE ADOPTED FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS.—

"(1) IN GENERAL.—In any case in which a multiemployer plan is in endangered status for a plan year, the plan sponsor, in accordance with this subsection—

"(A) shall adopt a funding improvement plan not later than 240 days following the required date for the actuarial certification of endangered status under subsection (b)(3)(A), and

"(B) within 30 days after the adoption of the funding improvement plan—

"(i) in the case of a plan in seriously endangered status, shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to meet the applicable requirements under paragraph (3) in accordance with the funding improvement plan, including a description of the reductions in future benefit accruals and increases in contributions that the plan sponsor determines are reasonably necessary to meet the applicable requirements if the plan sponsor assumes that there are no increases in contributions under the plan other than the increases necessary to meet the applicable requirements after future benefit accruals have been reduced to the maximum extent permitted by law, and

"(ii) may, if the plan sponsor deems appropriate, prepare and provide the bargaining parties with additional information relating to contribution rates or benefit reductions, alternative schedules, or other information relevant to achieving the requirements under paragraph (3) in accordance with the funding improvement plan.

"(2) EXCEPTION FOR YEARS AFTER PROCESS BEGINS.—Paragraph (1) shall not apply to a plan year if such year is in a funding plan adoption period or funding improvement period by reason of the plan being in endangered status for a preceding plan year. For purposes of this section, such preceding plan year shall be the initial determination year with respect to the funding improvement plan to which it relates.

"(3) FUNDING IMPROVEMENT PLAN.—For purposes of this section—

"(A) IN GENERAL.—A funding improvement plan is a plan which consists of the actions, including options or a range of options to be proposed to the bargaining parties, which, under reasonable actuarial assumptions, will result in the plan meeting the requirements of this paragraph.

"(B) PLANS OTHER THAN SERIOUSLY ENDANGERED PLANS.—In the case of plan not in seriously endangered status, the requirements of this paragraph are met if the plan's funded percentage as of the close of the funding improvement period exceeds the lesser of 80 percent or a percentage equal to the sum of—

"(i) such percentage as of the beginning of such period, plus

"(ii) 10 percent of the percentage under clause (i).

"(C) SERIOUSLY ENDANGERED PLANS.—In the case of a plan in seriously endangered status, the requirements of this paragraph are met if—

"(i) the plan's funded percentage as of the close of the funding improvement period equals or exceeds the percentage which is equal to the sum of—

"(I) such percentage as of the beginning of such period, plus

"(II) 33 percent of the difference between 100 percent and the percentage under subclause (I), and

"(ii) there is no accumulated funding deficiency for any plan year during the funding improvement period (taking into account any extension of amortization periods under section 304(d)).

"(4) FUNDING IMPROVEMENT PERIOD.—For purposes of this section—

"(A) IN GENERAL.—The funding improvement period for any funding improvement plan adopted pursuant to this subsection is the 10-year period beginning on the first day of the first plan year of the multiemployer plan beginning after the earlier of—

"(i) the second anniversary of the date of the adoption of the funding improvement plan, or

"(ii) the expiration of the collective bargaining agreements in effect on the due date for the actuarial certification of endangered status for the initial determination year under subsection (b)(3)(A) and covering, as of such due date, at least 75 percent of the active participants in such multiemployer plan.

"(B) COORDINATION WITH CHANGES IN STATUS.—

"(i) PLANS NO LONGER IN ENDANGERED STATUS.—If the plan's actuary certifies under subsection (b)(3)(A) for a plan year in any funding plan adoption period or funding improvement period that the plan is no longer in endangered status and is not in critical status, the funding plan adoption period or funding improvement period, whichever is applicable, shall end as of the close of the preceding plan year.

"(ii) PLANS IN CRITICAL STATUS.—If the plan's actuary certifies under subsection (b)(3)(A) for a plan year in any funding plan adoption period or funding improvement period that the plan is in critical status, the funding plan adoption period or funding improvement period, whichever is applicable, shall end as of the close of the plan year preceding the first plan year in the rehabilitation period with respect to such status.

"(C) PLANS IN ENDANGERED STATUS AT END OF PERIOD.—If the plan's actuary certifies under subsection (b)(3)(A) for the first plan year following the close of the period described in subparagraph (A) that the plan is in endangered status, the provisions of this subsection and subsection (d) shall be applied as if such first plan year were an initial determination year, except that the plan may not be amended in a manner inconsistent with the funding improvement plan in effect for the preceding plan year until a new funding improvement plan is adopted.

"(5) SPECIAL RULES FOR CERTAIN UNDERFUNDED PLANS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if the funded percentage of a plan in seriously endangered status was 70 percent or less as of the beginning of the initial determination year, the following rules shall apply in determining whether the requirements of paragraph (3)(C)(i) are met:

"(i) The plan's funded percentage as of the close of the funding improvement period must equal or exceed a percentage which is equal to the sum of—

"(I) such percentage as of the beginning of such period, plus

"(II) 20 percent of the difference between 100 percent and the percentage under subclause (I).

"(ii) The funding improvement period under paragraph (4)(A) shall be 15 years rather than 10 years.

"(B) SPECIAL RULES FOR PLANS WITH FUNDED PERCENTAGE OVER 70 PERCENT.—If the funded percentage described in subparagraph (A) was more than 70 percent but less than 80 percent as of the beginning of the initial determination year—

"(i) subparagraph (A) shall apply if the plan's actuary certifies, within 30 days after the certification under subsection (b)(3)(A) for the initial determination year, that, based on the terms of the plan and the collective bargaining agreements in effect at the time of such certification, the plan is not projected to meet the requirements of paragraph (3)(C)(i) without regard to this paragraph, and

"(ii) if there is a certification under clause (i), the plan may, in formulating its funding improvement plan, only take into account the rules of subparagraph (A) for plan years in the funding improvement period beginning on or before the date on which the last of the collective bargaining agreements described in paragraph (4)(A)(ii) expires.

Notwithstanding clause (ii), if for any plan year ending after the date described in clause (ii) the plan actuary certifies (at the time of the annual certification under subsection (b)(3)(A) for such plan year) that, based on the terms of the plan and collective bargaining agreements in effect at the time of that annual certification, the plan is not projected to be able to meet the requirements of paragraph (3)(C)(i) without regard to this paragraph, the plan may continue to assume for such year that the funding improvement period is 15 years rather than 10 years.

"(6) UPDATES TO FUNDING IMPROVEMENT PLAN AND SCHEDULES.—

"(A) FUNDING IMPROVEMENT PLAN.—The plan sponsor shall annually update the funding improvement plan and shall file the update with the plan's annual report under section 104.

"(B) SCHEDULES.—The plan sponsor may periodically update any schedule of contribution rates provided under this subsection to reflect the experience of the plan, except that the schedule or schedules described in paragraph (1)(B)(i) shall be updated at least once every 3 years.

"(C) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

"(7) PENALTY IF NO FUNDING IMPROVEMENT PLAN ADOPTED.—A failure of the plan sponsor to adopt a funding improvement plan by the date specified in paragraph (1)(A) shall be treated for purposes of section 502(c)(2) as a failure or refusal by the plan administrator to file the annual report required to be filed with the Secretary under section 101(b)(4).

"(8) FUNDING PLAN ADOPTION PERIOD.—For purposes of this section, the term 'funding plan adoption period' means the period beginning on the date of the certification under subsection (b)(3)(A) for the initial determination year and ending on the day before the first day of the funding improvement period.

"(d) RULES FOR OPERATION OF PLAN DURING ADOPTION AND IMPROVEMENT PERIODS; FAILURE TO MEET REQUIREMENTS.—

"(1) SPECIAL RULES FOR PLAN ADOPTION PERIOD.—During the plan adoption period—

"(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

"(i) a reduction in the level of contributions for any participants,

"(ii) a suspension of contributions with respect to any period of service, or

"(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation,

"(B) no amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law, and

"(C) in the case of a plan in seriously endangered status, the plan sponsor shall take all reasonable actions which are consistent with the terms of the plan and applicable law and which are expected, based on reasonable assumptions, to achieve—

"(i) an increase in the plan's funded percentage, and

"(ii) postponement of an accumulated funding deficiency for at least 1 additional plan year.

Actions under subparagraph (C) include applications for extensions of amortization periods under section 304(d), use of the shortfall funding method in making funding standard account computations, amendments to the plan's benefit structure, reductions in future benefit accruals, and other reasonable actions consistent with the terms of the plan and applicable law.

"(2) COMPLIANCE WITH FUNDING IMPROVEMENT PLAN.—

"(A) IN GENERAL.—A plan may not be amended after the date of the adoption of a funding improvement plan under subsection (c) so as to be inconsistent with the funding improvement plan.

"(B) NO REDUCTION IN CONTRIBUTIONS.—A plan sponsor may not during any funding improvement period accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

"(i) a reduction in the level of contributions for any participants,

"(ii) a suspension of contributions with respect to any period of service, or

"(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation.

"(C) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of a funding improvement plan under subsection (c) so as to increase benefits, including future benefit accruals, unless—

"(i) in the case of a plan in seriously endangered status, the plan actuary certifies that, after taking into account the benefit increase, the plan is still reasonably expected to meet the requirements under subsection (c)(3) in accordance with the schedule contemplated in the funding improvement plan, and

"(ii) in the case of a plan not in seriously endangered status, the actuary certifies that such increase is paid for out of contributions not required by the funding improvement plan to meet the requirements under subsection (c)(3) in accordance with the schedule contemplated in the funding improvement plan.

"(3) FAILURE TO MEET REQUIREMENTS.—

"(A) IN GENERAL.—Notwithstanding section 4971(g) of the Internal Revenue Code of 1986, if a plan fails to meet the requirements of subsection (c)(3) by the end of the funding improvement period, the plan shall be treated as having an accumulated funding deficiency for purposes of section 4971 of such Code for the last plan year in such period (and each succeeding plan year until such requirements are met) in an amount equal to the greater of the amount of the contributions necessary to meet such requirements or the amount of such accumulated funding deficiency without regard to this paragraph.

"(B) WAIVER.—In the case of a failure described in subparagraph (A) which is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive part or all of the tax imposed by section 4971 of such Code to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

"(e) REHABILITATION PLAN MUST BE ADOPTED FOR MULTIEMPLOYER PLANS IN CRITICAL STATUS.—

"(1) IN GENERAL.—In any case in which a multiemployer plan is in critical status for a plan year, the plan sponsor, in accordance with this subsection—

"(A) shall adopt a rehabilitation plan not later than 240 days following the required date for the actuarial certification of critical status under subsection (b)(3)(A), and

"(B) within 30 days after the adoption of the rehabilitation plan—

"(i) shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to emerge from critical status in accordance with the rehabilitation plan, and

"(ii) may, if the plan sponsor deems appropriate, prepare and provide the bargaining parties with additional information relating to contribution rates or benefit reductions, alternative schedules, or other information relevant to emerging from critical status in accordance with the rehabilitation plan.

The schedule or schedules described in subparagraph (B)(i) shall reflect reductions in future benefit accruals and increases in contributions that the plan sponsor determines are reasonably necessary to emerge from critical status. One schedule shall be designated as the default schedule and such schedule shall assume that there are no increases in contributions under the plan other than the increases necessary to emerge from critical status after future benefit accruals and other benefits (other than benefits the reduction or elimination of which are not permitted under section 204(g)) have been reduced to the maximum extent permitted by law.

"(2) EXCEPTION FOR YEARS AFTER PROCESS BEGINS.—Paragraph (1) shall not apply to a plan year if such year is in a rehabilitation plan adoption period or rehabilitation period by reason of the plan being in critical status for a preceding plan year. For purposes of this section, such preceding plan year shall be the initial critical year with respect to the rehabilitation plan to which it relates.

“(3) REHABILITATION PLAN.—For purposes of this section—

“(A) IN GENERAL.—A rehabilitation plan is a plan which consists of—

“(i) actions which will enable, under reasonable actuarial assumptions, the plan to cease to be in critical status by the end of the rehabilitation period and may include reductions in plan expenditures (including plan mergers and consolidations), reductions in future benefit accruals or increases in contributions, if agreed to by the bargaining parties, or any combination of such actions, or

“(ii) if the plan sponsor determines that, based on reasonable actuarial assumptions and upon exhaustion of all reasonable measures, the plan can not reasonably be expected to emerge from critical status by the end of the rehabilitation period, reasonable measures to emerge from critical status at a later time or to forestall possible insolvency (within the meaning of section 4245).

Such plan shall include the schedules required to be provided under paragraph (1)(B)(i). If clause (ii) applies, such plan shall set forth the alternatives considered, explain why the plan is not reasonably expected to emerge from critical status by the end of the rehabilitation period, and specify when, if ever, the plan is expected to emerge from critical status in accordance with the rehabilitation plan.

“(B) UPDATES TO REHABILITATION PLAN AND SCHEDULES.—

“(i) REHABILITATION PLAN.—The plan sponsor shall annually update the rehabilitation plan and shall file the update with the plan's annual report under section 104.

“(ii) SCHEDULES.—The plan sponsor may periodically update any schedule of contribution rates provided under this subsection to reflect the experience of the plan, except that the schedule or schedules described in paragraph (1)(B)(i) shall be updated at least once every 3 years.

“(iii) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

“(C) DEFAULT SCHEDULE.—If the collective bargaining agreement providing for contributions under a multiemployer plan that was in effect at the time the plan entered critical status expires and, after receiving a schedule from the plan sponsor under paragraph (1)(B)(i), the bargaining parties have not adopted a collective bargaining agreement with terms consistent with such a schedule, the default schedule described in the last sentence of paragraph (1) shall go into effect with respect to those bargaining parties.

“(4) REHABILITATION PERIOD.—For purposes of this section—

“(A) IN GENERAL.—The rehabilitation period for a plan in critical status is the 10-year period beginning on the first day of the first plan year of the multiemployer plan following the earlier of—

“(i) the second anniversary of the date of the adoption of the rehabilitation plan, or

“(ii) the expiration of the collective bargaining agreements in effect on the date of the due date for the actuarial certification of critical status for the initial critical year under subsection (a)(1) and covering, as of such date at least 75 percent of the active participants in such multiemployer plan.

If a plan emerges from critical status as provided under subparagraph (B) before the end of such 10-year period, the rehabilitation period shall end with the plan year preceding the plan year for which the determination under subparagraph (B) is made.

“(B) EMERGENCE.—A plan in critical status shall remain in such status until a plan year for which the plan actuary certifies, in accordance with subsection (b)(3)(A), that the plan is not projected to have an accumulated funding deficiency for the plan year or any of the 9 succeeding plan years, without regard to use of the shortfall method or any extension of amortization periods under section 304(d).

“(5) PENALTY IF NO REHABILITATION PLAN ADOPTED.—A failure of a plan sponsor to adopt a rehabilitation plan by the date specified in paragraph (1)(A) shall be treated for purposes of section 502(c)(2) as a failure or refusal by the plan administrator to file the annual report required to be filed with the Secretary under section 101(b)(4).

“(6) REHABILITATION PLAN ADOPTION PERIOD.—For purposes of this section, the term ‘rehabilitation plan adoption period’ means the period beginning on the date of the certification under subsection (b)(3)(A) for the initial critical year and ending on the day before the first day of the rehabilitation period.

“(7) LIMITATION ON REDUCTION IN RATES OF FUTURE ACCRUALS.—Any reduction in the rate of future accruals under any schedule described in paragraph (1)(B)(i) shall not reduce the rate of future accruals below—

“(A) a monthly benefit (payable as a single life annuity commencing at the participant's normal retirement age) equal to 1 percent of the contributions required to be made with respect to a participant, or the equivalent standard accrual rate for a participant or group of participants under the collective bargaining agreements in effect as of the first day of the initial critical year, or

“(B) if lower, the accrual rate under the plan on such first day.

The equivalent standard accrual rate shall be determined by the plan sponsor based on the standard or average contribution base units which the plan sponsor determines to be representative for active participants and such other factors as the plan sponsor determines to be relevant. Nothing in this paragraph shall be construed as limiting the ability of the plan sponsor to prepare and provide the bargaining parties with alternative schedules to the default schedule that established lower or higher accrual and contribution rates than the rates otherwise described in this paragraph.

“(8) EMPLOYER IMPACT.—For the purposes of this section, the plan sponsor shall consider the impact of the rehabilitation plan and contribution schedules authorized by this section on bargaining parties with fewer than 500 employees and shall implement the plan in a manner that encourages their continued participation in the plan and minimizes financial harm to employers and their workers.

“(f) RULES FOR OPERATION OF PLAN DURING ADOPTION AND REHABILITATION PERIOD.—

“(1) COMPLIANCE WITH REHABILITATION PLAN.—

“(A) IN GENERAL.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to be inconsistent with the rehabilitation plan.

“(B) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to increase benefits, including future benefit accruals, unless the plan actuary certifies that such increase is paid for out of additional contributions not contemplated by the rehabilitation plan, and, after taking into account the benefit increase, the multiemployer plan still is reasonably expected to emerge from critical status by the end of the rehabilitation period on the schedule contemplated in the rehabilitation plan.

“(2) RESTRICTION ON LUMP SUMS AND SIMILAR BENEFITS.—

“(A) IN GENERAL.—Effective on the date the notice of certification of the plan's critical status for the initial critical year under subsection (b)(3)(D) is sent, and notwithstanding section 204(g), the plan shall not pay—

“(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 204(b)(1)(G)),

“(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

“(iii) any other payment specified by the Secretary of the Treasury by regulations.

“(B) EXCEPTION.—Subparagraph (A) shall not apply to a benefit which under section 203(e) may be immediately distributed without the consent of the participant or to any makeup payment in the case of a retroactive annuity starting date or any similar payment of benefits owed with respect to a prior period.

“(3) ADJUSTMENTS DISREGARDED IN WITHDRAWAL LIABILITY DETERMINATION.—Any benefit reductions under this subsection shall be disregarded in determining a plan's unfunded vested benefits for purposes of determining an employer's withdrawal liability under section 4201.

“(4) SPECIAL RULES FOR PLAN ADOPTION PERIOD.—During the rehabilitation plan adoption period—

“(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

“(i) a reduction in the level of contributions for any participants,

“(ii) a suspension of contributions with respect to any period of service, or

“(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation, and

“(B) no amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 of the Internal Revenue Code of 1986 or to comply with other applicable law.

“(5) FAILURE TO MEET REQUIREMENTS.—

“(A) IN GENERAL.—Notwithstanding section 4971(g) of the Internal Revenue Code of 1986, if a plan—

“(i) fails to meet the requirements of subsection (e) by the end of the rehabilitation period, or

“(ii) has received a certification under subsection (b)(3)(A)(ii) for 3 consecutive plan years that the plan is not making the scheduled progress in meeting its requirements under the rehabilitation plan,

the plan shall be treated as having an accumulated funding deficiency for purposes of section 4971 of such Code for the last plan year in such period (and each succeeding plan year until such requirements are met) in an amount equal to the greater of the amount of the contributions necessary to meet such requirements or the amount of such accumulated funding deficiency without regard to this paragraph.

"(B) WAIVER.—In the case of a failure described in subparagraph (A) which is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive part or all of the tax imposed by section 4971 of such Code to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

"(g) EXPEDITED RESOLUTION OF PLAN SPONSOR DECISIONS.—If, within 60 days of the due date for adoption of a funding improvement plan under subsection (c) or a rehabilitation plan under subsection (e), the plan sponsor of a plan in endangered status or a plan in critical status has not agreed on a funding improvement plan or rehabilitation plan, then any member of the board or group that constitutes the plan sponsor may require that the plan sponsor enter into an expedited dispute resolution procedure for the development and adoption of a funding improvement plan or rehabilitation plan.

"(h) NONBARGAINED PARTICIPATION.—

"(1) BOTH BARGAINED AND NONBARGAINED EMPLOYEE-PARTICIPANTS.—In the case of an employer that contributes to a multiemployer plan with respect to both employees who are covered by one or more collective bargaining agreements and to employees who are not so covered, if the plan is in endangered status or in critical status, benefits of and contributions for the nonbargained employees, including surcharges on those contributions, shall be determined as if those nonbargained employees were covered under the first to expire of the employer's collective bargaining agreements in effect when the plan entered endangered or critical status.

"(2) NONBARGAINED EMPLOYEES ONLY.—In the case of an employer that contributes to a multiemployer plan only with respect to employees who are not covered by a collective bargaining agreement, this section shall be applied as if the employer were the bargaining parties, and its participation agreement with the plan was a collective bargaining agreement with a term ending on the first day of the plan year beginning after the employer is provided the schedule or schedules described in subsections (c) and (e).

"(3) EMPLOYEES COVERED BY A COLLECTIVE BARGAINING AGREEMENT.—The determination as to whether an employee covered by a collective bargaining agreement for purposes of this section shall be made without regard to the special rule in Treasury Regulation section 1.410(b)-6(d)(ii)(D).

"(i) DEFINITIONS; ACTUARIAL METHOD.—For purposes of this section—

"(1) BARGAINING PARTY.—The term 'bargaining party' means—

"(A)(i) except as provided in clause (ii), an employer who has an obligation to contribute under the plan; or

"(ii) in the case of a plan described under section 404(c) of the Internal Revenue Code of 1986, or a continuation of such a plan, the association of employers that is the employee settlor of the plan; and

"(B) an employee organization which, for purposes of collective bargaining, represents plan participants employed by an employer who has an obligation to contribute under the plan.

"(2) FUNDED PERCENTAGE.—The term 'funded percentage' means the percentage equal to a fraction—

"(A) the numerator of which is the value of the plan's assets, as determined under section 304(c)(2), and

"(B) the denominator of which is the accrued liability of the plan, determined using actuarial assumptions described in section 304(c)(3).

"(3) ACCUMULATED FUNDING DEFICIENCY.—The term 'accumulated funding deficiency' has the meaning given such term in section 304(a).

"(4) ACTIVE PARTICIPANT.—The term 'active participant' means, in connection with a multiemployer plan, a participant who is in covered service under the plan.

"(5) INACTIVE PARTICIPANT.—The term 'inactive participant' means, in connection with a multiemployer plan, a participant, or the beneficiary or alternate payee of a participant, who—

"(A) is not in covered service under the plan, and

"(B) is in pay status under the plan or has a nonforfeitable right to benefits under the plan.

"(6) PAY STATUS.—A person is in pay status under a multiemployer plan if—

"(A) at any time during the current plan year, such person is a participant or beneficiary under the plan and is paid an early, late, normal, or disability retirement benefit under the plan (or a death benefit under the plan related to a retirement benefit), or

"(B) to the extent provided in regulations of the Secretary of the Treasury, such person is entitled to such a benefit under the plan.

"(7) OBLIGATION TO CONTRIBUTE.—The term 'obligation to contribute' has the meaning given such term under section 4212(a).

"(8) ACTUARIAL METHOD.—Notwithstanding any other provision of this section, the actuary's determinations with respect to a plan's normal cost, actuarial accrued liability, and improvements in a plan's funded percentage under this section shall be based upon the unit credit funding method (whether or not that method is used for the plan's actuarial valuation).

"(9) PLAN SPONSOR.—In the case of a plan described under section 404(c) of the Internal Revenue Code of 1986, or a continuation of such a plan, the term 'plan sponsor' means the bargaining parties described under paragraph (1).".

(b) CAUSE OF ACTION TO COMPEL ADOPTION OF FUNDING IMPROVEMENT OR REHABILITATION PLAN.—Section 502(a) of the Employee Retirement Income Security Act of 1974 is amended by striking "or" at the end of paragraph (8), by striking the period at the end of paragraph (9) and inserting "; or" and by adding at the end the following:

"(10) in the case of a multiemployer plan that has been certified by the actuary to be in endangered or critical status under section 305, if the plan sponsor has not adopted a funding improvement or rehabilitation plan under subsection (c) or (e) of that section by the deadline established in that section, by an employer that has an obligation to contribute with respect to the multiemployer plan or an employee organization that represents active participants in the multiemployer plan, for an order compelling the plan sponsor to adopt a funding improvement or rehabilitation plan.".

(c) 4971 EXCISE TAX INAPPLICABLE.—Section 4971 of the Internal Revenue Code of 1986 is amended by redesignating subsection (g) as subsection (h), and inserting after subsection (f) the following:

"(g) MULTIEMPLOYER PLANS IN CRITICAL STATUS.—No tax shall be imposed under this section for a taxable year with respect to a multiemployer plan if, for the plan years ending with or within the taxable year, the plan is in critical status pursuant to section 305 of the Employee Retirement Income Security Act of 1974. This subsection shall only apply if the plan adopts a rehabilitation plan in accordance with section 305(e) of such Act and complies with such rehabilitation plan (and any modifications of the plan) and shall not apply if an excise tax is required to be imposed under this section by reason of a violation of such section 305.".

(d) NO ADDITIONAL CONTRIBUTIONS REQUIRED.—

(1) Section 302(b) of the Employee Retirement Income Security Act of 1974, as amended by this Act , is amended by adding at the end the following new paragraph:

"(3) MULTIEMPLOYER PLANS IN CRITICAL STATUS.—Subparagraph (A) shall not apply in the case of a multiemployer plan for any plan year in which the plan is in critical status pursuant to section 305. This paragraph shall only apply if the plan adopts a rehabilitation plan in accordance with section 305(e) and complies with such rehabilitation plan (and any modifications of the plan).".

(2) Section 412(c) of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new paragraph:

"(3) MULTIEMPLOYER PLANS IN CRITICAL STATUS.—Subparagraph (A) shall not apply in the case of a multiemployer plan for any plan year in which the plan is in critical status pursuant to section 305 of the Employee Retirement Income Security Act of 1974. This paragraph shall only apply if the plan adopts a rehabilitation plan in accordance with section 305(e) of such Act and complies with such rehabilitation plan (and any modifications of the plan).".

(e) CONFORMING AMENDMENT.—The table of contents in section 1 of such Act (as amended by the preceding provisions of this Act) is amended by inserting after the item relating to section 304 the following new item:

"Sec. 305. Additional funding rules for multiemployer plans in endangered status or critical status.".

(f) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply with respect to plan years beginning after 2006.

(2) SPECIAL RULE FOR CERTAIN RESTORED BENEFITS.—In the case of a multiemployer plan—

(A) with respect to which benefits were reduced pursuant to a plan amendment adopted on or after January 1, 2002, and before June 30, 2005, and

(B) which, pursuant to the plan document, the trust agreement, or a formal written communication from the plan sponsor to participants provided before June 30, 2005, provided for the restoration of such benefits,

the amendments made by this section shall not apply to such benefit restorations to the extent that any restriction on the providing or accrual of such benefits would otherwise apply by reason of such amendments.

SEC. 203. MEASURES TO FORESTALL INSOLVENCY OF MULTIEMPLOYER PLANS.

(a) ADVANCE DETERMINATION OF IMPENDING INSOLVENCY OVER 5 YEARS.—Section 4245(d)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1426(d)(1)) is amended—

(1) by striking "3 plan years" the second place it appears and inserting "5 plan years"; and

(2) by adding at the end the following new sentence: "If the plan sponsor makes such a determination that the plan will be insolvent in any of the next 5 plan years, the plan sponsor shall make the comparison under this paragraph at least annually until the

plan sponsor makes a determination that the plan will not be insolvent in any of the next 5 plan years.".

(b) Effective Date.—The amendments made by this section shall apply with respect to determinations made in plan years beginning after 2006.

SEC. 204. SPECIAL RULE FOR CERTAIN BENEFITS FUNDED UNDER AN AGREEMENT APPROVED BY THE PENSION BENEFIT GUARANTY CORPORATION.

In the case of a multiemployer plan that is a party to an agreement that was approved by the Pension Benefit Guaranty Corporation prior to June 30, 2005, and that—

(1) increases benefits, and

(2) provides for special withdrawal liability rules under section 4203(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1383),

the amendments made by sections 201, 202, 211, and 212 of this Act shall not apply to the benefit increases under any plan amendment adopted prior to June 30, 2005, that are funded pursuant to such agreement if the plan is funded in compliance with such agreement (and any amendments thereto).

SEC. 205. WITHDRAWAL LIABILITY REFORMS.

(a) Repeal of Limitation on Withdrawal Liability of Insolvent Employers.—

(1) In general.—Subsections (b) and (d) of section 4225 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1405) are repealed.

(2) Conforming amendments.—Subsections (c) and (e) of section 4225 of such Act are redesignated as subsections (b) and (c), respectively.

(3) Effective date.—The amendments made by this section shall apply with respect to sales occurring on or after January 1, 2006.

(b) Withdrawal Liability Continues if Work Contracted Out.—

(1) In general.—Clause (i) of section 4205(b)(2)(A) of such Act (29 U.S.C. 1385(b)(2)(A)) is amended by inserting "or to an entity or entities owned or controlled by the employer" after "to another location".

(2) Effective date.—The amendment made by this subsection shall apply with respect to work transferred on or after the date of the enactment of this Act.

(c) Application of Forgiveness Rule to Plans Primarily Covering Employees in the Building and Construction.—

(1) In general.—Section 4210(b) of such Act (29 U.S.C. 1390(b)) is amended—

(A) by striking paragraph (1); and

(B) by redesignating paragraphs (2) through (4) as paragraphs (1) through (3), respectively.

(2) Effective date.—The amendments made by this subsection shall apply with respect to plan withdrawals occurring on or after January 1, 2006.

PART II—AMENDMENTS TO INTERNAL REVENUE CODE OF 1986

SEC. 211. FUNDING RULES FOR MULTIEMPLOYER DEFINED BENEFIT PLANS.

(a) In General.—Subpart A of part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (as added by this Act) is amended by inserting after section 430 the following new section:

"SEC. 431. MINIMUM FUNDING STANDARDS FOR MULTIEMPLOYER PLANS.

"(a) In General.—For purposes of section 412, the accumulated funding deficiency of a multiemployer plan for any plan year is—

"(1) except as provided in paragraph (2), the amount, determined as of the end of the plan year, equal to the excess (if any) of the total charges to the funding standard account of the plan for all plan years (beginning with the first plan year for which this part applies to the plan) over the total credits to such account for such years, and

"(2) if the multiemployer plan is in reorganization for any plan year, the accumulated funding deficiency of the plan determined under section 4243 of the Employee Retirement Income Security Act of 1974.

"(b) Funding Standard Account.—

"(1) Account required.—Each multiemployer plan to which this part applies shall establish and maintain a funding standard account. Such account shall be credited and charged solely as provided in this section.

"(2) Charges to account.—For a plan year, the funding standard account shall be charged with the sum of—

"(A) the normal cost of the plan for the plan year,

"(B) the amounts necessary to amortize in equal annual installments (until fully amortized)—

"(i) separately, with respect to each plan year, the net increase (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

"(ii) separately, with respect to each plan year, the net experience loss (if any) under the plan, over a period of 15 plan years, and

"(iii) separately, with respect to each plan year, the net loss (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

"(C) the amount necessary to amortize each waived funding deficiency (within the meaning of section 412(d)(3)) for each prior plan year in equal annual installments (until fully amortized) over a period of 15 plan years,

"(D) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 5 plan years any amount credited to the funding standard account under section 412(b)(3)(D) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005), and

"(E) the amount necessary to amortize in equal annual installments (until fully amortized) over a period of 20 years the contributions which would be required to be made under the plan but for the provisions of section 412(c)(7)(A)(i)(I) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005).

"(3) Credits to account.—For a plan year, the funding standard account shall be credited with the sum of—

"(A) the amount considered contributed by the employer to or under the plan for the plan year,

"(B) the amount necessary to amortize in equal annual installments (until fully amortized)—

"(i) separately, with respect to each plan year, the net decrease (if any) in unfunded past service liability under the plan arising from plan amendments adopted in such year, over a period of 15 plan years,

"(ii) separately, with respect to each plan year, the net experience gain (if any) under the plan, over a period of 15 plan years, and

"(iii) separately, with respect to each plan year, the net gain (if any) resulting from changes in actuarial assumptions used under the plan, over a period of 15 plan years,

"(C) the amount of the waived funding deficiency (within the meaning of section 412(d)(3)) for the plan year, and

"(D) in the case of a plan year for which the accumulated funding deficiency is determined under the funding standard account if such plan year follows a plan year for which such deficiency was determined under the alternative minimum funding standard under section 412(g) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005), the excess (if any) of any debit balance in the funding standard account (determined without regard to this subparagraph) over any debit balance in the alternative minimum funding standard account.

"(4) Special rule for amounts first amortized to plan years before 2007.—In the case of any amount amortized under section 412(b) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005) over any period beginning with a plan year beginning before 2007, in lieu of the amortization described in paragraphs (2)(B) and (3)(B), such amount shall continue to be amortized under such section as so in effect.

"(5) Combining and offsetting amounts to be amortized.—Under regulations prescribed by the Secretary, amounts required to be amortized under paragraph (2) or paragraph (3), as the case may be—

"(A) may be combined into one amount under such paragraph to be amortized over a period determined on the basis of the remaining amortization period for all items entering into such combined amount, and

"(B) may be offset against amounts required to be amortized under the other such paragraph, with the resulting amount to be amortized over a period determined on the basis of the remaining amortization periods for all items entering into whichever of the two amounts being offset is the greater.

"(6) Interest.—The funding standard account (and items therein) shall be charged or credited (as determined under regulations prescribed by the Secretary of the Treasury) with interest at the appropriate rate consistent with the rate or rates of interest used under the plan to determine costs.

"(7) Special rules relating to charges and credits to funding standard account.—For purposes of this part—

"(A) Withdrawal liability.—Any amount received by a multiemployer plan in payment of all or part of an employer's withdrawal liability under part 1 of subtitle E of title IV of the Employee Retirement Income Security Act of 1974 shall be considered an amount contributed by the employer to or under the plan. The Secretary may prescribe by regulation additional charges and credits to a multiemployer plan's funding standard account to the extent necessary to prevent withdrawal liability payments from being unduly reflected as advance funding for plan liabilities.

"(B) Adjustments when a multiemployer plan leaves reorganization.—If a multiemployer plan is not in reorganization in the plan year but was in reorganization in the immediately preceding plan year, any balance in the funding standard account at the close of such immediately preceding plan year—

"(i) shall be eliminated by an offsetting credit or charge (as the case may be), but

"(ii) shall be taken into account in subsequent plan years by being amortized in equal annual installments (until fully amortized) over 30 plan years.

The preceding sentence shall not apply to the extent of any accumulated funding deficiency under section 4243(a) of such Act as of the end of the last plan year that the plan was in reorganization.

"(C) Plan payments to supplemental program or withdrawal liability payment

FUND.—Any amount paid by a plan during a plan year to the Pension Benefit Guaranty Corporation pursuant to section 4222 of such Act or to a fund exempt under section 501(c)(22) pursuant to section 4223 of such Act shall reduce the amount of contributions considered received by the plan for the plan year.

``(D) INTERIM WITHDRAWAL LIABILITY PAYMENTS.—Any amount paid by an employer pending a final determination of the employer's withdrawal liability under part 1 of subtitle E of title IV of such Act and subsequently refunded to the employer by the plan shall be charged to the funding standard account in accordance with regulations prescribed by the Secretary.

``(E) ELECTION FOR DEFERRAL OF CHARGE FOR PORTION OF NET EXPERIENCE LOSS.—If an election is in effect under section 412(b)(7)(F) (as in effect on the day before the date of the enactment of the Pension Security and Transparency Act of 2005) for any plan year, the funding standard account shall be charged in the plan year to which the portion of the net experience loss deferred by such election was deferred with the amount so deferred (and paragraph (2)(B)(ii) shall not apply to the amount so charged).

``(F) FINANCIAL ASSISTANCE.—Any amount of any financial assistance from the Pension Benefit Guaranty Corporation to any plan, and any repayment of such amount, shall be taken into account under this section and section 412 in such manner as is determined by the Secretary.

``(G) SHORT-TERM BENEFITS.—To the extent that any plan amendment increases the unfunded past service liability under the plan by reason of an increase in benefits which are payable under the terms of the plan for a period that does not exceed 14 years from the effective date of the amendment, paragraph (2)(B)(i) shall be applied separately with respect to such increase in unfunded past service liability by substituting the number of years of the period during which such benefits are payable for '15'.

``(c) ADDITIONAL RULES.—

``(1) DETERMINATIONS TO BE MADE UNDER FUNDING METHOD.—For purposes of this part, normal costs, accrued liability, past service liabilities, and experience gains and losses shall be determined under the funding method used to determine costs under the plan.

``(2) VALUATION OF ASSETS.—

``(A) IN GENERAL.—For purposes of this part, the value of the plan's assets shall be determined on the basis of any reasonable actuarial method of valuation which takes into account fair market value and which is permitted under regulations prescribed by the Secretary.

``(B) ELECTION WITH RESPECT TO BONDS.—The value of a bond or other evidence of indebtedness which is not in default as to principal or interest may, at the election of the plan administrator, be determined on an amortized basis running from initial cost at purchase to par value at maturity or earliest call date. Any election under this subparagraph shall be made at such time and in such manner as the Secretary shall by regulations provide, shall apply to all such evidences of indebtedness, and may be revoked only with the consent of the Secretary.

``(3) ACTUARIAL ASSUMPTIONS MUST BE REASONABLE.—For purposes of this section, all costs, liabilities, rates of interest, and other factors under the plan shall be determined on the basis of actuarial assumptions and methods—

``(A) each of which is reasonable (taking into account the experience of the plan and reasonable expectations), and

``(B) which, in combination, offer the actuary's best estimate of anticipated experience under the plan.

``(4) TREATMENT OF CERTAIN CHANGES AS EXPERIENCE GAIN OR LOSS.—For purposes of this section, if—

``(A) a change in benefits under the Social Security Act or in other retirement benefits created under Federal or State law, or

``(B) a change in the definition of the term 'wages' under section 3121, or a change in the amount of such wages taken into account under regulations prescribed for purposes of section 401(a)(5),

results in an increase or decrease in accrued liability under a plan, such increase or decrease shall be treated as an experience loss or gain.

``(5) FULL FUNDING.—If, as of the close of a plan year, a plan would (without regard to this paragraph) have an accumulated funding deficiency in excess of the full funding limitation—

``(A) the funding standard account shall be credited with the amount of such excess, and

``(B) all amounts described in subparagraphs (B), (C), and (D) of subsection (b) (2) and subparagraph (B) of subsection (b)(3) which are required to be amortized shall be considered fully amortized for purposes of such subparagraphs.

``(6) FULL-FUNDING LIMITATION.—

``(A) IN GENERAL.—For purposes of paragraph (5), the term 'full-funding limitation' means the excess (if any) of—

``(i) the accrued liability (including normal cost) under the plan (determined under the entry age normal funding method if such accrued liability cannot be directly calculated under the funding method used for the plan), over

``(ii) the lesser of—

``(I) the fair market value of the plan's assets, or

``(II) the value of such assets determined under paragraph (2).

``(B) MINIMUM AMOUNT.—

``(i) IN GENERAL.—In no event shall the full-funding limitation determined under subparagraph (A) be less than the excess (if any) of—

``(I) 90 percent of the current liability of the plan (including the expected increase in current liability due to benefits accruing during the plan year), over

``(II) the value of the plan's assets determined under paragraph (2).

``(ii) ASSETS.—For purposes of clause (i), assets shall not be reduced by any credit balance in the funding standard account.

``(C) FULL FUNDING LIMITATION.—For purposes of this paragraph, unless otherwise provided by the plan, the accrued liability under a multiemployer plan shall not include benefits which are not nonforfeitable under the plan after the termination of the plan (taking into consideration section 411(d)(3)).

``(D) CURRENT LIABILITY.—For purposes of this paragraph—

``(i) IN GENERAL.—The term 'current liability' means all liabilities to employees and their beneficiaries under the plan.

``(ii) TREATMENT OF UNPREDICTABLE CONTINGENT EVENT BENEFITS.—For purposes of clause (i), any benefit contingent on an event other than—

``(I) age, service, compensation, death, or disability, or

``(II) an event which is reasonably and reliably predictable (as determined by the Secretary),

shall not be taken into account until the event on which the benefit is contingent occurs.

``(iii) INTEREST RATE USED.—The rate of interest used to determine current liability under this paragraph shall be the rate of interest determined under subparagraph (E).

``(iv) MORTALITY TABLES.—

``(I) COMMISSIONERS' STANDARD TABLE.—In the case of plan years beginning before the first plan year to which the first tables prescribed under subclause (II) apply, the mortality table used in determining current liability under this paragraph shall be the table prescribed by the Secretary which is based on the prevailing commissioners' standard table (described in section 807(d)(5)(A)) used to determine reserves for group annuity contracts issued on January 1, 1993.

``(II) SECRETARIAL AUTHORITY.—The Secretary may by regulation prescribe for plan years beginning after December 31, 1999, mortality tables to be used in determining current liability under this subsection. Such tables shall be based upon the actual experience of pension plans and projected trends in such experience. In prescribing such tables, the Secretary shall take into account results of available independent studies of mortality of individuals covered by pension plans.

``(v) SEPARATE MORTALITY TABLES FOR THE DISABLED.—Notwithstanding clause (iv)—

``(I) IN GENERAL.—The Secretary shall establish mortality tables which may be used (in lieu of the tables under clause (iv)) to determine current liability under this subsection for individuals who are entitled to benefits under the plan on account of disability. The Secretary shall establish separate tables for individuals whose disabilities occur in plan years beginning before January 1, 1995, and for individuals whose disabilities occur in plan years beginning on or after such date.

``(II) SPECIAL RULE FOR DISABILITIES OCCURRING AFTER 1994.—In the case of disabilities occurring in plan years beginning after December 31, 1994, the tables under subclause (I) shall apply only with respect to individuals described in such subclause who are disabled within the meaning of title II of the Social Security Act and the regulations thereunder.

``(vi) PERIODIC REVIEW.—The Secretary shall periodically (at least every 5 years) review any tables in effect under this subparagraph and shall, to the extent such Secretary determines necessary, by regulation update the tables to reflect the actual experience of pension plans and projected trends in such experience.

``(E) REQUIRED CHANGE OF INTEREST RATE.—For purposes of determining a plan's current liability for purposes of this paragraph—

``(i) IN GENERAL.—If any rate of interest used under the plan under subsection (b)(6) to determine cost is not within the permissible range, the plan shall establish a new rate of interest within the permissible range.

``(ii) PERMISSIBLE RANGE.—For purposes of this subparagraph—

``(I) IN GENERAL.—Except as provided in subclause (II), the term 'permissible range' means a rate of interest which is not more than 5 percent above, and not more than 10 percent below, the weighted average of the rates of interest on 30-year Treasury securities during the 4-year period ending on the last day before the beginning of the plan year.

``(II) SECRETARIAL AUTHORITY.—If the Secretary finds that the lowest rate of interest permissible under subclause (I) is unreasonably high, the Secretary may prescribe a lower rate of interest, except that such rate may not be less than 80 percent of the average rate determined under such subclause.

"(iii) ASSUMPTIONS.—Notwithstanding paragraph (3)(A), the interest rate used under the plan shall be—

"(I) determined without taking into account the experience of the plan and reasonable expectations, but

"(II) consistent with the assumptions which reflect the purchase rates which would be used by insurance companies to satisfy the liabilities under the plan.

"(7) ANNUAL VALUATION.—

"(A) IN GENERAL.—For purposes of this section, a determination of experience gains and losses and a valuation of the plan's liability shall be made not less frequently than once every year, except that such determination shall be made more frequently to the extent required in particular cases under regulations prescribed by the Secretary.

"(B) VALUATION DATE.—

"(i) CURRENT YEAR.—Except as provided in clause (ii), the valuation referred to in subparagraph (A) shall be made as of a date within the plan year to which the valuation refers or within one month prior to the beginning of such year.

"(ii) USE OF PRIOR YEAR VALUATION.—The valuation referred to in subparagraph (A) may be made as of a date within the plan year prior to the year to which the valuation refers if, as of such date, the value of the assets of the plan are not less than 100 percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

"(iii) ADJUSTMENTS.—Information under clause (ii) shall, in accordance with regulations, be actuarially adjusted to reflect significant differences in participants.

"(iv) LIMITATION.—A change in funding method to use a prior year valuation, as provided in clause (ii), may not be made unless as of the valuation date within the prior plan year, the value of the assets of the plan are not less than 125 percent of the plan's current liability (as defined in paragraph (6)(D) without regard to clause (iv) thereof).

"(8) TIME WHEN CERTAIN CONTRIBUTIONS DEEMED MADE.—For purposes of this section, any contributions for a plan year made by an employer after the last day of such plan year, but not later than two and one-half months after such day, shall be deemed to have been made on such last day. For purposes of this subparagraph, such two and one-half month period may be extended for not more than six months under regulations prescribed by the Secretary.

"(d) EXTENSION OF AMORTIZATION PERIODS FOR MULTIEMPLOYER PLANS.—

"(1) AUTOMATIC EXTENSION UPON APPLICATION BY CERTAIN PLANS.—

"(A) IN GENERAL.—If the plan sponsor of a multiemployer plan—

"(i) submits to the Secretary an application for an extension of the period of years required to amortize any unfunded liability described in any clause of subsection (b)(2)(B) or described in subsection (b)(4), and

"(ii) includes with the application a certification by the plan's actuary described in subparagraph (B),

the Secretary shall extend the amortization period for the period of time (not in excess of 5 years) specified in the application. Such extension shall be in addition to any extension under paragraph (2).

"(B) CRITERIA.—A certification with respect to a multiemployer plan is described in this subparagraph if the plan's actuary certifies that, based on reasonable assumptions—

"(i) absent the extension under subparagraph (A), the plan would have an accumulated funding deficiency in the current plan year or any of the 9 succeeding plan years,

"(ii) the plan sponsor has adopted a plan to improve the plan's funding status,

"(iii) the plan is projected to have sufficient assets to timely pay expected benefits and anticipated expenditures over the amortization period as extended, and

"(iv) the notice required under paragraph (3)(A) has been provided.

"(2) ADDITIONAL EXTENSION.—

"(A) IN GENERAL.—If the plan sponsor of a multiemployer plan submits to the Secretary an application for an extension of the period of years required to amortize any unfunded liability described in any clause of subsection (b)(2)(B) or described in subsection (b)(4), the Secretary may extend the amortization period for a period of time (not in excess of 5 years) if the Secretary of the Treasury makes the determination described in subparagraph (B). Such extension shall be in addition to any extension under paragraph (1).

"(B) DETERMINATION.—The Secretary may grant an extension under subparagraph (A) if the Secretary determines that—

"(i) such extension would carry out the purposes of this Act and would provide adequate protection for participants under the plan and their beneficiaries, and

"(ii) the failure to permit such extension would—

"(I) result in a substantial risk to the voluntary continuation of the plan, or a substantial curtailment of pension benefit levels or employee compensation, and

"(II) be adverse to the interests of plan participants in the aggregate.

"(C) ACTION BY SECRETARY.—The Secretary shall act upon any application for an extension under this paragraph within 180 days of the submission of such application. If the Secretary rejects the application for an extension under this paragraph, the Secretary shall provide notice to the plan detailing the specific reasons for the rejection, including references to the criteria set forth above.

"(3) ADVANCE NOTICE.—

"(A) IN GENERAL.—The Secretary shall, before granting an extension under this subsection, require each applicant to provide evidence satisfactory to such Secretary that the applicant has provided notice of the filing of the application for such extension to each affected party (as defined in section 4001(a)(21) of the Employee Retirement Income Security Act of 1974) with respect to the affected plan. Such notice shall include a description of the extent to which the plan is funded for benefits which are guaranteed under title IV of such Act and for benefit liabilities.

"(B) CONSIDERATION OF RELEVANT INFORMATION.—The Secretary shall consider any relevant information provided by a person to whom notice was given under paragraph (1).".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after 2006.

(2) SPECIAL RULE FOR CERTAIN AMORTIZATION EXTENSIONS.—If the Secretary of the Treasury grants an extension under section 304 of the Employee Retirement Income Security Act of 1974 and section 412(e) of the Internal Revenue Code of 1986 with respect to any application filed with the Secretary of the Treasury on or before June 30, 2005, the extension (and any modification thereof) shall be applied and administered under the rules of such sections as in effect before the enactment of this Act, including the use of the rate of interest determined under section 6621(b) of such Code.

SEC. 212. ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED OR CRITICAL STATUS.

(a) IN GENERAL.—Subpart A of part III of subchapter D of chapter 1 of the Internal Revenue Code of 1986 (as amended by this Act) is amended by inserting after section 431 the following new section:

"SEC. 432. ADDITIONAL FUNDING RULES FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS OR CRITICAL STATUS.

"(a) GENERAL RULE.—For purposes of this part, in the case of a multiemployer plan—

"(1) if the plan is in endangered status—

"(A) the plan sponsor shall adopt and implement a funding improvement plan in accordance with the requirements of subsection (c), and

"(B) the requirements of subsection (d) shall apply during the funding plan adoption period and the funding improvement period, and

"(2) if the plan is in critical status—

"(A) the plan sponsor shall adopt and implement a rehabilitation plan in accordance with the requirements of subsection (e), and

"(B) the requirements of subsection (f) shall apply during the rehabilitation plan adoption period and the rehabilitation period.

"(b) DETERMINATION OF ENDANGERED AND CRITICAL STATUS.—For purposes of this section—

"(1) ENDANGERED STATUS.—A multiemployer plan is in endangered status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is not in critical status for the plan year and either—

"(A) the plan's funded percentage for such plan year is less than 80 percent, or

"(B) the plan has an accumulated funding deficiency for such plan year, or is projected to have such an accumulated funding deficiency for any of the 6 succeeding plan years, taking into account any extension of amortization periods under section 431(d).

For purposes of this section, a plan described in subparagraph (B) shall be treated as in seriously endangered status.

"(2) CRITICAL STATUS.—A multiemployer plan is in critical status for a plan year if, as determined by the plan actuary under paragraph (3), the plan is described in 1 or more of the following subparagraphs as of the beginning of the plan year:

"(A) A plan is described in this subparagraph if—

"(i) the funded percentage of the plan is less than 65 percent, and

"(ii) the sum of—

"(I) the market value of plan assets, plus

"(II) the present value of the reasonably anticipated employer contributions for the current plan year and each of the 5 succeeding plan years, assuming that the terms of all collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years,

is less than the present value of all benefits projected to be payable under the plan during the current plan year and each of the 5 succeeding plan years (plus administrative expenses for such plan years).

"(B) A plan is described in this subparagraph if—

“(i) the plan has an accumulated funding deficiency for the current plan year, not taking into account any extension of amortization periods under section 431(d), or

“(ii) the plan is projected to have an accumulated funding deficiency for any of the 3 succeeding plan years (4 succeeding plan years if the funded percentage of the plan is 65 percent or less), not taking into account any extension of amortization periods under section 431(d).

“(C) A plan is described in this subparagraph if—

“(i)(I) the plan's normal cost for the current plan year, plus interest (determined at the rate used for determining costs under the plan) for the current plan year on the amount of unfunded benefit liabilities under the plan as of the last date of the preceding plan year, exceeds

“(II) the present value of the reasonably anticipated employer contributions for the current plan year,

“(ii) the present value of nonforfeitable benefits of inactive participants is greater than the present value of nonforfeitable benefits of active participants, and

“(iii) the plan has an accumulated funding deficiency for the current plan year, or is projected to have such a deficiency for any of the 4 succeeding plan years, not taking into account any extension of amortization periods under section 431(d).

“(D) A plan is described in this subparagraph if the sum of—

“(i) the market value of plan assets, plus

“(ii) the present value of the reasonably anticipated employer contributions for the current plan year and each of the 4 succeeding plan years, assuming that the terms of all collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years,

is less than the present value of all benefits projected to be payable under the plan during the current plan year and each of the 4 succeeding plan years (plus administrative expenses for such plan years).

“(3) ANNUAL CERTIFICATION BY PLAN ACTUARY.—

“(A) IN GENERAL.—During the 90-day period beginning on the first day of each plan year of a multiemployer plan, the plan actuary shall certify to the Secretary—

“(i) whether or not the plan is in endangered status for such plan year and whether or not the plan is in critical status for such plan year, and

“(ii) in the case of a plan which is in a funding improvement or rehabilitation period, whether or not the plan is making the scheduled progress in meeting the requirements of its funding improvement or rehabilitation plan.

“(B) ACTUARIAL PROJECTIONS OF ASSETS AND LIABILITIES.—

“(i) IN GENERAL.—In making the determinations and projections under this subsection, the plan actuary shall make projections required for the current and succeeding plan years, using reasonable actuarial estimates, assumptions, and methods, of the current value of the assets of the plan and the present value of all liabilities to participants and beneficiaries under the plan for the current plan year as of the beginning of such year. The projected present value of liabilities as of the beginning of such year shall be determined based on the actuarial statement required under section 103(d) of the Employee Retirement Income Security Act of 1974 with respect to the most recently filed annual report or the actuarial valuation for the preceding plan year.

“(ii) DETERMINATIONS OF FUTURE CONTRIBUTIONS.—Any actuarial projection of plan assets shall assume—

“(I) reasonably anticipated employer contributions for the current and succeeding plan years, assuming that the terms of the one or more collective bargaining agreements pursuant to which the plan is maintained for the current plan year continue in effect for succeeding plan years, or

“(II) that employer contributions for the most recent plan year will continue indefinitely, but only if the plan actuary determines there have been no significant demographic changes that would make such assumption unreasonable.

“(C) PENALTY FOR FAILURE TO SECURE TIMELY ACTUARIAL CERTIFICATION.—Any failure of the plan's actuary to certify the plan's status under this subsection by the date specified in subparagraph (A) shall be treated for purposes of section 502(c)(2) of such Act as a failure or refusal by the plan administrator to file the annual report required to be filed with the Secretary under section 101(b)(4) of such Act.

“(D) NOTICE.—In any case in which a multiemployer plan is certified to be in endangered or critical status under subparagraph (A), the plan sponsor shall, not later than 30 days after the date of the certification, provide notification of the endangered or critical status to the participants and beneficiaries, the bargaining parties, the Pension Benefit Guaranty Corporation, the Secretary, and the Secretary of Labor.

“(c) FUNDING IMPROVEMENT PLAN MUST BE ADOPTED FOR MULTIEMPLOYER PLANS IN ENDANGERED STATUS.—

“(1) IN GENERAL.—In any case in which a multiemployer plan is in endangered status for a plan year, the plan sponsor, in accordance with this subsection—

“(A) shall adopt a funding improvement plan not later than 240 days following the required date for the actuarial certification of endangered status under subsection (b)(3)(A), and

“(B) within 30 days after the adoption of the funding improvement plan—

“(i) in the case of a plan in seriously endangered status, shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to meet the applicable requirements under paragraph (3) in accordance with the funding improvement plan, including a description of the reductions in future benefit accruals and increases in contributions that the plan sponsor determines are reasonably necessary to meet the applicable requirements if the plan sponsor assumes that there are no increases in contributions under the plan other than the increases necessary to meet the applicable requirements after future benefit accruals have been reduced to the maximum extent permitted by law, and

“(ii) may, if the plan sponsor deems appropriate, prepare and provide the bargaining parties with additional information relating to contribution rates or benefit reductions, alternative schedules, or other information relevant to achieving the requirements under paragraph (3) in accordance with the funding improvement plan.

“(2) EXCEPTION FOR YEARS AFTER PROCESS BEGINS.—Paragraph (1) shall not apply to a plan year if such year is in a funding plan adoption period or funding improvement period by reason of the plan being in endangered status for a preceding plan year. For purposes of this section, such preceding plan year shall be the initial determination year with respect to the funding improvement plan to which it relates.

“(3) FUNDING IMPROVEMENT PLAN.—For purposes of this section—

“(A) IN GENERAL.—A funding improvement plan is a plan which consists of the actions, including options or a range of options to be proposed to the bargaining parties, which, under reasonable actuarial assumptions, will result in the plan meeting the requirements of this paragraph.

“(B) PLANS OTHER THAN SERIOUSLY ENDANGERED PLANS.—In the case of plan not in seriously endangered status, the requirements of this paragraph are met if the plan's funded percentage as of the close of the funding improvement period exceeds the lesser of 80 percent or a percentage equal to the sum of—

“(i) such percentage as of the beginning of such period, plus

“(ii) 10 percent of the percentage determined under clause (i).

“(C) SERIOUSLY ENDANGERED PLANS.—In the case of a plan in seriously endangered status, the requirements of this paragraph are met if—

“(i) the plan's funded percentage as of the close of the funding improvement period equals or exceeds the percentage which is equal to the sum of—

“(I) such percentage as of the beginning of such period, plus

“(II) 33 percent of the difference between 100 percent and the percentage under subclause (I), and

“(ii) there is no accumulated funding deficiency for any plan year during the funding improvement period (taking into account any extension of amortization periods under section 431(d)).

“(4) FUNDING IMPROVEMENT PERIOD.—For purposes of this section—

“(A) IN GENERAL.—The funding improvement period for any funding improvement plan adopted pursuant to this subsection is the 10-year period beginning on the first day of the first plan year of the multiemployer plan beginning after the earlier of—

“(i) the second anniversary of the date of the adoption of the funding improvement plan, or

“(ii) the expiration of the collective bargaining agreements in effect on the due date for the actuarial certification of endangered status for the initial determination year under subsection (b)(3)(A) and covering, as of such due date, at least 75 percent of the active participants in such multiemployer plan.

“(B) COORDINATION WITH CHANGES IN STATUS.—

“(i) PLANS NO LONGER IN ENDANGERED STATUS.—If the plan's actuary certifies under subsection (b)(3)(A) for a plan year in any funding plan adoption period or funding improvement period that the plan is no longer in endangered status and is not in critical status, the funding plan adoption period or funding improvement period, whichever is applicable, shall end as of the close of the preceding plan year.

“(ii) PLANS IN CRITICAL STATUS.—If the plan's actuary certifies under subsection (b)(3)(A) for a plan year in any funding plan adoption period or funding improvement period that the plan is in critical status, the funding plan adoption period or funding improvement period, whichever is applicable, shall end as of the close of the plan year preceding the first plan year in the rehabilitation period with respect to such status.

‘‘(5) SPECIAL RULES FOR CERTAIN UNDERFUNDED PLANS.—

‘‘(A) IN GENERAL.—Except as provided in subparagraph (B), if the funded percentage of a plan in seriously endangered status was 70 percent or less as of the beginning of the initial determination year, the following rules shall apply in determining whether the requirements of paragraph (3)(C)(i) are met:

‘‘(i) The plan's funded percentage as of the close of the funding improvement period must equal or exceed a percentage which is equal to the sum of—

‘‘(I) such percentage as of the beginning of such period, plus

‘‘(II) 20 percent of the difference between 100 percent and the percentage under subclause (I).

‘‘(ii) The funding improvement period under paragraph (4)(A) shall be 15 years rather than 10 years.

‘‘(B) SPECIAL RULES FOR PLANS WITH FUNDED PERCENTAGE OVER 70 PERCENT.—If the funded percentage described in subparagraph (A) was more than 70 percent but less than 80 percent as of the beginning of the initial determination year—

‘‘(i) subparagraph (A) shall apply if the plan's actuary certifies, within 30 days after the certification under subsection (b)(3)(A) for the initial determination year, that, based on the terms of the plan and the collective bargaining agreements in effect at the time of such certification, the plan is not projected to meet the requirements of paragraph (3)(C)(i) without regard to this paragraph, and

‘‘(ii) if there is a certification under clause (i), the plan may, in formulating its funding improvement plan, only take into account the rules of subparagraph (A) for plan years in the funding improvement period beginning on or before the date on which the last of the collective bargaining agreements described in paragraph (4)(A)(ii) expires.

Notwithstanding clause (ii), if for any plan year ending after the date described in clause (ii) the plan actuary certifies (at the time of the annual certification under subsection (b)(3)(A) for such plan year) that, based on the terms of the plan and collective bargaining agreements in effect at the time of that annual certification, the plan is not projected to be able to meet the requirements of paragraph (3)(C)(i) without regard to this paragraph, the plan may continue to assume for such year that the funding improvement period is 15 years rather than 10 years.

‘‘(6) UPDATES TO FUNDING IMPROVEMENT PLAN AND SCHEDULES.—

‘‘(A) FUNDING IMPROVEMENT PLAN.—The plan sponsor shall annually update the funding improvement plan and shall file the update with the plan's annual report under section 104 of the Employee Retirement Income Security Act of 1974.

‘‘(B) SCHEDULES.—The plan sponsor may periodically update any schedule of contribution rates provided under this subsection to reflect the experience of the plan, except that the schedule or schedules described in paragraph (1)(B)(i) shall be updated at least once every 3 years.

‘‘(C) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

‘‘(7) PENALTY IF NO FUNDING IMPROVEMENT PLAN ADOPTED.—A failure of the plan sponsor to adopt a funding improvement plan by the date specified in paragraph (1)(A) shall be treated for purposes of section 502(c)(2) of such Act as a failure or refusal by the plan administrator to file the annual report required to be filed with the Secretary of Labor under section 101(b)(4) of such Act.

‘‘(8) FUNDING PLAN ADOPTION PERIOD.—For purposes of this section, the term ‘funding plan adoption period’ means the period beginning on the date of the certification under subsection (b)(3)(A) for the initial determination year and ending on the day before the first day of the funding improvement period.

‘‘(d) RULES FOR OPERATION OF PLAN DURING ADOPTION AND IMPROVEMENT PERIODS; FAILURE TO MEET REQUIREMENTS.—

‘‘(1) SPECIAL RULES FOR PLAN ADOPTION PERIOD.—During the plan adoption period—

‘‘(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

‘‘(i) a reduction in the level of contributions for any participants,

‘‘(ii) a suspension of contributions with respect to any period of service, or

‘‘(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation,

‘‘(B) no amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 or to comply with other applicable law, and

‘‘(C) in the case of a plan in seriously endangered status, the plan sponsor shall take all reasonable actions which are consistent with the terms of the plan and applicable law and which are expected, based on reasonable assumptions, to achieve—

‘‘(i) an increase in the plan's funded percentage, and

‘‘(ii) postponement of an accumulated funding deficiency for at least 1 additional plan year.

Actions under subparagraph (C) include applications for extensions of amortization periods under section 431(d), use of the shortfall funding method in making funding standard account computations, amendments to the plan's benefit structure, reductions in future benefit accruals, and other reasonable actions consistent with the terms of the plan and applicable law.

‘‘(2) COMPLIANCE WITH FUNDING IMPROVEMENT PLAN.—

‘‘(A) IN GENERAL.—A plan may not be amended after the date of the adoption of a funding improvement plan under subsection (c) so as to be inconsistent with the funding improvement plan.

‘‘(B) NO REDUCTION IN CONTRIBUTIONS.—A plan sponsor may not during any funding improvement period accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

‘‘(i) a reduction in the level of contributions for any participants,

‘‘(ii) a suspension of contributions with respect to any period of service, or

‘‘(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation.

‘‘(C) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of a funding improvement plan under subsection (c) so as to increase benefits, including future benefit accruals, unless—

‘‘(i) in the case of a plan in seriously endangered status, the plan actuary certifies that, after taking into account the benefit increase, the plan is still reasonably expected to meet the requirements under subsection (c)(3) in accordance with the schedule contemplated in the funding improvement plan, and

‘‘(ii) in the case of a plan not in seriously endangered status, the actuary certifies that such increase is paid for out of contributions not required by the funding improvement plan to meet the requirements under subsection (c)(3) in accordance with the schedule contemplated in the funding improvement plan.

‘‘(3) FAILURE TO MEET REQUIREMENTS.—

‘‘(A) IN GENERAL.—Notwithstanding section 4971(g), if a plan fails to meet the requirements of subsection (c)(3) by the end of the funding improvement period, the plan shall be treated as having an accumulated funding deficiency for purposes of section 4971 for the last plan year in such period (and each succeeding plan year until such requirements are met) in an amount equal to the greater of the amount of the contributions necessary to meet such requirements or the amount of such accumulated funding deficiency without regard to this paragraph.

‘‘(B) WAIVER.—In the case of a failure described in subparagraph (A) which is due to reasonable cause and not to willful neglect, the Secretary of the Treasury may waive part or all of the tax imposed by section 4971 of such Code to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

‘‘(e) REHABILITATION PLAN MUST BE ADOPTED FOR MULTIEMPLOYER PLANS IN CRITICAL STATUS.—

‘‘(1) IN GENERAL.—In any case in which a multiemployer plan is in critical status for a plan year, the plan sponsor, in accordance with this subsection—

‘‘(A) shall adopt a rehabilitation plan not later than 240 days following the required date for the actuarial certification of critical status under subsection (b)(3)(A), and

‘‘(B) within 30 days after the adoption of the rehabilitation plan—

‘‘(i) shall provide to the bargaining parties 1 or more schedules showing revised benefit structures, revised contribution structures, or both, which, if adopted, may reasonably be expected to enable the multiemployer plan to emerge from critical status in accordance with the rehabilitation plan, and

‘‘(ii) may, if the plan sponsor deems appropriate, prepare and provide the bargaining parties with additional information relating to contribution rates or benefit reductions, alternative schedules, or other information relevant to emerging from critical status in accordance with the rehabilitation plan.

The schedule or schedules described in subparagraph (B)(i) shall reflect reductions in future benefit accruals and increases in contributions that the plan sponsor determines are reasonably necessary to emerge from critical status. One schedule shall be designated as the default schedule and such schedule shall assume that there are no increases in contributions under the plan other than the increases necessary to emerge from critical status after future benefit accruals and other benefits (other than benefits the reduction or elimination of which are not permitted under section 411(d)(6)) have been reduced to the maximum extent permitted by law.

"(2) EXCEPTION FOR YEARS AFTER PROCESS BEGINS.—Paragraph (1) shall not apply to a plan year if such year is in a rehabilitation plan adoption period or rehabilitation period by reason of the plan being in critical status for a preceding plan year. For purposes of this section, such preceding plan year shall be the initial critical year with respect to the rehabilitation plan to which it relates.

"(3) REHABILITATION PLAN.—For purposes of this section—

"(A) IN GENERAL.—A rehabilitation plan is a plan which consists of—

"(i) actions which will enable, under reasonable actuarial assumptions, the plan to cease to be in critical status by the end of the rehabilitation period and may include reductions in plan expenditures (including plan mergers and consolidations), reductions in future benefit accruals or increases in contributions, if agreed to by the bargaining parties, or any combination of such actions, or

"(ii) if the plan sponsor determines that, based on reasonable actuarial assumptions and upon exhaustion of all reasonable measures, the plan can not reasonably be expected to emerge from critical status by the end of the rehabilitation period, reasonable measures to emerge from critical status at a later time or to forestall possible insolvency (within the meaning of section 4245 of the Employee Retirement Income Security Act of 1974).

Such plan shall include the schedules required to be provided under paragraph (1)(B)(i). If clause (ii) applies, such plan shall set forth the alternatives considered, explain why the plan is not reasonably expected to emerge from critical status by the end of the rehabilitation period, and specify when, if ever, the plan is expected to emerge from critical status in accordance with the rehabilitation plan.

"(B) UPDATES TO REHABILITATION PLAN AND SCHEDULES.—

"(i) REHABILITATION PLAN.—The plan sponsor shall annually update the rehabilitation plan and shall file the update with the plan's annual report under section 104 of the Employee Retirement Income Security Act of 1974.

"(ii) SCHEDULES.—The plan sponsor may periodically update any schedule of contribution rates provided under this subsection to reflect the experience of the plan, except that the schedule or schedules described in paragraph (1)(B)(i) shall be updated at least once every 3 years.

"(iii) DURATION OF SCHEDULE.—A schedule of contribution rates provided by the plan sponsor and relied upon by bargaining parties in negotiating a collective bargaining agreement shall remain in effect for the duration of that collective bargaining agreement.

"(C) DEFAULT SCHEDULE.—If the collective bargaining agreement providing for contributions under a multiemployer plan that was in effect at the time the plan entered critical status expires and, after receiving a schedule from the plan sponsor under paragraph (1)(B)(i), the bargaining parties have not adopted a collective bargaining agreement with terms consistent with such a schedule, the default schedule described in the last sentence of paragraph (1) shall go into effect with respect to those bargaining parties.

"(4) REHABILITATION PERIOD.—For purposes of this section—

"(A) IN GENERAL.—The rehabilitation period for a plan in critical status is the 10-year period beginning on the first day of the first plan year of the multiemployer plan following the earlier of—

"(i) the second anniversary of the date of the adoption of the rehabilitation plan, or

"(ii) the expiration of the collective bargaining agreements in effect on the date of the due date for the actuarial certification of critical status for the initial critical year under subsection (a)(1) and covering, as of such date at least 75 percent of the active participants in such multiemployer plan.

If a plan emerges from critical status as provided under subparagraph (B) before the end of such 10-year period, the rehabilitation period shall end with the plan year preceding the plan year for which the determination under subparagraph (B) is made.

"(B) EMERGENCE.—A plan in critical status shall remain in such status until a plan year for which the plan actuary certifies, in accordance with subsection (b)(3)(A), that the plan is not projected to have an accumulated funding deficiency for the plan year or any of the 9 succeeding plan years, without regard to use of the shortfall method or any extension of amortization periods under section 431(d).

"(5) PENALTY IF NO REHABILITATION PLAN ADOPTED.—A failure of a plan sponsor to adopt a rehabilitation plan by the date specified in paragraph (1)(A) shall be treated for purposes of section 502(c)(2) of the Employee Retirement Income Security Act of 1974 as a failure or refusal by the plan administrator to file the annual report required to be filed with the Secretary of Labor under section 101(b)(4) of such Act.

"(6) REHABILITATION PLAN ADOPTION PERIOD.—For purposes of this section, the term 'rehabilitation plan adoption period' means the period beginning on the date of the certification under subsection (b)(3)(A) for the initial critical year and ending on the day before the first day of the rehabilitation period.

"(7) LIMITATION ON REDUCTION IN RATES OF FUTURE ACCRUALS.—Any reduction in the rate of future accruals under any schedule described in paragraph (1)(B)(i) shall not reduce the rate of future accruals below—

"(A) a monthly benefit (payable as a single life annuity commencing at the participant's normal retirement age) equal to 1 percent of the contributions required to be made with respect to a participant, or the equivalent standard accrual rate for a participant or group of participants under the collective bargaining agreements in effect as of the first day of the initial critical year, or

"(B) if lower, the accrual rate under the plan on such first day.

The equivalent standard accrual rate shall be determined by the plan sponsor based on the standard or average contribution base units which the plan sponsor determines to be representative for active participants and such other factors as the plan sponsor determines to be relevant. Nothing in this paragraph shall be construed as limiting the ability of the plan sponsor to prepare and provide the bargaining parties with alternative schedules to the default schedule that established lower or higher accrual and contribution rates than the rates otherwise described in this paragraph.

"(8) EMPLOYER IMPACT.—For the purposes of this section, the plan sponsor shall consider the impact of the rehabilitation plan and contribution schedules authorized by this section on bargaining parties with fewer than 500 employees and shall implement the plan in a manner that encourages their continued participation in the plan and minimizes financial harm to employers and their workers.

"(f) RULES FOR OPERATION OF PLAN DURING ADOPTION AND REHABILITATION PERIOD.—

"(1) COMPLIANCE WITH REHABILITATION PLAN.—

"(A) IN GENERAL.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to be inconsistent with the rehabilitation plan.

"(B) SPECIAL RULES FOR BENEFIT INCREASES.—A plan may not be amended after the date of the adoption of a rehabilitation plan under subsection (e) so as to increase benefits, including future benefit accruals, unless the plan actuary certifies that such increase is paid for out of additional contributions not contemplated by the rehabilitation plan, and, after taking into account the benefit increase, the multiemployer plan still is reasonably expected to emerge from critical status by the end of the rehabilitation period on the schedule contemplated in the rehabilitation plan.

"(2) RESTRICTION ON LUMP SUMS AND SIMILAR BENEFITS.—

"(A) IN GENERAL.—Effective on the date the notice of certification of the plan's critical status for the initial critical year under subsection (b)(3)(D) is sent, and notwithstanding section 411(d)(6), the plan shall not pay—

"(i) any payment, in excess of the monthly amount paid under a single life annuity (plus any social security supplements described in the last sentence of section 411(b)(1)(A)),

"(ii) any payment for the purchase of an irrevocable commitment from an insurer to pay benefits, and

"(iii) any other payment specified by the Secretary by regulations.

"(B) EXCEPTION.—Subparagraph (A) shall not apply to a benefit which under section 411(a)(11) may be immediately distributed without the consent of the participant or to any makeup payment in the case of a retroactive annuity starting date or any similar payment of benefits owed with respect to a prior period.

"(3) ADJUSTMENTS DISREGARDED IN WITHDRAWAL LIABILITY DETERMINATION.—Any benefit reductions under this subsection shall be disregarded in determining a plan's unfunded vested benefits for purposes of determining an employer's withdrawal liability under section 4201 of the Employee Retirement Income Security Act of 1974.

"(4) SPECIAL RULES FOR PLAN ADOPTION PERIOD.—During the rehabilitation plan adoption period—

"(A) the plan sponsor may not accept a collective bargaining agreement or participation agreement with respect to the multiemployer plan that provides for—

"(i) a reduction in the level of contributions for any participants,

"(ii) a suspension of contributions with respect to any period of service, or

"(iii) any new direct or indirect exclusion of younger or newly hired employees from plan participation, and

"(B) no amendment of the plan which increases the liabilities of the plan by reason of any increase in benefits, any change in the accrual of benefits, or any change in the rate at which benefits become nonforfeitable under the plan may be adopted unless the amendment is required as a condition of qualification under part I of subchapter D of chapter 1 or to comply with other applicable law.

"(5) FAILURE TO MEET REQUIREMENTS.—

"(A) IN GENERAL.—Notwithstanding section 4971(g), if a plan—

"(i) fails to meet the requirements of subsection (e) by the end of the rehabilitation period, or

"(ii) has received a certification under subsection (b)(3)(A)(ii) for 3 consecutive plan years that the plan is not making the scheduled progress in meeting its requirements under the rehabilitation plan,

the plan shall be treated as having an accumulated funding deficiency for purposes of section 4971 for the last plan year in such period (and each succeeding plan year until such requirements are met) in an amount equal to the greater of the amount of the contributions necessary to meet such requirements or the amount of such accumulated funding deficiency without regard to this paragraph.

"(B) WAIVER.—In the case of a failure described in subparagraph (A) which is due to reasonable cause and not to willful neglect, the Secretary may waive part or all of the tax imposed by section 4971 to the extent that the payment of such tax would be excessive or otherwise inequitable relative to the failure involved.

"(g) EXPEDITED RESOLUTION OF PLAN SPONSOR DECISIONS.—If, within 60 days of the due date for adoption of a funding improvement plan under subsection (c) or a rehabilitation plan under subsection (e), the plan sponsor of a plan in endangered status or a plan in critical status has not agreed on a funding improvement plan or rehabilitation plan, then any member of the board or group that constitutes the plan sponsor may require that the plan sponsor enter into an expedited dispute resolution procedure for the development and adoption of a funding improvement plan or rehabilitation plan.

"(h) NONBARGAINED PARTICIPATION.—

"(1) BOTH BARGAINED AND NONBARGAINED EMPLOYEE-PARTICIPANTS.—In the case of an employer that contributes to a multiemployer plan with respect to both employees who are covered by one or more collective bargaining agreements and to employees who are not so covered, if the plan is in endangered status or in critical status, benefits of and contributions for the nonbargained employees, including surcharges on those contributions, shall be determined as if those nonbargained employees were covered under the first to expire of the employer's collective bargaining agreements in effect when the plan entered endangered or critical status.

"(2) NONBARGAINED EMPLOYEES ONLY.—In the case of an employer that contributes to a multiemployer plan only with respect to employees who are not covered by a collective bargaining agreement, this section shall be applied as if the employer were the bargaining parties, and its participation agreement with the plan was a collective bargaining agreement with a term ending on the first day of the plan year beginning after the employer is provided the schedule or schedules described in subsections (c) and (e).

"(3) EMPLOYEES COVERED BY A COLLECTIVE BARGAINING AGREEMENT.—The determination as to whether an employee covered by a collective bargaining agreement for purposes of this section shall be made without regard to the special rule in Treasury Regulation section 1.410(b)-6(d)(ii)(D).

"(i) DEFINITIONS; ACTUARIAL METHOD.—For purposes of this section—

"(1) BARGAINING PARTY.—The term 'bargaining party' means—

"(A)(i) except as provided in clause (ii), an employer who has an obligation to contribute under the plan; or

"(ii) in the case of a plan described under section 404(c), or a continuation of such a plan, the association of employers that is the employee settlor of the plan; and

"(B) an employee organization which, for purposes of collective bargaining, represents plan participants employed by an employer who has an obligation to contribute under the plan.

"(2) FUNDED PERCENTAGE.—The term 'funded percentage' means the percentage equal to a fraction—

"(A) the numerator of which is the value of the plan's assets, as determined under section 431(c)(2), and

"(B) the denominator of which is the accrued liability of the plan, determined using actuarial assumptions described in section 431(c)(3).

"(3) ACCUMULATED FUNDING DEFICIENCY.—The term 'accumulated funding deficiency' has the meaning given such term in section 412(a).

"(4) ACTIVE PARTICIPANT.—The term 'active participant' means, in connection with a multiemployer plan, a participant who is in covered service under the plan.

"(5) INACTIVE PARTICIPANT.—The term 'inactive participant' means, in connection with a multiemployer plan, a participant, or the beneficiary or alternate payee of a participant, who—

"(A) is not in covered service under the plan, and

"(B) is in pay status under the plan or has a nonforfeitable right to benefits under the plan.

"(6) PAY STATUS.—A person is in pay status under a multiemployer plan if—

"(A) at any time during the current plan year, such person is a participant or beneficiary under the plan and is paid an early, late, normal, or disability retirement benefit under the plan (or a death benefit under the plan related to a retirement benefit), or

"(B) to the extent provided in regulations of the Secretary, such person is entitled to such a benefit under the plan.

"(7) OBLIGATION TO CONTRIBUTE.—The term 'obligation to contribute' has the meaning given such term under section 4212(a) of the Employee Retirement Income Security Act of 1974.

"(8) ACTUARIAL METHOD.—Notwithstanding any other provision of this section, the actuary's determinations with respect to a plan's normal cost, actuarial accrued liability, and improvements in a plan's funded percentage under this section shall be based upon the unit credit funding method (whether or not that method is used for the plan's actuarial valuation).

"(9) PLAN SPONSOR.—In the case of a plan described under section 404(c), or a continuation of such a plan, the term 'plan sponsor' means the bargaining parties described under paragraph (1)."

(b) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendment made by this section shall apply with respect to plan years beginning after 2006.

(2) SPECIAL RULE FOR CERTAIN RESTORED BENEFITS.—In the case of a multiemployer plan—

(A) with respect to which benefits were reduced pursuant to a plan amendment adopted on or after January 1, 2002, and before June 30, 2005, and

(B) which, pursuant to the plan document, the trust agreement, or a formal written communication from the plan sponsor to participants provided before June 30, 2005, provided for the restoration of such benefits,

the amendments made by this section shall not apply to such benefit restorations to the extent that any restriction on the providing or accrual of such benefits would otherwise apply by reason of such amendments.

PART III—SUNSET OF FUNDING RULES

SEC. 216. SUNSET OF FUNDING RULES.

(a) REPORT.—Not later than December 31, 2011, the Secretary of Labor, the Secretary of the Treasury, and the Executive Director of the Pension Benefit Guaranty Corporation shall conduct a study of the effect of the amendments made by this subtitle on the operation and funding status of multiemployer plans and shall report the results of such study, including any recommendations for legislation, to the Congress.

(b) MATTERS INCLUDED IN STUDY.—The study required under subsection (a) shall include—

(1) the effect of funding difficulties, funding rules in effect before the date of the enactment of this Act, and the amendments made by this subtitle on small businesses participating in multiemployer plans,

(2) the effect on the financial status of small employers of—

(A) funding targets set in funding improvement and rehabilitation plans and associated contribution increases,

(B) funding deficiencies,

(C) excise taxes,

(D) withdrawal liability,

(E) the possibility of alternatives schedules and procedures for financially-troubled employers, and

(F) other aspects of the multiemployer system, and

(3) the role of the multiemployer pension plan system in helping small employers to offer pension benefits.

(c) SUNSET.—

(1) IN GENERAL.—Except as provided in this subsection, notwithstanding any other provision of this Act, the provisions of, and the amendments made by, this subtitle shall not apply to plan years beginning after December 31, 2014, and the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 shall be applied to such plan years under the provisions of sections 302 through 308 of such Act and 412 of such Code (as in effect before the amendments made by this Act).

(2) FUNDING IMPROVEMENT AND REHABILITATION PLANS.—If a plan is operating under a funding improvement or rehabilitation plan under section 305 of such Act or 432 of such Code for its last year beginning before January 1, 2015, such plan shall continue to operate under such funding improvement or rehabilitation plan during any period after December 31, 2014, such funding improvement or rehabilitation plan is in effect and all provisions of such Act or Code relating to the operation of such funding improvement or rehabilitation plan shall continue in effect during such period.

(3) AMORTIZATION SCHEDULES.—In the case of any amount amortized under section 304(b) of such Act or 431 of such Code (as in effect after the amendments made by this subtitle) over any period beginning with a plan year beginning before January 1, 2015, such amount shall, in lieu of the amortization which would apply after the application of this subsection, continue to be amortized under such section 304 or 431 (as so in effect).

Subtitle B—Deduction and Related Provisions

SEC. 221. DEDUCTION LIMITS FOR MULTIEMPLOYER PLANS.

(a) INCREASE IN DEDUCTION.—Section 404(a)(1)(D) of the Internal Revenue Code of 1986, as amended by this Act, is amended to read as follows:

"(D) AMOUNT DETERMINED ON BASIS OF UNFUNDED CURRENT LIABILITY.—

"(i) IN GENERAL.—In the case of a defined benefit plan which is a multiemployer plan, except as provided in regulations, the maximum amount deductible under the limitations of this paragraph shall not be less than the unfunded current liability of the plan.

"(ii) UNFUNDED CURRENT LIABILITY.—For purposes of clause (i), the term 'unfunded current liability' means the excess (if any) of—

"(I) 140 percent of the current liability of the plan determined under section 431(c)(6)(C), over

"(II) the value of the plan's assets determined under section 431(c)(2).".

(b) EXCEPTION FROM LIMITATION ON DEDUCTION WHERE COMBINATION OF DEFINED CONTRIBUTION AND DEFINED BENEFIT PLANS.—

(1) IN GENERAL.—Section 404(a)(7)(C) of such Code, as amended by this Act, is amended by adding at the end the following new clause:

"(v) MULTIEMPLOYER PLANS.—In applying this paragraph, any multiemployer plan shall not be taken into account.".

(2) CONFORMING AMENDMENT.—Section 404(a)(7)(A) of such Code is amended by striking the last sentence.

(c) EFFECTIVE DATES.—

(1) DEDUCTION LIMIT.—The amendment made by subsection (a) shall apply to years beginning after December 31, 2006.

(2) EXCEPTION.—The amendments made by subsection (b) shall apply to years beginning after December 31, 2005.

SEC. 222. TRANSFER OF EXCESS PENSION ASSETS TO MULTIEMPLOYER HEALTH PLAN.

(a) IN GENERAL.—Section 420(e) of the Internal Revenue Code of 1986 (relating to definitions and special rules) is amended by adding at the end the following new paragraph:

"(5) APPLICATION TO MULTIEMPLOYER PLAN.—In the case of any plan to which section 404(c) applies (or any successor plan primarily covering employees in the building and construction industry)—

"(A) the prohibition under subsection (a) on the application of this section to a multiemployer plan shall not apply, and

"(B) this section shall be applied to any such plan—

"(i) by treating any reference in this section to an employer as a reference to all employers maintaining the plan (or, if appropriate, the plan sponsor), and

"(ii) in accordance with such modifications of this section (and the provisions of this title and the Employee Retirement Income Security Act of 1974 relating to this section) as the Secretary determines appropriate to reflect the fact the plan is not maintained by a single employer."

(b) AMENDMENTS OF ERISA.—

(1) Section 101(e)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(e)(3)) is amended by striking "American Jobs Creation Act of 2004" and inserting "Pension Security and Transparency Act of 2005".

(2) Section 403(c)(1) of such Act (29 U.S.C. 1103(c)(1)) is amended by striking "American Jobs Creation Act of 2004" and inserting "Pension Security and Transparency Act of 2005".

(3) Section 408(b)(13) of such Act (29 U.S.C. 1108(b)(13)) is amended by striking "American Jobs Creation Act of 2004" and inserting "Pension Security and Transparency Act of 2005".

(c) EFFECTIVE DATE.—The amendment made by this section shall apply to transfers made in taxable years beginning after December 31, 2004.

TITLE III—INTEREST RATE ASSUMPTIONS

SEC. 301. INTEREST RATE ASSUMPTION FOR DETERMINATION OF LUMP SUM DISTRIBUTIONS.

(a) AMENDMENTS OF ERISA.—

(1) IN GENERAL.—Section 205(g)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(g)(3)(A)) is amended by adding at the end the following new sentence: "In the case of plan years beginning after 2006, the preceding sentence shall be applied by using the applicable yield curve method under subparagraph (C) rather than the applicable interest rate.".

(2) APPLICABLE YIELD CURVE METHOD.—Section 205(g)(3) of such Act (29 U.S.C. 1055(g)(3)) is amended by adding at the end the following new subparagraphs:

"(C) APPLICABLE YIELD CURVE METHOD.—For purposes of subparagraph (A), the term 'applicable yield curve method' means—

"(i) the phase-in yield curve method in the case of plan years beginning in 2007, 2008, and 2009, and

"(ii) the yield curve method for years beginning after 2009.

"(D) YIELD CURVE METHOD.—For purposes of this paragraph—

"(i) IN GENERAL.—The yield curve method is a method under which present value is determined—

"(I) by using interest rates drawn from a yield curve which is prescribed by the Secretary of the Treasury and which reflects the yield on high-quality corporate bonds with varying maturities, and

"(II) by matching the timing of the expected benefit payments under the plan to the interest rates on such yield curve.

"(ii) PUBLICATION.—Each month the Secretary of the Treasury shall publish any yield curve prescribed under this subparagraph which shall apply to plan years beginning in such month and such yield curve shall be based on average interest rates for business days occurring during the 3 preceding months.

"(E) PHASE-IN YIELD CURVE METHOD.—

"(i) IN GENERAL.—Present value determined under the phase-in yield curve method shall be equal to the sum of—

"(I) the applicable percentage of such amount determined under the yield curve method described in subparagraph (D), and

"(II) the product of such amount determined by using the applicable interest rate and a percentage equal to 100 percent minus the applicable percentage.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is 25 percent for plan years beginning in 2007, 50 percent for plan years beginning in 2008, and 75 percent for plan years beginning in 2009.".

(b) AMENDMENTS OF INTERNAL REVENUE CODE.—

(1) IN GENERAL.—Section 417(e)(3)(A) of the Internal Revenue Code of 1986 (relating to determination of present value) is amended by adding at the end the following new sentence: "In the case of plan years beginning after 2006, the preceding sentence shall be applied by using the applicable yield curve method under subparagraph (C) rather than the applicable interest rate."

(2) APPLICABLE YIELD CURVE METHOD.—Section 417(e) of such Code is amended by adding at the end the following new subparagraphs:

"(C) APPLICABLE YIELD CURVE METHOD.—For purposes of subparagraph (A), the term 'applicable yield curve method' means—

"(i) the phase-in yield curve method in the case of plan years beginning in 2007, 2008, and 2009, and

"(ii) the yield curve method for years beginning after 2009.

"(D) YIELD CURVE METHOD.—For purposes of this paragraph—

"(i) IN GENERAL.—The yield curve method is a method under which present value is determined—

"(I) by using interest rates drawn from a yield curve which is prescribed by the Secretary and which reflects the yield on high-quality corporate bonds with varying maturities, and

"(II) by matching the timing of the expected benefit payments under the plan to the interest rates on such yield curve.

"(ii) PUBLICATION.—Each month the Secretary shall publish any yield curve prescribed under this subparagraph which shall apply to plan years beginning in such month and such yield curve shall be based on average interest rates for business days occurring during the 3 preceding months.

"(E) PHASE-IN YIELD CURVE METHOD.—

"(i) IN GENERAL.—Present value determined under the phase-in yield curve method shall be equal to the sum of—

"(I) the applicable percentage of such amount determined under the yield curve method described in subparagraph (D), and

"(II) the product of such amount determined by using the applicable interest rate and a percentage equal to 100 percent minus the applicable percentage.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is 25 percent for plan years beginning in 2007, 50 percent for plan years beginning in 2008, and 75 percent for plan years beginning in 2009.".

(c) SPECIAL RULE FOR PLAN AMENDMENTS.—A plan shall not fail to meet the requirements of section 204(g) of the Employee Retirement Income Security Act of 1974 or section 411(d)(6) of the Internal Revenue Code of 1986 solely by reason of the adoption by the plan of an amendment necessary to meet the requirements of the amendments made by this section.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to plan years beginning after 2006.

SEC. 302. INTEREST RATE ASSUMPTION FOR APPLYING BENEFIT LIMITATIONS TO LUMP SUM DISTRIBUTIONS.

(a) IN GENERAL.—Clause (ii) of section 415(b)(2)(E) of the Internal Revenue Code of 1986 is amended to read as follows:

"(ii) For purposes of adjusting any benefit under subparagraph (B) for any form of benefit subject to section 417(e)(3), clause (i) shall be applied by substituting '5.5 percent' for '5 percent'.".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to years beginning after December 31, 2005.

SEC. 303. RESTRICTIONS ON FUNDING OF NONQUALIFIED DEFERRED COMPENSATION PLANS BY EMPLOYERS MAINTAINING UNDERFUNDED OR TERMINATED SINGLE-EMPLOYER PLANS.

(a) AMENDMENTS OF ERISA.—

(1) IN GENERAL.—Part 3 of subtitle A of title I of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1081 et seq.), as amended by this Act, is amended by adding at the end the following new section:

"NOTICE OF FUNDING OF NONQUALIFIED
DEFERRED COMPENSATION PLANS

"SEC. 306. (a) NOTICE AND ACCESS.—

"(1) NOTICE RELATING TO RESTRICTED PERIOD.—The plan administrator of a defined benefit plan which is a single-employer plan shall notify each plan sponsor of the plan within a reasonable period of time after the occurrence of an event which results in a restricted period with respect to the plan. Such notice shall include information—

"(A) as to the duration of the restricted period, and

"(B) the restrictions under section 409A(b)(3) of the Internal Revenue Code of 1986 which apply during the restricted period to the plan sponsor and any member of a controlled group which includes such sponsor.

"(2) NOTICE OF EXISTENCE OF, AND TRANSFERS TO, NONQUALIFIED DEFERRED COMPENSATION PLANS.—

"(A) INITIAL NOTICE.—Within 30 days of receipt of a notice under paragraph (1), each plan sponsor shall notify the plan administrator of the plan described in paragraph (1)—

"(i) of nonqualified deferred compensation plans maintained by the plan sponsor or any member of a controlled group which includes such sponsor, and

"(ii) the amount of any assets transferred or otherwise reserved by the plan sponsor or such member in violation of section 409A(b)(3) of such Code during any portion of the restricted period occurring on or before the date the plan sponsor provides such notice.

"(B) ADDITIONAL NOTICES.—If, after the date on which notice is provided under subparagraph (A) and during any portion of the remaining restricted period specified in the notice provided under paragraph (1), the plan sponsor of a plan described in paragraph (1) or a member of a controlled group which includes such sponsor—

"(i) transfers or reserves assets in violation of section 409A(b)(3) of such Code, or

"(ii) establishes a new nonqualified deferred compensation plan,

the plan sponsor shall notify the plan administrator of the plan described in paragraph (1) of such transfer, reservation, or establishment within 3 days of the date of such action.

"(3) ACCESS TO FINANCIAL DATA.—Any fiduciary of the plan shall have access to the financial records of a plan sponsor or any member of a controlled group which includes such sponsor to determine if assets were transferred or otherwise reserved in violation of section 409A(b)(3) of such Code.

"(4) FORM AND MANNER.—The Secretary may prescribe the form and manner of a notice required under this section. Such a notice shall be written in a manner calculated to be understood by the average plan participant and may be delivered in written, electronic, or other appropriate form to the extent that such form is reasonably accessible to the recipient.

"(b) RESTRICTED PERIOD.—For purposes of this section, the term 'restricted period' means, with respect to any plan described in subsection (a)(1)—

"(1) any period—

"(A) beginning on the first day of a plan year following a plan year for which the plan's adjusted funding target attainment percentage (as defined in section 303) was less than 60 percent (determined as of the close of such year), and

"(B) ending on the last day of the first period of 2 consecutive plan years (beginning on or after such first day) for which such percentage was at least 60 percent,

"(2) any period the plan sponsor is in bankruptcy, and

"(3) the 12-month period beginning on the date which is 6 months before the termination date of the plan if, as of the termination date, the plan is not sufficient for benefit liabilities (within the meaning of section 4041).

In the case of a plan which is in at-risk status, paragraph (1) shall be applied by substituting '80 percent' for '60 percent' each place it appears.

"(c) NONQUALIFIED DEFERRED COMPENSATION PLAN.—For purposes of this section—

"(1) IN GENERAL.—The term 'nonqualified deferred compensation plan' means any plan that provides for the deferral of compensation, other than—

"(A) a qualified employer plan, and

"(B) any bona fide vacation leave, sick leave, compensatory time, disability pay, or death benefit plan.

"(2) QUALIFIED EMPLOYER PLAN.—The term 'qualified employer plan' means—

"(A) any plan, contract, pension, account, or trust described in subparagraph (A) or (B) of section 219(g)(5) of the Internal Revenue Code of 1986 (without regard to subparagraph (A)(iii)),

"(B) any eligible deferred compensation plan (within the meaning of section 457(b)) of such Code, and

"(C) any plan described in section 415(m) of such Code.

"(3) PLAN INCLUDES ARRANGEMENTS, ETC.—The term 'plan' includes any agreement or arrangement, including an agreement or arrangement that includes one person.

"(d) OTHER DEFINITIONS.—For purposes of this section—

"(1) APPLICABLE COVERED EMPLOYEE.—

"(A) IN GENERAL.—The term 'applicable covered employee' mean any—

"(i) covered employee of a plan sponsor,

"(ii) covered employee of a member of a controlled group which includes the plan sponsor, and

"(iii) former employee who was a covered employee at the time of termination of employment with the plan sponsor or a member of a controlled group which includes the plan sponsor.

"(B) COVERED EMPLOYEE.—The term 'covered employee' has the meaning given such term by section 162(m)(3) of the Internal Revenue Code of 1986.

"(2) CONTROLLED GROUP.—The term 'controlled group' has the meaning given such term by section 302(d)(3).".

(2) ENFORCEMENT.—

(A) IN GENERAL.—Section 502(a) of the Employee Retirement Income Security Act (29 U.S.C. 1132(a)), as amended by this Act, is amended—

(i) by striking "or" at the end of paragraph (9), by striking the period at the end of paragraph (10) and inserting "; or", and by adding at the end the following new paragraph:

"(11) by a fiduciary of a defined benefit plan which is a single-employer plan against—

"(A) a plan sponsor, a member of a controlled group which includes the plan sponsor, an applicable covered employee, or a person holding assets which are part of a nonqualified deferred compensation plan to recover on behalf of the plan—

"(i) assets which were set aside or transferred in violation of section 409A(b)(3) of the Internal Revenue Code of 1986 (and any earnings properly allocable to the assets); or

"(ii) amounts equivalent to the assets and earnings described in clause (i); or

"(B) a plan sponsor, or a member of a controlled group which includes the plan sponsor, to compel the production of records the fiduciary is entitled to under section 306."; and

(ii) by adding at the end the following new flush sentence:

"For purposes of paragraph (11), any term used in such paragraph which is also used in section 306 shall have the meaning given such term by section 306.".

(B) AWARDING OF FEES.—Section 502(g) of such Act (29 U.S.C. 1132(g)) is amended by adding at the end the following new paragraph:

"(3) ACTIONS TO RECOVER ASSETS TRANSFERRED TO NONQUALIFIED DEFERRED COMPENSATION PLANS.—If, in any action under subsection (a)(11) by a fiduciary for or on behalf of a plan to enforce section 306 of this Act and section 409A(b)(3), a judgment is awarded in favor of the plan, the court may, in addition to any other amount, award the plan reasonable attorney's fees and costs of the action, to be paid by the defendant".

(3) CLERICAL AMENDMENT.—The table of contents in section 1 of such Act, as amended by this Act, is amended by adding at the end the following new item:

"Sec. 306. Restrictions on funding of nonqualified deferred compensation plans.".

(b) AMENDMENTS OF INTERNAL REVENUE CODE.—

(1) IN GENERAL.—Subsection (b) of section 409A of the Internal Revenue Code of 1986 (providing rules relating to funding) is amended by redesignating paragraphs (3) and (4) as paragraphs (4) and (5), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) EMPLOYERS OF UNDERFUNDED OR TERMINATED DEFINED BENEFIT PLANS.—During any restricted period—

"(A) a plan sponsor of a defined benefit plan which is a single-employer plan, or

"(B) any member of a controlled group which includes such sponsor,

shall not directly or indirectly transfer assets, or directly or indirectly otherwise reserve assets, in a trust (or other arrangement determined by the Secretary) for purposes of paying deferred compensation of an applicable covered employee under a nonqualified deferred compensation plan of the plan sponsor or member. Any assets transferred or reserved in violation of the preceding sentence shall, for purposes of section 83, be treated as property transferred in connection with the performance of services whether or not such assets are available to satisfy claims of general creditors. For purposes of this paragraph, any term used in this paragraph which is also used in section 306 of the Employee Retirement Income Security Act of 1974 shall have the meaning given such term by such section.".

(2) CONFORMING AMENDMENTS.—Paragraphs (4) and (5) of section 409A(b) of such Code, as redesignated by subsection (a) of this subsection, are each amended by striking "paragraph (1) or (2)" each place it appears and inserting "paragraph (1), (2), or (3)".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers or other reservation of assets after December 31, 2006.

SEC. 304. MODIFICATION OF PENSION FUNDING REQUIREMENTS FOR PLANS SUBJECT TO CURRENT TRANSITION RULE.

(a) PLAN YEAR BEFORE NEW FUNDING RULES.—Section 769(c)(3) of the Retirement Protection Act of 1994, as added by section 201 of the Pension Funding Equity Act of 2004, is amended by striking "and 2005" and inserting ", 2005, and 2006".

(b) PLAN YEARS AFTER NEW FUNDING RULES.—

(1) IN GENERAL.—In the case of a plan that—

(A) was not required to pay a variable rate premium for the plan year beginning in 1996,

(B) has not, in any plan year beginning after 1995, merged with another plan (other than a plan sponsored by an employer that was in 1996 within the controlled group of the plan sponsor), and

(C) is sponsored by a company that is engaged primarily in the interurban or interstate passenger bus service,

the rules described in subsection (b) shall apply for any plan year beginning after 2006.

(2) MODIFIED RULES.—The rules described in this subsection are as follows:

(A) For purposes of—

(i) determining unfunded benefits under section 4006(a)(3)(E)(ii) of the Employee Retirement Income Security Act of 1974, and

(ii) determining any present value or making any computation under section 412 and section 430 of the Internal Revenue Code of 1986 and sections 302 and 303 of such Act,

the mortality table shall be the mortality table used by the plan.

(B) Notwithstanding section 303(f)(4) of such Act or 430(f)(4) of such Code, for purposes of section 303(c)(4)(A)(ii) of such Act and 430(c)(4)(A)(ii) of such Code, the value of plan assets shall not be reduced by the amount of the prefunding balance if, pursuant to a binding written agreement with the Pension Benefit Guaranty Corporation entered into before January 1, 2006, the prefunding balance is not available to reduce the minimum required contribution for the plan year.

(3) DEFINITIONS.—Any term used in this section which is also used in section 303 of such Act or section 430 of such Code shall have the meaning provided such term in such section.

(4) CONFORMING AMENDMENT.—Section 769 of the Retirement Protection Act of 1994 is amended by striking subsection (c).

(5) EFFECTIVE DATE.—The amendments made by this subsection shall apply to plan years beginning after 2006.

TITLE IV—IMPROVEMENTS IN PBGC GUARANTEE PROVISIONS

SEC. 401. INCREASES IN PBGC PREMIUMS.

(a) FLAT-RATE PREMIUMS.—

(1) IN GENERAL.—Section 4006(a)(3)(A)(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)(i)) is amended to read as follows:

"(i) in the case of a single-employer plan, an amount equal to—

"(I) for plan years beginning after December 31, 1990, and before January 1, 2006, $19, or

"(II) for plan years beginning after December 31, 2005, the amount determined under subparagraph (H),

plus the additional premium (if any) determined under subparagraph (E) for each individual who is a participant in such plan during the plan year;".

(2) AMOUNT OF PREMIUM AFTER 2005.—Section 4006(a)(3) of such Act (29 U.S.C. 1306(a)(3)), as amended by sections 406 and 407, is amended by adding at the end the following:

"(H) AMOUNT OF PREMIUM.—

"(i) IN GENERAL.—The amount determined under this subparagraph is the greater of $30 or in the case of plan years beginning after December 31, 2006, the adjusted amount determined under clause (ii).

"(ii) ADJUSTED AMOUNT.—The adjusted amount determined under this clause is the product derived by multiplying $30 by the ratio of—

"(I) the contribution and benefit base (determined under section 230 of the Social Security Act) in effect in the calendar year in which the plan year begins, to

"(II) the contribution and benefit base in effect in 2006.

"(iii) ROUNDING.—If the amount determined under clause (ii) is not a multiple of $1, such product shall be rounded to the nearest multiple of $1.".

(b) RISK-BASED PREMIUMS.—

(1) CONFORMING AMENDMENTS RELATED TO FUNDING RULES FOR SINGLE-EMPLOYER PLANS.—Section 4006(a)(3)(E) of such Act is amended by striking clauses (iii) and (iv) and inserting the following:

"(iii)(I) For purposes of clause (ii), except as provided in subclause (II), the term 'unfunded benefits' means, for a plan year, the amount which would be the plan's funding shortfall (as defined in section 303(c)(4)) if the value of plan assets of the plan were equal to the fair market value of such assets.

"(II) The interest rate used in valuing benefits for purposes of subclause (I) shall be equal to the first, second, or third segment rate which would be determined under section 303(h)(2)(C) if section 303(h)(2)(D) were applied by using the yields on investment grade corporate bonds with varying maturities rather than the average of such yields for a 12-month period.".

(2) EFFECTIVE DATE.—The amendments made by paragraph (1) shall apply with respect to plan years beginning after 2006.

(c) FLAT-RATE PREMIUM ADJUSTMENT.—

(1) IN GENERAL.—Beginning in 2011, and every 5 years thereafter, the Board of Directors of the Pension Benefit Guaranty Corporation under title IV of the Employee Retirement Income Security Act (29 U.S.C. 1301 et seq.) shall submit to Congress a report that describes any recommendations for adjusting the premium rate payable to the Corporation described under section 4006(a)(3)(A)(i) of such Act (as amended by subsection (a)).

(2) CONSIDERATIONS.—In developing the report described under paragraph (1), the Corporation shall consider—

(A) the national average wage index (as defined in section 209(k)(1) of the Social Security Act (42 U.S.C. 409(k)(1)));

(B) the finances of the Corporation as of the date of such report and an actuarial evaluation of the expected operations and status of the funds established under section 4005 of such title IV (29 U.S.C. 1305) for the 5 years succeeding such date;

(C) the impact of any increases in such premium rate on plan sponsors subject to such title IV; and

(D) such other factors determined relevant by the Corporation.

SEC. 402. AUTHORITY TO ENTER ALTERNATIVE FUNDING AGREEMENTS TO PREVENT PLAN TERMINATIONS.

(a) AUTHORITY TO ENTER INTO AGREEMENTS.—

(1) DISTRESS TERMINATIONS.—Section 4041(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)) is amended by adding at the end the following:

"(4) ALTERNATIVE FUNDING AGREEMENTS.—

"(A) IN GENERAL.—If the corporation determines that—

"(i) a plan meets the requirements for a distress termination under this subsection without regard to an alternative funding agreement under section 4047(a), and

"(ii) the termination of the plan would not be necessary if such an agreement were entered into,

the corporation may request that the Secretary of the Treasury, in consultation with the corporation, enter into such an agreement with the contributing sponsors under the plan.

"(B) EARLY ACTION INITIATIVES.—Subject to the limitations in subsection (a)(3), if—

"(i) the corporation determines that it is reasonable to believe that a plan may be subject to a distress termination within 6 months unless action is taken, the corporation may request that the Secretary of the Treasury, in consultation with the corporation, enter into an alternative funding agreement under section 4047(a); and

"(ii) the corporation, upon the request of the contributing sponsor of a plan or other person, determines that it is reasonable to believe that a plan may be subject to a distress termination within 2 years unless action is taken, the corporation may request that the Secretary of the Treasury, in consultation with the corporation, enter into an alternative funding agreement under section 4047(a).".

(2) INVOLUNTARY TERMINATIONS.—Section 4042 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1342) is amended by adding at the end the following:

"(i) ALTERNATIVE FUNDING AGREEMENTS.—If—

"(1) the corporation determines that it is reasonable to believe that a plan will meet the requirements for an involuntary termination under this section without regard to an alternative funding agreement under section 4047(a) within 6 months unless action is taken, or

"(2) the corporation, upon the request of the contributing sponsor of a plan or other person, determines that it is reasonable to believe that a plan may be subject to an involuntary termination within 2 years unless action is taken,

and such a termination would not be necessary if such an agreement is entered into, the corporation may request that the Secretary of the Treasury, in consultation with the corporation, enter into an alternative funding agreement under section 4047(a).".

(b) ALTERNATIVE FUNDING SCHEDULES TO PREVENT PLAN TERMINATION.—

(1) IN GENERAL.—Section 4047 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1347) is amended by—

(A) striking the section heading and all that follows though "Whenever" and inserting—

"SEC. 4047. ALTERNATIVE FUNDING SCHEDULES TO PREVENT TERMINATION; RESTORATION OF TERMINATED PLANS.

"(a) ALTERNATIVE FUNDING AGREEMENTS.—

"(1) IN GENERAL.—If the requirements of section 4041(c)(4) or 4042(i) are met with respect to any plan, the Secretary of the Treasury, in consultation with the corporation, may enter into an alternative funding agreement with the contributing sponsors under the plan that meets the requirements of this subsection.

"(2) OTHER REQUIREMENTS.—An alternative funding agreement may be entered into by the Secretary of the Treasury, in consultation with corporation, only if—

"(A) such Secretary finds the agreement to be in the best interests of the participants and beneficiaries; and

"(B) the agreement meets the requirements set forth by such Secretary in regulations.

"(3) ALTERNATIVE FUNDING AGREEMENT.—

"(A) IN GENERAL.—An agreement meets the requirements of this subsection if the agreement—

"(i) provides for an additional amortization schedule for a period not to exceed 10 years;

"(ii) requires the plan to pay at the time the agreement is entered into any professional fees or other expenses incurred by the Secretary of the Treasury or the corporation in connection with the agreements,

"(iii) requires approval by the corporation before the contributing sponsor establishes or maintains any other defined benefit plan other than any multiemployer plan that covers a substantial number of employees who are covered by the plan subject to the agreement or who perform substantially the same type of work with respect to the same business operations as employees covered by such plan, and

"(iv) provides for a termination date, or a schedule of termination dates, for the purpose of the guarantee under section 4022, to apply if a plan terminates during the period that the agreement is in effect.

"(B) OTHER CONDITIONS.—Notwithstanding any other provision of this Act, an agreement meeting the requirements of this subsection may provide—

"(i) for restrictions on, or the elimination of, future accruals, but only to the extent that such restrictions or eliminations would have been permitted under section 204(g) or section 411(d)(6) of the Internal Revenue Code of 1986 if they had been implemented by a plan amendment adopted immediately before the effective date of the agreement,

"(ii) that the contributing sponsors will provide security or other collateral in such form and amount as specified in the agreement,

"(iii) conditions under which the plan could be terminated in a standard termination under section 4041(b) or conditions under which accruals to which clause (i) applies could resume in the future, and

"(iv) for such other terms and conditions as the Secretary of the Treasury, in consultation with the corporation, determines necessary to protect the interests of the corporation.

"(C) EMPLOYEE REQUIREMENTS.—

"(i) IN GENERAL.—An agreement meets the requirements of this subsection only if—

"(I) at least 60 days before the agreement is to take effect the contributing sponsors notify affected parties (other than the corporation) of the terms of the agreement and its effect on such parties, and

"(II) each employee organization representing participants in the plan approves the agreement before it takes effect.

"(ii) FORM AND MANNER OF NOTICE.—The notice under clause (i) shall be written in a manner calculated to be understood by the average plan participant and may be provided to a person designated, in writing, by the person to which it would otherwise be provided. Such notice may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided.

"(4) COORDINATION WITH MINIMUM FUNDING REQUIREMENTS.—Any alternative funding schedule under an agreement meeting the requirements under this subsection shall supersede the minimum funding requirements of this Act and the Internal Revenue Code of 1986. For purposes of applying this Act or such Code, any contribution required under such schedule shall be treated in the same manner as contributions required under section 302 of this Act and section 412 of such Code.

"(b) RESTORATION OF TERMINATED PLANS.—Whenever".

(2) CONFORMING AMENDMENT.—The table of contents for title IV of such Act is amended by striking the item relating to section 4047 and inserting the following:

"4047. Alternative funding schedules to prevent terminations; restoration of terminated plans.".

(c) AMENDMENTS TO OTHER PROVISIONS.—

(1) QUALIFICATION REQUIREMENT.—Section 401(a) of the Internal Revenue Code of 1986, as amended by sections 115 and 701 of this Act, is amended by inserting after paragraph (35) the following new paragraph:

"(36) SUCCESSOR PLANS TO CERTAIN PLANS.—If—

"(A) an alternative funding agreement described in section 4047(a) of the Employee Retirement Income Security Act of 1974 is in effect with respect to any plan, and

"(B) the plan is maintained by an employer that establishes or maintains 1 or more other defined benefit plans (other than any multiemployer plan), and such other plans in combination provide benefit accruals to any substantial number of successor employees,

the Secretary may, in the Secretary's discretion, determine that any trust of which any other such plan is a part does not constitute a qualified trust under this subsection unless all benefit obligations of the plan to which the alternative funding agreement applies have been satisfied. For purposes of this paragraph, the term 'successor employee' means any employee who is or was covered by the plan to which the alternative funding agreement applies and any employee who performs substantially the same type of work with respect to the same business operations as an employee covered by such plan.".

(2) LIMITATION ON DEDUCTIONS UNDER CERTAIN PLANS.—Section 404(a)(7)(C) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"(iii) PLANS SUBJECT TO ALTERNATIVE FUNDING AGREEMENTS.—This paragraph shall not apply to any plan for a plan year if an alternative funding agreement described in section 4047(a) of the Employee Retirement Income Security Act of 1974 is in effect for such year.".

(d) EFFECTIVE DATE.—The amendments made by this section shall take effect on the date of enactment of this Act.

SEC. 403. SPECIAL FUNDING RULES FOR PLANS MAINTAINED BY COMMERCIAL AIRLINES THAT ARE AMENDED TO CEASE FUTURE BENEFIT ACCRUALS.

(a) IN GENERAL.—If an election is made to have this section apply to an eligible plan—

(1) in the case of any applicable plan year beginning before January 1, 2007, the plan shall not have an accumulated funding deficiency for purposes of section 302 of the Employee Retirement Income Security Act of 1974 and sections 412 and 4971 of the Internal Revenue Code of 1986 if contributions to the plan for the plan year are not less than the minimum required contribution determined under subsection (d) for the plan for the plan year, and

(2) in the case of any applicable plan year beginning on or after January 1, 2007, the minimum required contribution determined under sections 303 of such Act and 430 of such Code shall, for purposes of sections 302 and 303 of such Act and sections 412, 430, and 4971 of such Code, be equal to the minimum required contribution determined under subsection (d) for the plan for the plan year.

(b) ELIGIBLE PLAN.—For purposes of this section—

(1) IN GENERAL.—The term "eligible plan" means a defined benefit plan (other than a multiemployer plan) to which sections 302 of such Act and 412 of such Code applies—

(A) which is sponsored by an employer which is a commercial passenger airline, and

(B) with respect to which the requirements of paragraphs (2) and (3) are met.

(2) ACCRUAL RESTRICTIONS.—The requirements of this paragraph are met if, effective as of the first day of the first applicable plan year and at all times thereafter, the plan provides that—

(A) the accrued benefit, any death or disability benefit, and any social security supplement described in the last sentence of section 411(a)(9) of such Code and section 204(b)(1)(G) of such Act, of each participant are frozen at the amount of such benefit or supplement immediately before such first day, and

(B) all other benefits under the plan are eliminated,

but only to the extent the freezing or elimination of such benefits would have been permitted under section 411(d)(6) of such Code and section 204(g) of such Act if they had been implemented by a plan amendment adopted immediately before such first day.

(3) RESTRICTION ON APPLICABLE BENEFIT INCREASES.—The requirements of this paragraph are met if no applicable benefit increase (as defined in section 436(b)(3) of such Code and section 305(b)(3) of such Act, but determined without regard to subparagraph (B) or (C) thereof) takes effect at any time during the period beginning on July 26, 2005, and ending on the day before the first day of the first applicable plan year.

(c) ELECTIONS AND RELATED TERMS.—

(1) IN GENERAL.—A plan sponsor shall make the election under subsection (a) at such time and in such manner as the Secretary of the Treasury may prescribe. Such election, once made, may be revoked only with the consent of such Secretary.

(2) YEARS FOR WHICH ELECTION MADE.—

(A) IN GENERAL.—The plan sponsor may select the first plan year to which the election under subsection (a) applies from among plan years ending after the date of the election. The election shall apply to such plan year and all subsequent years.

(B) ELECTION OF NEW PLAN YEAR.—The plan sponsor may specify a new plan year in the election under subsection (a) and the plan year of the plan may be changed to such new plan year without the approval of the Secretary of the Treasury.

(3) APPLICABLE PLAN YEAR.—The term "applicable plan year" means each plan year to which the election under subsection (a) applies under paragraph (1).

(d) MINIMUM REQUIRED CONTRIBUTION.—

(1) IN GENERAL.—In the case of any applicable plan year during the amortization period, the minimum required contribution shall be the amount necessary to amortize the unfunded liability of the plan, determined as of the first day of the plan year, in equal annual installments (until fully amortized) over the remainder of the amortization period. Such amount shall be separately determined for each applicable plan year.

(2) YEARS AFTER AMORTIZATION PERIOD.—In the case of any plan year beginning after the end of the amortization period, section 302(a)(2)(A) of such Act and section 412(a)(2)(A) of such Code shall apply to such plan, but the prefunding balance as of the first day of the first of such years under section 303(f) of such Act and section 430(f) of such Code shall be zero.

(3) DEFINITIONS.—For purposes of this section—

(A) UNFUNDED LIABILITY.—The term "unfunded liability" means the unfunded accrued liability under the plan, determined under the unit credit funding method.

(B) AMORTIZATION PERIOD.—The term "amortization period" means the 14-plan year period beginning with the first applicable plan year.

(4) OTHER RULES.—In determining the minimum required contribution and amortization amount under this subsection—

(A) the provisions of section 302(c)(3) of such Act and section 412(c)(3) of such Code, as in effect before the date of enactment of this section, shall apply,

(B) the rate of interest under section 302(b) of such Act and section 412(b) of such Code, as so in effect, shall be used for all calculations requiring an interest rate, and

(C) the value of plan assets shall be equal to their fair market value.

(e) FUNDING STANDARD ACCOUNT AND PREFUNDING BALANCE.—Any charge or credit in the funding standard account under section 302 of such Act or section 412 of such Code, and any prefunding balance under section 303 of such Act or section 430 of such Code, as of the day before the first day of the first applicable plan year, shall be reduced to zero.

(f) AMENDMENTS TO OTHER PROVISIONS.—

(1) QUALIFICATION REQUIREMENT.—Section 401(a)(35) of the Internal Revenue Code of 1986, as added by this Act, is amended by adding at the end the following: "This paragraph shall also apply to any plan during any period during which an amortization schedule under section 403 of the Pension Security and Transparency Act of 2005 is in effect."

(2) PBGC LIABILITY LIMITED.—Section 4022 of the Employee Retirement Income Security Act of 1974, as amended by this Act, is amended by adding at the end the following new subsection:

"(h) SPECIAL RULE FOR PLANS ELECTING CERTAIN FUNDING REQUIREMENTS.—If any plan makes an election under section 403 of the Pension Security and Transparency Act of 2005, then this section and section 4044(a)(3) shall be applied by treating the first day of the first applicable plan year as the termination date of the plan.".

(3) LIMITATION ON DEDUCTIONS UNDER CERTAIN PLANS.—Section 404(a)(7)(C)(iii) of the Internal Revenue Code of 1986, as added by this Act, is amended by adding at the end the following new sentence: "This clause shall also apply to any plan for a plan year if an election under section 403 of the Pension Security and Transparency Act of 2005 is in effect for such year."

(4) NOTICE.—In the case of a plan amendment adopted in order to comply with this section, any notice required under section 204(h) of such Act or section 4980F(e) of such Code shall be provided within 15 days of the effective date of such plan amendment. This subsection shall not apply to any plan unless such plan is maintained pursuant to one or more collective bargaining agreements between employee representatives and 1 or more employers.

(g) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years ending after the date of the enactment of this Act.

SEC. 404. LIMITATION ON PBGC GUARANTEE OF SHUTDOWN AND OTHER BENEFITS.

(a) IN GENERAL.—Section 4022(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)) is amended by adding at the end the following:

"(8) If a benefit is payable by reason of—

"(A) a plant shutdown or similar event; or

"(B) any event other than attainment of any age, performance of any service, receipt or derivation of any compensation, or the occurrence of death or disability,

this section shall be applied as if a plan amendment had been adopted on the date such event occurred that provides for the payment of such benefit.".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to benefits that become payable as a result of a plant shutdown or other similar event, as such terms are used in the amendment made by subsection (a), that occurs after July 26, 2005.

SEC. 405. RULES RELATING TO BANKRUPTCY OF EMPLOYER.

(a) GUARANTEE.—Section 4022 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322), as amended by this Act, is amended by adding at the end the following:

"(i) BANKRUPTCY FILING SUBSTITUTED FOR TERMINATION DATE.—If a contributing sponsor of a plan has filed or has had filed against such person a petition seeking liquidation or reorganization in a case under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision, and the case has not been dismissed as of the termination date, then this section shall be applied by treating the date such petition was filed as the termination date of the plan.".

(b) ALLOCATION OF ASSETS AMONG PRIORITY GROUPS IN BANKRUPTCY PROCEEDINGS.—Section 4044 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1344) is amended by adding at the end the following:

"(e) BANKRUPTCY FILING SUBSTITUTED FOR TERMINATION DATE.—If a contributing sponsor of a plan has filed or has had filed against such person a petition seeking liquidation or reorganization in a case under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision, and the case has not been dismissed as of the termination date, then subsection (a)(3) shall be applied by treating the date such petition was filed as the termination date of the plan.".

(c) EFFECTIVE DATE.—The amendments made this section shall apply with respect to proceedings initiated under title 11, United States Code, or under any similar Federal law or law of a State or political subdivision, on or after the date that is 30 days after the date of enactment of this Act.

SEC. 406. PBGC PREMIUMS FOR NEW PLANS OF SMALL EMPLOYERS.

(a) IN GENERAL.—Subparagraph (A) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)(A)) is amended—

(1) in clause (i), by inserting "other than a new single-employer plan (as defined in subparagraph (F)) maintained by a small employer (as so defined)," after "single-employer plan,",

(2) in clause (iii), by striking the period at the end and inserting ", and", and

(3) by adding at the end the following new clause:

"(v) in the case of a new single-employer plan (as defined in subparagraph (F)) maintained by a small employer (as so defined) for the plan year, $5 for each individual who is a participant in such plan during the plan year."

(b) DEFINITION OF NEW SINGLE-EMPLOYER PLAN.—Section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)) is amended by adding at the end the following new subparagraph:

"(F)(i) For purposes of this paragraph, a single-employer plan maintained by a contributing sponsor shall be treated as a new single-employer plan for each of its first 5 plan years if, during the 36-month period ending on the date of the adoption of such plan, the sponsor or any member of such sponsor's controlled group (or any predecessor of either) did not establish or maintain a plan to which this title applies with respect to which benefits were accrued for substantially the same employees as are in the new single-employer plan.

"(ii)(I) For purposes of this paragraph, the term 'small employer' means an employer which on the first day of any plan year has, in aggregation with all members of the controlled group of such employer, 100 or fewer employees.

"(II) In the case of a plan maintained by two or more contributing sponsors that are not part of the same controlled group, the employees of all contributing sponsors and controlled groups of such sponsors shall be aggregated for purposes of determining whether any contributing sponsor is a small employer."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plans first effective after December 31, 2005.

SEC. 407. PBGC PREMIUMS FOR SMALL AND NEW PLANS.

(a) NEW PLANS.—Subparagraph (E) of section 4006(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)(3)), as amended by this Act, is amended by adding at the end the following new clause:

"(iv) In the case of a new defined benefit plan, the amount determined under clause (ii) for any plan year shall be an amount equal to the product of the amount determined under clause (ii) and the applicable percentage. For purposes of this clause, the term 'applicable percentage' means—

"(I) 0 percent, for the first plan year.

"(II) 20 percent, for the second plan year.

"(III) 40 percent, for the third plan year.

"(IV) 60 percent, for the fourth plan year.

"(V) 80 percent, for the fifth plan year.

For purposes of this clause, a defined benefit plan (as defined in section 3(35)) maintained by a contributing sponsor shall be treated as a new defined benefit plan for each of its first 5 plan years if, during the 36-month period ending on the date of the adoption of the plan, the sponsor and each member of any controlled group including the sponsor (or any predecessor of either) did not establish or maintain a plan to which this title applies with respect to which benefits were accrued for substantially the same employees as are in the new plan."

(b) SMALL PLANS.—Paragraph (3) of section 4006(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1306(a)), is amended—

(1) by striking "The" in subparagraph (E)(i) and inserting "Except as provided in subparagraph (G), the", and

(2) by inserting after subparagraph (F) the following new subparagraph:

"(G)(i) In the case of an employer who has 25 or fewer employees on the first day of the plan year, the additional premium determined under subparagraph (E) for each participant shall not exceed $5 multiplied by the number of participants in the plan as of the close of the preceding plan year.

"(ii) For purposes of clause (i), whether an employer has 25 or fewer employees on the first day of the plan year is determined by taking into consideration all of the employees of all members of the contributing sponsor's controlled group. In the case of a plan maintained by two or more contributing sponsors, the employees of all contributing sponsors and their controlled groups shall be aggregated for purposes of determining whether the 25-or-fewer-employees limitation has been satisfied."

(c) Effective Dates.—

(1) Subsection (a).—The amendments made by subsection (a) shall apply to plans first effective after December 31, 2005.

(2) Subsection (b).—The amendments made by subsection (b) shall apply to plan years beginning after December 31, 2005.

SEC. 408. AUTHORIZATION FOR PBGC TO PAY INTEREST ON PREMIUM OVERPAYMENT REFUNDS.

(a) In General.—Section 4007(b) of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1307(b)) is amended—

(1) by striking "(b)" and inserting "(b)(1)", and

(2) by inserting at the end the following new paragraph:

"(2) The corporation is authorized to pay, subject to regulations prescribed by the corporation, interest on the amount of any overpayment of premium refunded to a designated payor. Interest under this paragraph shall be calculated at the same rate and in the same manner as interest is calculated for underpayments under paragraph (1)."

(b) Effective Date.—The amendments made by subsection (a) shall apply to interest accruing for periods beginning not earlier than the date of the enactment of this Act.

SEC. 409. RULES FOR SUBSTANTIAL OWNER BENEFITS IN TERMINATED PLANS.

(a) Modification of Phase-In of Guarantee.—Section 4022(b)(5) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)(5)) is amended to read as follows:

"(5)(A) For purposes of this paragraph, the term 'majority owner' means an individual who, at any time during the 60-month period ending on the date the determination is being made—

"(i) owns the entire interest in an unincorporated trade or business,

"(ii) in the case of a partnership, is a partner who owns, directly or indirectly, 50 percent or more of either the capital interest or the profits interest in such partnership, or

"(iii) in the case of a corporation, owns, directly or indirectly, 50 percent or more in value of either the voting stock of that corporation or all the stock of that corporation.

For purposes of clause (iii), the constructive ownership rules of section 1563(e) of the Internal Revenue Code of 1986 (other than paragraph (3)(C) thereof) shall apply, including the application of such rules under section 414(c) of such Code.

"(B) In the case of a participant who is a majority owner, the amount of benefits guaranteed under this section shall equal the product of—

"(i) a fraction (not to exceed 1) the numerator of which is the number of years from the later of the effective date or the adoption date of the plan to the termination date, and the denominator of which is 10, and

"(ii) the amount of benefits that would be guaranteed under this section if the participant were not a majority owner."

(b) Modification of Allocation of Assets.—

(1) Section 4044(a)(4)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1344(a)(4)(B)) is amended by striking "section 4022(b)(5)" and inserting "section 4022(b)(5)(B)".

(2) Section 4044(b) of such Act (29 U.S.C. 1344(b)) is amended—

(A) by striking "(5)" in paragraph (2) and inserting "(4), (5),", and

(B) by redesignating paragraphs (3) through (6) as paragraphs (4) through (7), respectively, and by inserting after paragraph (2) the following new paragraph:

"(3) If assets available for allocation under paragraph (4) of subsection (a) are insufficient to satisfy in full the benefits of all individuals who are described in that paragraph, the assets shall be allocated first to benefits described in subparagraph (A) of that paragraph. Any remaining assets shall then be allocated to benefits described in subparagraph (B) of that paragraph. If assets allocated to such subparagraph (B) are insufficient to satisfy in full the benefits described in that subparagraph, the assets shall be allocated pro rata among individuals on the basis of the present value (as of the termination date) of their respective benefits described in that subparagraph."

(c) Conforming Amendments.—

(1) Section 4021 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321) is amended—

(A) in subsection (b)(9), by striking "as defined in section 4022(b)(6)", and

(B) by adding at the end the following new subsection:

"(d) For purposes of subsection (b)(9), the term 'substantial owner' means an individual who, at any time during the 60-month period ending on the date the determination is being made—

"(1) owns the entire interest in an unincorporated trade or business,

"(2) in the case of a partnership, is a partner who owns, directly or indirectly, more than 10 percent of either the capital interest or the profits interest in such partnership, or

"(3) in the case of a corporation, owns, directly or indirectly, more than 10 percent in value of either the voting stock of that corporation or all the stock of that corporation.

For purposes of paragraph (3), the constructive ownership rules of section 1563(e) of the Internal Revenue Code of 1986 (other than paragraph (3)(C) thereof) shall apply, including the application of such rules under section 414(c) of such Code."

(2) Section 4043(c)(7) of such Act (29 U.S.C. 1343(c)(7)) is amended by striking "section 4022(b)(6)" and inserting "section 4021(d)".

(d) Effective Dates.—

(1) In general.—Except as provided in paragraph (2), the amendments made by this section shall apply to plan terminations—

(A) under section 4041(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)) with respect to which notices of intent to terminate are provided under section 4041(a)(2) of such Act (29 U.S.C. 1341(a)(2)) after December 31, 2005, and

(B) under section 4042 of such Act (29 U.S.C. 1342) with respect to which proceedings are instituted by the corporation after such date.

(2) Conforming amendments.—The amendments made by subsection (c) shall take effect on January 1, 2006.

SEC. 410. ACCELERATION OF PBGC COMPUTATION OF BENEFITS ATTRIBUTABLE TO RECOVERIES FROM EMPLOYERS.

(a) Modification of Average Recovery Percentage of Outstanding Amount of Benefit Liabilities Payable by Corporation to Participants and Beneficiaries.—Section 4022(c)(3)(B)(ii) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(c)(3)(B)(ii)) is amended to read as follows:

"(ii) notices of intent to terminate were provided (or in the case of a termination by the corporation, a notice of determination under section 4042 was issued) during the 5-Federal fiscal year period ending with the third fiscal year preceding the fiscal year in which occurs the date of the notice of intent to terminate (or the notice of determination under section 4042) with respect to the plan termination for which the recovery ratio is being determined."

(b) Valuation of Section 4062(c) Liability for Determining Amounts Payable by Corporation to Participants and Beneficiaries.—

(1) Single-employer plan benefits guaranteed.—Section 4022(c)(3)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 13) is amended to read as follows:

"(A) In general.—Except as provided in subparagraph (C), the term 'recovery ratio' means the ratio which—

"(i) the sum of the values of all recoveries under section 4062, 4063, or 4064, determined by the corporation in connection with plan terminations described under subparagraph (B), bears to

"(ii) the sum of all unfunded benefit liabilities under such plans as of the termination date in connection with any such prior termination.".

(2) Allocation of assets.—Section 4044 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1362) is amended by adding at the end the following new subsection:

"(e) Valuation of Section 4062(c) Liability for Determining Amounts Payable by Corporation to Participants and Beneficiaries.—

"(1) In general.—In the case of a terminated plan, the value of the recovery of liability under section 4062(c) allocable as a plan asset under this section for purposes of determining the amount of benefits payable by the corporation shall be determined by multiplying—

"(A) the amount of liability under section 4062(c) as of the termination date of the plan, by

"(B) the applicable section 4062(c) recovery ratio.

"(2) Section 4062(c) recovery ratio.—For purposes of this subsection—

"(A) In general.—Except as provided in subparagraph (C), the term 'section 4062(c) recovery ratio' means the ratio which—

"(i) the sum of the values of all recoveries under section 4062(c) determined by the corporation in connection with plan terminations described under subparagraph (B), bears to

"(ii) the sum of all the amounts of liability under section 4062(c) with respect to such plans as of the termination date in connection with any such prior termination.

"(B) Prior terminations.—A plan termination described in this subparagraph is a termination with respect to which—

"(i) the value of recoveries under section 4062(c) have been determined by the corporation, and

"(ii) notices of intent to terminate were provided (or in the case of a termination by the corporation, a notice of determination under section 4042 was issued) during the 5-Federal fiscal year period ending with the third fiscal year preceding the fiscal year in which occurs the date of the notice of intent to terminate (or the notice of determination under section 4042) with respect to the plan termination for which the recovery ratio is being determined.

"(C) EXCEPTION.—In the case of a terminated plan with respect to which the outstanding amount of benefit liabilities exceeds $20,000,000, the term 'section 4062(c) recovery ratio' means, with respect to the termination of such plan, the ratio of—

"(i) the value of the recoveries on behalf of the plan under section 4062(c), to

"(ii) the amount of the liability owed under section 4062(c) as of the date of plan termination to the trustee appointed under section 4042 (b) or (c).

"(3) SUBSECTION NOT TO APPLY.—This subsection shall not apply with respect to the determination of—

"(A) whether the amount of outstanding benefit liabilities exceeds $20,000,000, or

"(B) the amount of any liability under section 4062 to the corporation or the trustee appointed under section 4042 (b) or (c).

"(4) DETERMINATIONS.—Determinations under this subsection shall be made by the corporation. Such determinations shall be binding unless shown by clear and convincing evidence to be unreasonable."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply for any termination for which notices of intent to terminate are provided (or in the case of a termination by the corporation, a notice of determination under section 4042 under the Employee Retirement Income Security Act of 1974 is issued) on or after the date which is 30 days after the date of enactment of this section.

SEC. 411. TREATMENT OF CERTAIN PLANS WHERE CESSATION OR CHANGE IN MEMBERSHIP OF A CONTROLLED GROUP.

(a) IN GENERAL.—Section 4041(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(b)) is amended by adding at the end the following new paragraph:

"(5) SPECIAL RULE FOR CERTAIN PLANS WHERE CESSATION OR CHANGE IN MEMBERSHIP OF A CONTROLLED GROUP.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), if—

"(i) there is transaction or series of transactions which result in a single-employer plan which is a defined benefit plan being maintained by an employer which is not a member of the same controlled group of which the employer maintaining the plan before such transaction or series of transactions was a member,

"(ii) the corporation treats the transaction or series of transactions as resulting in a standard termination to which this subsection applies, and

"(iii) the plan is fully funded,

then the interest rate used in determining whether the plan is sufficient for benefit liabilities for purposes of this subsection shall be the interest rate used in determining whether the plan is fully funded.

"(B) LIMITATIONS.—Subparagraph (A) shall not apply to any transaction or series of transactions unless—

"(i) any employer maintaining the plan immediately before or after such transaction or series of transactions—

"(I) has an outstanding senior unsecured debt instrument which is rated investment grade by each of the nationally recognized statistical rating organizations for corporate bonds that has issued a credit rating for such instrument, or

"(II) if no such debt instrument of such employer has been rated by such an organization but 1 or more of such organizations has made an issuer credit rating for such employer, all such organizations which have so rated the employer have rated such employer investment grade, and

"(ii) the employer maintaining the plan after the transaction or series of transactions employs at least 30 percent of the employees located in the United States who were employed by such employer immediately before the transaction or series of transactions.

"(C) FULLY FUNDED.—For purposes of subparagraph (A), a plan shall be treated as fully funded with respect to any transaction or series of transactions if—

"(i) in the case of a transaction or series of transactions which occur in a plan year beginning before January 1, 2007, the funded current liability percentage determined under section 302(d) for the plan year is at least 100 percent, and

"(ii) in the case of a transaction or series of transactions which occur in a plan year beginning on or after such date, the funding target attainment percentage determined under section 303 is, as of the valuation date for such plan year, at least 100 percent."

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to any transaction or series of transactions occurring on and after the date of the enactment of this Act.

SEC. 412. EFFECT OF TITLE.

The decreases in Federal outlays resulting from the enactment of this title, and the amendments made by this title, shall be treated as in lieu of the decreases in Federal outlays which—

(1) resulted from amendments made to title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301 et seq.); and

(2) were contained in an Act enacted pursuant to the concurrent resolution on the budget for fiscal year 2006.

TITLE V—DISCLOSURE

SEC. 501. DEFINED BENEFIT PLAN FUNDING NOTICE.

(a) IN GENERAL.—Section 101(f) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(f)) is amended to read as follows:

"(f) DEFINED BENEFIT PLAN FUNDING NOTICES.—

"(1) IN GENERAL.—The administrator of a defined benefit plan shall for each plan year provide a plan funding notice to the Pension Benefit Guaranty Corporation, to each plan participant and beneficiary, to each labor organization representing such participants or beneficiaries, and, in the case of a multiemployer plan, to each employer that has an obligation to contribute to the plan.

"(2) INFORMATION CONTAINED IN NOTICES.—

"(A) IDENTIFYING INFORMATION.—Each notice required under paragraph (1) shall contain identifying information, including the name of the plan, the address and phone number of the plan administrator and the plan's principal administrative officer, each plan sponsor's employer identification number, and the plan number of the plan.

"(B) SPECIFIC INFORMATION.—A plan funding notice under paragraph (1) shall include—

"(i)(I) in the case of a single-employer plan, a statement as to whether the plan's funding target attainment percentage (as defined in section 303(d)(2)) for the plan year to which the notice relates, and for the 2 preceding plan years, is at least 100 percent (and, if not, the actual percentages), or

"(II) in the case of a multiemployer plan, a statement as to whether the plan's funded percentage (as defined in section 305(i)) for the plan year to which the notice relates, and for the 2 preceding plan years, is at least 100 percent (and, if not, the actual percentages),

"(ii)(I) in the case of a single-employer plan, a statement of the value of the plan's assets and liabilities for the plan year to which the notice relates as of the last day of the plan year to which the notice relates determined using the asset valuation under subclause (I) of section 4006(a)(3)(E)(iii) and the interest rate under subclause (II) of such section, and

"(II) in the case of a multiemployer plan, a statement of the value of the plan's assets and liabilities for the plan year to which the notice relates as the last day of such plan year,

"(iii) a statement of the number of participants who are—

"(I) retired or separated from service and are receiving benefits;

"(II) retired or separated participants entitled to future benefits, and

"(II) active participants under the plan,

"(iv) a statement setting forth the funding policy of the plan and the asset allocation of investments under the plan (expressed as percentages of total assets) as of the end of the plan year to which the notice relates,

"(v) in the case of a multiemployer plan, whether the plan was in critical or endangered status under section 305 for such plan year and, if so—

"(I) a list of the actions taken by the plan to improve its funding status, and

"(II) a statement describing how a person may obtain a copy of the plan's improvement or rehabilitation plan, as appropriate, adopted under section 305 and the actuarial and financial data that demonstrate any action taken by the plan toward fiscal improvement,

"(vi) a summary of any funding improvement plan, rehabilitation plan, or modification thereof adopted under section 305 during the plan year to which the notice relates,

"(vii) in the case of any plan amendments, scheduled benefit increase or reduction, or other known event taking effect in the current plan year and having a material effect on plan liabilities or assets for the year (as defined in regulations by the Secretary), an explanation of the amendment, schedule increase or reduction, or event, and a projection to the end of such plan year of the effect of the amendment, scheduled increase or reduction, or event on plan liabilities,

"(viii)(I) in the case of a single-employer plan, a summary of the rules governing termination of single-employer plans under subtitle C of title IV, or

"(II) in the case of a multiemployer plan, a summary of the rules governing reorganization or insolvency, including the limitations on benefit payments and any potential benefit reductions and suspensions (and the potential effects of such limitations, reductions, and suspensions on the plan), and

"(ix) a general description of the benefits under the plan which are eligible to be guaranteed by the Pension Benefit Guaranty Corporation, along with an explanation of the limitations on the guarantee and the circumstances under which such limitations apply.

"(C) OTHER INFORMATION.—Each notice under paragraph (1) shall include—

"(i) in the case of a multiemployer plan, a statement that the plan administrator shall provide, upon written request, to any labor organization representing plan participants and beneficiaries and any employer that has an obligation to contribute to the plan, a copy of the annual report filed with the Secretary under section 104(a), and

"(ii) any additional information which the plan administrator elects to include to the extent not inconsistent with regulations prescribed by the Secretary.

"(3) TIME FOR PROVIDING NOTICE.—

"(A) IN GENERAL.—Any notice under paragraph (1) shall be provided not later than 90 days after the end of the plan year to which the notice relates.

"(B) EXCEPTION FOR SMALL PLANS.—In the case of a small plan (as such term is used under section 303(g)(2)(B)) any notice under paragraph (1) shall be provided upon filing of the annual report under section 104(a).

"(4) FORM AND MANNER.—Any notice under paragraph (1)—

"(A) shall be provided in a form and manner prescribed in regulations of the Secretary,

"(B) shall be written in a manner so as to be understood by the average plan participant, and

"(C) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the notice is required to be provided.".

(b) MODEL NOTICE.—Not later than 180 days after the date of the enactment of this Act, the Secretary of Labor shall publish a model version of the notice required by section 101(f) of the Employee Retirement Income Security Act of 1974. The Secretary of Labor may promulgate any interim final rules as the Secretary determines appropriate to carry out the provisions of this subsection.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

SEC. 502. ACCESS TO MULTIEMPLOYER PENSION PLAN INFORMATION.

(a) FINANCIAL INFORMATION WITH RESPECT TO MULTIEMPLOYER PLANS.—

(1) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021) is amended—

(A) by redesignating subsection (k) as subsection (l); and

(B) by inserting after subsection (j) the following new subsection:

"(k) MULTIEMPLOYER PLAN INFORMATION MADE AVAILABLE ON REQUEST.—

"(1) IN GENERAL.—Each administrator of a multiemployer plan shall, upon written request, furnish to any plan participant or beneficiary, employee representative, or any employer that has an obligation to contribute to the plan—

"(A) a copy of any periodic actuarial report (including sensitivity testing) received by the plan for any plan year which has been in the plan's possession for at least 30 days, and

"(B)(i) a copy of any quarterly, semi-annual, or annual financial report prepared for the plan by any plan investment manager or advisor or other fiduciary which has been in the plan's possession for at least 30 days, or

"(ii) at the discretion of the person submitting the written request, a copy of a quarterly summary of the financial reports described clause (i).

"(2) COMPLIANCE.—Information required to be provided under paragraph (1)—

"(A) shall be provided to the requesting participant, beneficiary, or employer within 30 days after the request in a form and manner prescribed in regulations of the Secretary,

"(B) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to persons to whom the information is required to be provided, and

"(C) shall not—

"(i) include any individually identifiable information regarding any plan participant, beneficiary, employee, fiduciary, or contributing employer, or

"(ii) reveal any proprietary information regarding the plan, any contributing employer, or entity providing services to the plan.

"(3) LIMITATIONS.—In no case shall a participant, beneficiary, or employer be entitled under this subsection to receive more than one copy of any report described in paragraph (1) during any one 12-month period. The administrator may make a reasonable charge to cover copying, mailing, and other costs of furnishing copies of information pursuant to paragraph (1). The Secretary may by regulations prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.".

(2) ENFORCEMENT.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended by striking "section 101(j)" and inserting "subsection (j) or (k) of section 101".

(3) REGULATIONS.—The Secretary shall prescribe regulations under section 101(k)(2) of the Employee Retirement Income Security Act of 1974 (added by paragraph (1)) not later than 270 days after the date of the enactment of this Act.

(b) NOTICE OF POTENTIAL WITHDRAWAL LIABILITY TO MULTIEMPLOYER PLANS.—

(1) IN GENERAL.—Section 101 of such Act (as amended by subsection (a)) is amended—

(A) by redesignating subsection (l) as subsection (m); and

(B) by inserting after subsection (k) the following new subsection:

"(l) NOTICE OF POTENTIAL WITHDRAWAL LIABILITY.—

"(1) IN GENERAL.—The plan sponsor or administrator of a multiemployer plan shall, upon written request, furnish to any employer who has an obligation to contribute to the plan a notice of—

"(A) the estimated amount which would be the amount of such employer's withdrawal liability under part 1 of subtitle E of title IV if such employer withdrew on the last day of the plan year preceding the date of the request, and

"(B) an explanation of how such estimated liability amount was determined, including the actuarial assumptions and methods used to determine the value of the plan liabilities and assets, the data regarding employer contributions, unfunded vested benefits, annual changes in the plan's unfunded vested benefits, and the application of any relevant limitations on the estimated withdrawal liability.

For purposes of subparagraph (B), the term 'employer contribution' means, in connection with a participant, a contribution made by an employer as an employer of such participant.

"(2) COMPLIANCE.—Any notice required to be provided under paragraph (1)—

"(A) shall be provided to the requesting employer within—

"(i) 180 days after the request in a form and manner prescribed in regulations of the Secretary, or

"(ii) subject to regulations of the Secretary, such longer time as may be necessary in the case of a plan that determines withdrawal liability based on any method described under paragraph (4) or (5) of section 4211(c); and

"(B) may be provided in written, electronic, or other appropriate form to the extent such form is reasonably accessible to employers to whom the information is required to be provided.

"(3) LIMITATIONS.—In no case shall an employer be entitled under this subsection to receive more than one notice described in paragraph (1) during any one 12-month period. The person required to provide such notice may make a reasonable charge to cover copying, mailing, and other costs of furnishing such notice pursuant to paragraph (1). The Secretary may by regulations prescribe the maximum amount which will constitute a reasonable charge under the preceding sentence.".

(2) ENFORCEMENT.—Section 502(c)(4) of such Act (29 U.S.C. 1132(c)(4)) is amended by striking "section 101(j) or (k)" and inserting "subsection (j), (k), or (l) of section 101".

(c) NOTICE OF AMENDMENT REDUCING FUTURE ACCRUALS.—Section 204(h)(1) of such Act (29 U.S.C. 1054(h)(1)) is amended by inserting at the end before the period "and to each employer who has an obligation to contribute to the plan.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

SEC. 503. ADDITIONAL ANNUAL REPORTING REQUIREMENTS.

(a) ADDITIONAL ANNUAL REPORTING REQUIREMENTS WITH RESPECT TO DEFINED BENEFIT PLANS.—

(1) IN GENERAL.—Section 103 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1023) is amended—

(A) in subsection (a)(1)(B), by striking "subsections (d) and (e)" and inserting "subsections (d), (e), and (f)"; and

(B) by adding at the end the following new subsection:

"(f) ADDITIONAL INFORMATION WITH RESPECT TO DEFINED BENEFIT PLANS.—

"(1) GENERAL INFORMATION.—With respect to any defined benefit plan, an annual report under this section for a plan year shall include the following:

"(A) In any case in which any liabilities to participants or their beneficiaries under such plan as of the end of such plan year consist (in whole or in part) of liabilities to such participants and beneficiaries under 2 or more pension plans as of immediately before such plan year, the funded percentage of each of such 2 or more pension plans as of the last day of such plan year and the funded percentage of the plan with respect to which the annual report is filed as of the last day of such plan year.

"(B) For purposes of this paragraph, the term 'funded percentage'—

"(i) in the case of a single-employer plan, means the funding target attainment percentage, as defined in section 303(d)(2), and

"(ii) in the case of a multiemployer plan, has the meaning given such term in section 305(i)(2).

"(2) ADDITIONAL INFORMATION FOR MULTIEMPLOYER PLANS.—With respect to any defined benefit plan which is a multiemployer plan, an annual report under this section for a plan year shall include, in addition to the information required under paragraph (1), the following, as of the end of the plan year to which the notice relates:

"(A) The number of employers obligated to contribute to the plan.

"(B) A list of the employers that contributed more than 5 percent of the total contributions to the plan during such plan year.

"(C) The number of participants under the plan on whose behalf no employer contributions have been made to the plan for such plan year and for each of the 2 preceding plan years. For purposes of this subparagraph, the term 'employer contribution' means, in connection with a participant, a contribution made by an employer as an employer of such participant.

“(D) The ratio of—

“(i) the number of participants under the plan on whose behalf no employer had an obligation to make an employer contribution during the plan year, to

“(ii) the number of participants under the plan on whose behalf no employer had an obligation to make an employer contribution during each of the 2 preceding plan years.

“(E) Whether the plan received an amortization extension under section 304(d) or section 431(d) of the Internal Revenue Code of 1986 for such plan year and, if so, the amount of the difference between the minimum required contribution for the year and the minimum required contribution which would have been required without regard to the extension, and the period of such extension.

“(F) Whether the plan used the shortfall funding method (as such term is used in section 305) for such plan year and, if so, the amount of the difference between the minimum required contribution for the year and the minimum required contribution which would have been required without regard to the use of such method, and the period of use of such method.

“(G) Whether the plan was in critical or endangered status under section 305 for such plan year, and if so, a summary of any funding improvement or rehabilitation plan (or modification thereto) adopted during the plan year, and the funding ratio of the plan.

“(H) The number of employers that withdrew from the plan during the preceding plan year and the aggregate amount of withdrawal liability assessed, or estimated to be assessed, against such withdrawn employers.

“(I) In the case of a multiemployer plan that has merged with another plan or to which assets and liabilities have been transferred, the actuarial valuation of the assets and liabilities of each affected plan during the year preceding the effective date of the merger or transfer, based upon the most recent data available as of the day before the first day of the plan year, or other valuation method performed under standards and procedures as the Secretary may prescribe by regulation.”.

(2) Guidance by Secretary of Labor.—

(A) In general.—Not later than 180 days after the date of enactment of this Act, the Secretary of Labor shall publish guidance to assist multiemployer defined benefit plans to—

(i) identify and enumerate plan participants for whom there is no employer with an obligation to make an employer contribution under the plan; and

(ii) report such information under section 103(f)(2)(D) of the Employee Retirement Income Security Act of 1974 (as added by this section).

(B) Waiver of requirement.—The Secretary of Labor shall waive the requirement under section 103(f)(2)(D) of such Act (as added by this section) for the construction and entertainment industries.

(b) Additional Information in Annual Actuarial Statement Regarding Plan Retirement Projections.—Section 103(d) of such Act (29 U.S.C. 1023(d)) is amended—

(1) by redesignating paragraphs (12) and (13) as paragraphs (13) and (14), respectively; and

(2) by inserting after paragraph (11) the following new paragraph:

“(12) A statement explaining the actuarial assumptions and methods used in projecting future retirements and forms of benefit distributions under the plan.”.

(c) Form and Manner of Report.—Section 104(b)(3) of such Act (29 U.S.C. 1024(b)(3)) is amended by—

(1) striking “(3) Within” and inserting—

“(A) In general.—Within”; and

(2) adding at the end the following:

“(B) Form of report.—The material provided pursuant to subparagraph (A) to summarize the latest annual report shall be written in a manner calculated to be understood by the average plan participant.

(d) Furnishing Summary Plan Information to Employers and Employee Representatives of Multiemployer Plans.—

(1) In general.—Section 104 of such Act (29 U.S.C. 1024) is amended—

(A) in the header, by striking “PARTICIPANTS” and inserting “PARTICIPANTS AND CERTAIN EMPLOYERS”;

(B) redesignating subsection (d) as subsection (e); and

(C) inserting after subsection (c) the following:

“(d) Furnishing Summary Plan Information to Employers and Employee Representatives of Multiemployer Plans.—

“(1) In general.—With respect to a multiemployer plan subject to this section, within 30 days after the due date under subsection (a)(1) for the filing of the annual report for the fiscal year of the plan, the administrators shall furnish to each employee organization, employer with an obligation to contribute to the plan, and the Pension Benefit Guaranty Corporation, a report that contains—

“(A) a description of the contribution schedules and benefit formulas under the plan, and any modification to such schedules and formulas, during such plan year;

“(B) the number of employers obligated to contribute to the plan;

“(C) a list of the employers that contributed more than 5 percent of the total contributions to the plan during such plan year;

“(D) the number of participants under the plan on whose behalf no employer contributions (which, for purposes of this paragraph, means, in connection with a participant, a contribution made by an employer as an employer of such participant) have been made to the plan for such plan year and for each of the 2 preceding plan years;

“(E) whether the plan was in critical or endangered status under section 305 for such plan year and, if so, include—

“(i) a list of the actions taken by the plan to improve its funding status; and

“(ii) a statement describing how a person may obtain a copy of the plan's improvement or rehabilitation plan, as appropriate, adopted under section 305 and the actuarial and financial data that demonstrate any action taken by the plan toward fiscal improvement;

“(H) the number of employers that withdrew from the plan during the preceding plan year and the aggregate amount of withdrawal liability assessed, or estimated to be assessed, against such withdrawn employers, as reported on the annual report for the plan year to which the report under this subsection relates;

“(I) in the case of a multiemployer plan that has merged with another plan or to which assets and liabilities have been transferred, the actuarial valuation of the assets and liabilities of each affected plan during the year preceding the effective date of the merger or transfer, based upon the most recent data available as of the day before the first day of the plan year, or other valuation method performed under standards and procedures as the Secretary may prescribe by regulation;

“(J) a description as to whether the plan—

“(i) sought or received an amortization extension under section 304(d) or section 431(d) of the Internal Revenue Code of 1986 for such plan year;

“(ii) used the shortfall funding method (as such term is used in section 305) for such plan year; or

“(iii) was in critical or endangered status under section 305 for such plan year; and

“(K) notification of the right under this section of the recipient to a copy of the annual report filed with the Secretary under subsection (a), summary annual report, summary plan description, summary of any material modification of the plan, upon written request, but that—

“(i) in no case shall a recipient be entitled to receive more than one copy of any such report described during any one 12-month period; and

“(ii) the administrator may make a reasonable charge to cover copying, mailing, and other costs of furnishing copies of information pursuant to this subparagraph.

“(2) Effect of section.—Nothing in this section waives any other provision under this title requiring plan administrators to provide, upon request, information to employers that have an obligation to contribution under the plan.”.

(e) Model Form.—Not later than 270 days after the date of the enactment of this Act, the Secretary of Labor shall publish a model form for providing the statements, schedules, and other material required to be provided under section 104(b)(3) of the Employee Retirement Income Security Act of 1974, as amended by this section. The Secretary of Labor may promulgate any interim final rules as the Secretary determines appropriate to carry out the provisions of this subsection.

(f) Five-year Report With Respect to Multiemployer Plans.—Section 4022A(f) of such Act (29 U.S.C. 1322a(f)) is amended by adding at the end the following:

“(6) Not later than 5 years after the date of the enactment of the Pension Security and Transparency Act of 2005, and at least every fifth year thereafter, the corporation shall submit to Congress a report that contains a description of the fiscal conditions of the multiemployer pension plan system as of the date of such report based on the information submitted to the corporation under section 104(d).”.

(g) Conforming Amendment.—Title IV of such Act (29 U.S.C. 1301 et seq.) is amended by striking section 4011.

(h) Effective Dates.—

(1) In general.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) Special rule.—Notwithstanding the provisions of paragraph (1), the requirement under section 103(f)(2)(D) of the Employee Retirement Income Security Act (as added by this section) shall apply to plan years beginning after December 31, 2007.

SEC. 504. TIMING OF ANNUAL REPORTING REQUIREMENTS.

(a) Filing After 285 Days After Plan Year Only in Cases of Hardship.—Section 104(a)(1) of such Act (29 U.S.C. 1024(a)(1)) is amended by inserting after the first sentence the following new sentence: “In the case of a pension plan, the Secretary may extend the deadline for filing the annual report for any plan year past 285 days after the close of the plan year only on a case by case basis and only in cases of hardship, in accordance with regulations which shall be prescribed by the Secretary.”.

(b) Internet Display of Information.—Section 104(b) of such Act (29 U.S.C. 1024(b)) is amended by adding at the end the following:

"(5) Identification and basic plan information and actuarial information included in the annual report for any plan year shall be filed with the Secretary in an electronic format which accommodates display on the Internet, in accordance with regulations which shall be prescribed by the Secretary. The Secretary shall provide for display of such information included in the annual report, within 90 days after the date of the filing of the annual report, on an Internet website maintained by the Secretary and other appropriate media. Such information shall also be displayed on any Internet website maintained by the plan sponsor (or by the plan administrator on behalf of the plan sponsor), in accordance with regulations which shall be prescribed by the Secretary.".

(c) Summary Annual Report Filed Within 30 Days After Deadline for Filing of Annual Report.—Section 104(b)(3) of such Act (29 U.S.C. 1024(b)(3)), as amended by section 503, is amended by—

(1) striking "(3)(A) Within 210 days after the close of the fiscal year," and inserting "(3)(A) Within 30 days after the due date under subsection (a)(1) for the filing of the annual report for the fiscal year of the plan";

(2) striking "the latest" and inserting "such"; and

(3) adding at the end the following

"(C) Date of internet display.—Display of the summary annual report on the Internet website maintained by the plan sponsor (or by the plan administrator on behalf of the plan sponsor) by the date required under subparagraph (A) shall be treated as furnishing such report to each participant and beneficiary receiving benefits under the plan by such date, except that such report shall be furnished to each such participant and beneficiary as soon as practicable thereafter, and in no event later the 30 days after such date.".

(d) Effective Date.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

SEC. 505. SECTION 4010 FILINGS WITH THE PBGC.

(a) Change in Criteria for Persons Required to Provide Information to PBGC.—Section 4010(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1310(b)) is amended—

(1) in paragraph (1)—

(A) by striking "(1) the aggregate" and inserting "(1)(A) the aggregate";

(B) by striking the semicolon and inserting "; and";

(C) by inserting after subparagraph (A) the following:

"(B)(i) the aggregate funding targets attainment percentage of the plan (as defined in subsection (d)) is less than 90 percent; or

"(ii) any debt instrument of the plan sponsor or the plan sponsor has received a rating described in subclause (I) or (II) of section 303(i)(5)(A)(i);"; and

(2) by redesignating paragraphs (2) and (3) as paragraphs (4) and (5), respectively, and by inserting before paragraph (4) (as so redesignated) the following new paragraphs:

"(2) the aggregate funding targets attainment percentage of the plan (as defined in subsection (d)) is less than 60 percent:

"(3)(A) the aggregate funding targets attainment percentage of the plan (as defined in subsection (d)) is less than 75 percent, and

"(B) the plan sponsor is in an industry with respect to which the corporation determines that there is substantial unemployment or underemployment and the sales and profits are depressed or declining;".

(b) Additional Information Required.—Section 4010 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1310) is amended by adding at the end the following new subsection:

"(d) Additional Information Required.—

"(1) In General.—The information submitted to the corporation under subsection (a) shall include—

"(A) the amount of benefit liabilities under the plan determined using the assumptions used by the corporation in determining liabilities;

"(B) the funding target of the plan determined as if the plan has been in at-risk status for at least 5 plan years; and

"(C) the funding target attainment percentage of the plan.

"(2) Definitions.—For purposes of this subsection:

"(A) Value of plan assets.—The term 'value of plan assets' means the value of plan assets, as determined under section 303(g)(3).

"(B) Funding target.—The term 'funding target' has the meaning provided under section 303(d)(1).

"(C) Funding target attainment percentage.—The term 'funding target attainment percentage' has the meaning provided in section 303(d)(2).

"(D) Aggregate funding targets attainment percentage.—The term 'aggregate funding targets attainment percentage' means, with respect to a contributing sponsor for a plan year, the percentage, taking into account all plans maintained by the contributing sponsor and the members of its controlled group as of the end of such plan year, which—

"(i) the aggregate total of the values of plan assets, as of the end of such plan year, of such plans, is of

"(ii) the aggregate total of the funding targets of such plans, as of the end of such plan year, taking into account only benefits to which participants and beneficiaries have a nonforfeitable right.

"(E) At-risk status.—The term 'at-risk status' has the meaning provided in section 303(i)(4).

"(e) Notice to Congress.—The Corporation shall, on an annual basis, submit to the Committee on Health, Education, Labor, and Pensions of the Senate and the Committee on Education and the Workforce of the House of Representatives, a summary report of the information submitted to the Corporation under this section.".

(c) Effective Date.—The amendment made by this section shall apply with respect to plan years beginning after 2006.

SEC. 506. DISCLOSURE OF TERMINATION INFORMATION TO PLAN PARTICIPANTS.

(a) Distress Terminations.—

(1) In general.—Section 4041(c)(2) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)(2)) is amended by adding at the end the following:

"(D) Disclosure of termination information.—

"(i) In general.—A plan administrator that has filed a notice of intent to terminate under subsection (a)(2) shall provide to an affected party any information provided to the corporation under paragraph (2) not later than 15 days after—

"(I) receipt of a request from the affected party for the information; or

"(II) the provision of new information to the corporation relating to the previous request.

"(ii) Confidentiality.—

"(I) In general.—The plan administrator shall not provide information under clause (i) in a form that includes any information that may directly or indirectly be associated with, or otherwise identify, an individual participant or beneficiary.

"(II) Limitation.—A court may limit disclosure under this subparagraph of confidential information described in section 552(b) of title 5, United States Code, to any authorized representative of the participants or beneficiaries that agrees to ensure the confidentiality of such information.

"(iii) Form and manner of information; charges.—

"(I) Form and manner.—The corporation may prescribe the form and manner of the provision of information under this subparagraph, which shall include delivery in written, electronic, or other appropriate form to the extent that such form is reasonably accessible to individuals to whom the information is required to be provided.

"(II) Reasonable charges.—A plan sponsor may charge a reasonable fee for any information provided under this subparagraph in other than electronic form.

"(iv) Authorized representative.—For purposes of this subparagraph, the term 'authorized representative' means any employee organization representing participants in the pension plan.".

(2) Conforming amendment.—Section 4041(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1341(c)(1)) is amended in subparagraph (C) by striking "subparagraph (B)" and inserting "subparagraphs (B) and (D)".

(b) Involuntary Terminations.—

(1) In general.—Section 4042(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1342(c)) is amended by—

(A) striking "(c) If the" and inserting "(c)(1) If the";

(B) redesignating paragraph (3) as paragraph (2); and

(C) adding at the end the following:

"(3) Disclosure of termination information.—

"(A) In general.—

"(i) Information from plan sponsor or administrator.—A plan sponsor or plan administrator of a single-employer plan that has received a notice from the corporation of a determination that the plan should be terminated under this section shall provide to an affected party any information provided to the corporation in conjunction with the plan termination.

"(ii) Information from corporation.—The corporation shall provide a copy of the administrative record, including the trusteeship decision record of a termination of a plan described under clause (i).

"(B) Timing of disclosure.—The plan sponsor, plan administrator, or the corporation, as applicable, shall provide the information described in subparagraph (A) not later than 15 days after—

"(i) receipt of a request from an affected party for such information; or

"(ii) in the case of information described under subparagraph (A)(i), the provision of any new information to the corporation relating to a previous request by an affected party.

"(C) Confidentiality.—

"(i) In general.—The plan administrator and plan sponsor shall not provide information under subparagraph (A)(i) in a form which includes any information that may directly or indirectly be associated with, or otherwise identify, an individual participant or beneficiary.

"(ii) Limitation.—A court may limit disclosure under this paragraph of confidential information described in section 552(b) of title 5, United States Code, to authorized representatives (within the meaning of section 4041(c)(2)(D)(iv)) of the participants or beneficiaries that agree to ensure the confidentiality of such information.

“(D) FORM AND MANNER OF INFORMATION; CHARGES.—

“(i) FORM AND MANNER.—The corporation may prescribe the form and manner of the provision of information under this paragraph, which shall include delivery in written, electronic, or other appropriate form to the extent that such form is reasonably accessible to individuals to whom the information is required to be provided.

“(ii) REASONABLE CHARGES.—A plan sponsor may charge a reasonable fee for any information provided under this paragraph in other than electronic form.”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any plan termination under title IV of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1301 et seq.) with respect to which the notice of intent to terminate (or in the case of a termination by the Pension Benefit Guaranty Corporation, a notice of determination under section 4042 of such Act (29 U.S.C. 1342)) occurs after the date of enactment of this Act.

SEC. 507. BENEFIT SUSPENSION NOTICE.

(a) MODIFICATION OF REGULATION.—The Secretary of Labor shall modify the regulation under subparagraph (B) of section 203(a)(3) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(3)(B)) to provide that the notification required by such regulation in connection with any suspension of benefits described in such subparagraph—

(1) in the case of an employee who returns to service described in section 203(a)(3)(B) (i) or (ii) of such Act after commencement of payment of benefits under the plan, shall be made during the first calendar month or the first 4- or 5-week payroll period ending in a calendar month in which the plan withholds payments, and

(2) in the case of any employee who is not described in paragraph (1)—

(A) may be included in the summary plan description for the plan furnished in accordance with section 104(b) of such Act (29 U.S.C. 1024(b)), rather than in a separate notice, and

(B) need not include a copy of the relevant plan provisions.

(b) EFFECTIVE DATE.—The modification made under this section shall apply to plan years beginning after December 31, 2005.

SEC. 508. STUDY AND REPORT BY GOVERNMENT ACCOUNTABILITY OFFICE.

(a) IN GENERAL.—The Comptroller General of the United States shall conduct a study to determine the effectiveness of the enforcement of provisions in the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.) and in other Federal laws designed to protect pension plans and the assets and participants of such plan from fraud and mismanagement, including excessive investment management fees, violations of fiduciary duties under Title I of such Act, and the quality of plan assets.

(b) CONTENT OF STUDY.—The study described in subsection (a) shall include:

(1) An identification of which Federal departments and agencies have responsibility for enforcement of these provisions, including the recovery of lost plan assets due to fraud and mismanagement.

(2) Identification of all administrative enforcement powers, procedures, and strategies used by the Securities and Exchange Commission that have the potential to improve the Department of Labor's enforcement of the fiduciary provisions of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

(3) Identification of any statutory or other barriers that restrict the Department of Labor's authority to use such powers, procedures, and strategies identified in paragraph (2).

(4) An evaluation of whether giving additional investigative or enforcement authority to the Pension Benefit Guaranty Corporation or the Securities and Exchange Commission would significantly improve enforcement of those provisions.

(5) An evaluation of the current authority of the Pension Benefit Guaranty Corporation to bring actions to recover any funds lost by pension plans due to violations of any fiduciary standards under Title I of such Act or other Federal statutes.

(6) The impact that expanding any such authority by the Pension Benefit Guaranty Corporation to bring such actions would have on the Corporation's solvency.

(c) REPORT.—Not later than 6 months after the enactment of this Act, the Comptroller General shall submit a report to Congress on the study conducted under subsection (a) that includes such recommendations for legislation or administrative action as the Comptroller General determines are appropriate.

TITLE VI—TREATMENT OF CASH BALANCE AND OTHER HYBRID DEFINED BENEFIT PENSION PLANS

SEC. 601. PROSPECTIVE APPLICATION OF AGE DISCRIMINATION, CONVERSION, AND PRESENT VALUE ASSUMPTION RULES.

(a) APPLICATION OF AGE DISCRIMINATION PROHIBITIONS.—

(1) AMENDMENT OF ERISA.—Section 204(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(b)) is amended by adding at the end the following:

“(5) SPECIAL RULES FOR CASH BALANCE AND OTHER HYBRID DEFINED BENEFIT PLANS.—

“(A) IN GENERAL.—A qualified cash balance plan shall not be treated as violating the requirements of paragraph (1)(H) merely because it may reasonably be expected that the period over which interest credits will be made to a participant's accumulation account (or its equivalent) is longer for a younger participant. This paragraph shall not apply to any plan if the rate of any pay credit or interest credit to such an account under the plan decreases by reason of the participant's attainment of any age.

“(B) QUALIFIED CASH BALANCE PLAN.—For purposes of this paragraph—

“(i) IN GENERAL.—The term ‘qualified cash balance plan’ means a cash balance plan which meets the vesting requirement under clause (ii) and the interest credit requirement under clause (iii).

“(ii) VESTING REQUIREMENTS.—A plan meets the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

“(iii) INTEREST CREDITS.—A plan meets the requirements of this clause if the terms of the plan provide that any interest credit (or equivalent amount) for any plan year shall be at a rate which—

“(I) is not less than the applicable Federal mid-term interest rate (as determined under section 1274(d)(1) of the Internal Revenue Code of 1986), and

“(II) is not greater than the greater of the rate determined under subclause (I) or a rate equal to the rate of interest on amounts invested conservatively in long-term investment grade corporate bonds.

“(iv) DETERMINATION OF RATES.—For purposes of clause (iii)(II), the rate of interest on amounts invested conservatively in long-term investment grade corporate bonds shall be determined by the Secretary of the Treasury on the basis of 2 or more indices that are selected periodically by the Secretary of the Treasury. The Secretary of the Treasury shall make publicly available the indices and methodology used to determine the rate.

“(v) VARIABLE RATE OF INTEREST.—If the interest credit rate under the plan is a variable rate, the plan shall provide that, upon the termination of the plan, the rate of interest used to determine accrued benefits under the plan shall be equal to the average of the rates of interest used under the plan during the 5-year period ending on the termination date.

“(C) CASH BALANCE PLAN.—For purposes of this paragraph, the term ‘cash balance plan’ means a defined benefit plan under which—

“(i) the accrued benefit is determined by reference to the balance of a hypothetical accumulation account, and

“(ii) pay credits and interest credits are credited to such account.

“(D) REGULATIONS TO INCLUDE SIMILAR OR OTHER HYBRID PLANS.—

“(i) CASH BALANCE PLAN.—The Secretary of the Treasury shall issue regulations which include in the definition of cash balance plan any defined benefit plan (or any portion of such a plan) which has an effect similar to a cash balance plan. Such regulations may provide that if a plan sponsor represents in communications to participants and beneficiaries that a plan amendment results in a plan being described in the preceding sentence, such plan shall be treated as a cash balance plan.

“(ii) QUALIFIED CASH BALANCE PLAN.—The Secretary of the Treasury may in the regulations issued under clause (i) provide for the treatment of a cash balance plan as a qualified cash balance plan in cases where the cash balance plan has an effect similar to the qualified cash balance plan.”.

(2) AGE DISCRIMINATION IN EMPLOYMENT ACT.—Section 4(i)(2) of the Age Discrimination of Employment Act of 1967 (29 U.S.C. 623(i)(2)) is amended—

(A) by inserting “(A)” after “(2)”, and

(B) by adding at the end the following new subparagraph:

“(B) A defined benefit plan which is treated as a qualified cash balance plan for purposes of section 204(b)(5) of the Employee Retirement Income Security Act of 1974 shall not be treated as violating the requirements of paragraph (1)(A) merely because it may reasonably be expected that the period over which interest credits will be made under the plan to a participant's accumulation account (or its equivalent) is longer for a younger participant. This subparagraph shall not apply to any plan if the rate of any pay credit or interest credit to such an account under the plan decreases by reason of the participant's attainment of any age.”.

(3) AMENDMENT OF INTERNAL REVENUE CODE.—Section 411(b) of the Internal Revenue Code of 1986 (relating to accrued benefit requirements) is amended by adding at the end the following:

“(5) SPECIAL RULES FOR CASH BALANCE AND OTHER HYBRID DEFINED BENEFIT PLANS.—

"(A) IN GENERAL.—A qualified cash balance plan shall not be treated as violating the requirements of paragraph (1)(H) merely because it may reasonably be expected that the period over which interest credits will be made to a participant's accumulation account (or its equivalent) is longer for a younger participant. This paragraph shall not apply to any plan if the rate of any pay credit or interest credit to such an account under the plan decreases by reason of the participant's attainment of any age.

"(B) QUALIFIED CASH BALANCE PLAN.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'qualified cash balance plan' means a cash balance plan which meets the vesting requirement under clause (ii) and the interest credit requirement under clause (iii).

"(ii) VESTING REQUIREMENTS.—A plan meets the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(iii) INTEREST CREDITS.—A plan meets the requirements of this clause if the terms of the plan provide that any interest credit (or equivalent amount) for any plan year shall be at a rate which—

"(I) is not less than the applicable Federal mid-term interest rate (as determined under section 1274(d)(1)), and

"(II) is not greater than the greater of the rate determined under subclause (I) or a rate equal to the rate of interest on amounts invested conservatively in long-term investment grade corporate bonds.

"(iv) DETERMINATION OF RATES.—For purposes of clause (iii)(II), the rate of interest on amounts invested conservatively in long-term investment grade corporate bonds shall be determined by the Secretary on the basis of 2 or more indices that are selected periodically by the Secretary. The Secretary shall make publicly available the indices and methodology used to determine the rate.

"(v) VARIABLE RATE OF INTEREST.—If the interest credit rate under the plan is a variable rate, the plan shall provide that, upon the termination of the plan, the rate of interest used to determine accrued benefits under the plan shall be equal to the average of the rates of interest used under the plan during the 5-year period ending on the termination date.

"(C) CASH BALANCE PLAN.—For purposes of this paragraph, the term 'cash balance plan' means a defined benefit plan under which—

"(i) the accrued benefit is determined by reference to the balance of a hypothetical accumulation account, and

"(ii) pay credits and interest credits are credited to such account.

"(D) REGULATIONS TO INCLUDE SIMILAR OR OTHER HYBRID PLANS.—

"(i) CASH BALANCE PLAN.—The Secretary shall issue regulations which include in the definition of cash balance plan any defined benefit plan (or any portion of such a plan) which has an effect similar to a cash balance plan. Such regulations may provide that if a plan sponsor represents in communications to participants and beneficiaries that a plan amendment results in a plan being described in the preceding sentence, such plan shall be treated as a cash balance plan.

"(ii) QUALIFIED CASH BALANCE PLAN.—The Secretary may in the regulations issued under clause (i) provide for the treatment of a cash balance plan as a qualified cash balance plan in cases where the cash balance plan has an effect similar to the qualified cash balance plan.".

(b) RULES APPLICABLE TO ACCRUED BENEFITS UNDER CONVERTED PLANS.—

(1) AMENDMENT OF ERISA.—Section 204(g) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054(g)) is amended by adding at the end the following new paragraph:

"(6) TREATMENT OF CONVERSIONS TO CASH BALANCE OR OTHER HYBRID PLANS.—

"(A) IN GENERAL.—For purposes of this subsection, an applicable plan amendment shall be treated as reducing the accrued benefit of a participant if, under the terms of the plan as in effect after the amendment, the accrued benefit of any participant who was a participant as of the effective date of the amendment may at any time be less than the accrued benefit determined under the method under subparagraph (B), (C), or (D) which is specified in the plan and applies uniformly to all participants. An applicable plan amendment shall in no event be treated as meeting the requirements of any such subparagraph if the conversion described in subparagraph (G)(i) is into a cash balance plan other than a qualified cash balance plan (as defined in subsection (b)(5)(B)).

"(B) NO WEARAWAY.—

"(i) IN GENERAL.—The accrued benefit determined under this subparagraph is the sum of—

"(I) the participant's accrued benefit for years of service before the effective date of the amendment, determined under the terms of the plan as in effect before the amendment, plus

"(II) except as provided in clause (ii), the participant's accrued benefit for years of service after the effective date of the amendment, determined under the terms of the plan as in effect after the amendment.

"(ii) REQUIRED AMOUNTS FOR CERTAIN PERIODS.—Notwithstanding clause (i)(II), the plan shall provide that either—

"(I) the accrued benefit of all participants for each of the first 5 plan years to which the amendment applies shall be equal to the greater of the accrued benefit determined under the terms of the plan as in effect both before and after the amendment, or

"(II) the accrued benefit for periods after the effective date of the amendment of all participants who, as of the effective date of the amendment, had attained the age of 40 and had a combined age and years of service under the plan of not less than 55 shall be determined under either of the methods described in clause (iii) which is selected by the plan and which is specified in the amendment.

"(iii) APPLICABLE METHOD.—For purposes of clause (ii)(II), the plan shall select 1 of the following methods:

"(I) The accrued benefit shall be equal to the greater of the accrued benefit determined under the terms of the plan as in effect both before and after the amendment.

"(II) At the election of the participant, the accrued benefit shall be determined under the terms of the plan as in effect either before or after the amendment.

"(C) GREATER OF OLD OR NEW OR ELECTION OF EITHER.—The accrued benefit determined under this subparagraph is the accrued benefit determined under 1 of the following methods which is selected by the plan and which is specified in the amendment:

"(i) The accrued benefit shall be equal to the greater of the accrued benefit determined under the terms of the plan as in effect both before and after the amendment.

"(ii) At the election of the participant, the accrued benefit shall be determined under the terms of the plan as in effect either before or after the amendment.

"(D) METHOD PRESCRIBED BY SECRETARY.—The accrued benefit determined under this subparagraph shall be determined under regulations prescribed by the Secretary which are consistent with the purposes of this paragraph and which may require a plan to provide a credit of additional amounts or increases in initial account balances in amounts substantially equivalent to the benefits that would be required to be provided to meet the requirements of subparagraphs (B) or (C).

"(E) INCLUSION OF PRIOR ACCRUED BENEFIT INTO INITIAL ACCOUNT BALANCE.—

"(i) IN GENERAL.—If, for purposes of subparagraphs (B), (C), or (D), an applicable plan amendment provides that an amount will be initially credited to a participant's accumulation account (or its equivalent) on the effective date of the amendment with respect to the participant's accrued benefit for periods before such date, the requirements of such subparagraph shall be treated as met with respect to such accrued benefit if the amount initially credited is not less than the present value of the participant's accrued benefit determined by using the applicable mortality table and the lower of the applicable interest rate under section 205(g)(3)(A), or the interest rate used to credit interest under the plan, as of such date.

"(ii) ADJUSTMENTS FOR CERTAIN SUBSIDIZED BENEFITS.—For purposes of subparagraph (B), if any early retirement benefit or retirement-type subsidy (within the meaning of paragraph (6)(B)(i)) is not included in the initial account balance under clause (i), the plan shall credit the accumulation account with the amount of such benefit or subsidy for the plan year in which the participant retires if, as of such time, the participant has met the age, years of service, and other requirements under the plan for entitlement to such benefit or subsidy.

"(F) REQUIREMENTS WHERE PARTICIPANT OFFERED CHOICE.—If a plan provides a participant with an election described in subparagraph (B)(iii)(II) or (C)(ii), the following rules shall apply:

"(i) NOTICE.—The plan shall not be treated as meeting the requirements of either such subparagraph unless the plan provides the participant a notice of the right to make such election which includes information (meeting such requirements as may be prescribed by the Secretary of the Treasury)—

"(I) by which the participant may project benefits under the formulas from which the participant may choose and may model the impact of any such choice, and

"(II) with respect to circumstances under which a participant may not receive the projected accrued benefits by reason of a plan termination or otherwise.

"(ii) SIGNIFICANT REDUCTION OF RATE OF ACCRUAL.—The plan shall provide that if, during any of the first 5 plan years during which such an election is in effect, the plan adopts an amendment which results in a significant reduction in the rate of future benefit accrual (within the meaning of section 204(h)), the accrued benefit of the participant shall be determined as if the participant had made the election which resulted in the greatest accrued benefit.

"(iii) BENEFITS MUST NOT BE CONTINGENT ON ELECTION.—The plan shall not be treated as meeting the requirements of either such subparagraph if any other benefit is conditioned (directly or indirectly) on such election.

"(G) APPLICABLE PLAN AMENDMENT.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable plan amendment' means an amendment to a defined benefit plan which has the effect of converting the plan to a cash balance plan.

"(ii) SPECIAL RULE FOR COORDINATED BENEFITS.—If the benefits of 2 or more defined benefit plans established or maintained by an employer are coordinated in such a manner as to have the effect of the adoption of an amendment described in clause (i), the sponsor of the defined benefit plan or plans providing for such coordination shall be treated as having adopted such a plan amendment as of the date such coordination begins.

"(iii) MULTIPLE AMENDMENTS.—The Secretary of the Treasury shall issue regulations to prevent the avoidance of the purposes of this paragraph through the use of 2 or more plan amendments rather than a single amendment.

"(iv) CASH BALANCE PLAN.—For purposes of this paragraph, the term 'cash balance plan' has the meaning given such term by subsection (b)(5)(C).

"(v) COORDINATION WITH ACCRUAL RULES.—If a plan amendment is treated as meeting the requirements of this paragraph with respect to any participant because such participant is eligible to continue to accrue benefits in the same manner as under the terms of the plan in effect before the amendment, the Secretary of the Treasury shall prescribe regulations under which the plan shall not be treated as failing to meet the requirements of subparagraph (A), (B), or (C) of section 204(b)(1) if the requirements of this paragraph are met.

"(H) APPLICATION OF CERTAIN RULES TO EARLY-RETIREMENT BENEFITS.—Rules similar to the rules of clauses (i), (ii), and (iii) of subparagraph (B) and subparagraph (C) shall apply in the case of any early retirement benefit or retirement-type subsidy (within the meaning of section 204(g)(2)(A)).".

(2) AMENDMENT OF INTERNAL REVENUE CODE.—Section 411(d) of the Internal Revenue Code of 1986 (relating to special rules) is amended by adding at the end the following new paragraph:

"(7) TREATMENT OF CONVERSIONS TO CASH BALANCE OR OTHER HYBRID PLANS.—

"(A) IN GENERAL.—For purposes of paragraph (6), an applicable plan amendment shall be treated as reducing the accrued benefit of a participant if, under the terms of the plan as in effect after the amendment, the accrued benefit of any participant who was a participant as of the effective date of the amendment may at any time be less than the accrued benefit determined under the method under subparagraph (B), (C), or (D) which is specified in the plan and applies uniformly to all participants. An applicable plan amendment shall in no event be treated as meeting the requirements of any such subparagraph if the conversion described in subparagraph (G)(i) is into a cash balance plan other than a qualified cash balance plan (as defined in subsection (b)(5)(B)).

"(B) NO WEARAWAY.—

"(i) IN GENERAL.—The accrued benefit determined under this subparagraph is the sum of—

"(I) the participant's accrued benefit for years of service before the effective date of the amendment, determined under the terms of the plan as in effect before the amendment, plus

"(II) except as provided in clause (ii), the participant's accrued benefit for years of service after the effective date of the amendment, determined under the terms of the plan as in effect after the amendment.

A similar rule shall apply in the case of any early retirement benefit or retirement-type subsidy (within the meaning of section 411(d)(6)(B)(i)).

"(ii) REQUIRED AMOUNTS FOR CERTAIN PERIODS.—Notwithstanding clause (i)(II), the plan shall provide that either—

"(I) the accrued benefit of all participants for each of the first 5 plan years to which the amendment applies shall be equal to the greater of the accrued benefit determined under the terms of the plan as in effect both before and after the amendment, or

"(II) the accrued benefit for periods after the effective date of the amendment of all participants who, as of the effective date of the amendment, had attained the age of 40 and had a combined age and years of service under the plan of not less than 55 shall be determined under either of the methods described in clause (iii) which is selected by the plan and which is specified in the amendment.

"(iii) APPLICABLE METHOD.—For purposes of clause (ii)(II), the plan shall select 1 of the following methods:

"(I) The accrued benefit shall be equal to the greater of the accrued benefit determined under the terms of the plan as in effect both before and after the amendment.

"(II) At the election of the participant, the accrued benefit shall be determined under the terms of the plan as in effect either before or after the amendment.

"(C) GREATER OF OLD OR NEW OR ELECTION OF EITHER.—The accrued benefit determined under this subparagraph is the accrued benefit determined under 1 of the following methods which is selected by the plan and which is specified in the amendment:

"(i) The accrued benefit shall be equal to the greater of the accrued benefit determined under the terms of the plan as in effect both before and after the amendment.

"(ii) At the election of the participant, the accrued benefit shall be determined under the terms of the plan as in effect either before or after the amendment.

"(D) METHOD PRESCRIBED BY SECRETARY.—The accrued benefit determined under this subparagraph shall be determined under regulations prescribed by the Secretary which are consistent with the purposes of this paragraph and which may require a plan to provide a credit of additional amounts or increases in initial account balances in amounts substantially equivalent to the benefits that would be required to be provided to meet the requirements of subparagraphs (B) or (C).

"(E) INCLUSION OF PRIOR ACCRUED BENEFIT INTO INITIAL ACCOUNT BALANCE.—

"(i) IN GENERAL.—If, for purposes of subparagraphs (B), (C), or (D), an applicable plan amendment provides that an amount will be initially credited to a participant's accumulation account (or its equivalent) on the effective date of the amendment with respect to the participant's accrued benefit for periods before such date, the requirements of such subparagraph shall be treated as met with respect to such accrued benefit if the amount initially credited is not less than the present value of the participant's accrued benefit determined by using the applicable mortality table and the lower of the applicable interest rate under section 417(e)(3)(A), or the interest rate used to credit interest under the plan, as of such date.

"(ii) ADJUSTMENTS FOR CERTAIN SUBSIDIZED BENEFITS.—For purposes of subparagraph (B), if any early retirement benefit or retirement-type subsidy (within the meaning of paragraph (6)(B)(i)) is not included in the initial account balance under clause (i), the plan shall credit the accumulation account with the amount of such benefit or subsidy for the plan year in which the participant retires if, as of such time, the participant has met the age, years of service, and other requirements under the plan for entitlement to such benefit or subsidy.

"(F) REQUIREMENTS WHERE PARTICIPANT OFFERED CHOICE.—If a plan provides a participant with an election described in subparagraph (B)(iii)(II) or (C)(ii), the following rules shall apply:

"(i) NOTICE.—The plan shall not be treated as meeting the requirements of either such subparagraph unless the plan provides the participant a notice of the right to make such election which includes information (meeting such requirements as may be prescribed by the Secretary)—

"(I) by which the participant may project benefits under the formulas from which the participant may choose and may model the impact of any such choice, and

"(II) with respect to circumstances under which a participant may not receive the projected accrued benefits by reason of a plan termination or otherwise.

"(ii) SIGNIFICANT REDUCTION OF RATE OF ACCRUAL.—The plan shall provide that if, during any of the first 5 plan years during which such an election is in effect, the plan adopts an amendment which results in a significant reduction in the rate of future benefit accrual (within the meaning of section 4980F(e)), the accrued benefit of the participant shall be determined as if the participant had made the election which resulted in the greatest accrued benefit.

"(iii) BENEFITS MUST NOT BE CONTINGENT ON ELECTION.—The plan shall not be treated as meeting the requirements of either such subparagraph if any other benefit is conditioned (directly or indirectly) on such election.

"(G) APPLICABLE PLAN AMENDMENT.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable plan amendment' means an amendment to a defined benefit plan which has the effect of converting the plan to a cash balance plan.

"(ii) SPECIAL RULE FOR COORDINATED BENEFITS.—If the benefits of 2 or more defined benefit plans established or maintained by an employer are coordinated in such a manner as to have the effect of the adoption of an amendment described in clause (i), the sponsor of the defined benefit plan or plans providing for such coordination shall be treated as having adopted such a plan amendment as of the date such coordination begins.

"(iii) MULTIPLE AMENDMENTS.—The Secretary shall issue regulations to prevent the avoidance of the purposes of this paragraph through the use of 2 or more plan amendments rather than a single amendment.

"(iv) CASH BALANCE PLAN.—For purposes of this paragraph, the term 'cash balance plan' has the meaning given such term by subsection (b)(5)(C).

"(v) COORDINATION WITH ACCRUAL AND NONDISCRIMINATION RULES.—If a plan amendment is treated as meeting the requirements of this paragraph with respect to any participant because such participant is eligible to continue to accrue benefits in the same manner as under the terms of the plan in effect before the amendment, the Secretary shall prescribe regulations under which—

"(I) the plan shall not be treated as failing to meet the requirements of subparagraph (A), (B), or (C) of section 411(b)(1) if the requirements of this paragraph are met, and

"(II) the plan shall, subject to such terms and conditions as may be provided in such regulations, not be treated as failing to meet the requirements of section 401(a)(4) merely because the plan provides any accrual or benefit which is required to be provided under subparagraph (B), (C), or (D) or because only participants as of the effective date of the amendment are so eligible, except that this subclause shall only apply if the plan met the requirements of section 401(a)(4) under the terms of the plan as in effect before the amendment.

"(H) APPLICATION OF CERTAIN RULES TO EARLY-RETIREMENT BENEFITS.—Rules similar to the rules of clauses (i), (ii), and (iii) of subparagraph (B) and subparagraph (C) shall apply in the case of any early retirement benefit or retirement-type subsidy (within the meaning of section 411(d)(6)(B)(i)).".

(c) ASSUMPTIONS USED IN COMPUTING PRESENT VALUE OF ACCRUED BENEFIT.—

(1) AMENDMENT OF ERISA.—Section 205(g)(3) of such Act (29 U.S.C. 1055(g)(3)), is amended—

(A) by striking "or (B)" in subparagraph (A)(i) and inserting ", (B), or (C)", and

(B) by adding at the end the following new subparagraph:

"(C) PRESENT VALUE OF ACCRUED BENEFIT UNDER CASH BALANCE PLAN.—Except as provided in regulations, in the case of a qualified cash balance plan (as defined in section 204(g)(6)(B)), the present value of the accrued benefit of any participant shall, for purposes of paragraphs (1) and (2), be equal to the balance in the participant's accumulation account (or its equivalent) as of the time the present value determination is being made.".

(2) AMENDMENT OF INTERNAL REVENUE CODE.—Section 417(e)(3) of such Code, is amended—

(A) by striking "or (B)" in subparagraph (A)(i) and inserting ", (B), or (C)", and

(B) by adding at the end the following new subparagraph:

"(C) PRESENT VALUE OF ACCRUED BENEFIT UNDER CASH BALANCE PLAN.—Except as provided in regulations, in the case of a qualified cash balance plan (as defined in section 411(d)(7)(B)), the present value of the accrued benefit of any participant shall, for purposes of paragraphs (1) and (2), be equal to the balance in the participant's accumulation account (or its equivalent) as of the time the present value determination is being made."

(d) NO INFERENCE.—Nothing in the amendments made by this section shall be construed to infer the proper treatment of cash balance plans or conversions to cash balance plans under sections 204(b)(1)(H) of the Employee Retirement Income Security Act of 1974, 4(i)(1) of the Age Discrimination in Employment Act of 1967, and 411(b)(1)(H) of the Internal Revenue Code of 1986, as in effect before such amendments.

(e) EFFECTIVE DATES.—

(1) AGE DISCRIMINATION AND LUMP-SUM DISTRIBUTIONS.—

(A) IN GENERAL.—The amendments made by subsections (a) and (c) shall apply to periods after July 31, 2005.

(B) VESTING AND INTEREST CREDIT REQUIREMENTS.—In the case of a plan in existence on July 31, 2005, the requirements of clauses (ii) and (iii) of section 411(b)(5)(B) of the Internal Revenue Code of 1986, and of clauses (ii) and (iii) of 204(b)(5)(B) of the Employee Retirement Income Security Act of 1974 shall, for purposes of applying the amendments made by subsections (a) and (c), apply to years beginning after December 31, 2006, unless the plan sponsor elects the application of such requirements for any period after July 31, 2005, and before the first year beginning after December 31, 2006.

(C) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, the requirements described in subparagraph (B) shall, for purposes of applying the amendments made by subsections (a) and (c), not apply to plan years beginning before—

(i) the earlier of—

(I) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of enactment), or

(II) January 1, 2007, or

(ii) January 1, 2009.

(2) CONVERSIONS.—The amendments made by subsection (b) shall apply to plan amendments adopted after, and taking effect after, July 31, 2005, except that the plan sponsor may elect to have such amendments apply to plan amendments adopted before, and taking effect after, such date.

SEC. 602. REGULATIONS RELATING TO MERGERS AND ACQUISITIONS.

The Secretary of the Treasury or his delegate shall, not later than 12 months after the date of the enactment of this Act, prescribe regulations for the application of the amendments made by, and the provisions of, this title in cases where the conversion of a plan to a cash balance plan is made with respect to a group of employees who become employees by reason of a merger, acquisition, or similar transaction.

TITLE VII—DIVERSIFICATION RIGHTS AND OTHER PARTICIPANT PROTECTIONS UNDER DEFINED CONTRIBUTION PLANS

SEC. 701. DEFINED CONTRIBUTION PLANS REQUIRED TO PROVIDE EMPLOYEES WITH FREEDOM TO INVEST THEIR PLAN ASSETS.

(a) AMENDMENTS OF INTERNAL REVENUE CODE.—

(1) QUALIFICATION REQUIREMENT.—Section 401(a) of the Internal Revenue Code of 1986 (relating to qualified pension, profit-sharing, and stock bonus plans), as amended by section 115 of this Act, is amended by inserting after paragraph (34) the following new paragraph:

"(35) DIVERSIFICATION REQUIREMENTS FOR CERTAIN DEFINED CONTRIBUTION PLANS.—

"(A) IN GENERAL.—A trust which is part of an applicable defined contribution plan shall not be treated as a qualified trust unless the plan meets the diversification requirements of subparagraphs (B), (C), and (D).

"(B) EMPLOYEE CONTRIBUTIONS AND ELECTIVE DEFERRALS INVESTED IN EMPLOYER SECURITIES OR REAL PROPERTY.—In the case of the portion of an applicable individual's account attributable to employee contributions and elective deferrals which is invested in employer securities or employer real property, a plan meets the requirements of this subparagraph if the applicable individual may elect to direct the plan to divest any such securities or real property and to reinvest an equivalent amount in other investment options meeting the requirements of subparagraph (D).

"(C) EMPLOYER CONTRIBUTIONS INVESTED IN EMPLOYER SECURITIES OR REAL PROPERTY.—In the case of the portion of the account attributable to employer contributions other than elective deferrals which is invested in employer securities or employer real property, a plan meets the requirements of this subparagraph if each applicable individual who—

"(i) is a participant who has completed at least 3 years of service, or

"(ii) is a beneficiary of a participant described in clause (i) or of a deceased participant,

may elect to direct the plan to divest any such securities or real property and to reinvest an equivalent amount in other investment options meeting the requirements of subparagraph (D).

"(D) INVESTMENT OPTIONS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if the plan offers not less than 3 investment options, other than employer securities or employer real property, to which an applicable individual may direct the proceeds from the divestment of employer securities or employer real property pursuant to this paragraph, each of which is diversified and has materially different risk and return characteristics.

"(ii) TREATMENT OF CERTAIN RESTRICTIONS AND CONDITIONS.—

"(I) TIME FOR MAKING INVESTMENT CHOICES.—A plan shall not be treated as failing to meet the requirements of this subparagraph merely because the plan limits the time for divestment and reinvestment to periodic, reasonable opportunities occurring no less frequently than quarterly.

"(II) CERTAIN RESTRICTIONS AND CONDITIONS NOT ALLOWED.—Except as provided in regulations, a plan shall not meet the requirements of this subparagraph if the plan imposes restrictions or conditions with respect to the investment of employer securities or employer real property which are not imposed on the investment of other assets of the plan. This subclause shall not apply to any restrictions or conditions imposed by reason of the application of securities laws.

"(E) APPLICABLE DEFINED CONTRIBUTION PLAN.—For purposes of this paragraph—

"(i) IN GENERAL.—The term 'applicable defined contribution plan' means any defined contribution plan which holds any publicly traded employer securities.

"(ii) EXCEPTION FOR CERTAIN ESOPS.—Such term does not include an employee stock ownership plan if—

"(I) there are no contributions to such plan (or earnings thereunder) which are held within such plan and are subject to subsection (k) or (m), and

"(II) such plan is a separate plan for purposes of section 414(l) with respect to any other defined benefit plan or defined contribution plan maintained by the same employer or employers.

"(iii) EXCEPTION FOR ONE PARTICIPANT PLANS.—Such term does not include a one-participant retirement plan.

"(iv) ONE-PARTICIPANT RETIREMENT PLAN.—For purposes of clause (iii), the term 'one-participant retirement plan' means a retirement plan that—

"(I) on the first day of the plan year covered only one individual (or the individual and the individual's spouse) and the individual owned 100 percent of the plan sponsor (whether or not incorporated), or covered only one or more partners (or partners and their spouses) in the plan sponsor,

"(II) meets the minimum coverage requirements of section 410(b) without being combined with any other plan of the business that covers the employees of the business,

"(III) does not provide benefits to anyone except the individual (and the individual's spouse) or the partners (and their spouses),

"(IV) does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control, and

"(V) does not cover a business that uses the services of leased employees (within the meaning of section 414(n)).

For purposes of this clause, the term 'partner' includes a 2-percent shareholder (as defined in section 1372(b)) of an S corporation.

"(F) CERTAIN PLANS TREATED AS HOLDING PUBLICLY TRADED EMPLOYER SECURITIES.—

"(i) IN GENERAL.—Except as provided in regulations or in clause (ii), a plan holding employer securities which are not publicly traded employer securities shall be treated as holding publicly traded employer securities if any employer corporation, or any member of a controlled group of corporations which includes such employer corporation, has issued a class of stock which is a publicly traded employer security.

"(ii) EXCEPTION FOR CERTAIN CONTROLLED GROUPS WITH PUBLICLY TRADED SECURITIES.—Clause (i) shall not apply to a plan if—

"(I) no employer corporation, or parent corporation of an employer corporation, has issued any publicly traded employer security, and

"(II) no employer corporation, or parent corporation of an employer corporation, has issued any special class of stock which grants particular rights to, or bears particular risks for, the holder or issuer with respect to any corporation described in clause (i) which has issued any publicly traded employer security.

"(iii) DEFINITIONS.—For purposes of this subparagraph, the term—

"(I) 'controlled group of corporations' has the meaning given such term by section 1563(a), except that '50 percent' shall be substituted for '80 percent' each place it appears,

"(II) 'employer corporation' means a corporation which is an employer maintaining the plan, and

"(III) 'parent corporation' has the meaning given such term by section 424(e).

"(G) OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) APPLICABLE INDIVIDUAL.—The term 'applicable individual' means—

"(I) any participant in the plan, and

"(II) any beneficiary who has an account under the plan with respect to which the beneficiary is entitled to exercise the rights of a participant.

"(ii) ELECTIVE DEFERRAL.—The term 'elective deferral' means an employer contribution described in section 402(g)(3)(A).

"(iii) EMPLOYER SECURITY.—The term 'employer security' has the meaning given such term by section 407(d)(1) of the Employee Retirement Income Security Act of 1974.

"(iv) EMPLOYER REAL PROPERTY.—The term 'employer real property' has the meaning given such term by section 407(d)(2) of the Employee Retirement Income Security Act of 1974.

"(v) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7).

"(vi) PUBLICLY TRADED EMPLOYER SECURITIES.—The term 'publicly traded employer securities' means employer securities which are readily tradable on an established securities market.

"(vii) YEAR OF SERVICE.—The term 'year of service' has the meaning given such term by section 411(a)(5).

"(H) TRANSITION RULE FOR SECURITIES OR REAL PROPERTY ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS.—

"(i) RULES PHASED IN OVER 3 YEARS.—

"(I) IN GENERAL.—In the case of the portion of an account to which subparagraph (C) applies and which consists of employer securities or employer real property acquired in a plan year beginning before January 1, 2006, subparagraph (C) shall only apply to the applicable percentage of such securities or real property. This subparagraph shall be applied separately with respect to each class of securities and employer real property.

"(II) EXCEPTION FOR CERTAIN PARTICIPANTS AGED 55 OR OVER.—Subclause (I) shall not apply to an applicable individual who is a participant who has attained age 55 and completed at least 3 years of service before the first plan year beginning after December 31, 2005.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage shall be determined as follows:

Plan year to which subparagraph (C) applies:	**The applicable percentage is:**
1st	33
2d	66
3d and following	100.".

(2) CONFORMING AMENDMENTS.—

(A) Section 401(a)(28)(B) of such Code (relating to additional requirements relating to employee stock ownership plans) is amended by adding at the end the following new clause:

"(v) EXCEPTION.—This subparagraph shall not apply to an applicable defined contribution plan (as defined in paragraph (35)(E))."

(B) Section 409(h)(7) of such Code is amended by inserting "or subparagraph (B) or (C) of section 401(a)(35)" before the period at the end.

(C) Section 4980(c)(3)(A) of such Code is amended by striking "if—" and all that follows and inserting "if the requirements of subparagraphs (B), (C), and (D) are met."

(b) AMENDMENTS OF ERISA.—

(1) IN GENERAL.—Section 204 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1054) is amended by redesignating subsection (j) as subsection (k) and by inserting after subsection (i) the following new subsection:

"(j) DIVERSIFICATION REQUIREMENTS FOR CERTAIN INDIVIDUAL ACCOUNT PLANS.—

"(1) IN GENERAL.—An applicable individual account plan shall meet the diversification requirements of paragraphs (2), (3), and (4).

"(2) EMPLOYEE CONTRIBUTIONS AND ELECTIVE DEFERRALS INVESTED IN EMPLOYER SECURITIES OR REAL PROPERTY.—In the case of the portion of an applicable individual's account attributable to employee contributions and elective deferrals which is invested in employer securities or employer real property, a plan meets the requirements of this paragraph if the applicable individual may elect to direct the plan to divest any such securities or real property and to reinvest an equivalent amount in other investment options meeting the requirements of paragraph (4).

"(3) EMPLOYER CONTRIBUTIONS INVESTED IN EMPLOYER SECURITIES OR REAL PROPERTY.—In the case of the portion of the account attributable to employer contributions other than elective deferrals which is invested in employer securities or employer real property, a plan meets the requirements of this paragraph if each applicable individual who—

"(A) is a participant who has completed at least 3 years of service, or

"(B) is a beneficiary of a participant described in subparagraph (A) or of a deceased participant,

may elect to direct the plan to divest any such securities or real property and to reinvest an equivalent amount in other investment options meeting the requirements of paragraph (4).

"(4) INVESTMENT OPTIONS.—

"(A) IN GENERAL.—The requirements of this paragraph are met if the plan offers not less than 3 investment options, other than employer securities or employer real property, to which an applicable individual may direct the proceeds from the divestment of employer securities or employer real property pursuant to this subsection, each of which is diversified and has materially different risk and return characteristics.

"(B) TREATMENT OF CERTAIN RESTRICTIONS AND CONDITIONS.—

"(i) TIME FOR MAKING INVESTMENT CHOICES.—A plan shall not be treated as failing to meet the requirements of this paragraph merely because the plan limits the time for divestment and reinvestment to periodic, reasonable opportunities occurring no less frequently than quarterly.

"(ii) CERTAIN RESTRICTIONS AND CONDITIONS NOT ALLOWED.—Except as provided in regulations, a plan shall not meet the requirements of this paragraph if the plan imposes restrictions or conditions with respect to the investment of employer securities or employer real property which are not imposed on the investment of other assets of the plan. This subparagraph shall not apply to any restrictions or conditions imposed by reason of the application of securities laws.

"(5) APPLICABLE INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable individual account plan' means any individual account plan (as defined in section 3(34)) which holds any publicly traded employer securities.

"(B) EXCEPTION FOR CERTAIN ESOPS.—Such term does not include an employee stock ownership plan if—

"(i) there are no contributions to such plan (or earnings thereunder) which are held within such plan and are subject to subsection (k) or (m) of section 401 of the Internal Revenue Code of 1986, and

"(ii) such plan is a separate plan (for purposes of section 414(l) of such Code) with respect to any other defined benefit plan or individual account plan maintained by the same employer or employers.

"(C) EXCEPTION FOR ONE PARTICIPANT PLANS.—Such term shall not include a one-participant retirement plan (as defined in section 101(i)(8)(B)).

"(D) CERTAIN PLANS TREATED AS HOLDING PUBLICLY TRADED EMPLOYER SECURITIES.—

"(i) IN GENERAL.—Except as provided in regulations or in clause (ii), a plan holding employer securities which are not publicly traded employer securities shall be treated as holding publicly traded employer securities if any employer corporation, or any member of a controlled group of corporations which includes such employer corporation, has issued a class of stock which is a publicly traded employer security.

"(ii) EXCEPTION FOR CERTAIN CONTROLLED GROUPS WITH PUBLICLY TRADED SECURITIES.—Clause (i) shall not apply to a plan if—

"(I) no employer corporation, or parent corporation of an employer corporation, has issued any publicly traded employer security, and

"(II) no employer corporation, or parent corporation of an employer corporation, has issued any special class of stock which grants particular rights to, or bears particular risks for, the holder or issuer with respect to any corporation described in clause (i) which has issued any publicly traded employer security.

"(iii) DEFINITIONS.—For purposes of this subparagraph, the term—

"(I) 'controlled group of corporations' has the meaning given such term by section 1563(a) of the Internal Revenue Code of 1986, except that '50 percent' shall be substituted for '80 percent' each place it appears.

"(II) 'employer corporation' means a corporation which is an employer maintaining the plan, and

"(III) 'parent corporation' has the meaning given such term by section 424(e) of such Code.

"(6) OTHER DEFINITIONS.—For purposes of this paragraph—

"(A) APPLICABLE INDIVIDUAL.—The term 'applicable individual' means—

"(i) any participant in the plan, and

"(ii) any beneficiary who has an account under the plan with respect to which the beneficiary is entitled to exercise the rights of a participant.

"(B) ELECTIVE DEFERRAL.—The term 'elective deferral' means an employer contribution described in section 402(g)(3)(A) of the Internal Revenue Code of 1986.

"(C) EMPLOYER SECURITY.—The term 'employer security' has the meaning given such term by section 407(d)(1).

"(D) EMPLOYER REAL PROPERTY.—The term 'employer real property' has the meaning given such term by section 407(d)(2).

"(E) EMPLOYEE STOCK OWNERSHIP PLAN.—The term 'employee stock ownership plan' has the meaning given such term by section 4975(e)(7) of such Code.

"(F) PUBLICLY TRADED EMPLOYER SECURITIES.—The term 'publicly traded employer securities' means employer securities which are readily tradable on an established securities market.

"(G) YEAR OF SERVICE.—The term 'year of service' has the meaning given such term by section 203(b)(2).

"(7) TRANSITION RULE FOR SECURITIES OR REAL PROPERTY ATTRIBUTABLE TO EMPLOYER CONTRIBUTIONS.—

"(A) RULES PHASED IN OVER 3 YEARS.—

"(i) IN GENERAL.—In the case of the portion of an account to which paragraph (3) applies and which consists of employer securities or employer real property acquired in a plan year beginning before January 1, 2006, paragraph (3) shall only apply to the applicable percentage of such securities or real property. This subparagraph shall be applied separately with respect to each class of securities and employer real property.

"(ii) EXCEPTION FOR CERTAIN PARTICIPANTS AGED 55 OR OVER.—Clause (i) shall not apply to an applicable individual who is a participant who has attained age 55 and completed at least 3 years of service before the first plan year beginning after December 31, 2005.

"(B) APPLICABLE PERCENTAGE.—For purposes of subparagraph (A), the applicable percentage shall be determined as follows:

Plan year to which paragraph (3) applies:	The applicable percentage is:
1st	33
2d	66
3d and following	100.".

(2) CONFORMING AMENDMENT.—Section 407(b)(3) of such Act (29 U.S.C. 1107(b)(3)) is amended by adding at the end the following:

"(D) For diversification requirements for qualifying employer securities and qualifying real property held in certain individual account plans, see section 204(j)."

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (3), the amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "December 31, 2005" the earlier of—

(A) the later of—

(i) December 31, 2006, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after such date of enactment), or

(B) December 31, 2007.

(3) SPECIAL RULE FOR CERTAIN EMPLOYER SECURITIES HELD IN AN ESOP.—

(A) IN GENERAL.—In the case of employer securities to which this paragraph applies, the amendments made by this section shall apply to plan years beginning after the earlier of—

(i) December 31, 2006, or

(ii) the first date on which the fair market value of such securities exceeds the guaranteed minimum value described in subparagraph (B)(ii).

(B) APPLICABLE SECURITIES.—This paragraph shall apply to employer securities which are attributable to employer contributions other than elective deferrals, and which, on September 17, 2003—

(i) consist of preferred stock, and

(ii) are within an employee stock ownership plan (as defined in section 4975(e)(7) of the Internal Revenue Code of 1986), the terms of which provide that the value of the securities cannot be less than the guaranteed minimum value specified by the plan on such date.

(C) COORDINATION WITH TRANSITION RULE.—In applying section 401(a)(35)(H) of the Internal Revenue Code of 1986 and section 204(j)(7) of the Employee Retirement Income Security Act of 1974 (as added by this section) to employer securities to which this paragraph applies, the applicable percentage shall be determined without regard to this paragraph.

SEC. 702. NOTICE OF FREEDOM TO DIVEST EMPLOYER SECURITIES OR REAL PROPERTY.

(a) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021), as amended by this Act, is amended by redesignating subsection (m) as subsection (n) and by inserting after subsection (l) the following:

"(m) NOTICE OF RIGHT TO DIVEST.—Not later than 30 days before the first date on which an applicable individual of an applicable individual account plan is eligible to exercise the right under section 204(j) to direct the proceeds from the divestment of employer securities or employer real property with respect to any type of contribution, the administrator shall provide to such individual a notice—

"(1) setting forth such right under such section, and

"(2) describing the importance of diversifying the investment of retirement account assets.

The notice required by this subsection shall be written in a manner calculated to be understood by the average plan participant and may be delivered in written, electronic, or other appropriate form to the extent that such form is reasonably accessible to the recipient."

(b) PENALTIES.—Section 502(c)(7) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1132(c)(7)) is amended by striking "section 101(i)" and inserting "subsection (i) or (m) of section 101".

(c) MODEL NOTICE.—The Secretary of the Treasury shall, within 180 days after the date of the enactment of this subsection, prescribe a model notice for purposes of satisfying the requirements of the amendments made by this section.

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) TRANSITION RULE.—If notice under section 101(m) of the Employee Retirement Income Security Act of 1974 (as added by this section) would otherwise be required to be provided before the 90th day after the date of the enactment of this Act, such notice shall not be required to be provided until such 90th day.

SEC. 703. PERIODIC PENSION BENEFIT STATEMENTS.

(a) AMENDMENTS OF ERISA.—

(1) IN GENERAL.—Section 105(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025(a)) is amended to read as follows:

"(a) REQUIREMENTS TO PROVIDE PENSION BENEFIT STATEMENTS.—

"(1) REQUIREMENTS.—

"(A) INDIVIDUAL ACCOUNT PLAN.—The administrator of an individual account plan (other than a one-participant retirement plan described in section 101(i)(8)(B)) shall furnish a pension benefit statement—

"(i) at least once each calendar quarter to a participant or beneficiary who has the right to direct the investment of assets in his or her account under the plan,

"(ii) at least once each calendar year to a participant or beneficiary who has his or her own account under the plan but does not have the right to direct the investment of assets in that account, and

"(iii) upon written request to a plan beneficiary not described in clause (i) or (ii).

"(B) DEFINED BENEFIT PLAN.—The administrator of a defined benefit plan (other than a one-participant retirement plan described in section 101(i)(8)(B)) shall furnish a pension benefit statement—

"(i) at least once every 3 years to each participant with a nonforfeitable accrued benefit and who is employed by the employer maintaining the plan at the time the statement is to be furnished, and

"(ii) to a participant or beneficiary of the plan upon written request.

Information furnished under clause (i) to a participant may be based on reasonable estimates determined under regulations prescribed by the Secretary, in consultation with the Pension Benefit Guaranty Corporation.

"(2) STATEMENTS.—

"(A) IN GENERAL.—A pension benefit statement under paragraph (1)—

"(i) shall indicate, on the basis of the latest available information—

"(I) the total benefits accrued, and

"(II) the nonforfeitable pension benefits, if any, which have accrued, or the earliest date on which benefits will become nonforfeitable,

"(ii) shall include an explanation of any permitted disparity under section 401(l) of the Internal Revenue Code of 1986 or any floor-offset arrangement that may be applied in determining any accrued benefits described in clause (i),

"(iii) shall be written in a manner calculated to be understood by the average plan participant, and

"(iv) may be delivered in written, electronic, or other appropriate form to the extent such form is reasonably accessible to the participant or beneficiary.

"(B) ADDITIONAL INFORMATION.—In the case of an individual account plan, any pension benefit statement under clause (i) or (ii) of paragraph (1)(A) shall include—

"(i) the value of each investment to which assets in the individual account have been allocated, determined as of the most recent valuation date under the plan, including the value of any assets held in the form of employer securities or employer real property, without regard to whether such securities or real property were contributed by the plan sponsor or acquired at the direction of the plan or of the participant or beneficiary, and

"(ii) in the case of a pension benefit statement under paragraph (1)(A)(i)—

"(I) an explanation of any limitations or restrictions on any right of the participant or beneficiary under the plan to direct an investment, and

"(II) a notice that investments in any individual account may not be adequately diversified if the value of any investment in the account exceeds 20 percent of the fair market value of all investments in the account.

"(C) ALTERNATIVE NOTICE.—The requirements of subparagraph (A)(i)(II) are met if, at least annually and in accordance with requirements of the Secretary, the plan—

"(i) updates the information described in such paragraph which is provided in the pension benefit statement, or

"(ii) provides in a separate statement such information as is necessary to enable a participant or beneficiary to determine their nonforfeitable vested benefits.

"(3) DEFINED BENEFIT PLANS.—

"(A) ALTERNATIVE NOTICE.—In the case of a defined benefit plan, the requirements of paragraph (1)(B)(i) shall be treated as met with respect to a participant if at least once each year the administrator provides to the participant notice of the availability of the pension benefit statement and the ways in which the participant may obtain such statement. Such notice may be delivered in written, electronic, or other appropriate form to the extent such form is reasonably accessible to the participant.

"(B) YEARS IN WHICH NO BENEFITS ACCRUE.—The Secretary may provide that years in which no employee or former employee benefits (within the meaning of section 410(b) of the Internal Revenue Code of 1986) under the plan need not be taken into account in determining the 3-year period under paragraph (1)(B)(i)."

(2) CONFORMING AMENDMENTS.—

(A) Section 105 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1025) is amended by striking subsection (d).

(B) Section 105(b) of such Act (29 U.S.C. 1025(b)) is amended to read as follows:

"(b) LIMITATION ON NUMBER OF STATEMENTS.—In no case shall a participant or beneficiary of a plan be entitled to more than 1 statement described in subparagraph (A)(iii) or (B)(ii) of subsection (a)(1), whichever is applicable, in any 12-month period."

(C) Section 502(c)(1) of such Act (29 U.S.C. 1132(c)(1)) is amended by striking "or section 101(f)" and inserting "section 101(f), or section 105(a)".

(b) MODEL STATEMENTS.—

(1) IN GENERAL.—The Secretary of Labor shall, within 180 days after the date of the enactment of this section, develop 1 or more model benefit statements that are written in a manner calculated to be understood by the average plan participant and that may be used by plan administrators in complying with the requirements of section 105 of the Employee Retirement Income Security Act of 1974.

(2) INTERIM FINAL RULES.—The Secretary of Labor may promulgate any interim final rules as the Secretary determines appropriate to carry out the provisions of this subsection.

(d) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "December 31, 2006" the earlier of—

(A) the later of—

(i) December 31, 2007, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after such date of enactment), or

(B) December 31, 2008.

SEC. 704. NOTICE TO PARTICIPANTS OR BENEFICIARIES OF BLACKOUT PERIODS.

(a) AMENDMENTS OF ERISA.—

(1) IN GENERAL.—Section 101(i) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1021(i)) is amended—

(A) by striking clauses (i) through (iv) of paragraph (8)(B) and inserting:

"(i) on the first day of the plan year—

"(I) covered only one individual (or the individual and the individual's spouse) and the individual (or the individual and the individual's spouse) owned 100 percent of the plan sponsor (whether or not incorporated), or

"(II) covered only one or more partners (or partners and their spouses) in the plan sponsor, and", and

(B) in paragraph (8)(B), by redesignating clause (v) as clause (ii).

(2) EFFECTIVE DATE.—The amendments made by this subsection shall take effect as if included in the provisions of section 306 of Public Law 107–204 (116 Stat. 745 et seq.).

SEC. 705. ALLOWANCE OF, AND CREDIT FOR, ADDITIONAL IRA PAYMENTS IN CERTAIN BANKRUPTCY CASES.

(a) ALLOWANCE OF CONTRIBUTIONS.—Section 219(b)(5) of the Internal Revenue Code of 1986 (relating to deductible amount) is amended by redesignating subparagraph (C) as subparagraph (D) and by inserting after subparagraph (B) the following new subparagraph:

"(C) CATCHUP CONTRIBUTIONS FOR CERTAIN INDIVIDUALS.—

"(i) IN GENERAL.—In the case of an applicable individual who elects to make a qualified retirement contribution in addition to the deductible amount determined under subparagraph (A)—

"(I) the deductible amount for any taxable year shall be increased by an amount equal to 3 times the applicable amount determined under subparagraph (B) for such taxable year, and

"(II) subparagraph (B) shall not apply.

"(ii) APPLICABLE INDIVIDUAL.—For purposes of this subparagraph, the term 'applicable individual' means, with respect to any taxable year, any individual who was a qualified participant in a qualified cash or deferred arrangement (as defined in section 401(k)) of an employer described in clause (iii) under which the employer matched at least 50 percent of the employee's contributions to such arrangement with stock of such employer.

"(iii) EMPLOYER DESCRIBED.—An employer is described in this clause if, in any taxable year preceding the taxable year described in clause (ii)—

"(I) such employer (or any controlling corporation of such employer) was a debtor in a case under title 11 of the United States Code, or similar Federal or State law, and

"(II) such employer (or any other person) was subject to an indictment or conviction resulting from business transactions related to such case.

"(iv) QUALIFIED PARTICIPANT.—For purposes of clause (ii), the term 'qualified participant' means any applicable individual who was a participant in the cash or deferred arrangement described in clause (i) on the date that is 6 months before the filing of the case described in clause (iii).

"(v) TERMINATION.—This subparagraph shall not apply to taxable years beginning after December 31, 2009."

(b) SAVER'S CREDIT EXPANDED TO INCLUDE CATCHUP CONTRIBUTIONS.—

(1) IN GENERAL.—Section 25B of the Internal Revenue Code of 1986 (relating to credit for elective deferrals and IRA contributions by certain individuals) is amended by redesignating subsection (h) as subsection (i) and by inserting after subsection (g) the following new subsection:

"(h) ADDITIONAL CREDIT FOR CERTAIN CATCHUP CONTRIBUTIONS.—

"(1) IN GENERAL.—In the case of an eligible individual who is an applicable individual under section 219(b)(5)(C) for any taxable year, the amount of the credit allowable under subsection (a) for the taxable year shall be increased by 50 percent of so much of the qualified retirement contributions (as defined in section 219(e)) of the individual for the taxable year as exceeds the deductible amount for the taxable year under section 219(b)(5) (without regard to subparagraphs (B) and (C) thereof).

"(2) COORDINATION WITH OTHER CONTRIBUTIONS.—For purposes of this section—

"(A) any contribution to which this subsection applies shall not be taken into account in determining the amount of the credit allowable under subsection (a) without regard to this subsection, and

"(B) in applying any reduction in qualified retirement savings contributions under subsection (d)(2), the reduction shall be applied first to qualified retirement savings contributions other than contributions to which this subsection applies.".

(2) EXTENSION OF TERMINATION DATE FOR CATCHUP CREDIT.—Section 25B(i) of such Code, as redesignated by paragraph (1), is amended by inserting "(December 31, 2007, in the case of the portion of the credit allowed under subsection (h))" after "2006".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2004.

SEC. 706. INAPPLICABILITY OF RELIEF FROM FIDUCIARY LIABILITY DURING SUSPENSION OF ABILITY OF PARTICIPANT OR BENEFICIARY TO DIRECT INVESTMENTS.

(a) IN GENERAL.—Section 404(c)(1) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)(1)) is amended—

(1) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively, and by inserting "(A)" after "(c)(1)",

(2) in subparagraph (A)(ii) (as redesignated by paragraph (1)), by inserting before the period the following: ", except that this clause shall not apply in connection with such participant or beneficiary for any blackout period during which the ability of such participant or beneficiary to direct the investment of the assets in his or her account is suspended by a plan sponsor or fiduciary", and

(3) by adding at the end the following new subparagraphs:

"(B)(i) If a person referred to in subparagraph (A)(ii) meets the requirements of this title in connection with authorizing and implementing the blackout period, any person who is otherwise a fiduciary shall not be liable under this title for any loss occurring during such period as a result of any exercise by the participant or beneficiary of control over assets in his or her account before the period. Matters to be considered in determining whether such person has satisfied the requirements of this title include, but are not limited to, whether such person—

"(I) has considered the reasonableness of the expected blackout period,

"(II) has provided the notice required under section 101(i)(1), and

"(III) has acted in accordance with the requirements of subsection (a) in determining whether to enter into the blackout period.

"(ii) For purposes of this subsection, if a blackout period arises in connection with a change in the investment options offered under the plan, a participant or beneficiary shall be deemed to have exercised control over the assets in his or her account prior to the blackout period if, after notice of the change in investment options is given to such participant or beneficiary, assets in the account of the participant or beneficiary are transferred—

"(I) to plan investment options in accordance with the affirmative election of the participant or beneficiary; or

"(II) in the absence of such an election and in the case in which fiduciary relief was provided under this subsection for the prior investment options, to plan investment options in the manner set forth in such notice.

"(C) For purposes of this paragraph, the term 'blackout period' has the meaning given such term by section 101(i)(7)."

(b) GUIDANCE.—Not later than 180 days after the date of enactment of this Act, the Secretary of Labor, in consultation with the Secretary of the Treasury, shall issue interim final regulations providing guidance, including safe harbors, on how plan sponsors or any other affected fiduciaries can satisfy their fiduciary responsibilities during any blackout period during which the ability of a participant or beneficiary to direct the investment of assets in his or her individual account is suspended.

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "December 31, 2005" the earlier of—

(A) the later of—

(i) December 31, 2006, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after such date of enactment), or

(B) December 31, 2007.

SEC. 707. INCREASE IN MAXIMUM BOND AMOUNT.

(a) IN GENERAL.—Section 412(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1112) is amended by adding at the end the following: "In the case of a plan that holds employer securities (within the meaning of section 407(d)(1)), this subsection shall be applied by substituting '$1,000,000' for '$500,000' each place it appears."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to plan years beginning after December 31, 2005.

TITLE VIII—INFORMATION TO ASSIST PENSION PLAN PARTICIPANTS

SEC. 801. DEFINED CONTRIBUTION PLANS REQUIRED TO PROVIDE ADEQUATE INVESTMENT EDUCATION TO PARTICIPANTS.

(a) ADEQUATE INVESTMENT EDUCATION.—

(1) IN GENERAL.—Section 101 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1024), as amended by this Act, is amended by redesignating subsection (n) as subsection (o) and by inserting after subsection (m) the following:

"(n) BASIC INVESTMENT GUIDELINES.—

"(1) IN GENERAL.—The administrator of an individual account plan (other than a one-participant retirement plan described in subsection (i)(8)(B)) shall furnish at least once each year to each participant or beneficiary who has the right to direct the investment of assets in his or her account the model form relating to basic investment guidelines which is described in paragraph (2).

"(2) MODEL FORM.—

"(A) IN GENERAL.—The Secretary shall, in consultation with the Secretary of Treasury, develop and make available to individual account plans for distribution under paragraph (1) a model form containing basic guidelines for investing for retirement. Except as otherwise provided by the Secretary, such guidelines shall include—

"(i) information on the benefits of diversification,

"(ii) information on the essential differences, in terms of risk and return, of pension plan investments, including stocks, bonds, mutual funds, and money market investments,

"(iii) information on how an individual's pension plan investment allocations may differ depending on the individual's age and years to retirement and on other factors determined by the Secretary,

"(iv) sources of information where individuals may learn more about pension rights, individual investing, and investment advice, and

"(v) such other information related to individual investing as the Secretary determines appropriate.

"(B) CALCULATION INFORMATION.—The model form under subparagraph (A) shall include addresses for Internet sites, and a worksheet, which a participant or beneficiary may use to calculate—

"(i) the retirement age value of the participant's or beneficiary's nonforfeitable pension benefits under the plan (expressed as an annuity amount and determined by reference to varied historical annual rates of return and annuity interest rates), and

"(ii) other important amounts relating to retirement savings, including the amount which a participant or beneficiary would be required to save annually to provide a retirement income equal to various percentages of their current salary (adjusted for expected growth prior to retirement).

The Secretary shall develop an Internet site which an individual may use in making such calculations and the address for such site shall be included with the form.

"(C) PUBLIC COMMENT.—The Secretary of Labor shall provide at least 90 days for public comment before publishing final notice of the model form.

"(3) RULES RELATING TO FORM AND STATEMENT.—The model form under paragraph (2)—

"(A) shall be written in a manner calculated to be understood by the average plan participant, and

"(B) may be delivered in written, electronic, or other appropriate form to the extent such form is reasonably accessible to participants and beneficiaries."

(2) ENFORCEMENT.—Section 502(c)(7) of such Act (29 U.S.C. 1132(c)(7)), as amended by this Act, is amended by striking "or (l)" and inserting ", (l), or (n)".

(c) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2006.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED AGREEMENTS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, paragraph (1) shall be applied to benefits pursuant to, and individuals covered by, any such agreement by substituting for "December 31, 2006" the earlier of—

(A) the later of—

(i) December 31, 2007, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after such date of enactment), or

(B) December 31, 2008.

SEC. 802. INDEPENDENT INVESTMENT ADVICE PROVIDED TO PLAN PARTICIPANTS.

(a) IN GENERAL.—Section 404 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104) is amended by adding at the end the following new subsection:

"(e) INDEPENDENT INVESTMENT ADVISER.—

"(1) IN GENERAL.—In the case of an individual account plan which permits a plan participant or beneficiary to direct the investment of the assets in his or her account, if a plan sponsor or other person who is a fiduciary designates and monitors a qualified investment adviser pursuant to the requirements of paragraph (3), such fiduciary—

"(A) shall be deemed to have satisfied the requirements under this section for the prudent designation and periodic review of an investment adviser with whom the plan sponsor or other person who is a fiduciary enters into an arrangement for the provision of advice referred to in section 3(21)(A)(ii),

"(B) shall not be liable under this section for any loss, or by reason of any breach, with respect to the provision of investment advice given by such adviser to any plan participant or beneficiary, and

"(C) shall not be liable for any co-fiduciary liability under subsections (a)(2) and (b) of section 405 with respect to the provision of investment advice given by such adviser to any plan participant or beneficiary.

"(2) QUALIFIED INVESTMENT ADVISER.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'qualified investment adviser' means, with respect to a plan, a person—

"(i) who is a fiduciary of the plan by reason of the provision of investment advice by such person to a plan participant or beneficiary;

"(ii) who—

"(I) is registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b–1 et seq.),

"(II) is registered as an investment adviser under the laws of the State in which such adviser maintains the principal office and place of business of such adviser, but only if such State laws are consistent with section 203A of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3a),

“(III) is a bank or similar financial institution referred to in section 408(b)(4),

“(IV) is an insurance company qualified to do business under the laws of a State, or

“(V) is any other comparably qualified entity which satisfies such criteria as the Secretary determines appropriate, consistent with the purposes of this subsection, and

“(iii) who meets the requirements of subparagraph (B).

“(B) ADVISER REQUIREMENTS.—The requirements of this subparagraph are met if every individual employed (or otherwise compensated) by a person described in subparagraph (A)(ii) who provides investment advice on behalf of such person to any plan participant or beneficiary is—

“(i) an individual described in subclause (I) of subparagraph (A)(ii),

“(ii) an individual described in subclause (II) of subparagraph (A)(ii), but only if such State has an examination requirement to qualify for registration,

“(iii) registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

“(iv) a registered representative as described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) or section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(17)), or

“(v) any other comparably qualified individual who satisfies such criteria as the Secretary determines appropriate, consistent with the purposes of this subsection.

“(3) VERIFICATION REQUIREMENTS.—The requirements of this paragraph are met if—

“(A) the plan sponsor or other person who is a fiduciary in designating a qualified investment adviser receives at the time of the designation, and annually thereafter, a written verification from the qualified investment adviser that the investment adviser—

“(i) is and remains a qualified investment adviser,

“(ii) acknowledges that the investment adviser is a fiduciary with respect to the plan and is solely responsible for its investment advice,

“(iii) has reviewed the plan documents (including investment options) and has determined that its relationship with the plan and the investment advice provided to any plan participant or beneficiary, including any fees or other compensation it will receive, will not constitute a violation of section 406,

“(iv) will, in providing investment advice to any participant or beneficiary, consider any employer securities or employer real property allocated to his or her account, and

“(v) has the necessary insurance coverage (as determined by the Secretary) for any claim by any plan participant or beneficiary,

“(B) the plan sponsor or other person who is a fiduciary in designating a qualified investment adviser reviews the documents described in paragraph (4) provided by such adviser and determines that there is no material reason not to enter into an arrangement for the provision of advice by such qualified investment adviser, and

“(C) the plan sponsor or other person who is a fiduciary in designating a qualified investment adviser, within 30 days of having information brought to its attention that the investment adviser is no longer qualified or that a substantial number of plan participants or beneficiaries have raised concerns about the services being provided by the investment adviser—

“(i) investigates such information and concerns, and

“(ii) determines that there is no material reason not to continue the designation of the adviser as a qualified investment adviser.

“(4) DOCUMENTATION.—A qualified investment adviser shall provide the following documents to the plan sponsor or other person who is a fiduciary in designating the adviser:

“(A) The contract with the plan sponsor or other person who is a fiduciary for the services to be provided by the investment adviser to the plan participants and beneficiaries.

“(B) A disclosure as to any fees or other compensation that will be received by the investment adviser for the provision of such investment advice and as to any fees and other compensation that will be received as a result of a participant's investment election.

“(C) The Uniform Application for Investment Adviser Registration as filed with the Securities and Exchange Commission or a substantially similar disclosure application as determined by and filed with the Secretary.

“(5) TREATMENT AS FIDUCIARY.—Any qualified investment adviser that acknowledges it is a fiduciary pursuant to paragraph (3)(A)(ii) shall be deemed a fiduciary under this part with respect to the provision of investment advice to a plan participant or beneficiary.”

(b) FIDUCIARY LIABILITY.—Section 404(c)(1)(B) of such Act is amended by inserting “(other than a qualified investment adviser)” after “fiduciary”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply with respect to investment advisers designated after the date of the enactment of this Act.

SEC. 803. TREATMENT OF QUALIFIED RETIREMENT PLANNING SERVICES.

(a) IN GENERAL.—Subsection (m) of section 132 of the Internal Revenue Code of 1986 (defining qualified retirement services) is amended by adding at the end the following new paragraph:

“(4) NO CONSTRUCTIVE RECEIPT.—

“(A) IN GENERAL.—No amount shall be included in the gross income of any employee solely because the employee may choose between any qualified retirement planning services provided by an eligible investment advisor and compensation which would otherwise be includible in the gross income of such employee. The preceding sentence shall apply to highly compensated employees only if the choice described in such sentence is available on substantially the same terms to each member of the group of employees normally provided education and information regarding the employer's qualified employer plan.

“(B) LIMITATION.—The maximum amount which may be excluded under subparagraph (A) with respect to any employee for any taxable year shall not exceed $1,000.

“(C) ELIGIBLE INVESTMENT ADVISER.—For purposes of this paragraph, the term ‘eligible investment adviser’ means, with respect to a plan, a person—

“(i) who—

“(I) is registered as an investment adviser under the Investment Advisers Act of 1940 (15 U.S.C. 80b-1 et seq.),

“(II) is registered as an investment adviser under the laws of the State in which such adviser maintains the principal office and place of business of such adviser, but only if such State laws are consistent with section 203A of the Investment Advisers Act of 1940 (15 U.S.C. 80b-3a),

“(III) is a bank or similar financial institution referred to in section 408(b)(4),

“(IV) is an insurance company qualified to do business under the laws of a State, or

“(V) is any other comparably qualified entity which satisfies such criteria as the Secretary determines appropriate, consistent with the purposes of this subsection, and

“(ii) who meets the requirements of subparagraph (D).

“(D) ADVISER REQUIREMENTS.—The requirements of this subparagraph are met if every individual employed (or otherwise compensated) by a person described in subparagraph (C)(i) who provides investment advice on behalf of such person to any plan participant or beneficiary is—

“(i) an individual described in subclause (I) of subparagraph (C)(i),

“(ii) an individual described in subclause (II) of subparagraph (C)(i), but only if such State has an examination requirement to qualify for registration,

“(iii) registered as a broker or dealer under the Securities Exchange Act of 1934 (15 U.S.C. 78a et seq.),

“(iv) a registered representative as described in section 3(a)(18) of the Securities Exchange Act of 1934 (15 U.S.C. 78c(a)(18)) or section 202(a)(17) of the Investment Advisers Act of 1940 (15 U.S.C. 80b–2(a)(17)), or

“(v) any other comparably qualified individual who satisfies such criteria as the Secretary determines appropriate, consistent with the purposes of this paragraph.

“(E) TERMINATION.—This paragraph shall not apply to taxable years beginning after December 31, 2010.”

(b) CONFORMING AMENDMENTS.—

(1) Section 403(b)(3)(B) of such Code is amended by inserting “132(m)(4),” after “132(f)(4),”.

(2) Section 414(s)(2) of such Code is amended by inserting “132(m)(4),” after “132(f)(4),”.

(3) Section 415(c)(3)(D)(ii) of such Code is amended by inserting “132(m)(4),” after “132(f)(4),”.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SEC. 804. INCREASE IN PENALTIES FOR COERCIVE INTERFERENCE WITH EXERCISE OF ERISA RIGHTS.

(a) IN GENERAL.—Section 511 of the Employment Retirement Income Security Act of 1974 (29 U.S.C. 1141) is amended—

(1) by striking “$10,000” and inserting “$100,000”, and

(2) by striking “one year” and inserting “10 years”.

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to violations occurring on and after the date of the enactment of this Act.

SEC. 805. ADMINISTRATIVE PROVISION.

The Secretary of the Treasury shall have the authority to prescribe rules applicable to the statements required under sections 101(j) and 101(m) of the Employee Retirement Income Security Act of 1974 (as added by this Act).

TITLE IX—PROVISIONS RELATING TO SPOUSAL PENSION PROTECTION

SEC. 901. REGULATIONS ON TIME AND ORDER OF ISSUANCE OF DOMESTIC RELATIONS ORDERS.

Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall issue regulations under section 206(d)(3) of the Employee Retirement Security Act of 1974 and section 414(p) of the Internal Revenue Code of 1986 which clarify that—

(1) a domestic relations order otherwise meeting the requirements to be a qualified domestic relations order, including the requirements of section 206(d)(3)(D) of such Act

and section 414(p)(3) of such Code, shall not fail to be treated as a qualified domestic relations order solely because—

(A) the order is issued after, or revises, another domestic relations order or qualified domestic relations order; or

(B) of the time at which it is issued; and

(2) any order described in paragraph (1) shall be subject to the same requirements and protections which apply to qualified domestic relations orders, including the provisions of section 206(d)(3)(H) of such Act and section 414(p)(7) of such Code.

SEC. 902. ENTITLEMENT OF DIVORCED SPOUSES TO RAILROAD RETIREMENT ANNUITIES INDEPENDENT OF ACTUAL ENTITLEMENT OF EMPLOYEE.

(a) IN GENERAL.—Section 2 of the Railroad Retirement Act of 1974 (45 U.S.C. 231a) is amended—

(1) in subsection (c)(4)(i), by striking "(A) is entitled to an annuity under subsection (a)(1) and (B)"; and

(2) in subsection (e)(5), by striking "or divorced wife" the second place it appears.

(b) EFFECTIVE DATE.—The amendments made by this section shall take effect 1 year after the date of the enactment of this Act.

SEC. 903. EXTENSION OF TIER II RAILROAD RETIREMENT BENEFITS TO SURVIVING FORMER SPOUSES PURSUANT TO DIVORCE AGREEMENTS.

(a) IN GENERAL.—Section 5 of the Railroad Retirement Act of 1974 (45 U.S.C. 231d) is amended by adding at the end the following:

"(d) Notwithstanding any other provision of law, the payment of any portion of an annuity computed under section 3(b) to a surviving former spouse in accordance with a court decree of divorce, annulment, or legal separation or the terms of any court-approved property settlement incident to any such court decree shall not be terminated upon the death of the individual who performed the service with respect to which such annuity is so computed unless such termination is otherwise required by the terms of such court decree."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect 1 year after the date of the enactment of this Act.

SEC. 904. REQUIREMENT FOR ADDITIONAL SURVIVOR ANNUITY OPTION.

(a) AMENDMENTS TO INTERNAL REVENUE CODE.—

(1) ELECTION OF SURVIVOR ANNUITY.—Section 417(a)(1)(A) of the Internal Revenue Code of 1986 is amended—

(A) in clause (i), by striking ", and" and inserting a comma;

(B) by redesignating clause (ii) as clause (iii); and

(C) by inserting after clause (i) the following:

"(ii) if the participant elects a waiver under clause (i), may elect the qualified optional survivor annuity at any time during the applicable election period, and".

(2) DEFINITION.—Section 417 of such Code is amended by adding at the end the following:

"(g) DEFINITION OF QUALIFIED OPTIONAL SURVIVOR ANNUITY.—

"(1) IN GENERAL.—For purposes of this section, the term 'qualified optional survivor annuity' means an annuity—

"(A) for the life of the participant with a survivor annuity for the life of the spouse which is equal to the applicable percentage of the amount of the annuity which is payable during the joint lives of the participant and the spouse, and

"(B) which is the actuarial equivalent of a single annuity for the life of the participant. Such term also includes any annuity in a form having the effect of an annuity described in the preceding sentence.

"(2) APPLICABLE PERCENTAGE.—

"(A) IN GENERAL.—For purposes of paragraph (1), if the survivor annuity percentage—

"(i) is less than 75 percent, the applicable percentage is 75 percent, and

"(ii) is greater than or equal to 75 percent, the applicable percentage is 50 percent.

"(B) SURVIVOR ANNUITY PERCENTAGE.—For purposes of subparagraph (A), the term 'survivor annuity percentage' means the percentage which the survivor annuity under the plan's qualified joint and survivor annuity bears to the annuity payable during the joint lives of the participant and the spouse."

(3) NOTICE.—Section 417(a)(3)(A)(i) of such Code is amended by inserting "and of the qualified optional survivor annuity" after "annuity".

(b) AMENDMENTS TO ERISA.—

(1) ELECTION OF SURVIVOR ANNUITY.—Section 205(c)(1)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(1)(A)) is amended—

(A) in clause (i), by striking ", and" and inserting a comma;

(B) by redesignating clause (ii) as clause (iii); and 12

(C) by inserting after clause (i) the following:

"(ii) if the participant elects a waiver under clause (i), may elect the qualified optional survivor annuity at any time during the applicable election period, and".

(2) DEFINITION.—Section 205(d) of such Act (29 U.S.C. 1055(d)) is amended—

(A) by inserting "(1)" after "(d)";

(B) by redesignating paragraphs (1) and (2) as subparagraphs (A) and (B), respectively; and

(C) by adding at the end the following:

"(2)(A) For purposes of this section, the term 'qualified optional survivor annuity' means an annuity—

"(i) for the life of the participant with a survivor annuity for the life of the spouse which is equal to the applicable percentage of the amount of the annuity which is payable during the joint lives of the participant and the spouse, and

"(ii) which is the actuarial equivalent of a single annuity for the life of the participant. Such term also includes any annuity in a form having the effect of an annuity described in the preceding sentence.

"(B)(i) For purposes of subparagraph (A), if the survivor annuity percentage—

"(I) is less than 75 percent, the applicable percentage is 75 percent, and

"(II) is greater than or equal to 75 percent, the applicable percentage is 50 percent.

"(ii) For purposes of clause (i), the term 'survivor annuity percentage' means the percentage which the survivor annuity under the plan's qualified joint and survivor annuity bears to the annuity payable during the joint lives of the participant and the spouse."

(3) NOTICE.—Section 205(c)(3)(A)(i) of such Act (29 U.S.C. 1055(c)(3)(A)(i)) is amended by inserting "and of the qualified optional survivor annuity" after "annuity".

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) SPECIAL RULE FOR COLLECTIVELY BARGAINED PLANS.—In the case of a plan maintained pursuant to 1 or more collective bargaining agreements between employee representatives and 1 or more employers ratified on or before the date of the enactment of this Act, the amendments made by this section shall apply to the first plan year beginning on or after the earlier of—

(A) the later of—

(i) January 1, 2006, or

(ii) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof after the date of enactment of this Act), or

(B) January 1, 2007.

TITLE X—IMPROVEMENTS IN PORTABILITY AND DISTRIBUTION RULES

SEC. 1001. CLARIFICATIONS REGARDING PURCHASE OF PERMISSIVE SERVICE CREDIT.

(a) IN GENERAL.—Section 415(n) of the Internal Revenue Code of 1986 (relating to special rules for the purchase of permissive service credit) is amended—

(1) by striking "an employee" in paragraph (1) and inserting "a participant", and

(2) by adding at the end of paragraph (3)(A) the following new flush sentence

"Such term may include service credit for periods for which there is no performance of service, and notwithstanding clause (ii), may include service credited in order to provide an increased benefit for service credit which a participant is receiving under the plan."

(b) SPECIAL RULES FOR TRUSTEE-TO-TRUSTEE TRANSFERS.—Section 415(n)(3) of such Code is amended by adding at the end the following new subparagraph:

"(D) SPECIAL RULES FOR TRUSTEE-TO-TRUSTEE TRANSFERS.—In the case of a trustee-to-trustee transfer to which section 403(b)(13)(A) or 457(e)(17)(A) applies (without regard to whether the transfer is made between plans maintained by the same employer)—

"(i) the limitations of subparagraph (B) shall not apply in determining whether the transfer is for the purchase of permissive service credit, and

"(ii) the distribution rules applicable under this title to the defined benefit governmental plan to which any amounts are so transferred shall apply to such amounts and any benefits attributable to such amounts."

(c) NONQUALIFIED SERVICE.—Section 415(n)(3) of such Code is amended—

(1) by striking "permissive service credit attributable to nonqualified service" each place it appears in subparagraph (B) and inserting "nonqualified service credit",

(2) by striking so much of subparagraph (C) as precedes clause (i) and inserting:

"(C) NONQUALIFIED SERVICE CREDIT.—For purposes of subparagraph (B), the term 'nonqualified service credit' means permissive service credit other than that allowed with respect to—", and

(3) by striking "elementary or secondary education (through grade 12), as determined under State law" and inserting "elementary or secondary education (through grade 12), or a comparable level of education, as determined under the applicable law of the jurisdiction in which the service was performed".

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by subsections (a) and (c) shall take effect as if included in the amendments made by section 1526 of the Taxpayer Relief Act of 1997.

(2) SUBSECTION (b).—The amendments made by subsection (b) shall take effect as if included in the amendments made by section 647 of the Economic Growth and Tax Relief Reconciliation Act of 2001.

SEC. 1002. ALLOW ROLLOVER OF AFTER-TAX AMOUNTS IN ANNUITY CONTRACTS.

(a) IN GENERAL.—Subparagraph (A) of section 402(c)(2) (relating to the maximum amount which may be rolled over) is amended—

(1) by striking "which is part of a plan which is a defined contribution plan and which agrees to separately account" and inserting "or to an annuity contract described in section 403(b) and such trust or contract provides for separate accounting"; and

(2) by inserting "(and earnings thereon)" after "so transferred".

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall apply to taxable years beginning after December 31, 2005.

SEC. 1003. CLARIFICATION OF MINIMUM DISTRIBUTION RULES FOR GOVERNMENTAL PLANS.

The Secretary of the Treasury shall issue regulations under which a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986) shall, for all years to which section 401(a)(9) of such Code applies to such plan, be treated as having complied with such section 401(a)(9) if such plan complies with a reasonable good faith interpretation of such section 401(a)(9).

SEC. 1004. WAIVER OF 10 PERCENT EARLY WITHDRAWAL PENALTY TAX ON CERTAIN DISTRIBUTIONS OF PENSION PLANS FOR PUBLIC SAFETY EMPLOYEES.

(a) IN GENERAL.—Section 72(t) of the Internal Revenue Code of 1986 (relating to subsection not to apply to certain distributions) is amended by adding at the end the following new paragraph:

"(10) DISTRIBUTIONS TO QUALIFIED PUBLIC SAFETY EMPLOYEES IN GOVERNMENTAL PLANS.—

"(A) IN GENERAL.—In the case of a distribution to a qualified public safety employee from a governmental plan (within the meaning of section 414(d)) which is a defined benefit plan, paragraph (2)(A)(v) shall be applied by substituting 'age 50' for 'age 55'.

"(B) QUALIFIED PUBLIC SAFETY EMPLOYEE.—For purposes of this paragraph, the term 'qualified public safety employee' means any employee of a State or political subdivision of a State who provides police protection, firefighting services, or emergency medical services for any area within the jurisdiction of such State or political subdivision."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to distributions after the date of the enactment of this Act.

SEC. 1005. ALLOW ROLLOVERS BY NONSPOUSE BENEFICIARIES OF CERTAIN RETIREMENT PLAN DISTRIBUTIONS.

(a) IN GENERAL.—

(1) QUALIFIED PLANS.—Section 402(c) of the Internal Revenue Code of 1986 (relating to rollovers from exempt trusts) is amended by adding at the end the following new paragraph:

"(11) DISTRIBUTIONS TO INHERITED INDIVIDUAL RETIREMENT PLAN OF NONSPOUSE BENEFICIARY.—

"(A) IN GENERAL.—If, with respect to any portion of a distribution from an eligible retirement plan of a deceased employee, a direct trustee-to-trustee transfer is made to an individual retirement plan described in clause (i) or (ii) of paragraph (8)(B) established for the purposes of receiving the distribution on behalf of an individual who is a designated beneficiary (as defined by section 401(a)(9)(E)) of the employee and who is not the surviving spouse of the employee—

"(i) the transfer shall be treated as an eligible rollover distribution for purposes of this subsection,

"(ii) the individual retirement plan shall be treated as an inherited individual retirement account or individual retirement annuity (within the meaning of section 408(d)(3)(C)) for purposes of this title, and

"(iii) section 401(a)(9)(B) (other than clause (iv) thereof) shall apply to such plan.

"(B) CERTAIN TRUSTS TREATED AS BENEFICIARIES.—For purposes of this paragraph, to the extent provided in rules prescribed by the Secretary, a trust maintained for the benefit of one or more designated beneficiaries shall be treated in the same manner as a designated beneficiary."

(2) SECTION 403(a) PLANS.—Subparagraph (B) of section 403(a)(4) of such Code (relating to rollover amounts) is amended by striking "and (9)" and inserting ", (9), and (11)".

(3) SECTION 403(b) PLANS.—Subparagraph (B) of section 403(b)(8) of such Code (relating to rollover amounts) is amended by striking "and (9)" and inserting ", (9), and (11)".

(4) SECTION 457 PLANS.—Subparagraph (B) of section 457(e)(16) of such Code (relating to rollover amounts) is amended by striking "and (9)" and inserting ", (9), and (11)".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions after December 31, 2005.

SEC. 1006. FASTER VESTING OF EMPLOYER NONELECTIVE CONTRIBUTIONS.

(a) AMENDMENTS TO THE INTERNAL REVENUE CODE OF 1986.—

(1) IN GENERAL.—Paragraph (2) of section 411(a) of the Internal Revenue Code of 1986 (relating to employer contributions) is amended to read as follows:

"(2) EMPLOYER CONTRIBUTIONS.—

"(A) DEFINED BENEFIT PLANS.—

"(i) IN GENERAL.—In the case of a defined benefit plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

"(ii) 5-YEAR VESTING.—A plan satisfies the requirements of this clause if an employee who has completed at least 5 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(iii) 3 TO 7 YEAR VESTING.—A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

"Years of service:	The nonforfeitable percentage is:
3	20
4	40
5	60
6	80
7 or more	100.

"(B) DEFINED CONTRIBUTION PLANS.—

"(i) IN GENERAL.—In the case of a defined contribution plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

"(ii) 3-YEAR VESTING.—A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(iii) 2 TO 6 YEAR VESTING.—A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

"Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6 or more	100.".

(2) CONFORMING AMENDMENT.—Section 411(a) of such Code (relating to general rule for minimum vesting standards) is amended by striking paragraph (12).

(b) AMENDMENTS TO THE EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—

(1) IN GENERAL.—Paragraph (2) of section 203(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1053(a)(2)) is amended to read as follows:

"(2)(A)(i) In the case of a defined benefit plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

"(ii) A plan satisfies the requirements of this clause if an employee who has completed at least 5 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(iii) A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

"Years of service:	The nonforfeitable percentage is:
3	20
4	40
5	60
6	80
7 or more	100.

"(B)(i) In the case of an individual account plan, a plan satisfies the requirements of this paragraph if it satisfies the requirements of clause (ii) or (iii).

"(ii) A plan satisfies the requirements of this clause if an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived from employer contributions.

"(iii) A plan satisfies the requirements of this clause if an employee has a nonforfeitable right to a percentage of the employee's accrued benefit derived from employer contributions determined under the following table:

"Years of service:	The nonforfeitable percentage is:
2	20
3	40
4	60
5	80
6 or more	100.".

(2) CONFORMING AMENDMENT.—Section 203(a) of such Act is amended by striking paragraph (4).

(c) EFFECTIVE DATES.—

(1) IN GENERAL.—Except as provided in paragraphs (2) and (4), the amendments made by this section shall apply to contributions for plan years beginning after December 31, 2005.

(2) COLLECTIVE BARGAINING AGREEMENTS.—In the case of a plan maintained pursuant to one or more collective bargaining agreements between employee representatives and one or more employers ratified before the date of the enactment of this Act, the amendments made by this section shall not apply to contributions on behalf of employees covered by any such agreement for plan years beginning before the earlier of—

(A) the later of—

(i) the date on which the last of such collective bargaining agreements terminates (determined without regard to any extension thereof on or after such date of the enactment); or

(ii) January 1, 2006; or

(B) January 1, 2008.

(3) SERVICE REQUIRED.—With respect to any plan, the amendments made by this section shall not apply to any employee before the date that such employee has 1 hour of service under such plan in any plan year to which the amendments made by this section apply.

(4) Special rule for stock ownership plans.—Notwithstanding paragraph (1) or (2), in the case of an employee stock ownership plan (as defined in section 4975(e)(7) of the Internal Revenue Code of 1986) which had outstanding on September 26, 2005, a loan incurred for the purpose of acquiring qualifying employer securities (as defined in section 4975(e)(8) of such Code), the amendments made by this section shall not apply to any plan year beginning before the earlier of—

(A) the date on which the loan is fully repaid, or

(B) the date on which the loan was, as of September 26, 2005, scheduled to be fully repaid.

SEC. 1007. ALLOW DIRECT ROLLOVERS FROM RETIREMENT PLANS TO ROTH IRAS.

(a) In General.—Subsection (e) of section 408A of the Internal Revenue Code of 1986 (defining qualified rollover contribution) is amended to read as follows:

"(e) Qualified Rollover Contribution.—For purposes of this section, the term 'qualified rollover contribution' means a rollover contribution—

"(1) to a Roth IRA from another such account,

"(2) from an eligible retirement plan, but only if—

"(A) in the case of an individual retirement plan, such rollover contribution meets the requirements of section 408(d)(3), and

"(B) in the case of any eligible retirement plan (as defined in section 402(c)(8)(B) other than clauses (i) and (ii) thereof), such rollover contribution meets the requirements of section 402(c), 403(b)(8), or 457(e)(16), as applicable.

For purposes of section 408(d)(3)(B), there shall be disregarded any qualified rollover contribution from an individual retirement plan (other than a Roth IRA) to a Roth IRA."

(b) Conforming Amendments.—

(1) Section 408A(c)(3)(B) of such Code is amended—

(A) in the text by striking "individual retirement plan" and inserting "an eligible retirement plan (as defined by section 402(c)(8)(B))", and

(B) in the heading by striking "IRA" and inserting "Eligible Retirement Plan".

(2) Section 408A(d)(3) of such Code is amended—

(A) in subparagraph (A), by striking "section 408(d)(3)" inserting "sections 402(c), 403(b)(8), 408(d)(3), and 457(e)(16)",

(B) in subparagraph (B), by striking "individual retirement plan" and inserting "eligible retirement plan (as defined by section 402(c)(8)(B))",

(C) in subparagraph (D), by inserting "or 6047" after "408(i)",

(D) in subparagraph (D), by striking "or both" and inserting "persons subject to section 6047(d)(1), or all of the foregoing persons", and

(E) in the heading, by striking "IRA" and inserting "Eligible Retirement Plan".

(c) Effective Date.—The amendments made by this section shall apply to distributions after December 31, 2005.

SEC. 1008. ELIMINATION OF HIGHER PENALTY ON CERTAIN SIMPLE PLAN DISTRIBUTIONS.

(a) In General.—Subsection (t) of section 72 of the Internal Revenue Code of 1986 (relating to 10-percent additional tax on early distributions from qualified retirement plans), as amended by section 1004, is amended by striking paragraph (6) and redesignating paragraphs (7), (8), (9), and (10) as paragraphs (6), (7), (8), and (9), respectively.

(b) Conforming Amendments.—

(1) Section 72(t)(2)(E) of such Code is amended by striking "paragraph (7)" and inserting "paragraph (6)".

(2) Section 72(t)(2)(F) of such Code is amended by striking "paragraph (8)" and inserting "paragraph (7)".

(3) Section 408(d)(3)(G) of such Code is amended by striking "applies" and inserting "applied on the day before the date of the enactment of the Pension Security and Transparency Act of 2005)".

(4) Section 457(a)(2) of such Code is amended by striking "section 72(t)(9)" and inserting "section 72(t)(8)".

(c) Effective Date.—The amendments made by this section shall apply to years beginning after December 31, 2005.

SEC. 1009. SIMPLE PLAN PORTABILITY.

(a) Repeal of Limitation.—Paragraph (3) of section 408(d) of the Internal Revenue Code of 1986 (relating to rollover contributions), as amended by this Act, is amended by striking subparagraph (G) and redesignating subparagraphs (H) and (I) as subparagraphs (G) and (H), respectively.

(b) Effective Date.—The amendment made by this section shall apply to years beginning after December 31, 2005.

SEC. 1010. ELIGIBILITY FOR PARTICIPATION IN RETIREMENT PLANS.

An individual shall not be precluded from participating in an eligible deferred compensation plan by reason of having received a distribution under section 457(e)(9) of the Internal Revenue Code of 1986, as in effect prior to the enactment of the Small Business Job Protection Act of 1996.

SEC. 1011. TRANSFERS TO THE PBGC.

(a) Mandatory Distributions to PBGC.—Clause (i) of section 401(a)(31)(B) of the Internal Revenue Code of 1986 (relating to general rule for certain mandatory distributions) is amended by inserting "to the Pension Benefit Guaranty Corporation in accordance with section 4050(e) of the Employee Retirement Income Security Act of 1974 or" after "such transfer".

(b) Tax Treatment of Distributions.—Subparagraph (B) of section 401(a)(31) of such Code is amended by adding at the end the following new clause:

"(iii) Income tax treatment of transfers to PBGC.—For purposes of determining the income tax treatment relating to transfers to the Pension Benefit Guaranty Corporation under clause (i)—

"(I) the transfer of amounts to the Pension Benefit Guaranty Corporation pursuant to clause (i) shall be treated as a transfer to an individual retirement plan under such clause, and

"(II) the distribution of such amounts from the Pension Benefit Guaranty Corporation shall be treated as a distribution from an individual retirement plan."

(c) Missing Participants and Beneficiaries.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350), as amended by section 1012, is amended by redesignating subsection (e) as subsection (g) and by inserting after subsection (d) the following new subsections:

"(e) Involuntary Cashouts.—

"(1) Payment by the corporation.—If benefits under a plan described in paragraph (3) were transferred to the corporation under section 401(a)(31)(B) of the Internal Revenue Code of 1986, the corporation shall, upon application filed by the participant or beneficiary with the corporation in such form and manner as may be prescribed in regulations of the corporation, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

"(A) in a single sum (plus interest), or

"(B) in such other form as is specified in regulations of the corporation.

"(2) Information to the corporation.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (3) shall, upon a transfer of benefits to the corporation under section 401(a)(31)(B) of such Code, provide the corporation information with respect to benefits of the participant or beneficiary so transferred.

"(3) Plans described.—A plan is described in this paragraph if the plan is a pension plan (within the meaning of section 3(2))—

"(A) which provides for mandatory distributions under section 401(a)(31)(B) of the Internal Revenue Code of 1986, and

"(B) which is not a plan described in paragraphs (2) through (11) of section 4021(b).

"(4) Certain provisions not to apply.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (3).

"(f) Authority to Charge Fee.—The corporation may charge a reasonable fee for costs incurred in connection with the transfer and management of amounts transferred to the corporation under this section. Such fee may be imposed on the transferor and may be deducted from amounts so transferred."

(d) Effective Dates.—

(1) Internal revenue code provisions.—The amendments made by subsections (a) and (b) shall take effect as if included in the amendments made by section 657 of the Economic Growth and Tax Relief Reconciliation Act of 2001.

(2) Employee retirement income security act of 1974 provisions.—The amendments made by subsection (c) shall apply to distributions made after final regulations implementing subsections (e) and (f) of section 4050 of the Employee Retirement Income Security Act of 1974 (as added by subsection (c)) are prescribed.

(3) Regulations.—The Pension Benefit Guaranty Corporation shall issue regulations necessary to carry out the amendments made by subsection (c) not later than December 31, 2006.

SEC. 1012. MISSING PARTICIPANTS.

(a) In General.—Section 4050 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1350) is amended by redesignating subsection (c) as subsection (e) and by inserting after subsection (b) the following new subsections:

"(c) Multiemployer Plans.—The corporation shall prescribe rules similar to the rules in subsection (a) for multiemployer plans covered by this title that terminate under section 4041A.

"(d) Plans Not Otherwise Subject to Title.—

"(1) Transfer to corporation.—The plan administrator of a plan described in paragraph (4) may elect to transfer a missing participant's benefits to the corporation upon termination of the plan.

"(2) Information to the corporation.—To the extent provided in regulations, the plan administrator of a plan described in paragraph (4) shall, upon termination of the plan, provide the corporation information with respect to benefits of a missing participant if the plan transfers such benefits—

"(A) to the corporation, or

"(B) to an entity other than the corporation or a plan described in paragraph (4)(B)(ii).

"(3) Payment by the corporation.—If benefits of a missing participant were transferred to the corporation under paragraph (1), the corporation shall, upon location of the participant or beneficiary, pay to the participant or beneficiary the amount transferred (or the appropriate survivor benefit) either—

"(A) in a single sum (plus interest), or

"(B) in such other form as is specified in regulations of the corporation.

"(4) PLANS DESCRIBED.—A plan is described in this paragraph if—

"(A) the plan is a pension plan (within the meaning of section 3(2))—

"(i) to which the provisions of this section do not apply (without regard to this subsection), and

"(ii) which is not a plan described in paragraphs (2) through (11) of section 4021(b), and

"(B) at the time the assets are to be distributed upon termination, the plan—

"(i) has missing participants, and

"(ii) has not provided for the transfer of assets to pay the benefits of all missing participants to another pension plan (within the meaning of section 3(2)).

"(5) CERTAIN PROVISIONS NOT TO APPLY.—Subsections (a)(1) and (a)(3) shall not apply to a plan described in paragraph (4)."

(b) CONFORMING AMENDMENTS.—Section 206(f) of such Act (29 U.S.C. 1056(f)) is amended—

(1) by striking "title IV" and inserting "section 4050"; and

(2) by striking "the plan shall provide that,".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to distributions made after final regulations implementing subsections (c) and (d) of section 4050 of the Employee Retirement Income Security Act of 1974 (as added by subsection (a)), respectively, are prescribed.

SEC. 1013. MODIFICATIONS OF RULES GOVERNING HARDSHIPS AND UNFORSEEN FINANCIAL EMERGENCIES.

Within 180 days after the date of the enactment of this Act, the Secretary of the Treasury shall modify the rules for determining whether a participant has had a hardship for purposes of section 401(k)(2)(B)(i)(IV) of the Internal Revenue Code of 1986 to provide that if an event (including the occurrence of a medical expense) would constitute a hardship under the plan if it occurred with respect to the participant's spouse or dependent (as defined in section 152 of such Code), such event shall, to the extent permitted under a plan, constitute a hardship if it occurs with respect to a person who is a beneficiary under the plan with respect to the participant. The Secretary of the Treasury shall issue similar rules for purposes of determining whether a participant has had—

(1) a hardship for purposes of section 403(b)(11)(B) of such Code; or

(2) an unforeseen financial emergency for purposes of sections 409A(a)(2)(A)(vi), 409A(a)(2)(B)(ii), and 457(d)(1)(A)(iii) of such Code.

TITLE XI—ADMINISTRATIVE PROVISIONS

SEC. 1101. EMPLOYEE PLANS COMPLIANCE RESOLUTION SYSTEM.

(a) IN GENERAL.—The Secretary of the Treasury shall have full authority to establish and implement the Employee Plans Compliance Resolution System (or any successor program) and any other employee plans correction policies, including the authority to waive income, excise, or other taxes to ensure that any tax, penalty, or sanction is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

(b) IMPROVEMENTS.—The Secretary of the Treasury shall continue to supdate and improve the Employee Plans Compliance Resolution System (or any successor program), giving special attention to—

(1) increasing the awareness and knowledge of small employers concerning the availability and use of the program;

(2) taking into account special concerns and circumstances that small employers face with respect to compliance and correction of compliance failures;

(3) extending the duration of the self-correction period under the Self-Correction Program for significant compliance failures;

(4) expanding the availability to correct insignificant compliance failures under the Self-Correction Program during audit; and

(5) assuring that any tax, penalty, or sanction that is imposed by reason of a compliance failure is not excessive and bears a reasonable relationship to the nature, extent, and severity of the failure.

SEC. 1102. NOTICE AND CONSENT PERIOD REGARDING DISTRIBUTIONS.

(a) EXPANSION OF PERIOD.—

(1) AMENDMENT OF INTERNAL REVENUE CODE.—

(A) IN GENERAL.—Section 417(a)(6)(A) of the Internal Revenue Code of 1986 is amended by striking "90-day" and inserting "180-day".

(B) MODIFICATION OF REGULATIONS.—The Secretary of the Treasury shall modify the regulations under sections 402(f), 411(a)(11), and 417 of the Internal Revenue Code of 1986 by substituting "180 days" for "90 days" each place it appears in Treasury Regulations sections 1.402(f)-1, 1.411(a)-11(c), and 1.417(e)-1(b).

(2) AMENDMENT OF ERISA.—

(A) IN GENERAL.—Section 205(c)(7)(A) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1055(c)(7)(A)) is amended by striking "90-day" and inserting "180-day".

(B) MODIFICATION OF REGULATIONS.—The Secretary of the Treasury shall modify the regulations under part 2 of subtitle B of title I of the Employee Retirement Income Security Act of 1974 relating to sections 203(e) and 205 of such Act by substituting "180 days" for "90 days" each place it appears.

(3) EFFECTIVE DATE.—The amendments and modifications made or required by this subsection shall apply to years beginning after December 31, 2005.

(b) NOTIFICATION OF RIGHT TO DEFER.—

(1) IN GENERAL.—The Secretary of the Treasury shall modify the regulations under section 411(a)(11) of the Internal Revenue Code of 1986 and under section 205 of the Employee Retirement Income Security Act of 1974 to provide that the description of a participant's right, if any, to defer receipt of a distribution shall also describe the consequences of failing to defer such receipt.

(2) EFFECTIVE DATE.—

(A) IN GENERAL.—The modifications required by paragraph (1) shall apply to years beginning after December 31, 2005.

(B) REASONABLE NOTICE.—A plan shall not be treated as failing to meet the requirements of section 411(a)(11) of such Code or section 205 of such Act with respect to any description of consequences described in paragraph (1) made within 90 days after the Secretary of the Treasury issues the modifications required by paragraph (1) if the plan administrator makes a reasonable attempt to comply with such requirements.

SEC. 1103. REPORTING SIMPLIFICATION.

(a) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR OWNERS AND THEIR SPOUSES.—

(1) IN GENERAL.—The Secretary of the Treasury shall modify the requirements for filing annual returns with respect to one-participant retirement plans to ensure that such plans with assets of $250,000 or less as of the close of the plan year need not file a return for that year.

(2) ONE-PARTICIPANT RETIREMENT PLAN DEFINED.—For purposes of this subsection, the term "one-participant retirement plan" means a retirement plan with respect to which the following requirements are met:

(A) on the first day of the plan year—

(i) the plan covered only one individual (or the individual and the individual's spouse) and the individual owned 100 percent of the plan sponsor (whether or not incorporated), or

(ii) the plan covered only one or more partners (or partners and their spouses) in the plan sponsor;

(B) the plan meets the minimum coverage requirements of section 410(b) of the Internal Revenue Code of 1986 without being combined with any other plan of the business that covers the employees of the business;

(C) the plan does not provide benefits to anyone except the individual (and the individual's spouse) or the partners (and their spouses);

(D) the plan does not cover a business that is a member of an affiliated service group, a controlled group of corporations, or a group of businesses under common control; and

(E) the plan does not cover a business that uses the services of leased employees (within the meaning of section 414(n) of such Code). For purposes of this paragraph, the term "partner" includes a 2-percent shareholder (as defined in section 1372(b) of such Code) of an S corporation.

(3) OTHER DEFINITIONS.—Terms used in paragraph (2) which are also used in section 414 of the Internal Revenue Code of 1986 shall have the respective meanings given such terms by such section.

(4) EFFECTIVE DATE.—The provisions of this subsection shall apply to plan years beginning on or after January 1, 2006.

(b) SIMPLIFIED ANNUAL FILING REQUIREMENT FOR PLANS WITH FEWER THAN 25 PARTICIPANTS.—In the case of plan years beginning after December 31, 2006, the Secretary of the Treasury and the Secretary of Labor shall provide for the filing of a simplified annual return for any retirement plan which covers less than 25 participants on the first day of a plan year and which meets the requirements described in subparagraphs (B), (D), and (E) of subsection (a)(2).

SEC. 1104. VOLUNTARY EARLY RETIREMENT INCENTIVE AND EMPLOYMENT RETENTION PLANS MAINTAINED BY LOCAL EDUCATIONAL AGENCIES AND OTHER ENTITIES.

(a) VOLUNTARY EARLY RETIREMENT INCENTIVE PLANS.—

(1) TREATMENT AS PLAN PROVIDING SEVERANCE PAY.—Section 457(e)(11) of the Internal Revenue Code of 1986 (relating to certain plans excluded) is amended by adding at the end the following new subparagraph:

"(D) CERTAIN VOLUNTARY EARLY RETIREMENT INCENTIVE PLANS.—

"(i) IN GENERAL.—If an applicable voluntary early retirement incentive plan—

"(I) makes payments or supplements as an early retirement benefit, a retirement-type subsidy, or a benefit described in the last sentence of section 411(a)(9), and

"(II) such payments or supplements are made in coordination with a defined benefit plan which is described in section 401(a) and includes a trust exempt from tax under section 501(a) and which is maintained by an eligible employer described in paragraph (1)(A) or by an education association described in clause (ii)(II), such applicable plan shall be treated for purposes of subparagraph (A)(i) as a bona fide severance pay plan with respect to such payments or supplements to the extent such payments or supplements could otherwise have been provided under such defined benefit plan (determined as if section 411 applied to such defined benefit plan).

"(ii) APPLICABLE VOLUNTARY EARLY RETIREMENT INCENTIVE PLAN.—For purposes of this subparagraph, the term 'applicable voluntary early retirement incentive plan' means a voluntary early retirement incentive plan maintained by—

"(I) a local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801)), or

"(II) an education association which principally represents employees of 1 or more agencies described in subclause (I) and which is described in section 501(c) (5) or (6) and exempt from tax under section 501(a)."

(2) AGE DISCRIMINATION IN EMPLOYMENT ACT.—Section 4(*l*)(1) of the Age Discrimination in Employment Act of 1967 (29 U.S.C. 623(*l*)(1)) is amended—

(A) by inserting "(A)" after "(1)",

(B) by redesignating subparagraphs (A) and (B) as clauses (i) and (ii), respectively,

(C) by redesignating clauses (i) and (ii) of subparagraph (B) (as in effect before the amendments made by subparagraph (B)) as subclauses (I) and (II), respectively, and

(D) by adding at the end the following:

"(B) A voluntary early retirement incentive plan that—

"(i) is maintained by—

"(I) a local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801), or

"(II) an education association which principally represents employees of 1 or more agencies described in subclause (I) and which is described in section 501(c) (5) or (6) of the Internal Revenue Code of 1986 and exempt from taxation under section 501(a) of such Code, and

"(ii) makes payments or supplements described in subclauses (I) and (II) of subparagraph (A)(ii) in coordination with a defined benefit plan (as so defined) maintained by an eligible employer described in section 457(e)(1)(A) of such Code or by an education association described in clause (i)(II),

shall be treated solely for purposes of subparagraph (A)(ii) as if it were a part of the defined benefit plan with respect to such payments or supplements. Payments or supplements under such a voluntary early retirement incentive plan shall not constitute severance pay for purposes of section 4(l)(2) of the Age Discrimination in Employment Act (29 U.S.C. 623(l)(2))."

(b) EMPLOYMENT RETENTION PLANS.—

(1) IN GENERAL.—Section 457(f)(2) of the Internal Revenue Code of 1986 (relating to exceptions) is amended by striking "and" at the end of subparagraph (D), by striking the period at the end of subparagraph (E) and inserting ", and", and by adding at the end the following:

"(F) that portion of any applicable employment retention plan described in paragraph (4) with respect to any participant."

(2) DEFINITIONS AND RULES RELATING TO EMPLOYMENT RETENTION PLANS.—Section 457(f) of such Code is amended by adding at the end the following new paragraph:

"(4) EMPLOYMENT RETENTION PLANS.—For purposes of paragraph (2)(F)—

"(A) IN GENERAL.—The portion of an applicable employment retention plan described in this paragraph with respect to any participant is that portion of the plan which provides benefits payable to the participant not in excess of twice the applicable dollar limit determined under subsection (e)(15).

"(B) OTHER RULES.—

"(i) LIMITATION.—Paragraph (2)(F) shall only apply to the portion of the plan described in subparagraph (A) for years preceding the year in which such portion is paid or otherwise made available to the participant.

"(ii) TREATMENT.—A plan shall not be treated for purposes of this title as providing for the deferral of compensation for any year with respect to the portion of the plan described in subparagraph (A).

"(C) APPLICABLE EMPLOYMENT RETENTION PLAN.—The term 'applicable employment retention plan' means an employment retention plan maintained by—

"(i) a local educational agency (as defined in section 9101 of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7801), or

"(ii) an education association which principally represents employees of 1 or more agencies described in clause (i) and which is described in section 501(c) (5) or (6) and exempt from taxation under section 501(a).

"(D) EMPLOYMENT RETENTION PLAN.—The term 'employment retention plan' means a plan to pay, upon termination of employment, compensation to an employee of a local educational agency or education association described in subparagraph (C) for purposes of—

"(i) retaining the services of the employee, or

"(ii) rewarding such employee for the employee's service with 1 or more such agencies or associations."

(c) COORDINATION WITH ERISA.—Section 3(2)(B) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(2)(B)) is amended by adding at the end the following: "An applicable voluntary early retirement incentive plan (as defined in section 457(e)(11)(D)(ii) of the Internal Revenue Code of 1986) making payments or supplements described in section 457(e)(11)(D)(i) of such Code, and an applicable employment retention plan (as defined in section 457(f)(4)(C) of such Code) making payments of benefits described in section 457(f)(4)(A) of such Code, shall, for purposes of this title, be treated as a welfare plan (and not a pension plan) with respect to such payments and supplements."

(d) EFFECTIVE DATES.—

(1) IN GENERAL.—The amendments made by this Act shall take effect on the date of the enactment of this Act.

(2) TAX AMENDMENTS.—The amendments made by subsections (a)(1) and (b) shall apply to taxable years ending after the date of the enactment of this Act.

(3) ERISA AMENDMENTS.—The amendment made by subsection (c) shall apply to plan years ending after the date of the enactment of this Act.

(4) CONSTRUCTION.—Nothing in the amendments made by this section shall alter or affect the construction of the Internal Revenue Code of 1986, the Employee Retirement Income Security Act of 1974, or the Age Discrimination in Employment Act of 1967 as applied to any plan, arrangement, or conduct to which such amendments do not apply.

SEC. 1105. NO REDUCTION IN UNEMPLOYMENT COMPENSATION AS A RESULT OF PENSION ROLLOVERS.

(a) IN GENERAL.—Section 3304(a) of the Internal Revenue Code of 1986 (relating to requirements for State unemployment laws) is amended by adding at the end the following new flush sentence:

"Compensation shall not be reduced under paragraph (15) for any pension, retirement or retired pay, annuity, or similar payment which is not includible in gross income of the individual for the taxable year in which paid because it was part of a rollover distribution."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to weeks beginning on or after the date of the enactment of this Act.

SEC. 1106. WITHHOLDING ON DISTRIBUTIONS FROM GOVERNMENTAL SECTION 457 PLANS.

(a) IN GENERAL.—Section 641(f) of the Economic Growth and Tax Relief Reconciliation Act of 2001 is amended by adding at the end the following new paragraph:

"(4) TRANSITION RULE FOR CERTAIN GOVERNMENTAL PLANS.—In the case of distributions from an eligible deferred compensation plan of an employer described in section 457(e)(1)(A) of the Internal Revenue Code of 1986 which are made after December 31, 2001, and which are part of a series of distributions which—

"(A) began before January 1, 2002, and

"(B) are payable for 10 years or less, the Internal Revenue Code of 1986 may be applied to such distributions without regard to the amendments made by subsection (a)(1)(D)."

(b) EFFECTIVE DATE.—The amendment made by subsection (a) shall take effect as if included in the provisions of section 641 of the Economic Growth and Tax Relief Reconciliation Act of 2001.

SEC. 1107. TREATMENT OF DEFINED BENEFIT PLAN AS GOVERNMENTAL PLAN.

(a) IN GENERAL.—For purposes of the Internal Revenue Code of 1986 and the Employee Retirement Income Security Act of 1974, an eligible defined benefit plan shall be treated as a governmental plan (within the meaning of section 414(d) of such Code and section 3(32) of such Act).

(b) ELIGIBLE DEFINED BENEFIT PLAN.—For purposes of this section, an eligible defined benefit plan is a defined benefit plan maintained by a nonprofit corporation which was—

(1) incorporated on September 16, 1998, under a State nonprofit corporation statute; and

(2) organized for the express purpose of supporting the missions and goals of a public corporation which—

(A) was created by a State statute effective on July 1, 1995;

(B) is a governmental entity under State law; and

(C) is a member of the nonprofit corporation.

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to any year beginning before, on, or after the date of the enactment of this Act.

SEC. 1108. INCREASING PARTICIPATION IN CASH OR DEFERRED PLANS THROUGH AUTOMATIC CONTRIBUTION ARRANGEMENTS.

(a) IN GENERAL.—Section 401(k) of the Internal Revenue Code of 1986 (relating to cash or deferred arrangement) is amended by adding at the end the following new paragraph:

"(13) NONDISCRIMINATION REQUIREMENTS FOR AUTOMATIC CONTRIBUTION TRUSTS.—

"(A) IN GENERAL.—A cash or deferred arrangement shall be treated as meeting the requirements of paragraph (3)(A)(ii) if such arrangement constitutes an automatic contribution trust.

"(B) AUTOMATIC CONTRIBUTION TRUST.—

"(i) In general.—For purposes of this paragraph, the term 'automatic contribution trust' means an arrangement—

"(I) except as provided in clauses (ii) and (iii), under which each employee eligible to participate in the arrangement is treated as having elected to have the employer make elective contributions in an amount equal to the applicable percentage of the employee's compensation, and

"(II) which meets the requirements of subparagraphs (C), (D), (E), and (F).

"(ii) Exception for existing employees.—In the case of any employee—

"(I) who was eligible to participate in the arrangement (or a predecessor arrangement) immediately before the first date on which the arrangement is an automatic contribution trust, and

"(II) whose rate of contribution immediately before such first date was less than the applicable percentage for the employee,

clause (i)(I) shall not apply to such employee until the date which is 1 year after such first date (or such earlier date as the employee may elect).

"(iii) Election out.—Each employee eligible to participate in the arrangement may specifically elect not to have contributions made under clause (i), and such clause shall cease to apply to compensation paid on or after the effective date of the election.

"(iv) Applicable percentage.—For purposes of this subparagraph—

"(I) In general.—The term 'applicable percentage' means, with respect to any employee, the uniform percentage (not less than 3 percent) determined under the arrangement. In the case of an employee who was eligible to participate in the arrangement (or a predecessor arrangement) immediately before the first date on which the arrangement is an automatic contribution trust, the initial applicable percentage shall in no event be less than the percentage in effect with respect to the employee under the arrangement immediately before the employee first begins participation in the automatic contribution trust.

"(II) Increase in percentage.—In the case of the second plan year beginning after the first date on which the election under clause (i)(I) is in effect with respect to the employee and any succeeding plan year, the applicable percentage shall be a percentage (not greater than 10 percent or such higher uniform percentage determined under the arrangement) equal to the sum of the applicable percentage for the employee as of the close of the preceding plan year plus 1 percentage point (or such higher percentage specified by the plan). A plan may elect to provide that, in lieu of any increase under the preceding sentence, the increase in the applicable percentage required under this subclause shall occur after each increase in compensation an employee receives on or after the first day of such second plan year and that the applicable percentage after each such increase in compensation shall be equal to the applicable percentage for the employee immediately before such increase in compensation plus 1 percentage point (or such higher percentage specified by the plan).

"(C) Matching or nonelective contributions.—

"(i) In general.—The requirements of this subparagraph are met if, under the arrangement, the employer—

"(I) makes matching contributions on behalf of each employee who is not a highly compensated employee in an amount equal to 50 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 7 percent of compensation; or

"(II) is required, without regard to whether the employee makes an elective contribution or employee contribution, to make a contribution to a defined contribution plan on behalf of each employee who is not a highly compensated employee and who is eligible to participate in the arrangement in an amount equal to at least 3 percent of the employee's compensation,

The rules of clauses (ii) and (iii) of paragraph (12)(B) shall apply for purposes of subclause (I). The rules of paragraph (12)(E)(ii) shall apply for purposes of subclauses (I) and (II).

"(ii) Other plans.—An arrangement shall be treated as meeting the requirements under clause (i) if any other plan maintained by the employer meets such requirements with respect to employees eligible under the arrangement.

"(D) Notice requirements.—

"(i) In general.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

"(ii) Reasonable period to make election.—The requirements of this clause are met if each employee to whom subparagraph (B)(i) applies—

"(I) receives a notice explaining the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf, and how contributions made under the arrangement will be invested in the absence of any investment election by the employee, and

"(II) has a reasonable period of time after receipt of such notice and before the first elective contribution is made to make such election.

"(iii) Annual notice of rights and obligations.—The requirements of this clause are met if each employee eligible to participate in the arrangement is, within a reasonable period before any year (or if the plan elects to change the applicable percentage after any increase in compensation, before the increase), given notice of the employee's rights and obligations under the arrangement.

The requirements of clauses (i) and (ii) of paragraph (12)(D) shall be met with respect to the notices described in clauses (ii) and (iii) of this subparagraph.

"(E) Participation, withdrawal, and vesting requirements.—The requirements of this subparagraph are met if—

"(i) the arrangement requires that each employee eligible to participate in the arrangement (determined without regard to any minimum service requirement otherwise applicable under section 410(a) or the plan) commences participation in the arrangement no later than the 1st day of the 1st calendar quarter beginning after the date on which employee first becomes so eligible,

"(ii) the withdrawal requirements of paragraph (2)(B) are met with respect to all employer contributions (including matching and elective contributions) taken into account in determining whether the arrangement meets the requirements of subparagraph (C), and

"(iii) the arrangement requires that an employee's right to the accrued benefit derived from employer contributions described in clause (ii) (other than elective contributions) is nonforfeitable after the employee has completed at least 2 years of service.

"(F) Certain withdrawals must be allowed.—Notwithstanding any other provision of this subsection, the requirements of this subparagraph are met if the arrangement allows employees to elect to make permissible withdrawals in accordance with section 414(w)."

(b) Matching Contributions.—Section 401(m) of the Internal Revenue Code of 1986 (relating to nondiscrimination test for matching contributions and employee contributions) is amended by redesignating paragraph (12) as paragraph (13) and by inserting after paragraph (11) the following new paragraph:

"(12) Alternate method for automatic contribution trusts.—A defined contribution plan shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if the plan—

"(A) meets the contribution requirements of subparagraphs (B)(i) and (C) of subsection (k)(13);

"(B) meets the notice requirements of subparagraph (D) of subsection (k)(13); and

"(C) meets the requirements of paragraph (11)(B) (ii) and (iii).".

(c) Exclusion From Definition of Top-Heavy Plans.—

(1) Elective contribution rule.—Clause (i) of section 416(g)(4)(H) of the Internal Revenue Code of 1986 is amended by inserting "or 401(k)(13)" after "section 401(k)(12)".

(2) Matching contribution rule.—Clause (ii) of section 416(g)(4)(H) of such Code is amended by inserting "or 401(m)(12)" after "section 401(m)(11)".

(d) Section 403(b) contracts.—Paragraph (11) of section 401(m) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"(C) Section 403(b) contracts.—An annuity contract under section 403(b) shall be treated as meeting the requirements of paragraph (2) with respect to matching contributions if such contract meets requirements similar to the requirements under subparagraph (A).".

(e) Preemption of Conflicting State Regulation.—Section 514 of the Employee Retirement Income Security of 1974 (29 U.S.C. 1144) is amended by inserting at the end the following new subsection:

"(e) Automatic Contribution Arrangements.—

"(1) In general.—Notwithstanding any other provision of this section, any law of a State shall be superseded if it would directly or indirectly prohibit or restrict the inclusion in any plan of an eligible automatic contribution arrangement.

"(2) Eligible automatic contribution arrangement.—For purposes of this subsection, the term 'eligible automatic contribution arrangement' means an arrangement—

"(A) under which a participant may elect to have the employer make payments as contributions under the plan on behalf of the participant, or to the participant directly in cash,

"(B) under which the participant is treated as having elected to have the employer make such contributions in an amount equal to a uniform percentage of compensation provided under the plan until the participant specifically elects not to have such contributions made (or specifically elects to have such contributions made at a different percentage),

"(C) under which contributions described in subparagraph (B) are invested in accordance with regulations prescribed by the Secretary under section 404(c)(4), and

"(D) which meets the requirements of paragraph (3).

"(3) Notice requirements.—

"(A) In general.—The administrator of an individual account plan shall, within a reasonable period before each plan year, give to each employee to whom an arrangement described in paragraph (2) applies for such plan year notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee to whom the arrangement applies.

"(B) TIME AND FORM OF NOTICE.—A notice shall not be treated as meeting the requirements of subparagraph (A) with respect to an employee unless—

"(i) the notice includes a notice explaining the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf (or to elect to have such contributions made at a different percentage),

"(ii) the employee has a reasonable period of time after receipt of the notice described in clause (i) and before the first elective contribution is made to make such election, and

"(iii) the notice explains how contributions made under the arrangement will be invested in the absence of any investment election by the employee.".

(f) TREATMENT OF WITHDRAWALS OF CONTRIBUTIONS DURING FIRST 60 DAYS.—Section 414 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

"(w) SPECIAL RULES FOR CERTAIN WITHDRAWALS FROM ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGEMENTS.—

"(1) IN GENERAL.—If an eligible automatic contribution arrangement allows an employee to elect to make permissible withdrawals—

"(A) the amount of any such withdrawal shall be includible in the gross income of the employee for the taxable year of the employee in which the distribution is made,

"(B) no tax shall be imposed under section 72(t) with respect to the distribution, and

"(C) the arrangement shall not be treated as violating any restriction on distributions under this title solely by reason of allowing the withdrawal.

In the case of any distribution to an employee by reason of an election under this paragraph, employer matching contributions shall be forfeited or subject to such other treatment as the Secretary may prescribe.

"(2) PERMISSIBLE WITHDRAWAL.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'permissible withdrawal' means any withdrawal from an eligible automatic contribution arrangement meeting the requirements of this paragraph which—

"(i) is made pursuant to an election by an employee, and

"(ii) consists of elective contributions described in paragraph (3)(B) (and earnings attributable thereto).

"(B) TIME FOR MAKING ELECTION.—Subparagraph (A) shall not apply to an election by an employee unless the election is made no later than the date which is 60 days after the date of the first elective contribution with respect to the employee under the arrangement.

"(C) AMOUNT OF DISTRIBUTION.—Subparagraph (A) shall not apply to any election by an employee unless the amount of any distribution by reason of the election is equal to the amount of elective contributions made with respect to the first payroll period to which the eligible automatic contribution arrangement applies to the employee and any succeeding payroll period beginning before the effective date of the election (and earnings attributable thereto).

"(3) ELIGIBLE AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this subsection, the term 'eligible automatic contribution arrangement' means an arrangement—

"(A) under which a participant may elect to have the employer make payments as contributions under the plan on behalf of the participant, or to the participant directly in cash,

"(B) under which the participant is treated as having elected to have the employer make such contributions in an amount equal to a uniform percentage of compensation provided under the plan until the participant specifically elects not to have such contributions made (or specifically elects to have such contributions made at a different percentage),

"(C) under which contributions described in subparagraph (B) are invested in accordance with regulations prescribed by the Secretary of Labor under section 404(c)(4) of the Employee Retirement Income Security Act of 1974, and

"(D) which meets the requirements of paragraph (4).

"(4) NOTICE REQUIREMENTS.—

"(A) IN GENERAL.—The administrator of a plan containing an arrangement described in paragraph (3) shall, within a reasonable period before each plan year, give to each employee to whom an arrangement described in paragraph (3) applies for such plan year notice of the employee's rights and obligations under the arrangement which—

"(i) is sufficiently accurate and comprehensive to apprise the employee of such rights and obligations, and

"(ii) is written in a manner calculated to be understood by the average employee to whom the arrangement applies.

"(B) TIME AND FORM OF NOTICE.—A notice shall not be treated as meeting the requirements of subparagraph (A) with respect to an employee unless—

"(i) the notice includes a notice explaining the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf (or to elect to have such contributions made at a different percentage),

"(ii) the employee has a reasonable period of time after receipt of the notice described in clause (i) and before the first elective contribution is made to make such election, and

"(iii) the notice explains how contributions made under the arrangement will be invested in the absence of any investment election by the employee.".

(g) EFFECTIVE DATE.—

(1) IN GENERAL.—Except as provided by paragraph (2), the amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) SECTION 403(b) CONTRACTS.—The amendments made by subsection (d) shall apply to years ending after the date of the enactment of this Act.

SEC. 1109. TREATMENT OF INVESTMENT OF ASSETS BY PLAN WHERE PARTICIPANT FAILS TO EXERCISE INVESTMENT ELECTION.

(a) IN GENERAL.—Section 404(c) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1104(c)) is amended by adding at the end the following new paragraph:

"(4) DEFAULT INVESTMENT ARRANGEMENTS.—

"(A) IN GENERAL.—For purposes of paragraph (1), a participant in an individual account plan meeting the notice requirements of subparagraph (B) shall be treated as exercising control over the assets in the account with respect to the amount of contributions and earnings which, in the absence of an investment election by the participant, are invested by the plan in accordance with regulations prescribed by the Secretary. The regulations under this subparagraph shall provide guidance on the appropriateness of designating default investments that include a mix of asset classes consistent with capital preservation, long-term capital appreciation, or a blend of both.

"(B) NOTICE REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if each participant—

"(I) receives, within a reasonable period of time before each plan year, a notice explaining the employee's right under the plan to designate how contributions and earnings will be invested and explaining how, in the absence of any investment election by the participant, such contributions and earnings will be invested, and

"(II) has a reasonable period of time after receipt of such notice and before the beginning of the plan year to make such designation.

"(ii) FORM OF NOTICE.—The requirements of clauses (i) and (ii) of section 401(k)(12)(D) of the Internal Revenue Code of 1986 shall be met with respect to the notices described in this subparagraph.".

(b) EFFECTIVE DATE.—

(1) IN GENERAL.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

(2) REGULATIONS.—Final regulations under section 404(c)(4)(A) of the Employee Retirement Income Security Act of 1974 (as added by this section) shall be issued no later than 6 months after the date of the enactment of this Act.

SEC. 1110. CLARIFICATION OF FIDUCIARY RULES.

(a) IN GENERAL.—Not later than 1 year after the date of the enactment of this Act, the Secretary of Labor shall issue final regulations clarifying that the selection of an annuity contract as an optional form of distribution from an individual account plan to a participant or beneficiary—

(1) is not subject to the safest available annuity standard under Interpretive Bulletin 95-1 (29 C.F.R. 2509.95-1), and

(2) is subject to all otherwise applicable fiduciary standards.

(b) EFFECTIVE DATE.—This section shall take effect on the date of enactment of this Act.

TITLE XII—UNITED STATES TAX COURT MODERNIZATION

SEC. 1200. AMENDMENT OF 1986 CODE.

Except as otherwise expressly provided, whenever in this title an amendment or repeal is expressed in terms of an amendment to, or repeal of, a section or other provision, the reference shall be considered to be made to a section or other provision of the Internal Revenue Code of 1986.

SEC. 1201. ANNUITIES FOR SURVIVORS OF TAX COURT JUDGES WHO ARE ASSASSINATED.

(a) ELIGIBILITY IN CASE OF DEATH BY ASSASSINATION.—Subsection (h) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

"(h) ENTITLEMENT TO ANNUITY.—

"(1) IN GENERAL.—

"(A) ANNUITY TO SURVIVING SPOUSE.—If a judge described in paragraph (2) is survived by a surviving spouse but not by a dependent child, there shall be paid to such surviving spouse an annuity beginning with the day of the death of the judge or following the surviving spouse's attainment of the age of 50 years, whichever is the later, in an amount computed as provided in subsection (m).

"(B) ANNUITY TO CHILD.—If such a judge is survived by a surviving spouse and a dependent child or children, there shall be paid to such surviving spouse an immediate annuity in an amount computed as provided in subsection (m), and there shall also be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 10 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

"(ii) 20 percent of such average annual salary, divided by the number of such children.

"(C) ANNUITY TO SURVIVING DEPENDENT CHILDREN.—If such a judge leaves no surviving spouse but leaves a surviving dependent child or children, there shall be paid to or on behalf of each such child an immediate annuity equal to the lesser of—

"(i) 20 percent of the average annual salary of such judge (determined in accordance with subsection (m)), or

"(ii) 40 percent of such average annual salary, divided by the number of such children.

"(2) COVERED JUDGES.—Paragraph (1) applies to any judge electing under subsection (b)—

"(A) who dies while a judge after having rendered at least 5 years of civilian service computed as prescribed in subsection (n), for the last 5 years of which the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made or the salary deductions required by the civil service retirement laws have actually been made, or

"(B) who dies by assassination after having rendered less than 5 years of civilian service computed as prescribed in subsection (n) if, for the period of such service, the salary deductions provided for by subsection (c)(1) or the deposits required by subsection (d) have actually been made.

"(3) TERMINATION OF ANNUITY.—

"(A) IN THE CASE OF A SURVIVING SPOUSE.—The annuity payable to a surviving spouse under this subsection shall be terminable upon such surviving spouse's death or such surviving spouse's remarriage before attaining age 55.

"(B) IN THE CASE OF A CHILD.—The annuity payable to a child under this subsection shall be terminable upon (i) the child attaining the age of 18 years, (ii) the child's marriage, or (iii) the child's death, whichever first occurs, except that if such child is incapable of self-support by reason of mental or physical disability the child's annuity shall be terminable only upon death, marriage, or recovery from such disability.

"(C) IN THE CASE OF A DEPENDENT CHILD AFTER DEATH OF SURVIVING SPOUSE.—In case of the death of a surviving spouse of a judge leaving a dependent child or children of the judge surviving such spouse, the annuity of such child or children shall be recomputed and paid as provided in paragraph (1)(C).

"(D) RECOMPUTATION.—In any case in which the annuity of a dependent child is terminated under this subsection, the annuities of any remaining dependent child or children, based upon the service of the same judge, shall be recomputed and paid as though the child whose annuity was so terminated had not survived such judge.

"(4) SPECIAL RULE FOR ASSASSINATED JUDGES.—In the case of a survivor or survivors of a judge described in paragraph (2)(B), there shall be deducted from the annuities otherwise payable under this section an amount equal to—

"(A) the amount of salary deductions provided for by subsection (c)(1) that would have been made if such deductions had been made for 5 years of civilian service computed as prescribed in subsection (n) before the judge's death, reduced by

"(B) the amount of such salary deductions that were actually made before the date of the judge's death."

(b) DEFINITION OF ASSASSINATION.—Section 7448(a) (relating to definitions) is amended by adding at the end the following new paragraph:

"(8) The terms 'assassinated' and 'assassination' mean the killing of a judge that is motivated by the performance by that judge of his or her official duties."

(c) DETERMINATION OF ASSASSINATION.—Subsection (i) of section 7448 is amended—

(1) by striking the subsection heading and inserting the following:

"(i) DETERMINATIONS BY CHIEF JUDGE.—

"(1) DEPENDENCY AND DISABILITY.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) ASSASSINATION.—The chief judge shall determine whether the killing of a judge was an assassination, subject to review only by the Tax Court. The head of any Federal agency that investigates the killing of a judge shall provide information to the chief judge that would assist the chief judge in making such a determination."

(d) COMPUTATION OF ANNUITIES.—Subsection (m) of section 7448 is amended—

(1) by striking the subsection heading and inserting the following:

"(m) COMPUTATION OF ANNUITIES.—

"(1) IN GENERAL.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) ASSASSINATED JUDGES.—In the case of a judge who is assassinated and who has served less than 3 years, the annuity of the surviving spouse of such judge shall be based upon the average annual salary received by such judge for judicial service."

(e) OTHER BENEFITS.—Section 7448 is amended by adding at the end the following:

"(u) OTHER BENEFITS.—In the case of a judge who is assassinated, an annuity shall be paid under this section notwithstanding a survivor's eligibility for or receipt of benefits under chapter 81 of title 5, United States Code, except that the annuity for which a surviving spouse is eligible under this section shall be reduced to the extent that the total benefits paid under this section and chapter 81 of that title for any year would exceed the current salary for that year of the office of the judge."

SEC. 1202. COST-OF-LIVING ADJUSTMENTS FOR TAX COURT JUDICIAL SURVIVOR ANNUITIES.

(a) IN GENERAL.—Subsection (s) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended to read as follows:

"(s) INCREASES IN SURVIVOR ANNUITIES.—Each time that an increase is made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, each annuity payable from the survivors annuity fund under this section shall be increased at the same time by the same percentage by which annuities are increased under such section 8340(b)."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply with respect to increases made under section 8340(b) of title 5, United States Code, in annuities payable under subchapter III of chapter 83 of that title, taking effect after the date of the enactment of this Act.

SEC. 1203. LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges) is amended by adding at the end the following new subsection:

"(j) LIFE INSURANCE COVERAGE.—For purposes of chapter 87 of title 5, United States Code (relating to life insurance), any individual who is serving as a judge of the Tax Court or who is retired under this section is deemed to be an employee who is continuing in active employment."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a judge of the United States Tax Court or to any retired judge of the United States Tax Court on the date of the enactment of this Act.

SEC. 1204. COST OF LIFE INSURANCE COVERAGE FOR TAX COURT JUDGES AGE 65 OR OVER.

Section 7472 (relating to expenditures) is amended by inserting after the first sentence the following new sentence: "Notwithstanding any other provision of law, the Tax Court is authorized to pay on behalf of its judges, age 65 or over, any increase in the cost of Federal Employees' Group Life Insurance imposed after April 24, 1999, including any expenses generated by such payments, as authorized by the chief judge in a manner consistent with such payments authorized by the Judicial Conference of the United States pursuant to section 604(a)(5) of title 28, United States Code."

SEC. 1205. MODIFICATION OF TIMING OF LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.

(a) IN GENERAL.—Section 7443 (relating to membership of the Tax Court) is amended by adding at the end the following new subsection:

"(h) LUMP-SUM PAYMENT OF JUDGES' ACCRUED ANNUAL LEAVE.—Notwithstanding the provisions of sections 5551 and 6301 of title 5, United States Code, when an individual subject to the leave system provided in chapter 63 of that title is appointed by the President to be a judge of the Tax Court, the individual shall be entitled to receive, upon appointment to the Tax Court, a lump-sum payment from the Tax Court of the accumulated and accrued current annual leave standing to the individual's credit as certified by the agency from which the individual resigned."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any judge of the United States Tax Court who has an outstanding leave balance on the date of the enactment of this Act and to any individual appointed by the President to serve as a judge of the United States Tax Court after such date.

SEC. 1206. PARTICIPATION OF TAX COURT JUDGES IN THE THRIFT SAVINGS PLAN.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

"(k) THRIFT SAVINGS PLAN.—

"(1) ELECTION TO CONTRIBUTE.—

"(A) IN GENERAL.—A judge of the Tax Court may elect to contribute to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

"(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

"(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States

Code, shall apply with respect to a judge who makes an election under paragraph (1).

"(3) SPECIAL RULES.—

"(A) AMOUNT CONTRIBUTED.—The amount contributed by a judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such period as allowable under section 8440f of title 5, United States Code. Basic pay does not include any retired pay paid pursuant to this section.

"(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a judge under section 8432(c) of title 5, United States Code.

"(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5 WHETHER OR NOT JUDGE RETIRES.—Section 8433(b) of title 5, United States Code, applies with respect to a judge who makes an election under paragraph (1) and who either—

"(i) retires under subsection (b), or

"(ii) ceases to serve as a judge of the Tax Court but does not retire under subsection (b).

Retirement under subsection (b) is a separation from service for purposes of subchapters III and VII of chapter 84 of that title.

"(D) APPLICABILITY OF SECTION 8351(b)(5) OF TITLE 5.—The provisions of section 8351(b)(5) of title 5, United States Code, shall apply with respect to a judge who makes an election under paragraph (1).

"(E) EXCEPTION.—Notwithstanding subparagraph (C), if any judge retires under this section, or resigns without having met the age and service requirements set forth under subsection (b)(2), and such judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment."

(b) EFFECTIVE DATE.—The amendment made by this section shall take effect on the date of the enactment of this Act, except that United States Tax Court judges may only begin to participate in the Thrift Savings Plan at the next open season beginning after such date.

SEC. 1207. EXEMPTION OF TEACHING COMPENSATION OF RETIRED JUDGES FROM LIMITATION ON OUTSIDE EARNED INCOME.

(a) IN GENERAL.—Section 7447 (relating to retirement of judges), as amended by this Act, is amended by adding at the end the following new subsection:

"(l) TEACHING COMPENSATION OF RETIRED JUDGES.—For purposes of the limitation under section 501(a) of the Ethics in Government Act of 1978 (5 U.S.C. App.), any compensation for teaching approved under section 502(a)(5) of such Act shall not be treated as outside earned income when received by a judge of the Tax Court who has retired under subsection (b) for teaching performed during any calendar year for which such a judge has met the requirements of subsection (c), as certified by the chief judge of the Tax Court."

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to any individual serving as a retired judge of the United States Tax Court on or after the date of the enactment of this Act.

SEC. 1208. GENERAL PROVISIONS RELATING TO MAGISTRATE JUDGES OF THE TAX COURT.

(a) TITLE OF SPECIAL TRIAL JUDGE CHANGED TO MAGISTRATE JUDGE OF THE TAX COURT.—The heading of section 7443A is amended to read as follows:

"SEC. 7443A. MAGISTRATE JUDGES OF THE TAX COURT."

(b) APPOINTMENT, TENURE, AND REMOVAL.—Subsection (a) of section 7443A is amended to read as follows:

"(a) APPOINTMENT, TENURE, AND REMOVAL.—

"(1) APPOINTMENT.—The chief judge may, from time to time, appoint and reappoint magistrate judges of the Tax Court for a term of 8 years. The magistrate judges of the Tax Court shall proceed under such rules as may be promulgated by the Tax Court.

"(2) REMOVAL.—Removal of a magistrate judge of the Tax Court during the term for which he or she is appointed shall be only for incompetency, misconduct, neglect of duty, or physical or mental disability, but the office of a magistrate judge of the Tax Court shall be terminated if the judges of the Tax Court determine that the services performed by the magistrate judge of the Tax Court are no longer needed. Removal shall not occur unless a majority of all the judges of the Tax Court concur in the order of removal. Before any order of removal shall be entered, a full specification of the charges shall be furnished to the magistrate judge of the Tax Court, and he or she shall be accorded by the judges of the Tax Court an opportunity to be heard on the charges."

(c) SALARY.—Section 7443A(d) (relating to salary) is amended by striking "90" and inserting "92".

(d) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—Section 7443A is amended by adding at the end the following new subsection:

"(f) EXEMPTION FROM FEDERAL LEAVE PROVISIONS.—

"(1) IN GENERAL.—A magistrate judge of the Tax Court appointed under this section shall be exempt from the provisions of subchapter I of chapter 63 of title 5, United States Code.

"(2) TREATMENT OF UNUSED LEAVE.—

"(A) AFTER SERVICE AS MAGISTRATE JUDGE.—If an individual who is exempted under paragraph (1) from the subchapter referred to in such paragraph was previously subject to such subchapter and, without a break in service, again becomes subject to such subchapter on completion of the individual's service as a magistrate judge, the unused annual leave and sick leave standing to the individual's credit when such individual was exempted from this subchapter is deemed to have remained to the individual's credit.

"(B) COMPUTATION OF ANNUITY.—In computing an annuity under section 8339 of title 5, United States Code, the total service of an individual specified in subparagraph (A) who retires on an immediate annuity or dies leaving a survivor or survivors entitled to an annuity includes, without regard to the limitations imposed by subsection (f) of such section 8339, the days of unused sick leave standing to the individual's credit when such individual was exempted from subchapter I of chapter 63 of title 5, United States Code, except that these days will not be counted in determining average pay or annuity eligibility.

"(C) LUMP SUM PAYMENT.—Any accumulated and current accrued annual leave or vacation balances credited to a magistrate judge as of the date of the enactment of this subsection shall be paid in a lump sum at the time of separation from service pursuant to the provisions and restrictions set forth in section 5551 of title 5, United States Code, and related provisions referred to in such section."

(e) CONFORMING AMENDMENTS.—

(1) The heading of subsection (b) of section 7443A is amended by striking "SPECIAL TRIAL JUDGES" and inserting "Magistrate Judges of the Tax Court".

(2) Section 7443A(b) is amended by striking "special trial judges of the court" and inserting "magistrate judges of the Tax Court".

(3) Subsections (c) and (d) of section 7443A are amended by striking "special trial judge" and inserting "magistrate judge of the Tax Court" each place it appears.

(4) Section 7443A(e) is amended by striking "special trial judges" and inserting "magistrate judges of the Tax Court".

(5) Section 7456(a) is amended by striking "special trial judge" each place it appears and inserting "magistrate judge".

(6) Subsection (c) of section 7471 is amended—

(A) by striking the subsection heading and inserting "MAGISTRATE JUDGES OF THE TAX COURT.—", and

(B) by striking "special trial judges" and inserting "magistrate judges".

SEC. 1209. ANNUITIES TO SURVIVING SPOUSES AND DEPENDENT CHILDREN OF MAGISTRATE JUDGES OF THE TAX COURT.

(a) DEFINITIONS.—Section 7448(a) (relating to definitions), as amended by this Act, is amended by redesignating paragraphs (5), (6), (7), and (8) as paragraphs (7), (8), (9), and (10), respectively, and by inserting after paragraph (4) the following new paragraphs:

"(5) The term 'magistrate judge' means a judicial officer appointed pursuant to section 7443A, including any individual receiving an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, whether or not performing judicial duties under section 7443C.

"(6) The term 'magistrate judge's salary' means the salary of a magistrate judge received under section 7443A(d), any amount received as an annuity under section 7443B, or chapters 83 or 84, as the case may be, of title 5, United States Code, and compensation received under section 7443C."

(b) ELECTION.—Subsection (b) of section 7448 (relating to annuities to surviving spouses and dependent children of judges) is amended—

(1) by striking the subsection heading and inserting the following:

"(b) ELECTION.—

"(1) JUDGES.—",

(2) by moving the text 2 ems to the right, and

(3) by adding at the end the following new paragraph:

"(2) MAGISTRATE JUDGES.—Any magistrate judge may by written election filed with the chief judge bring himself or herself within the purview of this section. Such election shall be filed not later than the later of 6 months after—

"(A) 6 months after the date of the enactment of this paragraph,

"(B) the date the judge takes office, or

"(C) the date the judge marries."

(c) CONFORMING AMENDMENTS.—

(1) The heading of section 7448 is amended by inserting "**AND MAGISTRATE JUDGES**" after "**JUDGES**".

(2) The item relating to section 7448 in the table of sections for part I of subchapter C of chapter 76 is amended by inserting "and magistrate judges" after "judges".

(3) Subsections (c)(1), (d), (f), (g), (h), (j), (m), (n), and (u) of section 7448, as amended by this Act, are each amended—

(A) by inserting "or magistrate judge" after "judge" each place it appears other than in the phrase "chief judge", and

(B) by inserting "or magistrate judge's" after "judge's" each place it appears.

(4) Section 7448(c) is amended—

(A) in paragraph (1), by striking "Tax Court judges" and inserting "Tax Court judicial officers",

(B) in paragraph (2)—

(i) in subparagraph (A), by inserting "and section 7443A(d)" after "(a)(4)", and

(ii) in subparagraph (B), by striking "subsection (a)(4)" and inserting "subsections (a)(4) and (a)(6)".

(5) Section 7448(g) is amended by inserting "or section 7443B" after "section 7447" each place it appears, and by inserting "or an annuity" after "retired pay".

(6) Section 7448(j)(1) is amended—

(A) in subparagraph (A), by striking "service or retired" and inserting "service, retired", and by inserting ", or receiving any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code," after "section 7447", and

(B) in the last sentence, by striking "subsections (a) (6) and (7)" and inserting "paragraphs (8) and (9) of subsection (a)".

(7) Section 7448(m)(1), as amended by this Act, is amended—

(A) by inserting "or any annuity under section 7443B or chapters 83 or 84 of title 5, United States Code" after "7447(d)", and

(B) by inserting "or 7443B(m)(1)(B) after "7447(f)(4)".

(8) Section 7448(n) is amended by inserting "his years of service pursuant to any appointment under section 7443A," after "of the Tax Court,".

(9) Section 3121(b)(5)(E) is amended by inserting "or magistrate judge" before "of the United States Tax Court".

(10) Section 210(a)(5)(E) of the Social Security Act is amended by inserting "or magistrate judge" before "of the United States Tax Court".

SEC. 1210. RETIREMENT AND ANNUITY PROGRAM.

(a) Retirement and Annuity Program.—Part I of subchapter C of chapter 76 is amended by inserting after section 7443A the following new section:

"SEC. 7443B. RETIREMENT FOR MAGISTRATE JUDGES OF THE TAX COURT.

"(a) Retirement Based on Years of Service.—A magistrate judge of the Tax Court to whom this section applies and who retires from office after attaining the age of 65 years and serving at least 14 years, whether continuously or otherwise, as such magistrate judge shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to the salary being received at the time the magistrate judge leaves office.

"(b) Retirement Upon Failure of Reappointment.—A magistrate judge of the Tax Court to whom this section applies who is not reappointed following the expiration of the term of office of such magistrate judge and who retires upon the completion of the term shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of such magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14, if—

"(1) such magistrate judge has served at least 1 full term as a magistrate judge, and

"(2) not earlier than 9 months before the date on which the term of office of such magistrate judge expires, and not later than 6 months before such date, such magistrate judge notified the chief judge of the Tax Court in writing that such magistrate judge was willing to accept reappointment to the position in which such magistrate judge was serving.

"(c) Service of at Least 8 Years.—A magistrate judge of the Tax Court to whom this section applies and who retires after serving at least 8 years, whether continuously or otherwise, as such a magistrate judge shall, subject to subsection (f), be entitled to receive, upon attaining the age of 65 years and during the remainder of the magistrate judge's lifetime, an annuity equal to that portion of the salary being received at the time the magistrate judge leaves office which the aggregate number of years of service, not to exceed 14, bears to 14. Such annuity shall be reduced by $\frac{1}{6}$ of 1 percent for each full month such magistrate judge was under the age of 65 at the time the magistrate judge left office, except that such reduction shall not exceed 20 percent.

"(d) Retirement for Disability.—A magistrate judge of the Tax Court to whom this section applies, who has served at least 5 years, whether continuously or otherwise, as such a magistrate judge and who retires or is removed from office upon the sole ground of mental or physical disability shall, subject to subsection (f), be entitled to receive, during the remainder of the magistrate judge's lifetime, an annuity equal to 40 percent of the salary being received at the time of retirement or removal or, in the case of a magistrate judge who has served for at least 10 years, an amount equal to that proportion of the salary being received at the time of retirement or removal which the aggregate number of years of service, not to exceed 14, bears to 14.

"(e) Cost-of-Living Adjustments.—A magistrate judge of the Tax Court who is entitled to an annuity under this section is also entitled to a cost-of-living adjustment in such annuity, calculated and payable in the same manner as adjustments under section 8340(b) of title 5, United States Code, except that any such annuity, as increased under this subsection, may not exceed the salary then payable for the position from which the magistrate judge retired or was removed.

"(f) Election; Annuity in Lieu of Other Annuities.—

"(1) In general.—A magistrate judge of the Tax Court shall be entitled to an annuity under this section if the magistrate judge elects an annuity under this section by notifying the chief judge of the Tax Court not later than the later of—

"(A) 5 years after the magistrate judge of the Tax Court begins judicial service, or

"(B) 5 years after the date of the enactment of this subsection.

Such notice shall be given in accordance with procedures prescribed by the Tax Court.

"(2) Annuity in lieu of other annuity.—A magistrate judge who elects to receive an annuity under this section shall not be entitled to receive—

"(A) any annuity to which such magistrate judge would otherwise have been entitled under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, for service performed as a magistrate or otherwise,

"(B) an annuity or salary in senior status or retirement under section 371 or 372 of title 28, United States Code,

"(C) retired pay under section 7447, or

"(D) retired pay under section 7296 of title 38, United States Code.

"(3) Coordination with title 5.—A magistrate judge of the Tax Court who elects to receive an annuity under this section—

"(A) shall not be subject to deductions and contributions otherwise required by section 8334(a) of title 5, United States Code,

"(B) shall be excluded from the operation of chapter 84 (other than subchapters III and VII) of such title 5, and

"(C) is entitled to a lump-sum credit under section 8342(a) or 8424 of such title 5, as the case may be.

"(g) Calculation of Service.—For purposes of calculating an annuity under this section—

"(1) service as a magistrate judge of the Tax Court to whom this section applies may be credited, and

"(2) each month of service shall be credited as $\frac{1}{12}$ of a year, and the fractional part of any month shall not be credited.

"(h) Covered Positions and Service.—This section applies to any magistrate judge of the Tax Court or special trial judge of the Tax Court appointed under this subchapter, but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than $9\frac{1}{2}$ years before the date of the enactment of this subsection.

"(i) Payments Pursuant to Court Order.—

"(1) In general.—Payments under this section which would otherwise be made to a magistrate judge of the Tax Court based upon his or her service shall be paid (in whole or in part) by the chief judge of the Tax Court to another person if and to the extent expressly provided for in the terms of any court decree of divorce, annulment, or legal separation, or the terms of any court order or court-approved property settlement agreement incident to any court decree of divorce, annulment, or legal separation. Any payment under this paragraph to a person bars recovery by any other person.

"(2) Requirements for payment.—Paragraph (1) shall apply only to payments made by the chief judge of the Tax Court after the date of receipt by the chief judge of written notice of such decree, order, or agreement, and such additional information as the chief judge may prescribe.

"(3) Court defined.—For purposes of this subsection, the term 'court' means any court of any State, the District of Columbia, the Commonwealth of Puerto Rico, Guam, the Northern Mariana Islands, or the Virgin Islands, and any Indian tribal court or courts of Indian offense.

"(j) Deductions, Contributions, and Deposits.—

"(1) Deductions.—Beginning with the next pay period after the chief judge of the Tax Court receives a notice under subsection (f) that a magistrate judge of the Tax Court has elected an annuity under this section, the chief judge shall deduct and withhold 1 percent of the salary of such magistrate judge. Amounts shall be so deducted and withheld in a manner determined by the chief judge. Amounts deducted and withheld under this subsection shall be deposited in the Treasury of the United States to the credit of the Tax Court Judicial Officers' Retirement Fund. Deductions under this subsection from the salary of a magistrate judge shall terminate upon the retirement of the magistrate judge or upon completion of 14 years of service for which contributions under this section have been made, whether continuously or otherwise, as calculated under subsection (g), whichever occurs first.

"(2) Consent to deductions; discharge of claims.—Each magistrate judge of the Tax Court who makes an election under subsection (f) shall be deemed to consent and agree to the deductions from salary which are made under paragraph (1). Payment of such salary less such deductions (and any deductions made under section 7448) is a full and complete discharge and acquittance of all claims and demands for all services rendered by such magistrate judge during the period covered by such payment, except the right to those benefits to which the magistrate judge is entitled under this section (and section 7448).

"(k) DEPOSITS FOR PRIOR SERVICE.—Each magistrate judge of the Tax Court who makes an election under subsection (f) may deposit, for service performed before such election for which contributions may be made under this section, an amount equal to 1 percent of the salary received for that service. Credit for any period covered by that service may not be allowed for purposes of an annuity under this section until a deposit under this subsection has been made for that period.

"(l) INDIVIDUAL RETIREMENT RECORDS.—The amounts deducted and withheld under subsection (j), and the amounts deposited under subsection (k), shall be credited to individual accounts in the name of each magistrate judge of the Tax Court from whom such amounts are received, for credit to the Tax Court Judicial Officers' Retirement Fund.

"(m) ANNUITIES AFFECTED IN CERTAIN CASES.—

"(1) 1-YEAR FORFEITURE FOR FAILURE TO PERFORM JUDICIAL DUTIES.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who fails to perform judicial duties required of such individual by section 7443C shall forfeit all rights to an annuity under this section for a 1-year period which begins on the 1st day on which such individual fails to perform such duties.

"(2) PERMANENT FORFEITURE OF RETIRED PAY WHERE CERTAIN NON-GOVERNMENT SERVICES PERFORMED.—Subject to paragraph (3), any magistrate judge of the Tax Court who retires under this section and who thereafter performs (or supervises or directs the performance of) legal or accounting services in the field of Federal taxation for the individual's client, the individual's employer, or any of such employer's clients, shall forfeit all rights to an annuity under this section for all periods beginning on or after the first day on which the individual performs (or supervises or directs the performance of) such services. The preceding sentence shall not apply to any civil office or employment under the Government of the United States.

"(3) FORFEITURES NOT TO APPLY WHERE INDIVIDUAL ELECTS TO FREEZE AMOUNT OF ANNUITY.—

"(A) IN GENERAL.—If a magistrate judge of the Tax Court makes an election under this paragraph—

"(i) paragraphs (1) and (2) (and section 7443C) shall not apply to such magistrate judge beginning on the date such election takes effect, and

"(ii) the annuity payable under this section to such magistrate judge, for periods beginning on or after the date such election takes effect, shall be equal to the annuity to which such magistrate judge is entitled on the day before such effective date.

"(B) ELECTION REQUIREMENTS.—An election under subparagraph (A)—

"(i) may be made by a magistrate judge of the Tax Court eligible for retirement under this section, and

"(ii) shall be filed with the chief judge of the Tax Court.

Such an election, once it takes effect, shall be irrevocable.

"(C) EFFECTIVE DATE OF ELECTION.—Any election under subparagraph (A) shall take effect on the first day of the first month following the month in which the election is made.

"(4) ACCEPTING OTHER EMPLOYMENT.—Any magistrate judge of the Tax Court who retires under this section and thereafter accepts compensation for civil office or employment under the United States Government (other than for the performance of functions as a magistrate judge of the Tax Court under section 7443C) shall forfeit all rights to an annuity under this section for the period for which such compensation is received. For purposes of this paragraph, the term 'compensation' includes retired pay or salary received in retired status.

"(n) LUMP-SUM PAYMENTS.—

"(1) ELIGIBILITY.—

"(A) IN GENERAL.—Subject to paragraph (2), an individual who serves as a magistrate judge of the Tax Court and—

"(i) who leaves office and is not reappointed as a magistrate judge of the Tax Court for at least 31 consecutive days,

"(ii) who files an application with the chief judge of the Tax Court for payment of a lump-sum credit,

"(iii) is not serving as a magistrate judge of the Tax Court at the time of filing of the application, and

"(iv) will not become eligible to receive an annuity under this section within 31 days after filing the application,

is entitled to be paid the lump-sum credit. Payment of the lump-sum credit voids all rights to an annuity under this section based on the service on which the lump-sum credit is based, until that individual resumes office as a magistrate judge of the Tax Court.

"(B) PAYMENT TO SURVIVORS.—Lump-sum benefits authorized by subparagraphs (C), (D), and (E) of this paragraph shall be paid to the person or persons surviving the magistrate judge of the Tax Court and alive on the date title to the payment arises, in the order of precedence set forth in subsection (o) of section 376 of title 28, United States Code, and in accordance with the last 2 sentences of paragraph (1) of that subsection. For purposes of the preceding sentence, the term 'judicial official' as used in subsection (o) of such section 376 shall be deemed to mean 'magistrate judge of the Tax Court' and the terms 'Administrative Office of the United States Courts' and 'Director of the Administrative Office of the United States Courts' shall be deemed to mean 'chief judge of the Tax Court'.

"(C) PAYMENT UPON DEATH OF JUDGE BEFORE RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court dies before receiving an annuity under this section, the lump-sum credit shall be paid.

"(D) PAYMENT OF ANNUITY REMAINDER.—If all annuity rights under this section based on the service of a deceased magistrate judge of the Tax Court terminate before the total annuity paid equals the lump-sum credit, the difference shall be paid.

"(E) PAYMENT UPON DEATH OF JUDGE DURING RECEIPT OF ANNUITY.—If a magistrate judge of the Tax Court who is receiving an annuity under this section dies, any accrued annuity benefits remaining unpaid shall be paid.

"(F) PAYMENT UPON TERMINATION.—Any accrued annuity benefits remaining unpaid on the termination, except by death, of the annuity of a magistrate judge of the Tax Court shall be paid to that individual.

"(G) PAYMENT UPON ACCEPTING OTHER EMPLOYMENT.—Subject to paragraph (2), a magistrate judge of the Tax Court who forfeits rights to an annuity under subsection (m)(4) before the total annuity paid equals the lump-sum credit shall be entitled to be paid the difference if the magistrate judge of the Tax Court files an application with the chief judge of the Tax Court for payment of that difference. A payment under this subparagraph voids all rights to an annuity on which the payment is based.

"(2) SPOUSES AND FORMER SPOUSES.—

"(A) IN GENERAL.—Payment of the lump-sum credit under paragraph (1)(A) or a payment under paragraph (1)(G)—

"(i) may be made only if any current spouse and any former spouse of the magistrate judge of the Tax Court are notified of the magistrate judge's application, and

"(ii) shall be subject to the terms of a court decree of divorce, annulment, or legal separation, or any court or court approved property settlement agreement incident to such decree, if—

"(I) the decree, order, or agreement expressly relates to any portion of the lump-sum credit or other payment involved, and

"(II) payment of the lump-sum credit or other payment would extinguish entitlement of the magistrate judge's spouse or former spouse to any portion of an annuity under subsection (i).

"(B) NOTIFICATION.—Notification of a spouse or former spouse under this paragraph shall be made in accordance with such procedures as the chief judge of the Tax Court shall prescribe. The chief judge may provide under such procedures that subparagraph (A)(i) may be waived with respect to a spouse or former spouse if the magistrate judge establishes to the satisfaction of the chief judge that the whereabouts of such spouse or former spouse cannot be determined.

"(C) RESOLUTION OF 2 OR MORE ORDERS.—The chief judge shall prescribe procedures under which this paragraph shall be applied in any case in which the chief judge receives 2 or more orders or decrees described in subparagraph (A).

"(3) DEFINITION.—For purposes of this subsection, the term 'lump-sum credit' means the unrefunded amount consisting of—

"(A) retirement deductions made under this section from the salary of a magistrate judge of the Tax Court,

"(B) amounts deposited under subsection (k) by a magistrate judge of the Tax Court covering earlier service, and

"(C) interest on the deductions and deposits which, for any calendar year, shall be equal to the overall average yield to the Tax Court Judicial Officers' Retirement Fund during the preceding fiscal year from all obligations purchased by the Secretary during such fiscal year under subsection (o); but does not include interest—

"(i) if the service covered thereby aggregates 1 year or less, or

"(ii) for the fractional part of a month in the total service.

"(o) TAX COURT JUDICIAL OFFICERS' RETIREMENT FUND.—

"(1) ESTABLISHMENT.—There is established in the Treasury a fund which shall be known as the 'Tax Court Judicial Officers' Retirement Fund'. Amounts in the Fund are authorized to be appropriated for the payment of annuities, refunds, and other payments under this section.

"(2) INVESTMENT OF FUND.—The Secretary shall invest, in interest bearing securities of the United States, such currently available portions of the Tax Court Judicial Officers'

Retirement Fund as are not immediately required for payments from the Fund. The income derived from these investments constitutes a part of the Fund.

"(3) UNFUNDED LIABILITY.—

"(A) IN GENERAL.—There are authorized to be appropriated to the Tax Court Judicial Officers' Retirement Fund amounts required to reduce to zero the unfunded liability of the Fund.

"(B) UNFUNDED LIABILITY.—For purposes of subparagraph (A), the term 'unfunded liability' means the estimated excess, determined on an annual basis in accordance with the provisions of section 9503 of title 31, United States Code, of the present value of all benefits payable from the Tax Court Judicial Officers' Retirement Fund over the sum of—

"(i) the present value of deductions to be withheld under this section from the future basic pay of magistrate judges of the Tax Court, plus

"(ii) the balance in the Fund as of the date the unfunded liability is determined.

"(p) PARTICIPATION IN THRIFT SAVINGS PLAN.—

"(1) ELECTION TO CONTRIBUTE.—

"(A) IN GENERAL.—A magistrate judge of the Tax Court who elects to receive an annuity under this section or under section 611 of the Pension Security and Transparency Act of 2005 may elect to contribute an amount of such individual's basic pay to the Thrift Savings Fund established by section 8437 of title 5, United States Code.

"(B) PERIOD OF ELECTION.—An election may be made under this paragraph only during a period provided under section 8432(b) of title 5, United States Code, for individuals subject to chapter 84 of such title.

"(2) APPLICABILITY OF TITLE 5 PROVISIONS.—Except as otherwise provided in this subsection, the provisions of subchapters III and VII of chapter 84 of title 5, United States Code, shall apply with respect to a magistrate judge who makes an election under paragraph (1).

"(3) SPECIAL RULES.—

"(A) AMOUNT CONTRIBUTED.—The amount contributed by a magistrate judge to the Thrift Savings Fund in any pay period shall not exceed the maximum percentage of such judge's basic pay for such pay period as allowable under section 8440f of title 5, United States Code.

"(B) CONTRIBUTIONS FOR BENEFIT OF JUDGE.—No contributions may be made for the benefit of a magistrate judge under section 8432(c) of title 5, United States Code.

"(C) APPLICABILITY OF SECTION 8433(b) OF TITLE 5.—Section 8433(b) of title 5, United States Code, applies with respect to a magistrate judge who makes an election under paragraph (1) and—

"(i) who retires entitled to an immediate annuity under this section (including a disability annuity under subsection (d) of this section) or section 611 of the Pension Security and Transparency Act of 2005,

"(ii) who retires before attaining age 65 but is entitled, upon attaining age 65, to an annuity under this section or section 611 of the Pension Security and Transparency Act of 2005, or

"(iii) who retires before becoming entitled to an immediate annuity, or an annuity upon attaining age 65, under this section or section 611 of the Pension Security and Transparency Act of 2005.

"(D) SEPARATION FROM SERVICE.—With respect to a magistrate judge to whom this subsection applies, retirement under this section or section 611 of the Pension Security and Transparency Act of 2005 is a separation from service for purposes of subchapters III and VII of chapter 84 of title 5, United States Code.

"(4) DEFINITIONS.—For purposes of this subsection, the terms 'retirement' and 'retire' include removal from office under section 7443A(a)(2) on the sole ground of mental or physical disability.

"(5) OFFSET.—In the case of a magistrate judge who receives a distribution from the Thrift Savings Fund and who later receives an annuity under this section, that annuity shall be offset by an amount equal to the amount which represents the Government's contribution to that person's Thrift Savings Account, without regard to earnings attributable to that amount. Where such an offset would exceed 50 percent of the annuity to be received in the first year, the offset may be divided equally over the first 2 years in which that person receives the annuity.

"(6) EXCEPTION.—Notwithstanding clauses (i) and (ii) of paragraph (3)(C), if any magistrate judge retires under circumstances making such magistrate judge eligible to make an election under subsection (b) of section 8433 of title 5, United States Code, and such magistrate judge's nonforfeitable account balance is less than an amount that the Executive Director of the Office of Personnel Management prescribes by regulation, the Executive Director shall pay the nonforfeitable account balance to the participant in a single payment."

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter C of chapter 76 is amended by inserting after the item relating to section 7443A the following new item:

"Sec. 7443B. Retirement for magistrate judges of the Tax Court.".

SEC. 1211. INCUMBENT MAGISTRATE JUDGES OF THE TAX COURT.

(a) RETIREMENT ANNUITY UNDER TITLE 5 AND SECTION 7443B OF THE INTERNAL REVENUE CODE OF 1986.—A magistrate judge of the United States Tax Court in active service on the date of the enactment of this Act shall, subject to subsection (b), be entitled, in lieu of the annuity otherwise provided under the amendments made by this title, to—

(1) an annuity under subchapter III of chapter 83, or under chapter 84 (except for subchapters III and VII), of title 5, United States Code, as the case may be, for creditable service before the date on which service would begin to be credited for purposes of paragraph (2), and

(2) an annuity calculated under subsection (b) or (c) and subsection (g) of section 7443B of the Internal Revenue Code of 1986, as added by this Act, for any service as a magistrate judge of the United States Tax Court or special trial judge of the United States Tax Court but only with respect to service as such a magistrate judge or special trial judge after a date not earlier than 9½ years prior to the date of the enactment of this Act (as specified in the election pursuant to subsection (b)) for which deductions and deposits are made under subsections (j) and (k) of such section 7443B, as applicable, without regard to the minimum number of years of service as such a magistrate judge of the United States Tax Court, except that—

(A) in the case of a magistrate judge who retired with less than 8 years of service, the annuity under subsection (c) of such section 7443B shall be equal to that proportion of the salary being received at the time the magistrate judge leaves office which the years of service bears to 14, subject to a reduction in accordance with subsection (c) of such section 7443B if the magistrate judge is under age 65 at the time he or she leaves office, and

(B) the aggregate amount of the annuity initially payable on retirement under this subsection may not exceed the rate of pay for the magistrate judge which is in effect on the day before the retirement becomes effective.

(b) FILING OF NOTICE OF ELECTION.—A magistrate judge of the United States Tax Court shall be entitled to an annuity under this section only if the magistrate judge files a notice of that election with the chief judge of the United States Tax Court specifying the date on which service would begin to be credited under section 7443B of the Internal Revenue Code of 1986, as added by this Act, in lieu of chapter 83 or chapter 84 of title 5, United States Code. Such notice shall be filed in accordance with such procedures as the chief judge of the United States Tax Court shall prescribe.

(c) LUMP-SUM CREDIT UNDER TITLE 5.—A magistrate judge of the United States Tax Court who makes an election under subsection (b) shall be entitled to a lump-sum credit under section 8342 or 8424 of title 5, United States Code, as the case may be, for any service which is covered under section 7443B of the Internal Revenue Code of 1986, as added by this Act, pursuant to that election, and with respect to which any contributions were made by the magistrate judge under the applicable provisions of title 5, United States Code.

(d) RECALL.—With respect to any magistrate judge of the United States Tax Court receiving an annuity under this section who is recalled to serve under section 7443C of the Internal Revenue Code of 1986, as added by this Act—

(1) the amount of compensation which such recalled magistrate judge receives under such section 7443C shall be calculated on the basis of the annuity received under this section, and

(2) such recalled magistrate judge of the United States Tax Court may serve as a reemployed annuitant to the extent otherwise permitted under title 5, United States Code. Section 7443B(m)(4) of the Internal Revenue Code of 1986, as added by this Act, shall not apply with respect to service as a reemployed annuitant described in paragraph (2).

SEC. 1212. PROVISIONS FOR RECALL.

(a) IN GENERAL.—Part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after section 7443B the following new section:

"SEC. 7443C. RECALL OF MAGISTRATE JUDGES OF THE TAX COURT.

"(a) RECALLING OF RETIRED MAGISTRATE JUDGES.—Any individual who has retired pursuant to section 7443B or the applicable provisions of title 5, United States Code, upon reaching the age and service requirements established therein, may at or after retirement be called upon by the chief judge of the Tax Court to perform such judicial duties with the Tax Court as may be requested of such individual for any period or periods specified by the chief judge; except that in the case of any such individual—

"(1) the aggregate of such periods in any 1 calendar year shall not (without such individual's consent) exceed 90 calendar days, and

"(2) such individual shall be relieved of performing such duties during any period in which illness or disability precludes the performance of such duties.

Any act, or failure to act, by an individual performing judicial duties pursuant to this subsection shall have the same force and effect as if it were the act (or failure to act) of a magistrate judge of the Tax Court.

"(b) COMPENSATION.—For the year in which a period of recall occurs, the magistrate judge shall receive, in addition to the annuity provided under the provisions of section 7443B or under the applicable provisions of title 5, United States Code, an amount equal to the difference between that annuity and the current salary of the office to which the magistrate judge is recalled. The annuity of the magistrate judge who completes that period of service, who is not recalled in a subsequent year, and who retired under section 7443B, shall be equal to the salary in effect at the end of the year in which the period of recall occurred for the office from which such individual retired.

"(c) RULEMAKING AUTHORITY.—The provisions of this section may be implemented under such rules as may be promulgated by the Tax Court."

(b) CONFORMING AMENDMENT.—The table of sections for part I of subchapter C of chapter 76, as amended by this Act, is amended by inserting after the item relating to section 7443B the following new item:

"Sec. 7443C. Recall of magistrate judges of the Tax Court.".

SEC. 1213. EFFECTIVE DATE.

Except as otherwise provided, the amendments made by this subtitle shall take effect on the date of the enactment of this Act.

TITLE XIII—OTHER PROVISIONS

Subtitle A—Administrative Provision

SEC. 1301. PROVISIONS RELATING TO PLAN AMENDMENTS.

(a) IN GENERAL.—If this section applies to any plan or contract amendment—

(1) such plan or contract shall be treated as being operated in accordance with the terms of the plan during the period described in subsection (b)(2)(A), and

(2) except as provided by the Secretary of the Treasury, such plan shall not fail to meet the requirements of section 411(d)(6) of the Internal Revenue Code of 1986 and section 204(g) of the Employee Retirement Income Security Act of 1974 by reason of such amendment.

(b) AMENDMENTS TO WHICH SECTION APPLIES.—

(1) IN GENERAL.—This section shall apply to any amendment to any plan or annuity contract which is made—

(A) pursuant to any amendment made by this Act or the Economic Growth and Tax Relief Reconciliation Act of 2001, or pursuant to any regulation issued by the Secretary of the Treasury or the Secretary of Labor under such Acts, and

(B) on or before the last day of the first plan year beginning on or after January 1, 2007, or such later date as the Secretary of the Treasury may prescribe.

In the case of a governmental plan (as defined in section 414(d) of the Internal Revenue Code of 1986), subparagraph (B) shall be applied by substituting the date which is 2 years after the date otherwise applied under subparagraph (B).

(2) CONDITIONS.—This section shall not apply to any amendment unless—

(A) during the period—

(i) beginning on the date the legislative or regulatory amendment described in paragraph (1)(A) takes effect (or in the case of a plan or contract amendment not required by such legislative or regulatory amendment, the effective date specified by the plan), and

(ii) ending on the date described in paragraph (1)(B) (or, if earlier, the date the plan or contract amendment is adopted),

the plan or contract is operated as if such plan or contract amendment were in effect; and

(B) such plan or contract amendment applies retroactively for such period.

SEC. 1302. AUTHORITY TO THE SECRETARY OF LABOR, SECRETARY OF THE TREASURY, AND THE PENSION BENEFIT GUARANTY CORPORATION TO POSTPONE CERTAIN DEADLINES.

The Secretary of Labor, the Secretary of the Treasury, and the Executive Director of the Pension Benefit Guaranty Corporation shall exercise their authority under section 518 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148) and section 7508A of the Internal Revenue Code of 1986 to postpone certain deadlines by reason of the Presidentially declared disaster areas in Louisiana, Mississippi, Alabama, Texas, Florida, or elsewhere, due to the effect of Hurricane Katrina, Rita, or Wilma. The Secretaries and the Executive Director of the Corporation shall issue guidance as soon as is practicable to plan sponsors and participants regarding extension of deadlines and rules applicable to these extraordinary circumstances. Nothing in this section shall be construed to relieve any plan sponsor from any requirement to pay benefits or make contributions under the plan of the sponsor.

Subtitle B—Governmental Pension Plan Equalization

SEC. 1311. DEFINITION OF GOVERNMENTAL PLAN.

(a) AMENDMENT TO INTERNAL REVENUE CODE OF 1986.—Section 414(d) of the Internal Revenue Code of 1986 (definition of governmental plan) is amended by adding at the end the following: "The term 'governmental plan' includes a plan established or maintained for its employees by an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), an agency instrumentality (or subdivision) of an Indian tribal government, or an entity established under Federal, State, or tribal law which is wholly owned or controlled by any of the foregoing."

(b) AMENDMENT TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 3(32) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002(32)) is amended by adding at the end the following: "The term 'governmental plan' includes a plan established or maintained for its employees by an Indian tribal government (as defined in section 7701(a)(40)), a subdivision of an Indian tribal government (determined in accordance with section 7871(d)), an agency instrumentality (or subdivision) of an Indian tribal government, or an entity established under Federal, State, or tribal law that is wholly owned or controlled by any of the foregoing."

SEC. 1312. EXTENSION TO ALL GOVERNMENTAL PLANS OF CURRENT MORATORIUM ON APPLICATION OF CERTAIN NONDISCRIMINATION RULES APPLICABLE TO STATE AND LOCAL PLANS.

(a) IN GENERAL.—

(1) Subparagraph (G) of section 401(a)(5) and subparagraph (G) of section 401(a)(26) of the Internal Revenue Code of 1986 are each amended by striking "section 414(d))" and all that follows and inserting "section 414(d)).".

(2) Subparagraph (G) of section 401(k)(3) of such Code and paragraph (2) of section 1505(d) of the Taxpayer Relief Act of 1997 (Public Law 105-34; 111 Stat. 1063) are each amended by striking "maintained by a State or local government or political subdivision thereof (or agency or instrumentality thereof)".

(b) CONFORMING AMENDMENTS.—

(1) The heading of subparagraph (G) of section 401(a)(5) of the Internal Revenue Code of 1986 is amended by striking "STATE AND LOCAL GOVERNMENTAL" and inserting "GOVERNMENTAL".

(2) The heading of subparagraph (G) of section 401(a)(26) of such Code is amended by striking "EXCEPTION FOR STATE AND LOCAL" and inserting "EXCEPTION FOR".

(3) Section 401(k)(3)(G) of such Code is amended by inserting "GOVERNMENTAL PLAN.—" after "(G)".

SEC. 1313. CLARIFICATION THAT TRIBAL GOVERNMENTS ARE SUBJECT TO THE SAME DEFINED BENEFIT PLAN RULES AND REGULATIONS APPLIED TO STATE AND OTHER LOCAL GOVERNMENTS, THEIR POLICE AND FIREFIGHTERS.

(a) AMENDMENTS TO INTERNAL REVENUE CODE OF 1986.—

(1) POLICE AND FIREFIGHTERS.—Subparagraph (H) section 415(b)(2) of the Internal Revenue Code of 1986 (defining participant) is amended—

(A) in clause (i), by striking "State or political subdivision" and inserting "State, Indian tribal government (as defined in section 7701(a)(40)), or any political subdivision"; and

(B) in clause (ii)(I), by striking "State or political subdivision" each place it appears and inserting "State, Indian tribal government (as so defined), or any political subdivision".

(2) STATE AND LOCAL GOVERNMENT PLANS.—

(A) IN GENERAL.—Subparagraph (A) of section 415(b)(10) of such Code (relating to limitation to equal accrued benefit) is amended—

(i) by inserting ", Indian tribal government (as defined in section 7701(a)(40))," after "State";

(ii) by inserting "any" before "political subdivision"; and

(iii) by inserting "any of" before "the foregoing".

(B) CONFORMING AMENDMENT.—The heading of paragraph (1) of section 415(b) of such Code is amended by striking "SPECIAL RULE FOR STATE AND" and inserting "SPECIAL RULE FOR STATE, INDIAN TRIBAL, AND".

(3) GOVERNMENT PICK UP CONTRIBUTIONS.—Paragraph (2) of section 414(h) of such Code (relating to designation by units of government) is amended by striking "State or political subdivision" and inserting "State, Indian tribal government (as defined in section 7701(a)(40)), or any political subdivision".

(b) AMENDMENTS TO EMPLOYEE RETIREMENT INCOME SECURITY ACT OF 1974.—Section 4021(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1321(b)) is amended—

(1) in paragraph (12), by striking "or" at the end;

(2) in paragraph (13), by striking "plan." and inserting "plan; or"; and

(3) by adding at the end the following:

"(14) established and maintained for its employees by an Indian tribal government (as defined in section 7701(a)(40) of the Internal Revenue Code of 1986), a subdivision of an Indian tribal government (determined in accordance with section 7871(d) of such Code), an agency or instrumentality of an Indian tribal government or subdivision thereof, or an entity established under Federal, State, or tribal law that is wholly owned or controlled by any of the foregoing.".

SEC. 1314. EFFECTIVE DATE.

The amendments made by this subtitle shall apply to any year beginning before, on, or after the date of the enactment of this Act.

Subtitle C—Miscellaneous Provisions

SEC. 1321. TRANSFER OF EXCESS FUNDS FROM BLACK LUNG DISABILITY TRUSTS TO UNITED MINE WORKERS OF AMERICA COMBINED BENEFIT FUND.

(a) IN GENERAL.—So much of section 501(c)(21)(C) of the Internal Revenue Code of 1986 (relating to black lung disability trusts) as precedes the last sentence is amended to read as follows:

"(C) Payments described in subparagraph (A)(i)(IV) may be made from such trust during a taxable year only to the extent that the aggregate amount of such payments during such taxable year does not exceed the excess (if any), as of the close of the preceding taxable year, of—

"(i) the fair market value of the assets of the trust, over

"(ii) 110 percent of the present value of the liability described in subparagraph (A)(i)(I) of such person."

(b) TRANSFER.—Section 9705 of such Code (relating to transfer) is amended by adding at the end the following new subsection:

"(c) TRANSFER FROM BLACK LUNG DISABILITY TRUSTS.—

"(1) IN GENERAL.—The Secretary shall transfer each fiscal year to the Fund from the general fund of the Treasury an amount which the Secretary estimates to be the additional amounts received in the Treasury for that fiscal year by reason of the amendment made by section 1321(a) of the Pension Security and Transparency Act of 2005. The Secretary shall adjust the amount transferred for any year to the extent necessary to correct errors in any estimate for any prior year.

"(2) USE OF FUNDS.—Any amount transferred to the Combined Fund under paragraph (1) shall be used to proportionately reduce the unassigned beneficiary premium under section 9704(a)(3) of each assigned operator for any plan year beginning after December 31, 2002."

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2002.

SEC. 1322. TREATMENT OF DEATH BENEFITS FROM CORPORATE-OWNED LIFE INSURANCE.

(a) IN GENERAL.—Section 101 of the Internal Revenue Code of 1986 (relating to certain death benefits) is amended by adding at the end the following new subsection:

"(j) TREATMENT OF CERTAIN EMPLOYER-OWNED LIFE INSURANCE CONTRACTS.—

"(1) GENERAL RULE.—In the case of an employer-owned life insurance contract, the amount excluded from gross income of an applicable policyholder by reason of paragraph (1) of subsection (a) shall not exceed an amount equal to the sum of the premiums and other amounts paid by the policyholder for the contract.

"(2) EXCEPTIONS.—In the case of an employer-owned life insurance contract with respect to which the notice and consent requirements of paragraph (4) are met, paragraph (1) shall not apply to any of the following:

"(A) EXCEPTIONS BASED ON INSURED'S STATUS.—Any amount received by reason of the death of an insured who, with respect to an applicable policyholder—

"(i) was an employee at any time during the 12-month period before the insured's death, or

"(ii) is, at the time the contract is issued—

"(I) a director,

"(II) a highly compensated employee within the meaning of section 414(q) (without regard to paragraph (1)(B)(ii) thereof), or

"(III) a highly compensated individual within the meaning of section 105(h)(5), except that '35 percent' shall be substituted for '25 percent' in subparagraph (C) thereof.

"(B) EXCEPTION FOR AMOUNTS PAID TO INSURED'S HEIRS.—Any amount received by reason of the death of an insured to the extent—

"(i) the amount is paid to a member of the family (within the meaning of section 267(c)(4)) of the insured, any individual who is the designated beneficiary of the insured under the contract (other than the applicable policyholder), a trust established for the benefit of any such member of the family or designated beneficiary, or the estate of the insured, or

"(ii) the amount is used to purchase an equity (or capital or profits) interest in the applicable policyholder from any person described in clause (i).

"(3) EMPLOYER-OWNED LIFE INSURANCE CONTRACT.—

"(A) IN GENERAL.—For purposes of this subsection, the term 'employer-owned life insurance contract' means a life insurance contract which—

"(i) is owned by a person engaged in a trade or business and under which such person (or a related person described in subparagraph (B)(ii)) is directly or indirectly a beneficiary under the contract, and

"(ii) covers the life of an insured who is an employee with respect to the trade or business of the applicable policyholder on the date the contract is issued.

For purposes of the preceding sentence, if coverage for each insured under a master contract is treated as a separate contract for purposes of sections 817(h), 7702, and 7702A, coverage for each such insured shall be treated as a separate contract.

"(B) APPLICABLE POLICYHOLDER.—For purposes of this subsection—

"(i) IN GENERAL.—The term 'applicable policyholder' means, with respect to any employer-owned life insurance contract, the person described in subparagraph (A)(i) which owns the contract.

"(ii) RELATED PERSONS.—The term 'applicable policyholder' includes any person which—

"(I) bears a relationship to the person described in clause (i) which is specified in section 267(b) or 707(b)(1), or

"(II) is engaged in trades or businesses with such person which are under common control (within the meaning of subsection (a) or (b) of section 52).

"(4) NOTICE AND CONSENT REQUIREMENTS.—The notice and consent requirements of this paragraph are met if, before the issuance of the contract, the employee—

"(A) is notified in writing that the applicable policyholder intends to insure the employee's life and the maximum face amount for which the employee could be insured at the time the contract was issued,

"(B) provides written consent to being insured under the contract and that such coverage may continue after the insured terminates employment, and

"(C) is informed in writing that an applicable policyholder will be a beneficiary of any proceeds payable upon the death of the employee.

"(5) DEFINITIONS.—For purposes of this subsection—

"(A) EMPLOYEE.—The term 'employee' includes an officer, director, and highly compensated employee (within the meaning of section 414(q)).

"(B) INSURED.—The term 'insured' means, with respect to an employer-owned life insurance contract, an individual covered by the contract who is a United States citizen or resident. In the case of a contract covering the joint lives of 2 individuals, references to an insured include both of the individuals.".

(b) REPORTING REQUIREMENTS.—Subpart A of part III of subchapter A of chapter 61 of the Internal Revenue Code of 1986 (relating to information concerning persons subject to special provisions) is amended by inserting after section 6039H the following new section:

"SEC. 6039I. RETURNS AND RECORDS WITH RESPECT TO EMPLOYER-OWNED LIFE INSURANCE CONTRACTS.

"(a) IN GENERAL.—Every applicable policyholder owning 1 or more employer-owned life insurance contracts issued after the date of the enactment of this section shall file a return (at such time and in such manner as the Secretary shall by regulations prescribe) showing for each year such contracts are owned—

"(1) the number of employees of the applicable policyholder at the end of the year,

"(2) the number of such employees insured under such contracts at the end of the year,

"(3) the total amount of insurance in force at the end of the year under such contracts,

"(4) the name, address, and taxpayer identification number of the applicable policyholder and the type of business in which the policyholder is engaged, and

"(5) that the applicable policyholder has a valid consent for each insured employee (or, if all such consents are not obtained, the number of insured employees for whom such consent was not obtained).

"(b) RECORDKEEPING REQUIREMENT.—Each applicable policyholder owning 1 or more employer-owned life insurance contracts during any year shall keep such records as may be necessary for purposes of determining whether the requirements of this section and section 101(j) are met.

"(c) DEFINITIONS.—Any term used in this section which is used in section 101(j) shall have the same meaning given such term by section 101(j).".

(c) CONFORMING AMENDMENTS.—

(1) Paragraph (1) of section 101(a) of the Internal Revenue Code of 1986 is amended by striking "and subsection (f)" and inserting "subsection (f), and subsection (j)".

(2) The table of sections for subpart A of part III of subchapter A of chapter 61 of such Code is amended by inserting after the item relating to section 6039H the following new item:

"Sec. 6039I. Returns and records with respect to employer-owned life insurance contracts.".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to life insurance contracts issued after the date of the enactment of this Act, except for a contract issued after such date pursuant to an exchange described in section 1035 of the Internal Revenue Code of 1986 for a contract issued on or prior to that date. For purposes of the preceding sentence, any material increase in the death benefit or other material change shall cause the contract to be treated as a new contract except that, in the case of a master contract (within the meaning of section 264(f)(4)(E) of such Code), the addition of covered lives shall be treated as a new contract only with respect to such additional covered lives.

Subtitle D—Other Related Pension Provisions

PART I—HEALTH AND MEDICAL BENEFITS

SEC. 1331. USE OF EXCESS PENSION ASSETS FOR FUTURE RETIREE HEALTH BENEFITS.

(a) IN GENERAL.—Section 420 of the Internal Revenue Code of 1986 (relating to transfers of excess pension assets to retiree health accounts), as amended by this Act, is amended by adding at the end the following new subsection:

"(f) QUALIFIED TRANSFER TO COVER FUTURE RETIREE HEALTH COSTS.—

"(1) IN GENERAL.—An employer maintaining a defined benefit plan (other than a multiemployer plan) may elect for any taxable year to have the plan make a qualified future transfer rather than a qualified transfer for the taxable year. Except as provided in this subsection, a qualified future transfer shall be treated for purposes of this title and the Employee Retirement Income Security Act of 1974 as if it were a qualified transfer.

"(2) QUALIFIED FUTURE TRANSFER.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'qualified future transfer' means a transfer which meets all of the requirements for a qualified transfer, except that—

"(i) the determination of excess pension assets shall be made under subparagraph (B),

"(ii) the limitation on the amount transferred shall be made under subparagraph (C), and

"(iii) the minimum cost requirements of subsection (c)(3) shall be modified as provided under subparagraph (D).

"(B) EXCESS PENSION ASSETS.—

"(i) IN GENERAL.—In determining excess pension assets for purposes of this subsection, subsection (e)(2) shall be applied by substituting '115 percent' for '125 percent'.

"(ii) REQUIREMENT TO MAINTAIN FUNDED STATUS.—If, as of any valuation date of any plan year in the transfer period, the amount determined under subsection (e)(2)(B) (after application of clause (i)) exceeds the amount determined under subsection (e)(2)(A), either—

"(I) the employer maintaining the plan shall make contributions to the plan in an amount not less than the amount required to reduce such excess to zero as of such date, or

"(II) there is transferred from the health benefits account to the plan an amount not less than the amount required to reduce such excess to zero as of such date.

"(C) LIMITATION ON AMOUNT TRANSFERRED.—Notwithstanding subsection (b)(3), the amount of the excess pension assets which may be transferred in a qualified future transfer shall be equal to the sum of—

"(i) if the transfer period includes the taxable year of the transfer, the amount determined under subsection (b)(3) for such taxable year, plus

"(ii) in the case of all other taxable years in the transfer period, the sum of the qualified current retiree health liabilities which the plan reasonably estimates, in accordance with guidance issued by the Secretary, will be incurred for each of such years.

"(D) MINIMUM COST REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of subsection (c)(3) shall be treated as met if each group health plan or arrangement under which applicable health benefits are provided provides applicable health benefits during the period beginning with the first year of the transfer period and ending with the last day of the 4th year following the transfer period such that the annual average amount of such benefits provided during such period is not less than the applicable employer cost determined under subsection (c)(3)(A) with respect to the transfer.

"(ii) ELECTION TO MAINTAIN BENEFITS.—An employer may elect, in lieu of the requirements of clause (i), to meet the requirements of subsection (c)(3) by meeting the requirements of such subsection (as in effect before the amendments made by section 535 of the Tax Relief Extension Act of 1999) for each of the years described in the period under clause (i).

"(3) COORDINATION WITH OTHER TRANSFERS.—In applying subsection (b)(3) to any subsequent transfer during a taxable year in a transfer period, qualified current retiree health liabilities shall be reduced by any such liabilities taken into account with respect to the qualified future transfer to which such period relates.

"(4) TRANSFER PERIOD.—For purposes of this subsection, the term 'transfer period' means, with respect to any transfer, a period of consecutive taxable years specified in the election under paragraph (1) which begins and ends during the 10-taxable-year period beginning with the taxable year of the transfer.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to transfers after the date of the enactment of this Act.

SEC. 1332. SPECIAL RULES FOR FUNDING OF COLLECTIVELY BARGAINED RETIREE HEALTH BENEFITS.

(a) COLLECTIVELY BARGAINED TRANSFER TREATED AS A QUALIFIED TRANSFER.—

(1) IN GENERAL.—Section 420(b) of the Internal Revenue Code of 1986 (defining qualified transfer) is amended by redesignating paragraph (5) as paragraph (6) and by inserting after paragraph (4) the following new paragraph:

"(5) A collectively bargained transfer (as defined in subsection (e)(5)) shall be treated as a qualified transfer.".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (B) of section 420(b)(2) of such Code is amended by inserting "or a collectively bargained transfer" after "paragraph (4)".

(B) Paragraph (3) of section 420(b) of such Code is amended to read as follows:

"(3) LIMITATION ON AMOUNT TRANSFERRED.—

"(A) IN GENERAL.—The amount of excess pension assets which may be transferred in a qualified transfer (other than a collectively bargained transfer) shall not exceed the amount which is reasonably estimated to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the taxable year of the transfer for qualified current retiree health liabilities.

"(B) EXCEPTION FOR COLLECTIVELY BARGAINED TRANSFERS.—The amount of excess pension assets which may be transferred in a collectively bargained transfer shall not exceed the amount which is reasonably estimated, in accordance with the provisions of the collective bargaining agreement and generally accepted accounting principles, to be the amount the employer maintaining the plan will pay (whether directly or through reimbursement) out of such account during the collectively bargained cost maintenance period for collectively bargained retiree health liabilities.".

(b) REQUIREMENTS OF PLANS MAKING COLLECTIVELY BARGAINED TRANSFERS.—

(1) IN GENERAL.—Paragraph (1) of section 420(c) of the Internal Revenue Code of 1986 (relating to requirements of plan transferring assets) is amended to read as follows:

"(1) USE OF TRANSFERRED ASSETS.—

"(A) IN GENERAL.—Except in the case of a collectively bargained transfer, any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) shall be used only to pay qualified current retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(1)(D)) for the taxable year of the transfer (whether directly or through reimbursement).

"(B) COLLECTIVELY BARGAINED TRANSFER.—Any assets transferred to a health benefits account in a collectively bargained transfer (and any income allocable thereto) shall be used only to pay collectively bargained retiree health liabilities (other than liabilities of key employees not taken into account under subsection (e)(6)(D)) for the taxable year of the transfer or for any subsequent taxable year during the collectively bargained cost maintenance period (whether directly or through reimbursement).

"(C) AMOUNTS NOT USED TO PAY FOR HEALTH BENEFITS.—

"(i) IN GENERAL.—Any assets transferred to a health benefits account in a qualified transfer (and any income allocable thereto) which are not used as provided in subparagraph (A) (in the case of a qualified transfer other than a collectively bargained transfer) or cannot be used as provided in subparagraph (B) (in the case of a collectively bargained transfer) shall be transferred out of the account to the transferor plan.

"(ii) TAX TREATMENT OF AMOUNTS.—Any amount transferred out of an account under clause (i)—

"(I) shall not be includible in the gross income of the employer, but

"(II) shall be treated as an employer reversion for purposes of section 4980 (without regard to subsection (d) thereof).

"(D) ORDERING RULE.—For purposes of this section, any amount paid out of a health benefits account shall be treated as paid first out of the assets and income described in subparagraph (A) (in the case of a qualified transfer other than a collectively bargained transfer) or subparagraph (B) (in the case of a collectively bargained transfer).".

(2) CONFORMING AMENDMENTS.—

(A) Subparagraph (A) of section 420(c)(3) of such Code is amended to read as follows:

"(A) IN GENERAL.—The requirements of this paragraph are met if—

"(i) except as provided in clause (ii), each group health plan or arrangement under which applicable health benefits are provided provides that the applicable employer cost for each taxable year during the cost maintenance period shall not be less than the higher of the applicable employer costs for each of the 2 taxable years immediately preceding the taxable year of the qualified transfer, and

"(ii) in the case of a collectively bargained transfer, each collectively bargained group health plan under which collectively bargained health benefits are provided provides that the collectively bargained employer cost for each taxable year during the collectively bargained cost maintenance period shall not be less than the amount specified by the collective bargaining agreement.".

(B) Section 420(c)(3) of such Code is amended by redesignating subparagraphs (C), (D), and (E) as subparagraphs (D), (E), and (F), respectively, and by inserting after subparagraph (B) the following new subparagraph:

"(C) COLLECTIVELY BARGAINED EMPLOYER COST.—For purposes of this paragraph, the term 'collectively bargained employer cost' means the average cost per covered individual of providing collectively bargained retiree health benefits as determined in accordance with the applicable collective bargaining agreement. Such agreement may provide for an appropriate reduction in the collectively bargained employer cost to take into account any portion of the collectively bargained retiree health benefits that is provided or financed by a government program or other source.".

(C) Subparagraph (E) of section 420(c)(3) of such Code (as redesignated by subparagraph (B)) is amended to read as follows:

"(E) MAINTENANCE PERIOD.—For purposes of this paragraph—

"(i) COST MAINTENANCE PERIOD.—The term 'cost maintenance period' means the period of 5 taxable years beginning with the taxable year in which the qualified transfer occurs. If a taxable year is in 2 or more overlapping cost maintenance periods, this paragraph shall be applied by taking into account the highest applicable employer cost required to be provided under subparagraph (A)(i) for such taxable year.

"(ii) COLLECTIVELY BARGAINED COST MAINTENANCE PERIOD.—The term 'collectively bargained cost maintenance period' means, with respect to each covered retiree and his covered spouse and dependents, the shorter of—

"(I) the remaining lifetime of such covered retiree and his covered spouse and dependents, or

"(II) the period of coverage provided by the collectively bargained health plan (determined as of the date of the collectively bargained transfer) with respect to such covered retiree and his covered spouse and dependents.".

(c) LIMITATIONS ON EMPLOYER.—Subsection (d) of section 420 of the Internal Revenue Code of 1986 is amended to read as follows:

"(d) LIMITATIONS ON EMPLOYER.—For purposes of this title—

"(1) DEDUCTION LIMITATIONS.—No deduction shall be allowed—

"(A) for the transfer of any amount to a health benefits account in a qualified transfer (or any retransfer to the plan under subsection (c)(1)(C)),

"(B) for qualified current retiree health liabilities or collectively bargained retiree health liabilities paid out of the assets (and income) described in subsection (c)(1), or

"(C) except in the case of a collectively bargained transfer, for any amounts to which subparagraph (B) does not apply and which are paid for qualified current retiree health liabilities for the taxable year to the extent such amounts are not greater than the excess (if any) of—

"(i) the amount determined under subparagraph (A) (and income allocable thereto), over

"(ii) the amount determined under subparagraph (B).

"(2) OTHER LIMITATIONS.—

"(A) NO CONTRIBUTIONS ALLOWED.—Except as provided in subparagraph (B), an employer may not contribute after December 31, 1990, any amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to qualified current retiree health liabilities for which transferred assets are required to be used under subsection (c)(1)(A).

"(B) EXCEPTION.—An employer may contribute an amount to a health benefits account or welfare benefit fund (as defined in section 419(e)(1)) with respect to collectively bargained retiree health liabilities for which transferred assets are required to be used under subsection (c)(1)(B), and the deductibility of any such contribution shall be governed by the limits applicable to the deductibility of contributions to a welfare benefit fund under a collective bargaining agreement (as determined under section 419A(f)(5)(A)) without regard to whether such contributions are made to a health benefits account or welfare benefit fund and without regard to the provisions of section 404 or the other provisions of this section. The Secretary shall provide rules to ensure that the application of this section does not result in a deduction being allowed more than once for the same contribution or for 2 or more contributions or expenditures relating to the same collectively bargained retiree health liabilities.".

(d) DEFINITIONS.—Section 420(e) of the Internal Revenue Code of 1986 (relating to definition and special rules) is amended by adding at the end the following new paragraphs:

"(5) COLLECTIVELY BARGAINED TRANSFER.—The term 'collectively bargained transfer' means a transfer—

"(A) of excess pension assets to a health benefits account which is part of such plan in a taxable year beginning after December 31, 2005, and

"(B) which does not contravene any other provision of law,

"(C) with respect to which are met in connection with the plan—

"(i) the use requirements of subsection (c)(1),

"(ii) the vesting requirements of subsection (c)(2), and

"(iii) the minimum cost requirements of subsection (c)(3),

"(D) which is made in accordance with a collective bargaining agreement,

"(E) which, before the transfer, the employer designates, in a written notice delivered to each employee organization that is a party to the collective bargaining agreement, as a collectively bargained transfer in accordance with this section, and

"(F) which involves—

"(i) a plan maintained by an employer which, in its taxable year ending in 2005, provided health benefits or coverage to retirees and their spouses and dependents under all of the benefit plans maintained by the employer, but only if the aggregate cost (including administrative expenses) of such benefits or coverage which would have been allowable as a deduction to the employer (if such benefits or coverage had been provided directly by the employer and the employer used the cash receipts and disbursements method of accounting) is at least 5 percent of the gross receipts of the employer (determined in accordance with the last sentence of subsection (c)(2)(E)(ii)(II)) for such taxable year,

"(ii) or a plan maintained by a successor to such employer.

Such term shall not include a transfer after December 31, 2013.

"(6) COLLECTIVELY BARGAINED RETIREE HEALTH LIABILITIES.—

"(A) IN GENERAL.—The term 'collectively bargained retiree health liabilities' means the present value, as of the beginning of a taxable year and determined in accordance with the applicable collective bargaining agreement, of all collectively bargained health benefits (including administrative expenses) for such taxable year and all subsequent taxable years during the collectively bargained cost maintenance period.

"(B) REDUCTION FOR AMOUNTS PREVIOUSLY SET ASIDE.—The amount determined under subparagraph (A) shall be reduced by the value (as of the close of the plan year preceding the year of the collectively bargained transfer) of the assets in all health benefits accounts or welfare benefit funds (as defined in section 419(e)(1)) set aside to pay for the collectively bargained retiree health liabilities.

"(C) KEY EMPLOYEES EXCLUDED.—If an employee is a key employee (within the meaning of section 416(I)(1)) with respect to any plan year ending in a taxable year, such employee shall not be taken into account in computing collectively bargained retiree health liabilities for such taxable year or in calculating collectively bargained employer cost under subsection (c)(3)(C).

"(7) COLLECTIVELY BARGAINED HEALTH BENEFITS.—The term 'collectively bargained health benefits' means health benefits or coverage which are provided to—

"(A) retired employees who, immediately before the collectively bargained transfer, are entitled to receive such benefits upon retirement and who are entitled to pension benefits under the plan, and their spouses and dependents, and

"(B) if specified by the provisions of the collective bargaining agreement governing the collectively bargained transfer, active employees who, following their retirement, are entitled to receive such benefits and who are entitled to pension benefits under the plan, and their spouses and dependents.

"(8) COLLECTIVELY BARGAINED HEALTH PLAN.—The term 'collectively bargained health plan' means a group health plan or arrangement for retired employees and their spouses and dependents that is maintained pursuant to 1 or more collective bargaining agreements.".

(e) CONFORMING AMENDMENT.—The last sentence of section 401(h) of the Internal Revenue Code of 1986 is amended by inserting "(other than contributions with respect to collectively bargained retiree health liabilities within the meaning of section 420(e)(6))" after "medical benefits".

(f) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2004.

SEC. 1333. ALLOWANCE OF RESERVE FOR MEDICAL BENEFITS OF PLANS SPONSORED BY BONA FIDE ASSOCIATIONS.

(a) IN GENERAL.—Section 419A(c) of the Internal Revenue Code of 1986 (relating to account limit) is amended by adding at the end the following new paragraph:

"(6) ADDITIONAL RESERVE FOR MEDICAL BENEFITS OF BONA FIDE ASSOCIATION PLANS.—

"(A) IN GENERAL.—An applicable account limit for any taxable year may include a reserve in an amount not to exceed 35 percent of the sum of—

"(i) the qualified direct costs, and

"(ii) the change in claims incurred but unpaid,

for such taxable year with respect to medical benefits (other than post-retirement medical benefits).

"(B) APPLICABLE ACCOUNT LIMIT.—For purposes of this subsection, the term 'applicable account limit' means an account limit for a qualified asset account with respect to medical benefits provided through a plan maintained by a bona fide association (as defined in section 2791(d)(3) of the Public Health Service Act (42 U.S.C. 300gg-91(d)(3))".

(b) EFFECTIVE DATE.—The amendment made by this section shall apply to taxable years ending after December 31, 2005.

PART II—CASH OR DEFERRED ARRANGEMENTS

SEC. 1336. TREATMENT OF ELIGIBLE COMBINED DEFINED BENEFIT PLANS AND QUALIFIED CASH OR DEFERRED ARRANGEMENTS.

(a) Amendments of Internal Revenue Code.—Section 414 of the Internal Revenue Code of 1986, as amended by this Act, is amended by adding at the end the following new subsection:

"(x) Special Rules for Eligible Combined Defined Benefit Plans and Qualified Cash or Deferred Arrangements.—

"(1) General rule.—Except as provided in this subsection, the requirements of this title shall be applied to any defined benefit plan or applicable defined contribution plan which are part of an eligible combined plan in the same manner as if each such plan were not a part of the eligible combined plan.

"(2) Eligible combined plan.—For purposes of this subsection—

"(A) In general.—The term 'eligible combined plan' means a plan—

"(i) which is maintained by an employer which, at the time the plan is established, is a small employer,

"(ii) which consists of a defined benefit plan and an applicable defined contribution plan,

"(iii) the assets of which are held in a single trust forming part of the plan and are clearly identified and allocated to the defined benefit plan and the applicable defined contribution plan to the extent necessary for the separate application of this title under paragraph (1), and

"(iv) with respect to which the benefit, contribution, vesting, and nondiscrimination requirements of subparagraphs (B), (C), (D), (E), and (F) are met.

For purposes of this subparagraph, the term 'small employer' has the meaning given such term by section 4980D(d)(2), except that such section shall be applied by substituting '500' for '50' each place it appears.

"(B) Benefit requirements.—

"(i) In general.—The benefit requirements of this subparagraph are met with respect to the defined benefit plan forming part of the eligible combined plan if the accrued benefit of each participant derived from employer contributions, when expressed as an annual retirement benefit, is not less than the applicable percentage of the participant's final average pay. For purposes of this clause, final average pay shall be determined using the period of consecutive years (not exceeding 5) during which the participant had the greatest aggregate compensation from the employer.

"(ii) Applicable percentage.—For purposes of clause (i), the applicable percentage is the lesser of—

"(I) 1 percent multiplied by the number of years of service with the employer, or

"(II) 20 percent.

"(iii) Special rule for cash balance plans.—If the defined benefit plan under clause (i) is a qualified cash balance plan (within the meaning of section 411(b)(5)), the plan shall be treated as meeting the requirements of clause (i) with respect to any plan year if each participant receives pay credit for the year which is not less than the percentage of compensation determined in accordance with the following table:

"If the participant's age as of the beginning of the year is—	**The percentage is—**
30 or less	2
Over 30 but less than 40	4
40 or over but less than 50	6
50 or over	8.

"(iv) Years of service.—For purposes of this subparagraph, years of service shall be determined under the rules of paragraphs (4), (5), and (6) of section 411(a), except that the plan may not disregard any year of service because of a participant making, or failing to make, any elective deferral with respect to the qualified cash or deferred arrangement to which subparagraph (C) applies.

"(C) Contribution requirements.—

"(i) In general.—The contribution requirements of this subparagraph with respect to any applicable defined contribution plan forming part of eligible combined plan are met if—

"(I) the qualified cash or deferred arrangement included in such plan constitutes an automatic contribution arrangement, and

"(II) the employer is required to make matching contributions on behalf of each employee eligible to participate in the arrangement in an amount equal to 50 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 4 percent of compensation.

Rules similar to the rules of clauses (ii) and (iii) of section 401(k)(12)(B) shall apply for purposes of this clause.

"(ii) Nonelective contributions.—An applicable defined contribution plan shall not be treated as failing to meet the requirements of clause (i) because the employer makes nonelective contributions under the plan but such contributions shall not be taken into account in determining whether the requirements of clause (i)(II) are met.

"(D) Vesting requirements.—The vesting requirements of this subparagraph are met if—

"(i) in the case of a defined benefit plan forming part of an eligible combined plan an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit under the plan derived from employer contributions, and

"(ii) in the case of an applicable defined contribution plan forming part of eligible combined plan—

"(I) an employee has a nonforfeitable right to any matching contribution made under the qualified cash or deferred arrangement included in such plan by an employer with respect to any elective contribution, including matching contributions in excess of the contributions required under subparagraph (C)(i)(II), and

"(II) an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived under the arrangement from nonelective contributions of the employer.

For purposes of this subparagraph, the rules of section 411 shall apply to the extent not inconsistent with this subparagraph.

"(E) Uniform provision of benefits.—In the case of a defined benefit plan or applicable defined contribution plan forming part of an eligible combined plan, the requirements of this subparagraph are met if all benefits under each such plan, and all rights and features under each such plan, must be provided uniformly to all participants.

"(F) Requirements must be met without taking into account social security and similar contributions and benefits or other plans.—

"(i) In general.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

"(ii) Social security and similar contributions.—The requirements of this clause are met if—

"(I) the requirements of subparagraphs (B) and (C) are met without regard to section 401(l), and

"(II) the requirements of sections 401(a)(4) and 410(b) are met with respect to both the applicable defined contribution plan and defined benefit plan forming part of an eligible combined plan without regard to section 401(l).

"(iii) Other plans and arrangements.—The requirements of this clause are met if the applicable defined contribution plan and defined benefit plan forming part of an eligible combined plan meet the requirements of sections 401(a)(4) and 410(b) without being combined with any other plan.

"(3) Nondiscrimination requirements for qualified cash or deferred arrangement.—

"(A) In general.—A qualified cash or deferred arrangement which is included in an applicable defined contribution plan forming part of an eligible combined plan shall be treated as meeting the requirements of section 401(k)(3)(A)(ii) if the requirements of paragraph (2)(C) are met with respect to such arrangement.

"(B) Matching contributions.—In applying section 401(m)(11) to any matching contribution with respect to a contribution to which paragraph (2)(C) applies, the contribution requirement of paragraph (2)(C) and the notice requirements of paragraph (5)(B) shall be substituted for the requirements otherwise applicable under clauses (i) and (ii) of section 401(m)(11)(A).

"(4) Satisfaction of top-heavy rules.—A defined benefit plan and applicable defined contribution plan forming part of an eligible combined plan for any plan year shall be treated as meeting the requirements of section 416 for the plan year.

"(5) Automatic contribution arrangement.—For purposes of this subsection—

"(A) In general.—A qualified cash or deferred arrangement shall be treated as an automatic contribution arrangement if the arrangement—

"(i) provides that each employee eligible to participate in the arrangement is treated as having elected to have the employer make elective contributions in an amount equal to 4 percent of the employee's compensation unless the employee specifically elects not to have such contributions made or to have such contributions made at a different rate, and

"(ii) meets the notice requirements under subparagraph (B).

"(B) Notice requirements.—

"(i) In general.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

"(ii) Reasonable period to make election.—The requirements of this clause are met if each employee to whom subparagraph (A)(i) applies—

"(I) receives a notice explaining the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf or to have the contributions made at a different rate, and

"(II) has a reasonable period of time after receipt of such notice and before the first elective contribution is made to make such election.

"(iii) Annual notice of rights and obligations.—The requirements of this clause are met if each employee eligible to participate in the arrangement is, within a reasonable period before any year, given notice of the employee's rights and obligations under the arrangement.

The requirements of clauses (i) and (ii) of section 401(k)(12)(D) shall be met with respect to the notices described in clauses (ii) and (iii) of this subparagraph.

"(6) COORDINATION WITH OTHER REQUIREMENTS.—

"(A) TREATMENT OF SEPARATE PLANS.—Section 414(k) shall not apply to an eligible combined plan.

"(B) REPORTING.—An eligible combined plan shall be treated as a single plan for purposes of sections 6058 and 6059.

"(7) APPLICABLE DEFINED CONTRIBUTION PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable defined contribution plan' means a defined contribution plan which includes a qualified cash or deferred arrangement.

"(B) QUALIFIED CASH OR DEFERRED ARRANGEMENT.—The term 'qualified cash or deferred arrangement' has the meaning given such term by section 401(k)(2).".

(b) AMENDMENTS OF ERISA.—

(1) IN GENERAL.—Section 210 of the Employee Retirement Income Security Act of 1974 is amended by adding at the end the following new subsection:

"(e) SPECIAL RULES FOR ELIGIBLE COMBINED DEFINED BENEFIT PLANS AND QUALIFIED CASH OR DEFERRED ARRANGEMENTS.—

"(1) GENERAL RULE.—Except as provided in this subsection, this Act shall be applied to any defined benefit plan or applicable individual account plan which are part of an eligible combined plan in the same manner as if each such plan were not a part of the eligible combined plan.

"(2) ELIGIBLE COMBINED PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'eligible combined plan' means a plan—

"(i) which, at the time the plan is established, is maintained by a small employer,

"(ii) which consists of a defined benefit plan and an applicable individual account plan each of which qualifies under section 401(a) of the Internal Revenue Code of 1986,

"(iii) the assets of which are held in a single trust forming part of the plan and are clearly identified and allocated to the defined benefit plan and the applicable individual account plan to the extent necessary for the separate application of this Act under paragraph (1), and

"(iv) with respect to which the benefit, contribution, vesting, and nondiscrimination requirements of subparagraphs (B), (C), (D), (E), and (F) are met.

For purposes of this subparagraph, the term 'small employer' has the meaning given such term by section 4980D(d)(2), except that such section shall be applied by substituting '500' for '50' each place it appears.

"(B) BENEFIT REQUIREMENTS.—

"(i) IN GENERAL.—The benefit requirements of this subparagraph are met with respect to the defined benefit plan forming part of the eligible combined plan if the accrued benefit of each participant derived from employer contributions, when expressed as an annual retirement benefit, is not less than the applicable percentage of the participant's final average pay. For purposes of this clause, final average pay shall be determined using the period of consecutive years (not exceeding 5) during which the participant had the greatest aggregate compensation from the employer.

"(ii) APPLICABLE PERCENTAGE.—For purposes of clause (i), the applicable percentage is the lesser of—

"(I) 1 percent multiplied by the number of years of service with the employer, or

"(II) 20 percent.

"(iii) SPECIAL RULE FOR CASH BALANCE PLANS.—If the defined benefit plan under clause (i) is a qualified cash balance plan (within the meaning of section 204(b)(5)), the plan shall be treated as meeting the requirements of clause (i) with respect to any plan year if each participant receives pay credit for the year which is not less than the percentage of compensation determined in accordance with the following table:

"If the participant's age as of the beginning of the year is—	**The percentage is—**
30 or less	2
Over 30 but less than 40	4
40 or over but less than 50	6
50 or over	8.

"(iv) YEARS OF SERVICE.—For purposes of this subparagraph, years of service shall be determined under the rules of paragraphs (1), (2), and (3) of section 203(b), except that the plan may not disregard any year of service because of a participant making, or failing to make, any elective deferral with respect to the qualified cash or deferred arrangement to which subparagraph (C) applies.

"(C) CONTRIBUTION REQUIREMENTS.—

"(i) IN GENERAL.—The contribution requirements of this subparagraph with respect to any applicable individual account plan forming part of eligible combined plan are met if—

"(I) the qualified cash or deferred arrangement included in such plan constitutes an automatic contribution arrangement, and

"(II) the employer is required to make matching contributions on behalf of each employee eligible to participate in the arrangement in an amount equal to 50 percent of the elective contributions of the employee to the extent such elective contributions do not exceed 4 percent of compensation.

Rules similar to the rules of clauses (ii) and (iii) of section 401(k)(12)(B) of the Internal Revenue Code of 1986 shall apply for purposes of this clause.

"(ii) NONELECTIVE CONTRIBUTIONS.—An applicable individual account plan shall not be treated as failing to meet the requirements of clause (i) because the employer makes nonelective contributions under the plan but such contributions shall not be taken into account in determining whether the requirements of clause (i)(II) are met.

"(D) VESTING REQUIREMENTS.—The vesting requirements of this subparagraph are met if—

"(i) in the case of a defined benefit plan forming part of an eligible combined plan an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit under the plan derived from employer contributions, and

"(ii) in the case of an applicable individual account plan forming part of eligible combined plan—

"(I) an employee has a nonforfeitable right to any matching contribution made under the qualified cash or deferred arrangement included in such plan by an employer with respect to any elective contribution, including matching contributions in excess of the contributions required under subparagraph (C)(i)(II), and

"(II) an employee who has completed at least 3 years of service has a nonforfeitable right to 100 percent of the employee's accrued benefit derived under the arrangement from nonelective contributions of the employer.

For purposes of this subparagraph, the rules of section 203 shall apply to the extent not inconsistent with this subparagraph.

"(E) UNIFORM PROVISION OF BENEFITS.—In the case of a defined benefit plan or applicable individual account plan forming part of an eligible combined plan, the requirements of this subparagraph are met if all benefits under each such plan, and all rights and features under each such plan, must be provided uniformly to all participants.

"(F) REQUIREMENTS MUST BE MET WITHOUT TAKING INTO ACCOUNT SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS AND BENEFITS OR OTHER PLANS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

"(ii) SOCIAL SECURITY AND SIMILAR CONTRIBUTIONS.—The requirements of this clause are met if—

"(I) the requirements of subparagraphs (B) and (C) are met without regard to section 401(l) of the Internal Revenue Code of 1986, and

"(II) the requirements of sections 401(a)(4) and 410(b) of the Internal Revenue Code of 1986 are met with respect to both the applicable defined contribution plan and defined benefit plan forming part of an eligible combined plan without regard to section 401(l) of the Internal Revenue Code of 1986.

"(iii) OTHER PLANS AND ARRANGEMENTS.—The requirements of this clause are met if the applicable defined contribution plan and defined benefit plan forming part of an eligible combined plan meet the requirements of sections 401(a)(4) and 410(b) of the Internal Revenue Code of 1986 without being combined with any other plan.

"(3) NONDISCRIMINATION REQUIREMENTS FOR QUALIFIED CASH OR DEFERRED ARRANGEMENT.—

"(A) IN GENERAL.—A qualified cash or deferred arrangement which is included in an applicable individual account plan forming part of an eligible combined plan shall be treated as meeting the requirements of section 401(k)(3)(A)(ii) of the Internal Revenue Code of 1986 if the requirements of subparagraph (C) are met with respect to such arrangement.

"(B) MATCHING CONTRIBUTIONS.—In applying section 401(m)(11) of such Code to any matching contribution with respect to a contribution to which paragraph (2)(C) applies, the contribution requirement of paragraph (2)(C) and the notice requirements of paragraph (5)(B) shall be substituted for the requirements otherwise applicable under clauses (i) and (ii) of section 401(m)(11)(A) of such Code.

"(4) AUTOMATIC CONTRIBUTION ARRANGEMENT.—For purposes of this subsection—

"(A) IN GENERAL.—A qualified cash or deferred arrangement shall be treated as an automatic contribution arrangement if the arrangement—

"(i) provides that each employee eligible to participate in the arrangement is treated as having elected to have the employer make elective contributions in an amount equal to 4 percent of the employee's compensation unless the employee specifically elects not to have such contributions made or to have such contributions made at a different rate, and

"(ii) meets the notice requirements under subparagraph (B).

"(B) NOTICE REQUIREMENTS.—

"(i) IN GENERAL.—The requirements of this subparagraph are met if the requirements of clauses (ii) and (iii) are met.

"(ii) REASONABLE PERIOD TO MAKE ELECTION.—The requirements of this clause are met if each employee to whom subparagraph (A)(i) applies—

"(I) receives a notice explaining the employee's right under the arrangement to elect not to have elective contributions made on the employee's behalf or to have the contributions made at a different rate, and

"(II) has a reasonable period of time after receipt of such notice and before the first elective contribution is made to make such election.

"(iii) ANNUAL NOTICE OF RIGHTS AND OBLIGATIONS.—The requirements of this clause are met if each employee eligible to participate in the arrangement is, within a reasonable period before any year, given notice of the employee's rights and obligations under the arrangement.

The requirements of clauses (i) and (ii) of section 401(k)(12)(D) of the Internal Revenue Code of 1986 shall be met with respect to the notices described in clauses (ii) and (iii) of this subparagraph.

"(5) COORDINATION WITH OTHER REQUIREMENTS.—

"(A) TREATMENT OF SEPARATE PLANS.—Section 414(k) of the Internal Revenue Code of 1986 shall not apply to an eligible combined plan.

"(B) REPORTING.—An eligible combined plan shall be treated as a single plan for purposes of section 103.

"(6) APPLICABLE INDIVIDUAL ACCOUNT PLAN.—For purposes of this subsection—

"(A) IN GENERAL.—The term 'applicable individual account plan' means an individual account plan which includes a qualified cash or deferred arrangement.

"(B) QUALIFIED CASH OR DEFERRED ARRANGEMENT.—The term 'qualified cash or deferred arrangement' has the meaning given such term by section 401(k)(2) of the Internal Revenue Code of 1986.".

(2) CONFORMING CHANGES.—

(A) The heading for section 210 of such Act is amended to read as follows:

"SEC. 210. MULTIPLE EMPLOYER PLANS AND OTHER SPECIAL RULES.".

(B) The table of contents in section 1 of such Act is amended by striking the item relating to section 210 and inserting the following new item:

"Sec. 210. Multiple employer plans and other special rules".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to plan years beginning after December 31, 2008.

SEC. 1337. STATE AND LOCAL GOVERNMENTS ELIGIBLE TO MAINTAIN SECTION 401(k) PLANS.

(a) IN GENERAL.—Clause (ii) of section 401(k)(4)(B) of the Internal Revenue Code of 1986 (relating to governments ineligible) is amended to read as follows:

"(ii) GOVERNMENTS ELIGIBLE.—A State or local government or political subdivision thereof, or any agency or instrumentality thereof, may include a qualified cash or deferred arrangement as part of a plan maintained by it."

(b) COORDINATION WITH SECTION 457 LIMITS.—Section 402(g) of the Internal Revenue Code of 1986 is amended by adding at the end the following:

"(9) COORDINATION OF SECTION 457 LIMITS FOR STATE AND LOCAL GOVERNMENTAL PLANS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), in the case of an individual who is a participant in 1 or more qualified cash or deferred arrangements maintained by a governmental entity described in section 401(k)(4)(B)(ii), the amount excludable from gross income under paragraph (1) with respect to the individual for any taxable year with respect to elective deferrals under such arrangements shall be reduced by the aggregate amounts deferred under section 457 with respect to the individual for the taxable year under 1 or more eligible deferred compensation plans (as defined in section 457(b)) maintained by an employer described in section 457(e)(1)(A).

"(B) SPECIAL RULE FOR PRE-1986 GRANDFATHERED PLANS.—Subparagraph (A) shall not apply to any qualified cash or deferred arrangement maintained by a governmental entity described in section 401(k)(4)(B)(ii) if the arrangement (or any predecessor) was adopted by the entity before May 6, 1986, or treated as so adopted under section 1116(f)(2)(B) of the Tax Reform Act of 1986."

(c) EFFECTIVE DATES.—The amendments made by this section shall apply to plan years beginning after December 31, 2005.

PART III—EXCESS CONTRIBUTIONS

SEC. 1339. EXCESS CONTRIBUTIONS.

(a) EXPANSION OF CORRECTIVE DISTRIBUTION PERIOD FOR AUTOMATIC CONTRIBUTION ARRANGEMENTS.—Subsection (f) of section 4979 of the Internal Revenue Code of 1986 is amended—

(1) by and inserting "(6 months in the case of an excess contribution or excess aggregate contribution to an eligible automatic contribution arrangement (as defined in section 414(w)(3)))" after "2½ months" in paragraph (1), and

(2) by striking "2½ MONTHS OF" in the heading and inserting "SPECIFIED PERIOD AFTER".

(b) YEAR OF INCLUSION.—Paragraph (2) of section 4979(f) of such Code is amended to read as follows:

"(2) YEAR OF INCLUSION.—Any amount distributed as provided in paragraph (1) shall be treated as earned and received by the recipient in the recipient's taxable year in which such distributions were made.".

(c) SIMPLIFICATION OF ALLOCABLE EARNINGS.—

(1) SECTION 4979.—Subsection (f) of section 4979 of such Code is amended—

(A) by adding "through the end of the plan year for which the contribution was made" after "thereto" in paragraph (1), and

(B) by adding "through the end of the plan year for which the contributions were made" after "thereto" in paragraph (2)(B).

(2) SECTION 401(k) AND 401(M).—

(A) Clause (i) of section 401(k)(8)(A) is amended by adding "through the end of such year" after "such contributions".

(B) Subparagraph (A) of section 401(m)(6) of such Code is amended by adding "through the end of such year" after "to such contributions".

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to years beginning after December 31, 2005.

PART IV—OTHER PROVISIONS

SEC. 1341. AMENDMENTS RELATING TO PROHIBITED TRANSACTIONS.

(a) EXEMPTION FOR BLOCK TRADING.—

(1) IN GENERAL.—Section 408(b) of the Employee Retirement Income Security Act (29 U.S.C. 1108(b)) is amended by adding at the end the following new paragraph:

"(14) BLOCK TRADING.—

"(A) IN GENERAL.—Any transaction involving the purchase or sale of securities between a plan and a party in interest (other than a fiduciary who has investment discretion or control with respect to the assets involved in the transaction or is providing investment advice as a fiduciary for purposes of this title to enter into the transaction) with respect to a plan if—

"(i) the transaction involves a block trade,

"(ii) at the time of the transaction, the interest of the plan (together with the interests of any other plans maintained by the same plan sponsor) does not exceed 10 percent of the aggregate size of the block trade,

"(iii) the terms of the transaction, including the price, are at least as favorable to the plan as an arm's length transaction, and

"(iv) compensation associated with the purchase and sale is not greater than an arm's length transaction with an unrelated party.

"(B) BLOCK TRADE.—For purposes of this paragraph, the term 'block trade' includes any trade of at least 10,000 shares or with a market value of at least $200,000 which will be allocated across two or more unrelated client accounts of a fiduciary.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4975(d) of such Code is amended—

(i) by striking "or" at the end of paragraph (15),

(ii) by striking the period at the end of paragraph (16)(F) and inserting "; or", and

(iii) by adding at the end the following new paragraph:

"(17) any transaction involving the purchase or sale of securities between a plan and a disqualified person (other than a fiduciary who has investment discretion or control over the transaction or is providing investment advice as a fiduciary for purposes of title I of the Employee Retirement Income Security Act to enter into the transaction) with respect to a plan if—

"(A) the transaction involves a block trade,

"(B) at the time of the transaction, the interest of the plan (together with the interests of any other plans maintained by the same plan sponsor) does not exceed 10 percent of the aggregate size of the block trade,

"(C) the terms of the transaction, including the price, are at least as favorable to the plan as an arm's length transaction, and

"(D) compensation associated with the purchase and sale is not greater than an arm's length transaction with an unrelated party.".

(B) Section 4975(e) of such Code is amended by adding at the end the following new paragraph:

"(11) BLOCK TRADE.—The term 'block trade' includes any trade of at least 10,000 shares or with a market value of at least $200,000 which will be allocated across two or more unrelated client accounts of a fiduciary.".

(b) BONDING RELIEF.—Section 412(a) of such Act (29 U.S.C. 1112(a)) is amended—

(1) by redesignating paragraph (2) as paragraph (3),

(2) by striking "and" at the end of paragraph (1), and

(3) by inserting after paragraph (1) the following new paragraph:

"(2) no bond shall be required of any entity which is registered as a broker or a dealer under section 15(b) of the Securities Exchange Act of 1934 (15 U.S.C. 78o(b)) if the broker or dealer is subject to the fidelity bond requirements of a self-regulatory organization (within the meaning of section 3(a)(26) of such Act (15 U.S.C. 78c(a)(26)).".

(c) EXEMPTION FOR FINANCIAL MARKETS TRADING SYSTEMS.—

(1) IN GENERAL.—Section 408(b) of such Act, as amended by subsection (b)(1), is amended by adding at the end the following new paragraph:

"(15) FINANCIAL MARKETS TRADING SYSTEMS.—Any transaction involving the purchase and sale of securities between a plan and a fiduciary or a party in interest if—

"(A) the transaction is executed through—

"(i) a national securities exchange or a trading system owned by a national securities association registered with the Securities and Exchange Commission, regardless of whether such fiduciary or party in interest (or any affiliate of either) has an interest in such exchange or trading system,

"(ii) an alternative trading system or electronic communication network subject to regulation and oversight by the Securities and Exchange Commission, regardless of whether such fiduciary or party in interest (or any affiliate of either) has an interest in such alternative trading system or electronic communications network, or

"(iii) any other trading system for securities or other property approved by the Secretary through regulatory or exemptive relief,

"(B) the price associated with the purchase and sale is at least as favorable as an arm's length transaction with an unrelated party,

"(C) the compensation associated with the purchase and sale is not greater than an arm's length transaction with an unrelated party,

"(D) in the event the fiduciary or party in interest directing the transaction (or any affiliate of either) has an ownership interest in the trading system (other than an exchange or trading system described in subparagraph (A)(i)), the execution of transactions on such system is annually authorized by a plan fiduciary,

"(E) the transaction is executed in accordance with the nondiscretionary rules and procedures adopted by such trading system to match offsetting orders, and

"(F) in the event the transaction is not executed on an exchange or trading system described in subparagraph (A)(i)—

"(i) neither the trading system nor the parties to the transaction take into account the identity of the parties in the execution of trades, and the parties to the transaction do not actually know the identity of the other at the time that the terms and price of the transaction are agreed to, or

"(ii) the transaction is effected pursuant to rules designed to match purchases and sales at the best price available through the trading system.".

(2) CONFORMING AMENDMENT.—Section 4975(d) of such Code (as amended by subsection (b)(2)) is amended—

(A) by striking "or" at the end of paragraph (16),

(B) by striking the period at the end of paragraph (17)(E) and inserting "; or", and

(C) by adding at the end the following new paragraph:

"(18) any transaction involving the purchase and sale of securities or other property between a plan and a fiduciary or a disqualified person if—

"(A) the transaction is executed through—

"(i) a national securities exchange or a trading system owned by a national securities association registered with the Securities and Exchange Commission, regardless of whether such fiduciary or disqualified person (or any affiliate of either) has an interest in such exchange or trading system,

"(ii) an alternative trading system or electronic communication network subject to regulation and oversight by the Securities and Exchange Commission, regardless of whether such fiduciary or disqualified person (or any affiliate of either) has an interest in such alternative trading system or electronic communications network, or

"(iii) any other trading system for securities or other property approved by the Secretary through regulatory or exemptive relief,

"(B) the price associated with the purchase and sale is at least as favorable as an arm's length transaction with an unrelated party,

"(C) the compensation associated with the purchase and sale is not greater than an arm's length transaction with an unrelated party,

"(D) in the event the fiduciary or disqualified person directing the transaction (or any affiliate of either) has an ownership interest in the trading system (other than an exchange or trading system described in subparagraph (A)(i)), the execution of transactions on such system is annually authorized by a plan fiduciary,

"(E) the transaction is executed in accordance with the nondiscretionary rules and procedures adopted by such trading system to match offsetting orders, and

"(F) in the event the transaction is not executed on an exchange or trading system described in subparagraph (A)(i)—

"(i) neither the trading system nor the parties to the transaction take into account the identity of the parties in the execution of trades, and the parties to the transaction do not actually know the identity of the other at the time that the terms and price of the transaction are agreed to, or

"(ii) the transaction is effected pursuant to rules designed to match purchases and sales at the best price available through the trading system.".

(d) RELIEF FOR FOREIGN EXCHANGE TRANSACTIONS.—

(1) IN GENERAL.—Section 408(b) of such Act (29 U.S.C. 1108(b)), as amended by subsection (c)(1), is amended by adding at the end the following new paragraph:

"(16) Any foreign exchange transactions, between a bank or broker-dealer (or any affiliate of either), and a plan or an individual retirement account (within the meaning of section 408 of the Internal Revenue Code of 1986) with respect to which such bank or broker-dealer (or affiliate) is a trustee, custodian, fiduciary, or other party in interest, if—

"(A) the transaction is in connection with the purchase, holding, or sale of securities,

"(B) at the time the foreign exchange transaction is entered into, the terms of the transaction are not less favorable to the plan than the terms generally available in comparable arm's length foreign exchange transactions between unrelated parties, or the terms afforded by the bank or broker-dealer (or any affiliate of either) in comparable arm's-length foreign exchange transactions involving unrelated parties,

"(C) the exchange rate used by such bank or broker-dealer (or affiliate) for a particular foreign exchange transaction does not deviate by more or less than 3 percent from the interbank bid and asked rates at the time of the transaction as displayed on an independent service that reports rates of exchange in the foreign currency market for such currency, and

"(D) the bank or broker-dealer (or any affiliate of either) does not have investment discretion, or provide investment advice, with respect to the transaction.".

(2) CONFORMING AMENDMENT.—Section 4975(d) of such Code, as amended by subsection (c)(2), is amended—

(A) by striking "or" at the end of paragraph (17)(E),

(B) by striking the period at the end of paragraph (18)(F)(ii) and inserting "; or", and

(C) by adding at the end the following new paragraph:

"(19) any foreign exchange transactions, between a bank or broker-dealer (or any affiliate of either) and a plan or an individual retirement account (within the meaning of section 408) with respect to which such bank or broker-dealer (or affiliate) is a trustee, custodian, fiduciary, or disqualified person, if—

"(A) the transaction is in connection with the purchase, holding, or sale of securities,

"(B) at the time the foreign exchange transaction is entered into, the terms of the transaction are not less favorable to the plan than the terms generally available in comparable arm's length foreign exchange transactions between unrelated parties, or the terms afforded by the bank or broker-dealer (or any affiliate of either) in comparable arm's-length foreign exchange transactions involving unrelated parties,

"(C) the exchange rate used by such bank or broker-dealer (or affiliate) for a particular foreign exchange transaction does not deviate by more or less than 3 percent from the interbank bid and asked rates at the time of the transaction as displayed on an independent service that reports rates of exchange in the foreign currency market for such currency, and

"(D) the bank or broker-dealer (or any affiliate of either) does not have investment discretion, or provide investment advice, with respect to the transaction.".

(e) CORRECTION PERIOD FOR CERTAIN TRANSACTIONS INVOLVING SECURITIES AND COMMODITIES.—

(1) IN GENERAL.—Section 408(b) of such Act (29 U.S.C. 1108(b)), as amended by subsection (d)(1), is amended by adding at the end the following new paragraph:

"(17) CORRECTION PERIOD FOR CERTAIN TRANSACTIONS INVOLVING SECURITIES AND COMMODITIES.—

"(A) IN GENERAL.—Except as provided in subparagraphs (B) and (C), a transaction described in section 406(a) in connection with the acquisition, holding, or disposition of any security or commodity, if the transaction is corrected before the end of the correction period.

"(B) EXCEPTION FOR EMPLOYER SECURITIES AND REAL PROPERTY.—Subparagraph (A) does not apply to any transaction between a plan and a plan sponsor or its affiliates that involves the acquisition or sale of an employer security (as defined in section 407(d)(1)) or the acquisition, sale, or lease of employer real property (as defined in section 407(d)(2)).

"(C) EXCEPTION FOR KNOWING VIOLATIONS.—In the case of any fiduciary or other party in interest (or any other person knowingly participating in such transaction), subparagraph (A) does not apply to any prohibited transaction if, at the time such transaction occurs, such fiduciary or party in interest (or other person) knew that the transaction would (without regard to this paragraph) constitute a violation of section 406(a).

"(D) CORRECTION PERIOD.—For purposes of this paragraph, the term 'correction period' means the 14-day period beginning on the date on which such transaction occurs.

"(E) OTHER DEFINITIONS.—For purposes of this paragraph—

"(i) the term 'security' has the meaning given such term by section 475(c)(2) of the Internal Revenue Code of 1986 (without regard to subparagraph (F)(iii) and the last sentence thereof),

"(ii) the term 'commodity' has the meaning given such term by section 475(e)(2) of such Code (without regard to subparagraph (D)(iii) thereof), and

"(iii) the terms 'correction' and 'correct' mean, with respect to a transaction, undoing the transaction to the extent possible, but in any case, making good to the plan or affected account any losses resulting from the transaction and restoring to the plan or affected account any profits made through use of the plan.".

(2) CONFORMING AMENDMENTS.—

(A) Section 4975(d) of such Code, as amended by subsection (d)(2), is amended—

(i) by striking "or" at the end of paragraph (18)(F)(2),

(ii) by striking the period at the end of paragraph (19)(D) and inserting "; or", and

(iii) by adding at the end the following new paragraph:

"(20) except as provided in subparagraph (B) or (C) of subsection (f)(8), a transaction described in subparagraph (A), (B), (C), or (D) of subsection (c)(1) in connection with the acquisition, holding, or disposition of any security or commodity, if the transaction is corrected before the end of the correction period.".

(B) Section 4975(f) of such Code is amended by adding at the end the following new paragraph:

"(8) CORRECTION PERIOD.—

"(A) IN GENERAL.—For purposes of subsection (d)(20), the term 'correction period' means the 14-day period beginning on the date on which such transaction occurs.

"(B) EXCEPTION FOR EMPLOYER SECURITIES AND REAL PROPERTY.—Subsection (d)(20) does not apply to any transaction between a plan and a plan sponsor or its affiliates that involves the acquisition or sale of an employer security (as defined in section 407(d)(1) of the Employee Retirement Income Security Act) or the acquisition, sale, or lease of employer real property (as defined in section 407(d)(2) of such Act).

"(C) EXCEPTION FOR KNOWING VIOLATIONS.—In the case of any fiduciary or other disqualified person (or any other person knowingly participating in such transaction), subsection (d)(20) does not apply to any prohibited transaction if, at the time such transaction occurs, such fiduciary or disqualified person (or other person) knew that the transaction would (without regard to subsection (d)(20) or this paragraph) constitute a violation of subparagraph (A), (B), (C), or (D) of subsection (c)(1).

"(D) ABATEMENT OF TAX WHERE THERE IS A CORRECTION.—If a transaction is not treated as a prohibited transaction by reason of subsection (d)(20), then no tax under subsections (a) and (b) shall be assessed with respect to such transaction, and, if assessed, the assessment shall be abated, and, if collected, shall be credited or refunded as an overpayment.

"(E) OTHER DEFINITIONS.—For purposes of this paragraph and subsection (d)(20)—

"(i) the term 'security' has the meaning given such term by section 475(c)(2) (without regard to subparagraph (F)(iii) and the last sentence thereof),

"(ii) the term 'commodity' has the meaning given such term by section 475(e)(2) (without regard to subparagraph (D)(iii) thereof), and

"(iii) the terms 'correction' and 'correct' mean, with respect to a transaction, undoing the transaction to the extent possible, but in any case, making good to the plan or affected account any losses resulting from the transaction and restoring to the plan or affected account any profits made through use of the plan.".

(C) Section 4975(f)(5) of such Code is amended by striking "The terms" and inserting "Except as provided in paragraph (8)(E)(iii), the terms".

(f) CROSS TRADES STUDY.—Not later than 2 years after the date of the enactment of this Act, the Secretary of Labor, in consultation with the President's Working Group on Financial Markets, shall report to the President and Congress the results of a study on the implications for pension plans, plan sponsors, plan fiduciaries, and plan participants of a prohibited transaction exemption for active cross trades and the impact that such a prohibited transaction exemption could have on the safety and security of pension plan assets. The study shall review and include recommendations regarding—

(1) the regulation and practice of passive and active cross trades in United States securities markets,

(2) the potential benefits and drawbacks of permitting active cross trades for retirement funds, and

(3) the ease or difficulty in policing cross trading activities for plan sponsors, plan fiduciaries, and any Federal agency charged with safeguarding the Nation's retirement funds.

(g) GAO STUDY.—The Comptroller General of the United States shall prepare a preliminary report not later than 2 years after the date of the enactment of this Act and a final report not later than 3 years after such date regarding the effects of the amendments made by this section, focusing on the effect of electronic communication networks and block trading on plan investments and on the oversight and enforcement activities of the Department of Labor to protect the rights of plan participants and beneficiaries. The Comptroller General of the United States shall submit the reports required under the preceding sentence to the Committees on Finance and Health, Education, Labor, and Pensions of the Senate and the Committees on Ways and Means and Education and the Workforce of the House of Representatives.

(h) EFFECTIVE DATE.—The amendments made by this section shall apply to any transaction after the date of the enactment of this Act.

SEC. 1342. FEDERAL TASK FORCE ON OLDER WORKERS.

(a) ESTABLISHMENT.—Not later than 90 days after the date of enactment of this section, the Secretary of Labor shall establish a Federal Task Force on Older Workers (referred to in this section as the "Task Force").

(b) MEMBERSHIP.—The Task Force established pursuant to subsection (a) shall be composed of representatives from all relevant Federal agencies that have regulatory jurisdiction over, or a clear policy interest in, pension issues relating to older workers, including the Internal Revenue Service and the Equal Employment Opportunity Commission.

(c) ACTIVITIES.—

(1) IN GENERAL.—Not later than 1 year after the date of establishment of the Task Force, the Task Force shall—

(A) identify statutory and regulatory provisions in current pension law that are disincentives to work and develop legislative and regulatory proposals to address such disincentives; and

(B) identify best pension practices in the private sector for hiring and retaining older workers, and serve as a clearinghouse of such information.

(2) REPORT.—Not later than 1 year after the date of establishment of the Task Force, the Task Force shall submit a report to Congress on the activities of the Task Force pursuant to paragraph (1). Such report shall be made available to the public.

(d) CONSULTATION.—In carrying out activities pursuant to this section, the Task Force shall consult with senior, business, labor, and other interested organizations.

(e) APPLICABILITY OF FACA; TERMINATION OF TASK FORCE.—

(1) FACA.—The Federal Advisory Committee Act (5 U.S.C. App.) shall not apply to the Task Force established pursuant to this section.

(2) TERMINATION.—The Task Force shall terminate 30 days after the date the Task Force completes all of its duties under this section.

SEC. 1343. TECHNICAL CORRECTIONS TO SAVER ACT.

Section 517 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1147) is amended—

(1) in subsection (a), by striking "2001 and 2005 on or after September 1 of each year involved" and inserting "2006 and 2010";

(2) in subsection (b), by adding at the end the following new sentence: "To effectuate the purposes of this paragraph, the Secretary may enter into a cooperative agreement, pursuant to the Federal Grant and Cooperative Agreement Act of 1977 (31 U.S.C. 6301 et seq.), with any appropriate, qualified entity.";

(3) in subsection (e)(2)—

(A) by striking "Committee on Labor and Human Resources" in subparagraph (D) and inserting "Committee on Health, Education, Labor, and Pensions";

(B) by striking subparagraph (F) and inserting the following:

"(F) the Chairman and Ranking Member of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the House of Representatives and the Chairman and Ranking Member of the Subcommittee on Labor, Health and Human Services, and Education of the Committee on Appropriations of the Senate;";

(C) by redesignating subparagraph (G) as subparagraph (J); and

(D) by inserting after subparagraph (F) the following new subparagraphs:

"(G) the Chairman and Ranking Member of the Committee on Finance of the Senate;

"(H) the Chairman and Ranking Member of the Committee on Ways and Means of the House of Representatives;

"(I) the Chairman and Ranking Member of the Subcommittee on Employer-Employee Relations of the Committee on Education and the Workforce of the House of Representatives; and";

(4) in subsection (e)(3)(B), by striking "January 31, 1998" and inserting "3 months before the convening of each summit;";

(5) in subsection (f)(1)(C), by inserting ", no later than 90 days prior to the date of the commencement of the National Summit," after "comment";

(6) in subsection (g), by inserting ", in consultation with the congressional leaders specified in subsection (e)(2)," after "report" the first place it appears in the text;

(7) in subsection (i)—

(A) by striking "for fiscal years beginning on or after October 1, 1997,"; and

(B) by adding at the end the following new paragraph:

"(3) RECEPTION AND REPRESENTATION AUTHORITY.—The Secretary is hereby granted reception and representation authority limited specifically to the events at the National Summit. The Secretary shall use any private contributions accepted in connection with the National Summit prior to using funds appropriated for purposes of the National Summit pursuant to this paragraph."; and

(8) in subsection (k)—

(A) by striking "shall enter into a contract on a sole-source basis" and inserting "may enter into a contract on a sole-source basis"; and

(B) by striking "in fiscal year 1998".

SA 2582. Mr. ISAKSON (for himself, Mr. NELSON of Florida, Mr. LOTT, Mr. COLEMAN, Mr. ROCKEFELLER, Mr. DEWINE, Mr. ALEXANDER, Mr. BENNETT, Mr. BURNS, Mr. HATCH, Mr. CHAMBLISS, Mr. CARPER, and Mr. SALAZAR) proposed an amendment to the bill S. 1783, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes; as follows:

Strike section 403 and insert the following:

SEC. 403. SPECIAL FUNDING RULES FOR PLANS MAINTAINED BY COMMERCIAL AIRLINES THAT ARE AMENDED TO CEASE FUTURE BENEFIT ACCRUALS.

(a) IN GENERAL.—If an election is made to have this section apply to an eligible plan—

(1) in the case of any applicable plan year beginning before January 1, 2007, the plan shall not have an accumulated funding deficiency for purposes of section 302 of the Employee Retirement Income Security Act of 1974 and sections 412 and 4971 of the Internal Revenue Code of 1986 if contributions to the plan for the plan year are not less than the minimum required contribution determined under subsection (d) for the plan for the plan year, and

(2) in the case of any applicable plan year beginning on or after January 1, 2007, the minimum required contribution determined under sections 303 of such Act and 430 of such Code shall, for purposes of sections 302 and 303 of such Act and sections 412, 430, and 4971 of such Code, be equal to the minimum required contribution determined under subsection (d) for the plan for the plan year.

(b) ELIGIBLE PLAN.—For purposes of this section—

(1) IN GENERAL.—The term "eligible plan" means a defined benefit plan (other than a multiemployer plan) to which sections 302 of such Act and 412 of such Code applies—

(A) which is sponsored by an employer—

(i) which is a commercial airline passenger airline, or

(ii) the principal business of which is providing catering services to a commercial passenger airline, and

(B) with respect to which the requirements of paragraphs (2) and (3) are met.

(2) ACCRUAL RESTRICTIONS.—

(A) IN GENERAL.—The requirements of this paragraph are met if, effective as of the first day of the first applicable plan year and at all times thereafter while an election under this section is in effect, the plan provides that—

(i) the accrued benefit, any death or disability benefit, and any social security supplement described in the last sentence of section 411(a)(9) of such Code and section 204(b)(1)(G) of such Act, of each participant are frozen at the amount of such benefit or supplement immediately before such first day, and

(ii) all other benefits under the plan are eliminated,

but only to the extent the freezing or elimination of such benefits would have been permitted under section 411(d)(6) of such Code and section 204(g) of such Act if they had been implemented by a plan amendment adopted immediately before such first day.

(B) INCREASES IN SECTION 415 LIMITS DISREGARDED.—If a plan provides that an accrued benefit of a participant which has been subject to any limitation under section 415 of such Code will be increased if such limitation is increased, the plan shall not be treated as meeting the requirements of this paragraph unless, effective as of the first day of the first applicable plan year and at all times thereafter while an election under this section is in effect, the plan provides that any such increase shall not take effect. A plan shall not fail to meet the requirements of section 411(d)(6) of such Code and section 204(g) of such Act solely because the plan is amended to meet the requirements of this subparagraph.

(3) RESTRICTION ON APPLICABLE BENEFIT INCREASES.—

(A) IN GENERAL.—The requirements of this paragraph are met if no applicable benefit increase takes effect at any time during the period beginning on July 26, 2005, and ending on the day before the first day of the first applicable plan year.

(B) APPLICABLE BENEFIT INCREASE.—For purposes of this paragraph, the term "applicable benefit increase" means, with respect to any plan year, any increase in liabilities of the plan by plan amendment (or otherwise provided in regulations provided by the Secretary) which, but for this paragraph, would occur during the plan year by reason of—

(i) any increase in benefits,

(ii) any change in the accrual of benefits, or

(iii) any change in the rate at which benefits become nonforfeitable under the plan.

(4) EXCEPTION FOR IMPUTED DISABILITY SERVICE.—Paragraphs (2) and (3) shall not apply to any accrual or increase with respect to imputed service provided to a participant during any period of the participant's disability occurring on or after the effective date of the plan amendment providing the restrictions under paragraph (2) if the participant—

(A) was receiving disability benefits as of such date, or

(B) was receiving sick pay and subsequently determined to be eligible for disability benefits as of such date.

(c) ELECTIONS AND RELATED TERMS.—

(1) IN GENERAL.—A plan sponsor shall make the election under subsection (a) at such time and in such manner as the Secretary of the Treasury may prescribe. Except as provided in subsection (h)(5), such election, once made, may be revoked only with the consent of such Secretary.

(2) YEARS FOR WHICH ELECTION MADE.—

(A) IN GENERAL.—The plan sponsor may select the first plan year to which the election under subsection (a) applies from among plan years ending after the date of the election. The election shall apply to such plan year and all subsequent years.

(B) ELECTION OF NEW PLAN YEAR.—The plan sponsor may specify a new plan year in the election under subsection (a) and the plan year of the plan may be changed to such new plan year without the approval of the Secretary of the Treasury.

(3) APPLICABLE PLAN YEAR.—The term "applicable plan year" means each plan year to which the election under subsection (a) applies under paragraph (1).

(d) MINIMUM REQUIRED CONTRIBUTION.—

(1) IN GENERAL.—In the case of any applicable plan year during the amortization period, the minimum required contribution shall be the amount necessary to amortize the unfunded liability of the plan, determined as of the first day of the plan year, in equal annual installments (until fully amortized) over the remainder of the amortization period. Such amount shall be separately determined for each applicable plan year.

(2) YEARS AFTER AMORTIZATION PERIOD.—In the case of any plan year beginning after the end of the amortization period, section 302(a)(2)(A) of such Act and section 412(a)(2)(A) of such Code shall apply to such plan, but the prefunding balance as of the first day of the first of such years under section 303(f) of such Act and section 430(f) of such Code shall be zero.

(3) DEFINITIONS.—For purposes of this section—

(A) UNFUNDED LIABILITY.—The term "unfunded liability" means the unfunded accrued liability under the plan, determined under the unit credit funding method.

(B) AMORTIZATION PERIOD.—The term "amortization period" means the 20-plan year period beginning with the first applicable plan year.

(4) OTHER RULES.—In determining the minimum required contribution and amortization amount under this subsection—

(A) the provisions of section 302(c)(3) of such Act and section 412(c)(3) of such Code, as in effect before the date of enactment of this section, shall apply,

(B) the rate of interest under section 302(b) of such Act and section 412(b) of such Code, as so in effect, shall be used for all calculations requiring an interest rate, and

(C) the value of plan assets shall be equal to their fair market value.

(5) SPECIAL RULE FOR CERTAIN PLAN SPIN-OFFS.—For purposes of subsection (a), if, with respect to any eligible plan to which this subsection applies—

(A) any applicable plan year includes the date of the enactment of this Act,

(B) a plan was spun off from the eligible plan during the plan year but before such date of enactment,

the minimum required contribution under subsection (a)(1) for the eligible plan for such applicable plan year shall be determined as if the plans were a single plan for that plan year (based on the full 12-month plan year in effect prior to the spin-off). The employer shall designate the allocation of the minimum required contribution between such plans for the applicable plan year and direct the appropriate reallocation between the plans of any contributions for the applicable plan year.

(e) FUNDING STANDARD ACCOUNT AND PREFUNDING BALANCE.—Any charge or credit in the funding standard account under section 302 of such Act or section 412 of such Code, and any prefunding balance under section 303 of such Act or section 430 of such Code, as of the day before the first day of the first applicable plan year, shall be reduced to zero.

(f) AMENDMENTS TO OTHER PROVISIONS.—

(1) QUALIFICATION REQUIREMENT.—Section 401(a)(36) of the Internal Revenue Code of 1986, as added by section 402 of this Act, is amended by adding at the end the following: "This paragraph shall also apply to any plan during any period during which an amortization schedule under section 403 of the Pension Security and Transparency Act of 2005 is in effect."

(2) PBGC LIABILITY LIMITED.—Section 4022 of the Employee Retirement Income Security Act of 1974, as amended by this Act, is amended by adding at the end the following new subsection:

"(h) SPECIAL RULE FOR PLANS ELECTING CERTAIN FUNDING REQUIREMENTS.—During any period in which an election by a plan under section 403 of the Pension Security and Transparency Act of 2005 is in effect, then this section and section 4044(a)(3) shall be applied by treating the first day of the first applicable plan year as the termination date of the plan. This subsection shall not apply to any plan for which an election under section 403(h) of such Act is in effect.".

(3) LIMITATION ON DEDUCTIONS UNDER CERTAIN PLANS.—Section 404(a)(7)(C)(iii) of the Internal Revenue Code of 1986, as added by this Act, is amended by adding at the end the following new sentence: "This clause shall also apply to any plan for a plan year if an election under section 403 of the Pension Security and Transparency Act of 2005 is in effect for such year."

(4) NOTICE.—In the case of a plan amendment adopted in order to comply with this section, any notice required under section 204(h) of such Act or section 4980F(e) of such Code shall be provided within 15 days of the effective date of such plan amendment. This subsection shall not apply to any plan unless such plan is maintained pursuant to one or more collective bargaining agreements between employee representatives and 1 or more employers.

(g) SPECIAL RULES FOR TERMINATION OF ELIGIBLE PLANS.—During any period an election is in effect under this section with respect to an eligible plan, the Pension Benefit Guaranty Corporation shall, before it seeks or approves a termination of such plan under section 4041(c) or 4042 of the Employee Retirement Income Security Act of 1974—

(1) make a determination under section 4041(c)(4) or 4042(i) of such Act whether the termination would be necessary if the Secretary of the Treasury were to enter into an agreement under section 4047(a) of such Act which provides an alternative funding agreement to replace the amortization schedule under this section, and

(2) if the Corporation determines such an agreement would make such termination unnecessary, take all necessary actions to ensure the agreement is entered into.

The Pension Benefit Guaranty Corporation shall make the determination under paragraph (1) within 90 days of receiving all information needed in connection with a request for a termination (or if no such request is made, within 90 days of consideration of the termination by the Corporation).

(h) CERTAIN BENEFIT ACCRUALS AND INCREASES ALLOWED IF ADDITIONAL CONTRIBUTIONS MADE TO COVER COSTS.—

(1) IN GENERAL.—If an employer elects the application of this subsection—

(A) the requirements of paragraphs (2) and (3) of subsection (b) shall not apply with respect to any eligible plan maintained by the employer and specified in the election, and

(B) the minimum required contribution under subsection (d) for any plan year with respect to the plan shall be increased by the amounts described in paragraphs (2) and (3).

Any liabilities and assets taken into account under this subsection shall not be taken into account in determining the unfunded liability of the plan for purposes of subsection (d).

(2) CURRENT FUNDING OF ACCRUALS AND INCREASES.—The amount determined under this paragraph for any plan year is the target normal cost which would occur under section 303(b) of such Act and 430(b) of such Code if—

(A) any benefit accrual, or benefit increase taking effect, during the plan year by reason of this subsection were treated as having been accrued or earned during the plan year, and

(B) the plan were treated as if it were in at-risk status.

(3) FUNDING MUST BE MAINTAINED.—The amount determined under this paragraph for any plan year is the amount of any increase in the shortfall amortization charge which would occur under section 303(c) of such Act and 430(c) of such Code if—

(A) the funding target were determined by only taking into account benefits to which paragraph (2) applied for preceding plan years,

(B) the only assets taken into account were the contributions required under this paragraph and paragraph (2) for preceding plan years (and any earnings thereon),

(C) the amortization period included only the plan year,

(D) the transition rule under section 303(c)(4)(B) of such Act and section 430(c)(4)(B) of such Code did not apply, and

(E) the plan were treated as if it were in at-risk status.

(4) SPECIAL RULES FOR YEARS BEFORE 2007.—Notwithstanding any other provision of this Act, in the case of an applicable plan year of an eligible plan to which this subsection applies which begins before January 1, 2007, in determining the amounts described in paragraphs (2) and (3) for such plan year—

(A) the provisions of, and amendments made by, sections 101, 102, 111, and 112 shall apply to such plan year, except that

(B) the interest rate used under section 303 of such Act and section 430 of such Code for purposes of applying paragraphs (2) and (3) to such plan year shall be the interest rate determined under section 302(b)(5) of such Act and section 412(b)(5) of such Code, as in effect for plan years beginning in 2005.

(5) ELECTION OUT OF SECTION.—An employer maintaining an eligible plan to which this subsection applies may make a one-time election with respect to any applicable plan year not to have this section apply to such plan year and all subsequent plan years. Subject to subsection (d)(2), the minimum required contribution under section 303 of such Act and 430 of such Code for all such plan years shall be determined without regard to this section.

(i) EXCLUSION OF CERTAIN EMPLOYEES FROM MINIMUM COVERAGE REQUIREMENTS.—

(1) IN GENERAL.—Section 410(b)(3) of such Code is amended by striking the last sentence and inserting the following: "For purposes of subparagraph (B), management pilots who are not represented in accordance with title II of the Railway Labor Act shall be treated as covered by a collective bargaining agreement described in such subparagraph if the management pilots manage the flight operations of air pilots who are so represented and the management pilots are, pursuant to the terms of the agreement, included in the group of employees benefitting under the trust described in such subparagraph. Subparagraph (B) shall not apply in the case of a plan which provides contributions or benefits for employees whose principal duties are not customarily performed aboard an aircraft in flight (other than management pilots described in the preceding sentence)."

(2) EFFECTIVE DATE.—The amendment made by this subsection shall apply to years beginning before, on, or after the date of the enactment of this Act.

(j) EFFECTIVE DATE.—Except as otherwise provided in this section, the amendments made by this section shall apply to plan years ending after the date of the enactment of this Act.

SA 2583. Mr. AKAKA (for himself, Mr. SPECTER, Mr. DURBIN, Mr. SALAZAR, Mr. INOUYE, and Mrs. FEINSTEIN) proposed an amendment to the bill S. 1783, to amend the Employee Retirement Income Security Act of 1974 and the Internal Revenue Code of 1986 to reform the pension funding rules, and for other purposes; as follows:

At the end of title IV, add the following:

SEC. 4___. AGE REQUIREMENT FOR EMPLOYERS.

(a) SINGLE-EMPLOYER PLAN BENEFITS GUARANTEED.—Section 4022(b) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322(b)) is amended in the flush matter following paragraph (3), by adding at the end the following: "If, at the time of termination of a plan under this title, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot after attaining any age before age 65, paragraph (3) shall be applied to an individual who is a participant in the plan by reason of such service by substituting such age for age 65.".

(b) MULTIEMPLOYER PLAN BENEFITS GUARANTEED.—Section 4022B(a) of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1322b(a)) is amended by adding at the end the following: "If, at the time of termination of a plan under this title, regulations prescribed by the Federal Aviation Administration require an individual to separate from service as a commercial airline pilot after attaining any age before age 65, this subsection shall be applied to an individual who is a participant in the plan by reason of such service by substituting such age for age 65.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to benefits payable on or after the date of enactment of this Act.

SA 2584. Mr. ISAKSON (for Mr. CRAIG) proposed an amendment to the bill S. 1234, to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the " Veterans' Compensation Cost-of-Living Adjustment Act of 2005".

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) VETERANS' DISABILITY COMPENSATION.—Section 1114 of title 38, United States Code, is amended—

(1) in subsection (a), by striking "$106" and inserting "$112";

(2) in subsection (b), by striking "$205" and inserting "$218";

(3) in subsection (c), by striking "$316" and inserting "$337";

(4) in subsection (d), by striking "$454" and inserting "$485";

(5) in subsection (e), by striking "$646" and inserting "$690";

(6) in subsection (f), by striking "$817" and inserting "$873";

(7) in subsection (g), by striking "$1,029" and inserting "$1,099";

(8) in subsection (h), by striking "$1,195" and inserting "$1,277";

(9) in subsection (i), by striking "$1,344" and inserting "$1,436";

(10) in subsection (j), by striking "$2,239" and inserting "$2,393";

(11) in subsection (k)—

(A) by striking "$82" both places it appears and inserting "$87"; and

(B) by striking "$2,785" and "$3,907" and inserting "$2,977" and "$4,176", respectively;

(12) in subsection (l), by striking "$2,785" and inserting "$2,977";

(13) in subsection (m), by striking "$3,073" and inserting "$3,284";

(14) in subsection (n), by striking "$3,496" and inserting "$3,737";

(15) in subsections (o) and (p), by striking "$3,907" each place it appears and inserting "$4,176";

(16) in subsection (r), by striking "$1,677" and "$2,497" and inserting "$1,792" and "$2,669", respectively; and

(17) in subsection (s), by striking "$2,506" and inserting "$2,678".

(b) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Section 1115(1) of such title is amended—

(1) in subparagraph (A), by striking "$127" and inserting "$135";

(2) in subparagraph (B), by striking "$219" and "$65" and inserting "$233" and "$68", respectively;

(3) in subparagraph (C), by striking "$86" and "$65" and inserting "$91" and "$68", respectively;

(4) in subparagraph (D), by striking "$103" and inserting "$109";

(5) in subparagraph (E), by striking "$241" and inserting "$257"; and

(6) in subparagraph (F), by striking "$202" and inserting "$215".

(c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 of such title is amended by striking "$600" and inserting "$641".

(d) DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.—

(1) NEW LAW DIC.—Section 1311(a) of such title is amended—

(A) in paragraph (1), by striking "$967" and inserting "$1,033"; and

(B) in paragraph (2), by striking "$208" and inserting "$221".

(2) OLD LAW DIC.—The table in paragraph (3) of such section is amended to read as follows:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$1,033	W-4	$1,236
E-2	$1,033	O-1	$1,092
E-3	$1,033	O-2	$1,128
E-4	$1,033	O-3	$1,207
E-5	$1,033	O-4	$1,277
E-6	$1,033	O-5	$1,406
E-7	$1,069	O-6	$1,585
E-8	$1,128	O-7	$1,712
E-9	$1,177[1]	O-8	$1,879
W-1	$1,092	O-9	$2,010
W-2	$1,135	O-10	$2,204[2]
W-3	$1,169		

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,271.

[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,365.".

(3) ADDITIONAL DIC FOR CHILDREN OR DISABILITY.—Section 1311 of such title is amended—

(A) in subsection (b), by striking "$241" and inserting "$257";

(B) in subsection (c), by striking "$241" and inserting "$257"; and

(C) in subsection (d), by striking "$115" and inserting "$122".

(e) DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.—

(1) DIC WHEN NO SURVIVING SPOUSE.—Section 1313(a) of such title is amended—

(A) in paragraph (1), by striking "$410" and inserting "$438";

(B) in paragraph (2), by striking "$590" and inserting "$629";

(C) in paragraph (3), by striking "$767" and inserting "$819"; and

(D) in paragraph (4), by striking "$767" and "$148" and inserting "$819" and "$157", respectively.

(2) SUPPLEMENTAL DIC FOR CERTAIN CHILDREN.—Section 1314 of such title is amended—

(A) in subsection (a), by striking "$241" and inserting "$257";

(B) in subsection (b), by striking "$410" and inserting "$438"; and

(C) in subsection (c), by striking "$205" and inserting "$218".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 1, 2005.

(g) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

SA 2585. Mr. ISAKSON (for Mr. DODD (for himself and Mr. MCCONNELL)) proposed an amendment to the concurrent resolution S. Con. Res. 62, directing the Joint Committee on the Library to procure a statue of Rosa Parks for placement in the Capitol; as follows:

On page 1, line 7, at the end add the following:

"The Joint Committee on the Library shall consider all locations in the Capitol, including Statuary Hall, the Rotunda, and the Capitol Visitor Center."

SA 2586. Mr. SMITH (for himself, Mrs. LINCOLN, Mr. PRYOR, Mr. BUNNING, Mr. BURR, Mr. CHAMBLISS, Mrs. DOLE, Mrs. MURRAY, and Ms. CANTWELL) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. ___. DEDUCTION FOR QUALIFIED TIMBER GAIN.

(a) IN GENERAL.—Part I of subchapter P of chapter 1 is amended by adding at the end the following new section:

"SEC. 1203. DEDUCTION FOR QUALIFIED TIMBER GAIN.

"(a) IN GENERAL.—In the case of a taxpayer which elects the application of this section for a taxable year, there shall be allowed a deduction against gross income equal to 60 percent of the lesser of—

"(1) the taxpayer's qualified timber gain for such year, or

"(2) the taxpayer's net capital gain for such year.

"(b) QUALIFIED TIMBER GAIN.—For purposes of this section, the term 'qualified timber gain' means, with respect to any taxpayer for any taxable year, the excess (if any) of—

"(1) the sum of the taxpayer's gains described in subsections (a) and (b) of section 631 for such year, over

"(2) the sum of the taxpayer's losses described in such subsections for such year.

"(c) SPECIAL RULES FOR PASS-THRU ENTITIES.—In the case of any qualified timber gain of a pass-thru entity (as defined in section 1(h)(10)), the election under this section shall be made separately by each taxpayer subject to tax on such gain.".

(b) COORDINATION WITH MAXIMUM CAPITAL GAINS RATES.—

(1) TAXPAYERS OTHER THAN CORPORATIONS.—Paragraph (2) of section 1(h) is amended to read as follows:

"(2) REDUCTION OF NET CAPITAL GAIN.—For purposes of this subsection, the net capital gain for any taxable year shall be reduced (but not below zero) by the sum of—

"(A) the amount which the taxpayer takes into account as investment income under section 163(d)(4)(B)(iii), and

"(B) the lesser of—

"(i) the amount described in paragraph (1) of section 1203(a), or

"(ii) the amount described in paragraph (2) of such section.".

(2) CORPORATIONS.—Section 1201 is amended by redesignating subsection (b) as subsection (c) and inserting after subsection (a) the following new subsection:

"(b) QUALIFIED TIMBER GAIN NOT TAKEN INTO ACCOUNT.—For purposes of this section, in the case of a corporation with respect to which an election is in effect under section 1203, the net capital gain for any taxable year shall be reduced (but not below zero) by the corporation's qualified timber gain (as defined in section 1203(b)).".

(c) DEDUCTION ALLOWED WHETHER OR NOT INDIVIDUAL ITEMIZES OTHER DEDUCTIONS.—Subsection (a) of section 62 is amended by inserting before the last sentence the following new paragraph:

"(21) QUALIFIED TIMBER GAINS.—The deduction allowed by section 1203.".

(d) DEDUCTION ALLOWED IN COMPUTING ADJUSTED CURRENT EARNINGS.—Subparagraph (C) of section 56(g)(4) is amended by adding at the end the following new clause:

"(vii) DEDUCTION FOR QUALIFIED TIMBER GAIN.—Clause (i) shall not apply to any deduction allowed under section 1203.".

(e) DEDUCTION ALLOWED IN COMPUTING TAXABLE INCOME OF ELECTING SMALL BUSINESS TRUSTS.—Subparagraph (C) of section 641(c)(2) is amended by inserting after clause (iii) the following new clause:

"(iv) The deduction allowed under section 1203.".

(f) CONFORMING AMENDMENTS.—

(1) Subparagraph (B) of section 172(d)(2) is amended to read as follows:

"(B) the exclusion under section 1202 and the deduction under section 1203 shall not be allowed.".

(2) Paragraph (4) of section 642(c) is amended by striking the first sentence and inserting the following: "To the extent that the amount otherwise allowable as a deduction under this subsection consists of gain described in section 1202(a) or qualified timber gain (as defined in section 1203(b)), proper adjustment shall be made for any exclusion allowable to the estate or trust under section 1202 and for any deduction allowable to the estate or trust under section 1203."

(3) Paragraph (3) of section 643(a) is amended by striking the last sentence and inserting the following: "The exclusion under section 1202 and the deduction under section 1203 shall not be taken into account."

(4) Subparagraph (C) of section 643(a)(6) is amended to read as follows:

"(C) Paragraph (3) shall not apply to a foreign trust. In the case of such a trust—

"(i) there shall be included gains from the sale or exchange of capital assets, reduced by losses from such sales or exchanges to the extent such losses do not exceed gains from such sales or exchanges, and

"(ii) the deduction under section 1203 shall not be taken into account.".

(5) Paragraph (4) of section 691(c) is amended by inserting "1203," after "1202,".

(6) Paragraph (2) of section 871(a) is amended by inserting "and 1203" after "section 1202".

(7) The table of sections for part I of subchapter P of chapter 1 is amended by adding at the end the following new item:

"Sec. 1203. Deduction for qualified timber gain.".

(g) Effective Date.—

(1) In general.—The amendments made by this section shall apply to taxable years ending after December 31, 2005, and before January 1, 2007.

(2) Taxable years which include date of enactment.—In the case of any taxable year which includes the date of the enactment of this Act, for purposes of the Internal Revenue Code of 1986, the taxpayer's qualified timber gain shall not exceed the excess that would be described in section 1203(b) of such Code, as added by this section, if only dispositions of timber after such date were taken into account.

SA 2587. Mr. DORGAN (for himself, Mr. Dodd, Mrs. Boxer, Mr. Reed, Mr. Lieberman, and Mr. Kohl) proposed an amendment to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; as follows:

At the end of title IV, add the following:

SEC. . WINDFALL PROFITS TAX; ENERGY CONSUMER REBATE.

(a) Windfall Profits Tax.—

(1) In general.—Subtitle E (relating to alcohol, tobacco, and certain other excise taxes) is amended by adding at the end thereof the following new chapter:

"CHAPTER 56—WINDFALL PROFITS ON CRUDE OIL

"Sec. 5896. Imposition of tax.
"Sec. 5897. Windfall profit; removal price; adjusted base price; qualified investment.
"Sec. 5898. Special rules and definitions.

"SEC. 5896. IMPOSITION OF TAX.

"(a) In General.—In addition to any other tax imposed under this title, there is hereby imposed on any integrated oil company (as defined in section 291(b)(4)) an excise tax equal to the excess of—

"(1) the amount equal to 50 percent of the windfall profit from all barrels of taxable crude oil removed from the property during each taxable year, over

"(2) the amount of qualified investment by such company during such taxable year.

"(b) Fractional Part of Barrel.—In the case of a fraction of a barrel, the tax imposed by subsection (a) shall be the same fraction of the amount of such tax imposed on the whole barrel.

"(c) Tax Paid by Producer.—The tax imposed by this section shall be paid by the producer of the taxable crude oil.

"SEC. 5897. WINDFALL PROFIT; REMOVAL PRICE; ADJUSTED BASE PRICE; QUALIFIED INVESTMENT.

"(a) General Rule.—For purposes of this chapter, the term 'windfall profit' means the excess of the removal price of the barrel of taxable crude oil over the adjusted base price of such barrel.

"(b) Removal Price.—For purposes of this chapter—

"(1) In general.—Except as otherwise provided in this subsection, the term 'removal price' means the amount for which the barrel of taxable crude oil is sold.

"(2) Sales between related persons.—In the case of a sale between related persons, the removal price shall not be less than the constructive sales price for purposes of determining gross income from the property under section 613.

"(3) Oil removed from property before sale.—If crude oil is removed from the property before it is sold, the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

"(4) Refining begun on property.—If the manufacture or conversion of crude oil into refined products begins before such oil is removed from the property—

"(A) such oil shall be treated as removed on the day such manufacture or conversion begins, and

"(B) the removal price shall be the constructive sales price for purposes of determining gross income from the property under section 613.

"(5) Property.—The term 'property' has the meaning given such term by section 614.

"(c) Adjusted Base Price Defined.—

"(1) In general.—For purposes of this chapter, the term 'adjusted base price' means $40 for each barrel of taxable crude oil plus an amount equal to—

"(A) such base price, multiplied by

"(B) the inflation adjustment for the calendar year in which the taxable crude oil is removed from the property.

The amount determined under the preceding sentence shall be rounded to the nearest cent.

"(2) Inflation adjustment.—

"(A) In general.—For purposes of paragraph (1), the inflation adjustment for any calendar year after 2006 is the percentage by which—

"(i) the implicit price deflator for the gross national product for the preceding calendar year, exceeds

"(ii) such deflator for the calendar year ending December 31, 2005.

"(B) First revision of price deflator used.—For purposes of subparagraph (A), the first revision of the price deflator shall be used.

"(d) Qualified Investment.—For purposes of this chapter—

"(1) In general.—The term 'qualified investment' means any amount paid or incurred with respect to—

"(A) section 263(c) costs,

"(B) qualified refinery property (as defined in section 179C(c) and determined without regard to any termination date),

"(C) any qualified facility described in paragraph (1), (2), (3), or (4) of section 45(d) (determined without regard to any placed in service date),

"(D) any facility for the production of alcohol used as a fuel (within the meaning of section 40) or biodiesel or agri-biodiesel used as a fuel (within the meaning of section 40A).

"(2) Section 263(c) costs.—For purposes of this subsection, the term 'section 263(c) costs' means intangible drilling and development costs incurred by the taxpayer which (by reason of an election under section 263(c)) may be deducted as expenses for purposes of this title (other than this paragraph). Such term shall not include costs incurred in drilling a nonproductive well.

"SEC. 5898. SPECIAL RULES AND DEFINITIONS.

"(a) Withholding and Deposit of Tax.—The Secretary shall provide such rules as are necessary for the withholding and deposit of the tax imposed under section 5896 on any taxable crude oil.

"(b) Records and Information.—Each taxpayer liable for tax under section 5896 shall keep such records, make such returns, and furnish such information (to the Secretary and to other persons having an interest in the taxable crude oil) with respect to such oil as the Secretary may by regulations prescribe.

"(c) Return of Windfall Profit Tax.—The Secretary shall provide for the filing and the time of such filing of the return of the tax imposed under section 5896.

"(d) Definitions.—For purposes of this chapter—

"(1) Producer.—The term 'producer' means the holder of the economic interest with respect to the crude oil.

"(2) Crude oil.—

"(A) In general.—The term 'crude oil' includes crude oil condensates and natural gasoline.

"(B) Exclusion of newly discovered oil.—Such term shall not include any oil produced from a well drilled after the date of the enactment of the Windfall Profits Rebate Act of 2005, except with respect to any oil produced from a well drilled after such date on any proven oil or gas property (within the meaning of section 613A(c)(9)(A)).

"(3) Barrel.—The term 'barrel' means 42 United States gallons.

"(e) Adjustment of Removal Price.—In determining the removal price of oil from a property in the case of any transaction, the Secretary may adjust the removal price to reflect clearly the fair market value of oil removed.

"(f) Regulations.—The Secretary shall prescribe such regulations as may be necessary or appropriate to carry out the purposes of this chapter.

"(g) Termination.—This section shall not apply to taxable crude oil removed after the date which is 3 years after the date of the enactment of this section.".

(2) Clerical amendment.—The table of chapters for subtitle E is amended by adding at the end the following new item:

"Chapter 56. Windfall Profit on Crude Oil.".

(3) Deductibility of windfall profit tax.—The first sentence of section 164(a) (relating to deduction for taxes) is amended by inserting after paragraph (5) the following new paragraph:

"(6) The windfall profit tax imposed by section 5896.".

(4) Effective date.—

(A) In general.—The amendments made by this subsection shall apply to crude oil removed after the date of the enactment of this Act, in taxable years ending after such date.

(B) Transitional rules.—For the period ending December 31, 2005, the Secretary of the Treasury or the Secretary's delegate shall prescribe rules relating to the administration of chapter 56 of the Internal Revenue Code of 1986. To the extent provided in such rules, such rules shall supplement or supplant for such period the administrative provisions contained in chapter 56 of such Code (or in so much of subtitle F of such Code as relates to such chapter 56).

(b) Energy Consumer Rebate.—

(1) In general.—Subchapter B of chapter 65 (relating to rules of special application in the case of abatements, credits, and refunds) is amended by adding at the end the following new section:

"SEC. 6430. ENERGY CONSUMER REBATE.

"(a) General Rule.—Except as otherwise provided in this section, each individual shall be treated as having made a payment against the tax imposed by chapter 1 for each taxable year beginning after December 31, 2005, in an amount equal to the lesser of—

"(1) the amount of the taxpayer's liability for tax for such taxpayer's preceding taxable year, or

"(2) the applicable amount.

"(b) Liability for Tax.—For purposes of this section, the liability for tax for any taxable year shall be the excess (if any) of—

"(1) the sum of—

"(A) the taxpayer's regular tax liability (within the meaning of section 26(b)) for the taxable year,

"(B) the tax imposed by section 55(a) with respect to such taxpayer for the taxable year, and

"(C) the taxpayer's social security taxes (within the meaning of section 24(d)(2)) for the taxable year, over

"(2) the sum of the credits allowable under part IV of subchapter A of chapter 1 (other than the credits allowable under subpart C thereof, relating to refundable credits) for the taxable year.

"(c) Applicable Amount.—For purposes of this section, the applicable amount for any taxpayer shall be determined by the Secretary not later than the date specified in subsection (d)(1) taking into account the number of such taxpayers and the amount of revenues in the Treasury resulting from the tax imposed by section 5896 for the calendar year preceding the taxable year.

"(d) Date Payment Deemed Made.—

"(1) In general.—The payment provided by this section shall be deemed made on February 1 of the calendar year ending with or within the taxable year.

"(2) Remittance of payment.—The Secretary shall remit to each taxpayer the payment described in paragraph (1) not later that the date which is 30 days after the date specified in paragraph (1).

"(e) Certain Persons Not Eligible.—This section shall not apply to—

"(1) any individual with respect to whom a deduction under section 151 is allowable to another taxpayer for a taxable year beginning in the calendar year in which such individual's taxable year begins,

"(2) any estate or trust, or

"(3) any nonresident alien individual.".

(2) Conforming amendment.—Section 1324(b)(2) of title 31, United States Code, is amended by inserting before the period ", or enacted by the Windfall Profits Rebate Act of 2005".

(3) Clerical amendment.—The table of sections for subchapter B of chapter 65 is amended by adding at the end the following new item:

"Sec. 6430. Energy consumer rebate.".

(4) Effective date.—The amendments made by this subsection shall take effect on the date of the enactment of this Act.

SA 2588. Mr. KENNEDY (for himself, Ms. Landrieu, Mr. Durbin, and Mr. Johnson) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

TITLE ___—ELIMINATING CHILD POVERTY

SEC. ___1. SHORT TITLE.

This title may be cited as the "End Child Poverty Act".

SEC. ___2. FINDINGS.

Congress makes the following findings:

(1) More than 13,000,000 children in the United States who are younger than 18 live below the poverty line.

(2) Most parents of poor children are playing by the rules by working to support their families. Despite their efforts, many of these parents still cannot help their children get ahead. Seven out of 10 poor children live in a working family and 1 poor child in 3 lives with a full-time year-around worker.

(3) Poor children are at least twice as likely as non-poor children to suffer stunted growth or lead poisoning, or to be kept back in school. Poor children score significantly lower on reading, mathematics, and vocabulary tests when compared with otherwise similar non-poor children. In more than half of poor households with children in the United States, the members of the households experience serious deprivations during the year, including lack of adequate food, utility shutoffs, crowded or substandard housing, or lack of needed medical care.

(4) Over 8,000,000 children under age 18 in the United States lack health insurance. With a 2004 uninsured rate of 18.9 percent, poor children are more likely to be uninsured than children generally.

(5)(A) The members of 1 in 6 households with children in the United States are hungry or on the verge of hunger, largely due to inadequate household income.

(B) Hungry children—

(i) tend to lack nutrients vital to healthy brain development;

(ii) tend to have difficulty focusing their attention and concentrating in school; and

(iii) often have greater emotional and behavioral problems, have weaker immune systems, and are more susceptible to infections, including anemia, than other children.

(6) Child poverty has risen significantly, by 1,440,000 since 2000.

(7) The poverty rate for children in the United States is substantially higher than that in most other wealthy industrialized nations.

(8) Children in the United States are more likely to live in poverty than any other age group in the United States.

(9) African-American and Latino children are much more likely to live in poverty than White children. One third of African-American children are low-income, as are nearly a third of Latino children.

(10) Great Britain made a public commitment to cut child poverty in half in 10 years, and end child poverty by 2020, and it has already successfully lifted 2,000,000 children out of poverty.

(11) Poverty is a moral issue and Congress has a moral obligation to address it.

SEC. ___3. PURPOSES.

The purposes of this title are—

(1) to set a national goal of cutting child poverty in half within a decade, and eliminating child poverty entirely as soon as possible; and

(2) to establish a Child Poverty Elimination Trust Fund as an initial measure to fund Federal programs to achieve that goal.

SEC. ___4. DEVELOPMENT OF PLAN BY CHILD POVERTY ELIMINATION BOARD.

(a) In General.—There is established a board to be known as the Child Poverty Elimination Board (referred to in this title as the "Board").

(b) Composition.—

(1) Appointments.—The Board shall be composed of 12 voting members, to be appointed not later than 60 days after the date of enactment of this Act, as follows:

(A) Senators.—One Senator shall be appointed by the majority leader of the Senate, and one Senator shall be appointed by the minority leader of the Senate.

(B) Members of the House of Representatives.—One Member of the House of Representatives shall be appointed by the Speaker of the House of Representatives, and one Member of the House of Representatives shall be appointed by the minority leader of the House of Representatives.

(C) Additional members.—

(i) Appointment.—Two members each shall be appointed by—

(I) the Speaker of the House of Representatives;

(II) the majority leader of the Senate;

(III) the minority leader of the House of Representatives; and

(IV) the minority leader of the Senate.

(ii) Expertise.—Members appointed under this subparagraph shall be appointed on the basis of demonstrated expertise in child poverty issues.

(2) Period of appointment; vacancies.—Members shall be appointed for the life of the Board. Any vacancy on the Board shall be filled in the manner in which the original appointment was made. The vacancy shall not affect the power of the remaining members to execute the duties of the Board.

(3) Chairperson and vice chairman.—The Board shall elect a chairperson and a vice chairperson from among the members of the Board.

(4) Meetings.—The Board shall first meet not later than 30 days after the date on which all members are appointed, and the Board shall meet thereafter at the call of the chairperson or vice chairperson or a majority of the members.

(c) Plan and Report.—

(1) Plan.—The Board shall meet regularly to develop a plan for cutting child poverty in half within a decade, and eliminating child poverty entirely as soon as possible. The plan shall include recommendations for allocations of funds from the Child Poverty Elimination Trust Fund established in section 9511 of the Internal Revenue Code of 1986, to carry out the plan.

(2) Report.—Not later than 1 year after the date of enactment of this Act, the Board shall prepare and submit a report containing the plan to the Committee on Education and the Workforce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the President.

(d) Powers.—

(1) Hearings and sessions.—The Board may hold such hearings, sit and act at such times and places, take such testimony, and receive such evidence as the Board considers appropriate. The Board may administer oaths or affirmations to witnesses appearing before it.

(2) Access to information.—The Board may secure directly from any Federal agency information necessary to enable the

Board to carry out this title, if the information may be disclosed under section 552 of title 5, United States Code. Subject to the previous sentence, on the request of the chairperson or vice chairperson of the Board, the head of such agency shall furnish such information to the Board.

(3) Use of Facilities and Services.—Upon the request of the Board, the head of any Federal agency may make available to the Board any of the facilities and services of such agency.

(4) Personnel from Other Agencies.—On the request of the Board, the head of any Federal agency may detail any of the personnel of such agency to serve as an Executive Director of the Board or assist the Board in carrying out the duties of the Board. Any detail shall not interrupt or otherwise affect the civil service status or privileges of the Federal employee.

(5) Voluntary Service.—Notwithstanding section 1342 of title 31, United States Code, the chairperson of the Board may accept for the Board voluntary services provided by a member of the Board.

(e) Compensation.—

(1) Pay.—Members of the Board shall serve without compensation.

(2) Travel Expenses.—Members of the Board shall be allowed reasonable travel expenses, including a per diem allowance, in accordance with section 5703 of title 5, United States Code, when performing duties of the Board.

SEC. ____ 5. ISSUANCE AND IMPLEMENTATION OF PLAN.

(a) Issuance.—Not later than 90 days after receiving the report containing the plan developed by the Board under section ____ 4(c), the President shall review the report, and shall issue a plan for cutting child poverty in half within a decade, and eliminating child poverty entirely as soon as possible. The plan shall include specifications and allocations of funds to be made from the Child Poverty Elimination Trust Fund, to carry out the plan.

(b) Relationship to Board Plan.—The plan issued under subsection (a) shall be the same as the plan developed by the Board under section ____ 4(c) except insofar as the President may determine, for good cause shown and stated together with the plan issued under subsection (a), that a modification of the Board's plan would be more effective for eliminating child poverty.

(c) Implementation.—Not later than 90 days after issuing a plan under subsection (a), the President shall ensure the implementation of the plan issued under subsection (a), and shall work with Congress to ensure funding for the implementation of the plan.

SEC. ____ 6. IMPOSITION OF INDIVIDUAL INCOME TAX SURCHARGE TO FUND CHILD POVERTY ELIMINATION FUND.

(a) In General.—Section 1 of the Internal Revenue Code of 1986 (relating to imposition of tax on individuals) is amended by adding at the end the following new subsection:

"(j) Additional Income Tax.—

"(1) In general.—If the adjusted gross income of an individual exceeds the threshold amount, the tax imposed by this section (determined without regard to this subsection) shall be increased by an amount equal to 1 percent of so much of the adjusted gross income as exceeds the threshold amount.

"(2) Threshold amounts.—For purposes of this subsection, the term 'threshold amount' means—

"(A) $1,000,000 in the case of a joint return, and

"(B) $500,000 in the case of any other return.

"(3) Tax not to apply to estates and trusts.—This subsection shall not apply to an estate or trust.".

(b) Coordination With Minimum Tax.—Section 55(c) of the Internal Revenue Code of 1986 (defining regular tax) is amended by redesignating paragraph (3) as paragraph (4) and by inserting after paragraph (2) the following new paragraph:

"(3) Coordination with minimum tax.—Solely for purposes of this section, section 1(j) shall not apply in computing the regular tax.".

(c) Establishment of Child Poverty Elimination Fund.—

(1) In general.—Subchapter A of chapter 98 of the Internal Revenue Code of 1986 (relating to trust fund code) is amended by adding at the end the following:

"SEC. 9511. CHILD POVERTY ELIMINATION TRUST FUND.

"(a) Creation of Trust Fund.—There is established in the Treasury of the United States a trust fund to be known as the 'Child Poverty Elimination Trust Fund' (referred to in this section as the 'Trust Fund'), consisting of such amounts as may be appropriated or credited to the Trust Fund as provided in this section or section 9602(b).

"(b) Transfers to Trust Fund.—There is hereby appropriated to the Trust Fund an amount equivalent to the increase in revenues received in the Treasury as the result of the surtax imposed under section 1(j).

"(c) Distribution of Amounts in Trust Fund.—Amounts in the Trust Fund shall be available, as provided by appropriation Acts, to make expenditures in connection with Federal programs designed to carry out the plan issued by the President under section 5 of the End Child Poverty Act, to eliminate child poverty.".

(2) Conforming amendment.—The table of sections for subchapter A of chapter 98 of such Code is amended by adding at the end the following:

"Sec. 9511. Child Poverty Elimination Trust Fund.".

(d) Effective Date.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

(e) Section 15 Not To Apply.—The amendment made by subsection (a) shall not be treated as a change in a rate of tax for purposes of section 15 of the Internal Revenue Code of 1986.

SA 2589. Mr. MARTINEZ submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

On page 16, line 23, strike "or Mississippi" and insert "Mississippi, Florida, or Texas"

SA 2590. Mr. KOHL (for himself and Mr. HARKIN) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. TAX-EXEMPT INTEREST ON FEDERALLY GUARANTEED WATER, WASTEWATER, AND FEDERALLY GUARANTEED ESSENTIAL COMMUNITY FACILITIES LOANS.

(a) In General.—Section 149(b)(3)(A) (relating to certain insurance programs) is amended by striking "or" at the end of clause (ii), by striking period at the end of clause (iii) and inserting ", or", and by adding at the end the following new clause:

"(iv) any guarantee by the Secretary of Agriculture pursuant to section 306(a)(1) of the Consolidated Farm and Rural Development Act (7 U.S.C. 1926(a)(1)) to finance water, wastewater, and essential community facilities.".

(b) Effective Date.—The amendments made by this section shall apply to bonds issued after the date of the enactment of this Act.

SA 2591. Mr. McCONNELL (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to the bill S. 1238, to amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, and for other purposes; as follows:

On page 8, line 15, strike "$15,000,000" and insert "$12,000,000".

On page 8, line 16, strike "$10,000,000" and insert "$8,000,000".

On page 8, line 17, after "projects" insert the following: "and $4,000,000 of which is authorized to carry out other appropriate conservation projects".

SA 2592. Mr. McCONNELL (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to the bill S. 485, to reauthorize and amend the National Geologic Mapping Act of 1992; as follows:

On page 7, line 11, strike "2010" and insert "2015".

SA 2593. Mr. McCONNELL (for Mr. DOMENICI (for himself and Mr. BINGAMAN)) proposed an amendment to the bill S. 1170, an act to establish the Fort Stanton-Snowy River Cave National Conservation Area; as follows:

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fort Stanton-Snowy River Cave National Conservation Area Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) Conservation area.—The term "Conservation Area" means the Fort Stanton-Snowy River Cave National Conservation Area established by section 3(a).

(2) Management plan.—The term "management plan" means the management plan developed for the Conservation Area under section 4(c).

(3) Secretary.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 3. ESTABLISHMENT OF FORT STANTON-SNOWY RIVER CAVE NATIONAL CONSERVATION AREA.

(a) Establishment; Purposes.—There is established the Fort Stanton-Snowy River Cave National Conservation Area in Lincoln County, New Mexico, to protect, conserve, and enhance the unique and nationally important historic, cultural, scientific, archaeological, natural, and educational subterranean cave resources of the Fort Stanton-Snowy River cave system.

(b) AREA INCLUDED.—The Conservation Area shall include the area within the boundaries depicted on the map entitled "Fort Stanton-Snowy River Cave National Conservation Area" and dated November 2005.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to Congress a map and legal description of the Conservation Area.

(2) EFFECT.—The map and legal description of the Conservation Area shall have the same force and effect as if included in this Act, except that the Secretary may correct any minor errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description of the Conservation Area shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 4. MANAGEMENT OF THE CONSERVATION AREA.

(a) MANAGEMENT.—

(1) IN GENERAL.—The Secretary shall manage the Conservation Area—

(A) in a manner that conserves, protects, and enhances the resources and values of the Conservation Area, including the resources and values described in section 3(a); and

(B) in accordance with—

(i) this Act;

(ii) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(iii) any other applicable laws.

(2) USES.—The Secretary shall only allow uses of the Conservation Area that are consistent with the protection of the cave resources.

(3) REQUIREMENTS.—In administering the Conservation Area, the Secretary shall provide for—

(A) the conservation and protection of the natural and unique features and environs for scientific, educational, and other appropriate public uses of the Conservation Area;

(B) public access, as appropriate, while providing for the protection of the cave resources and for public safety;

(C) the continuation of other existing uses or other new uses of the Conservation Area that do not impair the purposes for which the Conservation Area is established;

(D) management of the surface area of the Conservation Area in accordance with the Fort Stanton Area of Critical Environmental Concern Final Activity Plan dated March, 2001, or any amendments to the plan, consistent with this Act; and

(E) scientific investigation and research opportunities within the Conservation Area, including through partnerships with colleges, universities, schools, scientific institutions, researchers, and scientists to conduct research and provide educational and interpretive services within the Conservation Area.

(b) WITHDRAWALS.—Subject to valid existing rights, all Federal surface and subsurface land within the Conservation Area and all land and interests in the land that are acquired by the United States after the date of enactment of this Act for inclusion in the Conservation Area, are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the general land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation under the mineral leasing and geothermal leasing laws.

(c) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop a comprehensive plan for the long-term management of the Conservation Area.

(2) PURPOSES.—The management plan shall—

(A) describe the appropriate uses and management of the Conservation Area;

(B) incorporate, as appropriate, decisions contained in any other management or activity plan for the land within or adjacent to the Conservation Area;

(C) take into consideration any information developed in studies of the land and resources within or adjacent to the Conservation Area; and

(D) provide for a cooperative agreement with Lincoln County, New Mexico, to address the historical involvement of the local community in the interpretation and protection of the resources of the Conservation Area.

(d) ACTIVITIES OUTSIDE CONSERVATION AREA.—The establishment of the Conservation Area shall not—

(1) create a protective perimeter or buffer zone around the Conservation Area; or

(2) preclude uses or activities outside the Conservation Area that are permitted under other applicable laws, even if the uses or activities are prohibited within the Conservation Area.

(e) RESEARCH AND INTERPRETIVE FACILITIES.—

(1) IN GENERAL.—The Secretary may establish facilities for—

(A) the conduct of scientific research; and

(B) the interpretation of the historical, cultural, scientific, archaeological, natural, and educational resources of the Conservation Area.

(2) COOPERATIVE AGREEMENTS.—The Secretary may, in a manner consistent with this Act, enter into cooperative agreements with the State of New Mexico and other institutions and organizations to carry out the purposes of this Act.

(f) WATER RIGHTS.—Nothing in this Act constitutes an express or implied reservation of any water right.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

SA 2594. Mr. MCCONNELL (for Mr. DOMENICI) proposed an amendment to the bill S. 1170, An act to establish the Fort Stanton-Snowy River Cave National Conservation Area; as follows:

Amend the title so as to read: "To establish the Fort Stanton-Snowy River Cave National Conservation Area".

SA 2595. Mr. SCHUMER (for himself, Mrs. CLINTON, Mr. SMITH, and Mr. WYDEN) submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the end of title IV, add the following:

SEC. ___. ALLOWANCE OF SPECIAL DEDUCTION FOR CERTAIN NOT-FOR-PROFIT HEALTH INSURANCE OR HEALTH SERVICE TYPE ORGANIZATIONS FOR PURPOSES OF DETERMINING AMT.

(a) IN GENERAL.—Paragraph (3) of section 56(c) (relating to adjustments applicable to organizations) is amended—

(1) by striking "The deduction" and inserting the following:

"(A) IN GENERAL.—Except as provided in subparagraph (B), the deduction"; and

(2) by adding at the end the following:

"(B) EXCEPTION FOR CERTAIN NOT-FOR PROFIT HEALTH INSURANCE OR HEALTH SERVICE TYPE ORGANIZATIONS.—Subparagraph (A) shall not apply to an organization described in subparagraph (B) of section 833(c)(4).".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years beginning after December 31, 2005.

SA 2596. Mr. DURBIN proposed an amendment to the bill S. 2020,to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

At the appropriate place, insert the following:

SEC. ___. SENSE OF THE SENATE CONCERNING HEALTH CARE FOR CHILDREN BEFORE TAX CUTS FOR THE WEALTHY.

(a) FINDINGS.—The Senate makes the following findings:

(1) There are more than 9,000,000 children in the United States with no health insurance coverage.

(2) Sixty-seven percent of uninsured children live in families with at least one full-time worker.

(3) According to the Center for Studying Health System Change, uninsured children, when compared to privately insured children, are—

(A) 3.5 times more likely to have gone without needed medical, dental, or other health care;

(B) 4 times more likely to have delayed seeking medical care;

(C) 5 times more likely to go without needed prescription drugs; and

(D) 6.5 times less likely to have a usual source of care.

(4) More than half of these children are eligible for coverage under either the State Children's Health Insurance Program (SCHIP) or Medicaid, but are not enrolled in those safety net programs.

(5) Most States, struggling with budget deficits, have curtailed outreach efforts.

(6) A focus on simple and convenient enrollment and renewal systems, as well as proactive outreach and educational efforts, could help reach these children and reduce the number of uninsured American children.

(7) Some States, seeing that the Federal Government is not providing assistance to middle class families who can't afford health insurance, are trying to extend coverage to some or all children.

(8) State efforts to cover all children will not be successful without financial assistance from the Federal Government.

(b) SENSE OF THE SENATE.—It is the sense of the Senate that—

(1) the Senate should not vote to extend the capital gains and dividend tax cuts, a majority of the benefits of which go to households with incomes over $1,000,000, until Congress has taken steps to ensure that all children in America have access to affordable, quality health insurance;

(2) the Senate should vote instead to use the funds generated by the expiration of the capital gains and dividend tax cuts to further the goal of ensuring that children have access to health insurance coverage by—

(A) awarding grants to States, faith-based organizations, safety net providers, schools, and other community and non-profit organizations to facilitate the enrollment of the 6,800,000 children who are currently eligible for enrollment in the State Children's Health Insurance Program but who are not enrolled;

(B) paying to each State with an approved State Children's Health Insurance Program or Medicaid plan, an amount equal to 90 percent of the sums expended for the design, development, implementation, and evaluation of enrollment systems determined likely to provide more efficient and effective administration of the plan's enrollment and retention of eligible children; and

(C) establishing a grant program under which a State may apply under section 1115 of the Social Security Act to provide medical assistance under the State Children's Health Insurance Program to all children in their State.

SA 2597. Mr. LAUTENBERG submitted an amendment intended to be proposed by him to the bill S. 2020, to provide for reconciliation pursuant to section 202(b) of the concurrent resolution on the budget for fiscal year 2006; which was ordered to lie on the table; as follows:

In section 1(a), strike "Tax Relief Act of 2005" and insert "More Debt for Our Grandchildren Act of 2005".

AUTHORITIES FOR COMMITTEES TO MEET

COMMITTEE ON BANKING, HOUSING, AND URBAN AFFAIRS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Banking, Housing, and Urban Affairs be authorized to meet during the session of the Senate on Wednesday, November 16, 2005, at 10:30 a.m. to mark up S. 467, "Terrorism Risk Insurance Extension Act of 2005," and an original bill entitled "Public Transportation Terrorism Prevention Act of 2005".

The PRESIDING OFFICER. Without obligation, it is so ordered.

COMMITTEE ON COMMERCE, SCIENCE AND TRANSPORTATION

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Commerce, Science, and Transportation be authorized to meet on Wednesday, November 16, 2005, at 10 a.m., on the Magnuson-Stevens Fishery Conservation Reauthorization.

The PRESIDING OFFICER. Without obligation, it is so ordered.

COMMITTEE ON ENERGY AND NATURAL RESOURCES

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Energy and Natural Resources be authorized to meet during the session of the Senate on Wednesday, November 16 at 11:30 a.m. The purpose of this meeting is to consider pending calendar business.

Agenda Item 1: To consider the nomination of Jeffrey D. Jarrett to be Assistant Secretary for Fossil Energy, Department of Energy.

Agenda Item 2: To consider the nomination of Edward F. Sproat III to be Director, Office of Civilian Radioactive Waste Management, Department of Energy.

In addition, the Committee will consider noncontroversial items that have been agreed to on both sides.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON ENVIRONMENT AND PUBLIC WORKS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Environment and Public Works be authorized to hold an oversight hearing to examine transportation fuels of the future on November 16, 2005 at 9:30 a.m.

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON FOREIGN RELATIONS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Foreign Relations be authorized to meet during the session of the Senate on Wednesday, November 16, 2005, at 9:30 a.m. to hold a hearing on "The High Costs of Crude: The New Currency of Foreign Policy."

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON HOMELAND SECURITY AND GOVERNMENTAL AFFAIRS

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on Homeland Security and Governmental Affairs be authorized to meet on Wednesday, November 16, 2005, at 10 a.m. for a hearing titled, "Hurricane Katrina: What Can Government Learn from the Private Sector's Response?".

The PRESIDING OFFICER. Without objection, it is so ordered.

COMMITTEE ON THE JUDICIARY

Mr. ENZI. Mr. President, I ask unanimous consent that the Committee on the Judiciary be authorized to meet to conduct a hearing on "Habeas Reform: The Streamlined Procedures Act" on Wednesday, November 16, 2005 at 9:30 a.m. in the Dirksen Senate Office Building Room 226.

Witness List

Panel I: Ronald Eisenberg, Esq., Deputy District Attorney, Philadelphia District Attorney's Office, Philadelphia, PA; The Honorable Seth Waxman, former Solicitor General of the United States, Partner, Wilmer, Cutler, Pickering, Hale and Dorr, Washington, DC; The Honorable Howard D. McKibben, Senior United States District Judge for the District of Nevada, Chairman of the Judicial Conference Committee on Federal-State Jurisdiction, Reno, NV.

The PRESIDING OFFICER. Without objection, it is so ordered.

SELECT COMMITTEE ON INTELLIGENCE

Mr. ENZI. Mr. President, I ask unanimous consent that the Select Committee on Intelligence be authorized to meet during the session of the Senate on November 16, 2005, at 2:30 p.m. to hold a closed briefing.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON ADMINISTRATIVE OVERSIGHT AND THE COURTS

Mr. ENZI. Mr. President, I ask unanimous consent that the Subcommittee on Administrative Oversight and the Courts be authorized to meet to conduct a hearing on "Creating New Federal Judgeships: The Systematic or Piecemeal Approach" on Wednesday, November 16, 2005 at 2:30 p.m. in Room 226 of the Dirksen Senate Office Building.

Witness List

Panel I: The Honorable W. Royal Furgeson, Jr., District Judge for the Western District of Texas, Chairman of the Judicial Conference Committee on Judicial Resources, San Antonio, TX; The Honorable William H. Steele, U.S. District Judge for the Southern District of Alabama, Mobile, AL; Robyn J. Spalter, Esq., President, Federal Bar Association, Miami, FL.

The PRESIDING OFFICER. Without objection, it is so ordered.

SUBCOMMITTEE ON CONSUMER AFFAIRS, PRODUCT LIABILITY, AND INSURANCE

Mr. ENZI. Mr. President, I ask unanimous consent that the Subcommittee on Consumer Affairs, Product Liability, and Insurance be authorized to meet on Wednesday, November 16, 2005, at 2:30 p.m., on Protecting the Consumer from Flooded and Salvage Vehicle Fraud.

The PRESIDING OFFICER. Without objection, it is so ordered.

PRIVILEGE OF THE FLOOR

Mr. BAUCUS. Mr. President, I ask unanimous consent that Stuart Sirkin, a detailee with the Finance Committee, be granted the privilege of the floor during consideration of the pension bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. AKAKA. I ask unanimous consent a fellow in my office, William Ferraro, be granted floor privileges for the remainder of the debate on the pension bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BAUCUS. Mr. President, I ask unanimous consent that the following fellows and interns of the staff of the Finance Committee be allowed floor privileges for the duration of the debate on the tax reconciliation bill: Brian Townsend, Mary Baker, Stuart Sirkin, Richard Litsey, Jorlie Cruz, James Reavis, Jennifer Alwood, Ray Campbell, Will Larson, Andreas Datsopoulos, Mandy Cisneros, and David Hain.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. BUNNING. Mr. President, I ask unanimous consent that Dustin Vande Hoef of Senator GRASSLEY's office be granted the privileges of the floor for the duration of deliberation on S. 2020, the Tax Relief Act of 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. CORNYN. Mr. President, I ask unanimous consent, on behalf of Senator GRASSLEY, that his staff member, Theresa Pattara, be allowed access to the Senate floor for the duration of the debate on the Tax Relief Act of 2005.

The PRESIDING OFFICER. Without objection, it is so ordered.

DIRECTING THE JOINT COMMITTEE ON THE LIBRARY TO PROCURE A STATUE OF ROSA PARKS FOR PLACEMENT IN THE CAPITOL

Mr. ISAKSON. Mr. President, I ask unanimous consent that the Committee on Rules and Administration be discharged from further consideration and the Senate now proceed to S. Con. Res. 62.

The PRESIDING OFFICER. Without objection, it is so ordered. The clerk will report the concurrent resolution by title.

The legislative clerk read as follows:

> A concurrent resolution (S. Con. Res. 62) directing the Joint Committee on the Library to procure a statue of Rosa Parks for placement in the Capitol.

There being no objection, the Senate proceeded to consider the concurrent resolution.

Mr. McCONNELL. Mr. President, the Senator from Connecticut and I wish to address a matter that just passed the Senate a few hours ago.

Mr. President, it is the honor and duty of this Senate to recognize the greatness of extraordinary Americans. I am very proud that we have done so today for Rosa Parks. With the passage of S. Con. Res. 62, the Senate has directed the Joint Committee on the Library to commission a statue of Ms. Parks and place it here in the Nation's Capitol, so that Americans who visit this place 100 years from now can see it, and reflect on how one woman's courage altered a nation.

Rosa Parks did not set out to become a hero on the evening of December 1, 1955. She was, like millions of other Americans, merely on her way home after a long day's work. She was a seamstress in Montgomery, AL. But her simple, profound act of civil disobedience was the spark that ignited the modern civil rights movement.

I say to my friend from Connecticut that I was a teenager at the time, living in Augusta, GA. The first 8 years of my life I lived in Alabama. In those days, I think the stereotypical reaction to white southerners was that they all must surely have been against what began that evening with Rosa Parks's appropriate act of defiance. My parents are both deceased, but I remember how inspired they were as white southerners by the act of Rosa Parks. As I make my remarks tonight and listen subsequently to the remarks of my good friend from Connecticut, I remember my parents, who were white southerners born into southern culture who realized that this was not right, and who admired greatly not only Rosa Parks's act of defiance, but the later civil-rights bills that were to come.

For far too many African Americans at that time, America did not live up to its promise of liberty and justice for all. But thanks to Rosa Parks, America was forced to look itself in the mirror, admit its failing, and recommit itself to its founding ideals.

Rosa Parks was headed home that winter night on the Montgomery City bus system, which was segregated. Front-row seats were reserved for white passengers. Blacks were restricted to the back of the bus, and sometimes the middle. But if a white passenger demanded a black person give up his or her seat, they were required to do so.

But on that first day in December 50 years ago, the white bus driver demanded that four African Americans give up their seats so a single white man could sit. Three of them complied. Rosa Parks did not.

"If you don't stand up, I'm going to call the police and have you arrested," said the bus driver. But Rosa Parks had had enough. She replied to the driver, "You may do that."

With this simple refusal, Rosa Parks set into motion a crusade that would eventually awaken the conscience of our country.

Perhaps the time was right for a nation like America to erase the stain of segregation. But it was not preordained that the struggle would start on that day, in that town, lit by one woman's courage and conviction. We will always thank Rosa Parks that it did.

Rosa Parks' life proved that one American with courage can unshackle millions. Her passing on October 24, just a few weeks ago, left us with sadness, but also with deep gratitude for the gift she left all of us. By honoring her in the Capitol, we show our gratitude.

I wish to thank my many colleagues who cosponsored this bill on both sides of the aisle, and particularly my good friend from Connecticut, Senator DODD, with whom I have collaborated on a number of issues over the years.

Dr. Martin Luther King, Jr. once wrote that "human progress never rolls in on wheels of inevitability; it comes through the tireless efforts of men."

This bill helps ensure that Rosa Parks' efforts will never be forgotten.

I yield the floor.

Mr. DODD. Mr. President, let me begin by commending my colleague from Kentucky. I am pleased to be the lead sponsor with him on this resolution and he rightly points out that there are a number of colleagues on both sides of the aisle who have been very supportive of this effort. In fact, I think we might leave this open this evening so that others who wish to be cosponsors may do so before this evening is complete.

I want to particularly thank, in this Chamber this evening, Senator KERRY of Massachusetts who was very interested in this issue and announced his strong support early on of recognizing Rosa Parks. I also want to thank Representative JESSE JACKSON of the House and others on the House side who are also interested in this issue. The House sponsors have taken a different approach to authorizing a statue of Rosa Parks, but that bill has not yet been brought before the House for debate. The action we take today is one way that we can guarantee that Congress can authorize, and immediately have funds to pay for, the commissioning of this statue. I strongly support the efforts of my colleague, Senator MCCONNELL, to expedite this legislation.

I was honored to attend the funeral services here in Washington, DC for Mrs. Parks. The words spoken that day by numerous people were far more eloquent than anything I could add at this particular juncture. But I was struck by the fact that this woman, who refused to give up her seat, who caused a nation to stand up and take note, was physically a rather diminutive, quiet individual who had a long interest in civil rights. Her nonviolent act of defiance was not just a coincidental act. She had been involved in the civil rights movements and had worked with the NAACP and other organizations for sometime.

But as the Senator from Kentucky points out, on that particular day, she was just not going to tolerate any longer a behavior that was so repugnant to the founding principles of this democracy—that was a denial of everything we stood for as a nation. With full recognition of the consequences, her course of action precipitated a year-long boycott in Birmingham of the public bus system. And that was a great sacrifice for the people of the city at that time. To sustain that effort for over a year is really quite a remarkable and significant effort.

It all began on that day some 50 years ago when this wonderful American lady, on her own, decided to take an action that would awaken the interest and collective conscience of a country to recognize, and acknowledge, the great scar of segregation that still existed in some parts of our Nation. And we realize that we have perhaps not yet reached that perfect union that our Founders intended and that each generation of Americans must be newly challenged to achieve it. Rosa Parks was that challenge for her generation and by her solitary, nonviolent act, she changed the course of human history.

This is a long journey. It has been a painful one for many but because of people like Rosa Parks, we are getting closer to our Founders' goal of a perfect union. And that is why it is not only important to preserve and honor her legacy for future generations, but to hold her up as an example of what can be achieved when we challenge ourselves to do better. She is an example to those oppressed in nations around the world that one person, in standing up for what is just and right, can make a difference.

Nelson Mandela once called her "the David who challenged Goliath." People of nations across this globe owe a debt of gratitude to this remarkable woman for her courage that day, for her determination, and for the inspiration she has provided. Now, when visitors come to the Capitol, they, too, can be inspired by this heroic American whose courageous act sparked the flame of liberty and equality for African Americans and minority groups in this country and around the world.

Oprah Winfrey spoke at the funeral services about what it meant to her as a young black woman to hear about Rosa Parks and what she had done. By honoring Rosa Parks with a statue, placed in the most public places of honor in the Capitol, we will have a living symbol of that hope that Rosa Parks brought to millions of young black children 50 years ago. And so generations of children can pass by her statue and be inspired by her story and courage and identify with her greatness.

We honored Rosa Parks by allowing her remains to lie in honor in the Capitol Rotunda. I was priveleged to have been a part of that most appropriate effort. It was an unprecedented event and the first time that a woman had been so recognized. There have been others who have been so honored because of their service as President, or as a general or distinguished military officer, or some connection to the Congress, but only once before had we honored a private citizen. To recognize this extraordinary lady was a noble act and a proud achievement of the leadership of this Congress. Both Democrats and Republicans took time to honor this symbol of freedom by paying their last respects to her in the most public of places, the Capitol Rotunda. And the American people were invited in to share in her struggles and triumphs and pay their respect to this great American, too.

The statue of Rosa Parks will be placed in a very hallowed location in the Capitol. The site has not yet been established, but it may be that location will be in the National Statuary Hall. This resolution authorizes, and indeed requires, that the Joint Committee on the Library consider that option. But it must be in a prominent place where the public can be inspired by her, where Congress and staff can be reminded of her act of courage and her challenge to our leaders to do better. And each of us will be reminded of the opportunities in our lives to make a difference. Maybe not with the same dramatic results as Rosa Parks achieved with her act, but every single citizen of this country will know that he or she has an opportunity to make a difference, in a moment of challenge, to rise and to be courageous, to stand up for what is right.

It is a wonderful lesson for the younger generation to be reminded that one person can make a difference. I often cite individuals who have made a difference, such as the mother who lost a child as a result of a drunk driver and went on to found an organization in her basement called Mothers Against Drunk Driving, or Lech Walesa, or now Rosa Parks.

Rosa Parks caused this Nation to take note of what it needed to do to end the scourge of segregation. She is not just a national hero, she is the embodiment of our social and human conscience. It is an appropriate and fitting thing that we do here today. I am proud to be a part of it and I hope that generations to come for many, many years will walk past the statue of Rosa Parks in our Nation's Capitol and make a quiet determination to find a moment when they may be as courageous and as noble as this wonderful woman.

Mr. KERRY. Mr. President, it is important that today the Senate is honoring a true national hero, Mrs. Rosa Parks. As you know, I introduced legislation to honor Rosa Parks with a statue in National Statuary Hall. I thank the chair of the Rules Committee, Senator McCONNELL, and the ranking member, Senator DODD, for amending their legislation to designate Statuary Hall as a venue for a tribute to this great American. I think it is important we ensure that the memory of Rosa Parks is honored by placing a statue of her in the U.S. Capitol so future generations can understand her monumental efforts for civil rights and know the importance of living by her example still today.

I thank Senators McCONNELL and DODD for working with me and amending their resolution to ensure that Statuary Hall is considered as a possible location for the statue of Mrs. Parks. I also thank the numerous Senators who supported my legislation, S. 1959. I am supporting Mr. McCONNELL's and Mr. DODD's measure today because I believe it is paramount that we honor Rosa Parks in our Capitol, but I want to be very clear that her statue should be in Statuary Hall.

On November 3, 2005, I introduced legislation to place a statue of Rosa Parks in Statuary Hall in the Capitol. This is a location of great significance, particularly on this occasion and particularly with this individual. While there are memorials for prominent African Americans in the Capitol Collection, none of those are located in the hall that gives a state-by-state account of our country's history. In the struggle for civil rights, some were called to stand up to Bull Connor's fire hoses and police dogs—some to stand up to Klan terrorism—and some to stand up to state sponsored acts of violence. But some were called simply to sit down—at lunch counters in Greensboro and Nashville and Atlanta—or on a bus in Montgomery. This simple action of peaceful opposition to existing rules had a significant impact on the lives of all Americans. Her act of courage on December 1, 1955, inspired a movement that eventually brought about laws to end segregation, ensure voting rights, end discrimination in housing, and create a greater equality throughout this Nation.

It should be noted that I have been working closely with my colleagues in the House of Representatives, particularly with Representative JESSE JACKSON JR. from Illinois, whose bill has over 175 cosponsors to honor Rosa Parks in Statuary Hall. It is identical in content to my original bill, S. 1959, to ensure that Mrs. Parks' statue is placed in Statuary Hall. When the House passes Representative JACKSON's bill, it is my intention to bring that legislation up for a vote in the Senate to ensure that her memory is enshrined in the most hallowed halls of our Government.

This week, Representative JACKSON and I began a national week of action to pass our legislation honoring Rosa Parks with a statue in National Statuary Hall. Our goal is to have Congress pass both bills by December 1, 2005—the 50th anniversary of Rosa Parks' courageous decision not to move to the back of the bus.

Rosa Parks was one of our greatest American heroes, a woman whose quiet courage changed a country. She deserves the highest honors this country can give. I can think of no better way to honor the 50th anniversary of Rosa Parks' brave act against injustice than by passing legislation that ensures that schoolchildren, Members of Congress and presidents visiting the Capitol can see how highly our Nation thinks of her, and that we need to follow her example of refusing to go quietly to the back of the bus.

Mr. ISAKSON. I ask unanimous consent that the amendment at the desk be agreed to, the resolution, as amended, be agreed to, and the motion to reconsider be laid on the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2585) was agreed to, as follows:

(Purpose: To make a technical correction)

On page 1, line 7, at the end add the following: "The Joint Committee on the Library shall consider all locations in the Capital, including Statuary Hall, the Rotunda, and the Capitol Visitor Center."

The concurrent resolution (S. Con. Res. 62), as amended, was agreed to.

The preamble was agreed to.

The concurrent resolution, with its preamble, reads as follows:

(The resolution will be printed in a future edition of the RECORD.)

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2005

Mr. ISAKSON. I ask unanimous consent that the Senate proceed to the immediate consideration of Calendar No. 217, S. 1234.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 1234) to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

There being no objection, the Senate proceeded to consider the bill.

Mr. ISAKSON. I ask unanimous consent that the Craig amendment at the desk be agreed to, the bill, as amended, be read a third time and passed, the motions to reconsider be laid on the table, and any statements be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The amendment (No. 2584) was agreed to, as follows:

(Purpose: In the nature of a substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the " Veterans' Compensation Cost-of-Living Adjustment Act of 2005".

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) VETERANS' DISABILITY COMPENSATION.—Section 1114 of title 38, United States Code, is amended—

(1) in subsection (a), by striking "$106" and inserting "$112";

(2) in subsection (b), by striking "$205" and inserting "$218";

(3) in subsection (c), by striking "$316" and inserting "$337";

(4) in subsection (d), by striking "$454" and inserting "$485";

(5) in subsection (e), by striking "$646" and inserting "$690";

(6) in subsection (f), by striking "$817" and inserting "$873";

(7) in subsection (g), by striking "$1,029" and inserting "$1,099";

(8) in subsection (h), by striking "$1,195" and inserting "$1,277";

(9) in subsection (i), by striking "$1,344" and inserting "$1,436";

(10) in subsection (j), by striking "$2,239" and inserting "$2,393";

(11) in subsection (k)—

(A) by striking "$82" both places it appears and inserting "$87"; and

(B) by striking "$2,785" and "$3,907" and inserting "$2,977" and "$4,176", respectively;

(12) in subsection (l), by striking "$2,785" and inserting "$2,977";

(13) in subsection (m), by striking "$3,073" and inserting "$3,284";

(14) in subsection (n), by striking "$3,496" and inserting "$3,737";

(15) in subsections (o) and (p), by striking "$3,907" each place it appears and inserting "$4,176";

(16) in subsection (r), by striking "$1,677" and "$2,497" and inserting "$1,792" and "$2,669", respectively; and

(17) in subsection (s), by striking "$2,506" and inserting "$2,678".

(b) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Section 1115(1) of such title is amended—

(1) in subparagraph (A), by striking "$127" and inserting "$135";

(2) in subparagraph (B), by striking "$219" and "$65" and inserting "$233" and "$68", respectively;

(3) in subparagraph (C), by striking "$86" and "$65" and inserting "$91" and "$68", respectively;

(4) in subparagraph (D), by striking "$103" and inserting "$109";

(5) in subparagraph (E), by striking "$241" and inserting "$257"; and

(6) in subparagraph (F), by striking "$202" and inserting "$215".

(c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 of such title is amended by striking "$600" and inserting "$641".

(d) DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.—

(1) NEW LAW DIC.—Section 1311(a) of such title is amended—

(A) in paragraph (1), by striking "$967" and inserting "$1,033"; and

(B) in paragraph (2), by striking "$208" and inserting "$221".

(2) OLD LAW DIC.—The table in paragraph (3) of such section is amended to read as follows:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$1,033	W-4	$1,236
E-2	1,033	O-1	1,092
E-3	1,033	O-2	1,128
E-4	1,033	O-3	1,207
E-5	1,033	O-4	1,277
E-6	1,033	O-5	1,406
E-7	1,069	O-6	1,585
E-8	1,128	O-7	1,712
E-9	1,177[1]	O-8	1,879
W-1	1,092	O-9	2,010
W-2	1,135	O-10	2,204[2]
W-3	1,169		

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,271.

[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,365.".

(3) ADDITIONAL DIC FOR CHILDREN OR DISABILITY.—Section 1311 of such title is amended—

(A) in subsection (b), by striking "$241" and inserting "$257";

(B) in subsection (c), by striking "$241" and inserting "$257"; and

(C) in subsection (d), by striking "$115" and inserting "$122".

(e) DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.—

(1) DIC WHEN NO SURVIVING SPOUSE.—Section 1313(a) of such title is amended—

(A) in paragraph (1), by striking "$410" and inserting "$438";

(B) in paragraph (2), by striking "$590" and inserting "$629";

(C) in paragraph (3), by striking "$767" and inserting "$819"; and

(D) in paragraph (4), by striking "$767" and "$148" and inserting "$819" and "$157", respectively.

(2) SUPPLEMENTAL DIC FOR CERTAIN CHILDREN.—Section 1314 of such title is amended—

(A) in subsection (a), by striking "$241" and inserting "$257";

(B) in subsection (b), by striking "$410" and inserting "$438"; and

(C) in subsection (c), by striking "$205" and inserting "$218".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 1, 2005.

(g) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85-857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

Mr. AKAKA. Mr. President, as ranking member of the Senate Committee on Veterans' Affairs, I am extremely pleased that the Senate will pass legislation that will authorize a cost-of-living adjustment, COLA, for veterans' compensation for next year.

The Veterans' Compensation Cost-of-Living Adjustment Act of 2005 directs the Secretary of Veterans Affairs to increase, as of December 1, 2005, the rates of veterans' disability compensation, additional compensation for dependents, the clothing allowance for certain disabled adult children. and dependency and indemnity compensation for surviving spouses and children.

This increase will be the same percentage as the increase provided to Social Security recipients. The increase this year is one of the largest in recent memory—4.1 percent. In my opinion, this increase could not have come at a more crucial time. The COLA is enormously important to veterans and their families. It is critical that veterans' disability compensation rates keep pace with the increasing cost-of-living. Without it, these people would be unable to afford the simple necessities of life. I note. it is well documented that home heating fuel costs will skyrocket this winter. The COLA increase goes a long way to ensuring no veterans are left out in the cold.

Mr. President, in closing. I thank all Senators that voted to support this Nation's veterans.

The bill (S. 1234). as amended, was read the third time and passed.

THE CALENDAR

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate en bloc consideration of the following bills reported out of the Energy Committee: Calendar Nos. 236 through 240; 242 through 249; 262 through 273; and H.R. 1972, which is at the desk.

The PRESIDING OFFICER. Without objection. it is so ordered.

Mr. McCONNELL. Mr. President. I ask unanimous consent that the amendments at the desk be agreed to, the committee-reported amendments, as amended, if amended, be agreed to, the bills, as amended. if amended, be read a third time and passed, and the title amendments be agreed to, all en bloc.

The PRESIDING OFFICER. Without objection. it is so ordered.

ICE AGE FLOODS NATIONAL GEOLOGIC TRAIL DESIGNATION ACT

The Senate proceeded to consider the bill (S. 206) to designate the Ice Age Floods National Geologic Trail, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 206

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Ice Age Floods National Geologic Trail Designation Act of 2005".

[SEC. 2. FINDINGS AND PURPOSE.

[(a) FINDINGS.—Congress finds that—

[(1) at the end of the last Ice Age, some 12,000 to 17,000 years ago. a series of cataclysmic floods occurred in what is now the northwest region of the United States, leaving a lasting mark of dramatic and distinguishing features on the landscape of parts of the States of Montana, Idaho, Washington and Oregon;

[(2) geological features that have exceptional value and quality to illustrate and interpret this extraordinary natural phenomenon are present on Federal, State, tribal, county, municipal, and private land in the region; and

[(3) in 2001, a joint study team headed by the National Park Service that included about 70 members from public and private entities completed a study endorsing the establishment of an Ice Age Floods National Geologic Trail—

[(A) to recognize the national significance of this phenomenon; and

[(B) to coordinate public and private sector entities in the presentation of the story of the Ice Age floods.

[(b) PURPOSE.—The purpose of this Act is to designate the Ice Age Floods National Geologic Trail in the States of Montana, Idaho, Washington, and Oregon, enabling the public to view, experience, and learn about the features and story of the Ice Age floods through the collaborative efforts of public and private entities.

[SEC. 3. DEFINITIONS.

[In this Act:

[(1) ICE AGE FLOODS; FLOODS.—The term "Ice Age floods" or "floods" means the cataclysmic floods that occurred in what is now the northwestern United States during the last Ice Age from massive, rapid and recurring drainage of Glacial Lake in Missoula, Montana.

[(2) PLAN.—The term "plan" means the cooperative management and interpretation plan authorized under section 5(f).

[(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

[(4) TRAIL.—The term "Trail" means the Ice Age Floods National Geologic Trail designated by section 4(a).

[SEC. 4. ICE AGE FLOODS NATIONAL GEOLOGIC TRAIL.

[(a) DESIGNATION.—In order to provide for public appreciation, understanding, and enjoyment of the nationally significant natural and cultural features of the Ice Age floods and to promote collaborative efforts for interpretation and education among public and private entities located along the pathways of the floods, there is designated the Ice Age Floods National Geologic Trail.

[(b) LOCATION.—

[(1) MAP.—The route of the Trail shall be generally depicted on the map entitled "Ice Age Floods National Geologic Trail," numbered ________, and dated ________.

[(2) ROUTE.—The route shall generally follow public roads and highways—

[(A) from the vicinity of Missoula in western Montana;

[(B) across northern Idaho;

[(C) through eastern and southern sections of Washington;

[(D) across northern Oregon in the vicinity of the Willamette Valley and the Columbia River; and

[(E) to the Pacific Ocean.

[(3) REVISION.—The Secretary may revise the map by publication in the Federal Register of a notice of availability of a new map as part of the plan.

[(c) MAP AVAILABILITY.—Any map referred to in subsection (b) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

[SEC. 5. ADMINISTRATION.

[(a) IN GENERAL.—The Secretary, acting through the Director of the National Park Service, shall administer the Trail in accordance with this Act.

[(b) TRAIL MANAGEMENT OFFICE.—In order for the National Park Service to manage the Trail and coordinate Trail activities with other public agencies and private entities, the Secretary may establish and operate a trail management office within the vicinity of the Trail.

[(c) LAND ACQUISITION.—

[(1) IN GENERAL.—If the acquisition is consistent with the plan, the Secretary may acquire land, in a quantity not to exceed 25 acres, for administrative and public information purposes to facilitate the geographic diversity of the Trail throughout the States of Montana, Idaho, Washington, and Oregon.

[(2) METHODS.—

[(A) PRIVATE LAND.—Private land may be acquired from a willing seller under this Act only by donation, purchase with donated or appropriated funds, or exchange.

[(B) NON-FEDERAL PUBLIC LAND.—Non-Federal public land may be acquired from a willing seller under this Act—

[(i) only by donation or exchange; and

[(ii) after consultation with the affected unit of local government.

[(d) INTERPRETIVE FACILITIES.—The Secretary may plan, design, and construct interpretive facilities for sites associated with the Trail if the facilities are constructed in partnership with State, local, tribal, or nonprofit entities and are consistent with the plan.

[(e) INTERAGENCY TECHNICAL COMMITTEE.—

[(1) IN GENERAL.—The Secretary shall establish an interagency technical committee to advise the trail management office on the technical planning for the development of the plan.

[(2) COMPOSITION.—The committee—

[(A) shall include—

[(i) representatives from Federal, State, local, and tribal agencies with interests in the floods; and

[(ii) representatives from the Ice Age Floods Institute; and

[(B) may include private property owners, business owners, and nonprofit organizations.

[(f) MANAGEMENT PLAN.—

[(1) IN GENERAL.—Not later than 3 years after funds are made available to carry out this Act under section 6, the Secretary shall prepare a cooperative management and interpretation plan for the Trail.

[(2) CONSULTATION.—The Secretary shall prepare the plan in consultation with—

[(A) State, local, and tribal governments;

[(B) the Ice Age Floods Institute;

[(C) private property owners; and

[(D) other interested parties.

[(3) CONTENTS.—The plan shall—

[(A) confirm and, if appropriate, expand on the inventory of features of the floods contained in the National Park Service study entitled "Ice Age Floods, Study of Alternatives and Environmental Assessment" (February 2001) by—

[(i) locating features more accurately;

[(ii) improving the description of features; and

[(iii) reevaluating the features in terms of their interpretive potential;

[(B) review and, if appropriate, modify the map of the Trail referred to in section 4(b);

[(C) describe strategies for the coordinated development of the Trail, including an interpretive plan for facilities, waysides, roadside pullouts, exhibits, media, and programs that present the story of the floods to the public effectively; and

[(D) identify potential partnering opportunities in the development of interpretive facilities and educational programs to educate the public about the story of the floods.

[(g) COOPERATIVE MANAGEMENT.—

[(1) IN GENERAL.—In order to facilitate the development of coordinated interpretation, education, resource stewardship, visitor facility development and operation, and scientific research associated with the Trail and to promote more efficient administration of the sites associated with the Trail, the Secretary may enter into cooperative management agreements with appropriate officials in the States of Montana, Idaho, Washington, and Oregon in accordance with the authority provided for units of the National Park System under section 3(l) of Public Law 91–383 (16 U.S.C. 1a–2(*l*)).

[(2) UNIT OF NATIONAL PARK SYSTEM.—For purposes of this subsection, the Trail shall be considered a unit of the National Park System.

[(h) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with public or private entities to carry out this Act.

[(i) EFFECT ON PRIVATE PROPERTY RIGHTS.—Nothing in this Act—

[(1) requires any private property owner to allow public access (including Federal, State, or local government access) to private property; or

[(2) modifies any provision of Federal, State, or local law with respect to public access to or use of private land.

[(j) LIABILITY.—Designation of the Trail by section 4(a) does not create any liability for, or affect any liability under any law of, any private property owner with respect to any person injured on the private property.

[SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as are necessary to carry out this Act, of which not more than $500,000 may be used for each fiscal year for the administration of the Trail.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Ice Age Floods National Geologic Trail Designation Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) at the end of the last Ice Age, some 12,000 to 17,000 years ago, a series of cataclysmic floods occurred in what is now the northwest region of the United States, leaving a lasting mark of dramatic and distinguishing features on the landscape of parts of the States of Montana, Idaho, Washington and Oregon;

(2) geological features that have exceptional value and quality to illustrate and interpret this extraordinary natural phenomenon are present on Federal, State, tribal, county, municipal, and private land in the region; and

(3) in 2001, a joint study team headed by the National Park Service that included about 70 members from public and private entities completed a study endorsing the establishment of an Ice Age Floods National Geologic Trail—

(A) to recognize the national significance of this phenomenon; and

(B) to coordinate public and private sector entities in the presentation of the story of the Ice Age floods.

(b) PURPOSE.—The purpose of this Act is to designate the Ice Age Floods National Geologic Trail in the States of Montana, Idaho, Washington, and Oregon, enabling the public to view, experience, and learn about the features and story of the Ice Age floods through the collaborative efforts of public and private entities.

SEC. 3. DEFINITIONS.

In this Act:

(1) ICE AGE FLOODS; FLOODS.—The term "Ice Age floods" or "floods" means the cataclysmic floods that occurred in what is now the northwestern United States during the last Ice Age from massive, rapid and recurring drainage of Glacial Lake in Missoula, Montana.

(2) PLAN.—The term "plan" means the cooperative management and interpretation plan authorized under section 5(e).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TRAIL.—The term "Trail" means the Ice Age Floods National Geologic Trail designated by section 4(a).

SEC. 4. ICE AGE FLOODS NATIONAL GEOLOGIC TRAIL.

(a) DESIGNATION.—In order to provide for public appreciation, understanding, and enjoyment of the nationally significant natural and cultural features of the Ice Age floods and to promote collaborative efforts for interpretation and education among public and private entities located along the pathways of the floods, there is designated the Ice Age Floods National Geologic Trail.

(b) LOCATION.—

(1) MAP.—The route of the Trail shall be generally depicted on the map entitled "Ice Age Floods National Geologic Trail," numbered P43/80,000 and dated June 2004.

(2) ROUTE.—The route shall generally follow public roads and highways.

(3) REVISION.—The Secretary may revise the map by publication in the Federal Register of a notice of availability of a new map as part of the plan.

(c) MAP AVAILABILITY.—The map referred to in subsection (b) shall be on file and available for public inspection in the appropriate offices of the National Park Service.

SEC. 5. ADMINISTRATION.

(a) IN GENERAL.—The Secretary, acting through the Director of the National Park Service, shall administer the Trail in accordance with this Act.

(b) LIMITATION.—Except as provided in subsection (f)(2), the Trail shall not be considered to be a unit of the National Park System.

(c) TRAIL MANAGEMENT OFFICE.—To improve management of the Trail and coordinate Trail activities with other public agencies and private entities, the Secretary may establish and operate a trail management office at a central location within the vicinity of the Trail.

(d) INTERPRETIVE FACILITIES.—The Secretary may plan, design, and construct interpretive facilities for sites associated with the Trail if the facilities are constructed in partnership with State, local, tribal, or non-profit entities and are consistent with the plan.

(e) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 3 years after funds are made available to carry out this Act, the Secretary shall prepare a cooperative management and interpretation plan for the Trail.

(2) CONSULTATION.—The Secretary shall prepare the plan in consultation with—

(A) State, local, and tribal governments;

(B) the Ice Age Floods Institute;

(C) private property owners; and

(D) other interested parties.

(3) CONTENTS.—The plan shall—

(A) confirm and, if appropriate, expand on the inventory of features of the floods contained in the National Park Service study entitled "Ice Age Floods, Study of Alternatives and Environmental Assessment" (February 2001) by—

(i) locating features more accurately;

(ii) improving the description of features; and

(iii) reevaluating the features in terms of their interpretive potential;

(B) review and, if appropriate, modify the map of the Trail referred to in section 4(b);

(C) describe strategies for the coordinated development of the Trail, including an interpretive plan for facilities, waysides, roadside pullouts, exhibits, media, and programs that present the story of the floods to the public effectively; and

(D) identify potential partnering opportunities in the development of interpretive facilities and educational programs to educate the public about the story of the floods.

(f) COOPERATIVE MANAGEMENT.—

(1) IN GENERAL.—In order to facilitate the development of coordinated interpretation, education, resource stewardship, visitor facility development and operation, and scientific research associated with the Trail and to promote more efficient administration of the sites associated with the Trail, the Secretary may enter into cooperative management agreements with appropriate officials in the States of Montana, Idaho, Washington, and Oregon in accordance with the authority provided for units of the National Park System under section 3(l) of Public Law 91–383 (16 U.S.C. 1a–2(l)).

(2) AUTHORITY.—For purposes of this subsection only, the Trail shall be considered a unit of the National Park System.

(g) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with public or private entities to carry out this Act.

(h) EFFECT ON PRIVATE PROPERTY RIGHTS.—Nothing in this Act—

(1) requires any private property owner to allow public access (including Federal, State, or local government access) to private property; or

(2) modifies any provision of Federal, State, or local law with respect to public access to or use of private land.

(i) LIABILITY.—Designation of the Trail by section 4(a) does not create any liability for, or affect any liability under any law of, any private property owner with respect to any person injured on the private property.

SEC. 6. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act, of which not more than $12,000,000 may be used for development of the Trail.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 206), as amended, was read the third time and passed.

COLUMBIA SPACE SHUTTLE MEMORIAL ACT OF 2005

The Senate proceeded to consider the bill (S. 242) to establish 4 memorials to the Space Shuttle *Columbia* in the State of Texas, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 242

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Columbia Space Shuttle Memorials Act of 2005".

[SEC. 2. DEFINITIONS.

[In this Act:

[(1) MEMORIAL.—The term "memorial" means each of the memorials to the Space Shuttle Columbia established by section 3(a).

[(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the National Park Service.

[SEC. 3. MEMORIALS TO THE SPACE SHUTTLE COLUMBIA.

[(a) ESTABLISHMENT.—There are established, as units of the National Park System, 4 memorials to the Space Shuttle Columbia to be located on the 4 parcels of land in the State of Texas described in subsection (b) on which large debris from the Space Shuttle Columbia was recovered.

[(b) DESCRIPTION OF LAND.—The parcels of land referred to in subsection (a) are—

[(1) the parcel of land owned by the Fredonia Corporation, located at the southeast corner of the intersection of East Hospital Street and North Fredonia Street, Nacogdoches, Texas;

[(2) the parcel of land owned by Temple Inland Inc., 10 acres of a 61-acre tract bounded by State Highway 83 and Bayou Bend Road, Hemphill, Texas;

[(3) the parcel of land owned by the city of Lufkin, Texas, located at City Hall Park, 301 Charlton Street, Lufkin, Texas; and

[(4) the parcel of land owned by San Augustine County, Texas, located at 1109 Oaklawn Street, San Augustine, Texas.

[(c) ADMINISTRATION.—The memorials shall be administered by the Secretary.

[(d) ADDITIONAL SITES.—The Secretary may recommend to Congress additional sites in the State of Texas related to the Space Shuttle Columbia for establishment as memorials to the Space Shuttle Columbia.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Columbia Space Shuttle Memorial Study Act of 2005".

SEC. 2. DEFINITIONS.

In this Act:

(1) MEMORIAL.—The term "memorial" means a memorial to the Space Shuttle Columbia the suitability and feasibility of the establishment of which is a subject of the study under section 3(a).

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the National Park Service.

SEC. 3. STUDY OF SUITABILITY AND FEASIBILITY OF ESTABLISHING MEMORIALS TO THE SPACE SHUTTLE COLUMBIA.

(a) IN GENERAL.—Not later than 3 years after the date on which funds are made available to carry out this Act, the Secretary shall carry out a study to determine the suitability and feasibility of establishing, as units of the National Park System on land in the State of Texas described in subsection (b) (on which large debris from the Space Shuttle Columbia was recovered), memorials to the Space Shuttle Columbia.

(b) DESCRIPTION OF LAND.—The parcels of land referred to in subsection (a) are—

(1) the parcel of land owned by the Fredonia Corporation, located at the southeast corner of the intersection of East Hospital Street and North Fredonia Street, Nacogdoches, Texas;

(2) the parcel of land owned by Temple Inland Inc., 10 acres of a 61-acre tract bounded by State Highway 83 and Bayou Bend Road, Hemphill, Texas;

(3) the parcel of land owned by the city of Lufkin, Texas, located at City Hall Park, 301 Charlton Street, Lufkin, Texas; and

(4) the parcel of land owned by San Augustine County, Texas, located at 1109 Oaklawn Street, San Augustine, Texas.

(c) ADMINISTRATION.—In carrying out the study, the Secretary shall assume that, if established after completion of the study, each memorial shall be administered by the Secretary.

(d) ADDITIONAL SITES.—The Secretary may recommend to Congress additional sites in the State of Texas relating to the Space Shuttle Columbia for establishment as memorials to the Space Shuttle Columbia.

(e) AUTHORIZATION OF APPROPRIATIONS.—There are authorized to be appropriated such sums as are necessary to carry out this Act.

Amend the title so as to read: "To direct the Secretary of the Interior to carry out a study to determine the suitability and feasibility of establishing memorials to the Space Shuttle *Columbia* on parcels of land in the State of Texas.".

The committee amendment in the nature of a substitute was agreed to.

The title amendment was agreed to.

The bill (S. 242), as amended, was read the third time and passed.

BETTY DICK RESIDENCE PROTECTION ACT

The Senate proceeded to consider the bill (S. 584) to require the Secretary of the Interior to allow the continued occupancy and use of certain land and improvements within Rocky Mountain National Park, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 584

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Betty Dick Residence Protection Act".

[SEC. 2. FINDINGS.

[Congress finds that—

[(1) before their divorce, Fred and Marilyn Dick, owned as tenants in common a tract of land that included the property described in section 5(b);

[(2) when Fred and Marilyn Dick divorced, Marilyn Dick became the sole owner of the tract of land, but Fred Dick retained the right of first refusal to acquire the tract of land;

[(3) in 1977, Marilyn Dick sold the tract to the United States for addition to Rocky Mountain National Park, but Fred Dick, asserting his right of first refusal, sued to cancel the transaction;

[(4) in 1980, the lawsuit was settled through an agreement between the National Park Service, Fred Dick, and the heirs, successors, and assigns of Fred Dick;

[(5) under the 1980 settlement agreement, Fred Dick and his wife, Betty Dick, were allowed to lease and occupy the 23 acres comprising the property described in section 5(b) for 25 years;

[(6) Fred Dick died in 1992, but Betty Dick has continued to lease and occupy the property described in section 5(b) under the terms of the settlement agreement;

[(7) Betty Dick's right to lease and occupy the property described in section 5(b) will expire on July 16, 2005, at which time Betty Dick will be 83 years old;

[(8) Betty Dick wishes to continue to occupy the property for the remainder of her life and has sought to enter into a new agreement with the National Park Service that would allow her to continue to occupy the property;

[(9) the National Park Service has not been willing to enter into a new agreement with Betty Dick and is demanding that she vacate the property by July 16, 2005;

[(10) since 1980, Betty Dick—

[(A) has consistently occupied the property described in section 5(b) as a summer residence;

[(B) has made the property available for community events; and

[(C) has been a good steward of the property;

[(11) Betty Dick's occupancy of the property has not—

[(A) been detrimental to the resources and values of Rocky Mountain National Park; or

[(B) created problems for the National Park Service or the public; and

[(12) under the circumstances, it is appropriate for Betty Dick to be allowed to continue her occupancy of the property described in section 5(b) for the remainder of her natural life under the terms and conditions applicable to her occupancy of the property since 1980.

[SEC. 3. PURPOSE.

[The purpose of this Act is to require the Secretary of the Interior to permit the continued occupancy and use of the property described in section 5(b) by Betty Dick for the remainder of her natural life.

[SEC. 4. DEFINITIONS.

[In this Act:

[(1) AGREEMENT.—The term "Agreement" means the agreement between the National Park Service and Fred Dick entitled "Settlement Agreement" and dated July 17, 1980.

[(2) MAP.—The term "map" means the map entitled "Betty Dick Residence and Barn" and dated January 2005.

[(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

[SEC. 5. RIGHT OF OCCUPANCY.

[(a) IN GENERAL.—The Secretary shall allow Betty Dick to continue to occupy and use the property described in subsection (b) for the remainder of the natural life of Betty Dick, subject to the requirements of this Act.

[(b) DESCRIPTION OF PROPERTY.—The property referred to in subsection (a) is the land and any improvements to the land within the boundaries of Rocky Mountain National Park identified on the map as "residence", "occupancy area", and "barn".

[(c) TERMS AND CONDITIONS.—

[(1) IN GENERAL.—Except as provided in paragraph (2), the occupancy and use of the property identified in subsection (b) by Betty Dick shall be subject to the same terms and conditions specified in the Agreement.

[(2) PAYMENT.—In exchange for the continued use and occupancy of the property, Betty Dick shall annually pay to the Secretary an amount equal to 1/25 of the amount specified in section 3(B) of the Agreement.

[(d) EFFECT.—Nothing in this Act—

[(1) allows the construction of any structure on the property described in subsection (b) not in existence on November 30, 2004; or

[(2) applies to the occupancy or use of the property described in subsection (b) by any person other than Betty Dick.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Betty Dick Residence Protection Act".

SEC. 2. PURPOSE.

The purpose of this Act is to require the Secretary of the Interior to permit the continued occupancy and use of the property described in section 4(b) by Betty Dick for the remainder of her natural life.

SEC. 3. DEFINITIONS.

In this Act:

(1) AGREEMENT.—The term "Agreement" means the agreement between the National Park Service and Fred Dick entitled "Settlement Agreement" and dated July 17, 1980.

(2) MAP.—The term "map" means the map entitled "RMNP Land Occupancy" and dated September 2005, which identifies approximately 8 acres for the occupancy and use by the tenant.

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(4) TENANT.—The term "tenant" means Betty Dick, widow of George Fredrick Dick, who held a 25-year reservation of occupancy and use at a property within the boundaries of Rocky Mountain National Park.

SEC. 4. RIGHT OF OCCUPANCY.

(a) IN GENERAL.—The Secretary shall allow the tenant to continue to occupy and use the property described in subsection (b) for the remainder of the natural life of the tenant, subject to the requirements of this Act.

(b) DESCRIPTION OF PROPERTY.—The property referred to in subsection (a) is the land and any improvements to the land within the boundaries of Rocky Mountain National Park identified on the map as "residence" and "occupancy area".

(c) TERMS AND CONDITIONS.—

(1) IN GENERAL.—Except as otherwise provided in this Act, the occupancy and use of the property identified in subsection (b) by the tenant shall be subject to the same terms and conditions specified in the Agreement.

(2) PAYMENTS.—

(A) IN GENERAL.—In exchange for the continued occupancy and use of the property, the tenant shall annually pay to the Secretary an amount equal to 1/25 of the amount specified in section 3(B) of the Agreement.

(B) ADVANCE PAYMENT REQUIRED.—The annual payments required under subparagraph (A) shall be paid in advance by not later than May 1 of each year.

(C) DISPOSITION.—Amounts received by the Secretary under this paragraph shall be—

(i) deposited in a special account in the Treasury of the United States; and

(ii) made available, without further appropriation, to the Rocky Mountain National Park until expended.

(3) PUBLIC ACCESS.—The public shall have access to both banks of the main channel of the Colorado River.

(d) TERMINATION.—The right of occupancy and use authorized under this Act—

(1) shall not be extended to any individual other than the tenant; and

(2) shall terminate—

(A) on the death of the tenant;

(B) if the tenant does not make a payment required under subsection (c)(2); or

(C) if the tenant otherwise fails to comply with the terms of this Act.

(e) EFFECT.—Nothing in this Act—

(1) allows the construction of any structure on the property described in subsection (b) not in existence on November 30, 2004; or

(2) applies to the occupancy or use of the property described in subsection (b) by any person other than the tenant.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 584), as amended, was read the third time and passed.

BENJAMIN FRANKLIN NATIONAL MEMORIAL COMMEMORATION ACT OF 2005

The bill (S. 652) to provide financial assistance for the rehabilitation of the Benjamin Franklin National Memorial in Philadelphia, Pennsylvania, and the development of an exhibit to commemorate the 300th anniversary of the birth of Benjamin Franklin, was read the third time and passed; as follows:

S. 652

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Benjamin Franklin National Memorial Commemoration Act of 2005".

SEC. 2. BENJAMIN FRANKLIN NATIONAL MEMORIAL.

The Secretary of the Interior may provide a grant to the Franklin Institute to—

(1) rehabilitate the Benjamin Franklin National Memorial (including the Franklin statue) in Philadelphia, Pennsylvania; and

(2) develop an interpretive exhibit relating to Benjamin Franklin, to be displayed at a museum adjacent to the Benjamin Franklin National Memorial.

SEC. 3. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $10,000,000.

(b) REQUIRED MATCH.—The Secretary of the Interior shall require the Franklin Institute to match any amounts provided to the Franklin Institute under this Act.

RURAL WATER SUPPLY ACT OF 2005

The Senate proceeded to consider the bill (S. 895) to direct the Secretary of the Interior to establish a rural water supply program in the Reclamation States to provide a clean, safe, affordable, and reliable water supply to rural residents, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 895

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

[(a) SHORT TITLE.—This Act may be cited as the "Rural Water Supply Act of 2005".

[(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

[Sec. 1. Short title; table of contents.

[TITLE I—RECLAMATION RURAL WATER SUPPLY ACT OF 2005

[Sec. 101. Short title.
[Sec. 102. Definitions.
[Sec. 103. Rural water supply program.
[Sec. 104. Rural water programs assessment.
[Sec. 105. Appraisal investigations.
[Sec. 106. Feasibility studies.
[Sec. 107. Miscellaneous.
[Sec. 108. Authorization of appropriations.

[TITLE II—TWENTY-FIRST CENTURY WATER WORKS ACT

[Sec. 201. Short title.
[Sec. 202. Definitions.
[Sec. 203. Project eligibility.
[Sec. 204. Loan guarantees.
[Sec. 205. Operations, maintenance, and replacement costs.
[Sec. 206. Title to newly constructed facilities.
[Sec. 207. Water rights.
[Sec. 208. Interagency coordination and cooperation.
[Sec. 209. Authorization of appropriations.

[TITLE I—RECLAMATION RURAL WATER SUPPLY ACT OF 2005

[SEC. 101. SHORT TITLE.

[This title may be cited as the "Reclamation Rural Water Supply Act of 2005".

[SEC. 102. DEFINITIONS.

[In this title:

[(1) FEDERAL RECLAMATION LAW.—The term "Federal reclamation law" means the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

[(2) INDIAN.—The term "Indian" means an individual who is a member of an Indian tribe.

[(3) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

[(4) NON-FEDERAL PROJECT ENTITY.—The term "non-Federal project entity" means a State, regional, or local authority, Indian tribe or tribal organization, or other qualifying entity, such as a water conservation district, water conservancy district, or rural water district or association.

[(5) OPERATIONS, MAINTENANCE, AND REPLACEMENT COSTS.—

[(A) IN GENERAL.—The term "operations, maintenance, and replacement costs" means all costs for the operation of a rural water supply project that are necessary for the safe, efficient, and continued functioning of the project to produce the benefits described in a feasibility study.

[(B) INCLUSIONS.—The term "operations, maintenance, and replacement costs" includes—

[(i) repairs of a routine nature that maintain a rural water supply project in a well kept condition;

[(ii) replacement of worn-out project elements; and

[(iii) rehabilitation activities necessary to bring a deteriorated project back to the original condition of the project.

[(C) EXCLUSION.—The term "operations, maintenance, and replacement costs" does not include construction costs.

[(6) PROGRAM.—The term "program" means the rural water supply program established under section 103.

[(7) RECLAMATION STATES.—The term "reclamation States" means the States and areas referred to in the first section of the Act of June 17, 1902 (43 U.S.C. 391).

[(8) RURAL WATER SUPPLY PROJECT.—

[(A) IN GENERAL.—The term "rural water supply project" means a project that is designed to serve a group of communities, which may include Indian tribes and tribal organizations, dispersed homesites, or rural areas with domestic, industrial, municipal, and residential water, each of which has a population of not more than 50,000 inhabitants.

[(B) INCLUSION.—The term "rural water supply project" includes—

[(i) incidental noncommercial livestock watering and noncommercial irrigation of vegetation and small gardens of less than 1 acre; and

[(ii) a project to improve rural water infrastructure, including—

[(I) pumps, pipes, wells, and other diversions;

[(II) storage tanks and small impoundments;

[(III) water treatment facilities for potable water supplies;

[(IV) equipment and management tools for water conservation, groundwater recovery, and water recycling; and

[(V) appurtenances.

[(C) EXCLUSION.—The term "rural water supply project" does not include—

[(i) commercial irrigation; or

[(ii) major impoundment structures.

[(9) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

[(10) Tribal Organization.—The term "tribal organization" means—

[(A) the recognized governing body of an Indian tribe; and

[(B) any legally established organization of Indians that is controlled, sanctioned, or chartered by the governing body or democratically elected by the adult members of the Indian community to be served by the organization.

[SEC. 103. RURAL WATER SUPPLY PROGRAM.

[(a) In General.—The Secretary, in cooperation with non-Federal project entities and consistent with this title, shall establish and carry out a rural water supply program in reclamation States to—

[(1) investigate and identify opportunities to ensure safe and adequate rural water supply projects for municipal and industrial use in small communities and rural areas of the reclamation States; and

[(2) plan the design and construction, through the conduct of appraisal investigations and feasibility studies, of rural water supply projects in reclamation States.

[(b) Non-Federal Project Entity.—Any activity carried out under this title shall be carried out in cooperation with a qualifying non-Federal project entity, consistent with this title.

[(c) Eligibility Criteria.—Not later than 1 year after the date of enactment of this Act, the Secretary shall, consistent with this title, develop and publish in the Federal Register criteria for—

[(1) determining the eligibility of a rural community for assistance under the program; and

[(2) prioritizing requests for assistance under the program.

[(d) Factors.—The criteria developed under subsection (c) shall take into account such factors as whether—

[(1) a rural water supply project—

[(A) serves—

[(i) rural areas and small communities; or

[(ii) Indian tribes; or

[(B) promotes and applies a regional or watershed perspective to water resources management;

[(2) there is an urgent and compelling need for a rural water supply project that would—

[(A) improve the health or aesthetic quality of water;

[(B) result in continuous, measurable, and significant water quality benefits; or

[(C) address current or future water supply needs;

[(3) a rural water supply project helps meet applicable requirements established by law; and

[(4) a rural water supply project is cost effective.

[(e) Inclusions.—The Secretary may include—

[(1) to the extent that connection provides a reliable water supply, a connection to preexisting infrastructure (including dams and conveyance channels) as part of a rural water supply project; and

[(2) notwithstanding the limitation in section 102(8), a town or community with a population in excess of 50,000 inhabitants in an area served by a rural water supply project if, at the discretion of the Secretary, the town or community is considered to be a critical partner in the rural supply project.

[SEC. 104. RURAL WATER PROGRAMS ASSESSMENT.

[(a) In General.—In consultation with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, and the Director of the Indian Health Service, the Secretary shall develop an assessment of—

[(1) the status of all rural water supply projects under the jurisdiction of the Secretary authorized but not completed prior to the date of enactment of this Act, including appropriation amounts, the phase of development, total anticipated costs, and obstacles to completion;

[(2) the current plan (including projected financial and workforce requirements) for the completion of the rural water supply projects within the time frames established under the provisions of law authorizing the projects or the final engineering reports for the projects;

[(3) the demand for rural water supply projects;

[(4) programs within other agencies that can, and a description of the extent to which the programs, provide support for rural water supply projects and water treatment programs in reclamation States, including an assessment of the requirements, funding levels, and conditions for eligibility for the programs assessed; and

[(5) the extent of the unmet needs that the Secretary can meet with the program that complements activities undertaken under the authorities already within the jurisdiction of the Secretary and the heads of the agencies with whom the Secretary consults.

[(b) Report.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a detailed report on the assessment conducted under subsection (a).

[SEC. 105. APPRAISAL INVESTIGATIONS.

[(a) In General.—On request of a non-Federal project entity with respect to a proposed rural water supply project that meets the eligibility criteria published under section 103(c) and subject to the availability of appropriations, the Secretary may—

[(1) receive and review an appraisal investigation that is—

[(A) developed by the non-Federal project entity independent of support from the Secretary; and

[(B) submitted to the Secretary by the non-Federal project entity;

[(2) conduct an appraisal investigation; or

[(3) provide a grant to, or enter into a cooperative agreement with, the non-Federal project entity to conduct an appraisal investigation, if the Secretary determines that—

[(A) the non-Federal project entity is qualified to complete the appraisal investigation in accordance with the criteria published under section 103(c); and

[(B) using the non-Federal project entity to conduct the appraisal investigation is the lowest cost alternative for completing the appraisal investigation.

[(b) Deadline.—An appraisal investigation conducted under subsection (a) shall be scheduled for completion not later than 2 years after the date on which the appraisal investigation is initiated.

[(c) Appraisal Report.—As soon as practicable after an appraisal investigation is submitted to the Secretary under subsection (a)(1) or completed under paragraph (2) or (3) of subsection (a), the Secretary shall prepare an appraisal report that—

[(1) considers—

[(A) whether the project meets—

[(i) the appraisal criteria developed under subsection (d); and

[(ii) the eligibility criteria developed under section 103(c);

[(B) whether viable water supplies and water rights exist to supply the project, including all practicable water sources such as lower quality waters, nonpotable waters, and water reuse-based water supplies;

[(C) whether the project has a positive effect on public health and safety;

[(D) whether the project will meet water demand, including projected future needs;

[(E) the extent to which the project provides environmental benefits, including source water protection;

[(F) the ability of the project to supply water consistent with Indian trust responsibilities, as appropriate;

[(G) whether the project applies a regional or watershed perspective and promotes benefits in the region in which the project is carried out;

[(H) whether the project—

[(i)(I) implements an integrated resources management approach; or

[(II) enhances water management flexibility, including providing for—

[(aa) local control to manage water supplies under varying water supply conditions; and

[(bb) participation in water banking and markets for domestic and environmental purposes; and

[(ii) promotes long-term protection of water supplies;

[(I) preliminary cost estimates for the project; and

[(J) whether the non-Federal project entity has the capability to pay 100 percent of the costs associated with the operations, maintenance, and replacement of the facilities constructed or developed as part of the rural water supply project; and

[(2) provides recommendations on whether a feasibility study should be initiated under section 106(a).

[(d) Appraisal Criteria.—

[(1) In general.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate criteria (including appraisal factors listed under subsection (c)) against which the appraisal investigations shall be assessed for completeness and appropriateness for a feasibility study.

[(2) Inclusions.—To minimize the cost of a rural water supply project to a non-Federal project entity, the Secretary shall include in the criteria methods to scale the level of effort needed to complete the appraisal investigation relative to the total size and cost of the proposed rural water supply project.

[(e) Review of Appraisal Investigation.—Not later than 180 days after the date of submission of an appraisal investigation under subsection (a)(1) or the completion of an appraisal investigation under paragraph (2) or (3) of subsection (a), the Secretary shall—

[(1) with respect to an appraisal investigation conducted by a non-Federal project entity under subsection (a)(1), provide to the non-Federal entity an evaluation of whether the appraisal investigation satisfies the criteria promulgated under subsection (d);

[(2) make available to the public, on request, the results of each appraisal investigation conducted under this title; and

[(3) promptly publish in the Federal Register a notice of the availability of the results.

[(f) Costs.—

[(1) Federal share.—The Federal share of an appraisal investigation conducted under subsection (a) shall be 100 percent of the total cost of the appraisal investigation, up to $200,000.

[(2) Non-federal share.—

[(A) In general.—Except as provided in subparagraph (B), if the cost of conducting an appraisal investigation is more than

$200,000, the non-Federal share of the costs in excess of $200,000 shall be 50 percent.

[(B) EXCEPTION.—The Secretary may reduce the non-Federal share required under subparagraph (A) if the Secretary determines that there is an overwhelming Federal interest in the appraisal investigation.

[(g) CONSULTATION; IDENTIFICATION OF FUNDING SOURCES.—In conducting an appraisal investigation under subsection (a)(2), the Secretary shall—

[(1) consult and cooperate with the non-Federal project entity and appropriate State, tribal, regional, and local authorities;

[(2) consult with the heads of appropriate Federal agencies to—

[(A) ensure that the proposed rural water supply project does not duplicate a project carried out under the authority of the agency head; and

[(B) if a duplicate project is being carried out, identify the authority under which the duplicate project is being carried out; and

[(3) identify what funding sources are available for the proposed rural water supply project.

[SEC. 106. FEASIBILITY STUDIES.

[(a) IN GENERAL.—On completion of an appraisal report under section 105(c) that recommends undertaking a feasibility study and subject to the availability of appropriations, the Secretary shall—

[(1) in cooperation with a non-Federal project entity, carry out a study to determine the feasibility of the proposed rural water supply project;

[(2) receive and review a feasibility study that is—

[(A) developed by the non-Federal project entity independent of support from the Secretary; and

[(B) submitted to the Secretary by the non-Federal project entity; or

[(3) provide a grant to, or enter into a cooperative agreement with, a non-Federal project entity to conduct a feasibility study, for submission to the Secretary, if the Secretary determines that—

[(A) the non-Federal entity is qualified to complete the feasibility study in accordance with the criteria promulgated under subsection (d); and

[(B) using the non-Federal project entity to conduct the feasibility study is the lowest cost alternative for completing the appraisal investigation.

[(b) REVIEW OF NON-FEDERAL FEASIBILITY STUDIES.—

[(1) IN GENERAL.—In conducting a review of a feasibility study submitted under paragraph (2) or (3) of subsection (a), the Secretary shall—

[(A) in accordance with the feasibility factors described in subsection (c) and the criteria promulgated under subsection (d), assess the completeness of the feasibility study; and

[(B) if the Secretary determines that a feasibility study is not complete, notify the non-Federal entity of the determination.

[(2) REVISIONS.—If the Secretary determines under paragraph (1)(B) that a feasibility study is not complete, the non-Federal entity shall pay any costs associated with revising the feasibility study.

[(c) FEASIBILITY FACTORS.—Feasibility studies authorized or reviewed under this title shall include an assessment of—

[(1) near- and long-term water demand in the region to be served by the rural water supply project;

[(2) advancement of public health and safety of any existing rural water supply project and other benefits of the proposed rural water supply project;

[(3) alternative new water supplies in the study area, including any opportunities to treat and use low-quality water, nonpotable water, water reuse-based supplies, and brackish and saline waters through innovative and economically viable treatment technologies;

[(4) environmental quality and source water protection issues related to the rural water supply project;

[(5) innovative opportunities for water conservation in the study area to reduce water use and water system costs, including—

[(A) nonstructural approaches to reduce the need for the project; and

[(B) demonstration technologies;

[(6) the extent to which the project and alternatives take advantage of economic incentives and the use of market-based mechanisms;

[(7)(A) the construction costs and projected operations, maintenance, and replacement costs of all alternatives; and

[(B) the economic feasibility and lowest cost method of obtaining the desired results of each alternative, taking into account the Federal cost-share;

[(8) the availability of guaranteed loans for a proposed rural water supply project;

[(9) the financial capability of the non-Federal project entity to pay the non-Federal project entity's proportionate share of the design and construction costs and 100 percent of operations, maintenance, and replacement costs, including the allocation of costs to each non-Federal project entity in the case of multiple entities;

[(10) whether the non-Federal project entity has developed an operations, management, and replacement plan to assist the non-Federal project entity in establishing rates and fees for beneficiaries of the rural water supply project;

[(11)(A) the non-Federal project entity administrative organization that would implement construction, operations, maintenance, and replacement activities; and

[(B) the fiscal, administrative, and operational controls to be implemented to manage the project;

[(12) the extent to which the project addresses Indian trust responsibilities, as appropriate;

[(13) the extent to which assistance for rural water supply is available under other Federal authorities;

[(14) the engineering, environmental, and economic activities to be undertaken to carry out the study;

[(15) the extent to which the project involves partnerships with other State, local, or tribal governments or Federal entities; and

[(16) in the case of a project intended for Indian tribes and tribal organizations, the extent to which the project addresses the goal of economic self-sufficiency.

[(d) FEASIBILITY STUDY CRITERIA.—

[(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate criteria (including the feasibility factors listed under subsection (c)) under which the feasibility studies shall be assessed for completeness and appropriateness.

[(2) INCLUSIONS.—The Secretary shall include in the criteria promulgated under paragraph (1) methods to scale the level of effort needed to complete the feasibility assessment relative to the total size and cost of the proposed rural water supply project and reduce total costs to non-Federal entities.

[(e) FEASIBILITY REPORT.—

[(1) IN GENERAL.—After completion of appropriate feasibility studies for rural water supply projects that address the factors described in subsection (c) and the criteria promulgated under subsection (d), the Secretary shall—

[(A) develop a feasibility report that includes—

[(i) a recommendation of the Secretary on—

[(I) whether the rural water supply project should be authorized for construction; and

[(II) the appropriate non-Federal share of construction costs, which shall be—

[(aa) at least 25 percent of the total construction costs; and

[(bb) determined based on an analysis of the capability-to-pay information considered under subsections (c)(9) and (f); and

[(ii) if the Secretary recommends that the project should be authorized for construction—

[(I) what amount of grants, loan guarantees, or combination of grants and loan guarantees should be used to provide the Federal cost share;

[(II) a schedule that identifies the annual operations, maintenance, and replacement costs that should be allocated to each non-Federal entity participating in the rural water supply project; and

[(III) an assessment of the financial capability of each non-Federal entity participating in the rural water supply project to pay the allocated annual operation, maintenance, and replacement costs for the rural water supply project;

[(B) submit the report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives;

[(C) make the report publicly available, along with associated study documents; and

[(D) publish in the Federal Register a notice of the availability of the results.

[(f) CAPABILITY-TO-PAY.—

[(1) IN GENERAL.—In evaluating a proposed rural water supply project under this section, the Secretary shall—

[(A) consider the financial capability of any non-Federal project entities participating in the rural water supply project to pay the capital construction costs of the rural water supply project; and

[(B) recommend an appropriate Federal share and non-Federal share of the capital construction costs, as determined by the Secretary.

[(2) FACTORS.—In determining the financial capability of non-Federal project entities to pay for a rural water supply project under paragraph (1), the Secretary shall evaluate factors for the project area, relative to the State and county average, including—

[(A) per capita income;

[(B) median household income;

[(C) the poverty rate;

[(D) the ability of the non-Federal project entity to raise tax revenues or assess fees;

[(E) the strength of the balance sheet of the non-Federal project entity; and

[(F) the existing cost of water in the region.

[(3) INDIAN TRIBES.—In determining the capability-to-pay of Indian tribe project beneficiaries, the Secretary may consider deferring the collection of all or part of the non-Federal construction costs apportioned to Indian tribe project beneficiaries unless or until the Secretary determines that the Indian tribe project beneficiaries should pay—

[(A) the costs allocated to the beneficiaries; or

[(B) an appropriate portion of the costs.

[(g) COST-SHARING REQUIREMENT.—

[(1) IN GENERAL.—Except as otherwise provided in this subsection, the Federal share of the cost of a feasibility study carried out under this section shall not exceed 50 percent of the study costs.

[(2) FORM.—The non-Federal share under paragraph (1) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the study.

[(3) FINANCIAL HARDSHIP.—The Secretary may increase the Federal share of the costs of a feasibility study if the Secretary determines, based on a demonstration of financial hardship, that the non-Federal participant is unable to contribute at least 50 percent of the costs of the study.

[(4) LARGER COMMUNITIES.—In conducting a feasibility study of a rural water supply system that includes a community with a population in excess of 50,000 inhabitants, the Secretary may require the community to pay a greater percentage of the non-Federal share than that required for communities with less than 50,000 inhabitants.

[(h) CONSULTATION AND COOPERATION.—In addition to the non-Federal project entity, the Secretary shall consult and cooperate with appropriate Federal, State, tribal, regional, and local authorities during the conduct of each feasibility assessment and development of the feasibility report conducted under this title.

[SEC. 107. MISCELLANEOUS.

[(a) AUTHORITY OF SECRETARY.—The Secretary may enter into contracts, financial assistance agreements, and such other agreements, and promulgate such regulations, as are necessary to carry out this title.

[(b) TRANSFER OF PROJECTS.—Nothing in this title authorizes the transfer of pre-existing facilities or pre-existing components of any water system from Federal to private ownership or from private to Federal ownership.

[(c) FEDERAL RECLAMATION LAW.—Nothing in this title supersedes or amends any Federal law associated with a project, or portion of a project, constructed under Federal reclamation law.

[(d) INTERAGENCY COORDINATION.—The Secretary shall coordinate the program carried out under this title with existing Federal and State rural water and wastewater programs to facilitate the most efficient and effective solution to meeting the water needs of the non-Federal project sponsors.

[(e) MULTIPLE INDIAN TRIBES.—In any case in which a contract is entered into with, or a grant is made, to an organization to perform services benefitting more than 1 Indian tribe under this title, the approval of each such Indian tribe shall be a prerequisite to entering into the contract or making the grant.

[(f) OWNERSHIP OF FACILITIES.—Title to any facility planned, designed, and recommended for construction under this title is intended to be held by the non-Federal project entity.

[(g) EFFECT ON STATE WATER LAW.—

[(1) IN GENERAL.—Nothing in this title preempts or affects State water law or an interstate compact governing water.

[(2) COMPLIANCE REQUIRED.—The Secretary shall comply with State water laws in carrying out this title.

[(h) NO ADDITIONAL REQUIREMENTS.—Nothing in this title requires a feasibility study for, or imposes any other additional requirements with respect to, rural water supply projects or programs that are authorized before the date of enactment of this Act.

[SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

[(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $20,000,000 for the period of fiscal years 2006 through 2015, to remain available until expended.

[(b) RURAL WATER PROGRAMS ASSESSMENT.—Of the amounts made available under subsection (a), not more than $1,000,000 may be made available to carry out section 104 for each of fiscal years 2006 and 2007.

[(c) LIMITATION.—No amounts made available under this section shall be used to pay construction costs associated with any rural water supply project.

[TITLE II—TWENTY-FIRST CENTURY WATER WORKS ACT

[SEC. 201. SHORT TITLE.

[This title may be cited as the "Twenty-First Century Water Works Act".

[SEC. 202. DEFINITIONS.

[In this title:

[(1) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

[(2) LENDER.—The term "lender" means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulation (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)).

[(3) LOAN GUARANTEE.—The term "loan guarantee" means any guarantee, insurance, or other pledge by the Secretary to pay all or part of the principal of, and interest on, a loan or other debt obligation of a non-Federal borrower to a lender.

[(4) NON-FEDERAL BORROWER.—The term "non-Federal borrower" means—

[(A) a State (including a department, agency, or political subdivision of a State); or

[(B) a conservancy district, irrigation district, canal company, water users' association, Indian tribe, an agency created by interstate compact, or any other entity that has the capacity to contract with the United States under Federal reclamation law.

[(5) PROJECT.—The term "project" means—

[(A) a rural water supply project (as defined in section 102(8)); or

[(B) an extraordinary operation and maintenance activity for, or the rehabilitation of, a facility—

[(i) that is authorized by Federal reclamation law and constructed by the United States under such law; or

[(ii) in connection with which there is a repayment or water service contract executed by the United States under Federal reclamation law.

[(6) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

[SEC. 203. PROJECT ELIGIBILITY.

[(a) ELIGIBILITY CRITERIA.—

[(1) IN GENERAL.—The Secretary shall develop and publish in the Federal Register criteria for determining the eligibility of a project for financial assistance under section 204.

[(2) INCLUSIONS.—Eligibility criteria shall include—

[(A) submission of an application by the lender to the Secretary;

[(B) demonstration of the creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features to ensure repayment;

[(C) demonstration by the non-Federal borrower, to the satisfaction of the Secretary, of the ability of the non-Federal borrower to repay the project financing from user fees or other dedicated revenue sources;

[(D) demonstration by the non-Federal borrower, to the satisfaction of the Secretary, of the ability of the non-Federal borrower to pay all operations, maintenance, and replacement costs of the project facilities; and

[(E) such other criteria as the Secretary determines to be appropriate.

[(b) WAIVER.—The Secretary may waive any of the criteria in subsection (a)(2) that the Secretary determines to be duplicative or rendered unnecessary because of an action already taken by the United States.

[(c) PROJECTS PREVIOUSLY AUTHORIZED.—A project that was authorized for construction under Federal reclamation laws prior to the date of enactment of this Act shall be eligible for assistance under this title, subject to the criteria established by the Secretary under subsection (a).

[(d) CRITERIA FOR RURAL WATER SUPPLY PROJECTS.—A rural water supply project that is determined to be feasible under section 106 is eligible for a loan guarantee under section 204.

[SEC. 204. LOAN GUARANTEES.

[(a) AUTHORITY.—Subject to the availability of appropriations, the Secretary may make available to lenders for a project meeting the eligibility criteria established in section 203 loan guarantees to supplement private-sector or lender financing for the project.

[(b) TERMS AND LIMITATIONS.—

[(1) IN GENERAL.—Loan guarantees under this section for a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements as the Secretary determines to be appropriate to protect the financial interests of the United States.

[(2) MAXIMUM AMOUNT.—The amount of a loan guarantee shall not exceed 90 percent of the reasonably anticipated eligible project costs.

[(3) INTEREST RATE.—The interest rate on a loan guarantee shall be negotiated between the non-Federal borrower and the lender with the consent of the Secretary.

[(4) AMORTIZATION.—A loan guarantee under this section shall provide for complete amortization of the loan guarantee within not more than 40 years.

[(5) NON-SUBORDINATION.—In case of bankruptcy, insolvency, or liquidation of the non-Federal borrower, a loan guarantee shall not be subordinated to the claims of any holder of project obligations.

[(c) PREPAYMENT AND REFINANCING.—Any prepayment or refinancing terms on a loan guarantee shall be negotiated between the non-Federal borrower and the lender with the consent of the Secretary.

[SEC. 205. OPERATIONS, MAINTENANCE, AND REPLACEMENT COSTS.

[(a) IN GENERAL.—The non-Federal share of operations, maintenance, and replacement costs for a project receiving Federal assistance under this title shall be 100 percent.

[(b) PLAN.—On request of the non-Federal borrower, the Secretary may assist in the development of an operation, maintenance, and replacement plan to provide the necessary framework to assist the non-Federal borrower in establishing rates and fees for project beneficiaries.

[SEC. 206. TITLE TO NEWLY CONSTRUCTED FACILITIES.

[(a) NEW PROJECTS AND FACILITIES.—All new projects or facilities constructed in accordance with this title shall remain under the jurisdiction and control of the non-Federal borrower subject to the terms of the repayment agreement.

[(b) EXISTING PROJECTS AND FACILITIES.—Nothing in this title affects the title of—

[(1) reclamation projects authorized prior to the date of enactment of this Act;

[(2) works supplemental to existing reclamation projects; or

[(3) works constructed to rehabilitate existing reclamation projects.

[SEC. 207. WATER RIGHTS.

[(a) IN GENERAL.—Nothing in this title preempts or affects State water law or an interstate compact governing water.

[(b) COMPLIANCE REQUIRED.—The Secretary shall comply with State water laws in carrying out this title. Nothing in this title affects or preempts State water law or an interstate compact governing water.

[SEC. 208. INTERAGENCY COORDINATION AND COOPERATION.

[The Secretary and the Secretary of Agriculture shall enter into a memorandum of agreement providing for Department of Agriculture financial appraisal functions and loan guarantee administration for activities carried out under this title.

[SEC. 209. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.]

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Rural Water Supply Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents of this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—RECLAMATION RURAL WATER SUPPLY ACT OF 2005

Sec. 101. Short title.
Sec. 102. Definitions.
Sec. 103. Rural water supply program.
Sec. 104. Rural water programs assessment.
Sec. 105. Appraisal investigations.
Sec. 106. Feasibility studies.
Sec. 107. Miscellaneous.
Sec. 108. Authorization of appropriations.

TITLE II—TWENTY-FIRST CENTURY WATER WORKS ACT

Sec. 201. Short title.
Sec. 202. Definitions.
Sec. 203. Project eligibility.
Sec. 204. Loan guarantees.
Sec. 205. Operations, maintenance, and replacement costs.
Sec. 206. Title to newly constructed facilities.
Sec. 207. Water rights.
Sec. 208. Interagency coordination and cooperation.
Sec. 209. Authorization of appropriations.

TITLE I—RECLAMATION RURAL WATER SUPPLY ACT OF 2005

SEC. 101. SHORT TITLE.

This title may be cited as the "Reclamation Rural Water Supply Act of 2005".

SEC. 102. DEFINITIONS.

In this title:

(1) CONSTRUCTION.—The term "construction" means the installation of new infrastructure and the upgrading of existing facilities in locations in which the infrastructure or facilities are associated with the new infrastructure of a rural water project recommended by the Secretary pursuant to this title.

(2) FEDERAL RECLAMATION LAW.—The term "Federal reclamation law" means the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.).

(3) INDIAN.—The term "Indian" means an individual who is a member of an Indian tribe.

(4) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(5) NON-FEDERAL PROJECT ENTITY.—The term "non-Federal project entity" means a State, regional, or local authority, Indian tribe or tribal organization, or other qualifying entity, such as a water conservation district, water conservancy district, or rural water district or association.

(6) OPERATIONS, MAINTENANCE, AND REPLACEMENT COSTS.—

(A) IN GENERAL.—The term "operations, maintenance, and replacement costs" means all costs for the operation of a rural water supply project that are necessary for the safe, efficient, and continued functioning of the project to produce the benefits described in a feasibility study.

(B) INCLUSIONS.—The term "operations, maintenance, and replacement costs" includes—

(i) repairs of a routine nature that maintain a rural water supply project in a well kept condition;

(ii) replacement of worn-out project elements; and

(iii) rehabilitation activities necessary to bring a deteriorated project back to the original condition of the project.

(C) EXCLUSION.—The term "operations, maintenance, and replacement costs" does not include construction costs.

(7) PROGRAM.—The term "Program" means the rural water supply program established under section 103.

(8) RECLAMATION STATES.—The term "Reclamation States" means the States and areas referred to in the first section of the Act of June 17, 1902 (43 U.S.C. 391).

(9) RURAL WATER SUPPLY PROJECT.—

(A) IN GENERAL.—The term "rural water supply project" means a project that is designed to serve a community or group of communities, each of which has a population of not more than 50,000 inhabitants, which may include Indian tribes and tribal organizations, dispersed homesites, or rural areas with domestic, industrial, municipal, and residential water.

(B) INCLUSION.—The term "rural water supply project" includes—

(i) incidental noncommercial livestock watering and noncommercial irrigation of vegetation and small gardens of less than 1 acre; and

(ii) a project to improve rural water infrastructure, including—

(I) pumps, pipes, wells, and other diversions;

(II) storage tanks and small impoundments;

(III) water treatment facilities for potable water supplies, including desalination facilities;

(IV) equipment and management tools for water conservation, groundwater recovery, and water recycling; and

(V) appurtenances.

(C) EXCLUSION.—The term "rural water supply project" does not include—

(i) commercial irrigation; or

(ii) major impoundment structures.

(10) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(11) TRIBAL ORGANIZATION.—The term "tribal organization" means—

(A) the recognized governing body of an Indian tribe; and

(B) any legally established organization of Indians that is controlled, sanctioned, or chartered by the governing body or democratically elected by the adult members of the Indian community to be served by the organization.

SEC. 103. RURAL WATER SUPPLY PROGRAM.

(a) IN GENERAL.—The Secretary, in cooperation with non-Federal project entities and consistent with this title, shall establish and carry out a rural water supply program in Reclamation States to—

(1) investigate and identify opportunities to ensure safe and adequate rural water supply projects for domestic, municipal, and industrial use in small communities and rural areas of the Reclamation States;

(2) plan the design and construction, through the conduct of appraisal investigations and feasibility studies, of rural water supply projects in Reclamation States; and

(3) oversee, as appropriate, the construction of rural water supply projects in Reclamation States that are recommended by the Secretary in a feasibility report developed pursuant to section 106 and subsequently authorized by Congress.

(b) NON-FEDERAL PROJECT ENTITY.—Any activity carried out under this title shall be carried out in cooperation with a qualifying non-Federal project entity, consistent with this title.

(c) ELIGIBILITY CRITERIA.—Not later than 1 year after the date of enactment of this Act, the Secretary shall, consistent with this title, develop and publish in the Federal Register criteria for—

(1) determining the eligibility of a rural community for assistance under the Program; and

(2) prioritizing requests for assistance under the Program.

(d) FACTORS.—The criteria developed under subsection (c) shall take into account such factors as whether—

(1) a rural water supply project—

(A) serves—

(i) rural areas and small communities; or

(ii) Indian tribes; or

(B) promotes and applies a regional or watershed perspective to water resources management;

(2) there is an urgent and compelling need for a rural water supply project that would—

(A) improve the health or aesthetic quality of water;

(B) result in continuous, measurable, and significant water quality benefits; or

(C) address current or future water supply needs;

(3) a rural water supply project helps meet applicable requirements established by law; and

(4) a rural water supply project is cost effective.

(e) INCLUSIONS.—The Secretary may include—

(1) to the extent that connection provides a reliable water supply, a connection to preexisting infrastructure (including impoundments and conveyance channels) as part of a rural water supply project; and

(2) notwithstanding the limitation on population under section 102(9)(A), a town or community with a population in excess of 50,000 inhabitants in an area served by a rural water supply project if, at the discretion of the Secretary, the town or community is considered to be a critical partner in the rural supply project.

SEC. 104. RURAL WATER PROGRAMS ASSESSMENT.

(a) IN GENERAL.—In consultation with the Secretary of Agriculture, the Administrator of the Environmental Protection Agency, the Director of the Indian Health Service, the Secretary of Housing and Urban Development, and the Secretary of the Army, the Secretary shall develop an assessment of—

(1) the status of all rural water supply projects under the jurisdiction of the Secretary authorized but not completed prior to the date of enactment of this Act, including appropriation amounts, the phase of development, total anticipated costs, and obstacles to completion;

(2) the current plan (including projected financial and workforce requirements) for the completion of the projects identified in paragraph (1) within the time frames established under the provisions of law authorizing the projects or the final engineering reports for the projects;

(3) the demand for new rural water supply projects;

(4) rural water programs within other agencies and a description of the extent to which those programs provide support for rural water supply projects and water treatment programs in Reclamation States, including an assessment of the requirements, funding levels, and conditions of eligibility for the programs assessed;

(5) the extent of the demand that the Secretary can meet with the Program;

(6) how the Program will complement authorities already within the jurisdiction of the Secretary and the heads of the agencies with whom the Secretary consults; and

(7) improvements that can be made to coordinate and integrate the authorities of the agencies with programs evaluated under paragraph (4), including any recommendations to consolidate some or all of the activities of the agencies with respect to rural water supply.

(b) CONSULTATION WITH STATES.—Before finalizing the assessment developed under subsection (a), the Secretary shall solicit comments from States with identified rural water needs.

(c) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a detailed report on the assessment conducted under subsection (a).

SEC. 105. APPRAISAL INVESTIGATIONS.

(a) IN GENERAL.—On request of a non-Federal project entity with respect to a proposed rural water supply project that meets the eligibility criteria published under section 103(c) and subject to the availability of appropriations, the Secretary may—

(1) receive and review an appraisal investigation that is—

(A) developed by the non-Federal project entity, with or without support from the Secretary; and

(B) submitted to the Secretary by the non-Federal project entity;

(2) conduct an appraisal investigation; or

(3) provide a grant to, or enter into a cooperative agreement with, the non-Federal project entity to conduct an appraisal investigation, if the Secretary determines that—

(A) the non-Federal project entity is qualified to complete the appraisal investigation in accordance with the criteria published under section 103(c); and

(B) using the non-Federal project entity to conduct the appraisal investigation is a cost-effective alternative for completing the appraisal investigation.

(b) DEADLINE.—An appraisal investigation conducted under subsection (a) shall be scheduled for completion not later than 2 years after the date on which the appraisal investigation is initiated.

(c) APPRAISAL REPORT.—In accordance with subsection (f), after an appraisal investigation is submitted to the Secretary under subsection (a)(1) or completed under paragraph (2) or (3) of subsection (a), the Secretary shall prepare an appraisal report that—

(1) considers—

(A) whether the project meets—

(i) the appraisal criteria developed under subsection (d); and

(ii) the eligibility criteria developed under section 103(c);

(B) whether viable water supplies and water rights exist to supply the project, including all practicable water sources such as lower quality waters, nonpotable waters, and water reuse-based water supplies;

(C) whether the project has a positive effect on public health and safety;

(D) whether the project will meet water demand, including projected future needs;

(E) the extent to which the project provides environmental benefits, including source water protection;

(F) whether the project applies a regional or watershed perspective and promotes benefits in the region in which the project is carried out;

(G) whether the project—

(i)(I) implements an integrated resources management approach; or

(II) enhances water management flexibility, including providing for—

(aa) local control to manage water supplies under varying water supply conditions; and

(bb) participation in water banking and markets for domestic and environmental purposes; and

(ii) promotes long-term protection of water supplies;

(H) preliminary cost estimates for the project; and

(I) whether the non-Federal project entity has the capability to pay 100 percent of the costs associated with the operations, maintenance, and replacement of the facilities constructed or developed as part of the rural water supply project; and

(2) provides recommendations on whether a feasibility study should be initiated under section 106(a).

(d) APPRAISAL CRITERIA.—

(1) IN GENERAL.—Not later than 1 year after the date of enactment of this Act, the Secretary shall promulgate criteria (including appraisal factors listed under subsection (c)) against which the appraisal investigations shall be assessed for completeness and appropriateness for a feasibility study.

(2) INCLUSIONS.—To minimize the cost of a rural water supply project to a non-Federal project entity, the Secretary shall include in the criteria methods to scale the level of effort needed to complete the appraisal investigation relative to the total size and cost of the proposed rural water supply project.

(e) REVIEW OF APPRAISAL INVESTIGATION.—

(1) IN GENERAL.—Not later than 90 days after the date of submission of an appraisal investigation under paragraph (1) or (3) of subsection (a), the Secretary shall provide to the non-Federal entity that conducted the investigation a determination of whether the investigation has included the information necessary to determine whether the proposed rural water supply project satisfies the criteria promulgated under subsection (d).

(2) NO SATISFACTION OF CRITERIA.—If the Secretary determines that the appraisal investigation submitted by a non-Federal entity does not satisfy the criteria promulgated under subsection (d), the Secretary shall inform the non-Federal entity of the reasons why the appraisal investigation is deficient.

(3) RESPONSIBILITY OF SECRETARY.—If an appraisal investigation as first submitted by a non-Federal entity does not provide all necessary information, as defined by the Secretary, the Secretary shall have no obligation to conduct further analysis until the non-Federal project entity submitting the appraisal study conducts additional investigation and resubmits the appraisal investigation under this subsection.

(f) APPRAISAL REPORT.—Once the Secretary has determined that an investigation provides the information necessary under subsection (e), the Secretary shall—

(1) complete the appraisal report required under subsection (c);

(2) make available to the public, on request, the appraisal report prepared under this title; and

(3) promptly publish in the Federal Register a notice of the availability of the results.

(g) COSTS.—

(1) FEDERAL SHARE.—The Federal share of an appraisal investigation conducted under subsection (a) shall be 100 percent of the total cost of the appraisal investigation, up to $200,000.

(2) NON-FEDERAL SHARE.—

(A) IN GENERAL.—Except as provided in subparagraph (B), if the cost of conducting an appraisal investigation is more than $200,000, the non-Federal share of the costs in excess of $200,000 shall be 50 percent.

(B) EXCEPTION.—The Secretary may reduce the non-Federal share required under subparagraph (A) if the Secretary determines that there is an overwhelming Federal interest in the appraisal investigation.

(C) FORM.—The non-Federal share under subparagraph (A) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the appraisal investigation.

(h) CONSULTATION; IDENTIFICATION OF FUNDING SOURCES.—In conducting an appraisal investigation under subsection (a)(2), the Secretary shall—

(1) consult and cooperate with the non-Federal project entity and appropriate State, tribal, regional, and local authorities;

(2) consult with the heads of appropriate Federal agencies to—

(A) ensure that the proposed rural water supply project does not duplicate a project carried out under the authority of the agency head; and

(B) if a duplicate project is being carried out, identify the authority under which the duplicate project is being carried out; and

(3) identify what funding sources are available for the proposed rural water supply project.

SEC. 106. FEASIBILITY STUDIES.

(a) IN GENERAL.—On completion of an appraisal report under section 105(c) that recommends undertaking a feasibility study and subject to the availability of appropriations, the Secretary shall—

(1) in cooperation with a non-Federal project entity, carry out a study to determine the feasibility of the proposed rural water supply project;

(2) receive and review a feasibility study that is—

(A) developed by the non-Federal project entity, with or without support from the Secretary; and

(B) submitted to the Secretary by the non-Federal project entity; or

(3) provide a grant to, or enter into a cooperative agreement with, a non-Federal project entity to conduct a feasibility study, for submission to the Secretary, if the Secretary determines that—

(A) the non-Federal entity is qualified to complete the feasibility study in accordance with the criteria promulgated under subsection (d); and

(B) using the non-Federal project entity to conduct the feasibility study is a cost-effective alternative for completing the appraisal investigation.

(b) REVIEW OF NON-FEDERAL FEASIBILITY STUDIES.—

(1) IN GENERAL.—In conducting a review of a feasibility study submitted under paragraph (2) or (3) of subsection (a), the Secretary shall—

(A) in accordance with the feasibility factors described in subsection (c) and the criteria promulgated under subsection (d), assess the completeness of the feasibility study; and

(B) if the Secretary determines that a feasibility study is not complete, notify the non-Federal entity of the determination.

(2) REVISIONS.—If the Secretary determines under paragraph (1)(B) that a feasibility study is not complete, the non-Federal entity shall pay any costs associated with revising the feasibility study.

(c) FEASIBILITY FACTORS.—Feasibility studies authorized or reviewed under this title shall include an assessment of—

(1) near- and long-term water demand in the area to be served by the rural water supply project;

(2) advancement of public health and safety of any existing rural water supply project and other benefits of the proposed rural water supply project;

(3) alternative new water supplies in the study area, including any opportunities to treat and use low-quality water, nonpotable water, water reuse-based supplies, and brackish and saline waters through innovative and economically viable treatment technologies;

(4) environmental quality and source water protection issues related to the rural water supply project;

(5) innovative opportunities for water conservation in the study area to reduce water use and water system costs, including—

(A) nonstructural approaches to reduce the need for the project; and

(B) demonstration technologies;

(6) the extent to which the project and alternatives take advantage of economic incentives and the use of market-based mechanisms;

(7)(A) the construction costs and projected operations, maintenance, and replacement costs of all alternatives; and

(B) the economic feasibility and lowest cost method of obtaining the desired results of each alternative, taking into account the Federal cost-share;

(8) the availability of guaranteed loans for a proposed rural water supply project;

(9) the financial capability of the non-Federal project entity to pay the non-Federal project entity's proportionate share of the design and construction costs and 100 percent of operations, maintenance, and replacement costs, including the allocation of costs to each non-Federal project entity in the case of multiple entities;

(10) whether the non-Federal project entity has developed an operations, management, and replacement plan to assist the non-Federal project entity in establishing rates and fees for beneficiaries of the rural water supply project that includes a schedule identifying the annual operations, maintenance, and replacement costs that should be allocated to each non-Federal entity participating in the project;

(11)(A) the non-Federal project entity administrative organization that would implement construction, operations, maintenance, and replacement activities; and

(B) the fiscal, administrative, and operational controls to be implemented to manage the project;

(12) the extent to which assistance for rural water supply is available under other Federal authorities;

(13) the engineering, environmental, and economic activities to be undertaken to carry out the proposed rural water supply project;

(14) the extent to which the project involves partnerships with other State, local, or tribal governments or Federal entities; and

(15) in the case of a project intended for Indian tribes and tribal organizations, the extent to which the project addresses the goal of economic self-sufficiency.

(d) FEASIBILITY STUDY CRITERIA.—

(1) IN GENERAL.—Not later than 18 months after the date of enactment of this Act, the Secretary shall promulgate criteria (including the feasibility factors listed under subsection (c)) under which the feasibility studies shall be assessed for completeness and appropriateness.

(2) INCLUSIONS.—The Secretary shall include in the criteria promulgated under paragraph (1) methods to scale the level of effort needed to complete the feasibility assessment relative to the total size and cost of the proposed rural water supply project and reduce total costs to non-Federal entities.

(e) FEASIBILITY REPORT.—

(1) IN GENERAL.—After completion of appropriate feasibility studies for rural water supply projects that address the factors described in subsection (c) and the criteria promulgated under subsection (d), the Secretary shall—

(A) develop a feasibility report that includes—

(i) a recommendation of the Secretary on—

(I) whether the rural water supply project should be authorized for construction; and

(II) the appropriate non-Federal share of construction costs, which shall be—

(aa) at least 25 percent of the total construction costs; and

(bb) determined based on an analysis of the capability-to-pay information considered under subsections (c)(9) and (f); and

(ii) if the Secretary recommends that the project should be authorized for construction—

(I) what amount of grants, loan guarantees, or combination of grants and loan guarantees should be used to provide the Federal cost share;

(II) a schedule that identifies the annual operations, maintenance, and replacement costs that should be allocated to each non-Federal entity participating in the rural water supply project; and

(III) an assessment of the financial capability of each non-Federal entity participating in the rural water supply project to pay the allocated annual operation, maintenance, and replacement costs for the rural water supply project;

(B) submit the report to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives;

(C) make the report publicly available, along with associated study documents; and

(D) publish in the Federal Register a notice of the availability of the results.

(f) CAPABILITY-TO-PAY.—

(1) IN GENERAL.—In evaluating a proposed rural water supply project under this section, the Secretary shall—

(A) consider the financial capability of any non-Federal project entities participating in the rural water supply project to pay 25 percent or more of the capital construction costs of the rural water supply project; and

(B) recommend an appropriate Federal share and non-Federal share of the capital construction costs, as determined by the Secretary.

(2) FACTORS.—In determining the financial capability of non-Federal project entities to pay for a rural water supply project under paragraph (1), the Secretary shall evaluate factors for the project area, relative to the State average, including—

(A) per capita income;

(B) median household income;

(C) the poverty rate;

(D) the ability of the non-Federal project entity to raise tax revenues or assess fees;

(E) the strength of the balance sheet of the non-Federal project entity; and

(F) the existing cost of water in the region.

(3) INDIAN TRIBES.—In determining the capability-to-pay of Indian tribe project beneficiaries, the Secretary may consider deferring the collection of all or part of the non-Federal construction costs apportioned to Indian tribe project beneficiaries unless or until the Secretary determines that the Indian tribe project beneficiaries should pay—

(A) the costs allocated to the beneficiaries; or

(B) an appropriate portion of the costs.

(g) COST-SHARING REQUIREMENT.—

(1) IN GENERAL.—Except as otherwise provided in this subsection, the Federal share of the cost of a feasibility study carried out under this section shall not exceed 50 percent of the study costs.

(2) FORM.—The non-Federal share under paragraph (1) may be in the form of any in-kind services that the Secretary determines would contribute substantially toward the conduct and completion of the study.

(3) FINANCIAL HARDSHIP.—The Secretary may increase the Federal share of the costs of a feasibility study if the Secretary determines, based on a demonstration of financial hardship, that the non-Federal participant is unable to contribute at least 50 percent of the costs of the study.

(4) LARGER COMMUNITIES.—In conducting a feasibility study of a rural water supply system that includes a community with a population in excess of 50,000 inhabitants, the Secretary may require the non-Federal project entity to pay more than 50 percent of the costs of the study.

(h) CONSULTATION AND COOPERATION.—In addition to the non-Federal project entity, the Secretary shall consult and cooperate with appropriate Federal, State, tribal, regional, and local authorities during the conduct of each feasibility assessment and development of the feasibility report conducted under this title.

SEC. 107. MISCELLANEOUS.

(a) AUTHORITY OF SECRETARY.—The Secretary may enter into contracts, financial assistance agreements, and such other agreements, and promulgate such regulations, as are necessary to carry out this title.

(b) TRANSFER OF PROJECTS.—Nothing in this title authorizes the transfer of pre-existing facilities or pre-existing components of any water system from Federal to private ownership or from private to Federal ownership.

(c) FEDERAL RECLAMATION LAW.—Nothing in this title supersedes or amends any Federal law associated with a project, or portion of a project, constructed under Federal reclamation law.

(d) INTERAGENCY COORDINATION.—The Secretary shall coordinate the Program carried out under this title with existing Federal and State rural water and wastewater programs to facilitate the most efficient and effective solution to meeting the water needs of the non-Federal project sponsors.

(e) MULTIPLE INDIAN TRIBES.—In any case in which a contract is entered into with, or a grant is made, to an organization to perform services benefitting more than 1 Indian tribe under this title, the approval of each such Indian tribe shall be a prerequisite to entering into the contract or making the grant.

(f) OWNERSHIP OF FACILITIES.—Title to any facility planned, designed, and recommended for construction under this title shall be held by the non-Federal project entity.

(g) EXPEDITED PROCEDURES.—If the Secretary determines that a community to be served by a proposed rural water supply project has urgent and compelling water needs, the Secretary shall, to the maximum extent practicable, expedite appraisal investigations and reports conducted under section 105 and feasibility studies and reports conducted under section 106.

(h) EFFECT ON STATE WATER LAW.—

(1) IN GENERAL.—Nothing in this title preempts or affects State water law or an interstate compact governing water.

(2) COMPLIANCE REQUIRED.—The Secretary shall comply with State water laws in carrying out this title.

(i) NO ADDITIONAL REQUIREMENTS.—Nothing in this title requires a feasibility study for, or imposes any other additional requirements with respect to, rural water supply projects or programs that are authorized before the date of enactment of this Act.

SEC. 108. AUTHORIZATION OF APPROPRIATIONS.

(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $20,000,000 for the period of fiscal years 2006 through 2015, to remain available until expended.

(b) RURAL WATER PROGRAMS ASSESSMENT.—Of the amounts made available under subsection

(a), not more than $1,000,000 may be made available to carry out section 104 for each of fiscal years 2006 and 2007.

(c) LIMITATION.—No amounts made available under this section shall be used to pay construction costs associated with any rural water supply project.

TITLE II—TWENTY-FIRST CENTURY WATER WORKS ACT

SEC. 201. SHORT TITLE.

This title may be cited as the "Twenty-First Century Water Works Act".

SEC. 202. DEFINITIONS.

In this title:

(1) INDIAN TRIBE.—The term "Indian tribe" has the meaning given the term in section 4 of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b).

(2) LENDER.—The term "lender" means any non-Federal qualified institutional buyer (as defined in section 230.144A(a) of title 17, Code of Federal Regulation (or any successor regulation), known as Rule 144A(a) of the Securities and Exchange Commission and issued under the Securities Act of 1933 (15 U.S.C. 77a et seq.)).

(3) LOAN GUARANTEE.—The term "loan guarantee" has the meaning given the term "loan guarantee" in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

(4) NON-FEDERAL BORROWER.—The term "non-Federal borrower" means—

(A) a State (including a department, agency, or political subdivision of a State); or

(B) a conservancy district, irrigation district, canal company, water users' association, Indian tribe, an agency created by interstate compact, or any other entity that has the capacity to contract with the United States under Federal reclamation law.

(5) OBLIGATION.—The term "obligation" means a loan or other debt obligation that is guaranteed under this section.

(6) PROJECT.—The term "project" means—

(A) a rural water supply project (as defined in section 102(9)); or

(B) an extraordinary operation and maintenance activity for, or the rehabilitation of, a facility—

(i) that is authorized by Federal reclamation law and constructed by the United States under such law; or

(ii) in connection with which there is a repayment or water service contract executed by the United States under Federal reclamation law.

(7) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 203. PROJECT ELIGIBILITY.

(a) ELIGIBILITY CRITERIA.—

(1) IN GENERAL.—The Secretary shall develop and publish in the Federal Register criteria for determining the eligibility of a project for financial assistance under section 204.

(2) INCLUSIONS.—Eligibility criteria shall include—

(A) submission of an application by the lender to the Secretary;

(B) demonstration of the creditworthiness of the project, including a determination by the Secretary that any financing for the project has appropriate security features to ensure repayment;

(C) demonstration by the non-Federal borrower, to the satisfaction of the Secretary, of the ability of the non-Federal borrower to repay the project financing from user fees or other dedicated revenue sources;

(D) demonstration by the non-Federal borrower, to the satisfaction of the Secretary, of the ability of the non-Federal borrower to pay all operations, maintenance, and replacement costs of the project facilities; and

(E) such other criteria as the Secretary determines to be appropriate.

(b) WAIVER.—The Secretary may waive any of the criteria in subsection (a)(2) that the Secretary determines to be duplicative or rendered unnecessary because of an action already taken by the United States.

(c) PROJECTS PREVIOUSLY AUTHORIZED.—A project that was authorized for construction under Federal reclamation laws prior to the date of enactment of this Act shall be eligible for assistance under this title, subject to the criteria established by the Secretary under subsection (a).

(d) CRITERIA FOR RURAL WATER SUPPLY PROJECTS.—A rural water supply project that is determined to be feasible under section 106 is eligible for a loan guarantee under section 204.

SEC. 204. LOAN GUARANTEES.

(a) AUTHORITY.—Subject to the availability of appropriations, the Secretary may make available to lenders for a project meeting the eligibility criteria established in section 203 loan guarantees to supplement private-sector or lender financing for the project.

(b) TERMS AND LIMITATIONS.—

(1) IN GENERAL.—Loan guarantees under this section for a project shall be on such terms and conditions and contain such covenants, representations, warranties, and requirements as the Secretary determines to be appropriate to protect the financial interests of the United States.

(2) AMOUNT.—Loan guarantees by the Secretary shall not exceed an amount equal to 90 percent of the cost of the project that is the subject of the loan guarantee, as estimated at the time at which the loan guarantee is issued.

(3) INTEREST RATE.—An obligation shall bear interest at a rate that does not exceed a level that the Secretary determines to be appropriate, taking into account the prevailing rate of interest in the private sector for similar loans and risks.

(4) AMORTIZATION.—A loan guarantee under this section shall provide for complete amortization of the loan guarantee within not more than 40 years.

(5) NONSUBORDINATION.—An obligation shall be subject to the condition that the obligation is not subordinate to other financing.

(c) PREPAYMENT AND REFINANCING.—Any prepayment or refinancing terms on a loan guarantee shall be negotiated between the non-Federal borrower and the lender with the consent of the Secretary.

SEC. 205. DEFAULTS.

(a) PAYMENTS BY SECRETARY.—

(1) IN GENERAL.—If a borrower defaults on the obligation, the holder of the loan guarantee shall have the right to demand payment of the unpaid amount from the Secretary.

(2) PAYMENT REQUIRED.—By such date as may be specified in the loan guarantee or related agreements, the Secretary shall pay to the holder of the loan guarantee the unpaid interest on, and unpaid principal of, the obligation with respect to which the borrower has defaulted, unless the Secretary finds that there was not default by the borrower in the payment of interest or principal or that the default has been remedied.

(3) FORBEARANCE.—Nothing in this subsection precludes any forbearance by the holder of the obligation for the benefit of the non-Federal borrower that may be agreed on by the parties to the obligation and approved by the Secretary.

(b) SUBROGATION.—

(1) IN GENERAL.—If the Secretary makes a payment under subsection (a), the Secretary shall be subrogated to the rights of the recipient of the payment as specified in the loan guarantee or related agreements, including, as appropriate, the authority (nothwithstanding any other provision of law) to—

(A) complete, maintain, operate, lease, or otherwise dispose of any property acquired pursuant to the loan guarantee or related agreements; or

(B) permit the non-Federal borrower, pursuant to an agreement with the Secretary, to continue to pursue the purposes of the project if the Secretary determines the purposes to be in the public interest.

(2) SUPERIORITY OF RIGHTS.—The rights of the Secretary, with respect to any property acquired pursuant to a loan guarantee or related agreement, shall be superior to the rights of any other person with respect to the property.

(c) PAYMENT OF PRINCIPAL AND INTEREST BY SECRETARY.—With respect to any obligation guaranteed under this section, the Secretary may enter into a contract to pay, and pay, holders of the obligation, for and on behalf of the non-Federal borrower, from funds appropriated for that purpose, the principal and interest payments that become due and payable on the unpaid balance of the obligation if the Secretary finds that—

(1)(A) the non-Federal borrower is unable to meet the payments and is not in default;

(B) it is in the public interest to permit the non-Federal borrower to continue to pursue the purposes of the project; and

(C) the probable net benefit to the Federal Government in paying the principal and interest will be greater than that which would result in the event of a default;

(2) the amount of the payment that the Secretary is authorized to pay shall be no greater than the amount of principal and interest that the non-Federal borrower is obligated to pay under the agreement being guaranteed; and

(3) the borrrower agrees to reimburse the Secretary for the payment (including interest) on terms and conditions that are satisfactory to the Secretary.

(d) ACTION BY ATTORNEY GENERAL.—

(1) NOTIFICATION.—If the non-Federal borrower defaults on an obligation, the Secretary shall notify the Attorney General of the default.

(2) RECOVERY.—On notification, the Attorney General shall take such action as is appropriate to recover the unpaid principal and interest due from—

(A) such assets of the defaulting non-Federal borrower as are associated with the obligation; or

(B) any other security pledged to secure the obligation.

SEC. 206. OPERATIONS, MAINTENANCE, AND REPLACEMENT COSTS.

(a) IN GENERAL.—The non-Federal share of operations, maintenance, and replacement costs for a project receiving Federal assistance under this title shall be 100 percent.

(b) PLAN.—On request of the non-Federal borrower, the Secretary may assist in the development of an operation, maintenance, and replacement plan to provide the necessary framework to assist the non-Federal borrower in establishing rates and fees for project beneficiaries.

SEC. 207. TITLE TO NEWLY CONSTRUCTED FACILITIES.

(a) NEW PROJECTS AND FACILITIES.—All new projects or facilities constructed in accordance with this title shall remain under the jurisdiction and control of the non-Federal borrower subject to the terms of the repayment agreement.

(b) EXISTING PROJECTS AND FACILITIES.—Nothing in this title affects the title of—

(1) reclamation projects authorized prior to the date of enactment of this Act;

(2) works supplemental to existing reclamation projects; or

(3) works constructed to rehabilitate existing reclamation projects.

SEC. 208. WATER RIGHTS.

(a) IN GENERAL.—Nothing in this title preempts or affects State water law or an interstate compact governing water.

(b) Compliance Required.—The Secretary shall comply with State water laws in carrying out this title. Nothing in this title affects or preempts State water law or an interstate compact governing water.

SEC. 209. INTERAGENCY COORDINATION AND COOPERATION.

(a) Consultation.—The Secretary shall consult with the Secretary of Agriculture before promulgating criteria with respect to financial appraisal functions and loan guarantee administration for activities carried out under this title.

(b) Memorandum of Agreement.—The Secretary and the Secretary of Agriculture may enter into a memorandum of agreement providing for Department of Agriculture financial appraisal functions and loan guarantee administration for activities carried out under this title.

SEC. 210. RECORDS; AUDITS.

(a) In General.—A recipient of a loan guarantee shall keep such records and other pertinent documents as the Secretary shall prescribe by regulation, including such records as the Secretary may require to facilitate an effective audit.

(b) Access.—The Secretary and the Comptroller General of the United States, or their duly authorized representatives, shall have access, for the purpose of audit, to the records and other pertinent documents.

SEC. 211. FULL FAITH AND CREDIT.

The full faith and credit of the United States is pledged to the payment of all guarantees issued under this section with respect to principal and interest.

SEC. 212. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this title, to remain available until expended.

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 895), as amended, was read the third time and passed.

STAR-SPANGLED BANNER NATIONAL HISTORIC TRAIL ACT

The Senate proceeded to consider the bill (S. 958) to amend the National Trails System Act to designate the Star-Spangled Banner Trail in the State of Maryland and Virginia and the District of Columbia as a National Historic Trail, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Star-Spangled Banner National Historic Trail Act".

SEC. 2. AUTHORIZATION AND ADMINISTRATION OF TRAIL.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end the following:

"(25) Star-Spangled Banner National Historic Trail.—

["(A) In general.—The Star-Spangled Banner National Historic Trail (referred to in this paragraph as the 'trail'), an approximately 290-mile long trail extending from southern]

"(A) In general.—The Star-Spangled Banner National Historic Trail, a trail consisting of water and overland routes totaling approximately 290 miles extending from southern Maryland through the District of Columbia and Virginia, and north to Baltimore, Maryland, commemorating the Chesapeake Campaign of the War of 1812 (including the British invasion of Washington, District of Columbia, and its associated feints and the Battle of Baltimore in summer 1814), as generally depicted on the maps contained in the [draft] report entitled 'Star-Spangled Banner National Historic Trail Feasibility Study and Environmental Impact Statement', and dated March 2004.

"(B) Map.—A map generally depicting the trail shall be maintained on file and available for public inspection in the appropriate offices of the National Park Service.

"(C) Administration.—Subject to subparagraph (E)(ii), the trail shall be administered by the Secretary of the Interior.

"(D) Land acquisition.—No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the United States for the trail except with the consent of the owner of the land or interest in land.

"(E) Public participation.—The Secretary of the Interior shall—

"(i) encourage communities, owners of land along the trail, and volunteer trail groups to participate in the planning, development, and maintenance of the trail; and

"(ii) consult with other affected landowners and Federal, State, and local agencies in the administration of the trail.

"(F) Interpretation and assistance.—Subject to the availability of appropriations, the Secretary of the Interior may provide to State and local governments and nonprofit organizations interpretive programs and services and, through Fort McHenry National Monument and Shrine, technical assistance, for use in carrying out preservation and development of, and education relating to the War of 1812 along, the trail.".

The committee amendments were agreed to.

The bill (S. 958), as amended, was read the third time and passed, as follows:

S. 958

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Star-Spangled Banner National Historic Trail Act".

SEC. 2. AUTHORIZATION AND ADMINISTRATION OF TRAIL.

Section 5(a) of the National Trails System Act (16 U.S.C. 1244(a)) is amended by adding at the end the following:

"(25) Star-Spangled Banner National Historic Trail.—

"(A) In general.—The Star-Spangled Banner National Historic Trail, a trail consisting of water and overland routes totaling approximately 290 miles extending from southern Maryland through the District of Columbia and Virginia, and north to Baltimore, Maryland, commemorating the Chesapeake Campaign of the War of 1812 (including the British invasion of Washington, District of Columbia, and its associated feints and the Battle of Baltimore in summer 1814), as generally depicted on the maps contained in the draft report entitled 'Star-Spangled Banner National Historic Trail Feasibility Study and Environmental Impact Statement', and dated March 2004.

"(B) Map.—A map generally depicting the trail shall be maintained on file and available for public inspection in the appropriate offices of the National Park Service.

"(C) Administration.—Subject to subparagraph (E)(ii), the trail shall be administered by the Secretary of the Interior.

"(D) Land acquisition.—No land or interest in land outside the exterior boundaries of any federally administered area may be acquired by the United States for the trail except with the consent of the owner of the land or interest in land.

"(E) Public participation.—The Secretary of the Interior shall—

"(i) encourage communities, owners of land along the trail, and volunteer trail groups to participate in the planning, development, and maintenance of the trail; and

"(ii) consult with other affected landowners and Federal, State, and local agencies in the administration of the trail.

"(F) Interpretation and assistance.—Subject to the availability of appropriations, the Secretary of the Interior may provide to State and local governments and nonprofit organizations interpretive programs and services and, through Fort McHenry National Monument and Shrine, technical assistance, for use in carrying out preservation and development of, and education relating to the War of 1812 along, the trail.".

ACADIA NATIONAL PARK IMPROVEMENT ACT OF 2005

The Senate proceeded to consider the bill (S. 1154) to extend the Acadia National Park Advisory Commission, to provide improved visitor services at the park, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 1154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Acadia National Park Improvement Act of 2005".

SEC. 2. EXTENSION OF ACADIA NATIONAL PARK ADVISORY COMMISSION.

Section 103(f) of Public Law 99–420 (16 U.S.C. 341 note) is amended by striking "20" and inserting "40".

SEC. 3. INCREASE IN LAND ACQUISITION CEILING.

Section 106(a) of Public Law 99–420 (16 U.S.C. 341 note) is amended by striking "$9,100,000" and inserting "$28,000,000".

SEC. 4. INTERMODAL TRANSPORTATION CENTER.

Title I of Public Law 99–420 (16 U.S.C. 341 note) is amended by adding at the end the following new section:

"SEC. 108. INTERMODAL TRANSPORTATION CENTER.

"(a) In General.—The Secretary [shall] *may* provide assistance in the planning, construction, and operation of an intermodal transportation center located outside of the boundary of the Park in the town of Trenton, Maine to improve the management, interpretation, and visitor enjoyment of the Park.

"(b) Agreements.—To carry out subsection (a), in administering the intermodal transportation center, the Secretary may enter into interagency agreements with other Federal agencies, and cooperative agreements, under appropriate terms and conditions, with State and local agencies, and nonprofit organizations—

"(1) to provide exhibits, interpretive services (including employing individuals to provide such services), and technical assistance;

"(2) to conduct activities that facilitate the dissemination of information relating to the Park and the Island Explorer transit system *or any successor transit system*;

"(3) to provide financial assistance for the construction of the intermodal transportation center in exchange for space in the center that is sufficient to interpret the Park; and

"(4) to assist with the operation and maintenance of the intermodal transportation center.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section (including planning, design and construction of the intermodal transportation center).

"(2) OPERATIONS AND MAINTENANCE.—There are authorized to be appropriated such sums as are necessary to maintain and operate the intermodal transportation center.".

The committee amendments were agreed to.

The bill (S. 1154), as amended, was read the third time and passed, as follows:

S. 1154

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Acadia National Park Improvement Act of 2005".

SEC. 2. EXTENSION OF ACADIA NATIONAL PARK ADVISORY COMMISSION.

Section 103(f) of Public Law 99–420 (16 U.S.C. 341 note) is amended by striking "20" and inserting "40".

SEC. 3. INCREASE IN LAND ACQUISITION CEILING.

Section 106(a) of Public Law 99–420 (16 U.S.C. 341 note) is amended by striking "$9,100,000" and inserting "$28,000,000".

SEC. 4. INTERMODAL TRANSPORTATION CENTER.

[illegible] I of Public Law 99–420 (16 U.S.C. 341 n[illegible] is amended by adding at the end the f[illegible]g new section:

"SE[illegible]. INTERMODAL TRANSPORTATION CENTER.

"(a) IN GENERAL.—The Secretary may provide assistance in the planning, construction, and operation of an intermodal transportation center located outside of the boundary of the Park in the town of Trenton, Maine to improve the management, interpretation, and visitor enjoyment of the Park.

"(b) AGREEMENTS.—To carry out subsection (a), in administering the intermodal transportation center, the Secretary may enter into interagency agreements with other Federal agencies, and cooperative agreements, under appropriate terms and conditions, with State and local agencies, and nonprofit organizations—

"(1) to provide exhibits, interpretive services (including employing individuals to provide such services), and technical assistance;

"(2) to conduct activities that facilitate the dissemination of information relating to the Park and the Island Explorer transit system or any successor transit system;

"(3) to provide financial assistance for the construction of the intermodal transportation center in exchange for space in the center that is sufficient to interpret the Park; and

"(4) to assist with the operation and maintenance of the intermodal transportation center.

"(c) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—There are authorized to be appropriated to the Secretary such sums as are necessary to carry out this section (including planning, design and construction of the intermodal transportation center).

"(2) OPERATIONS AND MAINTENANCE.—There are authorized to be appropriated such sums as are necessary to maintain and operate the intermodal transportation center.".

PUBLIC LANDS CORPS HEALTHY FORESTS RESTORATION ACT OF 2005

The Senate proceeded to consider the bill (S. 1238) to amend the Public Lands Corps Act of 1993 to provide for the conduct of projects that protect forests, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 1238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Lands Corps Healthy Forests Restoration Act of 2005".

SEC. 2. AMENDMENTS TO THE PUBLIC LANDS CORPS ACT OF 1993.

(a) DEFINITIONS.—Section 203 of the Public Lands Corps Act of 1993 (16 U.S.C. 1722) is amended—

(1) by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (9), (10), (11), and (13), respectively;

(2) by inserting after paragraph (7) the following:

"(8) PRIORITY PROJECT.—The term 'priority project' means an appropriate conservation project conducted on eligible service lands to further 1 or more of the purposes of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6501 et seq.), as follows:

"(A) To reduce wildfire risk to a community, municipal water supply, or other at-risk Federal land.

"(B) To protect a watershed or address a threat to forest and rangeland health, including catastrophic wildfire.

"(C) To address the impact of insect or disease infestations or other damaging agents on forest and rangeland health.

"(D) To protect, restore, or enhance forest ecosystem components to—

"(i) promote the recovery of threatened or endangered species;

"(ii) improve biological diversity; or

"(iii) enhance productivity and carbon sequestration."; and

(3) by inserting after paragraph (11) (as redesignated by paragraph (1)) the following:

"(12) SECRETARY.—The term 'Secretary' means—

"(A) with respect to National Forest System land, the Secretary of Agriculture; and

"(B) with respect to Indian lands, Hawaiian home lands, or land administered by the Department of the Interior, the Secretary of the Interior.".

(b) QUALIFIED YOUTH OR CONSERVATION CORPS.—Section 204(c) of the Public Lands Corps Act of 1993 (16 U.S.C. 1723(c)) is amended—

(1) by striking "The Secretary of the Interior and the Secretary of Agriculture are" and inserting the following:

"(1) IN GENERAL.—The Secretary is"; and

(2) by adding at the end the following:

"(2) PREFERENCE.—

"(A) IN GENERAL.—For purposes of entering into contracts and cooperative agreements under paragraph (1), the Secretary may give preference to qualified youth or conservation corps located in a specific area that have a substantial portion of members who are economically, physically, or educationally disadvantaged to carry out projects within the area.

"(B) PRIORITY PROJECTS.—In carrying out priority projects in a specific area, the Secretary shall, to the maximum extent practicable, give preference to qualified youth or conservation corps located in that specific area that have a substantial portion of members who are economically, physically, or educationally disadvantaged.".

(c) CONSERVATION PROJECTS.—Section 204(d) of the Public Lands Corps Act of 1993 (16 U.S.C. 1723(d)) is amended—

(1) in the first sentence—

(A) by striking "The Secretary of the Interior and the Secretary of Agriculture may each" and inserting the following:

"(1) IN GENERAL.—The Secretary may"; and

(B) by striking "such Secretary" and inserting "the Secretary";

(2) in the second sentence, by striking "Appropriate conservation" and inserting the following:

"(2) PROJECTS ON INDIAN LANDS.—Appropriate conservation"; and

(3) by striking the third sentence and inserting the following:

"(3) DISASTER PREVENTION OR RELIEF PROJECTS.—The Secretary may authorize appropriate conservation projects and other appropriate projects to be carried out on Federal, State, local, or private land as part of a Federal disaster prevention or relief effort.".

(d) CONSERVATION CENTERS AND PROGRAM SUPPORT.—Section 205 of the Public Lands Corps Act of 1993 (16 U.S.C. 1724) is amended—

(1) by striking the heading and inserting the following:

"SEC. 205. CONSERVATION CENTERS AND PROGRAM SUPPORT.";

(2) by striking subsection (a) and inserting the following:

"(a) ESTABLISHMENT AND USE.—

"(1) IN GENERAL.—The Secretary may establish and use conservation centers owned and operated by the Secretary for—

"(A) use by the Public Lands Corps; and

"(B) the conduct of appropriate conservation projects under this title.

"(2) ASSISTANCE FOR CONSERVATION CENTERS.—The Secretary may provide to a conservation center established under paragraph (1) any services, facilities, equipment, and supplies that the Secretary determines to be necessary for the conservation center.

"(3) STANDARDS FOR CONSERVATION CENTERS.—The Secretary shall—

"(A) establish basic standards of health, nutrition, sanitation, and safety for all conservation centers established under paragraph (1); and

"(B) ensure that the standards established under subparagraph (A) are enforced.

"(4) MANAGEMENT.—As the Secretary determines to be appropriate, the Secretary may enter into a contract or other appropriate arrangement with a State or local government agency or private organization to provide for the management of a conservation center."; and

(3) by adding at the end the following:

"(d) ASSISTANCE.—The Secretary may provide any services, facilities, equipment, supplies, technical assistance, oversight, monitoring, or evaluations that are appropriate to carry out this title.".

(e) LIVING ALLOWANCES AND TERMS OF SERVICE.—Section 207 of the Public Lands Corps Act of 1993 (16 U.S.C. 1726) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) LIVING ALLOWANCES.—The Secretary shall provide each participant in the Public Lands Corps and each resource assistant with a living allowance in an amount established by the Secretary."; and

(2) by adding at the end the following:

"(c) HIRING.—The Secretary may—

"(1) grant to a member of the Public Lands Corps credit for time served with the Public Lands Corps, which may be used toward future Federal hiring; and

"(2) provide to a former member of the Public Lands Corps noncompetitive hiring status for a period of not more than 120 days after the date on which the member's service with the Public Lands Corps is complete.".

(f) FUNDING.—The Public Lands Corps Act of 1993 is amended—

(1) in section 210 (16 U.S.C. 1729), by adding at the end the following:

"(c) OTHER FUNDS.—Amounts appropriated pursuant to the authorization of appropriations under section 211 are in addition to amounts allocated to the Public Lands Corps through other Federal programs or projects."; and

(2) by inserting after section 210 the following:

"SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $15,000,000 for each fiscal year, of which $10,000,000 is authorized to carry out priority projects.

"(b) DISASTER RELIEF OR PREVENTION PROJECTS.—Notwithstanding subsection (a), any amounts made available under that subsection shall be available for disaster prevention or relief projects.

[(b)] (c) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts appropriated for any fiscal year to carry out this title shall remain available for obligation and expenditure until the end of the fiscal year following the fiscal year for which the amounts are appropriated.".

(g) CONFORMING AMENDMENTS.—The Public Lands Corps Act of 1993 is amended—

(1) in section 204 (16 U.S.C. 1723)—

(A) in subsection (b)—

(i) in the first sentence, by striking "Secretary of the Interior or the Secretary of Agriculture" and inserting "Secretary";

(ii) in the third sentence, by striking "Secretaries" and inserting "Secretary"; and

(iii) in the fourth sentence, by striking "Secretaries" and inserting "Secretary"; and

(B) in subsection (e), by striking "Secretary of the Interior and the Secretary of Agriculture" and inserting "Secretary";

(2) in section 205 (16 U.S.C. 1724)—

(A) in subsection (b), by striking "Secretary of the Interior and the Secretary of Agriculture" and inserting "Secretary"; and

(B) in subsection (c), by striking "Secretary of the Interior and the Secretary of Agriculture" and inserting "Secretary";

(3) in section 206 (16 U.S.C. 1725)—

(A) in subsection (a)—

(i) in the first sentence—

(I) by striking "Secretary of the Interior and the Secretary of Agriculture are each" and inserting "Secretary is"; and

(II) by striking "such Secretary" and inserting "the Secretary";

(ii) in the third sentence, by striking "Secretaries" and inserting "Secretary"; and

(iii) in the fourth sentence, by striking "Secretaries" and inserting "Secretary"; and

(B) in the first sentence of subsection (b), by striking "Secretary of the Interior or the Secretary of Agriculture" and inserting "the Secretary"; and

(4) in section 210 (16 U.S.C. 1729)—

(A) in subsection (a)—

(i) in paragraph (1), by striking "Secretary of the Interior and the Secretary of Agriculture are each" and inserting "Secretary is"; and

(ii) in paragraph (2), by striking "Secretary of the Interior and the Secretary of Agriculture are each" and inserting "Secretary is"; and

(B) in subsection (b), by striking "Secretary of the Interior and the Secretary of Agriculture" and inserting "Secretary".

The committee amendments were agreed to.

The amendment (No. 2591) was agreed to, as follows:

(Purpose: To modify the authorization of appropriations)

On page 8, line 15, strike "$15,000,000" and insert "$12,000,000".

On page 8, line 16, strike "$10,000,000" and insert "$8,000,000".

On page 8, line 17, after "projects" insert the following: "and $4,000,000 of which is authorized to carry out other appropriate conservation projects".

The bill (S. 1238), as amended, was read the third time and passed, as follows:

S. 1238

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Public Lands Corps Healthy Forests Restoration Act of 2005".

SEC. 2. AMENDMENTS TO THE PUBLIC LANDS CORPS ACT OF 1993.

(a) DEFINITIONS.—Section 203 of the Public Lands Corps Act of 1993 (16 U.S.C. 1722) is amended—

(1) by redesignating paragraphs (8), (9), (10), and (11) as paragraphs (9), (10), (11), and (13), respectively;

(2) by inserting after paragraph (7) the following:

"(8) PRIORITY PROJECT.—The term 'priority project' means an appropriate conservation project conducted on eligible service lands to further 1 or more of the purposes of the Healthy Forests Restoration Act of 2003 (16 U.S.C. 6501 et seq.), as follows:

"(A) To reduce wildfire risk to a community, municipal water supply, or other at-risk Federal land.

"(B) To protect a watershed or address a threat to forest and rangeland health, including catastrophic wildfire.

"(C) To address the impact of insect or disease infestations or other damaging agents on forest and rangeland health.

"(D) To protect, restore, or enhance forest ecosystem components to—

"(i) promote the recovery of threatened or endangered species;

"(ii) improve biological diversity; or

"(iii) enhance productivity and carbon sequestration."; and

(3) by inserting after paragraph (11) (as redesignated by paragraph (1)) the following:

"(12) SECRETARY.—The term 'Secretary' means—

"(A) with respect to National Forest System land, the Secretary of Agriculture; and

"(B) with respect to Indian lands, Hawaiian home lands, or land administered by the Department of the Interior, the Secretary of the Interior.".

(b) QUALIFIED YOUTH OR CONSERVATION CORPS.—Section 204(c) of the Public Lands Corps Act of 1993 (16 U.S.C. 1723(c)) is amended—

(1) by striking "The Secretary of the Interior and the Secretary of Agriculture are" and inserting the following:

"(1) IN GENERAL.—The Secretary is"; and

(2) by adding at the end the following:

"(2) PREFERENCE.—

"(A) IN GENERAL.—For purposes of entering into contracts and cooperative agreements under paragraph (1), the Secretary may give preference to qualified youth or conservation corps located in a specific area that have a substantial portion of members who are economically, physically, or educationally disadvantaged to carry out projects within the area.

"(B) PRIORITY PROJECTS.—In carrying out priority projects in a specific area, the Secretary shall, to the maximum extent practicable, give preference to qualified youth or conservation corps located in that specific area that have a substantial portion of members who are economically, physically, or educationally disadvantaged.".

(c) CONSERVATION PROJECTS.—Section 204(d) of the Public Lands Corps Act of 1993 (16 U.S.C. 1723(d)) is amended—

(1) in the first sentence—

(A) by striking "The Secretary of the Interior and the Secretary of Agriculture may each" and inserting the following:

"(1) IN GENERAL.—The Secretary may"; and

(B) by striking "such Secretary" and inserting "the Secretary";

(2) in the second sentence, by striking "Appropriate conservation" and inserting the following:

"(2) PROJECTS ON INDIAN LANDS.—Appropriate conservation"; and

(3) by striking the third sentence and inserting the following:

"(3) DISASTER PREVENTION OR RELIEF PROJECTS.—The Secretary may authorize appropriate conservation projects and other appropriate projects to be carried out on Federal, State, local, or private land as part of a Federal disaster prevention or relief effort.".

(d) CONSERVATION CENTERS AND PROGRAM SUPPORT.—Section 205 of the Public Lands Corps Act of 1993 (16 U.S.C. 1724) is amended—

(1) by striking the heading and inserting the following:

"SEC. 205. CONSERVATION CENTERS AND PROGRAM SUPPORT.";

(2) by striking subsection (a) and inserting the following:

"(a) ESTABLISHMENT AND USE.—

"(1) IN GENERAL.—The Secretary may establish and use conservation centers owned and operated by the Secretary for—

"(A) use by the Public Lands Corps; and

"(B) the conduct of appropriate conservation projects under this title.

"(2) ASSISTANCE FOR CONSERVATION CENTERS.—The Secretary may provide to a conservation center established under paragraph

(1) any services, facilities, equipment, and supplies that the Secretary determines to be necessary for the conservation center.

"(3) STANDARDS FOR CONSERVATION CENTERS.—The Secretary shall—

"(A) establish basic standards of health, nutrition, sanitation, and safety for all conservation centers established under paragraph (1); and

"(B) ensure that the standards established under subparagraph (A) are enforced.

"(4) MANAGEMENT.—As the Secretary determines to be appropriate, the Secretary may enter into a contract or other appropriate arrangement with a State or local government agency or private organization to provide for the management of a conservation center."; and

(3) by adding at the end the following:

"(d) ASSISTANCE.—The Secretary may provide any services, facilities, equipment, supplies, technical assistance, oversight, monitoring, or evaluations that are appropriate to carry out this title.".

(e) LIVING ALLOWANCES AND TERMS OF SERVICE.—Section 207 of the Public Lands Corps Act of 1993 (16 U.S.C. 1726) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) LIVING ALLOWANCES.—The Secretary shall provide each participant in the Public Lands Corps and each resource assistant with a living allowance in an amount established by the Secretary."; and

(2) by adding at the end the following:

"(c) HIRING.—The Secretary may—

"(1) grant to a member of the Public Lands Corps credit for time served with the Public Lands Corps, which may be used toward future Federal hiring; and

"(2) provide to a former member of the Public Lands Corps noncompetitive hiring status for a period of not more than 120 days after the date on which the member's service with the Public Lands Corps is complete.".

(f) FUNDING.—The Public Lands Corps Act of 1993 is amended—

(1) in section 210 (16 U.S.C. 1729), by adding at the end the following:

"(c) OTHER FUNDS.—Amounts appropriated pursuant to the authorization of appropriations under section 211 are in addition to amounts allocated to the Public Lands Corps through other Federal programs or projects."; and

(2) by inserting after section 210 the following:

"SEC. 211. AUTHORIZATION OF APPROPRIATIONS.

"(a) IN GENERAL.—There is authorized to be appropriated to carry out this title $12,000,000 for each fiscal year, of which $8,000,000 is authorized to carry out priority projects and $4,000,000 of which is authorized to carry out other appropriate conservation projects.

"(b) DISASTER RELIEF OR PREVENTION PROJECTS.—Notwithstanding subsection (a), any amounts made available under that subsection shall be available for disaster prevention or relief projects.

"(c) AVAILABILITY OF FUNDS.—Notwithstanding any other provision of law, amounts appropriated for any fiscal year to carry out this title shall remain available for obligation and expenditure until the end of the fiscal year following the fiscal year for which the amounts are appropriated.".

(g) CONFORMING AMENDMENTS.—The Public Lands Corps Act of 1993 is amended—

(1) in section 204 (16 U.S.C. 1723)—

(A) in subsection (b)—

(i) in the first sentence, by striking "Secretary of the Interior or the Secretary of Agriculture" and inserting "Secretary";

(ii) in the third sentence, by striking "Secretaries" and inserting "Secretary"; and

(iii) in the fourth sentence, by striking "Secretaries" and inserting "Secretary"; and

(B) in subsection (e), by striking "Secretary of the Interior and the Secretary of Agriculture" and inserting "Secretary";

(2) in section 205 (16 U.S.C. 1724)—

(A) in subsection (b), by striking "Secretary of the Interior and the Secretary of Agriculture" and inserting "Secretary"; and

(B) in subsection (c), by striking "Secretary of the Interior and the Secretary of Agriculture" and inserting "Secretary";

(3) in section 206 (16 U.S.C. 1725)—

(A) in subsection (a)—

(i) in the first sentence—

(I) by striking "Secretary of the Interior and the Secretary of Agriculture are each" and inserting "Secretary is"; and

(II) by striking "such Secretary" and inserting "the Secretary";

(ii) in the third sentence, by striking "Secretaries" and inserting "Secretary"; and

(iii) in the fourth sentence, by striking "Secretaries" and inserting "Secretary"; and

(B) in the first sentence of subsection (b), by striking "Secretary of the Interior or the Secretary of Agriculture" and inserting "the Secretary"; and

(4) in section 210 (16 U.S.C. 1729)—

(A) in subsection (a)—

(i) in paragraph (1), by striking "Secretary of the Interior and the Secretary of Agriculture are each" and inserting "Secretary is"; and

(ii) in paragraph (2), by striking "Secretary of the Interior and the Secretary of Agriculture are each" and inserting "Secretary is"; and

(B) in subsection (b), by striking "Secretary of the Interior and the Secretary of Agriculture" and inserting "Secretary".

DELAWARE NATIONAL COASTAL SPECIAL RESOURCES STUDY ACT

The bill (S. 1627) to authorize the Secretary of the Interior to conduct a special resources study to evaluate resources along the coastal region of the State of Delaware and to determine the suitability and feasibility of establishing a unit of the National Park System in Delaware, was read the third time and passed; as follows:

S. 1627

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Delaware National Coastal Special Resources Study Act".

SEC. 2. STUDY.

(a) IN GENERAL.—The Secretary of the Interior (referred to in this Act as the "Secretary") shall conduct a special resources study of the national significance, suitability, and feasibility of including sites in the coastal region of the State of Delaware in the National Park System.

(b) INCLUSION OF SITES IN THE NATIONAL PARK SYSTEM.—The study under subsection (a) shall include an analysis and any recommendations of the Secretary concerning the suitability and feasibility of designating 1 or more of the sites along the Delaware coast, including Fort Christina, as a unit of the National Park System that relates to the themes described in section 3.

(c) STUDY GUIDELINES.—In conducting the study authorized under subsection (a), the Secretary shall use the criteria for the study of areas for potential inclusion in the National Park System contained in section 8 of Public Law 91–383 (16 U.S.C. 1a-5).

(d) CONSULTATION.—In preparing and conducting the study under subsection (a), the Secretary shall consult with—

(1) the State of Delaware;

(2) the coastal region communities; and

(3) the general public.

SEC. 3. THEMES.

The study authorized under section 2 shall evaluate sites along the coastal region of the State of Delaware that relate to—

(1) the history of indigenous peoples, which would explore the history of Native American tribes of Delaware, such as the Nanticoke and Lenni Lenape;

(2) the colonization and establishment of the frontier, which would chronicle the first European settlers in the Delaware Valley who built fortifications for the protection of settlers, such as Fort Christina;

(3) the founding of a nation, which would document the contributions of Delaware to the development of our constitutional republic;

(4) industrial development, which would investigate the exploitation of water power in Delaware with the mill development on the Brandywine River;

(5) transportation, which would explore how water served as the main transportation link, connecting Colonial Delaware with England, Europe, and other colonies;

(6) coastal defense, which would document the collection of fortifications spaced along the river and bay from Fort Delaware on Pea Patch Island to Fort Miles near Lewes;

(7) the last stop to freedom, which would detail the role Delaware has played in the history of the Underground Railroad network; and

(8) the coastal environment, which would examine natural resources of Delaware that provide resource-based recreational opportunities such as crabbing, fishing, swimming, and boating.

SEC. 4. REPORT.

Not later than 1 year after funds are made available to carry out this Act under section 5, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report containing the findings, conclusions, and recommendations of the study conducted under section 2.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

FREE ROAMING HORSES IN THE CAPE LOOKOUT NATIONAL SEASHORE

The bill (H.R. 126) to amend Public Law 89–366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore, was read the third time and passed.

CARIBBEAN NATIONAL FOREST ACT OF 2005

The bill (H.R. 539) to designate certain National Forest System land in the Commonwealth of Puerto Rico as components of the National Wilderness Preservation System, was read the third time and passed.

DEPARTMENT OF THE INTERIOR VOLUNTEER RECRUITMENT ACT OF 2005

The bill (H.R. 584) to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior, was read the third time and passed.

ANGEL ISLAND IMMIGRATION STATION RESTORATION AND PRESERVATION ACT

The bill (H.R. 606) to authorize appropriations to the Secretary of the Interior for the restoration of the Angel Island Immigration Station in the State of California, was read the third time and passed.

NATIONAL GEOLOGIC MAPPING REAUTHORIZATION ACT OF 2005

The bill (S. 485) to reauthorize and amend the National Geolcgic Mapping Act of 1992.

The amendment (No. 2592) was agreed to, as follows:

(Purpose: To extend the authorization of appropriations for the National Geologic Mapping Act of 1992)

On page 7, line 11, strike "2010" and insert "2015".

The bill (S. 485), as amended, was read the third time and passed, as follows:

S. 485

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Geologic Mapping Reauthorization Act of 2005".

SEC. 2. FINDINGS.

Section 2(a) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31a(a)) is amended—

(1) by striking paragraph (1) and inserting the following:

"(1) although significant progress has been made in the production of geologic maps since the establishment of the national cooperative geologic mapping program in 1992, no modern, digital, geologic map exists for approximately 75 percent of the United States;"; and

(2) in paragraph (2)—

(A) in subparagraph (C), by inserting "homeland and" after "planning for";

(B) in subparagraph (E), by striking "predicting" and inserting "identifying";

(C) in subparagraph (I), by striking "and" after the semicolon at the end;

(D) by redesignating subparagraph (J) as subparagraph (K); and

(E) by inserting after subparagraph (I) the following:

"(J) recreation and public awareness; and"; and

(3) in paragraph (9), by striking "important" and inserting "available".

SEC. 3. PURPOSE.

Section 2(b) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31a(b)) is amended by inserting "and management" before the period at the end.

SEC. 4. DEADLINES FOR ACTIONS BY THE UNITED STATES GEOLOGICAL SURVEY.

Section 4(b)(1) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c(b)(1)) is amended in the second sentence—

(1) in subparagraph (A), by striking "not later than" and all that follows through the semicolon and inserting "not later than 1 year after the date of enactment of the National Geologic Mapping Reauthorization Act of 2005;";

(2) in subparagraph (B), by striking "not later than" and all that follows through "in accordance" and inserting "not later than 1 year after the date of enactment of the National Geologic Mapping Reauthorization Act of 2005 in accordance"; and

(3) in the matter preceding clause (i) of subparagraph (C), by striking "not later than" and all that follows through "submit" and inserting "submit biennially".

SEC. 5. GEOLOGIC MAPPING PROGRAM OBJECTIVES.

Section 4(c)(2) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c(c)(2)) is amended—

(1) by striking "geophysical-map data base, geochemical-map data base, and a"; and

(2) by striking "provide" and inserting "provides".

SEC. 6. GEOLOGIC MAPPING PROGRAM COMPONENTS.

Section 4(d)(1)(B)(ii) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31c(d)(1)(B)(ii)) is amended—

(1) in subclause (I), by striking "and" after the semicolon at the end;

(2) in subclause (II), by striking the period at the end and inserting "; and"; and

(3) by adding at the end the following:

"(III) the needs of land management agencies of the Department of the Interior.".

SEC. 7. GEOLOGIC MAPPING ADVISORY COMMITTEE.

(a) MEMBERSHIP.—Section 5(a) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(a)) is amended—

(1) in paragraph (2)—

(A) by inserting "the Secretary of the Interior or a designee from a land management agency of the Department of the Interior," after "Administrator of the Environmental Protection Agency or a designee,";

(B) by inserting "and" after "Energy or a designee,"; and

(C) by striking ", and the Assistant to the President for Science and Technology or a designee"; and

(2) in paragraph (3)—

(A) by striking "Not later than" and all that follows through "consultation" and inserting "In consultation";

(B) by striking "Chief Geologist, as Chairman" and inserting "Associate Director for Geology, as Chair"; and

(C) by striking "one representative from the private sector" and inserting "2 representatives from the private sector".

(b) DUTIES.—Section 5(b) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(b)) is amended—

(1) in paragraph (2), by striking "and" at the end;

(2) by redesignating paragraph (3) as paragraph (4); and

(3) by inserting after paragraph (2) the following:

"(3) provide a scientific overview of geologic maps (including maps of geologic-based hazards) used or disseminated by Federal agencies for regulation or land-use planning; and".

(c) CONFORMING AMENDMENT.—Section 5(a)(1) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31d(a)(1)) is amended by striking "10-member" and inserting "11-member".

SEC. 8. FUNCTIONS OF NATIONAL GEOLOGIC-MAP DATABASE.

Section 7(a) of the National Geologic Mapping Act of 1992 (43 U.S.C. 31f(a)) is amended—

(1) in paragraph (1), by striking "geologic map" and inserting "geologic-map"; and

(2) in paragraph (2), by striking subparagraph (A) and inserting the following:

"(A) all maps developed with funding provided by the National Cooperative Geologic Mapping Program, including under the Federal, State, and education components;".

SEC. 9. BIENNIAL REPORT.

Section 8 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31g) is amended by striking "Not later" and all that follows through "biennially" and inserting "Not later than 3 years after the date of enactment of the National Geologic Mapping Reauthorization Act of 2005 and biennially".

SEC. 10. AUTHORIZATION OF APPROPRIATIONS; ALLOCATION.

Section 9 of the National Geologic Mapping Act of 1992 (43 U.S.C. 31h) is amended—

(1) by striking subsection (a) and inserting the following:

"(a) IN GENERAL.—There is authorized to be appropriated to carry out this Act $64,000,000 for each of fiscal years 2006 through 2015."; and

(2) in subsection (b)—

(A) in the matter preceding paragraph (1), by striking "2000" and inserting "2005";

(B) in paragraph (1), by striking "48" and inserting "50"; and

(C) in paragraph (2), by striking 2 and inserting "4".

MORLEY NELSON SNAKE RIVER BIRDS OF PREY NATIONAL CONSERVATION AREA ACT

The bill (S. 761) to rename the Snake River Birds of Prey National Conservation Area in the State of Idaho as the Morley Nelson Snake River Birds of Prey National Conservation Area in honor of the late Morley Nelson, an international authority on birds of prey, who was instrumental in the establishment of this National Conservation Area, and for other purposes, was read the third time and passed; as follows:

S. 761

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Morley Nelson Snake River Birds of Prey National Conservation Area Act".

SEC. 2. RENAMING OF SNAKE RIVER BIRDS OF PREY NATIONAL CONSERVATION AREA.

(a) RENAMING.—Public Law 103–64 is amended—

(1) in section 2(2) (16 U.S.C. 460iii–1(2)), by inserting "Morley Nelson" before "Snake River Birds of Prey National Conservation Area"; and

(2) in section 3(a)(1) (16 U.S.C. 460iii-2(a)(1)), by inserting "Morley Nelson" before "Snake River Birds of Prey National Conservation Area".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to the Snake River Birds of Prey National Conservation Area shall be deemed to be a reference to the Morley Nelson Snake River Birds of Prey National Conservation Area.

(c) TECHNICAL CORRECTIONS.—Public Law 103-64 is further amended—

(1) in section 3(a)(1) (16 U.S.C. 460iii-2(a)(1)), by striking "(hereafter referred to as the 'conservation area')"; and

(2) in section 4 (16 U.S.C. 460iii-3)—

(A) in subsection (a)(2), by striking "Conservation Area" and inserting "conservation area"; and

(B) in subsection (d), by striking "Visitors Center" and inserting "visitors center".

FORT STANTON-SNOWY RIVER NATIONAL CAVE CONSERVATION AREA ACT

The Senate proceeded to consider the bill (S. 1170) to establish the Fort Stanton-Snowy River National Cave Conservation Area, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 1170

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Fort Stanton-Snowy River National Cave Conservation Area Act".

[SEC. 2. DEFINITIONS.

[In this Act:

[(1) CONSERVATION AREA.—The term "Conservation Area" means the Fort Stanton-Snowy River National Cave Conservation Area established by section 3(a).

[(2) MANAGEMENT PLAN.—The term "management plan" means the management plan developed for the Conservation Area under section 4(c).

[(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

[SEC. 3. ESTABLISHMENT OF FORT STANTON-SNOWY RIVER NATIONAL CAVE CONSERVATION AREA.

[(a) IN GENERAL.—There is established the Fort Stanton-Snowy River National Cave Conservation Area in Lincoln County, New Mexico, to secure, protect, and conserve subterranean natural and unique features and environs for scientific, educational, and other appropriate public uses.

[(b) BOUNDARIES.—The Conservation Area shall include—

[(1) the minimum subsurface area necessary to provide for the Fort Stanton Cave, including the Snowy River passage in its entirety (which may include other significant caves); and

[(2) the minimum surface acreage, as determined by the Secretary, that is necessary to provide access to the cave entrance.

[(c) MAP AND LEGAL DESCRIPTION.—

[(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall prepare a map and legal description of the Conservation Area.

[(2) EFFECT.—The map and legal description of the Conservation Area shall have the same force and effect as if included in this Act, except that the Secretary may correct any minor errors in the map and legal description.

[(3) PUBLIC AVAILABILITY.—The map and legal description of the Conservation Area shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

[SEC. 4. ADMINISTRATION OF CONSERVATION AREA.

[(a) IN GENERAL.—The Secretary shall administer the Conservation Area—

[(1) in accordance with the laws (including regulations) applicable to public land and the management plan required by this Act; and

[(2) in a manner that provides for—

[(A) the conservation and protection of the natural and unique features and environs for scientific, educational, and other appropriate public uses of the Conservation Area;

[(B) public access, as appropriate, while providing for the protection of the cave resources and for public safety;

[(C) the continuation of other existing uses and new uses of the Conservation Area that do not substantially impair the purposes for which the Conservation Area is established;

[(D) the protection of new caves within the Conservation Area, such as the Snowy River passage within Fort Stanton Cave;

[(E) the continuation of such uses on the surface acreage as exist under management action in place prior to designation of the Conservation Area by this Act; and

[(F) scientific investigation and research opportunities within the Conservation Area, including through partnerships with colleges, universities, schools, scientific institutions, researchers, and scientists to conduct research and provide educational and interpretive services within the Conservation Area.

[(b) WITHDRAWALS.—Subject to valid existing rights, all Federal surface and subsurface land within the Conservation Area and all land and interests in the surface and subsurface land that are acquired by the United States after the date of enactment of this Act for inclusion in the Conservation Area, are withdrawn from—

[(1) all forms of entry, appropriation, or disposal under the general land laws;

[(2) location, entry, and patent under the mining laws; and

[(3) operation under the mineral leasing and geothermal leasing laws.

[(c) MANAGEMENT PLAN.—

[(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop a comprehensive plan for the long-term management of the Conservation Area.

[(2) PURPOSES.—The management plan shall—

[(A) describe the appropriate uses and management of the Conservation Area;

[(B) incorporate, as appropriate, decisions contained in any other management or activity plan for the land within or adjacent to the Conservation Area;

[(C) take into consideration any information developed in studies of the land and resources within or adjacent to the Conservation Area; and

[(D) engage in a cooperative agreement with Lincoln County, New Mexico, to address the historical involvement of the local community in the interpretation and protection of the resources of the Conservation Area.

[(d) ACTIVITIES OUTSIDE CONSERVATION AREA.—

[(1) IN GENERAL.—The fact that an activity or use is not permitted inside the Conservation Area shall not preclude—

[(A) the conduct of the activity on land, or the use of land for the activity, outside the boundary of the Conservation Area, consistent with other applicable laws (including regulations); or

[(B) any activity or use, including new uses, on the surface land above the Conservation Area or on any land appurtenant to that surface land.

[(2) MANAGEMENT.—The surface land described in paragraph (1)(B) shall continue to be managed for multiple uses in accordance with all applicable laws (including regulations).

[(e) RESEARCH AND INTERPRETIVE FACILITIES.—

[(1) IN GENERAL.—The Secretary may establish facilities for—

[(A) the conduct of scientific research; and

[(B) the interpretation of the historical, cultural, scientific, archaeological, natural, and educational resources of the Conservation Area.

[(2) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the State of New Mexico and other institutions and organizations to carry out the purposes of this Act.

[(f) WATER RIGHTS.—Nothing in this Act constitutes an express or implied reservation of any water right.

[SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

[There are authorized to be appropriated such sums as are necessary to carry out this Act.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fort Stanton-Snowy River National Cave Conservation Area Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) CONSERVATION AREA.—The term "Conservation Area" means the Fort Stanton-Snowy River National Cave Conservation Area established by section 3(a).

(2) MANAGEMENT PLAN.—The term "management plan" means the management plan developed for the Conservation Area under section 4(c).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 3. ESTABLISHMENT OF FORT STANTON-SNOWY RIVER NATIONAL CAVE CONSERVATION AREA.

(a) IN GENERAL.—There is established the Fort Stanton-Snowy River National Cave Conservation Area in Lincoln County, New Mexico, to secure, protect, and conserve subterranean natural and unique features and environs for scientific, educational, and other appropriate public uses.

(b) BOUNDARIES.—The Conservation Area shall include—

(1) the minimum subsurface area necessary to encompass the "Ft. Stanton Cave" and the "Newly Discovered Cave", as depicted on the map entitled "Fort Stanton Cave" and dated March 29, 2005; and

(2) the minimum surface acreage, as determined by the Secretary, that is necessary to provide access to the cave entrance, but not to exceed 40 acres.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall establish detailed boundaries and prepare a map and legal description of the Conservation

Area that depicts the minimum acreage necessary to encompass the land described in subsection (b), based on the smallest legal subdivision described in not less than 40 acre aliquot parts.

(2) EFFECT.—The map and legal description of the Conservation Area shall have the same force and effect as if included in this Act, except that the Secretary may correct any minor errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description of the Conservation Area shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 4. MANAGEMENT OF THE CONSERVATION AREA.

(a) IN GENERAL.—The Secretary shall administer the Conservation Area—

(1) in accordance with the laws (including regulations) applicable to public land and the management plan required by this Act; and

(2) in a manner that provides for—

(A) the conservation and protection of the natural and unique features and environs for scientific, educational, and other appropriate public uses of the Conservation Area;

(B) public access, as appropriate, while providing for the protection of the cave resources and for public safety;

(C) the continuation of other existing uses and new uses of the Conservation Area that do not substantially impair the purposes for which the Conservation Area is established;

(D) management of the surface area overlying the Conservation Area in accordance with the Fort Stanton Area of Critical Environmental Concern Final Activity Plan dated March, 2001; and

(E) scientific investigation and research opportunities within the Conservation Area, including through partnerships with colleges, universities, schools, scientific institutions, researchers, and scientists to conduct research and provide educational and interpretive services within the Conservation Area.

(b) WITHDRAWALS.—Subject to valid existing rights, all Federal surface and subsurface land within the Conservation Area and all land and interests in the surface and subsurface land that are acquired by the United States after the date of enactment of this Act for inclusion in the Conservation Area, are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the general land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation under the mineral leasing and geothermal leasing laws.

(c) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop a comprehensive plan for the long-term management of the Conservation Area.

(2) PURPOSES.—The management plan shall—

(A) describe the appropriate uses and management of the Conservation Area;

(B) incorporate, as appropriate, decisions contained in any other management or activity plan for the land within or adjacent to the Conservation Area;

(C) take into consideration any information developed in studies of the land and resources within or adjacent to the Conservation Area; and

(D) provide for a cooperative agreement with Lincoln County, New Mexico, to address the historical involvement of the local community in the interpretation and protection of the resources of the Conservation Area.

(d) ACTIVITIES OUTSIDE CONSERVATION AREA.—The establishment of the Conservation Area shall not—

(1) create a protective perimeter or buffer zone around the Conservation Area; or

(2) preclude uses or activities outside the Conservation Area that are permitted under other applicable laws, even if the uses or activities are prohibited within the Conservation Area.

(e) RESEARCH AND INTERPRETIVE FACILITIES.—

(1) IN GENERAL.—The Secretary may establish facilities for—

(A) the conduct of scientific research; and

(B) the interpretation of the historical, cultural, scientific, archaeological, natural, and educational resources of the Conservation Area.

(2) COOPERATIVE AGREEMENTS.—The Secretary may enter into cooperative agreements with the State of New Mexico and other institutions and organizations to carry out the purposes of this Act.

(f) WATER RIGHTS.—Nothing in this Act constitutes an express or implied reservation of any water right.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The amendment (No. 2593) was agreed to, as follows:

(Purpose: To provide a complete substitute)

Strike all after the enacting clause and insert the following:

SECTION 1. SHORT TITLE.

This Act may be cited as the "Fort Stanton-Snowy River Cave National Conservation Area Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) CONSERVATION AREA.—The term "Conservation Area" means the Fort Stanton-Snowy River Cave National Conservation Area established by section 3(a).

(2) MANAGEMENT PLAN.—The term "management plan" means the management plan developed for the Conservation Area under section 4(c).

(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior, acting through the Director of the Bureau of Land Management.

SEC. 3. ESTABLISHMENT OF FORT STANTON-SNOWY RIVER CAVE NATIONAL CONSERVATION AREA.

(a) ESTABLISHMENT PURPOSES.—There is established the Fort Stanton–Snowy River Cave National Conservation Area in Lincoln County, New Mexico, to protect, conserve, and enhance the unique and nationally important historic, cultural, scientific, archaeological, natural, and educational subterranean cave resources of the Fort Stanton-Snowy River cave system.

(b) AREA INCLUDED.—The Conservation Area shall include the area within the boundaries depicted on the map entitled "Fort Stanton–Snowy River Cave National Conservation Area" and dated November 2005.

(c) MAP AND LEGAL DESCRIPTION.—

(1) IN GENERAL.—As soon as practicable after the date of enactment of this Act, the Secretary shall submit to Congress a map and legal description of the Conservation Area.

(2) EFFECT.—The map and legal description of the Conservation Area shall have the same force and effect as if included in this Act, except that the Secretary may correct any minor errors in the map and legal description.

(3) PUBLIC AVAILABILITY.—The map and legal description of the Conservation Area shall be available for public inspection in the appropriate offices of the Bureau of Land Management.

SEC. 4. MANAGEMENT OF THE CONSERVATION AREA.

(a) MANAGEMENT.—

(1) IN GENERAL.—The Secretary shall manage the Conservation Area—

(A) in a manner that conserves, protects, and enhances the resources and values of the Conservation Area, including the resources and values described in section 3(a); and

(B) in accordance with—

(i) this Act;

(ii) the Federal Land Policy and Management Act of 1976 (43 U.S.C. 1701 et seq.); and

(iii) any other applicable laws.

(2) USES.—The Secretary shall only allow uses of the Conservation Area that are consistent with the protection of the cave resources.

(3) REQUIREMENTS.—In administering the Conservation Area, the Secretary shall provide for—

(A) the conservation and protection of the natural and unique features and environs for scientific, educational, and other appropriate public uses of the Conservation Area;

(B) public access, as appropriate, while providing for the protection of the cave resources and for public safety;

(C) the continuation of other existing uses or other new uses of the Conservation Area that do not impair the purposes for which the Conservation Area is established;

(D) management of the surface area of the Conservation Area in accordance with the Fort Stanton Area of Critical Environmental Concern Final Activity Plan dated March, 2001, or any amendments to the plan, consistent with this Act; and

(E) scientific investigation and research opportunities within the Conservation Area, including through partnerships with colleges, universities, schools, scientific institutions, researchers, and scientists to conduct research and provide educational and interpretive services within the Conservation Area.

(b) WITHDRAWALS.—Subject to valid existing rights, all Federal surface and subsurface land within the Conservation Area and all land and interests in the land that are acquired by the United States after the date of enactment of this Act for inclusion in the Conservation Area, are withdrawn from—

(1) all forms of entry, appropriation, or disposal under the general land laws;

(2) location, entry, and patent under the mining laws; and

(3) operation under the mineral leasing and geothermal leasing laws.

(c) MANAGEMENT PLAN.—

(1) IN GENERAL.—Not later than 2 years after the date of enactment of this Act, the Secretary shall develop a comprehensive plan for the long-term management of the Conservation Area.

(2) PURPOSES.—The management plan shall—

(A) describe the appropriate uses and management of the Conservation Area;

(B) incorporate, as appropriate, decisions contained in any other management or activity plan for the land within or adjacent to the Conservation Area;

(C) take into consideration any information developed in studies of the land and resources within or adjacent to the Conservation Area; and

(D) provide for a cooperative agreement with Lincoln County, New Mexico, to address the historical involvement of the local community in the interpretation and protection of the resources of the Conservation Area.

(d) ACTIVITIES OUTSIDE CONSERVATION AREA.—The establishment of the Conservation Area shall not—

(1) create a protective perimeter or buffer zone around the Conservation Area; or

(2) preclude uses or activities outside the Conservation Area that are permitted under other applicable laws, even if the uses or activities are prohibited within the Conservation Area.

(e) RESEARCH AND INTERPRETIVE FACILITIES.—

(1) IN GENERAL.—The Secretary may establish facilities for—

(A) the conduct of scientific research; and

(B) the interpretation of the historical, cultural, scientific, archaeological, natural, and educational resources of the Conservation Area.

(2) COOPERATIVE AGREEMENTS.—The Secretary may, in a manner consistent with this Act, enter into cooperative agreements with the State of New Mexico and other institutions and organizations to carry out the purposes of this Act.

(f) WATER RIGHTS.—Nothing in this Act constitutes an express or implied reservation of any water right.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The committee amendment in the nature of a substitute, as amended, was agreed to.

The amendment (No. 2594) was agreed to, as follows:

Amend the title so as to read: "To establish the Fort Stanton-Snowy River Cave National Conservation Area".

The bill (S. 1170), as amended, was read the third time and passed.

DESCHUTES RIVER CONSERVANCY REAUTHORIZATION ACT OF 2005

The bill (S. 166) to amend the Oregon Resource Conservation Act of 1996 to reauthorize the participation of the Bureau of Reclamation in the Deschutes River Conservancy, and for other purposes, was read the third time and passed; as follows:

S. 166

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Deschutes River Conservancy Reauthorization Act of 2005".

SEC. 2. EXTENSION OF PARTICIPATION OF BUREAU OF RECLAMATION IN DESCHUTES RIVER CONSERVANCY.

Section 301 of the Oregon Resource Conservation Act of 1996 (division B of Public Law 104-208; 110 Stat. 3009-534) is amended—

(1) in subsection (a)—

(A) in paragraph (1), by striking "Deschutes River Basin Working Group" and inserting "Deschutes River Conservancy Working Group"; and

(B) by striking paragraph (5) and inserting the following:

"(5) QUORUM.—The term 'quorum' means 8 of those qualified Working Group members appointed and eligible to serve.";

(2) in subsection (b)(3), by inserting before the period at the end the following: ", and up to a total amount of $2,000,000 during each of fiscal years 2006 through 2015"; and

(3) in subsection (h), by inserting before the period at the end the following: ", and $2,000,000 for each of fiscal years 2006 through 2015".

LITTLE BUTTE/BEAR CREEK SUB-BASINS WATER FEASIBILITY ACT

The Senate proceeded to consider the bill (S. 251) to authorize the Secretary of the Interior, acting through the Bureau of Reclamation, to conduct a water resource feasibility study for the Little Butte/Bear Creek Sub-basins in Oregon, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 251

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LITTLE BUTTE/BEAR CREEK SUB-BASINS, OREGON, WATER RESOURCE STUDY.

(a) SHORT TITLE.—This section may be cited as the "Little Butte/Bear Creek Subbasins Water Feasibility Act".

(b) AUTHORIZATION.—The Secretary of the Interior, acting through the Bureau of Reclamation, may [conduct] participate in the Water for Irrigation, Streams and the Economy Project water management feasibility study and environmental impact statement in accordance with the "Memorandum of Agreement Between City of Medford and Bureau of Reclamation for the Water for Irrigation, Streams, and the Economy Project", dated July 2, 2004.

[(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $500,000 to carry out this section.]

(c) AUTHORIZATION OF APPROPRIATIONS.—

(1) IN GENERAL.—There is authorized to be appropriated to the Bureau of Reclamation $500,000 to carry out activities under this Act.

(2) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share shall be 50 percent of the total costs of the Bureau of Reclamation in carrying out subsection (b).

(B) FORM.—The non-Federal share required under subparagraph (A) may be in the form of any in-kind services that the Secretary of the Interior determines would contribute substantially toward the conduct and completion of the study and environmental impact statement required under subsection (b).

The committee amendments were agreed to.

The bill (S. 251), as amended, was read the third time and passed, as follows:

S. 251

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. LITTLE BUTTE/BEAR CREEK SUB-BASINS, OREGON, WATER RESOURCE STUDY.

(a) SHORT TITLE.—This section may be cited as the "Little Butte/Bear Creek Subbasins Water Feasibility Act".

(b) AUTHORIZATION.—The Secretary of the Interior, acting through the Bureau of Reclamation, may participate in the Water for Irrigation, Streams and the Economy Project water management feasibility study and environmental impact statement in accordance with the "Memorandum of Agreement Between City of Medford and Bureau of Reclamation for the Water for Irrigation, Streams, and the Economy Project", dated July 2, 2004.

(c) AUTHORIZATION OF APPROPRIATIONS.—There is authorized to be appropriated $500,000 to carry out this section.

(1) IN GENERAL.—There is authorized to be appropriated to the Bureau of Reclamation $500,000 to carry out activities under this Act.

(2) NON-FEDERAL SHARE.—

(A) IN GENERAL.—The non-Federal share shall be 50 percent of the total costs of the Bureau of Reclamation in carrying out subsection (b).

(B) FORM.—The non-Federal share required under subparagraph (A) may be in the form of any in-kind services that the Secretary of the Interior determines would contribute substantially toward the conduct and completion of the study and environmental impact statement required under subsection (b).

RIO ARRIBA COUNTY LAND CONVEYANCE ACT

The Senate proceeded to consider the bill (S. 213) to direct the Secretary of the Interior to convey certain Federal land to Rio Arriba County, New Mexico, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 213

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. SHORT TITLE.

[This Act may be cited as the "Rio Arriba County Land Conveyance Act".

[SEC. 2. DEFINITIONS.

[In this Act:

[(1) COUNTY.—The term "County" means the County of Rio Arriba, New Mexico.

[(2) MAP.—The term "map" means the map entitled "Alcalde Proposed Land Transfer" and dated September 23, 2004.

[(3) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

[SEC. 3. CONVEYANCE OF LAND TO RIO ARRIBA COUNTY, NEW MEXICO.

[(a) IN GENERAL.—Subject to subsection (c), not later than 1 year after the date of enactment of this Act, the Secretary shall convey to the County, all right, title, and interest of the United States in and to the land (including any improvements to the land) described in subsection (b).

[(b) DESCRIPTION OF LAND.—The land referred to in subsection (a) consists of approximately 150.86 acres of land located on the Sebastian Martin Land Grant in the vicinity of Alcalde, Rio Arriba County, New Mexico, as depicted on the map.

[(c) CONDITIONS.—

[(1) IN GENERAL.—The land conveyed under subsection (a) shall be treated as public land for the purposes of the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869 et seq.)

[(2) CONSIDERATION.—The amount of consideration for the conveyance of land under subsection (a) shall be determined by the Secretary consistent with section 2(a) of the Act of June 14, 1926 (commonly known as the "Recreation and Public Purposes Act") (43 U.S.C. 869-1(a)).

[(3) AGREEMENT.—Before conveying the land under subsection (a), the Secretary shall enter into an agreement with the County that indemnifies the United States from all liability of the United States arising from the land conveyed.]

SECTION 1. SHORT TITLE.

This Act may be cited as the "Rio Arriba County Land Conveyance Act".

SEC. 2. DEFINITIONS.

In this Act:

(1) County.—The term "County" means the County of Rio Arriba, New Mexico.

(2) Map.—The term "map" means the map entitled "Alcalde Proposed Land Transfer" and dated September 23, 2004.

(3) Secretary.—The term "Secretary" means the Secretary of the Interior.

SEC. 3. CONVEYANCE OF LAND TO RIO ARRIBA COUNTY, NEW MEXICO.

(a) In General.—Subject to valid existing rights, the Secretary shall convey to the County, without consideration, all right, title, and interest of the United States in and to the land (including any improvements to the land) described in subsection (b).

(b) Description of Land.—The land referred to in subsection (a) consists of approximately 171 acres of land located on the Sebastian Martin Land Grant in the vicinity of Alcalde, Rio Arriba County, New Mexico, as depicted on the map.

(c) Reversion.—If any portion of the land conveyed under subsection (a) ceases to be used for public purposes the land shall, at the option of the Secretary, revert to the United States.

(d) Conditions on Sales.—If the County sells any portion of the land conveyed to the County under subsection (a)—

(1) the amount of consideration for the sale shall reflect fair market value, as determined by an appraisal; and

(2) the County shall pay to the Secretary an amount equal to the gross proceeds of the sale, for use by the Director of the Bureau of Land Management in the State of New Mexico, without further appropriation.

(e) Costs.—The County shall pay any costs associated with the conveyance of land under subsection (a).

The committee amendment in the nature of a substitute was agreed to.

The bill (S. 213), as amended, was read the third time and passed.

GLENDO UNIT OF THE MISSOURI RIVER BASIN PROJECT CONTRACT EXTENSION ACT OF 2005

The Senate proceeded to consider the bill (S. 592) to amend the Irrigation Project Contract Extension Act of 1998 to extend certain contracts between the Bureau of Reclamation and certain irrigation water contractors in the States of Wyoming and Nebraska, which had been reported from the Committee on Energy and Natural Resources, with an amendment.

The bill (S. 592) was passed.

The amendment to the title was agreed to.

S. 592

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Glendo Unit of the Missouri River Basin Project Contract Extension Act of 2005".

SEC. 2. GLENDO UNIT OF THE MISSOURI RIVER BASIN CONTRACT EXTENSION.

Section 2 of the Irrigation Project Contract Extension Act of 1998 (112 Stat. 2816, 117 Stat. 1854) is amended—

(1) in subsection (a), by striking "December 31, 2005" and inserting "December 31, 2007"; and

(2) in subsection (b)—

(A) by striking "beyond December 31, 2005" and inserting "beyond December 31, 2007"; and

(B) by striking "before December 31, 2005" and inserting "before December 31, 2007".

Amend the title so as to read: "To amend the Irrigation Project Contract Extension Act of 1998 to extend certain contracts between the Bureau of Reclamation and certain irrigation water contractors in the States of Wyoming and Nebraska.".

PACTOLA RESERVOIR REALLOCATION AUTHORIZATION ACT OF 2005

The bill (S. 819) to authorize the Secretary of the Interior to reallocate costs of the Pactola Dam and Reservoir, South Dakota, to reflect increased demands for municipal, industrial, and fish and wildlife purposes, was read the third time and passed; as follows:

S. 819

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Pactola Reservoir Reallocation Authorization Act of 2005".

SEC. 2. FINDINGS.

Congress finds that—

(1) it is appropriate to reallocate the costs of the Pactola Dam and Reservoir, South Dakota, to reflect increased demands for municipal, industrial, and fish and wildlife purposes; and

(2) section 302 of the Department of Energy Organization Act (42 U.S.C. 7152) prohibits such a reallocation of costs without congressional approval.

SEC. 3. REALLOCATION OF COSTS OF PACTOLA DAM AND RESERVOIR, SOUTH DAKOTA.

The Secretary of the Interior may, as provided in the contract of August 2001 entered into between Rapid City, South Dakota, and the Rapid Valley Conservancy District, reallocate, in a manner consistent with Federal reclamation law (the Act of June 17, 1902 (32 Stat. 388, chapter 1093), and Acts supplemental to and amendatory of that Act (43 U.S.C. 371 et seq.)), the construction costs of Pactola Dam and Reservoir, Rapid Valley Unit, Pick-Sloan Missouri Basin Program, South Dakota, from irrigation purposes to municipal, industrial, and fish and wildlife purposes.

EXTENSION OF A WATER SERVICE CONTRACT

The bill (S. 891) to extend the water service contract for the Ainsworth Unit, Sandhills Division, Pick-Sloan Missouri Basin Program, Nebraska, was read the third time and passed, as follows:

S. 891

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AINSWORTH UNIT, SANDHILLS DIVISION, PICK-SLOAN MISSOURI BASIN PROGRAM.

(a) In General.—The Secretary of the Interior shall extend for the period described in subsection (b) the water service contract for the Ainsworth unit, Sandhills Division, Pick-Sloan Missouri Basin Program, Nebraska, consisting of—

(1) the water service contract entered into by the Secretary of the Interior under—

(A) section 9(e) of the Reclamation Project Act of 1939 (43 U.S.C. 485h(e));

(B) section 9(c) of the Act of December 22, 1944 (58 Stat. 887, chapter 665);

(C) the Act of August 21, 1954 (68 Stat. 757, chapter 781); and

(D) the Act of May 18, 1956 (70 Stat. 160, chapter 285); and

(2) the water service contract for the set project located in Cherry, Brown, and Rock Counties, Nebraska, for the use of a part of the waters of the Snake River, a tributary of the Niobrara River.

(b) Period of Extension.—The water service contract described in subsection (a) shall be extended for 4 years after the date on which the contract expires under the water service contract and law in existence before the date of enactment of this Act.

ALASKA WATER RESOURCES ACT OF 2005

The Senate proceeded to consider the bill (S. 1338) to require the Secretary of the Interior, acting through the Bureau of Reclamation and the United States Geological Survey, to conduct a study on groundwater resources in the State of Alaska, and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with an amendment, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 1338

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alaska Water Resources Act of 2005".

SEC. 2. DEFINITIONS.

In this Act:

(1) Secretary.—The term "Secretary" means the Secretary of the Interior.

(2) State.—The term "State" means the State of Alaska.

SEC. 3. ALASKA WATER RESOURCES STUDY.

(a) Study.—The Secretary, acting through the Commissioner of Reclamation and the Director of the United States Geological Survey, where appropriate, and in accordance with this Act and other applicable provisions of law, shall conduct a study that includes—

(1) a survey of accessible water supplies, including aquifers, on the Kenai Peninsula, [in the Municipality of Anchorage and the Matanuska-Susitna Borough] *and in the Municipality of Anchorage, the Matanuska-Susitna Borough, the city of Fairbanks, and the Fairbanks Northstar Borough*;

(2) a survey of water treatment needs and technologies, including desalination, applicable to the water resources of the State; and

(3) a review of the need for enhancement of the streamflow information collected by the

United States Geological Survey in the State relating to critical water needs in areas such as—

(A) infrastructure risks to State transportation.

(B) flood forecasting.

(C) resource extraction; and

(D) fire management.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report describing the results of the study required by subsection (a).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The committee amendments were agreed to.

The bill (S. 1338), as amended, was read the third time and passed, as follows:

S. 1338

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Alaska Water Resources Act of 2005".

SEC. 2. DEFINITIONS.

In this Act:

(1) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(2) STATE.—The term "State" means the State of Alaska.

SEC. 3. ALASKA WATER RESOURCES STUDY.

(a) STUDY.—The Secretary, acting through the Commissioner of Reclamation and the Director of the United States Geological Survey, where appropriate, and in accordance with this Act and other applicable provisions of law, shall conduct a study that includes—

(1) a survey of accessible water supplies, including aquifers, on the Kenai Peninsula, in the Municipality of Anchorage and the Matanuska-Susitna Borough and in the Municipality of Anchorage, the Matanuska-Susitna Borough, the city of Fairbanks, and the Fairbanks Northstar Borough;

(2) a survey of water treatment needs and technologies, including desalination, applicable to the water resources of the State; and

(3) a review of the need for enhancement of the streamflow information collected by the United States Geological Survey in the State relating to critical water needs in areas such as—

(A) infrastructure risks to State transportation.

(B) flood forecasting.

(C) resource extraction; and

(D) fire management.

(b) REPORT.—Not later than 2 years after the date of enactment of this Act, the Secretary shall submit to the Committee on Energy and Natural Resources of the Senate and the Committee on Resources of the House of Representatives a report describing the results of the study required by subsection (a).

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

CATOCTIN MOUNTAIN NATIONAL RECREATION AREA DESIGNATION ACT

The Senate proceeded to consider the bill (S. 777) to designate Catoctin Mountain Park in the State of Maryland as the "Catoctin Mountain National Recreation Area", and for other purposes, which had been reported from the Committee on Energy and Natural Resources, with amendments, as follows:

[Strike the parts shown in black brackets and insert the parts shown in italic.]

S. 777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Catoctin Mountain National Recreation Area Designation Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Catoctin Recreation Demonstration Area, in Frederick County, Maryland—

(A) was established in 1933; and

(B) was transferred to the National Park Service by executive order in 1936;

(2) in 1942, the presidential retreat known as "Camp David" was established in the Catoctin Recreation Demonstration Area;

(3) [in 1952, approximately 5,000] *in 1954, approximately 4,400* acres of land in the Catoctin Recreation Demonstration Area was transferred to the State of Maryland and designated as Cunningham Falls State Park;

(4) in 1954, the Catoctin Recreation Demonstration Area was renamed "Catoctin Mountain Park";

(5) the proximity of Catoctin Mountain Park, Camp David, and Cunningham Falls State Park and the difference between management of the parks by the Federal and State government has caused longstanding confusion to visitors to the parks;

(6) Catoctin Mountain Park is 1 of 17 units in the National Park System and 1 of 9 units in the National Capital Region that does not have the word "National" in the title; and

(7) the history, uses, and resources of Catoctin Mountain Park make the park appropriate for designation as a national recreation area.

(b) PURPOSE.—It is the purpose of this Act to designate Catoctin Mountain Park as a national recreation area to—

(1) clearly identify the park as a unit of the National Park System; and

(2) distinguish the park from Cunningham Falls State Park.

SEC. 3. DEFINITIONS.

(a) MAP.—The term "map" means the map entitled "Catoctin Mountain National Recreation Area", numbered [841/80444, and dated August 14, 2002] *841/80444B and dated April 2005*.

(b) RECREATION AREA.—The term "recreation area" means the Catoctin Mountain National Recreation Area designated by section 4(a).

(c) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. CATOCTIN MOUNTAIN NATIONAL RECREATION AREA.

(a) DESIGNATION.—Catoctin Mountain Park in the State of Maryland shall be known and designated as the "Catoctin Mountain National Recreation Area".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to Catoctin Mountain Park shall be deemed to be a reference to the Catoctin Mountain National Recreation Area.

(c) BOUNDARY.—

(1) IN GENERAL.—The recreation area shall consist of land within the boundary depicted on the map.

(2) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(3) ADJUSTMENTS.—The Secretary may make minor adjustments in the boundary of the recreation area consistent with section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 460*l*–9(c)).

(d) ACQUISITION AUTHORITY.—The Secretary may acquire any land, interest in land, or improvement to land within the boundary of the recreation area by donation, purchase with donated or appropriated funds, or exchange.

(e) ADMINISTRATION.—The Secretary shall administer the recreation area—

(1) in accordance with this Act and the laws generally applicable to units of the National Park System, including—

(A) the Act of August 25, 1916 (16 U.S.C. 1 et seq.); and

(B) the Act of August 21, 1935 (16 U.S.C. 461 et seq.); and

(2) in a manner that protects and enhances the scenic, natural, cultural, historical, and recreational resources of the recreation area.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

The committee amendments were agreed to.

The bill (S. 777), as amended, was read the third time and passed, as follows:

S. 777

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Catoctin Mountain National Recreation Area Designation Act".

SEC. 2. FINDINGS AND PURPOSE.

(a) FINDINGS.—Congress finds that—

(1) the Catoctin Recreation Demonstration Area, in Frederick County, Maryland—

(A) was established in 1933; and

(B) was transferred to the National Park Service by executive order in 1936;

(2) in 1942, the presidential retreat known as "Camp David" was established in the Catoctin Recreation Demonstration Area;

(3) in 1954, approximately 4,400 acres of land in the Catoctin Recreation Demonstration Area was transferred to the State of Maryland and designated as Cunningham Falls State Park;

(4) in 1954, the Catoctin Recreation Demonstration Area was renamed "Catoctin Mountain Park";

(5) the proximity of Catoctin Mountain Park, Camp David, and Cunningham Falls State Park and the difference between management of the parks by the Federal and State government has caused longstanding confusion to visitors to the parks;

(6) Catoctin Mountain Park is 1 of 17 units in the National Park System and 1 of 9 units in the National Capital Region that does not have the word "National" in the title; and

(7) the history, uses, and resources of Catoctin Mountain Park make the park appropriate for designation as a national recreation area.

(b) PURPOSE.—It is the purpose of this Act to designate Catoctin Mountain Park as a national recreation area to—

(1) clearly identify the park as a unit of the National Park System; and

(2) distinguish the park from Cunningham Falls State Park.

SEC. 3. DEFINITIONS.

(a) MAP.—The term "map" means the map entitled "Catoctin Mountain National Recreation Area", numbered 841/80444B and dated April 2005.

(b) RECREATION AREA.—The term "recreation area" means the Catoctin Mountain National Recreation Area designated by section 4(a).

(c) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

SEC. 4. CATOCTIN MOUNTAIN NATIONAL RECREATION AREA.

(a) DESIGNATION.—Catoctin Mountain Park in the State of Maryland shall be known and designated as the "Catoctin Mountain National Recreation Area".

(b) REFERENCES.—Any reference in a law, map, regulation, document, paper, or other record of the United States to Catoctin Mountain Park shall be deemed to be a reference to the Catoctin Mountain National Recreation Area.

(c) BOUNDARY.—

(1) IN GENERAL.—The recreation area shall consist of land within the boundary depicted on the map.

(2) AVAILABILITY OF MAP.—The map shall be on file and available for public inspection in the appropriate offices of the National Park Service.

(3) ADJUSTMENTS.—The Secretary may make minor adjustments in the boundary of the recreation area consistent with section 7(c) of the Land and Water Conservation Fund Act of 1965 (16 U.S.C. 4601-9(c)).

(d) ACQUISITION AUTHORITY.—The Secretary may acquire any land, interest in land, or improvement to land within the boundary of the recreation area by donation, purchase with donated or appropriated funds, or exchange.

(e) ADMINISTRATION.—The Secretary shall administer the recreation area—

(1) in accordance with this Act and the laws generally applicable to units of the National Park System, including—

(A) the Act of August 25, 1916 (16 U.S.C. 1 et seq.); and

(B) the Act of August 21, 1935 (16 U.S.C. 461 et seq.); and

(2) in a manner that protects and enhances the scenic, natural, cultural, historical, and recreational resources of the recreation area.

SEC. 5. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated such sums as are necessary to carry out this Act.

REVOCATION OF A PUBLIC LAND ORDER

The bill (H.R. 1101) to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California, was read the third time and passed.

NEW SHIPPER REVIEW AMENDMENT ACT OF 2005

Mr. McCONNELL. I ask unanimous consent that the Finance Committee be discharged from further consideration of S. 695, and the Senate proceed to its immediate consideration.

The PRESIDING OFFICER. Without objection, it is so ordered.

The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (S. 695) to suspend temporarily new shipper bonding privileges.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that statements related to the measure be printed in the RECORD.

The bill (S. 695) was read a third time, and passed, as follows:

S. 695

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "New Shipper Review Amendment Act of 2005".

SEC. 2. TEMPORARY SUSPENSION OF NEW SHIPPER BONDING PRIVILEGES.

Clause (iii) of section 751(a)(2)(B) of the Tariff Act of 1930 (19 U.S.C. 1675(a)(2)(B)(iii)) shall not be effective during the 3-year period beginning on the date of the enactment of this Act.

SEC. 3. REPORT TO CONGRESS.

Not later than 2 years after the date of the enactment of this Act, the Secretary of Commerce, in consultation with the Secretary of the Treasury, the United States Trade Representative, and the Commissioner of Customs and Border Protection, shall submit to the Committee on Finance of the Senate and the Committee on Ways and Means of the House of Representatives a report containing—

(1) recommendations on whether the suspension of the effectiveness of section 751(a)(2)(B)(iii) of the Tariff Act of 1930 should be extended beyond the date provided in section 2 of this Act; and

(2) assessments of the effectiveness of any administrative measures that have been implemented to address the difficulties giving rise to section 2 of this Act, including—

(A) problems in assuring the collection of antidumping duties on imports from new shippers;

(B) administrative burdens imposed on the Department of Commerce by new shipper reviews; and

(C) the use of the bonding privilege by importers from new shippers to circumvent the effect of antidumping duty orders.

Mr. McCONNELL. Mr. President, I further ask unanimous consent that the bill be held at the desk.

The PRESIDING OFFICER. Without objection, it is so ordered.

SENATOR PAUL SIMON WATER FOR THE POOR ACT OF 2005

Mr. McCONNELL. Mr. President, I ask unanimous consent that the Senate proceed to the immediate consideration of H.R. 1973, which was received from the House.

The PRESIDING OFFICER. The clerk will report the bill by title.

The legislative clerk read as follows:

A bill (H.R. 1973) to make access to safe water and sanitation for developing countries a specific policy objective of the United States foreign assistance programs, and for other purposes.

There being no objection, the Senate proceeded to consider the bill.

Mr. McCONNELL. Mr. President, I ask unanimous consent that the bill be read a third time and passed, the motion to reconsider be laid upon the table, and that any statements related to the bill be printed in the RECORD.

The PRESIDING OFFICER. Without objection, it is so ordered.

The bill (H.R. 1973) was read the third time and passed.

REGARDING OVERSIGHT OF THE INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the Senate proceed to the consideration of S. Res. 317, submitted earlier today.

The PRESIDING OFFICER. The clerk will report the resolution by title.

The assistant legislative clerk read as follows:

A resolution (S. Res. 317) expressing the sense of the Senate regarding oversight of the Internet Corporation for Assigned Names and Numbers.

There being no objection, the Senate proceeded to consider the resolution.

Mr. LEAHY. Mr. President, today at the World Summit on the Information Society, an agreement was announced to maintain the current structure for managing the Internet. This agreement marks a critical step toward ensuring the stability and security of the Internet and preserving its benefits not only for the United States, but for countries across the globe.

In late October I joined with the other cochairs of the Internet Caucus in a letter to the White House urging the administration to stand firm in its position to protect the Internet and resist efforts to undo the structure that has worked so well so far. I also joined Senator BURNS in offering a resolution to maintain the currently effective status quo on Internet governance. The agreement that now has been reached in Tunis to maintain the current structure for managing domain names and the Internet is consistent with our efforts.

The value of the Internet is incalculable. The Internet has brought an unprecedented level of commercial exchanges in both the consumer and business-to-business realms. It has spawned and prompted the development of new ideas, businesses and relationships. It has empowered people who have never had access to power and otherwise would likely never have an opportunity to be heard, much less challenge or influence public policy and institutional power. It has introduced and cemented friendships across the globe, and it has distributed information and fostered greater understanding and awareness of others' ideas and others' cultures. Becoming part of a global Internet environment has also shown us we are part of the wider world in which all of us live. It is values like these that no doubt our world partners are seeking to preserve in their proposals, yet would unwittingly undermine.

The United States developed and nourished the Internet. The open economy and constitutional liberties that are the foundations of our Nation allowed us the privilege and extraordinary responsibility to serve as the great incubator that has unleashed these spectacular developments and benefits.

No doubt we can do even better. Some have benefited substantially more than others. We have further strides to make before eradicating the digital divide and narrowing the gaps between the haves and have-nots. We also need to be vigilant in maintaining the essential freedom and influences that have kept the Internet flourishing. We should work closely with other countries to address challenges and concerns as they arise. By proceeding prudently and knowledgeably, taking care not to jeopardize the innovations and openness that have allowed the Internet to thrive, we can foster progress and continue to enjoy the benefits the Internet continues to bring to the world.

I ask unanimous consent that a copy of the letter from the Internet Caucus cochairs to the White House and today's Associated Press article "Deal Reached on Managing the Internet" be printed in the RECORD.

There being no objection, the material was ordered to be printed in the RECORD, as follows:

CONGRESS OF THE UNITED STATES,
Washington, DC, October 24, 2005.

Hon. GEORGE W. BUSH,
The President of the United States, The White House, Washington, DC.

DEAR PRESIDENT BUSH: As co-chairs of the Congressional Internet Caucus, we are writing to applaud your position that governance of the Internet should not be transferred to an international government organization and to urge you to communicate this position to the international community during the upcoming World Summit on the Information Society (WSIS) in Tunisia.

As you know, the Internet's domain name system (DNS) is administered by the Internet Corporation for Assigned Names and Numbers (ICANN), a private, nonprofit organization based in the United States that works closely with the U.S. Department of Commerce. We believe that this privately-operated approach fosters market principles and is the most efficient way to administer the DNS. The greater the government involvement in running the Internet's day-today operations, the more likely that red tape and overly burdensome regulations will result.

However, the U.N., with the support of countries including China, Iran, and Cuba, released a report earlier this year which included proposals to take control of administration of the Internet from the U.S.-based ICANN and give it to a bureaucratic U.N. body. Recently, the EU has signaled that it would also support having an international body oversee the Internet. We believe that it is unacceptable for the U.N. to administer the Internet, and are extremely concerned that the EU would move toward this position.

The United States is uniquely positioned to protect the fundamental principles of free press and free speech upon which the Internet has thrived. The U.S. Constitution guarantees that basic rights, and to cede control of the Internet to countries with at best questionable records regarding these rights could jeopardize the continued success of the Internet and lead to significant restrictions on access to the Internet's wealth of information.

With the WSIS convening next month in Tunisia, we urge you to continue to take a strong stand for the principles that have guided the administration of the Internet to date and fostered the phenomenal growth of the Internet: ftee market principles, the freedoms of speech and the press, and limited bureaucratic involvement.

Thank you again for your work to ensure the freedom and effective administration of the Internet. We look forward to continuing to work with you on this important issue.

Sincerely,

BOB GOODLATTE,
Member of Congress.
CONRAD BURNS,
United States Senator.
RICH BOUCHER,
Member of Congress.
PATRICK LEAHY,
United States Senator.

DEAL REACHED ON MANAGING THE INTERNET

(By Matt Moore)

A summit focusing on narrowing the digital divide between the rich and poor residents and countries opened Wednesday with an agreement of sorts on who will maintain ultimate oversight of the Internet and the flow of information, commerce and dissent.

The World Summit on the Information Society had been overshadowed by a lingering, if not vocal, struggle about overseeing the domain names and technical issues that make the Internet work and keep people from Pakistan to Canada surfing Web sites in the search for information, news and buying and selling.

Negotiators from more than 100 countries agreed late Tuesday to leave the United States in charge of the Internet's addressing system, averting a U.S.-EU showdown at this week's U.N. technology summit.

U.S. officials said early Wednesday that instead of transferring management of the system to an international body such as the United Nations, an international forum would be created to address concerns. The forum, however, would have no binding authority.

U.S. Assistant Secretary of Commerce Michael Gallagher said the deal means the United States will leave day-to-day management to the private sector, through a quasi-independent organization called the Internet Corporation for Assigned Names and Numbers, or ICANN.

"The Internet lives to innovate for another day," he told The Associated Press.

Negotiators have met since Sunday to reach a deal ahead of the U.N. World Summit on the Information Society, which starts Wednesday. World leaders are expected to ratify a declaration incorporating the deal during the summit, which ends Friday.

While the summit drew thousands of people from around the world, most western countries opted not to send their top-ranking leaders, preferring instead to send government workers and low-level figures.

However, other leaders were scheduled to attend, including Nigerian President Olusegun Obasanjo, Senegal's Abdulaye Wade and Libyan leader Moamer Kadhafi. Venezuelan President Hugo Chavez was due to fly to the summit Wednesday, organizers said.

The summit was originally conceived to address the digital divide—the gap between information haves and have-nots—by raising both consciousness and funds for projects.

Instead, it has centered largely around Internet governance: oversight of the main computers that control traffic on the Internet by acting as its master directories so Web browsers and e-mail programs can find other computers.

The accord reached late Tuesday also called for the establishment of a new international group to give more countries a stronger say in how the Internet works, including the issue of making domain names—currently done in the Latin languages—into other languages, such as Chinese, Urdu and Arabic.

Under the terms of the compromise, the new group, the Internet Governance Forum, would start operating next year with its first meeting opened by Annan. Beyond bringing its stakeholders to the table to discuss the issues affecting the Internet, and its use, it won't have ultimate authority.

Viviane Reding, the EU Commissioner for Information Society and Media, said the agreement paved the way for a progressive forward motion in overseeing Internet governance.

"This agreement was possible because of the strong belief of all democratic nations that enhanced international cooperation is the best way to make progress towards guaranteeing the freedom of the Internet around the globe and also to enhance transparency and accountability in decisions affecting the architecture of the Web," she said.

"The fact that the EU spoke with one voice in Tunis, and had stood by its case for more cooperation on Internet governance in the run-up to the summit, certainly strongly influenced this positive agreement," she said.

U.S. Assistant Secretary of Commerce Michael D. Gallagher said the compromise's ultimate decision is that leadership of the Internet, and its future direction, will remain in the hands of the private sector, although some critics contend that the U.S. government, which oversees ICANN, if only nominally, could still flex its muscle in future decisions.

"The rural digital divide is isolating almost 1 billion of the poorest people who are unable to participate in the global information society," the agency said in a statement.

Ahead of the summit, rights watchdogs say, both Tunisian and foreign reporters have been harassed and beaten. Reporters Without Borders says its secretary-general, Robert Menard, has been banned from attending.

Mr. GRASSLEY. Mr. President, I ask unanimous consent that the resolution be agreed to, the preamble be agreed to, and the motion to reconsider be laid upon the table.

The PRESIDING OFFICER. Without objection, it is so ordered.

The resolution (S. Res. 317) was agreed to.

The preamble was agreed to.

The resolution, with its preamble, reads as follows:

S. Res. 317

Whereas the origins of the Internet can be found in United States Government funding of research to develop packet-switching technology and communications networks, starting with the "ARPANET" network established by the Department of Defense's Advanced Research Projects Agency in the 1960s and carried forward by the National Science Foundation's "NSFNET";

Whereas in subsequent years the Internet evolved from a United States Government research initiative to a global tool for information exchange as in the 1990s it was commercialized by private sector investment, technical management and coordination;

Whereas since its inception the authoritative root zone server—the file server system that contains the master list of all top level domain names made available for routers serving the Internet—has been physically located in the United States;

Whereas today the Internet is a global communications network of inestimable value;

Whereas the continued success and dynamism of the Internet is dependent upon continued private sector leadership and the ability for all users to participate in its continued evolution;

Whereas in allowing people all around the world freely to exchange information, communicate with one another, and facilitate economic growth and democracy, the Internet has enormous potential to enrich and transform human society;

Whereas existing structures have worked effectively to make the Internet the highly robust medium that it is today;

Whereas the security and stability of the Internet's underlying infrastructure, the domain name and addressing system, must be maintained;

Whereas the United States has been committed to the principles of freedom of expression and the free flow of information, as expressed in Article 19 of the Universal Declaration of Human Rights, and reaffirmed the Geneva Declaration of Principles adopted at the first phase of the World Summit on the Information Society;

Whereas the U.S. Principles on the Internet's Domain Name and Addressing System, issued on June 30, 2005, represent an appropriate framework for the coordination of the system at the present time;

Whereas the Internet Corporation for Assigned Names and Numbers popularly known as ICANN, is the proper organization to coordinate the technical day-to-day operation of the Internet's domain name and addressing system;

Whereas all stakeholders from around the world, including governments, are encouraged to advise ICANN in its decision-making;

Whereas ICANN makes significant efforts to ensure that the views of governments and all Internet stakeholders are reflected in its activities;

Whereas governments have legitimate concerns with respect to the management of their country code top level domains;

Whereas the United States Government is committed to working successfully with the international community to address those concerns, bearing in mind the need for stability and security of the Internet's domain name and addressing system;

Whereas the topic of Internet governance, as currently being discussed in the United Nations World Summit on the Information Society is a broad and complex topic;

Whereas it is appropriate for governments and other stakeholders to discuss Internet governance, given that the Internet will likely be an increasingly important part of the world economy and society in the 21st Century;

Whereas Internet governance discussions in the World Summit should focus on the real threats to the Internet's growth and stability, and not recommend changes to the current regime of domain name and addressing system management and coordination on political grounds unrelated to any technical need; and

Whereas market-based policies and private sector leadership have allowed this medium the flexibility to innovate and evolve: Now, therefore, be it

Resolved by the Senate, That it is the sense of the Senate that—

(1) it is incumbent upon the United States and other responsible governments to send dear signals to the marketplace that the current structure of oversight and management of the Internet's domain name and addressing service works, and will continue to deliver tangible benefits to Internet users worldwide in the future; and

(2) therefore the authoritative root zone server should remain physically located in the United States and the Secretary of Commerce should maintain oversight of ICANN so that ICANN can continue to manage the day-to-day operation of the Internet's domain name and addressing system well, remain responsive to all Internet stakeholders worldwide, and otherwise fulfill its core technical mission.

MEASURE PLACED ON THE CALENDAR—S. 2008

Mr. GRASSLEY. Mr. President, I understand there is a bill at the desk that is due for a second reading.

The PRESIDING OFFICER. The clerk will read the title of the bill for a second time.

The assistant legislative clerk read as follows:

A bill (S. 2008) to improve cargo security, and for other purposes.

Mr. GRASSLEY. Mr. President, in order to place the bill on the calendar under the provisions of rule XIV, I object to further proceedings.

The PRESIDING OFFICER. Objection is heard. The bill will be placed on the calendar.

ORDERS FOR THURSDAY, NOVEMBER 17, 2005

Mr. GRASSLEY. Mr. President, I ask unanimous consent that when the Senate completes its business today, it stand in adjournment until 9:30 a.m. on Thursday, November 17. I further ask that following the prayer and pledge, the morning hour be deemed expired, the Journal of proceedings be approved to date, the time for the two leaders be reserved, and the Senate proceed to a period for the transaction of morning business for up to 30 minutes, with the first 15 minutes under the control of the Democratic leader or his designee and the final 15 minutes under the control of the majority leader or his designee; further, that the Senate then resume consideration of S. 2020, the tax relief reconciliation bill, and that there be 10 hours equally divided for debate remaining under the Budget Act for the consideration of the bill.

The PRESIDING OFFICER. Without objection, it is so ordered.

PROGRAM

Mr. GRASSLEY. Mr. President, tomorrow we will resume consideration of the tax relief reconciliation bill with 10 hours of debate remaining under the agreement just reached. We have a lot of work to do on this bill and on other must-do legislative items before we adjourn for the Thanksgiving holiday. Senators should be ready for late nights with many votes. Before we leave this week, we will need to act on the tax relief bill, as well as appropriations conference reports, the PATRIOT Act conference report, and another short-term continuing resolution. The majority leader has asked Senators to remain flexible in that a weekend session is very likely.

ADJOURNMENT UNTIL 9:30 A.M. TOMORROW

Mr. GRASSLEY. Mr. President, if there is no further business to come before the Senate, I ask unanimous consent that the Senate stand in adjournment under the previous order.

There being no objection, the Senate, at 7:25 p.m., adjourned until Thursday, November 17, 2005, at 9:30 a.m.

NOMINATIONS

Executive nominations received by the Senate November 16, 2005:

DEPARTMENT OF AGRICULTURE

MARC L. KESSELMAN, OF TENNESSEE, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF AGRICULTURE, VICE NANCY SOUTHARD BRYSON.

EXECUTIVE OFFICE OF THE PRESIDENT

RICHARD T. CROWDER, OF VIRGINIA, TO BE CHIEF AGRICULTURAL NEGOTIATOR, OFFICE OF THE UNITED STATES TRADE REPRESENTATIVE, WITH THE RANK OF AMBASSADOR, VICE ALLEN FREDERICK JOHNSON, RESIGNED.

DEPARTMENT OF HEALTH AND HUMAN SERVICES

DANIEL MERON, OF MARYLAND, TO BE GENERAL COUNSEL OF THE DEPARTMENT OF HEALTH AND HUMAN SERVICES, VICE ALEX AZAR II.

DEPARTMENT OF STATE

CLAUDIA A. MCMURRAY, OF VIRGINIA, TO BE ASSISTANT SECRETARY OF STATE FOR OCEANS AND INTERNATIONAL ENVIRONMENTAL AND SCIENTIFIC AFFAIRS, VICE JOHN F. TURNER, RESIGNED.

NATIONAL LABOR RELATIONS BOARD

PETER N. KIRSANOW, OF OHIO, TO BE A MEMBER OF THE NATIONAL LABOR RELATIONS BOARD FOR THE TERM OF FIVE YEARS EXPIRING AUGUST 27, 2008, VICE RONALD E. MEISBURG.

HOUSE OF REPRESENTATIVES—*Wednesday, November 16, 2005*

The House met at 10 a.m. and was called to order by the Speaker pro tempore (Mr. ADERHOLT).

DESIGNATION OF THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore laid before the House the following communication from the Speaker:

WASHINGTON, DC,
November 16, 2005.

I hereby appoint the Honorable ROBERT B. ADERHOLT to act as Speaker pro tempore on this day.

J. DENNIS HASTERT,
Speaker of the House of Representatives.

PRAYER

The Chaplain, the Reverend Daniel P. Coughlin, offered the following prayer:

Lord our God, You live among Your people and guide the destiny of the Nation. In and through the free election of Your people, You have brought to this moment of history the Members of this 109th Congress to be Your instrument of representative leadership and create the laws that will bind people together and move this country in a deliberated direction.

The consequences of decisions made here, Lord, will have international effects around the world. Issues left unattended will leave many of Your people in the darkness of alienation.

So, Lord, once again, we call upon You to be the true and lasting ruler of this Nation, because this government of the people turns to You in faith, now and forever. Amen.

THE JOURNAL

The SPEAKER pro tempore. The Chair has examined the Journal of the last day's proceedings and announces to the House his approval thereof.

Pursuant to clause 1, rule I, the Journal stands approved.

PLEDGE OF ALLEGIANCE

The SPEAKER pro tempore. Will the gentleman from Texas (Mr. CONAWAY) come forward and lead the House in the Pledge of Allegiance.

Mr. CONAWAY led the Pledge of Allegiance as follows:

I pledge allegiance to the Flag of the United States of America, and to the Republic for which it stands, one nation under God, indivisible, with liberty and justice for all.

MESSAGE FROM THE SENATE

A message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment a concurrent resolution of the House of the following title:

H. Con. Res. 269. Concurrent resolution recognizing the 40th anniversary of the White House Fellows Program.

The message also announced that the Senate has passed with an amendment in which the concurrence of the House is requested, a bill of the House of the following title:

H.R. 1499. An act to amend the Internal Revenue Code of 1986 to allow members of the Armed Forces serving in a combat zone to make contributions to their individual retirement plans even if the compensation on which such contribution is based is excluded from gross income, and for other purposes.

TEXAS RICE NEEDS TO GO TO CUBA

(Mr. POE asked and was given permission to address the House for 1 minute.)

Mr. POE. Mr. Speaker, southeast Texas has over 40,000 acres of rice fields. Until recently, the combined acreage of rice farms in the State of Texas was about 600,000 acres. That is bigger than the State of Rhode Island. Hometown rice farmers, like my friend Ray Stoesser, are seriously struggling, however. Ray, like most rice farmers, simply wants more markets to sell American rice.

The House and Senate versions of the Treasury, Transportation appropriations bill enhanced markets and included language that would allow agricultural trade to Cuba. The conference report, however, stripped that language out and maintains the current trade embargo. The conferees' refusal to allow rice trade to Cuba defies common sense. It places politics above American farmers like Ray Stoesser, not to mention it is bad for the American economy.

The Cuban people will continue to eat rice. If we do not sell it to them, they will get it from that communist nation Vietnam. We hear talk of free trade, NAFTA, CAFTA, we trade with the Communists in China, but not selling rice to Cuba does not punish Castro and his Communists. It punishes American rice farmers.

Mr. Speaker, this ought not to be.

GOP ENERGY CHARADE

(Mr. EMANUEL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. EMANUEL. Mr. Speaker, it is time the Republicans stop their Big Oil dog and pony show.

Last week, the oil CEOs testified that the companies had not met with the Vice President in his office in developing the energy policy. Well, in today's Washington Post, those documents show that they in fact in 2000 did meet with the Vice President and administration officials.

Of course they were involved in the development of the energy legislation. How else do you get $16.5 billion in taxpayer-funded subsidies at a time when oil is trading at $60 a barrel? None of the back-room deals come as a surprise or a shock to any of us. The old adage: just follow the money.

What is shocking is my Republican colleagues think they can hold a PR stunt and the American people will forget the private meetings and the $16.5 billion in gifts that the Republican Congress has provided Big Oil. Republicans should know it is wrong to hand out billions of dollars to oil companies at a time when they are making record profits and then cut home heating assistance to the elderly. But they do not forget.

The paper trail is too thick for the Republicans to hide their cozy relationship with Big Oil. The record is finally cleared up. Big Oil, Vice President CHENEY, the Republican Congress, what a team. It gives a whole new meaning to family.

Mr. Speaker, it is time for a change and time for new priorities.

SETTING THE HISTORICAL RECORD STRAIGHT

(Mr. CONAWAY asked and was given permission to address the House for 1 minute.)

Mr. CONAWAY. Mr. Speaker, I rise today to set the historical record straight. As my colleague JEB HENSARLING recently stated, "Everyone is entitled to their own opinion, but not their own set of facts."

Prior to the war, Members of Congress had access to the same intelligence as the administration did, and it was determined that Saddam Hussein posed a serious threat to the United States.

The 2002 resolution authorizing the use of force received overwhelming bipartisan support, but now some make it seem otherwise. Charges being leveled at this administration that somehow prewar intelligence reports were manipulated are false and unworthy of this body.

☐This symbol represents the time of day during the House proceedings, e.g., ☐1407 is 2:07 p.m.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

The facts are clear. The 2004 Senate Intelligence Committee report stated that there was no evidence of manipulated intelligence in relation to Iraq's weapons of mass destruction capabilities. The bipartisan Robb-Silbermann commission in 2005 reached the same conclusion.

Attempts to distort these facts are an attempt to revise history. Doing so undercuts the efforts of our troops and undermines our national security.

TRIBUTE TO NANCY RUSSELL

(Mr. BLUMENAUER asked and was given permission to address the House for 1 minute.)

Mr. BLUMENAUER. Mr. Speaker. Nancy Russell is a woman of great courage, vision, and determination who has made heroic efforts in protecting the Columbia River Gorge. Her singleness of purpose and determination was a driving force that led to the unique Gorge National Scenic Area legislation in 1986.

She and her late husband, Bruce Russell, made significant personal financial commitments securing the purchase of key properties and easements. Without Nancy and her efforts, this national treasure would undoubtedly have been spoiled by sprawling development, pollution, and traffic.

Nancy Russell and her efforts have earned much recognition and acclaim, but perhaps nothing is as meaningful as when hundreds of her friends, supporters, and admirers gathered this weekend to honor her in the 25th anniversary of the advocacy group she founded, the Friends of the Columbia River Gorge.

Notwithstanding her recognition, the true legacy of Nancy Russell is to be found every time anybody hikes, bikes, drives, or flies over the magnificent Columbia River Gorge, which she has protected for generations to come.

DEMOCRAT OBSTRUCTIONISM

(Mr. WILSON of South Carolina asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. WILSON of South Carolina. Mr. Speaker. Democrats and President Bush have consistently and truthfully said that Saddam Hussein was a threat to our country. In the 2002 war debate, Senator HILLARY CLINTON said, "If left unchecked, Saddam Hussein will continued to increase his capability to wage biological and chemical warfare." Liberal Democrat NANCY PELOSI declared, "Saddam Hussein certainly has chemical and biological weapons." Howard Dean vowed, "There is no question that Saddam Hussein is a threat to the United States and our allies."

However, since losing the 2004 election, Democrats have developed a disturbing case of obstructionism and now falsely claim that President Bush exaggerated the threat posed by Saddam Hussein. Why would Democrats go from agreeing with President Bush in supporting our mission in Iraq to slandering our Commander in Chief and questioning our troops' efforts? Politics, pure and simple politics.

In conclusion, God bless our troops, and we will never forget September 11.

BUDGET RECONCILIATION

(Ms. LINDA T. SÁNCHEZ of California asked and was given permission to address the House for 1 minute.)

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, in this morning's Washington Post, one of the paper's columnists implied that I and other Members who oppose Medicare cuts are simply "demonizing Republicans."

Well, Mr. Speaker, I hate to break it to you, but I am more concerned with the people who live in my district than the current image problems affecting the Republican Party. Truly, what concerns the people in my district is what Congress is considering doing this week.

We are right now waiting to see the latest version of a bill that takes away food from children, makes it more difficult for young people to go to college, and slashes funding for foster parents.

I know that many of my colleagues would like to spin this bill as a fine example of fiscal discipline; but rather than taking from children, why do we not think we should start with, oh, I do not know, honestly accounting for future deficit projections, or eliminating billion-dollar pork barrel projects for the chairmen of certain committees, or how about an open and competitive bid on huge government contracts.

Five years ago, Mr. Speaker, this country had record surpluses. In half a decade, we have dishonest accounting, the largest deficit in history, and a budget reconciliation process that is conducted behind closed doors. Believing that America can do better is not a partisan attack.

IMMIGRATION REFORM

(Mr. MCHENRY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. MCHENRY. Mr. Speaker, Congress will soon debate much-needed immigration reforms. One of the most pressing matters is the sad state of technology used to process immigration case files. The U.S. Citizenship and Immigration Services uses paper printouts to process over 7 million applications per year.

To address this glaring deficiency, I am introducing the Comprehensive Immigration Data and Technology Accountability Act. This legislation will do three things. First, it will create a database that allows real-time access to pending casework and move to a fully electronic system. Second, the database will be linked to Federal law enforcement agencies, reducing the number of illegal immigrants released into our communities. Third, the legislation sets deadlines for the planning, implementation, and review of the new database.

It is past time that we used the fee-based immigration system to upgrade technology and improve the efficiency and effectiveness of our application process. It is the right thing to do for Americans, and it is the right thing to do for those coming to America.

STANDING UP FOR THE AMERICAN PEOPLE

(Mr. SCOTT of Georgia asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SCOTT of Georgia. Mr. Speaker, I rise this morning to speak on behalf of the American people. The American people want us to stand up and fight these dastardly budget cuts to the needy at a time when this country is in such great pain. We have just gone through the visceral attacks of Hurricanes Katrina, Rita, and Wilma. The American people are suffering. They are hurting. At the very same time that we are hurting and suffering the most, this Republican-led Congress and the President of the United States want to put forward budget cuts that would hurt them the most.

Let me tell you about them: $12 billion in Medicaid cuts at a time when 45 million Americans do not even have health insurance, and $850 million cuts in the food stamp program when 2 million people, according to the Agriculture Department, were just added to the hungry rolls.

This is the wrong time to do these cuts. These cuts are made to offset a $70 billion tax cut for billionaires and millionaires who do not even need the money; and in order to even pay that money, we have to go and borrow it from Communist China.

The American people deserve better, we can do better, and we must do better. Let's vote down these cuts and stand up for the American people.

MEDICARE HISTORY

(Mr. HULSHOF asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HULSHOF. Mr. Speaker, today, senior citizens across America can sign up for the new Medicare prescription drug benefit that will save them money on medicines that they need. Many are concerned that the program with its many choices is too confusing, not to mention the mixed signals being sent by this House. Health care can be complicated, but saving money on prescription drugs that senior citizens need should not be. We have a responsibility to help seniors save money, not scare them away from these critical new benefits.

Back in 1966, many people thought that the original Medicare hospital insurance plan was too confusing. Then, as now, volunteers were trying to help seniors enroll, even going door to door. Back in 1966, not all seniors answered the door; and as a result, millions failed to enroll in the first round of benefits before the initial sign-up window had closed. "I think the problems ahead will be vast," said Democrat Senator Abraham Ribicoff in the spring of 1966. "The encouraging fact," he added, "is a willingness to cooperate, despite the earlier strong opposition to Medicare, to make it work. I am sure it will," he said.

I share Senator Ribicoff's optimism. Older Americans have flooded the Medicare hotline and Web site, and they are attending workshops in America's senior centers in large numbers.

It is natural for many seniors to have questions. I urge this House to help our constituents deal with this new benefit.

□ 1015

RUBBER STAMP CONGRESS

(Mr. McDERMOTT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McDERMOTT. Mr. Speaker, I am here to make a public service announcement. The gentleman from Georgia (Mr. SCOTT) laid out the problems of the bill that has been floating around in the Congress, but I want him to be assured that the rubber stamp Congress is coming in on Thursday.

Now, it says here, I approve of everything that George Bush does, and that is what this rubber stamp is we are going to use in here on Thursday. Last night, the Ways and Means Committee produced a tax cut bill. They will bring it over here, bring it up to the Rules Committee, roll it all together with the tax cuts and the tax giveaways and make the poor people pay for what the rich people get. They are going to bring it out here, and we are going to watch 218 Republicans march up and rubber stamp that baby.

Whatever George Bush asks for, whether it makes sense or not, that is the responsibility of the Republican majority, and they all have to bring their stamp on Thursday, because if they do not bring it on Thursday, we are not going to get to go home for Thanksgiving to rejoice over how much we have been able to give to the rich. This is a very important week. Don't forget your rubber stamp on Thursday morning when you come to work.

SAINT LEO THE GREAT CATHOLIC SCHOOL

(Ms. FOXX asked and was given permission to address the House for 1 minute.)

Ms. FOXX. Mr. Speaker, I rise today to recognize and congratulate Saint Leo the Great Catholic School in Winston-Salem, North Carolina, for being named a No Child Left Behind nationally recognized Blue Ribbon School by the U.S. Department of Education. The Blue Ribbon Schools program honors K–12 schools that are academically superior in their State or demonstrate dramatic gains in student achievement.

Saint Leo the Great is one of just 10 North Carolina schools to receive this prestigious award. In fact, it is the only private school in the entire State to achieve this recognition. Not only am I proud of the students and faculty at Saint Leo for their academics, I am also proud of them for their compassion. Following Hurricane Katrina, the students at Saint Leo reached out to their peers at Saint Clement of Rome, a fellow nationally recognized Blue Ribbon School in Louisiana. The students at Saint Leo made congratulatory cards and sent individual blue ribbons to the students and teachers at Saint Clement. They also raised money to pay travel expense for the principal of Saint Clement to receive the Blue Ribbon Award in Washington, DC.

Mr. Speaker, please join me in congratulating the students, faculty and staff at Saint Leo the Great Catholic School in Winston-Salem, North Carolina.

KENNETH "KEN" BRUCE

(Mr. DAVIS of Tennessee asked and was given permission to address the House for 1 minute.)

Mr. DAVIS of Tennessee. Mr. Speaker, I rise today to express my sorrow and the sorrow felt by the people of Campbell County, Tennessee, over the tragic death of Mr. Ken Bruce on Tuesday, November 8, 2005.

Mr. Bruce is survived by his loving wife, Jo; his two sons, Christopher and Patrick; his parents, Gene and Beverly Bruce; his brother, Greg; sister, Wendy, as well as all those who knew Mr. Bruce and experienced his overwhelming goodwill and humorous service.

Mr. Bruce was one of the rare individuals in this world that dedicated his life to serving others. Through his 20 years service in the Army and Army Reserves, and as a school administrator, the students of Campbell County High School where Mr. Bruce served as an assistant principal knew him as a man who they could talk to, who would listen, who would empathize and who would offer good sound advice. They also knew him as a man with a great sense of humor, always willing to offer a one-liner that would put a smile on their faces.

It is difficult, when we experience such a profound loss, to find words that do justice to a life cut short or bring condolences to those feeling the deepest pain. Those who knew him well knew he would want everyone to carry on, to approach each day with an open mind and with an open heart and with an enthusiasm for life that encourages us to find the good in every situation and to turn to the Lord for answers to their most difficult questions.

It is my hope that all of us affected by this terrible sad death will continue together to help this community carry on, to help them find peace and calm, for as surely as we know there will be a tomorrow, we know we will never see his smiling face in this life. We can only take solace in the knowledge that Mr. Bruce has gone on to a better place where his spirit will continue peacefully into eternity.

You will be sorely missed, Mr. Bruce, and we will never forget. As Horatio said in Shakespeare's Hamlet, "Now cracks a noble heart. Good night, sweet prince, and flights of angels sing thee to thy rest."

May God continue to watch over your family and the communities of Campbell County, Tennessee.

MEDICARE PART D

(Mr. GINGREY asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GINGREY. Mr. Speaker, I rise today to encourage seniors across America to learn about Medicare part D, the new voluntary prescription drug benefit available to all seniors. Tuesday marked the first day seniors could enroll in Medicare part D. Enrollment continues through May 15, 2006, and coverage begins January 1, 2006.

Finally, seniors in our communities will have better access to the medication they need to stay well. Seniors can sign up today by calling 1–800–MEDICARE or by visiting the Web site www.medicare.gov. Seniors who want to sign up should have several pieces of information on hand: a list of the medications they are currently taking; information about any prescription drug coverage they may currently have, be it employer, union or a Medigap policy; the name and address of a local pharmacy they will use to fill prescriptions; the out-of-pocket amount they spend on prescription drugs each year; finally, seniors should have their Medicare enrollment information readily available.

As a physician, I know that providing our seniors with prescription drug coverage will be beneficial to their health and to their wallets. I am glad Medicare now works to prevent disease as well as treat it.

BUDGET RECONCILIATION

(Mr. DAVIS of Illinois asked and was given permission to address the House for 1 minute.)

Mr. DAVIS. Mr. Speaker, as we move towards the vote on budget reconciliation, I trust that the majority does not come back with the same old soup warmed over or the same old lemon with a new twist.

Mr. Speaker, I hope that we will come back with something that really meets the needs of the people, not tax breaks for the wealthiest 1 percent and nothing for the truly needy and those who are poor. I hope that we get it right this time, Mr. Speaker, and have a reconciliation plan that reconciles not only the budget but meets the needs of the American people.

MEDICARE

(Mr. CARTER asked and was given permission to address the House for 1 minute.)

Mr. CARTER. Mr. Speaker, this week, seniors across the country can take the first steps towards much-needed prescription drug benefits when they enroll in the Medicare prescription drug plan. The plan gives seniors the power of choice. Seniors will select from multiple plans and choose the option best suited to their needs. With the cost of prescription drugs increasing every year, the ability to choose a plan tailored to that senior's specific health needs is invaluable.

Not only that, but choice encourages competition. Private companies will be making their prices available for seniors to compare. This, in turn, will lower prices in an effort to secure those seniors' business. By giving the seniors choice, we give them lower prices.

Mr. Speaker, the Medicare prescription drug coverage card is long overdue. I am proud of Republicans for providing a viable solution to America's seniors, and I encourage seniors all across the country to take advantage of these added benefits.

REMEMBERING THE 1989 MURDERS OF SIX JESUIT PRIESTS IN EL SALVADOR

(Mr. McGOVERN asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. McGOVERN. Mr. Speaker, 16 years ago today, in the dead of night, the Salvadoran Army's U.S.-trained Atalacatl Battalion entered the grounds of the University of Central America in San Salvador, pulled six Jesuit priests from their beds, marched them out onto the lawn behind their residence, put high-powered rifles to their heads and shot them dead in cold blood. A few minutes later, these same soldiers discovered the Jesuits' housekeeper and her teenager daughter hiding in the house and murdered them as well.

A bipartisan commission appointed by the Speaker of the House and chaired by our former colleague, Congressman Joe Moakley, investigated this heinous crime, identified the killers, and the Commission's report became critical evidence in the prosecution and conviction of the priests' killers and, I believe, in creating support for the U.N.-brokered negotiations that ended El Salvador's 12-year civil war.

Mr. Speaker, I knew these priests. I was proud to call them my friends. Let us take a moment to remember their courage and to remember the bipartisan work of this House under the leadership of Joe Moakley that helped El Salvador forge a pathway to peace.

Let us never forget the names of those who were murdered on November 16, 1989: Father Ignacio Ellacuria, Father Ignacio Martin-Baro, Father Segundo Montes, Father Armando Lopez, Father Joaquin Lopez y Lopez, Father Juan Ramon Moreno, Celina Maricet Ramos and Elba Julia Ramos.

PRIVATE SUPPORT FOR LOUISIANA FOLLOWING RECENT HURRICANES

(Mr. JINDAL asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. JINDAL. Mr. Speaker, I rise today to talk about the private support that has been delivered to my home State of Louisiana following Hurricanes Katrina and Rita. The Ford and Dodge motor companies donated dozens of vehicles to first responders in my State.

In addition, one of the greatest examples of support, though not the only example, came from Wal-Mart. I want to take a moment to tell you about it. It is easy to tell you of their generosity. Wal-Mart donated over $17 million to the Bush-Clinton Katrina Fund, the Salvation Army and the Red Cross. They donated $3.5 million worth of merchandise to shelters and command centers throughout the Gulf Coast region. They provided $20,000 in cash donations to animal shelters across the region. They provided 150 Internet-ready computers to shelters across the region to help loved ones stay in contact. They donated use of 25 vacant facilities for use by relief agencies. Their customers have donated more than $8.5 million in stores across the country.

The best thing I can do is share a brief story that was told to me by the men and women on the ground. Wal-Mart told officials and first responders, We don't have staff on the ground, they have all evacuated, but come in, take what you need, just shut the door after you leave.

It took our government days to provide what Wal-Mart and other private companies did in those first few hours.

BUSH ADMINISTRATION'S INTELLIGENCE WAS NOT A "SLAM DUNK"

(Mr. STUPAK asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. STUPAK. Mr. Speaker, President Bush's latest attacks on those who have questioned whether his administration manipulated the intelligence to justify a war against Iraq is based on flawed arguments and falsehoods.

First, the President said Congress had access to the same intelligence as the White House prior to the war. This is false. The Washington Post writes, and I quote, Bush and his aides had access to much more voluminous intelligence information than did lawmakers who were dependent on the administration to provide the material.

Second, President Bush claimed the bipartisan Senate investigation found that he did not misrepresent prewar intelligence. Again, the President's statements are wrong. The Senate Intelligence Committee is not expected to complete this phase of their investigation until next year.

Third, the President said intelligence agencies around the world agreed with the Bush administration's assessment of the Iraqi threat. Once again, this statement is false. Many of our international friends concluded that Iraq's threat did not rise to the level of justifying immediate military force.

Mr. Speaker, the Bush administration refuses to live in reality. It has no plans in Iraq other than, stay the course. This administration makes decisions with no understanding of the consequences of those decisions. The reality is, we lost six more servicemen in Iraq in the last 24 hours.

AMT REFORM

(Mr. GARRETT of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. GARRETT of New Jersey. Mr. Speaker, I rise today to address the Middle Class Fairness Act and the AMT, the alternative minimum tax. This tax was put in place years ago to basically cover a small group of wealthy taxpayers who were avoiding paying their taxes. Unfortunately, now it extends far beyond its initial intent in recent years. Now the AMT is actually punishing families and homeowners and the very credits that are in the current tax law, those credits that encourage savings, education, marriage, homeownership; they are all under attack by the AMT.

I am from the State of New Jersey. Our State has the highest percentage of people who are paying the AMT. Yet our State is the State with some of the highest taxes in the country. The solution to this problem? Well, it is relatively simple, two things: All we have to do is index the AMT, and, secondly, allow for the deductibility of taxes for those people who have to pay it. Reform is long overdue. The middle class deserves this reform in order to not any longer fall under the AMT.

BUDGET RECONCILIATION

(Mr. DEFAZIO asked and was given permission to address the House for 1 minute.)

Mr. DEFAZIO. Last night, the Ways and Means Committee pulled aside the curtain to show us what the direct link is between tax cuts for the wealthy and cutting programs for students and struggling families.

Dividend tax cuts for wealthy investors so they will have to pay taxes at a rate lower than a teacher or a supermarket checkout clerk. The trade-off is, well, student loans, $14 billion in cuts. But, hey, those rich coupon clippers need the money.

Then we have food security, school lunch. Those little kids are just eating too much. We get something called look-through treatment of payments between related CFCs under foreign personal holding company income rules for the same price. Nice trade-off on the Republican side of the aisle.

Then, of course, extending further tax cuts to those who don't work for a living but live on capital gains. The small trade-off for that is depriving millions of Americans under the Medicaid program of needed essential medical care and dumping those costs onto the States and those of us who buy insurance because a lot of it will be unreimbursed care.

Great work, you guys. You're helping out your patrons and sticking it to the rest of America.

□ 1030

REVISIONIST HISTORY

(Mr. PRICE of Georgia asked and was given permission to address the House for 1 minute.)

Mr. PRICE of Georgia. Mr. Speaker, here is a quote: Others have talked about this threat that is posed by Saddam Hussein. Yes, he has chemical weapons. He has biological weapons, and he is trying to get nuclear weapons.

That is not President Bush. That is Democrat Leader Nancy Pelosi. But now what we are seeing is some revisionist history, and this Monday morning quarterbacking is a disservice to all of America.

Remember Secretary Colin Powell's testimony in front of the U.N. on February 5, 2003? One of the things that was never questioned was a tape that he played. It was between an Iraqi colonel and an Iraqi general. The colonel says, About this committee that is coming, and he is talking about the U.N. nuclear weapons committee. And the general says, Yeah, I am worried that you have got something left. And the colonel says, We have evacuated everything. We don't have anything left.

Now, what were they talking about, Mr. Speaker? What were they talking about?

It is no wonder that both Republicans and Democrats both voted to go to war. Both had the same intelligence and both saw the writing on the wall. Disagreeing about current policy is one thing, but changing historical fact is the tired, old, petty, partisan politics of the past.

INTERNATIONAL EDUCATION WEEK

(Mr. HOLT asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. HOLT. Mr. Speaker, I rise to speak about International Education Week this week sponsored by the Departments of State and Education.

International Education Week marks the importance of teaching our children and the people of our country foreign languages, traditions, cultures. This is not simply a feel-good effort of cultural enrichment. Whether it is a matter of competitiveness, economics, national security, in this era we must understand other cultures, their languages, their traditions, as quite literally now anyone on this planet could be our collaborators, our colleagues, our competitors, our customers.

Certainly this event should reaffirm our value of a strong foreign language education in which culture and traditions are taught alongside the structure and vocabulary. The acquisition of foreign languages beginning in the elementary years is found to create neuroconnections and boost various thinking processes. Those who study foreign language can pursue careers that benefit all of us here in America.

These students are gaining experiences which will serve them well in a variety of careers and serve the Nation through a better understanding of the world in which we live and compete.

MRS. RABINOWITZ

(Mrs. JOHNSON of Connecticut asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. JOHNSON of Connecticut. Mr. Speaker, 42 million seniors can now sign up for the new voluntary Medicare drug benefit.

Yesterday I was with a senior in my district, Shirley Rabinowitz, who takes 17 different prescription drugs. Let me say that again: 17 different prescription drugs. She takes drugs for diabetes. She takes drugs for her heart condition. She lives with a number of chronic illnesses, and so she takes 17 different prescriptions. But like so many seniors, she has no retiree coverage, no Medicaid coverage, no State plan assistance, in fact, no prescription drug coverage at all. And her out of pocket expenses are huge.

So she wondered if the new Medicare plan would help her, and she went to an adviser with the Triple Area Agency on Aging and she learned in 30 short minutes that she can save $4,000 a year. Let me say that again: $4,000 a year.

Mr. Speaker, this new drug program is a huge benefit to our seniors. Do not discourage them from getting the advice they need that is readily available to save them lots of money.

BUDGET RECONCILIATION

(Ms. SOLIS asked and was given permission to address the House for 1 minute.)

Ms. SOLIS. Mr. Speaker, today I rise in opposition to the Republican misguided and irresponsible plan to pass mandatory spending cuts and a companion tax cut package.

The Republican budget reconciliation bill cuts $50 billion in vital programs such as Medicaid, food stamps, and student loans which are important to low-income and working-class families in this country.

The Republicans claim that these spending cuts will be used to offset the cost of hurricane relief efforts, and that is simply not the case. In recent years, Republicans have not offset the supplemental funding for the war and rebuilding in Iraq.

The reality is that Republicans are cutting vital services for the most vulnerable in our country in order to finance $70 billion in tax cuts to the wealthy few. The budget reconciliation bill, when combined with the tax cut, increases the Federal deficit by $20 billion.

Do not be fooled. The Republican reconciliation plan is a plan to increase the deficit and the national debt. Republicans clearly have the wrong priorities for America's working families. The budget is wrong. I urge my colleagues to protect the health and well-being of our citizens and not support this plan.

DEFICIT REDUCTION ACT

(Mr. PENCE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PENCE. Mr. Speaker, in the aftermath of the worst natural disaster in American history, Congress responded with generosity and more than

$60 billion in 6 days. But this week, thanks to the leadership of President George W. Bush and Speaker DENNIS HASTERT, Congress is going to figure out how to pay for it.

In the Deficit Reduction Act, this Congress will achieve more than $50 billion in savings in the next 5 year to offset the extraordinary cost of Hurricane Katrina. But there is still work to be done.

This legislation is an important first step toward restoring fiscal discipline, but it is just that: it is a first step. With an $8 trillion national debt and with more spending on Hurricane Katrina awaiting around the corner, it is imperative that we pass the Deficit Reduction Act, move on to an across-the-board cut in this year's budget, and reopen the highway bill and rescind earmarks that are anathema to the American people.

It is written that if the trumpet does not sound a clear call, who will get ready for battle? The Deficit Reduction Act is a clear call to begin the process of putting our fiscal house in order, and I urge all of my colleagues, Republican and Democrat, to support it.

REVERSE ROBIN HOOD

(Ms. CORRINE BROWN of Florida asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Ms. CORRINE BROWN of Florida. Mr. Speaker, when I was coming up, my favorite television program was Robin Hood. The Republican budget coming up this week is one example of what I call "Reverse Robin Hood," robbing from the poor and working class to give tax breaks to the rich, billions of dollars of tax breaks.

Let me tell you one of the examples of this policy and who it is going to hurt: single mothers seeking child support, students struggling to get ahead and pay for their college loans, foster kids, the sick and the poor whose only access to health coverage is Medicaid, those whose nutrition depends on food stamps or school lunches.

The budget is an outrage, one that clearly and forcefully paints a world of two classes of Americans. And with insult added to injury, it punishes those who have committed no crime but to be old, young, sick or uneducated. It punishes the working poor.

Mr. Speaker, the Republicans practice reverse Robin Hood.

DUTCH-AMERICAN DAY

(Mr. HOEKSTRA asked and was given permission to address the House for 1 minute.)

Mr. HOEKSTRA. Mr. Speaker, I rise to honor the more than 4.5 million Americans with Dutch roots who today, Dutch-American Day, reflect upon their heritage and the contributions of the Netherlands to the United States.

In 1609, the industrious and seafaring Dutch settled the colony of New Netherlands and named their capital New Amsterdam. However, the influence of the early colonists was not limited to the shores of Manhattan, Breukelyn or even Lang Eylandt, Long Island as we know it today.

Indeed, the colony ranged across the middle Atlantic region to cover parts of five States, including my own State of Michigan. Holland, Michigan may be a long way from my birthplace of Groningen in the Netherlands, but I still identify with my homeland.

The ties between the Netherlands and the United States are significant and long-standing. Centuries before the U.S. Declaration of Independence, William of Orange—the Dutch version of George Washington—set forth his grievances with the ruling Spanish government.

The grievances grew out of the Spanish government's tax policies and religious intolerance. Many years later, a similar scenario played out in the U.S., and Thomas Jefferson used the Dutch "Proclamation of Abjuration" as a model for the Declaration of Independence.

The common bonds of freedom, human rights and democracy inspire my pride in my heritage. But the Netherlands is also a humble and gentle country filled with canals, windmills, and tulips. It is a very forward-looking, modern country with unparalleled innovations in electronics, medicine, logistics, agriculture, and technology.

Today, the Dutch embassy will host a reception in the Rayburn foyer to honor Dutch-American Heritage Day. I encourage my colleagues and members of their staffs to join me at the event to celebrate the historical ties with the Netherlands.

RETURN TO PAYGO

(Mr. COOPER asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. COOPER. Mr. Speaker, the Blue Dog Coalition, of which I am policy cochair, is going to vote against the budget reconciliation measures coming up this week.

Why? Because after all the sound and fury, these measures will increase the Federal budget deficit, and Blue Dogs are for reducing the Federal budget deficit.

Now, what can be done in a positive manner to address the problem? Don't take our word for it, listen to the chairman of the Federal Reserve Board, Alan Greenspan, who has repeatedly advocated that we return to the PAYGO rules, pay as you go.

If you want to increase spending on a program, find the money to pay for it, the way every household in America has to do. If you want to cut taxes, find the money to pay for it.

America lived under this rule from 1990 to 2002. It worked well. We need to return to PAYGO principles.

SEX SELECTION ABORTION IN INDIA A MASSIVE CRIME

(Mr. SMITH of New Jersey asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. SMITH of New Jersey. Mr. Speaker, the United Nations' push for global population control continues to lead to ugly and inhumane outcomes, especially for girls.

China, as you know, imposes a barbaric "one child per couple" policy that relies on forced abortion, involuntary sterilization and ruinous fines to implement. But a UNFPA report sheds new light on sex selection abortion in India. According to the U.N. report, increasingly parents are using sex selection technologies that enable practitioners first to identify female unborn girls and then to abort them. As a result, fully 60 million girls are now missing according to the United Nations, effectively falling into a demographic black hole from which analysts fear there will be no return.

The report says as many as 2 million unborn baby girls are aborted each year for no other reason than they happen to be female.

In Punjab, the government claims that the numbers of missing girls will increase by 40 percent in the forthcoming generation.

Mr. Speaker, abortion is violence against children. It relies on dismemberment of the baby. Abortion relies on chemical poisoning. Sex selection abortion in India or anywhere else is a particularly heinous crime. All children—boys or girls—are precious. None deserve death by abortion.

MISUSE OF INTELLIGENCE

(Mr. PALLONE asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. PALLONE. Mr. Speaker, I am shocked at how the Bush administration will stoop to try and justify their actions prior to the invasion of Iraq.

President Bush decided to use Veterans Day, a day set aside to unite our Nation, to deliver a partisan and divisive political speech aimed at my colleagues in the House and the Senate.

Then yesterday, Secretary Rumsfeld came out and tried to blame President Clinton for this administration's manipulation of intelligence. I have no doubt that this administration cherry-picked intelligence.

Remember all the talk from the war cabinet about imminent mushroom clouds here in the United States or Vice President CHENEY's reckless suggestion that despite all evidence to the contrary that Iraq had ties to al Qaeda?

President Bush called all this criticism "revisionist history." The White House and Secretary Rumsfeld can keep quoting President Clinton, Vice President Gore, and Secretary Albright; but they were not the ones who sent thousands of American soldiers to war.

Mr. Speaker, the President owes us an apology. He should level with the American people and stop trying to shirk responsibility for his flawed Iraq policy.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. ADERHOLT). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on motions to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Record votes on postponed questions will be taken later today.

☐ 1045

HURRICANE REGULATORY RELIEF ACT OF 2005

Mr. JINDAL. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3975) to ease the provision of services to individuals affected by Hurricanes Katrina and Rita, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3975

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Hurricane Regulatory Relief Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—EDUCATION

Subtitle A—Elementary and secondary educational programs

Sec. 101. Charter schools.

Subtitle B—Teacher flexibility

Sec. 111. Treatment of highly qualified teachers.

Subtitle C—Educational programs for children with disabilities

Sec. 121. Agreements to extend certain deadlines of the Individuals with Disabilities Education Act to facilitate the provision of educational services to children with disabilities.
Sec. 122. Paperwork reduction pilot program participation for affected States.

Subtitle D—Higher education relief

Sec. 131. Waivers and modifications.
Sec. 132. Transfer of credit.
Sec. 133. Expanding information dissemination regarding eligibility for Pell Grants.
Sec. 134. Procedures; termination of authority.

Subtitle E—Regulatory relief

Sec. 151. Regulatory and financial relief.

TITLE II—HEALTH AND HUMAN SERVICES

Subtitle A—Community services

Sec. 201. Secretary authority.
Sec. 202. State authority.

Subtitle B—Head Start

Sec. 211. Head start and early head start children affected by a Gulf hurricane disaster.

Subtitle C—Child care services

Sec. 221. Waiver authority to expand the availability of services under Child Care and Development Block Grant Act of 1990.

TITLE III—LABOR

Subtitle A—Pension Flexibility for Displaced Workers Act of 2005

Sec. 301. Short title.
Sec. 302. Authority to prescribe guidance by reason of the Presidentially declared disasters caused by Hurricane Katrina and Hurricane Rita.
Sec. 303. Authority in the event of Presidentially declared disaster or terroristic or military actions.

Subtitle B—Occupational safety and health

Sec. 311. Authorization for volunteers.
Sec. 312. Purchase and distribution of equipment.
Sec. 313. State assistance and matching fund restrictions.
Sec. 314. Expiration.

TITLE IV—GENERAL PROVISIONS

Sec. 401. Definitions.
Sec. 402. Procedural waivers.
Sec. 403. Reporting requirements.

TITLE I—EDUCATION

Subtitle A—Elementary and Secondary Educational Programs

SEC. 101. CHARTER SCHOOLS.

The Secretary of Education shall encourage States—

(1) to include charter schools in Gulf hurricane disaster relief efforts;

(2) to provide support to charter schools that are serving individuals adversely affected by a Gulf hurricane disaster; and

(3) to facilitate the enrollment of students displaced by a Gulf hurricane disaster in charter schools, including by—

(A) waiving any requirement relating to whether a student has resided in the geographic area of the charter school;

(B) increasing the number of students who may attend a charter school; and

(C) removing any other relevant restrictions.

Subtitle B—Teacher Flexibility

SEC. 111. TREATMENT OF HIGHLY QUALIFIED TEACHERS.

For purposes of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 6301 et. seq.), and the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.), an individual who was employed as a teacher on August 29, 2005, by a local educational agency in a State, and who was highly qualified for such employment on such date, may be considered by another State, during the 2005-2006 school year, to be highly qualified in the same core academic subjects for purposes of subsequent employment as a teacher by a local educational agency in such other State, if—

(1) the local educational agency employing the teacher on August 29, 2005, serves an area affected by a Gulf hurricane disaster; and

(2) the local educational agency subsequently employing the teacher hired the teacher due to needs created by the enrollment of displaced students.

Subtitle C—Educational Programs for Children With Disabilities

SEC. 121. AGREEMENTS TO EXTEND CERTAIN DEADLINES OF THE INDIVIDUALS WITH DISABILITIES EDUCATION ACT TO FACILITATE THE PROVISION OF EDUCATIONAL SERVICES TO CHILDREN WITH DISABILITIES.

(a) AUTHORITY.—The Secretary of Education may enter into an agreement described in subsection (b) with an eligible entity to extend certain deadlines under the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) related to providing special education and related services, including early intervention services, to individuals adversely affected by a Gulf hurricane disaster.

(b) TERMS OF AGREEMENTS.—An agreement referred to in subsection (a) is an agreement with an eligible entity made in accordance with subsection (e) that may extend the applicable deadlines under one or more of the following sections:

(1) Section 611(e)(3)(C)(ii) of such Act, by extending up to an additional 60 days the 90 day deadline for developing a State plan for the high cost fund.

(2) Section 612(a)(15)(C) of such Act, by extending up to an additional 60 days the deadline for submission of the annual report to the Secretary of Education and the public regarding the progress of the State and of children with disabilities in the State.

(3) Section 612(a)(16)(D) of such Act, by extending up to an additional 60 days the deadline for making available reports regarding the participation in assessments and the performance on such assessments of children with disabilities.

(4) Section 614(a)(1)(C)(i)(I) of such Act, by extending up to an additional 30 days the 60 day deadline for the initial evaluation to determine whether a child is a child with a disability for purposes of the provision of special education and related services to such child.

(5) Section 616(b)(1)(A) of such Act, by extending up to an additional 60 days the deadline for finalization of the State performance plan.

(6) Section 641(e)(1)(D) of such Act, by extending up to an additional 60 days the deadline for submission to the Governor of a State and the Secretary of Education of the report on the status of early intervention programs for infants and toddlers with disabilities and their families operated within the State.

(c) RULE OF CONSTRUCTION.—Nothing in this Act shall be construed—

(1) as permitting the waiver of—

(A) any applicable Federal civil rights law;

(B) any student or family privacy protections, including provisions requiring parental consent for evaluations and services;

(C) any procedural safeguards required under section 615 or section 639 of the Individuals with Disabilities Education Act; or

(D) any requirements not specified in subsection (b)(1) of this section; or

(2) as removing the obligation of the eligible entity to provide a child with a disability or an infant or toddler with a disability and their families—

(A) a free appropriate public education under part B of the Individuals with Disabilities Education Act; or

(B) early intervention services under part C of such Act.

(d) DURATION OF AGREEMENT.—An agreement under this section shall terminate at the conclusion of the 2005-2006 academic year.

(e) Request to Enter Into Agreement.—To enter into an agreement under this section, an eligible entity shall submit a request to the Secretary of Education at such time, in such manner, and containing such information as the Secretary may require.

SEC. 122. PAPERWORK REDUCTION PILOT PROGRAM PARTICIPATION FOR AFFECTED STATES.

(a) Authority.—To identify ways to reduce paperwork burdens and other administrative duties that are directly associated with the requirements of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.) in order to increase the time and resources available for instruction and other activities aimed at improving educational and functional results for children with disabilities, the Secretary of Education is authorized to permit an affected State to participate in the paperwork reduction pilot program described in section 609(a) of such Act.

(b) Participation by Affected States.—Participation in the paperwork reduction pilot program by an affected State shall be in addition to the maximum number of States that may so participate in accordance with section 609(a)(2)(A) of such Act.

(c) Proposal.—

(1) In general.—An affected State desiring to participate in the paperwork reduction pilot program described in section 609(a) of such Act shall submit a proposal to the Secretary in accordance with section 609(a)(3) of such Act, subject to paragraph (2) of this subsection.

(2) Simplification.—The Secretary may simplify the proposal process for an affected State to participate in the program if the Secretary determines that such simplification is appropriate.

(d) Rule of Construction.—The requirements and authorities described in section 609(a) of such Act that are not modified by this section with respect to an affected State shall apply to such State.

Subtitle D—Higher Education Relief

SEC. 131. WAIVERS AND MODIFICATIONS.

Notwithstanding any other provision of law unless enacted with specific reference to this section, the Secretary of Education is authorized to waive or modify any statutory or regulatory provision applicable to the student financial assistance programs under title IV of the Higher Education Act of 1965, or any student or institutional eligibility provisions in such Act, as the Secretary of Education deems necessary to ensure that the calculation of expected family contribution (under section 474 of such Act) used in the determination of need for student financial assistance under such title for any affected student (and the determination of such need for his or her family, if applicable), is modified to reflect any changes in the financial condition of such affected student and his or her family resulting from a Gulf hurricane disaster.

SEC. 132. TRANSFER OF CREDIT.

(a) Policy Disclosure.—For periods of enrollment beginning in calendar year 2006, each institution of higher education shall establish and publicize policies of the institution regarding the acceptance or denial of academic credit earned at another institution of higher education, which shall include a statement that such decisions will not be based solely on the source of accreditation of a sending institution, provided that the sending institution is accredited by an agency or association that is recognized by the Secretary of Education pursuant to section 496 of the Higher Education Act of 1965 to be a reliable authority as to the quality of the education or training offered.

(b) Rule of Construction.—Nothing in this section shall be construed to—

(1) authorize an officer or employee of the Department of Education to exercise any direction, supervision, or control over the curriculum, program of instruction, administration, or personnel of any institution of higher education, or over any accrediting agency or association;

(2) limit the application of the General Education Provisions Act (20 U.S.C. 1221 et seq.); or

(3) create any legally enforceable right.

SEC. 133. EXPANDING INFORMATION DISSEMINATION REGARDING ELIGIBILITY FOR PELL GRANTS.

(a) In General.—The Secretary of Education shall—

(1) make special efforts, in conjunction with State efforts, to notify affected students and, if applicable, their parents, who qualify for a means-tested Federal benefit program, of their potential eligibility for a maximum Pell Grant; and

(2) disseminate informational materials regarding such eligibility as the Secretary of Education deems appropriate.

(b) Means-Tested Federal Benefit Program.—For the purpose of this section, the term "means-tested Federal benefit program"—

(1) means a mandatory spending program of the Federal Government, other than a program under the Higher Education Act of 1965, in which eligibility for the program's benefits, or the amount of such benefits, or both, are determined on the basis of income or resources of the individual or family seeking the benefit; and

(2) may include—

(A) the supplemental security income program under title XVI of the Social Security Act;

(B) the food stamp program under the Food Stamp Act of 1977;

(C) the free and reduced price school lunch program established under the Richard B. Russell National School Lunch Act;

(D) the temporary assistance to needy families program established under part A of title IV of the Social Security Act;

(E) the women, infants, and children program established under section 17 of the Child Nutrition Act of 1966; and

(F) other programs identified by the Secretary of Education.

SEC. 134. PROCEDURES; TERMINATION OF AUTHORITY.

(a) Deadlines and Procedures.—Sections 482(c) and 492 of the Higher Education Act of 1965 (20 U.S.C. 1089(c), 1098(a)) shall not apply to any waivers, modifications, or actions initiated by the Secretary of Education under this subtitle.

(b) Case-by-Case Basis.—The Secretary of Education is not required to exercise any waiver or modification authority under this subtitle on a case-by-case basis.

(c) Termination of Authority.—The authority of the Secretary of Education to issue waivers or modifications under this subtitle shall expire at the conclusion of the 2005–2006 academic year, but the expiration of such authority shall not affect the continuing validity of any such waivers or modifications after such academic year.

Subtitle E—Regulatory Relief

SEC. 151. REGULATORY AND FINANCIAL RELIEF.

(a) Waiver Authority.—Subject to subsections (b) and (c), in providing any grant or other assistance, directly or indirectly, to an entity in an affected State, the Secretary of Education may, as applicable, waive or modify in order to ease fiscal burdens any requirement relating to the following:

(1) Maintenance of effort.

(2) The use of Federal funds to supplement, not supplant, non-Federal funds.

(3) Any non-Federal share or capital contribution required to match Federal funds provided under programs administered by the Secretary of Education.

(b) Duration.—A waiver under this section shall be for the 2006 fiscal year.

(c) Limitations.—

(1) Relation to idea.—This section does not authorize the waiver or modification of any provision of the Individuals with Disabilities Education Act (20 U.S.C. 1400 et seq.).

(2) Maintenance of effort.—If the Secretary grants a waiver or modification under this section waiving a requirement relating to maintenance of effort for a fiscal year, the level of effort required for the following fiscal year shall not be reduced because of the waiver.

TITLE II—HEALTH AND HUMAN SERVICES

Subtitle A—Community Services

SEC. 201. SECRETARY AUTHORITY.

The Secretary of Health and Human Services may waive with respect to any affected State for up to 90 days after the enactment of this Act the filing deadline under section 676(b) of the Community Services Block Grant Act.

SEC. 202. STATE AUTHORITY.

(a) Transfer of Funding.—A State that receives a payment or allotment under section 675A or 675B of the Community Services Block Grant Act may transfer a portion of the payment or allotment available for expenditure under section 675C(b) (including sums available for administrative expenses under paragraph (2) of such section 675C(b)) to an affected State.

(b) Staff.—A State lead agency designated under section 676(a)(1) of the Community Services Block Grant Act or an eligible entity (as defined in section 673 of such Act) may send an employee of the State lead agency, or of an eligible entity, to an area affected by a Gulf hurricane disaster to help in providing disaster assistance.

(c) Eligible Entity.—A State lead agency in an affected State may temporarily fund an eligible entity in a contiguous area, or if such entity is not available to provide such services, may temporarily fund alternative service providers (notwithstanding the definition of an eligible entity as defined in section 673 of the Community Services Block Grant Act) when the currently funded eligible entity is no longer able to provide services due to a Gulf hurricane disaster in order to meet the immediate needs of individuals adversely affected by a Gulf hurricane disaster (provided that in the meantime the State is assisting such current eligible entity in becoming operational).

(d) Recapture and Redistribution of Unobligated Funds.—Notwithstanding any other provision of law, an affected State may apply the recapture and redistribution of unobligated funds provisions under section 675C(a)(3) of the Community Services Block Grant Act provided that the State consults with the eligible entity involved.

Subtitle B—Head Start

SEC. 211. HEAD START AND EARLY HEAD START CHILDREN AFFECTED BY A GULF HURRICANE DISASTER.

(a) Technical Assistance, Guidance, and Resources.—The Secretary of Health and

Human Services shall provide technical assistance, guidance, and resources through the Region 4 and Region 6 offices of the Administration for Children and Families (and may provide technical assistance, guidance, and resources, through other regional offices of the Administration, at the request of such offices, that administer affected Head Start agencies) to Head Start agencies in areas in which a major disaster has been declared, and to affected Head Start agencies, to assist the agencies involved in providing Head Start services and Early Head Start services to children affected by a Gulf hurricane disaster.

(b) WAIVER.—For such period up to June 30, 2006, and to such extent as the Secretary considers appropriate, the Secretary of Health and Human Services—

(1) may waive section 640(b) of the Head Start Act for Head Start agencies located in an area affected by a Gulf Hurricane disaster and other affected Head Start agencies; and

(2) shall waive requirements of documentation for an individual adversely affected by a Gulf hurricane disaster who participates in a Head Start program or an Early Head Start program funded under the Head Start Act.

Subtitle C—Child Care Services

SEC. 221. WAIVER AUTHORITY TO EXPAND THE AVAILABILITY OF SERVICES UNDER CHILD CARE AND DEVELOPMENT BLOCK GRANT ACT OF 1990.

For such period up to June 30, 2006, and to such extent as the Secretary considers to be appropriate, the Secretary of Health and Human Service may waive or modify, for any affected State, and any State serving significant numbers of individuals adversely affected by a Gulf hurricane disaster, provisions of the Child Care and Development Block Grant Act of 1990 (42 U.S.C. 9858 et seq.)—

(1) relating to Federal income limitations on eligibility to receive child care services for which assistance is provided under such Act,

(2) relating to work requirements applicable to eligibility to receive child care services for which assistance is provided under such Act,

(3) relating to limitations on the use of funds under section 658G of the Child Care and Development Block Grant Act of 1990,

(4) preventing children designated as evacuees from receiving priority for child care services provided under such Act, except that children residing in a State and currently receiving services should not lose such services in order to accommodate evacuee children, and

(5) relating to any non-Federal or capital contribution required to match Federal funds provided under programs administered by the Secretary of Health and Human Services,

for purposes of easing State fiscal burdens and providing child care services to children orphaned, or of families displaced, as a result of a Gulf hurricane disaster.

TITLE III—LABOR

Subtitle A—Pension Flexibility for Displaced Workers Act of 2005

SEC. 301. SHORT TITLE.

This subtitle may be cited as the "Pension Flexibility for Displaced Workers Act of 2005".

SEC. 302. AUTHORITY TO PRESCRIBE GUIDANCE BY REASON OF THE PRESIDENTIALLY DECLARED DISASTERS CAUSED BY HURRICANE KATRINA AND HURRICANE RITA.

(a) WAIVERS, SUSPENSIONS, OR EXEMPTIONS.—In the case of any pension plan which is an individual account plan, or any participant or beneficiary, plan sponsor, administrator, fiduciary, service provider, or other person with respect to such plan, affected by Hurricane Katrina or Hurricane Rita, or any service provider or other person dealing with such plan, the Secretary of Labor may, notwithstanding any provision of title I of the Employee Retirement Income Security Act of 1974, prescribe, by notice or otherwise, a waiver, suspension, or exemption from any provision of such title which is under the regulatory authority of such Secretary, or from regulations issued under any such provision, that such Secretary determines appropriate to facilitate the distribution or loan of assets from such plan to participants and beneficiaries of such plan. At the time of the issuance of such waiver, suspension, or exemption, such Secretary shall publish in the Federal Register the terms of such waiver, suspension, or exemption.

(b) EXEMPTION FROM LIABILITY FOR ACTS OR OMISSIONS COVERED BY WAIVER, SUSPENSION, OR EXEMPTION.—No person shall be liable for any violation of title I of the Employee Retirement Income Security Act of 1974, or of any regulations issued under such title, based upon any act or omission covered by a waiver, suspension, or exemption issued under subsection (a) if such act or omission is in compliance with the terms of the waiver, suspension, or exemption.

(c) PLAN TERMS SUBJECT TO WAIVER, SUSPENSION, OR EXEMPTION.—Notwithstanding any provision of the plan to the contrary and to the extent provided in any waiver, suspension, or exemption issued by the Secretary of Labor pursuant to subsection (a), no plan shall be treated as failing to be operated in accordance with its terms solely as a result of acts or omissions which are in compliance with the terms of such waiver, suspension, or exemption.

(d) EXPIRATION OF AUTHORITY.—This section shall apply only with respect to waivers, suspensions, or exemptions issued by the Secretary of Labor during the 1-year period following the date of the enactment of this Act.

(e) DEFINITIONS.—Terms used in this section shall have the meanings provided such terms in section 3 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1002).

SEC. 303. AUTHORITY IN THE EVENT OF PRESIDENTIALLY DECLARED DISASTER OR TERRORISTIC OR MILITARY ACTIONS.

Section 518 of the Employee Retirement Income Security Act of 1974 (29 U.S.C. 1148) is amended by inserting ", under any regulation issued thereunder, or under any plan provision" after "under this Act".

Subtitle B—Occupational Safety and Health

SEC. 311. AUTHORIZATION FOR VOLUNTEERS.

(a) AUTHORITY TO RECRUIT, TRAIN, AND UTILIZE.—Notwithstanding any other provision of law, the Secretary of Labor (hereafter "the Secretary") may recruit, train, accept, and utilize, without regard to the civil service classification laws, rules, or regulations, the services of volunteer individuals to aid in or facilitate the activities administered by the Secretary through the Occupational Safety and Health Administration for projects related to worker safety and health in response to the effects of Hurricane Katrina and Hurricane Rita.

(b) PROVISION OF SERVICES AND COSTS.—The Secretary may provide for services and costs incidental to the utilization of volunteers under subsection (a), including transportation, supplies, equipment (including personal protective equipment), uniforms, lodging, subsistence (without regard to place of residence), recruiting, training, supervision, and awards and recognition (including nominal cash awards).

(c) FEDERAL EMPLOYMENT STATUS OF VOLUNTEERS.—

(1) IN GENERAL.—Except as provided in paragraph (2), a volunteer under this section shall not be considered a Federal employee and shall not be subject to the provisions of law relating to Federal employment, including those provisions relating to hours of work, rates of compensation, leave, unemployment compensation, and Federal employee benefits.

(2) EXCEPTION.—A volunteer under this section shall be considered a Federal employee for the purposes of—

(A) required Federal agency safety and health programs under section 19 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 668), Executive Order 12196 (45 Fed. Reg. 12769) and part 1960 of title 29, Code of Federal Regulations; and

(B) the standards of ethical conduct provisions of part 2635 of title 5, Code of Federal Regulations.

(d) LIMITATION.—No volunteer authorized under this section may aid in or facilitate any inspection or investigation relating to, or the enforcement of, the Occupational Safety and Health Act of 1970 (29 U.S.C. 651 et seq.).

SEC. 312. PURCHASE AND DISTRIBUTION OF EQUIPMENT.

The Secretary is authorized to purchase and distribute equipment and supplies to public or private entities and individuals for projects administered by the Occupational Safety and Health Administration related to worker safety and health in response to the effects of Hurricane Katrina and Hurricane Rita.

SEC. 313. STATE ASSISTANCE AND MATCHING FUND RESTRICTIONS.

(a) USE OF FUNDS.—Notwithstanding any other provision of law, States that administer State plans under section 18 of the Occupational Safety and Health Act of 1970 (29 U.S.C. 667), or cooperative agreements under section 21(d) of such Act (29 U.S.C. 670(d)) may use grant funds awarded under section 21 or 23 of such Act (29 U.S.C. 670; 672) to provide assistance to the Occupational Safety and Health Administration for projects related to worker safety and health in response to the effects of Hurricane Katrina and Hurricane Rita.

(b) MATCHING FUND REQUIREMENT.—Notwithstanding the matching share requirements of section 23 of such Act or any other provision of law, the Secretary may increase the size of a grant to any State providing assistance under subsection (a) by an amount of up to 100 percent of the cost of travel and subsistence, overtime, and other administrative expenses incurred by the State in providing such assistance.

SEC. 314. EXPIRATION.

This authorities granted in this title shall terminate on December 31, 2006.

TITLE IV—GENERAL PROVISIONS

SEC. 401. DEFINITIONS.

For purposes of this Act, except as otherwise specifically provided in this Act, the following terms have the following meanings:

(1) AFFECTED HEAD START AGENCIES.—The term "affected Head Start Agencies" means a Head Start agency receiving a significant number of children from an area in which a Gulf hurricane disaster has been declared.

(2) AFFECTED STATE.—The term "affected State" means the State of Alabama, Florida, Louisiana, Mississippi, or Texas.

(3) AFFECTED STUDENT.—The term "affected student" means an individual who has applied for or received student financial assistance under title IV of the Higher Education Act of 1965, and who—

(A) was enrolled or accepted for enrollment, as of August 29, 2005, at an institution of higher education in an area affected by a Gulf hurricane disaster;

(B) was a dependent student enrolled or accepted for enrollment at an institution of higher education that is not in an area affected by a Gulf hurricane disaster, but whose parents resided or were employed, as of August 29, 2005, in an area affected by a Gulf hurricane disaster; or

(C) was enrolled or accepted for enrollment at an institution of higher education, as of August 29, 2005, and whose attendance was interrupted because of a Gulf hurricane disaster.

(4) AREA AFFECTED BY A GULF HURRICANE DISASTER.—The term "area affected by a Gulf hurricane disaster" means a county or parish, in an affected State, that has been designated by the Federal Emergency Management Agency for disaster assistance for individuals and households as a result of Hurricane Katrina or Hurricane Rita.

(5) CHARTER SCHOOL.—The term "charter school" has the meaning given to that term in section 5210 of the Elementary and Secondary Education Act of 1965.

(6) CHILD WITH A DISABILITY.—The term "child with a disability" has the meaning given such term in section 602(3) of the Individuals with Disabilities Education Act.

(7) DISPLACED STUDENT.—The term "displaced student" means an individual who—

(A) but for a Gulf hurricane disaster, would be enrolled during a school year in an elementary or secondary school in an affected State;

(B) is unable, due to such disaster, to access the education and pupil services that the child otherwise would be receiving at such school; and

(C) due to such disaster, is enrolled at a public elementary or secondary school in a different geographic location in a State.

(8) ELEMENTARY SCHOOL.—The term "elementary school" has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

(9) ELIGIBLE ENTITY.—The term "eligible entity" means—

(A) a local educational agency (as defined in section 602(19) of the Individuals with Disabilities Education Act) if such agency is located in a State or in an area of a State with respect to which the President has declared that a Gulf hurricane disaster exists;

(B) a State educational agency (as defined in section 602(32) of such Act) if such agency is located in a State with respect to which the President has declared that a Gulf hurricane disaster exists; or

(C) a State interagency coordinating council established under section 641 of such Act if such council is located in a State with respect to which the President has declared that a Gulf hurricane disaster exists.

(10) GULF HURRICANE DISASTER.—The term "Gulf hurricane disaster" means a major disaster that the President declared to exist, in accordance with section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, and that was caused by Hurricane Katrina or Hurricane Rita.

(11) HIGHLY QUALIFIED.—The term "highly qualified"—

(A) in the case of a special education teacher, has the meaning given such term in section 602 of the Individuals with Disabilities Education Act; and

(B) in the case of any other elementary, middle, or secondary school teacher, has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

(12) INDIVIDUAL ADVERSELY AFFECTED BY A GULF HURRICANE DISASTER.—The term "individual adversely affected by a Gulf hurricane disaster" means an individual who, on August 29, 2005, was living, working, or attending school in an area in which the President has declared to exist a Gulf hurricane disaster.

(13) INFANT OR TODDLER WITH A DISABILITY.—The term "infant or toddler with a disability" has the meaning given such term in section 632(5) of the Individuals with Disabilities Education Act.

(14) INSTITUTION OF HIGHER EDUCATION.—The term "institution of higher education" has the meaning given such term in section 102 of the Higher Education Act of 1965, except that the term does not include institutions under subsection (a)(1)(C) of that section.

(15) LOCAL EDUCATIONAL AGENCY.—The term "local educational agency" has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

(16) PUPIL SERVICES.—The term "pupil services" has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

(17) SECONDARY SCHOOL.—The term "secondary school" has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

(18) STATE.—The term "State" has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

(19) STATE EDUCATIONAL AGENCY.—The term "State educational agency" has the meaning given such term in section 9101 of the Elementary and Secondary Education Act of 1965.

(20) STATE LEAD AGENCY.—The term "State lead agency" has the meaning given such term as designated under 676(a)(1) of the Community Services Block Grant Act.

SEC. 402. PROCEDURAL WAIVERS.

(a) PUBLICATION.—

(1) IN GENERAL.—Notwithstanding section 437 of the General Education Provisions Act (20 U.S.C. 1232) and section 553 of title 5, United States Code, the Secretary of Education shall make publicly available the waivers or modifications of statutory and regulatory provisions and other actions the Secretary of Education issues pursuant to this title.

(2) TERMS AND CONDITIONS.—The notice under paragraph (1) shall include the terms and conditions to be applied in lieu of such statutory and regulatory provisions.

SEC. 403. REPORTING REQUIREMENTS.

(a) CONTENTS OF REPORT.—Not later than September 30, 2006, each State that exercises any authority provided in this Act shall submit to the Secretary of jurisdiction a report containing such information as the Secretary may require, including information identifying—

(1) how flexibility provided under this Act is used to provide assistance to individuals adversely affected by a Gulf hurricane disaster, including the number of such individuals assisted;

(2) how such individuals were assisted;

(3) if any staff was sent to an area adversely affected by a Gulf hurricane disaster under title II, subtitle A;

(4) specifying how an affected State exercised its waiver authority under this Act to assist individuals adversely affected by a Gulf hurricane disaster, including waivers received under section 331;

(5) the amount of funding transferred among programs specified in section 331;

(6) the amount of funding, if any, transferred to an affected State under subtitle A of title II and how such funds were distributed;

(7) how additional alternative service providers were chosen by such State to provide immediate assistance under subtitle A of title II; and

(8) the number and location of teachers considered to be highly qualified for purposes of subsequent employment as a teacher by a local educational agency that hired the teachers due to needs created by the enrollment of displaced students under section 111.

(b) REPORT TO CONGRESS.—Not later October 30, 2006, the Secretary shall submit to the Committee on Education and the Workforce of the House of Representatives, the Committee on Health, Education, Labor, and Pensions of the Senate, and the respective Committees on Appropriations the report described in subsection (a), and any comments the Secretary may have with respect to such report.

The SPEAKER pro tempore (Mr. ADERHOLT). Pursuant to the rule, the gentleman from Louisiana (Mr. JINDAL) and the gentleman from Illinois (Mr. DAVIS) each will control 20 minutes.

The Chair recognizes the gentleman from Louisiana (Mr. JINDAL).

GENERAL LEAVE

Mr. JINDAL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 3975.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

Mr. JINDAL. Mr. Speaker, I yield myself such time as I may consume.

I rise in support of H.R. 3975, the Hurricane Regulatory Relief Act of 2005. This bill will provide much-needed flexibility and regulatory relief to help the students, schools, workers, families and communities affected by Hurricanes Katrina and Rita.

While the recovery effort on the gulf coast is well underway, there is still a significant amount of work yet to be done. In my home State of Louisiana, educational services at all levels have been severely impacted by Hurricanes Katrina and Rita. Unfortunately, we are finding the bureaucratic inefficiencies and red tape have a tendency to slow the efforts of individuals and communities working to rebuild. Entire communities have been uprooted by these unprecedented natural disasters, and we must work to ensure that bureaucratic red tape does not hamper efforts to restore the region.

Accordingly, I have introduced the Hurricane Regulatory Relief Act of 2005 to provide commonsense solutions and flexibility that will help affected students, schools, workers, families and communities bypass the bureaucracy and move forward with the recovery effort.

In general, this bill eases restrictions and provides flexibility for various programs and initiatives administered by the Departments of Education, Health and Human Services and, finally, the Department of Labor. For an unlimited period of time, H.R. 3975 increases flexibility for elementary and secondary schools and teachers; provides assistance for higher education students; expands access to child care and early childhood education; promotes community-based services; and addresses issues related to workers displaced by the hurricanes.

H.R. 3975 would ease some financial requirements, such as maintenance of effort and supplement not supplant funding requirements for K–12 schools in the impacted gulf coast region. Easing these requirements would ensure States and schools can serve students effectively with the resources available. The bill also gives these schools more time with regard to special education evaluations and reporting requirements. By extending, but not waiving, these deadlines, States and schools would have the flexibility they need to ensure the affected students will have access to the services they need.

To address the specific needs of teachers, the Hurricane Regulatory Relief Act would expand opportunities for quality teachers to serve displaced students. For 1 year, the bill would allow teachers that meet the highly qualified standard in an affected state to be considered highly qualified in other States that are serving large numbers of displaced students where they may be temporarily teaching.

The bill would also help special education teachers by expanding the paperwork reduction pilot program under the Disabilities Education Act to include States affected by the hurricanes.

To assist higher education students, H.R. 3975 would expand outreach efforts to ensure disadvantaged students and families have access to information about financial aid that may be available as they pursue higher education. The bill requires colleges and universities to adjust financial aid award calculations through the expected family contribution, taking into account changes in families' financial circumstances caused by the hurricanes. H.R. 3975 would also encourage institutions of higher education to ease the process for displaced students to transfer the academic credits they have earned and to continue their studies as the region rebuilds.

With regard to child care services and early childhood education, the Hurricane Regulatory Relief Act would ease Federal requirements for State administration of the child care and development block grant to give affected families easier access to child care service. Additionally, H.R. 3975 would ensure that displaced children have access to Head Start by requiring the Department of Health and Human Services to provide additional guidance, technical assistance, flexibility and resources to affected areas to ensure children impacted by the hurricanes will have access to the educational and comprehensive services provided through the Head Start program.

To promote community-based services, H.R. 3975 would provide additional flexibility within the community services block grant program by allowing a State to send a portion of its discretionary funds to a State directly affected by the hurricanes.

The Hurricane Regulatory Relief Act also includes several modest but important provisions to provide greater flexibility to those in need and to ensure that bureaucratic red tape does not impede relief and recovery efforts.

So that those who may need to are able to obtain loans or distributions from their pension plans, such as 401(k)s, the bill provides new authority to supplement the Secretary of Labor's existing authority under section 518 of ERISA by authorizing the Secretary to waive, suspend or grant an exemption from any provision of ERISA, or regulation issued under the Act, if the Secretary determines that doing so would facilitate the distribution or loan of individual account plan assets to participants and beneficiaries affected by Hurricanes Katrina or Rita. This commonsense provision makes clear that compliance with the terms of a waiver, suspension or exemption would safeguard a person from liability regarding any action or omission covered under them.

In addition, to speed and facilitate recovery efforts, while maintaining important safety protections for workers engaged in reconstruction, the Hurricane Regulatory Relief Act includes several amendments to the Occupational Safety and Health Act.

First, the bill expressly provides that the Secretary of Labor may utilize the services of volunteers to assist in the recovery effort, a practice often impossible under current law.

Second, the legislation authorizes the Secretary to use OSHA funds to purchase and distribute equipment and supplies to public and private entities assisting in hurricane-related recovery.

Finally, the bill waives current law matching requirements for certain grants so that States that maintain their own occupational safety and health system may contribute supplies and assistance in relief efforts.

The Hurricane Regulatory Relief Act provides flexibility and regulatory relief to help students, schools, workers, families and communities affected by Hurricanes Katrina and Rita. This bill is narrowly tailored and makes commonsense changes to these various statutes for a limited amount of time so we can help reduce many burdensome bureaucratic processes that are associated with our relief efforts.

As former president of the University of Louisiana system, I truly understand the need to be flexible, responsive and to help the neediest students and the affected institutions in their time of need. I urge my colleagues to support H.R. 3975, the Hurricane Regulatory Relief Act of 2005.

Mr. Speaker, I reserve the balance of my time.

Mr. DAVIS of Illinois. Mr. Speaker, I yield myself such time as I might consume.

First of all, Mr. Speaker, let me commend the gentleman from Louisiana (Mr. JINDAL) for developing this legislation. I might also note that we were able to work with the majority on several provisions in this bill and were able to make some greatly needed improvements.

As the gentleman from Louisiana pointed out, this bill offers the gulf coast areas much-needed flexibility in the area of No Child Left Behind, Head Start programs, child care, higher education, OSHA and ERISA. This new flexibility will help them begin the long and arduous task of recovery.

States have asked for this flexibility, and it is only right that we provide them with it.

However, we must note that it has been over 2 months since the hurricanes hit the gulf coast area, and for 2 months now, we have ignored the fact that the States who have taken in these students and families have been serving these families with limited resources, and even worse, we have ignored the immediate needs of the education systems directly hit by the storms.

For 2 months now, schools across the Nation have borne the additional responsibility of educating over 370,000 students displaced by the storms.

Almost every State has welcomed students from the gulf coast areas. No one has been turned away. These schools have opened their doors to the 12,000 Louisiana teachers that were displaced.

Unfortunately, States and school districts have also had to bear the additional costs of doing so without any real assistance from the Federal Government.

In the gulf coast areas, school districts are running out of money, unable to pay administrators or teachers.

Over 4,000 teachers have been furloughed from the New Orleans school district alone.

Even worse, for those school districts damaged by the storm, Federal assistance has been slow in coming, although

Louisiana alone estimated their immediate need at $2.8 billion.

The shame in all of this is that if this leadership really wanted to do something for these families, they would have reached across the aisle and worked on a bipartisan effort to address the needs of these school districts. Instead, over 2 months now since the storms, these school systems are still waiting.

According to Health and Human Services, 18,000 children attended Head Start in the counties most directly impacted by Hurricane Katrina. More than 700 centers were damaged or closed, and 82 remain closed because of significant physical damage or serious mold problems.

The regulatory waivers in this bill are good, but they ignore the most important need, funding that will get Head Start centers back up and running and funding to help centers in areas like Houston expand their capacity to serve displaced Head Start families.

Two weeks ago, the President requested Congress to appropriate $90 million immediately for helping these Head Start centers, and the Congress has yet to send an additional dime to Head Start centers in the gulf coast.

Community action agencies across the country administer other programs that are essential to low-income Americans, programs like Meals on Wheels, energy assistance, child care, after school programs and workforce programs.

Health and Human Services reports that in the 6 weeks after Hurricane Katrina, community action agencies nationwide have served over 196,000 individuals displaced by Hurricanes Katrina and Rita.

Though the waiver provisions in this bill may help the operations of community action agencies, it continues to ignore the most pressing and obvious need, additional resources for these agencies to meet the increased needs of the communities and individual families affected by the hurricanes.

Child care and child care assistance is critical to any effort to rebuild the gulf coast. Families looking to put their lives back together need a safe and healthy place to leave their child as they seek employment or go to work.

In the counties most affected by the hurricanes, reports are that as many as 90 percent of child care centers and family-based child care have been wiped out.

Waiving regulations will not help families find affordable child care. Additional resources are critically needed and still absent from this Congress.

Over 100,000 students and approximately 30,000 faculty and staff at 30 colleges have been impacted by Hurricane Katrina alone. As a result, hundreds of thousands of gulf coast residents are jobless, homeless and displaced. It will take decades to restore the economic strength to the gulf coast region.

While this bill will help impact the students and borrowers, by echoing provisions in the Gulf Coast Hurricane Student and School Relief Act introduced by the gentleman from California (Mr. GEORGE MILLER) and the gentleman from Michigan (Mr. KILDEE) that provide loan deferment and by ensuring that the amount that families are expected to pay towards college for the current term and the next academic year is readjusted, it completely fails to help rebuild the devastated colleges and universities.

Dillard University, Xavier University of Louisiana and Southern University at New Orleans, all historically black colleges and universities, suffered at least $1 billion in flood and fire destruction. Yet this bill provides no assistance to help rebuild the schools, recruit or retain students, faculty and staff.

We share the majority's concern that rebuilding in the hurricane-affected areas occur under safe working conditions.

While we prefer that the Secretary use existing trained OSHA staff and grantees, we agree that volunteers may be used in appropriate circumstances. The majority has agreed that all volunteers will be appropriately trained and will not carry out existing OSHA enforcement activities.

We also understand that hurricane-affected families may need to tap into their 401(k) retirement nest eggs in this time of financial need and crisis. Congress has already passed legislation that the President has signed into law that enables pension plan participants to access their 401(k) moneys.

This provision permits the Secretary to waive department requirements that may conflict with these 401(k) distributions. Again, we hope the Secretary will exercise this authority judiciously and in a way that assists participants without taking away any of their rights under current law.

Mr. Speaker, the provision in this package will offer gulf coast States much-needed flexibility in each of these areas. It is an important first step. However, it is unfortunate that the majority has yet to move forward with a supplemental package to address the critical needs of families and students who have relocated.

In fact, it appears that the leadership is more focused on providing tax breaks to the rich, cutting critical safety net programs, cutting student loan programs and cutting Medicaid than they are on providing assistance to the victims of Katrina.

Instead of getting funds directly to these schools and families that are in dire need, this House leadership wants to slash vital services for working families.

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Nearly $9 billion of $11.9 billion in Medicaid cuts fall directly on enrollees. The nonpartisan Congressional Budget Office has estimated that most of the Medicaid cuts are achieved by requiring Medicaid enrollees to pay substantially more for the health care they need, including requiring the poorest children for the first time to pay copayments for prescription drugs and emergency room care.

Congressman MILLER and Congresswoman WOOLSEY have introduced a K-12 relief package. Congressman KILDEE has introduced several higher education packages. As we move forward with this package of waivers, I hope that we will continue to find other ways to deliver much needed help to the students, schools, and families of the gulf coast region.

Mr. Speaker, let me just once again commend the gentleman from Louisiana (Mr. JINDAL) for not only this package of legislation but also the many efforts that he has put forth since Katrina to try to provide relief to the gulf coast area and especially relief to those individuals who are uprooted, dislocated, and are searching for their way. I commend the gentleman once again and urge that we pass this legislation.

Mr. Speaker, I yield back the balance of my time.

Mr. JINDAL. Mr. Speaker, I just want to thank my colleagues across the aisle, as well, for working with us on what I think is a small, but important, step towards regulatory relief in my home State and the other impacted States along the gulf coast. Obviously, we have much more work that remains to be done.

With that, Mr. Speaker, I certainly urge passage of H.R. 3975.

Mr. BOUSTANY. Mr. Speaker, the unprecedented devastation caused by Hurricanes Rita and Katrina in Louisiana, Texas, Mississippi, and Alabama will require an equally innovative recovery effort. The Hurricane Regulatory Relief Act will facilitate this effort by cutting through bureaucratic red tape to ensure that assistance for the gulf coast region arrives quickly and efficiently.

For one year the bill:

Allows States and schools to use available funds where they are most needed and most effective by waiving many funding requirements.

Extends deadlines for special education evaluations and reporting.

Allows teachers that met the "highly qualified" standard in an affected State to be considered "highly qualified" in other States that are serving large numbers of displaced students.

In addition, the bill expands the Individuals with Disabilities Education Act, IDEA, Paperwork Reduction Pilot Program to States affected by the hurricanes.

This legislation also requires colleges to recalculate financial aid awards to take into account changes in families' financial circumstances caused by the hurricanes.

H.R. 3975 eases Federal requirements for State administration of the Child Care and Development Block Grant, CCDBG, and the Community Services Block Grant, CSBG.

In addition, H.R. 3975 provides financial flexibility to allow displaced workers seeking emergency loans and hardship distributions from their personal retirement plans, such as 401(k)s, to access them more quickly and easily.

Finally, the bill authorizes the purchase and distribution of equipment for projects administered by the Occupational Safety and Health Administration, OSHA, in response to Hurricanes Katrina and Rita, and it waives the matching grant requirements for State OSHA programs in order for those States to offer assistance to hurricane-impacted areas.

These measures will ensure the gulf region has the necessary flexibility to rebuild what has always been a vital and distinctive economy, and I urge passage of the Hurricane Regulatory Relief Act.

Mr. OWENS. Mr. Speaker, I cannot in good conscience support the Occupational Safety and Health provisions in H.R. 3975, the Hurricane Regulatory Relief Act of 2005. More than 2 months after Hurricane Katrina hit the gulf region, thousands of recovery and reconstruction workers remain in serious harm's way there because the Occupational Safety and Health Administration, OSHA, is not enforcing established Federal safety and health standards. The bill before us does not address the serious health and safety problems of these workers. The bill also does not address the "right of return" concerns of the Congressional Black Caucus. Residents need work under safe conditions. Employment of residents should not be undermined by an expanded volunteer project.

To date, OSHA has not conducted a comprehensive assessment of the hazards now facing clean-up and recovery workers in Louisiana, Mississippi and other areas decimated by Katrina, let alone hit by Rita. Likewise, OSHA has failed to specify what types of personal protective equipment, PPE, are required for different clean-up, recovery and reconstruction tasks being carried out by workers in Katrina- and Rita-affected areas. Also, OSHA has failed to layout the minimum safety training required for various gulf coast clean-up, recovery and reconstruction workers, in accordance with nationally agreed upon standards.

Given OSHA's failure to act in response to Katrina and Rita, the last thing needed at this juncture is specific authority to recruit, train, use and pay for an unlimited number of volunteers to carry out non-enforcement projects vaguely characterized as "related to worker safety and health." Likewise, OSHA does not need new authority to distribute respirators and other safety equipment, having done so with countless supplies donated by manufacturers for cleanup at ground zero.

The parallels are strikingly clear between the failure to protect recovery and clean-up workers in the aftermath of the 9/11 terrorist attacks that destroyed the World Trade Center and the failure to protect workers now in the wake of Hurricanes Katrina and Rita. Rather than enforcing workplace safety and health laws, OSHA decided to serve as an "adviser" to employers in both cases.

Already, there are reports in the press of a "Katrina cough" caused by exposure to toxic mold and contaminated dust left by the receding flood waters. These waters contained high levels of gasoline, sewage, bacteria, lead, mercury, pesticides, and other serious toxins. It only took several months after 9/11 before there were similar reports by physicians of a "World Trade Center cough" afflicting first responders and recovery workers. These workers were exposed to dust contaminated by asbestos, glass fibers, concrete dust, lead, and other hazardous substances. And now, growing numbers of 9/11 rescue and recovery workers have had to retire on permanent disability because of chronic respiratory illness. Others have died, their lungs scarred beyond repair, because they were unprotected from Ground Zero toxins. They died because in overseeing work at Ground Zero, OSHA decided not to enforce health and safety standards.

Mr. Speaker, how many workers have to die or face permanent disability before OSHA starts enforcing workplace safety and health laws, be it in the aftermath of terrorist attacks or natural disasters like hurricanes? I ask unanimous consent that an October 6 letter sent to every Member of Congress from more than 100 labor, religious, environmental, public health and public-interest organizations and individual experts be printed in the Record in its entirety, immediately following this statement.

Simply put, that letter urges Congress not to repeat in the gulf coast the health and safety errors made subsequent to 9/11.

I commend the New York Committee on Safety and Health, NYCOSH, the many national and local unions, and all other coalition members for urging immediate steps be taken by OSHA and other federal agencies to protect gulf coast recovery workers. I urge my colleagues to accept and act without delay on these life-saving recommendations.

I also urge all of my congressional colleagues to review H.R. 4197, sponsored by the Congressional Black Caucus. The overwhelming concern of this bill is the establishment of the necessary conditions to facilitate a healthy rebirth of the communities of New Orleans and the rest of the gulf coast.

NATIONAL COUNCIL FOR
OCCUPATIONAL SAFETY AND HEALTH,
New York, NY, October 6, 2005.

DEAR SENATOR/MEMBER OF THE HOUSE OF REPRESENTATIVES: Thousands of disaster responders, workers, and volunteers in the Gulf Coast areas affected by Hurricane Katrina remain inadequately protected against exposure to environmental health hazards.

As individuals and organizations in the fields of community, public health and occupational and environmental health and safety, disaster response, recovery and cleanup, we are greatly concerned. Many of us have been directly involved in 9/11 rescue, response, and recovery efforts. In the wake of the terrible tragedy of Hurricane Katrina we urge that the lessons learned in 9/11 response efforts not be ignored in Katrina response operations.

As we came to recognize in the aftermath of 9/11, there is a difference between rescue and recovery. Now, however, a month after the storm, we are now well into the recovery stage on the Gulf Coast, and therefore EPA and OSHA should immediately commence enforcement of life-saving workplace and environmental laws and regulations.

Failure to do so puts countless workers and residents at risk of contracting preventable environmental and occupational diseases. This was our experience in the aftermath of 9/11, when thousands of workers and residents were unnecessarily exposed to toxic substances after being assured by EPA that the air was safe to breathe. At the same time, workers were left unprotected by OSHA, which declined to enforce its respiratory protection standard and other regulations. The illnesses of thousands of New York workers and residents today are in part the result of the failure of government agencies to enforce environmental and occupational health regulations after 9/11.

Therefore, we are unalterably opposed to the legislative proposal of Senator James Inhofe (R-OK) to allow the Environmental Protection Agency to temporarily suspend or relax its rules.

Although it is not yet possible to characterize with certainty the toxic nature of the flood waters that cover Louisiana and Mississippi, what is known is of great concern. The flood waters have been contaminated by 6.7 million gallons of petroleum as a result of major spills from refineries and with another 1–2 million gallons of gasoline from gas stations and 300,000 flooded cars. There have been hundreds of smaller oil spills (396 as of Wednesday 9/14). The flood waters contain elevated levels of sewage, bacteria, lead, mercury, hexavalent chromium, arsenic, and pesticides. Some contaminants, such as benzene, are presumed to be present in such large quantities that the EPA has not considered it necessary to conduct sampling. The flood waters impacted 31 hazardous waste sites and 446 industrial facilities that reported handling highly dangerous chemicals before the storm. Thousands of damaged buildings are likely to be contaminated with mold and asbestos. Additionally, to our knowledge, no tests have been conducted for dioxin, which is known to be present at levels of concern in southwest Louisiana.

As the flood waters recede, contaminants that remain have the potential to become airborne when disturbed by natural causes (wind and other storms) or by cleanup activities, creating an even greater occupational and public health hazard.

The Centers for Disease Control and Prevention and the Environmental Protection Agency Joint Taskforce published on September 17, 2005 an initial Environmental Health Needs and Habitability Assessment. The report provides an outline of the threats to the health of the public and of the workers who will be involved in cleaning up the areas impacted by Katrina. These threats are serious and are unprecedented in scope.

The joint report provides a valuable overview. However, it offers no details concerning what needs to be done to protect workers and residents. That is why we believe that Congress should act on the following recommendations. We must not repeat the errors of 9/11 today in New Orleans. Response and recovery operations must proceed expeditiously, but the health and safety of those engaged in such efforts must be protected.

We urge immediate action on the following steps:

1. Presume Contamination Until Proven Otherwise: Given the wide range and toxic nature of contaminants to which workers, volunteers, and residents may be exposed, it is imperative that work areas be presumed

to be contaminated and that appropriate precautionary measures be implemented until the work environment is demonstrated to be safe.

2. Implement the National Response Plan's Worker and Community Environmental Testing and Monitoring Provisions: The worker and community environmental testing and monitoring provisions of the National Response Plan must be followed closely. It provides for hazard identification, environmental sampling, personal exposure monitoring, collecting and managing exposure data, development of site-specific safety plans, immunization and prophylaxis, and medical surveillance, medical monitoring and psychological support.

3. Enforce all OSHA and EPA Regulations: Environmental and occupational health standards must be strictly enforced. We are distressed that OSHA has defined its role in Katrina response, as in 9/11, as advisory rather than enforcement.

4. Assess the Hazards: EPA should conduct comprehensive environmental sampling to characterize the nature and extent of environmental hazards and NIOSH and OSHA must conduct a comprehensive assessment of the hazards posed to recovery workers. Hazard assessment should include evaluation of environmental hazards presented by chemical plants and refineries, hazardous waste sites, in-place building materials, biological agents, and other potential sources affected by the storm. Environmental monitoring should be ongoing. Sampling results should be accessible to the public in a timely manner. Toxic materials should be catalogued, evaluated and tested, and any known or potential releases contained. Failure to act will threaten returning residents and workers and will increase long-term cleanup costs as toxic substances spread to larger areas.

5. Train and Protect Clean Up Workers: All cleanup workers (public and private sector, paid and unpaid) should receive the appropriate OSHA-required training and equipment for protection against the hazards to which they may be exposed. OSHA should specify the minimum training that must be provided to workers engaged in clean-up and recovery. Training may include that which is required under OSHA's Hazard Communication, Respiratory Protection, Personal Protective Equipment, and Hazardous Waste Operations and Emergency Response standards. Protective equipment may include respirators and protective clothing and equipment.

6. Provide Appropriate Decontamination for Workers: To protect worker and public health, emphasis must be placed on regular decontamination of workers and volunteers and of their protective gear, tools, equipment, and vehicles. Workers and volunteers must be trained in the importance of meticulous personal hygiene in the presence of toxics and must be provided with appropriate decontamination and sanitary facilities.

7. Provide Medical Surveillance: Provision must be made for early detection and treatment of occupational, environmental, and psychological illnesses. To ignore the medical needs of potentially exposed workers and residents is asking them to be guinea pigs in a long-term experiment the consequences of which remain unknown. All public and private sector rescue, response, and cleanup workers, including volunteers, should be entered into a centralized database to facilitate medical surveillance.

8. Protect Vulnerable Workers: Special consideration must be given to protection of immigrant and temporary workers, who reportedly are being recruited in large numbers. In 9/11 response efforts, immigrant and temporary workers were the workers least likely to be provided with proper training and respiratory protection, and were the workers least likely to have medical insurance. As a result, they incurred high rates of illness without having access to medical treatment.

9. Adopt Uniform Re-occupancy Standards: EPA must work with local governments to ensure that a protective health and safety standard for re-occupancy applies uniformly to all communities and also is sensitive to the needs of vulnerable populations. EPA has indicated that it will permit local authorities to determine re-occupancy criteria, but it is critical to ensure that all re-occupancy occurs according to standards that are adequately protective of public health.

A cleanup of this magnitude and complexity has never been undertaken. While we support proceeding with the cleanup and recovery with dispatch, protection of the health of clean-up workers and of the public at large must be given the highest priority.

Endorsing organizations signatures available at www.nycosh.org.

Mr. GEORGE MILLER of California. Mr. Speaker, the managers of the bill jointly submit this statement to explain and clarify the intent of certain provisions contained within the legislation.

With respect to amendments made to the Occupational Safety and Health, OSH, Act in section 311 of the legislation, the managers recognize the historic and unique nature of this disaster inflicted by Hurricanes Katrina and Rita, and is taking the extraordinary step of authorizing the Occupational Safety and Health Administration, OSHA, to use volunteers in light of the historic scope of that devastation.

Section 311 of the bill is intended to allow OSHA to utilize qualified safety professionals as volunteers to assist in a variety of projects targeting health and safety identified by OSHA. It is the managers' expectation and intent that these volunteers would be qualified by virtue of experience, and would need little additional training based on their professional work experience or other recognized safety training prior to being deployed in needed areas.

With respect to section 312's providing authority to the Secretary to purchase and distribute equipment and supplies to public or private entities engaged in projects related to worker safety, it is the intent of the managers that these funds be used to assist in relief and recovery efforts, and not be used to pay private entities to comply with preexisting requirements or obligations under the OSH Act.

Finally, with respect to title III, subtitle A, the Pension Flexibility for Displaced Workers Act of 2005, it is the managers' expectation and intention that the Secretary will exercise the authority provided under that section judiciously and upon careful consideration of the appropriateness of any waiver, suspension, or exemption authorized thereunder.

Mr. BOEHNER. Mr. Speaker, I rise in support of this bill to offer relief to the families, workers, and schools in the gulf coast region working to rebuild after the devastation caused by Hurricanes Katrina and Rita.

I'd like to thank the author of this bill, my friend from Louisiana, Representative JINDAL, for his tireless efforts on behalf of his constituents who have been through so much.

This bill, the Hurricane Regulatory Relief Act, is about cutting through the red tape and easing the burdens on those who are working to rebuild. It provides commonsense flexibility for teachers and schools; it encourages community-based services and eases access to child care; and it provides assistance for displaced workers.

For 1 year, the bill will ease the burdens on teachers and schools to ensure they can focus on education instead of focusing on compliance with burdensome rules. This includes easing funding requirements so States and schools have greater flexibility to use resources to meet the needs of their students.

It will also expand opportunities for qualified teachers to serve displaced students, and will expand a pilot project to affected States to reduce the paperwork burden on special education teachers. Furthermore, the bill encourages States to ease restrictions on charter schools so that they may play an active role in the relief effort.

The Hurricane Regulatory Relief Act includes steps to make it easier for college students to transfer from one institution to another so they can continue to make progress toward a degree, and it improves the outreach process to help disadvantaged students learn about the financial aid opportunities that may be available.

To help displaced families get back on their feet, the bill expands access to child care services by easing Federal requirements for the Child Care and Development Block Grant and providing guidance, technical assistance, flexibility, and resources to ensure displaced children have access to the Head Start early childhood program.

The bill also provides greater flexibility within the Community Services Block Grant program, which provides an array of services and assistance through Community Action Agencies.

Our efforts to cut red tape don't stop there. The bill will provide financial flexibility for displaced workers, reducing bureaucratic burdens to ensure displaced workers seeking emergency funds from their personal retirement plans may access them more quickly and easily.

Finally, the bill also works to enhance safety and reduce bureaucracy in relief projects.

Mr. Speaker, this bill offers commonsense solutions to speed the relief effort by cutting through red tape and easing the regulatory burden.

Once again, I'd like to thank the sponsor of this bill, Representative JINDAL, and Members on both sides of the aisle for working to aid those impacted by Hurricanes Katrina and Rita.

I urge my colleagues to support this effort.

Mr. BOEHNER. Mr. Speaker, the Managers of the bill jointly submit this statement to explain and clarify the intent of certain provisions contained within the legislation.

With respect to amendments made to the Occupational Safety and Health (OSH) Act in Section 311 of the legislation, the Managers recognize the historic and unique nature of this disaster inflicted by Hurricanes Katrina and Rita, and is taking the extraordinary step of authorizing the Occupational Safety and Health Administration (OSHA) to use volunteers in light of the historic scope of that devastation.

Section 311 of the bill is intended to allow OSHA to utilize qualified safety professionals as volunteers to assist in a variety of projects targeting health and safety identified by OSHA. It is the Managers' expectation and intent that these volunteers would be qualified by virtue of experience, and would need little additional training based on their professional work experience or other recognized safety training prior to being deployed in needed areas.

With respect to Section 312's providing authority to the Secretary to purchase and distribute equipment and supplies to public or private entities engaged in projects related to worker safety, it is the intent of the Managers that these funds be use to assist in relief and recovery efforts, and not be used to pay private entities to comply with preexisting requirements or obligations under the OSH Act.

Finally, with respect to Title III, Subtitle A, the "Pension Flexibility for Displaced Workers Act of 2005," it is the Managers' expectation and intention that the Secretary will exercise the authority provided under that section judiciously and upon careful consideration of the appropriateness of any waiver, suspension, or exemption authorized thereunder.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H.R. 3975, the Hurricane Regulatory Relief Act of 2005. As many of you know, a key component of the Gulf Coast hurricane relief and recovery effort is flexibility and adaptability. Entire communities have been uprooted by these unprecedented natural disasters, and bureaucratic red tape must not stand in the way of efforts to rebuild the region. H.R. 3975 bill emphasizes much-needed regulatory relief to help the students, schools, workers, families, and communities affected by the hurricanes. The bill seeks to achieve this goal by prioritizing educational services for displaced students over bureaucratic hurdles. To this end, for one year, the bill would ease requirements for elementary and secondary schools, including:

Maintenance of effort and supplement not supplant funding requirements. Easing these requirements would ensure states and schools can serve students effectively with the resources available. In addition, the bill would allow non-federal match requirements to be waived or modified for affected states.

Deadlines for special education evaluations and reporting requirements. By extending—but not waiving—these deadlines, states and schools would have the flexibility they need to ensure the affected students will have access to the services they need. In addition, the bill expands opportunities for quality teachers to serve displaced students. For example, for one year, the bill would allow teachers that met the "highly qualified" standard in an affected state to be considered "highly qualified" in other states that are serving large numbers of displaced students where they may temporarily be teaching. In addition, the bill would expand the new individuals with Disabilities Education Act Paperwork Reduction Pilot Program to states affected by the hurricanes. This will further erase burdensome paperwork requirements on special education teachers.

Among other positive aspects, the bill also strengthens financial aid opportunities for affected students by expand outreach efforts to ensure disadvantaged students and families have access to information about financial aid that may be available as they pursue higher education. It requires colleges and universities to adjust financial aid award calculations through the Expected Family Contribution (EFC), taking into account changes in families' financial circumstances caused by the hurricanes. Further more, the bill would encourage institutions of higher education to ease the process for displaced students to transfer the academic credits they have earned and continue their studies as the region rebuilds.

In closing let me note that I strongly, support the idea of prioritizing children who have been impacted by the recent hurricanes. To this end I have been working on a proposal that seeks to achieve the goal of taking care of our children. It goes without saying that children respond differently to disasters, depending on their understanding and maturity, but it's easy to see how an event like Hurricanes Katrina and Rita could leave a child feeling a good deal of anxiety. Kids who lived in the track of the hurricanes felt firsthand the threat of danger to themselves and those they care about. Now that the danger has passed, it's important to comfort them and reassure them that they're safe. It's also important to be open and honest with them in discussing unseen consequences of the hurricane for the family.

My proposal would prioritize children by requiring that the children who lost 1 or both parents or a guardian as a result of Hurricane Katrina and Rita should be provided with all necessary assistance, services, and benefits and urging Federal, State or local agencies responsible for providing such assistance, services and benefits to move expeditiously in providing such assistance, services and benefits to those children.

In addition, her proposal would further prioritize children by requiring that the children who lost 1 or both parents or a guardian as a result of Hurricane Katrina and Rita should be provided with such immediate assistance, services, and benefits for which they are eligible and which are necessary for their wellbeing, including:

(1) foster care assistance;

(2) adoption assistance;

(3) medical, nutritional, mental and psychological care;

(4) educational services; and

(5) such additional care or services as may be necessary.

Mr. JINDAL. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. ADERHOLT). The question is on the motion offered by the gentleman from Louisiana (Mr. JINDAL) that the House suspend the rules and pass the bill, H.R. 3975, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. SENSENBRENNER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the following bills and resolution to be considered today: H.R. 3647, H.R. 1036, H.R. 866, H.R. 1442, and House Resolution 547.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Wisconsin?

There was no objection.

RENDERING DENMARK NATIONALS ELIGIBLE TO ENTER THE UNITED STATES AS NONIMMIGRANT TRADERS AND INVESTORS

Mr. SENSENBRENNER. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3647) to render nationals of Denmark eligible to enter the United States as nonimmigrant traders and investors, as amended.

The Clerk read as follows:

H.R. 3647

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

[SECTION 1. NONIMMIGRANT TRADERS AND INVESTORS FROM DENMARK.

[Denmark shall be considered, for purposes of section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)), to be a foreign state described in such section if Denmark extends reciprocal nonimmigrant treatment to nationals of the United States.]

SECTION 1. NONIMMIGRANT TRADERS AND INVESTORS FROM DENMARK.

Denmark shall be considered, for purposes of section 101(a)(15)(E) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(15)(E)), to be a foreign state described in such section (other than clause (iii) of such section) if Denmark extends reciprocal nonimmigrant treatment to nationals of the United States.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of H.R. 3647, to render nationals of Denmark eligible to enter the United States as nonimmigrant traders and investors. E-2 visas are nonimmigrant visas available to nationals of countries with which the United States maintains a treaty of commerce. Under the Immigration and Nationality Act, aliens from such countries who wish to come to the United States to develop and direct the operations of an enterprise in which they have invested, or are actively in the process of investing a substantial amount of capital, may apply for entry on an E-2 visa.

Alien employees of a treaty investor may also receive E-2 visas if they are coming to the United States to engage in duties of an executive or supervisory character. or. if employed in a lesser capacity, if they have special qualifications that make the services to be rendered essential to the efficient operation of that enterprise. There is no numerical cap on E-2 visas. An alien may be admitted initially for a period of 2 years and can apply for extensions in 2-year increments.

The United States has entered into treaties of commerce containing language similar to the E-2 visas since as far back as 1815. when we entered into a Convention to Regulate Commerce with the United Kingdom. Currently. the nationals of 74 countries are eligible for E-2 status. In fiscal year 2003. 24,506 aliens, including dependents. were granted E–2 visas.

Nationals of Denmark are already eligible for an E–1, treaty trader. visa pursuant to the Treaty of Friendship, Commerce and Navigation between the United States and Denmark of October 1. 1951. The U.S. and Denmark signed a protocol to that treaty on May 2, 2001. that would also grant Danes eligibility for E-2 visas. However, that protocol has not been ratified due to the broad objections raised on both sides of the Capitol regarding the inclusion of immigration provisions in trade agreements. Accordingly. the Danish embassy has requested that Denmark be granted E–2 privileges through the normal legislative process. This legislation would accomplish that.

Mr. Speaker. I wish to emphasize the importance of formal congressional consideration of any changes to United States immigration law through congressional legislative process. Over the last several years. Congress has witnessed efforts to circumvent its exclusive authority under the Constitution to amend our Nation's immigration law. The inclusion of temporary entry or other immigration provisions in bilateral or multilateral trade agreements undermines the constitutional authority of Congress and has been strongly opposed by Members on both sides of the aisle.

This legislation is the product of the open legislative process that revisions to our immigration law deserve, and I urge other nations seeking changes to U.S. immigration law to follow a similar legislative course. I appreciate that the embassy of Denmark has sought E–2 visas the right way. and I urge my colleagues to support this bill.

Mr. Speaker, I reserve the balance of my time.

Mr. BERMAN. Madam Speaker, I yield myself such time as I may consume.

Let me, first of all. acknowledge that this is an important issue. Danish nationals are eligible for E–1 treaty trader visas pursuant to the Treaty of Friendship. Commerce and Navigation between the United States and Denmark of October 1, 1951.

The U.S. and Denmark signed a protocol to the treaty on May 2. 2001. which would grant Danes eligibility for E-2 visas. That protocol is currently before the Senate Foreign Affairs Committee. However. since the Judiciary Committee began insisting in 2003 that trade agreements and treaties no longer contain immigration provisions, the Danish embassy has requested a grant of E–2 privileges through the normal legislative process.

H.R. 3647 would grant those privileges to Denmark. I support that grant of such privileges and therefore support H.R. 3647.

Madam Speaker. I yield back the balance of my time.

Mr. SENSENBRENNER. Madam Speaker. I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. CAPITO). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 3647. as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended. was passed.

A motion to reconsider was laid on the table.

COPYRIGHT ROYALTY JUDGES PROGRAM TECHNICAL CORRECTIONS ACT

Mr. SENSENBRENNER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 1036) to amend title 17, United States Code. to make technical corrections relating to copyright royalty judges, as amended.

The Clerk read as follows:

H.R. 1036

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled.

SECTION 1. SHORT TITLE.

This Act may be cited as the "Copyright Royalty Judges Program Technical Corrections Act".

SEC. 2. REFERENCE.

Any reference in this Act to a provision of title 17. United States Code, refers to such provision as amended by the Copyright Royalty and Distribution Reform Act of 2004 (Public Law 108–419) and the Satellite Home Viewer Extension and Reauthorization Act of 2004 (title IX of division J of Public Law 108–447).

SEC. 3. AMENDMENTS TO CHAPTER 8 OF TITLE 17, UNITED STATES CODE.

Chapter 8 of title 17. United States Code, is amended as follows:

(1) Section 801(b)(1) is amended, in the matter preceding subparagraph (A). by striking "119 and 1004" and inserting "119, and 1004".

(2) Section 801 is amended by adding at the end the following:

"(f) EFFECTIVE DATE OF ACTIONS.—On and after the date of the enactment of the Copyright Royalty and Distribution Reform Act of 2004, in any case in which time limits are prescribed under this title for performance of an action with or by the Copyright Royalty Judges, and in which the last day of the prescribed period falls on a Saturday. Sunday, holiday, or other nonbusiness day within the District of Columbia or the Federal Government. the action may be taken on the next succeeding business day. and is effective as of the date when the period expired.".

(3) Section 802(f)(1)(A) is amended—

(A) in clause (i). by striking "clause (ii) of this subparagraph and subparagraph (B)" and inserting "subparagraph (B) and clause (ii) of this subparagraph"; and

(B) by striking clause (ii) and inserting the following:

"(ii) One or more Copyright Royalty Judges may. or by motion to the Copyright Royalty Judges, any participant in a proceeding may, request from the Register of Copyrights an interpretation of any material questions of substantive law that relate to the construction of provisions of this title and arise in the course of the proceeding. Any request for a written interpretation shall be in writing and on the record, and reasonable provision shall be made to permit participants in the proceeding to comment on the material questions of substantive law in a manner that minimizes duplication and delay. Except as provided in subparagraph (B), the Register of Copyrights shall deliver to the Copyright Royalty Judges a written response within 14 days after the receipt of all briefs and comments from the participants. The Copyright Royalty Judges shall apply the legal interpretation embodied in the response of the Register of Copyrights if it is timely delivered. and the response shall be included in the record that accompanies the final determination. The authority under this clause shall not be construed to authorize the Register of Copyrights to provide an interpretation of questions of procedure before the Copyright Royalty Judges, the ultimate adjustments and determinations of copyright royalty rates and terms, the ultimate distribution of copyright royalties, or the acceptance or rejection of royalty claims, rate adjustment petitions, or petitions to participate in a proceeding.".

(4) Section 802(f)(1)(D) is amended by inserting a comma after "undertakes to consult with".

(5) Section 803(a)(1) is amended—

(A) by striking "The Copyright" and inserting "The Copyright Royalty Judges shall act in accordance with this title, and to the extent not inconsistent with this title, in accordance with subchapter II of chapter 5 of title 5, in carrying out the purposes set forth in section 801. The Copyright"; and

(B) by inserting after "Congress, the Register of Copyrights," the following: "copyright arbitration royalty panels (to the extent those determinations are not inconsistent with a decision of the Librarian of Congress or the Register of Copyrights),".

(6) Section 803(b) is amended—

(A) in paragraph (1)(A)(i)(V)—

(i) by striking "in the case of" and inserting "the publication of notice requirement shall not apply in the case of"; and

(ii) by striking ", such notice may not be published.";

(B) in paragraph (2)—

(i) in subparagraph (A), by striking", together with a filing fee of $150";

(ii) in subparagraph (B), by striking "and" after the semicolon;

(iii) in subparagraph (C), by striking the period and inserting "; and"; and

(iv) by adding at the end the following:

"(D) the petition to participate is accompanied by either—

"(i) in a proceeding to determine royalty rates, a filing fee of $150; or

"(ii) in a proceeding to determine distribution of royalty fees—

"(I) a filing fee of $150; or

"(II) a statement that the petitioner (individually or as a group) will not seek a distribution of more than $1000, in which case the amount distributed to the petitioner shall not exceed $1000.";

(C) in paragraph (3)(A)—

(i) by striking "(A) In general.—Promptly" and inserting "(A) Commencement of proceedings.—

"(i) Rate adjustment proceeding.—Promptly"; and

(ii) by adding at the end the following:

"(ii) Distribution proceeding.—Promptly after the date for filing of petitions to participate in a proceeding to determine the distribution of royalties, the Copyright Royalty Judges shall make available to all participants in the proceeding a list of such participants. The initiation of a voluntary negotiation period among the participants shall be set at a time determined by the Copyright Royalty Judges.".

(D) in paragraph (4)(A), by striking the last sentence; and

(E) in paragraph (6)(C)—

(i) in clause (i)—

(I) in the first sentence, by inserting "and written rebuttal statements" after "written direct statements";

(II) in the first sentence, by striking "which may" and inserting "which, in the case of written direct statements, may"; and

(III) by striking "clause (iii)" and inserting "clause (iv)";

(ii) by amending clause (ii)(I) to read as follows:

"(ii)(I) Following the submission to the Copyright Royalty Judges of written direct statements and written rebuttal statements by the participants in a proceeding under paragraph (2), the Copyright Royalty Judges, after taking into consideration the views of the participants in the proceeding, shall determine a schedule for conducting and completing discovery.";

(iii) by amending clause (iv) to read as follows:

"(iv) Discovery in connection with written direct statements shall be permitted for a period of 60 days, except for discovery ordered by the Copyright Royalty Judges in connection with the resolution of motions, orders, and disputes pending at the end of such period. The Copyright Royalty Judges may order a discovery schedule in connection with written rebuttal statements."; and

(iv) by amending clause (x) to read as follows:

"(x) The Copyright Royalty Judges shall order a settlement conference among the participants in the proceeding to facilitate the presentation of offers of settlement among the participants. The settlement conference shall be held during a 21-day period following the 60-day discovery period specified in clause (iv) and shall take place outside the presence of the Copyright Royalty Judges.".

(7) Section 803(c)(2)(B) is amended by striking "concerning rates and terms".

(8) Section 803(c)(4) is amended by striking ", with the approval of the Register of Copyrights,"

(9) Section 803(c)(7) is amended by striking "of Copyright" and inserting "of the Copyright".

(10) Section 803(d)(2)(C)(i)(I) is amended by striking "statements of account and any report of use" and inserting "applicable statements of account and reports of use".

(11) Section 803(d)(3) is amended by striking "If the court, pursuant to section 706 of title 5, modifies" and inserting "Section 706 of title 5 shall apply with respect to review by the court of appeals under this subsection. If the court modifies".

(12) Section 804(b)(1)(B) is amended—

(A) by striking "801(b)(3)(B) or (C)" and inserting "801(b)(2)(B) or (C)"; and

(B) in the last sentence, by striking "change is" and inserting "change in".

(13) Section 804(b)(3) is amended—

(A) in subparagraph (A), by striking "effective date" and inserting "date of enactment"; and

(B) in subparagraph (C)—

(i) in clause (ii), by striking "that is filed" and inserting "is filed"; and

(ii) in clause (iii), by striking "such subsections (b)" and inserting "subsections (b)".

SEC. 4. ADDITIONAL TECHNICAL AMENDMENTS.

(a) Distribution of Royalty Fees.—Section 111(d) of title 17, United States Code, is amended—

(1) in the second sentence of paragraph (2), by striking all that follows "Librarian of Congress" and inserting "upon authorization by the Copyright Royalty Judges.";

(2) in paragraph (4)—

(A) in subparagraph (B)—

(i) by striking the second sentence and inserting the following: "If the Copyright Royalty Judges determine that no such controversy exists, the Copyright Royalty Judges shall authorize the Librarian of Congress to proceed to distribute such fees to the copyright owners entitled to receive them, or to their designated agents, subject to the deduction of reasonable administrative costs under this section."; and

(ii) in the last sentence, by striking "finds" and inserting "find"; and

(B) by striking subparagraph (C) and inserting the following:

"(C) During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall have the discretion to authorize the Librarian of Congress to proceed to distribute any amounts that are not in controversy.".

(b) Sound Recordings.—Section 114(f) of title 17, United States Code, is amended—

(1) in paragraph (1)(A), in the first sentence, by striking "except where" and all that follows through the end period and inserting "except in the case of a different transitional period provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period as the parties may agree.";

(2) by amending paragraph (2)(A) to read as follows:

"(2)(A) Proceedings under chapter 8 shall determine reasonable rates and terms of royalty payments for public performances of sound recordings by means of eligible nonsubscription transmission services and new subscription services specified by subsection (d)(2) during the 5-year period beginning on January 1 of the second year following the year in which the proceedings are to be commenced, except in the case of a different transitional period provided under section 6(b)(3) of the Copyright Royalty and Distribution Reform Act of 2004, or such other period as the parties may agree. Such rates and terms shall distinguish among the different types of eligible nonsubscription transmission services and new subscription services then in operation and shall include a minimum fee for each such type of service. Any copyright owners of sound recordings or any entities performing sound recordings affected by this paragraph may submit to the Copyright Royalty Judges licenses covering such eligible nonsubscription transmissions and new subscription services with respect to such sound recordings. The parties to each proceeding shall bear their own costs."; and

(3) in paragraph (2)(B), in the last sentence, by striking "negotiated under" and inserting "described in".

(c) Phonorecords of Nondramatic Musical Works.—Section 115(c)(3) of title 17, United States Code, is amended—

(1) in subparagraph (B), by striking "subparagraphs (B) through (F)" and inserting "this subparagraph and subparagraphs (C) through (E)";

(2) in subparagraph (D), in the third sentence, by inserting "in subparagraphs (B) and (C)" after "described"; and

(3) in subparagraph (E), in clauses (i) and (ii)(I), by striking "(C) or (D)" each place it appears and inserting "(C) and (D)".

(d) Noncommercial Broadcasting.—Section 118 of title 17, United States Code, is amended—

(1) in subsection (b)(3), by striking "copyright owners in works" and inserting "owners of copyright in works"; and

(2) in subsection (c)—

(A) in the matter preceding paragraph (1), by striking "established by" and all that follows through "engage" and inserting "established by the Copyright Royalty Judges under subsection (b)(4), engage"; and

(B) in paragraph (1), by striking "(g)" and inserting "(f)".

(e) Satellite Carriers.—Section 119 of title 17, United States Code, is amended—

(1) in subsection (b)(4)—

(A) in subparagraph (B), by striking the second sentence and inserting the following: "If the Copyright Royalty Judges determine that no such controversy exists, the Copyright Royalty Judges shall authorize the Librarian of Congress to proceed to distribute such fees to the copyright owners entitled to receive them, or to their designated agents, subject to the deduction of reasonable administrative costs under this section."; and

(B) by amending subparagraph (C) to read as follows:

"(C) Withholding of fees during controversy.—During the pendency of any proceeding under this subsection, the Copyright Royalty Judges shall have the discretion to authorize the Librarian of Congress to proceed to distribute any amounts that are not in controversy."; and

(2) in subsection (c)(1)(F)(i), in the last sentence, by striking "arbitrary" and inserting "arbitration".

(f) Digital Audio Recording Devices.—Section 1007 of title 17, United States Code, is amended—

(1) in subsection (b)—

(A) in the second sentence, by striking "Librarian of Congress" and inserting "Copyright Royalty Judges"; and

(B) in the last sentence, by striking "by the Librarian"; and

(2) in subsection (c), in the last sentence, by striking "by the Librarian".

(g) Removal of Inconsistent Provisions.—The amendments contained in subsection (h) of section 5 of the Copyright Royalty and Distribution Reform Act of 2004 shall be deemed never to have been enacted.

(h) Effective Date.—Section 6(b)(1) of the Copyright Royalty and Distribution Reform Act of 2004 (Public Law 108–419) is amended by striking "commenced before the date of enactment of this Act" and inserting "commenced before the effective date provided in subsection (a)".

SEC. 5. EFFECTIVE DATE.

This Act and the amendments made by this Act shall be effective as if included in the Copyright Royalty and Distribution Reform Act of 2004.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 1036, the Copyright Royalty Judges Program Technical Corrections Act, amends certain technical aspects of the copyright act that were substantively amended by Congress' enactment of the Copyright Royalty and Distribution Reform Act of 2004.

It is appropriate to note the efforts of Chairman LAMAR SMITH and Ranking Member HOWARD BERMAN of the Subcommittee on Courts, the Internet, and Intellectual Property, who worked so hard to ensure passage of the Copyright Royalty and Distribution Reform Act last year. Enactment of the legislation came only after 20 years of successive efforts to streamline, modernize, and de-conflict the role of the U.S. Copyright Office in administering the various compulsory licenses contained in title 17 of the United States Code.

Before discussing the specifics of this bill, I would like to offer some background. By their nature, statutory changes in this area are complex. Proposed changes inevitably affect a number of preexisting and carefully negotiated balances that potentially impact the public and a wide variety of stakeholders.

The various compulsory licenses were authorized at differing times, and each is shaped in response to the unique circumstances of commercial licensors and licensees. Nevertheless, each is intended to benefit the public by reducing the transaction costs of certain types of protected works and each requires the Copyright Office to assume certain administrative functions, which may include rate setting, royalty collecting, and royalty distribution functions.

It is the interplay between these administrative and adjudicative functions, some of which are fiduciary in nature, that created potential conflicts for the Copyright Office. This problem was addressed in the Reform Act by authorizing the establishment of three copyright royalty judges, or CRJs, who operate independently of the Copyright Office. The CRJs are empowered to consider arguments from participants in contested distribution proceedings, resolve factual disputes, and order distributions.

In contrast, the role of the Librarian of Congress and the Copyright Office is limited in such cases to largely ministerial functions such as advising the CRJs and participants in proceedings on certain matters within the substantive expertise of the office and actually effectuating the disbursement of funds in response to a CRJ order.

The ad hoc enactment of various compulsory licenses also contributed to a perpetuation of certain inefficiencies and inconsistencies that could only be addressed properly by creating a comprehensive and predictable schedule for rate-setting and distribution proceedings.

By enacting the Reform Act last year, Congress took important steps toward protecting the public, the Copyright Office, licensors, and licensees with a more stable and cohesive administrative and adjudicatory construct. But a clear articulation of the respective roles of the Copyright Office and the new CRJs is fundamental to the success of the new system.

Unfortunately, as enrolled, the law inadvertently provided in some places that the Librarian was charged with "authorizing" the distribution of funds. This language could be interpreted to imply that Congress intended the Librarian to retain a role that clearly had been intended to be exercised by the new CRJs.

H.R. 1036 corrects this error to ensure that the Reform Act operates as Congress intended. The Copyright Royalty Judges Program Technical Corrections Act includes further noncontroversial stylistic, technical, clarifying, and conforming changes that have been carefully considered and reviewed by Members and staff on both sides of the aisle, the Register of Copyrights, copyright owners, and many of the commercial users who are the beneficiaries of the licenses.

When the copyright royalty judge, or CRJ, system is fully implemented, disputes among participants will be settled in a more predictable, rational, and consistent manner; decisions will be improved by the involvement of judges required to possess relevant subject matter expertise; and significant cost savings and efficiencies should accrue to participants.

I urge Members to support this bill.

Madam Speaker, I reserve the balance of my time.

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Mr. BERMAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I want to thank the chairman for his able leadership in moving this bill forward expeditiously. One of the major accomplishments of the Subcommittee on Courts, the Internet and Intellectual Property last Congress was to see the Copyright Royalty Arbitration Royalty Panel reform bill from its inception to ultimate passage. The original bill accomplished much with a general overhaul of the administrative construct by which copyright royalties are determined and distributed based up the compulsory licenses authorized by the Copyright Act.

H.R. 1036, the Technical Corrections to the Copyright and Distribution Reform Act of 2004, which I introduced with the chairman of the subcommittee, makes a number of technical corrections. Some provisions merely change spelling and punctuation; others correct cross-references, paragraph numbering or editorial style in copyright law.

The corrections not in the aforementioned categories are merely technical as well. Those changes include amending the statute to correctly identify the roles of the copyright royalty judges and the librarian of Congress in authorizing and distributing royalty payments.

In addition, the bill addresses the omission of CARP decisions serving as precedent, establishes consistency for written direct statements and written rebuttal statements and provides fee waiver for those claiming less than $1,000.

I want to thank the Copyright Office, the legislative counsel and a number of outside groups for their assistance in noting many of the errors, and then their help in drafting this bill.

H.R. 1036 is an important step toward achieving clarity. I urge my colleagues to join in supporting H.R. 1036.

Madam Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mrs. CAPITO). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1036, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The title of the bill was amended so as to read: "A bill to amend title 17, United States Code, to make technical corrections relating to Copyright Royalty Judges, and for other purposes.".

A motion to reconsider was laid on the table.

MAKING TECHNICAL CORRECTIONS TO UNITED STATES CODE

Mr. SENSENBRENNER. Madam Speaker, I move to suspend the rules and pass the bill (H.R. 866) to make technical corrections to the United States Code.

The Clerk read as follows:

H.R. 866

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PURPOSE.

The purpose of this Act is to make technical corrections to the United States Code relating to cross references, typographical errors, and stylistic matters.

SEC. 2. TITLE 10, UNITED STATES CODE.

In section 2701(i)(1) of title 10, United States Code, in the paragraph catchline, strike "MILLER ACT" and substitute "SECTIONS 3131 AND 3133 OF TITLE 40".

SEC. 3. TITLE 23, UNITED STATES CODE.

Title 23, United States Code, is amended as follows:

(1) In section 107(a), strike "the Act of February 26, 1931, 46 Stat. 1421" and substitute "sections 3114 to 3116 and 3118 of title 40".

(2) In section 210(e), strike "the Act of February 26, 1931; 46 Stat. 1421" and substitute "sections 3114 to 3116 and 3118 of title 40".

SEC. 4. TITLE 28, UNITED STATES CODE.

Title 28, United States Code, is amended as follows:

(1) In the analysis for chapter 91, in the item related to section 1499, strike "Contract Work Hours and Safety Standards Act" and substitute "chapter 37 of title 40".

(2) In section 1499, in the section heading, strike "**Contract Work Hours and Safety Standards Act**" and substitute "**chapter 37 of title 40**".

SEC. 5. TITLE 36, UNITED STATES CODE.

Title 36, United States Code, is amended as follows:

(1) In the analysis for chapter 5, after the item related to section 509, insert the following:

"510. Disclosure of and prohibition on certain donations.".

(2) In the analysis for chapter 5, in the last item, which is related to "Authorization of appropriations", strike "510" and substitute "511".

(3) In the analysis for chapter 23, in the item related to section 2306, strike "museum" and substitute "Museum".

(4) In section 2301, in the first sentence, strike "United State Government" and substitute "United States Government".

(5) In section 20908(c), strike "board or directors" and substitute "board of directors".

(6) In section 40103(13), strike "laws of the each State" and substitute "laws of each State".

(7) In section 70912(b), strike "Corporation" and substitute "corporation".

(8) In section 150511(b), strike "with secretary" and substitute "with the secretary".

(9) In section 151303(c), strike "The Chairman" and substitute "The chairman".

(10) In section 153513(a)(1), strike "(16 U.S.C. 1 et seq.), known as the National Park Service Organic Act))" and substitute "(16 U.S.C. 1 et seq.) (known as the National Park Service Organic Act)".

(11) In section 220104(a)(2)(B), strike "State" and substitute "Defense".

(12) In the analysis for chapter 2205, in the item related to section 220501, strike "Definitions." and substitute "Short title and definitions.".

(13) In section 220501, in the section heading, strike "**Title and Definitions**" and substitute "**Short title and definitions**".

(14) In section 220501(a), in the subsection catchline, strike "TITLE" and substitute "SHORT TITLE".

(15) In section 220505(b)(9), strike "this Act" and substitute "this chapter".

(16) In section 220506(d)(3)(A), strike "subsections" and substitute "subsection".

(17) In section 220509(b)(1)(A), strike "a" before "paralympic sports organizations".

(18) In section 220511, in the section heading, strike "**Annual report**" and substitute "**Report**".

(19) In section 220512, strike "Corporation" and substitute "corporation".

(20) In section 220521(a), strike "subsections" and substitute "subsection".

SEC. 6. TITLE 40, UNITED STATES CODE.

Title 40, United States Code, is amended as follows:

(1) In section 522(a), strike "of this section".

(2) In section 522(b), in the subsection catchline, strike "AT" and substitute "AT".

(3) In section 552(a), strike "(a) AUTHORITY TO TAKE PROPERTYAdministrator" and substitute "(a) AUTHORITY TO TAKE PROPERTY.—The Administrator".

(4) In section 554(c), in the subsection catchline, strike "TRANSPORTATION." and substitute "TRANSPORTATION.—".

(5) In section 581(b), strike "The Administrator may—" and substitute "The Administrator of General Services may—".

(6) In section 593(b), strike "available to the Administration" and substitute "available to the General Services Administration".

(7) In section 611—

(A) after "under section 1343, 1344, or 1349(b)", insert "of title 31"; and

(B) after "under section 641", insert "of title 18".

(8) In section 3131(e), in the subsection catchline, strike "TO" and substitute "TO".

(9) In section 3133(b), in the subsection catchline, strike "TO" and substitute "TO".

(10) In section 3133(c), strike "(c) A waiver" and substitute "(c) WAIVER OF RIGHT TO CIVIL ACTION.—A waiver".

(11) In section 3141(1), strike "1494" and substitute "1494)".

(12) In section 3142(d), after "amount referred to in section 3141(2)(B)", insert "of this title".

(13) In section 3142(e), after "determined under section 3141(2)(B)", insert "of this title".

(14) In section 3701(b)(3)(B)—

(A) in the subparagraph catchline, strike "3902" and substitute "3702";

(B) strike "3902" and substitute "3702"; and

(C) strike "subsection (a)(2)(C)" and substitute "paragraph (1)(B)(iii)".

(15) In section 3702(d), in the subsection catchline, strike "TO" and substitute "TO".

(16) In section 3704(a)(1), after "authorized by section 553", insert "of title 5".

(17) In section 3704(a)(2), strike "of this section".

(18) In section 6111(b), in the subsection catchline, strike the second period.

(19) In the analysis for chapter 65, in the first item, which is related to "Definition", strike "6581" and substitute "6501".

(20) In the analysis for chapter 67, in the item related to subchapter I, strike "ASSIGMENT" and substitute "ASSIGNMENT".

(21) In chapter 67, in the heading for subchapter I, strike "ASSIGMENT" and substitute "ASSIGNMENT".

(22) In section 8104(b), strike "Commission on Fine Arts" and substitute "Commission of Fine Arts".

(23) In section 8105, strike "post-office" and substitute "post office".

(24) In section 8501(b)(1)(A), after "sections 5101 and 5102", insert "of this title".

(25) In section 8502(a), strike "5314" and substitute "5315".

(26) In section 8502(c)(2), after "sections 5101 and 5102", insert "of this title".

(27) In section 8711(a), after "sections 5101 and 5102", insert "of this title".

(28) In section 8712(a)(2), after "sections 5101 and 5102", insert "of this title".

(29) In section 8722(d)—

(A) strike "52 Stat. 802" and substitute "52 Stat. 797"; and

(B) strike "is subject" and substitute "are subject".

(30) In section 9302(b), in the subsection catchline, strike "WITH" and substitute "WITH".

(31) In section 14308(b)(2), strike "section (a)(2)" and substitute "subsection (a)(2)".

(32) In section 17504(b), in the subsection catchline, strike "WITH" and substitute "WITH".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 866, to make technical corrections to the United States Code. I introduced this legislation on February 16, 2005, along with Committee on the Judiciary's Ranking Member CONYERS. The Office of Law Revision Counsel of the House of Representatives has prepared this bill and submitted it to the Committee on the Judiciary under section 285(b) of title 2, United States Code. Pursuant to rule X of the House of Representatives, the Committee on the Judiciary maintains jurisdiction over the revision and codification of statutes of the United States.

This bill revises, codifies and enacts without substantive changes certain general and permanent laws. The effective titles of the United States Code under this bill, include: title 10, armed forces; title 23, highways: title 28, judiciary and judicial procedure: title 36, patriotic and national observances, ceremonies and organizations; and title 40, public buildings, property, and works.

Let me be clear that this bill makes no substantive change in existing law. Rather it removes ambiguities, contradictions and other imperfections from existing law and repeals obsolete, superfluous and superseded provisions.

Madam Speaker, H.R. 866 is a simple bill that makes necessary technical updates to existing law. I urge my colleagues to support it.

Madam Speaker, I reserve the balance of my time.

Mr. BERMAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, H.R. 866 is a bill introduced by Chairman SENSENBRENNER and Ranking Member CONYERS. The purpose of this bill is to make technical corrections to various provisions of titles 10, 23, 28, 36 and 40 of the U.S. Code. The bill updates cross-references, corrects typographical errors, makes stylistic changes. conforming capitalization, correcting the punctuation of certain words. It is a bill that the Office of Law Revision Counsel has prepared and submitted to the committee for consideration so that those titles of the Code that have been enacted into positive law may be kept current. I urge my colleagues to support this bill.

Madam Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Madam Speaker. I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 866.

The question was taken: and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

COMPLETING CODIFICATION OF TITLE 46, UNITED STATES CODE. "SHIPPING". AS POSITIVE LAW

Mr. SENSENBRENNER. Madam Speaker. I move to suspend the rules and pass the bill (H.R. 1442) to complete the codification of title 46, United States Code. "Shipping". as positive law. as amended.

The Clerk read as follows:

H.R. 1442

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. TABLE OF CONTENTS.

The table of contents for this Act is as follows:

Sec. 1. Table of contents.
Sec. 2. Purpose; conformity with original intent.
Sec. 3. Title analysis.
Sec. 4. Subtitle I of title 46.
Sec. 5. Subtitle II of title 46.
Sec. 6. Subtitle III of title 46.
Sec. 7. Subtitle IV of title 46.
Sec. 8. Subtitle V of title 46.
Sec. 9. Subtitle VI of title 46.
Sec. 10. Subtitle VII of title 46.
Sec. 11. Subtitle VIII of title 46.
Sec. 12. Maritime Administration.
Sec. 13. Amendments relating to Maritime Security Act of 2003.
Sec. 14. Amendments to partially restated provisions.
Sec. 15. Additional amendments to title 46.
Sec. 16. Recreational boating safety technical amendments.
Sec. 17. Conforming amendments to other laws.
Sec. 18. Transitional and savings provisions.
Sec. 19. Repeals.

SEC. 2. PURPOSE; CONFORMITY WITH ORIGINAL INTENT.

(a) PURPOSE.—The purpose of this Act is to complete the codification of title 46, United States Code, "Shipping", as positive law, by reorganizing and restating the laws currently in the appendix to title 46.

(b) CONFORMITY WITH ORIGINAL INTENT.—In the codification of laws by this Act, the intent is to conform to the understood policy. intent. and purpose of the Congress in the original enactments, with such amendments and corrections as will remove ambiguities, contradictions. and other imperfections. in accordance with section 205(c)(1) of House Resolution No. 988, 93d Congress, as enacted into law by Public Law 93–551 (2 U.S.C. 285b(1)).

SEC. 3. TITLE ANALYSIS.

The title analysis of title 46, United States Code, is amended to read as follows:

"Subtitle	Sec.
"I. GENERAL	**101**
"II. VESSELS AND SEAMEN	**2101**
"III. MARITIME LIABILITY	**30101**
"IV. REGULATION OF OCEAN SHIPPING	**40101**
"V. MERCHANT MARINE	**50101**
"VI. CLEARANCE, TONNAGE TAXES, AND DUTIES	**60101**
"VII. SECURITY AND DRUG ENFORCEMENT	**70101**
"VIII. MISCELLANEOUS	**80101".**

SEC. 4. SUBTITLE I OF TITLE 46.

Title 46, United States Code, is amended by inserting after the title analysis the following:

"Subtitle I—General

"Chapter	Sec.
"1. Definitions	***101***
"3. Federal Maritime Commission	***301***
"5. Other General Provisions	***501***

"CHAPTER 1—DEFINITIONS

"Sec.
"101. Agency.
"102. Barge.
"103. Boundary Line.
"104. Citizen of the United States.
"105. Consular officer.
"106. Documented vessel.
"107. Exclusive economic zone.
"108. Fisheries.
"109. Foreign commerce or trade.
"110. Foreign vessel.
"111. Numbered vessel.
"112. State.
"113. Undocumented.
"114. United States.
"115. Vessel.
"116. Vessel of the United States.

"§ 101. Agency

"In this title, the term 'agency' means a department. agency, or instrumentality of the United States Government.

"§ 102. Barge

"In this title, the term 'barge' means a non-self-propelled vessel.

"§ 103. Boundary Line

"In this title, the term 'Boundary Line' means a line established under section 2(b) of the Act of February 19, 1895 (33 U.S.C. 151).

"§ 104. Citizen of the United States

"In this title. the term 'citizen of the United States', when used in reference to a natural person. means an individual who is a national of the United States as defined in section 101(a)(22) of the Immigration and Nationality Act (8 U.S.C. 1101(a)(22)).

"§ 105. Consular officer

"In this title, the term 'consular officer' means an officer or employee of the United States Government designated under regulations to issue visas.

"§ 106. Documented vessel

"In this title, the term 'documented vessel' means a vessel for which a certificate of documentation has been issued under chapter 121 of this title.

"§ 107. Exclusive economic zone

"In this title, the term 'exclusive economic zone' means the zone established by Presidential Proclamation 5030 of March 10, 1983 (16 U.S.C. 1453 note).

"§ 108. Fisheries

"In this title, the term 'fisheries' includes processing, storing. transporting (except in foreign commerce), planting. cultivating. catching, taking. or harvesting fish, shellfish, marine animals. pearls. shells, or marine vegetation in the navigable waters of the United States or in the exclusive economic zone.

"§ 109. Foreign commerce or trade

"(a) IN GENERAL.—In this title, the terms 'foreign commerce' and 'foreign trade' mean commerce or trade between a place in the United States and a place in a foreign country.

"(b) CAPITAL CONSTRUCTION FUNDS AND CONSTRUCTION-DIFFERENTIAL SUBSIDIES.—In the context of capital construction funds under chapter 535 of this title. and in the context of construction-differential subsidies under title V of the Merchant Marine Act. 1936, the terms 'foreign commerce' and 'foreign trade' also include. in the case of liquid and dry bulk cargo carrying services, trading between foreign ports in accordance with normal commercial bulk shipping practices in a manner that will permit bulk vessels of the United States to compete freely with foreign bulk vessels in their operation or competition for charters. subject to regulations prescribed by the Secretary of Transportation.

"§ 110. Foreign vessel

"In this title, the term 'foreign vessel' means a vessel of foreign registry or operated under the authority of a foreign country.

"§ 111. Numbered vessel

"In this title, the term 'numbered vessel' means a vessel for which a number has been issued under chapter 123 of this title.

"§ 112. State

"In this title, the term 'State' means a State of the United States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands. American Samoa, the Northern Mariana Islands. and any other territory or possession of the United States.

"§ 113. Undocumented

"In this title, the term 'undocumented' means not having and not required to have a certificate of documentation issued under chapter 121 of this title.

"§ 114. United States

"In this title. the term 'United States', when used in a geographic sense, means the States of the United States, the District of Columbia, Guam, Puerto Rico, the Virgin Islands. American Samoa, the Northern Mariana Islands. and any other territory or possession of the United States.

"§ 115. Vessel

"In this title, the term 'vessel' has the meaning given that term in section 3 of title 1.

"§ 116. Vessel of the United States

"In this title, the term 'vessel of the United States' means a vessel documented under chapter 121 of this title (or exempt from documentation under section 12102(c) of this title), numbered under chapter 123 of this title, or titled under the law of a State.

"CHAPTER 3—FEDERAL MARITIME COMMISSION

"Sec.
"301. General organization.
"302. Quorum.
"303. Record of meetings and votes.
"304. Delegation of authority.
"305. Regulations.
"306. Annual report.
"307. Expenditures.

"§ 301. General organization

"(a) ORGANIZATION.—The Federal Maritime Commission is an independent establishment of the United States Government.

"(b) COMMISSIONERS.—

"(1) COMPOSITION.—The Commission is composed of 5 Commissioners, appointed by the

President by and with the advice and consent of the Senate. Not more than 3 Commissioners may be appointed from the same political party.

"(2) TERMS.—The term of each Commissioner is 5 years, with each term beginning one year apart. An individual appointed to fill a vacancy is appointed only for the unexpired term of the individual being succeeded. A vacancy shall be filled in the same manner as the original appointment. When the term of a Commissioner ends, the Commissioner may continue to serve until a successor is appointed and qualified.

"(3) REMOVAL.—The President may remove a Commissioner for inefficiency, neglect of duty, or malfeasance in office.

"(c) CHAIRMAN.—

"(1) DESIGNATION.—The President shall designate one of the Commissioners as Chairman.

"(2) GENERAL AUTHORITY.—The Chairman is the chief executive and administrative officer of the Commission. In carrying out the duties and powers of the Commission (other than under paragraph (3)), the Chairman is subject to the policies, regulatory decisions, findings, and determinations of the Commission.

"(3) PARTICULAR DUTIES.—

"(A) IN GENERAL.—The Chairman shall—

"(i) appoint and supervise officers and employees of the Commission;

"(ii) appoint the heads of major organizational units, but only after consultation with the other Commissioners;

"(iii) distribute the business of the Commission among personnel and organizational units;

"(iv) supervise the expenditure of money for administrative purposes; and

"(v) assign Commission personnel, including Commissioners, to perform duties and powers delegated by the Commission under section 304 of this title.

"(B) NONAPPLICATION.—Subparagraph (A) (other than clause (v)) does not apply to personnel employed regularly and full-time in the offices of Commissioners other than the Chairman.

"(4) DELEGATION.—The Chairman may designate officers and employees under the Chairman's jurisdiction to perform duties and powers of the Chairman, subject to the Chairman's supervision and direction.

"(d) SEAL.—The Commission shall have a seal which shall be judicially recognized.

"§ 302. Quorum

"A vacancy or vacancies in the membership of the Federal Maritime Commission do not impair the power of the Commission to execute its functions. The affirmative vote of a majority of the Commissioners serving on the Commission is required to dispose of any matter before the Commission.

"§ 303. Record of meetings and votes

"The Federal Maritime Commission, through its secretary, shall keep a record of its meetings and the votes taken on any action, order, contract, or financial transaction of the Commission.

"§ 304. Delegation of authority

"(a) DELEGATION.—The Federal Maritime Commission, by published order or regulation, may delegate to a division of the Commission, an individual Commissioner, an employee board, or an officer or employee of the Commission, any of its duties or powers, including those relating to hearing, determining, ordering, certifying, reporting, or otherwise acting on any matter. This subsection does not affect section 556(b) of title 5.

"(b) REVIEW.—The Commission may review any action taken under a delegation of authority under subsection (a). The review may be taken on the Commission's own initiative or on the petition of a party to or an intervenor in the action, within the time and in the manner prescribed by the Commission. The vote of a majority of the Commission, less one member, is sufficient to bring an action before the Commission for review.

"(c) DEEMED ACTION OF COMMISSION.—If the Commission declines review, or if review is not sought, within the time prescribed under subsection (b), the action taken under the delegation of authority is deemed to be the action of the Commission.

"§ 305. Regulations

"The Federal Maritime Commission may prescribe regulations to carry out its duties and powers.

"§ 306. Annual report

"(a) IN GENERAL.—Not later than April 1 of each year, the Federal Maritime Commission shall submit a report to Congress. The report shall include the results of its investigations, a summary of its transactions, the purposes for which all of its expenditures were made, and any recommendations for legislation.

"(b) REPORT ON FOREIGN LAWS AND PRACTICES.—The Commission shall include in its annual report to Congress—

"(1) a list of the 20 foreign countries that generated the largest volume of oceanborne liner cargo for the most recent calendar year in bilateral trade with the United States;

"(2) an analysis of conditions described in section 42302(a) of this title being investigated or found to exist in foreign countries;

"(3) any actions being taken by the Commission to offset those conditions;

"(4) any recommendations for additional legislation to offset those conditions; and

"(5) a list of petitions filed under section 42302(b) of this title that the Commission rejected and the reasons for each rejection.

"§ 307. Expenditures

"The Federal Maritime Commission may make such expenditures as are necessary in the performance of its functions from funds appropriated or otherwise made available to it, which appropriations are authorized.

"CHAPTER 5—OTHER GENERAL PROVISIONS

"Sec.
"501. Waiver of navigation and vessel-inspection laws.
"502. Cargo exempt from forfeiture.
"503. Notice of seizure.
"504. Remission of fees and penalties.
"505. Penalty for violating regulation or order.

"§ 501. Waiver of navigation and vessel-inspection laws

"(a) ON REQUEST OF SECRETARY OF DEFENSE.—On request of the Secretary of Defense, the head of an agency responsible for the administration of the navigation or vessel-inspection laws shall waive compliance with those laws to the extent the Secretary considers necessary in the interest of national defense.

"(b) BY HEAD OF AGENCY.—When the head of an agency responsible for the administration of the navigation or vessel-inspection laws considers it necessary in the interest of national defense, the individual may waive compliance with those laws to the extent, in the manner, and on the terms the individual prescribes.

"(c) TERMINATION OF AUTHORITY.—The authority granted by this section shall terminate at such time as the Congress by concurrent resolution or the President may designate.

"§ 502. Cargo exempt from forfeiture

"Cargo on a vessel is exempt from forfeiture under this title if—

"(1) the cargo is owned in good faith by a person not the owner, master, or crewmember of the vessel; and

"(2) the customs duties on the cargo have been paid or secured for payment as provided by law.

"§ 503. Notice of seizure

"When a forfeiture of a vessel or cargo accrues, the official of the United States Government required to give notice of the seizure of the vessel or cargo shall include in the notice, if they are known to that official, the name and the place of residence of the owner or consignee at the time of the seizure.

"§ 504. Remission of fees and penalties

"Any part of a fee, tax, or penalty paid or a forfeiture incurred under a law or regulation relating to vessels or seamen may be remitted if—

"(1) application for the remission is made within one year after the date of the payment or forfeiture; and

"(2) it is found that the fee, tax, penalty, or forfeiture was improperly or excessively imposed.

"§ 505. Penalty for violating regulation or order

"A person convicted of knowingly and willfully violating a regulation or order of the Federal Maritime Commission or the Secretary of Transportation under subtitle IV or V of this title, for which no penalty is expressly provided, shall be fined not more than $500. Each day of a continuing violation is a separate offense.".

SEC. 5. SUBTITLE II OF TITLE 46.

Chapter 121 of title 46, United States Code, is amended to read as follows:

"CHAPTER 121—DOCUMENTATION OF VESSELS

"SUBCHAPTER I—GENERAL

"Sec.
"12101. Definitions.
"12102. Vessels requiring documentation.
"12103. General eligibility requirements.
"12104. Applications for documentation.
"12105. Issuance of documentation.
"12106. Surrender of title and number.
"12107. Wrecked vessels.

"SUBCHAPTER II—ENDORSEMENTS AND SPECIAL DOCUMENTATION

"12111. Registry endorsement.
"12112. Coastwise endorsement.
"12113. Fishery endorsement.
"12114. Recreational endorsement.
"12115. Temporary endorsement for vessels procured outside the United States.
"12116. Limited endorsements for Guam, American Samoa, and Northern Mariana Islands.
"12117. Oil spill response vessels.
"12118. Owners engaged primarily in manufacturing or mineral industry.
"12119. Owners engaged primarily in leasing or financing transactions.
"12120. Liquified gas tankers.
"12121. Small passenger vessels and uninspected passenger vessels.

"SUBCHAPTER III—MISCELLANEOUS

"12131. Command of documented vessels.
"12132. Loss of coastwise trade privileges.
"12133. Duty to carry certificate on vessel and allow examination.
"12134. Evidentiary uses of documentation.
"12135. Invalidation of certificates of documentation.
"12136. Surrender of certificates of documentation.
"12137. Recording of vessels built in the United States.
"12138. List of documented vessels.
"12139. Reports.

"SUBCHAPTER IV—PENALTIES

"12151. Penalties.
"12152. Denial or revocation of endorsement for non-payment of civil penalty.

"SUBCHAPTER I—GENERAL

"§ 12101. Definitions

"(a) REBUILT IN THE UNITED STATES.—In this chapter, a vessel is deemed to have been rebuilt *in the United States only if the entire rebuilding, including the construction of any major component of the hull or superstructure, was done in the United States.*

“(b) RELATED TERMS IN OTHER LAWS.—When the following terms are used in a law, regulation, document, ruling, or other official act referring to the documentation of a vessel, the following definitions apply:

“(1) REGISTRY ENDORSEMENT.—The terms ‘certificate of registry’, ‘register’, and ‘registry’ mean a certificate of documentation with a registry endorsement issued under this chapter.

“(2) COASTWISE ENDORSEMENT.—The terms ‘license’, ‘enrollment and license’, ‘license for the coastwise (or coasting) trade’, and ‘enrollment and license for the coastwise (or coasting) trade’ mean a certificate of documentation with a coastwise endorsement issued under this chapter.

“(3) YACHT.—The term ‘yacht’ means a recreational vessel even if not documented.

“§ 12102. Vessels requiring documentation

“(a) IN GENERAL.—Except as otherwise provided, a vessel may engage in a trade only if the vessel has been issued a certificate of documentation with an endorsement for that trade under this chapter.

“(b) VESSELS LESS THAN 5 NET TONS.—A vessel of less than 5 net tons may engage in a trade without being documented if the vessel otherwise satisfies the requirements to engage in the particular trade.

“(c) BARGES.—A barge qualified to engage in the coastwise trade may engage in the coastwise trade, without being documented, on rivers, harbors, lakes (except the Great Lakes), canals, and inland waters.

“§ 12103. General eligibility requirements

“(a) IN GENERAL.—Except as otherwise provided, a certificate of documentation for a vessel may be issued under this chapter only if the vessel is—

“(1) wholly owned by one or more individuals or entities described in subsection (b);

“(2) at least 5 net tons as measured under part J of this subtitle; and

“(3) not documented under the laws of a foreign country.

“(b) ELIGIBLE OWNERS.—For purposes of subsection (a)(1), the following are eligible owners:

“(1) An individual who is a citizen of the United States.

“(2) An association, trust, joint venture, or other entity if—

“(A) each of its members is a citizen of the United States; and

“(B) it is capable of holding title to a vessel under the laws of the United States or a State.

“(3) A partnership if—

“(A) each general partner is a citizen of the United States; and

“(B) the controlling interest in the partnership is owned by citizens of the United States.

“(4) A corporation if—

“(A) it is incorporated under the laws of the United States or a State;

“(B) its chief executive officer, by whatever title, and the chairman of its board of directors are citizens of the United States; and

“(C) no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum.

“(5) The United States Government.

“(6) The government of a State.

“(c) TEMPORARY CERTIFICATES PRIOR TO MEASUREMENT.—Notwithstanding subsection (a)(2), the Secretary may issue a temporary certificate of documentation for a vessel before it is measured.

“§ 12104. Applications for documentation

“(a) IN GENERAL.—An application for a certificate of documentation or endorsement under this chapter must be filed by the owner of the vessel. The application must be filed in the manner, be in the form, and contain the information prescribed by the Secretary.

“(b) APPLICANT'S IDENTIFYING INFORMATION.—The Secretary shall require the applicant to provide—

“(1) if the applicant is an individual, the individual's social security number; or

“(2) if the applicant is an entity—

“(A) the entity's taxpayer identification number; or

“(B) if the entity does not have a taxpayer identification number, the social security number of an individual who is a corporate officer, general partner, or individual trustee of the entity and who signs the application.

“§ 12105. Issuance of documentation

“(a) IN GENERAL.—Except as provided in section 12152 of this title, the Secretary, on receipt of a proper application, shall issue a certificate of documentation or a temporary certificate of documentation for a vessel satisfying the requirements of section 12103 of this title. The certificate shall contain each endorsement under subchapter II of this chapter for which the owner applies and the vessel is eligible.

“(b) TEMPORARY CERTIFICATES FOR RECREATIONAL VESSELS.—The Secretary may delegate, subject to the supervision and control of the Secretary and under terms prescribed by regulation, to private entities determined and certified by the Secretary to be qualified, the authority to issue a temporary certificate of documentation for a recreational vessel eligible under section 12103 of this title. A temporary certificate issued under this subsection is valid for not more than 30 days.

“(c) INFORMATION TO BE INCLUDED IN CERTIFICATE.—A certificate of documentation shall—

“(1) identify and describe the vessel;

“(2) identify the owner of the vessel; and

“(3) contain additional information prescribed by the Secretary.

“(d) PROCEDURES TO ENSURE INTEGRITY AND ACCURACY.—The Secretary shall prescribe procedures to ensure the integrity of, and the accuracy of information contained in, certificates of documentation.

“§ 12106. Surrender of title and number

“(a) IN GENERAL.—A documented vessel may not be titled by a State or required to display numbers under chapter 123 of this title, and any certificate of title issued by a State for a documented vessel shall be surrendered as provided by regulations prescribed by the Secretary.

“(b) VESSELS COVERED BY PREFERRED MORTGAGE.—The Secretary may approve the surrender under subsection (a) of a certificate of title for a vessel covered by a preferred mortgage under section 31322(d) of this title only if the mortgagee consents.

“§ 12107. Wrecked vessels

“(a) REQUIREMENTS.—A vessel is a wrecked vessel under this chapter if it—

“(1) was wrecked on a coast of the United States or adjacent waters; and

“(2) has undergone repairs in a shipyard in the United States equal to at least 3 times the appraised salvage value of the vessel.

“(b) APPRAISALS.—The Secretary may appoint a board of three appraisers to determine whether a vessel satisfies subsection (a)(2). The costs of the appraisal shall be paid by the owner of the vessel.

“SUBCHAPTER II—ENDORSEMENTS AND SPECIAL DOCUMENTATION

“§ 12111. Registry endorsement

“(a) REQUIREMENTS.—A registry endorsement may be issued for a vessel that satisfies the requirements of section 12103 of this title.

“(b) AUTHORIZED ACTIVITY.—A vessel for which a registry endorsement is issued may engage in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

“(c) CERTAIN VESSELS OWNED BY TRUSTS.—

“(1) NONAPPLICATION OF BENEFICIARY CITIZENSHIP REQUIREMENT.—For the issuance of a certificate of documentation with only a registry endorsement, the beneficiaries of a trust are not required to be citizens of the United States if the trust qualifies under paragraph (2) and the vessel is subject to a charter to a citizen of the United States.

“(2) REQUIREMENTS FOR TRUST TO QUALIFY.—

“(A) IN GENERAL.—Subject to subparagraph (B), a trust qualifies under this paragraph with respect to a vessel only if—

“(i) each trustee is a citizen of the United States; and

“(ii) the application for documentation of the vessel includes the affidavit of each trustee stating that the trustee is not aware of any reason involving a beneficiary of the trust that is not a citizen of the United States, or involving any other person that is not a citizen of the United States, as a result of which the beneficiary or other person would hold more than 25 percent of the aggregate power to influence or limit the exercise of the authority of the trustee with respect to matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States.

“(B) AUTHORITY OF NON-CITIZENS.—If any person that is not a citizen of the United States has authority to direct or participate in directing a trustee for a trust in matters involving any ownership or operation of the vessel that may adversely affect the interests of the United States or in removing a trustee for a trust without cause, either directly or indirectly through the control of another person, the trust is not qualified under this paragraph unless the trust instrument provides that persons who are not citizens of the United States may not hold more than 25 percent of the aggregate authority to so direct or remove a trustee.

“(C) OWNERSHIP BY NON-CITIZENS.—Subparagraphs (A) and (B) do not prohibit a person that is not a citizen of the United States from holding more than 25 percent of the beneficial interest in a trust.

“(3) CITIZENSHIP OF PERSON CHARTERING VESSEL.—If a person chartering a vessel from a trust that qualifies under paragraph (2) is a citizen of the United States under section 50501 of this title, the vessel is deemed to be owned by a citizen of the United States for purposes of that section and related laws, except chapter 531 of this title.

“§ 12112. Coastwise endorsement

“(a) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel that—

“(1) satisfies the requirements of section 12103 of this title;

“(2)(A) was built in the United States; or

“(B) if not built in the United States—

“(i) was captured in war by citizens of the United States and lawfully condemned as prize;

“(ii) was adjudged to be forfeited for a breach of the laws of the United States; or

“(iii) qualifies as a wrecked vessel under section 12107 of this title; and

“(3) otherwise qualifies under the laws of the United States to engage in the coastwise trade.

“(b) AUTHORIZED ACTIVITY.—Subject to the laws of the United States regulating the coastwise trade, a vessel for which a coastwise endorsement is issued may engage in the coastwise trade.

“§ 12113. Fishery endorsement

“(a) REQUIREMENTS.—A fishery endorsement may be issued for a vessel that—

"(1) satisfies the requirements of section 12103 of this title and, if owned by an entity, the entity satisfies the ownership requirements in subsection (c);

"(2) was built in the United States;

"(3) if rebuilt, was rebuilt in the United States;

"(4) was not forfeited to the United States Government after July 1, 2001, for a breach of the laws of the United States; and

"(5) otherwise qualifies under the laws of the United States to engage in the fisheries.

"(b) AUTHORIZED ACTIVITY.—

"(1) IN GENERAL.—Subject to the laws of the United States regulating the fisheries, a vessel for which a fishery endorsement is issued may engage in the fisheries.

"(2) USE BY PROHIBITED PERSONS.—A fishery endorsement is invalid immediately if the vessel for which it is issued is used as a fishing vessel while it is chartered or leased to an individual who is not a citizen of the United States or to an entity that is not eligible to own a vessel with a fishery endorsement.

"(c) OWNERSHIP REQUIREMENTS FOR ENTITIES.—

"(1) IN GENERAL.—A vessel owned by an entity is eligible for a fishery endorsement only if at least 75 percent of the interest in the entity, at each tier of ownership and in the aggregate, is owned and controlled by citizens of the United States.

"(2) DETERMINING 75 PERCENT INTEREST.—In determining whether at least 75 percent of the interest in the entity is owned and controlled by citizens of the United States under paragraph (1), the Secretary shall apply section 50501(d) of this title, except that for this purpose the terms 'control' or 'controlled'—

"(A) include the right to—

"(i) direct the business of the entity;

"(ii) limit the actions of or replace the chief executive officer, a majority of the board of directors, any general partner, or any person serving in a management capacity of the entity; or

"(iii) direct the transfer, operation, or manning of a vessel with a fishery endorsement; but

"(B) do not include the right to simply participate in the activities under subparagraph (A), or the exercise of rights under loan or mortgage covenants by a mortgagee eligible to be a preferred mortgagee under section 31322(a) of this title, except that a mortgagee not eligible to own a vessel with a fishery endorsement may only operate such a vessel to the extent necessary for the immediate safety of the vessel or for repairs, drydocking, or berthing changes.

"(3) EXCEPTIONS.—This subsection does not apply to a vessel when it is engaged in the fisheries in the exclusive economic zone under the authority of the Western Pacific Fishery Management Council established under section 302(a)(1)(H) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)(H)) or to a purse seine vessel when it is engaged in tuna fishing in the Pacific Ocean outside the exclusive economic zone or pursuant to the South Pacific Regional Fisheries Treaty, provided that the owner of the vessel continues to comply with the eligibility requirements for a fishery endorsement under the Federal law that was in effect on October 1, 1998. A fishery endorsement issued pursuant to this paragraph is valid for engaging only in the activities described in this paragraph.

"(d) REQUIREMENTS BASED ON LENGTH, TONNAGE, OR HORSEPOWER.—

"(1) APPLICATION.—This subsection applies to a vessel that—

"(A) is greater than 165 feet in registered length;

"(B) is more than 750 gross registered tons as measured under chapter 145 of this title or 1,900 gross registered tons as measured under chapter 143 of this title; or

"(C) has an engine or engines capable of producing a total of more than 3,000 shaft horsepower.

"(2) REQUIREMENTS.—A vessel subject to this subsection is not eligible for a fishery endorsement unless—

"(A)(i) a certificate of documentation was issued for the vessel and endorsed with a fishery endorsement that was effective on September 25, 1997;

"(ii) the vessel is not placed under foreign registry after October 21, 1998; and

"(iii) if the fishery endorsement is invalidated after October 21, 1998, application is made for a new fishery endorsement within 15 business days of the invalidation; or

"(B) the owner of the vessel demonstrates to the Secretary that the regional fishery management council of jurisdiction established under section 302(a)(1) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1852(a)(1)) has recommended after October 21, 1998, and the Secretary of Commerce has approved, conservation and management measures in accordance with the American Fisheries Act (Public Law 105-277, div. C, title II) (16 U.S.C. 1851 note) to allow the vessel to be used in fisheries under the council's authority.

"(e) VESSELS MEASURING 100 FEET OR GREATER.—

"(1) IN GENERAL.—The Administrator of the Maritime Administration shall administer subsections (c) and (d) with respect to vessels 100 feet or greater in registered length. The owner of each such vessel shall file a statement of citizenship setting forth all relevant facts regarding vessel ownership and control with the Administrator on an annual basis to demonstrate compliance with those provisions.

"(2) REGULATIONS.—Regulations to implement this subsection shall conform to the extent practicable with the regulations establishing the form of citizenship affidavit set forth in part 355 of title 46, Code of Federal Regulations, as in effect on September 25, 1997, except that the form of the statement shall be written in a manner to allow the owner of the vessel to satisfy any annual renewal requirements for a certificate of documentation for the vessel and to comply with this subsection and subsections (c) and (d), and shall not be required to be notarized.

"(3) TRANSFER OF OWNERSHIP.—Transfers of ownership and control of vessels subject to subsection (c) or (d), which are 100 feet or greater in registered length, shall be rigorously scrutinized for violations of those provisions, with particular attention given to—

"(A) leases, charters, mortgages, financing, and similar arrangements;

"(B) the control of persons not eligible to own a vessel with a fishery endorsement under subsection (c) or (d), over the management, sales, financing, or other operations of an entity; and

"(C) contracts involving the purchase over extended periods of time of all, or substantially all, of the living marine resources harvested by a fishing vessel.

"(f) VESSELS MEASURING LESS THAN 100 FEET.—The Secretary shall establish reasonable and necessary requirements to demonstrate compliance with subsections (c) and (d), with respect to vessels measuring less than 100 feet in registered length, and shall seek to minimize the administrative burden on individuals who own and operate those vessels.

"(g) VESSELS PURCHASED THROUGH FISHING CAPACITY REDUCTION PROGRAM.—A vessel purchased by the Secretary of Commerce through a fishing capacity reduction program under the Magnuson-Stevens Fishery Conservation Management Act (16 U.S.C. 1801 et seq.) or section 308 of the Interjurisdictional Fisheries Act of 1986 (16 U.S.C. 4107) is not eligible for a fishery endorsement, and any fishery endorsement issued for that vessel is invalid.

"(h) REVOCATION OF ENDORSEMENTS.—The Secretary shall revoke the fishery endorsement of any vessel subject to subsection (c) or (d) whose owner does not comply with those provisions.

"(i) REGULATIONS.—Regulations to implement subsections (c) and (d) and sections 12151(c) and 31322(b) of this title shall prohibit impermissible transfers of ownership or control, specify any transactions that require prior approval of an implementing agency, identify transactions that do not require prior agency approval, and to the extent practicable, minimize disruptions to the commercial fishing industry, to the traditional financing arrangements of that industry, and to the opportunity to form fishery cooperatives.

"§ 12114. Recreational endorsement

"(a) REQUIREMENTS.—A recreational endorsement may be issued for a vessel that satisfies the requirements of section 12103 of this title.

"(b) AUTHORIZED ACTIVITY.—A vessel operating under a recreational endorsement may be operated only for pleasure.

"(c) APPLICATION OF CUSTOMS LAWS.—A vessel for which a recreational endorsement is issued may proceed between a port of the United States and a port of a foreign country without entering or clearing with the Secretary of Homeland Security. However, a recreational vessel is subject to the requirements for reporting arrivals under section 433 of the Tariff Act of 1930 (19 U.S.C. 1433), and individuals on the vessel are subject to applicable customs regulations.

"§ 12115. Temporary endorsement for vessels procured outside the United States

"(a) GENERAL AUTHORITY.—The Secretary and the Secretary of State, acting jointly, may provide for the issuance of a certificate of documentation with an appropriate endorsement for a vessel procured outside the United States and meeting the ownership requirements of section 12103 of this title.

"(b) AUTHORIZED ACTIVITY.—Subject to limitations the Secretary may prescribe, a vessel documented under this section may proceed to the United States and engage en route in foreign trade or trade with Guam, American Samoa, Wake, Midway, or Kingman Reef.

"(c) APPLICATION OF UNITED STATES JURISDICTION AND LAWS.—A vessel documented under this section is subject to the jurisdiction and laws of the United States. However, if the Secretary considers it to be in the public interest, the Secretary may suspend for a period of not more than 6 months the application of a vessel inspection law carried out by the Secretary or regulations prescribed under that law.

"(d) SURRENDER OF CERTIFICATE.—On the vessel's arrival in the United States, the certificate of documentation shall be surrendered as provided by regulations prescribed by the Secretary.

"§ 12116. Limited endorsements for Guam, American Samoa, and Northern Mariana Islands

"(a) ENDORSEMENTS.—A vessel satisfying the requirements of subsection (b) may be issued—

"(1) a coastwise endorsement to engage in the coastwise trade of fisheries products between places in Guam, American Samoa, and the Northern Mariana Islands; or

"(2) a fishery endorsement to engage in fishing in the territorial sea and fishery conservation zone adjacent to Guam, American Samoa, and the Northern Mariana Islands.

"(b) REQUIREMENTS.—An endorsement may be issued under subsection (a) for a vessel that—

"(1) satisfies the requirements of section 12103 of this title;

"(2) was not built in the United States, except that for an endorsement under subsection (a)(2), the vessel must not have been built or rebuilt in the United States;

"(3) is less than 200 gross tons as measured under section 14502 of this title, or an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; and

"(4) otherwise qualifies under the laws of the United States to engage in the coastwise trade or the fisheries, as the case may be.

"§ 12117. Oil spill response vessels

"(a) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel that—

"(1) satisfies the requirements for a coastwise endorsement, except for the ownership requirement otherwise applicable without regard to this section;

"(2) is owned by a not-for-profit oil spill response cooperative or by members of such a cooperative that dedicate the vessel to use by the cooperative;

"(3) is at least 50 percent owned by individuals or entities described in section 12103(b) of this title; and

"(4) is to be used only for—

"(i) deploying equipment, supplies, and personnel to recover, contain, or transport oil discharged into the navigable waters of the United States or the exclusive economic zone; or

"(ii) training exercises to prepare to respond to such a discharge.

"(b) DEEMED OWNED BY CITIZENS.—A vessel satisfying subsection (a) is deemed to be owned only by citizens of the United States under sections 12103, 12132, and 50501 of this title.

"§ 12118. Owners engaged primarily in manufacturing or mineral industry

"(a) DEFINITIONS.—In this section:

"(1) BOWATERS CORPORATION.—The term 'Bowaters corporation' means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that—

"(A) the corporation is incorporated under the laws of the United States or a State;

"(B) a majority of the officers and directors of the corporation are individuals who are citizens of the United States;

"(C) at least 90 percent of the employees of the corporation are residents of the United States;

"(D) the corporation is engaged primarily in a manufacturing or mineral industry in the United States;

"(E) the total book value of the vessels owned by the corporation is not more than 10 percent of the total book value of the assets of the corporation; and

"(F) the corporation buys or produces in the United States at least 75 percent of the raw materials used or sold in its operations.

"(2) PARENT.—The term 'parent' means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that the corporation—

"(A) is incorporated under the laws of the United States or a State; and

"(B) controls, directly or indirectly, at least 50 percent of the voting stock of a Bowaters corporation.

"(3) SUBSIDIARY.—The term 'subsidiary' means a corporation that has filed a certificate under oath with the Secretary, in the form and at the times prescribed by the Secretary, establishing that the corporation—

"(A) is incorporated under the laws of the United States or a State; and

"(B) has at least 50 percent of its voting stock controlled, directly or indirectly, by a Bowaters corporation or its parent.

"(b) DEEMED CITIZEN.—A Bowaters corporation is deemed to be a citizen of the United States for purposes of chapters 121, 551, and 561 and section 80104 of this title.

"(c) ISSUANCE OF DOCUMENTATION.—A certificate of documentation and appropriate endorsement may be issued for a vessel that—

"(1) is owned by a Bowaters corporation;

"(2) was built in the United States; and

"(3)(A) is self-propelled and less than 500 gross tons as measured under section 14502 of this title, or an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; or

"(B) is not self-propelled.

"(d) EFFECTS OF DOCUMENTATION.—

"(1) IN GENERAL.—Subject to paragraph (2)—

"(A) a vessel documented under this section may engage in the coastwise trade; and

"(B) the vessel and its owner and master are entitled to the same benefits and are subject to the same requirements and penalties as if the vessel were otherwise documented or exempt from documentation under this chapter.

"(2) TRANSPORTATION OF PASSENGERS OR MERCHANDISE.—A vessel documented under this section may transport passengers or merchandise for hire in the coastwise trade only—

"(A) as a service for a parent or subsidiary of the corporation owning the vessel; or

"(B) when under a demise or bareboat charter, at prevailing rates for use not in the domestic noncontiguous trades, from the corporation owning the vessel to a carrier that—

"(i) is subject to jurisdiction under subchapter II of chapter 135 of title 49;

"(ii) otherwise qualifies as a citizen of the United States under section 50501 of this title; and

"(iii) is not owned or controlled, directly or indirectly, by the corporation owning the vessel.

"(e) VALIDITY OF CORPORATE CERTIFICATE.—A certificate filed by a corporation under this section remains valid only as long as the corporation continues to satisfy the conditions required of the corporation by this section. When a corporation no longer satisfies those conditions, the corporation loses its status under this section and immediately shall surrender to the Secretary any documents issued to it based on that status.

"(f) PENALTIES.—

"(1) FALSIFYING MATERIAL FACT.—If a corporation knowingly falsifies a material fact in a certificate filed under subsection (a), the vessel (or its value) documented or operated under this section shall be forfeited.

"(2) TRANSPORTING MERCHANDISE.—If a vessel transports merchandise for hire in violation of this section, the merchandise shall be forfeited to the United States Government.

"(3) TRANSPORTING PASSENGERS.—If a vessel transports passengers for hire in violation of this section, the vessel is liable for a penalty of $200 for each passenger so transported.

"(4) REMISSION OR MITIGATION.—A penalty or forfeiture incurred under this subsection may be remitted or mitigated under section 2107(b) of this title.

"§ 12119. Owners engaged primarily in leasing or financing transactions

"(a) DEFINITIONS.—In this section:

"(1) AFFILIATE.—The term 'affiliate' means, with respect to any person, any other person that is—

"(i) directly or indirectly controlled by, under common control with, or controlling that person; or

"(ii) named as being part of the same consolidated group in any report or other document submitted to the United States Securities and Exchange Commission or the Internal Revenue Service.

"(2) CARGO.—The term 'cargo' does not include cargo to which title is held for non-commercial reasons and primarily for the purpose of evading the requirements of subsection (c)(3).

"(3) OIL.—The term 'oil' has the meaning given that term in section 2101(20) of this title.

"(4) PASSIVE INVESTMENT.—The term 'passive investment' means an investment in which neither the investor nor any affiliate of the investor is involved in, or has the power to be involved in, the formulation, determination, or direction of any activity or function concerning the management, use, or operation of the asset that is the subject of the investment.

"(5) QUALIFIED PROPRIETARY CARGO.—The term 'qualified proprietary cargo' means—

"(A) oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person that submits to the Secretary an application or annual certification under subsection (c)(3), or by an affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on a vessel owned by that person;

"(B) oil, petroleum products, petrochemicals, or liquefied natural gas cargo not beneficially owned by the person that submits to the Secretary an application or an annual certification under subsection (c)(3), or by an affiliate of that person, but which is carried in coastwise trade by a vessel owned by that person and which is part of an arrangement in which vessels owned by that person and at least one other person are operated collectively as one fleet, to the extent that an equal amount of oil, petroleum products, petrochemicals, or liquefied natural gas cargo beneficially owned by that person, or by an affiliate of that person, is carried in coastwise trade on one or more other vessels, not owned by that person, or by an affiliate of that person, if the other vessel or vessels are also part of the same arrangement;

"(C) in the case of a towing vessel associated with a non-self-propelled tank vessel where both vessels function as a single self-propelled vessel, oil, petroleum products, petrochemicals, or liquefied natural gas cargo that is beneficially owned by the person that owns both the towing vessel and the non-self-propelled tank vessel, or any United States affiliate of that person, immediately before, during, or immediately after the cargo is carried in coastwise trade on either of those vessels; or

"(D) any oil, petroleum products, petrochemicals, or liquefied natural gas cargo carried on any vessel that is either a self-propelled tank vessel having a length of at least 210 meters or a tank vessel that is a liquefied natural gas carrier that—

"(i) was delivered by the builder of the vessel to the owner of the vessel after December 31, 1999; and

"(ii) was purchased by a person for the purpose, and with the reasonable expectation, of transporting on the vessel liquefied natural gas or unrefined petroleum beneficially owned by the owner of the vessel, or an affiliate of the owner, from Alaska to the continental United States.

"(6) UNITED STATES AFFILIATE.—The term 'United States affiliate' means, with respect to any person, an affiliate the principal place of business of which is located in the United States.

"(b) REQUIREMENTS.—A coastwise endorsement may be issued for a vessel if—

"(1) the vessel satisfies the requirements for a coastwise endorsement, except for the ownership requirement otherwise applicable without regard to this section;

"(2) the person that owns the vessel (or, if the vessel is owned by a trust or similar arrangement, the beneficiary of the trust or similar arrangement) meets the requirements of subsection (c);

"(3) the vessel is under a demise charter to a person that certifies to the Secretary that the person is a citizen of the United States under section 50501 of this title for engaging in the coastwise trade; and

"(4) the demise charter is for a period of at least 3 years or a shorter period as may be prescribed by the Secretary.

"(c) OWNERSHIP CERTIFICATION.—

"(1) IN GENERAL.—A person meets the requirements of this subsection if the person transmits to the Secretary each year the certification required by paragraph (2) or (3) with respect to a vessel.

"(2) INVESTMENT CERTIFICATION.—To meet the certification requirement of this paragraph, a person shall certify that it—

"(A) is a leasing company, bank, or financial institution;

"(B) owns, or holds the beneficial interest in, the vessel solely as a passive investment;

"(C) does not operate any vessel for hire and is not an affiliate of any person that operates any vessel for hire; and

"(D) is independent from, and not an affiliate of, any charterer of the vessel or any other person that has the right, directly or indirectly, to control or direct the movement or use of the vessel.

"(3) CERTAIN TANK VESSELS.—

"(A) IN GENERAL.—To meet the certification requirement of this paragraph, a person shall certify that—

"(i) the aggregate book value of the vessels owned by the person and United States affiliates of the person does not exceed 10 percent of the aggregate book value of all assets owned by the person and its United States affiliates;

"(ii) not more than 10 percent of the aggregate revenues of the person and its United States affiliates is derived from the ownership, operation, or management of vessels;

"(iii) at least 70 percent of the aggregate tonnage of all cargo carried by all vessels owned by the person and its United States affiliates and documented with a coastwise endorsement is qualified proprietary cargo;

"(iv) any cargo other than qualified proprietary cargo carried by all vessels owned by the person and its United States affiliates and documented with a coastwise endorsement consists of oil, petroleum products, petrochemicals, or liquified natural gas;

"(v) no vessel owned by the person or any of its United States affiliates and documented with a coastwise endorsement carries molten sulphur; and

"(vi) the person owned one or more vessels documented under this section as of August 9, 2004.

"(B) APPLICATION ONLY TO CERTAIN VESSELS.—A person may make a certification under this paragraph only with respect to—

"(i) a tank vessel having a tonnage of at least 6,000 gross tons, as measured under section 14502 of this title (or an alternative tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title); or

"(ii) a towing vessel associated with a non-self-propelled tank vessel that meets the requirements of clause (i), where both vessels function as a single self-propelled vessel.

"(d) FILING OF DEMISE CHARTER.—The demise charter and any amendments to the charter shall be filed with the certification required by subsection (b)(3) or within 10 days after filing an amendment to the charter. The charter and amendments shall be made available to the public.

"(e) CONTINUATION OF ENDORSEMENT AFTER TERMINATION OF CHARTER.—When a charter required by subsection (b)(3) is terminated for default by the charterer, the Secretary may continue the coastwise endorsement for not more than 6 months on terms and conditions the Secretary may prescribe.

"(f) DEEMED OWNED BY CITIZENS.—A vessel satisfying the requirements of this section is deemed to be owned only by citizens of the United States under sections 12103 and 50501 of this title.

"§ 12120. Liquified gas tankers

"Notwithstanding any agreement with the United States Government, the Secretary may issue a certificate of documentation with a coastwise endorsement for a vessel to transport liquified natural gas or liquified petroleum gas to Puerto Rico from other ports in the United States, if the vessel—

"(1) is a foreign built vessel that was built before October 19, 1996; or

"(2) was documented under this chapter before that date, even if the vessel is placed under a foreign registry and subsequently redocumented under this chapter for operation under this section.

"§ 12121. Small passenger vessels and uninspected passenger vessels

"(a) DEFINITIONS.—In this section:

"(1) ELIGIBLE VESSEL.—The term 'eligible vessel' means a vessel that—

"(A) was not built in the United States and is at least 3 years old; or

"(B) if rebuilt, was rebuilt outside the United States at least 3 years before the certificate requested under subsection (b) would take effect.

"(2) SMALL PASSENGER VESSEL; UNINSPECTED PASSENGER VESSEL; PASSENGER FOR HIRE.—The terms 'small passenger vessel', 'uninspected passenger vessel', and 'passenger for hire' have the meaning given those terms in section 2101 of this title.

"(b) ISSUANCE OF CERTIFICATE AND ENDORSEMENT.—Notwithstanding sections 12112, 12113, 55102, and 55103 of this title, the Secretary may issue a certificate of documentation with an appropriate endorsement for employment in the coastwise trade as a small passenger vessel or an uninspected passenger vessel in the case of an eligible vessel authorized to carry no more than 12 passengers for hire if the Secretary of Transportation, after notice and an opportunity for public comment, determines that the employment of the vessel in the coastwise trade will not adversely affect—

"(1) United States vessel builders; or

"(2) the coastwise trade business of any person that employs vessels built in the United States in that business.

"(c) REVOCATION.—

"(1) FOR FRAUD.—The Secretary shall revoke a certificate or endorsement issued under subsection (b) if the Secretary of Transportation, after notice and an opportunity for a hearing, determines that the certificate or endorsement was obtained by fraud.

"(2) OTHER PROVISIONS NOT AFFECTED.—Paragraph (1) does not affect—

"(A) the criminal prohibition on fraud and false statements in section 1001 of title 18; or

"(B) any other authority of the Secretary to revoke a certificate or endorsement issued under subsection (b).

"SUBCHAPTER III—MISCELLANEOUS

"§ 12131. Command of documented vessels

"(a) IN GENERAL.—Except as provided in subsection (b), a documented vessel may be placed under the command only of a citizen of the United States.

"(b) EXCEPTIONS.—Subsection (a) does not apply to—

"(1) a vessel with only a recreational endorsement; or

"(2) an unmanned barge operating outside of the territorial waters of the United States.

"§ 12132. Loss of coastwise trade privileges

"(a) SOLD FOREIGN OR PLACED UNDER FOREIGN REGISTRY.—A vessel of more than 200 gross tons (as measured under chapter 143 of this title), eligible to engage in the coastwise trade, and later sold foreign in whole or in part or placed under foreign registry may not thereafter engage in the coastwise trade.

"(b) REBUILT OUTSIDE THE UNITED STATES.—A vessel eligible to engage in the coastwise trade and later rebuilt outside the United States may not thereafter engage in the coastwise trade.

"§ 12133. Duty to carry certificate on vessel and allow examination

"(a) DUTY TO CARRY.—The certificate of documentation of a vessel shall be carried on the vessel unless the vessel is exempt by regulation from carrying the certificate.

"(b) AVAILABILITY.—The owner or individual in charge of a vessel required to carry its certificate of documentation shall make the certificate available for examination at the request of an officer enforcing the revenue laws or as otherwise required by law or regulation.

"(c) CRIMINAL PENALTY.—A person willfully violating subsection (b) shall be fined under title 18, imprisoned for not more than one year, or both.

"§ 12134. Evidentiary uses of documentation

"A certificate of documentation is—

"(1) conclusive evidence of nationality for international purposes, but not in a proceeding conducted under the laws of the United States;

"(2) conclusive evidence of qualification to engage in a specified trade; and

"(3) not conclusive evidence of ownership in a proceeding in which ownership is in issue.

"§ 12135. Invalidation of certificates of documentation

"A certificate of documentation or an endorsement on the certificate is invalid if the vessel for which it is issued—

"(1) no longer meets the requirements of this chapter and regulations prescribed under this chapter applicable to the certificate or endorsement; or

"(2) is placed under the command of an individual not a citizen of the United States in violation of section 12131 of this title.

"§ 12136. Surrender of certificates of documentation

"(a) SURRENDER.—An invalid certificate of documentation, or a certificate with an invalid endorsement, shall be surrendered as provided by regulations prescribed by the Secretary.

"(b) CONDITIONS FOR SURRENDER.—

"(1) VESSELS OVER 1,000 TONS.—The Secretary may condition approval of the surrender of the certificate of documentation for a vessel over 1,000 gross tons.

"(2) VESSELS COVERED BY MORTGAGE.—The Secretary may approve the surrender of the certificate of documentation of a vessel covered by a mortgage filed or recorded under section 31321 of this title only if the mortgagee consents.

"(3) NOTICE OF LIEN.—The Secretary may not refuse to approve the surrender of the certificate of documentation for a vessel solely on the basis that a notice of a claim of a lien on the vessel has been recorded under section 31343(a) of this title.

"(c) CONTINUED APPLICATION OF CERTAIN LAWS.—

"(1) IN GENERAL.—Notwithstanding subsection (a), until the certificate of documentation is surrendered with the approval of the Secretary, a documented vessel is deemed to continue to be documented under this chapter for purposes of—

"(A) chapter 313 of this title for an instrument filed or recorded before the date of invalidation and an assignment after that date;

"(B) sections 56101 and 56102(a)(2) and chapter 563 of this title; and

"(C) any other law of the United States identified by the Secretary by regulation as a law to which the Secretary applies this subsection.

"(2) EXCEPTION.—This subsection does not apply when a vessel is forfeited or sold by order of a district court of the United States.

“§ 12137. Recording of vessels built in the United States

“The Secretary may provide for recording and certifying information about vessels built in the United States that the Secretary considers to be in the public interest.

“§ 12138. List of documented vessels

“(a) IN GENERAL.—The Secretary shall publish periodically a list of all documented vessels and information about those vessels that the Secretary considers pertinent or useful. The list shall contain a notation clearly indicating all vessels classed by the American Bureau of Shipping.

“(b) VESSELS FOR CABLE LAYING, MAINTENANCE, AND REPAIR.—

“(1) IN GENERAL.—The Secretary of Transportation shall develop, maintain, and periodically update an inventory of vessels that are documented under this chapter, are at least 200 feet in length, and have the capability to lay, maintain, or repair a submarine cable, without regard to whether a particular vessel is classed as a cable ship or cable vessel.

“(2) INFORMATION TO BE INCLUDED.—For each vessel listed in the inventory, the Secretary of Transportation shall include in the inventory—

“(A) the name, length, beam, depth, and other distinguishing characteristics of the vessel;

“(B) the abilities and limitations of the vessel with respect to laying, maintaining, and repairing a submarine cable; and

“(C) the name and address of the person to whom inquiries regarding the vessel may be made.

“(3) PUBLICATION.—The Secretary of Transportation shall publish in the Federal Register an updated inventory every 6 months.

“§ 12139. Reports

“(a) IN GENERAL.—To ensure compliance with this chapter and laws governing the qualifications of vessels to engage in the coastwise trade and the fisheries, the Secretary may require owners, masters, and charterers of documented vessels to submit reports in any reasonable form and manner the Secretary may prescribe.

“(b) VESSELS REBUILT OUTSIDE UNITED STATES.—

“(1) IN GENERAL.—Under regulations prescribed by the Secretary, if a vessel exceeding the tonnage specified in paragraph (2) and documented or last documented under the laws of the United States is rebuilt outside the United States, the owner or master shall submit a report of the rebuilding to the Secretary.

“(2) TONNAGE.—The tonnage referred to in paragraph (1) is—

“(A) 500 gross tons as measured under section 14502 of this title; or

“(B) an alternate tonnage as measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title.

“(3) TIMING OF SUBMISSION.—If the rebuilding is completed in the United States, the report shall be submitted when the rebuilding is completed. If the rebuilding is completed outside the United States, the report shall be submitted when the vessel first arrives at a port in the customs territory of the United States.

“SUBCHAPTER IV—PENALTIES

“§ 12151. Penalties

“(a) IN GENERAL.—A person that violates this chapter or a regulation prescribed under this chapter is liable to the United States Government for a civil penalty of not more than $10,000. Each day of a continuing violation is a separate violation.

“(b) SEIZURE AND FORFEITURE OF VESSELS.—A vessel and its equipment are liable to seizure by and forfeiture to the Government if—

“(1) the owner of the vessel or the representative or agent of the owner knowingly falsifies or conceals a material fact, or knowingly makes a false statement or representation, about the documentation of the vessel or in applying for documentation of the vessel;

“(2) a certificate of documentation is knowingly and fraudulently used for the vessel;

“(3) the vessel is operated after its endorsement has been denied or revoked under section 12152 of this title;

“(4) the vessel is employed in a trade without an appropriate endorsement;

“(5) the vessel has only a recreational endorsement and is operated other than for pleasure;

“(6) the vessel is a documented vessel and is placed under the command of a person not a citizen of the United States, except as authorized by section 12131(b) of this title; or

“(7) the vessel is rebuilt outside the United States and a report of the rebuilding is not submitted as required by section 12139(b) of this title.

“(c) ENGAGING IN FISHING AFTER FALSIFYING ELIGIBILITY.—In addition to other penalties under this section, the owner of a documented vessel for which a fishery endorsement has been issued is liable to the Government for a civil penalty of not more than $100,000 for each day the vessel engages in fishing (as defined in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802)) within the exclusive economic zone, if the owner or the representative or agent of the owner knowingly falsified or concealed a material fact, or knowingly made a false statement or representation, about the eligibility of the vessel under section 12113(c) or (d) of this title in applying for or applying to renew the fishery endorsement.

“§ 12152. Denial or revocation of endorsement for non-payment of civil penalty

“If the owner of a vessel fails to pay a civil penalty imposed by the Secretary, the Secretary may deny the issuance or renewal of an endorsement, or revoke the endorsement, on a certificate of documentation issued for the vessel under this chapter.”.

SEC. 6. SUBTITLE III OF TITLE 46.

(a) SUBTITLE ANALYSIS.—The analysis of subtitle III of title 46, United States Code, is amended to read as follows:

“Chapter		Sec.
“301.	***General Liability Provisions***	***30101***
“303.	***Death on the High Seas***	***30301***
“305.	***Exoneration and Limitation of Liability***	***30501***
“307.	***Liability of Water Carriers***	***30701***
“309.	***Suits in Admiralty Against the United States***	***30901***
“311.	***Suits Involving Public Vessels***	***31101***
“313.	***Commercial Instruments and Maritime Liens***	***31301”.***

(b) REPEALS.—Title 46, United States Code, is amended by striking chapter 301 and the lines appearing immediately before and immediately after chapter 313 indicating that certain chapters are reserved.

(c) CHAPTERS 301–311.—Title 46, United States Code, is amended by inserting after the analysis of subtitle III the following:

“CHAPTER 301—GENERAL LIABILITY PROVISIONS

“Sec.

“30101. Extension of jurisdiction to cases of damage or injury on land.
“30102. Liability to passengers.
“30103. Liability of master, mate, engineer, and pilot.
“30104. Personal injury to or death of seamen.
“30105. Restriction on recovery by non-citizens and non-resident aliens for incidents in waters of other countries.
“30106. Time limit on bringing maritime action for personal injury or death.

“§ 30101. Extension of jurisdiction to cases of damage or injury on land

“(a) IN GENERAL.—The admiralty and maritime jurisdiction of the United States extends to and includes cases of injury or damage, to person or property, caused by a vessel on navigable waters, even though the injury or damage is done or consummated on land.

“(b) PROCEDURE.—A civil action in a case under subsection (a) may be brought in rem or in personam according to the principles of law and the rules of practice applicable in cases where the injury or damage has been done and consummated on navigable waters.

“(c) ACTIONS AGAINST UNITED STATES.—

“(1) EXCLUSIVE REMEDY.—In a civil action against the United States for injury or damage done or consummated on land by a vessel on navigable waters, chapter 309 or 311 of this title, as appropriate, provides the exclusive remedy.

“(2) ADMINISTRATIVE CLAIM.—A civil action described in paragraph (1) may not be brought until the expiration of the 6-month period after the claim has been presented in writing to the agency owning or operating the vessel causing the injury or damage.

“§ 30102. Liability to passengers

“(a) LIABILITY.—The owner and master of a vessel, and the vessel, are liable for personal injury to a passenger or damage to a passenger's baggage caused by—

“(1) a neglect or failure to comply with part B or F of subtitle II of this title; or

“(2) a known defect in the steaming apparatus or hull of the vessel.

“(b) NOT SUBJECT TO LIMITATION.—A liability imposed under this section is not subject to limitation under chapter 305 of this title.

“§ 30103. Liability of master, mate, engineer, and pilot

“A person may bring a civil action against a master, mate, engineer, or pilot of a vessel, and recover damages, for personal injury or loss caused by the master's, mate's, engineer's, or pilot's—

“(1) negligence or willful misconduct; or

“(2) neglect or refusal to obey the laws governing the navigation of vessels.

“§ 30104. Personal injury to or death of seamen

“(a) CAUSE OF ACTION.—A seaman injured in the course of employment or, if the seaman dies from the injury, the personal representative of the seaman may elect to bring a civil action at law, with the right of trial by jury, against the employer. Laws of the United States regulating recovery for personal injury to, or death of, a railway employee apply to an action under this section.

“(b) VENUE.—An action under this section shall be brought in the judicial district in which the employer resides or the employer's principal office is located.

“§ 30105. Restriction on recovery by non-citizens and non-resident aliens for incidents in waters of other countries

“(a) DEFINITION.—In this section, the term ‘continental shelf’ has the meaning given that term in article I of the 1958 Convention on the Continental Shelf.

“(b) RESTRICTION.—Except as provided in subsection (c), a civil action for maintenance and cure or for damages for personal injury or death may not be brought under a maritime law of the United States if—

“(1) the individual suffering the injury or death was not a citizen or permanent resident alien of the United States at the time of the incident giving rise to the action;

“(2) the incident occurred in the territorial waters or waters overlaying the continental shelf of a country other than the United States; and

"(3) the individual suffering the injury or death was employed at the time of the incident by a person engaged in the exploration, development, or production of offshore mineral or energy resources, including drilling, mapping, surveying, diving, pipelaying, maintaining, repairing, constructing, or transporting supplies, equipment, or personnel, but not including transporting those resources by a vessel constructed or adapted primarily to carry oil in bulk in the cargo spaces.

"(c) NONAPPLICATION.—Subsection (b) does not apply if the individual bringing the action establishes that a remedy is not available under the laws of—

"(1) the country asserting jurisdiction over the area in which the incident occurred; or

"(2) the country in which the individual suffering the injury or death maintained citizenship or residency at the time of the incident.

"§ 30106. Time limit on bringing maritime action for personal injury or death

"Except as otherwise provided by law, a civil action for damages for personal injury or death arising out of a maritime tort must be brought within 3 years after the cause of action arose.

"CHAPTER 303—DEATH ON THE HIGH SEAS

"Sec.
"30301. Short title.
"30302. Cause of action.
"30303. Amount and apportionment of recovery.
"30304. Contributory negligence.
"30305. Death of plaintiff in pending action.
"30306. Foreign cause of action.
"30307. Commercial aviation accidents.
"30308. Nonapplication.

"§ 30301. Short title

"This chapter may be cited as the 'Death on the High Seas Act'.

"§ 30302. Cause of action

"When the death of an individual is caused by wrongful act, neglect, or default occurring on the high seas beyond 3 nautical miles from the shore of the United States, the personal representative of the decedent may bring a civil action in admiralty against the person or vessel responsible. The action shall be for the exclusive benefit of the decedent's spouse, parent, child, or dependent relative.

"§ 30303. Amount and apportionment of recovery

"The recovery in an action under this chapter shall be a fair compensation for the pecuniary loss sustained by the individuals for whose benefit the action is brought. The court shall apportion the recovery among those individuals in proportion to the loss each has sustained.

"§ 30304. Contributory negligence

"In an action under this chapter, contributory negligence of the decedent is not a bar to recovery. The court shall consider the degree of negligence of the decedent and reduce the recovery accordingly.

"§ 30305. Death of plaintiff in pending action

"If a civil action in admiralty is pending in a court of the United States to recover for personal injury caused by wrongful act, neglect, or default described in section 30302 of this title, and the individual dies during the action as a result of the wrongful act, neglect, or default, the personal representative of the decedent may be substituted as the plaintiff and the action may proceed under this chapter for the recovery authorized by this chapter.

"§ 30306. Foreign cause of action

"When a cause of action exists under the law of a foreign country for death by wrongful act, neglect, or default on the high seas, a civil action in admiralty may be brought in a court of the United States based on the foreign cause of action, without abatement of the amount for which recovery is authorized.

"§ 30307. Commercial aviation accidents

"(a) DEFINITION.—In this section, the term 'nonpecuniary damages' means damages for loss of care, comfort, and companionship.

"(b) BEYOND 12 NAUTICAL MILES.—In an action under this chapter, if the death resulted from a commercial aviation accident occurring on the high seas beyond 12 nautical miles from the shore of the United States, additional compensation is recoverable for nonpecuniary damages, but punitive damages are not recoverable.

"(c) WITHIN 12 NAUTICAL MILES.—This chapter does not apply if the death resulted from a commercial aviation accident occurring on the high seas 12 nautical miles or less from the shore of the United States.

"§ 30308. Nonapplication

"(a) STATE LAW.—This chapter does not affect the law of a State regulating the right to recover for death.

"(b) INTERNAL WATERS.—This chapter does not apply to the Great Lakes or waters within the territorial limits of a State.

"CHAPTER 305—EXONERATION AND LIMITATION OF LIABILITY

"Sec.
"30501. Definition.
"30502. Application.
"30503. Declaration of nature and value of goods.
"30504. Loss by fire.
"30505. General limit of liability.
"30506. Limit of liability for personal injury or death.
"30507. Apportionment of losses.
"30508. Provisions requiring notice of claim or limiting time for bringing action.
"30509. Provisions limiting liability for personal injury or death.
"30510. Vicarious liability for medical malpractice with regard to crew.
"30511. Action by owner for limitation.
"30512. Liability as master, officer, or seaman not affected.

"§ 30501. Definition

"In this chapter, the term 'owner' includes a charterer that mans, supplies, and navigates a vessel at the charterer's own expense or by the charterer's own procurement.

"§ 30502. Application

"Except as otherwise provided, this chapter (except section 30503) applies to seagoing vessels and vessels used on lakes or rivers or in inland navigation, including canal boats, barges, and lighters.

"§ 30503. Declaration of nature and value of goods

"(a) IN GENERAL.—If a shipper of an item named in subsection (b), contained in a parcel, package, or trunk, loads the item as freight or baggage on a vessel, without at the time of loading giving to the person receiving the item a written notice of the true character and value of the item and having that information entered on the bill of lading, the owner and master of the vessel are not liable as carriers. The owner and master are not liable beyond the value entered on the bill of lading.

"(b) ITEMS.—The items referred to in subsection (a) are precious metals, gold or silver plated articles, precious stones, jewelry, trinkets, watches, clocks, glass, china, coins, bills, securities, printings, engravings, pictures, stamps, maps, papers, silks, furs, lace, and similar items of high value and small size.

"§ 30504. Loss by fire

"The owner of a vessel is not liable for loss or damage to merchandise on the vessel caused by a fire on the vessel unless the fire resulted from the design or neglect of the owner.

"§ 30505. General limit of liability

"(a) IN GENERAL.—Except as provided in section 30506 of this title, the liability of the owner of a vessel for any claim, debt, or liability described in subsection (b) shall not exceed the value of the vessel and pending freight. If the vessel has more than one owner, the proportionate share of the liability of any one owner shall not exceed that owner's proportionate interest in the vessel and pending freight.

"(b) CLAIMS SUBJECT TO LIMITATION.—Unless otherwise excluded by law, claims, debts, and liabilities subject to limitation under subsection (a) are those arising from any embezzlement, loss, or destruction of any property, goods, or merchandise shipped or put on board the vessel, any loss, damage, or injury by collision, or any act, matter, or thing, loss, damage, or forfeiture, done, occasioned, or incurred, without the privity or knowledge of the owner.

"(c) WAGES.—Subsection (a) does not apply to a claim for wages.

"§ 30506. Limit of liability for personal injury or death

"(a) APPLICATION.—This section applies only to seagoing vessels, but does not apply to pleasure yachts, tugs, towboats, towing vessels, tank vessels, fishing vessels, fish tender vessels, canal boats, scows, car floats, barges, lighters, or nondescript vessels.

"(b) MINIMUM LIABILITY.—If the amount of the vessel owner's liability determined under section 30505 of this title is insufficient to pay all losses in full, and the portion available to pay claims for personal injury or death is less than $420 times the tonnage of the vessel, that portion shall be increased to $420 times the tonnage of the vessel. That portion may be used only to pay claims for personal injury or death.

"(c) CALCULATION OF TONNAGE.—Under subsection (b), the tonnage of a self-propelled vessel is the gross tonnage without deduction for engine room, and the tonnage of a sailing vessel is the tonnage for documentation. However, space for the use of seamen is excluded.

"(d) CLAIMS ARISING ON DISTINCT OCCASIONS.—Separate limits of liability apply to claims for personal injury or death arising on distinct occasions.

"(e) PRIVITY OR KNOWLEDGE.—In a claim for personal injury or death, the privity or knowledge of the master or the owner's superintendent or managing agent, at or before the beginning of each voyage, is imputed to the owner.

"§ 30507. Apportionment of losses

"If the amounts determined under sections 30505 and 30506 of this title are insufficient to pay all claims—

"(1) all claimants shall be paid in proportion to their respective losses out of the amount determined under section 30505 of this title; and

"(2) personal injury and death claimants, if any, shall be paid an additional amount in proportion to their respective losses out of the additional amount determined under section 30506(b) of this title.

"§ 30508. Provisions requiring notice of claim or limiting time for bringing action

"(a) APPLICATION.—This section applies only to seagoing vessels, but does not apply to pleasure yachts, tugs, towboats, towing vessels, tank vessels, fishing vessels, fish tender vessels, canal boats, scows, car floats, barges, lighters, or nondescript vessels.

"(b) MINIMUM TIME LIMITS.—The owner, master, manager, or agent of a vessel transporting passengers or property between ports in the United States, or between a port in the United States and a port in a foreign country, may not

limit by regulation, contract, or otherwise the period for—

"(1) giving notice of, or filing a claim for, personal injury or death to less than 6 months after the date of the injury or death; or

"(2) bringing a civil action for personal injury or death to less than one year after the date of the injury or death.

"(c) EFFECT OF FAILURE TO GIVE NOTICE.—When notice of a claim for personal injury or death is required by a contract, the failure to give the notice is not a bar to recovery if—

"(1) the court finds that the owner, master, or agent of the vessel had knowledge of the injury or death and the owner has not been prejudiced by the failure;

"(2) the court finds there was a satisfactory reason why the notice could not have been given; or

"(3) the owner of the vessel fails to object to the failure to give the notice.

"(d) TOLLING OF PERIOD TO GIVE NOTICE.—If a claimant is a minor or mental incompetent, or if a claim is for wrongful death, any period provided by a contract for giving notice of the claim is tolled until the earlier of—

"(1) the date a legal representative is appointed for the minor, incompetent, or decedent's estate; or

"(2) 3 years after the injury or death.

"§30509. Provisions limiting liability for personal injury or death

"(a) PROHIBITION.—

"(1) IN GENERAL.—The owner, master, manager, or agent of a vessel transporting passengers between ports in the United States, or between a port in the United States and a port in a foreign country, may not include in a regulation or contract a provision limiting—

"(A) the liability of the owner, master, or agent for personal injury or death caused by the negligence or fault of the owner or the owner's employees or agents; or

"(B) the right of a claimant for personal injury or death to a trial by court of competent jurisdiction.

"(2) VOIDNESS.—A provision described in paragraph (1) is void.

"(b) EMOTIONAL DISTRESS, MENTAL SUFFERING, AND PSYCHOLOGICAL INJURY.—

"(1) IN GENERAL.—Subsection (a) does not prohibit a provision in a contract or in ticket conditions of carriage with a passenger that relieves an owner, master, manager, agent, operator, or crewmember of a vessel from liability for infliction of emotional distress, mental suffering, or psychological injury so long as the provision does not limit such liability when the emotional distress, mental suffering, or psychological injury is—

"(A) the result of physical injury to the claimant caused by the negligence or fault of a crewmember or the owner, master, manager, agent, or operator;

"(B) the result of the claimant having been at actual risk of physical injury, and the risk was caused by the negligence or fault of a crewmember or the owner, master, manager, agent, or operator; or

"(C) intentionally inflicted by a crewmember or the owner, master, manager, agent, or operator.

"(2) SEXUAL OFFENSES.—This subsection does not limit the liability of a crewmember or the owner, master, manager, agent, or operator of a vessel in a case involving sexual harassment, sexual assault, or rape.

"§30510. Vicarious liability for medical malpractice with regard to crew

"In a civil action by any person in which the owner or operator of a vessel or employer of a crewmember is claimed to have vicarious liability for medical malpractice with regard to a crewmember occurring at a shoreside facility, and to the extent the damages resulted from the conduct of any shoreside doctor, hospital, medical facility, or other health care provider, the owner, operator, or employer is entitled to rely on any statutory limitations of liability applicable to the doctor, hospital, medical facility, or other health care provider in the State of the United States in which the shoreside medical care was provided.

"§30511. Action by owner for limitation

"(a) IN GENERAL.—The owner of a vessel may bring a civil action in a district court of the United States for limitation of liability under this chapter. The action must be brought within 6 months after a claimant gives the owner written notice of a claim.

"(b) CREATION OF FUND.—When the action is brought, the owner (at the owner's option) shall—

"(1) deposit with the court, for the benefit of claimants—

"(A) an amount equal to the value of the owner's interest in the vessel and pending freight, or approved security; and

"(B) an amount, or approved security, that the court may fix from time to time as necessary to carry out this chapter; or

"(2) transfer to a trustee appointed by the court, for the benefit of claimants—

"(A) the owner's interest in the vessel and pending freight; and

"(B) an amount, or approved security, that the court may fix from time to time as necessary to carry out this chapter.

"(c) CESSATION OF OTHER ACTIONS.—When an action has been brought under this section and the owner has complied with subsection (b), all claims and proceedings against the owner related to the matter in question shall cease.

"§30512. Liability as master, officer, or seaman not affected

"This chapter does not affect the liability of an individual as a master, officer, or seaman, even though the individual is also an owner of the vessel.

"CHAPTER 307—LIABILITY OF WATER CARRIERS

"Sec.
"30701. Definition.
"30702. Application.
"30703. Bills of lading.
"30704. Loading, stowage, custody, care, and delivery.
"30705. Seaworthiness.
"30706. Defenses.
"30707. Criminal penalty.

"§30701. Definition

"In this chapter, the term 'carrier' means the owner, manager, charterer, agent, or master of a vessel.

"§30702. Application

"(a) IN GENERAL.—Except as otherwise provided, this chapter applies to a carrier engaged in the carriage of goods to or from any port in the United States.

"(b) LIVE ANIMALS.—Sections 30703 and 30704 of this title do not apply to the carriage of live animals.

"§30703. Bills of lading

"(a) ISSUANCE.—On demand of a shipper, the carrier shall issue a bill of lading or shipping document.

"(b) CONTENTS.—The bill of lading or shipping document shall include a statement of—

"(1) the marks necessary to identify the goods;

"(2) the number of packages, or the quantity or weight, and whether it is carrier's or shipper's weight; and

"(3) the apparent condition of the goods.

"(c) PRIMA FACIE EVIDENCE OF RECEIPT.—A bill of lading or shipping document issued under this section is prima facie evidence of receipt of the goods described.

"§30704. Loading, stowage, custody, care, and delivery

"A carrier may not insert in a bill of lading or shipping document a provision avoiding its liability for loss or damage arising from negligence or fault in loading, stowage, custody, care, or proper delivery. Any such provision is void.

"§30705. Seaworthiness

"(a) PROHIBITION.—A carrier may not insert in a bill of lading or shipping document a provision lessening or avoiding its obligation to exercise due diligence to—

"(1) make the vessel seaworthy; and

"(2) properly man, equip, and supply the vessel.

"(b) VOIDNESS.—A provision described in subsection (a) is void.

"§30706. Defenses

"(a) DUE DILIGENCE.—If a carrier has exercised due diligence to make the vessel in all respects seaworthy and to properly man, equip, and supply the vessel, the carrier and the vessel are not liable for loss or damage arising from an error in the navigation or management of the vessel.

"(b) OTHER DEFENSES.—A carrier and the vessel are not liable for loss or damage arising from—

"(1) dangers of the sea or other navigable waters;

"(2) acts of God;

"(3) public enemies;

"(4) seizure under legal process;

"(5) inherent defect, quality, or vice of the goods;

"(6) insufficiency of package;

"(7) act or omission of the shipper or owner of the goods or their agent; or

"(8) saving or attempting to save life or property at sea, including a deviation in rendering such a service.

"§30707. Criminal penalty

"(a) IN GENERAL.—A carrier that violates this chapter shall be fined under title 18.

"(b) LIEN.—The amount of the fine and costs for the violation constitute a lien on the vessel engaged in the carriage. A civil action in rem to enforce the lien may be brought in the district court of the United States for any district in which the vessel is found.

"(c) DISPOSITION OF FINE.—Half of the fine shall go to the person injured by the violation and half to the United States Government.

"CHAPTER 309—SUITS IN ADMIRALTY AGAINST THE UNITED STATES

"Sec.
"30901. Short title.
"30902. Definition.
"30903. Waiver of immunity.
"30904. Exclusive remedy.
"30905. Period for bringing action.
"30906. Venue.
"30907. Procedure for hearing and determination.
"30908. Exemption from arrest or seizure.
"30909. Security.
"30910. Exoneration and limitation.
"30911. Costs and interest.
"30912. Arbitration, compromise, or settlement.
"30913. Payment of judgment or settlement.
"30914. Release of privately owned vessel after arrest or attachment.
"30915. Seizures and other proceedings in foreign jurisdictions.
"30916. Recovery by the United States for salvage services.
"30917. Disposition of amounts recovered by the United States.
"30918. Reports.

“§30901. Short title

“This chapter may be cited as the ‘Suits in Admiralty Act’.

“§30902. Definition

“In this chapter, the term ‘federally-owned corporation’ means a corporation in which the United States owns all the outstanding capital stock.

“§30903. Waiver of immunity

“(a) In General.—In a case in which, if a vessel were privately owned or operated, or if cargo were privately owned or possessed, or if a private person or property were involved, a civil action in admiralty could be maintained, a civil action in admiralty in personam may be brought against the United States or a federally-owned corporation. In a civil action in admiralty brought by the United States or a federally-owned corporation, an admiralty claim in personam may be filed or a setoff claimed against the United States or corporation.

“(b) Non-Jury.—A claim against the United States or a federally-owned corporation under this section shall be tried without a jury.

“§30904. Exclusive remedy

“If a remedy is provided by this chapter, it shall be exclusive of any other action arising out of the same subject matter against the officer, employee, or agent of the United States or the federally-owned corporation whose act or omission gave rise to the claim.

“§30905. Period for bringing action

“A civil action under this chapter must be brought within 2 years after the cause of action arose.

“§30906. Venue

“(a) In General.—A civil action under this chapter shall be brought in the district court of the United States for the district in which—

“(1) any plaintiff resides or has its principal place of business; or

“(2) the vessel or cargo is found.

“(b) Transfer.—On a motion by a party, the court may transfer the action to any other district court of the United States.

“§30907. Procedure for hearing and determination

“(a) In General.—A civil action under this chapter shall proceed and be heard and determined according to the principles of law and the rules of practice applicable in like cases between private parties.

“(b) In Rem.—

“(1) Requirements.—The action may proceed according to the principles of an action in rem if—

“(A) the plaintiff elects in the complaint; and

“(B) it appears that an action in rem could have been maintained had the vessel or cargo been privately owned and possessed.

“(2) Effect on Relief in Personam.—An election under paragraph (1) does not prevent the plaintiff from seeking relief in personam in the same action.

“§30908. Exemption from arrest or seizure

“The following are not subject to arrest or seizure by judicial process in the United States:

“(1) A vessel owned by, possessed by, or operated by or for the United States or a federally-owned corporation.

“(2) Cargo owned or possessed by the United States or a federally-owned corporation.

“§30909. Security

“Neither the United States nor a federally-owned corporation may be required to give a bond or admiralty stipulation in a civil action under this chapter.

“§30910. Exoneration and limitation

“The United States is entitled to the exemptions from and limitations of liability provided by law to an owner, charterer, operator, or agent of a vessel.

“§30911. Costs and interest

“(a) In General.—A judgment against the United States or a federally-owned corporation under this chapter may include costs and interest at the rate of 4 percent per year until satisfied. Interest shall run as ordered by the court, except that interest is not allowable for the period before the action is filed.

“(b) Contract Providing for Interest.—Notwithstanding subsection (a), if the claim is based on a contract providing for interest, interest may be awarded at the rate and for the period provided in the contract.

“§30912. Arbitration, compromise, or settlement

“The Secretary of a department of the United States Government, or the board of trustees of a federally-owned corporation, may arbitrate, compromise, or settle a claim under this chapter.

“§30913. Payment of judgment or settlement

“(a) In General.—The proper accounting officer of the United States shall pay a final judgment, arbitration award, or settlement under this chapter on presentation of an authenticated copy.

“(b) Source of Payment.—Payment shall be made from an appropriation or fund available specifically for the purpose. If no appropriation or fund is specifically available, there is hereby appropriated, out of money in the Treasury not otherwise appropriated, an amount sufficient to pay the judgment, award, or settlement.

“§30914. Release of privately owned vessel after arrest or attachment

“If a privately owned vessel not in the possession of the United States or a federally-owned corporation is arrested or attached in a civil action arising or alleged to have arisen from prior ownership, possession, or operation by the United States or corporation, the vessel shall be released without bond or stipulation on a statement by the United States, through the Attorney General or other authorized law officer, that the United States is interested in the action, desires release of the vessel, and assumes liability for the satisfaction of any judgment obtained by the plaintiff. After the vessel is released, the action shall proceed against the United States in accordance with this chapter.

“§30915. Seizures and other proceedings in foreign jurisdictions

“(a) In General.—If a vessel or cargo described in section 30908 or 30914 of this title is arrested, attached, or otherwise seized by judicial process in a foreign country, or if an action is brought in a court of a foreign country against the master of such a vessel for a claim arising from the ownership, possession, or operation of the vessel, or the ownership, possession, or carriage of such cargo, the Secretary of State, on request of the Attorney General or another officer authorized by the Attorney General, may direct the United States consul residing at or nearest the place at which the action was brought—

“(1) to claim the vessel or cargo as immune from arrest, attachment, or other seizure, and to execute an agreement, stipulation, bond, or undertaking, for the United States or federally-owned corporation, for the release of the vessel or cargo and the prosecution of any appeal; or

“(2) if an action has been brought against the master of such a vessel, to enter the appearance of the United States or corporation and to pledge the credit of the United States or corporation to the payment of any judgment and costs in the action.

“(b) Arranging Bond or Stipulation.—The Attorney General may—

“(1) arrange with a bank, surety company, or other person, whether in the United States or a foreign country, to execute a bond or stipulation; and

“(2) pledge the credit of the United States to secure the bond or stipulation.

“(c) Payment of Judgment.—The appropriate accounting officer of the United States or corporation may pay a judgment in an action described in subsection (a) on presentation of a copy of the judgment if certified by the clerk of the court and authenticated by—

“(1) the certificate and seal of the United States consul claiming the vessel or cargo, or by the consul's successor; and

“(2) the certificate of the Secretary as to the official capacity of the consul.

“(d) Right To Claim Immunity Not Affected.—This section does not affect the right of the United States to claim immunity of a vessel or cargo from foreign jurisdiction.

“§30916. Recovery by the United States for salvage services

“(a) Civil Action.—The United States, and the crew of a merchant vessel owned or operated by the United States, or a federally-owned corporation, may bring a civil action to recover for salvage services provided by the vessel and crew.

“(b) Deposit of Amounts Recovered.—Any amount recovered under this section by the United States for its own benefit, and not for the benefit of the crew, shall be deposited in the Treasury to the credit of the department of the United States Government, or the corporation, having control of the possession or operation of the vessel.

“§30917. Disposition of amounts recovered by the United States

“Amounts recovered in a civil action brought by the United States on a claim arising from the ownership, possession, or operation of a merchant vessel, or the ownership, possession, or carriage of cargo, shall be deposited in the Treasury to the credit of the department of the United States Government, or the federally-owned corporation, having control of the vessel or cargo, for reimbursement of the appropriation, insurance fund, or other fund from which the compensation for which the judgment was recovered was or will be paid.

“§30918. Reports

“The Secretary of each department of the United States Government, and the board of trustees of each federally-owned corporation, shall report to Congress at each session thereof all arbitration awards and settlements agreed to under this chapter since the previous session, for which the time to appeal has expired or been waived.

“CHAPTER 311—SUITS INVOLVING PUBLIC VESSELS

“Sec.
“31101. Short title.
“31102. Waiver of immunity.
“31103. Applicable procedure.
“31104. Venue.
“31105. Security when counterclaim filed.
“31106. Exoneration and limitation.
“31107. Interest.
“31108. Arbitration, compromise, or settlement.
“31109. Payment of judgment or settlement.
“31110. Subpoenas to officers or members of crew.
“31111. Claims by nationals of foreign countries.
“31112. Lien not recognized or created.
“31113. Reports.

“§31101. Short title

“This chapter may be cited as the ‘Public Vessels Act’.

“§31102. Waiver of immunity

“(a) In General.—A civil action in personam in admiralty may be brought, or an impleader filed, against the United States for—

"(1) damages caused by a public vessel of the United States; or

"(2) compensation for towage and salvage services, including contract salvage, rendered to a public vessel of the United States.

"(b) Counterclaim or Setoff.—If the United States brings a civil action in admiralty for damages caused by a privately owned vessel, the owner of the vessel, or the successor in interest, may file a counterclaim in personam, or claim a setoff, against the United States for damages arising out of the same subject matter.

"§ 31103. Applicable procedure

"A civil action under this chapter is subject to the provisions of chapter 309 of this title except to the extent inconsistent with this chapter.

"§ 31104. Venue

"(a) In General.—A civil action under this chapter shall be brought in the district court of the United States for the district in which the vessel or cargo is found within the United States.

"(b) Vessel or Cargo Outside Territorial Waters.—If the vessel or cargo is outside the territorial waters of the United States—

"(1) the action shall be brought in the district court of the United States for any district in which any plaintiff resides or has an office for the transaction of business; or

"(2) if no plaintiff resides or has an office for the transaction of business in the United States, the action may be brought in the district court of the United States for any district.

"§ 31105. Security when counterclaim filed

"If a counterclaim is filed for a cause of action for which the original action is filed under this chapter, the respondent to the counterclaim shall give security in the usual amount and form to respond to the counterclaim, unless the court for cause shown orders otherwise. The proceedings in the original action shall be stayed until the security is given.

"§ 31106. Exoneration and limitation

"The United States is entitled to the exemptions from and limitations of liability provided by law to an owner, charterer, operator, or agent of a vessel.

"§ 31107. Interest

"A judgment in a civil action under this chapter may not include interest for the period before the judgment is issued unless the claim is based on a contract providing for interest.

"§ 31108. Arbitration, compromise, or settlement

"The Attorney General may arbitrate, compromise, or settle a claim under this chapter if a civil action based on the claim has been commenced.

"§ 31109. Payment of judgment or settlement

"The proper accounting officer of the United States shall pay a final judgment, arbitration award, or settlement under this chapter on presentation of an authenticated copy. Payment shall be made from any money in the Treasury appropriated for the purpose.

"§ 31110. Subpoenas to officers or members of crew

"An officer or member of the crew of a public vessel may not be subpoenaed in a civil action under this chapter without the consent of—

"(1) the Secretary of the department or the head of the independent establishment having control of the vessel at the time the cause of action arose; or

"(2) the master or commanding officer of the vessel at the time the subpoena is issued.

"§ 31111. Claims by nationals of foreign countries

"A national of a foreign country may not maintain a civil action under this chapter unless it appears to the satisfaction of the court in which the action is brought that the government of that country, in similar circumstances, allows nationals of the United States to sue in its courts.

"§ 31112. Lien not recognized or created

"This chapter shall not be construed as recognizing the existence of or as creating a lien against a public vessel of the United States.

"§ 31113. Reports

"The Attorney General shall report to Congress at each session thereof all claims settled under this chapter.".

SEC. 7. SUBTITLE IV OF TITLE 46.

Title 46, United States Code, is amended by inserting after subtitle III the following:

"Subtitle IV—Regulation of Ocean Shipping

"Part A—Ocean Shipping

"Chapter Sec.
"401. General 40101
"403. Agreements 40301
"405. Tariffs, Service Contracts, Refunds, and Waivers 40501
"407. Controlled Carriers 40701
"409. Ocean Transportation Intermediaries 40901
"411. Prohibitions and Penalties 41101
"413. Enforcement 41301
"Part B—Actions To Address Foreign Practices
"421. Regulations Affecting Shipping in Foreign Trade 42101
"423. Foreign Shipping Practices 42301
"Part C—Miscellaneous
"441. Evidence of Financial Responsibility for Passenger Transportation 44101

"Part A—Ocean Shipping

"CHAPTER 401—GENERAL

"Sec.
"40101. Purposes.
"40102. Definitions.
"40103. Administrative exemptions.
"40104. Reports filed with the Commission.

"§ 40101. Purposes

"The purposes of this part are to—

"(1) establish a nondiscriminatory regulatory process for the common carriage of goods by water in the foreign commerce of the United States with a minimum of government intervention and regulatory costs;

"(2) provide an efficient and economic transportation system in the ocean commerce of the United States that is, insofar as possible, in harmony with, and responsive to, international shipping practices;

"(3) encourage the development of an economically sound and efficient liner fleet of vessels of the United States capable of meeting national security needs; and

"(4) promote the growth and development of United States exports through competitive and efficient ocean transportation and by placing a greater reliance on the marketplace.

"§ 40102. Definitions

"In this part:

"(1) Agreement.—The term 'agreement'—

"(A) means a written or oral understanding, arrangement, or association, and any modification or cancellation thereof; but

"(B) does not include a maritime labor agreement.

"(2) Antitrust Laws.—The term 'antitrust laws' means—

"(A) the Sherman Act (15 U.S.C. 1 et seq.);

"(B) sections 73 and 74 of the Wilson Tariff Act (15 U.S.C. 8, 9);

"(C) the Clayton Act (15 U.S.C. 12 et seq.);

"(D) the Act of June 19, 1936 (15 U.S.C. 13, 13a, 13b, 21a);

"(E) the Federal Trade Commission Act (15 U.S.C. 41 et seq.);

"(F) the Antitrust Civil Process Act (15 U.S.C. 1311 et seq.); and

"(G) Acts supplementary to those Acts.

"(3) Assessment Agreement.—The term 'assessment agreement' means an agreement, whether part of a collective bargaining agreement or negotiated separately, to the extent the agreement provides for the funding of collectively bargained fringe-benefit obligations on other than a uniform worker-hour basis, regardless of the cargo handled or type of vessel or equipment used.

"(4) Bulk Cargo.—The term 'bulk cargo' means cargo that is loaded and carried in bulk without mark or count.

"(5) Chemical Parcel-Tanker.—The term 'chemical parcel-tanker' means a vessel that has—

"(A) a cargo-carrying capability consisting of individual cargo tanks for bulk chemicals that—

"(i) are a permanent part of the vessel; and

"(ii) have segregation capability with piping systems to permit simultaneous carriage of several bulk chemical cargoes with minimum risk of cross-contamination; and

"(B) a valid certificate of fitness under the International Maritime Organization Code for the Construction and Equipment of Ships Carrying Dangerous Chemicals in Bulk.

"(6) Common Carrier.—The term 'common carrier'—

"(A) means a person that—

"(i) holds itself out to the general public to provide transportation by water of passengers or cargo between the United States and a foreign country for compensation;

"(ii) assumes responsibility for the transportation from the port or point of receipt to the port or point of destination; and

"(iii) uses, for all or part of that transportation, a vessel operating on the high seas or the Great Lakes between a port in the United States and a port in a foreign country; but

"(B) does not include a carrier engaged in ocean transportation by ferry boat, ocean tramp, or chemical parcel-tanker, or by vessel when primarily engaged in the carriage of perishable agricultural commodities—

"(i) if the carrier and the owner of those commodities are wholly-owned, directly or indirectly, by a person primarily engaged in the marketing and distribution of those commodities; and

"(ii) only with respect to the carriage of those commodities.

"(7) Conference.—The term 'conference'—

"(A) means an association of ocean common carriers permitted, pursuant to an approved or effective agreement, to engage in concerted activity and to use a common tariff; but

"(B) does not include a joint service, consortium, pooling, sailing, or transshipment agreement.

"(8) Controlled Carrier.—The term 'controlled carrier' means an ocean common carrier that is, or whose operating assets are, directly or indirectly, owned or controlled by a government, with ownership or control by a government being deemed to exist for a carrier if—

"(A) a majority of the interest in the carrier is owned or controlled in any manner by that government, an agency of that government, or a public or private person controlled by that government; or

"(B) that government has the right to appoint or disapprove the appointment of a majority of the directors, the chief operating officer, or the chief executive officer of the carrier.

"(9) Deferred Rebate.—The term 'deferred rebate' means a return by a common carrier of any freight money to a shipper, where the return is—

"(A) consideration for the shipper giving all or any portion of its shipments to that or any other common carrier over a fixed period of time;

"(B) deferred beyond the completion of the service for which it was paid; and

"(C) made only if the shipper has agreed to make a further shipment with that or any other common carrier.

"(10) FOREST PRODUCTS.—The term 'forest products' includes lumber in bundles, rough timber, ties, poles, piling, laminated beams, bundled siding, bundled plywood, bundled core stock or veneers, bundled particle or fiber boards, bundled hardwood, wood pulp in rolls, wood pulp in unitized bales, and paper and paper board in rolls or in pallet or skid-sized sheets.

"(11) INLAND DIVISION.—The term 'inland division' means the amount paid by a common carrier to an inland carrier for the inland portion of through transportation offered to the public by the common carrier.

"(12) INLAND PORTION.—The term 'inland portion' means the charge to the public by a common carrier for the non-ocean portion of through transportation.

"(13) LOYALTY CONTRACT.—The term 'loyalty contract' means a contract with an ocean common carrier or agreement providing for—

"(A) a shipper to obtain lower rates by committing all or a fixed portion of its cargo to that carrier or agreement; and

"(B) a deferred rebate arrangement.

"(14) MARINE TERMINAL OPERATOR.—The term 'marine terminal operator' means a person engaged in the United States in the business of providing wharfage, dock, warehouse, or other terminal facilities in connection with a common carrier, or in connection with a common carrier and a water carrier subject to subchapter II of chapter 135 of title 49.

"(15) MARITIME LABOR AGREEMENT.—The term 'maritime labor agreement'—

"(A) means—

"(i) a collective bargaining agreement between an employer subject to this part, or a group of such employers, and a labor organization representing employees in the maritime or stevedoring industry;

"(ii) an agreement preparatory to such a collective bargaining agreement among members of a multi-employer bargaining group; or

"(iii) an agreement specifically implementing provisions of such a collective bargaining agreement or providing for the formation, financing, or administration of a multi-employer bargaining group; but

"(B) does not include an assessment agreement.

"(16) NON-VESSEL-OPERATING COMMON CARRIER.—The term 'non-vessel-operating common carrier' means a common carrier that—

"(A) does not operate the vessels by which the ocean transportation is provided; and

"(B) is a shipper in its relationship with an ocean common carrier.

"(17) OCEAN COMMON CARRIER.—The term 'ocean common carrier' means a vessel-operating common carrier.

"(18) OCEAN FREIGHT FORWARDER.—The term 'ocean freight forwarder' means a person that—

"(A) in the United States, dispatches shipments from the United States via a common carrier and books or otherwise arranges space for those shipments on behalf of shippers; and

"(B) processes the documentation or performs related activities incident to those shipments.

"(19) OCEAN TRANSPORTATION INTERMEDIARY.—The term 'ocean transportation intermediary' means an ocean freight forwarder or a non-vessel-operating common carrier.

"(20) SERVICE CONTRACT.—The term 'service contract' means a written contract, other than a bill of lading or receipt, between one or more shippers, on the one hand, and an individual ocean common carrier or an agreement between or among ocean common carriers, on the other, in which—

"(A) the shipper or shippers commit to providing a certain volume or portion of cargo over a fixed time period; and

"(B) the ocean common carrier or the agreement commits to a certain rate or rate schedule and a defined service level, such as assured space, transit time, port rotation, or similar service features.

"(21) SHIPMENT.—The term 'shipment' means all of the cargo carried under the terms of a single bill of lading.

"(22) SHIPPER.—The term 'shipper' means—

"(A) a cargo owner;

"(B) the person for whose account the ocean transportation of cargo is provided;

"(C) the person to whom delivery is to be made;

"(D) a shippers' association; or

"(E) a non-vessel-operating common carrier that accepts responsibility for payment of all charges applicable under the tariff or service contract.

"(23) SHIPPERS' ASSOCIATION.—The term 'shippers' association' means a group of shippers that consolidates or distributes freight on a nonprofit basis for the members of the group to obtain carload, truckload, or other volume rates or service contracts.

"(24) THROUGH RATE.—The term 'through rate' means the single amount charged by a common carrier in connection with through transportation.

"(25) THROUGH TRANSPORTATION.—The term 'through transportation' means continuous transportation between origin and destination for which a through rate is assessed and which is offered or performed by one or more carriers, at least one of which is a common carrier, between a United States port or point and a foreign port or point.

"§ 40103. Administrative exemptions

"(a) IN GENERAL.—The Federal Maritime Commission, on application or its own motion, may by order or regulation exempt for the future any class of agreements between persons subject to this part or any specified activity of those persons from any requirement of this part if the Commission finds that the exemption will not result in substantial reduction in competition or be detrimental to commerce. The Commission may attach conditions to an exemption and may, by order, revoke an exemption.

"(b) OPPORTUNITY FOR HEARING.—An order or regulation of exemption or revocation of an exemption may be issued only if the Commission has provided an opportunity for a hearing to interested persons and departments and agencies of the United States Government.

"§ 40104. Reports filed with the Commission

"(a) IN GENERAL.—The Federal Maritime Commission may require a common carrier or an officer, receiver, trustee, lessee, agent, or employee of the carrier to file with the Commission a periodical or special report, an account, record, rate, or charge, or a memorandum of facts and transactions related to the business of the carrier. The report, account, record, rate, charge, or memorandum shall be made under oath if the Commission requires, and shall be filed in the form and within the time prescribed by the Commission.

"(b) CONFERENCE MINUTES.—Conference minutes required to be filed with the Commission under this section may not be released to third parties or published by the Commission.

"CHAPTER 403—AGREEMENTS

"Sec.

"40301. Application.
"40302. Filing requirements.
"40303. Content requirements.
"40304. Commission action.
"40305. Assessment agreements.
"40306. Nondisclosure of information.
"40307. Exemption from antitrust laws.

"§ 40301. Application

"(a) OCEAN COMMON CARRIER AGREEMENTS.—This part applies to an agreement between or among ocean common carriers to—

"(1) discuss, fix, or regulate transportation rates, including through rates, cargo space accommodations, and other conditions of service;

"(2) pool or apportion traffic, revenues, earnings, or losses;

"(3) allot ports or regulate the number and character of voyages between ports;

"(4) regulate the volume or character of cargo or passenger traffic to be carried;

"(5) engage in an exclusive, preferential, or cooperative working arrangement between themselves or with a marine terminal operator;

"(6) control, regulate, or prevent competition in international ocean transportation; or

"(7) discuss and agree on any matter related to a service contract.

"(b) MARINE TERMINAL OPERATOR AGREEMENTS.—This part applies to an agreement between or among marine terminal operators, or between or among one or more marine terminal operators and one or more ocean common carriers, to—

"(1) discuss, fix, or regulate rates or other conditions of service; or

"(2) engage in exclusive, preferential, or cooperative working arrangements, to the extent the agreement involves ocean transportation in the foreign commerce of the United States.

"(c) ACQUISITIONS.—This part does not apply to an acquisition by any person, directly or indirectly, of any voting security or assets of any other person.

"(d) MARITIME LABOR AGREEMENTS.—This part does not apply to a maritime labor agreement. However, this subsection does not exempt from this part any rate, charge, regulation, or practice of a common carrier that is required to be set forth in a tariff or is an essential term of a service contract, whether or not the rate, charge, regulation, or practice arises out of, or is otherwise related to, a maritime labor agreement.

"(e) ASSESSMENT AGREEMENTS.—This part (except sections 40305 and 40307(a)) does not apply to an assessment agreement.

"§ 40302. Filing requirements

"(a) IN GENERAL.—A true copy of every agreement referred to in section 40301(a) or (b) of this title shall be filed with the Federal Maritime Commission. If the agreement is oral, a complete memorandum specifying in detail the substance of the agreement shall be filed.

"(b) EXCEPTIONS.—Subsection (a) does not apply to—

"(1) an agreement related to transportation to be performed within or between foreign countries; or

"(2) an agreement among common carriers to establish, operate, or maintain a marine terminal in the United States.

"(c) REGULATIONS.—The Commission may by regulation prescribe the form and manner in which an agreement shall be filed and any additional information and documents necessary to evaluate the agreement.

"§ 40303. Content requirements

"(a) OCEAN COMMON CARRIER AGREEMENTS.—

"(1) RESTRICTIONS.—An ocean common carrier agreement may not—

"(A) prohibit or restrict a member of the agreement from engaging in negotiations for a service contract with a shipper;

"(B) require a member of the agreement to disclose a negotiation on a service contract, or the terms of a service contract, other than those terms required to be published under section 40502(d) of this title; or

"(C) adopt mandatory rules or requirements affecting the right of an agreement member to negotiate and enter into a service contract.

"(2) VOLUNTARY GUIDELINES.—An ocean common carrier agreement may provide authority to adopt voluntary guidelines relating to the terms and procedures of an agreement member's service contracts if the guidelines explicitly state the right of members of the agreement not to follow the guidelines. Any guidelines adopted shall be submitted confidentially to the Federal Maritime Commission.

"(b) CONFERENCE AGREEMENTS.—Each conference agreement must—

"(1) state its purpose;

"(2) provide reasonable and equal terms for admission and readmission to conference membership for any ocean common carrier willing to serve the particular trade or route;

"(3) permit any member to withdraw from conference membership on reasonable notice without penalty;

"(4) at the request of any member, require an independent neutral body to police fully the obligations of the conference and its members;

"(5) prohibit the conference from engaging in conduct prohibited by section 41105(1) or (3) of this title;

"(6) provide for a consultation process designed to promote—

"(A) commercial resolution of disputes; and

"(B) cooperation with shippers in preventing and eliminating malpractices;

"(7) establish procedures for promptly and fairly considering requests and complaints of shippers; and

"(8) provide that—

"(A) any member of the conference may take independent action on a rate or service item on not more than 5 days' notice to the conference; and

"(B) except for an exempt commodity not published in the conference tariff, the conference will include the new rate or service item in its tariff for use by that member, effective no later than 5 days after receipt of the notice, and by any other member that notifies the conference that it elects to adopt the independent rate or service item on or after its effective date, in lieu of the existing conference tariff provision for that rate or service item.

"(c) INTERCONFERENCE AGREEMENTS.—Each agreement between carriers not members of the same conference must provide the right of independent action for each carrier. Each agreement between conferences must provide the right of independent action for each conference.

"(d) VESSEL SHARING AGREEMENTS.—

"(1) IN GENERAL.—An ocean common carrier that is the owner, operator, or bareboat, time, or slot charterer of a liner vessel documented under section 12103 or 12111(c) of this title may agree with an ocean common carrier described in paragraph (2) to which it charters or subcharters the vessel or space on the vessel that the charterer or subcharterer may not use or make available space on the vessel for the carriage of cargo reserved by law for vessels of the United States.

"(2) CARRIER DESCRIBED.—An ocean common carrier described in this paragraph is one that is not the owner, operator, or bareboat charterer for at least one year of liner vessels of the United States that are eligible to be included in the Maritime Security Fleet Program and are enrolled in an Emergency Preparedness Program under chapter 531 of this title.

"§40304. Commission action

"(a) NOTICE OF FILING.—Within 7 days after an agreement is filed, the Federal Maritime Commission shall transmit a notice of the filing to the Federal Register for publication.

"(b) PRELIMINARY REVIEW AND REJECTION.—After preliminary review, the Commission shall reject an agreement that it finds does not meet the requirements of sections 40302 and 40303 of this title. The Commission shall notify in writing the person filing the agreement of the reason for rejection.

"(c) REVIEW AND EFFECTIVE DATE.—Unless rejected under subsection (b), an agreement (other than an assessment agreement) is effective—

"(1) on the 45th day after filing, or on the 30th day after notice of the filing is published in the Federal Register, whichever is later; or

"(2) if additional information or documents are requested under subsection (d)—

"(A) on the 45th day after the Commission receives all the additional information and documents; or

"(B) if the request is not fully complied with, on the 45th day after the Commission receives the information and documents submitted and a statement of the reasons for noncompliance with the request.

"(d) REQUEST FOR ADDITIONAL INFORMATION.—Before the expiration of the period specified in subsection (c)(1), the Commission may request from the person filing the agreement any additional information and documents the Commission considers necessary to make the determinations required by this section.

"(e) MODIFICATION OF REVIEW PERIOD.—

"(1) SHORTENING.—On request of the party filing an agreement, the Commission may shorten a period specified in subsection (c), but not to a date that is less than 14 days after notice of the filing of the agreement is published in the Federal Register.

"(2) EXTENSION.—The period specified in subsection (c)(2) may be extended only by the United States District Court for the District of Columbia in a civil action brought by the Commission under section 41307(c) of this title.

"(f) FIXED TERMS.—The Commission may not limit the effectiveness of an agreement to a fixed term.

"§40305. Assessment agreements

"(a) FILING REQUIREMENT.—An assessment agreement shall be filed with the Federal Maritime Commission and is effective on filing.

"(b) COMPLAINTS.—If a complaint is filed with the Commission within 2 years after the date of an assessment agreement, the Commission shall disapprove, cancel, or modify the agreement, or an assessment or charge pursuant to the agreement, that the Commission finds, after notice and opportunity for a hearing, to be unjustly discriminatory or unfair as between carriers, shippers, or ports. The Commission shall issue its final decision in the proceeding within one year after the date the complaint is filed.

"(c) ADJUSTMENTS OF ASSESSMENTS AND CHARGES.—To the extent that the Commission finds under subsection (b) that an assessment or charge is unjustly discriminatory or unfair as between carriers, shippers, or ports, the Commission shall adjust the assessment or charge for the period between the filing of the complaint and the final decision by awarding prospective credits or debits to future assessments and charges. However, if the complainant has ceased activities subject to the assessment or charge, the Commission may award reparations.

"§40306. Nondisclosure of information

"Information and documents (other than an agreement) filed with the Federal Maritime Commission under this chapter are exempt from disclosure under section 552 of title 5 and may not be made public except as may be relevant to an administrative or judicial proceeding. This section does not prevent disclosure to either House of Congress or to a duly authorized committee or subcommittee of Congress.

"§40307. Exemption from antitrust laws

"(a) IN GENERAL.—The antitrust laws do not apply to—

"(1) an agreement (including an assessment agreement) that has been filed and is effective under this chapter;

"(2) an agreement that is exempt under section 40103 of this title from any requirement of this part;

"(3) an agreement or activity within the scope of this part, whether permitted under or prohibited by this part, undertaken or entered into with a reasonable basis to conclude that it is—

"(A) pursuant to an agreement on file with the Federal Maritime Commission and in effect when the activity takes place; or

"(B) exempt under section 40103 of this title from any filing or publication requirement of this part;

"(4) an agreement or activity relating to transportation services within or between foreign countries, whether or not via the United States, unless the agreement or activity has a direct, substantial, and reasonably foreseeable effect on the commerce of the United States;

"(5) an agreement or activity relating to the foreign inland segment of through transportation that is part of transportation provided in a United States import or export trade;

"(6) an agreement or activity to provide wharfage, dock, warehouse, or other terminal facilities outside the United States; or

"(7) an agreement, modification, or cancellation approved before June 18, 1984, by the Commission under section 15 of the Shipping Act, 1916, or permitted under section 14b of that Act, and any properly published tariff, rate, fare, or charge, or classification, rule, or regulation explanatory thereof implementing that agreement, modification, or cancellation.

"(b) EXCEPTIONS.—This part does not extend antitrust immunity to—

"(1) an agreement with or among air carriers, rail carriers, motor carriers, or common carriers by water not subject to this part relating to transportation within the United States;

"(2) a discussion or agreement among common carriers subject to this part relating to the inland divisions (as opposed to the inland portions) of through rates within the United States;

"(3) an agreement among common carriers subject to this part to establish, operate, or maintain a marine terminal in the United States; or

"(4) a loyalty contract.

"(c) RETROACTIVE EFFECT OF DETERMINATIONS.—A determination by an agency or court that results in the denial or removal of the immunity to the antitrust laws under subsection (a) does not remove or alter the antitrust immunity for the period before the determination.

"(d) RELIEF UNDER CLAYTON ACT.—A person may not recover damages under section 4 of the Clayton Act (15 U.S.C. 15), or obtain injunctive relief under section 16 of that Act (15 U.S.C. 26), for conduct prohibited by this part.

"CHAPTER 405—TARIFFS, SERVICE CONTRACTS, REFUNDS, AND WAIVERS

"Sec.
"40501. General rate and tariff requirements.
"40502. Service contracts.
"40503. Refunds and waivers.

"§40501. General rate and tariff requirements

"(a) AUTOMATED TARIFF SYSTEM.—

"(1) IN GENERAL.—Each common carrier and conference shall keep open to public inspection in an automated tariff system, tariffs showing all its rates, charges, classifications, rules, and practices between all points or ports on its own route and on any through transportation route that has been established. However, a common carrier is not required to state separately or otherwise reveal in tariffs the inland divisions of a through rate.

"(2) EXCEPTIONS.—Paragraph (1) does not apply with respect to bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste.

"(b) CONTENTS OF TARIFFS.—A tariff under subsection (a) shall—

"(1) state the places between which cargo will be carried;

"(2) list each classification of cargo in use;

"(3) state the level of compensation, if any, of any ocean freight forwarder by a carrier or conference;

"(4) state separately each terminal or other charge, privilege, or facility under the control of the carrier or conference and any rules that in any way change, affect, or determine any part or the total of the rates or charges;

"(5) include sample copies of any bill of lading, contract of affreightment, or other document evidencing the transportation agreement; and

"(6) include copies of any loyalty contract, omitting the shipper's name.

"(c) ELECTRONIC ACCESS.—A tariff under subsection (a) shall be made available electronically to any person, without time, quantity, or other limitation, through appropriate access from remote locations. A reasonable fee may be charged for such access, except that no fee may be charged for access by a Federal agency.

"(d) TIME-VOLUME RATES.—A rate contained in a tariff under subsection (a) may vary with the volume of cargo offered over a specified period of time.

"(e) EFFECTIVE DATES.—

"(1) INCREASES.—A new or initial rate or change in an existing rate that results in an increased cost to a shipper may not become effective earlier than 30 days after publication. However, for good cause, the Federal Maritime Commission may allow the rate to become effective sooner.

"(2) DECREASES.—A change in an existing rate that results in a decreased cost to a shipper may become effective on publication.

"(f) MARINE TERMINAL OPERATOR SCHEDULES.—A marine terminal operator may make available to the public a schedule of rates, regulations, and practices, including limitations of liability for cargo loss or damage, pertaining to receiving, delivering, handling, or storing property at its marine terminal. Any such schedule made available to the public is enforceable by an appropriate court as an implied contract without proof of actual knowledge of its provisions.

"(g) REGULATIONS.—

"(1) IN GENERAL.—The Commission shall by regulation prescribe the requirements for the accessibility and accuracy of automated tariff systems established under this section. The Commission, after periodic review, may prohibit the use of any automated tariff system that fails to meet the requirements established under this section.

"(2) REMOTE TERMINALS.—The Commission may not require a common carrier to provide a remote terminal for electronic access under subsection (c).

"(3) MARINE TERMINAL OPERATOR SCHEDULES.—The Commission shall by regulation prescribe the form and manner in which marine terminal operator schedules authorized by this section shall be published.

"§40502. Service contracts

"(a) IN GENERAL.—An individual ocean common carrier or an agreement between or among ocean common carriers may enter into a service contract with one or more shippers subject to the requirements of this part.

"(b) FILING REQUIREMENTS.—

"(1) IN GENERAL.—Each service contract entered into under this section by an individual ocean common carrier or an agreement shall be filed confidentially with the Federal Maritime Commission.

"(2) EXCEPTIONS.—Paragraph (1) does not apply to contracts regarding bulk cargo, forest products, recycled metal scrap, new assembled motor vehicles, waste paper, or paper waste.

"(c) ESSENTIAL TERMS.—Each service contract shall include—

"(1) the origin and destination port ranges;

"(2) the origin and destination geographic areas in the case of through intermodal movements;

"(3) the commodities involved;

"(4) the minimum volume or portion;

"(5) the line-haul rate;

"(6) the duration;

"(7) service commitments; and

"(8) the liquidated damages for nonperformance, if any.

"(d) PUBLICATION OF CERTAIN TERMS.—When a service contract is filed confidentially with the Commission, a concise statement of the essential terms specified in paragraphs (1), (3), (4), and (6) of subsection (c) shall be published and made available to the general public in tariff format.

"(e) DISCLOSURE OF CERTAIN TERMS.—

"(1) DEFINITIONS.—In this subsection, the terms 'dock area' and 'within the port area' have the same meaning and scope as in the applicable collective bargaining agreement between the requesting labor organization and the carrier.

"(2) DISCLOSURE.—An ocean common carrier that is a party to or is otherwise subject to a collective bargaining agreement with a labor organization shall, in response to a written request by the labor organization, state whether it is responsible for the following work at a dock area or within a port area in the United States with respect to cargo transportation under a service contract:

"(A) The movement of the shipper's cargo on a dock area or within the port area or to or from railroad cars on a dock area or within the port area.

"(B) The assignment of intraport carriage of the shipper's cargo between areas on a dock or within the port area.

"(C) The assignment of the carriage of the shipper's cargo between a container yard on a dock area or within the port area and a rail yard adjacent to the container yard.

"(D) The assignment of container freight station work and container maintenance and repair work performed at a dock area or within the port area.

"(3) WITHIN REASONABLE TIME.—The common carrier shall provide the information described in paragraph (2) to the requesting labor organization within a reasonable period of time.

"(4) EXISTENCE OF COLLECTIVE BARGAINING AGREEMENT.—This subsection does not require the disclosure of information by an ocean common carrier unless there exists an applicable and otherwise lawful collective bargaining agreement pertaining to that carrier. A disclosure by an ocean common carrier may not be deemed an admission or an agreement that any work is covered by a collective bargaining agreement. A dispute about whether any work is covered by a collective bargaining agreement and the responsibility of an ocean common carrier under a collective bargaining agreement shall be resolved solely in accordance with the dispute resolution procedures contained in the collective bargaining agreement and the National Labor Relations Act (29 U.S.C. 151 et seq.), and without reference to this subsection.

"(5) EFFECT UNDER OTHER LAWS.—This subsection does not affect the lawfulness or unlawfulness under this part or any other Federal or State law of any collective bargaining agreement or element thereof, including any element that constitutes an essential term of a service contract.

"(f) REMEDY FOR BREACH.—Unless the parties agree otherwise, the exclusive remedy for a breach of a service contract is an action in an appropriate court. The contract dispute resolution forum may not be controlled by or in any way affiliated with a controlled carrier or by the government that owns or controls the carrier.

"§40503. Refunds and waivers

"The Federal Maritime Commission, on application of a carrier or shipper, may permit a common carrier or conference to refund a portion of the freight charges collected from a shipper, or to waive collection of a portion of the charges from a shipper, if—

"(1) there is an error in a tariff, a failure to publish a new tariff, or an error in quoting a tariff, and the refund or waiver will not result in discrimination among shippers, ports, or carriers;

"(2) the common carrier or conference, before filing an application for authority to refund or waive any charges for an error in a tariff or a failure to publish a tariff, has published a new tariff setting forth the rate on which the refund or waiver would be based; and

"(3) the application for the refund or waiver is filed with the Commission within 180 days from the date of shipment.

"CHAPTER 407—CONTROLLED CARRIERS

"Sec.
"40701. Rates.
"40702. Rate standards.
"40703. Effective date of rates.
"40704. Commission review.
"40705. Presidential review of Commission orders.
"40706. Exceptions.

"§40701. Rates

"(a) IN GENERAL.—A controlled carrier may not—

"(1) maintain a rate or charge in a tariff or service contract, or charge or assess a rate, that is below a just and reasonable level; or

"(2) establish, maintain, or enforce in a tariff or service contract a classification, rule, or regulation that results, or is likely to result, in the carriage or handling of cargo at a rate or charge that is below a just and reasonable level.

"(b) COMMISSION PROHIBITION.—The Federal Maritime Commission, at any time after notice and opportunity for a hearing, may prohibit the publication or use of a rate, charge, classification, rule, or regulation that a controlled carrier has failed to demonstrate is just and reasonable.

"(c) BURDEN OF PROOF.—In a proceeding under this section, the burden of proof is on the controlled carrier to demonstrate that its rate, charge, classification, rule, or regulation is just and reasonable.

"(d) VOIDNESS.—A rate, charge, classification, rule, or regulation that has been suspended or prohibited by the Commission is void and its use is unlawful.

"§40702. Rate standards

"(a) DEFINITION.—In this section, the term 'constructive costs' means the costs of another carrier, other than a controlled carrier, operating similar vessels and equipment in the same or a similar trade.

"(b) STANDARDS.—In determining whether a rate, charge, classification, rule, or regulation of a controlled carrier is just and reasonable, the Federal Maritime Commission—

"(1) shall take into account whether the rate or charge that has been published or assessed, or that would result from the pertinent classification, rule, or regulation, is below a level that is fully compensatory to the controlled carrier based on the carrier's actual costs or constructive costs; and

"(2) may take into account other appropriate factors, including whether the rate, charge, classification, rule, or regulation is—

"(A) the same as, or similar to, those published or assessed by other carriers in the same trade;

"(B) required to ensure movement of particular cargo in the same trade; or

"(C) required to maintain acceptable continuity, level, or quality of common carrier service to or from affected ports.

"§ 40703. Effective date of rates

"Notwithstanding section 40501(e) of this title and except for service contracts, a rate, charge, classification, rule, or regulation of a controlled carrier may not become effective, without special permission of the Federal Maritime Commission, until the 30th day after publication.

"§ 40704. Commission review

"(a) REQUEST FOR JUSTIFICATION.—On request of the Federal Maritime Commission, a controlled carrier shall file with the Commission, within 20 days of the request, a statement of justification that sufficiently details the carrier's need and purpose for an existing or proposed rate, charge, classification, rule, or regulation and upon which the Commission may reasonably base a determination of its lawfulness.

"(b) DETERMINATION.—Within 120 days after receipt of information requested under subsection (a), the Commission shall determine whether the rate, charge, classification, rule, or regulation may be unjust and unreasonable.

"(c) SHOW CAUSE ORDER.—Whenever the Commission is of the opinion that a rate, charge, classification, rule, or regulation published or assessed by a controlled carrier may be unjust and unreasonable, the Commission shall issue an order to the controlled carrier to show cause why the rate, charge, classification, rule, or regulation should not be prohibited.

"(d) SUSPENSION PENDING DETERMINATION.—

"(1) NOT YET EFFECTIVE.—Pending a determination of the lawfulness of a rate, charge, classification, rule, or regulation in a proceeding under subsection (c), the Commission may suspend the rate, charge, classification, rule, or regulation at any time before its effective date.

"(2) ALREADY EFFECTIVE.—If a rate, charge, classification, rule, or regulation has already become effective, the Commission, on issuance of an order to show cause, may suspend the rate, charge, classification, rule, or regulation on at least 30 days' notice to the controlled carrier.

"(3) MAXIMUM SUSPENSION.—A period of suspension under this subsection may not exceed 180 days.

"(e) REPLACEMENT DURING SUSPENSION.—Whenever the Commission has suspended a rate, charge, classification, rule, or regulation under this section, the controlled carrier may publish a new rate, charge, classification, rule, or regulation to take effect immediately during the suspension in lieu of the suspended rate, charge, classification, rule, or regulation. However, the Commission may reject the new rate, charge, classification, rule, or regulation if the Commission believes it is unjust and unreasonable.

"§ 40705. Presidential review of Commission orders

"(a) TRANSMISSION TO PRESIDENT.—The Federal Maritime Commission shall transmit to the President, concurrently with publication thereof, each order of suspension or final order of prohibition issued under section 40704 of this title.

"(b) PRESIDENTIAL REQUEST AND COMMISSION ACTION.—Within 10 days after receipt or the effective date of a Commission order referred to in subsection (a), the President, in writing, may request the Commission to stay the effect of the order if the President finds that the stay is required for reasons of national defense or foreign policy. The reasons shall be specified in the request. The Commission shall immediately grant the request by issuing an order in which the President's request shall be described. During a stay, the President shall, whenever practicable, attempt to resolve the matter by negotiating with representatives of the applicable foreign governments.

"§ 40706. Exceptions

"This chapter does not apply to—

"(1) a controlled carrier of a foreign country whose vessels are entitled by a treaty of the United States to receive national or most-favored-nation treatment; or

"(2) a trade served only by controlled carriers.

"CHAPTER 409—OCEAN TRANSPORTATION INTERMEDIARIES

"Sec.
"40901. License requirement.
"40902. Financial responsibility.
"40903. Suspension or revocation of license.
"40904. Compensation by common carriers.

"§ 40901. License requirement

"(a) IN GENERAL.—A person in the United States may not act as an ocean transportation intermediary unless the person holds an ocean transportation intermediary's license issued by the Federal Maritime Commission. The Commission shall issue a license to a person that the Commission determines to be qualified by experience and character to act as an ocean transportation intermediary.

"(b) EXCEPTION.—A person whose primary business is the sale of merchandise may forward shipments of the merchandise for its own account without an ocean transportation intermediary's license.

"§ 40902. Financial responsibility

"(a) IN GENERAL.—A person may not act as an ocean transportation intermediary unless the person furnishes a bond, proof of insurance, or other surety—

"(1) in a form and amount determined by the Federal Maritime Commission to insure financial responsibility; and

"(2) issued by a surety company found acceptable by the Secretary of the Treasury.

"(b) SCOPE OF FINANCIAL RESPONSIBILITY.—A bond, insurance, or other surety obtained under this section—

"(1) shall be available to pay any penalty assessed under section 41109 of this title or any order for reparation issued under section 41305 of this title;

"(2) may be available to pay any claim against an ocean transportation intermediary arising from its transportation-related activities—

"(A) with the consent of the insured ocean transportation intermediary and subject to review by the surety company; or

"(B) when the claim is deemed valid by the surety company after the ocean transportation intermediary has failed to respond to adequate notice to address the validity of the claim; and

"(3) shall be available to pay any judgment for damages against an ocean transportation intermediary arising from its transportation-related activities, if the claimant has first attempted to resolve the claim under paragraph (2) and the claim has not been resolved within a reasonable period of time.

"(c) REGULATIONS ON COURT JUDGMENTS.—The Commission shall prescribe regulations for the purpose of protecting the interests of claimants, ocean transportation intermediaries, and surety companies with respect to the process of pursuing claims against ocean transportation intermediary bonds, insurance, or sureties through court judgments. The regulations shall provide that a judgment for monetary damages may not be enforced except to the extent that the damages claimed arise from the transportation-related activities of the insured ocean transportation intermediary, as defined by the Commission.

"(d) RESIDENT AGENT.—An ocean transportation intermediary not domiciled in the United States shall designate a resident agent in the United States for receipt of service of judicial and administrative process, including subpoenas.

"§ 40903. Suspension or revocation of license

"(a) FAILURE TO MAINTAIN QUALIFICATIONS OR TO COMPLY.—The Federal Maritime Commission, after notice and opportunity for a hearing, shall suspend or revoke an ocean transportation intermediary's license if the Commission finds that the ocean transportation intermediary—

"(1) is not qualified to provide intermediary services; or

"(2) willfully failed to comply with a provision of this part or with an order or regulation of the Commission.

"(b) FAILURE TO MAINTAIN BOND, PROOF OF INSURANCE, OR OTHER SURETY.—The Commission may revoke an ocean transportation intermediary's license for failure to maintain a bond, proof of insurance, or other surety as required by section 40902(a) of this title.

"§ 40904. Compensation by common carriers

"(a) CERTIFICATION OF LICENSE AND SERVICES.—A common carrier may compensate an ocean freight forwarder for a shipment dispatched for others only when the ocean freight forwarder has certified in writing that it holds an ocean transportation intermediary's license (if required under section 40901 of this title) and has—

"(1) engaged, booked, secured, reserved, or contracted directly with the carrier or its agent for space aboard a vessel or confirmed the availability of the space; and

"(2) prepared and processed the ocean bill of lading, dock receipt, or other similar document for the shipment.

"(b) DUAL COMPENSATION.—A common carrier may not pay compensation for services described in subsection (a) more than once on the same shipment.

"(c) BENEFICIAL INTEREST SHIPMENTS.—An ocean freight forwarder may not receive compensation from a common carrier for a shipment in which the ocean freight forwarder has a direct or indirect beneficial interest. A common carrier may not knowingly pay compensation on that shipment.

"(d) LIMITS ON AUTHORITY OF CONFERENCE OR GROUP.—A conference or group of two or more ocean common carriers in the foreign commerce of the United States that is authorized to agree on the level of compensation paid to an ocean freight forwarder may not—

"(1) deny a member of the conference or group the right, upon notice of not more than 5 days, to take independent action on any level of compensation paid to an ocean freight forwarder; or

"(2) agree to limit the payment of compensation to an ocean freight forwarder to less than 1.25 percent of the aggregate of all rates and charges applicable under a tariff and assessed against the cargo on which the services of the ocean freight forwarder are provided.

"CHAPTER 411—PROHIBITIONS AND PENALTIES

"Sec.
"41101. Joint ventures and consortiums.
"41102. General prohibitions.
"41103. Disclosure of information.
"41104. Common carriers.
"41105. Concerted action.
"41106. Marine terminal operators.
"41107. Monetary penalties.
"41108. Additional penalties.
"41109. Assessment of penalties.

"§ 41101. Joint ventures and consortiums

"In this chapter, a joint venture or consortium of two or more common carriers operating as a single entity is deemed to be a single common carrier.

"§41102. General prohibitions

"(a) OBTAINING TRANSPORTATION AT LESS THAN APPLICABLE RATES.—A person may not knowingly and willfully, directly or indirectly, by means of false billing, false classification, false weighing, false report of weight, false measurement, or any other unjust or unfair device or means, obtain or attempt to obtain ocean transportation for property at less than the rates or charges that would otherwise apply.

"(b) OPERATING CONTRARY TO AGREEMENT.—A person may not operate under an agreement required to be filed under section 40302 or 40305 of this title if—

"(1) the agreement has not become effective under section 40304 of this title or has been rejected, disapproved, or canceled; or

"(2) the operation is not in accordance with the terms of the agreement or any modifications to the agreement made by the Federal Maritime Commission.

"(c) PRACTICES IN HANDLING PROPERTY.—A common carrier, marine terminal operator, or ocean transportation intermediary may not fail to establish, observe, and enforce just and reasonable regulations and practices relating to or connected with receiving, handling, storing, or delivering property.

"§41103. Disclosure of information

"(a) PROHIBITION.—A common carrier, marine terminal operator, or ocean freight forwarder, either alone or in conjunction with any other person, directly or indirectly, may not knowingly disclose, offer, solicit, or receive any information concerning the nature, kind, quantity, destination, consignee, or routing of any property tendered or delivered to a common carrier, without the consent of the shipper or consignee, if the information—

"(1) may be used to the detriment or prejudice of the shipper, the consignee, or any common carrier; or

"(2) may improperly disclose its business transaction to a competitor.

"(b) EXCEPTIONS.—Subsection (a) does not prevent providing the information—

"(1) in response to legal process;

"(2) to the Federal Maritime Commission or an agency of the United States Government; or

"(3) to an independent neutral body operating within the scope of its authority to fulfill the policing obligations of the parties to an agreement effective under this part.

"(c) DISCLOSURE FOR DETERMINING BREACH OR COMPILING STATISTICS.—An ocean common carrier that is a party to a conference agreement approved under this part, a receiver, trustee, lessee, agent, or employee of the carrier, or any other person authorized by the carrier to receive information—

"(1) may give information to the conference or any person or agency designated by the conference, for the purpose of—

"(A) determining whether a shipper or consignee has breached an agreement with the conference or its member lines;

"(B) determining whether a member of the conference has breached the conference agreement; or

"(C) compiling statistics of cargo movement; and

"(2) may not prevent the conference or its designee from soliciting or receiving information for any of those purposes.

"§41104. Common carriers

"A common carrier, either alone or in conjunction with any other person, directly or indirectly, may not—

"(1) allow a person to obtain transportation for property at less than the rates or charges established by the carrier in its tariff or service contract by means of false billing, false classification, false weighing, false measurement, or any other unjust or unfair device or means;

"(2) provide service in the liner trade that is—

"(A) not in accordance with the rates, charges, classifications, rules, and practices contained in a tariff published or a service contract entered into under chapter 405 of this title, unless excepted or exempted under section 40103 or 40501(a)(2) of this title; or

"(B) under a tariff or service contract that has been suspended or prohibited by the Federal Maritime Commission under chapter 407 or 423 of this title;

"(3) retaliate against a shipper by refusing, or threatening to refuse, cargo space accommodations when available, or resort to other unfair or unjustly discriminatory methods because the shipper has patronized another carrier, or has filed a complaint, or for any other reason;

"(4) for service pursuant to a tariff, engage in any unfair or unjustly discriminatory practice in the matter of—

"(A) rates or charges;

"(B) cargo classifications;

"(C) cargo space accommodations or other facilities, with due regard being given to the proper loading of the vessel and the available tonnage;

"(D) loading and landing of freight; or

"(E) adjustment and settlement of claims;

"(5) for service pursuant to a service contract, engage in any unfair or unjustly discriminatory practice in the matter of rates or charges with respect to any port;

"(6) use a vessel in a particular trade for the purpose of excluding, preventing, or reducing competition by driving another ocean common carrier out of that trade;

"(7) offer or pay any deferred rebates;

"(8) for service pursuant to a tariff, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage;

"(9) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any port;

"(10) unreasonably refuse to deal or negotiate;

"(11) knowingly and willfully accept cargo from or transport cargo for the account of an ocean transportation intermediary that does not have a tariff as required by section 40501 of this title and a bond, insurance, or other surety as required by section 40902 of this title; or

"(12) knowingly and willfully enter into a service contract with an ocean transportation intermediary that does not have a tariff as required by section 40501 of this title and a bond, insurance, or other surety as required by section 40902 of this title, or with an affiliate of such an ocean transportation intermediary.

"§41105. Concerted action

"A conference or group of two or more common carriers may not—

"(1) boycott or take any other concerted action resulting in an unreasonable refusal to deal;

"(2) engage in conduct that unreasonably restricts the use of intermodal services or technological innovations;

"(3) engage in any predatory practice designed to eliminate the participation, or deny the entry, in a particular trade of a common carrier not a member of the conference, a group of common carriers, an ocean tramp, or a bulk carrier;

"(4) negotiate with a non-ocean carrier or group of non-ocean carriers (such as truck, rail, or air operators) on any matter relating to rates or services provided to ocean common carriers within the United States by those non-ocean carriers, unless the negotiations and any resulting agreements are not in violation of the antitrust laws and are consistent with the purposes of this part, except that this paragraph does not prohibit the setting and publishing of a joint through rate by a conference, joint venture, or association of ocean common carriers;

"(5) deny in the export foreign commerce of the United States compensation to an ocean freight forwarder or limit that compensation to less than a reasonable amount;

"(6) allocate shippers among specific carriers that are parties to the agreement or prohibit a carrier that is a party to the agreement from soliciting cargo from a particular shipper, except as—

"(A) authorized by section 40303(d) of this title;

"(B) required by the law of the United States or the importing or exporting country; or

"(C) agreed to by a shipper in a service contract;

"(7) for service pursuant to a service contract, engage in any unjustly discriminatory practice in the matter of rates or charges with respect to any locality, port, or person due to the person's status as a shippers' association or ocean transportation intermediary; or

"(8) for service pursuant to a service contract, give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any locality, port, or person due to the person's status as a shippers' association or ocean transportation intermediary.

"§41106. Marine terminal operators

"A marine terminal operator may not—

"(1) agree with another marine terminal operator or with a common carrier to boycott, or unreasonably discriminate in the provision of terminal services to, a common carrier or ocean tramp;

"(2) give any undue or unreasonable preference or advantage or impose any undue or unreasonable prejudice or disadvantage with respect to any person; or

"(3) unreasonably refuse to deal or negotiate.

"§41107. Monetary penalties

"(a) IN GENERAL.—A person that violates this part or a regulation or order of the Federal Maritime Commission issued under this part is liable tc the United States Government for a civil penalty. Unless otherwise provided in this part, the amount of the penalty may not exceed $5,000 for each violation or, if the violation was willfully and knowingly committed, $25,000 for each violation. Each day of a continuing violation is a separate violation.

"(b) LIEN ON CARRIER'S VESSELS.—The amount of a civil penalty imposed on a common carrier under this section constitutes a lien on the vessels operated by the carrier. Any such vessel is subject to an action in rem to enforce the lien in the district court of the United States for the district in which it is found.

"§41108. Additional penalties

"(a) SUSPENSION OF TARIFFS.—For a violation of section 41104(1), (2), or (7) of this title, the Federal Maritime Commission may suspend any or all tariffs of the common carrier, or that common carrier's right to use any or all tariffs of conferences of which it is a member, for a period not to exceed 12 months.

"(b) OPERATING UNDER SUSPENDED TARIFF.—A common carrier that accepts or handles cargo for carriage under a tariff that has been suspended, or after its right to use that tariff has been suspended, is liable to the United States Government for a civil penalty of not more than $50,000 for each shipment.

"(c) FAILURE TO PROVIDE INFORMATION.—

"(1) PENALTIES.—If the Commission finds, after notice and opportunity for a hearing, that a common carrier has failed to supply information ordered to be produced or compelled by subpoena under section 41303 of this title, the Commission may—

"(A) suspend any or all tariffs of the carrier or the carrier's right to use any or all tariffs of conferences of which it is a member; and

"(B) request the Secretary of Homeland Security to refuse or revoke any clearance required for a vessel operated by the carrier, and when so requested, the Secretary shall refuse or revoke the clearance.

"(2) DEFENSE BASED ON FOREIGN LAW.—If, in defense of its failure to comply with a subpoena or discovery order, a common carrier alleges that information or documents located in a foreign country cannot be produced because of the laws of that country, the Commission shall immediately notify the Secretary of State of the failure to comply and of the allegation relating to foreign laws. On receiving the notification, the Secretary of State shall promptly consult with the government of the nation within which the information or documents are alleged to be located for the purpose of assisting the Commission in obtaining the information or documents.

"(d) IMPAIRING ACCESS TO FOREIGN TRADE.—If the Commission finds, after notice and opportunity for a hearing, that the action of a common carrier, acting alone or in concert with another person, or a foreign government has unduly impaired access of a vessel documented under the laws of the United States to ocean trade between foreign ports, the Commission shall take action that it finds appropriate, including imposing any of the penalties authorized by this section. The Commission also may take any of the actions authorized by sections 42304 and 42305 of this title.

"(e) SUBMISSION OF ORDER TO PRESIDENT.—Before an order under this section becomes effective, it shall be submitted immediately to the President. The President, within 10 days after receiving it, may disapprove it if the President finds that disapproval is required for reasons of national defense or foreign policy.

"§41109. Assessment of penalties

"(a) GENERAL AUTHORITY.—Until a matter is referred to the Attorney General, the Federal Maritime Commission may, after notice and opportunity for a hearing, assess a civil penalty provided for in this part. The Commission may compromise, modify, or remit, with or without conditions, a civil penalty.

"(b) FACTORS IN DETERMINING AMOUNT.—In determining the amount of a civil penalty, the Commission shall take into account the nature, circumstances, extent, and gravity of the violation committed and, with respect to the violator, the degree of culpability, history of prior offenses, ability to pay, and other matters justice may require.

"(c) EXCEPTION.—A civil penalty may not be imposed for conspiracy to violate section 41102(a) or 41104(1) or (2) of this title or to defraud the Commission by concealing such a violation.

"(d) PROHIBITED BASIS OF PENALTY.—The Commission or a court may not order a person to pay the difference between the amount billed and agreed upon in writing with a common carrier or its agent and the amount set forth in a tariff or service contract by that common carrier for the transportation service provided.

"(e) TIME LIMIT.—A proceeding to assess a civil penalty under this section must be commenced within 5 years after the date of the violation.

"(f) REVIEW OF CIVIL PENALTY.—A person against whom a civil penalty is assessed under this section may obtain review under chapter 158 of title 28.

"(g) CIVIL ACTIONS TO COLLECT.—If a person does not pay an assessment of a civil penalty after it has become final or after the appropriate court has entered final judgment in favor of the Commission, the Attorney General at the request of the Commission may seek to collect the amount assessed in an appropriate district court of the United States. The court shall enforce the order of the Commission unless it finds that the order was not regularly made and duly issued.

"CHAPTER 413—ENFORCEMENT

"Sec.
"41301. Complaints.
"41302. Investigations.
"41303. Discovery and subpoenas.
"41304. Hearings and orders.
"41305. Award of reparations.
"41306. Injunctive relief sought by complainants.
"41307. Injunctive relief sought by the Commission.
"41308. Enforcement of subpoenas and orders.
"41309. Enforcement of reparation orders.

"§41301. Complaints

"(a) IN GENERAL.—A person may file with the Federal Maritime Commission a sworn complaint alleging a violation of this part, except section 41307(b)(1). If the complaint is filed within 3 years after the claim accrues, the complainant may seek reparations for an injury to the complainant caused by the violation.

"(b) NOTICE AND RESPONSE.—The Commission shall provide a copy of the complaint to the person named in the complaint. Within a reasonable time specified by the Commission, the person shall satisfy the complaint or answer it in writing.

"(c) IF COMPLAINT NOT SATISFIED.—If the complaint is not satisfied, the Commission shall investigate the complaint in an appropriate manner and make an appropriate order.

"§41302. Investigations

"(a) IN GENERAL.—The Federal Maritime Commission, on complaint or its own motion, may investigate any conduct or agreement that the Commission believes may be in violation of this part. The Commission may by order disapprove, cancel, or modify any agreement that operates in violation of this part.

"(b) EFFECTIVENESS OF AGREEMENT DURING INVESTIGATION.—Unless an injunction is issued under section 41306 or 41307 of this title, an agreement under investigation by the Commission remains in effect until the Commission issues its order.

"(c) DATE FOR DECISION.—Within 10 days after the initiation of a proceeding under this section or section 41301 of this title, the Commission shall set a date by which it will issue its final decision. The Commission by order may extend the date for good cause.

"(d) SANCTIONS FOR DELAY.—If, within the period for final decision under subsection (c), the Commission determines that it is unable to issue a final decision because of undue delay caused by a party to the proceeding, the Commission may impose sanctions, including issuing a decision adverse to the delaying party.

"(e) REPORT.—The Commission shall make a written report of every investigation under this part in which a hearing was held, stating its conclusions, decisions, findings of fact, and order. The Commission shall provide a copy of the report to all parties and publish the report for public information. A published report is competent evidence in a court of the United States.

"§41303. Discovery and subpoenas

"(a) IN GENERAL.—In an investigation or adjudicatory proceeding under this part—

"(1) the Federal Maritime Commission may subpoena witnesses and evidence; and

"(2) a party may use depositions, written interrogatories, and discovery procedures under regulations prescribed by the Commission that, to the extent practicable, shall conform to the Federal Rules of Civil Procedure (28 App. U.S.C.).

"(b) WITNESS FEES.—Unless otherwise prohibited by law, a witness is entitled to the same fees and mileage as in the courts of the United States.

"§41304. Hearings and orders

"(a) OPPORTUNITY FOR HEARING.—The Federal Maritime Commission shall provide an opportunity for a hearing before issuing an order relating to a violation of this part or a regulation prescribed under this part.

"(b) MODIFICATION OF ORDER.—The Commission may reverse, suspend, or modify any of its orders.

"(c) REHEARING.—On application of a party to a proceeding, the Commission may grant a rehearing of the same or any matter determined in the proceeding. Except by order of the Commission, a rehearing does not operate as a stay of an order.

"(d) PERIOD OF EFFECTIVENESS.—An order of the Commission remains in effect for the period specified in the order or until suspended, modified, or set aside by the Commission or a court of competent jurisdiction.

"§41305. Award of reparations

"(a) DEFINITION.—In this section, the term 'actual injury' includes the loss of interest at commercial rates compounded from the date of injury.

"(b) BASIC AMOUNT.—If the complaint was filed within the period specified in section 41301(a) of this title, the Federal Maritime Commission shall direct the payment of reparations to the complainant for actual injury caused by a violation of this part, plus reasonable attorney fees.

"(c) ADDITIONAL AMOUNTS.—On a showing that the injury was caused by an activity prohibited by section 41102(b), 41104(3) or (6), or 41105(1) or (3) of this title, the Commission may order the payment of additional amounts, but the total recovery of a complainant may not exceed twice the amount of the actual injury.

"(d) DIFFERENCE BETWEEN RATES.—If the injury was caused by an activity prohibited by section 41104(4)(A) or (B) of this title, the amount of the injury shall be the difference between the rate paid by the injured shipper and the most favorable rate paid by another shipper.

"§41306. Injunctive relief sought by complainants

"(a) IN GENERAL.—After filing a complaint with the Federal Maritime Commission under section 41301 of this title, the complainant may bring a civil action in a district court of the United States to enjoin conduct in violation of this part.

"(b) VENUE.—The action must be brought in the judicial district in which—

"(1) the Commission has brought a civil action against the defendant under section 41307(a) of this title; or

"(2) the defendant resides or transacts business, if the Commission has not brought such an action.

"(c) REMEDIES BY COURT.—After notice to the defendant, and a showing that the standards for granting injunctive relief by courts of equity are met, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed 10 days after the Commission has issued an order disposing of the complaint.

"(d) ATTORNEY FEES.—A defendant prevailing in a civil action under this section shall be allowed reasonable attorney fees to be assessed and collected as part of the costs of the action.

"§41307. Injunctive relief sought by the Commission

"(a) GENERAL VIOLATIONS.—In connection with an investigation under section 41301 or 41302 of this title, the Federal Maritime Commission may bring a civil action to enjoin conduct

in violation of this part. The action must be brought in the district court of the United States for any judicial district in which the defendant resides or transacts business. After notice to the defendant, and a showing that the standards for granting injunctive relief by courts of equity are met, the court may grant a temporary restraining order or preliminary injunction for a period not to exceed 10 days after the Commission has issued an order disposing of the issues under investigation.

"(b) REDUCTION IN COMPETITION.—

"(1) ACTION BY COMMISSION.—If, at any time after the filing or effective date of an agreement under chapter 403 of this title, the Commission determines that the agreement is likely, by a reduction in competition, to produce an unreasonable reduction in transportation service or an unreasonable increase in transportation cost, the Commission, after notice to the person filing the agreement, may bring a civil action in the United States District Court for the District of Columbia to enjoin the operation of the agreement. The Commission's sole remedy with respect to an agreement likely to have such an effect is an action under this subsection.

"(2) REMEDIES BY COURT.—In an action under this subsection, the court may issue—

"(A) a temporary restraining order or a preliminary injunction; and

"(B) a permanent injunction after a showing that the agreement is likely to have the effect described in paragraph (1).

"(3) BURDEN OF PROOF AND THIRD PARTIES.—In an action under this subsection, the burden of proof is on the Commission. The court may not allow a third party to intervene.

"(c) FAILURE TO PROVIDE INFORMATION.—If a person filing an agreement, or an officer, director, partner, agent, or employee of the person, fails substantially to comply with a request for the submission of additional information or documents within the period provided in section 40304(c) of this title, the Commission may bring a civil action in the United States District Court for the District of Columbia. At the request of the Commission, the Court—

"(1) may order compliance;

"(2) shall extend the period specified in section 40304(c)(2) of this title until there has been substantial compliance; and

"(3) may grant other equitable relief that the court decides is appropriate.

"(d) REPRESENTATION.—The Commission may represent itself in a proceeding under this section in—

"(1) a district court of the United States, on notice to the Attorney General; and

"(2) a court of appeals of the United States, with the approval of the Attorney General.

"§41308. Enforcement of subpoenas and orders

"(a) CIVIL ACTION.—If a person does not comply with a subpoena or order of the Federal Maritime Commission, the Attorney General, at the request of the Commission, or an injured party, may seek enforcement in a district court of the United States having jurisdiction over the parties. If, after hearing, the court determines that the subpoena or order was regularly made and duly issued, the court shall enforce the subpoena or order.

"(b) TIME LIMIT ON BRINGING ACTIONS.—An action under this section to enforce an order of the Commission must be brought within 3 years after the date the order was violated.

"§41309. Enforcement of reparation orders

"(a) CIVIL ACTION.—If a person does not comply with an order of the Federal Maritime Commission for the payment of reparation, the person to whom the award was made may seek enforcement of the order in a district court of the United States having jurisdiction over the parties.

"(b) PARTIES AND SERVICE OF PROCESS.—All parties in whose favor the Commission has made an award of reparation by a single order may be joined as plaintiffs, and all other parties in the order may be joined as defendants, in a single action in a judicial district in which any one plaintiff could maintain an action against any one defendant. Service of process against a defendant not found in that district may be made in a district in which any office of that defendant is located or in which any port of call on a regular route operated by that defendant is located. Judgment may be entered for any plaintiff against the defendant liable to that plaintiff.

"(c) NATURE OF REVIEW.—In an action under this section, the findings and order of the Commission are prima facie evidence of the facts stated in the findings and order.

"(d) COSTS AND ATTORNEY FEES.—The plaintiff is not liable for costs of the action or for costs of any subsequent stage of the proceedings unless they accrue on the plaintiff's appeal. A prevailing plaintiff shall be allowed reasonable attorney fees to be assessed and collected as part of the costs of the action.

"(e) TIME LIMIT ON BRINGING ACTIONS.—An action under this section to enforce an order of the Commission must be brought within 3 years after the date the order was violated.

"PART B—ACTIONS TO ADDRESS FOREIGN PRACTICES

"CHAPTER 421—REGULATIONS AFFECTING SHIPPING IN FOREIGN TRADE

"Sec.
"42101. Regulations of the Commission.
"42102. Regulations of other agencies.
"42103. No preference to Government-owned vessels.
"42104. Information, witnesses, and evidence.
"42105. Disclosure to public.
"42106. Other actions to remedy unfavorable conditions.
"42107. Refusal of clearance and entry.
"42108. Penalty for operating under suspended tariff or service contract.
"42109. Consultation with other agencies.

"§42101. Regulations of the Commission

"(a) UNFAVORABLE CONDITIONS.—To further the objectives and policy set forth in section 50101 of this title, the Federal Maritime Commission shall prescribe regulations affecting shipping in foreign trade, not in conflict with law, to adjust or meet general or special conditions unfavorable to shipping in foreign trade, whether in a particular trade or on a particular route or in commerce generally, including intermodal movements, terminal operations, cargo solicitation, agency services, ocean transportation intermediary services and operations, and other activities and services integral to transportation systems, and which arise out of or result from laws or regulations of a foreign country or competitive methods, pricing practices, or other practices employed by owners, operators, agents, or masters of vessels of a foreign country.

"(b) INITIATION OF REGULATION.—A regulation under subsection (a) may be initiated by the Commission on its own motion or on the petition of any person, including another component of the United States Government.

"§42102. Regulations of other agencies

"(a) REQUEST TO AGENCY.—To further the objectives and policy set forth in section 50101 of this title, the Federal Maritime Commission shall request the head of a department, agency, or instrumentality of the United States Government to suspend, modify, or annul any existing regulations, or to make new regulations, affecting shipping in the foreign trade, except regulations relating to the Public Health Service, the Consular Service, or the inspection of vessels.

"(b) PRIOR REVIEW AND APPROVAL.—A department, agency, or instrumentality of the Government may not prescribe a regulation affecting shipping in the foreign trade (except a regulation affecting the Public Health Service, the Consular Service, or the inspection of vessels) until the regulation has been submitted to the Commission for its approval and final action has been taken by the Commission or the President.

"(c) SUBMISSION TO PRESIDENT.—If the head of a department, agency, or instrumentality of the Government refuses to comply with a request under subsection (a) or objects to a decision of the Commission under subsection (b), the Commission or the head of the department, agency, or instrumentality may submit the facts to the President. The President may establish, suspend, modify, or annul the regulation.

"§42103. No preference to Government-owned vessels

"A regulation may not give a vessel owned by the United States Government a preference over a vessel owned by citizens of the United States and documented under the laws of the United States.

"§42104. Information, witnesses, and evidence

"(a) ORDER TO SUPPLY INFORMATION.—In carrying out section 42101 of this title, the Federal Maritime Commission may order any person (including a common carrier, tramp operator, bulk operator, shipper, shippers' association, ocean transportation intermediary, or marine terminal operator, or an officer, receiver, trustee, lessee, agent, or employee thereof) to file with the Commission a report, answers to questions, documentary material, or other information the Commission considers necessary or appropriate. The Commission may require the response to any such order to be made under oath. The response shall be provided in the form and within the time specified by the Commission.

"(b) SUBPOENAS AND DISCOVERY.—In carrying out section 42101 of this title, the Commission may—

"(1) subpoena witnesses and evidence; and

"(2) authorize a party to use depositions, written interrogatories, and discovery procedures that, to the extent practicable, conform to the Federal Rules of Civil Procedure (28 App. U.S.C.).

"(c) WITNESS FEES.—Unless otherwise prohibited by law, and subject to funds being appropriated, a witness in a proceeding under section 42101 of this title is entitled to the same fees and mileage as in the courts of the United States.

"(d) PENALTIES.—For failure to supply information ordered to be produced or compelled by subpoena under this section, the Commission may—

"(1) after notice and opportunity for a hearing, suspend tariffs and service contracts of a common carrier or the common carrier's right to use tariffs of conferences and service contracts of agreements of which it is a member; or

"(2) assess a civil penalty of not more than $5,000 for each day that the information is not provided.

"(e) ENFORCEMENT.—If a person does not comply with an order or subpoena of the Commission under this section, the Commission may seek enforcement in a district court of the United States having jurisdiction over the parties. If, after hearing, the court determines that the order or subpoena was regularly made and duly issued, the court shall enforce the order or subpoena.

"§42105. Disclosure to public

"Notwithstanding any other provision of law, the Federal Maritime Commission may refuse to disclose to the public a response or other information submitted to it under this chapter.

"§ 42106. Other actions to remedy unfavorable conditions

"If the Federal Maritime Commission finds that conditions unfavorable to shipping in foreign trade as described in section 42101 of this title exist, the Commission may—

"(1) limit voyages to and from United States ports or the amount or type of cargo carried;

"(2) suspend, in whole or in part, tariffs and service contracts for carriage to or from United States ports, including a common carrier's right to use tariffs of conferences and service contracts of agreements in United States trades of which it is a member for any period the Commission specifies;

"(3) suspend, in whole or in part, an ocean common carrier's right to operate under any agreement filed with the Commission, including any agreement authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenue with other ocean common carriers;

"(4) impose a fee not to exceed $1,000,000 per voyage; or

"(5) take any other action the Commission finds necessary and appropriate to adjust or meet any condition unfavorable to shipping in the foreign trade of the United States.

"§ 42107. Refusal of clearance and entry

"At the request of the Federal Maritime Commission—

"(1) the Secretary of Homeland Security shall—

"(A) refuse the clearance required by section 60105 of this title to a vessel of a country that is named in a regulation prescribed by the Commission under section 42101 of this title; and

"(B) collect any fees imposed by the Commission under section 42106(4) of this title; and

"(2) the Secretary of the department in which the Coast Guard is operating shall—

"(A) deny entry, for purposes of oceanborne trade, of a vessel of a country that is named in a regulation prescribed by the Commission under section 42101 of this title, to a port or place in the United States or the navigable waters of the United States; or

"(B) detain the vessel at the port or place in the United States from which it is about to depart for another port or place in the United States.

"§ 42108. Penalty for operating under suspended tariff or service contract

"A common carrier that accepts or handles cargo for carriage under a tariff or service contract that has been suspended under section 42104(d)(1) or 42106(2) of this title, or after its right to use another tariff or service contract has been suspended under those provisions, is liable to the United States Government for a civil penalty of not more than $50,000 for each day that it is found to be operating under a suspended tariff or service contract.

"§ 42109. Consultation with other agencies

"The Federal Maritime Commission may consult with, seek the cooperation of, or make recommendations to other appropriate agencies of the United States Government prior to taking any action under this chapter.

"CHAPTER 423—FOREIGN SHIPPING PRACTICES

"Sec.

"42301. Definitions.
"42302. Investigations.
"42303. Information requests.
"42304. Action against foreign carriers.
"42305. Refusal of clearance and entry.
"42306. Submission of determinations to President.
"42307. Review of regulations and orders.

"§ 42301. Definitions

"(a) DEFINED IN PART A.—In this chapter, the terms 'common carrier', 'marine terminal operator', 'ocean common carrier', 'ocean transportation intermediary', 'shipper', and 'shippers' association' have the meaning given those terms in section 40102 of this title.

"(b) OTHER DEFINITIONS.—In this chapter:

"(1) FOREIGN CARRIER.—The term 'foreign carrier' means an ocean common carrier a majority of whose vessels are documented under the laws of a foreign country.

"(2) MARITIME SERVICES.—The term 'maritime services' means port-to-port transportation of cargo by vessels operated by an ocean common carrier.

"(3) MARITIME-RELATED SERVICES.—The term 'maritime-related services' means intermodal operations, terminal operations, cargo solicitation, agency services, ocean transportation intermediary services and operations, and all other activities and services integral to total transportation systems of ocean common carriers and their foreign domiciled affiliates for themselves and others.

"(4) UNITED STATES CARRIER.—The term 'United States carrier' means an ocean common carrier operating vessels documented under the laws of the United States.

"(5) UNITED STATES OCEANBORNE TRADE.—The term 'United States oceanborne trade' means the carriage of cargo between the United States and a foreign country, whether directly or indirectly, by an ocean common carrier.

"§ 42302. Investigations

"(a) IN GENERAL.—The Federal Maritime Commission shall investigate whether any laws, rules, regulations, policies, or practices of a foreign government, or any practices of a foreign carrier or other person providing maritime or maritime-related services in a foreign country, result in the existence of conditions that—

"(1) adversely affect the operations of United States carriers in United States oceanborne trade; and

"(2) do not exist for foreign carriers of that country in the United States under the laws of the United States or as a result of acts of United States carriers or other persons providing maritime or maritime-related services in the United States.

"(b) INITIATION OF INVESTIGATION.—An investigation under subsection (a) may be initiated by the Commission on its own motion or on the petition of any person, including another component of the United States Government.

"(c) TIME FOR DECISION.—The Commission shall complete an investigation under this section and render a decision within 120 days after it is initiated. However, the Commission may extend this 120-day period for an additional 90 days if the Commission is unable to obtain sufficient information to determine whether a condition specified in subsection (a) exists. A notice providing an extension shall state clearly the reasons for the extension.

"§ 42303. Information requests

"(a) IN GENERAL.—To further the purposes of section 42302(a) of this title, the Federal Maritime Commission may order any person (including a common carrier, shipper, shippers' association, ocean transportation intermediary, or marine terminal operator, or an officer, receiver, trustee, lessee, agent or employee thereof) to file with the Commission any periodic or special report, answers to questions, documentary material, or other information the Commission considers necessary or appropriate. The Commission may require the response to any such order to be made under oath. The response shall be provided in the form and within the time specified by the Commission.

"(b) SUBPOENAS.—In an investigation under section 42302 of this title, the Commission may subpoena witnesses and evidence.

"(c) NONDISCLOSURE.—Notwithstanding any other provision of law, the Commission may determine that any information submitted to it in response to a request under this section, or otherwise, shall not be disclosed to the public.

"§ 42304. Action against foreign carriers

"(a) IN GENERAL.—Subject to section 42306 of this title, whenever the Federal Maritime Commission, after notice and opportunity for comment or hearing, determines that the conditions specified in section 42302(a) of this title exist, the Commission shall take such action to offset those conditions as it considers necessary and appropriate against any foreign carrier that is a contributing cause, or whose government is a contributing cause, to those conditions. The action may include—

"(1) limitations on voyages to and from United States ports or on the amount or type of cargo carried;

"(2) suspension, in whole or in part, of any or all tariffs and service contracts, including an ocean common carrier's right to use any or all tariffs and service contracts of conferences in United States trades of which it is a member for any period the Commission specifies;

"(3) suspension, in whole or in part, of an ocean common carrier's right to operate under any agreement filed with the Commission, including any agreement authorizing preferential treatment at terminals, preferential terminal leases, space chartering, or pooling of cargo or revenue with other ocean common carriers; and

"(4) a fee not to exceed $1,000,000 per voyage.

"(b) CONSULTATION.—The Commission may consult with, seek the cooperation of, or make recommendations to other appropriate agencies of the United States Government prior to taking any action under subsection (a).

"§ 42305. Refusal of clearance and entry

"Subject to section 42306 of this title, whenever the Federal Maritime Commission determines that the conditions specified in section 42302(a) of this title exist, then at the request of the Commission—

"(1) the Secretary of Homeland Security shall refuse the clearance required by section 60105 of this title to a vessel of a foreign carrier that is identified by the Commission under section 42304 of this title; and

"(2) the Secretary of the department in which the Coast Guard is operating shall—

"(A) deny entry, for purposes of oceanborne trade, of a vessel of a foreign carrier that is identified by the Commission under section 42304 of this title, to a port or place in the United States or the navigable waters of the United States; or

"(B) detain the vessel at the port or place in the United States from which it is about to depart for another port or place in the United States.

"§ 42306. Submission of determinations to President

"Before a determination under section 42304 of this title becomes effective or a request is made under section 42305 of this title, the determination shall be submitted immediately to the President. The President, within 10 days after receiving it, may disapprove it in writing, setting forth the reasons for the disapproval, if the President finds that disapproval is required for reasons of national defense or foreign policy.

"§ 42307. Review of regulations and orders

"A regulation or final order of the Federal Maritime Commission under this chapter is reviewable exclusively in the same forum and in the same manner as provided in section 2342(3)(B) of title 28.

"PART C—MISCELLANEOUS

"CHAPTER 441—EVIDENCE OF FINANCIAL RESPONSIBILITY FOR PASSENGER TRANSPORTATION

"Sec.

“44101. Application.
“44102. Financial responsibility to indemnify passengers for nonperformance of transportation.
“44103. Financial responsibility to pay liability for death or injury.
“44104. Civil penalty.
“44105. Refusal of clearance.
“44106. Conduct of proceedings.

“§44101. Application

“This chapter applies to a vessel that—

“(1) has berth or stateroom accommodations for at least 50 passengers; and

“(2) boards passengers at a port in the United States.

“§44102. Financial responsibility to indemnify passengers for nonperformance of transportation

“(a) FILING REQUIREMENT.—A person in the United States may not arrange, offer, advertise, or provide transportation on a vessel to which this chapter applies unless the person has filed with the Federal Maritime Commission evidence of financial responsibility to indemnify passengers for nonperformance of the transportation.

“(b) SATISFACTORY EVIDENCE.—To satisfy subsection (a), a person must file—

“(1) information the Commission considers necessary; or

“(2) a copy of a bond or other security, in such form as the Commission by regulation may require.

“(c) AUTHORIZED ISSUER OF BOND.—If a bond is filed, it must be issued by a bonding company authorized to do business in the United States.

“§44103. Financial responsibility to pay liability for death or injury

“(a) GENERAL REQUIREMENT.—The owner or charterer of a vessel to which this chapter applies shall establish, under regulations prescribed by the Federal Maritime Commission, financial responsibility to meet liability for death or injury to passengers or other individuals on a voyage to or from a port in the United States.

“(b) AMOUNTS.—

“(1) IN GENERAL.—The amount of financial responsibility required under subsection (a) shall be based on the number of passenger accommodations as follows:

“(A) $20,000 for each of the first 500 passenger accommodations.

“(B) $15,000 for each additional passenger accommodation between 501 and 1,000.

“(C) $10,000 for each additional passenger accommodation between 1,001 and 1,500.

“(D) $5,000 for each additional passenger accommodation over 1,500.

“(2) MULTIPLE VESSELS.—If the owner or charterer is operating more than one vessel subject to this chapter, the amount of financial responsibility shall be based on the number of passenger accommodations on the vessel with the largest number of passenger accommodations.

“(c) AVAILABILITY TO PAY JUDGMENT.—The amount determined under subsection (b) shall be available to pay a judgment for damages (whether less than or more than $20,000) for death or injury to a passenger or other individual on a voyage to or from a port in the United States.

“(d) MEANS OF ESTABLISHING.—Financial responsibility under this section may be established by one or more of the following if acceptable to the Commission:

“(1) Insurance.

“(2) Surety bond issued by a bonding company authorized to do business in the United States.

“(3) Qualification as a self-insurer.

“(4) Other evidence of financial responsibility.

“§44104. Civil penalty

“A person that violates section 44102 or 44103 of this title is liable to the United States Government for a civil penalty of not more than $5,000, plus $200 for each passage sold, to be assessed by the Federal Maritime Commission. The Commission may remit or mitigate the penalty on terms the Commission considers proper.

“§44105. Refusal of clearance

“The Secretary of Homeland Security shall refuse the clearance required by section 60105 of this title, at the port or place of departure from the United States, of a vessel that is subject to this chapter and does not have evidence issued by the Federal Maritime Commission of compliance with sections 44102 and 44103 of this title.

“§44106. Conduct of proceedings

“Part A of this subtitle applies to proceedings conducted by the Federal Maritime Commission under this chapter.”.

SEC. 8. SUBTITLE V OF TITLE 46.

(a) SUBTITLE ANALYSIS.—The analysis of subtitle V of title 46, United States Code, is amended to read as follows:

“PART A—GENERAL	
“Chapter	Sec.
“501. Policy, Studies, and Reports	**50101**
“503. Administrative	**50301**
“505. Other General Provisions	**50501**
“PART B—MERCHANT MARINE SERVICE	
“511. General	**51101**
“513. United States Merchant Marine Academy	**51301**
“515. State Maritime Academy Support Program	**51501**
“517. Other Support for Merchant Marine Training	**51701**
“519. Merchant Marine Awards	**51901**
“521. Miscellaneous	**52101**
“PART C—FINANCIAL ASSISTANCE PROGRAMS	
“531. Maritime Security Fleet	**53101**
“533. Construction Reserve Funds	**53301**
“535. Capital Construction Funds	**53501**
“537. Loans and Guarantees	**53701**
“539. War Risk Insurance	**53901**
“PART D—PROMOTIONAL PROGRAMS	
“551. Coastwise Trade	**55101**
“553. Passenger and Cargo Preferences	**55301**
“555. Miscellaneous	**55501**
“PART E—CONTROL OF MERCHANT MARINE CAPABILITIES	
“561. Restrictions on Transfers	**56101**
“563. Emergency Acquisition of Vessels	**56301**
“565. Essential Vessels Affected by Neutrality Act	**56501**
“PART F—GOVERNMENT-OWNED MERCHANT VESSELS	
“571. General Authority	**57101**
“573. Vessel Trade-In Program	**57301**
“575. Construction, Charter, and Sale of Vessels	**57501**
“PART G—RESTRICTIONS AND PENALTIES	
“581. Restrictions and Penalties	**58101”.**

(b) CHAPTERS PRECEDING CHAPTER 531.—Subtitle V of title 46, United States Code, is amended by inserting after the subtitle analysis the following:

“PART A—GENERAL

“CHAPTER 501—POLICY, STUDIES, AND REPORTS

“Sec.
“50101. Objectives and policy.
“50102. Survey of merchant marine.
“50103. Determinations of essential services.
“50104. Studies of general maritime problems.
“50105. Studies and cooperation relating to the construction of vessels.
“50106. Studies on the operation of vessels.
“50107. Studies on marine insurance.
“50108. Studies on cargo carriage and cargo containers.
“50109. Miscellaneous studies.
“50110. Securing preference to vessels of the United States.
“50111. Reports to Congress.
“50112. National Maritime Enhancement Institutes.
“50113. Use and performance reports by operators of vessels.

“§50101. Objectives and policy

“(a) OBJECTIVES.—It is necessary for the national defense and the development of the domestic and foreign commerce of the United States that the United States have a merchant marine—

“(1) sufficient to carry the waterborne domestic commerce and a substantial part of the waterborne export and import foreign commerce of the United States and to provide shipping service essential for maintaining the flow of the waterborne domestic and foreign commerce at all times;

“(2) capable of serving as a naval and military auxiliary in time of war or national emergency;

“(3) owned and operated as vessels of the United States by citizens of the United States;

“(4) composed of the best-equipped, safest, and most suitable types of vessels and manned with a trained and efficient citizen personnel; and

“(5) supplemented by efficient facilities for building and repairing vessels.

“(b) POLICY.—It is the policy of the United States to encourage and aid the development and maintenance of a merchant marine satisfying the objectives described in subsection (a).

“§50102. Survey of merchant marine

“(a) IN GENERAL.—The Secretary of Transportation shall survey the merchant marine of the United States to determine whether replacements and additions are required to carry out the objectives and policy of section 50101 of this title. The Secretary shall study, perfect, and adopt a long-range program for replacements and additions that will result, as soon as practicable, in—

“(1) an adequate and well-balanced merchant fleet, including vessels of all types, that will provide shipping service essential for maintaining the flow of foreign commerce by vessels designed to be readily and quickly convertible into transport and supply vessels in a time of national emergency;

“(2) ownership and operation of the fleet by citizens of the United States insofar as practicable;

“(3) vessels designed to afford the best and most complete protection for passengers and crew against fire and all marine perils; and

“(4) an efficient capacity for building and repairing vessels in the United States with an adequate number of skilled personnel to provide an adequate mobilization base.

“(b) COOPERATION WITH SECRETARY OF NAVY.—In carrying out subsection (a)(1), the Secretary of Transportation shall cooperate closely with the Secretary of the Navy as to national defense requirements.

“§50103. Determinations of essential services

“(a) ESSENTIAL SERVICES, ROUTES, AND LINES.—

“(1) IN GENERAL.—The Secretary of Transportation shall investigate, determine, and keep current records of the ocean services, routes, and lines from ports in the United States, or in the territories and possessions of the United States, to foreign markets, which the Secretary determines to be essential for the promotion, development, expansion, and maintenance of the foreign commerce of the United States. In making such a determination, the Secretary shall consider and give due weight to—

“(A) the cost of maintaining each line;

“(B) the probability that a line cannot be maintained except at a heavy loss disproportionate to the benefit to foreign trade;

“(C) the number of voyages and types of vessels that should be employed in a line;

"(D) the intangible benefit of maintaining a line to the foreign commerce of the United States, the national defense, and other national requirements; and

"(E) any other facts and conditions a prudent business person would consider when dealing with the person's own business.

"(2) Saint Lawrence Seaway.—For purposes of paragraph (1), the Secretary shall establish services, routes, and lines that reflect the seasonal closing of the Saint Lawrence Seaway and provide for alternate routing of vessels through a different range of ports during that closing to maintain continuity of service on a year-round basis.

"(b) Bulk Cargo Carrying Services.—The Secretary shall investigate, determine, and keep current records of the bulk cargo carrying services that should be provided by vessels of the United States (whether or not operating on particular services, routes, or lines) for the promotion, development, expansion, and maintenance of the foreign commerce of the United States and the national defense or other national requirements.

"(c) Types of Vessels.—The Secretary shall investigate, determine, and keep current records of the type, size, speed, method of propulsion, and other requirements of the vessels, including express-liner or super-liner vessels, that should be employed in—

"(1) the services, routes, or lines described in subsection (a), and the frequency and regularity of the voyages of the vessels, with a view to furnishing adequate, regular, certain, and permanent service; and

"(2) the bulk cargo carrying services described in subsection (b).

"§50104. Studies of general maritime problems

"The Secretary of Transportation shall study all maritime problems arising in carrying out the policy in section 50101 of this title.

"§50105. Studies and cooperation relating to the construction of vessels

"(a) Relative Costs and New Designs.—The Secretary of Transportation shall investigate, determine, and keep current records of—

"(1) the relative cost of construction of comparable vessels in the United States and in foreign countries; and

"(2) new designs, new methods of construction, and new types of equipment for vessels.

"(b) Rules, Classifications, and Ratings.—The Secretary shall examine the rules under which vessels are constructed abroad and in the United States and the methods of classifying and rating the vessels.

"(c) Collaboration With Owners and Builders.—The Secretary shall collaborate with vessel owners and shipbuilders in developing plans for the economical construction of vessels and their propelling machinery, of most modern economical types, giving thorough consideration to all well-recognized means of propulsion and taking into account the benefits from standardized production where practicable and desirable.

"(d) Express-Liner and Super-Liner Vessels.—The Secretary shall study and cooperate with vessel owners in devising means by which there may be constructed, by or with the aid of the United States Government, express-liner or super-liner vessels comparable to those of other nations, especially with a view to their use in a national emergency, and the use of transoceanic aircraft service in connection with or in lieu of those vessels.

"§50106. Studies on the operation of vessels

"(a) Relative Costs.—The Secretary of Transportation shall investigate, determine, and keep current records of the relative cost of marine insurance, maintenance, repairs, wages and subsistence of officers and crews, and all other items of expense, in the operation of comparable vessels under the laws and regulations of the United States and those of the foreign countries whose vessels are substantial competitors of American vessels.

"(b) Shipyards.—The Secretary shall investigate, determine, and keep current records of the number, location, and efficiency of shipyards in the United States.

"(c) Navigation Laws.—The Secretary shall examine the navigation laws and regulations of the United States and make such recommendations to Congress as the Secretary considers proper for the amendment, improvement, and revision of those laws and for the development of the merchant marine of the United States.

"§50107. Studies on marine insurance

"The Secretary of Transportation shall—

"(1) examine into the subject of marine insurance, the number of companies in the United States, domestic and foreign, engaging in marine insurance, the extent of the insurance on hulls and cargoes placed or written in the United States, and the extent of reinsurance of American maritime risks in foreign companies; and

"(2) ascertain what steps may be necessary to develop an ample marine insurance system as an aid in the development of the merchant marine of the United States.

"§50108. Studies on cargo carriage and cargo containers

"(a) Studies.—The Secretary of Transportation shall study—

"(1) the methods of encouraging the development and implementation of new concepts for the carriage of cargo in the domestic and foreign commerce of the United States; and

"(2) the economic and technological aspects of the use of cargo containers as a method of carrying out the policy in section 50101 of this title.

"(b) Restriction.—In carrying out subsection (a) and the policy in section 50101 of this title, the United States Government may not give preference as between carriers based on the length, height, or width of cargo containers or the length, height, or width of cargo container cells. This restriction applies to all existing container vessels and any container vessel to be constructed or rebuilt.

"§50109. Miscellaneous studies

"(a) Foreign Subsidies.—The Secretary of Transportation shall investigate, determine, and keep current records of the extent and character of the governmental aid and subsidies granted by foreign governments to their merchant marine.

"(b) Laws Applicable to Aircraft.—The Secretary shall investigate, determine, and keep current records of the provisions of law relating to shipping that should be made applicable to aircraft engaged in foreign commerce to further the policy in section 50101 of this title, and any appropriate legislation in this regard.

"(c) Aid for Cotton, Coal, Lumber, and Cement.—The Secretary shall investigate, determine, and keep current records of the advisability of enactment of suitable legislation authorizing the Secretary, in an economic or commercial emergency, to aid farmers and producers of cotton, coal, lumber, and cement in any section of the United States in the transportation and landing of their products in any foreign port, which products can be carried in dry-cargo vessels by reducing rates, by supplying additional tonnage to any American operator, or by operation of vessels directly by the Secretary, until the Secretary considers the special rate reduction and operation unnecessary for the benefit of those farmers and producers.

"(d) Intercoastal and Inland Water Transportation.—The Secretary shall investigate, determine, and keep current records of intercoastal and inland water transportation, including their relation to transportation by land and air.

"(e) Obsolete Tonnage and Tramp Service.—The Secretary shall make studies and reports to Congress on—

"(1) the scrapping or removal from service of old or obsolete merchant tonnage owned by the United States Government or in use in the merchant marine; and

"(2) tramp shipping service and the advisability of citizens of the United States participating in that service with vessels under United States registry.

"(f) Mortgage Loans.—The Secretary shall investigate the legal status of mortgage loans on vessel property, with a view to the means of improving the security of those loans and of encouraging investment in American shipping.

"§50110. Securing preference to vessels of the United States

"(a) Possibilities of Promoting Carriage.—The Secretary of Transportation shall investigate, determine, and keep current records of the possibilities of promoting the carriage of United States foreign trade in vessels of the United States.

"(b) Inducements to Importers and Exporters.—The Secretary shall study and cooperate with vessel owners in devising means by which the importers and exporters of the United States can be induced to give preference to vessels of the United States.

"(c) Liaison With Agencies and Organizations.—The Secretary shall establish and maintain liaison with such other agencies of the United States Government, and with such representative trade organizations throughout the United States, as may be concerned, directly or indirectly, with any movement of commodities in the waterborne export and import foreign commerce of the United States, for the purpose of securing preference to vessels of the United States in the shipment of those commodities.

"§50111. Reports to Congress

"(a) In General.—Not later than April 1 of each year, the Secretary of Transportation shall submit a report to Congress. The report shall include, with respect to activities of the Secretary under this subtitle, the results of investigations, a summary of transactions, a statement of all expenditures and receipts, the purposes for which all expenditures were made, and any recommendations for legislation.

"(b) Administered and Oversight Funds.—The Secretary, in the report under subsection (a) and in the annual budget estimate for the Maritime Administration submitted to Congress, shall state separately the amount, source, intended use, and nature of any funds (other than funds appropriated to the Administration or to the Secretary of Transportation for use by the Administration) administered, or subject to oversight, by the Administration.

"(c) Additional Recommendations for Legislation.—The Secretary, from time to time, shall make recommendations to Congress for legislation the Secretary considers necessary to better achieve the objectives and policy of section 50101 of this title.

"§50112. National Maritime Enhancement Institutes

"(a) Designation.—The Secretary of Transportation may designate National Maritime Enhancement Institutes.

"(b) Activities.—Activities undertaken by an institute may include—

"(1) conducting research about methods to improve the performance of maritime industries;

"(2) enhancing the competitiveness of domestic maritime industries in international trade;

"(3) forecasting trends in maritime trade;

"(4) assessing technological advancements,

“(5) developing management initiatives and training;

“(6) analyzing economic and operational impacts of regulatory policies and international negotiations or agreements pending before international bodies;

“(7) assessing the compatibility of domestic maritime infrastructure systems with overseas transport systems;

“(8) fostering innovations in maritime transportation pricing; and

“(9) improving maritime economics and finance.

“(c) APPLICATION FOR DESIGNATION.—An institution seeking designation as a National Maritime Enhancement Institute shall submit an application under regulations prescribed by the Secretary.

“(d) CRITERIA FOR DESIGNATION.—The Secretary shall designate an institute under this section on the basis of the following criteria:

“(1) The demonstrated research and extension resources available to the applicant for carrying out the activities specified in subsection (b).

“(2) The ability of the applicant to provide leadership in making national and regional contributions to the solution of both long-range and immediate problems of the domestic maritime industry.

“(3) The existence of an established program of the applicant encompassing research and training directed to enhancing maritime industries.

“(4) The demonstrated ability of the applicant to assemble and evaluate pertinent information from national and international sources and to disseminate results of maritime industry research and educational programs through a continuing education program.

“(5) The qualification of the applicant as a nonprofit institution of higher learning.

“(e) FINANCIAL AWARDS.—The Secretary may make awards on an equal matching basis to an institute designated under subsection (a) from amounts appropriated. The aggregate annual amount of the Federal share of the awards by the Secretary may not exceed $500,000.

“(f) UNIVERSITY TRANSPORTATION RESEARCH FUNDS.—The Secretary may make a grant under section 5505 of title 49 to an institute designated under subsection (a) for maritime and maritime intermodal research under that section as if the institute were a university transportation center. In making a grant, the Secretary, through the Research and Innovative Technology Administration, shall advise the Maritime Administration on the availability of funds for the grants and consult with the Administration on making the grants.

“§50113. Use and performance reports by operators of vessels

“(a) FILING REQUIREMENT.—The Secretary of Transportation by regulation may require the operator of a vessel in the waterborne foreign commerce of the United States to file such report, account, record, or memorandum on the use and performance of the vessel as the Secretary considers desirable to assist in carrying out this subtitle. The report, account, record, or memorandum shall be signed and verified, and be filed at the times and in the manner, as provided by regulation.

“(b) CIVIL PENALTY.—An operator not filing a report, account, record, or memorandum required by the Secretary under this section is liable to the United States Government for a civil penalty of $50 for each day of the violation. A penalty imposed under this section on the operator of a vessel constitutes a lien on the vessel involved in the violation. A civil action in rem to enforce the lien may be brought in the district court of the United States for any district in which the vessel is found. The Secretary may remit or mitigate any penalty imposed under this section.

“CHAPTER 503—ADMINISTRATIVE

“Sec.
“50301. Vessel Operations Revolving Fund.
“50302. Port development.
“50303. Operating property and extending term of notes.
“50304. Sale and transfer of property.
“50305. Appointment of trustee or receiver and operation of vessels.
“50306. Requiring testimony and records in investigations.

“§50301. Vessel Operations Revolving Fund

“(a) IN GENERAL.—There is a ‘Vessel Operations Revolving Fund’ for use by the Secretary of Transportation in carrying out duties and powers related to vessel operations, including charter, operation, maintenance, repair, reconditioning, and improvement of merchant vessels under the jurisdiction of the Secretary. The Fund has a working capital of $20,000,000, to remain available until expended.

“(b) RELATIONSHIP TO OTHER LAWS.—Notwithstanding any other law, rates for shipping services provided under the Fund shall be prescribed by the Secretary and the Fund shall be credited with receipts from vessel operations conducted under the Fund. Sections 1(a) and (c), 3(c), and 4 of the Act of March 24, 1943 (50 App. U.S.C. 1291(a), (c), 1293(c), 1294), apply to those operations and to seamen employed through general agents as employees of the United States Government. Notwithstanding any other law on the employment of persons by the Government, the seamen may be employed in accordance with customary commercial practices in the maritime industry.

“(c) ADVANCEMENTS.—With the approval of the Director of the Office of Management and Budget, the Secretary may advance amounts the Secretary considers necessary, but not more than 2 percent of vessel operating expenses, from the Fund to the appropriation ‘Salaries and Expenses’ in carrying out duties and powers related to vessel operations, without regard to the limitations on amounts stated in that appropriation.

“(d) TRANSFERS.—The unexpended balances of working funds or of allocation accounts established after January 1, 1951, for the activities provided for in subsection (a), and receipts received from those activities, may be transferred to the Fund, which shall be available for the purposes of those working funds or allocation accounts.

“(e) LIMITATION.—

“(1) IN GENERAL.—Amounts made available to the Secretary for maritime activities by this section or any other law may not be used to pay for a vessel described in paragraph (2) unless the compensation to be paid is computed under section 56303 of this title as that section is interpreted by the Comptroller General.

“(2) APPLICABLE VESSELS.—Paragraph (1) applies to a vessel—

“(A) the title to which is acquired by the Government by requisition or purchase;

“(B) the use of which is taken by requisition or agreement; or

“(C) lost while insured by the Government.

“(3) NONAPPLICABLE VESSELS.—Paragraph (1) does not apply to a vessel under a construction-differential subsidy contract.

“(f) AVAILABILITY FOR ADDITIONAL PURPOSES.—The Fund is available for—

“(1) necessary expenses incurred in the protection, preservation, maintenance, acquisition, or use of vessels involved in mortgage foreclosure or forfeiture proceedings instituted by the Government, including payment of prior claims and liens, expenses of sale, or other related charges;

“(2) necessary expenses incident to the redelivery and lay-up, in the United States, of vessels chartered as of June 20, 1956, under agreements not calling for their return to the Government;

“(3) the activation, repair, and deactivation of merchant vessels chartered for limited emergency purposes during fiscal year 1957 under the jurisdiction of the Secretary; and

“(4) payment of expenses of custody and maintenance of Government-owned vessels not in the National Defense Reserve Fleet.

“(g) EXPENSES AND RECEIPTS RELATED TO CHARTER OPERATIONS.—The Fund is available for expenses incurred in activating, repairing, and deactivating merchant vessels chartered under the jurisdiction of the Secretary. Receipts from charter operations of Government-owned vessels under the jurisdiction of the Secretary shall be credited to the Fund.

“§50302. Port development

“(a) GENERAL REQUIREMENTS.—With the objective of promoting, encouraging, and developing ports and transportation facilities in connection with water commerce over which the Secretary of Transportation has jurisdiction, the Secretary, in cooperation with the Secretary of the Army, shall—

“(1) investigate territorial regions and zones tributary to ports, taking into consideration the economies of transportation by rail, water, and highway and the natural direction of the flow of commerce;

“(2) investigate the causes of congestion of commerce at ports and applicable remedies;

“(3) investigate the subject of water terminals, including the necessary docks, warehouses, and equipment, to devise and suggest the types most appropriate for different locations and for the most expeditious and economical transfer or interchange of passengers or property between water carriers and rail carriers;

“(4) consult with communities on the appropriate location and plan of construction of wharves, piers, and water terminals;

“(5) investigate the practicability and advantages of harbor, river, and port improvements in connection with foreign and coastwise trade; and

“(6) investigate any other matter that may tend to promote and encourage the use by vessels of ports adequate to care for the freight that naturally would pass through those ports.

“(b) SUBMISSION OF FINDINGS TO SURFACE TRANSPORTATION BOARD.—After an investigation under subsection (a), if the Secretary of Transportation believes that the rates or practices of a rail carrier subject to the jurisdiction of the Surface Transportation Board are detrimental to the objective specified in subsection (a), or that new rates or practices, new or additional port terminal facilities, or affirmative action by a rail carrier is necessary to promote that objective, the Secretary may submit findings to the Board for action the Board considers appropriate under existing law.

“§50303. Operating property and extending term of notes

“(a) GENERAL AUTHORITY.—The Secretary of Transportation may—

“(1) operate or lease docks, wharves, piers, or real property under the Secretary's control; and

“(2) make extensions and accept renewals of—

“(A) promissory notes and other evidences of indebtedness on property; and

“(B) mortgages and other contracts securing the property.

“(b) TERMS OF TRANSACTIONS.—A transaction under subsection (a) shall be on terms the Secretary considers necessary to carry out the purposes of this subtitle, but consistent with sound business practice.

“(c) AVAILABILITY OF AMOUNTS.—Amounts received by the Secretary from a transaction under this section are available for expenditure by the Secretary as provided in this subtitle.

"§50304. Sale and transfer of property

"(a) AUTHORITY TO SELL.—The Secretary of Transportation may sell property (other than vessels transferred under section 4 of the Merchant Marine Act, 1920 (ch. 250, 41 Stat. 990)) on terms the Secretary considers appropriate.

"(b) TRANSFERS FROM MILITARY TO CIVILIAN CONTROL.—When the President considers it in the interest of the United States, the President may transfer to the Secretary of Transportation possession and control of property described in the second paragraph of section 17 of the Merchant Marine Act, 1920 (ch. 250, 41 Stat. 994), as originally enacted, that is possessed and controlled by the Secretary of a military department.

"(c) TRANSFERS FROM CIVILIAN TO MILITARY CONTROL.—When the President considers it necessary, the President by executive order may transfer to the Secretary of a military department possession and control of property described in section 17 of the Merchant Marine Act, 1920 (ch. 250, 41 Stat. 994), as originally enacted, that is possessed and controlled by the Secretary of Transportation. The President's order shall state the need for the transfer and the period of the need. When the President decides that the need has ended, the possession and control shall revert to the Secretary of Transportation. The property may not be sold except as provided by law.

"§50305. Appointment of trustee or receiver and operation of vessels

"(a) APPOINTMENT OF TRUSTEES AND RECEIVERS.—

"(1) APPOINTMENT OF SECRETARY.—In a proceeding in a court of the United States in which a trustee or receiver may be appointed for a corporation operating a vessel of United States registry between the United States and a foreign country, on which the United States Government holds a mortgage, the court may appoint the Secretary of Transportation as the sole trustee or receiver (subject to the direction of the court) if—

"(A) the court finds that the appointment will—

"(i) inure to the advantage of the estate and the parties in interest; and

"(ii) tend to carry out the purposes of this subtitle; and

"(B) the Secretary expressly consents to the appointment.

"(2) APPOINTMENT OF OTHER PERSON.—The appointment of another person as trustee or receiver without a hearing becomes effective when ratified by the Secretary, but the Secretary may demand a hearing.

"(b) OPERATION OF VESSELS.—

"(1) IN GENERAL.—If the court is unwilling to allow the trustee or receiver to operate the vessel in foreign commerce without financial aid from the Government pending termination of the proceeding, and the Secretary certifies to the court that the continued operation of the vessel is essential to the foreign commerce of the United States and is reasonably calculated to carry out the purposes of this subtitle, the court may allow the Secretary to operate the vessel, either directly or through a managing agent or operator employed by the Secretary. The Secretary must agree to comply with terms imposed by the court sufficient to protect the parties in interest. The Secretary also must agree to pay all operating losses resulting from the operation. The operation shall be for the account of the trustee or receiver.

"(2) PAYMENT OF OPERATING LOSSES AND OTHER AMOUNTS.—The Secretary has no claim against the corporation, its estate, or its assets for operating losses paid by the Secretary, but the Secretary may pay amounts for depreciation the Secretary considers reasonable and other amounts the court considers just. The payment of operating losses and the other amounts and compliance with terms imposed by the court shall be in satisfaction of any claim against the Secretary resulting from the operation of the vessel.

"(3) DEEMED OPERATION BY GOVERNMENT.—A vessel operated by the Secretary under this subsection is deemed to be a vessel operated by the United States under chapter 309 of this title.

"§50306. Requiring testimony and records in investigations

"(a) IN GENERAL.—In conducting an investigation that the Secretary of Transportation considers necessary and proper to carry out this subtitle, the Secretary may administer oaths, take evidence, and subpoena persons to testify and produce documents relevant to the matter under investigation. Persons may be required to attend or produce documents from any place in the United States at any designated place of hearing.

"(b) FEES AND MILEAGE.—Persons subpoenaed by the Secretary under subsection (a) shall be paid the same fees and mileage paid to witnesses in the courts of the United States.

"(c) ENFORCEMENT OF SUBPOENAS.—If a person disobeys a subpoena issued under subsection (a), the Secretary may seek an order enforcing the subpoena from the district court of the United States for the district in which the person resides or does business. Process may be served in the judicial district in which the person resides or is found. The court may issue an order to obey the subpoena and punish a refusal to obey as a contempt of court.

"CHAPTER 505—OTHER GENERAL PROVISIONS

"Sec.
"50501. Entities deemed citizens of the United States.
"50502. Applicability to receivers, trustees, successors, and assigns.
"50503. Oceanographic research vessels.
"50504. Sailing school vessels.

"§50501. Entities deemed citizens of the United States

"(a) IN GENERAL.—In this subtitle, a corporation, partnership, or association is deemed to be a citizen of the United States only if the controlling interest is owned by citizens of the United States. However, if the corporation, partnership, or association is operating a vessel in the coastwise trade, at least 75 percent of the interest must be owned by citizens of the United States.

"(b) ADDITIONAL REQUIREMENTS FOR CORPORATIONS.—In this subtitle, a corporation is deemed to be a citizen of the United States only if, in addition to satisfying the requirements in subsection (a)—

"(1) it is incorporated under the laws of the United States or a State;

"(2) its chief executive officer, by whatever title, and the chairman of its board of directors are citizens of the United States; and

"(3) no more of its directors are noncitizens than a minority of the number necessary to constitute a quorum.

"(c) DETERMINATION OF CONTROLLING CORPORATE INTEREST.—The controlling interest in a corporation is owned by citizens of the United States under subsection (a) only if—

"(1) title to the majority of the stock in the corporation is vested in citizens of the United States free from any trust or fiduciary obligation in favor of a person not a citizen of the United States;

"(2) the majority of the voting power in the corporation is vested in citizens of the United States;

"(3) there is no contract or understanding by which the majority of the voting power in the corporation may be exercised, directly or indirectly, in behalf of a person not a citizen of the United States; and

"(4) there is no other means by which control of the corporation is given to or permitted to be exercised by a person not a citizen of the United States.

"(d) DETERMINATION OF 75 PERCENT CORPORATE INTEREST.—At least 75 percent of the interest in a corporation is owned by citizens of the United States under subsection (a) only if—

"(1) title to at least 75 percent of the stock in the corporation is vested in citizens of the United States free from any trust or fiduciary obligation in favor of a person not a citizen of the United States;

"(2) at least 75 percent of the voting power in the corporation is vested in citizens of the United States;

"(3) there is no contract or understanding by which more than 25 percent of the voting power in the corporation may be exercised, directly or indirectly, in behalf of a person not a citizen of the United States; and

"(4) there is no other means by which control of more than 25 percent of any interest in the corporation is given to or permitted to be exercised by a person not a citizen of the United States.

"§50502. Applicability to receivers, trustees, successors, and assigns

"This subtitle applies to receivers, trustees, successors, and assigns of any person to whom this subtitle applies.

"§50503. Oceanographic research vessels

"An oceanographic research vessel (as defined in section 2101 of this title) is deemed not to be engaged in trade or commerce.

"§50504. Sailing school vessels

"(a) DEFINITIONS.—In this section, the terms 'sailing school instructor', 'sailing school student', and 'sailing school vessel' have the meaning given those terms in section 2101 of this title.

"(b) NOT SEAMEN.—A sailing school student or sailing school instructor is deemed not to be a seaman under—

"(1) parts B, F, and G of subtitle II of this title; or

"(2) the maritime law doctrines of maintenance and cure or warranty of seaworthiness.

"(c) NOT MERCHANT VESSEL OR ENGAGED IN TRADE OR COMMERCE.—A sailing school vessel is deemed not to be—

"(1) a merchant vessel under section 11101(a)-(c) of this title; or

"(2) a vessel engaged in trade or commerce.

"(d) EVIDENCE OF FINANCIAL RESPONSIBILITY.—The owner or charterer of a sailing school vessel shall maintain evidence of financial responsibility to meet liability for death or injury to sailing school students and sailing school instructors on a voyage on the vessel. The amount of financial responsibility shall be at least $50,000 for each student and instructor. Financial responsibility under this subsection may be evidenced by insurance or other adequate financial resources.

"PART B—MERCHANT MARINE SERVICE

"CHAPTER 511—GENERAL

"Sec.
"51101. Policy.
"51102. Definitions.
"51103. General authority of Secretary of Transportation.
"51104. General authority of Secretary of the Navy.

"§51101. Policy

"It is the policy of the United States that merchant marine vessels of the United States should be operated by highly trained and efficient citizens of the United States and that the United States Navy and the merchant marine of the United States should work closely together to promote the maximum integration of the total seapower forces of the United States.

“§51102. Definitions

“In this part:

“(1) ACADEMY.—The term ‘Academy’ means the United States Merchant Marine Academy located at Kings Point, New York, and maintained under chapter 513 of this title.

“(2) COST OF EDUCATION PROVIDED.—The term ‘cost of education provided’ means the financial costs incurred by the United States Government for providing training or financial assistance to students at the Academy and the State maritime academies, including direct financial assistance, room, board, classroom academics, and other training activities.

“(3) MERCHANT MARINE OFFICER.—The term ‘merchant marine officer’ means an individual issued a license by the Coast Guard authorizing service as—

“(A) a master, mate, or pilot on a documented vessel that—

“(i) is of at least 1,000 gross tons as measured under section 14502 of this title or an alternate tonnage measured under section 14302 of this title as prescribed by the Secretary under section 14104 of this title; and

“(ii) operates on the oceans or the Great Lakes; or

“(B) an engineer officer on a documented vessel propelled by machinery of at least 4,000 horsepower.

“(4) STATE MARITIME ACADEMY.—The term ‘State maritime academy’ means—

“(A) a State maritime academy or college sponsored by a State and assisted under chapter 515 of this title; and

“(B) a regional maritime academy or college sponsored by a group of States and assisted under chapter 515 of this title.

“§51103. General authority of Secretary of Transportation

“(a) EDUCATION AND TRAINING.—The Secretary of Transportation may provide for the education and training of citizens of the United States for the safe and efficient operation of the merchant marine of the United States at all times, including operation as a naval and military auxiliary in time of war or national emergency.

“(b) SURPLUS PROPERTY FOR INSTRUCTIONAL PURPOSES.—

“(1) IN GENERAL.—The Secretary may cooperate with and assist the institutions named in paragraph (2) by making vessels, shipboard equipment, and other marine equipment, owned by the United States Government and determined to be excess or surplus, available to those institutions for instructional purposes, by gift, loan, sale, lease, or charter on terms the Secretary considers appropriate.

“(2) INSTITUTIONS.—The institutions referred to in paragraph (1) are—

“(A) the United States Merchant Marine Academy;

“(B) a State maritime academy; and

“(C) a nonprofit training institution jointly approved by the Secretary of Transportation and the Secretary of the department in which the Coast Guard is operating as offering training courses that meet Federal regulations for maritime training.

“(c) ASSISTANCE FROM OTHER AGENCIES.—

“(1) IN GENERAL.—The Secretary of Transportation may secure directly from an agency, on a reimbursable basis, information, facilities, and equipment necessary to carry out this part.

“(2) DETAILING PERSONNEL.—At the request of the Secretary, the head of an agency (including a military department) may detail, on a reimbursable basis, personnel from the agency to the Secretary to assist in carrying out this part.

“(d) ACADEMY PERSONNEL.—To carry out this part, the Secretary may—

“(1) employ an individual as a professor, lecturer, or instructor at the Academy, without regard to the provisions of title 5 governing appointments in the competitive service; and

“(2) pay the individual without regard to chapter 51 and subchapter III of chapter 53 of title 5.

“§51104. General authority of Secretary of the Navy

“The Secretary of the Navy, in cooperation with the Maritime Administrator and the head of each State maritime academy, shall ensure that—

“(1) the training of future merchant marine officers at the United States Merchant Marine Academy and at State maritime academies includes programs for naval science training in the operation of merchant vessels as a naval and military auxiliary; and

“(2) naval officer training programs for future officers, insofar as possible, are maintained at designated maritime academies consistent with Navy standards and needs.

“CHAPTER 513—UNITED STATES MERCHANT MARINE ACADEMY

“Sec.
“51301. Maintenance of the Academy.
“51302. Nomination and competitive appointment of cadets.
“51303. Non-competitive appointments.
“51304. Additional appointments from particular areas.
“51305. Prohibited basis for appointment.
“51306. Cadet commitment agreements.
“51307. Places of training.
“51308. Uniforms, textbooks, and transportation allowances.
“51309. Academic degree.
“51310. Deferment of service obligation under cadet commitment agreements.
“51311. Midshipman status in the Naval Reserve.
“51312. Board of Visitors.
“51313. Advisory Board.
“51314. Limitation on charges and fees for attendance.

“§51301. Maintenance of the Academy

“The Secretary of Transportation shall maintain the United States Merchant Marine Academy to provide instruction to individuals to prepare them for service in the merchant marine of the United States.

“§51302. Nomination and competitive appointment of cadets

“(a) REQUIREMENTS.—An individual may be nominated for a competitive appointment as a cadet at the United States Merchant Marine Academy only if the individual—

“(1) is a citizen or national of the United States; and

“(2) meets the minimum requirements that the Secretary of Transportation shall establish.

“(b) NOMINATORS.—Nominations for competitive appointments for the positions allocated under subsection (c) may be made as follows:

“(1) A Senator may nominate residents of the State represented by that Senator.

“(2) A Member of the House of Representatives may nominate residents of the State in which the congressional district represented by that Member is located.

“(3) A Delegate to the House of Representatives from the District of Columbia, the Virgin Islands, Guam, or American Samoa may nominate residents of the jurisdiction represented by that Delegate.

“(4) The Resident Commissioner to the United States from Puerto Rico may nominate residents of Puerto Rico.

“(5) The Governor of the Northern Mariana Islands may nominate residents of the Northern Mariana Islands.

“(6) The Panama Canal Commission may nominate—

“(A) residents, or sons or daughters of residents, of an area or installation in Panama and made available to the United States under the Panama Canal Treaty of 1977, the agreements relating to and implementing that Treaty, signed September 7, 1977, and the Agreement Between the United States of America and the Republic of Panama Concerning Air Traffic Control and Related Services, concluded January 8, 1979; and

“(B) sons or daughters of personnel of the United States Government and the Panama Canal Commission residing in Panama.

“(c) ALLOCATION OF POSITIONS.—Positions for competitive appointments shall be allocated each year as follows:

“(1) Positions shall be allocated for residents of each State nominated by the Members of Congress from that State in proportion to the representation in Congress from that State.

“(2) Four positions shall be allocated for residents of the District of Columbia nominated by the Delegate to the House of Representatives from the District of Columbia.

“(3) One position each shall be allocated for residents of the Virgin Islands, Guam, and American Samoa nominated by the Delegates to the House of Representatives from the Virgin Islands, Guam, and American Samoa, respectively.

“(4) One position shall be allocated for a resident of Puerto Rico nominated by the Resident Commissioner to the United States from Puerto Rico.

“(5) One position shall be allocated for a resident of the Northern Mariana Islands nominated by the Governor of the Northern Mariana Islands.

“(6) Two positions shall be allocated for individuals nominated by the Panama Canal Commission.

“(d) COMPETITIVE SYSTEM FOR APPOINTMENT.—

“(1) ESTABLISHMENT OF SYSTEM.—The Secretary shall establish a competitive system for selecting individuals nominated under subsection (b) to fill the positions allocated under subsection (c). The system must determine the relative merit of each individual based on competitive examinations, an assessment of the individual's academic background, and other effective indicators of motivation and probability of successful completion of training at the Academy.

“(2) APPOINTMENTS BY JURISDICTION.—The Secretary shall appoint individuals to fill the positions allocated under subsection (c) for each jurisdiction in the order of merit of the individuals nominated from that jurisdiction.

“(3) REMAINING UNFILLED POSITIONS.—If positions remain unfilled after the appointments are made under paragraph (2), the Secretary shall appoint individuals to fill the positions in the order of merit of the remaining individuals nominated from all jurisdictions.

“§51303. Non-competitive appointments

“The Secretary of Transportation may appoint each year without competition as cadets at the United States Merchant Marine Academy not more than 40 qualified individuals with qualities the Secretary considers to be of special value to the Academy. In making these appointments, the Secretary shall try to achieve a national demographic balance at the Academy.

“§51304. Additional appointments from particular areas

“(a) OTHER COUNTRIES IN WESTERN HEMISPHERE.—The President may appoint individuals from countries in the Western Hemisphere other than the United States to receive instruction at the United States Merchant Marine Academy. Not more than 12 individuals may receive instruction under this subsection at the

same time, and not more than 2 individuals from the same country may receive instruction under this subsection at the same time.

"(b) OTHER COUNTRIES GENERALLY.—

"(1) APPOINTMENT.—The Secretary of Transportation, with the approval of the Secretary of State, may appoint individuals from countries other than the United States to receive instruction at the Academy. Not more than 30 individuals may receive instruction under this subsection at the same time.

"(2) REIMBURSEMENT.—The Secretary of Transportation shall ensure that the country from which an individual comes under this subsection will reimburse the Secretary for the cost (as determined by the Secretary) of the instruction and allowances received by the individual.

"(c) PANAMA.—

"(1) APPOINTMENT.—The Secretary of Transportation, with the approval of the Secretary of State, may appoint individuals from Panama to receive instruction at the Academy. Individuals appointed under this subsection are in addition to those appointed under any other provision of this chapter.

"(2) REIMBURSEMENT.—The Secretary of Transportation shall be reimbursed for the cost (as determined by the Secretary) of the instruction and allowances received by an individual appointed under this subsection.

"(d) ALLOWANCES AND REGULATIONS.—Individuals receiving instruction under this section are entitled to the same allowances and are subject to the same regulations on admission, attendance, discipline, resignation, discharge, dismissal, and graduation, as cadets at the Academy appointed from the United States.

"§ 51305. Prohibited basis for appointment

"Preference may not be given to an individual for appointment as a cadet at the United States Merchant Marine Academy because one or more members of the individual's immediate family are alumni of the Academy.

"§ 51306. Cadet commitment agreements

"(a) AGREEMENT REQUIREMENTS.—A citizen of the United States appointed as a cadet at the United States Merchant Marine Academy must sign, as a condition of the appointment, an agreement to—

"(1) complete the course of instruction at the Academy;

"(2) fulfill the requirements for a license as an officer in the merchant marine of the United States before graduation from the Academy;

"(3) maintain a valid license as an officer in the merchant marine of the United States for at least 6 years after graduation from the Academy, accompanied by the appropriate national and international endorsements and certification required by the Coast Guard for service aboard vessels on domestic and international voyages;

"(4) apply for, and accept if tendered, an appointment as a commissioned officer in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve), the Coast Guard Reserve, or any other reserve unit of an armed force of the United States, and, if tendered the appointment, to serve for at least 6 years after graduation from the Academy;

"(5) serve the foreign and domestic commerce and the national defense of the United States for at least 5 years after graduation from the Academy—

"(A) as a merchant marine officer on a documented vessel or a vessel owned and operated by the United States Government or by a State;

"(B) as an employee in a United States maritime-related industry, profession, or marine science (as determined by the Secretary of Transportation), if the Secretary determines that service under subparagraph (A) is not available to the individual;

"(C) as a commissioned officer on active duty in an armed force of the United States, as a commissioned officer in the National Oceanic and Atmospheric Administration, or in other maritime-related Federal employment which serves the national security interests of the United States, as determined by the Secretary; or

"(D) by a combination of the service alternatives referred to in subparagraphs (A)–(C); and

"(6) report to the Secretary on compliance with this subsection.

"(b) FAILURE TO COMPLETE COURSE OF INSTRUCTION.—

"(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual who has attended the Academy for at least 2 years has failed to fulfill the part of the agreement described in subsection (a)(1), the individual may be ordered by the Secretary of Defense to serve on active duty in one of the armed forces of the United States for a period of not more than 2 years. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

"(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the cost of education provided by the Government.

"(c) FAILURE TO CARRY OUT OTHER REQUIREMENTS.—

"(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual has failed to fulfill any part of the agreement described in subsection (a)(2)–(6), the individual may be ordered to serve on active duty for a period of at least 3 years but not more than the unexpired period (as determined by the Secretary) of the service required by subsection (a)(5). The Secretary of Transportation, in consultation with the Secretary of Defense, shall determine in which service the individual shall serve. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

"(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the cost of education provided. The Secretary may reduce the amount to be recovered to reflect partial performance of service obligations and other factors the Secretary determines merit a reduction.

"(d) ACTIONS TO RECOVER COST.—To aid in the recovery of the cost of education provided by the Government under a commitment agreement under this section, the Secretary of Transportation may—

"(1) request the Attorney General to bring a civil action against the individual; and

"(2) make use of the Federal debt collection procedures in chapter 176 of title 28 or other applicable administrative remedies.

"§ 51307. Places of training

"The Secretary of Transportation may provide for the training of cadets at the United States Merchant Marine Academy—

"(1) on vessels owned or subsidized by the United States Government;

"(2) on other documented vessels, with the permission of the owner; and

"(3) in shipyards or plants and with industrial or educational organizations.

"§ 51308. Uniforms, textbooks, and transportation allowances

"The Secretary of Transportation shall provide cadets at the United States Merchant Marine Academy—

"(1) all required uniforms and textbooks; and

"(2) allowances for transportation (including reimbursement of traveling expenses) when traveling under orders as a cadet.

"§ 51309. Academic degree

"(a) BACHELOR'S DEGREE.—

"(1) IN GENERAL.—The Superintendent of the United States Merchant Marine Academy may confer the degree of bachelor of science on an individual who—

"(A) has met the conditions prescribed by the Secretary of Transportation; and

"(B) if a citizen of the United States, has passed the examination for a merchant marine officer's license.

"(2) EFFECT OF PHYSICAL DISQUALIFICATION.—An individual not allowed to take the examination for a merchant marine officer's license only because of physical disqualification may not be denied a degree for not taking the examination.

"(b) MASTER'S DEGREE.—The Superintendent of the Academy may confer a master's degree on an individual who has met the conditions prescribed by the Secretary. A master's degree program may be funded through non-appropriated funds. To maintain the appropriate academic standards, the program shall be accredited by the appropriate accreditation body. The Secretary may prescribe regulations necessary to administer such a program.

"(c) GRADUATION NOT ENTITLEMENT TO HOLD LICENSE.—Graduation from the Academy does not entitle an individual to hold a license authorizing service on a merchant vessel.

"§ 51310. Deferment of service obligation under cadet commitment agreements

"The Secretary of Transportation may defer the service commitment of an individual under section 51306(a)(5) of this title (as specified in the cadet commitment agreement) for not more than 2 years if the individual is engaged in a graduate course of study approved by the Secretary. However, deferment of service as a commissioned officer under section 51306(a)(5) must be approved by the Secretary of the military department that has jurisdiction over the service or by the Secretary of Commerce for service with the National Oceanic and Atmospheric Administration.

"§ 51311. Midshipman status in the Naval Reserve

"(a) APPLICATION REQUIREMENT.—Before being appointed as a cadet at the United States Merchant Marine Academy, a citizen of the United States must agree to apply for midshipman status in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve).

"(b) APPOINTMENT.—

"(1) IN GENERAL.—A citizen of the United States appointed as a cadet at the Academy shall be appointed by the Secretary of the Navy as a midshipman in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve).

"(2) RIGHTS AND PRIVILEGES.—The Secretary of the Navy shall provide for cadets of the Academy who are midshipmen in the United States Naval Reserve to be—

"(A) issued an identification card (referred to as a 'military ID card'); and

"(B) entitled to all rights and privileges in accordance with the same eligibility criteria as apply to other members of the Ready Reserve of the reserve components of the armed forces.

"(3) COORDINATION.—The Secretary of the Navy shall carry out paragraphs (1) and (2) in *coordination with the Secretary of Transportation.*

"§ 51312. Board of Visitors

"(a) IN GENERAL.—A Board of Visitors to the United States Merchant Marine Academy shall be established, for a term of 2 years commencing at the beginning of each Congress, to visit the Academy annually on a date determined by the Secretary of Transportation and to make recommendations on the operation of the Academy.

"(b) APPOINTMENT.—

"(1) IN GENERAL.—The Board shall be composed of—

"(A) 2 Senators appointed by the chairman of the Committee on Commerce, Science, and Transportation of the Senate;

"(B) 3 Members of the House of Representatives appointed by the chairman of the Committee on Armed Services of the House of Representatives;

"(C) 1 Senator appointed by the Vice President;

"(D) 2 Members of the House of Representatives appointed by the Speaker of the House of Representatives; and

"(E) the chairmen of the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives, as ex officio members.

"(2) SUBSTITUTE APPOINTMENT.—If an appointed member of the Board is unable to visit the Academy as provided in subsection (a), another individual may be appointed as a substitute in the manner provided in paragraph (1).

"(c) STAFF.—The chairmen of the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Armed Services of the House of Representatives may designate staff members of their committees to serve without reimbursement as staff for the Board.

"(d) TRAVEL EXPENSES.—When serving away from home or regular place of business, a member of the Board or a staff member designated under subsection (c) shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

"§ 51313. Advisory Board

"(a) IN GENERAL.—An Advisory Board to the United States Merchant Marine Academy shall be established to visit the Academy at least once during each academic year, for the purpose of examining the course of instruction and management of the Academy and advising the Maritime Administrator and the Superintendent of the Academy.

"(b) APPOINTMENT AND TERMS.—The Board shall be composed of not more than 7 individuals appointed by the Secretary of Transportation. The individuals must be distinguished in education and other fields related to the Academy. Members of the Board shall be appointed for terms of not more than 3 years and may be reappointed. The Secretary shall designate one of the members as chairman.

"(c) TRAVEL EXPENSES.—When serving away from home or regular place of business, a member of the Board shall be allowed travel expenses, including per diem in lieu of subsistence, as authorized by section 5703 of title 5.

"(d) RELATIONSHIP TO OTHER LAW.—The Federal Advisory Committee Act (5 App. U.S.C.) does not apply to the Board.

"§ 51314. Limitation on charges and fees for attendance

"(a) PROHIBITION.—Except as provided in subsection (b), no charge or fee for tuition, room, or board for attendance at the United States Merchant Marine Academy may be imposed unless the charge or fee is specifically authorized by a law enacted after October 5, 1994.

"(b) EXCEPTION.—The prohibition specified in subsection (a) does not apply with respect to any item or service provided to cadets for which a charge or fee is imposed as of October 5, 1994. The Secretary of Transportation shall notify Congress of any change made by the Academy in the amount of a charge or fee authorized under this subsection.

"CHAPTER 515—STATE MARITIME ACADEMY SUPPORT PROGRAM

"Sec.

"51501. General support program.
"51502. Detailing of personnel.
"51503. Regional maritime academies.
"51504. Use of training vessels.
"51505. Annual payments for maintenance and support.
"51506. Conditions to receiving payments and use of vessels.
"51507. Places of training.
"51508. Allowances for students.
"51509. Student incentive payment agreements.
"51510. Deferment of service obligation under student incentive payment agreements.
"51511. Midshipman status in the Naval Reserve.

"§ 51501. General support program

"(a) ASSISTANCE TO STATE MARITIME ACADEMIES.—The Secretary of Transportation shall cooperate with and assist State maritime academies in providing instruction to individuals to prepare them for service in the merchant marine of the United States.

"(b) COURSE DEVELOPMENT.—The Secretary shall provide to each State maritime academy guidance and assistance in developing courses on the operation and maintenance of new vessels, on equipment, and on innovations being introduced to the merchant marine of the United States.

"§ 51502. Detailing of personnel

"At the request of the Governor of a State, the President may detail, without reimbursement, personnel of the Navy, the Coast Guard, and the Maritime Service to a State maritime academy to serve as a superintendent, professor, lecturer, or instructor at the academy.

"§ 51503. Regional maritime academies

"The Governors of the States cooperating to sponsor a regional maritime academy shall designate in writing one of those States to conduct the affairs of that academy. A regional maritime academy is eligible for assistance from the United States Government on the same basis as a State maritime academy sponsored by a single State.

"§ 51504. Use of training vessels

"(a) APPLICATIONS TO USE VESSELS.—The Governor of a State sponsoring a State maritime academy (or the Governor of the State designated to conduct the affairs of a regional maritime academy) may apply in writing to the Secretary of Transportation to obtain the use of a training vessel for the academy. A vessel provided under this section remains the property of the United States Government.

"(b) GENERAL AUTHORITY.—Subject to subsection (c), the Secretary may provide to a State maritime academy, for use as a training vessel, a suitable vessel under the control of the Secretary or made available to the Secretary under subsection (e). If a suitable vessel is not available, the Secretary may build and provide a suitable vessel.

"(c) APPROVAL REQUIREMENTS.—The Secretary may provide a vessel under this section only if—

"(1) an application has been made under subsection (a);

"(2) the State maritime academy satisfies section 51506(a) of this title; and

"(3) a suitable port will be available for the safe mooring of the vessel while the academy is using the vessel.

"(d) PREPARATION AND MAINTENANCE.—A vessel provided under this section shall be—

"(1) repaired, reconditioned, and equipped (with all apparel, charts, books, and instruments of navigation) as necessary for use as a training vessel; and

"(2) maintained in good repair by the Secretary.

"(e) AGENCY VESSELS.—An agency may provide to the Secretary, for use by a State maritime academy, a vessel (including equipment) that—

"(1) is suitable for training purposes; and

"(2) can be provided without detriment to the service to which the vessel is assigned.

"(f) FUEL COSTS.—The Secretary may pay to a State maritime academy the costs of fuel used by a vessel provided under this section while used for training.

"(g) REMOVING VESSELS FROM SERVICE AND VESSEL SHARING.—The Secretary may not—

"(1) take a vessel, currently in use as a training vessel under this section, out of service to implement an alternative program (including vessel sharing) unless the vessel is incapable of being maintained in good repair as required by subsection (d); or

"(2) implement a program requiring a State maritime academy to share its training vessel with another State maritime academy, except with the express consent of Congress.

"§ 51505. Annual payments for maintenance and support

"(a) PAYMENT AGREEMENTS.—The Secretary of Transportation may make an agreement (effective for not more than 4 years) with the following academies to provide annual payments to those academies for their maintenance and support:

"(1) One State maritime academy in each State that satisfies section 51506(a) of this title.

"(2) Each regional maritime academy that satisfies section 51506(a) of this title.

"(b) PAYMENTS.—

"(1) IN GENERAL.—Subject to paragraph (2), an annual payment to an academy under subsection (a) shall be at least equal to the amount given to the academy for its maintenance and support by the State in which it is located, or, for a regional maritime academy, by all States cooperating to sponsor the academy.

"(2) MAXIMUM.—The amount under paragraph (1) may not be more than $25,000. However, if the academy satisfies section 51506(b) of this title, the amount shall be—

"(A) $100,000 for a State maritime academy; and

"(B) $200,000 for a regional maritime academy.

"§ 51506. Conditions to receiving payments and use of vessels

"(a) GENERAL CONDITIONS.—As conditions of receiving an annual payment or the use of a vessel under this chapter, a State maritime academy must—

"(1) provide courses of instruction on navigation, marine engineering (including steam and diesel propulsion), the operation and maintenance of new vessels and equipment, and innovations being introduced to the merchant marine of the United States;

"(2) agree in writing to conform to the standards for courses, training facilities, admissions, and instruction that the Secretary of Transportation may establish after consultation with the superintendents of State maritime academies; and

"(3) agree in writing to require, as a condition for graduation, that each individual who is a citizen of the United States and who is attending the academy in a merchant marine officer preparation program pass the examination required for the issuance of a license under section 7101 of this title.

“(b) ADDITIONAL CONDITION TO PAYMENTS OF MORE THAN $25,000.—As a condition of receiving an annual payment of more than $25,000 under section 51505 of this title, a State maritime academy also must agree to admit each year a number of citizens of the United States who meet its admission requirements and reside in a State not supporting that academy. The Secretary shall determine the number of individuals to be admitted by each academy under this subsection. The number may not be more than one-third of the total number of individuals attending the academy at any time.

“§51507. Places of training

“The Secretary of Transportation may provide for the training of students attending a State maritime academy—

“(1) on vessels owned or subsidized by the United States Government;

“(2) on other documented vessels, with the permission of the owner; and

“(3) in shipyards or plants and with industrial or educational organizations.

“§51508. Allowances for students

“Under regulations prescribed by the Secretary of Transportation, a student at a State maritime academy shall receive from the Secretary allowances for transportation (including reimbursement of traveling expenses) when traveling under orders to receive training under section 51507 of this title.

“§51509. Student incentive payment agreements

“(a) GENERAL AUTHORITY.—If a State maritime academy has an agreement with the Secretary of Transportation under section 51505 of this title, the Secretary may make an agreement with a student at the academy who is a citizen of the United States to make student incentive payments to the individual. An agreement with a student may not be effective for more than 4 academic years. The Secretary shall allocate payments under this section among the various State maritime academies in an equitable manner.

“(b) PAYMENTS.—Payments under an agreement under this section shall be equal to $4,000 each academic year and be paid, as prescribed by the Secretary, while the individual is attending the academy. The payments shall be used for uniforms, books, and subsistence.

“(c) MIDSHIPMAN AND ENLISTED RESERVE STATUS.—An agreement under this section shall require the student to accept midshipman and enlisted reserve status in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve) before receiving any payments under the agreement.

“(d) AGREEMENT REQUIREMENTS.—An agreement under this section shall require the student to—

“(1) complete the course of instruction at the academy the individual is attending;

“(2) take the examination for a license as an officer in the merchant marine of the United States before graduation from the academy and fulfill the requirements for such a license within 3 months after graduation from the academy;

“(3) maintain a valid license as an officer in the merchant marine of the United States for at least 6 years after graduation from the academy, accompanied by the appropriate national and international endorsements and certification required by the Coast Guard for service aboard vessels on domestic and international voyages;

“(4) accept, if tendered, an appointment as a commissioned officer in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve), the Coast Guard Reserve, or any other reserve unit of an armed force of the United States, and, if tendered the appointment, to serve for at least 6 years after graduation from the academy;

“(5) serve the foreign and domestic commerce and the national defense of the United States for at least 3 years after graduation from the academy—

“(A) as a merchant marine officer on a documented vessel or a vessel owned and operated by the United States Government or by a State;

“(B) as an employee in a United States maritime-related industry, profession, or marine science (as determined by the Secretary), if the Secretary determines that service under subparagraph (A) is not available to the individual;

“(C) as a commissioned officer on active duty in an armed force of the United States, as a commissioned officer in the National Oceanic and Atmospheric Administration, or in other maritime-related Federal employment which serves the national security interests of the United States, as determined by the Secretary; or

“(D) by a combination of the service alternatives referred to in subparagraphs (A)–(C); and

“(6) report to the Secretary on compliance with this subsection.

“(e) FAILURE TO COMPLETE COURSE OF INSTRUCTION.—

“(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual who has accepted the payments described in subsection (b) for a minimum of 2 academic years has failed to fulfill the part of the agreement described in subsection (d)(1), the individual may be ordered by the Secretary of Defense to serve on active duty in the armed forces of the United States for a period of not more than 2 years. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

“(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the amount of student incentive payments, plus interest and attorney fees. The Secretary may reduce the amount to be recovered to reflect partial performance of service obligations and other factors the Secretary determines merit a reduction.

“(f) FAILURE TO CARRY OUT OTHER REQUIREMENTS.—

“(1) ACTIVE DUTY.—If the Secretary of Transportation determines that an individual has failed to fulfill any part of the agreement described in subsection (d)(2)-(6), the individual may be ordered to serve on active duty for a period of at least 2 years but not more than the unexpired period (as determined by the Secretary) of the service required by subsection (d)(5). The Secretary of Transportation, in consultation with the Secretary of Defense, shall determine in which service the individual shall serve. In cases of hardship as determined by the Secretary of Transportation, the Secretary of Transportation may waive this paragraph in whole or in part.

“(2) RECOVERY OF COST.—If the Secretary of Defense is unable or unwilling to order an individual to serve on active duty under paragraph (1), or if the Secretary of Transportation determines that reimbursement of the cost of education provided would better serve the interests of the United States, the Secretary of Transportation may recover from the individual the amount of student incentive payments, plus interest and attorney fees. The Secretary may reduce the amount to be recovered to reflect partial performance of service obligations and other factors the Secretary determines merit a reduction.

“(g) ACTIONS TO RECOVER COST.—To aid in the recovery of the cost of education provided by the Government under a commitment agreement under this section, the Secretary of Transportation may—

“(1) request the Attorney General to bring a civil action against the individual; and

“(2) make use of the Federal debt collection procedures in chapter 176 of title 28 or other applicable administrative remedies.

“§51510. Deferment of service obligation under student incentive payment agreements

“The Secretary of Transportation may defer the service commitment of an individual under section 51509(d)(5) of this title (as specified in the agreement under section 51509) for not more than 2 years if the individual is engaged in a graduate course of study approved by the Secretary. However, deferment of service as a commissioned officer on active duty must be approved by the Secretary of the affected military department (or the Secretary of Commerce, for service with the National Oceanic and Atmospheric Administration).

“§51511. Midshipman status in the Naval Reserve

“A citizen of the United States attending a State maritime academy may be appointed by the Secretary of the Navy as a midshipman in the Naval Reserve (including the Merchant Marine Reserve, Naval Reserve).

“CHAPTER 517—OTHER SUPPORT FOR MERCHANT MARINE TRAINING

“Sec.
“51701. United States Maritime Service.
“51702. Civilian nautical schools.
“51703. Additional training.
“51704. Training for maritime oil pollution prevention, response, and clean-up.

“§51701. United States Maritime Service

“(a) GENERAL AUTHORITY.—The Secretary of Transportation may establish and maintain a voluntary organization, to be known as the United States Maritime Service, for the training of citizens of the United States to serve on merchant vessels of the United States.

“(b) SPECIFIC AUTHORITY.—The Secretary may—

“(1) determine the number of individuals to be enrolled for training and reserve purposes in the Service;

“(2) fix the rates of pay and allowances of the individuals without regard to chapter 51 or subchapter III of chapter 53 of title 5;

“(3) prescribe the course of study and the periods of training for the Service; and

“(4) prescribe the uniform of the Service and the rules on providing and wearing the uniform.

“(c) RANKS, GRADES, AND RATINGS.—The ranks, grades, and ratings for personnel of the Service shall be the same as those prescribed for personnel of the Coast Guard.

“(d) MEDALS AND AWARDS.—The Secretary may establish and maintain a medals and awards program to recognize distinguished service, superior achievement, professional performance, and other commendable achievement by personnel of the Service.

“§51702. Civilian nautical schools

“(a) DEFINITION.—In this section, the term ‘civilian nautical school’ means a school operated in the United States (except the United States Merchant Marine Academy, a State maritime academy, or another school operated by the United States Government) that offers instruction to individuals quartered on a vessel primarily to train them for service in the merchant marine.

“(b) INSPECTION.—Each civilian nautical school is subject to inspection by the Secretary of Transportation.

"(c) RATING AND CERTIFICATION.—The Secretary may, under regulations the Secretary may prescribe, provide for the rating and certification of civilian nautical schools as to the adequacy of their course of instruction, the competence of their instructors, and the suitability of the equipment used in their course of instruction.

"§51703. Additional training

"(a) GENERAL AUTHORITY.—The Secretary of Transportation may provide additional training on maritime subjects to supplement other training opportunities and make the training available to the personnel of the merchant marine of the United States and individuals preparing for a career in the merchant marine of the United States.

"(b) EQUIPMENT, SUPPLIES, AND CONTRACTS.—The Secretary may—

"(1) prepare or buy equipment or supplies required for the additional training; and

"(2) without regard to section 3709 of the Revised Statutes (41 U.S.C. 5), make contracts for services the Secretary considers necessary to prepare the equipment and supplies and to supervise and administer the additional training.

"§51704. Training for maritime oil pollution prevention, response, and clean-up

"(a) ASSISTANCE IN ESTABLISHING PROGRAM.—The Secretary of Transportation shall assist maritime training institutions approved by the Secretary in establishing a training program for maritime oil pollution prevention, response, and clean-up.

"(b) PROVIDING TRAINING VESSELS.—Subject to subsection (c), the Secretary may provide, with title free of all liens, to maritime training institutions that have a program established under subsection (a), offshore supply vessels and tug/supply vessels that were built in the United States and are in the possession of the Maritime Administration because of a default on a loan guaranteed under chapter 537 of this title.

"(c) REQUIREMENTS.—In addition to any other requirements the Secretary considers appropriate, the following requirements apply to vessels provided under this section:

"(1) The vessel shall be offered to the institution at a location selected by the Secretary.

"(2) The institution shall use the vessel to train students and appropriate maritime industry personnel in oil spill prevention, response, clean-up, and related skills.

"(3) The institution shall make the vessel and qualified students available to appropriate Federal, State, and local oil spill response authorities when there is a maritime oil spill.

"(4) The institution may not sell, trade, charter, donate, scrap, or in any way alter or dispose of the vessel without prior approval of the Secretary.

"(5) The institution may not use the vessel in competition with a privately-owned vessel documented under chapter 121 of this title or titled under the law of a State, unless necessary to carry out this section.

"(6) When the institution can no longer use the vessel for its training program, the institution shall return the vessel to the Secretary. The Secretary shall take possession at the institution and thereafter may provide the vessel to another institution under this section or dispose of the vessel.

"CHAPTER 519—MERCHANT MARINE AWARDS

"Sec.
"51901. Awards for individual acts or service.
"51902. Gallant Ship Award.
"51903. Multiple awards.
"51904. Presentation to representatives.
"51905. Flags and grave markers.
"51906. Special certificates for civilian service to armed forces.
"51907. Manufacture and sale of awards and replacements.
"51908. Prohibition against unauthorized manufacture, sale, possession, or display of awards.

"§51901. Awards for individual acts or service

"(a) GENERAL AUTHORITY.—The Secretary of Transportation may award decorations and medals of appropriate design (including ribbons, ribbon bars, emblems, rosettes, miniature facsimiles, plaques, citations, or other suitable devices or insignia) for individual acts or service in the merchant marine of the United States. The design may be similar to the design of a decoration or medal authorized for members of the armed forces for similar acts or service.

"(b) SPECIFIC AUTHORITY.—The Secretary may award—

"(1) a Merchant Marine Distinguished Service Medal to an individual for outstanding acts, conduct, or valor beyond the line of duty;

"(2) a Merchant Marine Meritorious Service Medal to an individual for meritorious acts, conduct, or valor in the line of duty, but not of the outstanding character that would warrant the award of the Merchant Marine Distinguished Service Medal;

"(3) a decoration or medal to an individual for service during a war, national emergency proclaimed by the President or Congress, or operations by the armed forces outside the continental United States under conditions of danger to life and property; and

"(4) a decoration or medal to an individual for other acts or service of conspicuous gallantry, intrepidity, and extraordinary heroism under conditions of danger to life and property that would warrant a similar decoration or medal for a member of the armed forces.

"§51902. Gallant Ship Award

"(a) AWARDS TO VESSELS.—The Secretary of Transportation may award a Gallant Ship Award and a citation to a vessel (including a foreign vessel) participating in outstanding or gallant action in a marine disaster or other emergency to save life or property at sea. The Secretary may award a plaque to the vessel, and a replica of the plaque may be preserved as a permanent historical record.

"(b) AWARDS TO CREWS.—The Secretary of Transportation may award an appropriate citation ribbon bar to the master and each individual serving, at the time of the action, on a vessel issued an award under subsection (a).

"(c) CONSULTATION.—The Secretary of Transportation shall consult with the Secretary of State before awarding an award or citation to a foreign vessel or its crew under this section.

"§51903. Multiple awards

"An individual may not be awarded more than one of any type of decoration or medal under this chapter. For each succeeding act or service justifying the same decoration or medal, a suitable device may be awarded to be worn with the decoration or medal.

"§51904. Presentation to representatives

"If an individual to be issued an award under this chapter is unable to accept the award personally, the Secretary of Transportation may present the award to an appropriate representative.

"§51905. Flags and grave markers

"Except as authorized under another law, the Secretary of Transportation may issue, at no cost, a flag of the United States and a grave marker to the family or personal representative of a deceased individual who served in the merchant marine of the United States in support of the armed forces of the United States or its allies during a war or national emergency.

"§51906. Special certificates for civilian service to armed forces

"(a) GENERAL AUTHORITY.—The Maritime Administrator may issue a special certificate to an individual, or the personal representative of an individual, in recognition of service of that individual in the merchant marine of the United States, if the service has been determined to be active duty under section 401 of the GI Bill Improvement Act of 1977 (Public Law 95–202; 38 U.S.C. 106 note).

"(b) RELATIONSHIP TO OTHER LAWS.—Issuance of a certificate under subsection (a) does not entitle an individual to any rights, privileges, or benefits under a law of the United States.

"§51907. Manufacture and sale of awards and replacements

"The Secretary of Transportation may—

"(1) authorize private persons to manufacture decorations and medals authorized under this chapter or a prior law; and

"(2) provide at cost, or authorize private persons to sell at reasonable prices, replacements for those decorations and medals.

"§51908. Prohibition against unauthorized manufacture, sale, possession, or display of awards

"(a) PROHIBITION.—Except as authorized under this chapter, a person may not manufacture, sell, possess, or display a decoration or medal provided for in this chapter.

"(b) CIVIL PENALTY.—A person violating this section is liable to the United States Government for a civil penalty of not more than $2,000.

"CHAPTER 521—MISCELLANEOUS

"Sec.
"52101. Reemployment rights for certain merchant seamen.

"§52101. Reemployment rights for certain merchant seamen

"(a) IN GENERAL.—An individual who is certified by the Secretary of Transportation under subsection (c) shall be entitled to reemployment rights and other benefits substantially equivalent to the rights and benefits provided for by chapter 43 of title 38 for any member of a reserve component of the armed forces of the United States who is ordered to active duty.

"(b) TIME FOR APPLICATION.—An individual may submit an application for certification under subsection (c) to the Secretary not later than 45 days after the date the individual completes a period of employment described in subsection (c)(1)(A) with respect to which the application is submitted.

"(c) CERTIFICATION DETERMINATION.—Not later than 20 days after the date the Secretary receives from an individual an application for certification under this subsection, the Secretary shall—

"(1) determine whether the individual—

"(A) was employed in the activation or operation of a vessel—

"(i) in the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744) in a period in which the vessel was in use or being activated for use under subsection (b) of that section;

"(ii) requisitioned or purchased under chapter 563 of this title; or

"(iii) owned, chartered, or controlled by the United States Government and used by the Government for a war, armed conflict, national emergency, or maritime mobilization need (including for training purposes or testing for readiness and suitability for mission performance); and

"(B) during the period of that employment, possessed a valid license, certificate of registry, or merchant mariner's document issued under chapter 71 or 73 of this title; and

"(2) if the Secretary makes affirmative determinations under subparagraphs (A) and (B) of paragraph (1), certify that individual under this subsection.

"(d) EQUIVALENCE TO MILITARY SELECTIVE SERVICE ACT CERTIFICATE.—For purposes of reemployment rights and benefits provided by this section, a certification under subsection (c) shall be considered to be the equivalent of a certificate described in section 9(a) of the Military Selective Service Act (50 App. U.S.C. 459(a)).

"PART C—FINANCIAL ASSISTANCE PROGRAMS".

(c) CHAPTERS FOLLOWING CHAPTER 531.—Subtitle V of title 46, United States Code, is amended by adding at the end the following:

"CHAPTER 533—CONSTRUCTION RESERVE FUNDS

"Sec.
"53301. Definitions.
"53302. Authority for construction reserve funds.
"53303. Persons eligible to establish funds.
"53304. Vessel ownership.
"53305. Eligible fund deposits.
"53306. Recognition of gain for tax purposes.
"53307. Basis for determining gain or loss and for depreciating new vessels.
"53308. Order and proportions of deposits and withdrawals.
"53309. Accumulation of deposits.
"53310. Obligation of deposits and period for construction of certain vessels.
"53311. Taxation of deposits on failure of conditions.
"53312. Assessment and collection of deficiency tax.

"§ 53301. Definitions

"(a) IN GENERAL.—In this chapter:

"(1) CONSTRUCTION CONTRACT.—The term 'construction contract' includes, for a taxpayer constructing a new vessel in a shipyard owned by that taxpayer, an agreement between the taxpayer and the Secretary of Transportation for that construction containing provisions the Secretary considers advisable to carry out this chapter.

"(2) NEW VESSEL.—The term 'new vessel' means—

"(A) a vessel—

"(i) constructed in the United States after December 31, 1939, constructed with a construction-differential subsidy under title V of the Merchant Marine Act, 1936, or constructed with financing or a financing guarantee under chapter 537 or 575 of this title;

"(ii) documented or agreed with the Secretary to be documented under the laws of the United States; and

"(iii)(I) of a type, size, and speed that the Secretary determines is suitable for use on the high seas or Great Lakes in carrying out this subtitle, but not less than 2,000 gross tons or less than 12 knots speed unless the Secretary certifies in each case that a vessel of lesser tonnage or speed is desirable for use by the United States Government in case of war or national emergency; or

"(II) constructed to replace a vessel bought or requisitioned by the Government; and

"(B) a vessel reconstructed or reconditioned for use only on the Great Lakes, including the Saint Lawrence River and Gulf, if the Secretary finds that the reconstruction or reconditioning will promote the objectives of this subtitle.

"(b) ADDITIONAL TAX-RELATED TERMS.—Other terms used in this chapter have the same meaning as in chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1).

"§ 53302. Authority for construction reserve funds

"(a) GENERAL AUTHORITY.—An eligible person under section 53303 of this title may establish a construction reserve fund for the construction, reconstruction, reconditioning, or acquisition of a new vessel or for other purposes authorized by this chapter.

"(b) APPLICATION OF CERTAIN LAWS AND REGULATIONS.—The fund shall be established, maintained, expended, and used as provided by this chapter and regulations prescribed jointly by the Secretary of Transportation and the Secretary of the Treasury.

"§ 53303. Persons eligible to establish funds

"A construction reserve fund may be established by a citizen of the United States that—

"(1) is operating a vessel in the foreign or domestic commerce of the United States or in the fisheries;

"(2) owns, in whole or in part, a vessel being operated in the foreign or domestic commerce of the United States or in the fisheries;

"(3) was operating a vessel in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the United States Government;

"(4) owned, in whole or in part, a vessel being operated in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the Government; or

"(5) had acquired or was having constructed a vessel to operate in the foreign or domestic commerce of the United States or in the fisheries when it was bought or requisitioned by the Government.

"§ 53304. Vessel ownership

"In this chapter, a vessel is deemed to be constructed or acquired by a taxpayer if constructed or acquired by a corporation when the taxpayer owns at least 95 percent of each class of stock of the corporation.

"§ 53305. Eligible fund deposits

"A construction reserve fund may include deposits of—

"(1) the proceeds from the sale of a vessel;

"(2) indemnities for the loss of a vessel;

"(3) earnings from the operation of a documented vessel and from services incident to the operation; and

"(4) interest or other amounts accrued on deposits in the fund.

"§ 53306. Recognition of gain for tax purposes

"(a) DEFINITIONS.—In this section, the terms 'net proceeds' and 'net indemnity' mean the sum of—

"(1) the adjusted basis of the vessel; and

"(2) the amount of gain the taxpayer would recognize without regard to this section.

"(b) RECOGNITION OF GAIN.—In computing net income under the income or excess profits tax laws of the United States, a taxpayer does not recognize a gain on the sale or the actual or constructive total loss of a vessel if the taxpayer—

"(1) deposits an amount equal to the net proceeds of the sale or the net indemnity for the loss in a construction reserve fund within 60 days after receiving the payment of proceeds or indemnity; and

"(2) elects under this section not to recognize the gain.

"(c) WHEN ELECTION MUST BE MADE.—

"(1) IN GENERAL.—Except as provided in paragraph (2), the taxpayer must make the election referred to in subsection (b) in the taxpayer's income tax return for the taxable year in which the gain was realized.

"(2) RECEIPT AFTER TAXABLE YEAR.—If the vessel is bought or requisitioned by the United States Government, or is lost, and the taxpayer receives payment for the vessel or indemnity for the loss from the Government after the end of the taxable year in which it was bought, requisitioned, or lost, the taxpayer must make the election referred to in subsection (b) within 60 days after receiving the payment or indemnity, on a form prescribed by the Secretary of the Treasury.

"(d) EFFECT OF STATUTE OF LIMITATION.—If the taxpayer makes an election under subsection (c)(2), and computation or recomputation under this section is otherwise allowable but is prevented by a statute of limitation on the date the election is made or within 6 months thereafter, the computation or recomputation nevertheless shall be made notwithstanding the statute if the taxpayer files a claim for the computation or recomputation within 6 months after the date of making the election.

"§ 53307. Basis for determining gain or loss and for depreciating new vessels

"Under the income or excess profits tax laws of the United States, the basis for determining a gain or loss and for depreciation of a new vessel constructed, reconstructed, reconditioned, or acquired by the taxpayer, or for which purchase-money indebtedness is liquidated as provided in section 53310 of this title, with amounts from a construction reserve fund, shall be reduced by that part of the deposits in the fund expended in the construction, reconstruction, reconditioning, acquisition, or liquidation of purchase-money indebtedness of the new vessel that represents a gain not recognized for tax purposes under section 53306 of this title.

"§ 53308. Order and proportions of deposits and withdrawals

"In this chapter—

"(1) if the net proceeds of a sale or the net indemnity for a loss is deposited in more than one deposit, the amount consisting of the gain shall be deemed to be deposited first;

"(2) amounts expended, obligated, or otherwise withdrawn shall be applied against the amounts deposited in the fund in the order of deposit; and

"(3) if a deposit consists in part of a gain not recognized under section 53306 of this title, any expenditure, obligation, or withdrawal applied against that deposit shall be deemed to be a gain in the proportion that the part of the deposit consisting of a gain bears to the total amount of the deposit.

"§ 53309. Accumulation of deposits

"For any taxable year, amounts on deposit in a construction reserve fund on the last day of the taxable year, for which the requirements of section 53310 of this title have been satisfied (to the extent they apply on the last day of the taxable year), are deemed to have been retained for the reasonable needs of the business within the meaning of section 537(a) of the Internal Revenue Code of 1986 (26 U.S.C. 537(a)).

"§ 53310. Obligation of deposits and period for construction of certain vessels

"(a) APPLICATION OF SECTIONS 53306 AND 53309.—Sections 53306 and 53309 of this title apply to a deposit in a construction reserve fund only if, within 3 years after the date of the deposit (and any extension under subsection (c))—

"(1)(A) a contract is made for the construction or acquisition of a new vessel or, with the approval of the Secretary of Transportation, for a part interest in a new vessel or for the reconstruction or reconditioning of a new vessel;

"(B) the deposit is expended or obligated for expenditure under that contract;

"(C) at least 12.5 percent of the construction or contract price of the vessel is paid or irrevocably committed for payment; and

"(D) the plans and specifications for the vessel are approved by the Secretary to the extent the Secretary considers necessary; or

"(2) the deposit is expended or obligated for expenditure for the liquidation of existing or subsequently incurred purchase-money indebtedness to a person not a parent company of, or *a company affiliated or associated with, the mortgagor on a new vessel.*

"(b) ADDITIONAL REQUIREMENTS FOR CERTAIN VESSELS.—In addition to the requirements of subsection (a)(1), for a vessel not constructed under a construction-differential subsidy contract or not bought from the Secretary of Transportation—

"(1) at least 5 percent of the construction (or, if the contract covers more than one vessel, at least 5 percent of the construction of the first vessel) must be completed within 6 months after the date of the construction contract (or within the period of an extension under subsection (c)), as estimated by the Secretary and certified by the Secretary to the Secretary of the Treasury; and

"(2) construction under the contract must be completed with reasonable dispatch thereafter.

"(c) EXTENSIONS.—The Secretary of Transportation may grant extensions of the period within which the deposits must be expended or obligated or within which the construction must have progressed to the extent of 5 percent completion under this section. However, the extensions may not be for a total of more than 2 years for the expenditure or obligation of deposits or one year for the progress of construction.

"§53311. Taxation of deposits on failure of conditions

"A deposited gain, if otherwise taxable income under the law applicable to the taxable year in which the gain was realized, shall be included in gross income for that taxable year, except for purposes of the declared value excess profits tax and the capital stock tax, if—

"(1) the deposited gain is not expended or obligated within the appropriate period under section 53310 of this title;

"(2) the deposited gain is withdrawn before the end of that period;

"(3) the construction related to that deposited gain has not progressed to the extent of 5 percent of completion within the appropriate period under section 53310 of this title; or

"(4) the Secretary of Transportation finds and certifies to the Secretary of the Treasury that, for causes within the control of the taxpayer, the entire construction related to that deposited gain is not completed with reasonable dispatch.

"§53312. Assessment and collection of deficiency tax

"Notwithstanding any other provision of law, a deficiency in tax for a taxable year resulting from the inclusion of an amount in gross income as provided by section 53311 of this title, and the amount to be treated as a deficiency under section 53311 instead of as an adjustment for the declared value excess profits tax, may be assessed or a civil action may be brought to collect the deficiency without assessment, at any time. Interest on a deficiency or amount to be treated as a deficiency does not begin until the date the deposited gain or part of the deposited gain in question is required to be included in gross income under section 51111.

"CHAPTER 535—CAPITAL CONSTRUCTION FUNDS

"Sec.
"53501. Definitions.
"53502. Regulations.
"53503. Establishing a capital construction fund.
"53504. Deposits and withdrawals.
"53505. Ceiling on deposits.
"53506. Investment and fiduciary requirements.
"53507. Nontaxation of deposits.
"53508. Separate accounts within a fund.
"53509. Qualified withdrawals.
"53510. Tax treatment of qualified withdrawals and basis of property.
"53511. Tax treatment of nonqualified withdrawals.
"53512. FIFO and LIFO withdrawals.
"53513. Corporate reorganizations and partnership changes.
"53514. Relationship of old fund to new fund.
"53515. Records and reports.
"53516. Termination of agreement after change in regulations.
"53517. Reports.

"§53501. Definitions

"In this chapter:

"(1) AGREEMENT VESSEL.—The term 'agreement vessel' means—

"(A) an eligible vessel or a qualified vessel that is subject to an agreement under this chapter; and

"(B) a barge or container that is part of the complement of a vessel described in subparagraph (A) if provided for in the agreement.

"(2) ELIGIBLE VESSEL.—The term 'eligible vessel' means—

"(A) a vessel—

"(i) constructed in the United States (and, if reconstructed, reconstructed in the United States), constructed outside the United States but documented under the laws of the United States on April 15, 1970, or constructed outside the United States for use in the United States foreign trade pursuant to a contract made before April 15, 1970;

"(ii) documented under the laws of the United States; and

"(iii) operated in the foreign or domestic trade of the United States or in the fisheries of the United States; and

"(B) a commercial fishing vessel—

"(i) constructed in the United States and, if reconstructed, reconstructed in the United States;

"(ii) of at least 2 net tons but less than 5 net tons;

"(iii) owned by a citizen of the United States;

"(iv) having its home port in the United States; and

"(v) operated in the commercial fisheries of the United States.

"(3) JOINT REGULATIONS.—The term 'joint regulations' means regulations prescribed jointly by the Secretary and the Secretary of the Treasury under section 53502(b) of this title.

"(4) NONCONTIGUOUS TRADE.—The term 'noncontiguous trade' means—

"(A) trade between—

"(i) one of the contiguous 48 States; and

"(ii) Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States; and

"(B) trade between—

"(i) a place in Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States; and

"(ii) another place in Alaska, Hawaii, Puerto Rico, or an insular territory or possession of the United States.

"(5) QUALIFIED VESSEL.—The term 'qualified vessel' means—

"(A) a vessel—

"(i) constructed in the United States (and, if reconstructed, reconstructed in the United States), constructed outside the United States but documented under the laws of the United States on April 15, 1970, or constructed outside the United States for use in the United States foreign trade pursuant to a contract made before April 15, 1970;

"(ii) documented under the laws of the United States; and

"(iii) agreed, between the Secretary and the person maintaining the capital construction fund established under section 53503 of this title, to be operated in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States; and

"(B) a commercial fishing vessel—

"(i) constructed in the United States and, if reconstructed, reconstructed in the United States;

"(ii) of at least 2 net tons but less than 5 net tons;

"(iii) owned by a citizen of the United States;

"(iv) having its home port in the United States; and

"(v) operated in the commercial fisheries of the United States.

"(6) SECRETARY.—The term 'Secretary' means—

"(A) the Secretary of Commerce with respect to an eligible vessel or a qualified vessel operated or to be operated in the fisheries of the United States; and

"(B) the Secretary of Transportation with respect to other vessels.

"(7) UNITED STATES FOREIGN TRADE.—The term 'United States foreign trade' includes those areas in domestic trade in which a vessel built with a construction-differential subsidy is allowed to operate under the first sentence of section 506 of the Merchant Marine Act, 1936.

"(8) VESSEL.—The term 'vessel' includes—

"(A) cargo handling equipment that the Secretary determines is intended for use primarily on the vessel; and

"(B) an ocean-going towing vessel, an ocean-going barge, or a comparable towing vessel or barge operated on the Great Lakes.

"§53502. Regulations

"(a) IN GENERAL.—Except as provided in subsection (b), the Secretary shall prescribe regulations to carry out this chapter.

"(b) TAX LIABILITY.—The Secretary and the Secretary of the Treasury shall prescribe joint regulations for the determination of tax liability under this chapter.

"§53503. Establishing a capital construction fund

"(a) IN GENERAL.—A citizen of the United States owning or leasing an eligible vessel may make an agreement with the Secretary under this chapter to establish a capital construction fund for the vessel.

"(b) ALLOWABLE PURPOSE.—The purpose of the agreement shall be to provide replacement vessels, additional vessels, or reconstructed vessels, built in the United States and documented under the laws of the United States, for operation in the United States foreign, Great Lakes, or noncontiguous domestic trade or in the fisheries of the United States.

"§53504. Deposits and withdrawals

"(a) REQUIRED DEPOSITS.—An agreement to establish a capital construction fund shall provide for the deposit in the fund of the amounts agreed to be appropriate to provide for qualified withdrawals under section 53509 of this title.

"(b) APPLICABLE REQUIREMENTS.—Deposits in and withdrawals from the fund are subject to the requirements included in the agreement or prescribed by the Secretary by regulation. However, the Secretary may not require a person to deposit in the fund for a taxable year more than 50 percent of that portion of the person's taxable income for that year (as determined under section 53505(a)(1) of this title) that is attributable to the operation of an agreement vessel.

"§53505. Ceiling on deposits

"(a) MAXIMUM DEPOSITS.—The amount deposited in a capital construction fund for a taxable year may not exceed the sum of—

"(1) that portion of the taxable income of the owner or lessee for the taxable year (computed under chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1) but without regard to the carryback of net operating loss or net capital loss or this chapter) that is attributable to the operation of agreement vessels in the foreign or domestic trade of the United States or in the fisheries of the United States;

"(2) the amount allowable as a deduction under section 167 of such Code (26 U.S.C. 167) for the taxable year for agreement vessels;

"(3) if the transaction is not taken into account for purposes of paragraph (1), the net proceeds (as defined in joint regulations) from the disposition of an agreement vessel or from insurance or indemnity attributable to an agreement vessel; and

"(4) the receipts from the investment or reinvestment of amounts held in the fund.

"(b) REDUCTIONS FOR LESSEES.—For a lessee, the maximum amount that may be deposited for an agreement vessel under subsection (a)(2) for any period shall be reduced by any amount the owner is required or permitted, under the capital construction fund agreement, to deposit for that period for the vessel under subsection (a)(2).

"§ 53506. Investment and fiduciary requirements

"(a) IN GENERAL.—Amounts in a capital construction fund shall be kept in the depository specified in the agreement and shall be subject to trustee and other fiduciary requirements prescribed by the Secretary. Except as provided in subsection (b), amounts in the fund may be invested only in interest-bearing securities approved by the Secretary.

"(b) STOCK INVESTMENTS.—

"(1) IN GENERAL.—With the approval of the Secretary, an agreed percentage (but not more than 60 percent) of the assets of the fund may be invested in the stock of domestic corporations that—

"(A) is fully listed and registered on an exchange registered with the Securities and Exchange Commission as a national securities exchange; and

"(B) would be acquired by a prudent investor seeking a reasonable income and the preservation of capital.

"(2) PREFERRED STOCK.—The preferred stock of a corporation is deemed to satisfy the requirements of this subsection, even though it may not be registered and listed because it is nonvoting stock, if the common stock of the corporation satisfies the requirements and the preferred stock otherwise would satisfy the requirements.

"(c) MAINTAINING AGREED PERCENTAGE.—If at any time the fair market value of the stock in the fund is more than the agreed percentage of the assets in the fund, any subsequent investment of amounts deposited in the fund, and any subsequent withdrawal from the fund, shall be made in a way that tends to restore the fair market value of the stock to not more than the agreed percentage.

"§ 53507. Nontaxation of deposits

"(a) TAX TREATMENT.—Subject to subsection (b), under the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.)—

"(1) taxable income (determined without regard to this chapter and section 7518 of such Code (26 U.S.C. 7518)) for the taxable year shall be reduced by the amount deposited for the taxable year out of amounts referred to in section 53505(a)(1) of this title;

"(2) a gain from a transaction referred to in section 53505(a)(3) of this title shall not be taken into account if an amount equal to the net proceeds (as defined in joint regulations) from the transaction is deposited in the fund;

"(3) the earnings (including gains and losses) from the investment and reinvestment of amounts held in the fund shall not be taken into account;

"(4) the earnings and profits of a corporation (within the meaning of section 316 of such Code (26 U.S.C. 316)) shall be determined without regard to this chapter and section 7518 of such Code (26 U.S.C. 7518); and

"(5) in applying the tax imposed by section 531 of such Code (26 U.S.C. 531), amounts held in the fund shall not be taken into account.

"(b) CONDITION.—This section applies to an amount only if the amount is deposited in the fund under the agreement within the time provided in joint regulations.

"§ 53508. Separate accounts within a fund

"(a) IN GENERAL.—A capital construction fund shall have three accounts:

"(1) The capital account.

"(2) The capital gain account.

"(3) The ordinary income account.

"(b) CAPITAL ACCOUNT.—The capital account shall consist of—

"(1) amounts referred to in section 53505(a)(2) of this title;

"(2) amounts referred to in section 53505(a)(3) of this title, except that portion representing a gain not taken into account because of section 53507(a)(2) of this title;

"(3) the percentage applicable under section 243(a)(1) of the Internal Revenue Code of 1986 (26 U.S.C. 243(a)(1)) of any dividend received by the fund for which the person maintaining the fund would be allowed (were it not for section 53507(a)(3) of this title) a deduction under section 243 of such Code (26 U.S.C. 243); and

"(4) interest income exempt from taxation under section 103 of such Code (26 U.S.C. 103).

"(c) CAPITAL GAIN ACCOUNT.—The capital gain account shall consist of—

"(1) amounts representing capital gains on assets held for more than 6 months and referred to in section 53505(a)(3) or (4) of this title; minus

"(2) amounts representing capital losses on assets held in the fund for more than 6 months.

"(d) ORDINARY INCOME ACCOUNT.—The ordinary income account shall consist of—

"(1) amounts referred to in section 53505(a)(1) of this title;

"(2)(A) amounts representing capital gains on assets held for not more than 6 months and referred to in section 53505(a)(3) or (4) of this title; minus

"(B) amounts representing capital losses on assets held in the fund for not more than 6 months;

"(3) interest (except tax-exempt interest referred to in subsection (b)(4)) and other ordinary income (except any dividend referred to in paragraph (5)) received on assets held in the fund;

"(4) ordinary income from a transaction described in section 53505(a)(3) of this title; and

"(5) that portion of any dividend referred to in subsection (b)(3) not taken into account under subsection (b)(3).

"(e) WHEN LOSSES ALLOWED.—Except on termination of a fund, capital losses referred to in subsection (c) or (d)(2) shall be allowed only as an offset to gains referred to in subsection (c) or (d)(2), respectively.

"§ 53509. Qualified withdrawals

"(a) IN GENERAL.—Subject to subsection (b), a withdrawal from a capital construction fund is a qualified withdrawal if it is made under the terms of the agreement and is for—

"(1) the acquisition, construction, or reconstruction of a qualified vessel or a barge or container that is part of the complement of a qualified vessel; or

"(2) the payment of the principal on indebtedness incurred in the acquisition, construction, or reconstruction of a qualified vessel or a barge or container that is part of the complement of a qualified vessel.

"(b) BARGES AND CONTAINERS.—Except as provided in regulations prescribed by the Secretary, subsection (a) applies to a barge or container only if it is constructed in the United States.

"(c) TREATMENT AS NONQUALIFIED WITHDRAWAL.—Under joint regulations, if the Secretary determines that a substantial obligation under an agreement is not being fulfilled, the Secretary, after notice and opportunity for a hearing to the person maintaining the fund, may treat any amount in the fund as an amount withdrawn from the fund in a nonqualified withdrawal.

"§ 53510. Tax treatment of qualified withdrawals and basis of property

"(a) ORDER OF WITHDRAWALS.—A qualified withdrawal from a capital construction fund shall be treated as made—

"(1) first from the capital account;

"(2) second from the capital gain account; and

"(3) third from the ordinary income account.

"(b) ORDINARY INCOME ACCOUNT WITHDRAWALS.—If a portion of a qualified withdrawal for a vessel, barge, or container is made from the ordinary income account, the basis of the vessel, barge, or container shall be reduced by an amount equal to that portion.

"(c) CAPITAL GAIN ACCOUNT WITHDRAWALS.—If a portion of a qualified withdrawal for a vessel, barge, or container is made from the capital gain account, the basis of the vessel, barge, or container shall be reduced by an amount equal to that portion.

"(d) WITHDRAWALS TO PAY PRINCIPAL.—If a portion of a qualified withdrawal to pay the principal on indebtedness is made from the ordinary income account or the capital gain account, an amount equal to the total reduction that would be required by subsections (b) and (c) if the withdrawal were a qualified withdrawal for a purpose described in those subsections shall be applied, in the order provided in joint regulations, to reduce the basis of vessels, barges, and containers owned by the person maintaining the fund. The remaining amount of the withdrawal shall be treated as a nonqualified withdrawal.

"(e) GAIN ON PROPERTY WITH REDUCED BASIS.—If property, the basis of which was reduced under subsection (b), (c), or (d), is disposed of, any gain realized on the disposition, to the extent it does not exceed the total reduction in the basis of the property under those subsections, shall be treated as an amount referred to in section 53511(c)(1) of this title withdrawn on the date of disposition of the property. Subject to conditions prescribed in joint regulations, this subsection does not apply to a disposition if there is a redeposit, in an amount determined under joint regulations, that restores the fund as far as practicable to the position it was in before the withdrawal.

"§ 53511. Tax treatment of nonqualified withdrawals

"(a) IN GENERAL.—Except as provided in section 53513 of this title, a withdrawal from a fund that is not a qualified withdrawal shall be treated as a nonqualified withdrawal.

"(b) ORDER OF WITHDRAWALS.—A nonqualified withdrawal shall be treated as made—

"(1) first from the ordinary income account;

"(2) second from the capital gain account; and

"(3) third from the capital account.

"(c) TAX TREATMENT.—For purposes of the Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.)—

"(1) a nonqualified withdrawal from the ordinary income account shall be included in income as an item of ordinary income for the taxable year in which the withdrawal is made;

"(2) a nonqualified withdrawal from the capital gain account shall be included in income for the taxable year in which the withdrawal is made as an item of gain realized during that year from the disposition of an asset held for more than 6 months; and

"(3) for the period through the last date prescribed for payment of tax for the taxable year in which the withdrawal is made—

"(A) no interest shall be payable under section 6601 of such Code (26 U.S.C. 6601) and no addition to the tax shall be payable under section 6651 of such Code (26 U.S.C. 6651);

"(B) interest on the amount of the additional tax attributable to an amount treated as a nonqualified withdrawal from the ordinary income account or the capital gain account shall be paid at the rate determined under subsection (d) from the last date prescribed for payment of the tax for the taxable year for which the amount was deposited in the fund; and

"(C) no interest shall be payable on amounts treated as withdrawn on a last-in-first-out basis under section 53512 of this title.

"(d) INTEREST RATE.—The rate of interest under subsection (c)(3)(B) for a nonqualified withdrawal made in a taxable year beginning after 1971 shall be determined and published jointly by the Secretary and the Secretary of the Treasury. The rate shall be such that its relationship to 8 percent is comparable, as determined by the Secretaries under joint regulations, to the relationship between—

"(1) the money rates and investment yields for the calendar year immediately before the beginning of the taxable year; and

"(2) the money rates and investment yields for the calendar year 1970.

"(e) NONQUALIFIED WITHDRAWALS.—

"(1) IN GENERAL.—The following applicable percentage of any amount that remains in a capital construction fund at the close of the following specified taxable year following the taxable year for which the amount was deposited shall be treated as a nonqualified withdrawal:

"If the amount remains in the fund at the close of the—	**The applicable percentage is—**
"26th taxable year	20 percent
"27th taxable year	40 percent
"28th taxable year	60 percent
"29th taxable year	80 percent
"30th taxable year	100 percent.

"(2) EARNINGS.—The earnings of a capital construction fund for any taxable year (except net gains) shall be treated under this subsection as an amount deposited for the taxable year.

"(3) CONTRACT FOR QUALIFIED WITHDRAWAL.—Under paragraph (1), an amount shall not be treated as remaining in a capital construction fund at the close of a taxable year to the extent there is a binding contract at the close of the taxable year for a qualified withdrawal of the amount for an identified item for which the withdrawal may be made.

"(4) EXCESS EARNINGS.—If the Secretary determines that the balance in a capital construction fund exceeds the amount appropriate to meet the vessel construction program objectives of the person that established the fund, the amount of the excess shall be treated as a nonqualified withdrawal under paragraph (1) unless the person develops appropriate program objectives within 3 years to dissipate the excess.

"(5) AMOUNTS IN FUND ON JANUARY 1, 1987.—Under this subsection, amounts in a capital construction fund on January 1, 1987, shall be treated as having been deposited in that fund on that date.

"(f) TAX DETERMINATIONS.—

"(1) IN GENERAL.—For a taxable year for which there is a nonqualified withdrawal (including an amount treated as a nonqualified withdrawal under subsection (e)), the tax imposed by chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1) shall be determined by—

"(A) excluding the withdrawal from gross income; and

"(B) increasing the tax imposed by chapter 1 of such Code by the product of the amount of the withdrawal and the highest tax rate specified in section 1 (or section 11 for a corporation) of such Code (26 U.S.C. 1, 11).

"(2) MAXIMUM TAX RATE.—For that portion of a nonqualified withdrawal made from the capital gain account during a taxable year to which section 1(h) or 1201(a) of such Code (26 U.S.C. 1(h), 1201(a)) applies, the tax rate used under paragraph (1)(B) may not exceed 15 percent (or 34 percent for a corporation).

"(3) TAX BENEFIT RULE.—If any portion of a nonqualified withdrawal is properly attributable to deposits (except earnings on deposits) made by the taxpayer in a taxable year that did not reduce the taxpayer's liability for tax under chapter 1 of such Code (26 U.S.C. ch. 1) for a taxable year before the taxable year in which the withdrawal occurs—

"(A) that portion shall not be taken into account under paragraph (1); and

"(B) an amount equal to that portion shall be allowed as a deduction under section 172 of such Code (26 U.S.C. 172) for the taxable year in which the withdrawal occurs.

"(4) COORDINATION WITH DEDUCTION FOR NET OPERATING LOSSES.—A nonqualified withdrawal excluded from gross income under paragraph (1) shall be excluded in determining taxable income under section 172(b)(2) of such Code (26 U.S.C. 172(b)(2)).

"§53512. FIFO and LIFO withdrawals

"(a) FIFO.—Except as provided in subsection (b), an amount withdrawn from an account under this chapter shall be treated as withdrawn on a first-in-first-out basis.

"(b) LIFO.—An amount withdrawn from an account under this chapter shall be treated as withdrawn on a last-in-first-out basis if it is—

"(1) a nonqualified withdrawal for research, development, and design expenses incident to new and advanced vessel design, machinery, and equipment; or

"(2) an amount treated as a nonqualified withdrawal under section 53510(d) of this title.

"§53513. Corporate reorganizations and partnership changes

"Under joint regulations—

"(1) a transfer of a capital construction fund from one person to another person in a transaction to which section 381 of the Internal Revenue Code of 1986 (26 U.S.C. 381) applies may be treated as if the transaction is not a nonqualified withdrawal; and

"(2) a similar rule shall be applied to a continuation of a partnership (within the meaning of subchapter K of chapter 1 of such Code (26 U.S.C. 701 et seq.)).

"§53514. Relationship of old fund to new fund

"(a) DEFINITION.—In this section, the term 'old fund' means a capital construction fund maintained before October 21, 1970.

"(b) ELECTION TO MAINTAIN OLD FUND.—A person maintaining an old fund may elect to continue the old fund, but may not—

"(1) hold amounts in the old fund beyond the expiration date provided in the agreement under which the old fund is maintained (determined without regard to an extension or renewal made after April 14, 1970); or

"(2) maintain simultaneously the old fund and a new fund established under this chapter.

"(c) APPLICATION OF NEW FUND AGREEMENT TO OLD FUND AMOUNTS.—If a person makes an agreement under this chapter to establish a new fund, the person may agree to extend the agreement to some or all of the amounts in an old fund. Each item in the old fund to be transferred shall be transferred in a nontaxable transaction to the appropriate account in the new fund. For purposes of section 53511(c)(3) of this title, the date of the deposit of an item so transferred shall be July 1, 1971, or the date of the deposit in the old fund, whichever is later.

"§53515. Records and reports

"A person maintaining a fund under this chapter shall keep records and make reports as required by the Secretary or the Secretary of the Treasury.

"§53516. Termination of agreement after change in regulations

"If, after an agreement has been made under this chapter, a change is made either in the joint regulations or in the regulations prescribed by the Secretary under this chapter that could have a substantial effect on the rights or duties of a person maintaining a fund under this chapter, that person may terminate the agreement.

"§53517. Reports

"(a) IN GENERAL.—Within 120 days after the close of each calendar year, the Secretary of Transportation and the Secretary of Commerce each shall provide the Secretary of the Treasury a written report on the capital construction funds under the particular Secretary's jurisdiction for the calendar year.

"(b) CONTENTS.—The report shall state the name and taxpayer identification number of each person—

"(1) establishing a capital construction fund during the calendar year;

"(2) maintaining a capital construction fund on the last day of the calendar year;

"(3) terminating a capital construction fund during the calendar year;

"(4) making a deposit to or withdrawal from a capital construction fund during the calendar year, and the amount of the deposit or withdrawal; or

"(5) having been determined during the calendar year to have failed to fulfill a substantial obligation under a capital construction fund agreement to which the person is a party.

"CHAPTER 537—LOANS AND GUARANTEES

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"SUBCHAPTER I—GENERAL

"§53701. Definitions

"In this chapter:

"(1) ACTUAL COST.—The term 'actual cost' means the sum of—

"(A) all amounts paid by or for the account of the obligor as of the date on which a determination is made under section 53715(d)(1) of this title; and

"(B) all amounts that the Secretary reasonably estimates the obligor will become obligated to pay from time to time thereafter, for the construction, reconstruction, or reconditioning of the vessel, including guarantee fees that will become payable under section 53714 of this title in connection with all obligations issued for construction, reconstruction, or reconditioning of the vessel or equipment to be delivered, and all obligations issued for the delivered vessel or equipment.

"(2) CONSTRUCTION, RECONSTRUCTION, AND RECONDITIONING.—The terms 'construction', 'reconstruction', and 'reconditioning' include designing, inspecting, outfitting, and equipping.

"(3) DEPRECIATED ACTUAL COST.—The term 'depreciated actual cost' of a vessel means—

"(A) if the vessel was not reconstructed or reconditioned, the actual cost of the vessel depreciated on a straight line basis over the useful life of the vessel as determined by the Secretary, not to exceed 25 years from the date of delivery by the builder; or

"(B) if the vessel was reconstructed or reconditioned, the sum of—

"(i) the actual cost of the vessel depreciated on a straight line basis from the date of delivery by the builder to the date of the reconstruction or reconditioning, using the original useful life of the vessel, and from the date of the reconstruction or reconditioning, using a useful life of the vessel determined by the Secretary; and

"(ii) any amount paid or obligated to be paid for the reconstruction or reconditioning, depreciated on a straight line basis using a useful life of the vessel determined by the Secretary.

"(4) ELIGIBLE EXPORT VESSEL.—The term 'eligible export vessel' means a vessel that—

"(A) is constructed, reconstructed, or reconditioned in the United States for use in worldwide trade; and

"(B) will, on delivery or redelivery, become or remain documented under the laws of a country other than the United States.

"(5) FISHERY FACILITY.—

"(A) IN GENERAL.—Subject to subparagraph (B), the term 'fishery facility' means—

"(i) for operations on land—

"(I) a structure or appurtenance thereto designed for the unloading and receiving from vessels, the processing, the holding pending processing, the distribution after processing, or the holding pending distribution, of fish from a fishery;

"(II) the land necessary for the structure or appurtenance; and

"(III) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in subclause (I);

"(ii) for operations not on land, a vessel built in the United States and used for, equipped to be used for, or of a type normally used for, the processing of fish; or

"(iii) for aquaculture, including operations on land or elsewhere—

"(I) a structure or appurtenance thereto designed for aquaculture;

"(II) the land necessary for the structure or appurtenance;

"(III) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in subclause (I); and

"(IV) a vessel built in the United States and used for, equipped to be used for, or of a type normally used for, aquaculture.

"(B) REQUIRED OWNERSHIP.—Under subparagraph (A), the structure, appurtenance, land, equipment, or vessel must be owned by—

"(i) an individual who is a citizen of the United States; or

"(ii) an entity that is a citizen of the United States under section 50501 of this title and that is at least 75 percent owned (as determined under that section) by citizens of the United States.

"(6) FISHING VESSEL.—The term 'fishing vessel' has the meaning given that term in section 3 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1802), and any reference in this chapter to a vessel designed principally for commercial use in the fishing trade or industry is deemed to be a reference to a fishing vessel.

"(7) MORTGAGE.—The term 'mortgage' includes—

"(A) a preferred mortgage as defined in section 31301 of this title; and

"(B) a mortgage on a vessel that will become a preferred mortgage when filed or recorded under chapter 313 of this title.

"(8) OBLIGATION.—The term 'obligation' means an instrument of indebtedness issued for a purpose described in section 53706 of this title, except—

"(A) an obligation issued by the Secretary under section 53723 of this title; and

"(B) an obligation eligible for investment of funds under section 53715(f) or 53717 of this title.

"(9) OBLIGEE.—The term 'obligee' means the holder of an obligation.

"(10) OBLIGOR.—The term 'obligor' means a party primarily liable for payment of the principal of or interest on an obligation.

"(11) OCEAN THERMAL ENERGY CONVERSION FACILITY OR PLANTSHIP.—The term 'ocean thermal energy conversion facility or plantship' means an at-sea facility or vessel, whether mobile, floating unmoored, moored, or standing on the seabed, that uses temperature differences in ocean water to produce electricity or another form of energy capable of being used directly to perform work, and includes—

"(A) equipment installed on the facility or vessel to use the electricity or other form of energy to produce, process, refine, or manufacture a product;

"(B) a cable or pipeline used to deliver the electricity, freshwater, or product to shore; and

"(C) other associated equipment and appurtenances of the facility or vessel to the extent they are located seaward of the high water mark.

"(12) SECRETARY.—The term 'Secretary' means—

"(A) the Secretary of Commerce with respect to fishing vessels and fishery facilities; and

"(B) the Secretary of Transportation with respect to other vessels and general shipyard facilities (as defined in section 53733(a) of this title).

"(13) VESSEL.—The term 'vessel' means any type of vessel, whether in existence or under construction, including—

"(A) a cargo vessel;

"(B) a passenger vessel;

"(C) a combination cargo and passenger vessel;

"(D) a tanker;

"(E) a tug or towboat;

"(F) a barge;

"(G) a dredge;

"(H) a floating drydock with a capacity of at least 35,000 lifting tons and a beam of at least 125 feet between the wing walls;

"(I) an oceanographic research vessel;

"(J) an instruction vessel;

"(K) a pollution treatment, abatement, or control vessel;

"(L) a fishing vessel whose ownership meets the citizenship requirements under section 50501 of this title for documenting vessels to operate in the coastwise trade; and

"(M) an ocean thermal energy conversion facility or plantship that is or will be documented under the laws of the United States.

"§53702. General authority

"(a) IN GENERAL.—The Secretary, on terms the Secretary may prescribe, may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation eligible to be guaranteed under this chapter. A guarantee or commitment to guarantee shall cover 100 percent of the principal and interest.

"(b) DIRECT LOANS FOR FISHERIES.—

"(1) IN GENERAL.—Notwithstanding any other provision of this chapter, any obligation involving a fishing vessel, fishery facility, aquaculture facility, individual fishing quota, or fishing capacity reduction program issued under this chapter after October 11, 1996, shall be a direct loan obligation for which the Secretary shall be the obligee, rather than an obligation issued to an obligee other than the Secretary and guaranteed by the Secretary. A direct loan obligation under this subsection shall be treated in the same manner and to the same extent as an obligation guaranteed under this chapter except with respect to provisions of this chapter that by their nature can only be applied to obligations guaranteed under this chapter.

"(2) INTEREST RATE.—Notwithstanding any other provision of this chapter, the annual rate of interest an obligor shall pay on a direct loan obligation under this subsection is 2 percent plus the additional percent the Secretary must pay as interest to borrow from the Treasury the funds to make the loan.

"§53703. Application procedures

"(a) TIME FOR DECISION.—

"(1) IN GENERAL.—The Secretary shall approve or deny an application for a loan guarantee under this chapter within 270 days after the date on which the signed application is received by the Secretary.

"(2) EXTENSION.—On request by an applicant, the Secretary may extend the 270-day period in paragraph (1) to a date not later than 2 years after the date on which the signed application was received by the Secretary.

"(b) CERTIFICATION OF REVIEW.—The Secretary may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary certifies that a full and fair consideration of all the regulatory requirements, including economic soundness and financial requirements applicable to the obligor and related parties, and a thorough assessment of the technical, economic, and financial aspects of the loan application, has been made.

"§53704. Funding limits

"(a) GENERAL LIMITATIONS.—The total unpaid principal amount of obligations guaranteed under this chapter and outstanding at one time may not exceed $12,000,000,000. Of that amount—

"(1) $850,000,000 shall be limited to obligations related to fishing vessels and fishery facilities; and

"(2) $3,000,000,000 shall be limited to obligations related to eligible export vessels.

"(b) ADDITIONAL LIMITATIONS.—Additional limitations may not be imposed on new commitments to guarantee loans for any fiscal year, except in amounts established in advance by annual authorization laws. A vessel eligible for a guarantee under this chapter may not be denied eligibility because of its type.

"(c) LIMITS BASED ON RISK FACTORS.—

"(1) DEFINITION.—In this subsection, the term 'cost' has the meaning given that term in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a).

"(2) SYSTEM OF RISK CATEGORIES.—The Secretary shall—

"(A) establish, and update annually, a system of risk categories for obligations guaranteed

under this chapter that categorizes the relative risk of guarantees based on the risk factors set forth in paragraph (4);

“(B) determine annually for each risk category a subsidy rate equivalent to the cost of obligations in the category, expressed as a percentage of the amount guaranteed for obligations in the category; and

“(C) ensure that each risk category is comprised of loans that are relatively homogeneous in cost and share characteristics predictive of defaults and other costs, given the facts known at the time of obligation or commitment, using a risk category system that is based on historical analysis of program data and statistical evidence concerning the likely costs of defaults or other costs that are expected to be associated with the loans in the category.

“(3) USE OF SYSTEM.—

“(A) PLACING OBLIGATION IN CATEGORY.—Before making a guarantee under this chapter for an obligation, and annually for projects subject to a guarantee, the Secretary shall apply the risk factors specified in paragraph (4) to place the obligation in a risk category established under paragraph (2).

“(B) REDUCTION OF AVAILABLE AMOUNT.—The Secretary shall consider the total amount available to the Secretary for making guarantees under this chapter to be reduced by the amount determined by multiplying—

“(i) the amount guaranteed under this chapter for an obligation; by

“(ii) the subsidy rate for the category in which the obligation is placed under subparagraph (A).

“(C) ESTIMATED COST.—The estimated cost to the United States Government of a guarantee under this chapter for an obligation is deemed to be the amount determined under subparagraph (B) for the obligation.

“(D) RESTRICTION ON FURTHER GUARANTEES.—The Secretary may not guarantee obligations under this chapter after the total amount available to the Secretary under appropriations laws for the cost of loan guarantees is considered to be reduced to zero under subparagraph (B).

“(4) RISK FACTORS.—The risk factors referred to in this subsection are—

“(A) if applicable, the country risk for each eligible export vessel financed or to be financed by an obligation;

“(B) the period for which an obligation is guaranteed or to be guaranteed;

“(C) the amount of an obligation guaranteed or to be guaranteed in relation to the total cost of the project financed or to be financed by the obligation;

“(D) the financial condition of an obligor or applicant for a guarantee;

“(E) if applicable, other guarantees related to the project;

“(F) if applicable, the projected employment of each vessel or equipment to be financed with an obligation;

“(G) if applicable, the projected market that will be served by each vessel or equipment to be financed with an obligation;

“(H) the collateral provided for a guarantee for an obligation;

“(I) the management and operating experience of an obligor or applicant for a guarantee;

“(J) whether a guarantee under this chapter is or will be in effect during the construction period of the project; and

“(K) the concentration risk presented by an unduly large percentage of loans outstanding by any one borrower or group of affiliated borrowers.

“§53705. Pledge of United States Government

“(a) FULL FAITH AND CREDIT.—The full faith and credit of the United States Government is pledged to the payment of a guarantee made under this chapter, for both principal and interest, including interest (as may be provided for in the guarantee) accruing between the date of default under a guaranteed obligation and the date of payment in full of the guarantee.

“(b) INCONTESTABILITY.—A guarantee or commitment to guarantee made under this chapter is conclusive evidence of the eligibility of the obligation for the guarantee. The validity of a guarantee or commitment to guarantee made under this chapter is incontestable.

“§53706. Eligible purposes of obligations

“(a) IN GENERAL.—To be eligible for a guarantee under this chapter, an obligation must aid in any of the following:

“(1)(A) Financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, or reconditioning of a vessel (including an eligible export vessel) designed principally for research, or for commercial use—

“(i) in the coastwise or intercoastal trade;

“(ii) on the Great Lakes, or on bays, sounds, rivers, harbors, or inland lakes of the United States;

“(iii) in foreign trade as defined in section 109(b) of this title;

“(iv) as an ocean thermal energy conversion facility or plantship;

“(v) as a floating drydock in the construction, reconstruction, reconditioning, or repair of vessels; or

“(vi) as an eligible export vessel in worldwide trade.

“(B) A guarantee under subparagraph (A) may not be made more than one year after delivery of the vessel (or redelivery if the vessel was reconstructed or reconditioned) unless the proceeds of the obligation are used to finance the construction, reconstruction, or reconditioning of a vessel or of facilities or equipment related to marine operations.

“(2) Financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, reconditioning, or purchase of a vessel owned by citizens of the United States and designed principally for research, or for commercial use in the fishing industry.

“(3) Financing the purchase, reconstruction, or reconditioning of a vessel or fishery facility—

“(A) for which an obligation was guaranteed under this chapter; and

“(B) that, under subchapter II of this chapter—

“(i) is a vessel or fishery facility for which an obligation was accelerated and paid;

“(ii) was acquired by the Federal Ship Financing Fund or successor account under section 53717 of this title; or

“(iii) was sold at foreclosure begun or intervened in by the Secretary.

“(4) Financing any part of the repayment to the United States Government of any amount of a construction-differential subsidy paid for a vessel.

“(5) Refinancing an existing obligation (regardless of whether guaranteed under this chapter) issued for a purpose described in paragraphs (1)–(4), including a short-term obligation incurred to obtain temporary funds with the intention of refinancing.

“(6) Financing or refinancing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, reconditioning, or purchase of a fishery facility.

“(7) Financing or refinancing (including reimbursement of an obligor for expenditures previously made for) the purchase of an individual fishing quota in accordance with section 303(d)(4) of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1853(d)(4)).

“(b) NON-VESSELS TREATED AS VESSELS.—An obligation guaranteed under subsection (a)(6) or (7) shall be treated, for purposes of this chapter, in the same manner and to the same extent as an obligation that aids in financing the construction, reconstruction, reconditioning, or purchase of a vessel, except with respect to provisions that by their nature can only be applied to vessels.

“(c) PRIORITIES FOR CERTAIN VESSELS.—In guaranteeing or making a commitment to guarantee an obligation under this chapter, the Secretary shall give priority to—

“(1) a vessel that is otherwise eligible for a guarantee and is constructed with assistance under subtitle D of the Maritime Security Act of 2003 (46 U.S.C. 53101 note); and

“(2) after applying paragraph (1), a vessel that is otherwise eligible for a guarantee and that the Secretary of Defense determines—

“(A) is suitable for service as a naval auxiliary in time of war or national emergency; and

“(B) meets a shortfall in sealift capacity or capability.

“§53707. Findings related to obligors and operators

“(a) RESPONSIBLE OBLIGOR.—The Secretary may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary finds that the obligor is responsible and has the ability, experience, financial resources, and other qualifications necessary for the adequate operation and maintenance of each vessel that will serve as security for the guarantee.

“(b) OPERATORS OF LINER VESSELS.—The Secretary of Transportation may not guarantee or make a commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a liner vessel under this chapter unless the Chairman of the Federal Maritime Commission certifies that the operator of the vessel has not been found by the Commission to have committed, within the previous 5 years—

“(1) a violation of part A of subtitle IV of this title that involves unjust or unfair discriminatory treatment or undue or unreasonable prejudice or disadvantage with respect to a United States shipper, ocean transportation intermediary, ocean common carrier, or port; or

“(2) a violation of part B of subtitle IV of this title.

“(c) OPERATORS OF FISHING VESSELS.—The Secretary of Commerce may not guarantee or make a commitment to guarantee a loan for the construction, reconstruction, or reconditioning of a fishing vessel under this chapter if the operator of the vessel has been—

“(1) held liable, or the vessel has been held liable in rem, for a civil penalty under section 308 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1858) and the operator has not paid the penalty;

“(2) found guilty of an offense under section 309 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1859) and not paid the assessed fine or served the assessed sentence;

“(3) held liable for a civil or criminal penalty under section 105 of the Marine Mammal Protection Act of 1972 (16 U.S.C. 1375) and not paid the assessed fine or served the assessed sentence; or

“(4) held liable for a civil penalty by the Coast Guard under this title or title 33 and not paid the assessed fine.

“(d) WAIVERS CONCERNING FINANCIAL CONDITION.—The Secretary shall prescribe regulations concerning circumstances under which waivers of, or exceptions to, otherwise applicable regulatory requirements concerning financial condition can be made. The regulations shall require that—

“(1) the economic soundness requirements in section 53708(a) of this title are met after the waiver of the financial condition requirement; and

"(2) the waiver shall provide for the imposition of other requirements on the obligor designed to compensate for the increased risk associated with the obligor's failure to meet regulatory requirements applicable to financial condition.

"§53708. Findings related to economic soundness

"(a) BY SECRETARY OF TRANSPORTATION.—The Secretary of Transportation may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary finds that the property or project for which the obligation will be executed will be economically sound. In making that finding, the Secretary shall consider—

"(1) the need in the particular segment of the maritime industry for new or additional capacity, including any impact on existing equipment for which a guarantee under this chapter is in effect;

"(2) the market potential for employment of the vessel over the life of the guarantee;

"(3) projected revenues and expenses associated with employment of the vessel;

"(4) any charter, contract of affreightment, transportation agreement, or similar agreement or undertaking relevant to the employment of the vessel;

"(5) other relevant criteria; and

"(6) for inland waterways, the need for technical improvements, including increased fuel efficiency or improved safety.

"(b) BY SECRETARY OF COMMERCE.—The Secretary of Commerce may not guarantee or make a commitment to guarantee an obligation under this chapter unless the Secretary finds, at or prior to the time the commitment is made or the guarantee becomes effective, that—

"(1) the property or project for which the obligation will be executed will be economically sound; and

"(2) for a fishing vessel, the purpose of the financing or refinancing is consistent with—

"(A) the wise use of the fisheries resources and the development, advancement, management, conservation, and protection of the fisheries resources; or

"(B) the need for technical improvements, including increased fuel efficiency or improved safety.

"(c) USED FISHING VESSELS AND FACILITIES.—The Secretary of Commerce may not guarantee or make a commitment to guarantee an obligation under this chapter for the purchase of a used fishing vessel or used fishery facility unless the vessel or facility will be—

"(1) reconstructed or reconditioned in the United States and will contribute to the development of the United States fishing industry; or

"(2) used—

"(A) in the harvesting of fish from an underused fishery; or

"(B) for a purpose described in the definition of 'fishery facility' in section 53701 of this title with respect to an underused fishery.

"(d) INDEPENDENT ANALYSIS.—The Secretary may make a determination that aspects of an application under this chapter require independent analysis to be conducted by third party experts due to risk factors associated with markets, technology, financial structures, or other risk factors identified by the Secretary. Any independent analysis conducted under this subsection shall be performed by a party chosen by the Secretary.

"(e) ADDITIONAL EQUITY BECAUSE OF INCREASED RISKS.—Notwithstanding any other provision of this chapter, the Secretary may make a determination that an application under this title requires additional equity because of increased risk factors associated with markets, technology, financial structures, or other risk factors identified by the Secretary.

"§53709. Amount of obligations

"(a) IN GENERAL.—The principal of an obligation may not be guaranteed in an amount greater than the amount determined by multiplying the percentage applicable under subsection (b) by—

"(1) the amount paid by or for the account of the obligor (as determined by the Secretary, which determination shall be conclusive) for the construction, reconstruction, or reconditioning of the vessel used as security for the guarantee; or

"(2) if the obligor creates an escrow fund under section 53715 of this title, the actual cost of the vessel.

"(b) LIMITATIONS ON AMOUNT BORROWED.—

"(1) IN GENERAL.—Except as otherwise provided, the principal amount of an obligation guaranteed under this chapter may not exceed 75 percent of the actual cost or depreciated actual cost, as determined by the Secretary, of the vessel used as security for the guarantee.

"(2) CERTAIN APPROVED VESSELS.—The principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost if—

"(A) the size and speed of the vessel are approved by the Secretary;

"(B) the vessel is or would have been eligible for mortgage aid for construction under section 509 of the Merchant Marine Act, 1936, or would have been eligible except that the vessel was built with a construction-differential subsidy and the subsidy has been repaid; and

"(C) the vessel is of a type described in that section for which the minimum down payment required by that section is 12.5 percent of the cost of the vessel.

"(3) BARGES.—For a barge constructed without a construction-differential subsidy or for which the subsidy has been repaid, the principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost.

"(4) FISHING VESSELS AND FISHERY FACILITIES.—For a fishing vessel or fishery facility, the principal amount may not exceed 80 percent of the actual cost or depreciated actual cost. However, debt for the vessel or facility may not be placed through the Federal Financing Bank.

"(5) OTEC.—For an ocean thermal energy conversion facility or plantship constructed without a construction-differential subsidy, the principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost of the facility or plantship.

"(6) ELIGIBLE EXPORT VESSELS.—For an eligible export vessel, the principal amount may not exceed 87.5 percent of the actual cost or depreciated actual cost.

"(c) SECURITY INVOLVING MULTIPLE VESSELS.—The principal amount of an obligation having more than one vessel as security for the guarantee may not exceed the sum of the principal amounts allowable for all the vessels.

"(d) PROHIBITION ON UNIFORM PERCENTAGE LIMITATIONS.—The Secretary may not establish a percentage under any provision of subsection (b) that is to be applied uniformly to all guarantees or commitments to guarantee made under that provision.

"(e) PROHIBITION ON MINIMUM PRINCIPAL AMOUNT.—The Secretary may not establish, as a condition of eligibility for a guarantee under this chapter, a minimum principal amount for an obligation covering the reconstruction or reconditioning of a fishing vessel or fishery facility. For purposes of this chapter, the reconstruction or reconditioning of a fishing vessel or fishery facility does not include the routine minor repair or maintenance of the vessel or facility.

"§53710. Contents of obligations

"(a) IN GENERAL.—An obligation guaranteed under this chapter must—

"(1) provide for payments by the obligor satisfactory to the Secretary;

"(2) provide for interest (exclusive of guarantee fees and other fees) at a rate not more than the annual rate on the unpaid principal that the Secretary determines is reasonable, considering the range of interest rates prevailing in the private market for similar loans and the risks assumed by the Secretary;

"(3) have a maturity date satisfactory to the Secretary, but—

"(A) not more than 25 years after the date of delivery of the vessel used as security for the guarantee; or

"(B) if the vessel has been reconstructed or reconditioned, not more than the later of—

"(i) 25 years after the date of delivery of the vessel; or

"(ii) the remaining years of useful life of the vessel as determined by the Secretary; and

"(4) provide, or a related agreement must provide, that if the vessel used as security for the guarantee is a delivered vessel, the vessel shall be—

"(A) in class A-1, American Bureau of Shipping, or meet other standards acceptable to the Secretary, with all required certificates, including marine inspection certificates of the Coast Guard or, in the case of an eligible export vessel, of the appropriate foreign authorities under a treaty, convention, or other international agreement to which the United States is a party, and with all outstanding requirements and recommendations necessary for class retention accomplished, unless the Secretary permits a deferment of repairs necessary to meet these requirements; and

"(B) well equipped, in good repair, and in every respect seaworthy and fit for service.

"(b) PROVISIONS FOR CERTAIN PASSENGER VESSELS.—

"(1) IN GENERAL.—With the Secretary's approval, if the vessel used as security for the guarantee is a passenger vessel having the tonnage, speed, passenger accommodations, and other characteristics described in section 503 of the Merchant Marine Act, 1936, an obligation guaranteed under this chapter or a related agreement may provide that—

"(A) the only recourse by the United States Government against the obligor for payments under the guarantee will be repossession of the vessel and assignment of insurance claims; and

"(B) the obligor's liability for payments under the guarantee will be satisfied and discharged by the surrender of the vessel and all interest in the vessel to the Government in the condition described in paragraph (2).

"(2) SURRENDER OF VESSEL.—

"(A) IN GENERAL.—On surrender, the vessel must be—

"(i) free and clear of all liens and encumbrances except the security interest conveyed to the Secretary under this chapter;

"(ii) in class; and

"(iii) in as good order and condition (ordinary wear and tear excepted) as when acquired by the obligor.

"(B) COVERING DEFICIENCIES BY INSURANCE.—To the extent covered by insurance, a deficiency related to a requirement in subparagraph (A) may be satisfied by assignment of the obligor's insurance claims to the Government.

"(c) OTHER PROVISIONS TO PROTECT SECURITY INTERESTS.—An obligation guaranteed under this chapter and any related agreement must contain other provisions for the protection of the security interests of the Government (including acceleration, assumption, and subrogation provisions and the issuance of notes by the obligor to the Secretary), liens and releases of liens, payment of taxes, and other matters that the Secretary may prescribe.

"§53711. Security interest

"(a) IN GENERAL.—The Secretary may guarantee an obligation under this chapter only if

the obligor conveys or agrees to convey to the Secretary a security interest the Secretary considers necessary to protect the interest of the United States Government.

"(b) MULTIPLE VESSELS AND TYPES OF SECURITY.—The security interest may relate to more than one vessel and may consist of more than one type of security. If the security interest relates to more than one vessel, the obligation may have the latest maturity date allowable under section 53710(a)(3) of this title for any of the vessels used as security for the guarantee. However, the Secretary may require such payments of principal prior to maturity, with respect to all related obligations, as the Secretary considers necessary to maintain adequate security for the guarantee.

"§53712. Monitoring financial condition and operations of obligor

"(a) IN GENERAL.—The Secretary shall monitor the financial condition and operations of the obligor on a regular basis during the term of the guarantee. The Secretary shall document the results of the monitoring on an annual or quarterly basis depending on the condition of the obligor. If the Secretary determines that the financial condition of the obligor warrants additional protections to the Secretary, the Secretary shall take appropriate action under subsection (b). If the Secretary determines that the financial condition of the obligor jeopardizes its continued ability to perform its responsibilities in connection with the guarantee of an obligation by the Secretary, the Secretary shall make an immediate determination whether default should take place and whether further measures described in subsection (b) should be taken to protect the interests of the Secretary while ensuring that program objectives are met.

"(b) CONTRACT PROVISIONS TO PROTECT SECRETARY.—The Secretary shall include provisions in a loan agreement with an obligor that provides additional authority to the Secretary to take action to limit potential losses in connection with a defaulted loan or a loan that is in jeopardy due to the deteriorating financial condition of the obligor. These provisions include requirements for additional collateral or greater equity contributions that are effective upon the occurrence of verifiable conditions relating to the obligor's financial condition or the status of the vessel or shipyard project.

"§53713. Administrative fees

"(a) IN GENERAL.—The Secretary shall charge and collect from the obligor fees the Secretary considers reasonable for—

"(1) investigating an application for a guarantee;

"(2) appraising property offered as security for a guarantee;

"(3) issuing a commitment;

"(4) providing services related to an escrow fund under section 53715 of this title; and

"(5) inspecting property during construction, reconstruction, or reconditioning.

"(b) TOTAL FEE LIMITATION.—The total fees under subsection (a) may not exceed 0.5 percent of the original principal amount of the obligations to be guaranteed.

"(c) FEES FOR INDEPENDENT ANALYSIS.—The Secretary may charge and collect fees to cover the costs of independent analysis under section 53708(d) of this title. Notwithstanding section 3302 of title 31, any fee collected under this subsection shall—

"(1) be credited as an offsetting collection to the account that finances the administration of the loan guarantee program;

"(2) be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

"(3) remain available until expended.

"§53714. Guarantee fees

"(a) REGULATIONS.—Subject to this section, the Secretary shall prescribe regulations to assess a fee for guaranteeing an obligation under this chapter.

"(b) COMPUTATION OF FEE.—

"(1) IN GENERAL.—The amount of the fee for a guarantee under this chapter shall be equal to the sum of the amounts determined under paragraph (2) for the years in which the guarantee is in effect.

"(2) PRESENT VALUE FOR EACH YEAR.—The amount referred to in paragraph (1) for a year in which the guarantee is in effect is the present value of the amount calculated under paragraph (3). To determine the present value, the Secretary shall apply a discount rate determined by the Secretary of the Treasury, considering current market yields on outstanding obligations of the United States Government having periods to maturity comparable to the period to maturity for the guaranteed obligation.

"(3) CALCULATION OF AMOUNT.—The amount referred to in paragraph (2) shall be calculated by multiplying—

"(A) the estimated average unpaid principal amount of the obligation that will be outstanding during the year (excluding the average amount, other than interest, on deposit during the year in an escrow fund under section 53715 of this title); by

"(B) the fee rate set under paragraph (4).

"(4) SETTING FEE RATES.—To set the fee rate referred to in paragraph (3)(B), the Secretary shall establish a formula that—

"(A) takes into account the security provided for the guaranteed obligation; and

"(B) is a sliding scale based on the creditworthiness of the obligor, using—

"(i) the lowest allowable rate under paragraph (5) for the most creditworthy obligors; and

"(ii) the highest allowable rate under paragraph (5) for the least creditworthy obligors.

"(5) PERMISSIBLE RANGE OF RATES.—The fee rate set under paragraph (4) shall be—

"(A) for a delivered vessel or equipment, at least 0.5 percent and not more than 1 percent; and

"(B) for a vessel to be constructed, reconstructed, or reconditioned or equipment to be delivered, at least 0.25 percent and not more than 0.5 percent.

"(c) WHEN FEE COLLECTED.—A fee for the guarantee of an obligation under this chapter shall be collected not later than the date on which an amount is first paid on the obligation.

"(d) FINANCING THE FEE.—A fee paid under this section is eligible to be financed under this chapter and shall be included in the actual cost of the obligation guaranteed.

"(e) NOT REFUNDABLE.—A fee paid under this section is not refundable. However, an obligor shall receive credit for the amount paid for the remaining term of the obligation if the obligation is refinanced and guaranteed under this chapter after the refinancing.

"§53715. Escrow fund

"(a) IN GENERAL.—If the proceeds of an obligation guaranteed under this chapter are to be used to finance the construction, reconstruction, or reconditioning of a vessel that will serve as security for a guarantee under this chapter, the Secretary may accept and hold in escrow, under an escrow agreement with the obligor, a portion of the proceeds of all obligations guaranteed under this chapter whose proceeds are to be so used which is equal to—

"(1) the excess of—

"(A) the principal amount of all obligations whose proceeds are to be so used; over

"(B) 75 percent or 87.5 percent, whichever is applicable under section 53709(b) of this title, of the amount paid by or for the account of the obligor for the construction, reconstruction, or reconditioning of the vessel; plus

"(2) any interest the Secretary may require on the amount described in paragraph (1).

"(b) SECURITY INVOLVING BOTH UNCOMPLETED AND DELIVERED VESSELS.—If the security for the guarantee of an obligation relates both to a vessel to be constructed, reconstructed, or reconditioned and to a delivered vessel, the principal amount of the obligation shall be prorated for purposes of subsection (a) under regulations prescribed by the Secretary.

"(c) DISBURSEMENT BEFORE TERMINATION OF AGREEMENT.—

"(1) PURPOSES.—The Secretary shall disburse amounts in the escrow fund, as specified in the escrow agreement, to—

"(A) pay amounts the obligor is obligated to pay for—

"(i) the construction, reconstruction, or reconditioning of a vessel used as security for the guarantee; and

"(ii) interest on the obligations;

"(B) redeem the obligations under a refinancing guaranteed under this chapter; and

"(C) pay any excess interest deposits to the obligor at times provided for in the escrow agreement.

"(2) MANNER OF PAYMENT.—If a payment becomes due under the guarantee before the termination of the escrow agreement, the amount in the escrow fund at the time the payment becomes due, including realized income not yet paid to the obligor, shall be paid into the appropriate account under section 53717 of this title. The amount shall be credited against amounts due or to become due from the obligor to the Secretary on the guaranteed obligations or, to the extent not so required, be paid to the obligor.

"(d) PAYMENTS REQUIRED BEFORE DISBURSEMENT.—

"(1) IN GENERAL.—No disbursement shall be made under subsection (c) to any person until the total amount paid by or for the account of the obligor from sources other than the proceeds of the obligation equals at least 25 percent or 12.5 percent, whichever is applicable under section 53709(b) of this title, of the aggregate actual cost of the vessel, as previously approved by the Secretary. If the aggregate actual cost of the vessel has increased since the Secretary's initial approval or if it increases after the first disbursement is permitted under this subsection, then no further disbursements shall be made under subsection (c) until the total amount paid by or for the account of the obligor from sources other than the proceeds of the obligation equals at least 25 percent or 12.5 percent, as applicable, of the increase, as determined by the Secretary, in the aggregate actual cost of the vessel. This paragraph does not require the Secretary to consent to finance any increase in actual cost unless the Secretary determines that such an increase in the obligation meets all the terms and conditions of this chapter or other applicable law.

"(2) DOCUMENTED PROOF OF PROGRESS REQUIREMENT.—The Secretary shall, by regulation, establish a transparent, independent, and risk-based process for verifying and documenting the progress of projects under construction before disbursing guaranteed loan funds. At a minimum, the process shall require documented proof of progress in connection with the construction, reconstruction, or reconditioning of a vessel or vessels before disbursements are made from the escrow fund. The Secretary may require that the obligor provide a certificate from an independent party certifying that the requisite progress in construction, reconstruction, or reconditioning has taken place.

"(e) DISBURSEMENT ON TERMINATION OF AGREEMENT.—

"(1) IN GENERAL.—If a payment has not become due under the guarantee before the termination of the escrow agreement, the balance of the escrow fund at the time of termination shall be disbursed to—

"(A) prepay the excess of—

"(i) the principal amount of all obligations whose proceeds are to be used to finance the construction, reconstruction, or reconditioning of the vessel used or to be used as security for the guarantee; over

"(ii) 75 percent or 87.5 percent, whichever is applicable under section 53709(b) of this title, of the actual cost of the vessel to the extent paid; and

"(B) pay interest on that prepaid amount of principal.

"(2) REMAINING BALANCE.—Any remaining balance of the escrow fund shall be paid to the obligor.

"(f) INVESTMENT.—The Secretary may invest and reinvest any part of an escrow fund in obligations of the United States Government with maturities such that the escrow fund will be available as required for purposes of the escrow agreement. Investment income shall be paid to the obligor when received.

"(g) TERMS TO PROTECT GOVERNMENT.—The escrow agreement shall contain other terms the Secretary considers necessary to protect fully the interests of the Government.

"§53716. Deposit fund

"(a) IN GENERAL.—There is a deposit fund in the Treasury for purposes of this section. The Secretary, in accordance with an agreement under subsection (b), may deposit into and hold in the fund cash belonging to an obligor to serve as collateral for a guarantee made under this chapter with respect to the obligor.

"(b) AGREEMENT.—The Secretary and an obligor shall make a reserve fund or other collateral account agreement to govern the deposit, withdrawal, retention, use, and reinvestment of cash of the obligor held in the fund. The agreement shall contain—

"(1) terms and conditions required by this section;

"(2) terms that grant to the United States Government a security interest in all amounts deposited into the fund; and

"(3) any additional terms considered by the Secretary to be necessary to protect fully the interests of the Government.

"(c) INVESTMENT.—The Secretary may invest and reinvest any part of the amounts in the fund in obligations of the Government with maturities such that amounts in the fund will be available as required for purposes of the agreement under subsection (b). Cash balances in the fund in excess of current requirements shall be maintained in a form of uninvested funds, and the Secretary of the Treasury shall pay interest on these funds.

"(d) WITHDRAWALS.—

"(1) IN GENERAL.—Cash deposited into the fund may not be withdrawn without the consent of the Secretary.

"(2) USE OF INCOME.—Subject to paragraph (3), the Secretary may pay any income earned on cash of an obligor deposited into the fund in accordance with the agreement with the obligor under subsection (b).

"(3) RETENTION AGAINST DEFAULT.—The Secretary may retain and offset any or all of the cash of an obligor in the fund, and any income realized thereon, as part of the Secretary's recovery against the obligor in case of a default by the obligor on an obligation.

"§53717. Management of funds in the Treasury

"(a) DEFINITION.—In this section, the term 'FCRA' means the Federal Credit Reform Act of 1990 (2 U.S.C. 661 et seq.).

"(b) LOAN GUARANTEES BY SECRETARY OF TRANSPORTATION.—

"(1) WHEN NOT SUBJECT TO FCRA.—The Secretary of Transportation shall account for payments and disbursements involving obligations guaranteed under this chapter and not subject to FCRA in an account in the Treasury entitled the Federal Ship Financing Fund Liquidating Account (a liquidating account as defined in FCRA).

"(2) WHEN SUBJECT TO FCRA.—The Secretary of Transportation shall account for payments and disbursements involving obligations guaranteed under this chapter and subject to FCRA in a separate account in the Treasury entitled the Federal Ship Financing Guaranteed Loan Financing Account (a financing account as defined in FCRA).

"(c) LOAN GUARANTEES BY SECRETARY OF COMMERCE.—

"(1) WHEN NOT SUBJECT TO FCRA.—The Secretary of Commerce shall account for payments and disbursements involving obligations guaranteed under this chapter and not subject to FCRA in a separate account in the Treasury established for this purpose.

"(2) WHEN SUBJECT TO FCRA.—The Secretary of Commerce shall account for payments and disbursements involving obligations guaranteed under this chapter and subject to FCRA in a separate account in the Treasury established for this purpose.

"(d) DIRECT LOANS BY SECRETARY OF COMMERCE.—The Secretary of Commerce shall account for payments and disbursements involving direct loans made under this chapter in a separate account in the Treasury established for this purpose.

"§53718. Annual report to Congress

"The Secretary of Transportation shall report to Congress annually on the loan guarantee program under this chapter. Each report shall include—

"(1) the size, in dollars, of the portfolio of loans guaranteed;

"(2) the size, in dollars, of projects in the portfolio facing financial difficulties;

"(3) the number and type of projects covered;

"(4) a profile of pending loan applications;

"(5) the amount of appropriations available for new guarantees;

"(6) a profile of each project approved since the last report; and

"(7) a profile of any defaults since the last report.

"SUBCHAPTER II—DEFAULT PROVISIONS

"§53721. Rights of obligee

"(a) DEMANDS BY OBLIGEES.—Except as provided in subsection (c), if an obligor has continued in default for 30 days in the payment of principal or interest on an obligation guaranteed under this chapter, the obligee or the obligee's agent may demand that the Secretary pay the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. The demand must be made within the earlier of—

"(1) a period that may be specified in the guarantee or a related agreement; or

"(2) 90 days from the date of the default.

"(b) PAYMENTS BY SECRETARY.—

"(1) IN GENERAL.—If a demand is made under subsection (a), the Secretary shall pay to the obligee or the obligee's agent the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. Payment shall be made within the earlier of—

"(A) a period that may be specified in the guarantee or a related agreement; or

"(B) 30 days from the date of the demand.

"(2) IF NO EXISTING DEFAULT.—The Secretary is not required to make payment under this subsection if, within the appropriate period under paragraph (1), the Secretary finds that the obligor was not in default or that the default was remedied before the demand.

"(c) ASSUMPTION OF RIGHTS AND OBLIGATIONS BEFORE DEMAND.—An obligee or the obligee's agent may not demand payment under this section if the Secretary, before the demand and on terms that may be provided in the obligation or a related agreement, has assumed the obligor's rights and duties under the obligation and any related agreement and made any payment in default. However, the guarantee of the obligation remains in effect after the Secretary's assumption.

"§53722. Actions by Secretary

"(a) GENERAL AUTHORITY.—On default under an obligation or related agreement between the Secretary and the obligor, the Secretary, on terms that may be provided in the obligation or agreement, may—

"(1) assume the obligor's rights and duties under the obligation or agreement, make any payment in default, and notify the obligee or the obligee's agent of the default and the Secretary's assumption; or

"(2) notify the obligee or the obligee's agent of the default.

"(b) DEMANDS BY OBLIGEES.—

"(1) DEMAND.—If the Secretary proceeds under subsection (a)(2), the obligee or the obligee's agent may demand that the Secretary pay the unpaid principal amount of the obligation and the unpaid interest on the obligation. The demand must be made within the earlier of—

"(A) a period that may be specified in the guarantee or a related agreement; or

"(B) 60 days from the date of the Secretary's notice.

"(2) PAYMENT.—If a demand is made under paragraph (1), the Secretary shall pay to the obligee or the obligee's agent the unpaid principal amount of the obligation and the unpaid interest on the obligation to the date of payment. Payment shall be made within the earlier of—

"(A) a period that may be specified in the guarantee or a related agreement; or

"(B) 30 days from the date of the demand.

"(c) CONTINUED EFFECT OF GUARANTEE.—A guarantee of an obligation remains in effect after an assumption of the obligation by the Secretary.

"(d) ADDITIONAL RESPONSES.—If there is a default on an obligation, the Secretary shall conduct operations under this chapter in a manner that—

"(1) maximizes the net present value return from the sale or disposition of assets associated with the obligation, including prompt referral to the Attorney General for collection as appropriate;

"(2) minimizes the amount of any loss realized in the resolution of the guarantee;

"(3) ensures adequate competition and fair and consistent treatment of offerors; and

"(4) requires appraisal of assets by an independent appraiser.

"§53723. Payments by Secretary and issuance of obligations

"(a) CASH PAYMENT.—Amounts required to be paid by the Secretary under section 53721 or 53722 of this title shall be paid in cash.

"(b) ISSUANCE OF OBLIGATIONS.—If amounts in the appropriate account under section 53717 of this title are not sufficient to make a payment required under section 53721 or 53722 of this title, the Secretary may issue obligations to the Secretary of the Treasury. The Secretary, with the approval of the Secretary of the Treasury, shall prescribe the form, denomination, maturity, and other terms (except the interest rate) of the obligations. The Secretary of the Treasury shall set the interest rate for the obligations, considering the current average market yield on outstanding marketable obligations of the United States Government of comparable maturities during the month before the obligations are issued.

“(c) Purchase of Obligations.—The Secretary of the Treasury shall purchase the obligations issued under this section. To purchase the obligations, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of securities issued under chapter 31 of title 31. The purposes for which securities may be issued under that chapter are extended to include the purchase of obligations under this subsection. The Secretary of the Treasury may sell obligations purchased under this section. A redemption, purchase, or sale of the obligations by the Secretary of the Treasury is a public debt transaction of the Government.

“(d) Deposits and Redemptions.—The Secretary shall deposit amounts borrowed under this section in the appropriate account under section 53717 of this title and make redemptions of the obligations from that account.

“§ 53724. Rights to secured property

“(a) Acquisition of Security Rights.—When the Secretary makes a payment on, or assumes, an obligation under section 53721 or 53722 of this title, the Secretary acquires the rights under the security agreement with the obligor in the security held by the Secretary to guarantee the obligation.

“(b) Use and Disposition of Secured Property.—Notwithstanding any other law relating to the acquisition, handling, or disposal of property by the United States Government, the Secretary has the right, in the Secretary's discretion, to complete, reconstruct, recondition, renovate, repair, maintain, operate, charter, or sell any property acquired under a security agreement with an obligor, or to place a vessel so acquired in the National Defense Reserve Fleet. The terms of a sale under this subsection shall be as approved by the Secretary.

“§ 53725. Actions against obligor

“(a) In General.—For a default under a guaranteed obligation or related agreement, the Secretary may take any action against the obligor or another liable party that the Secretary considers necessary to protect the interests of the United States Government. A civil action may be brought in the name of the United States or the obligee. The obligee shall make available to the Government all records and evidence necessary to prosecute the action.

“(b) Title, Possession, and Purchase.—

“(1) In general.—The Secretary may—

“(A) accept a conveyance of title to and possession of property from the obligor or another party liable to the Secretary; and

“(B) purchase the property for an amount not greater than the unpaid principal amount of the obligation and interest thereon.

“(2) Payment of excess.—If, through the sale of property, the Secretary receives an amount of cash greater than the unpaid principal amount of the obligation, the unpaid interest on the obligation, and the expenses of collecting those amounts, the Secretary shall pay the excess to the obligor.

“SUBCHAPTER III—PARTICULAR PROJECTS

“§ 53731. Commercial demonstration ocean thermal energy conversion facilities and plantships

“(a) In General.—Under subchapter I of this chapter, the Secretary may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation that aids in financing (including reimbursement of an obligor for expenditures previously made for) the construction, reconstruction, or reconditioning of a commercial demonstration ocean thermal energy conversion facility or plantship. This section may be used to guarantee obligations for a total of not more than 5 separate facilities and plantships or a demonstrated 400 megawatt capacity, whichever comes first.

“(b) Applicability of Other Provisions.—Except as otherwise provided in this section, a guarantee or commitment to guarantee under this section is subject to all the provisions applicable to a guarantee or commitment to guarantee under subchapter I of this chapter.

“(c) Economic Soundness.—The required determination of economic soundness under section 53708 of this title applies to a guarantee or commitment to guarantee for that portion of a facility or plantship not to be supported with appropriated Federal funds.

“(d) Reasonableness of Risk.—A guarantee or commitment to guarantee may not be made under this section unless the Secretary of Energy, in consultation with the Secretary, certifies to the Secretary that, for the facility or plantship for which the guarantee or commitment to guarantee is sought, there is sufficient guarantee of performance and payment to lower the risk to the United States Government to a reasonable level. In deciding whether to issue such a certification, the Secretary of Energy shall consider—

“(1) the successful demonstration of the technology to be used in the facility at a scale sufficient to establish the likelihood of technical and economic viability in the proposed market; and

“(2) the need of the United States to develop new and renewable sources of energy and the benefits to be realized from the construction and successful operation of the facility or plantship.

“(e) Amount of Obligation.—The total principal amount of an obligation guaranteed under this section may not exceed 87.5 percent of—

“(1) the actual cost or depreciated actual cost of the facility or plantship; or

“(2) if the facility or plantship is supported with appropriated Federal funds, the total principal amount of that portion of the actual cost or depreciated actual cost for which the obligor is obligated to secure financing under the agreement between the obligor and the Department of Energy or other Federal agency.

“(f) OTEC Demonstration Fund.—

“(1) In general.—There is a special subaccount, known as the OTEC Demonstration Fund, in the account established under section 53717(b)(1) of this title.

“(2) Use and operation.—The OTEC Demonstration Fund shall be used for obligation guarantees authorized under this section that do not qualify under subchapter I of this chapter. Except as otherwise provided in this section, the OTEC Demonstration Fund shall be operated in the same manner as the parent account. However—

“(A) amounts received by the Secretary under subchapter I of this chapter related to guarantees or commitments to guarantee made under this section shall be deposited only in the OTEC Demonstration Fund; and

“(B) when obligations issued by the Secretary under section 53723 of this title related to the OTEC Demonstration Fund are outstanding, any amount received by the Secretary under subchapter I of this chapter related to ocean thermal energy conversion facilities or plantships shall be deposited in the OTEC Demonstration Fund.

“(3) Transfers.—Assets in the OTEC Demonstration Fund may be transferred to the parent account when and to the extent the balance in the OTEC Demonstration Fund exceeds the total guarantees or commitments to guarantee made under this section then outstanding, plus obligations issued by the Secretary under section 53723 of this title related to the OTEC Demonstration Fund.

“(4) Liability.—The parent account is not liable for a guarantee or commitment to guarantee made under this section.

“(5) Maximum unpaid principal amount.—The total unpaid principal amount of the obligations guaranteed with the backing of the OTEC Demonstration Fund and outstanding at any one time may not exceed $1,650,000,000.

“(g) Issuance and Payment of Obligations.—Section 53723 of this title applies to the OTEC Demonstration Fund. However, obligations issued by the Secretary under that section related to the OTEC Demonstration Fund shall be payable only from proceeds realized by the OTEC Demonstration Fund.

“(h) Taxation of Interest.—Interest on an obligation guaranteed under this section shall be included in gross income under chapter 1 of the Internal Revenue Code of 1986 (26 U.S.C. ch. 1).

“§ 53732. Eligible export vessels

“(a) Applicable Terms.—The Secretary may guarantee an obligation for an eligible export vessel in accordance with—

“(1) the terms applicable under this chapter for vessels documented under the laws of the United States; or

“(2) other terms the Secretary determines are more favorable than those terms and compatible with export credit terms offered by foreign governments for the sale of vessels built in foreign shipyards.

“(b) Interagency Council.—

“(1) Establishment.—There is an interagency council to carry out this section.

“(2) Composition.—The council is composed of the following individuals or their designees:

“(A) The Secretary of Transportation, who is the chairman of the council.

“(B) The Secretary of the Treasury.

“(C) The Secretary of State.

“(D) The Assistant to the President for Economic Policy.

“(E) The United States Trade Representative.

“(F) The President and Chairman of the Export-Import Bank of the United States.

“(3) Functions.—The council shall—

“(A) obtain information on shipbuilding loan guarantees, direct and indirect subsidies, and other favorable treatment of shipyards provided by foreign governments to shipyards in competition with United States shipyards;

“(B) consult regularly with United States shipbuilders to obtain the essential information about international shipbuilding competition on which to set terms for loan guarantees under subsection (a)(2); and

“(C) provide guidance to the Secretary in establishing terms for loan guarantees under subsection (a)(2).

“(4) Annual report.—Not later than January 31 of each year, the Secretary shall submit to Congress a report on activities of the Secretary under this section during the preceding year. The report shall include—

“(A) documentation of sources of information about assistance by governments of other countries to shipyards in those countries; and

“(B) a summary of recommendations made to the Secretary during the preceding year about applications submitted to the Secretary during that year for loan guarantees to construct eligible export vessels.

“(c) Required Findings.—

“(1) Benefit to shipbuilding industry.—The Secretary may not guarantee or make a commitment to guarantee an obligation for an eligible export vessel unless the Secretary finds that the construction, reconstruction, or reconditioning of the vessel will aid in the transition of United States shipyards to commercial activities or will preserve shipbuilding assets that would be essential in time of war or national emergency.

“(2) Priority of documented vessels.—The Secretary may not make a commitment to guarantee an obligation for an eligible export vessel unless the Secretary determines that making the commitment will not result in denial of an economically sound application for a commitment *to guarantee an obligation for a vessel documented under the laws of the United States and operating in the domestic or foreign commerce of the United States. The Secretary has sole discretion in making the determination. In making the determination, the Secretary shall consider—*

“(A) the status and economic soundness of pending applications for commitments to guarantee obligations for vessels documented under the laws of the United States that are operating or will be operating in the domestic or foreign commerce of the United States; and

“(B) the amount of guarantee authority available.

“(d) RESTRICTION ON TRANSFER OF VESSEL.—The Secretary may not guarantee or make a commitment to guarantee an obligation for an eligible export vessel unless the owner of the vessel agrees with the Secretary that the vessel will not be transferred to a country designated by the Secretary of Defense as a country whose interests are hostile to the interests of the United States.

“(e) REVIEW BY SECRETARY OF DEFENSE.—

“(1) NOTIFICATION.—The Secretary shall promptly notify the Secretary of Defense of the receipt of an application for a loan guarantee for an eligible export vessel.

“(2) DISAPPROVAL.—The Secretary of Defense, within 30 days after receiving the notice, may disapprove the guarantee based on an assessment of the potential use of the vessel in a manner that may harm the national security interests of the United States. The Secretary may not disapprove a guarantee solely because of the type of vessel to be constructed.

“(3) DELEGATION.—The authority of the Secretary of Defense to disapprove a guarantee under this subsection may be delegated only to a civilian officer of the Department of Defense appointed by the President by and with the advice and consent of the Senate.

“(4) PROHIBITION.—The Secretary may not make a loan guarantee disapproved by the Secretary of Defense under this subsection.

“(f) EXPIRATION OF AUTHORITY.—The Secretary may not issue a commitment to guarantee an obligation for an eligible export vessel under this chapter after the last date on which such a commitment may be issued under any treaty or convention entered into after November 30, 1993, that prohibits guarantee of such an obligation.

“§53733. Shipyard modernization and improvement

“(a) DEFINITIONS.—In this section:

“(1) ADVANCED SHIPBUILDING TECHNOLOGY.—The term ‘advanced shipbuilding technology’ includes—

“(A) numerically controlled machine tools, robots, automated process control equipment, computerized flexible manufacturing systems, associated computer software, and other technology for improving shipbuilding and related industrial production that advance the state-of-the-art; and

“(B) novel techniques and processes designed to improve shipbuilding quality, productivity, and practice, and to promote sustainable development, including engineering design, quality assurance, concurrent engineering, continuous process production technology, energy efficiency, waste minimization, design for recyclability or parts reuse, inventory management, upgraded worker skills, and communications with customers and suppliers.

“(2) GENERAL SHIPYARD FACILITY.—The term ‘general shipyard facility’ means—

“(A) for operations on land—

“(i) a structure or appurtenance thereto designed for the construction, reconstruction, repair, rehabilitation, or refurbishment of a vessel, including a graving dock, building way, ship lift, wharf, or pier crane;

“(ii) the land necessary for the structure or appurtenance; and

“(iii) equipment that is for use with the structure or appurtenance and that is necessary for performing a function referred to in clause (i); and

“(B) for operations not on land, a vessel, floating drydock, or barge built in the United States and used for, equipped to be used for, or of a type normally used for, performing a function referred to in subparagraph (A)(i).

“(3) MODERN SHIPBUILDING TECHNOLOGY.—The term ‘modern shipbuilding technology’ means the best available proven technology, techniques, and processes appropriate to enhancing the productivity of shipyards.

“(b) GENERAL AUTHORITY.—Under subchapter I of this chapter, the Secretary may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation for advanced shipbuilding technology and modern shipbuilding technology of a general shipyard facility in the United States. Only a private shipyard is eligible to receive a guarantee.

“(c) APPLICABILITY OF OTHER PROVISIONS.—Except as otherwise provided in this section, a guarantee or commitment to guarantee under this section is subject to all the provisions applicable to a guarantee or commitment to guarantee under subchapter I of this chapter.

“(d) AMOUNT OF OBLIGATION.—The principal amount of an obligation guaranteed under this chapter may not exceed 87.5 percent of the actual cost of the advanced shipbuilding technology or modern shipbuilding technology.

“(e) TRANSFER OF AMOUNTS.—The Secretary may accept the transfer of amounts from a department, agency, or instrumentality of the United States Government and may use those amounts to cover the cost (as defined in section 502 of the Federal Credit Reform Act of 1990 (2 U.S.C. 661a)) of making guarantees or commitments to guarantee under this section.

“§53734. Replacement of vessels because of changes in operating standards

“(a) GENERAL AUTHORITY.—Notwithstanding any other provision of this chapter, the Secretary, on terms the Secretary may prescribe, may guarantee or make a commitment to guarantee the payment of the principal of and interest on an obligation that aids in financing or refinancing (including reimbursement of an obligor for expenditures previously made for) a contract for the construction or reconstruction of a vessel if—

“(1) the vessel is designed and to be used for commercial use in coastwise, intercoastal, or foreign trade;

“(2) the construction or reconstruction is necessary to replace a vessel that cannot continue to be operated because of a change required by law in the standards for the operation of vessels, and the applicant for the guarantee or commitment would not otherwise legally be able to continue operating vessels in the trades in which the applicant operated vessels before the change;

“(3) the applicant is presently engaged in transporting cargoes in vessels of the type and class that will be constructed or reconstructed under this section and agrees to employ vessels constructed or reconstructed under this section as replacements only for vessels made obsolete by the change in operating standards;

“(4) the capacity of the vessels to be constructed or reconstructed under this section will not increase the cargo carrying capacity of the vessels being replaced;

“(5) the Secretary has not determined that the market demand for the vessel over its useful life will diminish so as to make granting the guarantee fiduciarily imprudent;

“(6) the vessel, if to be reconstructed, will have a useful life of at least 15 years after the reconstruction; and

“(7) the Secretary has considered the criteria specified in section 53708(a)(3)–(5) of this title.

“(b) TERM AND AMOUNT OF OBLIGATION.—

“(1) TERM.—The term of an obligation guaranteed under this section may not exceed 25 years.

“(2) AMOUNT.—The amount of an obligation guaranteed under this section may not exceed 87.5 percent of the actual cost or depreciated actual cost to the applicant for the construction or reconstruction of the vessel. The Secretary may not establish a percentage under this paragraph that is to be applied uniformly to all guarantees or commitments to guarantee made under this section.

“(c) APPLICABILITY OF OTHER PROVISIONS.—A guarantee or commitment to guarantee under this section is also subject to sections 53701, 53702(a), 53704, 53705, 53707(a), 53708(d) and (e), 53709(a), 53710(a)(1), (2), and (4) and (c), 53711(a), 53713, 53714, 53717, and 53721–53725 of this title.

“(d) SECURITY AGAINST DEFAULT.—The Secretary shall require by regulation that an applicant under this section provide adequate security against default.

“(e) GUARANTEE FEES.—The Secretary may establish a fee for the guarantee of an obligation under this section that is in addition to the fee established under section 53714 of this title. The fee may be—

“(1) an annual fee of not more than an additional 1 percent added to the fee established under section 53714 of this title; or

“(2) a fee based on the amount of the obligation versus the percentage of the obligor’s fleet being replaced by vessels constructed or reconstructed under this section.

“§53735. Fisheries financing and capacity reduction

“(a) DEFINITION.—In this section, the term ‘program’ means a fishing capacity reduction program established under section 312 of the Magnuson-Stevens Fishery Conservation and Management Act (16 U.S.C. 1861a).

“(b) GUARANTEE AUTHORITY.—The Secretary may guarantee the repayment of debt obligations issued by entities under this section. Debt obligations to be guaranteed may be issued by any entity that has been approved by the Secretary and has agreed with the Secretary to conditions the Secretary considers necessary for this section to achieve the objective of the program and to protect the interest of the United States.

“(c) REQUIREMENTS OF OBLIGATIONS.—A debt obligation guaranteed under this section shall—

“(1) be treated in the same manner and to the same extent as other obligations guaranteed under this chapter, except with respect to provisions of this chapter that by their nature cannot be applied to obligations guaranteed under this section;

“(2) have the fishing fees established under the program paid into a separate subaccount of the fishing capacity reduction fund established under this section;

“(3) not exceed $100,000,000 in an unpaid principal amount outstanding at any one time for a program;

“(4) have such maturity (not to exceed 20 years), take such form, and contain such conditions as the Secretary determines necessary for the program to which they relate;

“(5) have as the exclusive source of repayment (subject to the second sentence of subsection (d)(2)) and as the exclusive payment security, the fishing fees established under the program; and

“(6) at the discretion of the Secretary be issued in the public market or sold to the Federal Financing Bank.

“(d) FISHING CAPACITY REDUCTION FUND.—

“(1) IN GENERAL.—There is a separate account in the Treasury, known as the Fishing Capacity

Reduction Fund. Within the Fund, at least one subaccount shall be established for each program into which shall be paid all fishing fees established under the program and other amounts authorized for the program.

"(2) AVAILABILITY OF AMOUNTS.—Amounts in the Fund shall be available, without appropriation or fiscal year limitation, to the Secretary to pay the cost of the program, including payments to financial institutions to pay debt obligations incurred by entities under this section. Funds available for this purpose from other amounts available for the program may also be used to pay those debt obligations.

"(3) INVESTMENT.—Amounts in the Fund that are not currently needed for the purpose of this section shall be kept on deposit or invested in obligations of the United States Government.

"(e) REGULATIONS.—The Secretary shall prescribe regulations the Secretary considers necessary to carry out this section.

"CHAPTER 539—WAR RISK INSURANCE

"Sec.
"53901. Definitions.
"53902. Authority to provide insurance.
"53903. Insurable interests.
"53904. Liability insurance for persons involved in war or defense efforts.
"53905. Agency insurance.
"53906. Hull insurance valuation.
"53907. Reinsurance.
"53908. Additional insurance privately obtained.
"53909. War risk insurance revolving fund.
"53910. Administrative.
"53911. Civil actions for losses.
"53912. Expiration date.

"§ 53901. Definitions

"In this chapter:

"(1) AMERICAN VESSEL.—The term 'American vessel' includes—

"(A) a documented vessel with a registry or coastwise endorsement under chapter 121 of this title;

"(B) an undocumented vessel owned or chartered by or made available to the United States Government; and

"(C) a tug, barge, or other watercraft (whether or not documented) owned by a citizen of the United States and used in essential water transportation or in the fisheries, except only for sport fishing.

"(2) CARGO.—The term 'cargo' includes a loaded or empty container on a vessel.

"(3) TRANSPORTATION IN THE WATERBORNE COMMERCE OF THE UNITED STATES.—The term 'transportation in the waterborne commerce of the United States' includes the operation of a vessel in the fisheries, except only for sport fishing.

"(4) WAR RISKS.—The term 'war risks' includes, to the extent the Secretary of Transportation determines—

"(A) any part of a loss excluded from marine insurance coverage under a 'free of capture or seizure' clause or analogous clause; and

"(B) any other loss from a hostile act, including confiscation, expropriation, nationalization, or deprivation.

"§ 53902. Authority to provide insurance

"(a) IN GENERAL.—With the approval of the President, and after such consultation with interested agencies of United States Government as the President may require, the Secretary of Transportation may provide insurance and reinsurance against loss or damage from war risks as provided by this chapter whenever it appears to the Secretary that insurance adequate for the needs of the waterborne commerce of the United States cannot be obtained on reasonable terms and conditions from companies authorized to do insurance business in a State of the United States.

"(b) CONSIDERATION OF RISK.—Insurance or reinsurance under this chapter shall be based, insofar as practicable, on consideration of the risk involved.

"(c) AVAILABILITY OF VESSEL DURING WAR OR NATIONAL EMERGENCY.—Insurance or reinsurance for a vessel may be provided under this chapter only on the condition that the vessel will be available to the Government in time of war or national emergency.

"§ 53903. Insurable interests

"(a) IN GENERAL.—The Secretary of Transportation may provide insurance and reinsurance under this chapter for—

"(1) an American vessel, including a vessel under construction;

"(2) a foreign vessel—

"(A) owned by a citizen of the United States; or

"(B) engaged in transportation in the waterborne commerce of the United States or in such other transportation by water or such other services as the Secretary considers to be in the interest of the national defense or national economy of the United States, when so engaged;

"(3) cargo—

"(A) shipped or to be shipped on a vessel insurable under this section, including by express or registered mail;

"(B) owned by a citizen or resident of the United States;

"(C) imported to or exported from the United States, or sold or purchased by a citizen or resident of the United States, under a contract of sale or purchase the terms of which provide that the risk of loss by war risks or the obligation to provide insurance against war risks is on a citizen or resident of the United States; or

"(D) shipped between ports in the United States;

"(4) disbursements, including advances to masters and general average disbursements, and freight and passage money of a vessel insurable under this section;

"(5) personal effects of an individual on a vessel insurable under this section;

"(6) loss of life, injury, or detention by an enemy of the United States after capture, with respect to an individual on a vessel insurable under this section; and

"(7) statutory or contractual obligations or other liabilities of a vessel insurable under this section or of the owner or charterer of such a vessel, of a nature customarily covered by insurance.

"(b) CONSIDERATIONS FOR FOREIGN VESSELS.—In determining whether to provide insurance or reinsurance for a foreign vessel, the Secretary shall consider the characteristics, employment, and general management of the vessel by the owner or charterer.

"(c) NON-WAR RISKS.—Insurance of a risk under subsection (a)(5)–(7), insofar as it involves a liability related to an individual on the vessel, may include risks other than war risks to the extent the Secretary considers advisable.

"§ 53904. Liability insurance for persons involved in war or defense efforts

"(a) IN GENERAL.—The Secretary of Transportation may provide insurance under this chapter against legal liability that a person may incur in providing services or facilities for a vessel if, in the opinion of the Secretary, the insurance—

"(1) is required in prosecuting a war or for national defense; and

"(2) cannot be obtained at reasonable rates or on reasonable terms and conditions from approved companies authorized to do insurance business in a State of the United States.

"(b) LIMITATIONS.—Employer liability insurance and worker compensation insurance against legal liability to employees may not be provided under this section.

"§ 53905. Agency insurance

"(a) IN GENERAL.—With the approval of the President, an agency of the United States Government may obtain insurance provided for by this chapter from the Secretary of Transportation, except as provided in sections 17302 and 17303 of title 40.

"(b) PREMIUM WAIVERS.—With the approval of the President, the Secretary of Transportation may provide insurance under this chapter at the request of the Secretary of Defense and other agencies the President may prescribe, without payment of an insurance premium if the Secretary of Defense or agency agrees to indemnify the Secretary of Transportation against loss covered by the insurance. The Secretary of Defense and agencies may make such an indemnity agreement.

"(c) PRESIDENTIAL APPROVAL.—The signature of the President (or an official designated by the President) on the agreement shall be treated as the approval required by section 53902(a) of this title.

"§ 53906. Hull insurance valuation

"(a) STATED VALUATION.—The valuation in a hull insurance policy for actual or constructive total loss of the insured vessel shall be a stated valuation determined by the Secretary of Transportation. The stated valuation—

"(1) shall exclude national defense features paid for by the United States Government; and

"(2) may not exceed the amount that would be payable if the ownership of the vessel had been requisitioned under chapter 563 of this title at the time the insurance attached under the policy.

"(b) REJECTING STATED VALUATION.—Within 60 days after the insurance attaches under a policy referred to in subsection (a) or within 60 days after the Secretary determines the valuation, whichever is later, the insured may reject the valuation and pay, at the rate provided in the policy, premiums based on the asserted valuation the insured specifies at the time of rejection. However, the asserted valuation is not binding on the Government in any subsequent action on the policy.

"(c) AMOUNT OF CLAIM.—If a vessel is actually or constructively totally lost and the insured under a policy referred to in subsection (a) has not rejected the stated valuation determined by the Secretary, the amount of a claim adjusted, compromised, settled, adjudged, or paid may not exceed the stated valuation. However, if the insured has rejected the valuation, the insured—

"(1) shall be paid, as a tentative advance only, 75 percent of the stated valuation; and

"(2) may bring a civil action against the United States in a court having jurisdiction of the claim to recover a valuation equal to the just compensation the court determines would have been payable if the ownership of the vessel had been requisitioned under chapter 563 of this title at the time the insurance attached under the policy.

"(d) ADJUSTING PREMIUMS.—If a court makes a determination as provided under subsection (c)(2), premiums paid under the policy shall be adjusted based on the court's determination and the rates provided for in the policy.

"§ 53907. Reinsurance

"(a) IN GENERAL.—To the extent the Secretary of Transportation is authorized to provide insurance under this chapter, the Secretary may provide reinsurance to a company authorized to do insurance business in a State of the United States. The Secretary may obtain reinsurance from such a company for any insurance provided by the Secretary under this chapter.

"(b) RATES.—The Secretary may not provide reinsurance at rates less than, nor obtain reinsurance at rates more than, the rates established by the Secretary on the same or similar risks or the rates charged by the insurance company for the insurance reinsured, whichever is more advantageous to the Secretary. However, the Secretary may provide an allowance to the insurance company for the costs of services and facilities the company provides, in an amount the Secretary considers reasonable according to good business practice. The allowance to the company may not include any amount for soliciting or stimulating insurance business.

"§ 53908. Additional insurance privately obtained

"With the approval of the Secretary of Transportation, a person having an insurable interest in a vessel may obtain insurance on the vessel with other underwriting agents in addition to the insurance with the Secretary. The Secretary is not entitled to the benefit of the additional insurance.

"§ 53909. War risk insurance revolving fund

"(a) IN GENERAL.—There is a war risk insurance revolving fund in the Treasury.

"(b) DEPOSITS.—There shall be deposited in the fund amounts appropriated to carry out this chapter and amounts received in carrying out this chapter.

"(c) PAYMENTS.—There shall be paid from the fund amounts for return premiums, losses, settlements, judgments, and all liabilities incurred by the United States Government under this chapter.

"(d) INVESTMENT.—The Secretary of Transportation may request the Secretary of the Treasury to invest such portion of the fund as is not, in the judgment of the Secretary of Transportation, required to meet the current needs of the fund. These investments shall be made by the Secretary of the Treasury in public debt securities of the Government, with maturities suitable to the needs of the fund, and bearing interest rates determined by the Secretary of the Treasury, taking into consideration current market yields on outstanding marketable obligations of the Government of comparable maturity. Interest and benefits from the securities shall be deposited in the fund.

"§ 53910. Administrative

"(a) ACCORDANCE WITH COMMERCIAL PRACTICE.—In carrying out this chapter, the Secretary of Transportation may act in accordance with commercial practice in the marine insurance business.

"(b) REGULATIONS.—The Secretary may prescribe regulations the Secretary considers appropriate to carry out this chapter.

"(c) POLICIES, RATES, AND ANNUAL FEES.—The Secretary may prescribe and change forms and policies, and fix and change the amounts insured and rates of premium, under this chapter.

"(d) ANNUAL FEES.—The Secretary may charge and collect an annual fee in an amount calculated to cover the expenses of processing applications for insurance, employing underwriting agents, and appointing experts under this chapter.

"(e) PAYMENT OF CLAIMS AND JUDGMENTS.—The Secretary may settle and pay claims, and pay judgments against the United States, related to insurance under this chapter.

"(f) UNDERWRITING AGENTS.—

"(1) IN GENERAL.—The Secretary may, and when the Secretary finds it practical to do so shall, employ a domestic company or group of domestic companies, authorized to do marine insurance business in a State of the United States, to act as underwriting agent for the Secretary. The services of an underwriting agent may be used in adjusting claims, but a claim may not be paid until approved by the Secretary.

"(2) COMPENSATION.—The Secretary may allow the company or group of companies reasonable compensation for services as the underwriting agent. The compensation may include an allowance for expenses reasonably incurred by the agent, but may not include any amount for soliciting or stimulating business.

"(g) FEES FOR ARRANGING INSURANCE.—Except as provided in subsection (f)(2), the Secretary may not pay an insurance broker or other person acting in a similar intermediary capacity a fee or other consideration for participating in arranging insurance when the Secretary directly insures any of the risk.

"(h) EMPLOYMENT OF MARINE INSURANCE EXPERTS.—The Secretary, without regard to the laws and regulations on the employment of Federal employees, may appoint and prescribe the duties of experts in marine insurance as the Secretary considers necessary to carry out this chapter.

"(i) SERVICES OF OTHER GOVERNMENT AGENCIES.—With the consent of another agency of the United States Government, the Secretary may use information, services, facilities, officers, and employees of the agency in carrying out this chapter.

"(j) VESSEL LOCATION REPORTING.—The Secretary may prescribe by regulation vessel location reporting requirements for a vessel insured under this chapter.

"§ 53911. Civil actions for losses

"(a) IN GENERAL.—If there is a disagreement about a loss insured under this chapter, a civil action in admiralty may be brought against the United States in the district court of the United States for the district in which the plaintiff or the plaintiff's agent resides. If the plaintiff has no residence in the United States, the action may be brought in the United States District Court for the District of Columbia or in the district court for any district in which the Attorney General agrees to accept service. Any person who may have an interest in the insurance may be made a party, either initially or on the motion of either party.

"(b) EXCLUSIVE REMEDY.—A civil action against the United States under this section is exclusive of any other action by reason of the same subject matter against an officer, employee, or agent employed or retained by the Government under this chapter.

"(c) PROCEDURE.—A civil action under this section shall be heard and determined under chapter 309 of this title.

"(d) TOLLING OF LIMITATIONS PERIOD.—If a claim is filed with the Secretary of Transportation, the running of the limitations period for bringing a civil action is suspended until the Secretary denies the claim, and for 60 days thereafter. The Secretary is deemed to have denied the claim if the Secretary does not act on the claim within 6 months after the claim is filed, unless the Secretary for good cause shown agrees with the claimant on a different period for the Secretary to act on the claim.

"(e) INTERPLEADER.—If the Secretary acknowledges the indebtedness of the Government under the insurance and there is a dispute about the persons entitled to receive payment, the Government may bring a civil action interpleading those persons. The action shall be brought in the United States District Court for the District of Columbia or in the district court for the district in which any of those persons resides. A person not residing or found in the district may be made a party by service in any reasonable manner the court directs. If the court is satisfied that unknown persons might make a claim under the insurance, the court may direct service on those unknown persons by publication in the Federal Register. Judgment after service by publication in the Federal Register discharges the Government from further liability to all persons.

"§ 53912. Expiration date

"The authority of the Secretary of Transportation to provide insurance and reinsurance under this chapter expires on December 31, 2010.

"PART D—PROMOTIONAL PROGRAMS

"CHAPTER 551—COASTWISE TRADE

"Sec.
"55101. Application of coastwise laws.
"55102. Transportation of merchandise.
"55103. Transportation of passengers.
"55104. Transportation of passengers between Puerto Rico and other ports in the United States.
"55105. Transportation of hazardous waste.
"55106. Merchandise transferred between barges.
"55107. Empty cargo containers and barges.
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"55109. Dredging.
"55110. Transportation of dredged material.
"55111. Towing.
"55112. Vessel escort operations and towing assistance.
"55113. Use of foreign documented oil spill response vessels.
"55114. Unloading fish from foreign vessels.
"55115. Supplies on fish processing vessels.
"55116. Canadian rail lines.
"55117. Great Lakes rail route.
"55118. Foreign railroads whose road enters by ferry, tugboat, or towboat.
"55119. Yukon River.
"55120. Transshipment of imported merchandise intended for immediate exportation.
"55121. Transportation of merchandise and passengers on Canadian vessels.

"§ 55101. Application of coastwise laws

"(a) IN GENERAL.—Except as provided in subsection (b), the coastwise laws apply to the United States, including the island territories and possessions of the United States.

"(b) EXCEPTIONS.—The coastwise laws do not apply to—

"(1) American Samoa;

"(2) the Northern Mariana Islands, except as provided in section 502(b) of the Covenant To Establish a Commonwealth of the Northern Mariana Islands in Political Union With the United States of America (48 U.S.C. 1801 note);

"(3) Canton Island until the President declares by proclamation that the coastwise laws apply to Canton Island; or

"(4) the Virgin Islands until the President declares by proclamation that the coastwise laws apply to the Virgin Islands.

"§ 55102. Transportation of merchandise

"(a) DEFINITION.—In this section, the term 'merchandise' includes—

"(1) merchandise owned by the United States Government, a State, or a subdivision of a State; and

"(2) valueless material.

"(b) REQUIREMENTS.—Except as otherwise provided in this chapter or chapter 121 of this title, a vessel may not provide any part of the transportation of merchandise by water, or by land and water, between points in the United States to which the coastwise laws apply, either directly or via a foreign port, unless the vessel—

"(1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and

"(2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

"(c) PENALTY.—Merchandise transported in violation of subsection (b) is liable to seizure by and forfeiture to the Government. Alternatively, *an amount equal to the value of the merchandise (as determined by the Secretary of Homeland Security) or the actual cost of the transportation, whichever is greater, may be recovered from any person transporting the merchandise or causing the merchandise to be transported.*

“§ 55103. Transportation of passengers

“(a) IN GENERAL.—Except as otherwise provided in this chapter or chapter 121 of this title, a vessel may not transport passengers between ports or places in the United States to which the coastwise laws apply, either directly or via a foreign port, unless the vessel—

“(1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and

“(2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

“(b) PENALTY.—The penalty for violating subsection (a) is $300 for each passenger transported and landed.

“§ 55104. Transportation of passengers between Puerto Rico and other ports in the United States

“(a) DEFINITIONS.—In this section:

“(1) CERTIFICATE.—The term ‘certificate’ means a certificate of financial responsibility for indemnification of passengers for nonperformance of transportation issued by the Federal Maritime Commission under section 44102 of this title.

“(2) PASSENGER VESSEL.—The term ‘passenger vessel’ means a vessel of similar size, or offering similar service, as any other vessel transporting passengers under subsection (b).

“(b) EXEMPTION.—Except as otherwise provided in this section, a vessel not qualified to engage in the coastwise trade may transport passengers between a port in Puerto Rico and another port in the United States.

“(c) EXPIRATION OF EXEMPTION.—

“(1) WHEN COASTWISE-QUALIFIED VESSEL OFFERING SERVICE.—On a showing to the Secretary of the department in which the Coast Guard is operating, by the vessel owner or charterer, that a United States passenger vessel qualified to engage in the coastwise trade is offering or advertising passenger service between a port in Puerto Rico and another port in the United States pursuant to a certificate, the Secretary shall notify the owner or operator of each vessel transporting passengers under subsection (b) to terminate that transportation within 270 days after the Secretary's notification. Except as provided in subsection (d), the authority to transport passengers under subsection (b) expires at the end of that 270-day period.

“(2) WHEN NON-COASTWISE-QUALIFIED VESSEL OFFERING SERVICE.—On a showing to the Secretary, by the vessel owner or charterer, that a United States passenger vessel not qualified to engage in the coastwise trade is offering or advertising passenger service between a port in Puerto Rico and another port in the United States pursuant to a certificate, the Secretary shall notify the owner or operator of each foreign vessel transporting passengers under subsection (b) to terminate that transportation within 270 days after the Secretary's notification. Except as provided in subsection (d), the authority of a foreign vessel to transport passengers under subsection (b) expires at the end of that 270-day period.

“(d) DELAYING EXPIRATION.—If the vessel offering or advertising the service described in subsection (c) has not begun that service within 270 days after the Secretary's notification, the expiration provided by subsection (c) is delayed until 90 days after the vessel offering or advertising the service begins that service.

“(e) REINSTATEMENT OF EXEMPTION.—If the Secretary finds that the service on which an expiration was based is no longer available, the expired authority to transport passengers is reinstated.

“§ 55105. Transportation of hazardous waste

“(a) IN GENERAL.—The transportation of hazardous waste, as defined in section 1004(5) of the Resource Conservation and Recovery Act of 1976 (42 U.S.C. 6903(5)), from a point in the United States to sea for incineration is deemed to be transportation of merchandise under section 55102 of this title.

“(b) NONAPPLICATION TO CERTAIN FOREIGN VESSELS.—

“(1) IN GENERAL.—Subsection (a) does not apply to transportation performed by a foreign ocean incineration vessel owned by or under construction on May 1, 1982, for a corporation wholly owned by citizens of the United States under section 50501(a)–(c) of this title.

“(2) STANDARDS FOR INCINERATION EQUIPMENT.—Incineration equipment on a vessel described in paragraph (1) must meet standards of the Coast Guard and the Environmental Protection Agency.

“(3) INSPECTION.—A vessel described in paragraph (1) shall be inspected by the Coast Guard, regardless of whether inspected by the nation in which it is registered. The inspection shall be the same as would be required of a vessel of the United States, including drydock inspection and internal examination of tanks and void spaces. The inspection may be made concurrently with an inspection by that nation or within one year after the initial issuance or next scheduled issuance of the Safety of Life at Sea Safety Construction Certificate. In making the inspection, the Coast Guard shall refer to the condition of the hull and superstructure established by the initial foreign certification as the basis for evaluating the current condition of the hull and superstructure. The Coast Guard shall allow the substitution of fittings, material, apparatus, equipment, and appliances different from those required for vessels of the United States if satisfied they are equivalent and at least as effective as those required for vessels of the United States. A satisfactory inspection under this paragraph shall be certified in writing by the Secretary of the department in which the Coast Guard is operating.

“(c) EFFECTIVE DATE.—Subsection (a) is not effective until an appropriate vessel has been built and documented under chapter 121 of this title.

“§ 55106. Merchandise transferred between barges

“(a) IN GENERAL.—On terms and conditions the Secretary of Homeland Security may prescribe by regulation, the Secretary may suspend the application of section 55102 of this title to the transportation of merchandise that is transferred, when moving in the foreign trade of the United States, from a barge certified by the owner or operator as designed specifically for carriage on a vessel and carried regularly on a vessel in foreign trade, to another such barge owned or leased by the same owner or operator. However, this subsection does not apply to transportation between the continental United States and noncontiguous States, territories, or possessions to which the coastwise laws apply.

“(b) RECIPROCITY REQUIREMENT FOR FOREIGN VESSELS.—This section applies to a vessel of foreign registry only if the Secretary of Homeland Security finds, based on information from the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States.

“§ 55107. Empty cargo containers and barges

“(a) IN GENERAL.—Subject to subsections (b) and (c), and on terms and conditions the Secretary of Homeland Security may prescribe by regulation, section 55102 of this title does not apply to the transportation of—

“(1) empty cargo vans, empty lift vans, or empty shipping tanks;

“(2) equipment for use with cargo vans, lift vans, or shipping tanks;

“(3) empty barges specifically designed for carriage aboard a vessel and equipment (except propulsion equipment) for use with those barges;

“(4) empty instruments for international traffic exempted from the customs laws under section 322(a) of the Tariff Act of 1930 (19 U.S.C. 1322(a)); or

“(5) stevedoring equipment and material.

“(b) CONDITIONS.—

“(1) PARAGRAPHS (1)-(4).—Paragraphs (1)-(4) of subsection (a) apply only if the items named are owned or leased by the owner or operator of the vessel and transported for its use in handling its cargo in foreign trade.

“(2) PARAGRAPH (5).—Paragraph (5) of subsection (a) applies only if the items named are—

“(A) owned or leased by the owner or operator of the vessel or by the stevedoring company having the contract for the loading or unloading of the vessel; and

“(B) transported without charge for use in the handling of cargo in foreign trade.

“(c) RECIPROCITY REQUIREMENT FOR FOREIGN VESSELS.—This section applies to a vessel of foreign registry only if the Secretary of Homeland Security finds, based on information from the Secretary of State, that the government of the nation of registry extends reciprocal privileges to vessels of the United States.

“§ 55108. Platform jackets

“(a) DEFINITIONS.—In this section:

“(1) COASTWISE QUALIFIED VESSEL.—The term ‘coastwise qualified vessel’ means a vessel that has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of this title.

“(2) PLATFORM JACKET.—The term ‘platform jacket’ refers to a single physical component and includes any type of offshore exploration, development, or production structure or component thereof, including—

“(A) platform jackets;

“(B) tension leg or SPAR platform superstructures (including the deck, drilling rig and support utilities, and supporting structure);

“(C) hull (including vertical legs and connecting pontoons or vertical cylinder);

“(D) tower and base sections of a platform jacket;

“(E) jacket structures; and

“(F) deck modules (known as ‘topsides’).

“(b) AUTHORIZED TRANSPORTATION.—Section 55102 of this title does not apply to the transportation of a platform jacket in or on a non-coastwise qualified launch barge between two points in the United States, at one of which there is an installation or other device within the meaning of section 4(a) of the Outer Continental Shelf Lands Act (43 U.S.C. 1333(a)), if—

“(1) the launch barge was built before December 31, 2000, and has a launch capacity of at least 12,000 long tons; and

“(2) the Secretary of Transportation makes a determination, in accordance with procedures established under subsection (c), that a suitable coastwise qualified vessel is not available for use in the transportation and, if needed, launch or installation of a platform jacket.

“(c) PROCEDURES TO MAXIMIZE USE OF COASTWISE QUALIFIED VESSELS.—The Secretary of Transportation shall adopt procedures implementing this section that are reasonably designed to provide timely information so as to maximize the use of coastwise qualified vessels. The procedures shall, among other things, establish that for purposes of this section, a coastwise qualified vessel shall be deemed to be not available only if—

"(1) on application by an owner or operator for the use of a non-coastwise qualified launch barge for transportation of a platform jacket under this section (which application shall include all relevant information, including engineering details and timing requirements), the Secretary promptly publishes a notice in the Federal Register—

"(A) describing the project and the platform jacket involved;

"(B) advising that all relevant information reasonably needed to assess the transportation requirements for the platform jacket will be made available to interested parties on request; and

"(C) requesting that information on the availability of coastwise qualified vessels be submitted within 30 days after publication of that notice; and

"(2)(A) no information is submitted to the Secretary within that 30 day period; or

"(B) the owner or operator of a coastwise qualified vessel submits information to the Secretary asserting that the owner or operator has a suitable coastwise qualified vessel available for the transportation, but the Secretary determines, within 90 days after the notice is first published, that the coastwise qualified vessel is not suitable or reasonably available for the transportation.

"§ 55109. Dredging

"(a) IN GENERAL.—Except as provided in subsection (b), a vessel may engage in dredging in the navigable waters of the United States only if—

"(1) the vessel is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade;

"(2) the charterer, if any, is a citizen of the United States for purposes of engaging in the coastwise trade; and

"(3) the vessel has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of this title or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

"(b) DREDGING OF GOLD IN ALASKA.—A documented vessel with a registry endorsement may engage in the dredging of gold in Alaska.

"(c) PENALTY.—If a vessel is operated in knowing violation of this section, the vessel and its equipment are liable to seizure by and forfeiture to the United States Government.

"§ 55110. Transportation of dredged material

"Section 55102 of this title applies to the transportation of valueless material or dredged material, regardless of whether it has commercial value, from a point in the United States or on the high seas within the exclusive economic zone, to another point in the United States or on the high seas within the exclusive economic zone.

"§ 55111. Towing

"(a) IN GENERAL.—Except when towing a vessel in distress, a vessel may not do any part of any towing described in subsection (b) unless the towing vessel—

"(1) is wholly owned by citizens of the United States for purposes of engaging in the coastwise trade; and

"(2) has been issued a certificate of documentation with a coastwise endorsement under chapter 121 of this title or is exempt from documentation but would otherwise be eligible for such a certificate and endorsement.

"(b) APPLICABLE TOWING.—Subsection (a) applies to the towing of—

"(1) a vessel between ports or places in the United States to which the coastwise laws apply, either directly or via a foreign port or place;

"(2) a vessel from point to point within the harbors of ports or places to which the coastwise laws apply; or

"(3) a vessel transporting valueless material or dredged material, regardless of whether it has commercial value, from a point in the United States or on the high seas within the exclusive economic zone, to another point in the United States or on the high seas within the exclusive economic zone.

"(c) PENALTIES.—

"(1) OWNER AND MASTER.—The owner and master of a vessel towing another vessel in violation of this section are each liable for a penalty of at least $350 but not more than $1,100. A penalty under this paragraph constitutes a lien on the vessel. The lien is enforceable in a district court of the United States for any district in which the vessel is found. Clearance may not be granted to the vessel until the penalties have been paid.

"(2) VESSEL.—In addition to the penalties under paragraph (1), the towing vessel is liable for a penalty of $60 per ton based on the tonnage of each towed vessel.

"§ 55112. Vessel escort operations and towing assistance

"(a) IN GENERAL.—Except in the case of a vessel in distress, only a vessel of the United States may perform the following escort vessel operations within the navigable waters of the United States:

"(1) Operations that commence or terminate at a port or place in the United States.

"(2) Operations required by United States law or regulation.

"(3) Operations provided in whole or in part within or through navigation facilities owned, maintained, or operated by the United States Government or the approaches to those facilities, other than facilities operated by the St. Lawrence Seaway Development Corporation on the St. Lawrence River portion of the Seaway.

"(b) ESCORT VESSELS.—For purposes of this section, an escort vessel is—

"(1) any vessel that is assigned and dedicated to assist another vessel, whether or not tethered to that vessel, solely as a safety precaution to assist in controlling the speed or course of the assisted vessel in the event of a steering or propulsion equipment failure, or any other similar emergency circumstance, or in restricted waters where additional assistance in maneuvering the vessel is required to ensure its safe operation; and

"(2) in the case of a vessel being towed under section 55111 of this title, any vessel that is assigned and dedicated to the vessel being towed in addition to any towing vessel required under that section.

"(c) RELATIONSHIP TO OTHER LAW.—This section does not affect section 55111 of this title.

"(d) PENALTY.—A person violating this section is liable to the Government for a civil penalty of not more than $10,000 for each day during which the violation occurs.

"§ 55113. Use of foreign documented oil spill response vessels

"Notwithstanding any other provision of law, an oil spill response vessel documented under the laws of a foreign country may operate in waters of the United States on an emergency and temporary basis, for the purpose of recovering, transporting, and unloading in a United States port oil discharged as a result of an oil spill in or near those waters, if—

"(1) an adequate number and type of oil spill response vessels documented under the laws of the United States cannot be engaged to recover oil from an oil spill in or near those waters in a timely manner, as determined by the Federal On-Scene Coordinator for a discharge or threat of a discharge of oil; and

"(2) the foreign country has by its laws accorded to vessels of the United States the same privileges accorded to vessels of the foreign country under this section.

"§ 55114. Unloading fish from foreign vessels

"(a) PROHIBITIONS.—Except as otherwise provided by this section or a treaty or convention to which the United States is a party, a foreign vessel may not unload, in a port of the United States—

"(1) its catch of fish taken on board on the high seas or fish products processed from that catch of fish; or

"(2) fish or fish products taken on board that vessel on the high seas from a vessel engaged in fishing operations or the processing of fish or fish products.

"(b) REGULATIONS ON OBTAINING INFORMATION.—The Secretary of Commerce may prescribe regulations the Secretary considers necessary to obtain information on the transportation of fish products by vessels of the United States for foreign fish processing vessels to points in the United States.

"(c) VIRGIN ISLANDS.—

"(1) IN GENERAL.—A foreign vessel of not more than 50 feet overall in length may unload its catch of fresh fish (whole or with the heads, viscera, or fins removed, but not frozen, otherwise processed, or further advanced) in a port of the Virgin Islands for immediate consumption in those islands. Fish unloaded under this paragraph may be sold or transferred only for immediate consumption. In the absence of satisfactory evidence that a sale or transfer to an agent, representative, or employee of a freezer or cannery is for immediate consumption, the sale or transfer is deemed not to be for immediate consumption. This paragraph does not prohibit the freezing, smoking, or other processing of fresh fish by the ultimate consumer of the fish.

"(2) SEIZURE, FORFEITURE, AND PENALTY.—Fish unloaded in the Virgin Islands that are retained, sold, or transferred, except as allowed by paragraph (1), are liable to seizure by and forfeiture to the United States Government. A person retaining, selling, transferring, buying, or receiving the fish is liable to the Government for a civil penalty of not more than $1,000 for each violation. A penalty or forfeiture under this paragraph may be compromised, modified, or remitted under section 2107(b) of this title.

"(d) NORTHERN MARIANA ISLANDS.—Subsection (a) does not apply to the Northern Mariana Islands.

"§ 55115. Supplies on fish processing vessels

"Section 55102 of this title does not apply to supplies aboard a United States documented fish processing vessel that are necessary and used for processing or assembling fishery products aboard such a vessel.

"§ 55116. Canadian rail lines

"Section 55102 of this title does not apply to the transportation of merchandise between points in the continental United States, including Alaska, over through routes in part over Canadian rail lines and connecting water facilities if the routes are recognized by the Surface Transportation Board and rate tariffs for the routes have been filed with the Board.

"§ 55117. Great Lakes rail route

"Section 55102 of this title does not apply to the transportation of merchandise loaded on a railroad car or to a motor vehicle with or without a trailer, and with its passengers or contents when accompanied by the operator, when the railroad car or motor vehicle is transported in a railroad car ferry operated between fixed terminals on the Great Lakes as part of a rail route, if—

"(1) the car ferry is owned by a common carrier by water and operated as part of a rail route with the approval of the Surface Transportation Board;

"(2) the stock of the common carrier by water, or its predecessor, was owned or controlled by a common carrier by rail prior to June 5, 1920;

“(3) the stock of the common carrier owning the car ferry is, with the approval of the Board, now owned or controlled by a common carrier by rail; and

“(4) the car ferry is built in and documented under the laws of the United States.

“§55118. Foreign railroads whose road enters by ferry, tugboat, or towboat

“A foreign railroad, whose road enters the United States by ferry, tugboat, or towboat, may own and operate a vessel not having a coastwise endorsement in connection with the water transportation of the passenger, freight, express, baggage, and mail cars used by that road, together with the passengers, freight, express matter, baggage, and mails transported in those cars. However, the foreign railroad is subject to the same restrictions imposed by law on a vessel of the United States entering a port of the United States from the same foreign country. Except as otherwise authorized by this chapter, the ferry, tugboat, or towboat may not, under penalty of forfeiture, be used in the transportation of merchandise between ports or places in the United States to which the coastwise laws apply.

“§55119. Yukon River

“Section 55102 of this title does not apply to the transportation of merchandise on the Yukon River until the Alaska Railroad is completed and the Secretary of Transportation finds that proper facilities will be available for transportation by citizens of the United States to properly handle the traffic.

“§55120. Transshipment of imported merchandise intended for immediate exportation

“The Secretary of Homeland Security may prescribe regulations for the transshipment and transportation of merchandise that is imported into the United States by sea for immediate exportation to a foreign port by sea, or by a river, the right to ascend or descend which for the purposes of commerce is secured by treaty to the citizens of the United States and the subjects of a foreign power.

“§55121. Transportation of merchandise and passengers on Canadian vessels

“(a) BETWEEN ROCHESTER AND ALEXANDRIA BAY.—Until passenger service is established by vessels of the United States between the port of Rochester, New York, and the port of Alexandria Bay, New York, the Secretary of Homeland Security may issue annually permits to Canadian passenger vessels to transport passengers between those ports. Canadian vessels holding such a permit are not subject to section 55103 of this title.

“(b) WITHIN ALASKA OR BETWEEN ALASKA AND OTHER POINTS IN THE UNITED STATES.—Until the Secretary of Transportation determines that service by vessels of the United States is available to provide the transportation described in paragraph (1) or (2), sections 55102 and 55103 of this title do not apply to the transportation on Canadian vessels of—

“(1) passengers between ports in southeastern Alaska; or

“(2) passengers or merchandise between Hyder, Alaska, and other points in southeastern Alaska or in the United States outside Alaska.

“CHAPTER 553—PASSENGER AND CARGO PREFERENCES

“SUBCHAPTER I—GENERAL

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“SUBCHAPTER I—GENERAL

“§55301. Priority loading for coal

“A vessel engaged in the coastwise transportation of coal produced in the United States, from a port in the United States to another port in the United States, shall be given priority in loading at any of those ports ahead of a waiting vessel engaged in the export transportation of coal produced in the United States. However, if the Secretary of Transportation finds that it is in the national interest, the Secretary may eliminate this priority loading at any port. The Secretary shall report to Congress within 30 days an action eliminating priority loading under this section.

“§55302. Transportation of United States Government personnel

“(a) IN GENERAL.—An officer or employee of the United States Government traveling by sea on official business overseas or to or from a territory or possession of the United States shall travel and transport personal effects on a vessel documented under the laws of the United Sates if such a vessel is available, unless the necessity of the mission requires the use of a foreign vessel.

“(b) REGULATIONS.—The Administrator of General Services shall prescribe regulations under which agencies may not pay for or reimburse an officer or employee for travel or transportation expenses incurred on a foreign vessel in the absence of satisfactory proof of the necessity of using the vessel.

“§55303. Motor vehicles owned by United States Government personnel

“Notwithstanding any other law, privately-owned American shipping services may be used to transport motor vehicles owned by personnel of the United States Government whenever transportation of those vehicles at Government expense is otherwise authorized by law.

“§55304. Exports financed by the United States Government

“It is the sense of Congress that any loans made by an instrumentality of the United States Government to foster the exporting of agricultural or other products shall provide that the products may be transported only on vessels of the United States unless, as to any or all of those products, the Secretary of Transportation, after investigation, certifies to the instrumentality that vessels of the United States are not available in sufficient number, in sufficient tonnage capacity, on necessary schedules, or at reasonable rates.

“§55305. Cargoes procured, furnished, or financed by the United States Government

“(a) DEFINITION.—In this section, the term ‘privately-owned commercial vessel of the United States’ does not include a vessel that, after September 21, 1961, was built or rebuilt outside the United States or documented under the laws of a foreign country, until the vessel has been documented under the laws of the United States for at least 3 years.

“(b) MINIMUM TONNAGE.—When the United States Government procures, contracts for, or otherwise obtains for its own account, or furnishes to or for the account of a foreign country without provision for reimbursement, any equipment, materials, or commodities, within or without the United States, or advances funds or credits, or guarantees the convertibility of foreign currencies in connection with the furnishing of the equipment, materials, or commodities, the appropriate agencies shall take steps necessary and practicable to ensure that at least 50 percent of the gross tonnage of the equipment, materials, or commodities (computed separately for dry bulk carriers, dry cargo liners, and tankers) which may be transported on ocean vessels is transported on privately-owned commercial vessels of the United States, to the extent those vessels are available at fair and reasonable rates for commercial vessels of the United States, in a manner that will ensure a fair and reasonable participation of commercial vessels of the United States in those cargoes by geographic areas.

“(c) WAIVERS.—The President, the Secretary of Defense, or Congress (by concurrent resolution or otherwise) may waive this section temporarily by—

“(1) declaring the existence of an emergency justifying a waiver; and

“(2) notifying the appropriate agencies of the waiver.

“(d) PROGRAMS OF OTHER AGENCIES.—An agency having responsibility under this section shall administer its programs with respect to this section under regulations prescribed by the Secretary of Transportation. The Secretary shall review the administration of those programs and report annually to Congress on their administration.

“SUBCHAPTER II—EXPORT TRANSPORTATION OF AGRICULTURAL COMMODITIES

“§55311. Findings and purposes

“(a) FINDINGS.—Congress finds that—

“(1) a productive and healthy agricultural industry and a strong and active United States maritime industry are vitally important to the economic well-being and security of the United States;

“(2) both industries must compete in international markets increasingly dominated by foreign trade barriers and the subsidization practices of foreign governments; and

“(3) increased agricultural exports and the use of merchant vessels of the United States contribute positively to the United States balance of trade and generate employment opportunities in the United States.

“(b) PURPOSES.—The purposes of this subchapter are to—

“(1) enable the Secretary of Agriculture to plan export programs effectively, by clarifying the ocean transportation requirements applicable to those programs;

“(2) take immediate and positive steps to promote the growth of the cargo-carrying capacity of the United States merchant marine;

"(3) expand international trade in United States agricultural commodities and products and develop, maintain, and expand markets for United States agricultural exports;

"(4) improve the efficiency of administration of both the commodity purchasing and selling activities and the ocean transportation activities associated with export programs sponsored by the Secretary;

"(5) stimulate and promote the agricultural and maritime industries of the United States and encourage cooperative efforts by both industries to address their common problems; and

"(6) provide for the appropriate disposition of these findings and purposes.

"§55312. Determining prevailing world market price

"(a) AGRICULTURAL COMMODITIES AND PRODUCTS.—The prevailing world market price for agricultural commodities or their products shall be determined under this subchapter under procedures prescribed by the Secretary of Agriculture. The Secretary shall prescribe the procedures by regulation, with notice and opportunity for public comment under section 553 of title 5.

"(b) SERVICES AND NON-AGRICULTURAL COMMODITIES AND PRODUCTS.—If a determination of the prevailing world market price of any other type of materials, goods, equipment, or service is required to determine whether a barter or exchange transaction is subject to section 55314(b)(6) or (7) of this title, the determination shall be made by the Secretary of Agriculture in consultation with the heads of other appropriate agencies.

"§55313. Exemption of certain agricultural exports from cargo preference provisions

"Sections 55304 and 55305 of this title do not apply to export activities of the Secretary of Agriculture or the Commodity Credit Corporation under which—

"(1) agricultural commodities or their products acquired by the Corporation are made available to United States exporters, users, processors, or foreign purchasers for the purpose of developing, maintaining, or expanding export markets for United States agricultural commodities or their products at prevailing world market prices;

"(2) payments are made available to United States exporters, users, or processors or, except as provided in section 55314 of this title, cash grants are made available to foreign purchasers, for the purpose described in paragraph (1);

"(3) commercial credit guarantees are blended with direct credits from the Corporation to reduce the effective rate of interest on export sales of United States agricultural commodities or their products;

"(4) credit or credit guarantees for not more than 3 years are extended by the Corporation to finance or guarantee export sales of United States agricultural commodities or their products; or

"(5) agricultural commodities or their products owned or controlled by or under loan from the Corporation are exchanged or bartered for materials, goods, equipment, or services at least equal in value to the agricultural commodities or their products for which they are exchanged or bartered (determined on the basis of prevailing world market prices at the time of the exchange or barter), but this paragraph does not exempt from the cargo preference provisions referred to in section 55314(b) of this title any requirement otherwise applicable to the materials, goods, equipment, or services imported under the transaction.

"§55314. Transportation requirements for certain exports sponsored by the Secretary of Agriculture

"(a) MINIMUM TONNAGE.—

"(1) IN GENERAL.—In addition to the requirement under section 55305 of this title for the transportation of a percentage of gross tonnage on commercial vessels of the United States, 25 percent of the gross tonnage of agricultural commodities or their products specified in subsection (b) shall be transported each calendar year on commercial vessels of the United States that—

"(A) are necessary for national security; and

"(B) if more than 25 years old, were rebuilt within the last 5 years and certified by the Secretary of Transportation as having a useful life of at least 5 years after that rebuilding.

"(2) CALENDAR YEAR.—To provide for effective and equitable administration of the cargo preference laws, the calendar year for the purpose of compliance with minimum percentage requirements is the 12-month period beginning October 1 of each year.

"(b) APPLICABLE EXPORT ACTIVITY.—This section applies to export activity (except inspection or weighing activities, other activities carried out for health or safety, or technical assistance provided in the handling of commercial transactions) of the Secretary of Agriculture or the Commodity Credit Corporation—

"(1) carried out under the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1691 et seq.);

"(2) carried out under section 416 of the Agricultural Act of 1949 (7 U.S.C. 1431);

"(3) carried out under the Bill Emerson Humanitarian Trust Act (7 U.S.C. 1736f-1);

"(4) under which agricultural commodities or their products are—

"(A) donated through foreign governments or private or public agencies, including intergovernmental organizations; or

"(B) sold for foreign currencies or for dollars on credit terms of more than 10 years;

"(5) under which agricultural commodities or their products are made available for emergency food relief at less than prevailing world market prices;

"(6) under which a cash grant is made directly or through an intermediary to a foreign purchaser to enable the purchaser to obtain United States agricultural commodities or their products in an amount greater than the difference between the prevailing world market price and the United States market price, free along side vessel at a United States port; or

"(7) under which agricultural commodities owned or controlled by or under loan from the Corporation are exchanged or bartered for materials, goods, equipment, or services produced in foreign countries, except export activities described in section 55313(5) of this title.

"(c) ADDITIONAL REQUIREMENTS.—

"(1) APPLICATION OF SECTION 55305.—The requirement for transportation on vessels of the United States under subsection (a) is subject to the same terms and conditions as provided in section 55305 of this title.

"(2) ALLOCATION OF COMMODITIES.—Subject to paragraph (3), in carrying out this section and section 55305 of this title, the Corporation shall take steps necessary and practicable, and consistent with this section and section 55305, without detriment to any port range to allocate, on the principle of lowest landed cost without regard to the country of registry of the vessel, 25 percent of the bagged, processed, or fortified commodities provided under title II of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1721 et seq.).

"(3) CALCULATIONS.—In carrying out paragraph (2), first there shall be calculated the allocation of 100 percent of the quantity to be procured on an overall lowest landed cost basis without regard to the country of registry of the vessel, and then there shall be allocated to the Great Lakes port range any cargoes for which it has the lowest landed cost under that calculation. The requirements for transportation on vessels of the United States under this section and section 55305 of this title do not apply to commodities allocated to the Great Lakes port range under paragraph (2). Commodities allocated to the Great Lakes port range under paragraph (2) may not be reallocated or diverted to another port range to meet those requirements to the extent that the total tonnage of commodities to which paragraph (2) applies that is furnished and transported from the Great Lakes port range is less than 25 percent of the total annual tonnage of the commodities furnished.

"(4) AWARDING CONTRACTS.—In awarding a contract for the transportation by vessel of commodities from the Great Lakes port range pursuant to an export activity referred to in subsection (b), an agency—

"(A) shall consider expressions of freight interest for any vessel from a vessel operator who meets reasonable requirements for financial and operational integrity; and

"(B) may not deny award of the contract to a person based on the type of vessel on which the transportation would be provided (including on the basis that the transportation would not be provided on a liner vessel, as that term is used in the Shipping Act of 1984, as in effect on November 14, 1995), if the person otherwise satisfies reasonable requirements for financial and operational integrity.

"(5) NONAVAILABILITY OF VESSELS.—A determination of nonavailability of vessels of the United States resulting from the application of this subsection may not reduce the gross tonnage of commodities required by this section and section 55305 of this title to be transported on vessels of the United States.

"§55315. Minimum tonnage

"(a) DEFINITION.—In this section, the term 'base period' means the 5-year period running from the sixth through the second prior fiscal years.

"(b) REQUIREMENT.—For each fiscal year, the minimum quantity of agricultural commodities to be exported under programs subject to section 55314 of this title is the average of the tonnage exported under those programs during the base period, discarding the high and low years.

"(c) WAIVERS.—The President may waive the minimum quantity for a fiscal year under this section if the President determines and reports to Congress, together with reasons, that the quantity cannot be used effectively for the purposes of those programs or, based on a certification by the Secretary of Agriculture, that the commodities are not available for reasons that include the unavailability of funds.

"§55316. Financing the transportation of agricultural commodities

"(a) FINANCING OF INCREASED CHARGES.—The Secretary of Transportation shall finance any increased ocean freight charges incurred in any fiscal year that result from the application of section 55314 of this title.

"(b) REIMBURSEMENT OF INCREASED CHARGES.—

"(1) IN GENERAL.—The Secretary of Transportation shall reimburse the Secretary of Agriculture and the Commodity Credit Corporation for the amount by which, in any fiscal year—

"(A) the total cost of ocean freight and ocean freight differential for which obligations are incurred by the Secretary of Agriculture and the Corporation on exports of agricultural commodities and their products under the agricultural export programs specified in section 55314(b) of this title; exceeds

"(B) 20 percent of the value of the commodities and their products and the cost of the ocean freight and ocean freight differential on which obligations are incurred by the Secretary *of Agriculture and the Corporation during that fiscal year.*

"(2) COMMODITIES SHIPPED FROM INVENTORY.—For purposes of this subsection, commodities shipped from the inventory of the Corporation shall be valued as provided in section 412(d) of the Agricultural Trade Development and Assistance Act of 1954 (7 U.S.C. 1736f(d)).

"(c) ISSUANCE AND PURCHASE OF OBLIGATIONS.—

"(1) ISSUANCE.—To meet the expenses required to be assumed under subsections (a) and (b), the Secretary of Transportation shall issue obligations to the Secretary of the Treasury. The Secretary of Transportation, with the approval of the Secretary of the Treasury, shall prescribe the form, denomination, maturity, and other terms (except the interest rate) of the obligations. The Secretary of the Treasury shall set the interest rate for the obligations, considering the average market yield on outstanding marketable obligations of the United States Government of comparable maturities during the month before the obligations are issued.

"(2) PURCHASE.—The Secretary of the Treasury shall purchase the obligations issued under this subsection. To purchase the obligations, the Secretary of the Treasury may use as a public debt transaction the proceeds from the sale of securities issued under chapter 31 of title 31. The purposes for which securities may be issued under that chapter are extended to include the purchase of obligations under this subsection. A redemption or purchase of the obligations by the Secretary of the Treasury is a public debt transaction of the Government.

"(d) SOURCE OF FUNDS FOR REIMBURSEMENT.—Reimbursement of the Secretary of Transportation for costs incurred under this section shall be made with appropriated funds rather than through cancellation of notes.

"(e) APPROPRIATIONS.—

"(1) AUTHORIZATION.—Each fiscal year, there is authorized to be appropriated an amount sufficient to reimburse the Secretary of Transportation for the costs incurred under this section, including administrative expenses and the principal and interest due on obligations issued to the Secretary of the Treasury.

"(2) APPROPRIATION FOR ADMINISTRATIVE EXPENSES.—Each fiscal year, such amounts as may be necessary are hereby appropriated to pay interest and to liquidate debt on obligations issued to the Secretary of the Treasury under this section.

"(f) NOTIFICATION TO CONGRESS OF INSUFFICIENCY.—If the Secretary of Transportation is unable to obtain the funds necessary to finance the increased ocean freight charges resulting from the requirements of subsections (a) and (b) and section 55314(a) of this title, the Secretary shall notify Congress within 10 working days of the discovery of the insufficiency.

"§55317. Termination of subchapter

"This subchapter terminates 90 days after the date on which a notification is made under section 55316(f) of this title, except for shipments of agricultural commodities and their products subject to contracts made before the end of that 90-day period, unless within that 90-day period the Secretary of Transportation proclaims that funds are available to finance increased freight charges resulting from the requirements of sections 55314(a) and 55316(a) and (b) of this title. On the termination of this subchapter under this section—

"(1) this subchapter does not exempt export activities from, or subject export activities to, the cargo preference laws; and

"(2) the 50-percent requirement in section 55305 of this title remains in effect.

"§55318. Effect on other law

"This subchapter does not affect chapter 5 of title 5.

"SUBCHAPTER III—AMERICAN GREAT LAKES VESSELS

"§55331. Definitions

"In this subchapter:

"(1) AMERICAN GREAT LAKES VESSEL.—The term 'American Great Lakes vessel' means a vessel so designated under section 55332 of this title, but only during the period the designation is in effect.

"(2) GREAT LAKES.—The term 'Great Lakes' means Lake Superior, Lake Michigan, Lake Huron, Lake Erie, Lake Ontario, the Saint Lawrence River west of Saint Regis, New York, and their connecting and tributary waters.

"(3) GREAT LAKES SHIPPING SEASON.—The term 'Great Lakes shipping season' means the period each year during which the Saint Lawrence Seaway is open for navigation by vessels, as declared by the Saint Lawrence Seaway Development Corporation.

"§55332. Designating American Great Lakes vessels

"(a) DESIGNATIONS.—The Secretary of Transportation shall designate a vessel as an American Great Lakes vessel if—

"(1) an application for designation is submitted to the Secretary under regulations prescribed by the Secretary;

"(2) the vessel is documented under the laws of the United States;

"(3) the vessel, on the effective date of the designation, is—

"(A) at least 1, but not more than 6, years old; or

"(B) at least 1, but not more than 11, years old if the Secretary finds that suitable vessels are not available to provide the type of service for which the vessel will be used after the designation;

"(4) the vessel has not previously been designated as an American Great Lakes vessel; and

"(5) the owner makes an agreement as provided under subsection (b).

"(b) AGREEMENTS.—A vessel may be designated as an American Great Lakes vessel only if the person that will be the owner of the vessel at the time of the designation makes an agreement with the Secretary providing that if the Secretary determines that the vessel is necessary to the defense of the United States, the United States Government will have an exclusive right, during the 120-day period following the date of a revocation of the designation under section 55335 of this title, to purchase the vessel for a price equal to the greater of—

"(1) the approximate world market value of the vessel; or

"(2) the cost of the vessel to the owner less a reasonable amount for depreciation.

"(c) CERTAIN FOREIGN DOCUMENTATION AND SALE NOT PROHIBITED.—Notwithstanding any other law, if the Government does not exercise its right of purchase under an agreement under subsection (b), the owner of the vessel is not prohibited from—

"(1) documenting the vessel under the laws of a foreign country; or

"(2) selling the vessel to a person not a citizen of the United States.

"(d) REGULATIONS.—The Secretary shall prescribe regulations establishing requirements for submitting applications under this section.

"§55333. Exemption from restriction on transporting certain cargo

"The 3-year documentation requirement of section 55305(a) of this title does not apply to a vessel designated as an American Great Lakes vessel during the period of its designation.

"§55334. Restrictions on operations

"(a) PROHIBITIONS.—Except as provided in subsection (b), an American Great Lakes vessel may not be used to—

"(1) engage in trade—

"(A) from a port in the United States that is not located on the Great Lakes; or

"(B) between ports in the United States;

"(2) transport bulk cargo (as defined in section 40102 of this title) that is subject to section 55305 or 55314 of this title or section 2631 of title 10; or

"(3) provide a service (except ocean freight service) as—

"(A) a contract carrier; or

"(B) a common carrier on a fixed advertised schedule offering frequent sailings at regular intervals in the foreign trade of the United States.

"(b) OFF-SEASON EXCEPTION.—An American Great Lakes vessel may be used for not more than 90 days during any 12-month period to engage in trade prohibited by subsection (a)(1)(A), except during the Great Lakes shipping season.

"§55335. Revocations and terminations of designations

"(a) REVOCATIONS.—After notice and an opportunity for a hearing, the Secretary of Transportation may revoke a designation of a vessel as an American Great Lakes vessel if the Secretary finds that—

"(1) the vessel does not meet a requirement for the designation;

"(2) the vessel has been operated in violation of this subchapter; or

"(3) the owner or operator of the vessel has violated an agreement made under section 55332(b) of this title.

"(b) TERMINATIONS.—On petition and a showing of good cause by the owner of a vessel, the Secretary may terminate the designation of a vessel as an American Great Lakes vessel. The Secretary may impose conditions in a termination order to prevent significant adverse effects on other operators of vessels of the United States.

"§55336. Civil penalty

"After notice and an opportunity for a hearing, the Secretary of Transportation may impose a civil penalty of not more than $1,000,000 on the owner of an American Great Lakes vessel for any act for which the designation may be revoked under section 55335 of this title.

"CHAPTER 555—MISCELLANEOUS

"Sec.

"55501. Mobile trade fairs.

"§55501. Mobile trade fairs

"(a) IN GENERAL.—The Secretary of Commerce shall encourage and promote the development and use of mobile trade fairs designed to show and sell the products of United States business and agriculture at foreign ports and at other commercial centers throughout the world where the operators of the fairs use, insofar as practicable, vessels and aircraft of the United States in transporting their exhibits.

"(b) TECHNICAL AND FINANCIAL ASSISTANCE.—When the Secretary determines that a mobile trade fair provides an economical and effective means of promoting export sales, the Secretary may provide to the operator of the fair—

"(1) technical assistance and support; and

"(2) financial assistance to defray certain expenses incurred outside the United States, except the cost of transportation on foreign vessels and aircraft.

"(c) USE OF FOREIGN CURRENCIES.—To carry out this section, the President may use, in addition to amounts appropriated to carry out trade promotion activities, foreign currencies owned by or owed to the United States Government.

"PART E—CONTROL OF MERCHANT MARINE CAPABILITIES

"CHAPTER 561—RESTRICTIONS ON TRANSFERS

"Sec.

"56101. Approval required to transfer vessel to noncitizen.

"56102. Additional controls during war or national emergency.
"56103. Conditional approvals.
"56104. Penalty for false statements.
"56105. Forfeiture procedure.

"§ 56101. Approval required to transfer vessel to noncitizen

"(a) RESTRICTIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this section, section 12119 of this title, or section 611 of the Merchant Marine Act, 1936, a person may not, without the approval of the Secretary of Transportation—

"(A) sell, lease, charter, deliver, or in any other manner transfer, or agree to sell, lease, charter, deliver, or in any other manner transfer, to a person not a citizen of the United States, an interest in or control of—

"(i) a documented vessel owned by a citizen of the United States; or

"(ii) a vessel last documented under the laws of the United States; or

"(B) place under foreign registry, or operate under the authority of a foreign country, a documented vessel or a vessel last documented under the laws of the United States.

"(2) EXCEPTIONS.—Paragraph (1)(A) does not apply to a vessel that has been operated only for pleasure or only as a fishing vessel, fish processing vessel, or fish tender vessel (as defined in section 2101 of this title).

"(b) APPROVAL BEFORE DOCUMENTATION.—To promote financing with respect to a vessel to be documented under chapter 121 of this title, the Secretary may grant approval under subsection (a) before the vessel is documented.

"(c) EXCEPTIONS.—Notwithstanding any other provision of this subtitle, the Merchant Marine Act, 1936, or any contract with the Secretary made under this subtitle or that Act, a person may place a vessel under foreign registry without the approval of the Secretary if—

"(1)(A) the Secretary, in conjunction with the Secretary of Defense, determines that at least one replacement vessel of equal or greater military capability and of a capacity that is equivalent or greater, as measured by deadweight tons, gross tons, or container equivalent units, as appropriate, is documented under chapter 121 of this title by the owner of the vessel placed under foreign registry; and

"(B) the replacement vessel is not more than 10 years old on the date of that documentation; or

"(2) an operating agreement covering the vessel under chapter 531 of this title has expired.

"(d) STATUS OF PROHIBITED TRANSACTION.—A charter, sale, or transfer of a vessel, or of an interest in or control of a vessel, in violation of this section is void.

"(e) PENALTIES.—

"(1) CRIMINAL PENALTY.—A person that knowingly sells, charters, or transfers a vessel, or an interest in or control of a vessel, in violation of this section shall be fined under title 18, imprisoned for not more than 5 years, or both.

"(2) CIVIL PENALTY.—A person that sells, charters, or transfers a vessel, or an interest in or control of a vessel, in violation of this section is liable to the United States Government for a civil penalty of not more than $10,000 for each violation.

"(3) FORFEITURE.—A documented vessel may be seized by and forfeited to the Government if, in violation of this section, a person—

"(A) knowingly sells, charters, or transfers the vessel or an interest in or control of the vessel; or

"(B) places the vessel under foreign registry or operates the vessel under the authority of a foreign country.

"§ 56102. Additional controls during war or national emergency

"(a) IN GENERAL.—During war, or a national emergency declared by Presidential proclamation, a person may not, without the approval of the Secretary of Transportation—

"(1) place under foreign registry a vessel owned in whole or in part by a citizen of the United States or a corporation incorporated under the laws of the United States or of a State;

"(2) sell, mortgage, lease, charter, deliver, or in any other manner transfer, or agree to sell, mortgage, lease, charter, deliver, or in any other manner transfer, to a person not a citizen of the United States—

"(A) a vessel owned as described in paragraph (1), or an interest therein;

"(B) a vessel documented under the laws of the United States, or an interest therein; or

"(C) a facility for building or repairing vessels, or an interest therein;

"(3) issue, assign, or transfer to a person not a citizen of the United States an instrument of indebtedness secured by a mortgage of a vessel to a trustee, by an assignment of an owner's interest in a vessel under construction to a trustee, or by a mortgage of a facility for building or repairing vessels to a trustee, unless the trustee or a substitute trustee is approved by the Secretary under subsection (b);

"(4) enter into an agreement or understanding to construct a vessel in the United States for, or to be delivered to, a person not a citizen of the United States without expressly stipulating that construction will not begin until after the war or national emergency has ended;

"(5) enter into an agreement or understanding whereby there is vested in, or for the benefit of, a person not a citizen of the United States the controlling interest in a corporation that is incorporated under the laws of the United States or a State and that owns a vessel or facility for building or repairing vessels; or

"(6) cause or procure a vessel, constructed in whole or in part in the United States and never cleared for a foreign port, to depart from a port of the United States before it has been documented under the laws of the United States.

"(b) TRUSTEES.—

"(1) APPROVAL.—The Secretary shall approve a trustee or substitute trustee under subsection (a)(3) if and only if the trustee is a bank or trust company that—

"(A) is organized as a corporation, and is doing business, under the laws of the United States or a State;

"(B) is authorized under those laws to exercise corporate trust powers;

"(C) is a citizen of the United States;

"(D) is subject to supervision or examination by Federal or State authority; and

"(E) has a combined capital and surplus (as set forth in its most recent published report of condition) of at least $3,000,000.

"(2) DISAPPROVAL.—If a trustee or substitute trustee ceases to meet the conditions in paragraph (1), the Secretary shall disapprove the trustee or substitute trustee. After the disapproval, the restrictions on transfer or assignment without the Secretary's approval in subsection (a)(3) apply.

"(3) OPERATION OF VESSEL.—During a period when subsection (a) applies, a trustee referred to in subsection (a)(3), even though approved as a trustee by the Secretary, may not operate the vessel under the mortgage or assignment without the Secretary's approval.

"(c) STATUS OF PROHIBITED TRANSACTION.—A transaction in violation of this section is void.

"(d) RECOVERY OF CONSIDERATION.—

"(1) IN GENERAL.—A person that deposited or paid consideration in connection with a transaction prohibited by this section may recover the consideration after tender of the vessel, facility, stock, or other security, or interest therein, to the person entitled to it, or the forfeiture thereof to the United States Government.

"(2) EXCEPTION.—Paragraph (1) does not apply if the person in whose interest the consideration was deposited, or to whom it was paid, entered into the transaction in the belief that the person depositing or paying the consideration was a citizen of the United States.

"(e) PENALTIES.—

"(1) CRIMINAL PENALTY.—A person that violates, or attempts or conspires to violate, this section shall be fined under title 18, imprisoned for not more than 5 years, or both.

"(2) FORFEITURE.—The following shall be forfeited to the Government:

"(A) A vessel, a facility for building or repairing vessels, or an interest in a vessel or such a facility, that is sold, mortgaged, leased, chartered, delivered, transferred, or documented, or agreed to be sold, mortgaged, leased, chartered, delivered, transferred, or documented, in violation of this section.

"(B) Stock and other securities sold or transferred, or agreed to be sold or transferred, in violation of this section.

"(C) A vessel departing in violation of subsection (a)(6).

"§ 56103. Conditional approvals

"(a) IN GENERAL.—In approving an act or transaction under section 56101 or 56102 of this title, the Secretary of Transportation may do so absolutely or upon conditions the Secretary considers advisable. The Secretary shall state the conditions in the notice of approval.

"(b) VIOLATIONS.—A violation of a condition of approval is subject to the same penalties as a violation resulting from an act done without the required approval. The violation occurs at the time the condition is violated.

"§ 56104. Penalty for false statements

"A person that knowingly makes a false statement of a material fact to the Secretary of Transportation or another officer, employee, or agent of the Department of Transportation, to obtain the Secretary's approval under section 56101 or 56102 of this title, shall be fined under title 18, imprisoned for not more than 5 years, or both.

"§ 56105. Forfeiture procedure

"(a) IN GENERAL.—A forfeiture under this chapter may be enforced in the same way as a forfeiture under the laws on the collection of duties. However, such a forfeiture may be remitted without seizure of the vessel.

"(b) PRIOR CONVICTIONS.—In a proceeding under this chapter to enforce a forfeiture, a prior criminal conviction of a person for a violation of this chapter with respect to the subject matter of the forfeiture is prima facie evidence of the violation against the person convicted.

"CHAPTER 563—EMERGENCY ACQUISITION OF VESSELS

"Sec.
"56301. General authority.
"56302. Charter terms.
"56303. Compensation.
"56304. Disputed compensation.
"56305. Vessel encumbrances.
"56306. Use and transfer of vessels.
"56307. Return of vessels.

"§ 56301. General authority

"During a national emergency declared by Presidential proclamation, or a period for which the President has proclaimed that the security of the national defense makes it advisable, the Secretary of Transportation may requisition or purchase, or requisition or charter the use of, a vessel owned by citizens of the United States, a documented vessel, or a vessel under construction in the United States.

"§ 56302. Charter terms

"(a) IN GENERAL.—If a vessel is requisitioned for use but not ownership under this chapter, the Secretary of Transportation, at the time of requisition or as soon thereafter as the situation allows, shall offer the person entitled to possession of the vessel a charter containing—

"(1) the terms the Secretary believes should govern the relationship between the United States Government and the person; and

"(2) the rate of hire the Secretary considers just compensation for the use of the vessel and the services required under the charter.

"(b) Refusal To Accept.—If the person does not accept the charter and rate of hire, the parties shall proceed as provided in section 56304 of this title.

"§ 56303. Compensation

"(a) In General.—As soon as practicable, the Secretary of Transportation shall determine and pay just compensation for a vessel requisitioned under this chapter.

"(b) Factors Not Affecting Value.—The value of a vessel may not be considered enhanced by the circumstances requiring its requisition. Consequential damages arising from the requisition may not be paid.

"(c) Effect of Construction-Differential Subsidy.—

"(1) If paid.—If a construction-differential subsidy has been paid for the vessel, the value of the vessel at the time of requisition shall be determined under section 802 of the Merchant Marine Act, 1936.

"(2) If not paid.—If a construction-differential subsidy has not been paid for the vessel, the value of any national defense features previously paid for by the United States Government shall be excluded.

"(d) Loss or Damage During Charter.—If a vessel is lost or damaged by a risk assumed by the Government under the charter, but a valuation for the vessel or a means of compensation has not been agreed to, the Secretary shall pay just compensation for the loss or damage, to the extent the person is not reimbursed through insurance.

"§ 56304. Disputed compensation

"If the person entitled to compensation disputes the amount of just compensation determined by the Secretary of Transportation under this chapter, the Secretary shall pay the person, as a tentative advance, 75 percent of the amount determined. The person may bring a civil action against the United States to recover just compensation. If the tentative advance paid under this section is greater than the amount of the court's judgment, the person shall refund the difference.

"§ 56305. Vessel encumbrances

"(a) In General.—The existence of an encumbrance on a vessel does not prevent the requisition of the vessel under this chapter.

"(b) Deposit in Treasury.—

"(1) In general.—If an encumbrance exists, the Secretary of Transportation may deposit part of the compensation or advance of compensation to be paid under this chapter (but not more than the total amount of all encumbrances) in a fund in the Treasury. The Secretary shall publish notice of the creation of the fund in the Federal Register.

"(2) Availability of amounts deposited.—Amounts deposited in the fund shall be available to pay the compensation or any of the encumbrances (including encumbrances stipulated to in a court of the United States or a State) existing at the time the vessel was requisitioned.

"(c) Civil Action.—

"(1) In general.—Within 6 months after publication of notice under subsection (b), the holder of an encumbrance may bring a civil action in admiralty, according to the principles of libels in rem, against the fund.

"(2) Venue.—The action must be brought in the district court of the United States—

"(A) from whose custody the vessel was or may be requisitioned; or

"(B) in whose district the vessel was located when it was requisitioned.

"(3) Service of process.—Service of process shall be made on the appropriate United States Attorney, the Attorney General, and the Secretary, in the manner provided by the Federal Rules of Civil Procedure (28 App. U.S.C.). Notice of the action shall be given to all interested persons as ordered by the court.

"(4) As between private parties.—The action shall proceed and be determined according to the principles of law and the rules of practice applicable in like cases between private parties.

"§ 56306. Use and transfer of vessels

"(a) In General.—The Secretary of Transportation may repair, recondition, reconstruct, operate, or charter for operation, a vessel acquired under this chapter.

"(b) Transfer to Other Agencies.—The Secretary may transfer the possession or control of a vessel acquired under this chapter to another department or agency of the United States Government on terms and conditions approved by the President. The department or agency shall promptly reimburse the Secretary for expenditures for just compensation, purchase price, charter hire, repairs, reconditioning, or reconstruction.

"§ 56307. Return of vessels

"When a vessel requisitioned for use but not ownership is returned to the owner, the Secretary of Transportation shall—

"(1) return the vessel in a condition at least as good as when taken, less ordinary wear and tear; or

"(2) pay the owner an amount sufficient to recondition the vessel to that condition, less ordinary wear and tear.

"CHAPTER 565—ESSENTIAL VESSELS AFFECTED BY NEUTRALITY ACT

"Sec.
"56501. Definition.
"56502. Adjusting obligations and arranging maintenance.
"56503. Types of adjustments and arrangements.
"56504. Changes in adjustments and arrangements.

"§ 56501. Definition

"In this chapter, the term 'essential vessel' means a vessel that is—

"(1)(A) security for a mortgage indebtedness to the United States Government; or

"(B) constructed under this subtitle or required by a contract under this subtitle to be operated on a certain essential foreign trade route; and

"(2) necessary in the interests of commerce and national defense to be maintained in condition for prompt use.

"§ 56502. Adjusting obligations and arranging maintenance

"(a) General Authority.—On written application, the Secretary of Transportation may adjust obligations and arrange for maintenance of an essential vessel as provided in this chapter if the Secretary determines, after any investigation or proceeding the Secretary considers desirable, that—

"(1) the operation of the vessel in the service, route, or line to which it is assigned under this subtitle, or in which it otherwise would be operated, is not—

"(A) lawful under the Neutrality Act of 1939 (22 U.S.C. 441 et seq.) or a proclamation issued under that Act; or

"(B) compatible with maintaining the availability of the vessel for national defense and commerce;

"(2) it is not feasible under existing law to employ the vessel in any other service or operation in foreign or domestic trade (except temporary or emergency operation under section 56503(b)(5) of this title); and

"(3) the applicant, because of the restrictions of the Neutrality Act of 1939 (22 U.S.C. 441 et seq.) or the withdrawal of vessels for national defense under paragraph (1), is not earning or will not earn a reasonable return on the capital necessarily employed in its business.

"(b) Effective Period.—Adjustments and arrangements under subsection (a) shall continue in effect only as long as the circumstances described in subsection (a) continue to exist.

"§ 56503. Types of adjustments and arrangements

"(a) Suspension Requirements.—An adjustment or arrangement under this chapter shall include suspension of—

"(1) the requirement to operate the vessel in foreign trade under the applicable operating-differential or construction-differential subsidy contract or mortgage or other agreement; and

"(2) the right to operating-differential subsidy for the vessel.

"(b) Discretionary Adjustments and Arrangements.—To the extent the Secretary of Transportation considers appropriate to carry out the purposes of this subtitle, an adjustment or arrangement under this chapter may include any of the following:

"(1) Lay-up of the vessel by the owner or in the custody of the Secretary, with payment or reimbursement by the Secretary of necessary and proper expenses (including reasonable overhead and insurance) or a fixed periodic allowance instead of payment or reimbursement.

"(2) Postponement, for not more than the total period of the lay-up, of the maturity date of each installment of the principal of obligations to the United States Government for the vessel (regardless of whether the maturity date is during a lay-up period), or rearrangement of those maturities.

"(3) Postponement or cancellation of interest accruing on the obligations during a lay-up period.

"(4) Extension, for not more than the total period of the lay-up, of the 20-year life limitation for the vessel and other limitations and provisions of this subtitle based on a 20-year life.

"(5) Provision for temporary or emergency employment of the vessel (instead of lay-up) as may be practicable, with such arrangements for management of the vessel, payment of expenses, and application of the proceeds of the employment, as the Secretary may approve, with any period of operation being included as part of the lay-up period.

"(6) Payment to the Secretary, on termination of the arrangements with the applicant, of the applicant's net profits (earned while the arrangements were in effect) in excess of 10 percent a year on the capital necessarily employed in the applicant's business, as reimbursement for obligations postponed or canceled and expenses incurred or paid by the Secretary under this section.

"(c) Laid-Up Vessels.—Under subsection (b)(6), capital of the applicant represented by a vessel of the applicant laid-up or operated under this section shall be included in capital necessarily employed in the applicant's business. The Secretary may require a vessel laid-up or operated under this section to be security for reimbursement.

"§ 56504. Changes in adjustments and arrangements

"The Secretary of Transportation may change an adjustment or arrangement made under this chapter as the Secretary considers necessary to carry out this chapter.

"PART F—GOVERNMENT-OWNED MERCHANT VESSELS

"CHAPTER 571—GENERAL AUTHORITY

"Sec.
"57101. Placement of vessels in National Defense Reserve Fleet.
"57102. Disposition of vessels not worth preserving.
"57103. Sale of obsolete vessels in National Defense Reserve Fleet.
"57104. Acquisition of vessels from sale of obsolete vessels.
"57105. Acquisition of vessels for essential services, routes, or lines.
"57106. Maintenance, improvement, and operation of vessels.
"57107. Vessels for other agencies.
"57108. Consideration of ballast and equipment in determining selling price.
"57109. Operation of vessels purchased, chartered, or leased from Secretary of Transportation.

"§ 57101. Placement of vessels in National Defense Reserve Fleet

"(a) IN GENERAL.—Any vessel acquired by the Maritime Administration shall be placed in the National Defense Reserve Fleet maintained under section 11 of the Merchant Ship Sales Act of 1946 (50 App. U.S.C. 1744).

"(b) REMOVAL FROM FLEET.—A vessel placed in the Fleet under subsection (a) may not be traded out or sold from the Fleet, except as provided in section 57102, 57103, or 57104 or chapter 533, 537, 573, or 575 of this title.

"§ 57102. Disposition of vessels not worth preserving

"(a) IN GENERAL.—If the Secretary of Transportation determines that a vessel owned by the Maritime Administration is of insufficient value for commercial or military operation to warrant its further preservation, the Secretary may scrap the vessel or sell the vessel for cash.

"(b) SELLING PROCEDURE.—The sale of a vessel under subsection (a) shall be made on the basis of competitive sealed bids, after an appraisal and due advertisement. The purchaser does not have to be a citizen of the United States. The purchaser shall provide a surety bond, with a surety approved by the Secretary, to ensure that the vessel will not be operated in the foreign trade of the United States at any time within 10 years after the sale, in competition with a vessel owned by a citizen of the United States and documented under the laws of the United States.

"§ 57103. Sale of obsolete vessels in National Defense Reserve Fleet

"(a) IN GENERAL.—The Secretary of Transportation may convey the right, title, and interest of the United States Government in any vessel of the National Defense Reserve Fleet that has been identified by the Secretary as an obsolete vessel of insufficient value to warrant its further preservation, if the recipient—

"(1) is a non-profit organization, a State, or a municipal corporation or political subdivision of a State;

"(2) agrees not to use, or allow others to use, the vessel for commercial transportation purposes;

"(3) agrees to make the vessel available to the Government whenever the Secretary indicates that it is needed by the Government;

"(4) agrees to hold the Government harmless for any claims arising from exposure to asbestos, polychlorinated biphenyls, lead paint, or other hazardous substances after conveyance of the vessel, except for claims arising from use of the vessel by the Government;

"(5) has a conveyance plan and a business plan that describes the intended use of the vessel, each of which has been submitted to and approved by the Secretary;

"(6) has provided proof, as determined by the Secretary, of resources sufficient to accomplish the transfer, necessary repairs and modifications, and initiation of the intended use of the vessel; and

"(7) agrees that when the recipient no longer requires the vessel for use as described in the business plan required under paragraph (5)—

"(A) the recipient will, at the discretion of the Secretary, reconvey the vessel to the Government in good condition except for ordinary wear and tear; or

"(B) if the Board of Trustees of the recipient has decided to dissolve the recipient according to the laws of the State in which the recipient is incorporated, then—

"(i) the recipient shall distribute the vessel, as an asset of the recipient, to a person that has been determined exempt from taxation under section 501(c)(3) of the Internal Revenue Code of 1986 (26 U.S.C. 501(c)(3)), or to the Federal Government or a State or local government for a public purpose; and

"(ii) the vessel shall be disposed of by a court of competent jurisdiction of the county in which the principal office of the recipient is located, for such purposes as the court shall determine, or to such organizations as the court shall determine are organized exclusively for public purposes.

"(b) OTHER EQUIPMENT.—At the Secretary's discretion, additional equipment from other obsolete vessels of the Fleet may be conveyed to assist the recipient with maintenance, repairs, or modifications.

"(c) ADDITIONAL TERMS.—The Secretary may require any additional terms the Secretary considers appropriate.

"(d) DELIVERY OF VESSEL.—If conveyance is made under this section, the vessel shall be delivered to the recipient at a time and place to be determined by the Secretary. The vessel shall be conveyed in an 'as is' condition.

"(e) LIMITATIONS.—If at any time prior to delivery of the vessel to the recipient, the Secretary determines that a different disposition of the vessel would better serve the interests of the Government, the Secretary shall pursue the more favorable disposition of the obsolete vessel and shall not be liable for any damages that may result from an intended recipient's reliance upon a proposed transfer.

"(f) REVERSION.—The Secretary shall include in any conveyance under this section terms under which all right, title, and interest conveyed by the Secretary shall revert to the Government if the Secretary determines the vessel has been used other than as described in the business plan required under subsection (a)(5).

"§ 57104. Acquisition of vessels from sale of obsolete vessels

"(a) IN GENERAL.—The Secretary of Transportation may acquire suitable documented vessels with amounts in the Vessel Operations Revolving Fund derived from the sale of obsolete vessels in the National Defense Reserve Fleet.

"(b) VALUATION.—The acquired and obsolete vessels shall be valued at their scrap value in domestic or foreign markets as of the date of the acquisition for or sale from the Fleet. However, the value assigned to those vessels shall be determined on the same basis, with consideration given to the fair value of the cost of moving the vessel sold from the Fleet to the place of scrapping.

"(c) COSTS INCIDENT TO LAY-UP.—Costs incident to the lay-up of the vessel acquired under this section may be paid from amounts in the Fund.

"(d) TRANSFERS TO NON-CITIZENS.—A vessel sold from the Fleet under this section may be scrapped in an approved foreign market without obtaining additional separate approval from the Secretary to transfer the vessel to a person not a citizen of the United States.

"§ 57105. Acquisition of vessels for essential services, routes, or lines

"(a) IN GENERAL.—The Secretary of Transportation may acquire a vessel, by purchase or otherwise, if—

"(1) the Secretary considers the vessel necessary to establish, maintain, improve, or serve as a replacement on an essential service, route, or line in the foreign commerce of the United States, as determined under section 50103 of this title;

"(2) the vessel was constructed in the United States; and

"(3) the Secretary of the Navy has certified to the Secretary of Transportation that the vessel is suitable for economical and speedy conversion into a naval or military auxiliary or otherwise suitable for use by the United States Government in time of war or national emergency.

"(b) PRICE.—The price paid for the vessel shall be based on a fair and reasonable valuation. However, the price may not exceed by more than 5 percent the cost of the vessel to the owner (excluding any construction-differential subsidy and the cost of national defense features paid by the Secretary of Transportation) plus the actual cost previously expended for reconditioning, less depreciation based on a 25-year life for a dry-cargo or passenger vessel and a 20-year life for a tanker or other liquid bulk carrier vessel.

"(c) DOCUMENTATION.—A vessel acquired under this section that is not documented under the laws of the United States at the time of acquisition shall be so documented as soon as practicable.

"§ 57106. Maintenance, improvement, and operation of vessels

"(a) IN GENERAL.—The Secretary of Transportation may maintain, repair, recondition, remodel, and improve vessels owned by the United States Government and in the possession or under the control of the Secretary, to equip them adequately for competition in the foreign trade of the United States. The Secretary may operate such a vessel or charter the vessel on terms and conditions the Secretary considers appropriate to carry out the purposes of this subtitle.

"(b) DOCUMENTATION AND RESTRICTIONS ON OPERATION.—A vessel reconditioned, remodeled, or improved under subsection (a) shall be documented under the laws of the United States and remain so documented for at least 5 years after completion of the reconditioning, remodeling, or improvement. During that period, it shall be operated on voyages that are not exclusively coastwise.

"§ 57107. Vessels for other agencies

"(a) IN GENERAL.—The Secretary of Transportation may construct, reconstruct, repair, equip, and outfit, by contract or otherwise, vessels or parts thereof, for any other department or agency of the United States Government to the extent the other department or agency is authorized by law to do so for its own account.

"(b) EFFECT ON CONTRACT AUTHORIZATION.—An obligation incurred or expenditure made by the Secretary under this section does not affect any contract authorization of the Secretary, but instead shall be charged against the existing appropriation or contract authorization of the department or agency.

"§ 57108. Consideration of ballast and equipment in determining selling price

"The Maritime Administration may not sell a vessel until its ballast and equipment have been inventoried and their value considered in determining the selling price of the vessel.

"§57109. Operation of vessels purchased, chartered, or leased from Secretary of Transportation

"Unless otherwise authorized by the Secretary of Transportation, a vessel purchased, chartered, or leased from the Secretary may be operated only under a certificate of documentation with a registry or coastwise endorsement. Such a vessel, while employed solely as a merchant vessel, is subject to the laws, regulations, and liabilities governing merchant vessels, whether the United States Government has an interest in the vessel as an owner or holds a mortgage, lien, or other interest.

"CHAPTER 573—VESSEL TRADE-IN PROGRAM

"Sec.
"57301. Definitions.
"57302. Authority to acquire vessels.
"57303. Utility value and tonnage requirements.
"57304. Eligible acquisition dates.
"57305. Determination of trade-in allowance.
"57306. Payment of trade-in allowance.
"57307. Recognition of gain for tax purposes.
"57308. Use of vessels at least 25 years old.

"§57301. Definitions

"In this chapter:

"(1) NEW VESSEL.—The term 'new vessel' means a vessel—

"(A) constructed under this subtitle and acquired within 2 years after the date of completion; or

"(B) constructed in a domestic shipyard on private account and not under this subtitle, and documented under the laws of the United States.

"(2) OBSOLETE VESSEL.—The term 'obsolete vessel' means a vessel that—

"(A) is of at least 1,350 gross tons;

"(B) the Secretary of Transportation believes should, because of its age, obsolescence, or other reasons, be replaced in the public interest; and

"(C) has been owned by a citizen of the United States for at least 3 years immediately before its acquisition under this chapter.

"§57302. Authority to acquire vessels

"To promote the construction of new, safe, and efficient vessels to carry the domestic and foreign waterborne commerce of the United States, the Secretary of Transportation may acquire an obsolete vessel in exchange for an allowance of credit toward the cost of construction or purchase of a new vessel as provided in this chapter.

"§57303. Utility value and tonnage requirements

"(a) UTILITY VALUE.—The utility value of a new vessel to be acquired under this chapter for operation in the domestic or foreign commerce of the United States may not be substantially less than that of the obsolete vessel acquired in exchange under this chapter.

"(b) TONNAGE.—If the Secretary of Transportation finds that the new vessel will have a utility value at least equal to that of the obsolete vessel, the new vessel may be of lesser gross tonnage than the obsolete vessel. However, the gross tonnage of the new vessel must be at least one-third the gross tonnage of the obsolete vessel.

"§57304. Eligible acquisition dates

"At the option of the owner, the acquisition of an obsolete vessel under this chapter shall occur—

"(1) when the owner contracts for the construction or purchase of a new vessel; or

"(2) within 5 days of the actual date of delivery of the new vessel to the owner.

"§57305. Determination of trade-in allowance

"(a) IN GENERAL.—The Secretary of Transportation shall determine the trade-in allowance for an obsolete vessel at the time of acquisition of the vessel. The allowance shall be the fair value of the vessel. In determining the value, the Secretary shall consider—

"(1) the scrap value of the obsolete vessel in American and foreign markets;

"(2) the depreciated value based on a 20-year or 25-year life, whichever applies to the obsolete vessel; and

"(3) the market value of the obsolete vessel for operation in world commerce or in the domestic or foreign commerce of the United States.

"(b) USE OF OBSOLETE VESSELS.—If acquisition of the obsolete vessel occurs when the owner contracts for the construction of the new vessel, and the owner uses the obsolete vessel during the period of construction of the new vessel, the Secretary shall reduce the trade-in allowance by an amount representing the fair value of that use. The Secretary shall establish the rate for use of the obsolete vessel when the contract for construction of the new vessel is made.

"§57306. Payment of trade-in allowance

"(a) ACQUISITION AT TIME OF CONTRACT.—If acquisition of an obsolete vessel under this chapter occurs when the owner contracts for the construction or purchase of the new vessel, the Secretary of Transportation shall apply the trade-in allowance to the purchase price of the new vessel rather than paying it to the owner. If the new vessel is constructed under this subtitle, the Secretary may apply the trade-in allowance to the required cash payments on terms and conditions the Secretary may prescribe. If the new vessel is not constructed under this subtitle, the Secretary shall pay the trade-in allowance to the builder of the vessel for the account of the owner when the Secretary acquires the obsolete vessel.

"(b) ACQUISITION AT TIME OF DELIVERY.—If acquisition of the obsolete vessel occurs when the new vessel is delivered to the owner, the Secretary shall deposit the trade-in allowance in the owner's capital construction fund.

"§57307. Recognition of gain for tax purposes

"The owner of an obsolete vessel does not recognize a gain under the Federal income tax laws when the vessel is transferred to the Secretary of Transportation in exchange for a trade-in allowance under this chapter. The basis of the new vessel acquired with the allowance is the same as the basis of the obsolete vessel—

"(1) increased by the difference between the cost of the new vessel and the trade-in allowance of the obsolete vessel; and

"(2) decreased by the amount of loss recognized on the transfer.

"§57308. Use of vessels at least 25 years old

"An obsolete vessel acquired under this chapter that is or becomes at least 25 years old may not be used for commercial operation. However, the vessel may be used—

"(1) during a period in which vessels may be requisitioned under chapter 563 of this title; or

"(2) except as otherwise provided in this subtitle, on trade routes serving only the foreign trade of the United States.

"CHAPTER 575—CONSTRUCTION, CHARTER, AND SALE OF VESSELS

"SUBCHAPTER I—GENERAL

"Sec.
"57501. Completion of long-range program.
"57502. Construction, reconditioning, and remodeling of vessels.
"57503. Competitive bidding.
"57504. Charter or sale of vessels acquired by Department of Transportation.
"57505. Employment of vessels on foreign trade routes.
"57506. Minimum selling price of vessels.

"SUBCHAPTER II—CHARTERS

"57511. Demise charters.
"57512. Competitive bidding.
"57513. Minimum bid.
"57514. Qualifications of bidders.
"57515. Awarding of charters.
"57516. Operating-differential subsidies.
"57517. Recovery of excess profits.
"57518. Performance bond.
"57519. Insurance.
"57520. Vessel maintenance.
"57521. Termination of charter during national emergency.

"SUBCHAPTER III—MISCELLANEOUS

"57531. Construction and charter of vessels for unsuccessful routes.
"57532. Operation of experimental vessels.

"SUBCHAPTER I—GENERAL

"§57501. Completion of long-range program

"Whenever the Secretary of Transportation determines that the objectives and policies declared in sections 50101 and 50102 of this title cannot be fully realized within a reasonable time under titles V and VI of the Merchant Marine Act, 1936, and the President approves the determination, the Secretary, in accordance with this chapter, shall complete the long-range program described in section 50102 of this title.

"§57502. Construction, reconditioning, and remodeling of vessels

"(a) IN GENERAL.—The Secretary of Transportation may have new vessels constructed, and have old vessels reconditioned or remodeled, as the Secretary determines necessary to carry out the objectives of this subtitle.

"(b) PLACE OF WORK.—Construction, reconditioning, and remodeling of vessels under subsection (a) shall take place in shipyards in the continental United States (including Alaska and Hawaii). However, if satisfactory contracts cannot be obtained from private shipbuilders, the Secretary may have the work done in navy yards.

"(c) APPLICABILITY OF CONSTRUCTION-DIFFERENTIAL SUBSIDY PROVISIONS.—Contracts for the construction, reconstruction, or reconditioning of a vessel by a private shipbuilder under this chapter are subject to the provisions of title V of the Merchant Marine Act, 1936, applicable to a contract with a private shipbuilder for the construction of a vessel under title V of that Act.

"§57503. Competitive bidding

"(a) ADVERTISEMENT AND BIDDING.—The Secretary of Transportation may make a contract with a private shipbuilder for the construction of a new vessel, or for the reconstruction or reconditioning of an existing vessel, only after due advertisement and upon sealed competitive bids.

"(b) OPENING OF BIDS.—Bids required under this section shall be opened at the time and place stated in the advertisement for bids. All interested persons, including representatives of the press, shall be permitted to attend. The results of the bidding shall be publicly announced.

"§57504. Charter or sale of vessels acquired by Department of Transportation

"Vessels transferred to or otherwise acquired by the Department of Transportation in any manner may be chartered or sold by the Secretary of Transportation as provided in this chapter.

"§57505. Employment of vessels on foreign trade routes

"(a) IN GENERAL.—The Secretary of Transportation shall arrange for the employment of the Department of Transportation's vessels in steamship lines on such trade routes, exclusively serving the foreign trade of the United States, as the Secretary determines are essential for the development and maintenance of the commerce of the United States and the national defense.

However, the Secretary shall first determine that those routes are not being adequately served by existing steamship lines privately owned and operated by citizens of the United States and documented under the laws of the United States.

“(b) Policy To Encourage Private Operation.—The Secretary shall have a policy of encouraging private operation of each essential steamship line now owned by the United States Government by—

“(1) selling the line to a citizen of the United States; or

“(2) demising the Secretary's vessels on bareboat charter to citizens of the United States who agree to maintain the line in the manner provided in this chapter.

“§57506. Minimum selling price of vessels

“(a) In General.—A vessel constructed under this subtitle or the Merchant Marine Act, 1936, may not be sold by the Secretary of Transportation for less than the price specified in this section.

“(b) Operation in Foreign Trade.—If the vessel is to be operated in foreign trade, the minimum price is the estimated foreign construction cost (exclusive of national defense features) determined as of the date the construction contract is executed, less depreciation under subsection (d).

“(c) Operation in Domestic Trade.—If the vessel is to be operated in domestic trade, the minimum price is the cost of construction in the United States (exclusive of national defense features), less depreciation under subsection (d).

“(d) Depreciation.—Depreciation under subsections (b) and (c) shall be based on—

“(1) a 25-year life for dry-cargo and passenger vessels; and

“(2) a 20-year life for tankers and other bulk liquid carrier vessels.

“SUBCHAPTER II—CHARTERS

“§57511. Demise charters

“A charter by the Secretary of Transportation under this chapter shall demise the vessel to the charterer subject to all usual conditions contained in a bareboat charter. The charter shall be for a term the Secretary considers to be in the best interest of the United States Government and the merchant marine.

“§57512. Competitive bidding

“(a) In General.—The Secretary of Transportation may charter a vessel of the Department of Transportation to a private operator only on the basis of competitive sealed bidding. The bids must be submitted in strict compliance with the terms and conditions of a public advertisement soliciting the bids.

“(b) Advertisement for Bids.—An advertisement for bids shall state—

“(1) the number, type, and tonnage of the vessels being offered for bareboat charter for operation as a steamship line on a designated trade route;

“(2) the minimum number of sailings required;

“(3) the length of time of the charter;

“(4) the right of the Secretary to reject all bids; and

“(5) other information the Secretary considers necessary for the information of prospective bidders.

“(c) Opening of Bids.—Bids required under this section shall be opened at the time and place stated in the advertisement for bids. All interested persons, including representatives of the press, shall be permitted to attend. The results of the bidding shall be publicly announced.

“§57513. Minimum bid

“The Secretary of Transportation shall reject any bid for the charter under this subchapter of a vessel constructed under this subtitle or the Merchant Marine Act, 1936, if the charter hire offered is lower than the minimum charter hire would be if the vessel were chartered under section 57531 of this title.

“§57514. Qualifications of bidders

“(a) Considerations.—In deciding whether to award a charter to a bidder, the Secretary of Transportation shall consider—

“(1) the bidder's financial resources, credit standing, and practical experience in operating vessels; and

“(2) other factors a prudent business person would consider in entering into a transaction involving a large capital investment.

“(b) Disqualifications.—The Secretary may not charter a vessel to a person appearing to lack sufficient capital, credit, and experience to operate the vessel successfully over the period covered by the charter.

“§57515. Awarding of charters

“(a) In General.—The Secretary of Transportation shall award the charter to the bidder proposing to pay the highest monthly charter hire. However, the Secretary may reject the highest or most advantageous or any other bid if the Secretary considers the charter hire offered too low or determines that the bidder lacks the qualifications required by section 57514 of this title.

“(b) Highest Bid Rejected.—If the Secretary rejects the highest bid, the Secretary may—

“(1) award the charter to the next highest bidder; or

“(2) reject all bids and either readvertise the line or operate the line until conditions appear more favorable to reoffer the line for private charter.

“(c) Reason for Rejection.—On request of a bidder, the reason for rejection shall be stated in writing to the bidder.

“§57516. Operating-differential subsidies

“If the Secretary of Transportation considers it necessary, the Secretary may make a contract with a charterer of a vessel owned by the Secretary for payment of an operating-differential subsidy, on the same terms and conditions, and subject to the same limitations and restrictions, as otherwise provided with respect to payment of operating-differential subsidies to operators of privately-owned vessels.

“§57517. Recovery of excess profits

“(a) In General.—A charter under this chapter shall provide that if, at the end of a calendar year subsequent to the execution of the charter, the cumulative net voyage profit (after payment of the charter hire reserved in the charter and payment of the charterer's fair and reasonable overhead expenses applicable to operation of the chartered vessel) exceeds 10 percent a year of the charterer's capital necessarily employed in the business of the chartered vessel, the charterer shall pay to the Secretary of Transportation, as additional charter hire, half the cumulative net voyage profit in excess of 10 percent a year. However, any cumulative net voyage profit accounted for under this subsection is not to be included in the calculation of cumulative net voyage profit in any subsequent year.

“(b) Terms To Be Defined and Used.—The Secretary shall define the terms ‘net voyage profit’, ‘fair and reasonable overhead expenses’, and ‘capital necessarily employed’ for this section. Each advertisement for bids and each charter shall contain these definitions, stating the formula for determining each of these three amounts.

“§57518. Performance bond

“The Secretary of Transportation shall require a charterer of a vessel of the Secretary to deposit with the Secretary an undertaking, with approved sureties, in such amount as the Secretary may require as security for the faithful performance of the terms of the charter, including indemnity against liens on the chartered vessel.

“§57519. Insurance

“A charter under this chapter shall require the charterer to carry, at the charterer's expense, insurance on the chartered vessel covering all marine and port risks, protection and indemnity risks, and all other hazards and liabilities, adequate to cover damages claimed against and losses sustained by the chartered vessel arising during the term of the charter. The insurance shall be in such form, in such amount, and with such companies as the Secretary of Transportation may require. In accordance with law, any of the insurance risks may be underwritten by the Secretary.

“§57520. Vessel maintenance

“(a) In General.—A charter under this chapter shall require the charterer, at the charterer's expense, to—

“(1) keep the chartered vessel in good repair and efficient operating condition; and

“(2) make any repairs required by the Secretary of Transportation.

“(b) Inspection.—The charter shall provide that the Secretary has the right to inspect the vessel at any time to ascertain its condition.

“§57521. Termination of charter during national emergency

“A charter under this chapter shall provide that during a national emergency proclaimed by the President or a period for which the President has proclaimed that the security of the national defense makes it advisable, the Secretary of Transportation may terminate the charter without cost to the United States Government on such notice to the charterer as the President determines.

“SUBCHAPTER III—MISCELLANEOUS

“§57531. Construction and charter of vessels for unsuccessful routes

“(a) In General.—If the Secretary of Transportation finds that a trade route determined to be essential under section 50103 of this title cannot be successfully developed and maintained and the Secretary's replacement program cannot be achieved under private operation of the trade route by a citizen of the United States with vessels documented under chapter 121 of this title, without further aid by the United States Government in addition to the financial aid authorized under titles V and VI of the Merchant Marine Act, 1936, the Secretary, without advertisement or competition, may—

“(1) have constructed, in private shipyards or in navy yards, vessels of the types necessary for the trade route; and

“(2) demise charter those new vessels to the operator of vessels of the United States established on the trade route.

“(b) Amount of Charter Hire.—

“(1) In general.—The annual charter hire under subsection (a) shall be at least 4 percent of the price (referred to in this section as the ‘foreign cost’) at which the vessel would be sold if constructed under title V of the Merchant Marine Act, 1936, plus—

“(A) a percentage of the depreciated foreign cost computed annually determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the Government with remaining periods to maturity comparable to the term of the charter, adjusted to the nearest one-eighth percent; and

“(B) an allowance adequate in the judgment of the Secretary of Transportation to cover administrative costs.

“(2) Depreciation.—Depreciation under paragraph (1)(A) shall be based on—

“(A) a 25-year life for dry-cargo and passenger vessels; and

"(B) a 20-year life for tankers and other bulk liquid carrier vessels.

"(c) OPTION TO PURCHASE.—The charter may contain an option to the charterer to purchase the vessels from the Secretary of Transportation within 5 years after delivery under the charter, on the same terms and conditions as provided in title V of the Merchant Marine Act, 1936, for the purchase of new vessels from the Secretary. However—

"(1) the purchase price shall be the foreign cost less depreciation to the date of purchase based on the useful life specified in subsection (b)(2);

"(2) the required cash payment payable at the time of the purchase shall be 25 percent of the purchase price;

"(3) the charter may provide that any part of the charter hire paid in excess of the minimum charter hire provided for in this section may be credited against the cash payment payable at the time of the purchase;

"(4) the balance of the purchase price shall be paid within the remaining years of useful life (as specified in subsection (b)(2)) after the date of delivery of the vessel under the charter and in approximately equal annual installments, except that the first installment, which shall be payable on the next ensuing anniversary date of the delivery under the charter, shall be a proportionate part of the annual installment; and

"(5) interest shall be payable on the unpaid balances from the date of purchase, at a rate not less than—

"(A) a rate determined by the Secretary of the Treasury, taking into consideration the current average market yield on outstanding marketable obligations of the Government with remaining periods to maturity comparable to the average maturities of the loans, adjusted to the nearest one-eighth percent; plus

"(B) an allowance adequate in the judgment of the Secretary of Transportation to cover administrative costs.

"(d) OPERATION OF VESSEL.—

"(1) PERMISSIBLE VOYAGES.—The charter shall provide for operation of the vessel exclusively—

"(A) in foreign trade;

"(B) on a round-the-world voyage;

"(C) on a round voyage from the west coast of the United States to a European port that includes an intercoastal port of the United States;

"(D) on a round voyage from the Atlantic coast of the United States to the Orient that includes an intercoastal port of the United States; or

"(E) on a voyage in foreign trade on which the vessel may stop at Hawaii or an island territory or possession of the United States.

"(2) DOMESTIC TRADE.—The charter shall provide if the vessel is operated in domestic trade on any of the services specified in paragraph (1), the charterer will pay annually to the Secretary of Transportation that proportion of 1/25 of the difference between the domestic and foreign cost of the vessel as the gross revenue derived from the domestic trade bears to the gross revenue derived from the entire voyages completed during the preceding year.

"§57532. Operation of experimental vessels

"(a) DEFINITION.—In this section, the term 'experimental vessel' means a vessel owned by the United States Government (including a vessel in the National Defense Reserve Fleet) that has been constructed, reconditioned, or remodeled for experimental or testing purposes.

"(b) AUTHORITY TO OPERATE.—The Secretary of Transportation, for the purpose of practical development, trial, and testing, may operate an experimental vessel under a bareboat charter or general agency agreement in the foreign or domestic trade of the United States or for use for the account of a department or agency of the Government, without regard to other provisions of this subtitle and other laws related to chartering and general agency operations. Not more than 10 vessels may be operated and tested under this section in any one year.

"(c) TERMS OF OPERATION.—Operation of a vessel under this section shall be on terms the Secretary considers appropriate to carry out the purposes of this subtitle. A bareboat charter under this section shall be at reasonable rates and include restrictions the Secretary considers appropriate to protect the public interest, including provisions for recapture of profits under section 57517 of this title. A charter or general agency agreement under this section shall be reviewed annually to determine whether conditions exist to justify continuance of the charter or agreement.

"(d) RIGHTS OF SEAMEN.—A seaman engaged in vessel operations of the Secretary under this section and employed through a general agent in connection with a charter or agreement under this section is entitled to all the rights and remedies provided in sections 1(a) and (c), 3(c), and 4 of the Act of March 24, 1943 (50 App. U.S.C. 1291(a), (c), 1293(c), 1294).

"PART G—RESTRICTIONS AND PENALTIES

"CHAPTER 581—RESTRICTIONS AND PENALTIES

"Sec.
"58101. Operating in domestic intercoastal or coastwise service.
"58102. Default on payment or maintenance of reserves.
"58103. Employing another person as managing or operating agent.
"58104. Willful violation constitutes breach of contract or charter.
"58105. Preferences for cargo in which charterer has interest.
"58106. Concerted discriminatory activities.
"58107. Discrimination at ports by water common carriers.
"58108. Charges for transportation subject to subtitle IV of title 49.
"58109. Penalties.

"§58101. Operating in domestic intercoastal or coastwise service

"(a) PROHIBITION.—A subsidy may not be awarded or paid to a contractor under the operating-differential subsidy program, and a vessel may not be chartered to a person under chapter 575 of this title, if the contractor or charterer, or a holding company, subsidiary, affiliate, or associate of the contractor or charterer, or an officer, director, agent, or executive thereof, directly or indirectly—

"(1) owns, charters, or operates a vessel engaged in the domestic intercoastal or coastwise service; or

"(2) owns a pecuniary interest in a person that owns, charters, or operates a vessel in the domestic intercoastal or coastwise service.

"(b) WAIVER.—A person may apply to the Secretary of Transportation for a waiver of subsection (a). Before deciding on the waiver, the Secretary shall give the applicant and other interested persons an opportunity for a hearing. The Secretary may not grant the waiver if the Secretary finds it would—

"(1) result in unfair competition to a person operating exclusively in the domestic intercoastal or coastwise service; or

"(2) be prejudicial to the objectives and policy of this subtitle.

"(c) CONTINUOUS OPERATION SINCE 1935.—The Secretary shall grant an application under subsection (b) without requiring further proof that the public interest and convenience will be served and without further proceedings as to the competition in the route or trade, if the contractor or other person, or a predecessor in interest, was in bona-fide operation as a common carrier by water in the domestic intercoastal or coastwise trade in 1935 over the route or in the trade for which the application is made and has so operated since that time or, if engaged in furnishing seasonal service only, was in bona-fide operation in 1935 during the season ordinarily covered by its operation, except in either event as to interruptions of service over which the applicant or its predecessor in interest had no control.

"(d) DIVERSION INTO INTERCOASTAL OR COASTWISE OPERATIONS.—If an application under subsection (b) is approved, a person referred to in this section may not divert, directly or indirectly, money, property, or any other thing of value, used in a foreign-trade operation for which a subsidy is paid by the United States Government, into intercoastal or coastwise operations.

"§58102. Default on payment or maintenance of reserves

"The Secretary of Transportation may supervise the number and compensation of all officers and employees of a contractor under the operating-differential subsidy program or a charterer under chapter 575 of this title, receiving an operating-differential subsidy, if the contractor or charterer—

"(1) is in default on a mortgage, note, purchase contract, or other obligation to the Secretary; or

"(2) has not maintained, in a manner satisfactory to the Secretary, all of the reserves provided for in this subtitle.

"§58103. Employing another person as managing or operating agent

"(a) PROHIBITION.—Except with the written consent of the Secretary of Transportation, a contractor holding a contract under the operating-differential subsidy program or under chapter 575 of this title may not—

"(1) employ another person as the managing or operating agent of the operator; or

"(2) charter a vessel, on which an operating-differential subsidy is to be paid, for operation by another person.

"(b) APPLICABILITY OF PROVISIONS TO CHARTERER.—If a charter prohibited by this section is made, the person operating the chartered vessel is subject to all the provisions of this subtitle and the operating-differential subsidy program, including limitations of profits and salaries.

"§58104. Willful violation constitutes breach of contract or charter

"A willful violation of any provision of sections 58101–58103 of this title constitutes a breach of the contract or charter. On determining that a violation has occurred, the Secretary of Transportation may declare the contract or charter rescinded.

"§58105. Preferences for cargo in which charterer has interest

"A contractor receiving an operating-differential subsidy, or a charterer under chapter 575 of this title, may not unjustly discriminate in any manner so as to give preference, directly or indirectly, to cargo in which the contractor or charterer has a direct or indirect ownership, purchase, or vending interest.

"§58106. Concerted discriminatory activities

"(a) PROHIBITION.—A contractor receiving an operating-differential subsidy, or a charterer under chapter 575 of this title, may not continue as a party to or conform to an agreement with another carrier by water, or engage in a practice in concert with another carrier by water, that is unjustly discriminatory or unfair to any other citizen of the United States operating a common carrier by water employing only vessels documented under the laws of the United States on an established trade route from and to a United States port.

"(b) GOVERNMENT PAYMENT PROHIBITED.—No payment or subsidy of any kind may be paid, directly or indirectly, out of funds of the United States Government to a contractor or charterer that has violated subsection (a).

"(c) CIVIL ACTION.—A person whose business or property is injured by a violation of subsection (a) may bring a civil action in the district court of the United States for the district in which the defendant resides, is found, or has an agent. If the person prevails, the person shall be awarded—

"(1) 3 times the damages; and

"(2) costs, including reasonable attorney fees.

"§58107. Discrimination at ports by water common carriers

"(a) PROHIBITION.—A common carrier by water may not, directly or indirectly, through an agreement, conference, association, understanding, or otherwise, prevent or attempt to prevent any other common carrier by water from serving any port described in subsection (b) at the same rates the first carrier charges at the nearest port already regularly served by it.

"(b) PORTS.—A port referred to in subsection (a) is one that is—

"(1) designed for the accommodation of ocean-going vessels;

"(2) located on an improvement project authorized by law or by a Federal agency; and

"(3) located within the continental limits of the United States.

"(c) OTHER AUTHORITY NOT LIMITED.—This section does not limit the authority otherwise vested in the Secretary of Transportation and the Federal Maritime Commission.

"§58108. Charges for transportation subject to subtitle IV of title 49

"(a) PROHIBITION.—A carrier may not charge, collect, or receive for transportation subject to subtitle IV of title 49 of persons or property, under any joint rate, fare, or charge, or under any export, import, or other proportional rate, fare, or charge, that is based in whole or in part on the fact that the persons or property affected are to be transported to, or have been transported from, a port in a territory or possession of the United States or in a foreign country, by a carrier by water in foreign commerce, any lower rate, fare, or charge than the carrier charges, collects, or receives for the transportation of persons or similar property for the same distance, in the same direction, and over the same route, in commerce wholly within the United States, unless the vessel used for the transportation is or was at the time of the transportation documented under the laws of the United States.

"(b) SUSPENSION OF PROHIBITION.—Whenever the Secretary of Transportation believes that adequate shipping facilities to or from any port in a territory or possession of the United States or a foreign country are not being provided by vessels documented under the laws of the United States, the Secretary shall certify this fact to the Surface Transportation Board. On receiving the certification, the Board may by order suspend the operation of subsection (a) with respect to the rates, fares, and charges for the transportation by rail of persons and property transported from or to be transported to those ports, for such time and under such terms and conditions as the Secretary may specify in the order or in any supplemental order.

"(c) TERMINATION OF SUSPENSION.—Whenever the Secretary believes that adequate shipping facilities are being provided to those ports by vessels documented under the laws of the United States, and certifies that fact to the Board, the Board may order the termination of the suspension.

"§58109. Penalties

"(a) INDIVIDUALS.—An individual convicted of violating section 58101(d), 58103, or 58105 of this title shall be fined under title 18, imprisoned for at least one year but not more than 5 years, or both.

"(b) ORGANIZATIONS.—An organization convicted of committing an act prohibited by this subtitle shall be fined under title 18.

"(c) INELIGIBILITY TO RECEIVE BENEFITS.—An individual or organization convicted of violating a section referred to in subsection (a) is ineligible, at the discretion of the Secretary of Transportation, to receive any benefit under the construction-differential subsidy or operating-differential subsidy programs, or a charter under chapter 575 of this title, for 5 years after the conviction.".

SEC. 9. SUBTITLE VI OF TITLE 46.

(a) REDESIGNATION.—Title 46, United States Code, is amended by redesignating subtitle VI as subtitle VII.

(b) NEW SUBTITLE.—Title 46, United States Code, is amended by inserting after subtitle V the following:

"Subtitle VI—Clearance, Tonnage Taxes, and Duties

"Chapter	Sec.
"601. Arrival and Departure Requirements	**60101**
"603. Tonnage Taxes and Light Money	**60301**
"605. Discriminating Duties and Reciprocal Privileges	**60501**

"CHAPTER 601—ARRIVAL AND DEPARTURE REQUIREMENTS

"Sec.
"60101. Boarding arriving vessels before inspection.
"60102. Production of certificate on entry.
"60103. Oath of ownership on entry.
"60104. Depositing certificates of documentation with consular officers.
"60105. Clearance of vessels.
"60106. State inspection laws.
"60107. Payment of fees on departing vessel.
"60108. Duty to transport tendered cargo.
"60109. Duty to transport money and securities of the United States Government.

"§60101. Boarding arriving vessels before inspection

"(a) REGULATIONS.—The Secretary of Homeland Security shall prescribe and enforce regulations on the boarding of a vessel arriving at a port of the United States before the vessel has been inspected and secured.

"(b) CRIMINAL PENALTY.—A person violating a regulation prescribed under this section shall be fined under title 18, imprisoned for not more than 6 months, or both.

"(c) RELATIONSHIP TO OTHER LAW.—This section shall be construed as supplementary to section 2279 of title 18.

"§60102. Production of certificate on entry

"On entry of a vessel documented under chapter 121 of this title, the master or other individual in charge of the vessel shall produce the certificate of documentation to the customs officer at the place where the vessel is entered. If the certificate is not produced, the vessel is not entitled to the privileges of a documented vessel.

"§60103. Oath of ownership on entry

"(a) REQUIRED STATEMENT.—On entry of a vessel of the United States from a foreign port, the individual designated under subsection (b) shall state under oath that—

"(1) the vessel's certificate of documentation contains the names of all the owners of the vessel; or

"(2) part of the ownership has been transferred since the certificate was issued and, to the best of the individual's knowledge and belief, the vessel is still owned only by citizens of the United States.

"(b) PERSON TO MAKE STATEMENT.—The statement under subsection (a) shall be made by—

"(1) an owner if one resides at the port of entry; or

"(2) the master if an owner does not reside at the port of entry.

"(c) CONSEQUENCE OF NOT MAKING STATEMENT.—If the appropriate individual does not make the statement required by this section, the vessel is not entitled to the privileges of a vessel of the United States.

"§60104. Depositing certificates of documentation with consular officers

"(a) REQUIREMENT OF MASTER.—When a vessel owned by citizens of the United States, on a voyage from a port in the United States, arrives at a foreign port, the master of the vessel shall deposit the vessel's certificate of documentation with a consular officer at the foreign port if there is a consular officer at that port.

"(b) RETURN OF CERTIFICATE.—When the master produces a clearance from the appropriate officer of the foreign port, the consular officer shall return the certificate of documentation to the master if the master has complied with the provisions of law related to the discharge of seamen in a foreign country and the payment of fees of consular officers.

"(c) CIVIL PENALTY AND COLLECTION.—The master of a vessel failing to deposit the certificate of documentation as required by subsection (a) is liable to the United States Government for a civil penalty of $500. The consular officer shall bring an action to recover the penalty in any court of competent jurisdiction. The action shall be brought in the name of the consular officer for the benefit of the United States.

"§60105. Clearance of vessels

"(a) VESSELS OF THE UNITED STATES.—Except as otherwise provided by law, a vessel of the United States shall obtain clearance from the Secretary of Homeland Security before proceeding from a port or place in the United States—

"(1) for a foreign port or place;

"(2) for another port or place in the United States if the vessel has on board foreign merchandise for which entry has not been made; or

"(3) outside the territorial sea to visit a hovering vessel or to receive merchandise while outside the territorial sea.

"(b) OTHER VESSELS.—Except as otherwise provided by law, a vessel that is not a vessel of the United States shall obtain clearance from the Secretary before proceeding from a port or place in the United States—

"(1) for a foreign port or place;

"(2) for another port or place in the United States; or

"(3) outside the territorial sea to visit a hovering vessel or to receive or deliver merchandise while outside the territorial sea.

"(c) REGULATIONS.—The Secretary may by regulation—

"(1) prescribe the manner in which clearance under this section is to be obtained, including the documents, data, or information which shall be submitted or transmitted, pursuant to an authorized data interchange system, to obtain the clearance;

"(2) permit clearance to be obtained before all requirements for clearance are complied with, but only if the owner or operator of the vessel files a bond in an amount set by the Secretary conditioned on the compliance by the owner or operator with all specified requirements for clearance within a time period (not exceeding 4 business days) established by the Secretary; and

"(3) permit clearance to be obtained at a place other than a designated port of entry, under conditions the Secretary may prescribe.

"§60106. State inspection laws

"When State law requires a certificate of inspection for goods carried on a vessel, a vessel transporting the goods may not be cleared until the certificate is produced.

“§ 60107. Payment of fees on departing vessel

“A departing vessel may be cleared only when all legal fees that have accrued on the vessel are paid and proof of payment is presented to the individual granting the clearance.

“§ 60108. Duty to transport tendered cargo

“Clearance may be refused to a vessel or vehicle transporting cargo destined for a domestic or foreign port when the owner, master, or other individual in charge refuses to accept cargo tendered in good condition, with proper charges, for the same or an intermediate port by a citizen of the United States. This section does not apply if the vessel or vehicle is already fully loaded (giving appropriate consideration to its proper loading) or is not adaptable to transport the tendered cargo.

“§ 60109. Duty to transport money and securities of the United States Government

“Before being given clearance, a vessel owned by a citizen of the United States and bound on a voyage from a port in the United States to another port in the United States or in a foreign country, or on a voyage from a port in a foreign country to a port in the United States, shall receive on board any bullion, coin, notes, bonds, or other securities of the United States Government that an agency, consular officer, or other agent of the Government offers. The vessel shall transport the items securely and deliver them promptly to the proper authorities or consignees on arriving at the port of destination. Compensation shall be paid for services provided under this section that is equal to compensation paid to other carriers in the ordinary transaction of business.

“CHAPTER 603—TONNAGE TAXES AND LIGHT MONEY

“Sec.
“60301. Regular tonnage taxes.
“60302. Special tonnage taxes.
“60303. Light money.
“60304. Presidential suspension of tonnage taxes and light money.
“60305. Vessels in distress.
“60306. Vessels not engaged in trade.
“60307. Vessels engaged in coastwise trade or the fisheries.
“60308. Vessels engaged in Great Lakes trade.
“60309. Passenger vessels making trips between ports of the United States and foreign ports.
“60310. Vessels making daily trips on interior waters.
“60311. Hospital vessels in time of war.
“60312. Rights under treaties preserved.

“§ 60301. Regular tonnage taxes

“(a) Lower Rate.—A tax is imposed at the rate of 2 cents per ton (but not more than a total of 10 cents per ton per year) at each entry in a port of the United States of—

“(1) a vessel entering from a foreign port or place in North America, Central America, the West Indies Islands, the Bahama Islands, the Bermuda Islands, or the coast of South America bordering the Caribbean Sea; or

“(2) a vessel returning to the same port or place in the United States from which it departed, and not entering the United States from another port or place, except—

“(A) a vessel of the United States;

“(B) a recreational vessel (as defined in section 2101 of this title); or

“(C) a barge.

“(b) Higher Rate.—A tax is imposed at the rate of 6 cents per ton (but not more than a total of 30 cents per ton per year) on a vessel at each entry in a port of the United States from a foreign port or place not named in subsection (a)(1).

“(c) Exception for Vessels Entering Other Than by Sea.—Subsection (a) does not apply to a vessel entering other than by sea from a foreign port or place at which tonnage, lighthouse, or other equivalent taxes are not imposed on vessels of the United States.

“§ 60302. Special tonnage taxes

“(a) Entry From Foreign Port or Place.—Regardless of whether a tax is imposed under section 60301 of this title, a tax is imposed on a vessel at each entry in a port of the United States from a foreign port or place at the following rates:

“(1) 30 cents per ton on a vessel built in the United States but owned in any part by a subject of a foreign country.

“(2) 50 cents per ton on other vessels not of the United States.

“(3) 50 cents per ton on a vessel of the United States having an officer who is not a citizen of the United States.

“(4) $2 per ton on a foreign vessel entering from a foreign port or place at which vessels of the United States are not ordinarily allowed to enter and trade.

“(b) Vessels Not of the United States Transporting Property Between Districts.—Regardless of whether a tax is imposed under section 60301 of this title, a tax of 50 cents per ton is imposed on a vessel not of the United States at each entry in one customs district from another district when transporting goods loaded in one district to be delivered in another district.

“(c) Exception for Vessels Becoming Documented.—The tax of 50 cents per ton under this section does not apply to a vessel that—

“(1) is owned only by citizens of the United States; and

“(2) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port.

“§ 60303. Light money

“(a) Imposition of Tax.—A tax of 50 cents per ton, to be called ‘light money’, is imposed on a vessel not of the United States at each entry in a port of the United States. This tax shall be imposed and collected under the same regulations that apply to tonnage taxes.

“(b) Exception for Vessels Owned by Citizens.—

“(1) In general.—Subsection (a) does not apply to a vessel owned only by citizens of the United States if—

“(A) the vessel is carrying a regular document issued by a customhouse of the United States proving the vessel to be owned only by citizens of the United States; and

“(B) on entry of the vessel from a foreign port, the individual designated under paragraph (2) states under oath that—

“(i) the document contains the names of all the owners of the vessel; or

“(ii) part of the ownership has been transferred since the document was issued and, to the best of that individual's knowledge and belief, the vessel is still owned only by citizens of the United States.

“(2) Person to make statement.—The statement under paragraph (1)(B) shall be made by—

“(A) an owner if one resides at the port of entry; or

“(B) the master if an owner does not reside at the port of entry.

“(c) Exception for Vessels Becoming Documented.—Subsection (a) section does not apply to a vessel that—

“(1) is owned only by citizens of the United States; and

“(2) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port.

“§ 60304. Presidential suspension of tonnage taxes and light money

“If the President is satisfied that the government of a foreign country does not impose discriminating or countervailing duties to the disadvantage of the United States, the President shall suspend the imposition of special·tonnage taxes and light money under sections 60302 and 60303 of this title on vessels of that country.

“§ 60305. Vessels in distress

“A vessel is exempt from tonnage taxes and light money when it enters because it is in distress.

“§ 60306. Vessels not engaged in trade

“A vessel is exempt from tonnage taxes and light money when not engaged in trade.

“§ 60307. Vessels engaged in coastwise trade or the fisheries

“A vessel with a registry endorsement or a coastwise endorsement, trading from one port in the United States to another port in the United States or employed in the bank, whale, or other fisheries, is exempt from tonnage taxes and light money.

“§ 60308. Vessels engaged in Great Lakes trade

“A documented vessel with a registry endorsement, engaged in foreign trade on the Great Lakes or their tributary or connecting waters in trade with Canada, does not become subject to tonnage taxes or light money because of that trade.

“§ 60309. Passenger vessels making trips between ports of the United States and foreign ports

“A passenger vessel making at least 3 trips per week between a port of the United States and a foreign port is exempt from tonnage taxes and light money.

“§ 60310. Vessels making daily trips on interior waters

“A vessel making regular daily trips between a port of the United States and a port of Canada only on interior waters not navigable to the ocean is exempt from tonnage taxes and light money, except on its first clearing each year.

“§ 60311. Hospital vessels in time of war

“In time of war, a hospital vessel is exempt from tonnage taxes, light money, and pilotage charges in the ports of the United States if the vessel is one for which the conditions of the international convention for the exemption of hospital ships from taxation in time of war, concluded at The Hague on December 21, 1904, are satisfied. The President by proclamation shall name the vessels for which the conditions are satisfied and state when the exemption begins and ends.

“§ 60312. Rights under treaties preserved

“This chapter and chapter 605 of this title do not affect a right or privilege of a foreign country relating to tonnage taxes or other duties on vessels under a law or treaty of the United States.

“CHAPTER 605—DISCRIMINATING DUTIES AND RECIPROCAL PRIVILEGES

“Sec.
“60501. Vessels allowed to import.
“60502. Discriminating duty on goods imported in foreign vessels or from contiguous countries.
“60503. Reciprocal suspension of discriminating duties.
“60504. Reciprocal privileges for recreational vessels.
“60505. Retaliatory suspension of commercial privileges.
“60506. Retaliation against British dominions of North America.
“60507. Suspension of free passage through Saint Marys Falls Canal.

“§ 60501. Vessels allowed to import

“(a) In General.—Except as otherwise provided by treaty, goods may be imported into the

United States from a foreign port or place only in—

"(1) a vessel of the United States; or

"(2) a foreign vessel owned only by citizens or subjects of the country—

"(A) in which the goods are grown, produced, or manufactured; or

"(B) from which the goods can only be, or most usually are, first shipped for transportation.

"(b) EXCEPTION FOR VESSELS OF COUNTRIES NOT MAINTAINING SIMILAR RESTRICTIONS.—Subsection (a) does not apply to a vessel of a foreign country that does not maintain a similar restriction against United States documented vessels.

"(c) EXCEPTION FOR VESSELS BECOMING DOCUMENTED.—Subsection (a) does not apply to a vessel that—

"(1) is owned only by citizens of the United States; and

"(2) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port.

"(d) SEIZURE AND FORFEITURE.—If goods are imported in violation of this section, the goods and the vessel in which they are imported, along with its equipment and other cargo, may be seized by and forfeited to the United States Government.

"§60502. Discriminating duty on goods imported in foreign vessels or from contiguous countries

"(a) IMPOSITION OF DUTY.—A discriminating duty of 10 percent ad valorem (in addition to other duties imposed by law) is imposed on goods—

"(1) imported in a vessel not of the United States unless the vessel—

"(A) is entitled by law or treaty to enter the ports of the United States on payment of the same duties as are payable on goods imported in a vessel of the United States; or

"(B)(i) is owned only by citizens of the United States; and

"(ii) after entering a port of the United States, becomes documented as a vessel of the United States before leaving that port; or

"(2) produced or manufactured in a foreign country not contiguous to the United States and imported from a country contiguous to the United States, unless imported in the usual course of strictly retail trade.

"(b) SEIZURE AND FORFEITURE.—If goods are imported without payment of the duty required by this section, the goods and the vessel in which they are imported may be seized by, and forfeited to, the United States Government.

"§60503. Reciprocal suspension of discriminating duties

"(a) GENERAL AUTHORITY.—On receiving satisfactory proof from the government of a foreign country that it has suspended, in any part, the imposition of discriminating duties for any class of vessels owned by citizens of the United States or goods imported in those vessels, the President may proclaim a reciprocal suspension of discriminating duties for the same class of vessels owned by citizens of that country or goods imported in those vessels.

"(b) EFFECTIVE AND EXPIRATION DATES.—A suspension under this section takes effect retroactively from the date the President received the proof from the foreign government, and expires when that government stops granting the reciprocal suspension.

"§60504. Reciprocal privileges for recreational vessels

"When the President is satisfied that yachts owned by residents of the United States and used only for pleasure are allowed to arrive at, depart from, and cruise in the waters of a foreign port without entering, clearing, or paying any duties or fees (including cruising license fees), the Secretary of Homeland Security may allow yachts from that foreign port used only for pleasure to arrive at and depart from the ports of the United States and to cruise in the waters of the United States without paying any duties or fees. However, the Secretary may require foreign yachts to obtain a license to cruise in the waters of the United States. The license shall be in the form prescribed by the Secretary and contain limitations about length of time, direction, place of cruising and action, and other matters the Secretary considers appropriate. The license shall be issued without cost to the yacht.

"§60505. Retaliatory suspension of commercial privileges

"(a) GENERAL AUTHORITY.—The President may proclaim a suspension of commercial privileges to vessels of a foreign country when—

"(1) vessels of that country have been given the same commercial privileges in the ports and waters of the United States given to vessels of the United States (except the privilege of engaging in coastwise commerce); and

"(2) vessels of the United States are denied commercial privileges in the ports or waters of that country given to vessels of that country.

"(b) APPLICATION.—A suspension under this section shall apply to the same commercial privileges denied to vessels of the United States in the ports or waters of the foreign country, and to the same class of vessels of that country as the class of vessels of the United States denied the privileges.

"(c) EFFECTIVE DATE.—The President shall designate the effective date of the suspension in the proclamation.

"(d) PENALTIES.—

"(1) SEIZURE AND FORFEITURE.—If the master, officer, or agent of a vessel of a foreign country does an act for the vessel in the ports or waters of the United States in violation of a proclamation issued under this section, the vessel and the goods on the vessel may be seized by, and forfeited to, the United States Government.

"(2) FINE OR IMPRISONMENT.—A person opposing an official of the Government enforcing this section shall be fined under title 18, imprisoned for not more than 2 years, or both.

"§60506. Retaliation against British dominions of North America

"(a) GENERAL AUTHORITY.—The President by proclamation may prohibit vessels of the British dominions of North America, their masters and crews, and products of or coming from those dominions, from entering waters, ports, or places of the United States when the President is satisfied that—

"(1) fishermen or fishing vessels of the United States in waters, ports, or places of the British dominions of North America are being or recently have been—

"(A) denied rights provided by law or treaty;

"(B) subjected to unreasonable restrictions in the exercise of those rights; or

"(C) otherwise harassed;

"(2) fishermen or fishing vessels of the United States, having a permit under the laws of the United States to dock or trade at a port or place in the British dominions of North America, are being or recently have been—

"(A) denied the privilege of entering the port or place in the same manner and under the same regulations applicable to trading vessels of the most-favored-nation;

"(B) prevented from buying supplies allowed to be sold to trading vessels of the most-favored-nation; or

"(C) otherwise harassed; or

"(3) other vessels of the United States or their masters or crews in waters, ports, or places of the British dominions of North America are being or recently have been—

"(A) denied privileges given to vessels of the most-favored-nation or their masters or crews; or

"(B) otherwise harassed.

"(b) COVERAGE AND EXCEPTIONS.—The President may apply a proclamation under this section to any of the subjects named, and may include exceptions for vessels in distress or need of supplies. The President may change, revoke, and renew the proclamation.

"(c) PENALTIES.—A person violating a proclamation issued under this section shall be fined under title 18, imprisoned for not more than 2 years, or both. A vessel or goods found in waters, ports, or places of the United States in violation of the proclamation may be seized by, and forfeited to, the United States Government.

"§60507. Suspension of free passage through Saint Marys Falls Canal

"(a) PURPOSE.—The purpose of this section is to secure reciprocal advantages for the citizens, ports, and vessels of the United States.

"(b) GENERAL AUTHORITY.—When the President is satisfied that vessels of the United States, or passengers or cargo being transported to a port of the United States, are prohibited from passing through a canal or lock connected with the navigation of the Saint Lawrence River, the Great Lakes, or their connecting waterways, or burdened in that passage by tolls or other means that are unreasonable in view of the free passage through the Saint Marys Falls Canal allowed to vessels of all countries, the President by proclamation may suspend the right of free passage through the Saint Marys Falls Canal for vessels owned by subjects of the country imposing the prohibition, tolls, or other burdens and for passengers and cargo being transported to the ports of that country, even when carried in vessels of the United States. The suspension shall apply to the extent and for the time the President considers appropriate.

"(c) IMPOSITION OF TOLL.—

"(1) IN GENERAL.—During a suspension under this section, the President shall impose a toll of not more than $2 per ton on cargo and not more than $5 on each passenger.

"(2) EXCEPTIONS.—Notwithstanding paragraph (1), a toll may not be imposed on passengers or cargo landed at Ogdensburg, New York, or any port west of Ogdensburg and south of a line drawn from the northern boundary of New York through the Saint Lawrence River, the Great Lakes, and their connecting channels to the northern boundary of Minnesota.

"(d) COLLECTION OF TOLL.—

"(1) IN GENERAL.—A toll imposed under this section shall be collected under regulations prescribed by the Secretary of Homeland Security. The Secretary may require the master of a vessel to provide a sworn statement of the amount and kind of cargo, the number of passengers, and the destination of the passengers and cargo.

"(2) PROOF OF LANDING.—When applicable, the Secretary also may require satisfactory proof that the passengers and cargo were landed at a port described in subsection (c)(2). Until that proof is provided, the Secretary may assume the passengers and cargo were not landed at such a port, and the amount of a toll that otherwise would be imposed is a lien enforceable against the vessel when found in the waters of the United States.".

SEC. 10. SUBTITLE VII OF TITLE 46.

Subtitle VII of title 46, United States Code, as redesignated by section 9(a) of this Act, is amended as follows:

(1) The subtitle heading and analysis are amended to read as follows:

"Subtitle VII—Security and Drug Enforcement

"Chapter	Sec.
"701. Port Security	**70101**
"703. Maritime Security	**70301**

“705. Maritime Drug Law Enforcement ... 70501”.

(2) Add after chapter 701 the following:

“CHAPTER 703—MARITIME SECURITY

‘‘Sec.
‘‘70301. Definitions.
‘‘70302. International measures for seaport and vessel security.
‘‘70303. Security standards at foreign ports.
‘‘70304. Travel advisories on security at foreign ports.
‘‘70305. Suspension of passenger services.
‘‘70306. Report on terrorist threats.

“§ 70301. Definitions

‘‘In this chapter:

‘‘(1) Common carrier.—The term ‘common carrier’ has the meaning given that term in section 40102 of this title.

‘‘(2) Passenger vessel.—The term ‘passenger vessel’ has the meaning given that term in section 2101 of this title.

‘‘(3) Secretary.—The term ‘Secretary’ means the Secretary of the department in which the Coast Guard is operating.

“§ 70302. International measures for seaport and vessel security

‘‘Congress encourages the President to continue to seek agreement on international seaport and vessel security through the International Maritime Organization. In developing an agreement, each member country of the International Maritime Organization should consult with appropriate private sector interests in that country. The agreement would establish seaport and vessel security measures and could include—

‘‘(1) seaport screening of cargo and baggage similar to that done at airports;

‘‘(2) security measures to restrict access to cargo, vessels, and dockside property to authorized personnel only;

‘‘(3) additional security on board vessels;

‘‘(4) licensing or certification of compliance with appropriate security standards; and

‘‘(5) other appropriate measures to prevent unlawful acts against passengers and crews on vessels.

“§ 70303. Security standards at foreign ports

‘‘(a) General Requirements.—The Secretary shall develop and implement a plan to assess the effectiveness of the security measures maintained at foreign ports that the Secretary, in consultation with the Secretary of State, determines pose a high risk of acts of terrorism against passenger vessels. In carrying out this subsection, the Secretary shall consult with the Secretary of State about the terrorist threat that exists in each country and poses a high risk of acts of terrorism against passenger vessels.

‘‘(b) Notice and Recommendations to Other Countries.—If the Secretary, after implementing the plan under subsection (a), determines that a port does not maintain and administer effective security measures, the Secretary of State (after being informed by the Secretary) shall—

‘‘(1) notify the appropriate government authorities of the country in which the port is located of the determination; and

‘‘(2) recommend steps necessary to bring the security measures at that port up to the standard used by the Secretary in making the assessment under subsection (a).

‘‘(c) Antiterrorism Assistance.—The President is encouraged to provide antiterrorism assistance related to maritime security under chapter 8 of part II of the Foreign Assistance Act of 1961 (22 U.S.C. 2349aa et seq.) to foreign countries, especially for a port that the Secretary determines under subsection (b) does not maintain and administer effective security measures.

“§ 70304. Travel advisories on security at foreign ports

‘‘(a) General Requirements.—On being notified by the Secretary that the Secretary has determined that a condition exists that threatens the safety or security of passengers, passenger vessels, or crew traveling to or from a foreign port that the Secretary has determined under section 70303(b) of this title does not maintain and administer effective security measures, the Secretary of State immediately shall issue a travel advisory for that port. The Secretary of State shall take the necessary steps to widely publicize the travel advisory.

‘‘(b) Lifting Advisories.—A travel advisory issued under subsection (a) may be lifted only if the Secretary, in consultation with the Secretary of State, has determined that effective security measures are maintained and administered at the port.

‘‘(c) Notice to Congress.—The Secretary of State shall notify Congress immediately of any change in the status of a travel advisory issued under this section.

“§ 70305. Suspension of passenger services

‘‘(a) General Authority.—Whenever the President determines that a foreign nation permits the use of territory under its jurisdiction as a base of operations or training for, or as a sanctuary for, or in any way arms, aids, or abets, a terrorist or terrorist group that knowingly uses the illegal seizure of passenger vessels or the threat thereof as an instrument of policy, the President may suspend the right of any passenger vessel common carrier to operate to or from, and the right of any passenger vessel of the United States to use, a port in that foreign nation for passenger service. The suspension may be without notice or hearing and for as long as the President determines is necessary to ensure the security of passenger vessels against unlawful seizure.

‘‘(b) Prohibition.—A passenger vessel common carrier, or a passenger vessel of the United States, may not operate in violation of a suspension under this section.

‘‘(c) Penalties.—

‘‘(1) Denial of entry.—If a person operates a vessel in violation of this section, the Secretary may deny the vessels of that person entry to ports of the United States.

‘‘(2) Civil penalty.—A person violating this section is liable to the United States Government for a civil penalty of not more than $50,000. Each day a vessel uses a prohibited port is a separate violation.

“§ 70306. Report on terrorist threats

‘‘(a) Content.—Not later than February 28 of each year, the Secretary shall submit a report to Congress on the threat from acts of terrorism to United States ports and vessels operating from those ports. The Secretary shall include a description of activities undertaken under title I of the Maritime Transportation Security Act of 2002 (Public Law 107–295, 116 Stat. 2066) and an analysis of the effect of those activities on port security against acts of terrorism.

‘‘(b) Submission.—The report shall be submitted to the Committee on International Relations and the Committee on Transportation and Infrastructure of the House of Representatives and the Committee on Foreign Relations and the Committee on Commerce, Science, and Transportation of the Senate. Any classified information in the report shall be submitted separately as an addendum.

“CHAPTER 705—MARITIME DRUG LAW ENFORCEMENT

‘‘Sec.
‘‘70501. Findings and declarations.
‘‘70502. Definitions.
‘‘70503. Manufacture, distribution, or possession of controlled substances on vessels.
‘‘70504. Jurisdiction and venue.
‘‘70505. Failure to comply with international law as a defense.
‘‘70506. Penalties.
‘‘70507. Forfeitures.

“§ 70501. Findings and declarations

‘‘Congress finds and declares that trafficking in controlled substances aboard vessels is a serious international problem, is universally condemned, and presents a specific threat to the security and societal well-being of the United States.

“§ 70502. Definitions

‘‘(a) Application of Other Definitions.—The definitions in section 102 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 802) apply to this chapter.

‘‘(b) Vessel of the United States.—In this chapter, the term ‘vessel of the United States’ means—

‘‘(1) a vessel documented under chapter 121 of this title or numbered as provided in chapter 123 of this title;

‘‘(2) a vessel owned in any part by an individual who is a citizen of the United States, the United States Government, the government of a State or political subdivision of a State, or a corporation incorporated under the laws of the United States or of a State, unless—

‘‘(A) the vessel has been granted the nationality of a foreign nation under article 5 of the 1958 Convention on the High Seas; and

‘‘(B) a claim of nationality or registry for the vessel is made by the master or individual in charge at the time of the enforcement action by an officer or employee of the United States who is authorized to enforce applicable provisions of United States law; and

‘‘(3) a vessel that was once documented under the laws of the United States and, in violation of the laws of the United States, was sold to a person not a citizen of the United States, placed under foreign registry, or operated under the authority of a foreign nation, whether or not the vessel has been granted the nationality of a foreign nation.

‘‘(c) Vessel Subject to the Jurisdiction of the United States.—

‘‘(1) In general.—In this chapter, the term ‘vessel subject to the jurisdiction of the United States’ includes—

‘‘(A) a vessel without nationality;

‘‘(B) a vessel assimilated to a vessel without nationality under paragraph (2) of article 6 of the 1958 Convention on the High Seas;

‘‘(C) a vessel registered in a foreign nation if that nation has consented or waived objection to the enforcement of United States law by the United States;

‘‘(D) a vessel in the customs waters of the United States;

‘‘(E) a vessel in the territorial waters of a foreign nation if the nation consents to the enforcement of United States law by the United States; and

‘‘(F) a vessel in the contiguous zone of the United States, as defined in Presidential Proclamation 7219 of September 2, 1999 (43 U.S.C. 1331 note), that—

‘‘(i) is entering the United States;

‘‘(ii) has departed the United States; or

‘‘(iii) is a hovering vessel as defined in section 401 of the Tariff Act of 1930 (19 U.S.C. 1401).

‘‘(2) Consent or waiver of objection.—Consent or waiver of objection by a foreign nation to the enforcement of United States law by the United States under paragraph (1)(C) or (E)—

‘‘(A) may be obtained by radio, telephone, or similar oral or electronic means; and

‘‘(B) is proved conclusively by certification of the Secretary of State or the Secretary's designee.

‘‘(d) Vessel Without Nationality.—

‘‘(1) In general.—In this chapter, the term ‘vessel without nationality’ includes—

‘‘(A) a vessel aboard which the master or individual in charge makes a claim of registry that

is denied by the nation whose registry is claimed;

"(B) a vessel aboard which the master or individual in charge fails, on request of an officer of the United States authorized to enforce applicable provisions of United States law, to make a claim of nationality or registry for that vessel; and

"(C) a vessel aboard which the master or individual in charge makes a claim of registry and for which the claimed nation of registry does not affirmatively and unequivocally assert that the vessel is of its nationality.

"(2) VERIFICATION OR DENIAL.—A claim of registry under paragraph (1)(A) or (C) may be verified or denied by radio, telephone, or similar oral or electronic means. The denial of such a claim is proved conclusively by certification of the Secretary of State or the Secretary's designee.

"(e) CLAIM OF NATIONALITY OR REGISTRY.—A claim of nationality or registry under this section includes only—

"(1) possession on board the vessel and production of documents evidencing the vessel's nationality as provided in article 5 of the 1958 Convention on the High Seas;

"(2) flying its nation's ensign or flag; or

"(3) a verbal claim of nationality or registry by the master or individual in charge of the vessel.

"§ 70503. Manufacture, distribution, or possession of controlled substances on vessels

"(a) PROHIBITIONS.—An individual may not knowingly or intentionally manufacture or distribute, or possess with intent to manufacture or distribute, a controlled substance on board—

"(1) a vessel of the United States or a vessel subject to the jurisdiction of the United States; or

"(2) any vessel if the individual is a citizen of the United States or a resident alien of the United States.

"(b) EXTENSION BEYOND TERRITORIAL JURISDICTION.—Subsection (a) applies even though the act is committed outside the territorial jurisdiction of the United States.

"(c) NONAPPLICATION.—

"(1) IN GENERAL.—Subject to paragraph (2), subsection (a) does not apply to—

"(A) a common or contract carrier or an employee of the carrier who possesses or distributes a controlled substance in the lawful and usual course of the carrier's business; or

"(B) a public vessel of the United States or an individual on board the vessel who possesses or distributes a controlled substance in the lawful course of the individual's duties.

"(2) ENTERED IN MANIFEST.—Paragraph (1) applies only if the controlled substance is part of the cargo entered in the vessel's manifest and is intended to be imported lawfully into the country of destination for scientific, medical, or other lawful purposes.

"(d) BURDEN OF PROOF.—The United States Government is not required to negative a defense provided by subsection (c) in a complaint, information, indictment, or other pleading or in a trial or other proceeding. The burden of going forward with the evidence supporting the defense is on the person claiming its benefit.

"§ 70504. Jurisdiction and venue

"(a) JURISDICTION.—Jurisdiction of the United States with respect to a vessel subject to this chapter is not an element of an offense. Jurisdictional issues arising under this chapter are preliminary questions of law to be determined solely by the trial judge.

"(b) VENUE.—A person violating section 70503 of this title shall be tried in the district court of the United States for—

"(1) the district at which the person enters the United States; or

"(2) the District of Columbia.

"§ 70505. Failure to comply with international law as a defense

"A person charged with violating section 70503 of this title does not have standing to raise a claim of failure to comply with international law as a basis for a defense. A claim of failure to comply with international law in the enforcement of this chapter may be made only by a foreign nation. A failure to comply with international law does not divest a court of jurisdiction and is not a defense to a proceeding under this chapter.

"§ 70506. Penalties

"(a) VIOLATIONS.—A person violating section 70503 of this title shall be punished as provided in section 1010 of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 960). However, if the offense is a second or subsequent offense as provided in section 1012(b) of that Act (21 U.S.C. 962(b)), the person shall be punished as provided in section 1012 of that Act (21 U.S.C. 962).

"(b) ATTEMPTS AND CONSPIRACIES.—A person attempting or conspiring to violate section 70503 of this title is subject to the same penalties as provided for violating section 70503.

"§ 70507. Forfeitures

"(a) IN GENERAL.—Property described in section 511(a) of the Comprehensive Drug Abuse Prevention and Control Act of 1970 (21 U.S.C. 881(a)) that is used or intended for use to commit, or to facilitate the commission of, an offense under section 70503 of this title may be seized and forfeited in the same manner that similar property may be seized and forfeited under section 511 of that Act (21 U.S.C. 881).

"(b) PRIMA FACIE EVIDENCE OF VIOLATION.—Practices commonly recognized as smuggling tactics may provide prima facie evidence of intent to use a vessel to commit, or to facilitate the commission of, an offense under section 70503 of this title, and may support seizure and forfeiture of the vessel, even in the absence of controlled substances aboard the vessel. The following indicia, among others, may be considered, in the totality of the circumstances, to be prima facie evidence that a vessel is intended to be used to commit, or to facilitate the commission of, such an offense:

"(1) The construction or adaptation of the vessel in a manner that facilitates smuggling, including—

"(A) the configuration of the vessel to ride low in the water or present a low hull profile to avoid being detected visually or by radar;

"(B) the presence of any compartment or equipment that is built or fitted out for smuggling, not including items such as a safe or lockbox reasonably used for the storage of personal valuables;

"(C) the presence of an auxiliary tank not installed in accordance with applicable law or installed in such a manner as to enhance the vessel's smuggling capability;

"(D) the presence of engines that are excessively over-powered in relation to the design and size of the vessel;

"(E) the presence of materials used to reduce or alter the heat or radar signature of the vessel and avoid detection;

"(F) the presence of a camouflaging paint scheme, or of materials used to camouflage the vessel, to avoid detection; or

"(G) the display of false vessel registration numbers, false indicia of vessel nationality, false vessel name, or false vessel homeport.

"(2) The presence or absence of equipment, personnel, or cargo inconsistent with the type or declared purpose of the vessel.

"(3) The presence of excessive fuel, lube oil, food, water, or spare parts, inconsistent with legitimate vessel operation, inconsistent with the construction or equipment of the vessel, or inconsistent with the character of the vessel's stated purpose.

"(4) The operation of the vessel without lights during times lights are required to be displayed under applicable law or regulation and in a manner of navigation consistent with smuggling tactics used to avoid detection by law enforcement authorities.

"(5) The failure of the vessel to stop or respond or heave to when hailed by government authority, especially where the vessel conducts evasive maneuvering when hailed.

"(6) The declaration to government authority of apparently false information about the vessel, crew, or voyage or the failure to identify the vessel by name or country of registration when requested to do so by government authority.

"(7) The presence of controlled substance residue on the vessel, on an item aboard the vessel, or on an individual aboard the vessel, of a quantity or other nature that reasonably indicates manufacturing or distribution activity.

"(8) The use of petroleum products or other substances on the vessel to foil the detection of controlled substance residue.

"(9) The presence of a controlled substance in the water in the vicinity of the vessel, where given the currents, weather conditions, and course and speed of the vessel, the quantity or other nature is such that it reasonably indicates manufacturing or distribution activity.".

SEC. 11. SUBTITLE VIII OF TITLE 46.

Title 46, United States Code, is amended by adding after subtitle VII the following:

"Subtitle VIII—Miscellaneous

"Chapter	Sec.
"801. Wrecks and Salvage	**80101**
"803. Ice and Derelicts	**80301**
"805. Safe Containers for International Cargo	**80501**

"CHAPTER 801—WRECKS AND SALVAGE

"Sec.
"80101. Vessel stranded on foreign coast.
"80102. License to salvage on Florida coast.
"80103. Property on Florida coast to be taken to port of entry.
"80104. Salvaging operations by foreign vessels.
"80105. Canadian vessels aiding vessels in United States waters.
"80106. International agreement on derelicts.
"80107. Salvors of life to share in remuneration.

"§ 80101. Vessel stranded on foreign coast

"(a) DUTIES OF CONSULAR OFFICER.—When a vessel of the United States is stranded on a coast of a foreign country, the consular officer in that country shall take proper measures, to the extent the laws of that country allow, to—

"(1) save and secure the vessel and property on the vessel; and

"(2) prepare an inventory of the property that is saved.

"(b) DELIVERY TO OWNER.—After deducting the expenses, the consular officer shall deliver the property, with an inventory, to the owner of the property.

"(c) LIMITATION ON TAKING POSSESSION.—A consular officer may not take possession of property under this section when the owner, master, or consignee is present or able to take possession of the property.

"§ 80102. License to salvage on Florida coast

"(a) LICENSING REQUIREMENTS.—To be regularly employed in the business of salvaging on the coast of Florida, a vessel and its master each must have a license issued by a judge of the district court of the United States for a judicial district of Florida.

"(b) JUDICIAL FINDINGS.—Before issuing a license under this section, the judge must be satisfied, when the license is for—

"(1) a vessel, that the vessel is seaworthy and properly equipped for the business of saving property shipwrecked and in distress; or

“(2) a master, that the master is trustworthy and innocent of any fraud or misconduct related to property shipwrecked or saved on the coast.

“§ 80103. Property on Florida coast to be taken to port of entry

“(a) IN GENERAL.—Property taken from a wreck, the sea, or a key or shoal, on the coast of Florida and within the jurisdiction of the United States, shall be brought to a port of entry of the United States.

“(b) SEIZURE AND FORFEITURE.—A vessel transporting property described in subsection (a) to a foreign port may be seized by, and forfeited to, the United States Government. A forfeiture under this subsection accrues half to the informer and half to the Government.

“§ 80104. Salvaging operations by foreign vessels

“(a) PROHIBITION.—Except as provided in this section or section 80105 of this title, a foreign vessel may not, under penalty of forfeiture, engage in salvaging operations on the Atlantic or Pacific coast of the United States, in any portion of the Great Lakes or their connecting or tributary waters, including any portion of the Saint Lawrence River through which the international boundary line extends, or in territorial waters of the United States on the Gulf of Mexico.

“(b) WHEN SUITABLE VESSEL NOT AVAILABLE.—The Secretary of Homeland Security may authorize a foreign vessel to engage in salvaging operations in a particular locality if, on investigation, the Secretary is satisfied that there is not available in that locality a suitable vessel that is—

“(1) owned only by citizens of the United States (including a Bowaters corporation under section 12118 of this title); and

“(2) documented under chapter 121 of this title or numbered under chapter 123 of this title.

“(c) OPERATIONS AUTHORIZED BY TREATY.—This section does not prohibit or restrict assistance to vessels or salvaging operations authorized by treaty, including—

“(1) article II of the Treaty between the United States and Great Britain concerning reciprocal rights for United States and Canada in the conveyance of prisoners and wrecking and salvage, signed at Washington, May 18, 1908 (35 Stat. 2036); or

“(2) the Treaty between the United States of America and Mexico to facilitate assistance to and salvage of vessels in territorial waters, signed at Mexico City, June 13, 1935 (49 Stat. 3359).

“§ 80105. Canadian vessels aiding vessels in United States waters

“(a) IN GENERAL.—Canadian vessels and wrecking equipment may give aid to Canadian or other vessels and property wrecked, disabled, or in distress in the waters of the United States contiguous to Canada, including—

“(1) the canal and improvement of the waters between Lake Erie and Lake Huron; and

“(2) the Saint Marys River and canal.

“(b) RECIPROCITY.—This section does not apply after the President proclaims that privileges reciprocal to those under subsection (a) have been withdrawn or rendered inoperative by the Government of Canada.

“§ 80106. International agreement on derelicts

“The President may make an international agreement with other governments interested in the navigation of the North Atlantic Ocean, providing for the reporting, marking, and removal of dangerous wrecks, derelicts, and other menaces to navigation outside the coast waters of the countries bordering the North Atlantic Ocean.

“§ 80107. Salvors of life to share in remuneration

“(a) ENTITLEMENT OF SALVORS.—A salvor of human life, who gave aid following an accident giving rise to salvage, is entitled to a fair share of the payment awarded to the salvor for salvaging the vessel or other property or preventing or minimizing damage to the environment.

“(b) COMMON OWNERSHIP OF VESSELS.—The right to remuneration for aid or salvage services is not affected by common ownership of the vessels giving and receiving the aid or salvage services.

“(c) TIME LIMIT ON BRINGING ACTIONS.—A civil action to recover remuneration for giving aid or salvage services must be brought within 2 years after the date the aid or salvage services were given, unless the court in which the action is brought is satisfied that during that 2-year period there had not been a reasonable opportunity to seize the aided or salvaged vessel within the jurisdiction of the court or within the territorial waters of the country of the plaintiff's residence or principal place of business.

“(d) NONAPPLICATION.—This section does not apply to a vessel of war or a vessel owned by the United States Government appropriated only to a public service.

“CHAPTER 803—ICE AND DERELICTS

“Sec.
“80301. International agreements.
“80302. Patrol services.
“80303. Speed of vessel in ice region.

“§ 80301. International agreements

“(a) GENERAL AUTHORITY.—The President may make agreements with interested maritime countries to—

“(1) maintain in the North Atlantic Ocean a service of ice patrol, of study and observation of ice and current conditions, and of assistance to vessels and their crews requiring assistance within the limits of the patrol;

“(2) maintain a service of study and observation of ice and current conditions in the waters affecting the set and drift of ice in the North Atlantic Ocean; and

“(3) take all practicable steps to ensure the destruction or removal of derelicts in the northern part of the Atlantic Ocean, east of the line drawn from Cape Sable to a point in latitude 34 degrees north, longitude 70 degrees west, if the destruction or removal is necessary.

“(b) PAYMENT BETWEEN COUNTRIES.—The President may include in an agreement under subsection (a) a provision for—

“(1) payment to the United States Government by other countries for their proportionate share of the expense of maintaining the services; or

“(2) contribution by the Government for its proportionate share if the agreement provides for another country to maintain the services.

“§ 80302. Patrol services

“(a) GENERAL REQUIREMENTS.—Unless the agreements made under section 80301 of this title provide otherwise, an ice patrol shall be maintained during the entire ice season in guarding the southeastern, southern, and southwestern limits of the region of icebergs in the vicinity of the Grand Banks of Newfoundland. The patrol shall inform trans-Atlantic and other passing vessels by radio and other available means of the ice conditions and the extent of the dangerous region. During the ice season, there shall be maintained a service of study of ice and current conditions, a service of providing assistance to vessels and crews requiring assistance, and a service of removing and destroying derelicts. Any of these services may be maintained during the remainder of the year as may be advisable.

“(b) WARNINGS TO VESSELS.—An ice patrol vessel shall warn any vessel known to be approaching a dangerous area and recommend safe routes.

“(c) RECORDING AND REPORTING INCIDENTS.—

“(1) RECORDING.—An ice patrol vessel shall record the name of a vessel and the facts of the case when the patrol observes or knows that the vessel—

“(A) is on other than a regular recognized or advertised route crossing the North Atlantic Ocean;

“(B) has crossed the fishing banks of Newfoundland north of latitude 43 degrees north during the fishing season; or

“(C) has passed through regions known or believed to be endangered by ice when proceeding to and from ports of North America.

“(2) REPORTING.—The name of the vessel and all pertinent information about the incident shall be reported to the government of the country to which the vessel belongs if that government requests.

“(d) ADMINISTRATION.—The Commandant of the Coast Guard, under the direction of the Secretary of the department in which the Coast Guard is operating, shall carry out the services provided for in this section and shall assign necessary vessels, material, and personnel of the Coast Guard. On request of such Secretary, the head of an agency may detail personnel, lend or contribute material or equipment, or otherwise assist in carrying out the services provided for in this section.

“(e) ANNUAL REPORT.—The Commandant shall publish an annual report of the activities of the services provided for in this section. A copy of the report shall be provided to each interested foreign government and to each agency assisting in the work.

“§ 80303. Speed of vessel in ice region

“(a) REQUIREMENT.—The master of a vessel of the United States, when ice is reported on or near the vessel's course, shall proceed at a moderate speed or change the course of the vessel to go well clear of the danger zone.

“(b) CIVIL PENALTY.—A master violating this section is liable to the United States Government for a civil penalty of not more than $500.

“CHAPTER 805—SAFE CONTAINERS FOR INTERNATIONAL CARGO

“Sec.
“80501. Definitions.
“80502. Application of Convention.
“80503. General authority of the Secretary.
“80504. Approval and examination.
“80505. Enforcement.
“80506. Delegation of authority.
“80507. Employee protection.
“80508. Amendments to Convention.
“80509. Civil penalty.

“§ 80501. Definitions

“In this chapter:

“(1) CONTAINER.—The term ‘container’ has the meaning given that term in the Convention.

“(2) CONVENTION.—The term ‘Convention’ means the International Convention for Safe Containers, and its annexes, done at Geneva, Switzerland, December 2, 1972.

“(3) INTERNATIONAL TRANSPORT.—The term ‘international transport’ means the transportation of a container between—

“(A) a place in a foreign country and a place in the jurisdiction of the United States; or

“(B) two places outside the United States by United States carriers.

“(4) OWNER.—The term ‘owner’ includes the lessee or bailee of a container if a written lease or bailment provides for the lessee or bailee to exercise the owner's responsibility for maintaining and examining the container.

“(5) SAFETY APPROVAL PLATE.—The term ‘safety approval plate’ has the meaning given that term in annex I of the Convention.

“§ 80502. Application of Convention

“The Convention applies to an owner of a container used in international transport if the *owner is domiciled or has its principal office in the United States.*

"§ 80503. General authority of the Secretary

"(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating shall carry out the Convention and this chapter in the United States.

"(b) REGULATIONS.—The Secretary shall prescribe regulations to carry out this chapter. The regulations shall—

"(1) establish procedures for testing, inspecting, and initially approving containers and designs for containers, including procedures for attaching, invalidating, and removing safety approval plates for containers;

"(2) establish procedures to be followed by the owners of containers for the periodic examination of containers as provided in the Convention; and

"(3) provide a method for developing, collecting, and disseminating information about container safety and the international transport of containers.

"(c) SAFETY APPROVAL PLATES.—If the owner of a container without a safety approval plate establishes that the container satisfies the standards of the Convention, the Secretary may authorize a safety approval plate to be attached to the container.

"(d) SCHEDULE OF FEES.—The Secretary may prescribe a schedule of fees for services performed by the Secretary, or by a person delegated authority under section 80506 of this title, for the testing, inspection, and initial approval of containers and container designs.

"(e) ENCOURAGING INTERMODAL TRANSPORT.—To the maximum extent possible, the Secretary shall encourage the development and use of intermodal transport, using containers built to facilitate economical, safe, and expeditious handling of containerized cargo without intermediate reloading when it is being transported over land, air, and sea areas.

"§ 80504. Approval and examination

"(a) DOMICILE AND PRINCIPAL OFFICE IN UNITED STATES.—A container owner domiciled and having its principal office in the United States shall have the container—

"(1) approved initially under procedures prescribed by the Secretary of the department in which the Coast Guard is operating or by the government of another country that is a party to the Convention; and

"(2) examined periodically as provided in the Convention under procedures prescribed by the Secretary.

"(b) DOMICILE OR PRINCIPAL OFFICE IN UNITED STATES.—A container owner domiciled or having its principal office in the United States shall have the container—

"(1) approved initially under procedures prescribed by the Secretary or by the government of another country that is a party to the Convention; and

"(2) examined periodically as provided in the Convention, under procedures prescribed by the government of the country in which the owner is domiciled or has its principal office, as long as that country is a party to the Convention.

"(c) NEITHER DOMICILE NOR PRINCIPAL OFFICE IN UNITED STATES.—A container owner neither domiciled nor having its principal office in the United States or another country that is a party to the Convention may submit a container for initial approval and periodic examination under procedures prescribed by the Secretary.

"§ 80505. Enforcement

"(a) IN GENERAL.—To enforce the Convention, this chapter, and regulations prescribed under this chapter, the Secretary of the department in which the Coast Guard is operating may—

"(1) examine, or require to be examined, containers in international transport;

"(2) approve designs for containers;

"(3) inspect and test containers being manufactured;

"(4) issue a detention order removing or excluding a container from service until the container owner satisfies the Secretary that the container meets the standards of the Convention, if the container—

"(A) does not have a safety approval plate attached to it; or

"(B) has a safety approval plate attached but there is significant evidence that the container is in a condition that creates an obvious risk to safety;

"(5) take other appropriate action, including issuing necessary orders, to remove a container from service or restrict its use if the container is not in compliance with the Convention, this chapter, or regulations prescribed under this chapter, but does not present an obvious risk to safety; and

"(6) allow a container found to be unsafe or without a safety approval plate to be moved to another location for repair or other disposition, under restrictions consistent with the intent of the Convention.

"(b) PAYMENT OF EXPENSES.—

"(1) EXAMINATION.—The owner of a container involved in an action by the Secretary under this section related to an examination of the container shall pay or reimburse the Secretary for the expenses arising from that action, except for the costs of routine examinations of the container or a safety approval plate.

"(2) TESTING, INSPECTION, AND INITIAL APPROVAL.—The owner of a container submitted to the procedure established by the Secretary for testing, inspection, and initial approval, and the manufacturer of a container that submits a design to the procedure established by the Secretary for testing, inspection, and initial approval, shall pay or reimburse the Secretary for the expenses arising from the testing, inspection, or approval.

"(3) CREDIT TO APPROPRIATION.—Amounts received by the Secretary as reimbursement shall be credited to the appropriation for operating expenses of the Coast Guard.

"(c) PRESUMPTION BASED ON SAFETY APPROVAL PLATE.—A container bearing a safety approval plate authorized by a country that is a party to the Convention is presumed to be in a safe condition unless there is significant evidence that the container is in a condition that creates an obvious risk to safety.

"(d) NOTICE OF ORDERS.—

"(1) IN GENERAL.—When the Secretary issues a detention or other order under this section, the Secretary promptly shall notify in writing—

"(A) the owner of the container;

"(B) the owner's agent; or

"(C) if the identity of the owner is not apparent from the container or shipping documents, the custodian.

"(2) INFORMATION TO INCLUDE.—The notification shall identify the container involved, give the location of the container, and describe the condition or situation giving rise to the order.

"(e) DURATION OF ORDERS.—An order issued by the Secretary under this section remains in effect until—

"(1) the Secretary declares the container to be in compliance with the standards of the Convention; or

"(2) the container is removed permanently from service.

"(f) NOTICE OF DEFECTIVE CONTAINER TO COUNTRY ISSUING SAFETY APPROVAL PLATE.—If the Secretary has reason to believe that a container bearing a safety approval plate issued by another country was defective at the time of approval, the Secretary shall notify that country.

"§ 80506. Delegation of authority

"(a) IN GENERAL.—The Secretary of the department in which the Coast Guard is operating may delegate to any person, including a public or private agency or nonprofit organization, authority to grant initial approval for containers and designs and to attach safety approval plates.

"(b) REGULATIONS.—Before making a delegation under this section, the Secretary shall prescribe regulations establishing—

"(1) criteria to be followed in selecting a person to whom authority is to be delegated;

"(2) a detailed description of the duties and powers to be carried out by the person to whom authority is delegated, including the records the person shall keep; and

"(3) the review the Secretary will conduct to decide whether the person is carrying out the delegated duties and powers properly.

"(c) INSPECTION OF RECORDS.—A person delegated authority under this section shall make available to the Secretary for inspection, on request, records the person is required to keep.

"(d) PENALTIES AND ORDERS.—A person delegated authority under this section may not—

"(1) assess or collect, or attempt to assess or collect, a penalty for violation of the Convention, this chapter, or an order issued by the Secretary under this chapter; or

"(2) issue or attempt to issue a detention or other order.

"(e) PUBLICATION.—The Secretary shall publish in the Federal Register or other appropriate publication—

"(1) the name and address of each person to whom authority is delegated;

"(2) the duties and powers delegated; and

"(3) the period of the delegation.

"(f) REVOCATION.—The Secretary may revoke a delegation of authority under this section at any time.

"§ 80507. Employee protection

"(a) PROHIBITION.—A person may not discharge or discriminate against an employee because the employee has reported the existence of an unsafe container or a violation of this chapter or a regulation prescribed under this chapter.

"(b) COMPLAINTS.—An employee alleging to have been discharged or discriminated against in violation of subsection (a) may file a complaint with the Secretary of Labor. The complaint must be filed within 60 days after the violation.

"(c) ENFORCEMENT.—The Secretary of Labor may investigate the complaint. If the Secretary of Labor finds there has been a violation, the Secretary of Labor may bring a civil action in an appropriate district court of the United States. The court has jurisdiction to restrain violations of subsection (a) and order appropriate relief, including reinstatement of the employee to the employee's former position with back pay.

"(d) NOTICE TO COMPLAINANT.—Within 30 days after receiving a complaint under this section, the Secretary of Labor shall notify the complainant of the intended action on the complaint.

"§ 80508. Amendments to Convention

"(a) PROPOSALS BY UNITED STATES.—The Secretary of State, with the concurrence of the Secretary of the department in which the Coast Guard is operating, may propose amendments to the Convention or request a conference for amending the Convention as provided in article IX of the Convention.

"(b) PROPOSALS BY OTHER COUNTRIES.—An amendment communicated to the United States under article IX(2) of the Convention may be accepted for the United States by the President, with the advice and consent of the Senate. The President may declare that the United States does not accept an amendment.

"(c) AMENDMENTS TO ANNEXES.—

"(1) IN GENERAL.—The Secretary of State, with the concurrence of the Secretary of the department in which the Coast Guard is operating—

"(A) may propose amendments to the annexes to the Convention;

"(B) may propose a conference for amending annexes to the Convention; and

"(C) shall consider and act on amendments to the annexes to the Convention adopted by the Maritime Safety Committee of the International Maritime Organization and communicated to the United States under article X(2) of the Convention.

"(2) ACTION FOLLOWING APPROVAL OR OBJECTION.—If a proposed amendment to an annex is approved by the United States, the amendment shall enter into force as provided in article X of the Convention. If a proposed amendment is objected to, the Secretary of State promptly shall communicate the objection as provided in article X(3) of the Convention.

"(d) APPOINTMENT OF ARBITRATOR.—The Secretary of State, with the concurrence of the Secretary of the department in which the Coast Guard is operating, shall appoint an arbitrator when one is required to resolve a dispute within the meaning of article XIII of the Convention.

"§80509. Civil penalty

"(a) IN GENERAL.—An owner, agent, or custodian who has been notified of an order issued under section 80505 of this title and fails to take reasonable and prompt action to prevent or stop a container subject to the order from being moved in violation of the order is liable to the United States Government for a civil penalty of not more than $5,000 for each container moved. Each day the container remains in service while the order is in effect is a separate violation.

"(b) ASSESSMENT AND COLLECTION.—

"(1) IN GENERAL.—After notice and an opportunity for a hearing, the Secretary of the department in which the Coast Guard is operating shall assess and collect any penalty under this section.

"(2) FACTORS TO CONSIDER.—In determining the amount of the penalty, the Secretary shall consider the gravity of the violation, the hazards involved, and the record of the person charged with respect to violations of the Convention, this chapter, or regulations prescribed under this chapter.

"(3) REMISSION, MITIGATION, OR COMPROMISE.—The Secretary may remit, mitigate, or compromise a penalty under this section.

"(4) ENFORCEMENT.—If a person fails to pay a penalty under this section, the Secretary shall refer the matter to the Attorney General for collection in an appropriate district court of the United States.".

SEC. 12. MARITIME ADMINISTRATION.

Section 109 of title 49, United States Code, is amended to read as follows:

"§109. Maritime Administration

"(a) ORGANIZATION.—The Maritime Administration is an administration in the Department of Transportation.

"(b) MARITIME ADMINISTRATOR.—The head of the Maritime Administration is the Maritime Administrator, who is appointed by the President by and with the advice and consent of the Senate. The Administrator shall report directly to the Secretary of Transportation and carry out the duties prescribed by the Secretary.

"(c) DEPUTY MARITIME ADMINISTRATOR.—The Maritime Administration shall have a Deputy Maritime Administrator, who is appointed in the competitive service by the Secretary, after consultation with the Administrator. The Deputy Administrator shall carry out the duties prescribed by the Administrator. The Deputy Administrator shall be Acting Administrator during the absence or disability of the Administrator and, unless the Secretary designates another individual, during a vacancy in the office of Administrator.

"(d) DUTIES AND POWERS VESTED IN SECRETARY.—All duties and powers of the Maritime Administration are vested in the Secretary.

"(e) REGIONAL OFFICES.—The Maritime Administration shall have regional offices for the Atlantic, Gulf, Great Lakes, and Pacific port ranges, and may have other regional offices as necessary. The Secretary shall appoint a qualified individual as Director of each regional office. The Secretary shall carry out appropriate activities and programs of the Maritime Administration through the regional offices.

"(f) INTERAGENCY AND INDUSTRY RELATIONS.—The Secretary shall establish and maintain liaison with other agencies, and with representative trade organizations throughout the United States, concerned with the transportation of commodities by water in the export and import foreign commerce of the United States, for the purpose of securing preference to vessels of the United States for the transportation of those commodities.

"(g) DETAILING OFFICERS FROM ARMED FORCES.—To assist the Secretary in carrying out duties and powers relating to the Maritime Administration, not more than five officers of the armed forces may be detailed to the Secretary at any one time, in addition to details authorized by any other law. During the period of a detail, the Secretary shall pay the officer an amount that, when added to the officer's pay and allowances as an officer in the armed forces, makes the officer's total pay and allowances equal to the amount that would be paid to an individual performing work the Secretary considers to be of similar importance, difficulty, and responsibility as that performed by the officer during the detail.

"(h) CONTRACTS AND AUDITS.—

"(1) CONTRACTS.—In the same manner that a private corporation may make a contract within the scope of its authority under its charter, the Secretary may make contracts for the United States Government and disburse amounts to—

"(A) carry out the Secretary's duties and powers under this section and subtitle V of title 46; and

"(B) protect, preserve, and improve collateral held by the Secretary to secure indebtedness.

"(2) AUDITS.—The financial transactions of the Secretary under paragraph (1) shall be audited by the Comptroller General. The Comptroller General shall allow credit for an expenditure shown to be necessary because of the nature of the business activities authorized by this section or subtitle V of title 46. At least once a year, the Comptroller General shall report to Congress any departure by the Secretary from this section or subtitle V of title 46.

"(i) AUTHORIZATION OF APPROPRIATIONS.—

"(1) IN GENERAL.—Except as otherwise provided in this subsection, there are authorized to be appropriated such amounts as may be necessary to carry out the duties and powers of the Secretary relating to the Maritime Administration.

"(2) LIMITATIONS.—Only those amounts specifically authorized by law may be appropriated for the use of the Maritime Administration for—

"(A) acquisition, construction, or reconstruction of vessels;

"(B) construction-differential subsidies incident to the construction, reconstruction, or reconditioning of vessels;

"(C) costs of national defense features;

"(D) payments of obligations incurred for operating-differential subsidies;

"(E) expenses necessary for research and development activities, including reimbursement of the Vessel Operations Revolving Fund for losses resulting from expenses of experimental vessel operations;

"(F) the Vessel Operations Revolving Fund;

"(G) National Defense Reserve Fleet expenses;

"(H) expenses necessary to carry out part B of subtitle V of title 46; and

"(I) other operations and training expenses related to the development of waterborne transportation systems, the use of waterborne transportation systems, and general administration.

"(3) TRAINING VESSELS.—Amounts may not be appropriated for the purchase or construction of training vessels for State maritime academies unless the Secretary has approved a plan for sharing training vessels between State maritime academies.".

SEC. 13. AMENDMENTS RELATING TO MARITIME SECURITY ACT OF 2003.

(a) AMENDMENTS TO CHAPTER 531.—Chapter 531 of title 46, United States Code, is amended as follows:

(1) In section 53102—

(A) in the headings of paragraphs (1), (2), and (4) of subsection (c), strike "SECTION 2" and substitute "SECTION 50501";

(B) in subsection (c)(1), (2)(A)(i) and (ii)(II) and (B), and (4)(B), strike "section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)" and substitute "section 50501 of this title";

(C) in subsection (d), strike "the first section of Public Law 81–891 (64 Stat. 1120; 46 U.S.C. App. note prec. 3)" and substitute "section 501 of this title"; and

(D) in subsection (e)(1)—

(i) strike "a documented vessel (as that term is defined in section 12101 of this title)" and substitute "documented under chapter 121 of this title."; and

(ii) in subparagraph (B), strike "a documented vessel (as defined in that section)" and substitute "documented under chapter 121".

(2) In section 53103(c)—

(A) in the heading of paragraph (1)(C), strike "SECTION 2" and substitute "SECTION 50501";

(B) in paragraphs (1)(A)(iii) and (C)(i) and (ii), strike "section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)" and substitute "section 50501 of this title";

(C) in paragraph (1)(B), strike "subparagraphs" and substitute "subparagraph"; and

(D) in paragraph (3)(B), strike "agreement" and substitute "agreements".

(3) In section 53104—

(A) in subsection (c)(3)(B)(ii)(I) and (II), strike "section 2 of the Shipping Act, 1916 (46 U.S.C. App. 802)" and substitute "section 50501 of this title";

(B) in subsection (e)(2), strike "section 9 of the Shipping Act, 1916 (46 U.S.C. App. 808)" and substitute "section 56101 of this title"; and

(C) in subsection (e)(3), strike "section 902 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1242)" and "section 902 of such Act" and substitute "chapter 563 of this title" and "chapter 563", respectively.

(4) In section 53105—

(A) in subsection (a)(1)(A), strike "section 12105" and substitute "section 12111"; and

(B) in subsection (f), strike "approve" and substitute "approves".

(5) In section 53106—

(A) in subsection (d)(1), strike "section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 U.S.C. App. 1241–1), section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), or 1241f)" and substitute "section 55302(a), 55304, 55305, or 55314 of this title, section 2631 of title 10";

(B) in subsection (d)(2), strike "section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), or 1241f)," and substitute "section 55302(a), 55305, or 55314 of this title"; and

(C) in subsection (e)(2), strike "section 2(c) of the Shipping Act, 1916 (46 U.S.C. App. 802(c))" and substitute "section 50501 of this title, applying the 75 percent ownership requirement of that section".

(6) In section 53107(f)—

(A) strike "section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 U.S.C. App. 1241–1), section 901(a), 901(b), or 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), or 1241f)" and substitute "section 55302(a), 55304, 55305, or 55314 of this title, section 2631 of title 10"; and

(B) strike "section 2631 of title 10, United States Code, the Act of March 26, 1934 (46 U.S.C. App. 1241–1), and sections 901(a), 901(b), and 901b of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(a), 1241(b), and 1241b)" and substitute "sections 55302(a), 55304, 55305, and 55314 of this title and section 2631 of title 10".

(7) In section 53108(b), strike "section 901(b)(1) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b)(1))" and substitute "section 55305(a) of this title".

(b) OTHER CONFORMING PROVISIONS.—If this Act is enacted prior to October 1, 2005, then—

(1) until that date, the reference in section 12111(c)(3) of title 46, United States Code, as enacted by this Act, to "chapter 531 of this title" is deemed instead to be a reference to "subtitle B of title VI of the Merchant Marine Act, 1936"; and

(2) section 3534(b)(1) of the Maritime Security Act of 2003 (Public Law 108–136, 117 Stat. 1818) is repealed.

SEC. 14. AMENDMENTS TO PARTIALLY RESTATED PROVISIONS.

(a) Section 2793 of the Revised Statutes (19 U.S.C. 288, 46 App. U.S.C. 111, 123) is amended by striking "or tonnage tax".

(b) Section 809(a) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1213(a)), is amended by striking "and section 211(a)".

SEC. 15. ADDITIONAL AMENDMENTS TO TITLE 46.

Title 46, United States Code, is amended as follows:

(1) The analysis of subtitle II is amended as follows:

(A) In each chapter item, capitalize the first letter of each word containing 4 or more letters.

(B) Strike the item for chapter 39.

(C) The item for chapter 45 is amended to read as follows:

"45. Uninspected Commercial Fishing Industry Vessels .... 4501".

(2) Section 2101 is amended as follows:

(A) Paragraphs (2), (3), (3a), (6), (10), (10a), (12), (17b), (36), (41), (44), (45), and (46) are repealed.

(B) In paragraph (8a), insert "Prevention" after "Abuse".

(C) In paragraph (18), strike "those".

(D) In paragraph (34)—

(i) strike ", except in part H,"; and

(ii) strike "head" and substitute "Secretary".

(3) In section 2102(b), strike "West" and "East" and substitute "west" and "east", respectively.

(4) In section 2106, strike "a district court of the United States" and substitute "the district court of the United States for any district".

(5) Section 2108 is repealed.

(6) In section 2110—

(A) in subsection (a)(2), strike "part B of this title" and substitute "part B of this subtitle";

(B) in subsection (b)(2)(A)(iii), strike the period at the end and substitute "; and";

(C) in subsection (b)(5), strike "fees" and substitute "fee";

(D) In subsection (f), strike "Secretary of the Treasury shall deny the clearance required by section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)" and substitute "Secretary of Homeland Security shall deny the clearance required by section 60105 of this title"; and

(E) In subsection (j), strike "state" and substitute "State".

(7) In section 2301, strike "section" and substitute "sections 2304 and".

(8) In section 2304—

(A) insert the paragraph designation "(1)" after "(a)"; and

(B) insert at the end of subsection (a) the following new paragraph:

"(2) Paragraph (1) does not apply to a vessel of war or a vessel owned by the United States Government appropriated only to a public service.".

(9) In section 2306(a)(2), strike "section 212(A) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1122a)," and substitute "section 50113 of this title".

(10) In section 3205(d), strike "Secretary of the Treasury shall withhold or revoke the clearance required by section 4197 of the Revised Statutes (46 App. U.S.C. 91)" and substitute "Secretary of Homeland Security shall withhold or revoke the clearance required by section 60105 of this title".

(11) In section 3302—

(A) in subsection (b), insert a comma after "fishing vessel";

(B) in subsection (j)(2)(B), strike "section 1304 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295c)" and substitute "chapter 515 of this title"; and

(C) in subsection (l)(1)(C), strike "Inc.." and substitute "Inc.".

(12) In section 3306(d), strike "section 1302(3) of the Merchant Marine Act, 1936 (46 App. U.S.C. 1295a(3))" and substitute "section 51102 of this title".

(13) In section 3318(j), strike the period after "felony".

(14) In the analysis of chapter 37, the item for section 3719 is amended to read as follows:

"3719. Reduction of oil spills from single hull non-self-propelled tank vessels.".

(15) In paragraphs (1)(C), (2), and (3) of section 3703a(c), strike "documentation under section 4136 of the Revised Statutes of the United States (46 App. U.S.C. 14)" and substitute "documentation as a wrecked vessel under section 12112 of this title".

(16) In section 3704, strike "section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883)," and substitute "chapter 551 of this title".

(17) In section 3718(e)(1), strike "Secretary of the Treasury" and "section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)" and substitute "Secretary of Homeland Security" and "section 60105 of this title", respectively.

(18) In section 4702, strike the subsection "(a)" designation.

(19) In section 4705—

(A) strike "subcontractor not" and substitute "subcontractor are not";

(B) strike "(a)(1)" and substitute "(a)";

(C) strike "(2) Paragraph (1)" and substitute "(b) Subsection (a)";

(D) strike "(A)" and substitute "(1)"; and

(E) strike "(B)" and substitute "(2)".

(20) In section 5113(b), strike "section 4197 of the Revised Statutes (46 App. U.S.C. 91)" and substitute "section 60105 of this title".

(21) In section 6101, redesignate the second subsection (g) and subsection (h) as subsections (h) and (i), respectively.

(22) In section 8103(a), strike "Only" and substitute "Except as otherwise provided in this title, only".

(23) In section 9307(b)(2)(A), strike "The" and substitute "the".

(24) In section 12503(a), in the matter before paragraph (1), strike "delegee" and substitute "delegate".

(25) In section 13102(a), insert "(26 U.S.C. 9504)" after "Internal Revenue Code of 1986".

(26) In section 14305(a)—

(A) in paragraph (1), strike "and sections 12106(c) and 12108(c)" and substitute "of this subtitle and section 12116";

(B) in paragraph (5), strike "section 4283 of the Revised Statutes of the United States (46 App. U.S.C. 183)" and substitute "section 30506 of this title";

(C) in paragraph (6), strike "sections 27 and 27A of the Act of June 5, 1920 (46 App. U.S.C. 883 and 883–1)" and substitute "sections 12118 and 12132 of this title"; and

(D) in paragraph (7), strike "Act of July 14, 1956 (46 App. U.S.C. 883a)" and substitute "section 12139(b) of this title".

(27) In section 31306(a), strike "section 9 or 37 of the Shipping Act, 1916 (46 App. U.S.C. 808, 835)" and substitute "section 56102 or 56103 of this title".

(28) In section 31308, strike "title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1271 et seq.)" and substitute "chapter 537 of this title".

(29) In section 31322—

(A) in subsection (a)(4)(A), strike "section 12102(c)" and substitute "section 12113(c)";

(B) in subsection (a)(4)(E), strike "under section 12102(a)" and substitute "for purposes of documentation under section 12103"; and

(C) in subsection (f)(2), strike "section 12102(c)" and substitute "section 12113(c)".

(30) In section 31325(b)(3)(B), strike "section 9 or 37 of the Shipping Act, 1936 (46 App. U.S.C. 808, 835)" and substitute "section 56101 or 56102 of this title".

(31) In section 31326(b)—

(A) in paragraph (1), strike "title XI of the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.)" and substitute "chapter 537 of this title."; and

(B) in paragraph (2), strike "title XI of that Act" and substitute "chapter 537 of this title".

(32) In section 31329—

(A) in subsection (a)(1), strike "section 12102" and substitute "section 12103"; and

(B) in subsection (b)—

(i) in paragraph (2), strike "section 902 of the Merchant Marine Act, 1936 (46 App. U.S.C. 1242)" and substitute "chapter 563 of this title"; and

(ii) in paragraph (3), strike "sale foreign within the terms of the first proviso of section 27 of the Merchant Marine Act, 1920 (46 App. U.S.C. 883)" and substitute "sale to a person not a citizen of the United States under section 12132 of this title".

(33)(A) Sections 70118 and 70119, as added by section 801(a) of the Coast Guard and Maritime Transportation Act of 2004 (Public Law 108–293, 118 Stat. 1078), are redesignated as sections 70117 and 70118, respectively, and moved to appear immediately after section 70116 of title 46, United States Code.

(B) Sections 70117 and 70118, as added by section 802(a)(2) of such Act, are redesignated as sections 70120 and 70121, respectively, and moved to appear immediately after section 70119 of title 46, United States Code.

(C) In section 70120(a) (as redesignated by subparagraph (B)), strike "section 70120" and substitute "section 70119".

(D) In section 70121(a) (as redesignated by subparagraph (B))—

(i) strike "section 70120" and substitute "section 70119"; and

(ii) strike "section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)" and substitute "section 60105 of this title".

(E) In the analysis of chapter 701, strike the items relating to sections 70117–70119 and substitute the following:

"70117. Firearms, arrests, and seizure of property.
"70118. Enforcement by State and local officers.
"70119. Civil penalty.
"70120. In rem liability for civil penalties and certain costs.

"70121. Withholding of clearance.".

SEC. 16. RECREATIONAL BOATING SAFETY TECHNICAL AMENDMENTS.

(a) SECTION 2102.—Section 2102 of title 46, United States Code, is amended by—

(1) striking subsection (a); and

(2) striking the subsection (b) designation.

(b) CHAPTER 131.—Chapter 131 of title 46, United States Code, is amended as follows:

(1) Redesignate sections 13101 to 13106 as sections 13102 to 13107.

(2) Insert as the first section the following:

"§ 13101. Definitions

"In this chapter:

"(1) ELIGIBLE STATE.—The term 'eligible State' means a State that has a State recreational boating safety program accepted by the Secretary.

"(2) STATE RECREATIONAL BOATING SAFETY PROGRAM.—The term 'State recreational boating safety program' means education, assistance, and enforcement activities conducted for marine casualty prevention, reduction, and reporting for recreational boating.".

(3) In the chapter analysis, redesignate items 13101 to 13106 as items 13102 to 13107 and insert as the first item the following:

"13101. Definitions.".

(c) CROSS REFERENCES.—

(1) Section 4 of the Dingell-Johnson Sport Fish Restoration Act (16 U.S.C. 777c) is amended by striking "13106" wherever appearing and substituting "13107".

(2) Section 9504(c) of the Internal Revenue Code of 1986 (26 U.S.C. 9504(c)) is amended by striking "section 13106" and substituting "section 13107".

(3) Section 13102(c) of title 46, United States Code, as redesignated by subsection (b), is amended by striking "section 13103" and substituting "section 13104".

(4) Section 13103(c) of title 46, United States Code, as redesignated by subsection (b), is amended by striking "section 13106" and substituting "section 13107".

(5) Section 13107(a)(1) of title 46, United States Code, as redesignated by subsection (b), is amended by striking "section 13103" and substituting "section 13104".

(6) Section 13108(a) of title 46, United States Code, is amended by—

(A) striking "section 13103" and substituting "section 13104"; and

(B) striking "section 13105" and substituting "section 13106".

(7) Section 31322(d)(1)(A) of title 46, United States Code, is amended by striking "section 13106(b)(8)" and substituting "section 13107(b)(8)".

SEC. 17. CONFORMING AMENDMENTS TO OTHER LAWS.

(a) TITLE 10.—Title 10, United States Code, is amended as follows:

(1) In section 374(b)(4)(A)(iv), strike "The Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)" and substitute "Chapter 705 of title 46".

(2) In section 2218(d)(2), strike "sections 508 and 510 of the Merchant Marine Act of 1936 (46 U.S.C. App. 1158, 1160), shall be deposited in the Fund" and substitute "sections 57101–57104 and chapter 573 of title 46".

(3) In section 2350b(g)(2), strike "section 901(b) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1241(b))" and substitute "section 55305 of title 46".

(4) In section 2645—

(A) in subsection (c), strike "the second sentence of section 1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1288(a))" and substitute "section 53909(b) of title 46";

(B) in subsection (h)(1), strike "title XII of the Merchant Marine Act, 1936 (46 U.S.C. App. 1281 et seq.)," and substitute "chapter 539 of title 46"; and

(C) in subsection (h)(2), strike "the first sentence of section 1208(a) of the Merchant Marine Act, 1936 (46 U.S.C. App. 1288(a))" and substitute "section 53909(a) of title 46".

(5) In section 5985, strike "section 1304 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1295c)," and substitute "chapter 515 of title 46".

(6) In section 7721(a), strike "the Act of March 3, 1925 (commonly referred to as the 'Public Vessels Act') (46 U.S.C. App. 781–790)" and substitute "chapter 311 of title 46".

(b) TITLE 11.—Title 11, United States Code, is amended as follows:

(1) In section 362(b)—

(A) in paragraph (12), strike "section 207 or title XI of the Merchant Marine Act, 1936" and substitute "chapter 537 of title 46 or section 109(h) of title 49"; and

(B) in paragraph (13), strike "section 207 or title XI of the Merchant Marine Act, 1936" and substitute "chapter 537 of title 46".

(2) In section 1110(a)(3)(A)(ii), strike "documented vessel (as defined in section 30101(1) of title 46)" and substitute "vessel documented under chapter 121 of title 46".

(c) TITLE 14.—Sections 821(b) and 823a(b) of title 14, United States Code, are each amended by striking paragraphs (3)–(5) and substituting the following:

"(3) Section 30101 of title 46 (popularly known as the Admiralty Extension Act).

"(4) Chapter 309 of title 46 (known as the Suits in Admiralty Act).

"(5) Chapter 311 of title 46 (known as the Public Vessels Act).".

(d) TITLE 18.—Title 18, United States Code, is amended as follows:

(1) In section 229F(9)(C), strike "section 3(b) of the Maritime Drug Enforcement Act, as amended (46 U.S.C., App. sec. 1903(b))" and substitute "section 70502(b) of title 46, United States Code".

(2) In section 507—

(A) in the first paragraph, strike "recording, registry, or enrollment of any vessel, in the office of any collector of the customs, or a license to any vessel for carrying on the coasting trade or fisheries of the United States" and substitute "documentation of any vessel";

(B) in the first paragraph, strike "collector or other"; and

(C) in the second paragraph, strike "license,".

(3) In section 924—

(A) in subsections (c)(2), (e)(2)(A)(i), (g)(2), and (k)(1), strike "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)" and substitute "chapter 705 of title 46"; and

(B) in subsection (g)(2), strike "802 et seq." and substitute "801 et seq.".

(4) In section 929(a)(2), strike "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)" and substitute "chapter 705 of title 46".

(5) In section 965(a), strike "section 4197 of the Revised Statutes of the United States (46 U.S.C. App. 91)" and substitute "section 60105 of title 46".

(6) In section 2277(a), strike "registered, enrolled, or licensed" and substitute "documented".

(7) In section 3142(e) and (f)(1)(C), strike "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)" and substitute "chapter 705 of title 46".

(e) INTERNAL REVENUE CODE OF 1986.—The Internal Revenue Code of 1986 (26 U.S.C. 1 et seq.) is amended as follows:

(1) In section 56(c)(2)—

(A) strike "section 607 of the Merchant Marine Act, 1936 (46 U.S.C. 1177)" and substitute "chapter 535 of title 46, United States Code"; and

(B) in subparagraphs (A) and (B), strike "such section 607" substitute "such chapter 535".

(2) In section 140(a)(4), strike "section 607(d) of the Merchant Marine Act, 1936 (46 U.S.C. 1177)" and substitute "section 53507 of title 46, United States Code".

(3) In section 543(a)(1)(B), strike "section 511 or 607 of the Merchant Marine Act, 1936 (46 U.S.C. App. 1161 or 1177)" and substitute "chapter 533 or 535 of title 46, United States Code".

(4) In section 1023(2), strike "section 511 of the Merchant Marine Act, 1936, as amended (46 U.S.C. 1161)" and substitute "chapter 533 of title 46, United States Code".

(5) In section 1061—

(A) in paragraph (1), strike "section 510 of the Merchant Marine Act, 1936, see subsection (e) of that section, as amended August 4, 1939 (46 U.S.C. App. 1160)" and substitute "chapter 573 of title 46, United States Code, see section 57307 of title 46";

(B) in paragraph (2), strike "section 511 of such Act, as amended (46 U.S.C. App. 1161)" and substitute "chapter 533 of title 46, United States Code"; and

(C) strike paragraph (3).

(6) In section 7518—

(A) in subsection (a)(1), strike "section 607 of the Merchant Marine Act, 1935" and substitute "chapter 535 of title 46 of the United States Code";

(B) in subsections (a)(2) and (c)(1)(A) and (D), strike "section 607 of the Merchant Marine Act, 1936" and substitute "chapter 535 of title 46, United States Code"; and

(C) in subsection (g)(3)(C)(iii), strike "Merchant Marine Act of 1936" and substitute "Merchant Marine Act, 1936,".

(f) TITLE 28.—Title 28, United States Code, is amended as follows:

(1) In section 994(h)(1)(B) and (2)(B), strike "the Maritime Drug Law Enforcement Act (46 U.S.C. App. 1901 et seq.)" and substitute "chapter 705 of title 46".

(2) In section 1605(d), strike "the Ship Mortgage Act, 1920 (46 U.S.C. 911 and following)" and "that Act" and substitute "section 31301 of title 46" and "chapter 313 of title 46", respectively.

(3) In section 2342(3)—

(A) in subparagraph (A), strike "section 2, 9, 37, or 41 of the Shipping Act, 1916 (46 U.S.C. App. 802, 803, 808, 835, 839, and 841a)" and substitute "section 50501, 50502, 56101–56104, or 57109 of title 46"; and

(B) strike subparagraph (B) and substitute the following:

"(B) the Federal Maritime Commission issued pursuant to section 305, 41304, 41308, or 41309 or chapter 421 or 441 of title 46;".

(4) In section 2680(d), strike "sections 741–752, 781–790 of Title 46," and substitute "chapter 309 or 311 of title 46".

(g) TITLE 40.—Title 40, United States Code, is amended as follows:

(1) In section 548, strike "the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.)," and substitute "part F of subtitle V of title 46".

(2) In section 3134(b), strike "the Merchant Marine Act, 1936 (46 App. U.S.C. 1101 et seq.)" and substitute "subtitle V of title 46".

(3) In section 3313(a)—

(A) in the matter before paragraph (1), strike "Except for the authority contained in section 3305(b) of this title, the" and substitute "The"; and

(B) in paragraph (1), strike "shall" and substitute "shall, except for the authority contained in section 3305(b) of this title,".

(h) TITLE 49.—Title 49, United States Code, is amended as follows:

(1) In section 5122(c)(1), strike "Secretary of the Treasury" and "section 4197 of the Revised Statutes of the United States (46 App. U.S.C. 91)" and substitute "Secretary of Homeland Security" and "section 60105 of title 46", respectively.

(2) In section 5901(3)(B), strike "section 3 of the Shipping Act of 1984 (46 App. U.S.C. 1702)" and substitute "section 40102 of title 46".

(i) MISCELLANEOUS.—Section 5501(a) of the Oceans Act of 1992 (Public Law 102–587, 106 Stat. 5084) is amended by adding the following:

"(3) The exceptions provided by paragraph (2) shall apply under section 55109 of title 46, United States Code, to the same extent as under former section 1 of the Act of May 28, 1906, as amended by paragraph (1)."

SEC. 18. TRANSITIONAL AND SAVINGS PROVISIONS.

(a) CUTOFF DATE.—This Act replaces certain provisions enacted on or before April 30, 2005. If a law enacted after that date amends or repeals a provision replaced by this Act, that law is deemed to amend or repeal, as the case may be, the corresponding provision enacted by this Act. If a law enacted after that date is otherwise inconsistent with this Act, it supersedes this Act to the extent of the inconsistency.

(b) ORIGINAL DATE OF ENACTMENT UNCHANGED.—For purposes of determining whether one provision supersedes another based on enactment later in time, the date of enactment of a provision enacted by this Act is deemed to be the date of enactment of the provision it replaced.

(c) REFERENCES TO PROVISIONS REPLACED.—A reference to a provision replaced by this Act is deemed to refer to the corresponding provision enacted by this Act.

(d) LAWS GOVERNING APPLICABILITY OF PRIOR AMENDMENTS.—This Act does not affect any law governing the applicability of an amendment to a provision replaced by this Act, notwithstanding the repeal by this Act of the provision that was amended. To the extent that any such law governed the applicability of a provision replaced by this Act, that law governs the applicability of the corresponding provision enacted by this Act.

(e) REGULATIONS, ORDERS, AND OTHER ADMINISTRATIVE ACTIONS.—A regulation, order, or other administrative action in effect under a provision replaced by this Act continues in effect under the corresponding provision enacted by this Act.

(f) ACTIONS TAKEN AND OFFENSES COMMITTED.—An action taken or an offense committed under a provision replaced by this Act is deemed to have been taken or committed under the corresponding provision enacted by this Act.

SEC. 19. REPEALS.

The following provisions are repealed, except with respect to rights and duties that matured, penalties that were incurred, or proceedings that were begun before the date of enactment of this Act:

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Oct. 5	98–454	302	98	1734	808a
Oct. 30	98–563		98	2916	289c
1985 Dec. 23	99–198	1141	99	1490	1241d
		1143	99	1496	1241p
1986 Aug. 27	99–399	902	100	889	1801
		905	100	890	1802
		907	100	891	1803
		908	100	891	1804
		909	100	892	1805
		910	100	892	1806
		911	100	892	1807
		912	100	892	1808
		913	100	892	1809
1987 Dec. 22	100–202	101(a) [title V (par. under heading "Ocean Freight Differential")].	101	1329, 1329–27	1241h nt
		101(a) [title V (4th proviso on p. 1329-28)]	101	1329, 1329–28	1295c–1
1988 May 30	100–324	1	102	576	2001 nt
		2	102	576	2001
		3	102	576	2002
		4	102	576	2003
		5	102	576	2004
		6	102	577	2005
		7	102	577	2006
		8	102	577	2007
Aug. 23	100–418	10002	102	1570	1710a
1989 Oct. 13	101–115	4	103	692	1295c nt
		8	103	694	1121–2
1990 Nov. 28	101–624	1521	104	3665	1241q
		1522	104	3665	1241r
		1523	104	3666	1241s
		1524	104	3667	1241t
		1526	104	3668	1241u
		1527	104	3668	1241v
1993 Nov. 30	103–160	1358	107	1816	1280a

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		1120(f)	110	3978	883 nt
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Oct. 21	105–277	203(b)–(e)	112	2681–619	46 U.S.C. 12102 nt
Nov. 13	105–383	502–504	112	3445	46 U.S.C. 12106 nt
2000 Oct. 30	106–398	1 [§ 3506]	114	1654, 1654A–494	1118 nt
2002 Nov. 25	107–295	403	116	2114	46 U.S.C. 12119 nt
		404	116	2114	316a
2003 Nov. 24	108–136	3527	117	1802	1280b

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The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 1442, which completes the codification of title 46, United States Code, relating to shipping as positive law. The ranking member of the Committee on the Judiciary, Mr. CONYERS, and I jointly introduced this legislation on March 17, 2005. The bill was prepared by the Office of the Law Revision Counsel as a part of the program required by title 2 United States Code section 285(b) to prepare and submit to the Committee on the Judiciary, one title at a time, a complete compilation, restatement and revision of the general and permanent laws of the United States.

This bill, as well as any other bill submitted by the Office of Law Revision Counsel under this program, makes no substantive changes in existing law nor is it intended to do so. Thus, Members should understand that because of the nature of this bill, supporting it does not imply support of the underlying provisions that are being reorganized and cleaned up. This is a necessary bill. I urge Members to support it.

Madam Speaker, I reserve the balance of my time.

Mr. BERMAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in support of H.R. 1442, a bill to complete the codification of title 46 of the U.S. Code, the "Shipping" title. It will enhance understanding of and compliance with important shipping and maritime laws. This makes no substantive change in the law. It simply provides clarity and reorganization. I urge its passage.

Madam Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Madam Speaker, I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and pass the bill, H.R. 1442, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF HOUSE THAT NINTH CIRCUIT COURT OF APPEALS INFRINGED ON PARENTAL RIGHTS

Mr. SENSENBRENNER. Madam Speaker, I move to suspend the rules and agree to the resolution (H. Res. 547) expressing the sense of the House of Representatives that the United States Court of Appeals for the Ninth Circuit deplorably infringed on parental rights in Fields v. Palmdale School District.

The Clerk read as follows:

H. RES. 547

Whereas the Palmdale School District sent parents of elementary school students at Mesquite Elementary School in Palmdale, California a letter requesting consent to give a psychological assessment questionnaire to their first, third, and fifth grade students;

Whereas without the informed consent of their parents, the young students were instead administered a questionnaire that contained sexually explicit and developmentally inappropriate questions;

Whereas seven parents subsequently filed a complaint against the Palmdale School District in a Federal district court;

Whereas on November 2, 2005, a 3-judge panel of the Ninth Circuit Court of Appeals affirmed the decision of the United States District Court for the Central District of California in the case (Fields v. Palmdale School District) and held that parents "have no constitutional right . . . to prevent a public school from providing its students with whatever information it wishes to provide, sexual or otherwise, when and as the school determines that it is appropriate to do so";

Whereas the Ninth Circuit stated, "once parents make the choice as to which school their children will attend, their fundamental right to control the education of their children is, at the least, substantially diminished";

Whereas in Meyer v. Nebraska, 262 U.S. 390, 401 (1923), the Supreme Court recognized that the liberty guaranteed by the 14th amendment to the Constitution encompasses "the power of parents to control the education of their [children]";

Whereas the Supreme Court in Pierce v. Society of Sisters, 268 U.S. 510, 534–35 (1925), highlighted the Meyer doctrine that parents and guardians have the liberty "to direct the upbringing and education of children under control" and emphasized that "[t]he child is not the mere creature of the state; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations";

Whereas in Wisconsin v. Yoder, 406 U.S. 205, 232–33 (1972), the Supreme Court acknowledged that "[t]he history and culture of Western civilization reflect a strong tradition of parental concern for the nurture and upbringing of their children. This primary role of the parents in the upbringing of their children is now established beyond debate as an enduring American tradition. . . . The duty to prepare the child for 'additional obligations', referred to by the Court [in Pierce] must be read to include the inculcation of moral standards, religious beliefs, and elements of good citizenship";

Whereas a plurality of the Supreme Court has stated, "it cannot now be doubted that the Due Process Clause of the Fourteenth Amendment protects the fundamental right of parents to make decisions concerning the care, custody, and control of their children" (Troxel v. Granville, 530 U.S. 57, 66 (2000) (plurality opinion));

Whereas the Ninth Circuit's decision in Fields v. Palmdale School District presupposes that "parents make the choice as to which school their children will attend" when, in fact, many parents do not have such a choice;

Whereas the decision in Fields establishes a dangerous precedent for limiting parental involvement in the public education of their children; and

Whereas the rights of parents ought to be strengthened whenever possible as they are the cornerstone of American society: Now, therefore, be it

Resolved, That it is the sense of the House of Representatives that—

(1) the fundamental right of parents to direct the education of their children is firmly grounded in the Nation's Constitution and traditions;

(2) the Ninth Circuit's ruling in Fields v. Palmdale School District undermines the fundamental right of parents to direct the upbringing of their children; and

(3) the United States Court of Appeals for the Ninth Circuit should agree to rehear the case en banc in order to reverse this constitutionally infirm ruling.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from California (Mr. BERMAN) each will control 20 minutes.

The Chair recognizes the gentleman from Wisconsin (Mr. SENSENBRENNER).

Mr. SENSENBRENNER. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I rise in strong support of House Resolution 547, expressing the sense of the House of Representatives that the United States Court of Appeals for the Ninth Circuit grossly infringed on established parental rights in Fields v. Palmdale School District.

In a decision that startled even veteran observers of the Ninth Circuit, a three-judge Ninth Circuit panel held in Fields v. Palmdale School District that parents "have no constitutional right to prevent a public school from providing its students with whatever information it wishes to provide, sexual or otherwise, when and as the school determines that it is appropriate to do so."

This case involved a survey given to 7- to 10-year-old children that contains, among others, 10 specific questions about sex. The Palmdale School District sent parents of first, third and fifth grade students at the Mesquite Elementary School in Palmdale, California, a letter requesting consent to administer a psychological assessment questionnaire to their children. The letter failed to inform the parents that some of the questions expressly involved sexual topics.

Seven parents, including one set of parents that did not return the consent form for their child, were still given the questionnaire, filed suit in Federal court against the school district upon learning from their children of the sexual nature of some of the questions.

A three-judge panel of the Ninth Circuit ruled against the parents concluding that "once parents make the choice as to which school their children will attend, their fundamental right to control the education of their children is, at the least, substantially diminished."

This decision presupposes that the school attended by the children is always a matter of parental choice. As we all know, many parents do not have such a choice, and they should not be forced to forfeit their parental rights when their children enter the schoolhouse gate. Moreover, the flawed logic of this decision has a disproportionate impact on parents who, for financial and other reasons, cannot send their children to schools more responsive to parental rights. Parents should not be required to involuntarily relinquish their right to direct the upbringing and control of their children.

The Ninth Circuit decision compels this outcome by divesting parents of their right to object to their children being exposed to sexual or other information in a school setting. This holding is inconsistent with constitutional precedent and established parental rights.

The Supreme Court recognized in Meyer v. Nebraska that the liberty guaranteed by the 14th amendment encompasses "the power of parents to control the education of their children." The court reaffirmed this fundamental right in Pierce v. Society of Sisters and emphasized that "the child is not the mere creature of the State; those who nurture him and direct his destiny have the right, coupled with the high duty, to recognize and prepare him for additional obligations."

According to the court in Wisconsin v. Yoder, this duty "must be read to include the inculcation of moral standards, religious beliefs and elements of good citizenship."

Despite the fact that the due process clause of the 14th amendment protects the fundamental right of parents to make decisions concerning the care, custody and control of their children, the Ninth Circuit concluded "that parents are possessed of no constitutional right to prevent the public schools from providing information on sex to their students in any forum or manner they select."

This decision sets a dangerous precedent, threatening the parental rights that are firmly grounded in our Nation's Constitution and traditions. I urge my colleagues to affirm their support for parental rights by supporting passage of this resolution.

Madam Speaker, I reserve the balance of my time.

Mr. BERMAN. Madam Speaker, I yield myself such time as I may consume.

Madam Speaker, I am strongly opposed to H. Res. 547. I consider it simply a politically inspired continuation of court-bashing featuring a hypocritical change in thinking that all of a sudden wants to read into the Constitution rights that no court and no student of the Constitution has ever before found.

But I also believe that the conduct that was the subject of this case was offensive, foolish, inappropriate and perhaps even injurious and harmful to the students.

☐ 1130

What is going on in the Palmdale Unified School District? What allows a group of educators to allow a survey that asks questions like this to people as young as in the first grade? But none of that speaks to the merits of this particular resolution. It was introduced only last week. The case only came down 2 weeks ago or so. Its merits have never been considered in the committee process. This resolution simply serves as an attack on "the nature of the Ninth Circuit." It is consistent with the agenda of the majority. I am surprised they did not put the resolution into the reconciliation bill. It should not be supported by this House.

The resolution expresses the sense of the House that parents have a fundamental right to direct their children's education. No argument there. And the Ninth Circuit decision has done precisely that. The Ninth Circuit decision cites the Supreme Court decisions that the gentleman, the chairman of the committee, cited that have held it is a fundamental right protected by the due process clause that parents have the right to make decisions concerning the care, custody and control of their children. The Ninth Circuit decision refers to the limitations placed on that right imposed by the First and Sixth Circuits, the circuits which first posed the supposed threat to parental control.

It was, after all, the First Circuit that held that "this freedom," that is the right, the freedom to control decisions concerning the care, custody and control of their children, "this freedom does not encompass," does not encompass, the First Circuit, not Ninth Circuit, "a fundamental right to dictate the curriculum at the public schools to which they have chosen to send their children." Furthermore, the First Circuit says, "we cannot see that the Constitution imposes such a burden on State educational systems and, accordingly, find that rights of parents do not encompass a broadbased right to restrict the flow of information in the public schools.

And it was the Sixth Circuit's opinion that the Ninth Circuit adopted here which stated, "while parents may have a fundamental right to decide whether they send their child to public school, they do not have the fundamental right generally to direct how a public school teaches their child."

But there is no resolution criticizing the First and Sixth Circuit Court decisions which the author of the resolution should be directing his disapproval towards. The resolution instructs the Court to rehear this case en banc and reverse its decision. This skirts the already available processes for addressing a questionable decision, an en banc petition or an appeal to the Supreme Court. If those in this body want to ensure a broad right for parent-influenced education, opportunities exist for them to legislate this right.

The difference between a foolish, unwise and perhaps harmful decision by a local school district and arguing that that creates and violates some fundamental constitutional right is an incredible leap of faith. This is a school district in California. Why are the parents not at the School Board asking the principal of the school that allowed this graduate student to conduct this survey to be fired? Why are the parents not urging that, if the superintendent does not do that, the School Board fire the superintendent? Why are the parents not organizing the recall of the school board members if the school board members are allowing this kind of a thing to go on? Why are the parents not going to Sacramento and asking the State legislature to prohibit these kinds of surveys of first, third and fifth grade students which get into personal questions that are not appropriately asked in that point of view?

There are so many appropriate avenues open for parents to redress the damage here. And that is all this is. It is a court case after the fact seeking to create, out of whole cloth, a refinement of a constitutional right that no court has ever applied.

It is a small irony that the proponents of this resolution are requesting that the courts engage in a level of judicial activism in order to support their political views. The law should be ideologically neutral, and therefore, the sponsor should be pleased that the Court specifically refused to express a view on the wisdom of posing some of these questions asked or of condoning an inquiry into some of the particular areas surveyed by the school district. The Court did not affirm. It specifically refused to affirm the wisdom and judgment of the people who distributed and prepared and implemented this particular survey.

The ultimate paradox for the cosponsors, though, is the lack of consistency in bringing this resolution forward. When requesting that the right of privacy protects parents' decision making, they must rely on the same decisions which they abhor and claim to be the result of judicial activism, rights that are inferred in decisions such as Roe v. Wade and Lawrence v. Texas, the penumbra, the unstated, unenumerated rights in the Constitution that some courts have found. Any strict analysis of the text of the Constitution cannot lead you to the conclusion that a fundamental constitutional right was violated here for which these parents are entitled to constitutional redress.

Could the proponents of this resolution actually be requesting that the Court read into the Constitution a right not explicitly enumerated in it? Do the sponsors want the Ninth Circuit to legislate from the bench? That does not sound like strict constructionism to me. So I think the issue is a serious one. The Constitution is not the place to go for recourse to rectifying the decisions that were made. There are many, many other alternatives, even tort actions dealing with the harm that was caused to the students who were subject to the survey; but not creating a new refinement of the constitutional right that two circuit courts have already said does not exist and, instead, as part of the agenda for bashing the Ninth Circuit and seeking to use the reconciliation bill to split the Ninth Circuit, provide us with one more chance to engage in that kind of game playing.

Madam Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Madam Speaker, I yield 5 minutes to the principal author of the resolution, the gentleman from Pennsylvania (Mr. MURPHY).

Mr. MURPHY. Madam Speaker, let me start off by saying that as a psychologist who primarily specializes in issues dealing with children and families, when I heard the conclusions on this case, what leapt out at me was how this decision by the Ninth Circuit Court really went far beyond the actual issues in this case, and I had great concerns. Let me walk us through a couple of points here.

In 2002, when the first claim was filed in Fields v. Palmdale School District, it came from a parental consent letter that was sent to parents from the Palmdale School District asking parents to sign this informed consent letter. The informed consent letter did talk about there would be three, 20-minute self-report measures given to the children one day. They said it was confidential and did say that the questions may make my child feel uncomfortable, and if this occurs, the researcher in this case would help the parents locate a therapist for some psychological help if necessary.

What the parents were not told was that it would contain several questions having to do with sexuality, which were given to first, third and fifth graders. Questions such as touching my private parts too much, thinking about having sex, thinking about touching other people's private parts, thinking about sex when I do not want to, washing myself because I feel dirty inside, and the list goes on.

The School District subsequently has claimed that they did not know those questions were going to be given to the children. In fact, they state that they saw a different questionnaire and something was swapped on them.

Here is what comes out of this case; that indeed, what may have occurred is this was not an informed consent letter given to parents, and even for parents who did not sign, for whatever reason, this lack of informed consent letter, their children were still administered this questionnaire.

This is not how psychological research is to be conducted, Madam Speaker. The standard of ethics for psychologists and for research is a letter of informed consent given to parents must clearly inform parents what is happening. The School District involved should have been clearly told what was happening in this case, too. And then what occurred here is neither.

But what is amazing here where this case in the courts could have reaffirmed parents' rights to informed consent before their children were used in psychological research; instead, the Ninth Circuit Court pulled out an overreaching conclusion out of the stratosphere that declared parenting is unconstitutional. They declared parents have no right to protect their children's privacy when they said, "we hold that there is no freestanding fundamental right of parents to control the upbringing of their children by introducing them to matters of and relating to sex in accordance with their personal and religious values and beliefs." They go on to say that we do not quarrel with parents' rights to inform and advise their children about the subject of sex as they see fit.

But that is not what this case was about. It was a lack of informed consent. And parents were protesting this. And from the standpoint of psychologists, the question is whether or not issues like that were really appropriate to give to first, third and fifth graders. Certainly, when I have done psychological evaluations for children that we have concerns that they have been sexually abused, the psychologist involved is very careful; the law enforcement people are very careful what questions they ask the child because they are concerned whether the questions themselves cause problems for the children. And when that happens, one has to back off and not ask those questions anymore.

In a case like this, first, third and fifth graders overall were asked those questions when there was not even suspicion of some problems. But when the Court continues to say there is no fundamental right of parents to be the exclusive provider of information regarding sexual matters for their children, either independent of their right to direct the upbringing and education of the children who are encompassed by it, I wonder where these conclusions come from. And I believe it is fully within the jurisdiction of Congress to raise questions and follow the procedures and ask the courts to review this again.

Certainly, as the distinguished gentleman from California was saying, I do not know why or if the parents asked for firing of the superintendent. I do not know what complaints they may have lodged with Sacramento or with school boards in these cases, and I cannot speak to those issues. What we are speaking to here is a case in which a court, I believe, far overreached the issues involved with the case and declared parenting unconstitutional.

I believe, and I hope Members will support this bill, because we are saying parents indeed do have a right to fully disclose informed consent when their children are asked to do anything. Certainly, parents may not be involved with every step of everything that is said at every level on every day on every moment of every part of a curriculum in school, and I do not think that is what the parents are asking in this case. But they are saying, when a psychological survey or questionnaire is administered to their children, they darn well ought to have the right to know what is in there, especially when the survey itself says it may cause trauma to children.

So I am asking my colleagues to support this resolution and ask the Ninth Circuit Court to review this case again.

Mr. BERMAN. Madam Speaker, I yield such time as he may consume to the gentleman from Massachusetts (Mr. FRANK).

Mr. FRANK of Massachusetts. Madam Speaker, here they go again. Once again, the Republican Party is demanding of the courts that they be more activist. Earlier this year, we passed a resolution denouncing the Supreme Court in the case of eminent domain for not overturning decisions of local and State elected officials in Connecticut. Today, we are asked to denounce the Ninth Circuit Court for not overturning the actions of a local School Board. And here is the nub of the Court's holding, quote, "although we reached our conclusions with little difficulty and firmly endorse the school districts' authority to conduct a survey for the purposes involved here, we reiterate that we express no view on the wisdom of posing some of the particular questions asked or of conducting an inquiry into the particular areas surveyed by the school district." And here is what the majority is apparently upset about. That determination is properly left to the school authorities.

In other words, where is activism when you need it, Madam Speaker? Why do we not have a Supreme Court tell the people in Connecticut, elected officials, you may not do this economic development the way you want? We, the unelected Supreme Court, will overturn you. Here, without a specific textual phrase in the Constitution, even like taking of property, we say to the Ninth Circuit, how dare you say this is up to the school board?

The gentleman from Pennsylvania made some arguments that were very plausible to me about the lack of sense for some of these questions. He was critical. He said, you should not ask these of first, third and fifth graders. But it is not up to the courts to decide what is good or bad psychology. That is up to the school district.

And again, let us be very clear. This is the second time in a couple of months the majority has complained that the courts, the Federal courts, have not cancelled out the actions of local elected officials and State elected officials. Now, that is only a problem for this point.

□ 1145

What we ought to have is honesty in attacking the judiciary. Truth in demagoguery.

The point is that when you say you are opposed to the courts because they are activists and because lifetime-appointed judges are overturning elected officials, that ought to be what you mean. If you mean you do not like the particular outcome, say so. It is perfectly legitimate to be result-oriented, and lots of us are.

The problem here is the lack of intellectual honesty. Clearly, people are not opposed to judicial activism. In the case of eminent domain, in the case of this situation here, they are opposed to the lack of judicial activism.

Now, I also wonder how far that extends, because on Monday, the Supreme Court decided a far more important case, I believe, to the parents involved regarding their rights vis-a-vis their children. By a 6-2 vote, the Supreme Court said that the burden of proof is on the parents of a child with a disability. If the parents disagree with what the school has proposed to educate a child with a disability, they, the individual parent, has the burden of proof in court in overturning what the school board has decided.

Now, I have to tell my colleagues this: I think if you are the parent of a disabled child, getting that child the proper educational structure is more important than whether or not she has to do a sex survey. You might dislike the sex survey, but I would think to most parents, getting the right education for your child is more important. But the Supreme Court said, no, the burden of proof is on you, the parent. You, the parent, have the burden of proof with regard to your child's education.

Where are the assertions of the absolute right of the parents? Why do the parents not have the kind of rights you are claiming? Was that making parenting unconstitutional? Did Justice Scalia and Justice Thomas who are in the majority make parenting unconstitutional when they said you, the parent, have the burden of proof if you want to improve the educational structure of your children?

In other words, what the majority says is when we do not like a decision, we will criticize the court. That is fine, that is free speech, as long as you do not get into PATRIOT Act situations. But why disguise what you are saying? If you really do not like the result, say you do not like the result. Why all these complaints about activism when what we have here is again a complaint about the absence of activism?

So I hope going forward, we will have honest debates about what the courts do and do not do, and we will stop pretending that we are upset about activism when what you are really upset about is judicial pacifism. You want the Ninth Circuit to overturn the Palmdale School Board. Well, why does a Member of Congress not do something about that with the school board of Palmdale? You are upset because the Supreme Court did not overturn the elected officials in Connecticut. Let us have some honesty in this regard.

Mr. BERMAN. Madam Speaker, if the gentleman will yield, the other irony is, here we bash the court for not creating a new constitutional right, never before proclaimed in the context of this resolution, in order to overturn a local school decision and, at the same time, we whip bills through here left and right stripping the courts of jurisdiction to decide the cases.

Mr. FRANK of Massachusetts. Madam Speaker, let me ask the gentleman, because I know he has studied this well. I have read the opinion. I have not read the pleading. I do not know what specific phrase in the Constitution they pointed to, but I wonder from an originalist standpoint, did John Adams and James Madison want the Supreme Court to have the right, did they say that there was this absolute parental right? I would ask the gentleman, is this one of those nasty things we find lurking in that penumbra, which is such an unpleasant word?

Mr. BERMAN. Madam Speaker, I say, where is the Federalist Society when we need them? All of a sudden, everything flips around.

Mr. FRANK of Massachusetts. Well, I cannot answer as to where the whole Federalist Society is, but I can tell the gentleman where at least one of the leaders of the Federalist Society who introduced my Governor the other day, I know where he was. He was busy making jokes about two Senators in the Ku Klux Klan, which he seemed to think, as did others, was riotously funny.

Mr. BERMAN. Madam Speaker, if the gentleman will yield, that right is very specifically protected in the Constitution.

Mr. FRANK of Massachusetts. Absolutely. Let us just be very clear. I, from what I have read, would not have voted to issue that survey. I think it was a mistake. But I hope the majority is not telling us that it is the role of the circuit courts of appeals to second-guess the psychological judgments of the school boards.

Again, you may disagree even with what the court said in terms of the final decision, but let us be intellectually honest. It is a lack of activism. In the eminent domain case here, it is a lack of activism. It is a complaint by the majority that the courts have upheld decisions by local officials that the majority does not like. They have a right to that view; they just do not have a right to disguise it.

I thank the gentleman for yielding.

Mr. BERMAN. Madam Speaker, I reserve the balance of my time.

Mr. SENSENBRENNER. Madam Speaker, I yield myself 30 seconds.

Madam Speaker, my two friends on the other side of the aisle are obfuscating the real issue that is involved. I do not think John Adams and James Madison ever thought of first, third, and fifth graders being asked the questions that were recited by the gentleman from Pennsylvania (Mr. MURPHY), the author of the resolution. The question here is whether this decision is right or wrong. It is wrong, and that is why the resolution ought to be passed.

Madam Speaker, I yield 1 minute to the gentleman from Pennsylvania (Mr. PITTS).

Mr. PITTS. Madam Speaker, I thank the gentleman from Pennsylvania (Mr. MURPHY) for introducing this important legislation.

In its decision, the Ninth Circuit said: "We hold that parents have no due process or privacy right to override the determinations of public schools as to the information to which their children will be exposed while enrolled as students."

Parents, not schools, certainly not the courts, hold the primary responsibility for educating their children, especially when it comes to more sensitive subject matters like sexual, moral, and religious instruction. But the Ninth Circuit, the same court that ruled the phrase "under God" in the Pledge is unconstitutional, would strip parents of this fundamental role in their children's lives.

Make no mistake: if this ruling stands, not only will parents lose the right to choose what lessons their children will learn; it will not be long before they will not even be allowed to know what is being taught in the classroom.

I rise in strong support of this resolution and urge its adoption.

Mr. SENSENBRENNER. Madam Speaker, I yield 2 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Madam Speaker, I have great respect for my friend across the aisle, the gentleman from California (Mr. BERMAN), as we have served on Judiciary together. But when the question was asked or put to us in terms of us wanting the courts to create a new right for parents, I would submit to my colleagues, never before was it necessary, because nobody had the audacity to try to say that parents would not have a right to a say in how their children were governed.

I was in an exchange program in the Soviet Union back in 1973 and visited a day care center, and I was appalled that the parents were not allowed any say whatsoever in how the children were raised, what they were taught. That was exclusively the right of the State. I thanked God that day that that was not the way it was in the United States.

Now, 32 years later, we find ourselves at a point that some think it is evolving for the State to take away the parents' right to have a say in how their children are taught and what they are taught and what goes on in the school. It is not a time that I can thank God that we evolved to this point.

I support the resolution. I think it is a great resolution; and coming from the gentleman that is proposing it, it is even more important and appropriate. I support the resolution.

Mr. BERMAN. Madam Speaker, I yield myself the remaining time.

Madam Speaker, a few points. I think the gentleman from Pennsylvania made compelling points about the stupidity and the danger of this kind of a survey. I have no argument whatsoever about the right of parents to have an important say in the education of their children.

The most fascinating thing about this argument is my friend from Texas (Mr. GOHMERT) and the chairman of the committee are making a wonderful case for why you need to evolve notions of constitutional protections rather than be stuck with what the Framers were thinking at that time, because this was not happening at that time and the Framers were not thinking of it at the time.

What I am challenging is this notion that the answer to this particular outrage is a constitutional case in the Federal courts. I repeat again: Where was the principal? Where was the superintendent? Where was the school board?

There are all kinds of ways in which a citizenry can take those issues into their hands. They could pass a State law prohibiting these kinds of surveys getting into these kinds of questions from being asked of first, third, and fifth graders. In fact, given this Congress's proclivities, we could just preempt local education and, at a Federal level, prohibit any local school district from doing this. This would not be so inconsistent with what we are doing in a number of other areas.

There are many courses here. The only issue is here is a Ninth Circuit that carefully follows, affirms the fundamental right of parents, acknowledges the limitations on that right imposed by the First and Sixth Circuits, specifically refuses to affirm the wisdom of a conduct of the survey that is the subject of a litigation, and then says we cannot find that we can essentially articulate a constitutional right here that gives people that kind of constitutional relief. Pursue all your other avenues for this ridiculous conduct. Make the people accountable. But it does not have to come from the Bill of Rights and the 14th amendment to the Constitution.

We cannot solve all of society's problems and all of government's overstepping and improper conduct by virtue of constitutional law. I think the conservative position on this issue should be to oppose this kind of a resolution and oppose the logic that goes into thinking like this and tell people that there are many problems that have to be solved in ways other than simply trying to establish you had a constitutional right to be protected from this kind of wrong activity.

Madam Speaker, I yield back the balance of my time.

Mr. SENSENBRENNER. Madam Speaker, I yield the balance of the time to the author, the gentleman from Pennsylvania (Mr. MURPHY).

Mr. MURPHY. Madam Speaker, the gentleman from California made a good point, that there are some dangers involved here. He said that they could have passed a State law in California. Indeed, they could have and should have. The school board could have also acted upon this, as I assume they may well have done so. And, indeed, much of this we would like to uphold is up to the States to take care of matters of education. I agree with him on those points.

Unfortunately, the Ninth Circuit Court did not agree. The Ninth Circuit Court instead decided to overstep, I believe, what are the boundaries of what a Federal court should be doing, and step in.

I believe it is incongruous that government enforces children's attendance in public school, but then the Federal courts say that parents have no right to complain about what children are exposed to while there.

Let me refer back to the conclusion made by the judge in this case. He said, "We hold that parents have no due process or privacy right to override the determination of the public schools as to the information to which their children will be exposed while enrolled as students."

Where did that come from? We are talking about children being asked questions of a sexual nature that, as a superintendent of the school has said, the school was not shown this questionnaire, it was not disclosed to the parents. Indeed, if the judge of the Ninth Circuit Court did what the gentleman from California said he ought to do, to simply say, this is not a Federal matter, this should go back to the States, they should deal with this in Sacramento, in the Palmdale School District, and they should make sure that they reaffirm the rights of parents to fully disclose information when they are signing consent forms.

This resolution also is not meant to be critical of legitimate psychological pursuits and research. Psychologists have a code of ethics they are to adhere to when they are undergoing research. Indeed, everyone in the mental health and medical fields have to have their research go in front of a human subjects committee to have their concept letters approved. This is not an attempt to bash the mental health community. In fact, what I am trying to do is uphold the standards of the mental health community, which I believe have been usurped in this case.

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These were not children referred for legitimate psychological testing because there was suspicion of behavioral problems. These were everyday kids given a questionnaire, and everyday parents who were not told what was in that questionnaire. Indeed, what I say, as this resolution passed by the House declares, the fundamental right of parents to direct the education of their children is firmly grounded in the Nation's Constitution and traditions.

The Ninth Circuit Court undermines such a right, and the court should rehear the case and reverse the decision. I believe the Court's decision overreached the issues in the case; they overreached their conclusions, and it needs to be overturned.

When it comes to what schools are asking very young children about sex or about any matters of privacy, protecting the 14th amendment, the Ninth Circuit Court decided not only do parents not have the right to say no, they do not even have a right to know what is being asked.

On behalf of every parent in America, Congress calls upon the courts to correct this deplorable injustice. That is why, in this resolution, we are asking the courts to uphold the rights of parents, to uphold the rights of privacy, what the parents have about their children and certainly to overturn the decision that says parenting is unconstitutional.

I ask my colleagues to support this resolution, and I ask parents to also consider the conclusion that, if it stands, what impact this Ninth Circuit Court decision could have with regard to parents' rights to ever speak up again and challenge anything else within the school district.

Mr. LEVIN. Mr. Speaker, I will vote against House Resolution 547 today, but I want to clearly state my reasons for doing so. In particular, I want the record to show that I strongly disagree with the highly misguided decision of the Palmdale School District in California to administer a questionnaire to young children that included totally inappropriate questions concerning sex. If there was a law that blocked elected school boards from making boneheaded decisions, the action of the Palmdale School District would fall squarely within its purview.

But that is not what the Chairman of the Judiciary Committee has brought before us today. Instead, the resolution condemns the 9th Circuit Court of Appeals for not finding a law or constitutional principle to override the decisions of democratically-elected school board members. My friends on the other side of the aisle often rail against "activist judges" and complain when, in their opinion, judges make law from the bench. As has been noted by others, it appears that in this case the Majority objects to the fact that the 9th Circuit judges were not activist enough.

There are many avenues for parents who disagree with any decision made by their local school board. In this particular case, the public outcry against the Palmdale School District questionnaire resulted in the survey being promptly discontinued. If parents wish further redress, they may also vote the school board out of office.

For these reasons, I will vote against this resolution today.

Ms. DEGETTE. Mr. Speaker, I rise in opposition to H. Res. 547.

Let me be very clear. In no way do I endorse the actions of the Palmdale School District at issue in Fields v. Palmdale School District.

The problem is that H. Res. 547 goes beyond passing judgment on the actions of the School District and directs the United States Court of Appeals for the Ninth Circuit how to do its job. Under the Constitution, I do not feel it is appropriate for Congress to infringe on the rights and duties of the federal judiciary, a fellow independent and co-equal branch of government.

Additionally, I am confident our courts are fully capable of adjudicating matters without congressional input. Simply because I may disagree with a particular ruling does not change my otherwise strong faith in the men and women serving on our nation's federal and state courts.

Ms. LINDA T. SÁNCHEZ of California. Mr. Speaker, I couldn't agree more with my colleagues and the parents whose children were subject to a flawed, distasteful survey in Palmdale, California. The survey was clearly improper. However, I disagree that we should condemn the decision of the 9th Circuit Court. We should hold the Palmdale school district responsible for the content and the manner in which the survey was conducted.

School districts should and must ensure that parents are fully informed about all survey topics. In addition, school districts must guarantee that parents consent to their children's participation in a survey.

I will be voting no on H. Res. 547 because I believe it misses the mark—the Palmdale school district should be condemned for conducting the survey as opposed to condemning the 9th Circuit for their interpretation of the Constitution.

Mr. HOLT. Mr. Speaker, while I agree with the position in this resolution that parents do have responsibility for their children's upbringing and a school district cannot supplant those rights, I must oppose this resolution.

I oppose this resolution because it declares that the court should rehear the case in order to reverse its decision. It should not be the role of the legislative branch to dictate to the court system how it should rule. The founding fathers created three coequal branches of government for good reason. It is for this constitutional principle that I must oppose H. Res. 547.

Mr. OBERSTAR. Mr. Speaker, I rise today to express my opposition to H. Res. 547, which expresses the sense of the House of Representatives "that the United States Court of Appeals for the Ninth Circuit deplorably infringed on parental rights in Fields v. Palmdale School District."

I oppose this resolution, because I believe the legislative branch ought not to intercede in the matter at this time. It is premature for Congress to take a position on the court's ruling, because the issue has not yet been definitively decided by the judicial branch. Fields v. Palmdale School District is an ongoing legal matter that is being addressed by the judicial branch. The legislative branch's action to prejudge the decision infringes on the separation of powers in the Constitution and is an unnecessary usurpation of the judicial branch's role.

Should Republican leaders choose to continue bringing to the floor of the House of Representatives resolutions that criticize decisions of the courts, they should wait until the U.S. Supreme Court has issued a final decision.

Mr. SENSENBRENNER. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GUTKNECHT). The question is on the motion offered by the gentleman from Wisconsin (Mr. SENSENBRENNER) that the House suspend the rules and agree to the resolution, H. Res. 547.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SENSENBRENNER. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

NATIVE AMERICAN TECHNICAL CORRECTIONS ACT OF 2005

Mr. RENZI. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 3351) to make technical corrections to laws relating to Native Americans, and for other purposes, as amended.

The Clerk read as follows:

H.R. 3351

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE; TABLE OF CONTENTS.

(a) SHORT TITLE.—This Act may be cited as the "Native American Technical Corrections Act of 2005".

(b) TABLE OF CONTENTS.—The table of contents for this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

Sec. 101. Indian Financing Act amendments.
Sec. 102. Gila River Indian Community binding arbitration.
Sec. 103. Alaska Native Claims Settlement Act voting standards amendment.
Sec. 104. Indian tribal justice technical and legal assistance.
Sec. 105. Tribal justice systems.
Sec. 106. ANCSA amendment.
Sec. 107. Mississippi Band of Choctaw transportation reimbursement.
Sec. 108. Indian Pueblo Land Act Amendments.

TITLE II—INDIAN LAND LEASING

Sec. 201. Prairie Island land conveyance.
Sec. 202. Authorization of 99-year leases.
Sec. 203. Paskenta Band of Nomlaki Indians 99-year lease authority.

TITLE I—TECHNICAL AMENDMENTS AND OTHER PROVISIONS RELATING TO NATIVE AMERICANS

SEC. 101. INDIAN FINANCING ACT AMENDMENTS.

(a) LOAN GUARANTIES AND INSURANCE.—Section 201 of the Indian Financing Act of 1974 (25 U.S.C. 1481) is amended—

(1) by striking "the Secretary is authorized (a) to guarantee" and inserting "the Secretary may—

"(1) guarantee";

(2) by striking "Indians; and (b) in lieu of such guaranty, to insure" and inserting "Indians; or

"(2) to insure";

(3) by striking "SEC. 201. In order" and inserting the following:

"SEC. 201. LOAN GUARANTIES AND INSURANCE.

"(a) IN GENERAL.—In order"; and

(4) by adding at the end the following:

"(b) ELIGIBLE BORROWERS.—The Secretary may guarantee or insure loans under subsection (a) to both for-profit and nonprofit borrowers.".

(b) LOAN APPROVAL.—Section 204 of the Indian Financing Act of 1974 (25 U.S.C. 1484) is amended by striking "SEC. 204." and inserting the following:

"SEC. 204. LOAN APPROVAL.".

(c) SALE OR ASSIGNMENT OF LOANS AND UNDERLYING SECURITY.—Section 205 of the Indian Financing Act of 1974 (25 U.S.C. 1485) is amended—

(1) by striking "SEC. 205." and all that follows through subsection (b) and inserting the following:

"SEC. 205. SALE OR ASSIGNMENT OF LOANS AND UNDERLYING SECURITY.

"(a) IN GENERAL.—All or any portion of a loan guaranteed or insured under this title, including the security given for the loan—

"(1) may be transferred by the lender by sale or assignment to any person; and

"(2) may be retransferred by the transferee.

"(b) TRANSFERS OF LOANS.—With respect to a transfer described in subsection (a)—

"(1) the transfer shall be consistent with such regulations as the Secretary shall promulgate under subsection (h); and

"(2) the transferee shall give notice of the transfer to the Secretary.";

(2) by striking subsection (c);

(3) by redesignating subsections (d), (e), (f), (g), (h), and (i) as subsections (c), (d), (e), (f), (g), and (h), respectively;

(4) in paragraph (2) of subsection (c) (as redesignated by paragraph (3))—

(A) by striking "VALIDITY.—" and all that follows through "subparagraph (B)," and inserting "VALIDITY.—Except as provided by regulations in effect on the date on which a loan is made,"; and

(B) by striking "incontestable" and all that follows and inserting "incontestable.";

(5) in subsection (e) (as redesignated by paragraph (3))—

(A) by striking "The Secretary" and inserting the following:

"(1) IN GENERAL.—The Secretary"; and

(B) by adding at the end the following:

"(2) COMPENSATION OF FISCAL TRANSFER AGENT.—A fiscal transfer agent designated under subsection (f) may be compensated through any of the fees assessed under this section and any interest earned on any funds or fees collected by the fiscal transfer agent while the funds or fees are in the control of the fiscal transfer agent and before the time at which the fiscal transfer agent is contractually required to transfer such funds to the Secretary or to transferees or other holders."; and

(6) in subsection (f) (as redesignated by paragraph (3))—

(A) by striking "subsection (i)" and inserting "subsection (h)"; and

(B) in paragraph (2)(B), by striking ", and issuance of acknowledgments,".

(d) LOANS INELIGIBLE FOR GUARANTY OR INSURANCE.—Section 206 of the Indian Financing Act of 1974 (25 U.S.C. 1486) is amended by striking "Internal Revenue Code of 1954, as amended," and inserting "Internal Revenue Code of 1986 (except loans made by certified Community Development Finance Institutions)".

(e) AGGREGATE LOANS OR SURETY BONDS LIMITATION.—Section 217(b) of the Indian Financing Act of 1974 (25 U.S.C. 1497(b)) is amended by striking "$500,000,000" and inserting "$1,500,000,000".

SEC. 102. GILA RIVER INDIAN COMMUNITY BINDING ARBITRATION.

(a) AMENDMENTS.—Subsection (f) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(f)), is amended—

(1) in the first sentence, by striking "Any lease" and all that follows through "affecting land" and inserting "Any contract, including a lease, affecting land"; and

(2) in the second sentence, by striking "Such leases or contracts entered into pursuant to such Acts" and inserting "Such contracts".

(b) EFFECTIVE DATE.—The amendments made by subsection (a) shall take effect as if included in Public Law 107–159 (116 Stat. 122).

SEC. 103. ALASKA NATIVE CLAIMS SETTLEMENT ACT VOTING STANDARDS AMENDMENT.

(a) IN GENERAL.—Subsection (d)(3) of section 36 of the Alaska Native Claims Settlement Act (43 U.S.C. 1629b) (as amended by subsection (b)) is amended—

(1) by inserting after "of this section" the following: "or an amendment to the articles of incorporation described in section 7(g)(1)(B)"; and

(2) by inserting "or amendment" after "meeting relating to such resolution" each place it appears.

(b) TECHNICAL CORRECTIONS.—

(1)(A) Section 337(a) of the Department of the Interior and Related Agencies Appropriations Act, 2003 (Division F of Public Law 108–7; 117 Stat. 278; February 20, 2003) is amended—

(i) in the matter preceding paragraph (1), by striking "Section 1629b of title 43, United States Code," and inserting "Section 36 of the Alaska Native Claims Settlement Act (43 U.S.C. 1629b)";

(ii) in paragraph (2), by striking "by creating the following new subsection:" and inserting "in subsection (d), by adding at the end the following:"; and

(iii) in paragraph (3), by striking "by creating the following new subsection:" and inserting "by adding at the end the following:".

(B) Section 36 of the Alaska Native Claims Settlement Act (43 U.S.C. 1629b) is amended—

(i) in subsection (d)(3), by striking "(d)"; and

(ii) in subsection (f), by striking "section 1629e of this title" and inserting "section 39".

(2)(A) Section 337(b) of the Department of the Interior and Related Agencies Appropriations Act, 2003 (Division F of Public Law 108–7; 117 Stat. 278; February 20, 2003) is amended by striking "Section 1629e(a)(3) of title 43, United States Code," and inserting "Section 39(a)(3) of the Alaska Native Claims Settlement Act (43 U.S.C. 1629e(a)(3))".

(B) Section 39(a)(3)(B)(ii) of the Alaska Native Claims Settlement Act (43 U.S.C. 1629e(a)(3)(B)(ii)) is amended by striking "(a)(4) of section 1629b of this title" and inserting "section 36(a)(4)".

(3) The amendments made by this subsection take effect on February 20, 2003.

SEC. 104. INDIAN TRIBAL JUSTICE TECHNICAL AND LEGAL ASSISTANCE.

Sections 106 and 201(d) of the Indian Tribal Justice Technical and Legal Assistance Act of 2000 (25 U.S.C. 3666, 3681(d)) are amended by striking "for fiscal years 2000 through 2004" and inserting "for fiscal years 2004 through 2010".

SEC. 105. TRIBAL JUSTICE SYSTEMS.

Subsections (a), (b), (c), and (d) of section 201 of the Indian Tribal Justice Act (25 U.S.C. 3621) are amended by striking "2007" and inserting "2010".

SEC. 106. ANCSA AMENDMENT.

All land and interests in land in the State of Alaska conveyed by the Federal Government under the Alaska Native Claims Settlement Act (43 U.S.C. 1601 et seq.) to a Native Corporation and reconveyed by that Native Corporation, or a successor in interest, in exchange for any other land or interest in land in the State of Alaska and located within the same region (as defined in section 9(a) of the Alaska Native Claims Settlement Act (43 U.S.C. 1608(a)), to a Native Corporation under an exchange or other conveyance, shall be deemed, notwithstanding the conveyance or exchange, to have been conveyed pursuant to that Act.

SEC. 107. MISSISSIPPI BAND OF CHOCTAW TRANSPORTATION REIMBURSEMENT.

The Secretary of the Interior, acting through the Bureau of Indian Affairs, is authorized and directed to enter into a contract in order to accept funds from the State of Mississippi and deposit such funds in trust account number PL7489708 at the Office of Trust Funds Management for the benefit of the Mississippi Band of Choctaw Indians, as set forth in the agreement executed by the Mississippi Department of Transportation on June 7, 2005, and by the Mississippi Band of Choctaw Indians on June 2, 2005. Thereafter, the tribe may draw down these moneys from this trust account by resolution of the Tribal Council, pursuant to Federal law and regulations applicable to such accounts.

SEC. 108. INDIAN PUEBLO LAND ACT AMENDMENTS.

The Act of June 7, 1924 (43 Stat. 636, chapter 331), is amended by adding at the end the following:

"SEC. 20. CRIMINAL JURISDICTION.

"(a) In General.—Except as otherwise provided by Congress, jurisdiction over offenses committed anywhere within the exterior boundaries of any grant from a prior sovereign, as confirmed by Congress or the Court of Private Land Claims to a Pueblo Indian tribe of New Mexico shall be provided in this section.

"(b) Jurisdiction of the Pueblo.—The Pueblo has jurisdiction, as an act of the Pueblos inherent power as an Indian tribe, over any offense committed by a member of the Pueblo or an Indian, as defined in section 201 of the Act of April 11, 1968 (25 U.S.C. 1301), or by any other Indian-owned entity.

"(c) Jurisdiction of the United States.—The United States has jurisdiction over any offense described in chapter 53 of title 18, United States Code, committed by or against an Indian as defined in section 201 of the Act of April 11, 1968 (25 U.S. C. 1301) or any Indian-owned entity, or that involves any Indian property or interest.

"(d) Jurisdiction of the State of New Mexico.—The State of New Mexico shall have jurisdiction over any offense committed by a person who is not a member of a Pueblo or an Indian tribe, as defined in section 201 of the Act of April 11, 1968 (25 U.S.C. 1301) which offense is not subject to the jurisdiction of the United States.".

TITLE II—INDIAN LAND LEASING

SEC. 201. PRAIRIE ISLAND LAND CONVEYANCE.

(a) In General.—The Secretary of the Army shall convey all right, title, and interest of the United States in and to the land described in subsection (b), including all improvements, cultural resources, and sites on the land, subject to the flowage and sloughing easement described in subsection (d) and to the conditions stated in subsection (f), to the Secretary of the Interior, to be—

(1) held in trust by the United States for the benefit of the Prairie Island Indian Community in Minnesota; and

(2) included in the Prairie Island Indian Community Reservation in Goodhue County, Minnesota.

(b) Land Description.—The land to be conveyed under subsection (a) is the approximately 1290 acres of land associated with the Lock and Dam #3 on the Mississippi River in Goodhue County, Minnesota, located in tracts identified as GO-251, GO-252, GO-271, GO-277, GO-278, GO-284, GO-301 through GO-313, GO-314A, GO-314B, GO-329, GO-330A, GO-330B, GO-331A, GO-331B, GO-331C, GO-332, GO-333, GO-334, GO-335A, GO-335B, GO-336 through GO-338, GO-339A, GO-339B, GO-339C, GO-339D, GO-339E, GO-340A, GO-340B, GO-358, GO-359A, GO-359B, GO-359C, GO-359D, and GO-360, as depicted on the map entitled "United States Army Corps of Engineers survey map of the Upper Mississippi River 9-Foot Project, Lock & Dam No. 3 (Red Wing), Land & Flowage Rights" and dated December 1936.

(c) Boundary Survey.—Not later than 5 years after the date of conveyance under subsection (a), the boundaries of the land conveyed shall be surveyed as provided in section 2115 of the Revised Statutes (25 U.S.C. 176).

(d) Easement.—

(1) In general.—The Corps of Engineers shall retain a flowage and sloughing easement for the purpose of navigation and purposes relating to the Lock and Dam No. 3 project over the portion of the land described in subsection (b) that lies below the elevation of 676.0.

(2) Inclusions.—The easement retained under paragraph (1) includes—

(A) the perpetual right to overflow, flood, and submerge property as the District Engineer determines to be necessary in connection with the operation and maintenance of the Mississippi River Navigation Project; and

(B) the continuing right to clear and remove any brush, debris, or natural obstructions that, in the opinion of the District Engineer, may be detrimental to the project.

(e) Ownership of Sturgeon Lake Bed Unaffected.—Nothing in this section diminishes or otherwise affects the title of the State of Minnesota to the bed of Sturgeon Lake located within the tracts of land described in subsection (b).

(f) Conditions.—The conveyance under subsection (a) is subject to the conditions that the Prairie Island Indian Community shall not—

(1) use the conveyed land for human habitation;

(2) construct any structure on the land without the written approval of the District Engineer; or

(3) conduct gaming (within the meaning of section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703)) on the land.

(g) No Effect on Eligibility for Certain Projects.—Notwithstanding the conveyance under subsection (a), the land shall continue to be eligible for environmental management planning and other recreational or natural resource development projects on the same basis as before the conveyance.

(h) Effect of Section.—Nothing in this section diminishes or otherwise affects the rights granted to the United States pursuant to letters of July 23, 1937, and November 20, 1937, from the Secretary of the Interior to the Secretary of War and the letters of the Secretary of War in response to the Secretary of the Interior dated August 18, 1937, and November 27, 1937, under which the Secretary of the Interior granted certain rights to the Corps of Engineers to overflow the portions of Tracts A, B, and C that lie within the Mississippi River 9-Foot Channel Project boundary and as more particularly shown and depicted on the map entitled "United States Army Corps of Engineers survey map of the Upper Mississippi River 9-Foot Project, Lock & Dam No. 3 (Red Wing), Land & Flowage Rights" and dated December 1936.

SEC. 202. AUTHORIZATION OF 99-YEAR LEASES.

(a) In General.—Subsection (a) of the first section of the Act of August 9, 1955 (25 U.S.C. 415(a)), is amended in the second sentence:

(1) by inserting "the reservation of the Confederated Tribes of the Umatilla Indian Reservation," before "the Burns Paiute Reservation,";

(2) by inserting "the" before "Yavapai-Prescott";

(3) by inserting "the Muckleshoot Indian Reservation and land held in trust for the Muckleshoot Indian Tribe," after "the Cabazon Indian reservation,";

(4) by inserting "lands held in trust for the Fallon Paiute Shoshone Tribes," before "lands held in trust for the Pueblo of Santa Clara";

(5) by striking "the lands comprising the Moses Allotment Numbered 10, Chelan County, Washington," and inserting the following: "the lands comprising the Moses Allotment Numbered 8 and the Moses Allotment Numbered 10, Chelan County, Washington"; and

(6) by inserting "land held in trust for the Yurok Tribe, land held in trust for the Hopland Band of Pomo Indians of the Hopland Rancheria," after "Pueblo of Santa Clara,".

(b) Effective Date.—The amendments made by subsection (a) shall apply only to any lease entered into or renewed after the date of the enactment of this Act.

SEC. 203. PASKENTA BAND OF NOMLAKI INDIANS 99-YEAR LEASE AUTHORITY.

Notwithstanding section 17 of the Act of June 18, 1936 (25 U.S.C. 477; commonly known as the Indian Reorganization Act), the Paskenta Band of Nomlaki Indians is granted 99-year lease authority over its reservation land.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Arizona (Mr. Renzi) and the gentleman from West Virginia (Mr. Rahall) each will control 20 minutes.

The Chair recognizes the gentleman from Arizona (Mr. Renzi).

GENERAL LEAVE

Mr. RENZI. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Arizona?

There was no objection.

Mr. RENZI. Mr. Speaker, I yield myself such time as I may consume.

H.R. 3351 addresses a number of minor noncontroversial tribal issues in one legislative package. H.R. 3351 contains 11 proposed amendments to our current law to assist tribes with matters that are relatively small in nature but very important to Native Americans across our Nation.

Specifically, this legislation makes technical corrections to laws relating to Native Americans and Alaskan natives by reauthorizing certain Native American programs, clarifying statutes relating to particular tribes and approving a 99-year land lease for certain tribal lands.

H.R. 3351 makes these beneficial changes in areas relating to tribal sovereignty, culture and areas with potential to encourage economic development. Numerous tribes will be able to move forward on projects that will help to strengthen their tribal government and better illuminate their history and culture. Each year, Congress passes a bill like this relating to technical corrections, and, thankfully, we have been able to utilize the consultation of many tribal leaders in examining this legislation.

I hope we can now act in a bipartisan fashion. I look forward to the support of this Congress for H.R. 3351.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of this legislation and to pay particular honor to our colleague from Arizona (Mr. GRIJALVA). The gentleman from Arizona has worked tirelessly over the past several months to bring before us a bill that he introduced as H.R. 327 to assist the Gila River Indian Community in Arizona. I am pleased he was able to have this bill rolled into the one before us today.

Mr. GRIJALVA's position would authorize the Gila River Indian Community to enter into contracts with outside businesses and agree to binding arbitration if a problem arises from the contract work. This will remove a hurdle to economic development for the Gila River Community.

One serious problem, which runs throughout Indian country, is the hesitancy by non-Indian businesses to enter into large, long-term contracts with Indian tribes out of concern for the competency of tribal courts. Strengthening tribal courts is yet another issue the gentleman from Arizona has been working on for Indian tribes.

I congratulate Congressman GRIJALVA for his tenacity on getting this language moved through the House, and I urge all my colleagues to support H.R. 3351.

Mr. Speaker, I reserve the balance of my time.

Mr. RENZI. Mr. Speaker, I yield 2 minutes to the gentleman from Minnesota (Mr. KLINE).

Mr. KLINE. Mr. Speaker, I rise today in support of the Native American Technical Corrections Act of 2005, and I am especially pleased by the inclusion of the Prairie Island Conveyance Act of 2005, which addresses a critical issue for my constituents.

I extend my appreciation to the gentleman from California (Mr. POMBO) and the gentleman from Alaska (Mr. YOUNG) for including my legislation in their bill and for its consideration today.

Upon being elected to Congress 3 years ago, I was approached by members of the Prairie Island Indian Community, located in Minnesota's Second Congressional District. The Prairie Island Indian Community has been working for years to transfer a section of land known as parcel D from the Army Corps of Engineers to be held in trust at the Department of Interior.

Parcel D, which contains 1,290 acres of the Prairie Island Community's homeland, was seized by the Department of War in 1934 with the promise it would one day be returned to them to welcome their ancestors home. This promise has not yet been fulfilled. Instead, the Department of War used the parcel D land to build a lock and dam on the Mississippi River, causing flooding across over 800 acres. These 800 acres, which remain underwater today, contain hundreds of burial mounds, 12 stone memorials, dozens of lodge circles, and 18 village sites of importance to the Prairie Island Community.

The leaders of the Prairie Island Indian Community have received the support of the nearby City of Red Wing and surrounding Goodhue County, as well as the U.S. Army Corps of Engineers and the Department of the Interior for their efforts to reclaim this ancestral land. I am pleased their efforts are finally close to being realized.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

Mr. RENZI. Mr. Speaker, I know that Chairman YOUNG is in considerable support of this legislation and will be submitting a written statement for the RECORD.

Mr. YOUNG of Alaska. Mr. Speaker, I rise in support of H.R. 3351, the Native American Technical Corrections Act of 2005. This bill would allow shareholder consideration of making Settlement Common Stock under the Alaska Native Claims Settlement Act (ANCSA) available to Alaska Natives born after December 18, 1971.

The Alaska Native Claims Settlement Act, as originally enacted, limited Alaska Native Regional Corporations from enrolling Natives born after December 18, 1971, as shareholders in their respective corporations. Subsequent amendments to ANCSA have allowed Regional Corporations to include Natives born after December 18, 1971, often referred to "New Natives," "Afterborns" or "Shareholder Descendents", if existing shareholders of the Corporation adopt a resolution at an annual meeting. Thus far, very few Native Corporations have adopted resolutions to include Shareholder Descendents, in part because the standard for adopting a resolution is too high.

Existing law provides that a resolution is considered approved by the shareholders of a Native Corporation if it receives an affirmative vote from a "majority of the total voting power of the corporation." At any given annual meeting, however, the total voting power of the corporation is not exercised. Accordingly, eighty-five to ninety percent of the voting proxies at an annual meeting would be required to vote in favor of a Shareholder Descendent resolution. This is an extremely difficult threshold to meet.

Section 103 of H.R. 3351 would allow a Shareholder Descendents resolution to be approved by a majority of the shares present or represented by proxy at an annual meeting. If a change is not made to the existing voting standard for adoption of a Shareholder Descendents resolution, the promises of ANCSA are potentially left unfulfilled. This legislation would allow a Regional Corporation, provided the majority voted in favor of adopting a Shareholder Descendents vote, to enroll two generations of Shareholder Descendents to become shareholders in their respective corporation. I urge a "yes" vote on this important legislation affecting my Alaska Native "afterborns."

Mr. UDALL of New Mexico. Mr. Speaker, I rise today in support of H.R. 3351, the Native American Technical Corrections Act of 2005. Section 108 of H.R. 3351 contains language from H.R. 600, a bill that I introduced with my colleagues from New Mexico, Representatives HEATHER WILSON and STEVE PEARCE, to clarify issues of criminal jurisdiction within the exterior boundaries of Pueblo lands.

Recent court decisions in New Mexico have created uncertainty and the potential for a void in criminal jurisdiction on pueblo lands. Because of the risk to public safety and law enforcement arising out of this uncertainty, it is important to clarify the scope of criminal jurisdiction on pueblo lands. I share the concerns of tribal leaders who have urged Congress to step in and resolve this legal quandary. I will work with other members of the delegation to see that we can make this law as soon as possible.

The language in my bill and now in H.R. 3351 addresses confusion over criminal jurisdiction on pueblo lands in New Mexico arising out of the holding in *United States* v. *Gutierrez*, an unreported decision of a federal district court judge in the District of New Mexico that overturned prior precedent regarding the status of the lands within the exterior boundaries of pueblo grants.

The language in the technical corrections bill will amend the Pueblo Lands Act to make clear that the pueblos have jurisdiction, as an act of the pueblos' inherent power as an Indian tribe, over any offense by a member of the pueblo or of another federally recognized Indian tribe, or by any other Indian-owned entity committed anywhere within the exterior boundaries of any grant to a pueblo from a prior sovereign, as confirmed by Congress or the Court of Private Land Claims. The legislation also makes clear that the United States has jurisdiction over any offense within these grants described in chapter 53 of title 18, United States Code, committed by or against a member of any federally recognized Indian tribe or any Indian-owned entity, or that involves any Indian property or interest. Finally, the legislation makes clear that the State of New Mexico shall have jurisdiction over any offense within these grants committed by a person who is not a member of a federally recognized Indian tribe, which offense is not subject to the jurisdiction of the United States.

This legislation will not affect the scope of pueblo civil jurisdiction within the exterior boundaries of pueblo grants, and it does not in any way diminish the exterior boundaries of these grants.

I would like to thank Chairman POMBO and Ranking Member RAHALL for bringing forth the Native American Technical Corrections Act of 2005. I encourage my colleagues to support this important piece of legislation.

Mr. RENZI. Mr. Speaker, I yield the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Arizona (Mr. RENZI) that the House suspend the rules and pass the bill, H.R. 3351, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

AUTHORIZING GOVERNMENT OF UKRAINE TO ESTABLISH MEMORIAL TO HONOR VICTIMS OF MANMADE FAMINE THAT OCCURRED IN UKRAINE IN 1932–1933

Mr. GOHMERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 562) to authorize the Government of Ukraine to establish a memorial on Federal land in the District of Columbia to honor the victims of the manmade famine that occurred in Ukraine in 1932–1933, as amended.

The Clerk read as follows:

H.R. 562

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. AUTHORITY TO ESTABLISH MEMORIAL.

(a) IN GENERAL.—The Government of Ukraine is authorized to establish a memorial on Federal land in the District of Columbia to honor the victims of the Ukrainian famine-genocide of 1932–1933.

(b) COMPLIANCE WITH STANDARDS FOR COMMEMORATIVE WORKS.—The establishment of the memorial shall be in accordance with chapter 89 of title 40, United States Code (commonly known as the "Commemorative Works Act"), except that sections 8902(a)(1), 8906(b)(1), 8908(b)(2), and 8909(b) shall not apply with respect to the memorial.

SEC. 2. LIMITATION ON PAYMENT OF EXPENSES.

The United States Government shall not pay any expense for the establishment of the memorial or its maintenance.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. GOHMERT) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. GOHMERT).

GENERAL LEAVE

Mr. GOHMERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GOHMERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 562 introduced by Congressman SANDER LEVIN authorizes the Government of Ukraine to establish a memorial on Federal land in Washington, DC, to honor victims of the 1932–1933 Ukrainian famine. Known by historians as the Harvest of Sorrow, the Ukrainian famine of 1932–1933 was the result of a naturally caused low harvest and harsh Soviet policies, including forced collectivization and grain seizures in order to neutralize the Ukrainian population.

Over 7 million people died of starvation as Russians stopped Ukrainians from entering Russia to obtain food. Attempts by the United States to intercede were stalled by Stalin's regime.

Proponents of H.R. 562 hope that building a memorial in the District of Columbia will bring awareness to the event and honor its victims.

Finally, no Federal funds will be used for the establishment or maintenance of the memorial. I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we are all too aware of the damage that can be inflicted during wartime by conventional weapons. However, the Ukrainian genocide is evidence of the shocking and deadly potential of an unconventional weapon such as hunger.

In an attempt to permanently cement the Ukrainian people under Soviet control, the grain supply to Ukraine was purposely manipulated by Joseph Stalin, beginning in 1932 and leading to widespread hunger and starvation. While precise figures are difficult to calculate, historians place the number of dead as a result of this policy between 8 and 10 million men, women and children. In rural Ukraine, it is thought that one in four people starved to death. These deaths have rightly been labeled one of the worst genocides in human history.

Yet outside of Ukraine, this horrific chapter in human history is not well known. Working with the Ukrainian Congress Committee of America, our colleague and valued Member, Congressman SANDY LEVIN, from Michigan hopes to change that beginning with H.R. 562.

This legislation amounts to formal acceptance by the United States Government of a memorial gift offered to this country by the people of Ukraine. The memorial is to be located here in our Nation's Capital and is intended to commemorate for Americans, as well as visitors from around the world, the incredible sacrifice made by the people of Ukraine in their long struggle for freedom.

In addition, the memorial gift honors the 1.5 million Americans of Ukrainian descent who treasure their heritage and cling to the memory of their ancestors' struggle for freedom, a struggle which was finally won with the collapse of the Soviet Union in 1991. However, true independence was achieved more recently in Ukraine as the world watched in awe as the Orange Revolution swept away a corrupt regime without a single drop of bloodshed.

Mr. Speaker, Congressman LEVIN is to be commended for his dedication and hard work in bringing this measure to the floor today. He has talked to me numerous times personally about it. I commend him for his tenacity and dedication. It is not only appropriate that we pass this legislation to accept this memorial gift; it is an honor.

Mr. Speaker, I yield such time as he may consume to the distinguished gentleman from Michigan (Mr. LEVIN).

Mr. LEVIN. I first of all would like to thank the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL), the chairman and ranking member of the committee, for their mutual interest and work on this and also to the chair of the subcommittee, Chairman PEARCE, and also to Ranking Member CHRISTENSEN. I also would like to thank cochairs of the Ukrainian American Caucus, Members KAPTUR, WELDON and BARTLETT, for their support and also to my friend and colleague from Michigan (Mr. KILDEE) who is a cosponsor and who is on the committee; and also to thank the leadership for moving this along.

Mr. Speaker, I rise in strong support of this legislation, H.R. 562, to authorize the government of Ukraine to donate a memorial in the District of Columbia honoring the victims of the manmade famine that killed millions of Ukrainians in 1932–33. I am proud to have introduced this legislation that this body is considering it today. This legislation is important for all of humanity. It is very important to the 1.5 million Ukrainian-Americans throughout our country, many of them my constituents. It has special meaning to the people of Ukraine, as the gentleman from West Virginia has mentioned, who have embarked on a courageous effort to build a free, democratic, open society, and indeed to all of us who value freedom.

During the famine genocide of 1932–33, between 7 and 10 million Ukrainians were deliberately and systematically starved to death.

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The memorial authorized by this bill will not only honor their memory, but serve as a tangible reminder to all of us that we must work together to prevent such tragedies in the future.

We are familiar with the terrible suffering caused by famine that is the result of natural forces. But this famine is all the more tragic because it resulted from criminal acts and deliberate decisions by political officials. Yet, it is also one of the least known of human tragedies.

Despite efforts by the then-Soviet Government at the time and afterwards to hide the planned and systematic nature of this famine genocide, it is clear that the Soviet Union used food as a weapon. By introducing unrealistically high quotas on grain and other agricultural products which were strictly enforced by Red Army troops, the Soviet Government deliberately starved 7 to 10 million Ukrainians. The harvest of 1932 was only 12 percent below 1926 to 1930 averages, but millions of Ukrainians died a slow agonizing death of hunger.

In his book, "The Harvest of Sorrow," British historian Robert Conquest provided a vivid picture of the devastating effects of the famine genocide in Ukraine: "A quarter of the rural population, men, women and children, lay dead or dying, the rest in various stages of debilitation with no strength to bury their families or neighbors."

Materials now being found in KGB archives have shown the premeditated political nature of the famine. We in our beloved country must persist in standing with those living under oppressive and tyrannical regimes as they struggle for their freedom. Part of the struggle is to remember the brutal acts of these regimes and their victims.

Preventing the recurrence of crimes against humanity, such as the Ukrainian famine genocide, begins with remembering the tragedies of the past. That is why I believe it is so important for there to be this monument, remembering the millions of innocent victims.

I urge my colleagues to join together in honoring their memories and ensuring they are never forgotten by supporting this bill.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise today in support of this legislation to authorize a memorial to the victims of Ukraine Famine.

The dreadful famine that engulfed Ukraine, the northern Caucasus, and the lower Volga River area in 1932–1933 was the result of Joseph Stalin's policy of forced collectivization.

The heaviest losses occurred in Ukraine, which had been the most productive agricultural area of the Soviet Union. Stalin was determined to crush all vestiges of Ukrainian nationalism.

Thus, the famine was accompanied by a devastating purge of the Ukrainian intelligentsia and the Ukrainian Communist party itself.

The famine broke the peasants' will to resist collectivization and left Ukraine politically, socially, and psychologically traumatized.

The death toll from the 1932–33 famine in Ukraine has been estimated between six million and seven million.

This memorial will authorize the Government of Ukraine to build a memorial on federal land so that no one will forget what the Ukraine people suffered at the hands of a dictator and the horrible consequences of forced collectivization.

Again, I urge passage of this legislation.

Mr. RAHALL. Mr. Speaker, I yield back the balance of my time.

Mr. GOHMERT. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GUTKNECHT). The question is on the motion offered by the gentleman from Texas (Mr. GOHMERT) that the House suspend the rules and pass the bill, H.R. 562, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

PROVIDING FOR THE PRESERVATION OF THE HISTORIC CONFINEMENT SITES WHERE JAPANESE AMERICANS WERE DETAINED DURING WORLD WAR II

Mr. GOHMERT. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 1492) to provide for the preservation of the historic confinement sites where Japanese Americans were detained during World War II, and for other purposes, as amended.

The Clerk read as follows:

H.R. 1492

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. PRESERVATION OF HISTORIC CONFINEMENT SITES.

(a) PRESERVATION PROGRAM.—The Secretary shall create a program within the National Park Service to encourage, support, recognize, and work in partnership with citizens, Federal agencies, State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations for the purpose of identifying, researching, evaluating, interpreting, protecting, restoring, repairing, and acquiring historic confinement sites in order that present and future generations may learn and gain inspiration from these sites and that these sites will demonstrate the Nation's commitment to equal justice under the law.

(b) GRANTS.—The Secretary, in consultation with the Japanese American National Heritage Coalition, shall make grants to State, local, and tribal governments, other public entities, educational institutions, and private nonprofit organizations to assist in carrying out subsection (a).

(c) PROPERTY ACQUISITION.—

(1) AUTHORITY.—Federal funds made available under this section may be used to acquire non-Federal property for the purposes of this section, in accordance with section 3, only if that property is within the areas described in paragraph (2).

(2) PROPERTY DESCRIPTIONS.—The property referred to in paragraph (2) is the following:

(A) Jerome, depicted in Figure 7.1 of the Site Document.

(B) Rohwer, depicted in Figure 11.2 of the Site Document.

(C) Topaz, depicted in Figure 12.2 of the Site Document.

(D) Honouliuli, located on the southern part of the Island of Oahu, Hawaii, and within the land area bounded by H1 to the south, Route 750 (Kunia Road) to the east, the Honouliuli Forest Reserve to the west, and Kunia town and Schofield Barracks to the north.

(3) NO EFFECT ON PRIVATE PROPERTY.—The authority granted in this subsection shall not constitute a Federal designation or have any effect on private property ownership.

(d) MATCHING FUND REQUIREMENT.—The Secretary shall require a 25 percent non-Federal match for funds provided under this section.

(e) SUNSET OF AUTHORITY.—This Act shall have no force or effect on and after the date that is 2 years after the disbursement to grantees under this section of the total amount of funds authorized to be appropriated under section 4.

SEC. 2. DEFINITIONS.

For purposes of this Act the following definitions apply:

(1) HISTORIC CONFINEMENT SITES.—(A) The term "historic confinement sites" means the 10 internment camp sites referred to as Gila River, Granada, Heart Mountain, Jerome, Manzanar, Minidoka, Poston, Rohwer, Topaz, and Tule Lake and depicted in Figures 4.1, 5.1, 6.1, 7.1, 8.4, 9.2, 10.6, 11.2, 12.2, and 13.2, respectively, of the Site Document; and

(B) other historically significant locations, as determined by the Secretary, where Japanese Americans were detained during World War II.

(2) SECRETARY.—The term "Secretary" means the Secretary of the Interior.

(3) SITE DOCUMENT.—The term "Site Document" means the document titled "Confinement and Ethnicity: An Overview of World War II Japanese American Relocation Sites", published by the Western Archeological and Conservation Center, National Park Service, in 1999.

SEC. 3. PRIVATE PROPERTY PROTECTION.

No Federal funds made available to carry out this Act may be used to acquire any real property or any interest in any real property without the written consent of the owner or owners of that property or interest in property.

SEC. 4. AUTHORIZATION OF APPROPRIATIONS.

There are authorized to be appropriated to the Secretary $38,000,000 to carry out this Act. Such sums shall remain available until expended.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Texas (Mr. GOHMERT) and the gentleman from West Virginia (Mr. RAHALL) each will control 20 minutes.

The Chair recognizes the gentleman from Texas (Mr. GOHMERT).

GENERAL LEAVE

Mr. GOHMERT. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and include extraneous material on the bill under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

Mr. GOHMERT. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, H.R. 1492, introduced by the gentleman from California (Mr. THOMAS), would establish a grant program within the Department of the Interior to protect, preserve, and interpret historic confinement sites where Japanese Americans were detained during World War II.

While there are two units in the National Park System that recognize the internment period, Manzanar National Historic Site and Minidoka Internment National Monument, there are many who believe other internment sites should also be preserved short of becoming a unit of the National Park System.

This bill would further that purpose by providing Federal funds with a partial private match. I urge adoption of the bill.

Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, while the temptation to sweep this shameful chapter of American history under the rug is powerful, we must resist that urge.

The pending legislation will, we hope, prevent future discrimination against groups of Americans based on race, ethnicity, or religious belief by preserving and interpreting a dark chapter in American history when our actions fell far short of our ideals.

Mr. Speaker, it is sobering to realize that the internment of Japanese Americans did not take place in some far distant past history. Rather, the horror of internment camps are real for many Americans, among them a very good friend and colleague of ours and now the Secretary of Transportation, Mr. Norm Mineta.

After he and his family were forced from their home and interned, Secretary Mineta devoted his life to serving the country which had treated him so shamefully to ensure that such injustice will never be repeated.

Secretary Mineta overcame the labels placed on him as a child and went on to carry labels including soldier, city councilman, mayor, Congressman, Mr. Chairman, and now Mr. Secretary. Throughout this distinguished career, he was often the first Asian American to hold those titles.

Another great American victimized by internment was our friend and former colleague, the late Bob Matsui. Like Norm Mineta and many others, Bob Matsui overcame injustice and adversity suffered as a child to build a career of distinguished public service.

His widow and dear colleague of ours today will be heard from in just a moment. While he might have been forgiven for being bitter or angry, Bob Matsui was universally praised as one of the most diplomatic and cordial Members of this body.

He took his experiences as a child and turned them into a passion for serving the young, the sick and the elderly, those most at risk for uncaring treatment by government.

Representative Matsui's life work has been taken up by his wife, Representative DORIS MATSUI. She, along with Representative MIKE HONDA, has worked tirelessly to bring this measure to the floor; and they are to be commended for their efforts.

This legislation is not only a tribute to those who suffered the injustice of internment but also to the triumphs of these distinguished former colleagues. We urge support for H.R. 1492 in their names and in the names of all of those who have faced or continue to face injustice.

Mr. Speaker, I reserve the balance of my time.

Mr. GOHMERT. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. THOMAS).

Mr. THOMAS. Mr. Speaker, it is a pleasure to finally bring this bill to the floor because it puts a closing note on what was to a very great extent my upbringing in California with personal friends through the 40s and the 50s. In addition to that, I had the honor and pleasure of serving in the California Assembly with Floyd Mori.

As was mentioned by the gentleman from West Virginia (Mr. RAHALL), Norm Mineta and Bob Matsui, and Floyd were Nisei, American born, first generation. Their parents are known as Issei, those who came over from Japan. Their grandchildren are Sansei. And it does mark a period in our history where native-born American citizens were in essence rounded up.

I got to know it personally, but as I went through school and I went through constitutional law classes and looked at Korematsu v. United States, I realized that the majority's opinion in Korematsu was written by Justice Hugo Black, who is known probably as one of the premier First Amendment-freedom Justices on the Court; and it underscored the extent that this concept permeated American society.

I am very, very grateful to the gentleman from California (Mr. POMBO) and his committee that voted this bill out unanimously, notwithstanding the fact that we have created a separate fund which will help pay for, in a public-private match, to preserve what is rapidly slipping away since these internment camps were for obvious reasons in rural areas across mostly western United States. I am most familiar with Manzanar which is in Inyo County, and I have represented Inyo County for more than a decade in the Congress. And we were able to preserve that in a location fairly close to Southern California.

But in working with my friend and former colleague, Floyd Mori, in looking at where these locations are in Utah, Wyoming, other States, we realized that just the ongoing growth and partial urbanization of these areas would forever cover up these particular sites.

It is not so much that I think people are ashamed of them. I think they are principally ignorant of them. And whether it is desire to forget out of knowledge or ignorance, neither one is acceptable. So I am very pleased that Leadership has allowed us to move today a very modest approach, quite rightly unifying public and private where appropriate under what circumstances, working with those people who are in the area, and in some instances Indian tribes, to allow those who are still alive and have memories to pass them on to the young ones. And for those of us who take trips across the country to visit sites, there are several different reasons, but probably first and foremost is that great people, and I believe Americans are great people, can make mistakes. What you need to do is admit it and remember it and do not make it again. And for that reason it is very fulfilling that this bill is before us.

Mr. Speaker, I rise in support of H.R. 1492. I greatly appreciate the House's consideration of this important legislation as well as the assistance Chairman POMBO, Representatives DORIS MATSUI, MIKE HONDA, and DEVIN NUNES have provided to develop it and bring it to the floor today.

Very simply, this legislation is a modest effort to provide the structure and resources necessary for citizens, schools, communities, and others to undertake projects in order to preserve and interpret an aspect of American history that many, quite frankly, would much prefer to ignore or never know. Nations, as do people, have the opportunity to recognize their mistakes and use the lessons learned from those mistakes to improve themselves. However, to do so, the mistake must not only be recognized, the lesson must be learned and remembered.

The United States of America has recognized the terrible mistake it made between 1942 and 1945, when pursuant to Executive Order 9066, over 120,000 Japanese Americans were forcibly removed from their homes and detained in government assembly and then relocation centers. Moreover, this mistake taught the United States that racial prejudice and wartime hysteria do not justify the denial of human dignity and the fundamental freedoms afforded by the U.S. Constitution. Thus, the legislation before the House today is designed to help ensure the United States and, more importantly, its citizens, never forget the lesson learned from this mistake.

Those who do not know the facts of this aspect of American history are undoubtedly quite surprised to learn that the U.S. Government, while rightly fighting to preserve freedom throughout the world, on March 2, 1942, wrongly declared over 100 areas in the States of Arizona, California, Oregon, and Washington as "prohibited areas" to those of Japanese ancestry. While thousands of people voluntarily moved out of these prohibited areas, thousands more who wanted to voluntarily leave the prohibited areas could not, either because their assets had been frozen at the beginning of the war or because other States were unwilling to accept them as residents.

On March 24, 1942, the U.S. Army began to evacuate residents of the prohibited areas; the evacuees included newborns, children, even those who had been adopted by non-Japanese parents, and the elderly. Sadly, those being evacuated were given just 6 days notice and, as they could only take those items the family could carry, were forced to dispose of nearly all of their possessions, often for ridiculously small sums. In addition, and of particular importance in California, people were not given the opportunity to harvest their crops; in fact, the only act of "sabotage" by a Japanese-American occurred when a farmer plowed his strawberry crop under when his request for the opportunity to harvest it was denied.

As they waited to be transported to one of 10 "relocation centers," the evacuees were temporarily housed in 17 assembly centers in Arizona, California, Oregon, and Washington, 12 of which were in California. One of those

12 was located at the Tulare County Fairgrounds in Tulare, CA, which I formerly represented. The assembly centers were surrounded by barbed wire fences, which were patrolled by military police, and consisted of hastily constructed military barracks, with separate communal bathrooms and dining halls. However, thousands of people, including 8,500 at Santa Anita alone, lived in horse stables at the Santa Anita and Tanforan assembly centers in California.

By the end of October, the evacuees were moved by train into one of the following 10 relocation centers or internment sites: Jerome and Rohwer in Arkansas; Colorado River—Poston—and Gila River in Arizona; Tule Lake and Manzanar in California; Granada in Colorado; Minidoka in Idaho; Heart Mountain in Wyoming; and Central Utah—Topaz. Like the assembly centers, the relocation centers were surrounded by barbed wire fences but also had guard towers. The centers were designed to be self-contained and self-sustaining communities, and like the assembly centers, they primarily featured barracks-type housing. In addition, the relocation centers were dusty, muddy, and often subject to extreme temperatures. Finally, the use of the Japanese language was restricted.

In December 1944, the U.S. Government announced the relocation centers would be closed within a year. While nine closed before the end of 1945, Tule Lake was not closed until May 1946 because it continued to hold those who had renounced their U.S. citizenship. Unfortunately, but not surprisingly, the Government provided only minimal assistance to those who it had wrongfully detained as they left the centers to rebuild their lives.

As I have stated, the U.S. Government has admitted its mistake in this instance. It has sought to make some degree of recompense to those evacuated by paying reparations and issuing a formal apology; a memorial has been constructed in Washington, DC, within sight of the Capitol. In addition, six of the relocation centers are listed on the National Register, Manzanar and the cemetery at Rowher are National Historic Landmarks, and Minidoka is a National Monument. As a result of legislation—P.L. 102–248—I cosponsored and worked with my former colleague Representative Mel Levine to enact, Manzanar, which I formerly represented, has been established as a National Historic Site. With regard to the assembly centers, seven, including the one in Tulare, do not have some form of marker or plaque to remind future generations of our past wrong.

While the legislation before the House today certainly is designed to authorize the funding necessary to facilitate projects that involve bricks and mortar—for example, the construction of a museum at Granada or the stabilization of a hospital chimney at Heart Mountain—its intent is not to completely reconstruct or restore the infrastructure at every relocation site or assembly center for the sake of show and tell. Rather, the legislation is designed to be as flexible as possible in recognition of the wide differences in the current conditions at the pertinent sites of historic significance, as well as to allow for grantees to conduct a wide variety of projects in many different forms to ensure the lesson taught by the sites is preserved forever. For instance, a project could be as simple as a citizens' group buying and placing a plaque on a stable; another could involve an effort by students to collect, preserve, and interpret the memories of surviving evacuees, a generation we are rapidly losing.

This flexibility is necessary and recognizes that the only common thread that binds the sites related to the confinement of Japanese-Americans is Executive Order 9066. As with each of the 50 States, which are bound together by the U.S. Constitution, each of the sites has its own unique history and characteristics. Thus, the preservation projects needed that would be undertaken with monies authorized under H.R. 1492 necessarily must be unique to the individual sites.

The legislation provides the U.S. Secretary of the Interior with the flexibility to approve projects related to sites other than the 10 relocation and 17 assembly centers. An example of such a site is the Crystal City World War II Alien Family Internment Camp in Texas, which was run by the U.S. Immigration and Naturalization Service, and which housed Japanese immigrants and nationals sent to the United States from Latin America.

It is important to note that, upon request, I have included limitations in this legislation. Specifically, the legislation contains a 25 percent non-Federal match requirement, a cap on the amount of monies authorized, and a sunset. The legislation also limits the use of these Federal funds to acquire private property to just four locations—Jerome, Rohwer, Topaz, and Honouliuli—and further requires the written consent of the pertinent private property owners.

Finally, it is fitting that we are considering this legislation as we return from observing Veterans Day as the segregated Japanese-American 100th Infantry Battalion and 442nd Regimental Combat Team, which had a total of 25,000 men during the war, together became the most decorated combat unit for its size in U.S. history. In fact, the men who served in this unit were awarded 8 presidential unit citations, 9,486 Purple Hearts, and 18,143 individual decorations, including 52 Distinguished Service Crosses, the second-highest award for valor. Moreover, the only Japanese-American World War II veteran awarded the Medal of Honor during the war, PFC Sadao Munemori, earned his citation on April 5, 1945, when he dove on a hand grenade to save the lives of two of his comrades during the Po Valley Campaign in Italy. Poignantly, at the time of his death, Munemori's mother and brother were interned at Manzanar.

Accordingly, I now ask that you join with me to pass this important legislation, not just to honor Private First Class Munemori, not just to honor those interned, but to ensure that the United States does not forget and repeat the grievous mistake it made.

Mr. RAHALL. Mr. Speaker, I yield such time as she may consume to our dear and, in every sense of the word, distinguished colleague from California (Ms. MATSUI).

Ms. MATSUI. Mr. Speaker, I thank the gentleman from West Virginia for yielding me this time.

Mr. Speaker, history plays a significant role in this country. Not only does it influence and inform our decisions today, but it clearly shows the successes and failures of this Nation to ensure every citizen is protected under the Constitution.

Sixty years ago, Executive Order 9066 permitted the Federal Government to uproot 120,000 American citizens of Japanese ancestry from their homes and their communities, forcibly interning them in one of several camps across the western United States. This included my husband, Bob, who was at that time just an infant, and his family. They were held a short time at Tule Lake in California before being sent to Caldwell, Idaho. After being expelled from their community, my parents met at the internment camp in Poston, Arizona, where I was born at the end of World War II.

It was one of the greatest suspensions of liberty in our Nation's history, an avoidable consequence of racial prejudice and wartime hysteria.

□ 1230

These camps are the physical, tangible, representation of our government's failure to protect the constitutional right of every American. However, they are also a symbol of this Nation's ability to recognize and acknowledge our mistakes.

For both of these reasons, it is essential that the internment camps and sites be preserved and maintained. In protecting them, we are reaffirming our belief in the Constitution and the rights and protections it guarantees for each and every American.

The bill before us embraces this idea. H.R. 1492 allows for camp committees; private citizens; and State, local and tribal governments to partner with the Federal Government to preserve the historical sites from this period. By preserving the history behind these physical landmarks, new generations of Americans will learn the lessons of this tragic period, and significantly, the lesson will not fade from our national memory.

I would like to extend my sincere appreciation to Congressman BILL THOMAS for his passionate leadership in working with this bill and in bringing it to the floor. I would also like to thank Congressman HONDA, Chairman POMBO and Ranking Member RAHALL for their bipartisan dedication to this issue. I would also like to acknowledge Mike Holland with Congressman THOMAS' personal staff.

Finally, I would like to thank my good friend Gerald Yamada, who originally brought this to my husband's attention last year, for his tireless effort behind the scenes on behalf of the Japanese-American community.

Through this legislation, we refresh the pact established in our Constitution between citizen and government which ensures our government is a protector of our rights and liberties.

Mr. GOHMERT. Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I yield 3 minutes to the gentlewoman from Guam (Ms. BORDALLO), a very distinguished member of our Resources Committee whose help was tremendous on this legislation.

Ms. BORDALLO. Mr. Speaker, I thank the gentleman very much for the time.

I rise today in strong support of H.R. 1492, the Preservation of World War II Internment Sites Act. Introduced by our colleagues from California, Mr. THOMAS, and I thank him for his perseverance, Mr. HONDA and Ms. MATSUI, this legislation would go far in preserving the memory and the history, however troubling and painful they may be, of our government's decision to intern Japanese-Americans during the Second World War.

I thank Chairman POMBO and Ranking Member RAHALL for their very hard work in reporting this bill from the Resources Committee.

Both U.S. history and the American conscience now view Executive Order 9066, which directed tne Japanese Americans be interned, as totally wrong.

President Jimmy Carter signed into law legislation that led to the 1982 "Report of the U.S. Commission on Wartime Relocation and Internment of Civilians." That report concluded that "Executive Order 9066 was not justified by military necessity." Further, the report concluded that the underlying rationale for Executive Order 9066 was shaped by "race prejudice, war hysteria, and a failure of political leadership."

When signing the Civil Liberties Act of 1988 into law, President Ronald Reagan said: "Here we admit a wrong. Here we affirm our commitment as a Nation to equal justice under the law." The Civil Liberties Act provided a long overdue apology for the imprisonment of Japanese-Americans during World War II.

Mr. Speaker, H.R. 1492 directs the Secretary of the Interior to create a program within the National Park Service to support and work in partnership with citizens, governmental and tribal organizations, educational institutions, and private nonprofit organizations for the purpose of identifying, protecting, and acquiring historic confinement sites where Japanese-Americans were detained during World War II in order to gain inspiration from these sites and to demonstrate the Nation's commitment to equal justice.

The initiatives that will be funded by this bill, and the history that these initiatives will preserve, are important to our country. The Second World War was a great battle for freedom. However, 120,000 Japanese Americans were forced from their homes and ordered to live in seclusion.

Answers to the questions: Why did this happen, where did this happen, and to whom did it happen, and what was it like for those who experienced it, this should remain available for future generations of Americans to study, to interpret, to reflect upon and to learn from.

Passage of H.R. 1492 will go far in achieving these goals. It deserves our support, Mr. Speaker, and I commend the gentleman from California (Mr. THOMAS) who has long worked to preserve this story and those sites of historical significance.

I also again thank the gentleman from California (Mr. HONDA) and the gentlewoman from California (Ms. MATSUI) for their leadership, and I urge support for H.R. 1492.

Mr. RAHALL. Mr. Speaker, I yield 3 minutes to the gentleman from Hawaii (Mr. CASE).

Mr. CASE. Mr. Speaker, I rise in strong support of H.R. 1492, which I am truly honored, especially representing Hawaii, the State with the highest number of Americans of Japanese ancestry, to cosponsor.

I, like others, express my deepest appreciation on behalf not only of our AJAs, but all Americans, to the gentleman from California (Mr. THOMAS), the gentleman from California (Mr. HONDA), the gentlewoman from California (Ms. MATSUI), the gentleman from California (Mr. POMBO) and the gentleman from West Virginia (Mr. RAHALL), for bringing this vital measure before the people's House.

The internment of Japanese-Americans during World War II is a tragic and shameful chapter in our history, replete with misunderstanding by too many and courage by too few. Although AJAs on the U.S. mainland, particularly the west coast, bore the brunt of this national mistake, Japanese-Americans throughout our country were affected.

After Pearl Harbor, about 10,000 people in Hawaii were investigated, and almost 1,500, mostly AJAs, were detained on all of Hawaii's main islands. The principal camps were at Sand Island and Honouliuli on Oahu. I attach to these remarks a compelling article from the June 2, 2004, Honolulu Star-Bulletin reporting the remembrances of some of Hawaii's surviving detainees.

Mr. Speaker, it is right and appropriate that we provide for permanent memorials of this difficult time, when good people did bad things out of fear and ignorance. I especially appreciate that among these memorials will be Honouliuli, so that the people of Hawaii and elsewhere may put a place and a reality to the words of Harry Urata, of Hawaii, who said: "They made a mistake. Everybody makes mistakes. But don't repeat that."

Mahalo.

[From the Honolulu Star-Bulletin, June 2, 2004]

THE WWII INTERNMENTS—"A SAD TIME . . . A CHALLENGING TIME"

(By Rosemarie Bernardo)

In March 1943, FBI agents arrived at the Honolulu Planning Mill in Kakaako where Shozo Takahashi worked as a woodworker. Authorities issued Takahashi a warrant for his arrest, but allowed him to go home to pick up some of his belongings. His brother and wife dropped him off at the FBI office, where he was questioned.

Takahashi was then taken to the immigration station, where he was photographed and fingerprinted. All the while, he wondered what he had done to be treated like a criminal.

But it would take the federal government 45 years to tell Takahashi why it detained him at the Honouliuli internment camp.

An exhibit will open Saturday at the Japanese Cultural Center of Hawaii, 2454 S. Beretania St., telling the story of Takahashi and other Japanese Americans who were detained at internment camps in Hawaii during Word War II.

Takahashi and other former internees are expected to attend the opening from 1 to 3 p.m.

"Dark Clouds Over Paradise: The Hawaii Internees Story" will be displayed in the center's community gallery Tuesdays through Saturdays from 10 a.m. to 4 p.m. until July 31. Admission is free.

Many people are not familiar with the history of Japanese Americans who were held in internment camps in Hawaii, said Keiko Bonk, president and executive director of the Japanese Cultural Center.

The detained Japanese "had to ask themselves these serious questions of who they were and where they belong and how these things could be happening to them," Bonk said.

"It was quite a sad time, as well as a challenging time for the Japanese community," she said.

The Japanese have to speak and educate people about the injustices, Bonk added.

About 10,000 people in Hawaii were investigated shortly after the Pearl Harbor attack. Buddhist priests, ministers, Japanese school principals and community leaders were detained on the night of Dec. 7, 1941. Within two years, the FBI picked up a number of kibei Japanese Americans who moved to Japan during their youth to obtain an education and later returned to the United States. An estimated 1,250 Japanese Americans were detained in Hawaii during the war.

Japanese Americans, along with some Germans and Italians, were held at internment camps on Maui, Kauai and the Big Island before they were transported to a Sand Island camp in May 1942. Officials later decided that detainees should be held inland to avoid the possibility of an attack.

Detainees were taken to Honouliuli in Leeward Oahu on March 1, 1943. Takahashi said they were treated well.

"We all cooperate, no trouble," said Takahashi, whose wife, Yuriko, assisted as an interpreter.

He noted that detainees had the opportunity to do various jobs in the camp to earn coupons at 10 cents an hour. Takahashi said he and another man counted spoons before and after meals after they had heard that a detainee at Sand Island had sharpened a spoon into the shape of a knife in an attempt to commit suicide.

"If we miss some, gotta go all over," Takahashi said.

Takahashi said he took English classes, played his violin and attended Christian services on Sundays, when he prayed for the war to end.

At Honouliuli, Takahashi met Harry Urata, and the two became friends.

Yuriko Takahashi, who remained in Kaimuki, sent Takahashi a fingerprint of their first daughter, who was born in October 1943. In his excitement, Takahashi showed it to Urata. It was only then when Urata learned that Takahashi's wife was his former coworker.

A year later, Takahashi went on a conditional release from Honouliuli. He was required to report to authorities once a month until he was let go in February 1945.

Takahashi, a kibei who was educated, underwent ROTC training and taught in Japan for 24 years before he returned to Hawaii, wrote to the government in 1988 and requested a copy of his internment records.

A report cited in Takahashi's 1992 autobiography "An Autobiography of a Kibei-Nisei" stated he had dual citizenship and had "never attempted to be expatriated." It further stated that he lived in Japan for more than 20 years, where he attended school, received military training and taught students for four years. It also mentioned that he was a Japanese-language teacher in Honolulu for three years.

Takahashi said the authorities thought he was pro-Japanese.

Both Takahashi and Urata, who were born in Hawaii, had taught at the Waialae Japanese Language School at different times before the war started.

After the internment, Takahashi worked as a carpenter with his brother-in-law. He later returned to teaching at Japanese schools in Honolulu, had two more children and built a house for his family in Kaimuki, where he and his wife still live.

Takahashi, now 89, continues to take English classes once a week.

In March 1943, Urata was called to the principal's office at Mid-Pacific Institute, where two FBI officers were waiting.

The officers questioned Urata for two days before he was taken to the immigration station, where he was held for two weeks in a shack surrounded by a barbed-wire fence.

He joined other Japanese Americans, many of them issei (first-generation Japanese), at Honouliuli. Urata read books in English and Japanese, played his guitar and sang songs to occupy his time. He also played baseball, practiced kendo and cut kiawe bushes outside the camp, which was also surrounded by a barbed-wire fence.

"You get to go out from the wire, fresh air," Urata said. While he was being held in Honouliuli, Urata said he often wondered why he was detained because he was an American citizen.

"Everytime I used to think like that inside the camp, I thought it was a mistake," Urata said.

Urata speculated he was held at the camp because he was a kibei who left for Japan when he was 6 and returned to Hawaii 13 years later.

Urata said he was among 69 men who were sent to the Tule Lake internment camp from Honouliuli in November 1944 after he described himself as being "hardheaded."

After he was released from Tule Lake, he taught Japanese at the University of Minnesota for a couple of months before returning to Honolulu in December 1945, the year the war ended.

Urata opened a music studio in Palama, where he taught piano, guitar and voice lessons to generations of students. His studio moved to a few other locations before it settled in its current location in downtown Honolulu. He later married and continues to give voice lessons.

More than four decades later, Takahashi, Urata and thousands of former surviving internees each received a $20,000 reparation check and a letter of apology from the U.S. government for its injustice toward Japanese Americans during the war.

Urata, 85, said he is not bitter about his experience.

"They made mistakes," Urata said. "Everybody makes mistakes. But don't repeat that."

Mr. RAHALL. Mr. Speaker, I yield 4 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA), a very important member of our Resources Committee.

Mr. GOHMERT. Mr. Speaker, I yield 2 minutes to the gentleman from American Samoa (Mr. FALEOMAVAEGA).

Mr. FALEOMAVAEGA. Mr. Speaker, I rise today in full support of H.R. 1492, a bill to provide for the preservation of historic internment facilities where our fellow Americans who happened to be of Japanese ancestry were detained during World War II.

I also want to especially commend my colleague, the gentleman from California (Mr. THOMAS), for his leadership and commitment for authoring this important legislation, in recognizing the need for some kind of a program to identify and provide a historic recognition of these so-called relocation camps or internment camps. I call them concentration camps, where well over 100,000 men, women and children, all Americans who happened to be of Japanese ancestry, all within the borders of our own country, were forced to move into these camps that were, in actuality, more like prison camps. Their homes and properties were confiscated without any compensation and certainly without any due process of law.

Despite all of this, and I want to share this with my colleagues if they do not know this, tens of thousands of Japanese-Americans requested to join our military to fight for our country during World War II. It was at the recommendation of George Marshall to President Roosevelt that we should establish a military force composed of these Japanese-Americans. That was the result of our establishing the 100th Battalion and 442nd Infantry groups who fought for our country in Europe against the Nazi Germans.

History documents the bravery of these Japanese Americans I submit, Mr. Speaker. The military records of the 100th Battalion and 442nd Infantry are without equal. These units received over 18,000 individual declarations, many awarded posthumously, for courage in the field of battle; 9,480 Purple Hearts; 560 Silver Stars; 52 Distinguished Service Crosses; and only one Medal of Honor. I submit, Mr. Speaker, something was wrong here, one Medal of Honor. The 442nd combat group emerged as the most decorated combat unit of its size ever in the history of the United States Army.

Because of the tremendous sacrifices made by Japanese-American soldiers and African-Americans during World War II, President Truman was so moved by this that he issued an Executive Order to desegregate our Armed Forces.

I am proud to say that the Honorable DANIEL K. INOUYE, the senior Senator from the State of Hawaii, and the late highly respected Senator Spark Matsunaga of Hawaii were among those who distinguished themselves in battle as soldiers of the 100th Battalion and 442nd Infantry.

It was while fighting in Europe that Senator INOUYE lost his arm while engaged in battle. After congressional mandate to review the military records of our Japanese-American veterans, I was privileged to attend the White House ceremony officiated by then-President Clinton that provided an additional 19 Congressional Medals of Honor to these Japanese Americans. I submit, Mr. Speaker, how beautiful it is to see justice, including for Senator INOUYE who was also awarded with the Congressional Medal of Honor.

When the patriotic survivors of the 100th Battalion and 442nd Infantry returned to the United States, many were reunited with their parents and brothers and sisters in these relocation camps. I do not even know if I could have done what they did. Despite all the hatred and the bigotry, the racism that was heaped upon these Americans, when they came back, they could not even get a haircut in San Francisco simply because they were Japanese-Americans. Full with their decorations and a uniform, they could not even get a haircut in San Francisco simply because they were Japanese.

I believe these sites must be preserved because they remind us to be vigilant, never to forget what happens if we allow our judgments to be clouded by bigotry and racism. Preserving these sites is how great America can truly be for our mistakes rather than sweeping them under the rug, and we learn from our mistakes in order to move to closer equality for all Americans.

Mr. Speaker, I wish I did not have to call myself a Pacific American or Japanese-American or African-American. I have not heard anybody refer to themselves as European American or French-Americans. I do not know why we are forced into this kind of a situation. I would just like to say we are all Americans. I hate these labels. I wish we could have done a better job.

I thank my dear friend for allowing me the time. I want to especially commend the gentleman from California (Mr. HONDA), my colleague and Chairman of our Asia Pacific Congressional

Caucus, and also the gentlewoman from California (Ms. MATSUI), Mr. John Tateishi, the National Director of the Japanese-American League and my good friend. Floyd Mori, the Washington representative for JACL.

I want to share this point with my colleagues and the public about what happened.

I remember a former colleague and Member of this House for many years, my good friend, Secretary Norm Mineta, an 11-year-old in these camps. They had these machine gun nests posted all over the camps, and he was telling me this story. We asked, well, why do you have these machine guns around the camp? He said, they are to protect you from invaders coming in from outside. He said, if that is true, how come the machine guns are pointed all inside the camp?

Mr. Speaker, I think this bill is well-deserved of consideration and approval by our colleagues here, and again, I want to commend the gentleman from California (Mr. THOMAS), my good friend, for his leadership in getting this bill in, and I sincerely hope that the Members of this institution will approve this legislation.

Again, I thank my good friend for allowing me this additional minute to say these things.

□ 1245

Mr. RAHALL. Mr. Speaker, I yield the balance of my time to the gentleman from California (Mr. HONDA), whose determination and dedication helped bring this bill to the floor today.

Mr. HONDA. Mr. Speaker, I thank the gentleman from West Virginia (Mr. RAHALL) for yielding me this time and also special thanks to Chairman THOMAS for his impassioned advocacy of this bill. We owe him a lot.

Mr. Speaker, I rise in strong support of H.R. 1492, a measure to provide for the preservation of the historic confinement sites where Japanese Americans were detained during World War II. I thank Chairman THOMAS for his steadfast leadership in introducing and working so effectively in moving this bill forward. I am also pleased to be on this measure as an original cosponsor with the gentlewoman from California (Ms. MATSUI).

This bill creates a grant program to provide funding for local communities to implement plans to repair, restore, and preserve historic confinement sites so that current and future generations can learn the lessons of the internment period.

The bill uses the phrase "confinement sites" so that funds may be used not only for the 10 internment camps but for associated sites as well. As stated in the bill, by preserving these sites, we will be showing to all Americans and to the world that we are a Nation that can deal honestly with past wrongs and further show that we can learn from our own mistakes. Ultimately, through this preservation program, we will demonstrate the Nation's commitment to equal justice under the law.

When I was a member of the California State Assembly, I had the privilege of passing legislation to create the California Civil Liberties Public Education Program. The measure created an education program to provide competitive grants for educational activities and the development of educational materials to ensure that the events surrounding the exclusion, forced removal, and incarceration of civilians and permanent resident aliens of Japanese ancestry would be remembered.

The Public Education Program has also shed light on how Executive Order 9066, the order paving the way for the internment, impacted others such as the Italian and German Americans as well as people of Japanese ancestry living in Latin America. I know that H.R. 1492 in a similar fashion will add to the depth of knowledge we have regarding the internment period. Only by understanding the causes leading to the internment can we as a Nation put ourselves in a better position to avoid making similar mistakes.

While my State bill in California helped to preserve the stories of the internment period, the legislation that Mr. THOMAS has authored will help to preserve the physical, tangible reminders of this period and will have a deep impact on our ability to make the stories real for future generations.

The internment sites, Manzanar, Topaz, Minidoka, Heart Mountain, Tule Lake, Gila River, Poston, Amache, Rohwer, Jerome, and related confinement sites stand as an important and powerful lesson for this Nation.

I commend the groups making up the Japanese American National Heritage Coalition and the work of Gerald Yamada and Floyd Mori in bringing this issue to Congress. And, again, I truly want to thank Chairman THOMAS for his efforts in making this bill a reality today and thank all of my colleagues who have joined as cosponsors of this measure.

Mr. GOHMERT. Mr. Speaker, I reserve the balance of my time.

Mr. RAHALL. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. GOHMERT. Mr. Speaker, in conclusion of the debate on this bill, I appreciate my colleagues across the aisle and the wonderful heartfelt comments that have been made. It is deeply moving to hear some of the personal testimonies, and when the gentleman from Samoa spoke saying he wished he were not referred to as a Pacific American, I was reminded of the events immediately after 9/11. Such a horrible evil thing when evil people filled with hate wanting to destroy innocent Americans came and crashed into our buildings, leaving so many devastated and destroyed and killed.

But I recall the day after 9/11, and like that flower that grows after a terrible event, so many all over America held hands and sang songs. I remember the day after that event there were no hyphenated Americans in the United States anywhere. We were all Americans. And that was one of the few things that we came away from. What a wonderful thing. Race did not matter. Background, socioeconomic conditions did not matter. We were Americans, and we were proud to be Americans.

The other comment that has been made that should be highlighted is that it is important to learn from our mistakes, and that is one of the great things about America. It is one of the very few nations in this world that will stand up and say, you know what, we made a mistake and we are going to fix it. We are going to notice it.

Some say Satchel Paige made the quote that often is used: "Don't look back. They may be gaining on you." But I read that he also had a quote later in life: "It's okay to look back. Just don't stare." This bill will allow us to look back, see that we made a mistake, and make sure that it is corrected.

With regard to our troops that come home from Iraq and Afghanistan who are doing the service of this country, it is important also that we learn from our mistakes, and without regard to race, creed, sex, gender, socioeconomic conditions, we welcome them home; we thank them for their bravery.

In the meantime, this is a good bill. We urge the passage of this bill.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. GUTKNECHT). The question is on the motion offered by the gentleman from Texas (Mr. GOHMERT) that the House suspend the rules and pass the bill, H.R. 1492, as amended.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF CONGRESS THAT RUSSIAN FEDERATION MUST PROTECT INTELLECTUAL PROPERTY RIGHTS

Mr. SHAW. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 230) expressing the sense of the Congress that the Russian Federation must protect intellectual property rights.

The Clerk read as follows:

H. CON. RES. 230

Whereas the protection of intellectual property is critical to the Nation's economic competitiveness in the 21st century;

Whereas Russia remains on the Special 301 Priority Watch List compiled by the United States Trade Representative (USTR), and the Congress is gravely concerned about the failure of the Russian Federation to live up to international standards in the protection of intellectual property rights, a core American asset;

Whereas the Congress wants to ensure that the Russian Federation redoubles its efforts to adopt and enforce aggressive laws, policies, and practices in the fight against piracy and counterfeiting;

Whereas the Congress is particularly concerned that the Russian Federation is, in the words of Senate Concurrent Resolution 28, a place where "piracy that is open and notorious is permitted to operate without meaningful hindrance from the government";

Whereas, according to USTR, enforcement of intellectual property rights in Russia "remains weak and caused substantial losses for the U.S. copyright, trademark, and patent industries in the last year. Piracy in all copyright sectors continues unabated, and the U.S. copyright industry estimated losses of $1.7 billion in 2004.";

Whereas the Russian Federation must understand that failure to adequately protect and enforce intellectual property rights will have political and economic ramifications for its relationship with the United States;

Whereas accession to the World Trade Organization (WTO) represents an agreement to conform one's practices to the rule of law, and to international standards in the WTO Agreement on Trade Related Aspects of Intellectual Property Rights (TRIPS);

Whereas notwithstanding some recent legislative improvements, Russia's regime to protect intellectual property rights does not conform with TRIPS standards;

Whereas the United States can ill afford deterioration of the world trading system by permitting the entry of a country into the WTO that has not demonstrated its willingness and ability to conform its practices to the requirements of the TRIPS; and

Whereas the leaders of the G–8, including President Putin of the Russian Federation, recently pledged to reduce intellectual property piracy through more effective enforcement: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of the Congress that—

(1) the Russian Federation should provide adequate and effective protection of intellectual property rights, or it risks losing its eligibility to participate in the Generalized System of Preferences (GSP) program; and

(2) as part of its effort to accede to the World Trade Organization, the Russian Federation must ensure that intellectual property is securely protected in law and in practice, by demonstrating that the country is willing and able to meet its international obligations in this respect.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Florida (Mr. SHAW) and the gentleman from Maryland (Mr. CARDIN) each will control 20 minutes.

The Chair recognizes the gentleman from Florida (Mr. SHAW).

Mr. SHAW. Mr. Speaker, I yield myself such time as I may consume.

Today I rise in strong support for H. Con. Res. 230. I commend the gentleman from California (Mr. ISSA) for sponsoring this resolution and focusing congressional attention on this issue.

Russia's copyright piracy problem ranks with China as the two most serious in the world, and it appears to be getting worse. Russia has become one of the world's largest producers and distributors of illegal compact discs and DVDs. Russia has the capacity to produce more than 20 million compact discs a month, providing ample supply of pirated material for export all over the world. Not only is the Russian Government failing to crack down on piracy, but officials even admit that several illegal plants are on Russian Government-owned classified sites where regular law enforcement is prohibited from visiting.

Intellectual property rights protection is critical to the United States economic competitiveness. According to the United States trade representative, Russia's failure to enforce IPR has "caused substantial losses for the United States copyright, trademark, and patent industries in the last year," estimated by the U.S. copyright industry to amount to $1.7 billion in losses in 2004 alone.

Russia must understand that failure to adequately protect and enforce intellectual property rights will have political and economic ramifications. Specifically, Russia risks losing its eligibility to participate in the Generalized System of Preferences program, under which the United States provides unilateral duty-free treatment to imports from developing countries to encourage economic growth. In addition, it must ensure that intellectual property is securely protected in law and in practice as part of its effort to accede to the World Trade Organization.

I urge Russia to take immediate and effective steps to properly inspect all optical media production facilities and to shut down illegal plants and Internet sites, strengthen border enforcement, combat piracy and counterfeiting, and address deficiencies in its IPR laws.

I urge my colleagues to vote "yes" on H. Con. Res. 230 to tell Russia that it must be a responsible and dependable player in the international marketplace.

Mr. Speaker, I reserve the balance of my time.

Mr. CARDIN. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I am pleased that we are considering this resolution today. I am deeply concerned by Russia's failure to effectively confront piracy of DVDs, music, and software. Last year, U.S. companies lost $1.7 billion as a result of Russia's failure to crack down on piracy.

This is not a new problem. Each year since 1997, the administration has cited Russia in its annual Special 301 Report for failing to adequately protect and enforce intellectual property rights; and, unfortunately the problem is getting worse rather than better.

In 2004, Russia's illegal optical disc production capacity continued to increase so much so that Russia is now supplying other countries with pirated products. Pirated discs produced in Russia have been found in more than 27 countries. The largest commercial Web site of pirated music is also based in Russia, and the Russian prosecutors have refused to initiate a criminal investigation to shut it down.

Mr. Speaker, piracy of intellectual property in Russia means lost jobs and opportunities here at home for American workers and businesses, and it must be stopped. I believe that Congress must send a strong message to Russia that the United States will not stand by while Russia robs U.S. workers and businesses of their intellectual property.

The resolution we are considering today would put Russia on notice that it risks losing its preferential trade benefits under the GSP program if it fails to improve its protection of intellectual property rights. The resolution also would put Russia on notice that Congress takes its intellectual property rights violations seriously and will consider whether Russia is making meaningful progress on this issue when we consider whether to grant Russia Permanent Normal Trade Relations status.

I urge my colleagues to join us in supporting this important legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. SHAW. Mr. Speaker, I yield such time as he may consume to the gentleman from California (Mr. ISSA), the author of this resolution.

Mr. ISSA. Mr. Speaker, I want to commend the chairman, the full committee chairman, and my cosponsor of this bill, Congresswoman WATSON.

We traveled to Russia earlier this year. We saw firsthand that it is not just about piracy; it is about a complete absence of a willingness to enforce that. On the main streets of Moscow, in fact, within sight of Red Square, one can every day see advertisements for movies, DVDs of movies that have not yet been released, impossible to exist, literally not existing in the United States; and yet they exist in Russia, already translated into Russian and, yes, as the chairman said earlier, into many other languages and exported around the world.

□ 1300

The Russians admit that they have more than four times as many optical disk producers as they could possibly justify. And although we often talk about DVDs and music, we also need to recognize that Microsoft and other major software producers are being robbed of countless billions in this process.

Many talk of the WTO accession and whether or not it is appropriate for Russia to be granted that, and I certainly agree it needs to be withheld until there is a showing of a willingness and a proven track record of enforcing these laws.

But I want to make one other closing remark here. We pay, we the world pay world-class prices for oil no matter where we buy it in the world, and today that is $60 a barrel. Russia is one of the largest exporters of oil to Western Europe; and yet in a time when they are receiving $60 a barrel on what costs them less than $2 a barrel to get out of the ground, they will tell you they cannot afford the intellectual property produced by Neil Diamond, Steven Spielberg or from Bill Gates' company. This is disingenuous.

Mr. Speaker, if they want to be part of a World Trading Organization, they have to recognize that value is not determined by what you are willing to pay; value is determined by what you are willing to pay for the legitimate goods in an arm's length relationship. We pay world-class prices for oil. They should pay world-class prices for intellectual property and not literally steal it from the inventors here in America and in Europe.

Mr. CARDIN. Mr. Speaker, I yield 5 minutes to the gentlewoman from California (Ms. WATSON), the co-author of the resolution.

Ms. WATSON. Mr. Speaker, I rise in strong support of the resolution that I coauthored with the gentleman from California (Mr. ISSA). It expresses the sense of Congress that the Russian Federation must do more to protect intellectual property or risk losing its participation in the generalized system of preferences and be prevented from joining the World Trade Organization.

I want to thank my colleague, the gentleman from California (Mr. ISSA), for his hard work in crafting this most-needed resolution and for being such a strong voice on the global protection of intellectual property assets. The resolution came about, as he described, after a trip that we took with other members of the International Relations Committee to Russia in May of this year.

During the trip, we learned firsthand the extent of the IP piracy problem in Russia which has reached epidemic levels, second only to China in the world. Indeed, the U.S. copyright industry lost over $1.7 billion last year due to Russian piracy and over $6 billion in the last 5 years, and the situation is getting worse.

When we visited in May, the number of optical disk plants was 36. Now it is 42 with a production capacity that far exceeds Russia's demand for CDs and DVDs. Even by recent Russian government accounts, 16 of these plants are the Russian State (owned) Restricted Access Regime Enterprises where regular law enforcement officials are prohibited from visiting. Such information is truly disturbing.

I represent Hollywood, California, the center of the U.S. copyright and creative industry. My constituents inform me that because of corruption, inefficiency and ineptitude in Russia's justice system, U.S. industry complaints have been routinely dismissed. The few sentences that have been handed down are wholly inadequate and non-deterrent.

I fear that, unless Russia substantially improves IPR law and enforcement practices, Russian participation in the world trade system should be restricted.

This is the reason why I introduced this along with Mr. ISSA to condition Russia's accession to the World Trade Organization on the Russian government's demonstrated commitment in meeting its international obligations and protecting intellectual property rights.

We understand that to curb the proliferation of IPR violations in Russia, it is not enough to focus on how many laws are passed by the Duma and how many raids on optical disk plants are being conducted each year. We have to generate a sense of urgency and motivate the political will of the Russian government.

Simply put, a healthy and vibrant global trade market should not tolerate the ongoing systemic piracy of intellectual assets, and the Russian political establishment must understand that. I am pleased to note that over 100 Members of Congress have cosponsored this resolution. It will send a clear and convincing message that the United States Congress is looking at the issue closely and that real reform must happen now. Once again, I want to thank the congressman for his leadership on this issue. I urge my colleagues to support this critical resolution.

Mr. SHAW. Mr. Speaker, I yield 4 minutes to the gentleman from Virginia (Mr. GOODLATTE), the chairman of the Committee on Agriculture.

Mr. GOODLATTE. Mr. Speaker, I rise in strong support of House Concurrent Resolution 230, expressing the sense of the Congress that the Russian Federation must protect intellectual property rights.

As co-chairman of the Congressional International Anti-piracy Caucus, I am very concerned about the appalling levels of copyright piracy in Russia. Russia's copyright piracy problem is among the most serious in the world, and it is getting worse. In Russia, 80 percent of all motion pictures and 87 percent of business software are pirated. I have personally witnessed pirated American copyrighted works, movies, music and software, sold openly on the streets in Moscow, even in view of the Kremlin.

Considering that the core copyright industries account for 6 percent of the U.S. gross domestic product and the total copyright industries account for approximately 12 percent of U.S. GDP, it is clear that America's businesses are facing a serious problem in Russia. In fact, the FBI estimates that U.S. businesses lose between $200 and $250 billion a year worldwide to counterfeit goods.

We must make sure that each nation recognizes that piracy is a global problem. The growth of piracy among organized crime rings is illustrative of its global scope.

The combination of enormous profits and practically nonexistent punishments by many foreign governments makes copyright piracy an attractive cash cow for organized crime syndicates. Often specializing in optical disks and business software piracy, these crime rings are capable of coordinating multi-million dollar efforts across multiple national borders. Russia has become one of the largest producers and distributors of illegal media material, and the increasing number of optical disk plants in Russia has a production capacity that far exceeds Russian demand for copyrighted works.

Another disturbing trend is the growing willingness of foreign governments to condone the use of, and even use, pirated materials. At its best, government sets the standards for the protection of rights. At its worst, government encourages and even participates in the breach of those rights.

By recent Russian government accounts, 16 optical disk plants are on Russian State (owned) Restricted Access Regime Enterprises where regular law enforcement is prohibited from visiting. In addition, corruption in Russia's justice system results in the routine dismissal of piracy complaints or inadequate and non-deterrent sentences.

We all must realize that copyright piracy and counterfeiting are serious problems that do not merely affect private companies' bottom lines in the short term. They also discourage investment and innovation in the long term which will eventually lead to fewer consumer choices, a repercussion that affects entire societies and economies. Government must work together to reward creators and punish thieves.

In addition, counterfeit goods can pose serious risk of bodily harm and even death. The U.S. Chamber of Commerce estimates that trade in counterfeit goods makes up between 6 and 9 percent of all world trade. With products as essential as airplane parts and car brakes being faked, we must focus attention on this growing problem for the sake of our citizens' safety.

In passing House Concurrent Resolution 230 today, we send a clear signal to the Russian Federation we will not stand idly by while our copyrights are infringed. The Russian Federation must make fighting copyright piracy a priority for the country and law enforcement authorities. And, if Russia's accession to the World Trade Organization is to be approved by Congress, Russia must make meaningful progress against piracy now.

I urge my colleagues to join me in voting for this important resolution. I commend the gentleman and gentlewoman from California on this issue.

Mr. SHAW. Mr. Speaker, I yield 3 minutes to the gentleman from Texas (Mr. GOHMERT).

Mr. GOHMERT. Mr. Speaker, I want to thank my colleagues from California for pushing this forward.

The abuses of intellectual property are not only harmful economically, but they can be harmful to our physical well-being and safety, and not just here but also in the Russian Federation.

When Russian companies steal products that are patented, copyrighted or trademarked, but they do not adhere to the proper safety standard such as electrical wiring, car parts and hair driers, consumers can be physically harmed. So there are really two prongs why we must urge Russia to shape up their intellectual property enforcement.

First, because of the harm to our creators and artists; and, second, to the threats to safety since oftentimes the goods that infringe are substandard.

Copyright piracy abroad hurts our economy here and the high-tech industry, since it is such a strong driving force behind our economy, piracy stifles its growth and productivity. Copyright holders should be protected to ensure that we continue to innovate and advance technology both at home and abroad.

Local industries have been crippled when high-quality pirated versions of their products are sold abroad. This can also result in lost tax revenues and lost jobs here at home. The Russian Federation must also work to protect and enforce intellectual property rights for its own good as well.

For example, if the intellectual property rights that encourage innovation and invention are not protected, incentives will be lost, the innovations and inventions will cease; therefore, the Russian Federation as well as the rest of the world will lose out on these life-enhancing innovations.

Nonenforcement of intellectual property rights because of either neglect or greed will figuratively as well as literally kill the goose that is laying the life-enhancing golden eggs.

Mr. CARDIN. Mr. Speaker, I urge my colleagues to support this very important resolution, and I yield back the balance of my time.

Mr. SHAW. Mr. Speaker, I want to compliment Ms. WATSON and Mr. ISSA for bringing this most important resolution to the floor in a very fine, but too often rare, bipartisan effort. I urge all Members to vote for it.

In the last 25 years, our relationship with Russia has warmed up considerably and we are enjoying good relations with the Russian Federation. However, to extend this into full trade, we need to be able to respect each other's intellectual property rights. Therefore, I ask for a "yes" vote on this resolution, and I hope the Russian Federation is listening to the United States Congress.

Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. CULBERSON). The question is on the motion offered by the gentleman from Florida (Mr. SHAW) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 230.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. SHAW. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

GENERAL LEAVE

Mr. SHAW. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on the subject of the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Florida?

There was no objection.

□ 1315

RECOGNIZING THE 60TH ANNIVERSARY OF THE DISAPPEARANCE OF THE 5 NAVAL AVENGER TORPEDO BOMBERS OF FLIGHT 19

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 500) recognizing the 60th anniversary of the disappearance of the 5 naval Avenger torpedo bombers of Flight 19 and the naval Mariner rescue aircraft sent to search for Flight 19, as amended.

The Clerk read as follows:

H. RES. 500

Whereas on December 5, 1945, the 5 Avenger torpedo bombers of Flight 19, originating at the Naval Air Station of Fort Lauderdale, Florida, and its crew of 14 Navy airmen, disappeared;

Whereas the Mariner rescue aircraft sent to search for Flight 19, originating at the Naval Air Station of Banana River, Florida, and its crew of 13 Navy airmen, also disappeared on that date;

Whereas December 5, 2005, marks the 60th anniversary of the disappearance of Flight 19;

Whereas the loss of Flight 19 occurred during peacetime;

Whereas the disappearance of Flight 19 sparked one of the largest air and sea rescue searches in history covering over 200,000 square miles;

Whereas all investigations of the disappearance of Flight 19 have failed to recover any aircraft, debris, or remains;

Whereas there remain unanswered questions concerning the disappearance of Flight 19; and

Whereas there are continuing efforts with the latest technology to determine the location of the lost aircraft and crews: Now, therefore be it

Resolved, That the House of Representatives—

(1) recognizes the 60th anniversary of the disappearance of the 5 naval Avenger torpedo bombers of Flight 19 and the naval Mariner rescue aircraft sent to search for Flight 19;

(2) honors the memory of the 27 Navy airmen lost in these disappearances;

(3) recognizes the historical significance of Flight 19;

(4) acknowledges continuing efforts to determine what caused these disappearances; and

(5) commends the Naval Historical Center for preserving the history of Flight 19.

The SPEAKER pro tempore (Mr. CULBERSON). Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from North Carolina (Mr. BUTTERFIELD) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise today in support of H. Res. 500, recognizing the 60th anniversary of the loss of 27 men with Flight 19 and the naval Mariner rescue aircraft.

On December 5, 1945, the United States Navy tragically lost 27 of its bravest men to circumstances that are still surrounded in mystery. On that day, Flight 19, comprised of five Avenger torpedo bombers with a total crew of 14 flew out of Fort Lauderdale's Naval Air Station for a routine exercise and never returned.

After having lost contact with Flight 19, the Navy deployed a rescue mission of 13 men, all of whom never returned.

Theories abound about what happened that day with the disappearance of 27 men and their planes, sparking one of the largest air and sea searches in history. Hundreds of ships and aircraft scoured over 200,000 square miles of the Atlantic Ocean and the Gulf of Mexico. The wreckage was never found. Questions have gone unexplained.

Most try to explain away the events by offering the theory that Flight 19 disappeared in the Bermuda Triangle.

After intense investigation, we do know that Flight 19 lifted into the air from the Naval Air Station at Fort Lauderdale, Florida at 2:10 in the afternoon during peacetime. It was a routine practice mission under the command of Lieutenant Charles Taylor. After having completed their objective, the flight plan called for them to fly an additional 67 miles east then turn north for 73 miles and finally back to the Naval Air Station Fort Lauderdale, making their distance a total of 120 miles.

While attempting the return flight, a radio transmission from Taylor signaled that his compasses were not working, but indicated he believed himself to be somewhere over the Florida Keys. Flight 19 thereafter lost contact with the tower and was never heard from again.

The Mariner took off approximately at 7:30 p.m. in search of Flight 19 and was never seen nor heard from after takeoff. Based upon a report from a merchant ship off Fort Lauderdale which sighted a burst of flame, it is believed that this aircraft exploded at sea and sank. However, no trace of the plane or its crew was ever found.

Mr. Speaker, on one tragic day, 27 families experienced excruciating losses of their loved ones, and this Nation lost 27 of its bravest and most dedicated Americans. While the events of that day may go unexplained, the memories of those men will not go unhonored. These 27 men have the thanks of a grateful Nation.

Mr. Speaker, I reserve the balance of my time.

Mr. BUTTERFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in support of House Resolution 500, introduced by the gentleman from Florida (Mr. SHAW). This resolution recognizes the 60th anniversary of the disappearance of the five naval Avenger torpedo bombers of Flight 19 and the naval Mariner rescue aircraft sent to search for Flight 19, and it honors the memory of those 27 Navy airmen lost in the disappearance.

As the gentlewoman from Virginia (Mrs. JO ANN DAVIS) said a moment ago, on December 5, 1945, at approximately 2:10 p.m. a squadron of TBM Avenger torpedo bombers departed from Naval Air Station Fort Lauderdale in Florida on the first leg of a routine exercise. The five-plane formation turned east and headed out over the Atlantic Ocean and subsequently disappeared off the coast of Florida. A 13-man crew of a PBM Mariner was sent out to search for the men of Flight 19, and they too never returned from the area commonly known as the Bermuda Triangle.

The disappearance of the five Avengers and the Mariner resulted in one of the largest air and sea searches in history. Hundreds of ships and aircraft combed 200,000 square miles of the Atlantic Ocean and the Gulf of Mexico, while search parties on land looked for evidence on the off chance that the aircraft may have gone down undetected. Nothing was ever found. No wreckage, no evidence was left of the fate of these six airplanes.

Flight 19, Mr. Speaker, became the Lost Patrol and has been associated with myths of mysterious disappearances of ships and airplanes with the legendary Bermuda Triangle. According to the official board of inquiry, the mission was an overwater navigation training hop composed of an instructor, four naval aviators undergoing advanced training, and nine enlisted aircrew, except for one, who were all undergoing advanced combat aircrew training.

The flight, Mr. Speaker, was entitled Navigation Problem Number 1, which departed Naval Air Station Fort Lauderdale on a triangular route with a brief stop for some glide bombing practice on the first leg out. The weather for the area was described as favorable. The planes were thoroughly preflighted. All survival gear was intact. Fuel tanks were full. Instruments were checked, but none of the aircraft had a clock.

While Flight 19 remains one of America's most enduring, unsolved mysteries, some facts are known. Flight 19's departure from Naval Air Station Fort Lauderdale was led by one of the students. At some point the instructor, Fox Tare, 28, took the lead after the flight turned north on the second leg, thinking that his students were on the wrong heading. While the instructor was familiar with the Florida Keys, with both compasses out and with evidently no concept of time, he could have mistaken the cays of the Northern Bahamas for the Keys and the water beyond for the Gulf of Mexico.

Toward that end, the favorable weather of low ceiling and daytime 10-mile visibility were replaced by rain squalls and by turbulence and darkness of winter night. Terrific winds were encountered, and the calm sea now ran rough. Although no one can officially say what truly happened to Flight 19, former TBM pilots have expressed the opinion that an Avenger attempting to ditch at night in a heavy sea would almost certainly not survive the crash.

Recently, Mr. Speaker, there has been a renewed focus on solving this continuing mystery. Hopefully, this new investigation into the events on December 5, 1945, will result in concrete evidence as to the fate of Flight 19 and the PBM Mariner and will bring closure to the families who lost their loved ones on that fateful day.

Mr. Speaker, I again want to commend my colleague on this resolution.

Mr. Speaker, I reserve the balance of my time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield as much time as he may consume to the gentleman from Florida (Mr. SHAW), the author of this resolution and a distinguished member of the Ways and Means Committee.

Mr. SHAW. Mr. Speaker, the Bermuda Triangle Flight 19 is one of the great mysteries of south Florida. There are those that will stand and look out to sea and say there is something strange out there, because it was on December 5, 1945, when 27 families experienced excruciating losses of their loved ones and this Nation lost 27 of its bravest and most dedicated Americans. While the events that tragic day may go unexplained, and they are still unexplained to this date, the memory of those men will not go unrecognized.

I am proud to sponsor H. Res. 500, which recognizes the 60th anniversary of the disappearance of the five naval Avenger torpedo bombers of Flight 19 and the naval Mariner rescue aircraft sent to search for Flight 19. These 27 men have the thanks of a grateful Nation.

At this time I would like to pause for a moment and read the names of the men who disappeared with Flight 19 and the naval Mariner rescue crew: Flight 19 crew headed by Charles Taylor, Forrest J. Gerber, Edward Joseph Powers, Walter Reed, George Francis Devlin, Herman Thelander, Burt Baluk, Robert Peter Gruebel, Robert Gallivan, Howell Thompson, George Paonessa, William Lightfoot, George Stivers, Joseph Bossi.

This is the Mariner crew: Walter Jeffrey, Harrie Cone, Charles Arcenaux, Roger Allen, Lloyd Eliason, Alfred Zywicki, James Osterheld, John Menendez, Philip Neeman, James Jordan, Robert Cameron, Wiley Cargill, Donald Peterson. Their memories are lodged in the hearts of their loved ones who might survive them today.

I too would join with the ranking member on this particular bill to say that I do hope this mystery will finally be solved, because in south Florida this is still one of the great mysteries, what went on on December 5, 1945, and the Bermuda Triangle that caused so many to perish and so many aircraft.

Mr. Speaker, may God bless the families of these American heroes.

Mr. SPRATT. Mr. Speaker, I rise today in support of H. Res. 500, a resolution to commemorate the 60th anniversary of the disappearance of the Navy's Flight 19 in the Bermuda Triangle on December 5, 1945. Every schoolkid in America knows the Bermuda Triangle as a place of ghost stories and mystery—a place where whole ships and airplanes literally disappear without a trace. Rumors abound about the cause of these disappearances, ranging from mechanical failures to irregular magnetic field activity to extraterrestrial abduction. No mystery from the "Devil's Triangle" has more captured the attention or imagination of America than the ill-fated journey of Navy Flight 19.

At 2:10 p.m. on December 5, 1945, Flight 19, a squadron of five Navy Avenger TBM Torpedo Bombers, took off from Fort Lauderdale for a training run that took them into the heart of the Bermuda Triangle. The weather was cooperative and the water was calm, which was deemed lucky for a squadron where only one of the 14 airmen, Lt. Charles Taylor, had combat flight experience. Nonetheless, midway through the mission, Lt. Taylor became disoriented, claiming his compasses had stopped working, a curious phenomenon in an area known for erratic magnetic activity. Thinking himself over the Florida Keys, Lt. Taylor pointed his squadron Northeast in an attempt to return them to land. Unfortunately, the squadron was over the Bahamas to the east of Florida instead of over the Keys, so their continued northeasterly journey actually took them further out to sea. At 7:04 p.m., the last radio contact was made by Taylor, when he reportedly uttered "everything is wrong . . . strange . . . the ocean doesn't look as it should" and "They look like they're from outer space—don't come after me." After this communication, Flight 19 was never heard from again.

This kicked off a massive search spanning 250,000 square miles of ocean. As part of this search, two additional aircraft known as Martin Mariners, were deployed by the Navy to patrol and look for wreckage. With no indication of difficulty, one of these Martin Mariners failed to meet at a scheduled rendezvous point, and was never heard from again. No sign of the Mariner or the Flight 19 Avengers has ever been found. Roger Allen from Sumter, South Carolina, in my district, was one crew member on the missing Mariner whose fate has yet to be discovered.

H. Res. 500 takes the laudable step of commemorating the 60th anniversary of the disappearance of Flight 19 and the naval Mariner rescue aircraft and honoring the memory of the 27 Navy airmen lost on these flights. It also acknowledges the continuing efforts to determine what caused these disappearances so we can provide answers and closure to the families of the airmen who were lost. I commend the fascinating and haunting tale of Flight 19 to anyone interested in the mystery of the Bermuda Triangle, and I join Congressman SHAW in urging my colleagues to support H. Res. 500.

Ms. JACKSON-LEE of Texas. Mr. Speaker, I rise in support of H. Res. 500, recognizing the 60th anniversary the disappearance of five Avenger warplanes and one of the rescue aircraft sent to retrieve the lost pilots. The six planes flying out of the Naval Air Station of Banana River on December 5, 1945 contained a total of 27 men. These brave men have never been recovered. Their planes and all of their equipment have never been found, either.

As an interesting point, the disappearance of the planes happened somewhere off the eastern coast of Florida. The strange disappearance of these aircraft was the first incident in the lore of what became the story of the Bermuda Triangle. To date, the incident which we are acknowledging today is still the most cited example of strange occurrences in the Bermuda Triangle.

Mr. Speaker, we should remember the bravery of these 27 men by acknowledging the anniversary of their disappearance. It is a tragedy that for so many years, the cause of the disappearance has remained unknown, leaving the families of the fallen pilots without answers.

For over 225 years, the freedom of America has been maintained by the fighting men and women of our Nation's Armed Forces. These courageous soldiers, sailors and marines put their lives on the line every day to preserve the safety and security of our Nation. In honoring the 27 men lost on December 5, 1945, we also honor the hundreds of thousands of men and women of America's Armed Forces whose heroic actions go unheralded every day.

In passing this resolution, we also honor the families of the fallen pilots, whose sacrifices on behalf of our country will never be forgotten.

I strongly support H. Res. 500, and I encourage my colleagues to do the same.

Mr. BUTTERFIELD. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore. The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and agree to the resolution, H. Res. 500, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

AUTHORIZING THE SECRETARY OF THE NAVY TO ENTER INTO A CONTRACT FOR THE NUCLEAR REFUELING AND COMPLEX OVERHAUL OF THE USS "CARL VINSON"

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4326) to authorize the Secretary of the Navy to enter into a contract for the nuclear refueling and complex overhaul of the USS *Carl Vinson* (CVN–70).

The Clerk read as follows:

H.R. 4326

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. REFUELING AND COMPLEX OVERHAUL OF THE U.S.S. CARL VINSON.

(a) CONTRACT AUTHORIZED.—Notwithstanding section 1502 of title 31, United States Code, the Secretary of the Navy may, subject to subsection (c), enter into a contract for the nuclear refueling and complex overhaul of the U.S.S. Carl Vinson (CVN–70).

(b) FISCAL YEAR 2006 LIMITATION.—Funds available to the Secretary of the Navy for fiscal year 2006 may be used for the commencement of work on the contract authorized by subsection (a) during fiscal year 2006, but only for obligations in an amount not to exceed $89,000,000. Additional amounts may be obligated for such work for fiscal year 2006 only to the extent to which authority is expressly provided by law, and funds are appropriated by law, for such obligations after the date of the enactment of this Act.

(c) CONDITION ON SUBSEQUENT CONTRACT PAYMENTS.—A contract entered into under subsection (a) shall provide that any obligation of the United States to make a payment under the contract—

(1) for fiscal year 2006 for an amount that would result in the total of the amounts so paid being in excess of the amount specified in subsection (b) is subject to the availability of appropriations for that purpose made in an Act making appropriations for the Department of Defense for that fiscal year; and

(2) for a fiscal year after fiscal year 2006 is subject to the availability of appropriations for that purpose for that fiscal year.

(d) WAIVER OF PROHIBITION OF NEW STARTS UNDER CONTINUING RESOLUTION AUTHORITY.—The contract authorized by this section may be entered into without regard to section 102(a) of Public Law 109–77 (119 Stat. 2038).

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Virginia (Mrs. JO ANN DAVIS) and the gentleman from North Carolina (Mr. BUTTERFIELD) each will control 20 minutes.

The Chair recognizes the gentlewoman from Virginia (Mrs. JO ANN DAVIS).

GENERAL LEAVE

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Virginia?

There was no objection.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H.R. 4326, which would authorize the Secretary of the Navy to commence the nuclear refueling and complex overhaul of USS *Carl Vinson* (CVN–70). It will also place a cap on expenditures while we continue to work through the conferences on the defense authorization and the defense appropriations bills. By taking this action now, we allow the work to begin as originally contemplated by the Navy. The USS *Vinson* is currently in the Newport News shipyard; and with this legislation, the overhaul can begin in earnest without needless delay and without layoffs of the highly trained and highly capable shipyard workers.

□ 1330

The Refueling and Complex Overhaul, or RCOH, of a *Nimitz*-class aircraft carrier is the one-time mid-life maintenance availability for this class of ship. Consisting of a vigorous 40-month work package, the RCOH provides the necessary refueling and ship maintenance to enable the aircraft carrier to sail for another 25 years. I think it is important to note that the entire work package of over 26 million man-hours in the RCOH is roughly one-half of the work required to build an aircraft carrier from scratch.

Over this maintenance period of 3½ years, there are countless improvements, modernizations, and renovations to be made in preparation for the second half of this magnificent warship's life, and the RCOH work represents over 35 percent of the entire maintenance requirement for the 50-year life of the *Nimitz* class.

While the nuclear refueling is the centerpiece of the work package, these ships contain over a billion parts; and the fact is, Mr. Speaker, that these parts need maintenance and updating. The *Carl Vinson*, for example, has sailed millions of miles in the 23 years since her commissioning in 1982, and this maintenance period is absolutely essential to her future service.

The USS *Carl Vinson* has served our country remarkably well. The ship has participated in operations around the world, most notably in the days after September 11, 2001, when the ship launched the first carrier-based air strikes into Afghanistan as part of Operation Enduring Freedom. In the following months, aircraft launched from the USS *Carl Vinson* flew over 4,200 missions to eliminate terrorist strongholds and training camps used by al Qaeda. I cannot think of a better way to support our Navy and our military than to pass this legislation that will enable the Navy and the thousands of shipyard workers at Northrop Grumman Newport News to complete this vital refueling and maintenance period.

In closing, I want to thank Chairman DUNCAN HUNTER of the House Armed Services Committee and his staff; Congressman SCOTT; as well as House leadership; and especially Congressman ERIC CANTOR for their hard work on this legislation.

Mr. Speaker, I reserve the balance of my time.

Mr. BUTTERFIELD. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I thank my colleagues for considering this resolution today, and let me commend my chairman (Mr. HUNTER) and my ranking member (Mr. SKELTON) for their quick and decisive work on this issue.

Mr. Speaker, aircraft carriers are the backbone of our naval forces. We have seen their profound impact and flexibility in Operation Iraqi Freedom and Operation Enduring Freedom and during tsunami relief efforts in Indonesia, and in other locations.

The bulk of our carrier force is comprised of nuclear carriers which must be refueled and refitted every 25 years. This process takes approximately 2 years, and carriers are refitted back to back.

With that said, Mr. Speaker, the minority has reviewed this bill, and I rise today in strong support of H.R. 4326. This bill is necessary because this Congress, the House and Senate both, have as of yet been unable to finish either the defense appropriations bill or the defense authorization bill. I regret to inform the House, Mr. Speaker, that today, a full 47 days after the start of the current fiscal year, we have left the Department of Defense without a budget and without an authorization from Congress. This occurs even as the men and women of our military are deployed at numerous locations around the world fighting a war.

I mention these facts, Mr. Speaker, because the bill we consider today is intended to correct just one of the thousands of problems created by our inability to complete our work. The United States Navy has long planned to begin the process of refueling the USS *Carl Vinson* this week. The *Vinson* is a *Nimitz*-class nuclear-powered aircraft carrier which has served this Nation with great distinction since she was commissioned back in 1982. She is named for a fine Member of this body, a Democrat, I might say, from the State of Georgia, who chaired the House Armed Services Committee.

Possibly the *Vinson*'s finest hour came on October 7 of 2001 when she launched the first U.S. air attacks in support of Operation Enduring Freedom. Over the next 72 days, the *Vinson* launched over 4,000 combat sorties in support of U.S. and Northern Alliance forces in Afghanistan. It goes without saying, Mr. Speaker, that these air strikes led directly, directly to a very successful outcome.

Today, however, the Navy finds itself in a peculiar bind. It cannot proceed to refuel this ship, which will allow it to operate for another 25 years in defense of this country, without an authorization from Congress. What does this mean? Mr. Speaker, it means that up to 1,700 workers at the Newport News shipyard in Virginia could be laid off as early as next week. To give these workers pink slips would be an utter travesty, Mr. Speaker; and for this reason, I urge my colleagues to vote in favor of this bill.

It must be said, however, that the passage of this bill is an entirely inadequate substitute for passage of the fiscal year 2006 defense authorization and defense appropriations bills. As I mentioned, there are literally thousands of military programs affected in ways, both large and small, by the fact that Congress has not completed its work. While I am pleased that we can save many good jobs in Virginia today by passing this bill, I cannot be satisfied. At a time of war, we owe it to all of the members of our military and we owe it to the Department of Defense to see the defense authorization and appropriations bills completed.

Mr. Speaker, as I travel to visit our troops next week, I would like to visit our warfighters with the satisfaction of knowing that we have passed the 2006 defense budget.

Mr. Speaker, I reserve the balance of my time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I am pleased to yield such time as she may consume to another distinguished member of the Armed Services Committee and my colleague from Virginia (Mrs. DRAKE).

Mrs. DRAKE. Mr. Speaker, I too rise in strong support of H.R. 4326. After 13 historic deployments, the nuclear carrier USS *Carl Vinson* is ready to undertake a large and complex refueling process at Newport News, Virginia. The Refueling and Complex Overhaul will provide the necessary work for the 2,000 workers standing by at Newport News who are simply waiting on Congress to do its job and authorize this work to begin.

Funds are authorized in both versions of the fiscal year 2006 defense authorization bill and appropriated in both versions of the fiscal year 2006 defense appropriations bill. However, delays with both bills have created a serious situation. If the Navy is not granted this authority to enter into this contract, the result will be the laying off of hundreds of shipyard workers in Hampton Roads.

The ship is currently being prepped for refueling, using fiscal year 2005 dollars. However, the funding for such preparation runs out this Friday. Without this legislation, the workers, materials, and resources that have already been assigned to complete such work will have to be reallocated, thus costing the American taxpayer millions.

The passage of this bill will allow the Navy to contract and fund this maintenance for 30 to 45 days until the defense authorization and appropriations conference reports can be acted upon.

Mr. Speaker, I would also like to thank Chairman DUNCAN HUNTER, the staff of the Armed Services Committee, Congresswoman DAVIS, as well as House leadership and Congressman ERIC CANTOR, for their hard work on this legislation.

Mr. BUTTERFIELD. Mr. Speaker, I yield such time as he may consume to my friend and colleague from Virginia (Mr. SCOTT).

Mr. SCOTT of Virginia. Mr. Speaker, I thank the gentleman from North Carolina for yielding me this time.

Mr. Speaker, the USS *Carl Vinson* was scheduled to commence Refueling and Complex Overhaul at Northrop Grumman Newport News last week on November 10.

The authorization and funding for this project was included in the President's fiscal year 2006 budget request and was included in each Chamber's version of the fiscal year 2006 defense authorization and appropriations bills. There is no controversy about these provisions, but the defense bills, as we have heard, have not passed, they are still being negotiated, and there may be some time before final action is taken. Since neither the defense authorization or appropriations conference reports have passed, the lack of authorization language and funding has prevented the Navy from moving forward with this contract, and no work can begin until some legislation actually passes. Some of the workers may be temporarily placed on other jobs, but most will either be idle or laid off, possibly replaced by less experienced workers. Vendor schedules will also be adversely affected.

Mr. Speaker, this delay will obviously increase the costs of the overhaul program. It will complicate other ship construction and repair schedules at Northrop Grumman Newport News facilities. H.R. 4326 will allow the work to proceed without further delay. It will save money and enhance national security by speeding up the return of the *Vinson* to the carrier fleet.

Mr. Speaker, I want to thank the gentlewoman from Virginia (Mrs. JO ANN DAVIS), for her hard work on this bill: my other colleagues, Mrs. DRAKE and the gentleman from North Carolina. We all have shipyard workers in our districts. I want to also thank the leadership of the Armed Services Committee and the leadership of the House for expediting the passage of this bill.

Mr. BUTTERFIELD. Mr. Speaker, I yield back the balance of my time.

Mrs. JO ANN DAVIS of Virginia. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentlewoman from Virginia (Mrs. JO ANN DAVIS) that the House suspend the rules and pass the bill, H.R. 4326.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

EXPRESSING THE SENSE OF THE CONGRESS REGARDING OVERSIGHT OF THE INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

Mr. UPTON. Mr. Speaker, I move to suspend the rules and agree to the concurrent resolution (H. Con. Res. 268) expressing the sense of the Congress regarding oversight of the Internet Corporation for Assigned Names and Numbers.

The Clerk read as follows:

H. CON. RES. 268

Whereas the origins of the Internet can be found in United States Government funding of research to develop packet-switching technology and communications networks, starting with the "ARPANET" network established by the Department of Defense's Advanced Research Projects Agency in the 1960s and carried forward by the National Science Foundation's "NSFNET";

Whereas in subsequent years the Internet evolved from a United States Government research initiative to a global tool for information exchange as in the 1990s it was commercialized by private sector investment, technical management and coordination;

Whereas since its inception the authoritative root zone server—the file server system that contains the master list of all top level domain names made available for routers serving the Internet—has been physically located in the United States;

Whereas today the Internet is a global communications network of inestimable value;

Whereas the continued success and dynamism of the Internet is dependent upon continued private sector leadership and the ability for all users to participate in its continued evolution;

Whereas in allowing people all around the world freely to exchange information, communicate with one another, and facilitate economic growth and democracy, the Internet has enormous potential to enrich and transform human society;

Whereas existing structures have worked effectively to make the Internet the highly robust medium that it is today;

Whereas the security and stability of the Internet's underlying infrastructure, the domain name and addressing system, must be maintained;

Whereas the United States has been committed to the principles of freedom of expression and the free flow of information, as expressed in Article 19 of the Universal Declaration of Human Rights, and reaffirmed in the Geneva Declaration of Principles adopted at the first phase of the World Summit on the Information Society;

Whereas the U.S. Principles on the Internet's Domain Name and Addressing System, issued on June 30, 2005, represent an appropriate framework for the coordination of the system at the present time;

Whereas the Internet Corporation for Assigned Names and Numbers popularly known as ICANN, is the proper organization to coordinate the technical day-to-day operation of the Internet's domain name and addressing system;

Whereas all stakeholders from around the world, including governments, are encouraged to advise ICANN in its decision-making;

Whereas ICANN makes significant efforts to ensure that the views of governments and all Internet stakeholders are reflected in its activities;

Whereas governments have legitimate concerns with respect to the management of their country code top level domains;

Whereas the United States Government is committed to working successfully with the international community to address those concerns, bearing in mind the need for stability and security of the Internet's domain name and addressing system;

Whereas the topic of Internet governance, as currently being discussed in the United Nations World Summit on the Information Society is a broad and complex topic;

Whereas it is appropriate for governments and other stakeholders to discuss Internet governance, given that the Internet will likely be an increasingly important part of the world economy and society in the 21st Century;

Whereas Internet governance discussions in the World Summit should focus on the real threats to the Internet's growth and stability, and not recommend changes to the current regime of domain name and addressing system management and coordination on political grounds unrelated to any technical need; and

Whereas market-based policies and private sector leadership have allowed this medium the flexibility to innovate and evolve: Now, therefore, be it

Resolved by the House of Representatives (the Senate concurring), That it is the sense of Congress that—

(1) it is incumbent upon the United States and other responsible governments to send clear signals to the marketplace that the current structure of oversight and management of the Internet's domain name and addressing service works, and will continue to deliver tangible benefits to Internet users worldwide in the future; and

(2) therefore the authoritative root zone server should remain physically located in the United States and the Secretary of Commerce should maintain oversight of ICANN so that ICANN can continue to manage the day-to-day operation of the Internet's domain name and addressing system well, remain responsive to all Internet stakeholders worldwide, and otherwise fulfill its core technical mission.

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from Michigan (Mr. UPTON) and the gentleman from Virginia (Mr. BOUCHER) each will control 20 minutes.

The Chair recognizes the gentleman from Michigan (Mr. UPTON).

GENERAL LEAVE

Mr. UPTON. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on this legislation and insert extraneous material.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Michigan?

There was no objection.

Mr. UPTON. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I rise in strong support of H. Con. Res. 268. As a cosponsor of this resolution, I want to thank Mr. DOOLITTLE, Mr. BOUCHER, and Mr. GOODLATTE for their bipartisan leadership in introducing it. I also want to thank my chairman, Chairman BARTON, and the House leadership for their willingness to expedite the consideration of this resolution on the floor this afternoon.

Today's Internet has resulted in a flow of information and commerce to the farthest reaches of the globe that was not imaginable even a little more than a decade ago. The Internet has evolved into the greatest global communication the world has ever seen, precisely because we have kept it free from the heavy hand of government control.

Currently, a private, nongovernmental, nonprofit organization called the Internet Corporation for Assigned Names and Numbers, or ICANN, regulates and manages the Domain Name System under which IP addresses and registration of top-level domains like "dot-org," "dot-com," and "dot-gov" are assigned. ICANN operates under a contract through the Department of Commerce, U.S. Department of Commerce, and this relationship stems from the U.S. Government's original development and funding of what has become the Internet. While not everyone may agree with every decision that ICANN has made over the years, including myself, it is a model for Internet governance that has served the global Internet community quite well.

However, some countries have wanted to radically alter the way in which the Internet is governed. Rather than maintaining the current nongovernmental system and working to improve that successful model, these countries sought to scuttle ICANN and put the U.N. in charge. Putting the U.N.'s international governmental bureaucracy in charge of the Internet would have a disastrous consequence for the functioning and operation of the global free flow of information and commerce.

☐ 1345

This resolution expresses the sense of Congress that it is incumbent upon the U.S. and other responsible governments to send clear signals to the marketplace that the current structure of oversight and management of the Internet's domain name and addressing service works and will continue to deliver tangible benefits to Internet users worldwide.

In the future, as well, the authoritative root server should remain physically in the U.S., and the Secretary of Commerce should maintain oversight of ICANN so that ICANN can continue to manage the day-to-day operation of the Internet's domain name and addressing system well and remain responsive to all Internet stakeholders worldwide and otherwise fulfill its core technical mission.

Mr. Speaker, last night I was very pleased to learn that our government's superb team at the World Summit on the Information Society in Tunisia successfully negotiated an agreement which was a complete vindication of the principles embodied in this very resolution before us today and is our government's position.

My understanding is that the agreement was unanimous among the more than 100 countries participating in the process, which means that the global consensus is now consistent with these principles as well. I want to especially commend our Secretary of Commerce, Carlos Gutierrez, originally from Michigan, I might add; Assistant Secretary for Communications and Information, Michael Gallagher; Fiona Alexander, the Office of International Affairs; and many others at the Commerce Department and the NTIA.

I also want to commend our Secretary of State, Condoleezza Rice; State Department Ambassador David Gross; Richard Beaird; Sally Shipman; and many other wonderful, dedicated, hard-working staff members at the Department of State.

Mr. Speaker, to paraphrase from what Winston Churchill once said about democracy, it has been said that ICANN is the worst form of Internet governance, except all the others that have been proposed.

Mr. Speaker, I would urge all my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. BOUCHER. Mr. Speaker, I yield myself 4 minutes.

Mr. Speaker, it is my pleasure to partner today with the gentleman from California (Mr. DOOLITTLE) and the gentleman from Virginia (Mr. GOODLATTE) with whom I have the privilege of co-chairing the Congressional Internet Caucus in authoring this resolution, which will express our view that the Internet remain open, available for all to use, global and seamless.

It expresses the sense of the Congress that the United States has been a good steward in its management of the root server and the system for Internet domain name assignment.

We carry out this mission by entrusting day-to-day decision making and management to a private nongovernmental, not-for-profit corporation known as ICANN. The Internet address list is kept up to date, new domain names are assigned as they are needed in a fair and an equitable and predictable manner.

No one has demonstrated any problem with the way this system operates. No one has asserted that a needed domain name has been withheld and not assigned. There are no examples of ICANN, or the U.S. Department of Commerce, which has oversight responsibility, having acted in any way inappropriately.

As a result of efficient and even-handed American management, the Internet has become a global pathway of instant communications, which has spurred economic growth, improved the quality of people's lives and strengthened democratic institutions here in this Nation and across the world. Citizens of many nations in the lesser-developed world rightly say that they aspire to better access to computers in their homes or in community centers where computers would be available to all.

They rightly ask that Internet service providers bring the Internet and all that it offers to their localities. They rightly urge that basic dialup services be upgraded to broadband where only the most basic form of Internet access is available today.

None of these legitimate aspirations are related in any way to the manner in which ICANN assigns domain names and updates the global Internet address system. A change in these critical management functions would do nothing to expand Internet availability deeper into the developing world.

Unfortunately, the U.N. Summit on the Information Society, which began in Geneva, as a forum for discussing ways to bring Internet access to developing nations, over time morphed into a forum focusing on Internet governance and specifically focusing on management of the well-functioning domain assignment system and the Internet address management work of ICANN.

Fortunately, in Tunisia yesterday, a sensible outcome was achieved. Any change in Internet management was put aside in favor of the creation of an international forum where other kinds of Internet-related concerns can be discussed, perhaps including ways to bring the Internet to more of the world's population, and to address Internet problems that are common to all Internet users, including viruses, spam and security-related matters.

This outcome is a victory for Internet functionality. It is a validation of the careful role the United States has played and will continue to play in management of the global address system. It is a reflection of the skill exhibited by our ambassador, David Gross, who led the American team at the summit in negotiating with many who have deep-seated disagreements over aspects of American foreign policy.

I want to congratulate Ambassador Gross for what he has achieved. I congratulate ICANN and the U.S. Department of Commerce on a job well done, which enabled the outcome in Tunisia.

I thank the gentleman from California (Mr. DOOLITTLE) and the gentleman from Virginia (Mr. GOODLATTE) for their leadership on this measure which describes the role that our Nation plays in Internet address management and urges that role be maintained.

I urge adoption of the resolution.

Mr. Speaker, I reserve the balance of our time.

Mr. UPTON. Mr. Speaker, I yield 3 minutes to the gentleman from Utah (Mr. CANNON), cosponsor of the bill.

Mr. CANNON. Mr. Speaker, I would like to thank the gentleman from Michigan (Mr. UPTON) for his leadership on this issue.

I rise today in support of H. Con. Res. 268, which seeks to remind the world of the obvious: The Internet has revolutionized the way business is done here and throughout the world. It has created new industries, revitalized struggling industries and has helped to open new markets for American goods. It allows a small business in Utah to compete on a global scale by marketing, selling and delivering products anywhere in the world. It has done so with minimal government intrusion.

From my home State of Utah, international trade is our fastest-growing sector, and one of the greatest facilitators of this is the Internet. Nearly three in four of Utah households own a computer, a higher percentage than in any other State, and 63 percent are online. That is about the fifth highest rate of Internet usage in the country.

The Internet has become the greatest ally of our small entrepreneurs. Companies like 1-800 Contacts and Overstock.Com make their home in Utah and are able to sell anywhere in the country and in the world. This empowerment is not just felt in Utah. After $1 trillion of private investment in the Internet, it is no longer just a toy; it is the backbone of the American economy. Today, nearly half a billion dollars in commerce happens every day on the Internet. It is critical infrastructure, and we must do everything in our power to ensure its stability and security.

This resolution has become even more important as the United Nations is considering proposals to radically change the way the Internet is managed. A group of nations, including China, North Korea and Iran, are pushing for a U.N. Security Council-like organization to govern the Internet. This new bureaucratic nightmare would replace the private-public partnership that so successfully manages the Internet infrastructure today through a nonprofit corporation called Internet Corporation for Assigned Names and Number, ICANN.

I am pleased that, last night, delegates at the U.S. summit ignored those calls to turn ICANN over to less-developed nations and ensured for the present, at least, that the United States will control the global Internet. This is just the first battle. The battle and security of our electronic economy can never be left to a tie-breaking vote by Kim Jong-Il.

I urge my colleagues to vote for H. Con. Res. 268. The resolution of the gentleman from California (Mr. DOOLITTLE) sends a strong message to the rest of the world about the importance of free and unfettered Internet to our Nation's businesses and to the proliferation of freedom and to self-determination around the world.

Mr. Speaker, I submit for the RECORD a letter I wrote in October to Secretary of State Condoleezza Rice urging her to resist this internationalization of the Internet.

CONGRESS OF THE UNITED STATES,
HOUSE OF REPRESENTATIVES,
Washington, DC, October 20, 2005.
Hon. CONDOLEEZZA RICE,
Secretary of State, U.S. Department of State, Washington, DC.

DEAR MADAM SECRETARY: The final report of the United Nations Working Group on Internet Government reveals perfectly why its recommendations should be and will be rejected. The report demonstrates beyond contradiction that the Working Group and the United Nations itself is dangerously disconnected from reality.

You are certainly aware, Madam Secretary, of the on-going investigations of mismanagement by the United Nations and rampant corruption in the Oil for Food program. You are further aware of the fecklessness of United Nations operations in the last few years. The organization's chaos and budgetary uncertainties revealed by audit after audit are a matter of public record.

In contrast, the Internet has flourished in an incredibly short time into a powerful engine for human growth. Its potential contributions to economic growth in less developed countries dwarfs anything the United Nations could conceivably provide, and even the direct foreign aid that the United States and other advanced countries can marshal. In fact, the Internet's proliferation is the direct result of the hands-off management applied by the United States. There is no other country on the face of the earth whose government would have had the restraint to permit the freedom of thought and action that has produced the present benefits and future promise of the Internet.

Under the circumstances, it is nothing short of preposterous to suggest that any aspect of management of this amazing engine of knowledge and development be turned over to bureaucrats under the sway and direction of some of the most brutal and controlling tyrants in the world whose antipathy to the free flow of information is pathological.

That a United Nations entity could make such a proposal and expect it to be taken seriously is all the evidence one needs that the United Nations is not fit to undertake the task.

I have no doubt that my appraisal of the situation coincides with yours, and I urge you to express our feelings as strongly as possible. In any event, you may count on my opposition to any implementation of the Working Group's report.

Sincerely,

CHRIS CANNON.

Mr. BOUCHER. Mr. Speaker, I am pleased to yield 3 minutes to the gentleman from Virginia (Mr. GOODLATTE), the distinguished chairman of the House Agriculture Committee, who is co-chairman of the Congressional Internet Caucus and one of the coauthors of this resolution.

Mr. GOODLATTE. Mr. Speaker, I thank the gentleman from Virginia (Mr. BOUCHER) for yielding me time and for his leadership on this issue. I rise in strong support of this bipartisan resolution, which I introduced with the gentleman from California (Mr. DOOLITTLE) and the gentleman from Virginia (Mr. BOUCHER) to express the sense of Congress supporting the current method of administering the Internet.

The Internet's domain name system is administered by the Internet Corporation for Assigned Names and Numbers, or ICANN, a private nonprofit organization based in the United States that works closely with the U.S. Department of Commerce. This privately-operated approach fosters market principles and is the most efficient way to administer the Internet's domain name system and root servers.

However, the United Nations, with the support of countries including China, Iran and Cuba, released a report earlier this year, which included proposals to take control of administration of the Internet from the United States-based ICANN and give it to a bureaucratic U.N. body. The European Union had also signaled that it would support having an international body oversee the Internet.

The more governments and bureaucracies involved in running the Internet's day-to-day operations, the more likely that red tape and overly burdensome regulations will result. However, last night at the World Summit on the Information Society in Tunis, Tunisia, the United States struck a deal with the international community which ensures that, for now, the administration of the Internet's core technical functions remains within the private hands of ICANN with continued oversight by the United States Department of Commerce. This appears to be a big victory for the Internet, for free market principles and for the free flow of information around the world.

While I am optimistic about the agreement that was reached yesterday in Tunis, there is little doubt that some countries will continue to push for more control of the Internet, so the United States must continue to be vigilant. The United States is uniquely positioned to protect the fundamental principles of free press and free speech upon which the Internet has thrived.

The U.S. Constitution guarantees these basic rights, and to cede control of the Internet with countries, with at best questionable records regarding these rights, would jeopardize the continued success of the Internet and lead to significant restrictions on access to the Internet's wealth of information.

House Concurrent Resolution 268 will send a strong message that the United States is committed to the principles that have made the Internet thrive.

Mr. Speaker, I thank the gentleman from Michigan (Mr. UPTON) for his management of this legislation as chairman of an important Energy and Commerce subcommittee. I urge my colleagues to support this important resolution.

Mr. UPTON. Mr. Speaker, I yield 3 minutes to the gentleman (Mr. HAYES), a co-sponsor of the bill.

Mr. HAYES. Mr. Speaker, I thank the gentleman from Michigan (Mr. UPTON) for his time and for dealing with this issue.

Today I rise in strong support of House Concurrent Resolution 268 regarding oversight of the Internet Corporation for Assigned Names and Numbers. With over 1 billion users and counting worldwide, the Internet has quickly become a critical place for individuals, business communities and governments to share and distribute information.

Ranging from middle school students researching a paper, to small business owners like Steve Earwood, running the Rockingham Dragway, and using it to promote his business to Ukrainian bloggers that helped start the Orange Revolution which swept Victor Yushenko into office, the Internet has literally changed the world.

The Internet was developed in large part by U.S. government research funding to develop new communications networks, starting with a network created by the Department of Defense. Today the Internet is run by private sector interests within the United States under the supervision of a nonprofit entity formed by the U.S. Department of Commerce.

Mr. Speaker, there was an initiative to put full control of the Internet into the hands of the United Nations. That is a bad idea.

The freedom of the Internet that exists today will be transferred to the discretion of countries like China, Syria, Cuba and Iran. Beyond the concerns with freedom, there are concerns about the U.N. using its control of the Internet as a means to impose new international taxes.

Yesterday, a favorable agreement was reached at the United Nations world summit on the information society. However, there remains an effort by some to create a global regulator of the Internet.

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Mr. Speaker, I support this resolution because we must maintain the integrity of the Internet as this U.S.-developed product has changed the world with its freedom of message and freedom of commerce. To put it in NASCAR terms, if you are the fastest car on the track and leading the race, don't touch it.

Mr. BOUCHER. Mr. Speaker, I reserve the balance of my time.

Mr. UPTON. Mr. Speaker, I yield 3 minutes to the gentleman from California (Mr. DOOLITTLE), the author of the bill, the original sponsor.

Mr. DOOLITTLE. Mr. Speaker, I appreciate the gentleman from Michigan (Mr. UPTON) yielding me time and I appreciate the co-sponsors of this bill who have spoken for it so forcefully.

I first became aware a few months ago that there was going to be an attempt to wrest control of the Internet away from the United States, and I felt very strongly that that would be to the disadvantage of all the users of the Internet.

The United States, beginning back in the 60s, funded the research that led to what is now the Internet as we know it. And it is really one of the remarkable accomplishments, in my opinion, of humanity. It is something that has affected the lives of almost everyone. It is something that has promoted the free exchange of ideas around the world, the free exchange of goods and commerce around the world. It is something very precious to all of us that has really changed the way that we live.

We have an excellent record as the steward of the Internet. There is no one who has offered any evidence of any abuse whatsoever, and it is very disturbing to me some of the nations that are calling for taking this out of our hands are nations who have a poor record of human rights, who desire to regulate significantly what the content of speech can be. It is very troubling to me, for example, that one of the big proponents of getting this into the hands of the U.N. would be China, China which has a terrible record on freedom of speech and the Internet which is imprisoning people for making inquiries that are forbidden on the Internet.

For example, I indeed have an interesting list of forbidden words they have. This is based on research done by U.S. researchers examining China's record. Here are the words that trigger problems for you if you are in China putting into the computer: democracy, Christian, Falun Gong, human rights, multi-party, oppose corruption, underground church, overthrow, Taiwan independence, Tiananmen, and traitor.

Mr. Speaker, it would be a tragedy to let control of the Internet go to the United Nations. We have seen what they have done with the Oil-for-Food program, for example, and the billions of dollars of scandal involved there. There are people who want to tax the Internet. There are people who want to get control of it for their own purposes. The United States should remain the steward, not let the United Nations get its hands on it.

I am encouraged by what happened in Tunis last evening. It is not a guarantee. The United States Congress should vote for this resolution and speak with one voice that we intend to maintain the Internet as it has been governed heretofore, and I ask for support for this resolution.

Mr. BOUCHER. Mr. Speaker, I yield myself 1 minute.

Mr. Speaker, the outcome in Tunis is a victory for an open, globally, seamless Internet. It is a strong validation of the thoughtful way in which ICANN with oversight from our U.S. Department of Commerce has managed the Internet address system.

In Tunis yesterday, a decision was made to create an international forum that could be a discussion focus for issues relating to the Internet that are common to all Internet users, including matters such as spam, viruses and other security-related concerns. It seems to me that the United States now should seize the opportunity of this new international forum, the first meeting of which will take place in Greece during the middle part of 2006, in order to enlist assistance from other countries and achieve a number of very admirable goals. The first of these is to encourage investment that will extend the Internet into places where an Internet presence is not presently found, and in particular into the developing world.

Secondly, these problems that are coming to all Internet usage can be addressed in a way where we can enlist global participation in helping to find answers. I look forward to working with Ambassador Gross, others within the administration, and my colleagues in the Congress as we undertake that work.

Mr. Speaker, I yield back the balance of my time.

Mr. UPTON. Mr. Speaker, in closing, I would urge all of my colleagues on both sides of the aisle to support this legislation. Again, it is bipartisan. It is the right thing to do. I would like to think that we will have a very strong vote for it.

Ms. ZOE LOFGREN of California. Mr. Speaker, I rise today to speak in support of this concurrent resolution, which expresses the sense of Congress that management of IP numbering and addressing should remain in the hands of the Internet Corporation for Assigned Names and Numbers, under the oversight of the United States Department of Commerce. This is an important resolution on one of the most pressing issues facing the Internet today.

The Internet has become a truly global medium in no small part due to the "hands-off" policies the United States has long followed in the Internet space. By one estimate, there are more than 160 million broadband Internet users worldwide. There are an estimated 1 billion Internet users worldwide, of which the United States, the birthplace of the Internet, constitutes less than one-fourth. More than a third of Internet users live in Asia, and nearly one third live in Europe. It has been our "hands-off" leadership in the United States that has enabled the Internet to grow so dramatically across the world.

The internationalization of the Internet is further evidenced by the widespread availability of IP address allocations, the vast majority of which are outside the United States. For IPv4 addresses, 33% went to the Asia Pacific Region, 32% to North America, 31% to Europe, 3% to South America and 1% to Africa. For IPv6, 56% of addresses went to Europe, 23% to the Asia Pacific Region, 17% to North America, 3% to Latin American and 1% to Africa. These figures clearly show that the current mechanisms for oversight of Internet addressing and numbering have led to an explosion of Internet usage not just in the United States but worldwide.

Far from governing the Internet, the United States has followed what can best be described as a policy of benign neglect. The Department of Commerce plays no role in the internal governance or day-to-day operations of ICANN. Rather, the relationship between the Department of Commerce and ICANN is governed by contract, not regulation. The Department of Commerce provides oversight simply to ensure that ICANN fulfills its responsibilities under that agreement. The true policy-making body here is ICANN, not the Department of Commerce. Moreover, ICANN's role under that agreement is best described as creating an open forum for technical coordination, to ensure the continued stability and openness of the Internet.

What's needed now is not the abandonment of the ICANN's existing management of IP addressing. Rather, what's needed is a continuation of the policies that have made IP address and domain name management stable, secure, efficient and open. At present, participation in ICANN is open to all who share ICANN's mission of technical coordination. ICANN holds public meetings throughout the year, and across the world. ICANN's staff represents seven different countries and its Board represents twelve nationalities. ICANN is already an international body managing IP addressing and numbering—a private-sector, non-profit, non-governmental international body that's been directly responsible for fostering an open, stable, and worldwide Internet.

For all of these reasons, I took great pleasure in reading today that negotiators from more than 100 nations agreed yesterday to leave ICANN, under the oversight of the Department of Commerce, in charge of managing the IP address and domain name systems. This multilateral agreement represents a resounding validation of the role ICANN continues to play, and a resounding validation of the resolution we are considering here today.

I strongly urge my colleagues to support this important resolution, and join me in voting in favor of it.

Mrs. BLACKBURN. Mr. Speaker, I rise today in support of H. Con. Res. 268, regarding oversight of the Internet Corporation for Assigned Names and Numbers. As we have been discussing here today, the foundational structure of the Internet is under attack. But this attack is not from cyber terrorists, or high school kids run amok. Rather this attack comes from people who would like to impose the heavy hand of government on a system that is the most powerful example of freedom we may have ever seen.

How powerful? Here are a few statistics: More than 1 billion users worldwide; more than half a trillion annual commercial transactions; more than a trillion dollars in private investment; the largest source of news reporting in the world; and the largest communications backbone in the world.

But this amazingly powerful engine of commerce and freedom is being attacked as not inclusive enough for the rest of the world.

These critics want to replace today's simple system with three new quasi-governmental bodies to oversee the Internet and related public policy issues. Ultimately, these bodies would rule on freedom of speech, privacy, e-commerce, spam, cyber-security, and cyber-crime. They would take the positions of China, Iran and Syria into account when establishing standards for free speech. They would listen to Cuba on questions of eCommerce. They would listen to Congo on questions of cyber-crime.

There are those who have characterized this debate as being the U.S. vs. the world. But in fact, this debate is about freedom from government vs. government intervention.

I think the U.S. has shown great restraint in supporting an ICANN whose functions are limited to just the most technical management functions.

I urge my colleagues to join with me in sending a message to the world that the Internet needs no U.N. "Governance". Freedom on the Internet needs a light touch, not a heavy hand. Support H. Con. Res. 268 and support internet freedom from big government.

Ms. BORDALLO. Mr. Speaker, today I rise in support of H. Con. Res. 268, which expresses the sense of the Congress regarding support for the current oversight structure for the Internet Corporation for Assigned Names and Numbers (ICANN).

The Internet is the technological wonder of this generation. Established as means for a very select few researchers and scientists to share information, the Internet has developed into a powerful research, business, and recreational tool that shapes the world in which we live.

As lawmakers, we must ensure that we do nothing that will inhibit further development and innovation of this marvelous system that we call the World Wide Web. I fear that efforts to change the way the Internet is governed may do just that. The current structure has been in place for nearly 8 years. That structure includes the important work done by ICANN. Since 1998 the number of Internet users has grown tremendously in size both within the United States and throughout the world.

This legislation affirms ICANN's stewardship during this time of unprecedented technological innovation and change in the way we communicate with friends, conduct business, and learn about the world in which we live. For these reasons and others, I voice my strong support for ICANN and this resolution.

An element of particular interest to my district, Guam, relates to our inclusion in the Asia-Pacific Network Information Centre (APNIC) Regional Internet Registry. Except for Guam, the Commonwealth of the Northern Mariana Islands, and American Samoa, all other U.S. jurisdictions are included in the American Registry for Internet Numbers (ARIN). This distinction in Regional Internet Registry membership has presented several technical challenges for Internet users in Guam. For instance, Internet users in Guam who wish to access and download files from a website registered under ARIN are sometimes restricted from doing so. Some websites have controls built around the Regional Internet Registries to guard against intellectual property rights infractions. In the case of Internet users in Guam, access is restricted to some ARIN registered websites. These restrictions have disrupted Internet commerce and limited participation of U.S. citizens in Guam in Internet-based government services.

The Internet provides Guam with a vital link to the continental United States. The Internet factors heavily in communication between family members living on Guam and in the continental United States. The Internet is also essential for firms on Guam wishing to conduct business with firms located in the continental United States. Furthermore, with the aid of the Internet, Guam's citizens can have better and greater access to the Federal Government. I have written to ICANN regarding the Regional Internet Registry issue and the challenges that APNIC membership has presented for Internet users in Guam. With the attention and oversight of the Department of Commerce, I hope this and other issues affecting protocols for Guam-based servers and Internet users can be resolved in a manner favorable to my constituents. The continuance of Department of Commerce oversight of ICANN management of the Internet presents us the best opportunity to resolve these issues in a manner favorable to Guam. Therefore, I support passage of H. Con. Res. 268.

Mr. UPTON. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Michigan (Mr. UPTON) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 268.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Mr. DOOLITTLE. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this question will be postponed.

NATIONAL FLOOD INSURANCE PROGRAM FURTHER ENHANCED BORROWING AUTHORITY ACT OF 2005

Mr. NEY. Mr. Speaker, I move to suspend the rules and pass the bill (H.R. 4133) to temporarily increase the borrowing authority of the Federal Emergency Management Agency for carrying out the national flood insurance program.

The Clerk read as follows:

H.R. 4133

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "National Flood Insurance Program Further Enhanced Borrowing Authority Act of 2005".

SEC. 2. INCREASE IN BORROWING AUTHORITY.

The first sentence of subsection (a) of section 1309 of the National Flood Insurance Act of 1968 (42 U.S.C. 4016(a)), as amended by the National Flood Insurance Program Enhanced Borrowing Authority Act of 2005 (Public Law 109–65; 119 Stat. 1998), is amended by striking "$3,500,000,000" and inserting "$8,500,000,000".

The SPEAKER pro tempore. Pursuant to the rule, the gentleman from

Ohio (Mr. NEY) and the gentleman from Georgia (Mr. SCOTT) each will control 20 minutes.

The Chair recognizes the gentleman from Ohio (Mr. NEY).

Mr. NEY. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, I would like to offer my support today to Congressman FITZPATRICK's efforts to increase the borrowing authority for the National Flood Insurance Program through H.R. 4133, the additional borrowing authority for the National Flood Insurance Program.

Last month in the immediate aftermath of Hurricane Katrina, I introduced H.R. 3669, the National Flood Insurance Program Enhanced Borrowing Authority Act of 2005. That piece of legislation increased FEMA's borrowing authority for flood insurance by $2 billion, which went a long way in helping the Department's flood insurance response at that time.

The Fitzpatrick bill would provide an additional $5 billion in borrowing authority to help ensure that the NFIP has sufficient funding on a cash basis in the short term. This bill would allow FEMA to continue payment of the initial claims resulting from Hurricanes Katrina, Rita and Wilma, while the administration further evaluates the extent of the damage and the most potential means to cover all potential claims.

Last month, the Housing Subcommittee received testimony from the director of National Flood Insurance Program, who estimated that Katrina and Rita flood insurance claims could exceed $22 billion. These claims from those whose homes or businesses have been damaged or destroyed by Hurricane Katrina, Rita, and now Wilma, are not a new obligation. I would like to stress that it is not a new obligation. They are the result of a legal promise that we, the United States Government, have made to these homeowners and business owners when Congress passed the National Flood Insurance Act of 1968 and subsequent revisions.

Homeowners and business owners agreed to pay premiums, communities agreed to adopt building codes to mitigate flood dangers, and the Federal Government agreed to provide insurance coverage to policyholders after a disaster.

Every single one of these claims represents someone who has taken the responsible course of action by purchasing flood insurance and paying premiums to the United States Government. We not only have a legal obligation, Mr. Speaker, to honor our commitments but we have a moral obligation to provide the coverage we have promised to provide to these citizens who have been through so much in their lives.

The Subcommittee on Housing and Community Opportunity already held four hearings this year on this important program, including an August field hearing in rural Ohio.

As the damage assessments and insurance claims begin to come in from the gulf coast region, we will continue our oversight of course of the NFIP. The National Flood Insurance Program is a valuable tool in addressing the losses incurred throughout this country due to floods. It ensures that businesses and families have access to affordable flood insurance that would not be available on the open market.

It is a pleasure to be here today with my friend from Georgia (Mr. SCOTT). I would like to commend the Members who have supported this bill and give due diligence and a real thank you to the gentleman from Pennsylvania (Mr. FITZPATRICK), who has stepped up to the plate to carry this bill and do the right thing to help people that are in very severe trauma right now in their lives.

Mr. Speaker, I reserve the balance of my time.

Mr. SCOTT of Georgia. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, it is indeed a pleasure to be here and to be here with my good friend from Ohio (Mr. NEY) on this very, very important and timely subject.

Mr. Speaker, I rise in support of this bill, H.R. 4133, which is the National Flood Insurance Program Further Enhanced Borrowing Authority Act of 2005, which would temporarily increase the borrowing authority of the Federal Emergency Management Agency for carrying out the National Flood Insurance Program.

This bill increases the borrowing authority by $5 billion to $8.5 billion. While this is a dramatic and unprecedented increase, it still will not be enough. Estimates are that the flood insurance program will need upwards of $30 billion to pay the claims from the unprecedented hurricane season led by Hurricane Katrina, and paying the claims is the contractual obligation of the Federal Government to those people who paid for and maintained policies under this important government program.

It goes without saying that the flood insurance program needs to be reformed so that it can meet the needs that arise from unprecedented disasters. Additionally, additional funding should come with an assurance that we are not going to put people right back in harm's way. We need to prevent this same situation from occurring in the future.

Today, this morning, the Financial Services Committee is debating a bill that will be a good start at that reform. I was present this morning and participated in that debate where many of my colleagues on the committee spoke passionately and set forth ideas and plans to respond to the Katrina tragedy and to help homeowners get back on their feet.

It is clear that my colleagues care, and I am pleased to reported that reform legislation that will benefit people living in harm's way is on its way to this floor.

Mr. Speaker, it is so fitting because there is just one week before Thanksgiving and; as we go home this weekend and next weekend, it will be comforting to know that while we are in the comfort of celebrating Thanksgiving, that we are also putting forward this measure today which gives a measure of thankfulness and giving.

Mr. Speaker, this is a necessary bill which fulfills our obligation to people who have legitimate and legal claims under the flood insurance program and who need that money now to begin rebuilding their shattered lives.

I urge swift passage.

Mr. Speaker, I reserve the balance of my time.

Mr. NEY. Mr. Speaker, I yield 5 minutes to the gentleman from Pennsylvania (Mr. FITZPATRICK), the sponsor of the bill.

Mr. FITZPATRICK of Pennsylvania. Mr. Speaker, I thank the chairman for his leadership and the leadership of the gentleman from Georgia (Mr. SCOTT) with regard to the National Flood Insurance Program and the willingness of assistance to flood victims throughout the United States.

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Mr. Speaker, no one could have anticipated the sheer amount of devastation that was brought upon this Nation in the wake of Hurricanes Rita and Katrina. Cities, towns, entire communities along the gulf coast were practically wiped out and off the map due to high flooding, pounding wind and constant driving rain.

Although Congress took immediate action to pass a supplemental relief package to assist the impacted communities along the gulf, one important program in particular remains in need of our attention and of our support, the National Flood Insurance Program.

I am pleased to bring to the floor today H.R. 4133, the National Flood Insurance Program Further Enhanced Borrowing Act of 2005. This important piece of legislation will empower residents of the gulf coast by increasing the National Flood Insurance Program's ability to borrow funds from the U.S. Treasury to cover claims resulting from these recent and devastating hurricanes.

Congress authorized the National Flood Insurance Program in 1968 following a series of historic hurricanes in the mid-1950s and 1960s. At that time, Mr. Speaker, affordable flood insurance was not generally available from the private insurance industry. The concept that gave birth to this program was the idea that the Federal Government would make flood insurance available to the people if their local governments agreed to adopt and enforce measures to make future construction safer from flooding.

The National Flood Insurance Program provides insurance at actuarial, risk-based rates, including consideration for catastrophic losses. Currently, more than 20,000 communities in all 50 States and U.S. territories voluntarily participate in the National Flood Insurance Program, and the program insures in excess of $800 billion in assets, which breaks down to more than 4.7 million policies for homes, for businesses and other non-residential properties.

Since 1986, the National Flood Insurance Program has been financially self-supporting for the average historic loss year, but during periods of high losses, the NFIP has borrowed from the United States Treasury. Each time the NFIP has had to borrow from the Treasury, the loans have been repaid with interest from policyholder premiums and related fees, and at no cost to this Nation's taxpayers.

However, the impact of Katrina and Rita will place a historic strain on the National Flood Insurance Program. Simply put, the National Flood Insurance Program was not designed to handle a series of events such as those we have experienced throughout the current hurricane season.

For example, Mr. Speaker, and this statistic is staggering, since the program's inception, the National Flood Insurance Program has paid out a total of $15 billion in claims to cover more than 1.3 million reported losses. For this hurricane season, FEMA estimates that more than 225,000 Katrina and Rita NFIP claims are likely to be filed, exceeding $22 billion, a number far surpassing the total amount of claims paid throughout the entire history of the National Flood Insurance Program.

Although the President signed into law H.R. 3669, which increased the borrowing authority by $2 billion, current flood insurance claims projection for Hurricanes Katrina and Rita indicate additional borrowing authority will be necessary. My legislation will temporarily increase FEMA's borrowing authority for flood insurance by $5 billion.

Mr. Speaker, FEMA is quickly running out of money. We need to act now to enable this stopgap measure to cover claims from the gulf coast. We should not think of this as a new obligation. It is not. Instead, it is a necessary step to keep a legal promise that Congress made to homeowners and business owners when Congress passed the National Flood Insurance Act of 1968. We have a moral obligation to honor our commitments and to provide the coverage we have promised to provide and help flood victims who need to rebuild their homes and their lives.

I ask my colleagues for their support and seek passage of this important legislation.

Mr. SCOTT of Georgia. Mr. Speaker, I yield 5 minutes to the distinguished gentleman from Oregon (Mr. BLUMENAUER).

Mr. BLUMENAUER. Mr. Speaker, I appreciate my colleague from Georgia's courtesy in permitting me to speak on this bill, and I rise in support of it. It is a very important initial step that we need to make.

I take modest exception with my friend, the primary sponsor of this legislation, because I do think the range of disasters actually were, in fact, foreseeable and foreseen. I have been talking about this precise situation on the floor of the House for several years. It is one of the reasons why I worked in the previous Congress to deal with the reform of the Flood Insurance Act that was signed by President Bush last summer.

As I mentioned the last time we had an extension on the floor to extend the borrowing authority, this is absolutely critical. We must do it, we should do it, but it is only part of an overall solution.

I deeply appreciate the leadership that has been displayed by Chairman OXLEY, Ranking Member FRANK and Mr. NEY and Ms. WATERS in the hearing that was held today in Financial Services, looking at the long-term consequences of the flood insurance program and where it needs to go.

The simple fact is that what we saw in the gulf region from East Texas to the Florida Panhandle is not something that is unforeseen or something that is not going to occur again. In fact, science tells us that we are seeing coastal erosion. We have seen increases in storm events. Over 70 percent of the American population lives in areas where they are in harm's way to one or more natural disasters, of which flooding is the most frequent and the most damaging. We need to not just extend the borrowing authority. We need to look at the fundamentals of the program as Financial Services did today.

It is time to stop the fiction that somehow a levee protects people and they should not have flood insurance. People behind the levee in the 100-year flood plain absolutely should be mandated to have flood insurance, since we are at the point where the "flood of the century" is happening two times a decade. We need to change that definition, and in fact, the proposal to study or even extend flood insurance requirements for people in the 500-year flood plain is probably in order.

We need to be looking consistently at the big picture. We cannot afford to throw more and more taxpayer dollars at people who are going to repeatedly be in harm's way. Our hearts go out to the victims of Katrina and Rita, and I absolutely approve this legislation and extending the borrowing authority and not burying it in the flood insurance rates. That is not fair to everybody else.

However, we do need to make fundamental changes in that program, build on the reforms of last session. We need to make sure that people in repetitive flood loss situations are either moved out of harm's way or they flood proof their property. FEMA must get on the stick in implementing the reforms that we passed last session, and we need to expand the scope of the program itself.

This will make sure that people change their behaviors. It will put more money into the program by people who should be investing in it, and we will be able to have a more coordinated approach to make sure that we are not only fiscally responsible but we are helping people stay out of harm's way in the first place.

Last but by no means least, Mr. Speaker, our attention needs to go beyond the flood insurance program. We have people who are in danger for wind storms, mud slides, wildfires, forest fires. I have already mentioned coastal erosion. This is all part of a big picture, to sort out the limits of where the Federal Government provides relief as a last resort for an unforeseen natural disaster and where the private sector steps in to extend the principle of insurance.

Along the way, we make some changes so that State and local governments are responsible for what happens in their communities. I must say, as I began working on issues related to Katrina recovery, I was stunned to find that there were three Louisiana parishes and seven Mississippi counties that do not even have building codes. I am not talking about comprehensive plans and zoning. I am talking about building codes. It is time that we coordinate what we do on the Federal Government to provide resources, carrots and sticks, to make sure that we have a balanced partnership to save people's lives, limit damage and, of course, be responsible with the taxpayers' money.

Mr. NEY. Mr. Speaker, I yield 5 minutes to the gentlewoman from Pennsylvania (Ms. HART).

Ms. HART. Mr. Speaker, I especially thank Chairman NEY, the gentleman from Pennsylvania (Mr. FITZPATRICK), and the gentleman from Georgia (Mr. SCOTT) for moving this legislation today and Chairman OXLEY as well of the Financial Services Committee.

There has been a significant amount of attention paid to the National Flood Insurance Program, especially in recent years, as we have seen an increased number of hurricanes and events causing serious flooding across the Nation.

I rise in support of the gentleman from Pennsylvania's legislation. He clearly has identified an issue that is part of the problem with getting relief for people who actually have purchased and paid premiums over a number of years for flood insurance, that we need to have enough there to help them recover.

I also want to highlight a need that we have regarding review of the flood insurance program, to make improvements to that program, and I want to thank Chairman NEY for also holding hearings on that issue and allowing many of our constituents to participate. I want to compliment his Housing Subcommittee for examining this program at a hearing, especially on the 14th of April and a series of follow-ups.

Fourteen months ago, there was a significant flooding event that affected most of my district with quite severe flooding. Many homes and businesses suffered extensive damage. My staff and I worked hard to assist constituents with as many of their NFIP claims as we could. Unfortunately, still this many months later, many of my constituents have not had their claims settled. Their property is still uninhabitable, and they are still living with families or friends or in hotels.

This is not an isolated incident. It is not just Western Pennsylvania. It includes many of our colleagues who have testified and have brought their constituents to the hearing I mentioned from Virginia, Maryland, Florida and other States.

The problems fall into three main categories: One, improper coverage. They were ill-informed and purchased policies that were not appropriate. Two, they just had inaccurate information about the adjustments and low estimates, therefore, not recovering enough money. Three, they had difficulty contesting or challenging estimates that were incorrect.

I hope that additional assistance will be provided that is offered in the gentleman's bill to make sure claims can be settled and we can continue helping people, but I also hope that the committee will continue to address many of the problems that my constituents and many other victims around the country have faced, continue the review and revamping of this program, on which so many people depend and often at a very tragic time so that it will help them recover, not hinder them.

Mr. SCOTT of Georgia. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

Mr. NEY. Mr. Speaker, let me again thank the gentleman from Georgia (Mr. SCOTT) and the staff of the minority and the majority for their fine work on this and, of course, gentleman from Pennsylvania (Mr. FITZPATRICK) who has shown great interest in these issues, again helping people in his area and across the United States.

Mr. BOUSTANY. Mr. Speaker, I rise today as a proud cosponsor of H.R. 4133, the National Flood Insurance Program Further Enhanced Borrowing Authority Act of 2005. This bill recognizes the need for increased borrowing authority under the National Flood Insurance Plan.

Last year, the 2004 hurricane season resulted in over 75,000 claims totaling close to $2 billion dollars paid out in NFIP coverage. Today, FEMA estimates that more than 225,000 Katrina and Rita-related NFIP claims are likely to be filed, exceeding $22 billion, and far surpassing claims paid in the entire history of this program.

Many of my constituents in Southwest Louisiana have been devastated by the loss of home and property since Hurricane Rita struck. They are anxious to rebuild, but local communities need Federal resources so they can begin to recover and rebuild their infrastructure and neighborhoods.

Now, FEMA is quickly running out of money. This legislation would allow for a temporary increase in FEMA's borrowing authority from $3.5 billion to $8.5 billion, through 2008.

These claims are not a new obligation, but rather the result of a legal promise our government made to these homeowners and business owners when Congress passed the National Flood Insurance Act of 1968.

Mr. Speaker, the flood victims in Southwest Louisiana, and throughout the Gulf region, need to rebuild their homes and their lives. Congress not only has a legal obligation, but a moral obligation to assist them in this effort. I urge my colleagues to join me in support of this bill.

Mr. NEY. Mr. Speaker, I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the motion offered by the gentleman from Ohio (Mr. NEY) that the House suspend the rules and pass the bill, H.R. 4133.

The question was taken; and (two-thirds having voted in favor thereof) the rules were suspended and the bill was passed.

A motion to reconsider was laid on the table.

GENERAL LEAVE

Mr. NEY. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 4133.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Ohio?

There was no objection.

☐ 1430

PROVIDING FOR CONSIDERATION OF H.R. 1065, UNITED STATES BOXING COMMISSION ACT

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, by direction of the Committee on Rules, I call up House Resolution 553 and ask for its immediate consideration.

The Clerk read the resolution, as follows:

H. RES. 553

Resolved, That at any time after the adoption of this resolution the Speaker may, pursuant to clause 2(b) of rule XVIII, declare the House resolved into the Committee of the Whole House on the state of the Union for consideration of the bill (H.R. 1065) to establish the United States Boxing Commission to protect the general welfare of boxers and to ensure fairness in the sport of professional boxing. The first reading of the bill shall be dispensed with. All points of order against consideration of the bill are waived. General debate shall be confined to the bill and shall not exceed one hour, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. After general debate the bill shall be considered for amendment under the five-minute rule. In lieu of the amendments recommended by the Committees on Energy and Commerce and the Judiciary now printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the five-minute rule the amendment in the nature of a substitute printed in part A of the report of the Committee on Rules accompanying this resolution. That amendment in the nature of a substitute shall be considered as read. All points of order against that amendment in the nature of a substitute are waived. Notwithstanding clause 11 of rule XVIII, no amendment to that amendment in the nature of a substitute shall be in order except those printed in part B of the report of the Committee on Rules. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered as read, shall be debatable for the time specified in the report equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question in the House or in the Committee of the Whole. All points of order against such amendments are waived. At the conclusion of consideration of the bill for amendment the Committee shall rise and report the bill to the House with such amendments as may have been adopted. Any Member may demand a separate vote in the House on any amendment adopted in the Committee of the Whole to the bill or to the amendment in the nature of a substitute made in order as original text. The previous question shall be considered as ordered on the bill and amendments thereto to final passage without intervening motion except one motion to recommit with or without instructions.

The SPEAKER pro tempore (Mr. BOOZMAN). The gentleman from Florida (Mr. LINCOLN DIAZ-BALART) is recognized for 1 hour.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, for the purpose of debate only, I yield the customary 30 minutes to the gentleman from Florida (Mr. HASTINGS), pending which I yield myself such time as I may consume. During consideration of this resolution, all time yielded is for the purpose of debate only.

Mr. Speaker, House Resolution 553 is a fair rule. It provides for consideration of H.R. 1065, the United States Boxing Commission Act. The rule allows for consideration of the amendments, all the amendments that were submitted to the Rules Committee. We are making in order all the amendments that were submitted to the Rules Committee.

It also provides 1 hour of general debate, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary. The rule also provides one motion to recommit, with or without instructions.

The underlying bill, Mr. Speaker, would establish a Federal boxing regulatory agency, the United States Boxing Commission. The commission would have the responsibility to protect the general interests of boxers, ensure uniformity, fairness, and integrity in professional boxing, and oversee all the professional boxing matches in the United States.

The boxing commission, in consultation with the Association of Boxing Commissions, will formulate uniform minimum standards for professional boxing. The commission would also ensure that Federal and State laws applicable to professional boxing are enforced and will assist State boxing commissions in meeting the minimum standards prescribed by the bill.

The bill requires that every boxer, promoter, or sanctioning organization connected with a boxing match must obtain a license from the boxing commission. The license could be suspended or revoked for violations of the standards adopted by the commission. This bill does not preempt any existing State boxing standards. As I stated before, Mr. Speaker, what it does is it establishes a national boxing commission really to oversee this sport, which is a sport of long tradition; but it is obviously one that is peculiar in terms of its degree of violence.

Mr. Speaker, when I was a child, I remember I was living in Spain. We had a friend, my family had a friend, who was in exile from Cuba. He was living in Madrid at the time. He had been welterweight champion of the world. He was a fine, gentle man. Really just an extraordinary human being. His name was Kid Tunero. He was very famous not only in Cuba but throughout the boxing world.

And I remember, and obviously this bill is not directly related to this that I am going to bring up now, but he impacted me in a number of ways. I remember his gentleness. It was impacting that a man who had made such a reputation as a champion boxer was perhaps one of the most gentle men that I have ever met. And he had two sons, and they were both artists. I do not know where they are today. At that time they were living in Paris.

And he told me, I would do anything in the world, anything in the world, so that my sons are not boxers because of what you go through when you are a boxer. Not only the actual physical torture, the physical pain, but having to deal with really much of an unfortunate set of circumstances. By the way, another aside, he was such a great boxer, Kid Tunero, in Madrid I remember, when I was a child, he was training a young man who became the flyweight champion of the world, and I met him. That was the only time I have ever been to a boxing fight, but I remember he got us really good seats. Imagine he was training Legra, and Legra got to be the flyweight champion of the world.

Mr. Speaker, I will tell the Members I remember I was 9 years old and to this day I can tell the Members I was up ringside being shocked, and I can remember the shock that I felt at the violence, the violence of that sport, the physical pain that those two boxers were feeling. I have never gone back to a match. I respect it. There are millions, millions of fans.

What we want to do with this legislation is set minimum standards for the protection of those people who make a living out of that tough sport. So even though Kid Tunero is no longer around, no longer with us, I think of him today and the lessons that I learned from him, how to be an ultimate gentleman. What a great man he was.

Anyway, that is what we are doing with the underlying legislation, Mr. Speaker. The will of the House will be manifested today, and people can either establish or not establish the boxing commission, but we are bringing forth that legislation with this rule.

Mr. Speaker, I reserve the balance of my time.

Mr. HASTINGS of Florida. Mr. Speaker, I thank the gentleman from Florida (Mr. LINCOLN DIAZ-BALART), my good friend, for yielding me the customary 30 minutes; and I yield myself such time as I may consume.

Mr. Speaker, I rise with great disappointment that the House is being asked again to consider legislation under a restrictive rule. My good friend from Florida said that the will of the House will be expressed here today. I query him as to how that will occur under a restrictive rule.

Under this rule, only a limited number of amendments will be offered by a select few. There are many who will argue that this legislation, when considered, is noncontroversial. If that is the case, then why not make this an open rule?

Or perhaps the question ought to be, Why are we considering this bill at a time when the House should be considering legislation that increases veterans benefits, invests in affordable housing, and ensures that our country's neediest have access to affordable health care under Medicare and Medicaid? The truth of the matter is, Mr. Speaker, none of these issues are being debated on this floor today because my colleagues in the majority are too busy cutting backroom deals that will cut Federal funding in each of these critically important areas as well as other areas of import. I just spoke with a group of foreign service officers who were pointing out to me some of the cuts that will take place in places where they are scheduled to go.

The majority knows that they are wrong on all of these issues, and that is why they do not want to debate us on them. So, Mr. Speaker, we find ourselves at this moment on the floor of the House debating a bill that I would think my friends on the other side of the aisle would say reeks of hypocrisy and overarching Federal Government interference. Are not Republicans the ones who claim that they are the party of States' rights? Are not Republicans the ones who claim that States are more effective in regulating what happens within their own State? Are not Republicans the ones who claim that another Federal commission trumping State commissions already in existence is nothing more than unnecessary bureaucracy? Are not Republicans federalists?

But Republicans are not saying these things. Instead, some are trying to divert attention away from the things on a much larger scale that actually matter.

Mr. Speaker, I am not trying to say that a problem does not exist in the sport of boxing. My friend mentioned one Kid. Mention to him another, Kid Gavilan, who died in our area and of my good friend, Representative DIAZ-BALART, a shoeshine man after fighting some of the better fights in two divisions with some of the better fighters in the world at some point. So there are a lot of things to be said from people receiving too many blows upside their heads. In the last decade, amateur and professional boxing has grown into a multibillion dollar business. Promoters, cable companies, and the sporting industry as a whole reap big ticket sales from the sweat and toil of young athletes.

Yet those who actually step into the ring often find an entirely different opponent outside the ring, as Kid Gavilan did. Many boxers find those who claim to be in their corner have made dirty deals and shortcuts that undermine a boxer's earnings and in some cases their health. Contracts are often broken or exploited. Injuries and adequate medical care are sometimes overlooked. These are important issues that should be dealt with, but not by this body and not in this manner.

□ 1445

The solution would seem to be a crackdown on State commissions that woefully fail to enforce their own rules and regulations. Better yet, maybe we need a national sports commission to regulate all sports that Congress all of a sudden wants to regulate.

First it was baseball: and we really did clean up baseball and steroids. That is gone. We do not have that as an issue any more. And now it is boxing. What next? The National Hockey League or the National Football League?

All of these sports in some ways are violent, and we hear stories every year about athletes being injured, paralyzed and even killed. What about the Ultimate Fighting Championships, where they put people in cages and then knock each other's brains out? Or World Wrestling Entertainment business where a lot of people wind up after careers in that field with broken bodies because they missed the trick at a given point? Or even our own United States Olympic Committee? If we are doing this about corruption, I can think of few sports committees in history as corrupt as the Olympic Committees. However, that is not what we are doing today.

In the grand scheme of things, we have more important issues to deal with: a failing war in Iraq, skyrocketing prescription drug prices, our own citizens displaced by a recent torrent of natural disasters in my good friend from Florida's district and my district alone, and continuing unethical behavior from executive and legislative branches of our government, including national security leaks.

All of these issues and so many more need to be higher priorities in our work today, but this body is silent on all of them. On behalf of the American people, I say, speak up. The silence is deafening. It is time that my friends in the majority stop wasting our time with bills that neglect those in need and divert attention from the failures of this body over the last decade. I urge my colleagues to reject this rule and the underlying legislation that does little, if anything, to promote the general welfare of our great Nation.

One of the arguments that was made is if we do not regulate this from a national level, what is going to happen is boxing will go on venue shopping. I pointed out yesterday that Ali fought the Thriller in Manila and in addition to that fought the Rumble in the Jungle, so if we regulate it from the Federal level, what is going to stop them from going abroad to rope-a-dope?

Mr. Speaker, I yield back the balance of my time.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, I yield myself the balance of my time.

Mr. Speaker, I am pleased that my friend has advocated for the importance of States' rights. I think that is something that is to be commended. We certainly do believe in the American system of federalism. We do believe as well in regular order, and this bill came up. There were hearings before Chairman BARTON. Mr. STEARNS was telling us in the Rules Committee about how impacted he was at the hearing when he listened to Mrs. Ali because Muhammad Ali could not speak, but he was insisting on supporting, through Mrs. Ali, urging the committee to support and pass out this legislation because of corruption that exists in the boxing world and the need to regulate the sport and eliminate that corruption.

We believe in regular order in addition to federalism, and this bill had hearings. It came up through regular order, and we believe in letting the House express its will. Every single amendment, every single amendment that was brought to the Rules Committee for consideration was made in order for debate. I am going to vote for the bill, and obviously the Members can make up their minds whether they support it or not. I urge all Members to support this rule. The rule is fair and made in order every amendment submitted to the Rules Committee.

Mr. Speaker, I yield back the balance of my time, and I move the previous question on the resolution.

The previous question was ordered.

The SPEAKER pro tempore (Mr. BOOZMAN). The question is on the resolution.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. LINCOLN DIAZ-BALART of Florida. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX, this 15-minute vote on adoption of H. Res. 553 will be followed by 5-minute votes on the motion to suspend the rules and pass H.R. 1790; the motion to suspend the rules and agree to H. Res. 547.

The vote was taken by electronic device, and there were—yeas 366, nays 56, not voting 11, as follows:

[Roll No. 589]

YEAS—366

Abercrombie
Aderholt
Akin
Alexander
Allen
Baca
Bachus
Baird
Baker
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Cardin
Cardoza
Carnahan
Carter
Case
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole (OK)
Conaway
Costa
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (KY)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutknecht
Hall
Harman
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Holt
Hooley
Hostettler
Hoyer
Hulshof
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Levin
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McMorris
Meehan
Meeks (NY)
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Napolitano
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Ortiz
Osborne
Otter
Owens
Oxley
Pascrell
Paul
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thornberry
Tiahrt
Tiberi
Turner
Udall (CO)
Upton
Van Hollen
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker

Wilson (NM)
Wilson (SC)
Wolf
Wynn
Young (AK)
Young (FL)

NAYS—56

Ackerman
Andrews
Baldwin
Berman
Berry
Brown, Corrine
Brown-Waite, Ginny
Capuano
Carson
Clay
Cleaver
Conyers
Cooper
Costello
Davis (IL)
Davis (TN)
Delahunt
Gutierrez
Hastings (FL)
Hinchey
Honda
Jackson-Lee (TX)
Jefferson
Kennedy (RI)
Kucinich
Lee
Lewis (GA)
McDermott
McKinney
Meek (FL)
Melancon
Menendez
Nadler
Neal (MA)
Obey
Olver
Pallone
Pastor
Payne
Rangel
Rothman
Sabo
Scott (GA)
Scott (VA)
Serrano
Slaughter
Thompson (MS)
Tierney
Towns
Udall (NM)
Velázquez
Waters
Watson
Watt
Woolsey
Wu

NOT VOTING—11

Boswell
Cunningham
Davis (FL)
Ferguson
Hunter
Jenkins
Lantos
McNulty
Reichert
Stark
Taylor (MS)

☐ 1519

Messrs. NADLER, UDALL of New Mexico, DAVIS of Tennessee, GUTIERREZ, CLEAVER, PALLONE, ROTHMAN, HONDA, and Ms. JACKSON-LEE of Texas changed their vote from "yea" to "nay."

Mr. ROSS, Ms. EDDIE BERNICE JOHNSON of Texas, Mr. JACKSON of Illinois, and Mr. KNOLLENBERG changed their vote from "nay" to "yea."

So the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

CHILD MEDICATION SAFETY ACT OF 2005

The SPEAKER pro tempore (Mr. Boozman). The unfinished business is the question of suspending the rules and passing the bill, H.R. 1790, as amended.

The Clerk read the title of the bill.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Minnesota (Mr. Kline) that the House suspend the rules and pass the bill, H.R. 1790, as amended, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 407, nays 12, answered "present" 1, not voting 13, as follows:

[Roll No. 590]

YEAS—407

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Gerlach
Gibbons
Gilchrest
Gillmor
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—12

Baird
Berkley
Davis (CA)
Dingell
Frank (MA)
Garrett (NJ)
Jackson (IL)
Jones (OH)
McDermott
Miller, George
Olver
Scott (VA)

ANSWERED "PRESENT"—1

Gingrey

NOT VOTING—13

Bishop (UT)
Boswell
Cunningham
Davis (FL)
Ferguson
Harris
Jenkins
Lantos
McNulty
Reichert
Simmons
Stark
Taylor (MS)

☐ 1528

Mr. DEFAZIO changed his vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the bill, as amended, was passed.

The result of the vote was announced as above recorded.

The title of the bill was amended so as to read: "A bill to protect children and their parents from being coerced into administering a controlled substance in order to attend school, and for other purposes.".

A motion to reconsider was laid on the table.

EXPRESSING SENSE OF HOUSE THAT NINTH CIRCUIT COURT OF APPEALS INFRINGED ON PARENTAL RIGHTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the resolution, H. Res. 547.

The Clerk read the title of the resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Wisconsin (Mr. Sensenbrenner) that the House suspend the rules and agree to the resolution, H. Res. 547, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 320, nays 91, answered "present" 12, not voting 10, as follows:

[Roll No. 591]

YEAS—320

Aderholt
Akin
Alexander
Baca
Bachus
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Berkley
Berry
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boustany
Boyd
Bradley (NH)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Cardin
Cardoza
Carnahan
Carter
Castle
Chabot
Chandler
Chocola
Clyburn
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Doolittle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
English (PA)
Etheridge
Evans
Everett
Fattah
Feeney
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Gene
Gutknecht
Hall
Harris
Hart
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinojosa
Hobson
Hoekstra
Holden
Hooley
Hostettler
Hulshof
Hunter
Hyde
Inglis (SC)
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, Sam
Jones (NC)
Kaptur
Keller
Kelly
Kennedy (MN)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Larson (CT)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lucas
Lungren, Daniel E.
Lynch
Mack
Manzullo
Marchant
Marshall
Matheson
McCarthy
McCaul (TX)
McCotter
McCrery
McHenry
McHugh
McIntyre
McKeon
McMorris
Meek (FL)
Melancon
Menendez
Mica
Michaud
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Moore (KS)
Moran (KS)
Murphy
Musgrave
Myrick
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Obey
Ortiz
Osborne
Otter
Oxley
Pascrell
Paul
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Royce
Ruppersberger
Ryan (OH)
Ryan (WI)
Ryun (KS)
Salazar
Sanders
Saxton
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Sensenbrenner
Sessions
Shadegg
Shaw
Shays
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Smith (NJ)
Smith (TX)
Smith (WA)
Sodrel
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Terry
Thomas
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Towns
Turner
Udall (CO)
Upton
Visclosky
Walden (OR)
Walsh
Wamp
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Wynn
Young (AK)
Young (FL)

NAYS—91

Abercrombie
Ackerman
Andrews
Baird
Becerra
Berman
Blumenauer
Boucher
Brady (PA)
Capps
Carson
Case
Clay
Cleaver
Conyers
Davis (CA)
Davis (IL)
DeGette
Delahunt
Dingell
Doggett
Doyle
Farr
Frank (MA)
Gonzalez
Grijalva
Gutierrez
Harman
Hastings (FL)
Hinchey
Holt
Honda
Hoyer
Inslee
Israel
Johnson, E. B.
Jones (OH)
Kanjorski
Kennedy (RI)
Langevin
Larsen (WA)
Lee
Levin
Lewis (GA)
Lowey
Maloney
Markey
Matsui
McDermott
McGovern
McKinney
Meehan
Meeks (NY)
Millender-McDonald
Miller (NC)
Miller, George
Moore (WI)
Moran (VA)
Murtha
Nadler
Napolitano
Oberstar
Olver
Owens
Pallone
Pastor
Payne
Price (NC)
Rangel
Roybal-Allard
Rush
Sánchez, Linda T.
Sanchez, Loretta
Schakowsky
Scott (VA)
Serrano
Sherman
Slaughter
Solis
Tauscher
Thompson (CA)
Tierney
Udall (NM)
Van Hollen
Velázquez
Wasserman Schultz
Waters
Watson
Waxman
Wexler
Woolsey

ANSWERED "PRESENT"—12

Allen
Biggert
Capuano
Engel
Eshoo
Green, Al
Lofgren, Zoe
McCollum (MN)
Pelosi
Sabo
Snyder
Watt

NOT VOTING—10

Boswell
Cunningham
Davis (FL)
Ferguson
Jenkins
Lantos
McNulty
Reichert
Stark
Taylor (MS)

☐ 1538

Mr. ABERCROMBIE and Mr. PALLONE changed their vote from "yea" to "nay."

Ms. BEAN and Mr. JEFFERSON changed their vote from "nay" to "yea."

So (two-thirds having voted in favor thereof) the rules were suspended and the resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

PERSONAL EXPLANATION

Mr. FERGUSON. Mr. Speaker, if I were present earlier today, I would have voted in favor of H.R. 1790, the Child Medication Safety Act of 2005, H. Res. 547, Expressing the Sense of the House of Representatives that the United States Court of Appeals for the Ninth Circuit Deplorably Infringed on Parental Rights in Fields v. Palmdale School District and for the Adoption of the Rule for H.R. 1065, the United States Boxing Commission Act.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore (Mr. BASS). Pursuant to clause 8 of rule XX, the Chair will postpone further proceedings today on the motion to suspend the rules on which a recorded vote or the yeas and nays are ordered, or on which the vote is objected to under clause 6 of rule XX.

Any record vote on the postponed question will be taken at a later time.

CONDEMNING TERRORIST ATTACKS IN JORDAN

Ms. ROS-LEHTINEN. Mr. Speaker, I move to suspend the rules and agree to the resolution (H. Res. 546) condemning in the strongest terms the terrorist attacks that occurred on November 9, 2005, in Amman, Jordan, as amended.

The Clerk read as follows:

H. RES. 546

Whereas on November 9, 2005, a series of terrorist bombs exploded at the Radisson, Hyatt, and Days Inn hotels in Amman, Jordan, resulting in the deaths of scores of civilians and the injuries of hundreds of others;

Whereas the people and Government of the Hashemite Kingdom of Jordan have been targeted in several terrorist attacks over the past few years;

Whereas Jordan has arrested suspected terrorists with possible ties to Osama bin Laden's Al Qaeda organization, including suspected killers of a United States diplomat, Lawrence Foley, who headed the United States Agency for International Development (USAID) mission in Jordan but was shot on October 28, 2002, while leaving for work, marking the first lethal attack on a United States official in Jordan in more than 30 years;

Whereas Jordan is a stalwart ally of the United States in the global war on terrorism; and

Whereas on November 10, 2005, President George W. Bush expressed his heartfelt sympathies for the people of Jordan and his condolences to the families of the victims during his visit to the Embassy of Jordan: Now, therefore, be it

Resolved, That the House of Representatives—

(1) condemns in the strongest terms the terrorist attacks that occurred on November 9, 2005, in Amman, Jordan;

(2) joins with President George W. Bush in expressing its condolences to the families and friends of those individuals who were killed in the attacks and in expressing its sympathies to those individuals who have been injured;

(3) expresses solidarity and support of the people and Government of the United States with the people and Government of the Hashemite Kingdom of Jordan as they recover from these cowardly and inhuman attacks; and

(4) expresses its readiness to support and assist the Jordanian authorities in their efforts to bring to justice those individuals responsible for the recent attacks in Jordan and to pursue, disrupt, undermine, and dismantle the networks which plan and carry out such attacks.

The SPEAKER pro tempore. Pursuant to the rule, the gentlewoman from Florida (Ms. ROS-LEHTINEN) and the gentleman from California (Mr. SCHIFF) each will control 20 minutes.

The Chair recognizes the gentlewoman from Florida (Ms. ROS-LEHTINEN).

GENERAL LEAVE

Ms. ROS-LEHTINEN. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days to revise and extend their remarks and to include extraneous material on the resolution under consideration.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield myself such time as I may consume.

Last Wednesday the world once again looked in horror at the destruction caused by Islamic extremist homicide bombers, this time in Jordan. We were compelled to act and first express our deepest condolences to the victims of this radical movement that has perverted the Koran to fit their extreme twisted ideology of hatred.

Perhaps, most importantly, we were compelled to offer every possible form of cooperation in investigating these al Qaeda attacks and in assisting in efforts to bring the perpetrators to justice, led by al-Zarqawi. Jordan is our strategic ally in an international war on terror. Jordan has demonstrated its commitment to secure its borders to prevent foreign fighters from entering Iraq to attack our U.S. forces and our Coalition forces as well as innocent Iraqis. It has cooperated in providing critical information that may have helped prevent countless deaths at the hands of these Islamic extremists.

Just as critical has been Jordan's leadership in addressing the conditions that breed instability and are manipulated by the likes of al Qaeda and other Islamic extremists to recruit and advance their notorious agenda. Jordan has been a leader in reforming politically and economically for the benefit of its people serving as an example for other Arab Nations.

King Abdullah's efforts to facilitate and serve as a positive force between Israel and the Palestinians towards peace are noteworthy. Mr. Speaker, the attacks in Amman last week remove the facade that these dastardly acts by Islamic extremists are about anything other than death, destruction and hunger for power, control and continued oppression.

These attacks clearly demonstrate the callous and cowardly nature of the Islamic extremist enemy that we are facing, an enemy that is willing to bomb a wedding reception, kill innocent people of all backgrounds and injure over 100 others in order to advance their radical al Qaeda agenda.

Freedom threatens them. Al Qaeda mastermind al-Zarqawi, who is believed to be behind the bombings in Jordan last week, acknowledged in a February 17, 2004 letter to al Qaeda operatives, he says our enemy is growing stronger day after day. By God, this is suffocation. We will be on the roads again.

One of Osama bin Laden's closest associates wrote in a book published in September 2003 that a far more dangerous threat is secularist democracy. He cautions against democracy's seduction as it drives Muslims to refuse to take part in jihad.

I would like to commend the government and the people of Jordan for their courage and their commitment to true democratic reforms. Congress thanks the Jordanian people for their support in the cooperation and the aftermath of our 9/11 attacks, and we stand by Jordan as it tries to give face to this Islamic extremist movement that seeks to pervert Islam and to give Muslims worldwide a bad name.

We render our support in your efforts to bring to justice those Islamic extremist operatives, and we will continue to work together to pursue, to disrupt, to undermine and to dismantle the al Qaeda and other Islamic radical networks that have made possible the attacks like the ones in Amman on November 9.

Mr. Speaker, I ask my colleagues to support this resolution.

Mr. Speaker, I reserve the balance of my time.

Mr. SCHIFF. Mr. Speaker, I rise in strong support of House Resolution 546 and yield myself such time as I may consume.

I first want to thank the gentlewoman from Florida (Ms. ROS-LEHTINEN), the chairwoman for the Subcommittee on Middle East and Central Asia, for offering this important and timely resolution.

□ 1545

I would also like to acknowledge my friend and ranking member of the Middle East Subcommittee, the gentleman from New York (Mr. ACKERMAN), for his role in the crafting of the measure.

Mr. Speaker, 1 week ago today, hateful and heartless fanatics committed a vile crime against the people of Jordan. The terrorists' immediate victims were the unsuspecting guests of three hotels, in one particularly sickening case, a wedding party at the height of its celebration where both bride and groom were of the Islamic faith.

This brutal attack killed scores of civilians, injured hundreds of others, and forever scarred the hearts of the victims' loved ones. Through these heinous acts against their own brothers and sisters, the terrorists demonstrate once again that they are not merely enemies of Western Civilization but of all civilization.

But the broader target of this assault was the public of a country that has been a stalwart ally of the United States in the global war on terrorism. This is not the first time that the people of Jordan have been victimized in a terrorist attack, but it is by far the most extensive offense against innocent civilians in Jordan by ruthless fanatics since the war on terrorism began.

To their great credit, the Jordanian people are not retreating in defeat, but are declaring their defiance. They are not making excuses for these vile enemies of all mankind, but are demanding accountability. They are not cowering in their homes, but taking to the streets in protest.

Mr. Speaker, the resolution before us condemns last week's reprehensible events in Amman and expresses our solidarity with the people of Jordan. It also declares our country's readiness to support Jordanian authorities in their efforts to bring the perpetrators to justice and to eradicate the networks that plot and carry out such attacks.

As our country knows all too well after September 11, and as all others who have sustained years of wanton terrorist carnage in the name of religious fundamentalism know all too well, there can be but one response to such inhumanity: unified resolve to bring it swiftly and irreversibly to an end.

This vicious crime must also serve as a cautionary tale to those in the Arab world who are content to stand by and watch as Iraqi security forces and American troops battle to defeat the vicious insurgency and the foreign jihadis who are indiscriminate in their slaughter.

We may be the primary targets of Zarqawi today, but he and his ilk are determined to destroy modernity and retard social and political progress throughout the Muslim world in the name of a perverted interpretation of Islam. As the carnage in Amman made clear, the war on terror is a shared endeavor in which the Arab people must play a central role in the victory over terror.

Mr. Speaker, this resolution expresses our profound outrage at this vicious attack and our profound sympathy and solidarity with our Jordanian friends at this time of their sorrow. I urge all of my colleagues to support the resolution.

Mr. Speaker, I reserve the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I yield such time as he may consume to the gentleman from Florida (Mr. FOLEY).

Mr. FOLEY. Mr. Speaker, let me thank the gentlewoman from Florida (Ms. ROS-LEHTINEN) for yielding me time and commend her for bringing forward this resolution, this resolution of both sorrow and outrage.

King Abdullah said it best when he expressed his country's collective outrage by declaring the world must join in the war on terror. The world must join in the war on terror.

I know at times countries are loath to engage on issues that they feel are not theirs, but we are now starting to see a global and collective problem that must be dealt with. We have seen recently in France horrific rioting in their streets, not necessarily tied to al Qaeda, but it is by a radical Muslim group that is feeling oppressed and put upon.

When I went to the Vatican for Pope John Paul's funeral, I spoke to the head of the Vatican state, the president who is a Cardinal. He suggested too one of Italy's greatest growing menaces is a gathering of radical Muslim extremists who are taking root in Italy, and he fears for the country and for the stability in the region.

Other groups like Hezbollah, al Qaeda, Islamic jihad are excited when incidents like an Amman, Jordan occur because they feel that they have us on the run.

We recognize that there are so many people of Muslim faith in the world, Arabs and others, who truly believe in peace and tranquility and the best that life has to offer for their children; but there are those who distort the Koran, as the gentlewoman has clearly suggested. They distort the meaning of the higher purposes and they use that to twist the logic and convince unsuspecting young people that in order to attain an ultimate joy in heaven that they too should commit acts of violence, of suicide.

This is a sad commentary on those innocent people who choose a desperate path of destruction based on the tutelage of someone who simply does not care. Interestingly enough, many of those who are training the suicide bombers stand aside and watch as other innocents kill themselves convinced they are doing something right. How sad that they have twisted the minds of individuals to the degree that they would not only kill themselves but kill other human beings, and they sit there and watch and celebrate after the fact.

We are joined together as the United States of America in this battle not because it is one of our choosing, but it is one we accept based on our ability to help guide and govern the world to a safer, better place for all people.

The Middle East and other places have been rocked by turmoil over decades, but now this greater and growing menace of al Qaeda threatens friends, allies and, yes, even enemies. Even people that may not agree with us on certain geo-political issues may find themselves sacrificed at the hand of this evil group of people.

So I join with King Abdullah in his declaration; and I urge Members of Congress, I know there are political and partisan battles going on, I know there is disagreement on the war in Iraq, I know there is a tendency to sit here and criticize constantly our Commander in Chief, but there is one thing for certain, if we are going to divide, we will not conquer. If we are going to criticize publicly and openly, then we will not give our troops in the field the strength to fight the battle ahead.

However and whatever reasons we came to Iraq, we now know that it is not just about Iraq. The World Trade Center bombings in 1993 and 2001 were not about our presence in Iraq, because we were not there then. Al Qaeda knows no boundaries. They know no group that they will not willingly sacrifice for their higher mission. And when they detonate a bomb in a wedding ceremony among fellow Arabs, among fellow Muslims in order to prove a point that they simply can, indicates how sad and despicable this group is.

So I thank the gentleman from California (Mr. SCHIFF) and the gentlewoman from Florida (Ms. ROS-LEHTINEN) and members of the committee who found it appropriate not only to signal our displeasure but to record in the annals of the CONGRESSIONAL RECORD, because I know in my heart if we stand together we will, in fact, beat this scourge around the world and save humanity.

Mr. SCHIFF. Mr. Speaker, I yield myself such time as I may consume.

Mr. Speaker, we now enjoy a tragic kinship with the people of Jordan, just as we enjoy with the people of London, the people of Madrid; and we all remember what it was like on September 11. Perhaps one of the only positive repercussions at the time was the outpouring of support that we enjoyed from around the world as countries around the globe expressed their solidarity with the United States in confronting this new and terrible force.

We now join the people of Jordan in their time of sorrow, in their time of need. We express our solidarity with our Jordanian friends. Our hearts break with their losses and our resolve is united with theirs to combat this terrible evil confronting the world. I want to just, in closing, once again thank our wonderful chairwoman of the subcommittee.

Mr. HOYER. Mr. Speaker, I join my colleagues on both sides of the aisle in supporting this Resolution, which condemns in the strongest possible terms the barbaric terrorist attacks in Jordan last Wednesday.

These attacks at three Amman hotels—including an attack on a wedding party—killed 58 innocent men, women and children, and are yet another demonstration of the uncivilized, unrepentant evil that possesses the Al Qaeda terrorist organization, which claimed responsibility. And this was, sadly, not the first time Jordan has suffered at the hands of terrorists because it maintains close relations with the West.

Mr. Speaker, I also want to commend King Abdullah for his forthright public comments after these attacks. As reported in the Washington Post today, the King stated: "What the attack did was show to everybody what we've been saying—that this is an issue of ideology and the Muslim world can no longer be complacent. People can't sit in the middle."

The fact is, the savage bombings last week in Amman were perpetrated by Muslims, who directed their hatred at Muslims.

The fact is, the entire civilized world—be they Christian, Muslim or Jew—must recognize our common interest in uniting and defeating this mortal threat to our way of life, to the democratic form of government, to basic human decency and to the rule of law.

None of us, as the King said, can be complacent.

Mr. Speaker, the people and the Government of the Hashemite Kingdom of Jordan have been a stalwart ally in the war on terror.

And, I believe it is important today that this Congress condemn these cowardly attacks; express its condolences to the families and friends of those killed, and its sympathies to those injured; express its solidarity and support of the people and Government of Jordan; and express its readiness to assist Jordanian authorities in bringing those responsible for these outrageous attacks to justice.

I urge my colleagues to support this Resolution.

Ms. SCHWARTZ of Pennsylvania. Mr. Speaker, I rise today in strong support of H. Res. 456, a resolution to vehemently condemn the terrorist attacks that occurred in Amman, Jordan.

On November 9, 2005, hundreds of innocent Jordanians gathered to celebrate a wedding ceremony—one of the greatest tributes to life, family and humanity, for virtually every culture in the world. Yet what was supposed to be a joyous celebration was brutally cut short when followers of the terrorist Abu Musab al-Zarqawi carried out four simultaneous terrorist attacks. These unbridled and hateful acts killed 59 people, including the mother and father of the bride and the father of the groom.

Mr. Speaker, the line between good and evil could not be clearer.

The line between those who cherish life versus those who seek to destroy it could not be clearer.

The line between those with compassion in their hearts versus those with hatred could not be clearer.

The attacks in Jordan, just like those before it in Indonesia, Egypt, Spain and the United States, demonstrate that terrorism does not discriminate by race, ethnicity or region. Instead, terrorists indiscriminately target those seeking to live a peaceful, loving and free life.

All across Jordan, innocent and freedom-loving Jordanians fully understand this. Thousands of Jordanians have taken to the streets in protest of Zarqawi, "the coward." In the wake of these attacks, King Abdullah has announced a "National Agenda," which seeks to instill a more free and democratic political process and society.

We must hunt the terrorists down and kill them. There is no other way to respond to those so committed to the destruction of life. We must also stand with the Jordanian people and the Jordanian Government. And, this resolution does just that—making it clear that Congress and the American people are behind them during this difficult period.

Mr. SCHIFF. Mr. Speaker, I yield back the balance of my time.

Ms. ROS-LEHTINEN. Mr. Speaker, I have no further requests for time, and I yield back the balance of my time.

The SPEAKER pro tempore (Mr. BASS). The question is on the motion offered by the gentlewoman from Florida (Ms. ROS-LEHTINEN) that the House suspend the rules and agree to the resolution, H. Res. 546, as amended.

The question was taken.

The SPEAKER pro tempore. In the opinion of the Chair, two-thirds of those present have voted in the affirmative.

Ms. ROS-LEHTINEN. Mr. Speaker, on that I demand the yeas and nays.

The yeas and nays were ordered.

The SPEAKER pro tempore. Pursuant to clause 8 of rule XX and the Chair's prior announcement, further proceedings on this motion will be postponed.

UNITED STATES BOXING COMMISSION ACT

The SPEAKER pro tempore. Pursuant to House Resolution 553 and rule XVIII, the Chair declares the House in the Committee of the Whole House on the State of the Union for the consideration of the bill, H.R. 1065.

□ 1556

IN THE COMMITTEE OF THE WHOLE

Accordingly, the House resolved itself into the Committee of the Whole House on the State of the Union for the consideration of the bill (H.R. 1065) to establish the United States Boxing Commission to protect the general welfare of boxers and to ensure fairness in the sport of professional boxing, with Mr. SIMPSON in the chair.

The Clerk read the title of the bill.

The CHAIRMAN. Pursuant to the rule, the bill is considered read the first time.

General debate shall not exceed 1 hour, with 40 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on Energy and Commerce, and 20 minutes equally divided and controlled by the chairman and ranking minority member of the Committee on the Judiciary.

The gentleman from Florida (Mr. STEARNS) and the gentlewoman from Illinois (Ms. SCHAKOWSKY) each will control 20 minutes, and the gentleman from Wisconsin (Mr. SENSENBRENNER) and the gentleman from Michigan (Mr. CONYERS) each will control 10 minutes.

The Chair recognizes the gentleman from Florida.

Mr. STEARNS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise today to express my strong support for H.R. 1065, the United States Boxing Commission Act.

This bill will establish for the first time the United States Boxing Commission within the Department of Commerce. The USBC will be charged with overseeing licensing and registration of boxers and boxing personnel nationally to improve the current inconsistent and lack of regulation of the sport at the State and also at the local levels.

The sport of boxing with its rich and glorious history is slowly being corroded by corruption and abuse in and outside the ring.

I am no fan of bigger and more intrusive government, but in this case the power and sweep of a Federal regulator can establish a uniform minimum standard for boxing on a national level and will hopefully salvage this great sport and reestablish it as a main event, not some shady, corrupt business enterprise.

In terms of fiscal impact, there has been a lot of misinformation about this bill, its budgetary impact. But let me be perfectly clear: this bill requires the United States Boxing Commission to be funded through receipts from licensed and registration fees, not from taxpayers' money. The USBC will also sunset in 12 years. Here we have a bill that will sunset. The USBC will not be a drain on government resources. Rather, it will function and operate from revenues derived from its oversight function of licensing and registration.

□ 1600

Later, I intend to offer an amendment to clarify this intent during our consideration. This is an important point to be made and needs to be made crystal clear.

In addition, as I mentioned, professional boxing is suffering today. Boxers are in danger of losing life and limb every day, and likewise, every day, we hear more and more stories about needless injuries and even deaths. We had two boxers die in Nevada just recently.

Boxing obviously is a great American sport, with a rich and glorious tradition, but it is in real danger of becoming marginalized into nothing more than a dangerous and corrupt sideshow. This would be a tragedy.

We have celebrated our Olympic heroes and cheered them when they later fought professionally. I believe that adding a backstop of Federal oversight over the various pockets of inconsistent regulation at the State level will help clean up boxing and honor its positive impact on the lives of young men and women who, despite sometimes difficult financial or social circumstances, achieve greatness through discipline, hard work and simply sheer determination.

One of those obscure fighters that rose to become one of America's most important symbols of athletic and human excellence obviously was Muhammad Ali. He testified at one of our hearings. Unfortunately, he could not testify, so his wife read the speech for him, and this is what he said: "For all of its difficulties, boxing is still a wonderful sport. It still attracts men and women from all walks of life to reach glory in the ring. For many, it's their first experience with hard work, determination and discipline. For still others, it remains the only way up and out from a life filled with bad choices, failure and worse."

He went on to say: "Reform measures are unlikely to succeed unless a U.S. Boxing Commission is created with the authority to oversee a sport that still attracts a disproportionate number of unsavory elements that prey upon the hopes and dreams of young athletes."

My bill, cosponsored with the gentlewoman from Illinois (Ms. SCHAKOWSKY), my colleague and the ranking member of my subcommittee, and the gentleman from Illinois (Mr. RUSH), my friend and colleague, will push reform and put the weight of uniform national oversight mechanism behind those reforms to ensure that the United States Boxing Commission is successful and those hopes and those dreams are protected.

Specifically, the manager's amendment I am offering will do the following:

First and foremost, it makes it clear that the United States Boxing Commission will be funded largely through revenues generated by licenses and registrations so that it is essentially self-funding. Specifically, section 5 of the bill has been amended to clarify that fees authorized and collected shall be available to fund the operation of the commission and the administration of the Act. Section 14 of the bill was amended to clarify that offsetting collections are available to the commission subject to appropriations.

The next thing, it empowers the United States Boxing Commission to promulgate uniform standards for professional boxing and oversee all professional boxing in the United States.

It ensures that Federal and State laws applicable to boxing are enforced and requires and issues licenses for all professional boxers and, importantly, boxing personnel.

It allows the United States Boxing Commission to suspend or revoke a license if it finds the holder has violated provisions of this Act.

It requires a study and report on health and safety aspects related to boxing, as well as on the definition of a promoter.

It requires the United States Boxing Commission to provide an annual report to Congress on its activities.

I think Mr. Bruce Spizler, chair of the Legal Committee of the Association of Boxing Commissioners and a former member of the National Association of Attorneys General Task Force on Boxing, in his testimony to our subcommittee, summed up the current situation best when he said: "The regulation of the sport of professional boxing has been left to those individual States and, more recently, tribal organizations, which, legislatively, have provided for its own boxing commission to regulate the sport in its own particular jurisdiction. Thus, considering that the authority of each regulatory component is restricted by its territorial borders, the effective regulation of the sport of professional boxing in the United States is only as strong as its weakest link; leaving 'venue shopping' as an effective tool for those seeking a lighter regulatory 'punch.' The glaring absence of regulatory uniformity, together with the difficulty, and varying degrees, of effective enforcement, has lent itself to a perpetuation of the inequities, lack of integrity and, in some instances, non-adherence to health and safety measures for which the inherently dangerous sport of professional boxing, unfortunately," by its reputation "has become known."

I cannot think of a more powerful argument in favor of a Federal commission, that is sunset, designed to oversee the sport of boxing and ensure uniform minimum standards, especially for those States that do not have programs or have inferior ones. States with mature programs, in my opinion, should be supportive because they are already leading and serving as benchmarks.

In addition to the support of the Association of Boxing Commissioners, this bill has been endorsed by the American College of Sports Medicine and the American Association of Professional Ringside Physicians.

In closing, this is an important opportunity to save a sport that has brought so much pride and glory to the United States. Boxing is suffering from problems that stretch far beyond the boundaries of State regulation. It is a sport worth saving that will need the power of our Federal Government oversight to clean up its act and ensure the safety of all its athletes. All the great champions that have paved the way for the sport should be able to count on us to provide a minimum amount of oversight in this situation.

I urge my colleagues to consider this bill, H.R. 1065, the United States Boxing Commission.

Mr. Chairman, I reserve the balance of my time.

Ms. SCHAKOWSKY. Mr. Chairman, I yield myself as much time as I may consume.

I rise in strong support of H.R. 1065, the U.S. Boxing Commission Act, which would establish a national regulatory body for the sport that has been riddled with corruption, scandals and lax enforcement of regulations, putting the lives of contenders on the line.

I want to thank the chairman of the subcommittee Chairman STEARNS with, whom I worked closely on this legislation in a bipartisan way, to produce a product that I hope that our colleagues on both sides of the aisle will readily support.

I want to thank in addition to the bipartisan staff who worked on this legislation, I would like to thank our legislative counsel, Brady Young, for his advice, expertise and the patience that is often required when working with our bipartisan team.

I know that there are some in this body who have just wondered why we are addressing this particular issue of boxing when they argue there are more important issues facing our country. I would respectfully point out that it certainly is not the least important issue that we find time to deal with in this body, and that, in fact, it does deal with the health and the safety of literally thousands of people in our country. So I am happy to be supporting this bill right now.

With the passage of the Professional Boxing Safety Act of 1996 and the Muhammad Ali Act in 2000, minimum Federal standards were set to protect the physical and economic well-being of boxers, and State boxing commissions were charged with meeting those standards. Some States have strong boxing commissions such as New York, Pennsylvania and Nevada that not only require the Federal standards but set additional regulations beyond the minimum requirements.

I want to point out that nothing in this legislation would prevent those that have stronger regulations from using those. Let me read directly from the legislation on minimum standards: Nothing in this Act prohibits any boxing commission from enforcing local standards and requirements that exceed the minimum standards or requirements promulgated by the commission under this Act.

What we found, however, was that there are too many other States that are ignoring the rules, and boxers are the ones who are paying the price.

Many argue that federally mandated health and safety standards are not being adhered to because no corresponding national regulatory body exists. Let me quote from the letter I received from the College of Sports Medicine, who heavily supports this legislation, when they say that, professional boxing is the only major sport which does not have a governing body to establish and enforce rules and practices. It is the only major sport that does not have that.

When the greatest and prettiest of all times, Muhammad Ali, tells you, "Boxing reform measures are unlikely to succeed unless a U.S. Boxing Commission is created with authority to oversee a sport that still attracts a disproportionate number of unsavory elements that prey upon the hopes and dreams of young athletes," when Muhammad Ali tells you that, as he did to us in our hearing, one listens, and that is what Chairman STEARNS and I did with the drafting of H.R. 1065.

Boxing is an enormous enterprise. The sport generates over $500 million in revenues each year. However, because so many parties have a financial stake in each boxing match and because competing interests often run counter to the boxers' well-being and because not every manager is as upright as Clint Eastwood in "Million Dollar Baby," many contenders end up destitute.

In this sense, boxers are like many other kinds of talent or workers. Their gifts and their hard work are others' fortunes, and they are treated as disposable assets.

Boxing is also unlike many other sports in that there are very serious physical repercussions. If health and safety standards are not being met, boxers could die, and they do.

Over the past 50 years, more than 130 fighters have died due to boxing-related injuries in the United States. In 2005, we lost the first woman to boxing, Becky Zerlentes. Dr. Zerlentes, a professor of geography, got her Ph.D. at my alma mater, the University of Illinois at Urbana-Champaign.

I believe that it is our responsibility to ensure that boxers are not being put in the ring without being protected, both physically and economically. We know it is a dangerous sport by its nature, but it is our responsibility to ensure that laws that are already on the books are enforced. That is why I joined Chairman STEARNS in drafting H.R. 1065 to establish the United States Boxing Commission. This bill will help to ensure that standards are uniform and enforced and that boxers are protected.

The formation of a national regulatory body is supported by the Association of Boxing Commissioners, the organization of State boxing commissioners. They love their sport, and they want to make sure that the laws that govern it are being enforced, keeping the sport safe and respectable. Our bill also enjoys the support of those who say that boxers' health must come first, the American College of Sports Medicine and the American Association of Professional Ringside Physicians.

Finally, it would be a tribute to the greatest of all times, to Muhammad Ali, who lent his name to the law that is meant to protect boxers from those who see them as just a commodity and is not being enforced as it should be.

We need to pass this bill to do a service to the boxers, to the young athletes who see their dreams and their hopes come to life when they are in the center of that ring and the bell signals the first round.

I urge my colleagues to join in this bipartisan leadership of this legislation and support H.R. 1065.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield myself as much time as I may consume.

Mr. Chairman, I rise in opposition to H.R. 1065, the United States Boxing Commission Act. This is a big government bill that creates a new Federal agency that provides for more regulation and is not self-financing as has been intimated.

The top of page 13 of the Energy and Commerce Committee's report uses a CBO estimate that says: "Assuming appropriation of the necessary amounts, CBO estimates that implementing H.R. 1065 would cost $5 million in 2006 and $26 million over the 2006–2010 period."

□ 1615

That means that we are adding $26 million to the deficit to regulate one sport. That is not right. The Judiciary Committee received the sequential referral of this bill to consider several provisions within the legislation. The Judiciary Committee has long been involved in issues relating to professional sports, including oversight of the U.S. Olympic Committee, Major League Baseball, and the NCAA.

Many are concerned and have raised serious questions about the commercial and legal aspects within the sport of professional boxing. As a result, some have urged the creation of a Federal boxing commission to regulate this sport. The legislation would accomplish that goal.

Although the creation of the U.S. Boxing Commission itself does not fall within the jurisdiction of the Judiciary Committee, significant provisions relating to title 18 of the U.S. Code, which is the criminal code, and the authority of the Attorney General and the commission's executive director are within the committee's purview.

During the markup of this bill, the Judiciary Committee adopted a technical change to ensure that the use of administrative subpoenas comports with existing title 18 provisions. Additionally, as amended by the committee, the legislation will now allow a designee of the Attorney General to represent the commission in judicial proceedings rather than requiring the Attorney General himself to do so. Finally, the Judiciary Committee amendment removed the authority of the commission's executive director to make unilateral determinations regarding violations of this act or to bring action in Federal court. This means that such determinations will be required to be made by the full commission before action can be taken.

Although these Judiciary Committee amendments improved the legislation, the committee reported the bill with no recommendation, no recommendation, as a result of the concerns of many Members on both sides of the aisle regarding the underlying merits of the legislation. I share these concerns and do not support the goal of the legislation.

Notwithstanding the fact that there are well-founded concerns surrounding the support of boxing, I believe that the creation of a boxing commission is unnecessary and urge my colleagues to oppose this legislation.

Mr. Chairman, I reserve the balance of my time.

Mr. STEARNS. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, I rise just in reply to my colleague who is chairman of the Judiciary Committee who made some points in terms of jurisdiction and also made some points that the bill has minimum impact upon the budget.

I have here a copy of the amendment which is part of the manager's amendment that we have next in place, which takes care of the concerns he has by striking a portion of the bill and in place putting it that the bill is self-sufficient and the money that is appropriated comes from the licensure fees. So I would urge the gentleman to vote for the manager's amendment, which will be coming up shortly. That will take care of his main concern, which appears to be that he is concerned it was $5 million the first year and the GAO audit indicated more money thereafter. But with this manager's amendment, the GAO audit is nullified and we have a self-sufficient bill.

Another point I would like to make is the basic thrust of the bill is a 12-year supervision with three appointees on the commission from the President of the United States with 3-year duration of tenure. At that point they can be reappointed, or they can continue at the President's request. We have in place something here that is very rare on the House floor, and that is something that is sunsetted. So when people talk about a new Federal bureaucracy, let me be perfectly clear. This is a very, very light, temporary government oversight committee to bring accountability and to bring justice to a great American sport. Everybody in the business who testified wants this type of temporary structure. So I think in a larger sense we have to say to ourselves now is the time to do this and, in so doing, in this way we will do the least amount of harm by making it temporary and at the same time asking them to pick up the ball and run with this as a voluntary organization much like other professional sports do.

So I am glad to rise to point out to my colleague that it is going to be amended so that it is budget neutral; and, two, to point out to him that this is not a new Federal bureaucracy, but instead an oversight board to help guide this sport to its ultimate success.

Mr. Chairman, I reserve the balance of my time.

Ms. SCHAKOWSKY. Mr. Chairman, I yield myself such time as I may consume.

I am aware of some concerns raised by the Governor's office in New Jersey about this legislation, where they are concerned about what they say is the erosion of State authority. So I want to be very clear about this and once again read from the bill and read an additional section from it:

"Section 9, Noninterference with Boxing Commissions. Paragraph a, Noninterference: Nothing in this act prohibits any boxing commission from exercising any of its powers, duties, or functions with respect to the regulation or supervision of professional boxing or professional boxing matches to the extent not inconsistent with the provisions of this act." By that we mean anything that has more enforcement powers. We are just setting a floor and the States can exercise all their powers, duties, or functions in addition to that.

And "b, Minimum Standards: Nothing in this act prohibits any boxing commission from enforcing local standards or requirements that exceed the minimum standards or requirements promulgated by the commission under this act."

A State like New Jersey that contends that they are doing a good job, we say go ahead and do it. We welcome that. We acknowledge that, and we hope that they will continue to do it. But the fact of the matter is that the vast majority of States, despite the passage of the acts of 1996 and the Muhammad Ali Act in 2000, are not doing that; and that is why most people associated with this sport including State commissioners, including State commissioners have weighed in in support of this legislation and look forward to the Federal Government seeing that boxing alone is not without some kind of national standards, and that is why this commission is so important.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska (Mr. TERRY).

Mr. TERRY. Mr. Chairman, I thank the gentleman from Wisconsin for yielding me this time.

I rise in opposition to this bill, and I first want to say that the gentleman from Florida is my chairman. I am a part of his subcommittee and really respect and appreciate his efforts on this bill. We have just drawn different conclusions.

I think the fundamental question that we have to ask about this bill is whether or not boxing, professional boxing, and that is what we are here to talk about is professional boxing, is worth creating another bureaucracy within the Department of Commerce. No matter how we cloak this, it is creating a new entity of rules and regulation, enforcement within the Department of Commerce to oversee a professional sport, although I will say "professional sport" with quotations around it.

Where we have professional sports, all of the professional sports have their own regulatory body where they themselves have gotten together and formed, like the Mayflower Compact, their own regulatory or government overseeing body with their own rules and regulations within that body. To my knowledge, boxing is the only sport that has come before Congress asking us to save the sport from itself.

We held several hearings on this within our committee and subcommittee. We had several big-name people from the sport, Muhammad Ali, commissioners from around the State, promoters. All testified to the corruptness of professional boxing, and I asked the witnesses before us at one of our panels. I said, if professional boxing wants to eliminate any semblance of legitimacy, make themselves in essence the wrestling of that sport, why should we care? They came back and said, Well, because we have to. We cannot, in essence, get our own act together; and it is for the health of the boxers. That is why if it is for the health of the boxers, I suggested that we should just ban professional boxing. I offered an amendment and withdrew it.

But the issue to me is if the boxing profession wants to make itself irrelevant as a legitimate professional sport, let us give them that opportunity to do so. Let us not create a new Federal bureaucracy to save themselves from themselves.

Mr. STEARNS. Mr. Chairman, I yield myself such time as I may consume.

I would point out, as the gentleman from Nebraska did say he offered an amendment to abolish all of boxing, I think in his statement he also made an argument in favor of our bill. When he posed the question why should we care, think about that. Why should we care? That was his question that he asked in the hearing, and it simply came back to him that we should care about these fighters, these young fighters who are starting out, many from very difficult economic situations. We should care. And I think as Members of Congress, I hope they will keep that question in mind when they support the bill and realize that the gentleman from Nebraska really had an amendment to abolish boxing, which is almost in direct counterpoint to the question he posed. Why should we care?

Mr. Chairman, I yield such time as he may consume to the gentleman from Nebraska (Mr. OSBORNE), the former head coach of the Nebraska Cornhuskers.

Mr. OSBORNE. Mr. Chairman, I thank Chairman STEARNS for yielding me this time.

Mr. Chairman, I speak in support of H.R. 1065, the United States Boxing Commission Act.

When we think about boxing, we often think about Jack Dempsey and Gene Tunney, Joe Louis, Max Schmaeling, Muhammad Ali, Sonny Liston. These are all high-profile fights, a lot of press coverage, pretty well attended by trainers and doctors, a lot of money involved. But what we do not see is the low profile, the seamy side of boxing, the mismatches, the dishonesty, the lack of medical attention, sometimes the brain damage, the low pay, the high number of people who leave the sport with absolutely no financial resources and many times in pretty poor shape physically. So sometimes this part of boxing has been called the "red light district" of professional sports. And I would have to say from my knowledge of it, somewhat limited, I would agree that that is an apt title.

Professional boxing, as has been mentioned, is the only major U.S. sport that does not have a centralized association or league to establish and enforce uniform rules and practices. In football we have the National Football League; basketball, the National Basketball Association; Major League Baseball; National Collegiate Athletic Association; U.S. Olympic Committee.

So people say, why did boxing not do this? Why would this not be something that would be natural? And the reason is there is a lot more organization in those other sports. NCAA is composed of member institutions. The Olympic Committee has a variety of supporting organizations. Boxing is almost something that one would have to say has total anarchy, and it is spread all over the place. Some of these club fights, obviously, are very low-budget items; and it is almost impossible to get any kind of organization involved.

I have spent most of my life working with young athletes, and some of these athletes came from backgrounds similar to that of most prizefighters. There is a lot of poverty. There is sometimes very little family support, sometimes poor schools, sometimes gang influence. But with somebody to care and supervise and nurture, many will come out of that environment and do reasonably well. But they need a little bit of guidance. They need a little bit of help. But I would say the exploitation is more often the norm than a good outcome.

So years of corruption and abuse in boxing would indicate that no effective regulation would come from within the sport. We have asked the question, why do they not just take care of it themselves? But how long are we going to wait?

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We have had years and years and years of this sport, going back to the 1700s, and we have seen no regulatory body emerge. How many people have to die? How many people have to have their brains scrambled? And how many matches do we have to have with no medical attention before we do something about it? We would not do something like this with animals. We are very much against cockfighting and other kinds of contests, and we regulate, and we make some of those illegal as well.

So H.R. 1065 provides a uniform Federal standard to regulate business practices and safety issues within the boxing world. This is something whose time has come. It establishes the United States Boxing Commission which oversees all boxing matches in the U.S.

This is a good bill. It is a needed bill. I would really like to see the States do this. But States, again, in many cases, have abdicated their responsibility. They are all over the place. What goes in one State does not go in another. Again, the medical supervision is the main thing that I am interested in, and the injury factor and the fact that we are not having adequate supervision.

I urge support of this bill. I realize it does add some government responsibility. Generally, as a Republican, I do not like to see those things, but when health and safety is involved, I think we need to intervene.

Ms. SCHAKOWSKY. Mr. Chairman, I yield myself such time as I may consume.

I would like to say a special thank you to the gentleman from Illinois (Mr. RUSH) for the work he has done on the bill and for his strong support of the legislation.

I would also like to read a statement on behalf of the gentleman from Michigan (Mr. CONYERS) who is the ranking Democrat on the Committee on the Judiciary.

He says, "I rise in strong support of H.R. 1065, the United States Boxing Commission Act, which establishes a Federal commission with oversight responsibilities for professional boxing in the United States. This much-needed commission will establish uniform minimum standards which States must follow. It will also be empowered to issue additional regulations to improve the integrity and safety of the sport.

"Further, the commission will establish a Federal licensing requirement for participation in United States matches for certain boxing personnel, including boxers, managers, promoters, match makers, referees, judges and sanctioning.

"In July 2003, the GAO issued a report on professional boxing and listed elements identified by industry experts as essential to improving the health, safety and economic interests of boxers: medical examinations, monitoring of training injuries, assessments of medical risks, health and life insurance, the presence of appropriate medical personnel and equipment, and enforcement of suspensions for injuries.

"Additionally, the GAO found that industry experts believe additional changes are required in boxing and listed the following needed changes: one, require pension plans for boxers: two, require full disclosure of purses and payments; three, require minimum uniform contractual terms between boxers and promoters: and, four, prohibit conflicts of interest.

"While the Federal law has created requirements for States to follow, these laws are largely being ignored. H.R. 1065 will aid in correcting this injustice.

"Boxers often have little or nothing to show from their match proceeds, despite others earning vast wealth off the boxers' talents. We owe it to our athletes to create laws that protect their interests and to make sure those laws are enforced. I urge my colleagues to support H.R. 1065 and to support professional boxers."

Mr. CONYERS was unable to come down to the floor himself and wanted to make sure that this strong support of the legislation was placed in the RECORD.

Mr. Chairman, I reserve the balance of my time.

Mr. SENSENBRENNER. Mr. Chairman, I yield back the balance of my time.

Mr. STEARNS. Mr. Chairman, I yield such time as he may consume to the gentleman from Hawaii (Mr. ABERCROMBIE).

Mr. ABERCROMBIE. Mr. Chairman, this legislation may seem a bit esoteric to some not only in Congress here but in the public at large. But this issue, and I want to commend you and the ranking member for bringing it to our attention, this legislation could not be more crucial in terms of what our national responsibilities are.

Boxing and some of the so-called sports that are now associated with physical contact, things called the extreme sports, are interstate in nature, almost by definition. And because they are interstate, without regulation or oversight by the Congress, that means that many of the people associated with, in particular in this instance, the boxers, are in a sense victimized by our failure to take this up as a national question.

The stories may be instructive that are associated with boxing and boxing history. They may be even redemptive in terms of our contemplation of them: People struggling up from the bottom of the economic and social scale, sometimes tragic in nature in terms of those that have succeeded, and then are undone by success. For example, it is well known that the great heavyweight challenger Joe Louis Barrow was considered not only a great champion and a great personality, but was associated in many people's minds symbolically with being able to rise above race to be a symbol for brotherhood, someone who sacrificed financially for the United States by joining the Army during the war. And his reward was to be persecuted by the Internal Revenue Service for not paying taxes on purses and funds that he earned during that period of time. As a result, it had tragic dimensions for him in later life.

These kinds of stories can be replicated over and over again throughout the history of boxing. So what we have right now is the opportunity, Mr. Chairman, for us to put together a commission that will deal with some of the fundamental issues within the purview of the Congress in terms of interstate regulation.

This has to do with health care and the capacity to see to it that anybody engaged in boxing has access to and provision for health care and for pensions for that time when they have to retire. There is no reason why a percentage of every purse cannot be put into some kind of fund that will guarantee a pension and access to a pension for those engaged in boxing.

We have had great champions in Hawaii. Everyone has a story in this regard. Stan Harrington and Bobo Olson, some of the folks that I had an opportunity to know, and some of our champions right now, and potential champions in Hawaii and elsewhere across the country. I ask that everyone give us a chance to move this legislation along so we can complete the opportunity that is before us.

Ms. SCHAKOWSKY. Mr. Chairman, I yield myself the balance of my time.

Mr. Chairman, I want to thank the gentleman from Hawaii (Mr. ABERCROMBIE), who is himself a champion weight lifter, for weighing in on this legislation. I appreciate it very much.

There are literally millions of people who enjoy the sport of boxing, who watch it and follow it and who want to see that there is some integrity in that sport. A lot has been said about the contenders themselves, about the boxers. I would echo what my chairman, Mr. STEARNS, has said in response to the question, why should we care? We should care about these young boxers who are trying to follow their dreams and to help create a sport that does guarantee them some level of standards of health and safety and opportunity. And we should also care because it is a $500 million industry in this country that has been plagued with lots of scandals and irregularities.

So we are not talking about creating a major bureaucracy to oversee this, we are looking at a self-funding body that would now add professional boxing to every other sport that has some national standards and national rules and regulations. I think it is fairly modest in its construction, and I would certainly urge all Members on both sides of the aisle to join us, and thank Members on both sides who came down and supported this regulation.

Mr. Chairman, I yield back the balance of my time.

Mr. PICKERING. Mr. Chairman, some might not know this, but my State of Mississippi has a great history of boxing. Archie Moore, from Benoit, Mississippi, participated in professional boxing for over 27 years, holding the title of light heavyweight champion, and facing the likes of Rocky Marciano and Cassius Clay, during his career. While he went on to train Foreman and Ali, he will probably be best remembered as holding the record for the most knockouts in a career at 141. What I think is more important and that he may not be remembered as much for was his integrity in such a scandalous and corrupt sport during the years he boxed from 1936 to 1963. While we would have hoped boxing would have progressed and reformed over the years, it has not. The sport is still riddled with many problems, not the least is the exploited nature of its athletes. Muhammed Ali once said this: "I say get an education. Become an electrician, a mechanic, a doctor, a lawyer—anything but a fighter. In this trade, it's the managers that make the money and last the longest." This seemingly benign statement illustrates one small problem among the multitude of problems the sport of boxing faces.

Today, many fans are saddened and upset by the lack of integrity they see in professional boxing that has significantly weakened the sport—the most deplorable problem of which is the treatment of the sport's athletes. Without a doubt, professional boxers are the most exploited athletes in our Nation. While Congress has made efforts to protect professional boxers before, through the Professional Boxing Safety Act of 1996 and the Muhammad Ali Boxing Reform Act of 2000, these are not enough. The real problem today is the ineffective and inconsistent oversight of professional boxing, which has led to continuing scandals, controversies, unethical practices, and unnecessary injuries and deaths in the sport. That is why we are here today.

Mr. Chairman, through the leadership of members of Congress like Senator JOHN MCCAIN, Representative CLIFF STEARNS and Representative PETER KING, Congress is addressing and hopefully rectifying this harrowing situation. In order to better protect boxers and the integrity of professional boxing, we must establish a Federal regulatory entity to oversee professional boxing and set basic uniform standards for certain aspects of the sport. Consider this—professional boxing remains the only major sport in the United States that does not have a strong, centralized association, league, or other regulatory body to establish and enforce uniform rules and practices. And because a powerful few benefit greatly from the current system of patchwork compliance and enforcement of Federal boxing law, a national self-regulating organization—although preferable to Federal government oversight—is not a realistic option.

Mr. Chairman, I was an original co-sponsor to Representative KING's bill, "The Professional Boxing Amendments Act of 2005," which would also establish a United States Boxing Commission that perform substantially similar functions. I am very pleased that this idea is finally being considered on the House floor. The troubles that plague the sport of professional boxing undermine its credibility in the eyes of the public and—more importantly—compromise the health and safety of boxers. The creation of a Federal boxing commission would effectively curb these problems. The Senate has passed Senator MCCAIN's boxing bill, S. 148, the Professional Boxing Amendments Act of 2005, and I think it will be a travesty if the House does not do the same. Therefore, Mr. Chairman, I rise in great support of this legislation today and urge my colleagues to swiftly and expeditiously approve this legislation.

HOUSE OF REPRESENTATIVES, COMMITTEE ON EDUCATION AND THE WORKFORCE.
Washington, DC, September 28, 2005.

Hon. JOE BARTON,
Chairman, Committee on Energy and Commerce, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BARTON: I am writing to confirm our mutual understanding with respect to consideration of H.R. 1065, the United States Boxing Commission Act, which was referred to the Committee on Energy and Commerce and in addition the Committee on Education and the Workforce. The Committee on Energy and Commerce reported this bill on July 28, 2005.

As you know, provisions within H.R. 1065, directing a United States Boxing Commission to establish health and safety standards and a licensing registry for boxing personnel, fall within the jurisdiction of the Committee on Education and the Workforce. In addition, section 11 of the bill requires the Commission to study and report to Congress on health and safety standards in the boxing industry; this provision likewise falls within the jurisdiction of the Committee on Education and the Workforce.

I do not intend to delay consideration of H.R. 1065, nor will I object to the scheduling of this bill for consideration in the House of Representatives. However, I do so only with the understanding that this procedural route should not be construed to prejudice the Committee on Education and the Workforce's jurisdictional interest and prerogatives on these provisions or any other similar legislation, and will not be considered as precedent for consideration of matters of jurisdiction to my committee in the future. Further, this understanding is based on the agreement reached between our staffs to provide that the study commissioned in section 11 of the bill is transmitted to the Committee on Education and the Workforce, as well as your committee. Finally, we would expect you to support our request for appointment of conferees on these provisions should a conference arise with the Senate.

I would ask that you include a copy of our exchange of letters in the Congressional Record on this bill. Thank you for your consideration and cooperation in this matter.

Sincerely,

JOHN A. BOEHNER,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON ENERGY AND COMMERCE,
Washington, DC, October 5, 2005.

Hon. JOHN BOEHNER,
Chairman, Committee on Education and the Workforce, Rayburn House Office Building, Washington, DC.

DEAR CHAIRMAN BOEHNER: Thank you for your letter in regards to H.R. 1065, the United States Boxing Commission Act, which the Committee on Energy and Commerce ordered reported on June 29, 2005.

As the Committee on Education and the Workforce was named as an additional Committee of jurisdiction upon the bill's introduction, I acknowledge and appreciate your willingness to not exercise your full referral on the bill. In doing so, I agree that your decision to forgo further action on the bill will not prejudice the Committee on Education and the Workforce with respect to its jurisdictional prerogatives on this legislation or similar legislation. Specifically, I agree that the study commissioned in section 11 of the bill should also be transmitted to the Committee on Education and the Workforce. Further, I recognize your right to request conferees on those provisions within the Committee on Education and the Workforce's jurisdiction should they be the subject of a House-Senate conference on this or similar legislation.

I'm pleased that we can continue to move this bill forward, and I look forward to working with you in that process. Per your request, I will include your letter and this response during consideration of H.R. 1065 on the House floor.

Sincerely,

JOE BARTON,
Chairman.

The CHAIRMAN. All time for general debate has expired.

In lieu of the amendments recommended by the Committees on Energy and Commerce and the Judiciary printed in the bill, it shall be in order to consider as an original bill for the purpose of amendment under the 5-minute rule an amendment in the nature of a substitute printed in part A of House Report 109–295. That amendment in the nature of a substitute shall be considered read.

The text of the amendment in the nature of a substitute is as follows:

H.R. 1065

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

Strike all after the enacting clause and insert:

SECTION 1. SHORT TITLE.

This Act may be cited as the "United States Boxing Commission Act".

SEC. 2. DEFINITIONS.

As used in this Act, the following definitions apply:

(1) COMMISSION.—The term "Commission" means the United States Boxing Commission established under section 3.

(2) BOXER.—The term "boxer" means an individual who fights in a professional boxing match.

(3) BOXING COMMISSION.—The term "boxing commission" means an entity authorized under State or tribal law to regulate professional boxing matches.

(4) INDIAN LANDS.—The term "Indian lands" has the meanings given that terms by paragraphs (4) of section 4 of the Indian Gaming Regulatory Act (25 U.S.C. 2703).

(5) JUDGE.—The term "judge" means an official who scores a boxing match to determine the winner.

(6) MANAGER.—The term "manager" means a person other than a promoter who, under contract, agreement, or other arrangement with a boxer, undertakes to control or administer, directly or indirectly, a boxing-related matter on behalf of that boxer, including a person who is a booking agent for a boxer.

(7) MATCHMAKER.—The term "matchmaker" means a person that proposes, selects, and arranges for boxers to participate in a professional boxing match. Such term does not include a hotel, casino, resort, or other commercial establishment hosting or sponsoring a professional boxing match, or a provider of cable, satellite, or network television programming, unless—

(A) the hotel, casino, resort, or other commercial establishment, or provider of cable, satellite, or network television programming is primarily responsible for proposing, selecting, and arranging for boxers to participate in the professional boxing match; and

(B) there is no other person primarily responsible for proposing, selecting, and arranging for boxers to participate in the match.

(8) REFEREE.—The term "referee" means the official inside the boxing ring who supervises the boxing match.

(9) PROFESSIONAL BOXING MATCH.—The term "professional boxing match" means a boxing contest held in the United States between individuals for financial compensation. Such term does not include a boxing contest that is regulated by a duly recognized amateur sports organization, as approved by the Commission.

(10) PROMOTER.—The term "promoter"—

(A) means the person primarily responsible for organizing, promoting, and producing a professional boxing match; but

(B) does not include a hotel, casino, resort, or other commercial establishment hosting or sponsoring a professional boxing match, or a provider of cable, satellite, or network television programming, unless—

(i) the hotel, casino, resort, or other commercial establishment, or provider of cable, satellite, or network television programming is primarily responsible for organizing, promoting, and producing the match; and

(ii) there is no other person primarily responsible for organizing, promoting, and producing the match.

(11) STATE.—The term "State" means each of the 50 States, Puerto Rico, the District of Columbia, and any territory or possession of the United States, including the Virgin Islands.

(12) SANCTIONING ORGANIZATION.—The term "sanctioning organization" means an organization, other than a boxing commission, that sanctions professional boxing matches, ranks professional boxers, or charges a sanctioning fee for professional boxing matches in the United States—

(A) between boxers who are residents of different States; or

(B) that are advertised, otherwise promoted, or broadcast (including closed circuit television) in interstate commerce.

(13) SUSPENSION.—The term "suspension" includes within its meaning the temporary revocation of a boxing license.

(14) TRIBAL ORGANIZATION.—The term "tribal organization" has the same meaning as in section 4(l) of the Indian Self-Determination and Education Assistance Act (25 U.S.C. 450b(l)).

SEC. 3. ESTABLISHMENT OF UNITED STATES BOXING COMMISSION.

(a) IN GENERAL.—The United States Boxing Commission is established as a commission within the Department of Commerce.

(b) MEMBERS.—

(1) IN GENERAL.—The Commission shall consist of 3 members appointed by the President, by and with the advice and consent of the Senate.

(2) QUALIFICATIONS.—No member of the Commission may, while serving as a member of the Commission—

(A) be engaged as a professional boxer, boxing promoter, agent, fight manager, matchmaker, referee, judge, or in any other capacity in the conduct of the business of professional boxing;

(B) have any pecuniary interest in the earnings of any boxer or the proceeds or outcome of any boxing match; or

(C) serve as a member of a boxing commission.

(3) BIPARTISAN MEMBERSHIP.—Not more than 2 members of the Commission may be members of the same political party.

(4) GEOGRAPHIC BALANCE.—Not more than 2 members of the Commission may be residents of the same geographic region of the United States when appointed to the Commission. For purposes of the preceding sentence, the area of the United States east of the Mississippi River is a geographic region, and the area of the United States west of the Mississippi River is a geographic region.

(5) TERMS.—

(A) IN GENERAL.—The term of a member of the Commission shall be 3 years. No member of the Commission shall serve more than 2 terms.

(B) MIDTERM VACANCIES.—A member of the Commission appointed to fill a vacancy in the Commission occurring before the expiration of the term for which the member's predecessor was appointed shall be appointed for the remainder of that unexpired term.

(C) CONTINUATION PENDING REPLACEMENT.—A member of the Commission may serve after the expiration of that member's term until a successor has taken office.

(6) REMOVAL.—A member of the Commission may be removed by the President only for cause.

(c) EXECUTIVE DIRECTOR.—

(1) IN GENERAL.—The Commission shall employ an Executive Director to perform the administrative functions of the Commission under this Act, and such other functions and duties of the Commission as the Commission shall specify.

(2) DISCHARGE OF FUNCTIONS.—Subject to the authority, direction, and control of the Commission the Executive Director shall carry out the functions and duties of the Commission under this Act.

(d) GENERAL COUNSEL.—The Commission shall employ a General Counsel to provide legal counsel and advice to the Executive Director and the Commission in the performance of its functions under this Act, and to carry out such other functions and duties as the Commission shall specify.

(e) STAFF.—The Commission shall employ such additional staff as the Commission considers appropriate to assist the Executive Director and the General Counsel in carrying out the functions and duties of the Commission under this Act.

(f) MEETINGS.—The Commission shall hold its first meeting no later than 30 days after all members shall have been appointed, and shall meet thereafter not less frequently than once every 60 days.

(g) COMPENSATION.—

(1) MEMBERS OF COMMISSION.—

(A) IN GENERAL.—Each member of the Commission shall be compensated at a rate equal to the daily equivalent of the annual rate of basic pay prescribed for level IV of the Executive Schedule under section 5315 of title 5, United States Code, for each day (including travel time) during which such member is engaged in the performance of the duties of the Commission.

(B) TRAVEL EXPENSES.—The members of the Commission shall be allowed travel expenses, including per diem in lieu of subsistence, at rates authorized for employees of agencies under subchapter I of chapter 57 of title 5, United States Code, while away from their homes or regular places of business in the performance of services for the Commission.

(2) EXECUTIVE DIRECTOR AND STAFF.—The Commission shall fix the compensation of the Executive Director, the General Counsel, and other personnel of the Commission. The rate of pay for the Executive Director, the General Counsel, and other personnel may not exceed the rate payable for level V of the Executive Schedule under section 5316 of title 5, United States Code.

SEC. 4. FUNCTIONS.

(a) GENERAL FUNCTIONS.—The general functions of the Commission are—

(1) to protect the general interests of boxers consistent with the provisions of this Act;

(2) to ensure uniformity, fairness, and integrity in professional boxing; and

(3) except as otherwise determined by the Commission, oversee all professional boxing matches in the United States.

(b) INITIAL RULEMAKING.—Not later than 180 days after the date on which the Commission shall hold its first meeting, the Commission shall, by rule promulgate uniform standards for professional boxing in consultation with the Association of Boxing Commissions.

(c) ADDITIONAL FUNCTIONS.—In addition to its general functions under subsection (a), the Commission shall—

(1) work with the boxing commissions of the several States and tribal organizations to improve the status and standards of professional boxing in the United States;

(2) ensure, in cooperation with the Attorney General, or a designee of the Attorney General, (who shall represent the Commission in any judicial proceeding under this Act), the chief law enforcement officer of the several States, and other appropriate officers and agencies of Federal, State, and local government, that Federal and State laws applicable to professional boxing matches in the United States are vigorously, effectively, and fairly enforced;

(3) review State boxing commission regulations for professional boxing and provide assistance to such authorities in meeting minimum standards prescribed by the Commission under this Act;

(4) if the Commission determines appropriate, publish a newspaper, magazine, or other publication and establish and maintain an Internet website consistent with the provisions of this Act; and

(5) promulgate rules, regulations, and guidance, and take any other action necessary and proper to accomplish the purposes of, and consistent with, the provisions of this Act.

(d) PROHIBITIONS.—The Commission may not—

(1) promote boxing events or rank professional boxers; or

(2) provide technical assistance to, or authorize the use of the name of the Commission by, boxing commissions that do not comply with requirements of the Commission.

SEC. 5. LICENSING AND REGISTRATION OF BOXING PERSONNEL.

(a) LICENSING.—

(1) REQUIREMENT FOR LICENSE.—Beginning 1 year after the date of enactment of this Act, no person may compete in a professional boxing match or serve as a boxing manager, boxing promoter, matchmaker, judge, referee, or sanctioning organization for a professional boxing match except as provided in a license granted to that person under this subsection.

(2) APPLICATION AND TERM.—

(A) IN GENERAL.—The Commission shall—

(i) establish application procedures, forms, and fees for licenses granted under this section;

(ii) establish and publish appropriate standards for such licenses;

(iii) issue a license to any person who, as determined by the Commission, meets the standards established by the Commission under this Act; and

(iv) begin issuing such licenses not later than 270 days after the date on which Commission holds its first meeting.

(B) DURATION.—A license issued under this section shall be for a renewable—

(i) 4-year term for a boxer; and

(ii) 2-year term for any other person.

(C) PROCEDURE.—The Commission may issue a license under this paragraph through boxing commissions or in a manner determined by the Commission.

(b) LICENSING FEES.—

(1) AUTHORITY.—The Commission may prescribe and charge reasonable fees for the licensing of persons under this Act. The Commission may set, charge, and adjust varying fees on the basis of classifications of persons, functions, and events determined appropriate by the Commission.

(2) LIMITATIONS.—In setting and charging fees under paragraph (1), the Commission shall ensure that, to the maximum extent practicable—

(A) club boxing is not adversely effected;

(B) sanctioning organizations and promoters pay comparatively the largest portion of the fees; and

(C) boxers pay as small a portion of the fees as is possible.

SEC. 6. NATIONAL REGISTRY OF BOXING PERSONNEL.

The Commission shall establish and maintain (or authorize a third party to establish and maintain) a unified national computerized registry for the collection, storage, and retrieval of such information as the Commission shall prescribe by rule related to the performance of its duties.

SEC. 7. CONSULTATION REQUIREMENTS.

The Commission shall consult with the Association of Boxing Commissions—

(1) before prescribing any regulation or establishing any standard under the provisions of this Act; and

(2) not less than once each year regarding matters relating to professional boxing.

SEC. 8. MISCONDUCT.

(a) SUSPENSION AND REVOCATION OF LICENSE OR REGISTRATION.—

(1) AUTHORITY.—The Commission may, after notice and opportunity for a hearing, suspend or revoke any license issued under this Act if the Commission—

(A) finds that the license holder has violated any provision of this Act or a standard prescribed under this Act;

(B) reasonably believes that a standard prescribed by the Commission under this Act is not being met, or that bribery, collusion, intentional losing, racketeering, extortion, or the use of unlawful threats, coercion, or intimidation have occurred in connection with a license; or

(C) finds that the suspension or revocation is in the public interest.

(2) PERIOD OF SUSPENSION.—A suspension of a license under this section shall be effective for a period determined appropriate by the Commission.

(3) PERIOD OF REVOCATION.—In the case of a revocation of the license of a boxer, the revocation shall be for a period of not less than 1 year.

(b) INVESTIGATIONS AND INJUNCTIONS.—

(1) AUTHORITY.—The Commission may—

(A) conduct any investigation that it considers necessary to determine whether any person has violated, or is about to violate, any provision of this Act or any regulation prescribed under this Act;

(B) require or permit any person to file with it a statement in writing, under oath or otherwise as the Commission shall determine, as to all the facts and circumstances concerning the matter to be investigated;

(C) in its discretion, publish information concerning any violations; and

(D) investigate any facts, conditions, practices, or matters to aid in the enforcement of the provisions of this Act, in the prescribing of regulations under this Act, or in securing information to serve as a basis for recommending legislation concerning the matters to which this Act relates.

(2) POWERS.—

(A) IN GENERAL.—For the purpose of any investigation under paragraph (1) or any other proceeding under this Act—

(i) any officer designated by the Commission may administer oaths and affirmations, subpoena or otherwise compel the attendance of witnesses, take evidence, and require the production of any books, papers, correspondence, memoranda, or other records the Commission considers relevant or material to the inquiry; and

(ii) the provisions of sections 6002 and 6004 of title 18, United States Code, shall apply.

(B) WITNESSES AND EVIDENCE.—The attendance of witnesses and the production of any documents under subparagraph (A) may be required from any place in the United States, including Indian land, at any designated place of hearing.

(3) ENFORCEMENT OF SUBPOENAS.—

(A) CIVIL ACTION.—In case of contumacy by, or refusal to obey a subpoena issued to, any person, the Commission may file an action in any district court of the United States within the jurisdiction of which an investigation or proceeding is carried out, or where that person resides or carries on business, to enforce the attendance and testimony of witnesses and the production of books, papers, correspondence, memorandums, and other records. The court may issue an order requiring the person to appear before the Commission to produce records, if so ordered, or to give testimony concerning the matter under investigation or in question.

(B) FAILURE TO OBEY.—Any failure to obey an order issued by a court under subparagraph (A) may be punished as contempt of that court.

(C) PROCESS.—All process in any contempt case under subparagraph (A) may be served in the judicial district in which the person is an inhabitant or in which the person may be found.

(D) ADMINISTRATIVE SUBPOENAS.—The requirements of section 3486 of title 18, United States Code, shall apply to the administration and enforcement of subpoenas under this Act.

(4) EVIDENCE OF CRIMINAL MISCONDUCT.—No person may be excused from attending and testifying or from producing books, papers, contracts, agreements, and other records and documents before the Commission, in obedience to the subpoena of the Commission, or in any cause or proceeding instituted by the Commission, on the ground that the testimony or evidence, documentary or otherwise, required of that person may tend to incriminate the person or subject the person to a penalty or forfeiture.

(5) INJUNCTIVE RELIEF.—If the Commission determines that any person is engaged or about to engage in any act or practice that constitutes a violation of any provision of this Act, or of any regulation prescribed under this Act, the Commission may bring an action in the appropriate district court of the United States, the United States District Court for the District of Columbia, or the United States courts of any territory or other place subject to the jurisdiction of the United States, to enjoin the act or practice, and upon a proper showing, the court shall grant without bond a permanent or temporary injunction or restraining order.

(6) MANDAMUS.—Upon application of the Commission, the district courts of the United States, the United States District Court for the District of Columbia, and the United States courts of any territory or other place subject to the jurisdiction of the United States, shall have jurisdiction to issue writs of mandamus commanding any person to comply with the provisions of this Act or any order of the Commission.

(c) INTERVENTION IN CIVIL ACTIONS.—

(1) IN GENERAL.—The Commission, on behalf of the public interest, may intervene of right as provided under rule 24(a) of the Federal Rules of Civil Procedure in any civil action relating to professional boxing filed in a district court of the United States.

(2) AMICUS FILING.—The Commission may file a brief in any action filed in a court of the United States on behalf of the public interest in any case relating to professional boxing.

(d) HEARINGS BY COMMISSION.—Hearings conducted by the Commission under this Act shall be public and may be held before any officer of the Commission. The Commission shall keep appropriate records of the hearings.

SEC. 9. NONINTERFERENCE WITH BOXING COMMISSIONS.

(a) NONINTERFERENCE.—Nothing in this Act prohibits any boxing commission from exercising any of its powers, duties, or functions with respect to the regulation or supervision of professional boxing or professional boxing matches to the extent not inconsistent with the provisions of this Act.

(b) MINIMUM STANDARDS.—Nothing in this Act prohibits any boxing commission from enforcing local standards or requirements that exceed the minimum standards or requirements promulgated by the Commission under this Act.

SEC. 10. ASSISTANCE FROM OTHER AGENCIES.

Any employee of any executive department, agency, bureau, board, commission, office, independent establishment, or instrumentality may be detailed to the Commission, upon the request of the Commission, on a reimbursable or nonreimbursable basis, with the consent of the appropriate authority having jurisdiction over the employee. While so detailed, an employee shall continue to receive the compensation provided pursuant to law for the employee's regular position of employment and shall retain, without interruption, the rights and privileges of that employment.

SEC. 11. STUDIES.

(a) HEALTH AND SAFETY STUDY.—

(1) STUDY.—The Commission shall conduct a study on the health and safety aspects of boxing, including an examination of—

(A) the risks or serious injury and the nature of potential injuries, including risks particular to boxers of each sex;

(B) the long term effect of boxing on the health of boxers;

(C) the availability of health insurance for boxers;

(D) the extent to which differences in equipment effect the risks of potential injury; and

(E) the effectiveness of safety standards and regulations.

(2) REPORT.—Not later than 1 year after the date of enactment of this Act, the Commission shall submit a report on the study required by this section to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives, including recommendations to improve the health and safety aspects of boxing.

(b) STUDY ON THE DEFINITION OF PROMOTER.—

(1) STUDY.—The United States Boxing Commission shall conduct a study on how the term "promoter" should be defined for purposes of the United States Boxing Commission Act.

(2) HEARINGS.—As part of that study, the Commission shall hold hearings and solicit testimony at those hearings from boxers, managers, promoters, premium, cable, and satellite program service providers, hotels, casinos, resorts, and other commercial establishments that host or sponsor professional boxing matches, and other interested parties with respect to the definition of that term as it is used in the United States Boxing Commission Act.

(3) REPORT.—Not later than 1 year after the date of the enactment of this Act, the Commission shall submit to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives a report on the study conducted under subsection (a). The report shall—

(A) set forth a proposed definition of the term "promoter" for purposes of the United States Boxing Commission Act; and

(B) describe the findings, conclusions, and rationale of the Commission for the proposed definition, together with any recommendations of the Commission, based on the study.

SEC. 12. REPORTS.

(a) ANNUAL REPORT.—Not later than 2 years after the date of enactment of this Act, and each year thereafter, the Commission shall submit a report on its activities to the Committee on Commerce, Science, and Transportation of the Senate and the Committee on Energy and Commerce of the House of Representatives. The annual report shall include—

(1) a detailed discussion of the activities of the Commission for the year covered by the report;

(2) an overview of the licensing and enforcement activities of the State and tribal organization boxing commissions; and

(3) recommendations regarding additional persons or entities within the sport of boxing over whom to extend the licensing requirement established by this Act.

(b) Public Report.—The Commission shall annually issue and publicize a report of the Commission on the progress made at Federal and State levels and on Indian lands in the reform of professional boxing, which shall include comments on issues of continuing concern to the Commission.

SEC. 13. SUNSET PROVISION.

This Act shall cease to have effect 12 years after the date of enactment of this Act.

SEC. 14. AUTHORIZATION OF APPROPRIATIONS.

(a) In General.—There are authorized to be appropriated for the Commission for each fiscal year such sums as may be necessary for the Commission to perform its functions for that fiscal year.

(b) Receipts Credited as Offsetting Collections.—Notwithstanding section 3302 of title 31, United States Code, any fee collected under this Act—

(1) shall be credited as offsetting collections to the account that finances the activities and services for which the fee is imposed;

(2) shall be available for expenditure only to pay the costs of activities and services for which the fee is imposed; and

(3) shall remain available until expended.

The CHAIRMAN. No amendment to that amendment shall be in order except those printed in part B of the report. Each amendment may be offered only in the order printed in the report, may be offered only by a Member designated in the report, shall be considered read, debatable for the time specified in the report, equally divided and controlled by the proponent and an opponent, shall not be subject to amendment, and shall not be subject to a demand for division of the question.

AMENDMENT NO. 1 OFFERED BY MR. STEARNS

Mr. STEARNS. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 1 printed in House Report 109–295 offered by Mr. Stearns:

In the heading of subsection (b) of section 5, strike "Licensing".

In section 5(b)(1), strike "reasonable fees for the licensing of persons under this Act" and insert ", for the licensing of persons under this Act, reasonable fees sufficient for the operation of the Commission and the administration of this Act".

In section 14(b), strike "under this Act—" and insert "under this Act shall, subject to appropriations—".

In section 14(b), strike paragraphs (1) and (2) and insert the following:

(1) be credited as offsetting collections against any amounts appropriated pursuant to subsection (a); and

In section 14(b), strike "(3) shall remain" and insert "(2) remain".

The CHAIRMAN. Pursuant to House Resolution 553, the gentleman from Florida (Mr. Stearns) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Florida.

Mr. STEARNS. Mr. Chairman, I yield myself such time as I may consume.

I am offering today a manager's amendment that will perfect the underlying bill to ensure that H.R. 1065 is a fiscally sound piece of legislation that uses a self-funding mechanism for the United States Boxing Commission established under the act.

Let me be crystal clear to my colleagues, taxpayers are not being forced to pay for the USBC. Boxers, boxing personnel and the sanctioning organization, such as the World Boxing Association, WBA, the International Boxing Federation, IBF, and so on, will provide the funds, through payment of license and other fees, which will be collected by the USBC.

Specifically, my amendment will do the following: Section 5 of the bill will be amended to clarify that fees authorized and collected shall be available to fund the operation of the United States Boxing Commission and administration of this act.

Section 14 of the bill will be amended to clarify that offsetting collections are available to the USBC subject to appropriation. This is a very good amendment. It is bipartisan. The bill itself will save lives, protect vulnerable athletes and help get the sport of boxing back in fighting shape.

First and foremost, it will end the corruption and abuse that has plagued the sport for so long so America will regain its pride in boxing and all of its wonderful champions. Moreover, it will be done in a fiscally responsible way. I urge my colleagues to support this perfecting amendment and support H.R. 1065.

Mr. Chairman, I reserve the balance of my time.

Ms. SCHAKOWSKY. Mr. Chairman, I ask unanimous consent to claim the time in opposition, although I do not oppose the amendment.

The CHAIRMAN. Is there objection to the request of the gentlewoman from Illinois?

There was no objection.

Ms. SCHAKOWSKY. Mr. Chairman, I yield myself such time as I may consume.

I just want to make a few remarks in support of the Stearns amendment. The Stearns amendment would ensure that establishment of the boxing commission would not be a burden to the taxpayers. It would require that the fees collected from the licenses go to offset the cost of running the commission. The amendment is fiscally responsible, and it is consistent with PAYGO principles that helped us achieve budget surpluses in the 1990s.

This amendment was crafted in consultation with the Committee on Appropriations and achieves the stated objective. While I believe that boxing needs to have serious oversight, I also believe it should be paid for by those who profit and promote the ringside event. It is the least they can do for the sport they love, and I urge my colleagues to support this amendment.

Mr. Chairman, I yield back the balance of my time.

Mr. STEARNS. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentleman from Florida (Mr. Stearns).

The amendment was agreed to.

AMENDMENT NO. 2 OFFERED BY MS. SCHAKOWSKY

Ms. SCHAKOWSKY. Mr. Chairman, as the designee of Mr. Filner of California, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 2 printed in House Report 109–295 offered by Ms. Schakowsky:

In section 4(c)(4), strike "; and" and insert a semicolon.

In section 4(c)(5), strike the period at the end and insert a semicolon.

At the end of section 4(c), insert the following:

(6) require a copy of any contract for a boxing match to be filed with the Commission or with a state boxing authority at a time and in a manner determined appropriate by the Commission;

(7) establish minimum standards for the availability of medical services at professional boxing matches;

(8) encourage a life, accident, and health insurance fund for professional boxers and other members of the professional boxing community; and

(9) conduct discussions and enter into agreements with foreign boxing entities on methods of applying minimum health and safety standards to foreign boxing events and foreign boxers, trainers, cut men, referees, judges, ringside physicians, and other professional boxing personnel.

In section 12(a)(2), strike "; and" and insert a semicolon.

In section 12(a)(3), strike the period and insert "; and".

In section 12(a), insert after paragraph (3) the following:

(4) recommendations regarding the feasibility of establishing a pension system for professional boxing participants.

The CHAIRMAN. Pursuant to House Resolution 553, the gentlewoman from Illinois (Ms. Schakowsky) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Illinois.

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Ms. SCHAKOWSKY. Mr. Chairman, this amendment enhances safeguards to protect professional boxers. We all know that boxing is a tough sport with even tougher consequences and it is essential that we protect boxers as much as possible.

Unfortunately, there are varying standards among the States on what type of medical services need to be available during boxing matches. Because appropriate medical care is critical in determining whether the fighter injured in the match will recover, suffer permanent damage or will die, depending on the extent of the injury, this amendment would call on the boxing commission to establish minimum standards and what type of medical services must be available at professional boxing matches.

Additionally, many boxers only have insurance coverage the night of the fight. It is not surprising that many insurance companies do not offer boxers health and life insurance policies at affordable rates for the rest of the time. And not every boxer is a prize fighter taking home a big purse. This amendment would simply encourage the Boxing Commission to establish an insurance fund to cover members of the professional boxing community.

We have all heard of the destitute boxer struggling to get by. This amendment would call on the Boxing Commission to come forward on recommendations regarding the feasibility of the pension system for professional boxing participants. Remember, again, this is asking them to come forward simply with a recommendation regarding the feasibility of a pension system.

Finally, like most other sports, boxing is an international business. As such, I believe it is important for the Boxing Commission to enter into agreements with other foreign boxing entities to set minimum health standards for boxers who fight overseas.

All of these measures are important to improve the sport and to provide additional safeguards to boxing, and I urge support of this amendment.

Mr. STEARNS. Mr. Chairman, will the gentlewoman yield?

Ms. SCHAKOWSKY. I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Chairman, I rise in support of my colleague's amendment, and I think I would accept it. Both our staffs have looked at this. We think it is a good improvement on the bill, and so I commend the gentlewoman for her extra work here on the amendment and the gentleman from California (Mr. FILNER) who has also been involved with it.

Ms. SCHAKOWSKY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY).

The amendment was agreed to.

AMENDMENT NO. 4 OFFERED BY MS. SCHAKOWSKY

Ms. SCHAKOWSKY. Mr. Chairman, as the designee of Mr. FILNER of California, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 4 printed in House Report 109–295 offered by Ms. SCHAKOWSKY:

After section 5, insert the following (and redesignate succeeding sections accordingly):

SEC. 6. ARCHIE MOORE CRITERIA FOR RATING BOXERS.

(a) PUBLICATION BY COMMISSION.—Not later than 1 year after the date of enactment of this Act, the Commission shall develop and publish guidelines establishing consistent and objective criteria for the rating of professional boxers.

(b) ADOPTION BY SANCTIONING ORGANIZATIONS.—Beginning 90 days after the promulgation of the guidelines under subsection (a), no sanctioning organization may be issued a license under this Act unless such organization shall adopt and carry out policies and procedures for the rating of professional boxers that are consistent with such guidelines.

The CHAIRMAN. Pursuant to House Resolution 553, the gentlewoman from Illinois (Ms. SCHAKOWSKY) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentlewoman from Illinois.

Ms. SCHAKOWSKY. Mr. Chairman, the gentleman from California (Mr. FILNER) named this the Archie Moore Criteria for Rating Boxers. So the reason that he called this amendment the Archie Moore criteria for rating boxers is because Archie Moore, also known as the Old Mongoose, held the light middleweight title for 10 years. By the time of his retirement, after 197 fights, Archie had compiled a truly unassailable sports record of 145 knockouts. All of this is even more remarkable when one considers that he spent a large part of his career, approximately 16 years, traveling to an unending string of boxing honky tonks open to fighters who could not break into the big leagues.

Archie did not get a title shot until he turned 39, a time when most boxers retire. There were many barriers preventing great boxers like Archie from rising through the ranks. One primarily being a broken rating system for boxers.

It is the job of the sanctioning organizations to rate boxers and to designate a champion. Sanctioning organizations make their money by sanctioning champion fights. The higher a fighter is rated, the more likely it will be for him to get high paying fights, especially championship fights.

However, often rankings are not based on objective talent or win-loss records; rather, boxers who belong to certain promoters may be highly ranked regardless of skill and ability. A fighter could be the best in his weight class, but if he is not associated with the right people he may not be ranked and thus lose his chance to further his career.

Previously, Congress passed legislation under the Mohammed Ali act to require all sanctioning organizations to develop credible and consistent ratings criteria. However, there are still problems with the system.

For example, one of the sanctioning organizations had a dead man ranked in the top 10 of a super middle weight division for 4 months. During the 4 months in which the dead man was actually ranked, he moved up in the ratings, going from Number 7 to Number 5.

This is just one incident on a long list of problems associated with the ratings system conducted by boxing sanctioning organizations. Obviously, something is wrong, and something ought to be done.

My amendment will require the Boxing Commission to establish guidelines for rating boxers. These guidelines must be followed by organizations that sanction boxing events. My amendment does not strip boxing sanctioning organizations from ranking boxers; however, it does require them to adhere to a set criteria established by the Boxing Commission.

Boxing will never be the sport it once was until the rating system is made more legitimate and respectable, which is why I am asking you to support my amendment.

Mr. Chairman, I yield to the gentleman from Florida.

Mr. STEARNS. Mr. Chairman, I thank the gentlewoman from Florida for yielding. I do not rise in opposition. I think this amendment is good. We accept it. I would point out, during the hearing, we had a boxer who died of natural causes and as a result of that he rose in the ranking because of the lack of standards that are set. And so I think, in this case, her amendment would be worthwhile, so that this sort of anomaly does not occur again in which a boxer dies naturally and he rises in rank in the standing in the overall professional standing. So I rise in support of the amendment.

Ms. SCHAKOWSKY. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment offered by the gentlewoman from Illinois (Ms. SCHAKOWSKY).

The amendment was agreed to.

AMENDMENT NO. 5 OFFERED BY MR. SODREL

Mr. SODREL. Mr. Chairman, I offer an amendment.

The CHAIRMAN. The Clerk will designate the amendment.

The text of the amendment is as follows:

Part B amendment No. 5 printed in House Report 109–295 offered by Mr. SODREL:

Strike section 14.

The CHAIRMAN. Pursuant to House Resolution 553, the gentleman from Indiana (Mr. SODREL) and a Member opposed each will control 5 minutes.

The Chair recognizes the gentleman from Indiana.

MODIFICATION TO AMENDMENT NO. 5 OFFERED BY MR. SODREL

Mr. SODREL. Mr. Chairman, I ask unanimous consent that the amendment be modified by the modification at the desk.

The CHAIRMAN. Is there objection to the request of the gentleman from Indiana?

There was no objection.

The CHAIRMAN. The Clerk will report the modification.

The Clerk read as follows:

Modification offered by Mr. SODREL:

In lieu of the matter proposed:

In section 14, strike "**AUTHORIZATION OF APPROPRIATIONS**" and insert "**RECEIPTS CREDITED AS OFFSETTING COLLECTIONS**".

In section 14, strike subsection (a).

In section 14, strike "(b) RECEIPTS CREDITED AS OFFSETTING COLLECTIONS.—".

In section 14, strike "pursuant to subsection (a)" and insert "to fund this Act".

The CHAIRMAN. The gentleman from Indiana is recognized for 5 minutes in support of his amendment, as modified.

Mr. SODREL. Mr. Chairman, I yield myself such time as I may consume.

Mr. Chairman, the sport of boxing is an amusement. It is a luxury often costing participants hundreds of dollars to attend a single prize fight.

In a time when we are searching for ways to fund necessities, we should not expose the taxpayer to a left hook and the possibility of paying millions of dollars to clean up corruption of a highly profitable business that estimates are brings in a billion dollars a year.

I commend the gentleman from Florida for working with me to ensure that taxpayers keep their guard up to prevent them from sharing the burden of paying for this commission.

I am still uncomfortable with the prospect of the Federal Government serving directly as the referee for licensing and regulating commercial sports.

Other professional sports, baseball, football, hockey, basketball all have their own governing body to thwart the problems now faced by the professional boxing industry.

However, if it must be done, then we must ensure that the costs fall on those that have generated the need for regulation and who benefit the most from boxing industry's revenues.

I believe my amendment will ensure this commission will be funded exclusively by licensing fees on the boxing industry participants and not from appropriations of general funds.

I ask my colleagues to support this amendment to hold the boxing industry accountable to pay for its own regulation.

Mr. Chairman, I yield 2 minutes to the gentleman from Florida (Mr. STEARNS).

Mr. STEARNS. Mr. Chairman, the gentleman's amendment, I think, improves the bill quite a bit, addresses the fee language to ensure that the fees collected pursuant to the act are credited, as the gentleman mentioned, as offsetting collections only for the purpose of funding the commission. It is important to ensure that any fee collected is used expressly for the purpose intended, namely, the funding of this commission.

User fees are common throughout most industries and are often used to fund activities that, other than the purpose of the fee that is collected. We know that. We see that oftentimes in Congress. But this amendment will ensure that this does not happen. So I think it is very good. And I compliment the gentleman for it. It is a good policy. The insurance commission is the only entity that receives the industry fees that it is collecting from. It has bipartisan support, and I appreciate the gentleman working with me and my staff, and I commend my colleagues to vote and support it.

Mr. SODREL. Mr. Chairman, I yield back the balance of my time.

The CHAIRMAN. The question is on the amendment, as modified, offered by the gentleman from Indiana (Mr. SODREL).

The amendment, as modified, was agreed to.

The CHAIRMAN. The question is on the amendment in the nature of a substitute, as amended.

The amendment in the nature of a substitute, as amended, was agreed to.

The CHAIRMAN. Under the rule, the Committee rises.

Accordingly, the Committee rose; and the Speaker pro tempore (Mr. PUTNAM) having assumed the chair, Mr. SIMPSON, Chairman of the Committee of the Whole House on the State of the Union, reported that that Committee, having had under consideration the bill (H.R. 1065) to establish the United States Boxing Commission to protect the general welfare of boxers and to ensure fairness in the sport of professional boxing, pursuant to House Resolution 553, he reported the bill back to the House with an amendment adopted by the Committee of the Whole.

The SPEAKER pro tempore. Under the rule, the previous question is ordered.

Is a separate vote demanded on any amendment to the amendment in the nature of a substitute adopted by the Committee of the Whole? If not, the question is on the amendment.

The amendment was agreed to.

The SPEAKER pro tempore. The question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed and read a third time, and was read the third time.

The SPEAKER pro tempore. The question is on the passage of the bill.

The question was taken; and the Speaker pro tempore announced that the ayes appeared to have it.

Mr. STEARNS. Mr. Speaker, I object to the vote on the ground that a quorum is not present and make the point of order that a quorum is not present.

The SPEAKER pro tempore. Evidently a quorum is not present.

The Sergeant at Arms will notify absent Members.

Pursuant to clause 8 of rule XX, this 15-minute vote on passage of H.R. 1065 will be followed by 5-minute votes on motions to suspend the rules and agree to H. Con. Res. 230 and H. Con. Res. 268.

The vote was taken by electronic device, and there were—yeas 190, nays 233, not voting 10, as follows:

[Roll No. 592]

YEAS—190

Abercrombie
Ackerman
Allen
Baca
Baird
Baldwin
Barrow
Barton (TX)
Bass
Becerra
Berkley
Berman
Bishop (GA)
Bishop (NY)
Blunt
Boren
Boucher
Boyd
Brady (PA)
Brown (OH)
Brown, Corrine
Burgess
Butterfield
Buyer
Capps
Cardin
Carnahan
Castle
Chandler
Clay
Clyburn
Conyers
Cramer
Crowley
Cubin
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis, Tom
DeGette
Delahunt
DeLauro
Diaz-Balart, L.
Dicks
Dingell
Doggett
Doyle
Ehlers
Emanuel
Engel
Eshoo
Evans
Farr
Fattah
Filner
Fitzpatrick (PA)
Fortenberry
Gerlach
Gibbons
Gilchrest
Gillmor
Gonzalez
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Herseth
Higgins
Hinchey
Hinojosa
Holden
Honda
Hooley
Hoyer
Hyde
Inslee
Israel
Issa
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Johnson (CT)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (NY)
Kirk
Kucinich
Langevin
Larson (CT)
Lee
Levin
Lewis (GA)
Lipinski
Lofgren, Zoe
Lowey
Lungren, Daniel E.
Lynch
Maloney
Markey
Matheson
Matsui
McCarthy
McCollum (MN)
McGovern
McIntyre
McKinney
McNulty
Meehan
Meeks (NY)
Michaud
Millender-McDonald
Miller (NC)
Miller, George
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Napolitano
Neal (MA)
Oberstar
Obey
Olver
Ortiz
Osborne
Owens
Pascrell
Pelosi
Pickering
Pitts
Pomeroy
Porter
Price (NC)
Pryce (OH)
Rangel
Reyes
Rogers (KY)
Roybal-Allard
Ruppersberger
Rush
Ryan (OH)
Sabo
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Schakowsky
Schiff
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Serrano
Shays
Sherman
Shimkus
Simmons
Skelton
Slaughter
Smith (NJ)
Smith (WA)
Solis
Spratt
Stearns
Strickland
Stupak
Tauscher
Thomas
Thompson (CA)
Thompson (MS)
Towns
Udall (CO)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Waters
Watson
Waxman
Weiner
Weldon (FL)
Wexler
Whitfield
Woolsey
Wynn
Young (FL)

NAYS—233

Aderholt
Akin
Alexander
Andrews
Bachus
Baker
Barrett (SC)
Bartlett (MD)
Bean
Beauprez
Berry
Biggert
Bilirakis
Bishop (UT)
Blackburn
Blumenauer
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boustany
Bradley (NH)
Brady (TX)
Brown (SC)
Brown-Waite, Ginny
Burton (IN)
Calvert
Camp
Cannon
Cantor
Capito
Capuano
Cardoza
Carson
Carter
Case
Chabot
Chocola
Cleaver
Coble
Cole (OK)
Conaway
Cooper
Costa
Costello
Crenshaw
Cuellar
Culberson
Davis (KY)
Davis (TN)
Davis, Jo Ann
Deal (GA)
DeFazio
DeLay
Dent
Diaz-Balart, M.
Doolittle
Drake
Dreier
Duncan

Emerson
English (PA)
Etheridge
Everett
Feeney
Ferguson
Flake
Foley
Forbes
Ford
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gingrey
Gohmert
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Hobson
Hoekstra
Holt
Hostettler
Hulshof
Hunter
Inglis (SC)
Istook
Jindal
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
King (IA)
Kingston
Kline
Knollenberg
Kolbe
Kuhl (NY)
LaHood
Larsen (WA)
Latham
LaTourette
Leach
Lewis (CA)
Lewis (KY)
Linder
LoBiondo
Lucas
Mack
Manzullo
Marchant
Marshall
McCaul (TX)
McCotter
McCrery
McDermott
McHenry
McHugh
McKeon
McMorris
Meek (FL)
Melancon
Menendez
Mica
Miller (FL)
Miller (MI)
Miller, Gary
Mollohan
Murphy
Murtha
Musgrave
Myrick
Nadler
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Otter
Oxley
Pallone
Pastor
Paul
Payne
Pearce
Pence
Peterson (MN)
Peterson (PA)
Petri
Platts
Poe
Pombo
Price (GA)
Putnam
Radanovich
Rahall
Ramstad
Regula
Rehberg
Renzi
Reynolds
Rogers (AL)
Rogers (MI)
Rohrabacher
Ross
Rothman
Royce
Ryan (WI)
Ryun (KS)
Salazar
Saxton
Schmidt
Sensenbrenner
Sessions
Shadegg
Shaw
Sherwood
Shuster
Simpson
Smith (TX)
Snyder
Sodrel
Souder
Sullivan
Sweeney
Tancredo
Tanner
Taylor (NC)
Terry
Thornberry
Tiahrt
Tiberi
Tierney
Turner
Udall (NM)
Walsh
Wamp
Wasserman Schultz
Watt
Weldon (PA)
Weller
Westmoreland
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Wu
Young (AK)

NOT VOTING—10

Boswell
Cunningham
Davis (FL)
Edwards
Jenkins
Lantos
Reichert
Ros-Lehtinen
Stark
Taylor (MS)

☐ 1727

Mr. FORD, Ms. HART, Mr. BONNER, Mr. RADANOVICH, Mrs. BONO, Messrs. DAVIS of Tennessee, GINGREY, KELLER, McCAUL of Texas, AL GREEN of Texas, CLEAVER, ROGERS of Alabama, SULLIVAN, POMBO, Ms. EDDIE BERNICE JOHNSON of Texas, Messrs. MURTHA, UDALL of New Mexico, GORDON, ADERHOLT, ROSS and Ms. KAPTUR changed their vote from "yea" to "nay."

Messrs. DAVIS of Illinois, GUTIERREZ, OLVER, HALL, BERMAN, BACA, KENNEDY of Rhode Island, GONZALEZ, LEVIN, GEORGE MILLER of California and KUCINICH changed their vote from "nay" to "yea."

So the bill was not passed.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed a bill of the following title in which the concurrence of the House is requested:

S. 1234. An act to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans.

The message also announced that the Senate has agreed to a concurrent resolution of the following title in which the concurrence of the House is requested:

S. Con. Res. 62. Concurrent resolution directing the Joint Committee on the Library to procure a statue of Rosa Parks for placement in the Capitol.

The message also announced that the Senate agrees to the report of the committee of conference on the disagreeing votes of the two Houses on the amendments of the Senate to the bill (H.R. 2862) "An Act making appropriations for Science, the Departments of State Justice, and Commerce, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.".

EXPRESSING SENSE OF CONGRESS THAT RUSSIAN FEDERATION MUST PROTECT INTELLECTUAL PROPERTY RIGHTS

The SPEAKER pro tempore. The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 230.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Florida (Mr. SHAW) that the House suspend the rules and agree to the concurrent resolution, H. Con. Res. 230, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 421, nays 2, not voting 10, as follows:

[Roll No. 593]

YEAS—421

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker
Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman
Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner
Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite, Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley
Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kolbe
Kucinich
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin
Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam
Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda T.
Sanchez, Loretta
Sanders
Saxton

Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)
Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shaw
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis

Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry
Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky

Walden (OR)
Walsh
Wamp
Wasserman
  Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NAYS—2

Jones (NC)
Paul

NOT VOTING—10

Boswell
Culberson
Cunningham
Davis (FL)

Edwards
Jenkins
Lantos
Reichert

Stark
Taylor (MS)

☐ 1735

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

EXPRESSING THE SENSE OF THE CONGRESS REGARDING OVERSIGHT OF THE INTERNET CORPORATION FOR ASSIGNED NAMES AND NUMBERS

The SPEAKER pro tempore (Mr. SIMPSON). The pending business is the question of suspending the rules and agreeing to the concurrent resolution, H. Con. Res. 268.

The Clerk read the title of the concurrent resolution.

The SPEAKER pro tempore. The question is on the motion offered by the gentleman from Michigan (Mr. UPTON) that the House suspend the rules and agree to the concurrent resolution, H.R. 268, on which the yeas and nays are ordered.

This will be a 5-minute vote.

The vote was taken by electronic device, and there were—yeas 423, nays 0, not voting 10, as follows:

[Roll No. 594]

YEAS—423

Abercrombie
Ackerman
Aderholt
Akin
Alexander
Allen
Andrews
Baca
Bachus
Baird
Baker

Baldwin
Barrett (SC)
Barrow
Bartlett (MD)
Barton (TX)
Bass
Bean
Beauprez
Becerra
Berkley
Berman

Berry
Biggert
Bilirakis
Bishop (GA)
Bishop (NY)
Bishop (UT)
Blackburn
Blumenauer
Blunt
Boehlert
Boehner

Bonilla
Bonner
Bono
Boozman
Boren
Boucher
Boustany
Boyd
Bradley (NH)
Brady (PA)
Brady (TX)
Brown (OH)
Brown (SC)
Brown, Corrine
Brown-Waite,
  Ginny
Burgess
Burton (IN)
Butterfield
Buyer
Calvert
Camp
Cannon
Cantor
Capito
Capps
Capuano
Cardin
Cardoza
Carnahan
Carson
Carter
Case
Castle
Chabot
Chandler
Chocola
Clay
Cleaver
Clyburn
Coble
Cole (OK)
Conaway
Conyers
Cooper
Costa
Costello
Cramer
Crenshaw
Crowley
Cubin
Cuellar
Culberson
Cummings
Davis (AL)
Davis (CA)
Davis (IL)
Davis (KY)
Davis (TN)
Davis, Jo Ann
Davis, Tom
Deal (GA)
DeFazio
DeGette
Delahunt
DeLauro
DeLay
Dent
Diaz-Balart, L.
Diaz-Balart, M.
Dicks
Dingell
Doggett
Doolittle
Doyle
Drake
Dreier
Duncan
Edwards
Ehlers
Emanuel
Emerson
Engel
English (PA)
Eshoo
Etheridge
Evans
Everett
Farr
Fattah
Feeney
Ferguson
Filner
Fitzpatrick (PA)
Flake
Foley

Forbes
Ford
Fortenberry
Fossella
Foxx
Frank (MA)
Franks (AZ)
Frelinghuysen
Gallegly
Garrett (NJ)
Gerlach
Gibbons
Gilchrest
Gillmor
Gingrey
Gohmert
Gonzalez
Goode
Goodlatte
Gordon
Granger
Graves
Green (WI)
Green, Al
Green, Gene
Grijalva
Gutierrez
Gutknecht
Hall
Harman
Harris
Hart
Hastings (FL)
Hastings (WA)
Hayes
Hayworth
Hefley
Hensarling
Herger
Herseth
Higgins
Hinchey
Hinojosa
Hobson
Hoekstra
Holden
Holt
Honda
Hooley
Hostettler
Hoyer
Hulshof
Hunter
Hyde
Inglis (SC)
Inslee
Israel
Issa
Istook
Jackson (IL)
Jackson-Lee
  (TX)
Jefferson
Jindal
Johnson (CT)
Johnson (IL)
Johnson, E. B.
Johnson, Sam
Jones (NC)
Jones (OH)
Kanjorski
Kaptur
Keller
Kelly
Kennedy (MN)
Kennedy (RI)
Kildee
Kilpatrick (MI)
Kind
King (IA)
King (NY)
Kingston
Kirk
Kline
Knollenberg
Kucinich
Kuhl (NY)
LaHood
Langevin
Larsen (WA)
Larson (CT)
Latham
LaTourette
Leach
Lee
Levin

Lewis (CA)
Lewis (GA)
Lewis (KY)
Linder
Lipinski
LoBiondo
Lofgren, Zoe
Lowey
Lucas
Lungren, Daniel
  E.
Lynch
Mack
Maloney
Manzullo
Marchant
Markey
Marshall
Matheson
Matsui
McCarthy
McCaul (TX)
McCollum (MN)
McCotter
McCrery
McDermott
McGovern
McHenry
McHugh
McIntyre
McKeon
McKinney
McMorris
McNulty
Meehan
Meek (FL)
Meeks (NY)
Melancon
Menendez
Mica
Michaud
Millender-
  McDonald
Miller (FL)
Miller (MI)
Miller (NC)
Miller, Gary
Miller, George
Mollohan
Moore (KS)
Moore (WI)
Moran (KS)
Moran (VA)
Murphy
Murtha
Musgrave
Myrick
Nadler
Napolitano
Neal (MA)
Neugebauer
Ney
Northup
Norwood
Nunes
Nussle
Oberstar
Obey
Olver
Ortiz
Osborne
Otter
Owens
Oxley
Pallone
Pascrell
Pastor
Paul
Payne
Pearce
Pelosi
Pence
Peterson (MN)
Peterson (PA)
Petri
Pickering
Pitts
Platts
Poe
Pombo
Pomeroy
Porter
Price (GA)
Price (NC)
Pryce (OH)
Putnam

Radanovich
Rahall
Ramstad
Rangel
Regula
Rehberg
Renzi
Reyes
Reynolds
Rogers (AL)
Rogers (KY)
Rogers (MI)
Rohrabacher
Ros-Lehtinen
Ross
Rothman
Roybal-Allard
Royce
Ruppersberger
Rush
Ryan (OH)
Ryan (WI)
Ryun (KS)
Sabo
Salazar
Sánchez, Linda
  T.
Sanchez, Loretta
Sanders
Saxton
Schakowsky
Schiff
Schmidt
Schwartz (PA)
Schwarz (MI)
Scott (GA)

Scott (VA)
Sensenbrenner
Serrano
Sessions
Shadegg
Shays
Sherman
Sherwood
Shimkus
Shuster
Simmons
Simpson
Skelton
Slaughter
Smith (NJ)
Smith (TX)
Smith (WA)
Snyder
Sodrel
Solis
Souder
Spratt
Stearns
Strickland
Stupak
Sullivan
Sweeney
Tancredo
Tanner
Tauscher
Taylor (NC)
Terry
Thomas
Thompson (CA)
Thompson (MS)
Thornberry

Tiahrt
Tiberi
Tierney
Towns
Turner
Udall (CO)
Udall (NM)
Upton
Van Hollen
Velázquez
Visclosky
Walden (OR)
Walsh
Wamp
Wasserman
  Schultz
Waters
Watson
Watt
Waxman
Weiner
Weldon (FL)
Weldon (PA)
Weller
Westmoreland
Wexler
Whitfield
Wicker
Wilson (NM)
Wilson (SC)
Wolf
Woolsey
Wu
Wynn
Young (AK)
Young (FL)

NOT VOTING—10

Boswell
Cunningham
Davis (FL)
Jenkins

Kolbe
Lantos
Reichert
Shaw

Stark
Taylor (MS)

☐ 1743

So (two-thirds having voted in favor thereof) the rules were suspended and the concurrent resolution was agreed to.

The result of the vote was announced as above recorded.

A motion to reconsider was laid on the table.

VETERANS' COMPENSATION COST-OF-LIVING ADJUSTMENT ACT OF 2005

Mr. BUYER. Mr. Speaker, I ask unanimous consent to take from the Speaker's table the Senate bill (S. 1234) to increase, effective as of December 1, 2005, the rates of compensation for veterans with service-connected disabilities and the rates of dependency and indemnity compensation for the survivors of certain disabled veterans, and ask for its immediate consideration in the House.

The Clerk read the title of the Senate bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Indiana?

☐ 1745

Ms. BERKLEY. Mr. Speaker, reserving the right to object, I do not plan to object, I yield to the gentleman from Indiana for an explanation of the bill.

Mr. BUYER. Mr. Speaker, I thank the gentlewoman from Nevada for yielding.

Mr. Speaker, S. 1234 is the Veterans' Cost-of-Living Adjustment Act of 2005.

It is one of the more important pieces of legislation that the Veterans Committee brings to the floor each year. Similar language was included in H.R. 1220, which passed the House on July 13, 2005, by voice vote.

Briefly, S. 1234 would authorize a 4.1 percent cost-of-living increase effective December 1, 2005, for veterans with service-connected disabilities and their survivors. The Committee on Veterans' Affairs concurs with the language in S. 1234, and I ask my colleagues to support the bill.

Mr. Speaker, I would also like to thank Ranking Member EVANS for his work and cooperation on this legislation. I would also commend the gentleman from Florida (Mr. MILLER) and the gentlewoman from Nevada (Ms. BERKLEY), the chairman and ranking member of the Subcommittee on Disability Assistance and Memorial Affairs, for their work to ensure that disabled veterans and their survivors receive a cost-of-living increase, as well as the subcommittee staff on both sides of the aisle: Paige McManus, Chris McNamee, and Mary Ellen McCarthy. I also want to thank my colleagues in the Senate.

Mr. Speaker, I hope that all Members will support this bill.

GENERAL LEAVE

Mr. BUYER. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks on S. 1234.

The SPEAKER pro tempore (Mr. SIMPSON). Is there objection to the request of the gentleman from Indiana?

There was no objection.

Ms. BERKLEY. Mr. Speaker, further reserving the right to object, I would like to thank Chairman BUYER, Ranking Member EVANS and Subcommittee Chairman MILLER, as well as Senator CRAIG and Senator AKAKA for moving forward on this bill.

As a result of their cooperation, the men and women currently receiving benefits from the Department of Veterans Affairs will receive a well-deserved increase in benefits as of January 1, 2006.

We must not allow the compensation received by veterans, disabled in service to our Nation, to erode in value as the cost of living rises. S. 1234, the Veterans' Compensation Cost-of-Living Adjustment Act of 2005, will help our service-disabled veterans and their survivors maintain the purchasing power of their benefits in 2006 by providing a 4.1 percent increase in benefits.

Single veterans rated at 100 percent disabled will see their benefits rise from $2,299 a month to $2,393 a month. Veterans who are married or have other dependents will see their benefits increased proportionately. This bill will help VA beneficiaries maintain the value of their benefits.

No amount of money can adequately compensate our veterans for the deterioration of their health or families for the loss of a loved one. It is important that the benefits, which our Nation provides to partially compensate for such losses, do not lose their value over time.

In 2004, over 28,000 veterans in Nevada received disability compensation or pension payments from the VA, and thousands of Nevada families and survivors receive VA cash benefits. The action we are taking here today will help the Nevada veterans and families who depend on these VA benefits.

I am very disappointed that the bill does not contain a provision approved by the House earlier this year to include the transitional DIC benefit in the COLA. As a result, the value of the $250 transitional benefit paid to surviving spouses with minor children for their first 2 years of eligibility will unfortunately erode in value in 2006.

Unfortunately, our widows and orphans are going to have to survive on a stagnant benefit. Our Gold Star Wives, the spouses of veterans who have perished in our current conflict, and their children certainly deserve better than this.

I understand the urgency of passing this COLA so that veterans and their dependents will receive a timely increase in VA benefits. I hope that before this Congress recesses for the year, the increase in DIC benefits and other provisions passed by the House and Senate can be enacted into law. Those who have served this Nation deserve no less.

S. 1234 will receive my full support, and it deserves the support of all Members of this House.

Mr. EVANS. Mr. Speaker, will the gentlewoman yield?

Ms. BERKLEY. I yield to the gentleman from Illinois.

Mr. EVANS. Mr. Speaker, I also want to thank Chairman BUYER, chairman of the full committee; the gentleman from Florida (Mr. MILLER), the Benefits Subcommittee chairman; and the gentlewoman from Nevada (Ms. BERKLEY), the ranking member; as well as Senator CRAIG and Ranking Member AKAKA for their work on this bill.

S. 1234, the Veterans' Compensation Cost-of-Living Adjustment Act of 2005, will help our service-disabled veterans and their survivors to maintain the value of their compensation benefits despite any increase in the cost of living. Our Nation's veterans and survivors have earned these benefits. We must not allow them to erode by the simple passage of time.

This is a bill which deserves the full support of all Members of the House, and I urge my colleagues to support it.

Ms. BERKLEY. Mr. Speaker, further reserving the right to object, I yield to the gentleman from Indiana (Mr. BUYER), the chairman of the full committee.

Mr. BUYER. Mr. Speaker, I would just like to take a moment and thank the gentleman from Illinois (Mr. EVANS) and thank him for working with me and his staff.

I also failed to mention the gentleman from Iowa (Mr. NUSSLE), the chairman of the Budget Committee, and the gentleman from South Carolina (Mr. SPRATT), who worked cooperatively together to make sure that the budget had a place holder so we could have this. This came in a little higher than what we anticipated, and I want to thank the chairman of the Budget Committee. He has got a tough job in laying out the budget and sending the numbers to everyone, and he did yeoman's work. I am really proud of Chairman NUSSLE and Mr. SPRATT.

I would also like to thank the gentleman from New York (Mr. WALSH), the chairman of the appropriations subcommittee and also the gentleman from Texas (Mr. EDWARDS).

Ms. BERKLEY. Mr. Speaker, further reserving the right to object, I yield to the gentlewoman from South Dakota (Ms. HERSETH), ranking member of the Economic Opportunity Subcommittee.

Ms. HERSETH. Mr. Speaker, I want to thank the gentlewoman from Nevada for yielding.

I rise today in support of S. 1234, the Veterans' Compensation Cost-of-Living Adjustment Act, which authorizes the annual cost-of-living adjustment for disabled veterans and their survivors.

I, too, would like to commend Chairman BUYER and Ranking Member EVANS, as well as their staff, for their hard work and support of this important legislation.

Mr. Speaker, I support this bill which will improve the quality of life for our disabled veterans and their families. It is very important that we provide for the basic needs of our veterans, particularly our disabled veterans.

Our Nation's disabled veterans rely on this annual cost-of-living increase and rightly expect us to provide it to them. I am proud to support this legislation, confident it will benefit the more than 3,000 veterans of my home State of South Dakota who received disability compensation last year, as well as disabled veterans throughout the country.

As wounded young service men and women return home from the battlefields in Iraq and Afghanistan, it is imperative that we work to provide this newest generation of veterans and their families with the financial support they have earned and deserve. Providing adequate disability benefits is an issue that will impact these brave men and women for the rest of their lives as they struggle to cope with the scars of their sacrifice and should be considered an ongoing cost of war.

Again, I am proud to support the Veterans' Compensation Cost-of-Living Adjustment Act and urge my colleagues to do the same.

Ms. CORRINE BROWN of Florida. Mr. Speaker, I rise to support this bill.

It is imperative that we get a cost of living adjustment to those who have put their lives on the line to protect the freedom of this country. The 4.1 percent cost of living increase is very important to our veterans.

I am pleased that Congress is passing a clean bill. There are no riders that would dilute the effectiveness of our commitment to our Nation's veterans.

However, it is important to continue this bipartisanship into the heavier lifting that will occur in the next days and weeks.

It is imperative we keep the reconciliation bill free from cuts in veterans healthcare. It is imperative we do not subject veterans healthcare to an across the board cut. It is imperative we fully fund veterans healthcare next February, when the President submits his Fiscal Year 2007 budget.

We do not need another emergency supplemental appropriations bill to cover shortfalls in operations and maintenance.

Let us do right by our veterans and not pay for tax cuts for the wealthy and recovery efforts from Katrina with cuts in veterans healthcare.

Mr. MILLER of Florida. Mr. Speaker, I rise today in support of S. 1234, the Veterans' Compensation Cost-of-Living Adjustment Act of 2005.

This bill would provide a 4.1 percent cost-of-living adjustment to disabled veterans, surviving spouses, and other VA beneficiaries in receipt of monetary VA benefits. This is the same COLA increase provided to Social Security recipients and will apply to benefits beginning on December 1 of this year. Congress has provided these increases every fiscal year since 1976.

More than 2.6 million veterans are receiving service-connected disability compensation. These benefits are paid monthly, and range from $108 for a 10-percent disability to $2,299 for a 100-percent disability. Additional monetary benefits are available for our most severely disabled veterans, as well as those with dependents.

Spouses of veterans who died on active duty or as the result of a service-connected disability likewise are entitled to monetary compensation. Additional amounts are paid to survivors who are housebound or in need of aid and attendance, or have minor children. Currently more than 336,000 surviving spouses and children are receiving survivors' benefits.

I want to thank the subcommittee's ranking member, Ms. BERKLEY, as well as all the members of the Subcommittee on Disability Assistance and Memorial Affairs, for their work this year.

I also commend Chairman BUYER and Ranking Member EVANS for their leadership in bringing the bill to the floor today, as well as committee staff on both sides of the aisle for their hard work.

Mr. Speaker, I urge my colleagues to support S. 1234.

Ms. BERKLEY. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Nevada?

There was no objection.

The Clerk read the Senate bill, as follows:

S. 1234

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Veterans' Compensation Cost-of-Living Adjustment Act of 2005".

SEC. 2. INCREASE IN RATES OF DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION.

(a) VETERANS' DISABILITY COMPENSATION.—Section 1114 of title 38, United States Code, is amended—

(1) in subsection (a), by striking "$106" and inserting "$112";

(2) in subsection (b), by striking "$205" and inserting "$218";

(3) in subsection (c), by striking "$316" and inserting "$337";

(4) in subsection (d), by striking "$454" and inserting "$485";

(5) in subsection (e), by striking "$646" and inserting "$690";

(6) in subsection (f), by striking "$817" and inserting "$873";

(7) in subsection (g), by striking "$1,029" and inserting "$1,099";

(8) in subsection (h), by striking "$1,195" and inserting "$1,277";

(9) in subsection (i), by striking "$1,344" and inserting "$1,436";

(10) in subsection (j), by striking "$2,239" and inserting "$2,393";

(11) in subsection (k)—

(A) by striking "$82" both places it appears and inserting "$87"; and

(B) by striking "$2,785" and "$3,907" and inserting "$2,977" and "$4,176", respectively;

(12) in subsection (l), by striking "$2,785" and inserting "$2,977";

(13) in subsection (m), by striking "$3,073" and inserting "$3,284";

(14) in subsection (n), by striking "$3,496" and inserting "$3,737";

(15) in subsections (o) and (p), by striking "$3,907" each place it appears and inserting "$4,176";

(16) in subsection (r), by striking "$1,677" and "$2,497" and inserting "$1,792" and "$2,669", respectively; and

(17) in subsection (s), by striking "$2,506" and inserting "$2,678".

(b) ADDITIONAL COMPENSATION FOR DEPENDENTS.—Section 1115(1) of such title is amended—

(1) in subparagraph (A), by striking "$127" and inserting "$135";

(2) in subparagraph (B), by striking "$219" and "$65" and inserting "$233" and "$68", respectively;

(3) in subparagraph (C), by striking "$86" and "$65" and inserting "$91" and "$68", respectively;

(4) in subparagraph (D), by striking "$103" and inserting "$109";

(5) in subparagraph (E), by striking "$241" and inserting "$257"; and

(6) in subparagraph (F), by striking "$202" and inserting "$215".

(c) CLOTHING ALLOWANCE FOR CERTAIN DISABLED VETERANS.—Section 1162 of such title is amended by striking "$600" and inserting "$641".

(d) DEPENDENCY AND INDEMNITY COMPENSATION FOR SURVIVING SPOUSES.—

(1) NEW LAW DIC.—Section 1311(a) of such title is amended—

(A) in paragraph (1), by striking "$967" and inserting "$1,033"; and

(B) in paragraph (2), by striking "$208" and inserting "$221".

(2) OLD LAW DIC.—The table in paragraph (3) of such section is amended to read as follows:

"Pay grade	Monthly rate	Pay grade	Monthly rate
E-1	$1,033	W-4	$1,236
E-2	1,033	O-1	1,092
E-3	1,033	O-2	1,128
E-4	1,033	O-3	1,207
E-5	1,033	O-4	1,277
E-6	1,033	O-5	1,406
E-7	1,069	O-6	1,585
E-8	1,128	O-7	1,712
E-9	1,177 [1]	O-8	1,879
W-1	1,092	O-9	2,010
W-2	1,135	O-10	2,204 [2]
W-3	1,169		

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,271.

[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,365.".

(3) ADDITIONAL DIC FOR CHILDREN OR DISABILITY.—Section 1311 of such title is amended—

(A) in subsection (b), by striking "$241" and inserting "$257";

(B) in subsection (c), by striking "$241" and inserting "$257"; and

(C) in subsection (d), by striking "$115" and inserting "$122".

(e) DEPENDENCY AND INDEMNITY COMPENSATION FOR CHILDREN.—

(1) DIC WHEN NO SURVIVING SPOUSE.—Section 1313(a) of such title is amended—

(A) in paragraph (1), by striking "$410" and inserting "$438";

(B) in paragraph (2), by striking "$590" and inserting "$629";

(C) in paragraph (3), by striking "$767" and inserting "$819"; and

(D) in paragraph (4), by striking "$767" and "$148" and inserting "$819" and "$157", respectively.

(2) SUPPLEMENTAL DIC FOR CERTAIN CHILDREN.—Section 1314 of such title is amended—

(A) in subsection (a), by striking "$241" and inserting "$257";

(B) in subsection (b), by striking "$410" and inserting "$438"; and

(C) in subsection (c), by striking "$205" and inserting "$218".

(f) EFFECTIVE DATE.—The amendments made by this section shall take effect on December 1, 2005.

(g) SPECIAL RULE.—The Secretary may adjust administratively, consistent with the increases made under subsection (a), the rates of disability compensation payable to persons within the purview of section 10 of Public Law 85–857 (72 Stat. 1263) who are not in receipt of compensation payable pursuant to chapter 11 of title 38, United States Code.

The Senate bill was ordered to be read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

MUSKINGUM WATERSHED

(Mr. REGULA asked and was given permission to address the House for 1 minute and to revise and extend his remarks.)

Mr. REGULA. Mr. Speaker, I rise today to discuss an issue of great importance to me and my constituents. In particular, I speak of a provision in the Energy and Water Development Appropriations Act of 2006 regarding the Muskingum Watershed in Ohio.

The Muskingum Watershed encompasses 18 counties in Ohio and includes all of the area which drains into the Muskingum River and its tributaries where it joins with the Ohio River. Below the watershed lies an aquifer of great importance to the constituents of my district and those of surrounding areas.

The threat that landfills pose to the aquifer and the watershed are too great to ignore. Remember, we are fortunate in the United States to be well-endowed with water, and we are indebted to our forebearers for creating the infrastructure to deliver potable water to our communities, farmers and industries.

As a representative, it is my responsibility to respond to the concerns of my constituents to protect and preserve the integrity of their water supply. During my time as chairman of the Interior Appropriations Subcommittee, I have dealt with many issues relating to clean water and its significance. I have seen how a lack of planning, oversight and development has harmed the Everglades, and now we are tasked with spending millions of taxpayer dollars to reverse the problem.

Additionally, per my request, the United States Geological Survey published a report in 2003 titled "Plan for National Assessment of Water Availability and Use." The report highlights the availability of water in the U.S. and how this availability relates to need, source and geographic location.

I would like to cite a statement made in a report by the Council of State Governments that sums up the need to protect our water: "Water, which used to be considered a ubiquitous resource, is now scarce in some parts of the country and not just in the West as one might assume. The water wars have spread to the Midwest, East and South as well." I find this statement quite telling and see it as a wake up call to all those who take water for granted. Much has changed over the years; cities have grown, irrigation technology has advanced and ground water has become a much larger fraction of the nation's water supply. All these factors contribute to the need to protect the Muskingum watershed and the aquifer below it.

Having heard from many constituents concerning the potential dangers posed by the stress of additional landfills in the Muskingum Watershed, I have made this provision one of my top priorities in Congress. I feel that the criteria set forth by the provision are fair, nondiscriminatory and of utmost importance in preserving the aquifer for generations to come.

REMOVAL OF NAME OF MEMBER AS COSPONSOR OF H.R. 2669

Ms. WASSERMAN SCHULTZ. Mr. Speaker, I ask unanimous consent to have my name removed as a cosponsor of H.R. 2669.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from Florida?

There was no objection.

HONORING CINCINNATI'S MARIEMONT HIGH SCHOOL FOR BEING DESIGNATED A BLUE RIBBON SCHOOL

(Mrs. SCHMIDT asked and was given permission to address the House for 1 minute and to revise and extend her remarks.)

Mrs. SCHMIDT. Mr. Speaker, I rise today to congratulate Mariemont High School which is located in the Second District of Ohio that I represent. Mariemont was recently named a blue ribbon school by the U.S. Department of Education.

This is the department's highest honor, and it is a very selective program. In fact, of the thousands of schools across America, only 296 receive the blue ribbon certification, and only 16 of those schools are in Ohio. This is a tremendous honor for our part of the State.

The blue ribbon program is designed to provide national recognition to public and private schools that have done an outstanding job of educating our children. The screening process evaluates a number of criteria, including strong leadership and vision; an innovative and challenging curriculum; a commitment to parental involvement; and a track record of achieving success with student from all backgrounds.

Mariemont's receiving of this award reflects the hard work and dedication of its teachers and school administrators; the academic success of its students; and the active involvement of parents.

Congratulations, Mariemont High.

GENERAL LEAVE

Mr. PAUL. Mr. Speaker, I ask unanimous consent that all Members may have 5 legislative days within which to revise and extend their remarks and include extraneous material on H.R. 1065.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair will recognize Members for Special Order speeches without prejudice to the possible resumption of legislative business.

SPECIAL ORDERS

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, and under a previous order of the House, the following Members will be recognized for 5 minutes each.

THE EROSION OF PRIVACY

Mr. PAUL. Mr. Speaker, I ask unanimous consent that I claim my 5 minutes at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. PAUL) is recognized for 5 minutes.

Mr. PAUL. Mr. Speaker, the privacy issue has been around for a long time. The brutal abuse of privacy and property of early Americans played a big role in our revolt against the king.

□ 1800

The first, fourth, and fifth amendments represented attempts to protect private property and privacy from an overzealous Federal Government. Today those attempts appear to have failed.

There have been serious legal debates in recent decades about whether privacy is protected by the Constitution. Some argue that since the word does not appear in the text of that document, it is not protected. Others argue that privacy protection grants the Federal Government power to dictate to all States limits or leniency in enforcing certain laws. But the essence of liberty is privacy.

In recent years, especially since 9/11, Congress has been totally negligent in its duty to protect U.S. citizens from Federal Government encroachment on the rights of privacy. Even prior to 9/11, the Echelon worldwide surveillance system was well entrenched, monitoring all telephones, faxes, and e-mails.

From the 1970s forward, national security letters were used sparingly in circumventing the legal process and search warrant requirements. Since 9/11 and the subsequent passage of the PATRIOT Act, however, the use of these instruments has skyrocketed from 300 annually to over 30,000. There is essentially no oversight nor understanding by the U.S. Congress of the significance of this pervasive government surveillance. It is all shrugged off as necessary to make us safe from terrorism. Sacrificing personal liberty and privacy, the majority feels, is no big deal.

We soon will vote on the conference report reauthorizing the PATRIOT Act. Though one would argue there has been a large grass-roots effort to discredit the PATRIOT Act, Congress has ignored this message. Amazingly, over 391 communities and seven States have passed resolutions highly critical of the PATRIOT Act.

The debate in Congress, if that is what one wants to call it, boils down to whether the most egregious parts of the act will be sunsetted after 4 years or 7 years. The conference report will adjust the numbers, and Members will vote willingly for the "compromise" and feel good about their effort to protect individual privacy.

But if we are honest with ourselves, we would admit that the fourth amendment is essentially a dead letter. There has been no effort to curb the abuse of national security letters nor to comprehend the significance of Echelon. Hard-fought liberties are rapidly slipping away from us.

Congress is not much better when it comes to protecting against the erosion of the centuries-old habeas corpus doctrine. By declaring anyone an enemy combatant, a totally arbitrary designation by the President, the government can deny an individual his right to petition a judge or even speak with an attorney. Though there has been a good debate on the insanity of our policy of torturing prisoners, holding foreigners and Americans without charges seems acceptable to many. Did it never occur to those who condemn torture that unlimited detention of individuals without a writ of habeas corpus is itself torture, especially for those who are totally innocent? Add this to the controversial worldwide network of secret CIA prisons now known of for 2 years and we should be asking ourselves what have we become as a people. Recent evidence that we are using white phosphorus chemical weapons in Iraq does nothing to improve our image.

Our prestige in the world is slipping. The war is going badly. Our financial system is grossly overburdened, and we spend hundreds of hours behind the scenes crafting a mere $5 billion spending cut while pretending no one knows we can spend tens of billions in off-budget supplemental bills, sometimes even under unanimous consent.

It is time we consider the real purpose of government in a society that professes to be free: protection of liberty, peaceful commerce, and keeping itself out of our lives, our economy, our pocketbooks, and certainly out of the affairs of foreign nations.

IRAQ

Mr. McDERMOTT. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Washington?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Washington (Mr. McDERMOTT) is recognized for 5 minutes.

Mr. McDERMOTT. Mr. Speaker, when it comes to Iraq, the President and his administration continue to act like cowboys in a western movie. When will they learn? And until they do, there will be no solution in Iraq.

The President stampeded the American people into a flawed, futile, and fatal war; and this administration keeps applying B-movie mentality to real-life suffering. We have taken sides in a war-torn nation, inadvertently backing the Kurds and Shiites to the detriment of the Sunnis.

This is not some clan fight on a movie set that will get solved with a new sheriff riding into town proclaiming peace and progress. But that is what the administration's current strategy seems to be. Despite demands by Iraqi Sunni leaders that American forces stop new military operations, the fighting continues unabated. And like Vietnam, the latest administration tactic is to announce body counts, as if that will promote confidence among the American people. That same tactic was used during Vietnam. It did not work then, and it will not work in Iraq. If anything, this latest tactic will only deepen American resentment to this war because the American people know they are only being told part of the story.

The Rumsfeld command is happy to announce the number of insurgents killed or captured, but they do not talk much about the innocent Iraqi civilians killed or wounded. They are not announcing those numbers every day. Why not? If they killed or captured 80 insurgents, how many civilians were injured or wounded in the process? Why do they not tell us the whole story?

Iraq is an urban guerilla warfare, and our brave soldiers should not be fighting a house-to-house war that puts them in maximum danger all the time. There is no front line in Iraq because every road is the front, every house is the front, and every footstep is along the front line. There is no safe haven for our soldiers. Danger is everywhere no matter where they sleep, no matter what they eat, no matter how much they try to forget this war for even a moment.

And the administration calls this progress. The American people see it as a paralysis of leadership. The President stampeded the Congress into a do-or-die scenario, and now our soldiers keep dying in the wrong place at the wrong time and for the wrong reason.

When was the last time the President even mentioned Osama bin Laden, the terrorist who is supposed to have started this whole thing, this war on terror?

The White House has built an underground bunker to keep out reality. The truth cannot penetrate those walls of denial, fortified with Presidential speeches to carefully selected audiences. Now the President is beginning to say that he is not responsible for the war in Iraq. The record is clear, Mr. Speaker: this war was started by this President and his war cabinet. They got what they wanted. They got more than they can handle. And every new pronouncement from the White House bunker widens the gulf between administration rhetoric and Iraq reality.

Reality may be missing in action at the White House, but reality is front and center with the American people. Another Presidential speech with yet another spin on why the President wants this war will not do anything to stabilize Iraq, promote peace, or create democracy.

We are just learning about the latest catastrophe. Now Americans soldiers have to launch operations to uncover hundreds of Sunnis abused, tortured, and malnourished in a prison run by the people we put in power.

Imposing our will is a prescription for civil war and ethnic scandals in Iraq. Imposing a Western blueprint on a Middle Eastern culture will undermine any attempt at real peace. Iraq needs the benefit of a Middle Eastern solution, a cultural process that has worked for thousands of years. Many in the Middle East know this. Many have tried to tell us. But we will not listen. Their will, not ours, will define democracy in Iraq. If we are serious about an election in Iraq, we have to stop the provocations.

America is at a crossroads: stability or continued occupation of Iraq. The

Rumsfeld command now admits American soldiers could be there for a decade or more. That is occupation, and nobody outside the administration favors it. Ten more years of house-to-house guerilla fighting is a failed mission and a guarantee of more U.S. lives lost. 2,056 flags draped over 2,056 coffins; 2,056 honor guards and 2,056 grieving families paying respects of a grateful Nation. And we are still counting.

Mr. President, you have to change the course.

There's a difference in a President leading the nation through a time of crisis and this President misleading the nation into precipitating a crisis. We have a crisis. We need a leader. We need a plan to return U.S. soldiers to U.S. soil, not a decade from now, but right now.

Announce a pull-out date and pull back the troops to their camps.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. The Chair would remind Members to address their remarks to the Chair.

HONORING LCPL DANIEL FREEMAN SWAIM

Ms. FOXX. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from North Carolina?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from North Carolina (Ms. FOXX) is recognized for 5 minutes.

Ms. FOXX. Mr. Speaker, I rise with a very heavy heart today to express the condolences of a grateful Nation and to honor the life of Lance Corporal Daniel Freeman Swaim, who passed away on November 10, 2005, while serving in Iraq.

A native of Yadkinville, North Carolina, Lance Corporal Swaim spent his childhood dreaming about becoming a Marine. In fact, his one unfaltering goal in life was to serve his country. Lance Corporal Swaim achieved his dream when he joined the U.S. Marine Corps last summer after graduating with high honors from Forbush High School.

Lance Corporal Swaim was a loving and caring son. He leaves behind his parents, Michael and Rebecca Swaim, and many friends throughout the community. May God bless them and comfort them during this very difficult time.

We owe this brave soldier and his family a tremendous debt of gratitude for his selfless service and sacrifice. Our Nation could not maintain its freedom and security without heroes like Lance Corporal Swaim who make the ultimate sacrifice. Americans, as well as Iraqis, owe their liberty to Mr. Swaim and his comrades who came before him.

Mr. Speaker, please join me in honoring Lance Corporal Daniel Swaim. May God bless him.

HONORING THE SERVICE OF THE 278TH ARMORED CAVALRY REGIMENT

Mr. DAVIS of Tennessee. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Tennessee?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Tennessee (Mr. DAVIS) is recognized for 5 minutes.

Mr. DAVIS of Tennessee. Mr. Speaker, I rise today to recognize and honor the brave men and women who serve our country as part of the 278th Armored Cavalry Regiment as they return home to a State and Nation grateful for their service.

The 278th Armored Cavalry Regiment is one of two armored cavalry regiments still in existence. The 278th is known as the Tennessee Cavalry and is headquartered in Knoxville, Tennessee. The other ACR is part of the regular Army.

The 278th was formed and reorganized on June 21, 1977, from units and elements of the 278th Infantry Brigade. Additionally, units of the 2nd and 3rd Battalions of the 117th Infantry Regiment and several other units of various types from the Tennessee Army National Guard were added to round out this regiment. The regiment's motto, "I Volunteer, Sir," is taken from a time in Tennessee's history that exemplifies the attitude of the men and women who serve in America's Armed Forces. In 1846, a call went out for 2,800 volunteers from the State of Tennessee to take part in the War with Mexico; 38,000 Tennesseeans answered the call, earning the Tennessee Militia the everlasting nickname of "Volunteers." It is from this heritage that the 278th Armored Cavalry Regiment's motto, "I Volunteer, Sir," originated.

This Regimental Shoulder Patch was derived using the green color traditionally associated with cavalry and armor. The three white stars are adapted from the Tennessee State flag. The blue divisions allude to the Tennessee, the Houlston, and the French Broad rivers, environs of the regiment.

In June of 2004, the regiment was alerted and mobilized in support of Operation Iraqi Freedom III, the third phase of the deployment of U.S. forces to Iraq. In November of 2004, they deployed from Camp Shelby, Mississippi. This regiment took on a slightly different look for this mobilization. It became referred to as the 278th Regimental Combat Team, from which this organization derives a portion of its history. Soldiers of the 278th were primarily assigned in the Diy' Ala province northeast of Baghdad near the Iranian border. The regiment replaced the 30th Heavy Separate Brigade of the North Carolina Army National Guard.

The sheer size and scope of their mission continues to impress me. Over 3,000 soldiers from the Tennessee National Guard are assigned to this division.

□ 1815

And their mobilization for the war in Iraq was the largest in Tennessee history since World War II. As it was in World War II, their aim was to restore basic freedoms to a people who had been stifled under the oppressive regime of a tyrant dictator, a dictator who would torture and kill his own people because they were different than him, or because they had the audacity to express themselves in one form or another.

While in Iraq, the 278th, like all of our men and women serving in the Middle East, played a major role in what we all hope to be watershed moments in a democratic Iraq's history. The 278th provided security for the Iraqi people as they participated in their first election which took place this past January. For this election, the troops distributed, picked up, and delivered ballots. They again provided their support, this time to the Iraqi army, during the vote on the new Iraqi constitution in October 2005. They also helped restore the basic infrastructure necessary to get the Iraqi economy on its feet and give the Iraqi people a little foundation upon which they can make the country their own.

They helped open schools, dig wells, improve roads and establish basic services, like of electricity, water and sewers. They also helped establish numerous hospitals. Thanks to the renovation and construction of work done by the 278th, more than 50 schools were ready for classes, nearly 70 water and sewer projects were completed, as were 25 electricity and power projects, 8 health clinics were established, and 32 road projects were finished.

Of course, the most harrowing part of their mission was the daily fighting with insurgents that they encountered in northeastern Iraq. While working to suppress insurgency, the 278th conducted 13,000 combat patrols, oversaw the destruction of 340 weapon caches of bomb-making materials and 275 stockpiles of unexploded ordinances.

Additionally, despite constantly being under attack, the men and women of the 278th were able to train members of the Iraqi police and the Iraqi army, over 10,000 policemen, soldiers and border enforcement personnel. This training is essential to our mission in Iraq. In order for the Iraqi people to truly feel empowered in their new country, they must complete the circle of modern democratic nations.

One half of the circle is being completed by the participation of the Iraqi citizens in both the electoral process and their developing free economy. The other half of the circle, and perhaps the most vital piece, is an established Iraqi security force run by and composed of Iraqi citizens that has the ability to protect its own people without relying on the American military. When the day comes that the Iraqi people and soldiers can provide protection for the average citizen to go about their daily lives with the knowledge they are safe, that will be the day when all Iraqis can point to their country, a country able to stand on it own, and they can tell the world we are free.

Mr. Speaker, I would like to say that all of my thoughts and prayers, along with those of constituents, continue to go to all of our military personnel serving in Iraq, including the 900 Tennessee Guardsmen, who are still "in country." Thank you for their great work. We look forward to their return. God continue to be with the men and women of the 278th and the United States Armed Forces. Keep them safe and strong. Return them home to America.

A SOLDIER'S SACRIFICE

Mr. FORTENBERRY. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore (Mr. JINDAL). Is there objection to the request of the gentleman from Nebraska?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Nebraska (Mr. FORTENBERRY) is recognized for 5 minutes.

Mr. FORTENBERRY. Mr. Speaker, Army Specialist Darren Howe died on November 3 from injuries he sustained in Iraq. The Bradley armored personnel carrier he was driving struck a roadside bomb outside of Baghdad.

The explosion caused the personnel carrier to catch fire. Specialist Howe, who was already severely burned, regained control of the vehicle and drove it to safety. He then moved to the rear and helped pull 13 fellow soldiers to safety.

Darren was from Beatrice, Nebraska, a town of 12,000 resting peacefully in the heart of the Great Plains. In an extraordinary tribute, the town mourned together in profound respect for the man who fought so bravely and honorably on its behalf.

Lining both sides of Nebraska Highway 77 and Beatrice's downtown district, were hundreds of people holding hands over hearts and American flags. School children from the town's Catholic and Lutheran schools stood respectfully with handmade posters. Shopkeepers, clerks, business owners, the elderly, people with disabilities, seniors from the high school, lined Main Street to pay tribute to the man who graduated less than 3 years ago.

Outside the Pamida, the Sack Lumber, and the local hardware store, signs and billboards read "Specialist Darren Howe: A True Hero." What a fitting tribute to a true leader.

Darren and his family received his medals, including a Bronze Star and Purple Heart. A rifle salute marked the lowering of his casket into the ground. The only sounds thereafter were the sobs of loved ones forced to say a final goodbye. Even his warrior father gave a last sorrowful salute to his martyred son.

Darren had followed the footsteps of his father into the military. Darren was also a steadfast husband and father, providing for his wife, Nakia, and their two children, Shaye-Maleigh and Gary-Dean.

Howe was solid, steady, focused, determined. Nakia wears a medallion around her neck from the Third Infantry Division with the inscription "Standing on a Rock."

Darren served his country and fellow soldiers without regard for his own well-being. His heroic sacrifice came as no surprise to those who knew and loved him. Darren Howe was a young man who did things the right way and lived in accordance to a code of respect, honor and responsibility. And as Jodi, his mother, told me, he was also a very devoted son.

Such a man as this deeply impacted the town of Beatrice, Nebraska. Such a man as this saved the lives of his fellow soldiers and such a man gave himself in service to his country. Specialist Darren Howe is a hero, and our country is grateful for his service and ultimate sacrifice.

GULF OPPORTUNITY ZONE PUBLIC FINANCE RELIEF ACT OF 2005

Mr. McCRERY. Mr. Speaker, I ask unanimous consent that the Committee on Ways and Means be discharged from further consideration of the bill (H.R. 4337) to amend the Internal Revenue Code of 1986 to provide for Gulf tax credit bonds and advance refundings of certain tax-exempt bonds, and to provide a Federal guarantee of certain State bonds, and ask for its immediate consideration in the House.

The Clerk read the title of the bill.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

Mr. JEFFERSON. Mr. Speaker, reserving the right to object, and I do not intend to object, I want to thank the gentleman from Louisiana (Mr. McCRERY) for his efforts in this regard to this bill. I want to thank the gentleman from California (Chairman THOMAS) and the ranking member, the gentleman from New York (Mr. RANGEL), and all of the members of the Committee on Ways and Means and others who have taken up the cause of helping our dear friends and my constituents back in Louisiana, our constituents back in Louisiana.

The gravamen of the problem that this bill addresses is that our local governments, are State governments, are severely handicapped to serve their citizens because of a lack of finance to service our people. Our city has lost its tax base completely, and so has the school board and other cities in our region. Our State is facing a big budget hole because of the decimation of our cities on a fiscal basis.

This bill gives us a chance to address those issues through self-help approaches, through the refinancing of bonds, through the extending of taxable bonds, and through the extension of bonds to service debt I think it is an important part of the recovery of our State of Louisiana. I am very grateful to this House and to my colleagues on the Committee on Ways and Means, Mr. McCRERY, for his leadership on this issue and for our partnership in this endeavor.

Mr. McCRERY. Mr. Speaker, will the gentleman yield?

Mr. JEFFERSON. I yield to the gentleman from Louisiana.

Mr. McCRERY. Mr. Speaker, I would like to thank the gentleman from Louisiana (Mr. JEFFERSON) for the hard work that he has put into this effort to allow the State and our municipalities the ability to help themselves. That is what this bill will do.

Mr. JEFFERSON has worked tirelessly with me to try to clear the way for passage of this bill this evening. His efforts are to be commended. I thank him very much.

Mr. JEFFERSON. Mr. Speaker, I withdraw my reservation of objection.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Louisiana?

There was no objection.

The Clerk read the bill, as follows:

H.R. 4337

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the "Gulf Opportunity Zone Public Finance Relief Act of 2005".

SEC. 2. GULF TAX CREDIT BONDS.

(a) IN GENERAL.—Subpart H of part IV of subchapter A of chapter 1 of the Internal Revenue Code of 1986 is amended by adding at the end the following new section:

"SEC. 54A. CREDIT TO HOLDERS OF GULF TAX CREDIT BONDS.

"(a) ALLOWANCE OF CREDIT.—If a taxpayer holds a Gulf tax credit bond on one or more credit allowance dates of the bond occurring during any taxable year, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the sum of the credits determined under subsection (b) with respect to such dates.

"(b) AMOUNT OF CREDIT.—

"(1) IN GENERAL.—The amount of the credit determined under this subsection with respect to any credit allowance date for a Gulf tax credit bond is 25 percent of the annual credit determined with respect to such bond.

"(2) ANNUAL CREDIT.—The annual credit determined with respect to any Gulf tax credit bond is the product of—

"(A) the credit rate determined by the Secretary under paragraph (3) for the day on which such bond was sold, multiplied by

"(B) the outstanding face amount of the bond.

"(3) DETERMINATION.—For purposes of paragraph (2), with respect to any Gulf tax credit bond, the Secretary shall determine daily or cause to be determined daily a credit rate which shall apply to the first day on which there is a binding, written contract for the sale or exchange of the bond. The credit rate for any day is the credit rate which the Secretary or the Secretary's designee estimates will permit the issuance of Gulf tax credit bonds with a specified maturity or redemption date without discount and without interest cost to the issuer.

"(4) CREDIT ALLOWANCE DATE.—For purposes of this section, the term 'credit allowance date' means March 15, June 15, September 15, and December 15. Such term also includes the last day on which the bond is outstanding.

"(5) SPECIAL RULE FOR ISSUANCE AND REDEMPTION.—In the case of a bond which is issued during the 3-month period ending on a credit allowance date, the amount of the credit determined under this subsection with respect to such credit allowance date shall be a ratable portion of the credit otherwise determined based on the portion of the 3-month period during which the bond is outstanding. A similar rule shall apply when the bond is redeemed or matures.

"(c) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

"(1) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

"(2) the sum of the credits allowable under this part (other than subpart C and this section).

"(d) GULF TAX CREDIT BOND.—For purposes of this section—

"(1) IN GENERAL.—The term 'Gulf tax credit bond' means any bond issued as part of an issue if—

"(A) the bond is issued by the State of Alabama, Louisiana, or Mississippi,

"(B) 95 percent or more of the proceeds of such issue are to be used to—

"(i) pay principal, interest, or premiums on qualified bonds issued by such State or any political subdivision of such State, or

"(ii) make a loan to any political subdivision of such State to pay principal, interest, or premiums on qualified bonds issued by such political subdivision,

"(C) the Governor of such State designates such bond for purposes of this section,

"(D) the bond is a general obligation of such State and is in registered form (within the meaning of section 149(a)),

"(E) the maturity of such bond does not exceed 2 years, and

"(F) the bond is issued after December 31, 2005, and before January 1, 2007.

"(2) STATE MATCHING REQUIREMENT.—A bond shall not be treated as a Gulf tax credit bond unless—

"(A) the issuer of such bond pledges as of the date of the issuance of the issue an amount equal to the face amount of such bond to be used for payments described in clause (i) of paragraph (1)(B), or loans described in clause (ii) of such paragraph, as the case may be, with respect to the issue of which such bond is a part, and

"(B) any such payment or loan is made in equal amounts from the proceeds of such issue and from the amount pledged under subparagraph (A).

The requirement of subparagraph (B) shall be treated as met with respect to any such payment or loan made during the 1-year period beginning on the date of the issuance (or any successor 1-year period) if such requirement is met when applied with respect to the aggregate amount of such payments and loans made during such period.

"(3) AGGREGATE LIMIT ON BOND DESIGNATIONS.—The maximum aggregate face amount of bonds which may be designated under this section by the Governor of a State shall not exceed—

"(A) $200,000,000 in the case of the State of Louisiana,

"(B) $100,000,000 in the case of the State of Mississippi, and

"(C) $50,000,000 in the case of the State of Alabama.

"(4) SPECIAL RULES RELATING TO ARBITRAGE.—A bond which is part of an issue shall not be treated as a Gulf tax credit bond unless, with respect to the issue of which the bond is a part, the issuer satisfies the arbitrage requirements of section 148 with respect to proceeds of the issue and any loans made with such proceeds.

"(e) QUALIFIED BOND.—For purposes of this section—

"(1) IN GENERAL.—The term 'qualified bond' means any obligation of a State or political subdivision thereof which was outstanding on August 28, 2005.

"(2) EXCEPTION FOR PRIVATE ACTIVITY BONDS.—Such term shall not include any private activity bond.

"(3) EXCEPTION FOR ADVANCE REFUNDINGS.—Such term shall not include any bond—

"(A) which is designated as an advance refunding bond under section 149(d)(7), or

"(B) with respect to which there is any outstanding bond to refund such bond.

"(f) CREDIT INCLUDED IN GROSS INCOME.—Gross income includes the amount of the credit allowed to the taxpayer under this section (determined without regard to subsection (c)) and the amount so included shall be treated as interest income.

"(g) OTHER DEFINITIONS AND SPECIAL RULES.—For purposes of this section—

"(1) BOND.—The term 'bond' includes any obligation.

"(2) PARTNERSHIP; S CORPORATION; AND OTHER PASS-THRU ENTITIES.—

"(A) IN GENERAL.—Under regulations prescribed by the Secretary, in the case of a partnership, trust, S corporation, or other pass-thru entity, rules similar to the rules of section 41 (g) shall apply with respect to the credit allowable under subsection (a).

"(B) NO BASIS ADJUSTMENT.—In the case of a bond held by a partnership or an S corporation, rules similar to the rules under section 1397E(i) shall apply.

"(3) BONDS HELD BY REGULATED INVESTMENT COMPANIES.—If any Gulf tax credit bond is held by a regulated investment company, the credit determined under subsection (a) shall be allowed to shareholders of such company under procedures prescribed by the Secretary.

"(4) REPORTING.—Issuers of Gulf tax credit bonds shall submit reports similar to the reports required under section 149(e).".

(b) CONFORMING AMENDMENTS.—

(1) Paragraph (2) of section 54(c) of such Code is amended by inserting ", section 54A," after "subpart C".

(2) Subparagraph (A) of section 6049(d)(8) of such Code is amended—

(A) by inserting "or 54A(f)" after "section 54(g)", and

(B) by inserting "or 54A(b)(4), as the case may be" after "section 54(b)(4)".

(3) The table of sections for subpart H of part IV of subchapter A of chapter 1 of such Code is amended by adding at the end the following new item:

"Sec. 54A. Credit to holders of Gulf tax credit bonds.".

(c) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending after December 31, 2005.

SEC. 3. ADVANCE REFUNDINGS OF CERTAIN TAX-EXEMPT BONDS.

(a) IN GENERAL.—Subsection (d) of section 149 of the Internal Revenue Code of 1986 (relating to advance refundings) is amended by redesignating paragraph (7) as paragraph (8) and by inserting after paragraph (6) the following new paragraph:

"(7) ADVANCE REFUNDINGS OF CERTAIN GULF COAST BONDS.—

"(A) IN GENERAL.—With respect to a bond described in subparagraph (C) which is not a qualified 501(c)(3) bond, one additional advance refunding after the date of the enactment of this paragraph and before January 1, 2011, shall be allowed under the applicable rules of this subsection if—

"(i) the Governor of the State designates the advance refunding bond for purposes of this paragraph, and

"(ii) the requirements of subparagraph (E) are met.

"(B) CERTAIN PRIVATE ACTIVITY BONDS.—With respect to a bond described in subparagraph (C) which is an exempt facility bond described in paragraph (1) or (2) of section 142(a), one advance refunding after the date of the enactment of this paragraph and before January 1, 2011, shall be allowed under the applicable rules of this subsection (notwithstanding paragraph (2)) if the requirements of clauses (i) and (ii) of subparagraph (A) are met.

"(C) BONDS DESCRIBED.—A bond is described in this subparagraph if such bond was outstanding on August 28, 2005, and is issued by the State of Alabama, Louisiana, or Mississippi, or a political subdivision thereof.

"(D) AGGREGATE LIMIT.—The maximum aggregate face amount of bonds which may be designated under this paragraph by the Governor of a State shall not exceed—

"(i) $4,500,000,000 in the case of the State of Louisiana,

"(ii) $2,250,000,000 in the case of the State of Mississippi, and

"(iii) $1,125,000,000 in the case of the State of Alabama.

"(E) ADDITIONAL REQUIREMENTS.—The requirements of this subparagraph are met with respect to any advance refunding of a bond described in subparagraph (C) if—

"(i) no advance refundings of such bond would be allowed under this title on or after August 28, 2005,

"(ii) the advance refunding bond is the only other outstanding bond with respect to the refunded bond, and

"(iii) the requirements of section 148 are met with respect to all bonds issued under this paragraph.".

(b) EFFECTIVE DATE.—The amendments made by this section shall apply to advance refundings after the date of the enactment of this Act.

SEC. 4. FEDERAL GUARANTEE OF CERTAIN STATE BONDS.

(a) STATE BONDS DESCRIBED.—This section shall apply to a bond issued as part of an issue if—

(1) the issue of which such bond is part is an issue of the State of Alabama, Louisiana, or Mississippi,

(2) the bond is a general obligation of the issuing State and is in registered form,

(3) the proceeds of the bond are distributed to one or more political subdivisions of the issuing State,

(4) the maturity of such bond does not exceed 5 years,

(5) the bond is issued after the date of the enactment of this Act and before January 1, 2008, and

(6) the bond is designated by the Secretary of the Treasury for purposes of this section.

(b) APPLICATION.—

(1) IN GENERAL.—The Secretary of the Treasury may only designate a bond for purposes of this section pursuant to an application submitted to the Secretary by the State which demonstrates the need for such designation on the basis of the criteria specified in paragraph (2).

(2) CRITERIA.—For purposes of paragraph (1), the criteria specified in this paragraph are—

(A) the loss of revenue base of one or more political subdivisions of the State by reason of Hurricane Katrina,

(B) the need for resources to fund infrastructure within, or operating expenses of, any such political subdivision,

(C) the lack of access of such political subdivision to capital, and

(D) any other criteria as may be determined by the Secretary.

(3) GUIDANCE FOR SUBMISSION AND CONSIDERATION OF APPLICATIONS.—The Secretary of the Treasury shall prescribe regulations or other guidance which provide for the time and manner for the submission and consideration of applications under this subsection.

(c) FEDERAL GUARANTEE.—A bond described in subsection (a) is guaranteed by the United States in an amount equal to 50 percent of the outstanding principal with respect to such bond.

(d) AGGREGATE LIMIT ON BOND DESIGNATIONS.—The maximum aggregate face amount of bonds which may be exceed issued under this section shall not exceed $3,000,000,000.

Mr. THOMAS. Mr. Speaker, I submit the following correspondence for the RECORD.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON WAYS AND MEANS,
Washington, DC, November 17, 2005.

Hon. MICHAEL G. OXLEY,
Chairman, Committee on Financial Services, Washington, DC.

DEAR CHAIRMAN OXLEY: I am writing concerning H.R. 4337, the "Gulf Opportunity Zone Public Finance Relief Act of 2005," which passed the House last night by unanimous consent.

Section 4 of the bill allows for the Federal guarantee of certain State bonds. I recognize the Committee on Financial Service's jurisdictional interest in Section 4 of the bill, and agree that by allowing the bill to be passed, the Committee on Financial Services does not relinquish any jurisdiction over H.R. 4337 or similar legislation. I would also support your request to be represented on a conference on H.R. 4337, if one should become necessary.

Finally, I will include this letter and your response in the Congressional Record under the portion for floor consideration of this measure.

Best regards,

BILL THOMAS,
Chairman.

HOUSE OF REPRESENTATIVES,
COMMITTEE ON FINANCIAL SERVICES,
Washington, DC, November 17, 2005.

Hon. WILLIAM THOMAS,
Chairman, Committee on Ways and Means, House of Representatives, Washington, DC.

DEAR CHAIRMAN THOMAS: I have received your letter concerning H.R. 4337, the "Gulf Opportunity Zone Public Finance Relief Act of 2005," which the House passed last night. The bill was also introduced yesterday and was referred to the Committee on Ways and Means.

I appreciate your recognition that the Committee on Financial Services has a jurisdictional interest in section 4 of the bill. This section allows for the Federal guarantee of certain State bonds. However, I understand that the need to move this bill expeditiously did not permit consideration of the bill by this Committee. It is my understanding this procedure will not prejudice the Committee on Financial Services with respect to its prerogatives on this or similar legislation. I appreciate your support for a request for conferees from this Committee in the event of a House-Senate conference.

I hope that this exchange of correspondence will appear in the Congressional Record. Thank you for your assistance in this matter.

Your truly,

MICHAEL G. OXLEY,
Chairman.

The bill was ordered to be engrossed and read a third time, was read the third time, and passed, and a motion to reconsider was laid on the table.

AMERICAN MILITARY PRESENCE FUELING IRAQI INSURGENCY

Ms. WOOLSEY. Mr. Speaker, I ask unanimous consent to take my Special Order at this time.

The SPEAKER pro tempore. Is there objection to the request of the gentlewoman from California?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentlewoman from California (Ms. WOOLSEY) is recognized for 5 minutes.

Ms. WOOLSEY. Mr. Speaker, if there was any doubt that the Bush administration has it Iraq's policy totally wrong, the actions taken yesterday in both Houses of Congress shattered that notion. In the Senate, 79 Senators voted in favor of an amendment designating the year 2006 as a period of significant transition to full Iraqi sovereignty. The amendment also requires the President to provide Congress with a quarterly report detailing United States policies and military operations in Iraq.

And in the House, the Out of Iraq Caucus, led by Ms. WATERS, introduced a discharge petition to force the House to openly debate the Homeward Bound legislation. Homeward Bound is the bill introduced by the gentleman from Hawaii (Mr. ABERCROMBIE). It is H.J. Res. 55, and it calls for bringing our troops home no later than October 1, 2006. The petition must be signed by 218 Members of Congress and then will force a debate on the floor.

This debate would include 17 hours of open debate, allowing every Member of Congress a chance to offer an amendment or talk about the war in Iraq from their very own perspective. Regardless of where my colleagues stand on the war and regardless of their political affiliation, I urge them to sign onto this discharge petition because we are long overdue for a conversation here on the floor about Iraq. It is a conversation that we need to have because it has been a long time.

Anyone watching at home may remember the last time Congress debated this matter. It was May 25 when I introduced an amendment to the defense authorization bill, an amendment asking the President to put together his plans for bringing our troops home and to provide those plans to the appropriate committees in the House of Representatives.

Mr. Speaker, 128 Members of this House voted for that amendment, and if the vote were held today, I am sure we would have many more than 128 votes. Of those 128 votes, 5 were Republican, 122 were Democrat, and one was our Independent from Vermont.

Unfortunately, we cannot have that vote again because the Republican leaders in Congress will not allow it. They will not bring important Iraq legislation like the bipartisan Homeward Bound legislation up for debate on the House floor. Think about it, the last time we debated this vitally important issue was nearly 6 months ago, and that was the first time and only time we have talked about it since the beginning of the war.

Since Congress will not have this debate, we have had to resort to taking matters into our own hands. That is why we are working to bring Homeward Bound to the House floor, and that is why 61 of my colleagues joined me in sending a letter to the President last week urging him to make four key policy changes in his position on Iraq.

First, we asked him to engage in greater multilateral cooperation with our allies. We simply cannot keep 160,000 American soldiers in Iraq and hope for the situation to just change for the better because it is our very military presence that is fueling Iraq's growing insurgency.

☐ 1830

Instead, the President should actually eat a little crow, admit his mistakes and ask our allies, the same ones we offended in the buildup of the war, to establish a multinational interim security force for Iraq, possibly run by the United Nations or NATO. The U.N.'s Department of Peacekeeping Operations would be particularly well suited to managing this task, as a matter of fact.

Second, the U.S. must pursue diplomatic and nonmilitary initiatives. If we seriously want democracy to take hold in the Middle East, then we need to get serious about changing our role from that of Iraq's military occupier to its reconstruction partner.

Instead of sending troops and military equipment to Iraq, let us send teachers, scientists, urban planners, and constitutional experts as a larger diplomatic offensive, one that will allow us to regain our lost national credibility while, at the same time, creating Iraqi jobs and bolstering Iraq's economy.

Third, let us prepare for a robust, postconflict reconciliation process. There is no shortage of national healing that needs to occur in Iraq after nearly 3 years of death and 3 years of destruction. That is why we should encourage an international peace commission to oversee Iraq's postconflict reconciliation. This group would coordinate peace talks between the various factions in Iraq, providing all Iraqis with a sense of ownership and hope over their country's future.

Finally, and most important of all, we must bring our troops home. The human cost of this war has been absolutely staggering. To save lives, end the war and prevent our Treasury from spiraling even further into debt, we need to end this war.

ENERGY INDEPENDENCE IS THE GOAL

The SPEAKER pro tempore (Mr. JINDAL). Under a previous order of the House, the gentleman from Georgia (Mr. KINGSTON) is recognized for 5 minutes.

Mr. KINGSTON. Mr. Speaker, I come from agriculture country in southeast Georgia, and it is always remarkable to me that 2 percent of our population feeds not just 100 percent of the American population but a great deal of people all around the world. In fact, one thing that is even more interesting is that our ag production outpaces our ag consumption. We have more food than we can eat because our farm supply is so strong. Very vital of course to have food, but it is also vital in our society to have energy and fuel for our cars. Yet the world demand and the world supply are almost even. And the gentleman knows from the gulf coast what havoc Katrina played not only on the 90,000 square miles of the gulf coast, but when it comes to energy and gasoline supply, indeed all of America. In fact there was a world disruption because of that.

In the United States, we consume over 20 million barrels of crude oil a day, nearly 25 percent of the consumption for the entire globe; and yet the United States only has about 3 percent of the world's oil reserves. Worse than that, we import from countries about 60 percent, and these countries are not always our friends. A lot of it comes from the Middle East: Saudi Arabia, Iraq, Iran, Kuwait. We have got some from South America, Venezuela. We all remember last week what Hugo Chavez of Venezuela did to the President when he was down there to give him a warm welcome.

Because energy is a national security risk, I have introduced today, along with the gentleman from New York (Mr. ENGEL) and a number of Republicans and a number of Democrats, the Fuel Choice American Security Act of 2005. And what this bill does is it seeks to get us off Middle East oil by the year 2015. We will not be free from importing oil from around the world; but when it comes to the Middle East, we will be able to say, We can buy from you, but we do not have to buy from you.

Our bill does a number of things. Number one, it sets a goal. It says that by the year 2015 we will have reduced our oil consumption 2.5 million barrels a day. That is a 10 percent reduction and that would get us free from the Middle East.

It also requires that the General Accounting Office scores energy-related bills that we consider on the floor of Congress, and it gives Members of Congress a clear idea does this bill make you more dependent on foreign oil or less dependent; and does it move you closer to that goal of energy or fuel independence by 2015, or does it move it further away.

Secondly, what this bill does is it provides incentives to automobile manufacturers and to consumers to buy more and produce more energy-efficient automobiles. We double the tax credit for the purchasing of hybrids. We encourage automobile manufacturers to use light materials in the manufacturing of their cars. We put money, or incentives into municipalities to move towards the plug-in flexible fuel fleets when it comes to automobile taxicabs and so forth.

We give incentives to gasoline companies so that they will switch pumps so that when a consumer pulls in, they can have their choice of fuels for their automobiles. We also say that when you purchase tires you ought to know how many miles per gallon those tires should help you get. People do not even realize it, but if you inflate your tires right, you get more miles per gallon. And our consumers do not know that.

The third thing our bill does is it increases energy choice by investing more money into biomass, and that could be any kind of biomass there is. It also takes the import tax off of ethanol from other countries. In Brazil today, 40 percent of the cars run on ethanol. In America, only 3 percent do. Brazil actually has surplus ethanol. We have a goal, we call it E 10 by 10. The gentleman from Minnesota (Mr. GUTKNECHT) is one of the champions of it. It says 10 percent of the gasoline will have ethanol in it by the year 2010. We are in agreement with that.

But the domestic production of ethanol through the corn supply alone will not get us there. We need to have corn, we need to have sugar, we need to have pine needles. We need to have whatever can get us that ethanol supply. But in the mean time, why are we taxing a source of energy from a country like Brazil? What we need to do is take that export tax off there, and that is what our bill does.

And finally, we ask the Federal Government to audit their agencies to figure out what can you do to save gasoline. One example, I will close with this, Mr. Speaker. Think about Saturday mail delivery. We pay 100 percent of the fuel cost to deliver 30 percent of the mail that we do on Monday through Friday. In this day of e-mail, do we really need Saturday mail delivery anymore?

Those are just some of the things the bill does, Mr. Speaker. It does move us towards energy independence by the year 2015, which is what we need. And I thank the gentleman from Texas (Mr. POE) for letting me get in front of him.

WHO IS IN CHARGE, MEXICO CITY OR WASHINGTON, D.C.?

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. POE) is recognized for 5 minutes.

Mr. POE. Mr. Speaker, when it comes to U.S. immigration policy, who is really in charge? Is it Mexico City or Washington, D.C.?

On almost a daily basis, Mexican officials seem to interfere with the immigration matters and U.S. laws. Mexican officials on both sides of the border are righteously indignant about American policies pertaining to the security of our border. Many American officials are oblivious to the problem as well. There is a continuous moaning and groaning rhetoric complaining we should not prevent illegals from entering the sovereign United States.

I want to make it clear again that I fully support immigration, legal immigration. It is not fair to America, nor is it fair to those who are trying to enter our country lawfully that every year thousands of people enter our country illegally. We must stop sending the wrong message to the world that we will wink at illegal immigration. It appears to me that the leaders of Mexico give lip service to our immigration and border security laws. Mexico must stop encouraging illegal entry to the United States and the disrespect for the dignity and sovereignty of this country. So I ask, When it comes to U.S. immigration policy, who is in charge? Is it Mexico City or is it Washington, D.C.?

Let me give you some examples. I will start with our open borders. You know, our government does not acknowledge the term open borders or porous borders, but that is exactly what we have. I have recently visited the United States-Mexico border and witnessed firsthand the lax security in place there. It takes very little effort for illegals to cross or hire someone to cross them into the United States and enter this country illegally.

Some estimate that 5,000 people a day cross illegally into our country. Some of them even do it with the help of the Mexican Government. The Foreign Ministry of Mexico distributes a pamphlet called "Guide to Crossing the Border." I have shown this on the floor before. It is produced in English and Spanish, and it is essentially a book of sneaking into the United States. The Mexican consulates encourage this illegal conduct as well. Their purpose is not to help their citizens break American law, but that is what occurs. Passing out these guides is a disgrace to our laws and encourages illegal behavior. This lone act of a document showing people illegally how to come into the United States is a disrespect for America's borders and encourages the daily invasion of illegals into the United States.

So once again I will ask the question. When it comes to United States immigration policy, who is in charge? Mexico City or Washington, D.C.?

Consulates also hand out matricula consular cards which illegals use for identification purposes. This card resembles a driver's license and has become widely accepted as a form of identification to get services at U.S. banks, car dealerships, and American insurance companies. Even in some States they are allowing individuals to purchase or get a driver's license based on this document. The consulate issues these cards to people who are illegally in the United States. This is an absurd policy because these people are in our country illegally, yet we are helping them set up a residence in our country.

The Mexican Government has heavily lobbied the Federal Government of the United States to use these cards as identification cards, but so far the Federal Government does not do so. So Mexican consulates are going to local communities and local governments and trying to get them to accept this document. And some do, unfortunately. This is just one more example of blatant disrespect for American law, yet we do nothing about it. We give illegals and the Mexican Government another pass. When it comes to the United States immigration policy, who is in charge? Is it Mexico City or Washington, D.C.? The answer is becoming more and more blurred.

Let me give you another serious example. In Los Angeles during the past year, the Mexican Government has provided over 100,000 Mexican text books to 1,500 schools. In fact, according to a recent Houston Chronicle editorial written by Heather McDonald, the sixth-grade Mexican history book celebrates the Mexican troops who fought against Americans during the Mexican-American War. The book refers to the enemy flag as the flag of the United States and says that the war's consequences were disastrous for Mexico.

So is this what we are going to teach American school children? Has political correctness gone so far that we now refer to Old Glory as the enemy flag? And why do we allow the Mexican Government to inundate our kids with Mexican text books anyway? This is very disturbing. The Mexican Government should spend more time enforcing their own rule of law and fighting corruption in Mexico and less time undermining our rule of law. Mexico has many advantages and natural resources. Perhaps they should take advantage of these to improve their own country so residents will quit leaving. They need to address their problems at home instead of sending them north to us.

Mr. Speaker, the lawlessness of the border will promote more lawlessness. We welcome people who want to make a better life for themselves and come to America for the American Dream, but they must do so legally. Our government cannot afford to continue to ignore the invasion from the south of our borders. The Mexican-American War started because Mexicans did not recognize the Texas-Mexico border at the time. They ignored the treaty that their dictator, Santa Anna signed, and they invaded the United States in 1846.

Sound familiar? It seems to me that a second attempt at invasion and colonization has already begun. Is Mexico trying to retake the Southwest? It is said that Caesar fiddled while Rome burned. I ask. Is Washington fiddling while the border burns with the lawlessness of an illegal invasion? Who is in charge of the U.S. immigration policy? Washington, D.C. or Mexico City? Only history will reveal the answers to that.

That is just the way it is.

BABY BOOMER GENERATION

Mr. BURGESS. Mr. Speaker, I ask unanimous consent to go out of order and address the House for 5 minutes.

The SPEAKER pro tempore. Is there objection to the request of the gentleman from Texas?

There was no objection.

The SPEAKER pro tempore. Under a previous order of the House, the gentleman from Texas (Mr. BURGESS) is recognized for 5 minutes.

Mr. BURGESS. Mr. Speaker, this morning at a breakfast, Chairman Alan Greenspan was talking to a group of us, and he made mention of the fact that one of his concerns about those of us who were members of the baby boomer generation, despite the fact that we may have lavish pensions or Medicare, Social Security awaiting us upon retirement, that we may suffer because there are not enough of those in the generation coming after us to provide the things that we may want; and of course one of those things we may want will be physicians to take care of us in our old age on Medicare and Social Security.

Well, there is an event happening at the end of this year that I think is particularly pernicious to the upcoming crop of young medical students and physicians, and that is a planned 4.4 percent negative update, that is, a pay cut for doctors who provide care for Medicare patients. As a Member of Congress, and as a physician, I can strongly empathize with the medical community, particularly the younger medical community as they face an impending 26 percent cut in reimbursement over the next 6 years, law already in place, cuts already programmed to happen unless this Congress takes action.

Medicare payments are already lower than the cost of delivering the care. Medicare payments do not pay the freight for overhead in a doctor's office. According to a survey conducted by the American Medical Association, a tremendous number of physicians, 38 percent, responded that they would be forced to reduce the number of Medicare patients that they accept, based on the 4.4 percent reduction that they face just for this coming year.

☐ 1845

This data is reflective of the first installment of a series of cuts. This is of great concern to me, as access to health care is crucial for the Medicare population. We have seen the roll-out yesterday of the availability to the part D Medicare prescription drug benefit; and many of us, myself included, have argued on the floor of this House that the Medicare prescription drug benefit is crucial to providing 21st-century medicine to our seniors. But if we have no doctors present to write the prescriptions, then all of the prescription drug benefit in the world will be of no benefit to tomorrow's seniors.

It is not just that we have doctors dropping out. We have doctors restricting the types of services that they might offer to Medicare patients, and we have doctors restricting where they might go into practice.

Well, in addition, based on these reduced reimbursement rates, doctors will be less able to invest in things that we are asking them to do, things like information technology and necessary and up-to-date medical equipment. All of these combined factors will negatively impact the quality of care that our seniors receive. Simply put, we are driving doctors out of the Medicare system, and we can no longer afford to do that.

Now, one of the proposed solutions deals with what is called Pay For Performance; and true, we should explore the concept of Pay For Performance by addressing whether this system is an improvement over the current one. It is important to establish the true quality indicators, and this is best done in conjunction with the specialty societies themselves, with the doctors themselves who will be delivering the care.

What are the goals of Pay For Performance? Well, the number one goal is better clinical outcomes. In partnership with that, we want improved patient satisfaction, and that goes hand in hand with improved physician satisfaction.

The fact is, Mr. Speaker, that doctors will support a concept like Pay For Performance if they believe in what it is trying to accomplish; but if it is just simply empty rhetoric, doctors will be among the first to recognize that and will abandon any attempts by Congress to drive a concept like Pay For Performance.

Ultimately, if Pay For Performance is structured appropriately and the cost of delivering care comes down, well, that is good. We save some dollars in the Medicare part B system, but that money cannot be used to offset other debt. It has to be put back into the system and reward those doctors who have improved quality and lowered costs.

Well, Mr. Speaker, fortunately, in my committee, in the Committee on Energy and Commerce, we are going to hold a hearing on physician reimbursement tomorrow, and it is timely. I am grateful to the chairmen, both the full committee chairman (Mr. BARTON) and the subcommittee chairman (Mr. DEAL of Georgia), for having this hearing. We are going to have good panels of witnesses present to receive our questions, and I think it is timely that my committee be involved in that discussion because, after all, that is the jurisdiction where this particular argument resides.

ANNOUNCEMENT BY THE SPEAKER PRO TEMPORE

The SPEAKER pro tempore. Without objection, the 5-minute Special Order for the gentleman from Iowa (Mr. KING) is vacated.

There was no objection.

MESSAGE FROM THE PRESIDENT

A message in writing from the President of the United States was communicated to the House by Mr. Sherman Williams, one of his secretaries.

COMBATING METHAMPHETAMINES

The SPEAKER pro tempore. Under the Speaker's announced policy of January 4, 2005, the gentleman from Iowa (Mr. KING) is recognized for 60 minutes as the designee of the majority leader.

Mr. KING of Iowa. Mr. Speaker, I appreciate the opportunity always to come to this floor of Congress and have an opportunity to address the Chair and also the people in this Chamber here on Capitol Hill in Washington, D.C. and all across America.

A lot of important issues come in front of us here in this Congress, and one of the hardest things that we have to deal with is the priorities always change day to day. We keep this big stack of issues, and we continually pull one issue off that has drifted down below the stack aways and put it back up on top, pulling those issues out, putting them on top, trying to get them moved so that we can get them off the table, send them to the Senate, and take up the next most important issue. It is a constant process here of hundreds, in fact thousands, of issues being reprioritized.

But what we do also is keep sitting at the top those most important issues, those that are critical, those that are urgent. Sometimes we have that difficulty of taking up the issues that are urgent at the expense of those that are important, Mr. Speaker. But we have an issue before this Congress that I believe will come to this floor for a vote sometime this week or at the latest we could come back and take it up early in the first week in December, and that is the issue of methamphetamines.

I represent a district in roughly the western third of Iowa, and we have found ourselves in a situation where we have perhaps as much experience, and I will say sad and bad experience, with methamphetamines as any place in the country.

Some of the reasons for that are that the precursors for methamphetamine, and that means the components that are required in order to produce it in a meth lab, are and have been readily available in Iowa, and particularly in the Corn Belt. One of those components is hydrous ammonia, and because it is available essentially everywhere in the Corn Belt, it has been relatively easy for a meth cook to go in and to steal a tank of hydrous ammonia, take that back to their meth lab and use that to produce methamphetamines.

We did not think we really needed to have a security policy and post guards around the hydrous ammonia tanks because, after all, when you crack one of those nozzles, you get a lesson that you will never forget. Yet, these meth cooks are so intent on producing methamphetamines that that kind of a danger has not been a deterrent to them, and they have some experience with hydrous ammonia also, being from the region, and so they are more comfortable using it and handling it.

But, Mr. Speaker, there is a precursor to methamphetamines that is significantly different in that regard and still has been, up until now, readily available on the shelves of most of the stores in America, and that is a component that we are comfortable with that we know called ephedrine and pseudoephedrine, and then there is a PPA, another precursor that is used in some of this. But I brought some of this along tonight so that I can speak about it, Mr. Speaker. So when we have a cold and we have congestion, we will go down to the store and we will purchase pseudoephedrines of some kind.

Here is one example here, and I have another example here. Most people are familiar with that. The active ingredient is pseudoephedrine, and that pseudoephedrine is what the meth cooks are after.

Now, I would point out that about 10 years ago, we recognized this and began to address it legislatively. One of the things we did in Iowa was realize that the people who were making methamphetamine then, and it was fairly early in our experience with methamphetamines, they would go to the drugstore or the grocery store and buy themselves a big pill bottle; and that big pill bottle might have pills in there, mostly it was pills that were 30 milligrams each. They would buy several bottles of those dry pills, those starch-based pills, bring the bottles back to the labs, take the caps off of the big bottles, dump them all into their overall vat, and produce their methamphetamines out of those. No restrictions, easily available, go buy it off the shelf. Nobody asked any questions. After all, it was entirely legal; and up until the time they figured out how to use this, there was no negative to people having pseudoephedrine or ephedrine products in their own medicine cabinet, so there was no restriction.

Once we figured out that that is what they were doing, they were using the pseudoephedrine product in order to produce methamphetamine, in Iowa we decided we are going to fix this. We know how to outsmart these people. Since they buy these big bottles and there are 100 or more in a bottle, sometimes 500 in a bottle, we will just limit the size of the container, the numbers of pills that can be sold in a container.

So in Iowa we said, you cannot have 100 or more of these pills that contain pseudoephedrine, ephedrine, or the PPAs. Well, we thought that would solve the problem. I did not get that involved in the language; I supported it; others worked on it. It seemed to me like it was a step in the right direction. Perhaps it was. It was a step in the right direction for just a little while.

Congress understood that there was a problem too, and they concluded here in about 1995 that, you know, it is just too easy to go into the store and buy a bottle of pills that have pseudoephedrine in them and, like we thought in Iowa, take them back to the meth lab, take the cap off, dump it in their batch and cook an ounce of meth. So Congress did not address it the way we did in the Iowa legislature.

Iowa said less than 100 per container, and Congress said, well, no, no meth cook is going to go to all that work if we just require that these pills go in blister packs. So if you have noticed, for the last 10 years when you go to buy your pseudoephedrine, you will find that it is in blister packs. So you have to take it out and tear one open. I have one in my pocket because of the condition I have been in, Mr. Speaker. There is a pair, that is 30 milligrams per pill, 60 milligrams in there, and you have to tear a little corner off, tear the tin foil off the bottom, push those out of there. It is kind of hard, but you can get them out if you are sick and take your pseudoephedrine in that kind of way, because Congress said, we will put these in these blister packs so that it is too hard for the meth cooks to open up hundreds of these, and then they will not be making methamphetamines in America any longer. So that was Congress, in blister packs. Iowa was less than 100 per container.

So you put those two things together and that means you get these kinds of packages here. This is one that I picked up at the pharmacy in Iowa a little over a week ago. This is 96 pills. These are dry pills, they are in a blister pack, and they are 30 milligrams each, and that is 96 pills in there because Iowa law said you cannot have 100 or more. Well, that did not take them very long to figure out that they could comply with Iowa law, set these on the shelf, the retailers and the pharmacists had no problem, they complied with Iowa law, they did not complain very much, if at all. And the meth cooks looked at that and said, well, there we go, 96 pills per container. I will grab a stack of those containers, take them back to my lab and make myself a little tool where I can lay these blister packs down, drill some holes in a board, use another one for a press, pop all these pills through and they rattle down into the vat below, and they can quickly remove from the blister packs thousands of these pills and turn them into an ounce of methamphetamines.

So between Iowa's method of less than 100 per pack, now we have 96; between Congress's method of they will all be in blister packs, which these are, Mr. Speaker, and all of them that we can purchase today are, it did not slow the meth cooks down very much, if at all. It made it a little bit inconvenient, but it did not really raise the cost of their transaction.

So here we are, we are back on the floor of this Congress today, tomorrow, perhaps the next day; and part of that time we will spend debating how we are going to control methamphetamines in this country.

I will tell you that this is a bipartisan effort. We have the Meth Caucus that is really headed up by the gentleman from Indiana (Mr. SOUDER). He is one of the four formal leaders there and I would say the most active and the most effective of them. They all deserve credit.

We put together legislation that I was part of back in the early part of this session called the Meth Lab Eradication Act, but the Combat Meth bill is part of this. It is a foundation for a bill that has been brought by Chairman SENSENBRENNER of the Judiciary Committee. They have added to it, made some changes, and taken input from some other areas.

So here we are functioning in the fashion that was envisioned by our Founders when they established this Congress and our Constitution, and we are listening from all over the country. But we come to this: we have toughened penalties, we have done a number of things that are all logical and rational, and I support all of those changes that are in there in the overall meth legislation. Yet, when we come to the piece that is designed to remove the meth precursors from the shelves so that the meth cooks cannot get at it, we have not done enough.

So the proposal that is before this Congress that seeks to remove these kinds of products from the hands of the people that are out there producing methamphetamines, sometimes cooking it, sometimes using other methods, it all takes pseudoephedrine of some kind or a precursor, ephedrine, pseudoephedrine or PPA.

□ 1900

The legislation that is here, I am going to argue, does not do enough. First I want to describe, what does Iowa do? Iowa has this long history of methamphetamines; Iowa has struggled with this for a long time. Iowa is in the corn belt and has anhydrous ammonia readily available almost everywhere.

Iowa, like every place in the country, has had Sudafed and those precursors readily available, almost everywhere, convenience stores, grocery stores and pharmacies. They have struggled with this, gotten it wrong in the past; the package in 1996 did not do much good, just like Congress has struggled with this; a blister pack does not do much good.

So what we have done for more than a year, we have done the research, examined this, we have interviewed retailers, convenience store owners, pharmacists, pharmaceutical companies, meth lab cooks, meth addicts, the law enforcement people, the drug czar in Iowa, put our heads together, churned this legislation through.

A retired highway patrolman, who has been 10 years or more in the Iowa House of Representatives, Trooper Clel Baudler did a lot of work to put together the language in Iowa so that we could provide the medication for the legitimate use, that it absolutely has a legitimate use, so that a mother could have a sick child, run to the convenience store, the grocery store, pick up enough medication to just supply the need.

We had enough medication on the shelf that we are supplying an inventory for a meth cook. With all this work that was done by a team in Iowa, they passed this legislation through. After a long period of work, it was passed March 22 of this year. The Governor signed it into law.

Again, this is bipartisan legislation. Since that period of time, I want to point out the success in addressing the meth labs in Iowa.

I would say here, the taller, the brighter color, is the numbers of meth labs per month that were busted by our drug enforcement teams and our law enforcement officers all across Iowa. 2004, we are up there: 142 for January; 122 for February; 299 meth labs busted in Iowa in March of 2004; then it went down to 213 in April; and in May, the number dropped down to 16.

You can see there is a little seasonal cycle to this, where in the summertime, the meth lab numbers, at least those that are busted, go down, even in 2004, 92 in July; 79, August; 68 in September. By the time October came around, of 2004, the number of meth labs busted jumped back up to 114. November of 2004, 130; December, 110. So you can kind of see the pattern that there is a little seasonal cycle here. Yet we have hundreds and hundreds of meth labs that we had to go in and take down and clean up and pay the clean-up costs, the environmental costs, the risks and the risks to children that we have there.

So this history goes back a number of years prior to 2004, and they looked at this history and determined that we want to do something about this. We want to end, we want to eradicate meth labs in Iowa; we want to eradicate meth labs in the United States of America.

So the legislation came forward, having had input from most everyone involved.

Mr. Speaker, the legislation was put together in Iowa, having taken input from all these other areas and weighed everything. They sat down, talked to the retailers, the pharmacists, the pharmaceutical companies, the consumers and came up with this proposal. The proposal was this: Let us reduce the amount of precursors, the Sudafed, we will call it, the pseudoephedrine, that can be available on the shelf easily at the grocery store, convenience store, at a normal outlet.

Let us set an amount there that is going to raise the transaction costs for the meth cook so that he cannot stop in at enough places and buy enough precursor to come home and produce himself, I will say, an ounce of meth. We have to make it so it is no longer practical to do that.

What we did was we passed a law in Iowa that says, you can buy a daily limit of 360 milligrams of pseudoephedrine, 360 milligrams. Here is an example of it. They just began packaging it in 360-milligram packages. That is 12 gel caps, another distinction. When you use the gel, it takes almost twice as much gel to produce the same amount of meth as it does the powder or the starch-based pills.

So the inconvenience of a gel, I don't know if you can really measure that. You take a gel cap or you take a pill. It is kind of inconsequential as to what you prefer. I can tell you the meth-based cooks prefer the starch-based pills far more than they do the liquid gel caps we have here. So we say, anywhere in retail, you can buy in a day anywhere from 360 milligrams of gel only.

So, for example, if a meth cook wanted to go out and produce an ounce of methamphetamine, you can go to 380 retail stops and those 380 retail stops, buy a package of this everywhere. When you get done, you can come back with 380 packages of this, that times 12 would be the number of pills that he would have to have in order to cook, produce an ounce of meth, 380 stops.

Well, that made it a little difficult for the meth cooks to be able to run around and make 380 stops and produce enough meth that paid for them to be able to do that. The results are clear. They are here in my chart.

Mr. Speaker, this is in blue; this is 2005 compared to the green from 2004. This is under the old law that said under 100 pills, and no other real restrictions on that: January, 81 meth labs busted; February, 27, actually, more than 2004; in March, down to 185, less than 2004, but still a high, high number of meth labs; April, 146, still a high number. You can see enforcement is making a difference.

But we get to this point where the bill was enacted on, actually, the first day of June, past year. March 22, the message went out that said these precursors are going to come off the shelf in large quantities, meanwhile, while we let mom go in and get 360 milligrams in a package. When that happened, the inventory began to be reduced on the shelves in Iowa.

By the time we got to the day of the bill's enactment when it had to be off the shelf, except in compliance with these smaller packages, then we saw the meth labs go up from 116, from the year before, down to 42, Mr. Speaker, a significant difference the first day that bill was enacted into law. The following month, it went down from 42 to 29; July, 25 meth labs; August, only 12; September, only 12; October, only 10.

That is the end of my statistics, but my statistics work out to be this: An 80 percent reduction in the number of meth labs in Iowa. An 80 percent reduction. That means 1,011 fewer meth labs in this 5-month period of time that we have experienced now under the new Iowa law.

You think, boy, what would not be worth it to achieve those kinds of results? How much meth came out of the hands of the addicts? What difference did that make in the lives and the lifestyles of the people that are the addicts and the people that have to live around them? We can compare this number, 1,011 fewer meth labs, 80 percent reduction in meth labs, down to around 10 a month or before we were doing 114 that same month. Who knows what it is going to be like for November, December.

By the time we come around here to January, February or March, I think we see this number way down here or maybe perhaps even in the peak month, it was 229 labs that were busted in 2004, 185 in 2005. I think we see a number down here to around 10 or fewer. But we still have a problem.

Mr. Speaker, we have a problem, because these meth precursors, this pseudoephedrine that is available, is available on the shelves of some of our surrounding States. That allows the meth cooks to drive across the river, across the border, go to the store, buy a big sack of it and bring it back home and then sit there and cook up meth for a while.

I think that these remaining labs that we have here, these 25, 12, 10 and 10 per month that we are busting now, and those that we are not uncovering because we do not have 100 percent enforcement in Iowa. I wish we did, but we do not. I think they are being supplied by the surrounding States that do not have a law that produces this kind of result. Mr. Speaker, this has been recognized. Illinois has adopted a law that is very, very close to that of Iowa.

Oregon has a law that simply requires a prescription in order to purchase anything that has pseudoephedrine in it. Oklahoma has a pretty good law. There are some States out there that made some changes in this language. But what I want to do is have a law that gets this job done. I do not want to come back to Congress 1 year, 2 years, or heaven forbid, 10 years from now and put the fix in place of the things like we did in 1995 when we said, surely a meth cook will not go to all this work to pop a pseudoephedrine out of a blister pack, or if you put it in a package under 100, that is too much trouble to screw the cap off a bottle of 96 or 99. These people are resourceful. We have to raise their transaction costs.

Mr. Speaker, my point is this, if you go to a retail stop and you are a meth cook, and you want to do an ounce of meth, you do 380 stops to get these, times 380 gets you enough to open up all of these caplets and turn it into an ounce of meth.

But under the proposal that is before us today, and this Congress, it allows for 3.6 grams a day rather than 360 milligrams, Mr. Speaker. I would point out the difference. The difference is 10 to 1. I have it just stacked up here, this is, if it does not explode in my hands, this represents 3.6 grams of methamphetamines, a typical purchase-size package that you would have.

Under the Federal law that may pass here tomorrow or the next day, one could go to a store and purchase this anywhere in a retail outlet, grocery store, a convenience, Wal-Mart, wherever it might be, and walk away with this much in one's hands. That is a daily purchase rate.

Now, that is not enough to really bother to fire up the old meth cooker, but it is enough to get one-nineteenth of an ounce, and it would allow an individual then to make 18 other stops around the retail establishments. Yes, they have to sign the book. I am glad they do. They have to show their identification. I am glad they do.

These people are breaking the law regularly. They are not going to be concerned about lying when they sign their name or the fact that we are not able to index other retail establishments so that those 19 are not going to be checking the other 18 records. Neither is law enforcement going to be able to have the resources to do that.

We will just go back on that. If we catch somebody with a truckload of this, then we will say, where did you buy it? We will find out they violated our new law. What we want to do is we want to raise the transaction costs. This meth cook can go 19 stops, get this much legally at every stop, come back home, make an ounce of methamphetamine out of that. By the way, he can buy the starch-based powder as opposed to the requirement for the gel that I have spoken about.

Nineteen stops, an ounce of meth. He can probably do that in a couple of hours, come back home and cook a batch of meth. An ounce of meth is enough to last an average addict 90 days.

The other 89 days he can continue to go out and do the same thing and continue to sell the meth. That is the result we are going to have. Or you can have three people join together. They will go around, have six stops, come back with 18 times this amount, make 1 ounce of meth and then that is good enough for each of those three addicts for a month. There will be an ounce of that meth. Yes, it will be a month.

It is about a 90-day supply for one. 30-day supply for each of the other three.

Then he will have 29 days to go out there and do this for a profit.

Mr. Speaker, I do not want this Congress to be short. I do not want a solution that seems to be a solution that retailers and pharmaceutical companies agree to, but not one that is going to inconvenience and raise the transaction costs adequately for the meth cooks. I want to get this done. I want to get it done right. I want to honor the work done by the meth caucus here, all the serious work of people who put up vote after vote after vote. I will recognize it through the appropriations process.

When there was amendment after amendment that came to this floor that struck a blow against methamphetamines, I saw people on both sides of this aisle stand up and put up that vote regularly and consistently. There is a real conviction in this Congress to get this right. Sometimes we have a little trouble being able to get down into the depths of the details in order to get it right.

One of the individuals who has provided that kind of background, that kind of knowledge, who has been one of the leaders here when we introduce one of our friends and colleagues, but this time I am going to say that I am introducing the leader of this meth effort in the United States Congress, the gentleman from Indiana (Mr. SOUDER) who is the chairman of the meth caucus.

Mr. SOUDER. Mr. Speaker, I thank the gentleman from Iowa (Mr. KING) for being such a passionate and aggressive and steadfast leader and part of the meth caucus, not only back home, but out here in Washington, that has been able to help us make a lot of progress.

What I wanted to do, and take some time here, is lay out a little bit of the history of how we got to where we are. I felt probably the simplest way to do that would be that I chair the Narcotics Subcommittee over in Government Reform where Speaker HASTERT chaired and the gentleman from Florida (Mr. MICA).

The former Congressman Ose had come to the committee when the gentleman from Florida (Mr. MICA) was chair and talked about the super lab problem in California and that it led to the death of a young child. It eventually led to the child endangerment laws in California that have been patterned elsewhere.

□ 1915

Then when I became chairman starting in 2001, we focused a lot on the southwest border. But we held our first hearing on 7/12/2001 with the DEA, with Ron Brooks, who is the national chairman of the National Narcotics Association, with a sheriff from Indiana, a police chief from California, and a sheriff in Washington State, and then a public affairs director, Susan Rook, who used to be with CNN.

Then it was 7/18/2003 when we really started to focus in on methamphetamines. After we had looked at the borders and tackled that for a 2-year cycle, we came back on meth. The gentleman from Arkansas (Mr. BOOZMAN) and the gentleman from Hawaii (Mr. CASE) had both been hard hit and testified, as well as DEA and ONDCP. And then Captain Kelly, the commander of the narcotics division in Sacramento who had been instrumental in the early superlab efforts in California as well as the chief of police in Vancouver, Washington, and the sheriff in Clark County, Washington.

Then we went into the field hearing in my own district, along with the gentleman from Indiana (Mr. CHOCOLA), where we had ONDCP come out and DEA as we usually do at field hearings. We heard from Curtis Hill, the prosecutor in Elkhart County, his chief investigator Bill Wargo, the Starke County detective, Corporal Tony Ciriello from Kosciusko County, and multiple other prosecutors and people in local law enforcement.

Then we moved up to Detroit. At Detroit on 4/20/2004 our hearing was "Northern Ice: Stopping Methamphetamine Precursor Chemical Smuggling Across the U.S.-Canada Border." We had the director of the High Intensity Drug Trafficking Area in Detroit, as well as the Homeland Security, U.S. Immigration and Customs Enforcement person, a special agent in charge of DEA, and the U.S. Customs and Border Protection person in charge of Detroit.

In Detroit they had brought down a pseudoephedrine ring that was supplying at that time 40 percent of the illegal pseudoephedrine coming into the United States. It was the biggest bust in American history and dried up much of the quantity of pseudoephedrine that was coming in. It is still the kind of gold plate standard of what has happened on the north border. Of course this moved a lot to the south border then and to the Internet.

The next hearing we held was 6/28/2004, "Ice In The Ozarks: The Methamphetamine Epidemic in Arkansas." We held this at the request of the gentleman from Arkansas (Mr. BOOZMAN). There we had the DEA, the U.S. Attorney, and the EPA, and then local people from the State drug director. We heard from the drug court about a very innovative program there. We had people from trucking, from children and policy, from drug treatment places.

But the thing that highlighted northwest Arkansas is People Magazine did a story on a small town near there where 70-some percent of the people were addicted. They were people in the medical field, the law enforcement field, school teachers. It started like normal out-in a mom-and-pop, fairly isolated individuals, and spread as meth tends to do into this whole town and grabbed it. And People Magazine did an incredible story.

I will insert in the RECORD a list of subcommittee hearings at this point:

SUBCOMMITTEE METH HEARINGS SINCE 2001

(** indicates a field hearing)

07/12/01 "EMERGING THREATS: METHAMPHETAMINES" (DC)

Panel I

Joseph D. Keefe, Chief of Operations, Drug Enforcement Administration

Panel II

Ron Brooks, Chairman, National Narcotic Officers Associations Coalition

Doug Dukes, Sheriff, and Doug Harp, Deputy Sheriff, Noble County, Indiana

Henry Serrano, Chief of Police, Citrus Heights, California

John McCroskey, Sheriff, Louis County, Washington

Panel III

Susan Rook, Public Affairs Director, Step One

7/18/03 FACING THE METHAMPHETAMINE PROBLEM IN AMERICA (DC)

Panel I

Representative John Boozman

Representative Ed Case

Panel II

Mr. Roger E. Guevara, Chief of Operations, Drug Enforcement Administration

Mr. John C. Horton, Associate Deputy Director for State and Local Affairs, Office of National Drug Control Policy

Panel III

Captain William Kelly, Commander, Narcotics Division, Sacramento County Sheriff's Department

Mr. Brian J. Martinek, Chief, Vancouver, Washington Police Department

Sheriff Garry E. Lucas, Clark County, Washington Sheriff's Office

**2/6/04 FIGHTING METHAMPHETAMINE IN THE HEARTLAND: HOW CAN THE FEDERAL GOVERNMENT ASSIST STATE AND LOCAL EFFORTS? (FIELD HEARING IN ELKHART, IN)

Panel I

Mr. Scott Burns, Deputy Director for State and Local Affairs, Office of National Drug Control Policy

Mr. Armand McClintock, Assistant Special Agent in Charge, Indianapolis, Indiana District Office, Drug Enforcement Administration

Panel II

Mr. Melvin Carraway, Superintendent, Indiana State Police

Mr. Curtis T. Hill, Jr., Prosecuting Attorney, Elkhart County Prosecuting Attorney's Office

Mr. Bill Wargo, Chief Investigator, Elkhart County Prosecuting Attorney's Office

Detective Daniel Anderson, Starke County Sheriffs Department

Corporal Tony Ciriello, Kosciusko County Sheriffs Department

Panel III

Mr. Kevin Enyeart, Cass County Prosecutor

Mr. Doug Harp, Chief Deputy, Noble County Sheriffs Office

Sergeant Jeff Schnepp, Logansport-Cass County Drug Task Force

Mr. Brian Connor, Acting Executive Director, The Center for the Homeless, South Bend

Mr. Barry Humble, Executive Director, Drug & Alcohol Consortium of Allen County

Mr. Benjamin Martin, Serenity House, Inc.

**4/20/04 "NORTHERN ICE: STOPPING METHAMPHETAMINE PRECURSOR CHEMICAL SMUGGLING ACROSS THE U.S.-CANADA BORDER" (FIELD HEARING IN DETROIT, MI)

Mr. Abraham L. Azzam, Director, Southeast Michigan High Intensity Drug Trafficking Area, Office of National Drug Control Policy

Mr. Michael Hodzen, Interim Special Agent in Charge, Detroit, U.S. Immigration and Customs Enforcement, Department of Homeland Security

Mr. John Arvanitis, Acting Special Agent in Charge, Detroit Field Division, Drug Enforcement Administration

Mr. Kevin Weeks, Director, Field Operations, Detroit Field Office, U.S. Customs and Border Protection, Department of Homeland Security

**6/28/04 "ICE IN THE OZARKS: THE METHAMPHETAMINE EPIDEMIC IN ARKANSAS" (FIELD HEARING IN BENTONVILLE, AR)

Panel I

Mr. William J. Bryant, Assistant Special Agent in Charge, Little Rock, Arkansas Office (New Orleans Field Division), Drug Enforcement Administration

Mr. William M. Cromwell, Acting United States Attorney, Western District of Arkansas

Mr. James MacDonald, Federal On Scene Coordinator, Region 7, U.S. Environmental Protection Agency

Panel II

Mr. Keith Rutledge, State Drug Director, Office of the Governor of Arkansas

The Honorable David Hudson, Sebastian County Judge

Mr. J.R. Howard, Executive Director, Arkansas State Crime Lab

Ms. Shirley Louie, M.S., CIH, Environmental Epidemiology Supervisor, Arkansas Department of Health

Sheriff Danny Hickman, Boone County Sheriff's Office

Mr. David Gibbons, Prosecuting Attorney, 5th Judicial District

Panel III

The Honorable Mary Ann Gunn, Circuit Judge, Fourth Judicial District, Fourth Division

Mr. Larry Counts, Director, Decision Point Drug Treatment Facility

Mr. Bob Dufour, RPH, Director of Professional and Government Relations, Wal-Mart Stores, Inc.

Mr. Greg Hoggatt, Director, Drug Free Rogers-Lowell

Mr. Lane Kidd, President, Arkansas Trucking Association

Dr. Merlin D. Leach, Executive Director, Center for Children & Public Policy

Mr. Michael Pyle

**8/2/04 "THE POISONING OF PARADISE: CRYSTAL METHAMPHETAMINE IN HAWAII" (FIELD HEARING IN KAILUA-KONA, HAWAII)

Panel I

The Honorable James R. Aiona, Jr., Lieutenant Governor, State of Hawaii

Mr. Larry D. Burnett, Director, Hawaii High Intensity Drug Trafficking Area, Office of National Drug Control Policy

Mr. Charles Goodwin, Special Agent in Charge, Honolulu Office, Federal Bureau of Investigation

Mr. Briane Grey, Assistant Special Agent in Charge, Honolulu Office (Los Angeles Field Division), Drug Enforcement Administration

Panel II

The Honorable Harry Kim, Mayor, County of Hawaii

Mr. Keith Kamita, Chief, Narcotics Enforcement Division, Hawaii Department of Public Safety

Lawrence K. Mahuna, Police Chief, Hawaii County Police Department

Mr. Richard Botti, Executive Director, Hawaii Food Industry Association

Panel III

Dr. Kevin Kunz, Kona Addiction Services

Mr. Wesley Margheim, Big Island Substance Abuse Council

Mr. Alan Salavea, Hawaii County Prosecutor's Office, Youth Builders

Dr. Jamal Wasan, Lokahi Treatment Program

11/18/04 "LAW ENFORCEMENT AND THE FIGHT AGAINST METHAMPHETAMINE" (DC)

Panel I

Hon. Scott Burns, Deputy Director, State and Local Affairs, Office of National Drug Control Policy

Mr. Domingo S. Herraiz, Director, Bureau of Justice Assistance, Office of Justice Programs, U.S. Department of Justice

Mr. Joseph Rannazzisi, Deputy Chief, Office of Enforcement, Drug Enforcement Administration

Panel II

Mr. Lonnie Wright, Director, Oklahoma Bureau of Narcotics and Dangerous Drugs

Sheriff Steve Bundy, Rice County (Kansas) Sheriffs Department

Lt. George E. Colby, Division Commander/Project Director, Allen County Drug Task Force, Allen County (Indiana) Sheriffs Department

Mr. Joseph Heerens, Senior Vice President, Government Affairs, Marsh Supermarkets, Inc., on behalf of the Food Marketing Institute

Dr Linda Suydam, President, Consumer Healthcare Products Association

Ms. Mary Ann Wagner, Vice President, Pharmacy Regulatory Affairs, National Association of Chain Drug Stores

**6/27/05 "FIGHTING METH IN AMERICA'S HEARTLAND: ASSESSING FEDERAL, STATE, AND LOCAL EFFORTS" (FIELD HEARING IN ST. PAUL, MN)

Panel I

Mr. Timothy Ogden, Associate Special Agent in Charge, Chicago Field Division, Drug Enforcement Administration

The Honorable Julie Rosen, Minnesota State Senator

Sheriff Terese Amazi, Mower County Sheriffs Office

Sheriff Brad Gerhardt, Martin County Sheriffs Office

Lt. Todd Hoffman, Wright County Sheriffs Office

Ms. Susan Gaertner, Ramsey County Attorney

Panel II

Commissioner Michael Campion, Minnesota Department of Public Safety

Mr. Bob Bushman, Senior Special Agent, Minnesota Bureau of Criminal Apprehension; President, Minnesota State Association of Narcotics Investigators; and President, Minnesota Police and Peace Officers' Association

Mr. Dennis D. Miller, Drug Court Coordinator, Hennepin County Department of Community Corrections

Ms. Kirsten Lindbloom, Social Program Specialist, Parenting Resource Center; Coordinator, Mower County Chemical Health Coalition

Mr. Buzz Anderson, President, Minnesota Retailers Association

7/26/05 "FIGHTING METH IN AMERICA'S HEARTLAND: ASSESSING THE IMPACT ON LOCAL LAW ENFORCEMENT AND CHILD WELFARE AGENCIES" (DC)

Panel I

Hon. Scott Burns, Deputy Director for State and Local Affairs, Office of National Drug Control Policy

Joseph Rannazzisi, Deputy Chief, Office of Enforcement, Drug Enforcement Administration

Laura Birkmeyer, Assistant U.S. Attorney, San Diego, CA; and Chairperson, National Alliance for Drug Endangered Children

Panel II

Nancy K. Young, Ph.D., Director, National Center on Substance Abuse and Child Welfare; and Director, Children and Family Futures

Valerie Brown, National Association of Counties

Freida S. Baker, Deputy Director, Family and Children's Services, Alabama Department of Human Resources

Chief Deputy Phil Byers, Rutherford County Sheriffs Office (NC)

Sylvia Deporto, Deputy Director, Riverside County Children's Services (CA)

Betsy Dunn, Investigator, Peer Supervisor, Tennessee Department of Children's Services, Child Protective Services Division

Chief Don Owens, Titusville Police Department (PA)

Sheriff Mark Shook, Watauga County Sheriffs Department (NC)

**8/23/05 "LAW ENFORCEMENT AND THE FIGHT AGAINST METHAMPHETAMINE: IMPROVING FEDERAL, STATE, AND LOCAL EFFORTS" (FIELD HEARING IN WILMINGTON, OH)

Panel I

Gary W. Oetjen, Assistant Special Agent in Charge, Louisville, Kentucky District Office, Drug Enforcement Administration

John Sommer, Director, Ohio High Intensity Drug Trafficking Area (HIDTA)

Panel II

Sheriff Ralph Fizer, Jr., Clinton County Sheriff

Sheriff Tom Ariss, Warren County Sheriff

Sheriff Dave Vore, Montgomery County Sheriff

Commander John Burke, Greater Warren County Drug Task Force

Jim Grandey, Esq., Highland County Prosecutor

**10/14/05 "STOPPING THE METHAMPHETAMINE EPIDEMIC: LESSONS FROM THE PACIFIC NORTHWEST" (FIELD HEARING IN PENDLETON, OR)

Panel I

Rodney G. Benson, Special Agent in Charge, Seattle Field Division, Drug Enforcement Administration

Chuck Karl, Director, Oregon High Intensity Drug Trafficking Area (HIDTA)

Dave Rodriguez, Director, Northwest High Intensity Drug Trafficking Area (HIDTA)

Panel II

Karen Ashbeck, mother and grandmother of recovering methamphetamine addicts

Sheriff John Trumbo, Umatilla County Sheriff's Office

Sheriff Tim Evinger, Klamath County Sheriff's Office

Rick Jones, Choices Counseling Center

Kaleen Deatherage, Director of Public Policy, Oregon Partnership—Governor's Meth Task Force

Tammy Baney, Chair, Deschutes County Commission on Children and Families

Shawn Miller, Oregon Grocery Association

If I can digress here from what I wanted to do here, I will lay out that meth first really, crystal meth has been in Hawaii for a long time. It is the longest study pattern that we have. Then we saw the superlabs in California and Oregon and Washington were early on. Then we saw in the Ozarks area, spreading through the kind of plains States of Iowa, Nebraska, Kansas, Missouri, Arkansas and into Oklahoma. Then it started to go both east and west from there. Still mostly in small towns and rural areas, still heavily where there are national forests and open lands, and started to push into Colorado, Wyoming, up into Montana, Dakota and simultaneously towards Indiana, Tennessee, Kentucky.

Only now is it starting to reach further into the Deep South, into Titusville, Pennsylvania and a little into Upstate New York. It has basically been a Western and Great Plains phenomenon filling out gradually, and even as we were dealing with June of last year, minimal in any urban area, even in my home State.

Then in 8/2/04 then we went to "Poisoning in Paradise: Crystal Meth in Hawaii." There we had the lieutenant governor who has been aggressive with this. The gentleman from Hawaii (Mr. CASE) hosted this hearing. I was chair, but he was the Member host. We had multiple people we also met not only on the Big Island but over in Maui there with a separate group of individuals. And there they have some of the only 10- and 15-year addiction studies on meth and showing how much of a problem this is.

In Honolulu while I was there, there was an announcement in the paper that one apartment complex, you would have to pay a fumigation fee coming in because so many were cooking inside the city of Honolulu that it was dangerous. If you rented the apartment, the fumes could be consumed by the kids in the apartment.

Then on 11/18/2004 we had "Law Enforcement and the Fight Against Methamphetamine" where we came back to D.C. In D.C., like we had earlier, we had Oklahoma back to report on the pseudoephedrine control law in Oklahoma. We first heard from them approximately 2 years before that.

We had the Kansas sheriff from Rice County. We had George Colby from my home area. We also had representatives of the health care industry, pharmacy, and the supermarket industry who were already starting to express concerns about some of the State laws and things that Mr. KING was already addressing.

Then in June of this year, we held a hearing, "Fighting Meth in America's Heartlands: Assessing Federal, State, and Local Efforts," a field hearing in St. Paul, Minnesota. The extraordinary thing about this particular hearing was this was the first time we were documenting heavy movement of methamphetamines into major urban areas. At this point, the mom-and-pop labs, and I am going to digress here for a second, and we have talked about this before, but I think it is important to have it in the RECORD at this point.

Mom-and-pop labs, or Nazi labs, or however we want to describe the kind of home cookers, are usually different than other drug addiction. You usually have two people involved. It is not like alcohol where often there is an alcoholic and an enabler. The whole family gets involved in it. Sometimes they even get their kids caught up in this. These cookers basically supply for themselves, maybe two or three other people, just enough to fund their habit. Particularly if they lost their job, they start to expand and cook just a little bit more.

But it is the incredible law enforcement problem in the United States because these mom-and-pop labs, we had a fire in a mobile home, I think it is now 2 to 4 weeks ago, in my hometown of Fort Wayne, Indiana. The local fire chief was describing to me how they went in. They did not know it was caused by a cooker because they had not had a home cooker in the city of Fort Wayne, which is 230,000. It had been more of a problem in the rural areas, places on fire.

They could have easily had anhydrous ammonia or something else in there which would have just torched the whole fire department going in, not to mention the chemical and toxic fumes. In this case, they figured out quick enough what was happening there. There was a death, not of the firemen, but of one of the individuals who lived there.

Indianapolis had their first case in the Indianapolis area of a similar-type fire just a few days ago. So we are starting to see in Indiana now after a number of years starting to move into the urban areas. But these mom-and-pop labs are 8,000 of the 8,300 seized in 2001, the last data that are compared. So you are looking at about 90 percent of the labs in the United States that are seized are mom-and-pop so-called home-user labs, whereas crystal meth, the superlabs represent only 4 percent but represent 67 percent of meth consumption in the United States.

But that is not the problem in most of our areas, because in Indiana and in Iowa we are not dealing with superlabs. So our local police force is having to pay overtime. Often they go to this site that may only be supplying three people. They are tied up there. First they have to wait until once they realize it is a lab, if they do not have the equipment, they have to get somebody in who comes in with equipment. At that point, and they also find more guns, more children in danger that you have to come in.

So they come into the site and then after they get the site secure, they then have to call the DEA to the environmental cleanup. The DEA does this. We budget for this through our programs here, but nevertheless it is a tremendous environmental cleanup cost. And probably a typical, and I imagine it is similar in Iowa, in my district it is 4 to 6 hours that the local drug task force is tied up, basically. While hundreds of people are running around abusing drugs in the area in many ways, the law enforcement are tied up at one house trying to deal with one to three people.

So, understandably, they are very upset and the costs and social costs are high on these mini-labs as opposed to a mom-and-pop. Now let me give you an idea. A typical user meth lab, a mom-and-pop, Nazi lab, can basically make a maximum of 280 doses. That is the maximum a mom-and-pop lab user makes.

A superlab makes a minimum of 100,000 to a million doses in a run. And it is purer and cheaper. So we have two problems that are somewhat different from each other.

Now, when we came into Minneapolis where I was in St. Paul, we had representatives from counties to southeast of Minneapolis, southwest of Minneapolis, and north of Minneapolis. That is the standard pattern that we see typically in a rural area, near a national forest or isolated areas or woods where people go out and hunt. They stumble across the labs. They get away from the population centers.

What we had not seen was a deputy prosecutor in St. Paul, Ramsey County, if you take Minneapolis and St. Paul you have about a million and a quarter on each side of the city and the suburbs. On the St. Paul side, she reported that approximately 80 percent of the kids in child custody were because of meth cases. That had been a standing start from 8 months before. It went from zero to 80 percent. Yet, they only had one lab. Crystal meth had hit St. Paul.

On the Minneapolis side, they had much less of a problem. But in that case, one gang in the city and most African American gangs in the big cities will have a cocaine, heroine, and hydroponic marijuana trafficking program; and they had switched over to meth. So all of the sudden this one gang switching in one neighborhood all of the sudden meant that 40 percent of their arrests soared to meth. Whereas, for example, in Elkhart, Indiana, 90 percent of the people in jail right now are meth-related.

So when you have your community get hit, it switches and it switches overnight. And here we have two major metropolitan areas.

Now, the gentleman from Nebraska (Mr. TERRY), a member of our caucus, has said that it has hit Omaha as well. Then we moved down to a hearing over in my neighboring State of Ohio with the gentleman from Ohio (Mr. TURNER), and we held it in a small town of Wilmington, which had been fairly hard hit. And Wilmington is in between Cincinnati and Dayton, two bigger cities.

While we were there in Wilmington we had TV there from both of the major markets, which in itself shows an increasing interest in the United States, because they do not usually go to small towns to cover anything. While we were having the hearing, the City of Dayton had their first bust. They had some before in the suburbs but in the city. And there they found a string of seven houses, I believe it was, where the mom-and-pop labs had connected together so the smell did not permeate around, which is what we are starting to see in some of the urban areas, a clustering like they do when they do these hydroponic grows of marijuana that we see.

That was an interesting thing, to watch it spread into the city of Dayton even as we were watching our hearing, because that was another city being hit.

Then we had another hearing in Washington, picking up and once again reviewing what we have been picking up in the field. And then our last hearing that we had was out in Pendleton, Oregon at the request of the gentleman from Oregon (Mr. WALDEN) and in his district.

Now, there we studied more the Pacific Northwest. We had DEA and the HIDA areas come down from Seattle as well as from Portland. Now, Seattle is famous more for heroine and hydroponic marijuana coming down from British Columbia, but they have had an increase too in meth. But the city of Portland has been overrun.

Now, the reason I wanted to go through that is what we are seeing and the reason our meth caucus has been so concerned and the reason we are pushing for national legislation is this is a drug where we now have a history of watching the pattern. We can see the pattern starts with mom-and-pop labs, and then you can usually get some control over that and it move to crystal meth. We see it start in rural areas, often around forests and fairly isolated areas, moving into the small towns. And then it comes in and mashes the cities, usually with a mix of crystal meth and some mom-and-pop labs. This has been a steady march, and it has been going on for years. We can see it coming. The question is where has the national strategy been?

Now, I believe that we have finally reached an agreement to get control of the pseudoephedrine. Let me step back. We can talk about trying to control it at each grocery store and pharmacy. But there are only nine places in the entire world that make the pseudoephedrine. Yet we have minimal tracking. We can check the raw pseudoephedrine, but we do not have an international way of checking the pills. We are working with the United Nations to try to track the pills.

Secondly, almost all the pseudoephedrine that is coming in in excess capacity is coming in through the Mexican border. So the legislation that we are trying to get adopted in the near future will have a better tracking mechanism that would hold the countries of China, India, and Mexico accountable for continuing to work with us and to help develop better reporting.

It will also try to get at EPA questions of how we deal with cleanup. It will try to get into regulating because our problem when we work at this, we need laws like Iowa and Missouri. We need laws like Indiana where it is behind the counter.

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We need the daily limit. We need the monthly limit. We need the logbooks. While it may not completely deter individuals, because it is difficult to check, the fact is, as you make a bust, you can go back and see where the person is. As it gets out we are checking that, we also are lowering the threshold for drug kingpins because meth is a different type of thing. You can go back through those books and realize that signing the logbooks does, in fact, do that. We are also going to train it, and we are going to move to that, and we also need a better wholesale regulation system.

This has been a difficult process to work through because States like New York or New York City, we are now going to regulate the sale of pseudoephedrine, even though they have no meth. We are going to regulate the pseudoephedrine in Boston, even though they have no meth problem. It was a difficult process, and I appreciate our leadership, the Senate leadership, Senator TALENT and Senator FEINSTEIN, the leadership of the gentleman from Missouri (Mr. BLUNT), acting leader, and the leadership of the Energy and Commerce chairman, his willingness to work through this, because I think by working together we have as strong a bill as we can get nationally.

We also heard in Oregon, and this is one of the things that we learn in drugs, we just have to make it as difficult as possible. We have our first major case because Oregon has a tough law. They have been going to the Internet, and they are ordering the pseudoephedrine pills on the Internet. We are going to have to work long-term with FedEx, with UPS, with the other companies in distribution to track that.

One last comment, I really want to thank the Partnership for a Drug-Free America and their new meth campaign. I want to encourage Members of the House: they are willing to give these ads, both the TV, as well as developing radio, billboard and newspaper ads, to any Member of Congress who wants to work in his district to get this up on the air.

We need to take leadership ourselves and not just point out everybody else and say, we are going to get involved like the gentleman from Kentucky (Mr. ROGERS) did, like former Congressman Portman did in Cincinnati. More of us actually need to take the leadership, and so we need our local TV, radio, billboard and newspaper companies to get in front of this, to work with us. We need to use our offices to do it.

Partnership has a prevention campaign because ultimately we are going to try to regulate this stuff. We are going to try to lock the people up, but we have got to win the hearts and minds in prevention. We have got to explain to our kids. It is there in the workplace. We need our employers to drug test because many people use this as an amphetamine to try and stay awake longer, and so we need the employers to drug test, and we need to have better treatment programs and better research on how to deal with meth. If we work these things, plus the law enforcement, we will have long-term changes, not just short-term bumps based on them readjusting at our law enforcement.

I believe this bill will buy us 2 years until they adjust to the strategy. Meanwhile, we need to get our prevention and strategy and workplace programs in effect, too.

I thank the gentleman for yielding and thank him for his leadership.

Mr. KING of Iowa. Mr. Speaker, I thank the gentleman from Indiana. This has been no small task on your part, and I appreciate the chronology and the narratives of the efforts at the hearings across this condition and the history you have brought to the floor of this Congress. I know I have got a fair sense of how much work was done here, but you chronicled it in a way that is broader than I appreciated, and I am glad I have a better perspective of it now.

You pointed out some things that I think need to be explored a little bit further, and the language in there that lowers the threshold for drug kingpins is a plus, and the tracking of the few sources in the world that actually produce pseudoephedrine, ephedrine and PPAs is another important part of this legislation. It is things that have been brought together very thoughtfully, and of course, the gentleman from Missouri (Mr. BLUNT) has been a leader on this, and we rolled up our sleeves and put this language together quite a while back.

I want to point out something else, too, which is the concern, what happens with children when they are brought up in an environment where the ma and pa meth labs are and where the fumes are there replete throughout a connection of homes that these poor children are in this toxic environment?

One of the things that we recognize is a statistic that I did not offer here is that, in that 5-month period of time that we have had our law in place that removes the precursors and makes it a lot harder to find those in Ohio, the number of abused children now has gone down in that 5-month period of time. The cumulative fewer number of children is 455 for the State of Iowa, and if that is one child, it begins to be worth the effort: 455 is an astonishing number and a huge success.

It saved $2.4 million in meth labs cleanup. As the gentleman from Indiana (Mr. SOUDER) mentioned, it is 4 to 6 hours to clean up a meth lab. That is not just a one-person team. It is a multiple-person team. These people are trained. They have to have equipment. They have to have the suits to protect them from the toxic material. When it is all done, then they have to throw that all away and go get new stuff.

So between the manpower and the equipment cost and the time that is there and the logistics, and when you charge that back out, a cost to clean up the lab runs somewhere around $4,000 or more. You can kind of figure about $1,000 an hour, but there is a lot of capital involved in just having the equipment to clean up a meth lab.

What we are after here, and I am sure that, Mr. Speaker, you have to be thinking and a lot of the listeners have to be thinking, well, if you are only going to be addressing 15 percent of the meth problem in Iowa and maybe none of the meth problem in New York or in Boston, what purpose is this to try to eliminate as much as we can of the ma and pa meth labs? The purpose is logical, and it is rational because there will be many fewer children that will be abused in that kind of an environment, for one thing. There will be a lot of money that is saved and a lot of law enforcement time that is saved and a lot of resources that are saved if we do not have these ma and pa meth labs out there.

They are scattered. They are divided. They are diversified. They are hard to find. We cannot get them all. So, if we could get them all cleaned up, what remains in the area I represent is 85 percent of the meth now comes across the border from Mexico. We can turn our resources to that.

I yield to the gentleman from Indiana (Mr. SOUDER).

Mr. SOUDER. Mr. Speaker, the interrelationship between the mom and pop labs and the crystal meth lab is tied together in several ways in the pending legislation.

First off, what the pharmaceutical companies are already preparing to do is come up with non pseudoephedrine products. There will be somewhat fewer choices at grocery stores and pharmacies, but still plenty of choices. Some of those choices may not be as effective, but they will be effective. But the net is they are already taking the pseudoephedrine out which also means there will be less pseudoephedrine to divert towards the superlabs.

So while we are addressing at the pharmacy and grocery store level the mom and pop labs, we are also affecting, because of the changes in the pharmaceutical company industry, which may have been adapting for State level and now are rushing, knowing this bill is about to pass, that we will see an effect on the supermeth, too, in addition, which is probably more like a third, two-thirds in most States, although nobody really knows.

Also, because we are going at the primary sources, this bill will marry the two. In other words, the initial bill that I had drafted, combined with a revised Talent-Feinstein, married together, is going to give us a wall across the country.

I appreciate, and many others like you in these hard hit States appreciate, that this is going to alter behavior patterns in some places where they do not yet have meth. Because of that, children are going to live. Children are not going to be beaten by their parents. They are not going to be abused, and they are not going to have as much problem. Guess what? Meth is coming to a block near you anyway. So this enables us to get in front of the curve, and I know this is going to be difficult in some areas where they have not had meth yet, but the bulk of the States have at least some.

Thirty-five or 37 States are being fairly overrun, and by doing this nationally, we will not hear what you said earlier, is them going to the next State there. But I do believe this will affect not only the ma and pop labs but what you are talking about and what you have been talking about tonight actually helps us with the superlabs as well.

Mr. KING of Iowa. Mr. Speaker, reclaiming my time, you also pointed out something that I think is important when you talked about how we need testing and how we need that as a deterrent.

Traditionally, what we have done with all of our drug enforcement that goes clear back to the heroin days is that we see it from two different ways. One of them is interdiction, and interdiction, you go out on the highway, pull a car over, check to see what they are hauling around, search somebody. When you arrest them, yeah, if they have drugs on them, you take them away from them. You prosecute them. We try to lock some people up in jail. That is the interdiction part of this.

The other side of that is the rehabilitation part, the drug treatment part. Those two things are on opposite wings of the entire problem.

I want to say to the interdiction portion of this, yes, it is important; yes, we need to be aggressive. That is really part of what we are doing. We are trying to take the components of meth out of the hands of the people that make it for one thing and remove some of those components from even overseas on the way that it is funneled through this distribution system that we have, make it harder to access. That is interdiction.

What interdiction does, by definition, when you remove a product, the more successful you are with the interdiction, the higher prices are going to go because this law of supply and demand manifests itself. Another thing that happens is, and I am not particularly concerned about this, is the quality of the drugs will go down because they will be able to sell a lower quality than they can when there is an ample supply for a cheaper price.

So the price of the drug goes up with interdiction because of this law of supply and demand. The quality will go down. In the end, if you only do the interdiction side of this thing, you can reduce that down. If it is hard enough to get, there will be fewer people that are addicted. There will be fewer people that will hand some over to their friend and get them started. It will become a more precious commodity. It will be held together in a smaller group of drug addicts. That is one of the functions that will come from interdiction.

I believe we need to do it, but it is not a solution to it all because on the other side of this is the rehab, the treatment, and meth is one of the hardest things to be successful with the rehab.

I want to at some point ask the gentleman from Indiana what the percentage of success is on rehabilitation and treatment. Do you have some numbers on that?

Mr. SOUDER. Mr. Speaker, there is quite frankly some disagreement in the field. Generally speaking, we figure six to eight times somebody's going to go through drug treatment. Many times they are pressured by a family member, and they did not really make the commitment. If somebody makes an internal commitment you can usually do it in one time.

I would also like to insert into the RECORD at this point the scientific reasons for the effect of meth. I think this will help answer the question. This is a fairly technical document here that comes from a meth report that we are about to release.

SCIENTIFIC REASONS FOR METH EFFECTS

Methamphetamine is a potent central nervous system stimulant that affects the brain by acting on the mechanisms responsible for regulating a class of neurotransmitters known as the biogenic amines or monoamine neurotransmitters. This broad class of neurotransmitters is generally responsible for regulating heart rate, body temperature, blood pressure, appetite, attention, mood and responses associated with alertness or alarm conditions. Although the exact mechanism of action is unknown, it is generally believed that methamphetamine causes the release of these monoamines through the monoamine transporter as well as blocking the re-uptake of these neurotransmitters, causing them to remain within the synaptic cleft longer than otherwise. As in most neurotransmitter chemistry, its effects are adapted by the affected neurons by a decrease in the production of the neurotransmitters being blocked from re-uptake, leading to the tolerance and withdrawal effects. In medicine it is used as an appetite suppressant in treating obesity, treating anesthetic overdose and narcolepsy.

The acute effects of the drug closely resemble the physiological and psychological effects of the fight-or-flight response including increased heart rate and blood pressure, vasoconstriction, pupil dilation, bronchial dilation and increased blood sugar. The person who ingests meth will experience an increased focus and mental alertness and the elimination of the subjective effects of fatigue as well as a decrease in appetite. Many of these effects are broadly interpreted as euphoria or a sense of well-being, intelligence and power.

The 17th edition of The Merck Manual (1999) describes the effects of heavy use of methamphetamines in these terms: "Continued high doses of methamphetamine produce anxiety reactions during which the person is fearful, tremulous, and concerned about his physical well-being; an amphetamine psychosis in which the person misinterprets others' actions, hallucinates, and becomes unrealistically suspicious; an exhaustion syndrome, involving intense fatigue and need for sleep, after the stimulation phase; and a prolonged depression, during which suicide is possible" (p. 1593—ch. 195).

Depending on delivery method and dosage, a dose of methamphetamine will potentially keep the user awake with a feeling of euphoria for periods lasting 2-24 hours.

The acute effects decline as the brain chemistry starts to adapt to the chemical conditions and as the body metabolizes the chemical, leading to a rapid loss of the initial effect and a significant rebound effect as the previously saturated synaptic cleft becomes depleted of the same neurotransmitters that had previously been elevated. Many users then compensate by administering more of the drug to maintain their current state of euphoria and alertness. This process can be repeated many times, often leading to the user remaining awake for days, after which secondary sleep deprivation effects manifest in the user. Classic sleep deprivation effects include irritability, blurred vision, memory lapses, confusion, paranoia, hallucinations, nausea, and (in extreme cases) death. After prolonged use, the meth user will begin to become irritable, most likely due to lack of sleep.

Methamphetamine is reported to attack the immune system, so meth users are often prone to infections of all different kinds, one being an MRSA infection. This, too, may simply be a result of long-term sleep deprivation and/or chronic malnutrition.

It is a common belief that methamphetamine gives people super-human strength. This is not really true, but methamphetamine inhibits pain and increases metabolism, which allows a person to push muscles to points of failure that would otherwise be harder or impossible to reach. (See the article entitled Exercise and Stimulants for a better description of the factors involved.)

Other side effects include twitching, "jitteriness", repetitive behavior (known as "tweaking"), and jaw clenching or teeth grinding. It has been noted anecdotally that methamphetamine addicts lose their teeth abnormally fast; this may be due to the jaw clenching, although heavy meth users also tend to neglect personal hygiene, such as brushing teeth. It is often claimed that smoking methamphetamine speeds this process by leaving a crystalline residue on the teeth, and while this is apparently confirmed by dentists, no clinical studies have been done to investigate.

Some users exhibit sexually compulsive behavior and may engage in extended sexual encounters with one or more individuals, often strangers. This behavior is substantially more common among gay and bisexual male methamphetamine users than it is their heterosexual counterparts. As it is symptomatic of the user to continue taking the drug to combat fatigue, an encounter or series of encounters can last for several days. This compulsive behavior has created a link between meth use and sexually transmitted disease (STD) transmission, especially HIV and syphilis. This caused great concern among larger gay communities, particularly those in Atlanta, Miami, New York City, and San Francisco, leading to outreach programs and rapid growth in 12-step organizations such as Crystal Meth Anonymous. See Crystal and sex.

This meth behaves differently in your brain, much more like ecstasy and much more damaging in that it gives you a false sense of high, and therefore, you become addicted to it rapidly. Thus, you think you can perform better at work. You can go three nights sometimes without sleep if you are driving a truck, but it gets so addictive and it damages your brain so significantly, the gentleman from Nebraska (Mr. OSBORNE), soon to be Governor, has been on the floor with his chart showing how rapidly your teeth start to fall out and hair starts to fall out. It is a different thing that happens to your body.

So part of the question is, how quick do you get treatment? Do you get it early? Do you get it medium? Do you get it late? Some people say, well, oh, meth is much harder to treat than other drugs, but that is really wrong.

What has been disturbing is we finally have eight studies going on out of the national research under Director Charlie Curie, but we need more because, in fact, we are dealing with mom and pop meth. We are dealing with crystal meth. We are dealing with women who use it for weight loss. We are dealing with some who are just drug addicts, and there are some who are using it like an amphetamine at work. That means different types of treatment to deal with it.

We are also not dealing with kids. We are mostly dealing with people in the workplace, 18 to 45, really 25 to 40. It is a different type of drug, and it means different kinds of treatment and success efforts vary.

Mr. KING of Iowa. As I recall, the gentleman from Nebraska's (Mr. OSBORNE) charts are incremental pictures of a lady, by the way she was an Iowan, and I believe the last picture was in the morgue. So that is the end result of an addict that takes this to the 'nth degree, and the odds of being successful on rehab, somewhere between the first time if there is conviction, maybe never if they really do not want to get cured, but six or eight times, one in six or eight might be one of those numbers then. So it sets the framework then I think for the center of this I would like to see us all focus more on.

Yes, push interdiction as much as we can, and let us get treatment for the people that we can help but in between all that is the deterrent portion of it. In between that is the testing portion that you brought up and something that I worked with. Nine years ago, when I was elected to the Iowa Senate, one of my intense planks in my platform was I will work to rewrite Iowa's drug testing law.

As a contractor and employer I have dealt with meth addicts on a construction crew. In fact, I was required to sign contracts where I would pledge a drug-free workplace in order to be able to apply for a Federal contract, and yet, there was no way I could guarantee a drug-free workplace because we did not have a law that allowed me to test my employees.

Well, today we do. On St. Patrick's Day of 1998, our Governor signed that bill into law, spent 2 years working on it, authored it, floor managed it, and pushed it through the legislation. No one's tried to amend it since then that I know of, but it allows for and sets up the legal parameters for an employer to voluntarily drug test their employees, provided that they treat each employee fairly and equally. If they offer treatment, they must offer it to every employee. They have to have a drug assistance personnel there that understands these issues, gone through and taken the educational and training.

So now we have employers that are voluntarily testing their employees, and this drug testing, if I were charged with this responsibility to eradicate all illegal drug use and abuse in America, first, I would have to have the will of the people behind me that would support the will of the people in Congress because believe me these voices in here reflect the will of the people in America. I would say the solution to this is drug testing. Testing in the workplace, people make a decision then that they like their job better than they like their drugs. When that happens, their children go to the ball game, go fishing, spend time with dad, instead of not having a new pair of shoes because the money went for meth or mom for that matter.

☐ 1945

We have got to be equal opportunity here even on the other side of this equation. But the positive decision that gets made because drug testing hangs over their head as an employee is deterrent enough to keep people from even trying it, many, many times. That is just in the workplace. We have also the educational. We have the welfare system. Each one of those zones out there, if we brought our drug testing to those zones, we would be able to eradicate drug abuse in America, and I think that is the most effective way to go.

Mr. SOUDER. Mr. Speaker, will the gentleman yield?

Mr. KING of Iowa. I yield to the gentleman from Indiana.

Mr. SOUDER. Mr. Speaker, in the legislation that hopefully will be before us tomorrow, Congresswoman HOOLEY and Congressman KENNEDY and others were dealing with international, with drug kingpins. We have had many Members dealing with how to control the pseudoephedrine and some of that, but we still have some bills that we need to look at. Congressman GORDON and Congressman BOEHLERT have a bill on EPA because one of the things is this collective impact on water systems, and when we think of it, it is in the forests and it is up high and it is going down, the cumulative impact of all these little labs is fairly damaging from an environmental standpoint and yet they are not the Superfund sites that we deal with.

But the workplace question, I believe, is the one that we are going to have to address next year. And I believe the gentleman from Iowa and Congressman PETERSON have also been huge advocates of drug testing, and we have to understand that drug testing is the best deterrent in the workplace. This is where the meth battle is going to be won or lost, because if employees take meth at the workplace thinking they can produce more, the only real way to do this is targeted education at the workplace and, in effect, a check of responsibility.

A number of Congresses ago when I was on the Small Business Committee and now-Senator TALENT was chairman of the committee, we moved the drug-free workplace bill through that gave guidelines to small business and what kind of testing they needed to do, including testing the managers. I personally believe we in Congress ought to be drug tested and lead by example, but the managers need to be tested as well as employees. There needs to be security that they are not going to get false positives, and I understand all of that. But there needs to be drug testing, and ultimately we also need ad campaigns directed straight at the workplace, posters that can be there, handouts that can be there, education, because ultimately if they do not have a job, it chokes off the habit to some degree. It does not completely, because they can steal and so on; but, ultimately, the drug testing in the workplace, I believe, has been a lot of the missing link in how we have been approaching meth.

Mr. KING of Iowa. Mr. Speaker, reclaiming my time, I am very happy to hear Mr. SOUDER present that here on this floor tonight, and I am an enthusiastic supporter of that philosophy, and I will tell him that I have invested hundreds and hundreds of hours in that very subject matter, and it lights me up to hear it come from him. I am anxious to engage in this battle next year, and I believe that I will be able to bring some background to this that will be part of this team that can bring a solution.

And I have argued that if they test in the workplace, and I would be happy to drug test Members of Congress, but if they drug test in the workplace, that is a huge zone of influence in America, and we could clean up the workplace almost 100 percent. We would have a little trouble with the sole proprietors out there. It is going to be hard to get them to participate if they happen to be an addict. Most of them are responsible business people. But if we can clean up the workplace, then the other zones of our country that we would address would be the educational system, for example, and that is a little harder nut to crack. There will be significant resistance in a place like that. But that is a place where a lot of the drug addiction gets started. Then the other place is on welfare, those people that are on public benefits.

By the way, I would only do the random testing in any of those places. I would not make it 100 percent testing of anyone. And the way we set up our law, we allow that random to be on a sliding scale. The employer can decide what that percentage is. And if that employer decides that he wants to test 100 percent of his employees once a quarter, he can do that. If he wants to slide that random number selector down, and it must be random, it cannot be personal, down to one-tenth of 1 percent, then fine. Nobody needs to know what that equation is. But the deterrent is always there.

So, Mr. Speaker, I think that we have given a good dialogue to methamphetamines here tonight on the floor of Congress and raised the issue. I hope that we bring this bill to the floor tomorrow. I know that we will do good things for methamphetamines and drug addiction in America.

One of my concerns is we are going to end up with 19 stops to get enough precursor to make an ounce of meth versus the 380 if we have the model that I brought before here. As long as I continue to believe in that, I will continue to bring it to the floor of this Congress. But mainly we have got a broad thrust. We have got a good start, and by next year I hope we do take up drug testing. But this is good work done by the meth caucus led by Mr. SOUDER of Indiana. The hearings that he has had all over this country, the work that he has done deserve a great deal of applause from the parents of America.

THE NATIONAL DEBT

The SPEAKER pro tempore (Mr. JINDAL). Under the Speaker's announced policy of January 4, 2005, the gentleman from Arkansas (Mr. ROSS) is recognized for 60 minutes as the designee of the minority leader.

Mr. ROSS. Mr. Speaker, I rise this evening to visit with the Members of this body about the national debt. I am one of 37 members of the fiscally conservative Blue Dog Coalition, 37 Members of Congress from all over these United States who share a common concern, and that is the amount of our national debt and the amount of our national deficit as it continues to rise each day.

As visitors walk the Halls of the House office buildings, they will occasionally spot one of these posters, which clearly marks that it is a Blue Dog member. What we are trying to do with the American people, as members of the Blue Dog Coalition, is point out that the U.S. national debt today is $8.053 trillion and some change.

If we were to divide the national debt today by the 292 million people that live in America, including the children born today, everyone in America would have to write a check for $27,000 to pay off this national debt. This is a tragedy. And it is time we restore some common sense and fiscal discipline to our Nation's government.

There are some within the Republican leadership that are trying to make us think that that is what they are trying to do, and what I mean by that is this week, we are going to be voting on what they call a budget reconciliation package. The Republican leadership is going to talk about how it is $53.9 billion in reduced spending. That sounds good. What they do not tell us is what programs are going to be cut. They will try to convince us that these cuts are happening to pay for the aftermath of Hurricane Katrina. They will try to convince us that these cuts are being made to pay for the war in Iraq. Not so. These cuts are being proposed by the Republican leadership in this Congress to help offset $70 billion in new tax cuts, new tax cuts that are being proposed in the aftermath of the most costly natural disaster in our Nation's history and, yes, at a time when America is at war, tax cuts that benefit those earning over $400,000 a year.

How are they going to pay for that? By cutting Federal student loans $14 billion; by cutting Medicaid, the only health insurance plan for the poor, the disabled, and the elderly, by $11.9 billion; by reducing child support enforcement, $5 billion; by cutting our farm families, $3.7 billion.

Mr. Speaker, it is time we restore some common sense and fiscal discipline to our Nation's government. And we can do it and we can do it in a humane way, and we can do it in a way that reflects our values, which reminds me of Matthew, chapter 25, verse 40: "I tell you the truth. Whatever you did for one of the least of these brothers of mine, you did it for me."

Do we really want to cut Medicaid, health insurance for the poor, the disabled, the elderly; student loans for our children; farm programs including school lunch programs and food stamps to pay for tax cuts for those earning over $400,000 a year? I can tell the Members that does not reflect the kind of values I learned growing up at Midway United Methodist Church just outside of Prescott, Arkansas.

So tonight we want to visit with the Members of this body and talk about why this budget reconciliation bill is bad. We want to address this. And here to do it with me are some of my colleagues in the Blue Dog Coalition. Not only will people find us tonight being critical of cutting programs for the most vulnerable people in America, but they will also find us offering up a solution, an alternative, what we refer to as our 12-point budget plan. And I am pleased to have a number of Blue Dogs join me tonight, including the cochairman of the Blue Dog Coalition, DENNIS CARDOZA; STEPHANIE HERSETH of South Dakota; DAVID SCOTT of Georgia; and BEN CHANDLER of Kentucky.

Mr. Speaker, I yield to the gentleman from Kentucky (Mr. CHANDLER).

Mr. CHANDLER. Mr. Speaker, I thank Mr. Ross for yielding to me. I appreciate my fellow Blue Dog from Arkansas putting this very important time together for us to talk to the country about what we all believe is a very important matter.

Mr. Ross's grandparents, I am sure, just the same as my grandparents, grew up in the Great Depression. And I am sure that they had experiences very similar to mine, and those experiences instilled in them a great sense of fiscal responsibility. My grandfather, in fact, always used to tell me, and I cannot even count the times that he told me, "If you spent more than you took in, you would go broke." Wise words. Too bad that the leadership of the Republican-controlled Congress seems to have forgotten this most basic rule of fiscal management. By all accounts, the mentality of our grandparents and their generation has been lost.

As the gentleman said, later this week, maybe as early as tomorrow, the House will consider the first of two bills the Republican leadership will bring to the floor under the auspices of reducing the deficit. The only problem is that this so-called deficit reduction package actually adds billions to the deficit, hastening a fiscal crisis brought on by the systematic mismanagement of our country's finances.

Our deficit has now passed $8 trillion, and we see right there on that sign that the gentleman has got next to him, that poster, the number 8 trillion. I am surprised we can even breathe a number that big, all those zeros. I did not even know what 8 trillion was until I came up to Congress and I saw that number. And I am sure the American people would be astonished if they realized just how much in debt they were now. And, incredibly, something I heard from the gentleman from Tennessee (Mr. TANNER), who I think is with us tonight, earlier this week he told me that this administration has now borrowed more money from foreign governments and banks than the previous 42 United States Presidents combined. Even using the projections from the budgets adopted by this Republican-controlled Congress, the deficit will grow by over $167 billion over the next 5 years. Bottom line, this Republican-controlled Congress has proven itself utterly incapable of responsibly managing the Federal Treasury.

Rather than use what little funds we have to pay down the deficit and help those in need, many of my Republican colleagues seek another round of tax cuts for the wealthiest of Americans that will drive our country even deeper into debt. This budget package that is being offered is nothing more than smoke and mirrors. It is not about making sacrifices to reduce the deficit. It is about carving out space for ever-larger tax cuts for the wealthiest Americans by cutting programs that help seniors, students, and low-income families. The very principles that our men and women are fighting for in Iraq and Afghanistan, defending the ideals of our country and helping those in need are on the chopping block this week.

The message from the Republican-controlled Congress is clear: under our leadership the rich get richer, the poor get poorer, and the middle class shrinks all the while.

Low-income families in my home State of Kentucky depend on Medicaid for health care. Thousands of children in Kentucky schools depend on school lunch programs for their only hot meal of the day.

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And over 50 percent of college students in Kentucky rely on some type of financial aid to pay for their college expenses. It is simply immoral to turn our backs on those families in need and students striving to get ahead. Not to mention the cuts to child support programs that will hurt families across our country, and the fact that at a time when the USDA must turn away three-fourths of farmers wanting to participate in conservation programs, cutting Federal funds is going to put an even larger strain on our farm families, certainly the farm families in Kentucky who are doing everything they can just to make a living.

Mr. Speaker, I urge my colleagues to oppose this misguided and immoral budget reconciliation package and instead use this as an opportunity to step back and examine the financial state of our country. Instead of leaning on the poor as a means of cutting taxes for the rich, we need to get serious about addressing the deficit.

Foreign lenders such as China own 40 percent of our total debt. At some point, America must pay back the money it owes. The Republican leaders on the other side of the aisle pride themselves in cutting taxes for the American people. But their irresponsible budget practices now are nothing more than a tax increase later. Continuing to make irresponsible financial decisions now only adds to the burden we are leaving to the coming generations.

This Congress must take immediate action to put our fiscal house in order, and I commend you, Mr. Ross, and I commend the other Blue Dogs for your steadfast efforts to ensure that the American people understand what is happening to them and the fact that their fiscal house is not in order. You are doing a great service for this country, and I urge my colleagues to join with the Blue Dogs and examine the budget reforms that we have proposed.

Mr. ROSS. Mr. Speaker, I thank the gentleman from Kentucky for his words this evening. He reminds me, growing up at the Midway Methodist Church just outside of Prescott, I heard many a sermon about being a good steward. When I came to Congress, it did not take me long to reflect back on not only the values I learned growing up, being the son of public school educators, but also I started thinking back to those sermons I heard growing up about being a good steward. I think it is important.

As Members of Congress, I think we have a duty and a responsibility and an obligation to be a good steward of the public's money. I thank the gentleman from Kentucky for joining us this evening.

I mentioned that the Blue Dog Coalition has a 12-point plan for curing our Nation's deficit spending. Throughout the evening, we are going to bring some of them up. Let me point out that number one is to require a balanced budget.

At the Ross household in Prescott, Arkansas, we have to have a balanced budget in our family. The family pharmacy my wife and I own, we have to have a balanced budget. For 10 years I was serving in the State Senate in Arkansas, one of 49 States that requires a balanced budget. Blue Dog Coalition members believe that we, as a Nation, should have a balanced budget, and that is one of our 12 points requiring a balanced budget.

At this time I would like to yield to the co-chair of the Blue Dog Coalition, the gentleman from California (Mr. CARDOZA).

Mr. CARDOZA. Mr. Speaker, I thank Mr. ROSS. He is a fabulous Member who has led this effort in the House for a number of years, and I am very pleased he is leading this discussion here tonight. I am pleased he brought down a copy of our debt clock that sits in front of our offices. It truly outlines the fiscal irresponsibility that the current administration is engaged in.

I would also like to highlight one of the points Mr. ROSS mentioned and ask a question. I know that in Arkansas you all are pretty proud of your university there and the Razorbacks. And if you are anything like the folks where I am from, we are building a brand new university, and we have the first class going through right now. And so you know how important it is for young people, especially first-generation Americans who need a start in life, trying to get themselves established to do better for themselves and their families.

I am the first member to go to college, and I can say without a doubt that I would not be standing here in the halls of Congress today had I not gotten the great education that I got at both the CSU schools I went to in California and the University of Maryland just down the street.

This past week when I was flying out here from San Francisco, I happened on the president of the University of Maryland, Dan Mote. He was on my plane. He came up to me on the plane, and he said, Mr. CARDOZA, I know you are a supporter of education, but what you are folks doing to higher education, and these cuts to student aid? He said, This is going to devastate the young people that attend my college and the people that are going to attend the college in your hometown.

I said, President Mote, you are absolutely right. I cannot think of one Democrat who is going to vote in support of these cuts to student aid.

In fact, I told him a story about the legislature in California. When I served in the legislature, we actually lowered student fees, with the help of the Republican leadership there, because they felt that was one of the most important middle and upper income tax cuts that they could possibly do because most of the folks that were not on financial aid already due to need were their constituents.

Yet here in Congress, we see what they are proposing, and I believe it is a $1.4 billion student fee increase or the cuts in the student loans. Does the gentleman have that number?

Mr. ROSS. Out of these $50 billion in cuts, and Mr. CHANDLER from Kentucky hit the nail on the head when he pointed out that they are talking about cutting spending $50 billion, but they are really increasing spending. That is true because they are proposing $70 billion in tax cuts, $50 billion in cuts in spending which leaves $20 billion not paid for but which will have to be borrowed from foreign banks and foreign governments to fund this tax cut to those earning over $400,000 a year.

Out of the $50 billion in cuts, nearly $8 billion of the $14.3 billion in student loan cuts fall directly on students and parents. I am beginning to really understand this because I have a daughter who is 17 and a son who is 13, both getting ready before too long to go off to college.

Like every other parent in America, I spend a lot of time these days thinking I wish I had started saving sooner, and I wish I had saved enough to be able to provide for them the way I want to, and I will find a way to do it. We all do as parents, but at a time when parents are struggling to meet the needs of college tuition, the Republican leadership is proposing $14.3 billion in cuts to student loans. The CBO, not some Democrat or Republican organization, the Congressional Budget Office, has estimated that under the Republican bill there are nearly $8 billion in new charges to students and families that will raise the cost of student loans. The cost to the average student borrower will be increased by $5,800.

Mr. CARDOZA. Mr. Speaker, that is incredible. That is an unbelievable number. Really we could call this not the Reconciliation Act but the college student tax act because that is what we are going to be doing, we are going to be increasing the tax on those who can least afford it, those who are trying to do better and increase their opportunity.

I would like to add that, under Bush, we have seen absolute record deficits. We have seen $2.5 trillion added to the debt. As the gentleman from Tennessee (Mr. TANNER) is fond of saying, we have borrowed more from foreign countries than all previous presidents combined under President Bush. And we are borrowing about 80 or 90 percent, the new borrowing that is taking place, is coming from China and countries that are competing with us in trade, and they are using that leverage to make our dollar less strong against their currency. It is just a shame what has been happening here.

Mr. Speaker, I thank Mr. ROSS for participating in this tonight and being such a great leader within the Blue Dog Coalition.

Mr. ROSS. Mr. Speaker, I thank the gentleman from California for being a part of this this evening.

The 12 points to reform this out-of-control Republican leadership that continues to increase our debt and our deficit, point number 2 that the Blue Dogs are offering up to restore common sense and fiscal discipline to our Nation's government: Do not let Congress buy on credit.

Under President Clinton, we had the first balanced budget in 40 years. It was largely due to the fact that this House at the time had what is called pay-as-you-go rules in effect, which means if you want to increase spending somewhere or pay for a new program, you have to cut spending somewhere else. It makes sense. That is called pay-as-you-go or PAYGO rules. The Republican leadership has ended the PAYGO rule in this Chamber. Point number 2 of the Blue Dog Coalition: Do not let Congress buy on credit. Restore the pay-as-you-go budgeting concept to the rules of the U.S. House of Representatives.

Mr. Speaker, at this time, it gives me real pleasure to introduce a leader in this Congress and a real leader in the Blue Dog Coalition, an outstanding Member, the gentleman from Georgia (Mr. SCOTT).

Mr. SCOTT of Georgia. Mr. Speaker, I feel very privileged and honored to be here with my fellow Blue Dogs.

Our debate is going out across the country thanks to C-SPAN, and I think it is very important that we understand that the American people have awakened. All of the polls show it. The American people are glued in to what is happening here in Washington, and right they should be.

I want to start off by saying that so that individuals who are tuning in who would like to know just what are the Blue Dogs, more than anything else, we pride ourselves on being, first and foremost, good stewards of the taxpayers' dollars. We provide the sterling leadership in the Democratic Party for responsible fiscal responsibility.

For 5 years, we in the Blue Dog Coalition have been begging and pleading that this Congress develop a plan to pay as you go. Mr. Speaker, 5 years ago when the Clinton administration left office, we had a surplus. Billions and billions and billions of dollars were left in surplus. Now 5 years later, under the Bush administration, we are trillions and trillions and trillions of dollars in debt. Make no mistake about it, our debt and our deficit is the number one problem and issue facing the survival and the future of our democracy. And we are concerned about this national debt.

But at a time when we are expressly concerned about it and pushing forward for responsible measures on the Democratic side, it is the height of hypocrisy, it is the height of being insensitive, it is the height of indeed smoke and mirrors for this Republican-led Congress and this Republican President to, under the guise of giving a tax cut for billionaires and millionaires across this country, say he wants to cut spending.

□ 2015

Cut spending of the most vital services, the most important needs in this country, as a matter of fact, in the history of this country, in this 20th century. We have just been hit with the worst hurricane season in modern times. Katrina was the worst that anybody can remember. Billions and billions and billions of dollars worth of damage, an entire city, entire region almost totally destroyed. Over 250,000 American citizens without homes. We all remember those pictures, down in New Orleans, in the flood. Our hearts went out to those people. Well, our hearts must continue to go out to those people.

And the reason it is the height of hypocrisy is here is the President of the United States and this Republican controlled Congress, who says that they want to offset a $70 billion tax cut for the wealthiest people in this country on the backs of those poor victims of this hurricane.

On the front page of the Washington Post this morning, the answer from FEMA is to throw 150,000 American citizens who have become homeless on the street. The answer from The White House and the answer from this Congress has been to cut the very programs that will help these victims the most. The most effective programs that have helped them has been the food stamp program. And under this budget, this Republican held Congress, and this President proposes to cut food stamps by $850 million. Not only at a time when we have people who are homeless, without jobs, without hope, but according to the Agriculture Department, just this year alone, we have added 2 million more citizens to the hunger roles. The Republicans answer, cut the very program that has been designed to help them by $850 billion.

Medicaid. Under this budget planned by the Republicans and President Bush, they want to cut Medicaid by $12 billion, when 45 million Americans, mostly senior elderly citizens, are going without any kind of health insurance.

And our farmers? Cut them by $2 billion. Farmers who have been devastated by the flood, who have been hurt by the flood. Now is not the time to cut the farmers.

And our veterans, $3 billion. Lord knows. We have not been doing right by our veterans. We have cut them. We have cut them. We have cut them. And the President's answer is, cut the veterans. This Republican Congress's is to cut the veterans. Is that not a reason why they have had difficulty in getting the votes? Why they have had to pull the bill last week?

And the American people need to wake up and understand and put the calls in to your Republican congressman to let them know that America does not want to cut the basic services for the needy while trying to add a $70 billion tax cut for the millionaires and the billionaires. They do not need the money. But the children do.

This budget will cut children's nutrition by $2 billion and $5 billion in child support. Heating oil is cut at a time when the oil companies are getting record profits, and their executives are sitting fast.

Student loans, $14 billion at a time when going to college costs so much. There will be tens of thousands of American children who will not go to college if this Republican budget reconciliation bill passes. That is why this is so important. That is why it is important.

Listen to me, America. And if you know other people, tell them to tune in. We are here to tell you the facts. This Blue Dog coalition is one of the most influential groups on Capitol Hill, and the reason why is because people trust us. We have earned that. We have earned that distinction. Folks like Charlie Stenholm, JOHN TANNER, they have pioneered and set the curve. Respect across party lines. Respect across this country, the Blue Dog coalition. We are speaking the truth tonight.

William Shakespeare said it well when he wrote that great play, Julius Caesar, when he said, et tu Brutus? Yours is the meanest cut of all. And that is what these Republicans are doing in this bill. It is mean. It is cold, and it is wrong. And the American people deserve better. And we are going to give them better.

So Mr. ROSS and my fellow Blue Dogs, we are here tonight to speak the truth. We are here tonight to let the American people know, and we hope and we pray that we will be successful in stopping this budget reconciliation bill from being devastating to the American people.

Mr. ROSS. Mr. Speaker, I thank the gentleman from Georgia for his insight and wisdom that he has shared with us this evening on this issue, this so-called Republican budget reconciliation bill that they say will be brought up for a vote either some time late Friday night or perhaps early Saturday morning. We know all about that, you know, on the Medicare drug bill, for example, they waited until 3 a.m. They wanted to make sure seniors were fast asleep. And then they held a 15-minute vote open for 3 hours, until they finally got those final two votes they needed to pass it.

I challenge the Republican leadership to give us a vote on this in the middle of the day on Friday, when the sun is still up, and let the American people see how democracy should work in this country.

I talked about the Blue Dog Coalition having 12 points for budget reform to really get a handle on this debt, to stop deficit spending and to restore common sense and fiscal discipline to our Nation's government. Number one was, require a balanced budget.

Number two was, do not let Congress buy on credit. Restore PAYGO, pay-as-you-go rules, to the floor of the United States House, meaning, if you want to spend money on one program, you have got to cut spending on another program.

Number three is, put a lid on spending. Ever since I was a small child growing up, I have heard it was the Democrats that spent the money. And yet, you know it is a Democratic President, President Clinton, that gave us the first balanced budget in this country in 40 years, from 1998 through 2001. Then what happened? For the first time in 50 years, the Republicans now control the White House, the House and the Senate, and from 2001 to 2003, total government spending soared by 16 percent. The Blue Dogs propose putting a lid on spending. The Blue Dogs propose holding the line on discretionary spending for the next three fiscal years at 2.1 percent. That is point number three to our 12 point plan for budget reform.

With us this evening from the State of Tennessee is one of the founders of the Blue Dog Coalition, former cochair of the organization and a real leader, a founding father for the Blue Dog Coalition, JOHN TANNER from Tennessee. And just to expand on what Mr. SCOTT from Georgia said, I mean, look, like so many people in this country, many of us in the Blue Dog Coalition, we are sick and tired of all the partisan bickering that goes on in our Nation's Capital. We are not standing here tonight to beat up the Republicans. We are here tonight to try and hold them accountable for this spending and offer up a solution on how we can restore common sense and fiscal discipline to our Nation's government. Like so many people across this country, I am sick and tired of all the partisan bickering that goes on at our Nation's Capitol. It should not be about whether it is a Democratic idea or a Republican idea. It ought to be about is a commonsense idea and does it make sense for the people that send us here to be their voice and their representative. That is what the Blue Dog Coalition is all about, as Mr. SCOTT indicated. That is why we have earned the respect of so many across this Nation and here on Capitol Hill.

At this time, I would like to turn this over to one of the founding fathers of the Blue Dog Coalition, the gentleman from Tennessee (Mr. TANNER).

Mr. TANNER. Mr. Speaker, I think that means I am old. I appreciate the gentleman having this special order tonight and inviting us down here. Mr. SCOTT, many of you may know, but his brother-in-law is the homerun king of baseball, Hank Aaron, and he was nice enough to invite me down to an event where Hank was here. And I appreciate that. I got a picture of me and Hammering Hank Aaron that I cherish very much.

Mr. ROSS. We were glad to have you.

Mr. TANNER. I really enjoyed that. But I want to thank you all for being here tonight. I want to talk about this financial picture of our country maybe in a little different way. And the way I want to talk about it is not as a Democrat or as a Republican, but as an American. We only have one dollar. We only have one balance sheet. We only have one military. We only have one economic opportunity in our lives here. And folks, I have got to tell you, we are in deep, deep trouble. And the financial picture of this country is deteriorating as we speak. I do not know how else to say this. It is not fun to talk about the financial morass that we are in. You know, there are not many politicians that go before the American people and get elected and say, folks we have got a problem. We do not have enough revenue, or we have too much spending. And we have got to do something about it. You do not hear that. You do not hear people saying we have got problems. We have to fix them together. And yet, that is what I think the Blue Dog Coalition is all about. We have done everything we can to reach out to the administration and the Republicans. We have asked the President for a budget summit. We got a letter back saying that would not be the case. We have asked the Republican leadership to consider our 12-point plan, balanced budget amendment to try to get PAYGO back, which is just common sense. If you are going to spend money, you need to pay for it somehow. That has been refused. So we have tried every way we can, and I will tell you, quite frankly, until the President of the United States and the leadership here in Congress, the Republican leadership here in Congress at the moment, levels with the American people about the deterioration of their country's balance sheet, it is going to be awfully difficult, quite frankly, for us here on the floor as blue dogs or any other Member of Congress to convince the American people about how dramatic and how drastically our collective financial deterioration has occurred.

Let me just try to put it very briefly in a context. Since 2001, when we embarked on a different economic program, this Nation has gone into debt another $2.3 trillion; $1.3 trillion of that has been borrowed from private sources and, you know, what is so bad about this is that 85 percent of this money has come from people who have loaned us this money who do not live in the United States. I did some figuring today. Just based on what President Bush and the Republican Congress has done in the last 4 years, and again, this is not partisan. You go to www.treasury.gov, the U.S. Treasury Web site. What I am telling you is fact. It is not a political argument. I wish it were. But it is not. You go to the treasury Web site. What has happened to us is that, by these deficits, $157 billion in 2002, we are paying interest at that year at 4.3 percent—2003, $377; 2004, $412, the largest in history. Last year, $319. Anyway, you add all that up, we are now paying $50-plus billion dollars a year in interest that we were not paying before President Bush changed the economic game plan of our country with this compliant Congress—$50 billion a year. What I tell people is, quite frankly, what we have done is we have increased taxes on the American people $500 billion over the next 10 years, and that is on interest.

□ 2030

Interest is a tax that cannot be repealed. Everybody out there knows that when you run that credit card through, you do not have to pay for it today; but you know at the end of the month you are going to get a bill, and the bill is going to have interest on it. And where people get in trouble when the bill runs up so high, all they can pay is interest, and when that happens, that is when they get in trouble.

The United States Treasury announced the other day that for the first quarter of 2006, they are going to have to borrow a record $171 billion. This is just to finance our government for the first quarter of this fiscal year. On February 9, we need to mark that down on our calendars, for the first time in 5 years, the Treasury will have to offer a 30-year bond. Do you know why they are bringing that back? We did not have it in 2001. We could discontinue it then because we were on the road to some sort of semblance of financial sanity.

February 9, 5 years later, we are going to bring back the 30-year bond. Do we know what that means? It means we are borrowing so much money, we have to long-term it, because we cannot afford it in the short term. That is what the economic plan that we have been following for the last 4 or 5 years is doing to this country.

Now, if you do not think that is bad enough, consider the fact that we now owe 44 percent of our privately held debt to people who do not even live in America. Said another way, we are writing $185 billion worth of checks every year for interest. We get nothing. We get no health care, no veterans benefits, no anything. We write checks, and 44 percent of those checks do not even stay in this country.

This has literally happened in about the last 50 months. It did not used to be this way. In fact, when they got here, we had a $5 trillion surplus. We do not need a surplus, but we need to pay our bills; and we are not doing that.

Mr. SCOTT of Georgia. Mr. Speaker, the gentleman raises such a great point on the interest, and I think the American people need to know that just on the money that we are paying these other countries, just on the interest, it amounts to more than what we are paying for our own homeland security.

Mr. TANNER. That is correct. This recklessness has got to be stopped. The Blue Dogs will work with anybody. But until the President and the United States Congress level with the American people and say we do not just have a deficit that is cyclical that the country is experiencing, until they will tell the American people the truth, we have a structural, institutionalized built-in deficit that is going to sink all of us collectively as Americans, not as Democrats or Republicans, as Americans, and rob our kids and really our citizens of any hope of a better way of life.

That is what is at stake here. Until they level with us, we can come down here and do these Special Orders, and I thank Mr. ROSS and Mr. SCOTT and Ms. HERSETH and the others, but I tell my colleagues, this is not a Democrat or Republican problem. This is an American problem; and until they face up to it, we have a terrible situation here in Washington. I commend the gentleman again for having this Special Order.

Mr. ROSS. Mr. Speaker, I thank the gentleman from Tennessee, one of the Founding Fathers of the Blue Dog Coalition, for sharing with us this evening his thoughts on this issue. He is so right: Our Nation, just on this debt, our Nation is spending nearly a half a billion dollars a day. Our Nation is spending nearly a half a billion dollars every 24 hours, simply paying interest on the national debt. Our Nation is spending nearly a half a billion dollars, that is with a B, nearly a half a billion dollars a day simply paying interest on the national debt.

A half a billion dollars, how much is that? We could build 100 brand-new elementary schools every single day in America simply with the interest we are paying on the national debt. I have Interstate 49 and Interstate 69 and Interstate 530 under construction in my congressional district. Give me about a week's worth of interest on the national debt and I could finish all three of them. So projects and priorities in this country will continue to go unmet as long as we have this $8.53 trillion debt hanging over our heads that is growing every day. That is the debt.

The other part of this the gentleman from Tennessee was talking about is the deficit. Our Nation is borrowing $907 million every single day. We are sending $188 million every day to Iraq and $33 million every day to Afghanistan. At a time when America is at war, the Republican leaders in this Congress are proposing an additional $70 billion in tax cuts. Never in the history of this Nation has America cut taxes when it is at war. And not only are we at war, but we are also coming off the most costly natural disaster in our Nation's history; and they are proposing $50 billion in cuts.

Mr. TANNER talked about how this is an American issue, and he is right. It is also an issue that as a father concerns me. Cutting student loans at a time when so many of us have children getting ready to go off to college; cutting Medicaid, health insurance for the poorest among us so we can pay for tax cuts for those earning over $400,000 a year, these are not the kinds of values I was taught growing up at the Midway United Methodist Church just outside Prescott, Arkansas.

Mr. TANNER mentioned how we have so much money that is being borrowed to run our government from foreigners. We owe Japan $714.9 billion; China, $191.1 billion; the United Kingdom, $152.5 billion; the Caribbean Banking Center, $76.2 billion; Korea, $69.3 billion; OPEC nations, and we wonder by gasoline is so high, OPEC nations, we have borrowed as a Nation $66.6 billion from them. The list goes on and on. In fact, we have borrowed, this administration has borrowed more money from foreign governments and foreign banks in less than 5 years than the previous 42 Presidents combined. It is time to restore common sense and fiscal discipline to our Nation's government.

Also joining us this evening is a relatively new Member of Congress, a new member to the Blue Dog Coalition in her second term, someone who has really made her mark here in Washington as a fiscal conservative, someone who speaks with a lot of credibility on this issue, and that is the gentlewoman from South Dakota (Ms. HERSETH).

Ms. HERSETH. Mr. Speaker, I thank the gentleman from Arkansas for his kind words and for his extraordinary leadership on this important issue within the Blue Dog Coalition and within the Congress on highlighting the impact of budget decisions over the last 5 years that have created perils, dangerous situations for the country now and into the future.

I would like to just share, if I might, and read from some quotes that have come out, quoting individuals recently within the last week or two, to highlight what Mr. SCOTT, Mr. TANNER, and Mr. ROSS have already noted, that this is not a partisan issue. There are those on both sides of the aisle and those who do not have any affiliation with either political party that are expressing the concerns with the budget reconciliation package offered by the majority.

Let me first quote Robert Bixby, the executive director of the Concord Coalition, from a statement he made just 2 days ago: "This year's budget resolution calls for two reconciliation bills, a spending cut bill of $35 billion and a tax cut bill of $70 billion." He is referring here to Senate numbers. "Simple arithmetic dispels the notion that this combination is aimed at deficit reduction. It is hard to rally support for a spending cut labeled the Deficit Reduction Act of 2005 when it will be followed by a tax cut that, by the same logic, should be labeled the Deficit Increase Act of 2005."

Or take a quote from our colleague on the other side of the Capitol, Senator George Voinovich, a Republican from Ohio, a statement made just last week: "I do not know how anyone can say with a straight face that when we voted to cut spending last week to help achieve deficit reductions, we can now then turn around 2 weeks later to provide tax cuts that exceed the reduction in spending. That is beyond me, and I am sure the American people."

Or let us take a statement from Federal Reserve Chairman Alan Greenspan from 2 weeks ago: "We should not be cutting taxes by borrowing. We do not have the capability of having both productive tax cuts and large expenditure increases, and presume that the deficit doesn't matter."

Or take a quote from the editorial boards across the country, including one from the Des Moines Register: "As a deficit reduction strategy, the House GOP plan is ludicrous. After passing the budget cuts, next on Congress's agenda is passing further tax cuts for the wealthy at a cost to the Treasury of $70 billion over 5 years. Cutting spending by $55 billion while cutting taxes by $70 billion will make the deficits worse, not better."

The New York Times editorial board stated: "An additional $70 billion worth of upper bracket tax cuts heavily backed by the White House are waiting in the wings and will drive the deficit even deeper across generations of taxpayers. The administration and congressional leaders arranged to separate votes on the two halves of the budget to obscure the full picture."

Finally, from the Atlanta Journal and Constitution from last week: "This proposed belt-tightening by Congress is not being driven by national security, deficit reduction, or hurricane relief. Instead, it has been proposed as a way to finance a $70 billion tax holiday for the wealthiest Americans. Congress can't tell the public one week that a dooming deficit is forcing it to cut food stamps and Medicaid, then turn around the next week and award the wealthiest Americans a generous tax cut."

Mr. Speaker, that is really the bottom line here tonight, is it not? And what we are trying to share with our colleagues and our constituents is that if you do that, say one thing one week and turn around the next week and do something that obliterates the savings that you claimed that you were trying to achieve, that damages your credibility, it damages the credibility of the work we do in this Congress. It damages the credibility of the budget process, which is why the Blue Dogs have offered the 12 points to reform the budget process.

Mr. Speaker, I agree with many back home in South Dakota that budget cuts take courage. They do. They take a lot of political courage. Decisions to cut spending, especially from popular programs, certainly are not easy decisions. But I contend that it is cowardly not to be straightforward with the American people about the priorities reflected in the entirety of the reconciliation process.

As my colleagues have noted here earlier this evening, we can question legitimately the priorities within the spending cut bill, the spending side of the ledger in this reconciliation process. Take higher education, over $14 billion worth of cuts out of the 50 to $55 billion overall on the spending cut side of the package. This is a double whammy on our younger generation, because not only do they have to pay thousands more to finance their higher education, but they also have to pay the interest tax on our national debt that increases.

Mr. Speaker, our knowledge base has been this country's way of staying ahead of the rest of the world and maintaining our competitiveness in a fast-changing global economy. But yet they take student loan programs that represent 1 percent of the overall Federal budget and make it 30 percent, roughly 30 percent of the spending cuts that they targeted in the spending cut side of the reconciliation equation.

Then take agriculture and rural development. We cut all of these programs out of agriculture and rural development that not only go back on the deal we cut with farmers and ranchers in the farm bill in 2002 which, by the way, has saved billions more than what was projected at the time it was passed; but then we leave rural America behind at a time of skyrocketing fuel costs, cutting value-added marketing programs, cutting programs intended to expand broadband technology in rural America.

Then, take Medicaid. Medicaid, a program designed to help children, pregnant women, people with disabilities, and the elderly. Now claims that the growth of Medicaid spending is out of control cannot be supported when you compare the growth in spending in the private sector. It is about half in Medicaid as to what it is in premiums paid out and the growth of the spending in the private sector for health care insurance.

So when you look at the number of people who are eligible for Medicaid, that really requires a different approach and different solution, like making it easier, not harder, to finance a higher education and making it easier to get a higher-paying job. These cuts also in Medicaid affect long-term care facilities, the residents, the staff, the communities; and it affects the workforce, health and productivity issues that we face in this country.

☐ 2045

I also think we can raise serious questions as well about the priorities within the preferential tax treatment portion of the reconciliation bill, which extends provisions that are now secure until 2008, rather than providing a fix for the alternative minimum tax, which is affecting more and more middle-income taxpayers.

The final point here, we need to seriously question, as we have done tonight, with our colleagues in the next couple of days, with the American people, the overall result of this reconciliation package, which makes the deficit worse, as we have demonstrated, which increases the country's level of borrowing further, as Congressman TANNER pointed out with the statistics of the foreign ownership of our national debt, and the increasing percentages of that. The Treasury is set to borrow $151 billion in the first quarter of 2006 alone, not to mention that this is simply an interest tax on my generation, the generation following me, and future generations of Americans.

Let me conclude by saying, let us stop the recklessness. I think the American public wants us to stop the recklessness, to reform the budget process as the Blue Dogs have proposed, restore the credibility in managing the Nation's finances by taking action that reduces the deficit and puts us back on track towards balanced budgets.

I urge my colleagues on both sides of the aisle to vote no, oppose these reconciliation proposals for both sides of the Federal Government's ledger, for which the bottom line is even more red ink.

Mr. ROSS. I want to thank the gentlewoman from South Dakota (Ms. HERSETH) for her comments this evening, and I can assure you I join you in opposing cuts to student aid programs. I join you in opposing cuts to Medicaid, health insurance for the poor, for the disabled and the elderly. I join you in opposing cuts to child support enforcement, and I join you in opposing $3.4 billion cuts to agricultural programs, including $844 million to food stamps, the elimination of school lunches and breakfast benefits for 40,000 children, $1 billion in cuts to farm commodity programs, and, yes, $1 billion in cuts to rural development conservation and energy programs.

The gentlewoman from South Dakota is a real leader on the House Agriculture Committee. I want to thank her for standing up and fighting those cuts in that committee.

I promised you we would go over the 12 points to the Blue Dog budget reform. The gentleman from Georgia (Mr. SCOTT) is still here with me, and we are going to try to get through these before we run out of time.

Quickly, number four, require agencies, these are our solutions, how we fix the problem, restore common sense, fiscal discipline to our Nation's government. Require agencies to put their fiscal year houses in order. According to the Government Accountability Office, not some political party group, according to the Government Accountability Office, 16 of 23 major Federal agencies cannot issue a simple audit of their books. Worse, the Federal Government cannot account for $24.5 billion it spent in 2003. The Blue Dog proposal is simple, put a budget freeze for any Federal agency that cannot properly balance its books.

Number five, make Congress tell taxpayers how much they are spending.

Number six, set aside a rainy day fund.

Number seven, do not hide votes to raise the debt limit. If the gentleman would continue with a list, I think you have number 8 through 12 of the Blue Dog plan for a meaningful budget reform.

Mr. SCOTT of Georgia. Absolutely, our plan, the Blue Dog plan number eight, is to justify spending for pet projects, that while we have many projects that may be worthy, it is very important that we have written justification available to the public so the public can see, and it strengthens our credibility to make sure we are spending the taxpayer's money in an efficient effective manner, justify the spending for pet projects.

Number nine, ensure that Congress reads the bills it is voting on. So many times, we do not even have the time to read the bills we are voting on. How can you vote intelligently on an issue if you are not even given the time? The Blue Dogs will recommend that we at least be given a minimum of 3 days to finally look at the legislation, to make sure that we understand and have all the information for a vote.

Number ten, require honest cost estimates for every bill that Congress votes on, most important. Get the right amount of money that it is going to cost.

Number 11, make sure new bills fit the budget, pay-as-you-go, make sure that we are not putting in more than we have to spend.

Number 12, make sure that Congress does a better job of keeping tabs on government programs. The Blue Dogs propose that each committee be required to submit a report at least twice a year, available again to the public, which is very important that we make known that we want to make sure the public is a working, participating partner in our 12 points.

Mr. Speaker, those are our 12 points. We are very proud of them. I think they make sense. It gives vision. It gives direction. It gives purpose.

I want to just conclude, because I know our time is short, before I hand it back to the gentleman from Arkansas, we are at Thanksgiving. What an extraordinary time. Families all over this country a week from tomorrow will be gathering together. We have got to make sure that we give them a Thanksgiving that they will appreciate, and I assure you that they will not appreciate cutting Medicaid. They will not appreciate cutting the farmers' programs. The veterans are not going to have a good Thanksgiving if they know that their benefits are cut by $2 billion. Our students are not going to have a good Thanksgiving if they know that the student loan program is being cut by $14 billion; our children, child support $5 billion, child nutrition, food stamps.

We have got to make sure that our people have a wonderful Thanksgiving holiday. The way to do that is if they bring that budget reconciliation bill up before we leave, in the name of the American people, we must vote it down.

Mr. ROSS. Mr. Speaker, members of the Blue Dog Coalition have come tonight, not only to point out our Nation's debt and deficit, but to offer a solution with our 12-point plan. We look forward to other opportunity in the future to further discuss our 12-point plan for meaningful budget reform.

FURTHER MESSAGE FROM THE SENATE

A further message from the Senate by Ms. Curtis, one of its clerks, announced that the Senate has passed without amendment bills of the House of the following titles:

H.R. 126. An Act to amend Public Law 89-366 to allow for an adjustment in the number of free roaming horses permitted in Cape Lookout National Seashore.

H.R. 539. An Act to designate certain National Forest System land in the Commonwealth of Puerto Rico as a component of the National Wilderness Preservation System.

H.R. 584. An act to authorize the Secretary of the Interior to recruit volunteers to assist with, or facilitate, the activities of various agencies and offices of the Department of the Interior.

H.R. 606. An act to authorize appropriations to the Secretary of the Interior to the restoration of the Angel Island Immigration Station in the State of California.

H.R. 1101. An act to revoke a Public Land Order with respect to certain lands erroneously included in the Cibola National Wildlife Refuge, California.

H.R. 1972. An act to direct the Secretary of the Interior to conduct a special resource study to determine the suitability and feasibility of including in the National Park System certain sites in Williamson County, Tennessee, relating to the Battle of Franklin.

H.R. 1973. An act to make access to safe water and sanitation for developing countries a specific policy objective of the United States foreign assistance programs, and for other purposes.

The message also announced that the Senate has passed bills of the following titles in which concurrence of the House is requested:

S. 242. An act to direct the Secretary of the Interior to carry out a study to determine the suitability and feasibility of establishing memorials to the Space Shuttle Columbia on parcels of land in the State of Texas.

S. 592 An act to amend the Irrigation Project Contract Extension Act of 1998 to extend certain contracts between the Bureau of Reclamation and certain irrigation water contractors in the States of Wyoming and Nebraska.

S 1170. An act to establish the Fort Stanton-Snowy River Cave National Conservation Area.

CONFERENCE REPORT ON H.R. 3010, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. LEWIS of California (during the Special Order of Mr. BARTLETT of Maryland) submitted the following conference report and statement on the bill (H.R. 3010) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2006, and for other purposes.

CONFERENCE REPORT (H. REPT. 109-300)

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3010) "making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes", having met, after full and free conference, have agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate, and agree to the same with an amendment, as follows:

In lieu of the matter stricken and inserted by said amendment, insert:

That the following sums are appropriated, out of any money in the Treasury not otherwise appropriated, for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes, namely:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

(INCLUDING RESCISSIONS)

For necessary expenses of the Workforce Investment Act of 1998, the Denali Commission Act of 1998, and the Women in Apprenticeship and Non-Traditional Occupations Act of 1992, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Workforce Investment Act of 1998; $2,652,411,000 plus reimbursements, of which $1,688,411,000 is available for obligation for the period July 1, 2006 through June 30, 2007; except that amounts determined by the Secretary of Labor to be necessary pursuant to sections 173(a)(4)(A) and 174(c) of the Workforce Investment Act of 1998 shall be available from October 1, 2005 until expended; and of which $950,000,000 is available for obligation for the period April 1, 2006 through June 30, 2007, to carry out chapter 4 of the Workforce Investment Act of 1998; and of which $8,000,000 is available for the period July 1, 2006 through June 30, 2009 for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers: Provided, That notwithstanding any other provision of law, of the funds provided herein under section 137(c) of the Workforce Investment Act of 1998, $282,800,000 shall be for activities described in section 132(a)(2)(A) of such Act and $1,193,264,000 shall be for activities described in section 132(a)(2)(B) of such Act: Provided further, That $125,000,000 shall be available for Community-Based Job Training Grants, which shall be from funds reserved under section 132(a)(2)(A) of the Workforce Investment Act of 1998 and shall be used to carry out such grants under section 171(d) of such Act, except that the 10 percent limitation otherwise applicable to the amount of funds that may be used to carry out section 171(d) shall not be applicable to funds used for Community-Based Job Training grants: Provided further, That funds provided to carry out section 132(a)(2)(A) of the Workforce Investment Act of 1998 may be used to provide assistance to a State for State-wide or local use in order to address cases where there have been worker dislocations across multiple sectors or across multiple local areas and such workers remain dislocated; coordinate the State workforce development plan with emerging economic development needs; and train such eligible dislocated workers: Provided further, That $7,936,000 shall be for carrying out section 172 of the Workforce Investment Act of 1998: Provided further, That $982,000 shall be for carrying out Public Law 102–530: Provided further, That, notwithstanding any other provision of law or related regulation, $80,557,000 shall be for carrying out section 167 of the Workforce Investment Act of 1998, including $75,053,000 for formula grants, $5,000,000 for migrant and seasonal housing (of which not less than 70 percent shall be for permanent housing), and $504,000 for other discretionary purposes, and that the Department shall take no action limiting the number or proportion of eligible participants receiving related assistance services or discouraging grantees from providing such services: Provided further, That notwithstanding the transfer limitation under section 133(b)(4) of such Act, up to 30 percent of such funds may be transferred by a local board if approved by the Governor: Provided further, That funds provided to carry out section 171(d) of the Workforce Investment Act of 1998 may be used for demonstration projects that provide assistance to new entrants in the workforce and incumbent workers: Provided further, That no funds from any other appropriation shall be used to provide meal services at or for Job Corps centers.

For necessary expenses of the Workforce Investment Act of 1998, including the purchase and hire of passenger motor vehicles, the construction, alteration, and repair of buildings and other facilities, and the purchase of real property for training centers as authorized by the Act; $2,463,000,000 plus reimbursements, of which $2,363,000,000 is available for obligation for the period October 1, 2006 through June 30, 2007, and of which $100,000,000 is available for the period October 1, 2006 through June 30, 2009, for necessary expenses of construction, rehabilitation, and acquisition of Job Corps centers.

Of the funds provided under this heading in Public Law 108–7 to carry out section 173(a)(4)(A) of the Workforce Investment Act of 1998, $20,000,000 are rescinded.

Of the funds provided under this heading in Public Law 107–117, $5,000,000 are rescinded.

Of the funds provided under this heading in division F of Public Law 108–447 for Community-Based Job Training Grants, $125,000,000 is rescinded.

The Secretary of Labor shall take no action to amend, through regulatory or administration action, the definition established in 20 CFR 667.220 for functions and activities under title I of the Workforce Investment Act of 1998, or to modify, through regulatory or administrative action, the procedure for redesignation of local areas as specified in subtitle B of title I of that Act (including applying the standards specified in section 116(a)(3)(B) of that Act, but notwithstanding the time limits specified in section 116(a)(3)(B) of that Act), until such time as legislation reauthorizing the Act is enacted. Nothing in the preceding sentence shall permit or require the Secretary of Labor to withdraw approval for such redesignation from a State that received the approval not later than October 12, 2005, or to revise action taken or modify the redesignation procedure being used by the Secretary in order to complete such redesignation for a State that initiated the process of such redesignation by submitting any request for such redesignation not later than October 26, 2005.

COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS

To carry out title V of the Older Americans Act of 1965, as amended, $436,678,000.

FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES

For payments during the current fiscal year of trade adjustment benefit payments and allowances under part I and section 246; and for training, allowances for job search and relocation, and related State administrative expenses under part II of chapter 2, title II of the Trade Act of 1974 (including the benefits and services described under sections 123(c)(2) and 151(b) and (c) of the Trade Adjustment Assistance Reform Act of 2002, Public Law 107–210), $966,400,000, together with such amounts as may be necessary to be charged to the subsequent appropriation for payments for any period subsequent to September 15 of the current year.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

For authorized administrative expenses, $125,312,000, together with not to exceed $3,266,766,000 (including not to exceed $1,228,000 which may be used for amortization payments to States which had independent retirement plans in their State employment service agencies prior to 1980), which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund including the cost of administering section 51 of the Internal Revenue Code of 1986, as amended, section 7(d) of the Wagner-Peyser Act, as amended, the Trade Act of 1974, as amended, the Immigration Act of 1990, and the Immigration and Nationality Act, as amended, and of which the sums available in the allocation for activities authorized by title III of the Social Security Act, as amended (42 U.S.C. 502–504), and the sums available in the allocation for necessary administrative expenses for carrying out 5 U.S.C. 8501–8523, shall be available for obligation by the States through December 31, 2006, except that funds used for automation acquisitions shall be available for obligation by the States through September 30, 2008; of which $125,312,000, together with not to exceed $700,000,000 of the amount which may be expended from said trust fund, shall be available for obligation for the period July 1, 2006 through June 30, 2007, to fund activities under the Act of June 6, 1933, as amended, including the cost of penalty mail authorized under 39 U.S.C. 3202(a)(1)(E) made available to States in lieu of allotments for such purpose: Provided, That to the extent that the Average Weekly Insured Unemployment (AWIU) for fiscal year 2006 is projected by the Department of Labor to exceed 2,800,000, an additional $28,600,000 shall be available for obligation for *every 100,000 increase in the AWIU level (including a pro rata amount for any increment less than 100,000) from the Employment Security Administration Account of the Unemployment Trust Fund: Provided further, That funds appropriated in this Act which are used to establish a national one-stop career center system, or which are used to support the national activities of the Federal-State unemployment insurance or immigration programs, may be obligated in contracts, grants or agreements with non-State entities: Provided further, That funds appropriated in this Act for activities authorized under the Wagner-Peyser Act, as amended, and title III of the Social Security Act, may be used by the States to fund integrated Employment Service and Unemployment Insurance automation efforts, notwithstanding cost allocation principles prescribed under Office of Management and Budget Circular A–87.*

ADVANCES TO THE UNEMPLOYMENT TRUST FUND AND OTHER FUNDS

For repayable advances to the Unemployment Trust Fund as authorized by sections 905(d) and 1203 of the Social Security Act, as amended, and to the Black Lung Disability Trust Fund as authorized by section 9501(c)(1) of the Internal Revenue Code of 1954, as amended; and for nonrepayable advances to the Unemployment Trust Fund as authorized by section 8509 of title 5, United States Code, and to the "Federal unemployment benefits and allowances" account, to remain available until September 30, 2007, $465,000,000.

In addition, for making repayable advances to the Black Lung Disability Trust Fund in the current fiscal year after September 15, 2006, for costs incurred by the Black Lung Disability Trust Fund in the current fiscal year, such sums as may be necessary.

PROGRAM ADMINISTRATION

For expenses of administering employment and training programs, $117,123,000, together with not to exceed $82,877,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

WORKERS COMPENSATION PROGRAMS

(RESCISSION)

Of funds provided under this heading in the Emergency Supplemental Appropriations Act, 2002 (Public Law 107–117, division B), $120,000,000 are rescinded.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employee Benefits Security Administration, $134,900,000.

PENSION BENEFIT GUARANTY CORPORATION

PENSION BENEFIT GUARANTY CORPORATION FUND

The Pension Benefit Guaranty Corporation is authorized to make such expenditures, including financial assistance authorized by section 104 of Public Law 96–364, within limits of funds and borrowing authority available to such Corporation, and in accord with law, and to make such contracts and commitments without regard to fiscal year limitations as provided by section 104 of the Government Corporation Control Act, as amended (31 U.S.C. 9104), as may be necessary in carrying out the program, including associated administrative expenses, through September 30, 2006 for such Corporation: Provided, That none of the funds available to the Corporation for fiscal year 2006 shall be available for obligations for administrative expenses in excess of $296,978,000: Provided further, That obligations in excess of such amount may be incurred after approval by the Office of Management and Budget and the Committees on Appropriations of the House and Senate.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Employment Standards Administration, including reimbursement to State, Federal, and local agencies and their employees for inspection services rendered, $413,168,000, together with $2,048,000 which may be expended from the Special Fund in accordance with sections 39(c), 44(d) and 44(j) of the Longshore and Harbor Workers' Compensation Act: Provided, That the Secretary of Labor is authorized to establish and, in accordance with 31 U.S.C. 3302, collect and deposit in the Treasury fees for processing applications and issuing certificates under sections 11(d) and 14 of the Fair Labor Standards Act of 1938, as amended (29 U.S.C. 211(d) and 214) and for processing applications and issuing registrations under title I of the Migrant and Seasonal Agricultural Worker Protection Act (29 U.S.C. 1801 et seq.).

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

For the payment of compensation, benefits, and expenses (except administrative expenses) accruing during the current or any prior fiscal year authorized by title 5, chapter 81 of the United States Code; continuation of benefits as provided for under the heading "Civilian War Benefits" in the Federal Security Agency Appropriation Act, 1947; the Employees' Compensation Commission Appropriation Act, 1944; sections 4(c) and 5(f) of the War Claims Act of 1948 (50 U.S.C. App. 2012); and 50 percent of the additional compensation and benefits required by section 10(h) of the Longshore and Harbor Workers' Compensation Act, as amended, $237,000,000, together with such amounts as may be necessary to be charged to the subsequent year appropriation for the payment of compensation and other benefits for any period subsequent to August 15 of the current year: Provided, That amounts appropriated may be used under section 8104 of title 5, United States Code, by the Secretary of Labor to reimburse an employer, who is not the employer at the time of injury, for portions of the salary of a reemployed, disabled beneficiary: Provided further, That balances of reimbursements unobligated on September 30, 2005, shall remain available until expended for the payment of compensation, benefits, and expenses: Provided further, That in addition there shall be transferred to this appropriation from the Postal Service and from any other corporation or instrumentality required under section 8147(c) of title 5, United States Code, to pay an amount for its fair share of the cost of administration, such sums as the Secretary determines to be the cost of administration for employees of such fair share entities through September 30, 2006: Provided further, That of those funds transferred to this account from the fair share entities to pay the cost of administration of the Federal Employees' Compensation Act, $53,695,000 shall be made available to the Secretary as follows:

(1) for enhancement and maintenance of automated data processing systems and telecommunications systems, $13,305,000;

(2) for automated workload processing operations, including document imaging, centralized mail intake and medical bill processing, $27,148,000;

(3) for periodic roll management and medical review, $13,242,000; and

(4) the remaining funds shall be paid into the Treasury as miscellaneous receipts:

Provided further, That the Secretary may require that any person filing a notice of injury or a claim for benefits under chapter 81 of title 5, United States Code, or 33 U.S.C. 901 et seq., provide as part of such notice and claim, such identifying information (including Social Security account number) as such regulations may prescribe.

SPECIAL BENEFITS FOR DISABLED COAL MINERS

For carrying out title IV of the Federal Mine Safety and Health Act of 1977, as amended by Public Law 107–275, (the "Act"), $232,250,000, to remain available until expended.

For making after July 31 of the current fiscal year, benefit payments to individuals under title IV of the Act, for costs incurred in the current fiscal year, such amounts as may be necessary.

For making benefit payments under title IV for the first quarter of fiscal year 2007, $74,000,000, to remain available until expended.

ADMINISTRATIVE EXPENSES, ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION FUND

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses to administer the Energy Employees Occupational Illness Compensation Act, $96,081,000, to remain available until expended: Provided, That the Secretary of Labor is authorized to transfer to any executive agency with authority under the Energy Employees Occupational Illness Compensation Act, including within the Department of Labor, such sums as may be necessary in fiscal year 2006 to carry out those authorities: Provided further, That the Secretary may require that any person filing a claim for benefits under the Act provide as part of such claim, such identifying information (including Social Security account number) as may be prescribed: Provided further, That not later than 30 days after enactment, in addition to other sums transferred by the Secretary of Labor to the National Institute for Occupational Safety and Health ("NIOSH") for the administration of the Energy Employees Occupational Illness Compensation Program ("EEOICPA"), the Secretary of Labor shall transfer $4,500,000 to NIOSH from the funds appropriated to the Energy Employees Occupational Illness Compensation Fund (42 U.S.C. 7384e), for use by or in support of the Advisory Board on Radiation and Worker Health ("the Board") to carry out its statutory responsibilities under EEOICPA (42 U.S.C. 7384n–q), including obtaining audits, technical assistance and other support from the Board's audit contractor with regard to radiation dose estimation and reconstruction efforts, site profiles, procedures, and review of Special Exposure Cohort petitions and evaluation reports.

BLACK LUNG DISABILITY TRUST FUND

(INCLUDING TRANSFER OF FUNDS)

In fiscal year 2006 and thereafter, such sums as may be necessary from the Black Lung Disability Trust Fund, to remain available until expended, for payment of all benefits authorized by section 9501(d)(1), (2), (4), and (7) of the Internal Revenue Code of 1954, as amended; and interest on advances, as authorized by section 9501(c)(2) of that Act. In addition, the following amounts shall be available from the Fund for fiscal year 2006 for expenses of operation and administration of the Black Lung Benefits program, as authorized by section 9501(d)(5): $33,050,000 for transfer to the Employment Standards Administration "Salaries and Expenses"; $24,239,000 for transfer to Departmental Management, "Salaries and Expenses"; $344,000 for transfer to Departmental Management, "Office of Inspector General"; and $356,000 for payments into miscellaneous receipts for the expenses of the Department of the Treasury.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Occupational Safety and Health Administration, $477,199,000, including not to exceed $92,013,000 which shall be the maximum amount available for grants to States under section 23(g) of the Occupational Safety and Health Act (the "Act"), which grants shall be no less than 50 percent of the costs of State occupational safety and health programs required to be incurred under plans approved by the Secretary under section 18 of the Act; and, in addition, notwithstanding 31 U.S.C. 3302, the Occupational Safety and Health Administration may retain up to $750,000 per fiscal year of training institute course tuition fees, otherwise authorized by law to be collected, and may utilize such sums for occupational safety and health training and education grants: Provided, That, notwithstanding 31 U.S.C. 3302, the Secretary of Labor is authorized, during the fiscal year ending September 30, 2006, to collect and retain fees for services provided to Nationally Recognized Testing Laboratories, and may utilize such sums, in accordance with the provisions of 29 U.S.C. 9a, to administer national and international laboratory recognition programs that ensure the safety of equipment and products used by workers in the workplace: Provided further, That none of the funds appropriated under this paragraph shall be obligated or expended to prescribe, issue, administer, or enforce any standard, rule, regulation, or order under the Act which is applicable to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: Provided further, That no funds appropriated under this paragraph shall be obligated or expended to administer or enforce any standard, rule, regulation, or order under the Act with respect to any employer of 10 or fewer employees who is included within a category having a Days Away, Restricted, or Transferred (DART) occupational injury and illness rate, at the most precise industrial classification code for which such data are published, less than the national average rate as such rates are most recently published by the Secretary, acting through the Bureau of Labor Statistics, in accordance with section 24 of that Act (29 U.S.C. 673), except—

(1) to provide, as authorized by such Act, consultation, technical assistance, educational and training services, and to conduct surveys and studies;

(2) to conduct an inspection or investigation in response to an employee complaint, to issue a citation for violations found during such inspection, and to assess a penalty for violations which are not corrected within a reasonable abatement period and for any willful violations found;

(3) to take any action authorized by such Act with respect to imminent dangers;

(4) to take any action authorized by such Act with respect to health hazards;

(5) to take any action authorized by such Act with respect to a report of an employment accident which is fatal to one or more employees or which results in hospitalization of two or more employees, and to take any action pursuant to such investigation authorized by such Act; and

(6) to take any action authorized by such Act with respect to complaints of discrimination against employees for exercising rights under such Act:

Provided further, That the foregoing proviso shall not apply to any person who is engaged in a farming operation which does not maintain a temporary labor camp and employs 10 or fewer employees: Provided further, That not less than $3,200,000 shall be used to extend funding for the Institutional Competency Building training grants which commenced in September 2000, for program activities for the period of September 30, 2006, to September 30, 2007, provided that a grantee has demonstrated satisfactory performance: Provided further, That none of the funds appropriated under this paragraph shall be obligated or expended to administer or enforce the provisions of 29 CFR 1910.134(f)(2) (General Industry Respiratory Protection Standard) to the extent that such provisions require the annual fit testing (after the initial fit testing) of respirators for occupational exposure to tuberculosis.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

For necessary expenses for the Mine Safety and Health Administration, $280,490,000, including purchase and bestowal of certificates and trophies in connection with mine rescue and first-aid work, and the hire of passenger motor vehicles, including up to $2,000,000 for mine rescue and recovery activities; in addition, not to exceed $750,000 may be collected by the National Mine Health and Safety Academy for room, board, tuition, and the sale of training materials, otherwise authorized by law to be collected, to be available for mine safety and health education and training activities, notwithstanding 31 U.S.C. 3302; and, in addition, the Mine Safety and Health Administration may retain up to $1,000,000 from fees collected for the approval and certification of equipment, materials, and explosives for use in mines, and may utilize such sums for such activities; the Secretary is authorized to accept lands, buildings, equipment, and other contributions from public and private sources and to prosecute projects in cooperation with other agencies, Federal, State, or private; the Mine Safety and Health Administration is authorized to promote health and safety education and training in the mining community through cooperative programs with States, industry, and safety associations; the Secretary is authorized to recognize the Joseph A. Holmes Safety Association as a principal safety association and, notwithstanding any other provision of law, may provide funds and, with or without reimbursement, personnel, including service of Mine Safety and Health Administration officials as officers in local chapters or in the national organization; and any funds available to the department may be used, with the approval of the Secretary, to provide for the costs of mine rescue and survival operations in the event of a major disaster.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

For necessary expenses for the Bureau of Labor Statistics, including advances or reimbursements to State, Federal, and local agencies and their employees for services rendered, $464,678,000, together with not to exceed $77,845,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund, of which $5,000,000 may be used to fund the mass layoff statistics program under section 15 of the Wagner-Peyser Act (29 U.S.C. 491–2): Provided, That the Current Employment Survey shall maintain the content of the survey issued prior to June 2005 with respect to the collection of data for the women worker series.

OFFICE OF DISABILITY EMPLOYMENT POLICY

SALARIES AND EXPENSES

For necessary expenses for the Office of Disability Employment Policy to provide leadership, develop policy and initiatives, and award grants furthering the objective of eliminating barriers to the training and employment of people with disabilities, $27,934,000.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

For necessary expenses for Departmental Management, including the hire of three sedans, and including the management or operation, through contracts, grants or other arrangements of Departmental activities conducted by or through the Bureau of International Labor Affairs, including bilateral and multilateral technical assistance and other international labor activities, $300,275,000, of which $6,944,000, to remain available until September 30, 2007, is for Frances Perkins Building Security Enhancements, and $29,760,000 is for the acquisition of Departmental information technology, architecture, infrastructure, equipment, software and related needs, which will be allocated by the Department's Chief Information Officer in accordance with the Department's capital investment management process to assure a sound investment strategy; together with not to exceed $311,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

VETERANS EMPLOYMENT AND TRAINING

Not to exceed $194,834,000 may be derived from the Employment Security Administration Account in the Unemployment Trust Fund to carry out the provisions of 38 U.S.C. 4100–4113, 4211–4215, and 4321–4327, and Public Law 103–353, and which shall be available for obligation by the States through December 31, 2006, of which $1,984,000 is for the National Veterans' Employment and Training Services Institute. To carry out the Homeless Veterans Reintegration Programs (38 U.S.C. 2021) and the Veterans Workforce Investment Programs (29 U.S.C. 2913), $29,500,000, of which $7,500,000 shall be available for obligation for the period July 1, 2006 through June 30, 2007.

OFFICE OF INSPECTOR GENERAL

For salaries and expenses of the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $66,211,000, together with not to exceed $5,608,000, which may be expended from the Employment Security Administration Account in the Unemployment Trust Fund.

WORKING CAPITAL FUND

For the acquisition of a new core accounting system for the Department of Labor, including hardware and software infrastructure and the costs associated with implementation thereof, $6,230,000.

GENERAL PROVISIONS

SEC. 101. None of the funds appropriated in this title for the Job Corps shall be used to pay the salary of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level I.

SEC. 102. Not later than 90 days after the date of enactment of this Act, the Secretary of Labor shall permanently establish and maintain an Office of Job Corps within the Office of the Secretary, in the Department of Labor, to carry out the functions (including duties, responsibilities, and procedures) of subtitle C of title I of the Workforce Investment Act of 1998 (29 U.S.C. 2881 et seq.). The Secretary shall appoint a senior member of the civil service to head that Office of Job Corps and carry out subtitle C. The Secretary shall transfer funds appropriated for the program carried out under that subtitle C, including the administration of such program, to the head of that Office of Job Corps. The head of that Office of Job Corps shall have contracting authority and shall receive support as necessary from the Assistant Secretary for Administration and Management with respect to contracting functions and the Assistant Secretary for Policy with respect to research and evaluation functions.

(TRANSFER OF FUNDS)

SEC. 103. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the current fiscal year for the Department of Labor in this Act may be transferred between a program, project, or activity, but no such program, project, or activity shall be increased by more than 3 percent by any such transfer: Provided, That a program, project, or activity may be increased by up to an additional 2 percent subject to approval by the House and Senate Committees on Appropriations: Provided further, That the transfer authority granted by this section shall be available only to meet emergency needs and shall not be used to create any new program or to fund any project or activity for which no funds are provided in this Act: Provided further, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

SEC. 104. In accordance with Executive Order No. 13126, none of the funds appropriated or otherwise made available pursuant to this Act shall be obligated or expended for the procurement of goods mined, produced, manufactured, or harvested or services rendered, whole or in part, by forced or indentured child labor in industries and host countries already identified by the United States Department of Labor prior to enactment of this Act.

SEC. 105. There is authorized to be appropriated such sums as may be necessary to the Denali Commission through the Department of Labor to conduct job training of the local workforce where Denali Commission projects will be constructed.

SEC. 106. For purposes of chapter 8 of division B of the Department of Defense and Emergency Supplemental Appropriations for Recovery from and Response to Terrorist Attacks on the United States Act, 2002 (Public Law 107–117), payments made by the New York Workers' Compensation Board to the New York Crime Victims Board and the New York State Insurance Fund before the date of the enactment of this Act shall be deemed to have been made for workers compensation programs.

SEC. 107. The Department of Labor shall submit its fiscal year 2007 congressional budget justifications to the Committees on Appropriations of the House of Representatives and the Senate in the format and level of detail used by the Department of Education in its fiscal year 2006 congressional budget justifications.

SEC. 108. The Secretary shall prepare and submit not later than July 1, 2006 to the Committees on Appropriations of the Senate and of the House an operating plan that outlines the planned allocation by major project and activity of fiscal year 2006 funds made available for section 171 of the Workforce Investment Act.

This title may be cited as the "Department of Labor Appropriations Act, 2006".

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

Health Resources and Services Administration

HEALTH RESOURCES AND SERVICES

For carrying out titles II, III, IV, VII, VIII, X, XII, XIX, and XXVI of the Public Health Service Act, section 427(a) of the Federal Coal Mine Health and Safety Act, title V and sections 1128E, and 711, and 1820 of the Social Security Act, the Health Care Quality Improvement Act of 1986, as amended, the Native Hawaiian Health Care Act of 1988, as amended, the Cardiac Arrest Survival Act of 2000, section 712 of the American Jobs Creation Act of 2004, and for expenses necessary to support activities related to countering potential biological, disease, nuclear, radiological and chemical threats to civilian populations, $6,539,661,000 of which $64,180,000 from general revenues, notwithstanding section 1820(j) of the Social Security Act, shall be available for carrying out the Medicare rural hospital flexibility grants program under section 1820 of such Act (of which $25,000,000 is for a Delta health initiative Rural Health, Education, and Workforce Infrastructure Demonstration Program which shall solicit and fund proposals from local governments, hospitals, universities, and rural public health-related entities and organizations for research development, educational programs, job training, and construction of public health-related facilities): Provided, That of the funds made available under this heading, $222,000 shall be available until expended for facilities renovations at the Gillis W. Long Hansen's Disease Center: Provided further, That in addition to fees authorized by section 427(b) of the Health Care Quality Improvement Act of 1986, fees shall be collected for the full disclosure of information under the Act sufficient to recover the full costs of operating the National Practitioner Data Bank, and shall remain available until expended to carry out that Act: Provided further, That fees collected for the full disclosure of information under the "Health Care Fraud and Abuse Data Collection Program", authorized by section 1128E(d)(2) of the Social Security Act, shall be sufficient to recover the full costs of operating the program, and shall remain available until expended to carry out that Act: Provided further, That no more than $40,000 is available until expended for carrying out the provisions of 42 U.S.C. 233(o) including associated administrative expenses: Provided further, That no more than $45,000,000 is available until expended for carrying out the provisions of Public Law 104–73 and for expenses incurred by the Department of Health and Human Services pertaining to administrative claims made under such law: Provided further, That $4,000,000 is available until expended for the National Cord Blood Stem Cell Bank Program as described in House Report 108–401: Provided further, That of the funds made available under this heading, $285,963,000 shall be for the program under title X of the Public Health Service Act to provide for voluntary family planning projects: Provided further, That amounts provided to said projects under such title shall not be expended for abortions, that all pregnancy counseling shall be nondirective, and that such amounts shall not be expended for any activity (including the publication or distribution of literature) that in any way tends to promote public support or opposition to any legislative proposal or candidate for public office: Provided further, That $797,521,000 shall be for State AIDS Drug Assistance Programs authorized by section 2616 of the Public Health Service Act: Provided further, That in addition to amounts provided herein, $25,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out Parts A, B, C, and D of title XXVI of the Public Health Service Act to fund section 2691 Special Projects of National Significance: Provided further, That, notwithstanding section 502(a)(1) of the Social Security Act, not to exceed $117,108,000 is available for carrying out special projects of regional and national significance pursuant to section 501(a)(2) of such Act: Provided further, That of the funds provided, $39,680,000 shall be provided to the Denali Commission as a direct lump payment pursuant to Public Law 106–113.

HEALTH EDUCATION ASSISTANCE LOANS PROGRAM ACCOUNT

Such sums as may be necessary to carry out the purpose of the program, as authorized by title VII of the Public Health Service Act, as amended. For administrative expenses to carry out the guaranteed loan program, including section 709 of the Public Health Service Act, $2,916,000.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

For payments from the Vaccine Injury Compensation Program Trust Fund, such sums as may be necessary for claims associated with vaccine-related injury or death with respect to vaccines administered after September 30, 1988, pursuant to subtitle 2 of title XXI of the Public Health Service Act, to remain available until expended: Provided, That for necessary administrative expenses, not to exceed $3,600,000 shall be available from the Trust Fund to the Secretary of Health and Human Services.

Centers for Disease Control and Prevention

DISEASE CONTROL, RESEARCH, AND TRAINING

To carry out titles II, III, VII, XI, XV, XVII, XIX, XXI, and XXVI of the Public Health Service Act, sections 101, 102, 103, 201, 202, 203, 301, and 501 of the Federal Mine Safety and Health Act of 1977, sections 20, 21, and 22 of the Occupational Safety and Health Act of 1970, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, and for expenses necessary to support activities related to countering potential biological, disease, nuclear, radiological, and chemical threats to civilian populations; including purchase and insurance of official motor vehicles in foreign countries; and purchase, hire, maintenance, and operation of aircraft, $5,884,934,000, of which $160,000,000 shall remain available until expended for equipment, construction and renovation of facilities; of which $30,000,000 of the amounts available for immunization activities shall remain available until expended; of which $530,000,000 shall remain available until expended for the Strategic National Stockpile; and of which $123,883,000 for international HIV/AIDS shall remain available until September 30, 2007. In addition, such sums as may be derived from authorized user fees, which shall be credited to this account: Provided, That in addition to amounts provided herein, the following amounts shall be available from amounts available under section 241 of the Public Health Service Act: (1) $12,794,000 to carry out the National Immunization Surveys; (2) $109,021,000 to carry out the National Center for Health Statistics surveys; (3) $24,751,000 to carry out information systems standards development and architecture and applications-based research used at local public health levels; (4) $463,000 for Health Marketing evaluations; (5) $31,000,000 to carry out Public Health Research; and (6) $87,071,000 to carry out research activities within the National Occupational Research Agenda: Provided further, That none of the funds made available for injury prevention and control at the Centers for Disease Control and Prevention may be used, in whole or in part, to advocate or promote gun control: Provided further, That up to $31,800,000 shall be made available until expended for Individual Learning Accounts for full-time equivalent employees of the Centers for Disease Control and Prevention: Provided further, That the Director may redirect the total amount made available under authority of Public Law 101–502, section 3, dated November 3, 1990, to activities the Director may so designate: Provided further, That the Congress is to be notified promptly of any such transfer: Provided further, That not to exceed $12,500,000 may be available for making grants under section 1509 of the Public Health Service Act to not more than 15 States, tribes, or tribal organizations: Provided further, That notwithstanding any other provision of law, a single contract or related contracts for development and construction of facilities may be employed which collectively include the full scope of the project: Provided further, That the solicitation and contract shall contain the clause "availability of funds" found at 48 CFR 52.232–18: Provided further, That of the funds appropriated, $10,000 is for official reception and representation expenses when specifically approved by the Director of the Centers for Disease Control and Prevention: Provided further, That employees of the Centers for Disease Control and Prevention or the Public Health Service, both civilian and Commissioned Officers, detailed to States, municipalities, or other organizations under authority of section 214 of the Public Health Service Act shall be treated as non-Federal employees for reporting purposes only and shall not be included within any personnel ceiling applicable to the Agency, Service, *or the Department of Health and Human Services during the period of detail or assignment.*

NATIONAL INSTITUTES OF HEALTH

NATIONAL CANCER INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cancer, $4,841,774,000, of which up to $8,000,000 may be used for facilities repairs and improvements at the NCI-Frederick Federally Funded Research and Development Center in Frederick, Maryland.

NATIONAL HEART, LUNG, AND BLOOD INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to cardiovascular, lung, and blood diseases, and blood and blood products, $2,951,270,000.

NATIONAL INSTITUTE OF DENTAL AND CRANIOFACIAL RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to dental disease, $393,269,000.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to diabetes and digestive and kidney disease, $1,722,146,000.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

For carrying out section 301 and title IV of the Public Health Service Act with respect to neurological disorders and stroke, $1,550,260,000.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

(INCLUDING TRANSFER OF FUNDS)

For carrying out section 301 and title IV of the Public Health Service Act with respect to allergy and infectious diseases, $4,459,395,000: Provided, That $100,000,000 may be made available to International Assistance Programs "Global Fund to Fight HIV/AIDS, Malaria, and Tuberculosis", to remain available until expended: Provided further, That up to $30,000,000 shall be for extramural facilities construction grants to enhance the Nation's capability to do research on biological and other agents.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to general medical sciences, $1,955,170,000.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

For carrying out section 301 and title IV of the Public Health Service Act with respect to child health and human development, $1,277,544,000.

NATIONAL EYE INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to eye diseases and visual disorders, $673,491,000.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

For carrying out sections 301 and 311 and title IV of the Public Health Service Act with respect to environmental health sciences, $647,608,000.

NATIONAL INSTITUTE ON AGING

For carrying out section 301 and title IV of the Public Health Service Act with respect to aging, $1,057,203,000.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

For carrying out section 301 and title IV of the Public Health Service Act with respect to arthritis and musculoskeletal and skin diseases, $513,063,000.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

For carrying out section 301 and title IV of the Public Health Service Act with respect to deafness and other communication disorders, $397,432,000.

NATIONAL INSTITUTE OF NURSING RESEARCH

For carrying out section 301 and title IV of the Public Health Service Act with respect to nursing research, $138,729,000.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

For carrying out section 301 and title IV of the Public Health Service Act with respect to alcohol abuse and alcoholism, $440,333,000.

NATIONAL INSTITUTE ON DRUG ABUSE

For carrying out section 301 and title IV of the Public Health Service Act with respect to drug abuse, $1,010,130,000.

NATIONAL INSTITUTE OF MENTAL HEALTH

For carrying out section 301 and title IV of the Public Health Service Act with respect to mental health, $1,417,692,000.

NATIONAL HUMAN GENOME RESEARCH INSTITUTE

For carrying out section 301 and title IV of the Public Health Service Act with respect to human genome research, $490,959,000.

NATIONAL INSTITUTE OF BIOMEDICAL IMAGING AND BIOENGINEERING

For carrying out section 301 and title IV of the Public Health Service Act with respect to biomedical imaging and bioengineering research, $299,808,000.

NATIONAL CENTER FOR RESEARCH RESOURCES

For carrying out section 301 and title IV of the Public Health Service Act with respect to research resources and general research support grants, $1,110,203,000: Provided, That none of these funds shall be used to pay recipients of the general research support grants program any amount for indirect expenses in connection with such grants.

NATIONAL CENTER FOR COMPLEMENTARY AND ALTERNATIVE MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to complementary and alternative medicine, $122,692,000.

NATIONAL CENTER ON MINORITY HEALTH AND HEALTH DISPARITIES

For carrying out section 301 and title IV of the Public Health Service Act with respect to minority health and health disparities research, $197,379,000.

JOHN E. FOGARTY INTERNATIONAL CENTER

For carrying out the activities at the John E. Fogarty International Center, $67,048,000.

NATIONAL LIBRARY OF MEDICINE

For carrying out section 301 and title IV of the Public Health Service Act with respect to health information communications, $318,091,000, of which $4,000,000 shall be available until expended for improvement of information systems: Provided, That in fiscal year 2006, the Library may enter into personal services contracts for the provision of services in facilities owned, operated, or constructed under the jurisdiction of the National Institutes of Health: Provided further, That in addition to amounts provided herein, $8,200,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out National Information Center on Health Services Research and Health Care Technology and related health services.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

For carrying out the responsibilities of the Office of the Director, National Institutes of Health, $482,895,000, of which up to $10,000,000 shall be used to carry out section 217 of this Act: Provided, That funding shall be available for the purchase of not to exceed 29 passenger motor vehicles for replacement only: Provided further, That the Director may direct up to 1 percent of the total amount made available in this or any other Act to all National Institutes of Health appropriations to activities the Director may so designate: Provided further, That no such appropriation shall be decreased by more than 1 percent by any such transfers and that the Congress is promptly notified of the transfer: Provided further, That the National Institutes of Health is authorized to collect third party payments for the cost of clinical services that are incurred in National Institutes of Health research facilities and that such payments shall be credited to the National Institutes of Health Management Fund: Provided further, That all funds credited to the National Institutes of Health Management Fund shall remain available for one fiscal year after the fiscal year in which they are deposited: Provided further, That up to $500,000 shall be available to carry out section 499 of the Public Health Service Act: Provided further, That in addition to the transfer authority provided above, a uniform percentage of the amounts appropriated in this Act to each Institute and Center may be transferred and utilized for the National Institutes of Health Roadmap for Medical Research: Provided further, That the amount utilized under the preceding proviso shall not exceed $250,000,000 without prior notification to the Committees on Appropriations of the House of Representatives and the Senate: Provided further, That amounts transferred and utilized under the preceding two provisos shall be in addition to amounts made available for the Roadmap for Medical Research from the Director's Discretionary Fund and to any amounts allocated to activities related to the Roadmap through the normal research priority-setting process of individual Institutes and Centers: Provided further, That of the funds provided $10,000 shall be for official reception and representation expenses when specifically approved by the Director of NIH: Provided further, That the Office of AIDS Research within the Office of the Director, NIH may spend up to $4,000,000 to make grants for construction or renovation of facilities as provided for in section 2354(a)(5)(B) of the Public Health Service Act: Provided further, That of the funds provided $97,000,000 shall be for expenses necessary to support activities related to countering potential nuclear, radiological and chemical threats to civilian populations.

BUILDINGS AND FACILITIES

For the study of, construction of, renovation of, and acquisition of equipment for, facilities of or used by the National Institutes of Health, including the acquisition of real property, $81,900,000, to remain available until expended.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

For carrying out titles V and XIX of the Public Health Service Act ("PHS Act") with respect to substance abuse and mental health services, the Protection and Advocacy for Individuals with Mental Illness Act, and section 301 of the PHS Act with respect to program management, $3,237,813,000: Provided, That notwithstanding section 520A(f)(2) of the PHS Act, no funds appropriated for carrying out section 520A are available for carrying out section 1971 of the PHS Act: Provided further, That in addition to amounts provided herein, the following amounts shall be available under section 241 of the PHS Act: (1) $79,200,000 to carry out subpart II of part B of title XIX of the PHS Act to fund section 1935(b) technical assistance, national data, data collection and evaluation activities, and further that the total available under this Act for section 1935(b) activities shall not exceed 5 percent of the amounts appropriated for subpart II of part B of title XIX; (2) $21,803,000 to carry out subpart I of part B of title XIX of the PHS

Act to fund section 1920(b) technical assistance, national data, data collection and evaluation activities, and further that the total available under this Act for section 1920(b) activities shall not exceed 5 percent of the amounts appropriated for subpart I of part B of title XIX; (3) $16,000,000 to carry out national surveys on drug abuse; and (4) $4,300,000 to evaluate substance abuse treatment programs.

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

HEALTHCARE RESEARCH AND QUALITY

For carrying out titles III and IX of the Public Health Service Act, and part A of title XI of the Social Security Act, amounts received from Freedom of Information Act fees, reimbursable and interagency agreements, and the sale of data shall be credited to this appropriation and shall remain available until expended: Provided, That the amount made available pursuant to section 927(c) of the Public Health Service Act shall not exceed $318,695,000: Provided further, That not more than $50,000,000 of these funds shall be for the development of scientific evidence that supports the implementation and evaluation of health care information technology systems.

CENTERS FOR MEDICARE AND MEDICAID SERVICES

GRANTS TO STATES FOR MEDICAID

For carrying out, except as otherwise provided, titles XI and XIX of the Social Security Act, $156,954,419,000, to remain available until expended.

For making, after May 31, 2006, payments to States under title XIX of the Social Security Act for the last quarter of fiscal year 2006 for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

For making payments to States or in the case of section 1928 on behalf of States under title XIX of the Social Security Act for the first quarter of fiscal year 2007, $62,783,825,000, to remain available until expended.

Payment under title XIX may be made for any quarter with respect to a State plan or plan amendment in effect during such quarter, if submitted in or prior to such quarter and approved in that or any subsequent quarter.

PAYMENTS TO HEALTH CARE TRUST FUNDS

For payment to the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as provided under section 1844, 1860D–16, and 1860D–31 of the Social Security Act, sections 103(c) and 111(d) of the Social Security Amendments of 1965, section 278(d) of Public Law 97–248, and for administrative expenses incurred pursuant to section 201(g) of the Social Security Act, $177,742,200,000.

In addition, for making matching payments under section 1844, and benefit payments under 1860D–16 and 1860D–31, of the Social Security Act, not anticipated in budget estimates, such sums as may be necessary.

PROGRAM MANAGEMENT

For carrying out, except as otherwise provided, titles XI, XVIII, XIX, and XXI of the Social Security Act, titles XIII and XXVII of the Public Health Service Act, and the Clinical Laboratory Improvement Amendments of 1988, not to exceed $3,170,927,000, to be transferred from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds, as authorized by section 201(g) of the Social Security Act; together with all funds collected in accordance with section 353 of the Public Health Service Act and section 1857(e)(2) of the Social Security Act, and such sums as may be collected from authorized user fees and the sale of data, which shall remain available until expended: Provided, That all funds derived in accordance with 31 U.S.C. 9701 from organizations established under title XIII of the Public Health Service Act shall be credited to and available for carrying out the purposes of this appropriation: Provided further, That $24,205,000, to remain available until September 30, 2007, is for contract costs for the Centers for Medicare and Medicaid Services Systems Revitalization Plan: Provided further, That $79,934,000, to remain available until September 30, 2007, is for contract costs for the Healthcare Integrated General Ledger Accounting System: Provided further, That funds appropriated under this heading are available for the Healthy Start, Grow Smart program under which the Centers for Medicare and Medicaid Services may, directly or through grants, contracts, or cooperative agreements, produce and distribute informational materials including, but not limited to, pamphlets and brochures on infant and toddler health care to expectant parents enrolled in the Medicaid program and to parents and guardians enrolled in such program with infants and children: Provided further, That the Secretary of Health and Human Services is directed to collect fees in fiscal year 2006 from Medicare Advantage organizations pursuant to section 1857(e)(2) of the Social Security Act and from eligible organizations with risk-sharing contracts under section 1876 of that Act pursuant to section 1876(k)(4)(D) of that Act: Provided further, That to the extent Medicare claims volume is projected by the Centers for Medicare and Medicaid Services (CMS) to exceed 200,000,000 Part A claims and/or 1,022,100,000 Part B claims, an additional $32,500,000 shall be available for obligation for every 50,000,000 increase in Medicare claims volume (including a pro rata amount for any increment less than 50,000,000) from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

HEALTH MAINTENANCE ORGANIZATION LOAN AND LOAN GUARANTEE FUND

For carrying out subsections (d) and (e) of section 1308 of the Public Health Service Act, any amounts received by the Secretary in connection with loans and loan guarantees under title XIII of the Public Health Service Act, to be available without fiscal year limitation for the payment of outstanding obligations. During fiscal year 2006, no commitments for direct loans or loan guarantees shall be made.

ADMINISTRATION FOR CHILDREN AND FAMILIES

PAYMENTS TO STATES FOR CHILD SUPPORT ENFORCEMENT AND FAMILY SUPPORT PROGRAMS

For making payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), $2,121,643,000, to remain available until expended; and for such purposes for the first quarter of fiscal year 2007, $1,200,000,000, to remain available until expended.

For making payments to each State for carrying out the program of Aid to Families with Dependent Children under title IV–A of the Social Security Act before the effective date of the program of Temporary Assistance for Needy Families (TANF) with respect to such State, such sums as may be necessary: Provided, That the sum of the amounts available to a State with respect to expenditures under such title IV–A in fiscal year 1997 under this appropriation and under such title IV–A as amended by the Personal Responsibility and Work Opportunity Reconciliation Act of 1996 shall not exceed the limitations under section 116(b) of such Act.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under titles I, IV–D, X, XI, XIV, and XVI of the Social Security Act and the Act of July 5, 1960 (24 U.S.C. ch. 9), for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

LOW-INCOME HOME ENERGY ASSISTANCE

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $2,000,000,000.

For making payments under title XXVI of the Omnibus Budget Reconciliation Act of 1981, $183,000,000, to remain available until September 30, 2006: Provided, That these funds are for the unanticipated home energy assistance needs of one or more States, as authorized by section 2604(e) of such Act, and notwithstanding the designation requirement of section 2602(e) of such Act.

REFUGEE AND ENTRANT ASSISTANCE

For necessary expenses for refugee and entrant assistance activities and for costs associated with the care and placement of unaccompanied alien children authorized by title IV of the Immigration and Nationality Act and section 501 of the Refugee Education Assistance Act of 1980 (Public Law 96–422), for carrying out section 462 of the Homeland Security Act of 2002 (Public Law 107–296), and for carrying out the Torture Victims Relief Act of 2003 (Public Law 108–179), $575,579,000, of which up to $9,915,000 shall be available to carry out the Trafficking Victims Protection Act of 2003 (Public Law 108–193): Provided, That funds appropriated under this heading pursuant to section 414(a) of the Immigration and Nationality Act and section 462 of the Homeland Security Act of 2002 for fiscal year 2006 shall be available for the costs of assistance provided and other activities to remain available through September 30, 2008.

PAYMENTS TO STATES FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT

For carrying out sections 658A through 658R of the Omnibus Budget Reconciliation Act of 1981 (The Child Care and Development Block Grant Act of 1990), $2,082,910,000 shall be used to supplement, not supplant State general revenue funds for child care assistance for low-income families: Provided, That $18,967,040 shall be available for child care resource and referral and school-aged child care activities, of which $992,000 shall be for the Child Care Aware toll-free hotline: Provided further, That, in addition to the amounts required to be reserved by the States under section 658G, $270,490,624 shall be reserved by the States for activities authorized under section 658G, of which $99,200,000 shall be for activities that improve the quality of infant and toddler care: Provided further, That $9,920,000 shall be for use by the Secretary for child care research, demonstration, and evaluation activities.

SOCIAL SERVICES BLOCK GRANT

For making grants to States pursuant to section 2002 of the Social Security Act, $1,700,000,000: Provided, That notwithstanding subparagraph (B) of section 404(d)(2) of such Act, the applicable percent specified under such subparagraph for a State to carry out State programs pursuant to title XX of such Act shall be 10 percent.

CHILDREN AND FAMILIES SERVICES PROGRAMS

(INCLUDING RESCISSION OF FUNDS)

For carrying out, except as otherwise provided, the Runaway and Homeless Youth Act, the Developmental Disabilities Assistance and Bill of Rights Act, the Head Start Act, the Child Abuse Prevention and Treatment Act, sections 310 and 316 of the Family Violence Prevention and Services Act, as amended, the Native American Programs Act of 1974, title II of Public Law 95–266 (adoption opportunities), the Adoption and Safe Families Act of 1997 (Public Law 105–89), sections 1201 and 1211 of the Children's Health Act of 2000, the Abandoned Infants Assistance Act of 1988, sections 261 and 291 of the Help America Vote Act of 2002, part B(1) of title IV and sections 413, 429A, 1110, and 1115 of the Social Security Act, and sections 40155, 40211, and 40241 of Public Law 103–322; for making payments under the Community Services Block Grant Act, sections 439(h), 473A, and 477(i) of the Social Security Act, and title IV of Public Law 105–285, and for necessary administrative expenses to carry out said Acts and titles I, IV, V, X, XI, XIV, XVI, and XX of the Social Security Act, the Act of July 5, 1960 (24 U.S.C. ch. 9), the Omnibus Budget Reconciliation Act of 1981, title IV of the Immigration and Nationality Act, section 501 of the Refugee Education Assistance Act of 1980, sections 40155, 40211, and 40241 of Public Law 103–322, and section 126 and titles IV and V of Public Law 100–485, $8,922,213,000, of which $18,000,000, to remain available until September 30, 2007, shall be for grants to States for adoption incentive payments, as authorized by section 473A of title IV of the Social Security Act (42 U.S.C. 670–679) and may be made for adoptions completed before September 30, 2006: Provided, That $6,843,114,000 shall be for making payments under the Head Start Act, of which $1,388,800,000 shall become available October 1, 2006, and remain available through September 30, 2007: Provided further, That $701,590,000 shall be for making payments under the Community Services Block Grant Act: Provided further, That not less than $7,367,000 shall be for section 680(3)(B) of the Community Services Block Grant Act: Provided further, That in addition to amounts provided herein, $6,000,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out the provisions of section 1110 of the Social Security Act: Provided further, That to the extent Community Services Block Grant funds are distributed as grant funds by a State to an eligible entity as provided under the Act, and have not been expended by such entity, they shall remain with such entity for carryover into the next fiscal year for expenditure by such entity consistent with program purposes: Provided further, That the Secretary shall establish procedures regarding the disposition of intangible property which permits grant funds, or intangible assets acquired with funds authorized under section 680 of the Community Services Block Grant Act, as amended, to become the sole property of such grantees after a period of not more than 12 years after the end of the grant for purposes and uses consistent with the original grant: Provided further, That funds appropriated for section 680(a)(2) of the Community Services Block Grant Act, as amended, shall be available for financing construction and rehabilitation and loans or investments in private business enterprises owned by community development corporations: Provided further, That $65,000,000 is for a compassion capital fund to provide grants to charitable organizations to emulate model social service programs and to encourage research on the best practices of social service organizations: Provided further, That $15,879,000 shall be for activities authorized by the Help America Vote Act of 2002, of which $11,000,000 shall be for payments to States to promote access for voters with disabilities, and of which $4,879,000 shall be for payments to States for protection and advocacy systems for voters with disabilities: Provided further, That $110,000,000 shall be for making competitive grants to provide abstinence education (as defined by section 510(b)(2) of the Social Security Act) to adolescents, and for Federal costs of administering the grant: Provided further, That grants under the immediately preceding proviso shall be made only to public and private entities which agree that, with respect to an adolescent to whom the entities provide abstinence education under such grant, the entities will not provide to that adolescent any other education regarding sexual conduct, except that, in the case of an entity expressly required by law to provide health information or services the adolescent shall not be precluded from seeking health information or services from the entity in a different setting than the setting in which abstinence education was provided: Provided further, That within amounts provided herein for abstinence education for adolescents, up to $10,000,000 may be available for a national abstinence education campaign: Provided further, That in addition to amounts provided herein for abstinence education for adolescents, $4,500,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out evaluations (including longitudinal evaluations) of adolescent pregnancy prevention approaches: Provided further, That $2,000,000 shall be for improving the Public Assistance Reporting Information System, including grants to States to support data collection for a study of the system's effectiveness.

Of the funds provided under this heading in Public Law 108–447 to carry out section 473A of title IV of the Social Security Act (42 U.S.C. 670–679), $22,500,000 are rescinded.

PROMOTING SAFE AND STABLE FAMILIES

For carrying out section 436 of the Social Security Act, $305,000,000 and for section 437, $90,000,000.

PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION ASSISTANCE

For making payments to States or other non-Federal entities under title IV–E of the Social Security Act, $4,852,800,000.

For making payments to States or other non-Federal entities under title IV–E of the Act, for the first quarter of fiscal year 2007, $1,730,000,000.

For making, after May 31 of the current fiscal year, payments to States or other non-Federal entities under section 474 of title IV–E, for the last 3 months of the current fiscal year for unanticipated costs, incurred for the current fiscal year, such sums as may be necessary.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

For carrying out, to the extent not otherwise provided, the Older Americans Act of 1965, as amended, and section 398 of the Public Health Service Act, $1,376,624,000, of which $5,500,000 shall be available for activities regarding medication management, screening, and education to prevent incorrect medication and adverse drug reactions.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

For necessary expenses, not otherwise provided, for general departmental management, including hire of six sedans, and for carrying out titles III, XVII, XX, and XXI of the Public Health Service Act, the United States-Mexico Border Health Commission Act, and research studies under section 1110 of the Social Security Act, $352,703,000, together with $5,851,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund, and $39,552,000 from the amounts available under section 241 of the Public Health Service Act to carry out national health or human services research and evaluation activities: Provided, That of the funds made available under this heading for carrying out title XX of the Public Health Service Act, $13,120,000 shall be for activities specified under section 2003(b)(2), all of which shall be for prevention service demonstration grants under section 510(b)(2) of title V of the Social Security Act, as amended, without application of the limitation of section 2010(c) of said title XX: Provided further, That of this amount, $52,415,000 shall be for minority AIDS prevention and treatment activities; and $5,952,000 shall be to assist Afghanistan in the development of maternal and child health clinics, consistent with section 103(a)(4)(H) of the Afghanistan Freedom Support Act of 2002: Provided further, That specific information requests from the chairmen and ranking members of the Subcommittees on Labor, Health and Human Services, and Education, and Related Agencies, on scientific research or any other matter, shall be transmitted to the Committees on Appropriations in a prompt professional manner and within the time frame specified in the request: Provided further, That scientific information requested by the Committees on Appropriations and prepared by government researchers and scientists shall be transmitted to the Committees on Appropriations, uncensored and without delay.

OFFICE OF MEDICARE HEARINGS AND APPEALS

For expenses necessary for administrative law judges responsible for hearing cases under title XVIII of the Social Security Act (and related provisions of title XI of such Act), $60,000,000, to be transferred in appropriate part from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY

For expenses necessary for the Office of the National Coordinator for Health Information Technology, including grants, contracts and cooperative agreements for the development and advancement of an interoperable national health information technology infrastructure, $42,800,000: Provided, That in addition to amounts provided herein, $18,900,000 shall be available from amounts available under section 241 of the Public Health Service Act to carry out health information technology network development.

OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General, including the hire of passenger motor vehicles for investigations, in carrying out the provisions of the Inspector General Act of 1978, as amended, $39,813,000: Provided, That of such amount, necessary sums are available for providing protective services to the Secretary and investigating non-payment of child support cases for which non-payment is a Federal offense under 18 U.S.C. 228.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, $31,682,000, together with not to exceed $3,314,000 to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Hospital Insurance Trust Fund and the Supplemental Medical Insurance Trust Fund.

RETIREMENT PAY AND MEDICAL BENEFITS FOR COMMISSIONED OFFICERS

For retirement pay and medical benefits of Public Health Service Commissioned Officers as authorized by law, for payments under the Retired Serviceman's Family Protection Plan and Survivor Benefit Plan, for medical care of dependents and retired personnel under the Dependents' Medical Care Act (10 U.S.C. chapter 55), such amounts as may be required during the current fiscal year.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

For expenses necessary to support activities related to countering potential biological, disease, nuclear, radiological and chemical threats to civilian populations, and to ensure a year-round influenza vaccine production capacity, the development and implementation of rapidly expandable influenza vaccine production technologies, and if determined necessary by the Secretary, the purchase of influenza vaccine, $183,589,000: Provided, That $120,000,000 of amounts available for influenza preparedness shall remain available until expended.

GENERAL PROVISIONS

SEC. 201. Funds appropriated in this title shall be available for not to exceed $50,000 for official reception and representation expenses when specifically approved by the Secretary.

SEC. 202. The Secretary shall make available through assignment not more than 60 employees of the Public Health Service to assist in child survival activities and to work in AIDS programs through and with funds provided by the Agency for International Development, the United Nations International Children's Emergency Fund or the World Health Organization.

SEC. 203. None of the funds appropriated in this Act may be used to implement section 399F(b) of the Public Health Service Act or section 1503 of the National Institutes of Health Revitalization Act of 1993, Public Law 103–43.

SEC. 204. None of the funds appropriated in this Act for the National Institutes of Health, the Agency for Healthcare Research and Quality, and the Substance Abuse and Mental Health Services Administration shall be used to pay the salary of an individual, through a grant or other extramural mechanism, at a rate in excess of Executive Level I.

SEC. 205. None of the funds appropriated in this title for Head Start shall be used to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level II.

SEC. 206. None of the funds appropriated in this Act may be expended pursuant to section 241 of the Public Health Service Act, except for funds specifically provided for in this Act, or for other taps and assessments made by any office located in the Department of Health and Human Services, prior to the Secretary's preparation and submission of a report to the Committee on Appropriations of the Senate and of the House detailing the planned uses of such funds.

SEC. 207. Notwithstanding section 241(a) of the Public Health Service Act, such portion as the Secretary shall determine, but not more than 2.4 percent, of any amounts appropriated for programs authorized under said Act shall be made available for the evaluation (directly, or by grants or contracts) of the implementation and effectiveness of such programs.

(TRANSFER OF FUNDS)

SEC. 208. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the current fiscal year for the Department of Health and Human Services in this Act may be transferred between a program, project, or activity, but no such program, project, or activity shall be increased by more than 3 percent by any such transfer: Provided, That a program, project, or activity may be increased by up to an additional 2 percent subject to approval by the House and Senate Committees on Appropriations: Provided further, That the transfer authority granted by this section shall be available only to meet emergency needs and shall not be used to create any new program or to fund any project or activity for which no funds are provided in this Act: Provided further, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

(TRANSFER OF FUNDS)

SEC. 209. The Director of the National Institutes of Health, jointly with the Director of the Office of AIDS Research, may transfer up to 3 percent among institutes and centers from the total amounts identified by these two Directors as funding for research pertaining to the human immunodeficiency virus: Provided, That the Congress is promptly notified of the transfer.

(TRANSFER OF FUNDS)

SEC. 210. Of the amounts made available in this Act for the National Institutes of Health, the amount for research related to the human immunodeficiency virus, as jointly determined by the Director of the National Institutes of Health and the Director of the Office of AIDS Research, shall be made available to the "Office of AIDS Research" account. The Director of the Office of AIDS Research shall transfer from such account amounts necessary to carry out section 2353(d)(3) of the Public Health Service Act.

SEC. 211. None of the funds appropriated in this Act may be made available to any entity under title X of the Public Health Service Act unless the applicant for the award certifies to the Secretary that it encourages family participation in the decision of minors to seek family planning services and that it provides counseling to minors on how to resist attempts to coerce minors into engaging in sexual activities.

SEC. 212. None of the funds appropriated by this Act (including funds appropriated to any trust fund) may be used to carry out the Medicare Advantage program if the Secretary denies participation in such program to an otherwise eligible entity (including a Provider Sponsored Organization) because the entity informs the Secretary that it will not provide, pay for, provide coverage of, or provide referrals for abortions: Provided, That the Secretary shall make appropriate prospective adjustments to the capitation payment to such an entity (based on an actuarially sound estimate of the expected costs of providing the service to such entity's enrollees): Provided further, That nothing in this section shall be construed to change the Medicare program's coverage for such services and a Medicare Advantage organization described in this section shall be responsible for informing enrollees where to obtain information about all Medicare covered services.

SEC. 213. Notwithstanding any other provision of law, no provider of services under title X of the Public Health Service Act shall be exempt from any State law requiring notification or the reporting of child abuse, child molestation, sexual abuse, rape, or incest.

SEC. 214. (a) Except as provided by subsection (e) none of the funds appropriated by this Act may be used to withhold substance abuse funding from a State pursuant to section 1926 of the Public Health Service Act (42 U.S.C. 300x–26) if such State certifies to the Secretary of Health and Human Services by May 1, 2006, that the State will commit additional State funds, in accordance with subsection (b), to ensure compliance with State laws prohibiting the sale of tobacco products to individuals under 18 years of age.

(b) The amount of funds to be committed by a State under subsection (a) shall be equal to 1 percent of such State's substance abuse block grant allocation for each percentage point by which the State misses the retailer compliance rate goal established by the Secretary of Health and Human Services under section 1926 of such Act.

(c) The State is to maintain State expenditures in fiscal year 2006 for tobacco prevention programs and for compliance activities at a level that is not less than the level of such expenditures maintained by the State for fiscal year 2005, and adding to that level the additional funds for tobacco compliance activities required under subsection (a). The State is to submit a report to the Secretary on all fiscal year 2005 State expenditures and all fiscal year 2006 obligations for tobacco prevention and compliance activities by program activity by July 31, 2006.

(d) The Secretary shall exercise discretion in enforcing the timing of the State obligation of the additional funds required by the certification described in subsection (a) as late as July 31, 2006.

(e) None of the funds appropriated by this Act may be used to withhold substance abuse funding pursuant to section 1926 from a territory that receives less than $1,000,000.

SEC. 215. In order for the Centers for Disease Control and Prevention to carry out international health activities, including HIV/AIDS and other infectious disease, chronic and environmental disease, and other health activities abroad during fiscal year 2006, the Secretary of Health and Human Services—

(1) may exercise authority equivalent to that available to the Secretary of State in section 2(c) of the State Department Basic Authorities Act of 1956 (22 U.S.C. 2669(c)). The Secretary of Health and Human Services shall consult with the Secretary of State and relevant Chief of Mission to ensure that the authority provided in this section is exercised in a manner consistent with section 207 of the Foreign Service Act of 1980 (22 U.S.C. 3927) and other applicable statutes administered by the Department of State, and

(2) is authorized to provide such funds by advance or reimbursement to the Secretary of State as may be necessary to pay the costs of acquisition, lease, alteration, renovation, and management of facilities outside of the United States for the use of the Department of Health and Human Services. The Department of State shall cooperate fully with the Secretary of Health and Human Services to ensure that the Department of Health and Human Services has secure, safe, functional facilities that comply with applicable regulation governing location, setback, and other facilities requirements and serve the purposes established by this Act. The Secretary of Health and Human Services is authorized, in consultation with the Secretary of State, through grant or cooperative agreement, to make available to public or nonprofit private institutions or agencies in participating foreign countries, funds to acquire, lease, alter, or renovate facilities in those countries as necessary to conduct programs of assistance for international health activities, including activities relating to HIV/AIDS and other infectious diseases, chronic and environmental diseases, and other health activities abroad.

SEC. 216. The Division of Federal Occupational Health hereafter may utilize personal services contracting to employ professional management/administrative and occupational health professionals.

SEC. 217. (a) AUTHORITY.—Notwithstanding any other provision of law, the Director of the National Institutes of Health may use funds available under section 402(i) of the Public Health Service Act (42 U.S.C. 282(i)) to enter into transactions (other than contracts, cooperative agreements, or grants) to carry out research in support of the NIH Roadmap for Medical Research.

(b) PEER REVIEW.—In entering into transactions under subsection (a), the Director of the National Institutes of Health may utilize such peer review procedures (including consultation with appropriate scientific experts) as the Director determines to be appropriate to obtain assessments of scientific and technical merit. Such procedures shall apply to such transactions in lieu of the peer review and advisory council review procedures that would otherwise be required under sections 301(a)(3), 405(b)(1)(B), 405(b)(2), 406(a)(3)(A), 492, and 494 of the Public Health Service Act (42 U.S.C. 241, 284(b)(1)(B), 284(b)(2), 284a(a)(3)(A), 289a, and 289c).

SEC. 218. Funds which are available for Individual Learning Accounts for employees of the Centers for Disease Control and Prevention and the Agency for Toxic Substances and Disease Registry may be transferred to "Disease Control, Research, and Training," to be available only for Individual Learning Accounts: Provided, That such funds may be used for any individual full-time equivalent employee while such employee is employed either by CDC or ATSDR.

SEC. 219. Notwithstanding any other provisions of law, funds made available in this Act may be used to continue operating the Council on Graduate Medical Education established by section 301 of Public Law 102–408.

(RESCISSION OF FUNDS)

SEC. 220. The unobligated balance in the amount of $10,000,000 appropriated by Public Law 108–11 under the heading "Public Health and Social Services Emergency Fund" are rescinded.

SEC. 221. (a) The Headquarters and Emergency Operations Center Building (Building 21) at the Centers for Disease Control and Prevention is hereby renamed as the Arlen Specter Headquarters and Emergency Operations Center.

(b) The Global Communications Center Building (Building 19) at the Centers for Disease Control and Prevention is hereby renamed as the Thomas R. Harkin Global Communications Center.

SEC. 222. None of the funds made available under this Act may be used to implement or enforce the interim final rule published in the Federal Register by the Centers for Medicare & Medicaid Services on August 26, 2005 (70 Fed. Reg. 50940) prior to April 1, 2006.

SEC. 223. (a) For fiscal year 2006 and subject to subsection (b), the Secretary of Health and Human Services may waive the requirements of regulations promulgated under the Head Start Act (42 U.S.C. 9831 et seq.), for one or more vehicles used by a Head Start agency or an Early Head Start entity (or the designee of either) in transporting children enrolled in a Head Start program or an Early Head Start program if—

(1) such requirements pertain to child restraint systems or vehicle monitors;

(2) the agency or entity demonstrates that compliance with such requirements will result in a significant disruption to the Head Start program or the Early Head Start program; and

(3) waiving such requirements is in the best interest of the children involved.

(b) The Secretary of Health and Human Services may not issue any waiver under subsection (a) after September 30, 2006, or the date of the enactment of a statute that authorizes appropriations for fiscal year 2006 to carry out the Head Start Act, whichever date is earlier.

SEC. 224. Section 1310.12(a) of title 45 of the Code of Federal Regulations (October 1, 2004) shall not be effective until June 30, 2006 or 60 days after the date of the enactment of a statute that authorizes appropriations for fiscal year 2006 to carry out the Head Start Act, whichever date is earlier.

(RESCISSION)

SEC. 225. The unobligated balance of the Health Professions Student Loan program authorized in Subpart II, Federally-Supported Student Loan Funds, of title VII of the Public Health Services Act is rescinded.

(RESCISSION)

SEC. 226. The unobligated balance of the Nursing Student Loan program authorized by section 835 of the Public Health Services Act is rescinded.

SEC. 227. In addition to any other amounts available for such travel, and notwithstanding any other provision of law, amounts available from this or any other appropriation for the purchase, hire, maintenance, or operation of aircraft by the Centers for Disease Control and Prevention shall be available for travel by the Secretary of Health and Human Services, the Director of the Centers for Disease Control and Prevention, and employees of the Department of Health and Human Services accompanying the Secretary or the Director during such travel.

This title may be cited as the "Department of Health and Human Services Appropriations Act, 2006".

TITLE III—DEPARTMENT OF EDUCATION

EDUCATION FOR THE DISADVANTAGED

For carrying out title I of the Elementary and Secondary Education Act of 1965 ("ESEA") and section 418A of the Higher Education Act of 1965, $14,627,435,000, of which $7,043,126,000 shall become available on July 1, 2006, and shall remain available through September 30, 2007, and of which $7,383,301,000 shall become available on October 1, 2006, and shall remain available through September 30, 2007 for academic year 2006–2007: Provided, That $6,934,854,000 shall be for basic grants under section 1124: Provided further, That up to $3,472,000 of these funds shall be available to the Secretary of Education on October 1, 2005, to obtain annually updated educational-agency-level census poverty data from the Bureau of the Census: Provided further, That $1,365,031,000 shall be for concentration grants under section 1124A: Provided further, That $2,269,843,000 shall be for targeted grants under section 1125: Provided further, That $2,269,843,000 shall be for education finance incentive grants under section 1125A: Provided further, That $9,424,000 shall be to carry out part E of title I: Provided further, That $8,000,000 shall be available for section 1608 of the ESEA, of which $1,465,000 shall be available for a continuation award for the comprehensive school reform clearinghouse previously funded under the heading "Innovation and Improvement" in title III of division F of Public Law 108–447.

IMPACT AID

For carrying out programs of financial assistance to federally affected schools authorized by title VIII of the Elementary and Secondary Education Act of 1965, $1,240,862,000, of which $1,102,896,000 shall be for basic support payments under section 8003(b), $49,966,000 shall be for payments for children with disabilities under section 8003(d), $18,000,000 shall be for construction under section 8007(a), $65,000,000 shall be for Federal property payments under section 8002, and $5,000,000, to remain available until expended, shall be for facilities maintenance under section 8008: Provided, That for purposes of computing the amount of a payment for an eligible local educational agency under section 8003(a) of the Elementary and Secondary Education Act (20 U.S.C. 7703(a)) for school year 2005–2006, children enrolled in a school of such agency that would otherwise be eligible for payment under section 8003(a)(1)(B) of such Act, but due to the deployment of both parents or legal guardians, or a parent or legal guardian having sole custody of such children, or due to the death of a military parent or legal guardian while on active duty (so long as such children reside on Federal property as described in section 8003(a)(1)(B)), are no longer eligible under such section, shall be considered as eligible students under such section, provided such students remain in average daily attendance at a school in the same local educational agency they attended prior to their change in eligibility status.

SCHOOL IMPROVEMENT PROGRAMS

For carrying out school improvement activities authorized by title II, part B of title IV, part A and subparts 6 and 9 of part D of title V, parts A and B of title VI, and parts B and C of title VII of the Elementary and Secondary Education Act of 1965 ("ESEA"); the McKinney-Vento Homeless Assistance Act; section 203 of the Educational Technical Assistance Act of 2002; the Compact of Free Association Amendments Act of 2003; and the Civil Rights Act of 1964, $5,308,564,000, of which $3,676,482,000 shall become available on July 1, 2006, and remain available through September 30, 2007, and of which $1,435,000,000 shall become available on October 1, 2006, and shall remain available through September 30, 2007, for academic year 2006–2007: Provided, That funds made available to carry out part B of title VII of the ESEA may be used for construction, renovation and modernization of any elementary school, secondary school, or structure related to an elementary school or secondary school, run by the Department of Education of the State of Hawaii, that serves a predominantly Native Hawaiian student body: Provided further, That from the funds referred to in the preceding proviso, not less than $1,250,000 shall be for a grant to the Department of Education of the State of Hawaii for the activities described in such proviso, and $1,250,000 shall be for a grant to the University of Hawaii School of Law for a Center of Excellence in Native Hawaiian law: Provided further, That funds made available to carry out part C of title VII of the ESEA may be used for construction: Provided further, That $411,680,000 shall be for State assessments and related activities authorized under sections 6111 and 6112 of the ESEA: Provided further, That $56,825,000 shall be available to carry out section 203 of the Educational Technical Assistance Act of 2002: Provided further, That $31,693,000 shall be available to carry out part D of title V of the ESEA: Provided further, That no funds appropriated under this heading may be used to carry out section 5494 under the ESEA: Provided further, That $12,132,000 shall be available to carry out the Supplemental Education Grants program for the Federated States of Micronesia, and $6,051,000 shall be available to carry out the Supplemental Education Grants program for the Republic of the Marshall Islands: Provided further, That up to 5 percent of these amounts may be reserved by the Federated States of Micronesia and the Republic of the Marshall Islands to administer the Supplemental Education Grants programs and to obtain technical assistance, oversight and consultancy services in the administration of these grants and to reimburse the United States Departments of Labor, Health and Human Services, and Education for such services.

INDIAN EDUCATION

For expenses necessary to carry out, to the extent not otherwise provided, title VII, part A of the Elementary and Secondary Education Act of 1965, $119,889,000.

INNOVATION AND IMPROVEMENT

For carrying out activities authorized by parts G and H of title I, subpart 5 of part A and parts C and D of title II, parts B, C, and D of title V, and section 1504 of the Elementary and Secondary Education Act of 1965 ("ESEA"), $945,947,000, of which $95,000,000 shall become available on July 1, 2006 and remain available until September 30, 2007: Provided, That $16,864,000 shall be available to carry out section 2151(c) of the ESEA, of which not less than $9,920,000 shall be provided to the National Board for Professional Teaching Standards, and not less than $6,944,000 shall be provided to the American Board for the Certification of Teacher Excellence: Provided further, That from funds for subpart 4, part C of title II, up to 3 percent shall be available to the Secretary for technical assistance and dissemination of information: Provided further, That $36,981,000 shall be for subpart 2 of part B of title V: Provided further, That $260,111,000 shall be available to carry out part D of title V of the ESEA, of which $100,000,000 of the funds for subpart 1 shall be for competitive grants to local educational agencies, including charter schools that are local educational agencies, or States, or partnerships of (1) a local educational agency, a State, or both and (2) at least one non-profit organization to develop and implement performance-based teacher and principal compensation systems in high-need schools: Provided further, *That such performance-based compensation systems must consider gains in student academic achievement as well as classroom evaluations conducted multiple times during each school year among other factors and provide educators with incentives to take on additional responsibilities and leadership roles: Provided further, That five percent of such funds for competitive grants shall become available on October 1, 2005 for technical assistance, training, peer review of applications, program outreach and evaluation activities and that 95 percent shall become available on July 1, 2006 and remain available through September 30, 2007 for competitive grants.*

SAFE SCHOOLS AND CITIZENSHIP EDUCATION

For carrying out activities authorized by subpart 3 of part C of title II, part A of title IV, and subparts 2, 3 and 10 of part D of title V of the Elementary and Secondary Education Act of 1965 ("ESEA"), $736,886,000, of which $350,000,000 shall become available on July 1, 2006 and remain available through September 30, 2007: Provided, That of the amount available for subpart 2 of part A of title IV of the ESEA, $850,000 shall be used to continue the National Recognition Awards program under the same guidelines outlined by section 120(f) of Public Law 105-244: Provided further, That $350,000,000 shall be available for subpart 1 of part A of title IV and $224,580,000 shall be available for subpart 2 of part A of title IV, of which $1,449,000, to remain available until expended, shall be for the Project School Emergency Response to Violence program to provide education-related services to local educational agencies in which the learning environment has been disrupted due to a violent or traumatic crisis: Provided further, That $132,901,000 shall be available to carry out part D of title V of the ESEA: Provided further, That of the funds available to carry out subpart 3 of part C of title II, up to $12,194,000 may be used to carry out section 2345 and $3,025,000 shall be used by the Center for Civic Education to implement a comprehensive program to improve public knowledge, understanding, and support of the Congress and the State legislatures.

ENGLISH LANGUAGE ACQUISITION

For carrying out part A of title III of the ESEA, $675,765,000, which shall become available on July 1, 2006, and shall remain available through September 30, 2007, except that 6.5 percent of such amount shall be available on October 1, 2005 and shall remain available through September 30, 2007, to carry out activities under section 3111(c)(1)(C).

SPECIAL EDUCATION

For carrying out the Individuals with Disabilities Education Act, $11,770,607,000, of which $6,141,604,000 shall become available on July 1, 2006, and shall remain available through September 30, 2007, and of which $5,424,200,000 shall become available on October 1, 2006, and shall remain available through September 30, 2007, for academic year 2006–2007: Provided, That $12,000,000 shall be for Recording for the Blind and Dyslexic, Inc., to support the development, production, and circulation of recorded educational materials: Provided further, That $1,500,000 shall be for the recipient of funds provided by Public Law 105–78 under section 687(b)(2)(G) of the Act (as in effect prior to the enactment of the Individuals with Disabilities Education Improvement Act of 2004) to provide information on diagnosis, intervention, and teaching strategies for children with disabilities: Provided further, That the amount for section 611(b)(2) of the Act shall be equal to the amount available for that activity during fiscal year 2005, increased by the amount of inflation as specified in section 619(d)(2)(B) of the Act.

REHABILITATION SERVICES AND DISABILITY RESEARCH

For carrying out, to the extent not otherwise provided, the Rehabilitation Act of 1973, the Assistive Technology Act of 1998 ("the AT Act"), and the Helen Keller National Center Act, $3,129,638,000, of which $1,000,000 shall be awarded to the American Academy of Orthotists and Prosthetists for activities that further the purposes of the grant received by the Academy for the period beginning October 1, 2003, including activities to meet the demand for orthotic and prosthetic provider services and improve patient care: Provided, That $30,760,000 shall be used for carrying out the AT Act, including $4,385,000 for State grants for protection and advocacy under section 5 of the AT Act and $3,760,000 shall be for alternative financing programs under section 4(b)(2)(D) of the AT Act: Provided further, That the Federal share of grants for alternative financing programs shall not exceed 75 percent, and the requirements in section 301(c)(2) and section 302 of the AT Act (as in effect on the day before the date of enactment of the Assistive Technology Act of 2004) shall not apply to such grants.

SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES

AMERICAN PRINTING HOUSE FOR THE BLIND

For carrying out the Act of March 3, 1879, as amended (20 U.S.C. 101 et seq.), $17,750,000.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

For the National Technical Institute for the Deaf under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $56,708,000, of which $800,000 shall be for construction and shall remain available until expended: Provided, That from the total amount available, the Institute may at its discretion use funds for the endowment program as authorized under section 207.

GALLAUDET UNIVERSITY

For the Kendall Demonstration Elementary School, the Model Secondary School for the Deaf, and the partial support of Gallaudet University under titles I and II of the Education of the Deaf Act of 1986 (20 U.S.C. 4301 et seq.), $108,079,000: Provided, That from the total amount available, the University may at its discretion use funds for the endowment program as authorized under section 207.

VOCATIONAL AND ADULT EDUCATION

For carrying out, to the extent not otherwise provided, the Carl D. Perkins Vocational and Technical Education Act of 1998, the Adult Education and Family Literacy Act, title VIII–D of the Higher Education Amendments of 1998, and subpart 4 of part D of title V of the Elementary and Secondary Education Act of 1965 ("ESEA"), $2,012,282,000, of which $1,216,558,000 shall become available on July 1, 2006 and shall remain available through September 30, 2007 and of which $791,000,000 shall become available on October 1, 2006 and shall remain available through September 30, 2007: Provided, That of the amount provided for Adult Education State Grants, $68,582,000 shall be made available for integrated English literacy and civics education services to immigrants and other limited English proficient populations: Provided further, That of the amount reserved for integrated English literacy and civics education, notwithstanding section 211 of the Adult Education and Family Literacy Act, 65 percent shall be allocated to States based on a State's absolute need as determined by calculating each State's share of a 10-year average of the Immigration and Naturalization Service data for immigrants admitted for legal permanent residence for the 10 most recent years, and 35 percent allocated to States that experienced growth as measured by the average of the 3 most recent years for which Immigration and Naturalization Service data for immigrants admitted for legal permanent residence are available, except that no State shall be allocated an amount less than $60,000: Provided further, That of the amounts made available for the Adult Education and Family Literacy Act, $9,096,000 shall be for national leadership activities under section 243 and $6,638,000 shall be for the National Institute for Literacy under section 242: Provided further, That $94,476,000 shall be available to support the activities authorized under subpart 4 of part D of title V of the Elementary and Secondary Education Act of 1965, of which up to 5 percent shall become available October 1, 2005 and shall remain available through September 30, 2007, for evaluation, technical assistance, school networks, peer review of applications, and program outreach activities, and of which not less than 95 percent shall become available on July 1, 2006, and remain available through September 30, 2007, for grants to local educational agencies: Provided further, That funds made available to local educational agencies under this subpart shall be used only for activities related to establishing smaller learning communities within large high schools or small high schools that provide alternatives for students enrolled in large high schools: Provided further, That $23,000,000 shall be for Youth Offender Grants.

STUDENT FINANCIAL ASSISTANCE

For carrying out subparts 1, 3, and 4 of part A, part C and part E of title IV of the Higher Education Act of 1965, as amended, $15,077,752,000, which shall remain available through September 30, 2007.

The maximum Pell Grant for which a student shall be eligible during award year 2006–2007 shall be $4,050.

STUDENT AID ADMINISTRATION

For Federal administrative expenses (in addition to funds made available under section 458), to carry out part D of title I, and subparts 1, 3, and 4 of part A, and parts B, C, D and E of title IV of the Higher Education Act of 1965, as amended, $120,000,000.

HIGHER EDUCATION

For carrying out, to the extent not otherwise provided, titles II, III, IV, V, VI, and VII of the Higher Education Act of 1965 ("HEA"), as amended, section 1543 of the Higher Education Amendments of 1992, the Mutual Educational and Cultural Exchange Act of 1961, title VIII of the Higher Education Amendments of 1998, and section 117 of the Carl D. Perkins Vocational and Technical Education Act, $1,970,760,000: Provided, That $9,797,000, to remain available through September 30, 2007, shall be available to fund fellowships for academic year 2007–2008 under part A, subpart 1 of title VII of said Act, under the terms and conditions of part A, subpart 1: Provided further, That notwithstanding any other provision of law or any regulation, the Secretary of Education shall not require the use of a restricted indirect cost rate for grants issued pursuant to section 117 of the Carl D. Perkins Vocational and Technical Education Act of 1998: Provided further, That $980,000 is for data collection and evaluation activities for programs under the HEA, including such activities needed to comply with the Government Performance and Results Act of 1993: Provided further, That notwithstanding any other provision of law, funds made available in this Act to carry out title VI of the HEA and section 102(b)(6) of the Mutual Educational and Cultural Exchange Act of 1961 may be used to support visits and study in foreign countries by individuals who are participating in advanced foreign language training and international studies in areas that are vital to United States national security and who plan to apply their language skills and knowledge of these countries in the fields of government, the professions, or international *development: Provided further, That of the funds referred to in the preceding proviso up to 1 percent may be used for program evaluation, national outreach, and information dissemination activities: Provided further, That the funds provided for title II of the HEA shall be allocated notwithstanding section 210 of such Act.*

HOWARD UNIVERSITY

For partial support of Howard University (20 U.S.C. 121 et seq.), $239,790,000, of which not less than $3,562,000 shall be for a matching endowment grant pursuant to the Howard University Endowment Act (Public Law 98–480) and shall remain available until expended.

COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS PROGRAM

For Federal administrative expenses to carry out activities related to existing facility loans pursuant to section 121 of the Higher Education Act of 1965, as amended $573,000.

HISTORICALLY BLACK COLLEGE AND UNIVERSITY CAPITAL FINANCING PROGRAM ACCOUNT

The aggregate principal amount of outstanding bonds insured pursuant to section 344 of title III, part D of the Higher Education Act of 1965, shall not exceed $357,000,000, and the cost, as defined in section 502 of the Congressional Budget Act of 1974, of such bonds shall not exceed zero.

For administrative expenses to carry out the Historically Black College and University Capital Financing Program entered into pursuant to title III, part D of the Higher Education Act of 1965, as amended, $210,000.

INSTITUTE OF EDUCATION SCIENCES

For carrying out activities authorized by the Education Sciences Reform Act of 2002, as amended, the National Assessment of Educational Progress Authorization Act, section 208 of the Educational Technical Assistance Act of 2002, and section 664 of the Individuals with Disabilities Education Act, $522,695,000, of which $271,560,000 shall be available until September 30, 2007: Provided, That of the amount provided to carry out title I, parts B and D of Public Law 107–279, not less than $25,257,000 shall be for the national research and development centers authorized under section 133(c).

DEPARTMENTAL MANAGEMENT

PROGRAM ADMINISTRATION

For carrying out, to the extent not otherwise provided, the Department of Education Organization Act, including rental of conference rooms in the District of Columbia and hire of three passenger motor vehicles, $415,303,000.

OFFICE FOR CIVIL RIGHTS

For expenses necessary for the Office for Civil Rights, as authorized by section 203 of the Department of Education Organization Act, $91,526,000.

OFFICE OF THE INSPECTOR GENERAL

For expenses necessary for the Office of the Inspector General, as authorized by section 212 of the Department of Education Organization Act, $49,000,000.

GENERAL PROVISIONS

SEC. 301. No funds appropriated in this Act may be used for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to overcome racial imbalance in any school or school system, or for the transportation of students or teachers (or for the purchase of equipment for such transportation) in order to carry out a plan of racial desegregation of any school or school system.

SEC. 302. None of the funds contained in this Act shall be used to require, directly or indirectly, the transportation of any student to a school other than the school which is nearest the student's home, except for a student requiring special education, to the school offering such special education, in order to comply with title VI of the Civil Rights Act of 1964. For the purpose of this section an indirect requirement of transportation of students includes the transportation of students to carry out a plan involving the reorganization of the grade structure of schools, the pairing of schools, or the clustering of schools, or any combination of grade restructuring, pairing or clustering. The prohibition described in this section does not include the establishment of magnet schools.

SEC. 303. No funds appropriated in this Act may be used to prevent the implementation of programs of voluntary prayer and meditation in the public schools.

(TRANSFER OF FUNDS)

SEC. 304. Not to exceed 1 percent of any discretionary funds (pursuant to the Balanced Budget and Emergency Deficit Control Act of 1985, as amended) which are appropriated for the Department of Education in this Act may be transferred between appropriations, but no such appropriation shall be increased by more than 3 percent by any such transfer: Provided, That the Appropriations Committees of both Houses of Congress are notified at least 15 days in advance of any transfer.

SEC. 305. For an additional amount to carry out subpart 1 of part A of title IV of the Higher Education Act of 1965 for the purpose of eliminating the estimated accumulated shortfall of budget authority for such subpart, $4,300,000,000, pursuant to section 303 of H. Con. Res. 95 (109th Congress), the concurrent resolution on the budget for fiscal year 2006.

SEC. 306. Subpart 12 of part D of title V of the Elementary and Secondary Education Act of 1965 (20 U.S.C. 7265 et seq.) is amended—

(1) in section 5522(b), by adding at the end the following:

"(4) To authorize and develop cultural and educational programs relating to the Mississippi Band of Choctaw Indians.";

(2) in section 5523(a)—

(A) by redesignating paragraphs (6) through (8) as paragraphs (7) through (9), respectively; and

(B) by inserting after paragraph (5) the following:

"(6) The Mississippi Band of Choctaw Indians in Choctaw, Mississippi."; and

(3) in section 5525, by adding at the end the following:

"(4) For cultural and educational programs, not less than $2,000,000 to the Mississippi Band of Choctaw Indians in Choctaw, Mississippi.".

This title may be cited as the "Department of Education Appropriations Act, 2006".

TITLE IV—RELATED AGENCIES

COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED

SALARIES AND EXPENSES

For expenses necessary of the Committee for Purchase From People Who Are Blind or Severely Disabled established by Public Law 92–28, $4,669,000.

CORPORATION FOR NATIONAL AND COMMUNITY SERVICE

DOMESTIC VOLUNTEER SERVICE PROGRAMS, OPERATING EXPENSES

For expenses necessary for the Corporation for National and Community Service to carry out the provisions of the Domestic Volunteer Service Act of 1973, as amended, $316,212,000: Provided, That none of the funds made available to the Corporation for National and Community Service in this Act for activities authorized by section 122 of part C of title I and part E of title II of the Domestic Volunteer Service Act of 1973 shall be used to provide stipends or other monetary incentives to volunteers or volunteer leaders whose incomes exceed 125 percent of the national poverty level.

NATIONAL AND COMMUNITY SERVICE PROGRAMS, OPERATING EXPENSES

(INCLUDING TRANSFER OF FUNDS)

For necessary expenses for the Corporation for National and Community Service (the "Corporation") in carrying out programs, activities, and initiatives under the National and Community Service Act of 1990 (the "Act") (42 U.S.C. 12501 et seq.), $520,087,000, to remain available until September 30, 2007: Provided, That not more than $267,500,000 of the amount provided under this heading shall be available for grants under the National Service Trust Program authorized under subtitle C of title I of the Act (42 U.S.C. 12571 et seq.) (relating to activities of the AmeriCorps program), including grants to organizations operating projects under the AmeriCorps Education Awards Program (without regard to the requirements of sections 121(d) and (e), section 131(e), section 132, and sections 140(a), (d), and (e) of the Act: Provided further, That not less than $140,000,000 of the amount provided under this heading, to remain available without fiscal year limitation, shall be transferred to the National Service Trust for educational awards authorized under subtitle D of title I of the Act (42 U.S.C. 12601), of which up to $1,000,000 shall be available to support national service scholarships for high school students performing community service, and of which $7,000,000 shall be held in reserve as defined in Public Law 108–45: Provided further, That in addition to amounts otherwise provided to the National Service Trust under the second proviso, the Corporation may transfer funds from the amount provided under the first proviso, to the National Service Trust authorized under subtitle D of title I of the Act (42 U.S.C. 12601) upon determination that such transfer is necessary to support the activities of national service participants and after notice is transmitted to Congress: Provided further, That of the amount provided under this heading for grants under the National Service Trust program authorized under subtitle C of title I of the Act, not more than $55,000,000 may be used to administer, reimburse, or support any national service program authorized under section 121(d)(2) of such Act (42 U.S.C. 12581(d)(2)): Provided further, That not more than $16,445,000 shall be available for quality and innovation activities authorized under subtitle H of title I of the Act (42 U.S.C. 12853 et seq.): Provided further, That notwithstanding subtitle H of title I of the Act (42 U.S.C. 12853), none of the funds provided under the previous proviso shall be used to support salaries and related expenses (including travel) attributable to Corporation employees: Provided further, That to the maximum extent feasible, funds appropriated under subtitle C of title I of the Act shall be provided in a manner that is consistent with the recommendations of peer review panels in order to ensure that priority is given to programs that demonstrate quality, innovation, replicability, and sustainability: Provided further, That $27,000,000 of the funds made available under this heading shall be available for the Civilian Community Corps authorized under subtitle E of title I of the Act (42 U.S.C. 12611 et seq.): Provided further, That $37,500,000 shall be available for school-based and community-based service-learning programs authorized under subtitle B of title I of the Act (42 U.S.C. 12521 et seq.): Provided further, That $4,000,000 shall be available for audits and other evaluations authorized under section 179 of the Act (42 U.S.C. 12639): Provided further, That $10,000,000 of the funds made available under this heading shall be made available for the Points of Light Foundation for activities authorized under title III of the Act (42 U.S.C. 12661 et seq.), of which not more than $2,500,000 may be used to support an *endowment fund, the corpus of which shall remain intact and the interest income from which shall be used to support activities described in title III of the Act, provided that the Foundation may invest the corpus and income in federally insured bank savings accounts or comparable interest bearing accounts, certificates of deposit, money market funds, mutual funds, obligations of the United States, and other market instruments and securities but not in real estate investments: Provided further, That no funds shall be available for national service programs run by Federal agencies authorized under section 121(b) of such Act (42 U.S.C. 12571(b)): Provided further, That $5,000,000 of the funds made available under this heading shall be made available to America's Promise—The Alliance for Youth, Inc.: Provided further, That to the maximum extent practicable, the Corporation shall increase significantly the level of matching funds and in-kind contributions provided by the private sector, and shall reduce the total Federal costs per participant in all programs: Provided further, That notwithstanding section 501(a)(4) of the Act, of the funds provided under this heading, not more than $12,642,000 shall be made available to provide assistance to state commissions on national and community service under section 126(a) of the Act: Provided further, That the Corporation may use up to 1 percent of program grant funds made available under this heading to defray its costs of conducting grant application reviews, including the use of outside peer reviewers.*

SALARIES AND EXPENSES

For necessary expenses of administration as provided under section 501(a)(4) of the National and Community Service Act of 1990 (42 U.S.C. 12501 et seq.) and under section 504(a) of the Domestic Volunteer Service Act of 1973, including payment of salaries, authorized travel, hire of passenger motor vehicles, the rental of conference rooms in the District of Columbia, the employment of experts and consultants authorized under 5 U.S.C. 3109, and not to exceed $2,500 for official reception and representation expenses, $66,750,000.

OFFICE OF INSPECTOR GENERAL

For necessary expenses of the Office of Inspector General in carrying out the Inspector General Act of 1978, as amended, $6,000,000, to remain available until September 30, 2007.

ADMINISTRATIVE PROVISIONS

Notwithstanding any other provision of law, the term "qualified student loan" with respect to national service education awards shall mean any loan determined by an institution of higher education to be necessary to cover a student's cost of attendance at such institution and made, insured, or guaranteed directly to a student by a State agency, in addition to other meanings under section 148(b)(7) of the National and Community Service Act.

Notwithstanding any other provision of law, funds made available under section 129(d)(5)(B) of the National and Community Service Act to assist entities in placing applicants who are individuals with disabilities may be provided to any entity that receives a grant under section 121 of the Act.

The Inspector General of the Corporation for National and Community Service shall conduct random audits of the grantees that administer activities under the AmeriCorps programs and shall levy sanctions in accordance with standard Inspector General audit resolution procedures which include, but are not limited to, debarment of any grantee (or successor in interest or any entity with substantially the same person or persons in control) that has been determined to have committed any substantial violations of the requirements of the AmeriCorps programs, including any grantee that has been determined to have violated the prohibition of using Federal funds to lobby the Congress: Provided, That the Inspector General shall obtain reimbursements in the amount of any misused funds from any grantee that has been determined to have committed any substantial violations of the requirements of the AmeriCorps programs.

For fiscal year 2006, the Corporation shall make any significant changes to program requirements or policy only through public notice and comment rulemaking. For fiscal year 2006, during any grant selection process, no officer or employee of the Corporation shall knowingly disclose any covered grant selection information regarding such selection, directly or indirectly, to any person other than an officer or employee of the Corporation that is authorized by the Corporation to receive such information.

CORPORATION FOR PUBLIC BROADCASTING

For payment to the Corporation for Public Broadcasting, as authorized by the Communications Act of 1934, an amount which shall be available within limitations specified by that Act, for the fiscal year 2008, $400,000,000: Provided, That no funds made available to the Corporation for Public Broadcasting by this Act shall be used to pay for receptions, parties, or similar forms of entertainment for Government officials or employees: Provided further, That none of the funds contained in this paragraph shall be available or used to aid or support any program or activity from which any person is excluded, or is denied benefits, or is discriminated against, on the basis of race, color, national origin, religion, or sex: Provided further, That for fiscal year 2006, in addition to the amounts provided above, $30,000,000 shall be for costs related to digital program production, development, and distribution, associated with the transition of public broadcasting to digital broadcasting, to be awarded as determined by the Corporation in consultation with public radio and television licensees or permittees, or their designated representatives: Provided further, That for fiscal year 2006, in addition to the amounts provided above, $35,000,000 shall be for the costs associated with replacement and upgrade of the public television interconnection system: Provided further, That none of the funds made available to the Corporation for Public Broadcasting by this Act, Public Law 108–199 or Public Law 108–7, shall be used to support the Television Future Fund or any similar purpose.

FEDERAL MEDIATION AND CONCILIATION SERVICE

SALARIES AND EXPENSES

For expenses necessary for the Federal Mediation and Conciliation Service to carry out the functions vested in it by the Labor Management Relations Act, 1947 (29 U.S.C. 171–180, 182–183), including hire of passenger motor vehicles; for expenses necessary for the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a); and for expenses necessary for the Service to carry out the functions vested in it by the Civil Service Reform Act, Public Law 95–454 (5 U.S.C. ch. 71), $43,031,000, including $400,000, to remain available through September 30, 2007, for activities authorized by the Labor-Management Cooperation Act of 1978 (29 U.S.C. 175a): Provided, That notwithstanding 31 U.S.C. 3302, fees charged, up to full-cost recovery, for special training activities and other conflict resolution services and technical assistance, including those provided to foreign governments and international organizations, and for arbitration services shall be credited to and merged with this account, and shall remain available until expended: Provided further, That fees for arbitration services shall be available only for education, training, and professional development of the agency workforce: Provided further, That the Director of the Service is authorized to accept and use on behalf of the United States gifts of services and real, personal, or other property in the aid of any projects or functions within the Director's jurisdiction.

FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Federal Mine Safety and Health Review Commission (30 U.S.C. 801 et seq.), $7,809,000.

INSTITUTE OF MUSEUM AND LIBRARY SERVICES

OFFICE OF MUSEUM AND LIBRARY SERVICES: GRANTS AND ADMINISTRATION

For carrying out the Museum and Library Services Act of 1996, $249,640,000, to remain available until expended.

MEDICARE PAYMENT ADVISORY COMMISSION

SALARIES AND EXPENSES

For expenses necessary to carry out section 1805 of the Social Security Act, $10,168,000, to be transferred to this appropriation from the Federal Hospital Insurance and the Federal Supplementary Medical Insurance Trust Funds.

NATIONAL COMMISSION ON LIBRARIES AND INFORMATION SCIENCE

SALARIES AND EXPENSES

For necessary expenses for the National Commission on Libraries and Information Science, established by the Act of July 20, 1970 (Public Law 91–345, as amended), $993,000.

NATIONAL COUNCIL ON DISABILITY

SALARIES AND EXPENSES

For expenses necessary for the National Council on Disability as authorized by title IV of the Rehabilitation Act of 1973, as amended, $3,144,000.

NATIONAL LABOR RELATIONS BOARD

SALARIES AND EXPENSES

For expenses necessary for the National Labor Relations Board to carry out the functions vested in it by the Labor-Management Relations Act, 1947, as amended (29 U.S.C. 141–167), and other laws, $252,268,000: Provided, That no part of this appropriation shall be available to organize or assist in organizing agricultural laborers or used in connection with investigations, hearings, directives, or orders concerning bargaining units composed of agricultural laborers as referred to in section 2(3) of the Act of July 5, 1935 (29 U.S.C. 152), and as amended by the Labor-Management Relations Act, 1947, as amended, and as defined in section 3(f) of the Act of June 25, 1938 (29 U.S.C. 203), and including in said definition employees engaged in the maintenance and operation of ditches, canals, reservoirs, and waterways when maintained or operated on a mutual, nonprofit basis and at least 95 percent of the water stored or supplied thereby is used for farming purposes.

NATIONAL MEDIATION BOARD

SALARIES AND EXPENSES

For expenses necessary to carry out the provisions of the Railway Labor Act, as amended (45 U.S.C. 151–188), including emergency boards appointed by the President, $11,628,000.

OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION

SALARIES AND EXPENSES

For expenses necessary for the Occupational Safety and Health Review Commission (29 U.S.C. 661), $10,510,000.

RAILROAD RETIREMENT BOARD

DUAL BENEFITS PAYMENTS ACCOUNT

For payment to the Dual Benefits Payments Account, authorized under section 15(d) of the Railroad Retirement Act of 1974, $97,000,000, which shall include amounts becoming available in fiscal year 2006 pursuant to section 224(c)(1)(B) of Public Law 98–76; and in addition, an amount, not to exceed 2 percent of the *amount provided herein, shall be available proportional to the amount by which the product of recipients and the average benefit received exceeds $97,000,000: Provided, That the total amount provided herein shall be credited in 12 approximately equal amounts on the first day of each month in the fiscal year.*

FEDERAL PAYMENTS TO THE RAILROAD RETIREMENT ACCOUNTS

For payment to the accounts established in the Treasury for the payment of benefits under the Railroad Retirement Act for interest earned on unnegotiated checks, $150,000, to remain available through September 30, 2007, which shall be the maximum amount available for payment pursuant to section 417 of Public Law 98-76.

LIMITATION ON ADMINISTRATION

For necessary expenses for the Railroad Retirement Board for administration of the Railroad Retirement Act and the Railroad Unemployment Insurance Act, $102,543,000, to be derived in such amounts as determined by the Board from the railroad retirement accounts and from moneys credited to the railroad unemployment insurance administration fund.

LIMITATION ON THE OFFICE OF INSPECTOR GENERAL

For expenses necessary for the Office of Inspector General for audit, investigatory and review activities, as authorized by the Inspector General Act of 1978, as amended, not more than $7,196,000, to be derived from the railroad retirement accounts and railroad unemployment insurance account: Provided, That none of the funds made available in any other paragraph of this Act may be transferred to the Office; used to carry out any such transfer; used to provide any office space, equipment, office supplies, communications facilities or services, maintenance services, or administrative services for the Office; used to pay any salary, benefit, or award for any personnel of the Office; used to pay any other operating expense of the Office; or used to reimburse the Office for any service provided, or expense incurred, by the Office.

SOCIAL SECURITY ADMINISTRATION

PAYMENTS TO SOCIAL SECURITY TRUST FUNDS

For payment to the Federal Old-Age and Survivors Insurance and the Federal Disability Insurance trust funds, as provided under sections 201(m), 228(g), and 1131(b)(2) of the Social Security Act, $20,470,000.

SUPPLEMENTAL SECURITY INCOME PROGRAM

For carrying out titles XI and XVI of the Social Security Act, section 401 of Public Law 92–603, section 212 of Public Law 93-66, as amended, and section 405 of Public Law 95–216, including payment to the Social Security trust funds for administrative expenses incurred pursuant to section 201(g)(1) of the Social Security Act, $29,369,174,000, to remain available until expended: Provided, That any portion of the funds provided to a State in the current fiscal year and not obligated by the State during that year shall be returned to the Treasury.

For making, after June 15 of the current fiscal year, benefit payments to individuals under title XVI of the Social Security Act, for unanticipated costs incurred for the current fiscal year, such sums as may be necessary.

For making benefit payments under title XVI of the Social Security Act for the first quarter of fiscal year 2007, $11,110,000,000, to remain available until expended.

LIMITATION ON ADMINISTRATIVE EXPENSES

For necessary expenses, including the hire of two passenger motor vehicles, and not to exceed $15,000 for official reception and representation expenses, not more than $9,079,400,000 may be expended, as authorized by section 201(g)(1) of the Social Security Act, from any one or all of the trust funds referred to therein: Provided, That not less than $2,000,000 shall be for the Social Security Advisory Board: Provided further, That unobligated balances of funds provided under this paragraph at the end of fiscal year 2006 not needed for fiscal year 2006 shall remain available until expended to invest in the Social Security Administration information technology and telecommunications hardware and software infrastructure, including related equipment and non-payroll administrative expenses associated solely with this information technology and telecommunications infrastructure: Provided further, That reimbursement to the trust funds under this heading for expenditures for official time for employees of the Social Security Administration pursuant to section 7131 of title 5, United States Code, and for facilities or support services for labor organizations pursuant to policies, regulations, or procedures referred to in section 7135(b) of such title shall be made by the Secretary of the Treasury, with interest, from amounts in the general fund not otherwise appropriated, as soon as possible after such expenditures are made.

In addition, $119,000,000 to be derived from administration fees in excess of $5.00 per supplementary payment collected pursuant to section 1616(d) of the Social Security Act or section 212(b)(3) of Public Law 93-66, which shall remain available until expended. To the extent that the amounts collected pursuant to such section 1616(d) or 212(b)(3) in fiscal year 2006 exceed $119,000,000, the amounts shall be available in fiscal year 2007 only to the extent provided in advance in appropriations Acts.

In addition, up to $1,000,000 to be derived from fees collected pursuant to section 303(c) of the Social Security Protection Act (Public Law 108-203), which shall remain available until expended.

OFFICE OF INSPECTOR GENERAL

(INCLUDING TRANSFER OF FUNDS)

For expenses necessary for the Office of Inspector General in carrying out the provisions of the Inspector General Act of 1978, as amended, $26,000,000, together with not to exceed $66,400,000, to be transferred and expended as authorized by section 201(g)(1) of the Social Security Act from the Federal Old-Age and Survivors Insurance Trust Fund and the Federal Disability Insurance Trust Fund.

In addition, an amount not to exceed 3 percent of the total provided in this appropriation may be transferred from the "Limitation on Administrative Expenses", Social Security Administration, to be merged with this account, to be available for the time and purposes for which this account is available: Provided, That notice of such transfers shall be transmitted promptly to the Committees on Appropriations of the House and Senate.

TITLE V—GENERAL PROVISIONS

SEC. 501. The Secretaries of Labor, Health and Human Services, and Education are authorized to transfer unexpended balances of prior appropriations to accounts corresponding to current appropriations provided in this Act: Provided, That such transferred balances are used for the same purpose, and for the same periods of time, for which they were originally appropriated.

SEC. 502. No part of any appropriation contained in this Act shall remain available for obligation beyond the current fiscal year unless expressly so provided herein.

SEC. 503. (a) No part of any appropriation contained in this Act shall be used, other than for normal and recognized executive-legislative relationships, for publicity or propaganda purposes, for the preparation, distribution, or use of any kit, pamphlet, booklet, publication, radio, television, or video presentation designed to support or defeat legislation pending before the Congress or any State legislature, except in presentation to the Congress or any State legislature itself.

(b) No part of any appropriation contained in this Act shall be used to pay the salary or expenses of any grant or contract recipient, or agent acting for such recipient, related to any activity designed to influence legislation or appropriations pending before the Congress or any State legislature.

SEC. 504. The Secretaries of Labor and Education are authorized to make available not to exceed $28,000 and $20,000, respectively, from funds available for salaries and expenses under titles I and III, respectively, for official reception and representation expenses; the Director of the Federal Mediation and Conciliation Service is authorized to make available for official reception and representation expenses not to exceed $5,000 from the funds available for "Salaries and expenses, Federal Mediation and Conciliation Service"; and the Chairman of the National Mediation Board is authorized to make available for official reception and representation expenses not to exceed $5,000 from funds available for "Salaries and expenses, National Mediation Board".

SEC. 505. Notwithstanding any other provision of this Act, no funds appropriated in this Act shall be used to carry out any program of distributing sterile needles or syringes for the hypodermic injection of any illegal drug.

SEC. 506. When issuing statements, press releases, requests for proposals, bid solicitations and other documents describing projects or programs funded in whole or in part with Federal money, all grantees receiving Federal funds included in this Act, including but not limited to State and local governments and recipients of Federal research grants, shall clearly state—

(1) the percentage of the total costs of the program or project which will be financed with Federal money;

(2) the dollar amount of Federal funds for the project or program; and

(3) percentage and dollar amount of the total costs of the project or program that will be financed by non-governmental sources.

SEC. 507. (a) None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for any abortion.

(b) None of the funds appropriated in this Act, and none of the funds in any trust fund to which funds are appropriated in this Act, shall be expended for health benefits coverage that includes coverage of abortion.

(c) The term "health benefits coverage" means the package of services covered by a managed care provider or organization pursuant to a contract or other arrangement.

SEC. 508. (a) The limitations established in the preceding section shall not apply to an abortion—

(1) if the pregnancy is the result of an act of rape or incest; or

(2) in the case where a woman suffers from a physical disorder, physical injury, or physical illness, including a life-endangering physical condition caused by or arising from the pregnancy itself, that would, as certified by a physician, place the woman in danger of death unless an abortion is performed.

(b) Nothing in the preceding section shall be construed as prohibiting the expenditure by a State, locality, entity, or private person of State, local, or private funds (other than a State's or locality's contribution of Medicaid matching funds).

(c) Nothing in the preceding section shall be construed as restricting the ability of any managed care provider from offering abortion coverage or the ability of a State or locality to contract separately with such a provider for such coverage with State funds (other than a State's

or locality's contribution of Medicaid matching funds).

(d)(1) None of the funds made available in this Act may be made available to a Federal agency or program, or to a State or local government, if such agency, program, or government subjects any institutional or individual health care entity to discrimination on the basis that the health care entity does not provide, pay for, provide coverage of, or refer for abortions.

(2) In this subsection, the term "health care entity" includes an individual physician or other health care professional, a hospital, a provider-sponsored organization, a health maintenance organization, a health insurance plan, or any other kind of health care facility, organization, or plan.

SEC. 509. (a) None of the funds made available in this Act may be used for—

(1) the creation of a human embryo or embryos for research purposes; or

(2) research in which a human embryo or embryos are destroyed, discarded, or knowingly subjected to risk of injury or death greater than that allowed for research on fetuses in utero under 45 CFR 46.204(b) and section 498(b) of the Public Health Service Act (42 U.S.C. 289g(b)).

(b) For purposes of this section, the term "human embryo or embryos" includes any organism, not protected as a human subject under 45 CFR 46 as of the date of the enactment of this Act, that is derived by fertilization, parthenogenesis, cloning, or any other means from one or more human gametes or human diploid cells.

SEC. 510. (a) None of the funds made available in this Act may be used for any activity that promotes the legalization of any drug or other substance included in schedule I of the schedules of controlled substances established by section 202 of the Controlled Substances Act (21 U.S.C. 812).

(b) The limitation in subsection (a) shall not apply when there is significant medical evidence of a therapeutic advantage to the use of such drug or other substance or that federally sponsored clinical trials are being conducted to determine therapeutic advantage.

SEC. 511. None of the funds made available in this Act may be used to promulgate or adopt any final standard under section 1173(b) of the Social Security Act (42 U.S.C. 1320d–2(b)) providing for, or providing for the assignment of, a unique health identifier for an individual (except in an individual's capacity as an employer or a health care provider), until legislation is enacted specifically approving the standard.

SEC. 512. None of the funds made available in this Act may be obligated or expended to enter into or renew a contract with an entity if—

(1) such entity is otherwise a contractor with the United States and is subject to the requirement in section 4212(d) of title 38, United States Code, regarding submission of an annual report to the Secretary of Labor concerning employment of certain veterans; and

(2) such entity has not submitted a report as required by that section for the most recent year for which such requirement was applicable to such entity.

SEC. 513. None of the funds made available in this Act may be transferred to any department, agency, or instrumentality of the United States Government, except pursuant to a transfer made by, or transfer authority provided in, this Act or any other appropriation Act.

SEC. 514. None of the funds made available by this Act to carry out the Library Services and Technology Act may be made available to any library covered by paragraph (1) of section 224(f) of such Act (20 U.S.C. 9134(f)), as amended by the Children's Internet Protections Act, unless such library has made the certifications required by paragraph (4) of such section.

SEC. 515. None of the funds made available by this Act to carry out part D of title II of the Elementary and Secondary Education Act of 1965 may be made available to any elementary or secondary school covered by paragraph (1) of section 2441(a) of such Act (20 U.S.C. 6777(a)), as amended by the Children's Internet Protections Act and the No Child Left Behind Act, unless the local educational agency with responsibility for such covered school has made the certifications required by paragraph (2) of such section.

SEC. 516. None of the funds appropriated in this Act may be used to enter into an arrangement under section 7(b)(4) of the Railroad Retirement Act of 1974 (45 U.S.C. 231f(b)(4)) with a nongovernmental financial institution to serve as disbursing agent for benefits payable under the Railroad Retirement Act of 1974.

SEC. 517. (a) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds that—

(1) creates new programs;

(2) eliminates a program, project, or activity;

(3) increases funds or personnel by any means for any project or activity for which funds have been denied or restricted;

(4) relocates an office or employees;

(5) reorganizes or renames offices;

(6) reorganizes programs or activities; or

(7) contracts out or privatizes any functions or activities presently performed by Federal employees;

unless the Appropriations Committees of both Houses of Congress are notified 15 days in advance of such reprogramming or of an announcement of intent relating to such reprogramming, whichever occurs earlier.

(b) None of the funds provided under this Act, or provided under previous appropriations Acts to the agencies funded by this Act that remain available for obligation or expenditure in fiscal year 2006, or provided from any accounts in the Treasury of the United States derived by the collection of fees available to the agencies funded by this Act, shall be available for obligation or expenditure through a reprogramming of funds in excess of $500,000 or 10 percent, whichever is less, that—

(1) augments existing programs, projects (including construction projects), or activities;

(2) reduces by 10 percent funding for any existing program, project, or activity, or numbers of personnel by 10 percent as approved by Congress; or

(3) results from any general savings from a reduction in personnel which would result in a change in existing programs, activities, or projects as approved by Congress;

unless the Appropriations Committees of both Houses of Congress are notified 15 days in advance of such reprogramming or of an announcement of intent relating to such reprogramming, whichever occurs earlier.

SEC. 518. (a) Section 316 of the Immigration and Nationality Act (8 U.S.C. 1427), is amended by adding at the end the following:

"(g)(1) The continuous residency requirement under subsection (a) may be reduced to 3 years for an applicant for naturalization if—

"(A) the applicant is the beneficiary of an approved petition for classification under section 204(a)(1)(E);

"(B) the applicant has been approved for adjustment of status under section 245(a); and

"(C) such reduction is necessary for the applicant to represent the United States at an international event.

"(2) The Secretary of Homeland Security shall adjudicate an application for naturalization under this section not later than 30 days after the submission of such application if the applicant—

"(A) requests such expedited adjudication in order to represent the United States at an international event; and

"(B) demonstrates that such expedited adjudication is related to such representation.

"(3) An applicant is ineligible for expedited adjudication under paragraph (2) if the Secretary of Homeland Security determines that such expedited adjudication poses a risk to national security. Such a determination by the Secretary shall not be subject to review.

"(4)(A) In addition to any other fee authorized by law, the Secretary of Homeland Security shall charge and collect a $1,000 premium processing fee from each applicant described in this subsection to offset the additional costs incurred to expedite the processing of applications under this subsection.

"(B) The fee collected under subparagraph (A) shall be deposited as offsetting collections in the Immigration Examinations Fee Account.".

(b) The amendment made by subsection (a) is repealed on January 1, 2006.

SEC. 519. (a) None of the funds made available in this Act may be used to request that a candidate for appointment to a Federal scientific advisory committee disclose the political affiliation or voting history of the candidate or the position that the candidate holds with respect to political issues not directly related to and necessary for the work of the committee involved.

(b) None of the funds made available in this Act may be used to disseminate scientific information that is deliberately false or misleading.

SEC. 520. None of the funds made available in this Act may be used to reimburse, or provide reimbursement for drugs approved to treat erectile dysfunction.

This Act may be cited as the "Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006".

And the Senate agree to the same.

RALPH REGULA,
ERNEST ISTOOK, JR.,
ROGER F. WICKER,
ANNE M. NORTHUP,
RANDY "DUKE" CUNNINGHAM,
KAY GRANGER,
JOHN E. PETERSON,
DON SHERWOOD,
DAVE WELDON,
JIM WALSH,
JERRY LEWIS,
Managers on the Part of the House.

ARLEN SPECTER,
THAD COCHRAN,
JUDD GREGG,
KAY BAILEY HUTCHISON,
LARRY E. CRAIG,
TED STEVENS,
MIKE DEWINE,
RICHARD SHELBY,
PETE V. DOMENICI,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 3010) making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes, submit the following joint statement of the House and Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report.

In implementing this agreement, the Departments and agencies should be guided by the language and instructions set forth in House Report 109-143 and Senate Report 109-103 accompanying the bill, H.R. 3010.

In the cases where the language and instructions in either report specifically address the allocation of funds, each has been reviewed by the conferees and those that are jointly concurred in have been endorsed in this joint statement.

In the cases in which the House or the Senate reports request or direct the submission of a report, such report is to be submitted to both the House and Senate Committees on Appropriations.

The conferees note that section 517 sets forth the reprogramming requirements and limitations for the Departments and agencies funded through this Act, including the requirement to make a written request to the chairmen of the Committees 15 days prior to reprogramming, or to the announcement of intent to reprogram, funds in excess of 10 percent, or $500,000, whichever is less, between programs, projects and activities.

Finally, the conferees request that statements on the effect of this appropriation Act on the Departments and agencies funded in this Act be submitted to the Committees within 45 days of enactment of this Act. The conferees expect that these statements will provide sufficient detail to show the allocation of funds among programs, projects and activities, particularly in accounts where the final appropriation is different than that of the budget request. Furthermore, the conferees request the statements to also include the effect of the appropriation on any new activities or major initiatives discussed in the budget justifications accompanying the fiscal year 2006 budget.

The Departments of Labor, Health and Human Services, and Education, and Related Agencies Appropriations Act, 2006, put in place by this bill, incorporates the following agreements of the managers:

TITLE I—DEPARTMENT OF LABOR

EMPLOYMENT AND TRAINING ADMINISTRATION

TRAINING AND EMPLOYMENT SERVICES

(INCLUDING RESCISSIONS)

The conference agreement includes $5,115,411,000 for training and employment services, instead of $5,121,792,000 as proposed by the House and $5,250,806,000 as proposed by the Senate. Of the amount appropriated, $2,463,000,000 is an advance appropriation for fiscal year 2007, as proposed by the House and the Senate.

The conference agreement includes bill language as proposed by the Senate requiring that the Secretary of Labor take no action to amend the definition established in 20 CFR 667.220 for functions and activities under title I of the Workforce Investment Act of 1998, or to modify the procedure for designation of local areas as specified in that Act until such time as legislation reauthorizing the Act is enacted. The House bill contained a similar provision.

For Adult Employment and Training Activities, the conference agreement includes $865,736,000 as proposed by the House, instead of $893,618,000 as proposed by the Senate.

For Youth Training, the conference agreement includes $950,000,000 as proposed by the House instead of $986,288,000 as proposed by the Senate.

The conference agreement includes $1,476,064,000 for the Dislocated Worker program, as proposed by the Senate, instead of $1,405,264,000 as proposed by the House. The conferees override the formula that provides that 80 percent of the funds provided will be used for State formula grants and 20 percent in a National Reserve Account. For program year 2006 the conferees provide $1,193,264,000 for the State formula grants and $282,800,000 for the National Reserve Account.

The conferees direct that the Department submit a quarterly report beginning in January, 2006 to the House and Senate Appropriations Committees on the status of H-1B and National Emergency Grant awards. This quarterly report shall be submitted to the House and Senate Committees on Appropriations no later than 15 days after the end of each quarter and shall summarize the following information: total available funds for the current program year, funding requests made, funding comments made, and amounts actually awarded for the quarter and for the current program year, total outstanding funding commitments from all program years, and total unpaid funding commitments from all program years. The report shall also include a list of each award (both new awards and modifications to existing awards) made during the quarter, including the grantee, funding commitment, amount released, and unpaid commitment for each award, and the number of workers to be trained.

The conferees direct that the Department submit a quarterly report beginning in January 2006 to the House and Senate Appropriations Committees on the status of awards made under the High-Growth Job Training Initiative. This quarterly report shall be submitted to the House and Senate Committees on Appropriations no later than 15 days after the end of each quarter and shall summarize by funding source (dislocated worker demonstration funds, community college initiative, H-1B fees, pilots and demonstrations, etc.) the total amount allocated to the High-Growth Job Training Initiative for the quarter and the program year. This report shall also include a list of all awards made during the quarter and for each award shall include the grantee, the amount of the award, the funding source of the award, whether the award was made competitively or by sole source and, if sole source, the justification, the purpose of the award, the number of workers to be trained, and other expected outcomes.

The conference agreement includes bill language as proposed by the Senate giving the Secretary of Labor authority to use dislocated worker national reserve funds to provide assistance to a State for statewide or local use in order to address cases where there have been worker dislocations across multiple sectors or across multiple local areas. The House bill contained no similar provision. The conferees urge the Secretary, when determining competitive awards under this authority, to give favorable consideration to the applications of assistance to States that have sustained worker dislocation in such a manner and can demonstrate the capacity to respond effectively in a coordinated fashion across multiple sectors or local areas.

The conference agreement includes $1,573,000,000 for Job Corps, instead of $1,542,019,000 as proposed by the House and $1,582,000,000 as proposed by the Senate. Within the total, $1,465,000,000 is provided for continuing operations of the program and $108,000,000 is for renovation and construction of Job Corps centers. The conference agreement includes $8,000,000 for second year funding of Job Corps expansion. This is in addition to $10,000,000 previously appropriated. In the selection process to award these and the previously appropriated funds for incremental expansion of Job Corps, the Department is directed to follow guidance provided in Senate Report 109-103 and in the report accompanying Public Law 108–199 regarding the priority for States that currently do not have a center and for a new site that can be quickly launched as a satellite (residential or non-residential) of a Job Corps center that is serving an entire State or region, and then later be converted to a stand-alone facility.

The conferees strongly urge the Director of Job Corps to extend the work of the Appalachian Council for career transition support services, and implement through the NJCA Foundation for Youth Opportunities, foundation initiated and nationally coordinated programs and services that raise public awareness and support for at-risk youth. The conferees expect the Director of Job Corps to implement these awards by no later than January 31, 2006, or as soon thereafter that the new independent Office of Job Corps is established.

For Migrant and Seasonal Farmworkers, the conference agreement includes a total of $80,557,000 as proposed by the Senate, instead of $75,795,000 as proposed by the House. Within the total, $75,053,000 is for State service area grants. This includes $5,000,000 for housing grants and $3,840,000 to fund grantees in States impacted by formula reductions below the amount they were allotted in program year 2004. The agreement also includes bill language not contained in House or Senate bills which prohibits the Department from restricting the provision of "related assistance" services by grantees. Such services are often critical to the stabilization and availability of the farm labor workforce.

The conference agreement provides $2,000,000 for other National Activities as proposed by the House, instead of $3,458,000 as proposed by the Senate. Of this amount, $982,000 is for carrying out Public Law 102–530, the Women in Apprenticeship and Non-Traditional Occupations Act of 1992, and $504,000 is to be used for training, technical assistance and related activities, including migrant rest center activities, authorized under section 167 of the Workforce Investment Act of 1998.

For Pilots, Demonstrations and Research, the conference agreement includes $30,000,000, instead of $74,000,000 as proposed by the House and $90,367,000 as proposed by the Senate.

The conferees encourage the Department of Labor to establish a pilot grant program under 171(b) of the Workforce Investment Act of 1998 to award competitive placement and retention grants to qualified nonprofit organizations that offer low income individuals' intensive assessment, education and training, placement, and retention services, including job coaching. The employment should provide the low income individuals with an annual salary at least twice the poverty line applicable to the individual. After placement, such organizations shall be eligible for retention grants once low income individuals remain with the same employer for a period of one year, taking into account the benefits received by the federal government and the community from the individuals' employment.

The conference agreement includes $49,600,000 for Responsible Reintegration of Youthful Offenders, instead of $50,000,000 as proposed by the Senate. The House did not recommend funds for this activity.

The conference agreement includes $125,000,000 to carry out the Community College/Community-Based Job Training Grant initiative. The conference agreement includes bill language as proposed by the Senate which provides that this amount is to be allocated from National Emergency Grant funds available under section 132(a)(2)(A) of the Workforce Investment Act of 1998, overriding the limitation otherwise imposed under section 171(d). The House bill contained no similar provision. The conferees expect the Secretary to initially use resources from the National Emergency Grants account for these awards that are designated for non-emergencies under sections 171(d) and 170(b) of the Workforce Investment Act of 1998. Community-Based Job Training Grant awards will also be subject to the limitations of sections 171(c)(4)(A) through 171(c)(4)(C) of the Workforce Investment Act of 1998 to ensure that these grants are awarded competitively. The conferees direct that future solicitations for grant applications for the Community-Based Job Training initiative include One Stop Career Centers as eligible applicants. The conference agreement rescinds $125,000,000 in funds provided in fiscal year 2005 for this program, as proposed by the House; the Senate bill contained no similar provision.

For the Denali Commission, the conference agreement provides $6,944,000 as proposed by the Senate for job training services. The House recommendation did not include funds for this activity.

STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS

The conference agreement includes $3,392,078,000 for State Unemployment Insurance and Employment Service Operations, instead of $3,470,366,000 as proposed by the House and $3,361,779,000 as proposed by the Senate. For unemployment insurance services, the bill provides $2,533,000,000 instead of $2,632,915,000 as proposed by the House and $2,485,000,000 as proposed by the Senate. The conference agreement includes $2,523,000,000 for UI State Operations instead of $2,622,499,000 as proposed by the House and $2,475,000,000 as proposed by the Senate. The agreement includes a contingency reserve amount should the unemployment workload exceed an average weekly insured claims volume of 2,800,000 instead of 2,984,000 as proposed by the House. The conference agreement does not include language, similar in both House and Senate bills, providing $40,000,000 for new unemployment insurance administrative activities.

For the Employment Service grants to States, the agreement includes $723,114,000 instead of $696,000,000 as proposed by the House and $746,302,000 as proposed by the Senate. This includes $23,114,000 in general funds as proposed by the Senate instead of $23,300,000 as proposed by the House and $700,000,000 from the "Employment Security Administration" account of the unemployment trust fund instead of $672,700,000 as proposed by the House and $723,188,000 as proposed by the Senate. The conference agreement does not include funding to continue Reemployment Services Grants.

The conference agreement includes $17,856,000 for the work opportunity tax credit program as proposed by the Senate. The House report contained no similar provision.

PROGRAM ADMINISTRATION

The conference agreement includes $200,000,000 for Program Administration as proposed by the Senate, instead of $206,111,000 as proposed by the House. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

The conference agreement deletes language proposed by the House specifying that not to exceed $3,000,000 shall be available for contracts that are not competitively bid. The Senate bill contained no similar provision.

EMPLOYEE BENEFITS SECURITY ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement includes $134,900,000 as proposed by the Senate, instead of $137,000,000 as proposed by the House. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

EMPLOYMENT STANDARDS ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement includes $415,216,000 for the Employment Standards Administration, salaries and expenses, instead of $416,332,000 as proposed by the House and $412,616,000 as proposed by the Senate. Within the amount for Program Direction and Support the conference agreement includes $2,000,000 as proposed by the Senate to make available personnel and other resources to facilitate the expeditious startup of a system to resolve the claims of injury caused by asbestos exposure. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

The conference agreement deletes language proposed by the Senate authorizing the Secretary of Labor to accept, retain, and spend all sums of money ordered to be paid in accordance with the Consent Judgment in the case with the Northern Mariana Islands. This provision, carried in the bill in prior years, is no longer necessary. The House bill contained no similar provision.

The conferees note that the Employment Standards Administration's most recent regulatory plan indicates that the Employment Standards Administration plans to issue in December 2005 a notice of proposed rulemaking on the Family and Medical Leave Act (FMLA). The conferees urge that the Employment Standards Administration consider providing ample time (more than the 60 days indicated in the regulatory plan) for careful consideration of any proposed changes to the FMLA regulations.

SPECIAL BENEFITS

(INCLUDING TRANSFER OF FUNDS)

Within the total transferred to this account from fair share entities to pay the cost of administration of the Federal Employees' Compensation Act, the conference agreement provides that $27,148,000 shall be made available for automated workload processing operations, including document imaging, centralized mail intake and medical bill processing, as proposed by the Senate, instead of $18,454,000 as proposed by the House.

ADMINISTRATIVE EXPENSES, ENERGY EMPLOYEES

OCCUPATIONAL ILLNESS COMPENSATION FUND

(INCLUDING TRANSFER OF FUNDS)

Within the total, the conference agreement includes a proviso transferring $4,500,000 to the National Institute for Occupational Safety and Health for use by the Advisory Board on Radiation and Worker Health, as proposed by the Senate. The House bill contained no similar provision.

OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement includes $477,199,000 for the Occupational Safety and Health Administration as proposed by the House instead of $477,491,000 as proposed by the Senate. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

The conference agreement includes a limitation regarding OSHA's enforcement of the Respiratory Standard as it applies to tuberculosis, as proposed by the House. The Senate bill contained no similar provision.

MINE SAFETY AND HEALTH ADMINISTRATION

SALARIES AND EXPENSES

The conference agreement includes a provision that authorizes the Secretary to recognize the Joseph A. Holmes Safety Association as a principal safety association and to provide funds and personnel to the organization, as proposed by the House. The Senate bill contained no similar provision.

BUREAU OF LABOR STATISTICS

SALARIES AND EXPENSES

The conference agreement includes a provision maintaining the women worker series from the Current Employment Survey as proposed by the Senate. The House bill contained no similar provision.

OFFICE OF DISABILITY EMPLOYMENT POLICY

SALARIES AND EXPENSES

The conference agreement includes $27,934,000 for the Office of Disability Employment Policy as proposed by the House, instead of $47,164,000 as proposed by the Senate.

Within the total, the conferees have included $5,000,000 for a national initiative focusing on self-employment as an option for persons with disabilities, to be allocated according to the conditions in Senate Report 109-103. In addition, the conferees concur with the Senate in directing that the existing, structured "Public Service Internship Program for Students with Disabilities" be continued through fiscal year 2006 at no less than current appropriations levels. The House recommendation contained no similar provisions.

DEPARTMENTAL MANAGEMENT

SALARIES AND EXPENSES

The conference agreement includes $300,586,000 for Departmental Management, salaries and expenses, instead of $239,783,000 as proposed by the House and $320,561,000 as proposed by the Senate. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

The conference agreement includes $73,248,000 for the Bureau of International Labor Affairs (ILAB), instead of $12,419,000 as proposed by the House and $93,248,000 as proposed by the Senate. Of this amount, the conferees' recommendation includes $38,000,000 for the U.S. contribution to the ILO's International Program for the Elimination of Child Labor [IPEC] and $23,000,000 for bilateral assistance to improve access to basic education in international areas with a high rate of abusive and exploitative child labor. The conferees concur with the Senate directive that $4,500,000 of the basic education funds be distributed in a 3-year grant to a human rights center at a major university with expertise in African studies, child labor and business ethics to provide critical oversight of both the public and private investment. The conferees expect that any grant or contract to provide this oversight will include annual reporting requirements to both the Congress and the Department by the end of each federal fiscal year. That report should cite progress made on key points of the protocol including: development of a child labor monitoring system by industry, the elimination of the worst forms of child labor in the supply chain, and the development of an industry-wide, public, transparent certification system covering at least 50 percent of the growing area in the Ivory Coast and Ghana.

For other ILAB programs, including 125 FTE for Federal Administration, the conferees have included $12,248,000. Within this amount, the conferees have included sufficient funding for the compilation of the statutorily required report tracking the progress of countries that are designated as beneficiaries under the U.S. Generalized System of Preferences [GSP] or former GSP recipients who achieved a free trade agreement over the preceding two years. The conferees concur with a Senate mandate that the 2006 report shall be transmitted to the Congress no later than September 1, 2006.

The conference agreement does not include provisos in the Senate bill intended to ensure that decisions on appeals of Longshore and Harbor Worker's Compensation Act claims are reached in a timely manner. The House bill did not include similar provisions. Carried in previous years, the provisos are no longer considered necessary to avoid delays.

The conferees do not retain language in the House report regarding employee benefit products covered by the Employee Retirement Income Security Act.

VETERANS EMPLOYMENT AND TRAINING

The conference agreement includes $224,334,000 for Veterans Employment and Training as proposed by the Senate, instead of $229,334,000 as proposed by the House. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

The conferees are pleased by the number of programs being undertaken by a variety of federal agencies, including the Centers for Medicare and Medicaid Services and the Internal Revenue Service, to employ persons with disabilities in telework occupations. With a significant number of veterans coming home with physical impairments, the conferees urge the department to pursue interagency efforts to help disabled veterans achieve employment in the federal government through telework and other innovative programs.

OFFICE OF INSPECTOR GENERAL

The conference agreement includes $71,819,000 for the Office of Inspector General, instead of $70,819,000 as proposed by the House and $72,819,000 as proposed by the Senate.

GENERAL PROVISIONS

JOB CORPS

The conference agreement includes language that prohibits the use of funds for the Job Corps to pay the salary of any individual, either as direct costs or any pro-ration as an indirect cost, at a rate in excess of Executive Level I, instead of Executive Level II as proposed by the House. The Senate bill did not contain a similar provision.

The conference agreement includes language not contained in House or Senate bills directing the Secretary to establish and maintain an Office of Job Corps within the Office of the Secretary of Labor. The Secretary is directed to transfer current Job Corps functions and staff from the Employment and Training Administration to the Job Corps office established in the Office of the Secretary. To ensure continuity, the Secretary is further directed to staff the new agency with the staff in place as of October 1, 2005 and at a level of FTE approved as of October 31, 2005.

ONE PERCENT TRANSFER AUTHORITY

The conference agreement includes a provision as proposed by the Senate limiting the authority to transfer or reprogram funds between a program, project or activity and requiring a 15-day notification of any reprogramming request or announcement of such transfer or reprogramming request. The House bill contained a similar provision.

DENALI COMMISSION

The conference agreement includes a provision as proposed by the Senate that authorizes to be appropriated such sums as may be necessary to the Denali Commission to conduct job training where Denali Commission projects will be constructed. The House bill contained no similar provision.

CONGRESSIONAL JUSTIFICATIONS

The conference agreement includes bill language proposed by the Senate requiring the Department of Labor to submit its fiscal year 2007 congressional budget justifications in the format and level of detail used by the Department of Education in its fiscal year 2006 congressional budget justifications. The House bill contained no similar provision.

NEW YORK RESCISSION

The conference agreement does not include language as proposed by the Senate making $125,000,000 available to the New York State Uninsured Employers Fund and to the Centers for Disease Control and Prevention for purposes related to the September 11, 2001 terrorist attacks. The House bill contained no similar provision.

OPERATING PLAN

The conferees note that the Department failed to submit a fiscal year 2005 operating plan for pilots, demonstrations and research activities as requested last year in House Report 108–792. This plan is nearly six months late. Accordingly, the conferees have included bill language directing the Department to provide not later than July 1, 2006 an operating plan that outlines the planned allocation by major project and activity of fiscal year 2006 funds for pilot, demonstration, multi-service, research and multi-state projects. The conferees direct that the Department submit a quarterly report beginning in January 2006 to the House and Senate Appropriations Committees on the status of awards made for pilot, demonstration, multi-service, research, and multi-state projects under section 171 of the Workforce Investment Act. This quarterly report shall be submitted to the House and Senate Committees on Appropriations no later than 45 days after the end of each quarter and shall include the following information: a list of all awards made during the quarter and for each award shall include the grantee or contractor, the amount of the award, the funding source for the award, whether the award was made competitively or by sole source and, if sole source, the justification, the purpose of the award, and expected outcomes.

TITLE II—DEPARTMENT OF HEALTH AND HUMAN SERVICES

HEALTH RESOURCES AND SERVICES ADMINISTRATION

HEALTH RESOURCES AND SERVICES

The conference agreement includes $6,564,661,000 for health resources and services, of which $6,539,661,000 is provided as budget authority and $25,000,000 is made available from the Public Health Service policy evaluation set-aside, instead of $6,468,437,000 as proposed by the House and $7,396,534,000 as proposed by the Senate. Funds for the individual HRSA programs are displayed in the table at the end of the statement of the managers. Funding levels that were in disagreement but not displayed on the table are discussed in this statement.

The conference agreement includes a technical bill language change to eliminate an unnecessary citation of the Poison Control Center Act which was included in both bills.

The conference agreement includes a citation for section 712 of the American Jobs Creation Act of 2004 for authority for the sickle cell demonstration program. The House bill did not include a similar citation.

The conference agreement does not include bill language proposed by the Senate providing $393,051,000 for construction and renovation of health care and other facilities and other health-related activities. The House bill included no similar language.

The conference agreement includes bill language identifying $64,180,000 for the rural hospital flexibility grants program, as provided by the Senate. The House bill provided $39,180,000. Within the total provided, the conferees have included bill language similar to that contained in the Senate bill creating the authority and identifying $25,000,000 for a Delta health initiative rural health, education, and workforce infrastructure program. The House bill had no similar provision. The conferees urge HRSA to implement this program by a competitive grant to a non-Federal, not-for-profit alliance of no less than four academic institutions who have a history of collaboration, along with their State Medical Association and State Hospital Association, for the purpose of addressing longstanding, unmet health needs in the Mississippi Delta, including health education, access and research, and job training. Alliance partners should include an academic health center, at least two regional universities, a school of nursing, and a relationship with a strong economic development entity. The alliance should experience working with Federally qualified health centers and local health departments. The alliance should have experience in diabetes education and management, promoting healthy communities, health education and wellness.

The conferees have not included either bill language proposed by the Senate identifying $20,000,000 for base grant adjustments for existing community health centers or a similar directive included in the House report.

The conference agreement includes bill language identifying $40,000 for malpractice insurance for volunteer physicians who practice at free clinics, including administrative expenses, instead of $99,000 as proposed by the Senate. The House did not provide funding for this program. The conferees understand that claims against the Federal malpractice insurance are not likely to appear until at least fiscal year 2007, but want to signal the intent to continue the program.

The conference agreement does not include bill language identifying funding for community health centers in high-need counties. The Senate bill identified $13,000,000 for this purpose; the House bill identified $26,000,000.

The conferees direct that the increase in funding provided for community health centers be allocated for the center applications that have already been approved and announced in April 2005. The House and Senate reports had similar references to pre-approved awards.

The conference agreement includes bill language contained in the Senate bill permitting funding appropriated for the community health centers Federal malpractice claims program to be used for administrative expenses. The House bill included no similar provision.

The conference agreement includes bill language providing $4,000,000 to remain available until expended for the National Cord Blood Stem Cell Bank Program. The Senate bill provided $9,859,000. The House did not provide funding for this program.

The conference agreement includes bill language designating $117,108,000 out of the funds provided for the maternal and child health block grant to be for special projects of regional and national significance (SPRANS). The Senate bill provided $121,396,250 for this purpose; the House provided $116,124,000. It is intended that $3,880,000 of the SPRANS amount will be used to continue the sickle cell newborn screening program and its locally based outreach and counseling efforts. The House and Senate both proposed $4,000,000 for this program. In addition, $4,850,000 of the SPRANS amount will be used to continue the oral health demonstration programs and activities in the States. The House and Senate both proposed $5,000,000 for this program. The conference agreement also includes within the SPRANS set-aside $1,552,000 to continue mental health programs and activities in the States, $2,910,000 to continue the epilepsy demonstration, and $1,940,000 to continue newborn and child screening for heritable disorders. The conferees provide $1,000,000 for a fetal alcohol syndrome demonstration program as described in the Senate report. The House and Senate had both proposed $3,000,000 for the epilepsy demonstration. The House had proposed $3,000,000 for the heritable disorders screening program; the Senate had proposed $2,000,000. The Senate proposed $3,000,000 for the mental health programs, while the House had not proposed funding for this program. The Senate proposed $1,000,000 for the fetal alcohol syndrome demonstration, while the House had not proposed funding for this program.

The conference agreement includes bill language as proposed by the Senate providing $39,680,000 to the Denali Commission as a direct lump payment pursuant to P.L. 106–113. The House did not include funding for the Commission. The conferees concur with the Senate report language regarding the allocation of Denali funds to a mix of facilities.

The conference agreement provides $14,100,000 for Native Hawaiian health care activities within the consolidated health centers program as proposed by the Senate. The House did not identify specific funding for Native Hawaiian activities.

The conference agreement provides $4,000,000 for allied health training programs, of which $2,000,000 is allocated to the chiropractic-medical school demonstration grant and $2,000,000 is designated for the geropsychology training program. The Senate provided $11,753,000 for allied health programs. The House did not provide funding.

The conferees concur in the Senate report language identifying $3,000,000 within traumatic brain injury funding for protection and advocacy services. The House report did not have similar language.

The conferees concur with the Senate report language regarding the recompetition of Healthy Start programs.

Within funds provided to the Office of the Advancement of Telehealth, $3,000,000 has been included to carry out programs and activities under the Health Care Safety Net Amendments of 2002 (Public Law 107–251). Of that amount, the conferees intend that $1,500,000 be used to fund telehealth resource centers that provide assistance with respect to technical, legal, regulatory service delivery or other related barriers to the development of telehealth technologies. The conferees intend that HRSA place a high priority on the needs of rural States with populations of less than 1,500,000 individuals in the award and geographical placement of the telehealth resource grants. The conferees intend that $750,000 will be used for network grants and demonstration or pilot projects for telehomecare and that $750,000 will be used for grants to carry out the licensure provisions in Section 102 of Public Law 107–251.

The conferees agree that family planning funds should be distributed to regional offices in the same manner and time frame as in fiscal year 2005. In addition, conferees intend that the same percentage of appropriated family planning funds be used for clinical services as in fiscal year 2005.

Within the funds provided for bioterrorism grants to States, the conference agreement includes $475,000,000 for State grants, $21,000,000 for education incentives for medical school curriculum, and $4,000,000 to continue the credentialing emergency system for advance registration of volunteer health professionals. The conferees do not provide funding for a medical surge capacity demonstration as requested by the Administration. The House provided $464,479,000 for State grants; $8,000,000 for credentialing; $27,521,000 for training; and no funding for a surge capacity demonstration. The Senate provided $458,000,000 for State grants, indicating that credentialing, deployable mass casualty units and increases to the medical reserve corps could be supported within that total; $27,500,000 for training; and $25,000,000 for a national surge capacity demonstration.

The conference agreement includes $145,992,000 for program management instead of $143,992,000 as provided by the Senate and $143,072,000 as provided by the House. The conference agreement includes $2,000,000 within this activity for dental workforce programs authorized in section 340G of the Public Health Service Act. The Senate provided $5,000,000 for this activity; the House did not propose funding for the program.

VACCINE INJURY COMPENSATION PROGRAM TRUST FUND

The conference agreement provides $3,600,000 for administration for the Trust Fund as proposed by the Senate instead of $3,500,000 as proposed by the House.

CENTERS FOR DISEASE CONTROL AND PREVENTION

DISEASE CONTROL, RESEARCH, AND TRAINING

The conference agreement includes $5,884,934,000 for disease control, research, and training at the Centers for Disease Control and Prevention (CDC), instead of $5,945,991,000 as proposed by the House and $6,064,115,000 as proposed by the Senate. In addition, $265,100,000 is made available under section 241 of the Public Health Service Act. The House bill proposed that $159,595,000 and the Senate bill proposed that $265,100,000 be derived from section 241 authority.

The conference agreement includes bill language earmarking $160,000,000 for equipment, construction, and renovation of facilities, including the new data center and recovery site to ensure availability of critical systems and data supporting CDC's homeland security and public health emergency responsibilities, instead of $30,000,000 as proposed by the House and $225,000,000 as proposed by the Senate: Within this total, $136,000,000 is for continuation of CDC's program to upgrade and replace facilities in Atlanta and $24,000,000 is to continue construction and purchase equipment for the replacement of CDC's infectious disease laboratory in Fort Collins, Colorado.

The conference agreement includes bill language providing that within the amount available, $530,000,000 shall remain available until expended for the Strategic National Stockpile, the same as proposed by the House. The Senate bill included $542,000,000 for this purpose.

The conference agreement includes bill language to earmark $123,883,000 for international HIV/AIDS, the same as proposed by both the House and the Senate.

The conference agreement includes bill language as proposed by the Senate, and similar to language proposed by the House, designating that the following amounts shall be available under section 241 (Public Health Service Act evaluation set-aside) for the specified activities:

$12,794,000—National Immunization Surveys;

$109,021,000—National Center for Health Statistics Surveys;

$24,751,000—Information systems standards development and architecture and applications-based research used at local public health levels;

$463,000—Health Marketing evaluations;

$31,000,000—Public Health Research; and

$87,071,000—Research Tools and Approaches within the National Occupational Research Agenda.

The conference agreement includes bill language providing that up to $31,800,000 is available until expended for individual learning accounts, as proposed by the Senate. The House bill had included $30,000,000 for the same purpose.

The conference agreement includes bill language carried in prior years to allow the CDC to enter into a single contract or related contracts for the full scope of development and construction of facilities as proposed by both the House and the Senate. The agreement does not include language proposed by the Senate to allow funds appropriated to the CDC to be used to enter into a long-term ground lease for construction on non-Federal land. The conferees understand that this language is no longer necessary for the completion of the laboratory in the Fort Collins, Colorado area.

Given the full-scope contract authority, the conferees understand that sufficient funds are available from within amounts provided for buildings and facilities for unabated progress on the B&F Master Plan and to support the new data center recovery site, including the center's operations and maintenance services.

The conference agreement includes bill language providing that employees of the CDC or the Public Health Service, detailed to States, municipalities, or other organizations under authority of section 214 of the Public Health Service Act shall be treated as non-Federal employees for reporting purposes only and shall not be included within any personnel ceiling applicable to the Agency. The House bill included similar language but limited to employees detailed for purposes related to homeland security.

INFECTIOUS DISEASES

The conference agreement includes $1,697,397,000 for Infectious Diseases, instead of $1,704,529,000 as proposed by the House and $1,696,567,000 as proposed by the Senate. In addition, $12,794,000 is available to carry out National Immunization Surveys to be derived from section 241 evaluation set-aside funds.

The conferees note that unless otherwise specified, the sub-budget activity amounts provided are at the levels recommended in the budget request.

INFECTIOUS DISEASE CONTROL

Within the total for Infectious Diseases, the conference agreement includes $229,059,000 for infectious disease control activities instead of $229,471,000 as proposed by the House and $229,010,000 as proposed by the Senate.

Within the total, $102,650,000 is for areas of highest scientific and programmatic priority for preparing and responding to present and emerging infectious disease threats.

Within the total provided, $5,500,000 is to expand and improve surveillance, research, and prevention activities on prion disease, including the work of the National Prion Disease Pathology Surveillance Center.

HIV/AIDS, STD and TB Prevention

Within the total for Infectious Diseases the conference agreement includes $956,138,000 for HIV/AIDS, STD and TB prevention, the same as proposed by the House and $713,000 below the amount proposed by the Senate.

Included is $657,694,000 for domestic HIV/AIDS activities; $159,633,000 for STD activities; and $138,811,000 for TB activities.

Within the total for HIV/AIDS, the conferees intend that the activities that are targeted to address the growing HIV/AIDS epidemic and its disparate impact on communities of color, including African Americans, Latinos, Native Americans, Asian Americans, Native Hawaiians, and Pacific Islanders be supported at not less than the fiscal year 2005 level, as proposed by the House. The conferees intend that CDC follow the report accompanying the Labor, HHS and Education and Related Agencies Appropriations Act, 2002 regarding the disbursement of these funds, including continuing support for the Directly Funded Minority Community-Based Organization Program.

Immunization

Within the total for Infectious Diseases, the conference agreement includes a discretionary program level of $524,994,000 for immunization, instead of $526,500,000 as proposed by the House and $523,500,000 as proposed by the Senate. Of the amount provided, $12,794,000 is for national immunization surveys to be derived from section 241 evaluation set-aside funds, the same as proposed by both the House and Senate.

The conferees note, that subsequent to House action, $5,214,000 was reallocated to Global Immunization activities within Global Health to more accurately reflect immunization program levels prior to CDC's recent reorganization.

In addition, the Vaccines for Children (VFC) program funded through the Medicaid program includes $1,502,333,000 in vaccine purchases and distribution support for fiscal year 2006, yielding a total domestic immunization program level of $2,027,327,000.

Included in the amount provided is $461,478,000 for immunization assistance to states and localities under the section 317 immunization program, $4,960,000 for vaccine tracking, and $58,556,000 for prevention activities. The conferees intend that the $1,494,000 provided above the request for prevention activities support expanded vaccine safety research as outlined in the House Report.

HEALTH PROMOTION

The conference agreement includes $971,157,000 for Health Promotion, instead of $983,647,000 as proposed by the House and $974,080,000 as proposed by the Senate.

The conferees note that unless otherwise specified, the sub-budget activity amounts provided for Health Promotion are at the levels recommended in the budget request.

The conference agreement does not include $2,421,000 for a new program to award grants to organizations in the area of chronic disease prevention and birth defects and developmental disabilities as proposed by the Senate.

Chronic Disease Prevention, Health Promotion, and Genomics

Within the amount for Health Promotion, the conference agreement includes $845,135,000 for chronic disease prevention and health promotion instead of $856,468,000 as proposed by the House and $845,845,000 as proposed by the Senate.

The conference agreement includes the following amounts:

Budget activity	($ in 000s)
Heart Disease and Stroke	44,918
Diabetes	63,757
Cancer Prevention and Control	311,023
Arthritis and Other Chronic Diseases	22,693
Tobacco	105,858
Nutrition, Physical Activity, and Obesity	41,939
Health Promotion	27,721
School Health	56,760
Safe Motherhood/Infant Health	44,740
Oral Health	11,800
Prevention Centers	30,000
Steps to a Healthier U.S.	44,300
Racial and Ethnic Approach to Community Health (REACH)	34,605
Genomics	5,022

Within the amount provided for Cancer Prevention and Control the conference agreement includes $17,113,000 for comprehensive cancer activities, including $100,000 for a national education campaign concerning gynecologic cancer. The conferees urge that the CDC coordinate this effort both with the Office of Women's Health, within the Office of the Secretary, and qualified non-profit private sector organizations.

The conferees also reiterate their support for the CDC's partnership with the Lance Armstrong Foundation and have provided sufficient funds to continue support of the National Cancer Survivorship Resource Center at not less than the fiscal year 2005 level.

Within the amount provided for Arthritis and Other Chronic Diseases, $7,762,000 is available for epilepsy activities.

The conferees concur that the increase provided for tobacco activities is for an enhanced counter-marketing program to reduce underage tobacco use, as proposed by the Senate. The conferees expect that this effort will be carried out by a private sector organization that will match federal dollars at least equally and has demonstrated effectiveness in this area.

The conferees understand that the Centers for Disease Control and Prevention (CDC) is now the lead federal agency for the National 5 A Day Program and that funding will be transferred for fiscal year 2006 from the previous lead federal agency, the National Cancer Institute, to CDC.

The conferees urge CDC to set up a 5 A Day Program with a distinct program identity within its Division of Nutrition and Physical Activity, and that this program receive the necessary resources, both fiscal and designated full time equivalents (FTEs), to ensure that the CDC provides national leadership, strong technical assistance and training to State 5 A Day programs, effective communications, and other activities to encourage Americans to eat more fruits and vegetables and move closer to meeting the recommendations of the 2005 Dietary Guidelines for Americans.

The conferees encourage CDC to collaborate with the West Virginia Department of Health and Human Resources to develop a model obesity prevention program that could be replicated nationwide.

The conferees provide the following amounts from within funds provided for Community Health Promotion:

Budget activity	($ in 000s)
Mind-Body Institute	1,800
Glaucoma	3,500
Visual Screening Education	2,500
Alzheimer's Disease	1,650
Inflammatory Bowel Disease	700
Interstitial Cystitis	690
Pioneering Healthier Communities (YMCA)	1,450
Kidney Disease	1,800

The conferees concur with language in the Senate report providing that $50,000 from within Oral Health be used to develop an instructional video for school age children on the harmful effects of excessive consumption of soft drinks.

Within the funds for Genomics, $2,546,000 is provided to support and expand activities related to Primary Immune Deficiency Syndrome implemented in the same manner as in fiscal year 2005 and as outlined in the Senate report.

Birth defects

Within the amount available for Health Promotion, the conference agreement includes $126,022,000 for birth defects, developmental disabilities, disability and health instead of $127,179,000 as proposed by the House and $125,815,000 as proposed by the Senate.

Within the total, the following amounts are provided for the specified activities:

Budget activity	($ in 000s)
Folic Acid	2,300
Tourette Syndrome	1,800
Early Hearing Detection and Intervention	6,600
Muscular Dystrophy	6,500
Special Olympics Healthy Athletes	5,700
Paralysis Resource Center (Christopher Reeve)	6,000
Spina Bifida	5,100
Autism	15,300

The conferees strongly support the activities of both the National Folic Acid Education and Prevention Program and National Spina Bifida Program and believe the activities are complementary. The National Folic Acid Education Program's goal is primary prevention through the promotion of the consumption of folic acid to prevent Spina Bifida and other neural tube defects. The National Spina Bifida Program works to improve the quality of life for individuals affected by Spina Bifida and reduce and prevent the occurrence of, and suffering from this birth defect. The conferees have provided $7,400,000 for these activities. In order to achieve budget transparency, prevent any overlap of effort, ensure the continued proper balance between primary prevention and quality of life activities, and to maximize the effectiveness of these funds, the conferees request that CDC develop a comprehensive strategic plan whose goal is to establish a unified program to be housed in the Human Development and Disability Division and to be prepared to report on the feasibility of such a unified program during fiscal year 2007 budget hearings.

Within the amount for activities related to Duchenne and Becker Muscular Dystrophy, $750,000 is to enhance the coordinated education and outreach initiative through the Parent Project Muscular Dystrophy. In addition, the conferees concur in the directive in the Senate report for CDC to develop and submit a strategic plan for the Duchenne and Becker Muscular Dystrophy program by May 1, 2006.

Within the amount for Autism activities, $14,750,000 is for surveillance and research and $550,000 is to continue and expand the national autism awareness campaign.

Health Information and Service

The conference agreement includes $89,564,000 for Health Information and Service, the same as proposed by the Senate. The House had included $195,069,000. In addition, $134,235,000, to be derived from section 241 evaluation set-aside funds, is included to carry out National Center for Health Statistics surveys, Public Health Informatics evaluations, and health marketing evaluations.

Environmental Health and Injury Prevention

The conference agreement includes $287,733,000 for Environmental Health and Injury Prevention activities, instead of $285,721,000 as proposed by the House and $288,982,000 as proposed by the Senate.

The conferees note that unless otherwise specified, the sub-budget activity amounts provided for Environment Health and Injury Prevention are at the levels recommended in the budget request.

Environmental health

Within the funds available for Environmental Health and Injury Prevention, the conference agreement includes $147,293,000 for environmental health instead of $147,483,000 as proposed by the House and $147,417,000 as proposed by the Senate.

Within the total, $900,000 is provided to begin a nationwide Amyotrophic Lateral Sclerosis (ALS) registry as recommended in the Senate report.

The conferees also urge the CDC to maintain support for the Environmental and Health Outcome Tracking Network and the Landmine Survivor Network at not less than the fiscal year 2005 level.

Injury prevention and control

Within the funds provided for Environmental Health and Injury Prevention, the conference agreement includes $140,440,000 for injury control, instead of $138,237,000 as proposed by the House and $141,565,000 as proposed by the Senate.

Within the total for injury prevention and control, $105,083,000 is for intentional injury prevention activities, including $24,379,000 for Youth Violence Prevention as outlined in the Senate report (of which $12,028,000 is for youth violence base funding), and not less than the fiscal year 2005 level is for the National Violent Death Reporting System.

In addition, $35,357,000 of the amounts for injury prevention and control is for unintentional injury. The conferees are agreed that sufficient funds are provided to support the existing Injury Control Research Centers at not less than the fiscal year 2005 level.

Occupational Safety and Health

The conference agreement provides a total program level of $256,971,000 for occupational safety and health, instead of $251,241,000 as proposed by the House and $257,121,000 as proposed by the Senate. Within that amount, $87,071,000 is available to carry out research tools and approaches activities within the National Occupational Research Agenda (NORA) to be derived from section 241 evaluation set-aside funds.

The conference agreement includes sufficient funds to maintain staffing levels at the Morgantown facility as proposed by the Senate.

Within the amount provided, $1,000,000 is for the establishment of a National Mesothelioma Registry and Tissue Bank as described in the Senate report. The conferees strongly encourage NIOSH to work closely with the mesothelioma research and patient community in developing the registry and tissue bank to maximize the effectiveness of data collection and allow researchers real time access to clinical data associated with tissue specimens from the registry.

Organizations eligible to implement the registry and tissue bank should have a demonstrated history of collaborative mesothelioma research and experience working with, and access to, the patient population. Eligible applicants should share the goal of developing a cost-effective infrastructure and have a data-sharing plan that will ensure the registry and tissue bank will be used to expand scientific discovery and effective treatments to benefit the mesothelioma research and patient community.

The agreement also includes $150,000 above the budget request to expand support for the existing NIOSH Education and Research Centers.

In addition, the conferees have included sufficient funds for implementation of the Miners' Choice Health Screening Program at two or more sites in fiscal year 2006. This program was initiated in the Department of Labor to encourage all miners to obtain free and confidential chest x-rays to obtain more data on the prevalence of Coal Workers' Pneumonconiosis in support of development of new respirable coal dust rules.

GLOBAL HEALTH

The conference agreement provides $313,340,000 for Global Health activities, instead of $309,076,000 as proposed by the House and $313,227,000 as proposed by the Senate.

Within the total:

$123,883,000 is for Global HIV/AIDS;

$144,455,000 is for Global Immunization, including $101,254,000 for Polio Eradication and $43,201,000 for other global immunization activities;

$9,113,000 is for Global Malaria; and

$33,503,000 is for Global Disease Detection.

The conferees note, that subsequent to House action, $5,214,000 was reallocated from the domestic immunization program to Global Immunization activities. This reallocation more accurately reflects immunization program levels prior to CDC's recent reorganization.

PUBLIC HEALTH RESEARCH

The conference agreement includes $31,000,000, to be derived from section 241 evaluation set-aside funds, for Public Health Research.

PUBLIC HEALTH IMPROVEMENT AND LEADERSHIP

The conference agreement includes $206,535,000 for Public Health Improvement and Leadership instead of $258,541,000 as proposed by the House and $344,055,000 as proposed by the Senate.

Within the total, $7,930,000 is included for a Director's Discretionary Fund to support activities deemed by the Director as having high scientific and programmatic priority and to respond to emergency public health requirements. The conferees concur with language in the Senate report regarding the Director's authority to reallocate management savings to the Director's Discretionary Fund upon notification of the Committees on Appropriations in the House and Senate.

PREVENTIVE HEALTH SERVICES BLOCK GRANT

The conference agreement includes $100,000,000 for the Preventive Health Services Block Grant, the same as proposed by the Senate and the House.

TERRORISM AND PUBLIC HEALTH PREPAREDNESS

The conference agreement includes $1,593,189,000 for activities related to terrorism and public health preparedness, instead of $1,616,723,000 as proposed by the House and $1,566,471,000 as proposed by the Senate.

Within the total, $831,994,000 is for Upgrading State and Local Capacity; $137,972,000 is for Upgrading CDC Capacity; $14,000,000 is for Anthrax Studies; $79,223,000 is for the Biosurveillance Initiative; and $530,000,000 is for the Strategic National Stockpile.

Of the funds available for Upgrading State and Local Capacity, the conference agreement includes: $768,695,000 for bioterrorism cooperative agreements; $31,000,000 for Centers for Public Health Preparedness; and $5,400,000 for Advanced Practice Centers.

BUSINESS SERVICES SUPPORT

The conference agreement includes $296,119,000 for Business Services Support, as proposed by the Senate. The House had provided $298,515,000 for this purpose.

The conferees concur with language in the Senate report regarding the Director's authority to reallocate savings that result from efficiencies gained in business services support to the Director's Discretionary Fund upon notification of the Committees on Appropriations in the House and Senate.

The conferees also request that CDC continue to include at least the level of detail provided in past years in the Justification of Estimates for the Appropriations Committees, including the functional tables for each budget activity, the mechanism table by activity, and the crosswalks of funding between programs and CDC organizations.

The conferees also request that the CDC prepare and submit a report to the House and Senate Committees on Appropriations detailing intramural and extramural funding splits by sub-budget activity by no later than March 1, 2006. The report should include actual splits for fiscal years 2004 and 2005, as well as estimates for fiscal years 2006 and 2007.

The conferees continue to support partnerships between CDC and the minority health professions community.

National Institutes of Health

NATIONAL CANCER INSTITUTE

The conference agreement includes $4,841,774,000 for the National Cancer Institute as proposed by the House instead of $4,960,828,000 as proposed by the Senate.

The conferees urge the NCI to respond to the Bladder and Kidney Research Progress Review Group report and encourage appropriate funding for bladder and kidney cancer research.

NATIONAL HEART, LUNG AND BLOOD INSTITUTE

The conference agreement includes $2,951,270,000 for the National Heart, Lung and Blood Institute as proposed by the House instead of $3,023,381,000 as proposed by the Senate.

NATIONAL INSTITUTE OF DENTAL AND CRANIOFACIAL RESEARCH

The conference agreement includes $393,269,000 for the National Institute of Dental and Craniofacial Research as proposed by the House instead of $405,269,000 as proposed by the Senate.

NATIONAL INSTITUTE OF DIABETES AND DIGESTIVE AND KIDNEY DISEASES

The conference agreement includes $1,722,146,000 for the National Institute of Diabetes and Digestive and Kidney Diseases as proposed by the House instead of $1,767,919,000 as proposed by the Senate. An amount of $150,000,000 is also available to the Institute through a permanent appropriation for juvenile diabetes.

The conferees urge NIDDK to continue to support and develop the "Urologic Diseases in America" report and to include urological complications as well as diabetes and obesity research initiatives. The conferees further encourage the Institute to continue the Urinary Incontinence Treatment Network and to convene an external strategic planning group to develop future urology clinical trials. The conferees also encourage the Institute to convene a Strategic Planning Group to make recommendations on basic and clinical research in men's health, including the development of biomarkers to distinguish benign prostatic hyperplasia from prostate cancer.

NATIONAL INSTITUTE OF NEUROLOGICAL DISORDERS AND STROKE

The conference agreement includes $1,550,260,000 for the National Institute of Neurological Disorders and Stroke as proposed by the House instead of $1,591,924,000 as proposed by the Senate.

NATIONAL INSTITUTE OF ALLERGY AND INFECTIOUS DISEASES

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $4,459,395,000 for the National Institute of Allergy and Infectious Diseases instead of $4,359,395,000 as proposed by the House and $4,547,136,000 as proposed by the Senate.

The conference agreement includes bill language permitting the transfer of $100,000,000 to International Assistance Programs, Global Fund to Fight HIV AIDS, Malaria, and Tuberculosis as proposed by the Senate. The House bill did not permit a transfer.

NATIONAL INSTITUTE OF GENERAL MEDICAL SCIENCES

The conference agreement includes $1,955,170,000 for the National Institute of General Medical Sciences as proposed by the House instead of $2,002,622,000 as proposed by the Senate.

NATIONAL INSTITUTE OF CHILD HEALTH AND HUMAN DEVELOPMENT

The conference agreement includes $1,277,544,000 for the National Institute of Child Health and Human Development as proposed by the House instead of $1,310,989,000 as proposed by the Senate.

NATIONAL EYE INSTITUTE

The conference agreement includes $673,491,000 for the National Eye Institute as proposed by the House instead of $693,559,000 as proposed by the Senate.

NATIONAL INSTITUTE OF ENVIRONMENTAL HEALTH SCIENCES

The conference agreement includes $647,608,000 for the National Institute of Environmental Health Sciences as proposed by the House instead of $667,372,000 as proposed by the Senate.

The conferees urge NIEHS to work with CDC and expert independent researchers on research that could identify or rule out any association between thimerosal exposure in pediatric vaccines and increased rates of autism. The conferees believe that the Vaccine Safety Datalink (VSD), a CDC-constructed database that follows 7 million immunized children from 1990 to present, could be helpful in the research, especially regarding pre-2001 VSD data and post-2000 VSD data, since thimerosal was removed from most childhood vaccines in 2001. The conferees urge NIEHS and CDC to organize a workshop by May 2006 to explore the research possibilities and scientific feasibility of such a study and report back to the House and Senate Appropriations Committees soon after.

NATIONAL INSTITUTE ON AGING

The conference agreement includes $1,057,203,000 for the National Institute on Aging as proposed by the House instead of $1,090,600,000 as proposed by the Senate.

NATIONAL INSTITUTE OF ARTHRITIS AND MUSCULOSKELETAL AND SKIN DISEASES

The conference agreement includes $513,063,000 for the National Institute of Arthritis and Musculoskeletal and Skin Diseases as proposed by the House instead of $525,758,000 as proposed by the Senate.

NATIONAL INSTITUTE ON DEAFNESS AND OTHER COMMUNICATION DISORDERS

The conference agreement includes $397,432,000 for the National Institute on Deafness and Other Communication Disorders as proposed by the House instead of $409,432,000 as proposed by the Senate.

NATIONAL INSTITUTE OF NURSING RESEARCH

The conference agreement includes $138,729,000 for the National Institute of Nursing Research as proposed by the House instead of $142,549,000 as proposed by the Senate.

NATIONAL INSTITUTE ON ALCOHOL ABUSE AND ALCOHOLISM

The conference agreement includes $440,333,000 for the National Institute on Alcohol Abuse and Alcoholism as proposed by the House instead of $452,271,000 as proposed by the Senate.

NATIONAL INSTITUTE ON DRUG ABUSE

The conference agreement includes $1,010,130,000 for the National Institute on Drug Abuse as proposed by the House instead of $1,035,167,000 as proposed by the Senate.

The conferees encourage NIDA to move expeditiously on a cooperative research and development agreement (CRADA) regarding the use of vigabatrin for the treatment of cocaine and methamphetamine addiction.

NATIONAL INSTITUTE OF MENTAL HEALTH

The conference agreement includes $1,417,692,000 for the National Institute of Mental Health as proposed by the House instead of $1,460,393,000 as proposed by the Senate.

NATIONAL HUMAN GENOME RESEARCH INSTITUTE

The conference agreement includes $490,959,000 for the National Human Genome Research Institute as proposed by the House instead of $502,804,000 as proposed by the Senate.

NATIONAL INSTITUTE OF BIOMEDICAL IMAGING AND BIOENGINEERING

The conference agreement includes $299,808,000 for the National Institute of Biomedical Imaging and Bioengineering as proposed by the House instead of $309,091,000 as proposed by the Senate.

NATIONAL CENTER FOR RESEARCH RESOURCES

The conference agreement includes $1,110,203,000 for the National Center for Research Resources instead of $1,100,203,000 as proposed by the House and $1,188,079,000 as proposed by the Senate.

The conference agreement does not include bill language to earmark extramural facilities construction grants, as proposed by the House. The Senate bill proposed $30,000,000 for this purpose.

The conference agreement provides $326,000,000 from NCRR and Roadmap funds for general clinical research centers and the clinical and translational science awards (CTSA) combined. The Senate provided $327,000,000 for the combined awards; the House did not include similar language. As indicated in the Senate report, the total number of awards for the combined programs should remain at 79 in fiscal year 2006. When making the CTSA awards, consideration must be given to the units and functions currently carried out through the MO1 mechanism.

The conference agreement provides $222,208,000 for the Institutional Development Award (IdeA) program, as proposed by the House. The Senate had included $230,000,000 for this program.

NATIONAL CENTER FOR COMPLEMENTARY AND ALTERNATIVE MEDICINE

The conference agreement includes $122,692,000 for the National Center for Complementary and Alternative Medicine as proposed by the House instead of $126,978,000 as proposed by the Senate.

NATIONAL CENTER ON MINORITY HEALTH AND HEALTH DISPARITIES

The conference agreement includes $197,379,000 for the National Center on Minority Health and Health Disparities as proposed by the House instead of $203,367,000 as proposed by the Senate.

JOHN E. FOGARTY INTERNATIONAL CENTER

The conference agreement includes $67,048,000 for the John E. Fogarty International Center as proposed by the House instead of $68,745,000 as proposed by the Senate.

NATIONAL LIBRARY OF MEDICINE

The conference agreement provides $318,091,000 for the National Library of Medicine as proposed by the House instead of $327,222,000 as proposed by the Senate. In addition, $8,200,000 is provided from section 241 authority as proposed by both the House and Senate.

OFFICE OF THE DIRECTOR

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $482,895,000 for the Office of the Director instead of $482,216,000 as proposed by the House and $487,434,000 as proposed by the Senate.

The conference agreement includes bill language permitting the Office of AIDS Research (OAR) to use its funding to make grants for construction or renovation of facilities, as provided for in section 2354(a)(5)(B) of the Public Health Service Act. This language was not included in either the House or Senate bill. The conferees support the efforts of OAR to expand a breeding colony that will serve as a new national resource to breed non-human primates for AIDS research. The conferees understand that this breeding colony is designed to represent a collaboration of several National Primate Research Centers (NPRCs). These resources will further the progress in identifying approaches to halt the transmission of HIV, slow disease progression, and treat those who are HIV-infected both in the United States and globally.

The conference agreement includes bill language identifying $97,000,000 for biodefense countermeasures that was not included in either the House or Senate bill. The House and Senate both included report language identifying $97,021,000 for this purpose.

The conferees believe, that to the extent resources allow, NIH should follow its cost management plan principles, which will help NIH continue to maintain the purchasing power of the research in which it invests.

The Senate indicated that sufficient funds were included to fully pay committed levels on existing grants and to provide a 3.2 percent increase in the average cost of new grants. The House did not include a similar provision.

The conferees encourage NCI, NIDDK and NIBIB to conduct a multi-institute study focusing on: developing information on the history of polyps, including size and other histopathologic characteristics, which may serve as indicators of future colorectal cancer; the extent to which polyps can be monitored including colonoscopic and colonography or other screening techniques; and the optimal time in the course of polyp development when removal becomes essential to minimize the onset of colorectal cancer.

The conferees are disappointed that the director of NIH has not yet responded to the recommendations of the ACD working group on research opportunities in the basic behavioral sciences. The conferees urge the director of NIH, in consultation with senior IC leadership and the OBSSR, to develop a structural framework for managing support of NIH basic behavioral science research. This framework should include a division of portfolio and funding responsibility among the affected ICs, and should encourage cofunded trans-Institute research initiatives. The conferees request a report to the House and Senate Appropriations Committees describing the new framework and its relationship to the Office of Portfolio Analysis and Strategic Initiatives by May 1, 2006.

BUILDINGS AND FACILITIES

The conference agreement includes $81,900,000 for buildings and facilities as proposed by the House instead of $113,626,000 as proposed by the Senate.

The conference agreement does not include bill language granting full scope authority for the contracting of construction of the first and second phases of the John E. Porter Neurosciences Building as proposed by the Senate. The House bill contained no similar provision.

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION

SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES

The conference agreement includes $3,359,116,000 for substance abuse and mental health services, of which $3,237,813,000 is provided through budget authority and $121,303,000 is provided through the evaluation set-aside. The House bill proposed $3,352,047,000 for SAMHSA, of which $121,303,000 was from the evaluation set-aside and the Senate bill proposed $3,398,086,000, of which $123,303,000 was from the evaluation set-aside. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

Within the total provided, the conference agreement includes funding at no less than the fiscal year 2005 level, as proposed by the House, for activities throughout SAMHSA that are targeted to address the growing HIV/AIDS epidemic and its disparate impact on communities of color, including African Americans, Latinos, Native Americans, Asian Americans, Native Hawaiians, and Pacific Islanders. The Senate did not include similar language.

Within the total provided, the conference agreement also includes funding at no less than the fiscal year 2005 level for activities throughout SAMHSA addressing the needs of the homeless as proposed by the Senate. The House did not include similar language. Specifically, the conference agreement has provided funding at last year's level for programs directed at chronic homelessness and for programs directed at providing mental health and substance abuse treatment services to homeless individuals.

CENTER FOR MENTAL HEALTH SERVICES

The conference agreement includes $265,922,000 for programs of regional and national significance instead of $253,257,000 as proposed by the House and $287,297,000 as proposed by the Senate.

Within the total provided, the conference agreement provides no less than last year's level of funding, $94,240,000, for programs for prevention of youth violence, including the Safe Schools/Healthy Students interdepartmental program, as proposed by the Senate. The House included $84,000,000 for these programs. The conferees expect the Substance Abuse and Mental Health Services Administration to collaborate with the Departments of Education and Justice to continue a coordinated approach.

For programs addressing youth suicide prevention, the conference agreement includes $23,000,000 for State and campus-based programs as proposed by the Senate rather than $8,444,000 as proposed by the House, and $4,000,000 for the National Suicide Prevention Resource Center rather than $2,976,000 as proposed by the House and $3,976,000 as proposed by the Senate. In addition, no less than the amount provided in fiscal year 2005 should be allocated for the Suicide Prevention Hotline program and mental health screening demonstrations, as proposed by the Senate. The House report did not contain similar language.

The conference agreement includes $29,760,000 for the National Child Traumatic Stress Initiative as proposed by the House. The Senate did not include similar language.

The conference agreement provides $26,000,000 for the State incentive grants for transformation as proposed by both the House and Senate. These competitive grants will support the development of comprehensive State mental health plans and improve the mental health services infrastructure.

The conference agreement provides no less than the level allocated in fiscal year 2005 for grants for jail diversion programs as proposed by the House. The Senate did not include similar language.

The conference agreement provides the current level of funding for the consumer and consumer-supporter national technical assistance centers as proposed by the Senate. The conferees direct the Center for Mental Health Services to support multi-year grants to fund five such national technical assistance centers. The House did not include similar language.

The conferees request the Substance Abuse and Mental Health Services Administration to provide a report by May 1, 2006 on efforts to strengthen parenting and enhance child resilience in the face of adversity, as described in the Senate report. The House did not include similar language.

The conference agreement provides the same level of funding as was provided in fiscal year 2005 for the elderly treatment and outreach program as proposed by both the House and Senate.

The conference agreement includes $432,756,000 for the mental health block grant, which includes $21,803,000 from the evaluation set-aside, the same levels as proposed by both the House and the Senate. Included in the agreement is bill language transferring the State Infrastructure Planning Grants activity from the mental health programs of regional and national significance to the mental health block grant set-aside, as proposed by the House. The Senate proposed to continue to fund this activity through the programs of regional and national significance.

CENTER FOR SUBSTANCE ABUSE TREATMENT

The conference agreement includes $402,935,000 for programs of regional and national significance, which includes $4,300,000 from the evaluation set-aside, instead of $409,431,000 as proposed by the House and $412,091,000 as proposed by the Senate. Both the House and Senate bills included the evaluation set-aside at $4,300,000.

Within funds provided, $99,200,000 is for the Access to Recovery program as proposed by the House rather than $100,000,000 as proposed by the Senate. The conferees expect that addictive disorder clinical treatment providers participating in the Access to Recovery program meet the certification, accreditation, and/or licensing standards recognized in their respective States as proposed by the House. The Senate included similar language, but added the phrase, "and their respective staff."

The conference agreement provides $10,500,000 for treatment programs for pregnant, postpartum and residential women and their children rather than $11,000,000 as proposed by the Senate. Within these funds, no less than last year's level shall be used for the residential treatment program for pregnant and postpartum women in fiscal year 2006 authorized under section 508 of the Public Health Service Act. The House did not include similar language.

The conference agreement includes $8,166,000 to maintain the funding at the fiscal year 2005 level for the Addiction Technology Transfer Centers as proposed by both the House and Senate.

The conferees understand that the National Institute for Alcohol Abuse and Alcoholism recently published an updated 2005 edition of its clinician's guide for treating patients who have alcohol abuse problems, titled "Helping Patients Who Drink Too Much." The guide includes new information on expanded options for treating alcohol dependent patients, including a section on approved medications. The conferees urge the Center for Substance Abuse Treatment, in conjunction with its Science to Services agenda, to launch a counselor education initiative to inform physicians and program staff in the substance abuse community about the guide's treatment recommendations for alcohol dependence, including pharmacotherapy options.

As part of the $4,300,000 set-aside to evaluate substance abuse treatment programs, the conferees encourage the Substance Abuse and Mental Health Services Administration to determine the most effective way to maximize the number of qualified doctors who utilize buprenorphine in the office-based treatment of their opiate-addicted patients, as authorized by the Drug Addiction Treatment Act of 2000.

CENTER FOR SUBSTANCE ABUSE PREVENTION

The conference agreement includes $194,850,000 for programs of regional and national significance instead of $194,950,000 as proposed by the House and $202,289,000 as proposed by the Senate.

Within the funds provided, the conference agreement includes $4,000,000, as proposed by the Senate, for the Center for Substance Abuse Prevention (CSAP) to continue to fund grants aimed at expanding the capacity of health care and community organizations to address methamphetamine abuse. The House did not include similar language.

The conference agreement provides $850,000 for the third year of funding for the Advertising Council?s parent-oriented media campaign to combat underage drinking as proposed by the Senate. The House proposed to fund the third year of this campaign through the Office of the Secretary.

The conferees expect the Substance Abuse and Mental Health Services Administration (SAMHSA) to ensure that grantees within the strategic prevention framework State incentive grant program do not fund duplicative sub-State anti-drug coalition infrastructures, but utilize those already functioning and funded by programs such as the Drug Free Communities program.

The conferees are concerned that consolidating the successful efforts that were pioneered by CSAP across all three of the Centers at SAMHSA will result in a dilution of the funding and emphasis on substance abuse prevention. The conferees expect SAMHSA to maintain substance abuse prevention as its highest priority for emphasis in both the National Registry of Effective Programs and Practices (NREPP) and the SAMHSA Health Information Network (SHIN). The conferees expect SAMHSA to report in its fiscal year 2007 congressional justification on how substance abuse prevention is being maintained as the highest priority for emphasis in both NREPP and SHIN.

PROGRAM MANAGEMENT

The conference agreement includes $92,817,000 for program management, of which $16,000,000 is provided through the evaluation set-aside. The House bill proposed $91,817,000 with a $16,000,000 evaluation set-aside and the Senate bill proposed $93,817,000 with an $18,000,000 evaluation set-aside.

The conference agreement includes $1,000,000 to expand on the collaborative effort by the Substance Abuse and Mental Health Services Administration and the Centers for Disease Control and Prevention to establish a population-based source of data on the mental and behavioral health needs in this country, rather than $2,000,000 as proposed by the Senate. The House did not provide funding for this activity.

AGENCY FOR HEALTHCARE RESEARCH AND QUALITY

HEALTHCARE RESEARCH AND QUALITY

The conference agreement includes $318,695,000 as proposed by the House instead of $323,695,000 as proposed by the Senate. The agreement makes these funds available through the policy evaluation set-aside as proposed by the Senate. The House had provided budget authority.

The conference agreement includes bill language proposed by the Senate limiting the funds to be spent on health care information technology to no more than $50,000,000. The House bill did not contain similar language. The conferees note that AHRQ has planned activities relating to patient safety, such as clinical terminology and messaging standards that have a large health information technology component. The conferees do not intend these activities as counting toward the $50,000,000 for the Health Care Information Technology program.

The conferees provide $15,000,000 within the total provided for AHRQ for clinical effectiveness research as proposed by the House. The Senate included $20,000,000 for this purpose. This type of research can help improve the quality, effectiveness and efficiency of health care, thereby reducing costs while still improving quality of care. The conferees urge AHRQ to ensure broad access to its findings in this research. In addition, the conferees encourage AHRQ to continue conducting high quality, comprehensive research studies in this area, building upon the priority list of conditions it identified in fiscal year 2005 and conducting research in additional areas such as organization, delivery and management of health care items and services.

The conferees are pleased with AHRQ's efforts to include bedside medication bar-coding as a component of its health information technology grants, particularly for those grants in rural areas. The conferees understand that almost ten percent of the funding for health information technology grants is allocated to rural projects with a bar-coding component. The conferees encourage AHRQ to increase its awards in this area since bar-coding has been shown to have a substantial effect on preventable errors in adverse drug events.

CENTERS FOR MEDICARE AND MEDICAID SERVICES

PAYMENTS TO THE HEALTH CARE TRUST FUNDS

The conference agreement provides $177,742,200,000 for the payment to the Health Care Trust Funds as proposed by the House rather than $177,822,200,000 as proposed by the Senate.

PROGRAM MANAGEMENT

The conference agreement includes $3,170,927,000 for program management instead of $3,180,284,000 as proposed by the House and $3,181,418,000 as proposed by the Senate. An additional appropriation of $720,000,000 has been provided for the Medicare Integrity Program through the Health Insurance Portability and Accountability Act of 1996.

The conferees encourage CMS to consider using $3,000,000 of the funds provided through the Medicare Integrity Program to study and demonstrate the use of data fusion technology that enables accurate linkages between data records across large, disparate databases in near-real time using public records, commercial data and complete CMS data sets to help prevent, and determine instances of, fraud, waste and abuse.

The conference agreement includes $58,000,000 for research, demonstration, and evaluation instead of $65,000,000 as proposed by the House and $83,494,000 as proposed by the Senate. Within the total provided, the conference agreement provides $25,000,000 for Real Choice Systems Change Grants to States. The Senate provided $40,000,000 for these grants. The House did not provide funding for them.

The conferees are pleased with the demonstration project at participating sites licensed by the Program for Reversing Heart Disease and encourage its continuation. The conferees further urge CMS to continue the demonstration project being conducted at the Mind Body Institute of Boston, Massachusetts.

The conferees are very pleased with the ongoing efforts of CMS to address the seriously adverse health status of Native Hawaiians and American Samoans residing in the geographical area of the Waimanalo Health Center. The conferees urge CMS to consider waivers for rural or isolated area demonstration projects when calculating such requirements as population density in the State of Hawaii and are particularly pleased with the University of Hawaii's efforts to provide necessary health care in rural Hilo.

The conferees encourage CMS to conduct a national, three-year demonstration project to identify effective Medication Therapy Management Program (MTMP) models for Medicare Part D enrollees. The demonstration project should emphasize evidence-based prescribing, prospective medication management, technological innovation and outcomes reporting and should be capable of implementation on a large scale.

The conference agreement includes $2,172,987,000 for Medicare operations as proposed by the House instead of $2,184,984,000 as proposed by the Senate.

The conference agreement includes bill language proposed by the Senate making up to an additional $32,500,000 available to CMS for Medicare claims processing if the volume of claims exceeds particular thresholds. The House bill did not contain similar language.

The conference agreement does not include bill language proposed by the Senate directing the Secretary to send a notice to Medicare beneficiaries by January 1, 2006, notifying them of an error in the annual notice that had previously been mailed to them. The House bill did not contain similar language. The conferees are very concerned about the incorrect information on the new Medicare prescription drug plan that was inadvertently sent to beneficiaries. The conferees request that by no later than March 1, 2006, CMS report to the House and Senate Appropriations Committees a comprehensive summary of the actions taken to correct errors in the "Medicare & You 2006" handbook that was mailed to beneficiaries in October 2005. The conferees further direct that any notices to beneficiaries regarding the handbook error clearly state that the guidebook's tables on the levels of premium assistance were in error and that beneficiaries have until May 15, 2006 to enroll in a plan.

The conference agreement does not include general provision language proposed by the House that would prohibit funds being used to place social security numbers on ID cards issued to Medicare beneficiaries. The agreement also does not include general provision language proposed by the Senate that directs the Secretary to issue a report by June 30, 2006 describing plans to change the numerical identifier used for Medicare beneficiaries. The conferees consider this issue to be one of the utmost urgency and expect the Secretary to accelerate ongoing plans to convert the beneficiary identifiers.

The conference agreement provides $655,000,000 for Federal administration instead of $657,357,000 as proposed by the House and $628,000,000 as proposed by the Senate.

The conferees urge CMS to carefully review its decision to cut Medicare funding for second-year, specialized pharmacy residency programs, which provide specialized training to medication use experts in areas like geriatrics, oncology, and critical care. CMS should take into account new data submitted by national pharmacist associations and provide a full report to the House and Senate Committees within three months describing the agency's rationale for any decision that results in these programs remaining unfunded.

The conferees are concerned about the recent data published by CMS showing that less than one-third of Medicare beneficiaries eligible for diabetes self-management training (DSMT) are receiving the care and instruction they need. The conferees urge CMS to consider removing barriers for certified diabetes educators to providing DSMT to Medicare beneficiaries, including but not limited to the addition of Medicare coverage for the provision of such services, and to identify strategies for evaluating the effectiveness of diabetes education in improving the self-care of people with diabetes and in reducing risk factors for diabetes.

The conferees are concerned with the unprecedented increase in autism diagnoses over the past two decades and its effect on the Medicaid program. As more young children reach adolescence and adulthood, the need for home-based as well as out-of-home, residential services will increase. The conferees encourage CMS to facilitate the expansion and availability of respite care to families with autism. The conferees also encourage CMS to work with States to design geographically-based demonstrations allowing for greater concentration of resources for home-based assistance and respite care.

The conferees urge CMS to promulgate regulations providing the option of direct access to licensed audiologists under similar terms and conditions used by the Department of Veterans Affairs and the Office of Personnel Management. The Department of Veterans Affairs reports that direct access provides high quality, efficient, and cost-effective hearing care. If CMS does not believe it has the current legal authority to make such a change, CMS should provide a written report to the House and Senate Appropriations Committees by April 1, 2006 detailing the legal reasoning for this position.

HEALTH CARE FRAUD AND ABUSE CONTROL

The conference agreement does not include funding for this new account as proposed by the House. The Senate had provided $80,000,000 for this activity.

ADMINISTRATION FOR CHILDREN AND FAMILIES

LOW-INCOME HOME ENERGY ASSISTANCE

The conference agreement provides $2,183,000,000 for low-income home energy assistance as proposed by the Senate instead of $2,006,799,000 as proposed by the House. Of the amount provided $2,000,000,000 is provided for formula grants to States. The House bill proposed the full amount for State formula grants and the Senate bill proposed $1,883,000,000. Within the funds available, $27,500,000 is included for the leveraging incentive fund as proposed by the Senate. The House did not include funding for the leveraging incentive fund. As proposed by the House, the conference agreement does not include funding within State formula grants for a feasibility study. The Senate proposed $500,000 for this activity.

The conference agreement includes $183,000,000 for the contingency fund to be available through September 30, 2006. The Senate bill proposed $300,000,000 for the emergency fund and designated those funds as an emergency. The House did not propose funding for either the contingency or emergency fund. Together with the $20,350,000 still available in the emergency fund appropriated in fiscal year 2005, the total amount available in fiscal year 2006 to respond to heating and cooling emergencies is $203,350,000.

The conferees expect the appropriation provided for the contingency fund to be released, in full, prior to September 30, 2006. Given the forecasts of the costs associated with home heating this winter, the conferees anticipate that States will experience energy emergency conditions that will require additional Federal support that is available through the contingency fund.

REFUGEE AND ENTRANT ASSISTANCE

The conference agreement includes $575,579,000 for the refugee and entrant assistance programs rather than $560,919,000 as proposed by the House and $571,140,000 as proposed by the Senate. The conference agreement does not include funds for any of these activities through emergency funding. The Senate bill provided $19,100,000 within the total as emergency funding; the House bill did not include emergency funding for these activities. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

The conference agreement includes $268,229,000 for the transitional and medical services program. The House included $264,129,000 for this program. The Senate provided $264,129,000 through regular appropriations and $4,100,000 as an emergency for this program. The conference agreement does not include emergency funding for this program. It is the intention of the conferees that the level provided would allow for assistance to eligible individuals during their first eight months in the United States.

The conference agreement provides $155,560,000 for social services, rather than $160,000,000 as proposed in the House and $151,121,000 as proposed by the Senate. Within the funds provided, the conference agreement includes $19,000,000 as outlined in the House report. The Senate did not include similar language. The conferees intend that funds provided above the request for social services shall be used for refugee school impact grants and for additional assistance in resettling and meeting the needs of the Hmong refugees expected to arrive during 2006 and 2007 or for other urgent needs.

The conference agreement provides $78,083,000 for the unaccompanied minors program. The House bill proposed $63,083,000 for this program. The Senate provided $63,083,000 through regular appropriations and $15,000,000 as an emergency for this program. The conference agreement does not include emergency funding for this program. The conferees direct the Secretary of Health and Human Services to issue a report by no later than one year after the date of enactment of this Act on progress made by the Office of Refugee Resettlement and programs funded under this Act to shift children to more child-centered, age-appropriate, small group, home-like environments for unaccompanied children in its custody.

PAYMENTS TO STATES FOR THE CHILD CARE AND DEVELOPMENT BLOCK GRANT

The conference agreement includes $2,082,910,000 for the child care and development block grant, the same level as both the House and Senate bills. The conference agreement includes several specified funding recommendations within the total at levels proposed by the House rather than at the funding levels proposed by the Senate.

CHILDREN AND FAMILIES SERVICES PROGRAMS

(INCLUDING RESCISSION OF FUNDS)

The conference agreement includes $8,932,713,000 for children and families services programs, of which $10,500,000 is provided through the evaluation set-aside. The House bill proposed $8,701,207,000 for these programs with $12,500,000 from the evaluation set-aside and the Senate proposed $9,036,453,000 with $10,500,000 from the evaluation set-aside. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

Head Start

The conference agreement includes $6,843,114,000 for Head Start rather than $6,899,000,000 as proposed by the House and $6,863,114,000 as proposed by the Senate. The agreement includes $1,388,800,000 in advance funding, the same level as proposed by the Senate. The House bill proposed $1,400,000,000 for advance funding.

To enable the establishment of a panel of independent experts under the National Academy of Sciences to review and provide guidance on appropriate outcomes and assessments for young children, the conferees provide $1,000,000, within the total for Head Start, for the National Academy of Sciences.

The conference agreement includes, as a general provision, a limitation against the use of funds for Head Start to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level II, as proposed by the House. The Senate did not include a similar provision.

The conference agreement includes two general provisions relating to waiving requirements of regulations promulgated under the Head Start Act for transporting children enrolled in either Head Start or Early Head Start. The Senate bill included one general provision regarding this issue, but used different language than is included in the conference agreement. The House included report language pertaining to transportation waivers for this program.

Consolidated runaway and homeless youth program

The conference agreement includes $88,724,000 for the consolidated runaway and homeless youth program, the same level as proposed by the Senate, rather than $88,728,000 as proposed by the House.

Child abuse discretionary activities

The conference agreement includes $26,040,000 for child abuse discretionary programs instead of $31,645,000 as proposed by the House and $31,640,000 as proposed by the Senate.

Adoption incentive

The conference agreement includes $18,000,000 for the adoption incentive program rather than $31,846,000 as proposed by the House and $22,846,000 as proposed by the Senate. Actual bonus payments to States for fiscal year 2005 were less than amounts previously estimated, therefore, of the funds provided in fiscal year 2005 and made available through fiscal year 2006, the conference agreement rescinds $22,500,000. Neither the House nor the Senate proposed rescinding funds from this program.

Compassion capital fund

The conference agreement includes $65,000,000 for the compassion capital fund rather than $75,000,000 as proposed by the House and $95,000,000 as proposed by the Senate. Prior to advertising the availability of funds for any grant for the youth gang prevention initiative, the conferees request that the Department of Health and Human Services brief the House and Senate Committees on Appropriations regarding the planned use of these funds.

Social services and income maintenance research

The conference agreement includes $11,927,000 for social services and income maintenance research, of which $6,000,000 is provided through the evaluation set-aside. The House proposed $10,621,000 for this program, of which $8,000,000 was funded through the evaluation set-aside and the Senate proposed $32,012,000, of which $6,000,000 was from the evaluation set-aside.

The conferees note that efforts undertaken through the State information technology consortium have led to greatly improved systems communications and compliance in both the TANF and child support enforcement (CSE) programs. For TANF, the conferees have provided $2,000,000 to permit States to utilize uniquely designed web-based technology to improve benefit delivery and fulfill new Federal reporting requirements. For CSE, the conferees have provided $3,000,000 to continue the consortium's efforts to improve data exchange between CSE and the courts in ways that will significantly reduce the time lag between court orders and enforcement/collections activities.

Developmental disabilities

Within developmental disabilities programs, the conference agreement includes $39,109,000 for protection and advocacy services as proposed by the Senate instead of $38,109,000 as proposed by the House.

The conference agreement also includes $15,879,000 for voting access for individuals with disabilities rather than $14,879,000 as proposed by the House and $30,000,000 as proposed by the Senate. Within the funds provided, $11,000,000 is for payments to States to promote access for voters with disabilities and $4,879,000 is for State protection and advocacy systems.

As proposed by both the House and Senate, the conference agreement provides $11,529,000 for the developmental disabilities projects of national significance. Within this amount, $4,000,000 is to expand activities of the Family Support Program, as proposed by the Senate. The House did not include similar language.

Community services

The conference agreement includes $636,793,000 for the community services block grant (CSBG) as proposed by the Senate rather than $320,000,000 as proposed by the House. The conferees concur with language included in the Senate report that the Office of Community Services (OCS) release funding to States in the timeliest manner and that States make funds available promptly to local eligible entities. In addition, the conferees expect OCS to inform State CSBG grantees of any policy changes affecting carryover funds within a reasonable time after the beginning of the Federal fiscal year. The House did not include similar language.

As proposed by both the House and Senate, the conference agreement includes $32,731,000 for community economic development. The conferees concur with language included in the Senate report that appropriated funds be allocated, to the maximum extent possible, in the form of grants to qualified community development corporations in order to maximize the leveraging power of the Federal investment and the number and the amount of set-asides should be reduced to the most minimal levels. The House did not include similar language.

The conference agreement includes $7,367,000 for rural community facilities instead of $7,242,000 as proposed by the House and $7,492,000 as proposed by the Senate. The conferees intend that the increase provided for the Rural Community Facilities program be used to provide additional funding to the six regional RCAPs.

The conference agreement does not include funding for the National Youth Sports program as proposed by the House. The Senate proposed $10,000,000 for this program.

The conference agreement does not include funding for community food and nutrition as proposed by the House. The Senate proposed $7,180,000 for this program.

Independent living training vouchers

The conference agreement includes $46,623,000 for independent living training vouchers as proposed by the Senate instead of $50,000,000 as proposed by the House.

Community-based abstinence education

The conference agreement includes $114,500,000 for community-based abstinence education as proposed by the House rather than $105,500,000 as proposed by the Senate. The conference agreement includes $4,500,000 in program evaluation funds for the abstinence education program and $110,000,000 in budget authority. The conferees concur with language included in the House report regarding technical assistance and capacity-building support to grantees. The Senate report did not include similar language.

Within the total for community-based abstinence education, up to $10,000,000 may be used to carry out a national abstinence education campaign as proposed by both the House and the Senate. The conferees concur with language included in the Senate report that the Administration for Children and Families use available funds to continue support for an independent group to conduct a thorough and rigorous evaluation of this campaign. The House did not include similar language.

Program direction

The conference agreement includes $185,217,000 for program direction as proposed by the House instead of $186,000,000 as proposed by the Senate.

PROMOTING SAFE AND STABLE FAMILIES

The conference agreement includes $90,000,000 for the discretionary grant program of promoting safe and stable families as proposed by the Senate rather than $99,000,000 as proposed by the House.

ADMINISTRATION ON AGING

AGING SERVICES PROGRAMS

The conference agreement includes $1,376,624,000 for aging services programs instead of $1,376,217,000 as proposed by the House and $1,391,699,000 as proposed by the Senate. The detailed table at the end of this joint statement reflects the activity distribution agreed to by the conferees.

The conference agreement includes $20,360,000 for activities for the protection of vulnerable older Americans as proposed by the Senate instead of $19,360,000 as proposed by the House. Within the funds provided $15,162,000 is for the ombudsman services program as proposed by the Senate.

Included in the conference agreement is $157,744,000 for the family caregivers program rather than $155,744,000 as proposed by the House and $160,744,000 as proposed by the Senate.

The conference agreement includes $722,292,000 for nutrition programs rather than $725,885,000 as proposed by the House and $718,697,000 as proposed by the Senate. Within the total, $389,211,000 is provided for congregate meals rather than $391,147,000 as proposed by the House and $387,274,000 as proposed by the Senate; $183,742,000 is provided for home delivered meals rather than $184,656,000 as proposed by the House and $182,827,000 as proposed by the Senate; and, $149,339,000 is provided for the nutrition services incentives program rather than $150,082,000 as proposed by the House and $148,596,000 as proposed by the Senate.

The conference agreement includes $24,843,000 for program innovations instead of $23,843,000 as proposed by the House and $40,513,000 as proposed by the Senate. The conferees continue to support funding at no less than last year's level for national programs scheduled to be refunded in fiscal year 2006 as proposed by the Senate that address a variety of issues, including elder abuse, Native American issues and legal services. The House report did not include similar language.

Within the funding provided, the conference agreement includes $3,000,000, as proposed by the House, for social research into Alzheimer's disease care options, best practices and other Alzheimer's research priorities that include research into cause, cure and care, as well as respite care, assisted living, the impact of intervention by social service agencies on victims, and related needs. The agreement recommends this research utilize and give discretion to area agencies on aging and their non-profit divisions in municipalities with aged populations (over the age of 60) of over 1,000,000, with preference given to the largest population. The conferees also recommend that unique partnerships to affect this research be considered for the selected area agency on aging. The Senate did not include funding for this activity.

Given the enormous demands on Alzheimer's family caregivers, the conferees have included $1,000,000, as proposed by the Senate, to support an Alzheimer's family contact center for round-the-clock help to Alzheimer's families in crisis. The House did not include funding for this activity.

OFFICE OF THE SECRETARY

GENERAL DEPARTMENTAL MANAGEMENT

The conference agreement includes $352,703,000 for general departmental management instead of $338,695,000 as proposed by the House and $363,614,000 as proposed by the Senate, along with $5,851,000 from Medicare trust funds, which was provided by both the House and Senate. In addition, $39,552,000 in program evaluation funding is provided, which was proposed by both the House and Senate.

The conference agreement includes bill language proposed by the Senate directing that specific information requests from the chairmen and ranking members of the Subcommittees on Labor, Health and Human Services, and Education, and Related Agencies, on scientific research or any other matter, be transmitted to the Committees on Appropriations in a prompt professional manner and within the time frame specified in the request. The bill language further directs that scientific information requested by the Committees on Appropriations and prepared by government researchers and scientists be transmitted to the Committees on Appropriations, uncensored and without delay. The House did not include such a provision.

The conference report does not include a general provision proposed by the Senate related to compliance with section 2 of the Improper Payments Information Act of 2002 (IPIA) for the Temporary Assistance for Needy Families Program, the Foster Care and Adoption Assistance program, the Medicaid program, the State Children's Health Insurance Program, and the Child Care and Development Block Grant program. The House bill did not contain similar language. The conferees request that not later than sixty days after the date of enactment of the Act the Secretary of Health and Human Services provides a report on this topic to the Appropriations Committees. In addition to the actions that have been taken to date, this report should include HHS's plans and the specific steps that are necessary to achieve compliance with section 2 in these programs.

The conference agreement includes $2,500,000 to support the last year of the Citizens' Health Care Working Group established in the Medicare Modernization Act. The Senate proposed $3,000,000 for this activity; the House report did not contain a similar provision.

The conference agreement includes $500,000 with which the Secretary is directed to conduct a study to determine the best way to promote the use of advance directives among competent adults as a means of specifying their wishes about end of life care. The Senate report had a similar provision. The House report did not request such a study.

The conferees intend that, of the funding provided to the Office of Minority Health, no less than the fiscal year 2005 funding level be allocated to a culturally competent and linguistically appropriate public health response to the HIV/AIDS epidemic. The House report had a similar provision; the Senate report did not have such a provision.

The conference report does not include funding within the Office of the Secretary for the third year of the Ad Council's underage drinking media campaign as proposed by the House. The conferees have instead provided funding for this effort within the Substance Abuse and Mental Health Services Administration as proposed by the Senate.

The conferees are concerned about the diminished partnership between OMH and the nation's historically black medical schools. Despite repeated urging by the Committees, OMH has not maintained and cultivated cooperative agreements and other mechanisms of support with Meharry Medical College, Morehouse School of Medicine, and Charles R. Drew University of Medicine and Science. The conferees encourage OMH to: (1) re-establish its unique cooperative agreement with Meharry Medical College, (2) develop a formal partnership with the Morehouse School of Medicine and its National Center for Primary Care, and (3) coordinate a Public Health Service-wide response to the challenges facing the Charles R. Drew University of Medicine and Science, including expanded opportunities for biomedical research and support for residency training faculty.

The conferees recognize that gynecological cancers are treatable if diagnosed at an early stage, and are concerned about the low level of awareness among women concerning the early warning signs of gynecologic cancers. The conferees recognize that there are many activities undertaken by the Secretary to raise awareness about gynecologic cancers; but are concerned that a lack of coordination of these activities among the agencies may limit the effectiveness and outreach of these programs. The conferees encourage the Secretary to examine these programs, and coordinate their activities through the Office of Women's Health. The Secretary is also encouraged to consider developing a national education campaign.

OFFICE OF MEDICARE HEARINGS AND APPEALS

The conference agreement includes $60,000,000 for this activity as proposed by the House instead of $75,000,000 as proposed by the Senate.

OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY

The conference agreement includes $61,700,000 for this activity, of which $42,800,000 is provided in budget authority and $18,900,000 is made available through the Public Health Service program evaluation set-aside. The House had provided a combined total of $75,000,000 for this activity; the Senate provided a combined total of $45,150,000.

The conference agreement does not include general provision language proposed by the Senate or similar language proposed by the House prohibiting the use of funds provided in the Act to implement any strategic plan that does not require a patient whose information is maintained by the Department to be given notice if it is lost, stolen or used for another purpose. The conferees underscore the importance of consumer confidence in the privacy and security of their personal health information as a fundamental principle in all actions taken to carry out the HHS Health Information Technology (HIT) strategic plan. The conferees understand that HHS has funded a "Privacy and Security Solutions for Interoperable Health Information Exchange" contract to study and address variations in State law and business practices related to privacy and security that may pose challenges to interoperable health information exchange. Funds are included for the Office of the National Coordinator for Health Information Technology to continue its work to evaluate and initiate solutions, including those that will maintain the security and privacy protections for personal health information, as part of the Department's activities in carrying out its HIT strategic plan. The conferees request a report within 90 days describing how HHS plans to address privacy issues in the information technology program.

Office of Inspector General

The conference agreement includes $39,813,000 for the Office of Inspector General (OIG) as proposed by both the House and the Senate. The conferees expect that the OIG will utilize funds provided in section 121 of H.J. Res. 68 to provide continued oversight of Medicare Modernization Act implementation and the Medicare program.

PUBLIC HEALTH AND SOCIAL SERVICES EMERGENCY FUND

The conference agreement includes $183,589,000 for the Public Health and Social Services Emergency Fund (PHSSEF) to enhance Federal, State, and local preparedness to counter potential biological, disease, chemical, and radiological threats to civilian populations, the same as proposed by the House. The Senate had provided $8,158,589,000, with $8,095,000,000 designated as an emergency requirement pursuant to the concurrent resolution on the budget for fiscal year 2006.

Within the amount provided, the conference agreement includes $120,000,000, available until expended, for activities to ensure year-round production capacity of influenza vaccine. This is the same as proposed by the House. The Senate had incorporated this funding within the $8,095,000,000 designated as emergency spending.

General Provisions

Head Start Compensation

The conference agreement includes a general provision that prohibits the use of funds for Head Start to pay the compensation of an individual, either as direct costs or any proration as an indirect cost, at a rate in excess of Executive Level II, as proposed by the House. The Senate bill did not contain a similar provision.

Evaluation Tap Authority

The conference agreement includes a provision to allow for a 2.4 percent evaluation tap pursuant to section 241 of the Public Health Service Act. This tap is to be applied to programs authorized under the Public Health Service Act. The House bill contained a provision to allow for a 1.3 percent evaluation tap and the Senate bill allowed for a 2.5 percent evaluation tap.

One Percent Transfer Authority

The conference agreement includes language proposed by the Senate providing the Secretary of HHS with the authority to transfer up to 1 percent of discretionary funds between a program, project, or activity, but no such program, project or activity shall be increased by more than 3 percent by any such transfer. Additionally, a program, project or activity may be increased up to an additional 2 percent subject to written approval of the House and Senate Appropriations Committees. The House bill included a similar provision, but allowed the authority to transfer between appropriations.

HIV Research Funds Transfer

The conference agreement includes a general provision as proposed by the House allowing the Director of the National Institutes of Health, jointly with the Director of the Office of AIDS Research, to transfer up to 3 percent of funding identified by these two directors as funding pertaining to HIV research among institutes and centers. The Senate included similar language.

Council on Graduate Medical Education

The conference agreement includes a general provision proposed by the Senate allowing for the continued operation of the Council on Graduate Medical Education. The House bill contained no similar provision.

Smallpox Vaccine Injury Compensation Rescission

The conference agreement includes a general provision rescinding $10,000,000 from the smallpox vaccine injury compensation fund as proposed by the Senate. The House bill contained no similar provision.

Naming of CDC Buildings

The conference agreement includes a general provision proposed by the Senate naming two Centers for Disease Control and Prevention buildings. The House did not include a similar provision.

Power Wheelchair Regulations

The conference agreement modifies a general provision proposed by the Senate prohibiting funds to be used to implement or enforce Medicare regulations on power mobility devices prior to April 1, 2006. The conference agreement includes limitation language prohibiting the implementation of a regulation until April 1, 2006 and deletes the portions of the Senate provision that reduced payments for power mobility devices and established deadlines for future rulemaking. The House bill contained no similar provision. The conferees concur in the intent of the Senate language that a proposed rule be published by January 1, 2006, followed by a 45-day period to comment on the proposed rule, and that by not later than February 14, 2006, a final rule be published, followed by a 45-day transition period for implementation.

Head Start Transportation Waiver

The conference agreement modifies general provision language proposed by the Senate pertaining to waivers for the transportation of children enrolled in either Head Start or Early Head Start. The House included report language dealing with this issue.

Head Start Transportation Regulation

The conference agreement includes a general provision that the regulation pertaining to Head Start transportation shall not be effective until June 30, 2006, or 60 days after the date of enactment of a statute that authorizes appropriations for fiscal year 2006 to carry out the Head Start Act, whichever date is earlier. This clarifying provision was not included in either the House or Senate bills.

Health Professions Student loan Rescissions

The conference agreement includes two general provisions rescinding unobligated balances of the Health Professions Student Loan Program and the Nursing Student Loan Program. The House and Senate included similar provisions for the Health Professions Student Loan Program.

DEPARTMENT OF HEALTH AND HUMAN SERVICES TRAVEL

The conference agreement includes a new provision granting authority to the Secretary to use, at his discretion, charter aircraft under contract with the Centers for Disease Control and Prevention (CDC). The Secretary has significant operational responsibilities in times of emergencies and in the days following such emergencies. The Department is the primary agency for directing public health and medical services in response to significant events. Due to the unpredictable nature of such events, the conferees believe the Secretary must be in a posture to respond and communicate as an event is unfolding. Yet, existing travel limitations on the Secretary make this extremely difficult. The availability of CDC's charter aircraft will allow the Secretary to immediately return to Washington or rapidly move to another location as the situation dictates, at the same time being able to securely communicate with and direct the Department.

The conference agreement also extends this authority to the Director of the Centers for Disease Control and Prevention. The conferees understand that, due to existing restrictions, the Director on a number of occasions has not been able to accompany employees of the Agency responding to public health emergencies.

The conferees expect the Secretary and the Director of CDC to exercise this authority in an economical and judicious manner. The conferees request that the Secretary report to the Committees on Appropriations of the House and Senate regarding the use of this authority in the annual justification of estimates for the Appropriations Committees and at the end of the third quarter of each fiscal year.

STATE PHARMACEUTICAL ASSISTANCE PROGRAMS

The conference agreement does not include a general provision proposed by the Senate to extend the availability of fiscal year 2005 funding appropriated for State Pharmaceutical Assistance Programs in the Medicare Modernization Act through fiscal year 2006. The House bill did not include a similar provision.

USE OF SOCIAL SECURITY NUMBERS ON MEDICARE ID CARDS

The conference agreement deletes without prejudice general provisions proposed by both the House and Senate relating to the use of Social Security numbers on Medicare ID cards. Language is included within the Centers for Medicare and Medicaid Services section of the statement of the managers.

RAPID ORAL HIV TESTS

The conference agreement does not include a general provision proposed by the Senate directing the Secretary of HHS to use funds appropriated in Title II of this Act to purchase not less than one million rapid oral HIV tests. The House did not include a similar provision.

TELEHEALTH APPROPRIATION

The conference agreement deletes without prejudice a general provision proposed by the Senate relating to increased funding for telehealth programs. Funding for telehealth programs is included within HRSA. The House did not include a similar provision.

DENTAL WORKFORCE PROGRAM

The conference agreement does not include a general provision proposed by the Senate earmarking, within funds appropriated to HRSA, grants for programs to address dental workforce needs. Funding for this program is included within HRSA program management. The House did not include a similar provision.

MEDICALLY ACCURATE INFORMATION IN ABSTINENCE PROGRAMS

The conference agreement does not include a general provision proposed by the Senate that none of the funds made available in the Act may be used to provide abstinence education that includes information that is medically inaccurate, which is defined by information that is unsupported or contradicted by peer-reviewed research by leading medical, psychological, psychiatric, and public health publications, organizations, and agencies. The House did not include a similar provision.

LOW-VISION REHABILITATION SERVICES DEMONSTRATION

The conference agreement deletes without prejudice a general provision proposed by the Senate appropriating funding for a low-vision rehabilitation services demonstration. The House bill contained no similar provision. The Secretary of HHS is strongly urged to implement the Low-Vision Rehabilitation Services Demonstration Project, which was originally requested in the fiscal year 2004 appropriations conference report. The demonstration is to examine the impact of standardized national coverage for vision rehabilitation services provided in the home by vision rehabilitation professionals under the Medicare program. The conferees expect the Secretary of HHS and CMS to take the necessary steps to finalize the design and structure of the demonstration project no later than January 1, 2006. The conferees intend the Secretary to expend from available funds appropriated to him, including transfers authorized under existing authorities from the Federal Supplementary Insurance Trust Fund, an amount not to exceed $2,000,000 in fiscal year 2006. The conferees expect the Secretary to take steps to update the design and expand the size of the Low-Vision Rehabilitation Services Demonstration Project in fiscal year 2007.

DSH MEDICAID PAYMENTS TO THE STATE OF VIRGINIA

The conference agreement deletes without prejudice a general provision proposed by the Senate containing a sense of the Senate resolution expressing awareness of the issue of defining "hospital costs" incurred by the State of Virginia for purposes of Medicaid reimbursement and urging CMS to work with the State to resolve the pending issue. The House did not include a similar provision.

DEFIBRILLATION DEVICES

The conference agreement deletes without prejudice a general provision proposed by the Senate appropriating funds for the Automatic Defibrillation in Adam's Memory Act. Funding for this program is included within HRSA. The House did not include a similar provision.

OFFICE OF MINORITY HEALTH

The conference agreement does not include a general provision proposed by the Senate shifting funding to the Office of Minority Health from the Program Management account within CMS. Funding for the Office of Minority Health and CMS Program Management are included within those specific accounts. The House did not include a similar provision.

MOSQUITO ABATEMENT

The conference agreement does not include a general provision proposed by the Senate earmarking funds within CDC for mosquito abatement for safety and health. The House did not include a similar provision.

COMMUNITY HEALTH CENTERS

The conference agreement does not include a general provision proposed by the Senate increasing funding for the Community Health Centers program. Funding for the Community Health Centers program is included within HRSA. The House did not include a similar provision.

HEALTH INFORMATION SECURITY

The conference agreement deletes without prejudice a general provision proposed by the Senate prohibiting the use of funds provided in the Act to implement any strategic plan that does not require a patient whose information is maintained by the Department to be given notice if it is lost, stolen or used for another purpose. The House bill contained a similar provision. Language is included within the Office of the National Coordinator for Health Information Technology section of the statement of the managers.

LIMITATION ON TRAVEL AND CONFERENCES

The conference agreement does not include a general provision proposed by the Senate reducing the appropriations for travel, conference programs and related expenses for the Department of Health and Human Services. The House did not include a similar provision.

HELP AMERICA VOTE ACT

The conference agreement does not include a general provision proposed by the Senate providing additional funding for the Help America Vote Act. Funding for programs authorized by the Help America Vote Act and administered by HHS are included within the Children and Families Services section of the Administration for Children and Families. The House did not include a similar provision.

TITLE III—DEPARTMENT OF EDUCATION

EDUCATION FOR THE DISADVANTAGED

The conference agreement includes $14,627,435,000 for the Education for the Disadvantaged account instead of $14,728,735,000 as proposed by the House and $14,532,785,000 as proposed by the Senate. The agreement provides $7,244,134,000 in fiscal year 2006 and $7,383,301,000 in fiscal year 2007 funding for this account.

The conference agreement includes $100,000,000 for the Even Start program instead of $200,000,000 as proposed by the House. The Senate bill did not include funding for this program.

The conferees intend for funds available under the Reading First program to be used for reading programs with the strongest possible scientific evidence of effectiveness. The conferees strongly urge the Department to provide clear guidance to its technical assistance centers and the States to: fully consider scientific evidence of effectiveness in rating programs for use under Reading First; contemplate expanded lists of allowable programs that include innovative programs with scientific evidence of effectiveness; when awarding new grants, consider giving preference to those schools that select programs with strong, scientific evidence of effectiveness; and ensure that comprehensive reading programs that have scientific evidence of effectiveness will be implemented in full, as they have been researched, without modification to conform to other models of instruction. The conferees also are concerned that certain practices under the Reading First program may unduly interfere with local control of curriculum. The conferees note that Reading First materials decisions are to be made at the school level, subject to the approval of the State.

The conference agreement includes $30,000,000 for the Striving Readers program as proposed by the House instead of $35,000,000 as proposed by the Senate.

The conference agreement also includes $390,428,000 for the State Agency Migrant Education program as proposed by the House instead of $395,228,000 as proposed by the Senate.

The conference agreement includes $50,300,000 for the Neglected and Delinquent program instead of $49,600,000 as proposed by the House and $51,000,000 as proposed by the Senate.

The conference agreement includes $8,000,000 for Comprehensive School Reform quality initiatives. The House bill provided $10,000,000 for the Comprehensive School Reform Demonstration program and the Senate bill did not include any funding related to Comprehensive School Reform. The conferees concur that comprehensive school reform (CSR) models provide an exemplary approach to raising academic achievement, particularly for schools that do not make adequate yearly progress under the No Child Left Behind Act. The conferees believe that States should utilize their four percent school improvement set-aside funds to support implementation of comprehensive school reform models with demonstrated success. The conferees strongly urge States to examine methods for distributing school improvement funds that will result in awards of sufficient size and scope to support the initial costs of comprehensive school reforms and to limit funding to programs that include each of the reform components described in section 1606(a) of the No Child Left Behind Act of 2001 and have the capacity to improve the academic achievement of all students in core academic subjects within participating schools. Further, the conferees intend that the Secretary shall notify States that schools currently receiving CSR subgrants shall receive priority for targeted grants and/or technical assistance under section 1003(a) of ESEA.

The conference agreement also includes $18,737,000 for the Migrant Education High School Equivalency program as proposed by the House instead of $21,587,000 as proposed by the Senate.

IMPACT AID

The conference agreement includes bill language not included in either the House or Senate bill that restricts the release of impact aid construction funds to a formula distribution.

SCHOOL IMPROVEMENT PROGRAMS

The conference agreement includes $5,308,564,000 for the School Improvement Programs account instead of $5,393,765,000 as proposed by the House and $5,457,953,000 as proposed by the Senate. The agreement provides $3,873,564,000 in fiscal year 2006 and $1,435,000,000 in fiscal year 2007 funding for this account.

The conference agreement includes $184,000,000 for the Mathematics and Science Partnerships (MSP) program instead of $190,000,000 as proposed by the House and $178,560,000 as proposed by the Senate. The conferees urge the Secretary to encourage MSP grantees to incorporate advanced placement (AP) or pre-advanced placement (PRE-AP) staff development training into their math and science partnership projects to help teachers meet the highly qualified criteria under the No Child Left Behind Act. The AP and PRE-AP professional development initiatives support teachers' content and pedagogical knowledge development so that all students, regardless of whether or not they take AP, will receive rigorous, challenging math and science instruction. The AP math and science initiative has the primary objective of increasing the number of AP opportunities, AP participation rates, and postsecondary acceptance and success rates for disadvantaged students.

The conference agreement includes $100,000,000 for State Grants for Innovative Education as proposed by the Senate instead of $198,400,000 as proposed by the House. The agreement also includes $275,000,000 for Educational Technology State Grants instead of $300,000,000 as proposed by the House and $425,000,000 as proposed by the Senate.

The conferees are concerned that many schools are unable to properly assess the performance of students with disabilities and students with limited English proficiency. Therefore, the conferees urge the Department to continue to place a high priority on grant applications for funds available from the enhanced assessments instruments program that aim to improve the quality of state assessments for these two groups of students and to ensure the most accurate means of measuring their performance on these assessments.

The conference agreement includes $9,693,000 for the Javits Gifted and Talented program instead of $11,022,000 as proposed by the Senate. The House did not propose funding for this program.

The agreement also includes $22,000,000 for the Foreign Language Assistance program instead of $25,000,000 as proposed by the Senate. The House did not propose funding for this program. The conferees concur with all of the language contained in the Senate report related to the use of these funds and administration of this program. The conference agreement includes language in the Senate bill that prohibits funds from being used for the Foreign Language Incentive Fund program. The House bill did not include a similar provision.

The conference agreement includes $34,250,000 for the Education of Native Hawaiians program instead of $24,770,000 as proposed by the House and $34,500,000 as proposed by the Senate. The agreement includes bill language that allows funds under this program to be used for construction, renovation and modernization of any elementary school, secondary school, or structure related to an elementary school or secondary school run by the Department of Education of the State of Hawaii that serves a predominantly Native Hawaiian student body as proposed by the Senate. The House bill did not include a similar provision.

The conference agreement also includes bill language, as proposed by the Senate, which provides not less than $1,250,000 to the Hawaii Department of Education for school construction/renovation activities, and $1,250,000 for the University of Hawaii's Center of Excellence in Native Hawaiian Law. The House bill did not include a similar provision.

The conference agreement includes $34,250,000 for the Alaska Native Educational Equity program instead of $31,224,000 as proposed by the House and $34,500,000 as proposed by the Senate. The conference agreement includes bill language which allows funds available through this program to be used for construction, as proposed by the Senate. The House bill did not include a similar provision. The conferees direct the Department to use at least a portion of these funds to address the construction needs of rural schools.

The conferees are aware that the Department recently awarded a grant for a California Comprehensive Center, which will provide technical assistance to state and local educational agencies in California. This new Center will have to establish and develop a strong relationship to serve schools in Southern California, which has a majority of California's students and schools identified as in need of improvement as well as the highest number of English Language Learners and schools targeted for restructuring. The conferees encourage the Department of Education to ensure that this Center adequately addresses the needs of Southern California's local school districts.

INNOVATION AND IMPROVEMENT

The conference agreement includes $945,947,000 for programs in the Innovation and Improvement account, instead of $708,522,000 as proposed by the House and $1,038,785,000 as proposed by the Senate.

The conference agreement includes $21,750,000 for the National Writing Project program instead of $20,336,000 as proposed by the House and $23,000,000 as proposed by the Senate.

The conference agreement includes $121,000,000 for the Teaching of Traditional American History program as proposed by the Senate. The House bill proposed $50,000,000 for this program. The conferees direct the Department to continue its current policy of awarding 3-year grants. The conference agreement also includes bill language proposed by the Senate that allows not more than 3 percent of the funds available for this program to be used for technical assistance. The House bill did not include a similar provision.

The conference agreement includes $14,880,000 for the School Leadership program as proposed by the House instead of $15,000,000 as proposed by the Senate.

The conference agreement includes $16,864,000 for the Advanced Credentialing program as proposed by the House instead of $10,000,000 as proposed by the Senate. The conference agreement includes bill language that provides $9,920,000 of these funds to the National Board for Professional Teaching Standards and $6,944,000 to the American Board for the Certification of Teacher Excellence. The Senate bill included language that provided $10,000,000 to the National Board for Professional Teaching Standards and the House bill did not include a similar provision.

The conference agreement includes $36,981,000 for the Credit Enhancement for Charter Schools program as proposed by the House. The Senate did not propose funding for this program.

Fund for the Improvement of Education (FIE)

The conference agreement includes $160,111,000 for the Fund for the Improvement of Education instead of $27,000,000 as proposed by the House and $387,424,000 as proposed by the Senate. The amount included in bill language for the Fund for the Improvement of Education provides an additional $100,000,000 for the Teacher Incentive Fund, which is described later in this section.

The conference agreement includes funding for the following activities authorized under section 5411 of the Elementary and Secondary Education Act:

National Institute of Building Sciences for the National Clearinghouse for Educational Facilities	$694,000
Presidential and Congressional American History and Civics Academies	2,000,000
Evaluation and data quality initiative	2,000,000
Reach out and Read, peer review, teacher quality and other activities	9,092,000

The conference agreement includes $2,000,000 to carry out the American History and Civics Education Act of 2004, instead of $10,000,000 as proposed by the Senate. The House bill did not include funding for this program. The conferees concur in the language contained in the Senate Report regarding the use of funds for this activity. The conferees intend $1,265,000 will be used for Presidential Academies for Teaching of American History and Civics and the remaining funds will support the establishment of Congressional Academies for Students of American History and Civics.

The conferees direct the Department to implement the Act consistent with their intent, as reflected above, and request an implementation plan to be submitted to the House and Senate Committees on Appropriations within 30 days of enactment of the Department of Education Appropriations Act, 2006.

Within the total amount provided for FIE, the conference agreement also includes funding for separately authorized programs in the following amounts:

Reading is Fundamental	$25,296,000
Star Schools	15,000,000
Ready to Teach	11,000,000
Education through Cultural and Historical Organizations	9,000,000
Arts in Education	35,633,000
Parental Information and Resource Centers	40,000 000
Excellence in Economic Education	1,488,000
Women's Educational Equity	2,956,000
Foundations for Learning Grants	992,000
Mental Health Integration Grants	4,960,000

For Arts in Education, the conferees intend that within this total, $7,440,000 is for Very Special Arts and $6,369,000 is for the John F. Kennedy Center for the Performing Arts. In addition, $7,936,000 is for model professional development programs for music, drama, dance and visual arts educators and $496,000 is for evaluation activities, as outlined by the Senate. The remaining $13,392,000 is available to continue model arts programs.

While the conferees applaud the Department's efforts to help students learn foreign languages, they remain concerned that the Department, using data provided by the e-Language Learning System (eLLS), is developing web-based learning products that could be used in direct competition with the private sector. The conferees understand that, based on the President's budget request, the Department had no plans to continue this project in fiscal year 2006 using Star School funds. However, the conference agreement includes funds for the Star Schools program, which has been the primary source of funds for this activity. Therefore, the conferees direct the Department not to fund any grant that will compete directly with the private sector and further direct the Secretary to notify the House and Senate Appropriations Committees 15 days prior to any Department expenditures related to the eLLS project.

The conference agreement includes $100,000,000 for a pilot program to develop and implement innovative ways to provide financial incentives for teachers and principals who raise student achievement and close the achievement gap in some of our Nation's highest-need schools, as proposed in the House bill. The Senate bill did not propose funding for this program.

The conferees intend that the Secretary use not less than 95 percent of these funds to award competitive grants to local educational agencies (LEAs), including charter schools that are LEAs, States, or partnerships of (1) a local educational agency, a State, or both and (2) at least one non-profit organization to design and implement fair, differentiated compensation systems for public school teachers and principals based primarily on measures of gains in student academic achievement, in addition to other factors, for teachers and principals in high-need schools. The conferees intend high-need schools to have the same meaning as the term is defined in section 2312 of the Elementary and Secondary Education Act. The conferees further intend that each applicant demonstrate a significant investment in, and ensure the sustainability of, its project by committing to pay for an increasing share of the total cost of the project, for each year of the grant, with State, local, or other non-Federal funds.

The conference agreement includes bill language, modified from the House bill, which requires the Secretary to use funds for performance-based compensation systems that: consider gains in student academic achievement as well as classroom evaluations conducted multiple times during each school year and provide educators with incentives to take on additional responsibilities and leadership roles. In addition, the conferees urge the Secretary to give priority to applications that demonstrate the majority support of educators for such compensation systems.

The conference agreement also includes bill language, not included in either House or Senate bill, which allows not more than $5,000,000 to be used to provide schools with assistance in implementing this program. The conferees intend that the Secretary use these funds for one or more grants to an organization or organizations with expertise in providing research-based expert advice to support schools initiating and implementing differentiated compensation systems, training school personnel, disseminating information on effective teacher compensation systems, and providing program outreach through a clearinghouse of best practices. The conferees also urge the Secretary to design an appropriate, long-term and rigorous evaluation, using randomized controlled trials to the extent practicable, of this program which will be used to inform Congress on the results achieved under this program.

Other programs

The conference agreement includes $24,500,000 for the Ready to Learn program instead of $25,000,000 as proposed by the Senate. The House bill did not include funding for this program. The conferees note that the original intent for the Ready to Learn program consisted of two distinct but coordinated elements: development of national educational programming that supports emergent literacy and other school readiness skills and community-based local outreach. The purpose of local outreach has been to extend the educational impact of the programming as well as to provide practical training for parents and educators on how to promote early learning and literacy and make responsible choices about television viewing. Given the demonstrated track record of the outreach component of the Ready to Learn program, the conferees believe that broad-based outreach, which capitalizes on the strength and reach of public television stations and includes local adult training workshops, should continue to be a central feature of this program. Therefore, the conference agreement includes an increase of $1,188,000 over last year for additional support of the outreach project funded during the fiscal year 2005 competition.

The conference agreement includes $4,900,000 for the Dropout Prevention program as proposed by the Senate. The House did not propose funding for this program.

The conference agreement includes $32,500,000 for Advanced Placement programs instead of $30,000,000 as proposed by the House and $40,000,000 as proposed by the Senate.

The conference agreement does not include language proposed in the House bill related to the evaluation of the D.C. School Choice Incentive Act of 2003. The Senate bill did not include a similar provision.

SAFE SCHOOLS AND CITIZENSHIP EDUCATION

The conference agreement includes $736,886,000 for programs in the Safe Schools and Citizenship Education account instead of $763,870,000 as proposed by the House and $697,300,000 as proposed by the Senate.

The conference agreement includes $350,000,000 for Safe and Drug-Free Schools State Grants instead of $400,000,000 as proposed by the House and $300,000,000 as proposed by the Senate.

The conferees are concerned that the Department of Education has neglected to report specific data to Congress as required under Section 4122(c) of Title IV, Part A of the No Child Left Behind Act. This data is required to be included in the State report under Section 4116 of the Safe and Drug-Free Schools and Communities program. The report specifically requires all States to collect and report to the Secretary, in a form specified by the Secretary, the following data: incidence and prevalence, age of onset, perception of health risk and perception of social disapproval of drug use and violence by youth in schools and communities. The conferees expect the Department to develop a plan for how it will collect the specified data from the States and report it to Congress in a timely manner. The plan should be submitted to the House and Senate authorizing, appropriations and oversight committees within 60 days of enactment of this bill.

The conference agreement includes $142,537,000 for National Programs instead of $152,537,000 as proposed by the House and $150,000,000 as proposed by the Senate. The conference agreement includes funding for the following activities:

School Safety Initiatives	$27,000,000
Planning/Needs Assessment/Data for State Grants	8,257,000
Safe Schools/Healthy Students	80,000,000
Drug Testing Initiative	9,180,000
Postsecondary Ed Drug and Violence Prevention (including $850,000 for the recognition program)	7,500,000
Violence prevention impact evaluation	1,551,000

National Institute of Building Sciences for the National Clearinghouse for Educational Facilities	300,000
Project SERV	1,449,000
Other activities	7,300,000

The conferees direct the Department to implement the Act consistent with their intent, as reflected in the table above, and request an implementation plan to be submitted to the House and Senate Committees on Appropriations within 30 days of enactment of the Department of Education Appropriations Act, 2006.

The conference agreement includes bill language requiring the Department to spend $850,000 for the National Recognition Awards program under the guidelines described in section 120(f) of Public Law 105-244 as proposed in the Senate bill. The House bill did not include a similar provision.

The conference agreement includes $32,736,000 for Grants to Reduce Alcohol Abuse instead of $33,500,000 as proposed by the Senate. The House did not propose funding for this activity.

The conference agreement includes $35,000,000 for the Elementary and Secondary School Counseling program instead of $34,720,000 as proposed by the House and $36,000,000 as proposed by the Senate.

The conference agreement includes $73,408,000 for the Physical Education program as proposed by the House, instead of $74,000,000 as proposed by the Senate.

The conference agreement includes $29,405,000 for the Civic Education program to support both the We the People programs and the Cooperative Education Exchange as proposed by the House instead of $30,000,000 as proposed by the Senate. The conferees intend that $17,211,000 will be provided to the nonprofit Center for Civic Education to support We the People programs. Within the total for the We the People program, the conferees intend that $3,025,000 be reserved to continue the comprehensive program to improve public knowledge, understanding, and support of American democratic institutions, which is a cooperative project among the Center for Civic Education, the Center on Congress at Indiana University, and the Trust for Representative Democracy at the National Conference of State Legislatures, and that $1,513,000 be used for continuation of the school violence prevention demonstration program, including $500,000 for the Native American initiative.

The conference agreement also includes $12,194,000 for the Cooperative Education Exchange program. Within this amount, the conferees intend that $4,573,000 is for the Center for Civic Education and $4,573,000 is for the National Council on Economic Education, while the remaining $3,048,000 should be used to continue the existing grants funded under the authorizing statute for civics and government education, and for economic education.

English Language Acquisition

The conference agreement includes $675,765,000 for the English Language Acquisition account as proposed by the House instead of $683,415,000 as proposed by the Senate.

Special Education

The conference agreement includes $11,770,607,000 for the Special Education account instead of $11,813,783,000 as proposed by the House and $11,775,107,000 as proposed by the Senate. The agreement provides $6,346,407,000 in fiscal year 2006 and $5,424,200,000 in fiscal year 2007 funding for this account.

The conference agreement includes $10,689,746,000 for Grants to States Part B as proposed by the Senate instead of $10,739,746,000 as proposed by the House. The agreement also includes $440,808,000 for Grants for Infants and Families as proposed by the House instead of $444,308,000 as proposed by the Senate.

The conference agreement includes $49,397,000 for Technical Assistance and Dissemination as proposed by the House instead of $50,397,000 as proposed by the Senate.

The agreement also includes $38,816,000 for Technology and Media Services as proposed by the Senate instead of $31,992,000 as proposed by the House. Within this amount, $1,500,000 is available for Public Telecommunications Information and Training Dissemination as proposed by the Senate. The House did not include funding for this activity. Also within this amount, the conference agreement includes $12,000,000 for Recording for the Blind and Dyslexic, Inc. as proposed by the Senate instead of $11,400,000 as proposed by the House.

Rehabilitation Services and Disability Research

The conference agreement includes $3,129,638,000 for Rehabilitation Services and Disability Research instead of $3,128,638,000 as proposed by the House and $3,133,638,000 as proposed by the Senate.

The conference agreement includes $1,000,000 to continue an award to the American Academy of Orthotists and Prosthetists (AAOP) for activities that further the purposes of the grant received by the Academy for the period beginning October 1, 2003 as proposed by the Senate. The House bill did not include a similar provision.

The conference agreement includes $30,760,000 for assistive technology instead of $29,760,000 as proposed by the House and $34,760,000 as proposed by the Senate. Within this amount, the conferees intend that $21,552,000 shall be for the state grant program, $4,385,000 for grants for protection and advocacy, $1,063,000 for national activities and $3,760,000 for alternative financing programs.

Special Institutions for Persons With Disabilities

AMERICAN PRINTING HOUSE FOR THE BLIND

The conference agreement includes $17,750,000 for the American Printing House for the Blind instead of $17,000,000 as proposed by the House and $18,500,000 as proposed by the Senate.

NATIONAL TECHNICAL INSTITUTE FOR THE DEAF

The conference agreement includes $56,708,000 for the National Technical Institute for the Deaf instead of $56,137,000 as proposed by the House and $57,279,000 as proposed by the Senate.

GALLAUDET UNIVERSITY

The conference agreement includes $108,079,000 for Gallaudet University instead of $107,657,000 as proposed by the House and $108,500,000 as proposed by the Senate.

Vocational and Adult Education

The conference agreement includes $2,012,282,000 for Vocational and Adult Education instead of $1,991,782,000 as proposed by the House and $1,927,016,000 as proposed by the Senate. The agreement provides $1,221,282,000 in fiscal year 2006 and $791,000,000 in fiscal year 2007 funding for this account.

The conference agreement includes $9,257,000 for Vocational Education National programs, as proposed by the Senate. The House included $11,757,000 for National programs.

The conference agreement includes $569,672,000 for Adult Education State Grants as proposed by the House, instead of $572,922,000 as proposed by the Senate.

The conference agreement includes $94,476,000 for the Smaller Learning Communities program as proposed by the House. The Senate bill did not include funding for this program. The conferees agree that these funds shall be used only for activities related to establishing smaller learning communities within large high schools or small high schools that provide alternatives for students enrolled in large high schools. The conferees again direct that the Department consult with the House and Senate Committees on Appropriations prior to the release of program guidance for the fiscal years 2005 and 2006 Smaller Learning Communities grant competitions. The conferees urge that a greater share of the 5 percent set-aside for national activities be used to support direct technical assistance to grantees through regional laboratories, university-based organizations, and other entities with expertise in high school reform, and request a report not later than January 1, 2006 on its planned use of this set-aside in fiscal year 2005. Further, the conferees strongly encourage the Department to enter into a jointly funded program with a private or public foundation with expertise in designing and implementing small schools in order to further leverage the Federal investment in smaller learning communities.

The conference agreement includes $23,000,000 for State Grants for Incarcerated Youth Offenders, instead of $24,000,000 as proposed by the Senate. The House did not include funding for this program. The conferees concur with the language included in the Senate Report regarding the administration of this program.

The conference agreement does not include funding for Community Technology Centers, as proposed by the House. The Senate included $4,960,000 for this activity.

Student Financial Assistance

The conference agreement includes $15,077,752,000 for Student Financial Assistance instead of $15,283,752,000 as proposed by the House and $15,103,795,000 as proposed by the Senate.

The agreement provides a program level of $13,177,000,000 for Pell Grants as proposed by the Senate instead of $13,383,000,000 as proposed by the House. The agreement maintains the maximum Pell Grant at $4,050 as proposed by the Senate rather than $4,100 as proposed by the House. Additional funds are included in section 305 of this Act to completely pay down the shortfall that has been accumulating in the Pell Grant program over the last several fiscal years as proposed by both the House and Senate.

The conferees believe it is essential for Congress to have the most accurate and reliable information available to make decisions regarding the allocation of limited discretionary funding. Therefore, the conferees direct the Department of Education to provide to the House and Senate Committees on Appropriations, on a quarterly basis, updated estimates of the cost of the Pell Grant program, based on current law and the most current data related to valid applications, applicant type, and other information incorporated into the Department's Pell Grant forecasting model.

The conference agreement also includes $778,720,000 for the supplemental educational opportunity grant program as proposed by the House instead of $804,763,000 as proposed by the Senate.

The conference agreement provides $990,257,000 for Federal work-study programs as proposed by both the House and Senate. Within this total, the conference agreement includes $6,000,000, as proposed by the Senate, for the work colleges program. The House report did not include similar language.

STUDENT AID ADMINISTRATION

The conference agreement includes $120,000,000 for student aid administration as proposed by the Senate instead of $124,084,000 as proposed by the House.

HIGHER EDUCATION

The conference agreement includes $1,970,760,000 for Higher Education instead of $1,936,936,000 as proposed by the House and $2,112,958,000 as proposed by the Senate. The conference agreement does not include bill language as proposed by the Senate regarding the use of funds to develop a strategic plan for foreign student access to American colleges and universities. The House bill did not include similar language.

Aid for institutional development

The conference agreement includes $95,873,000 for Hispanic Serving Institutions as proposed by the House instead of $100,823,000 as proposed by the Senate. The conference agreement also includes $11,904,000 for Alaska and Native Hawaiian Institutions as proposed by the Senate instead of $6,500,000 as proposed by the House.

Fund for the improvement of postsecondary education

The conference agreement includes $22,211,000 for the Fund for the Improvement of Postsecondary Education instead of $49,211,000 as proposed by the House and $157,211,000 as proposed by the Senate.

Other programs

The conference agreement includes $836,543,000 for TRIO as proposed by the House instead of $841,543,000 as proposed by the Senate.

The conference agreement includes $306,488,000 for the GEAR UP program, the same level proposed by both the House and the Senate. The conferees intend that funds be awarded on an annual basis and that the Department consult with Congressional committees of jurisdiction prior to new grant competition announcements. The conference agreement provides a sixth and final year award to grantees first funded in 2001, while continuing all other funded projects. The conferees also intend that these funds are available to eligible 2000 grantees that opt to apply for new grant awards servicing a cohort no later than seventh grade, and are allowed to continue assisting students who have not yet completed the program through high school graduation.

The conference agreement includes sufficient funds for a GEAR UP competition in fiscal year 2006 for new partnership awards. The twin goals of GEAR UP are to ensure that low-income students are academically prepared for college and that they receive scholarships to enable them to actually attend college. Accordingly, the conferees encourage the Department to give consideration in the 2006 GEAR UP competition to partnerships that, in addition to providing early intervention services, guarantee college scholarships to GEAR UP students.

The conference agreement includes $41,000,000 for Byrd Honors Scholarships and $6,944,000 for demonstrations in disabilities as proposed by the Senate. The House did not propose funding for these activities.

The conference agreement includes $60,500,000 for the Teacher Quality Enhancement Grants program. The House and Senate proposed $58,000,000 for this program.

The conference agreement includes $2,000,000 for the Underground Railroad program instead of $2,204,000 as proposed by the Senate and $2,976,000 for Thurgood Marshall Scholarships instead of $3,500,000 as proposed by the Senate. The House did not propose funding these activities.

The conference agreement also includes $980,000 for Olympic Scholarships as proposed by the House. The Senate bill did not provide funding for this program.

HOWARD UNIVERSITY

The conference agreement includes $239,790,000 for Howard University instead of $240,790,000 as proposed by the House and $238,789,000 as proposed by the Senate.

INSTITUTE OF EDUCATION SCIENCES

The conference agreement includes $522,695,000 for the Institute of Education Sciences (IES) instead of $522,696,000 as proposed by the House and $529,695,000 as proposed by the Senate.

The conferees concur with the language included in the House report that a key purpose of public education is being neglected: the civic mission of schools to educate our young people for democracy and to prepare them to be engaged citizens. The National Assessments of Educational Progress in civics and history are the best way we have to measure how well schools are doing in fulfilling this purpose. Therefore, the conferees request that the National Assessment Governing Board, in consultation with the Commissioner, National Center for Education Statistics, prepare a report on the feasibility of the National Assessment of Educational Progress conducting State level assessments in the subjects of U.S. history and civics at grades 8 and 12 and, if feasible, the earliest schedule under which such assessments could be administered. The Governing Board shall, within 180 days of enactment of this Act, submit the feasibility report to the House and Senate Appropriations Committees, the House Education and the Workforce Committee, the Senate Health, Education, Labor and Pensions Committee, and the Secretary of Education. The Senate report did not include similar language.

The conferees are very concerned with the funding levels directed to the Research and Development Centers. The current levels, which are $10,000,000 less than the amount outlined in the fiscal year 2005 and fiscal year 2006 budget justifications, are inadequate to create long-term comprehensive interdisciplinary programs. The conferees have therefore included bill language requiring IES to provide $25,257,000 for Research and Development Centers. The conferees direct that these funds be used to support not less than eight Research and Development Centers, as authorized by law.

The conferees expect, as stated in the fiscal year 2005 statement of the managers and the fiscal year 2006 budget justification, that funds in excess of those amounts needed to maintain or establish new centers, be used for supplemental awards to Research and Development Centers. The conferees further expect that funds be used to make adjustments to studies or services as needs arise. The conferees believe that current funding levels provide for inflexible, narrowly focused research rather than work that is of sufficient size and scope to be effective. The conferees also believe it is essential that centers not be restricted to particular research methodologies but instead use rigorous methods to address areas of high priority. The conferees request the IES to submit a report within 45 days of enactment of this Act on the steps it will take to comply with Congressional intent.

The conferees urge the Department's National Center for Education Statistics to use the Fast Response Survey System to collect data for the report of Arts Education in Public Elementary and Secondary Schools during the 2006–2007 school year. The conferees expect this survey and reporting to have the comprehensive quality of the 2002 report and include national samples of elementary and secondary school principals, as well as surveys of elementary and secondary classroom teachers and arts specialists.

DEPARTMENTAL MANAGEMENT

The conference agreement includes $415,303,000 for Departmental program administration instead of $410,612,000 as proposed by the House and $411,992,000 as proposed by the Senate. The agreement also includes $49,000,000 for the Office of the Inspector General as proposed by the House instead of $49,408,000 as proposed by the Senate.

The conferees concur with the views expressed in the House report with regard to the Communities Can program and its role in enhancing integrated and coordinated services for children with disabilities and their families. The conferees request that the plan of action for carrying forward this activity be provided to both the House and Senate Appropriations Committees. The Senate did not include similar language.

The conference agreement concurs with language contained in the Senate report regarding the proposed reorganization of the regional office structure within the Rehabilitation Services Administration. Therefore, the conferees request a report that describes the steps taken to reach out to stakeholder groups on this issue; a detailed plan for ensuring that policy guidance, technical assistance and program monitoring will be of higher quality and more timely than currently available; and the specific performance goals under the proposed reorganization for frequency of monitoring visits, and timeliness and relevancy of technical assistance, compared to the actual performance under the current administrative structure. The conferees expect to receive this report not later than 60 days after enactment of this Act, but encourage the Department to make it available as soon as possible. The House report expressed similar concerns, but used different language.

The conferees are concerned that the Department, in implementing Reading First and other programs authorized by the No Child Left Behind Act, which are required to implement activities that are backed by scientifically based research, may not be effectively helping States and local educational agencies implement program studies. The conferees therefore request the Secretary to submit a report to the House and Senate Committees on Appropriations within 30 days of the enactment of this Act, on the actions that program offices have taken or will take, effective this fiscal year, in the selection, oversight, and evaluation of grantees, to ensure that grantees effectively implement such research-based programs, including close replication of the specific elements of these programs.

TITLE III—GENERAL PROVISIONS

Pell Grant Shortfall

The conference agreement includes a general provision as proposed by the Senate providing $4,300,000,000 for the purpose of eliminating the estimated accumulated shortfall of budget authority for the Pell Grant program. The House bill contained the same provision, but used slightly different language.

Mississippi Band of Choctaw Indians

The conference agreement includes a general provision as proposed by the Senate to authorize educational and cultural programs relating to the Mississippi Band of Choctaw Indians. The House bill contained no similar provision.

Impact Aid

The conference agreement does not include a general provision proposed by the Senate relating to applications filed by two school districts in Colorado and Arizona. The House bill contained no similar provision.

Violence Prevention

The conference agreement does not include a provision proposed by the Senate relating to a study to evaluate the effectiveness of violence prevention programs. The House did not include a similar provision.

Assessment of Education Progress Tests in U.S. History

The conference agreement does not include a general provision as proposed by the Senate providing additional funding for a national assessment of education progress tests in United States history. The House bill contained no similar provision.

Dropout Prevention Programs

The conference agreement does not include a general provision as proposed by the Senate providing additional funding for school dropout prevention programs. Funding for this program is included under the heading, "Innovation and Improvement." The House bill contained no similar provision.

Advanced Placement Programs

The conference agreement does not include a general provision as proposed by the Senate providing additional funding for advanced placement programs. Funding for this program is included under the heading, "Innovation and Improvement." The House bill contained no similar provision.

Thurgood Marshall and Office of Special Education Programs

The conference agreement does not include a general provision as proposed by the Senate providing additional funding for the Thurgood Marshall Legal Education Opportunity Program and the Office of Special Education Programs. Funding for these activities is included under the headings, "Higher Education" and "Special Education" respectively. The House bill contained no similar provision.

Federal Trio Programs

The conference agreement does not include a general provision as proposed by the Senate providing additional funding for Federal TRIO programs. Funding for this program is included under the heading, "Higher Education." The House bill contained no similar provision.

Education Programs Serving Hispanic Students

The conference agreement does not include a general provision as proposed by the Senate providing additional funding for education programs to improve Hispanic educational opportunities. Funding for these programs is included elsewhere in Title III. The House bill contained no similar provision.

TITLE IV—RELATED AGENCIES

Corporation for National and Community Service

The conference agreement includes $909,049,000 for the Corporation for National and Community Service, the same as the House, instead of $935,205,000 as proposed by the Senate.

Domestic Volunteer Service Programs, Operating Expenses

The conference agreement includes $316,212,000 for the Domestic Volunteer Service programs as proposed by the Senate instead of $357,962,000 as proposed by the House.

National Senior Volunteer Corps

The conference agreement includes $219,784,000 for fiscal year 2006 for the National Senior Volunteer Corps programs, as proposed by the House and the Senate. The conferees concur with language in the Senate report that directs that the Corporation shall comply with the directive that use of PNS funding increases in the Foster Grandparents Program, Retired Senior Volunteer Program, Senior Companion Program, and Volunteers in Service to America shall not be restricted to any particular activity and further direct that the Corporation shall not stipulate a minimum or maximum for PNS grant augmentation.

Program administration

The conference agreement includes funds for the administration of the Domestic Volunteer Service of America program administration in the NCSA account as proposed by the Senate.

National and Community Service Programs, Operating Expenses

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $520,087,000 for the programs authorized under the National Community Service Act of 1990, instead of $518,087,000 as proposed by the House and $546,243,000 as proposed by the Senate. The conference agreement includes $267,500,000 for AmeriCorps State and National operating grants, as proposed by the House instead of $280,000,000 as proposed by the Senate. The conference agreement includes $140,000,000 for the National Service Trust instead of $146,000,000 as proposed by the House and $149,000,000 as proposed by the Senate. The conference agreement includes $16,445,000 for subtitle H fund activities instead of $9,945,000 as proposed by the House and $15,945,000 as proposed by the Senate. The conference agreement includes $27,000,000 for AmeriCorps National Civilian Community Corps as proposed by the Senate instead of $25,500,000 as proposed by the House. The conference agreement includes $37,500,000 for Learn and Serve as proposed by the House instead of $42,656,000 as proposed by the Senate.

AmeriCorps Grants Program

The conferees concur with language proposed by the Senate to keep the Committees better informed of the recipients receiving AmeriCorps funding. The conferees direct the Corporation to publish in its fiscal year 2007 budget justifications a list of recipients that have received more than $500,000 from the Corporation, delineated by program, and the amount and source of both Federal and non-Federal funds that were received by each recipient.

Innovation, assistance and other activities

Within the $16,445,000 for innovation, demonstration, and assistance activities, the conference agreement includes $4,000,000 for Teach for America and $2,000,000 for Communities in Schools, Inc., as proposed by the Senate.

AmeriCorps National Civilian Community Corps

The conference agreement includes $27,000,000 for the NCCC and within this amount, $1,500,000, as proposed by the Senate, is to conduct an evaluation of current NCCC site placement and expansion of new sites in the Southern and Midwestern United States, in accordance with the report issued on March 1, 2005.

Salaries and Expenses

The conference agreement includes $66,750,000 for the Corporation's salaries and expenses, as proposed by the Senate. This includes $39,750,000 for administration of the DVSA programs. The House bill had provided salaries and expenses in two separate accounts, but for the same total amount. The conferees reiterate that Subtitle H funds for Innovation, Assistance and Other Activities shall not be used to pay Corporation staff.

Office of Inspector General

The conference agreement includes $6,000,000 for the Office of Inspector General (OIG) as proposed by the House and Senate. The conferees concur with language proposed by the Senate directing the OIG to continue reviewing the Corporation's management of the National Service Trust fund. The conferees direct the OIG to review the monthly Trust reports and to notify the Committees on Appropriations on the accuracy of the reports.

Corporation for Public Broadcasting

The conference agreement includes $30,000,000 for digital conversion, instead of $35,000,000 as proposed by the Senate. The House had proposed providing authority for CPB to utilize previously appropriated funds for this purpose.

The conference agreement also includes $35,000,000 for the replacement project of the satellite interconnection system, instead of $40,000,000 as proposed by the Senate. The House had proposed providing authority for CPB to utilize previously appropriated funds for this purpose.

The conferees request that the Corporation for Public Broadcasting (CPB) Inspector General submit a status report to the House and Senate Committees on Appropriations not later than June 1, 2006 on actions CPB management and its Board of Directors have taken in response to the Inspector General's November 15, 2005 report and any outstanding issues or recommendations in the report that may remain unaddressed.

Federal Mediation and Conciliation Service

The conference agreement includes $43,031,000 for the Federal Mediation and Conciliation Service (FMCS) instead of $42,331,000 as proposed by the House and $43,439,000 as proposed by the Senate.

The conference agreement includes $400,000 for FMCS Labor-Management Grants Program instead of $500,000 as proposed by the Senate. The House bill did not include funding for this program. The 1978 Labor-Management Cooperation Act authorized the Agency to encourage and support joint labor-management committees. This program awards grants to encourage these committees to develop innovative joint approaches to workplace problems and solutions.

The conference agreement includes $300,000 for the FMCS program to prevent youth violence.

Institute of Museum and Library Services

The conference agreement provides $249,640,000 for the Institute of Museum and Library Services as proposed by the House instead of $290,129,000 as proposed by the Senate.

Within the total for the Institute, the conference agreement includes funding for the following activities in the following amounts.

(Dollars in thousands)

Program	*FY 2006*
Museums for America	$17,325
Museum Assessment	446
Museum Conservation Projects	2,800
Museum Conservation Assessment	815
Museum Natl. Leadership Proj.	8,000
Native American Museum Services	920
21st Century Museum Professionals	992
Museum Grants, African American History and Culture	850
Library Serv. State Grants	165,400
Native American Library Services	3,675
Library Natl. Leadership Grants	12,500
Laura Bush 21st Century Librarian Program	24,000
Administration	11,917

The conferees concur with language proposed by the House to rename the Librarians for the 21st Century Program in honor of the First Lady, the Laura Bush 21st Century Librarians Program.

National Council on Disability

The conference agreement includes $3,144,000 for the National Council on Disability instead of $2,800,000 as proposed by the House and $3,344,000 as proposed by the Senate.

National Labor Relations Board

The conferees concur with language in the Senate report regarding the NLRB's plan to restructure its regional offices and specifically oppose the elimination of Region 30.

Railroad Retirement Board

LIMITATION ON ADMINISTRATION

The conferees are concerned about a proposal to consolidate the financial statements and audit of the National Railroad Retirement Investment Trust with the financial statements and audit of the Railroad Retirement Board in the context of the preparation of the Railroad Retirement Board's fiscal year 2006 Statement of Social Insurance. The conferees note that the Railroad Retirement and Survivors' Improvement Act of 2001 mandates that the Trust functions independently from the Railroad Retirement Board. Further, the Act specifically requires a separate audit of the Trust by a nongovernmental auditor, and requires that the results of this audit be included in the Trust's Annual Management Report to Congress. The conferees expect that the Trust be administered and audited solely in conformance with the Act of 2001.

Limitation on the Office of Inspector General

The conference agreement does not include language proposed by the Senate that allows the Office of the Inspector General to conduct audits, investigations, and reviews of the Medicare programs.

Social Security Administration

Supplemental Security Income Program

The conference agreement includes $29,369,174,000 for the Supplemental Security Income Program instead of $29,533,174,000 as proposed by the House and $29,510,574,000 as proposed by the Senate. The conference agreement also includes an advance appropriation of $11,110,000,000, as proposed by both the House and the Senate, for the first quarter of fiscal year 2007, to ensure uninterrupted benefit payments. Also within the total, $2,733,000,000 is included for the administrative costs of the program rather than $2,897,000,000 as proposed by the House and $2,874,400,000 as proposed by the Senate.

The conference agreement does not include a provision proposed by the Senate that changes the delivery date of benefit payments from fiscal year 2006 to 2007. The House did not include this provision.

Limitation on Administrative Expenses

The conference agreement includes $9,199,400,000 for the limitation on administrative expenses rather than $9,279,700,000 as proposed by the House and $9,329,400,000 as proposed by the Senate.

Office of Inspector General

(INCLUDING TRANSFER OF FUNDS)

The conference agreement includes $92,400,000 for the Office of Inspector General rather than $92,805,000 as proposed by the House and $93,000,000 as proposed by the Senate.

TITLE V—GENERAL PROVISIONS

Use of Appropriated Funds for Publicity and Propaganda

The conference agreement includes a general provision as proposed by the Senate pertaining to the use of appropriated funds for publicity or propaganda purposes. The House bill included a similar provision, but expanded the scope to include private contractors.

Sterile Needle Program

The conference agreement includes a general provision as proposed by the Senate pertaining to sterile needle programs. The Senate bill made a minor technical change to the language carried in prior years. The House bill included the same provision, but without the technical modification.

Use of Federal Funds for Abortions

The conference agreement includes a general provision as proposed by the Senate pertaining to the use of federal funds in the Act for abortions. The Senate bill made a minor technical change to the language carried in prior years. The House bill included the same provision, but without the technical modification.

Conscience Clause

The conference agreement includes a general provision as proposed by the House regarding discrimination against those health care providers or institutions who are opposed to abortion. The Senate bill proposed to modify this provision.

Embryo Research Ban

The conference report includes a technical correction to the longstanding bill language prohibiting funds to be used for research involving the creation or destruction of human embryos. The citation of the Code of Federal Regulations contained in both the House and Senate versions of the bill is corrected.

Veterans' Employment Report

The conference agreement includes a general provision as proposed by the Senate pertaining to the availability of funds to enter into or renew any contract with an entity that is subject to submitting a report concerning the employment of certain veterans. The House bill did not include this provision.

Limitation on Libraries

The conference agreement includes a limitation, carried in prior years, on the ability of a library to access funding provided under this Act unless the library is in compliance with the Children's Internet Protections Act, as proposed by the House. The Senate bill did not include this provision.

Limitation on Schools

The conference agreement includes a limitation, carried in prior years, on the ability of an elementary or secondary school to access technology funding provided under this Act unless the school is in compliance with the Children's Internet Protections Act, as proposed by the House. The Senate bill did not include this provision.

Reprogramming of Funds

The conference agreement includes a general provision as proposed by the House pertaining to the reprogramming of funds. The Senate bill included the same substantive provision, but with minor technical differences.

Immigration and Nationality Act Amendment

The conference agreement includes a general provision amending the Immigration and Nationality Act as proposed by the Senate. The House bill did not include this provision.

Scientific Advisory Committee Appointments

The conference agreement includes a general provision as proposed by the Senate pertaining to appointments to a scientific advisory committee, instead of a similar provision included in the House bill.

Erectile Dysfunction (E.D.) Drugs Funds Limitation

The conference agreement includes a general provision as proposed by the Senate prohibiting the use of funds for drugs approved to treat E.D. The House bill included a similar provision, but with slightly different language.

Availability of MMA Funds

The conference agreement does not include a general provision as proposed by the House extending the availability of funds provided by the Medicare Modernization Act from fiscal year 2005 to fiscal year 2006. The Senate bill did not include this provision.

Limitation of Funds for Sexual or Erectile Dysfunction Treatment

The conference agreement does not include a general provision as proposed by the House pertaining to the payment for or the reimbursement of a drug for the treatment of sexual or erectile dysfunction funded in this Act for individuals who have been convicted for sexual abuse, sexual assault or any other sexual offense. The Senate bill did not include this provision.

CPB Funding Amendment

The conference agreement does not include a general provision as proposed by the House reducing the amounts available to certain specified programs and activities in order to restore funding for the Corporation for Public Broadcasting. Funding for the programs included in this provision are specified under the relevant headings. The Senate bill did not include this provision.

Education OIG Determination

The conference agreement does not include a general provision as proposed by the House pertaining to a specific Department of Education Office of the Inspector General determination. The Senate bill did not include this provision.

PBGC LIMITATION

The conference agreement does not include a general provision proposed by the House pertaining to the Pension Benefit Guaranty Corporation and a specific settlement agreement. The Senate bill did not include this provision.

IMMIGRATION LIMITATION

The conference agreement does not include a general provision as proposed by the House prohibiting the use of funds by the Department of Education in contravention of section 505 of the Illegal Immigration Reform and Responsibility Act of 1996. The Senate bill did not include this provision.

NIMH GRANTS

The conference agreement does not include a general provision as proposed by the House regarding NIMH grants. The Senate bill did not include this provision.

MEXICAN TOTALIZATION

The conference agreement does not include a general provision proposed by the House pertaining to a totalization agreement with Mexico. The Senate bill did not include this provision.

HIGHER EDUCATION LIMITATION

The conference agreement does not include a general provision proposed by the House regarding student loans. The Senate bill did not include this provision.

LIMITATION, DIRECTIVE, OR EARMARKING

The conference agreement does not include a general provision proposed by the Senate regarding directives contained in either the House or Senate reports accompanying H.R. 3010. The House bill did not include this provision.

DIVERSITY VISA FAIRNESS ACT

The conference agreement does not include a general provision as proposed by the Senate that contains the Diversity Visa Fairness Act. The House bill did not include this provision.

PORT OF ENTRY DESIGNATION

The conference agreement does not include a general provision as proposed by the Senate designating the MidAmerica St. Louis Airport in Mascoutah, Illinois a port of entry. The House bill did not include this provision.

RISK ASSESSMENT ESTIMATE

The conference agreement does not include a general provision as proposed by the Senate pertaining to improper payments for a variety of programs administered by the Departments of Health and Human Services and Education. The House did not include this provision. Language regarding this issue is included in the statement of the managers for the Department of Health and Human Services.

INTERNAL REVENUE SERVICE OUTSOURCING

The conference agreement deletes without prejudice a general provision as proposed by the Senate expressing the sense of the Senate on the outsourcing of IRS duties and the effects on the employment of disabled veterans and other persons with severe disabilities. The House did not include this provision.

CONFERENCE AGREEMENT

The following table displays the amounts agreed to for each program, project or activity with appropriate comparisons:

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs FY 2005 Comparable	Conference vs FY 2006 House	Conference vs FY 2006 Senate		
TITLE I - DEPARTMENT OF LABOR										
EMPLOYMENT AND TRAINING ADMINISTRATION										
TRAINING AND EMPLOYMENT SERVICES										
Grants to States:										
Adult Training, current year	184,618	153,736	153,736	181,618	153,736	-30,882	---	-27,882	D	FF
Advance from prior year	(706,304)	(712,000)	(712,000)	(712,000)	(712,000)	(+5,696)	---	---	NA	
FY 2007	712,000	712,000	712,000	712,000	712,000	---	---	---	D	
Adult Training	896,618	865,736	865,736	893,618	865,736	-30,882	---	-27,882		
Youth Training	986,288	950,000	950,000	986,288	950,000	-36,288	---	-36,288	D	FF
Dislocated Worker Assistance, current year	345,264	226,867	345,264	345,264	345,264	---	---	---	D	FF
Advance from prior year	(841,216)	(848,000)	(848,000)	(848,000)	(848,000)	(+6,784)	---	---	NA	
FY 2007	848,000	848,000	848,000	848,000	848,000	---	---	---	D	
Dislocated Worker Assistance	1,193,264	1,074,867	1,193,264	1,193,264	1,193,264	---	---	---		
Federally Administered Programs:										
Dislocated Worker Assistance National Reserve:										
Current year	70,800	56,717	---	70,800	70,800	---	+70,800	---	D	FF
Advance from prior year	(210,304)	(212,000)	(212,000)	(212,000)	(212,000)	(+1,696)	---	---	NA	
FY 2007	212,000	212,000	212,000	212,000	212,000	---	---	---	D	
Dislocated Worker Assistance Nat'l Reserve	282,800	268,717	212,000	282,800	282,800	---	+70,800	---		

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
Less funding reserved for Community College Initiative (NA)	(-125,000)	---	---	(-125,000)	(-125,000)	---	(-125,000)	---		
Dislocated Worker Assistance Nat'l Reserve	157,800	268,717	212,000	157,800	157,800	---	-54,200	---		
Total, Dislocated Worker Assistance	1,476,064	1,343,584	1,405,264	1,476,064	1,476,064	---	+70,800	---		
Native Americans	54,238	54,238	54,238	54,238	54,238	---	---	---	D	FF
Migrant and Seasonal Farmworkers	75,759	---	75,759	80,053	80,053	+4,294	+4,294	---	D	FF
Job Corps:										
Operations	844,670	851,019	851,019	881,000	874,000	+29,330	+22,981	-7,000	D	FF
Advance from prior year	(586,272)	(591,000)	(591,000)	(591,000)	(591,000)	(+4,728)	---	---	NA	
FY 2007	591,000	591,000	591,000	591,000	591,000	---	---	---	B	
Construction and Renovation	16,190	---	---	10,000	8,000	-8,190	+8,000	-2,000	D	FF
Advance from prior year	(99,200)	(100,000)	(100,000)	(100,000)	(100,000)	(+800)	---	---	NA	
FY 2007	100,000	75,000	100,000	100,000	100,000	---	---	---	D	
Subtotal, Job Corps	1,551,860	1,517,019	1,542,019	1,582,000	1,573,000	+21,140	+30,981	-9,000		
National Activities:										
Pilots, Demonstrations and Research	85,167	30,000	74,000	90,367	30,000	-55,167	-44,000	-60,367	D	FF
Responsible Reintegration of Youthful Offender	49,600	---	---	50,000	49,600	---	+49,600	-400	D	FF
Evaluation	7,936	7,936	7,936	7,936	7,936	---	---	---	D	FF
Prisoner Re-entry	19,840	35,000	19,840	19,840	19,840	---	---	---	D	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
Community College initiative	124,000	250,000	125,000	---	---	-124,000	-125,000	---	D	
Community College initiative (NA) 1/	(125,000)	---	---	(125,000)	(125,000)	---	(+125,000)	---	NA	
Subtotal, CC initiative, program level	249,000	250,000	125,000	125,000	125,000	-124,000	---	---		
Denali Commission	6,944	---	---	6,944	6,944	---	+6,944	---	D	
Other	3,458	2,000	2,000	3,458	2,000	-1,458	---	-1,458	D	FF
Subtotal, National activities	296,945	324,936	228,776	178,545	116,320	-180,625	-112,456	-62,225		
Subtotal, Federal activities	2,261,602	2,164,910	2,112,792	2,177,836	2,106,411	-155,191	-6,381	-71,225		
Current Year	(1,358,602)	(1,286,910)	(1,209,792)	(1,274,836)	(1,203,411)	(-155,191)	(-6,381)	(-71,225)		
FY 2007	(903,000)	(878,000)	(903,000)	(903,000)	(903,000)	---	---	---		
Total, Training and Employment Services	5,337,772	5,055,513	5,121,792	5,250,806	5,115,411	-222,361	-6,381	-135,395		
Current Year	(2,874,772)	(2,617,513)	(2,658,792)	(2,787,806)	(2,652,411)	(-222,361)	(-6,381)	(-135,395)		
FY 2007	(2,463,000)	(2,438,000)	(2,463,000)	(2,463,000)	(2,463,000)	---	---	---		
COMMUNITY SERVICE EMPLOYMENT FOR OLDER AMERICANS	436,678	436,678	436,678	436,678	436,678	---	---	---	D	FF
FEDERAL UNEMPLOYMENT BENEFITS AND ALLOWANCES	1,057,300	966,400	966,400	966,400	966,400	-90,900	---	---	M	
STATE UNEMPLOYMENT INSURANCE AND EMPLOYMENT SERVICE OPERATIONS										
Unemployment Compensation,										
State Operations	2,663,040	2,622,499	2,622,499	2,475,000	2,523,000	-140,040	-99,499	+48,000	TF	
National Activities	10,416	10,416	10,416	10,000	10,000	-416	-416	---	TF	
Subtotal, Unemployment Compensation	2,673,456	2,632,915	2,632,915	2,485,000	2,533,000	-140,456	-99,915	+48,000		

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Employment Service:									
Allotments to States:									
Federal Funds	23,114	23,300	23,300	23,114	23,114	---	-186	---	D
Trust Funds	757,478	672,700	672,700	723,188	700,000	-57,478	+27,300	-23,188	TF
Subtotal, allotments to States	780,592	696,000	696,000	746,302	723,114	-57,478	+27,114	-23,188	
ES National Activities	64,976	33,766	33,766	33,766	33,766	-31,210	---	---	TF
Subtotal, Employment Service	845,568	729,766	729,766	780,088	756,880	-88,688	+27,114	-23,188	
Federal Funds	23,114	23,300	23,300	23,114	23,114	---	-186	---	
Trust Funds	822,454	706,466	706,466	756,954	733,766	-88,688	+27,300	-23,188	
One-Stop Career Centers/Labor Market Information	97,974	87,974	87,974	77,000	82,487	-15,487	-5,487	+5,487	D
Work Incentives Grants	19,711	19,711	19,711	19,711	19,711	---	---	---	D FF
Total, State Unemployment & Employment Srvcs	3,636,709	3,470,366	3,470,366	3,361,779	3,392,078	-244,631	-78,288	+30,299	
Federal Funds	140,799	130,985	130,985	119,825	125,312	-15,487	-5,673	+5,487	
Trust Funds	(3,495,910)	(3,339,381)	(3,339,381)	(3,241,954)	(3,266,766)	(-229,144)	(-72,615)	(+24,812)	
ADVANCES TO THE UI AND OTHER TRUST FUNDS 2/	517,000	465,000	465,000	465,000	465,000	-52,000	---	---	M
NEW YORK STATE UNINSURED EMPLOYERS FUND	---	---	---	50,000	---	---	---	-50,000	
PROGRAM ADMINISTRATION									
Adult Employment and Training	38,874	44,631	44,631	43,631	43,631	+4,757	-1,000	---	D
Trust Funds	6,901	7,925	7,925	7,925	7,925	+1,024	---	---	TF
Youth Employment and Training	39,627	38,805	38,805	38,805	38,805	-822	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Employment Security	6,045	6,039	6,039	6,039	6,039	-6	---	---	D
Trust Funds	48,235	77,952	77,952	72,841	72,841	+24,606	-5,111	---	TF
Apprenticeship Services	21,136	21,655	21,655	21,655	21,655	+519	---	---	D
Executive Direction	6,845	6,993	6,993	6,993	6,993	+148	---	---	D
Trust Funds	2,065	2,111	2,111	2,111	2,111	+46	---	---	TF
Welfare to Work	373	---	---	---	---	-373	---	---	D
Total, Program Administration	170,101	206,111	206,111	200,000	200,000	+29,899	-6,111	---	
Federal Funds	112,900	118,123	118,123	117,123	117,123	+4,223	-1,000	---	
Trust Funds	57,201	87,988	87,988	82,877	82,877	+25,676	-5,111	---	
Total, Employment and Training Administration	11,155,560	10,600,068	10,666,347	10,730,663	10,575,567	-579,993	-90,780	-155,096	
Federal Funds	7,602,449	7,172,699	7,238,978	7,405,832	7,225,924	-376,525	-13,054	-179,908	
Current Year	(5,139,449)	(4,734,699)	(4,775,978)	(4,942,832)	(4,762,924)	(-376,525)	(-13,054)	(-179,908)	
FY 2007	(2,463,000)	(2,438,000)	(2,463,000)	(2,463,000)	(2,463,000)	---	---	---	
Trust Funds	3,553,111	3,427,369	3,427,369	3,324,831	3,349,643	-203,468	-77,726	+24,812	
EMPLOYEE BENEFITS SECURITY ADMINISTRATION									
SALARIES AND EXPENSES									
Enforcement and Participant Assistance	109,374	114,462	114,462	112,362	112,362	+2,988	-2,100	---	D
Policy and Compliance Assistance	17,357	17,458	17,458	17,458	17,458	+101	---	---	D
Executive Leadership, Program Oversight and Admin.	4,482	5,080	5,080	5,080	5,080	+598	---	---	D
Total, EBSA	131,213	137,000	137,000	134,900	134,900	+3,687	-2,100	---	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs FY 2005 Comparable	Conference vs FY 2006 House	Conference vs FY 2006 Senate	
PENSION BENEFIT GUARANTY CORPORATION									
Pension insurance activities	(12,211)	(42,122)	(42,122)	(42,122)	(42,122)	(+29,911)	---	---	NA
Pension plan termination	(169,739)	(161,117)	(161,117)	(161,117)	(161,117)	(-8,622)	---	---	NA
Operational support	(84,380)	(93,739)	(93,739)	(93,739)	(93,739)	(+9,359)	---	---	NA
Total, PBGC (Program level)	(266,330)	(296,978)	(296,978)	(296,978)	(296,978)	(+30,648)	---	---	
EMPLOYMENT STANDARDS ADMINISTRATION									
SALARIES AND EXPENSES									
Enforcement of Wage and Hour Standards	164,493	167,359	167,359	167,359	167,359	+2,866	---	---	B
Office of Labor-Management Standards	41,681	48,799	48,799	43,599	46,199	+4,518	-2,600	+2,600	D
Federal Contractor EEO Standards Enforcement	80,059	82,106	82,106	82,106	82,106	+2,047	---	---	D
Federal Programs for Workers' Compensation	97,339	100,129	100,129	100,129	100,129	+2,790	---	---	B
Trust Funds	2,023	2,048	2,048	2,048	2,048	+25	---	---	TF
Program Direction and Support	15,252	15,891	15,891	17,375	17,375	+2,123	+1,484	---	D
Total, ESA salaries and expenses	400,847	416,332	416,332	412,616	415,216	+14,369	-1,116	+2,600	
Federal Funds	398,824	414,284	414,284	410,568	413,168	+14,344	-1,116	+2,600	
Trust Funds	2,023	2,048	2,048	2,048	2,048	+25	---	---	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
SPECIAL BENEFITS									
Federal employees compensation benefits	230,000	234,000	234,000	234,000	234,000	+4,000	---	---	M
Longshore and harbor workers' benefits	3,000	3,000	3,000	3,000	3,000	---	---	---	M
Total, Special Benefits	233,000	237,000	237,000	237,000	237,000	+4,000	---	---	
SPECIAL BENEFITS FOR DISABLED COAL MINERS									
Benefit payments	358,806	308,000	308,000	308,000	308,000	-50,806	---	---	M
Administration	5,191	5,250	5,250	5,250	5,250	+59	---	---	M
Subtotal, FY 2006 program level	363,997	313,250	313,250	313,250	313,250	-50,747	---	---	
Less funds advanced in prior year	-88,000	-81,000	-81,000	-81,000	-81,000	+7,000	---	---	M
Total, Current Year, FY 2006	275,997	232,250	232,250	232,250	232,250	-43,747	---	---	
New advances, 1st quarter FY 2007	81,000	74,000	74,000	74,000	74,000	-7,000	---	---	M
Total, Special Benefits for Disabled Coal Miners	356,997	306,250	306,250	306,250	306,250	-50,747	---	---	
ENERGY EMPLOYEES OCCUPATIONAL ILLNESS COMPENSATION FUND, Part B Administrative Expenses	40,321	96,081	96,081	96,081	96,081	+55,760	---	---	M
BLACK LUNG DISABILITY TRUST FUND									
Benefit payments and interest on advances	1,004,951	1,010,011	1,010,011	1,010,011	1,010,011	+5,060	---	---	M
Employment Standards Adm S&E	32,615	33,050	33,050	33,050	33,050	+435	---	---	M

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs FY 2005 Comparable	Conference vs FY 2006 House	Conference vs FY 2006 Senate	
Departmental Management S&E	23,705	24,239	24,239	24,239	24,239	+534	---	---	M
Departmental Management, Inspector General	342	344	344	344	344	+2	---	---	M
Subtotal, Black Lung Disability	1,061,613	1,067,644	1,067,644	1,067,644	1,067,644	+6,031	---	---	
Treasury Administrative Costs	356	356	356	356	356	---	---	---	M
Total, Black Lung Disability Trust Fund	1,061,969	1,068,000	1,068,000	1,068,000	1,068,000	+6,031	---	---	
Total, Employment Standards Administration	2,093,134	2,123,663	2,123,663	2,119,947	2,122,547	+29,413	-1,116	+2,600	
Federal Funds	2,091,111	2,121,615	2,121,615	2,117,899	2,120,499	+29,388	-1,116	+2,600	
Current year	(2,010,111)	(2,047,615)	(2,047,615)	(2,043,899)	(2,046,499)	(+36,388)	(-1,116)	(+2,600)	
FY 2007	(81,000)	(74,000)	(74,000)	(74,000)	(74,000)	(-7,000)	---	---	
Trust Funds	2,023	2,048	2,048	2,048	2,048	+25	---	---	
OCCUPATIONAL SAFETY AND HEALTH ADMINISTRATION									
SALARIES AND EXPENSES									
Safety and Health Standards	16,003	16,628	16,628	16,628	16,628	+625	---	---	B
Federal Enforcement	169,652	174,318	174,318	174,318	174,318	+4,666	---	---	D
State Programs	91,013	92,013	92,013	92,013	92,013	+1,000	---	---	D
Technical Support	20,742	21,652	21,652	21,652	21,652	+910	---	---	D
Compliance Assistance:									
Federal Assistance	70,859	73,278	73,278	73,278	73,278	+2,419	---	---	D
State Consultation Grants	53,362	53,896	53,896	53,896	53,896	+534	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate
Training Grants	10,218	---	10,218	10,510	10,218	---	---	-292 D
Subtotal, Compliance Assistance	134,439	127,174	137,392	137,684	137,392	+2,953	---	-292 D
Safety and Health Statistics	22,203	24,498	24,498	24,498	24,498	+2,295	---	--- D
Executive Direction and Administration	10,106	10,698	10,698	10,698	10,698	+592	---	--- D
Total, OSHA	484,158	466,981	477,199	477,491	477,199	+13,041	---	-292
MINE SAFETY AND HEALTH ADMINISTRATION								
SALARIES AND EXPENSES								
Coal Enforcement	115,251	118,335	118,335	118,335	118,335	+3,084	---	--- D
Metal/Non-Metal Enforcement	66,752	68,750	68,750	68,750	68,750	+1,998	---	--- D
Standards Development	2,334	2,506	2,506	2,506	2,506	+172	---	--- D
Assessments	5,238	5,445	5,445	5,445	5,445	+207	---	--- D
Educational Policy and Development	31,255	32,021	32,021	32,021	32,021	+766	---	--- D
Technical Support	25,111	25,736	25,736	25,736	25,736	+625	---	--- D
Program evaluation and information resources (PEIR)	17,525	15,671	15,671	15,671	15,671	-1,854	---	--- D
Program Administration	15,670	12,026	12,026	12,026	12,026	-3,644	---	--- D
Total, Mine Safety and Health Administration	279,136	280,490	280,490	280,490	280,490	+1,354	---	---

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
BUREAU OF LABOR STATISTICS									
SALARIES AND EXPENSES									
Employment and Unemployment Statistics	162,714	167,047	167,047	167,047	167,047	+4,333	---	---	D
Labor Market Information	77,845	77,845	77,845	77,845	77,845	---	---	---	TF
Prices and Cost of Living	169,370	174,779	174,779	174,779	174,779	+5,409	---	---	D
Compensation and Working Conditions	78,942	81,532	81,532	81,532	81,532	+2,590	---	---	D
Productivity and Technology	10,503	10,847	10,847	10,847	10,847	+344	---	---	D
Executive Direction and Staff Services	29,629	30,473	30,473	30,473	30,473	+844	---	---	D
Total, Bureau of Labor Statistics	529,003	542,523	542,523	542,523	542,523	+13,520	---	---	
Federal Funds	451,158	464,678	464,678	464,678	464,678	+13,520	---	---	
Trust Funds	77,845	77,845	77,845	77,845	77,845	---	---	---	
OFFICE OF DISABILITY EMPLOYMENT POLICY									D
Salaries and expenses	47,164	27,934	27,934	47,164	27,934	-19,230	---	-19,230	D
DEPARTMENTAL MANAGEMENT									
SALARIES AND EXPENSES									
Executive Direction	26,720	29,504	24,864	26,720	25,792	-928	+928	-928	D
Departmental IT Crosscut	29,760	29,760	29,760	29,760	29,760	---	---	---	D
Departmental Management Crosscut	4,960	1,700	1,700	1,700	1,700	-3,260	---	---	D
Legal Services	79,769	81,907	81,907	80,000	80,953	+1,184	-954	+953	D
Trust Funds	311	311	311	311	311	---	---	---	TF

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
International Labor Affairs	93,248	12,419	12,419	93,248	73,248	-20,000	+60,829	-20,000	D	
Administration and Management	32,414	33,197	33,197	33,197	33,197	+783	---	---	D	
Frances Perkins building security enhancements	6,944	6,944	6,944	6,944	6,944	---	---	---	D	
Adjudication	25,665	27,126	27,126	27,126	27,126	+1,461	---	---	D	
Women's Bureau	9,478	9,764	9,764	9,764	9,764	+286	---	---	D	
Civil Rights Activities	6,237	6,451	6,451	6,451	6,451	+214	---	---	D	
Chief Financial Officer	5,182	5,340	5,340	5,340	5,340	+158	---	---	D	
Total, Salaries and expenses	320,688	244,423	239,783	320,561	300,586	-20,102	+60,803	-19,975		
Federal Funds	320,377	244,112	239,472	320,250	300,275	-20,102	+60,803	-19,975		
Trust Funds	311	311	311	311	311	---	---	---		
VETERANS EMPLOYMENT AND TRAINING										
State administration, Grants	181,097	162,415	162,415	162,415	162,415	+1,318	---	---	TF	
Federal Administration	30,438	30,435	31,935	30,435	30,435	-3	-1,500	---	TF	
National Veterans Training Institute	1,984	1,984	2,484	1,984	1,984	---	-500	---	TF	
Homeless Veterans Program	20,832	22,000	25,000	22,000	22,000	+1,168	-3,000	---	D	
Veterans Workforce Investment Programs	8,482	7,500	7,500	7,500	7,500	-982	---	---	D	FF
Total, Veterans Employment and Training	222,833	224,334	229,334	224,334	224,334	+1,501	-5,000	---		
Federal Funds	29,314	29,500	32,500	29,500	29,500	+186	-3,000	---		
Trust Funds	193,519	194,834	196,834	194,834	194,834	+1,315	-2,000	---		

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
OFFICE OF THE INSPECTOR GENERAL									
Program Activities	63,478	65,211	65,211	67,211	66,211	+2,733	+1,000	-1,000	D
Trust Funds	5,517	5,608	5,608	5,608	5,608	+91	---	---	TF
Total, Office of the Inspector General	68,995	70,819	70,819	72,819	71,819	+2,824	+1,000	-1,000	
Federal funds	63,478	65,211	65,211	67,211	66,211	+2,733	+1,000	-1,000	
Trust funds	5,517	5,608	5,608	5,608	5,608	+91	---	---	
Total, Departmental Management	612,516	539,578	539,936	617,714	596,739	-15,777	+56,803	-20,975	
Federal Funds	413,169	338,823	337,183	416,961	395,986	-17,183	+58,803	-20,975	
Trust Funds	199,347	200,753	202,753	200,753	200,753	+1,406	-2,000	---	
WORKING CAPITAL FUND									
Working capital fund	9,920	6,230	6,230	6,230	6,230	-3,690	---	---	D
Total, Title I, Department of Labor	15,321,804	14,724,465	14,801,322	14,957,122	14,764,129	-557,675	-37,193	-192,993	
Federal Funds	11,489,478	11,016,450	11,091,307	11,351,645	11,133,840	-355,638	+42,533	-217,805	
Current Year	(8,945,478)	(8,504,450)	(8,554,307)	(8,814,645)	(8,596,840)	(-348,638)	(+42,533)	(-217,805)	
FY 2007	(2,544,000)	(2,512,000)	(2,537,000)	(2,537,000)	(2,537,000)	(-7,000)	---	---	
Trust Funds	3,832,326	3,708,015	3,710,015	3,605,477	3,630,289	-202,037	-79,726	+24,812	

Title I Footnotes.
1/ Funding from the Dislocated Worker National Reserve
2/ Two year availability

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs FY 2005 Comparable	Conference vs FY 2006 House	Conference vs FY 2006 Senate	
TITLE II - DEPARTMENT OF HEALTH AND HUMAN SERVICES									
HEALTH RESOURCES AND SERVICES ADMINISTRATION									
HEALTH RESOURCES AND SERVICES									
BUREAU OF PRIMARY HEALTH CARE									
Community health centers	1,734,311	2,037,871	1,834,311	1,889,311	1,800,311	+66,000	-34,000	-89,000	D
Free Clinics Medical Malpractice	99	---	---	99	40	-59	+40	-59	D
Radiation Exposure Compensation Act	1,958	1,936	1,900	1,958	1,936	-22	+36	-22	D
Healthy Community Access Program	82,993	---	---	60,000	---	-82,993	---	-60,000	D
Hansen's Disease Services	17,251	16,066	16,066	17,066	16,066	-1,185	---	-1,000	D
Buildings and Facilities	247	222	222	222	222	-25	---	---	D
Payment to Hawaii, treatment of Hansen's	2,017	2,016	2,016	2,017	2,016	-1	---	-1	D
Black lung clinics	5,951	5,912	5,912	5,975	5,951	---	+39	-24	D
Subtotal, Bureau of Primary Health Care	1,844,827	2,064,023	1,860,427	1,976,648	1,826,542	-18,285	-33,885	-150,106	
BUREAU OF HEALTH PROFESSIONS									
National Health Service Corps Field placements	45,068	40,705	40,705	40,705	40,705	-4,363	---	---	D
Recruitment	86,380	86,091	86,091	86,091	86,091	-289	---	---	D
Subtotal, National Health Service Corps	131,448	126,796	126,796	126,796	126,796	-4,652	---	---	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs FY 2005 Comparable	Conference vs FY 2006 House	Conference vs FY 2006 Senate
Health Professions								
Training for Diversity:								
Centers of excellence	33,609	---	12,000	33,609	12,000	-21,609	---	-21,609 D
Health careers opportunity program	35,647	---	---	35,647	4,000	-31,647	+4,000	-31,647 D
Faculty loan repayment	1,302	---	---	1,302	700	-602	+700	-602 D
Scholarships for disadvantaged students	47,128	9,831	35,128	47,128	35,128	-12,000	---	-12,000 D
Subtotal, Training for Diversity	117,686	9,831	47,128	117,686	51,828	-65,858	+4,700	-65,858
Training in Primary Care Medicine and Dentistry	88,816	---	---	90,000	28,173	-60,643	+28,173	-61,827 D
Interdisciplinary Community-Based Linkages								
Area health education centers	28,971	---	---	28,971	2,000	-26,971	+2,000	-26,971 D
Health education and training centers	3,819	---	---	3,819	---	-3,819	---	3,819 D
Allied health and other disciplines	11,753	---	---	11,753	4,000	-7,753	+4,000	-7,753 D
Geriatric programs	31,548	---	---	29,548	---	-31,548	---	-29,548 D
Quentin N. Burdick program for rural training	6,076	---	---	6,076	---	-6,076	---	-6,076 D
Subtotal, Interdisciplinary Comm. Linkages	82,167	---	---	80,167	6,000	-76,167	+6,000	-74,167
Health Professions Workforce Info & Analysis	716	712	---	712	---	-716	---	-712 D
Public Health Workforce Development:								
Public health, preventive med. and dental programs	9,097	---	---	9,097	8,000	-1,097	+8,000	-1,097 D
Health administration programs	1,070	---	---	1,070	---	-1,070	---	-1,070 D
Subtotal, Public Health Workforce Development	10,167	---	---	10,167	8,000	-2,167	+8,000	-2,167

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs FY 2005 Comparable	Conference vs FY 2006 House	Conference vs FY 2006 Senate	
Nursing Programs:									
Advanced Education Nursing	58,160	42,806	57,637	58,160	57,637	-523	---	-523	D
Nurse education, practice, and retention	36,468	46,325	36,468	40,468	37,668	+1,200	+1,200	-2,800	D
Nursing workforce diversity	16,270	21,244	16,270	17,270	16,270	---	---	-1,000	D
Loan repayment and scholarship program	31,482	31,369	31,369	31,482	31,369	-113	---	-113	D
Comprehensive geriatric education	3,450	3,426	3,426	3,450	3,426	-24	---	-24	D
Nursing faculty loan program	4,831	4,821	4,821	4,831	4,821	-10	---	-10	D
Subtotal, Nursing programs	150,661	149,991	149,991	155,661	151,191	+530	+1,200	-4,470	
Subtotal, Health Professions	450,213	160,534	197,119	454,393	245,192	-205,021	+48,073	-209,201	
Children's Hospitals Graduate Medical Education	300,730	200,000	300,000	300,000	300,000	-730	---	---	D
National Practitioner Data Bank	15,700	15,700	15,700	15,700	15,700	---	---	---	D
User Fees	-15,700	-15,700	-15,700	-15,700	-15,700	---	---	---	D
Health Care Integrity and Protection Data Bank	4,000	4,000	4,000	4,000	4,000	---	---	---	D
User Fees	-4,000	-4,000	-4,000	-4,000	-4,000	---	---	---	D
Subtotal, Bureau of Health Professions	882,391	487,330	623,915	881,189	671,988	-210,403	+48,073	-209,201	
MATERNAL AND CHILD HEALTH BUREAU									
Maternal and Child Health Block Grant	723,928	723,928	700,000	710,000	700,000	-23,928	---	-10,000	D
Sickle cell anemia demonstration program	198	---	---	500	2,200	+2,002	+2,200	+1,700	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Traumatic Brain Injury	9,297	---	9,000	9,297	9,000	-297	---	-297	D
Healthy Start	102,543	97,747	97,747	104,000	102,543	---	+4,796	-1,457	D
Universal Newborn Hearing	9,792	---	10,000	9,792	9,900	+108	-100	+108	D
Emergency medical services for children	19,830	---	19,000	20,000	20,000	+170	+1,000	---	D
Poison control	23,499	23,301	23,301	23,301	23,301	-198	---	---	D
Subtotal, Maternal and Child Health Bureau	889,087	844,976	859,048	876,890	866,944	-22,143	+7,896	-9,946	
HIV/AIDS BUREAU									
Ryan White AIDS Programs:									
Emergency Assistance	610,094	610,094	610,094	610,094	610,094	---	---	---	D
Comprehensive Care Programs	1,121,836	1,131,836	1,131,836	1,131,836	1,131,836	+10,000	---	---	D
AIDS Drug Assistance Program (ADAP) (NA)	(787,521)	(797,521)	(797,521)	(797,521)	(797,521)	(+10,000)	---	---	NA
Early Intervention Program	195,578	195,578	195,578	195,578	195,578	---	---	---	D
Pediatric HIV/AIDS	72,519	72,519	72,519	72,519	72,519	---	---	---	D
AIDS Dental Services	13,218	13,218	13,218	13,218	13,218	---	---	---	D
Education and Training Centers	35,051	35,051	35,051	35,051	35,051	---	---	---	D
Subtotal, Ryan White AIDS programs	2,048,296	2,058,296	2,058,296	2,058,296	2,058,296	+10,000	---	---	
Evaluation Tap Funding (NA)	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	---	---	---	NA
Subtotal, Ryan White AIDs program level	(2,073,296)	(2,083,296)	(2,083,296)	(2,083,296)	(2,083,296)	(+10,000)	---	---	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Telehealth	3,916	3,888	3,888	13,888	6,888	+2,972	+3,000	-7,000	D
Subtotal, HIV/AIDS Bureau	2,052,212	2,062,184	2,062,184	2,072,184	2,065,184	+12,972	+3,000	-7,000	
SPECIAL PROGRAMS BUREAU									
Organ Transplantation	24,413	23,282	23,282	24,413	23,282	-1,131	---	-1,131	D
Cord Blood Stem Cell Bank	9,859	---	---	9,859	4,000	-5,859	+4,000	-5,859	D
Bone Marrow Program	25,416	22,916	25,416	22,916	25,416	---	---	+2,500	D
Trauma Care	3,418	---	---	3,418	---	-3,418	---	-3,418	D
State Planning Grants for Health Care Access	10,910	---	---	---	---	-10,910	---	---	D
Subtotal, Special programs bureau	74,016	46,198	48,698	60,606	52,698	-21,318	+4,000	-7,908	
RURAL HEALTH PROGRAMS									
Rural outreach grants	39,278	10,767	10,767	39,278	10,767	-28,511	---	-28,511	D
Rural Health Research	8,825	8,528	---	8,825	---	-8,825	---	-8,825	D
Rural Hospital Flexibility Grants	39,180	---	39,180	64,180	64,180	+25,000	+25,000	---	D
Rural and community access to emergency devices	8,927	1,960	1,960	9,727	1,500	-7,427	-460	-8,227	D
Rural EMS	496	---	---	500	---	-496	---	-500	D
State Offices of Rural Health	8,321	8,223	8,223	8,321	8,223	-98	---	-98	D
Denali Commission	39,680	---	---	39,680	39,680	---	+39,680	---	D
Subtotal, Rural health programs	144,707	29,478	60,130	170,511	124,350	-20,357	+64,220	-46,161	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

						Conference vs.			
	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	FY 2005 Comparable	FY 2006 House	FY 2006 Senate	
Family Planning	285,963	285,963	285,963	285,963	285,963	---	---	---	D
Health Care-related Facilities and activities	482,729	---	---	393,051	---	-482,729	---	-393,051	D
Bioterrorism hospital grants to States 1/	---	---	500,000	510,500	500,000	+500,000	---	-10,500	
Program Management	147,080	145,992	143,072	143,992	145,992	-1,088	+2,920	+2,000	D
Total, Health resources and services	6,803,012	5,966,144	6,443,437	7,371,534	6,539,661	-263,351	+96,224	-831,873	
Total, Health resources & services program level	(6,828,012)	(5,991,144)	(6,468,437)	(7,396,534)	(6,564,661)	(-263,351)	(+96,224)	(-831,873)	
Evaluation tap funding	(25,000)	(25,000)	(25,000)	(25,000)	(25,000)	---	---	---	
HEALTH EDUCATION ASSISTANCE LOANS (HEAL) PROGRAM:									
Liquidating account	(4,000)	(4,000)	(4,000)	(4,000)	(4,000)	---	---	---	NA
Program management	3,244	2,916	2,916	2,916	2,916	-328	---	---	D
Total, HEAL	3,244	2,916	2,916	2,916	2,916	-328	---	---	
VACCINE INJURY COMPENSATION PROGRAM TRUST FUND:									
Post-FY 1988 claims	66,000	70,884	70,884	70,884	70,884	+4,884	---	---	M
HRSA administration	3,151	2,832	3,500	3,600	3,600	+449	+100	---	D
Total, Vaccine Injury Compensation Trust Fund	69,151	73,716	74,384	74,484	74,484	+5,333	+100	---	
Total, Health Resources and Services Admin	6,875,407	6,042,776	6,520,737	7,448,934	6,617,061	-258,346	+96,324	-831,873	
Total, HRSA program level	(6,904,407)	(6,071,776)	(6,549,737)	(7,477,934)	(6,646,061)	(-258,346)	(+96,324)	(-831,873)	

LABOR-HEALTH and HUMAN SERVICES EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
CENTERS FOR DISEASE CONTROL AND PREVENTION									
Infectious Diseases	1,667,095	1,698,964	1,704,529	1,696,567	1,697,397	+30,302	-7,132	+830	D
Evaluation Tap Funding	(12,794)	(12,784)	(12,794)	(12,794)	(12,794)	---	---	---	NA
Subtotal, Program level	(1,679,889)	(1,709,758)	(1,717,323)	(1,709,361)	(1,710,191)	(+30,302)	(-7,132)	(+830)	
Health Promotion	1,021,709	964,421	983,647	974,080	971,157	-50,552	-12,490	-2,923	D
Health Information and Service	94,438	89,564	195,069	89,564	89,564	-4,874	-105,505	---	D
Evaluation Tap Funding	(134,235)	(134,235)	(28,730)	(134,235)	(134,235)	---	(+105,505)	---	NA
Subtotal, Program level	(228,673)	(223,799)	(223,799)	(223,799)	(223,799)	(-4,874)	---	---	
Environmental health and injury	285,721	284,820	285,721	288,982	287,733	+2,012	+2,012	-1,249	D
Occupational safety and health 2/	198,970	198,859	164,170	170,050	169,900	-29,070	+5,730	-150	D
Evaluation Tap Funding	(87,071)	(87,071)	(87,071)	(87,071)	(87,071)	---	---	---	NA
Subtotal, Program level 2/	(286,041)	(285,930)	(251,241)	(257,121)	(256,971)	(-29,070)	(+5,730)	(-150)	
Global health	293,863	306,079	309,076	313,227	313,340	+19,477	+4,264	+113	D
Supplemental (P L 109-13) (emergency)	15,000	---	---	---	---	-15,000	---	---	
Subtotal, Global health	(308,863)	(306,079)	(309,076)	(313,227)	(313,340)	(+4,477)	(+4,264)	(+113)	
Terrorism preparedness and response 1/	---	---	1,616,723	1,566,471	1,593,189	+1,593,189	-23,534	+26,718	D
Public Health research Evaluation Tap Funding	(31,000)	(31,000)	(31,000)	(31,000)	(31,000)	---	---	---	D NA

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Public health improvement and leadership	266,842	206,541	258,541	344,055	206,535	-60,307	-52,006	-137,520	D
Preventive health and health services block grant	118,526	---	100,000	100,000	100,000	-18,526	---	---	D
Buildings and Facilities	269,708	30,000	30,000	225,000	160,000	-109,708	+130,000	-65,000	D
Business services	278,838	263,715	298,515	296,119	296,119	+17,281	-2,396	---	D
Total, Centers for Disease Control	4,510,710	4,040,963	5,945,991	6,064,115	5,884,934	+1,374,224	-61,057	-179,181	
Emergency appropriations	15,000	---	---	---	---	-15,000	---	---	
Evaluation Tap Funding (NA)	(265,100)	(265,100)	(159,595)	(265,100)	(265,100)	---	(+105,505)	---	
Total, Centers for Disease Control program level	(4,775,810)	(4,306,063)	(6,105,586)	(6,329,215)	(6,150,034)	(+1,374,224)	(+44,448)	(-179,181)	
NATIONAL INSTITUTES OF HEALTH									
National Cancer Institute	4,825,259	4,841,774	4,841,774	4,960,828	4,841,774	+16,515	---	-119,054	D
National Heart, Lung, and Blood Institute	2,941,201	2,951,270	2,951,270	3,023,381	2,951,270	+10,069	---	-72,111	D
National Institute of Dental & Craniofacial Research	391,829	393,269	393,269	405,269	393,269	+1,440	---	-12,000	D
National Institute of Diabetes and Digestive and Kidney Diseases	1,713,584	1,722,146	1,722,146	1,767,919	1,722,146	+8,562	---	-45,773	D
Juvenile diabetes (mandatory)	(150,000)	(150,000)	(150,000)	(150,000)	(150,000)	---	---	---	NA
Subtotal, NIDDK	(1,863,584)	(1,872,146)	(1,872,146)	(1,917,919)	(1,872,146)	(+8,562)	---	(-45,773)	
National Institute of Neurological Disorders & Stroke	1,539,448	1,550,260	1,550,260	1,591,924	1,550,260	+10,812	---	-41,664	D
National Institute of Allergy and Infectious Diseases	4,303,640	4,359,395	4,359,395	4,447,136	4,359,395	+55,755	---	-87,741	D
Global HIV/AIDS Fund Transfer	99,200	100,000	---	100,000	100,000	+800	+100,000	---	D
Subtotal, NIAID	4,402,840	4,459,395	4,359,395	4,547,136	4,459,395	+56,555	+100,000	-87,741	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
National Institute of General Medical Sciences	1,944,067	1,955,170	1,955,170	2,002,622	1,955,170	+11,103	...	-47,452	D
National Institute of Child Health & Human Development	1,270,321	1,277,544	1,277,544	1,310,989	1,277,544	+7,223	...	-33,445	D
National Eye Institute	669,070	673,491	673,491	693,559	673,491	+4,421	...	-20,068	D
National Institute of Environmental Health Sciences	644,505	647,608	647,608	667,372	647,608	+3,103	...	-19,764	D
National Institute on Aging	1,051,990	1,057,203	1,057,203	1,090,600	1,057,203	+5,213	...	-33,397	D
National Institute of Arthritis and Musculoskeletal and Skin Diseases	511,157	513,063	513,063	525,758	513,063	+1,906	...	-12,695	D
National Institute on Deafness and Other Communication Disorders	394,259	397,432	397,432	409,432	397,432	+3,173	...	-12,000	D
National Institute of Nursing Research	138,072	138,729	138,729	142,549	138,729	+657	...	-3,820	D
National Institute on Alcohol Abuse and Alcoholism	438,277	440,333	440,333	452,271	440,333	+2,056	...	-11,938	D
National Institute on Drug Abuse	1,006,419	1,010,130	1,010,130	1,035,167	1,010,130	+3,711	...	-25,037	D
National Institute of Mental Health	1,411,933	1,417,692	1,417,692	1,460,393	1,417,692	+5,759	...	-42,701	D
National Human Genome Research Institute	488,608	490,959	490,959	502,804	490,959	+2,351	...	-11,845	D
National Institute of Biomedical Imaging and Bioengineering	298,209	299,808	299,808	309,091	299,808	+1,599	...	-9,283	D
National Center for Research Resources	1,115,090	1,100,203	1,100,203	1,188,079	1,110,203	-4,887	+10,000	-77,876	D
National Center for Complementary and Alternative Medicine	122,105	122,692	122,692	126,978	122,692	+587	...	-4,286	D
National Center on Minority Health and Health Disparities	196,159	197,379	197,379	203,367	197,379	+1,220	...	-5,988	D
John E. Fogarty International Center	66,632	67,048	67,048	68,745	67,048	+416	...	-1,697	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
National Library of Medicine...	315,146	318,091	318,091	327,222	318,091	+2,945	---	-9,131	D
Evaluation Tap Funding......	(8,200)	(8,200)	(8,200)	(8,200)	(8,200)	---	---	---	NA
Subtotal, NLM.....	323,346	326,291	326,291	335,422	326,291	+2,945	---	-9,131	
Office of the Director 1/....	358,047	365,195	482,216	487,434	482,895	+124,848	+679	-4,539	D
Biodefense countermeasures 1/........	---	---	(97,021)	(97,021)	(97,000)	(+97,000)	(-21)	(-21)	NA
Buildings and Facilities.....	110,288	81,900	81,900	113,626	81,900	-28,388	---	-31,726	D
Total, National Institutes of Health (NIH)......	28,364,515	28,509,784	28,506,805	29,414,515	28,617,484	+252,969	+110,679	-797,031	
Global HIV/AIDS Fund Transfer	-99,200	-100,000	---	-100,000	-100,000	-800	-100,000	---	
Evaluation Tap Funding........	(8,200)	(8,200)	(8,200)	(8,200)	(8,200)	---	---	---	
Total, NIH, Program Level........	(28,273,515)	(28,417,984)	(28,515,005)	(29,322,715)	(28,525,684)	(+252,169)	(+10,679)	(-797,031)	
SUBSTANCE ABUSE AND MENTAL HEALTH SERVICES ADMINISTRATION (SAMHSA)									
Mental Health:									
Programs of Regional and National Significance ...	274,297	210,213	253,257	287,297	265,922	-8,375	+12,665	-21,375	D
Mental Health block grant..........	410,953	410,953	410,953	410,953	410,953	---	---	---	D
Evaluation Tap Funding..........	(21,803)	(21,803)	(21,803)	(21,803)	(21,803)	---	---	---	NA
Subtotal, Program level..........	(432,756)	(432,756)	(432,756)	(432,756)	(432,756)	---	---	---	
Children's Mental Health	105,112	105,129	105,129	105,129	105,129	+17	---	---	D
Grants to States for the Homeless (PATH)........	54,809	54,809	54,809	54,809	54,809	---	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Protection and Advocacy	34,343	34,343	34,343	34,343	34,343	---	---	---	D
Subtotal, Mental Health	879,514	815,447	858,491	892,531	871,156	-8,358	+12,665	-21,375	
Subtotal, Program level	(901,317)	(837,250)	(880,294)	(914,334)	(892,959)	(-8,358)	(+12,665)	(-21,375)	
Substance Abuse Treatment:									
Programs of Regional and National Significance	418,066	442,752	405,131	407,791	398,635	-19,431	-6,496	-9,156	D
Evaluation Tap Funding	(4,300)	(4,300)	(4,300)	(4,300)	(4,300)	---	---	---	NA
Subtotal, Program level	(422,366)	(447,052)	(409,431)	(412,091)	(402,935)	(-19,431)	(-6,496)	(-9,156)	
Substance Abuse block grant	1,696,355	1,696,355	1,696,355	1,696,355	1,696,355	---	---	---	B
Evaluation Tap Funding	(79,200)	(79,200)	(79,200)	(79,200)	(79,200)	---	---	---	NA
Subtotal, Program level	(1,775,555)	(1,775,555)	(1,775,555)	(1,775,555)	(1,775,555)	---	---	---	
Subtotal, Substance Abuse Treatment	2,114,421	2,139,107	2,101,486	2,104,146	2,094,990	-19,431	-6,496	-9,156	
Subtotal, Program level	(2,197,821)	(2,222,607)	(2,184,986)	(2,187,646)	(2,178,490)	(-19,431)	(-6,496)	(-9,156)	
Substance Abuse Prevention:									
Programs of Regional and National Significance	198,725	184,349	194,950	202,289	194,850	-3,875	-100	-7,439	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Program Management	75,808	75,817	75,817	75,817	76,817	+1,011	+1,000	+1,000	D
Evaluation Tap funding (NA)	(18,000)	(16,000)	(16,000)	(18,000)	(16,000)	(-2,000)	---	(-2,000)	NA
Subtotal, Program level	93,806	91,817	91,817	93,817	92,817	-989	+1,000	-1,000	
Total, SAMHSA	3,268,466	3,214,720	3,230,744	3,274,783	3,237,813	-30,653	+7,069	-36,970	
Evaluation Tap funding	(123,303)	(121,303)	(121,303)	(123,303)	(121,303)	(-2,000)	---	(-2,000)	
Total, SAMHSA program level	(3,391,769)	(3,336,023)	(3,352,047)	(3,398,086)	(3,359,116)	(-32,653)	(+7,069)	(-38,970)	
AGENCY FOR HEALTHCARE RESEARCH AND QUALITY									
Research on Health Costs, Quality, and Outcomes:									
Federal Funds	---	---	318,695	---	---	---	-318,695	---	D
Evaluation Tap funding (NA)	(260,695)	(260,695)	---	(265,695)	(260,695)	---	(+260,695)	(-5,000)	NA
Clinical effectiveness research (NA)	(15,000)	(15,000)	---	(20,000)	(15,000)	---	(+15,000)	(-5,000)	NA
Reducing medical errors (NA)	(84,000)	(84,000)	---	(84,000)	(84,000)	---	(+84,000)	---	NA
Subtotal, Program level	(260,695)	(260,695)	(318,695)	(265,695)	(260,695)	---	(-58,000)	(-5,000)	
Health Insurance and Expenditure Surveys:									NA
Evaluation Tap funding (NA)	(55,300)	(55,300)	---	(55,300)	(55,300)	---	(+55,300)	---	NA
Program Support:									D
Evaluation Tap funding (NA)	(2,700)	(2,700)	---	(2,700)	(2,700)	---	(+2,700)	---	NA
Total, AHRQ	---	---	318,695	---	---	---	-318,695	---	
Evaluation Tap funding (NA)	(318,695)	(318,695)	---	(323,695)	(318,695)	---	(+318,695)	(-5,000)	
Total, AHRQ program level	(318,695)	(318,695)	(318,695)	(323,695)	(318,695)	---	---	(-5,000)	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Total, Public Health Service appropriation	43,019,098	41,808,243	44,522,972	46,202,347	44,357,292	+1,338,194	-165,680	-1,845,055	
Total, Public Health Service program level	(43,664,196)	(42,450,541)	(44,841,070)	(46,851,645)	(44,999,590)	(+1,335,394)	(+158,520)	(-1,852,055)	
CENTERS FOR MEDICARE AND MEDICAID SERVICES GRANTS TO STATES FOR MEDICAID									
Medicaid current law benefits	171,407,893	204,166,276	204,166,276	204,166,276	204,166,276	+32,758,383	---	---	M
State and local administration	9,318,602	9,803,100	9,803,100	9,803,100	9,803,100	+484,498	---	---	M
Vaccines for Children	1,468,799	1,502,333	1,502,333	1,502,333	1,502,333	+33,534	---	---	M
Subtotal, Medicaid program level	182,195,294	215,471,709	215,471,709	215,471,709	215,471,709	+33,276,415	---	---	
Less funds advanced in prior year	-58,416,275	-58,517,290	-58,517,290	-58,517,290	-58,517,290	-101,015	---	---	M
Total, Grants to States for medicaid	123,779,019	156,954,419	156,954,419	156,954,419	156,954,419	+33,175,400	---	---	
New advance, 1st quarter	58,517,290	62,783,825	62,783,825	62,783,825	62,783,825	+4,266,535	---	---	M
PAYMENTS TO HEALTH CARE TRUST FUNDS									
Supplemental medical insurance	114,002,000	128,015,000	128,015,000	128,015,000	128,015,000	+14,013,000	---	---	M
Hospital insurance for the uninsured	87,000	202,000	202,000	202,000	202,000	+115,000	---	---	M
Federal uninsured payment	199,000	206,000	206,000	206,000	206,000	+7,000	---	---	M
Program management	215,000	164,000	164,000	164,000	164,000	-51,000	---	---	M
General revenue for Part D benefit	---	53,596,000	53,596,000	53,596,000	53,596,000	+53,596,000	---	---	M
General revenue for Part D administration (CMS)	---	357,000	357,000	357,000	357,000	+357,000	---	---	M
General revenue for Part D administration (SSA)	---	320,000	320,000	320,000	320,000	+320,000	---	---	M

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
HCFAC reimbursement	---	80,000	---	80,000	---	---	---	-80,000	M
Prescription drug eligibility determinations	105,900	99,100	99,100	99,100	99,100	-6,800	---	---	M
Subtotal, Payments to Trust Funds, current law	114,608,900	183,039,100	182,959,100	183,039,100	182,959,100	+68,350,200	---	-80,000	
Less funds advanced in prior year	---	-5,216,900	-5,216,900	-5,216,900	-5,216,900	-5,216,900	---	---	
New Advance FY 2007	5,216,900	---	---	---	---	-5,216,900	---	---	M
Total, Payments to Trust Funds, current law	119,825,800	177,822,200	177,742,200	177,822,200	177,742,200	+57,916,400	---	-80,000	
PROGRAM MANAGEMENT									
Medicare reform funding 3/ 4/ 5/ (NA)	(250,000)	(250,000)	(250,000)	(250,000)	(250,000)	---	---	---	NA
Research, Demonstration, Evaluation	77,494	45,194	65,000	83,494	58,000	-19,494	-7,000	-25,494	TF
Medicare Operations	1,722,984	2,189,987	2,172,987	2,184,984	2,172,987	+450,003	---	-11,997	TF
H.R. 3103 funding (NA)	(720,000)	(720,000)	(720,000)	(720,000)	(720,000)	---	---	---	NA
Subtotal, Medicare Operations program level	(2,442,984)	(2,909,987)	(2,892,987)	(2,904,984)	(2,892,987)	(+450,003)	---	(-11,997)	
Revitalization plan	24,205	24,205	24,205	24,205	24,205	---	---	---	TF
State Survey and Certification	258,735	260,735	260,735	260,735	260,735	+2,000	---	---	TF
Federal Administration	581,493	657,357	657,357	628,000	655,000	+73,507	-2,357	+27,000	TF
Total, Program management, Limitation on new BA	2,664,911	3,177,478	3,180,284	3,181,418	3,170,927	+506,016	-9,357	-10,491	
Total, Program management, program level	(3,384,911)	(3,897,478)	(3,900,284)	(3,901,418)	(3,890,927)	(+506,016)	(-9,357)	(-10,491)	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Health Care Fraud and Abuse Control:									
Part D drug benefit/medicare advantage (MIP)	---	75,000	---	75,000	---	---	---	-75,000	TF
Medicaid and SCHIP financial management	---	5,000	---	5,000	---	---	---	-5,000	TF
Total, Health Care Fraud and Abuse Control	---	80,000	---	80,000	---	---	---	-80,000	
Total, Center for Medicare and Medicaid Services	304,787,020	400,817,922	400,660,728	400,821,862	400,651,371	+95,864,351	-9,357	-170,491	
Federal funds	302,122,109	397,560,444	397,480,444	397,560,444	397,480,444	+95,358,335	---	-80,000	
Current year	(238,387,919)	(334,776,619)	(334,696,619)	(334,776,619)	(334,696,619)	(+96,308,700)	---	(-80,000)	
New advance, FY 2007	(63,734,190)	(62,783,825)	(62,783,825)	(62,783,825)	(62,783,825)	(-950,365)	---	---	
Trust Funds	2,664,911	3,257,478	3,180,284	3,261,418	3,170,927	+506,016	-9,357	-90,491	
ADMINISTRATION FOR CHILDREN AND FAMILIES FAMILY SUPPORT PAYMENTS TO STATES									
Payments to territories	23,000	33,000	33,000	33,000	33,000	+10,000	---	---	M
Repatriation	1,000	1,000	1,000	1,000	1,000	---	---	---	M
Subtotal, Welfare payments	24,000	34,000	34,000	34,000	34,000	+10,000	---	---	
Child Support Enforcement:									
State and local administration	3,610,465	3,767,816	3,767,816	3,767,816	3,767,816	+157,351	---	---	M
Federal incentive payments	446,000	458,000	458,000	458,000	458,000	+12,000	---	---	M
Access and visitation	10,000	10,000	10,000	10,000	10,000	---	---	---	M
Subtotal, Child Support Enforcement	4,066,465	4,235,816	4,235,816	4,235,816	4,235,816	+169,351	---	---	
Total, Family support payments program level	4,090,465	4,269,816	4,269,816	4,269,816	4,269,816	+179,351	---	---	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Less funds advanced in previous years	-1,200,000	-1,200,000	-1,200,000	-1,200,000	-1,200,000	---	---	---	M
Total, Family support payments, current year	2,890,465	3,069,816	3,069,816	3,069,816	3,069,816	+179,351	---	---	
New advance, 1st quarter, FY 2007	1,200,000	1,200,000	1,200,000	1,200,000	1,200,000	---	---	---	M
Total, Family support payments	4,090,465	4,269,816	4,269,816	4,269,816	4,269,816	+179,351	---	---	
LOW INCOME HOME ENERGY ASSISTANCE PROGRAM									
Formula grants	1,884,799	1,800,000	2,006,799	1,883,000	2,000,000	+115,201	-6,799	+117,000	D
Emergency allocation: Contingency fund	---	200,000	---	---	183,000	+183,000	+183,000	+183,000	D
Emergency allocation	297,600	---	---	300,000	---	-297,600	---	-300,000	D
Total, Low income home energy assistance	2,182,399	2,000,000	2,006,799	2,183,000	2,183,000	+601	+176,201	---	
REFUGEE AND ENTRANT ASSISTANCE									
Transitional and Medical Services	204,992	268,229	264,129	264,129	268,229	+63,237	+4,100	+4,100	D
Victims of Trafficking	9,915	9,915	9,915	9,915	9,915	---	---	---	D
Social Services	152,242	151,121	160,000	151,121	155,560	+3,318	-4,440	+4,439	D
Preventive Health	4,796	4,796	4,796	4,796	4,796	---	---	---	D
Targeted Assistance	49,081	49,081	49,081	49,081	49,081	---	---	---	D
Unaccompanied minors	53,771	78,083	63,083	63,083	78,083	+24,312	+15,000	+15,000	D
Victims of Torture	9,915	9,915	9,915	9,915	9,915	---	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Emergency refugee fund (emergency)	---	---	---	19,100	---	---	---	-19,100	
Total, Refugee and entrant assistance	484,712	571,140	560,919	571,140	575,579	+90,867	+14,660	+4,439	
CHILD CARE AND DEVELOPMENT BLOCK GRANT	2,082,921	2,082,910	2,082,910	2,082,910	2,082,910	-11	---	---	D
SOCIAL SERVICES BLOCK GRANT (TITLE XX)	1,700,000	1,700,000	1,700,000	1,700,000	1,700,000	---	---	---	M
CHILDREN AND FAMILIES SERVICES PROGRAMS									
Programs for Children, Youth and Families:									
Head Start, current funded	5,454,314	5,499,336	5,499,000	5,474,314	5,454,314	---	-44,686	-20,000	D
Advance from prior year	(1,388,800)	(1,400,000)	(1,400,000)	(1,400,000)	(1,400,000)	(+11,200)	---	---	NA
FY 2007	1,400,000	1,388,800	1,400,000	1,388,800	1,388,800	-11,200	-11,200	---	D
Subtotal, Head Start, program level	6,843,114	6,899,336	6,899,000	6,874,314	6,854,314	+11,200	-44,686	-20,000	
Consolidated Runaway, Homeless Youth Program	88,724	88,728	88,728	88,724	88,724	---	-4	---	D
Maternity Group Homes	---	10,000	---	---	---	---	---	---	D
Prevention grants to reduce abuse of runaway youth	15,178	15,179	15,179	15,179	15,179	+1	---	---	D
Child Abuse State Grants	27,280	27,280	27,280	27,280	27,280	---	---	---	D
Child Abuse Discretionary Activities	31,640	31,645	31,645	31,640	26,040	-5,600	-5,605	-5,600	D
Community based child abuse prevention	42,858	42,859	42,859	42,859	42,859	+1	---	---	D
Abandoned Infants Assistance	11,955	11,955	11,955	11,955	11,955	---	---	---	D
Child Welfare Services	289,650	289,650	289,650	289,650	289,650	---	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Child Welfare Training	7,409	7,409	7,409	7,409	7,409	---	---	---	D
Adoption Opportunities	27,116	27,119	27,119	27,119	27,119	+3	---	---	D
Adoption Incentive (no cap adjustment)	31,528	22,846	31,846	22,846	18,000	-13,528	-13,846	-4,846	D
Adoption Awareness	12,802	12,802	12,802	12,802	12,802	---	---	---	D
Compassion Capital Fund	54,549	100,000	75,000	95,000	65,000	+10,451	-10,000	-30,000	D
Social Services and Income Maintenance Research	26,012	---	2,621	26,012	5,927	-20,085	+3,306	-20,085	D
Evaluation tap funding	(6,000)	(6,000)	(8,000)	(6,000)	(6,000)	---	(-2,000)	---	NA
Subtotal, Program level	(32,012)	(6,000)	(10,621)	(32,012)	(11,927)	(-20,085)	(+1,306)	(-20,085)	
Developmental Disabilities Programs:									
State Councils	72,496	72,496	72,496	72,496	72,496	---	---	---	D
Protection and Advocacy	38,109	38,109	38,109	39,109	39,109	+1,000	+1,000	---	D
Voting access for individuals with disabilities	14,879	14,879	14,879	30,000	15,879	+1,000	+1,000	-14,121	D
Developmental Disabilities Projects of National Significance	11,542	11,529	11,529	11,529	11,529	-13	---	---	D D
University Centers for Excellence in Developmental Disabilities	31,549	31,548	33,548	33,548	33,548	+1,999	---	---	D D
Subtotal, Developmental disabilities programs	168,575	168,561	170,561	186,682	172,561	+3,986	+2,000	-14,121	
Native American Programs	44,786	44,780	44,780	44,780	44,780	-6	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Community Services.									
Grants to States for Community Services	636,793	---	320,000	636,793	636,793	---	+316,793	---	D
Community Initiative Program:									
Economic Development	32,731	---	32,731	32,731	32,731	---	---	---	D
Individual Development Account Initiative	24,704	24,699	24,699	24,699	24,699	-5	---	---	D
Rural Community Facilities	7,242	---	7,242	7,492	7,367	+125	+125	-125	D
Subtotal, Community Initiative Program	64,677	24,699	64,672	64,922	64,797	+120	+125	-125	
National Youth Sports	17,856	---	---	10,000	---	-17,856	---	-10,000	D
Community Food and Nutrition	7,180	---	---	7,180	---	-7,180	---	-7,180	D
Subtotal, Community Services	726,506	24,699	384,672	718,895	701,580	-24,916	+316,918	-17,305	
Domestic Violence Hotline	3,224	3,000	3,000	3,000	3,000	-224	---	---	D
Family Violence/Battered Women's Shelters	125,630	125,991	125,991	125,991	125,991	+361	---	---	D
Early Learning Fund	35,712	---	---	---	---	-35,712	---	---	D
Mentoring Children of Prisoners	49,598	49,993	49,993	49,993	49,993	+395	---	---	D
Independent Living Training Vouchers	46,623	59,999	50,000	46,623	46,623	---	-3,377	---	D
Abstinence Education	99,198	138,045	110,000	101,000	110,000	+10,802	---	+9,000	D
Evaluation Tap Funding	(4,500)	(4,500)	(4,500)	(4,500)	(4,500)	---	---	---	NA
Subtotal, Program level	(103,698)	(142,545)	(114,500)	(105,500)	(114,500)	(+10,802)	---	(+9,000)	
Faith-Based Center	1,375	1,400	1,400	1,400	1,400	+25	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Program Direction	185,210	185,217	185,217	186,000	185,217	+7	---	-783	D
Total, Children and Families Services Programs	9,007,452	8,377,293	8,688,707	9,025,953	8,922,213	-85,239	+233,506	-103,740	
Current Year	(7,607,452)	(6,988,493)	(7,288,707)	(7,637,153)	(7,533,413)	(-74,039)	(+244,706)	(-103,740)	
FY 2007	(1,400,000)	(1,388,800)	(1,400,000)	(1,388,800)	(1,388,800)	(-11,200)	(-11,200)	---	
Evaluation Tap funding	(10,500)	(10,500)	(12,500)	(10,500)	(10,500)	---	(-2,000)	---	
Total, Program level	9,017,952	8,387,793	8,701,207	9,036,453	8,932,713	-85,239	+231,506	-103,740	
PROMOTING SAFE AND STABLE FAMILIES	305,000	305,000	305,000	305,000	305,000	---	---	---	M
Discretionary Funds	98,586	105,000	99,000	90,000	90,000	-8,586	-9,000	---	D
PAYMENTS TO STATES FOR FOSTER CARE AND ADOPTION									
Foster Care	4,895,500	4,685,000	4,685,000	4,685,000	4,685,000	-210,500	---	---	M
Adoption Assistance	1,770,100	1,795,000	1,795,000	1,795,000	1,795,000	+24,900	---	---	M
Independent living	140,000	140,000	140,000	140,000	140,000	---	---	---	M
Total, Payments to States	6,805,600	6,620,000	6,620,000	6,620,000	6,620,000	-185,600	---	---	
Less Advances from Prior Year	-1,767,700	-1,767,200	-1,767,200	-1,767,200	-1,767,200	+500	---	---	M
Total, payments, current year	5,037,900	4,852,800	4,852,800	4,852,800	4,852,800	-185,100	---	---	
New Advance, 1st quarter	1,767,200	1,730,000	1,730,000	1,730,000	1,730,000	-37,200	---	---	M
Total, Administration for Children & Families	26,756,635	25,993,959	26,295,951	26,810,619	26,711,318	-45,317	+415,367	-99,301	
Current year	(22,389,435)	(21,675,159)	(21,965,951)	(22,491,819)	(22,392,518)	(+3,083)	(+426,567)	(-99,301)	
FY 2007	(4,367,200)	(4,318,800)	(4,330,000)	(4,318,800)	(4,318,800)	(-48,400)	(-11,200)	---	
Evaluation Tap funding	(10,500)	(10,500)	(12,500)	(10,500)	(10,500)	---	(-2,000)	---	
Total, Administration for Children & Families	26,767,135	26,004,459	26,308,451	26,821,119	26,721,818	-45,317	+413,367	-99,301	

[redacted]-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate
ADMINISTRATION ON AGING								
Grants to States:								
Supportive Services and Centers	354,136	354,136	354,136	354,136	354,136	---	---	--- D
Preventive Health	21,616	21,616	21,616	21,616	21,616	---	---	--- D
Protection of Vulnerable Older Americans-Title VII	19,288	19,360	19,360	20,360	20,360	+1,072	+1,000	--- D
Family Caregivers	155,744	155,744	155,744	160,744	157,744	+2,000	+2,000	-3,000 D
Native American Caregivers Support	6,304	6,304	6,304	6,304	6,304	---	---	--- D
Subtotal, Caregivers	162,048	162,048	162,048	167,048	164,048	+2,000	+2,000	-3,000
Nutrition:								
Congregate Meals	387,274	387,274	391,147	387,274	389,211	+1,937	-1,936	+1,937 D
Home Delivered Meals	182,827	182,826	184,656	182,827	183,742	+915	-914	+915 D
Nutrition Services Incentive Program	148,596	148,596	150,082	148,596	149,339	+743	-743	+743 D
Subtotal, Nutrition	718,697	718,696	725,885	718,697	722,292	+3,595	-3,593	+3,595
Subtotal, Grants to States	1,275,785	1,275,856	1,283,045	1,281,857	1,282,452	+6,667	-593	+595
Grants for Native Americans	26,398	26,398	26,398	26,398	26,398	---	---	--- D
Program Innovations	43,286	23,843	23,843	40,513	24,843	-18,443	+1,000	-15,670 D
Aging Network Support Activities	13,266	13,266	13,266	13,266	13,266	---	---	--- D
Alzheimer's Disease Demonstrations	11,786	11,786	11,786	11,786	11,786	---	---	--- D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
White House Conference on Aging	4,520	---	---	---	---	-4,520	---	---	D
Program Administration	18,301	17,879	17,879	17,879	17,879	-422	---	---	D
Total, Administration on Aging	1,393,342	1,369,028	1,376,217	1,391,699	1,376,624	-16,718	+407	-15,075	
OFFICE OF THE SECRETARY									
GENERAL DEPARTMENTAL MANAGEMENT:									
Federal Funds	179,837	172,643	172,643	182,810	175,643	-4,194	+3,000	-7,167	D
Trust Funds	5,804	5,851	5,851	5,851	5,851	+47	---	---	TF
Subtotal	185,641	178,494	178,494	188,661	181,494	-4,147	+3,000	-7,167	
Adolescent Family Life (Title XX)	30,900	30,742	30,742	30,742	30,742	-158	---	---	D
Minority health	50,518	47,236	47,236	60,980	57,236	+6,718	+10,000	-3,744	D
Office of women's health	28,818	28,715	28,715	28,715	28,715	-103	---	---	D
Minority HIV/AIDS	52,415	52,415	52,415	52,415	52,415	---	---	---	D
Afghanistan	5,952	5,952	5,952	5,952	5,952	---	---	---	D
Embryo adoption awareness campaign	992	992	992	2,000	2,000	+1,008	+1,008	---	D
IT Security and Innovation Fund	14,695	14,630	---	---	---	-14,695	---	---	D
Evaluation tap funding (ASPE) (NA)	(39,552)	(39,552)	(39,552)	(39,552)	(39,552)	---	---	---	NA
Total, General Departmental Management	369,931	359,176	344,546	369,465	358,554	-11,377	+14,008	-10,911	
Federal Funds	364,127	353,325	338,695	363,614	352,703	-11,424	+14,008	-10,911	
Trust Funds	5,804	5,851	5,851	5,851	5,851	+47	---	---	
Evaluation tap funding	(39,552)	(39,552)	(39,552)	(39,552)	(39,552)	---	---	---	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
OFFICE OF MEDICARE HEARINGS AND APPEALS	57,536	80,000	60,000	75,000	60,000	+2,464	---	-15,000	TF
OFFICE OF THE NATIONAL COORDINATOR FOR HEALTH INFORMATION TECHNOLOGY 6/	4,318	75,000	46,100	32,800	42,800	+38,482	-3,300	+10,000	B
Evaluation tap funding	(16,943)	(2,750)	(28,900)	(12,350)	(18,900)	(+1,957)	(-10,000)	(+6,550)	NA
Total, Health Information Tech. program level	(21,261)	(77,750)	(75,000)	(45,150)	(61,700)	(+40,439)	(-13,300)	(+16,550)	
OFFICE OF THE INSPECTOR GENERAL.									
Federal Funds	39,930	39,813	39,813	39,813	39,813	-117	---	---	D
HIPAA funding (NA)	(160,000)	(160,000)	(160,000)	(160,000)	(160,000)	---	---	---	NA
Total, Inspector General program level	(199,930)	(199,813)	(199,813)	(199,813)	(199,813)	(-117)	---	---	
OFFICE FOR CIVIL RIGHTS:									
Federal Funds	31,726	31,682	31,682	31,682	31,682	-44	---	---	D
Trust Funds	3,287	3,314	3,314	3,314	3,314	+27	---	---	TF
Total, Office for Civil Rights	35,013	34,996	34,996	34,996	34,996	-17	---	---	
MEDICAL BENEFITS FOR COMMISSIONED OFFICERS									
Retirement payments	241,294	256,193	256,193	256,193	256,193	+14,899	---	---	M
Survivors benefits	14,750	15,600	15,600	15,600	15,600	+850	---	---	M
Dependents' medical care	74,592	56,759	56,759	56,759	56,759	-17,833	---	---	M
Total, Medical benefits for Commissioned Officers	330,636	328,552	328,552	328,552	328,552	-2,084	---	---	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs.			
						FY 2005 Comparable	FY 2006 House	FY 2006 Senate	
PUBLIC HEALTH AND SOCIAL SERVICE EMERGENCY FUND									
HRSA homeland security activities 1/	514,618	510,500	---	---	---	-514,618	---	---	D
CDC homeland security activities 1/	1,622,757	1,768,723	---	---	---	-1,622,757	---	---	D
NIH homeland security activities 1/	47,021	97,021	---	---	---	-47,021	---	---	D
Office of the Secretary homeland security activities	63,821	83,589	63,589	63,589	63,589	-232	---	---	D
Other PHSSEF homeland security activities	109,198	120,000	120,000	---	120,000	+10,802	---	+120,000	D
Supplemental (P L 108-234) (emergency)	50,000	---	---	---	---	-50,000	---	---	D
Pandemic Flu (emergency)	---	---	---	8,095,000	---	---	---	-8,095,000	D
Total, PHSSEF	2,407,415	2,577,833	183,589	8,158,589	183,589	-2,223,826	---	-7,975,000	
Total, Office of the Secretary	3,244,779	3,495,370	1,037,596	9,039,215	1,048,304	-2,196,475	+10,708	-7,990,911	
Federal Funds	3,178,152	3,406,205	968,431	8,955,050	979,139	-2,199,013	+10,708	-7,975,911	
Trust Funds	66,627	89,165	69,165	84,165	69,165	+2,538	---	-15,000	
Total, Title II, Dept of Health & Human Services	379,200,874	473,484,522	473,893,464	484,265,742	474,144,909	+94,944,035	+251,445	-10,120,833	
Federal Funds	376,469,336	470,137,879	470,644,015	480,920,159	470,904,817	+94,435,481	+260,802	-10,015,342	
Current year	(308,367,946)	(403,035,254)	(403,530,190)	(413,817,534)	(403,802,192)	(+95,434,246)	(+272,002)	(-10,015,342)	
FY 2007	(68,101,390)	(67,102,625)	(67,113,825)	(67,102,625)	(67,102,625)	(-998,765)	(-11,200)	---	
Trust Funds	2,731,538	3,346,643	3,249,449	3,345,583	3,240,092	+508,554	-9,357	-105,491	

Title II Footnotes
1/ Funds provided for biodefense activities are reflected within HRSA, CDC, and NIH respectively.
2/ Includes Mine Safety and Health
3/ Funds provided in P L. 108-173, the 2003 Medicare Prescription Drug, Improvement & Modernization Act
4/ $1 billion available for fiscal years 2004-2005
5/ $250 million available for fiscal years 2005-2008
6/ An additional $50 million for Health IT within AHRQ

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
TITLE III - DEPARTMENT OF EDUCATION									
EDUCATION FOR THE DISADVANTAGED									
Grants to Local Educational Agencies (LEAs)									
Basic Grants:									
Advance from prior year	(1,883,584)	(1,383,584)	(1,383,584)	(1,383,584)	(1,383,584)	(-500,000)	---	---	NA
Forward funded	5,547,798	5,955,536	5,452,798	5,452,798	5,452,798	-95,000	---	---	D FF
Current funded	3,472	3,472	3,472	3,472	3,472	---	---	---	0
Subtotal, Basic grants current year approp	5,551,270	5,959,008	5,456,270	5,456,270	5,456,270	-95,000	---	---	
Subtotal, Basic grants total funds available	(7,434,854)	(7,342,592)	(6,839,854)	(6,839,854)	(6,839,854)	(-595,000)	---	---	
Basic Grants FY 2007 Advance	1,383,584	975,846	1,478,584	1,478,584	1,478,584	+95,000	---	---	D
Subtotal, Basic grants, program level	6,934,854	6,934,854	6,934,854	6,934,854	6,934,854	---	---	---	
Concentration Grants:									
Advance from prior year	(1,365,031)	(1,365,031)	(1,365,031)	(1,365,031)	(1,365,031)	---	---	---	NA
FY 2007 Advance	1,365,031	1,365,031	1,365,031	1,365,031	1,365,031	---	---	---	D
Subtotal, Concentration Grants program level	1,365,031	1,365,031	1,365,031	1,365,031	1,365,031	---	---	---	
Targeted Grants:									
Advance from prior year	(1,969,843)	(2,219,843)	(2,219,843)	(2,219,843)	(2,219,843)	(+250,000)	---	---	NA
FY 2007 Advance	2,219,843	2,822,581	2,269,843	2,269,843	2,269,843	+50,000	---	---	D
Subtotal, Targeted Grants program level	2,219,843	2,822,581	2,269,843	2,269,843	2,269,843	+50,000	---	---	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
Education Finance Incentive Grants:										
Advance from prior year	(1,969,843)	(2,219,843)	(2,219,843)	(2,219,843)	(2,219,843)	(+250,000)	---	---	NA	
FY 2007 Advance	2,219,843	2,219,843	2,269,843	2,269,843	2,269,843	+50,000	---	---	D	
Subtotal, Education Finance Incentive Grants	2,219,843	2,219,843	2,269,843	2,269,843	2,269,843	+50,000	---	---		
Subtotal, Grants to LEAs, program level	12,739,571	13,342,309	12,839,571	12,839,571	12,839,571	+100,000	---	---		
Even Start	225,095	---	200,000	---	100,000	-125,095	-100,000	+100,000	D	FF
Reading First:										
State Grants (forward funded)	846,600	1,041,600	1,041,600	1,041,600	1,041,600	+195,000	---	---	D	FF
Advance from prior year	(195,000)	(195,000)	(195,000)	(195,000)	(195,000)	---	---	---	NA	
FY 2007 Advance	195,000	---	---	---	---	-195,000	---	---	D	
Subtotal, Reading First State Grants	1,041,600	1,041,600	1,041,600	1,041,600	1,041,600	---	---	---		
Early Reading First	104,160	104,160	104,160	104,160	104,160	---	---	---	D	
Striving readers	24,800	200,000	30,000	35,000	30,000	+5,200	---	-5,000	D	
Literacy through School Libraries	19,683	19,683	19,683	19,683	19,683	---	---	---	D	
High School Intervention	---	1,240,000	---	---	---	---	---	---	D	FF
State Agency Programs:										
Migrant	390,428	390,428	390,428	395,228	390,428	---	---	-4,800	D	FF
Neglected and Delinquent/High Risk Youth	49,600	49,600	49,600	51,000	50,300	+700	+700	-700	D	FF
Subtotal, State Agency programs	440,028	440,028	440,028	446,228	440,728	+700	+700	-5,500		

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
Evaluation	9,424	9,424	9,424	9,424	9,424	---	---	---	D	
Comprehensive School Reform Demonstration	205,344	---	10,000	---	8,000	-197,344	-2,000	+8,000	D	FF
Migrant Education:										
High School Equivalency Program	18,737	18,737	18,737	21,587	18,737	---	---	-2,850	D	
College Assistance Migrant Program	15,532	15,532	15,532	15,532	15,532	---	---	---	D	
Subtotal, Migrant Education	34,269	34,269	34,269	37,119	34,269	---	---	-2,850		
Total, Education for the disadvantaged	14,843,974	16,431,473	14,728,735	14,532,785	14,627,435	-216,539	-101,300	+94,650		
Current Year	(7,460,673)	(9,048,172)	(7,345,434)	(7,149,484)	(7,244,134)	(-216,539)	(-101,300)	(+94,650)		
FY 2007	(7,383,301)	(7,383,301)	(7,383,301)	(7,383,301)	(7,383,301)	---	---	---		
Subtotal, forward funded	(7,264,865)	(8,677,164)	(7,144,426)	(6,940,626)	(7,043,126)	(-221,739)	(-101,300)	(+102,500)		
IMPACT AID										
Basic Support Payments	1,075,018	1,075,018	1,102,896	1,102,896	1,102,896	+27,878	---	---	D	
Payments for Children with Disabilities	49,966	49,966	49,966	49,966	49,966	---	---	---	D	
Facilities Maintenance (Sec. 8008)	7,838	7,838	5,000	5,000	5,000	-2,838	---	---	D	
Construction (Sec. 8007)	48,545	45,544	18,000	18,000	18,000	-30,545	---	---	D	
Payments for Federal Property (Sec. 8002)	62,496	62,496	65,000	65,000	65,000	+2,504	---	---	D	
Total, Impact aid	1,243,863	1,240,862	1,240,862	1,240,862	1,240,862	-3,001	---	---		

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
SCHOOL IMPROVEMENT PROGRAMS										
State Grants for Improving Teacher Quality	1,481,605	1,481,605	1,481,605	1,481,605	1,481,605	---	---	---	D	FF
Advance from prior year	(1,435,000)	(1,435,000)	(1,435,000)	(1,435,000)	(1,435,000)	---	---	---	NA	
FY 2007	1,435,000	1,435,000	1,435,000	1,435,000	1,435,000	---	---	---	D	
Subtotal, State Grants for Improving Teacher Quality, program level	(2,916,605)	(2,916,605)	(2,916,605)	(2,916,605)	(2,916,605)	---	---	---		
Early Childhood Educator Professional Development	14,695	14,696	14,696	14,696	14,696	+1	---	---	D	
Mathematics and Science Partnerships	178,560	269,000	190,000	178,560	184,000	+5,440	-6,000	+5,440	D	FF
State Grants for Innovative Education (Education Block Grant)	198,400	100,000	198,400	100,000	100,000	-98,400	-98,400	---	D	FF
Educational Technology State Grants	496,000	---	300,000	425,000	275,000	-221,000	-25,000	-150,000	D	FF
Supplemental Education Grants	18,183	18,183	18,183	18,183	18,183	---	---	---	D	
21st Century Community Learning Centers	991,077	991,077	991,077	991,077	991,077	---	---	---	D	FF
State Assessments/Enhanced Assessment Instruments	411,680	411,680	411,680	411,680	411,680	---	---	---	D	FF
High school assessments	---	250,000	---	---	---	---	---	---	D	FF
Javits gifted and talented education	11,022	---	---	11,022	9,693	-1,329	+9,693	-1,329	D	
Foreign language assistance	17,856	---	---	25,000	22,000	+4,144	+22,000	-3,000	D	
Education for Homeless Children and Youth	62,496	62,496	62,496	62,496	62,496	---	---	---	D	FF
Training and Advisory Services (Civil Rights)	7,185	7,185	7,185	7,185	7,185	---	---	---	D	
Education for Native Hawaiians	34,224	32,624	24,770	34,500	34,250	+26	+9,480	-250	D	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs FY 2005 Comparable	Conference vs FY 2006 House	Conference vs FY 2006 Senate		
Alaska Native Education Equity	34,224	31,224	31,224	34,500	34,250	+26	+3,026	-250	D	
Rural Education	170,624	170,624	170,624	170,624	170,624	---	---	---	D	FF
Comprehensive Centers	56,825	56,825	56,825	56,825	56,825	---	---	---	D	
Total, School improvement programs	5,619,656	5,332,219	5,393,765	5,457,953	5,308,564	-311,092	-85,201	-149,389		
Current Year	(4,184,656)	(3,897,219)	(3,958,765)	(4,022,953)	(3,873,564)	(-311,092)	(-85,201)	(-149,389)		
FY 2007	(1,435,000)	(1,435,000)	(1,435,000)	(1,435,000)	(1,435,000)	---	---	---		
Subtotal, forward funded	(3,990,442)	(3,736,482)	(3,805,882)	(3,821,042)	(3,676,482)	(-313,960)	(-129,400)	(-144,560)		
INDIAN EDUCATION										
Grants to Local Educational Agencies	95,166	96,294	96,294	96,294	96,294	+1,128	---	---	D	
Federal Programs:										
Special Programs for Indian Children	19,595	19,595	19,595	19,595	19,595	---	---	---	D	
National Activities	5,129	4,000	4,000	4,000	4,000	-1,129	---	---	D	
Subtotal, Federal Programs	24,724	23,595	23,595	23,595	23,595	-1,129	---	---		
Total, Indian Education	119,890	119,889	119,889	119,889	119,889	-1	---	---		
INNOVATION AND IMPROVEMENT										
Troops-to-Teachers	14,793	14,793	14,793	14,793	14,793	---	---	---	D	
Transition to Teaching	44,933	44,933	44,933	44,933	44,933	---	---	---	D	
National Writing Project	20,336	---	20,336	23,000	21,750	+1,414	+1,414	-1,250	D	
Teaching of Traditional American History	119,040	119,040	50,000	121,000	121,000	+1,960	+71,000	---	D	
School Leadership	14,880	---	14,880	15,000	14,880	---	---	-120	D	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs FY 2005 Comparable	Conference vs FY 2006 House	Conference vs FY 2006 Senate		
Advanced Credentialing	16,864	8,000	16,864	10,000	16,864	---	---	+6,864	D	
Charter Schools Grants	216,952	218,702	216,952	216,952	216,952	---	---	---	D	
Credit Enhancement for Charter School Facilities	36,981	36,981	36,981	---	36,981	---	---	+36,981	D	
Voluntary Public School Choice	26,543	26,543	26,543	26,543	26,543	---	---	---	D	
Magnet Schools Assistance	107,771	107,771	107,771	107,771	107,771	---	---	---	D	
Fund for the Improvement of Education (FIE)	414,079	156,296	27,000	387,424	160,111	-253,968	+133,111	-227,313	D	
Teacher Incentive Fund, Current funded	---	---	100,000	---	5,000	+5,000	-95,000	+5,000	D	
Teacher Incentive Fund, Forward funded	---	500,000	---	---	95,000	+95,000	+95,000	+95,000	D	FF
Ready-to-Learn television	23,312	23,312	---	25,000	24,500	+1,188	+24,500	-500	D	
Dropout Prevention Programs	4,930	---	---	4,900	4,900	-30	+4,900	---	D	
Close Up Fellowships	1,469	---	1,469	1,469	1,469	---	---	---	D	
Advanced Placement	29,760	51,500	30,000	40,000	32,500	+2,740	+2,500	-7,500	D	
Total, Innovation and Improvement	1,092,643	1,307,871	708,522	1,038,765	945,947	-146,696	+237,425	-92,838		
Subtotal, Forward funded	---	(500,000)	---	---	(95,000)	(+95,000)	(+95,000)	(+95,000)		
SAFE SCHOOLS AND CITIZENSHIP EDUCATION										
Safe and Drug Free Schools and Communities: State Grants, forward funded	437,381	---	400,000	300,000	350,000	-87,381	-50,000	+50,000	D	FF
National Programs	152,537	267,967	152,537	150,000	142,537	-10,000	-10,000	-7,463	D	
Alcohol Abuse Reduction	32,736	---	---	33,500	32,736	---	+32,736	-764	D	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs FY 2005 Comparable	Conference vs FY 2006 House	Conference vs FY 2006 Senate		
Mentoring Programs	49,307	49,307	49,307	49,307	49,307	---	---	---	D	
Character education	24,493	24,493	24,493	24,493	24,493	---	---	---	D	
Elementary and Secondary School Counseling	34,720	---	34,720	36,000	35,000	+280	+280	-1,000	D	
Carol M. White Physical Education Program	73,408	55,000	73,408	74,000	73,408	---	---	-592	D	
Civic Education	29,405	---	29,405	30,000	29,405	---	---	-595	D	
Total, Safe Schools and Citizenship Education	833,987	396,767	763,870	697,300	736,886	-97,101	-26,984	+39,586		
Current Year	(833,987)	(396,767)	(763,870)	(697,300)	(736,886)	(-97,101)	(-26,984)	(+39,586)		
Subtotal, Forward funded	(437,381)	---	(400,000)	(300,000)	(350,000)	(-87,381)	(-50,000)	(+50,000)		
ENGLISH LANGUAGE ACQUISITION										
Current funded	84,816	---	---	43,925	43,925	-40,891	+43,925	---	D	
Forward funded	590,949	675,765	675,765	639,490	631,840	+40,891	-43,925	-7,650	D	FF
Total, English Language Acquisition	675,765	675,765	675,765	683,415	675,765	---	---	-7,650		
SPECIAL EDUCATION										
State Grants:										
Grants to States Part B current year	5,176,746	4,893,746	5,326,746	5,265,546	5,265,546	+88,800	-61,200	---	D	FF
Part B advance from prior year	(5,413,000)	(5,413,000)	(5,413,000)	(5,413,000)	(5,413,000)	---	---	---	NA	
Grants to States Part B (FY 2007)	5,413,000	6,204,000	5,413,000	5,424,200	5,424,200	+11,200	+11,200	---	D	
Subtotal, Grants to States, program level	10,589,746	11,097,746	10,739,746	10,689,746	10,689,746	+100,000	-50,000	---		

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
Preschool Grants	384,597	384,597	384,597	384,597	384,597	---	---	---	D	FF
Grants for Infants and Families	440,808	440,808	440,808	444,308	440,808	---	---	-3,500	B	FF
Subtotal, State grants, program level	11,415,151	11,923,151	11,565,151	11,518,651	11,515,151	+100,000	-50,000	-3,500		
IDEA National Activities (current funded):										
State Improvement	50,653	---	50,653	50,653	50,653	---	---	---	B	FF
Special Education-Voc Rehab transition initiative	---	5,000	---	---	---	---	---	---	D	
Technical Assistance and Dissemination	52,396	49,397	49,397	50,397	49,397	-2,999	---	-1,000	D	
Personnel Preparation	90,626	90,626	90,626	90,626	90,626	---	---	---	D	
Parent Information Centers	25,964	25,964	25,964	25,964	25,964	---	---	---	D	
Technology and Media Services	38,816	31,992	31,992	38,816	38,816	---	+6,824	---	D	
Subtotal, IDEA special programs	258,455	202,979	248,632	256,456	255,456	-2,999	+6,824	-1,000		
Total, Special education	11,673,606	12,126,130	11,813,783	11,775,107	11,770,607	+97,001	-43,176	-4,500		
Current Year	(6,260,606)	(5,922,130)	(6,400,783)	(6,350,907)	(6,346,407)	(+85,801)	(-54,376)	(-4,500)		
FY 2007	(5,413,000)	(6,204,000)	(5,413,000)	(5,424,200)	(5,424,200)	(+11,200)	(+11,200)	---		
Subtotal, Forward funded	(6,052,804)	(5,719,151)	(6,202,804)	(6,145,104)	(6,141,604)	(+88,800)	(-61,200)	(-3,500)		
REHABILITATION SERVICES AND DISABILITY RESEARCH										
Vocational Rehabilitation State Grants	2,635,845	2,720,192	2,720,192	2,720,192	2,720,192	+84,347	---	---	M	
Client Assistance State grants	11,901	11,901	11,901	11,901	11,901	---	---	---	D	
Training	38,826	38,826	38,826	38,826	38,826	---	---	---	D	
Demonstration and training programs	25,607	6,577	6,577	6,577	6,577	-19,030	---	---	D	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Migrant and seasonal farmworkers	2,302	---	2,302	2,302	2,302	---	---	---	D
Recreational programs	2,543	---	2,543	2,543	2,543	---	---	---	D
Protection and advocacy of individual rights (PAIR)	16,656	16,656	16,656	16,656	16,656	---	---	---	D
Projects with industry	21,625	---	19,735	19,735	19,735	-1,890	---	---	D
Supported employment State grants	37,378	---	30,000	30,000	30,000	-7,378	---	---	D
Independent living:									
State grants	22,816	22,816	22,816	22,816	22,816	---	---	---	D
Centers	75,392	75,392	75,392	75,392	75,392	---	---	---	D
Services for older blind individuals	33,227	33,227	33,227	33,227	33,227	---	---	---	D
Subtotal, Independent living	131,435	131,435	131,435	131,435	131,435	---	---	---	
Program Improvement	843	843	843	843	843	---	---	---	D
Evaluation	1,488	1,488	1,488	1,488	1,488	---	---	---	D
Helen Keller Nations' Center for Deaf/Blind Youth and Adults	10,581	8,597	8,597	8,597	8,597	-1,984	---	---	D D
National Inst Disability and Rehab. Research (NIDRR)	107,783	107,783	107,783	107,783	107,783	---	---	---	D
Assistive Technology	29,760	15,000	29,760	34,760	30,760	+1,000	+1,000	-4,000	D
Subtotal, discretionary programs	438,729	339,106	408,446	413,446	409,446	-29,283	+1,000	-4,000	
Total, Rehabilitation services	3,074,574	3,059,298	3,128,638	3,133,638	3,129,638	+55,064	+1,000	-4,000	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate		
SPECIAL INSTITUTIONS FOR PERSONS WITH DISABILITIES										
AMERICAN PRINTING HOUSE FOR THE BLIND	16,864	16,864	17,000	18,500	17,750	+886	+750	-750	D	
NATIONAL TECHNICAL INSTITUTE FOR THE DEAF (NTID):										
Operations	53,672	53,672	55,337	56,479	55,908	+2,236	+571	-571	D	
Construction	1,672	800	800	800	800	-872	---	---	D	
Total, NTID	55,344	54,472	56,137	57,279	56,708	+1,364	+571	-571		
GALLAUDET UNIVERSITY	104,557	104,557	107,657	108,500	108,079	+3,522	+422	-421	D	
Total, Special Institutions for Persons with Disabilities	176,765	175,893	180,794	184,279	182,537	+5,772	+1,743	-1,742		
VOCATIONAL AND ADULT EDUCATION										
Vocational Education:										
Basic State Grants/Secondary & Technical Education State Grants, current funded	403,331	---	403,331	403,331	403,331	---	---	---	D	FF
Advance from prior year	(791,000)	(791,000)	(791,000)	(791,000)	(791,000)	---	---	---	NA	
FY 2007	791,000	---	791,000	791,000	791,000	---	---	---	D	
Subtotal, Basic State Grants, program level	1,194,331	---	1,194,331	1,194,331	1,194,331	---	---	---		
Tech-Prep Education State Grants	105,812	---	105,812	105,812	105,812	---	---	---	D	FF
National Programs	11,757	---	11,757	9,257	9,257	-2,500	-2,500	---	D	FF
Tech-Prep Education Demonstration	4,899	---	---	---	---	-4,899	---	---	D	FF

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs FY 2005 Comparable	Conference vs FY 2006 House	Conference vs FY 2006 Senate		
Occupational and Employment Information Program..	9,307	---	---	---	---	-9,307	---	---	D	FF
Subtotal, Vocational Education............	1,326,106	---	1,311,900	1,309,400	1,309,400	-16,706	-2,500	---		
Adult Education:										
State Grants/Adult basic and literacy education:										
State Grants, current funded..................	569,672	200,000	569,672	572,922	569,672	---	---	-3,250	D	FF
National Programs:										
National Leadership Activities...............	9,096	9,096	9,096	9,096	9,096	---	---	---	D	FF
National Institute for Literacy..............	6,638	6,638	6,638	6,638	6,638	---	---	---	D	FF
Subtotal, National programs..............	15,734	15,734	15,734	15,734	15,734	---	---	---		
Subtotal, Adult education...............	585,406	215,734	585,406	588,656	585,406	---	---	-3,250		
Smaller Learning Communities, current funded......	4,724	---	4,724	---	4,724	---	---	+4,724	D	
Smaller Learning Communities, forward funded..........	89,752	---	89,752	---	89,752	---	---	+89,752	D	FF
State Grants for Incarcerated Youth Offenders 1/	26,784	---	---	24,000	23,000	-3,784	+23,000	-1,000	D	FF
Community Technology Centers....................	4,960	---	---	4,960	---	-4,960	---	-4,960	D	
Total, Vocational and adult education	2,037,732	215,734	1,991,782	1,927,016	2,012,282	-25,450	+20,500	+85,266		
Current Year..................................	(1,246,732)	(215,734)	(1,200,782)	(1,136,016)	(1,221,282)	(-25,450)	(+20,500)	(+85,266)		
FY 2007..	(791,000)	---	(791,000)	(791,000)	(791,000)	---	---	---		
Subtotal, forward funded.........................	(1,237,048)	(215,734)	(1,196,058)	(1,131,056)	(1,216,558)	(-20,490)	(+20,500)	(+85,502)		
STUDENT FINANCIAL ASSISTANCE										
Pell Grants -- maximum grant (NA) 2/.............	(4,050)	(4,050)	(4,100)	(4,050)	(4,050)	---	(-50)	---	NA	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Pell Grants:									
Regular Program	12,364,997	13,199,000	13,383,000	13,177,000	13,177,000	+812,003	-206,000	---	D
Enhanced Pell grants for State scholars	---	33,000	---	---	---	---	---	---	D
Federal Supplemental Educational Opportunity Grants	778,720	778,720	778,720	804,763	778,720	---	---	-26,043	D
Federal Work Study	990,257	990,257	990,257	990,257	990,257	---	---	---	D
Federal Perkins Loans:									
Loan Cancellations	66,132	---	66,132	66,132	66,132	---	---	---	D
Presidential math and science scholars	---	50,000	---	---	---	---	---	---	D
LEAP program	65,643	---	65,643	65,643	65,643	---	---	---	D
Total, Student Financial Assistance	14,265,749	15,050,977	15,283,752	15,103,795	15,077,752	+812,003	-206,000	-26,043	
STUDENT AID ADMINISTRATION									
Administrative Costs	119,084	939,285	124,084	120,000	120,000	+916	-4,084	---	D
Fed Direct Student Loan Reclassification (Leg prop)	---	-825,000	---	---	---	---	---	---	D
LOANS FOR SHORT-TERM TRAINING	---	11,000	---	---	---	---	---	---	D
HIGHER EDUCATION									
Aid for Institutional Development:									
Strengthening Institutions	80,338	80,338	80,338	80,338	80,338	---	---	---	D
Hispanic Serving Institutions	95,106	95,873	95,873	100,823	95,873	+767	---	-4,950	D
Strengthening Historically Black Colleges (HBCUs)	238,576	240,500	240,500	240,500	240,500	+1,924	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Strengthening Historically Black Graduate Institutions	58,032	58,500	58,500	58,500	58,500	+468	---	---	D D
Strengthening Alaska Native and Native Hawaiian-Serving Institutions	11,904	6,500	6,500	11,904	11,904	---	+5,404	---	D D
Strengthening Tribal Colleges	23,808	23,808	23,808	23,808	23,808	---	---	---	D
Subtotal, Aid for Institutional development	507,764	505,519	505,519	515,873	510,923	+3,159	+5,404	-4,950	
International Education and Foreign Language:									
Domestic Programs	92,465	92,466	92,466	92,466	92,466	+1	---	---	D
Overseas Programs	12,737	12 737	12,737	12,737	12,737	---	---	---	D
Institute for International Public Policy	1,616	1,616	1,616	1,616	1,616	---	---	---	D
Subtotal, International Education & Foreign Lang	106,818	106,819	106,819	106,819	106,819	+1	---	---	
Fund for the Improvement of Postsec. Ed. (FIPSE)	162,108	22,211	49,211	157,211	22,211	-139,897	-27,000	-135,000	D
Minority Science and Engineering Improvement	8,818	8,818	8,818	8,818	8,818	---	---	---	D
Interest Subsidy Grants	1,488	---	---	---	---	-1,488	---	---	D
Tribally Controlled Postsec Voc/Tech Institutions	7,440	7,440	7,440	7,440	7,440	---	---	---	D
Federal TRIO Programs	836,543	369,390	836,543	841,543	836,543	---	---	-5,000	D
GEAR UP	306,488	---	306,488	306,488	306,488	---	---	---	D
Byrd Honors Scholarships	40,672	---	---	41,000	41,000	+328	+41,000	---	D
Javits Fellowships	9,797	9,797	9,797	9,797	9,797	---	---	---	D
Graduate Assistance in Areas of National Need	30,371	30,371	30,371	30,371	30,371	---	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Teacher Quality Enhancement Grants	68,337	---	58,000	58,000	60,500	-7,837	+2,500	+2,500	D
Child Care Access Means Parents in School	15,970	15,970	15,970	15,970	15,970	---	---	---	D
Community college access	---	125,000	---	---	---	---	---	---	D
Demonstration in Disabilities / Higher Education	6,944	---	---	6,944	6,944	---	+6,944	---	D
Underground Railroad Program	2,204	---	---	2,204	2,000	-204	+2,000	-204	D
GPRA data/HEA program evaluation	980	980	980	980	980	---	---	---	D
B.J. Stupak Olympic Scholarships	980	---	980	---	980	---	---	+980	D
Thurgood Marshall legal education opportunity program	2,976	---	---	3,500	2,976	---	+2,976	-524	D
Total, Higher education	2,116,698	1,202,315	1,936,936	2,112,958	1,970,760	-145,938	+33,824	-142,198	
HOWARD UNIVERSITY									
Academic Program	205,507	205,506	207,507	205,430	206,469	+962	-1,038	+1,039	D
Endowment Program	3,524	3,524	3,524	3,600	3,562	+38	+38	-38	D
Howard University Hospital	29,759	29,759	29,759	29,759	29,759	---	---	---	D
Total, Howard University	238,790	238,789	240,790	238,789	239,790	+1,000	-1,000	+1,001	
COLLEGE HOUSING AND ACADEMIC FACILITIES LOANS (CHAFL)	573	573	573	573	573	---	---	---	D
HBCU CAPITAL FINANCING PROGRAM -- Federal Adm	210	210	210	210	210	---	---	---	D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
INSTITUTE OF EDUCATION SCIENCES									
Research, development and dissemination	164,194	164,194	164,194	164,194	164,194	---	---	---	D
Statistics	90,931	90,931	90,931	90,931	90,931	---	---	---	D
Regional Educational Laboratories	66,132	---	66,132	66,131	66,131	-1	-1	---	D
Research in special education	83,104	72,566	72,566	72,566	72,566	-10,538	---	---	D
Special education studies and evaluations	---	10,000	10,000	10,000	10,000	+10,000	---	---	
Statewide data systems	24,800	24,800	24,800	24,800	24,800	---	---	---	D
Assessment:									
National Assessment	88,985	111,485	88,985	95,985	88,985	---	---	-7,000	D
National Assessment Governing Board	5,088	5,088	5,088	5,088	5,088	---	---	---	D
Subtotal, Assessment	94,073	116,573	94,073	101,073	94,073	---	---	-7,000	
Total, IES	523,234	479,064	522,696	529,695	522,695	-539	-1	-7,000	
DEPARTMENTAL MANAGEMENT									
PROGRAM ADMINISTRATION	419,280	418,992	410,612	411,992	415,303	-3,977	+4,691	+3,311	D
OFFICE FOR CIVIL RIGHTS	89,375	91,526	91,526	91,526	91,526	+2,151	---	---	D
OFFICE OF THE INSPECTOR GENERAL	47,327	49,408	49,000	49,408	49,000	+1,673	---	-408	D
Total, Departmental management	555,982	559,926	551,138	552,926	555,829	-153	+4,691	+2,903	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate
TITLE III GENERAL PROVISIONS								
Pell grant shortfall payoff 3/	---	---	4,300,000	4,300,000	4,300,000	+4,300,000	---	--- M
Total, Title III, Department of Education	59,212,775	58,939,040	63,706,584	63,749,975	63,538,021	+4,325,246	-168,563	-211,954
Current Year	(44,190,474)	(43,916,739)	(48,684,283)	(48,716,474)	(48,504,520)	(+4,314,046)	(-179,763)	(-211,954)
FY 2007	(15,022,301)	(15,022,301)	(15,022,301)	(15,033,501)	(15,033,501)	(+11,200)	(+11,200)	---

1/ Previously funded under Office of Safe and Drug Free Schools.

2/ An additional $100 was requested for the Pell maximum grant through HEA reauthorization proposal.

3/ Payoff of the Pell Grant shortfall requested as part of the President's HEA reauthorization proposal

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate
TITLE IV - RELATED AGENCIES								
COMMITTEE FOR PURCHASE FROM PEOPLE WHO ARE BLIND OR SEVERELY DISABLED	4,669	4,669	4,669	4,669	4,669	---	---	--- D
CORPORATION FOR NATIONAL AND COMMUNITY SERVICE								
DOMESTIC VOLUNTEER SERVICE PROGRAMS								
Volunteers in Service to America (VISTA)	94,240	96,428	96,428	96,428	96,428	+2,188	---	--- D
Volunteers in Homeland Security	4,960	---	---	---	---	-4,960	---	--- D
Teach for America	---	4,000	2,000	---	---	---	-2,000	--- D
National Senior Volunteer Corps:								
Foster Grandparents Program	111,424	112,058	112,058	112,058	112,058	+634	---	--- D
Senior Companion Program	45,905	47,438	47,438	47,438	47,438	+1,533	---	--- D
Retired Senior Volunteer Program	58,528	60,288	60,288	60,288	60,288	+1,760	---	--- D
Subtotal, Senior Volunteers	215,857	219,784	219,784	219,784	219,784	+3,927	---	---
Program Administration	38,688	39,750	39,750	---	---	-38,688	-39,750	--- D
Total, Domestic Volunteer Service Programs	353,745	359,962	357,962	316,212	316,212	-37,533	-41,750	---
National and Community Service Programs: 1/								
National service trust	142,848	146,000	146,000	149,000	140,000	-2,848	-6,000	-9,000 D
AmeriCorps grants	287,680	275,000	267,500	280,000	267,500	-20,180	---	-12,500 D
Innovation, assistance, and other activities	13,227	9,945	9,945	15,945	16,445	+3,218	+6,500	+500 D

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Evaluation	3,522	4,000	4,000	4,000	4,000	+478	---	---	D
National Civilian Community Corps	25,296	25,500	25,500	27,000	27,000	+1,704	+1,500	---	D
Learn and Serve America: K-12 and Higher Ed	42,656	40,000	37,500	42,656	37,500	-5,156	---	-5,156	D
State Commission Administrative Grants	11,904	12,642	12,642	12,642	12,642	+738	---	---	D
Points of Light Foundation	9,920	10,000	10,000	10,000	10,000	+80	---	---	D
America's Promise	4,464	5,000	5,000	5,000	5,000	+536	---	---	D
Subtotal, National & Community Service Programs	541,517	528,087	518,087	546,243	520,087	-21,430	+2,000	-26,156	
National and Community Service, Salaries & expenses 1/	25,792	27,000	27,000	66,750	66,750	+40,958	+39,750	---	
Office of Inspector General 1/	5,952	6,000	6,000	6,000	6,000	+48	---	---	
Total, Corp. for National and Community Service	927,006	921,049	909,049	935,205	909,049	-17,957	---	-26,156	
CORPORATION FOR PUBLIC BROADCASTING:									
FY 2008 (current) with FY 2007 comparable	400,000	---	400,000	400,000	400,000	---	---	---	D
FY 2007 advance with FY 2006 comparable (NA)	(400,000)	(400,000)	(400,000)	(400,000)	(400,000)	---	---	---	NA
FY 2006 advance with FY 2005 comparable (NA)	(386,880)	(400,000)	(400,000)	(400,000)	(400,000)	(+13,120)	---	---	NA
Rescission of FY 2006 funds (NA)	---	(-10,000)	---	---	---	---	---	---	NA
Subtotal, FY 2006 program level	386,880	390,000	400,000	400,000	400,000	+13,120	---	---	
Digitalization program, current funded 2/	39,387	---	---	35,000	30,000	-9,387	+30,000	-5,000	D
Previous appropriated funds (NA) 3/	---	(30,000)	(30,000)	---	---	---	(-30,000)	---	NA

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs FY 2005 Comparable	Conference vs FY 2006 House	Conference vs FY 2006 Senate	
Interconnection, current funded 2/	39,680	---	---	40,000	35,000	-4,680	+35,000	-5,000	D
Previous appropriated funds (NA) 3/	(75,000)	(52,000)	(52,000)	---	---	(-75,000)	(-52,000)	---	NA
Subtotal, FY 2006 appropriation	79,067	---	---	75,000	65,000	-14,067	+65,000	-10,000	
FEDERAL MEDIATION AND CONCILIATION SERVICE	44,439	42,331	42,331	43,439	43,031	-1,408	+700	-408	D
FEDERAL MINE SAFETY AND HEALTH REVIEW COMMISSION	7,809	7,809	7,809	7,809	7,809	---	---	---	D
INSTITUTE OF MUSEUM AND LIBRARY SERVICES	280,564	262,240	249,640	290,129	249,640	-30,924	---	-40,489	D
MEDICARE PAYMENT ADVISORY COMMISSION	9,899	10,168	10,168	10,168	10,168	+269	---	---	TF
NATIONAL COMMISSION ON LIBRARIES AND INFO SCIENCE	993	993	993	993	993	---	---	---	D
NATIONAL COUNCIL ON DISABILITY	3,344	2,800	2,800	3,344	3,144	-200	+344	-200	D
NATIONAL LABOR RELATIONS BOARD	249,860	252,268	252,268	252,268	252,268	+2,408	---	---	D
NATIONAL MEDIATION BOARD	11,628	11,628	11,628	11,628	11,628	---	---	---	D
OCCUPATIONAL SAFETY AND HEALTH REVIEW COMMISSION	10,510	10,510	10,510	10,510	10,510	---	---	---	D
RAILROAD RETIREMENT BOARD									
Dual Benefits Payments Account	107,136	97,000	97,000	97,000	97,000	-10,136	---	---	D
Less Income Tax Receipts on Dual Benefits	-7,936	-7,000	-7,000	-7,000	-7,000	+936	---	---	D
Subtotal, Dual Benefits	99,200	90,000	90,000	90,000	90,000	-9,200	---	---	
Federal Payment to the RR Retirement Account	150	150	150	150	150	---	---	---	M

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
Limitation on Administration	102,543	102,543	102,543	102,543	102,543	---	---	---	TF
Inspector General	7,196	7,196	7,196	7,196	7,196	---	---	---	TF
SOCIAL SECURITY ADMINISTRATION									
Payments to Social Security Trust Funds	20,454	20,470	20,470	20,470	20,470	+16	---	---	M
SUPPLEMENTAL SECURITY INCOME									
Federal benefit payments	38,109,000	37,487,174	37,487,174	37,487,174	37,487,174	-621,826	---	---	M
Beneficiary services	45,929	52,000	52,000	52,000	52,000	+6,071	---	---	M
Research and demonstration	35,000	27,000	27,000	27,000	27,000	-8,000	---	---	M
Administration	2,986,900	2,897,000	2,897,000	2,710,400	2,733,000	-253,900	-164,000	+22,600	D
Subtotal, SSI program level	41,176,829	40,463,174	40,463,174	40,276,574	40,299,174	-877,655	-164,000	+22,600	
Less funds advanced in prior year	-12,590,000	-10,930,000	-10,930,000	-10,930,000	-10,930,000	+1,660,000	---	---	M
Subtotal, regular SSI current year	28,586,829	29,533,174	29,533,174	29,346,574	29,369,174	+782,345	-164,000	+22,600	
Total, SSI, current request	28,586,829	29,533,174	29,533,174	29,346,574	29,369,174	+782,345	-164,000	+22,600	
New advance, 1st quarter, FY 2007	10,930,000	11,110,000	11,110,000	11,110,000	11,110,000	+180,000	---	---	M
Total, SSI program	39,516,829	40,643,174	40,643,174	40,456,574	40,479,174	+962,345	-164,000	+22,600	

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate	
LIMITATION ON ADMINISTRATIVE EXPENSES									
OASDI Trust Funds	4,359,033	4,665,400	4,817,600	4,604,000	4,640,400	+281,367	+22,800	+36,400	TF
HI/SMI Trust Funds	1,256,968	1,704,000	1,643,100	1,704,000	1,704,000	+447,032	+60,900	---	TF
Social Security Advisory Board	2,000	2,000	2,000	2,000	2,000	---	---	---	TF
SSI	2,986,900	2,897,000	2,897,000	2,710,400	2,733,000	-253,900	-164,000	+22,600	TF
Subtotal, regular LAE	8,604,901	9,268,400	9,159,700	9,020,400	9,079,400	+474,499	-80,300	+59,000	
Additional CDR Funding	---	---	---	189,000	---	---	---	-189,000	TF
SSI User Fee activities	124,000	119,000	119,000	119,000	119,000	-5,000	---	---	D
SSPA User Fee Activities	1,000	1,000	1,000	1,000	1,000	---	---	---	D
Total, Limitation on Administrative Expenses	8,729,901	9,388,400	9,279,700	9,329,400	9,199,400	+469,499	-80,300	-130,000	
MEDICARE REFORM FUNDING									NA
Medicare reform funding 4/ 5/ 6/	(446,054)	---	---	---	---	(-446,054)	---	---	NA
OFFICE OF INSPECTOR GENERAL									
Federal Funds	25,542	26,000	26,000	26,000	26,000	+458	---	---	D
Trust Funds	64,836	67,000	66,805	67,000	66,400	+1,564	-405	-600	TF
Total, Office of Inspector General	90,378	93,000	92,805	93,000	92,400	+2,022	-405	-600	
Adjustment: Trust fund transfers from general revenues	-2,986,900	-2,897,000	-2,897,000	-2,710,400	-2,733,000	+253,900	+164,000	-22,600	TF

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate
Total, Social Security Administration	45,370,662	47,248,044	47,139,149	47,189,044	47,058,444	+1,687,782	-80,705	-130,600
Federal funds	39,687,825	40,809,644	40,809,644	40,623,044	40,645,644	+957,819	-164,000	+22,600
Current year	(28,757,825)	(29,699,644)	(29,699,644)	(29,513,044)	(29,535,644)	(+777,819)	(-164,000)	(+22,600)
New advances, 1st quarter	(10,930,000)	(11,110,000)	(11,110,000)	(11,110,000)	(11,110,000)	(+180,000)	---	---
Trust funds	5,682,837	6,438,400	6,329,505	6,566,000	6,412,800	+729,963	+83,295	-153,200
Total, Title IV, Related Agencies	47,609,539	48,974,398	49,240,903	49,434,095	49,226,242	+1,616,703	-14,661	-207,853
Federal Funds	41,807,064	42,416,091	42,791,491	42,748,188	42,693,535	+886,471	-97,956	-54,653
Current Year	(30,477,064)	(31,306,091)	(31,281,491)	(31,238,188)	(31,183,535)	(+706,471)	(-97,956)	(-54,653)
FY 2007 Advance	(10,930,000)	(11,110,000)	(11,110,000)	(11,110,000)	(11,110,000)	(+180,000)	---	---
FY 2008 Advance	(400,000)	---	(400,000)	(400,000)	(400,000)	---	---	---
Trust Funds	5,802,475	6,558,307	6,449,412	6,685,907	6,532,707	+730,232	+83,295	-153,200

Title IV Footnotes:

1/ FY 2006 House jurisdiction change--account moved from former VA-HUD Appropriations

2/ Current funded

3/ Requested funds for these activities are from previously appropriated funds

4/ Funds provided in P.L. 108-173, the 2003 Medicare Prescription Drug, Improvement & Modernization Act

5/ Available in fiscal years 2004 and 2005

6/ Funds required to continue implementing this Act are provided under the regular LAE account

SUMMARY

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate
Federal Funds	488,978,653	582,509,460	588,233,397	598,769,967	588,270,213	+99,291,560	+36,816	-10,499,754
Current year	(391,980,962)	(486,762,534)	(492,050,271)	(502,586,841)	(492,087,087)	(+100,106,125)	(+36,816)	(-10,499,754)
2007 advance	(96,597,691)	(95,746,926)	(95,783,126)	(95,783,126)	(95,783,126)	(-814,565)	---	---
2008 advance	(400,000)	---	(400,000)	(400,000)	(400,000)	---	---	---
Trust Funds	12,366,339	13,612,965	13,408,876	13,636,967	13,403,088	+1,036,749	-5,788	-233,879
Grand Total	501,344,992	596,122,425	601,642,273	612,406,934	601,673,301	+100,328,309	+31,028	-10,733,633

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate
RECAP								
Mandatory, total in bill	357,872,275	454,443,213	458,663,213	458,743,213	458,663,213	+100,790,938	---	-80,000
Less advances for subsequent years	-77,712,390	-76,897,825	-76,897,825	-76,897,825	-76,897,825	+814,565	---	---
Plus advances provided in prior years	74,061,975	77,712,390	77,712,390	77,712,390	77,712,390	+3,650,415	---	---
Total, mandatory, current year	354,221,860	455,257,778	459,477,778	459,557,778	459,477,778	+105,255,918	---	-80,000
Discretionary, total in bill	143,472,717	141,679,212	142,979,060	153,663,721	143,010,088	-462,629	+31,028	-10,653,633
Less advances for subsequent years	-19,285,301	-18,849,101	-19,285,301	-19,285,301	-19,285,301	---	---	---
Plus advances provided in prior years	19,241,277	19,285,301	19,285,301	19,285,301	19,285,301	+44,024	---	---
Subtotal, Discretionary, current year	143,428,693	142,115,412	142,979,060	153,663,721	143,010,088	-418,605	+31,028	-10,653,633
Scorekeeping adjustments:								
SSI User Fee Collection	-124,000	-119,000	-119,000	-119,000	-119,000	+5,000	---	---
SSI date shift	---	---	---	-3,360,000	---	---	---	+3,360,000
Vaccines for children legislative proposal	---	-100,000	---	---	---	---	---	---
Smallpox vaccine injury compensation (rescission)	-20,000	---	---	-10,000	-10,000	+10,000	-10,000	---
Medical facilities guarantee and loan fund (rescission)	-66,000	---	---	---	---	+66,000	---	---
Health professions student loan (rescission)	-19,000	-21,000	-15,912	-15,912	-26,500	-7,500	-10,588	-10,588
MMA Health Care infrastructure improvement program (P.L. 109-13) (rescission)	-58,000	---	---	---	---	+58,000	---	---
Adoption incentive (rescission)	---	---	---	---	-22,500	-22,500	-22,500	-22,500
Title V Chapter III (P.L. 109-13) (rescission)	-10,000	---	---	---	---	+10,000	---	---
H-1B (rescission)	-100,000	---	---	---	---	+100,000	---	---

LABOR-HEALTH and HUMAN SERVICES-EDUCATION AND RELATED AGENCIES
(Amounts in thousands)

	FY 2005 Comparable	FY 2006 Request	House	Senate	Conference	Conference vs. FY 2005 Comparable	Conference vs. FY 2006 House	Conference vs. FY 2006 Senate
Job Corps construction FY06 advance (rescission)	---	-25,000	---	---	---	---	---	---
National Emergency Grant (healthcare premium) (rescission)	---	-20,000	-20,000	-20,000	-20,000	-20,000	---	---
Workers compensation (NY 9-11) (rescission)	---	-5,000	-5,000	-5,000	-5,000	-5,000	---	---
Workers compensation (9-11) (rescission)	---	-120,000	-120,000	-120,000	-120,000	-120,000	---	---
Community College initiative (rescission)	---	---	-125,000	---	-125,000	-125,000	---	-125,000
75 percent rule scoring	9,000	---	---	---	---	-9,000	---	---
Medicare eligible accruals (permanent, indefinite)	---	33,912	33,912	33,912	33,912	+33,912	---	---
ED drugs limitation	---	---	-95,000	-90,000	-90,000	-90,000	+5,000	---
CPB (FY 2006 Rescission)	---	-10,000	---	---	---	---	---	---
Limitation rule for Power Mobility Devices	---	---	---	-1,000	8,000	+8,000	+8,000	+9,000
Limitation on HHS Consulting Services	---	---	---	-4,500	---	---	---	+4,500
Less emergency appropriations	-362,600	---	---	-8,414,100	---	+362,600	---	+8,414,100
Total, discretionary	142,678,093	141,729,324	142,513,060	141,538,121	142,514,000	-164,093	+940	+975,879
Adjustment to balance with 2005 enacted	-1,038	---	---	---	---	+1,038	---	---
Total, discretionary (FY 2005 enacted)	142,677,055	141,729,324	142,513,060	141,538,121	142,514,000	-163,055	+940	+975,879
Grand total, current year (incl FY 2005 comparable)	496,899,953	596,987,102	601,990,838	601,095,899	601,991,778	+105,091,825	+940	+895,879
Grand total, current year (incl FY 2005 enacted)	496,898,915	596,987,102	601,990,838	601,095,899	601,991,778	+105,092,863	+940	+895,879

CONFERENCE TOTAL—WITH COMPARISONS

The total new budget (obligational) authority for the fiscal year 2006 recommended by the Committee of Conference, with comparisons to the fiscal year 2005 amount, the 2006 budget estimates, and the House and Senate bills for 2006 follow:

(In thousands of dollars)

New budget (obligational) authority, fiscal year 2005	$501,344,992
Budget estimates of new (obligational) authority, fiscal year 2006	596,122,425
House bill, fiscal year 2006	601,642,273
Senate bill, fiscal year 2006	612,406,934
Conference agreement, fiscal year 2006	601,673,301
Conference agreement compared with:	
New budget (obligational) authority, fiscal year 2005	+100,328,309
Budget estimates of new (obligational) authority, fiscal year 2006	+5,550,876
House bill, fiscal year 2006	+31,028
Senate bill, fiscal year 2006	−10,733,633

RALPH REGULA,
ERNEST ISTOOK, Jr.,
ROGER F. WICKER,
ANNE M. NORTHUP,
RANDY "DUKE" CUNNINGHAM,
KAY GRANGER,
JOHN E. PETERSON,
DON SHERWOOD,
DAVE WELDON,
JIM WALSH,
JERRY LEWIS,
Managers on the Part of the House.

ARLEN SPECTER,
THAD COCHRAN,
JUDD GREGG,
KAY BAILEY HUTCHISON,
LARRY E. CRAIG,
TED STEVENS,
MIKE DEWINE,
RICHARD SHELBY,
PETE V. DOMENICI,
Managers on the Part of the Senate.

PEAK OIL

The SPEAKER pro tempore (Mr. JINDAL). Under the Speaker's announced policy of January 4, 2005, the gentleman from Maryland (Mr. BARTLETT) is recognized for 60 minutes.

Mr. BARTLETT of Maryland. Mr. Speaker, I have in front of me a document called Peaking of World Oil Production, Impacts, Mitigation and Risk Management. As I look at the second page, it says this report was prepared as an account of work sponsored by an agency of the United States Government. That agency was the Department of Energy, and the organization that was funded to do this work was SAIC, a very prestigious, scientific organization.

Dr. Robert Hirsch was a project leader. He was supported by Roger Bezdek and Robert Wendling in this very important work. It was submitted in February of 2005.

What I would like to do this evening is to go through the salient points of this so-called Hirsch Report. Remember, it was funded by the Department of Energy, and it was performed by a very prestigious scientific organization, SAIC.

I have here a quote from page four of this report. This is so important, I have highlighted a couple of phrases, but I would like to read these couple of statements here, because they are so important. The peaking of world oil production presents the United States and the world with an unprecedented risk management problem. What that means is that never in history has there been a risk management problem like this. It is unprecedented, they say.

As peaking is approached, liquid fuel prices and price volatility will increase dramatically and without timely mitigation. The economic, social and political costs will be unprecedented.

Mr. Speaker, what that means is that never in history has there been an occasion when economic, social and political costs will be this big. Viable, mitigation options exist on both the supply and demand sides, but to have substantial impact, they must be initiated more than a decade in advance of peaking.

Dealing with world oil production, peaking will be extremely complex, involve literally trillions of dollars. Now, around here, we talk a lot about billions of dollars, but seldom about trillions of dollars. This will cost trillions of dollars and require many years of intense effort.

Mr. Speaker, what are they talking about? What is this oil peaking that they are talking about that is going to present unprecedented risk-management problems, and have economic, social and political costs, which will be unprecedented? What we need to do to put in this in context to understand it is to go back about 60 years, and our next chart helps us do that?

This begins with the work of a Shell oil scientist by the name of M. King Hubbert. M. King Hubbert worked during the 1940s and 1950s. He was observing the exploitation and the exhaustion of oil fields. He noticed that each oil field followed what we call a bell curve, goes up steeper and steeper, finally reaches a peek, and then down the other side.

He saw this in field after field. He rationalized if he could add up all the fields in the United States and guess as to how many more we were going to find, he could then estimate when the United States would peak in oil production. He made that estimate in 1956, and he said that the United States would peak in oil production about 1970.

As it turned out, he was right on target. You can see here from the graph, this peak in 1970. The smooth curve here is his prediction. The more ragged curve, or the actual data points, and you see that right on target, it peaked in 1970.

The red curve here is the curve for the Soviet Union, now Russia. They kind of fell apart with their dissolution, and they did not reach their potential, so there is going to be a second kind of a much lower short peak here. Russia has already peaked in their oil production.

Mr. Speaker, more than half of all of the oil-producing countries in the world, some 25, I believe, have already peaked. Their peak oil production is already behind them. The next chart shows a schematic that helps us understand this, perhaps a little better.

This represents a 2 percent exponential growth in oil. Now, all the oil that was produced was used. For the first part of the curve the production of oil and the use of oil are the same thing. Obviously, you are not going to produce oil that you do not use.

If you need more oil, and it can be produced, your price indicators will mean that more oil is going to be produced. So for this part of the curve, we have used the oil as fast as we produced it.

At some point in time, it will peak. It peaked for the United States in 1970. M. King Hubbert said it would peak for the world about now. Actually, he said a few years earlier, but he could not have known of the Arab oil embargo and the world oil price hike spikes which sent the world into a recession, which reduced the demand for oil. That moved the peak a little forward. We believe, many observers believe, that we are peaking about now, or will shortly be peaking.

Mr. Speaker, I hope that the message that is in this document, peaking of world oil production, and the things that I am going to say, I hope they are wrong. Because if they are not wrong, we in United States and the world is in for a very rough ride. By the way, we can make this a very sharp peak or a very gradual one, by simply changing the scale on the abscissa and the ordinate. This represents a 2 percent increase in oil use.

It is 2 percent of what it was last year, so it keeps growing, it grows what we call exponentially. With a 2 percent growth, it doubles in 35 years. Since this point is half of that point on the ordinate scale, this represents 35 years.

□ 2100

So you see that some years before we actually reach peak, and we believe that we may be here at this point, but a few years before you reach peak, you actually are not producing as much as you would like to use. Just a very few years ago in 1998, I think, oil was under $10 a barrel, and now it was about $60 a barrel. So, clearly, there is not as much there as the world would like to use; and because there is not as much there, there is a higher demand for it, and so the price goes up.

We will be talking this evening about filling the gap. This is the gap we are talking about filling here. What are we going to do now that we have reached this point? There are two things we can do. One of them is simply reduce our consumption of oil so that there is enough to go around, and the other is to try to find some other source of energy so we can fill this growing gap; and the further out we go, you will see the bigger the gap gets. We will be talking about that a little later.

The next chart is an interesting one that shows the relationship between the oil we found and the oil we used. This is the difference between the oil we found and the oil we used. You see this is about the year 1980. Up until about 1980, every year we found more oil than we used. So we were accumulating an excess. This much excess was accumulated. From about 1980 on, we did not find as much oil as we used; and so to have enough oil available, we had to now start pumping our reserves. And so since 1980 our reserves have been going down and down because we have never, I think, in any year since about 1980 found as much oil as we pumped.

The next chart shows these relationships in a somewhat different way that may be a little easier to understand. Here we have these bars and they represent, you see that was very similar to the previous chart, and this shows the actual discovery of oil. This does not subtract what we use from what we found because we have a second curve here, which is the use curve, and you will see this black curve here. That is the amount of oil that we have used.

Now, it is very obvious that you cannot pump oil that you have not found. So if you kind of round this curve out and you get a curve here that has an area under it, that is the amount of oil that we can use. The amount that we have used is under this curve here. And since about 1980 we have had to make up for what we did not find by borrowing from that which we had found. So you are going to have to borrow some of this and fill in this space here to get us to where we are now in 2005.

Where do we go from here? Well, where we go from here is going to be determined by how much of this oil that we found is still available and how much more oil we are going to find.

Now, the people who put this graph together guessed that the oil could keep going down because it has been going down for 20 years. See the slope down for about 20 years? They guessed it would keep on going down at that slope. So the amount of oil we can use in the future is going to be the difference between what we find, which they think is going to be less and less each year which I am sure it will be because it has been for the last two decades, and the amount of oil that we use, and that will be made up by the oil that is here.

So you can draw very many curves that do not have you falling off a cliff. And clearly the wells do not perform the way that you pump full bore and you get the last drop out and you do not get any the next day. It tapers off little by little as you come down what is called Hubbert's peak.

The next chart is from the Hirsch Report, and in this chart he has simplified Hubbert's peak. And for purposes of their presentation here, they have depicted Hubbert's peak as not being the bell curve that we looked at before, but as simply being a slope up and they slope down. And they will tell you in the report that they have simplified that because of the points that they want to make later.

The bottom of the chart here shows something very interesting. It shows our production of oil in our country peaking in 1970. After 1970, we have developed some really good techniques for improving the discovery of oil and the recovery of oil.

Mr. Speaker, really big increases in our technologies for both finding oil and for pumping it, enhanced recovery of oil, did not make any appreciable difference in the amount of oil that we were able to pump. This points to the fact that the geology really determines how much oil we are going to get in the enhanced recovery techniques, and the field exploration techniques do not make much difference.

Another thing that does not make much difference at all is price. We are falling down the slope here. Notice what happened to price. It went way up. That ought to have resulted, if you think the marketplace works, that ought to have resulted in a lot more oil production in our country. It did not.

You see, nothing really happened to the oil production when the price really spiked here. But what this graph does is to make the point that increased technologies and increased price will have little effect on the production of oil from a field that has already peaked and you are going down slope.

The next chart is an interesting one, and what this shows is kind of what was shown in the past one, perhaps in a more dramatic way. By 1980 we were already 10 years down the other side of what was called Hubbert's peak, and the Reagan administration noted that and they knew they needed to have more oil. Their solution to that was to incent our oil companies to go out and drill more, so they provided some tax incentives for that, and it really worked because this is the drill here you see. And it really spiked after 1980; they drilled a lot more wells.

But notice this relationship between the oil that you have found and the oil you are pumping; and in spite of all that drilling, we went negative. What that shows is if it is not there, you cannot drill it. No matter how many holes you drill, you will not get more oil if there is not more oil there to get.

The next chart is kind of a blow-up of the situation in our country since 1935 to roughly the present. This shows where we have gotten our oil from. It shows us peaking in 1970. Oil from Texas, the rest of the United States, the natural gas liquids, and then the big discovery of oil in Prudhoe Bay. We were already slipping down Hubbert's peak. There was a little blip there as we slipped down Hubbert's peak. But notice this source where we are getting 25 percent of our oil really did not stop us from slipping down Hubbert's peak.

Notice the yellow there, Mr. Speaker. That is the fabled Gulf of Mexico oil discovery. You may remember that. A number of years ago that was supposed to solve our problem. It was oil for the foreseeable future. That is all the contribution it made.

Now, we clearly have been using more oil since we peaked, and we have been getting it from overseas; and we now get nearly two-thirds of our oil from overseas because, Mr. Speaker, we have only about 2 percent of the known reserves of oil in the world. We use about 25 percent of the world's oil, and we import about two-thirds of what we use.

The next chart shows the estimate of a number of authorities on when peaking is going to occur. Here we have the dates, and this first block of dates are those between now and 2010. That is pretty soon. You see the individuals there. Several of those I know personally. Colin Campbell, I have talked with him on the phone from over in the British Isles. Matt Simmons is the personal energy adviser of the President, president and CEO of perhaps the largest energy investment bank in the world. Dr. Deffeyes is a professor at Princeton University who has written a book on this subject, "The End of Oil," I think, "The View From Hubbert's Peak" is what he calls it. Then we have a few who think the peak is going to be between 2010 and 2015. And then there are three that say that it is going to be there at notice.

Mr. Speaker, there is no argument that there will be a peak except for the last one here. Lynch, who believes it will be a long plateau. He is not arguing that it will not peak, but he thinks it will not reach the top and fall off. It will be a long plateau.

I would like to note, Mr. Speaker, that the economists here tend to be those that think that peak will be sometime in the future. What economists do is simply predict the future from the past. They are very good at studying the past. And if, in fact, there are inexhaustible resources, it is very logical that you ought to be able to predict the future from the past. But if, in fact, there is a limited supply of oil, then you may not be able to predict the future from the past. But notice the big group of experts, and this is who they work for and what they are, and notice several of them are retired.

We find when a military person takes off their uniform, we sometimes get kind of different testimony from them than when they wear the uniform. These people do not have any company they are accountable to. They are retired. For people who are just retired, Mr. Speaker, you tend to get very honest testimony from them. So you know who they are and who they work for and they are very credible people and they are pretty much all saying that peaking is pretty soon.

The next chart shows how we use the oil that we get. The big blue on top here is transportation. That is where we use about 70 percent of it. The yellow is industrial. The purple down here is electric power, and then what we use in our homes, residential, and then commercial at the very bottom.

The important part of this is the transportation, important for two reasons. One is that it is the biggest chunk of it and, secondly, it is that use of oil that cannot be readily replaced by something else. In industry they can use energy from many other sources for much that they do; but for transportation, we are pretty much stuck with oil.

The next chart shows us some of the characteristics of the fuels that we use and this is talking about energy density, how many gigajoules you get per ton. Gigajoules is a technical term. It simply means BTUs or calories or heat or energy that you get from a given volume of this. We tend to think of it in gallons or barrels, 42 gallons in a barrel by the way.

Here you see that crude oil is here at 449, and then diesel automotive as you start to refine it you get higher and higher densities.

Now, as we run down Hubbert's peak and start running low on oil and still want to drive our cars and our planes and so forth, we will have to find a substitute. Notice that the substitutes here have very much less energy density. I would like to spend just a moment, Mr. Speaker, talking about energy density because it is really very important and presents a big challenge to us.

One barrel of oil, that is 42 gallons of oil, the refined product of which you can buy now for just a tenth of a penny under $2 at some stores now. So you can buy it for well less than $100. That will buy you the work output of 12 people working all year for you.

If you have some trouble getting your arms around that, Mr. Speaker, just imagine how far that gallon of gas or diesel fuel takes your pickup truck or your SUV or your car. By the way, that is still cheaper than water in the grocery store if you are buying it in the small bottles.

Now, you could pull your car or truck or SUV as far as that gallon of fuel takes you, how long would it take you to pull your truck there. Obviously, you cannot pull it, but you can use a come-along and guard rails and trees and so forth, and by and by you will get it there. But it would take you quite a while to take it the distance that that one gallon takes you.

Another little example of this energy density and the tremendous challenge we face of finding something that is equivalent to this: If you work all day real hard in your yard this weekend, I will get more work out of an electric motor with less than 25 cents worth of electricity.

□ 2115

That may be kind of humbling to recognize that in terms of fossil fuel energy we are worth less than 25 cents a day, but this incredible wealth that we found under the ground, how fast we have used it. How little concern we show for the future.

The next chart addresses the transportation challenge we have. Obviously, the oil will go further if we are using less of it, but what he says here is that we cannot conceive of any affordable, government-sponsored crash program to accelerate normal replacement schedules for our cars and trucks. The average car is on the road I think 16 years. That is the median. That does not mean it is the average because the last one is 18 years, that is the middle one, and the average light truck, about the same distance, 16 or 17 years. The average big truck, heavy truck, is on the road for 28 years.

So if you want to buy a Prius or an Insight or one of these hybrid cars now, we ought to be doing that. I am not discouraging us doing that. That will make a very small dent in oil use because the things that were bought just this year are going to be on the road 16 or 17 years for cars and light trucks and 28 years median for heavy trucks. So it will take a long time.

If you want to dramatically reduce oil use, you have got to get these gas hogs off the road and get some fuel efficient things on the road. What they are saying is they cannot conceive of any affordable here, and that is the key word here. Obviously, we could bribe all the people in the country to take their SUVs to the junkyard and give them enough money to get a new hybrid. That would not be affordable. That is the key word here.

What he is pointing out here is it is going take a long time to make this change from our present gas guzzling SUVs, big cars and trucks and so forth and go to these hybrids.

The next chart shows us the contribution that enhanced oil recovery can make. We have some really good techniques today, and some people will tell you do not worry. We are really good at getting oil out of the ground now, so do not worry about this peak. What this shows is it does not affect the peak. Indeed, if you think about it, it should not affect the peak, because up until this peak, the oil comes out of the ground easily. You do not need the enhanced recovery techniques to get it out because it comes out very easily anyhow. When you really need them is on the down slope, and this shows you get a little more oil out on the down slope.

The next chart shows a depiction that the authors use, and this is really a simplification. They will tell you that this should be a growth curve here, an exponential curve, but they are making it a wedge because it helps them to make their points. And this is a schematic one for any substitute that you want to have.

It takes awhile before you get anything out of it. You have got to build the plant and plan, and then you start producing some of whatever this is. The next chart will show us the variety of things that it is, and the longer you have, the more and more of it you produce a day, present this thing as a wedge.

The next chart shows us an addition of some of wedges that you might use to have more liquid fuels available.

Enhanced oil recovery, we looked at that. That will produce something.

Coal liquids. When I was a little boy, in our lamps we used coal oil. By and by that was substituted by kerosene, and Hitler ran his military in World War II on oil made from coal because he did not have any oil and we were not going to let him get any. So he had to make it from coal. They had a lot of coal.

Heavy oil. Heavy oil is what determines why it is heavy. It will most likely sink in water some of it. All the rest of oil floats on water, and some of it is what is called sour. When you see that sour crude, light sweet crude is the most valuable. Sour crude has a lot of sulfur in it. You have to take that sulfur out. You are really polluting the air.

Then gas to liquids, and then he shows something about efficient vehicles. It takes a while before you get this in the fleet, and notice in 15 years the trifling contribution that efficient vehicles have made.

The next chart is a composite here that makes a salient point that they make in their paper, and here they look at three different scenarios of when you start to address the problem and the consequences of that.

The first of these, you start your crash program when you peak out. You say, gee, we cannot get as much oil out of the ground today as we got yesterday. That will not literally be true. It will be this month compared to last month because day-to-day is probably not going to make that big a difference.

If you wait until you see peak oil, what they are saying here is that run as fast as you can. With mitigation, you are still going to have a big shortfall.

By the way, I would like to refer back to their simplification of the bell curve. They simply use a slope up and a slope down, and what they are saying here, when you reach peak oil, you would really like to keep on going and use more and more. This really, of course, is an exponential curve going up, but they show here for simplicity a straight line and what they are trying to do is fill the gap. I am going to come back to that in a couple of minutes, but I am not sure we ought to be trying to fill the gap.

The second curve here represents what happens if you anticipate it by 10 years, and notice that most of the people in that former chart thought you were going to have peak oil a lot sooner than 10 years from now, but if you have 10 years and start the mitigation, you are still going to have a shortfall. To have no economic consequences, they say they are going to have to start 20 years ahead.

Now, almost nobody believes that we have 20 years ahead. So obviously, if we are trying to fill that gap, there is going to be some shortfall because it is either upon us or will shortly be upon us.

I would like to talk for just a moment about whether or not we ought to try to fill that gap. For two reasons I think that maybe we ought to be considering that that is not really a good idea.

One is there is a pretty widespread belief that the warm weather we are having and the more frequent and intense hurricanes, the melting of the icecaps and the glaciers may be due to global warming that may have resulted from an increase in greenhouse gases which are produced by burning these fossil fuels. Now, if that is true and you believe that is going to have a negative effect on our environment, our climate and so forth, which will ultimately affect us economically, then I am wondering why you would want to have more of this by trying to fill that gap.

Let me give you another maybe even better reason that you should not be thinking about filling the gap.

There is an old saying that if you are in a hole, stop digging. Now, a corollary to that would be, in this case, that if you are climbing a cliff, a hill, where you will come to a precipice and by and by fall off and have to uncomfortably go down the other side, the higher you climb, the further you have to fall. That is very germane to this because the more oil that we use, the more energy that we use, the higher we will have climbed up that cliff and the steeper will be the descent down the other side.

The next chart, and you should notice, Mr. Speaker, the page where you can find these on each one. This is from page 64 of their report, and let me read this because this is really significant and I suspect that not too many people know this.

World oil peaking is going to happen. That is a certainty. I think that everybody understands that oil cannot be forever. There is not an inexhaustible supply of oil. It is not going to last to forever. What does that mean?

They think that it means that we will shortly peak in oil production. I would like to emphasize that peaking does not mean that we are going to run out of oil. We will not run out of oil for a long time, maybe 100 years, but what we will have run out of is readily available, high quality oil that can be produced at the rate we would like to use it. It is oil peaking. It is not running out of oil.

A hundred years from now there will be some oil, some gas, some coal, that we can find in ever-decreasing amounts at ever-increasing cost. It will not be very much in 100 years, but there will still be some.

"World production of conventional oil will reach a maximum and decline thereafter. That maximum is called the peak."

I would suggest, Mr. Speaker, that one can find a lot of information on this if you simply do a Google search for peak oil. Now, you get essentially the same information if you do a Google search for Hubbert's peak but peak oil will do. That is maybe easier to remember. You will find a lot of articles there relative to this.

"A number of competent forecasters," and we looked at that chart a few minutes ago, "project peaking within a decade; others contend it will occur later. Prediction of the peaking is extremely difficult because of" a number of things, "geological complexities."

Let me pause just a moment to talk a little bit about the geology here and why you do not find oil everywhere.

We believe that a very long time ago there were warm seas, and at that time, the world was warm up in northern Alaska and Siberia because there were warm seas there. In every sea there was life there that grew like algae on your pond. At the end of the season, it sank to the bottom, and then dirt was washed off of the adjoining hills and through a very long time that built up large deposits at the bottom of these warm seas.

Then the tectonic plates of the earth separated. As you know, Mr. Speaker, there are tectonic plates that ride on the molten core of the Earth, and then the crust of the Earth is above those. These separated somewhat so that the bottom of these ancient warm seas were submerged, covered by a lot of rock and dirt. They were warm enough to the molten core of the Earth that it was just the right amount of heat. They were under enough pressure, and with time in this pressure cooker, this organic material was converted to oil and gas. Gas is the volatile part of this oil.

Now, you do not only need that, Mr. Speaker, you need something else before you really have oil deposits and gas deposits. You need a dome of rock over top of this like a big umbrella that keeps the volatiles, the gas, from going up and escaping because, you see, if they can escape, you do not end up with the nice, light sweet crude oil that we value so much. You end up with something like the tar sands in the oil shales. It is a little bit like the asphalt roads you drive on.

Now, if you cook that stuff, it will flow, and it is pretty much what these tar sands in oil shales are, something like that. So they were a very unique series of events that occurred that provide the oil and the gas for us, and it is no argument that you should not find it, probably are not going to find it everywhere in the world.

By the way, when I was a little boy we lived near a coal mining town, and we got what was called Run-of-mine coal. In those days there was not a big mechanical thing on a coal face digging it off. It was a miner with a pick and his shovel and his wheelbarrow. He may have had a little cart and a mule inside the mine to help him in some of the bigger mines.

But that would come out of the mine, and we would buy it just as it came out, called Run-of-mine, just the way you mined it, some big lumps on down to dust. Some of those big lumps were so big I could not put them in the furnace. So there was a sledge hammer, and we would have to break the lump to put it in the furnace. I remember breaking some of those lumps and they would fall open and there would be a fern leaf. I remember the thoughts that I had, gee, how long ago did that thing grow. It was very obvious where coal came from. You can see the vegetation inside the coal.

"Geological complexities, measurement problems, pricing variations, demand elasticity," how much of it we are going to need, "and political influences," are they really going to sell us the oil or not. "Peaking will happen, but the timing is uncertain." But the fact that it will peak is not uncertain. It will peak.

"Oil peaking presents a unique challenge," they say. Then I emphasize this statement. "The world has never faced a problem like this. Without massive mitigation more than a decade before the fact, the problem will be pervasive and will not be temporary. Previous energy transitions, wood to coal and coal to oil, were gradual and evolutionary; oil peaking will be abrupt and revolutionary."

□ 2130

The next chart takes us back about 400 years in history. It would be nice to have one that took us back 5,000 years in history because that is about the extent of recorded history, about 5,000 years. But we go back here to the very beginning, a little bit before the beginning of the Industrial Revolution, and we notice that the Industrial Revolution began with wood and it ramped up, and we denuded largely the mountains of New England to make charcoal to take to England to make steel, and then we found coal. And the ordinate here is quadrillion BTUs. That was the amount of energy we got. Boy, did we get a lot more energy from coal than we did from wood. It is more dense. It is easier to get and haul large quantities of it. But notice what happened when we came to gas and oil. There was essentially an explosion in the amount of energy that we could produce. Notice up there at the top, Mr. Speaker, the recession of the 1970s produced by the Arab oil embargo.

There is a stunning statistic. Up until the Carter years, every decade, the world used as much oil as had been used in all of previous history. Now what that means is that when we had used half of all the oil that was there, we would have only one decade of oil remaining. Now, that slowed down after the Arab oil embargo. We got a lot more efficient. The refrigerator we have today probably uses a third of the electricity it did then; so we really slowed down in our use of oil, or this chart curve would have kept on going up.

There is another curve we might put on here, Mr. Speaker, and that is the world's population. And it might not be too surprising that the increase in population pretty much paralleled the increase in available energy. We started out with 1 billion, more or less, before the Industrial Revolution. Now we have almost 7 billion people.

Mr. Speaker, in terms of 5,000 years of recorded history, the age of oil will be but a brief blip. We have been in the age of oil about 150 years. It was about 150 years ago we first found oil in any quantities and started to use it. In another 150 years we will essentially be through the age of oil. What will our world look like when we have exhausted the fossil fuels? And they will be exhausted.

One of the writers in writing about this says that our great grandchildren, in looking at history and what we did with these fossil fuels, will say how could the monsters have done that. How could they have found this incredibly valuable resource buried in the ground, these riches buried in the ground, and used them wantonly with no regard that they might be finite, that they would one day run out. Matt Savinar, who wrote one of the articles that people will find when they do the Google search for peak oil, Matt Savinar begins his article by saying: "Dear reader, civilization as we know it is coming to an end soon." I pulled it off the Web and gave it to my wife, and she read that first paragraph and said, The guy is crazy; I am not going to read any more.

I said, Please read on and reserve judgment.

She read on and was genuinely frightened when she had finished his article. Matt Savinar may be audacious, and I think that the future may not be so bleak as he presents it, but I will tell the Members, Mr. Speaker, if we do not do something meaningful in terms of trying to mitigate the damage, it could be, it could be as bad as Matt Savinar presents it. He may be audacious, but he is not an idiot; and I would suggest that Members read his article. It is very useful.

The next chart shows something really interesting that we have been talking about this evening. This is where we are now. We have been running up this side of Hubbert's peak. This, by the way, is worldwide. The question is now, When will the world do what the United States did in 1970? When will the world reach peak oil? I had a course in statistics when I was working for my doctorate in school maybe 55 or 60 years ago, and what they have done here, we have a probability of 95 percent. That is most likely what we will find. And then we have a 50 percent probability that it could be higher or it could be lower and then a 5 percent probability or it could be higher or it could be lower, and somehow they mysteriously take this as the expected value. It could be low just as well as high. That is not the expected value. The value that the statistician would tell us to expect is a 95 percent value. And, by the way, that is pretty much what the experts tell us.

A couple of Congresses ago, I was Chair of the Energy Subcommittee on the Science Committee, and I wanted to determine the dimensions of this problem. So we had a hearing and invited in the world's experts on oil reserves, and there was pretty unanimous agreement. I was surprised. It was somewhere like from 970 to 1,040, about 1,000 gigabarrels of oil that remained. Now, we have pumped about the same amount. We have pumped about 1,000 gigabarrels. That is 1,000 billion barrels. That is 1 trillion barrels, and that sounds like a lot.

But if we divide that 1,000 gigabarrels by the 84 million barrels that we use a day, 21 in our country alone, 63 in the rest of the world, 84 total, if we divide that 84 million barrels a day into the 1 trillion barrels that the experts told us are still out there, we come to about 40 years' remaining oil. Remember up until the Carter years, when we used half of it, which is about what we have used, we would have only 10 years remaining; so we have really slowed down, fortunately. We are using it much more efficiently now than we did then.

But they make two assumptions for this chart. One is that it peaks in 2016 and that there is 3,000 gigabarrels. That is not what the experts say. The experts say that there will be a total of about 2,000 gigabarrels, 1,000 already pumped, another 1,000 to be pumped. If that is true, then we would start downhill from this point.

But if we have another 1,000 gigabarrels, notice with this exponential curve how little that pushes peak oil out. Not very far. What is it? About 2017, 2016, something like that is all that it pushes out. Here it is: 2016. And if we now assume that there is more than that, it pushes it out further. But notice what happens. Notice what happens. Notice how quickly we fall.

I made the point before I am not sure we want to fill the gap because the analogy of if you are in a hole, stop digging is if you are climbing a hill and you are going to fall off a cliff on the other side, the lower the hill, the less you will fall. And they make exactly that point here in these predictions.

These are predictions of the Energy Information Agency. These are economists working for the Department of Energy. They are not oil experts. They are economists, and they do what economists do. They predict the future from the past. And they really study the past and know it, and they think that if they know the past well, they can predict the future. But what they do not take into account is that oil is finite and their predictions would be exactly right if market forces controlled and if oil were limitless, but oil is clearly not limitless.

In the last chart that I want to spend a few minutes on, where do we go from here? From where will we get our liquid fuels? From where will we get our energy as we run down the other side of Hubbert's peak? We have here some finite resources. By "finite" we mean they are not forever. Some of them are pretty big if we can get the energy out. Tar sands and oil shales. Some will tell us do not worry about the future of energy because there is 1½ trillion barrels of oil in the oil sands of Canada alone. That is true. But, Mr. Speaker, there is also an incredible amount of energy in the tides.

I pick up two 5-gallon buckets of water, and they are pretty heavy; and then I note that the Moon lifts the whole ocean about 2 feet. That is an incredible amount of energy. But because there is that incredible amount of energy out there does not mean that I can harness it and use it effectively.

The same thing is pretty much true of these tar sands. Yes, there is potentially a lot of energy there, but how effectively, efficiently can we get it out?

The Canadians are now producing oil maybe even less than $30 a barrel. They are selling for $60. That is a good deal, and they are producing a lot of it. But when we look at the energy that it takes to get it out, there are better techniques than the one they are using; but the technique they are using, they use more energy from natural gas than they get out of oil so that the energy profit ratio is less than nothing. The oil is sought on the market and brings a good price. The gas is up there and they do not need it and it is hard to ship. So from a dollar-and-cents perspective, it may make sense to use that gas, even more energy and gas to produce the oil than they get out of the oil. But ultimately, of course, as we move to a more energy-efficient world, we will not be able to do that.

I was out at a conference in Denver, Colorado, just this past weekend; and the Shell Oil scientist that was doing some of the tests in the oil shales of Colorado emphasized that his work was just experimental, that he could not extrapolate from what he had now done to the future. And what they have done is kind of interesting, Mr. Speaker.

They have taken a small patch of Colorado desert out there, high desert, and they have drilled a lot of holes in a circle and frozen, put pipes down there, and they froze in the ground. What they have done is to make a vessel out of frozen ground because they do not want what they are doing inside that big vessel to contaminate groundwater outside, and then they cook the oil.

I hear from 2 years to 4 years, for some period of time, they cook the oil inside that vessel. They keep putting hot water down there, steam down there, and they cook the oil. By the way, they heat that with natural gas, which is why it takes so much energy. And then they pump on that. When they have heated it up, it will flow so they can pump it out. But this is pretty small. It is hard to scale up from that. And they put in one unit of energy from heat and they get out 3½ units of energy. That looks like a pretty good energy profit ratio, but it does not account for all the energy that goes in there: drilling the holes and refrigeration and the energy it took to make the equipment that they use and refining it when they get it out and so forth.

So we are not yet sure how positive that is going to be. It may be that we will use the energy from four barrels of oil and have one net plus.

By the way, that would not be all that bad because that is about the ratio in producing ethanol. We have to put in about three-fourths as much energy into the ethanol as we get out of it, about 750,000 BTUs of energy to get 1 million units of energy in producing ethanol; and that is for efficient production. Many of our ethanol production facilities now are producing ethanol, Dr. Pimental believes, with a negative energy profit ratio: the more fossil fuel energy goes in to producing it than we get out of it.

Coal: we have about 250 years of coal remaining in our country. That is the current use rate. If we increase the use only 2 percent exponentially, that 250 years shrinks to 85 years. For many uses like our car, we cannot use coal. We are going to have to use gas or a liquid, and we are going to have to take some energy to make that conversion. Now it shrinks to 50 years. So we have got about 50 years of effective coal remaining at only a 2 percent increase. We may need to increase its use much more than 2 percent. It is there. We need to husband it and use it wisely.

Nuclear: we produce 8 percent of our electricity in this country from nuclear. That is 20 percent of our electricity.

□ 2145

That can and maybe should grow. But the kind of plants we use, the light water reactor plants, cannot be expanded indefinitely because there is a limited supply of fissionable uranium in the world. I get wildly divergent estimates, from 30 years to 200 years. That is at current-use rates. As soon as you start exponentially increasing the rate of use, whatever that time is, it shrinks very rapidly.

That means if we really wanted to go big-scale nuclear, we need to go to breeder reactors. With breeder reactors, you borrow a lot of problems, like transporting the fuel for enrichment. You have weapons-grade plutonium produced, and you may in the future be making a choice between buying these problems and shivering in the dark because in an energy-deficient world, that may be the choice that you come to.

Nuclear fusion. Oh, how I hope we get there because then we are home-free. But planning to solve our energy problems in this country of the world with fusion is a bit like you or me planning to solve our personal economic problems by winning the lottery. It would be nice if it happened; it probably will not, and I certainly would not count on it.

And then we come to the truly renewable sources. About half of those, a little more than half comes from nuclear up here as compared to what is down here. Solar, wind, they now represent about a quarter of a percent of our total energy. A bit more than that of electricity, but about a quarter of a percent of our total electricity.

Geothermal, that is tapping into the molten core of the earth. Where we can do that, we ought to do it because that will last a very long time.

I mentioned ocean energy. Lots of energy there. The tides, the waves, thermal gradients in the ocean. There is a lot of potential energy there, but there is an old axiom that says energy to be effective must be concentrated. It is so diffuse in the ocean. We have been trying for a very long time to capture some of that energy, and it is very, very difficult.

And then we come to agricultural resources. A lot of people have high hopes for what we can get from agriculture. We can get energy from agriculture in two different ways: One by producing fuels like ethanol and methanol by fermenting the product; and the other is by burning the product.

There are limits to both of these. We now are barely able to feed the world. Tonight a fair number of people will go to bed hungry. We could free up more of this energy if we would be content to eat the soybeans and corn rather than the pig and the cow and the chicken eating the corn and the soybeans.

To take biomass from the soil, that is what makes topsoil different from subsoil is organic material, biomass. I am sure we can get some energy from that. But we have to be careful how much to tend to get from that.

Waste energy, instead of putting it in the landfill, burn it. There is a really good plant here in Montgomery County very near. I would be proud to have that next to my church. I cannot even see that it is burning trash because trash comes in inside a big container. It is inside before it is emptied, and it looks like a nice brick office building.

The last thing is hydrogen from renewables. Hydrogen is not an energy source. You cannot mine it or suck it out of the air. The only way you get hydrogen is to use energy from some other source like natural gas. This is where we get most of it or like splitting water with electrolysis. You will always use more energy in getting the hydrogen than you get out of hydrogen, or else you are going to have to repeal the second law of thermodynamics, and that is not going to happen. It is still a good idea because hydrogen burns very cleanly. You get only water. You can burn it in a fuel cell where you have at least twice the efficiency of reciprocating engine, but it is not a solution to our energy problem. Think of it as an energy carrier which is exactly what your battery is.

If you think of this as being a hydrogen battery as opposed to an electron battery that you have in your car, you will get it right as far as hydrogen is concerned.

There is a lot of talk about a hydrogen future. That is not going to happen in the next decade or two or even three. It is going to take a very long time to ramp up, and we will always have to have some bigger energy source from which we make the hydrogen because it will always be made with an energy deficit because we are not going to repeal the second law of thermodynamics.

Mr. Speaker, I want to submit for the RECORD this report because it is not available anywhere else for the public to review.

PEAKING OF WORLD OIL PRODUCTION: IMPACTS, MITIGATION, & RISK MANAGEMENT

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EXECUTIVE SUMMARY

The peaking of world oil production presents the U.S. and the world with an unprecedented risk management problem. As peaking is approached, liquid fuel prices and price volatility will increase dramatically, and, without timely mitigation, the economic, social, and political costs will be unprecedented. Viable mitigation options exist on both the supply and demand sides, but to have substantial impact, they must be initiated more than a decade in advance of peaking.

In 2003, the world consumed just under 80 million barrels per day (MM bpd) of oil. U.S. consumption was almost 20 MM bpd, two-thirds of which was in the transportation sector. The U.S. has a fleet of about 210 million automobiles and light trucks (vans, pick-ups, and SUVs). The average age of U.S. automobiles is nine years. Under normal conditions, replacement of only half the automobile fleet will require 10–15 years. The average age of light trucks is seven years.

Under normal conditions, replacement of one-half of the stock of light trucks will require 9–14 years. While significant improvements in fuel efficiency are possible in automobiles and light trucks, any affordable approach to upgrading will be inherently time-consuming, requiring more than a decade to achieve significant overall fuel efficiency improvement.

Besides further oil exploration, there are commercial options for increasing world oil supply and for the production of substitute liquid fuels: (1) Improved Oil Recovery (IOR) can marginally increase production from existing reservoirs; one of the largest of the IOR opportunities is Enhanced Oil Recovery (EaR), which can help moderate oil production declines from reservoirs that are past their peak production; (2) Heavy oil/oil sands represents a large resource of lower grade oils, now primarily produced in Canada and Venezuela; those resources are capable of significant production increases; (3) Coal liquefaction is a well established technique for producing clean substitute fuels from the world's abundant coal reserves; and finally, (4) Clean substitute fuels can be produced from remotely located natural gas, but exploitation must compete with the world's growing demand for liquefied natural gas. However, world-scale contributions from these options will require 10–20 years of accelerated effort.

Dealing with world oil production peaking will be extremely complex, involve literally trillions of dollars and require many years of intense effort. To explore these complexities, three alternative mitigation scenarios were analyzed: Scenario I assumed that action is not initiated until peaking occurs. Scenario II assumed that action is initiated 10 years before peaking. Scenario III assumed action is initiated 20 years before peaking.

For this analysis estimates of the possible contributions of each mitigation option were developed, based on an assumed crash program rate of implementation.

Our approach was simplified in order to provide transparency and promote understanding. Our estimates are approximate, but the mitigation envelope that results is believed to be directionally indicative of the realities of such an enormous undertaking. The inescapable conclusion is that more than a decade will be required for the collective contributions to produce results that significantly impact world supply and demand for liquid fuels.

Important observations and conclusions from this study are as follows:

1. When world oil peaking will occur is not known with certainty. A fundamental problem in predicting oil peaking is the poor quality of and possible political biases in world oil reserves data. Some experts believe peaking may occur soon. This study indicates that "soon" is within 20 years.

2. The problems associated with world oil production peaking will not be temporary, and past "energy crisis" experience will provide relatively little guidance. The challenge of oil peaking deserves immediate, serious attention, if risks are to be fully understood and mitigation begun on a timely basis.

3. Oil peaking will create a severe liquid fuels problem for the transportation sector, not an "energy crisis" in the usual sense that term has been used.

4. Peaking will result in dramatically higher oil prices, which will cause protracted economic hardship in the United States and the world. However, the problems are not insoluble. Timely, aggressive mitigation initiatives addressing both the supply and the demand sides of the issue will be required.

5. In the developed nations, the problems will be especially serious. In the developing nations peaking problems have the potential to be much worse.

6. Mitigation will require a minimum of a decade of intense, expensive effort, because the scale of liquid fuels mitigation is inherently extremely large.

7. While greater end-use efficiency is essential, increased efficiency alone will be neither sufficient nor timely enough to solve the problem. Production of large amounts of substitute liquid fuels will be required. A number of commercial or near-commercial substitute fuel production technologies are currently available for deployment, so the production of vast amounts of substitute liquid fuels is feasible with existing technology.

8. Intervention by governments will be required, because the economic and social implications of oil peaking would otherwise be chaotic. The experiences of the 1970s and 1980s offer important guides as to government actions that are desirable and those that are undesirable, but the process will not be easy.

Mitigating the peaking of world conventional oil production presents a classic risk management problem: Mitigation initiated earlier than required may turn out to be premature, if peaking is long delayed. If peaking is imminent, failure to initiate timely mitigation could be extremely damaging.

Prudent risk management requires the planning and implementation of mitigation well before peaking. Early mitigation will almost certainly be less expensive than delayed mitigation. A unique aspect of the world oil peaking problem is that its timing is uncertain, because of inadequate and potentially biased reserves data from elsewhere around the world. In addition, the onset of peaking may be obscured by the volatile nature of oil prices. Since the potential economic impact of peaking is immense and the uncertainties relating to all facets of the problem are large, detailed quantitative studies to address the uncertainties and to explore mitigation strategies are a critical need.

The purpose of this analysis was to identify the critical issues surrounding the occurrence and mitigation of world oil production peaking. We simplified many of the complexities in an effort to provide a transparent analysis. Nevertheless, our study is neither simple nor brief. We recognize that when oil prices escalate dramatically, there will be demand and economic impacts that will alter our simplified assumptions. Consideration of those feedbacks will be a daunting task but one that should be undertaken.

Our study required that we make a number of assumptions and estimates. We well recognize that in-depth analyses may yield different numbers. Nevertheless, this analysis clearly demonstrates that the key to mitigation of world oil production peaking will be the construction of a large number of substitute fuel production facilities, coupled to significant increases in transportation fuel efficiency. The time required to mitigate world oil production peaking is measured on a decade time-scale. Related production facility size is large and capital intensive. How and when governments decide to address these challenges is yet to be determined.

Our focus on existing commercial and near-commercial mitigation technologies illustrates that a number of technologies are currently ready for immediate and extensive implementation. Our analysis was not meant to be limiting. We believe that future research will provide additional mitigation options, some possibly superior to those we considered. Indeed, it would be appropriate to greatly accelerate public and private oil peaking mitigation research. However, the reader must recognize that doing the research required to bring new technologies to commercial readiness takes time under the best of circumstances. Thereafter, more than a decade of intense implementation will be required for world scale impact, because of the inherently large scale of world oil consumption.

In summary, the problem of the peaking of world conventional oil production is unlike any yet faced by modern industrial society. The challenges and uncertainties need to be much better understood. Technologies exist to mitigate the problem. Timely, aggressive risk management will be essential.

I. INTRODUCTION

Oil is the lifeblood of modern civilization. It fuels the vast majority of the world's mechanized transportation equipment—Automobiles, trucks, airplanes, trains, ships, farm equipment, the military, etc. Oil is also the primary feedstock for many of the chemicals that are essential to modern life. This study deals with the upcoming physical shortage of world conventional oil—an event that has the potential to inflict disruptions and hardships on the economies of every country.

The earth's endowment of oil is finite and demand for oil continues to increase with time. Accordingly, geologists know that at some future date, conventional oil supply will no longer be capable of satisfying world demand. At that point world conventional oil production will have peaked and begin to decline.

A number of experts project that world production of conventional oil could occur in the relatively near future, as summarized in Table I-1. Such projections are fraught with uncertainties because of poor data, political and institutional self-interest, and other complicating factors. The bottom line is that no one knows with certainty when world oil production will reach a peak, but geologists have no doubt that it will happen.

TABLE I–1.—PREDICTIONS OF WORLD OIL PRODUCTION PEAKING

Projected date	Source of projection
2006–2007	Bakhitari
2007–2009	Simmons
After 2007	Skrebowski
Before 2009	Deffeyes
Before 2010	Goodstein
Around 2010	Campbell
After 2010	World Energy Council
2010–2020	Laherrere
2016	EIA (Nominal)
After 2020	CERA
2025 or later	Shell
No visible Peak	Lynch

Our aim in this study is to summarize the difficulties of oil production forecasting; identify the fundamentals that show why world oil production peaking is such a unique challenge; show why mitigation will take a decade or more of intense effort; examine the potential economic effects of oil peaking; describe what might be accomplished under three example mitigation scenarios; and stimulate serious discussion of the problem, suggest more definitive studies, and engender interest in timely action to mitigate its impacts.

In Chapter II we describe the basics of oil production, the meaning of world conventional oil production peaking, the challenge of making accurate forecasts, and the effects that higher prices and advanced technology might have on oil production.

Because of the massive scale of oil use around the world, mitigation of oil shortages will be difficult, time consuming, and expensive. In Chapter III we describe the extensive and critical uses of U.S. oil and the long economic and mechanical lifetimes of existing liquid fuel consuming vehicles and equipment.

While it is impossible to predict the impact of world oil production peaking with any certainty, much can be learned from past oil disruptions, particularly the 1973 oil embargo and the 1979 Iranian oil shortage, as discussed in Chapter IV. In Chapter V we describe the developing shortages of U.S. natural gas, shortages that are occurring in spite of assurances of abundant supply provided just a few years ago. The parallels to world oil supply are disconcerting.

In Chapter VI we describe available mitigation options and related implementation issues. We limit our considerations to technologies that are near ready or currently commercially available for immediate deployment. Clearly, accelerated research and development holds promise for other options. However, the challenge related to extensive near-term oil shortages will require deployment of currently viable technologies, which is our focus.

Oil is a commodity found in over 90 countries, consumed in all countries, and traded on world markets. To illustrate and bracket the range of mitigation options, we developed three illustrative scenarios. Two assume action well in advance of the onset of world oil peaking—in one case, 20 years before peaking and in another case, 10 years in advance. Our third scenario assumes that no action is taken prior to the onset of peaking. Our findings illustrate the magnitude of the problem and the importance of prudent risk management.

Finally, we touch on possible market signals that might foretell the onset of peaking and possible wildcards that might change the timing of world conventional oil production peaking. In conclusion, we frame the challenge of an unknown date for peaking, its potentially extensive economic impacts, and available mitigation options as a matter of risk management and prudent response. The reader is asked to contemplate three major questions: What are the risks of heavy reliance on optimistic world oil production peaking projections? Must we wait for the onset of oil shortages before actions are taken? What can be done to ensure that prudent mitigation is initiated on a timely basis?

II. PEAKING OF WORLD OIL PRODUCTION

A. BACKGROUND

Oil was formed by geological processes millions of years ago and is typically found in underground reservoirs of dramatically different sizes, at varying depths, and with widely varying characteristics. The largest oil reservoirs are called "Super Giants," many of which were discovered in the Middle East. Because of their size and other characteristics, Super Giant reservoirs are generally the easiest to find, the most economic to develop, and the longest lived. The last Super Giant oil reservoirs discovered worldwide were found in 1967 and 1968. Since then, smaller reservoirs of varying sizes have been discovered in what are called "oil prone" locations worldwide—oil is not found everywhere.

Geologists understand that oil is a finite resource in the earth's crust, and at some future date, world oil production will reach a maximum—a peak—after which production will decline. This logic follows from the well-established fact that the output of individual oil reservoirs rises after discovery, reaches a peak and declines thereafter. Oil reservoirs have lifetimes typically measured in decades, and peak production often occurs roughly a decade or so after discovery. It is important to recognize that oil production peaking is not "running out." Peaking is a reservoir's maximum oil production rate, which typically occurs after roughly half of the recoverable oil in a reservoir has been produced. In many ways, what is likely to happen on a world scale is similar to what happens to individual reservoirs, because world production is the sum total of production from many different reservoirs.

Because oil is usually found thousands of feet below the surface and because oil reservoirs normally do not have an obvious surface signature, oil is very difficult to find. Advancing technology has greatly improved the discovery process and reduced exploration failures. Nevertheless, oil exploration is still inexact and expensive.

Once oil has been discovered via an exploratory well, full-scale production requires many more wells across the reservoir to provide multiple paths that facilitate the flow of oil to the surface. This multitude of wells also helps to define the total recoverable oil in a reservoir—its so-called "reserves."

B. OIL RESERVES

The concept of reserves is generally not well understood. "Reserves" is an estimate of the amount of oil in a reservoir that can be extracted at an assumed cost. Thus, a higher oil price outlook often means that more oil can be produced, but geology places an upper limit on price-dependent reserves growth; in well managed oil fields, it is often 10–20 percent more than what is available at lower prices.

Reserves estimates are revised periodically as a reservoir is developed and new information provides a basis for refinement. Reserves estimation is a matter of gauging how much extractable oil resides in complex rock formations that exist typically one to three miles below the surface of the ground, using inherently limited information. Reserves estimation is a bit like a blindfolded person trying to judge what the whole elephant looks like from touching it in just a few places. It is not like counting cars in a parking lot, where all the cars are in full view.

Specialists who estimate reserves use an array of methodologies and a great deal of judgment. Thus, different estimators might calculate different reserves from the same data. Sometimes politics or self-interest influences reserves estimates, e.g., an oil reservoir owner may want a higher estimate in order to attract outside investment or to influence other producers.

Reserves and production should not be confused. Reserves estimates are but one factor in estimating future oil production from a given reservoir. Other factors include production history, understanding of local geology, available technology, oil prices, etc. An oil field can have large estimated reserves, but if the field is past its maximum production, the remaining reserves will be produced at a declining rate. This concept is important because satisfying increasing oil demand not only requires continuing to produce older oil reservoirs with their declining production, it also requires finding new ones, capable of producing sufficient quantities of oil to both compensate for shrinking production from older fields and to provide the increases demanded by the market.

C. PRODUCTION PEAKING

World oil demand is expected to grow 50 percent by 2025. To meet that demand, ever-larger volumes of oil will have to be produced. Since oil production from individual reservoirs grows to a peak and then declines, new reservoirs must be continually discovered and brought into production to compensate for the depletion of older reservoirs. If large quantities of new oil are not discovered and brought into production somewhere in the world, then world oil production will no longer satisfy demand. That point is called the peaking of world conventional oil production.

When world oil production peaks, there will still be large reserves remaininq. Peaking means that the rate of world oil production cannot increase; it also means that production will thereafter decrease with time.

The peaking of world oil production has been a matter of speculation from the beginning of the modern oil era in the mid 1800s. In the early days, little was known about petroleum geology, so predictions of peaking were no more than guesses without basis. Over time, geological understanding improved dramatically and guessing gave way to more informed projections, although the knowledge base involves numerous uncertainties even today.

Past predictions typically fixed peaking in the succeeding 10–20 year period. Most such predictions were wrong, which does not negate that peaking will someday occur. Obviously, we cannot know if recent forecasts are wrong until predicted dates of peaking pass without incident.

With a history of failed forecasts, why revisit the issue now? The reasons are as follows:

1. Extensive drilling for oil and gas has provided a massive worldwide database; current geological knowledge is much more extensive than in years past, i.e., we have the knowledge to make much better estimates than previously.

2. Seismic and other exploration technologies have advanced dramatically in recent decades, greatly improving our ability to discover new oil reservoirs. Nevertheless, the oil reserves discovered per exploratory well began dropping worldwide over a decade ago. We are finding less and less oil in spite of vigorous efforts, suggesting that nature may not have much more to provide.

3. Many credible analysts have recently become much more pessimistic about the possibility of finding the huge new reserves needed to meet growing world demand.

4. Even the most optimistic forecasts suggest that world oil peaking will occur in less than 25 years.

5. The peaking of world oil production could create enormous economic disruption, as only glimpsed during the 1973 oil embargo and the 1979 Iranian oil cut-off.

Accordingly, there are compelling reasons for in-depth, unbiased reconsideration.

D. TYPES OF OIL

Oil is classified as "Conventional" and "Unconventional." Conventional oil is typically the highest quality, lightest oil, which flows from underground reservoirs with comparative ease. Unconventional oils are heavy, often tar-like. They are not readily recovered since production typically requires a great deal of capital investment and supplemental energy in various forms. For that reason, most current world oil production is conventional oil. (Unconventional oil production will be discussed in Chapter VI).

E. OIL RESOURCES

Consider the world resource of conventional oil. In the past, higher prices led to increased estimates of conventional oil reserves worldwide. However, this price-reserves relationship has its limits, because oil is found in discrete packages (reservoirs) as opposed to the varying concentrations characteristic of many minerals. Thus, at some price, world reserves of recoverable conventional oil will reach a maximum because of geological fundamentals. Beyond that point, insufficient additional conventional oil will be recoverable at any realistic price. This is a geological fact that is often misunderstood by people accustomed to dealing with hard minerals, whose geology is fundamentally different. This misunderstanding often clouds rational discussion of oil peaking.

Future world recoverable reserves are the sum of the oil remaining in existing reservoirs plus the reserves to be added by future oil discoveries. Future oil production will be the sum of production from older reservoirs in decline, newer reservoirs from which production is increasing, and yet-to-be discovered reservoirs.

Because oil prices have been relatively high for the past decade, oil companies have conducted extensive exploration over that period, but their results have been disappointing. If recent trends hold, there is little reason to expect that exploration success will dramatically improve in the future. This situation is evident in Figure 11-1, which shows the difference between annual world oil reserves additions minus annual consumption. The image is one of a world moving from a long period in which reserves additions were much greater than consumption, to an era in which annual additions are falling increasingly short of annual consumption. This is but one of a number of trends that suggest the world is fast approaching the inevitable peaking of conventional world oil production.

F. IMPACT OF HIGHER PRICES AND NEW TECHNOLOGY

Conventional oil has been the mainstay of modern civilization for more than a century, because it is most easily brought to the surface from deep underground reservoirs, and it is the most easily refined into finished fuels. The U.S. was endowed with huge reserves of petroleum, which underpinned U.S. economic growth in the early and mid twentieth century. However, U.S. oil resources, like those in the world, are finite, and growing U.S. demand resulted in the peaking of U.S. oil production in the Lower 48 states in the early 1970s. With relatively minor exceptions, U.S. Lower 48 oil production has been in continuing decline ever since. Because U.S. demand for petroleum products continued to increase, the U.S. became an oil importer. Today, the U.S. depends on foreign sources for almost 60 percent of its needs, and future U.S. imports are projected to rise to 70 percent of demand by 2025.

Over the past 50 years, exploration for and production of petroleum has been an increasingly more technological enterprise, benefiting from more sophisticated engineering capabilities, advanced geological understanding, improved instrumentation, greatly expanded computing power, more durable materials, etc. Today's technology allows oil reservoirs to be more readily discovered and better understood sooner than heretofore. Accordingly, reservoirs can be produced more rapidly, which provides significant economic advantages to the operators but also hastens peaking and depletion.

Some economists expect higher oil prices and improved technologies to continue to provide ever-increasing oil production for the foreseeable future. Most geologists disagree because they do not believe that there are many huge new oil reservoirs left to be found. Accordingly, geologists and other observers believe that supply will eventually fall short of growing world demand—and result in the peaking of world conventional oil production.

To gain some insight into the effects of higher oil prices and improved technology on oil production, let us briefly examine related impacts in the U.S. Lower 48 states. This region is a useful surrogate for the world, because it was one of the world's richest, most geologically varied, and most productive up until 1970, when production peaked and started into decline. While the U.S. is the best available surrogate, it should be remembered that the decline rate in U.S. production was in part impacted by the availability of large volumes of relatively low cost oil from the Middle East.

The trend lines show a relatively symmetric, triangular pattern. For reference, four notable petroleum market events are noted in the figure: the 1973 OPEC oil embargo, the 1979 Iranian oil crisis, the 1986 oil price collapse, and the 1991 Iraq war.

In constant dollars, oil prices increased by roughly a factor of three in 1973–74 and another factor of two in 1979–80. The modest production up-ticks in the mid 1980s and early 1990s are likely responses to the 1973 and 1979 oil price spikes, both of which spurred a major increase in U.S. exploration and production investments. The delays in production response are inherent to the implementation of large-scale oil field investments. The fact that the production up-ticks were moderate was due to the absence of attractive exploration and production opportunities, because of geological realities. Beyond oil price increases, the 1980s and 1990s were a golden age of oil field technology development, including practical 3-D seismic, economic horizontal drilling, and dramatically improved geological understanding. Nevertheless, Lower 48 production still trended downward, showing no pronounced response to either price or technology. In light of this experience, there is good reason to expect that an analogous situation will exist worldwide after world oil production peaks: Higher prices and improved technology are unlikely to yield dramatically higher conventional oil production.

G. PROJECTIONS OF THE PEAKING OF WORLD OIL PRODUCTION

Projections of future world oil production will be the sum total of (1) output from all of the world's then existing producing oil reservoirs, which will be in various stages of development, and (2) all the yet-to-be discovered reservoirs in their various states of development. This is an extremely complex summation problem, because of the variability and possible biases in publicly available data. In practice, estimators use various approximations to predict future world oil production. The remarkable complexity of the problem can easily lead to incorrect conclusions, either positive or negative.

Various individuals and groups have used available information and geological estimates to develop projections for when world oil production might peak. A sampling of recent projections is shown in Table II–1.

TABLE II–1.—PROJECTIONS OF THE PEAKING OF WORLD OIL PRODUCTION

Projected date	Source of projection	Background and reference
2006–2007	Bakhitari, A.M.S.	Iranian Oil Executive

TABLE II–1.—PROJECTIONS OF THE PEAKING OF WORLD OIL PRODUCTION—Continued

Projected date	Source of projection	Background and reference
2007–2009	Simmons, M.R.	Investment banker
After 2007	Skrebowski, C.	Petroleum journal Editor
Before 2009	Deffeyes, K.S.	Oil company geologist (ret.)
Before 2010	Goodstein, D.	Vice Provost, Cal Tech
Around 2010	Campbell, C.J.	Oil company geologist (ret.)
After 2010	World Energy Council	World Non-Government Org.
2010–2020	Laherrere, J.	Oil company geologist (ret.)
2016	EIA nominal case	DOE analysis/information
After 2020	CERA	Energy consultants
2025 or later	Shell	Major oil company
No visible peak	Lynch, M.C	Energy economist

III. WHY THE TRANSITION WILL BE SO TIME CONSUMING

A. INTRODUCTION

Use of petroleum is pervasive throughout the U.S. economy. It is directly linked to all market sectors because all depend on oil-consuming capital stock. Oil price shocks and supply constraints can often be mitigated by temporary decreases in consumption; however, long term price increases resulting from oil peaking will cause more serious impacts. Here we examine historical oil usage patterns by market sector, provide a summary of current consumption patterns, identify the most important markets, examine the relationship between oil and capital stock, and provide estimates of the time and costs required to transition to more energy efficient technologies that can play a role in mitigating the adverse effects of world oil peaking.

B. HISTORICAL U.S. OIL CONSUMPTION PATTERNS

After the two oil price shocks and supply disruptions in 1973–74 and 1979, oil consumption in the U.S. decreased 13 percent, declining from nearly 35 quads in 1973 to 30 quads in 1983. However, overall consumption continued to grow after the 1983 low and has continuously increased over the last 20 years, reaching over 39 quads in 2003, as shown in Figure 111-1. Of particular note are changes in three U.S. market sectors: (1) Oil consumption in the residential sector declined from eight percent of total oil consumption in 1973 to four percent in 2003, a decrease of 50 percent; (2) Oil consumption in the commercial sector declined from five percent to two percent, decreasing 58 percent; and (3) Consumption in the electric power sector fell from 10 percent in 1973 to three percent in 2003, decreasing 70 percent. These three market sectors currently account for 1.3 quads of oil consumption annually, representing nine percent of U.S. oil demand in 2003.

Oil consumption in other market sectors did not decrease. A 140 percent growth in GDP over the 1973–2003 period made it difficult to decrease oil consumption in the industrial and transportation sectors. In particular, personal transportation grew significantly over the past three decades, and total vehicle miles traveled for cars and light trucks more than doubled over the period. From 1973 to 2003, consumption of oil in the industrial sector stayed relatively flat at just over nine quads, and the industrial sector's share of total U.S. consumption remained between 24 and 26 percent. In sharp contrast to all other sectors, U.S. oil consumption for transportation purposes has increased steadily every year, rising from just over 17 quads in 1973 to 26 quads in 2003. By 2003, the transportation sector accounted for two-thirds of the oil consumed in the U.S.

C. PETROLEUM IN THE CURRENT U.S. ECONOMY

The 39 quad consumption of oil in the U.S. in 2003 is equivalent to 19.7 million barrels of oil per day (MM bpd), including almost 13.1 MM bpd consumed by the transportation sector and 4.9 MM bpd by the industrial sector, as shown in Table III-1. This table also shows the petroleum fuel types consumed by each sector. Motor gasoline consumption accounted for 45 percent of U.S. daily petroleum consumption, nearly 9 MM bpd, almost all of which was used in autos and light trucks. Distillate fuel oil was the second-most consumed oil product at almost 3.8 MM bpd (19 percent of consumption), and most was used as diesel fuel for medium and heavy trucks. Finally, the third most consumed oil product was liquefied petroleum gases, at 2.2 MM bpd equivalent (11 percent of total consumption), most of which was used in the industrial sector as feedstock by the chemicals industry. Only two other consuming areas exceeded the 1 MM bpd level: kerosene and jet fuel in the transportation sector, primarily for airplanes, and "other petroleum" by the industrial sector, primarily petroleum feedstocks used to produce non-fuel products in the petroleum and chemical industries.

TABLE III–1.—DETAILED CONSUMPTION OF PETROLEUM IN THE U.S. BY FUEL TYPE AND SECTOR—2003

[Thousand of barrels per day]

	Residential	Commercial	Industrial	Transportation	Electric Power	Total
Motor Gasoline		20	159	8,665		8,844
Distillate Fuel Oil	421	236	603	2,455	51	3,766
LPG	429	76	1,648	10		2,163
Kerosene/Jet Fuel	27	9	7	1,608		1,651
Residual		30	87	250	291	658
Asphalt & Road Oil			513			513
Petroleum Coke			398		61	459
Lubricants			78	73		151
Aviation Gas				18		18
Other Petroleum			1,435			1,435
Total	877	371	4,928	13,079	403	19,658

D. CAPITAL STOCK CHARACTERISTICS IN THE LARGEST CONSUMING SECTORS

Energy efficiency improvements and technological changes are typically incorporated into products and services slowly, and their rate of market penetration is based on customer preferences and costs. In the 1974–1983 period, oil prices ratcheted up to newer, higher levels, which led to significant energy efficiency improvements, energy fuel switching, and other more general technological changes. Some changes came about due to legislative mandates (corporate average fuel economy standards, CAFE) or subsidies (solar energy and energy efficiency tax credits), but many were the result of economic decisions to reduce long-term costs. Under a normal course of replacement based on historical trends, oil-consuming capital stock has been replaced in the U.S. over a period of 15 to 50 years and has cost consumers and businesses trillions of dollars, as discussed below.

Automobiles represent the largest single oil-consuming capital stock in the U.S. 130 million autos consume 4.9 MM bpd, or 25 percent of total consumption, as shown in Table III-2. Autos remain in the U.S. transportation fleet, or rolling stock, for a long time. While the financial-based current-cost, average age of autos is only 3.4 years, the average age of the stock is currently nine years.

Recent studies show that one half of the 1990-model year cars will remain on the road 17 years later in 2007. At normal replacement rates, consumers will spend an estimated $1.3 trillion (constant 2003 dollars) over the next 10–15 years just to replace one-half the stock of automobiles.

TABLE III–2.—U.S. CAPITAL STOCK PROFILES

	Autos	Light Trucks	Heavy Trucks	Air Carriers
Oil consumption (MM bpd)	4.9	3.6	3.0	1.1
Share of the U.S. total	25%	18%	16%	6%
Current cost of net capital stock (billion $)	$571 B	$435 B	$686 B	$110 B
Fleet size	130 MM	80 MM	7 MM	8,500
Number of annual purchases	8.5 MM	8.5 MM	500,000	400
Average age of stock (years)	9	7	9	13
Median lifetime (years)	17	16	28	22

A similar situation exists with light trucks (vans, pick-ups, and SUVs), which consume 3.6 MM bpd of oil, accounting for 18 percent of total oil consumption. Light trucks are depreciated on a faster schedule, and their financial-based current-cost average age is 2.9 years. However, the average physical age of the rolling stock is seven years, and the median lifetime of light trucks is 16 years. At current replacement rates, one-half of the 80 million light trucks will be replaced in the next 9–14 years at a cost of $1 trillion.

Seven million heavy trucks (including buses, highway trucks, and off-highway trucks) represent the third largest consumer of oil at 3.0 MM bpd, 16 percent of total consumption. The current-cost average age of heavy trucks is 5.0 years, but the median lifetime of this equipment is 28 years. The disparity in the average age and the median lifetime estimates indicate that a significant number of vehicles are 40–60 years old. At normal replacement levels, one-half of the heavy truck stock will be replaced by businesses in the next 15–20 years at a cost of $1.5 trillion.

The fourth-largest consumer of oil is the airlines, which consume the equivalent of 1.1 MM bpd, representing six percent of U.S. consumption. The 8,500 aircraft have a current-cost average age of 9.1 years, and a median lifetime of 22 years. Airline deregulation and the events of September 11, 2001, have had significant effects on the industry, its ownership, and recent business decisions. At recent rates, airlines will replace one-half of their stock over the next 15–20 years at a cost of $250 billion.

These four capital stock categories cover most transportation modes and represent 65 percent of the consumption of oil in the U.S. The three largest categories of autos, light trucks, and heavy trucks all utilize the internal combustion engine, whether gasoline- or diesel-burning. Clearly, advancements in energy efficiency and replacement in this capital stock (for instance, electric-hybrid engines) would help mitigate the economic impacts of rising oil prices caused by world oil peaking. However, as described, the normal replacement rates of this equipment will require 10–20 years and cost trillions of dollars. We cannot conceive of any affordable government-sponsored "crash proqram" to accelerate normal replacement schedules so as to incorporate higher energy efficiency technologies into the privately-owned transportation sector; significant improvements in energy efficiency will thus be inherently time-consuming (of the order of a decade or more).

When oil prices increase associated with oil peaking, consumers and businesses will attempt to reduce their exposure by substitution or by decreases in consumption. In the short run, there may be interest in the substitution of natural gas for oil in some applications, but the current outlook for natural gas availability and price is cloudy for a decade or more. An increase in demand for electricity in rail transportation would increase the need for more electric power plants. In the short run, much of the burden of adjustment will likely be borne by decreases in consumption from discretionary decisions, since 67 percent of personal automobile travel and nearly 50 percent of airplane travel are discretionary.

E. CONSUMPTION OUTSIDE THE U.S.

Oil consumption patterns differ in other countries. While two-thirds of U.S. oil use is in the transportation sector, worldwide that share is estimated about 55 percent. However, that difference is narrowing as world economic development is expanding transportation demands at an even faster pace. A portion of nontransportation oil consumption is switchable. As stated by EIA, "Oil's importance in other end-use sectors is likely to decline where other fuels are competitive, such as natural gas, coal, and nuclear, in the electric sector, but currently there are no alternative energy sources that compete economically with oil in the transportation sector." Because sector-by-sector oil consumption data for many counties is unavailable, a detailed analysis of world consumption was beyond the scope of this report. Nevertheless, it is clear that transportation is the primary market for oil worldwide.

F. TRANSITION CONCLUSIONS

Any transition of liquid fueled, end-use equipment following oil peaking will be time consuming. The depreciated value of existing U.S. transportation capital stock is nearly $2 trillion and would normally require 25–30 years to replace. At that rate, significantly more energy efficient equipment will only be slowly phased into the marketplace as new capital stock gradually replaces existing stock. Oil peaking will likely accelerate replacement rates, but the transition will still require decades and cost trillions of dollars.

IV. LESSONS AND IMPLICATIONS FROM PREVIOUS OIL SUPPLY DISRUPTIONS

A. PREVIOUS OIL SUPPLY SHORTFALL AND DISRUPTIONS

There have been over a dozen global oil supply disruptions over the past half-century.

Briefly, disruptions ranged in duration from one to 44 months. Supply shortfalls were 0.3–4.6 MM bpd, and eight resulted in average gross supply shortfalls of at least 2 MM bpd. Percentage supply shortfalls varied from roughly one percent to nearly 14 percent of world production. The most traumatic disruption, 1973–74, was not the most severe, but it nevertheless lead to greatly increased oil prices and significant worldwide economic damage. The second most traumatic disruption, 1979, was also neither the longest nor the most severe.

For purposes of this study, the 1973–74 and 1979 disruptions are taken as the most relevant, because they are believed to offer the best insights into what miqht occur when world oil production peaks.

B. DIFFICULTIES IN DERIVING IMPLICATIONS FROM PAST EXPERIENCE

Over the past 30 years, most economic studies of the impact of oil supply disruptions assumed that the interruptions were temporary and that each situation would shortly return to "normal" Thus, the major focus of most studies was determination of the appropriate fiscal and monetary policies required to minimize negative economic impacts and the development of policies to help the economy and labor market adjust until the disruption ended. Few economists considered a situation where the oil supply shortfall may be long-lived (a decade or more).

Since 1970, most large oil price increases were eventually followed by oil price declines, and, since these cycles were expected to be repeated, it was generally felt that "the problem will take care of itself as long at the government does nothing and does not interfere. The frequent and incorrect predictions of oil shortfalls have been often used to discredit future predictions of a longer-term problem and to discredit the need for appropriate long-term U.S. energy policies.

C. HOW OIL SUPPLY SHORTFALLS AFFECT THE GLOBAL ECONOMY

Oil prices playa key role in the global economy, since the major impact of an oil supply disruption is higher oil prices. Oil price increases transfer income from oil importing to oil exporting countries, and the net impact on world economic growth is negative. For oil importing countries, increased oil prices reduce national income because spending on oil rises, and there is less available to spend on other goods and services. Not surprisingly, the larger the oil price increase and the longer higher prices are sustained, the more severe is the macroeconomic impact.

Higher oil prices result in increased costs for the production of goods and services, as well as inflation, unemployment, reduced demand for products other than oil, and lower capital investment. Tax revenues decline and budget deficits increase, driving up interest rates. These effects will be greater the more abrupt and severe the oil price increase and will be exacerbated by the impact on consumer and business confidence.

Government policies cannot eliminate the adverse impacts of sudden, severe oil disruptions, but they can minimize them. On the other hand, contradictory monetary and fiscal policies to control inflation can exacerbate recessionary income and unemployment effects. (See Appendix II for further discussion of past government actions).

D. THE U.S. EXPERIENCE

Oil price increases have preceded most U.S. recessions since 1969, and virtually every serious oil price shock was followed by a recession. Thus, while oil price spikes may not be necessary to trigger a recession in the U.S., they have proven to be sufficient over the past 30 years.

E. THE EXPERIENCE OF OTHER COUNTRIES

1. The developed (OECD) economies

Estimates of the damage caused by past oil price disruptions vary substantially, but without a doubt, the effects were significant. Economic growth decreased in most oil importing countries following the disruptions of 1973–74 and 1979–80, and the impact of the first oil shock was accentuated by inappropriate policy responses. Despite a decline in the ratio of oil consumption to GDP over the past three decades, oil remains vital, and there is considerable empirical evidence regarding the effects of oil price shocks:

The loss suffered by the OECD countries in the 1974–75 recession amounted to $350 billion (current dollars) / $1.1 trillion 2003 dollars, althouh part of this loss was related to factors other than oil price. The loss resulting from the 1979 oil disruption was about three percent of GDP ($350 billion in current dollars) in 1980 rising to 4.25 percent ($570 billion) in 1981, and accounted for much of the decline in economic growth and the increase in inflation and unemployment in the OECD in 1981–82. The effect of the 1990–91 oil price upsurge was more modest, because price increases were smaller; they did not persist; and oil intensity in OECD countries had declined. Although oil intensity and the share of oil in total imports have declined in recent years, OECD economies remain vulnerable to higher oil prices, because of the "life blood" nature of liquid fuel use.

2. Developing countries

Developing countries suffer more than the developed countries from oil price increases because they generally use energy less efficiently and because energy-intensive manufacturing accounts for a larger share of their GDP. On average, developing countries use more than twice as much oil to produce a unit of output as developed countries, and oil intensity is increasing in developing countries as commercial fuels replace traditional fuels and industrialization/urbanization continues.

The vulnerability of developing countries is exacerbated by their limited ability to switch to alternative fuels. In addition, an increase in oil import costs also can destabilize trade balances and increase inflation more in developing countries, where financial institutions and monetary authorities are often relatively unsophisticated. This problem is most pronounced for the poorest developing countries.

F. IMPLICATIONS

1. The world economy

A shortfall of oil supplies caused by world conventional oil production peaking will sharply increase oil prices and oil price volatility. As oil peaking is approached, relatively minor events will likely have more pronounced impacts on oil prices and futures markets.

Oil prices remain a key determinant of global economic performance, and world economic growth over the past 50 years has been negatively impacted in the wake of increased oil prices. The greater the supply shortfall, the higher the price increases; the longer the shortfall, the greater will be the adverse economic affects.

The long-run impact of sustained, significantly increased oil prices associated with oil peaking will be severe. Virtually certain are increases in inflation and unemployment, declines in the output of goods and services, and a degradation of living standards. Without timely mitigation, the long-run impact on the developed economies will almost certainly be extremely damaging, while many developing nationsly be even worse off.

The impact of oil price changes will likely be asymmetric. The negative economic effects of oil price increases are usually not offset by the economic stimulus resulting from a fall in oil prices. The increase in economic growth in oil exporting countries provided by higher oil prices has been less than the loss of economic growth in importing countries, and these effects will likely continue in the future.

2. The United States

For the U.S., each 50 percent sustained increase in the price of oil will lower real U.S. GDP by about 0.5 percent, and a doubling of oil prices would reduce GDP by a full percentage point. Depending on the U.S. economic growth rate at the time, this could be a sufficient negative impact to drive the country into recession. Thus, assuming an oil price in the $25 per barrel range—the 2002–2003 average, an increase of the price of oil to $50 per barrel would cost the economy a reduction in GDP of around $125 billion.

If the shortfall persisted or worsened (as is likely in the case of peaking), the economic impacts would be much greater. Oil supply disruptions over the past three decades have cost the U.S. economy about $4 trillion, so supply shortfalls associated with the approach of peaking could cost the U.S. as much as all of the oil supply disruptions since the early 1970s combined.

The effects of oil shortages on the U.S. are also likely to be asymmetric. Oil supply disruptions and oil price increases reduce economic activity, but oil price declines have a less beneficial impact. Oil shortfalls and price increases will cause larger responses in job destruction than job creation, and many more jobs may be lost in response to oil price increases than will be regained if oil prices were to decrease. These effects will be more pronounced when oil price volatility increases as peaking is approached. The repeated economic and job losses experienced during price spikes will not be replaced as prices decrease. As these cycles continue, the net economic and job losses will increase.

Sectoral shifts will likely be pronounced. Even moderate oil disruptions could cause shifts among sectors and industries of ten percent or more of the labor force. Continuing oil shortages will likely have disruptive inter-industry, and inter-regional effects, and the sectors that are (both directly and indirectly) oil-dependent could be severely impacted.

Monetary policy is more effective in controlling the inflationary effects of a supply disruption than in averting related recessionary effects. Thus, while appropriate monetary policy may be successful in lessening the inflationary impacts of oil price increases, it may do so at the cost of recession and increased unemployment. Monetary policies tend to be used to increase interest rates to control inflation, and it is the high interest rates that cause most of the economic damage. As peaking is approached, devising appropriate offsetting fiscal, monetary, and energy policies will become more difficult. Economically, the decade following peaking may resemble the 1970s, only worse, with dramatic increases in inflation, long-term recession, high unemployment, and declining living standards.

V. Learning From the Natural Gas Experience

A. INTRODUCTION

A dramatic example of the risks of over-reliance on geological resource projections is the experience with North American natural gas. Natural gas supplies roughly 20 percent of U.S. energy demand. It has been plentiful at real prices of roughly $2/Mcf for almost two decades. Over the past 10 years, natural gas has become the fuel of choice for new electric power generation plants and, at present, virtually all new electric power generation plants use natural gas.

Part of the attractiveness of natural gas was resource estimates for the U.S. and Canada that promised growing supply at reasonable prices for the foreseeable future. That optimism turns out to have been misplaced, and the U.S. is now experiencing supply constraints and high natural gas prices. Supply difficulties are almost certain for at least the remainder of the decade. The North American natural gas situation provides some useful lessons relevant to the peaking of conventional world oil production.

B. THE OPTIMISM

As recently as 2001, a number of credible groups were optimistic about the ready availability of natural gas in North America. For example:

In 1999 the National Petroleum Council stated "U.S. production is projected to increase from 19 trillion cubic feet (Tcf) in 1998 to 25 Tcf in 2010 and could approach 27 Tcf in 2015 . . . Imports from Canada are projected to increase from 3 Tcf in 1998 to almost 4 Tcf in 2010."

In 2001 Cambridge Energy Research Associates (CERA) stated "The rebound in North American gas supply has begun and is expected to be maintained at least through 2005. In total, we expect a combination of US lower-48 activity, growth in Canadian supply, and growth in LNG imports to add 8.95 Bcf per day of production by 2005."

The U.S. Energy Department's Energy Information Administration (EIA) in 1999 projected that U.S. natural gas production would grow continuously from a level of 19.4 Tcf in 1998 to 27.1 Tcf in 2020.

C. TODAY'S PERSPECTIVES

The current natural gas supply outlook has changed dramatically. Among those that believe the situation has changed for the worse are the following:

CERA now finds that "The North American natural gas market is set for the longest period of sustained high prices in its history, even adjusting for inflation. Disappointing drilling results . . . have caused CERA to revise the outlook for North American supply downward . . . The downward revisions represent additional disappointing supply news, painting a more constrained picture for continental supply. Gas production in the United States (excluding Alaska) now appears to be in permanent decline, and modest gains in Canadian supply will not overcome the U.S. downturn.

Raymond James & Associates finds that "Natural gas production continues to drop despite a 20 percent increase in U.S. drilling activity since April 2003. "U.S. natural gas production is heading firmly downwards . . ."

"Lehman now expects full-year U.S. production to decline by 4% following a 6% decline in 2003. . . . Domestic production is forecast to fall to 41.0 billion cubic feet a day by 2008 from 46.8 in 2003 and 52.1 in 1998. After a sharp 12% fall in 2003, Canadian imports are seen dropping."

The NPC now contends that "Current higher gas prices are the result of a fundamental shift in the supply and demand balance. North America is moving to a period in its history in which it will no longer be self-reliant in meeting its growing natural gas needs; production from traditional U.S. and Canadian basins has plateaued."

Canada has been a reliable U.S. source of natural gas imports for decades. However, the Canadian situation has recently changed for the worse. For example: "Natural gas production in Alberta, the largest exporter to the huge U.S. market, slipped 2 percent last year despite record drilling and may have peaked in 2001, the Canadian province's energy regulator said on Thursday . . . Production peaked at 5.1 trillion cubic feet in 2001. . . . (EUB) forecast flat production in 2004 and an annual decline of 2.5 percent through at least 2013."

D. U.S. NATURAL GAS PRICE HISTORY

EIA data show that U.S. natural gas prices were relatively stable in constant dollars from 1987 through 1998. However, beginning in 2000, prices began to escalate—they were roughly 50 percent higher in 2000 compared to 1998. Skipping over the recession years of 2001 and 2002, prices in late 2003 and early 2004 further increased roughly 25 percent over 2000.

While it is often inappropriate to extrapolate gas or oil prices into the future based on short term experience, a number of organizations are now projecting increased U.S. natural gas prices for a number of years. For example, CERA now expects natural gas prices to rise steadily through 2007.

E. LNG—DELAYED SALVATION

With North American natural gas production suddenly changed, hopes of meeting future demand have turned to imports of liquefied natural gas (LNG). The U.S. has four operating LNG terminals, and a number of proposals for new terminals have been advanced. Indeed, the Secretary of Energy and the Chairman of the Federal Reserve Board recently called for a massive buildup in LNG imports to meet growing U.S. natural gas demand.

But the construction of new terminals demands state and local approvals. Because of NIMBYism and fear of terrorism at LNG facilities, a number of the proposed terminals have been rejected. There are also objections from Mexico, which has been proposed as a host for LNG terminals to support west coast natural gas demands. In the Boston area there is an ongoing debate as to whether the nation's largest LNG terminal in Everett, Massachusetts, ought to be shut down, because of terrorist concerns. Decommissioning of that terminal would exacerbate an already tight national natural gas supply situation. Public fears about LNG safety were heightened by an explosion at an LNG liquefaction plant in Algeria that killed 27 people in January 2004. Alternatively, some are considering locating LNG terminals offshore with gas pipelined underwater to land; related costs will be higher, but safety would be enhanced.

F. THE U.S. CURRENT NATURAL GAS SITUATION

U.S. natural gas demand is increasing; North American natural gas production is declining or poised for decline as indicated in references 53, 54, and 55. The planned U.S. expansion of LNG imports is experiencing delays. U.S. natural gas supply shows every sign of deteriorating significantly before mitigation provides an adequate supply of low cost natural gas. Because of the time required to make major changes in the U.S. natural gas infrastructure and marketplace, forecasts of a decade of high prices and shortages are credible.

G. LESSONS LEARNED

A full discussion of the complex dimensions of the current U.S. natural gas situation is beyond the scope of this study; such an effort would require careful consideration of geology, reserves estimation, natural gas exploration and production, government land restrictions, storage, weather, futures markets, etc. Nevertheless, we believe that the foregoing provides a basis for the following observations: Like oil reserves estimation, natural gas reserves estimation is subject to enormous uncertainty. North American natural gas reserves estimates now appear to have been excessively optimistic and North American natural gas production is now almost certainly in decline. High prices do not a priori lead to greater production. Geology is ultimately the limiting factor, and geological realities are clearest after the fact. Even when urgent, nation-scale energy problems arise, business-as-usual mitigation activities can be dramatically delayed or stopped by state and local opposition and other factors.

If experts were so wrong on their assessment of North American natural gas, are we really comfortable risking that the optimists are correct on world conventional oil production, which involves similar geological and technological issues?

If higher prices did not bring forth vast new supplies of North American natural gas, are we really comfortable that higher oil prices will bring forth huge new oil reserves and production, when similar geology and technologies are involved?

VI. MITIGATION OPTIONS AND ISSUES

A. CONSERVATION

Practical mitigation of the problems associated with world oil peaking must include fuel efficiency technologies that could impact on a large scale. Technologies that may offer significant fuel efficiency improvements fall into two categories: retrofits, which could improve the efficiency of existing equipment, and displacement technologies, which could replace existing, less efficient oil consuming equipment. A comprehensive discussion of this subject is beyond the scope of this study, so we focus on what we believe to be the highest impact, existing technologies. Clearly, other technologies might contribute on a lesser scale.

From our prior discussion of current liquid fuel usage (Chapter III), it is clear that automobiles and light trucks (light duty vehicles or LDVs) represent the largest targets for consumption reduction. This should not be surprising: Auto and LDV fuel use is large, and fuel efficiency has not been a consumer priority for decades, largely due to the historically low cost of gasoline. An established but relatively little-used engine technology for LDVs in the U.S. is the diesel engine, which is up to 30 percent more efficient than comparable gasoline engines. Future U.S. use of diesels in LDVs has been problematic due to increasingly more stringent U.S. air emission requirements. European regulations are not as restrictive, so Europe has a high population of diesel LDVs—between 55 and 70 percent in some countries.

A new technology in early commercial deployment is the hybrid system, based on either gasoline or diesel engines and batteries. In all-around driving tests, gasoline hybrids have been found to be 40 percent more efficient in small cars and 80 percent more efficient in family sedans.

For retrofit application, neither diesel nor hybrid engines appear to have significant potential, so their use will likely be limited to new vehicles. Under business-as-usual market conditions, hybrids might reach roughly 10 percent on-the-road U.S. market share by 2015. That penetration rate is based on the fact that the technology has met many of the performance demands of a significant number of today's consumers and that gasoline hybrids use readily available fuel.

Government-mandated vehicle fuel efficiency requirements are virtually certain to be an element in the mitigation of world oil peaking. One result would almost certainly be the more rapid deployment of diesel and/or hybrid engines. Market penetration of these technologies cannot happen rapidly, because of the time and effort required for manufacturers to retool their factories for large-scale production and because of the slow turnover of existing stock. In addition, a shift from gasoline to diesel fuel would require a major refitting of refineries, which would take time.

Nation-scale retrofit of existing LDVs to provide improved fuel economy has not received much attention. One retrofit technology that might prove attractive for the existing LDV fleet is "displacement on demand" in which a number of cylinders in an engine are disabled when energy demand is low. The technology is now available on new cars, and fuel economy savings of roughly 20 percent have been claimed. The feasibility and cost of such retrofits are not known, so we consider this option to be speculative.

It is difficult to project what the fuel economy benefits of hybrid or diesel LDVs might be on a national scale, because consumer preferences will likely change once the public understands the potential impacts of the peaking of world oil production. For example, the current emphasis on large vehicles and SUVs might well give way to preferences for smaller, much more fuel-efficient vehicles.

The fuel efficiency benefits that hybrids might provide for heavy-duty trucks and buses are likely smaller than for LDVs for a number of reasons, including the fact that there has long been a commercial demand for higher efficiency technologies in order to minimize fuel costs for these fleets.

Hybrids can also impact the medium duty truck fleet, which is now heavily populated with diesel engines. For example, road testing of diesel hybrids in FedEx trucks recently began, with fuel economy benefits of 33 percent claimed. On the other hand, there appears to be limits to the fuel economy benefits of hybrid engines in large vehicles; for example, the fuel savings in hybrid buses might only be in the 10 percent range.

On the distant horizon, innovations in aircraft design may result in large fuel economy improvements. For example, a 25 to 50 percent fuel efficiency improvement may be possible with a new, blended wing aircraft. Such benefits would require the purchase of entirely new equipment, requiring a decade or more for significant market penetration. Innovations for major liquid fuel savings for trains and ships may exist but are not widely publicized.

B. IMPROVED OIL RECOVERY

Management of an oil reservoir over its multi-decade life is influenced by a range of factors, including (1) actual and expected future oil prices; (2) production history, geology, and status of the reservoir; (3) cost and character of production-enhancing technologies; (4) timing of enhancements; (5) the financial condition of the operator; (6) political and environmental circumstances; (7) an operator's other investment opportunities, etc.

Improved Oil Recovery (IOR) is used to varying degrees on all oil reservoirs. IOR encompasses a variety of methods to increase oil production and to expand the volume of recoverable oil from reservoirs. Options include in-fill drilling, hydraulic fracturing, horizontal drilling, advanced reservoir characterization, enhanced oil recovery (EOR), and a myriad of other methods that can increase the flow and recovery of liquid hydrocarbons. IOR can also include many seemingly mundane efficiencies introduced in daily operations.

IOR technologies are adapted on a case-by-case basis. It is not possible to estimate what IOR techniques or processes might be applied to a specific reservoir without having detailed knowledge of that reservoir. Such knowledge is rarely in the public domain for the large conventional oil reservoirs in the world; if it were, then a more accurate estimate of the timing of world oil peaking would be possible.

A particularly notable opportunity to increase production from existing oil reservoirs is the use of enhanced oil recovery technology (EOR), also known as tertiary recovery. EOR is usually initiated after primary and secondary recovery have provided most of what they can provide. Primary production is the process by which oil naturally flows to the surface because oil is under pressure underground. Secondary recovery involves the injection of water into a reservoir to force additional oil to the surface.

EOR has been practiced since the 1950s in various conventional oil reservoirs, particularly in the United States. The process that likely has the largest worldwide potential is miscible flooding wherein carbon dioxide (CO_2), nitrogen or light hydrocarbons are injected into oil reservoirs where they act as solvents to move residual oil. Of the three options, CO_2 flooding has proven to be the most frequently useful. Indeed, naturally occurring, geologically sourced CO_2 has been produced in Colorado and shipped via pipeline to west Texas and New Mexico for decades for EOR. CO_2 flooding can increase oil recovery by 7–15 percent of original oil in place (OOIP). Because EOR is relatively expensive, it has not been widely deployed in the past. However, in a world dealing with peak conventional oil production and higher oil prices, it has significant potential.

Because of various cost considerations, enhanced oil recovery processes are typically not applied to a conventional oil reservoir until after oil production has peaked. Therefore, EOR is not likely to increase reservoir peak production. However, EOR can increase total recoverable conventional oil, and production from the reservoirs to which it is applied does not decline as rapidly as would otherwise be the case.

C. HEAVY OIL AND OIL SANDS

This category of unconventional oil includes a variety of viscous oils that are called heavy oil, bitumen, oil sands, and tar sands. These oils have potential to play a much larger role in satisfying the world's needs for liquid fuels in the future.

The largest deposits of these oils exist in Canada and Venezuela, with smaller resources in Russia, Europe and the U.S. While the size of the Canadian and Venezuela resources are enormous, 3–4 trillion barrels in total, the amount of oil estimated to be economically recoverable is of the order of 600 billion barrels. This relatively low fraction is in large part due to the extremely difficult task of extracting these oils.

Canadian oil sands production results in a range of products, only a part of which can be refined into finished fuels that can substitute for petroleum-based fuels. These high quality oil-sands-derived products are called synthetic crude oil (SCO). Other products from oil sands processing are Dilbit, a blend of diluent and bitumen, Synbit, a blend of synthetic crude oil and bitumen, and Syndilbit, a blend of Synbit and diluent. Current Canadian production is approximately 1 million bpd of which 600,000 bpd is synthetic crude oil and 400,000 bpd is lower grade bitumen.

The reasons why the production of unconventional oils has not been more extensive is as follows: (1) Production costs for unconventional oils are typically much higher than for conventional oil; (2) Significant quantities of energy are required to recover and transport unconventional oils; and (3) Unconventional oils are of lower quality and, therefore, are more expensive to refine into clean transportation fuels than conventional oils.

Canadian oil sands have been in commercial production for decades. During that time, production costs have been reduced considerably, but costs are still substantially higher than conventional oil production. Canadian oil sands production currently uses large amounts of natural gas for heating and processing. Canada recently recognized that it no longer has the large natural gas resources once thought, so oil sands producers are considering building coal or nuclear plants as substitute energy sources to replace natural gas. The overall efficiency of Canadian oil sands production is not publicly available but has been estimated to be less than 70 percent for total product, only a part of which is a high-quality substitute transport fuel.

In addition to needing a substitute for natural gas for processing oil sands, there are a number of other major challenges facing the expansion of Canadian oil sands production, including water and diluent availability, financial capital, and environmental issues, such as SO_X and NO_X emissions, waste water cleanup, and brine, coke, and sulfur disposition. In addition, because Canada is a signatory to the Kyoto Protocol and because oil sands production results in significant CO_2 emissions per barrel, there may be related constraints yet to be fully evaluated.

The current Canadian vision is to produce a total of about 5 MM bpd of products from oil sands by 2030. This is to include about 3 MM bpd of synthetic crude oil from which refined fuels can be produced, with the remainder being poorer quality bitumen that could be used for energy, power, and/or hydrogen and petrochemicals production. 5 MM bpd would represent a five-fold increase from current levels of production. Another estimate of future production states that if all proposed oil sands projects proceed on schedule, industry could produce 3.5 MM bpd by 2017, representing 2 MM bpd of synthetic crude and 1.5 MM bpd of unprocessed lower-grade bitumen. It should be noted that not everyone supports this expansion. For example, the executive director of the Sierra Club of Canada, calls tar sands". . . the world's dirtiest source of oil.

Venezuela's extra-heavy crude oil and bitumen deposits are situated in the Orinoco Belt, located in Central Venezuela. There are currently a number of joint ventures between the Venezuelan oil company, PdVSA, and foreign partners to develop and produce this oil. In 2003, production was about 500,000 bpd of synthetic crude oil. That is expected to increase to 600,000 bpd by 2005. While the weather in tropical Venezuela is more conducive to oil production operations than the bitter winters of Alberta, Canada, the political climate in Venezuela has been particularly unsettled in recent years, which could impact future production.

In closing, it is also worth noting that the bitumen yield from oil sands surface mining operations is about 0.6 barrels per ton of mined material, excluding overburden removal. This is similar to the yield from a good quality oil shale, but is less than Fisher-Tropsch liquid yields from coal, which is about 2.6 barrels per ton of coal.

D. GAS-TO-LIQUIDS (GTL)

Very large reservoirs of natural gas exist around the world, many in locations isolated from gas-consuming markets. Significant quantities of this "stranded gas" have been liquefied and transported to various markets in refrigerated, pressurized ships in the form of liquefied natural gas (LNG). Japan, followed by Korea, Spain and the U.S. were the largest importers of LNG in 2003. LNG accounted for an important fraction of all traded gas volumes in 2003, and that fraction is projected to continue to grow considerably in the future.

Another method of bringing stranded natural gas to world markets is to disassociate the methane molecules, add steam, and convert the resultant mixture to high quality liquid fuels via the Fisher-Tropsch (F-T) process. As with coal liquefaction, F-T based GTL results in clean, finished fuels, ready for use in existing end-use equipment with only modest finishing and blending. This Gas-To-Liquids process has undergone significant development over the past decade. Shell now operates a 14,500 bpd GTL plant in Malaysia. A number of large, new commercial plants recently announced include three large units in Qatar—a 140,000 bpd Shell facility, a 160,000 bpd ConocoPhillips facility, and a 120,000 bpd Marathon Oil plant. Projects under development and consideration total roughly 1.7 MM bpd, but not all will come to fruition. Under business-as-usual conditions, 1.0 MM bpd may be produced by 2015, in line with a recent estimate of 600,000 bpd of GTL diesel fuel by 2015—the remaining 400,000 bpd being gasolin and other products.

E. LIQUID FUELS FROM U.S. DOMESTIC RESOURCES

The U.S. has three types of natural resource from which substitute liquid fuels can be manufactured: coal, oil shale, and biomass. All have been shown capable of producing high quality liquid fuels that can supplement or substitute for the fuels ow produced from petroleum.

To derive liquid fuels from coal, the leading process involves gasification of the coal, removal of impurities from the resultant gas, and then synthesis of liquid fuels using tle Fisher-Tropsch process. Modern gasification technologies have been dramatically improved over the years, with the result that over 150 gasifiers are in commercial operation around the world, a number operating on coal. Gas cleanup technologies are well developed and utilized in refineries worldwide. F-T synthesis is also well developed and commercially practiced. A number of coal liquefaction plants were built and operated during World War II, and the Sasol Company in South Africa subsequently built a number of larger, more modern facilities. The U.S. has huge coal reserves that are now being utilized for the production of electricity; those resources could also provide feedstock for large-scale liquid fuel production. Lastly, coal liquids from gasification/F-T synthesis are of such high quality that they do not need to be refined. When co-producing electricity, coal liquefaction is a developed technology, currently believed capable of providing clean substitute fuels at $30–35 per barrel.

The U.S. is endowed with a vast resource of oil shale, located primarily in the western part of the Lower 48 states with lesser quantities in the mid Atlantic region. Processes for mining shale and retorting it at high temperatures were developed in intensively in the late 1970s and early 1980s. However, when oil prices decreased in the mid 1980s, all large-scale oil shale R&D was terminated.

The oil shale processing technologies that were pursued in the past required large volumes of water, which is now increasingly scarce in the western states. Also, air emissions regulations have become much stricter in the ensuing years, presenting additional challenges for shale mining and processing. Finally, it should be noted that the oil produced from shale retorting requires refining before it can be used as transportation fuels.

In recent years, Shell has been developing a new shale oil recovery process that uses in situ heating and avoids mining and massive materials handling. Little is known about the process and its economics, so its potential cannot now be evaluated. (See Appendix VI for notes on shale oil).

Biomass can be grown, collected and converted to substitute liquid fuels by a number of processes. Currently, biomass-to-ethanol is produced on a large scale to provide a gasoline additive. The market for ethanol derived from biomass is influenced by federal requirements and facilitated by generous federal and state tax subsidies. Research holds promise of more economical ethanol production from cellulosic ("woody") biomass, but related processes are far from economical. Reducing the cost of growing, harvesting, and converting biomass crops will be necessary. In other parts of the world, biomass-to-liquid fuels might be more attractive, depending on a myriad of factors, including local labor costs. Related projections for large-scale production would be strictly speculative In summary, there are no developed biomass-to-fuels technologies that are now near cost competitive. (See Appendix VI for notes on biomass).

F. FUEL SWITCHING TO ELECTRICITY

Electricity is only used to a limited extent in the transportation sector. Diesel fuels (mid-distillates) power most rail trains in the U.S.; only a modest fraction are electric powered. Other electric transportation is limited to special situations, such as forklifts, in-factory transporters, etc.

In the 1990s electric automobiles were introduced to the market, spurred by a California clean vehicle requirement. The effort was a failure because existing batteries did not provide the vehicle range and performance that customers demanded. In the future, electricity storage may improve enough to win consumer acceptance of electric automobiles. In addition, extremely high gasoline prices may cause some consumers to find electric automobiles more acceptable, especially for around-town use. Such a shift in public preferences is unpredictable, so electric vehicles cannot now be projected as a significant offset to future gasoline use.

A larger number of train routes could be outfitted for electric trains, but such a transition would likely be slow, because of the need to build additional electric power plants, transmission lines, and electric train cars. Since existing diesel locomotives use electric drive, their retrofit might be feasible. However, since diesel fuel use in trains is only roughly 0.3 MM bpd, electrification of trains would not have a major impact on U.S liquid fuel consumption.

There are no known near-commercial means for electrifying heavy trucks or aircraft, so related conversions are not now foreseeable.

G. OTHER FUEL SWITCHING

It is conceivable that consumers who now use mid-distillates and LPG (Liquefied Petroleum Gas) for heating could switch to natural gas or electricity, thereby freeing up liquid fuels for transportation. Analysis of this path is beyond the scope of this study, but it should be noted that these uses represent only a few percent of U.S. liquid fuel consumption. Such switching on a large scale would require the construction of compensating natural gas and/or electric power facilities and infrastructure, which would not happen quickly. In addition, freed-up liquids would likely require further refining to meet market and environmental requirements. Related refining would require refinery construction, which would also be time consuming.

H. HYDROGEN

Hydrogen has potential as a long-term alternative to petroleum-based liquid fuels in some transportation applications. Like electricity, hydrogen is an energy carrier; hydrogen production requires an energy source for its production. Energy sources for hydrogen production include natural gas, coal, nuclear power, and renewables. Hydrogen can be used in internal combustion engines, similar to those in current use, or via chemical reactions in fuel cells.

The Department of Energy is currently conducting a high profile program aimed at developing a "hydrogen economy." DOE's primary emphasis is on hydrogen for light duty vehicle application (automobiles and light duty trucks). Recently, the National Research Council (NRC) completed a study that included an evaluation of the technical, economic and societal challenges associated with the development of a hydrogen economy. That study is the basis for the following highlights.

A lynchpin of the current DOE hydrogen program is fuel cells. In order for fuel cells to compete with existing petroleum-based internal combustion engines, particularly for light duty vehicles, the NRC concluded that fuel cells must improve by (1) a factor of 10–20 in cost, (2) a factor of five in lifetime, and (3) roughly a factor of two in efficiency. The NRC did not believe that such improvements could be achieved by technology development alone; instead, new concepts (breakthroughs) will be required. In other words, today's technologies do not appear practically viable.

Because of the need for unpredictable inventions in fuel cells, as well as viable means for on-board hydrogen storage, the introduction of commercial hydrogen vehicles cannot be predicted.

I. FACTORS THAT CAN CAUSE DELAY

It is extremely difficult, expensive, and time consuming to construct any type of major energy-related facility in the U.S. today. Even assuming the expenditure of substantial time and money, it is not certain that many proposed facilities will ever be constructed. The construction of transmission lines, interim and permanent nuclear waste disposal facilities, electric generation plants, waste incinerators, oil refineries, LNG terminals, waste recycling facilities, petrochemical plants, etc. is increasingly problematic.

What used to be termed the "not-in-my-back-yard" (NIMBY) principle has evolved into the "build-absolutely-nothing-anywhere-near-anything" (BANANA) principle, which is increasingly being applied to facilities of any type, including low-income housing, cellular phone towers, prisons, sports stadiums, water treatment facilities, airports, hazardous waste facilities, and even new fire houses. Construction of even a single, relatively innocuous, urgently needed facility can easily take more than a decade. For example, in 1999, King County, Washington, initiated the siting process for the Brightwater wastewater treatment plant, which it hopes to have operational in 2010.

The routine processes required for siting energy facilities can be daunting, expensive, and time consuming, and if a facility is at all controversial, which is almost invariably the case, opponents can often extend the permitting process until sponsors terminate their plans. For example, approval for new, small, distributed energy systems requires a minimum of 18 separate steps, requiring approval from four federal agencies, 11 state government agencies, and 14 local government agencies. Opponents of energy facilities routinely exercise their right to raise objections and offer alternatives. Intervenors in permitting processes may delay decisions and in some cases force outright cancellations, although cases do exist in which facilities have been sited quickly.

The implications for U.S. homeland-based mitigation of world oil peaking are troubling. To replace dwindling supplies of conventional oil, large numbers of expensive and environmentally intrusive substitute fuel production facilities will be required. Under current conditions, it could easily require more than a decade to construct a large coal liquefaction plant in the U.S. The prospects for constructing 25–50, with the first ones coming into operation within a three year time window are essentially nil. Absent change, the U.S. may end up on the path of least resistance, allowing only a few substitute fuels plants to be built on U.S. soil; in the process the U.S. would be adding substitute fuel imports to its increasing dependence on imports of conventional oil.

For the U.S. to attain a lower level of dependence on liquid fuel imports after the advent of world oil peaking, a major paradigm shift will be required in the current approach to the construction of capital-intensive energy facilities. Federal and state governments will have to adopt legislation allowing the acceleration of the development of substitute fuels projects from current decade time-scales. During World War II, facilities of all types were constructed on a scale and schedules that would have previously been inconceivable. In the face of the 1973 energy crisis, the Alaska oil pipeline was approved and constructed in record time.

While world oil peaking poses many dangers for the U.S., it also offers substantial opportunities. The U.S. could emerge as the world's largest producer of substitute liquid fuels, if it were to undertake a massive program to construct substitute fuel production facilities on a timely basis. The nation is ideally positioned to do so because it has the world's largest coal reserves, and it could muster the required capital, technology, and labor to implement such a program. However, unless a process is developed to expedite plant construction, this opportunity could easily slip away. Other nations, such as China, India, Japan, Korea, and others also have the capabilities needed to construct and operate such plants. Under current conditions, other countries are able to bring such large energy projects on-line much more rapidly than the U.S. Such countries could conceivably even import U.S. coal, convert it to liquid fuels products, and then export finished product back to the U.S. and elsewhere.

The U.S. has well-developed coal mining, transportation, and shipping systems that move coal to the highest bidders, be they domestic or international. As recently as 1981, 14 percent of U.S. coal production was exported. While that number has declined in recent years, the U.S. could easily expand its current coal exports many fold to provide feedstock for coal liquefaction plants in other nations. Not only would the U.S. be dependent on foreign sources for conventional oil, which will continue to dwindle in volume after peaking, but it could also become dependent on foreign sources for substitute fuels derived from U.S. coal.

VII. A WORLD PROBLEM

Oil is essential to all countries. In 2002 daily consumption ranged from almost 20 million barrels in the U.S. to 20 barrels in the tiny South Pacific island of Niue, population 2,400.

Oil is produced in 123 countries. The top 20 producing countries provide over 83 percent of total world oil. Production by the largest producers is shown in Table VII–1. The table also lists the top 20 oil-consuming countries and their respective consumption. In total, the top 20 countries consume over 75 percent of the average daily production. Beyond these larger consumers, oil is also utilized in all the world's 194 remaining countries.

TABLE VII.1—TOP WORLD OIL PRODUCING AND CONSUMING COUNTRIES—2002

Rank	Country	MM bpd	Percent
	Producers		
1	United States	9.0	11.7
2	Saudi Arabia	8.7	11.3
3	Russia	7.7	10.0
4	Mexico	3.6	4.7
5	Iran	3.5	4.6
6	China	3.5	4.6
7	Norway	3.3	4.3
8	Canada	2.9	3.8
9	Venezuela	2.9	3.8
10	United Kingdom	2.6	3.3
11	United Arab Emirates	2.4	3.1
12	Nigeria	2.1	2.8
13	Iraq	2.0	2.7
14	Kuwait	2.0	2.6
15	Brazil	1.8	2.3
16	Algeria	1.6	2.0
17	Libya	1.4	1.8
18	Indonesia	1.4	1.8
19	Kazakhstan	0.9	1.2
20	Oman	0.9	1.2
	103 other countries	12.6	16.3
	Consumers		
1	United States	19.8	25.3
2	Japan	5.3	6.8
3	China	5.2	6.6
4	Germany	2.7	3.5
5	Russia	2.6	3.3
6	India	2.2	2.8
7	Korea, South	2.2	2.8
8	Brazil	2.2	2.8
9	Canada	2.1	2.7
10	France	2.0	2.5
11	Mexico	2.0	2.5
12	Italy	1.8	2.4
13	United Kingdom	1.7	2.2
14	Saudi Arabia	1.5	1.9
15	Spain	1.5	1.9
16	Iran	1.3	1.7
17	Indonesia	1.1	1.4
18	Taiwan	0.9	1.2

TABLE VII.1—TOP WORLD OIL PRODUCING AND CONSUMING COUNTRIES—2002—Continued

Rank	Country	MM bpd	Percent
19	Netherlands	0.9	1.1
20	Australia	0.9	1.1
	194 other countries	18.4	23.5

VIII. THREE MITIGATION SCENARIOS

A. INTRODUCTION

Issues related to the peaking of world oil production are extremely complex, involve literally trillions of dollars and are very time-dependent. To explore these matters, we selected three mitigation scenarios for analysis: Scenario I assumes that action is not initiated until peaking occurs. Scenario II assumes that action is initiated 10 years before peaking. Scenario III assumes action is initiated 20 years before peaking.

Our approach is simplified in order to provide transparency and promote understanding. Our estimates are approximate, but the mitigation envelope that results is believed to be indicative of the realities of such an enormous undertaking.

B. MITIGATION OPTIONS

Our focus is on large-scale, physical mitigation, as opposed to policy actions, e.g. tax credits, rationing, automobile speed restrictions, etc. We define physical mitigation as (1) implementation of technologies that can substantially reduce the consumption of liquid fuels (improved fuel efficiency) while still delivering comparable service and (2) the construction and operation of facilities that yield large quantities of liquid fuels.

C. MITIGATION PHASE-IN

The pace that governments and industry chose to mitigate the negative impacts of the peaking of world oil production is to be determined. As a limiting case, we choose overnight go-ahead decision-making for all actions, i.e., crash programs. Our rationale is that in a sudden disaster situation, crash programs are most likely to be quickly implemented. Overnight go-ahead decision-making is most probable in our Scenario I, which assumes no action prior to the onset of peaking. By assuming overnight implementation in all three of our scenarios, we avoid the arduous and potentially arbitrary challenge of developing a more likely, real world decision-making sequence. This is obviously an optimistic assumption because government and corporate decision-making is never instantaneous.

D. THE USE OF WEDGES

The model chosen to illustrate the possible effects of likely mitigation actions involves the use of "delayed wedges" to approximate the scale and pace of each action. The use of wedges was effectively utilized in a recent paper by Pacala and Socolow.

Our wedges are composed of two parts. The first is the preparation time needed prior to tangible market penetration. In the case of efficient transportation, this time is required to redesign vehicles and retool factories to produce more efficient vehicles. In the case of the production of substitute fuels, the delay is associated with planning and construction of relevant facilities.

After the preparation phase, our wedges then approximate the penetration of mitigation effects into the marketplace. This might be the growing sales of more fuel-efficient vehicles or the growing production of substitute fuels. We assume our wedges continue to expand for a few decades, which simplifies illustration but is increasingly less realistic over time because markets will adjust and impact rates will change.

Our aim is to approximate reality in a simple manner. Greater detail is beyond the scope of this study and would require in-depth analysis.

E. CRITERIA FOR WEDGE SELECTION

Our criteria for selecting candidates for our energy saving and substitute oil production wedges were as follows:

1. The option must produce liquid fuels that can, as produced or as refined, substitute for liquid fuels currently in widespread use, e.g. gasoline, jet fuel, diesel, etc. The end products will thus be compatible with existing distribution systems and end-use equipment.

2. The option must be capable of liquid fuels savings or production on a massive scale—ultimately millions to tens of millions of barrels per day worldwide.

3. The option must include technology that is commercial or near commercial, which at a minimum requires that the process has been demonstrated at commercial scale. For production technologies, this means that at least one plant has operated at greater than 10,000 bpd for at least two years, and product prices from the process are less than $50/barrel in 2004 dollars. For fuels efficiency technologies, the technology must have at least entered the commercial market by 2004.

4. Substitute fuel production technologies must be inherently energy efficient, which we assume to mean that greater than 50 percent of process energy input is contained in the clean liquid fuels product.

5. The option must be environmentally clean by 2004 standards.

6. While domestic resources are of greatest interest to the U.S., the oil market is international, so substitute fuel feedstocks not abundantly available in the U.S. must also be considered, e.g. heavy oil/tar sands and gas-to-liquids.

7. Energy sources or energy efficiency technologies that produce or save electricity are not of interest in this context because commercial processes to convert electricity to clean hydrocarbon fuels do not currently exist.

F. WEDGES SELECTED AND REJECTED

The combination of technologies, processes, and feedstocks that meet these criteria are as follows: 1. Fuel efficient transportation; 2. Heavy oil/Oil sands; 3. Coal liquefaction; 4. Enhanced oil recovery; 5. Gas-to-liquids.

In the end-use category, a dramatic increase in the efficiency of petroleum-based fuel equipment is one attractive option. As previously described, the imposition of CAFE requirements for automobiles in 1975 was one of the most effective of the government mandates initiated in response to the 1973–74 oil embargo. In recent years, fuel economy for automobiles has not been a high national priority in the U.S. Nevertheless, a new hybrid engine technology has been phasing into the automobile and truck markets. In a period of national oil emergency, hybrid technology could be massively implemented for new vehicle applications. Hybrid technologies offer fuel economy improvements of 40 percent or more for automobiles and light-medium trucks—no other engine technologies offer such large, near-term fuel economy benefits.

The fuels production options that we chose are heavy oil/tar sands, coal liquefaction, improved oil recovery, and gas-to-liquids. Our rationale was as follows: 1. Enhanced Oil Recovery is applicable worldwide; 2. Heavy oil/tar sands is currently commercial in Canada and Venezuela; 3. Coal liquefaction is a well-developed, near-commercial technology; 4. Gas-To-Liquids is commercially applicable where natural gas is remote from markets.

We excluded a number of options for various reasons. While the U.S. has a huge resource of shale oil that could be processed into substitute liquid fuels, the technology to accomplish that task is not now ready for deployment. Because various shale oil processing prototypes were developed in years past and because shale oil processing is likely to be economically attractive, a concerted effort to develop shale oil technology could well lead to shale oil becoming a contributor in Scenarios II or III. However, that would require the initiation of a major R&D program in the near future.

Biomass options capable of producing liquid fuels were also excluded. Ethanol from biomass is currently utilized in the transportation market, not because it is commercially competitive, but because it is mandated and highly subsidized. Biodiesel fuel is a subject of considerable current interest but it too is not yet commercially viable. Again, a major R&D effort might change the biomass outlook, if initiated in the near future.

Over 45 percent of world oil consumption is for non-transportation uses. Fuel switching away from non-transportation uses of liquid fuels is likely to occur, mimicking shifts that have already taken place in the U.S. The time frame for such shifts is uncertain. For significant world scale impact, alternate large energy facilities would have to be constructed to provide the substitute energy, and that facility construction would require the kind of decade-scale time periods required for oil peaking mitigation.

Nuclear power, wind and photovoltaics produce electric power, which is not a near-term substitute fuel in transportation equipment that requires liquid fuels. In the many-decade future after oil peaking, it is conceivable that a massive shift from liquid fuels to electricity might occur in some applications. However, consideration of such changes would be speculative at this time.

It is possible that technology innovations resulting from aggressive future research may well change the outlook for various technologies in the future. Our focus on the currently viable is in no way intended to prejudice other future options. We have chosen not to add a wedge for undefined technologies that might result from accelerated research, because such a wedge would be purely speculative. No matter what the new technology(ies), implementation delay times and contribution growth rates will inherently be of the same order of magnitude of the technologies that we have considered, because of the inherent scale of all physical mitigation.

G. MODELING WORLD OIL SUPPLY/DEMAND

It is not possible to predict with certainty when world conventional oil peaking will occur or how rapidly production will decline after the peak. To develop our scenarios, we utilize the U.S. Lower 48 production pattern as a surrogate for the world. This assumption is justified on the basis that Lower 48 oil production represents what really happened in a large, complex oil province over the course of decades of modern oil production development.

Our horizontal axis is centered on the year of peaking (the date is not specified) and spans plus and minus two decades. For this study, our vertical axis is pegged at a peak world oil production of 100 MM bpd, which is 18 MM bpd above the current 82 MM bpd world production. If peaking were to occur soon, 100 MM bpd might be high by 20 percent. If peaking were to occur at 125 MM bpd at some future date, the 100 MM bpd assumption would be low by 20 percent. Since the estimates in our wedges are rough under any conditions, a 100 MM bpd peak represents a credible assumption for this kind of analysis. The selection of 100 MM bpd is not intended as a prediction of magnitude or timing; its use is for illustration purposes only.

Next is the important issue of the slopes of the production profile showing the rate of growth of production/demand before peaking and the subsequent decline in production. The World Energy Council stated: "Oil demand is projected to increase at about 1.9 percent per year rising from about 75.7 million b/d in 2000 (actual) to 113–115 million b/d in 2020—an increase of about 37.5–39.5 million b/d." Recent trends indicate a 3+ percent world oil demand growth, driven in part by rapidly increasing oil consumption in China and India. However, a 3+ percent growth rate on a continuing basis seems excessive. On this basis, we assume a two percent demand growth before peaking, and we assume an intrinsic two percent long-run hypothetical, healthy economy demand after peaking. This extrapolation of demand after peaking provides a reference that facilitates calculation of supply shortfalls. The assumption has the benefit of simplicity, but it ignores the real-world feedback of oil price escalation on demand, which is sure to happen but the calculation thereof will be complicated and was beyond the scope of this study.

Estimating a decline rate after world oil production peaking is a difficult issue. While human activity dominates the demand for oil, the "rocks" (geology) will dominate the decline of world conventional oil production after peaking. Referring to U.S. Lower 48 production history, the decline after the 1970 peaking was roughly 1.7 percent per year, which we have chosen to round off to two percent per year as our estimated world conventional oil decline rate. It should be noted that other analysts have projected decline rates of 3–8%, which would make the mitigation problem much more difficult.

H. OUR WEDGES

In Appendix IV we develop the sizes of the wedges that we believe appropriate for our trends analysis. Once again, bear in mind that these are rough approximations aimed at illustrating the inherently large scale of mitigation.

I. THE THREE SCENARIOS

As noted, our three scenarios are benchmarked to the unknown date of peaking: Scenario I: Mitigation begins at the time of peaking; Scenario II: Mitigation starts 10 years before peaking; Scenario III: Mitigation starts 20 years before peaking.

Our mitigation choices then map onto our assumed world oil peaking pattern.

OBSERVATIONS AND CONCLUSIONS ON SCENARIOS

This exercise was conducted bottom-up; we estimated reasonable potential contributions from each viable option, summed them, and then applied them to our assumed world oil peaking pattern.

While our option contribution estimates are clearly approximate, in total they probably represent a realistic portrayal of what might be achieved with an array of physical mitigation options. Together, implementation of all of the specified options would provide 15–20 MM bpd impact, ten years after simultaneous initiation. Roughly 90 percent would result from substitute liquid fuel production and roughly ten percent would come from transportation fuel efficiency improvements.

Our results are congruent with the fundamentals of the problem: Waiting until world oil production peaks before taking crash program action leaves the world with a significant liquid fuel deficit for more than two decades. Initiating a mitigation crash program 10 years before world oil peaking helps considerably but still leaves a liquid fuels shortfall roughly a decade after the time that oil would have peaked. Initiating a mitigation crash program 20 years before peaking appears to offer the possibility of avoiding a world liquid fuels shortfall for the forecast period.

The obvious conclusion from this analysis is that with adequate, timely mitigation, the costs of peaking can be minimized. If mitigation were to be too little, too late, world supply/demand balance will be achieved through massive demand destruction (shortages), which would translate to significant economic hardship, as discussed earlier.

K. RISK MANAGEMENT

It is possible that peaking may not occur for several decades, but it is also possible that peaking may occur in the near future. We are thus faced with a daunting risk management problem:

On the one hand, mitigation initiated soon would be premature if peaking is still several decades away.

On the other hand, if peaking is imminent, failure to initiate mitigation quickly will have significant economic and social costs to the U.S. and the world.

The two risks are asymmetric: Mitigation actions initiated prematurely will be costly and could result in a poor use of resources. Late initiation of mitigation may result in severe consequences.

The world has never confronted a problem like this, and the failure to act on a timely basis could have debilitating impacts on the world economy. Risk minimization requires the implementation of mitigation measures well prior to peaking. Since it is uncertain when peaking will occur, the challenge is indeed significant.

IX. MARKET SIGNALS AS PEAKING IS APPROACHED

As world oil peaking is approached and demand for conventional oil begins to exceed supply, oil prices will rise steeply. As discussed in Chapter IV, related price increases are almost certain to have negative impacts on the U.S. and world economies. Another likely signal is substantially increased oil price volatility.

Oil prices have traditionally been volatile. Causes include political events, weather, labor strikes, infrastructure problems, and fears of terrorism. In an era where supply was adequate to meet demand and where there was excess production capacity in OPEC, those effects were relatively short-lived. However, as world oil peaking is approached, excess production capacity by definition will disappear, so that even minor supply disruptions will cause increased price volatility as traders, speculators, and other market participants react to supply/demand events. Simultaneously, oil storage inventories are likely to decrease, further eroding security of supply, aggravating price volatility, and further stimulating speculation.

While it is recognized that high oil prices will have adverse effects, the effects of increased price volatility may not be sufficiently appreciated. Higher oil price volatility can lead to reduction in investment in other parts of the economy, leading in turn to a long-term reduction in supply of various goods, higher prices, and further reduced macroeconomic activity. Increasing volatility has the potential to increase both economic disruption and transaction costs for both consumers and producers, adding to inflation and reducing economic growth rates.

The most relevant experience was during the 1970s and early 1980s, when oil prices increased roughly six-fold and oil price volatility was aggravated. Those reactions have often been dismissed as a "panic response," but that experience may nevertheless be a good indicator of the oil price volatility to be expected when demand exceeds supply after oil peaking.

The factors that cause oil price escalation and volatility could be further exacerbated by terrorism. For example, in the summer of 2004, it was estimated that the threat of terrorism had added a premium of 25–33 percent to the price of a barrel of oil. As world oil peaking is approached, it is not difficult to imagine that the terrorism premium could increase even more.

In conclusion, oil peaking will not only lead to higher oil prices but also to increased oil price volatility. In the process, oil could become the price setter in the broader energy market, in which case other energy prices could well become increasingly volatile and unpredictable.

X. WILDCARDS

There are a number of factors that could conceivably impact the peaking of world oil production. Here is a list of possible upsides and downsides.

A. UPSIDES—THINGS THAT MIGHT EASE THE PROBLEM OF WORLD OIL PEAKING

The pessimists are wrong again and peaking does not occur for many decades.

Middle East oil reserves are much higher than publicly stated.

A number of new super-giant oil fields are found and brought into production, well before oil peaking might otherwise have occurred.

High world oil prices over a sustained period (a decade or more) induce a higher level of structural conservation and energy efficiency.

The U.S. and other nations decide to institute significantly more stringent fuel efficiency standards well before world oil peaking.

World economic and population growth slows and future demand is much less than anticipated.

China and India decide to institute vehicle efficiency standards and other energy efficiency requirements, reducing the rate of growth of their oil requirements.

Oil prices stay at a high enough level on a sustained basis so that industry begins construction of substitute fuels plants well before oil peaking.

Huge new reserves of natural gas are discovered, a portion of which is converted to liquid fuels.

Some kind of scientific breakthrough comes into commercial use, mitigating oil demand well before oil production peaks.

B. DOWNSIDES—THINGS THAT MIGHT EXACERBATE THE PROBLEM OF WORLD OIL PEAKING

World oil production peaking is occurring now or will happen soon.

Middle East reserves are much less than stated.

Terrorism stays at current levels or increases and concentrates on damaging oil production, transportation, refining and distribution.

Political instability in major oil producing countries results in unexpected, sustained world-scale oil shortages.

Market signals and terrorism delay the realization of peaking, delaying the initiation of mitigation.

Large-scale, sustained Middle East political instability hinders oil production.

Consumers demand even larger, less fuel-efficient cars and SUVs.

Expansion of energy production is hindered by increasing environmental challenges, creating shortages beyond just liquid fuels.

XI. SUMMARY AND CONCLUDING REMARKS

Our analysis leads to the following conclusions and final thoughts.

1. WORLD OIL PEAKING IS GOING TO HAPPEN

World production of conventional oil will reach a maximum and decline thereafter. That maximum is called the peak. A number of competent forecasters project peaking within a decade; others contend it will occur later. Prediction of the peaking is extremely difficult because of geological complexities, measurement problems, pricing variations, demand elasticity, and political influences. Peaking will happen, but the timing is uncertain.

2. OIL PEAKING COULD COST THE U.S. ECONOMY DEARLY

Over the past century the development of the U.S. economy and lifestyle has been fundamentally shaped by the availability of abundant, low-cost oil. Oil scarcity and several-fold oil price increases due to world oil production peaking could have dramatic impacts. The decade after the onset of world oil peaking may resemble the period after the 1973-74 oil embargo, and the economic loss to the United States could be measured on a trillion-dollar scale. Aggressive, appropriately timed fuel efficiency and substitute fuel production could provide substantial mitigation.

3. OIL PEAKING PRESENTS A UNIQUE CHALLENGE

The world has never faced a problem like this. Without massive mitigation more than a decade before the fact, the problem will be pervasive and will not be temporary. Previous energy transitions (wood to coal and coal to oil) were gradual and evolutionary; oil peaking will be abrupt and revolutionary.

4. THE PROBLEM IS LIQUID FUELS

Under business-as-usual conditions, world oil demand will continue to grow, increasing approximately two percent per year for the next few decades. This growth will be driven primarily by the transportation sector. The economic and physical lifetimes of existing transportation equipment are measured on decade time-scales. Since turnover rates are low, rapid changeover in transportation end-use equipment is inherently impossible.

Oil peaking represents a liquid fuels problem, not an "energy crisis" in the sense that term has been used. Motor vehicles, aircraft, trains, and ships simply have no ready alternative to liquid fuels. Non-hydrocarbon-based energy sources, such as solar, wind, photovoltaics, nuclear power, geothermal, fusion, etc. produce electricity, not liquid fuels, so their widespread use in transportation is at best decades away. Accordingly, mitigation of declining world oil production must be narrowly focused.

5. MITIGATION EFFORTS WILL REQUIRE SUBSTANTIAL TIME

Mitigation will require an intense effort over decades. This inescapable conclusion is based on the time required to replace vast numbers of liquid fuel consuming vehicles and the time required to build a substantial number of substitute fuel production facilities. Our scenarios analysis shows:

Waiting until world oil production peaks before taking crash program action would leave the world with a significant liquid fuel deficit for more than two decades.

Initiating a mitigation crash program 10 years before world oil peaking helps considerably but still leaves a liquid fuels shortfall roughly a decade after the time that oil would have peaked.

Initiating a mitigation crash program 20 years before peaking appears to offer the possibility of avoiding a world liquid fuels shortfall for the forecast period.

The obvious conclusion from this analysis is that with adequate, timely mitigation, the economic costs to the world can be minimized. If mitigation were to be too little, too late, world supply/demand balance will be achieved through massive demand destruction (shortages), which would translate to significant economic hardship.

There will be no quick fixes. Even crash programs will require more than a decade to yield substantial relief.

6. BOTH SUPPLY AND DEMAND WILL REQUIRE ATTENTION

Sustained high oil prices will stimulate some level of forced demand reduction. Stricter end-use efficiency requirements can further reduce embedded demand, but substantial, world-scale change will require a decade or more. Production of large amounts of substitute liquid fuels can and must be provided. A number of commercial or near-commercial substitute fuel production technologies are currently available, so the production of large amounts of substitute liquid fuels is technically and economically feasible, albeit time-consuming and expensive.

7. IT IS A MATTER OF RISK MANAGEMENT

The peaking of world conventional oil production presents a classic risk management problem: Mitigation efforts initiated earlier than required may turn out to be premature, if peaking is long delayed. On the other hand, if peaking is imminent, failure to initiate timely mitigation could be extremely damaging.

Prudent risk management requires the planning and implementation of mitigation well before peaking. Early mitigation will almost certainly be less expensive and less damaging to the world's economies than delayed mitigation.

8. GOVERNMENT INTERVENTION WILL BE REQUIRED

Intervention by governments will be required, because the economic and social implications of oil peaking would otherwise be chaotic. The experiences of the 1970s and 1980s offer important lessons and guidance as to government actions that might be more or less desirable. But the process will not be easy. Expediency may require major changes to existing administrative and regulatory procedures such as lengthy environmental reviews and lengthy public involvement.

9. ECONOMIC UPHEAVAL IS NOT INEVITABLE

Without mitigation, the peaking of world oil production will almost certainly cause major economic upheaval. However, given enough lead-time, the problems are soluble with existing technologies. New technologies are certain to help but on a longer time scale. Appropriately executed risk management could dramatically minimize the damages that might otherwise occur.

10. MORE INFORMATION IS NEEDED

The most effective action to combat the peaking of world oil production requires better understanding of a number of issues. Is it possible to have relatively clear signals as to when peaking might occur? It would be desirable to have potential mitigation actions better defined with respect to cost, potential capacity, timing, etc. Various risks and possible benefits of possible mitigation actions need to be examined. (See Appendix V for a list of possible follow-on studies).

The purpose of this analysis was to identify the critical issues surrounding the occurrence and mitigation of world oil production peaking. We simplified many of the complexities in an effort to provide a transparent analysis. Nevertheless, our study is neither simple nor brief. We recognize that when oil prices escalate dramatically, there will be demand and economic impacts that will alter our simplified analysis. Consideration of those feedbacks will be a daunting task but one that should be undertaken.

Our study required that we make a number of assumptions and estimates. We well recognize that in-depth analyses may yield different numbers. Nevertheless, this analysis clearly demonstrates that the key to mitigation of world oil production peaking will be the construction a large number of substitute fuel production facilities, coupled to significant increases in transportation fuel efficiency. The time required to mitigate world oil production peaking is measured on a decade time-scale, and related production facility size is large and capital intensive. How and when governments decide to address these challenges is yet to be determined.

Our focus on existing commercial and near-commercial mitigation technologies illustrates that a number of technologies are currently ready for immediate and extensive implementation. Our analysis was not meant to be limiting. We believe that future research will provide additional mitigation options, some possibly superior to those we considered. Indeed, it would be appropriate to greatly accelerate public and private oil peaking mitigation research. However, the reader must recognize that doing the research required to bring new technologies to commercial readiness takes time under the best of circumstances. Thereafter, more than a decade of intense implementation will be required for world scale impact, because of the inherently large scale of world oil consumption.

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APPENDIX I. MOST MEANINGFUL EIA OIL PEAKING CASE

In the year 2000, EIA developed 12 scenarios for world oil production peaking using three U.S. Geological Survey (USGS) estimates of the world conventional oil resource base (Low, Expected, and High) and four annual world oil demand growth rates (0, 1, 2, and 3 percent per year). We believe the most likely of the EIA scenarios is the one based on the

USGS expected ultimate world recoverable oil of 3.003 billion barrels coupled with 2% annual world oil demand escalation.

The difference between the two profiles is attributable to two assumed production decay rates following peak production. Both curves assume a 2 percent per year growth from the year 2000 until the peak. One scenario assumes a 2 percent decline after the world oil production peak, while the other assumes a steeper drop after the world oil production peak. Because the areas under both curves must equal the projected 3.003 billion barrels of recoverable conventional oil from the year 2000 forward, the rapid decay curve will inherently yield the later occurring, higher world oil production peak.

The EIA scenario that peaks in 2016 looks like the relatively symmetric U.S. Lower 48 production profile. The EIA scenario that peaks in 2037 not only differs dramatically from the U.S. experience, it differs from typical individual oil reservoir experience, which often displays a relatively symmetric production profile, not the sharp drop illustrated in the alternate EIA case. On this basis, we believe that the EIA 2016 peaking case appears much more credible than the 2037 peaking case. The associated 21-year difference between the two predicted production peaks clearly would have profound implications for the time available for mitigation.

It is worth noting that the USGS mean estimate for the remaining recoverable world oil resource is much higher than estimates made by other investigators, according to K.S. Deffeyes, retired Shell geologist and emeritus Princeton geology professor. Deffeyes also opined " . . . in 2000 the USGS again released implausibly large estimates of world oil." A lower total reserves estimate would of course mean a world oil production peak earlier than 2016.

APPENDIX II. MORE HISTORICAL OIL CRISIS CONSIDERATIONS

Economists have debated whether the economic problems of the 1970s were due to the oil supply disruptions or to inappropriate fiscal, monetary, and energy policies implemented to deal with them. The consensus is that the disruptions would have caused economic problems irrespective of fiscal, monetary, and energy policies, but that price and allocation controls exacerbated the impacts in the U.S. during the 1970s. There is general consensus on the following:

Appropriate actions taken included CAFE, the 55 mph speed limit, reorganization of the Federal energy bureaucracy, greatly increased energy R&D, establishment of the Strategic Petroleum Reserve (SPR), energy efficiency standards and building codes, establishment of IEA and EIA, and burden sharing agreements among nations.

Inadvisable actions included price and allocation controls, excessive regulations, de facto gasoline rationing, "excess profits" taxes, policies targeting "greedy energy companies," prohibitions on energy use, and subsidy programs.

Some actions that seemed to be inappropriate may have been desirable if the problem had not been short-lived. For example, synthetic fuel initiatives may have looked prescient had oil prices not collapsed in the mid 1980s.

Estimated costs to the U.S. of oil supply disruptions range from $25 billion to $75 billion per year, and the cumulative costs since 1973–74 total about $4 trillion. Nevertheless, except for several serious disruptions (and then only temporarily), oil prices have risen little in real terms over the past century.

Cost of living adjustment clauses imbedded in many contracts, labor agreements, and government programs (e.g., Social Security) are less visible but important inflation drivers. Price increases generated by oil supply disruptions automatically trigger successive inflationary adjustments throughout the economy, and these complicate monetary policies designed to counter the inflationary effects of the disruption.

The U.S. is currently less oil-dependent (in terms of oil/GDP ratios) than during the 1970s. However, the U.S. is now importing twice as much oil (in percentage terms) as 30 years ago and its transportation sector consumes a larger portion of total oil consumption. Further, by 2000 most of the energy saving trends resulting from the 1970s disruptions (increased energy efficiency and conservation, increased vehicle mpg, etc.) had been captured.

The primary effect of the 1973–74 disruption was oil price increases. The real price of oil peaked in 1981 and has never again reached similar levels.

At present, oil would have to be nearly $80 per barrel and gasoline would have to exceed $3 per gallon to equal real 1981 prices. Even then, however, energy would still be a less significant factor in the U.S. economy because average U.S. per capita incomes have doubled since 1981 and energy is a much smaller component of expenditures.

Nevertheless, over the past 50 years, oil prices have been extremely volatile—more volatile than virtually any other commodity.

APPENDIX III. LIKELY FUTURE OIL DEMAND

Petroleum consumption has been inexorably linked to population growth, industrial development, and economic growth for the past century. This relationship is expected to continue worldwide for the foreseeable future. While the U.S. consumes more oil than any other country—about 20 MM bpd, it represents only 26 percent of world production, compared to the 46 percent of world oil production the U.S. consumed in 1960. Western Europe currently consumes the second largest amount (18 percent) followed by Japan (7 percent), China (6 percent), and the FSU (5 percent), with over 150 other countries accounting for the remaining 38 percent of production.

Energy forecasting is difficult due to the numerous complex factors that influence energy supply and demand. Here we utilize the U.S. Energy Department's Energy Information Administration forecasts of future world oil requirements.

Table A–1 presents summary statistics for the EIA 2001–2025 forecast including 24-year country or country group projections for petroleum consumption, gross domestic product (GDP), and population.

TABLE A–1.—REFERENCE CASE PROJECTIONS, 2001–2025

[Average annual percentage change]

	Petroleum consumption	GDP (Con $)	Population
U.S.	1.5	3.0	0.8
W. Europe	0.5	2.0	0.1
China	4.0	6.1	0.5
FSU	2.1	4.2	−0.2
Japan	0.3	1.7	−0.1
Other	2.0	4.0	1.3
World	1.9	3.0	1.0

Oil consumption in China is expected to increase 4 percent a year, and by 2025 China is projected to be the second largest oil consuming country in the world, accounting for 11 percent of total world consumption. The second fastest growing market is projected to be the FSU countries, where petroleum consumption is forecast to increase an average of over 2 percent per year.

The remaining large consumers, including the U.S., Western Europe, and Japan are forecast to experience consumption growth over the 24-year period at or below the world average. The U.S. is forecast to increase oil consumption at a rate of 1.5 percent per year, and by 2025 the U.S. share of world oil consumption is forecast to decline to 23 percent (29.7 MM bpd), while Western Europe's share decreases to 13 percent (14.4 MM bpd). The many countries grouped as "Other" above, including India, Mexico, and Brazil, are expected to experience oil consumption growth rates 10 to 30 percent higher than the world average. By 2025, this group is forecast to account for 43 percent of world oil consumption.

In sum, in the EIA reference case, world oil consumption of 80 MM bpd in 2003 is projected to increase to 121 MM bpd in 2025, with the most rapid increases occurring in nations other than the U.S., Japan, or those in Western Europe. Average annual world oil demand growth is projected as 1.9 percent over the period.

APPENDIX IV. RATIONALES FOR THE WEDGES

A. VEHICLE FUEL EFFICIENCY

The original U.S. Corporate Average Fuel Efficiency (CAFE) timetable, enacted in 1975, mandated a 53 percent increase in vehicle fuel efficiency, from 18 mpg to 27.5 mpg, over the seven years between 1978 and 1985. Average on-road vehicle fuel efficiency began to improve markedly in the early 1980s and continued to improve substantially every year through 1995. It showed little change between 1995 and 1999, and then began to decline gradually due to the shift to greater purchases of light trucks and SUVs. Between 1982 and 1995, average on-road vehicle fuel efficiency increased from about 14 mpg to 20 mpg. In other words, the first major U.S. oil disruption occurred in the fall of 1973; CAFE was not enacted until two years later; the increased mpg requirements did not begin until 1978, and were phased in through 1985; and significant increases in average on-road vehicle fuel efficiency did not occur until the mid- to late 1980s.

From the time world oil peaking occurs or is recognized, it may thus take as long as 15 years until strengthened vehicle fuel efficiency standards significantly increase average on-road fleet fuel efficiency. However, care must be exercised in making extrapolations. Most "realistic" enhanced vehicle fuel efficiency standards might not actually decrease future total gasoline consumed in the U.S. due to the anticipated continued increase in numbers of drivers and vehicles. Thus, a new CAFE mandate might decrease the rate at which future gasoline consumption increases, but not necessarily reduce total consumption. Only aggressive vehicle fuel efficiency standards legislation that "pushes the envelope" of fuel efficiency technologies over the next two decades (as determined, for example, in the study by the National Research Council of the National Academy of Sciences is likely to actually reduce total U.S. gasoline consumption.

Savings in the U.S. Assuming a crisis atmosphere, we hypothesize an aggressive vehicle fuel efficiency scenario, based on the NRC CAFE report and other studies that estimate the fuel efficiency gains possible from incremental technologies available or likely to be available within the next decade. We assume that legislation is enacted on the action date in each scenario. We further assume that vehicle fuel efficiency standards are increased 30 percent three years later—for cars from 27.5 mpg to 35.75 mpg and for light trucks from 20.7 mpg to 26.9—and then increased to 50 percent above the base eight years later—for cars from 27.5 mpg to 41.25 mpg and for light trucks from 20.7 mpg to 31 mpg; finally, we assume full implementation is assumed 12 years after the legislation is enacted. These assumptions "push the envelope" on the fuel efficiency gains possible from current or impending technologies.

On the basis of our assumptions, the U.S. would save 500 thousand barrels per day of liquid fuels 10 ten years after legislation is enacted; 1.5 million barrels per day of liquid fuels at year 15; and 3 million barrels per day of liquid fuels at year 20.

Worldwide Savings. The U.S. currently has about 25 percent of total world vehicle registrations, but consumes nearly 40 percent of the liquid fuels used in transportation worldwide. Since we could not find credible forecasts of the potential impacts of increased worldwide vehicle fuel efficiency standards, we assumed that the impact in the rest of the world of enhanced vehicle fuel efficiency standards will be about equal to that in the U.S. In total, the worldwide impact of increased vehicle fuel efficiency standards would thus yield a savings of 1 million barrels per day of liquid fuels 10 years after legislation is enacted; 3 million barrels per day 15 years after legislation is enacted; and 6 million barrels per day 20 years after legislation is enacted.

Increased vehicle fuel efficiency standards are a powerful way to reduce liquid fuels consumption. However, they required long lead-times to enact, implement, and become effective in the past. On the other hand, their importance and contributions continue to grow over time as older vehicles are retired. We note that a detailed study of these issues and opportunities would be of great value.

B. COAL LIQUIDS

High quality liquid fuels can be made from coal via direct liquefaction or via gasification followed by Fisher-Tropsch synthesis. A number of coal liquefaction plants were built and operated during World War II, and the Sasol Company in South Africa subsequently built a number of larger, more modern gasification based facilities.

While the first two Sasol coal liquids production plants were built under normal business conditions, the Sasol Three facility was designed and constructed on a crash basis in response to the Iranian revolution of 1978–79. The project was completed in just over three years after the decision to proceed. Sasol Three was essentially a duplicate of Sasol Two on the same site using a large cadre of experienced personnel. Sasol Three was brought "up to speed almost immediately."

The Sasol Three example represents the lower bound on what might be accomplished in a twenty-first century crash program to build coal liquefaction plants. This is because the South African government made a quick decision to replicate an existing plant on an existing, coal mine-mouth site without the delays associated with site selection, environmental reviews, public comment periods, etc. In addition, engineering and construction personnel were readily available, and there were a number of manufacturers capable of providing the required heavy process vessels, pumps, and other auxiliary equipment. While we have not done a survey of worldwide capabilities to perform similar tasks today, it is our belief that such capabilities are now in much shorter supply—a situation that will worsen dramatically with the advent of a worldwide crash program to build alternate fuels plants. We have therefore attempted to strike a balance between what we believe could be a somewhat slow startup of a worldwide coal liquefaction industry and a later speed up as experience is gained and new plants are built as essentially duplicates of previous plants.

Our coal liquefaction wedge thus assumes that the first coal liquefaction plants in a worldwide crash program would begin operation four years after a decision to proceed. We assume plant sizes of 100,000 bpd of finished, refined product, and we assume that five such plants could be brought into operation each year. We cannot predict where in the world these coal liquefaction plants might be built. Candidate countries with large coal reserves include the U.S. and the Former Soviet Union with the largest, followed in descending order by China, India and Australia. We note that a consortium of Chinese companies has recently signed a letter of intent with Sasol for feasibility studies on the construction of two new coal-to-liquids plants in China.

If U.S. siting and environmental reviews of new energy facilities were to continue to be as time consuming as they are today, few coal liquefaction plants would likely be built in the U.S. On the other hand, China has been quick to approve major new facilities, so coal liquefaction plants in that country might well be built expeditiously and economically. Because there is presently a large international trade in coal, it is not inconceivable that coal-poor countries might become the sites of many coal liquefaction plants using imported coal, possibly even from the U.S.

C. HEAVY OILS/OIL SANDS

As noted, significant heavy oil production currently exists in Canada and Venezuela. While their total resource is estimated to be 3–4 trillion barrels, recoverable oil reserves are estimated to be roughly 600 billion barrels. Such reserves could support a massive expansion in production of these unconventional oils.

In the case of Canadian oil sands, a number of factors would challenge a crash program expansion, such as the need for massive supplies of auxiliary energy, huge land and water requirements, environmental management, and the harsh climate in the region. In the case of Venezuela, large amounts of supplemental energy, inherently low well productivity and other factors will likely pose significant challenges.

We know of no comprehensive analysis of how fast the Canadian and Venezuelan heavy oil production might be accelerated in a world suddenly short of conventional oil. Recent statements by the World Energy Council (WEC) guided our wedge estimates:

"Unconventional oil is unlikely to fill the gap (associated with conventional oil peaking). Although the resource base is large and technological progress has been able to bring costs down to competitive levels, the dynamics do not suggest a rapid increase in supply but, rather, a long, slow growth over several decades."

"(Extrapolating expectations of TOTAL Oil Company in the Orinoco, Venezuela) overall reserves today would be only –60 Gb over 30 years, allowing at best 6 MM bpd of production in 2030 if the entire area were put into production."

"Current estimates put the additional production of Canada (heavy oil) . . . at less than 2 MM bpd in 2015–2025."

In line with the WEC, we assume the following for our Venezuelan Heavy Oils wedge:

1. Accelerated production might begin three years after a decision to proceed with a crash program. This delay is based on the fact that the country already has significant production underway. Starting from scratch would require much more time.

2. Under business-as-usual conditions assumed by the WEC, Venezuela would have production of 6 MM bpd in 2030—5.5 MM bpd beyond production of 0.5 MM bpd in 2003. If we assume this level of production is achieved 10 years after initiation of a crash program, rather than the roughly 25 years estimated by WEC, then roughly 5.5 MM bpd of incremental production might be achieved 13 years from a decision to accelerate.

3. In contrast to the WEC, we assume that Venezuelan production is not capped at 6 MM bpd but continues to expand for the period covered by our approximations. Note: We ignore the currently extremely unstable political environment in Venezuela and assume that scale-up timing is not hindered by local politics.

Our assumptions for Canadian oil sands are as follows:

1. Again, accelerated production might begin three years after a decision to proceed with a crash program, based in large part on the fact that the country already has significant production underway.

2. Current plans are for production of 3 MM bpd of synthetic crude oil from which refined fuels can be produced by 2030. This is above current production of 0.6 MM bpd. If we assume this level of production is achieved 10 years after initiation of a crash program, rather than the roughly 25 years targeted by the Canadians, then roughly 2.5 MM bpd of incremental production might be achieved 13 years from a decision to accelerate.

3a. We know of no upper limit on Canadian oil sands production, so for purposes of this order-of-magnitude illustration, we do not assume one.

D. ENHANCED OIL RECOVERY

Because it is impossible to evaluate the worldwide impact of Improved Oil Recovery (IOR) techniques, we can only provide a rough estimate of what might be achieved. We focus on a major subset of IOR technologies—Enhanced Oil Recovery (EOR). While EOR can add significantly to reserves, it is normally not applied to a conventional oil reservoir until after production has peaked. As discussed earlier, the most widely applicable EOR process involves the injection of CO_2 into conventional oil reservoirs to dissolve and move residual oil. Because EOR processes require extensive planning, large capital expenditures, procurement of very large volumes of CO_2, and major equipment for large reservoirs, our simplified assumptions parallel those for our heavy oil and coal liquids wedges.

We assume that the massive application of EOR worldwide will not begin to show production enhancement until 5 years after the peaking of world oil production, paced primarily by the difficulties of procuring CO_2. We further assume that world oil production enhancement due to such a crash effort worldwide will increase world oil production by roughly 3 percent after 10 years. We translate the 3 percent to 3 MM bpd, based on our assumed world oil peaking level of roughly 100 MM bpd.

E. GAS-TO-LIQUIDS

Estimating how fast world Gas-To-Liquids (GTL) production might grow as a result of the peaking of world oil production is an extremely complex undertaking because of the need to consider the total world energy system, its likely growth by country, future energy economics, other resources that compete with natural gas, etc. In a crash program, GTL plants might be built in a number of counties that have large reserves of stranded gas. Once operational, GTL product could be moved to markets around the world by conventional oil product tankers.

Our estimates for a crash program of world GTL production are tempered by the conflicting world demand for Liquefied Natural Gas (LNG), whose export volumes are currently growing at a rapid pace. The tradeoffs involved in estimating the future LNG/GTL balance are complex, and a world crash program in GTL could yield higher or lower volumes than our estimates. Note also that seven countries currently account for almost 80 percent of the world gas export market, and it is not inconceivable that the recently formed Gas Exporting Countries Forum (GECF) might well evolve into a future OPEC-like cartel.

Again, we assume a startup delay of three years before crash program GTL plants might come into operation. Using a base case, business-as-usual production forecast of 1.0 MM bpd in 2015 from the current level of essentially zero, we assume that a crash program might yield the 1.0 MM bpd in 5 years.

F. SUM OF THE WEDGES

A summary of the estimates from the foregoing is presented in Table A-2.

TABLE A-2.—SUMMARY OF CONSUMPTION AND PRODUCTION WEDGE ESTIMATES

Category	Delay until first impact (years)	Impact 10 years later (MM bpd)
Vehicle Efficiency	3	3
Gas-To-Liquids	3	2
heavy Oils/Oil Sands	3	8
Coal Liquids	4	5
Enhanced Oil Recovery	5	3

APPENDIX V. NOTES ON SHALE OIL AND BIOMASS

A. OIL SHALE BY GILBERT MCGURL, NETL

Worldwide resources of oil shale comprise an estimated 2.6 trillion barrels, of which two trillion are located within the United States. The richest deposits, 1.5 trillion bbl with high concentrations of kerogen, lie in Colorado, Utah, and Wyoming. An additional 16 billion barrels of rich but physically different oil shale is found in Kentucky, Indiana, and Ohio. A recent estimate is that, from the Green River deposits, 130 billion barrels of oil may be produced. Technology development on oil shale 'retorting' reached a high point in the late 1970s, with the major oil companies leading the way. The oil price collapse of the 1980s, the dissolution of the synfuels program, and the termination of the Unocal project in 1991 led to the demise of oil shale production in the United States.

A recent study performed by the DOE Office of Naval Petroleum and Oil Shale Reserves advocates a research and development program with a production goal of two million barrels per day by 2020. Production would be initiated by 2011. Traditional technologies for mining and preparation of oil shale ores and for aboveground upgrading have been 'proven' at less-than-commercial scale. Newer Canadian technologies have been tested at demonstration projects in Australia. However, that project, the Stuart upgrading project, is currently suspended pending project re-design. Nonetheless, the same technology has been licensed by operators in Estonia. Technologies for in-situ recovery are newer and less developed. In 2000, Shell revived an oil shale project called "Mahogany" in Colorado. Shell aims to test its process until 2010. If successful, the in-situ method would leave heavier hydrocarbons in the shale while producing lighter hydrocarbons and using much less water than traditional methods.

Most Estonian processing of oil shale has been for boiler fuel for electricity production. Small liquids facilities have been operating at "full capacity" given recent market oil prices. There are no solid figures for cost in large-scale plants since none have been built. The aborted Australian project estimated $8.50/bbl in operating costs once a commercial plant had been built. The Estonians estimate a break-even point at $21 Brent price (app $23 WTI) and low capacity factor. At higher capacity factors, plants may operate profitably even with prices in the mid-teens.

Besides water use and production, environmental concerns include fine particulates and carbon dioxide emissions. Since the last US oil shale project ceased operation before the implementation of the 1990 Clean Air Act amendments, new emission-control equipment would need to be tested on US shales.

B. BIOFUELS BY PETER BALASH, NETL

Bioethanol is produced as a transportation fuel largely in only two countries. In 2003 the US produced about 2.8 billion gallons and Brazil produced 3.5 billion gallons. All of this ethanol is produced by conversion of starch to sugar and fermentation to ethanol. In the US ethanol represents about 1.4% of the BTU content (2.0% by volume) of gasoline used in transportation. Current costs for ethanol production in the US are said to be $0.90 per gallon, which is equivalent to a gasoline price of $1.35 per gallon. Because of recent increases in energy costs current costs will be somewhat higher. Grain ethanol provides only a modest net energy gain because of the energy required to produce it. USDA calculated a net energy gain of 34% for a modern corn to ethanol plant, but there is considerable controversy over the real efficiency of the process. Most of the energy used to produce ethanol comes from natural gas and electricity. The production of ethanol uses only about 5% of the corn crop in the US. Significant expansion is possible but at some point there might be an impact on food prices.

Cellulosic ethanol is currently being produced only in two rather small pilot plants but is capable of producing about 40% conversion of cellulosic biomass to ethanol while providing all the energy needed for the process and exporting a modest amount of energy as electricity. It is anticipated that successful research may reduce the cost of cellulosic ethanol to about $1.10 per gallon by 2010. If this occurs the potential ethanol to mitigate peaking is high. Using only waste biomass and grass grown on land currently in the conservation reserve could produce 50 billion gallons of ethanol which would be equivalent to 35 billion gallons of gasoline or 17% of current US consumption. This could be achieved without any impact on current food production and at prices only $0.35 per gallon higher than refinery prices for gasoline. Since ethanol has an RON of 130 and a MON of 96 it raises the octane of the gasoline to which it is added and has a premium value as a result.

APPENDIX VI: AREAS FOR FURTHER STUDY

1. ECONOMIC BENEFITS TO THE U.S. ASSOCIATED WITH AN AGGRESSIVE MITIGATION INITIATIVE

Important economic and jobs benefits could result from a concerted U.S. effort to develop substitute fuels plants based on U.S. coal and shale resources and scale up of EOR. The impacts might include hundreds of billions of dollars of investment, hundreds of thousands of jobs, a rejuvenation of various domestic industries, and increased tax revenues for the Federal, state, and local governments. The identification and analysis of such benefits require analysis.

In the short run, the U.S. would be hard-pressed to find adequate physical and human resources to plan, develop, construct, and operate the required facilities. Given that oil peaking is a world problem, it is virtually certain that at the same time the U.S. embarked on an aggressive mitigation program, other major initiatives would likely be undertaken elsewhere in the world. All would require similar types of capital, technology, and human resources, generating additional constraints and inflationary pressures on the U.S. program. Assessment of the impacts of these constraints on the feasibility, costs, and timing of a major U.S. mitigation program merits investigation.

2. OIL PEAKING RISK ANALYSIS: COST OF PREMATURE MITIGATION VERSUS WAITING

The date of world oil production peaking is unknowable, but it may occur in the not too distant future. Large-scale mitigation is needed more than a decade before the onset of peaking if economic hardship is to be avoided. If major efforts were initiated early and peaking was to occur decades later, there might be an unproductive use of resources. On the other hand, mitigation initiated at the time of peaking will not spare the world from a decade or more of devastating economic impacts. A careful analysis of the benefits/costs of early versus late mitigation could provide valuable insights.

3. U.S. NATURAL GAS PRODUCTION AS A PARADIGM FOR VIEWING WORLD OIL PEAKING

The history of U.S. natural gas production is cited as an example of the perils of over-optimistic resource forecasts. A detailed analysis of the North American natural gas history, status, and outlook might provide lessons useful in addressing world oil production peaking.

4. POTENTIAL FOR NON-TRANSPORTATION OIL FUEL-SWITCHING

World non-transportation liquid fuel usage is amenable to fuel switching, thereby freeing up liquids for transportation. If switching were to occur on a large-scale, it would likely take place gradually because other energy substitutes would have to be scaled up to meet the new demands associated with a major shift, e.g., electric power plants built, refineries expanded to produce a different product slate, etc. A detailed study would provide an understanding of how difficult, expensive, time-consuming and productive worldwide non-transportation fuel switching might be.

5. WORLD COAL-TO-LIQUIDS POTENTIAL

Sasol has operational coal-to-liquids (CTL) production plants and is under contract to study the construction of similar facilities in China. An analysis of worldwide large-scale CTL potential could yield a useful estimate of complexity, timing and potential.

6. WORLD HEAVY OIL/OIL SANDS POTENTIAL

Canada, Venezuela, and, to a lesser degree, other countries have potential to massively scale up their unconventional oil production. A better understanding of how quickly scale-up might be implemented, the related barriers, and ultimate potential would help in the understanding the potential contribution of these resources.

7. WORLD EOR POTENTIAL

An analysis of worldwide large-scale EOR potential could provide an estimate of complexity, timing and potential.

8. WORLD GTL POTENTIAL

An analysis of worldwide large-scale GTL potential could yield a useful estimate of complexity, timing and potential. In particular, the likely conflicts between GTL and LNG production could provide a quantitative estimate of likely future use of world stranded gas.

9. WORLD TRANSPORTATION FUEL EFFICIENCY IMPROVEMENT POTENTIAL

It is important that we have the best possible understanding of the U.S. and worldwide potential for the upgrading of transportation fuel efficiency, including possible timing, cost, and savings as a function of time. Excellent data is available on U.S. transportation fleets, but fleets elsewhere in the world are less well described. A careful study is needed.

10. IMPACTS OF OIL PRICES AND TECHNOLOGY ON U.S. LOWER 48 OIL PRODUCTION

Analysis of U.S. Lower 48 oil production since the 1970 peak strongly suggests that oil prices and advancing technology had little impact on the production decline. However, a number of institutional factors also impacted Lower 48 oil production, e.g., allowables (Texas Railroad Commission), price and allocation controls (1970s), free market pricing (since 1981), foreign opportunities for multi-national oil companies, etc. An in-depth understanding of these various influences might provide useful guidance for the future.

11. TECHNOLOGICAL OPTIONS FOR COAL LIQUEFACTION

Current world coal liquefaction R & D is focused on gasification of coal followed by the Fischer-Tropsch synthesis. Other coal-to-liquids processes have been proposed, some of which were tested at relatively large scale. It may be worthwhile to revisit the various options in light of today's technology and environmental requirements to determine if any of them might also have competitive potential.

12. PERFORMANCE OF OIL PROVINCES OUTSIDE OF THE U.S.

There is a strong rationale for using U.S Lower 48 oil production as a surrogate pattern for future world oil production peaking and decline. Other large oil province histories could also yield valuable insights and alternate patterns. Related analysis might provide an improved basis for modeling future world oil production.

13. HOW THE U.S. COULD AGAIN BECOME THE WORLD'S LARGEST OIL PRODUCER

After the peaking of world conventional oil production, there will be a major world transition from the current world liquid fuel infrastructure. Over time, major conservation and energy switching initiatives will almost certainly be implemented, but the need for liquid fuels will not disappear for at least the remainder of this century because there are no known alternatives for a number of transportation applications. An analysis of the major factors required for the U.S. to return to a position of oil supremacy and oil independence would be enlightening.

14. MARKET SIGNALS IN ADVANCE OF PEAKING

Increases in oil prices and oil price volatility have been identified as two precursors of world oil peaking, but both are likely short-term signals. The identification and character of longer-term signals, if they exist, could be of significant value.

15. RISK OF REPEATING THE SYNTHETIC FUELS EXPERIENCE OF 1970S AND 1980S

One risk of embarking on aggressive oil peaking mitigation is that OPEC might undermine such efforts by dramatically increasing conventional oil production. This could only happen if excess capacity were to exist, which could happen if world oil peaking was many decades away. Were such a dramatic increase in OPEC production to occur, governments would be under pressure to terminate support for their mitigation programs. Related scenarios might worthy of study.

16. EFFECTS OF OIL PRICE SPIKES IN CAUSING U.S. RECESSIONS

Oil price spike have been followed by U.S. recessions, but they are not the only cause of recessions. A detailed study of the role of oil prices and other factors in causing recessions might be worth further study.

UNITED STATES-BAHRAIN FREE TRADE AGREEMENT—MESSAGE FROM THE PRESIDENT OF THE UNITED STATES (H. DOC. NO. 109–71)

The SPEAKER pro tempore (Mr. JINDAL) laid before the House the following message from the President of the United States; which was read and, together with the accompanying papers, without objection, referred to the Committee on Ways and Means and ordered to be printed:

To the Congress of the United States:

I am pleased to transmit legislation and supporting documents to implement the United States-Bahrain Free Trade Agreement (the "Agreement"). This Agreement enhances our bilateral relationship with a strategic friend and ally in the Middle East region and will promote economic growth and prosperity in both nations.

In negotiating this Agreement, my Administration was guided by the objectives set out in the Trade Act of 2002. The Agreement reflects my Administration's commitment to opening markets and expanding opportunities for American workers, farmers, ranchers, and businesses. The Agreement will open Bahrain's market for U.S. manufactured goods, agricultural products, and services. As soon as it enters into force, the Agreement will eliminate tariffs on all manufactured goods that the United States sells to Bahrain and immediately remove Bahrain's import duties on over 80 percent of U.S. agricultural products. The Agreement is also one of the most comprehensive ever negotiated to reduce barriers to trade in services and will create new opportunities for U.S. services firms.

The Agreement contains procedures that will facilitate cooperation between the United States and Bahrain on environmental and labor matters. The labor chapter of the Agreement reinforces Bahrain's recent legislative actions to expand democracy and improve the protection of worker rights, including trade union rights. Provisions in the Agreement requiring effective enforcement of environmental laws will contribute to high levels of environmental protection.

The approval of this Agreement will be another significant step towards creating a Middle East Free Trade Area by 2013. This Agreement offers the United States yet another opportunity to encourage economic reform in a moderate Muslim nation as we have done through our free trade agreements with Jordan and Morocco. Leaders in Bahrain are supporting the pursuit of social and economic reforms in the region, encouraging foreign investment connected to broad-based development, and providing better protection for women and workers. It is strongly in our national interest to embrace and encourage these reforms, and passing this legislation is a crucial step toward that end.

GEORGE W. BUSH.

THE WHITE HOUSE, *November 16, 2005.*

RECESS

The SPEAKER pro tempore. Pursuant to clause 12(a) of rule I, the Chair declares the House in recess subject to the call of the Chair.

Accordingly (at 9 o'clock and 51 minutes p.m.), the House stood in recess subject to the call of the Chair.

□ 0759

AFTER RECESS

The recess having expired, the House was called to order by the Speaker pro tempore (Mr. BISHOP of Utah) at 7 o'clock and 59 minutes a.m.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.J. RES. 72, FURTHER CONTINUING APPROPRIATIONS, FISCAL YEAR 2006

Mr. PUTNAM, from the Committee on Rules, submitted a privileged report (Rept. No. 109–301) on the resolution (H. Res. 558) providing for consideration of the joint resolution (H.J. Res. 72) making further continuing appropriations for the fiscal year 2006, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION WAIVING POINTS OF ORDER AGAINST CONFERENCE REPORT ON H.R. 3010, DEPARTMENTS OF LABOR, HEALTH AND HUMAN SERVICES, AND EDUCATION, AND RELATED AGENCIES APPROPRIATIONS ACT, 2006

Mr. PUTNAM, from the Committee on Rules, submitted a privileged report (Rept. No. 109–302) on the resolution (H. Res. 559) waiving points of order against the conference report to accompany the bill (H.R. 3010) making appropriations for the Departments of Labor, Health and Human Services, and Education, and related agencies for the fiscal year ending September 30, 2006, and for other purposes, which was referred to the House Calendar and ordered to be printed.

REPORT ON RESOLUTION PROVIDING FOR CONSIDERATION OF H.R. 4241, DEFICIT REDUCTION ACT OF 2005

Mr. PUTNAM, from the Committee on Rules, submitted a privileged report (Rept. No. 109–303) on the resolution (H. Res. 560) providing for consideration of the bill (H.R. 4241) to provide for reconciliation pursuant to section 201(a) of the concurrent resolution on the budget for fiscal year 2006, which was referred to the House Calendar and ordered to be printed.

LEAVE OF ABSENCE

By unanimous consent, leave of absence was granted to:

Mr. Stark (at the request of Ms. Pelosi) for November 15 and today on account of medical reasons.

SPECIAL ORDERS GRANTED

By unanimous consent, permission to address the House, following the legislative program and any special orders heretofore entered, was granted to:

(The following Members (at the request of Ms. Woolsey) to revise and extend their remarks and include extraneous material:)

Mr. DeFazio, for 5 minutes, today.

Mr. George Miller of California, for 5 minutes, today.

Mr. Emanuel, for 5 minutes, today.

Mr. Wynn, for 5 minutes, today.

Mr. McDermott, for 5 minutes, today.

Ms. Kaptur, for 5 minutes, today.

Mr. Davis of Tennessee, for 5 minutes, today.

Ms. Woolsey, for 5 minutes, today.

Mrs. Christensen, for 5 minutes, today.

(The following Members (at the request of Mr. Paul) to revise and extend their remarks and include extraneous material:)

Mr. Paul, for 5 minutes, today and November 17.

Mr. Burgess, for 5 minutes, today.

Mr. Gingrey, for 5 minutes, November 17.

Mr. Weldon of Florida, for 5 minutes, today.

Ms. Foxx, for 5 minutes, today and November 17.

Ms. Ginny Brown-Waite of Florida, for 5 minutes, today.

Mr. Boustany, for 5 minutes, November 17.

(The following Member (at his own request) to revise and extend his remarks and include extraneous material:)

Mr. Kingston, for 5 minutes, today.

EXTENSION OF REMARKS

By unanimous consent, permission to revise and extend remarks was granted to:

Mr. Bartlett of Maryland and to include extraneous material, notwithstanding the fact it exceeds two pages of the Record and is estimated by the Public Printer to cost $3,547.

SENATE BILLS REFERRED

Bills and a concurrent resolution of the Senate of the following titles were taken from the Speaker's table and, under the rule, referred as follows:

S. 242. An act to direct the Secretary of the Interior to carry out a study to determine the suitability and feasibility of establishing memorials to the Space Shuttle Columbia on parcels of land in the State of Texas; to the Committee on Resources.

S. 592. An act to amend the Irrigation Project Contract Extension Act of 1998 to extend certain contracts between the Bureau of Reclamation and certain irrigation water contractors in the States of Wyoming and Nebraska; to the Committee on Resources.

S. 1170. An act to establish the Fort Stanton-Snowy River Cave National Conservation Area; to the Committee on Resources.

S. Con. Res. 62. Concurrent resolution directing the Joint Committee on the Library to procure a statue of Rosa Parks for placement in the Capitol; the Committee on House Administration.

SENATE ENROLLED BILLS SIGNED

The SPEAKER announced his signature to enrolled bills of the Senate of the following titles:

S. 161. An act to provide for a land exchange in the State of Arizona between the Secretary of Agriculture and Yavapai Ranch Limited Partnership.

S. 1713. An act to make amendments to the Iran Nonproliferation Act of 2000 related to International Space Station payments, and for other purposes.

S. 1894. An act to amend part E of title IV of the Social Security Act to provide for the making of foster care maintenance payments to private for-profit agencies.

ADJOURNMENT

Mr. PUTNAM. Mr. Speaker, I move that the House do now adjourn.

The motion was agreed to; accordingly (at 8 a.m.), the House adjourned until today, Thursday, November 17, 2005, at 10 a.m.

EXECUTIVE COMMUNICATIONS, ETC.

Under clause 8 of rule XII, executive communications were taken from the Speaker's table and referred as follows:

5227. A letter from the Administrator, Rural Business-Cooperative Service, Department of Agriculture, transmitting the Department's final rule — Business and Industry Guaranteed Loan Program Annual Renewel Fee (RIN: 0570-AA34) received October 6, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5228. A letter from the Regulatory Analyst, Grain Inspection, Packers and Stockyards Administartion, Department of Agriculture, transmitting the Department's final rule — Review Inspection Requirements for Graded Commodities (RIN: 0580-AA89) received November 10, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5229. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule — Marketing Order Regulating the Handling of Pears Grown in Oregon and Washington; Control Committee Rules and Regulation [Docket No. FV05-927-2] received November 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5230. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule — Regulations Governing the California Clingstone Peach (Tree Removal) Diversion Program [Docket No. FV05-82-01-FR] (RIN: 0581-AC45) received November 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5231. A letter from the Administrator, AMS, Department of Agriculture, transmitting the Department's final rule — Domestic Dates Produced or Packed in Riverside County, CA; Increased Assessment Rate [Docket No. FV05-987-1 FR] received November 9, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Agriculture.

5232. A letter from the Comptroller, Department of Defense, transmitting a report of a violation of the Antideficiency Act by the Department of the Air Force, Case Number 03-03, pursuant to 31 U.S.C. 1517(b); to the Committee on Appropriations.

5233. A letter from the Secretary, Department of Defense, transmitting notification that the Department anticipates it will be prepared to commence chemical agent destruction operations at the Pine Bluff Explosive Destruction System facility in Pine Bluff, Arkansas, pursuant to 50 U.S.C. 1512(4); to the Committee on Armed Services.

5234. A letter from the Counsel for Legislation and Regulations, Department of Housing and Urban Develpoment, transmitting the Department's final rule — Revisions to the Public Housing Operating Fund Program; Correction to Formula Implementation Date [Docket No. FR-4874-C-09] (RIN: 2577-AC51) received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Financial Services.

5235. A letter from the Deputy Executive Director, Pension Benefit Guaranty Corporation, transmitting the Corporation's final rule — Benefits Payable in Terminated Single-Employer Plans; Allocation of Assets in Single-Employer Plans; Interest Assumptions for Valuing and Paying Benefits — received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Education and the Workforce.

5236. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's report entitled, "Congressionally Mandated Evaluation of the State Children's Health Insurance Program: Final Report to Congress" in accordance with the Balanced Budget Refinement

Act of 1999 (BBRA); to the Committee on Energy and Commerce.

5237. A letter from the Regulations Coordinator, CDC, Department of Health and Human Services, transmitting the Department's final rule — Possession, Use, and Transfer of Select Agents and Toxins — Reconstructed replication competent forms of the 1918 pandemic influenza virus containing any portion of the coding regions of all eight gene segments — received November 3, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5238. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Cimarron, Las Vegas and Pecos, New Mexico) [MB Docket No. 04-218; RM-10987; RM-11237] received October 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5239. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of the Television Table of Allotments to Delete Noncommercial Reservation of Channel 39, 620-626 MHz, Phoenix, Arizona, and to Add Noncommercial Reservation on Channel 11, 198-204 MHz, Holbrook, Arizona [MB Docket No. 04-312; RM No. 11049] received October 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5240. A letter from the Legal Advisor to the Bureau Chief, MB, Federal Communications Commission, transmitting the Commission's final rule — Amendment of Section 73.202(b), Table of Allotments, FM Broadcast Stations. (Barnesboro and Gallitzin, Pennsylvania) [MB Docket No. 05-103; RM-11205] received October 27, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5241. A letter from the Secretary of the Commission, Bureau of Consumer Protection, Federal Trade Commission, transmitting the Commission's final rule — Rule Concerning Disclosures Regarding Energy Consumption and Water Use of Certain Home Appliances and Other Products Required Under the Energy Policy and Conservation Act ("Appliance Labeling Rule") — received November 8, 2005,pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Energy and Commerce.

5242. A letter from the Chairman, Holocaust Memorial Museum, transmitting the Museum's FY 2005 Report on Audit and Investigative Activities in accordance with the Inspector General Act of 1978; to the Committee on Government Reform.

5243. A letter from the Chairman, Merit Systems Protection Board, transmitting the Board's report entitled, "Building a High-Quality Workforce: The Federal Career Intern Program.," pursuant to 5 U.S.C. 1204(a)(3); to the Committee on Government Reform.

5244. A letter from the Under Secretary for Oceans and Atmosphere, Department of Commerce, transmitting information regarding the activities of the Northwest Atlantic Fisheries Organization for 2004, pursuant to 16 U.S.C. 5601 et seq; to the Committee on Resources.

5245. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries of the Exclusive Economic Zone Off Alaska; Reallocation of Pacific Cod in the Bering Sea and Aleutian Islands Management Area [Docket No. 041126332-5039-02; I.D. 100405D] received October 24, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5246. A letter from the Acting Director, Office of Sustainable Fisheries, NMFS, National Oceanic and Atmospheric Administration, transmitting the Administration's final rule — Fisheries off West Coast States and in the Western Pacific; Pacific Coast Groundfish Fishery; End of the Pacific Whiting Primary Season for the Catcher/processor Sector [Docket No. 040830250-5109-04; I.D. 101805C] received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Resources.

5247. A letter from the Assistant Attorney General, Department of Justice, transmitting the Department's report detailing the progress and the status of compliance with privitization requirements, pursuant to Public Law 105-33 section 11201(c) (111 Stat. 734); to the Committee on the Judiciary.

5248. A letter from the Assistant Attorney General, Department of Justice, transmitting the Department's report entitled, "Report to Congress on AMBER Alert, July 2005," pursuant to 42 U.S.C. 5791 Public Law 108-21, section 301(e); to the Committee on the Judiciary.

5249. A letter from the Director, Administrative Office of the United States Courts, transmitting the first annual report to Congress on victims' rights, pursuant to 18 U.S.C. 3771 Public Law 108-405, section 104(a); to the Committee on the Judiciary.

5250. A letter from the National Treasurer, American Ex-Prisoners of War, transmitting a copy of the Financial Statements with the Independent Auditors' report, for the year ended August 31, 2004, pursuant to 36 U.S.C. 1101 and 1103; to the Committee on the Judiciary.

5251. A letter from the Assistant Attorney General, Department of Justice, transmitting the annual report of the Office of Justice Programs for Fiscal Years 2003 and 2004, pursuant to 42 U.S.C. 3712(b); to the Committee on the Judiciary.

5252. A letter from the Controller, National Society Daughters of the American Revolution, transmitting the Audited Financial Statements of NSDAR for the Fiscal Year ending February 28, 2005, pursuant to 36 U.S.C. 1102; to the Committee on the Judiciary.

5253. A letter from the Deputy Executive Director, Reserve Officers Association, transmitting the Association's report of audit for the year ending March 31, 2005, pursuant to 36 U.S.C. 1101(41) and 1103; to the Committee on the Judiciary.

5254. A letter from the National President, Women's Army Corps Veterans' Association, transmitting the financial statement of Women's Army Corps Veterans Association for fiscal year ending June 30, 2005, pursuant to 36 U.S.C. 1103 and 1101(64); to the Committee on the Judiciary.

5255. A letter from the Deputy Assistant Secretary for Tax Analysis, Department of the Treasury, transmitting the Department's report entitled, "Taxable REIT Subsidiaries: Analysis of the First Year's Returns, Tax Year 2001.," pursuant to Public Law 106-170, section 547; to the Committee on Ways and Means.

5256. A letter from the Director, Regulations and Rulings Division, Alcohol & Tobacco Tax & Trade Bureau, Department of the Treasury, transmitting the Department's final rule — Suspension of Special (Occupational) Tax (2004R-778P) [T.D. TTB-36] (RIN: 1513-AB04) received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5257. A letter from the Secretary, Department of Health and Human Services, transmitting the Department's FY 2002 and FY 2003 Annual Report on the Child Support Enforcement Program in accordance with 452(a) of the Social Security Act; to the Committee on Ways and Means.

5258. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — 2006 Limitations Adjusted As Provided in Section 415(d), etc. [Notice 2005-75] received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5259. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Weighted Average Interest Rate Update [Notice 2005-72] received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5260. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Low-Income Housing Credit Allocation and Certification; Revisions [TD 9228] (RIN: 1545-BE50) received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5261. A letter from the Acting Chief, Publications and Regulations Branch, Internal Revenue Service, transmitting the Service's final rule — Extension of Time for Filing Returns [TD 9229] (RIN: 1545-BE63) received November 8, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5262. A letter from the Chair, IRS Oversight Board, transmitting a copy of the Board's 2005 annual report that discusses the IRS's performance over the past year; to the Committee on Ways and Means.

5263. A letter from the Secretary, Judicial Conference of the United States, transmitting a draft bill entitled, "To amend the Internal Revenue Code of 1986 to make certain rules regarding sales of property to comply with conflict-of-interest requirements applicable to the federal judiciary, and for other purposes."; to the Committee on Ways and Means.

5264. A letter from the Regulations Officer, Social Security Administration, transmitting the Administration's final rule — Deemed Duration of Marriage for Widows/Widowers and Removal of Restriction on Benefits to Children of Military Parents Overseas [Regulations Nos. 4 and 16] (RIN: 0960-AG23) received October 19, 2005, pursuant to 5 U.S.C. 801(a)(1)(A); to the Committee on Ways and Means.

5265. A letter from the General Counsel, Department of Defense, transmitting the Department's requested legislative proposals as part of the National Defense Authorization Bill for Fiscal Year 2006; jointly to the Committees on Armed Services, Financial Services, and Ways and Means.

REPORTS OF COMMITTEES ON PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XIII, reports of committees were delivered to the Clerk for printing and reference to the proper calendar, as follows:

Mr. POMBO: Committee on Resources. H.R. 125. A bill to authorize the Secretary of the Interior to construct facilities to provide water for irrigation, municipal, domestic, military, and other uses from the Santa Margarita River, California, and for other purposes; with an amendment (Rept. 109–297 Pt. 1). Ordered to be printed.

Mr. POMBO: Committee on Resources. H.R. 3351. A bill to make technical corrections to laws relating to Native Americans, and for other purposes; with an amendment (Rept. 109–298 Pt. 1). Ordered to be printed.

Mr. SENSENBRENNER: Committee on the Judiciary. H.R. 3889. A bill to further regulate and punish illicit conduct relating to methamphetamine, and for other purposes; with amendments (Rept. 109–299 Pt. 1). Ordered to be printed.

Mr. REGULA: Committee of Conference. Conference report on H.R. 3010. A bill making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–300). Ordered to be printed.

[Filed on November 17 (legislative day, November 16, 2005)]

Mr. PUTNAM: Committee on Rules. House Resolution 558. Resolution providing for consideration of the joint resolution (H.J. Res. 72) making further continuing appropriations for the fiscal year 2006, and for other purposes (Rept. 109–301). Referred to the House Calendar.

Mrs. CAPITO: Committee on Rules. House Resolution 559. Resolution waiving points of order against the conference report to accompany the bill (H.R. 3010) making appropriations for the Departments of Labor, Health and Human Services, and Education, and Related Agencies for the fiscal year ending September 30, 2006, and for other purposes (Rept. 109–302). Referred to the House Calendar.

Mr. PUTNAM: Committee on Rules. House Resolution 560. Resolution providing for consideration of the bill (H.R. 4241) to provide for reconciliation pursuant to section 201(a) of the concurrent resolution on the budget for fiscal year 2006 (Rept. 109–303). Referred to the House Calendar.

DISCHARGE OF COMMITTEE

Pursuant to clause 2 of rule XII the Committee on Armed Services discharged from further consideration H.R. 125. Referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

Pursuant to clause 2 of rule XII the Committee on Transportation and Infrastructure discharged from further consideration H.R. 3351. Referred to the Committee of the Whole House on the State of the Union and ordered to be printed.

PUBLIC BILLS AND RESOLUTIONS

Under clause 2 of rule XII, public bills and resolutions were introduced and severally referred, as follows:

By Mr. JEFFERSON (for himself, Mr. McCrery, Mr. Baker, Mr. Alexander, Mr. Melancon, Mr. Jindal, and Mr. Boustany):

H.R. 4337. A bill to amend the Internal Revenue Code of 1986 to provide for Gulf tax credit bonds and advance refundings of certain tax-exempt bonds, and to provide a Federal guarantee of certain State bonds; to the Committee on Ways and Means. considered and passed.

By Mr. RADANOVICH:

H.R. 4338. A bill to provide veterans benefits to certain individuals who serve in the United States merchant marine during a period of war; to the Committee on Veterans' Affairs.

By Mr. BUYER (for himself, Mr. Evans, Mr. Boozman, Ms. Herseth, Mr. Bilirakis, Mr. Burton of Indiana, Mr. Miller of Florida, Ms. Corrine Brown of Florida, and Mr. Baker):

H.R. 4339. A bill to amend title 38, United States Code, to establish in the Department of Veterans Affairs an Office of National Veterans Sports Programs and Special Events; to the Committee on Veterans' Affairs.

By Mr. BLUNT (for himself and Mr. Rangel) (both by request):

H.R. 4340. A bill to implement the United States-Bahrain Free Trade Agreement; to the Committee on Ways and Means.

By Mr. HALL (for himself, Mr. Blunt, Mr. Peterson of Minnesota, Mr. Goodlatte, Mr. Bonilla, Mr. Otter, Mr. Conaway, Mr. Deal of Georgia, Mr. Holden, Mr. Neugebauer, Mrs. Wilson of New Mexico, Mr. Carter, Mr. Norwood, Mr. Thornberry, Mr. Sessions, Mr. Costa, Mr. Smith of Texas, Mr. Osborne, Mr. Simpson, Mr. Pickering, Mr. Ross, Mr. Hayes, Mr. Gohmert, Mr. Hensarling, Mr. Ortiz, Mr. Paul, Mr. Brady of Texas, Mr. Pombo, Mr. Salazar, and Mr. Shadegg):

H.R. 4341. A bill to amend the Comprehensive Environmental Response Compensation and Liability Act of 1980 ("Superfund") to provide that manure is not considered a hazardous substance or pollutant or contaminant under that Act, and for other purposes; to the Committee on Energy and Commerce, and in addition to the Committee on Transportation and Infrastructure, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. ANDREWS:

H.R. 4342. A bill to enhance the effectiveness of rural business financing programs; to the Committee on Agriculture.

By Mr. RUSH (for himself, Mr. Upton, Mr. Conyers, and Mr. Schwarz of Michigan):

H.R. 4343. A bill to provide for the issuance of a commemorative postage stamp in honor of Rosa Parks; to the Committee on Government Reform.

By Mr. ANDREWS:

H.R. 4344. A bill to establish a demonstration program to provide comprehensive health assessments for students; to the Committee on Education and the Workforce, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Ms. BERKLEY (for herself and Mr. Porter):

H.R. 4345. A bill to provide for the conveyance of a United States Fish and Wildlife Service administrative site to the city of Las Vegas, Nevada; to the Committee on Resources.

By Mr. BUYER (for himself, Mr. Souder, and Mr. Chocola):

H.R. 4346. A bill to designate the facility of the United States Postal Service located at 122 South Bill Street in Francesville, Indiana, as the "Malcolm Melville 'Mac' Lawrence Post Office"; to the Committee on Government Reform.

By Ms. CARSON (for herself, Mr. Conyers, Ms. Lee, Mr. Kucinich, Mr. Capuano, Ms. Woolsey, Mr. Payne, Mr. McDermott, Mr. Sanders, and Mr. Gutierrez):

H.R. 4347. A bill to end homelessness in the United States; to the Committee on Financial Services, and in addition to the Committees on Agriculture, Energy and Commerce, Education and the Workforce, Government Reform, Veterans' Affairs, and Ways and Means, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HASTINGS of Florida (for himself and Mr. Wexler):

H.R. 4348. A bill to amend the Internal Revenue Code of 1986 to allow a tax credit for the purchase and installation of emergency generators; to the Committee on Ways and Means.

By Mr. HINCHEY (for himself, Mrs. Capps, Mr. DeFazio, Mr. Doggett, Mr. Filner, Mr. Jefferson, Mr. Kucinich, Mr. Lantos, Mrs. McCarthy, Mr. McNulty, Mr. Payne, Mr. Stark, Mr. Towns, Mr. Waxman, and Ms. Woolsey):

H.R. 4349. A bill to require Medicare providers to disclose publicly staffing and performance in order to promote improved consumer information and choice; to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. HOLT:

H.R. 4350. A bill to provide for grants from the Secretary of Energy to State and local educational agencies for EnergySmart schools and Energy Star programs; to the Committee on Education and the Workforce.

By Mr. LYNCH (for himself, Mr. Waxman, Mr. Lantos, Mrs. Maloney, Mr. Kucinich, Mr. Higgins, Mr. Sanders, and Ms. Linda T. Sánchez of California):

H.R. 4351. A bill to require the Secretary of Defense, acting through the Defense Contract Audit Agency, to review all defense contracts relating to reconstruction or troop support in Iraq involving any contractors, subcontractors, or Federal officers or employees that have been indicted or convicted for contracting improprieties; to the Committee on Armed Services.

By Mr. MILLER of Florida:

H.R. 4352. A bill to amend titles 10 and 38, United States Code, to modify the circumstances under which a person who has committed a capital offense is denied certain burial-related benefits and funeral honors, and for other purposes; to the Committee on Veterans' Affairs, and in addition to the Committee on Armed Services, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned.

By Mr. SHAYS (for himself and Mr. Markey):

H.R. 4353. A bill to direct the Secretary of Homeland Security to notify passengers when they are flying on an aircraft carrying unscreened cargo; to the Committee on Homeland Security.

By Mr. WEINER (for himself and Ms. Ros-Lehtinen):

H.R. 4354. A bill to amend the Immigration and Nationality Act to establish a separate nonimmigrant classification for fashion models; to the Committee on the Judiciary.

By Mr. WU:

H.R. 4355. A bill to amend title 38, United States Code, to improve services for veterans residing in rural areas; to the Committee on Veterans' Affairs.

By Mr. LEWIS of California:

H.J. Res. 72. A joint resolution making further continuing appropriations for the fiscal year 2006, and for other purposes; to the Committee on Appropriations.

By Mr. CONYERS (for himself and Ms. NORTON):

H. Con. Res. 300. Concurrent resolution paying tribute to Shirley Horn in recognition of her many achievements and contributions to the world of jazz and American culture; to the Committee on Education and the Workforce.

By Mr. CONAWAY:

H. Con. Res. 301. Concurrent resolution expressing the sense of Congress that any bill or joint resolution that provides for the establishment of a new Federal program should contain a provision that eliminates one or more current Federal programs of equal or greater cost; to the Committee on Government Reform.

By Mrs. JO ANN DAVIS of Virginia:

H. Con. Res. 302. Concurrent resolution supporting the national motto of the United States; to the Committee on the Judiciary.

By Mr. BAIRD (for himself, Mr. SOUDER, Mr. LARSEN of Washington, Mr. SIMMONS, Mr. CASE, Ms. MCCOLLUM of Minnesota, Mr. BOSWELL, Mr. BURTON of Indiana, Mr. HINCHEY, Mr. TANNER, Mr. SALAZAR, Mr. SWEENEY, Mr. COOPER, Ms. HERSETH, Ms. MATSUI, Mr. ABERCROMBIE, Mr. PETERSON of Pennsylvania, Mr. KENNEDY of Rhode Island, Mr. WAMP, Mr. CLEAVER, Mr. PETERSON of Minnesota, Mr. BERRY, Mr. ROSS, and Mr. SCOTT of Georgia):

H. Res. 556. A resolution expressing the sense of the House of Representatives that a National Methamphetamine Prevention Week should be established to increase awareness of methamphetamine and to educate the public on ways to help prevent the use of that damaging narcotic; to the Committee on Government Reform.

By Mr. UDALL of Colorado (for himself and Mr. SWEENEY):

H. Res. 557. A resolution urging the president to issue a proclamation declaring a Winter Outdoors Month to call attention to the need for all people to exercise and to get outdoors in the winter; to the Committee on Government Reform.

ADDITIONAL SPONSORS

Under clause 7 of rule XII, sponsors were added to public bills and resolutions as follows:

H.R. 414: Mr. FARR and Mr. UDALL of New Mexico.

H.R. 415: Mr. ALEXANDER and Mrs. EMERSON.

H.R. 476: Mr. ROTHMAN.

H.R. 501: Ms. LEE.

H.R. 517: Mr. SHUSTER.

H.R. 582: Mr. HOLT.

H.R. 633: Mr. PALLONE.

H.R. 687: Mr. SESSIONS.

H.R. 697: Ms. SOLIS and Mr. CLEAVER.

H.R. 698: Mr. CALVERT, Mr. BONNER, Mr. WALDEN of Oregon, Mr. PETERSON of Minnesota, Mrs. KELLY, Mr. GOHMERT, Mr. POE, Mr. ISSA, and Mr. ROYCE.

H.R. 772: Mr. REHBERG.

H.R. 808: Ms. CORRINE BROWN of Florida, Mr. MEEHAN, Mr. LIPINSKI, and Mr. ANDREWS.

H.R. 896: Mr. LEACH, Ms. WOOLSEY, and Ms. MATSUI.

H.R. 972: Mr. PASTOR, Mr. SMITH of Washington, Mr. FOSSELLA, and Mr. KLINE.

H.R. 986: Mr. WALDEN of Oregon.

H.R. 995: Mr. BUTTERFIELD.

H.R. 1053: Mr. BOEHLERT and Mr. SCHWARZ of Michigan.

H.R. 1059: Mr. MEEKS of New York.

H.R. 1103: Mr. ROTHMAN.

H.R. 1106: Mr. PETERSON of Minnesota.

H.R. 1131: Mr. SCHIFF and Mr. ROHRABACHER.

H.R. 1141: Mr. FEENEY and Mr. GINGREY.

H.R. 1202: Mr. CHANDLER.

H.R. 1259: Mrs. NAPOLITANO and Mr. SPRATT.

H.R. 1297: Mr. MOORE of Kansas.

H.R. 1298: Mr. SHERMAN.

H.R. 1402: Mr. RUSH and Ms. NORTON.

H.R. 1498: Mr. SCOTT of Georgia.

H.R. 1521: Mr. ROTHMAN.

H.R. 1554: Mr. STRICKLAND and Mr. ALLEN.

H.R. 1582: Mr. DICKS and Mr. HONDA.

H.R. 1648: Mrs. MCCARTHY.

H.R. 1671: Mr. PETERSON of Minnesota.

H.R. 1717: Mr. MENENDEZ.

H.R. 1736: Mr. GEORGE MILLER of California and Mr. POMBO.

H.R. 1849: Mr. ENGLISH of Pennsylvania.

H.R. 1871: Mr. UDALL of Colorado.

H.R. 2012: Mr. MOORE of Kansas, Mr. PASTOR, and Mr. FOSSELLA.

H.R. 2061: Mr. CARTER.

H.R. 2531: Mr. MCGOVERN.

H.R. 2561: Mr. PAUL.

H.R. 2565: Mr. BRADY of Pennsylvania.

H.R. 2646: Mr. MORAN of Kansas.

H.R. 2662: Ms. KAPTUR.

H.R. 2716: Mr. ROTHMAN.

H.R. 2761: Mr. BRADY of Pennsylvania.

H.R. 2861: Mr. WELDON of Florida, Mr. MENENDEZ, Mr. ORTIZ, Mr. GINGREY, Mr. REYES, Mr. KENNEDY of Rhode Island, Mr. DOGGETT, and Ms. JACKSON-LEE of Texas.

H.R. 2932: Mr. JENKINS.

H.R. 2943: Mrs. BIGGERT and Mr. VAN HOLLEN.

H.R. 2952: Mr. BRADY of Texas, Mr. PETRI, and Mr. NEUGEBAUER.

H.R. 2972: Mrs. JO ANN DAVIS of Virginia.

H.R. 3042: Mr. ROTHMAN.

H.R. 3095: Mr. GINGREY, Mr. GARRETT of New Jersey, Mr. GUTKNECHT, Mr. DAVIS of Kentucky, Mr. SHADEGG, Mr. WESTMORELAND, and Mr. WELDON of Florida.

H.R. 3195: Mr. BUTTERFIELD.

H.R. 3268: Mr. ROHRABACHER.

H.R. 3284: Mr. BUTTERFIELD.

H.R. 3301: Ms. CARSON.

H.R. 3326: Mr. SCHIFF and Ms. MATSUI.

H.R. 3361: Mr. LYNCH.

H.R. 3430: Mr. NORWOOD.

H.R. 3476: Mr. MICA and Mr. BILIRAKIS.

H.R. 3478: Mr. FOLEY, Mr. BOUSTANY, Mr. RYAN of Ohio, Mr. TURNER, Mrs. JO ANN DAVIS of Virginia, Mr. FILNER, Mr. PETERSON of Minnesota, Mr. GONZALEZ, Ms. MCKINNEY, Mrs. MILLER of Michigan, Mrs. MCCARTHY, Mr. BILIRAKIS, Mr. BISHOP of New York, Mr. STRICKLAND, Ms. SCHAKOWSKY, and Mr. WALDEN of Oregon.

H.R. 3579: Mrs. MALONEY.

H.R. 3582: Ms. BEAN.

H.R. 3616: Mr. MCDERMOTT.

H.R. 3630: Mr. LOBIONDO.

H.R. 3640: Mr. UDALL of New Mexico, Mr. MEEK of Florida, Mr. SANDERS, and Mr. DINGELL.

H.R. 3641: Mr. BECERRA.

H.R. 3642: Mr. BISHOP of Georgia, Mr. SANDERS, Mr. MCDERMOTT, Mr. MEEK of Florida, Mr. TOWNS, and Mr. ALLEN.

H.R. 3698: Mr. INSLEE.

H.R. 3734: Ms. CARSON.

H.R. 3774: Mr. BUTTERFIELD.

H.R. 3779: Mr. WOLF.

H.R. 3792: Mrs. DAVIS of California.

H.R. 3837: Mr. BRADY of Pennsylvania, Mr. FATTAH, Ms. VELÁZQUEZ, Mr. FARR, and Mr. HONDA.

H.R. 3861: Mr. CONYERS, Mr. MELANCON, Ms. CARSON, Ms. HOOLEY, Ms. HERSETH, Mrs. DAVIS of California, Mr. BISHOP of New York, Mr. BOUCHER, Mr. ISRAEL, Mr. ALLEN, Mr. CASE, Mr. ETHERIDGE, Mr. POMEROY, Ms. SLAUGHTER, Mr. MORAN of Virginia, Ms. WATSON, Mr. DELAHUNT, Mr. MOORE of Kansas, Mr. EDWARDS, Mr. LIPINSKI, Mr. HOLDEN, Mr. HOLT, and Mr. MEEKS of New York.

H.R. 3907: Mr. CONAWAY, Mr. KING of Iowa, Mr. GINGREY, Mr. FRANKS of Arizona, Mr. SHADEGG, Mr. MARCHANT, Mr. AKIN, Mr. SODREL, Mr. WELDON of Florida, Mr. GOHMERT, and Mr. COLE of Oklahoma.

H.R. 3944: Mr. BUTTERFIELD.

H.R. 3985: Mr. ETHERIDGE, Mr. MEEHAN, Mr. PETRI, Ms. SCHAKOWSKY, Mr. SANDERS, Mr. PALLONE, Mr. SERRANO, Mr. EVANS, Mrs. DAVIS of California, Mr. SCOTT of Georgia, Mr. DEFAZIO, Mr. BOUCHER, Ms. KILPATRICK of Michigan, Mr. CARDOZA, Mr. PASTOR, Mr. COOPER, Mr. SPRATT, and Mr. CLAY.

H.R. 4013: Mr. MATHESON.

H.R. 4047: Mr. HOLT.

H.R. 4049: Mr. GEORGE MILLER of California.

H.R. 4059: Mr. TOM DAVIS of Virginia.

H.R. 4071: Mr. BASS and Mr. HENSARLING.

H.R. 4078: Mr. TERRY, Mr. MILLER of Florida, Mr. TAYLOR of North Carolina, and Mr. PAUL.

H.R. 4098: Mr. JENKINS, Mr. PLATTS, Mr. GONZALEZ, Mr. BRADY of Pennsylvania, and Mr. BACHUS.

H.R. 4099: Mr. KLINE.

H.R. 4145: Mr. MORAN of Virginia, Mr. DICKS, Mr. WEXLER, Ms. WASSERMAN SCHULTZ, Mr. TANNER, Mr. SKELTON, Mr. CHANDLER, Mr. HIGGINS, Mr. LARSON of Connecticut, Mr. INSLEE, Mr. RAHALL, Mr. LARSEN of Washington, Mr. ETHERIDGE, and Ms. HERSETH.

H.R. 4148: Ms. LEE.

H.R. 4168: Mr. KENNEDY of Minnesota.

H.R. 4200: Mr. GREEN of Wisconsin, Mr. FORTUÑO, Mr. CONAWAY, Mr. COBLE, Mrs. JO ANN DAVIS of Virginia, Mr. OSBORNE, Mr. TIBERI, Ms. PRYCE of Ohio, Mr. AKIN, Mr. CARTER, Mr. KLINE, and Mr. THORNBERRY.

H.R. 4225: Mr. HONDA, Mr. GRIJALVA, Mr. MCGOVERN, Mr. MEEKS of New York, Mr. CONYERS, Mr. RUPPERSBERGER, Mr. KUCINICH, Mr. HIGGINS, Ms. SCHAKOWSKY, Mr. JEFFERSON, and Ms. WOOLSEY.

H.R. 4229: Mr. STARK.

H.R. 4238: Mr. POE.

H.R. 4239: Mrs. CUBIN and Mr. DUNCAN.

H.R. 4253: Mr. MILLER of Florida.

H.R. 4263: Mr. BISHOP of New York.

H.R. 4298: Mrs. JONES of Ohio and Mr. MCDERMOTT.

H.R. 4300: Mr. GREEN of Wisconsin.

H.R. 4313: Mrs. BONO, Mr. PETERSON of Minnesota, Mr. SIMPSON, and Mr. MILLER of Florida.

H.R. 4321: Mr. KING of Iowa, Mr. WELDON of Florida, Mr. AKIN, Mr. GUTKNECHT, Mr. WESTMORELAND, Mr. HOSTETTLER, Mr. GOHMERT, Ms. FOXX, Mr. KINGSTON, and Mr. PENCE.

H.R. 4323: Mr. SHAW and Mr. FORTUÑO.

H.R. 4325: Mr. TOM DAVIS of Virginia.

H.R. 4326: Mr. FORBES and Mrs. DRAKE.

H.R. 4330: Mr. ADERHOLT, Mr. DAVIS of Florida, Mr. DAVIS of Alabama, and Mr. WEXLER.

H. Con. Res. 40: Mr. PALLONE.

H. Con. Res. 42: Mr. VAN HOLLEN.

H. Con. Res. 190: Ms. FOXX and Mr. SHERMAN.

H. Con. Res. 207: Mrs. MCCARTHY, Ms. KILPATRICK of Michigan, Mr. SNYDER, Mr. BUTTERFIELD, and Mr. SKELTON.

H. Con. Res. 230: Mr. HERGER and Mr. SCOTT of Georgia.

H. Con. Res. 231: Ms. BALDWIN.

H. Con. Res. 235: Mr. BAKER and Mr. COBLE.

H. Con. Res. 272: Mr. SIMMONS, Ms. MILLENDER-MCDONALD, Mr. PAYNE, Mrs. MALONEY, Mr. MARSHALL, and Mr. GALLEGLY.

H. Con. Res. 280: Mr. SHERMAN and Mr. SCOTT of Georgia.

H. Con. Res. 284: Mr. SHERMAN.

H. Con. Res. 292: Mr. UPTON.

H. Res. 225. Mr. KUCINICH.

H. Res. 456: Ms. SCHWARTZ of Pennsylvania, Mr. WILSON of South Carolina, Mr. MCGOVERN, and Mr. SHERMAN.

H. Res. 458: Mr. SHERMAN.

H. Res. 477: Mr. SNYDER.

H. Res. 487: Mr. SMITH of Washington, Mr. GOODE, Mr. HOYER, Mr. JACKSON of Illinois, Mr. RENZI, Mr. SHUSTER, Mrs. CAPITO, and Mr. HOLT.

H. Res. 498: Ms. HERSETH and Mrs. MCCARTHY.

H. Res. 521: Mr. ANDREWS.

H. Res. 529: Mr. SCHIFF, Mr. WELLER, Mr. ISSA, Mr. WEXLER, Mr. SMITH of New Jersey, Ms. WOOLSEY, Mr. CARDOZA, Ms. LEE, Mrs. NAPOLITANO, and Ms. ROS-LEHTINEN.

H. Res. 535: Ms. DELAURO and Mr. SHERMAN.

H. Res. 545: Mr. PICKERING.

H. Res. 546: Mr. BAIRD.

H. Res. 547: Mrs. JO ANN DAVIS of Virginia and Mr. BISHOP of Utah.

DELETIONS OF SPONSORS FROM PUBLIC BILLS AND RESOLUTIONS

Under clause 7 of rule XII, sponsors were deleted from public bills and resolutions as follows:

H.R. 2669: Ms. WASSERMAN SCHULTZ.

EXTENSIONS OF REMARKS

IN HONOR AND RECOGNITION OF UNITED WAY AND BRIDGING THE GAP'S COLLABORATIVE EFFORT: 2-1-1/FIRST CALL FOR HELP AND HOUSINGCLEVELAND.ORG

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the united effort of United Way and Northeast Ohio Coalition for the Homeless' (NEOCH) Bridging the Gap as they celebrate the newly available HousingCleveland.Org website. This is a vital source of information for individuals and families on the road to personal restoration as they search for safe, affordable housing in Cuyahoga County.

This comprehensive Web site is free to both prospective tenants and property owners. The site currently lists more than 1,500 housing units in more than 20 local cities and villages. The site, available at no cost to property owners, includes a rental checklist, a rent calculator, information on tenant rights and responsibilities and information that includes details about each unit. Tenants can use the site to search by location, rent, number of bedrooms and special needs requirements.

For individuals who do not have access to the internet, the information can also be obtained by calling 2–1–1/First Call for Help line. All information contained in the site is available in Spanish. First Call for Help maintains the site and daily updates are provided by Socialserve.com, a non-profit agency. SCK, a graphic design firm located in the Tremont neighborhood, donated a portion of their time and talents in creating the HousingCleveland.Org site.

Mr. Speaker and colleagues, please join me in honor and recognition of the leaders and members of United Way's 2–1–1 First Call For Help, NEOCH's Bridging the Gap, Cleveland Tenant's Organization, Cuyahoga County Office of Homeless Services, Cleveland Department of Community Development, Cleveland State University Center for Neighborhood Development, Cuyahoga County Department of Development, Cuyahoga Metropolitan Housing Authority, EDEN, Legal Aid Society of Cleveland, Lutheran Metropolitan Ministry, Maximum Independent Living and the May Dugan Center.

Let us stand in honor and recognition of the courageous spirit and heart of the children and adults in our community who, despite their struggle and hardship, strive to raise their lives into the realm of hope and possibility and ultimately, through the collaborative work and spirit of our entire community, are able to find their way home.

HONORING OPERATION PEDRO PAN

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Ms. ROS-LEHTINEN. Mr. Speaker, I would like to take this opportunity to thank Operation Pedro Pan for inviting me to share in this dinner commemorating the 45-year anniversary of the Pedro Pan exodus and benefiting two very important causes; the New Children's Village and the Pedro Pan Archives at Barry University. I had the honor of being present 15 years ago when Elly Chovel presented the Pledge of Thanksgiving, which established Operation Pedro Pan. Tonight, I have the pleasure of giving my heartfelt congratulations to Ms. Chovel on receiving the Monsignor Bryan O. Walsh Award for her years of service and dedication to Operation Pedro Pan.

Operation Pedro Pan is an organization, which has been influential in shaping the Cuban-American community, as we know it today. Many of the Pedro Pan children who made the sacrifice of leaving Cuba for the pursuit of freedom are the leaders of our community today. Among them is my colleague in Washington, DC, Senator MEL MARTINEZ, who is the first Cuban-American elected to the United States Senate—and a Pedro Pan Child.

It makes me proud to see how much Operation Pedro Pan has accomplished in South Florida. Operation Pedro Pan is one of the Cuban-American community's best examples of what can be accomplished through dedication and hard work. Through its advocacy work for children and working to preserve the significance of an important time in Cuban history, Pedro Pan has established itself as a highly respected organization.

I wish the best for Operation Pedro Pan. I hope that in the years to come you continue to reach your goals, so that our children and our children's children realize the sacrifices that our generation made in search of liberty. Once again, I thank you for the opportunity to be here with you tonight. I commend Operation Pedro Pan for the leadership they display in our unity year after year and I look forward to continuing my support for their efforts.

MARKING EDUCATION SUPPORT PROFESSIONAL DAYS

HON. MICHAEL K. SIMPSON

OF IDAHO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. SIMPSON. Mr. Speaker, I rise today to celebrate and pay tribute to all school employees who serve as Education Support Professionals in our Nation's public schools. Custodial Services Education Support Professionals are essential school employees who interact daily with students, staff and parents.

Custodians enhance the school districts they serve in many ways. They provide a unique link between all of the different jobs accomplished in a school environment every day. A student's ability to learn and thrive is often directly influenced by the custodians at his or her school.

A Custodian's daily work load can include managing heating, ventilating and air-conditioning for the entire school building, maintaining responsibility for the safety and sanitation of the school and managing disruptive or violent student behavior until proper authorities arrive on the scene. In addition, many schools consider their custodian to be the "Master at Arms" of their school building. One need only imagine the condition a school would be in without a custodian to understand the enormous importance of custodians to our Nation's schools.

Today as we recognize all education support professionals, I would urge my colleagues to take a moment to express their appreciation for this fine group of Americans who are dedicated, loyal and committed to the educational enhancement of all students.

HONORING THE SERVICE OF FORMER REPRESENTATIVE JOHN MONAGAN

HON. NANCY L. JOHNSON

OF CONNECTICUT

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mrs. JOHNSON of Connecticut. Mr. Speaker, I rise to pay tribute to John Monagan, who represented the fifth district of Connecticut from 1959 to 1973. Mr. Monagan passed away on October 23rd at the age of 93.

John was born and raised in Waterbury, the largest city in the fifth district. He went on to Dartmouth college where he was an honors student in French literature. Upon graduation he attended Harvard Law school and in 1937 he received a law degree.

During his 7 terms in Congress, he chaired the House Government Operations subcommittee that helped uncover irregularities in the Federal Housing Administration's financing of the Housing Renewal program. As a member of the Foreign Affairs Committee he led mission study trips to Soviet satellite countries and worked to improve trade relations with Latin American countries.

John Monagan had a passion for public service that started before and continued after his years in the House. In Waterbury he immersed himself in public service, as an alderman, a finance commissioner and eventually as Mayor. As president of the U.S. Association of former members of Congress, he was

● This "bullet" symbol identifies statements or insertions which are not spoken by a Member of the Senate on the floor.
Matter set in this typeface indicates words inserted or appended, rather than spoken, by a Member of the House on the floor.

known to give lectures on the importance of public service. His dedication to serving others is inspirational quality that many of us wish to pass onto the next generation.

Mr. Speaker, we thank and pay our respects to John Monagan for his years of service to Connecticut and the Nation.

IN HONOR AND REMEMBRANCE OF MAYOR PAUL L. RUGGLES

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and remembrance of Mayor Paul L. Ruggles—devoted husband, father, grandfather, community leader, entrepreneur, veteran of the United States Air Force Honor Guard and admired friend and mentor.

A life-long resident of the Village Newburgh Heights, Mayor Ruggles served as "honorary Mayor" for years before being elected as mayor in 2003. At his cozy restaurant/bar, the Ruggles Inn, Village residents sought out his opinion and advice on issues ranging from speeding cars to the future of economic growth and development for the Village. The friendly, welcoming atmosphere of the Ruggles Inn mirrored the character of its owner. Regular patrons enjoyed Mayor Ruggles' homemade pork chops, city chicken and good conversation. His easy-going demeanor, integrity and kind nature easily drew others to him. In just a short time in office, Mayor Ruggles forged strong bonds with local, county and State leaders, and began the process of renewed economic development—all focused on improving the lives of the people of the Village.

Mayor Ruggles was appointed to serve on council in 2000, and was elected to serve as Mayor in 2003. He was also an active member of the Cuyahoga County Democratic Party. Humble yet confident, Mayor Ruggles restored a certain grace and dignity to the Village Hall. His efforts on behalf of the Village ran the spectrum from major economic growth initiatives focused on bringing new industry into the Village, to hiring a new police chief, to restoring Village roads, to settling disputes between neighbors. Regardless of the issue, every concern that the Villagers brought before him consistently had his full attention, concern and commitment.

Mr. Speaker and Colleagues, please join me in honor, gratitude and remembrance of Mayor Paul L. Ruggles. I offer my deepest condolences to his wife Judy; to his daughter, Laura; to his son, Paul; to his son-in-law, Brad; to his daughter-in-law, Jennifer; to his granddaughters, Alyssa and Samantha; and to his extended family members and many friends. Mayor Ruggles' integrity, generous heart and love for his family, friends and for the people of Newburgh Heights will be forever remembered along East 49th Street, Harvard Avenue, Washington Park Boulevard and miles beyond.

RECOGNIZING THE OUTSTANDING EFFORTS OF ROSA PARKS

HON. C.A. DUTCH RUPPERSBERGER

OF MARYLAND

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. RUPPERSBERGER. Mr. Speaker, I rise before you today to recognize a woman who changed a nation and sent a clear message to America that her people would not be moved. Rosa Parks, who is better known as the "mother of the civil rights movement" changed the course of American history by refusing in 1955 to give up her seat on a bus for a white passenger.

Born Rosa Louise McCauley on February 4, 1913, she married Raymond Parks in 1932. By the early 1950s, Rosa Parks and her now deceased husband were long-time activists in Montgomery, Alabama's chapter of the NAACP.

It is important to know the history of Parks, who worked as a seamstress at a local department store, and on her way home from work one day, she engaged in a simple gesture of defiance that galvanized the civil rights movement. On December 1, 1955, Parks challenged the South's Jim Crow laws—and Montgomery's segregated bus seating policy—by refusing to give her seat up. The bus driver had her arrested. She was tried and convicted of violating a local ordinance.

Her act sparked a citywide boycott of the bus system by African Americans that lasted more than a year. The boycott raised an unknown clergyman named Martin Luther King, Jr., to national prominence and resulted in the U.S. Supreme Court decision outlawing segregation on city buses.

Over the next four decades, she made her fellow Americans aware of the history of the civil rights struggle.

This pioneer in the struggle for racial equality was planted firm in her faith of it one day being a place where all Americans could one day sit on the bus and have the same right as everyone else to enjoy their ride after a long days work.

Her example of what she stood for remains an inspiration to not only me but to freedom-loving people everywhere.

Parks was undoubtedly one of the most important citizens of the 20th century. Every American owes their gratitude of freedom to her. Mr. Speaker, I ask that you rise with me today to honor and pay respects to an African American woman who broke down boundaries and knocked down doors.

RECOGNIZING THE IMPORTANT WORK AND MISSION OF THE EDSCHOLAR SCHOLARSHIP PROGRAM

HON. HAROLD E. FORD, JR.

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. FORD. Mr. Speaker, I rise today to recognize the important work and mission of the Edscholar scholarship program.

Sponsored jointly by Edamerica and Edfinancial Services, the Edscholar program underwrites tuition expenses for qualified incoming freshmen at eligible colleges and universities throughout Tennessee. In a very tangible way, this program acknowledges and rewards outstanding students seeking to improve their lives through higher education.

Today, with the profound need for a more advanced and better trained workforce, college education has never been more valuable. Despite this reality, obtaining a higher education has become increasingly difficult given escalating tuition costs across the nation. Last year alone, tuition at 4-year public colleges and universities rose 7.1 percent, more than double the rate of inflation.

That is why the Edscholar scholarship program is so important; it helps students who otherwise might not have had access to higher education. By funding scholarships for deserving undergraduates, Edscholar helps these accomplished students develop their individual talents and expand their minds.

Just as important, focusing on the individual helps Edscholar achieve its primary goal of improving the quality of life throughout all of Tennessee. By providing these exceptional students with the means to expand their personal and professional leadership skills, Edscholar is helping to educate and train our next generation of leaders.

Mr. Speaker, it is with great pleasure that I ask my colleagues to join with me in honoring the purpose and spirit of the Edscholar scholarship program.

CONGRATULATING MIKKI CANTON FOR RECEIVING THE JUDGE HAND AWARD

HON. ILEANA ROS-LEHTINEN

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Ms. ROS-LEHTINEN. Mr. Speaker, I would like this opportunity to congratulate my constituent and a long time friend Mikki Canton as the recipient of the 2005 American Jewish Committee's Judge Learned Hand Award. This distinguished award was established in loving memory of Judge Learned Hand, Senior Judge of the United States Court of Appeals for the Second Circuit from 1924 to 1951. It is presented to outstanding leaders in the legal community who exemplify the high principles for which Judge Hand was renowned.

Mikki Canton is the first Cuban-American woman to receive this recognition, and she also has the distinct privilege of being one of the few Hispanic female managing partners at a major Florida law firm. She oversees the daily operations of the Miami office of Gunster Yoakley, and is the chair of the firm's Corporate Strategic Counseling and Public Affairs departments. Her dedicated service to the citizens of South Florida should serve as a model for all of us. Her devotion and desire to reach out to people in need is not only commendable, but inspirational as well. I would like to thank her for the perseverance she has displayed throughout her legal profession.

Mikki Canton is a member of the women's Leadership Board of Harvard's John F. Kennedy School of Government, a group that examines public policies relating to women. She is the Florida chair of the Fellows of the American Bar Association and sits on the board of several large local charities. I am proud to recognize Mikki Canton for her tireless dedication to the well being of our South Florida residents. I ask my colleagues to join me in congratulating Mikki on her wonderful service to our community.

CONGRATULATING WES FREEDMAN, THE MAN OF THE YEAR AT B'NAI B'RITH AMOS LODGE NO. 136

HON. PAUL E. KANJORSKI

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. KANJORSKI. Mr. Speaker, I rise today to ask you and my esteemed colleagues in the House of Representatives to pay tribute to Mr. Wes Freedman, recipient of the "Man of the Year" award from B'nai B'rith Amos Lodge No. 136.

A highly respected and talented businessman and community leader, Mr. Freedman earned a reputation for personal integrity. His community service over the years has benefited both young and old alike.

For more than 30 years, Mr. Freedman owned and operated several catalog showrooms in northeastern Pennsylvania and New Jersey.

Mr. Freedman served on the boards of directors at Johnson Technical School, PNC Bank and Marywood College. He currently serves on the boards at Mercy Hospital, the Jewish Home of Eastern Pennsylvania, Elan Gardens, an assisted living facility, and the Foundation for the Jewish Elderly of Eastern Pennsylvania. He is currently president of the board of Webster Towers, a high rise apartment complex for the independent aging.

Mr. Freedman is a life member of the Jewish Community Center in Scranton and has been a member of B'nai B'rith and Temple Israel for many years.

Mr. Speaker, please join me in congratulating Mr. Freedman on this honor. His commitment to his community reflects a genuine selflessness and devotion to others in need. Mr. Freedman's record of service is exemplary and has helped improve the quality of life for many in northeastern Pennsylvania.

TRIBUTE TO MAJOR GENERAL ROBERT H. GRIFFIN, DEPUTY COMMANDING GENERAL, U.S. ARMY CORPS OF ENGINEERS

HON. DAVID L. HOBSON

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. HOBSON. Mr. Speaker, I rise today to offer tribute to a truly superb soldier and engineer, Major General Robert H. Griffin, on the occasion of his retirement as Deputy Commanding General of the United States Army Corps of Engineers. In so doing, I note that this is his second retirement this year—he left Corps Headquarters in August, but agreed to return last month to help guide the Corps through its response to Hurricanes Katrina and Rita.

It has been my pleasure to know and work with General Griffin as he served this nation in three capacities—first as commander of the Corps of Engineers' Great Lakes and Ohio River Division, which includes my home district; then as Director of Civil Works; and finally as Deputy Commander of the Corps of Engineers.

General Griffin's distinguished military service spanned 34 years of dedicated and honorable service to this nation. Since his graduation from Auburn University with a Bachelor of Science in Mechanical Engineering and his commissioning as a Second Lieutenant in 1971, he has led at every level of command. During his last ten years, while serving as commander of the Corps of Engineers District in Mobile, Alabama; Chief of Staff at Corps Headquarters in Washington; Commanding General of the Corps' Northwestern Division and then of the Great Lakes and Ohio River Division; Director of the $5 billion annual Army Civil Works program my subcommittee oversees; and finally as Deputy Commanding General of the Corps of Engineers; he significantly contributed to our nation's global goals and objectives.

General Griffin's technical expertise and superior leadership have been critical to the success of the Army Corps of Engineers' many complex missions. His ability to handle complex tasks, large organizations, difficult negotiations and the most pressing problems has been truly remarkable. He has been equally adept at interacting with the highest levels of government, setting overall strategy for meeting the nation's military construction and water resource needs, and dealing with the intricacies of project design. The organizations he has led have been known for command climates that emphasize teamwork, common sense, prudent risk taking and mission accomplishment. All in all, I know of no finer member of our Army, and I wish him the best in the years ahead.

INTRODUCTION OF SHIRLEY HORN RESOLUTION

HON. JOHN CONYERS, JR.

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. CONYERS. Mr. Speaker, I am proud to announce the introduction of a resolution honoring the late Shirley Horn, a great jazz vocalist who passed away on October 20. For those of you who did not follow her career, Shirley Horn was one of this country's musical and cultural greats.

The resolution speaks for itself, but I would like to highlight some aspects of her life. She was born in the Nation's capital in 1934 and started her musical career as a young child on her grandmother's piano. She continued to study music at Howard University and was invited to attend the prestigious Juilliard School in New York.

She recorded over two dozen albums and was lauded with numerous honors, including being elected into the Lionel Hampton Jazz Hall of Fame, receiving Grammy Awards, an honorary doctorate from Berklee College of Music, and receiving the 2003 Jazz at Lincoln Center Award.

Importantly, Ms. Horn never forgot her background. She was dedicated to the Washington, DC community and, as a result, earned the Mayor's Arts Award for Excellence in an Artistic Discipline.

I would like to express my deepest sympathies to her family and express to them that her passing is a loss to all of us.

HONORING ARMY CAPTAIN JOEL CAHILL

HON. LEE TERRY

OF NEBRASKA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. TERRY. Mr. Speaker, it is with great sadness that I rise to pay tribute to Army Captain Joel Cahill, a company commander in the 1st Battalion, 15th Infantry, Fort Benning, Georgia. Captain Cahill was killed in Iraq on Sunday, the 6th of November. He served two tours in Iraq, as well as two tours in Afghanistan with a unit of the U.S. Army Rangers.

Captain Cahill grew up in Nebraska, and after graduating from Papillion La Vista High School, he joined the Army and began Special Forces training. He was awarded several citations including the Army Achievement Medal and the Soldier's Medal. He was a graduate with honors from the University of Nebraska—Omaha in 1999, earning his commission from the UNO-Creighton ROTC program.

Because of his professionalism and bravery, Captain Cahill was accepted into the Army Rangers, one of the elite groups in the Armed Forces.

Captain Cahill was a devoted father to his two daughters, Faith and Brenna, and devoted husband to their mother, Mary. Faith and Brenna were the joys of his life whenever he could be stateside.

My prayers are with his family, and I offer my condolences to his parents, Larry and Barbara; his three brothers, Larry Jr., Randy, and Jason; and his sister, Erin Christensen.

As a nation, we will honor Captain Cahill's service to the United States with his burial with full military honors at Arlington National Cemetery Friday, November 18, 2005.

We are blessed to have men and women like Captain Cahill serve in our military. His deeds, actions, decency, and passion for defending the freedoms we all enjoy will not be forgotten. May he be laid to rest as a hero to his family and to all of us who honor his service to America.

TRIBUTE TO NASHVILLE PUBLIC TELEVISION PRESIDENT STEVE BASS

HON. MARSHA BLACKBURN

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mrs. BLACKBURN. Mr. Speaker, I want to take a moment today to recognize Nashville Public Television President and CEO Steve Bass for his years of service to our community.

While Steve is leaving us to take on another challenge, his accomplishments in Nashville will be a wonderful legacy to his leadership and dedication.

Since coming to Nashville in 1998, Steve has worked to help establish our area's public television station as a model for the 21st century.

He has made it his mission to put the station on solid financial ground, and that work is paying off. Steve has set an example for the nation's public television stations.

He has expanded programming and highlighted Nashville's unique history and culture.

We are thankful for Steve's service and we wish him nothing but the best in his next endeavor.

TRIBUTE TO USAF LIEUTENANT COLONEL ROBERT M. WALKER

HON. BOB BEAUPREZ

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. BEAUPREZ. Mr. Speaker, I rise today to pay tribute to USAF Lt Colonel Robert M. Walker, Deputy Group Commander of the 460th Operations Group, 460th Space Wing, Buckley Air Force Base. Lt Col Walker has been assigned to Buckley AFB since February 20, 2004, and has recently been selected to attend the prestigious USAF Air War College.

Lt Col Walker distinguished himself in 2004 in the performance of outstanding service to the United States as Director of the Space-Based Infrared System Mission Transfer Site Activation Task Force. He led a Total Force 25 person task force that seamlessly transferred the $16B Space-Based Infrared System to the newly activated 460th Space Wing, Buckley AFB, Aurora CO thus realizing USAF Space Command's vision for space-based warning operations.

In undertaking this endeavor, Lt Col Walker's tireless efforts and ability to work with myriad agencies, organizations, and people allowed for the activation of the 460th Space Wing in a timely and efficient manner.

Lt Col Walker distinguished service continued into 2005 when, as Deputy Group Commander of the 460th Operations Group, 460th Space Wing, Buckley Air Force Base, Lt Col Walker was second in command of an 850 person Total Force Group where his wisdom, experience and work ethic established a foundation for excellence in operations, personnel, communications, and strategic planning.

His accomplishments have truly had a profound impact not only on Buckley AFB but on the surrounding community as well.

Mr. Speaker, it is a pleasure to offer my thanks to Lt Col Walker for his commitment and record of achievement at Buckley Air Force Base in Aurora, Colorado. Lt Col Walker is a valuable asset to the United States Air Force and our nation and I wish him well in his future endeavors.

HONORING REV. VINCENT M. COOKE. S.J. UPON RECEIVING THE AMERICAN INSTITUTE OF ARCHITECTURE FRIENDS OF ARCHITECTURE AWARD

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. HIGGINS. Mr. Speaker, I rise today to pay tribute to Father Vincent M. Cooke, S.J., President of Canisius College in Buffalo, New York, who is being recognized by the American Institute of Architecture with the Friends of Architecture Award.

In 1993 Western New York was pleased to welcome Father Cooke as the new President of Canisius, a 36-acre private Jesuit college located on Main Street in the City of Buffalo.

A man with a brilliant educational past, with certificates of degree from Fordham University, Loyola Seminary, Woodstock College, Yale University and the University of Wisconsin-Madison, Fr. Cooke's vision for Canisius' future would take the college and surrounding community to places never imagined.

Over the past 13 years, Fr. Cooke has led the way in planning and implementing $115 million in capital projects at Canisius, converting the college from a commuter college to an institution ranked number one residential college experience among Jesuit institutions and number five nationwide.

Father Cooke has taken a hands-on approach with each and every project which has resulted in state-of-the-art living and recreation spaces and cutting edge classrooms. His success has earned him recognition by The Buffalo News as the second most influential civic leader in terms of his positive impact on the community.

Mr. Speaker, it is with great pleasure and gratitude that I stand here today to recognize Father Vincent Cooke as a Friend of Architecture. Canisius College employs the motto "Where leaders are made" and Fr. Cooke stands as a shinning role model for his students and an example of how true leadership can transform a college and a community.

SCHOOL BUILDING ENHANCEMENT ACT

HON. RUSH D. HOLT

OF NEW JERSEY

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. HOLT. Mr. Speaker, I rise today to introduce legislation that will help schools implement energy saving measures to reduce their energy costs.

We are all too painfully aware of the rising cost of energy. Americans across the Nation are being forced to make tough decisions in order to heat their homes or fill up their gas tanks. The recent spike in energy prices will also be felt in our schools which already spend $6 billion on energy costs—more than the amount they spend on textbooks and computers combined. Schools across the country are already facing tight budgets; rising energy costs will only worsen their budget situation and could lead to the loss of important school programs.

However, there are ways that schools can offset the soaring price of energy. Through basic changes in the operations and maintenance of school buildings, operating costs can be reduced from 5-15 percent. To achieve even greater savings, schools can retrofit their buildings with more efficient systems and appliances.

Although these investments produce economic benefits in the long term, start up financing is often difficult for cash strapped school systems. That is why I am introducing legislation that will provide schools with federal funding to implement these structural changes. Specifically, my legislation will provide grants through the Environmental Protection Agency and the Department of Energy for schools that are seeking to make energy efficient upgrades in their schools or build a new energy efficient building. Additionally, this legislation will allow schools to work with the Department of Energy to improve transportation systems that are available to students, employees and other members of the community.

I urge my colleagues to support this bill that will benefit our environment while assisting schools reduce their operating costs.

CONGRATULATING PAULA DAWNING

HON. FRED UPTON

OF MICHIGAN

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. UPTON. Mr. Speaker, I rise today to congratulate Paula Dawning who recently was awarded the honor of State Superintendent of the Year for 2006 in the State of Michigan. Dawning has been the Superintendent of Benton Harbor Areas Schools since July of 2002 after she retired from her career as an executive at AT&T.

The Benton Harbor school system has made progress by leaps and bounds under her direction of during the past few years. Her constant commitment to academic improvement and reform—including additions like the new freshmen academy, improved reading programs, and her fiscal responsibility—have helped bring about a new sense of hope and achievement in a school system that has faced difficult challenges.

The award came as a surprise to Paula, who was not even made aware of her nomination until she had already received the award. In her usual humble demeanor she accepted the prestigius award that recognized her as an outstanding school superintendent; evidence that she stands out as the best among many highly qualified school system administrators.

I want to personally thank Paula for her service which has improved not only the education, but also the lives of the students in Benton Harbor. Paula's hard work and dedication to the children of her community make her a living example to all of people of Southwestern Michigan. I congratulate her once again for her distinguished award.

IN SUPPORT OF MALCOLM MELVILLE "MAC" LAWRENCE POST OFFICE

HON. STEVE BUYER

OF INDIANA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. BUYER. Mr. Speaker, some say the measure of a man is the depth of the footprint he leaves behind. Malcolm Melville Lawrence, known as "Mac," left a deep footprint on the community of Francesville as a war hero, community leader, and a teacher.

Born on a farm in Wheatfield, Indiana, Mac attended Purdue University on scholarship where he pursued a degree in Vocational Agriculture, Education, and Science. Despite being denied acceptance into the ROTC program at Purdue, Mac was drafted 5 months after graduating from college and immediately called to Fort Benjamin Harrison in Indianapolis to serve his country.

It may be insufficient to say Mac simply did his duty. Landing on the beaches of Normandy on June 6, 1944, with so many other young men from the greatest generation, Mac served as a Medic alongside the 1st Battalion, 18th Regiment of the 1st Infantry Division. Mac was awarded the Silver Star for valor, two Purple Hearts, and two Bronze Stars during five campaigns in World War II.

After the war, Mac and his wife Phyllis moved to Francesville where he began teaching at Francesville High School in 1946. Mac was beloved by his students for his patience and dedication to his craft, teaching everything from vocational agriculture to industrial arts. He finished as an administrator after more than 30 years in education.

Mac was the kind of person every community needs. Whether it was his service to his country or community, Mac asked nothing in return. He served on the library board, was active in Future Farmers of America, and participated in 4–H for 25 years: He was a pillar of the Francesville community and deserved every honor bestowed to him. Though he left this world on July 8, 2004, his legacy lives on.

I welcome the opportunity to further honor Mac Lawrence with the naming of the Francesville Post Office, the Malcolm Melville "Mac" Lawrence Post Office. Leading by quiet example while he was living, Mac deserves resounding recognition after death.

TRIBUTE TO JESSIE. GEORGE AND KYLE HETHERINGTON

HON. RAÚL M. GRIJALVA

OF ARIZONA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. GRIJALVA. Mr. Speaker, I rise to day to honor Jessie, George, and Kyle Hetherington. Jessie and George Hetherington, two grandparents, have faced many obstacles in the process of adopting their grandson, Kyle. This family is to be commended for they have persisted through personal and legal struggles to ensure Kyle's adoption.

Kyle entered Jessie and George's home in October of 2000. This family joins the growing trend of 6 million children being raised by "Grand Families" keeping children in loving homes. The Hetherington family is exemplary proof that often the best chance a child has at leading a normal life filled with affection is with a family of their own.

It is Grand Families such as the Hetherington's that provide a safe and stable home for children who would otherwise fall into foster care systems. But the commitment to a happy family has many obstacles and requires perseverance. The determination of this family defines unconditional love.

When Jessie and George first brought Kyle home, they lived in an age-restricted community. To keep Kyle, the family moved. Finding a new home was the first obstacle. Then, 15 months later, Kyle's mother regained custody. Kyle later returned to the Hetherington home, but his health, physically and emotionally, was worse than before. Since then, the family has been through several legal battles to keep Kyle from being returned to his mother, an absent father fighting Jessie and George's adoption rights, and accessing services for Kyle's health needs.

The family has undergone an intense legal pursuit but has been guided with love, patience, and support from Kinship, Adoption, Resource, Education (K.A.R.E.) program. The K.A.R.E. program works with Grandparents raising Grandchildren, and helped the Hetherington family navigate a system that does not understand the strength and needs of Grand Families.

The Hetherington family will soon celebrate a legal victory and adopt Kyle on December 6 of this year. Their emotional and legal struggle represents the battle of will over circumstance. This day is an early birthday gift for Kyle and a life long family gift. Kyle is a second grader at Miller Elementary School in Tucson, AZ and turns 8 on November 23.

Jessie and George Hetherington's love, hard work, and dedication, and that of all Grand Families, should be acknowledged today.

As Jessie states "Love can work wonders done in the right way".

WINTER OUTDOORS MONTH RESOLUTION

HON. MARK UDALL

OF COLORADO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. UDALL of Colorado. Mr. Speaker, as obesity and the associated health risks continue to increase it is important to encourage American's of all ages to participate in physical activity all year long.

To help spread this message, today I am introducing with my colleague from New York Representative JOHN SWEENEY, a resolution urging the President to declare a Winter Sports Month.

This resolution notes the increase in adult and childhood obesity along with the negative consequences of extremely overweight and obese people including a decrease in the average life span and rising health care costs stemming from obesity related illness. It also includes the role winter sport activities can play in addressing obesity and the positive effects of participating in physical activity. It resolves that the House of Representatives urge the President to declare January 2006 Winter Sports Month.

Alpine skiing, snowboarding, snowshoeing and cross country skiing, not only offer excellent aerobic and anaerobic exercise but they also are activities that allow an entire family to play together in a natural environment. Colder temperatures and snow should not deter outdoor activities.

"Winter Outdoors Month" would remind citizens of the importance to maintain a consistent exercise program and healthy lifestyle all year 12 months out of the year. Winter sports offer unique opportunities to allow all Americans a chance to be together outside, enjoy the season.

A TRIBUTE TO RETIRING ASSOCIATE PARLIAMENTARIAN MUFTIAH McCARTIN

HON. SAM FARR

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. FARR. Mr. Speaker, I rise today to honor Associate Parliamentarian Muftiah McCartin, who has served in the Office of the Parliamentarian with distinction for nearly 30 years.

Muftiah began her career in the Office of the Clerk in 1976 and earned her bachelor' s degree and juris doctorate by studying at night. She became the first woman appointed a Parliamentarian in 1991.

When I came to Congress in 1993, Muftiah was like a navigator on a ship. I was unfamiliar with the trappings of the House of Representatives and it was overwhelming. To find the Parliamentarian had lived in Carmel Valley, California and knew my District helped me adjust.

I commend Muftiah as a role model to everyone. A lawyer and working mother, she was here at all hours, as long as the House was in session, sometimes at the expense of her family. Yet she has raised beautiful children: Marissa, Elaine, Sandra and Luke with her loving husband, Terry.

It's always sad to lose longtime professional staff; you lose that irreplaceable, institutional memory. But I wish her well in her new endeavors, including spending more time with her family and training for her next marathon or triathlon.

H.R. 1101

HON. DUNCAN HUNTER

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. HUNTER. Mr. Speaker, legislation which I have introduced, H.R. 1101, revoking a Public Land Order for certain lands erroneously included in the Cibola National Wildlife Refuge in California, was passed by this body on May 23, 2005. Additionally, this legislation was recently reported out of the Senate Energy and Natural Resources Committee on September 28, 2005, and referred to the full Senate for consideration.

It is my understanding that the Committee included report language with this bill expressing its intent that the 140 acres H.R. 1101 transfers from the U.S. Fish and Wildlife Service to the U.S. Bureau of Land Management not be viewed as an endorsement for development and that any management changes proposed by the Bureau be made through the appropriate planning process and include the continued protection of natural, cultural, and historical resources located on this land. I rise today to state my concurrence with this report language and encourage the Senate to act quickly on passage of this important legislation.

ON COMPULSORY LICENSING OF TAMIFLU

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. KUCINICH. Mr. Speaker, I sent the attached letter, along with my colleagues, in support of compulsory licensing for Tamiflu on November 9, 2005. I submit a copy for the RECORD.

CONGRESS OF THE UNITED STATES,
Washington, DC, November 9, 2005.

MIKE LEAVITT,
Secretary, Department of Health and Human Services, 200 Independence Avenue, SW, Washington, DC.

DEAR MIKE: Thank you for participating in the House Government Reform Committee hearing "The National Pandemic Influenza Preparedness and Response Plan: Is the U.S. Ready for Avian Flu?" on November 4, 2005. We are writing to contest your stated justifications for refusing to issue a compulsory license for Tamiflu and to request, again, that you reconsider your stance.

You mentioned that issuing a compulsory license would not hasten the manufacture of Tamiflu because it is a complex manufacturing process that incorporates a step requiring an explosion hazard. There is considerable evidence showing that the manufacturing process is not prohibitively complex or dangerous.

Roche's own advertisement in several periodicals has said that they have "received more than 100 requests from different parties interested in helping us meet production challenges." Indian generics manufacturer, Cipla has announced that they plan to start selling enough generic Tamiflu to treat 100,000 to 200,000 people by March of 2006. News reports indicate that Thailand, Taiwan, Malaysia, and Vietnam plan to initiate production, some as soon as February 2006. Taiwan appears to have made "the drug in just 18 days, not including weekends and a bank holiday, using information from publicly available documents." They also report that Roche has admitted that it exaggerated the complexity of the manufacturing process. Ernie Prisbe, Vice President of Tamiflu inventor, Gilead Sciences, said of the Tamiflu manufacturing process, "There's nothing that overwhelming in this kind of synthesis, or that formidable, that someone couldn't do it."

Clearly, it is feasible to ramp up production swiftly to provide for the U.S. and the entire world.

You also indicated that you did not wish to issue a compulsory license for Tamiflu because it would discourage pharmaceutical companies from investing in research into future anti-virals or other drugs. Please be reminded that whenever a government representative issues a compulsory license, the licenser gets a royalty in order to insure profits are not taken. Roche will undoubtedly continue to make healthy profits if a compulsory license is issued.

You further indicated that an emphasis on Tamiflu is undue since it is not our strongest defense, nor is it guaranteed to be relevant to the virus strain behind a pandemic. I agree that Tamiflu is not a silver bullet. However, to our knowledge, it is the best pharmaceutical defense we have now. Our public health infrastructure is not ready and it will take years to make it so. Until there is a better alternative, and unless we have reason to believe the drug would do more harm than good, and until our state of readiness for a pandemic is stronger, we have an obligation to do all we can to shore up our weak defenses now. Bear in mind that the shelf life of Tamiflu is five years, which means stockpiles are unlikely to go to waste.

If you are content to wait until 2007 to fill our stockpile needs, a deadline you claimed Roche would be able meet in your testimony, you are gambling with public health with the proceeds going to Roche. If the pandemic does not happen before 2007, Roche keeps their monopoly intact and the public is unharmed. If the pandemic strikes before Roche meets its promised deadline, and nothing has been done to ramp up production—like issuing a compulsory license—our stockpile will be inadequate. History will not be kind to those who could have saved lives but instead deferred to intellectual property rights.

Please reconsider your willingness to issue a compulsory license for Tamiflu.

Sincerely,

DENNIS J. KUCINICH,
Member of Congress,
BERNARD SANDERS,
Member of Congress,
MARION BERRY,
Member of Congress.

STATEMENT ON THE 29TH ANNUAL AMERICAN CANCER SOCIETY GREAT AMERICAN SMOKEOUT

HON. ALLYSON Y. SCHWARTZ

OF PENNSYLVANIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Ms. SCHWARTZ of Pennsylvania. Mr. Speaker, an estimated 45.4 million adults in the United States are smokers; with tobacco usage accounting for nearly one in five deaths in the United States. Only about 5 percent of daily smokers who attempt to quit are successful for 3–12 months. That is why the American Cancer Society has designated the third Thursday of November as the Great American Smokeout—a day for smokers to join in solidarity and collectively kick this fatal habit.

The health consequences of smoking are grave. Smoking is the leading preventable cause of death in the United States. More than 170,000 Americans will die of smoking-related cancers this year, including lung, mouth, kidney, stomach and cervix cancer. Moreover, smoking affects family, friends and loved ones.

I applaud the American Cancer Society for all they do to eradicate smoking. Their local, state and national efforts help to discourage young people from taking up this deadly habit and the resources they provide have helped numerous smokers quit.

The American Cancer Society is a worthy ally in our fight to improve American's health and safety. I commend the American Cancer Society on their 29th Great American Smokeout and for all they do to maintain the health and well-being of all Americans.

EMERGENCY GENERATORS FOR ELECTRIC NEEDS (E-GEN) ACT OF 2005

HON. ALCEE L. HASTINGS

OF FLORIDA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. HASTINGS of Florida. Mr. Speaker, I rise today to introduce the Emergency Generators for Electric Needs (E–GEN) Act of 2005.

More than 3 million Floridians were without power following Hurricane Wilma, some for well over three weeks. Few had electric generators of their own, leaving them dependent on the ability of power and utility companies to efficiently repair damaged infrastructure and make any necessary repairs.

Tens of thousands of seniors in South Florida who were relatively well-off before Hurricane Wilma quickly became vulnerable when the power went out after Wilma. Many of the buildings where they lived were old, ill-equipped and unable to generate emergency power, placing their lives in immediate risk.

According to various dealers, the costs of portable emergency power generators typically range between $1,000 and $3,000 depending on the wattage. Industrial-sized generators can cost upwards of $50,000. For many residents and communities, these costs are not affordable. The E–GEN Act enables individuals and communities to become self-sufficient when the power goes out. Under the bill, 75 percent of the cost of the purchase and installation of the generator would be eligible for reimbursement in the form of a tax credit. The credit cannot be used in conjunction with other emergencies reimbursements.

For individual homeowners, the credit is not to exceed $2,500. For businesses, condominium associations, senior communities, and others, the tax credit is not to exceed $60,000. These credits are vital to alleviate the problems disaster victims face, especially the elderly and infirm, when utility power disruptions prevent the use of essential items such as lighting, refrigeration, elevators, medical supplies, and heating and air conditioners.

Threats of natural and man-made disasters are on the rise. These events require proactive mitigation to protect the public from even larger catastrophes until order is restored. Credits used to purchase emergency generators through the E–GEN Act will save the government money and effort ordinarily used to provide shelters and temporary housing for displaced residents. If we can keep people's power on after a disaster then we can also protect their health and emotional well-being, while also keeping them in the comfortable confines of their own homes, instead of laid out on some cot in a shelter.

A lack of power contributed significantly to the problems that existed in South Florida during and after the 2004 hurricanes and again following Hurricane Wilma. This legislation will help cover the costs for individuals, adult communities and businesses who want to purchase emergency generators but can't afford them.

I ask for my colleagues' support and urge the House Leadership to bring it swiftly to the House floor for consideration.

ON THE HUMAN RIGHTS OF THE GWICH'IN

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. KUCINICH. Mr. Speaker, I sent the attached statement of support for the Gwich'in tribe on November 4, 2005.

CONGRESS OF THE UNITED STATES,
Washington, DC.

STATEMENT OF SUPPORT FOR

A MORAL CHOICE FOR THE UNITED STATES: THE HUMAN RIGHTS IMPLICATIONS FOR THE GWICH'IN PEOPLE OF DRILLING IN THE ARCTIC NATIONAL WILDLIFE REFUGE

The undersigned Members of Congress express their strong support for the Gwich'in people in their long-running battle to protect their culture and way of life by preventing oil and gas drilling in the Arctic National Wildlife Refuge. The report issued today by the Gwich'in Steering Committee, The Episcopal Church, and Professor Richard J. Wilson, Director of the Human Rights Law Clinic at American University, amply demonstrates that opening the Coastal Plain to drilling would violate the internationally recognized human rights of the Gwich'in to subsistence, to culture, to health, and to religion. The United States has a duty to safeguard these fundamental rights by protecting the Coastal Plain and its prime calving and post-calving grounds for the Porcupine Caribou Herd. The Porcupine Caribou Herd is central to the Gwich'in people's subsistence, culture, and entire way of life, and has been since time immemorial.

The report released today describes the nature of the close relationship between the Porcupine Caribou Herd and the Gwich'in people. According to Gwich'in elder, Jonathan Solomon, "It is our belief that the future of the Gwich'in and the future of the Caribou are the same." The report also draws from the body of scientific research to show that opening the Coastal Plain to oil drilling would displace calving caribou from the prime calving grounds of the Coastal Plain, inexorably driving down calf survival and the population of the herd. Finally, the report shows that the continuing decline of the herd's population or a major change in its migration pattern could make subsistence hunting more difficult for the Gwich'in people or force them to curtail their annual caribou harvest. By damaging the ability of the Gwich'in to rely on the Porcupine Caribou Herd for their physical and cultural needs as they have done for millennia, a decision to open the Coastal Plain to oil exploration and development would violate the human right of the Gwich'in under internationally recognized norms.

In light of the findings of this report and our moral obligation to protect the Gwich'in way of life, we urge our colleagues to reject any proposal to open the Coastal Plain of the Arctic National Wildlife Refuge to oil and gas exploration and development.

Dennis, J. Kucinich, Edward J. Markey, Barbara Lee, Raúl M. Grijalva, Dale E. Kildee, Donald M. Payne, Maurice D. Hinchey, James P. McGovern, Peter A. DeFazio, Lynn C. Woolsey, Bernie Sanders, Janice D. Schakowsky, Danny K. Davis, Jim McDermott, Sam Farr, John Conyers, Jr., Diane E. Watson, William Lacy Clay, Betty McCollum.

HONORING DR. PHILIP KESTEN, 2005 CALIFORNIA PROFESSOR OF THE YEAR

HON. MICHAEL M. HONDA

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. HONDA. Mr. Speaker, I rise to congratulate Dr. Philip Kesten, a professor from Santa Clara University, who was selected as the 2005 California Professor of the Year this week.

The United States Professors of the Year awards, sponsored by the Council for Advancement of Teaching and the Carnegie Foundation for the Advancement of Teaching, are the only national awards that recognize college and university professors for excellence in undergraduate teaching and mentoring. Dr. Kesten was one of 42 state winners to receive this honor.

After receiving his Bachelors degree in Physics from the Massachusetts Institute of Technology, Dr. Kesten went on to earn both his Masters and Doctorate in Physics at the University of Michigan. It was here that Dr. Kesten began his career as one of the nation's top educators. As a teaching assistant and head varsity crew coach, Dr. Kesten discovered not only his passion for teaching and mentoring students, but his ability to do it well—he won a teaching award from the Department of Physics.

Dr. Kesten has since gone on to an outstanding career in academia. In addition to his teaching experiences at Michigan and MIT, Dr. Kesten has taught at Brandeis University and is currently an Associate Professor of Physics at Santa Clara University. He is also the current Chairman of the Physics Department and Director of the Ricard Memorial Observatory.

This is not the first time Dr. Kesten has been recognized for his teaching excellence. In 2000, he was awarded the David E. Logathetti Teaching Award from the Santa Clara University College of Arts and Sciences. Seven years prior, the same College of Arts and Sciences recognized Kesten with the Certificate for Exceptional Teaching, Advising, and Curriculum Development.

While his formal education and accolades noticeably highlight his remarkable career, his most honorable work is found in his dedication to the comprehensive development of the student. As the Director of the Residential Learning Communities Program and the Faculty Director of the da Vinci Residential Learning Community, Dr. Kesten has succeeded in integrating the social, residential, and academic facets of a college student's experience.

I deeply appreciate all that Dr. Philip Kesten has done to improve the lives of this nation's students and extend my congratulations to him as the 2005 California Professor of the Year.

TRIBUTE TO ROBERT E. BUSH

HON. MARY BONO

OF CALIFORNIA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mrs. BONO. Mr. Speaker, I would like to pay tribute to Robert E. Bush, a hero whose selfless contributions to our Nation began with his service in the Navy Medical Corps during WWII and continued throughout his remarkable life. Sadly, Mr. Bush passed away on November 8, 2005 at the age of 79. I ask all of my colleagues to join with me today in saluting this outstanding American.

Mr. Bush was born in Tacoma in 1926. In 1943, he left high school to join the Navy Medical Corps. Within a year of enlistment, he participated in an assault on Okinawa, one of the longest and bloodiest conflicts in the Pacific Theatre.

While attending to his wounded comrades on the front lines of the battlefield, Mr. Bush's division came under attack. He unhesitatingly continued to administer aid to those in desperate need as enemy forces pressed forward with their counterattack. Despite his own dangerously exposed position, Mr. Bush refused to evacuate and remained to provide a seriously injured soldier with critical plasma. This heroic act resulted in serious wounds and ultimately cost Mr. Bush his own right eye as he was struck with multiple enemy hand grenades. When additional help finally came, Mr. Bush refused treatment until the wounded soldier had been safely evacuated.

At the age of 18, Robert Bush became the youngest sailor to ever receive the military's highest honor, the Medal of Honor. This honor was bestowed personally by President Harry S. Truman. With characteristic selflessness and humility, Mr. Bush refused to consider his own courage apart from those that he served with and considered himself a "custodian [of the Medal of Honor] for those who died." As his son Robert "Mick" Bush put it, "The Medal of Honor was a symbol of Bush's philosophy of putting others first." Throughout the remainder of his life he remained very active with the Congressional Medal of Honor Society where he rose to the rank of president.

In further recognition of Mr. Bush's courage, a naval hospital in Twentynine Palms, California was named in his honor—as was a stretch of U.S. 101 that goes through South Bend and a clinic at Camp Courtney on Okinawa. I am pleased to recognize these lasting tributes to Mr. Bush's self sacrifice in service to others.

Mr. Bush was preceded in death by his wife and high school sweetheart, the former Wanda Spooner, who passed away in 1999 and his son, Lawrence Bush. He is survived by three of his children; Susan Ehle, Robert M. Bush and Richard Bush, eight grandchildren and two great grandchildren. Mr. Bush will be remembered by his dear family and friends as not only a national hero, but most importantly a dedicated family man who rendered tireless service to those who had the opportunity to associate with him.

Mr. Speaker, I would once again like to pay tribute to this great American hero. His life was a testament to patriotism and courage and I am honored to speak on his behalf today. I encourage my colleagues to join me in recognizing and celebrating the life of Mr. Robert E. Bush.

IN HONOR AND RECOGNITION OF THE 30TH ANNIVERSARY OF THE LESBIAN/GAY SERVICE CENTER OF GREATER CLEVELAND

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. KUCINICH. Mr. Speaker, I rise today in honor and recognition of the Lesbian/Gay Service Center of Greater Cleveland, as they celebrate thirty years of support, outreach, education and advocacy on behalf of lesbian and gay individuals within our community.

In 1975, founding members Ethan Ericsen, Michael Madigan and Arthur MacDonald embraced a collective vision of human rights for everyone; a vision they transformed into a haven of support and services, named the Gay Education and Awareness Resource Foundation (GEAR). GEAR began the work of community outreach programs, legal advocacy efforts and support programs focused on issues affecting lesbian and gay youth. The Center continues to build bridges with educational and social service organizations throughout the Cuyahoga County, with a strong focus on the youth of our community.

The project, Safe Schools Are For Everyone, exists to provide safe social opportunities, support and leadership training for students, teachers and school administrators. Over the past thirty years, the Center's name has changed and the scope of services has expanded, yet the core mission has remained the same: To craft a kinship of all citizens, gay and straight, who stand united on a solid foundation of tolerance, acceptance and protection of the rights and freedoms of all people, regardless of their sexual orientation or gender identity.

Mr. Speaker and Colleagues, please join me in honor and recognition of all leaders and members, past and present, of the Lesbian/Gay Service Center of Cleveland. Their collective effort, work, volunteerism and compassion serves to bolster the spirit of those still struggling against a tide of oppression. The Center's vital work offers the promise that one day, the shroud of societal ignorance and intolerance will dissolve into the light of freedom and justice for all.

HONORING JETTE HALLADAY AS TENNESSEE'S PROFESSOR OF THE YEAR

HON. BART GORDON

OF TENNESSEE

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. GORDON. Mr. Speaker, I rise today to honor Dr. Jette Halladay, who has been named Tennessee's Professor of the Year. I am proud to say that Dr. Halladay teaches at my alma mater, Middle Tennessee State University, in Murfreesboro, Tennessee.

Dr. Halladay received this honor at the U.S. Professors of the Year awards, the only national awards that recognize outstanding professors of undergraduates at our Nation's colleges and universities.

With her emphasis on educational drama, Dr. Halladay instructs not only future drama teachers, but also pre-service elementary school teachers. Her students learn how to enhance their lessons with role-playing and other creative activities. Upon graduation they are able to develop engaging lessons that are memorable and educational, such as recreating a journey on the Oregon Trail rather than just reading a textbook summary of Manifest Destiny.

Since 1994, Dr. Halladay has infused her theatre classes with unmatchable enthusiasm and energy. I hope MTSU and its students are fortunate enough to benefit from her talents and unique teaching style for many more years.

I commend Dr. Halladay for this tremendous achievement, and I wish her all the best.

HONORING THE CITY OF NORTH TONAWANDA UPON RECEIVING THE AMERICAN INSTITUTE OF ARCHITECTURE FRIENDS OF ARCHITECTURE AWARD

HON. BRIAN HIGGINS

OF NEW YORK

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. HIGGINS. Mr. Speaker, I rise today to pay tribute to the City of North Tonawanda which is being recognized by the American Institute of Architecture with the Friends of Architecture Award.

Located midway between the Cities of Buffalo and Niagara Falls, North Tonawanda is the 15th largest city in New York with a population of over 33,000 residents.

Formerly a manufacturing hub, under the leadership of Mayor David Burgio, City Engineer Dale Marshall and Public Works Superintendent Gary Franklin, North Tonawanda is being transformed into a waterfront destination.

The potential for waterfront development in Erie County is great and the City of North Tonawanda has set an example for the rest of the region.

Gateway Park is a premiere attraction for residents and tourists alike. Thanks to new design and infrastructure improvements Gateway Park has come alive year-round with events such as Canal Fest, October Fest, Winter Walk, boat shows, and concerts.

In addition, investments in North Tonawanda redevelopment have served as a catalyst for economic growth resulting in new businesses and jobs in the community.

Mr. Speaker, it is with great pleasure and gratitude that I stand here today to recognize the City of North Tonawanda as a Friend of Architecture. Their proactive approach to design and development highlights the natural, historical and architectural resources right here in our backyard.

PRIVATIZATION OF ENVIRONMENTAL HEALTH PERSPECTIVES

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. KUCINICH. Mr. Speaker, I sent the attached letter, along with my colleagues, in opposition to the proposed privatization of Environmental Health Perspectives on November 10, 2005.

CONGRESS OF THE UNITED STATES,
Washington, DC, November 10, 2005.

Dr. ELIAS ZERHOUNI,
Director, National Institutes of Health,
Bethesda, Maryland.

DEAR DR. ZERHOUNI: We write to express our strong opposition to the proposed privatization of Environmental Health Perspectives (EHP). Doing so places at risk the integrity and quality of one of the world's best independent journals covering the area of science that deals with the environment and health. We urge you to reject EHP privatization.

EHP is one of the premier academic peer reviewed journals in the world. It ranks second among 132 environmental science journals, and fifth among ninety public environmental and occupational health journals. If it were considered among the general medical journals like the New England Journal of Medicine and JAMA, it would rank tenth. Early signs indicate that this year, all those rankings are likely to increase.

Its value and uniqueness stem, in large part, from its status as a publicly managed journal. For example, EHP's independence directly enhances the quality of the work it publishes. Their conflict of interest policy is among the strictest of peer-reviewed journals. Such a policy might be compromised if the journal was privately published.

In addition, its public funding source allows it to be an open access journal, which means anyone with Internet access can get any EHP article 24 hours after it is accepted for publication. That is essential because the vast majority of published research is available only through increasingly costly journal subscriptions, institutional license fees, or per-article purchases. This closed system leaves the American public—including physicians, public health professionals, patients and patient groups, students, teachers, librarians and scientists at academic institutions, hospitals, research laboratories, and corporate research centers—under-informed about important, timely research results they helped finance.

Because EHP is publicly funded, important public health functions are performed that the private sector would be unlikely to support. The National Institute of Environmental Health Sciences (NIEHS), which runs EHP, provides free monthly copies to those in the developing world, where environmental health problems are, in many cases, the most severe. NIEHS also provides EHP classroom materials for universities and high schools. These non-revenue-generating programs have high public health value and would be at risk if EHP were privatized. The breadth of appeal and academic discipline that uniquely characterizes EHP would also be at risk of sustaining a narrowing of scope more in line with privately run journals.

Finally, NIEHS does a highly efficient job of running EHP. In the last year, the EHP budget was $3.3 million, which is less than one half of one per cent of the NIEHS budget. In the last four years, they have reduced their budget by fifteen percent while they have become an open access journal, expanded their reach to other countries, expanded their educational programs, and dramatically increased the quality of the articles. Despite having this record that any private sector establishment would envy, NIEHS is considering still more cost cutting measures to further streamline. The impact of EHP on public health far surpasses its costs.

Privatizing EHP is unnecessary and unwise. It would yield miniscule cost savings while exacting a large cost to public health. We urge you to reject privatizing EHP.

Sincerely,

Dennis J. Kucinich, Hilda L. Solis, Bart Gordon, Mark Udall, Raúl M. Grijalva, Jim McDermott, Brad Miller, Bernard Sanders, Robert Wexler, Barbara Lee, James P. McGovern, James P. Moran, Martin O. Sabo.

CONGRATULATING ARCHBISHOP OSCAR H. LIPSCOMB ON THE 25TH ANNIVERSARY OF HIS ORDINATION TO THE EPISCOPACY AND THE ARCHDIOCESE OF MOBILE ON ITS 25TH ANNIVERSARY

HON. JO BONNER

OF ALABAMA

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. BONNER. Mr. Speaker, I rise today to honor Archbishop Oscar H. Lipscomb on the 25th anniversary of his ordination to the episcopacy and to recognize the 25th anniversary of the Archdiocese of Mobile.

Mobile native Archbishop Oscar H. Lipscomb holds a master's degree and a doctorate from Catholic University in Washington, D.C. Archbishop Lipscomb was ordained a priest in Rome on July 15, 1956, and was consecrated as the first Archbishop of Mobile on November 16, 1980.

Archbishop Lipscomb has been a pillar of the Mobile Catholic community for almost half a century starting when he was assistant pastor at St. Mary Parish. He has also played an integral role in education, serving as a teacher at McGill Institute and later a lecturer at Spring Hill College.

A popular figure in our community, Archbishop Lipscomb has developed a strong reputation for his dedication to the Archdiocese of Mobile. The archbishop has received numerous honors throughout his life including receiving the rank of Papal Chaplain and the title of Reverend Monsignor by Pope Paul VI and being named "Mobilian of the Year for 1981." He has been an active member in the Catholic Historical Association, Historic Mobile Preservation Society, American Catholic Historical Association, Lions Club of Mobile, and the Mobile Metropolitan YMCA. Recently, under the archbishop's leadership, the archdiocese has made significant contributions to the victims of Hurricane Katrina.

Mr. Speaker, I ask my colleagues to join me in honoring the silver jubilee of Archbishop Lipscomb's ordination to the episcopacy and being the first archbishop of the Archdiocese of Mobile. I also extend my gratitude to Archbishop Lipscomb for 25 years of service to southwest Alabama. I know his sister, Margaret Joyce Lipscomb Bolton, and his many friends join with me in praising his accomplishments and recognizing this milestone in his life.

ON THE FUNDING OF GULF WAR VETERANS ILLNESSES

HON. DENNIS J. KUCINICH

OF OHIO

IN THE HOUSE OF REPRESENTATIVES

Wednesday, November 16, 2005

Mr. KUCINICH. Mr. Speaker, I sent the attached letter, along with my colleagues, in support of Gulf War Veterans Illnesses Research funding in the Conference Report of the Defense Appropriations Bill on November 10, 2005.

CONGRESS OF THE UNITED STATES,
Washington, DC, November 10, 2005.

The Hon. C.W. BILL YOUNG,
Chairman, Appropriations Subcommittee on Defense, H–309 U.S. Capitol, Washington, DC.

The Hon. JOHN P. MURTHA,
Ranking Member, Appropriations Subcommittee on Defense, 1016 Longworth House Office Building, Washington, DC.

DEAR CHAIRMAN YOUNG AND RANKING MEMBER MURTHA: As the conferees begin to work on the fiscal year 2006 Appropriations bill for the Subcommittee on Defense, we respectfully seek your support for retaining the House funding level of $10 million for Gulf War Veterans Illnesses research.

The Congressionally chartered Veterans' Administration Research Advisory Committee on Gulf War Veterans' Illnesses found in September 2004 that fourteen years after the 1990–1991 Gulf War, between 26 and 32 percent of those who served in that war continue to suffer from serious and persistent health problems—typically multiple symptoms that include severe headaches, memory problems, muscle and joint pain, severe gastrointestinal problems, respiratory problems, skin disorders and other problems. They also determined that the existence of these serious and often debilitating problems could not be scientifically explained by stress or psychiatric illness.

We are only now starting to see the long-term effects. For example, ALS, or Lou Gehrig's disease, occurs in Persian Gulf veterans with twice the frequency of peer veterans that were not deployed. Yet a federal research program to better understand these issues that was once $45 million strong has been virtually eliminated. The FY 06 budget dedicates no funding to either the Department of Defense or the Department of Health and Human Services for Gulf War Illnesses research. The funding we are requesting is consistent with the VA Research Committee recommendations.

The amendment to the FY 06 House Defense appropriations bill that added the research funding was well supported. It passed by voice vote, had bipartisan support and was backed by the American Legion, Paralyzed Veterans of America, the National Gulf War Resource Center, Vietnam Veterans of America, and Veterans of Foreign Wars.

Finally, research guidance was developed in consultation with top members of the VA Research Committee. We therefore request that the guidance, which is the same as that inserted into the congressional record during bill debate, be included in the conference report. The guidance text is attached for your reference. We expect this research to supplement the other promising research performed at Army Research, Development, Test and Evaluation within the Department of Defense.

Thank you for consideration of our requests.

Sincerely,

Dennis J. Kucinich, Bernard Sanders, Frank Pallone, Jr., Jim McDermott, Lane Evans, Tammy Baldwin, Christopher Shays, Rob Simmons, Rush D. Holt, Barbara Lee, Albert R. Wynn, Carolyn B. Maloney, Lloyd Doggett, Joseph Crowley, Raúl Grijalva, John Conyers, Jr., Jay Inslee, Dennis Moore, Collin C. Peterson, Betty McCollum, Ed Case, Members of Congress.

Gulf War Veterans' Illnesses Research Guidance for the FY06 Defense Department Appropriations Conference Report

It is intended that the appropriation for research on chronic illnesses affecting veterans of the 1991 Gulf War be used for a coherent research program focusing on (1) identification of mechanisms underlying Gulf War illnesses, (2) chronic effects of neurotoxic substances to which veterans were exposed during deployment; (3) studies that expand on earlier research identifying neurological and immunological abnomalities in ill Gulf War veterans; and (4) identification of promising treatments. The primary objective of the research program will be to elucidate pathophysiological mechanisms underlying Gulf War illnesses, which may subsequently be targeted to developing treatments for these conditions. A further objective will be to identify and evaluate treatments which currently exist and which hold promise for treating these illnesses.

The U.S. Army Medical Research and Materiel Command shall, in consultation with experienced research scientists in relevant fields, establish a list of research questions to address the above topics, and design a program of specific research studies that together constitute a coherent plan to answer these questions, each identified study to be conducted by the most qualified researcher, which may include consulted scientists. As part of this process, there shall be a public solicitation of research proposals (which may include concept exploration and pilot projects) on these questions and at least twenty-five percent of the program (measured by amount funded) shall be made up of proposals selected from this solicitation, as modified if necessary to increase the value of the proposed research to the overall program. At least twenty percent of the program (measured by amount funded) shall address the objective of identifying and evaluating promising existing treatments, such as observation and pilot studies. The program shall be submitted for determination of scientific merit through independent peer review.

SENATE COMMITTEE MEETINGS

Title IV of Senate Resolution 4, agreed to by the Senate on February 4, 1977, calls for establishment of a system for a computerized schedule of all meetings and hearings of Senate committees, subcommittees, joint committees, and committees of conference. This title requires all such committees to notify the Office of the Senate Daily Digest—designated by the Rules Committee—of the time, place, and purpose of the meetings, when scheduled, and any cancellations or changes in the meetings as they occur.

As an additional procedure along with the computerization of this information, the Office of the Senate Daily Digest will prepare this information for printing in the Extensions of Remarks section of the CONGRESSIONAL RECORD on Monday and Wednesday of each week.

Meetings scheduled for Thursday, November 17, 2005 may be found in the Daily Digest of today's RECORD.

MEETINGS SCHEDULED

NOVEMBER 18

10 a.m.

Commerce, Science, and Transportation

To hold hearings to examine the future of science.

SD-562